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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Monday, March 15, 1982*

(Legislative day of Monday, February 22, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Blessed be the name of the Lord from this time forth and for evermore! From the rising of the Sun to its setting the name of the Lord is to be praised! The Lord is high above all nations, and His glory above the heavens.—Psalm 113: 2-4.

Lord God of Abraham, Isaac, and Jacob, Judge of all the Earth, to whom belongs the final disposition of human affairs, keep us from blindness, deafness, and indifference to the clear word of biblical prophecy.

Thy word declares, "the day of the Lord will come like a thief, and then the heavens will pass away with a loud noise, and the elements will be dissolved by fire, and the Earth and the works that are upon it will be burned up."—II Peter 3: 10. As we read this word, written 2,000 years ago, which describe with such precision a nuclear blast, help us to examine our thoughts lest we be the instruments of its fulfillment.

Mighty Lord, Thy word reminds us, "* * * except the Lord guards the city, the watchman keeps awake in vain."—Psalm 127: 1. Help us to realize the futility of armed protection apart from trust in Thee. In all our preoccupation with defense and the consummate destructive force of nuclear energy, help us to discern between national security and national suicide. Dear God, restrain us from self-destruction. We pray in the name of the Prince of Peace, Jesus Christ, the Lord. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. TOWER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. TOWER. Mr. President, I reserve my time, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I ask unanimous consent that the 10 minutes reserved to the minority leader be preserved until he can be in the Chamber or have someone here to represent him.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I reserve the remainder of my time.

RECOGNITION OF SENATOR RIEGLE

The PRESIDING OFFICER. Under the previous order the Senator from Michigan (Mr. RIEGLE) is recognized for not to exceed 15 minutes.

Mr. RIEGLE. Thank you, Mr. President.

SENATE RESOLUTION 339—RETROACTIVE TAX CHANGES

(Submitted by Mr. RIEGLE, for himself and Mr. BRADLEY.)

Mr. RIEGLE. Mr. President, today I am submitting, along with the Senator from New Jersey (Mr. BRADLEY), a sense-of-the Senate resolution which expresses opposition to any retroactive tax increases or retroactive elimination of tax incentives, and to clearly state that any changes in tax law which may be enacted will occur no earlier than the date of enactment of any new tax legislation.

This proposal is designed to deal with a problem that has arisen within the last several weeks.

As is well known, the massive Federal deficits that are now projected for 1983 to 1987 have spawned an ongoing discussion of how best to reduce their size. Many colleagues, in both Chambers, have offered suggestions for further spending cuts and various tax increases.

Some of the proposals that have been put forward reflect the assumption of a retroactive tax increase, or the retroactive elimination of certain tax provisions to the beginning of this calendar year. This, of course, has caused a great deal of concern and uncertainty throughout the business community, which already faces great financial uncertainties stemming from the deep recession and record high interest rates.

At a time when we need new investment incentives for business, it is vital that we not further complicate the picture by changing key investment tax laws retroactively.

These additional uncertainties are already interrupting the flow of needed business investment. At a time when our national economy is in a deep recession, I urge all my colleagues to join in this resolution and send a clear message to the business community that any tax increases, if they are ultimately enacted, will not apply retroactively.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the resolution.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 339

Resolved, That it is the sense of the Senate that any amendment of, or addition to, the Internal Revenue Code of 1954 which—

(1) is enacted into law during 1982, and

(2) increases taxes or decreases tax benefits provided by the Code.

shall not take effect earlier than the date of the enactment of such amendment or addition.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Mr. RIEGLE. Mr. President, that concludes my comments at this time, and I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 1 hour with statements therein limited to 5 minutes each.

M-9 ARMORED COMBAT EARTHMOVER

Mr. DIXON. Mr. President, I call to the attention of my colleagues the current state of affairs regarding a piece of military equipment known as the M-9 armored combat earthmover, or ACE.

It is an expensive piece of equipment, and it is getting more expensive all the time. In fact, in the last 3 months, according to recently published reports, the unit price quoted to the Army by the manufacturer has increased by $500,000. The Army is in the market for 25 earthmovers. That means the cost to the taxpayer has increased by $12.5 million in the last 3 months, and they do not even have an earthmover to show for it yet.

Mr. President, the central point to note here is that the Army is buying this machinery under a sole-source contract arrangement. No competitive bidding was allowed.

My distinguished colleague from Arkansas (Mr. PRYOR) has introduced a bill to eliminate all funds for the ACE. Now, I am not yet decided about whether to support that measure, because I will not argue that the earthmover represents an unnecessary purchase by the Army.

But I do want to point out the extreme inefficiency of this sole-source approach, and the ACE serves as an excellent example.

Mr. President, the Illinois congressional delegation has been watching the ACE issue for some time. A company in our State wanted to bid on the job, and thinks it can produce the machine cheaper than the company that has received the sole source contract.

On behalf of that company, the Illinois delegation wrote to the Army and asked that the company—International Harvester—be given the chance to bid on the M-9. Harvester has built this machine for years and feels it can compete favorably with any other producer. But the Army's response was negative, and the contract has remained closed to competitive bidding.

Mr. President, I have supported increased expenditures for the armed services in the past, and I will again. But I have never been inclined—and never will be—to spend money foolishly and it is foolish to award any contract on a sole source basis when companies of good reputation are anxious to bid competitively.

I simply do not understand how the Army can defend this practice.

Mr. President, the General Accounting Office is now in the process of completing a report on the awarding of the contract for the M-9 earthmover. I certainly hope that Secretary Marsh will delay any expenditure of money on this project until that report is finished.

I believe the real possibility exists that the Army could save several millions of dollars by seeking competitive bids on the M-9.

I believe there is great potential for saving even larger amounts of money by abandoning the sole-source approach to procurement.

To paraphrase the late, great Senator from my State, Everett McKinley Dirksen:

> A million here, a million there, and pretty soon the taxpayers will be saving some real money.

LILI MEIER

Mr. PROXMIRE. Mr. President, an article in the New York Times book review of Sunday, January 24, tells the story of Lili Meier, née Jacob, a survivor of the Polish concentration camp Birkenau, at Auschwitz.

Lili Meier, at 18 years of age, was deported to Birkenau in May 1944 along with other members of her large Hungarian Jewish family. Because of her youth and health, she was assigned to a series of labor camps. Her family, not as fortunate, died in the gas chambers.

In April of 1945, the young woman came down with typhus while working at Dora, a camp in central Germany. When the American forces liberated Dora, Lili got out of bed to watch. After collapsing, she was carried into a vacated SS barracks. Searching in a cupboard for warm clothing, she came across a photograph album containing pictures of the chief rabbi from her hometown, as well as family members and neighbors, among others.

One hundred and eighty-eight of the photographs have been published in the "Auschwitz Album." The division of the Jews into two columns, which determined who would work and who would go to the gas chambers; and the delousing and shaving of the new workers are among the scenes depicted. According to the reviewer:

> The photographs, unquestionably authentic, constitute a unique historical and cultural resource of real importance.

Mr. President, these photographs serve as a reminder of, and testimony to, the atrocities committed in the name of the "final solution." I refer of course, to the attempt by Nazi Germany, to exterminate members of the Jewish religion.

Under the Genocide Treaty, the killing of members of a national, ethnical, racial, or religious group would become an international crime. How ironic it is, that both East and West Germany have ratified the treaty. They have both ratified the treaty, as has every major country in the world, except the United States, that proposed the treaty in the first place, at the U.N. Security Council.

Only the U.S. Senate stands in the way of ratifying that basic, fundamental human rights treaty.

I yield the floor.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate go into executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate consider all nominations on the Executive Calendar with the exception of Calendar No. 616, Frederic N. Andre; and Calendar No. 667, Christian Hansen, Jr.; and including nominations placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, if the distinguished acting leader will repeat those, please.

Mr. TOWER. That would be all nominations on the Executive Calendar with the exception of Calendar No. 616, Frederic N. Andre and Calendar No. 667, Christian Hansen, Jr.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The clerk will report the nominations.

The assistant legislative clerk preceeded to read various nominations.

Mr. TOWER. Mr. President, I move that the nominations just identified be considered and confirmed en bloc.

The PRESIDING OFFICER. The motion is agreed to. The nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES

Charles Edwin Lord, of the District of Columbia, to be First Vice President of the Export-Import Bank of the United States, vice H.K. Allen, resigned.

DEPARTMENT OF JUSTICE

J. Alan Johnson, of Pennsylvania, to be United States Attorney for the Western District of Pennsylvania for the term of four years, vice Robert J. Cindrich, resigned.

William L. Lutz, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years, vice Rufus E. Thompson, resigned.

David D. Queen, of Maryland, to be United States Attorney for the Middle District of Pennsylvania for the term of four years, vice Carlon M. O'Malley, Jr.

NATIONAL MEDIATION BOARD

George S. Roukis, of New York, to be a Member of the National Mediation Board for the term expiring July 1, 1984, vice George S. Ives, term expired.

DEPARTMENT OF COMMERCE

James W. Winchester, of Mississippi, to be Associate Administrator of the National Oceanic and Atmospheric Administration, vice George S. Benton, resigned.

COAST GUARD

The following officers of the United States Coast Guard for promotion to the grade of rear admiral.

Capt. James C. Irwin, USCG.
Capt. Bobby F. Hollingsworth, USCG.
Capt. Edward Nelson, Jr., USCG.
Capt. Clyde E. Robbins, USCG.

DEPARTMENT OF STATE

Peter H. Dailey, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD, DEPARTMENT OF STATE

Coast Guard nominations beginning Wade A. Mitchell, to be Lieutenant, and ending Joseph D. Klimas, to be Lieutenant, which nominations were received by the Senate and appeared in the Congressional Record of February 3, 1982.

Coast Guard nominations beginning Richard L. Devries, to be Commander, and ending Bruce Y. Arnold, to be Commander, which nominations were received by the Senate on February 18, 1982, and appeared in the Congressional Record of February 22, 1982.

Department of State nominations beginning Ralph J. Edwards, to be Minister-counselor, and ending Miguel De La Pena, to be Class Two, Counsular Officer, and Secretary, which nominations were received by the Senate and appeared in the Congressional Record of March 8, 1982.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF JAMES W. WINCHESTER TO BE ASSOCIATE ADMINISTRATOR OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

● Mr. COCHRAN. Mr. President, we are today considering the nomination of Mr. James Winchester to be Associate Administrator of the National Oceanic and Atmospheric Administration.

Mr. President, it is my pleasure to rise in support of Mr. Winchester's confirmation as NOAA's Associate Administrator. We in Mississippi consider ourselves fortunate to have a citizen with such impressive and impeccable qualifications available for this position.

Mr. Winchester is a professional oceanographer and has many years of experience in this field. He is fully qualified by academic training and actual experience to serve as Associate Administrator. He served 5 years as the Director of NOAA's National Data Buoy Office at Bay St. Louis, Miss. He holds a master's degree in physical oceanography awarded by Johns Hopkins University as well as a master's degree in public administration awarded by the American University.

The Senate Committee on Commerce, Science, and Transportation has endorsed his nomination, and I urge my colleagues to support this nomination today.●

LEGISLATIVE SESSION

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 451, 452, 453, and 454.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

NATIONAL INVENTORS' DAY

The Senate proceeded to consider the joint resolution (S. J. Res. 140) designating February 11, 1982, "National Inventors' Day," which had been reported from the Committee on the Judiciary with an amendment:

On page 2, line 1, strike "1982," and insert "1983,".

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in honor of the important role played by inventors in promoting progress in the useful arts and in recognition of the invaluable contribution of inventors to the welfare of our people, February 11, 1983, is hereby designated "National Inventors' Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Amend the title so as to read: "Joint resolution designating February 11, 1983, 'National Inventors' Day'.".

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read "Joint resolution designating February 11, 1983, 'National Inventors' Day.'"

Mr. TOWER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL CHILD ABUSE PREVENTION WEEK

The joint resolution (S.J. Res. 149) to designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The accompanying preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 149

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated two million children become victims of child abuse in this Nation each year;

Whereas an estimated five thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous, the National Committee for the Prevention of Child Abuse, American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect and to help child abusers break their destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations, such as the National Exchange Club Foundation for the Prevention of Child Abuse, Parents Anonymous and other members of the National Child Buase Coalition are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the Nation's attention upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 6, 1982, through June 12, 1982, is designated as "National Child Abuse Prevention Week" and the President of the United States is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SEVENTIETH ANNIVERSARY OF HADASSAH

The concurrent resolution (S. Con. Res. 62) to congratulate Hadassah, the Women's Zionist Organization of America, on the celebration of its 70th anniversary, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

S. Con. Res. 62

Whereas Hadassah, the Women's Zionist Organization of America and the largest women's volunteer organization in the United States, was founded on February 24, 1912;

Whereas Hadassah, with three hundred and seventy thousand members in all fifty States and Puerto Rico, celebrates its seventieth anniversary;

Whereas its seven decades of service have contributed to the health and education of countless thousands of persons both directly and through the training of medical personnel;

Whereas Hadassah created and maintains the world renowned Hadassah-Hebrew University Medical Center in Jerusalem, Israel, which is a living expression of the common humanitarian, social, ethical, religious, and scientific values and friendship shared between the peoples of the United States and Israel;

Whereas the Hadassah-Hebrew University Medical Center and its facilities have been made available to treat all peoples of the region regardless of religion, race or nationality in the tradition of this oath of the hebrew Physician: "You shall help the sick, base or honorable, stranger or alien or citizen, because he is sick.";

Whereas Hadassah has striven to help promote democracy and create a better society for all peoples;

Whereas Hadassah's volunteerism in helping others, exemplified by its founder, Henrietta Szold, has provided inspiration and encouragement at a time when citizen groups are being urged to play a greater role in promoting the general well-being: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress congratulates Hadassah on its seventieth anniversary and extends its best wishes for many more decades of international humanitarian service.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISTRIBUTION OF SLIDE SHOW "MONTANA: THE PEOPLE SPEAK"

The bill (S. 2166) to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak," was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the International Communication Agency shall make available to the Administrator of General Services a master copy of the slide show entitled "Montana: The People Speak"; and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that slide show within the United States, shall deposit that slide show in the National Archives of the United States, and shall make copies of that slide show available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the International Communication Agency.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 10 A.M. TUESDAY

Mr. TOWER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. on tomorrow, Tuesday, March 16.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR PRYOR ON TUESDAY

Mr. TOWER. Mr. President, I ask that following the recognition of the two leaders under the standing order on tomorrow, the Senator from Arkansas (Mr. PRYOR) be recognized for not to exceed 15 minutes for a special order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY

Mr. TOWER. Mr. President, I ask unanimous consent that following the special order just identified on tomorrow there be a period for the transaction of routine morning business not to extend beyond 11 a.m. with statements limited therein to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 391 ON TUESDAY

Mr. TOWER. Finally, Mr. President, I ask unanimous consent that at the hour of 11 a.m. the Senate resume the pending business, S. 391.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that my time under the standing order was reserved for me.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

THE ADMINISTRATION'S PROPOSALS WITH RESPECT TO THE RAILROAD RETIREMENT SYSTEM

Mr. ROBERT C. BYRD. Mr. President, the administration's budget for fiscal year 1983 contains a proposal to abolish the Railroad Retirement Board, shift tier I benefit payments to the Social Security Administration, convert tier II benefit payments to a private negotiated system, and reduce the dual benefit payment. I have heard from many West Virginia railroad workers and retirees who are greatly concerned over the administration's plan and oppose it vigorously. I agree that this proposal is unfair and unwarranted.

Last year, the Congress acted to tighten the financial soundness of the Railroad Retirement System, and I feel that it is unconscionable that the administration is now proposing that this system be disrupted. Because of the concerns of my constituents and my belief that there is nothing to be gained by eliminating a Federal agency that provides a basic service to the railroad workers and retirees and whose administrative costs are fully funded by the taxes paid by the railroad management and employees, I am pleased to join as a cosponsor of the resolution introduced by my distinguished colleague from Ohio, opposing the administration's proposals with respect to the Railroad Retirement System.

I ask unanimous consent that my name be added as a cosponsor of Mr. METZENBAUM's resolution, Senate Resolution 334.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I will speak today on the subject of the U.S. Senate. I will speak until about 1 o'clock, at which time the agent identities bill will be resumed. At that time I will delay the further reading of my statement until in the afternoon when the discussion on the agent identities bill has been completed. At that time I will complete the reading of my statement.

I ask unanimous consent that the two readings be joined in the RECORD to show no interruption.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Chair will advise the Senator that morning business will be conducted until 1:18.

Mr. ROBERT C. BYRD. I thank the Chair.

How much time is each Senator allowed to speak during morning business?

The **PRESIDING OFFICER.** Under the previous order, 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the 5-minute limitation be waived for the purposes I have described.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

THE UNITED STATES SENATE

THE SENATE CENSURES ANDREW JACKSON, 1833-1837

Mr. ROBERT C. BYRD. Mr. President, in its entire history the United States Senate has only once censured a President of the United States, and even then it later revoked its own action. We know that in 1868 the Senate sat as a court of impeachment on President Andrew Johnson, acquitting him by only one vote. We know also that the Senate was preparing to sit as a court again for President Richard Nixon in 1974, prior to his resignation. But I refer here not to impeachment but to censure. The Senate over the years has censured eight of its own members, but only one president, and that was Andrew Jackson, on March 28, 1834. The dramatic story of how this censure came about, its equally dramatic conclusion, and its historical significance, will be the subject of my remarks today, in my continuing series of addresses on the history of the Senate.

Incidentally, this is my 50th statement on the history of the United States Senate.

The censure of President Jackson was a momentous occasion in the birth of the Whig Party and the reuniting of three of the most famous United States Senators: Henry Clay of Kentucky, John C. Calhoun of South Carolina, and Daniel Webster of Massachusetts. The issue behind the censure was the Bank of the United States, about which I spoke at length during my last address in this series. To recapitulate briefly, President Jackson had vetoed the rechartering of the Second Bank of the United States in 1832, on the grounds that the Bank was unconstitutional, aristocratic, and had failed to establish a sound and uniform currency. The Senate attempted and failed to override Jackson's veto. Later that year the Bank issue played a leading part in the presidential election of 1832, in which President Jackson won a decisive victory in his reelection over the National Republican candidate, Henry Clay.

After the election, in November 1832, the president met with his cabinet to discuss the government's deposits in the Bank. At that meeting Jackson announced that he believed the Bank to be insolvent and that the government should withdraw its funds—both to protect the public money, and to prevent the Bank from using the funds in a lobbying attempt to influence Congress to override the presidential veto. Jackson asked Congress to investigate the safety of the government's deposits in the Bank, but when the House of Representatives conducted such an investigation and reported back that the deposits were indeed safe, the president simply ignored their unwanted conclusion. Since Treasury Secretary Louis McLane opposed the transfer of government funds, on the grounds that Congress opposed the idea, Jackson appointed him Secretary of State and appointed a new Treasury Secretary, William J. Duane, a staunch anti-Bank man. But Jackson soon discovered that Duane, to, opposed removal of the government's deposits, because he believed the action would shake the public's confidence and cause an economic downswing. Thus, President Jackson, strong-willed as he was, removed a second Treasury Secretary. This time he appointed his trusted Attorney General, Roger Taney, who he was confident would carry out presidential orders. The government began to withdraw its funds from the national bank and deposit them in a variety of state banks.[1]

As Jackson and Taney were implementing this policy, the equally strong-willed president of the Bank of the United States was carrying on his own plan of economic sabotage. Nicholas Biddle conducted a policy of restricting credit and calling in the Bank's loans, calculated to cause an economic contraction that would arouse the public against Jackson's program. At one time, historians attributed the depression that followed solely to the clash between Jackson and Biddle over the Bank. More recent studies have found the American depression of the 1830's to have been part of a world-wide depression, made all the worse in the United States by the political crises over the nation's banking system.[2] But whether Nicholas Biddle was a major cause of, or merely a contributor to, the economic collapse, certainly he and his political allies, Clay and Webster, believed that the hard times would work in their favor and to Jackson's detriment. President Jackson, for his part, refused to move an inch. "I never will charter the United States Bank, or sign a charter for any other bank, so long as my name is Andrew Jackson," he told one group of businessmen.[3]

When the Twenty-third Congress met in December 1833, the Democrats had a comfortable majority of 147 members in the House, as opposed to 113 members representing the National Republicans, the Anti-Masons, the Nullifiers, and the States' Rights parties (all of which would soon loosely combine to make up the Whig Party). In the Senate, however, the Clay, Calhoun, and Webster combination counted some twenty-eight senators on their side, while the Democrats had only twenty.

With this margin behind him, the masterful Henry Clay rose in the Senate to challenge Jackson on the bank issue. On December 10, 1833, Clay called his colleagues' attention to "a subject perhaps exceeding in importance any other question likely to come before the present Congress." By this he meant Jackson's removal of the government deposits from the Bank. The time had now come, said Clay, for Congress to examine the Secretary of the Treasury's reasons for removing the funds, and to determine whether his stated reasons were fully justified. Clay then moved the following resolution:

> *Resolved*, That the President of the United States be requested to inform the Senate whether a paper, under the date of the 18th day of September, 1833, purporting to have been read by him to the heads of the several departments, relating to the deposits of the public money in the treasury of the United States, and alleged to have been published by his authority, be genuine or not; and, if it be genuine, that he be also requested to cause a copy of said paper to be laid before the Senate.[4]

Mr. President, on December 11, 1833, after a heated debate, the Senate adopted Clay's resolution by a vote of 23 to 18. However, the next day President Jackson sent a message flatly declining to comply with the resolution.

> The Executive is a co-ordinate and independent branch of the Government equally with the Senate,

Jackson responded,

> and I have yet to learn under what constitutional authority that branch of the Legisla-

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Footnotes at end of article.

> ture has a right to require of me an account of any communication, either, verbally or in writing, made to the heads of departments acting as a cabinet council.[5]

Although Jackson did not use the phrase, he was invoking what we today would call "executive privilege."

John Quincy Adams, former president and at that time a member of the House of Representatives, noted in his diary that there was "a tone of insolence and insult" in Jackson's messages to Congress, particularly his response to the Senate's resolution, and that this tone has increased since Jackson's reelection. The legislature, Adams noted, had never witnessed such a treatment. "The domineering tone has heretofore been usually on the side of the legislative bodies to the Executive, and Clay has not been sparing in the use of it. He is now paid in his own coin."[6]

Jackson's refusal led Clay to escalate his offensive. On the day after Christmas in 1833, Clay introduced two resolutions of censure against the president. One was based on his dismissal of Treasury Secretary Duane, and the other on the grounds that Jackson's stated reasons for withdrawing government deposits from the Bank were "unsatisfactory and insufficient."[7]

Clay defended these resolutions in one of the most famous of his Senate speeches. "We are," he said, "in the midst of a revolution, hitherto bloodless, but rapidly tending towards a total change of the pure republican character of the government, and to the concentration of all power in the hands of one man." Jackson had "paralyzed" Congress by his unprecedented use of the veto, particularly of the pocket veto which did not permit a congressional override. Jackson was undermining the Senate's authority to approve nominations by his constant removal of officers and by his reappointment of persons whom the Senate had already rejected. Worst of all, the president was seeking to seize Congress' power of the purse, thus combining "the two most important powers of civil government"; the sword and the purse.

With wit, eloquence, logic, and appeals to reason and to passion, Clay verbally assaulted the president and his actions. Clay's speech lasted three days and filled eighteen pages of the *Register of Debates.* The president had assumed a dangerous and unconstitutional power, said Clay, for which the Senate must censure him.

> The eyes and the hopes of the American people are anxiously turned to Congress . . . The premonitory symptoms of despotism are upon us; and if Congress does not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die—ignobly die—base, mean, and abject slaves; the scorn and contempt of mankind; unpitied, unwept, unmourned!

With these words, Clay concluded his speech, and the *Register of Debates* reported that his words were followed "by such loud and repeated applause from the immense crowd which thronged the galleries and lobbies" that Vice President Van Buren ordered the galleries cleared.[8]

Thomas Hart Benton of Missouri and other Jacksonian Democrats then rose to the president's defense. The debate over the removal of the deposits and the censure of Jackson lasted for the remainder of the first session of the Twenty-third Congress, from January through March 1834. This was the longest period the Senate had devoted itself to a single subject up to that time. Henry Clay noted that "the period which has elapsed was long enough for a vessel to have passed the Cape of Good Hope, or to have made a return voyage from Europe."[9] Page after page of the *Register of Debates* are devoted entirely to the deposits issue, the Bank, and the "public distress" caused by the economic uncertainties. Memorials were received from states, citizens, and private interest groups. Senators on both sides lined up impressive and intricate statistics to buttress their arguments.

Of the three Senate giants lined up against the president, Clay, Calhoun, and Webster, each had different reasons for supporting the resolutions. Henry Clay wanted to embarrass Jackson and Van Buren politically, and to set the stage for a new political coalition to challenge them. John C. Calhoun cared little about the Bank as an issue. He could just as well have supported Jackson's position, except for his total hostility to Jackson. In his speeches in the Senate, Calhoun used the Bank issue primarily as an example of the correctness of his own earlier break with Jackson over the Tariff and Nullification. Daniel Webster at first attempted to assume the statesman's role by seeking a compromise among Clay, Calhoun, and Jackson. Webster, as chairman of the Senate Finance Committee, proposed a six-year extension of the bank's charter to allow it to wind up its business, and for the redepositing of government funds in the bank. Webster's compromise, however, satisified neither side. Finally, Webster, too, chose sides with the anit-Jacksonians, and supported the censure resolution.[10]

Mr. President, the coming together of these three senators was the first step in the formation of a new American political party, the Whig Party, which would soon absorb the old National Republicans, the Anti-Masons, and the States' Righters, as well as a few Democratic converts. The title "Whig" came from British politics and was popular in America during the time of the Revolution. It signified opposition to the crown, and to the "Tories" who supported the King—in this case "King Andrew." The Whigs, however, were reluctant to allow Jackson's supporters to claim a monopoly on the coveted title "Democrats," and at least until 1840, they called themselves "Democratic Whigs." But for the most part, after 1834, the American political scene was divided between Democrats and Whigs. The Bank war and the depression that followed caused American political leaders to choose sides between the two parties. Historian Michael Holt has pointed out that twenty-eight of the forty-one Democrats who voted for rechartering of the Bank in 1832 had become Whigs by 1836. Even Jackson's trusted friends and lieutenants from Tennessee, such as John Overton, John Eaton, and Hugh Lawson White, split with the president on the issue of removing government deposits from the bank. North Carolina Democrat Willie P. Magnum, of whom the Senate recently acquired a handsome portrait which hangs in the corridor just outside this chamber, bolted from the Democratic Party over this issue and joined the Whigs.[11]

That old Jacksonian, Thomas Hart Benton, commented on the uniting of "Mr. Clay, Mr. Calhoun, and Mr. Webster . . . with all their friends, and the Bank of the United States," against General Jackson. In a very shrewd analysis, Benton wrote that "Public men continue to attack their adversaries in power, and oppose their measures, while having private griefs of their own to redress, and personal ends of their own to accomplish." Clay, Benton pointed out, was responding to his defeat in the last presidential election to Jackson. Calhoun was still quarreling with the president over Jackson's discovery that Calhoun had sided against his raid of Florida during the Monroe Administration. "Their movements all took a personal and vindictive, instead of a legislative and remedial, nature."[12]

Benton did not add Daniel Webster to this list, but we know that Webster also had "personal ends" to accomplish. At the very time that Senator Webster was chairing the Finance Committee and leading the struggle against Jackson's Bank plans, Webster was under retainer to the Bank of the United States! In a letter to Nicholas Biddle on December 21, 1833, Webster reminded Biddle that his retainer had not been "renewed, or *refreshed,* as usual. If it is wished that my relation to the Bank should be continued, it may be well to send me the usual retainer." This surely was one of the most egregious breaches of ethics in the history of the Senate, and one which will ever stain the reputation of Daniel Webster.

There was, indeed, a strange paradox about Daniel Webster—the "Godlike Daniel" whose speeches schoolboys of the nineteenth century memorized, and whose prodigious efforts helped hold this nation together in the perilous years before the great Civil War, and "Black Dan," whose personal weaknesses, particularly over money, kept him from the presidency he sought. The two sides of Daniel Webster have been admirably presented in Irving Bartlett's recent biography, *Daniel Webster*, and in Senator John F. Kennedy's stirring book, *Profiles in Courage.*[13]

As Clay, Calhoun, and Webster flailed at Jackson, and Benton and other Democrats stood in his defense, another figure—a surrogate for the president—watched the scene with some bemusement. This was Vice President Martin Van Buren, the "Little Magician" who had helped put together the Democratic coalition which elected Jackson, and who had succeeded Calhoun in the vice presidential chair. Jackson in his second term was an old and ill man, who at that point was unlikely to run for a third term. Van Buren was then his probable successor, and Henry Clay went out of his way to draw Van Buren into the fray. At one point during the debate over Jackson's censure, Clay rose in the Senate and addressed himself directly to Van Buren, the presiding officer. Clay urged Van Buren to intercede with Jackson to persuade him to "abandon his fatal experiment." "Go to him," Clay implored, "and tell him, without exageration, but in the language of truth and sincerity, the actual condition of his bleeding country. Tell him it is nearly ruined and undone by the measures which he has been induced to put in operation." Clay was playing to the galleries—both those present in the Senate Chamber and those who would read his speech reprinted in their newspapers. Indeed, there were loud sobbings heard from the ladies in the galleries by the time Clay had finished. We may assume that his object was to tie Van Buren more closely in the public's mind to Jackson's anti-Bank activities, and to have him share the blame for the existing economic crisis. Van Buren, clever politician that he was, clearly recognized what Clay was up to. According to Senator Benton's *Thirty Years' View*, Van Buren "maintained the utmost decorum of countenance, looking respectfully, and even innocently at the speaker, all the while, as if treasuring up every word he said to be faithfully repeated to the President." But when Clay had finished, Van Buren motioned to another senator to take his seat as presiding officer. The vice president then approached Senator Clay. But instead of responding to his oratory, Van Buren merely asked for a pinch of Clay's fine maccoby snuff, and having taken it, turned and nonchalantly walked away.[14]

Finally, on Friday, March 28, 1834, the Senate was ready to vote on Clay's resolutions. Former President Adams, viewing the scene from the House, was greatly opposed to the censure of his nemesis and successor, Andrew Jackson, and lobbied with friends in the Senate against it. However, he noted, they voted for the censure, "under the domineering influence of Mr. Clay."[15] By a vote of 28 to 18 the Senate found the reasons given by the Secretary of the Treasury for removal of government funds from the Bank to be unsatisfactory. And then, by a vote of 26 to 20, the United States Senate resolved that "the President, in the last executive proceedings in relation to the public revenue, has assumed upon himself authority and power not conferred by the constitution and laws, but in derogation of both." Clay, Calhoun, and Webster all voted in favor of censuring President Andrew Jackson.[16]

Senator Benton found this resolution to be "nothing but an empty fulmination—a mere personal censure—having no relation to any business or proceeding in the Senate." From the moment of its passage, Senator Benton vowed not only to repeal the offensive resolution, but also to have it striken from the Senate Journal. Vowing to keep the matter alive, Benton would bring the motion up at the start of each session of Congress.[17]

For his part, President Jackson rejected the resolution as illegal and unconstitutional, and refused to accept its rebuke or allow it to change his policies. On April 17 he sent the Senate a lengthy protest, filling ten pages of the *Register of Debates*. The Constitution, said Jackson, provided for the possible impeachment of a president by the House and conviction by the Senate, but not for his censure by a single body of Congress. "The resolution in question was introduced, discussed, and passed, not as a joint, but as a separate resolution," Jackson's protest went on. "It asserts no legislative power; proposes no legislative action; and neither possesses the form nor any of the attributes of a legislative measure."[18] After defending his policies concerning the bank, Jackson concluded: "The resolution of the Senate contains an imputation upon my private as well as upon my public character, and as it must stand forever on their Journals, I cannot close this substitute for that defense which I have not been allowed to present in the ordinary form, without remarking, that I have lived in vain, if it be necessary to enter into a formal vindication of my character and purposes from such an imputation." Jackson scoffed at the charge that he was motivated by ambition. "No; the ambition which leads me on, is an anxious desire and a fixed determination, to return to the people, unimpaired, the sacred trust they have confided to my charge—to heal the wounds of the Constitution and preserve it from further violation; to persuade my countrymen, so far as I may, that it is not in a splendid government, supported by powerful monopolies and aristocratic establishments, that they will find happiness, or their liberties protection, but in a plain system, void of pomp—protecting all, and granting favors to none—dispersing its blessings like the dews of heaven, unseen and unfelt, save in the freshness and beauty they contribute to produce."[19]

Immediately after Jackson's protest was read to the Senate, Senator George Poindexter of Mississippi stood up indignantly to denounce the message and to move that the Senate refuse to receive it. Thus, while one may find Jackson's protest in the *Register of Debates*, a forerunner of the *Congressional Record*, the *Senate Journal* states merely: "A message, in writing, from the President of the United States by Mr. Donelson, his Secretary, was communicated to the Senate; which, having been read, a motion was made by Mr. Leigh, the Senate adjourned." Four days later, the Senate again debated Poindexter's motion. On this occasion the Senate voted to reject the message on the grounds that the president "assumes powers in relation to the Senate not authorized by the Constitution, and calculated in its consequences to destroy that harmony which ought to exist between the co-ordinate departments of the General Government, to interfere with the Senate in the discharge of its duties, to degrade it in the public opinion, and, finally, to destroy its independence, by subjecting its rights and duties to the determination and control of the Chief Magistrate."[20]

I think it is safe to say that never before in the history of the United States had relations between the president and the Senate sunk to such depths, and perhaps only during the impeachment trial of President Andrew Johnson, thirty-four years later, were executive-legislative relations strained to such a point of total alienation.

The House of Representatives, with its solid Democratic majority, refused to endorse the Senate's censure of the president, nor would it support Clay's motion to restore government deposits to the bank. The congressional elections of 1834 also demonstrated that Henry Clay had misread the American mood. Instead of rallying to the support of the Whigs and driving the Jacksonians from power, the voters increased the Democratic margin in the House to 145 to 98. The Whigs also lost their majority in the Senate with only 25 senators to the Democrats' 27. Even more significantly, several state legislatures which had elected Whig senators switched to Democratic control. These legislatures now voted to "instruct" their senators to vote to expunge the censure resolution from the *Senate Journal.* This matter of instruction proved embarrassing to a number of Whigs who endorsed instruction as a matter of principle but who could not bring themselves to vote in Jackson's favor under any circumstance.

It is important to remember that United States senators in the nineteenth century, and until the Seventeenth Amendment was passed in 1914, were elected by state legislatures rather than directly by the people. Having appointed their senators, many of these legislatures then felt they had a right to instruct them how to vote on certain issues. Some senators rejected the right of instruction, on the grounds that their offices were created by the federal Constitution and therefore not controlled by the state governments. The states, particularly those in the South, argued in the words of the Virginia legislature that "the people are acknowledged to be the only legitimate source of all legislation," and that instruction was the essence of representative government.[21]

The North Carolina legislature instructed its senators to vote to expunge the censure resolution, but Whig Senator Willie Mangum refused to comply with their instructions. The Virginia legislature also introduced its two senators, but William C. Rives and John Tyler resigned rather than comply. Tyler—the future President of the United States—felt he had no other choice but to resign, since his first political action had been to vote to censure Senator William Branch Giles for failing to follow the Virginia legislature's instructions. Tyler could not reverse himself now in good conscience.[22] After Senator Rives resigned, the Virginia legislature elected Benjamin Watkins Leigh in his place. Leigh had been the principal author of the Virginia claim to instruct its senators, but ironically he was also strongly opposed to tampering with the *Senate Journal.* Leigh then informed the legislature that he would not obey their instruction because he believed expunging the *Journal* to be unconstitutional—however, after he stood his ground on this issue, he resigned from the Senate a few months later.

Today, Mr. President, Benjamin Leigh is a little known United States senator from a distant past. There has never been a published biography of his life, but we gain a colorful word picture of the man from an account by an eyewitness, Henry A. Wise. In his book. *Seven Decades of the Union,* Wise described Senator Leigh's attack upon Thomas Hart Benton and his expunging resolution, in a Senate Speech which ended with the words: "And Mr. President, in that catechism which I learned at my mother's knee, I was taught 'to keep—to keep—to keep' my hands from picking and stealing, and my tongue from evil speaking!" Wrote Wise:

> He was not a vehement orator in tone, but he was most earnest in utterance and manner. He had a soft, clear, flutelike voice, but it was not loud . . . He was a short man, yet in speaking seemed large, so elevated was he by his theme, and so gallant and game was his mien. He was lame, one leg shortened, and wore a cork sole on one of his boots. When about to be emphatic, he usually caught his left wrist in his right hand and sank back on his lame leg, pausing to poise himself, and, as he rose to the climax of what he was about to utter, would bear upon his sound leg and rise on it with his hands free.

Thus when Leigh launched into his attack on Benton, he dropped back on his lame leg, took his left wrist in his right hand, and gazed intensely at Benton.

> Senator Leigh began low, uttered softly as far as the word 'my mother's knee!' raised his voice at the words 'I learned,' and, pronouncing the words 'to keep' three times, each time louder and louder, he rose upon his sound leg, loosed his wrist, and putting forward both hands, exclaimed, 'My hands from picking and stealing, and my tongue from *evil speaking.*'

According to Wise a pin could have been heard to drop on the floor as Leigh spoke. Senator Benton sat back looking towards the wall, swinging his leg over his chair, and avoiding Leigh's glare.[23]

With the Democrats in the majority in the Senate during the Twenty-fourth Congress, Benton was determined to have his way and strike out the censure of Jackson. This was not strictly a pro or anti-Jackson issue. Some senators opposed any changes made to the *Senate Journal* for any reason. Benton had lost a chance to expunge the *Journal* in 1835, when some Whig senators tried to soften his resolution to "rescind, reverse, make null and void" the censure rather than actually to remove it from the *Journal.* Benton had reluctantly gone along with his colleagues at first, but then Daniel Webster had risen to crow. "Men may change, opinions may change, power may change, but, thanks to the firmness of the Senate, the records of this body do not change." Webster charged that Benton had attempted to falsify the record and moved to have Benton's resolution tabled, which the Senate did by a vote of 27 to 20. Immediately, Benton was on his feet. "The exulting speech of Mr. Webster restored me to my courage," Benton later reported, "—made a man of me again." He submitted his resolution anew and once again pressed for ridding the record of the censure.[24]

Benton's long fight ended at the conclusion of the second session of the Twenty-fourth Congress in 1837. On Saturday evening, January 14, 1837, the Democratic members of the Senate caucused at a Washington restaurant. Martin Van Buren had been elected president in November, defeating the Whig candidate, William Henry Harrison. Van Buren would be inaugurated on March 4. An old and ill Andrew Jackson was preparing to leave the White House to return to the Hermitage in Tennessee, and the Senate Democrats were determined to allow "Old Hickory" to retire without the blot of censure upon his name. Their meeting that night, Benton reported, had an "air of convivial entertainment." Around midnight they decided upon a method of procedure. An oblong square of black lines would be drawn around the original censure in the *Journal,* with the words: "Expunged by order of the Senate." Each Democratic senator then pledged himself to support it, and agreed that there would be no adjournment of the Senate after the resolution was introduced until it was passed. Expecting a long and arduous session, the Democrats gave orders to have an ample supply of cold hams, turkeys, rounds of beef, pickles, wines, and cups of hot coffee ready in a committee room off the Senate floor, to last them through the debate.[25]

As could be expected, Clay, Calhoun, and Webster all spoke out against the measure. Webster reminded the Senate of its constitutional duty to keep a journal and insisted that "a record which is *expunged,* is not a record which is *kept,* any more than a record which is *destroyed* can be a record which is *preserved.*"[26] Despite Webster's eloquence, and his vehemence, the Democrats would not be moved. Democratic senators, knowing they had the votes to win, came and went from the Senate chamber during the proceedings, helping themselves to the feast they provided in the nearby committee room, and inviting their Whig colleagues to join them. The Whigs, it appears, had lost their appetites.

By the time Webster had finished speaking it was near midnight. "The dense masses which filled every inch of the room in the lobbies and the galleries remained immovable," wrote Benton. "No one went out: no one could get in. The floor of the Senate was crammed with privileged persons, and it seemed that all Congress was there."[27] When Benton called for the yeas and nays, the vote was 24 to 19 to expunge the record.

This was Benton's great moment of triumph and he arose from his seat to accept congratulations from those about him on the Senate floor. The mood of the Whigs and bank supporters was grim and the situation in the chamber was tense. Fearing for Benton's life, his colleague from Missouri, Lewis Linn, had brought pistols into the chamber to protect him. Benton's wife, also alarmed, stood at her husband's side. But the ebullient Benton pressed his way through the crowd. As Henry Wise, one of Benton's Whig opponents, watched, Benton "was boisterously moving from man to man, reaching out his hand, until he came to the Honorable Baillie Peyton, of Tennessee, who waited his expected offer of a touch with such a countenance of contempt and detestation that he shrunk back, desisting from his gasconading, and resumed his seat." [28]

The *Senate Journal* for the Twenty-third Congress was carried into the Senate chamber and placed on the desk of Secretary of the Senate Asbury Dickins, just in front of the presiding officer's desk. According to Henry Wise, the book "seemed to resist the opening, the back was stiff, and it shut together again, until pressed open wide, and the pages so held as to lay upon it the rule by the straight edge of which the black lines were to be drawn. We could not but imagine the book of the journal as resisting the violation. It seemed like a living victim on the alter of sacrifice, and the scratch of the pen alone was heard in the awful silence which prevailed when the gall of party bitterness drew its lines in the blackness of darkness around the freedom and independence of the Senate." [29] Henry Wise, of course, was grossly exaggerating, but his words give testament to the bitterness which the Whigs felt about the incident, which symbolized their defeat in the Bank war, in the struggle with Jackson, and in the presidential election of 1836.

No sooner had Secretary Dickins carried out the act, drawn the lines and expunged the censure, than the Senate chamber was thrown into turmoil and uproar. The *Register of Debates* records that "hisses, loud and repeated, were heard from various parts of the gallery." Senator William R. King of Alabama, then serving as presiding officer, ordered that the galleries be cleared. But Senator Benton wanted his supporters in the galleries to witness his triumph, and asked that they be permitted to remain while the "ruffians" who had caused the disturbance should be ejected. Benton pointed to a man in the galleries who had "cried aloud some disorderly response," and ordered the Sergeant-at-Arms to seize him. "Here is one just above me, that may easily be identified—the bank ruffian!"

Senator King revoked his order to clear the galleries, and had Sergeant-at-Arms John Shackford bring forth a tall, well-dressed man in a black overcoat who seemed to be the "ringleader" among the hecklers in the galleries. After the man was brought to the well of the Senate, Senator Benton then said that "as this individual had been taken from the respectable audience in the gallery, and had been presented in this public manner, with all eyes fixed upon him, he had perhaps been sufficiently punished in his feelings." Benton then moved to discharge the man from custody, but several Whigs insisted that the man be permitted to speak in his own defense. "A citizen has been brought to the bar of the Senate," said Senator Thomas Morris of Ohio, "and not informed for what reason, nor of what offense he stood charged; and now it was moved that, without a hearing, he be discharged from custody. Call you this the justice of the Senate of the United States?" Senator King, in the chair, however, pointed out that the man had been charged with disorderly conduct in the presence of the Senate, and that the Senate had the right to protect itself, through summary proceedings, against such disruptions, "on the evidence of its own senses." The *Register* reports at this time that "some confusion prevailed"—as well we might expect it would! The Senate finally took up Benton's motion to discharge the unruly visitor, and passed the motion by a vote of 23 to 1. But, instead of leaving, the Bank supporter advanced to the chair saying: "Mr. President, am I not to be permitted to speak in my own defense?" The presiding officer had lost all patience by that time and shouted to the Sergeant-at-Arms: "Take him out!" [30] The Senate then adjourned after this momentous and tumultuous session.

Through these proceedings, Henry Clay had been ostentatiously dressed entirely in black, to mark his mourning for the Constitution of the United States. Clay went so far as to refuse a pinch of snuff to one of the Democratic senators who was planning to vote to expunge, a breach of Senatorial courtesy that was rare for the Kentucky gentleman. Outside the Capitol, Senators Clay and Benton came face to face. The two men were political enemies but personal friends, and were even related by marriage. On the street they vented their steam in verbal abuse on each other until they calmed down. Senator Benton insisted on seeing Henry Clay home and then stayed in conversation until three in the morning. [31]

The next day, Thomas Hart Benton's son John arrived at the White House with a present for President Jackson: the pen which had stricken his censure from the *Senate Journal*. Needless to say, Jackson was delighted and deeply touched. He kept the pen as a fond remembrance of his triumph, and in his last will and testament bequeathed the pen back to Benton "as an evidence of my high regard, and exalted opinion of your talents, virtue, and Patriotism." A few weeks later, Jackson gave a grand dinner at the White House for the "expungers" and their wives. Being too ill to attend the festivities for more than a short while, Jackson sat Thomas Hart Benton, the "head-expunger," in his chair at the head of the table. [32]

While Benton and the Democrats celebrated, Clay and the Whigs mourned their loss. "The Senate is no longer a place for any decent man," Henry Clay complained. His weariness in battle was also evident in another letter he wrote at what was to be the midpoint in a forty year career in the House and Senate: "I am truly sick of Congress." Clay, of course, did not abandon his career, and indeed was reelected to the Senate by the Kentucky state legislature in 1837. But he had suffered a long string of defeats, in his presidential campaign against Jackson, in the Bank war, and in his other legislative proposals for the sale of public lands, internal improvements, and a protective tariff. [33]

Mr. President, having recounted the story of the Senate's censure of President Jackson, and of Thomas Hart Benton's triumphant expunging of that censure from the *Journal*, I think it only fitting to conclude my remarks with a few words about the remarkable Henry Clay and the Whig party which he built and with which his name was so closely associated. The Whigs are not well remembered in American history. They lasted less than thirty years, and were perhaps the unluckiest political party in our nation's history. Although they often controlled one or both houses of Congress, they elected only two presidents, William Henry Harrison and Zachary Taylor, both of whom died early in their presidential terms. The party which could boast of such giants as Clay, Calhoun, and Webster, could elect none of them president, despite the prodigious efforts of all three of those men to achieve that honor.

Some historians, notably Henry Adams, have dismissed the Whig party for being "feeble in ideas," but this is an unfair assessment of the party which rallied around Henry Clay's "American System." The Whigs represented the new commercial and industrial interests of early nineteenth century America. While they opposed a strong presidency, they were not opposed to an active federal government. Indeed, during the Panic of 1837 we find the Jacksonian president, Martin Van Buren, complaining that the people "looked to the government for too much,"—and have we heard that recently—and the Whig Senator Henry Clay responding that the people were "entitled to the protecting care of a paternal government," and have we heard that recently. The Whigs thought of themselves as the moral party. Many Whigs were leaders in movements for temperance, public education, the abolition of slavery, and other social reforms. Senator Clay once introduced a resolution for a day of national "humiliation and prayer" in response to a cholera epidemic, but the Jacksonians in the Senate blocked the resolution on the grounds that it violated the separation of church and state.

There is obviously much to admire in the programs and principles of the Whig party, but we must balance this with the observation that the Whigs tended to be the party of big business and of the more aristocratic forces in American society. Clay's protective tariff would protect mostly the textile manufacturers of New England and the large plantations of the South which supplied their cotton. So also the Bank of the United States, and internal improvements, would benefit the producing class first and foremost. In his recent book on *The Political Culture of the American Whigs,* Professor Daniel Walker Howe of the University of California at Los Angeles, noted that "Whig policies did not have the object of redistributing wealth or diminishing the influence of the privileged . . . For all their innovations in economic policy, the Whigs usually thought of themselves as conservatives." [34] Thus while the Whigs represented the dominant groups in society, they failed to become the dominant party. They lost critical elections to the Jacksonian Democrats who had become more clearly identified with labor, small farmers, immigrants, and the "common folk."

Mr. President, the Whig party, which was born in its opposition to President Andrew Jackson and his Bank policies, came together first in the efforts of the United States Senate to censure Jackson. The Whigs lasted for another thirty years, during which time its leaders struggled gallantly to hold this nation together against sectional tensions and powerful forces of disunity. When the Whig party finally collapsed it caused a major realignment in American politics and contributed to the coming of a terrible Civil War that divided this nation in two. But the events of this period between the birth and demise of the Whig party will be the subjects of my later addresses in this series. These were the turbulent years when the Senate would grow, in the words of the commemorative booklet on the Old Senate Chamber, "from a small council to the primary forum for the great national debates of the mid-nineteenth century." [35]

Mr. President, I ask unanimous consent to include notes to "Censure Of Andrew Jackson, 1833-1837."

There being no objection, the notes were ordered to be printed in the RECORD, as follows:

NOTES TO "CENSURE OF ANDREW JACKSON, 1833-1837"

[1] Glyndon Van Deusen, *The Jacksonian Era, 1828-1848* (New York: Harper and Row, 1959), 80-81.

[2] Peter Temin, *The Jacksonian Economy* (New York: W. W. Norton, 1969).

[3] Van Deusen, *The Jacksonian Era,* 83.

[4] *Register of Debates in Congress,* 23rd Congress, 1st sess., 27.

[5] *Ibid.,* 37.

[6] Charles Francis Adams, ed., *Memoirs of John Quincy Adams,* Vol. IX (Freeport, New York: Books for Libraries Press, 1969, 1874), 51.

[7] *Register of Debates,* 23rd Congress, 1st sess., 58-59.

[8] *Ibid.,* 59-94.

[9] *Ibid.,* 1172.

[10] Margaret L. Coit, *John C. Calhoun, American Portrait* (Boston: Houghton Mifflin, 1950), 263-265, Irving H. Bartlett, *Daniel Webster* (New York: W. W. Norton, 1978), 144-145.

[11] Glyndon Van Deusen, "The Whig Party," and Michael F. Holt, "The Democratic Party, 1828-1860," in Arthur M. Schlesinger, Jr., ed., *History of U.S. Political Parties,* Vol. I (New York: R. R. Bowker, 1973), 333-399, 570-508.

[12] Thomas Hart Benton, *Thirty Years' View; or, a History of the Working of the American Government for Thirty Years, From 1820 to 1850* (New York: D. Appleton, 1883), 400-401.

[13] Charles M. Wiltse, ed., *The Papers of Daniel Webster, Correspondence, 1830-1834,* Vol. 3 (Hanover: University Press of New England, 1977), 288; Bartlett, *Daniel Webster,* 3-11; John F. Kennedy, *Profiles in Courage* (New York: Harper and Row, 1957), 64.

[14] Benton, *Thirty Years' View,* 420-421.

[15] Adams, *Memoirs of John Quincy Adams,* Vol. IX, 116.

[16] *Register of Debates,* 23rd Congress, 1st sess., 1187.

[17] Benton, *Thirty Years' View,* 529-49.

[18] *Register of Debates,* 23rd Congress, 1st sess., 1319.

[19] *Ibid.,* 1335.

[20] *Journal of the Senate of the United States,* 23rd Congress, 1st sess., 226-228.

[21] Congressional quarterly's *Guide to Congress* (Washington: Congressional Quarterly, 1976), 582-583.

[22] Oliver Perry Chitwood, *John Tyler, Champion of the Old South* (New York: D. Appleton, 1939), 138.

[23] Henry A. Wise, *Seven Decades of Union, the Humanities, and Materialism, Illustrated by a Memoir of John Tyler* (Philadelphia: J. B. Lippincott, 1881), 142.

[24] Benton, *Thirty Years' View,* 550.

[25] *Ibid.,* 727.

[26] *Register of Debates,* 24th Congress, 2d sess., 500.

[27] Benton, *Thirty Years' View,* 550.

[28] Claude Bowers, *Party Battles of the Jackson Period,* (Boston: Houghton Mifflin, 1922), 470; Wise, *Seven Decades of Union,* 143.

[29] Wise, *Seven Decades of Union,* 143.

[30] *Register of Debates,* 24th Congress, 2d sess., 505-506.

[31] Bowers, *Party Battles of the Jackson Period,* 471.

[32] Elbert B. Smith, *Magnificent Missourian, The Life of Thomas Hart Benton* (Philadelphia: J. B. Lippincott, 1958), 165.

[33] Glyndon Van Deusen, *The Life of Henry Clay,* (Boston: Little, Brown, 1937), 276-300.

[34] Daniel Walker Howe, *The Political Culture of the American Whigs* (Chicago: University of Chicago Press, 1979), 11-22.

[35] Senate Commission on Art and Antiquities, *The Senate Chamber, 1810-1859* (Washington: The Government Printing Office, 1976), 8.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. RUDMAN). Is there further morning business? If not, morning business is closed.

INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

The PRESIDING OFFICER. The clerk will now report the pending business.

The legislative clerk read as follows:

A bill (S. 391) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

The Senate resumed consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, during earlier debate on S. 391, the Intelligence Identities' Protection Act, I raised the question of whether the Supreme Court had ever upheld a statute in the first amendment area where the only criminal intent required was a "reason to believe" standard which the Justice Department has described as a negligence standard. The proponents of the "reason to believe" standard have not cited any Supreme Court precedent upholding a statute proscribing activity in the first amendment area where a requirement of bad purpose was not included in the statute. Senator CHAFEE did cite four lower court cases which discussed a "reason to believe" standard in national security crimes.

When I earlier talked about this, Mr. President, I expressed my concern about dangers to the first amendment and stated that in my years in public life, both as a prosecutor and U.S. Senator, the part of the Constitution which has guided me the most, and certainly guided my consideration the most, has been the first amendment.

I feel that it is by far the most important part of our Constitution. Not only does everything else pale beside the first amendment, but it is questionable whether the rest of the Constitution could last long without the first amendment.

So I was interested in the cases cited by Senator CHAFEE. I was interested in whether a negligence standard had been applied in a first amendment case. If so, then I would be quite concerned that we might see a quick erosion of the first amendment.

I found that none of the cases really addressed the issue before the Senate. Three of the cases involved no first amendment claims whatsoever. Two of these cases concerned sabotage during time of war or national emergency. The third involved a related crime of producing defective war material during time of war or national emergency. Clearly, persons engaged in blasting high voltage electric powerlines, burning ROTC buildings, or knowingly supplying the Army with defective airplane parts cannot be compared to a newspaper reporter legitimately investigating abuses by the intelligence community.

Only one of the cases cited last week by Senator CHAFEE, the Progressive case, involved any first amendment rights. That case involved no prosecution under the "reason to believe" standard. Rather, the case was a civil action seeking to enjoin the Progressive magazine from publishing material classified as "restricted data" under the Atomic Energy Act. While the injunction was entered at the district court level, it should be noted that the Government dropped the case on appeal, the magazine published the data, and no prosecution under the "reason to believe" standard ensued.

I repeat what I said earlier. This issue is too serious to afford the Senate the luxury of seeing just how close to the constitutional limit we can go without crossing over the line.

I am getting very concerned, Mr. President, that in matter after matter coming before the Senate of late, we try to see how far we can push the Constitution.

I see more and more the position taken that we really should not act on constitutional issues here, but simply pass a law and let the Supreme Court straighten out whatever mess we might create.

Mr. President, we have a duty to preserve and protect the Constitution, and I want to make sure that we indeed do that.

Really, with no legal precedents supporting the position put forward by the distinguished Senator from Rhode Island, put forward out of a sincere desire to protect the legitimate interests of our intelligence agents, a desire shared by me—he and I being of one mind in that regard, but of different minds as to how we go about doing it—with no legal precedents supporting his position, the safer thing to do, the wiser thing to do, is to follow the only Supreme Court decision clearly on point in this area, the Gorin decision, and include a bad purpose or intent standard in section 601(c) in the bill.

I now wish to present a summary of the facts and holdings of the cases cited by Senator CHAFEE.

United States v. *Achtenberg*, 459 F.2d 91 (8th Cir. 1972).

In Achtenberg the defendant had been convicted of violating the Sabotage Act due to his involvement in a series of incidents including the burning of an Army ROTC building at Washington University in late 1970. The Sabotage Act applies only in time of war or national emergency. On appeal, the court determined that the coverage of the Act was not overbroad and that its meaning was not unconstitutionally vague. "Reason to believe" was among those terms held not unconstitutionally vague. Although the statute would ordinarily proscribe the burning of an Army ROTC building as something which might injure, interfere with or obstruct the United States in preparation for war, the court reversed and remanded for a new trial due to procedural errors by the lower court which had resulted in prejudice to the defendant.

United States v. *Bishop*, 555 F.2d 771 (10th Cir. 1977).

The defendant, Bishop, had been convicted of bombing and destroying four high voltage line towers which, due to their proximity to and use by federal military contractors, an Air Force Base and an Arsenal, were considered under the protection of the Sabotage Act. The purpose of the bombings had been to create domestic turmoil which would require the government to bring troops back from Vietnam. The defendant asserted that terms such as "reason to believe" were unconstitutionally vague. The court held that the Federal Sabotage Act was sufficiently clear to give fair notice of prohibited acts to a normally intelligent person, and was not void for vagueness.

Although there was sufficient evidence regarding the defendant's activities for conviction, the court held that the declaration of a national emergency in 1950, upon which the prosecution was based, did not give the defendant sufficient notice that the Act, which is only applicable when there is a declarded war or a national emergency, would proscribe his conduct. The court reversed the conviction with the direction that the indictment be dropped.

Schmeller v. *United States*, 143 F2d. *544 (6th Cir. 1944)*.

The appellants in Schmeller, a manager and a metallurgist for a foundry company which made aluminum castings for airplanes used in World War II, had been convicted under a federal statute that prohibited the making of war material in a defective manner. The offense must be "willful" and done with "reason to believe" that the act may injure or interfere with governmental war measures. That statute proscribes such activity only "when the United States is at war or in times of national emergency," and requires that the accused know he is producing a defective product.

The constitutionality of the "reason to believe" standard was not addressed by the court. The court instead focused on the evidentiary and procedural difficulties encountered in the court below. The court determined that the minor imperfections in the casting were not such as to render them "defective" and that no evidence in the record supported the conviction of the appellants. The judgments and the sentences were set aside and the lower court was ordered to grant defendants' motion for a directed verdict.

United States v. *Progressive, Inc.*, 467 F. Supp. 990 (W.D. Wis. 1979); 485 F. Supp. 5 (W.D. Wis. 1979), *appeals dismissed*, 610 F.2d 819 (7th Cir. 1979).

In *Progressive*, the United States brought a civil case seeking a temporary restraining order to enjoin the release of an article by *Progressive* magazine detailing the manufacture and assembly of the hydrogen bomb. A preliminary injunction was sought on the basis that the article contained government information classified within the meaning of "restricted area" under the Atomic Energy Act and that publication of such an article would "likely constitute a violation of the Act." That Act prohibits anyone from communicating, transmitting, or disclosing any restricted data to any person "with reason to believe that such data will be utilized to injure the United States or to secure an advantage to any foreign nation."

The court determined that there were concepts presented in the article which came within the definition of restricted data in the Atomic Energy Act. The court found that the statute and standards as applied in the case were not vague or overbroad. The court concluded that the release of such essentially classified material would secure an advantage to foreign nations within the meaning of the Act, by assisting foreign nations in the development of nuclear weaponry and accelerating "the membership of a candidate nation in the thermonuclear club."

The preliminary injunction was entered by the district court. The court did not address the question of whether the reason to believe standard in a criminal prosecution would violate the First Amendment. Nor did the court address whether the reason to believe standard as used in the Atomic Energy Act, referring to willful use of the information to injure the United States or advantage a foreign nation, requires a showing of bad purpose. See *Gorin* v. *United States*, 312 U.S. 19, 27-28 (1941) (Intent or reason to believe that information obtained is to be used to injure the United States requires a showing that defendant acted in bad faith).

Later developments rendered the case moot before the court of appeals could review the decision. While awaiting appeal, information regarding the makeup of nuclear weaponry became public knowledge, prompting the Justice Department to drop its case. The article in question was ultimately published. Although the Justice Department reserved its right to bring criminal charges against *Progressive*, none were ever brought.

Mr. President, let me just address myself briefly once more on this.

All of us, I believe, in the Senate are quite interested in seeing that the identities of our agents, abroad or here, are protected. We do not want to see a list of members of our intelligence agencies published, especially in countries where they may be in physical harm.

Contrary to the view that some have of a James Bond kind of superagent, so many of our intelligence agents are among the most innocuous people you will meet. Many are downright professorial. Their duties may involve analyses of the published reports of the particular country in which they serve, economic analyses, linguistic analyses. These agents are there because of their economic or linguistic abilities, certainly not because of their martial arts abilities or anything of that nature.

All of these agents must be protected. As I said earlier, I commend the distinguished Senator from Rhode Island for his efforts in wanting to protect them.

In doing so, however, we protect them because by protecting them we protect the interests of our country. Let us not forget that one of the greatest interests of our country is in protecting our own Constitution, the framework of our own Government, and as I said before, the foundation of our Constitution has to be the first amendment. If the first amendment fails, everything fails with it. If we remove the right of free press and the right and ability of people to speak out in this country, what have we sacrificed for over 200 years? What do we stand for today? What does this body stand for, this Chamber, what do each of us as Members stand for, if not to protect the people's right of free speech?

We are separate and apart from every other country in the world because of our first amendment. No other country has such rigid right of free speech. In the guise of protecting ourselves, let us not harm ourselves by cutting back on that right.

I would urge that we not adopt a negligence standard, something that is more appropriate to the less stringent nature of civil law.

I would point out as I did last week, Mr. President, that the Justice Department and the Director of the CIA have both said that the provision passed by the Judiciary Committee, the amendment proposed by Senator Biden, myself, and others, would be acceptable to them, that they could prosecute under it, and it would give them the protection they needed. Not only that, but they said that the provision proposed by us would pass constitutional muster. Everybody appears to agree on that.

The provision proposed by my distinguished friend from Rhode Island, however, does not have a unanimity of opinion as whether it is constitutional and, for that reason alone, we ought to stay away from it.

Certainly, if we have a provision that can pass constitutional muster, that can protect our agent identities, then that is the one that we should go with.

Mr. President, at this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1256

Mr. CHAFEE. Mr. President, I ask unanimous consent that two more cosponsors be added to my amendment: Senator McClure of Idaho and Senator Murkowski of Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I wish to address certain statements that have been made in the course of the debate on this bill, which has covered a period, intermittently, of the last 2 weeks. The matter which we are addressing is the amendment which I submitted, amendment No. 1256. That is the pending matter on the floor.

POSITION OF THE ADMINISTRATION

At various times during the course of consideration of the identities legislation and my amendment, it has been suggested that the committee version—not my amendment but the committee version—is acceptable to the administration. In support of this contention, proponents of the committee version have introduced into the Record a letter dated July 15, 1981. That letter was from the Director of the Central Intelligence Agency, Mr. Casey, to Chairman Boland of the House Intelligence Committee. In this letter, Director Casey declared his willingness to support what was then the House Intelligence Committee version of the legislation. The proponents of the Judiciary Committee version—which is on the floor here today—have cited this letter but have consistently failed to note the fact that the Director stressed that the Chafee-Jackson version, or the amendment on the floor today, is preferable.

Let me quote from the letter. After expressing his willingness to support what was then the House Intelligence Committee's version of the bill, Director Casey said:

> I must emphasize, however, that the administration's preference for S. 391, the Senate version of the Identities Bill, remains unchanged.

What he is referring to there is the bill as originally introduced, which, of course, is the amendment which I have on the floor today. It should be emphasized, thus, that when the Director was saying the House language was acceptable, it was clearly not the preference of the administration.

Mr. President, I ask unanimous consent that Director Casey's letter of July 15, 1981, to the chairman of the House Intelligence Committee, Representative Boland, be printed in the Record at this time.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Central Intelligence Agency,
Washington, D.C., July 15, 1981.
Hon. Edward P. Boland,
Chairman, Permanent Select Committee on Intelligence, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I have had my General Counsel look carefully at the proposed amendment to H.R. 4 which you sent to us on 24 June. As you will note from the enclosed memorandum, he believes that the proposed amendment may be deficient in certain respects and that it could undermine the effectiveness of the legislation. He has set forth an alternative which would be acceptable under certain conditions. We would be prepared to support this alternative, which I understand is already familar to members and staff of your Committee, if its adoption would ensure House floor consideration of the Identities Bill directly following the reporting of H.R. 4 from your Committee. I must emphasize, however, that the Administration's preference for S. 391, the Senate version of the Identities Bill, remains unchanged.

I hope that you have had the opportunity to read the Supreme Court's opinion in *Haig* v. *Agee*, which was handed down on 29 June. This opinion goes a long way toward dispelling any residual concerns about the constitutionality of the Identities legislation. I believe we must avoid any further delay which would jeopardize our mutual goal of securing enactment of the Identities Bill in this session of Congress. I hope, therefore, that the Permanent Select Committee on Intelligence will move forward expeditiously in reporting H.R. 4 favorably.

Sincerely,

William J. Casey,
Director of Central Intelligence.

Mr. CHAFEE. Mr. President, during the debate on this bill on March 4 of this year, the Senator from Pennsylvania (Mr. Specter) declared that he had met with Director Casey twice and that Director Casey stated that he found the Judiciary Committee version of the bill to be acceptable. I received a letter from Mr. Casey dated March 12, 1981, which I believe provides the definitive statement of the intelligence community's position on the indentities bill. I wish to read Mr. Casey's letter at this time. This is the intelligence community's position on this legislation. The letter is addressed to me.

Central Intelligence Agency,
Washington, D.C., March 12, 1982.
Hon. John H. Chafee,
U.S. Senate,
Washington, D.C.

Dear Senator Chafee: It has been brought to my attention that, during the Senate's consideration of the Intelligence Identities Protection Act on 4 March 1982, Senator Specter declared he had met with me twice, and he knew that I find the Judiciary Committee version of S. 391 to be acceptable.

I believe it is important that you have the benefit of my position. Certainly the Judiciary Committee version of the Bill would be preferable to no legislation at all; but it should be clear that the Intelligence Community firmly supports the Attorney General and the President in their belief that the verson of subsection 601(c) passed by the House of Representatives and embodied in the Chafee-Jackson amendment to S. 391 is, as President Reagan put it in his letter of 3 February 1982 to the Majority and Minority Leaders of the Senate, "far more likely to result in an effective law." I believe Senator Specter fully understands that this is my position.

Sincerely,

William J. Casey,
Director of Central Intelligence.

At the same time, Mr. President, I ask unanimous consent that President Reagan's letter of February 3, 1982, to which Director Casey refers, also be printed in the Record at this time. Before that goes in, Mr. President, I shall quote just a few words from it:

> Last September the House of Representatives overwhelmingly passed the Administration-supported version of the Intelligence Identities Protection Act. The Senate is soon to take up consideration of this legislation, and you will have before you two versions. While I believe that both versions are fully protective of constitutional guarantees, Attorney General Smith and I firmly believe that the original version, first introduced by Senator Chafee and others, is far more likely to result in an effective law that could lead to successful prosecution.
>
> I strongly urge you and each of your colleagues to support the carefully-crafted Chafee-Jackson amendment to S. 391. I cannot overemphasize the importance of this legislation.

That is signed by Ronald Reagan and this letter, which was also sent to the minority leader, was addressed to the majority leader (Mr. Baker) on February 3, 1982.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The White House,
Washington, February 3, 1982.

Hon. Howard H. Baker,
Majority Leader,
U.S. Senate,
Washington, D.C.

Dear Senator Baker: Legislation to make criminal the unauthorized disclosure of the names of our intelligence officers remains the cornerstone for the improvement of our intelligence capabilities, a goal that I know we share. Nothing has been more damaging to this effort than the pernicious disclosures of the names of officers whom we send abroad on dangerous and difficult assignments. Unfortunately, these disclosures continue with impunity, endangering lives, seriously impairing the effectiveness of our clandestine operations, and adversely affecting morale within our intelligence agencies.

Last September the House of Representatives overwhelmingly passed the Administration-supported version of the Intelligence Identities Protection Act. The Senate is soon to take up consideration of this legislation, and you will have before you two versions. While I believe that both versions are fully protective of constitutional guarantees, Attorney General Smith and I firmly believe that the original version, first introduced by Senator Chaffee and others, is far more likely to result in an effective law that could lead to successful prosecution.

I strongly urge you and each of your colleagues to support the carefully-crafted Chafee-Jackson amendment to S. 391. I cannot overemphasize the importance of this legislation.

Sincerely,

Ronald Reagan.

Mr. CHAFEE. Mr. President, there can be no question as to the position of the President of the United States, the Justice Department, or the intelligence community with respect to the Chafee-Jackson amendment to this bill, the amendment we are now considering.

They all prefer it. They want it to pass the Senate. They want the Chafee-Jackson language to be subsection 601(c) of S. 391.

DIFFERENCE BETWEEN VERSIONS

Mr. President, we have had considerable debate on this matter, principally led by the Senator from Delaware. On February 25, 1982, some statements were made by that distinguished Senator in which he implied there really was no difference between the intent language and the reason to believe language as it applied to the effectiveness of this legislation in securing a successful prosecution. I read from Senator Biden's statement in the Record:

> The Senator says we have these guys who are publishing these bulletins saying, "Well, I intended to help America when I disclosed the name of Joe Doakes, who is an agent of the CIA, so don't find me guilty because, although I intended something, I did not intend to hurt, I intended to help."
>
> I submit that under the reason to believe standard, he can say the same thing.

In other words, Senator Biden is now taking issue with the amendment I have on the floor—namely, the reason to believe language—and he suggests, as we learn through this quotation, that he thinks a defendant can successfully escape prosecution by saying that he really did not intend to do any harm, that he really intended to help the intelligence community.

Senator Biden continues:

> I submit that under the reason to believe standard, he—

Meaning the accused—

> can say the same thing. He can stand before the jury and say, "Ladies and gentlemen, I had reason to believe this would help America when I disclosed the name of Joe Doaks"—

namely, the CIA agent.

That completes the quotation from the record of February 25 of this year.

Mr. President, the implication of the statement by the distinguished Senator from Delaware is that the reason to believe standard is really just as subjective as the intent to impair or impede standard. A defendant can claim that he had no reason to believe his disclosure would impair or impede U.S. intelligence activities.

Of course, a defendant can claim he had no reason to believe, just as he can claim he had no intent to harm the intelligence activities of the United States. However, that is not the essential point. A defendant can claim anything, any time.

The point is this: Under the subjective language—namely, the intent language which is in the committee bill—a jury must find that the defendant actually possessed the requisite intent to impair or impede intelligence activities of the United States. The jury has to find that intent in the breast of the defendant.

Under the reason to believe language, which we have in my amendment, the jury can determine that under all the relevant facts and circumstances, a reasonable person would have had reason to believe that his disclosure would impair or impede the intelligence activities of the United States. That is the objective standard. The reason we consider the reason to believe language to be objective is that you can look at the facts and ask, "Is this what a reasonable person would have had cause to believe?"

Thus, Mr. President, the reason to believe standard takes the jury out of the breast of the defendant, out of the intent to impair and impede, and requires the jury to concentrate on the objective facts of the matter. Surely, this is an important difference.

Furthermore, the distinguished Senator from Delaware has stated that both versions of the bill can get the job done. He says:

> Why take a chance with the Chafee-Jackson amendment, which is more likely to be declared unconstitutional?

I do not agree that both versions will get the job done. There are serious questions as to whether the subjective intent standard in the committee bill will be effective. This issue, as to whether Senator Biden's specific intent standard would be effective from a prosecutorial standpoint, was raised before the House Intelligence Committee last year, on April 7, 1981, when Mr. Richard Willard, counsel to the Attorney General for Intelligence Policy, stated as follows:

> . . . The specific intent requirement could serve to confuse the issues to the point where the Government could be unable to establish the requisite intent beyond a reasonable doubt in prosecutions brought under the statute.

This is a representative of the Attorney General's speaking, who was counsel to the Attorney General of the United States. This is what he says.

Mr. Richard Willard believes, as we note here, that the intent requirement could serve to confuse the issue, to the point where the Government would be unable to establish the intent beyond a reasonable doubt.

Mr. Willard dismissed the intent provision. Then he moves to the bill that was originally introduced which contains my language. He says:

> The Senate counterpart of this bill, S. 391, alleviates these potential problems by re-

quiring only that a defendant be shown to have had "reason to believe," rather than specific intent, that the disclosure would impair or impede U.S. intelligence activities. This objective standard is preferable to the Justice Department since it would relieve the difficult burden otherwise imposed on the Government to prove the defendant acted with an evil state of mind. This type of "reason to believe" standard has been found by the courts to be valid and has survived constitutionally-based charges of overbreadth and vagueness. See, e.g., *United States* v. *Bishop,* 555 F.2d 771 (10th Cir. 1977); *Schmeller* v. *United States,* 143 F.2d 544 (6th Cir. 1944). We believe this standard would be more easily applied and sustained by the courts.

That concludes the statement by Mr. Willard.

So this reason-to-believe standard is nothing new. It is not something we have plucked from the air. This is a standard that exists in current statutes, particularly statutes dealing with espionage and related activities, and it has been held constitutional. It has been held constitutional by surviving the challenges both on overbreadth and vagueness.

Mr. President, I believe it is extremely important that Congress pass an effective bill.

(Mr. MATTINGLY assumed the chair.)

Mr. CHAFEE. The language in the Senate Judiciary Committee's version has already been rejected by the House of Representatives. The language in 601(c) that we are considering here in the Chamber came from the Senate Judiciary Committee. It is the exact same language that came onto the floor of the House of Representatives from committee. The language was changed on the House floor. It was rejected, and in place of it was substituted the very language I have in my amendment. That language passed overwhelmingly in the House, 354 to 56 last fall.

If we want a bill and if we want to deal with this problem, then let us adopt the amendment I am proposing. Make it part of the bill, pass the bill, and then the bills from the Senate and the House of Representatives will be practically the same. There will be no long drawn out conference. There will be no problems. We will have legislation. We will stop "naming names." If we reject my amendment and adopt the committee language, then we have problems resolving this difference with the House of Representatives. Then I could not make any prediction as to whether we will indeed have legislation on this subject this year or any year.

All of us have seen situations arise where different languages are passed in each House, there are long delays, and sometimes the differences are never reconciled. I have been through conferences where conferees never came to a conclusion.

So if we truly want legislation, I urge the support of my amendment.

It is not true that the reason to believe standard is more likely to be declared unconstitutional. The Supreme Court has spoken on the issue in the Agee case. The court specifically said that unauthorized disclosures of intelligence identities "are clearly not protected by the Constitution."

The Carter and Reagan Justice Department have both favored the objective reason-to-believe standard. The reason-to-believe standard is contained in a number of Federal criminal statutes and had been upheld by the courts.

At this point I ask unanimous consent to have printed in the RECORD the following items:

One, a listing of Federal criminal statutes employing reason to believe, and we have here nine separate ones in which the reason-to-believe standard is there. I will not give the United States Code numbers. They are all in 18 U.S.C. except for the last one which is 42 U.S.C. But they deal with gathering defense information, duplication of defense documents or objects, receiving defense information, transmitting defense information, unauthorized possession of defense information, providing defense information to aid foreign governments, destruction of defense facilities, obstructing defense production, and communication of restricted data.

All these statutes have the language utilizing the reason-to-believe standard. Sometimes it is prefaced by the phrase "with intent or reason to believe." It does not mean "and reason to believe." It means one or the other.

The first statute refers to gathering defense information; the next one prohibits duplication of defense documents or objects. They have the intent or reason-to-believe language.

The next statute refers to receiving defense information. The language talks about knowing or having reason to believe that it could be used contrary to the provisions of the statute. Notice there is no intent language whatever in there. Knowing or having reason to believe is the language.

The next statute deals with transmitting defense information and has only the reason to believe standard. There is no intent standard.

Another statute prohibits the unauthorized possession of defense information, which the possessor has reason to believe could be used to the injury of the United States. There is nothing about intent. Instead it requires the reason to believe standard for prosecution.

The destruction of defense facilities legislation, 18 United States Code 2153, section (a), states that the defendant must have the intent or reason to believe that his act may injure the United States. Again, in 18 United States Code 2154, obstructing defense production, there is the same standard: Anyone with intent or reason to believe his act may injure the United States.

In 42 United States Code 2274(b), communication of restricted data, the act states that whoever communicates restricted data with reason to believe such data will be utilized to injure the United States shall be punished.

The second group of documents is a review of Federal court cases involving the reason to believe standard. I shall just quote one: *Schmeller* v. *United States* (Sixth circuit, 1944).

Schmeller and others were convicted of violating a Federal statute which reads in pertinent part:

> "When the United States is at war * * *

This is in a war situation, but the pertinent point is the following language:

> * * * whoever, with reason to believe that his act may injure, interfere with, or obstruct the United States

The Court of Appeals affirmed the sufficiency of the indictment under the statute.

Quoting now the sixth circuit:

> Under the latter part of this statute the specific intent to injure or interfere with the war effort of the United States or any associate nation need not be proved.

There is no necessity to prove intent.

> The act of willfully making war material in a defective manner, with reason to believe that the act may injure or interfere with governmental war measures, constitutes the offense.

And the court continued:

> The appellants are clearly apprised of the specific offense charged, for the casting is identified and its heat number gives the appellants the precise date.

Mr. President, next are highlights of Supreme Court cases dealing with the subject of governmental interests restricting the first amendment in certain situations.

I wish to discuss briefly *Haig* v. *Agee,* 101 Supreme Court 2766, which was just decided last year. It is very analogous to the first amendment arguments that are being raised on the floor here today.

In that case, Philip Agee, an American citizen and a former Central Intelligence Agency employee, engaged in activities abroad that resulted in identification of alleged undercover CIA officers and intelligence sources in foreign countries. In accordance with a State Department regulation issued under the Passport Act of 1926, the Secretary of State revoked Mr. Agee's passport on the ground that he was causing serious damage to the national security of the United States. The Supreme Court upheld the revocation as consistent with the Constitution and the Passport Act.

And this is what the Chief Justice said with regard to the first amendment:

> Assuming arguendo that First Amendment protections reach beyond our national boundaries, Agee's First Amendment claim has no foundation. The revocation of Agee's passport rests in part on the content of his speech: specifically, his repeated disclosures of intelligence operations and names of intelligence personnel. Long ago, however, this Court recognized that "No one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of its troops."

The Chief Justice continues:

> *Agee's disclosures,* among other things, have the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel. They *are clearly not protected by the Constitution.* The mere fact that Agee is also engaged in criticism of the Government does not render his conduct beyond the reach of the law. (Emphasis added.)

That is the end of Chief Justice Burger's quote.

Mr. President, I ask unanimous consent that those articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRENT FEDERAL CRIMINAL STATUTES EMPLOYING "REASON TO BELIEVE" SCIENTER STANDARD

Nine separate federal criminal offenses include the "reason to believe" scienter standard:

(1) 18 U.S.C. 793(a): Gathering defense information;

(2) 18 U.S.C. 793(b): Duplication of defense documents or objects;

(3) 18 U.S.C. 793(c): Receiving defense information;

(4) 18 U.S.C. 793(d): Transmitting defense information;

(5) 18 U.S.C. 793(e): Unauthorized possession of defense information;

(6) 18 U.S.C. 794(a): Providing defense information to aid foreign government;

(7) 18 U.S.C. 2153: Destruction of defense facilities;

(8) 18 U.S.C. 2154: Obstructing defense production;

(9) 42 U.S.C. 2274: Communication of restricted data.

18 U.S.C. 793(a): Gathering defense information:

Whoever, for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation, goes upon, enters, flies over, or otherwise obtains information concerning any vessel, aircraft, work of defense, navy yard, naval station, submarine base, fueling station, fort, battery, torpedo station, dockyard, canal, railroad, arsenal, camp, factory, mine, telegraph, telephone, wireless, or signal station, building office, research laboratory or station or other place connected with the national defense owned or constructed, or in progress of construction by the United States or under the control of the United States, or of any of its officers, departments, or agencies, or within the exclusive jurisdiction of the United States, or any place in which any vessel, aircraft, arms, munitions, or other materials or instruments for use in time of war are being made, prepared, repaired, stored, or are the subject of research or development, under any contract or agreement with the United States, or any department or agency thereof, or with any person on behalf of the United States, or otherwise on behalf of the United States, or any prohibited place so designated by the President by proclamation in time of war or in case of national emergency in which anything for the use of the Army, Navy, or Air Force is being prepared or constructed or stored, information as to which prohibited place the President has determined would be prejudicial to the national defense; or . . . shall be fined not more than $10,000 or imprisoned not more than ten years or both.

18 U.S.C. 793(b): Duplication of defense documents or objects:

Whoever, for the purpose aforesaid, and with like intent or reason to believe, copies, takes, makes, or obtains, or attempts to copy, take, make, or obtain, any sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, document, writing, or note of anything connected with the national defense; or . . . shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

18 U.S.C. 793(c): Receiving defense information:

Whoever, for the purpose aforesaid, receives or obtains or agrees or attempts to receive or obtain from any person, or from any source whatever, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note, of anything connected with the national defense, knowing or having reason to believe at the time he receives or obtains, or agrees or attempts to receive or obtain it, that it has been or will be obtained, taken, made, or disposed of by any person contrary to the provisions of this chapter; or . . . shall be fined not more than $10,000 or imprisoned not more than ten years or both.

18 U.S.C. 793(d): Transmitting defense information:

Whoever, lawfully having possession of, access to, control over, or being entrusted with any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted or attempts to communicate, deliver, transmit or cause to be communicated, delivered or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or . . . shall be fined not more than $10,000 or imprisoned not more than ten years or both.

18 U.S.C. 793(e): Unauthorized possession of defense information:

Whoever having unauthorized possession of, access to, or control over any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, instrument, appliance, or note relating to the national defense, or information relating to the national defense which information the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation, willfully communicates, delivers, transmits or causes to be communicated, delivered, or transmitted, or attempts to communicate, deliver, transmit or cause to be communicated, delivered, or transmitted the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it to the officer or employee of the United States entitled to receive it; or . . . shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

18 U.S.C. 2153: Destruction of defense facilities:

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully injures, destroys, contaminates or infects, or attempts to so injure, destroy, contaminate or infect any war material, war premises, or war utilities, shall be fined not more than $10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

18 U.S.C. 2154: Obstructing defense production:

(a) Whoever, when the United States is at war, or in times of national emergency as declared by the President or by the Congress, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war or defense activities, willfully makes, constructs, or causes to be made or constructed in a defective manner, or attempts to make, construct, or cause to be made or constructed in a defective manner any war material, war premises or war utilities, or any tool implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, war premises or war utilities, shall be fined not more than $10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section.

42 U.S.C. 2274: Communication of restricted data:

Whoever, lawfully or unlawfully, having possession of, access to, control over, or being entrusted with any document, writing, sketch, photograph, plan, model, instrument, appliance, note, or information involving or incorporating Restricted Data—

(a) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with intent to injure the United States or with intent to secure an advantage to any foreign nation, upon conviction thereof, shall be punished by imprisonment for life, or by imprisonment for any term of years or a fine of not more than $20,000 or both;

(b) communicates, transmits, or discloses the same to any individual or person, or attempts or conspires to do any of the foregoing, with reason to believe such data will be utilized to injure the United States or to secure an advantage to any foreign nation, shall, upon conviction, be punished by a fine of not more than $10,000 or imprisonment for not more than ten years, or both.

HIGHLIGHTS

Supreme Court

Gorin v. *U.S.* (1944)—"Reason to believe" characterized as sufficient scienter in criminal statute.

Courts of appeals

U.S. v. *Bishop* (10th Cir. 1977)—"Reason to believe" standard sufficiently precise for criminal statute to withstand vagueness attack.

U.S. v. *Achtenberg* (8th Cir. 1972)—"Reason to believe" standard sufficiently precise for criminal statute to withstand vagueness and overbreadth attack.

Schmeller v. *United States* (6th Cir. 1944)—"Reason to believe" criminal statute upheld; no requirement to prove specific intent.

District court

U.S. v. *Progressive, Inc.* (W.D. Wisc. 1979)—"Reason to believe" standard withstands vagueness and overbreadth attack.

GORIN V. UNITED STATES

(312 U.S. 19 (1971))

THE CASE

Gorin, a citizen of The Union of Soviet Socialist Republics, was convicted of violating sections 1(b), 2(a), and 4 of The Espionage Act of 1917 which punished copying national defense documents and furnishing them to a foreign government "with intent or reason to believe that the information obtained is to be used to the injury of the United States, or to the advantage of any foreign nation." The Supreme Court upheld the conviction against Gorin's claim that The Espionage Act violated due process because of indefiniteness.

SUPREME COURT ON REASON TO BELIEVE

"But we find no uncertainty in this statute which deprives a person of the ability to predetermine whether a contemplated action is criminal under the provisions of this law. The obvious delimiting words in the statute are those requiring 'intent *or reason to believe that the information to be obtained is to be used to the injury of the United States,* or to the advantage of any foreign nation.' This requires those prosecuted to have acted in bad faith. The sanctions apply only when *scienter* is established." (27, 28) (emphasis added.)

UNITED STATES V. BISHOP

(555 F. 2d 771 (10th Cir. 1977))

THE CASE

Bishop was convicted under The Federal Sabotage Act for dynamiting four high-voltage electric line towers. The Federal Sabotage Act, 18 U.S.C. 2153(a), read in pertinent part:

"Whoever, . . . in times of national emergency declared by The President or by The Congress, . . . *with reason to believe that his act may injure, interfere with, or obstruct the United States* or any associate nation in preparing for or carrying on . . . defense activities, willfully injures, destroys, contaminates, or infects . . . any war material, war premises, or war utilities, shall be fined not more than $10,000 or imprisoned not more than thirty years, or both." (Emphasis added.)

While the Court of Appeals reversed the conviction on the ground that the defendant had constitutionally insufficient notice that the U.S. was in a state of national emergency, the Court upheld the "reason to believe" standard as a sufficiently clear *scienter* standard.

COURT OF APPEALS ON REASON TO BELIEVE

"Defendant argues that Section 2151, the definition section of the Sabotage Act, and Section 2153 are void for vagueness. The vague terms are said to be 'defense activities,' 'reason to believe,' 'national emergency,' 'preparing for,' 'war material,' and 'war premises.' *United States v. Achtenberg* [citation] was concerned with the same statutory provisions we have mentioned and held that the Act is sufficiently clear to give fair notice to a normally intelligent person. We agree."

UNITED STATES V. ACHTENBERG

(459 F. 2d 91 (8th Cir. 1972))

THE CASE

Achtenberg was convicted under the Federal Sabotage Act, 18 U.S.C. 2153(a), for setting fire to the Army Reserve Officers Training Corps building at the Washington University in St. Louis, Missouri. The Act reads in pertinent part:

"Whoever, . . . in times of national emergency declared by the President or by the Congress, . . . *with reason to believe that his act may injure, interfere with, or obstruct the United States* or any associate nation in preparing for or carrying on . . . defense activities, willfully injures, destroys, contaminates, or infects . . . any war material, war premises, or war utilities, shall be fined not more than $10,000 or imprisoned not more than thirty years, or both." (emphasis added.)

Although a new trial was ordered due to the trial judge's errors in admitting evidence, the Court of Appeals upheld the "reason to believe" language against vagueness and overbreadth challenges.

COURT OF APPEALS ON REASON TO BELIEVE

"Defendant in his attack on Section 2153(a) as unconstitutional, vague and overbroad states:

" 'The vague terms are "defense activities", "reason to believe", "national emergency", "preparing for", "war material" and "war premises". Both the terms themselves and the manner in which they are interlinked or applied in the statute, create the constitutional infirmity.'

". . . In *United States* v. *Mechanic* 8 Cir., 454 F. 2d 849 (1971), we stated:

'A statute may not forbid the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application. [citation] It will be found void for vagueness and overbreadth if it fails to give a person of ordinary intelligence fair notice that his conduct is forbidden by statute. [citation] We think that Section 232, read in conjunction with Section 231(a)(3), is sufficiently clear that a normally intelligent person could ascertain its meaning and would be given fair notice of whether or not his conduct is forbidden under it.'

"We are satisfied that such test is met in our present case."

SCHMELLER V. UNITED STATES

(143 F. 2d 544 (6th Cir. 1944))

THE CASE

Schmeller and others were convicted of violating a federal statute which reads in pertinent part:

"When the United States is at war . . . whoever, *with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war,* shall willfully make or cause to be made in a defective manner, or attempt to make or cause to be made in a defective manner, any war material, as herein defined, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, as herein defined, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than thirty years, or both." (emphasis added.)

Although the convictions were set aside due to the trial court's failure to instruct the jury to disregard inadmissible evidence to which they were exposed, the Court of Appeals affirmed the sufficiency of the indictment under the statute.

COURT OF APPEALS ON REASON TO BELIEVE

"Under the latter part of this statute the specific intent to injure or interfere with the war effort of the United States or any associate nation need not be proved. The act of willfully making war material in a defective manner, with reason to believe that the act may injure or interfere with governmental war measures, constitutes the offense." (548)

"[Count III of the indictment] charges that with reason to believe that the United States or the associate nations would be injured, appellants willfully made the particular casting 'in a defective manner' by welding. The appellants are clearly apprised of the specific offense charged, for the casting is identified and its heat number gives the appellants the precise date. The charge that the casting was made in a defective manner is adequate, for the allegation to the effect that it was defectively made by welding is merely another method of stating that it was made by welding defectively. The indictment therefore states an offense under the statute." (549)

SUPREME COURT CASES ON THE INTERPLAY BETWEEN GOVERNMENTAL INTERESTS AND FREEDOM OF SPEECH

HIGHLIGHTS

Haig v. Agee (1981)—disclosures of intelligence operations and the names of undercover intelligence personnel are clearly not protected by the Constitution.

U.S. v. O'Brien (1968)—when speech and nonspeech elements are combined in a course of conduct, important governmental interests in regulating the nonspeech element justifies incidental limitations on the speech element.

Chaplinsky v. New Hampshire (1942)—to further important governmental interests, the government may restrict utterances that are not part of the exposition of ideas and are of slight social value as a step to truth.

Frohwerk v. U.S. (1919)—The First Amendment was not intended to immunize every possible use of language.

Haig v. Agee

(— U.S. —, 101 S. Ct. 2766 (1981))

THE CASE

Philip Agee, an American citizen and a former Central Intelligence Agency employee, engaged in activities abroad that resulted in identification of alleged undercover CIA officers and intelligence sources in foreign countries. In accordance with a State Department regulation issued under the Passport Act of 1926, the Secretary of State revoked Mr. Agee's passport on the ground that he was causing serious damage to the national security of the United States. The Supreme Court upheld the revocation as consistent with the Constitution and the Passport Act.

SUPREME COURT ON THE FIRST AMENDMENT (PER BURGER, C.J.)

"Assuming *arguendo* that First Amendment protections reach beyond our national boundaries, Agee's First Amendment claim has no foundation. The revocation of Agee's passport rests in part on the content of his speech: specifically, his repeated disclosures of intelligence operations and names of intelligence personnel. Long ago, however, this Court recognized that 'No one would question but that a government might prevent actual obstruction to its recruiting service or the publication of the sailing dates of transports or the number and location of its troops.' [citation] *Agee's disclosures,* among other things, have the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel. They *are clearly not protected by the Constitution.* The mere fact that Agee is also engaged in criticism of the Government does not render his conduct beyond the reach of the law." (2783) (emphasis added.)

United States v. O'Brien

(391 U.S. 367 (1968))

THE CASE

O'Brien burned his selective service registration certificate publicly to influence others to adopt his antiwar beliefs. He was convicted of violating a federal statute prohibiting the knowing destruction or mutilation of such a certificate. The Supreme Court upheld the conviction against a First Amendment challenge.

SUPREME COURT ON THE FIRST AMENDMENT (PER WARREN, C.J.)

"We cannot accept the view that an apparently limitless variety of conduct can be labeled 'speech' whenever the person engaging in the conduct intends thereby to express an idea. However, even on the assumption that the alleged communicative element in O'Brien's conduct is sufficient to bring into play the First Amendment, it does not necessarily follow that the destruction of a registration certificate is constitutionally protected speech. *This Court has held that when 'speech' and 'nonspeech' elements are combined in the same course of conduct, a sufficiently important governmental interest in regulating the nonspeech element can justify incidental limitations on First Amendment freedoms.* To characterize the quality of the governmental interest which must appeal, the Court has employed a variety of descriptive terms: compelling; substantial; subordinating; paramount; cogent; strong. Whatever imprecision inheres in these terms, we think it clear that a governmental regulation is sufficiently justified if it is within the constitutional power of the government; if it furthers an important or substantial governmental interest; if the governmental interest is unrelated to the suppression of free expression; and if the incidental restriction on alleged First Amendment freedoms is no greater than is essential to the furtherance of that interest." (376-77) (emphasis added.)

Chaplinsky v. New Hampshire

(315 U.S. 568 (1942))

THE CASE

Chaplinsky distributed literature of the Jehovah's Witnesses on the streets of Rochester, New Hampshire. A hostile crowd complained to the City Marshal that Chaplinsky denounced all religion as a racket. The Marshal replied that Chaplinsky's activities were lawful, but advised Chaplinsky that the crowd was becoming restless. Subsequently, a disturbance occurred and a nearby policeman started with Chaplinsky for the police station. En route to the station they encountered the City Marshal to whom Chaplinsky stated "you are a god damned racketeer," "a damned Fascist and the whole government of Rochester are Fascists or agents of Fascists." Chaplinsky was convicted of using provocative offensive words directed at a person in a public place. The Supreme Court upheld the conviction against Chaplinsky's claim of protection for the speech under the First Amendment as made applicable to the States by the Fourteenth Amendment.

SUPREME COURT ON THE FIRST AMENDMENT (PER MURPHY, J.)

"Allowing the broadest scope to the language and purpose of the Fourteenth Amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. *It has been well observed that such utterances are no essential part of the exposition of any ideas, and are of such slight social value as a step to the truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.*" (572-73) (emphasis added.)

Frohwerk v. United States

(249 U.S. 204 (1919))

THE CASE

Frohwerk was convicted of conspiracy to obstruct military recruiting in violation of the Espionage Act of 1917. He published the *Missouri Staats Zeitung* advocating that the members of the U.S. armed forces mutiny. The Supreme Court affirmed the convictions against a First Amendment free speech challenge.

SUPREME COURT ON THE FIRST AMENDMENT (PER HOLMES, J.)

"[T]he First Amendment while prohbiting legislation against free speech as such cannot have been, and obviously was not, intended to give immunity for every possible use of language. [citation] We venture to believe that neither Hamilton nor Madison, nor any other competent person then or later, ever supposed that to make criminal the counselling of murder within the jurisdiction of Congress would be an unconstitutional interference with free speech." (206)

Debs v. United States

(249 U.S. 211 (1919))

THE CASE

Debs was convicted of advocating in a public speech that members of the armed forces should refuse to fight, in violation of the Espionage Act of 1917. The Supreme Court upheld the conviction against a First Amendment free speech challenge.

SUPREME COURT ON THE FIRST AMENDMENT (PER HOLMES, J.)

"The defendant [Debs] addressed the jury himself, and while contending that his speech did not warrant the charges said 'I have been accused of obstructing the war. I admit it. Gentleman, I abhor war. I would oppose the war if I stood alone.' The statement was not necessary to warrant the jury in finding that one purpose of the speech, whether incidental or not does not matter, was to oppose not only war in general, but this war, and that the oppostion was so expressed that its natural and intended effect would be to obstruct recruiting. If that was intended and if, in all the circumstances, that would be its probable effect, it would not be protected by reason of its being part of a general program and expressions of a general and conscientious belief." (214, 215)

Schenck v. United States

(249 U.S. 47 (1919))

THE CASE

Schenck and others were convicted of conspiring to obstruct recruiting and enlistment by mailing printed circulars to draftees urging them to evade the draft, a violation of the Espionage Act of 1917. Schenck claimed the protection for his speech of the First Amendment. The Supreme Court upheld the conviction against a First Amendment free speech challenge.

SUPREME COURT ON THE FIRST AMENDMENT (PER HOLMES, J.)

"We admit that in many places and in ordinary times the defendants in saying all that was said in the circular would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. [citation] The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force. [citation] *The question in every case is whether the words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. it is a question of proximity and degree.*" (52) (emphasis added.)

Addenda

Kennedy v. *Mendoza-Martinez,* 372 U.S. 144, 160 (1963) (passport denial to citizen stripped of citizenship for draft evasion invalidated):

". . . [W]hile the Constitution protects against invasions of individual rights, it is not a suicide pact."

Broadrick v. *Oklahoma,* 413 U.S. 601, 611-12 (1973) (First Amendment challenge to ban on political activity by State employees):

"It has long been recognized that the First Amendment needs breathing space and that statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that

> a particular mode of expression has to give way to other compelling needs of society."
>
> *CBS* v. *DNC*, 412 U.S. 94, 102-3 (FCC Fairness Doctrine on access to media upheld against First Amendment challenge):
>
> "Professor Chafee aptly observed: once we get away from the bare words of the [First] Amendment, we must construe it as part of a Constitution which creates a government for the purpose of performing several very important tasks. The [First] Amendment should be interpreted so as not to cripple the regular works of the government."

CARTER ADMINISTRATION POSITION ON "SPECIFIC INTENT" STANDARD

Mr. CHAFEE. Mr. President, there has been a lot of debate on the issue of the "specific intent" standard which the Judiciary Committee adopted by a very narrow margin as its language in subsection 601(c), and the "reason to believe" language that Senator JACKSON and I have incorporated in our amendment.

The reasons for these differences in language arise out of the debate we had on this issue 2 years ago. It seems to me this is extremely important, Mr. President, and I believe this gets to the heart of one of the problems we have here.

In January of 1980, over 2 years ago, Senator JACKSON and I joined Senators MOYNIHAN, NUNN, DANFORTH, DOMENICI, and others in introducing the Intelligence Reform Act of 1980 which was then S. 2216. This bill contained a section designed to protect agents' identities which depended on a "specific intent" standard. In other words, the bill we originally introduced had the "specific intent" standard which Senator BIDEN is defending from my amendment now.

In hearings before the Senate Intelligence Committee in June of 1980 a number of witnesses expressed concern with the "specific intent" standard.

For example, the Carter administration's principal witness at our hearings, Mr. Robert F. Keuch, Associate Deputy Attorney General—he was appointed by the prior administration—argued very strongly against the "specific intent" requirement, and this is what he had to say:

> Section 501(b) specific intent requirement that an individual must have acted with intent to impair or impede the foreign intelligence activities of the United States, and that such intent cannot be inferred from the act of disclosure alone, is not a fully adequate way of narrowing the provision either in serving the First Amendment values or in facilitating effective prosecutions.
>
> The specific intent requirement may itself have the effect of additionally chilling legitimate critique and debate on CIA policy because general criticism of the intelligence community could seem to corroborate an intent to impair or impede.

Now, Mr. Keuch is saying so far that the "specific intent" requirement, which is the language in the committee version that is on the floor here and which was the language we originally considered 2 years ago, could chill legitimate criticism of the CIA, because general criticism of the CIA could seem to then corroborate an intent to impair or impede the intelligence activities of the United States.

Mr. Keuch goes on in his statement:

> A mainstream journalist, who occasionally writes stories based on public information concerning which foreign leaders are thought to have intelligence relationships with the U.S., may fear that such stories about foreign leaders and other stories by him critical of the CIA will be taken as evidence of an intent to impede foreign intelligence activities.
>
> Speculation and debate concerning intelligence activity and actors would seemingly be more hazardous if one had taken a general position critical of the conduct of our covert foreign intelligence policy.

Mr. Keuch continues:

> Taking the problem from the other direction, since any past or present criticism of the CIA might provide the something extra beyond the act of disclosure to prove specific intent, citizens soon may be unwilling to hazard a speculative discussion of covert intelligence policy for fear they will unwittingly name an intelligence source correctly.
>
> The specific intent requirement also can hamper effective enforcement by creating a difficult jury question. Any person willing to gamble on the outcome of a prosecution can claim to a jury that his intent was to inform the American people of intelligence activities he believed to be improper or unnecessary rather than to disrupt successful intelligence gathering. The Government may often find it difficult to convince a jury beyond a reasonable doubt that there was intent to impede in the light of such a claim.

Mr. Keuch continues:

> A related serious enforcement problem is that the serious intent enforcement problem could provide an opening for defendants to use the trial as a forum to demonstrate alleged abuses by the intelligence community or to press for disclosure of sensitive classified information on the ground that it was relevant to show their intent was to inform rather than to disrupt. The Justice Department is concerned that the specific intent element will facilitate graymail efforts to dissuade the Government from prosecuting defendants.

Mr. Keuch continues:

> In my appearance last January I was asked by the House Intelligence Committee whether the Department believes section 501(b) of H.R. 5615 or S. 2216 would be held constitutional. Our sincere answer has to be that we do not know.

In other words, he was not sure that the "intent" standard would stand up to, withstand, the constitutional challenge. That is the end of Mr. Keuch's quote.

Now, Mr. President, just let me summarize what Mr. Keuch said to the Intelligence Committee nearly 2 years ago. He testified as follows: First, that the "specific intent" requirement may chill legitimate critique and debate on CIA policy.

Second, he said that the specific intent requirement could hamper effective prosecution by making a very difficult jury question.

Third, he said the specific intent requirement would facilitate "graymail" efforts.

Let me explain the word "graymail." "Graymail" is a threat that if you prosecute a defendant, the defendant will demand large quantities of CIA documents or information on activities be disclosed. He will require this as part of his defense. The so-called "graymail" technique occurs quite frequently when the Government tries to prosecute those guilty of handling documents to foreign nations. For example, the defense will say, "In order to prove our defense, we request the Government to reveal all intelligence documents they have on this subject." And the Government says, "We don't want to reveal those." Thus, the defendant will plead to a lesser sentence; either he will go free completely or he will get some minor punishment. That is what we call "graymail."

Mr. Keuch worries about the "graymail" threat if this specific intent language remains in the legislation.

Fourth, and finally, Mr. Keuch says that the Carter administration Justice Department does not know whether the specific intent requirement would be upheld as constitutional.

Other witnesses who appeared before our committee in 1980, such as Mr. Lloyd Abrams, who defended the New York Times in the Pentagon papers case, and Mr. Morton Halperin, of the ACLU, expressed similar concerns about the specific intent requirement.

On the basis of these expressed concerns, the Senate Intelligence Committee Staff and the Justice Department began working on an alternative standard of proof which would remove the problems of the specific intent standard. In other words, we wrestled with the specific intent difficulty that was brought up, and we saw the problems that were raised, as pointed out by Mr. Keuch. That was the language we originally had in the act, but we changed it because of the objections that were raised. We came up with the language which utilized this objective standard, this reason to believe language.

The Carter administration Justice Department endorsed this language. In a letter to Chairman Bayh—who was then chairman of the Senate Intelligence Committee—Deputy Attorney General Renfrew wrote as follows about the objective standard:

> This formulation substantially alleviates the Constitutional and practical concerns expressed by the Justice Department with regard to earlier versions of this bill that included a requirement that prohibited disclosures be made with a specific "intent to impair or impede" U.S. intelligence activities.
>
> Because of the significance of this matter, however, it has been our view from the beginning that such legislation as is enacted

> must be fair, effective and enforceable. Our position has been and remains that the absence of an intent element in this legislation will accomplish this goal.

That is the end of the quote by Mr. Renfrew, Deputy Attorney General under the prior administration of President Carter, to Chairman Bayh.

Mr. President, the language of the amendment, the Chafee-Jackson language, for this subsection is the only language that has been endorsed by the Carter and the Reagan administration Justice Departments. The issues which this legislation involves have been heard in detail, and our wording of S. 391 has been carefully amended and refined to its current state.

If the Senate goes back to the specific intent standard, which the Judiciary Committee narrowly adopted, we will be going back to a standard which the Carter administration Justice Department declared inadequate over 2 years ago. This simply does not make sense.

THE HOSTILE "MOLE"

Mr. President, I would like to now address the issue of the so-called "mole" within the CIA, which the distinguished Senator from Delaware has dealt with in a hypothetical which he raised on this floor and during hearings on the Intelligence Identities Protection Act.

The Senator from Delaware said that the reason to believe language would prevent exposure of a hostile "mole" within the CIA. It seems to me preposterous to suggest that the Chafee-Jackson language would prevent a "mole" from being exposed. It seems to me that a journalist in the "mole" hypothetical would not be prosecuted under the terms of my amendment for the following reason:

First of all, it is not at all certain that "mole" identified would be a covert agent, as that term is precisely defined in the bill. The "mole" may be an overt CIA employee. As such, his identity would not be classified information under the definitions in subparagraph 606(4), and the United States would not be taking "affirmative measures to conceal such individual's classified intelligence relationship." Accordingly, no prosecution would be brought for such a disclosure.

There is no reason to assume in this case that the hypothetical journalist would have the requisite reason to believe that his disclosure would impair or impede the foreign intelligence activities of the United States. Disclosure of the identity of a real "mole" would not impair or impede but, rather, assist the foreign intelligence activities of the United States.

Finally, there is nothing in S. 391 that would prevent the journalist from publishing his story about the penetration without identifying the "mole." Section 602(d) expressly states that it is not an offense to transmit the identification to the Intelligence Committees, the one in the House and the one in the Senate. And, in fact, this would be an ideal route for the journalist to take since efforts that then might have been made to double the "mole" to the benefit of the United States.

This act encourages disclosure of information to the committees themselves. In a case where a journalist thinks he has spotted a "mole," notification of this fact to the congressional Intelligence Committees would be the best course of action. In any case involving a "mole", and individual thought to be a "mole" might, in fact, already have been doubled and working for the United States. In such circumstances, his exposure could, in fact, gravely impair U.S. intelligence activities.

NEGLIGENCE AND GREYMAIL ISSUES

Mr. President, the junior Senator from Indiana stated on January 25 of this year that, in his judgment, the Chafee-Jackson language was a negligence standard and it also creates what we call "greymail" problems. In other words, the junior Senator from Indiana was raising the "greymail" problem as it pertained to the language we had, the so-called reason to believe language. Now, let me discuss this a minute.

This is what the junior Senator from Indiana had to say:

> First of all, intent is the appropriate element for a criminal statute. Reason to believe implies a negligence standard and this is not a negligence standard substitute.
>
> Second, the objective "reason to believe" standard: "what would a reasonable man believe would be the results of his actions," raises serious prosecutorial questions. For example, it would force the Government to make public at the trial more classified information than it would want to and certainly more than it requires in a prosecution under the "intent" standard.

The junior Senator from Indiana, thus, is arguing that it is easier to prosecute under the intent standard, and that serious difficulties would be raised with the reason to believe.

Well, Mr. President, reason to believe is not a negligence standard. An examination of all of the elements of proof required in the Chafee-Jackson amendment makes it clear that reason to believe does not mean that a negligence disclosure of an identity would be a criminal offense. Why is this so? How can I say that a negligence disclosure of an identity would not be a criminal offense?

First of all, the individual making the disclosure must know that the information he discloses does, in fact, identify a covert agent.

That is the first thing. The person making the disclosure must also note that the United States is taking affirmative measures to conceal the agent's classified intelligence affiliation. Moreover, the disclosure must be in the course of a pattern of activities intended to identify and expose covert agents.

And finally, the person making the disclosure must have reason to believe his activities would impair and impede foreign intelligence activities in the United States.

All these elements must be proved. An individual making an unauthorized disclosure under these circumstances can hardly claim negligence. It is completely fallacious to argue that standing alone "reason to believe" is the same as negligence because "reason to believe" does not stand alone in subsection 601(c). It is preceded by five other elements, all of which must be proved beyond a reasonable doubt.

During the Senate Judiciary Committee's markup of the legislation that we are considering on October 6 of last year, Senator LEAHY raised this issue of negligence, and he directed his question to Mr. Richard Willard, the Attorney General's counsel for Intelligence Policy. Senator LEAHY directed the following question:

> Can you tell us, is this or is this not a negligence standard?

The response by Mr. Willard who, as I mentioned, was the Justice Department's expert on intelligence law, was as follows:

> If the reason to believe standard stood by itself and were the only element of this offense, I believe you are correct, that it would in many ways resemble negligence. However, as Senator Heflin pointed out, there are so many elements of proof in this section as it exists that there is no way someone could accidentally or negligently violate the law. It would be very difficult to prosecute. There are other elements, including one of specific intent intended to identify and expose covert agents which exist in Senator Chafee's bill. Therefore, while that one provision, taken in isolation, would be sort of a negligence standard, it is accompanied by five other elements which involve actual knowledge and specific intent.

The distinguished junior Senator from Indiana is speaking about "reason to believe" as if it were the only standard of proof in the bill. We must not allow our focus on the differences between "reason to believe" and "intent to impair or impede" to obscure the fact that we are talking about one of six elements of proof required by the amendment I have submitted and by the legislation that has passed the House. All of these elements must be proven beyond a reasonable doubt. Comparing the "reason to believe" standard to a negligence standard is meaningless, because the comparison ignores the five additional elements of proof which must be present before "reason to believe" is even considered.

Mr. President, the junior Senator from Indiana also suggested "reason to believe" would lead to greater pressures to reveal classified information at the trial—in other words, the so-called greymail problem—and it would chill prosecutorial efforts.

That simply is not the case. In fact, it is just the opposite. The subjective intent standard would have those difficulties.

Under the intent to impair or impede standard a defendant could press for disclosure of sensitive classified information on the grounds that it was relevant to a showing that his intent was to expose alleged abuses rather than to impair or impede intelligence activities.

The "reason to believe" standard avoids this problem by focusing on overt acts rather than on some subjective state of mind.

The whole question of greymail was raised over 2 years ago when the Carter administration Justice Department testified before the Senate Intelligence Committee. At those hearings, Mr. Robert Keuch, Assistant Deputy Attorney General in the Carter administration, said:

> A related serious enforcement problem is that the specific intent requirement could provide an opening to defendants to use the trial as a forum to demonstrate alleged abuses by the intelligence community, or to press for disclosure of sensitive, classified information on the ground it was relevant to showing their intent was to reform rather than to disrupt.
>
> The Justice Department is concerned that the specific intent element will facilitate greymail efforts to dissuade the Federal Government from prosecuting offenders.

Mr. President, the Justice Department has a great deal of expertise on the subject of greymail. I would suggest that if the Justice Department supports the Chafee-Jackson language rather than the specific intent language because of greymail problems, we ought to listen to them. They are expert on these matters.

MISINFORMATION IN DEBATE

Mr. President, on March 1 of this year, the junior Senator from Vermont noted that a considerable amount of misinformation had entered into the debate on the Intelligence Identities Protection Act. Senator LEAHY declared that the amount of misinformation in the debate was so great that some kind of prize might be in order. I believe the Senator from Vermont was correct and the misinformation campaign continues. The prize which Senator LEAHY spoke about might well be awarded to the New York Times for its editorial of March 4, 1982, called The Spy Bill Wrapped in the Flag.

Mr. President, at this time I ask unanimous consent that a copy of this editorial from the New York Times of March 4, 1982, be printed in the RECORD. First, however, I would like to read excerpts from it.

The Times had this to say:

> THE SPY BILL WRAPPED IN THE FLAG
>
> The closer the Senate gets to voting on the "Intelligence Identities Protection Act," the clearer it becomes that this bill dangerously exceeds its announced purpose. It was prompted by former agents who break their oaths and expose American secret agents in risky intelligence work. But Congressional anger soon spread to individuals who never worked for the Government but engage in similar exposures using publicly available information. And that, in turn, has raised concern about the possible use of the act against news organizations.
>
> If there was any doubt that the act extends that far, it has now been put to rest. Senator John Chafee, a chief sponsor, has clarified the bill's threat to conventional journalism—and public discussion generally.
>
> Asked whether a prosecutor could use the bill against reporters and news organizations for exposing crimes and abuses by agents and informants, the Senator has this reply: "I'm not sure that The New York Times or The Washington Post has the right to expose names of agents any more than Mr. Wolf or Mr. Agee," two of the bill's main targets. "They'll just have to be careful about exposing the names of agents."

And then it goes on with severe criticism of Senator CHAFEE. The article continues:

> Unfortunately, to cite a case in The Times's experience, being careful doesn't help decide how to deal with former spies like Edwin Wilson and Frank Terpil. The Times put together—carefully—stories about how the former agents trained terrorist abroad and engaged in suspicious weapons and technology deals. The stories raised questions about the former spies' connections to the Central Intelligence Agency, whether real or feigned.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

> [From the New York Times, Mar. 4, 1982]
>
> ### THE SPY BILL WRAPPED IN THE FLAG
>
> The closer the Senate gets to voting on the "Intelligence Identities Protection Act," the clearer it becomes that this bill dangerously exceeds its announced purpose. It was prompted by former agents who break their oaths and expose American secret agents in risky intelligence work. But Congressional anger soon spread to individuals who never worked for the Government but engage in similar exposures using publicly available information. And that, in turn, has raised concern about the possible use of the act against news organizations.
>
> If there was any doubt that the act extends that far, it has now been put to rest. Senator John Chafee, a chief sponsor, has clarified the bill's threat to conventional journalism—and public discussion generally.
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> Asked whether a prosecutor could use the bill against reporters and news organizations for exposing crimes and abuses by agents and informants, the Senator had this reply: "I'm not sure that The New York Times or The Washington Post has the right to expose names of agents any more than Mr. Wolf or Mr. Agee," two of the bill's main targets. "They'll just have to be careful about exposing the names of agents."
>
> Senator Chafee makes the bill's danger explicit without seeming to understand its cost to public discussion of security issues. Perhaps inadvertently, he makes the case for trimming back this inflated piece of legislation. No assurances that the law would be carefully administered can suffice when the warning to reporters is: be careful about getting the Government mad.
>
> Unfortunately, to cite a case in The Times's experience, being careful doesn't help decide how to deal with former spies like Edwin Wilson and Frank Terpil. The Times put together—carefully—stories about how the former agents trained terrorists abroad and engaged in suspicious weapons and technology deals. The stories raised questions about the former spies' connections to the Central Intelligence Agency, whether real or feigned.
>
> At a minimum, these foreign adventures challenged the country's ability to avoid embarrassment by once-trusted employees. The stories brought about other investigations, by Congress and the C.I.A. itself.
>
> But it doesn't seem to matter how much care went into those stories. It doesn't matter how much they have been supported by official investigations. None of that would protect the paper against a wrathful prosecutor armed with the pending bill.
>
> The Senate should restrict it to the punishment of people like Philip Agee, the former spy who first specialized in agent exposure. Congress cannot reach private citizens like Louis Wolf, publisher of the Covert Action Information Bulletin, without chilling other, more precious journalism and debate. In no case can the Senate responsibly follow the House's reckless example and make it a crime to identify an agent without even requiring proof of criminal intent.
>
> Until now, the Reagan Administration has managed to wrap this bill in the flag. That conceals its danger to liberty—and to the public knowledge on which true national security rests. There is a difference between patriotism and chauvinism. Senators Biden, Bradley, Leahy, Specter and Quayle have been in the forefront of those who have exposed at least some of the bill's excesses. The entire Senate needs equal courage and wisdom.

Mr. CHAFEE. In other words, Mr. President, the New York Times editorial tries to tell us the recent series of articles done by the Times on the activities of former CIA officers, and they identify them in the editorial, Edward Wilson and Frank Terpil, could not have published if the identities bill had been law at that time.

Mr. President, in a previous discussion with the Senator from New Jersey (Mr. BRADLEY), I had occasion to discuss the definition of "covert agent" in this legislation. Senator BRADLEY cited a number of newspaper articles and asked whether or not the authors would have been liable to prosecution under the Chafee-Jackson amendment. In each case, I told Senator BRADLEY that the answer to his question was contained in the definition of "covert agent" which appears on page 7 of the committee bill—of the committee bill—as reported. This definition makes it absolutely clear that S. 391 defines the term, "covert agent," to mean only current CIA officers of employees whose identity as such officers or employees is classified and who are actually serving outside the United

States or have done so within the last 5 years.

The definition of "covert agent" goes on to include certain other individuals who are not citizens of the United States whose past or present intelligence relationship to the United States is classified. These are the people who are normally called agents in the intelligence community.

The definition of a covert agent also includes certain U.S. citizens residing or acting outside the United States and who are associated with foreign counterintelligence or foreign counterterrorism components of the FBI.

The point I wish to emphasize is simply that former CIA agents are not covered by the definition of "covert agent."

I might say, Mr. President, that applies to whether the intent language or the "reason to believe" standard is used. That has nothing to do with the Chafee amendment. I do not quite see why the Times editorial goes after Senator Chafee on this particular point, because both bills use the same definition.

Oddly enough, Mr. President, the Times editorial goes on to say that the Reagan administration has managed to wrap this bill in the flag.

> Until now, the Reagan Administration has managed to wrap this bill in the flag. That conceals its danger to liberty—and to the public knowledge on which true national security rests. There is a difference between patriotism and chauvinism. Senators Biden, Bradley, Leahy, Specter and Quayle have been in the forefront of those who have exposed at least some of the bill's excesses.

Oddly enough, Mr. President, each of those gentlemen is supportive of the legislation as it incorporates the language they are for, namely, the intent standard, yet the New York Times is critical of the whole bill. So it is odd that they are so generously praised, but I am glad that the Times saw fit to praise some of us here in the Senate.

It seems to me, Mr. President, that the debate over this bill, whether on the floor of this body or in the editorial pages of influential publications, should at least be based on what the bill says. Certainly, the New York Times should have someone on its staff who is capable of reading the bill and coming to the inescapable conclusion that neither the Judiciary Committee version of the bill nor the Chafee-Jackson amendment has anything to do with preventing the naming of former CIA officers who might be engaged in illegal or otherwise nefarious activities. The bill does not cover former CIA officers. It is disconcerting to listen to the recitation of articles which have been published in the past and which, it is alleged, could not have been published had the identities bill been law at the time.

We have dredged out these articles and, in every case, the allegation can be disposed of simply by referring to the definitions in the legislation. In almost every case, the name revealed in the article was that of a former CIA officer not covered by the definition or of a U.S. citizen residing in the United States who is also not covered by the definition of a covert agent.

Mr. President, the Senator from Delaware appears to understand and accept the fact that, in the language I have presented, an individual must engage in a pattern of activities intended to identify and expose covert agents.

Let me quote from Senator Biden's statement of March 1. Senator Biden was discussing the Chafee-Jackson amendment, and he stressed that it contains several key elements. As Senator Biden put it:

> First, a pattern of activities; second, with an intent to identify or expose; and, third, with a reason to believe that the activity would impair or impede the foreign intelligence activities of the United States.

Senator Biden went on to say:

> In the intent to identify or expose, the intent goes to the identification not the motivation.

Mr. President, that is absolutely correct. The intent element in the Chafee-Jackson language is a pattern of activities intended to identify and expose covert agents. Senator Biden has emphasized that it is theoretically possible to be prosecuted under the Chafee-Jackson language for exposing the name of a single covert agent, so long as an individual engaged in a pattern of activities prior to the disclosure.

The point that Senator Biden keeps missing, however, is the key point contained in my exchange with Senator Durenberger on March 3, 1982. In that exchange, Senator Durenberger and I discussed Senate Report 96-896, which is the only legislative history of the Chafee-Jackson language. This is the Intelligence Committee report on the identities bill that was pending in the 96th Congress. I urge my colleagues to read the colloquy between Senator Durenberger and me in order to understand that the intent requirement of the Chafee-Jackson language, the requirement that an individual engage in a pattern of activities intended to identify and expose covert agents, effectively limits the coverage of the identities bill to those engaged in the purposeful enterprise of revealing names; that is, to those in the business of naming names.

Mr. President, the matter before us is a critical one, and I urge my colleagues to treat with great care and more than a few grains of salt the arguments that have been raised against the Chafee-Jackson amendment. In many cases, as I have tried to show, misinformation and misconceptions have crept into the public debate on this issue. We should not be misled by this.

RICHARD S. WELCH MEMORIAL FUND

In conclusion, Mr. President, I should like to state that probably this legislation had its birth in the execution, or murder, that took place of Richard Welch, a CIA station chief in Athens, Greece, who was shot in front of his home as he returned from a Christmas party at the American Ambassador's home. He had attended a Christmas party in December 1975, at the Ambassador's home and, as Mr. Welch returned to his own home, his quarters in Athens, he was executed—murdered. That assassination occurred within a month of the time that he was publicly identified as the CIA station chief in the Athens Daily News. That information in the Athens Daily News came from Phillip Agee's Counterspy magazine.

I have special feeling for this murder, Mr. President, because Mr. Welch's family comes from my State of Rhode Island. Richard Welch grew up in Providence, where he was an honor student at Classical High School. He was a member of the track team. He went on to Harvard. He graduated in 1951 magna cum laude, with a degree in Greek and classical languages.

What a prize. What a man to have in our CIA. Welch's mother and wife were both from Rhode Island and a brother and sister of his still live there. His uncle was a probate judge in one of our towns and a former clerk in the family court.

Richard Welch was not somebody in a trenchcoat, wandering around, as many CIA officers are characterized incorrectly. He was, as many CIA officers are, a well-educated, able, and intelligent family man. He gave up what could have been an easy life at home for an important, though dangerous, series of assignments overseas for this Nation and for us. We sent him there.

We, the Members of Congress, have set up the CIA. We have supported it with funds. We encourage the recruitment of young American men and women to go into the CIA, and we recognize that they will be sent abroad on dangerous missions.

Richard Welch believed in the primary purpose and mission of the CIA, which is to collect foreign intelligence so that the U.S. policymakers can make informed judgments here at home. He died for those beliefs because a small clique of individuals make their living by naming names.

Last week, I was pleased to receive a letter from Harvard University stating that a Richard S. Welch Memorial Fund is being established at Harvard for the consideration of intelligence and its role in the formulation and implementation of U.S. policy. That fund will be jointly administered by the

John F. Kennedy School of Government and the Center for International Affairs at Harvard. The purpose of this endeavor is to enhance the national understanding and appreciation of the role of intelligence in our Nation.

Mr. President, I can think of no more timely opportunity for this memorial fund to be established. Nor can I think of any better way to honor this intelligent and patriotic U.S. citizen, than to pass the legislation which will effectively prevent the pernicious activity of "naming names." After all, that activity was responsible for Richard Welch's murder.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Harvard in connection with this memorial fund for Richard Welch.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

RICHARD S. WELCH
MEMORIAL FUND,
HARVARD UNIVERSITY,
Cambridge, Mass., December 1981.

DEAR SENATOR CHAFEE, Dick Welch '51 died at the hand of an assassin in Athens on December 23, 1975. Since then, many of us have sought a way to remember that brightest and wittiest of spirits, that consummate professional, that warmest of friends, that special man.

Now we have the way. We are establishing the Richard S. Welch Memorial Fund at Harvard for the consideration of intelligence and its role in the formulation and implementation of U.S. policy. Through this endeavor to enhance the national understanding and appreciation of the intelligence function, we commemorate Dick in a combination of three of his great loves: his college, his profession, and his quest for understanding in the cause of the United States.

Harvard's Kennedy School of Government and Center for International Affairs will jointly oversee the use of the money from the Fund, under the direction of their respective chiefs, Graham Allison and Samuel Huntington, and three others.

The prime aim of the Memorial Fund will be to encourage teaching and talking about intelligence—with students, government officials, and others, at Harvard and across the country. The subject matter will be the rational and historical importance and contribution of intelligence in the making of informed foreign and national policy. We look forward to cooperation between those working at Harvard under the aegis of the Memorial Fund and those teaching and talking about intelligence elsewhere.

Dick Welch honored us by his life and death. Now we may honor him by perpetuating his memory in behalf of the causes he cherished. We ask you to join us—our immediate goal is $50,000. Please make checks payable to the Richard S. Welch Memorial Fund, and send them to Dean Bayley Mason at the Kennedy School, address above. All contributions are tax-deductible, and are credited to the current Harvard Campaign. We also ask you to send a copy of this letter with your personal note to others who knew and/or esteemed Dick and what he stood for. We shall keep you advised of the progress of the Fund and plans for its use. Thank you.

Sincerely,

JOHN A. BROSS.
CHRISTOPHER MAY.

(Mr. DURENBERGER assumed the chair.)

Mr. CHAFEE. Mr. President, some of my colleagues have mentioned the case of Richard Welch and the case of the Kinsman family. It will be recalled that the Kinsman family, on July 4, 1980, was stationed in Jamaica. His name was published. He was alleged to be a CIA officer. His license number, his street address, and the color of his car were published in one of these bulletins. His house was shot up and an explosion took place. A bomb was thrown on his lawn. Fortunately, no one was hurt. That was lucky. Bullets went through his house, through his young daughter's bedroom. Fortunately, she was not in the house at the time.

There are others whose careers were ruined because no longer can they carry out the missions for which they have been trained and for which this Nation needs them.

It is important to understand that this activity is not something that took place only in the case of Welch and Kinsman. It is taking place constantly, and it is important to understand that.

Two weeks ago, in Managua, Nicaragua, an American political officer was the subject of official harassment because he was identified as a CIA agent serving in the Embassy. This incident was described in a recent article by Roy Gutman in Newsday, a newspaper published on Long Island with which many of us are familiar. I ask unanimous consent that this excellent article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsday, Mar. 12, 1982]

BAN ON NAMING AMERICAN SPIES NEARS SENATE OK

(By Roy Gutman)

WASHINGTON.—On the pretext of a traffic violation, Nicaraguan police halted the U.S. Embassy car on the side of a public highway in Managua. They seized the driver's license and car registration. State security men arrived an hour later. When the embassy officer refused to accompany them, police took the driver and car away, leaving the officer on the street.

The incident, as reported in a U.S. Embassy cable a little over two weeks ago, ended peacefully. The driver was interrogated for two hours, and the car taken apart and searched. By contrast, between Nov. 6 and Dec. 16, three women employees at the embassy were assaulted, bound and gaged by armed men who overpowered guards and broke into their homes in Managua.

What all four had in common is that they were listed as CIA agents in a progovernment Managua newspaper on Nov. 6. A few weeks before the publication, Philip Agee visited Managua and charged at a press conference that at least 10 CIA agents were "hiding" in the embassy's political section.

The former CIA agent, who has been deprived of his passport and is now reported to be living in Greece, did not list the names but said they "are probably in the hands of state security already." The embassy refused to say whether or not the people named were, in fact, agents.

Successive administration and CIA directors have pleaded for laws to punish Agee and the handful of other former agents or private citizens connected with the Covert Action Information Bulletin who have made names for themselves by naming others.

Now the Senate is on the verge of approving the "Names of Agents" bill. Support is overwhelming (the House voted 354-46 for it in September), and there is no question it will pass. The debate is over the spillover effect on investigative journalism in this country.

The bill before the Senate would set penalties of up to $50,000 in fines and 10 years' imprisonment for disclosure of names of CIA agents by a former government employee and up to $15,000 and 3 years in prison for disclosure by a private citizen.

While "getting the bad guys," as Sen. Joseph Biden (D-Del.) put it in a Senate debate last week, has wide support in Congress, in the civil liberties community and among many constitutional lawyers, editors and publishers, the bill is viewed as an attempt to use a sledge-hammer to smash a gnat.

The American Civil Liberties Union has called the bill unconstitutional and a threat to the First Amendment guarantee of freedom of speech. But as the bill seems likely to pass, the ACLU has backed efforts by Biden and a majority of the Senate Judiciary Committee to insert more restrictive language in it.

At the heart of the Senate debate so far is whether the bill would discourage reporting such as the New York Times series last year that revealed that ex-CIA agents Frank Terpil and Edwin Wilson had trained terrorists on behalf of Libyan leader Moammar Khadafy.

The Times editorialized recently that no matter how much those reports served the U.S. public interest, "a wrathful prosecutor armed with the pending bill" could attack the newspaper for publishing them.

Of such concerns, the bill's chief sponsor, Sen. John Chafee (R-R.I.) said: "That is absolute nonsense. The people who say this have not read the legislation. Wilson and Terpil were former agents, and disclosure of their names would not be penalized under this bill."

The rebuttal that Terpil and Wilson still claim to be CIA informants and might be considered current agents, thereby triggering the law, has not yet been addressed in the Senate debate. But staff aides to the Senate Intelligence Committee said the CIA had flatly denied that the two men were still connected with the agency in any way.

Biden wants the law to require proof that the revelation of an agent's name was intended to harm foreign intelligence-gathering. The Chafee version, backed by the White House, would require only the judgment that damage was done. Each claims that his version is the more protective of legitimate journalistic enterprise.

Senate Intelligence Committee staff chief Rob Simmons said he though Chafee had the votes at the moment. The Biden move, if successful, might cripple the bill's chances by forcing a conference with the House, which already adopted language similar to Chafee's. "If we have a conference on this issue, we may not have a bill this session," he said.

Mr. CHAFEE. Mr. President, it is my understanding that there will be no votes today. It is our hope that we can get a vote on this matter tomorrow.

I hope that before we do vote, Members will take the occasion to read and study the record of this matter. I have discussed this with the principal manager on the other side, the Senator from Delaware (Mr. BIDEN). It is our hope, too, that we can have perhaps an hour and a half, evenly divided, before we vote on the amendment, then vote on the amendment, and then vote on the bill.

I urge my colleagues to support the amendment and the bill. If we do so we are confident that we will have legislation in this matter.

If the amendment is defeated and the bill is passed, it will be quite different from the measure that has passed the House.

Mr. LONG. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. LONG. I should like the Senator to help me focus my view on the issue that will be in dispute on the bill. It is my understanding that the Senator's view is that it should be against the law for an American to needlessly identify one of the agents of the CIA, particularly an agent who tends to try to gather information on a covert basis for the United States.

Do I correctly understand that one of the most controversial features is the question of whether the person who identifies the CIA agent should do so with the intent to adversely affect the security of the United States, or whether it should be adequate that to identify the agent should become a crime against the laws of the United States, without requiring the showing of an intent?

Mr. CHAFEE. I am not trying to draw out my answer, but the answer to the first question is this: The committee bill has language which states:

> Whoever, in the course of an effort to identify agents, with the intent to impair or impede the foreign intelligence—

The language of the amendment I have presented says:

> Whoever, in the course of a pattern of activities intended to identify an agent—

So there is an intent standard at that point. I continue:

> and with reason to believe that these activities would impair the intelligence activities of the United States.

So the whole difference does not hang on the reason to believe versus the intent. I believe it would be an inadequate explanation of the difference to say that the difference is solely that.

Mr. LONG. Then, the Senator suggests that the law would place a burden on this Government to prove that there was an intent on behalf of the perpetrator to adversely affect the security of the United States.

Mr. CHAFEE. Under the committee language.

Mr. LONG. But I want to know what the Senator's position is, what he is advocating in this regard.

Mr. CHAFEE. What I am advocating is that the existing language in the committee bill; namely, "Whoever, in the course of identifying an agent, with an intent to impair or impede the United States" is chilling to the newsman who publishes a series of articles critical of the CIA, or of U.S. intelligence activities. He has built up a background which would be indicative of his intent to impair or impede, when it would not really be germane to what he has done.

In other words, when you go into somebody's intent in a matter such as this, it is harmful to the person, and it is difficult for the prosecution as well.

It is difficult for the prosecution, because the defendant says:

> True, I disclosed the names of these agents. Admittedly, I publish the "Covert Action Information Bulletin." I revealed Mr. Welch's name. But my intent was not to impair or impede the intelligence activities of the United States. My intent was to improve them, because these people are spoiling the reputation of the United States by what they are doing in Nicaragua or Athens, Greece, or wherever it is. They are impairing the United States. Thank goodness for me, the publisher of these documents, because I am helping our Nation.

Not only is that a defense that could be undertaken, but, indeed, it is what they are presently saying. That is one side of it. That is looking at it from the standpoint of the Government's perspective.

Look at it from the other side, from the side of a newsman who discloses the name of an agent inadvertently. But who has been extremely liberal, let us say. He thinks that everything the United States has done is wrong and that the CIA has misbehaved. He has published a long series of articles on that. He also has pointed out that the Justice Department is crooked. They are for sale. They are bad actors. He is critical, critical, critical. Then, inadvertently, he discloses the name of an agent.

He is prosecuted, and the prosecution says his intent is clear, and they bring in all these articles from the past to show his intent.

In my judgment that is chilling on writers and journalists. The reason to believe language is an objective standard. We ask whether a person would have reason to believe that the disclosure impedes the United States, rather than try to get within the breast of the defendant and ask what was his intent?

Mr. LONG. I think the Senator has a good point. It seems to me that it would provide very little protection for our agents if all one had to do was to indicate that he has no sympathy whatever for the CIA, he does not think there should be a Central Intelligence Agency; he thinks it has done a horrible job and should be abolished.

Therefore, one could well argue, and I would think with logic, feeling that way, that it should be abolished, it should not operate at all. There should be no CIA; that under those circumstances if he publishes the names of every agent of whom he had any knowledge and even if he had once been in the CIA and knew a lot of agents he could take the view he was not seeking to undermine the security of the United States; what he was doing, according to him, would be to further protect the security of the United States because he does not think we should fight a war with anyone and that the CIA was likely to create a war rather than prevent one.

So if one wanted to take that point of view, he could very well take the view that he is not guilty of crime at all; he is simply doing what he thinks is right and his intention is not to violate the security of the United States, his intent is prevent the United States from fighting anybody or even defending itself against anybody.

I can see how that if one is going to use the so-called subjective test, what did that person have in mind, then if that person, misguided though he may be, thought that he was doing something that was in the ultimate best interest of the United States he would not be guilty of a crime.

I think that the test the Senator is suggesting makes better sense. If that person would have reason to believe or a reasonable person would have cause to believe that to identify these agents would adversely affect the security interests of the United States he would be guilty of a crime, and to me it makes better sense.

Do not most of our criminal statutes work on the basis of what a person would reasonably expect under circumstances rather than what that particular person actually thought?

Mr. CHAFEE. I put in the RECORD a series of statutes.

The argument given by many of the former prosecutors around here is that you always have to prove intent. You have to have intent to prove murder or what it might be, and that this reason-to-believe standard is a new one that we have pulled up just to get easier prosecutions. This is not the situation at all.

We have put a series of acts on our books now in 18 U.S.C. dealing with this very standard that the Senator so eloquently spoke to.

It is not a new standard and, furthermore, it is not just this element alone that one has to prove: That he would have reason to believe that he would impair intelligence activities of the United States. There are six other standards of proof. There has to be, of course, a pattern of activities. You have to prove a pattern of activities in which the person intended to identify and expose covert agents. So there is that intent in our language.

Mr. LONG. I find myself wondering whether the language that the Senator would suggest is actually strong enough. I mean that would cause this Senator to wonder. Actually what we really want is to prevent those who have the knowledge of our agents to avoid needlessly identifying those agents to our enemies. That is what we have in mind.

Mr. CHAFEE. That is it.

Mr. LONG. I would hope that we would have an effective statute by the time we are through. I find myself agreeing with the Senator. If you are going to make it depend upon the intent of the person who is revealing the identity that person might be in good faith in his mind in seeking to identify them all, that he does not think there should be a CIA anyway, and if that were the case, I would think one would feel that he was not guilty of intending to injure the security of the United States.

Mr. CHAFEE. Just on this point I quote now on the very point the Senator is making. This is the testimony before the House Committee on Intelligence, on the last day of January last year, January 1981, and this is one of the publishers of the "Covert Action Information Bulletin" which specializes in naming names. Listen to the rationale of Mr. Schaap, the publisher.

> Our publication . . . is devoted to exposing what we view as the abuses of the Western intelligence agency, primarily though not exclusively the CIA, and to expose the people responsible for those abuses.
>
> We believe the best thing for the security and well-being of the United States would be to limit severely, if not abolish, the CIA.
>
> Our intent both in exposing the abuses of intelligence agencies and in exposing the people responsible for those abuses is to increase the moral force of this Nation, not to lessen it. That the CIA would assume our intent is simply to impair or impede their foreign intelligence also seems likely. Patriotism is to some extent in the eyes of the beholder.

In their eyes they are patriots. They are doing a tremendous service.

And that is exactly the point the Senator was making.

Mr. LONG. I thank the Senator.

Mr. CHAFEE. I thank the Senator.

Mr. KENNEDY. Mr. President, I support S. 391, the Agents Identities Protection Act. We should not adopt the substitute language offered by the Senator from Rhode Island (Mr. CHAFEE).

At the crux of this debate is the intent issue in section 601(c) of the act. That is the basic difference between the bill reported by the Judiciary Committee, and the language of the Chafee amendment.

The difference is a narrow but very important one. Both versions of the bill are expressly designed to permit prosecution of a group of persons, such as Philip Agee, who have made a clearly determined effort to disclose the identity of intelligence agents and officers for the sake of their exposure.

At the same time, advocates of both versions seek to reach that small group without encroaching upon the first amendment rights of those who seek informed public debate on foreign affairs.

Many scholars, as well as the journalistic community have raised serious questions about whether it is constitutional to make criminal any publication based wholely on unclassified sources. After careful study of that issue I have concluded that in carefully limited circumstances a criminal penalty is appropriate and constitutional. But the fact that we are treading near the line of the first amendment in that regard, should make us all the more careful in writing the standard for the defendant's state of mind required for prosecution.

Let us be clear on the narrow issue before us. No Senator approves of intentional efforts to endanger our convert intelligence officers or to end their usefulness. The question is how to punish such attempts without rendering our legislation unconstitutional and without unnecessarily chilling a vigorous free press.

But if we overreach in regard to this legislation it will work against the objective of the legislation which we all share.

Last year the Judiciary Committee agreed to my amendment to make this bill constitutional. In a subsequent effort to obtain agreement on the bill, I proposed an alternative modification to insure constitutionality. That proposal became the bill approved by the House Intelligence Committee and recently by the Senate Judiciary Committee. We can pass that bill today. We could have passed it last year. Those of us concerned about the outrageous public disclosure of intelligence agents identities simply for the sake of their exposure would like to see legislation passed as soon as possible, which will be upheld in the courts and put those reprehensible efforts out of business.

The Judiciary Committee bill requires proof of intent to harm. As the many hearing witnesses noted, such an intent requirement is quite common in our criminal statutes. Senator CHAFEE seeks to replace that intent requirement with a so-called objective "reason to believe" test. Under that test, a violation could be found regardless of the defendant's intent.

The CIA and the Justice Department have indicated on the record that while they have a preference, they can live with either version.

The CIA has cited the recent Supreme Court decision in Haig against Agee that upheld revocation of Agee's passport. In his July 15 letter to Senators, Director Casey wrote that:

> The Court's opinion should dispel any residual concerns about the constitutionality of the identities legislation.

In fact, Mr. President, the opinion does precisely the opposite. That case indicates that without the specific intent standard in the committee bill, the legislation would raise first amendment question. Chief Justice Burger, writing for the Court, noted that the passport revocation "rests in part on the content of Agee's speech specifically his repeated disclosures of intelligence operations and the names of intelligence personnel." Justice Burger dismissed the first amendment problems because of Agee's expressed intent to harm intelligence activities.

> Agee's disclosures, among other things, have *the declared purpose* of obstructing intelligence operations and the recruiting of intelligence personnel. They are clearly not protected by the Constitution. (Haig v. Agee (Slip opinion, p. 27) (1981) (emphasis added).)

Some officials have argued that prosecution would be easier under a "reason to believe" standard. In my view, a more thoughtful analysis suggests that it could be more difficult for the Government to prosecute under that standard.

Under a "reason to believe" test, defendants could create an insurmountable "greymail problem" by threatening to expose other sensitive information at the trial. For example, defensants could question the anonymity of the agent who was exposed. Defendants also could seek discovery of counterintelligence information about the effectiveness of cover arrangements and whether hostile intelligence services or terrorists had in fact already identified the agent. In many cases this could present an insuperable greymail problem for the Department of Justice, despite the greymail statutes passed in the last Congress, because the matters on which discovery might be sought would be relevant to the defense under an objective reason to believe standard. The greymail statute allows the court to bar discovery only on issues which are not directly relevant to the elements of the offense. Under the reason to believe test defendants might even be able to ask for the names of other agents whose identities had been exposed and the damage assessments of such exposures. That information would be relevant to determine whether there was reason to believe that the disclosure of the particular identity involved would significantly damage the intelligence efforts of our Government.

Under the subjective-intent standard, such greymail discovery would be of slight relevance and much easier to limit. These prosecutorial difficulties of a reason to believe standard underline the disturbing possibility that it would not deter or punish those at whom it is aimed, and that it would merely chill legitimate journalistic analysis of U.S. policy and activities abroad.

Last-minute floor statements in the context of conflicting elements of legislative history in both bodies may not be sufficient to protect even specific categories of activities which everyone wants to exempt. In addition, those few examples cannot possibly anticipate and exhaust the variety of circumstances in which legitimate activity could be deterred by this criminal statute with severe penalties.

A broad spectrum of constitutional scholars, civil libertarians, and leaders of the news media have expressed deep concern about the substitute language proposed by Senator CHAFEE.

The requirement of "intent to impede or impair" the intelligence activities of the United States is a reasonable and necessary limitation to protect the first amendment activities of journalist, scholars, and others whose purpose is reporting, analysis, and criticism of controversial or questionable actions by the Government.

The Chafee amendment language would reach beyond the Philip Agee's in our midst. It would put university presidents concerned about covert intelligence agents among their faculty, or journalists reporting on the activity of rogue intelligence employees on behalf of foreign terrorist regimes, in danger of intimidation by Government investigators, if not actual prosecution.

The reason to believe standard simply is not adequate protection for legitimate first amendment activities. Correspondents may have some reason to believe that the results of their investigative reporting could have some temporary impact on secret intelligence activities. In fact, the Justice Department witness told the Senate Judiciary Committee that in the Department's view the Chafee amendment would subject newsmen to criminal prosecution even for mere negligence. This would create a very chilling effect on a free press and be as dangerous to our society as the evil at which the bill is properly aimed.

Hope my colleagues will support the effective and constitutional provisions of the committee bill.

● Mr. ROTH. Mr. President, I intend to vote against the amendment offered by the distinguished Senator from Rhode Island (Mr. CHAFEE) to S. 391, the Intelligence Identities Protection Act. Although I was a cosponsor of Senator CHAFEE's original legislation, I believe the modifications made in the Judiciary Committee, at the instigation of my able colleague from Delaware, Senator BIDEN, preserve the basic purposes of the bill while eliminating any chilling effect that the threat of prosecution could have on legitimate news reporters and organizations.

As a member of the Intelligence Committee, I am determined, as I am sure every Member of the Senate is determined, to take strong steps to protect the identities of our Nation's intelligence agents. The deliberate disclosure of names of our agents, some of whom are stationed in areas where violent forces inimical to U.S. interests operate virtually unchecked, is a serious threat to our national security, not to mention to the lives and safety of the agents themselves and their families. The systematic disclosure of agents' names and assignments under the guise of investigative journalism is a reprehensible practice that must be halted by providing for the criminal prosecution of those individuals who deliberately endanger the lives of agents with the intent of sabotaging U.S. intelligence activities.

As urgent as this need is, however, we must take care that our response to it not impinge on the constitutional rights and freedoms of legitimate news organizations and reporters. I believe that Congress should always tread carefully when legislating in areas that touch on our basic constitutional rights, and that any potential intrusion on such fundamental tenents of our democracy as freedom of the press must be minimized. Our way of life and our system of government have survived and prospered for all these years largely because a free, unfettered and aggressive press has functioned to insure an informed citizenry. I would not want to see this Congress take action that might blunt the vital watchdog role of the press in seeking out and exposing wrongdoing by Government officials or agencies, unless such action was absolutely necessary to protect our national security or the lives and safety or our citizens.

Those who oppose the Chafee amendment, including representatives of virtually every major news organization in this country, argue that the "reason to believe" language of the Chafee amendment would place reporters and broadcasters at risk of criminal prosecution for reporting information that could lead to the identification of intelligence agents—even if such information had already been made public, and even if the intent of the reporter or broadcaster was to further the public interest. For example, they argue that the recent disclosure of questionable activities by former CIA agents by a number of newspapers, including my own hometown paper, the Wilmington News-Journal, could subject those responsible for the articles to criminal prosecution because they had "reason to believe" such disclosures would impair U.S. foreign intelligence activities.

After a careful review of these arguments, as well as those offered by supporters of the Chafee amendment, I have concluded that the reason-to-believe standard is unnecessarily broad, and that it could tend to deter legitimate news organizations from pursuing and reporting information the disclosure of which would be in the public interest. The intent standard in the bill reported by the Judiciary Committee appears to be sufficient to halt the systematic and deliberate publication of the names and assignments of U.S. intelligence agents. In fact, the staff of the Covert Action Information Bulletin, a publication specializing in publishing the names of intelligence agents with the clear intent of disrupting U.S. intelligence activities, announced in the October 1981 issue of the Bulletin that the "imminent passage" of S. 391 had forced them to discontinue their despicable practice of "naming names" of intelligence agents "until such time as the constitutionality of the act has been decided by the courts." Thus, with respect to this particular publication at least, this legislation appears to have had its desired effect even before it becomes law.

Mr. President, the question of constitutionality raised by the editors of the Covert Action Information Bulletin is also of concern to me, but for an entirely different reason. I believe it is vitally important that this legislation clearly stand the test of constitutionality at the time it becomes law, so there will be no question of swift prosecution and punishment for those individuals who deliberately disclose the identities of intelligence agents. If the bill's constitutionality is suspect, some hardcore purveyors of agents' identities may be willing to continue their pernicious activities in the belief that the law will eventually be overturned by the courts. I believe this risk is a serious one. No less a constitutional authority than Prof. Philip Kurland, professor of law at the University of Chicago, has said of the reason-to-believe standard:

> I have little doubt that it is unconstitutional. I cannot see how a law that inhibits the publication, without malicious intent, of information that is in the public domain and previously published can be valid * * * I should be very much surprised if * * * the * * * courts were to legitimize what is, for me, the clearest violation of the First Amendment attempted by Congress in this era.

Rather than approving legislation of questionable constitutionality, and absent any convincing showing that those responsible for such publications as the Covert Action Information Bulletin would be able to avoid conviction under the "intent" standard of the Judiciary Committee bill, I believe the wisest course for the Senate to follow at this juncture is to pass the bill with the "intent" standard intact, thus minimizing any possible intrusion into first amendment rights, and then observe its effect on those who would damage our national security by systematically disclosing the names of our intelligence agents. If this practice continues, and if it subsequently becomes clear that juries are unwilling to convict those who violate the law, the Congress could then reconsider and strengthen the law to insure the certain prosecution and conviction of those whom the law is intended to reach. Thus, in opposing the Chafee amendment at this time, I would reserve the right to support a broader standard for prosecution at some time in the future if such a standard proves necessary to protect the identities of our agents and the vital activities of our intelligence community.

Mr. President, I ask that an editorial from the Wilmington Morning News entitled, "Spies Must Spy but Freedom Must Be Preserved," be printed in the Record.

The editorial follows:

[From the Wilmington (Del.) Morning News, Oct. 27, 1981]

Spies Must Spy But Freedom Must Be Preserved

Uneasiness has always surrounded government efforts to secure information clandestinely. Spying may be a necessary component of national security. The principles of freedom and self-determination that permeate our society, however, demand that such government operations be constantly and vigilantly supervised.

We are used to assurances that the Central Intelligence Agency does not go beyond the bounds of acceptable morality—albeit such bounds are stretched to the breaking point in the circles of international intrigue. We are also aware that such assurances have been, far too frequently, little more than lies.

Tomorrow the Senate is expected to vote on a bill that could make it all but impossible for American citizens to be informed about abuses in covert activities being carried out, presumably, on their behalf.

The bill, S. 391, called "The Names of Agents Bill" is aimed at protecting U.S. secret agents. There is no quarrel with the intent. As distasteful as some secret activities might be, only fools believe that the United States can deal effectively in these times without some form of covert international intelligence operations.

Those who disclose the names of secret agents with the expressed intent of jeopardizing the agents' positions should be held accountable for such behavior. There have been recent, well-publicized examples of such reprehensible actions. Such disclosures put the agents' lives and the lives of their families and friends in danger. And such disclosures could severely damage the security of the United States.

Insofar as S. 391 and the similar House version, H.R. 4, address the protection of agents and the safeguarding of national security, they are supportable. But the House bill, in one provision, extends the government's right of self-protection into a constitutionally unacceptable area. The Senate bill, thanks largely to the efforts of Delaware's Sen. Joseph R. Biden Jr., does not. But when the bill is debated tomorrow, efforts will be made on the Senate floor to make the House version official policy.

The House version would subject to criminal penalties those who disclose identities "in the course of a pattern of activities intended to identify and expose covert agents and with *reason to believe* that such activities would impair or impede the foreign intelligence activities of the United States."

The Senate version, with the Biden amendment, would apply only to those who disclose identities "in the course of an effort to identify and expose covert agents with the *intent* to impair or impede the foreign intelligence activities of the United States by the fact of such identification and exposure."

At stake are the constitutional guarantees of freedom of speech and freedom of the press: The Senate version would, rightly, punish people like Phillip Agee whose disclosure of agents' names put their lives and national security in danger. The House version would not only short-circuit Mr. Agee's kind of behavior but also gag responsible disclosure of intelligence abuses. It would punish even those who secured their information through documents open to the public scrutiny.

Under the House version, the News-Journal and other papers which disclosed the highly suspect activities of former American spy Edmund Wilson would be in jeopardy. Mr. Wilson's current CIA links and his dealings with international terrorists, possibly damaging to the United States, are precisely the kind of information the public has a right to know.

The Senate version would protect legitimate journalistic endeavor and, by extension, protect the right of Americans to gain knowledge of and thereby judge the activities of covert intelligence abuses.

There was considerable testimony in Congress that the House version is unconstitutional. Philip Kurland, the conservative constitutional scholar from the University of Chicago, described the "reason-to-believe" version as "the clearest violation of the First Amendment attempt by Congress in this era." If the House version passes, it likely will be overturned in court. But, in the interim the law would have a chilling effect on legitimate journalistic pursuit.

Those who seek the broad prohibitions on disclosure use an old tactic. "If you don't buy the whole package, they say "then you must be one of those who are trying to tear down the country." It doesn't wash.

Secret agents must be protected. But there have been abuses of power in covert intelligence operations. When covert agents act outside the circle of morality defined for them they damage national security. They cannot operate unbound.●

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELCOME PRESIDENT SIAD BARRE, DEMOCRATIC REPUBLIC OF SOMALIA

Mr. HAYAKAWA. Mr. President, on March 10 Maj. Gen. Siad Barre, President of the Democratic Republic of Somalia, began his official visit to the United States.

On this occasion, I would like to welcome President Barre to our country and express to him the good will and sympathy which the U.S. Senate has for Somalia. We wish to work with him for better and more cordial relations in the future. Both the United States and Somalia desire to limit Soviet and Cuban influence in Africa and insure the continued development and security of Somalia.

The United States has made substantial contributions to Somalia, both directly and through the United Nations High Commissioner for Refugees. The purpose of these contributions is to help alleviate the suffering of the innocent victims of the Ogaden war, develop Somalia's economy and supply needed arms to the Somalian army. We realize these efforts have not solved the underlying problems of refugee influx and inadequate arms, but in the next fiscal year we will extend increased economic aid and FMS, foreign military sales, to help to develop the country and provide for its defense needs. In turn, the Somali Government extends to the United States use of air facilities at Mogadishiu and Berbera and naval facilities at the port of Berbera. We are fortunate to have friends like Somalia in the strategic Horn region, which is threatened by Soviet adventurism.

RESOLUTION TO REQUIRE ABSCAM/FBI INVESTIGATION BY THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. THURMOND. Mr. President, the rules of the Senate and precedent establish that the Committee on the Judiciary has oversight responsibility for the operations of the Department of Justice and the Federal Bureau of Investigation. With respect to the FBI, that responsibility has been delegated by the committee to its Subcommittee on Security and Terrorism.

Accordingly, under ordinary circumstances, a proposed investigation of the activities of the FBI would be properly conducted only in the Committee on the Judiciary. However, in the case of the proposed investigation of FBI and Department of Justice activities in the Harrison Williams matter, in my judgment, the Committee on Rules and Administration is the proper forum because of the direct involvement of a former member of the Senate and because of the issues which will necessarily arise due to that connection.

So long as the proposed investigation remains narrowly focused in the manner prescribed in the Senate resolution now under consideration in the Committee on Rules and Administration, as chairman of the Committee on the Judiciary, I would have no objection to the Committee on Rules and Administration acting on behalf of the Senate as that resolution specifies.

THE NATIONAL CEMETERY IN FLORENCE, S.C.

Mr. THURMOND. Mr. President, I recently received a concurrent resolution of the South Carolina Legislature memorializing Congress to promptly take such measures as are necessary to purchase land presently available for acquisition for the purpose of expanding the Florence, S.C., National Cemetery.

Mr. President, the Veterans' Administration has projected that the Florence National Cemetery will reach its capacity by the middle of this year. If it is not expanded, only one national cemetery, in Beaufort, S.C., will remain available to the 336,000 veterans of our State. No longer will the families and survivors of these veterans be assured that their loved ones will be interred locally, rather than at some distant cemetery.

I, therefore, urge the Veterans' Administration to explore all available methods for expanding the Florence National Cemetery. I would also like to restate my willingness to assist in this effort in any way that I can.

Mr. President, in behalf of my distinguished colleague, Mr. Hollings, and myself, I ask unanimous consent that the concurrent resolution of the legislature of South Carolina be included in the Record at the conclusion of these remarks.

There being no objection, the concurrent resolution was ordered to be printed in the Record, as follows:

Concurrent Resolution

Whereas, the National Cemetery in Florence County, South Carolina, provides gravesites for veterans and serves the commendable purpose of permitting the interment of veterans in a special local place of honor; and

Whereas, ninety-five veterans were buried in the National Cemetery last year, leaving only fifty-one gravesites available for subsequent interments; and

Whereas, it is necessary and desirable that additional gravesites in adequate numbers be made available for deceased veterans of South Carolina so that the families and survivors of such veterans are assured that their loved ones will be interred locally rather than at some distant cemetery: Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring: That the Congress of the United States is memorialized to promptly take such measures as may be necessary to purchase land presently available for acquisition and contiguous to the National Cemetery in Florence County, South Carolina, to provide for the expansion of the cemetery by providing additional gravesites for veterans. Be it further

Resolved That copies of this resolution be forwarded to the President of the Senate, the Speaker of the House of Representatives and each member of the South Carolina Congressional Delegation in Washington, D.C.

REGULATORY REFORM ARTICLE BY SENATOR LAXALT

Mr. THURMOND. Mr. President, I would like to call the attention of my colleagues to an article which appeared this morning in the Washington Post. The article, entitled "Don't Be Scared Off Regulatory Reform," was written by Senator Laxalt, who chairs the Regulatory Reform Subcommittee of the Judiciary Committee. As I am sure most of my colleagues are aware, Senator Laxalt is the primary sponsor of S. 1080, the Regulatory Reform Act, which will shortly be coming before the full Senate.

In his article, Senator Laxalt describes in general the provisions of S. 1080, discusses in greater detail the oversight provisions of the bill, and responds to the criticisms and concerns expressed by Senator Glenn in his February 25 Washington Post article regarding executive oversight of independent agencies. In light of the importance of issues raised by this legislation and of the fact of imminent floor consideration, I commend Senator Laxalt's very helpful and informative discussion of S. 1080 to my colleagues. I therefore ask unanimous consent that the article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 15, 1982]

Don't Be Scared Off Regulatory Reform

(By Paul Laxalt)

Judging by opinion polls, the American people are presenting Congress with a unique challenge in "regulatory reform": we must curb regulatory excesses while maintaining our commitment to important national goals—worker safety, clean air and water and the like. The Regulatory Reform Act, sponsored by Sens. Patrick Leahy, William Roth, Thomas Eagleton, myself and 77 other senators, and soon to be considered by the Senate, responsibly meets this challenge. Enactment of this kind of legislation is long overdue.

Unfortunately, some would unnecessarily shield an important part of the activities of so-called "independent" agencies from effective public accountability. The views of these advocates are wrong based on longstanding rules of law; they are wrong based on the provisions of the Regulatory Reform Act; and they are wrong based on the balanced policies our constituents expect us to put in place.

This bill is designed to update our administrative procedures to meet the regulatory challenges of today, to improve the effectiveness of federal regulation, to decrease its unnecessary burdens and to increase the accountability of federal agencies. How to ensure that federal agencies comply with the law and execute their missions fairly remains one of the central challenges of administrative law. To achieve agency accountability, the Regulatory Reform Act contains a carefully crafted balance of limited judicial and presidential oversight, a balance that preserves the rule-making authority given to all agencies. Amendments to weaken or upset this balance are simply unacceptable.

The heart of this act is the requirement for the regulatory analysis of major rules, a process by which agencies must publicly evaluate the tradeoffs of their regulatory proposals to improve their effectiveness and reduce their costs. Yet because detailed judicial review of such a technically complex process is generally considered to lead to unnecessary delay and judicial second-guessing of substantive agency expertise, the act precludes regulatory analysis from being an independent subject of judicial review.

To ensure some oversight of such a central element of regulatory reform, the act authorizes the president to establish procedures for regulatory analysis. Contrary to suggestions that such a proposal is unprecedented, the regulatory reform bills reported both by the Senate Governmental Affairs Committee and by the House Judiciary Committee during the 96th Congress contained broad provisions for OMB review of regulations without any distinction between "executive" and "independent" agencies. The real novelty of the Regulatory Reform Act is that its executive oversight is much more carefully circumscribed than the proposals of the last Congress.

The president may establish procedures for regulatory analysis only after publishing them and receiving public comment. If the president delegates this authority to an official other than the vice president, that official must be confirmed by the Senate. Most importantly, the act explicitly ensures that the decision-making authority of all agencies is not altered.

Both existing law and the Regulatory Reform Act prevent the president from using this authority to "blackmail" an agency. The act itself prohibits the president from using the authority merely to delay regulations. Indeed, if an agency unreasonably delayed a rule-making, for whatever reason, a court could force it to proceed. And any regulation must be supported by the public record of the rule-making and must comply with the relevant substantive statute. A reviewing court could overturn the rule if any abuse of the president's authority made the rule arbitrary or otherwise unlawful.

In short, viable oversight of regulatory analysis is established without giving the president some new "veto" authority over agencies.

In addition, this oversight authority only applies to "major rules," estimated to number only 165 each year, out of a total of about 7,000. Surely it is a most outrageous exaggeration to characterize the executive oversight in this bill as giving the president "day-to-day oversight and management authority over key actions" of any agency as Sen. John Glenn did ["We Can Do Without This 'Regulatory Reform,' " op ed, Feb. 25].

To speak of executive oversight as contradicting "the very notion of agency independence" is to miss the point. Authority upon authority—ranging from the Governmental Affairs Committee's own study on federal regulation to a recent opinion of the U.S. Court of Appeals here—explains that these agencies are "independent" because of their adjudicatory, not rule-making, role. How then, as Sen. Glenn contends, would procedures established by the president for regulatory analysis, which is done only in major rule-making and not in adjudications, contradict "the very notion of agency independence"?

When it comes to rule-making, why should a consumer safety rule of the CPSE (an "independent" agency) be treated differently from a worker safety rule of OSHA (an "executive" agency)? The rules of "independent" agencies are important, but are the rules of "executive" agencies (such as the EPA) any less important? The very importance of all major rules makes outside oversight of their regulatory analyses a practical necessity.

For the student of history, a list of horribles that would flow from this limited executive oversight provision and alarmed comments from the "independent" agencies are familiar. During the 1945 hearings on the original Administrative Procedure Act, the Interstate Commerce Commission wrote to the House Judiciary Committee saying the act "would make impossible the performance of some of our important duties." Could anyone seriously maintain that that act has crippled the ICC, or any other agency?

We must not turn the clock back and allow a group of agencies to operate with relatively unbridled discretion. The American public deserves better.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 12:04 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 148. Joint resolution to proclaim March 18, 1982, as "National Agriculture Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2953. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of March 1, 1982; to the Committee on Appropriations; the Committee on the Budget; the Committee on Agriculture, Nutrition, and Forestry; the Committee on Foreign Relations; the Committee on Commerce, Science, and Transportation; the Committee on Labor and Human Resources; the Committee on Energy and Natural Resources; the Committee on Armed Services; the Committee on Banking, Housing, and Urban Affairs; the Committee on Finance; the Committee on Small Business; and the Committee on Veterans Affairs; jointly, pursuant to the order of January 30, 1975.

EC-2954. A communication from the President of the United States transmitting, pursuant to law, notice of the waiving of a certain proviso of the Agricultural Trade Development and Assistance Act (Public Law 480); to the Committee on Agriculture, Nutrition, and Forestry.

EC-2955. A communication from the Secretary of Defense transmitting, pursuant to law, a secret report relative to chemical weapons and warfare; to the Committee on Armed Services.

EC-2956. A communication from the Secretary of Defense transmitting, pursuant to law, a secret report on the Department of Defense North American Air Defense Master Plan; to the Committee on Armed Services.

EC-2957. A communication from the Assistant Secretary of the Air Force for Research, Development, and Logistics transmitting, pursuant to law, a report on the decision to convert the transient aircraft maintenance function at Ellsworth Air Force Base, South Dakota to performance under contract; to the Committee on Armed Services.

EC-2958. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to provide that certain service in the Public Health Service may be counted toward retirement as a member of the armed forces; to the Committee on Armed Services.

EC-2959. A communication from the Deputy Assistant Secretary of Defense for Reserve Affairs transmitting, pursuant to law, a report on selective reserve recruiting and retention incentives; to the Committee on Armed Services.

EC-2960. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, the annual report on the Panama Canal Treaties of 1977 for October 1, 1980 through September 30, 1981; to the Committee on Armed Services.

EC-2961. A communication from the Assistant Secretary of the Army for Civil Works transmitting a draft of proposed legislation to authorize appropriations for fiscal years 1982 and 1983 for maintenance and operations of the Panama Canal; to the Committee on Armed Services.

EC-2962. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to authorize appropriations to implement the National Traffic and Motor Vehicle Safety Act and the Motor Vehicle Information and Cost Savings Act for fiscal years 1983 and 1984; to the Committee on Commerce, Science, and Transportation.

EC-2963. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a report on the necessity for the modification of Lake Sherburne Dam, Mont.; to the Committee on Energy and Natural Resources.

EC-2964. A communication from the Secretary of Energy transmitting, pursuant to law, notice of delay in submitting the comprehensive management plan for Wind Energy Systems for fiscal year 1983; to the Committee on Energy and Natural Resources.

EC-2965. A communication from the Chairman of the Advisory Council on Historic Preservation transmitting, pursuant to law, the comments of the Council on the Army Corps of Engineers to issue a permit to construct an entrance channel and commercial marina complex in Murrells Inlet, Georgetown County, S.C.; to the Committee on Energy and Natural Resources.

EC-2966. A communication from the President of the U.S. Synthetic Fuels Corporation transmitting, pursuant to law, its quarterly report for October 1 through December 31, 1981 on funds committed or outstanding for financial assistance or corporation construction projects; to the Committee on Energy and Natural Resources.

EC-2967. A communication from the Secretary of State transmitting a draft of proposed legislation to authorize additional security and development assistance programs for fiscal years 1983 and 1984; to the Committee on Foreign Relations.

EC-2968. A communication from the Acting Chairman, Equal Employment Opportunity Commission, transmitting a report in compliance with the Government in the Sunshine Act for calendar years 1980 and 1981; to the Committee on Governmental Affairs.

EC-2969. A communication from the Acting Executive Officer, National Science Board, transmitting a report pursuant to the requirements of the Government in the Sunshine Act for calendar years 1980 and 1981; to the Committee on Governmental Affairs.

EC-2970. A communication from the Deputy Secretary of Energy, reporting, pursuant to law, that the statutory deadline for interim standards under the building energy performance standards (BEPS) program, has not been met; to the Committee on Governmental Affairs.

EC-2971. A communication from the Director, Office of Management and Budget, Executive Office of the President, and from the Secretary of the Treasury, transmitting, pursuant to law, the annual report on the performance of functions and duties of the Office of Management and Budget and the Department of the Treasury; to the Committee on Governmental Affairs.

EC-2972. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, a report in compliance with the Freedom of Information Act, for calendar year 1981; to the Committee on the Judiciary.

EC-2973. A communication from the Acting Administrator, U.S. Small Business Administration, transmitting, pursuant to law, a report in compliance with the Freedom of Information Act for 1981; to the Committee on the Judiciary.

EC-2974. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, a report in compliance with the Freedom of Information Act for 1981; to the Committee on the Judiciary.

EC-2975. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report in compliance with the Freedom of Information Act for 1981; to the Committee on the Judiciary.

EC-2976. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Immigration and Nationality Act to extend for 3 years the authorization for appropriations for refugee assistance, to make certain improvements in the operation of the program, and for other purposes; to the Committee on the Judiciary.

EC-2977. A communication from the Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, transmitting a draft of proposed legislation to amend title 18 of the United States Code by adding a new section 3505 to chapter 223 to limit the application of the fourth amendment exclusionary rule in Federal court proceedings; to the Committee on the Judiciary.

EC-2978. A communication from the President, National Safety Council, transmitting a report of the audit of the financial transactions of the council for the fiscal year ended June 30, 1981; to the Committee on the Judiciary.

EC-2979. A communication from a Member, Federal Council on the Arts and the Humanities, transmitting, pursuant to law, the sixth annual report on the arts and artifacts indemnity program for fiscal year 1981; to the Committee on Labor and Human Resources.

EC-2980. A communication from the Deputy Assistant Secretary (military personnel and force management), Department of Defense, transmitting, pursuant to law, the annual testing report for school year 1981-82 for the overseas dependents' schools administered by the Department of Defense; to the Committee on Labor and Human Resources.

EC-2981. A communication from the Secretary of Labor, transmitting a draft of proposed legislation to authorize job training programs for welfare recipients, economically disadvantaged out-of-school youths, and other persons who are in particular need of such training to obtain productive employment in the private sector of the Nation's economy, and for other purposes; to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Max L. Friedersdorf, of Florida, a Member of the Foreign Service of the Department of State, to be a Consular Officer and Secretary in the Diplomatic Service of the United States of America. (Ex. Rept. No. 97-52) (together with Minority Views).

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HELMS:

S. 2200. A bill to amend the Internal Revenue Code of 1954 to provide that a 10-percent income tax rate shall apply to all individuals, and to repeal all deductions, credits, and exclusions for individuals other than a $2,000 deduction for each personal exemption; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2201. A bill to amend the safe-harbor leasing provision in the Economic Recovery Tax Act; to the Committee on Finance.

By Mr. ARMSTRONG (for himself, Mr. HAYAKAWA, Mr. DECONCINI, Mr. LAXALT, Mr. CANNON, Mr. GOLDWATER, Mr. WALLOP, Mr. HATFIELD, Mr. CRANSTON, Mr. HART, and Mr. SIMPSON):

S. 2202. A bill to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LAXALT (for himself and Mr. CANNON):

S. 2203. A bill to authorize the Secretary of the Interior to transfer all rights, title and interest of the United States in 29,884 acres, more or less (Battle Mountain Community Pasture), to the Pershing County Water Conservation District of Nevada; to the Committee on Energy and Natural Resources.

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 2204. A bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ARMSTRONG (for himself, Mr. THURMOND, Mr. HEFLIN, Mr. RANDOLPH, Mr. LUGAR, Mr. DENTON, Mr. MATTINGLY, Mr. GORTON, Mr. SYMMS, Mr. DOLE, Mr. QUAYLE, Mr. PRYOR, Mr. KASTEN, Mr. JOHNSTON, Mr. ANDREWS, Mrs. KASSEBAUM, Mr. HARRY F. BYRD, JR., Mr. DECONCINI, Mr. STENNIS, Mr. DOMENICI, Mr. HUMPHREY, Mr. D'AMATO, Mr. JEPSEN, Mr. RUDMAN, Mr. BOREN, Mr. MURKOWSKI, Mr. CHILES, Mr. STEVENS, Mr. HATFIELD, and Mr. INOUYE):

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. RIEGLE (for himself and Mr. BRADLEY):

S. Res. 339. Resolution expressing the sense of the Senate concerning the effective date of any 1982 tax increases or tax benefit decreases; to the Committee on Finance.

By Mr. ROBERT C. BYRD:

S. Res. 340. Resolution to express the sense of the Senate that no action be taken to terminate or otherwise weaken the Community Service Employment program under title V of the Older Americans Act of 1965; to the Committee on Labor and Human Resources.

By Mr. PERCY from the Committee on Foreign Relations:

S. Res. 341. Original resolution authorizing the printing of the committee print entitled, "Background Information on the Committee on Foreign Relations, United States Senate"; to the Committee on Rules and Administration.

By Mr. TSONGAS:

S. Con. Res. 69. Concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel and for other purposes; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG (for himself, Mr. HAYAKAWA, Mr. DECONCINI, Mr. LAXALT, Mr. CANNON, Mr. GOLDWATER, Mr. WALLOP, Mr. HATFIELD, Mr. CRANSTON, Mr. HART, and Mr. SIMPSON):

S. 2202. A bill to amend the Colorado River Basin Salinity Control Act to authorize certain additional measures to assure accomplishment of the objectives of title II of such act, and for other purposes; to the Committee on Energy and Natural Resources.

COLORADO RIVER BASIN CLEANUP

● Mr. ARMSTRONG. Mr. President, today I am introducing a bill that will set out a blueprint for an ambitious—but absolutely essential—cleanup of one of America's most important rivers.

The 1400-mile-long Colorado River is the lifeblood of 17 million people from Denver to San Diego. Thanks to the 80-year miracle of the Reclamation Act of 1902, this river has made America's western desert bloom; in fact, 1.5 million acres of prime farmland are irrigated by it today.

And yet, this magnificent river is being slowly poisoned as its waters become more and more saline; that is, adulterated by dissolved solids. Salinity is caused by two things: salt loading—which comes from contact with very saline western soils, salty mineral springs, and so forth—and salt concentrating—which is caused by evaporation and increasing consumptive use of the river as the seven States it serves rapidly develop. At its headwaters, the Colorado River has less than 50 milligrams of salt in every liter of water; at Imperial Dam, near the Mexican border, that number leaps to over 800 milligrams—an increase of more than 1,600 percent.

The Bureau of Reclamation has quantified some of the economic damage that is caused by this extremely saline water to the agricultural, industrial, and municipal water users in the western United States. In 1981 alone, for example, this damage was estimated at $97 million. It is further calculated that the damage toll will reach an annual level of $237 million—in constant 1981 dollars—by the year 2000 if tough control measures are not implemented now. These are estimates of immediately quantifiable damage only and do not include significant environmental losses, damage to valuable fish and wildlife habitats, or the serious health problems that could result from the fact that salinity levels are already well above the 500 milligram-per-liter maximum recommended by EPA's "Secondary Drinking Water Standards."

Forty-seven percent of the salt loading is caused by natural sources; 37 percent by irrigation in saline soils; 12 percent through evaporation from reservoirs, which increases salt density; and 4 percent from miscellaneous sources. According to the Bureau of Reclamation, an increase of just 1 milligram in every liter of water—as measured at Imperial Dam—causes a verifiable economic loss of $472,000; 70 percent, or $330,400 of this, is borne by the municipal and industrial sectors and 30 percent, or $141,600, is felt by the agricultural sector. By the same token, however, we can diminish that damage by half a million dollars every year—in 1981 dollars—for each milligram per liter of salt we keep out of the Colorado River system.

Mr. President, the salinity of the Colorado River, as measured at Imperial Dam, is projected to increase from today's already unacceptable level of 823 milligrams per liter to a staggering 1,200 milligrams per liter at the turn of the century.

The waters of the Colorado River are almost entirely consumed by the time they reach the Gulf of California, notwithstanding their extreme salinity in the lower reaches. It is a source of continuing irritation to Mexico, our important neighbor and ally, that they receive from the United States the saltiest part of one of the most saline rivers in the world. In fact, in August 1973, the United States signed a minute with Mexico stipulating that its entitlement water—1.36 million acre-feet each year—would have a salinity of no more then 115 parts per million above the level at Imperial Dam. This is an absolute obligation of international law and we have already reached this ceiling. Each additional impoundment structure on the Colorado River and every increase in consumptive use will add to salinity—thus further degrading the complex river ecosystem and moving us nearer to the salinity ceiling agreed with Mexico.

Finally, Mr. President, the seven Basin States agreed with EPA in 1972 that the Clean Water Act nondegradation standards for Colorado River water would be 879 milligrams per liter. At 823 milligrams per liter, we are already very near that ceiling too—and well above the 500 level set by EPA's "Secondary Drinking Water Standards." Unless decisive action is taken swiftly, this double-vaulted ceiling will put an abrupt halt to growth in a seven-State area that comprises 26 percent of the land mass of the 48 contiguous States.

Plainly, something has to be done—and it has to be done now.

In 1974, Congress recognized the urgency of this problem by passing the Colorado River Basin Salinity Control Act. That act provided for the construction, operation, and maintenance of salinity control units at several points along the length of the river. Now it is time to take another step in this critical effort of cleaning up the Colorado River. The bill I am introducing has four important objectives:

First, authorization of six new salinity units, to be constructed within the funding ceiling established in the 1974 act. One of these units is a salinity control project that involves, for the first time, Bureau of Land Management land; another is a broadly defined project that gives the Department of the Interior flexible authority to demonstrate new technologies for disposing beneficially of this waste saline water.

Second, improvement of a large network of canal and lateral systems, with everything but the salinity benefits being reimbursed to the Federal Government by the water users who benefit.

Third, replacement of incidental wildlife or other environmental values that may be impaired due to construction of salinity control projects.

Fourth, implementation of a more streamlined and effective on-farm control program through the Department of Agriculture. This program will be entirely voluntary in nature and pursued cooperatively with private landowners; it is designed to improve water management and conservation, while reducing watershed erosion.

Mr. President, this bill is unanimously supported by the seven Colorado Basin States; Wyoming, Colorado, New Mexico, Utah, Nevada, Arizona, and California. I commend it to my colleagues for their consideration. I hope many of them will be able to join with us in supporting this critically important, environmentally sound and demonstrably cost-effective effort to clean up and rehabilitate one of America's most relied-upon and spectacular rivers.●

● Mr. WALLOP. Mr. President, I am pleased to join my western colleagues in cosponsoring this important bill. The Colorado River is considered the lifeline of the West. It encompasses portions of seven States—Wyoming, Colorado, Utah, New Mexico, Nevada, Arizona, and California, as it travels 1,400 miles from the headwaters in Wyoming and Colorado to the Gulf of California. No one river has been the subject of more controversy and regulation than the Colorado River. The waters of the Colorado are so completely allocated by compact that not one drop of water from the river enters the gulf. Literally, the river has made the desert bloom.

The Colorado River is in serious trouble, though. The salinity levels are increasing at an unacceptable rate. Salinity, which is dissolved minerals, is caused by two things: Salt loading, which comes from contact with saline soils, and salt concentrating, which is caused by evaporation and consumptive use of the water. The salinity concentration at the Colorado River's headwaters is about 50 milligrams per liter. These concentrations increase progressively downstream. In 1979, there was an average of about 810 milligrams per liter at Imperial Dam, which is the last major diversion on the river in the United States. Salinity has been projected to increase to 1,140 milligrams per liter by the turn of the century.

The Bureau of Reclamation has quantified the damage caused by the increase in salinity. In 1981, the damage was estimated at $97 million. It is further calculated that the damage will reach an annual level of $237 million—constant 1981 dollars—by the year 2000. This does not include the significant losses to the environment and the damage to fish and wildlife habitats.

The salt load of 10 million tons annually which enters Lake Mead adversely affects more than 10 million people and 1 million acres of irrigated farmland. According to the Bureau, an increase of 1 milligram in every liter of water causes a verifiable economic loss of $472,000; 70 percent of this is borne by municipal and industrial users, while the other 30 percent is borne by agriculture.

In 1974, Congress recognized the seriousness of the problem when they passed the Colorado River Basin Salinity Control Act. We have learned much from our experience of the last several years in trying to solve the salinity problem, and this bill represents an important step toward reaching that goal. The proposed legislation has the unanimous support of the Colorado River Basin States. Even the State of Wyoming, whose water is relatively clean, realized the importance in taking steps to solve the salinity problem. Up until now, the Upper Basin States have developed only a small fraction of the water allocated to them under the Colorado River compact. These States recognize that unless the increase in salinity is diminished, they will be unable to fully develop their share of the Colorado

River. Consequently, they have given their full support to this measure.

The proposed legislation recognizes the need for more flexibility to mitigate the damages attributable to salinity. The Basin States have shown a willingness to support the current fiscal policies of the Federal Government by substantially increasing the States' repayment obligations under this bill. In addition, farmers cooperating in the voluntary onfarm program would contribute up-front moneys to help pay a portion of the costs of the onfarm measures.

The bill does not only address a serious national issue, it also attempts to resolve an important international issue. In 1973, the United States entered into a treaty with Mexico which limited the salinity of the water delivered to Mexico under the 1944 treaty to no more than 115 milligrams per liter plus 30 milligrams per liter greater than the salinity of the Colorado at Imperial Dam. This legislation is, therefore, necessary for the United States to fulfill this obligation.

An important and unique partnership between the Federal Government and the Colorado River Basin States is established by this bill. I encourage my colleagues to carefully consider the legislation and I urge for its speedy enactment.●

By Mr. LAXALT (for himself and Mr. CANNON):

S. 2203. A bill to authorize the Secretary of the Interior to transfer all rights, title, and interest of the United States in 29,884 acres, more or less (Battle Mountain Community Pasture), to the Pershing County Water Conservation District of Nevada; to the Committee on Energy and Natural Resources.

PERSHING COUNTY WATER CONSERVATION

● Mr. LAXALT. Mr. President, I am today introducing, with my distinguished colleague Senator CANNON, legislation to transfer certain lands located near Battle Mountain, Nev., from the United States to Pershing County Water Conservation District.

The bill would transfer 29,884 acres of land that was bought from private owners years ago by the Bureau of Reclamation to assist in providing water for Lovelock Valley, Nev.

The Pershing County Water Conservation District paid the purchase price of the land in 1978, when it paid for the Rye Patch Dam reclamation project. The land is used by the water district as community pastureland.●

By Mr. HATFIELD (for himself and Mr. PACKWOOD):

S. 2204. A bill to promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts, and for other purposes.

FAIR INSURANCE PRACTICES ACT

● Mr. HATFIELD. Mr. President, today, I wish to introduce legislation which will promote interstate commerce by prohibiting discrimination in the writing and selling of insurance contracts. I am pleased to have my distinguished colleague, Senator PACKWOOD join me on this legislation.

Mr. President, despite progress in combatting sex discrimination in American society over the past decade, significant gaps remain. Perhaps none is so large and pervasive as that discrimination which occurs in the insurance marketplace.

This provision recognizes a national policy which has been appropriately reaffirmed over the past 20 years: That discrimination on the basis of race, color, religion, sex, or national origin is unfair and unlawful. In the proposed Nondiscrimination in Insurance Act, which is a part of the Economic Equity Act, that policy is stated. As it should be; for it is fundamentally unfair to stereotype individuals on these bases. Different and unequal treatment of like individuals cannot be tolerated in the employment sector. Neither can it be tolerated in the insurance marketplace.

In the abstract, continuation of discriminatory policies in insurance is discouraging. But in its practical ramifications, it is even more distressing. For in an era in which over 40 percent of the work force is women—and some 60 percent of those women work out of economic need—denial of access to insurance at fair rates can have severe economic consequences.

For example, today there are reported to be 7.7 million single-parent families headed by women. These families are wholly dependent on females for financial support. Yet, the availability and scope of insurance for them are minimized and the rates often maximized because of their sex. This policy can effectively prohibit women from achieving the basic insulation from financial loss which is the benefit of insurance.

This is only one example of the effects of a sex-based classification in insurance. Cited here are a few others as they occur in various types of insurance:

In disability, many types of insurance benefits available to men are not available to women. While coverage has improved over the past few years, in some States, disability coverage is not available to women on any terms, at any price. In other States where it is available, its cost is significantly greater.

In health, waiting periods are usually much longer for women, and benefit periods shorter. According to a report on sex discrimination in insurance prepared by the Women's Equity Action League, it is not uncommon to find that, despite higher premiums paid by women, the benefits they receive are much lower. Pregnancy coverage, despite its centrality to women's insurance needs, is often unavailable.

In life insurance, coverage for women is often limited in scope and availability. Certain options, commonly available to men, have been restricted to women.

The same justification for differential rates can be made for discrimination against blacks because white persons as a group have a longer life expectancy than black persons as a group. However, such discrimination is now, and should be, totally rejected.

It must be understood that there is no objection to basing a life insurance policy on longevity. However, if sex is the only criterion used to determine longevity, it is clearly unfair and relatively unreliable. Instead of merging sex with all the other criteria effecting life expectancy, the industry has chosen to concentrate exclusively on it. The industry has virtually ignored other, more accurate classification criteria, such as smoking habits, family health history, physical condition, recreational, and occupational activities.

Recent investigations have demonstrated that some employer-sponsored life insurance charged women more for pension coverage on the assumption they would live longer, but charged them as much as men for life insurance. They thus ignored sex differences when they would have helped women. According to a study completed by Dr. Charles Laycock, a University of Chicago law professor, some companies make a smaller allowance for sex differences in life insurance, where the difference helps women, than in annuities, where the difference helps men.

Two years ago the Supreme Court, in the so-called Manhart decision, ruled it unlawful to treat "individuals as simply components of a racial, religious, sexual or national class." While this ruling applies only to employer-operated insurance plans, the proposed bill expands the prohibition to private and individual plans, as well.

The insurance industry has claimed that some 19 States have already adopted a model regulation of the National Association of Insurance Commissioners which supposedly accomplishes the same objective as this legislation. Thus, the need for Federal legislation is eliminated, according to the industry.

However, this model regulation does not touch on the aspects of disparate rates and benefits—merely availability and scope. And even this incomplete regulation was watered-down further by several of the 19 States which eventually adopted it. If it is discovered that the States are indeed doing their jobs with respect to offering fair and just insurance policies and rates, and enforcing such, I would have no hesitancy to withdraw my support for this legislation. The bill is designed to encourage the States to adopt nondiscriminatory policies.

It is important to stress here that the Nondiscrimination in Insurance Act will in no way remove authority from the States to regulate the insurance industry. No Federal mechanism for administration or enforcement is established, and not one bureaucrat would spring into being as a result of this bill.

Classification by sex is clearly not a business necessity, as some parts of the insurance industry would have us believe. It was adopted by the industry only 30 years ago as a convenient, though incomplete, method of classifying risks. While it may require minor cost adjustments in some policies and practices, such an argument cannot be used as a defense for discrimination.

Again, researchers have helped dispel a myth commonly touted by the insurance industry; that if sex differences are ignored, one sex will subsidize the other, the subsidizing sex will quit buying insurance, throwing off the necessary balance in insurance pools. If that were true, according to Professor Laycock, we would have encountered the same problems with respect to all the other groups for which the insurance industry does not compute separate actuarial tables.

We have discussed previously the differential in longevity statistics between blacks and whites. But whites have not quit buying life insurance. Rich people live longer than poor people, but rich people have not quit buying life insurance. The difference in life expectancy between highly and poorly educated women is greater than the difference between the sexes, but educated women have not quit buying life insurance. The difference in life expectancy between married and single men is greater than the difference between the sexes, but married men have not quit buying life insurance.

These and other examples demonstrate that differences in group averages of this magnitude do not cause many members of the lower risk group to go uninsured, and no unmanageable problems result. Where unisex automobile insurance is used, as it has been in three States, it has worked; no unmanageable problems result, and rate changes between the sexes have been insignificant.

I am hopeful that it will not require the pressure of the courts, of civil rights and women's groups, and of the public opinion, to convince the insurance industry to treat its policyholders without discrimination on the basis of sex. Support of a significant number and type of groups representing the public, including the American Association of University Women, the AFL-CIO, the National Federation of Business and Professional Women, as well as the Leadership Conference on Civil Rights, are supportive of this legislation. I will use that support to help assure that a policy adopted by Congress some 16 years ago will also be applied in the insurance marketplace.●

By Mr. ARMSTRONG (for himself, Mr. Thurmond, Mr. Heflin, Mr. Randolph, Mr. Lugar, Mr. Denton, Mr. Mattingly, Mr. Gorton, Mr. Symms, Mr. Dole, Mr. Quayle, Mr. Pryor, Mr. Kasten, Mr. Johnston, Mr. Andrews, Mrs. Kassebaum, Mr. Harry F. Byrd, Jr., Mr. DeConcini, Mr. Stennis, Mr. Domenici, Mr. Humphrey, Mr. D'Amato, Mr. Jepsen, Mr. Rudman, Mr. Boren, Mr. Murkowski, Mr. Chiles, Mr. Stevens, Mr. Hatfield, and Mr. Inouye):

S.J. Res. 165. Joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible"; to the Committee on the Judiciary.

YEAR OF THE BIBLE

● Mr. ARMSTRONG. Mr. President, I am privileged to introduce today along with fellow Senators Thurmond, Heflin, Randolph, Lugar, Denton, Mattingly, Gorton, Symms, Dole, Quayle, Pryor, Kasten, Johnston, Andrews, Kassebaum, Harry F. Byrd, Jr., DeConcini, Stennis, Domenici, Humphrey, D'Amato, Jepsen, Rudman, Boren, Murkowski, Chiles, Stevens, Hatfield, and Inouye, a joint resolution that authorizes and requests the President of the United States to designate 1983 as the "Year of the Bible."

We are at a unique point in our spiritual development as a nation. This Nation was settled by immigrants seeking religious freedom. Our Declaration of Independence as well as the Constitution of the United States embraced concepts of civil government that were inspired by the Holy Scriptures. As a nation we have been led by great leaders—among them Presidents Washington, Jackson, Lincoln, and Wilson—who personally knew and paid tribute to the surpassing influence that the Bible is, in the words of President Jackson, "the rock on which our Republic rests."

Now we are beginning our third century as a nation dedicated to the proposition that all men are created equal and that they are endowed by their Creator with certain inalienable rights. The challenges we face in this third century of government are as great as those faced and met in our first century. Those challenges of the late 1700's—economic recovery, international tension, trade expansion, preservation of religious freedom, and all the rest—were met in whole or in part by the Providence of God, and our faith and trust in Him.

The challenges of the 1980's are equally great. But these challenges can be met if we follow the examples of our forefathers and renew our knowledge of and faith in God through study and application of teachings of the Holy Scriptures.

1983 can be a year of spiritual renewal as a nation. That is why I and 29 Senators are introducing a joint resolution today that, once passed, authorizes and requests the President to declare 1983 as the Year of the Bible.

Our joint resolution—introduced on a bipartisan basis—is straightforward. The joint resolution notes the surpassing influence the Bible has had in the formation of this Nation, and its roots in our early settlement and our form of civil government. The joint resolution requests the President to designate 1983 as the Year of the Bible "in recognition of the formative influence the Bible has been for our Nation, and of our national need to study and apply the teachings of the Holy Scriptures."

My hope is this joint resolution can and will be speedily enacted. Already plans are underway to use 1983 as a year to foster Biblical teaching and study. This joint resolution honors and encourages these voluntary efforts.

I urge quick enactment of this timely joint resolution.●

ADDITIONAL COSPONSORS

S. 888

At the request of Mr. Durenberger, the Senator from Kentucky (Mr. Ford) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 1215

At the request of Mr. Proxmire, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1693

At the request of Mr. Kasten, the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 1693, a bill to provide for the issuance of a special stamp to commemorate the 200th anniversary of the presence of the bald eagle on the official seal of the United States of America.

S. 1840

At the request of Mr. Durenberger, the Senator from Arizona (Mr. Goldwater) was added as a cosponsor of S. 1840, a bill to amend section 170 of the Internal Revenue Code of 1954 to increase the amounts that may be deducted for maintaining exchange students as members of the taxpayer's household.

S. 2107

At the request of Mr. LEVIN, the Senator from North Dakota (Mr. BURDICK), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 2107, a bill to extend from May 1982 to October 1982 the month before which children not otherwise entitled to child's insurance benefits under title II of the Social Security Act by reason of the amendments made by section 2210 of the Omnibus Budget Reconciliation Act of 1981 must attend postsecondary schools in order to qualify under subsection (c) of such section for entitlement to such benefits, to extend from August 1985 to August 1986 the month before which any such entitlement terminates, and to require the Secretary of Health and Human Services to notify all individuals who are entitled to childs benefits under title II of the Social Security Act for the month in which this Act is enacted of the changes made in the eligibility for, and the amount of, such benefits by reason of the provisions of section 2210 of the Omnibus Budget Reconciliation Act of 1981 and the provisions of this act.

S. 2141

At the request of Mr. DURENBERGER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2141, a bill to amend the Internal Revenue Code of 1954 to treat as a reasonable need of a business for purposes of the accumulated earnings tax any accumulation of earnings by such business before the death of a shareholder in anticipation of section 303 (a) distributions, and for other purposes.

S. 2150

At the request of Mr. LEVIN, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2179

At the request of Mr. ROBERT C. BYRD, the Senator from North Dakota (Mr. BURDICK), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2179, a bill to amend the War Powers Resolution to require specific authorization before the introduction of any U.S. Armed Forces into hostilities in El Salvador, and for other purposes.

SENATE JOINT RESOLUTION 156

At the request of Mr. KASTEN, the Senator from Iowa (Mr. GRASSLEY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Michigan (Mr. RIEGLE), the Senator from New York (Mr. D'AMATO), the Senator from Missouri (Mr. EAGLETON), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Maine (Mr. COHEN), and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of Senate Joint Resolution 156, a joint resolution to designate April 9, 1982, as "POW-MIA Commemoration Day".

At the request of Mr. KASTEN, the Senator from Massachusetts (Mr. TSONGAS) was withdrawn as a cosponsor of Senate Joint Resolution 156, supra.

SENATE JOINT RESOLUTION 160

At the request of Mr. HAYAKAWA, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of Senate Joint Resolution 160 a joint resolution to designate July 9, 1982, as "National POW-MIA Recognition Day."

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. HATCH, the Senator from Connecticut (Mr. WEICKER), the Senator from Texas (Mr. BENTSEN), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of Senate Concurrent Resolution 62, a concurrent resolution to congratulate Hadassah, the Women's Zionist Organization of America on the celebration of its 70th anniversary.

SENATE RESOLUTION 334

At the request of Mr. ROBERT C. BYRD, his name was added as a cosponsor of Senate Resolution 334, a resolution to express the sense of the Senate disapproving the policy of the administration with respect to railroad retirement for fiscal year 1983.

AMENDMENT NO. 1256

At the request of Mr. CHAFEE, the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of Amendment No. 1256 proposed to S. 391, a bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying agents, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

SENATE CONCURRENT RESOLUTION 69—URGING THE SOVIET UNION TO ALLOW IDA NUDEL TO EMIGRATE TO ISRAEL

Mr. TSONGAS submitted the following concurrent resolution which was referred to the Committee on Foreign Relations:

S. CON. RES. 69

Whereas, the Universal Declaration of Human Rights and the International Convenant on Civil and Political Rights guarantee to all citizens the rights to freedom of religion, the right to hold opinions without interference, the right to freedom of expression, and the right of emigrate;

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits the signatory nations to respect individual rights and freedom, specifically the right to emigrate to the country of one's choice to rejoin their relatives;

Whereas the Soviet Union has signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Ida Nudel has devoted her life to the plight of Jewish Prisoners of Conscience;

Whereas Ida Nudel is know as the "Guardian Angel" for her activities on their behalf;

Whereas Ida Nudel first applied to emigrate from the Soviet Union to Israel in 1971 in order to rejoin her only living relatives; and

Whereas Ida Nudel thereafter endured seven years of harassment and interrogation by the Soviet authorities;

Whereas Ida Nudel developed a heart condition in 1973 which was intentionally misdiagnosed as alcoholism, and therefore never treated properly;

Whereas in June 1978, Ida Nudel was convicted by the Soviet Government of "malicious hooliganism" for hanging a banner on her balcony which said "KGB, give me my visa";

Whereas Ida Nudel was then sentenced to four years of exile in Siberia after a trial in which no witnesses were allowed to testify in her behalf;

Whereas Ida Nudel is in grave physical danger, not only from her failing health, but from citizens around her who have been incited by the Soviet Government to harass and threaten her;

Whereas Ida Nudel is scheduled to be released from internal exile on March 20, 1982; and

Whereas Ida Nudel will again apply for an emigration visa upon being released from inprisonment: Now, therefore be it

Resolved by the Senate, (the House of Representatives concurring), That it is the sense of the Senate that the President, acting directly or through the Secretary of State, should—

(1) continue to express at every suitable opportunity and in the strongest possible terms the opposition of the United States Government to the forced exile of Ida Nudel;

(2) urge the Government of the Soviet Union to (A) provide her with adequate medical care, (B) accept Ida Nudel's visa application, and allow her to emigrate to Israel to join her relatives, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights; and

(3) inform the Government of the Soviet Union that the Government of the United States, in evaluating its relations with other countries, will take into account the extent to which such countries honor their commitments under international law, especially commitments with respect to the protection of human rights.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit such copy to the Ambassador of the Union of Soviet Socialist Republics to the United States.

IDA NUDEL

Mr. TSONGAS. Mr. President, I rise today to introduce a resolution calling upon the President and the Secretary of State to express in the strongest possible terms to Soviet authorities our opposition to the harsh treatment of Ida Nudel. I am sure my colleagues are well aware of the tragic story of this courageous woman who has paid a heavy price for wishing to emigrate to Israel in order to rejoin her only living relatives, and for promoting the cause of human rights in the Soviet Union.

For those well acquainted with the Soviet Union's abysmal treatment of its Jewish citizens who wish to emigrate, Ida Nudel may be better remembered as the Guardian Angel of the Soviet Jewish Prisoners of Conscience. Throughout her life, Ida has dedicated herself to the ideals of freedom and liberty. As one Soviet emigrant remarked upon his arrival in Israel, "the one person above all others who helped to keep morale and who constantly helped with letters and parcels, the person rated by all to be a superhuman angel, is Ida Nudel."

Mr. President, Ida Nudel has suffered dearly for her valiant struggle against Soviet repression. When she and her sister, Elana, applied for emigration visas in 1971, Elana was granted permission to leave, while Ida was forced to remain behind. The Soviet authorities gave no justification for this. Later, when Ida developed a heart ailment, Soviet authorities had the gall to accuse her of being an alcoholic, and treated her illness accordingly. In 1978, in an act of utter frustration, Ida hung a banner on the balcony of her Moscow apartment that stated her cause very simply. It read: "KGB, give me my visa." In response to her boldness, Soviet authorities convicted Ida of "malicious hooliganism," and sentenced her to 4 years in Siberian exile. Ida, of course, did not make it easy for her Soviet oppressors. When the KGB attempted to tear her banner down, Ida threw buckets of water on them. After her arrest, she refused to attend her own trial because her friends, the foreign press, and even witnesses on her behalf were barred from the courtroom. Soviet militiamen were forced to carry her to trial.

In the desolate city of Krivosheino in Siberia, where she was exiled, life was made extremely difficult for Ida. At first, she was placed in a barracks with 60 men. She was the only woman living among them and kept a knife by her bed for protection against their drunken outbursts. The outrageous persecution of Ida Nudel did not end there. In 1980, a local newspaper ran an article attacking her as "an ingrate." Even the local population turned on her; she was the subject of repeated scorn and vicious anonymous letters.

As a result of worldwide appeals, Ida has now been moved to a one-room hut. However, the hut has little heat and no running water, and Ida must carry firewood and provisions long distances.

Mr. President, Ida's ordeal in Siberia may soon be over. I have learned that she may be released from internal exile on March 20, 1982. At that time she will again apply for an emigration visa.

However, there are fears that the Soviet authorities may be laying the groundwork to levy additional charges against Ida. This could mean her transferral to a mental institution or labor camp, instead of her scheduled release later this month. Thus, it is critically important that we inform the Soviet Government that their continued refusal to allow Ida Nudel to emigrate from the Soviet Union is unacceptable to the U.S. Congress and the American people. I urge all of my colleagues to support this resolution. A courageous woman's life may depend upon our action.

SENATE RESOLUTION 339—RESOLUTION RELATING TO 1982 TAX INCREASES OR DECREASES

Mr. RIEGLE submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 339

Resolved, That it is the sense of the Senate that any amendment of, or addition to, the Internal Revenue Code of 1954 which—

(1) is enacted into law during 1982, and

(2) increases taxes or decreases tax benefits provided by the code.

shall not take effect earlier than the date of the enactment of such amendment or addition.

(The remarks of Mr. RIEGLE on this legislation appear earlier in today's RECORD.)

SENATE RESOLUTION 340—RESOLUTION RELATING TO COMMUNITY SERVICE EMPLOYMENT PROGRAM

Mr. ROBERT C. BYRD submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 340

Whereas the Senate unanimously reauthorized the Older Americans Act of 1965 last year to provide funding through fiscal year 1984,

Whereas the Administration is proposing that the Community Service Employment Program for Older Americans under title V of the Older Americans Act of 1965 be eliminated,

Whereas loss of the Community Service Employment Program will severely impact on the ability of local agencies to provide other services funded under the Older Americans Act of 1965,

Whereas the Community Service Employment Program under title V provides about 54,000 part-time jobs nationwide for low-income older Americans,

Whereas 65 percent of all participants in the Community Service Employment Program are elderly women, and

Whereas most participants in the Community Service Employment Program have incomes below the poverty level: Now, therefore, be it

Resolved, That it is the sense of the Senate that no action be taken to terminate or otherwise weaken the Community Service Employment Program under title V of the Older Americans Act of 1965.

COMMUNITY SERVICE EMPLOYMENT PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I am today submitting a resolution which expresses the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act.

The administration's fiscal year 1983 budget would eliminate the special jobs program for the aged under title V, a program that, just last year, the Congress reauthorized and funded at $268 million for fiscal year 1982. Title V provides about 54,000 part-time jobs nationwide for low-income senior citizens. Sixty-five percent of all participants are elderly women, and most participants have incomes below the poverty level.

The administration is proposing that this program be merged into a special target-group employment effort in which senior citizens would vie for employment with migrant workers, displaced homemakers, and Indians for a total funding level of $274 million. Obviously, reductions of this magnitude would mean that someone will be unemployed, and in all probability that someone will be the elderly.

There are about 690 senior citizens employed in community service jobs at minimum wage in West Virginia, and I have heard from many of them. The following is an excerpt from a letter received from one of my constituents in the southern part of West Virginia, which is representative of the concerns that have been expressed to me:

> I am 78 years old and the chances of me finding another job if this program is discontinued are very slim, and near zero percent. I am retired on social security and receive only $296 per month. My living expenses are as follows: $100 a month for rent, $100 a month for utilities (in the winter months my utilities run as high as $250 monthly), plus money for groceries, plus $50 a month on health insurance premiums, plus money for personal needs. My wife is diabetic and disabled, and has to buy a lot of medicine and has large medical expenses. Both my wife and I require special diet foods. I have explained this to help you realize that should this program be discontinued, I would be unable to make it financially on the social security payment of $296 a month, as living expenses far exceed this amount.

These are proud people who bring a lifetime of experience and a wealth of understanding to the individuals they serve. Frankly, these people are hard pressed to make ends meet even with their jobs. To eliminate the senior jobs program would simply force the elderly onto the welfare rolls and any savings that would be assumed by eliminating this program would be borne by another. Further, the administration is proposing cutbacks in special nutrition programs for the elderly, supplemental security income, and medicare and medicaid programs. How will these people be able to survive?

I cannot support the termination of a program that provides self-sufficiency to individuals that have worked long and hard all of their lives—and continue to work—only to find that their "Golden Years" have turned to dross, and that they must swallow their pride, lose their independence, and turn to welfare in order to survive. this is a sad commentary for a nation such as ours, and I will not be a part of this action.

SENATE RESOLUTION 341—ORIGINAL RESOLUTION AUTHORIZING THE PRINTING OF A COMMITTEE PRINT

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 341

Resolved, That there be printed for the use of the Committee on Foreign Relations two thousand five hundred copies of the fifth revised edition of its committee print entitled "Background Information on the Committee on Foreign Relations, United States Senate".

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION

Mr. HUMPHREY. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Energy Regulation. On Monday, April 19, the subcommittee will hold a hearing on S. 1885, a bill to amend the Federal Power Act and the Public Utility Regulatory Policies Act of 1978 to place electric utilities, incuding members of registered holding company systems, on the same basis as nonutilities with respect to encouraging their investment in cogeneration and small power production facilities and for other purposes. This hearing will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

On Monday, April 26, the subcommittee will hold an oversight hearing on the programs under the Office of the Federal Inspector for the Alaska Natural Gas Transportation System, the Economic Regulatory Administration, and the Federal Energy Regulatory Commission. This hearing will begin at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, Subcommittee on Energy Regulation, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings, contact Ms. Marilyn Burkhardt or Mr. Howard Useem of the subcommittee staff at 224-5205.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Monday, March 15, at 9 a.m. to hold a hearing to discuss S. 2036, the CETA reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 16, at 9 a.m. to hold a hearing to discuss S. 2036, the CETA reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 17, at 9 a.m. to hold a hearing to discuss S. 2036, the CETA reauthorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, March 18, at 9 a.m. to hold a hearing to discuss S. 2036, the CETA reauthorization bill.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity, of the Labor and Human Resources Committee, be authorized to hold a joint hearing with the House Subcommittee on Employment Opportunities, of the House Committee on Education and Labor, at 9 a.m. on Monday, March 15, to discuss employment training programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. TOWER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Monday, March 15, at 2 p.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CRIMINAL LAW

Mr. TOWER. Mr. President, I ask unanimous consent that the Criminal Law Subcommittee, of the Judiciary Committee, be authorized to meet during the session of the Senate at 2 p.m. on Tuesday, March 16, to hold a hearing on S. 751, S. 101, and S. 1995, dealing with the exclusionary rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, March 15, at 2 p.m., to hold an oversight hearing on the Department of Energy research and development programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUSINESS SUPPORT FOR LOWERING FEDERAL DEFICITS

● Mr. DOMENICI. Mr. President, as I suppose everyone in the Senate is aware, the prospect of Federal deficits in the range of $100 billion per year or more over the next several years has generated considerable concern on the part of economists, financial market analysts, business leaders, and the general public, as well as here in Congress. The basic concern is that the prospect of unprecedented Federal deficits will cause interest rates to remain at such high levels that the needed economic recovery will simply not occur.

I would like to call to the attention of my collegues two advertisements that appeared recently in national newspapers. In both of these advertisements, business leaders expressed clearly their concerns about the prospective deficits and their effects on interest rates. The first advertisement to appear was by the Mobil Corp. It was printed in the February 25 New York Times as well as in other newspapers. Mobil calls for revising the President's budget and summarizes its views as follows:

> It is not unusual to adjust timetables as a result of changed economic forecasts without abandoning the long-term achievement of these objectives. Surely, interest rates, unemployment, and the recession have changed the outlook from the time when the President's timetable was first announced. It is both possible and, in view of the projected deficit, desirable to adjust the timetables and the rates of expenditures and tax collections in a way that would significantly reduce the deficit and strengthen the economy, but at the same time maintain the long-term objectives.

The Mobil advertisement specifically endorses postponement of scheduled tax reductions and slower growth in defense.

I want to make clear that by calling attention to these advertisements, I am not endorsing everything in them. I want especially to disassociate myself from one part of the Mobil ad. I do not endorse the notion of immediate decontrol of natural gas, coupled with a heavy tax on that industry, both of which are favored by Mobil.

The second advertisement that I want to discuss briefly is the "open letter" to the President and Members of Congress from leaders in the fields of banking, savings and loans, home builders, and realtors, which was printed in the March 3 Washington Post. Again, let me quote a portion of this ad:

> Prolonged high interest rates are creating an economic and financial crisis in this country. In order to bring interest rates down, immediate action must be taken to reduce massive federal budget deficits. More than anything else, it is the spectre of an overwhelming volume of deficit financing which haunts housing and financial markets and poses the threat of economic and finanical conditions not seen since the 1930s.
>
> Given these circumstances, there is no alternative to: (1) slowing down all spending, not excluding defense and entitlement programs; and, if necessary, (2) deferring previously enacted tax reductions or increasing taxes. In order to have the necessary impact on financial markets, these actions should be taken prior to any increase in the ceiling on the federal debt.

I commend the sponsors of both of these items for expressing their views on the budgetary situation the Nation faces. Their statements of concern and their recommendations for action should be considered by all of us in Congress as we deal with the crucial budget decisions that we will be making in the next few weeks.

Mr. President, I insert the complete text of both advertisements in the RECORD.

The material follows:

[From the New York Times, Feb. 25, 1982]

REFOCUSING THE DEBATE

Along with most of the American public, we have been following the current debate over President Reagan's proposed federal budget and the impact and implications of a projected deficit in excess of $90 billion. With a desire to be constructive, we would suggest a change in the focus of that debate.

(A second debate is taking place regarding the propriety and equity of many of the non-defense budget items. Lower interest rates and accelerated economic growth will benefit all, including those adversely affected by these changes. Nevertheless, it may well be that some adjustments will be needed; this can be done without disturbing the integrity of the budget.)

There seems to be reasonable agreement regarding four objectives.

First, that it is desirable to reduce income taxes for individuals and corporations.

Second, that the United States needs to regularly and proportionately strengthen its defense capability.

Third, while it may not be as wholeheartedly accepted as the above two propositions, we think there is majority support amongst the public and economic analysts in favor of a free market energy system.

Fourth, that the current budget deficit in excess of $90 billion needs to be reduced because it contains the seeds for renewed excessive inflation, retarded economic growth, and continued high interest rates.

With substantial majority support for these four concepts, the debate should now focus on the narrower issues of whether current timetables for tax cuts, defense expenditures, and energy/price deregulation can be modified in order to reduce the projected deficit.

It is not unusual to adjust timetables as a result of changed economic forecasts without abandoning the long-term achievement of these objectives. Surely, interest rates, unemployment, and the recession have changed the outlook from the time when the President's timetable was first announced. It is both possible and, in view of the projected deficit, desirable to adjust the timetables and the rates of expenditures and tax collections in a way that would significantly reduce the deficit and strengthen the economy, but at the same time maintain the long-term objectives.

These adjustments would set the stage for eventual achievement of the objectives we all seek. Specifically, we would suggest the following:

1. That the tax rate reductions for individuals and perhaps corporations scheduled to take effect this year be postponed to not earlier than January 1, 1983, thereby causing 1982 income to be treated as it was in 1981.

2. That the extent of increased defense expenditures for this fiscal year be reduced. Increased defense expenditures on a year-by-year basis are desirable and should be at a level in excess of inflation to insure a continuing net improvement in our defense capability. With that criteria in mind, we would suggest that the proposed increases in defense expenditures in the current fiscal year, while perhaps desirable from a defense point of view, are simply too large in terms of the projected deficit. Our conclusion is that defense expenditures should be reduced to a level below that projected but in excess of projected 1982 inflation.

3. That all price controls on natural gas be phased out and part of the revenue used to reduce the deficit. We understand and accept the view that the immediate decontrol of natural gas could also have a counterproductive impact on the general economy. Indeed, we have always believed that phased decontrol of natural gas would probably be preferable. This is consistent with our earlier views (as far back as 1975) in favor of phased rather than immediate decontrol of crude oil because of its possible adverse impact on the economy (a view which made us rather unpopular with some of our friends in the oil industry). Again, we are not suggesting that the objective of free market pricing of natural gas should be delayed for one day longer than necessary. What ought to be debated is a timetable for achieving that objective.

In our view, natural gas pricing and taxation should contain these ingredients:

First, gas yet to be discovered should not carry any price control mechanism nor any special excise tax which would operate as a disincentive to find such resources.

Second, gas currently flowing and under price controls should have such price controls phased out, perhaps over a 36-month period.

Third, a special excise tax, not to exceed 50%, should be enacted on the difference between the controlled price of current production and the decontrolled price, with such tax taking effect at each step of phased decontrol. (This feature probably will also not make us popular with some of our friends in the oil industry.) This tax would contribute substantial new revenues to help close the budget deficit.

Clearly, the impact caused by decontrol of natural gas is minimized when, as is now the case, more than adequate supplies of crude oil are yielding declines in the price of petroleum products.

In summary, what we are proposing is a rededication to the objectives of lower taxes, a stronger military, a strengthened free market, and a program which would bring lower interest rates.

At the same time, we are suggesting that the timetables and levels of expenditures and tax collections be reviewed in light of a projected budget deficit and interest rates which could jeopardize the achievement of these objectives and cause politicians interested in short-term gain to propose programs that would set back the achievement of these objectives for many years.

We hope that these suggestions will be viewed in a constructive light.

[From the Washington Post, Mar. 3, 1982]

AN OPEN LETTER TO PRESIDENT REAGAN AND MEMBERS OF CONGRESS: MARCH 3, 1982

Prolonged high interest rates are creating an economic and financial crisis in this country. In order to bring interest rates down, immediate action must be taken to reduce massive federal budget deficits. More than anything else, it is the spectre of an overwhelming volume of deficit financing which haunts housing and financial markets and poses the threat of economic and financial conditions not seen since the 1930s.

Given these circumstances, there is no alternative to: (1) slowing down all spending, not excluding defense and entitlement programs; and, if necessary, (2) deferring previously enacted tax reductions or increasing taxes. In order to have the necessary impact on financial markets, these actions should be taken prior to any increase in the ceiling on the federal debt.

Even with these actions, the restoration of financial stability and safety will be a prolonged process. It is necessary, therefore, to adopt immediate but temporary measures to address the critical problems of the industries which finance, market and produce housing for American families. These industries have unfairly borne the brunt of destructively high interest rates. Unless immediate and effective short-run measures are adopted, the continued devastation of these industries will, directly and indirectly, aggravate the federal budget deficit and greatly increase the prospect of a general economic and financial crisis.

In times of past crises in this nation, our political leaders have come together in a bipartisan manner to develop effective solutions in the common interest. Our nation is at such a time now. There will be no political winners if the Administration and the Congress fail to accommodate differences and cooperate in dealing with current serious economic problems. The threat to our nation demands prompt, effective and bipartisan action.

Llewellyn Jenkins, President, American Bankers Association: James F. Aylward, President, Mortgage Bankers Association; Fred Napolitano, President, National Association of Home Builders; Robert R. Masterton, Chairman, National Association of Mutual Savings Banks; Julio S. Laguarta, President, National Association of Realtors; Roy G. Green, Chairman, U.S. League of Savings Associations

Joint Statement of: American Bankers Association, Mortgage Bankers Association of America, National Association of Home Builders, National Association of Mutual Savings Banks, National Association of Realtors, U.S. League of Savings Associations.

NEW YORK CITY STUDENTS WIN TOP THREE PRIZES IN NATIONAL SCIENCE COMPETITION

● Mr. **MOYNIHAN**. Mr. President, it is with great enthusiasm, and more than a bit of awe, that I rise to congratulate three New York City students for receiving the top prizes in the annual Westinghouse science talent search—the most prestigious competition in the Nation for teenage scientists. I am pleased to announce to my colleagues that 16-year-old Reena Beth Gordon of Midwood High School won first place for her project on mathematics and linguistics. Ronald M. Kantor of Riverdale County School won second place for his study of nuclear fusion, and Ogan Gurel of Stuyvesant High School received third place for his experiment in computer programing.

I hope that these awards mark only the beginning of the contributions of these young scientists to the field of science—and indeed the world. The frontier is boundless and the pursuit vital. Mr. President, I ask that yesterday's New York Times article honoring the Westinghouse science talent search winners be printed in the RECORD.

The article follows:

[From the New York Times, Mar. 2, 1982]

CITY'S STUDENTS WIN TOP 3 PRIZES IN A NATIONAL SCIENCE COMPETITION

(Special to the New York Times)

WASHINGTON, March 1.—New York City students won the top three prizes today in the annual Westinghouse Science Talent Search, one of the most prestigious competitions in the nation for teen-age scientists.

Reena Beth Gordon of Brooklyn, who worked eight months on an experiment involving mathematics and linguistics, was awarded the first-place $12,000 scholarship. Miss Gordon, 16 years old, is a senior at Midwood High School in Brooklyn.

Ronald M. Kantor, 17, of the Riverdale Country School in the Bronx, won the second-place $10,000 scholarship for a study of nuclear fusion, and Ogan Gurel, a 17-year-old student at Stuyvesant High School in Manhattan, won the third-place scholarship of $10,000 for an experiment in computer programming.

In her project for the contest, Miss Gordon developed a mathematical model to explain how people contend with ambiguities of the English language.

She said in an interview that her linguistic research merged with her interest in mathematics and English. "I've always been fascinated with symbols, whether in math, language or music," she said.

Miss Gordon, who is ranked at the top of a class of 555 at Midwood, is an accomplished classical pianist and speaks Hebrew fluently. She said that, despite her success today, she was not committed to science as a lifework.

"Science isn't my only interest," she said. "I took a course in law last year and really liked it. Just don't tell that to the judges here."

If she were to continue with science, Miss Gordon would be following a well-established pattern of success. Since 1972, Nobel Prizes have been awarded to five former winners of the Westinghouse program. The contest is conducted by a nonprofit organization, Science Service, for Westinghouse Electric Corporation, the sponsor.

The 40 national finalists were honored tonight with a dinner at the Mayflower Hotel in Washington, where $74,500 in scholarships was divided among the 10 winners. The other 30 each received $500 cash awards.

Fifteen of the finalists were from New York State; six won scholarships. The other New York winners were Noam David Elkies, 15, a student at Stuyvesant High School, eighth place; Saechin Kim of Long Island City, ninth place, and Lynne Page Snyder of Smithtown, L.I., 10th place. Each received a $5,000 scholarship.

The finalists exhibited their projects at the National Academy of Science over the weekend. Winners were selected after the finalists completed three days of interviews with a a panel of eight jurors, all of them prominent scientists, one a psychiatrist.

Miss Snyder, a senior at Smithtown High School West, who did biochemistry research at the State University of New York at Stony Brook, illustrates the dedication, some say obsession, of many of the Westinghouse competitors.

When Miss Snyder's family moved to Rhode Island last year, she remained on Long Island, certain she would not be able to find suitable facilities in New England for the blood-cell studies that today won her a scholarship.

"I stayed," she said, "because I just couldn't see giving up an opportunity like this." She now lives with family friends and commutes three hours most weekdays between Smithtown and the lab at Stony Brook.

The domination of the Science Talent Search by New York State students was a popular topic of conversation this year, as it has been in most the 41 years the contest has been held.

Judges and competitors alike agreed that New York's science-oriented high schools and its numerous research laboratories provided New Yorkers with an advantage.

Robert Henderson, a Westinghouse spokesman, said New York teachers were known to encourage their best students to begin preparing for the contest, known in scientific circles as the "Nobel Farm Club," years in advance.

Five of this year's finalists attend Stuyvesant High School, two the Bronx High School of Science.

Other winners in the contest were Helen Elaine Getto, 17, of Chicago, fourth, a $7,500 scholarship; Theron W. Stanford, 17, of San Marino, Calif., fifth, $7,500; Mitchell Tsai, 15, of Kent, Ohio, sixth, $7,500; Niels P. Mayer, 17, of Corona Del Mar, Calif., seventh, $5,000.●

COCAINE—BIG BUSINESS

● Mrs. **HAWKINS**. Mr. President, as chairman of the Senate Drug Enforcement Caucus, I would like to share with my colleagues a thought-provoking article by Dorothy Gilliam on the severe health hazards of cocaine.

It is vital that the Federal Government focus its efforts to address this Nation's crippling drug-abuse problems. The billions of dollars in illegal drugs entering this country pose a grave threat to our health, to our economy, and to virtually every aspect of our daily lives. During the past year, illegal narcotics profits exceeded revenues from new-auto sales.

The National Narcotics Intelligence Consumers Committee of DEA estimated that sales of cocaine increased by over $8 billion in 1980, from $24.2 billion to $32.2 billion. The time has come when we must literally declare war on drug smugglers. Our children, our local enforcement agencies, and our economy, need our help now.

Mr. President, I ask that this article in the Washington Post, March 13, 1982, by Dorothy Gilliam, be printed into the RECORD.

The article follows:

BIG BUSINESS

So cocaine is just another recreational drug, all right for snorting on social occasions, no riskier than drinking scotch or smoking cigarettes. It's no big thing—as common at Hollywood and New York parties as munching smoked almonds and pumpernickel sticks, common enough to be used by an estimated 40 to 75 percent of the players in the National Basketball Association. And since all these people have the dough to afford it, it's nobody's business but their own, right?

The popular wisdom is that cocaine use is exclusive and "indoor," without the distasteful images of heroin—the dirty alleys and scary "shooting galleries." Hurray, high-living America. You've got a new "drug of choice."

Tell that to the folks who're mourning John Belushi, the talented comedian who died this week from an overdose of heroin laced with cocaine. He was 33.

Tell it to comedian Richard Pryor. He became a living torch in 1980 when ether he was mixing with cocaine—called "free base" in "recreational circles—exploded in his face.

Tell it to comedian George Carlin, and let him tell you what he told Playboy magazine about his own cocaine use, which started as something recreational and bloomed into a full-fledged "incredible abuse".

"I never knew or cared [about the money he spent]. Of course, it was a lot. A fortune. But when I hear people tell exactly how much they spend on coke, I think . . . they care more about the money than the drug . . . In terms of coke, the only money I ever thought about was that dollar bill I had stuck up my nose."

But those are television and film stars, you say; their life style has aways been different from ours. The hype about cocaine has reached close to home—not just at parties in Georgetown and McLean, but east of the Potomac River, east of Rock Creek Park, where some of the gullible try to ape the high-living "trend-setters."

A Washington mother of two I talked with at Second Genesis, a drug rehabilitation center says, "I was giving my sister a birthday party. I went in the kitchen and I saw this man and woman. I didn't really know them—they were snorting and told me to try it, it's fun. So I tried it and they were right—the music started sounding better. I felt a numbness, a cool tingling feeling all over." She started snorting regularly, selling drugs to support her habit. She was impressed with the company she kept.

"We used to go out partyin'. We used to meet doctors and lawyers who snorted coke. Another guy was a teacher. He had a nice apartment but after about a year of snorting coke, he didn't have anything—he couldn't work anymore."

Don't tell law enforcement officials in Florida about cocaine. They already know. Cocaine has put three South Florida cities—Miami, Fort Lauderdale and West Palm Beach—among the FBI's list of the 10 most crime-ridden cities. Cocaine has helped earn Miami a dubious distinction as the murder capital of the nation.

Dade County officials can tell you about cocaine. Seventy percent of all marijuana and cocaine imported into the U.S. passes through south Florida. More than 2,350 pounds of cocaine worth $5.8 billion were seized there last year. About nine times that amount is estimated to get through the net.

Down there, the struggle for cocaine profits has pushed terrified residents indoors, seeking protection from the random danger created by gun-slinging drug dealers.

But then cocaine is business—big business, both here and abroad. The Bolivian economy, for instance, virtually runs on cocadollars, with what one diplomat has called a "narcokleptocracy" of military, government and drug traffickers taking in a fortune from the sale of cocaine and other contraband.

The answer will not come from other countries, but from this one, which must come up with a realistic antinarcotics policy that includes subsidizing a new crop to replace the economic need for coca in South America. It needs a public education policy because there are still so many mistaken beliefs about cocaine, still so much ignorance about its long-term effects.

The best policy, of course, would be to strike at the cause of this illness and not the symptom, to get rid of the conditions that lead to cocaine and other kinds of drug and alcohol abuse. But nobody wants to talk about that. It's out of style. It's not cost-effective. And besides, cocaine is such good business.●

NATIONAL EASTER SEAL SOCIETY WORK CENTERS

● Mr. WEICKER. Mr. President, several years ago the National Easter Seal Society deleted the words "for crippled children and adults" from its corporate name as a demonstration of its awareness that we need to celebrate the independence—not the dependence—of disabled Americans. The National Society urged its affiliates to act similarly and many have.

Now the society, through action of its board of directors on February 13, 1982 adopted a motion:

> That the Easter Seal Societies shall hereinafter utilize the designation "work centers" when referring to the vocational rehabilitation facilities formerly referred to as "sheltered workshops." Other organizations, groups, governmental units, and clubs are hereby encouraged to adopt such language.

Adoption of the motion, Mr. President, reinforces the commitment of the Easter Seal Society to recognizing ability and the potential for growth of all disabled Americans.

I congratulate the society, its officers and staff, particularly Mrs. Tom Cook, Jr., president; Mr. John Garrison, executive director and Mr. Norman Grunewald, program specialist for their leadership in this new Easter Seal policy and I encourage public and private organizations providing vocational rehabilitation services to consider the term "work centers" as a preferable alternative to "sheltered workshops."

I can assure you, Mr. President, that when the Vocational Rehabilitation Act is considered for reauthorization, I will call my colleagues' attention to this matter.●

FATHER HEALY ON "THE NEW RIGHTEOUSNESS AND THE UNIVERSITY"

● Mr. KENNEDY. Mr. President, on January 16, Father Timothy O. Healy, president of Georgetown University, published an article in America magazine. Father Healy's message, entitled "The New Righteousness and the University," is a powerful and moving statement.

It reminds us of the qualities of generosity and compassion which have always characterized America at its best, and which are threatened by the rancor and intolerance of the new righteousness. Father Healy has given us an eloquent reminder not only of the positive mission of the university but of the values which must continue to be nourished and promoted in these times. I enclose the article at this point in the RECORD.

The article follows:

THE NEW RIGHTEOUSNESS AND THE UNIVERSITY

(By Timothy S. Healy)

Universities are mirrors to the civilizations which they serve and, at times, their echo chambers. Sometimes, line for line and scar for scar, they throw back a face that is appallingly accurate. Serious and hard working students reflect a weak market, a shaky economy and enough distress among nations to put anyone's nerves on edge. Universities can also echo the noises in the world around them, magnifying them, distorting them, sometimes deepening them. The hurt of the Vietnam War resounded nowhere more than in universities and not only because they housed most of its intended victims.

Standing face to face across the campus gates, society and universities care for each other and watch each other closely. The university knows that its life and rhythms and structures depend upon this republic in which it lives. Society too knows that universities are the keepers and shapers of its future in the minds, the imaginations and the hearts of the nation's young.

For this reason its particularly disturbing to watch currents run through America that are hostile to everything for which universities stand. Let me disclaim at once any overt or veiled reference to political parties, individual administrations or individual religious movements. These are the epiphenomena of movement and change, and reflect rather than lead a nation's mood. There is a new souring of our spirit that is deeper, more far reaching, and more threatening. It is a "new righteousness," to echo at least one of the names it wears in public. By its very nature it denies two graces which have always marked America, generosity and compassion. The signs of it are in every day's press. The sovereign state of Texas, awash in oil, cannot face the cost of educating 11,000 children of illegal immigrants. A welfare mother in Miami is shouted down because she must beg in Spanish. We blithely accept unemployment rates among black youngsters that triple or quadruple those among young whites. We have never built a wall to keep our own folk in, but have mounted a good watch to keep the stranger out. Much of our politics have sunk to single-issue campaigns and political assassination. Hatred and contempt that we once swept under the rug we now blandly proclaim from the roof tops. We divide rich and poor, black and white, immigrant and native, believer and unbeliever. Almost all the works of our new righteousness threaten universities and especially universities that still own a belief in God.

Most talk of universities footnotes the work of two men, the delightfully dactylic, John Henry Newman and Alfred North Whitehead. Newman calls the university "a seat of universal learning . . . an assemblage of learned men, zealous for their own sciences, and rivals of each other, . . . brought by familiar intercourse and for the sake of intellectual peace, to adjust together the claims and relations of their respective subjects of investigation. They learn to respect, to consult, to aid each other. Thus is created a pure and clear atmosphere of thought, which the student also breathes. . . . He apprehends the great outlines of knowledge, the principles on which it rests, the scale of its parts, its lights and its shades, its great points and its little."

Alfred North Whitehead tells us how that works when he says that universities keep alive "the connection between knowledge and the zest of life, by uniting the young and the old in the imaginative consideration of learning. The university imparts information, but it imparts it imaginatively. . . . This atmosphere of exitement, arising from imaginative consideration, transforms knowledge. A fact is no longer a bare fact; it is invested with all its possibilities. It is no longer a burden on the memory; it is energizing as the poet of our dreams and the architect of our purposes."

Even now, many years after these words were written, they are still moving. No university in the land lives up to them in its every part, but all of us who live and work in one would still allow that the further we fall off from the ideal Newman and Whitehead set, the less well we serve ourselves, our students, society and the Lord God.

If we translate our new national mood into university terms, it urges upon our fellow citizens, and so upon those of us who teach, the distrust of reason which gross simplification involves. It opens our processes to rancor and intolerance and denies the diversity that makes us indeed universal. It overextends revelation, devalues secular reality and begets that high moral hatred which turns academic and public debate away from slow groping toward truth and toward the harsh clash of virtue and sin. This harshness makes life impossible in the university and, as the Jesuit poet Gerard Manley Hopkins tells us, "winds off her once skeined, stained, veined, variety . . . all on two spools; . . . right, wrong."

Universities live on complexity. Newman's comment that the university "educates the intellect to reason well in all matters" is at the heart and center of his own argument, as it is at the heart and center of a university's being. Faculty teach students now, but are fully conscious that they are teaching toward a future which neither teacher nor taught can fully map. The burden, however, of our teaching is the complicated reality of our world. Our business is knowledge, and knowledge comes in many layers and an almost infinite variety of detail. Anything that contracts our searching and teaching is deadly, even when the contracting force is belief. Narrowness has an inverse effect. One would think it would make a man "modest in his enunciations." But, to continue with Cardinal Newman, "too often it happens that in proportion to the narrowness of [a person's] knowledge is, not his distrust of it, but the deep hold it has upon him, his absolute conviction of his own conclusions, and his positiveness in maintaining them." Through all our history narrowed minds have been little help in man's long search for truth and bode ill for a great republic.

Newman says that university faculty members must learn to respect, to consult, to aid each other, so that they might "adjust together the claims and relations of their respective subjects of investigation." This discipline imposes upon us a tolerance of diversity, far greater than in the purely political world, far greater indeed than we find in our social lives. No matter how outlandish, how wrong headed, how far out, any honest research, it holds within it some bit of a complex truth, some opening toward the future, some grain of discovery from which we can all grow. For this reason universities are slow to condemn, even slower to exclude. Society laughs at our tolerance of eccentricity, the comic side of our conviction. The great historian, Oliver Pantin, was found one evening, squatted on the lawn of All Souls under an umbrella. When the bemused porter tapped him on the shoulder and said inquiringly, "Sir?" he responded, "Shh, I'm a mushroom." The porter's respect for a scholar's pretended vegetable status bore witness to Oxford's long thirst for every drop of truth that can be squeezed by the human mind out of the hard stuff of time.

We also respect diversity in our students, both as groups and as individuals. Georgetown students differ in color, in social caste and in talent to mirror the nation's young, in a distribution as fair and as open as we can make it. Differences pale before the complexity of a student's mind. Watching young people grow, sometimes by leaps and bounds, is a heady wine for any teacher. In Whitehead's imaginative pursuit of knowledge," a faculty's learning, experience and fatigue welcome the energy and imagination of each student for the light these youthful qualities bring to bear on knowledge. The high ground at any university is this talk and touch between student and faculty.

Catholic universities such as Georgetown, Notre Dame and Fairfield have kept in touch with their religious base and thus add to the secular work and being of the university a religious thrust as well. Complexity for us is the infinite variety to be found in the mind of God as mirrored in creation. We reach toward Him darkly as through a glass in the present but know that He waits for us in the future which the young carry on their shoulders. A sacramental universe is no easier to decode than a secular one. In like manner, we too can bear diversity out of a deep Catholic instinct. The church in all its history has never accepted the dichotomy "either-or," but has always labored for the far more satisfying "both-and."

The late Father John Courtney Murray, said that Catholic universities "live on the borderline where the church meets the world and the world meets the church." He added that it is our job "to interpret the church to the world and the world to the church" and went on to remark that since the "borderline is ever shifting . . . our first task is to locate it."

The Second Vatican Council also urges respect for the honor and beauty of the secular world: "If by the autonomy of earthly affairs we mean that created things and societies themselves enjoy their own laws and values which must be gradually deciphered, put to use and regulated by men, then it is entirely right to demand autonomy . . . not merely as required by modern man, but harmonized also with the will of the Creator. By the very circumstances of their having been created, all things are endowed with their own stability, truth, goodness, proper laws and order. Man must respect these as he isolates them by the appropriate methods of the individual sciences or arts." Because we understand the sacred, we are even more bound to respect the secular. The best of our teaching echoes Hamlet's, "Do not o'er step the modesty of nature."

The new righteousness falls into this delicate university balance with all the subtlety of a hurled brick. It threatens everything for which we stand, even the agreements that make our standing possible. It rises out of something we know well: fright at the discovery that there are limits to American power. Americans are angry, restless, and not a little frightened because our easy assumption of power, our confidence in growth, our safety at home and our missionary zeal abroad are all shaken. We now face a challenged power, a slowing of growth, awkward questioning of all our institutions and for the first time in our history we look out on an implacable foe. We hear "the lion roaring round, searching whom he shall devour," and we are afraid.

The fears of the newly righteous are understandable, their response is not. The grotesque mockery of their instrument, television, twists our politics out of shape and debases our speech. A new gospel bids us let the will stand for reason; we are urged to show moral strength against our mind's ambiguities and so slice through the Gordian knots of economics, politics and foreign policy. Universities that know that there are no simple answers even to simple problems, watch parts of our society huddle around new prophets who preach an old heresey, the denial of human reason.

In fact, more than reason is denied. Jewish and Christian revelation has been strained and stretched to solve national and international problems, rearmament, Taiwan, the Panama Canal, which have never fallen within its reach and never should. Denying secular institutions their own laws, attacking their ambiguity from the high clarity of theology is useless and misleading. Whether the theocrat be John Calvin in Geneva, Fra Savonarola in Florence, Julius II in full battle armor or the wretched and murderous Ayatollah, pieties are a poor exchange for statecraft and a worse one for scholarship. Single issue politics are bad enough when they speak with the voice of time, far worse when they wrap themselves like animated tamales in moral righteousness and scriptural tags.

When we let our politics grind down to single issues, we argue not about truth and falsehood but about right and wrong; we declare that those who differ from us are not in error but are evil. This belief begets hatred of an emotional intensity not new in our history, but which has never in that history been other than destructive. Nothing America wants to last was ever built by Klansmen, or Know-Nothings or any of our less organized spreaders of bigotry and hatred. These brands of righteousness have little to do with serious moral or intellectual stands. Moses smashing the tablets or Christ cleansing the temple acted out of religious anger. But neither Moses nor Jesus ever dealt in hatred of a group, a people, a belief, or a man. Whether it comes wrapped in a white sheet or the Bible, hatred is still a denial of learning and love.

At this moment in our history the voice of hatred rings with a peculiar irony. Here the view from Washington is helpful. The civility and gentleness of our President and his grasp of the decency and respect upon which all democratic politics rest may make sure that our Government survives a bout of national rancor. Universities are more fragile. Academic civility works within walls that are paper thin; high emotion and, above all, hatred can wreck them. If universities are mirrors of society, we are also at times its echo chamber. Violence and personal hatreds put "rancors in the vessel of our peace" which choke us. We know whereof we speak because we remember Vietnam. No institution in American life was more hurt and weakened by the emotions that conflict let loose than our universities. There are still among us thousands of faculty members who were young then and hurt then; who were told the studies to which they have given their lives were irrelevant and meaningless; who learned from those they taught to doubt themselves; who must now recover a lost faith at a time which seems unpropitious.

It is easy for those of us within the university to cast blame, to call the new righteousness frightening and sterile, but no discussion of it can be complete without acknowledging our part in begetting the monster that now slouches toward us. Gradually, after World War II, as our tribe flourished and our numbers increased, universities became victims of a kind of scientism that destroyed much of our moral and ethical reflection. We are therefore at least partially responsible for creating the vacuum, into which the newly righteous rush. In our secondary education we have become, as a learned critic remarks, "increasingly instrumental, technicist, adversarial, and officially value-neutral, all the result of good intentions gone awry, and an uncritical faith in what schools can do to solve social ills."

In higher education we translate this into even more grotesque terms. We reduce learning to a purely cognitive work which would shock Newman and Whitehead. We are far too preoccupied with what works rather than with what matters. Our capacity for swallowing the impossible helps us declare ourselves "value-neutral." In many instances, all four undergraduate years are seen only as propaedeutic to serious professional studies that steer students into the grim business of earning a living. The imaginative, the contemplative, the symbolic, we comfortably ignore.

We allow little or no place in our curricula for the study of ethics, for the young to debate with us questions of right and wrong, for the long study of man's destiny and dignity. Without such teaching, it grows increasingly difficult to make democracy work or life liveable. Such a learning process obviously does not rely on any kind of indoctrination. This clearly does not work. We can, however, create opportunity, space and time in which to work over the great questions which man has pondered since he began. Whether we seek for answers in Hamlet or Kierkegaard, the "Aeneid" or "The Federalist Papers," in Anthony Hecht or in Sophocles, doesn't much matter. Instead we turn out generation after generation of technically prepared young minds, ready for professional studies and hungry to achieve. If our silence, our cherished "value-free" atmosphere, renders them moral and ethical illiterates, we have cut their futures off at the knees. Among us we may have built the house of glass that invites the booby's stone. America's universities share in this nation's strengths but also share in its weaknesses. Universities must now own to sowing at least some of what the nation itself reaps.

The new righteousness may indeed serve all of us well. For all its meanness and its many distortions, it may awaken on university campuses the all too frequently forgotten moral and ethical dimension of "the imaginative contemplation of learning." You will forgive a Jesuit saying that, if enemies are at times our best claim to fame, they can as well be our shrewdest teachers. We in universities must defend our house against foes which for the moment seem largely unopposed in the society around us. We might also, in that defense, get our own ethical rudders deeper into the water, and our moral compasses realigned. We fight against simplification, hatred and bad theology and defend diversity and compassion not only to keep our ancient and indeed invaluable institutions alive, but also to shelter America's future and all the changes it will bring. It has been a long time since university faculties congratulated themselves on being "imperial spirits who rule the present from the past." There has never yet gone by a day when we have not known ourselves to be keepers of the future. From what I see of our students, that future is worth fighting for.●

CONGRESSIONAL OVERSIGHT: FEDERAL DEBARMENT AND SUSPENSION PROCEDURES

● Mr. LEVIN. Mr. President, 2 years ago the Subcommittee on Oversight of Government Management, on which I am Ranking Minority Member, and Senator COHEN is chairman, commenced an investigation into Federal debarment and suspension procedures. This investigation stemmed from our discovery of improprieties in the performance of certain contracts awarded by a local housing authority in New Orleans, La., using Federal funds provided by the Department of Housing and Urban Development (HUD). The inquiry gradually developed into a full-scale investigation into Federal debarment and suspension procedures—administrative procedures designed to protect Federal agencies from fraudulent or otherwise irresponsible contractors.

This administrative remedy is a discretionary Executive agency administrative procedure used to protect the integrity of the Federal procurement process by prohibiting the award of additional contracts to firms known or suspected to have defrauded the Government, or performed poorly on Government contracts.

Mr. President, after 1 full year of investigation, the subcommittee held 2 days of hearings on Federal debarment and suspension procedures in March 1981. These hearings and a subsequent subcommittee report disclosed three disturbing facts about Federal debarment and suspension efforts:

First. Many agencies do not take the necessary action to debar or suspend contractors they know or suspect to be fraudulent or irresponsible;

Second. When one agency does act to debar or suspend, the information on that debarment or suspension is not always promptly or adequately communicated to other agencies so that they can take appropriate action to protect themselves;

Third. Even though other agencies know of one agency's suspension or debarment of a firm, they often fail to honor it.

Mr. President, we have been talking more and more in recent years about the need to ferret out fraud and waste in Government programs. The debarment and suspension procedures are very effective tools for agencies to use to insure that Federal contracts are not routinely awarded to crooked contractors, so that the Federal Government is not repeatedly a victim of the same offense.

Our subcommittee investigation into Federal debarment and suspension efforts is not over. It has continued to this very day, and will continue until such time as Congress as a whole can see that agencies are effectively using debarment and suspension procedures. In fact, as a result of our intensive review of debarment and suspension procedures, legislation has been enacted, additional legislation has been proposed, and new Federal regulations are being adopted (later this month).

Consistent with our continued oversight efforts into debarment and suspension, last summer I became interested in a situation involving U.S. Army Corps of Engineers contracts for bank stabilization work along the lower Mississippi River. Mr. President, I would like to describe to you a very disturbing situation relative to these contracts that has prompted me to intensify my oversight efforts.

On Sepember 27, 1978, 16 companies, which regularly bid on and which almost exclusively perform the corps' river work on the lower Mississippi, were indicted by the Justice Department for bid rigging, mail fraud, and submission of false statements to the Government (United States against Anthony J. Bertucci Construction Co., Inc., et al). The bid rigging consisted of conspiracy among the companies to geographically divide the responsibility among the companies for corps contract proposals, such that one of the companies would always have a greater chance than other, nonindicted firms to come out as the low bidder for receipt of the contract award.

The Justice Department prosecuted these 16 companies both on criminal and civil charges. Fifteen companies were convicted on varying counts involving violations of the Sherman and Clayton Acts, mail fraud, and the submission of false statements. The 16th defendant company was dissolved as part of a plea arrangement. In the civil suit, the Government estimated its losses due to the bid rigging in just the 2-year period, 1974-76, at $11.9 million. Settlement agreements on these estimated losses were reached with all 15 companies totaling over $7 million.

Mr. President, as of July 28, 1981, none of the convicted companies had been debarred or suspended by the corps for further corps contracts. To my knowledge at that time, debarment and suspension proceedings against the firms had not even been considered by the corps. In fact, I discovered at that time that new contract awards totaling well over $250 million had been made to the companies since the date of indictment. Roughly $90 million had been awarded since the conviction of the companies.

According to long-standing Federal regulations, indictment for fraud against the Government clearly constitutes grounds for suspension of a company. Similarly, conviction for fraud provides a clear basis for debarment, the more severe of the two administrative actions.

Mr. President, in view of this questionable situation, which I just described, I brought this case to the attention of Deputy Defense Secretary Frank Carlucci at a hearing before the Senate Armed Services Committee on July 28, 1981. After advising Secretary Carlucci of these details, I told him that I found this situation to be "unbelievable." He agreed, and said that he found the situation to be "unbelievable" as well.

Following that hearing, I wrote to Defense Secretary Weinberger to ask whether or not debarment or suspension proceedings against any of the fifteen firms had been or was being considered. In a subsequent response, the Army advised me that it was still considering debarment of the firms, but that it had not completed review of "supplemental debarment reports" being compiled and transmitted to headquarters by corps field offices.

In an October 19, 1981 press release in which I announced my findings relative to the Army's response, I stated that,

> I see no solid, justifiable reason for not going through an administrative procedure—suspension or debarment—with respect to these companies . . .

Such procedures have been upheld by the courts as providing adequate due process to firms being considered for debarment or suspension, and I have repeatedly emphasized the need for agencies to prudently follow appropriate procedures in all cases.

As of August 19, 1981, the corps was in active consideration of debarment of the firms, and pending the final debarment decision directed all corps field offices to withhold contract awards whenever one of the convicted companies appeared as low bidder on a competitive corps solicitation.

That directive, and a particular contract for dredging work in Hawaii, prompted several legal actions that culminated with a February 26, 1982 decision and judgment in the U.S. district court in the District of Columbia. The contract in question is known as the "Barber's Point" project, valued at approximately $50 million. One of the convicted firms, Peter Kiewit Sons' Co., Inc., was low bidder on a competitive solicitation for the Barber's Point project in the fall of 1981, after the August 19 corps directive.

Because of the conviction and possible debarment of Kiewit, the contracting officer determined Kiewit to be nonresponsible for the Barber's Point contract award, and decided to award the contract to the second lowest bidder on the contract. As a result of this decision, Kiewit filed in the U.S. district court here in Washington for a temporary restraining order against the award to the second lowest bidder.

Kiewit claimed as a part of its case that there had been undue congressional interference, referring to my request of Deputy Secretary Carlucci before the Senate Armed Services Committee, and my subsequent letters to the Defense Department concerning this issue. Presiding Judge Charles Richey accepted Kiewit's arguments, and in his February 26, 1982 decision on this case, found that the corps had been unduly influenced by congressional interest in this case, that there was no apparent evidence of bid rigging in the instant procurement, and ordered that—

> Kiewit may not lawfully be denied the award of the Barber's Point contract or any other contract, where unwarranted reactions to congressional criticism have overturned the original discretionary judgment of the procuring agency that Kiewit is responsible and poses no threat to the United States . . .

Judge Richey's opinion mistakenly presupposes two facts—one, that the corps had initially decided that Kiewit was a responsible bidder on the Barber's Point contract and two, that congressional contacts on the subject caused the corps to reverse its opinion. My review of the events in this matter does not lead to the same conclusion.

While it is true that the contracting officer on the Barber's Point contract initially found Kiewit to be a responsible bidder, his superiors at the time were pursuing possible debarment of the company. When he was informed of that fact, he reevaluated the bid and found Kiewit to be nonresponsible. Thus, the agency as a whole cannot be said to have foung Kiewit to be responsible, since the contracting officer acted initially without all the relevant facts. Moreover, the decision that Kiewit was nonresponsible was not made because of my interest in the issue. The decision to debar or suspend Kiewit had been an open question within the corps for some time.

Judge Richey's opinion also reflects a lack of understanding of the purpose for the debarment and suspension process. It is not intended as a punishment. It is designed to protect the Government. Once the Government has been injured by a contractor, that injury should logically be used as a factor in predicting future conduct. Judge Richey suggests that the various activities of a company should be isolated and what happens on one contract cannot and should not be used to judge performance on a subsequent contract. I wholeheartedly disagree and can only observe that such an opinion ignores the experience of the Federal Government in this area.

But Judge Richey's opinion in this case disturbs me greatly for two other reasons. One is the chilling effect the decision could have on the aggressiveness of agencies to pursue future debarment and suspension proceedings and two is the adverse impact this decision could have on future congressional oversight efforts.

With respect to the first concern, it is clear from our hearings that agencies are already slow to use the debarment and suspension tools as legitimate administrative steps toward protecting the integrity of the Federal procurement process from allegedly irresponsible contractors. In fact, we found through a survey of 31 Federal agencies that 10 agencies did not have administrative procedures for debarment or suspension, though such procedures could have been established under the authority of the Federal procurement regulations. This decision will discourage these agencies from making greater use of these tools where appropriate.

Also greatly disturbing is the second concern. Judge Richey's decision could jeopardize legitimate congressional oversight of agencies' use of debarment and suspension.

Mr. President, when I was appointed chairman of the Subcommittee on Oversight of Government Management in 1979, I was given certain responsibilities and authority. The responsibilities included a directive to assess the adequacy and effectiveness of Government programs and regulations. Despite the fact that I am no longer chairman, but ranking minority member, the responsibilities given me at that time still hold true.

I am not about to let dicta in a court decision usurp my responsibilities as an elected official. I have been charged to oversee Government programs, and I will continue to do just that.

Judge Richey's decision should not be allowed to impact congressional oversight and agencies' future use of debarment and suspension. From a review of transcripts of the trial before Judge Richey that led to his recent decision, I am already convinced that he is not fully aware of the intensive congressional and agency interest in the use of debarment and suspension, nor of pending legislation affecting debarment and suspension procedures that requires continued oversight of agencies' use of these administrative remedies. I question whether Judge Richey even understands the importance of debarment and suspension or of the practical, independent application of such procedures by executive agencies.

Mr. President, it is even clear from the transcript that Judge Richey's decision was based in large part on a quote from a newspaper article that did not accurately reflect a statement that I had made. Judge Richey's findings of fact quoted me as saying, based, believe it or not, on a newspaper article, that I saw—

> . . . no solid, justifiable reason why the river bank companies should not be debarred.

When, in fact, my statement read:

> I see no solid, justifiable reason for not going through an administrative procedure—suspension or debarment—with respect to these companies . . .

It is the effective application of these procedures that I have continued to stress upon the Army corps. I have not advocated that certain companies should be debarred. I advocated that procedures be followed. The decision on debarment falls totally within the corps' purview.

In short, Judge Richey's decision is wrong.

Mr. President, the importance of effective congressional oversight cannot be overstated. In the words of the Honorable John E. Moss, the distinguished former Congressman who served the House of Representatives for 26 years and who paved the way toward more effective modern oversight in his position as chairman of the House Subcommittee on Oversight and Investigations:

> . . . If savings in Government are to be realized, oversight is the key. If administration of Government is to be improved, oversight is the key. If services to our citizens are to be enhanced, oversight is again the key . . .

These words have held true for many years, and will continue to provide inspiration to Congress to insure effective implementation of our laws.

Mr. President, our primary function in Congress is to enact laws where necessary. Inextricably linked to that function is the responsibility to see to it that the laws are carried out by Executive agencies. That is the purpose of oversight, Judge Richey to the contrary notwithstanding.

Mr. President, the Justice Department and the corps, through appeal, have the ability to try to reverse the potentially adverse impacts of Judge Richey's decision. If the Justice Department and the corps let Judge Richey's order stand, his decision may tend to chill the exercise of oversight responsibility. I hope the decision is appealed. I also hope that the Congress will not allow this decision to intimidate future oversight efforts.

CENTENNIAL CELEBRATION OF THE GENEVA CONVENTIONS

● Mr. KENNEDY. Mr. President, last week the American Red Cross and the American University's Washington College of Law sponsored a conference on international humanitarian law marking the 100th anniversary of the United States signing the first of four Geneva Conventions—the first effort to establish laws governing armed conflict.

Addressing the opening session of the conference was Alexandre Hay, President of the International Committee of the Red Cross in Geneva.

His speech reminds us of the important role the United States has played in the development of international humanitarian law. It also tells us of the continuing challenges we and others in the international community face in carrying forth the objectives of the first Geneva Conventions in light of modern warfare.

Mr. President, I commend Mr. Hay's speech to the attention of the Senate and I ask that it be printed in the RECORD with a report on the conference at American University.

The material follows:

INTERNATIONAL PARLEY SLATED ON HUMANITARIAN LAW AT AU

WASHINGTON, D.C.—A conference on international humanitarian law, which will commemorate the 100th anniversary of the U.S. signing of the first of four Geneva Conventions, convenes here Thursday, March 11.

During the two-day session at the American University's Washington College of Law, professors of international law, political science and international relations, military lawyers and judges will discuss the application of international humanitarian law to contemporary problems related to international and internal armed conflicts.

This unique conference is being sponsored by the American Red Cross and the Washington College of Law. It will begin with a ceremony presided over by Secretary of State Alexander Haig, Jr., at the U.S. State Department.

The actual program begins in the afternoon at AU's New Lecture Hall adjacent to the law school. Opening remarks will be made by Dr. Jerome H. Holland, chairman of the American Red Cross; Judge Thomas Buergenthal, Dean and Professor of Law at the law school; and Alexandre Hay, president of the International Committee of the Red Cross, Geneva, Switzerland.

Among subjects scheduled for discussion are:

Interstate Armed Conflicts and Wars of National Liberation with commentators from Nigeria, Switzerland and Israel.

Civilian Immunity and the Principle of Distinction, which addresses the Christmas bombing of Hanoi, guerrilla combatants and prisoner of war status.

Non-International Armed Conflicts with case studies of El Salvador, Afghanistan, Kampuchea and Lebanon.

The United States acceded to the 1864 Geneva Convention in March 1882. The U.S. ratified the Geneva Conventions of 1949 in 1955. At the present time, 146 countries have ratified or acceded to the 1949 Conventions. Protocols to the Conventions were added in 1977.

The guardian of the Conventions and the Protocols is the International Committee of the Red Cross composed of 25 Swiss citizens. The committee serves as a neutral intermediary in time of conflict to protect victims of war in accordance with the Conventions and Protocols.

ADDRESS BY PRESIDENT HAY AT THE CENTENNIAL CEREMONY OF THE GENEVA CONVENTION

The United States was one of the pioneers in international humanitarian law. During the War of Secession, President Lincoln called upon an American legal expert of Prussian origin, Francis Lieber, to draw up a code of behaviour for American armies in the field. That code was issued in 1863 and immediately applied by the armies of the North, attenuating by its humanity the effects of that fratricidal war.

When the 1864 Geneva Convention had established the first provision of the Red Cross law in favour of the wounded and sick of armies in the field, the precepts which Lieber included in his famous "Instructions for the Government of the Armies of the United States in the Field", were of momentous consequence. It was indeed on the basis of those precepts that the application of the Geneva Convention was demanded in civil war. One of the principles laid down by Lieber was that the rules of humanity applicable to prisoners taken in war between nations should be applied even to rebels.

But the United States was not only a precursor of international humanitarian law. It set an example also in action, in a spirit akin to that which was later to characterize the Red Cross Societies.

In fact, three years before the first European national relief committees were in their infancy after the International Committee had been arousing all Europe to set up such committees pursuant to the 1863 Conference's recommendations, the American people had already founded a form of National Society, the well-known "United States Sanitary Commission".

The admirable manner in which that civilian commission carried out its work alongside the medical services of the army of the North, succouring the victims of the War of Seccession with inestimable dedication, modern methods and extraordinary efficiency, served for a long time as a model for others. In this way the United States contributed to overcoming one of the prejudices held by many military men in Europe who considered that the provision of relief on the battlefield by civilians was fanciful. And while the members of the commission carefully examined the best of what Europe had devised to provide relief in conflict, the Sanitary Commission's excellent brochures, based on experience and conveying its own technical discoveries, was the admiration of the International Committee. It was for that reason that Dr. Maunoir, a member of the International Committee, in his praise of the work accomplished by the United States Sanitary Commission, said that there was then only one idea in the law of war and the rules of humane behaviour which Europe could teach the United States, namely the neutralization of the medical personnel. This proposition was, in fact, the basis of the convening of the international conference in August of 1864.

And yet, despite its prior achievements, it took the United States 18 years to accede officially to the Geneva Convention. Clara Barton, one of your great country's heroines, whose name is never to be forgotten, was won over to the Red Cross principles from the outset. She was the founder and first president of the American Red Cross and she dedicated all the strength of her conviction to persuading the government to streamline the bureaucratic process which was delaying the country's accession to the Convention.

On 16 March 1882, one century ago, your Senate voted unanimously for accession. How delighted the International Committee was to receive from Clara Barton her telegram saying simply "Treaty signed"!

This was a breakthrough after which the United States went steadfastly forward in adopting the Geneva treaties. It ratified the 1906 Convention in February 1907, the two 1929 Conventions in 1932, and those of 1949 in 1955.

A look back into history may help us to understand the present but will not invite us to rest. Indeed, since 1882, resort to war has multiplied, methods of waging war have radically changed and today's weaponry surpasses any imagination. How shall the Geneva law cope with that challenge?

It is the purpose of the two Protocols additional to the 1949 Geneva Conventions, which were adopted in 1977 in Geneva, "to reaffirm and develop the provisions protecting the victims of armed conflicts and to supplement measures intended to reinforce their application" (in the words of the Preamble to Protocol I). The Protocols are part of the answer to the challenge of our time which I just mentioned.

More than a hundred government delegations participated in the four sessions of the Diplomatic Conference convened by Switzerland and among them of course, the delegation of your government, under the very able direction of Ambassador Aldrich. The mere fact that on the 10 June 1977, 102 heads of delegation signed the Final Act, in an atmosphere of relief and, we dare to say, of joy, has been called a miracle, in view of the complexities of the issues. None of those who participated will forget the struggle to strike a balance between the interest of the civilian population and other victims of war who have to be spared, on the one hand, and the interests of governments responsible for the security of their citizens and for the defense of their country, on the other.

I shall not go into a detailed analysis of the two texts—your advisors are more qualified to do that than I am. Let me just mention the following points:

Protocol I, on international armed conflicts, makes significant contributions to international humanitarian law in two directions. First, it improves substantially the protection of the civilian population against the effects of warfare and secondly, it opens international humanitarian law to the world of today, achieving thereby a more universal dimension for a law which used to be regarded as an expression of mainly European traditions and values. And that aspect has been understood: a clear majority of the countries which have ratified the Protocols up to now are from the Third World.

What Protocol I has to say about safeguarding civilians, and keeping them out of hostilities, is however not entirely new; much of it is indeed a codification and updating of universally accepted customary law. It is therefore hardly a surprise that most of these provisions are to be found in existing military manuals. I understand that in this respect Protocol I does not add substantial novelties to what is already part of the law of your country and its armed forces.

I need not underline how urgent it is, politically speaking, to define clearly the content and limits of the civilian's immunity and to enforce its respect. We have witnessed too many wars fought without the respect due to the civilian population, where too many wounds created unsurmountable obstacles to achieving peace even once weapons were silent.

Other provisions of Protocol I respond as well to very strongly felt humanitarian concerns, such as the immunity given to medical aircraft or the new rules which facilitate the searching and keeping of records for those missing in action and the protection of the remains of the dead. And Protocol II improves the level of protection in non-international armed conflicts in a substantial degree.

Of all those issues, and of some others, your Government's delegation at the Diplomatic Conference expressed praise, in particular in its final statement after the adoption of the Protocols. It is therefore my hope that your Government will soon ratify these humanitarian instruments in whose negotiation your Government played a leading role.

Although I think I have already made my case I want to add these two remarks:

Your Government is involved in talks on the global balance of power and—implicitly—on the future of mankind. Much of the responsibility is on your own shoulders. It is my opinion that the ratification of the 1977 Protocols should be dealt with outside that framework. They have no effect on the balance of forces in the world. I am sure, however, that the adoption of these legal instruments with purely humanitarian purposes will make for confidence-building which might facilitate talks on the global issues.

Finally, I want you to know what my delegates regularly report from their talks in a great number of countries, of all political shades: for those countries the United States' attitude plays an important part in their own evaluation of the ratification issue. Many eyes are upon you—also in this respect.

The world is torn by conflicts of every kind and violence knows no bounds . . . humanitarian law and principles are therefore all the more important and we look to the USA to lead in ensuring that they are respected everywhere with vigor and determination.●

FAREWELL TO A VOYAGEUR

● Mr. DURENBERGER. Mr. President, last month Minnesota and the country lost a great environmentalist, Sigurd Olson. Sig's contributions will be recognized for generations to come.

Those contributions go far beyond his ardent defense of the wilderness. Part of Sig's genius was his ability to make nature come alive for everyone. As his close colleague Chuck Dayton said about Sig:

> Sigurd Olson knew that only people who truly love the land are willing to fight for it, and that his sharing of that love helped to give others the will and commitment to become activists.

Mr. President, I would like to share Chuck's thoughts on Sigurd Olson and I ask that they be printed in the RECORD.

The material follows:

FAREWELL TO A VOYAGEUR

(By Charles K. Dayton)

Sigurd Olson: the very name conjures up visions—the North Woods, the heavy silence of the winter, flickering campfirelight on a leathery face, the long cry of the loon at sunset, a lone canoe slipping silently through the mist.

His lyrical pictures of the beauty of the North Country expressed the feelings of those fortunate enough to have been there and made it live for others who had not. But Sigurd Olson went far beyond nature's beauty, in order to seek its meaning for man's spirit, and therein lies his greatness.

His experiences as a guide, a naturalist and a teacher had filled him with a great love which demanded release and expression.

"As time went on there was a certain fullness within me, more than mere pleasure or memory, a sort of welling up of powerful emotions that somehow must be used and directed. And so began a groping for a way of satisfying the urge to do something with what I had felt and seen, a medium of expression beyond teaching, not only of students, but of those who had been my companions in the wilderness, some medium, I hoped, that would give life and substance to thoughts and memories, a way of recapturing and sharing again the experiences that were mine."

In a flash of insight, he knew—he must write.

"Suddenly the whole purpose of my roaming was clear to me, the miles of paddling and portaging, the years of listening, watching, and studying. I would capture it all, campsites and vistas down wild waterways, the crashing waves of storms and the roar of rapids, sparkling mornings to the calling of the loons, sunsets and evenings, whitethroats and thrushes making music, nights when the milky way was close enough to touch. I would remember laughter and the good feeling after a long portage, and friendships on the trail.

"The little raft of ducks floating out in the open were caught that very instant in a single ray of light, and as the somber brown hills were brushed with it, the glow was around and within me. Then the sun dropped behind a cloud and the hills were dark as before, the ducks black spots against the water.

"But for a time, I saw them as they were in the glow, and knew nothing could ever be the same again."

The editors of his earliest stories wanted only simple descriptions of adventure in the woods, and they slashed away "bits of philosophy or personal conviction." Finally, the editors accepted an article with a philosophical tone, and encouraged him in his belief that the sense of awe and mystery that he felt for the wild, his belief that man can sense the meaning of life from the timeless cycles of nature, should be expressed.

"There was one exception, an article entitled 'Search for the Wild,' in which I quoted the statement of Thoreau beginning 'We need the tonic of wildness,' and a criticism by John Burroughs in which he said, 'Thoreau went to nature as an oracle, questioning her as a naturalist and poet and yet there was always a question in his mind * * * a search for something he did not find.'

"To me this was a challenge, and convinced that the lifetime search of Thoreau had been fruitful and what he sought and found in the woods and fields around Concord, Walden Pond, and the Merrimack River was what we all seek when we go into the bush, I tried to prove that the never ending search for the essence of the wild was the underlying motive of all trips and expeditions.

"I had dared speak of my deepest convictions, and for once there were no deletions. The first real encouragement I had ever had, it convinced me there was a field for this kind of writing."

He viewed nature as an oracle!; nature speaking to man of the wonders of the universe. That is why he describes his peak experiences in the metaphors of sound, and urges us to "listen" also to "the singing wilderness," "the Pipes of Pan," "the music of the spheres."

"I have listened to it on misty migration nights when the dark has been alive with the high calling of birds, in rapids when the air was full of their rushing thunder, at dawn with the mists moving out of the bays, and on cold winter nights when the stars seemed close enough to touch. The music can be heard in the soft guttering of an open fire or in the beat of rain on a tent, and sometimes long afterward, like an echo out of the past, you know it is there in some quiet place, or while doing a simple task out of doors. * * *

"After years of searching I found a place of my own and called it Listening Point, because only when one comes to listen, only when one is aware and still, can things be seen and heard. It would speak to me of silence and solitude, of belonging and wonder and beauty. Though only a glaciated spit of rock on an island-dotted lake with twisted pines and caribou moss, I knew it would grow into my life and the lives of all who shared it with me. However small a part of the vastness reaching far to the Arctic, from it I could survey the whole, hear the singing of the wilderness, and catch perhaps the music of the spheres.

What is this music of which he writes? Perhaps, like a symphony, it cannot be captured completely on paper, but must be experienced to be understood. Notes on a page can tell us something of the music, and Sig's words can convey beautifully his sense of the wholeness (and holiness) of all nature. But if we are to hear the singing, we must ourselves go out, be still, and listen.

And what did he learn from a lifetime of listening? Did he find the answer? Did he find God?

He found that a sense of man's place in the universe, and an understanding of the evolution of a human consciousness capable of knowledge and appreciation of beauty, is iteself sufficient.

For centuries, the searching has gone on for a God who is simple and understandable, one who can be incorporated into our lives naturally. How much better to feel the presence of godliness around and within us than to conjecture vainly as to exactly what form He should take. We shall never really know what God is, any more than the meaning of the Word.

Man's only goal, that of human destiny, is the evolution of his mind to the point where he, and mankind as a whole, becomes aware of love, beauty, and truth. This is the emergent God, and if man works toward it constantly in his outlook, thoughts, and actions, he may become Godlike. * * *

"The great challenge is to build a base of knowledge and understanding of such depth, clarity, and power that it cannot be ignored, and never forget that the stature of man and the development of his culture has increased because of beauty, mystery, and vision, not through ugliness, warped and twisted psychosis. Only when we know what a balanced ecology really means can we live in harmony; only when we know intuitively that such values are more important than all others will we restore our flagging spirits. * * *

"At last I am beginning to believe I am part of all this life and to know how I evolved from the primal dust to a creature capable of seeing beauty. This is compensation enough. No one can ever take this dream away; it will be with me until the day I have seen my last sunset, and listened for a final time to the wind whispering through the pines."

As a guide, he knew the magical effect that a wilderness experience can have, particularly upon city folk, burdened by schedules and deadlines. He soon learned the importance of living by "the timeclock of the wilderness where days are governed by daylight and dark * * *" and having the flexibility to explore or just pick berries when you feel like it.

"With this kind of freedom tension and strain disappeared and laughter came easily. Men who hadn't sung a note for years would suddenly burst into song, and at such times I always thought of Buck and his feeling that loafing and having fun was more important than fishing. When one recalls the ages men lived as other creatures with no dependence on set routines, it is not surprising that once the pattern has been broken, men react strongly. No wonder when they return even for a short time to the ancient system to which they are really attuned, they know release."

More importantly, he knew that wilderness must be preserved for the human spirit.

"I sincerely believe if we can somehow retain places where we can always sense the mystery of the unknown, we will find strength and beauty. In this day of strife, floundering economies, threat of war and more war, we have need of the philosophy our forebears accepted."

When snowmobiles were first banned in the BWCA in 1975, a disgruntled snowmobiler derided the environmentalists' efforts, complaining, "They think the Boundary Waters is the Holy Land!" For Sigurd Olson and many others, it is a sacred place, where foreign sounds are heresy.

"Wilderness should be sacred and quiet, just as the Indians felt in designating certain places as spirit lands where no one talked. I have written about the Kawashaway River country of "no place between," where the Indians always traveled quietly and spoke only in whispers.* * *

"Where is joy in finding new campsites, a place no one has camped before, where the rocks have not been moved since they were dropped by the great glacier ten thousand years before, rocks unscuffed by human feet and covered with lichens and mosses of many hues. In such a haven there are no scars or ax marks, no indications of use by others. To me they are holy and sacred and must not be disturbed, and I am careful to step softly around patches of caribou moss so as not to crunch the brittle growth with a careless step, for one has the feeling there of being part of the primeval.* * *

"There were special places of deep silence, one a camp on a small island above the Pictured Rocks on Crooked Lake, a rocky, glaciated point looking toward the north, a high cliff on one side balanced by a mass of dark timber on the other. Each night we sat there looking down the waterway, listening to the loons filling the darkening narrows with wild reverberating music, but it was when they stopped that the quiet descended, an all-pervading stillness that absorbed all the sounds that had ever been. No one spoke. We sat there so removed from the rest of the world and with such a sense of complete remoteness that any sound would have been a sacrilege."

His joy in the natural world extended to the pleasure of hard physical work, and he gloried in it, for it provided a link with primitive man as well as his beloved voyageurs.

"I watched a couple of canoes beating their way across the open reaches of the lake. The boys in them were singing and I caught snatches of their song. Stripped to the waist, they were using their brawn to keep the slender craft from getting out of line in the gale. Traveling by primitive means, I knew within them the long inheritance of a nomadic ancestry was surging through their minds and bodies, bringing back the joy of movement and travel, adrenalin pouring into their veins, giving courage to muscles being strained to the utmost. If I had been close enough, I might have heard the laughter in their song, seen the glad light in their eyes. They were at home, doing what men had done for uncounted centuries!"

That work of paddling was for him an essential part of the wholeness that wilderness travelers sense.

"During the day, you are part of the waves, judging them, coasting down the long slopes between, only to climb to the top of another and then do it over again, until you are completely drained of energy. Somehow the mind is washed clean, and when it is over the cleanness continues until you crawl into your bag for hours of dreamless sleep."

His sense of ecology, and the unity of all things, grew slowly but unerringly. In the early days, he saw the slash and burn logging, and the poisoning of wolves. He sensed the wrong, but made little fuss then. Gradually, as his formal scientific training combined with his deepening sense of the importance of wilderness, every fiber of his being became imbued with the belief that nothing is more important than wilderness preservation.

"One summer I had the good fortune to spend several months with a scientific expedition studying the Quetico-Superior and its various creatures in relation to their habitat. It was then I first caught the meaning of ecology as a concept, and as I look back, one thing stands out, its impact as a basic understanding. More than knowledge, it was deeply involved with my own attitude and emotional reaction to the wilderness. A visceral sort of thing beyond mind and factual information, it was an inherent feeling that went down into that vast primordial well of consciousness, the source of man's original sense of oneness with all creation, a perspective reinforced with logic and reason, cause and effect, and scientific method."

And so he joined the great battle to preserve the remaining wilderness of northern Minnesota and southern Ontario, the Quetico-Superior. Born in 1899, his birthdays nearly coincided with the numerical years of the century, and the history of the struggles for the northern wilderness is the story of much of his life. In the early twenties, and his early twenties, a great roadbuilding program was promoted in the name of resort development. No sooner had that scheme been squelched in 1926 than a huge dam project, which would have flooded the entire border country for power reservoirs, was promoted and finally stopped in 1934. Later, Sig wrote of a night during that period that he spent at Curtain Falls, which would have been flooded by the dam project.

"My next camp was another I cherished, a great rock overlooking a broad expanse toward the west. This was often my first stop heading out with a canoe party, and the last when I returned. The islands lay like black silhouettes against the glow of sunset, the dusk was alive with the calling of loons. That night it seemed incredible that anyone would want to transform such a scene into kilowatts and profit, and I knew in my heart nothing was more important than saving it. Man needed beauty more than power, solitude more than dividends. I could hear the muted roar of the upper falls, sometimes clearly, then falling away, until it blended with the breathing of the trees above me. This too woud be stilled."

In the forties, Ely became the largest inland seaplane base on the continent, and resorts sprang up in the interior, even at Curtain Falls. Sig and others would paddle and portage for days seeking to escape the float planes, only to find the silence shattered by another engine. Finally, after the war ended, President Truman signed the executive order banning airplanes in 1948. Later, in the 1950s, many of the resorts in the roadless areas were closed down under the Thye-Blatnik Act.

The Wilderness Act of 1964 took seven years of debate and controversy, and Sig was a key part of that. He continued to be involved in the ongoing battles throughout the decade of the seventies in his seventies. In 1972, he was a witness in the lawsuit to stop logging in the BWCA. By the summer of 1974, the Forest Service had completed an environmental impact statement concerning logging, as had been required by the Court, and had announced its decision to continue logging the BWCA. Environmentalists realized that the time had come to ask Congress to amend the Wilderness Act to ban logging in this last large stand of virgin timber in the eastern half of the country. A national BWCA strategy session was held in Ely, and the "Green Mafia" was there including Washington lobbyists for the Sierra Club and the Wilderness Society, and representatives of all the major groups. About 25 disciples sat on the floor of the Old log cabin at Listening Point, at the feet of the wise old master. As he has many times, Sig stressed that if any of the battles to preserve wilderness had been lost, we simply would no longer have it. He said, "I have traveled all over this continent, but this Quetico-Superior country, with its countless glaciated lakes and interconnecting waterways is a gem, it's the best there is, there is no place on earth like it. It simply must be preserved."

Sigurd Olson knew that only people who truly love the land are willing to fight for it, and that his sharing of that love helped to give others the will and commitment to become activists. Such emotional commitment and love helped him to ignore the shouts and jeers of his lifelong Ely neighbors, who hung him in effigy at the 1977 Congressional hearing in Ely. That same year, speaking of love for the earth, he wrote prophetically:

"It is what gives environmentalists the strength to battle for the land they love, to take scorn and epithets in their stride, knowing they are fighting for something eternal; if they win, the world will be a more beautiful place in which to live. They have dedication and resolve, an inherent vision that will not accept defeat."

He died with his snowshoes on, and whether or not he had any notion that the end was near, his writings leave no doubt that it was a way of going that he would have approved. Of his friend, Blair Fraser, who died running a rapids, he wrote, "Blair went the way he wanted to go, with the sound of white water in his ears." Similarly, he wrote of an oldtimer he had known in Wisconsin:

"I want to die with my boots on," he told me once. 'I want to lay down under a pine tree when it's all over, someplace close to the river where I can hear the rapids and listen to the whitethroats. That's all I want.'

"Not long ago, when he was almost eighty, he did exactly that, and now lies buried where he wanted to be, beside the Namekagon he loved. After his passing I thought of Kahlil Gibran where he says, 'For life and death are one even as the river and sea are one and what is it to die but to stand naked in the wind and to melt into the sun and drink from the river of silence.' Jack had come home at least, had melted into the sun and drunk of the river of silence."

He believed that immortality is found in our memories of those we cannot forget.

"I am satisfied with a simpler solution, which brings more comfort and peace to me than old beliefs no matter how revered and ancient their origins may be: the memories of those I cannot forget, the joy they have given, and the impact they have had. Certainly they are gone physically and 'dust to dust' is no empty phrase, but the real truth in what they were and did lives on, each person leaving his own evidence of his time on earth. It is like a stone thrown into a calm pool, its ripples spreading wider and wider, possibly into infinity."

Such immortality is already his, and the banner he carried will be borne forward by present and future generations, in large measure because sigurd Olson had the spirit, the will, the ability, and the discipline to give expression to his bursting love for the wild. For many who knew him, or who have read his works, Sig's immortality will be most intense when one is sitting silently by a lake, perhaps in the last level rays of the sun he called the Ross light, listening for the haunting music of which he wrote. May the wilderness sing to us and to our children as it did to him "of silence and solitude, of belonging and wonder and beauty."

(Note: The quotations are from "Open Horizons," "Reflections from the North Country," and "Wilderness Days."

SUPPORT OF MITCHELL BILL TO AMEND ANTIDUMPING AND COUNTERVAILING DUTY LAWS

● Mr. CHAFEE. Mr. President, I am cosponsoring a bill introduced by Senator MITCHELL on March 11, 1982, which would amend the antidumping and countervailing duty laws in an effort to make the remedies provided under those laws more accessible to small and financially strained domestic firms, such as the fishing and jewelry industries.

Frequently, it is the smallest and most poorly organized industries in the manufacturing sector that are in greatest need of the relief provided under our antidumping and countervailing duty laws. Unfortunately, it is usually the rule rather than the exception that these small industries cannot afford to avail themselves of the remedies provided under these laws. For example, the legal costs associated with the filing and prosecution of an antidumping case can be as high as $1 million.

The bill introduced by Senator MITCHELL makes several important changes in the provisions of the Trade Agreements Act of 1979 which would eliminate some of the exorbitant costs involved in bringing a dumping or subsidies case. The bill would lower the injury standard to require "sufficient evidence of injury" rather than "reasonable indication of injury." This language is taken directly from the antidumping and subsidies codes that we negotiated during the Tokyo round of the multilateral trade negotiations. Thus, the amendment lowers the cost of bringing a case by lessening the burden of proof and yet keeps the legal standard for preliminary determinations in line with our obligations under the GATT. The bill also reduces litigation expense by transferring jurisdiction over final determinations and negative preliminary determinations from the Court of International Trade to the Court of Customs and Patent Appeals.

Finally, the bill improves the access of smaller industries to antidumping and countervailing duty remedies by establishing an Ombudsman Office in the Department of Commerce which would provide representation for qualified petitioners seeking relief.●

LEGAL SERVICES CORPORATION

● Mr. KENNEDY. Mr. President, on Thursday, February 25, the President announced his intent to nominate 10 individuals to the Legal Services Corporation's Board of Directors. The names of 9 of the 10 nominees were transmitted to the Senate on March 1. I am told that the name of the 10th nominee, Annie Laurie Slaughter, will soon be transmitted. The terms of all 11 members of the Board had expired by July 13, 1981. Although these individuals legally continued to serve as directors, the uncertain nature of their tenure made the situation a difficult one. I am pleased that the President has now seen fit to officially fill these positions. These positions are obviously of great importance to the effective operation of the Legal Services Corporation and the Corporation, in turn, is essential to insure that those in our country who cannot affort a lawyer do receive adequate legal representation.

At the present time, litigation is underway challenging the validity of the recess appointments made by the President last December to install the new members of the Board without going through the usual process of Senate confirmation. I would hope that prompt action by the Senate either approving or rejecting these nominations could alleviate the confusion and disruption caused to the directors and the Corporation by these legal uncertainties.

I am confident that my colleagues in the Senate will give careful scrutiny to each of these nominees, as we have done for all nominees to the Corporation's Board. I think that it is useful at this point to briefly discuss the criteria that have in the past been applied in the consideration of nominees to the Board. The Senate committee report accompanying the authorizing legislation stated:

> In exercising its advice and consent function, the Senate will want to review the nominations on the basis of the following primary criteria: (1) a Board membership which is adequately representative of the organized bar, legal education, legal services attorneys, the client community, and organizations involved in the development of legal assistance for the poor; (2) the selection of persons who are committed to the Corporation's freedom from political control; (3) the assurance that the Board members understand and are fully committed to the role of legal assistance attorneys and support the underlying principle of this legislation that is in the national interest that the poor have full access under law to comprehensive and effective legal services. (S. Rep. No. 93-145; 93d Cong., 1st Session, 10 (1973).)

The directors must recognize that the Corporation is dominated by neither the Congress nor the President nor the courts. But instead it must be responsive to the concerns and interests of all three.

Of the original nominees by President Ford to the Corporation, three were accused of failing to meet these criteria. Two withdrew their nominations and the third was rejected. The same standards must continue to be applied to the current nominees.

Before concluding, I would like to bring the Senate's attention to a recent issue of the New Yorker magazine which included an article by Elizabeth Drew on the Legal Services Corporation. The article by Ms. Drew is an excellent and incisive summary of the history of the Corporation, and a useful analysis as we prepare to consider these nominations. I submit this article for the RECORD.

A REPORTER AT LARGE: LEGAL SERVICES

(By Elizabeth Drew)

In 1974, Congress approved a bill, which had bipartisan backing, and which Richard Nixon signed into law, establishing a Legal Services Corporation to provide legal aid to the poor. The corporation evolved out of a program begun in the mid-nineteen-sixties by the Office of Economic Opportunity, which ran the old poverty program. The legal-services program helped poor people with such everyday matters as divorces, evictions, and repossessions, and also helped them obtain government benefits—Social Security, welfare payments, and the like—to which they were entitled. Sometimes it brought suits that resulted in a change in the policies of a government agency or of private interests. Inevitably, the program became controversial, taking on as it did governmental institutions and commercial interests, and handling as it did controversial issues and clients, and manned as it was by people who believed in the cause of helping the poor. One major figure in the early controversies was Ronald Reagan, then Governor of California. The idea behind placing the program in a congressionally created but theoretically independent corporation was to provide it with some protection from political buffeting. But since the government still funded the program, the politics and controversy followed the funding. Nevertheless, the program remained relatively secure through the Ford and Carter Administrations and enjoyed the support of the organized bar, including the American Bar Association. Since taking office, the Reagan Administration has been trying to abolish the program. Last year, it failed, and this year it is trying again. Along the way, it has used methods that are unusual and that some argue are illegal.

The theory behind the Legal Services program is that while legal help to the poor in civil matters has not been held to be constitutionally required, it is consonant with the principle of "equal justice under law." (In 1963, the Supreme Court held, in Gideon v. Wainwright, that the poor had a right to counsel in criminal cases and that the state was required to provide such assistance.) All the major Western European countries and Canada, Australia, and New Zealand provide legal services to the poor in civil matters. Moreover, while the private bar in this country had been providing pro-bono-publico work for a long time, it would not and could not meet the full range of the legal needs of the poor. Leaders of the anti-poverty movement in the nineteen-sixties reasoned that legal help should accompany the other services—health, education, job training, and so on—that were provided. In 1964, Sargent Shriver, then the head of the O.E.O., persuaded Lewis Powell, who was then president of the A.B.A. and is now a Supreme Court Justice, that there should be a government legal program, and the following year the A.B.A., not exactly a radical organization, reluctantly endorsed the idea. The A.B.A. backing gave the program an aura of respectability and some political protection.

The legal-services program, like other poverty-program projects, was to serve the poor by maintaining offices in their neighborhoods. A welfare mother, the theory went, might not find her way to a blue-ribbon Wall Street or Washington law firm, and if she did there might not be anyone on the premises who was familiar with welfare regulations. Private lawyers who did pro-bono work tended to be interested in the more glamorous issues. Existing legal-aid societies were underfunded and understaffed. In most rurual areas, there were no legal-aid lawyers, and in some there were no lawyers at all. Sometimes existing legal-aid lawyers and societies were disinclined to take on local commercial interests or government agencies. Most of the work done by Legal Services lawyers has to do with helping otherwise helpless people cope with landlords, finance companies, and government bureaucracies and with other matters, like divorces, for which lawyers are often required. Of the cases dealt with by the Legal Services Corporation in 1980, about thirty per cent had to do with family matters, eighteen per cent with housing, seventeen per cent with income maintenance, fourteen per cent with consumer problems, and the rest with a variety of other problems. The eligibility of clients is set at a maximum income level of about $5,400 for individuals and $10,600 for a family of four—the so-called poverty level. Last year, sixty-two hundred Legal Services lawyers, reaching every county in the country, handled one and a half million cases. Staff attorneys work full time and are paid an average annual salary of about seventeen thousand dollars. The Legal Services Corporation estimates that it is meeting only between fifteen and twenty per cent of the legal needs of the estimated thirty million poor people in the country. By far the largest number of the cases taken on by the Legal Services program have been settled by offering the clients advice, or by phone calls, persuasion, or negotiation. In recent years, only about fifteen per cent of the cases have gone to litigation. In some instances, the Legal Services lawyers have not taken things on a case-by-case basis but have brought class-action suits to obtain certain government benefits for certain groups of citizens or to stop certain kinds of government action. The Legal Services lawyers have won about eighty-five per cent of all the suits they have brought. The Legal Services Corporation says that in recent years class actions represented less than two-tenths of one per cent of its suits. Some cases, especially in the early days, were brought deliberately to reform welfare law. Among the program's early victories were decisions striking down residency requirements and man-in-the-house restrictions in several states, and decisions requiring a hearing before welfare benefits can be terminated; it won suits establishing tenants' rights, the rights of aliens, the right of poor people to have access to federally funded hospitals amd the right of debtors to due process before their wages can be garnisheed.

Inevitably, especially in the sixties, the program drew activists who believed in the then-fashionable cause of eradicating poverty. Inevitably, some of these people said and did things that irritated established powers and those who were not so committed to the cause—and things that either were off limits or represented questionable political judgments. Some of the program's vulnerability had been self-induced. All these things led to a history of antipathy to the program, and of anecdotal criticism designed to discredit it.

To a certain extent, dislike of the program paralleled dislike of its clientele; there has been a high correlation between those who object to its methods of obtaining delivery of government programs to its clients and those who object to the programs themselves. Confrontation with the government was unavoidable. The new programs' clients, being poor, were on Social Security, were on welfare, were receiving food stamps, were living in public housing. Every one of the programs was established under a federal law, carried out through federal regulations, and administered by a federal, state, or local agency. Frequently, then, the clients' problems were with a government agency, and the legal-services lawyers were frequently suing federal, state, or local officials.

One official who was most upset by the program in the late sixties was Governor Reagan. The California Rural Legal Assistance program, or C.R.L.A.—one of the O.E.O.-funded poverty programs in California—successfully brought cases to protect farm laborers (requiring them to be paid the minimum wage, prohibiting certain working conditions for women and children, and blocking the importation of cheap farm labor); it brought other actions to protect Spanish-speaking Californians; it brought about an expansion of federal food programs throughout the state; and it forced the state to restore cuts totalling two hundred and ten million dollars in the California Medicaid program. The great bulk of the C.R.L.A.'s work did not involve either litigation or administrative hearings, and the great bulk of the administrative proceedings and court cases it did bring it won. In 1968, an O.E.O. advisory committee made up of leaders of the bar designated it "the outstanding legal services program of the year." In 1970, when the Nixon Administration was in office, its grant was renewed, and the O.E.O. called it "one of the best legal services programs in the nation." But the C.R.L.A. had angered California's growers and its Governor—who had called the C.R.L.A. lawyers "ideological ambulance chasers"—and shortly after the grant was renewed Reagan exercised a governor's right to veto the funding of a program in his state. The O.E.O., which had the authority to override a veto, appointed a panel of three state-support-court judges (each from a different state) to examine the charges against the program—a hundred and twenty-seven of them—drawn up by Reagan's state director of the O.E.O. The panel concluded that there was "no justification whatsoever for any finding of improper activities by C.R.L.A.," and that the charges brought by Reagan's state director "were totally irresponsible and without foundation." It recommended that the project be continued, and the O.E.O. agreed. These events were handled for Reagan by Edwin Meese, then his executive assistant and chief of staff. The state director, Lewis Uhler, who worked with Meese, was a former classmate of Meese's at college and law school, and also former state public-relations director of the John Birch Society. Uhler has said that when Meese brought him into the Governor's office to deal with the poverty program he asked him to focus particular attention on the legal-services program. After the judges issued their report and the project was refunded, Meese, at a news conference, said that Reagan had never wanted to end the program but had just wanted to change its direction. Meese also said that he had not read the judges' report, but that their findings were "quite immaterial."

The Reagan-C.R.L.A. episode and certain moves in Congress led a number of the program's supporters to search for ways to make it less politically vulnerable. The Nixon Administration, tired of being caught in the middle of fights over the program, was looking for a way out, and in 1971 Nixon introduced a bill to turn the program into an independent corporation. But Nixon and the Congress were unable to agree on the terms. After Nixon's reelection, in 1972, the Administration moved to break up the poverty program, distributing its components among Cabinet offices to bring them under closer political control. Howard Phillips, a young conservative and one of the founders of the Young Americans for Freedom, who had been an associate director of the O.E.O., was named "acting director" of the agency. Nixon did not submit Phillips' name to the Senate for confirmation. Actually, Phillips believed that the entire poverty program should be abolished, rather than dispersed, and was conducting his own battle to that end within the Nixon Administration. Phillips' appointment was later declared illegal by a federal judge, because it had never been submitted to Congress, and some of Phillips' actions were overturned. Phillips had set out to abolish the legal-services program in particular, and Vice-President Spiro Agnew had attacked it as "tax-funded social activism," but after receiving strong pressure from the A.B.A. Nixon again proposed a legal-services corporation. He signed the bill into law two weeks before he resigned from office, in 1974. In order to get the bill through Congress, its sponsors agreed to a number of restrictions on the activities of legal-services lawyers, including prohibitions on handling cases involving school-desegregation suits, "nontherapeutic" abortions, and draft evasion.

Placing the program under a supposedly independent corporation failed to insulate it from politics. There is a question whether a government-established corporation can be truly independent: a President appoints and the Senate confirms its board, and public funds are appropriated for it. There is also a question whether such an institution should be independent of the political process; in theory, every government agency is to be accountable to the executive or Congress, or both. A degree of independence can be sought—for a regulatory agency, for the Federal Reserve Board, for a government corporation—by having its members serve for fixed terms, but total independence cannot be guaranteed. The goose-gander theory applies here: the side that cries "political interference" with a certain agency is altogether likely to try to affect its course when the other side is in control.

The new Legal Services Corporation was immediately subjected to a dispute over appointments to its eleven-member board: three of President Ford's nominees came under fire from the program's defenders on the ground that they were not supporters of it. Two of those nominees withdrew. The third, sponsored by Governor Reagan, had been a critic of the idea of a corporation and an opponent of the C.R.L.A., and his nomination was not approved by the Senate committee. Finally, a board was established under the chairmanship of Roger C. Cramton, a traditional Republican and former official of the Nixon Justice Department and then dean of the Cornell Law School. Cramton emerged as a strong proponent and protector of the program.

Through the Ford and Carter years, the critics, including Phillips, did not let up. A number of conservatives, in Congress and out, simply argued that the government should not pay people money to sue the government. There was continuing objection to class actions. Cramton explains that class-action suits are an efficient way of avoiding litigation over the same issue again and again. It is a remedy that attorneys for private interests regularly employ. In enacting social-welfare statutes, Congress has often passed a law that established a right but was deliberately vague about how that right was to be obtained. A number of the class-action suits have been over the interpretation of what Congress intended. Critics of the program also dislike the fact that it funds what are referred to as backup centers, which specialize in the problems of particular groups—welfare recipients, tenants, the elderly, migrants, Indians, and so on. The centers train lawyers, handle appellate litigation, and keep the neighborhood lawyers (many of whom are young and inexperienced) apprised of what's going on in the field. What drives the critics of the program—Phillips in particular—crazy is that sometimes these centers, by notifying clients or an organization of clients (such as tenant groups or welfare-rights groups), will cause a suit to be brought. (Under the law, the Legal Services lawyers are permitted to represent not only individuals but also organizations composed of poor people). Phillips sees the centers as populated by "social activists" trying to reshape society, and Legal Services lawyers as stirring up cases. Dan Bradley, now the president of the Legal Services Corporation, replies that just as a Washington law firm will apprise its clients of a change in government policy that might affect them, Legal Services should do the same thing. He says, "What Phillips would prefer is that we wait until a client, who may be illiterate, reads about a new regulation in the Federal Register or the New York Times." Bradley says that if, for example, the Housing and Urban Development Department issues a new regulation that Legal Services lawyers believe is inconsonant with the law and will hurt the poor, they will notify clients, or a tenants' organization, and ask them if they want to bring suit. The welter of federal regulations is at least as nightmarish for the poor as it is for those better situated—many of whom are in a position to obtain legal help. (Legal expenses incurred by corporations are, of course, tax-deductible.)

Another criticism of the Legal Services program is that it is a manifestation of our excessively litigious, overlawyered society. The reply that is offered is that we may well be too litigious and overlawyered, but until other means of settling disputes are established the poor should have their chance. Another criticism has to do with lobbying activities by Legal Services lawyers. The law restricts the lobbying to representation of clients or to matters concerning the corporation itself. Defenders of the program say that the argument that Legal Services lawyers should not lobby is another attempt to prohibit lawyers for the poor from doing for their clients what other lawyers do for theirs. In fact, they argue, the statute governing the corporation requires Legal Services lawyers to follow the Canons of Ethics of the A.B.A.'s Model Code of Professional Responsibility, which state that a lawyer's duty is "to represent his client zealously within the bounds of the law," and also that "if a lawyer believes that the existence or absence of a rule of law, substantive or procedural, causes or contributes to an unjust result, he should endeavor by lawful means to obtain appropriate changes in the law." Steven Engelberg, a Washington attorney and Carter-appointed member of the Legal Services board, says, "It's outrageous to say that a lawyer representing a poor person or group of poor persons cannot use his or her skills before a legislature or a city, state, or federal agency. Lobbying is a traditional and well-organized aspect of lawyering. Not only do thousands of lawyers in Washington do it—I will find you lawyers in any city of the United States who do it. It's an essential aspect of private lawyering to represent clients before legislative and administrative bodies. Anyone who argues against it misunderstands the nature of the legal systems."

Cramton, while defending the program, says that there is a point to one criticism—that the program gives leverage in potential litigation to public-service lawyers in that they are not deterred by the cost of what they do. Another valid point, Cramton says, is that taxpayers' funds that support the program should be spent on politically neutral activities. He and a number of those trying to protect the Legal Services program say that there are certain things they wish had not been done, not because they were beyond the corporation's authority but because they are embarrassing. They point out, however, that the program is a prime example of local control, for local Legal Services boards set the priorities—under guidance from Washington to make sure that the statute is being adhered to—and that all complaints by members of Congress or local politicians are investigated by the national staff, and on occasion a local program is defunded. They also point out that of the million and a half cases Legal Services handles each year, a few are bound to be embarrassing.

Those embarrassments have been a specialty of Howard Phillips in his continuing crusade to end the Legal Services program. Phillips now heads the Conservative Caucus, which concentrates on rallying conservative grass-roots strength on certain issues, and, along with his New Right allies, such as Richard Viguerie, he has made opposition to Legal Services part of a drive to "defund the left." As this group sees it, the federal government is granting funds to organizations—Planned Parenthood, civil-rights organizations that have received money for job-training programs, and so on—that have liberal goals. Phillips says that the Legal Services program is devoted to social change, and that it "bypasses the electoral process by using federal funds to impact on the bureaucracy and the judiciary." He objects to a system of staff attorneys whose full-time occupation is to do such work. He says, "These people have a keen sense of justice; so do I. Our ideas differ. It angers me that I pay for it." Phillips' style—in testimony, conversation, debates, mailings, ads—is to spray anecdotal criticism (some of the anecdotes check out and some do not), misleading information, exaggeration, and guilt by association. For example, a full-page newspaper ad that Phillips ran last year asked, among other things, "Do you support the continued assignment of L.S.C. funds to recipient organizations which assign policy board authority to representatives of activist groups such as the American Civil Liberties Union, Welfare Rights, the National Lawyers Guild, the National Organization for Women, and the like?" In conversation, Phillips mentions the Lawyers Guild frequently, and points out that the director of the National Center for Immigrants' Rights, one of the backup centers, is a member of the Lawyers Guild. (The Lawyers Guild is an organization that has defended leftist causes. It came under attack during the McCarthy period for having some Communist members, but it was not put on the Attorney General's list of subversive organizations.)

Phillips' ad also asked—and the questions in the ad were incorporated in testimony he gave before Congress last year—"Do you believe the provision of federal funds for sex change operations and homosexual rights law suits are an appropriate priority in seeking aid to the poor?" Legal Services lawyers have in fact brought two suits on behalf of clients seeking Medicaid coverage for sex-change operations. One of the suits was won, and one was lost. The sex-change suits are among the things that supporters of the program find, if technically permissible, embarrassing. After repeated requests for examples of legal aid for suits establishing homosexual rights, Phillips' office came up with one case involving custody for a lesbian mother, one in which disability payments were won for a transsexual undergoing treatment and unable to work because of trauma, and an instance in which a Legal Services back-up center offered advice to the Veterans Administration on drawing up rules for denial of benefits to veterans discharged for homosexual acts. Bradley says that he knows of no instance in which Legal Services helped homosexuals obtain benefits and rights they had been denied because they were homosexuals, but that qualified homosexuals were given help with the same sorts of problems that others are helped with. In 1980, just to make sure, Congress prohibited "legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

Phillips frequently mentions that the organization has represented the Ku Klux Klan. The Legal Services Corporation says that the only example of this is that the Chattanooga program was appointed by the court to represent an indigent who is a member of the Klan in a civil suit alleging violation of the civil rights of two black plaintiffs. Phillips' ad asks, "Do you believe that pro-Castro activist groups like the Gray Panthers should receive taxpayer-subsidized assistance from L.S.C.-funded attorneys?" The Gray Panthers is an organization that lobbies for old people's rights and benefits. Phillips' characterization of the group as "pro-Castro" is apparently based on an announcement of a trip to Cuba that the group planned to sponsor in order to study Cuba's treatment of the elderly. A spokeswoman for the organization says that the trip never took place, for lack of enough interested people. Maggie Kuhn, the founder and leader of the Gray Panthers, was deemed respectable enough to attend the White House Conference on Aging late last year. A charge that Legal Services employees "participate in raising funds for the anti-American Castroite terrorists and guerrillas in El Salvador" thins out under questioning. Phillips' ads carry the following quotation from a National Public Radio broadcast last March: "Several hundred protesters gathered early outside the theater demonstrating against United States policies in El Salvador, against proposed cuts in Legal Services and funding for the arts and medical aid in welfare. They represented groups as diverse as the United Auto Workers, the Legal Aid Society, the Marxist-Leninists of New York, and the Yippies, who dressed in army fatigues and tutus." His ads also ask how conservative and A.B.A. (which supports the "left-wing Legal Services Corporation") really is, since it has supported legislation for federal and state financing of abortions for indigent women, ratification of the Equal Rights Amendment, decriminalization of sexual conduct between consenting adults, gun-control legislation, and the metric system.

Soon after the Reagan Administration took office last year, it recommended in its preliminary budget proposals for fiscal 1982 that Legal Services be among forty programs put into a block grant to the states and that its budget be cut by twenty-five percent. Legal Services supporters were alarmed, for they assmed that the states would be less than eager to continue the program, and that in being so dispersed it would be destroyed. Putting the program in a block grant would mean delivering it into the arms of government agencies it has opposed and making it compete with a large number of programs for which funds were growing scarcer. When the Administration's formal budget recommendation went to Capitol Hill in March, it included no funds at all for Legal Services. Legal Services supporters were relieved, because at least the issue was clarified: Reagan was trying to abolish the program. The A.B.A. and other supporters of the program rallied, and, after some struggle, Congress granted funds for the program but reduced the amount by twenty-five percent, from three hundred and twenty-one million dollars in two hundred and forty-one million.

Meanwhile, the program's statutory authority had run out. Three Republican members of the House Judiciary Committee—Tom Railsback, of Illinois, Caldwell Butler, of Virginia, and Harold Sawyer, of Michigan—called on Reagan to ask him to keep the program going. Meese, now the President's counselor, informed Congress that the President remained opposed to the corporation and that he himself would recommend that Reagan veto an extension of it. After several days of debate, the House, with bipartisan support, reauthorized it. However, some thirty new restrictions were attached. Among them were a total prohibition of class-action suits; tightened restrictions on abortion cases, lobbying, and help to aliens; and a provision prohibiting Legal Services lawyers from taking any case "to promote, defend or protect" homosexuality. There was much carrying on in the House debate about Legal Services' supposed help to homosexuals in obtaining their rights, but no examples were offered. A motion to fold the program into a block grant was rejected. In the Senate, which Republicans control, the Labor and Human Resources Committee approved a bill authorizing the program—two Republicans voting with the Democrats. The authorizing bill is pending on the Senate calendar, and the program has been maintained through funding under the "continuing resolution" by which a large number of federal programs are being continued and funded. Senator Jesse Helms, Republican of North Carolina, with whom Howard Phillips has worked closely on the issue, was one of the leaders in the fight against continuing the program. Helms called Legal Services "an outlaw program running wild."

Key Reagan officials made their opposition to the program clear last year. David Stockman, the director of the Office of Management and Budget, said on the CBS Evening News last April, "I don't believe there is any entitlement, any basic right to legal services or any other kinds of services." A week later, on "Meet the Press," Stockman mitigated this bit of candor by saying that the Administration wasn't proposing to abolish the Legal Services program—just to fund it differently. Meese, in an interview with U.S. News & World Report, said that the Administration was "very much in favor of providing legal services to everyone who is in need of them, regardless of their economic situation." The Administration just didn't feel that the Legal Services Corporation was the best way to go about this, he said, and the Administration was "talking about stimulating new programs to go beyond what the Legal Services Corporation has been willing to do and promote a greater involvement of the legal profession." He added, "We don't want money going for promotion of social causes." He went on, perhaps reminiscing a bit, "Frankly, there are real questions about whether it has been the best use of federal funds to sue the state."

Having failed to kill the Legal Services Corporation last year, the Reagan Administration next tried to take control of it, by taking over its board—and walked right into another bruising, and unnecessary, fight. The Administration was within its rights in trying to take control of the corporation, but the manner in which it has chosen to do so raises a number of questions. As it happens, the terms of all eleven members of the corporation's board had expired by July of last year. Five members' terms had expired in July of 1980, and Carter had resubmitted their names, but Congress had not confirmed them before the election; the terms of the six other members expired last July. Under the law, the old board members serve until they are replaced. The Reagan Administration had at first decided not to name its own board, because it was planning to abolish the corporation—to nominate new board members at the same time would confuse the issue. Then, after it became clear that Congress would fund the program for another year (Phillips was extremely annoyed with Reagan for signing the continuing resolution that contained funding for the program), the Reagan White House scrambled to name board members before the year was out, in order to get new members in place before the corporation granted funds to its local projects for 1982. White House aides say they started on the nominations so late that they were not able to complete the "paperwork"—background checks, and the like—before Congress adjourned, on December 16th. Phillips, by his own account and that of his allies, worked virtually around the clock to persuade the White House to get the new appointments made by the end of the year. On December 30th, the White House named seven people to be given what are called recess appointments to the board. And on the next day, New Year's Eve, William Olson, one of the new appointees, whom the White House had designated acting chairman, suddenly called a meeting of the board for that afternoon. The Reagan appointees were now in the majority. Six board members were out of town and had to confer by telephone. Steven Engelberg, the only Carter appointee present, objected to the meeting on the grounds that it had not been called with the legally required notice and that the recess appointees were not authorized to act. The purpose of the meeting was to elect Olson chairman and to put a freeze on the new funding, pending a review of the contracts. One problem with this was that, as was customary, the projects for the next year had been approved earlier in December and funds for the first two months had already been sent out. Moreover, the corporation's statute says that once a project has been funded it cannot be cut off without due process. Olson says that whether these grants will be continued "is still to be resolved." Another problem is that the whole thing may have been illegal—or, at least, an abuse of the recess-appointment power. (Under the Constitution, an appointee named during a recess of the Senate may serve through the entire next session of Congress without being confirmed by the Senate.) According to this view, corporation board members are not, strictly speaking, government officials, because the statute establishing the corporation, in an attempt to guarantee it some independence, says that "officers and employees of the Corporation shall not be considered officers or employees, and the Corporation shall not be considered a department, agency, or instrumentality, of the Federal Government." Therefore, the argument goes, the authority to make recess appointments does not apply in the case of corporation board members. The old board members, headed by their chairman William McCalpin, a Republican and secretary of the A.B.A., are preparing a suit arguing that the Reagan Administration has violated both the statute and the Constitution. A regular board meeting is scheduled for March 5th, and a collision between the old board and the new appointees is possible. The point of the argument is not that Reagan cannot make his own appointments to the board but that he must do it in conformity with the law, and that it is illegal for board members who have not been confirmed by the Senate to start directing the program. (As it happens, Jimmy Carter made five recess appointments to the board in late 1977, but, some of the old board members argue, this took place under different circumstances. The nominations had been submitted to the Senate before it recessed, and were resubmitted shortly after it reconvened. Although the new members did attend a scheduled board meeting shortly before they were confirmed, the old board members argue that this was different from what the Reagan group did, because the Carter recess appointees had already been approved by a Senate committee, because the five were not in a position to take over the board, and because the existing board members raised no objections. Cramton, the Republican chairman at the time, says that there was no fuss about the meeting then because there was no question the nominees would be approved.) In January of this year, before Congress reconvened, the Reagan Administration announced three more recess appointments. One old board member, an unemployed woman who had been a client of the program—the law requires that the program's "clients" be represented on the board—was left in place temporarily. People in the Reagan White House tell me that they are planning to send the nominations to the Senate, but, even if they do, the legal question of whether the nominees can act before they have been confirmed remains. Once again, the Administration's confrontational style may bring it grief.

By making these moves suddenly on New Year's Eve—when they could be expected to get little press attention—the Reagan people handed the program's supporters an issue. They handed them another one in the appointments they made. There is a question whether some of the nominees would be confirmed. As it has done elsewhere, the Reagan Administration has moved to put people in charge of a program who are opposed to its purposes. Naming people who wish to adjust a program's direction is one thing; naming people whose mission may be to effectively end it is another. The legislative history of Legal Services states that Congress, in examining the merits of nominees to the board, is to be satisfied that they "understand and are fully committed to the role of legal assistance attorneys and support the underlying principle of this legislation: that it is in the national interest that the poor have full access under law to comprehensive and effective legal service." Some of the Reagan appointments have already stirred controversy. Olson, a young conservative attorney, a former member of the Young Americans for Freedom, and an associate of Phillips' at the O.E.O., headed the Reagan transition team on Legal Services and, according to a number of reports, recommended that the program be abolished. Olson declines to comment on this, on the ground that the transition reports are confidential. The transition report itself recommended that the program be continued, with its funding and its role reduced. By far the most controversy has surrounded the name of Ronald Zumbrun, who was rumored last fall to be the Reagan Administration's choice for chairman of the corporation's board (actually, the board itself is supposed to select the chairman), and who, even though he is not among those named thus far, according to White House sources will still be appointed. Olson tells me that he is chairman only temporarily. A White House aide told me that since the paperwork on some names had not been completed in time, some people who had been cleared for other jobs were temporarily tossed onto the board. Phillips believes that the reason Zumbrun's name was not included in the first list was that the Administration wanted to protect him from the controversy surrounding the recess appointments—and this is one of the few matters on which Phillips and supporters of the Legal Services program agree. Phillips tells me he believes that Zumbrun would be "a good chairman of the board."

The fuss over Zumbrun has arisen because he is president of the Pacific Legal Foundation, based in Sacramento, which was established to bring cases reflecting the conservative and pro-business point of view. The Pacific Legal Foundation also maintains an office in Washington, and it was the forerunner of and consults with like-minded groups, such as the Mountain States Legal Foundation, which used to be headed by Interior Secretary James Watt. In fact, the Pacific Legal Foundation last year joined with Mountain States in bringing a suit against Watt to get Watt to do something he wanted to do—open a Montana wilderness area to oil and gas drilling—but had been barred by Congress from doing. Zumbrun wrote the Justice Department that he was trying to help Watt achieve his "objectives." A George Washington University Law School group has brought charges of collusion. Last year, the Mountain States Foundation filed a brief in federal district court charging the Legal Services Corporation with lobbying in its own behalf. The court dismissed the charges. The Pacific Legal Foundation has opposed the C.R.L.A. in some cases, and, in fact, before Zumbrun formed the Pacific Legal Foundation, he had served under Governor Reagan as deputy director of legal affairs for the California Department of Social Welfare, which had a number of battles with the Legal Services program. And the Pacific Legal Foundation was created, with corporate and conservative-oriented foundation backing, explicitly as a result of the experiences of the Reagan governorship with legal-services challenges. We have come full circle. Meese, before he came to Washington to join the Reagan Administration, served on one of the Pacific Legal Foundation's advisory boards. Two other men associated with the foundation have also been named to the Legal Services Corporation's board. One, Marc Sandstrom, a vice-chairman of the foundation, is executive vice-president and general counsel of the San Diego Federal Savings & Loan Association, which has contributed funds to the Pacific Legal Foundation and has been involved in a number of cases brought against it by Legal Services lawyers on charges of illegal foreclosures. Another appointee is William Harvey, a law professor and former dean of the Indiana University Law School, who serves on a Pacific Foundation advisory committee.

Another Reagan appointee to the Legal Services board, George Paras, resigned last summer as a judge on the California Court of Appeal, denouncing the state supreme court as a "left-wing junta." Paras subsequently made news when he opposed the nomination of Cruz Reynoso, who had been the director of the C.R.L.A. while Reagan was governor to the state supreme court. Once again, we have come full circle. C.R.L.A. is still an emotional term in California. Reynoso, who is considered a distinguished man by a large segment of the bar, had served on the appeals court with Paras. When Paras resigned, he wrote to Reynoso—and later made the letter available to a commission that approves court nominations—accusing him of espousing "a nice socialistic philosophy first proclaimed by Karl Marx," of uttering "gibberish," and of feeling it "your obligation to be a professional Mexican rather than a lawyer." (A commission appointed by the California bar to examine judicial nominations found Reynoso qualified for the post.) Harold DeMoss, a Houston attorney named to the board, has said he shares the Reagan team's "overview and approach" to the Legal Services program. Annie Slaughter, a black woman named by Reagan, has served with Meese and Olson on the board of an organization called Crime Victims Legal Advocacy Group. Meese, Olson, and Mrs. Slaughter were all founders of the organization. Mrs. Slaughter told me recently, "I'd have to read more about the Legal Services program to find out what my views are on whether it should be abolished."

This February, the Reagan Administration proposed in its budget that the Legal Services Corporation be abolished outright. Making no bones about it, the Administration said that no further funds should be provided, and that the program should be shut down by the time the continuing resolution expires, on March 31st. It said that the states may use money from block grants for legal services if they wish to do so. This, of course, they are most unlikely to do. The budget message also says that private lawyers "can and should do more to fulfill their obligations through pro-bono-publico services." People on both sides of the argument over Legal Services agree that the private bar could do more than it does now to provide services to the poor, but defenders of the program, and also some disinterested lawyers, say that it is unrealistic and absurd to expect the bar to be able to meet the needs that the program has been trying to serve. Not every lawyers is sitting in a well-appointed office in Washington or New York, earning a fortune, and some areas still don't have lawyers at all. Lawyers are not likely to behave with the saintliness that is being asked of them. Doctors, of course, are reimbursed for the services they provide to the poor under Medicaid—which last year cost the federal government about seventeen billion dollars. Meese and others talk about extending existing "judicare" programs. Legal Services has experimented with the idea, under a system in which private lawyers provide help, at reduced fees, for poor clients referred by the Legal Services program; the fees are paid by the Legal Services program. But if there is no program, there is the question of who would pay the fees. The Legal Services program has found that the success of judicare and other methods of involving private attorneys varies from place to place but that such systems would not be cost-effective on a national basis. Even if a large part of the Legal Services program could be transferred to the private sector, there would be problems of distribution, organization, and expertise.

If the program closes down, a large number of people, who also have other new problems, would be left without help. The effect of last year's twenty-five-percent cut in the program is already being felt; Legal Services centers in some areas are shutting down, and in others some clients are being turned away. The Legal Services program is an inexpensive, low-overhead program. So the issue for the Reagan Administration is not really money. And it may be that in this area, as in some others, it has underestimated the depth—and also the nature—of the opposition. Roger Cramton, the Republican, Ford-appointed head of the first Legal Services board, says of the Reagan Administration's approach to the program, "It's irrational behavior for a politician. This is not a social-welfare program; it's an enforcement-of-rights program. It tells us that our ideals of freedom and equality are there. Alienating the American Bar Association in the way that they are doing is not sensible. They risk gravely alienating an entire segment of the population—lawyers, many of them conservatives. Some of us are getting hot under the collar—and it carries over to other issues." But the Reagan Administration's approach to the Legal Services program has its own rationale: These people are carrying old grievances and their own ideology to their logical conclusion.●

ORDER FOR RECORD TO REMAIN OPEN UNTIL 4:30 P.M. TODAY

Mr. TOWER. Mr. President, I ask unanimous consent that the RECORD remain open until the hour of 4:30 p.m. for the introduction of bills and resolutions and the submission of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

VITIATION OF ACTION ON CONFIRMATION OF GEORGE S. ROUKIS

Mr. TOWER. Mr. President, as in executive session, I ask unanimous consent that the action taken today by the Senate on the confirmation of George S. Roukis, to be a member of the National Mediation Board, be vitiated, and that the nomination be replaced on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I further ask unanimous consent that the President be requested to return the notification of confirmation to the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

REALLOCATION OF TIME ON SPECIAL ORDERS TOMORROW

Mr. TOWER. Mr. President, I ask unanimous consent that the special order allotted to the Senator from Arkansas (Mr. PRYOR) on tomorrow be transferred to the Senator from Missouri (Mr. EAGLETON) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. TOWER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow, Tuesday, March 16, 1982.

The motion was agreed to; and at 3:53 p.m., the Senate recessed until tomorrow, Tuesday, March 16, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 15, 1982:

DEPARTMENT OF JUSTICE

Charles H. Turner, of Oregon, to be U.S. attorney for the district of Oregon for the term of 4 years vice Sidney I. Lezak, resigned.

INTERSTATE COMMERCE COMMISSION

J. J. Simmons III, of Oklahoma, to be a Member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1985, vice Thomas A. Trantum, resigned.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 15, 1982:

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of rear admiral:

Capt. James C. Irwin, USCG.
Capt. Bobby F. Hollingsworth, USCG.
Capt. Edward Nelson, Jr., USCG.
Capt. Clyde E. Robbins, USCG.

DEPARTMENT OF COMMERCE

James W. Winchester, of Mississippi, to be Associate Administrator of the National Oceanic and Atmospheric Administration.

DEPARTMENT OF STATE

Peter H. Dailey, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ireland.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXPORT-IMPORT BANK OF THE UNITED STATES

Charles Edwin Lord, of the District of Columbia, to be First Vice President of the Export-Import Bank of the United States.

DEPARTMENT OF JUSTICE

J. Alan Johnson, of Pennsylvania, to be U.S. attorney for the western district of Pennsylvania for the term of 4 years.

William L. Lutz, of New Mexico, to be U.S. attorney for the district of New Mexico for the term of 4 years.

David D. Queen, of Maryland, to be U.S. attorney for the middle district of Pennsylvania for the term of 4 years.

IN THE COAST GUARD

Coast Guard nominations beginning Wade A. Mitchell, to be lieutenant, and ending Joseph D. Klimas, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD, on February 3, 1982.

Coast Guard nominations beginning Richard L. Devries, to be commander, and ending Bruce Y. Arnold, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on February 22, 1982.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Ralph J. Edwards, to the class of Minister-Counselor, and ending Miguel de la Pena, to be a Foreign Service Officer of class 2, a Consular Officer, and a Secretary in the Diplomatic Service of the United States of America (list reported and confirmed minus one nomination Max L. Friedersdorf).

WITHDRAWAL

Executive nomination withdrawn from the Senate March 15, 1982:

The nomination of J. J. Simmons III, of New Jersey, to be a member of the Interstate Commerce Commission for the remainder of the term expiring December 31, 1985, vice Thomas A. Trantum, resigned, which was sent to the Senate on January 26, 1982.

HOUSE OF REPRESENTATIVES—*Monday March 15, 1982*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Encourage, O Lord, all people of good will who work for peace and security in our world that they may gain strength realizing that their labors are not in vain. We thank You, O Lord, that our Nation has been blessed with the freedoms and liberties inherited by the struggles of those who have gone before.

May our consciousness of living in a free land cause us to respond with acts of charity and justice toward nations and peoples who stand in great need that Your will may be done on Earth as it is in Heaven. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

INTRODUCTION OF FAMILY HOUSING PRODUCTION ACT OF 1982

(Mr. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PATTERSON. Mr. Speaker, today I am introducing the Family Housing Production Act of 1982 designed to accomplish simultaneously two tasks: First, make homeownership more affordable to qualified homebuyers by reducing mortgage interest rates by up to 4 percent; and second, increase employment in the housing industry by stimulating housing construction.

As we have all been made plainly aware, the housing industry is in its worst recession since World War II; now in its 39th month of recession, the construction industry has been plagued by a 53-percent increase in business failures, and unemployment in the industry is nearly 20 percent. This downward trend in the housing industry not only affects homebuilders, realtors, and construction workers, but also all the suppliers of materials and services which go into each new home. For example, one of the major suppliers for housing construction, the lumber industry, currently has 55 to 60 percent of its mills closed, or they are operating on curtailed schedules.

The demographics of the postwar baby boom indicate that demand for housing should be very strong, but unfortunately that demand cannot and will not be met until interest rates come down. Until housing can be made more affordable, the housing industry and all of its affected industries will continue to deteriorate and homeownership will remain beyond the reach of most Americans.

Historically, housing has been a national priority. With the passage of the 1949 Housing Act, that priority was clearly articulated as "a decent home and a suitable living environment for every American family." That priority must now be reaffirmed by action on this program to stimulate the construction of housing which is within the financial reach of most Americans. Such a stimulus can help to turn around our economy, just as housing recoveries have led the economy out of recessions in the past.

The time for action is now; delay runs tremendous risks. First, housing must be built to insure that when interest rates come down and the pent-up housing demand is released, this demand will be met by an adequate supply of housing stock to avoid bidding up the prices of housing to artificially high levels. Second, if housing construction continues at its current low rate, we will see further deterioration in the housing industry all the way back down through the supply lines of the industry. Once these lines of supply are destroyed, it will make economic recovery all the more difficult and take longer to achieve. Without Federal Government assistance to reverse this trend, the homebuilding infrastructure will be destroyed.

For these reasons, I am today introducing the Family Housing Production Act. As I said earlier, this legislation is designed to accomplish two tasks simultaneously. Let me explain just how it does this.

The bill provides shallow assistance in the form of a recapturable 4-percent interest write-down for the first 5 years of homeownership. Beginning in the second year—and continuing for the next 5 years—the homeowners annual mortgage payments are increased by an affordable amount which goes directly to reduction in principal. This growing equity feature allows the homeowner's payments to gradually increase to a level comparable to the market-rate mortgage payment, thereby easing the transition off assistance.

It is estimated that approximately 400,000 new homes can be produced under this program with the $5 billion authorization. An approximately equivalent amount of tax revenue can be generated through this program and upward of 700,000 man-years of employment can be generated; this includes employment in construction, land development, manufacturing, mining, transportation, wholesale trade, services, and other industries. This program can go a long way toward bringing new life to the American economy.

This short-term emergency measure is needed. I am aware that the language in the bill may need to be revised in order to work out any technical problems with this new approach, but with the help of my colleagues, it is my intention to continue the dialog to address the problems facing the housing sector so that we may take action to meet these problems.

Finally, Mr. Speaker, the Family Housing Production Act is an emergency jobs bill to provide jobs for unemployed building trades men and women, and to save the homebuilding industry from severe collapse. It is not the entire solution for our Nation's housing needs. I also strongly support the broader housing legislation now being considered by the Housing Subcommittee, H.R. 5731, which was introduced by Chairman GONZALEZ.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
March 15, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit a sealed envelope from the White House, received in the Clerk's Office at 4:00 p.m. on Thursday, March 11, 1982 and said to contain a message from the President

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

wherein he transmits the fourth annual report on nuclear non-proliferation.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, JR.,
Clerk, House of Representatives.

FOURTH ANNUAL REPORT OF NUCLEAR NON-PROLIFERATION ACT OF 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of Friday, March 11, 1982.)

INTRODUCTION OF LEGISLATION TO FREEZE WHITE HOUSE SPENDING AT 1982 LEVELS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today I am introducing legislation to freeze White House spending for 1983 at 1982 levels. The President, in his budget requests, asks for a 14-percent increase.

We must demonstrate our commitment to holding down Federal spending. Passage of this bill can do that. My Republican colleagues say that cutting $700,000 from House committee budgets will demonstrate that commitment. Well, if they enjoy cutting committee budgets, they should be delirious of the chance to cosponsor this measure. Here is an opportunity to slash $12 million of unnecessary bureaucratic baggage from a $102 million budget request.

Imagine a 14-percent increase for the White House at the same time the President is proposing a 28-percent decrease in the number of Pell grant recipients and a 24-percent drop in work study grants. Consider a 17-percent hike in the White House Office while the administration wants to rescind $2.8 billion in rental housing subsidies. How about a 16.5-percent increase in the White House Office of Science and Technology Policy at the same time as a 7-percent decrease in the Mine Safety Administration is proposed.

A week or so ago a prominent Republican Senator publicly suggested that the President was a bit out of touch with what is going on in America today. The President's budget request for the White House staff tends to confirm this view. I think it is our job to bring him back in touch. Passage of this legislation to freeze the money for the White House could do just that.

STUDENT AID CUTS

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, last Saturday I met with students and financial aid officers from the five institutions of higher education in my district. They helped document what the budget proposals will mean to students, to their families, and to the schools in my area.

Mr. Speaker, we all know that last year Congress responded to the President's budget proposals by tightening eligibility requirements and by cutting funding in student aid programs.

Now the President is urging Congress to cut far deeper.

Mr. Speaker, these proposed cuts in education do not represent mere belt tightening. They do not represent simply a desire to eliminate waste, fraud, and abuse. They represent a reversal in the American commitment to education at a time when educational expenditures are rising rapidly. These cuts will curtail opportunity for hundreds of thousands of Americans.

No one, Mr. Speaker, is advocating a free ride for every college student, but we are advocating a fair chance for those young men and women who are willing to earn an education. That chance is important to them and to their families, and it is important to this country.

Mr. Speaker, their situation is compounded in my own area by rapidly rising unemployment where we have not one county in my district of 12 that has less than double-digit unemployment, with 42,000 people seeking work.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from New York?

There was no objection.

FIFTH ANNIVERSARY OF IMPRISONMENT OF ANATOLY SHCHARANSKY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 60 minutes.

Mr. BINGHAM. Mr. Speaker, I have requested this time, along with my colleague from New York, Mr. GREEN, so that we may all recognize and protest the continuing imprisonment of Anatoly Shcharansky. As of today, Shcharansky has spent 5 years in Soviet prisons and labor camps. It is ironic that Shcharansky was arrested the same week that President Carter made his first major speech on foreign policy to the U.N.—the speech in which he emphasized the right and duty of nations to speak out on human rights. That seems so long ago now. It angers and outrages me to think that during these past 5 years, through the Iranian crisis, through the launching of the Space Shuttle and the failure of SALT II, through nearly the entire Carter administration and into the Reagan administration, Anatoly Shcharansky has been unjustly isolated from his wife, his friends, his family, from everything beyond the bleak environment of Soviet prisons and labor camps.

Through the Greater New York Conference on Soviet Jewry, I have adopted Shcharansky as my "Prisoner of Conscience." I intend to do everything in my power to secure Anatoly Shcharansky's release. It is good to know that I have the support of the Greater New York conference in this effort and of so many Members of the House of Representatives.

The Shcharansky case violates the most basic principles of human freedom. Since last year at this time, conditions have greatly worsened for Shcharansky. In September he collapsed from hunger as a result of an extended stay in a punishment cell, and was hospitalized for 33 days. Upon his release from the hospital in November, he was sent back to Chistopol Prison for 3 years for "continuing to consider himself not guilty." Conditions in prison are much harsher than those in the labor camp.

In January 1982 Shcharansky's mother and brother were permitted to see him for 2 hours. They were his only visitors in the last 16 months. His mother fears that the severe headaches and eye disorders from which he suffered during his first 3 years in prison are returning. She observed that harassment of her son is intensifying, and that he did not seem optimistic about seeing her again.

Shcharansky's imprisonment is particularly inhumane because of his separation from his wife, Avital. Avital was compelled to leave the Soviet Union for Israel 1 day after their wedding on July 4, 1977. At that time she was promised that her husband would soon follow. It has now been over 5 long and lonely years.

Soviet authorities must realize that we shall not relent in our efforts to free Shcharansky who now sits in prison solely because he dared to dream of, and strive for, a life for himself and his wife Avital in Israel. It is that simple. Shcharansky was sentenced to 13 years in prison for his "anti-Soviet activity." But his real crimes were that he was a leader in the movement to obtain unrestricted rights of emigration. He was also a major figure in the movement to monitor Soviet compliance with the Helsinki accords. The Shcharansky case makes a mockery of the Soviet criminal justice system. Shcharansky was deprived of the barest requirements of due process—a lawyer of his choice, the right to call defense witnesses, a copy of the judgment against him.

Anatoly Shcharansky, himself, in the closing statement from his trial, eloquently points to the kind of justice he has been subjected to. We also see the kind of man he is. This is what he said:

> In March and April 1977, during the preliminary interrogations, those conducting the investigations warned me that in view of the position taken by me during the investigation, the one which I have maintained during the course of this trial, I will be likely to be given the death sentence, or, as a minimum, 15 years of confinement. I was told that if I agreed to collaborate with the KGB in order to destroy the Jewish emigration movement, then I will be given a short sentence, quick release and even the possibility of joining my wife.
>
> Five years ago, I applied for a visa to Israel, but now I am further than ever away from the attainment of my dream. It might appear that I must have regrets about what has happened. But this is not so. I am happy, I am happy that I have lived honestly, in peace with my conscience, and have never betrayed my soul, even when I was threatened with death. I am happy that I have helped people. I am proud to have known brave people as Sakharov, Orlov, Ginsburg—they who are continuing the finest traditions of the Russian intellectuals. I am happy that I can be a witness to the redemption of the Jews in the USSR. These absurd accusations against me and against the whole Jewish emigration movement will not hinder the liberation of my people. My near ones and friends know how I wanted to exchange activity in the emigration movement for a life with my wife, Avital, in Israel.
>
> For more than 2000 years the Jewish people, my people, have been dispersed. But wherever they are, wherever Jews are found, each year they have repeated: "Next year in Jerusalem." Now, when I am further than ever from my people, from Avital, facing many arduous years of imprisonment, I say, turning to my people, my Avital: Next year in Jerusalem.

The imprisonment of Anatoly Shcharansky cannot continue. We, the friends and supporters of Shcharansky, shall work for his release until the day we see him free and reunited with Avital in Israel. We, Members of the Congress of the United States of America, accuse the Soviet Government of knowingly keeping an innocent man in prison, away from his family. We pledge that we shall not forget Shcharansky and that we shall see the day of his reunification with Avital. We urge the Soviet authorities to make a positive step toward good relations with the United States by freeing this good and innocent man, Anatoly Shcharansky.

● Mr. GREEN. Mr. Speaker, I am pleased to join my colleague, the distinguished gentleman from New York (Mr. BINGHAM), in holding this special order to commemorate the fifth anniversary of Anatoly Shcharansky's imprisonment.

Shcharansky was convicted of "treason" for supposedly having ties with the American CIA. His real crime: To apply to emigrate to Israel, to keep alive Jewish traditions in the U.S.S.R., and to lead Jewish refuseniks protesting the oppression by Soviet authorities. American officials from all levels of government—including former President Jimmy Carter—protested the Soviets assertion of Shcharansky's ties with the CIA. Shcharansky's trial was a gross distortion of justice, a travesty of the understanding embodied in the Universal Declaration of Human Rights, and, sadly, only one of the many examples of the Soviets' unwillingness to uphold the most basic human rights.

Shcharansky was by profession a computer scientist. He also specialized in cybernetics, and worked at the Moscow Institute of Oil and Gas. He first applied to emigrate in 1973, but was denied permission. The Soviets claimed he had access to state secrets, even though it was well known that his work at the institute was not classified. In 1974 he married Avital Shcharansky. She left the U.S.S.R. the day after their marriage, as Anatoly had been told that he would be permitted to leave soon thereafter. As we know, he was misled by the Soviet authorities. The short time he was able to spend with Avital is one of the most poignant aspects of Anatoly Shcharansky's tragic story.

After his forced separation from his wife, Shcharansky intensified his work as a Jewish cultural leader. He participated in many protest marches and study groups. In 1975 he was dismissed from his job at the Moscow Institute. The KGB frequently warned him to cease his activism. In 1976, Shcharansky joined a Helsinki Monitoring Group. During this period in his life, Shcharansky was featured on an anti-Semitic television special entitled "Traders in Souls" and was called a soldier of Zionism.

He was arrested in 1977, and imprisoned exactly 5 years ago. The Shcharansky trial was planned as a large-scale exercise in official Soviet anti-Semitism, but Shcharansky's bravery, world outrage at his treatment, and the manifest injustice of the charges against him made the case a major human rights embarassment for the Soviets. Shcharansky received an unusually harsh sentence, even by Soviet standards: 3 years in prison, and 10 at hard labor. He was transferred to a labor camp near Perm in April of 1980.

Conditions in Perm were so harsh that Shcharansky was hospitalized. His mother, Mrs. Ida Milgrom, recently visited him after a harrowing 500-mile trip from Moscow. She said that at Perm her son was repeatedly accused of trivial violations, and provoked into committing punishable infractions. Among the crimes for which he was punished was lighting the Hanukkah candles, and refusing to do a job which would have meant starvation for the old man who had formerly done the work. As punishment, Shcharansky was put in a punishment cell. In a cell, a prisoner is fed only once every other day, and with the smallest ration, which includes no meat. Shcharansky spent over 185 days in a punishment cell, once for a 75-day stretch. Because of this brutal treatment, he was hospitalized for 33 days and released in October. Mrs. Milgrom also reports that Shcharansky's eye troubles and headaches are returning.

Recently, Shcharansky was returned to prison at Chistopol because he steadfastly refuses to recant. His mother is very worried that his continued imprisonment will result in his death. In a statement for reporters, she wrote:

> The victimization of my son continues and the harassment is intensifying. There can be no doubt that the persistent lawlessness and victimization are intended to break him physically and morally. If the present situation continues, it will surely bring on the total physical destruction of a sick man.

Mr. Speaker, we cannot allow this to happen. As in the past, we must continue to voice our outrage and offense at the Soviets treatment of this brave man. The United States will not stand silent at Soviet abuse of Anatoly Shcharansky's right to live freely in Israel with his wife, Avital. Especially on this fifth anniversary of his imprisonment, we must renew our pledge to free Anatoly Shcharansky. He has been in prison 5 years to long already. Let us put the Soviets on notice that we shall not tolerate their intransigence.●

Mr. FISH. Mr. Speaker, I join my colleagues today to speak out in a strong unified pleas on behalf of Anatoly Shcharansky.

At this time, more doubt than ever exists regarding Anatoly's physical and mental condition. His mother recently reported that Anatoly appears to be suffering from increased harassment at the Chistopol Prison. She stated that Anatoly has his doubts about even seeing his family again. Mrs. Shcharansky saw Anatoly in January, and her statements are most disheartening for those of us who share her concern for her son.

Anatoly Shcharansky has now served 5 years of his 13-year prison sentence. He is obviously continuing to be mistreated by prison authorities for his brave leadership in the Soviet Jewish emigration movement and his persistence in clinging to his religious beliefs. I join my colleagues and all Americans concerned about human rights in urging Soviet President Brezhnev to grant Anatoly Shcharansky his freedom. There is only so much more suffering that he will be able to endure.

I have spoken out often on behalf of Anatoly Shcharansky. He symbolizes the spirit and courageousness of Soviet Jews who seek only to live free from persecution and repression. As long as it has been since I met Anatoly Shcharansky, my impression of his inner strength and fortitude is vivid. But he is a human being, and his weakened physical condition may not enable him to survive solely on his spiritual capability.

There are few cases which deserve a greater effort than the plight of Anatoly Shcharansky. I know all my colleagues join in a continuing effort as strong as Anatoly's devotion to his cause in seeking his freedom to live again with beloved Avital in Israel.

● Mr. ROE. Mr. Speaker, I rise today to commemorate the fifth anniversary of the imprisonment of Soviet dissident Anatoly Shcharansky. This is indeed a very sad occasion. Anatoly Shcharansky sits gravely ill today in a Soviet prison camp on trumped up charges that he was a spy for the CIA.

But the simple truth is that the Soviets have continued to harass and punish Shcharansky and other Jewish dissidents because they had the courage to speak aloud for freedom and conscience.

The world knows that Shcharansky's only "crime" was to belong to a group that sought to monitor the Soviet's compliance with the Helsinki accords. His most severe punishment was the Soviet's way of stating that dissent of any type will not be tolerated.

Mr. Speaker, it is imperative that pressure be placed on the Russians by this Nation to set Anatoly Shcharansky free. This brave man is in very ill health and continued imprisonment under the harsh conditions he is now tolerating could very well result in his death. Last September he was hospitalized for 33 days after collapsing from hunger in a Russian punishment cell. In January, his mother and brother were permitted to see him for 2 hours. They were the first visitors he has had for more than a year. His mother reported that his eye disorders and severe headaches are a continuing health problem and she feared that she might never see him alive again.

All Anatoly Shcharansky wants to do is to leave Russia with his wife and to begin a new life in Israel. But his desire for freedom for all has resulted in his being sentenced to 13 years in a Russian cell.

All the Soviet Union understands is power. Our great Nation must use every means at its disposal, both economic and diplomatic, to force the Soviets to set Shcharansky free.

Anatoly Shcharansky is a symbol to all who speak out against oppression and wrongdoing. He must not be forgotten.●

● Mr. DOWNEY. Mr. Speaker. I would like to add my voice today to those of my colleagues in commemorating the fifth anniversary of the imprisonment of Anatoly Shcharansky. Shcharansky's continuing imprisonment and deteriorating condition over this last year are a sad and pessimistic reminder of the Soviets' unyielding oppression of their citizens. It demonstrates just how far we still have to go to further international standards of human rights.

In this last year, Shcharansky's story has become even more tragic. Because of an extended stay in a punishment cell, Shcharansky was hospitalized after collapsing of hunger this past November. After his release his recovery period has been spent at the harsh Chistopol Prison. In January 1982 his mother and brother were allowed the first visit to Shcharansky in 16 months. His deteriorating health underlines the harshness of prison conditions.

And of what reason, we may ask, has this man suffered so much? Authorities respond with the answer "treason." Yet when did an individual's desire to emigrate to Israel for a life with his wife become defined as "treasonous"? Shcharansky's 13-year sentence is a reminder of the outrageousness of a system that still exists in the Soviet Union. In 1977, his wife, Avital Shcharansky, was forced to leave the Soviet Union for Israel, and she was told that her husband would soon be permitted to follow. Yet she has waited for 5½ years.

But she must not wait alone. We must join in a vigil for freedom and human rights in the Soviet Union. This isolated case is only one of hundreds. Most important for those still awaiting freedom is the maintenance of hope that can only come from our unyielding efforts to pressure Soviet authorities. Our voices must join in condemnation of the Soviet Union's treatment of its citizens. Our support of these courageous spirits must not waver.●

● Mr. HUGHES. Mr. Speaker, Anatoly B. Shcharansky is a man who knows justice, but who has never experienced it. He knows that justice demands the freedom of the innocent, and the fair and impartial treatment of the accused. He knows that justice allows no room for discrimination or oppression. He knows this, yet he lives in a land in which there is no justice for those who fall out of favor with the state. He had the misfortune to be born a Jew with a conscience in the Soviet Union.

All that Shcharansky sought was the upholding of basic human rights: the fair treatment of Jews within the Soviet Union and permission to emigrate for those who want to leave. A just society would allow these things. The Soviet Union has reacted by sentencing him to prison and hard labor and, most recently, by trying to turn his punishment into a hell on Earth. Reports emerging from the Soviet Union reveal that he has been starved, overworked, isolated, and denied the basic right to practice his religion.

Now his sentence has been harshened by an additional 3 years of imprisonment, because Shcharansky has refused to admit guilt for crimes he did not commit. His trial, which reportedly lasted only 5 minutes, made Orwell's vision of totalitarian society look optimistic. The charge itself was absurd—refusing to admit to a crime which the state had created and for which it had committed him to a lengthy sentence, and being a bad influence on other prisoners. Against the first charge there was no defense short of abandoning his principles and admitting to a false offense. Against the second, Shcharansky replied that his extensive time in solitary confinement made him unable to influence other prisoners. But the Soviet authorities were not looking for facts, they merely wished to impose additional cruelty in their unceasing effort to destroy him.

By speaking out today we remind the world of that which they should already know, that the Soviet Government has destroyed freedom within its borders and that it is brutally persecuting those who would resist it. Jews have been singled out for particularly outrageous treatment, and their persecution has worsened in recent months. For Jews, emigration provides the only hope for freedom yet, according to one publication, by the end of 1981 emigration of Jews had been reduced by 82 percent over the previous 2 years.

Anatoly Shcharansky is one of the most visible symbols of the Soviet Union's brutality. He is also a man who has faced extraordinary suffering. As we enjoy the fruits of our democratic society today, let us remember Shcharansky and others like him. Let us also raise our voices to gain his freedom and to uphold human rights throughout the world.●

● Mr. McGRATH. Mr. Speaker, again we take time out from our deliberations to mark a dark day in the movement for international respect of human rights. Five years ago today, Anatoly Shcharansky was arrested and imprisoned on charges of treason and espionage. His real offense was a strong desire for freedom from the oppression of the Soviet police state. He has been incarcerated because his conscience would not permit him to stand idle in the face of persecution and injustice and he bravely protested Soviet policies preventing emigration and threatening those who wish to practice their religion.

For those who do not consider the Soviet Government a threat to all individual liberty, I urge careful attention to the case of Anatoly Shcharansky. Following his initial request for a visa, Anatoly lost his job. Soviet authorities made it extremely difficult for him to marry by refusing to grant permission for a civil ceremony and making lame excuses. When Anatoly finally was allowed to marry, his wife was forced to leave the Soviet Union 1 day after their wedding. This was only the beginning of Shcharansky's struggle.

He faced 3 years of repeated harassment and surveillance by the KGB along with vicious attacks in the Soviet press. His wife remains waiting for him in Israel. Shcharansky was imprisoned for well over a year with no trial and no opportunity to visit or even communicate with friends and family. He then was tried and received a predetermined sentence totaling 13 years. He continues to serve that sentence today and our efforts are one of his few hopes for early release and the chance to be reunited with his wife.

Last evening, I had the privilege of joining four of my colleagues and over 800 residents of Long Island at the Annual Freedom Dinner of the Long Island Committee for Soviet Jewry. The name and the plight of Anatoly Shcharansky were cited by several speakers as an example of the horrors unleashed by the Soviet Government upon its Jewish citizens. Over the past year, the flow of emigrants from the Soviet Union has been reduced to a trickle and increased pressure and brutality are the price for those who state their intention to leave.

As we mark this sad anniversary of Soviet inhumanity, I ask once again that all who have the honor and the freedom to speak in this Chamber, join in the struggle to help those who are deprived of the rights we guard for our own citizens. For the thousands of unfortunate people who share the fate of Anatoly Shcharansky, we must pledge to redouble our efforts in their behalf.●

● Mrs. KENNELLY. Mr. Speaker, I join my distinguished colleagues in calling for the release of Soviet refusenik Anatoly Shcharansky. Today marks the fifth anniversary of Anatoly's imprisonment by the Soviet Government on charges of treason. Yet, his only crime was his request to emigrate with his wife, Avital, to Israel. Just 1 day after the couple's July 4, 1977, wedding, Avital was forced to leave the Soviet Union for Israel. She was told that her husband would soon be permitted to follow.

It has now been 5 years that Avital has been waiting for her husband. He has spent that time in labor camp and prison, most recently being accused of "continuing to consider himself not guilty."

Anatoly's only visitors in the last 16 months have been his mother and brother who were allowed to spend 2 short hours with him in January of this year. They report that he is not well, having been hospitalized for 33 days in September after collapsing from hunger.

Anatoly Shcharansky's harassment by Soviet authorities is not an isolated incident. All Jews in the Soviet Union, today more than any time in the previous 10 years, are engaged in a daily struggle for survival. Soviet authorities appear to be implementing a calculated plan to close the doors on emigration and suppress all Jewish activities. There has been an alarming decrease in the number of Jews allowed to emigrate from the Soviet Union in recent years. In 1979 51,320 Jews left the Soviet Union. By last year that figure had dropped to 9,447.

The Soviet Union's continued persecution of Anatoly Shcharansky and other refuseniks is a direct violation of the commitment to human rights the Soviets made when they signed the Helsinki accords. I join my colleagues in calling on the Soviet Union to uphold this commitment by releasing Anatoly Shcharansky and allowing him to join his wife in Israel.●

● Mr. FITHIAN. Mr. Speaker, I join my colleagues in expressing frustration and anger regarding the plight of Anatoly Shcharansky, a Soviet citizen who today marks his fifth year of imprisonment for seeking permission to join his wife in Israel. Anatoly Shcharansky's health is failing as a result of his lengthy imprisonment and harsh treatment. Despite this, he is certain to endure further suffering and despair as he faces several more years in prison.

Like many of you, I am disturbed by the increasingly stringent Soviet response to individuals who seek exit visas. And I am concerned for those Soviet citizens who endure harassment and persecution by their neighbors and their government because they choose to practice their religious faith or seek to emigrate from the Soviet Union. Anatoly Shcharansky's continued imprisonment is an unwarranted and excessive display of Soviet disregard for these basic human rights.

As Americans, we enjoy freedoms which most people around the world can only dream of. The freedom of worship and the right to emigrate are especially precious. I join my colleagues in calling upon the Soviet Union to honor its commitment to these principles as embodied in the Helsinki accords, and to recognize Anatoly Shcharansky's right to emigrate and join his wife in Israel. I urge his immediate release.●

● Mr. AuCOIN. Mr. Speaker, for years I have followed with outrage the step-by-step deterioration of living conditions for Anatoly Shcharansky.

This is the fifth anniversary of his imprisonment in the Soviet Union, and still Anatoly Shcharansky and thousands of other Soviet Jews refused visas are in prison. He is under a 13-year sentence for crimes he did not commit. Indeed, his only offense is his desire to emigrate to Israel to join his wife.

Since last we marked the anniversary of his imprisonment, conditions have worsened for Shcharansky. In the fall, he collapsed from hunger as a result of severe punishment and was hospitalized for 33 days. Upon his release from the hospital, he was sent to Chistopol Prison for 3 years for "continuing to consider himself not guilty." There, conditions are even harsher than those in the labor camp.

His mother and brother were allowed to see him for 2 hours earlier this year. But those were his only allowed visitors in 16 months, and there are fears that the harassment of Shcharansky is intensifying.

As we mark with sadness yet another year of his imprisonment, we continue to admire the courage and strength of Anatoly Shcharansky. He is a symbolic leader of the dissident movement in the Soviet Union. He is one of the major forces behind the refusenik initiative, for he founded the group to monitor implementation of the Helsinki accord in the U.S.S.R., the very agreements intended to protect the civil, political and human rights of all Soviet citizens.

We in Congress see in the Shcharansky case a stark reflection of the anti-Semitism that is a part of official Soviet policy—a policy that results in harassment, arrest and imprisonment of Soviet Jews at an alarming rate. We pledge our efforts to ending this injustice and call on the Soviet Union to release Anatoly Shcharansky and permit him to join his family in Israel.●

● Mr. LUNGREN. Mr. Speaker, Russian history is filled with nightmarish instances of justice denied and subsequent human misery. Who can forget Solzhenitsyn's account of the arbitrary 10- and 20-year sentences imposed on his innocent countrymen for the most absurd imagined transgressions against the all-powerful Soviet state?

The case of Anatoly Shcharansky is just such a nightmarish instance—the stuff of which existentialist novels would be written, if the facts were not so frighteningly real.

Imprisoned for 5 years today, Shcharansky's plight makes "catch 22" seem rational by comparison.

Shcharansky applied for permission to emigrate to Israel, to settle there in peace with his newly acquired bride, Avital. A computer specialist by trade, he was denied that permission on the specious grounds that he was privy to secret state technology relating to computers. In light of the widely known backwardness of Soviet computer technology in comparison to the industrial nations of the Western World, the Soviet rationale becomes laughable.

But the further treatment of this man takes on the character of a grim tragicomedy. He was then faced with the criminal charge of having worked as an agent for the U.S. intelligence organization, the CIA. President Carter investigated and accurately informed the world that this was so much Soviet fantasy. Not only was the Jewish dissident leader not a functionary of the CIA, but the circumstances surrounding his life make it ludicrous to recommend that he would have ever been of even the slightest use to the CIA.

At a mockery of a trial on this Soviet capital offense, Shcharansky was denied even the basest of "rights" presumably afforded him under the Soviets' own laws.

He was then held in solitary confinement for 16 months prior to going to trial and during that time he was denied the right to legal counsel.

He was then tried, found guilty on all counts, and sentenced to 3 years in prison and an additional 10 years in a forced labor colony.

He was then denied access to the official court documents, thereby making an appeal virtually impossible. He was then formally denied the appeal to which he is entitled under Soviet law.

During the trial one of the supposed pieces of "evidence" presented against him was testimony that he had transferred state secrets to Los Angeles Times reporter Robert Toth. These state secrets where not secrets at all, but rather the readily available names and addresses of other Soviet subjects who had been denied the right to emigrate on the grounds that they had been privy to classified state information.

Shcharansky was clearly cited as the source of the information in the Los Angeles Times. Was this the activity of a "top secret" undercover agent for the CIA?

The denial of legal right to Shcharansky was compounded by the fact that Toth was not permitted to testify at the trial, even though he expressed his willingness to do so.

In massive violations of human rights, Shcharansky has since been systematically tortured by Soviet prison authorities. He has been denied access to his prayer book and other personal religious artifacts. He has been systematically starved to the point where his weight has dropped from 134 pounds to 91 pounds and he is now losing his eyesight and memory. He has been denied regular visits and mail from his mother and wife. He has been held in grueling solitary confinement for days and weeks on end. He has been assigned hazardous, backbreaking work details.

We can only guess at the other forms of physical and psychological torture being inflicted upon this man, whose only crime is that he wants to join his wife in Israel. That he has seen her only once since the day of their wedding is the true Dostoevskian absurdity of this affair.

The treatment of Anatoly Shcharansky is merely symptomatic of a pattern of increasingly severe treatment of political dissidents, Jews, and other ethnic minorities by the Soviets.

This is in clear violation of the Helsinki accords to which the Soviet Union is a signatory. They state:

> The participating states will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all which derive from the inherent dignity of the human person and are essential for his free and full development.

If those are to be more than mere words inscribed upon a parchment, then Anatoly Shcharansky must go free and be allowed the right to emigrate to Israel. All of us must join together in the understanding that there can be no "business as usual" with any government that so abuses the basic human rights of its people.●

● Mr. HOLLENBECK. Mr. Speaker, I welcome this opportunity to once again rise and join with my colleagues in appealing to the Soviet Union for the release of Anatoly Shcharansky. It was 5 years ago today that Mr. Shcharansky was arrested. As we all know, Anatoly received a severely inflated 13-year prison term in July 1977—the result of trumped-up espionage charges. The 13-year sentence was imposed by Soviet authorities despite Presidential intervention attesting that Mr. Shcharansky was not in any way associated with the Central Intelligence Agency.

Now, 5 years later I regret to say that the situation has worsened. Ida Milgrom, who saw her son at Chistopol Prison for the first time in 18 months reported that Anatoly had been on a starvation diet throughout 1981 leaving him thin and pale, unable to read, write, or perform simple tasks. She also reported that his prison sentence had been extended 3 years following a 5-minute trial at the end of October by a tribunal which heard no defense.

The Soviets handling of this case has been recognized worldwide as a blatant example of injustice and a violation of human rights. To imagine such an unjust series of events, in direct violation of the Helsinki accords, can actually occur in modern times is, indeed, a depressing thought. As civilized people with an inherent respect for human rights, we must not relent in our efforts to secure the release of Anatoly Shcharansky. We must continue to persevere.

I am proud to join my colleagues in condemning the Soviet Union for their shameful injustices in the case of Anatoly Shcharansky. I can only hope that civilized people worldwide will not relax their efforts to achieve Mr. Shcharansky's expeditious release.●

● Mr. MOFFETT. Mr. Speaker, today we commemorate an event which brought great sadness to those of us concerned with human rights around the world: The fifth anniversary of the arrest of Anatoly Shcharansky. Shcharansky, a Soviet Jew who was denied the right to emigrate to join his wife in Israel, was imprisoned for his work to improve the human rights situation in the Soviet Union.

Since last November, Mr. Shcharansky has been held in the Chistopol Prison, 550 miles east of Moscow. He will remain there for 3 years and will then be returned to the labor camp where he served the first 3 years of his 12-year term.

The Soviets' brutal treatment of Shcharansky has left him weak and emaciated. Yet the example of his bravery and commitment to justice thrive stronger than ever. Although imprisoned and subjected to inordinate cruelty, he adheres to his religious beliefs and his dedication to helping others.

Mr. Speaker, we must not forget the tragic plight of this prisioner of conscience, whose fate highlights not only the barbarity of the Soviet Union's policy toward its Jewish citizens, but also the courage of Jews in the U.S.S.R. These people have sacrificed everything in their search for freedom. We must be vigilant and vocal in condemning their persecution by the Soviet Government.●

● Mr. BLANCHARD. Mr. Speaker, I would like to take this opportunity to join in the special order taken today by my colleagues from New York, Congressman BINGHAM and Congressman GREEN, to commemorate the fifth anniversary of the imprisonment of Anatoly Shcharansky.

On a number of occasions, I have alerted Secretary Haig to my concerns about Shcharansky and all other Soviet Jews—who are being persecuted in direct violation of the Helsinki accords. Last September, Shcharansky collapsed from hunger as a result of an extended stay in a punishment cell and was hospitalized for 33 days. Upon his release from the hospital, he was sent back to Chistopol Prison for 3 years. All of this, because he wishes to emigrate to Israel to be with his wife.

Sadly, Mr. Shcharansky's circumstances are not uncommon. Those of us who support the cause of human rights must continue to speak out against the tyranny that continues to befall Anatoly Shcharansky and countless other Soviet Jews.●

● Mr. LANTOS. Mr. Speaker, today marks the fifth anniversary of the imprisonment of Anatoly Shcharansky. Again, we must speak out and tell the Soviet Union, Shcharansky must be released.

Since last year at this time conditions have greatly worsened for Shcharansky. In September he collapsed from hunger as a result of an extended stay in a punishment cell and was hospitalized for 33 days. Upon his release from the hospital in November, he was sent back to the notorious Chistopol prison fo the 3 years for continuing to consider himself not guilty. Conditions in prison are much harsher than those in the labor camp.

In January 1982 Shcharansky's mother and brother were permitted to see him for 2 hours. They were his only visitors in the last 16 months. His mother fears that the severe headaches and eye disorders from which he suffered during the first 3 years of prison are returning.

The Shcharansky case is an outrage that offends free men and women everywhere. Shcharansky was convicted of treason. But what is his real crime? Only his desire to emigrate to Israel with his wife. For that crime Shcharansky was sentenced to 13 years imprisonment.

It has now been 5 years. Shcharansky's imprisonment is especially cruel because of his separation from his wife, Avital. Avital was forced to leave the Soviet Union for Israel 1 day after their July 4, 1977, wedding. At the time, she was told her husband would soon be permitted to follow. Avital, in Israel, has been waiting for her husband for 5½ long years.

Our message today is loud and clear: Shcharansky must be released. We will not quiet our voices until the Kremlin finally allows Anatoly Shcharansky to join his wife in freedom. Shcharansky must be released.●

● Mrs. HOLT. Mr. Speaker, it is very difficult for an American to understand the plight of a person such as Anatoly Shcharansky. How can we understand the imprisonment of a person for 15 years because he wanted to emigrate from his native land?

Anatoly Shcharansky remains in prison, in ill health. He has never been a threat to the Soviet police state, but wanted only to leave to join his wife in Israel. Last September he collapsed and was hospitalized for 33 days, then returned to prison.

The situation of Anatoly Shcharansky describes the condition of Soviet society. Thousands are in prisons or remote labor camps because they voiced dissent. It is government by terror. It is the kind of government that the Soviet rulers would extend across the Earth, if they could.

That is why we must all be interested in the case of Anatoly Shcharansky and the thousands of other cases like his. They show us what the future will be if we fail to maintain the will and the strength to resist Soviet advances.

We stand for something far better than the Soviet vision of the world. We cherish the concept of individual liberty and today we demonstrate our commitment to this value by appealing for the freedom of Anatoly Shcharansky.●

● Mr. LENT. Mr. Speaker, this day, March 15, 1982, marks the fifth anniversary of the arrest of Anatoly Shcharansky, one of the most courageous fighters for freedom in the Soviet Union. It is a tragic anniversary for Shcharansky, whose struggle with the heartless Soviet regime has won the admiration of the world. When he was seized by the Soviet authorities on March 15, 1977, there was a worldwide reaction of shock and outrage. It was not until more than a year later that the Soviets brought Shcharansky to a show trial with trumped-up charges of treason, espionage, and anti-Soviet activity. He was sentenced to a 13-year prison term.

Anatoly Shcharansky was really sent to prison because of his success in alerting the world to the Kremlin's unrelenting persecution of Soviet Jews, not because of treason or espionage. His unrelenting efforts to achieve freedom for himself, his wife, and others brought about this harsh Kremlin action.

Shcharansky's arrest and imprisonment has brought a continued torrent of protests from around the world. His fate has become a focal point for United States-Soviet relations. Members of Congress, Senators, and even the President of the United States joined to denounce the false charges brought against Shcharansky, and to demand that he be set free.

But in the past year conditions have greatly worsened for Shcharansky. In September, he collapsed from hunger as a result of an extended stay in a punishment cell, and was hospitalized for 33 days. Upon his release from the hospital in November, he was sent back to Chistopol Prison for 3 years for "continuing to consider himself not guilty." Conditions in prison are much harsher than those in the labor camp.

In January 1982, Shcharansky's mother and brother were permitted to see him for 2 hours. They were his only visitors in the last 16 months. His mother fears that the severe headaches and eye disorders from which he suffered during his first 3 years in prison are returning. She observed that harassment of her son is intensifying, and that he did not seem optimistic about seeing her again.

Mr. Speaker, yesterday, March 14, 1982, I had the great honor of being the first recipient of the Anatoly Shcharansky Freedom Award for 1982, from the Long Island Committee for Soviet Jewry, which has played a major role in fighting for Shcharansky's freedom under the leadership of Lynn Singer. The Long Island Committee has established this award to encourage even stronger efforts to free this unfortunate victim of Soviet persecution.

We must do more for this most heroic man whose only crime is his desire for freedom. If we allow this sort of inhumane treatment to continue without protest, it will simply encourage the Soviets to increase their persecution of the thousands of Soviet Jews who seek, with Shcharansky, to breathe the sweet air of freedom in Israel. I urge each of my colleagues to join in our demands for the release of Anatoly Shcharansky and the thousands like him who wish to leave the Soviet Union. Our combined protests are surely to be heard, even behind the walls of the Kremlin.●

● Mr. BARNES. Mr. Speaker, I appreciate the opportunity to join with my distinguished colleague, Mr. BINGHAM in the special order for Anatoly Shcharansky.

The saga of this man's suffering, hardship, and the wrongful punishment he has endured, compel us all to protest vociferously and again call upon the Soviet authorities to do what is right and release Anatoly Shcharansky. Today, we mark the fifth year of his imprisonment and later this year will bring the fifth anniversary of his marriage to Avital. She has persistently worked for her husband's freedom since her release from the Soviet Union, just 1 day after their marriage. The Shcharansky's have lost almost 5 years of their married life to the shackles of Soviet injustice and inhumanity. We are here today to see that they are soon able to celebrate their marriage in the free world.

Our immediate fear is that Mr. Shcharansky's health, while waning over these years, has grown rapidly worse and he cannot withstand indefinitely the cruel treatment which has created and which prolongs his state of ill health. Last September, Linda Katz of my staff met with Mr. Shcharansky's brother, Leonid, and his mother, Ida Milgrom in Moscow, both of whom at that time has no recent news of his condition. Later in September, his mother received a letter from him dated July 1, during which time he was being hospitalized for blood pressure problems and a generally weakened condition. He indicated then that he weighed about 118 pounds and that his "eyes almost hardly bother me nowadays as I have been reading much less. * * *" Most recently we have learned that Mr. Shcharansky's mother and brother were permitted to visit him this past January. His mother feels that his condition is growing worse, that Soviet authorities have intensified their harassment, and that her son is not hopeful that he will be able to see his mother again.

The Soviet Government has repeatedly imposed this kind of arbitrary, inhumane treatment on innocent human beings who merely want the freedom to emigrate. How long will it take before the Soviet Government acknowledges that freedom and the dream of liberty cannot be locked up, starved, or hidden away, neither can it be psychologically erased. This dream lives in the hearts of the many who are oppressed and will not expire at the hands of force.

Mr. Speaker, I thank my colleague for calling this special order for Anatoly Shcharansky. I know that our protests will help because justice—albeit hard-won—will triumph.●

● Mr. WAXMAN. Mr. Speaker, it is with great sorrow that I join once again with my colleagues in calling for the immediate release of Anatoly Shcharansky.

The treatment Mr. Shcharansky has endured at the hands of Soviet authorities in the past year and a half is beyond belief. The sheer time and energy that is spent by the authorities in oppressing their own people is incomprehensible. But the magnitude of the crime being committed against Anatoly Shcharansky, his family, and humanity itself, is an absolute outrage. I am sometimes at a loss as to how we can best communicate with the Soviets. I know that we speak a different language. But do we not have at least the most basic of human needs in common? Anatoly Shcharansky's right even to live is being abrogated. I stand in awe of him. Through all of the physical and psychological torment, his spirit and his dignity and his will remain intact.

I urge the Soviet officials responsible for the atrocities being committed against Shcharansky, to try for just 1 minute to imagine the sense of outrage they themselves would feel if they were treated as he has been. I urge them to give him the freedom which is his right.●

● Mr. GUARINI. Mr. Speaker, I join with my colleagues today as we mark the fifth anniversary of the imprisonment of 34-year-old Anatoly Shcharansky. We are all aware of the shocking details of his imprisonment and the plight of thousands of Jews in Russia who choose, like Mr. Shcharansky, to practice the religion of their fathers.

We must continue to bring this message to the world in order to underscore the continuing indifference of Moscow of the rights to political and religious freedom of its citizens as guaranteed by the signers of the Helsinki accords. The valor displayed by Mr. Shcharansky in light of his brutal treatment in isolation cells and subsequent weakening from sickness stands in stark contrast to the inhumanity of his captors.

What is Anatoly Shcharansky's crime? For what has he spent 5 years in prison camps with another 8 years yet to serve? He has spent this time imprisoned because he wished to emigrate from the Soviet Union so that he could pursue a freedom which he had not known in Russia. He wished to both practice his religion and escape from the harsh persecution of the Jews in the Soviet Union. However, fighting for these rights, which every American takes for granted, he has become a living example of what he wished to escape. Like many Soviet Jews he was charged with treason and sent to jail on trumped-up charges.

With his health failing, Mr. Shcharansky's mother, brother, and friends appealed for help in trying to gain Anatoly's release. To date government officials have not complied with these requests, and Mr. Shcharansky's health continues to deteriorate.

And yet the Soviets continue their cruel and inhumane treatment. His wife, Avital, was forced to leave Russia in 1977, 1 day after the couple was married. She left with the understanding that her husband would soon follow. To this day they have not seen each other again. With each attempt Mr. Shcharansky makes to get his prayer book back, the Soviets declare harsher measures of punishment.

Mr. Speaker, the words of Ida Miligrom, Anatoly's mother, should be heard all over the world. It is both a message and a question, "Is there any way that this world can prevent the destruction of an innocent victim of arbitrary cruelty?"

I hope for the world's sake that the answer is "Yes." I call upon the Soviet Union to release Anatoly Shcharansky as a signal to the world and to its people that they will follow the Helsinki accord of 1975 and allow its citizens the right to religious freedom and emigration.●

TRAGEDY IN AMERICA'S NURSING HOMES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. Ratchford) is recognized for 15 minutes.

Mr. RATCHFORD. Mr. Speaker, I take this time in the hope that collectively working together we can prevent a tragedy in the making in America. I refer specifically to the situation in America's nursing homes and the impact on those homes of the budget as proposed and the impact as a result of regulations being discussed by the administration.

During this 15 minutes, I would like to discuss specifically what this means in the country and very specifically how it will impact the nursing homes in the State of Connecticut. When we talk about nursing homes in America, 1.3 million Americans who are there presently under funding received from medicare and medicaid, more often than not we are talking about the frailest of the frail elderly. We are talking about those frequently who are forgotten people and we are talking about Americans who probably are in their late seventies, eighties, or nineties.

My own background in this field is as a direct result of State service in the State of Connecticut. In 1975 the then Governor, Ella Grasso, appointed me to chair an investigation of Connecticut's nursing homes. Through that investigation and through later work as Connecticut's cabinet level Commissioner on Aging, I grew to realize the very sensitive area of concern for far too few Americans.

In Connecticut, for example, as we talk today, there are 30,000 Connecticut residents living in 500 nursing homes; again, the frailest of the frail, those more often than not there through funding for medicare and medicaid and those more often than not there without family and without friends.

A vast majority of the homes in this country and, indeed, in Connecticut, are good homes with good staff and with good quality of care. But I found through my work, first as an investigator and then as a commissioner, that there were very real problems. These problems will only be expanded if we approve a budget which will cut back on inspection, which will cut back on medical supervision, which will cut back on the presence of social workers, and will cut back on a requirement that the day-to-day staff have training that is updated to the most contemporary medical practices.

Second, if the regulations being talked about are put in place, we are guaranteeing fewer inspections, fewer followup inspections, and the type of tragedy and horror stories that marked nursing homes in America in the 1970's.

Now, what types of abuse did we find in Connecticut?

Wooden frame homes with fire alarm systems that did not work. Frail elderly being housed on the second story of a home without a fire escape.

Patients wandering off and freezing to death because of inadequate staffing and improper supervision.

On the health front, we found patients who were physically abused. We found far too many patients who were overtranquilized, receiving as many as five prescription drugs daily; two of these being of a tranquilizing variety.

We found patients who were too often restrained, kept in their beds or strapped into chairs.

We found cases of understaffing, where to meet Federal codes or State needs we had a nurse being listed by her maiden name and her married name to show that there were two nurses onboard and as part of that staff.

And, yes, we found too frequently patients who were not maintained properly and as a result ended up with bad back cases and bed sores.

We found physical abuse. Two months ago in Connecticut a nursing home operator pleaded guilty to using Federal funds for the development of what—not quality of care in his home, but an X-rated movie, using taxpayers' dollars to produce that movie. And yet it was tolerated.

We found the case in Connecticut in the 1970's of one doctor who went back for the regular examination called for under medicare and spent an average of 5 minutes a patient, reimbursing each and every case himself the maximum under medicare. And he ended up with a nickname. They called him in Connecticut "the Runner."

And yet because of lack of oversight and supervision, this took place.

We found in one home as many as seven corporations set up because there was a cost-related reimbursement system and therefore there was one corporation to buy the land, another to develop the land, another to lease back the facility, another to manage the facility, another to provide cleaning services, linen, and laundry. Seven corporations in one home for reimbursement purposes.

We found patients' funds commingled so that there was no accountability as to what happened to their money.

And, yes, we found in the case of clinical laboratories there we had examinations that were being reimbursed that had not been performed.

Now, if the cutbacks called for under the administration's budget take place, we are inviting further disaster in this area.

Let me tell you what has happened in Connecticut as a result of these cuts.

In my own State, cuts for inspecting nursing homes under the Federal system have been reduced from $738,000 to $332,000. As a result, the inspection staff has been cut from 43 to 30.

Fire safety, five positions deleted.

Dietitians. The number of dietitians is cut in half.

Social work supervisor eliminated. The therapeutic recreational consultants eliminated. And the fiscal auditing scaled back dramatically.

You know and I know if this continues there is going to be only one result, and that will be more abuse.

Then in the area of proposed regulation. The budget is bad enough with what it will produce. But in the area of regulation, in the name of deregulation, the administration would eliminate the requirement that there be a physician director for each nursing home. Now, what that means is a nursing home without a physician directing it. And you tell me what that means. It means quite frankly lack of proper medical care.

Second, proposed under regulations that are being floated by the administration, no requirement for a social worker. What will we end up with? The warehousing of patients. The forgotten and frail elderly will be warehoused in the nursing homes of this country.

Third, the requirement for training, on-the-job training, to stay abreast of medical developments, will be eliminated or scaled back.

If this budget is approved, if these regulations are promulgated, the impact on the frail elderly, 1.3 million in nursing homes in America, can be disastrous.

So from the point of view of quality of care, from the point of view of concern for human dignity, and for the concern for the taxpayer who will pay for services that will be lacking in supervision, that will be lacking in fiscal accountability, and will lack an element of basic human dignity, I call on the administration to revise its budget and above all to submit regulations that will keep a commitment of basic human dignity to 1.3 million very important Americans who happen to be living in nursing homes.

I include the letter to Secretary Schweiker.

Hon. RICHARD S. SCHWEIKER,
Secretary of Health and Human Services,
Washington, D.C.

DEAR MR. SECRETARY: I write as a former Commissioner on Aging for the State of Connecticut and the chairman of a State Blue Ribbon Commission to Investigate the Nursing Home Industry to express my grave concern with Federal budget cuts that have made difficult the task of surveying nursing homes for compliance with Federal standards, and with proposed regulatory changes now contemplated by your Department that will effectively deregulate the industry.

While I recognize some of the burdens placed on nursing home administrators as a result of the maze of Federal and State requirements, I also recognize that the Federal Government must not abrogate a most critical function that stems from its enormous financial commitment to the care of those elderly who must be cared for in an institutional setting—the direct regulation of both the quality and safety of nursing homes and the varied services they deliver. I join with virtually every major national organization representing the interests of older Americans in urging you to immediately terminate all departmental activities relating to the drafting of proposed regulations in this area. I was particularly disturbed to learn that present plans call for the publication of the proposed new regulations in the Federal Register during the April congressional recess. Please be certain that a number of concerned members are prepared for that possibility and are committed to conducing public hearings across the country to inform citizens of the travesty that promulgation of such regulations would cause.

There are a number of specific concerns that I have. Given the urgency of this matter, it is my hope that you will provide me with a detailed response as soon as is possible to the following:

(1) Some nursing home operators make an understandable claim when they state that the inspection process is oftentimes duplicative, wasteful, and time consuming. The requisite forms for completion of the inspection process may well take days to fill out. Indeed, in light of the tremendous variation in the quality of nursing homes and the great cost and time associated with the inspection process, those homes with chronic deficiency records should be designated the principal targets for regular inspections. This must not, Mr. Secretary, be construed as an invitation to in any way diminish the Federal role in the inspection process. Since the horror stories of the early seventies scores of substandard nursing homes have been closed the result of increased regulation. While the situation has improved dramatically over the last decade, numerous reports would indicate that cases of fraud, neglect, and inadequate care remain widespread. Your own Inspector General will no doubt be able to verify the littany of cases that are spared prosecution each year. Yet at the same time, you have proposed further reductions in the level of Federal funding to State agencies to perform survey and certification functions. Never has the need for a strong Federal role been greater, particularly when State governments are unable to assume the costs of increased responsibility in this area. I would like you to address this seeming inconsistency, and learn of your own view as what the appropriate Federal role should be in this area.

(2) Further, I would like you to clarify some confusion that exists as to both current and proposed levels of funding for State inspection and certification activities. In the appendix accompanying the President's fiscal year 1983 budget proposals, it is maintained that $27.1 million was expended

for these functions in fiscal year 1981, an estimated $21.1 million in fiscal year 1982, and that $19.2 million is proposed for fiscal year 1983. However, State officials have been informed by Federal officials that only $13.5 million will actually be expended in fiscal year 1982 and that the distribution of funds to the States is based upon this figure. In my own State of Connecticut, funds for inspecting nursing homes and other medicare facilities were reduced from $738,000 last year to $332,000 this year, and its inspection staff has been reduced to 30 persons from 43. This has resulted in the loss of 5 fire safety inspectors, 1 of 2 dieticians, the only social work consultant, and 3 therapeutic recreation consultants. Further, the State is only able to support one financial auditor.

With limited resources, inspections have had to be limited to only those homes with poor performance records in the past. Thus, follow-up of any kind has been curtailed and a schedule for the inspection of other facilities has virtually been abandoned. I would appreciate clarification of these budgetary questions, as well as your comments on the changes in State inspection personnel and procedures that Federal funding cuts as necessitated.

(3) With regard to aspects of the most recent drafts of proposed new nursing homes regulations that I have became aware of, I have several primary concerns. First, existing statute and regulation places the greatest share of the responsibility for the development of an appropriate plan of care for each patient and proper monitoring activities with at least one physician director. The delivery of virtually all services is predicated upon physician approval, and certain patient rights to religious observance, free association, the control of personal property, and other basic rights are subject to the discretion of the consulting physician. Remarkably, proposed new regulations under study by your Department would not only repeal the requirement that every home have at least one physician consultant, but also eliminate the requirement for a social worker. I can think of no two more critical professionals in the determination of appropriate care, and yet these proposed regulations would yield to the operator of the facility in determining what personnel, if any, are best equipped to discharge these critical functions. I would appreciate your comments on these changes that are contemplated, and in addition any information that you might have as to suggested changes in requirements for pharmacy consultation, and the use of other outside resources.

(4) Finally, I am vehemently opposed to any changes that would diminish or eliminate requirements that nursing home personnel be provided with in-service training, that procedures be established to prevent the spread of communicable diseases, and that would lessen in any way existing requirements for the adherence to strict fire and safety codes. Your thoughts as to a continued federal responsibility in these areas would also be most helpful.

It has been asserted by those in your administration responsible for early drafts of these regulatory changes that the nursing home industry in America is over-regulated and that reform in this area will save the Federal Government substantial sums of money. It is my contention, Mr. Secretary, as one who understands these issues quite well that in perhaps no other industry has the effect of increased regulation been so positive. In fact, there are many who share my view that there are areas that demand Federal oversight where it does not now exist, and that there are relevant statutes and regulations that unwisely go unenforced. Further, I fail to see how closer scrutiny of nursing home financial activity and levels of care will result in greater expense to the Federal Government. Rather, I suspect that such action will only help constrain medicare and medicaid costs by rooting out fraudulant claims, and by assuring the delivery of appropriate services to those who need them.

Should you approve the promulgation of these regulatory changes, Mr. Secretary, you will do a great disservice to the some 1.3 million elderly that reside in nursing homes today under the medicare and medicaid programs. I fear that the deregulation of the nursing home industry that these changes would effect might represent a major step backward in our critical effort to provide safe and adequate care to those who need it. I, for one, am prepared to take whatever action necessary to prevent the implementation of any changes in existing standards that will return us to the tragedies and the disgraces that marked the industry only a short time ago. I urge you, Mr. Secretary, to reject any proposals for changes in this area. I would be more than pleased to work with you and your staff in the development of changes where the regulatory burden on the industry is genuinely excessive and unnecessary, and on areas where the Federal role must be strengthened.

I thank you for your personal attention to this matter of great importance, and look forward to your immediate response to the concerns mentioned here.

Sincerely,

William R. Ratchford,
Member of Congress.

PRETRIAL DETENTION

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I wish to point out that this week I am introducing legislation which deals with the all-important and very serious issue of crime control.

The bill that I introduce this week permits pretrial detention of certain dangerous and certain violent criminals. The bill rounds out my legislative program which is designed to curb and control crime in this country.

Last fall I introduced three bills which are designed to toughen the Federal laws to help curb America's rising crime rate by strengthening the existing mandatory penalties for using or carrying a firearm during the commission of a felony, for establishing constitutional procedures for the imposition of the death penalty in Federal cases, and providing for Federal criminal penalty for certain robberies involving drugs.

This bill that I am introducing this week permits the Federal courts to deny bail to persons whose release would jeopardize the safety of the public. Under this bill's provisions, a hearing to determine if someone accused of a crime should be detained prior to trial is mandated in all cases involving crimes of violence, an offense punished by life imprisonment or the death penalty, and certain narcotics cases.

We must do all we can on the Federal level to stop the rising crime rate. This bill together with the other legislation I have introduced should be a step in the right direction. I urge my colleagues to support it when the time comes for debate and vote on this floor.

DEFENSE CONTRACTOR LOBBYISTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. Weaver) is recognized for 30 minutes.

Mr. WEAVER. Mr. Speaker, my congressional district is the largest timber-producing district in the United States of America, and we are presently in the worst unemployment situation since the 1950's. The reason for this is the high interest rates that have put a depression on the housing industry and the huge Federal deficits over the years that are projected to be even larger in the years to come.

And so it was when I saw in the Washington Post this Sunday one more story about defense contractors trying to get more of our Federal budget than they already have; when I saw in the Washington Post a story by Walter Pincus describing the lobbyists, the defense contractor lobbyists on the Hill who are trying to get even more money for their weapons machines with vast cost overruns, trying to gobble up more of the Federal taxpayers' money, putting my congressional district further out of work, I felt deeply outraged.

I noticed in the beginning of the story it talked about the Army's AH64 Apache attack helicopter, one of the most costly and controversial of the Army's new weapons programs. The story said that in the past few months the Army's projected cost estimate for the first AH64's has risen almost 40 percent, making the entire $6 billion, 356-helicopter program a prime target for legislators seeking to cut defense spending—as it should be.

But then the lobbyists are coming into town to protect their gravy train at the cost of the rest of the Nation's employment and, in my estimation, weakening our national security.

It so happens that one defense industry lobbyist was at a dinner several weeks ago at which one of my aides was present and they began discussing foreign policy and national security. My aide mentioned that he worked for me and that I opposed the military involvement in El Salvador. And this individual leaned over to my aide and said, "Do you know how much money there is to be made in El Salvador? We are going to make that money."

Now, that is the statement of the man, one of the men coming in, trying to get more money for their defense contracts.

Was national security at stake? No. Was our position in the world at stake? No.

It was how much money could the defense industry make on a conflagration such as exists in El Salvador.

He leaned over to my aide, and said, "Do you know how much money there is to be made in El Salvador? We are going to make that money."

Another story in the Washington Post this year has as its headline "Defense Spending Seen Hurting Economy" by Hobart Rowan. It begins:

> President Reagan's Council of Economic Advisers says the sharp increase he has proposed in defense spending over the next 6 years will create "adverse economic effects" as the Pentagon competes with rising civilian demand for durable goods.

And so we are throwing money at the Pentagon to the detriment of our economy, to the weakening of this Nation.

One person in this body was quoted in the newspaper as saying that we have thrown so much at the Pentagon that they are simply vomiting money, and vomiting does not create national security or the confidence of our people in our Defense Establishment.

I for one want the strongest possible defense. I want our shores to be completely secure. I want our military to be proud and confident as well. And I will support any valid, good, military program that will increase our security. But the billions and billions and billions of dollars that are being thrown at the Pentagon for weapons systems with cost overruns, with waste and extravagance is weakening our national security.

A story from the Wall Street Journal. A new troop carrier leaps hills, fires on the run. But after 20 years of work its price tag has hit $1,880,000 each.

□ 1230

The M-1 tank that requires a bulldozer to go out and dig its holes for it, and the M-1 tank itself riddled with cost overruns, and a transmission so sensitive that it does not work much of the time—how is this helping us? A stronger defense it is not.

But, what does this administration want to do? Build more hydrogen bombs. Build more Apache helicopters, and M-1 tanks and sitting ducks nuclear carriers at a cost of billions and tens of billions of dollars, and thereby weakening our economy. I believe this is the worst possible thing we could do to keep this Nation secure and confident, and I plead with this body and I plead with the administration to listen to the people of this country, who know—who know that the first and foremost thing we must do for our security is have a strong, confident people and an economy that is providing jobs for the people.

But, I want to tell you something. In my congressional district we are fast approaching 20-percent unemployment. In some parts of my district we have 50-percent unemployment, where the timber industry is brought to a complete halt because of high interest rates depressing the housing industry. We need a balanced budget. I, for one, have voted for a balanced budget for the last half-dozen years, voting against the extravagance in all the spending programs. There is not a Federal program, not a single one, that did not have extravagance in it and could have been cut.

But, my people say, "We want to go back to work and we want a balanced budget, but we do not want to do it at the expense of the poor or the needy, and now even the middle class, who are being hurt badly, while the wealthy get the tax breaks, while the oil industry and the nuclear industry get enormous tax loopholes and tax breaks. We want it to be fair, and we do not want to cut so deeply that our entire educational system is undermined, our true hope and our true investment for the future, our educational system, that which will produce the real people, the young people of today who will be the producers of tomorrow and the managers of tomorrow. They are the investment that we must make, not in simple gadgets that create more junk and not in more defense boondoggles that weaken our security. "So, therefore, we want a fair and balanced cut in our Federal programs to balance the budget, and one where everyone shares and shares alike in the cuts, in the tax cuts and in the budget cuts."

One last word in conclusion, and that is, when we talk about military spending in relation to the gross national product, we have got to remember one thing; that is, when a barber raises his price of his haircut, that increases the gross national product. When there is an automobile accident or somebody is taken to the hospital and the costs are counted up, that increases the gross national product. But no goods are produced and no services are really produced. But, when the military budget is expanded, that takes hard goods and that takes the core of our economy's resources and puts pressure on our economy and gives nothing in return in terms of goods and services for the people. Certainly, it is national security if the money is spent wisely, but in terms of the economy the military budget, the money put out for the military budget, does not produce goods that people are then going to buy in the economy.

So, it is the most inflationary kind of spending there is, and draws on our resources more acutely and deeply than any other kind of spending, more than when the barber raises his price. It puts, in effect, nothing back into the economy.

So, in order to balance the budget we simply must stop the cost overruns of these enormously expensive weapons systems and get the military budget back in line and get a lean, taut, military that we can be proud of and that the military themselves can be proud of; get the budget balanced and by putting people in this country back to work building a stronger economy on which our entire security is based.

THE 1982 HOUSING ACT HEARINGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, tomorrow the Subcommittee on Housing and Community Development will begin hearings on the 1982 Housing Act.

Last year's housing hearings were the most extensive ever undertaken, and this year again the subcommittee will once again be extensive and comprehensive.

Housing is as vital a sector as any in the American economy. The housing industry today is in the deepest and longest distress since the beginning of statistical measurements of the industry. Nor is the prospect for improvement cheerful, with the Reagan economic policies likely to keep the cost of mortgage money out of sight, and with the Reagan political aim of reducing the size of the housing industry permanently, though why this should be done has never been explained. Last year, housing industry lobbies were content to watch the Reagan program enacted; this year they see themselves as victims of that same policy, and they are anxious for help.

The Housing Act of 1982 aims to provide help for the housing industry, and it also aims to provide help for those citizens who need to find low-cost housing.

There are those who would say that low-cost housing is not the same as housing programs aimed for the recovery of the industry. But I say that if the middle class cannot afford housing, then the poor can afford it even less. If we help only some of those who need help, and exclude those who are in the greatest need, we are committing a grave error. Those who need the greatest help do not belong to and cannot afford to contribute to political action committees, and I hope that the day will never come when our legislation speaks only to the need of those who can funnel contributions to political campaigns.

I believe that we have to have a housing policy that reaffirms the historic national commitment to adequate housing for every citizen, and the housing bill before my subcommittee would do exactly that—reaffirm our historic national commitment.

Last year, for the first time ever, the Housing Subcommittee heard from the most humble kind of people—ordinary residents of public housing, ordinary farm-workers desperate to find decent housing—as well as from the likes of administration stalwarts such as David Stockman. That is the way it should be. Our policy affects the poor and humble, and so it must be shaped with them in mind—not the whims and fancies of administrators whose theories last less long than their own tenure in office.

We must have a comprehensive and effective housing program. That is what the 1982 housing hearings will demonstrate, and that is what the subcommittee bill aims to achieve.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, I was unavoidably absent on Thursday, March 4, 1982. Had I been present, I would have voted:

"Aye" on rollcall No. 16, approving the Journal of Wednesday, March 3, 1982;

"Aye" on rollcall No. 17, on agreeing to resolve in the Committee of the Whole House;

"Aye" on rollcall No. 18, passage of H.R. 5118, to provide water to the Papago Tribe of Arizona and to settle Papago Indian water rights claims in portions of the Papago Reservations; and

"Aye" on rollcall No. 19, passage of Senate Joint Resolution 142, to authorize the President to designate March 21, 1982, as Afghanistan Day, a day to commemorate the struggle of the people of Afghanistan against the occupation of their country by Soviet forces.●

THE ISSUE IN CENTRAL AMERICA: JUSTICE AND DEMOCRACY

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the Washington Post for Sunday, March 14, contained three articles on the situation in Central America which were particularly interesting because, despite the diversity of background and viewpoint of the writers, they all reached a similar conclusion. That conclusion: That we must cease allowing ourselves to get into the position of defending the indefensible status quo in countries where the population is rebelling against military repression and economic injustice and must develop ways of assisting the growth of centrist democratic elements.

One article is by John Bartlow Martin, former Ambassador to the Dominican Republic. He states that the causes of the trouble in Central America are simple, "Indeed they are one: Injustice." Ambassador Martin goes on to say that the debate now going on between the Congress on the one hand and Secretary Haig on the other seems to be based on a dangerous assumption: That if Haig can produce irrefutable evidence that Nicaragua, Cuba, and the Soviet Union are aiding the guerrillas in El Salvador, then we would be justified in intervening. Martin points out that that is the wrong question, that we should be debating a political, not a military, solution and policies to help shore up the vital center against the extreme right and the extreme left.

A second article is by William E. Colby, former Director of the Central Intelligence Agency. He makes the point that the United States must have a better choice than a brutal dictator or a hostile terrorist. He says that the missing dimension must be vigorous support of decent, responsible centrist leadership and political forces in Central American countries.

The third article is by columnist Richard Cohen, who makes up for the fact that he is not a specialist on Latin America by the eloquence with which he expresses what I am sure are the feelings of most decent Americans. Let me only quote here the beginning and ending of his article:

> I have a dream. I dream that someday the United States will be on the side of the peasants in some civil war.
>
> It is a perversion of history that a totalitarian regime like the Soviet Union gets to use the rhetoric of social progress and we get stuck on the side of privilege and reaction. It would be nice to proclaim our ideals, to have the poor and underprivileged of the world look to us—shout our slogans and consider us their friend.

Mr. Speaker, the full text of the three articles follows these remarks:

LISTEN TO LOPEZ PORTILLO

(By John Bartlow Martin)

Only a few weeks ago it appeared we were headed straight for military intervention in El Salvador. Now, thanks to the press and various members of Congress, and to Secretary Haig's self-inflicted wounds, even the secretary, having at last listened to what the Mexicans have been trying to tell us, seems to have paused in his headlong charge. Perhaps we can use the breathing space to ask what it is that we are about.

Of 199 U.S. military hostilities abroad without a declaration of war between 1798 and 1972, no fewer than 18 took place in the Caribbean. Early in this century, we intervened there mainly because of our anti-Kaiserism. Since World War II we have intervened there mainly because of our anti-communism. Usually we have cried panic over the Panama Canal.

Thus our Caribbean policy has always swung on a wider hinge—the hinge of our global (and domestic political) concerns. Isn't it about time we devised a policy for the Caribbean itself? We have not had one since President Johnson killed the Alliance for Progress and President Nixon buried it.

Recently, President Reagan set forth what his trumpeters called a new Caribbean Basin Initiative. Its three main proposals were duty-free entry of Caribbean products into the United States (with certain limitations), incentives to U.S. private enterprise to invest in the Caribbean and supplemental aid.

But many Caribbean products already enter duty-free, and surely President Reagan knows it is highly doubtful that Congress will extend the list over the anguished outcries of domestic industries and labor unions. Surely he also knows that what we think of as investment looks to the peoples there like Yankee imperialism. Indeed, in many Caribbean countries, it is doubtful that U.S. private enterprise has much of a future at all—they don't want it. As for supplemental aid, most of it will go to El Salvador.

Reagan's whole new initiative is tightly tied to his Caribbean crusade against Nicaragua, Castro and the Salvadoran guerrillas. We pay heed to the Caribbean only when something goes wrong. We are the only great power that does not take its near neighbors seriously.

Now a new cycle of revolutions from below has begun. In Nicaragua, the Sandinistas have toppled Somoza. In El Salvador, they seem about to defeat the government we support. In Guatemala, the Indians are rising.

What are the causes of this trouble? They are simple. Indeed, they are one: injustice. In some places, 400 years of it. In some countries, out in the countryside, campesinos are poor even by Asian standards—they never see $50 a year, yet their transistor radios give them a hint of what life could really be. For intellectuals, and for campesinos come to the city, injustice means military repression. But always the root cause is that too few people have too much land and money; too many have too little.

Time and again we have had a chance to join these revolutions. Time and again we have defended the indefensible status quo. I can think of only one decisive turning point where we threw our weight solidly against dictatorship: when President Kennedy sent the fleet to the horizon off the Dominican Republic to force out the heirs of Trujillo.

But our present national debate is not addressed to that issue. Instead, it is addressed to whether foreign communists are or are not aiding the Salvadoran guerrillas. Haig sees a dark conspiracy running straight to the Salvadoran guerrillas from Nicaragua from Cuba from the Soviet Union. But Castro would seem to have more to gain from accommodation with the United States than from helping the Salvadoran guerrillas. The Soviet Union would scarcely be eager to take on a second Latin client like El Salvador.

Just how are these evil conspirators running the Salvadoran guerrillas from Managua? By radio? By telephone? By courier? By satellite or smoke signal? I have had some experience with small Caribbean countries, and the notion that an apparatus in Managua could direct the activities of guerrillas in the caves and mountains of El Salvador is simply laughable.

Behind the debate now going forward between the press and Capitol Hill, on the one hand, and Haig on the other, lies a dangerous assumption—that if indeed Haig can produce "irrefutable" evidence that Nicaragua, Cuba and the Soviet Union really are aiding and directing the guerrilla movement in El Salvador, then of course we will be justified in intervening.

But that is the wrong question. We should be debating a political, not a military, solution to the Caribbean's troubles—policies to help shore up the vital center against the extreme right and the extreme left, policies to bring peace. We should start with the proposals of President Lopez Portillo of Mexico.

Central America: Can We Shore Up the Center?

(By William E. Colby)

In the cries of El Salvador's parallel to Vietnam, emotion overpowers rationality. A passive electronic-listening warship in international waters is equated to the Tonkin Gulf incident. M16 rifles in the hands of three American advisers are equated to the landing of the Marine combat forces in 1965. The problems of any guerrilla conflict are equated to the final defeat of South Vietnam at the hands of North Vietnamese artillery and armor. Perhaps we will also be presented with a desperate assault on the American Embassy in San Salvador for its media impact on American will—whatever its failure in practical terms.

Most disturbing is the view of the great American nation frightened of the prospect of military action, even in a dispute so close to its interests. What doubts must assail allies dependent on our treaty obligations of collective security as they observe this quivering panic produced by a few guerrillas in a neighboring country?

Yet there is some basis for the reaction. The frustration of the American military effort in Vietnam showed that something was wrong. The ponderous American military machine does not seem applicable to subversive war through proxies. The overthrow of the shah of Iran raises questions about the stability of an authoritarian force against revolutionary passion, whatever the economic and social improvements it may be making.

President Reagan's proposal for the Caribbean Basin and Central America properly allocates $5 for economic and social programs for every $1 spent on security assistance. This recognizes the deep-seated basis for revolt within Central America's oligarchic societies, grinding poverty and historically well-founded suspicion of the Yankee role. Only by such longer-term, positive economic and social programs can a change be made in these fundamentals on which revolutions are so easily founded.

In the meantime, security assistance is also essential to those nations struggling for their existence and the hope of a more democratic future. Not only are the revolutionary forces clear in their virulent hatred of the United States, but the examples of Iran, Vietnam and Cuba and, increasingly, Nicaragua also demonstrate that their authoritarianism will be more intense and brutal than what they propose to replace. A short-term security contribution to prevent an easy success of the proxy Soviet and Cuban adventure is well warranted.

But another dimension of strategy is glaringly absent: the political. The administration looks to elections to provide legitimacy in the nations of Central America, as though this will automatically produce popular allegiance. This is a nice theory, but it is obviously inadequate. It assumes that, if the revolutionary forces were to join the elections and win them, the outcome would be quite satisfactory. It also ignores the prospect that the most oligarchic and brutal forces may win elections, even free ones. The first outcome gives power to those hostile to the United States. The second ensures repudiation by American public opinion.

The United States must have a better choice than a brutal dictator or a hostile terrorist. The missing dimension must be vigorous support of decent, responsible centrist leadership and political forces in these countries.

In the 1950s and '60s, this duty would have been quietly assigned to the CIA. In Western Europe, it was remarkably successful in supporting centrist forces against communist subversive compaigns. But after the orgy of recrimination against our intelligence agencies in the mid 1970s, it is clear that assigning this mission to the CIA would be quickly revealed and denounced.

It is not necessary to turn to the covert approach. Many of the programs which in the 1950s were conducted as covert operations now are conducted quite openly and consequently without controversy. Radio Free Europe and Radio Liberty have been turned over to the Board of International Broadcasting. The Asia Foundation and projects to build labor and agricultural organizations are now supported out of official AID and similar funds.

One or more foundations or similar organizations should be openly established to assist the development of centrist democratic elements in Central America. They should be autonomously managed by appointed boards and funded by Congress. Schools, publications, activist organizations, congresses and the like should be generated and assisted, to enlist supports in the effort to produce a better society under local leaders. Such foundations should welcome the support of political groups and forces from elsewhere in Latin America.

These foundations would of course have to obtain approval from local governments for their activities, and to act in the open. But official American support could be expressed by sympathetic ambassadors in strong terms. This would undoubtedly arouse protests from communist and proxy groups throughout the world. These should be given the same consideration that we give to the distinction they pretend between the activities of the Soviet government and those of the Communist Party of the Soviet Union and its international fronts.

This political factor would give cohesion to the economic, social and security elements of our strategy in Central America. Rather than waiting hopefully for political results to come from economic and social programs, it would mobilize the population to achieve them. Rather than pretending neutrality among the potential winners of free elections, it would link the United States with dynamic and healthy leadership. And it would have no historical reference point in Vietnam.

Pipe Dream

(By Richard Cohen)

I have a dream. I dream that someday the United States will be on the side of the peasants in some civil war. I dream that we will be the ones who will help the poor overthrow the rich, who will talk about land reform and education and health facilities for everyone, and that when the Red Cross or Amnesty International comes to count the bodies and take the testimony of women raped, that our side won't be the heavies.

It would be nice for once if our side did not wear gaudy military uniforms and hide their eyes behind dark glasses. I would love it if our guys wore the suspenders and the wide hats and slept at night in the countryside instead of behind the guarded walls of some villa with a wife and a mistress and a Mercedes Benz.

I suppose that what I am saying is that I would like us once to be on the side of history. It would have been nice to have won in Vietnam and China before that. It would have been terrific to have been the Shah's enemy and the friend of the people of Iran. It would have been just great to have not been the buddy of the Somoza family in Nicaragua and the pal of every dictator who sends his money to Switzerland and his children to American military schools. Maybe then things would have turned out differently. Maybe then we would not be looking into the face of anti-American zealots like Khomeini.

It would have been wonderful if we were the country the Sandinistas turned to when they started their revolution in Nicaragua. Why not? We believe in democracy and equality and in freedom. This is the country that was formed in a revolution and that to this day is so unremittingly democratic that, at the Republican National Convention, the 55-mile-per-hour speed limit was denounced as government oppression.

Even now you have to wonder why we have this argument with Nicaragua. Why do we have to bolt in panic from any country that calls itself Marxist or socialist? So what if it is. China is communist and it is our new buddy. Its chief enemies are other communist countries: the Soviet Union and Vietnam. The Vietnamese, in turn, fight the Cambodians and the Cambodians fight each other, Communist cohesiveness exists only in American myth.

No matter. We are sort of at war with Nicaragua. The president has authorized $19 million so that CIA can "destabilize" the Sandinista regime. When the Libyans allegedly sent 10 or 12 terrorists here to "destabilize" our government, we predictably went nuts. Nations can not do these sorts of things to other nations. So why then are we doing it to the Nicaraguans?

Once again, we are the heavies. Once again, we play the role of the bully. We are, after all, past masters at destabilization. We have destabilized Nicaragua before with the Marines and we destabilized Guatemala with the CIA and we tried to destabilize Fidel Castro at the Bay of Pigs, but he just would not destabilize. Now Castro is our implacable enemy.

Only a dreamy romantic could overlook the realities of big power politics. You sometimes have to make unholy alliances—deal with the sort of people you would not have to dinner. History can ensnarl you. We are paying now in Latin America for the sins of the United Fruit Co., for a patronizing view of Central and South Americans that showed itself in a thousand movies starring women who wore bananas on their heads.

And only an idiot could overlook that rhetoric is only words. The North Vietnamese had terrific slogans, but they were silent about boat people. Sometimes oppressive right wing regimes are replaced by more oppressive left wing ones—sometimes atrocious ones like the Khmer Rouge in Cambodia.

But that's no reason to settle always for the status quo, to attach ourselves like barnacles to whoever is in power and to compel the forces of change to look elsewhere for support. It is a perversion of history that a totalitarian regime like the Soviet Union gets to use the rhetoric of social progress and we get stuck on the side of privilege and reaction. It would be nice to proclaim our ideals, to have the poor and underprivileged of the world look to us—shout our slogans and consider us their friend.

There are difficulties with this, I know. Practical considerations, I know. Don't worry.

It's just a dream.

A "DO-IT-YOURSELF" CONGRESSIONAL BUDGET RESOLUTION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

● Mr. **REUSS**. Mr. Speaker, there follows my testimony today before the Senate Budget Committee in which I suggest the Congress can resolve the budget crisis itself by linking repeal of the 1983 tax cut to the upcoming debt ceiling vote, and by attaching a congressional expression on monetary policy to the budget resolution. My testimony follows:

This country is in trouble. High interest rates, recession, unemployment, and bankruptcies are tearing us apart at home and eroding our position in the world. I am not one of those who sees a depression just around the corner. But I do see a destructive period of stagnation ahead, unless we change our course.

And on the course immediately ahead, there is a veritable minefield of dangers. The first budget resolution must be approved not later than May 15. Already there is talk that that budget resolution is an impossibility. Such a result, which would mean the end of the budget process, would be a tragedy.

Equally imminent is necessary Congressional action on an increase in the debt ceiling, already over a trillion dollars. That ceiling will be reached in early May. Already freshmen Republicans in the House are announcing their unwillingness to vote for an increase in the debt ceiling. Already Democrats in both bodies are wondering why they should undertake an unpopular vote to pierce the ceiling, with its implied endorsement of the deficits in the Reagan budget.

Failure to have a bi-partisan budget resolution in place by early May would court an extraordinary peril. In the absence of a bi-partisan alternative to the Reagan budget and its multi-hundred billion dollar deficits, a resolution to extend the debt ceiling will become a referendum on the economic performance of the Administration. I need not tell you that in such a referendum the Administration will fail. Today, Democrats and Republicans alike recoil from the harsh civilian spending cuts, the extravagant waste of money on defense, the intransigence on taxes, from the deficits, and above all from the manifest economic failure of the President's program. Few Members from either party would stand up to be counted in favor of the Reagan deficits on such a vote.

Thus the great drama before us must unfold to its conclusion in a matter of weeks—between now and the middle of May. The actors in the great drama are all identified—the two Houses of Congress, the two great parties, a President locked into his program and unwilling to give an inch, and a central bank bent on over-tightening money no matter what the cost in human misery.

Is there a way out?

I believe there is. It is the United States Congress—Senate and House, Republicans and Democrats—which must come to the rescue of the Nation's beleaguered economy, and must do so within the next sixty days. It would be nice if the President and the Federal Reserve were willing to enter into a fair compact with the Congress. But the clock is running, and we cannot wait.

Let us not ask Mr. Reagan how Congress shall compose its budget. Let us not ask Mr. Volcker how Congress shall exercise its Constitutional responsibility (Article I, Section 8) to "coin money, regulate the value thereof".

Let us not ask them. Let us tell them. Here is how.

In quick order, we need two pieces of legislation:

1. A First Budget Resolution, with the following four features:

a. Repeal the July 1, 1983 ten percent income tax reduction.

b. Increase military spending at no more than 5 percent per year in real terms—about half the real rate of increase which the President seeks.

c. Hold non-military spending to 1982 levels in real terms.

d. Direct the Federal Reserve to adjust its monetary targets and so allow interest rates to fall.

2. A bill on the debt ceiling and taxes, which must originate in the House Ways and Means Committee, which provides:

a. Whatever debt ceiling adjustment is needed to accommodate the recession-induced deficit.

b. A repeal of the July 1, 1983 income tax reduction.

In the present circumstances, the clear burden of compromise lies with the supporters of the President's program. The sources of our difficulties are the excesses of the program proposed by the President and enacted by the Congress last year. This is no secret. The tax cuts were too large. The defense buildup is vast, extravagant, and wasteful. Monetary policy is too tight. To command bi-partisan support, you cannot ask the poor, working people, the middle class and the elderly to accept a greater burden of cuts, while these three facets of the Reagan program escape revision. If the President refuses to acknowledge this, then the realistic leaders of Congress on this Committee must simply sweep the President out of your way.

Let me lay out for you what I, and the Democrats on the Joint Economic Committee, believe to be the four basic realities with which your Committee must cope.

ON TAXES

There is no way to escape modification of the Kemp-Roth income tax reductions. You can do it by subterfuge or you can do it directly, but you must do it. The ten percent reductions scheduled for July 1, 1982 and July 1, 1983 are the prime source of the deficit in the near future. No amount of fiddling with corporate taxes, however desirable, can close the gap opened by Kemp-Roth and indexing. Large-scale loophole-closing, however desirable on the merits, cannot be seriously proposed for immediate action. And excise or sales taxes currently under discussion in some circles are an insult to working people and will not pass.

The single most dramatic and effective action this Committee can take would be to propose the repeal of the July 1, 1983, 10 percent tax reduction. To ensure passage and to guarantee the President's signature, such a repeal should be attached to the debt ceiling legislation and both should be presented for immediate action.

Given such a guarantee of lower deficits, conservatives, moderates, and newly awakened anti-deficit liberals would support you. A major crisis in the affairs of the government would be averted. Given this prospect of fiscal responsibility and lower interest rates, the financial markets would relax. And even the President would be forced to thank you, in secret, for saving him from the worst aspects of his own folly.

On indexing, which takes effect in 1985, action may also be necessary, in order to prevent untenable budget deficits down the line.

ON MILITARY SPENDING

It is universally agreed, outside the Pentagon and the White House, that the military buildup proposed in the President's budget is too large and too rapid. Very few experts in national security matters argue that the size and pace of the buildup is necessary on national security grounds. Many, indeed, fear damage to national security, which may stem from initiating another cycle of feast and famine in military affairs, as this year's excess is corrected by next year's retrenchment.

On economic grounds, the pace and extent of the buildup entail dangers comparable to, and perhaps greater than, those experienced at the time of the Vietnam war. The Joint Economic Committee held a series of hearings last year on the inflationary dangers of production bottlenecks, labor shortages, and unbalanced macroeconomic policy resulting from the current buildup. We urge that the buildup be scaled back.

By how much? In this decision, the requirements of sound military and budget policy must weigh against the need for rapid agreement. The compromise initiated by your Chairman, Senator Domenici, which would limit defense spending growth to 5 percent after inflation, is a good one. I recognize that there are those in my own Party, with great expertise on military matters, including the ranking Democrat on this Committee, Senator Hollings, who urge a tighter limit on both security and budget grounds. But agreement on a complete bypartisan budget package ought not be held hostage to achieving a lower target than the 5 percent real growth to which Members of Congress can now readily agree.

ON CIVILIAN SPENDING

Congress in 1981 enacted, at the President's request, sharp cuts in discretionary social programs, in grants-in-aid to state and local governments, and in entitlements. Many Members voted for these cuts in the belief that the economy would respond to the full Reagan program with a surge of investment and growth, and so severe hardship would not result. Specifically, many cuts in programs supporting working people and the poor, including unemployment compensation, nutrition programs, Medicaid, AFDC, and labor training assistance, were enacted in belief that the demand for labor from the private sector would rise, absorbing the affected individuals in productive private sector jobs.

This of course did not happen. Those who lost CETA jobs are on the street; those who lost eligibility for Medicaid and welfare and day care and nutrition are eking out a reduced existence on the dole; and many formerly productive workers are bitterly in need of protection which our unemployment compensation program no longer provides. Fiscal distress in state and local government is also widespread. In the Congress, those who believed in the Reagan program have had their hopes dashed. Those of us who doubted have had our fears confirmed.

In ordinary times, the situation we now confront would lead to irresistible pressure to increase spending for public works and social welfare programs. I believe that, given the deficits and the need for a rapid, bi-partisan agreement, this pressure can and should be resisted, with small exceptions in the areas of extended unemployment compensation and labor training.

Further consideration of deep cuts in social spending at this time, however, would doom any prospect of bi-partisan cooperation to prevent a fiscal crisis when the debt ceiling is pierced, and would lead directly to the breakdown of the budget process. Sharp cuts in the social sector have already been made, and we cannot continue to ask that the burden be shared unfairly.

The First Budget Resolution should hold the line on discretionary social spending in real terms at 1982 levels. This would imply neither a cut nor an increase in current policy and programs. While many in my own Party would regard such a level of spending as inadequate in the face of widespread distress, I would again urge that this is an area where Democrats can compromise in the interest of rapid agreement.

ON MONETARY POLICY

We now come to a final, and especially difficult area. It is not the habit of the Congress to address monetary policy as part of the budget process. This year, however, we must chart a new course.

Monetary policy will determine whether the program you develop in the areas of taxes and spending will succeed or fail. If interest rates fall, you will succeed; if interest rates do not fall, you will fail. Any program to control the deficit in fiscal years 1983 through 1987 must therefore be accompanied by a guarantee from the Federal Reserve that the corresponding benefit—lower interest rates—will come into effect at once. The only way to assure that result, in my judgment, is to write the intent of Congress in the matter of monetary policy into the First Budget Resolution itself.

The recession, and the high interest rates which are the recession's proximate cause, are not simply and solely the consequence of large prospective out-year budget deficits. They result from the interaction of those deficits with the sharply contractionary monetary policy pursued by the Federal Reserve in 1981. And if monetary policy is not corrected, curing the future deficits will be at the same time more difficult to do and far less effective.

In its Economic Recovery Program of February 18, 1981, the Administration set out a reasonable and moderate course for monetary policy from 1981 through 1986. They suggested that the growth rate of the monetary aggregates be reduced slowly from 1980 levels to one-half those levels in 1986. Since the growth rate of M1B was 7.3 percent in 1980, the Administration's original objective implied a reduction in annual money growth rates of 3.65 percentage points over six years, or a progressive reduction of about 0.6 points in money growth in each year. This was the assumption that underlay the Administration's original economic forecasts, and its fulfillment would have meant money growth averaging above 6 percent annually in 1981 and 1982.

Instead, as you know, money growth in 1981 was only 2.2 percent, well below the bottom of the Federal Reserve's target range, and about one-third what the Administration originally assumed. This sharply reduced money growth is directly responsible for high interest rates and for the recession, both of which add hugely to the deficits, present and future.

The Administration made the mistake of supporting the sharp reduction in money growth below their original assumptions in 1981. Now they and the Federal Reserve have compounded the error, by adopting a new target range for 1982, 2.5-5.5 percent, whose rate of growth is lower than for 1981, and whose base, or point of departure, is the depressed level of the money stock in the fourth quarter of 1981. Now, even if the Federal Reserve hits the top of its target range in 1982, the resultant level of the money stock will be far below the Administration's own original assumptions for the end of 1982, and will be inconsistent with economic recovery and lower interest rates this year. Without economic recovery and lower interest rates, you will not begin to approach a balanced budget. Even deficits lower than the once unthinkable level of one hundred billion dollars will be beyond your grasp.

There is a simple solution to this problem. The Federal Reserve should return to the original targets for monetary policy established by the Administration, and endeavor to meet those targets on a two-year rather than an annual basis. This would require undoing, in 1982, the super-tight money inflicted on the economy in 1981; in particular it would require abandonment of the excessively restrictive 2.5-5.5 percent target for M1 which the Federal Open Market Committee formally adopted last month. With the targets relaxed, markets would no longer fear that the present spurt in borrowing and money creation will lead inevitably to tighter money and higher interest rates in the immediate future, and so short-term interest rates would fall. And the Federal Reserve would benefit from the greater flexibility, since the true source of current high money growth is not excess demand and purchasing power, but rather distress demand from companies to fund inventories and meet payrolls in the face of falling sales and recession.

Such a biennialization of the monetary targets would in no way imply retreat from the goal of fighting inflation. In 1982, with manufacturing capacity utilization at 70 percent and unemployment near 10 million, there can be no inflationary pressure from a more relaxed monetary policy. Indeed, as interest rates fall, the short-run inflationary pressure of interest on costs and from the federal budget deficit will subside. And, for 1983 and after, the Federal Reserve would simply return to the gradualist path prescribed in 1981 by the Administration, a path which all agreed was consistent with continued progress against inflation.

How to convey such an instruction? Section 301(a)(6) of the Budget Act specifically authorizes the Budget Resolution to include "such other matters relating to the Budget as may be appropriate to carry out the purposes of this Act." There is no additional subject more appropriate to the debate on the budget this year than the course of monetary policy. Indeed, if we do not have such language, many Members of Congress will hesitate to impose further fiscal sacrifice on their voters. We Democrats in particular are past the point of buying a pig-in-a-poke; we certainly will not buy one from the Administration, and I doubt that many Democrats will buy one from the Federal Reserve.

The First Budget Resolution is the appropriate vehicle for Congressional instruction to the Federal Reserve. Because it is a Resolution, which goes into effect on passage without benefit of Presidential signature, an instruction contained in it preserves the traditional independence of the Federal Reserve from the Executive, and the traditional dependence of the Federal Reserve on the will of the Congress. Under our Constitution and the Federal Reserve Act, we in Congress are the Federal Reserve's masters. Once a Budget Resolution embodying an instruction to the Federal Reserve went into effect, it would be binding. And, as every Chairman of the Federal Reserve Board including the incumbent has testified, it would be obeyed.

Language along the following lines would constitute an appropriate signal to the Federal Reserve.

"The Federal Reserve shall adjust the monetary targets in effect for 1982, so as to permit interest rates to fall. Should changing economic conditions render a departure from this directive desirable, the Federal Reserve shall so report to the two Banking Committees of the Congress."

I do not offer this language lightly. It would be an unprecedented step. It is my belief, however, that if we do not act now to change the course of monetary policy as well as that of taxes and spending, we invite far greater legislative risks in the near future. The drumbeat for credit controls, for national usury laws, and for political dismemberment of the Federal Reserve System can be heard quite distinctly on the far side of Capitol Hill. If you wish to avert far-reaching, uncontrollable and perhaps irreversible action later this year, this step could bring the Federal Reserve back to its senses on monetary policy before it is too late.

In summary, I have proposed a First Budget Resolution based on four simple and sensible guidelines, which I believe offer the hope of achieving bi-partisan support in the time remaining before we confront the debt ceiling crisis. The four steps are:

(1) Repeal of the July 1, 1983 10 percent personal income tax reduction. To avert a veto, this should be attached to the debt ceiling.

(2) No further cuts in civilian spending below fiscal year 1982 levels in real dollar terms.

(3) Five percent real annual growth in military spending.

(4) A return of monetary policy to a path of gradual deceleration from 1980 levels, involving an undoing of the super-tight monetary policy of 1981.

What, in economic terms, would such a program imply? To provide an answer to that question, we submitted these four assumptions to the econometric consulting firm of Data Resources, Incorporated, and asked them to compare an economic policy based on those assumptions, with a forecast which assumes enactment of the President's Fiscal Year 1983 budget.

The results are provided in the attached Table. They show that our alternative program would produce a rapid return of real GNP growth in 1983. It would create two million new private sector jobs next year. It would revive the housing and the automotive sectors. It would lower interest rates. It would not significantly increase inflation.

Most important, our program would cut the deficit by a third in Fiscal Year 1983, and by more than one-half in Fiscal Year 1984. While we do not have a forecast extending further into the future, we would put the country clearly on the track toward a balanced budget—a goal shared by one and all.

Incidentially, we let Data Resources handle its own model processing, rather than doing what the United States Treasury, to its shame, did in its attempt to discredit Senator Hollings' commendable budget initiative: the Treasury hijacked Data Resources' model, neglected to put into the computer a reasonable interest rate projection, and thus was able gleefully to pronounce Senator Hollings' brainchild dead on arrival.

This immediate action program can and should be bi-partisan. Every single one of its recommendations has been echoed repeatedly by leading Republicans and Democrats of both Houses. While there could be added to it an amendment here, a gloss there, time is of the essence, and I would hope that the two bills could be launched in their pristine form.

If they are kept simple, I am confident that they would fly.

The Budget Resolution so far as it affects military and non-military spending is a matter for the Congress, and requires no Presidential signature. Perhaps, many months from now, specific non-military appropriations would be fought out between the Congress and the President in the battle of the veto and the override. But I would not anticipate that the broad outlines of the First Budget Resolution would be drastically changed.

As to the monetary directive to the Federal Reserve, that is a matter of Congress talking to its creature, the Federal Reserve. The Federal Reserve is quite properly independent of the Administration, and the Administration has no role or function in the directive. But the Fed is responsible to the Congress.

As to the repealer of the 1983 income tax cut, I grant you that this is dear to the President's heart. It is, after all the last vestige of his supply-side fiasco. But the tax repealer would be linked from the beginning to the debt ceiling legislation. The Congress would made clear that, should the President veto such legislation, the grinding to a halt of the Nation's government and financial system would be the President's doing. The Congress should have no intention of coming back again.

This is the bi-partisan initiative I recommend. Let the Congress assume the power and the opportunity that the Constitution and the laws have given us. Let us fashion a Congressional budget, with ancillary debt legislation, that meets the Nation's needs.

The Nation is looking for bold action. It is Congress' historic opportunity. As Chairman of the Joint Economic Committee, I salute you of the Senate Budget Committee for the leadership you have already shown, and I offer you the hand of bi-cameral and bi-partisan cooperation, to pull the ox from the ditch into which it has sadly fallen.

Thank you.●

COMPARISON OF FORECASTS OF RESULTS OF REAGAN PROGRAM AND JEC ALTERNATIVE

[Prepared by Data Resources, Inc.]

	1982	1983	1984
Real GNP growth (percent):			
Reagan [1]	−0.7	4.3	4.0
Alternative [2]	0.5	7.4	3.9
Unemployment (percent):			
Reagan	9.4	8.7	7.8
Alternative	9.2	7.3	6.3
Deficit (fiscal year, billions of dollars):			
Reagan	109.1	100.1	93.7
Alternative	101.7	65.3	38.7
Housing starts (millions of units):			
Reagan	1.2	1.6	1.7
Alternative	1.4	2.2	2.1
Auto sales (millions of units):			
Reagan	8.9	10.0	10.6
Alternative	9.7	11.5	12.4
3-month Treasury bill rate (percent):			
Reagan	11.8	12.0	11.4
Alternative	8.8	9.9	7.7
Consumer Price Index (percent change):			
Reagan	7.4	7.3	7.1
Alternative	7.4	8.0	8.0
Prime interest rate (percent):			
Reagan	15.2	15.5.	14.6
Alternative	12.9	12.9	11.1

[1] Data Resources, Inc., analysis of Reagan policies, Feb. 10, 1982.

[2] Data Resources, Inc., Feb. 22, 1982, simulation run of forecasting model.●

LEGISLATION TO PROHIBIT MILITARY OR PARAMILITARY ACTIVITIES AGAINST NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Maryland (Mr. BARNES) is recognized for 10 minutes.

● Mr. BARNES. Mr. Speaker, today I am introducing legislation to prohibit the U.S. Government from engaging in or supporting military or paramilitary operations against Nicaragua.

The Washington Post recently reported that President Reagan has authorized the CIA to spend $19 million to recruit and train 500 Latin American commandos to operate out of Honduras against Nicaragua. This is only the latest in a long series of reports, all undenied by the administration, of planned covert activity against Nicaragua.

It is hard to imagine that we could do anything so stupid. I would remind the President, first of all, that this country has for a long time been the world's foremost proponent of the principles of self-determination and noninterference in the affairs of other countries.

I would remind him further that, on those occasions when we abandoned these principles and contributed to the overthrow of leftist governments through covert action, the results have been disastrous. The overthrow of Chile's last democratically elected President, with CIA help, led to the installation of the most brutal regime in that country's history. And the killing and destruction in Guatemala, which give comfort only to Cuba, are a direct result of the U.S.-supported abortion of a reform process in that country in 1954. Finally, I would remind the President that doing a Bay-of-Pigs number on Nicaragua is a guaranteed way to insure that Nicaragua becomes what the President purports not to want it to become: A state which has turned irrevocably toward Cuba and the Soviet Union for protection.

Mr. Speaker, we may not like it, but it is a fact that the Sandinista government was brought to power by a revolution that was almost universally conceded at that time to have overwhelming popular support. It is true that some of that support has eroded, and for good reason. But what gives us the right to determine that Nicaragua should have a different kind of government? And what possible advantage could we gain from allying ourselves with the hated Somocista exiles in trying to overthrow a government by force with which we are not at war and with which we have diplomatic relations.

The administration must abandon its dangerous delusion that the war in El Salvador can be won in Nicaragua. The way to deal with our problems both in El Salvador and with Nicaragua is through negotiations. In this regard, I am encouraged that the administration appears to be pursuing the possibilities contained in the Lopez-Portillo initiative. The way not to deal with our problems in the region is to compound our errors in El Savador by destroying any hope for a constructive relationship with Nicaragua.

I hope the reports of U.S.-sponsored paramilitary actions against Nicaragua are not true. But it would be naive to assume that. So I hope my colleagues will join me in telling the administration is clear and unequivocal terms that the United States is not in the business of overthrowing other governments. A copy of my bill follows, as well as a Washington Post editorial and an article by former Ambassador John Bartlow Martin that make a lot of sense on this issue:

H.R. 5828

A bill to amend the Foreign Assistance Act of 1961 to prohibit United States support for military or paramilitary operations in Nicaragua

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620F. MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA.—(a) Notwithstanding any other provision of law, no agency or instrumentality of the United States Government may provide any assistance of any kind or otherwise make any expenditure of funds under this Act, the Arms Export Control Act, or any other Act for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in or against Nicaragua by any nation, group, organization, movement, or individual.

"(b) The provisions of this section may not be waived under any other provision of law.".

[From the Washington Post, Mar. 11, 1982]

NONINTERVENTION

Things are getting out of hand in respect to Nicaragua. The tone and, according to the latest news reports, the content of President Reagan's approach are getting progessively more threatening. Whether the Nicaraguans are intimidated is not clear. It is evident, however, that Mr. Reagan is moving rapidly toward the outer limit of the support he can reasonably expect from the American people and from this country's friends in the hemisphere. He badly needs to slow down, collect his thoughts and put them out in public view.

There is, we believe, a central ambiguity to the line the administration seems to be taking now, an ambiguity fed partly by design and partly by indecision and careless thinking. Is the American purpose merely to prevent the Sandinista rulers of Nicaragua from imposing on and disrupting the lives of their neighbors? Or is it to put an end altogether to Sandinista rule? The administration has not openly professed that more ambitious second goal, but some of its private words, deeds and plans suggest it wishes to proceed toward it, or to get the Sandinistas to believe it will. In that latter purpose, by the way, it has succeeded. The Sandinistas do believe Mr. Reagan intends to try to do them in, and they are mobilizing their considerable diplomatic and propaganda resources to block him.

Should this country try to destroy the Sandinista revolution? The reasons to say yes may be seductive. The Sandinistas are lending themselves to the purposes of foreign countries hostile to the United States. They are double-crossing the many Nicaraguans who accepted their lead in the anti-Somoza struggle. And the more the regime reveals these tendencies, the stronger the temptation in the United States to move, in one way or another, against it.

It would, however, be dangerous and wrong-headed to do so. Such an act would cut across the one principle that offers a basis on which the United States has a chance to avert far greater trouble than it has gotten into or even imagined so far. The principle is that of nonintervention.

It can never be forgotten that in Latin America, and especially in Nicaragua, the United States is viewed as the Great Intervenor. The right-wing police regimes of the hemisphere may join Washington in an effort, by open or covert means, to change the regime in Managua—but *no* other Latin government or element will. The substantial support the United States has received for its effort to build reform in El Salvador will inevitably fade away as Washington is seen to be returning to the role of intervenor in Nicaragua. The American public, plenty leery already, would not put up with such intervention; nor should it. The ground on which the United States stands as it asks others to oppose Nicaraguan intervention in El Salvador crumbles as the United States sponsors intervention in Nicaragua.

It can be argued that the purpose of the CIA's anti-Nicaragua operations is merely to give the Sandinistas second thoughts about their help in Salvador, not to otherthrow the regime. But you have to be pretty forgetful, or pretty dumb, to buy that argument. Anyway, if there is one thing that the United States has proved itself to be bad at in recent years, it is subverting Latin regimes. There has been no "success" in this department since Guatemala in 1954, and the results there are no advertisement for more of the same.

It follows that before President Reagan goes any further he should clarify the thrust of his policy. He could state that he regards the Sandinistas as bad news, for their international connections and revolutionary ambitions as well as for their repressive domestic proclivities, but that he has decided that in order best to influence them he will forswear an intent to unseat them. Instead, he will honor the traditional hemispheric ideal of nonintervention and call upon others to join him to ensure that the Sandinista government respects that ideal in its practical affairs. The means will be hardheaded, legitimate and generally acceptable and will blunt the crippling allegation that he seeks to "intervene."

This will not tie up every loose end of American policy toward Nicaragua. But it will help remedy its central flaw. From the fundamental decision to abandon interventionism, everything else follows.

[From the Washington Post, Mar. 14, 1982]

LISTEN TO LOPEZ PORTILLO

(By John Bartlow Martin)

Only a few weeks ago it appeared we were headed straight for military intervention in El Salvador. Now, thanks to the press and various members of Congress, and to Secretary Haig's self-inflicted wounds, even the secretary, having at last listened to what the Mexicans have been trying to tell us, seems to have paused in his headlong charge. Perhaps we can use the breathing space to ask what it is that we are about.

Of 199 U.S. military hostilities abroad without a declaration of war between 1798 and 1972, no fewer than 81 took place in the Caribbean. Early in this century, we intervened there mainly because of our anti-Kaiserism. Since World War II we have intervened there mainly because of our anti-communism. Usually we have cried panic over the Panama Canal.

Thus our Caribbean policy has always swung on a wider hinge—the hinge of our global (and domestic political) concerns. Isn't it about time we devised a policy for the Caribbean itself? We have not had one since President Johnson killed the Alliance for Progress and President Nixon buried it.

Recently, President Reagan set forth what his trumpeters called a new Caribbean Basin Initiative. Its three main proposals were duty-free entry of Caribbean products into the United States (with certain limitations), incentives to U.S. private enterprise to invest in the Caribbean and supplemental aid.

But many Caribbean products already enter duty-free, and surely President Reagan knows it is highly doubtful that Congress will extend the list over the anguished outcries of domestic industries and labor unions. Surely he also knows that what we think of as investment looks to the peoples there like Yankee imperialism. Indeed, in many Caribbean countries, it is doubtful that U.S. private enterprise has much of a future at all—they don't want it. As for supplemental aid, most of it will go to El Salvador.

Reagan's whole new initiative is tightly tied to his Caribbean crusade against Nicaragua, Castro and the Salvadoran guerrillas. We pay heed to the Caribbean only when something goes wrong. We are the only great power that does not take its near neighbors seriously.

Now a new cycle of revolutions from below has begun. In Nicaragua, the Sandinistas have toppled Somoza. In El Salvador, they seem about to defeat the government we support. In Guatemala, the Indians are rising.

What are the causes of this trouble? They are simple. Indeed, they are one: in justice. In some places, 400 years of it. In some countries, out in the countryside, *campesinos* are poor even by Asian standards—they never see $50 a year, yet their transistor radios give them a hint of what life could really be. For intellectuals, and for *campesinos* come to the city, injustice means military repression. But always the root cause is that too few people have too much land and money; too many have too little.

Time and again we have had a chance to join these revolutions. Time and again we have defended the indefensible status quo. I can think of only one decisive turning point where we threw our weight solidly against dictatorship: when President Kennedy sent the fleet to the horizon off the Dominican Republic to force out the heirs of Trujillo.

But our present national debate is not addressed to that issue. Instead, it is addressed to whether foreign communists are or are not aiding the Salvadoran guerrillas. Haig sees a dark conspiracy running straight to the Salvadoran guerrillas from Nicaragua from Cuba from the Soviet Union. But Castro would seem to have more to gain from accommodation with the United States then from helping the Salvadoran guerrillas. The Soviet Union could scarcely be eager to take on a second Latin client like El Salvador.

Just how are these evil conspirators running the Salvadoran guerrillas from Managua? By radio? By telephone? By courier? By satellite or smoke signal? I have had some experience with small Caribbean countries, and the notion that an apparatus in Managua could direct the activities of guerrillas in the caves and mountains of El Salvador is simply laughable.

Behind the debate now going forward between the press and Capitol Hill, on the one hand, and Haig on the other, lies a dangerous assumption—that if indeed Haig can produce "irrefutable" evidence that Nicaragua, Cuba and the Soviet Union really are aiding and directing the guerrilla movement in El Salvador, then of course we will be justified in intervening.

But that is the wrong question. We should be debating a political, not a military, solution to the Caribbean's troubles—policies to help shore up the vital center against the extreme right and the extreme left, policies to bring peace. We should start with the proposals of President Lopez Portillo of Mexico.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NEAL of North Carolina (at the request of Mr. WRIGHT), for March 10 through 19 for medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted:

(The following Members (at the request of Mr. LUNGREN) to revise and extend their remarks and include extraneous material:)

Mr. RHODES, for 60 minutes, March 16.

Mr. JAMES K. COYNE, for 30 minutes, March 16.

Mr. MARKS, for 60 minutes, March 17.

Mr. MARKS, for 60 minutes, March 18.

(The following Members (at the request of Mr. RATCHFORD) to revise and extend their remarks and include extraneous material:)

Mr. RATCHFORD, for 15 minutes, today.

Mr. WEAVER, for 30 minutes, today.

Mr. FRANK, for 10 minutes, today.

Mr. PATTERSON, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. COELHO, for 60 minutes, on March 18.

(The following Members (at the request of Mr. WEAVER) to revise and extend their remarks and include extraneous material:)

Mr. REUSS, for 30 minutes, today.

Mr. BARNES, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LUNGREN), and to include extraneous matter:)

Mr. MARLENEE.
Mr. FRENZEL.
Mr. ERDAHL.
Mr. VANDER JAGT.
Mr. MICHEL.
Mr. PHILIP M. CRANE.
Mr. GRISHAM.
Mrs. HOLT.
Mr. LENT.
Mr. DORNAN of California.
Mr. CONABLE.
Mr. RUDD.

(The following Members (at the request of Mr. RATCHFORD), and to include extraneous matter:)

Mr. MAZZOLI.
Mr. SOLARZ.
Mr. STOKES in four instances.
Mr. CONYERS.
Mr. SCHUMER in five instances.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. HAMILTON in 10 instances.
Mr. MCDONALD in five instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mrs. KENNELLY.
Mr. GUARINI.
Mr. FRANK.
Mr. GORE.
Mr. LAFALCE.
Mr. WAXMAN in two instances.
Mr. ROSENTHAL.
Mr. ROE.
Mr. LELAND.
Mr. YATRON.
Mr. FOLEY.
Mr. MARKEY.

ADJOURNMENT

Mr. WEAVER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 38 minutes p.m.) the House adjourned until tomorrow, Tuesday, March 16, 1982 at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3366. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

3367. A letter from the Comptroller General of the United States, transmitting a review of a recission R82-17 dated February 5, 1982, pursuant to public law; to the Committee on Appropriations.

3368. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to provide for supplemental military construction for 1982; to the Committee on Armed Services.

3369. A letter from the Secretary of the Navy, transmitting notice and written reports that eight Navy weapon systems have exceeded their baseline unit costs by more than 15 percent, pursuant to public law; to the Committee on Armed Services.

3370. A letter from the Secretary of the Air Force, transmitting written reports that six Air Force weapon systems have exceeded their baseline unit costs by more than 15 percent, pursuant to public law; to the Committee on Armed Services.

3371. A letter from the Deputy Assistant Secretary of Defense (Reserve Affairs), transmitting a report on the Selected Reserve incentive program through December 31, 1981, pursuant to public law; to the Committee on Armed Services.

3372. A letter from the Assistant Secretary of the Air Force (Research, Development and Logistics), transmitting notice of the conversion to contractor performance of the transient aircraft maintenance function at Ellsworth Air Force Base, S. Dak., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

3373. A letter from the Acting Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), transmitting a report on special pay for duty subject to hostile fire, pursuant to 37 U.S.C. 310(d); to the Committee on Armed Services.

3374. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to authorize appropriations for civil defense programs for fiscal years 1983 and 1984, and for other purposes; to the Committee on Armed Services.

3375. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949; to the Committee on Banking, Finance and Urban Affairs.

3376. A letter from the Secretary of Education, transmitting the annual report of the National Technical Institute for the Deaf for fiscal year 1981, pursuant to public law; to the Committee on Education and Labor.

3377. A letter from the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), transmitting the annual testing report for the overseas dependents' school for school year 1981-82, pursuant to section 1405 of Public Law 95-561; to the Committee on Education and Labor.

3378. A letter from the National Foundation on the Arts and the Humanities, transmitting the sixth annual report on the arts and artifacts indemnity program for fiscal year 1981, pursuant to public law; to the Committee on Education and Labor.

3379. A letter from the Secretary of Health and Human Services, transmitting a report on the National Cancer Advisory Board for fiscal year 1981, pursuant to section 407(a)(7) of the Public Health Service Act; to the Committee on Energy and Commerce.

3380. A letter from the Secretary of Health and Human Services, transmitting a report on community health centers receiving grants, pursuant to public law; to the Committee on Energy and Commerce.

3381. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the annual report for 1980 of the Federal Energy Regulatory Commission, pursuant to public law; to the Committee on Energy and Commerce.

3382. A communication from the President of the United States, transmitting notice of waiving the requirement of section 302(c)(1)(C) of the Agricultural Trade Development and Assistance Act of 1954, as amended, that at least 15 percent of the aggregate value of all agreements entered into title I in fiscal year 1981 also be entered into under the provisions of title III, pursuant to section 302(c)(2) of the act (H. Doc. No. 97-152); to the Committee on Foreign Affairs, and ordered to be printed.

3383. A letter from the Secretary of State, transmitting a draft of proposed legislation to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, to authorize additional security and development assistance programs for fiscal years 1983 and 1984, and for other purposes; to the Committee on Foreign Affairs.

3384. A letter from the Assistant Secretary for Administration, Department of Commerce, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3385. A letter from the Administrator, Veterans' Administration, transmitting a report on the Administration's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3386. A letter from the Administrator, Veterans' Administration, transmitting a report on the Administration's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3387. A letter from the Acting Chairman, Equal Employment Opportunity Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act during calendar year 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3388. A letter from the Director of Legislative Affairs, Agency for International Development, transmitting a report on the Agency's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3389. A letter from the Executive Secretary, Uniformed Services University of the Health Sciences, transmitting a report on the University's activities under the Government in the Sunshine Act during calendar year 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3390. A letter from the Chairman, National Endowment for the Arts, transmitting a report on the Endowment's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3391. A letter from the General Counsel, Administrative Conference of the United States, transmitting a report on the Conference's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3392. A letter from the Board, U.S. Railroad Retirement Board, transmitting notice of proposed new record system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3393. A letter from the Acting Secretary of Interior, transmitting the second biennial report of the Department of Interior, pursuant to section 606 (c), (d), and (e) of the Outer Continental Shelf Lands Act Amendments of 1978; to the Committee on Interior and Insular Affairs.

3394. A letter from the Acting Staff Director, U.S. Commission on Civil Rights, transmitting a draft of proposed legislation to amend section 106 of the Civil Rights Act of 1964; to the Committee on the Judiciary.

3395. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to provide for authorizations for fiscal years 1983 and 1984; to the Committee on Science and Technology.

3396. A letter from the Secretary of Commerce, transmitting foreign service recruitment results and plans, pursuant to section 105(d) of the Foreign Service Act of 1980; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3397. A letter from the Acting Secretary of the Interior, transmitting notice of approval to execute the contract for certain drainage and minor construction work by the Wellton-Mohawk Irrigation and Drainage District, Gila project, Arizona, pursuant to public law; jointly, to the Committees on Interior and Insular Affairs and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5014. A bill to extend the life of the Gateway National Recreation Area Advisory Commission, which is presently due to expire October 27, 1982 (Rept. No. 97-457). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5539. A bill to amend and supplement the Federal reclamation laws, and for other purposes; with an amendment (Rept. No. 97-458). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 146. A bill to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes (Rept. No. 97-459). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNES (for himself, Mr. Bingham, Mr. Bonior of Michigan, Mr. Leland, Mr. Fauntroy, Mr. Studds, and Mr. Rosenthal):

H.R. 5828. A bill to amend the Foreign Assistance Act of 1961 to prohibit U.S. support for military or paramilitary operations in Nicaragua; jointly, to the Committees on Foreign Affairs and the Permanent Select Committee on Intelligence.

By Mr. CONABLE:

H.R. 5829. A bill to amend the Internal Revenue Code of 1954 to improve taxpayer compliance, and for other purposes; to the Committee on Ways and Means.

Mr. COLLINS of Texas:

H.R. 5830. A bill to amend the Clean Air Act to repeal the requirement that new fossil fuel fired stationary sources of air pollution comply with a standard of performance which requires a percentage reduction in the emissions of air pollutants, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JONES of Tennessee (for himself and Mr. Jeffords):

H.R. 5831. A bill to provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

By Mr. LONG of Maryland:

H.R. 5832. A bill entitled the "War Powers Resolution Amendments of 1982"; to the Committee on Foreign Affairs.

By Mr. OBERSTAR (for himself and Mrs. Schneider):

H.R. 5833. A bill to amend the Energy Security Act to extend the financing authority of the Synthetic Fuels Corporation to include projects for district heating and cooling and for municipal waste energy recovery, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. PATTERSON (for himself and Mr. AuCoin):

H.R. 5834. A bill to stimulate the production of single-family residences; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SCHROEDER (for herself and Ms. Ferraro):

H.R. 5835. A bill to amend the White House Authorization Act to freeze White House spending during fiscal year 1983; to the Committee on Post Office and Civil Service.

By Mr. ANDREWS:

H.J. Res. 437. Joint resolution to recognize Senior Center Week during Senior Citizen Month as proclaimed by the President; to the Committee on Post Office and Civil Service.

By Mrs. BOUQUARD (for herself, Mr. Coats, Mr. Gejdenson, Mrs. Fenwick, Mr. Lagomarsino, Mr. Addabbo, Mr. Bonior of Michigan, Mr. Howard, Mr. Roe, Mr. DeNardis, Mr. de la Garza, and Mr. Frenzel):

H.J. Res. 438. Joint resolution acknowledging the Big Brothers/Big Sisters of America for its achievements and recognizing its volunteers for their service to children; to the Committee on Post Office and Civil Service.

By Mr. COLLINS of Illinois (for herself, Mr. Walgren, and Mrs. Heckler):

H. Con. Res. 288. Concurrent resolution expressing the sense of the Congress that State and local governments should support the fire safety efforts of the U.S. Fire Administration to reduce lives and property damage lost by fire; to the Committee on Science and Technology.

By Mr. KEMP (for himself, Mr. Bingham, Mr. Broomfield, Mr. Rosenthal, Mr. Shaw, and Mr. Wilson):

H. Con. Res. 289. Concurrent resolution regarding membership in the United Nations General Assembly; to the Committee on Foreign Affairs.

By Mr. COLLINS of Texas:

H. Res. 390. Resolution providing for the consideration of the Senate bill (S. 951) authorizing appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes; to the Committee on Rules.

By Mr. ST GERMAIN (for himself, Mr. Reuss, Mr. Minish, Mr. Annunzio, Mr. Mitchell of Maryland, Mr. Fauntroy, Mr. Neal, Mr. Patterson, Mr. Blanchard, Mr. Hubbard, Mr. LaFalce, Mr. D'Amours, Mr. Lundine, Ms. Oakar, Mr. Mattox, Mr. Vento, Mr. Barnard, Mr. Garcia, Mr. Lowry of Washington, Mr. Schumer, Mr. Frank, Mr. William J. Coyne, Mr. Hoyer, Mr. Stanton of Ohio, Mr. Wylie, Mr. McKinney, Mr. Leach of Iowa, Mr. Evans of Delaware, Mr. Bethune, Mr. Shumway, Mr. Parris, Mr. Weber of Ohio, Mr. McCollum, Mr. Carman, Mr. Wortley, Mrs. Roukema, Mr. Lowery of California, Mr. James K. Coyne, Mr. Bereuter, Mr. Dreier, Mr. Gephardt, Mr. Dicks, and Mr. Snyder):

H. Res. 391. Resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States; to the Committee on Banking, Finance and Urban Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

288. By the SPEAKER: Memorial of the Legislature of the Commonwealth of Virginia, relative to public water systems; to the Committee on Energy and Commerce.

289. Also, memorial of the House of Representatives of the State of Missouri, relative to deregulation of natural gas; to the Committee on Energy and Commerce.

290. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to unfair trade practices; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 909: Mr. FOGLIETTA.

H.R. 914: Mr. FOGLIETTA.

H.R. 3575: Mr. BARNES, Mr. CHENEY, and Mr. JEFFRIES.

H.R. 4014: Mr. DAUB.

H.R. 4467: Mr. STUDDS and Mr. MICA.

H.R. 5242: Mr. RALPH M. HALL, Mr. ROBERTS of Kansas, Mr. QUILLEN, Mr. LOEFFLER, and Mr. VANDER JAGT.

H.R. 5423: Mr. GIBBONS.

H.R. 5448: Mr. JAMES K. COYNE and Mr. BADHAM.

H.R. 5481: Mr. GRAY, Mr. MITCHELL of Maryland, and Mr. SCHEUER.

H.R. 5485: Mr. LONG of Maryland, Ms. MIKULSKI, and Mr. FAUNTROY.

H.R. 5583: Mr. FROST, Mr. COURTER, and Mr. WILSON.

H.R. 5596: Mr. PORTER, Mrs. MARTIN of Illinois, Mr. HANSEN of Idaho, Mr. BAFALIS, Mr. JAMES K. COYNE, Mr. TRAXLER, and Mr. FUQUA.

H.R. 5711: Mr. MITCHELL of Maryland, Mr. PERKINS, and Mr. FAUNTROY.

H.R. 5729: Mr. SENSENBRENNER and Mr. BAFALIS.

H.J. Res. 385: Mr. COLLINS of Texas, Mr. WRIGHT, Mr. KRAMER, Mr. BEILENSON, Mr. THOMAS, Mr. SHELBY, Mr. GUNDERSON, Mr. EDWARDS of Alabama, Mr. CARNEY, and Mr. BADHAM.

H.J. Res. 418: Mr. ECKART, Mr. SAVAGE, Mr. WASHINGTON, Mr. PEYSER, and Mr. SCHUMER.

H. Con. Res. 275: Mr. BLILEY, Mr. CORRADA, Mr. DANNEMEYER, Mr. LEBOUTILLIER, Mr. STANGELAND, and Mr. GOLDWATER.

H. Res. 86: Mr. FOGLIETTA.

H. Res. 265: Mr. CORRADA, Mr. BROYHILL, and Mr. PASHAYAN.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows;

367. By the SPEAKER: Petition of the South Alabama Regional Planning Commission, Mobile, Ala., relative to the senior community employment program; to the Committee on Education and Labor.

368. Also, petition of Pueblo Area Council of Governments, Pueblo, Colo., relative to the senior community service employment program; to the Committee on Education and Labor.

369. Also, petition of the North Atlantic Assembly, Brussels, Belgium, relative to the recommendations and resolutions adopted at the 27th annual session of the North Atlantic Assembly, held in Munich in October 1981; to the Committee on Foreign Affairs.

370. Also, petition of the Mayor and Council of the Borough of Highland Park, Middlesex County, N.J., relative to nuclear weapons; to the Committee on Foreign Affairs.

371. Also, petition of 32d District Democrats, Seattle, Wash., relative to Internal Revenue Service's policies; to the Committee on Ways and Means.

372. Also, petition of the Fairhaven Housing Authority, Fairhaven, Mass., relative to the social security system; to the Committee on Ways and Means.

EXTENSIONS OF REMARKS

SPEECH AT KEMPER MILITARY ACADEMY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. SKELTON. Mr. Speaker, recently, our colleague, ANTONIO B. WON PAT addressed the student body and staff at Kemper Military School and College in Boonville, Mo. I would like to share his comments on vital issues which our Nation faces today.

The statement follows:

STATEMENT AT KEMPER MILITARY ACADEMY, FEBRUARY 18, 1982

Thank you for that warm greeting. Before I begin, I must express my deep appreciation to General Rhiddlehoover for inviting me to speak tonight. I also want to say, thank you to Congressman IKE SKELTON, who represents this district, for first suggesting that I visit Kemper. He had the highest praise for this institution and I can now understand why he is so enthusiastic about a great school.

Although this is my first visit to Kemper, this trip marks my second visit to Missouri. A few years ago, I spent an enjoyable period at Ft. Leonard Wood, where I reviewed the hard-working Army Reserves from Guam on active training at that facility.

One item which particularly pleases me is the presence here of nine young people from Guam. To them I give a special greeting, a warm Hafa Adai, as we say it on Guam. Earlier today, I met them and was impressed with their affection for Kemper, its staff, and their fellow students. General Rhiddlehoover told me that since 1967, Kemper has had a total of 47 cadets from Guam. One item I know the Guam cadets and I feel particularly proud about is the naming of a hall here for Second Lieutenant Julie Manglona Ulloa, who obviously compiled a very distinguished record here at Kemper, and is your school's first woman graduate to be commissioned as an officer in the Army Reserves.

But I hope that my fellow Guamanians here have assured you that we are not all work and no play. Because you have had so much snow this year, we hate to brag about Guam. We have only rain and sunshine. I was out there two weeks ago and the temperature was 80 degrees, the sun was shining brightly, and a lot of Japanese tourists were on the beaches. To those of you who have never visited Guam, let me extend on behalf of the people of Guam, a warm welcome to visit our island. As a matter of fact, let me suggest that General Rhiddlehoover hold your next winter's classes on Guam.

Unfortunately, life in the islands is more than warm beaches, beautiful girls, and lazy days. Islanders who live in one of America's territories face real problems just like we who live here in what I call the "States." As Guam's Congressman, it has been my privilege to do what I could to bring federal assistance to my home island in the hope that this aid will also spur needed development. But as Chairman of the Subcommittee on Insular Affairs, my jurisdiction includes oversight functions into all legislation dealing with Guam, the Virgin Islands, American Samoa, Puerto Rico, and the Northern Marianas. This is a big responsibility because these areas are, in many respects, the forgotten areas of America. Few people know these beautiful islands are part of this nation, and even fewer are aware of their importance to the defense of this country.

Let me assure you that if most of America has forgotten the territories, the territories have not forgotten America. This is particularly true of Guam, where we have fought and died for American Democracy, and where we take our United States citizenship with great seriousness. These areas are an important part of this nation, much as is Alaska or Hawaii. The needs of territorial Americans are no less than those living here or in New York. Obviously, it is my task to work with the delegates from the other territories to call attention to our combined and individual needs.

Although America's territories are indeed exotic in nature, they face difficult economic and social problems. It is my hope that we in Congress can provide our fellow Americans in the territories with the support they need to become economically self-sufficient. Let me assure you that residents of Guam and other islands are very proud to be Americans. They want to see their islands prosper so they can be a reflection of American life styles and show that American democracy is workable everywhere where people want true freedom.

Also, as a member of two other congressional committees—Armed Services and Veterans Affairs—my interest in these committees stems from two facts. First, I am deeply devoted to seeing to it that America remains strong and vigilant. Second, my own island of Guam has known war at first hand. Today, Guam remains a vital link in America's defense posture in the Western Pacific with a major Air Force B-52 base and a vital Naval communications facility. We are equally proud to have two reserve units on Guam, and Army and Air Force National Guard outfits—the newest in the nation.

In the past year, Guam saw nearly 400 young men and women volunteer for the military. This is a very high percentage for an island of only over 100,000. In fact, local military recruiters consistently win major awards as top recruiters in their areas. Why are they so successful in Guam? Patriotism is one major reason. The other is tradition. We Guamanians have a long tradition of military service to this nation, and I, myself, have had four of my family in the service, including two who were officers!

Our decisions in Congress will be guided by many factors. After a number of years when the American public grew unconcerned about defense issues, we find that there is again a growing concerned that our military might be shrinking and becoming helpless against powerful enemies. We have seen our once powerful Navy shrink to a shadow of its former size. Our Air Force has been restricted to less than 15 hours flying time each month for its fighter planes. We are outnumbered more than three to one by Soviet tanks, submarines and other military hardware. And we certainly do not have the industrial capability that we enjoyed in World War II

This is not to say we have to match the Soviets tank for tank, gun for gun, plane for plane. This we cannot do nor should we. The Soviets have thousands of miles of hostile borders to defend; we have no such situation. The Soviets are up to their arms trying to suppress their people; we are not. Yet, it is clear that we are losing our edge in many areas. We do not want to see a repeat of World War II when we were largely unprepared to fight a war. I can all too well remember seeing Japanese troops invade an undefended Guam and rip down our American flag.

That scene will never leave me and I am committed to do whatever I can to seeing that America has the means and the will to block aggression.

Thankfully, there are many good men and women in the Congress who remembered what happened in World War II when we let down our guard. Men such as my good Friend, Congressman Ike Skelton, who represents this district, is well-known as an articulate and intelligent defender of a strong military. Ike Skelton and I agree on many things, including these issues. Yet, we are not hawks in any sense of the word. We hate war and the suffering it brings. But we are also sworn to help defend this great democracy of ours. And this means ensuring that Congress gives you, who will serve in the military tomorrow, the support you need today.

Recently, I received a reminder of how much this nation has suffered from war. Since 1900, over 35 million Americans have served in the war-time military; over 1.1 million Americans have been wounded in these wars; and 426,105 Americans have died in battle. That last figure is particularly meaningful. Because it represents a total greater than the current population of such major towns as New Haven, Connecticut, Little Rock, Arkansas, or Spokane, Washington.

Today, Americans are returning to a policy which is better balanced in many ways than those we followed in the past few years. This is not to suggest that the hard decisions over domestic or military spending is over—far from it, in fact. But, it is clear to me that Americans are willing to commit more of their resources to defense if we can prove a legitimate need.

This is where the Congress will and can play a major role in formulating policy. As you know, President Reagan has submitted his budget proposals to Congress for 1983. He is asking for this Nation to spend $258 billion for defense—a budget that includes a whopping $25 billion dollar increase for new weapons and equipment. Ten billion of this will be used to purchase two new carriers, and another $8 billion for 18 new ships. The Army also received some good news with proposals to purchase over 500 new M-1 tanks, plus other badly needed equipment. The Air Force will also see the new B-1 bomber come on line in the next few years, plus at least 42 new F-15 Eagles.

We, who sit on the Armed Services Committee, will be taking a long, hard look at the President's new request. It will be im-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

perative that our committee and our sister committee in the Senate work with the President to assure a sound defense policy in the years to come. I will support much of the President's requests for new defense spending, but not without some reservations. Many of us in Congress are deeply concerned about waste in defense spending. I was particularly impressed with comments made to us last week by the Deputy Secretary of Defense, that his office was fighting waste and corruption as hard as they were fighting inflation. Last year, the Pentagon saved a reported $1.2 billion by implementing 1,675 new actions to save funds.

Equally important is to make certain that we get the biggest value for your dollars. I doubt there are many of you in the audience who has not heard stories about new weapons systems that do not work. The M-1 tank I mentioned earlier is one such example that has worried me greatly.

The failure of the M-16 rifle to perform well in the initial stages of the Vietnam War was another example or poor planning. And there is, of course, the famous case of the huge C-5A which early in its life, seemed to develop a penchant for flying without its wings.

You cannot ask the American taxpayer to dig deeper into his or her pocket unless you control this kind of scandal. Congress has repeatedly stressed this fact, and I am glad to note that the Pentagon is responding by challenging cost overruns rather than paying them as was done in past years. During the past six months, Pentagon contracting officers turned down over $3.5 billion in proposed contractor costs. This is a good start.

Our allies can also bear a much greater share of the burden than they presently bear. I cannot for the life of me figure why America should shoulder the cost of maintaining troops in Europe to defend Europeans when so many of them obviously are not interested in their own defense. We have been dragged into two European wars in this century and they have to understand—as do we—that America cannot and should not be a global policeman. The same is true for Asia. I have repeatedly called for Japan, which is rich beyond description, to beef up its contribution to our defense role there. And finally, we have to choose our friends a lot more carefully. I find my colleagues and I becoming very ill at ease about the situation in South America. It is imperative that we do not let El Salvador become another Vietnam. We should have learned that lesson in Vietnam where we fought a political war which we lost—not because our fighting men and women failed us, but because our politicians let us down in the first place.

As we debate and vote in the months to come over the future of the defense budget, many factors will cross our minds. One will be the needs of Americans in other walks of life. I have long felt that social programs have become too bloated—despite the fact that my own constituents want and use such programs as Food Stamps. The trick will be to find a happy middle ground that all of us in the Congress can feel comfortable with—not a very easy task. Understand that logic does not always prevail in public life. What counts is who has the votes. And the votes tend to go all too often where the screaming is the loudest. Taking away social programs—even where it is justified—is a lot like taking candy from a baby or perhaps given a "B" grade to students who know that they deserve at least an "A" plus. I think you know what I mean. I can assure you that there will be a lot of screaming and yelling on Capitol Hill in the days to come. But we must work together to assure that America remains strong, and this I am confident we will do.●

DEFICIT HYPOCRISY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. CRANE. Mr. Speaker, much ado clutters both the print and electronic media about deficits. People who have advocated deficit spending for decades suddenly find it propitious to wring their hands and cry for salvation. Yet in that same time period, those who could do most to reduce that deficit merrily proceeded to hand out the taxpayers' hard-earned money at a rate unparalleled in history.

The lead editorial in the March 8, 1982 Wall Street Journal succinctly hits the nail on its head. It is our responsibility to cut Federal spending, and it is time we realized that responsibility. We should put up—cut spending—or shut up. I commend this article to my colleagues' attention.

DEFICIT HYPOCRISY

The headlines last week went to President Reagan's defense of his budget deficits. "A necessary evil," he called them, in response to a congressional drive to "narrow the deficit," which are code words for raising taxes. In the same week, meanwhile, Congress recorded the following actions:

The Senate Energy Committee, pondering the current world oil glut, added nearly $2.2 billion to Mr. Reagan's budget for Energy and Interior programs. It voted to keep research on alternate fuels and conservation at $1.9 billion, rather than nearly eliminate it as Mr. Reagan suggested, and refused to save administrative funds by abolishing the Energy Department.

The House Agriculture Committee adopted a program for commodity price supports and conservation that ignored the President's request for a 20% reduction. Though in a sense this was foreordained by the farm bill Congress passed and the President signed in December, it represents $2 billion, or maybe $5 billion, in aid to wealthy landowners.

The House Education and Labor Committee roasted Education Secretary T. H. Bell over the administration's cuts in student-loan funding. With self-proclaimed conservatives such as John Ashbrook joining the chorus, members predicted they would restore most of the $3 billion the Reagan budget had cut from the program, thus preserving arbitrage opportunities for middle-class families.

An informal poll of authorizing committee chairmen found that collectively they predicted they would bust Mr. Reagan's budget by $29 billion in spending authority. While this translates into less in 1983 spending, Appropriations Committee Chairman Mark Hatfield described the result as "staggering." While Mr. Reagan had proposed savings of $14 billion from 1982 spending, Mr. Hatfield said "holding the line is the most optimistic we can do."

We modestly submit that the next Senator or Congressman who talks of "trimming the deficit" be laughed out of the room.

Congress doesn't care two hoots about the deficit. It cares about buying votes from synfuel plant entrepreneurs, farmers, parents of college students and so on. It finds that this enterprise requires a constantly swelling percentage of all funds in the economy. This means that taxes must go up. If Mr. Reagan wants to stabilize the tax level—which is about all his tax program would do—Congress suddenly discovers the deficit it ignored lo these many years.

This deficit hypocrisy has taken in a lot of people who understand that deficits do matter, and many of them have sided with the Congress and against the President. Roll-with-the-punches managers are particularly susceptible to the siren call of the conclusion that well, Congress will be Congress, and we may as well give it a tax increase and paper things over a few more years. Those who want to maintain a free-market economy, it seems to us, ought to be supporting Mr. Reagan's efforts to call a halt to Congress's game.

There is an argument, to be sure, over whether Mr. Reagan picked the best way to maximize his support. As we suggested in our initial comment on his new budget, as long as he was going to be blamed for budget cuts he might as well have done the job. Even his proposals do not deal with huge middle-class subsidies like Social Security. If he had done this he might be getting more support, not less. But then again, this was the one issue on which he was handed his head in Congress last year. Perhaps he will get further with Congress attacking his deficit rather than his compassion.

To make this work, though, Mr. Reagan needs to dress up his rhetoric. He understands quite correctly that, little is gained by closing a deficit with higher taxes, that the only useful way to close it is with slower spending. This point deserves more emphasis. And Mr. Reagan needs not to defend deficits but to turn them on Congress. A deficit is an evil all right, but it is necessary only in the sense that Congress refuses to control its spending.●

ADMINISTRATION'S CONSERVATION PHILIOSOPHY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. RUDD. Mr. Speaker, as our Nation's spokesman for matters ranging from the building of dams to the management of our natural resources, Interior Secretary James Watt has interjected an element of pure and simple commonsense to this administration's conservation philosophies. As he states it:

> The natural recources of America are here for us to use for our needs—our economic needs, our recreational needs. Wise use will not diminish these values, but will enhance them. * * * We do not decide resource questions without regard for our future or for the future of generations yet unborn.

In his brief, yet productive 13 months as administrator of our vast Federal land and natural resource holdings, Secretary Watt has taken sound, decisive actions to maintain practical use of our natural resources to meet both economic realities and preserve the futuristic conservation philosophies we all share.

Secretary Watt outlined these accomplishments in a recent speech to the Izaak Walton League, Des Moines, Iowa. For reasons of spatial limitations, I have excerpted key segments of the Secretary's remarks regarding the administration's philosophies on the stewardship of our lands.

ADMINISTRATION'S CONSERVATION PHILOSOPHY

Hunters and fishermen were the original conservationists—environmentalists long before that word became fashionable. Organizations such as the Izaak Walton League were established by people who realized that if we are to continue to use our land, we have to do so in ways that will assure that the land and its wildlife renew themselves. J. N. "Ding" Darling—one of your members—was following this philosophy when he launched the Federal Duck Stamp Program almost a half century ago. This is one of the ways we have to give nature a helping hand to assure that these resources are cared for properly.

This certainly sums up my philosophy of stewardship—use the land and water resources as though we love them, harming them as little as possible so that the land and water will continue to help us meet our economic needs, help us to enjoy life more fully, help us to survive on Earth.

The stewardship philosophy of the Reagan Administration—my stewardship philosophy—is in tune with the hunters and fishermen of America. The natural resources of America are here for us to use for our needs—our economic needs, our recreational needs. Wise use will not diminish these values, but will enhance them. We are not destroyers but builders. We do not wantonly harvest the riches of the land. We do not decide resource questions without regard for our future or for the future of generations yet unborn.

Where this Administration differs from our critics is in our belief in the full stewardship equation:

We believe that use is a part of the equation, that you who hunt and fish can contribute to conservation, not undermine it.

We believe in management of natural resources and that hunters and fishermen are part of sound management.

We believe in your right of access to the public lands; your right to responsibly use and enjoy these lands. We don't think that we have to buy up and lock up huge parts of America and post it to keep you out to protect these lands. We trust you, and we believe that you and organizations like yours have been remarkably successful in instilling the environmental ethic in America.

I pledge to you that the Reagan Administration will oppose and fight those forces in Washington who would seek to halt hunting and fishing in our wilderness areas. Some of those purists that oppose my every move don't want explosions, like rifle shots, in the wilderness areas. I'll fight them.

We don't think that Washington, D.C., is the fountain of all wisdom. We don't think that the Federal Government need dictate fish and wildlife management for Iowa or Illinois or Missouri or wherever. When you want a program or policy changed, you should be able to take your case down the road to the State Capitol to demand action—not travel hat-in-hand to Washington, D.C.

When I became Secretary of the Interior some 13 months ago, we were not using our natural resources wisely. We were not being good stewards.

There was too much air and water pollution, the national parks had been allowed to deteriorate, our wildlife ranges and refuges had been neglected, and our multiple-use lands had not been managed properly for the taxpayers and consumers of this generation and those yet to come.

Even though our public lands have tremendous potential for meeting our people's energy and strategic minerals needs, we were importing from foreign sources almost 40 percent of our crude oil needs, and the majority of the strategic minerals needed for military might and industrial strength.

America was on a starvation diet even though our pantry of natural resources was overflowing. We were rapidly losing the economic vitality needed to sustain the environmental ethic which I believe in, which all of us here believe in.

Poor nations make poor stewards.

We can be a nation of environmentalists only if our citizens have jobs and incomes to support wise conservation. If you suffer economically to the point where you can no longer hunt, fish, hike—or even travel to the forests and streams—then your burning desire to conserve is going to dim quickly, and understandably so.

So I was determined to make changes at the Department of the Interior that would restore balance, so that we could begin making better use of natural resources in order to maintain the economic strength that is fundamental to sound environmental stewardship.

These changes have been made, and this has brought howls of protest from a few conservation organizations, including your paid staff in Washington. Fewer than a dozen—out of the 220-plus groups which deal with Interior—are trying to nail my pelt to the wall. I call them commercial environmentalists because they make a living off of being what you folks are out of a love for the land and its natural life.

It should not be surprising that some of these commercial environmentalists want a government which dictates from Washington. They become supporters of central government because it is in their self-interest to have power concentrated in Washington. Their prestige is diminished when decisions can be made in Des Moines, or even when we discuss issues with and listen to the states and citizens.

Let me give you a very quick summary of some of the major changes we have made at Interior these past 13 months.

One of the most important changes we have made is to refocus stewardship responsibilities on taking care of what we have.

For example, we have launched a program to repair and restore our National Park System which was neglected to a shameful degree. As the government reached out for more and more land, it did less and less to care for the parks we already had.

I said, let's begin taking care of the parks we have and go slow for a while in acquisition of parkland. While virtually all programs in the Federal Government were being cut back this year, I got a big increase in funding for park repair and maintenance. In the coming fiscal year, I am asking for $191 million for this effort. That is $36 million more than Congress gave us last year and more than twice what the Carter Administration asked for in 1982.

I have improved programs for the exploration and production of oil and gas both on land and under the sea, for coal leasing, for oil shale development, for tar sands, and for geothermal resources. In every case, we have been careful to maintain environmental protections.

These improvements are important because the Federal Government controls some 730 million acres—about one-third of America—and well over one billion acres of Outer Continental Shelf. Estimates are that 85 percent of the crude oil yet to be discovered in America is likely to come from the 540 million acres of public lands open to multiple use, as will 40 percent of the natural gas, 35 percent of the coal, 80 percent of the oil shale, nearly all of the tar sands, and substantial portions of uranium and geothermal energy.

We simply must have an orderly, phased development of these resources not only to meet our current economic needs but to avert crisis development in the future which would be devastating to the environment and to our liberties.

Already we are seeing results. We are cutting back on the drain of American dollars and jobs which occurs when we import huge amounts of energy.

During 1981, oil production on Federal lands rose from 427 million barrels to more than 470 million; natural gas production increased slightly to 5.8 trillion cubic feet, and coal production was up 31 percent to about 94.6 million tons.

We launched a good neighbor policy to work closely with the states and with users of public lands. Bureaucrats who once ran roughshod over state and local officials and over resource users have either changed their ways or have been asked to find other means of earning a livelihood. And when I say users of public lands, I mean hunters and fishermen and hikers and birdwatchers, as well as ranchers, loggers, oilmen and miners.

In addition to the 540 million acres of multiple use public lands, the Secretary of the Interior has responsibility for managing 72 million acres dedicated to national parks, 84 million acres set aside as wildlife refuges and ranges (an area twice the size of the six New England States). The Secretary also has responsibilities for various aspects of the 80 million acres of the Federal lands set aside as wilderness.

Recently I proposed to Congress a new approach for settling the muddled and overly-emotional debate about our wilderness system.

The 1964 law establishing the wilderness system provided for mineral leasing of such areas for 19 years. Under the bargain struck when the law was passed, the economic interests were to have their chance to locate and produce energy and minerals before areas were locked away forever. The Secretary of the Interior was supposed to deliver on this bargain, and over the years only about 50 leases have been granted in wilderness areas—about 10 by my immediate predecessor and five by me.

None of the leases approved since I became Secretary allows access or occupancy of the surface in the wilderness areas. The wilderness values cannot be disturbed.

Because of the furor over wilderness leasing, I imposed two moratoriums to give Congress time to sort out exactly what national policy changes should be adopted. When Congress did not respond, I proposed a solution. A change is needed because under present law, mining and drilling is permitted in the wilderness. There is no legal reason to deny a lease if proper environmental safeguards are in place.

In essence, we are asking that all wilderness areas and wilderness study areas be withdrawn from drilling or mining activity through the remainder of the century.

We are proposing some deadlines on wilderness decisions so that the process on Forest Service lands will be completed. Where Congressional deadlines are not met, areas under consideration for wilderness would be returned to their prior use which might include primitive areas, natural areas, wildlife management areas, or possibly multiple uses. They would not necessarily become available for mining or oil and gas drilling.

Our proposal is an effort at a compromise between two extreme positions—those who want wilderness closed now and forever and those who want another 20 years of exploration. As a compromise, there is the risk it will please no one, but it should.

Until the end of 1983, wilderness areas generally are open for mineral entry. Further, even after closure, any future Congress can decide to reopen. We propose a compromise: close wilderness NOW and specify a date, January 1, 2000, and leave Congress the choice of what to do thereafter. The date, we believe, would make it harder to reopen wilderness between now and the 21st Century.

Further, it is clear that wilderness areas would continue after the year 2000 with or without Congressional action and entry thereafter, while permissable, would require the Secretary of the Interior to promulgate regulations before that would occur.

The compromise we have proposed is similar to the one hammered out and adopted in December of 1980 in the Alaska Lands Act covering 56 of the 80 million acres in the Wilderness System. We thought it might be fair to apply the basic formula to the 24 million acres in the "Lower 48."

Our proposal calls for a continuous study of wilderness and proposed wilderness provided the means of doing so will not diminish the wilderness characteristics of the areas. By the end of the century our country should have acquired substantial data upon which to make rational decisions about how to better protect the wilderness and at the same time meet our national needs for energy and minerals in the 21st Century.

This proposal also provides an essential safety value to protect our national security. In the event of "urgent national need," the President could issue an order for the entry into a specific few acres of wilderness areas for the production of specific needed energy or minerals. Congress, of course, could countermand that order and is given time to do so.

This proposal would tone down the rhetoric and give time for emotions to cool so that we can better manage and protect these wilderness areas for the rest of the century. It gives this Nation time to clarify how we are to continue stewardship of these important areas in the 21st Century.

Of course, people who are making hay out of this issue do not want the rhetoric toned down; do not want emotions to cool; and, most of all, they seem to want to forestall the possibility of future deliberations based upon better information and more facts than we now have. They fear they may be proven wrong.

I am willing to trust the future generations of Americans to make wise decisions, especially if we take steps to see that they have better information upon which to make decisions. There's no reason for any of us to think that we are smarter or morally superior to those who will be the decision-makers of the next century.

We are a nation of environmentalists, but we must base our resource management decisions upon facts—upon good and complete information.

A study conducted for the U.S. Fish and Wildlife Service demonstrates that many Americans—despite the good work of organizations such as yours—still do not know much about animals or wildlife conservation issues. For example, only slightly over half the people surveyed knew that veal does not come from lamb. Seventy-five percent of the people surveyed did not know that the coyote is not an endangerd species.

Residents of large cities showed extremely little knowledge of wildlife and conservation issues. People in large cities who knew the least about wildlife were the most opposed to hunting.

Unfortunately, there are those who play to the emotions of people who know little about wildlife. This makes it difficult for your organization and for me to do our work. We have to do a better job of educating people about wildlife and about conservation in general so that there is an understanding that managed use of resources—whether use be hunting, fishing, grazing, mining or drilling—is an essential part of the equation of stewardship.

My job as Secretary of the Interior requires me to play many roles. I am the chief environmentalist, the chief oil and gas driller, the chief wildlife manager, the chief coal leaser, the chief national park ranger, the chief dam builder, the chief purchaser of wetlands for migratory bird habitat, and even the chief Indian trustee, for America.

In other words, I must try to consider the broad public interest in all decisions I make.

It is my job to ask everytime we are faced with a resource management decision: How will this affect the environment? How will this help create jobs? How will this impact on our national security?

In response to these questions, I have brought a year of change to the Department of the Interior, just as President Reagan has brought a year of dynamic change and progress for the entire government.

These changes are crucial so that we can restore America's greatness, so that we can protect our liberties, so that we can maintain our economy and our environment for ourselves and for untold generations to come.●

KEEP THE SUPREME COURT SUPREME

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. FRENZEL. Mr. Speaker, the March 6 edition of the Minneapolis Tribune contained an excellent editorial which opposes legislation that limits the jurisdiction of Federal courts in the areas of abortion, busing, and school prayer.

I recommend the article, which follows, to my colleagues as a statement of good sense and sound reasoning.

[From the Minneapolis Tribune, Mar. 6, 1982]

UPSETTING A DELICATE CONSTITUTIONAL BALANCE

Bills that would strip the federal courts of jurisdiction over specified issues are moving dangerously close to becoming law. One was approved by the U.S. Senate this week, and others are expected to pass the Senate soon. The prospect of passage is dangerous because the bills threaten to upset a delicate constitutional balance fundamental to this nation's tripartite governmental system.

Upsetting that balance is not the bills' primary purpose. Instead, their sponsors seek an easy way to outlaw abortions, end busing as a means to school desegregation and put prayers back in public schools. They would do indirectly what the Constitution will not permit them to do directly.

In landmark cases, the U.S. Supreme Court declared that state laws that banned abortions, permitted racially segregated public schools and condoned school sponsorship of prayers in public classrooms were unconstitutional. Lower federal courts have followed those binding precedents in other cases—for instance, by ordering busing to desegregate school systems. Neither Congress nor state legislatures may enact laws contrary to those decisions; such laws would themselves be unconstitutional. The Constitution would first have to be amended to permit what it now forbids.

By design, amending the Constitution is difficult to do. That is as it should be. The Constitution is this country's fundamental governmental document, the guarantor of the basic rights of citizens. It could not fulfill that role if it could easily be changed by temporary majorities. The court-stripping bills are an attempt to circumvent the safeguards of the amending process. They would allow constitutional rights to remain unchanged—but prevent their enforcement by federal courts. Whether that approach itself is constitutional is doubtful. But even if constitutional, the bills would set a dangerous precedent.

Those who contend that the bills are constitutional point to the "exclusions clause" of Article III, which establishes the federal judiciary. That article vests judicial power in the U.S. Supreme Court and "such inferior courts as the Congress may from time to time ordain and establish"—currently, the U.S. District Courts and the Circuit Courts of Appeals. It outlines the scope of that power and gives the Supreme Court original jurisdiction over some cases—those involving states as parties, for instance. In all other cases, the court has appellate jurisdiction ". . . with such exceptions, and under such regulations as the Congress shall make."

But most constitutional scholars, even those opposed to abortion, busing and bans on school prayer, argue that congressional power under the exceptions clause is limited by other constitutional provisions—by the 14th Amendment's guarantee of equal protection of law, for instance, and the guarantee of due process in both the Sixth and 14th amendments. Due process, when a constitutional right is at stake, may require that a citizen's complaint be reviewed by a judge who enjoys the protection afforded the federal judiciary by Article III.

If enacted, the bills would clear the way for circumvention of the Constitution where other rights are at stake. Any right could be voided, although it remained a part of the Constitution, if a majority in Congress could bar its enforcement. That should alarm even those who oppose abortion, busing or prohibitions of school-sponsored prayer. If those rights can be voided today, what others might become unpopular—and be made unenforceable—tomorrow? Majorities change, and with them popular opinions and prejudices. The Constitution and the independent federal judiciary were designed to afford protection against temporary political and social pressures.

Finally, the bills are an affront to state courts, which by default would gain jurisdiction over the issues taken from the federal courts. The underlying premise of the bills is that state judges would uphold unconstitutional legislation that the federal courts would strike down. But state judges, like their federal counterparts, are sworn to uphold the Constitution. The assumption that they would violate that oath insults them.

A more likely result is that state courts would follow existing Federal precedents. Since no new cases would be heard by federal courts, federal case law would be frozen from further development. From the standpoint of the bills' sponsors, that would be an ironic result when an increasingly conservative federal judiciary shows signs of modifying earlier decisions on some controversial issues. Another result—because judges in 50 separate court systems could not apply precedents to new cases with perfect consistency—would be a state-to-state variance in constitutional rights. Federal judicial review is designed to prevent such a variance, in itself a denial of equal protection.

America's system of government has endured through 200 years of peace and war, prosperity and hard times, harmony and discord. It has done so largely because the Constitution strikes a delicate balance—between different branches and levels of government, with different responsibilities and constituencies; between responsiveness to the popular will and protection of unpopular people and views. It would be shortsighted to upset that balance for the sake of short-term gain on isolated issues. If the Constitution is wrong, it should be changed—using the process the Constitution itself sets out in Article V. But it should not be overridden or circumvented at the whim of Congress and pressure groups.●

SCHOOL PRAYER: AN ISSUE TO BE DECIDED BY THE STATES; NOT THE FEDERAL GOVERNMENT

HON. WAYNE GRISHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. GRISHAM. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues an article on school prayer that was included in my March 1982 newsletter:

SCHOOL PRAYER

The issue of whether voluntary school prayer should be allowed in our public schools should be decided by the States not the federal government. The people of our country will not allow the federal government to interfere in the free exercise of religion. Congressman Grisham is in favor of voluntary school prayer. We must work to strengthen the moral and spiritual fiber of this country. Our Founding Fathers never endorsed a concept which would have restricted the freedom of any American to participate in silent prayer.●

ERNIE PYLE: WHERE ARE YOU?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. DORNAN of California. Mr. Speaker, for some months now, the Central American country of El Salvador has been the focus of attention of the Nation's media. Day after day, the alleged human rights violations of the Duarte government are paraded on the front pages of our leading newspapers and on our television screens while the exploits of the Marxist-Leninist guerrillas are lionized and the guerrillas themselves feted.

It is one of the unfortunate observations of our time that advocacy journalism has, in many instances, replaced straight, factual reporting. Indeed, advocacy journalism is virtually taken for granted among an increasing number of the newer breed of journalists. In the good old days, which really were not so very long ago, advocacy journalism went by another name—it was called the editorial page. Now, it seems, an increasing portion of the paper is given over to editorializing, only it is not labeled as such. Whatever happened, I wonder, to truth in advertising?

What we desperately need, Mr. Speaker, are journalists of the mold of Ernie Pyle who took his journalistic ethics and commitment to straight reporting seriously. One such journalist is Bruce Herschensohn who accompanied me in my recent visit to El Salvador. Bruce's observations are hard hitting and factual as well as a refreshing change from the regnant liberal orthodoxy that has been imposed on the Nation by segments of the Fourth Estate.

Mr. Speaker, I would like at this time to submit Mr. Herschensohn's insightful observations for the RECORD.

KABC-TV, LOS ANGELES, COMMENTARY NO. 1: EL SALVADOR, FEBRUARY 22, 1982

Did you ever notice that when a new TV season begins there's a bunch of New shows? Somehow, most of them seem the same as other series that you've seen before. In one of them, the detective's face has changed but that's all that's changed. In another the people living in the New York apartment look different, but boy, it sure seems like that series was such a success last season. Well, there's an odd remake this season and it's playing on the network news and it's unbelievable that they'd want to remake this thing again, but they are. The name has changed, but I'll tell you the lot in just a few sentences. It's about a country that's being taken over, and the United States eventually cuts off all aid to the side that's friendly to us, because of human rights violations there. And when our aid stops, the opposition wins the war and the show ends with them violating human rights more than that country has ever seen and, in addition, the United States has a new enemy in power, whereas it used to have a friend in power.

It's possible that because the weather has been so good lately you might not have been watching TV, so let me fill you in so you can catch on with the weeks ahead. A couple of Senators came back from a "Fact Finding Trip" to that country and now that they're back they believe that we should stop our aid to the friendly side—the government. They felt exactly that way before they made the trip but what the media didn't tell us is that the purpose of the "Fact Finding Trip" was to give credibility to the politicians old beliefs.

You might have missed it, but an actor went to Washington to launch his campaign for aid to the other side. Leonid Brezhnev, Fidel Castro, Yassar Arafat and Ed Asner are now all on the same side supporting the Marxists there. Then there's Ramsey Clark. They use him in all of these series. In case you don't remember him, he played the same role in "Vietnam" and "Iran." In "Iran" he's the one who went to Iran after Khomeini's revolution won, to participate in a conference condemning U.S. actions. He even said there that our attempt to rescue Americans was "a lawless act." So he's perfect for the part in this new series. All three networks are running it now and it's pretty tough to find any sequence that backs the U.S. Goverment's position. Most of the reports and commentaries take a position against the U.S. being there. It does sound familiar, doesn't it? Well, that's because you probably saw the series when it was called "Vietnam" or "Angola" or "Cambodia" or "Ethiopia" or "Laos" or "Iran" or "Nicaragua." It's called "El Salvador" now and this remake is about three quarters of the way through its nightly telecasts. I don't like to give away the ending but it shouldn't be any surprise. It ends with the media covering the opposition's side of the conflict more and more, influencing the nation against our support of the government, and then the government falls and there's a lot of executions and the new government forms an alliance with other enemies of the United States. It's okay if you miss the rest of it. It'll be on again. It'll be called "Guatemala" next season. And then the big spectacle called "Mexico" will follow that one. Someday, thank goodness, it will all be over. They'll run out of countries. That's when we'll realize that we should have thought for ourselves rather than be influenced by those who helped create the old shows. The ones that ended so tragically for the peoples of foreign nations and for the future of the United States.

KABC-TV LOS ANGELES, COMMENTARY NO. 2: EL SALVADOR, FEBRUARY 24, 1982

When Nicaragua fell just two-and-a-half years ago, there was a virtual celebration in our State Department, and a virtual celebration among many people in the United States. "Now," they said, "Nicaragua can get back on its feet. Repression will end, there will be free elections, the Sandinistas are a coalition of all diverse interests and the people of that nation will, at last, have a responsible government."

There were others within the United States who regarded the revolution differently and who had a different prophecy of the future. Their prophecy was that repression would be far worse, that elections would not be held, that the Sandinistas would form a partnership with Cuba, the Soviet Union and the PLO and expand that power northwards in Central America. Now, it is two-and-a-half years later and we know that the latter prophecies were accurate; even moderate compared to the truth of Nicaragua today where, beyond the prophecies that came true, the government there praises the Soviet Union for invading Afghanistan. Nicaraguan Indians are driven from their lands and put away, and the new National Anthem of Nicaragua has lyrics that refer to us: the United States, as "the enemy of mankind." Okay, now we know. Well, you would think that at least some good could come from that knowledge. At least having seen this happen within our own hemisphere so recently that we, at least, wouldn't allow it to go further. But no. Not even that amount of good came from it. It's ignored, totally ignored by those who are now saying that we better not aid the government of El Salvador from a Marxist takeover. Let it go. Some here even back the Marxists. Are we crazy? Don't we see what's happening? At times, I don't even see how we can talk about anything else because it's so dangerous. Now, we're not talking about Central Asia or Central Africa, we're talking about Central America, with everything that name implies. I hate to say it, but by the apathy of some, and the plain ignorance of others, of course, this will spread to Guatemala and Mexico. Can anyone believe that El Salvador will be the end of it? And then what? Guerrillas, terrorists, on the southern borders of our own country? What is to prevent that? What's to prevent bandit raids, terrorism, and, there will be those fools within the United States, and you can even point to them now, identify them, who will say. "Well, wait a minute. You know they have a point. They have legitimate grievances against us." We're no super power. Let's knock off that phrase. We're no super power at all if we fiddle around with this threat as it invades the very hemisphere upon which we live and that we share with other Americans. Everyone in this hemisphere is an American and we better rush to preserve their future and our future. Perhaps the main problem in this country is that too many people appear to be sleeping, totally unaware of the short distance between El Salvador and the United States. Totally unaware of the short distance between the past and the future. If we don't wake up now by a shake from our friends, we're going to be awakened a little later by a surprising noise outside our very doors—made by our enemies.

KABC-TV, Los Angeles, Commentary No. 3: El Salvador, March 4, 1982

Did you know that Americans are already massing in the capital city of El Salvador for the big fight? I don't mean U.S. Military Advisers. I mean the U.S. press. One hundred and sixty of them are there already, and maybe it's time that they stopped their involvement. They've massed together at the El Camino Real Hotel as they massed previously at the Caravelle in Saigon and the Hilton in Teheran and the Intercontinental in Managua. And they're on their way to victory which means El Salvador's defeat. I mention the hotels not to give color or detail but because it's important. It's a massing together, most often at a hotel, that gives a shared-opinion to Americans back home. Peter Braestrip, former Saigon correspondent for the Washington Post admitted to intentional bias, taking part in shared-opinion-making with his peers, as did Geraldo Rivera in covering Panama for ABC during the Panama Canal Treaty debates. They participated in it, advancing their political views without your knowledge. Is that what you're now getting regarding El Salvador? Or am I exaggerating? Not at all. Beth Nissen, correspondent in El Salvador for Newsweek Magazine, told me that she believes in advocacy journalism and that Newsweek does take sides. What's wrong with that, she asks? What's wrong with it is that the reader in led to believe it's straight news. It's not labelled as commentary. Yes, she has an attraction towards the Marxists guerrillas, she admits. They're young, she says, they have their act all together; the government doesn't; they're the underdog . . . those are all her words, and she also reveals that Newsweek is planned for a seventh grade mentality. But that's only Newsweek. The question really is, is there a shared political bias coming from the press corps at the El Camino Real Hotel? Yes. It's always the fate of one hotel journalism. It has to be. They have to get stories, they have to meet deadlines, they want to get tips and leads on which to follow-up and their greatest sources are each other, usually at night, at the bar. If some brave journalist casts his or her political leaning outside of the accepted mode, that person runs the risk of becoming an outcast and hotel sources dry up. And there's nothing like peer pressure within the closed community of "hotel-journalism." As a result, we are starting to be as misinformed about the conflict in El Salvador as we were about so many conflicts before. The Marxist guerrillas have a massive campaign to influence, not the El Salvadorans, but to influence the American media. It's public. The press corps at the El Camino Real knows that the Marxists have a blueprint to influence them, but they fall for it anyway. They are, in fact, flattered by it. You know they're right when they say we're going to have another Vietnam. They're right. Just like Vietnam, the press will win, our aid will stop, El Salvador will fall, the executions will start, the prison camps will be built, the Boat People will attempt escape. Another Vietnam. And those at the El Camino Real will, without looking back, move on to the next conflict at the El Dorado Americana in Guatemala City. And then the big one at the Maria Isabel Sheraton . . . right on the Reforma. Good restaurant. Magnificent bar. That's in Mexico City.

KABC-TV, Los Angeles, Commentary No. 4: El Salvador, March 5, 1982

Before concluding this series on El Salvador on the Six O'clock News tonight, it's worth spending a couple minutes reviewing when and how the present crisis started. At the beginning of 1977, just five years ago, El Salvador was stable. It was run by an authoritarian government as is true throughout most of Latin America, in fact, true throughout most of the world, but it was stable. So stable, in fact, that only 6.2 percent of its national budget went to the military. In contrast, 32 percent of its national budget went into health and education. Not a bad ratio: 6.2 percent to the military, 32 percent to health and education—and in terms of foreign policy it was staunchly pro-U.S. In the United States, our Human Rights Campaign was just beginning and along with Iran and Nicaragua, El Salvador was made one of the first targets of that Human Rights Campaign. El Salvador was selected, not only because the government was repressive . . . there were countless countries where that could have been the sole criterion, but because following the Presidential election of 1977, in El Salvador, around forty people were killed, and the evidence pointed to the murderers being government troops, and the President, Humberto Romero, appeared to be doing nothing about it. By 1979, when our Human Rights Campaign was in full swing, President Carter was getting frustrated with President Romero and said that we'd no longer help him. That was because repression was still being reported and there was still no explanation for those forty deaths of 1977. So, we would no longer aid him in agricultural development or even in rural housing. We were, in fact, through with him. Right around the same time we also cut aid and were through with Somoza, next door in Nicaragua. And they both fell quickly. First, Somoza in July and then three months later, Romero in October. El Salvador was taken over by a Junta and our government was delighted. Now human rights violations could end, agricultural reform could begin, and banks could be nationalized. Our Ambassador was to assure that those things would happen . . . nationalization and socialization.

The Civil War began in full just about as soon as that Junta took over. The country was ripe for the Marxist assaults, with Nicaragua falling three months earlier and the world praising its new revolutionary government, and with El Salvador in governmental disarray. That war has now claimed over thirty-thousand lives by most estimates. Remember, that we started our Human Rights Campaign in El Salvador primarily because of the loss of forty lives. Whenever there's a war there are always different people citing different causes, but there are few people who, in tracing the history of this war, would cite our own policy of 1977 through 1979 as being a very, very important factor. Had we continued our economic aid and not publicly pointed our finger at repression in friendly countries, but rather, did it privately, the recent history of that country as well as Nicaragua next door, and Iran across the globe, would be entirely different today. It's a point always worth remembering as we make future foreign policy decisions.

KABC-TV, Los Angeles, Commentary No. 5: El Salvador, March 5, 1982

See if you can figure this out. I can't and I've made any number of attempts. It's regarding some U.S. Senators and Congressmen; Pell, Leahy, Long and Murtha. Please follow this step by step, if you would, because if you miss a step, it won't make any sense. That's not to say that it will make sense if you do follow it, but this is really a weird story.

I'm going to use the terms: left, moderate and right. They're not really precise at all in this case, but there is no other way to do this without going through long explanations that are really beside the point of this true sequence of events. Pell, Leahy, Long and Murtha have for some time been opposed to the present government of El Salvador. They've always thought of it as being too right-wing and they've been calling for elections to be held there. Now, there will be elections, but as you know, the left in El Salvador won't join the election process though they've been invited to join it. The left are the Marxist guerrillas. So the election is between the present government and parties that are considered to be further right than the present government, and one of them looks like it's going to get a lot of votes. Alright, so Pell, Leahy, Long and Murtha are all saying that if the right wins this election, then we should stop all of our aid to that country. Now you realize that what they're saying is that though they, themselves, have called for elections, and elections are taking place after all parties have been invited to participate, they will not go by the will of the people unless the present government, that they previously opposed, wins. We can certainly assume that had the Marxists chosen to participate in the elections and, further, if they won them, that Pell, Leahy, Long and Murtha would have been satisfied with that. Now you could say to me, "Wait a minute. How do you know? Maybe they would have said, if the Marxists win, we shouldn't aid them either!" But no. That isn't true, because, if it was, why would they have called for elections in the first place? They already had the government that is the only one that Pell, Leahy, Long and Murtha would want, if they don't want the right or the Marxists. What was their big call for elections all about? To further pin-down that they wouldn't want to hold back our aid if the Marxists would win, remember, that these Members of Congress did vote for our aid to go to the leftist government of Nicaragua even without elections in that country. 75 million dollars worth of taxpayers' money to go there and they haven't even called for that government to hold elections. There isn't one shred of consistency to what they do, except for the perennial consistency of supporting, with your money, those governments or prospective governments that in each situation, are the most hostile elements to the United States in those countries. Consistent on that. I'm sure it's not by intent, but they're helping to turn the world into a collection of countries led by anti-U.S. governments. Why? Could they be so lacking in vision? I hope so, because it's the only answer imaginable that would provide any reasonable explanation.●

PRESIDENT REAGAN'S CARIBBEAN PLAN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. MICHEL. Mr. Speaker, the Journal-Star of Peoria, Ill., recently commented editorially on President Reagan's Caribbean plan. I commend this editorial to our colleagues for its grasp of the complexities and the possibilities in that troubled region. The editorial is correct. In my view, when it emphasizes the importance of Cuba—the island itself, not the political entity now ruled by Castro—to the economic well-being of the region.

At this point I wish to insert in the RECORD, "Reagan's Caribbean Plan" from the Peoria Journal-Star, Sunday, Feb. 28, 1982.

[FROM THE PEORIA JOURNAL-STAR, FEB. 28, 1982]

REAGAN'S CARIBBEAN PLAN

President Reagan's plan for the Caribbean basin will not solve the problem there—but it does go to the very heart of what-that-problem-is as best we can.

The Caribbean basin, like so much of the Third World, is made up of countries that are too small and too isolated to be functionally independent economically.

Our own country was in terrible shape for years after the Revolution when every State had its own currency, its own duties levied on commerce, its own private borders, and all. The adoption of a Federal constitution and a central government to replace the original confederate association was the real beginning of American economic strength—and we covered a third of a continent then with a variety of conditions and resources.

Most of the tiny Caribbean countries do not have varied resources and simply cannot begin to be self-sufficient in everything from food-production to energy to automobiles. Some are smaller in population than the central Illinois area, and have nothing like the resources we have here in central Illinois. Not agriculturally, nor industrially, nor in plentiful availability of fresh water and other basics.

In recent years, many of the islands, especially, have ceased to complain about the former "colonialism" and have charged that the former colonial powers "cut them off" and "dropped them overboard"—marooned them high and dry . . . and nigh hopeless. They still cuss the former overlords, thus, but for opposite reasons.

They simply cannot survive without the means to purchase foreign things not available at home.

They have to have foreign exchange for that. Such limited things as they have to sell must have a less restricted market if they are to get the money with which to buy those necessities that are not (and in many cases cannot be) produced at home. They need to buy them without add-on taxes—as cheaply as possible. And they need the maximum development of such things as can be provided locally.

Hence, they must have free exchange with each other on a broadening basis for starters, but they are, by and large, too much alike for that to do the job. They need free exchange with us. They have had it lately to a major degree, and about all that Reagan or anybody else can do is expand that free access as much as possible—and that is the keystone of what he offered . . . together with addressing the problem of development.

In the end, regardless, association with and free exchange with others is absolutely essential to their survival. They are not and cannot, realistically, be truly "free and independent." Nature, herself, has ruled otherwise.

They have such exchange to a degree in the islands and in Central America—and they need it between the islands and Central America. Reagan's initiative could help broaden such a free trade zone.

The Central American half of this natural region is further handicapped by political instability and a long, loose tradition of political violence—increased and intensified by Communist meddling.

The whole matter is further complicated in the long term by another fact of nature. Ultimately, the basin needs to be (like the original U.S.) unified in some way . . . at least economically. And a keystone of any such combination, like it or not, is Cuba.

Cuba is one spot in the zone that has (or once had) the proven ability to produce more food than its own population needs. It isn't producing enough and has been on rationing ever since Fidel took over, but Cubans have the soil and the climate for such production. Cuba has and has had one of the most energetic Latin populations. Cuba has a key location. Cuba has great potential, currently wasted on ever-failing efforts at a major "cash crop" (sugar and tobacco) plus three-million-dollars-a-day from the Soviet Union—to finance an outsize army and its escapades.

It is a fact, sad but true, that even if he did not pose a threat with his own adventurous brand of militarism, Castro's holding Cuba would serve to disrupt the Caribbean economy and stand as a bar to its ultimate salvation.

This combination makes the "Caribbean problem" one of the hardest nuts to crack anywhere in the world—and the heart of the problem is not philosophical. It is the hard, uncompromising physical facts of nature.●

STATEMENT OF WALTER F. MONDALE

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. FOLEY. Mr. Speaker, last Tuesday former Vice President, Walter F. Mondale, delivered a speech to the National Press Club in Washington, D.C.

In his speech, Mr. Mondale described the changes both good and bad which have come over our country in the last 20 years—and outlined the steps we must take to master those changes. As a piece of analysis, this speech is both incisive and erudite. As a blueprint of our future, this speech is a summons to action. I commend it to my colleagues and ask that it be submitted to the RECORD.

STATEMENT OF WALTER F. MONDALE

WASHINGTON, D.C., March 9—Following is the text of a speech prepared for delivery by Walter F. Mondale to the National Press Club here.

I'm delighted to be back at the National Press Club. Three and a half years ago, I spoke here to make the Democratic case before a midterm election, and today I'm proud to stand here again as a Democrat and speak about the future of our country.

We meet today against a very bleak landscape.

The nation is locked in a severe recession. More Americans are out of work than at any time since the Great Depression. Interest rates have reached their highest real level in history. Farmers have had their worst year since 1933. Autos and housing are crippled. And over 17,000 businesses have failed.

Those are the cold statistics. But for the millions unemployed, the recession is felt in personal pain. They have lost more than their jobs. They have lost their independence, their pride, and maybe their homes. Families are strained. Whole communities are cast into despair.

Sometimes you can blame such hardship on forces beyond our control—the faceless business cycle, the holders of foreign oil, a bad harvest. But today the cause of this disaster is the radical economic experiment of this administration. It has failed—and failed completely.

This is a recession that did not need to happen. It should not have happened. Underlying factors such as energy and food prices have been behaving very well. When this administration took office, the leading indicators were improving, But as soon as their program took hold, that program ended the shortest economic recovery since 1919. This administration has committed the most serious economic mistake in modern American economic history.

In 1978, when the Reagan-Kemp-Roth tax scheme was first seriously proposed, I said it was a bad idea. I said it in 1980, and others called it a riverboat gamble and voodoo economics. And I said it again in 1981. But it didn't take any special insight to see through the smoke and mirrors of this program. It was obvious even to a fifth grader that you could not massively cut taxes, sharply increase defense spending, and balance the budget, all at the same time.

You couldn't—and they haven't.

The result of this colossal mistake is the largest deficit in history. In 1983 the deficit they call $90 billion in fact will exceed $125 billion, and $200 billion or more in 1985. Unless changes are made, by 1984 this administration may have added more to the national debt in four years than was added in all our history since George Washington took office.

But what is even more frightening is that these deficits continue and grow larger for as far as the eye can see. In the latter half of this decade, under the Reagan program, the federal government will be borrowing nearly 50% of all available capital—crowding out private borrowers, pushing up real interest rates, bringing new investment and growth to a standstill.

We should act, now, to dig out of this radical program and start on the road to economic growth. What should we do?

First, the President should withdraw the 1983 budget and start over. Without more than a handful of voters for his budget in the Congress, it's not enough for the President to say "put up or shut up." He should exercise his responsibility to present a realistic budget to the Congress.

Second, Congress should repeal the personal tax cut for 1983, and repeal the tax leasing provision, and clean out other unsupportable tax preferences.

Third, Congress should condition the indexing of taxes on the performance of the economy and the size of the deficit. With the repeal of the 1983 tax cut, this will reduce the deficit by over $50 billion in 1985.

Fourth, Congress should accelerate the 1982 tax cut to January 1st to stimulate growth and help end the recession.

Fifth, we should control the growth in defense spending. With no sacrifice to our security, we can save at least $10 billion in fiscal year 1983.

With these five steps, we must strike an accord with the Federal Reserve Board. With the prospect of much lower deficits, we must insist that they ease up on the money supply, which will reduce interest rates and permit the economy to grow.

These are the preconditions for framing a strategy of long-term economic growth.

But that is just the beginning. It is not just this administration's numbers which dismay me. It's also their thinking.

In the last twenty years, tremendous changes for the good have strengthened our country in ways this administration doesn't comprehend.

As the result of remarkable economic growth and the legislation we passed in the 1960s—poverty declined, education improved, minorities began moving into business and professions, public health was improved, the workplace was made safer, and the environment was made cleaner. We became a more open, more plural, more just and, I believe, a stronger society.

At the same time, I believe there's nothing incompatible about a government that fights for social justice and a government that is effective and well-managed. There's nothing heartless about the public's demand to reduce red tape, paperwork, regulation and bureaucratic meddling or, for that matter, with their demand for a fresh effort at invigorating our federal system.

But there is something incompatible about striving for national strength without social justice. Our history tells us justice without prosperity is unattainable, but it also tells us that prosperity without justice is unacceptable. This administration doesn't understand that a ravaged environment imperils our economy, unfairness in our budget and tax code undermines public trust, that voting rights anchors our democracy, civil rights sustains our stability, women's rights affirms equality, and Social Security redeems our social contract.

By reopening these issues, this administration is taking a detour to the past that can never lead to the future.

But it's not just the good changes they have missed. At the same time, in the last twenty years, some very difficult changes have challenged our nation in ways they equally misunderstand.

Twenty years ago, America was the world's economic wonder, with the strongest basic industries, the highest productivity, and the best technology. All of that is now being severely challenged.

Moreover, our nation is now challenged by an alarming build-up of Soviet military forces; our security is undermined by a continuing dependence on foreign oil; and our economy is weakened by dropping productivity rates; and by persistent high inflation and unemployment.

In these critical ways, our world has changed.

There is much we must do to master these changes.

First, our most important long-term need is steady, more productive, less inflationary economic growth. Everything we care about—our jobs, social justice, and a stronger national defense—depends on that goal. Because that goal is more elusive than ever before, we must be more inventive than ever before to achieve it. We must target tax incentives to encourage high technology, research, and plant modernization. We must train our workers and encourage small business and do whatever else it takes to achieve a more vigorous economy.

Where vision is necessary, the only long-term growth plan this administration has is to take an axe to the tax code. A recent Wall Street Journal ad said—and I quote—"If your company still plans to pay taxes in 1981, you obviously don't know enough about the new tax law." I believe someone said not too long ago, that when the tax bill was passed, "The hogs were really feeding." For a number of privileged corporations, paying taxes today is like giving to the United Way—you just send what you feel you can afford.

Second, to remain internationally competitive, we must refurbish our human and intellectual capital. We must demand high educational standards, support our researchers, invest in our universities, and encourage new technology. Every dollar we invest in science returns $100. The fact is, most of our wealth derives from educated minds and trained hands. Right now this administration is liquidating that asset—by cutting education, worker training, student loans, basic research, and R&D support.

Third, we learned in the 1970s that both our security and our economy are undermined by over-dependence on foreign oil. Although energy supplies are up right now, we must assume that the oil glut is temporary. We should be doing all we can to avoid future energy blackmail. But this administration, by weakening conservation and the development of alternative sources, refuses to do that.

Fourth, my generation—the first to cross the threshold into the nuclear age—must bear the burden of bringing these weapons under control. We now have enough warheads on both sides to bring about what I call "the final madness"—nothing less than the extinction of the human race.

I wholeheartedly endorse the nuclear freeze initiative and urge all those who have an opportunity to support it to do so.

A nuclear arms freeze is an important expression of our national determination and a critical element of our leadership for peace in the world. Building on this expression, we must move quickly and forcefully toward significant reductions on both sides.

The threat of nuclear holocaust fundamentally changes the responsibilities of Presidential statecraft. If America does not lead the effort to control strategic nuclear arms and curb their proliferation—it won't be done. For the survival of humanity, it must be done.

The Reagan Administration has shown disdain for the nuclear peril. They show no interest in our nation's non-proliferation policies. Arms control is a moral and security imperative of our age and not an instrument of propaganda.

Fifth, the recent Soviet military build-up requires a forceful, disciplined response by the United States.

Yet the response by this administration has been to propose a defense budget without a strategy; an M-X without protection; carriers and old battleships without sailors; and a B-1 bomber without a certainty of penetrating Soviet defenses over most of its operational life.

Finally, this Administration looks at the globe only in terms of an East-West struggle. The new emerging nations do not want to copy our system, but they are drawn to us because they see in America the same liberty and justice they want for themselves. Yet this administration, looking through its narrow prism, does not grasp this crucial truth. It has converted human rights from a principle to a tactic. It has allowed our just criticism of repression in Poland to be undercut by our tolerance of repression in

Chile, Argentina, El Salvador, South Africa, Turkey and elsewhere.

At home and abroad—our foreign policy is being mismanaged, our security weakened, our growth neglected, our fairness betrayed, and our future squandered.

The tragedy is the opportunity we're missing.

The country that leads tomorrow is the country that produces trained human minds and a skilled work force; the society that rewards creativity and multiplies high technology; the economy that surges ahead with competition, entrepreneurs, and small business; the nation which attracts the world with its devotion to freedom and human rights.

No country is better equipped than our own. We have the resources, the scientists, the workers, and the values. Every country in the world comes to us for knowledge and new discoveries, for skills, for technology—and, for stability and freedom. There is no way we can lose the contest for national strength—if we have the wisdom to wage it.

To wage that contest, we must take several specific steps. The number one priority, after rejecting the Reagan economic experiment, is to promote greater economic growth.

On the tax side, Congress should repeal the tax leasing provision and reexamine the depreciation program of the '81 tax bill. There is no doubt that vulnerable industries need help to modernize. Last year, Congress gave them the largest corporate tax reduction in history. But we've seen already that while this tax package helped some ailing businesses, it did not help others enough—and it gave enormous giveaways to some of the most profitable corporations in the country. In the search for tax breaks truly targeted on productive investments, I believe Congress should explore the expensing of capital investment, a refundable investment tax credit, a rebatable payroll tax, and more. And Congress should enact a fair corporate minimum tax.

On the spending side, we should consider the creation of a capital budget—as part of the regular budget—to make sure we invest adequately, as we are not doing today, in the public capital necessary for economic growth. Our economy simply cannot grow if trucks cannot travel across roads and bridges, if railroads and subways do not run, or if ships can't dock in our ports.

The second priority is to launch a national effort for a more competitive, more productive economy—with the most advanced technology and the best trained workers. That means we must stand by our commitment to elementary and secondary education, provide student assistance for those going on to college and vocational school, job training for young workers, retraining for workers who have lost their jobs in vulnerable industries. New resources for education and retraining must be combined with a rigorous and even stern adherence to high standards.

But beyond reaffirming our basic goals, I propose we take several new steps to build up our intellectual capital. We should maintain full funding for the National Science Foundation and the National Institutes of Health. We should help universities rehabilitate their laboratories and research facilities. We should establish basic research graduate fellowships, with incentives for business participation. And we should improve the research and development tax credit for business.

Third, we should relaunch a national energy program, with emphasis on producing more, conserving more, developing new sources, and filling the Strategic Petroleum Reserve at a continuing high rate. To discourage consumption and reduce the transfer of our wealth to OPEC, we should enact an energy tax. We should rebate the tax to help low-income people pay their heating costs and possibly relieve the general tax burden; we should allocate the remainder to reduce the deficit and pay for needed programs.

Fourth, we must have a concerted policy to expand exports—including a highly competitive export bank policy to permit us to compete with equivalent institutions from other nations; a much firmer policy to reduce trade barriers against American sales in Japan and elsewhere; and above all, lower interest rates so that the American dollar is not exaggerated in value and our exports are not punished.

Finally, our nation's security. The effort of strengthening our defense requires discipline and the courage to make tough choices. The Russian military buildup cannot be ignored. But, if as the President has told us, we have no way to protect the MX, we should scrap it and start on the alternatives. If, as experts say, the B-1 will cost more than $400 million apiece and yet be unable to penetrate Soviet defenses for long, we should accelerate Stealth instead. If, as strategists tell us, the greatest threat to our interests comes from Soviet conventional forces, then it is our conventional forces that must have the highest priority. If, as economists tell us, the huge growth in defense spending could well produce more inflation than additional arms, then we should pace defense increases at a more disciplined and sustainable rate. And if, as is clear, we must ask the American people to sacrifice more for the common security, then we should insist that our Allies contribute more to their own defense. And if, as I believe, sound arms control agreements strengthen our defense and save money, we should proceed towards such agreements with determination.

But in the end, the purpose of our increased military might is not war—but peace. This administration has no peace plan.

In the Middle East, the proposed sale of F-16s and Hawk missiles to Jordan dangerously escalates the arms race, as well as threatens our ally Israel. In El Salvador, this administration has increased our military involvement for more than a year, yet still the crisis deepens. The time has come to renew the Camp David process at the highest levels; to join our Allies in the search for a negotiated settlement in El Salvador; and to restore our country as the active seeker of peace.

And let me add: Just as our nation must be freed from security threats—so must our political process be freed at last from the special interest lobbies funded by PACs. To help diminish the growing specter of special interest government, we should enact public financing of Congressional campaigns to let ballots, not dollar bills, control our political process.

These are the steps to a better future. We are not taking them. But I do not subscribe to the theory that this administration is taking us back to the past. It's not that simple. Their policies rest on a denial of the past.

Throughout our history, our belief has been that if you liberate individuals from the conditions that chain them, and give them tools with which to compete, they will not only pull themselves ahead—their very striving is the foundation of our country's strength. People pulling ahead, not stopping where they are; breaking into new careers, starting new businesses, rising higher than their parents did—that surging ahead is the power that strengthens our country.

The American idea is that this Nation is never finished. Its history runs through doors that open out. Its vitality is renewed with people moving up. No static, still or quiet—out vision is of a nation in motion. Whatever freezes that motion stalls our greatness. Whatever stands in the path of opportunity—whether it's overregulation, or poor education, or discrimination, or the possibility of nuclear war—our mission is to remove that obstacle, to free individuals, and to strengthen our country.

Fundamental to that idea is that we have a profound obligation to one another in America, as old as the Republic.

Our Founders did more than improve an old confederation; they created a new community. They combined not just for the common defense; but also the general welfare. It was not for a selfish reason that they pledged their lives, their fortunes, and their sacred honor—it was for each other.

The point is this: In America we don't let people sink or swim—we swim together. We are not a Darwinist—survival of the fittest—society. We don't salute the flag of some large efficient organization of people on the make—we salute a great civilization with compassion.

What kind of a country are we? The Reagan Administration gives us a cold answer. Our beliefs give us another, best expressed in a story told by John Gardner:

A puzzled little girl brought a dollar bill to her grandfather and asked him, "What does 'E Pluribus Unum' mean?" "It means, out of many, one," he replied. "I don't understand," she said. So he tried again. "It means that we are collectively a whole." "I still don't understand," said the little girl. And then her grandmother said, "What it really means is that we need each other."

And so we do.

Thank you very much.●

A SALUTE TO OHIO STATE SENATOR WILLIAM F. BOWEN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. STOKES. Mr. Speaker, this is an opportune time and fitting forum for me to join with my Democratic colleagues in Ohio and the Bowen Appreciation Committee in honoring State Senator William F. Bowen of the 9th State Senatorial District of Ohio. Mr. Speaker, on March 27, 1982, my good friend, State Senator Bowen, will be honored in Columbus, Ohio.

At this juncture, I would like to apprise my colleagues of the achievements and dedication of this man to the State government and the people of the great State of Ohio. I am sure that my colleagues on both sides of the aisle can appreciate the character and accomplishments of Bill Bowen.

Mr. Speaker, this dedicated public servant has been elected to the Ohio State Senate from the 9th District three times and has served two terms in the Ohio State House of Representatives from the 69th District. During his public service career, State Senator Bill Bowen has earned the reputation as a no-nonsense advocate of the disadvantaged in the State of Ohio. He particularly has earned the trust and esteem of minority business owners in Ohio.

This warrior for the people in the Ohio Senate seemingly has dedicated every waking moment to developing legislative strategies designed to benefit the working class and the disadvantaged. He has been a tower of strength in this regard. Bill Bowen has refused to bow to any legislative measures which would hurt the well-being of the disadvantaged and minorities in Ohio.

Mr. Speaker, my friend, Bill Bowen began his celebrated career as a State representative in 1966 under the backdrop of a long and active association in the civil rights movement in Cincinnati, Ohio. As president of the Cincinnati branch of the NAACP from 1958 to 1964, Bill realized that there was a dire need to work through the system in Ohio for the betterment of minorities and the neglected. This basic principle has proven to be a source of his unrelenting motivation to work in the State government to help the people in Ohio.

Mr. Speaker, this motivation was apparent to Bill's colleagues. In his second term in the State house, Bill Bowen served as the house minority whip.

Mr. Speaker, State Senator Bowen was subsequently appointed to fill the vacancy in the State senatorial district on February 14, 1970. He ran for election that same year and reelection in 1974 and 1978.

Mr. Speaker, through 2 productive years in the State house and 3 in the State senate, William Bowen has established himself as one of the major forces in Democratic politics in Ohio.

During the 114th general assembly, he serves on the agriculture, commerce, and labor committee, the finance committee, the legislative budget committee, the health and human resources committee and the joint committee on federal funds. I might add, Mr. Speaker, that these are some choice committee assignments.

In addition to the aforementioned committee assignments, State Senator Bill Bowen is a masterful legislator. In the 113th general assembly, he was the sponsor of several bills which passed in the State senate. He is credited with and has received national recognition for his legislation for the minority business development loan program.

Furthermore, Mr. Speaker, Bill Bowen is the initiator of the unprecedented establishment of relations between the State of Ohio and Anambra, Nigeria in the State's first black African sister-statehood agreement.

Mr. Speaker, State Senator William Bowen is a dedicated member and vice president of the black elected Democrats of Ohio, a member of the national Caucus of State Legislators and chairman of the Hamilton County Black Caucus. He is also associated with the Congressional Black Caucus Minority and Economic Development Braintrust.

Mr. Speaker, because of his continuing role as the sentinel in the State senate and in the community on behalf of the disadvantaged, his constituents in the ninth senatorial district and minority businessmen, William Bowen has been the recipient of numerous awards and citations. They include the award of distinction by the U.S. Department of Labor's Regional Minority Women's Employment Conference, award of appreciation of the Ohio Minority Business Community in Columbus, outstanding public service award from the Ohio Public Transportation Association and the John F. Kennedy Public Service Award.

With those thoughts in mind, Mr. Speaker, I think that it would be appropriate to say that State Senator William Bowen has made an indelible mark on the State Senate and State House of Representatives in Ohio. His hard work and diligence have earned him laurels from diversified groups and associations. However, more importantly, that work without fanfare and advocacy on behalf of the nineth senatorial district, has earned him the respect and support of the people of Cincinnati and Ohio. That, Mr. Speaker, is the greatest tribute of all.

On behalf of my constituents of the 21st Congressional District of Ohio, I salute State Senator William F. Bowen on this occasion. I ask my colleagues at this time, to join me in saluting one of the finest legislators I know, my good friend—State Senator William Bowen.●

MR. FRANK C. SCHROLL

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mrs. KENNELLY. Mr. Speaker, I am pleased to call to the attention of my colleagues the fact that Mr. Frank C. Schroll, president of Schroll Transportation in East Hartford, Conn., was recently elected president of the Common Carrier Conference—Irregular Route.

The conference, an affiliate of the American Trucking Associations, represents some 600 trucking companies throughout the country.

Mr. Schroll, who lives with his wife Pat in Glastonbury, Conn., brings to the presidency a broad background of knowledge and experience in the trucking industry, including 27 years with Schroll Transportation and a recent 1-year term as president of the Motor Transport Association of Connecticut.

The conference has chosen well, and I am pleased that Mr. Schroll's abilities have been recognized by his peers in the trucking industry.●

ANOTHER BATTLEGROUND

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. VANDER JAGT. Mr. Speaker, I know that all Members of this body were shocked earlier this year when the Turkish Consul General in Los Angeles, Kemal Arikan, was murdered by a group calling itself the Justice Commandos of Armenian Genocide. Our colleague CHARLES PASHAYAN, JR., an American of Armenian descent, stated for the record a very moving denouncement of that horrible action. The United Armenian Commemorative Committee's central California region issued a fine statement in opposition, asking that "we pray, along with all people seeking justice and peace, for an end to such senseless violence."

Unfortunately, the killing of Consul General Arikan now is 1 of 20 Turkish diplomats or members of their immediate families who have been slain since 1973, 3 on American soil.

In past months, Turkish diplomatic missions in New York City and Los Angeles have been bombed and innocent bystanders injured. Threats and violence have prompted cancellations of performances by the Turkish State Folk Dance Troupe in California.

It is reported that two groups have been largely responsible for this terrorism—the Justice Commandos and the Armenian Secret Army for the Liberation of Armenia (ASALA). It is said that the ASALA is one of the world's newer and more efficient terrorist movements. What a great reputation—killers. ASALA operates in a dozen countries and is believed to be headquartered in Beirut. This organization is Marxist led and has strong ties to the Popular Front for the Liberation of Palestine (PLEP), the Marxist group that has pioneered new forms of international terror.

The Wall Street Journal and the Assembly of Turkish-American Associations have attempted to bring about public awareness of this horrible development right in our own country. I would trust that the Federal Bureau of Investigation is doing its very best to stamp out these terrorist hate and killing actions.

I would like to place in the RECORD at this time the February 1, 1982, editorial from the Wall Street Journal, "Terrorism at Home," as well as an advertisement by the Assembly of Turkish-American Associations, "Assassins In Our Midst" which appeared in both the Los Angeles Times and the Washington Post last month. They follow:

[From the Wall Street Journal, Feb. 1, 1982]

TERRORISM AT HOME

The rescue of Gen. James L. Dozier may break the back of the Red Brigade terrorist movement in Italy. In itself a considerable blow to the group's mystique, the brilliant rescue is also testimony to the progress Italy's anti-terrorist police have made in cracking the organization and arresting its leaders.

How ironic that on the same day Gen. Dozier was rescued, the Turkish consul was assassinated at a stoplight in Los Angeles. It would be a huge mistake to view the killing of consul Kemal Arikan by Armenian terrorists as part of some obscure Byzantine quarrel. There is every reason to worry that it will mark the start of the same sort of process with which the Italians are so painfully learning to cope.

The Armenian grievances against the Turks arise from massacres committed by the Ottoman empire around 1915. There is no question that the Ottoman suppression of the Armenians involved terrible brutality, not excused by the fact that it was deliberately provoked by terrorist groups in the hopes that the Christian powers of Europe would protect their co-religionists from the Moslem Turks and set up a separate Armenian state.

Even accepting the Armenian massacres as something close to the Holocaust, though, what excuse are they for assassinating diplomats who were not even born at the time, and who serve a vastly different political regime than the one that existed then? One does not expect to find Jewish terrorist groups gunning down German ambassadors or consuls, whether from West or East Germany.

And indeed, while there is no doubt deep resentment of everything Turkish among Armenian communities everywhere, the wave of assassinations did not start until some two generations after the massacres. Suddenly in the early to mid-1970s, a wave of highly professional and well-coordinated killings began, sometimes during the same week at locations separated by oceans. More than a score of Turkish diplomats have now perished. Mr. Arikan was the third to die in the United States.

Adding to the mystery, nothing was known about the leadership of the most prominent terrorist group, the Armenian Secret Army for the Liberation of Armenia. Another group, the Justice Commandos of the Armenian Genocide, claimed responsibility for last week's killing.

The Armenian Secret Army's literature is fascinating. Armenia, a publication issued in Beirut in Arabic, Armenian and English, is one example. One issue is particularly explicit. The aim of the group, it says, is to liberate Armenian lands occupied by Turkey. That is, the eastern part of the country, which borders Iran, Iraq, Syria and the Soviet Union. Because of the massacres few Armenians still live there, but it does contain airfields from which planes could overfly the Persian Gulf.

The Armenian Secret Army's magazine further explicitly stipulates that the Armenian Soviet Socialist Republic is already liberated. Indeed, it proclaims that after Armenian lands in Turkey are liberated, they should achieve "unity with the Armenian S.S.R." In short, the avowed purpose of the leading Armenian terrorist group is to detach a strategic hunk of NATO real estate and attach it to the Soviet Union.

The Armenian assault on Turkish diplomats, of course, came in conjunction with a well-financed terrorist assault within Turkey itself, leading to the current hiatus in Turkish democracy. Propaganda broadcasts were directed from East Germany to Turkey, and terrorists were known to find refuge in Bulgaria. The killings within Turkey reached 28 per day before the military intervened to take over the government. The government has succeeded in stopping the killings, and as it proceeded to arrest terrorists, has seized weapons worth more than $250 million. Turkish authorities estimate that total financing of terrorism came to more than a billion dollars, the equivalent of NATO military aid to Turkey over the same period.

Given this history, Armenian dissidence in the U.S. clearly deserves the highest scrutiny. There is plenty of room to wonder whether law enforcement officials have taken it seriously enough, since the Arikan killing comes in the wake of public demonstrations on Turkish-Armenian issues in recent weeks and the bombing of the Turkish consulate in Beverly Hills three months ago. But the terrorist outbreak in Los Angeles should be viewed as neither solely a local law enforcement issue nor mainly a result of ancient wrongs. It would be nice to be reassured that the highest levels of the U.S. government understand that this is not an isolated aberration but in all likelihood part of a world-wide struggle.

[From the Washington Post and Los Angeles Times, Feb. 4, 1982]

ASSASSINS IN OUR MIDST

Thankfully, General Dozier is safe and at least physically unharmed. But not so the late Colonel Charles Ray in Paris or Kemal Arikan, the Turkish Consul General in Los Angeles, the third Turkish diplomat to be slain in the United States and the twentieth Turkish diplomat or family member to be murderd throughout the world since 1973 by Armenian terrorists.

The Armenian Justice Commandos has claimed responsibility for the recent assassination in Los Angeles as well as for the murders of Turkish diplomats in Europe and Australia. With ASALA, an Armenian communist terrorist group, the "Commandos" also assassinated the son of the Turkish ambassador to the Netherlands and the Turkish Embassy press counselor in Paris.

That these acts of terrorism are linked together should by now be obvious to all. They are all part of a well calculated plan, engineered from a central point, with the single objective of disabling the NATO allies. The discovery of the Italian Red Brigade's hideout revealed plans to attack other NATO targets; the wanton murder of the 20 Turkish diplomats or members of their immediate families has been claimed variously by so-called "Liberation Armies" of Armenians known to be trained with the support of international communism.

Exactly one year ago, after the release of the hostages in Iran, both President Reagan and Secretary of State Haig vowed that terrorism would be a central target of American foreign policy. Yet terrorism continues unabated.

Equally tragic for Americans is the development of a new form of racism on our own soil, paralleling the anti-black, anti-semitic bigotry of past decades. Now, one minority has taken to terrorizing another minority on every available front here in the United States.

In the past year, Armenian groups have disrupted Turkish-American cultural symposiums. Turkish folk-dance groups have had their appearances cancelled following bombings of performance facilities. No longer satisfied with name-calling, these extremist Armenians have chosen violence against Turkish-Americans, as well as Turks, as the instrument for defining their ethnic identify.

The wellspring of extremist Armenian efforts has been the deliberate misrepresentation of a complicated tragedy that occurred three generations ago during World War I—before today's victims of Armenian terrorism were even born. That war-time tragedy 65 years ago claimed 2.5 million Turkish lives, as well as perhaps 300,000 Armenians, through hostilities, famine and epidemics. Yet an Armenian extremist hate machine propagates vicious anti-Turkish allegations about that event—allegations that are without factual bases and are disputed by disinterested scholars.

Indeed, a main objective of Armenian terrorist attacks is to create opportunities to publicize the 65-year-old myth. Too often, news media reporting on such terrorist acts unwittingly contribute to their success, particuarly when Armenian charges are reiterated in news stories without being labeled as "allegations."

We Americans must respond or face an era of continuing crisis. The survival of our ideals, our liberties, our way of life is threatened. The problem of terrorist attacks in our country, by Armenians or anyone else, is not one that we can "muddle through," for that is equivalent to doing nothing at all. And to do nothing is to collaborate in the victory of terrorism.

We Turkish Americans are not a large ethnic community in the United States, but the collective trauma which we are enduring here in our own country threatens to dehumanize not only us but also our fellow Americans who fail to condemn the campaign of hate and violence that is directed against us. We Turkish Americans bear no hostility toward Armenians. Neither do the tens of thousands of Turks living in Turkey whose parents or grandparents died at the hands of Armenian forces during World War I. They have put aside the bitterness of the past and have achieved reconciliation.

We urge all Americans, including the great majority of Armenian Americans of goodwill, who we believe deplore the excesses we have been made to endure, to join in unambiguous condemnation of the anti-Turkish terrorist hate campaign and of the assassins in our midst.

We also urge the American government to deal effectively with this scourge, not only by punishing the assassins, but also by stamping out the sources and the accomplices of this international conspiracy.●

WATT VERSUS CONGRESS

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. GORE. Mr. Speaker, opponents of the vote in the Energy and Commerce Committee recommending that the Secretary of the Interior, James G. Watt, be found in contempt of Congress are attempting to portray the committee as motivated by partisan purposes. That argument ignores the committee's history. For example, in 1978, the Oversight and Investigations Subcommittee, chaired by a Democrat, voted to find Joseph A. Califano, Jr., a Democratic Secretary of the Department of Health, Education, and Welfare, in contempt of Congress for failure to provide subpenaed materials. The matter was resolved prior to a full committee vote.

In the case of Secretary Watt, a compromise proposal submitted to the Department of the Interior 6 weeks before the scheduling of the subcommittee vote was completely ignored. Once the vote was scheduled, the Department submitted some, but not all, the withheld documents to the subcommittee. Following a vote at the subcommittee level, the Department produced the answers to questions posed at a hearing last August.

But there remain 14 documents identified by the Department as responsive to the subpena. Again, before the committee vote, the chairman offered a compromise solution which has not been accepted.

The following editorial discusses the Congress obligation to assure that the laws it enacts are faithfully executed. That is what the subcommittee has been trying to do: to determine whether the Secretary faithfully executed his responsibilities under the Mineral Lands Leasing Act to respond to the threat of foreign takeovers of American companies.

The editorial follows:

[From the Des Moines Register, Mar. 2, 1982]

WATT VERSUS CONGRESS

The House Energy and Commerce Committee was justified in citing Interior Secretary James Watt for contempt of Congress. The Reagan administration ought to turn over the documents sought by the committee before the confrontation becomes a crisis.

Some Republicans charge that this whole affair is an attempt by the Democratic-controlled Energy Committee to embarrass Watt because Democrats don't like him. Not so. What is at stake is the right of Congress to carry out its duties, including the writing of laws and the oversight of the administration of those laws by the executive branch. Watt was cited for contempt because he has engaged in what Energy Committee Chairman John Dingell (Dem., Mich.) has called "a pattern of obstructionism . . . to legitimate requests for information."

The confrontation arose when a subcommittee of the Energy Committee began investigating complaints by some U.S. companies that they were being discriminated against under Canada's new energy policies, which aim to increase Canadian ownership of Canadian land and resources. The companies charged that Canadian investors were being wrongly allowed to exploit mineral resources on U.S. land owned by the federal government.

The investigation focused on a provision of the Mineral Lands Leasing Act designed to block discrimination. It allows foreign investors to hold financial interest in mineral leases on U.S. federal lands only if their home country does not discriminate against U.S. investors. If Canada were found to be discriminating, Canadian citizens would be barred from holding interests in federal lands.

Because the secretary of interior is the enforcer of this law, the subcommittee last summer asked Watt to provide documents relating to his administration of the law. Watt has provided many of the documents requested, but has held back 11 that he says are protected by executive privilege.

As Representative Thomas Tauke (Rep., Ia.) noted, the claim seems weak, because the documents were not even seen by the president until he was asked to claim executive privilege for them.

The dispute is part of a larger pattern in which Watt has been uncooperative with House committees. He seems to have forgotten that, under the Constitution, Congress is not subordinate to the Department of Interior. If Watt continues to refuse to yield the documents, the House will have no responsible choice but to cite him for contempt and order him prosecuted.●

DR. MORRIS CHARNER

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. ROSENTHAL. Mr. Speaker, on March 21, 1982, Rabbi Dr. Morris Charner will be honored for his 30 years of dedicated service as principal of the Rabbi Dov Revel Yeshiva of Forest Hills, N.Y. Today, I want to take the opportunity to pay tribute to this man who has dedicated a major portion of his lifetime to the betterment of the Jewish community, both here and overseas.

Prior to his tenure with the yeshiva in Forest Hills, Dr. Charner served as principal at the Mizrachi High School in Israel and the yeshiva in Hartford. Among his numerous achievements, Dr. Charner earned masters and doctoral degrees from Columbia University, as well as membership to two educational honor societies, Kappa Delta Pi and Phi Delta Kappa. At Hunter College he spent 7 years as an instructor of Judaic studies. For 12 years, Dr. Charner acted as the national president of the Yeshiva English Principals' Association, and for 8 years he served as the president of the Long Island Association of Yeshiva Principals. One of his many accomplishments was the founding of the Joseph and Sylvia Shaw Synagogue of Dov Rel, where he also spent 25 years as rabbi for the congregation

Morris Charner's dedicated religious and educational pursuits have made him an intelligent, effective, and well-liked leader. Those of us in Queens are honored and proud that he has used them to improve both the lives of our young people and our community as a whole.

I wish him mazel tov in his future endeavors.●

HONORS TO THE LATE ARMAND A. GRANITO

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. LENT. Mr. Speaker, I wish to call to the attention of my colleagues a ceremony that will take place April 2 in North Bellmore in the Fourth Congressional District of New York, which I have the honor to represent.

On that date, friends and fellow workers will gather to unveil a plaque honoring one of the finest men it has been my privilege to know, the late Armand A. Granito.

My good friend was a most successful insurance and real estate broker and appraiser. He was considered an expert in the fields of municipal planning and zoning. But his professional duties occupied but a part of his tremendously busy life.

Few men have given as much of themselves to their community as Armand Granito gave to his beloved community of North Bellmore, and to the people of the town of Hempstead, where he served for 21 years on the zoning board of appeals. He served as chairman of that distinguished body for 15 years until his retirement December 31, 1980.

For more than 30 years, Armand Granito unstintingly devoted his time and services to community projects; organizing and improving community organizations; and to the solution of community problems. His civic activities touched every facet of life, from his first post as chairman of the North Bellmore Citizens Committee on Safe Streets through organizational and official positions with the North Bellmore Chamber of Commerce, the Friends of North Bellmore Library, North Bellmore's first Little League, the Kiwanis Club of the Bellmores, the Nassau County Boy Scout Council and other civic, religious and charitable organizations far too numerous to list.

Despite these many community activities, Armand Granito never neglected his duties as a citizen, serving for more than 15 years as civil defense director for North Bellmore, and playing a successful and important role in the political life of his community as Republican Executive leader of North Bellmore.

Mr. Speaker, it is the dedication and unselfish efforts of Americans like Armand Granito which have helped make our Nation become the envy of the world. I know that my colleagues in this Chamber join me in paying tribute to the memory of this outstanding man, truly a great citizen.●

FUNDING FOR FARM AND RURAL DEVELOPMENT LOAN PROGRAM

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. JONES of Tennessee. Mr. Speaker, I am today, along with my colleague, Mr. JEFFORDS, introducing legislation to provide funding authorization levels for farm and rural development loan programs which are authorized by the Consolidated Farm and Rural Development Act. Under such programs, the Farmers Home Administration makes real estate, operating, and natural disaster loans to farmers, and water and sewer facility, industrial development, and community facility loans for rural development. These loans may be both insured (direct) or guaranteed through the FmHA.

Section 346 of the Consolidated Farm and Rural Development Act requires that, beginning October 1, 1979, and for each 3-year period thereafter, lending limits must be established for the program authorized under the act. The legislation I am offering today will fulfill the section 346 requirement by providing lending limits for fiscal years 1983, 1984, and 1985.

In addition to providing program lending limits, this bill would also reestablish a 25-percent minimum as the portion of real estate and operating loans which must be allotted to low-income, limited resource borrowers. The 25-percent minimum level was originally mandated in the Consolidated Farm and Rural Development Act amendments of 1980 (Public Law 96-438). However, Congress last year in the Budget Reconciliation Act lowered the minimum allocation for these low-income, limited resource loans from the original 25 percent to the current 20 percent. In addition to this change, the interest rate for these loans was increased substantially. It is my opinion now, as it has continued to be since 1980, that a 25-percent minimum allocation is not only warranted, but necessary. You only need to look at the impossible situation now facing young, beginning farmers today to know that a need exists for this special loan program, and at a level sufficient to meet the needs of this special sector of farmers. I happen to be one who believes a 25-percent allocation is not out of line.

Another provision contained in the bill I am introducing today would, for the first time, establish a "credit elsewhere" test in the Farmers Home Administration's industrial loan program, commonly known as the business and industrial loan program. It would require that for borrowers to be eligible for loans in this program, they must be otherwise unable to obtain sufficient credit on reasonable terms from commercial lending institutions. I believe this is a reasonable requirement, and one which will both benefit the program and help insure the integrity of the loans made.

Mr. Speaker, as chairman of the House Agriculture Subcommittee on Conservation, Credit, and Rural Development, I have conducted extensive hearings this year on FmHA's farm and rural development loan programs. The ranking minority member of the subcommittee, JIM JEFFORDS, and I have worked closely on developing this legislation, and I believe the loan limits set forth in this bill are barebones, while still retaining a minimum level necessary to meet the needs of America's farmers and rural communities which depend so heavily on these FmHA programs.

I would now ask unanimous consent that the text of the bill be printed following these remarks.

H.R. 5831

A bill to provide lending limits for fiscal years 1983, 1984, and 1985 for programs under the Consolidated Farm and Rural Development Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That section 346 of the Consolidated Farm and Rural Development Act is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) a new subsection (c) as follows:

"(c) Notwithstanding the provisions of subsection (a) of this section—

"(1) Loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,000,000,000;

"(B) operating loans, $1,510,000,000; and

"(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for applicants other than low-income, limited-resource borrowers.

"(2) Loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $500,000,000;

"(B) industrial development loans, $1,000,000,000: *Provided,* That such loans may be insured, or made to be sold and insured, or guaranteed only with respect to applicants which, in the case of insured loans, are unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant is located for loans for similar purposes and periods of time, and, in the case of guaranteed loans, are unable, without a guarantee, to obtain sufficient credit from commercial lending institutions at reasonable rates and terms, taking such factors into consideration; and

"(C) insured community facility loans, $300,000,000.".●

TAXPAYER COMPLIANCE IMPROVEMENT ACT OF 1982

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. CONABLE. Mr. Speaker, I have introduced today the Taxpayer Compliance Improvement Act of 1982. The bill, which was introduced earlier in the other body by Senators DOLE and GRASSLEY, is the result of their comprehensive study of the voluntary Federal tax compliance system and represents a commendable effort to effect the first real reform of that system since 1954. The revenue yield from the legislation has been estimated at $3 billion in fiscal year 1983, $8.1 billion in fiscal year 1984, and $9.3 billion in fiscal year 1985.

The compliance gap—the difference between the Federal income tax that is owed and the amount actually collected—has been widening at an alarming rate in recent years. In 1973, it was $21 billion. By 1981, it had broadened to $76 billion, and, if unchecked, could reach $102 billion by 1985. Estimates indicate that, of the present gap, 84 percent represents underreporting of individuals' legal income, with the balance attributable to underreporting of illegal and corporate income.

A source of the gap problem may be indicated through a review of estimated compliance rates for various types of individual income. In declining order, those rates are as follows: wages, 99 percent; farm business, 92 percent; interest, 89 percent; dividends, 85 percent; State income tax refunds, 81 percent; pensions, 80 percent; nonfarm business, 80 percent; capital gains, 56 percent; tips and illegal sources income, less than 20 percent.

The bill attempts to deal with the compliance gap problem in four basic ways. First, there are measures designed to improve the operation of the Internal Revenue Service information reporting system. Second, there is a new system of penalties applicable when taxpayers refuse to comply with the information reporting system or the general tax laws.

Third, there are provisions to increase the level of IRS resources enabling the Service to do the job it is expected to do. These provisions incorporate the administration's previously requested enforcement staff increases.

Fourth, there is a progressive, voluntary, withholding system applied to pensions; essentially, individual retirement accounts (IRA's) and Keogh plans for the self-employed.

Although this bill was not designed specifically as an alternative to the administration's proposal for withholding on dividend and interest income, I think it is reasonable to view it in such a light. It seems to me a preferable alternative, in that sense.

I believe the elements of this bill, in the aggregate, represent a progressive effort to deal with a major and growing problem. Without imposing broad-based withholding, and without a massive increase in audit coverage, it should increase substantially public compliance with Federal tax laws.

A detailed explanation of this measure appears in the CONGRESSIONAL RECORD of March 11, 1982 on pages 4024-4026.●

LET EL SALVADOR BE EL SALVADOR

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. FRANK. Mr. Speaker, many conscientious Americans are deeply troubled by what they perceive to be an inconsistency in American policy in the area of human rights. Our Government has quite properly spoken out firmly and taken action against the Russian engineered suppression of freedom in Poland. Many, however, feel that American involvement with a repressive military regime in El Salvador detracts from the moral force which we bring to the cause of freedom in Poland and elsewhere in Eastern Europe. A group of students at the Kennedy School of Government at Harvard University have recently organized a group to give expression to this sentiment, and I would like to share with the House an announcement of their group's formation which gives expression to their views. The statement follows:

BOSTON GROUP SEEKS REAGAN SUPPORT FOR "LET EL SALVADOR BE EL SALVADOR" TELEVISION EXTRAVAGANZA

BOSTON, MASS.—A newly formed group calling itself the "Let El Salvador Be El Salvador Committee" today announced plans to produce a "star-studded entertainment tribute to the freedom-loving people of El Salvador," a tribute they hope will be funded by the Reagan Administration.

"We're confident that the similarities between the situation in El Salvador and that in Poland will compel the President to fund our program out of fairness," said the committee spokesperson Michael Shea. In February, the Reagan Administration funded a $350,000 television special entitled "Let Poland Be Poland" which was broadcast to selected foreign countries to reflect international concern for the plight of the Polish people.

The Boston-based committee was formed by men and women "concerned about the repressive situations in both Poland and El Salvador," Shea said.

"Ronald Reagan made it clear in his stand against Soviet intervention in Poland that he is opposed to superpower interference in the affairs of people fighting for freedom in their own lands," Shea said.

"We know that Ronald Reagan doesn't have a repressive bone in his body, and that if he is against the military crackdown by the Soviet's puppet Polish government, he must in fairness also oppose what the U.S. is doing in El Salvador today."

Shea pointed out that the Catholic Church has strongly opposed both the Soviet-supported imposition of martial law in Poland and the United States' support for the government in El Salvador.

The committee announced today that it had sent a letter to President Reagan requesting funding for the television program. They also sent a letter to Frank Sinatra, asking that he appear in "Let El Salvador Be El Salvador," just as he appeared in the earlier production "Let Poland Be Poland."

The committee statement said: "President Reagan promised to initiate a consistent and coherent foreign policy. If it is administration policy to allow the Polish people to decide their own future, it would seem consistent to allow the people of El Salvador to do the same."

"We know that President Reagan is an honest and fair man, but we feel he has been manipulated by people around him into misconceptions about the situation in Central America . . . as when he confused Nicaragua and El Salvador during a recent press conference," Shea continued. "We feel that a White House showing of 'Let El Salvador Be El Salvador' will help clear up some of the President's confusion, and that a nation-wide broadcast of the program will help all Americans see the similarities between the Soviet role in Poland and our role in El Salvador."

"Those of us who stayed awake during the Vietnam War have no desire to relive it, or get involved in another nation's civil war."

The members of the committee, most of whom are attending the Kennedy School of Government at Harvard University, are: Michael Shea, Ann Fitzgerald, Judith Shaw, Paul Shone, Eric Elbot, Joseph Roberts, Diane Doherty, Evelyn Martinez, Eugene Sullivan, Susan Brophy, William McDermott, Linda Bassett, Clark Zeigler, Amy Stursberg, Betsy Houghteling, and Patricia Moore.●

STRANGLING EDUCATION WITH BUDGET CUTS—AMERICA AT RISK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. BIAGGI. Mr. Speaker, at a time when American students are falling behind their counterparts in the Soviet Union and West Germany academically, particularly in terms of math and science, the Reagan education budget promises to cripple programs which have proven their effectiveness in improving achievement levels of our young people.

As New York's senior member of the House Education and Labor Committee where these programs began, I am outraged that this administration would seek to cut these programs—such as title I—by as much as 40 percent. Education is the lifeblood of this Nation. Every muscle of productivity is fed by this vital resource. By retarding its circulation, we retard economic growth and render ourselves unable to compete in a highly technological society.

In its initial response to the President's proposed budget for 1983, the Education and Labor Committee yesterday clearly rejected recommending funding levels for elementary and secondary programs. In our report to the Budget Committee, in setting a recommended spending target for these programs, the committee rejected the $1.9 billion funding level for title I and increased this to $5.2 billion. For the block grant under chapter II, the committee raised its level to $1 billion from the President's proposal of $432 million. While these numbers are targets and not binding—they nonetheless represent our sentiments about the President's fiscal year 1983 proposals for education.

Title I is a prime example of the regressive mentality that characterizes this budget. First enacted in 1865, this program is designed to provide remedial instruction in reading and math for disadvantaged children. During the 1980-81 school year, approximately 5.4 million students, preschool through grade 12, received title I services. As a result of last year's cut in this program, only 40 percent of all eligible children are now participating in this program.

If the proposal to trim this program by 40 percent from current funding levels, some 2.5 million needy children will be cut from this program in the 1983-84 school year—half of all those served in 1981-82. In addition, some 100,000 teachers and student aides would also be lost—many being title I parents for whom it would be difficult to find other employment.

In my own city of New York, these cuts would be disastrous. Already overburdened by last year's cuts, the system would lose $16.1 million, eliminating services to 75,500 of the 400,000 students now being served as well as 500 full-time positions. By 1984, the city could lose a total of 1,140 full-time teaching positions affecting 158,000 students. The cuts in other programs that would be sustained if this budget were adopted include: $1.1 million for the education block grant; $1.2 million in bilingual dollars; and $2.2 million in vocational and adult education funds.

According to the date, these compensatory education programs are both cost-effective and well as successful in achieving their goals. The singular success of title I was even echoed by Secretary of Education Terrel Bell—who came before our committee last week to defend these cuts.

In a national evaluation of education programs conducted by the Department of Education, title I reading students were found to improve 10 to 17 percent more than similar nontitle I students in grades 1 through 3. Title I is also cited with eliminating over 40 percent of the difference in reading achievement between minority and nonminority children.

As the Federal Government tightens its belt, we are supposed to accept title I cuts as an inevitability. Yet, in 1 week, the Department of Defense devours what it would cost to fund the entire title I program. Clearly, the cuts in this area have been disproportionate and any further ones must be forestalled.

Cuts to our other programs for the disadvantaged, such as the highly successful TRIO programs, will debilitate these projects which encourage secondary school students to continue their educational careers. Upward Bound is scheduled to be reduced from $446 to $175 million, eliminating 23,000 students. Educational opportunity centers and the Talent Search project will be terminated—affecting 270,000 students. Federal funding for Indian education, which provides support to 200 tribally operated schools and public schools which serve Indians would also be slashed by $18 million.

Education cannot be expected to answer the needs of our Nation, if our Nation's Government refuses to answer the needs of education. As a strong supporter of these programs, I will work vigorously to preserve adequate funds for all these programs so that our progressive system of education will be preserved. To do anything less, would be to cripple the minds of today for the world of tomorrow. I urge my colleagues to join me in rejecting these education cuts.●

LIFE INSURANCE INDUSTRY'S STATEMENT ON ECONOMIC POLICY ISSUES OF 1982

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. SOLARZ. Mr. Speaker, the American Council of Life Insurance, the trade association representing the Nation's life insurance business, has recently submitted a statement on economic policy issues to the Joint Economic Committee. This annual statement sets forth the views of America's life insurance companies on the economic challenges facing the country and suggests some steps which might be taken to address many of the economic problems we are currently experiencing.

The life insurance business has a particular interest in the state of the country's economy. It is a major source of long-term investment in the United States. In 1981, alone, it invested over $28 billion in new funds in the Nation's economy. Last year, life insurance companies paid $5 billion in benefits through private pension plans. The life insurance business is responsible for the guaranteed protection of 147 million policy holders.

While I do not endorse the ACLI statement, I believe it is imperative that we encourage an open and active discussion of those economic policy issues which the Congress, and particularly those of us who serve on the Budget Committee, must address in the coming weeks. Mr. Speaker, I insert the ACLI statement in today's RECORD and commend it to our colleagues' attention:

STATEMENT ON ECONOMIC POLICY ISSUES OF 1982

SUBMITTED TO THE JOINT ECONOMIC COMMITTEE OF THE CONGRESS BY THE AMERICAN COUNCIL OF LIFE INSURANCE, FEBRUARY 23, 1982

This statement is submitted on behalf of the American Council of Life Insurance, a national trade association with a membership of 524 companies which account for 96 percent of the legal reserve life insurance in force and 97 percent of the total assets of all U.S. life insurance companies. At the end of 1981, total assets of the life insurance business aggregated more than $520 billion, invested mainly in corporate and Government securities and mortgage loans to business and individuals. These funds represent the savings that have been entrusted to the life insurance business by millions of individual policyholders and employee benefit plans. We are pleased to have this opportunity to present the views of our business to the Joint Economic Committee as part of its deliberations over national economic policies.

THE FRAMEWORK FOR ECONOMIC POLICY

We believe that the major emphasis of national economic policy for 1982 should be to promote economic recovery while further reducing the rate of inflation. We are gratified by the progress that has been made over this past year in bringing down the inflation rate from the 12- to 13-percent range of late 1980 to a current level of about 8 percent. If appropriate economic policies are pursued, there is a definite prospect that inflation can be lowered still further by year-end to perhaps the 7-percent range.

Nevertheless, prospects for the economy in 1982 are far from favorable. The economy is currently in a cyclical recession which promises to boost the unemployment rate to 9 percent and beyond, while the plant utilization rate hovers just above 70 percent of capacity. Many forecasters both in Government and in private industry are predicting that a trough will be reached within the next few months, but there is serious question about the strength of the recovery that is in prospect for the latter half of 1982.

A major reason for expecting a weak recovery is the drag on economic activity exerted by the current high levels of interest rates. In spite of the current economic downturn, long-term rates have recently moved back up toward the record highs that were reached last fall, which in turn exceeded the earlier peak levels registered at the end of 1980. In real terms, adjusted for the current inflation rate, long-term interest rates today have reached levels higher than at any time in this century, including even the years 1907, 1920 and 1931-32—years that are notable in economic history as periods of extreme financial stress. One goal of national economic policy must be to facilitate a reduction in real interest rates in order to foster economic recovery, but without triggering an upturn in the inflation rate.

OUTLOOK FOR THE FEDERAL BUDGET

In our view, a major barrier to achieving the goals of sustainable economic growth, lower interest rates, and further reductions in inflation is the outlook for the Federal budget. In his annual Budget Message, the President has projected a deficit of $99 billion in the current fiscal year, followed by a $92 billion budget deficit for the fiscal year 1983. Indeed, outside observers are fearful that the deficits in fiscal 1983 and beyond will register a succession of rising deficits, ranging well above $100 billion. This outcome could result from an unfortunate cycle in which incomplete economic recovery holds down tax revenues and enlarges the deficit, and the expended need for borrowing then raises interest outlays on the debt, and leads to still larger deficits.

It is our considered opinion that the magnitude of the Federal budget deficit now in prospect is intolerable. The Congress must find ways to achieve a substantial reduction in the fiscal year 1983 deficit and thereby break the potential cycle of escalating deficits in future years. This can be achieved, we believe, by a three-part program which scales down the proposed levels of military expenditures, cuts back on the high volume of outlays for Federal transfer payments, and increases budget receipts by various methods to improve tax collections.

As to military spending, we note that the Budget Message proposes that defense outlays over the next few years would rise from 5.6 percent of the gross national product in 1981 to 7.3 percent in 1987. Taken as a share of the total Federal budget, defense would climb from 24 percent last year to 37 percent in 1987. While we recognize the importance of maintaining a strong position for our national security, we question whether this sharp acceleration in military outlays is consistent with attainment of broader national goals. In our view, it would be shortsighted to subordinate the imperative of a healthy economy to the goal of strengthening our defense posture. We have learned in earlier periods of military activity that the most vital underpinning of a strong defense is a strong and productive economy. In order to further the goal of reducing the projected budget deficit by a significant amount, we urge the Congress to examine every possible avenue for achieving greater efficiencies in the application of our defense dollars.

THE ROLE OF TRANSFER PAYMENTS

Another area of Federal outlays that requires close scrutiny is the area of transfer payments, comprising such functions as social security, medicare, Federal retirement programs, veterans' benefits, welfare payments, and the like. We recognize that these many and varied programs have been developed over the years to meet very genuine needs in our society—the poor, the disadvantaged, and the elderly. But it has become increasingly clear that outlays for these programs threaten to expand beyond our capacity to support them.

Federal transfer payments to persons amounted to 4.6 percent of gross national product in the early 1960's, but this share had risen by 1981 to 9.6 percent of GNP. The order to hold back a continuation of this upward trend and also to achieve significant reduction in future deficits, we urge that Federal transfer payments be held within the bounds of a simple guideline, namely that such payments rise no faster than the growth in GNP in future budget years.

The third essential means for reducing the outsized budget deficit in 1983 is through Federal tax policy that would increase the volume of tax collections. Methods should be chosen that would not disturb the basic thrust of the individual and corporate income tax reductions that were legislated last summer, to take effect in a series of steps. There are various ways that could be adopted to raise billions of dollars of additional revenue to the benefit of our national budget position, without jeopardizing incentives to work and invest. We urge the Congress to pursue these avenues in tax policy as one means of reducing the potential upward trend in budget deficits.

THE ROLE OF MONETARY POLICY

A critical element in achieving our national goals of renewed economic growth and greater price stability is the effective application of monetary policy. The Federal Reserve System has recently reaffirmed its 1982 policy targets, setting forth a range of 2½ percent to 5½ percent for the growth of the money supply (M1). This target represents a reduction in the upper limit of one-half percentage point from the comparable monetary target for 1981 and is designed to achieve further progress in reducing price inflation.

As a broad rule, we believe that monetary policy should seek to assure that growth in the money supply will be sufficiently constrained to bring down the rate of inflation, while still leaving room for some real growth in economic activity. This is not an easy balancing act to achieve in practice, but it has become increasingly clear that the results desired for our economy cannot be achieved without persistent application of this approach over a considerable time period.

During the past 3 years, we have advocated a monetary policy of successively lower growth rates in the money supply. Indeed, we regard such a policy as a crucial element in the complex of national policies to bring about a lower rate of inflation. We therefore support the monetary targets announced recently by Federal Reserve Chairman Volcker. At the same time, it would seem appropriate for the Federal Reserve to tolerate M1 growth in 1982 near the upper end of its 2½- to 5½-percent target range, so as not to stifle emerging credit needs of the private sector as the economy moves into a recovery phase later in the year.

SUMMARY

The current size of the Federal deficit and the likely upward trend in deficits are intolerable. The potential harm to the economy from high "real" interest rates demands a reconsideration of the size of proposed increases in defense outlays as well as the scope and size of transfer payments. In addition, we must examine various possibilities for raising tax revenues as one necessary way to hold down the size of deficits. Without a strong economy we cannot hope to maintain a strong defense and meet the legitimate needs of other programs which Government must provide.●

THE 63D ANNIVERSARY CELEBRATED BY THE AMERICAN LEGION

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. ANNUNZIO. Mr. Speaker, on March 15, the members of the American Legion celebrate the 63d anniversary of the founding of their fine organization. It was on this date in 1919 that delegates from the First American Expeditionary Force met in Paris, France, to acknowledge that their responsibility to each other and to their country's citizens did not end with the signing of the armistice agreement. At that time, they pledged:

> To promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy, and to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

The dedication of Legionnaires to these ideals has never wavered. The American Legion has grown to a membership of 2.7 million with an auxiliary membership of approximately 1 million. Deeply concerned for the welfare of the nation's veterans and their dependents, the Legion and auxiliary have sponsored numerous programs and events for the youth of this country.

The Legion sponsors an oratorical contest for high school students wishing to compete for college scholarships, with $66,000 in prizes awarded annually. The contest, requiring students to give an oration on some phase of the U.S. Constitution, helps students understand and appreciate the duties and obligations of a citizen.

American Legion baseball, well known to many, is in its 57th year, with participation by 80,000 youth—totaling 4,000 teams. Through this program youth improve their physical fitness and develop a keener sense of good sportsmanship, good citizenship and fair play. Over 55 percent of the active major league players received American Legion baseball training during their youth playing days.

Receiving valuable experience pertaining to the functions of city, county, State, and Federal governments, 30,000 high school juniors annually participate in Boys States programs across the Nation and two representatives from each State attend Boys Nation.

The American Legion School Medal Award is given to thousands of young students each year. This program encourages the recognition of young people who display outstanding performance in the areas of courage, honor, leadership, patriotism, scholarship, and service.

Supported for many years, thousands of Legion and auxiliary volunteers give their time and talents to the special Olympics program each year. As a prime sponsor, the Legion contributes approximately $800,000 annually to fund those events.

The American Legion has taken a leading role in educating the public about Reye's syndrome, a disease afflicting children which is on the list of least known and understood diseases. The Legion has distributed over 150,000 brochures on Reye's syndrome, reaching 3-million families.

The American Legion Child Welfare Foundation has awarded nine grants, totaling $118,219, to voluntary, nonprofit organizations actively engaged in research to benefit youth. Programs such as Reye's syndrome, juvenile delinquency prevention, cystic fibrosis, immune deficiency diseases and Tourette syndrome have been supported by these grants.

A career and scholarship handbook, "Need A Lift?" which is revised and expanded annually by the Legion is offered to interested parents and students. This handbook has become recognized as one of the most complete sources of this information available in the United States.

Maintaining an active role as a member of the American Blood Commission, the Legion donated 281,732 pints of blood to the American Red Cross last year.

Working on the community level, Legionnaires are actively involved in national crime resistance, energy, and drug abuse prevention programs. The Legion also provides and distributes a "Get Out the Vote" promotion kit to increase voter participation.

Last year alone Legionnaires spent 2,237,256 hours volunteering their services at Veterans' Administration hospitals and 5,606,713 hours volunteering their services at the community level.

Mr. Speaker, I am proud to join with American Legionnaries in my own 11th District of Illinois, which I am honored to represent, the city of Chicago, and all over this Nation as they commemorate their anniversary, and I extend to all of them my best wishes for success as they continue to build on their splendid record of excellence and achievement in service to America.●

POLLUTION PREVENTION PAYS

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. ERDAHL. Mr. Speaker, part of the blame for pollution of our environment can correctly be assumed by nearly every segment of our society.

As a supporter of strong measures to protect our air, water, and soil, I was pleased to have called to my attention the pollution prevention program inaugurated by a major manufacturing company in my State of Minnesota, well known to everyone as 3M.

In the December 1981 issue of Financier Magazine, an article appeared in which 3M's Board Chairman Lewis W. Lehr described the impact of this 7-year-old initiative. His enthusiasm and the name of the program, "Pollution Prevention Pays," should encourage similar action by companies fearing adverse economic effects of pollution containment measures. The article follows:

[From Financier Magazine, December 1981]

PREVENTING POLLUTION PAYS BETTER THAN CONTROLLING IT

(By Lewis W. Lehr)

(If you make no mess, you have nothing to clean up. That is an environmental truism that is not nearly so simplistic as might appear upon first thought, Mr. Lehr declares in this article written for Financier.

(In fact, he notes, that idea lies behind an alternative approach to environmental protection that has gained a foothold in recent years and holds great promise for the '80s and beyond.

(This is the concept of pollution prevention, as distinct from pollution control, the Chairman of 3M points out. It means doing away with, or reducing, the sources of pollution before clean-up problems occur, which in turn reduces the need for pollution controls.

(Practical application of this concept has saved his company nearly $100 million since 1975.)

Pollution Prevention is the environmental aspect of conservation-oriented technology, which is based on conservation in all aspects, from raw-material supply and production to consumption and disposal.

The idea is to use a minimum of resources to accomplish objectives and to create a minimum of pollution. It also means learning to create resources from pollution, such as the making of nylon and other materials from the waste by-products of petroleum, as was done some years ago.

The environmental benefits and economic incentives in this approach to pollution abatement are evident. Financial and natural resources can be saved, and technology innovations can be achieved.

To see where we are heading in this direction, however, requires a thoughtful look at where we have been. Governments and industries alike traditionally have been preoccupied with controlling pollution instead of eliminating its sources.

This occurred at least partially because the original battery of environmental laws and regulations that followed Earth Day was a reaction to problems that already existed, instead of an intent to prevent new ones.

TREATING THE SYMPTOMS

Hindsight has made it clear that we have placed too much emphasis on pollution control. We have been treating the symptoms by relying on complex mechanisms, attached at great expense to the end of a production line.

The tendency is to catalogue these controls as "black boxes" and to avert the eyes from pollution problems, as long as the black boxes work, and regulators are satisfied.

These black-box controls, however, merely shift the problem from one form of pollution to another, and they are contrary to the immutable Law of Conservation.

This law states that we can change the form of matter, but matter does not disappear. Purifying waste water creates sludge. Burning chemical wastes creates particulate matter and fumes. Both residues are pollution and create disposal problems of their own.

By using control measures, we also have been responsible for creating off-site pollution—generated by those who produce the energy and materials we use for abatement measures.

That includes such things as the fossil fuel consumed and sulfur dioxide and particulates wafted into the air by a power plant located far away, but which generates electricity for our environmental-control purposes.

The black-box approach also has been a major drain on the U.S. economy in terms of energy and natural resources consumed to control pollution and in the dollars thus diverted away from production.

In one year alone, for example, just 146 chemical companies in North America consumed the energy equivalent of 61 trillion BTU's for pollution control—7.3 percent of their total energy requirements, and enough energy to supply a year's heat and electricity for 300,000 typical homes in a climate as severe as Chicago's.

These same companies—130 in the United States and 16 in Canada—also estimated that their pollution-control spending for two recent years at 8.1 percent of total capital investment, which was double their rate of pollution-control investment in the decade 1961-1972.

The Council for Environmental Quality estimates that the total U.S. bill for pollution control in 1979 was $55.9 billion, which was more than 2 percent of GNP and more than 14 percent of gross private investment.

Of this amount, the industrial sector alone spent $13 billion for just air- and water-pollution control—the equivalent of $170 for every household in the country. In the decade through 1988, this spending was forecast at $167.5 billion in constant (1979) dollars, or about $1,900 per household.

OPERATING COSTS ESCALATE

While capital costs remain a significant portion of this spending, operating costs increasingly are becoming a major burden as well, and one which threatens to escalate out of control.

In a hypothetical example, a municipal waste-water treatment facility can be built for $1.8 million to process 1 million gallons daily.

If the facility is amortized over 20 years, the annual capital cost is $90,000, which becomes about $180,000 when interest charges and other financial factors are included.

The operating costs would be about 35 cents per thousand gallons of treated waste water, or about $128,000 to treat 365 million gallons annually.

This means that the operating cost of the plant is more than half the annual amortized capital cost. It also can be projected that these operating costs will rise eventually to exceed the annual cost of capital equipment.

In addition, the cost of pollution control, the resources consumed and the residue produced increase exponentially as removal percentages rise to the last few points.

In other words, the unit cost becomes four or five times greater when you try to get from a base level of 85 percent removal to a goal of 95 percent than it was to achieve the 85 percent. At the same time, the amount of residue produced per ton of pollution removed is increased by 200 percent for the advance beyond 85 percent.

When all of these factors are considered, it is apparent that the black-box approach, at some point, creates more pollution than it removes and consumes valuable resources out of proportion to its benefits.

It also explains why Dr. Joseph T. Ling, 3M's vice president of environmental engineering and pollution control, is fond of quoting from Catch 22, Joseph Heller's satire about war. Dr. Ling says that Mr. Heller deals with paradox and irony, and "these often seem to be staples of an environmental engineer's diet as well."

Dr. Ling finds a Catch-22 situation in the use of pollution controls, in that it takes resources to remove pollution. Pollution removal generates residue. It takes more resources to dispose of this residue—which disposal also produces pollution. Paradox and irony, indeed, abound.

In addition, pollution controls work best with simple pollution present in large quantities. They are not effective in dealing with those pollutants that are the by-product of sophisticated technology and which exist only in minute quantities—expressed in parts per billion or trillion.

It is only recently that technology has existed with which to measure such tiny quantities of pollution, let alone remove them.

UNATTAINABLE OR VERY EXPENSIVE

Removal of these tiny amounts of pollution is either technically unattainable or extraordinarily expensive in both money and consumption of energy and other natural resources.

When all of these factors are considered, along with the flagging economy and energy shortages of the mid-'70s, it becomes apparent why the emphasis began to shift from pollution controls to pollution prevention. At present, this shift is more evolutionary than revolutionary, but nevertheless a shift is taking place.

The use of pollution controls has become recognized as a wasteful and ineffective way of improving the environment, which cannot be tolerated if an alternative is available. The world has come to realize that the natural limits on its resources can form a constricting noose.

This realization has created an intensity of attention similar to that which Dr. Samuel Johnson described when he said: "Depend upon it, sir, when a man knows he's to be hanged in a fortnight, it concentrates his mind wonderfully."

Concentration of that intensity on the environment is shown by a growing international awareness and interest in conservation-oriented technology, with emphasis on pollution prevention.

In 1976, the UN Economic Commission for Europe held a conference in Paris on "Non-Waste Technology and Production," which drew participation from more than 25 countries. Technical papers were presented on all aspects of resource conservation—from a model for administering conservation-oriented technology to a case study of how to glean minerals from the residue of coal mining.

A year later, the U.S. EPA and Department of Commerce joined with representatives of industry to hold four regional pollution-prevention conferences.

Also in 1977, Dr. Michael Royston, an internationally recognized environmental specialist from the Centre d'Etudes Industrielles in Geneva, published perhaps the first book specifically about resource-conservation-oriented technology. It was titled "Pollution Prevention Pays."

The book had special significance for us at 3M, because Dr. Royston selected as the book's title the name of our Pollution Prevention Pays Program, which was thought out in 1974 and introduced throughout our company beginnng in 1975.

The 3P Program is an effort that we continue today and will emphasize as far into the future as we can project. It has been so effective that it would be continued for economic and technological reasons alone, even if the environment and conservation incentives were ignored.

In addition to those factors, we were interested in pursuing a pollution-prevention effort because of additional requirements imposed by the Toxic Substances Control Act and other legislation and regulations that are involved with product use.

TYPE A, TYPE B

Pollution controls work only against pollution created during the manufacturing process which we call Type A pollution. They do not, and cannot, cope with pollution related to product use, which we call Type B pollution.

Type B pollution involves the environmental impact of products after they leave the factory, which is beyond solving by controls in manufacturing.

The two types of pollution are interlocked, however, because the Type B pollution for a manufacturer can become a Type A problem for the user of his product.

If the user is another manufacturer, that company will have to build pollution controls to cope with the problem, or find a substitute product to purchase—instead of ours.

3M has been very concerned about the Type B problem. Our scientists, for example, have eliminated a mercury catalyst from an electrical insulating resin, which did away with any mercury-related pollution problem for the user of that resin. This type of activity contributes to one of the measurements we use to gauge the effectiveness of our 3P Program. "Sales retained of products that otherwise might become environmentally unacceptable."

Since 1975, the 3P approach to product design and process development has become standard within the company. Our effort focuses on eliminating pollution sources through product reformulation, process modification, equipment redesign and recovery of waste material for reuse.

The program has produced considerable dollar savings from pollution-control equipment and operating costs that could be eliminated or delayed. It also has eliminated significant amounts of pollution discharges annually.

From 1975 through the first half of 1981, when the most recent 3P status report was published, the program has produced total savings of $82 million. This includes $62.5 million from U.S. Operations and $19.5 million from International. Estimated savings through year-end 1981 were $96 million.

In the United States, 3P savings include $17 million for pollution-control equipment and facilities; $32.5 million for operating costs; $2.3 million for energy savings not included in operating costs and $19.7 million for sales retained of products that might have been taken off the market as environmentally unacceptable. 60 to 70 percent of operating-cost savings are repeated annually but are not included in the totals.

Each year, the program has eliminated environmental discharges that average 112 million tons of air pollution, 2,800 tons of water pollutants, 870 million gallons of waste water and 4,500 tons of sludge and solid waste.

In addition, the program's annual energy savings are estimated at 945 billion BTU, the equivalent of 172,000 barrels of oil. These results have accrued from 105 projects in the United States and another 400 projects overseas, where the program has been put into use by 16 of our subsidiary companies.

The 3P Program was established to achieve:

An improved environment.

Reduced capital and operating costs for pollution control.

Reduced material and energy costs.

Increased sales of products with reduced pollution potential.

The spin-off of technologies, perhaps leading to commercial development of new products.

The name Pollution Prevention Pays was selected after considerable debate over whether the word "pays" should be associated with pollution prevention.

Since the program strives for environmental and cost-control payoffs, it was decided that payoff not only should be equated with the effort but was an essential motivating factor.

To be eligible for recognition under the 3P Program, technical activity must meet several criteria. It has to eliminate or reduce actual or potential pollution and have a potential monetary benefit to 3M. It also has to represent a genuine technical accomplishment and personal effort.

Contributors to the program have proven to be among 3M's most creative technical employees, and this recognition serves to reinforce their reputations and contribute to career growth. Recognition is the only immediate award, because it is an employee satisfier, and the company avoids prizes or cash awards that smack of contests and promotions.

Because 3M is a new-products-oriented company, products and processes always are being invented or modified, and it has been comparatively easy for us to incorporate pollution prevention into our technical activity.

In some industries, however, processes cannot be changed, or at least not easily, without disrupting or halting total production. Changeover may be too costly, or there may be no resource-conservation technology to eliminate the pollution sources. For example, many heavy industries have no realistic alternative to conventional abatement methods and, hence, a 3P Program would not be very effective for them.

DEVELOP OWN TECHNOLOGIES

Our recommendation is to use resource-conservation technology wherever and whenever possible and practical. Overall, success in this type of endeavor depends upon individual companies or industries developing their own technologies to prevent pollution, as they develop their own techniques to produce goods and services.

Indications are that society is moving away from the trap of thinking that tomorrow's technology will be the same as today's.

Solutions to our present and future environmental problems will come from new and better technology, based on conservation-oriented systems and the pollution-prevention approach.●

A SALUTE TO DR. BYRL SHOEMAKER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. STOKES. Mr. Speaker, it is a pleasure for me to join with educators in the State of Ohio at this time in saluting Dr. Byrl Shoemaker for the yeoman's job he has done as the director of vocational education and executive director of vocational and career education and school food service in Ohio. It is primarily because of the vision and dedication of Dr. Shoemaker that the division of vocational education can boast of exemplary programs throughout the Buckeye State.

Mr. Speaker, 77 percent of eligible students in the eight major cities in Ohio were enrolled in vocational family life or job training programs in 1980. The rate of placement for graduates in those same cities in 1980 reached 94 percent. These statistics are a testimonial to the perseverance of Dr. Shoemaker on behalf of vocational education in Ohio.

Mr. Speaker, recently, in a ceremony hosted by East Cleveland City Schools Superintendent Dr. Rondle Edwards, Dr. Shoemaker was cited for his achievements on behalf of vocational education. I believe that it would be appropriate at this juncture to share some of the achievements of Dr. Shoemaker with my colleagues.

Mr. Speaker, Dr. Shoemaker has been the catalyst for insuring that vocational education programs in Ohio are efficient and productive. Since 1962, when he accepted the post as director of vocational education, Dr. Shoemaker has been the shepherd who has guided and given direction to the program in Ohio. He simultaneously helped to elevate the subject of vocational education on the State's priority list of education programs.

Accordingly, Mr. Speaker, since Dr. Shoemaker became the head of vocational education in Ohio, the program has grown to be a major educational program in the State. In 1962, the State's vocational education program served only 7 percent of the youth in the last 2 years of high school. In 1980, that figure had increased to 57 percent statewide. Similarly, in 1962, only 97,000 adults were being served by vocational training programs. In 1980, that figure had increased to over 340,000. Today, over 98 percent of all youth in Ohio have an adequate program of vocational education available to them.

Furthermore, the 2-year post-high school technical education programs now operated by the board of regents in Ohio were initiated by the division of vocational education in the early 1960's. The career development programs to assist youth to make better choices for professional, technical, or vocational education were developed by the division of vocational education in the 1970's.

Mr. Speaker, it is almost impossible to separate the success of the vocational education program in Ohio from the achievements of Dr. Byrl Shoemaker. The expansion of that program is the brainchild of Dr. Shoemaker.

Everyone associated with vocational education in Ohio knows of Dr. Shoemaker. However, Mr. Speaker, his notoriety does not end there. Dr. Shoemaker has held many national offices in professional associations including the presidency of the American Vocational Association and the National Association of State Directors of Vocational Education. His exhaustive list of achievements includes serving on numerous committees and boards across this Nation and giving vital testimony to committees of this body on numerous occasions.

With those thoughts in mind, Mr. Speaker, I ask my colleagues to pause and salute the man who has made an indelible mark on vocational education in Ohio—Dr. Byrl Shoemaker.●

MIDDLE EAST'S FUTURE AND ADMINISTRATION POLICIES DISCUSSED

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. WAXMAN. Mr. Speaker, I would like to commend to the attention of my colleagues an unusually insightful speech delivered to the World Affairs Council/American Jewish Committee in Portland, Oreg., on January 14 by our colleague LES AUCOIN.

In his address, Mr. AUCOIN discusses the future of the Middle East and the administration's policies for that region. His assessment is a most thoughtful one, dealing with a complex subject in a manner that cuts through to a clear statement of U.S. interests and concerns.

Mr. AUCOIN's remarks follow:

THE MIDDLE EAST—WHAT NEXT?

In assessing the future of the Middle East this evening, I'd like to discuss the status of American relations with Israel, the recent controversy over the Golan Heights, and then speculate on the likely events after Israel returns the Sinai to Egypt this April.

When President Reagan took office, he announced that his top foreign policy priority would be the Soviet Union. Within a few months, however, the Middle East moved to the top of the agenda. The administration then tried to develop policies that could meet the Soviet threat in the region, while playing down the significance of regional tensions, including the Arab-Israeli conflict. I believe that was a devasting mistake which triggered a sequence of events which now leaves the United States with less influence with all parties in the region.

The administration believed that its anti-Soviet objectives would be served by the sale of advanced military equipment to Saudi Arabia, including offensive enhancements for the F-15A jet fighter and the sale of 5 AWACS command planes. Accordingly, they concluded an $8.5 billion deal transferring this technology to Saudi Arabia.

It is always difficult to disagree with a president on a major foreign policy initiative. It is particularly difficult to oppose a popular president at the beginning of his term. Despite tremendous pressure from the administration and corporate lobbying, I had no alternative but to oppose the White House.

Indeed, I was one of the cosponsors of the congressional resolution of disapproval. I spoke out against the sale on the House floor and here at home.

I did not then and do not now believe that the AWACS sale was in the best interest of the United States of America. AWACS are so sensitive, so advanced, that we do not even allow our NATO allies to have the exclusive control that Saudi Arabia demanded and got.

I objected to selling these, the most sophisticated weapons in our arsenal, because of the following facts: Saudi Arabia is potentially unstable; Saudi Arabia rejects the Camp David peace process; Saudi Arabia has declared an Islamic holy war against Israel—a war to the finish, a war of extinction; Saudi Arabia could not guarantee the security of the AWACS; Saudi Arabia will not allow American bases on its territory; Saudi Arabia finances and supports the terrorist PLO; Saudi Arabia raised its oil price from $12 a barrel at the time of the last big sale in 1978 to $32 a barrel in 1981.

But there were also three other reasons congressional opponents objected to this sale:

First, it violated a pledge to Congress that this type of equipment would never be sold to Saudi Arabia.

Second, we believed that the United States did not receive enough in return—we did not gain access to bases in Saudi Arabia; we did not receive assurances on the peace process or on oil pricing. It was a one-sided empty bargain.

But third, and most important, the sale undermines the security of America's most dependable ally in the Middle East—Israel. In addition to jeopardizing the existence of Israel, the increasing of the arms race in the region presents Israel with a budget crisis that it cannot afford.

I was gratified that the entire Oregon delegation agreed with these assessments and that every Member from our state voted against the sale.

I was pleased that the House passed the resolution of disapproval by a vote of 301-111. I believe that the vote would have been similar in the Senate if the Senators had voted purely on the merits of the sale.

However, the final vote in the Senate did not reflect the merits of the issue. In that vote, the issue became a referendum on the power and prestige of the presidency rather than the wisdom of this president's policy.

It is, in fact, ironic that the same man who urged the Congress to reject the Panama Canal Treaty and the "Salt II" Treaty on the ground that it is the duty of Congress to correct flawed policies of a president, should claim here that congressional rejection of his White House policies would weaken the power of the presidency itself.

Finally, I was disturbed by the undertones that marked the arguments of some of the proponents of the sale because of what it might portend. When this sale called for a choice between "Reagan or Begin" and when it was asked whether "the Jews should run American foreign policy" it calls into doubt the patriotism of Americans—and is totally unacceptable in a free society. Even the President's comment that he did not want "foreign nations" to interfere in the foreign policy process of the United States was a direct slap at American Jews and Israel. Parenthetically, I must note that this comment was made at the same time that the Administration was going all out to assist Prince Bandar of Saudi Arabia to lobby for the sale.

I cannot express in strong enough terms my rejection of anything that remotely smacks of anti-semitism and charges of "dual loyalty." These charges are not new. But they are repugnant and should not have been ressurected on this issue or any other.

Even though the AWACS sale has been approved, it is important in assessing what comes next in the Mideast to examine the effects of the sale—particularly the actions of Saudi Arabia. The administration tried to gain support for its AWACS position by arguing that Saudi behavior would moderate if the sale was approved. But unfortunately, since the sale the Saudis have: Raised their price of oil to $34 a barrel and lowered production by 1 million barrels per day; pressured the country of Oman to reject American facilities; urged Oman not to participate in operation Bright Star and even offered a $1.2 billion bribe to this effect; contributed an additional $28 million to the PLO; and pushed the Fahd "Peace Plan," which calls for a Palestinian state with "East Jerusalem" as its capital.

This is a "friend?"

This is an "ally?"

This is "moderation?"

Whether we here tonight agree or disagree with the Saudi peace plan, we ought to be appalled that it was rejected because radicals like Syria and Libya thought it was "too moderate" toward Israel. It's interesting to me further to note that Prince Fahd recently met with President Assad of Syria. One hour after their meeting, the Prince cancelled his scheduled, long-awaited trip to the United States—no doubt under pressure from Assad.

Thus, in my review of the facts, I have not seen the promised moderation from the Saudis.

Shortly after the AWACS vote, the administration considered selling an advanced telecommunications satellite system to a consortium of Arab states called Arabstat. The members of this group include Libya, Yemen, Syria, and the PLO. Not only would this sale have military advantages for the very countries listed by the State Department as supporting terrorism, it would be a tacit recognition of the PLO. At this time the administration is still considering whether to proceed.

Let me turn next to the current status of U.S.-Israel relations. Secretary of State Alexander Haig told the House Foreign Affairs Committee on November 12, 1981, that "if our friends are more secure, they will be more willing to take risks for peace." I certainly agree with this statement, but I do not believe that current American foreign policy has been adhering to these guidelines. Recent U.S. actions, statements, and policies have had the effect of increasing Israel's nervousness about the strength and depth of American support.

Israel is beginning to see the United States as a fickle and unreliable ally, quick to abrogate agreements, contractual and otherwise. It sees the United States as frightened of offending the Arabs and irrationally concerned about Moscow. As Jordan recently proved, any nation that even threatens to go to the Soviet Union for succor gains entre in Washington, even if the threatened link to Moscow poses a great danger to that country. The raid on the Iraqi nuclear facility last spring results, in part, from Israel's convictions that neither the United States nor anyone else really cared about the Iraqi nuclear threat and failed to do anything to help despite Israeli pleas.

To a degree, I believe that Israel's recent actions in the Golan Heights are a direct repercussion of the AWACS sale and other American actions.

There has been a great deal of rhetoric concerning the Golan Heights—let me briefly explain the situation.

The essence of what Israel did was to extend civil juridiction in place of the military law which had prevailed in the area since the 1967 war. In the words of the Wall Street Journal, Israel merely "imposed the right to a trial by jury on 18,000 Arabs and Jews in the Golan."

This action did not foreclose the option of negotiations on the final settlement of the territory. These negotiations are unlikely, however, because Syria has consistently refused to negotiate with Israel.

There were numerous Syrian actions which led up to the Israeli move. Let's count them: First, Syria invaded Israel three times through the Golan Heights; second, in the 19 years preceding the 1967 War, Syria used the Heights to stage devastating artillery mortar fire on civilian settlers below in the Galilee; third, Syria's actions in southern Lebanon, including the placement of more SAM batteries, endanger Israel's security; fourth, the Syrians totally rejected Philip Habib's efforts to remove the Syrian missiles; fifth, Syrian actions resulted in the collapse of the so-called Arab peace summit and the rejection of the Fahd peace plan. This plan was uncompromising and unacceptable to Israel, but even the remote possibility of Saudi willingness to recognize Israel was unacceptable to Syria; sixth, Syria has signed a friendship treaty with the Soviet Union and is clearly a Soviet surrogate.

I was upset that the United States voted in the U.N. Security Council to condemn Israel for its Golan actions and took unilateral steps to punish Israel. This is an unfortunate signal to send. It gives the impression that Israel, rather than the Soviet surrogate Syria, is the enemy of the United States. This is not the case, as the fundamental friendship between Israel and the United States continues. Thus, I do not believe that the administration's actions were well thought out.

Conversely, I was also upset at the excessive rhetoric used by Prime Minister Begin in response to American actions. This was reckless, insulting, and dangerous rhetoric. I hope that calmer heads will prevail and that America's relations with Israel will rebound from their current status. When there is a storm, the dust eventually settles. The current problems do nothing to change the essential need for strong United States-Israel ties. This is in the best interest of both of our nations.

On April 25 Israel is scheduled to return the last part of the Sinai to Egypt. This will complete the return of 92 percent of the territory taken in the 1967 war as a result of Arab agression against Israel.

As April 25th approaches, Arab pressure on Egypt will mount. Thus far, President Mubarak has given every indication of continuing the good relations established with Israel by President Sadat. Egypt has realized the benefits it gains from peace with Israel.

On the other hand, other Arab states are making efforts to weaken the relationship. It is important for the United States to disassociate itself from these Arab efforts. There have been troubling indications and statements by prominent Americans urging a shift away from the Camp David process. I cite the statements by former Presidents Carter and Ford, the Seven Springs Report by Harold Saunders and Philip Klutznik, the administration's flirtation with the Fahd peace plan, and a background paper prepared for the prestigious Council on Foreign Relations by Malcolm Kerr recommending new U.S. approaches to the PLO. These types of statements and actions only serve to intensify the concerns already expressed in Israel.

As we look forward to future American policies in the Middle East, many pitfalls and problems remain. Israel's security must be preserved, particularly after the return of the Sinai in April, 1982. The instability in southern Lebanon, particularly the increasing number of Syrian and PLO troops and armaments is a potential crisis. Soviet activity in the region, the actions of Qadhafi, and Western reliance on Middle Eastern oil are just a few more issues that must be dealt with in a constructive and careful manner. Your interest and your participation in the American political process are causes for optimism. It is largely because of people like you, people who are informed, active and involved, that we can be confident that America's future actions will contribute to the cause of peace.●

A LETTER TO THE PRESIDENT ON FOREIGN POLICY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. McDONALD. Mr. Speaker, vast attention has been given to media and congressional efforts to prevent our Government from taking a strong stand against Communist imperialism in the Western Hemisphere, as manifested in the present attempted armed takeover of El Salvador.

Many of us are capable of understanding the grim implications of the Soviet-directed military buildup on the mainland of Central America, just as we are capable of recognizing the well-developed pattern of revolutionary warfare manifesting itself in El Salvador—and in the United States, where the propaganda has been rather one-sided. We face an enemy which will take advantage of every display of weakness, and who is not impressed by words; we face an enemy which does believe in "military solutions."

Therefore, I am inserting in the RECORD a letter sent to President Ronald Reagan on March 11, signed by the following Members of Congress:

HOUSE OF REPRESENTATIVES,
Washington, D.C., March 11, 1982.

Hon. RONALD REAGAN,
The President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: Once more, it seems to be necessary to call attention to the basic fact of Communist intrusion into the vital space of our American hemisphere. Previous Administrations failed to pursue effective policies, and we now face the consequences of that failure, the abandonment of friends and allies, the visible collapse of policy, and the advance of a hostile imperialism in the Western Hemisphere.

Today we have Soviet-directed puppet governments in the Caribbean which are more powerfully armed than ever before. Somehow, we have been induced to accept the construction of hostile military bases and the intrusion of foreign military forces into regions strategically vital to the United States.

During the Carter Administration, Afghanistan was invaded, opening a whole new front in southern Asia. The betrayal of a friendly government to hostile fanatics added another powerful element of instability to the Middle East picture. Soviet aggression, through the use of Cuban troops and East German specialists in internal security, was permitted to reap considerable rewards in Africa.

Then, as if this were insufficient, the Carter Administration deliberately collaborated with the Marxist Sandinistas to destroy the friendly government of Nicaragua. That country has been converted into a new Soviet base, with military power far in excess of that of all of its neighbors combined. The proposed "balance of democratic forces" in Nicaragua has proven to be no more than another puppet regime. The State Department "White Book" of 1981 demonstrated the extent to which Nicaragua had become an arsenal and base of support for further imperialist ventures disguised as wars of liberation.

If El Salvador is allowed to fall under the control of foreign-directed guerrillas, we must realize that "liberation fronts" for adjacent nations are already named and in training—or, in the case of Guatemala, they are already in action.

Mr. President, you were elected by an overwhelming majority of the American people because they were sickened by foreign policies which have led to a thirty-year chain of unrelieved defeats in the face of Communist imperialism. You promised vigorously that Central America would not be a source of fresh victims.

However, at present, individuals with generous access to the mass media are conditioning the American people to the acceptance of yet another Communist victory, telling us that the Marxist will win, that any effort to prevent this outcome is doomed to failure. We see no effective answer to this propaganda from your Administration.

We have sent money, some equipment, and military training personnel to El Salvador, but we seem committed to the earlier losing pattern of doing too little, too late, and apologetically as well. Passive acceptance of the displacement of one small government after another through the unopposed practice of Communist revolutionary warfare merely hastens our own way of reckoning.

We must not talk of a "negotiated political solution" in El Salvador. This is a standard tactic to gain advantage when neither bullets nor ballots have brought victory. An offer to mediate such a solution has come from Mexican President Jose Lopez Portillo, who has been an open supporter of the guerrillas for more than a year. President Lopez Portillo has also recently brought his own country to a knife-edge of instability by means of a drastic devaluation of the peso. In this policy, he follows in the footsteps of his radical predecessor, Luis Echeverria, who enthusiastically destabilized his own country's economy. Surely it is possible to inform President Lopez Portillo that it is unwise to undercut the March elections in El Salvador by dealing with the five Marxist political "fronts" which have committed themselves to the violent disruption of the electoral process.

Further, it is worth noting that all of the "human rights" propaganda is directed against Communist-targeted governments, while the hundreds of millions reduced to slavery and penury, or driven from their homes or murdered by Communist dictatorships around the world are simply written off by these highly one-sided critics. Those who attempt to defend their countrymen from this fate are, instead, attacked as shameful violators of human rights.

It is well past time to bring to the American people a degree of sophistication about the nature of propaganda and revolutionary warfare. If the continual message of defeatism to which we are subjected is not countered sooner or later, we will hand our enemies an incredibly cheap and final victory.

Mr. President, the accelerating collapse which threatens Central America, then Mexico, and ultimately the United States must be forestalled now. A clear presentation of the facts and prompt action, on whatever scale is necessary, is needed to prevent even faster deterioration of the situation. If you believe that a blockade of Cuba is necessary, then that step must be taken. All of us show leadership and rally the non-Communist majority throughout this hemisphere to the defense of freedom.

It is now or never, Mr. President. The forces directed from Moscow sensed great weakness in our last Administration, and enjoyed widespread victories by taking advantage of that weakness. They braced for setbacks when you took office, but they are discovering that words are not matched by actions, and they are once more on the march.

We must not tolerate the continual program of aggression which has as its final objective the extinction of all freedom everywhere, including throughout the United States of America.

Sincerely,

George Hansen, Jim Jeffries, Philip M. Crane, Samuel S. Stratton, Floyd Spence, Doug Barnard, Jr., Albert Lee Smith, Jr., Carlos J. Moorhead, Larry P. McDonald, John M. Ashbrook, Daniel B. Crane, Eugene Johnston, Gene Taylor, John LeBoutillier, Larry E. Craig, David Dreier, Bill Lowery, Thomas F. Hartnett, Robert K. Dornan, Bill Dickinson, John T. Myers, Robert W. Daniel, Jr., James M. Collins, Billy Lee Evans, Dan Marriott, Ralph M. Hall, J. K. Robinson, Newt Gingrich, Hal Daub, Bob McEwen, Jack Fields, Bill Dannemeyer, Carroll A. Campbell, Jr., Gerald B. H. Solomon, John H. Rousselot, Norman D. Shumway, G. William Whitehurst, Dan Daniel, Bob Stump, Bob Badham, Don Young, Duncan Hunter, Thomas N. Kindness, Earl Hutto, Bill McCollum.●

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES: A GUIDE FOR TAXABLE YEAR 1981

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. BIAGGI. Mr. Speaker, as an original member of the Select Committee on Aging, I am most familiar with the economic pressures faced by our elderly citizens at a time when inflation threatens to drastically change the spending habits of those on fixed incomes. To insure that older Americans do not lose additional income, this checklist has been prepared so that seniors may take advantage of all legal tax reduction measures available. I submit this checklist for the RECORD and urge my colleague to share this information with their own elderly constituents as they prepare their taxes for 1981.

The checklist follows:

PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES (A REVISED CHECKLIST OF TAX RETURN INFORMATION FOR USE IN TAXABLE YEAR 1981)

A. FILING REQUIREMENTS

Single individuals

Single individuals under the age of 65 must file a return if they had gross income of $3,300 of more for the year. Those over age 65 must file if they had gross income of $4,300 or more.

Married individuals

Married individuals under the age of 65 must file a return if the couple's combined gross income was $5,400 or more. If only one spouse is age 65 or older, the filing level is $7,400.

An individual who is married and whose spouse files a separate return must file a return if gross income was $1,000 or more.

Qualifying widow or widower

Qualifying widows or widowers must file a return if they had gross income of $4,000 or more during the year. For qualifying widows or widowers who are 65 or older, the filing level is $5,400.

Self-employed persons

Self-employed individuals must file a return if they had net earnings from self-employment of $400 or more.

B. PERSONAL EXEMPTIONS

Each taxpayer is entitled to a $1,000 personal exemption. Married taxpayers generally are entitled to an additional $1,000 exemption for their spouses. Futhermore, additional exemptions are provided for age (65 or older) and blindness. Individuals may take an exemption for each person who qualified as a dependent. A taxpayer may not claim the age and blindness exemptions for a dependent.

C. ZERO BRACKET AMOUNT

The zero bracket amount (formerly, the standard deduction) is the portion of an individual's income which is not subject to the tax. The zero bracket amount is (1) $3,400 for married individuals filing jointly, or qualifying widows or widowers; (2) $2,300 for single individuals, or heads of households; and (3) $1,700 for married individuals filing separately.

D. EXCLUSIONS

Dividends and interest (form 1040 and 1040A, line 8)

For 1981, individuals may exclude up to $200 ($400 on a joint return) of interest and/or dividends received during the year. The maximum $400 exclusion is available regardless of which spouse received the interest or dividend income.

Interest earned on All-Savers certificates (up to $1,000 for a single taxpayer and up to $2,000 for taxpayers filing a joint return) is excludable from taxation. These certificates are available from September 30, 1981 until January 1, 1983.

Capital gains (form 1040, lines 12 and 13—Attach schedule D—Not permitted to use form 1040A)

In general, 60 percent of net long-term capital gain is excluded from gross income. A special alternative tax for 1981 provides that a maximum 20 percent rate (i.e., a 50 percent maximum rate times 40 percent of net capital gains equals a 20 percent minimum tax) on net capital gains applies to sales or exchanges occurring after June 9, 1981. Sales or exchanges prior to this date which result in long-term capital gain are taxed at a maximum 28 percent rate.

Disability income exclusion (form 1040, line 28—Attach form 2440)

An exclusion of up to $100 per week ($5,200 per year) of disability income is provided by law. In general, to qualify for this exclusion, an individual must be under age 65, must have retired on disability, and must have retired because of permanent and total disability. The exclusion is reduced (by an adjusted gross income phaseout) dollar for dollar for adjusted gross income in excess of $15,000. Married taxpayers must file a joint return unless they lived apart at all times during the year. While each spouse is entitled to the $100-a-week exclusion for disability income (sick pay) the adjusted gross income phaseout applies on a per-return basis. A further explanation is contained in Disability Payments issued by the Internal Revenue Service as Publication 522.

Sale of personal residence (form 2119—Not permitted to use form 1040A)

Gain from the sale of taxpayer's principal residence is generally taxable. However, if another residence is purchased or built within the prescribed rollover period, the taxpayer may qualify for the nonrecognition of all or part of the gain on the sale of the old residence, thus deferring tax on the nonrecognized gain. The rollover period runs 18 months before and after a sale or exchange which took place before July 20, 1981. The Economic Recovery Tax Act of 1981 has extended the rollover period to 2 years after that date. In addition, the 2-year period is extended to those transactions which occurred before July 20, 1981, where the previous 18-month rollover period had not expired.

Individuals who are age 55 or older may elect to exclude, on a one-time basis, up to $100,000 of the gain from the sale of a personal residence sold prior to July 20, 1981. The exclusion has been raised to $125,000 for sales made after July 20, 1981. The exclusion applies to a taxpayer for at least 3 of the 5 years ending on the date of the sale. This exclusion is elective and may be used only once. Additional information is available from Internal Revenue Service Publication 523, Tax Information on Selling Your Home.

E. TAX CREDITS

Credit for political contributions (form 1040, line 38; form 1040A, line 13A)

Taxpayers may take a credit for up to one-half of political contributions made during the year. Political contributions are defined as monetary donations made to nominate or to elect a political condidate to office or made to a campaign committee, a newsletter fund, or a national, State, or local committee of a national political party. The maximum credit is $50 on a single return and $100 on a joint return.

Credit for the elderly (tax schedules R or RP)

Individuals who are age 65 or older, or who are under age 65 and receive a taxable pension or annuity from a public retirement system, may be entitled to claim the credit for the elderly. Under current law, individuals who are 65 years of age or older are allowed a tax credit of 15 percent on their taxable retirement income. All types of taxable income are eligible for the credit, including retirement income, earned income and investment income. The maximum base for computing the credit is $2,500 for a single taxpayer 65 or over or for a married couple filing a joint return where both are 65 or older, and $1,875 for a married individual 65 or over filing a separate return. The maximum base must be reduced by the amount of tax-exempt retirement income, such as Social Security. The maximum base must also be reduced by $1 for each $2 by which the taxpayer's adjusted gross income exceeds the following levels: $7,500 for single taxpayers, $10,000 for married couples filing a joint return, and $5,000 for a married individual filing a separate return.

Under the rules applicable to public retirees, retirement income of an individual under 65 includes only income from a pension or annuity under a Federal, State or local retirement system. For an individual who is 65 or over, retirement income includes income from pensions and annuities, interest, rents, dividends, interest from retirement bonds, and income from individual retirement programs. If a public retiree is under 65 but his or her spouse is 65 or over (and thus eligible for the credit of the elderly described above), the couple may elect to compute their credit under the rules applicable to the elderly. The maximum base must be reduced by earned income if the individual has not attained age 72 before the close of the taxable year. If an individual is under 62, the maximum base must be reduced by earned income in excess of $900. If an individual is 62 or over but under 72 the maximum base must be reduced by 50 percent of earned income in excess of $1,200 and under $1,700 and by all earnings over $1,700. Because of the earned income cutback, the adjusted gross income phase out does not apply. The prior earnings requirement is eliminated for public retirees. Publication 524, Credit for the Elderly, is available free from your local Internal Revenue Service Office.

Earned income credit (form 1040, line 57; form 1040A, line 13C—Worksheet provided in instructions)

Taxpayers with dependent children generally are entitled to a refundable credit equal to 10 percent of the first $5,000 of earnings (for a maximum credit of $500). The credit remains at $500 for incomes between $5,000 and $6,000 but it phases out at a rate of 12.5 percent as income rises from $6,000 to $10,000 (that is, the credit is reduced by 12½ cents for each additional dollar of income). A more detailed explanation can be found in *Earned Income Credit,* Publication 596 issued by the Internal Revenue Service.

Child and disabled dependent care credit (form 1040, line 40 and form 2441)—Not permitted to use form 1040A)

Taxpayers may be entitled to a credit equal to 20 percent of the amount paid for the care of a dependent under the age of 15, a disabled dependent, or a disabled spouse, if the payment is made to enable the taxpayer to work. For a taxpayer with one qualifying dependent, the maximum credit is $400. If there are two or more qualifying dependents, the maximum credit is $800.

The Economic Recovery Tax Act of 1981 changed the rules for the child and disabled dependent care credit for the 1982 tax year and subsequent years. Beginning in 1982, the maximum amount of employment-related expenditures eligibe for the child care tax credits is increased from $2,000 to $2,400 for taxpayers with one dependent and from $4,000 to $4,800 for taxpayers with two or more dependents. In addition, the rate of the child care credit is increased from 20 percent to 30 percent for taxpayers with incomes of $10,000 or less. The rate of the credit is reduced by one percentage point for each $2,000 of income, or fraction thereof, above $10,000 until the lowest rate (20 percent) is reached for taxpayers with incomes above $28,000. More information can be obtained by asking the Internal Revenue Service for Publication 503 entitled "Child and Disabled Dependent Care."

Residential energy credit (tax form 5695)

Taxpayers (both owners and renters) are entitled to a credit equal to 15 percent of the first $2,000 spent on qualifying energy-saving items installed in their principal residence (See Internal Revenue Service Publication 903, "Energy Credits for Individuals," for further details). Qualifying energy-saving items include: insulation, storm or thermal windows or doors, caulking or weather stripping, clock thermostats, furnace replacement burners, flue opening modifications, and meters that display the cost of energy use.

In addition, taxpayers may receive an additional energy credit for amounts spent on solar, wind-powered, or geothermal equipment for their homes. This credit is for 40 percent of the first $10,000 of those costs.

F. ITEMIZED DEDUCTIONS

Checklist of itemized deductions of schedule A (form 1040)

Insurance Premiums (Schedule A, Lines 1 and 5)

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3 percent limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3 percent rule.

Drugs and Medicines (Schedule A, Lines 2, 3, and 4)

Included in medical expenses (subject to the 3 percent rule) but only to the extent that they exceed 1 percent of adjusted gross income (Line 31, Form 1040).

Drugs and Medicines (Schedule A, Lines 2, 3, and 4)

Medical and dental expenses (unreimbursed by insurance or otherwise) are deductible to the extent that they exceed 3 percent of your adjusted gross income. Other allowable medical and dental expenses are:

Abdominal supports (prescribed by a doctor).

Acupuncture services.

Ambulance hire.

Anesthetist.

Arch supports (prescribed by a doctor).

Artificial limbs and teeth.

Back supports (prescribed by a doctor).

Braces.

Capital expenditures for medical purposes (e.g. elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. You should have an independent appraisal made to reflect clearly the increase in value.

Cardiographs.

Chiropodist.

Chiropractor.

Christian Science practitioner, authorized.

Convalescent home (for medical treatment only).

Crutches.

Dental services (e.g., cleaning, X-ray, filling teeth).

Dentures.
Dermatologist.
Eyeglasses.

Food or beverages specially prescribed by a physician (for treatment of illness, and in addition to, not as a substitute for your regular diet; physician's statement needed).

Gynecologist.
Hearing aids and batteries.
Home health services.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.

Lipreading lessons (designed to overcome a handicap).

Neurologist.

Nursing services for medical care, including nurse's board paid by you.

Occupational therapist.
Ophthalmologist.
Optician.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examination.
Physical therapist.
Physician.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium therapy.
Sacroiliac belt (prescribed by a doctor).
Seeing-eye dog and maintenance.
Speech therapist.
Splints.

Supplementary medical insurance (Part B) under medicare.

Surgeon.

Telephone/teletype special communications equipment for the deaf.

Television set if individual has a hearing impairment and the set is specially equipped with a visual display of the audio portion of television programs. Similarly the cost of an adaptor for a conventional television that performs the same function is now considered a medical device eligible for the deduction by the IRS.

Transportation expenses for medical purposes (9 cents per mile, plus parking and tolls or actual fares for taxi, buses, etc.).

Vaccines.

Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).

Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

Expenses may be deducted only in the year you paid them. If you charge medical expenses on your bank credit card, the expenses are deducted in the year the charge is made regardless of when the bank is repaid.

For additional information see Publication 502 issued by the Internal Revenue Service known as Medical and Dental Expenses.

Taxes (Schedule A, Lines 11 to 16 and 34)

Real Estate.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deductions, ordinarily you may add to the amount shown in the tax tables the sales tax paid on the purchase of the following items: automobiles, trucks, motorcycles, airplanes, boats, mobile homes, materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income.

For example: social security, workmen's compensation, veterans' pensions or compensation payments, railroad retirement annuities, untaxed portion of long-term capital gains, dividends untaxed under the dividend exclusion, interest on municipal bonds, unemployment compensation, and public assistance payments.

Interest (Schedule A, Lines 17 to 20 and 35)

Home mortgage.
Auto loan.

Installment purchase (televison, washer, dryer, etc.)

Bank credit cards—can deduct the finance charge as interest if no part is for service charge, loan fees, credit investigation fees, or similar charges.

Other credit cards—you may deduct as interest the finance charges added to your monthly statement, expressed as an annual percentage rate, that are based on the unpaid monthly balance.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money and only if the charging of points represent charges for services rendered by the lending institution (e.g., VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized). Penalty for prepayment of a mortgage—deductible as interest.

Revolving charge accounts—you may deduct the separately stated "finance charge" expressed as an annual percentage rate.

A further explanation of this deduction can be found in the Internal Revenue Service Publication 545, Interest and Expense.

Contributions (Schedule A, Lines 21 to 24 and 36)

In general, contributions may be deducted up to the amount equal to 50 percent of your adjusted gross income (Form 1040, line 31). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes; (2) prevention of cruelty to children or animals; or (3) Federal, State or local government units (tuition for children attending parochial schools is not deductible).

Fair market value of property (e.g., clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property special rules apply. Contact your local IRS office.)

Travel expenses (actual of 9 cents per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g., postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in your home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

Casualty or Theft Losses (Schedule A, Lines 25 to 29 and 37 or Form 4684)

Casualty (e.g., tornado, flood, storm, fire, or automobile accident provided not caused by willful act or willful negligence) or theft losses—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. If more than one item was involved in a single casualty or theft, or if you had more than one casualty or theft during the year, you may use Form 4684 for computing your personal casualty loss. Two publications, 547 and 584, are available from the Internal Revenue Service to help in properly filing for this deduction.

Miscellaneous (Schedule A, Lines 30 to 32 and 38)

Appraisal fees to determine the amount of a casualty loss or to determine the fair market value of charitable contributions.

Union dues.

Cost of preparation of income tax returns.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for chamber of commerce (if as a business expense).

Rental cost of a safe-deposit box used to store income-producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees under certain circumstances.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by your employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if used regularly and exclusively for certain business purposes.

Transportation expenses for business purpose (20 cents per mile for the first 15,000 miles, and 11 cents per mile in excess of 15,000 miles plus parking and tolls or actual fares for taxi, buses, et cetera).

G. OTHER TAX RETURN INFORMATION ITEMS

Rate reduction and withholding

The Economic Recovery Tax Act of 1981 provides cummulative reductions in individual income tax rates of 1¼ percent in 1981, 10 percent in 1982, 19 percent in 1983 and 23 percent in 1984 and subsequent years. These tax reductions will be reflected in reduced withholding on October 1, 1981, July 1, 1982, and July 1, 1983. For 1981, the rate reductions are reflected in the tax tables used to compute the amount of tax owed, unless the taxpayer is subject to the maximum tax on personal service income or income averages, in which case the taxpayer receives a credit equal to 1¼ percent of regular tax liability before other credits.

Tax tables

Tax tables have been developed to make it easier for you to find your tax if your income is under certain levels. Even if you itemize deductions, you may be able to use the tax tables to find your tax more easily. In addition, you do not have to deduct $1,000 for each exemption because these amounts are built into the tax table for you.

Presidential election campaign fund checkoff (front of form 1040 and 1040a)

An individual taxpayer may voluntarily earmark $1 of taxes ($2 on a joint return) each year for the Presidential Election Campaign Fund. (This does not result in any increase or decrease of the tax liability.)

Multiple support agreements

In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met:

(1) Support.

(2) Gross income.

(3) Member of household or relationship.

(4) Citizenship.

(5) Separate return.

But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support. However, it still may be possible for one of the individuals to be entitled to a $1,000 dependency deduction if the following requirements are met for multiple support:

(1) Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test.

(2) Any one of those who individually contribute more than 10 percent of the mutual dependent's support, but only one of them may claim the dependency deduction.

(3) Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.●

LAW OF THE SEA TREATY REPORT

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. FIELDS. Mr. Speaker, it is with great pleasure that I submit for the RECORD the most recent report issued by my Task Force on Energy and Natural Resources, entitled "Lost At Sea: What the U.S. Stands to Lose With the Law of the Sea Treaty."

This comprehensive report is issued under the auspices of the House Republican Research Committee which is so ably chaired by the distinguished gentleman from Illinois, Congressman EDWARD MADIGAN.

The text of the report, written by my able staff director, Suzanne Reed, follows:

LOST AT SEA: WHAT THE U.S. STANDS TO LOSE WITH THE LAW OF THE SEA TREATY

It has been 11 years since the United Nations General Assembly voted on December 17, 1970, to convene the Third U.N. Law of the Sea Conference. What has ensued since that vote has been a classic diplomatic struggle between the industrialized nations of the West and the world's developing countries (known as the Group of 77) over the future use and development of the world's oceans. More than 160 nations are now locked in deliberations to draft the final Law of the Sea Treaty which will set precedents for critical issues such as access to the resources of the international deep seabed, production controls on strategic minerals extraction, and the promulgation of international regulations impacting on navigational rights, fishing rights, and marine research.

Delegates to the Conference had intended to complete work on the treaty last summer with the formal signing in Caracas in the fall of 1981. Fortunately for the United States, President Reagan, shortly after taking office, ordered an extensive review to determine whether the draft treaty was compatible with U.S. economic, political, and national security interests. What that review uncovered is that highly questionable positions were taken and undesirable language was agreed upon by former U.S. administrations which would be extremely prejudicial to our national interests.

In effect, U.S. negotiators had agreed to a treaty which would: Lock us into funding almost 25 percent of the budget of a massive, international regulatory body whose membership would be dominated by Third World and Soviet-bloc countries; severely limit our access and ability to ever mine the deep seabed and perpetuate our continued dependence on critical stragetic minerals; preclude us from guaranteed representation (on this international body) that would be commensurate with the amount of financing we would be obligated to provide; and force us, as a precondition to mining the deep seabed, to turn over not only pre-prospected mining sites, but also our advanced mining and processing technology to the Third World and a competing mining entity at an arbitrary price and without normal commercial protections.

The review by the President's interagency task force is now complete. The conclusion it reached is that the U.S. should go back to the next negotiating session and attempt to gain concessions from the Third World. It is expected that delegates from the developing countries will take a hard line approach to suggestions of renegotiating already-completed sections of the treaty. They recognize that most of the changes the U.S. is expected to push for would undermine the very purpose of the treaty—the Third World's drive to redistribute political power and wealth from the developed to the developing countries of the world.

Congress will eventually become directly involved in the treaty process. The Senate must consent to ratification of the treaty (if indeed there is one) by a two-thirds vote; then, the House and Senate, by a simple majority vote, must concur on implementing legislation.

MAJOR OBJECTIONS

The damaging aspects (or losses) to the United States are apparent if one examines the major objections to the treaty.

The New International Economic Order and the Common Heritage of Mankind

Adoption of the present law of the Sea (LOS) Treaty will further advance two concepts firmly held in the Third World: the New International Economic Order (NIEO) and the "common heritage of mankind." The intent of the NIEO is to facilitate a global redistribution of wealth and political power from the developed to the undeveloped nations of the world. This would be accomplished through the restructuring of existing international political, commercial, and economic organizations. The Third World is promoting the LOS Treaty as the primary instrument for initiating this redistribution of power and wealth. Under the "common heritage of mankind concept," the deep seabed and its resources could only be exploited with the common consent of all nations of the international community. This concept would abrogate the freedom of the high seas doctrine under which the United States as well as the rest of the world has been operating for centuries.

Burdensome International Regulation

The treaty would concentrate enormous political and economic power in a massive, complex, international regulatory body—the International Seabed Authority (ISA). The ISA would be a government in and of itself whose elements would consist of the Assembly, the Council, the Enterprise, the Economic Planning Commission, the Legal and Technical Commission, and the International Tribunal for the Law of the Sea. This massive entity would employ several thousand people. The ISA would control development of all resources of the seabed and subsoil located beyond the limits of national jurisdiction. This amounts to almost two-thirds of the earth's submerged lands.

Representation on the Council

A separate arm of the ISA, the Council, will be responsible for adopting and applying rules and regulations pending final Assembly approval, and will make case-by-case decisions on approving or disapproving mining applications. The body will be composed of 36 seats—18 representing various geographical areas and 18 representing special interest groups. Because of concessions agreed to by U.S. negotiators during the Carter administration, the Soviet-bloc will be assured of at least three seats on the Council, while the United States will not be assured of even one seat. Thus, we would find ourselves a party to a treaty in which we have agreed to provide substantial capital and technology assistance to developing countries, yet will have no assurance we could now, or in the future, exert proportional influence on important operational decisions.

Funding

Parties to the treaty would be obligated to provide start-up funding for the ISA and its mining entity, the Enterprise. Each party would be assessed according to its contribution level to the United Nations. For the United States, this would amount to at least $156 million in long-term, interest-free loans and $156 million in loan guarantees—almost 25 percent of the total start-up funding. Additional funds would come from tax revenues and fixed fees collected by the ISA from private mining companies. Depending on the profitability of each mining project, the ISA could receive as much as $527 million to $1.3 billion per site (or in some cases up to 70 percent of the net profits during the project's second year of operation). Additionally, private companies would have to pay a $500,000 fee just for the processing of an application to mine.

Revenue Sharing

A very disturbing provision contained in the draft treaty concerns the unprecedented sharing of revenues. The text imposes an international legal obligation on parties to mining contracts to share revenues derived from the exploitation of seabed resources, not only with developing nations, but also with groups "who have not attained full independence or other self-governing status." Thus, liberation groups, such as the Palestine Liberation Organization (PLO) and the South West African People's Organization (SWAPO), would be able to share in the revenues (generated by American companies among others) earmarked for the Enterprise and for compensating developing countries whose economies were deemed "adversely affected" by seabed mining.

Lack of Assured Access

Deep seabed mining provisions in the draft treaty would not provide American companies (nor other developed countries) with assured, continuous access to critical strategic minerals. The treaty bestows upon the ISA complete control over access to and mining of the deep seabed. Power is vested in a plenary Assembly within the ISA to set general policies which include production limits and controls on seabed mining, and the arbitrary awarding of mining contracts and production authorizations. Voting would be conducted on the principle of sovereign equality (one nation, one vote). There would be no "great power veto" as in the United Nations. This type of voting structure heavily favors the interests of Third World and Soviet-bloc countries, effectively eliminates any veto power from the developed nations, and casts serious doubt on the amount of access U.S. and other developed nations will have to the deep seabed.

Competition for Mining Sites

The LOS Treaty calls for the creation of a mining entity (the Enterprise) which would compete with private and State mining companies for sites. Unfortunately, this entity will enjoy a highly competitive edge and will be heavily subsidized from the outset. As a precondition to receiving the right to mine, a private company must turn over to the ISA two fully-prospected sites. One of these sites is then turned over to either the Enterprise or to a developing country for exploitation of minerals. There is no assurance that the private company which prospected the two sites at its own expense (tens of millions of dollars per site is not uncommon) will be awarded the other site. Further, even if the company was awarded the site, there is no assurance it will ever receive the essential production authorization. In addition to the advantage of receiving pre-prospected sites, the Enterprise would also enjoy guaranteed financing, and would be exempt from taxation, anti-monopoly provisions, and revenue-sharing obligations. Private companies, on the other hand, would be subject to all these restrictions. The creation of such a climate could make it impossible for private companies to compete with the Enterprise. Further, such provisions act as impediments to the financing of mining ventures. Officials of the banking community acknowledge that the present treaty creates such adverse political, production and market risks that they are unwilling to finance deep seabed mining projects unless major changes are made to the treaty.

Mandatory Technology Transfer Requirements

Included in the contractual agreement between the ISA and private companies is an extraordinary provision for the mandatory transfer of technology to the Enterprise, and in some cases, to developing countries as well, from the private mining sector. The Enterprise would receive technology from competing private companies on a mandatory basis if the technology was determined to be needed and otherwise unavailable to the Enterprise on the open market at "fair and reasonable" commercial terms. Disputes over "fair and reasonable" terms will be settled by the International Tribunal for the Law of the Sea. This body is expected to be Third World-dominated. Technology transfer will pertain not only to mining technology, but also to processing of minerals and training of personnel. Technology owned by other companies but being utilized by private mining companies on an ISA-awarded site would also be subject to mandatory transfer. Failure to turn over technology could result in the company being precluded from using the technology on the site, loss of the contract and the right to mine the site.

Production Limitations

Artificial limits on the amount of manganese nodules single companies can mine for the first twenty years of production were agreed to. These provisions contain anti-monopoly and anti-density language limiting: the number of mining operations in a specific area; the number of mine sites available to any one company; the number of mining contracts that can be granted to a single country; and the amount of minerals single companies can mine for the first twenty years of production. The intent is to insulate land-based producers (e.g. Canada, Zaire) from the effects of competition with seabed mining. Such provisions would effectively monopolize seabed mineral production by the Enterprise and would serve to perpetuate U.S. dependence on foreign imports of critical strategic minerals, disrupt world markets, and artificially inflate world mineral prices.

Investment protection

The draft lacks provisions for protecting major investments made by private mining companies prior to the treaty entering into force. Without adequate investment protection for those companies who were operating under the terms of existing U.S. seabed mining legislation, firms would almost certainly refuse to initiate or even continue seabed mining under the proposed treaty. A recent GAO report confirms the fact that investment in developing seabed mining technology and hardware is declining dramatically. Companies cite the absence of any kind of assurance that they will be able to mine on those sites in the future as the prime reason for the dramatic decline in investments.

Dispute settlement

Disputes arising between parties to the treaty will be settled by an arm of the International Tribunal for the Law of the Sea, called the Seabed Dispute Chamber. The Tribunal will decide the representation of the Chamber. Unfortunately, Western countries are assured of only 3 of the 21 seats on the Tribunal. This, it is a certainty that this body will be dominated by judges from Third World countries. What is just as likely is that provisions for settling disputes could be arbitrary, subject to political pressures, and slanted towards promoting the interests of the developing countries.

LOS Review conference

Fifteen years after commercial recovery of seabed minerals begins, a review conference will be assembled. The purpose will be to determine whether policies initiated during those fifteen years have successfully achieved the goals of the initial Law of the Sea Convention. Provisions of the treaty will be open to amendment after five years of negotiations and ratification of the amendments by two-thirds of the States. A threat thus emerges to the United States in that the Third World and the Soviet-bloc could direct the future course of seabed mining. Since they would control the majority of votes in the Assembly, they would hold a tremendous voting advantage for amendments benefitting their interests. The United States could find itself in a position of being unable to block potentially damaging amendments. More importantly, the constitutional responsibility of the U.S. Senate to advise and consent to international treaty arrangements would be circumvented, effectively reducing U.S. national sovereignty.

CONCLUSION

Close examination of the proposed Law of the Sea Treaty reveals that it is, unquestionably, not in the best long-term interests of the United States. The treaty is heavily weighted toward the interests of the Warsaw Pact and the Third World, and to adopt it as drafted would perpetuate our continued dependence on unstable foreign suppliers for such strategic minerals as manganese, cobalt, and nickel. It creates a political climate, so adverse to private investment and free market principles, that quite possibly no American company would dare take the risks involved or invest the billions of dollars required to pursue not only deep seabed mining, but quite possibly oil and gas development in international waters. More importantly, U.S. agreement to the proposed text would have some far-reaching implications for the future. It would set dangerous precedents for other treaties and international institutions weighted towards the interests of the Third World and its ultimate goal of a redistribution of global wealth and power (e.g. treaties encompassing the Moon, Outer Space, and the Antarctic).

RECOMMENDATIONS

The United States is scheduled to go back to the eleventh and "final" negotiating session scheduled to begin in New York on March 8, 1982. At that time our negotiators should seek, at a minimum, the following changes to the treaty:

Guaranteed, permanent U.S. representation on the Council with a weighted voting system and a one-nation veto on all issues;

Elimination of all production control provisions;

Elimination of mandatory technology transfer provisions;

Elimination of all provisions which allow liberation groups to participate;

Elimination of the 15-year Review Conference provisions;

Insist on interim and long-term investment protection to assure that investments made prior to and after a treaty goes into force are protected; and

Many of the financial terms of the treaty (e.g. percentage of U.S. start-up funding, application fees, production charges, profit-sharing) are highly discriminatory to the U.S. and other developed countries and should be renegotiated.

In the event our negotiators are unable to obtain these concessions, the United States should then pull out of the negotiations permanently. At that point, other alternatives to the treaty could be pursued.

The most likely alternative at this time is the reciprocating states agreement recently negotiated between the United States, the United Kingdom, France, and West Germany. This agreement, a requirement of the

Deep Seabed Hard Mineral Resources Act of 1980 (P.L. 96-283), provides that nations having the capability to mine the deep seabed agree to respect mining claims of other reciprocating nations. This agreement could be enlarged to encompass other nations with policies similar to the reciprocating states. The agreement also preserves and perpetuates the existing body of international law which has served the world well for centuries.●

MACK HANNAH, JR.—PIONEER AND LEADER

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. LELAND. Mr. Speaker, one might call a man like Houston's Mack Hannah, Jr., a groundbreaker—a pioneer. During the 77 of years of his life in Texas, Mr. Hannah established the first financial institution for minorities and became the first black man to head the boards of two State universities. The list does not end there. He was also the first black policeman in Port Arthur, Tex., and the first All-American football player to come out of Bishop College.

One might also call Mr. Hannah a statesman. Under former President Franklin Delano Roosevelt, he served as consul to the Republic of Liberia and, in 1966, then-President Johnson appointed him as his personal representative to the Economic Conference in Niamey, Nigeria.

Take it a little further and call Mack Hannah, Jr., a sophisticated politico. It was Mr. Hannah, after all, who delivered the crucial 3,000 votes that made Lyndon Baines Johnson a U.S. Senator in 1949. It was Mr. Hannah, also, who made the Black community of Jefferson County a powerful political force.

Paragraphs full of other accolades also apply to Mr. Hannah—civil rights activist, humanitarian, successful businessman, education activist. Each title is documented with equally lengthy lists of accomplishments.

They are not just labels. Mack Hannah, Jr., is the man, after all, to whom Port Arthur citizens come when they are down on their luck. According to the cigar-smoking Texan, if the people in his office did not protect him, his pockets would be empty. And it was Mr. Hannah who was honored recently by 1,200 past and present Port Arthur residents while he lay ill in a hospital bed. The occasion was the Port Arthur National Reunion Dinner and the organizing committee had named the Brenham, Tex., native as Port Arthur's most influential black man.

Mr. Hannah was honored again last month at the Congressional Black Caucus Southwest Regional Forum in Houston. The gala banquet in his honor capped the weekend's activities.

In short, one may heap whatever praise one chooses upon Mack Hannah, Jr. I call him a great man. Please take a minute to read the following article and find out why I, and so many others, are proud to call Mack Hannah, Jr., a friend:

[From The Black Millionaires]

HENRY MACK HANNAH, JR.

(By Louie Robinson, Jr.)

"When I get a little short of cash, I just run over to Port Arthur and borrow some from my cousin, Mack Hannah."—Texas millionaire Hobart Taylor.

There are a lot of people who, when they are a little short of cash, run over to Port Arthur to see Henry Mack Hannah, Jr. At sixty-eight he is the wealthiest black man in the state of Texas, and he admits to being a soft touch for a good sales or hard-luck pitch. If the people in his office did not protect him, he says, his pockets would be empty.

"Mrs. Hannah doesn't want me in the Port Arthur office," Hannah says, "because she knows these old timers will give me sob stories."

Rotund, cigar-smoking Mack Hannah is a wheeler-dealer in the Texas style, engineering business and political maneuvers that less imaginative men would never dream of, and less hardy souls would never dare.

For a quarter of a century Mack Hannah has been a political power in the state of Texas. It was he who, in 1949, delivered more than three thousand critical votes to Lyndon B. Johnson, enabling Johnson to win his U.S. Senate seat by an eighty-seven-vote margin. It was the beginning of a long friendship between Hannah and the man who fourteen years later would become President of the United States.

Former Governor Allan Shivers of Texas also probably owes his attaining that office to Hannah. For it was Hannah who traveled throughout the state urging blacks to "vote for my home boy, Allan Shivers, for lieutenant-governor." Despite strong opposition (some of it led by another wealthy Negro, the late Gooseneck Bill McDonald) the majority of the black vote went to Shivers, who took office on the strength of a 32,000 majority. Shivers later succeeded Governor Buford Justice upon the latter's death.

Mack Hannah has long been able to look down the road and see the shape of things to come. When he graduated from Lincoln High School in Port Arthur in 1922, he went to work running a gas station next door to the commissary at the Gulf Refining Company. Hannah, who came from a family of some means, quickly learned that workmen, who were issued scrip for commissary use, were willing to sell ten-dollar books of it for $.50 cash money. Pretty soon young Hannah was buying up scrip and loaning money.

His father, Mack Hannah, Sr., a saloonkeeper, did not think much of his son's activities. The only thing the senior Hannah knew was that the refinery was sitting out on the gulf belching ugly smoke, which he did not like, and he did not like the scrip either, because his register and safe were full of it and he doubted its eventual worth.

But young Mack went ahead and cultivated a friendship with the manager of the commissary, and pretty soon he was buying thousands of dollars worth of scrip at twenty-five percent discount. With lots of scrip and a good commissary connection, Hannah began ordering ten or so freight carloads of sugar—only after carefully reading the newspapers to determine when sugar prices were on the rise—through the refinery commissary, which bought it in forty- to fifty-carload shipments. Hannah also began picking up five carloads of Carnation Milk. Says Hannah: "There was enough margin with the twenty-five percent discount, and I was buying the sugar as cheap as a wholesaler could through the power of the refinery, so I was wholesaling sugar to soda water factories and candy kitchens and grocery stores and selling Carnation Milk."

Within the year, Hannah was making big money.

In 1924 Hannah gave it all up to enter Bishop College where, after his graduation in 1927, he taught for a year.

It was during his days at Bishop College that Hannah, who admits to having "always liked all the ladies," spied a young lady from Waxahachie, Texas, crossing the campus. He was fascinated by her walk. ("They must have been wearing short dresses on those days," he commented years later.) When Hannah inquired as to who she was, he was told: "That's your friend Arthur Johnson's girl."

The girl was Reba Othelene Hicks, a bright young scholar majoring in Greek and Latin. As Hannah recalls his campaign: "I kept trying and waiting for an opportunity when she and Arthur weren't doing so well, and I asked her if I could take her to the picture show. I got that opportunity and I never lost hold. I knew then that I wanted her for my wife."

When the pair finished college, Reba went back to Waxahachie without any talk of marriage between them. One day Hannah telephoned her and asked her where she planned to teach. "I have one offer in Huntsville with Professor Sam Houston, and another one in Oklahoma," she told him. Hannah told her he thought he could beat that.

Hannah then went to the superintendent of schools, who with pride had recently hired him in Port Arthur, and declared: "Mr. Sims, I want you to employ a girl that I'm gonna marry. She doesn't know it, but I am. I understand you need a Latin teacher."

Very shortly there was another telephone call to Waxahachie and Reba was told she had a job awaiting her arrival in Port Arthur. "She got a little indignant about it," Hannah recalls, "just wondering how could she do that without having made an application, and she hadn't said anything to her daddy. I told her that she didn't need to say anything to her daddy, I had her a job and to report for work."

Soon after her arrival in Port Arthur, Hannah got Reba into his car and told her they were driving over to a nearby town to see one of her old boyfriends. Instead, Hannah drove to the courthouse, where he was told the judge was at home. Hannah went to the judge's house forthwith where he found the jurist asleep in a hammock on the front porch.

Hannah awakened him and announced: "Judge, I want to get married."

"Who are you?" the sleepy judge asked grumpily.

"I'm Mack Hannah."

"You're not Mack Hannah," the judge challenged. "I've been hunting all through these thickets for years with Mack Hannah."

"Well, that's my daddy."

The judge walked barefoot over to the car and there, without benefit of witnesses, made them man and wife.

At Bishop, Hannah had been a first all-America football player, and it was with great anticipation that he had accepted a coaching job at his old high school. It turned out to be a rewarding experience for Hannah and a disaster for the football team. Even so, the superintendent of schools was glad to have Hannah in the system and was mightily disappointed when Hannah suddenly resigned.

But it was not that he had produced a losing team that bothered Hannah: it was the money. In that year of 1928 he was earning eighty-nine dollars a month, a rather paltry sum compared to what he had made at the refinery his first year out of high school. While he was mulling this over, he came across a bit of intelligence that really proved to be the final straw. The next morning, he announced to a faculty friend: "I just read in last night's paper that Tom Dennis (the white high school coach) makes five thousand dollars a year, and he sat on the bench at the University of Texas while I was all-America at Bishop. I'm not going to work for this kind of salary."

The friend wanted to know what Hannah intended to do when he quit. What Hannah did was go to work as a salesman for the Orange Casket Company, becoming the first black man in the country to travel as salesman for a major white casket house.

For nearly fourteen years Hannah traveled through Texas, Louisiana, portions of Mississippi and Arkansas, and into a few towns in Oklahoma and Florida. It was during this period that Hannah decided there was a fine opportunity for a Negro to go into the casket business in New Orleans. He made friends with a Creole named Joseph A. Porter and, hiding his own identity, although he owned the controlling interest in the firm, Hannah joined Porter in opening up the Joseph A. Porter Company, Inc. on Rampart Street. The new casket manufacturing firm did a thriving business, employing nearly two dozen people. Hannah and Porter traveled the territory together, selling to the same customers—Hannah for the Orange Casket Company, and Porter for Joseph A. Porter, Inc.

Later Hannah bought out Porter's interest. Ten years ago the Rampart Street property, which had cost $7,800 when he bought it in the thirties, was sold by Hannah for one hundred thousand dollars.

By 1941, with wartime gasoline rationing curtailing automobile travel, Hannah came in off the road to Port Arthur and the influential friends he had made years before. (He knew the rich Mellon family because their private railroad car had often parked on a sidetrack adjoining the gasoline station he ran, and he began taking meals with their chef aboard the car. Another man whose bags he had once carried when he came in to do a radio show for Gulf Refining Company, Homer P. Arbuckle, was to become secretary-treasurer of a combine of five major oil companies, Nature's Butane Company, which made America's first synthetic rubber. A young boy he had bought ice cream and candy for, Brackett Dorsey, grew up to become president of Gulf Refining Company.)

Soon Mack Hannah, Jr., was in politics as well as business in Jefferson County. Noting that there were two strong factions of whites, "I could readily see that all they needed was a strong organization of Negroes and whatever way the solid majority of blacks voted, so went the election." Hannah proceeded to build his own political machinery and finance it, taking money from nobody. There was little Hannah and his people could do in the state capital of Austin in those days of the "separate-but-equal" doctrine which was always long on "separate" but short on "equal" for blacks, but Hannah "certainly saw to it that whoever I wanted on the local levels in the county, from sheriffs to judges, made it." In his district nobody got the postmaster's job unless Hannah okayed it.

The political stronghold that Hannah was building eventually caused his wife to become somewhat fearful for his safety.

Meanwhile Hannah was building a small business empire as well: an insurance company, a funeral home, savings and loan firm, housing developments, fifty percent interest in a white construction firm that builds churches.

A black man who moved as boldly as Mack Hannah, of course, was sure to make enemies in Texas, and in 1959 he suddenly found himself getting into a political fight that threatened horrendous consequences. It involved some housing subdivisions he was developing outside the city limits of Port Arthur. There was competition coming in from Houston and, without help from the city of Port Arthur, Hannah had to put in his own water and gas lines. So he organized Water Control and Improvement District Number Eleven with some partners, borrowed $750,000 and put in the needed improvements.

Having good connections, Hannah's group finally decided they wanted the subdivisions to be annexed by the city to take the debt off their district. The mayor of Port Arthur and two of the city's seven commissioners resisted. Hannah won over the other commissioners and got his way.

At the same time, he was busy raising a half-million dollars with which to organize Standard Savings and Loan Association, as well as being chairman of the board of Texas Southern University, to which he was devoting a good deal of time. He hardly noticed that with the city having assumed the obligations of Water District Number Eleven, some of the political enemies he had made were suddenly demanding records, making charges, and, as he put it: "They decided to wreck Mack Hannah politically and financially. They set out to spend possibly two hundred thousand dollars trying to have me indicted." As he was to recall later: "It was really a dark day—it really looked bad for a while."

But just as Hannah had his strong enemies, so did he have powerful allies. The latter ranged from prominent Baptist ministers to the governor of Texas, and at the end of the bitter struggle Hannah and his partners were vindicated.

As Hannah stroked his way through the deep waters of Texas political life, many blacks themselves became critical of his form. He was a man who stuck by his friends, some of whom were less liberal candidates for office than were their opponents. For twenty years he was a shrimp-fishing partner of Louisiana's famed white segregationist Leander Perez (whom Hannah claims was, in fact, a Creole whose actual record of birth was destroyed in a mysterious courthouse fire).

Fishing was one of Hannah's favorite ways of getting away from the political and business wars during his younger days, and New Orleans was his favorite spot for it. He also enjoyed hunting, shooting deer in the Davis Mountains near the Mexican border, going for quail around Natchez, Mississippi, and squirrel in Louisiana. "I stayed in the marshes and in the thickets," Hannah says of his days as a sportsman, "but after we got all these city-slick hunters, I began to get fearful of my life, and I stopped."

Hannah's joy as a sportsman was a holdover from his boyhood days when his father would take him deep-sea fishing out on the Gulf of Mexico or on Sabine Lake, or hunting for bear and deer. "Before I was fifteen years old," recalls Hannah, "I was a crack shot with wildlife, especially ducks and geese. I knew how to skin muskrats. I had an exciting life."

There apparently had been considerable excitement all along the Hannah bloodline before Mack, Jr., came along. His mother, Daisy Brown of Brenham, Texas, where Mack Hannah, Jr., was born, was the daughter of a saloon-keeper, and his father, Mack, Sr., who ran away from his home near Summersville, Texas, to seek his fortune in Houston, became a professional gambler who would "bet on anything." He later opened a saloon in a rough section of Beaumont, Texas, where whites used the front door and blacks the back. "We used to laugh," remembers Mack, Jr. "He'd haul the money every Monday morning down to the bank. He was integratin' way back then."

Besides his parents, however, there was a group of aunts, uncles, and cousins, all of whom were certainly not black and many of whom became rather well known in the area. They were, as Hannah's mother put it, simply "recognized kinship," and it was through an older cousin that Hannah finally learned what he calls "the naked truth" about some of the family's interracial blood strains.

A good portion of Hannah's later life has been spent in the cause of education. He has been a strong supporter of both Bishop College and Texas Southern University. He has lived a quieter life in recent years, especially after a serious illness in 1966 caused him to have to undergo surgery in what his doctors described as "a pretty close call." He now gets a medical checkup every three months.

Still, Hannah does not find much spare time away from his business interests even today, although about once a month he likes to attend a boulé. "That's where you meet with a group of your peers, let your hair down, have a few drinks, say a few cuss words, have dinner. You know, let yourself go."

The Hannahs have homes in Houston and Port Arthur, although they spend most of their time at the latter. Like his cousin, Hobart Taylor, he does not live ostentatiously. Mrs. Hannah drives a Ford LTD, and he has given up driving. After his secretary wrecked a Buick he owned, he bought a Duster. "That's for the girls in the office to go to the store or on errands for me."

The Hannahs have two daughters, and a son, Mack Hannah, III who now manages most of his father's interests.

Hannah, who for more than a decade was United States Consul of Liberia, has a simple secret for success. It's "knowing an opportunity when you see it and acting. Don't talk about it. Talk later."●

CONGRESSIONAL SALUTE TO PAVLICK-KOSTER POST 2640 OF WALLINGTON, N.J. ON THEIR 50TH ANNIVERSARY IN OUTSTANDING DEDICATED SERVICE TO OUR VETERANS OF FOREIGN WARS, OUR COMMUNITY, STATE, AND NATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. ROE. Mr. Speaker, on Saturday, March 27, the people of my congressional district and State of New Jersey will join together with our veterans of foreign wars in celebrating the 50th anniversary of Pavlick-Koster Post 2640, VFW of Wallington, N.J. whose half-century of highly commendable service to veterans and their families has truly enriched our community, State, and Nation.

Mr. Speaker, I would like to share with you and our colleagues here in the Congress the warmth and history of this distinguished organization of veterans who served our country overseas. This brief history as related to me by the post officers is, as follows:

HISTORY OF PAVLICK-KOSTER POST 2640, VFW

The Pavlick-Koster Post 2640, VFW has grown in stature from a small group of dedicated citizens, 37 in all, to one of the most prestigious veterans organizations in our State and Nation. With a membership of almost 1,400, it is the second largest Veterans of Foreign Wars Post in New Jersey, and the membership of over 400 ladies makes it the largest auxiliary post in New Jersey.

By the same token, to quote our VFW ritual—"One by one, as the years roll on, we are called upon to fulfill these sad duties of respect to our departed comrades"—330 members of the post, and 44 ladies auxiliary members have departed this Earth since the inception of this organization.

Just 50 years ago, a group of the Borough of Wallington's leading citizens who had served their country overseas in World War I decided to organize a Veterans of Foreign Wars unit in Wallington. The post was organized and its officers installed on July 23, 1932. The name chosen was in honor of the borough's two war heroes who gave their lives in defense of our liberty, Stephen Pavlick and Walter Koster, whose memory is immortalized by the choice of Pavlick-Koster as the name of our post.

From that day, until the end of World War II, the post has met in a meeting room provided for their use by the borough fathers.

At the conclusion of World War II, hundreds of local overseas veterans, upon their return, joined with the World War I veterans and their combined efforts proceeded to make the Pavlick-Koster Post one of the largest and most active in New Jersey.

The large membership, combined with a growing ladies auxiliary, made the need for additional space an absolute necessity.

A building and finance committee was formed and through their combined efforts, along with physical help from untold numbers of veterans, a colonial type structure was built on property donated by the Borough of Wallington. The cornerstone was laid in 1951, and the building was completed and occupied in 1952.

Over the years, our post increased in membership and in its activities, both on the veteran and community level. The participation in the community and educational level, on the individual and group level, is so large and varied that it extends to all branches, from mayor and council—present mayor is a member—to the board of education, and throughout the various levels of municipal and county government. We have a county freeholder as a member of the ladies auxiliary, and a county clerk who is a past commander.

As we celebrate our golden jubilee, attaining 50 years of service, we pledge to our community, our citizens, and our friends a continuation of dedicated service to our State, our county, our community, and to our fellow veterans.

Mr. Speaker, may I respectfully request you and our colleagues to join with me also in commendation of the excellence and quality of the leadership of the people who worked so hard over the past five decades in dedicated service to the organization and administration of this VFW post. I know it is impossible to list all of their members throughout the years, but in paying tribute to their present officers, past commanders, past presidents of their ladies auxiliary, charter members, and the deceased members of their post, we can express to all of the Veterans of Foreign Wars our deepest appreciation and heartfelt thanks for a job well done in service to our country. The roster of these VFW officers is, as follows:

POST OFFICERS

The Honorable: Commander Henry Kroner; Sr. Vice Commander William Weiss; Jr. Vice Commander John McAndrews; Quartermaster Edward Puterko, P.C.; Adjutant Joseph Salko, P.C.; Judge Advocate Stephen Flejzor, P.C.; Chaplain John Spellman; Officer-of-Day Chester Sembarski, P.C.; Service Officer Joseph Hlavenka, P.C.; and Sergeant-at-Arms Michael Swomiak.

LADIES AUXILIARY OFFICERS

The Honorable: President Margaret Kullaf; Sr. Vice President Victoria Puterko; Jr. Vice President Wanda Baneky; Treasurer Mildred Syrek; Chaplain Helen Radice; Guard Susan Puglia; Secretary Anna Maciag; Trustee Helen Hlavenka; Trustee Frances Kasperski; and Trustee Mary Ann Pandorf.

PAST COMMANDERS

The Honorable:

Andrew Dvorschak,[1]	1932-33
Andrew Dvorschak,[1]	1933-34
Herbert Handel,[1]	1934-35
Joseph McQuillan,[1]	1935-36
Frank Sharry,[1]	1936-37
Thomas Kaczor, Sr.,[1]	1937-38
Peter Pavlick	1938-39
Frank Davis,[1]	1939-40
Corneluis Opthoff,[1]	1940-41
James Griffith,[1]	1941-42
James Griffith,[1]	1942-43
Nick Rocco,[1]	1943-44
Joseph McQuillan,[1]	1944-45
Joseph McQuillan,[1]	1945-46
John Kraska,[1]	1946-47
Edward A. Zavatsky	1947-48
John Doviak	1948-49
Stephen P. Fleyzor	1949-50
Paul Cedar, Jr.	1950-51
James Clark, Jr.	1951-52
Joseph E. Salko	1952-53
John Jaworski	1953-54
Edmund Czaikoski	1954-55
Carl Hartmann, Jr.	1955-56
Emil J. Sondey	1956-57
Edward Puterko	1957-58
Edward Majewski	1958-59
Stephen Plucinsky	1959-60
Emil Furtak	1960-61
Walter Smagula	1961-62
Edward Flejzor	1962-63
L. Frank Rusconi	1963-64
Joseph Hlavenka	1964-65
Eugene Mahalick	1965-66
Chester Sembarski	1966-67
Joseph Bodgan,[1]	1967-68
Stanley Syrek	1968-69
John Kielbowicz	1969-70
Alfred Wojcik	1970-71
Alexander Tushinsky	1971-72
Harry Cannizzaro	1972-73
Albin Giemza	1973-74
Robert Skok	1974-75
Thomas Kavinski	1975-76
Louis Bayarsky	1976-77
Paul Klym	1977-78
John Ziemba	1978-79
Chester Sembarski	1979-80
Dennis O'Connell	1980-81
Henry Kroner	1981-82

[1] Deceased.

PAST PRESIDENTS LADIES' AUXILIARY

The Honorable:

Nellie Pavlick	1933-34
Margaret Eelman[1]	1934-35
Johanna Dvorschak	1935-36
Mary Molnar	1936-37
Anna Fiola[1]	1937-38
Ida Opthoff[1]	1938-39
Nellie G. Stewart[1]	1939-40
Mae Sakac	1940-41
Ida Opthoff[1]	1941-42
Ida Opthoff[1]	1942-43
Ida Opthoff[1]	1943-44
Lottie Yedlick	1944-45
Estelle Handel[1]	1945-46
Nellie Harrigan[1]	1946-47
Margaret Lynch[1]	1947-48
Anna Antoniuk[1]	1948-49
Loretta Neilley	1949-50
Julia Klepar[1]	1950-51
Helen Pavlick	1951-52
Shirley Mahalick	1952-53
Violet Kraska[1]	1953-54
Doris Mahalick	1954-55
Helen Trotter[1]	1955-56
Catherine Keller	1956-57
Caroline Fleyzor[1]	1957-58
Nora Skok	1958-59
Laura Onufer	1959-60
Marie Zaleski	1960-61

Bertha Niemiec	1961-62
Rose McCormick	1962-63
Mary Pelka	1963-64
Mary Skola	1964-65
Helen Hlavenka	1965-66
Lillian Sukennik	1966-67
Adela Buhanick	1967-68
Leona DeCaro	1968-69
Lois McKeeby	1969-70
Frances Davis	1970-71
Anna Maciag	1971-72
Mildred Syrek	1972-73
Marie Dembowski	1973-74
Frances Kasperski	1974-75
Lillian Gutches	1975-76
Agnes Fleming	1976-77
Sally Skok	1977-78
Mary Ann Pandorf	1978-79
Carol Ann Pandorf	1979-80
Margaret Kullaf	1980-81

[1] Deceased.

VFW CHARTER MEMBERS

The Honorable: Thomas Baker, Peter Barcewski, David Conley, Cornelius De Groot, Hedley Dreher, Andrew Dvorschack, William Eelman, Emil Fenska, Philip Fiola, Daniel Freeland, Christian Genneken, Jacob Gustina, Herbert Handel, Joseph Hicswa, Konstanty Himilik, Thomas Kaczor, Theodore Kozlowski, Michael Kapuscinski, Joseph Kempinski, John Lesko, Stephen McCabe, John Macik, Julian Miceszewski, John Molnar, Peter Pavlick, Morris Rothenberg, John Sakac, Frank Sharry, Jacob DeKoyer, George Shelepets, Albert Shufnara, Joseph Sroka, William Stewart, Andrew Sudeck, Joseph Sura, Cornelius Wagner, and Joseph Zyska.

LADIES' AUXILIARY CHARTER MEMBERS

The Honorable: Olga Bobitz, Anna Budzyko, Mae Preher, Minnie DeKoyer, Johanna Dvorschak, Margaret Eelman, Anna Fenska, Anna Fiola, Frances Genneken, Mary Jacoby, Marie Kaczor, Caroline Kapushinski, Mary Molnar, Nellie Pavlick, Helen Pavlick, Veronica Sakac, Anna Shelepets, Mary Shufnara, Bertha Sossel, Anna Sroka, Anna Sudeck, Mae Sudeck, Mary Wagash, and Lottie Yedlick.

Mr. Speaker, it is a great pleasure to call this golden anniversary observance to your attention and seek this national recognition of the outstanding dedicated service rendered by this most distinguished organization of veterans. We do indeed salute the officers, members, and ladies auxiliary of Pavlick-Koster Post 2640, Veterans of Foreign Wars, Wallington, N.J. upon the celebration of their 50th anniversary.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 16, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 17

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Bureau of Indian Affairs, Department of the Interior.

1224 Dirksen Building

*Armed Services

Tactical Warfare Subcommittee

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense, focusing on Air Force tactical programs and other procurement.

S-407, Capitol

Commerce, Science, and Transportation

To hold hearings on the nomination of James E. Burnett, Jr., of Arkansas, to be Chairman of the National Transportation Safety Board.

357 Russell Building

*Finance

To continue hearings to review the administration's tax proposals for fiscal year 1983.

2221 Dirksen Building

Labor and Human Resources

Employment and Productivity Subcommittee

To continue joint hearings with the House Subcommittee on Employment Opportunities of the Committee on Education and Labor on S. 2036, S. 2184, H.R. 5320, and H.R. 5461, bills providing for State and local employment and training assistance programs, and on other related measures.

2175 Rayburn Building

9:30 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Soil Conservation Service, Agriculture Stabilization and Conservation Service, Commodity Credit Corporation, and the Federal Crop Insurance Corporation, Department of Agriculture.

1318 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Oceanic and Atmospheric Administration, International Trade Administration, and the U.S. Travel and Tourism Administration.

S-146, Capitol

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal years 1983 and 1984 for the National Bureau of Standards, Department of Commerce.

235 Russell Building

Labor and Human Resources

Labor Subcommittee

To resume hearings on S. 1748, exempting certain employers from withdrawal and plan termination insurance provisions of title IV of the Employee Retirement Income Security Act (ERISA).

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for student financial assistance, student loan insurance, higher and continuing education, higher education facilities loan and insurance, college housing loans, educational research and training activities overseas, Department of Education.

1114 Dirksen Building

Budget

To continue hearings in preparation for reporting the first concurrent resolution for fiscal year 1983 setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority, focusing on tax expenditures.

6202 Dirksen Building

Foreign Relations

To hold hearings on S. 422, extending from 50 to 80 years the period for repayment of revenue bonds issued by the St. Lawrence Seaway Development Corporation to the Secretary of the Treasury.

4221 Dirksen Building

Select on Intelligence

Budget Subcommittee

To resume closed hearings on proposed legislation authorizing funds for fiscal year 1983 for intelligence activities of the United States.

3110 Dirksen Building

11:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

2228 Dirksen Building

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for the Bureau of Indian Affairs, Department of the Interior.

1224 Dirksen Building

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed supplemental appropriations for fiscal year ending September 30, 1982, for foreign assistance, focusing on the Caribbean basin initiative.

S-146, Capitol

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for elemen-

tary and secondary education, education block grants, and bilingual education programs, Department of Education.
1114 Dirksen Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume oversight hearings on the Department of Energy research and development programs, focusing on fossil energy and nuclear energy, other than breeder reactor programs.
3110 Dirksen Building

Foreign Relations
Closed briefing to discuss Iraq, Syria, and South Yemen and their relationship to international terrorism.
S-116, Capitol

Select on Intelligence
Budget Subcommittee
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1983 for intelligence activities of the United States.
S-407, Capitol

3:30 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Institute of Education, fund for the improvement of post-secondary education (FIPSE), and education statistics, Department of Education.
1114 Dirksen Building

MARCH 18

8:30 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
To hold hearings on certain provisions of S. 1662, establishing a Federal program for the interim storage and permanent disposal of high-level nuclear waste from civilian powerplants.
212 Russell Building

9:00 a.m.
*Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for Air Force programs of the Department of Defense.
1114 Dirksen Building

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for conservation programs of the Department of Energy.
1224 Dirksen Building

Budget
To continue hearings in preparation for reporting the first concurrent resolution for fiscal year 1983 setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority, focusing on defense programs.
6202 Dirksen Building

*Finance
To continue hearings to review the administration's tax proposals for fiscal year 1983.
2221 Dirksen Building

Governmental Affairs
To resume hearings on Senate Resolution 231, providing for an inventory of U.S. assets, to estimate their market value, identify which are unneeded and can be sold, and recommend legislative and administrative actions to streamline the liquidation process.
3110 Dirksen Building

Labor and Human Resources
Employment and Productivity Subcommittee
To continue joint hearings with the House Subcommittee on Employment Opportunities of the Committee on Education and Labor on S. 2036, S. 2184, H.R. 5320, and H.R. 5461, bills providing for State and local employment and training assistance programs, and on other related measures.
4232 Dirksen Building

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Office of Transportation, Agricultural Cooperative Service, and the Packers and Stockyards Administration, Department of Agriculture.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Patent and Tradework Office, Scientific and Technical Research Service, and the Minority Business Development Administration.
S-146, Capitol

Commerce, Science, and Transportation
To hold oversight hearings on activities of the Federal Trade Commission, and on proposed legislation authorizing funds for the Federal Trade Commission.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume open to be followed by closed hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
6226 Dirksen Building

Judiciary
Juvenile Justice Subcommittee
To resume hearings on proposed legislation providing Federal financial assistance to State and local law enforcement agencies.
2228 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for special institutions, Howard University, departmental management (salaries and expenses), and the Office for Civil Rights, Department of Education.
1223 Dirksen Building

Environment and Public Works
Business meeting, to resume markup of proposed amendments to the Clean Air Act (P.L. 95-95).
4200 Dirksen Building

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings on Department of Commerce regulations on exports to Iraq, South Africa, Syria, and South Yemen.
4221 Dirksen Building

Governmental Affairs
To resume hearings to review the President's proposals on New Federalism.
3302 Dirksen Building

Select on Intelligence
Budget Subcommittee
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1983 for intelligence activities of the United States.
S-407, Capitol

2:00 p.m.
Armed Services
Manpower and Personnel Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense, focusing on Air Force manpower programs.
224 Russell Building

Finance
To continue hearings to review the administration's tax proposals for fiscal year 1983.
2221 Dirksen Building

Select on Intelligence
Budget Subcommittee
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1983 for intelligence activities of the United States.
S-407, Capitol

2:30 p.m.
Armed Services
Sea Power and Force Projection Subcommittee
To resume open and closed hearings on proposed legislation authorizing funds for the fiscal year 1983 for the Department of Defense, focusing on amphibious shipping Naval gunfire support and sealift programs.
212 Russell Building

MARCH 19

8:30 a.m.
Armed Services
Strategic and Theater Nuclear Forces Subcommittee
To hold closed hearings to review budget proposals for fiscal year 1983 for intelligence activities of the United States.
212 Russell Building

9:00 a.m.
*Finance
To continue hearings to review the administration's tax proposals for fiscal year 1983.
2221 Dirksen Building

Labor and Human Resources
Employment and Productivity Subcommittee
To hold hearings on productivity in the American economy.
4232 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To continue oversight hearings on activities of the Federal Trade Commission, and on proposed legislation authorizing funds for the Federal Trade Commission.
235 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume oversight hearings on the Department of Energy research and de-

velopment programs, focusing on energy research, inertial confinement fusion, nuclear materials security and safeguards, and environmental protection.

3110 Dirksen Building

10:00 a.m.

Armed Services

Sea Power and Force Projection Subcommittee

To continue open and closed hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense, focusing on major strike platforms (Naval aircraft carriers).

224 Russell Building

Foreign Relations

To hold hearings on the nomination of Herman W. Nickel, of the District of Columbia, to be Ambassador to the Republic of South Africa.

4221 Dirksen Building

2:00 p.m.

Armed Services

Sea Power and Force Projection Subcommittee

To continue open and closed hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense, focusing on airlift programs.

224 Russell Building

Finance

To continue hearings to review the administration's tax proposals for fiscal year 1983.

2221 Dirksen Building

Select on Intelligence

Budget Subcommittee

To continue closed hearings on proposed legislation authorizing funds for fiscal year 1983 for intelligence activities of the United States.

S-407, Capitol

MARCH 22

9:00 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.

235 Russell Building

9:30 a.m.

Judiciary

Security and Terrorism Subcommittee

To hold hearings on the alleged role of the Soviet Union, East Germany and Cuba in fomenting terrorism in South Africa.

2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To hold hearings to discuss natural gas policy and regulatory matters, including related proposals modifying existing law.

3110 Dirksen Building

Finance

Oversight of the Internal Revenue Service Subcommittee

To hold hearings on the compliance gap and the proposed Taxpayer Compliance Improvement Act.

2221 Dirksen Building

MARCH 23

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Holocaust Memorial Council, and the Bureau of Land Management of the Department of the Interior.

1114 Dirksen Building

*Energy and Natural Resources

To continue hearings to discuss natural gas policy and regulatory issues, including related proposals modifying existing law.

3110 Dirksen Building

9:30 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Food and Nutrition Service, and the Human Nutrition Information Service, Department of Agriculture.

1318 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Bureau of the Census, National Telecommunications and Information Administration, and the Economic and Statistical Analysis.

S-146, Capitol

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for weather programs of the National Oceanic and Atmospheric Administration, Department of Commerce.

235 Russell Building

Judiciary

To hold hearings on proposed legislation authorizing funds for the Department of Justice.

2228 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the statute of limitations relating to Indian affairs.

6226 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Veterans' Administration.

1224 Dirksen Building

Environment and Public Works

Business meeting, to resume markup of proposed amendments to the Clean Air Act (P.L. 95-95).

4200 Dirksen Building

11:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

2228 Dirksen Building

MARCH 24

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Helsinki Commission, Board for International Broadcasting, Japan-United States Friendship Commission, Arms Control and Disarmament Agency, and the International Communication Agency.

S-146, Capitol

Finance

International Trade Subcommittee

To hold hearings on S. 2094, proposed Reciprocal Trade and Investment Act, and other related measures.

2221 Dirksen Building

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the Internal Revenue Service's taxpayer assistance programs.

6226 Dirksen Building

Judiciary

Security and Terrorism Subcommittee

To resume hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.

2228 Dirksen Building

Labor and Human Resources

Labor Subcommittee

Business meeting, to mark up S. 1785, increasing the penalties for violations of the Taft-Hartley Act, requiring immediate removal of certain individuals convicted of crimes relating to his official position, broadening the definition of the types of positions an individual is barred from upon conviction, increasing the time of disbarment from 5 to 10 years, escrowing a convicted official's salary for the duration of his appeal, and clarifying the jurisdiction of the Department of Labor relating to detection and investigating criminal violations relating to ERISA.

4232 Dirksen Building

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the National Highway Traffic Safety Administration of the Department of Transportation, and the Interstate Commerce Commission.

1318 Dirksen Building

Governmental Affairs

To resume hearings to review the President's proposals on New Federalism.

3302 Dirksen Building

Judiciary

Criminal Law Subcommittee

To hold hearings on S. 1446, proposed act for the implementation of the Convention on the Physical Protection of Nuclear Material.

5110 Dirksen Building

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

MARCH 25

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of Indian Education, Navajo and Hopi Indian Relocation Commission, and the Pennsylvania Avenue Development Corporation.

1114 Dirksen Building

9:30 a.m.

Appropriations

Agriculture, Rural Development, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Farmers Home Administration, Rural Electrification Administration, and the Office of Rural Development Policy, Department of Agriculture.

1318 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for international organizations, International Communication Agency, and the Chrysler Loan Board.

S-146, Capitol

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on proposed legislation authorizing funds for the National Science Foundation.

235 Russell Building

Foreign Relations

Closed briefing to discuss the recent progress in the intermediate range nuclear force negotiations.

4219 Dirksen Building

Judiciary

To hold hearings on the proposed divestiture of American Telephone & Telegraph, focusing on its effect on local rates.

412 Russell Building

Judiciary

Security and Terrorism Subcommittee

To continue hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.

2228 Dirksen Building

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the Federal Highway Administration of the Department of Transportation, and the Office of the Secretary of Transportation.

1224 Dirksen Building

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings to review the capacity, distribution and status of the strategic petroleum reserves.

3110 Dirksen Building

Environment and Public Works

Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).

4200 Dirksen Building

Governmental Affairs

To hold hearings on S. 1932 and H.R. 2098, bills establishing an Office of Inspector General in each of the Departments of Defense, Justice, and Treasury and in the Agency for International Development, and on other related measures.

3302 Dirksen Building

10:30 a.m.

Foreign Relations

To hold hearings on the nomination of Paul H. Nitze, of Maryland, to be Ambassador while serving as head of the U.S. delegation to the intermediate range nuclear force negotiations.

4221 Dirksen Building

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Secretary of Agriculture, to review the general agricultural outlook, and to review the overall budget for the Department of Agriculture.

1114 Dirksen Building

Judiciary

Criminal Law Subcommittee

To resume hearings on S. 101, S. 751, and S. 1995, bills providing for an alternative to the exclusionary rule in Federal criminal proceedings.

2228 Dirksen Building

Labor and Human Resources

To hold hearings on the nomination of Tony E. Gallegos, of California, to be a Member of the Equal Employment Opportunity Commission.

4232 Dirksen Building

MARCH 26

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the U.S. Coast Guard, Department of Transportation.

235 Russell Building

Judiciary

To hold oversight hearings to review the effects of merger policy on the national railroad system, focusing on the Burlington Northern Railroad.

2228 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on the role of the Federal Government in the operation of U.S. payment systems.

5302 Dirksen Building

Finance

Health Subcommittee

To hold hearings on S. 1250, proposed Professional Standards Review Amendments of 1981, and S. 2142, proposed Peer Review Improvement Act.

2221 Dirksen Building

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

10:00 a.m.

Environment and Public Works

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the public buildings program of the General Services Administration.

4200 Dirksen Building

MARCH 29

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on proposed legislation authorizing funds for the food stamp program.

324 Russell Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the Civil Aeronautics Board.

1318 Dirksen Building

Environment and Public Works

Toxic Substances and Environmental Oversight Subcommittee

To hold hearings to review proposed authorizations for the safe drinking water program.

4200 Dirksen Building

MARCH 30

9:00 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold oversight hearings to review budget proposals for fiscal year 1983 for energy conservation programs of the Department of Energy, focusing on State grant, research and development, and solar energy programs.

3110 Dirksen Building

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Foreign Agricultural Service, food for peace program (Public Law 480), Office of International Cooperation and Development, Agricultural Marketing Service, and the Federal Grain Inspection Service, Department of Agriculture.

1318 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.

235 Russell Building

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold oversight hearings on title X of the Public Health Service Act relating to health aspects of teenage sexual activity.

4232 Dirksen Building

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the U.S. Coast Guard of the Department of Transportation.

1224 Dirksen Building

Environment and Public Works

Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).

4200 Dirksen Building

10:30 a.m.

Agriculture, Nutrition, and Forestry

Soil and Water Conservation Subcommittee

To hold oversight hearings on the implementation of the Resource Conservation Act (Public Law 95-192).

324 Russell Building

Veterans' Affairs

To hold hearings to receive Veterans of Foreign Wars legislative recommendations for fiscal year 1983.

318 Russell Building

MARCH 31

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for strategic petroleum reserves and Naval petroleum reserves of the Department of Energy.

1114 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold oversight hearings on activities of the National Highway Traffic Safety Administration, Department of Transportation.

235 Russell Building

Judiciary

Agency Administration Subcommittee

To resume hearings on S. 1775, making the Federal Government liable for constitutional torts and generally the exclusive defendent in all tort suits involving Government employees acting within the scope of their employment.

5110 Dirksen Building

Labor and Human Resources

To hold hearings on proposed authorizations for certain health programs of the Department of Health and Human Services.

4232 Dirksen Building

10:00 a.m.

Environment and Public Works

Toxic Substances and Environmental Oversight Subcommittee

To continue hearings to review proposed authorizations for the safe drinking water program.

4200 Dirksen Building

Governmental Affairs

To hold hearings on the substance of S. 1724, proposed Federal Employees' Compensation Act Antifraud Amendments of 1981.

3302 Dirksen Building

APRIL 1

9:00 a.m.

*Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold hearings on expanding employment opportunities for older workers in the private sector.

4232 Dirksen Building

9:30 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Commodity Futures Trading Commission, to review budget proposals for the Department of Agriculture's Inspector General, and agricultural aspects of the General Accounting Office.

1318 Dirksen Building

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.

235 Russell Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Federal Emergency Management Agency and the Selective Service System.

1224 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the U.S. Railway Association, and Conrail.

S-128, Capitol

Select on Indian Affairs

To hold oversight hearings on the implementation of indirect costs and contract provisions of the Indian Self-determination and Education Assistance Act (Public Law 93-638).

6226 Dirksen Building

APRIL 2

9:30 a.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

APRIL 13

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for the railroad safety program, Department of Transportation.

235 Russell Building

10:00 a.m.

Environment and Public Works

Water Resources Subcommittee

To resume hearings on S. 810, prescribing a system of user fees to be levied on commerical transportation on inland waterway projects, amendment No. 32 thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the cost of such works, amendment No. 637, clarifying the intent of the bill, and related measures.

4200 Dirksen Building

APRIL 14

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Supreme Court, Securities and Exchange Commission, Federal Maritime Commission, and the Federal Trade Commission.

S-146, Capitol

Labor and Human Resources

To hold oversight hearings on the Office of Federal Contract Compliance Programs, Department of Labor.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.

1114 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To hold oversight hearings to review current funding status of programs of the Endangered Species Act.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.

1114 Dirksen Building

APRIL 15

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the land and water conservation fund, and to receive testimony from congressional witnesses.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the judiciary, International Trade Commission, and the Marine Mammal Commission.

S-146, Capitol

Labor and Human Resources

To hold hearings on proposed authorizations for the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of Science and Technology Policy and the Council on Environmental Quality.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building.

Select on Indian Affairs

To hold oversight hearings on the tribally controlled community college program.

6226 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

APRIL 16

9:30 a.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

APRIL 19

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To hold hearings on S. 1885, to place electric utilities, including members of registered holding company systems, on the same basis as nonutilities to encourage their investment in cogeneration and small power production facilities.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To resume oversight hearings to review current funding status of programs of the Endangered Species Act.

4200 Dirksen Building

APRIL 20

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Indian Health Service, Department of Health and Human Services, and the Geological Survey, Department of the Interior.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of State, focusing on the Office of the Secretary and administration of foreign affairs.

S-146, Capitol

Labor and Human Resources

Business meeting, to consider proposed legislation authorizing funds for health programs and the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Environmental Protection Agency.

1224 Dirksen Building

Environment and Public Works

Business meeting, to consider pending calendar business.

4200 Dirksen Building

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for foreign assistance activities of the Department of the Treasury.

1318 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Labor.

1114 Dirksen Building

APRIL 21

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Small Business Administration, Federal Communications Commission, Equal Employment Opportunity Commission, and the Maritime Administration.

S-146, Capitol

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Employment and Training Administration, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Railroad Administration of the Department of Transportation and Amtrak.

1318 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 1889, authorizing funds for fiscal years 1983 and 1984 for the establishment of a national institution to promote international peace and resolution of international conflict.

4232 Dirksen Building

APRIL 22

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Forest Service, Department of Agriculture.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain related programs.

S-146, Capitol

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold hearings on promoting voluntarism in America.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, and the Employment Standards Administration, Department of Labor.

1114 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Occupational Safety and Health Administration (OSHA), and the Mine Safety and Health Administration, Department of Labor.

1114 Dirksen Building

APRIL 23

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for Bureau of Labor Statistics, departmental management services, and the President's Committee on Employment of the Handicapped, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the Urban Mass Transportation Administration, Department of Transportation.

1318 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.

4232 Dirksen Building

APRIL 26

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the Federal Aviation Administration of the Department of Transportation.

1318 Dirksen Building

Energy and Natural Resources

Energy Regulation Subcommittee

To hold oversight hearings to review programs administered by the Office of Federal Inspector, Alaska Natural Gas Transportation System and the Economic Regulatory Administration and Federal Energy Regulatory Commission, Department of Energy.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on proposed authorizations for programs of the Resources Conservation and Recovery Act.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.

4232 Dirksen Building

APRIL 27

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of the Federal Inspector, Alaska Natural Gas Transportation System, Bureau of Mines of the Department of the Interior, and the National Endowment for the Arts.

1318 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Science Foundation.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Environment and Public Works

Business meeting, to consider proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

APRIL 28

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings to receive testimony from Congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for certain transportation programs.

1318 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold oversight hearings on the implementation of guidance and counseling programs of the Department of Education.

4232 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

APRIL 29

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for fossil research and development and fossil construction programs of the Department of Energy.

1318 Dirksen Building

9:30 a.m.

Judiciary

Criminal Law Subcommittee

To resume hearings on proposals providing for a ban on the manufacture or sale of non-sporting handguns, mandatory sentences for the use of a firearm in committing a felony, and a preclearance procedure for the sale or transfer of any handgun.

Room to be announced

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings to receive testimony from Congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 on certain transportation programs.

1224 Dirksen Building

Environment and Public Works

Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.

4200 Dirksen Building

10:30 a.m.

Veterans' Affairs

To hold hearings to receive AMVETS legislative recommendations for fiscal year 1983.

Room to be announced

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

APRIL 30

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings to receive testimony from Congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for certain transportation programs.

1318 Dirksen Building

MAY 3

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

MAY 4

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Smithsonian Institution, Woodrow Wilson International Center for Scholars, and the Advisory Council on Historic Preservation.

1318 Dirksen Building

9:30 a.m.

Labor and Human Resources

To hold oversight hearings on activities of the Equal Employment Opportunity Commission.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

Environment and Public Works

Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

MAY 5

9:30 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Aeronautics and Space Administration.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

MAY 6

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the U.S. Fish and Wildlife Service, Department of the Interior, and the National Capital Planning Commission.

1318 Dirksen Building

9:30 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

Environment and Public Works

Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

MAY 7

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings to receive testimony from congressional witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1114 Dirksen Building

MAY 11

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Endowment for the Humanities, Institute of Museum Services, and the Office of Surface Mining, Department of the Interior.

1114 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Institute of Building Sciences, Federal Home Loan Bank Board, and National Credit Union Administration.

1224 Dirksen Building

Environment and Public Works

Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

MAY 13

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.

1114 Dirksen Building

10:00 a.m.

Environment and Public Works

Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

1:30 p.m.

Appropriations

Interior and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.

1114 Dirksen Building

MAY 18

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development.

1224 Dirksen Building

Environment and Public Works

Business meeting, to consider pending calendar business.

4200 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the implementation of Indian education programs.

6226 Dirksen Building

MAY 19

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation.

1224 Dirksen Building

Select on Indian Affairs

To continue oversight hearings on the implementation of Indian education programs.

6226 Dirksen Building

MAY 24

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1224 Dirksen Building

MAY 25

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.

1224 Dirksen Building

Environment and Public Works

Business meeting, to consider pending calendar business.

4200 Dirksen Building

JUNE 9

9:30 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation providing for the appointment of special magistrates to serve each Indian reservation over which the United States exercises criminal jurisdiction under existing law.

6226 Dirksen Building

SEPTEMBER 21

10:30 a.m.

Veterans' Affairs

To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.

318 Russell Building

CANCELLATIONS

MARCH 17

10:00 a.m.

Select on Indian Affairs

Business meeting, to consider pending calendar business.

6226 Dirksen Building

2:00 p.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

MARCH 18

9:30 a.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for housing and community development programs of the Department of Housing and Urban Development.

5302 Dirksen Building

Judiciary

Agency Administration Subcommittee

To resume hearings on S. 1775, making the Federal Government liable for constitutional torts and generally the exclusive defendant in all tort suits involving Government employees acting within the scope of their employment.

5110 Dirksen Building

APRIL 29

9:30 a.m.

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold hearings on the extended family.

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, March 16, 1982*

The House met at 12 o'clock noon.

The Reverend David L. Fleming, First Presbyterian Church of Urbana, Urbana, Ohio, offered the following prayer:

O Lord, our God, you have shown us what is good in Your sight; that we might indeed do justice, love mercy, and walk humbly with You. Uphold our Nation and all persons who guide its work that our claim of trust in You may be well demonstrated. Wherever and whatever our particular arena of decisionmaking, O God, we beg for wisdom that transcends self and guides us toward common good. Make of us, as a nation, a continuing vehicle for the justice and peace which is Your historic agenda for all Your people. At the commencement of the special work of this body, give to these servants consciousness of responsibility of a high order, discipline, patience, trust, and wisdom. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a bill and joint and concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. 2166. An act to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak";

S.J. Res. 140. Joint resolution designating February 11, 1983, "National Inventors' Day";

S.J. Res. 149. Joint resolution to designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week"; and

S. Con. Res. 62. Concurrent resolution to congratulate Hadassah, the Women's Zionist Organization of America, on the celebration of its 70th anniversary.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO FILE REPORT ON H.R. 4326, SMALL BUSINESS INNOVATION DEVELOPMENT ACT

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight tonight, Tuesday, March 16, 1982, to file a late report on H.R. 4326, the Small Business Innovation Development Act.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

DR. DAVID PASS

The Clerk called the bill (H.R. 3171) for the relief of Dr. David Pass.

There being no objection, the Clerk read the bill, as follows:

H.R. 3171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Doctor David Pass of Reston, Virginia, is relieved of all liability to the United States in the amount of $5,226.45 which represents the amount claimed to be overpaid to him when, due to administrative oversight, Doctor Pass was erroneously reimbursed for travel expenses incurred between December 22, 1973, and July 2, 1974, while Doctor Pass was employed as a consultant with the Department of Housing and Urban Development.

SEC. 2. (a) The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Doctor David Pass an amount equal to the aggregate of any amounts paid by him, or withheld from sums otherwise due him, in complete or partial satisfaction of the liability to the United States specified in the first section.

(b) No more than 10 per centum of the amount appropriated in subsection (a) shall be paid to or received by any agent or attorney on account of services rendered in connection with the liability dealt with in this Act. Any person violating the provisions of this subsection shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RUTHERFORD K. CLARKE AND IDA T. CLARKE

The Clerk called the bill (H.R. 3835) for the relief of Rutherford K. Clarke and his wife Ida T. Clarke.

There being no objection, the Clerk read the bill, as follows:

H.R. 3835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of section 8 of the Government Losses in Shipment Act (31 U.S.C. 738a), the five $5,000, 9¼ per centum United States Treasury Notes, Series A-1989, numbered 5427, 5428, 5429, 5430, and 5431, bought by Rutherford K. Clarke and his wife Ida T. Clarke on July 27, 1979, and all the interest coupons, except those which were paid in November of 1979, attached to such notes, shall be deemed to have been in fact destroyed on, and not to have been paid before, January 22, 1980.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ARTHUR J. GRAUF

The Clerk called the bill (H.R. 4350) for the relief of Arthur J. Grauf.

There being no objection, the Clerk read the bill, as follows:

H.R. 4350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,674 to Arthur J.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Grauf (social security numbered, 179-14-5217) of Lebanon, Pennsylvania, in full settlement of all his claims against the United States for reimbursement of expenses incurred by him in connection with the sale of his residence necessitated by his transfer in 1973 as an employee of the Department of the Army from his official station at the Valley Forge General Hospital in Phoenixville, Pennsylvania, to his official station at the Indiantown Gap Military Reservation in Annville, Pennsylvania.

SEC. 2. Not more than 10 per centum of the amount appropriated in the first section of this Act may be transferred, directly or indirectly, to any attorney or other agent as consideration for service rendered to Arthur J. Grauf in connection with the claim to which the first section of this Act applies. Any person violating the provisions of this section shall be fined not more than $1,000.

With the following committee amendment:

On page 1, line 5, strike "$3,674" and insert in lieu thereof, "$2,408".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEHI L. PITCHFORTH, JR.

The Clerk called the bill (H.R. 4490) for the relief of Lehi L. Pitchforth, Jr.

There being no objection, the Clerk read the bill, as follows:

H.R. 4490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Lehi L. Pitchforth, Junior, of Westminster, California, an employee of the Department of Labor, the sum of $1,898.02 in full settlement of all his claims against the United States for certain real estate, travel, and relocation expenses he and his family incurred at the time of his transfer of duty station in 1972 from Concord, California, to Long Beach, California. These expenses, which failed to qualify for reimbursement, were incurred in good-faith reliance on Department of Labor Travel Authorization Numbered OSHA 72-104, which stated that his real estate expenses and the expenses for his dependents were authorized at Government expense.

SEC. 2. (a) Lehi L. Pitchforth, Junior, is relieved of liability to the United States in the amount of $1,544.18, plus any interest or penalty assessed or accrued in connection with such liability. The amount of $1,544.18 represents the amount claimed to be due to the United States for sums advanced in error by the United States to cover expenses incurred in connection with the transfer of duty referred to in the first section of this Act.

(b) In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount of liability relieved by subsection (a).

(c) The Secretary of the Treasury shall pay, out of any funds in the Treasury not otherwise appropriated, to Lehi L. Pitchforth, Junior, an amount equal to any amount paid by him and any amount withheld from sums otherwise due him for reduction of the liability relieved by subsection (a).

SEC. 3. No part of any amount appropriated in this Act in excess of 10 per centum thereof shall be directly or indirectly paid to or received by any agent or attorney in connection with the claim referred to in this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this section shall be considered a misdemeanor and any person convicted thereof shall be fined not more than $1,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DOLLY AKERS

The Clerk called the Senate bill (S. 262) for the relief of Dolly Akers, Fort Peck Indian Reservation, Mont.

There being no objection, the Clerk read the Senate bill, as follows:

S. 262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $55,305 to Dolly Akers, Fort Peck Indian Reservation, Montana. Such sum shall be paid to Dolly Akers in full satisfaction of all her claims for damages, including claims for damages against the United States, sustained by her by reason of the loss of the use of certain lands through an administrative error on the part of the United States.

SEC. 2. All right, title, and interest of Dolly Akers in the certain lands is extinguished.

SEC. 3. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid to, or received by an agent or attorney on account of services rendered in connection with this claim. Any person violating the provisions of this section is guilty of a misdemeanor and may be fined in a sum not to exceed $1,000.

SEC. 4. As a condition precedent to receiving payment of compensation pursuant to this Act, the said Dolly Akers shall execute such releases and other documents as the Secretary of the Interior determines are necessary to fulfill the purpose of this Act and remove any cloud on the title of certain lands.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

CONSENT CALENDAR

The SPEAKER. Pursuant to the order of Thursday, March 11, 1982, this is the day for the call of the Consent Calendar. The Clerk will call the first bill on the Consent Calendar.

AUTHORIZING THE EXCHANGE OF CERTAIN LANDS IN IDAHO AND WYOMING

The Clerk called the Senate bill (S. 634) to authorize the exchange of certain lands in Idaho and Wyoming.

There being no objection, the Clerk read the Senate bill, as follows:

S. 634

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture, (hereinafter referred to as the "Secretary") is hereby authorized to exchange the parcel of land described in section 2 (parcel A) currently owned by the United States, for the parcel of land described in section 3 (parcel B) and any improvements thereon, currently owned by Richard Hendricks of Preston, Idaho. Such exchange shall be made without additional consideration and in lieu of receiving monetary payment.

SEC. 2. For the purposes of this Act, parcel A shall consist of the following described tract of land consisting of approximately 81.78 acres: Township 33 north, range 119 west, 6th principal meridian, Lincoln County, Wyoming, section 14, southeast quarter northwest quarter and southwest quarter northeast quarter, containing approximately 80 acres, and township 35 north, range 119 west, 6th principal meridian, Lincoln County, Wyoming, section 28, beginning at the southwest corner of lot 2, thence north 15 rods, thence east 19 rods, thence south 15 rods, thence west 19 rods to the point of beginning.

SEC. 3. For the purpose of this Act, parcel B shall consist of the following described tract of land, consisting of approximately 5.9 acres: That portion of the southeast quarter southwest quarter of section 8, township 9 south, range 42 east, Boise meridian, Caribou County, Idaho, beginning at the southeast corner of the southeast quarter southwest quarter of section 8, thence west 376 feet, more or less, to an intersection with the easterly right-of-way of the Oregon Shortline Railroad, thence north 7 degrees 10 minutes east, 131 feet to a point of spiral; thence northerly along a curve to the left, the said centerline of main track has a spiral angle of 3 degrees 30 minutes with 6 by 38 foot chords, a distance of 232 feet to a point of spiral curve; thence along a curve to the left with a radius of 2,010.1 feet a distance of 520 feet; thence south 87 degrees 22 minutes east a distance of 269 feet, thence north 428 feet, more or less; thence east 30 feet; thence south along the east line of said southeast quarter southwest quarter 1,320 feet, more or less, to the point of beginning.

SEC. 4. Upon the conveyance of parcel B and any improvements thereon from Richard Hendricks by warranty deed to the United States acting through the Secretary, the Secretary is authorized and directed to convey by quitclaim deed, all right, title, and interest of the United States in parcel A to Richard Hendricks: *Provided,* That the conveyance of parcel A shall be subject to valid existing rights of third parties and a reservation by the United States of all mineral interests and of the existing road right of way in land section 14: *And provided further,* That the conveyance of parcel B to the United States may be subject to a reservation of all mineral interests therein to Richard Hendricks.

SEC. 5. The lands acquired by the Secretary by this Act shall, upon acquisition, become part of the Caribou National Forest and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

With the following committee amendments:

Page 1, line 5, after "land" insert "and improvements".

Page 2, line 21, strike "376" and in lieu thereof insert "306".

Page 2, line 23, after "Railroad," insert "said point being 100 feet easterly measured at right angles from the centerline of the main track of said railroad,".

Page 2, line 25, after "east," insert "being parallel to and 100 feet easterly from said centerline of main track,".

Page 3, line 4, strike "by" and in lieu thereof insert "x".

The committee amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A PRESIDENTIAL ACKNOWLEDGEMENT

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, for the past several months I have taken the floor quite often to speak of the Reagan administration's action in turning back the clock on education and unnecessarily on many other social programs.

Yesterday I finally had what I consider to be a response from the White House. In Nashville, Tenn., the President said, in addressing a group, that he wanted to make it clear that while he had heard that his administration was trying to turn back the clock, that they were not turning back the clock.

Well, I guess that is a recognition of a statement made on the floor here, but in truth what this administration is doing today is disastrous to the cause of education; but it is still time, Mr. President, to come on board and join your fellow Republicans in both the House and the Senate who are now joining with the Democrats in saying no more cuts for education.

ONE WHITE HOUSE IS ENOUGH

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, from this morning's news reports, it sounds like the Government is building its own movie set in suburban Maryland. It is a $1.6 million mockup of the facades of the White House and Blair House along with a duplicate of Lafayette Park, statues and all. The purpose: To train Secret Service agents to protect the President and his guests. There is absolutely no reason that these people cannot be trained "on location," particularly when the President is away from Washington like he is today. After all, that is what has been done in the past.

I certainly want to see our President well protected and secure. But necessary security agents can be trained without this kind of ridiculous expenditure. One White House is enough.

It looks like commonsense precaution has given way to paranoia, and it is becoming mighty costly. We should pass up the new movie set and keep training Secret Service agents "on location." It is $1.6 million we can afford to save.

GE GETS TAX REFUND ON BILLIONS PROFIT

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, today's Washington Post reports, in an article on the front page, that the General Electric Corp., which had pretax earnings of $2.66 billion in 1981, capitalized so successfully on the Reagan tax act that passed last year that they will not only pay no taxes but will get a net tax refund of between $90 million and $100 million on that $2.66 billions of earnings.

This is the procedure whereby companies that have net profits can buy or lease the tax benefits of other companies. It has become a scandal. If we want to end this scandal and still give companies that have a loss an incentive to invest in new productive equipment, we should adopt my bill, H.R. 5305, which gives a 20-percent refundable investment tax credit to companies making investments, but zero to companies that make no investment and that simply borrow the tax leases of others.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO FILE REPORT ON H.R. 4326, SMALL BUSINESS INNOVATION DEVELOPMENT ACT OF 1981

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence have until midnight tonight to file its report to accompany H.R. 4326, the Small Business Innovation Development Act of 1981.

The SPEAKER. Is there any objection to the request of the gentleman from Massachusetts?

There was no objection.

ABANDONED HAZARDOUS CHEMICAL WASTE DUMPS—A DISASTER

(Mr. GORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, on Friday, the Environmental Protection Agency published its long-awaited national contingency plan describing their approach to cleaning up abandoned hazardous chemical waste dumps. It is a disaster. It represents an abdication of responsibility on the part of this administration to deal with the problem of hazardous chemical waste as the American people want to see it dealt with.

Two days later, EPA announced that it was eliminating the reporting requirement that now calls on companies to tell the EPA where it has dumped its hazardous wastes during the preceding year.

Mr. Speaker, 100 billion pounds of hazardous chemical wastes are still dumped in this country each year. There are still 3,000 abandoned dump sites that have not been cleaned up.

The American people, Democrats and Republicans alike, conservatives and liberals alike, want to see this problem dealt with. This administration seems to be interested only in making certain that the chemical industry is not in the least unhappy with any steps it takes to meet its responsibility. It is time for change.

CONTROVERSIAL SALE-LEASE-BACK PROVISION OF 1981 TAX ACT

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR of Michigan. Mr. Speaker, I would like to build on the comments made by my colleague, the gentleman from Ohio.

In today's Post there is a headline, "G.E. Gets Tax Refund on Billions Profit." I would like to read the first couple paragraphs.

> General Electric, which had pre-tax earnings of $2.66 billion in 1981, capitalized so successfully on the bill Congress passed last year letting corporations buy and sell tax breaks that it will get a net tax refund of

$90 million to $100 million from the federal government.

A second highly profitable firm that bought up tax breaks last year, Amoco, which had a pre-tax income of $3.46 billion, was able to reduce its federal liability by $159 million through tax "leasing."

What they are talking about is the sale-leaseback provision of the 1981 Tax Act, 1 of 8 new tax expenditures that this Congress passed last year. We expanded 22 others, while eliminating only 2.

The cost of this particular tax expenditure will amount over a 5-year period to approximately $30 billion.

Is it any wonder that this place is questioning why we are approaching deficits of $150 billion?

I urge my colleagues to look seriously at adopting a ceiling for tax expenditures in the next budget resolution.

THE PLIGHT OF HOUSING

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, in view of the comments that have been made this morning on the floor about the billions of dollars of funds that are given through tax leasing schemes out of the tax bill passed by this Congress last year, I think it is important to reflect on the plight of housing. While billions of dollars are being given to corporations that do not need the funds, the sad fact of the matter is that this administration has dropped housing and homeownership as a national economic priority. In this context I want to say to my colleagues that I am very pleased to have joined with my friend and colleague, the gentleman from California (Mr. PATTERSON) in offering and introducing for the Members' consideration a housing production program, a housing production bill, a bill that will provide 700,000 man-years of employment in related industries to housing, a bill that will provide over the next 5 years, 400,000 new housing starts.

This is a bill that attacks one of the glaring weaknesses of this administration's economic plan, a plan that says that there is no valid purpose nationally, strategically, for homeownership and housing production. That is a very sad mistake to make. That reconciles many regions of this country, including my own, to poverty and that consigns millions of Americans to unemployment. This bill is a step in correcting that problem.

□ 1215

ECONOMY IS IN PRECARIOUS STATE

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, testifying before the Budget Committee this morning is Mr. Henry Kaufman, the respected economist who testified in part, and I quote, "Our economy and financial markets are more fragile than at any time since the end of World War II." He urges that there be changes made in the tax cut. He urges that there be reductions in defense. And he urges other steps in order to reduce the record deficits we face.

You do not have to talk to investors or economists or workers, or the unemployed, to understand that our economy is in its most precarious state in a long, long time. It is a time when we have to make necessary changes in the budget resolution, and it is a time when we have to develop a bipartisan compromise. And yet, the President of the United States spends his time campaigning on this issue and reducing the budget debate to its lowest political denominator. Very frankly, there cannot be a compromise in that atmosphere.

The consequences of that kind of divisiveness are not going to fall just on the President, but on all of us. So I would urge this institution, since the President obviously is unwilling to assume that responsibility, for the leadership on both sides, Democratic and Republican, to join together to develop a necessary bipartisan compromise on the budget. As Mr. Kaufman emphasizes, this country does not have very much more time left.

LET US CREATE A TAX LOOPHOLE FOR MIDDLE CLASS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, several Members have noted this morning's Washington Post article pointing out that General Electric is expecting a tax refund of about $90 million while earning more than $2.6 billion last year. This is but another example of how Reaganomics tax laws favors big business.

I recall that last year, during the debate on Reaganomics, that the Reagan tax cut was sold to the American people on the promise that it would stimulate private investment by expanding business activity, creating jobs and, therefore an economic recovery but, instead of economic recovery, Reaganomics has created giant corporate loopholes giving Wall Street a tax break.

Now, if the Reagan administration could use its tax prowess to devise another scheme, to permit poor people to have a tax break of poverty to sell to the middle-income taxpayers. While Reaganomics will not produce an economic recovery, at least this loophole would give the average taxpayer the same tax treatment as the President has given his friends on Wall Street.

GE GETS TAX REFUND ON BILLIONS PROFIT

(By Thomas B. Edsall)

General Electric, which had pre-tax earnings of $2.66 billion in 1981, capitalized so successfully on the bill Congress passed last year letting corporations buy and sell tax breaks that it will get a net tax refund of $90 million to $100 million from the federal government.

A second highly profitable firm that bought up tax breaks last year, Amoco, which had a pre-tax income of $3.46 billion, was able to reduce its federal liability by $159 million through tax "leasing," although the oil company did still pay several hundred million dollars in federal taxes.

These figures emerged from annual reports for 1981 that are just being released and from interviews with company officials.

GE and Amoco are generally believed to have been among the most active firms buying up tax breaks. They bought the credits and depreciation write-offs from such companies as Chrysler, Pan American, Cleveland Electric, Commonwealth Edison, and Phelps Dodge.

The benefit was most dramatic in the case of GE, which went from $426 million in tax payments in 1979 and $330 million in 1980, down to its refund of $90 million to $100 million.

The company was able to achieve this negative tax situation largely through the purchase of tax credits and depreciation write-offs by a subsidiary, General Electric Credit Corp. GECC bought tax breaks from at least nine different companies and utilities through paper transactions called "leases" on about $1.4 billion worth of equipment.

The 1981 tax bill allowed companies to buy and sell tax breaks through leases; a company "leases" a piece of machinery and acquires the tax breaks associated with its cost. The provision was sold to Congress as a benefit for weaker companies. It has become highly controversial largely as a result of disclosures that profitable firms, like Occidental Petroleum, are also selling their unneeded tax breaks.

Sen. Robert J. Dole (R-Kan.), chairman of the Senate Finance Committee, has warned that he intends to seek repeal of the leasing provisions retroactive to Feb. 19.

On the surface, the GE report indicates the company was preparing to pay $529 million in federal taxes for 1981. In the more detailed notes, however, the firm pointed out that the credit company subsidiary, GECC, produced "provisions for taxes recoverable" of $633 million for 1981.

This $633 million, about one third of which resulted from buying tax benefits, was used both to reduce the 1981 tax liability and to get a refund on prior year's taxes, according to John F. McCoy, the firm's tax manager.

Although GE did not spell out the process, McCoy noted that federal law restricts the use of investment tax credits, the major first-year benefits from tax sales, so that a company can only eliminate 80 percent of its federal liability by this means.

As a result, he said, the firm had to pay 1981 taxes of between $50 million to $60 million—he would not provide precise details—but then it was able to turn around, and by virtue of the same leases, collect a refund on past years of about $150 million, for a net gain of $90 million to $100 million.

McCoy noted that "even though we have reduced our 1981 liability and have generated credits," GE's benefit was not the full amount of the tax savings because it had to pay out significant amounts of cash to buy the tax breaks.

Amoco—Standard Oil Co. (Indiana)—said directly in its annual report that "income tax expense for 1981 has been reduced by $159 million, reflecting the effect of tax benefits purchased."

The company said it expects to pay $390 million in federal taxes in 1981, compared to $433 million in 1980, although it was not clear whether the reduction resulted primarily from buying tax breaks.

Amoco did, however, note that investment tax credits for 1981 increased sharply from 1980, going from $106 million to $334 million, although no breakdown was provided to show how much of the credits resulted from investments for the firm and from purchased credits.

The effective tax rate when all state, local, foreign and federal taxes are calculated dropped from 46.7 percent in 1980 to 44.4 percent in 1981 "primarily due to higher investment tax credits associated with tax leasing arrangements," Amoco said in its report.

MEMBERS SHOULD TAKE PAY CUT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the deficit for this year is in the amount of about $100 billion. The massive deficit is draining needed capital from the productive sector of our economy. This condition continues to limit the availability of affordable consumer credit. Interest rates continue to be exceedingly high.

The President has embarked on a program of fiscal restraint and has recommended remedies for recovery.

The Congress is committed to a cooperative spirit. We must remember that members of the work force, in the auto and construction industries, and other employees in the general work force across the Nation, are taking voluntary reductions in their salaries.

Therefore, today, I am introducing a resolution proposing that Members of the House of Representatives take a 5-percent cut of their official salaries for 1 year, 1 fiscal year, and hope the other body, congressional employees, and the executive branch of Government will do the same.

I yield back the balance of my time.

HARSH REPRESSION OF BAHA'I FAITH IN IRAN

(Mr. JAMES K. COYNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES K. COYNE. Mr. Speaker, I wish to share with you my concern, and the concern of the people I represent in Bucks and Montgomery Counties, about the harsh repression of the 300,000 members of the Baha'i faith in Iran.

Bahaism evolved in the 19th century as an offshoot of Islam which preaches the unity of the human race and espouses world peace. There are members of this faith throughout the world, and I am proud to represent the Spiritual Assembly of the Baha'is of Middletown Township, which is in my district.

Since the inception of the Islamic government of the Ayatollah Khomeini, a holy war has been declared against this peace-loving minority that numbers 300,000. As mentioned in an article in Newsweek—

> The Islamic fundamentalists of the Khomeini regime confiscated Baha'i properties, expropriated Baha'i owned corporations, closed their schools, fired them from their jobs and sacked their temples.

In the past several months Muslim militants have systematically murdered scores of Baha'i leaders, including members of the Baha'is National Spiritual Assembly.

I deplore these genocidal actions of the Khomeini regime and I call on all of my colleagues to speak out on this flagrant violation of human rights.

DO-NOTHING CONGRESS

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, we begin another week of intense legislative activity that could be characterized like that of a melting mushroom. We are today doing nothing, tomorrow we are going to take off for St. Patrick's Day, and Thursday we are going to address the Hoboken Pier project. In a time period of 3 months we have taken up such exciting things as National Peach Month, the PTA Membership Month, National Agriculture Day, National Medic-Alert Week.

What have we accomplished? Absolutely nothing. This has been a do-nothing Congress with a do-nothing leadership. I hesitate to suggest this, because I realize we do not want to bring any more legislation to this floor, but maybe the leadership should introduce a bill called National Do-Nothing Month which commends them for accomplishing absolutely nothing, because that is what this leadership has done. Clearly, if Nero fiddled while Rome burned, the leadership of this Congress, the liberal leadership of this Congress, deserves to be an entire violin section in the Philharmonic Orchestra.

TIME TO ADDRESS THE PROBLEM AT NATIONAL AIRPORT

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, several months ago this Congress adopted the Washington National Airport policy which will tend to reduce the congestion that is rampant at that facility. Now, Mr. Speaker, it is time to address the principal problem at National Airport, which is safety.

Several days ago I introduced legislation that would require the FAA to study the installation of restraining devices at the ends of the jet runway at National Airport, which is the shortest runway of any major aviation facility in the United States, and to accomplish its installation if it is found to be feasible. That bill has been categorized variously as Buck Rogers, or Mickey Mouse, or worse. But my intent is not to secure a breakthrough or reinvent the wheel, but simply to take advantage of existing technology that has been developed over the past few years.

I submit, Mr. Speaker, that it is accurate to say we cannot, and should not, put a hook on the back of a 727 and land it like on an aircraft carrier. Everybody knows that. But we also cannot ignore the technology that has been developed since these devices were initially approved by the FAA many years ago. This equipment is now in operation in 1,400 installations in 32 countries around this world. It will stop a 220,000-pound airplane in 900 feet with moderate impact on passengers. It will assist in an aborted takeoff or an uncontrolled landing. Through the use of nylon belts, switch timing plates, computers, and energy dissipaters it can in net effect extend the effective length of the runway in an emergency situation. If we are not willing to spend an estimated $1 million out of an $800 billion budget to save lives of people who travel in and out of Washington National Airport, we have not served the traveling public properly.

I submit to you, Mr. Speaker, we should determine whether or not this equipment is feasible to be used for commercial traffic at this airport and if it is, we should adopt this legislation at an early date. If we are not willing to take these reasonable steps to improve safety at National Airport, let us close it.

END FORCED BUSING

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, on the Speaker's desk you have the

Senate bill that would end forced schoolbusing. This came back to the House last week and we ask that you submit this bill to the full House floor.

The House spoke on this subject on June 9, 1981. When they passed my amendment to end forced busing, it passed by a vote of 265 to 122, and that was 9 months ago.

Forced schoolbusing has seen high school graduates' academic level in the past 15 years drop by 10 percent in this Nation. We need to concentrate on quality education where the youngsters in America can learn reading, writing, spelling, and arithmetic and get a basic education. Youngsters should be entitled to go to their neighborhood school as the Supreme Court ruled in 1954 with the famous Brown decision. As we recall, in this case a youngster lived 7 blocks from school and they forced this little girl to go 27 blocks to another school. The court said she was entitled and should definitely go to the school nearest to her home. Congress must take action to see that this intention of children going to the neighborhood schools is reestablished.

WHY DOESN'T CONGRESS GET TO WORK?

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, we have heard much talk here this afternoon about the tax leasing provisions, and one company's ability to avoid taxes under that provision. That was obviously the Democratic doubt of the day. Well, I happen to believe that tax leasing provisions should be repealed. There is legislation available to do just that.

I also believe that President Reagan's proposal to make certain profitable corporations pay taxes should be enacted. But none of these things are getting done around here. Why, the American people are asking, are these things not being talked about on the House floor, debated on this floor and passed? Why do the Democrats just talk about problems and then refuse to act? Why does this House not get to work?

IT AIN'T PERFECT, BUT IT IS PROGRESS

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, I was deeply concerned as I heard some remarks from the other side of the aisle earlier attacking the Reagan administration and the economy. I think there are too many who have forgotten where we came from.

In January 1977 we swore in a new administration that had total control of the Congress. At that time the prime rate of interest in America was 6¼ percent. At that time inflation in America was under 5 percent. Four years later, when they left, the inflation rate in America was averaging 12.4 percent and the prime rate of interest had hit 21½ percent, not to mention the fact that the misery index had gone up 56 percent during that administration.

Now under this administration, the misery index has come down 37 percent. The prime rate has come down 5½ percent, and inflation has been cut virtually in half.

It ain't perfect, but it is some progress.

REAGAN TAX PROPOSAL NOT THE PROBLEM

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, some previous speakers have taken the well and criticized the Reagan tax proposal and suggested that it was at the bottom of the news that we see in the papers today where some rather large corporations have been able to escape taxation.

I hate to sound like a broken record down here, but it seems that we have to repeat and repeat and repeat for some people to remember.

□ 1230

That is, this President, President Reagan, asked this Congress for two very simple things: He asked us for an across-the-board tax cut for all individual citizens, and he asked for an accelerated depreciation for businesses so that we could get our businesses and our workers on a par with those that we compete with in the international marketplace.

It was not until the proposals got to the Ways and Means Committee, controlled on that side of the aisle, I might add, that we had the tremendous auction that started with the chairman of the Ways and Means Committee being the chief auctioneer. At that point the President was confronted with the decision, does he completely lose control and not have even one little bit of his tax proposal go through, or does he enter into the debate and enter into the auction and accept those things that were being offered on the other side as a means toward getting his firm principles through.

He went that route; we did some things that many, perhaps some of us, disagree with. We ought to get those things out. We will join you on this side, but let us leave the essential Reagan tax proposal as it is. If you want to criticize the excesses, talk about that, but do not talk about the Reagan tax proposal being at the bottom of the problem.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if ordered, will be taken on Thursday, March 18, 1982.

HOBOKEN PIER TERMINALS

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3620) transferring certain Federal property to the city of Hoboken, N.J., as amended.

The Clerk read as follows:

H.R. 3620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the General Services Administration shall, for and on behalf of the United States, transfer at a price to be negotiated and which may be less than fair market value, as is and without warranty of any kind, to the city of Hoboken, New Jersey, the right, title, and interest of the United States in the real property described in schedule A appended to a proclamation of the President of the United States, dated December 3, 1918, except that the following property may not be transferred under this section—

(a) the property transferred to the Department of the Treasury by the Second Deficiency Act, fiscal year 1929,

(b) the property excluded by the second paragraph of section 1 of the Act of April 19, 1930 (46 Stat. 220), and

(c) the property beginning at a point in the easterly line of River Street, distant 10 feet southerly from the intersection formed by the northerly line of Second Street extended with the easterly line of River Street, running thence; north 13 degrees 04 minutes east and along the easterly line of River Street a distance of 250.20 feet to a point, thence south 76 degrees 56 minutes east a distance of 108 feet to a point, thence south 13 degrees 04 minutes west and parallel to River Street a distance of 154.62 feet to a point of curvature, thence on a curve to the right having a radius of 256 feet and an arc distance of 97.95 feet to a point, thence north 76 degrees 56 minutes west and parallel to the second course a distance of 89.49 feet to a point in the easterly line of River Street, said point being the point or place of beginning. Said parcel lying in city block 231 and being a part of lot 3 as shown on the official assessment map of the city of Hoboken, Hudson County, New Jersey; concurrent with a transfer of title to said real property, the city of Hoboken, New Jersey shall agree to assume sole responsibility with respect to said property and to indemnify and hold harmless the United States against any obligation, past, present, or future, with respect to said property.

Sec. 2. The Act of April 19, 1930 (46 Stat. 219), and the Act of June 21, 1938 (52 Stat. 833), are repealed.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. Jones) will be recognized for 20 minutes, and the gentleman from New York (Mr. Carney) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Jones).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3620, as amended, authorizes the sale of the Hoboken pier terminals to the city of Hoboken, N.J.

This property, expropriated by the Federal Government in 1917, was considered essential for national security purposes at that time. In fact, during the First and Second World Wars, it was a major embarkation point for soldiers shipping off to the European Theater.

The Maritime Administration, or its predecessor agencies, has had jurisdiction over the Hoboken terminals since the 1920's. Laws enacted in 1930 and again in 1938 authorized the sale of the terminals, but imposed maritime use restrictions on them. However, because the Maritime Administration continued to believe that the location was essential to the national defense, and the fact that there were no interested parties, the property has remained in the hands of the Government.

Times have changed, and the Federal Government no longer wishes to retain jurisdiction over the terminals. In addition to being insignificant for military purposes, the terminals' value as a commercial shipping center has similarly declined. Shipping containerized cargo requires vast areas of land to store the huge containers. The Hoboken pier terminals comprise only about 50 acres of land, 35 of which are under water. As a consequence, the property has been sitting idle since the onset of the "container revolution" marked at around 1978.

In order to provide a legislative vehicle to allow the Maritime Administration to divest itself of the pier terminals, the Honorable Frank Guarini introduced H.R. 3620 on May 19, 1981. The bill provided for the transfer of the property without compensation by the city of Hoboken. Certain parcels still used by the United States remain U.S. property and are not included in the transfer.

In its report to the Merchant Marine and Fisheries Committee, the administration recommended several changes in the original bill. The administration proposed that the General Services Administration (GSA) negotiate the sale of the property at a price which could be for less than fair market value. This recommendation was the result of lengthy discussions among the Maritime Administration, GSA and the Office of Management and Budget. The report that was submitted to the committee reflected their concerted opinions. On November 18, the Subcommittee on Merchant Marine amended H.R. 3620 to reflect the administration's proposals and reported it to the full committee.

The reason the sale for less than fair market value was approved was in deference to the burdens imposed on the city of Hoboken, a fiscally troubled city, by the Federal Government's ownership. One example of this burden can be seen in the fact that the city has lost approximately $68 million in taxes since the property was expropriated in 1917. Nevertheless, let me hasten to add, this provision should not be construed to mean that the property is to be sold for a nominal amount. Rather, the GSA should negotiate the sale at a price which is equitable to the Federal Government as well as the city of Hoboken.

The passage of this bill will mean that the city will have the opportunity to revitalize a dead section of town. This translates into several advantages to Hoboken—including the return of the property to its tax rolls (after an absence of 64 years)—and the possibility of new jobs and housing. The Federal Government, too, will reap benefits. It will be rid of property it does not want and the U.S. Treasury will be benefited by the amount of the sale.

I am certain my colleagues will join me in supporting this legislation.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from New Jersey (Mr. Guarini).

Mr. GUARINI. Mr. Speaker, I want to thank the chairman for yielding and for his help in advancing this legislation, which is of great importance to my district and my State.

I also want to thank the Merchant Marine and Fisheries Subcommittee chairman, Mario Biaggi, for his diligence in fashioning this legislation.

H.R. 3620 authorizes the General Services Administration to negotiate the sale of the Hoboken Pier Terminals, an area containing piers A, B, and C, to the city of Hoboken, N.J. The important words are "to negotiate the sale" with the city of Hoboken. This bill does not transfer these piers without compensation, but simply authorizes the General Services Administration to enter into negotiation with the city of Hoboken for the sale of this property.

I would like my colleagues to note that the legislation as presented to the House today has the full support of the Department of Transportation, the General Services Administration, the Office of Management and Budget, and the city of Hoboken. At the time of the subcommittee's deliberations, all three administration amendments were accepted as part of the bill's language.

By passing the bill, we aid Hoboken and Hudson County in my State without doing any harm to the Federal Government. In fact, the Federal Government will realize some revenue from the sale of this surplus property.

When the Federal Government expropriated this property from two German steamship companies in 1917, these piers were the scene of great economic activity. Over 3,000 people worked on these piers. During the war, thousands of doughboys left the States for World War I to Europe from the same piers.

After the war, the forerunner of the Maritime Administration took control of these piers. At this time it was becoming evident that the maritime use in the Hoboken/Hudson County area, which Henry Hudson had first marked by his arrival in 1660, was beginning its downward trend. These piers had employed 3,000 at one time and only employed 500 after the war. The population of Hoboken, which was at one time during World War I 67,000 people, started to drop. Today, this diamond-shaped city called the mile square city across the Hudson from the Manhattan skyline, has a population of only 42,000. While the maritime industry continued its slide, the city acted in 1952 to try to revitalize its deteriorating waterfront. It joined with the Port Authority of New York and New Jersey and the Maritime Administration in an effort to restore what it had lost. The city entered into a 50-year lease with the Federal Government for the pier property we are debating today, and also a 50-year option. The city leased the piers from the Federal Government for $1 a year and then turned around and leased them to the Port Authority of New York and New Jersey.

The Port Authority of New York and New Jersey agreed to spend $15 million in rehabilitating these piers. Included in the Government's lease was a clause the restricts the piers for maritime use only, and this is a restriction which prevents the further development of this area.

By 1978 not a single person was employed on these piers. Because of the container revolution in shipping, the piers quickly became obsolete for shipping purposes. They have sat idle ever since 1978.

Not only have they sat idle, they have sat deteriorating. A fire has damaged the middle pier, pier B. Except for the occasional docking of a ship every now and then, next to the pier, they have been useless to everyone and have blocked the development of the Hoboken waterfront.

This legislation, H.R. 3620, allows us to remedy the situation. It allows the Federal Government to finally rid itself of this property by negotiated sale. To Hoboken, it means the return of property to the city's tax rolls and it means incorporation into the city's redevelopment plans.

There are two points I would like to expand upon. Since the Federal Government has controlled this property, the city has lost almost $70 million in tax revenues, a shocking figure when you consider that Hoboken has the highest property tax rate of any municipality in the State of New Jersey, and there is a current unemployment rate of 16.1 percent, and this $70 million is in accumulated moneys, not capitalized, but $70 million over a 65-year period.

Second, under the outstanding leadership of Mayor Stephen Cappiello, Hoboken has embarked on an economic revitalization of great dimensions. By restoring this area we are helping a city which is currently helping itself. The Federal Government would be relieving itself of responsibilities for piers which are currently useless, gain revenue, free itself from the responsibility for future repairs and liability, while at the same time allowing Hoboken the opportunity of restoring its waterfront for nonmaritime use and continuing the great renaissance of the city, which has been planned and which is underway in Hoboken.

We have the opportunity today of helping to revitalize an urban American city by not costing the taxpayers a cent. In fact, we will realize revenue. This mile-square city is ready to find a developer who can shape this area into a viable economic development plan consistent with both nonmaritime use and the growth of the New Jersey shoreline on the New Jersey side of the river. There are already underway rehabilitation plans for the development of the city and providing a better tax base.

Again, this bill has the full support of the administration, the Department of Transportation, the General Services Administration, MIRAD, the Office of Management and Budget, the New Jersey Department of Environmental Protection, the House Committee on Merchant Marine and Fisheries, for which I am grateful, the Port Authority of New Jersey and New York, and city of Hoboken.

I ask the Members for their support today for this measure. It means so much to the future development of a city which is trying to help itself and have an area which is very sorely depressed in Hudson County.

Again, I thank Chairman JONES and Chairman BIAGGI for their efforts in leading this fight for this important piece of legislation.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to address the bill under consideration, H.R. 3620.

The Committee on Merchant Marine and Fisheries favorably reported out H.R. 3620 on December 7, 1981. During the committee's consideration of the bill, many questions were raised, particularly by Members on this side of the aisle, as to the appropriateness of conveying this parcel of Government surplus land directly to the city of Hoboken, N.J.

The bill as introduced and considered by the Merchant Marine Subcommittee would have required the Department of Transportation to give the property to the city of Hoboken without any compensation. However, several Members on this side objected to the property being given away. Subsequent to the committee hearing, the Department of Transportation's General Counsel stated in a letter to our chairman, WALTER B. JONES of North Carolina, three suggested amendments to the bill which would remove the administration's bases for nonsupport. These three amendments were added during the subcommittee markup on November 18, 1981, and are included in the bill being considered today.

Essentially, these three amendments would require the General Services Administration, instead of the Department of Transportation, to sell the property to the city of Hoboken at a price which may be less than fair market value. Finally, language was added to insure that the United States will have no continuing obligation on the land once it is conveyed.

Although there has been some continued skepticism expressed concerning the bill by at least one member of the committee, I am aware of no formal objection to the bill at this time.

☐ 1245

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. SNYDER), the ranking minority member of the Committee on Merchant Marine and Fisheries.

Mr. SNYDER. Mr. Speaker, I rise to address the bill under consideration, H.R. 3620.

As the ranking minority member on the Committee on Merchant Marine and Fisheries, I have had the opportunity to observe this bill stumble its way through the committee process and now, to the floor. As my colleague, Mr. CARNEY, has already pointed out, this bill began as a complete giveaway to the city of Hoboken. The bill would have eliminated the maritime-use restrictions accompanying the property and therefore increased the value of the property, yet required the city of Hoboken to pay absolutely nothing in exchange.

Accordingly, I offered an amendment in the subcommittee markup which had been suggested by the administration. My amendment essentially made three changes in the bill. It:

First, gave the General Services Administration authority over the transfer instead of the Department of Transportation;

Second, required that General Services Administration negotiate a price with the city of Hoboken which may be less than fair market value; and

Third, included a provision holding the United States harmless regarding any past, present or future obligation with the land.

My concern over this bill might have ended with the adoption of these amendments in subcommittee markup, had not an incredible fact come to light just prior to the full committee markup on December 7, 1981. The committee became aware, for the first time, that there was a Federal building standing on the very property which this bill would have given away to the city of Hoboken. Had not this fact come to light in a timely manner, we on the committee and in the Congress may have been placed in the very embarassing position of giving away to the city of Hoboken, N.J., Federal building which was being actively used by the Department of Agriculture.

Although the administration must shoulder part of the blame for not bringing the existence of this building to the committee's attention, I believe that the Port Authority of New York and New Jersey along with local representatives from the city of Hoboken must be held the most accountable. This is their bill. They are the ones that testified before the subcommittee and lobbied members of the committee to not oppose the bill. Yet they either did not know or did not care to disclose the fact the the Department of Agriculture had research facilities present on the land. Whether their lack of disclosure was due to ignorance or due to deceit makes no difference to me. Neither explanation is excusable.

Although I do not wish to be an obstructionist in regard to this legislation, I do continue to have serious reservations concerning this transfer and I am not sure that even with the correcting amendment which we added in subcommittee and full committee, the committee has succeeded in curing all of the deficiencies contained in this bill.

I am reminded of an old saying which we have back home, that: "The cook may roast and disinfect it as much as she will, but the scent of the skunk remains with it still."

Thank you, Mr. Speaker.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. CARNEY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, may I ask, is this the famous Hoboken Pier bill that we are debating here now, the bill that was previously scheduled last week to be considered in the House and then, for unknown reasons, was pulled off the calendar so we ended up taking up the single bill last week, the Potato Research and Promotion Act? Is this the same bill as that one, the Hoboken Pier bill?

Mr. CARNEY. Mr. Speaker, the gentleman is correct. But I might add that the bill was not pulled for reasons that the bill was not a significant bill and one which deserves to be considered. I do not know why it was pulled. Certainly that does not cause me to waiver in my support for the bill.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, that was the real question I had. I was wondering why it was taken off last week when we certainly did not have very much on the schedule and we could have taken up this very important piece of legislation. I was wondering whether the gentleman knows why it was orginally scheduled and then pulled off the calendar.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I am glad to yield to the chairman of the full committee.

Mr. JONES of North Carolina. Mr. Speaker, I will say to the gentleman from Pennsylvania (Mr. WALKER) that it was simply a misunderstanding. This committee requested that the bill be scheduled for today on suspension. There was a breakdown in the communications, and there was a misunderstanding when the House scheduled the suspensions posted last week. That is simply the answer. There was no collusion; there was no fear of bringing the bill up. We have a good bill; there was no objection to it. It was just a breakdown in communications.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Do I understand correctly, then, that there was a mistake made in announcing the schedule for the week previous, and that the gentleman's committee had really requested that the bill be brought up this week but the leadership on that side made a mistake when they announced the schedule that included the Hoboken Pier bill for the previous week?

Mr. JONES of North Carolina. Yes. If the gentleman will yield further, we are a little like that side of the aisle; we are not without fault at times.

Mr. WALKER. As I further understand it, the schedule announced for last week should have included just the one bill, the Potato Research and Promotion Act, and it should not have had this bill included to begin with?

Mr. JONES of North Carolina. The gentleman is correct.

Mr. CARNEY. Mr. Speaker, I would just like to add that I hope my colleagues will vote on the merits of this bill. This bill has become somewhat famous for reasons having nothing to do with the merits of the bill but having to do with the scheduling of legislation, I understand, to the frustration of my colleagues over here. But, nevertheless, the bill is here, and it deserves our consideration. It is a good bill, and we should not be comparing apples and oranges. My friend, the gentleman from Pennsylvania (Mr. WALKER), does make a good point. However, I hope that would not cloud the minds of my other colleagues in the full House concerning the merits of the bill.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing and in summary of my remarks, I would like to call to the attention of the House the fact that this bill has been under the scrutiny of GSA management, budget—you name it—the Department of Transportation, and all the agencies downtown, and the administration supports this bill.

We have a piece of property up there that is no good to anyone. It did not bring in to the Federal Government "one red cent"; it did not do the city of Hoboken any good whatsoever. If we can transfer this property and get it on the tax books, at least it will derive some benefit to the city of Hoboken, plus the fact—and I say this for emphasis—that the Federal Government will receive some sort of payment for this piece of property. We are retaining all we believe is necessary for the port in relation to the Federal Government's needs.

I hope the House will give us a two-thirds vote and pass this bill. It has been here a long time, and we would like to have it cleaned up. Even the minority side can find nothing wrong with it. I agree that in its original inception, in its introduction with no payment in part, I could not accede to that myself, and I join with the minority in insisting some payment be made to the United States for the transfer of this property.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CARNEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I might add this, I have a great love and admiration for the Brooklyn Bridge, and I would hate for the Hoboken Pier to become more famous than the Brooklyn Bridge. So I hope that we can move this bill through now so this matter can once and for all be put to rest.

● Mr. MINISH. Mr. Speaker, I rise to lend my support to H.R. 3620, which would provide for the sale of waterfront property now owned by the Federal Government back to the city of Hoboken, N.J.

As the unanimous support which this bill enjoyed in the Merchant Marine and Fisheries Committee makes clear, this is a beneficial bill on which most of us should agree. The Government no longer needs this property for the transfer and storage of cargo, and Hoboken wants to buy it. What is exciting about this bill is the context of renewal which Hoboken and other older cities of northern New Jersey are now experiencing. People are coming back to these convenient locations and fixing up good houses in areas recently plagued by economic decline. Business is finding imaginative uses for historic urban properties, and it is testifying to its confidence in urban revitalization by making substantial investments. Local officials, business leaders, and individual citizens and families are working together to give these neighborhoods new life with a promising future. Acquisition of the old shipping facilities by the city of Hoboken will help it to move forward in its efforts to revitalization of the heart of downtown.

I commend the efforts of Hoboken's Representative, the Honorable FRANK GUARINI, to forward New Jersey's urban renewal process through this bill. I urge my colleagues to support this constructive legislation.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 3620, as amended.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SECRET SERVICE ZONES OF PROTECTION

Mr. SYNAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4468) to amend chapter 84, section 1752 of title 18, United States Code, to authorize the Secretary of the Treasury to establish zones of protection for certain persons protected by the U.S. Secret Service, as amended.

The Clerk read as follows:

H.R. 4468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1752 of title 18, United States Code, is amended as follows:

(a) by amending the title of such section to read as follows: "Temporary residences and offices of the President and others";

(b) by amending subsection (a)(1)(i) to read as follows:

"(i) any building or grounds designated by the Secretary of the Treasury as temporary residences of the President or other person protected by the Secret Service or as temporary offices of the President and his staff or of any other person protected by the Secret Service, or";

(c) by inserting the words "or other person protected by the Secret Service" after the word "President" in subsection (a)(1)(ii);

(d) by amending subsection (d)(1) to read as follows:

"(1) to designate by regulations the buildings and grounds which constitute the temporary residences of the President or other person protected by the Secret Service and the temporary offices of the President and his staff or of any other person protected by the Secret Service, and";

(e) by inserting the words "or other person protected by the Secret Service" after the word "President" in subsection (d)(2); and

(f) by adding at the end thereof the following new subsection:

"(f) As used in this section the term 'other person protected by the Secret Service' means any person authorized by section 3056 of this title or by Public Law 90-331, as amended, to receive the protection of the United States Secret Service when such person has not declined such protection pursuant to section 3056 of this title or pursuant to Public Law 90-331, as amended."

SEC. 2. Subsection (b) of section 3056 of title 18, United States Code, is amended by striking "$300" and inserting in lieu thereof "$1,000".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oklahoma (Mr. SYNAR) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognized the gentleman from Oklahoma (Mr. SYNAR).

Mr. SYNAR. Mr. Speaker, the bill (H.R. 4468) amends section 1752 of title 18, United States Code, by inserting a reference to "other persons protected by the Secret Service" in subsections (a) and (d) and by defining that term. As amended, the section would extend to all persons protected by the U.S. Secret Service the same "zone of protection" authority which presently exists for the protection of the President under the section. The amended bill would further amend section 3056 of title 18, to increase the maximum fine specified for violation of that section from $300 to $1,000.

The bill implements the recommendations of the Department of the Treasury in an executive communication to the Congress. The amendment was also recommended in the report of the House Select Committee on Assassinations in the 95th Congress.

Section 1752 of title 18, United States Code, now provides that the violation of a zone of protection around the President, or an attempt or conspiracy to violate such zone of protection is punishable by a $500 fine or imprisonment of up to 6 months. This bill will extend these criminal sanctions to violations of zones of protection established for the protection of other persons protected by the U.S. Secret Service. Those other persons are defined in section 3056 of title 18, United States Code, and in Public Law 90-331 (82 Stat. 170), as amended—major Presidential or Vice-Presidential candidates and spouses. Protected persons include, among others, the Vice President, the families of the President and Vice President, visiting heads of State of officially designated Presidential and Vice-Presidential candidates and their spouses, the President-elect and the Vice-President-elect and their families, and distinguished foreign visitors who may be afforded Secret Service protection at the direction of the President.

As is explained in the executive communication, the "zone of protection" concept is a standard protective procedure utilized by the U.S. Secret Service. It is utilized to keep the protected individual within an area to which only authorized individuals are admitted. The zone is maintained at all times and in all locations to the fullest extent possible. The Treasury Department stated that it becomes more important in areas where the protected person is spending a significant period of time, such as a temporary residence or office.

At a hearing on September 17, 1981, witnesses in behalf of the U.S. Secret Service indicated that the Secret Service already provides zones of protection for persons that it is authorized to protect. This bill would clarify the authority of the Secret Service to establish such zones of protection, and would provide criminal penalties for individuals who violate such zones. In this connection, the executive communication pointed out that under section 1752 of title 18, United States Code, it is a misdemeanor to violate a designated "zone of protection" established for the security of the President of the United States. The Treasury Department stated that it believes that the U.S. Secret Service, in protecting all other persons entitled to physical protection pursuant to section 3056 of title 18, United States Code, and Public Law 90-331, as amended, may rely upon its inherent protective mandate as the source for its authority to establish such a zone. However, existing law does not provide a specific criminal offense for violations. The proposed legislation would correct this deficiency.

Criminal penalties for attempts or conspiracies to enter a zone of protection are currently provided for in sections 1752 (b) and (c) of title 18. This bill would expand the scope of current law by making the violation of zones of protection established by the Secret Service for other protected persons a criminal offense. The scope and effect of the attempt and conspiracy provisions applicable under current law will be similarly expanded.

The bill, as amended by the committee, would also amend subsection (b) of section 3056 of title 18 to increase the maximum fine provided for violations of that section from $300 to $1,000. H.R. 4468, in a new subsection (f) to be added to section 1752 of title 18, specifically refers to section 3056 in defining the term "other person protected by the Secret Service."

In the course of the committee's consideration of the bill, it was recognized that both sections 1752 and 3056 provided fines and imprisonment as penalties for violations of those sections. The maximum penalties provided in section 1752 are a fine of $500 and imprisonment for 6 months or both. In section 3056, the maximum penalties are a fine of $300 and imprisonment of 1 year or both. When thus compared, the maximum fine in section 3056 is inconsistent with that provided in section 1752 and does not correspond to the longer period of 1 year imprisonment provided in section 3056. Accordingly, the committee recommended the increase in the maximum fine in section 3056 from $300 to $1,000. This is a logical and appropriate amendment to the section.

The committee based its recommendations on the facts and considerations presented in the executive communication and at the subcommittee hearing held on September 17, 1981. I recommend that the amended bill be considered favorably.

□ 1300

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the final report of the House Select Committee on Assassinations a number of specific legislative recommendations were made. H.R. 4468 is one of those recommendations.

Currently, the zone of protection statute applies exclusively to the President. This bill would extend the zone of protection to all current protectees of the Secret Service. While the Secret Service has responsibility to protect many persons besides the President, they do not have authority to investigate or arrest persons breaking a zone of protection. Reliance must be placed on local officials and local law to supply the authority for investigation and arrest. Local law varies and local officials are sometimes incapable of providing adequate support. Consequently, Secret Service agents are frequently uncertain as to what to do.

Therefore, this bill enhances and supplements local law by giving the Secret Service the authority they need to fulfill their statutory responsibility.

No new budget authority is needed because the Secret Service is already charged with protecting those persons mentioned in 18 U.S.C. 3056. This bill merely creates a Federal misdemeanor for the knowing and willful violation of a zone of protection and the Secret Service thereby has authority to investigate and arrest.

I urge my colleagues to vote for H.R. 4468 because it fills a dangerous gap in the law, by giving Secret Service agents an authority that is in keeping with their responsibility.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, between terrorists and malcontents no public figure is safe today. Criminal kidnaping and assassinations, masking as political acts, have become routine occurrences. Wisely, the Congress in 1970 passed legislation establishing a physical zone of protection for the President. Intruders, willfully violating this zone of protection, are subject to arrest by Secret Service agents. Before enactment of that law agents had to rely on local officials operating under local law to arrest. Frequently, local law had no provision which dealt with a physical zone of protection or local officials were incapable of providing adequate protection. Secret Service agents could not fulfill their statutory duties with respect to the President. It inspired the current zone of protection law applicable exclusively to the President.

Reduced to its lowest terms that law creates a Federal misdemeanor for persons violating a zone of physical protection established for the President. Today, through H.R. 4468, we extend the current law to all the protectees of the Secret Service. No longer will agents be uncertain as to their authority, nor will they have to rely exclusively on local officials for investigation or arrest.

I would also point out that no new budget authority is required by this legislation. No new protectees are added to the list of persons now eligible for protection under section 3056 in title 18 of the United States Code.

The Senate has already passed similar legislation and I strongly urge my colleagues to vote for this bill. It is the proverbial ounce of prevention.

Mr. SYNAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR) that the House suspend the rules and pass the bill, H.R. 4468, as amended.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964 AMENDMENTS

Mr. SYNAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4688) to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $20,000 the maximum amount that the United States may pay in settlement of a claim under section 3 of that act, as amended.

The Clerk read as follows:

H.R. 4688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) sections 3(a)(1) and 3(b)(1) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241 (a)(1) and (b)(1)), are amended by striking out "$15,000" and inserting in lieu thereof "$25,000".

(b) The amendments made by this Act shall apply only to claims arising on or after the date of enactment.

(c) Sections (3)(a) (1) and (3) of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 241(a) (1) and (3)) are amended by striking "the Treasury" and inserting in lieu thereof "Transportation".

SEC. 2. No funds may be obligated or expended pursuant to the amendments made by this Act before October 1, 1982.

The SPEAKER pro tempore. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma (Mr. SYNAR) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. McCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SYNAR).

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill H.R. 4688 amends section 3 of the Military Personnel and Civilian Employees Claims Act of 1964 to increase the maximum amount payable for losses of personal property of Federal personnel incident to their service from $15,000 to $25,000. The Department of Defense recommended this increase in an executive communication.

The committee acted after it conducted oversight hearings on claims administration in March 1981 and also after reviewing the need for this amendment at a subcommittee hearing on October 29, 1981. The Military Personnel and Civilian Employees Claims Act provides the authority for the Government to compensate its civilian employees and servicemen when they suffer losses of their personal property in a manner related to their work.

The larger property loss claims stem from moves incident to change in duty stations. This is particularly true in the military services and civilian agencies such as the State Department which require their employees to move on a regular basis. Information from the respective military claims services indicates that on the average in 1981, losses exceeded the $15,000 limit imposed under current law in 1 out of 1,358,689 military moves. After consideration of the claims and the losses had been evaluated, it was found that only 1 out of every 2,187 claims paid exceeded $15,000. At the hearing, the testimony presented established that though individual claims rarely exceed the current statutory maximum, the heavy losses suffered in those few cases that do cause serious morale problems. While Consumer Price Index statistics do not exclusively reflect actual price increases for household goods, the statistics brought to the attention of the subcommittee illustrate that the purchasing power of $15,000 in 1974—the year in which the maximum was last raised—is roughly equivalent to that of $25,000 today.

In recommending this increase, the committee has taken into consideration the factor of inflation as well as individual hardship and morale problems which occur when losses exceed the current maximum. The bill would raise the present limitations on payment for claims under the act to a level consistent with rising costs of repair and replacement of personal property. As noted, these increased costs are due primarily to the general inflationary trend that has occurred over the last several years.

The committee carefully weighed the potential cost to the Government. The Congressional Budget Office estimated a Government-wide annual cost for the next 5 years of from $700,000 to $1 million. The Department of Defense recognized that while the cost to the Government would increase as inflation would cause additional claims to amount to more than $15,000, the estimated cost for all of the Department of Defense for fiscal year 1981 is $300,000. It is estimated that this would increase over a 5-year period to an annual DOD-wide cost of $480,000.

In view of the numbers of Federal personnel affected, these projected Government costs are not large. The significance of the increase provided in this bill, particularly for military personnel, is vital and could mean the difference between the bothersome problem of having to repair or replace personal property and the devastating, uncompensated loss of such property. The assurance that military and civilian personnel will not face such a tragic loss without compensation from the Government should not be lost to the effects of inflation.

Since the increase recognizes the effects of inflation, raising the limit to $25,000 would serve to maintain the level of protection that was previously considered appropriate by the Congress for the type of property covered by the act. With respect to the philosophy of the act, nothing has changed since the last increase in the payment ceiling 7 years ago. The House Judiciary Committee report at the time of the 1974 increase (H. Rept. 93-1320, August 22, 1974, page 3) states that the increase would "serve to maintain the level of protection that was previously considered appropriate for this property by Congress as a matter of fairness, support for morale, of Government personnel. As to the Armed Forces such protection would be a further inducement for entering and continuing membership in the Armed Forces."

The amended bill also provides for a technical amendment to correctly refer to the "Secretary of Transportation" in connection with the settlement authority provided for the Coast Guard in section 3(a) of the act. Section 3(b) has the correct reference and this amendment merely conforms the two subsections.

The amendments provided by this bill meet a clearly defined need. They are required to enable the departments and agencies to deal fairly with their employees and members of the uniformed services when they suffer losses of their personal property while performing their duties. I urge the favorable consideration of the amended bill.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is long overdue. Military personnel and civilian employees of the Federal Government are required to bear personal losses that should be borne by the Government. Morale suffers and efficiency is thwarted under the current law.

When servicemen or civilian employees of the Government are assigned to new duty stations, household effects must also be shipped to the new station. Frequently, household effects are damaged or destroyed in shipment and the current law puts a ceiling of $15,000 on the amount that may be collected for these losses. Anything over that figure must be borne by the employee. At today's prices more and more of those losses are absorbed by the employee or the serviceman. It is also well to note that the Government takes title to the claim by subrogation and proceeds against the shipper. Therefore, these claims are not entirely at the expense of the Treasury. In many instances the Government recoups a substantial part of the losses.

By comparison we must look at what occurs in the private sector when an employee of a corporation moves. The company takes care of the entire cost and even goes to the extent of finding the person a new place to live. When the private sector gives fringe benefits like this, what incentive is there for quality servicemen and civilian employees to remain with the Government.

Moreover, in terms of real purchasing power, this amendment is not an increase at all. It merely maintains the current level of purchasing power when inflation is factored in. As a matter of fact, if we use the Consumer Price Index as the measure it would justify raising the ceiling to $26,000 or $27,000.

To sum up when we are not really raising the claims ceiling we are merely maintaining the current level.

I strongly urge my colleagues to support this bill.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, our subcommittee hearings amply demonstrate the need to raise the ceiling on these claims for personal property damage from $15,000 to $25,000. Since 1974, the last time that this law was amended, the Consumer Price Index would justify raising the ceiling to $27,000.

Most of the claims are in connection with Government directed transfer of personnel. Household effects accompany this transfer and the damage occurs in shipment. All losses in excess of $15,000 must be borne by the employee or servicemen; there is no recourse against the Federal Government. Because of inflation many of these losses now exceed $15,000 and therefore more Government employees have out of pocket expenses. Morale suffers because of this unfairness, and even if the ceiling is raised to $25,000 some employees would still have to bear losses personally.

A private insurance scheme was tried and found to be totally unworkable. Commercial insurers were reluctant to insure military personnel or had large deductibles. Slow claims payments were also common. In the long run a private insurance scheme was found to be more costly than the present system under the 1964 act.

This good-faith attempt to find an alternate system only served to point out how the present scheme is the most cost effective.

In closing I would like to say that there is urgency to this legislation and I urge my colleagues to vote for it.

□ 1315

Mr. SYNAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. McCLORY. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR) that the House suspend the rules and pass the bill, H.R. 4688, as amended.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 265

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of House Resolution 265.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

TECHNICAL AMENDMENTS TO THE PATENT AND TRADEMARK LAWS AND THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

Mr. SYNAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3345) to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act.

The Clerk read as follows:

H.R. 3345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—CHANGES IN THE PATENT AND TRADEMARK LAWS

SEC. 101. Title 35 of the United States Code is amended—

(1) in the first sentence of section 41(a) by striking out "of Patents";

(2)(A) in the first sentence of section 41(b) by striking out "the first day of the first fiscal year beginning on or after one calendar year after enactment of this Act" and inserting in lieu thereof "October 1, 1982";

(B) in the second sentence of section 41(b) by striking out "the first day of the first fiscal year beginning on or after one calendar year after enactment" and inserting in lieu thereof "October 1, 1982";

(3) in the first sentence of section 41(c) by striking out "the fifteenth fiscal year fol-

lowing the date of enactment of this Act" and inserting in lieu thereof "October 1, 1996";

(4) in the first sentence of section 41(d) by striking out "the first day of the first fiscal year beginning on or after one calendar year after enactment" and inserting in lieu thereof "October 1, 1982";

(5) by redesignating chapter 38 as chapter 18 and transferring that chapter from the end of part IV to the end of part II;

(6) in the analysis of part II by inserting the following item after item 17:

"18. Patent Rights in Inventions
Made with Federal assistance .... 200"; and

(7) in the analysis of part III by inserting the following item after item 29:

"30. Prior Art Citations to Office
and Reexamination of Patents .... 301".

SEC. 102. Subsection (b) of section 6 of Public Law 96-517 (94 Stat. 3027) and the amendment made by it are repealed.

SEC. 103. The first sentence of section 31(a) of the Trademark Act of 1946 (15 U.S.C. 1113(a)) is amended by striking out "of Patents".

TITLE II—CHANGES IN THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

SEC. 201. (a) That portion of section 4(a) of the Civil Rights on Institutionalized Persons Act which precedes paragraph (1) thereof is amended by striking out "section 2" and inserting in lieu thereof "section 3".

(b) That portion of section 8 of the Civil Rights of Institutionalized Persons Act which precedes paragraph (1) thereof is amended by striking out "Attorney" and inserting in lieu thereof "Attorney General".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oklahoma (Mr. SYNAR) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SYNAR).

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3345 makes technical and conforming changes in title 35, United States Code, Patents, Public Law 96-517, the Trademark Act of 1946, and the Civil Rights of Institutionalized Persons Act.

The bill was prepared by the House Judiciary Committee to correct certain technical errors in those laws. The bill does not make any substantive change in the law.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 3345, a bill to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act.

As the distinguished gentleman from Oklahoma (Mr. SYNAR) stated, this bill makes no substantive change in existing law.

I urge my colleagues to support H.R. 3345.

Mr. SYNAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR) that the House suspend the rules and pass the bill, H.R. 3345.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provision of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CHEROKEE NATION OF OKLAHOMA

Mr. SYNAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2329) conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma, as amended.

The Clerk read as follows:

H.R. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946, as amended (the Indian Claims Commission Act, 60 Stat. 1049, 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims, or upon the United States District Court for the Eastern District of Oklahoma, to hear, determine, and render judgment, under the jurisdictional provisions of section 2 of the Indian Claims Commission Act of August 13, 1946, as amended (60 Stat. 1049, 1050; 25 U.S.C. 70a), on any claim which the Cherokee Nation of Oklahoma may have against the United States for any and all damages to Cherokee tribal assets related to and arising from construction of the Arkansas River Navigation System, including, but not limited to, the value of sand, gravel, coal, and other resources taken, the value of damsites and powerheads of dams constructed on that part of the Arkansas riverbed within Cherokee domain in Oklahoma, without the authority or consent of said Cherokee Nation; and also on any claim which the Cherokee Nation of Oklahoma may have against the United States resulting from any action under section 14 of the Act of April 26, 1906 (34 Stat. 137, 142), wherein the United States gave away to third parties lands for what are known as station grounds of railroads, said lands being segregated from Cherokee Nation tribal lands without compensation to said Cherokee Nation of Oklahoma therefor; all of said lands or interests therein being held by said Cherokee Nation by virtue of treaties and by patent issued by the United States granting said lands to said Cherokee Nation in fee simple, or otherwise.

(b) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act approved August 13, 1946 (25 U.S.C. 70k), the Court of Claims or the United States District Court for the Eastern District of Oklahoma shall have jurisdiction to the same extent as under subsection (a) of this Act to hear, determine, and render judgment on any claim of the Choctaw Nation and on any claim of the Chickasaw Nation against the United States for any damages to any tribal assets, lands, or interests of such Nations arising from the actions of the United States described in such subsection.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oklahoma (Mr. SYNAR) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SYNAR).

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill, as amended, waives the statute of limitations applicable to two claims against the Federal Government by the Cherokee Nation, the Choctaw Nation and the Chickasaw Nation of Oklahoma. The claims are for damages to tribal assets stemming from the construction of the Arkansas River Navigation System, and for the loss of certain lands acquired for use as station grounds by the railroads.

On December 9, 1981, the Subcommittee on Administrative Law and Governmental Relations held a hearing on H.R. 2329. At that hearing the subcommittee heard testimony from Assistant Attorney General Anthony Liotta, Mr. Ross Swimmer, principal chief of the Cherokee Nation of Oklahoma, and myself.

During the first 35 years of the 19th century, the Federal Government granted the Cherokee, Chickasaw, and Choctaw Nations fee-simple patent in certain lands located in what is now the State of Oklahoma. Included in that patent was some 96 miles of the Arkansas River. The tribes have consistently asserted their claim of title to the river property. A dispute arose shortly after statehood of Oklahoma in 1907 concerning ownership of the riverbed. In response, the Secretary of Interior in 1908, by letter to the State of Oklahoma, stated that the title to the riverbed was vested in the State of Oklahoma by virtue of the Equal Footing Doctrine. In 1946 the Federal Government commenced construction of the McClellan-Kerr Arkansas River Navigation System. In the course of constructing the McClellan-Kerr Arkansas River Navigation System the Federal Government removed sand, gravel and other minerals from the bottom of the portion of the Arkansas River claimed by the Cherokee, Choctaw, and Chickasaw Nations.

Ownership of the bed and banks of the Arkansas River was not settled until 1970, when the U.S. Supreme Court ruled, in *Choctaw Nation* v. *Oklahoma*, 379 U.S. 620 (1970), that the Cherokee, Choctaw, and Chickasaw Nations owned the riverbed. In 1973, 1974, and 1975 Congress appropriated $440,000 annually to fund a study to determine the extent and value of the Arkansas River bed owned by these tribes. The study and appraisals of the assets of the riverbed were made under the direction of the Secretary of the Interior, by competent appraisers under contracts with the Department of the Interior. The appraisers reported the loss of over $8.5 million worth of sand, gravel, and coal as a result of the construction of the Arkansas River Navigation System.

The Department of the Interior invited the Cherokees to negotiate the settlement of the riverbed claim in 1976. The Cherokee Nation negotiated in good faith with the Department of the Interior, and in late 1977 actually agreed to a settlement proposed by the Department. However, in 1978, the Department of the Interior informed the Cherokees that it would not settle the claim. By the time the Department of the Interior refused to settle, the time for bringing suit prescribed by statute had elapsed, and the Cherokees were left with no judicial remedy for the loss of their property.

In a letter to the chairman of the subcommittee, the Department of the Interior defers to the Justice Department which is opposed to this bill. The completed text of the views of the Department of the Interior is reprinted in the appendix of the committee report. The committee does not agree with the view of the Department of the Interior that the doctrine of navigational servitude necessarily requires that the issue of compensation be resolved in favor of the United States. This issue is appropriate for adjudication by the courts.

The committee recommends that the Cherokee, Choctaw, and Chickasaw Nations be permitted to settle their claims against the United States for losses due to the construction of the McClellan-Kerr Arkansas River Navigation System in Federal court, and recommends that the bill, as amended, do pass.

Pursuant to treaties with the United States, the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Indian Nations set aside from their tribal lands owned in fee simple certain lands to be used by such railroad companies as the Congress should designate. The U.S. Congress did authorize certain railroad companies to construct railways through lands owned by these Indian nations. The Congress authorized the railroads to use lands for rights of way and also reserved certain lands outside the rights of way for use by the railroads as station grounds. Pursuant to statute, the ownership of these lands was to revert to the Indains whenever they were abandoned by the railroads.

In due course, the railroads took lands outside their rights of way for use as station grounds, but never developed them for any type of railroad use. Finally, pursuant to section 14 of the act of April 26, 1906, Congress provided that the railroads could purchase these lands at a price to be fixed by the Secretary of the Interior. Upon failure of purchase or abandonment by the railroads, Congress provided that title to the property would vest either in the individual who owned the subdivision of which the abandoned land was a part or in the municipality within which the land was located. Thus, Congress extinguished the reversionary interest in these station ground lands owned by various Indian nations.

In section 18 of the act of April 26, 1906, the Secretary of the Interior was authorized to file suit in the name of any of the five Indian nations referred to in the act to recover any moneys or lands claimed by the respective tribes. However, the Secretary of the Interior has failed to pursue any of these station ground claims on behalf of any of the affected Indian nations.

In 1924, Congress authorized the above tribes to file suits in the U.S. Court of Claims against the United States for claims arising out of treaties and acts of Congress. The Creek and Seminole Nations as well as the Choctaw and Chickasaw Nations pursued claims against the United States for the loss of their station ground lands in the Court of Claims pursuant to the jurisdiction created by this act of Congress. The Court of Claims dismissed the claim of the Creek and Seminole tribes and the U.S. Supreme Court affirmed that dismissal in *Creek and Seminole Nations* v. *United States*, 318 U.S. 629 (1943). The Cherokee Nation failed to file a claim against the United States for loss of their station grounds in 1924. The Choctaw and Chickasaw Nations did not pursue an appeal when their claim was dismissed by the Court of Claims.

In 1946 Congress enacted the Indian Claims Commission Act, 60 Stat. 1049 and in 1951 the Creek and Seminole Nations filed yet another claim against the United States for loss of their station grounds. This claim, however, was based on the fair and honorable dealings jurisdiction of the Indian Claims Commission Act. The Indian Claims Commission dismissed the case on grounds of res judicata. On appeal, the U.S. Court of Claims reversed the Commission in part and upheld the claim for the value of station grounds lands given away to municipalities.

Though there is clear precedent for a claim against the United States by the Cherokee, Choctaw, and Chickasaw Nations for the loss of those station ground lands transferred to municipalities, there is no jurisdiction for adjudication of these claims since they arose in 1909 when the lands in question were transferred to municipalities without compensating the Indians.

The committee recommends that the statute of limitations be waived with regard to these claims and recommends that this bill, as amended, do pass.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill has two separate claims in it. The first claim deals with the Arkansas River bed and the minerals extracted therefrom by the Army Corps of Engineers. Since the Supreme Court has decided in Choctaw Nation against Oklahoma that the Cherokee Nation owns the riverbed, they should be entitled to compensation. The matter has been carefully studied for several years under several administrations. All parties reached the conclusion that the Cherokees were entitled to compensation. Negotiations began in earnest and papers were drawn up to conclude the matter but the Government backed out. I suspect the past administration was neglectful in settling this matter with the Cherokees. This bill does not ask for any money—it merely seeks authority to battle the issue in court.

With respect to the railroad station land claims, all of the facts are just not available. Our subcommittee hearings never looked that closely as to the details of the station claims and the impact it might have, I supported an amendment by my colleague from Ohio, Tom Kindness, to separate the riverbed claims from the railroad station claims so that the latter could be sent to committee for a closer look. That amendment lost, unfortunately. I believe this bill should be defeated and sent back to committee for separation of the matter and that the railroad station claims should not be approved without further study.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Speaker, In essence this bill waives the statute of limitations with respect to certain claims of the Cherokee Nation of Oklahoma. It will confer jurisdiction on certain courts of the United States to hear and render judgment in connection with the Cherokee claims. Specifically, H.R. 2329 deals with two types of claims. The first deals with compensation for the removal of minerals from the Arkansas River bed. The Supreme Court decided in 1970 that the Cherokee, Choctaw, and Chickasaw Nations owned the riverbed. Following the Supreme Court decision, the Department of the Interior studied the matter and determined the value of the minerals removed from the river by the Army Corps of Engineers to be over $8 million. Settlement negotiations began in earnest but the Government backed out. During this time the statute of limitations has been tolled. Therefore, I believe the Arkansas River bed claims are still valid. I would support the waiver of the statute of limitations on that issue so the Cherokees can bring their claim to court.

With respect to the second claim dealing with abandoned railroad station lands within municipalities, I am not so sure. These claims should be separated from the riverbed claims because they are an entirely different matter. Even though the Indian nations are only seeking authority to go to court, the Congress nevertheless has a responsibility to look more thoroughly into the matter.

To sum up then I do support this legislation on the riverbed claims. However, I think it would be prudent to separate the railroad station claims.

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Mr. MOORHEAD. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentlemen for yielding.

I think it is important for us to reemphasize that the subcommittee of the Committee on the Judiciary did not establish a record with respect to just what we are dealing with with regard to the railroad station lands claims.

So I emphasize that point.

That is a very great distinction, I think, between that part of the bill and the other type of claim which has been subjected to study. There has been a determination of just what is involved in the mineral values in the gravel and sand taken from the riverbed, and that is a situation that gave rise to the introduction of this bill in the last Congress and the Congress before and the controversy has been pretty well focused and it does appear to me that the Government of the United States is not in a position of having exhibited good faith with respect to the claims of the Cherokee Nation to those mineral rights in the riverbed.

I do feel that by adding in the railroad station lands in the same bill it is to a certain degree getting a free ride. A different set of legal principles at least seem to me to be involved. I wish that the subcommittee had the opportunity to get more information about just what the implications would be of passage of this bill with the waiver of the statute of limitations relating to those railroad station land claims.

We do not know where the lands are exactly. We do not know the amount of acreage involved. We do not know the value attributable to those lands. We do not know whether we are doing a thing that may indeed be a very small, almost an inestimatably small act, or it might be a very great thing. It might be opening the door to millions and millions of dollars in damages to be paid by the United States to the Cherokee Nation.

On the other hand, it may be practically a futile thing if the lands that are probably involved in these claims happen to turn out to be relatively few acres in relatively nonvaluable locations.

But as was used metaphorically or rhetorically in the subcommittee discussion, suppose it was 30 acres of downtown Tulsa? We are assuming that is not involved. But nonetheless suppose you had some very valuable acreage used for other purposes in the heart of a municipality for a number of years, with quite a bit of value attributed to those lands and the buildings built on them? What kind of disruptions are likely to be caused?

We are talking mainly about damages to be paid by the United States of America to the Cherokee Nation, of course. We are assuming that the court would apply the values as of 1906 when the conversion occurred or is alleged to have occurred.

I think we cannot necessarily make that assumption that it would be 1906 values that would be used.

So a lot of these unknown answers to questions that are yet to be articulated and made record of really should have been determined before the railroad station lands claim portion of this bill came forward for consideration by the House.

It was our thinking that very likely the Committee on Interior and Insular Affairs would have examined this bill in sequential referral. That, as I understand it, did not occur. It was rather summarily dealt with, as I understand it, by the Committee on Interior and Insular Affairs without the kind of hearings that would give rise to the answers to these questions.

Therefore, I think we have an incomplete record on which to make an intelligent decision. It is regrettable that the bill could not be brought up under a rule so that the amendment could be presented to separate these two claims and to eliminate from this bill the one relating to the railroad station lands claims.

I think it is an entirely different matter and it may indeed, when the record is made, prove to be every bit as proper a claim, but at this point we do not have that record to exhibit that and I would urge that the bill be defeated on suspension.

Mr. MOORHEAD. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I rise in opposition to H.R. 2329.

I have appreciated the discussion of the railroad claims portion of the bill and I think that it makes adequate enough reason for voting against the bill under suspension.

However, I also want to point out to the membership that, according to the Department of Justice this legislation would waive a clear policy of Congress, that of the statute of limitations applicable to Indian claims. By enactment of the Indian Claims Act of 1946, Congress established an unambiguous statutory policy that all tribal claims which arose prior to August 13, 1946, were to be filed within 5 years and that no claim not so presented "may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by Congress."

The Department of Justice is concerned that part of H.R. 2329 would permit the Cherokee Nation of Oklahoma to bring suit on any claim it believes it has for damage to tribal assets arising out of the construction of the Arkansas River navigation system. I note that the bill does not say that there is any such claim. It does not give any credence to the legitimacy of such a claim.

I raise this issue because notwithstanding the ownership rights of the tribe in the bed of the river, the United States is simply not obligated to compensate for any destruction of property resulting from a Federal project in the aid of navigation.

It appears to me that H.R. 2329 permits the institution of legal action, and only the institution of legal action. It will be a lawsuit that will have a predetermined result. That is, there is no legitimate claim against the United States for the exercise of its navigational servitude.

What we are permitting here is to allow the tribe to file a lawsuit, have the United States defend the action, and have the courts render a judgment in favor of the Government on the claim that the tribe is entitled to compensation for activities of the United States in furtherance of the navigational servitude.

H.R. 2329 certainly does not waive the right of the United States to exercise its authority under the commerce clause, nor does it provide that there should be any compensation paid. The resources of the Justice Department, the tribe and the courts would be wasted. I believe that Congress is simply passing the decision to another forum, the courts. I believe we should exercise our responsibility directly.

Because H.R. 2329 abrogates a long held policy of the Congress, a policy that has been subject to few exceptions, and because it permits litigation over an issue which can have only one result, along with the Department of Justice, I oppose passage of H.R. 2329.

Mr. SYNAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. UDALL), the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Speaker, I rise in support of H.R. 2329, a bill to allow the Cherokee, Choctaw, and Chickasaw Tribes to bring certain claims against the United States in Federal courts.

This legislation was jointly referred to the Judiciary Committee and the Committee on Interior and Insular Affairs. Because of the complete and thorough job done by the Judiciary Committee during its subcommittee hearings on the bill and in order to avoid duplication of these commendable efforts, the Committee on Interior and Insular Affairs decided to allow the Judiciary to bring the bill on the floor without further action by the committee.

The bill, as amended and reported out of the Judiciary Committee, is not an adjudication of these claims in these tribes' favor or not an appropriation of funds to these tribes. It just waives applicable statute of limitations and allows the three tribes to file their claims in Federal courts so that the courts can decide whether legally, these tribes are entitled to any damages. Since the bill, as reported, will only allow the three tribes to have their day in court I urge passage of the bill.

Mr. SYNAR. Mr. Speaker, I yield myself such time as I may consume, and I submit for the RECORD a letter from the chairman of the Committee on Interior and Insular Affairs to the chairman of the Committee on the Judiciary concerning those remarks.

The letter is as follows:

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., March 11, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that the Committee on the Judiciary has ordered, the bill, H.R. 2329 reported with an amendment. As you know, this legislation was jointly referred to the Committee on Interior and Insular Affairs because it contained matter within our jurisdiction.

This Committee's staff has worked closely with your staff during the consideration of the bill. They have advised me that the bill as ordered reported by your Committee is supported by the Cherokee Tribe and other concerned parties. In order to avoid the duplication of the efforts of your Committee, this is to advise you that we have no objection to your bringing the bill to the floor when and as you deem appropriate without further action by our Committee. This procedure also has been cleared with the relevant minority members of this Committee.

Nothing in this letter should be construed to waive or impair the jurisdiction of the Committee on Interior and Insular Affairs over relevant matter in the bill, H.R. 2329.

Sincerely,

MORRIS K. UDALL,
Chairman.

Mr. SEIBERLING. Mr. Speaker, I happen to be on both the Judiciary Committee and the Interior and Insular Affair Committee and I think that this is a case that is crying out for approval by this House.

The issue is a very simple one. Is the Government of the United States going to hide behind a technicality to prevent the Cherokees and the other Indian nations affected from having their day in court?

Now, it is a sad irony that one of the most black marks on this Nation's history was the treatment of the Cherokee Nation back in the early 19th century. If any of you have gone to Cherokee, N.C., where the Cherokee Nation originated, and attended the wonderful dramatic presentation there that goes on each evening during the summer, or have read the history of the Cherokee Nation, you cannot help but be impressed with the terrible tragedy that was inflicted upon these people at the hands of the Government of the United States.

The famous march of tears under which all of the Cherokees that could be rounded up, in North Carolina, were marched on foot, in terrible, severe weather, all the way from North Carolina to Oklahoma, many of them dying on the way, was one of the most atrocious acts in our history. It is comparable to the infamous Bataan death march that the Japanese inflicted on our soldiers in World War II.

So here we have a Native American nation with which we have been working to make some sort of restitution to wipe out that kind of blot on our historical record and one of the things we did was a generous land settlement for those who went to Oklahoma. Among other things, that land settlement gave to the Cherokee Nation the title to the lands in question in this bill.

Now there is not any question but that at one time they could have brought an action in the U.S. district court or the Court of Claims. Why was not an action brought? Well, in the case of the riverbed claims, it was not brought because the Department of the Interior was negotiating, and negotiated for several years, and gave the Cherokees cause to believe that they would achieve a settlement by agreement rather than having to go to court. But then after the statute of limitations expired, the Department of the Interior said, in effect, "So sorry, we have decided we are not going to agree with you and now you cannot bring an action because the statute of limitations has expired." Is this justice?

That is what we are here for, to see that justice is done.

Similarly, in the case of the station lands claims, the Department of the Interior, as the trustee at that time for the Indian tribes of this country, had a fiduciary duty to assert those claims in a timely manner. They failed to do so. Can they now be heard to say that the statute of limitations has run and the court proceedings are no longer applicable and, therefore, we should not even allow these people to have their day in court?

The gentleman from California and the gentleman from Pennsylvania raised some questions about what the exact nature of the claims were and where the lands were located and what the amounts were. That is not the job is this body to decide. That is what the Court of Claims is for. They can sort out the facts. They can sort out the amounts involved and they can come to a decision. They may well hold that in some cases there are no valid claims.

But that is not our job to decide and that is not what this bill decides. All this bill does is say that these people should be entitled to their day in court. In view of the long and tragic history of injustices inflicted on these Indian peoples, the least we can do is see that they are entitled to that. I commend the gentleman from Oklahoma for taking the initiative in this legislation.

Mr. SYNAR. I want to thank the gentleman from Ohio. I do not think that I have heard a more articulate or eloquent statement as to what is at stake here.

I think the gentleman has done the Cherokee Nation a great service. I think the gentleman has appropriately pointed to the Department of the Interior, whose failure to act has made this bill necessary. But most of all the gentleman has done the Cherokee Nation and the State of Oklahoma a great service and on their behalf, I want to thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I just want to point out that the Administrative Law Subcommittee, has the responsibility beyond dumping everything off to the Court of Claims that might come to us.

If we sent everything to the Court of Claims of bills coming before our subcommittee, the courts would really be swamped and their expenses would be much greater than they should be.

The subcommittee has certain requirements and certain standards that we keep before referring anything to the Court of Claims or before approving an amount of money.

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Our point is that we do not believe those standards were met as to the second part of this bill. We feel we have a responsibility beyond just sending something off to a court where expenses are going to be borne.

We do not feel that the statute of limitations is just another technicality to hide behind. It is a very important principle of law on every level. If we did not have the statute of limitations, our courts would be so swamped that they would never be able to keep up with the reponsibilities that they are given by the people of the United States. I think that it is very important.

We waive that statute on occasion where principle requires us to, but we do not waive it without looking into the facts and finding what they are, first. That was not done with the second half of this bill in an adequate fashion to convince me and other members of the subcommittee that our responsibility was met.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I would be happy to yield.

Mr. SEIBERLING. Well, on the first point the gentleman makes, I would like to point out that the subcommittee is a subcommittee of the Judiciary Committee, and the Judiciary Committee overruled its subcommittee, so that disposes of the subcommittee's approach.

The Judiciary Committee felt that the subcommittee should have taken a different approach.

Second, I agree that the statute of limitations is important, but it is a technical requirement of the law, the primary purpose of which is to see that justice is done. Where the administration's hands are not clean, in that they abdicated their trusteeship responsibilities and that they misled people into relying on good-faith negotiations, to their detriment, then it seems to me that at that point justice demands that we waive what is basically a technical feature of the law.

It is an important feature, but one that we have waived before and we should do it again and the committee felt that this was an appropriate situation.

Mr. MOORHEAD. Well, if the gentleman please, I certainly agree with the gentleman on the first portion of the bill and I so stated as I made my argument, that it should be paid, it should be handled; but there is no showing whatsoever that those same facts were present with the second part of the bill—the railroad station claims.

What we are objecting to is something added at a later date.

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I would be happy to yield.

Mr. SYNAR. The gentleman, who is a distinguished member of that subcommittee, will recall that when the Justice Department testified on this bill, there was no mention whatsoever of any opposition by the Department to the station grounds case. If they were going to object to it, why did they not testify at that time?

There was no mention of their objection.

Mr. MOORHEAD. As far as the Department of Justice or any other department, our decisions are not based upon what they want or what they do no want. They are based upon what we think is right as we handle the cases that come before the Administrative Law Subcommittee. We try not to be hard-shelled in the way we handle these things.

I think the gentleman may very well prove his case. The gentleman may be right as to the end result, but I do not think we should make that decision without those facts.

Mr. SYNAR. Mr. Speaker, I would conclude today by saying very simply that I represent the area around the Arkansas River.

I think the gentleman from Ohio was concise and articulate in summarizing what the issue is here. It is a question of justice. Have we been just in our dealings with the Indian tribes?

Second, has the Department of the Interior exercised its obligations as trustee for those Indian tribes?

I think when my colleagues on both sides of the aisle ask those two questions they will find that justice has not been served and that the Department of the Interior has failed in its trust responsibility.

With that, Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. Synar) that the House suspend the rules and pass the bill, H.R. 2329, as amended.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

REAFFIRMING TO THE PEOPLE THEIR INSURANCE ON SAVINGS DEPOSIT ACCOUNTS

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 290) reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

The Clerk read as follows:

H. Con. Res. 290

Whereas, since the 1930's, the American people have relied upon Federal deposit insurance to ensure the safety and security of their funds in federally insured depository institutions; and

Whereas the security of such funds is an essential element of the American financial system: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress reaffirms that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

The 'SPEAKER pro tempore. Is a second demanded?

Mr. STANTON of Ohio. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. St Germain) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. Stanton) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. St Germain).

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, recently numerous reports and newsstories have discussed serious problems in the thrift industry, raising fears among some depositors that their funds might be jeopardized if there were large-scale failures of depository institutions.

The resolution before the House today confirms that depositors whose accounts are federally insured up to the statutory $100,000 limit of Federal insurance are completely protected by the full faith and credit of the United States.

The resolution points out that since the 1930's the American people have relied upon Federal deposit insurance to insure the safety and security of their funds in federally insured depository institutions and that the security of those funds is an essential element of our American financial system.

In recent times, as I have said, the condition of certain depository institutions has caused some depositors to be concerned about the safety of their funds in such depository institutions and to seek reassurance regarding the Federal commitment to safeguard the availability of these funds.

Therefore, the resolution reaffirms that deposits up to the statutorily prescribed amount in federally insured depository institutions are, indeed, backed by the full faith and credit of the United States of America.

The contents of this resolution have been discussed with the other body and there appears to be a consensus on the contents.

Mr. Speaker, I reserve the balance of my time.

Mr. STANTON of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join my good friend, the gentleman from

Rhode Island, in support of this concurrent resolution which, I might add, has been discussed with the leadership of the Senate Banking Committee and which reflects agreement between the two bodies.

Mr. Speaker, as the gentleman has said, mainly what we are doing here is restating the obvious. For over 50 years it has been recognized throughout our country that insured deposits are supported by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. As of the Depository Institutions Deregulation and Monetary Control Act of 1980, individual deposits are insured by the Federal Government to the amount of $100,000.

This legislation simply restates that fact, Mr. Speaker. It states that, indeed, not only are they insured but the full faith and credit of the Government of the United States is behind these deposits.

Some say that this step that we are taking, is totally unnecessary, but we were asked to do it, Mr. Speaker. I do it wholeheartedly and with enthusiasm.

With that, Mr. Speaker, I yield 2 minutes to our friend and fellow colleague, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank my distinguished colleague for yielding me this time.

I rise to join with the distinguished chairman and the ranking minority member on the Committee on Banking, Finance and Urban Affairs, in support of this resolution.

Recent events have, indeed, caused some depositors to become concerned about the safety of their savings accounts in these institutions. We are here today merely to express the sentiment of Congress that depositors in federally insured institutions need not be concerned about their accounts, which in many cases may be their entire life savings.

Deposit insurance was first discussed when the Federal Reserve System was created in 1913. It was finally, enacted into law in 1933 with the Banking Act of 1933 and the maximum amount of insurance at that time was $2,500, I might say. Today, of course, we know that deposits are insured up to $100,000.

I think it is worth pointing out here on the House floor today that not one single account has ever lost any money or put another way not one single insured depositor has ever lost any money in these institutions since the accounts have been insured.

I am confident that the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation have adequate funds to meet all their needs; but we are restating it here that the full faith and credit of the United States is behind these insurance funds.

I urge all my colleagues to join in support of this resolution.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. MOFFETT).

Mr. STANTON of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Speaker, I rise in strong support of the concurrent resolution. The security hallmark of the American financial system is deposit insurance. Since its initiation in 1934, it has been the single most important factor in creating and maintaining public confidence in our financial institutions.

Today, the sanctity of our financial system is being challenged by the problems threatening the thrift industry. Since the late 1970's, the industry's defined mission of borrowing short and lending long to finance home mortgages has undercut the reserve position of most thrift institutions. Rising and increasingly volatile interest rates accompanying inflation, together with the creation of new market-rate financial instruments and the emergence of less regulated competition in the form of money market mutual funds have caused the cost of money to thrifts to exceed the return on their mortgage portfolios. Currently, the average rate of interest paid to depositors, 11.5 percent, exceeds the average rate of return from mortgage investments, 10 percent, for a negative spread of 150 basis points. This negative profitability has been translated into a gravely deteriorating net worth for a sizable proportion of the industry.

Compounding the profitability problem is the thrift industry's inability to attract new deposits. The thrifts' share of retail deposits has been declining sharply since 1979, and last year, the industry experienced a record net savings outflow of $25.5 billion. While this was due in part to the weakening competitive position of regulated financial intermediaries as compared to money market mutual funds and other alternative forms of savings, thrifts have been losing ground to commercial banks as well. Clearly depositors have come to feel that their money may now be safer if held at commercial banks. In the case of money market certificates, for example, where thrifts and commercial banks offer virtually identical instruments, balances in 1981 decreased by 1 percent at thrifts but rose almost 22 percent at commercial banks.

Such public acknowledgement of the deteriorating financial condition of the thrift industry has all the earmarkings of a quiet run. An open run was experienced last month by Hartford Federal Savings & Loan Association. As the plight of the thrift industry receives more attention in the media—perhaps ironically as a result of efforts to rescue it—a nationwide rush to withdraw funds could materialize. In such a panic, the public—especially that part of it old enough to recall the Depression—is not likely to distinguish between thrifts and other depository institutions.

The Federal Savings & Loan Insurance Corporation, the Federal Deposit Insurance Corporation, and the National Credit Union Share Insurance Fund, the Federal agencies which insure deposits, contain $6.6 billion, $11.6 billion, and $178 million, with a $750 million, $3 billion, and $100 million line of credit respectively. Public concern is growing, however, as to whether these funds are sufficient to cover deposits in all institutions that may fail. There is particular anxiety among the financially more sophisticated who know that the U.S. Treasury is not bound legally to replenish the insurance funds once they are exhausted.

In order to stem a potential panic and to restore public confidence in all types of federally insured depository institutions, we must insure that funds will be available to every depositor who seeks to withdraw them. That is what this resolution reaffirms—that the full financial resources of the U.S. Government stand behind federally insured deposits up to the statutorily prescribed amount. I urge wide bipartisan support for this resolution. It is the obligation of the House of Representatives to make categorically clear that no depositor will ever lose money in an insured account in a federally insured depository institution. The experience of the Depression is to be learned, not repeated.

Mr. STANTON of Ohio. Mr. Speaker, I yield myself 1 minute.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. STANTON of Ohio. I am happy to yield.

Mr. WALKER. I just think that in passing the resolution, I understand from the gentleman's explanation what he intends and what the chairman intends on the bill, but I think it might be well to get in the record, though, that we are passing this resolution not out of any panic that there is something happening within the economy, that might cause people to think that this was a necessary emergency kind of action. If I understand the explanation of the gentleman, what we are doing here is simply providing assurance that has always been there that, indeed, the U.S. Government does stand behind the deposits of people, particularly in the savings and loans of the country, and that we are not taking any kind of emergency step here.

Am I correct in that assumption?

Mr. STANTON of Ohio. The gentleman's assumption is absolutely correct and I am glad he brought it up if he had that thought in mind at all. No; this is something, as I say, that has been there for 50 years. This is stating the obvious and I am just very happy to do it.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. STANTON of Ohio. I am happy to yield to the gentleman.

Mr. ST GERMAIN. It is a reaffirmation as we approach the 50th anniversary of deposit insurance.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. STANTON of Ohio. I am happy to yield to the gentleman.

Mr. PARRIS. Mr. Speaker, I am not sure I want to join in the comments of my esteemed chairman in that regard, but I would like to address a question to the ranking minority member.

I rise as a cosponsor of this resolution in strong support of it, but I would inquire of the gentleman that if necessary to increase the Treasury drawing rights, which are approximately $750 million as of today, if that became necessary to carry out the functions of this resolution, is it the gentleman's opinion that this Congress should and probably would do so if it became appropriate and necessary?

Mr. STANTON of Ohio. Once again, I assure the gentleman, I would absolutely endorse the idea if it ever became necessary that additional funds were needed at that time and I wish to assure the gentleman there is no question in my mind not only would I support it, but the House would certainly support it.

Mr. PARRIS. I thank the gentleman.

Mr. STANTON of Ohio. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

● Mr. ANNUNZIO. Mr. Speaker, I am proud to be a cosponsor of House Concurrent Resolution 290 reaffirming to the American people that the United States stands behind their insured deposits.

It has become fashionable in some circles to raise the specter that Federal deposit insurance is inadequate. This talk is irresponsible and disregards the fact that the United States stands behind the Federal agencies that insure each depositors' account up to $100,000.

Articles in popular magazines and television shows about the 1929 crash have also contributed to raising baseless fears. In one town a combination of a newspaper report and a television movie led to a temporary run on a local savings institution. If depositors had only stopped for a minute to remember that their deposits are insured by the United States, they could have saved themselves wasted time and effort.

The resolution that we consider today reaffirms and reenforces to the American people that their Government fully stands behind their insured deposits. Many of us lived through the Depression and we recall the effect of bank failures on small savers. Life savings were wiped out overnight. To prevent a recurrence the Congress instituted Federal deposit insurance. Since we began that insurance nearly 50 years ago, not one American has ever lost 1 cent of his insured deposits. That is a record that we will keep intact this year, next year, and for as long as the United States exists. Every depositor in every insured institution can rest assured that his or her deposit is completely safe up to the $100,000 insurance limit.

Today 65 percent of American families own their own homes. That phenomenal rate of homeownership is due to the great success that thrift institutions have had in attracting the deposits of American savers. A large cornerstone that guaranteed the attraction of those deposits is the knowledge that the money is insured by the U.S. Government. The safety of that money has contributed in large part to this Nation's ability to provide the money necessary to build affordable housing for the average American.

Mr. Speaker, this resolution does not add any new legal rights backing deposit insurance. No new rights could be added since the United States already fully stands behind these deposits. It is unfortunate that media stories concerning the condition of thrift institutions have led to unreasoned fear about the safety of deposits. These deposits are safe, and there is nothing to fear. As President Roosevelt, who helped found deposit insurance said, "we have nothing to fear but fear itself."●

● Mr. LUKEN. Mr. Speaker, I rise in support of House Concurrent Resolution 290 which reaffirms that federally insured deposits will be protected by the U.S. Government.

We have an opportunity today to set the record straight and to allay the fears of those depositors who remember too clearly the days before Federal Government account insurance was in force—the days before the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Share Insurance Fund were created. Since these insurance programs were created during the 1930's, it has been implicit that the full faith and credit of the U.S. Government stand behind every deposit in an insured institution, up to the account insurance limit. By passing House Concurrent Resolution 290, we can explicitly reassure our constituents.

There is no question in my mind that the safety and soundness of depository institutions is being preserved. Yet public anxiety has been aroused by news stories. Consequently, problems exist. Without this backing, these institutions will be hard put to assist economic recovery through lending for houses, automobiles, and other consumer goods, not to mention loans for small businesses and the agricultural sector.

This is a needless and self-defeating situation, Mr. Speaker. It is self-defeating because individuals making withdrawals are draining the very capital pool they must rely upon for lendable funds. It is further self-defeating for those who are having to pay the penalties prescribed by law for early withdrawal. It is needless because, since the 1930's, the Federal Government through its agencies has insured savings deposits. Currently, the level of that insurance is $100,000 per account.

I urge my colleagues to vote for House Concurrent Resolution 290. It is important that we pass the resolution, Mr. Speaker, if we are to preserve the safety and soundness of these financial institutions, and, by so doing, contribute to the economic recovery which this Nation so desperately needs.●

● Mr. PAUL. Mr. Speaker, I think that it is imperative that the House realize the meaning and ramifications of this resolution before voting on it. Since the resolution was introduced only a few minutes ago and is not yet in print, I am taking this opportunity to explain its meaning.

Present law does not affirm that the "full faith and credit of the United States" stand behind all insured deposits. The use of the word "reaffirming" is seriously misleading, causing some to think that the House is simply restating present law. It is not. Deposits are backed only by the insurance funds' reserves. Premiums paid by depository institutions are the source of those reserves, not tax revenues. In addition, there is limited borrowing authority from the Treasury.

These insurance funds were supposed to operate like private insurance funds, with claims paid out of reserves accumulated through premiums. This resolution changes the whole method of backing the deposits.

This resolution neither appropriates funds nor allows the insurance agencies—FDIC, FSLIC, and NCUSIF—to draw funds directly from the Treasury. But I am confident such funds would be appropriated or made available in accordance with this resolution. The resolution is a major new commitment of the Government, constituting a moral obligation of enormous proportions.

Third, the present reserves of the three insurance agencies are about 1.4 percent of the insured deposits. There are approximately $1.5 trillion in insured deposits, but only $22 billion in reserves. By contrast, the reserves of the life insurance companies amount to about 11 percent of their insurance in force, with additional assets besides. If the reserves of the funds are inadequate, and they obviously are, the premiums paid by the institutions should be raised. There is no reason the taxpayers should be rolled in order to compensate for our present irresponsible policy of low premiums.

Then there is the matter of the public's growing fear for the safety of their deposits. This resolution is designed to reassure the public. I believe, however, that it may actually precipitate a panic. If things are so bad—and they apparently are—that measures such as this are necessary, any alert depositor is going to take prompt action to protect his assets.

Finally, for too long we have been trying to fool the American people with our paper money, fractional reserve banking system. Now the chickens are coming home to roost. This resolution makes it clear that our response to a banking panic will be hyperinflation of the currency. The proper question is not, Will the depositors get their money? It is rather, Will their money be worth anything when they get it? It is too late to continue patching up the holes in our sinking monetary system; Congress has bamboozled the people for too long. Let us not pass this resolution ignorant of its meaning and hope that the problems we have caused will disappear.●

● Mr. GEPHARDT. Mr. Speaker, I rise today in support of House Concurrent Resolution 290, reaffirming that deposits, in federally insured depository institutions, up to the statutorily prescribed amount, are backed by the full faith and credit of the United States.

High interest rated and overacceleration of the deregulation efforts regarding the thrift industry have threatened the livelihood of these institutions. Combined with profitability problems caused by high and volatile interest rates, the industry has encountered difficulty in attracting new deposits to their institutions. Therefore, while their cost of funds has increased dramatically, their return on assets has risen too slowly in all but a few cases. These short-term problems, however, can be overcome as long as confidence in the system remains.

This resolution simply restates the fact that these deposits are insured and the full faith and credit of the United States stand behind them. The devastating effect that high interest rates have had on all sectors of our economy is certainly of concern to all of us. However, those individuals who have deposited their hard earned funds in federally insured accounts need not worry. While I hope this resolution is unnecessary, I stand behind it 100 percent.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 290.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

MISCELLANEOUS REVENUE ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4717) to delay for 1 year the effective date of certain provisions recognizing gain on certain dispositions of LIFO inventories, to make adjustments in the net operating loss carryback and carry-forward rules for the Federal National Mortgage Association, and to require information returns with respect to safe harbor leases, with the Senate amendment thereto, to concur in the Senate amendment with an amendment which consists of the text of H.R. 5836, insist on the House amendment to the Senate amendment, and request a conference with the Senate thereon.

The Clerk read the title of the bill.

The House amendment to the Senate amendment is as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I—TAX PROVISIONS

SECTION 101. SHORT TITLE AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This title may be cited as the "Miscellaneous Revenue Act of 1982".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 102. DELAY IN PROVISION RECOGNIZING GAIN ON CERTAIN DISPOSITIONS OF LIFO INVENTORIES.

Paragraph (3) of section 403(b) of the Crude Oil Windfall Profit Tax Act of 1980 (relating to effective date for recognition of gain on certain dispositions of LIFO inventories) is amended by striking out "December 31, 1981" and inserting in lieu thereof "December 31, 1982".

SEC. 103. ADJUSTMENTS TO NET OPERATING LOSS CARRYBACK AND CARRYFORWARD RULES FOR FEDERAL NATIONAL MORTGAGE ASSOCIATION.

(a) 10-YEAR CARRYBACK AND 5-YEAR CARRYFORWARD FOR LOSSES OTHER THAN MORTGAGE DISPOSITION LOSSES.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by redesignating subparagraph (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of a net operating loss of the Federal National Mortgage Association for any taxable year beginning after December 31, 1981—

"(i) such loss, to the extent it exceeds the FNMA mortgage disposition loss (within the meaning of subsection (i)), shall be—

"(I) a net operating loss carryback to each of the 10 taxable years preceding the taxable year of the loss, and

"(II) a net operating loss carryover to each of the 5 taxable years following the taxable year of the loss, and

"(ii) the FNMA mortgage disposition loss shall be—

"(I) a net operating loss carryback to each of the 3 taxable years preceding the taxable year of the loss, and

"(II) a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.".

(b) RULES RELATING TO FNMA MORTGAGE DISPOSITION LOSS.—Section 172 is amended by redesignating subsections (i) and (j) as subsections (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) RULES RELATING TO FNMA MORTGAGE DISPOSITION LOSS.—

"(1) FNMA MORTGAGE DISPOSITION LOSS DEFINED.—

"(A) IN GENERAL.—For purposes of subsection (b)(1)(H) and this subsection, the term 'FNMA mortgage disposition loss' means for any taxable year the excess (if any) of—

"(i) the losses for such year from the sale or exchange of mortgages, securities, and other evidences of indebtedness, over

"(ii) the gains for such year from the sale or exchange of such assets.

"(B) FNMA MORTGAGE DISPOSITION LOSS CANNOT EXCEED THE NET OPERATING LOSS FOR THE YEAR.—The amount of the FNMA mortgage disposition loss for any taxable year shall not be greater than the net operating loss for such year.

"(C) FORECLOSURE TRANSACTIONS NOT INCLUDED.—In applying subparagraph (A), any gain or loss which is attributable to a mortgage foreclosure shall not be taken into account.

"(2) COORDINATION WITH SUBSECTION (B)(2).—In applying paragraph (2) of subsection (b), a FNMA mortgage disposition loss shall be treated in a manner similar to the manner in which a foreign expropriation loss is treated.".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 172(b)(1) is amended by striking out "(H), and (I)" and inserting in lieu thereof "(H), (I), and (J)".

(2) Subparagraph (B) of section 172(b)(1) is amended by striking out "and (I)" in the second sentence and inserting in lieu thereof "(H), and (J)".

(3) Subparagraph (I) of section 172(b)(1), as redesignated by subsection (a), is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(4) Paragraph (3) of section 172(j), as redesignated by subsection (b), is amended by striking out "subsection (b)(1)(H)" each place it appears and inserting in lieu thereof "subsection (b)(1)(I)".

(d) Effective Date.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 1981.

SEC. 104. AWARDING OF REASONABLE LITIGATION COSTS TO TAXPAYER WHERE TAXPAYER PREVAILS AND UNITED STATES POSITION WAS UNREASONABLE.

(a) In General.—Subchapter B of chapter 76 (relating to proceedings by taxpayer and third parties) is amended by redesignating section 7430 as section 7431 and by inserting after section 7429 the following new section:

"SEC. 7430. AWARDING OF REASONABLE LITIGATION COSTS WHERE TAXPAYER PREVAILS AND UNITED STATES POSITION WAS UNREASONABLE.

"(a) In General.—In the case of any civil proceeding which is—

"(1) brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, and

"(2) brought in a court of the United States (including the Tax Court),

if the position of the United States in such proceeding was unreasonable, the prevailing party may be awarded a judgment for reasonable litigation costs incurred in such proceeding.

"(b) Limitations.—

"(1) Award may not exceed $50,000.—The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any proceeding shall not exceed $50,000.

"(2) Requirement that administrative remedies be exhausted.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(3) Only costs allocable to the United States.—An award under subsection (a) shall be made only for reasonable litigation costs which are allocable to the United States and not to any other party to the proceeding.

"(4) Exclusion of declaratory judgment proceedings.—

"(A) In general.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) Exception for section 501(c)(3) determination revocation proceedings.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(c) Definitions.—For purposes of this section—

"(1) Reasonable litigation costs.—

"(A) In general.—The term 'reasonable litigation costs' includes—

"(i) reasonable court costs,

"(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

"(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

"(B) Persons authorized to practice before tax court.—In the case of any proceeding in the Tax Court, fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court shall be treated as fees for the services of an attorney.

"(2) Prevailing party.—

"(A) In general.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved) which—

"(i) has substantially prevailed with respect to the amount in controversy, or

"(ii) has substantially prevailed with respect to the most significant issue or set of issues presented.

"(B) Special rule for section 501(c)(3) organizations.—In any proceeding where—

"(i) the most significant issue (or set of issues) presented is the deductibility under section 170, 642(c), 2055, 2106(a)(2), or 2522 of a transfer to or for the use of an organization described in section 501(c)(3) and exempt from tax under section 501(a), and

"(ii) a party to such proceeding has substantially prevailed with respect to such issue (or set of issues),

such organization may also be treated as a prevailing party.

"(3) Determinations as to unreasonableness and as to prevailing party.—Any determination under subsection (a) as to whether the position of the United States in the proceeding was unreasonable, and any determination under paragraph (2) as to whether a person is a prevailing party, shall be made—

"(A) by the court, or

"(B) by agreement of the parties.

"(4) Civil proceeding includes civil action.—The term 'civil proceeding' includes a civil action.

"(d) Procedure on Appeal.—An order granting or denying an award for reasonable litigation costs under subsection (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case.

"(e) Coordination With Other Provisions of Law.—Section 2412 of title 28, United States Code, shall not apply to any costs, fees, and other expenses in connection with any proceeding described in paragraphs (1) and (2) of subsection (a) (determined without regard to subsection (b)). Nothing in the preceding sentence shall prevent the awarding, under subsection (a) of section 2412 of title 28, of costs enumerated in section 1920 of title 28 (as in effect in October 1, 1981).

"(f) Termination.—This section (other than subsection (e)) shall not apply to any proceeding commenced after September 30, 1984."

(b) Penalty for Using Tax Court Proceedings for Delay; Penalty for Frivolous or Groundless Proceeding.—The first sentence of section 6673 (relating to damages assessable by instituting proceedings before the Tax Court merely for delay) is amended to read as follows: "Whenever it appears to the Tax Court that proceedings before it have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless, damages in an amount not in excess of $5,000 shall be awarded to the United States by the Tax Court in its decision."

(c) Conforming Amendments.—

(1) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting the following new items:

"Sec. 7430. Awarding of reasonable litigation costs where taxpayer prevails and United States position was unreasonable.
"Sec. 7431. Cross references."

(2)(A) The section heading of section 6673 is amended by striking out "Merely for Delay." and inserting in lieu thereof "Primarily for Delay, Etc."

(b) The table of sections for subchapter B of chapter 68 is amended by striking out "merely for delay." in the item relating to section 6673 and inserting in lieu thereof "primarily for delay, etc."

(d) Effective Dates.—

(1) In General.—Except as provided in this subsection, the amendments made by this section shall apply—

(A) to any action or proceeding (not in the Tax Court) which is pending on October 1, 1981, or commenced on or after such date, and

(B) to any action or proceeding in the Tax Court commenced after December 31, 1982.

Such amendments shall not apply to any costs, fees, or other expenses awarded before the date of the enactment of this Act.

(2) Penalty.—The amendments made by subsections (b) and (c)(2) shall apply to any action or proceeding in the Tax Court commenced after December 31, 1981.

SEC. 105. LIMITATION ON ACCELERATION OF ACCRUAL OF TAXES NOT TO APPLY TO CERTAIN TAXPAYERS.

(a) Section 461(d)(1) Not to Apply to Certain Taxpayers.—Section 461 (relating to general rule for taxable year of deduction) is amended by adding at the end thereof the following new subsection:

"(h) Subsection (d)(1) Does Not Apply to Certain Taxpayers.—

"(1) Taxpayers not previously subject to the accelerated tax.—

"(A) In general.—Subsection (d)(1) shall not apply to any action of a taxing jurisdiction with respect to which the taxpayer is a new taxpayer.

"(B) New taxpayer defined.—For purposes of subparagraph (A), a taxpayer is a new taxpayer with respect to an action if, at no time before such action took effect, was the taxpayer (or a predecessor) liable for any tax the time for accrual of which was accelerated by such action.

"(2) Taxpayer who elects suspense account.—

"(A) In general.—Subsection (d)(1) shall not apply to any action of a taxing jurisdiction if the taxpayer—

"(i) makes an election under this paragraph, and

"(ii) establishes a suspense account for each tax the accrual of which was accelerated by such action.

"(B) Initial opening balance.—For the first taxable year to which the election applies, the opening balance of the suspense account with respect to any tax shall be the largest amount of such tax which would have been allowable as a deduction to the taxpayer for any of the 3 immediately preceding taxable years.

"(C) Adjustments in suspense account.—

"(i) Reduction.—At the close of each taxable year, the suspense account shall be reduced by the excess (if any) of—

"(I) the opening balance of the suspense account for the taxable year, over

"(II) the amount allowable as a deduction for the taxable year (of the current year and the 2 immediately preceding taxable years) for which the deduction for the tax involved was (or would have been) the largest.

"(ii) Increase.—At the close of each taxable year, the suspense account shall be increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(I) the amount allowable as a deduction for the taxable year for the tax involved, over

"(II) the opening balance of the expense account for the taxable year.

"(D) Income adjustments.—

"(i) Reduction allowed as a deduction.—In the case of any reduction under subparagraph (C)(i) in the account for the taxable year, an amount equal to such reduction shall be allowed as a deduction for such taxable year.

"(ii) Increase added to gross income.—In the case of any increase under subparagraph (C)(ii) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

"(iii) Addition to gross income where initial opening balance is based on deduction for preceding taxable year.—If the amount described in subparagraph (B) exceeds the amount of the deduction which would have been allowable (for the tax involved) for the taxable year preceding the first taxable year for which the election is effective, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(E) Assumptions for preceding year computations.—For purposes of subparagraphs (B), (C)(i), and (D)(iii), the amount of a deduction for any preceding taxable year shall be determined by assuming that—

"(i) the election under this paragraph applied to all preceding taxable years, and

"(ii) the action with respect to which the election was made was in effect at all times during all preceding taxable years.

"(F) Election.—

"(i) In general.—An election under this paragraph may be made without the consent of the Secretary. Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(ii) Period to which election applies.—An election under this paragraph shall apply to the taxable year for which it is made and for all succeeding taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(G) Coordination with section 481.—The establishment of a suspense account under this paragraph shall be in lieu of applying section 481 to the adjustments necessary (by reason of the action referred to in subsection (d)(1)) to prevent amounts from being duplicated or omitted.

"(H) Computation under election treated as method of accounting.—Except to the extent inconsistent with the provisions of this paragraph, for purposes of this subtitle, the computation of taxable income under an election made under this paragraph shall be treated as a method of accounting.

"(3) Substantially similar taxes treated as same tax.—Under regulations prescribed by the Secretary, for purposes of this subsection, if any tax is enacted as a substitute for a substantially similar tax, such taxes shall be treated as the same tax.

"(4) Treatment of certain nonrecognition transactions.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party by reason of subchapter C or K or any other provision of this title shall be determined under regulations prescribed by the Secretary."

(b) Effective Date.—

(1) In general.—Except as otherwise provided in this subsection, the amendment made by subsection (a) shall apply to taxable years ending on or after the date of the enactment of this Act.

(2) Taxpayers not previously subject to the accelerated tax.—Paragraph (1) of section 461(h) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall apply only with respect to actions of taxing jurisdictions taken after the date of the enactment of this Act.

(3) Transitional rule for certain taxpayers who became subject to franchise tax based on income after it was accelerated.—

(A) Taxpayer may elect not to have section 461(d)(1) apply to continuous period.—If—

(i) an action of a taxing jurisdiction involved a franchise tax based on income,

(ii) at no time before such action took effect was the taxpayer (or a predecessor) liable for such tax,

(iii) for a continuous period which begins with the first taxable year in which the taxpayer (or a predecessor) was subject to such tax, the taxpayer (and his predecessor, if any) consistently accrued such tax in the year in which it would have accrued without regard to section 461(d)(1) of the Internal Revenue Code of 1954, and

(iv) the taxpayer makes an election under section 461(h)(2) of such Code (with respect to the action of the taxing jurisdiction) for the taxpayer's first or second taxable year ending on or after the date of the enactment of this Act,

then the taxpayer may make an election under this paragraph to have section 461(d)(1) of such Code not apply with respect to such action by the taxing jurisdiction for such continuous period.

(B) No suspense account where there is no gap between continuous period and prospective election.—If a taxpayer's election under this paragraph applies to a continuous period which ends with the taxable year immediately preceding the first taxable year for which the election described in subparagraph (A)(iv) applies, such taxpayer shall not be required to establish a suspense account under section 461(h)(2) of such Code by reason of the election described in subparagraph (A)(iv).

(C) Time and manner of election.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may by regulations prescribe, except that the approval of the Secretary of the Treasury or his delegate to the making of such an election may not be required.

SEC. 106. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) Removal of Limitation on Amount of Ordinary Gross Income From Lending or Finance Business Taken Into Account.—Clause (ii) of section 542(c)(6)(C) (relating to exceptions from definition of personal holding company) is amended by striking out "but not $1,000,000".

(b) Changes in Definition of Lending or Finance Business.—Clause (i) of section 542(d)(1)(B) (relating to exceptions from definition of lending or finance business) is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the time of the loan, purchase, or discount) the remaining maturity exceeds 144 months; unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or".

(c) Indefinite Maturity Credit Transactions.— Paragraph (1) of section 542(d) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) Indefinite maturity credit transactions.—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan or advance in full or in installments."

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1980.

SEC. 107. ADDITIONAL REFUNDS RELATING TO REPEAL OF EXCISE TAX ON BUSES.

(a) Time for Filing Claim.—Subparagraph (C) of section 23(c)(2) of the Energy Tax Act of 1978 (relating to refunds with respect to certain consumer purchases) is amended by striking out "that first day of such 10th calendar month" and inserting in lieu thereof "December 31, 1982".

(b) Procedure for Passing Through Refund.—Subparagraph (A) of section 23(c)(2) of such Act is amended by inserting before the semicolon ", or, in lieu of evidence of reimbursement, he makes such reimbursement simultaneously with the receipt of such a refund under an arrangement satisfactory to such Secretary which assures such simultaneous reimbursement".

TITLE II—UNEMPLOYMENT COMPENSATION AND WELFARE PROVISIONS

SEC. 201. USE OF CERTAIN AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT FUNDS.

(a) General Rule.—Paragraph (2) of section 903(c) of the Social Security Act is amended—

(1) by striking out "twenty-four" each place it appears and inserting in lieu thereof "thirty-four", and

(2) by striking out "twenty-fourth" in the second sentence and inserting in lieu thereof "thirty-fourth".

(b) Restoration of Amounts Used To Pay Benefits.—Subsection (c) of section 903 of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) If—

"(i) amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section were used in payment of unemployment benefits to individuals, and

"(ii) the Governor of such State submits a request to the Secretary of Labor that such amounts be restored under this paragraph,

then the amounts described in clause (i) shall be restored to the status of funds transferred under subsections (a) and (b) of this section which have not been used by eliminating any charge against amounts so transferred for the use of such amounts in the payment of unemployment benefits.

"(B) Subparagraph (A) shall apply only to the extent that the amounts described in clause (i) of such subparagraph do not exceed the amount then in the State's account.

"(C) Subparagraph (A) shall not apply if the State has a balance of advances made to its account under title XII of this Act.

"(D) If the Secretary of Labor determines that the requirements of this paragraph are met with respect to any request, the Secretary shall notify the Governor of the State that such requirements are met with respect to such request and the amount restored under this paragraph. Such restoration shall be as of the first day of the first month following the month in which the notification is made."

SEC. 202. TREATMENT OF CERTAIN SERVICES PERFORMED BY STUDENTS.

(a) General Rule.—Subparagraph (C) of section 3306(c)(10) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "under the age of 22".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to services performed after the date of the enactment of this Act.

SEC. 203. TREATMENT OF CERTAIN ALIEN FARM WORKERS.

Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1954 (defining employment) is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1984".

SEC. 204. UNEMPLOYMENT BENEFITS PAID TO EX-SERVICE MEMBERS.

(a) Restoration of Previous Eligibility Requirements.—Subparagraph (B) of section 8521(a)(1) of title 5, United States Code, is amended to read as follows:

"(B) with respect to that service, the individual—

"(i) was discharged or released under conditions other than dishonorable; and

"(ii) was not given a bad conduct discharge or, if an officer, did not resign for the good of the service;".

(b) Increase in Required Length of Service.—Subparagraph (A) of section 8521(a)(1) of such title 5 is amended by striking out "365 days" and inserting in lieu thereof "730 days".

(c) Period for Which Benefits Payable.—Section 8521 of such title 5 amended by adding at the end thereof the following new subsection:

"(c)(1) An individual shall not be entitled to compensation under this subchapter for any week before the fifth week beginning after the week in which the individual was discharged or released.

"(2) The aggregate amount of compensation payable under this subchapter to any individual with respect to any benefit year shall not exceed 13 times the individual's weekly benefit amount for total unemployment."

(d) Effective Date.—The amendments made by this section shall apply with respect to terminations of service on or after July 1, 1981, but only for purposes of determining eligibility for benefits for weeks of unemployment beginning after the date of the enactment of this Act.

205. SUPPLEMENTAL SECURITY INCOME ACCOUNTING PERIOD.

(a) Repeal of Reconciliation Act Provision.—Effective on the date of the enactment of this Act, subsections (a) and (c) of section 2341 of the Omnibus Budget Reconciliation Act of 1981 are repealed, and the amendment made by subsection (a) of such section shall be of no force or effect.

(b) Establishment of Supplemental Security Income Accounting Period.—Section 1661(c)(1) of the Social Security Act is amended to read as follows:

"(1) An individual's eligibility for a benefit under this title for any month, and the amount of such benefit, shall be determined on the basis of the individual's (and eligible spouse's, if any) income, resources, and other relevant chacteristics in such amount. Eligibility for and the amount of such benefits shall be redetermined at such time or times as may be provided by the Secretary."

(c) Effective Date.—The amendment made by subsection (b), and the amendments made by section 2341(b) of the Omnibus Budget Reconciliation Act of 1981, shall be effective with respect to months after the first calendar quarter which ends more than two months after the month in which this Act is enacted.

SEC 206. TREATMENT OF UNNEGOTIATED CHECKS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) In General.—Section 1631(i)(2) of the Social Security Act (as added by section 2343(a) of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "included in all checks payable to individuals entitled to benefits under this title but" in the first sentence and inserting in lieu thereof "included in all such benefit checks".

(b) Effective Date.—The amendment made by subsection (a) shall become effective October 1, 1982.

SEC. 207. COLLECTION OF ADMINISTRATIVE COSTS FOR NONAID TO FAMILIES WITH DEPENDENT CHILDREN SUPPORT ENFORCEMENT.

(a) In General.—Section 454(6) of the Social Security Act is amended—

(1) by inserting "including, at the option of the State, support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse)," after "with the State," in clause (A);

(2) by striking out "services under the State plan (other than collection of support)" in clause (B) and inserting in lieu thereof "such services"; and

(3) by amending clause (C) to read as follows: "(C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made, or, at the option of the State, from the parent who owes the child or spousal support obligation involved".

(b) Conforming Amendments.—

(1) Section 454 of such Act is further amended—

(A) by adding "and" after the semicolon at the end of paragraph (18);

(B) by striking out paragraph (19); and

(C) by redesignating paragraph (20) as paragraph (19).

(2) Section 2333(c) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "Section 453(a) of such Act is amended" and inserting in lieu thereof "Section 455(a) of such Act is amended".

(3) Section 303(e)(2)(A)(iii)(II) of such Act is amended by striking out "454(20)(B)(i)" and inserting in lieu thereof "454(19)(B)(i)".

(c) Effective Date.—The amendments made by this section shall be effective as of October 1, 1981.

SEC. 208. TECHNICAL AMENDMENTS TO CHILD SUPPORT ENFORCEMENT PROVISIONS IN RECONCILIATION ACT.

(a) In General.—

(1) The first sentence of section 452(b) of the Social Security Act is amended by striking out "certify" and all that follows and inserting in lieu thereof "certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(6)."

(2) Section 303(e)(2)(A)(i) of such Act is amended by striking out "of this subsection" and inserting in lieu thereof "of paragraph (1)".

(b) Effective Date.—The amendments made by this section shall be effective as of October 1, 1981.

SEC. 209. TECHNICAL AMENDMENTS TO SOCIAL SERVICES AND FOSTER CARE PROVISIONS IN RECONCILIATION ACT.

(a) Use in Territorial Social Services Programs of Certain Amounts Not Needed in Public Assistance Programs.—Section 1108(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Each jurisdiction specified in this subsection may use in its program under title XX any sums available to it under this subsection which are not needed to carry out the programs specified in this subsection."

(b) Allotment Formula Under Social Services Programs.—Section 2003(b) of such Act is amended in the matter following clause (2) by inserting "(other than Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands)" after "the population of all the States".

(c) Participation of Territories in Social Services Program.—Section 1101(a)(1) of such Act is amended by striking out "American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting instead "Guam, and the Northern Mariana Islands".

(d) FOSTER CARE STANDARDS.—Section 2353(r) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

"(r) Section 471(a)(10) of such Act is amended to read as follows:

"(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admissions policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;'."

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective as of October 1, 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. CONABLE. Mr. Speaker, reserving the right to object, I do so for the purpose of inquiring for further elucidation about this procedure and this measure from the chairman of the committee.

Let me express at the outset my intention not to object, but to reserve the right to object for the purpose of getting this information only.

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It is my understanding that the reason for our simply not moving to conference on this measure is primarily the chairman's intention of preserving the prerogatives of the House, because of some selectivity on the part of the other body in the measures they choose to put in their version of the bill.

It is my understanding also, and I would like the chairman to confirm this, that if the motion is accepted, it is his intention to go to conference some time in the near future, something that Members on my side of the aisle have been urging the chairman to do, and that although we do not accept all the provisions of the House bill, and have resisted some of them, that would remain outstanding, to be resolved by the conference. Included among those is the so-called unemployment compensation for ex-service personnel, which would increase outlays by about $100 million and is a controversial measure, not included in the Senate version of this bill and, therefore, subject to conference. Although the House passed it back in December in connection with the House version of H.R. 4961, any support for going to conference should not be interpreted as support on this side of the aisle necessarily for that particular somewhat expensive provision of the unemployment compensation law.

It is my understanding also that some of the measures substituted have to do with technical corrections that have been discovered since the 1981 reconciliation bill passed the House, and that an effort is being made to straighten them out in the procedure that the chairman is suggesting.

There are provisions in here for which there is substantial support on this side of the aisle relating to alien farm workers, for instance, and in some cases child support amendments, other issues of a technical or not terribly substantive nature. There are the issues of the rollover of gains on FCC ordered disposition of broadcast property, for which I know there is some support on this side.

Generally, my understanding is that the chairman's intention, if this measure is passed, is to go to conference and to let the conferees work their will in the normal procedure.

Is that not correct?

Mr. ROSTENKOWSKI. Mr. Speaker, I must commend the gentleman for so eloquently stating the chairman's position. The gentleman is quite accurate in all his observations.

H.R. 4717 is one of two miscellaneous bills which passed the House on December 15, 1981, containing various minor revenue and Social Security Act provisions. The Senate amended H.R. 4717 to include some of the provisions of the other miscellaneous bill (H.R. 4961), insisted upon its amendments and requested a conference with the House. This request today would simply agree to the Senate's amendment with an amendment. The amendment would have the effect of adding to H.R. 4717 the provisions of H.R. 4961 that have not been otherwise enacted into law in order that the provisions of both bills would be within the scope of the conference on H.R. 4717.

This procedural request in effect is seeking to consolidate in one bill provisions which passed the House in two separate bills. It contains no provisions that were not approved by the House in exactly the same form on December 15.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, those provisions of the family rental tax which were somewhat controversial, and were part of H.R. 4961, have already been passed into law and are in no way affected by the measure now before us; is that correct?

Mr. ROSTENKOWSKI. That is correct.

Mr. CONABLE. Further reserving the right to object, Mr. Speaker, I would like to yield to the gentleman from Pennsylvania if he has a question.

Mr. WALKER. I thank the gentleman for yielding under his reservation.

I think the gentleman just mentioned one concern of mine that was in there. The family rental provisions were the parts of the bill that, as I understand it, originally dealt with tax breaks for Members of Congress that were in this bill.

As the Acting Speaker knows, I am somewhat suspicious of unanimous-consent requests that include provisions relating to things for the Members of Congress. I just wanted to make certain that that is not in this particular legislation.

Mr. CONABLE. As the gentleman knows, that has already been passed into law, much to his sorrow and, therefore, is not at issue in this particular measure.

Mr. WALKER. Mr. Speaker, I would also like to get some clarification, if I could. In looking through some material that was given me with regard to the bill that we have before us, it appeared to me as though we are repealing a number of sections of the Omnibus Reconciliation Act of 1981 that was passed. I am concerned about the revenue, possible revenue, impact of repealing several sections of that bill.

Could I get an explanation as to what these are? It is my understanding that a lot of what we are doing here is technical in nature and would have no revenue impact. But I want to be assured that we are not doing something here that would put us out of kilter with the budget decisions made in that Reconciliation Act.

Mr. CONABLE. Further reserving the right to object, one of the items repealing a provision of Public Law 97-35, the Omnibus Reconciliation Act, did terminate the unemployment compensation eligibility of ex-servicemen who left the military voluntarily. Unfortunately, the House version of H.R. 4961 partially reinstated that and, thus, that is one of the issues. Since it is not in the Senate version of the bill, that will be before the conference, whether or not the Budget Reconciliation Act provision will be reversed or not.

Mr. WALKER. If the gentleman will yield further, in other words, that is a $100 million revenue item.

Mr. CONABLE. It is a $100 million outlay item, but it remains to be resolved in the conference.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the distinguished chairman.

Mr. ROSTENKOWSKI. Mr. Speaker, as the gentleman from New York has pointed out, that is in conference and remains controversial. However, all the other SSI provisions that amend the Reconciliation Act are measures that save money; really, they correct mistakes in the reconciliation bill.

Mr. WALKER. I appreciate that explanation. I thank the gentleman for yielding.

Mr. CONABLE. Mr. Speaker, if there are any other questions that any Member would like to address to the chairman on my reservation of objection, I would be happy to yield to them. Otherwise, Mr. Speaker, I have no intention of objecting to the move that the chairman suggests.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4717

The SPEAKER pro tempore. The Chair, without objection, appoints the following conferees: Messrs. ROSTENKOWSKI, GIBBONS, RANGEL, STARK, FORD of Tennessee, CONABLE, DUNCAN, and FRENZEL.

There was no objection.

WATER POLICY REFORM LEGISLATION

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDGAR. Mr. Speaker, the Water Resources Subcommittee, on which I serve, is currently undertaking a close examination of water resources development issues. The ambitious goals that the subcommittee has set for itself this year include enactment of legislation dealing with ports, waterways, and general water resources development. Our efforts are highlighted by the fact that Congress has failed to produce new water resources legislation for several years. In light of this situation, I am today introducing comprehensive water policy reform legislation designed to facilitate water resources development while addressing structural changes that must be made in the water policy process.

As one who has opposed water resources legislation in the past, I would like to explain my position on this issue. My efforts in this area have not ignored the importance of water development to our national economy, nor do I fail to recognize the importance of the legislation we must attempt to produce this year. I have objected to a water policy too often dominated by political influence of individual Congressmen rather than economic and environmental merit of individual projects. My objections are not motivated by vindictiveness but rather by a profound disappointment at our historic inability to come up with a water policy based strictly on merit and equity. I think it is clear that we must examine the problems which have stalled water policy legislation in recent years.

There have been practically no new starts on water projects in the 5 years that Congress has failed to produce legislation. Spending on Army Corps of Engineers construction projects is half of what it was 15 years ago in real dollars. A backlog of $30 billion in unbuilt projects continues to grow while Congress searches for a way to deal with this issue. And despite my efforts to stop certain projects like the Tennessee-Tombigbee Waterway, I do understand the frustration my colleagues feel when confronted with a legitimate water resources need in their State. It takes 26 years to move a typical corps project from the point when a study is authorized to the time when construction begins, and construction may then take another decade. Furthermore, this problem of delay and disinvestment is symptomatic of a pattern of neglect of our national public works infrastructure which threatens to literally rot our economic base.

To those who would blame water policy reformers for the delays and headaches, I would answer that the water policy process itself is to blame. The public has recognized and condemned the pork barrel politics of water development, and the Nation has suffered as a result. These problems are becoming even more acute as time continues to burden the current system. We must resolve these issues if we are to have an effective water resources program to meet the challenges of the rest of the century and beyond. In resolving these issues we have an opportunity to rebuild public confidence in the Congress and Federal water policy. Water is a potential national crisis and an opportunity for the coming decade. Water policy has become mired in controversy, and many of us who fully recognize the importance of this issue have been forced to stand in the way of legislation that we found unacceptable. I now want to offer my services in a very constructive way in order to move our necessary water development legislation while recognizing the structural changes which must be made.

Title I of the bill I am introducing today is named Water Resources Policy and Development Act of 1982. This title, which parallels legislation introduced in the Senate by Senators DOMENICI and MOYNIHAN, would grant more authority to the States in water resources planning, reallocate water development funding, implement a consistent plan for local cost sharing, and redefine the role of Congress in the water policy process. The second title, the Water Supply Rehabilitation and Conservation Act of 1982, directly addresses the regional equity in water development while also focusing on a national plan for water conservation. The legislation is also designed to be compatible and consistent with current and proposed measures to implement equitable user fee legislation for navigation and other water resource projects. Title I of my bill accomplishes the four goals set by the Domenici-Moynihan bill (S. 621):

First, it sets up a method for automatically studying the needs identified by the States and then to authorize the projects that the States and Federal agencies develop;

Second, it establishes a system of grants to the States for their use in priority projects to be built by the Federal agencies, using Federal designs, with 75 percent Federal funds, 25 percent local funding;

Third, it creates a means of deauthorizing old, unneeded projects; and

Fourth, it sets up a special national category of regional, interstate projects to be built by traditional methods with total congressional oversight and determination. This is likely to be focused on major navigation and water supply projects.

The second title of my bill accomplishes and emphasized two additional goals:

First, it authorizes and directs the corps to address the special needs of urban areas which face serious deterioration of water supply infrastructure.

Second, it requires communities receiving Federal assistance in providing water supply to implement water conservation and sets forth model water conservation programs to be used by the Federal agencies in guiding communities to conserve water.

The system of block allocations of Federal funds to the States for water development set up in title I of this bill is designed to achieve two purposes. First, States are given the opportunity to select those priority projects which should go forward within their States. Second, the misallocation of an inequity of water development funding, which has been largely concentrated in particular regions and States, would be addressed by the formula allocation of funds on the basis of a State's land area and population. The land area/population formula is considered the most convenient and reasonable benchmark for each State's share of the national need for water development. The bill also establishes a system for automatically authorizing new projects that have been studied by the corps and the other Federal water resource agencies. This eliminates the protracted congressional review process which has become totally bogged down over the past several years.

Congress has become an obstacle to water development. For the average project, there is a total lagtime of nearly a decade while studies wait to be funded, projects wait to be authorized, and construction awaits appropriations. Title I of this bill also seeks to reconcile the approximately 160 different cost-sharing arrangements in the water resources program, placing all projects which are not authorized by Congress as national projects on a basis of 25 percent local cost sharing. The authorization level for fiscal year 1983 for the water development program would be $2.5 billion, approximately the present level of water development funding. Authorization levels under this program would be limited by the difficult budget situation we now face; however, the overall program would assure that limited dollars are spent more wisely and fairly and that projects for which funds are authorized are actually implemented in a timely fashion.

The second title of my bill focuses on water supply rehabilitation and water conservation. While title I, through its reallocation of Federal funding, implies that States previously receiving little Federal water development assistance ought to receive a bigger share, title II directs the Corps of Engineers toward the mission for which this money is allocated. Urban centers in the Northeast and Midwest and in other regions of the country have traditionally not received Federal assistance for the unique needs caused by old and deteriorating water supply infrastructure. Yet other water supply needs have been generously addressed by Federal water resource agencies. For example, the central Arizona project is a federally funded water supply project for the Phoenix and Tucson areas for municipal and industrial water supply and for agriculture. Project costs of over $2 billion are being borne by the general taxpayer, and the Bureau of Reclamation, which is constructing the CAP, is restricted by law to operating within 17 Western States. Meanwhile, the water supply system of New York City is headed for disaster. The explosion 2 weeks ago of a water main in the city, which stopped subway service and left many New Yorkers without water, is merely a warning of the disasters which will occur in our older cities if there is not a major effort to rehabilitate urban water supply infrastructure.

New York needs a $1 billion third water tunnel, Philadelphia's water system dates to the 18th century, New Jersey suffered severe drought conditions only last year, and Boston reportedly still has wooden water pipes in place. Perhaps as a result of the abundant availability of surface and ground water in the Eastern and Northern parts of the country, Federal water development has traditionally ignored the water development needs of these regions. However, these needs are now becoming very urgent. The systems which supply water to our cities and towns are in danger of collapse. Both the massiveness of the problem and the equity issues I outlined earlier require that the Federal Government seek solutions to this imminent crisis.

The final aspect of my bill addresses water conservation. Over the long term, this is the key to any solution of the impending water crisis. While water is the quintessential renewable resource, the stresses we now place on regional water supply and water quality require that we treat this resource with care and foresight. Water conservation saves not only water but also saves energy and reduces the volume of sewage which must be treated to preserve water quality. Methods of water conservation are clear, simple, and cost-effective. Given the massive Federal investments we have committed to water supply and water quality infrastructure, it is imperative that we put into place a strong water conservation policy.

To this end, my bill would require water conservation on the part of all communities served by federally assisted water supply projects. The bill also lays out a model water conservation program indicating to communities and to the Federal agencies the types of activities that ought to be pursued while granting flexibility for innovative approaches and the differing circumstances and capabilities of local governments. Local officials have already recognized and expressed to me their recognition of the value of such conservation techniques as enhanced plumbing codes and metering, leak repair, public education, drought planning, and other methods. These efforts deserve to be supported and emphasized at the Federal level given the great Federal involvement and investment in water supply and water quality.

Finally, let me note that this legislation is recognized as an attempt to elicit debate on water policy reform which I believe is desperately needed. Senators DOMENICI and MOYNIHAN, in pursuing their proposals in the Senate, have often expressed their openness to better suggestions on the broad questions addressed in this proposal. I do the same in requesting the comments of my House colleagues and other interested parties. I do believe that these suggestions, both those which I have borrowed from the Senators and those which I have originated myself, are the best ideas on the table at this moment. I very firmly believe that the types of reforms I am introducing would be a vast improvement over the current, outmoded, inequitable, and ineffective procedures for water resource development. In short, I invite constructive criticism of this legislation.

I also view this proposal as perfectly consistent with President Reagan's philosophy of turning over greater responsibility to the States. In fact, I believe that this is one of the areas where strictly Federal policymaking has been a notable and historic failure—I believe there have been notable successes in other areas—and I cannot understand why an administration endorsing State and local control has not siezed upon these concepts in the area of water policy. I therefore encourage the Reagan administration and its supporters in Congress to do so.

In the interest of furthering the debate on water policy reform, I include a summary of this legislation for printing in the RECORD.

SUMMARY OF H.R. 5840: WATER RESOURCES POLICY AND DEVELOPMENT ACT OF 1982 AND WATER SUPPLY REHABILITATION AND CONSERVATION ACT OF 1982

TITLE I

Section 101. Findings and Intent. Congress finds that existing arrangements for water resources development have led to excessive delay in the implementation of water resources projects. The delay is in part a result of the failure of the Federal and state governments to establish their priority of projects and management plans most needed to further the development of the national economy. It is the intent of Congress to place greater reliance on the states for funding and establishing priorities for water resources development.

Section 102. Feasibility Studies. This section authorizes states to request specific feasibility studies of water resources projects. Each year $150,000,000 shall be distributed among the Federal water agencies to finance the planning, design and engineering of these studies. Before a study is initiated, the non-Federal interest must agree to pay 25 percent of the cost of the study following its completion. The states will also be reimbursed for persons appointed to work with the Federal agency on the study. Any Federal water resources agency may contract with a state or states for the preparation of a study.

The states shall annually submit to the Water Resources Council a list of project feasibility studies in order of their priority. To the extent possible, the Council shall allocate among the states funds for studies on the same basis as funds are allocated for construction. The Federal and state agencies shall attempt to complete studies within three years.

Section 103. Project Authorization and Construction. Each state is required to develop a priority list for water projects each year and submit the list to the Water Resources Council. The list shall be approved in 60 days provided that the Council finds that the list was developed with the benefit of public hearings and public participation.

Projects whose studies were conducted under Section 102 of this Act will become authorized for construction 90 days after the study is approved by the governor of the state. However, if the governor or governors of neighboring states object to the project on the grounds that the project will adversely affect the water quantity or water quality in that governor's state, then the project must receive Congressional authorization. Furthermore, if a project has not been endorsed by the Federal water agency, then the Water Resources Council must first approve the project before such project could be authorized and eligible for funding under this Act.

Projects under construction at the time of enactment of this Act may become eligible for funding under the terms of this section at the discretion of the governor or governors of the state or states. Projects constructed with funds authorized by this section shall be designed according to the principles and standards of the Water Resources Council. Such evaluation shall fully incorporate the estimation of the project's regional development benefits and other social effects. A project may be constructed notwithstanding the computation of the project's national economic benefits and costs as long as the project is on a state's priority list and meets the other requirements of this section.

This section authorizes $2.5 billion in FY 1983, $2.8 billion in FY 1984, $3.1 billion in FY 1985, $3.4 billion in FY 1986, $3.7 billion in FY 1987, and $4.0 billion annually thereafter. Funds allocated to states shall remain available until expended provided the state or non-Federal interest agrees to pay or contribute in kind 25 percent of the cost of constructing such project and 50 percent of the cost of operating and maintaining such project upon its completion.

Revenue produced from projects providing electrical power or municipal and industrial water shall be shared between the non-Federal interest and the Federal agency on the basis of the percentage contributed to the cost of construction and operation and maintenance.

Municipal and industrial water supply projects may be implemented by the appropriate non-Federal interest in consultation with the Corps of Engineers.

Section 104. State Allocation. Funds authorized in Section 103 shall be allocated by the Water Resources Council among the states at the beginning of each fiscal year on the basis of land area and population. No state shall receive less than 0.33 percent and no more than 3 percent.

Funds allocated to states shall remain available for obligation for a three year period, after which the Council shall reallocate the funds according to the original allocation described in this section.

Section 105. Deauthorization. Projects authorized for construction prior to this Act but on which no construction has begun within years following enactment of this Act shall cease to be authorized five years after enactment unless the project is placed on a state's priority list.

Section 106. Special Regional Projects. The Council or Congress, by concurrent resolution, may for the study of such projects—from among previously authorized projects—the Council shall select up to ten projects of national significance which shall be eligible for funding by direct appropriation by Congress without regard to the limitations of this Act. Projects constructed under the authority of this section must produce national economic benefits that exceed the cost of such project using a reasonable rate of interest set by the Water Resources Council.

Projects studied under this section and subsequently authorized by Congress shall be constructed at full Federal cost provided that the users of the projects pay a fee designed to recover all or an appropriate percentage of the project's cost with interest in addition to its cost for operation and maintenance. The Inland Waterways Trust Fund shall be available to repay a portion or all of the costs for commercial inland navigation projects.

Section 107. Operation and Maintenance. This section authorizes $1,000,000,000 annually for the purpose of operating and maintaining water resources facilities.

Section 108. Clarifications. Nothing in this Act shall alter the requirements of the National Environmental Policy Act, the Fish and Wildlife Coordination Act or the Endangered Species Act. Projects authorized under this Act shall incorporate the best available techniques for the conservation of water.

Section 109. Studies. The Water Resources Council shall conduct a number of studies to estimate national water needs and priorities to the year 2000, individual state water needs, and the means by which the most efficient use of water supplies may be made at existing Federal projects. The Water Resources Council shall also review present cost-sharing mechanisms for water resources projects. This section authorizes $5,000,000 for use by the Water Resources Council to conduct these studies. The Council shall transmit the studies to Congress no later than January 1, 1984.

Section 110. Definitions. Water resources agencies include the Army Corps of Engineers, the Water and Power Resources Service, and the Soil Conservation Service.

Water project means any publicly-owned water resources facility, device, system, or non-structural management plan designed for flood protection, erosion control, reclamation (including the renovation of existing projects), hurricane protection, municipal and industrial water supply (including the renovation of existing projects), navigation, power generation, saline water conversion, water-based recreation, dam safety, sediment control, water conveyance, or related water purposes.

TITLE II

Section 201. Findings. Congress finds that deteriorating water supply systems in urban areas require a federal commitment to rehabilitate and upgrade urban water supply. The Army Corps of Engineers has not been authorized or directed to carry out urban water supply rehabilitation. It is advisable to promote water conservation in all situations where the federal government is involved in providing water supply.

Section 202. Water Supply Rehabilitation. The Army Corps of Engineers is authorized and directed to survey, plan, and carry out rehabilitation of existing urban water supply infrastructure. The Corps will study the most cost-effective means of urban water supply rehabilitation as well as methods of maintaining and preserving water supply infrastructure and report findings and recommendations to Congress.

Section 203. Water Conservation. Federal assistance for water supply will not be granted to any community which does not, to the best of its ability, undertake a model water conservation program or its innovative equivalent. The model water conservation program is defined as consisting of plumbing codes, metering, rate schedules, leak repair, public education, drought planning, and utilization of pressure devices to promote water conservation.

SHOULD SPACE SHUTTLE GO COMMERCIAL?

(Mr. AKAKA asked and was given permission to address the House for 1 minute and revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, in the course of recent months, there has been a great deal of discussion on the role that private industry should play in the development of space and space-related technologies. One company, the Space Transportation Co., has proposed that the private sector fund and operate the fifth shuttle orbiter for commercial operations. Under the terms of this company's proposal, the investment needed for purchase of the fifth orbiter by the private sector will be recovered from the marketing of STS to commercial and foreign users.

This is a proposal which has already received strong mixed reactions from both government and industry. Certainly, this is a proposal which many of us will want to examine closely in the months ahead.

The Congressional Space Caucus will sponsor a briefing today by Dr. Klaus Heiss, president of the Space Transportation Co., on his proposal to purchase the fifth shuttle orbiter for commercial operations. This briefing is open to all Members of the House and their staff. The briefing will take place today, from 2:30 to 4:30 p.m., in 2359 of the Rayburn Building. I urge all of my colleagues not to miss this opportunity to talk with Dr. Heiss on this provocative proposal.

The Congressional Space Caucus now has 42 members and is rapidly growing. As a matter of routine, the caucus will sponsor briefings, workshops, and seminars, in an effort to be an important information source on space and space-related technologies. I urge my colleagues to join this rapidly growing body of concerned Members today, so that indeed, America can have a space program worthy of her past.

The briefing sponsored by the Space Caucus today is one that should not be missed. I therefore urge each of my colleagues to join me in 2359 of the Rayburn Building, today, from 2:30 to 4:30 to talk with Dr. Klaus Heiss, president of the Space Transportation Co.

I include an article entitled "Firm Sets Down-Payment for Buy of Space Shuttle" for insertion in the CONGRESSIONAL RECORD immediately, as follows:

[From the Aviation Week & Space Technology, Jan. 18, 1982]

FIRM SETS DOWN-PAYMENT FOR BUY OF SPACE SHUTTLE

(By Craig Covault)

WASHINGTON.—Space Transportation Co. is prepared to provide the National Aeronautics and Space Administration $200-300 million by early 1983 for transfer to Rockwell International as the initial down-payment on a $1-billion investment to finance privately construction of the fifth shuttle orbiter.

The company will present a formal proposal to NASA and the Reagan Administration within the next two to six months and it expects approval will be granted soon. The company will then begin marketing the space transportation system to commerical and foreign users in late 1982 or 1983.

BANKING SUBSIDIARY

Space Transportation Co. is the subsidiary of a large U.S. investment banking firm. William Sword, Inc. the venture to procure the fifth orbiter has strong backing in the investment banking community (AW&ST Jan. 4, p. 23). The company's proposal to the federal government will consist of:

Marketing—In return for its investment the company wants to take over from NASA all marketing of space transportation system launch services to commercial and foreign users. The company envisions selling shuttle payload space in the same manner Arianespace markets European Ariane launch services. By providing funding for the fifth orbiter, the firm would create for itself a financial risk recoverable by sales of shuttle capacity to commercial and foreign users. "To make the marketing people hustle the system aggressively, we must have financial risk involved," according to Klaus Heiss, company president and chairman of the board of Econ. That organization's cost/benefit analysis helped lay the groundwork for shuttle justification in the early 1970s. NASA's marketing structure does not have the financial risks or capabilities to be efficient in the commercial market, he said.

Orbiter use—In exchange for the funding and commercial/foreign marketing responsibility, the fifth shuttle orbiter would be operated as a normal part of the shutle fleet without restriction or costs charged to the government for its use. The prices charged commercial and foreign users would follow the current user policy of NASA or any shuttle operations organization that might evolve from shuttle operations.

Cost reimbursement—In return for financing the fifth orbiter and conducting more aggressive worldwide marketing of the shuttle system, the company would reimburse NASA, or the designated operator of the shuttle system, for all direct costs required to launch commercial and foreign payloads. Fixed costs would remain the responsibility of NASA. Under this concept, external tanks and solid rocket boosters would be paid for by the company for the appropriate launch support of commercial and foreign payloads. Routine non-flight activities to maintain the pads at Kennedy Space Center, for example, would not be the company's responsibility. This approach is already in practice between Defense Dept. and NASA for Defense Dept. launches, Heiss said. The company holds that since it would be providing about $1 billion to national shuttle operations, commercial and foreign users should receive equal treatment. The company believes the NASA/Defense Dept. cost split is about 50:50. Based on an approximate $60-million total cost per flight in 1982 dollars, NASA would receive $30 million from the company for each full commercial or foreign mission.

Capacity—The company says that projections for the 1980s and 1990s show commercial and foreign users will make up about 20 percent of the total shuttle-user market, roughly equivalent to the 20 percent of capacity that would be provided by the privately financed fifth orbiter of a five-vehicle fleet. The company proposal envisions that at the end of each year an accounting be made of the amount of space transportation system capacity provided by the fifth orbiter as compared with the amount of commercial and foreign traffic flown by the entire orbiter fleet. The company proposes that if the orbiter has provided more capacity through missions than there was commercial and foreign traffic, NASA would reimburse the company for that extra capacity. If more traffic in commercial and foreign launches was flown than the fifth orbiter capacity, the company would reimburse NASA. The company expects the latter would occur since this would help fulfill return on investment and indicate the marketing was effective.

No guarantees—The company is not seeking any government guarantees on its return on investment. It does expect commercial and foreign users to be given equal priority in mission scheduling with civil U.S. government payloads.

Defense missions—The company wants no restrictions placed on defense priorities over shuttle scheduling. In order for private financing to be approved, the company needs political support from defense interests and is willing to submit to any defense requirements.

Aerospace corporate involvement—Heiss stresses that the company's concept is strictly a financial arrangement and one that will not accept a large aerospace company as a financing partner. Heiss is concerned that if one of the main aerospace contractors were to become involved as a direct funding party, concerns could be raised about such a company cornering and taking over key elements of shuttle capability. It is possible aerospace companies could be involved in the marketing effort for shuttle payloads, however. Boeing has studied the concept of private financing of a shuttle orbiter, and Boeing and the Space Transportation Co. have shared substantial data. "We think if you want to see a timely agreement to fund a fifth orbiter, a very important ingredient is to stay away from choosing any particular aerospace company as a backer or promoter of the idea," Heiss said.

Financing—Heiss said some of the nation's leading investment banking organizations are ready to support the procurement if the government will agree to the basic elements of the company proposal. In addition, the company has assembled a board of directors drawn from large investment firms. The members already have been involved in financing projects exceeding $1 billion, such as oil and gas pipelines.

Initially, Space Transportation Co. is interested only in financing the fifth orbiter, but if the concept is approved this year the company will examine financing other key elements of the system such as the fabrication of Martin Marietta external tanks. It also will examine the potential for private financing of orbiters beyond the fifth vehicle.

If the preferred proposal is not accepted, the company would consider other options that it believes do not have as clear an advantage to the company or space transportation system.

One such option is a lease arrangement where the orbiter would be privately financed and then leased to NASA. Heiss does not believe this would promote commercial involvement in shuttle as well as the initial proposal. The company would still want to maintain a strong marketing involvement under a lease arrangement, according to Thomas Huntington, a company director and former vice president of Trans World Airlines.

RETURN ON INVESTMENT

"If we are told to go the lease route, the marketing responsibility would be at a lesser level because we would get some recovery on investment out of the lease," he said.

"We still believe very strongly that the viability of this is dependent on private marketing, and we want to see private marketing develop no matter what," Huntington said.

Another option is to adopt a half-lease, with the other half of the investment recovered through sales of payloads to the commercial and foreign sector. This would be a half-lease/half-risk recovery route.

If the company is able to obtain approval on the concept this summer, it will begin in mid to late 1982 to formulate a functional marketing structure worldwide. Heiss believes it is possible a group of NASA operations managers could be based at the company to help transition from NASA to company marketing.

PITFALLS OF INVOLVEMENT IN EL SALVADOR

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, we are all familiar with the story of the emperor's new clothes but sometimes we are so close to an issue we are unable ourselves to discern what those not so close immediately grasp.

Down in my district, there is a gentleman who has set out, chapter and verse, the path our foreign policy is likely to be driven down in the matter of El Salvador.

The following letter was received last week from Mr. K. W. Bowie of Nathalie, Va. His logic is right on target and his perceptiveness beyond challenge.

I commend the letter to my colleagues' reading:

> After watching the media build up on the subject of El Salvador, I felt compelled to write and give you my views on the subject.
>
> It seems to me that the United States is falling into a pattern on the subject of internal wars waged by guerrillas of the type that are battling the Government of El Salvador.
>
> First, the U.S. Government decides that it should help the country in question with military and economic aid and proceeds to send help.
>
> Second, after a period of time, the new media (aided by leftists) decides that the government of the country in question is "brutal and repressive" and a media campaign is launched for the cessation of all aid—military first, then economic later.
>
> Third, when this campaign builds up to a huge enough level, all U.S. aid is then stopped.
>
> Fourth, the country then falls to the Communist insurgents.
>
> Fifth, the United States is then deluged with a wave of refugees—who, incidentally did not flee the previous government, but always flee the Communists.
>
> This scenario held true for Vietnam, Cambodia, Laos, and Nicaragua, and it appears that it is about to happen in El Salvador.
>
> The fine point that is raised is that of U.S. troop involvement—scare tactics to the American public—I think. Central America is important to us and there are a number of things we could do to help defend it with-

out sending U.S. troops—such as getting a third party to help if required and use U.S. Forces only as a last resort.

Russia has taken over a number of places without the use of Russian troops (Afghanistan excepted) by using Cubans and East Germans.

My whole point is that we should not help our friends and then when the going gets tough in the local news—then drop them. If we continue this we would not have a friend anywhere in the world.

ROCK ISLAND RAILROAD BILL

(Mr. ROBERTS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS of Kansas. Mr. Speaker, I would like to take this opportunity to urge hearings in regard to H.R. 5137, the Milwaukee Railroad and Rock Island Railroad Amendments Act. Action has been taken on this legislation in the other body.

Those of us who represent districts formerly served by the Rock Island Railroad know how essential freight rail service is to our economic survival. In 1977, 291.4 million bushels of grain were shipped from Kansas country elevators. Of this, 199.2 million bushels were shipped to the Gulf of Mexico for export. If our producers did not have the temporary rail service provided by other rail carriers, the cost of shipping their grain would have taken an additional 24.6 cents per bushel directly out of the farmer's pocket. Using 1977 figures, this translates into a $50 million increase for farmers to market their grain in the gulf export channel. This loss cannot be tolerated in conjunction with the current depressed grain prices.

Mr. Speaker, H.R. 5137 meets two urgent needs of those previously served by the Rock Island Railroad. First of all, my bill facilitates the purchase of rail lines by responsible carriers. Carriers interested in purchasing portions of the old Rock Island have been frustrated repeatedly in negotiations with the Rock Island trustee. An impasse in negotiations already has resulted in the termination of service over a 750-mile stretch of line being operated under temporary authority by the Oklahoma-Kansas-Texas Railroad. Both S. 1879 and H.R. 5137 involve the Interstate Commerce Commission as a purchase price arbiter to see that the public interest is served. The current situation has hurt all affected parties: Carriers, shippers, railroad employees, Rock Island's creditors, and the States which are owed between $25 to $35 million in back taxes by the Rock Island estate. These taxes consist mostly of property taxes and hurt the vitality of our school district and local governments.

Mr. Speaker, H.R. 5137 also authorizes the ICC to continue issuing temporary operating authority to interested carriers until a plan or reorganization or liquidation is approved by the ICC and the bankruptcy court. Due to legislative action at the end of last year, the ICC will have this authority until May 15 of this year. After that date, interim carriers will lose their only bargaining chip with the trustee. When they lose, we all lose.

Both the ICC and the Federal Railroad Administration have testified in favor of S. 1879. The Justice Department and the ICC have no objections on constitutional or other grounds.

Quick action on H.R. 5137 is warranted. It is my hope that hearings can be scheduled as quickly as possible and markup begun soon after. It would be a shame if the quick action of the other body on this vital legislation is not met with equally quick action in this body.

Mr. Speaker, five more of my colleagues, Mr. McCURDY, Mrs. SMITH of Nebraska, Mr. TAUKE, Mr. BEREUTER, and Mr. EVANS of Iowa have joined as cosponsors to H.R. 5137, making a total of 12 cosponsors.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. REGULA) is recognized for 60 minutes.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DEFENSE BURDEN SHARING WITH OUR NATO ALLIES

Mr. REGULA. Mr. Speaker, I have requested this time to discuss the cost burden to the United States of providing a disproportionately large share of the defense capabilities of our allies. Last week, we discussed this issue with respect to Japan. I wish to concentrate on this issue with respect to our NATO allies.

There are many reasons why the United States continues to be the major provider of the free world's defense. Perhaps the most obvious of these are learned from our experiences shortly after the Second World War.

In the late 1940's, it became apparent to the United States and most European nations that our former ally, the Soviet Union, was rapidly becoming a threat to our Nation and to democracy in most European nations. Almost immediately after World War II, the Soviets began building up their military and putting these forces to use intimidating Eastern European nations into establishing socialist governments. At the same time, the Western European nations had suffered the greatest damage to both their economies and their military capabilities.

When the United States joined in the formation of NATO to show resistance to the Soviet Union, this Nation agreed to provide the bulk of the resident military force to protect our allies while their devasted economies were given time and assistance to recover. The Marshall plan was set into motion as part of the economic recovery effort. In 1949, Secretary of State Dean Acheson advised the Senate Foreign Relations Committee that U.S. military aid to Western Europe would likely be needed for quite some time.

Succeeding American Presidents supported the continuation of the military and economic aid to Western Europe, but a number of philosophical variations developed in each administration. Increasingly, the sentiment became that the United States should not be expected to permanently provide the military shield under which the economies of Western Europe could grow and eventually prosper. As early as 1951, the Senate passed Resolution 99 which insisted that the President certify that the European nations were making realistic efforts to improve their own defense.

During the early 1960's, the Kennedy and Johnson administrations initiated policies by which the nations benefiting most from U.S. military support, principally West Germany, would attempt to offset the costs of this support by purchasing military equipment from the United States. In later years, the purchases were expanded to include U.S. treasury bonds. The purpose of these offsetting purchases was to counteract the balance of payments deficiencies that had occurred. These offset agreements expired in 1975.

Growing concern over the adverse direction of the balance of payments deficit in the late sixties and early seventies prompted the Nixon administration to proclaim the Nixon doctrine which encouraged our allies to improve their defensive capabilities while the United States pledged not to reduce our forces in Europe unless our adversaries responded with reciprocal reductions to their forces in the area.

In 1975, the NATO nations agreed that each member nation would attempt to increase its defense capabilities by up to 5 percent per year in real growth.

President Carter endorsed the previous administration's doctrine, but recognized that the up to 5 percent goal of the 1975 agreement was unsuccessful largely because it was lacking in substance. In May of 1977, the Carter administration proposed a long-term defense program for NATO by which all of the member nations participating in the integrated command structure would attempt to meet the guidance of increasing their respective defense efforts by annual increases of at least 3 percent in real terms. A May 1978 NATO summit approved this recommendation.

Today, the Reagan administration continues to seek greater contributions to NATO defense from our European allies, with emphasis on increased host nation support.

What effect have our previous efforts in the past three decades had on total NATO defense spending? Right now, the United States is spending over 6 percent of its gross national product for defense. As I noted last Tuesday, the Japanese Government continues to spend less than 1 percent of its GNP for defense. None of our NATO allies are committing nearly as great a portion of their GNP's for defense—none are even close to the United States. On average, our European allies expend ony 3.6 percent of their GNP's for free world protection and security. Furthermore, nearly all of their defense costs are specifically for the benefit of their own nations. By contrast, the U.S. defense costs are of great benefit to all free world nations, especially Japan and our NATO allies.

If during the past decade, our defense expenditures were the same percentage of our GNP that our NATO allies had maintained for each of these years, we would have saved nearly half a trillion dollars, This amount of funds could then have been available for capital investment, balancing the budget, or funding the many programs that we are now being forced to severely reduce or totally eliminate.

During the years since the inception of the Marshall plan and the formation of NATO, a generation of Europeans have grown up to see their economies achieve virtual parity with that of the United States. The per capita GNP of the United States now ranks seventh among our 15 NATO allies. Now that we are squarely in the middle of this group, it would seem reasonable to expect that our defense expeditures would be at a parity as well. However, the current trend in these costs does not indicate that this will be the case.

Our NATO allies have received other forms of benefit to their nations as a result of our Nation's influence in the world. The flow of oil from the Middle East has continued into Western Europe, thanks in no small part to our peace-keeping efforts in that area and the protection afforded by our naval presence in the Mediterranean Sea and the Indian Ocean. This same naval presence in the North Atlantic has facilitated the shipping trade which our allies require. Our presence in the Pacific also enables their heavy trade with Japan and the developing nations of the Far East.

To their credit, most of our NATO allies have made earnest efforts to take on a greater portion of the defense burden. Their military forces are now larger, numbering about 3 million active duty personnel with an additional 3 million in the reserves. This compares with U.S. forces of just over 2 million troops with a much smaller Reserve strength that brings the total available force up to about 3 million. The European active duty forces are receiving better training than ever before. Their military systems are undergoing extensive modernization.

The NATO allies have taken on a much larger share of foreign assistance to developing countries than in the past. In fact, in nearly all of these NATO nations, the percentage of GNP that is applied to such foreign assistance substantially exceeds the 0.28 percent that the U.S. allocates for such purposes. Norway's foreign assistance is nearly 1 percent of its GNP—a larger percentage than Japan allocates to defense.

Over the past decade, the European NATO nations have increased the percentage of their respective GNP's used for defense. The rate of this growth over the period averaged out to about 2.1 percent annually. During that same period of time, the U.S. percentage of its GNP for defense was dropping by about the same rate until this past year, when this trend was reversed.

Unfortunately, European trends have likewise been reversed, such that the improved burden sharing is now backsliding. It is this fact that alarms me.

In all fairness, it must be realized that the means of measuring defense contributions are necessarily subjective. Constantly fluctuating currencies make measurements difficult. Furthermore, the types of governments and degree of democracy in the NATO member nations vary considerable; the quality of these forces differs from one nation to the next, particularly among those nations which still utilize some form of conscription. Some nations devote more of their defense budgets to capitalization and modernization—areas which tend to have more lasting effects than do the numbers of troops.

Attitudes toward defense are controlled a great deal by the traditions of the many peoples in the NATO nations. These traditions are quite different among the countries. Traditions of neutrality or only small standing forces are more prevalent in Scandanavian countries such as Norway and Denmark. Nuclear forces are banned in many member nations, but are relied upon heavily in others.

Most Europeans have quite different views of the nature of the Warsaw Pact threat than do most Americans. They see the Soviets as having been noticeably weakened by their actions in Afghanistan and their involvement with Poland. Curiously enough, while most Americans see the Polish crisis as a threat to world peace, many Western Europeans feel that it is somewhat reassuring that the Soviet Union must first be concerned about dissent within its own house before it could consider any form of aggression in Western Europe.

There is also a basic philosophical difference between the United States and European attitudes about defense. Europeans seem to be resigned to their land being the world's battlefield. History has proven this to be so. Thus, they prefer to tailor their forces toward deterrence rather than the U.S. policy of repulsion.

There also exists in Europe an attitude that, should the unthinkable occur, the next world war would include the use of nuclear weapons on European soil and the virtual annihilation of these lands. Thus, these people believe that it is useless to spend large amounts of scarce resources to engage in a war of annihilation.

The Congress has seen fit to consider and, on occasion, enact measures to attempt to rectify the defense spending dichotomy. Former Senate Majority Leader Mike Mansfield's unsuccessful resolutions in 1966, 1967, 1969, and 1970 as well as his similarly ill-fated amendment to the draft extension bill in 1971 would have unilaterally halved the 300,000 U.S. troops in Europe. In 1973, Senators ALAN CRANSTON and Mansfield collaborated on a bill that would have withdrawn 40 percent of our troops overseas. This was also narrowly defeated.

In the same year, Senators Hubert Humphrey and HARRY BYRD guided an amendment through the Senate which would have forced the withdrawal of 110,000 troops overseas. This amendment was rejected by House conferees and never enacted. In 1974, the Jackson-Nunn amendment to the 1974 DOD Authorization Act required that DOD certify that the Allies were improving their contributions to defense or else some marginal troop withdrawals would have to occur. Allied improvements were reported and the troop levels were maintained.

More recently, the Senate has considered measures similar to the Jackson-Nunn plan that would cause troop reductions if the NATO 3-percent annual real growth goals were not met. Last year, Senator EAGLETON withdrew his amendment to this effect upon receiving assurances that the Reagan administration would continue to keep pressure on our allies to upgrade their defense capabilities.

I believe that it is time for the House of Representatives to take initiatives to bring about a fairer sharing of the European defense burden. I disagree with Secretary of Defense Weinberger's contention in his report to the Congress last March that the NATO allies have met the spirit of the 3-percent-real-growth tenet of the NATO long-term defense program. Of the members of the integrated military structure, only Portugal, Luxembourg, and the United States have met or exceeded the 3-percent goal. France, the only NATO nation which is not a member of this structure, also met the 3-percent figure. Other nations have not only fallen short of this target, but have even shown declines in their real defense spending. Perhaps the United States should limit its real defense spending growth to only 3 percent growth.

I am not appeased when I hear that many member nations are suffering hard economic times. We in the United States are not unfamiliar with such problems. Neither am I impressed when our allies blame much of their economic problems on the high U.S. interest rates. This only underscores the dependence of our allies on the United States.

The fragility of many governments in Western Europe should not be considered a factor in the reluctance of these governments to move out toward better defense efforts. The lack of such initiatives by their governments is one of the reasons for the fragile conditions. Furthermore, delicate coalition governments are the rule rather than the exception in most of these countries. We cannot afford to wait until greater stability occurs.

What are we receiving in return for protecting for so much of Western Europe? The $1 billion in rent-free barracks in West Germany are of questionable value when we see the deplorable state that most of these are in. We have received basing facilities for reserve forces in the United Kingdom, Norway, and the Benelux countries, but of what great benefit are these in peacetime? Instead of gratitude for our protective services, we have seen protest after protest in Europe about our troops and weapons. It should not have been that President Reagan had to be on the defensive about our nuclear force plans in Europe prior to his zero option proclamation of last November.

This Congress should insist that our NATO allies take many long-overdue steps to improve their defensive capabilities. Our allies' active duty training is noticeably improved, but the training of their 3 million reserve forces is very far behind. Their maritime stocks are very low; their mine countermeasure capabilities are outdated; logistics are generally poorly organized.

Our allies' chemical warfare capabilities are marginal, at best. It is apparent that the Soviets are engaged in an extensive program which might exploit this weakness. Our allies' electronic warfare capabilities are far behind those of the United States and our principal adversary. European lines of communication are very vulnerable to disruption. European air bases are barely adequate for the forces present today. They could hardly handle the requirements of a full armed conflict. I call upon our allies, President Reagan, and our Secretaries of State and Defense to recognize that the United States should not continue its heavy assumption of the free world's military burden. I am confident that all those called upon will renew their efforts to seek a more equitable distribution of this responsibility.

Mr. Speaker, I call upon my colleagues to voice their opinions of this crisis situation, both today in this special order and in the future in any legislation which would seek to accomplish the goals of equity which I have set out today.

□ 1415

Mr. ADDABBO. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I thank the gentleman from Ohio (Mr. REGULA) for yielding. I commend the gentleman for bringing to the attention of the Congress the disproportionate contributions to NATO by the United States and by our allies.

Mr. Speaker, last March 9 I discussed the specifics of the disproportionate defense burden that the United States carries compared with our Japanese allies. What was not available to me at the time was a classified GAO report dated March 4, 1982 entitled "U.S. Military Coproduction Programs Assist Japan in Developing Its Aircraft Industry." This report was received by my subcommittee only last week, and it signals another U.S. contribution to our friends and allies not normally considered when discussing the defense burden sharing.

According to the GAO report, key objectives of Japan and other purchasing countries when entering into military coproduction arrangements with the United States are obtaining advanced technology, enhancing their high-technology employment base, developing future export industries, and increasing their military self-sufficiency. The DOD estimates that coproduction of some items costs Japan two or three times as much as purchasing the equipment from U.S. production lines. Apparently, Japan considers the cost premium worth the investment in future industrial capability and increased military self-sufficiency.

In the past, the United States had been so far ahead technologically in the defense area, there was little to be gained from Japan. In recent years, however, GAO found that Japan has progressed in some areas, such as electronics and laser technology, to the point that some officials believe the United States can benefit from Japan's achievements. To date, however, military technology transfer continues to be a one-way street with the technology flowing from the United States to Japan.

GAO pointed out that when entering into coproduction programs, national security objectives are of prime consideration for the United States. However, in pursuing the political and military objectives of coproduction, the United States has not devoted adequate attention to the impact these arrangements could have on the U.S. economy. Under the current administrative arrangement, the State Department approves and the Defense Department negotiates and implements military coproduction programs with little or no input from other agencies. GAO believes that State and Defense have too narrow a perspective to adequately address the attendant domestic and international economic, industrial, and labor interests and perspectives.

Mr. Speaker, the subject of today's discussion is the share of the defense burden assumed by the United States and its NATO allies. I believe that the same case can be made with respect to military technology transfer to our NATO allies, as was made by GAO in the above report. As you recall, a few short years ago the United States embarked on a program with NATO countries entitled "Rationalization, Standardization, and Interoperability" (RSI). As far as I can determine, very little technology available in Western Europe has flowed to the United States. There are some who will argue that, for the most part, technology transfer to NATO countries continues to flow to Europe except in a few isolated instances. This is another consideration that should be kept in mind when evaluating the proportionate share of the defense of Europe that NATO nations contribute when compared to the United States.

In accordance with section 1006(c) of Public Law 96-342, the 1981 Defense Authorization Act, the Secretary of Defense is required to submit annually a comprehensive description of the contributions of NATO allies and Japan to the common defense. The first report was submitted in March 1981 in an unclassified form. A second report was submitted in March 1982 in a classified version.

At the outset, these reports make it clear that there currently exists no agreed mathematical formula that enables us to combine, with appropriate weighing, all of the major elements of burden sharing into a precise super indicator of fair shares. Based on the major quantifiable measures examined in these reports, the United States appears to be doing somewhat more than its fair share of the NATO and Japan total.

The Secretary of Defense points out that there is no question that the United States and its allies can provide the forces necessary to meet the Soviet threat and to execute agreed NATO strategy. Collectively we have more than adequate resources—human, industrial, technological, and financial—to provide a reasonable margin of security. What we often have lacked in the past is the will to organize and provide these resources for the common defense. The United States has made a major effort in recent years to urge its allies to assume a greater share of the common defense burden.

The Secretary explained that the United States has pressed hard for achievement of the NATO goal of a 3-percent real increase in defense resources. The 3-percent commitment—which applies to a country's entire defense budget—was made in the 1977 NATO Ministerial Guidance and agreed to by NATO Defense Ministers. There was widespread agreement among allies that serious deterioration in NATO's military capabilities vis-a-vis the Warsaw Pact would soon occur unless NATO increased defense spending and cooperated more effectively. The 3-percent commitment represents acceptance of a goal to increase defense spending in the region of 3 percent in real terms annually over the period 1979-84. The commitment was reaffirmed in 1979 as Ministerial Guidance for 1981-86. National performance has been mixed over the years, with only four of the participating nations achieving the goal of 3 percent or more in 1979-80, and less than one-half of the NATO countries achieving the 3-percent goal or more in the 1980-81 time frame. The United States has exceeded the goal in each of the 2 years mentioned. The trend in achieving the 3-percent goal is shown in the following table:

Country	In percentages	
	1979–80	1980–81
Belgium	2.2	2.0
Canada	–0.9	5.1
Denmark	0.2	0.7
France	[1] 2.5	[1] 3.9
Germany	1.8	1.9
Greece	–2.9	–8.8
Italy	2.6	4.9
Luxembourg	3.5	16.3
Netherlands	3.9	–1.5
Norway	1.9	1.8
Portugal	2.9	10.1
Turkey	2.6	2.0
United Kingdom	3.0	2.7
United States	3.4	4.9

[1] DOD estimate.

The Secretary's report explains that the relatively modest German percentage can be attributed in part to constraints on force size by the Western European Union and the German constitution that limits German active duty military strength to 500,000 men. The dramatic increase for Canada in 1980 over 1979 is attributable to the long-range improvement program announced in December 1975 whereby the Canadians are acquiring new maritime patrol aircraft and tanks, and during the next several years will be replacing their combat aircraft and major surface combatants.

The significance of not meeting the 3-percent goal by our NATO allies is explained by the Secretary of Defense in his 1979 report. He states that politically, the failure of our allies to achieve at least the 3-percent judged necessary to keep the East-West balance from tipping further against NATO could be seen in Moscow as a weakening of our collective resolve. Militarily, failure of the allies to achieve the 3-percent goal would affect equipment modernization plans, delay implementation of the long-term defense program, and result in widespread shortfalls in meeting NATO force goals.

Let's take a look at some of the indicators to determine how our NATO Allies and Japan are doing in sharing the common defense. Probably, the most popular of all indicators of defense burden sharing is the total defense spending as a percent of gross domestic product (GDP). By definition, GDP reflects the total value of all goods and services produced by a country and it is widely used for comparing defense burdens among nations. The magnitude of GDP varies greatly among NATO countries and Japan—ranging in 1979 from $4 billion for Luxembourg to $2.4 trillion for the United States and over $1 trillion for Japan. In 1979, the United States accounted for 38 percent of the NATO and Japan total, and 46 percent of the NATO total, which were about the same shares we had in the early 1970's. These percentages did not materially change in 1980.

Of particular interest is the fact that between 1971 and 1980, the U.S. real GDP grew 31 percent while Japan's GDP grew an impressive 54 percent during the same period. On the other hand, while the U.S. share grew from 5.2 percent in 1979 to only 5.6 percent in 1980, the U.S. GDP grew from about $2.4 trillion in 1979 to almost $2.6 trillion in 1980, which provides a more meaningful measure of the amount of dollars the United States spends on defense. The following table shows the total defense spending as a percent of GDP by NATO countries and Japan:

	In percentages	
	1979	1980
Belgium	3.2	3.3
Canada	1.9	1.8
Denmark	2.3	2.4
France	3.9	4.1
Germany	3.3	3.3
Greece	5.5	5.6
Italy	2.4	2.4
Luxembourg	1.0	1.2
Netherlands	3.4	3.1
Norway	3.2	2.9
Portugal	3.5	3.6
Turkey	4.4	4.3
United Kingdom	4.8	5.1
United States	5.2	5.6
Japan	1.0	1.0

As indicated on the foregoing table, in 1980 eight countries, including the United States, increased defense spending as a percent of GDP over the 1979 level, four countries decreased their levels, and three countries remained the same. While the U.S. share in 1979 was 5.2 percent, the average for the rest of NATO was 3.4 percent. According to recent DOD estimates, the trend in the U.S. percentage of GDP allocated to defense will continue to increase to 5.9 percent in 1982, 6.3 percent in 1983, 6.5 percent in 1984, 6.9 percent in 1985, 7.1 percent in 1986, and 7.2 percent in 1987.

Another indicator reviewed is the percentage of central government budget devoted to defense. Here, again, the United States leads as shown in the following table:

Belgium	9.2
Canada	9.7
Denmark	7.2
France	17.6
Germany	22.5
Greece	23.0
Italy	5.4
Luxembourg	3.3
Netherlands	9.9
Norway	10.3
Portugal	11.6
Turkey	19.4
United Kingdom	15.0
United States	24.5
Japan	[1] 5.2

[1] 1982.

According to recent DOD estimates, the trend in the United States increasing percentage of the central government budget devoted to defense will continue as shown in the following table:

Percentage of total budget

Fiscal year:	
1982	25.2
1983	28.5
1984	30.6
1985	32.9
1986	35.0
1987	36.6

Other relatively popular indicators are: One, peacetime active duty military and civilian manpower resources allocated to defense and two, the human resources available to each nation as a percentage of the total NATO and Japan population. These statistics are displayed on the following table:

[In percentages]

	Percent of NATO and Japan			
	To total active duty manpower		Total population	
	1979	1980	1979	1980
Belgium	1.8	1.6	1.4	1.4
Canada	1.6	1.6	3.5	3.4
Denmark	0.6	0.6	0.7	0.7
France	9.7	9.7	7.8	7.7
Germany	9.2	9.1	9.0	8.9
Greece	2.9	2.9	1.4	1.4
Italy	7.4	7.5	8.3	8.2
Luxembourg	(1)	(1)	0.1	0.1
Netherlands	1.8	1.8	2.1	2.0
Norway	0.7	0.7	0.6	0.6
Portugal	1.3	1.4	1.5	1.4
Turkey	10.3	10.5	6.4	6.5
United Kingdom	7.9	7.9	8.2	8.1
United States	41.1	41.3	32.2	32.8
Japan	3.6	3.6	16.9	16.8

[1] Less than 0.05 percent.

The foregoing table shows that in the category of peacetime active duty manpower resources allocated to defense, the United States is far ahead of any other NATO nation and Japan. In the second category, the percentage of human resources available compared with total NATO and Japan population, the United States is double that of Japan, the second largest country.

Mr. Speaker, when we look at other indicators the results are the same. According to 1979 figures, the United States contributes far more armored division equivalents (38.62 percent), far more naval force tonnage (67.25 percent), and more tactical air force combat aircraft (44.94 percent) as a percentage of the NATO and Japan total. For 1980, these percentages remain about the same—38.62 percent for U.S. armored division equivalents, 66.73 percent for U.S. naval force tonnage, and 44.72 percent for U.S. tactical Air Force combat aircraft. Some 30 days after mobilization, the United States would have 25 percent of allied ground force combat unit strength in Europe, nearly 50 percent of the air strength, and some 70 percent of NATO's naval tonnage.

In an attempt to moderate somewhat our European allies' poor showing in the foregoing statistics, the Secretary of Defense points out that the United States has received agreement in principle from Germany, United Kingdom, and the Benelux countries for comprehensive wartime host nation support. Norway has taken a significant step in supporting prepositioning for U.S. reinforcements in the northern region. We also have been successful in increasing both the size and the spending rate of the NATO infrastructure program, NATO's largest common-funded arrangement, and the United States is attempting to expand this program even further.

The NATO infrastructure program costs about $1.2 billion annually. Iceland does not participate because it has no military forces, and France participates only on a selective basis as it has no military forces committed to NATO. What the Secretary of Defense fails to acknowledge is that the United States pays between 23.8 and 27.4 percent of the total infrastructure program, depending on whether or not France participates. Current funding of the U.S. share totals some $300 to $400 million per year, with the remaining 70 plus percent paid by the other NATO countries. The German share runs between 23 and 26.5 percent of the total.

The NATO civil budget is shared by all 15 NATO countries. This civil budget funds NATO headquarters and its international staff personnel at Brussels, and certain small civilian projects. The civil budget runs about $70 million annually. Here, again, the United States pays 24.2 percent of the NATO civil budget, or about $17-18 million of the total. The U.S. share is budgeted and administered by the Department of State.

The NATO military budget program covers operation and maintenance costs of NATO international military headquarters and agencies, as well as common funding of NATO-wide infrastructure system projects not covered under the NATO infrastructure program. The military budget program runs at a NATO total of about $400 million annually. As might be expected, the United States pays between 25 and 30 percent of this program, depending on whether or not France is participating. Thus, the U.S. share represents about $100 to $120 million annually.

Defense Ministers from 12 alliance nations agreed to a December 1978 multilateral memorandum of understanding to acquire a common force of 18 E-3A NATO airborne early warning and control aircraft. In 1981, Belgium joined the program. The United Kingdom, rather than participate in the E-3A aircraft funding, agreed to contribute 11 British Nimrod airborne early warning aircraft. The U.S. share for the cost of the E-3A aircraft for NATO is 42.1 percent or nearly $800 million of this $1.8 billion program. Germany contributes 30.7 percent of the total cost, with the 11 other NATO countries contributing significantly less.

Mr. Speaker, there are other contributions that the United States makes to NATO that are not included in the foregoing NATO statistics. Let me give you a few examples. The Defense budget contains an amount each year for claims, Defense. About $30 million of the total amount appropriated in fiscal year 1982 was earmarked for claims to foreign governments to pay for so-called maneuver damages. In other words, if the United States and German military forces hold a joint military exercise in Germany and a U.S. tank causes road damage or drives across a German farmer's land causing damage to some of the crops, the U.S. taxpayer repairs the road or reimburses the German farmer for the damage. According to GAO, two-thirds of the $30 million goes to the German Government for what I call the West German public works program. Therefore, most of the maneuver claims is purely aid to German residents and state and local governments because the local German governments actually budget to receive these damage payments from the United States each year. Just imagine, the U.S. taxpayer is asked to pay damages resulting from military maneuvers designed to protect Western Europe from Soviet attack. For fiscal year 1983, DOD is requesting $55.7 million for maneuver damage, an increase of 90 percent in just 1 year. You can be certain that we shall make a careful review of this request in the forthcoming months.

The fiscal year 1983 Defense budget contains $44 million for additional equipment and training for army guard and reserve combat service support units. If you think this request is for our U.S. Army Guard and Reserve units, you are wrong. DOD is proposing to spend over $300 million in the next 5 years to equip and train 93,000 West German army guard and reservists to provide combat support to U.S. troops that may be deployed to Europe in the event of a breakout of hostilities.

Similar inequities are present in status of forces agreements with certain European countries and a defense agreement with Iceland relating to employment of foreign nationals, which causes a severe financial impact on Navy exchanges operating in those countries. Local nationals working in Navy exchanges are paid 30 to 40 percent more than U.S. dependents employed at the same exchanges. The high cost for local nationals when compared to U.S. employees is due in part to increased annual leave, reduced workload, and additional administrative leave. In Iceland, for example, not only does a local national receive double the base pay of a U.S. sales clerk per hour, but the local national is entitled to almost twice the number of days vacation and is given almost twice the number of holidays compared with U.S. sales clerks.

Any evaluation of the NATO burden sharing indicators will bring you to only one conclusion—the United States is doing far more in sharing the common defense burden than it should. This disproportionate burden sharing by the United States will increase both as a percentage of GDP allocated to defense and as a percentage of the Federal budget devoted to defense over the next 5 years. This administration is asking the American people to support an unbelievable $1.7 trillion defense burden over the next 5 years. At the same time, the administration predicts staggering budget deficits of $246.3 billion over the next 3 years.

The Congressional Budget Office (CBO) has questioned the administration's estimates and assumptions. CBO predicts the deficit will increase $389.1 billion over the next 3 years. CBO's technical analysis of the administration's Federal budget estimates suggests that revenues may be overstated. Furthermore, the administration's forecast for inflation and real growth is more optimistic than CBO's. The slower growth expected by CBO is largely the consequence of higher interest rates in its forecast, which would dampen the recovery in economic activity. And more importantly, a DOD study last year suggested that the $1.7 trillion estimate for defense over the next 5 years may be understated by $750 billion.

Gentlemen, this country is in a serious economic crisis. Proposed defense spending of the magnitude proposed by this administration will exacerbate our already precarious economy. I believe that the time has arrived for Congress to make an impartial evaluation of why our NATO allies apparently do not share the U.S. view of the Soviet threat to Western Europe. If the NATO countries agree with the U.S. assessment of the growing Soviet threat, why is it that our European allies show little signs of acknowledging the U.S. view by significantly increasing defense spending? It is apparent to me that so long as the United States continues to accept the disproportionate share of defending Europe, our NATO allies will continue to play a token role in sharing that burden. It is inconceivable to me that spending $1.7 trillion on U.S. defense over the next 5 years will give encouragement to our allies to do more. Increased U.S. defense spending in past years has had minimal impact on our NATO allies in that regard.

Another factor is also clear to me. No one in either the Department of State or the Department of Defense appears to be protecting the American taxpayer when negotiating with our NATO allies on any aspect of sharing proportionately the cost of defending Europe. Look at the examples I cited concerning the sharing of NATO AWACS aircraft costs, the maneuver damage claims against the United States, the cost to the United States of equipping West German guard and reservists, the inequities in salaries for local nationals compared with salaries for U.S. dependents at naval exchanges overseas, and the one way street in technology transfer to NATO countries and Japan.

Mr. Speaker, if past and current administrations have had difficulty in encouraging our NATO allies to do more in the defense of Europe, I believe that Congress should send a signal to our NATO friends that the American people are tired of carrying an inordinate share of the defense burden in that area of the world. I also believe that Congress cannot accept the loss of revenues, the deficits, and higher interest rates embodied in the President's budget for fiscal year 1983 and for future fiscal years. And, in the reordering of priorities, the Defense budget must be reduced accordingly. Perhaps in this way our NATO allies will receive the message that there is a limit to the defense burden the U.S. economy can realistically accept, and that greater efforts should be made by the NATO countries to redress the defense imbalance that exists today between the United States and its allies.

□ 1430

Mr. REGULA. Mr. Speaker, I thank the gentleman from New York (Mr. ADDABBO), the chairman of the Subcommittee on Defense of the Committee on Appropriations, for a thoughtful and meaningful statement both this week and last week. I think these ideas contribute a lot to the continuing dialogue that we need on this subject.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to commend the gentleman from Ohio for requesting this special order. It deals with an important and timely topic, and complements the discussion of March 9 on burden sharing with Japan.

I am well aware of the concerns of the Europeans in the defense area from my conversations with NATO parliamentarians. And I also recognize that our NATO allies contribute the majority of troops immediately available for any European action.

But I have to frankly admit that I am disappointed by the performance of the NATO allies as a whole in meeting their agreed upon commitment to provide improvements in their defense forces through real increases in defense spending. I am convinced Secretary Weinberger made a mistake when he told our allies that he would not hold them accountable for the 3-percent real growth commitment. Far too many of them have used this to develop excuses on why they cannot meet that commitment, although recent developments in the Federal Republic of Germany provide some source of encouragement.

Overall, the picture of NATO is one in which the United States bears a disproportionate share of the burden, and the imbalance is increasing. A comparison of the percentage of each nation's GNP devoted to defense is one glaring way to highlight the discrepancy of effort; particularly, when one considers that it is the European nations who are directly threatened by the millions of Warsaw Pact troops poised across their borders.

A most irritating sticking point is the Europeans' reluctance to play any role in protection of petroleum resources in Southwest Asia while at the same time decrying suggestions that the U.S. commitment to Europe might be reduced somewhat to offset our increased role in the Persian Gulf.

The frustration of Americans on this issue can most starkly be seen in the increasingly common calls for withdrawal of U.S. troops from Europe. I do not believe that such a move would be in the interest of either the Europeans or ourselves. But our allies must understand that the patience of the American people is wearing thin.

This special order will send a message to our allies on the depth of the concern in the U.S. Congress. I firmly hope the administration will continue to emphasize its concerns on this issue. It is especially important that these efforts not be undercut by conflicting signals. In this regard the initiation of theatre nuclear force negotiations and the continuation of Selective Service registration are important signals that the United States recognizes the legitimate concerns of our allies and is willing to do its share in promoting common goals and sharing sacrifices.

Again I commend the able Member from Ohio for helping us focus on this critical defense issue.

Mr. REGULA. Mr. Speaker, I thank the gentleman from Washington (Mr. DICKS) for his contribution.

● Mr. JEFFORDS. Mr. Speaker, I would like to thank the gentleman from Ohio (Mr. REGULA) for his series of special orders on the crucial issue of defense burden sharing among our allies.

I am a captain in the Naval Reserve, and each January I do 2 weeks of active duty. Last January, I went to NATO for this purpose and I came away with several impressions that I believe are worth noting. Some of them relate to the issue of Europe's relatively easy ride on defense, and others bring into question the future course of NATO and the defense of the West. Given the wave of antinuclear demonstrations in Europe during the last year, the disparity of conventional forces there, and the essential parity of nuclear forces between East and West, it is clear that we have come to something of a crossroads in Europe and we must begin to rethink our defense policies there.

After World War II, the United States withdrew the bulk of its conventional forces from Europe, leaving our monopoly on nuclear weapons as the deterrent to a conventional war. NATO was then designed as a temporary measure and we sent six divisions to Europe to support those countries until they recovered from the devastation of war. Though the Soviets soon developed nuclear weapons, we retained nuclear superiority until the 1970's. This policy led to a neglect of conventional forces in terms of both numbers and conditions. Not only do the Soviets have a clear advantage in conventional terms, but many of our 375,000 troops stationed in Europe live under deplorable conditions. This despite the fact that we spend over $100 billion per year on NATO-related expenses—over $20 billion of which is for weapons procurement. The fact is that we are now deterring conventional war in Europe largely at our own expense with nuclear weapons. However, the realities have now shifted because of essential parity in strategic forces.

During my active duty, NATO officials expressed confidence in our ability to deter a nuclear war. But they questioned the credibility of deterring conventional war with nuclear weapons now that there is parity. In other words, it is unlikely that either side will push "the button" because we are in a no-win situation with nuclear weapons. However, the nuclear stalemate makes the conventional imbalance more of a concern than it has ever been since World War II.

If this is the case, what are the implications for U.S. policy? First, it means that those who protest stationing nuclear weapons in Europe should consider the consequences of not having them there. It is not constructive to bemoan the fact that we rely on nuclear weapons to keep the peace. We would all like to do away with nuclear weapons, but it is not a simple task. It certainly cannot be done unilaterally. Also, it is interesting to ponder what the U.S. response should be if the Soviets were to propose a zero level for strategic and tactical nuclear weapons. Such a course would clearly put the United States at a disadvantage.

To me it is apparent that we must consider the problem of conventional disparities when we consider strategic arms control. But most importantly, we must involve our European allies in talks about the future of NATO that take these factors into account. A more realistic system must be devised by which NATO doctrine becomes modernized and by which those who benefit from a credible defense in Europe have more of a share in paying for it.●

● Mr. DAN DANIEL. Mr. Speaker, as we begin to consider this Nation's largest peacetime budget for national defense, it is in order that we debate not only our own defense expenditures but what is known as burden-sharing by our allies, whose stake in a free world is or ought to be as great as ours.

Last week our colleague, the Honorable RALPH REGULA, requested time for a special order on Japanese defense spending and this week on non-U.S. NATO defense spending. I commend him for this because it provides an opportunity to enlarge our knowledge and in some areas to set the record straight.

Over the years, the United States has been chastised by its elder brothers of Western Europe for a lot of things. I seem to recall in the late sixties we were criticized by some for creating and maintaining artificially low-interest rates. Now, that has a quaint sound to it.

We have also been berated because, as the largest and most prosperous of NATO countries, we were not carrying enough of the international defense spending

Now we are told that a major cause of the world's ills is our budget deficit. Such statements ignore the fact that the West German deficit is higher relative to the size of the economy and that of the 24 leading industrial nations, big deficits exist in a majority.

I am beginning to believe that perhaps the driving force behind a great deal of this criticism is the hope that it will take the world's mind off the disjointment that presently exists between the amount we spend on defense and the spending of some of our allies.

Quite often the debate centers on whether or not the free world nations possess the resources necessary to provide for their common defense. There is no question that we do. The NATO allies plus Japan compared with Warsaw Pact nations have 80 percent greater population, four times the gross domestic product and more than double the per capita gross domestic product.

Our problem, then, it not a lack of resources but an unwillingness to recognize and even more importantly, to bring our allies to recognize the threat and to make the necessary sacrifices to devote more resources to defense and to obtain the maximum end product from our common defense efforts.

This is not a task easily accomplished. There is no agreed mathematical formula that would distill all the elements of burden-sharing into some sort of superindicator. But, by any number of measures of all the NATO allies, the United States contributes far and away the largest share of gross domestic product to defense. In 1980 we allocated 5.6 percent of our gross domestic product to defense. The United Kingdom's portion is 5.1 percent, Turkey, 4.3 percent, and France, 4. 1 percent. All of the remaining nations have shares of 3.6 percent or less. By contrast, the Soviet Union alone annually devotes some 12 to 14 percent of gross domestic product to already massive military forces.

Only about one-half the NATO nations have achieved the 3-percent real increase goal in a single year. In 1979, the weighted non-U.S. average was 2.2 percent, in 1980, 2.6 percent, and in 1981 somewhere between 2.2 and 2.6 percent. For 1982, the non-U.S. average is expected to be between 1 and 2.1 percent.

In 1978, the NATO nations endorsed a new long-term defense program to jointly upgrade alliance military capabilities throughout the decade of the eighties. Three years into the program there is less than satisfactory performance in at least 60 percent of the areas addressed. There has been a serious reduction in force modernization and critical shortfalls and deficiencies continue to exist in most areas. Additionally, host nation support agreements have still not been finalized and master restationing plans are little more than pipedreams.

Mr. Speaker, it is a useless exercise to expect a perfect division of the burden of defense spending but as our own efforts intensify, we must demand that other nations meet our common commitment to the protection of the free world.●

● Mr. PEASE. Mr. Speaker, I thank my distinguished colleague from Ohio for inviting me to participate in this discussion of NATO defense burden sharing. This topic is not new to me; I have been pursuing this issue for quite some time.

Last year, I introduced a resolution which called on the President to ask pertinent member nations of NATO to meet or exceed their pledges for defense spending—40 of my colleagues have joined me in that resolution.

We have been reluctant in the past to really press this issue with our allies because they are just that: our allies, not our enemies. At the same time, they must realize their obligations and commitments to the burden sharing for our common defense. We as a nation of individuals cannot afford to continue to support the military initiatives required to fulfill the purpose of NATO's defense program without an improved contribution from our allies.

By glancing around the Chamber today it becomes clear that this is not a partisan issue. It is, in fact, a national concern. The Washington Post reported that according to Johns Hopkins Prof. David P. Calleo, by rough estimate, the United States spends $81 billion a year on the defense of Western Europe—

By any objective measurement of relative resources the United States plays a disproportionate role in European defense.

We are not asking our allies to carry the ball, we are just asking for a more equitable balance. Commitment can be spoken or it can be demonstrated. It is time for some demonstration of support from our allies.●

● Mr. YATRON. Mr. Speaker, I want to take this opportunity to join my colleagues in this discussion on the issue of defense burden sharing with our NATO allies. I want to commend the gentleman from Ohio for his initiative in this important matter.

After World War II, much of Europe lay in ruins. The military capacity and economy of our country emerged relatively strong from that war when compared to our allies across the Atlantic. Our policymakers determined it was essential to help the Europeans rebuild their economics and military capabilities if Western stability as well as the freedoms and liberties we all held dear were to be preserved.

Today, however, the situation is vastly different. Many European economies are stronger than our own with higher per capita incomes. Yet, the United States still assumes a level of the defense burden which belongs to our European allies.

Our economy is in the depths of a recession and we cannot afford to pay an unfair share of NATO's defense. Our economic difficulties are partly due to high interest rates which result from huge budget deficits. We cannot ask the American people to do without important government services on which they depend while Europeans enjoy defense protections paid for by the United States.

The Soviet threat has not diminished over the last few years, as evidenced by an unprecedented arms buildup, and adventurism in Afghanistan, the Horn of Africa, Central America, Southeast Asia, and Poland. President Reagan has proposed that the United States modernize and increase its military capabilities so that we can meet the Soviet challenge. Western Europe shares our commitment to upholding the principles and values of a free society and must be capable to defend these liberties if the situation arises.

It is encouraging to note that for the past few years the Congress has called on our NATO allies to pay for a larger share of the U.S. efforts to defend their interests in Western Europe and the Persian Gulf. The military construction appropriations and authorization bills were the primary vehicles to send our message to our allies. It is imperative that since the United States is paying the full cost of the Rapid Deployment Force, which is designed to protect the Persian Gulf oil supplies, other NATO members should pay for some of the costs of certain U.S. facilities in Europe.

I am hopeful that an agreement on this issue can be reached amicably with our allies in Europe. If the inequitable defense burden sharing relationship with our NATO allies is not addressed, the American people may force Congress to seek reductions in the number of U.S. military personnel in Europe.●

● Mr. ECKART. Mr. Speaker, there is no question that by almost any measure, the United States spends more than our allies do to guarantee the security of the NATO alliance. Now that our country is facing severe economic pressures, it is more important than ever that our NATO allies absorb a fairer share of the costs of keeping the alliance secure.

History shows us that the disparity between what we spend on defense and what our NATO allies spend, has occurred, ironically, in large measure by American design. After World War II, when the economies of the allies were very weak, the United States openly encouraged the allies to concentrate on rebuilding their economic base. At the same time, the United States agreed to absorb most of the costs of maintaining European security. For West Germany, in particular, the United States placed very strict limits on the extent to which that country would ever be able to rearm itself.

As a result of American largesse, the economies of our allies have, in general, flourished compared to the U.S. economy. Central to this economic heyday is the absence of a meaningfully allocation of resources to defense.

Now the United States and the allies disagree not only about how much should be spent on defense, but also about what the appropriate military response to the Soviet Union should be. One fundamental difference is that the allies prefer to concentrate on deterrance, while the United States prefers to focus on maintaining the capability to repel any Soviet attack on European soil.

Actual defense expenditures for 1980 reflect this difference in approach. While the United States spent $564 per person on defense, Denmark spent only $298 per person, and Turkey spent only $68. In terms of percentage of GNP, the United States heads the list with 5.6 percent of GNP, while Italy spent 2.4 percent and Norway spent 2.9 percent. If the amount of money committed to defense is not to become a real thorn in the side of the alliance, these numbers will have to change, and change soon.

An option always available to the United States, should the situation worsen, would be to reduce U.S. forces stationed in Europe. This is obviously not an attractive option, and one which I hope will not become a reality. One way to prevent this from happening would be to require that the allies actually offset some of the financial burdens of providing for their security, by asking for direct payments to the U.S. Treasury for U.S. arms and men, stationed in Europe. The Congress recognized the power of this approach when, during consideration of the fiscal year 1982 authorization bill for military construction, it struck a $6.4 million authorization which was to have been used to increase protection for tactical aircraft in Europe.

The Congress also retains the authority to pass resolutions which would require that the President pursue more actively increased allied defense commitments. One such measure, sponsored by my fellow Ohioan Representative PEASE, has garnered considerable support. I am hopeful that these types of resolutions, combined with this special order today, will send a clear signal to our allies that we in Congress want them to bear their fair share of the defense burden.●

● Mr. KRAMER. Mr. Speaker, it is time for the United States to request the Japanese Government to take on a larger share of its own defense responsibilities. It is difficult for us, as Members of Congress, to justify for our constitutents a policy of defending an ally which is seen by many voters as making inadequate efforts for its own defense. This perception becomes even more volatile when that same nation has been making tremendous inroads into American domestic industries, such as automobiles, consumer electronics, optical equipment, and computers.

At this time of economic stringency, I believe it is critical for those of us who serve on defense-related committees to raise such issues for congressional consideration. As a member of the House Armed Services Committee, I have become aware of the tremendous burden that the United States has assumed in trying to protect the interests of not only our own Nation, but also those of the NATO alliance and of Japan itself in such critical areas as the Persian Gulf. As several Navy officers have pointed out, our fleet is being stretched to the breaking point in coping with such operations, which from a logistic point of view are among the most difficult operations for power projections that we have ever attempted on a sustained basis.

Nevertheless, when we look at the Soviet threat to Japan and to other American allies in that region, we see a pattern of increasing Soviet power and a ready appreciation for the traditional currency of power politics: Weapons and forces in being that are situated on critical chunks of territory. The Soviets have deployed their most modern IRBM, the SS-20, in their far eastern districts. Against strong Japanese protests, they have occupied the former Japanese territories of the Kuriles Islands just north of Japan and have moved several thousand troops onto those islands. They presently deploy Backfire bombers out of east Siberian and Pacific district airfields. They deploy their *Delta*-class ballistic missile submarines out of naval bases in that area. Meanwhile, they operate a modern shipyard for building such submarines in Komsomolsk—an indication of their long-term commitment to build up a major strategic complex in that part of their territory.

In essence, the Soviet threat to Japan has increased in recent years across the board, not only in the Persian Gulf itself—where Soviet-sponsored disturbances could easily stop the flow of oil to the Western nations—but also along Japan's tanker lifeline and in Northeast Asia itself. For example, the Soviets may have access to, or operating rights out of, former American naval complexes and airfields in South Vietnam. This would permit them to literally sit on Japan's tanker lines of transit that run through such "chokepoints" as the Malacca Straits. Their large TU-95D surveillance aircraft fly reconnaissance missions around Japanese airspace. A few years ago, the porous nature of Japanese air defenses was demonstrated by the ease with which a Soviet defector flew his late model Mig-25 from a Siberian base right to a Japanese airfield without being detected.

What has been the answer of the Japanese Government to these ominous developments, not only as a response to increasing American pressures to contribute more toward the common defense, but also as a measure of its own awareness of the Soviet peril to its own territories and sea lines?

From an objective point of view, the response may be inadequate. For example, this past January the Japanese Cabinet increased defense spending for 1982 by 7.75 percent which fits the trend for 1981 which saw a 7.6-percent increase. Despite strong American appeals for increasing the proportion of Japan's gross national product that goes into defense, that proportion was increased last January by exactly two-hundredths of 1 percent—from 0.91 percent of GNP to 0.93 percent.

How in the world can those of us in Congress who view Japan as a very critical ally possibly explain such actions by another government to our own constituents, when their inevitable consequence will be a much greater Japanese military dependence upon our overstrained forces in that region? It is an open secret that for several decades the basic defense budget for Japan has been the American budget. When we look at the grinding tempo of American naval deployments into the Indian Ocean—which take our sailors away from their families for long months at a time—and when we look at how thinly stretched our forces are in the North Pacific, how can we possibly justify larger U.S. defense budgets to take up the slack for inadequate allied efforts? Once again, how can we possibly justify this to constituents disturbed by larger defense budgets and cutbacks in social spending programs?

The American public has been extraordinarily supportive of our commitment to allies located thousands of miles from our shores. Politically and historically speaking, the continuation of that support for so many years is nothing short of a miracle. But there have been warning signs aplenty this year that many American voters are getting unhappy about the massive protests against the United States in Europe and, in the foreseeable future, may become much more educated and discerning about the comparative levels of allied defense efforts. The recent hearings of the House Armed Services Committee about our NATO deployments, for example, demonstrated that Members of Congress are beginning to hear from constituents upset about our NATO Allies.

It may be fortunate that we have been saved from an even greater popular reaction against our allies by the Soviet-approved crackdown in Poland, which left the leaders of the European appeasement camp temporarily silenced. But it is critical for the leaders of an ally like Japan, which by most standards of measure is a first-class world power, to understand the powerful "sea change" in American public opinion.

What we request of the Japanese is not another "grand deployment" of massive forces out of their homeland—for which they have a genuine and justifiable revulsion—but rather for increased Japanese efforts for national self-defense. The defense of their national air space, of their territorial integrity, particulary of the island of Hokkaido, which is especially vulnerable to Soviet moves down from the Kuriles, and their ability to control their sealines of communication, are legitimate and highly affordable military roles. But we also need, beyond these immediate requirements, a more justifiable division of labor between the United States and Japan as our requirements in the Persian Gulf and the Indian Ocean loom ever larger. Given the tremendous and grinding pressures on American men, ships, and machinery of operations at the very end of logistic lines in the Indian Ocean, I feel that such a division of labor is very much in the interest of both nations.

But this division of labor should extend not only to conventional or general-purpose forces, but also to strategic capabilities, especially in strategic defense.

First, I believe that the U.S. Congress should put itself on record as supporting Secretary Weinberger's support for Japanese initiatives in defending their airspace and in protecting their sealanes out to a distance of 1,000 miles from their home islands.

Second, I believe that Japan should be encouraged to develop naval forces capable of crisis deployments to areas such as the Straits of Malacca, and possibly into the Indian Ocean. Their presence on their own tankers' "chokepoints" will be a critical signal to any Soviet forces operating out of Vietnamese bases that Japan recognizes the gravity of the Soviet threat to its Middle East pipeline. In short, such deployments could serve as a crisis control force. Japanese logistic support—possibly including the construction of dedicated ships—for our own Indian Ocean forces might be another very legitimate initiative, particularly if this substitution could free up U.S. Navy auxiliaries or logistic units for service elesewhere.

Third, I believe that the United States should strongly encourage the Japanese to develop nonnuclear strategic defenses against Soviet cruise missiles and perhaps ballistic missiles as well. Presently the United States conducts the free world's only technology development effort in ballistic missile defense (BMD). However, it is one that has been severely, and deliberately, starved for funds for almost a decade, thanks in large part to a historically unique ideological excursion in strategic policy by our own Government.

This excursion identified mandatory homeland vulnerability and calculated population targeting—both of them relics of 1920-30 airpower theorizing—as the only way to assure strategic stability. Consequently, we deliberately reduced our BMD effort to accommodate this mythology. While our moral, conceptual, and technological recovery from such an excursion will take a good deal of time, there are other nations that urgently need identical defenses against increasing Soviet offensive nuclear power. I feel that the United States has every interest in encouraging such collateral development by well-endowed, high-technology nations such as Japan.

Finally, I would urge Members of Congress to begin devoting as much time to the Pacific balance of power as we do to the balance in Europe. Our foreign-policy orientation is still overwhelmingly "Atlanticist: We are Europe-firsters." Yet what we see in the Northwest Pacific is a geopolitical collision of the world's four major powers: The United States, with the largest economy; the Soviet Union, which is economically No. 2 and militarily No. 1; China, the most populous nation in history; and Japan, which is third in GNP and yet has every potential of surpassing the Soviet Union in everything but military power during this decade. This collision extends from the American Aleutians down the Kamchatka Peninsula, through the Kuriles Islands, down through Japan, Taiwan, and the two Koreas, along the Chinese coast, and all the way down to the Malacca Straits.

It is in this context that I believe the Congress should encourage a stronger Japanese defense effort. The West is at a critical balance point in creating the balance of power that will exist for the balance of this century. We will either succeed in restraining the Soviet Union, or we will pay the price of a Sovietized world order—one whose outlines we cannot discern, any more than the hapless nations of Europe could understand in 1935 what was to descend on them 4 years later.

Our relationship with Japan shows every prospect of becoming as important as, or even more important than, our relationship with NATO. Nevertheless, we in the Congress must be candid with our friends—and it is my hope that the nation of Japan understands the significance of certain political developments in the domestic politics of American foreign policies.●

● Mr. PRICE. Mr. Speaker, I want to congratulate the gentleman from Ohio for taking the initiative to commence this discussion about relative levels of defense contributions among our NATO partners. There is a growing amount of concern, particularly as the U.S. economy has weakened, that our allies are not meeting their commitments to the common defense in the NATO area. While there is room for such questioning, it is also true that our allies can make a positive case about their commitment to meeting their mutual defense obligations that is not often heard in the United States but is vigorously made by parliamentarians of our European allies in various interparliamentary meetings. I hope that discussions such as today's will permit U.S. citizens to develop a more balanced view of the situation.

I anticipate that others participating in today's discussion will point out the places where allied contributions have lagged and I plan to leave that ground to those individuals, although I do not intend to underrate the importance of achieving greater levels of effort from our allies for NATO defense. They are needed. One area that comes to mind in particular is the deficiency in logistical equipment, such as ammunition and other stocks needed to sustain our defense capability. Our allies have lagged badly in procuring such equipment apparently with the view that they can rely on U.S. supplies in an emergency.

However, today, I would like to make four points concerning allied cooperation that I hope will be helpful but also place the discussion in some perspective.

First, as hard as we try to quantify relative contributions to defense, some important factors do not fit these statistical lists. One particular item that cannot be quantified is the fact that all of our allies, except the United Kingdom and Canada, conscript their active forces. Conscription, although not easily quantifiable in economic terms, involves a significant human and political burden on these countries—a burden the United States does not choose to accept. A fact that is often overlooked is the extent of our allies' contribution to NATO's total forces. They provide 4.3 million men and women to the defense of NATO.

Second, while much is being made about the higher levels of defense expenditures achieved by the United States in recent years as compared to allied contributions, the fact is that our European allies have maintained a more consistent and adequate rate of growth of defense expenditures over the past 10 years than the United States. Our allies are therefore somewhat unhappy about current U.S. claims concerning the adequacy of their contributions since, when measured over time, their record compares very favorably with that of the United States.

In the past 10 years, the European share of the total NATO defense budget has increased from 37.6 percent to 45 percent, while the U.S. share has decreased from 62.4 percent to 55 percent—a long-term trend we seldom hear about.

Third, underlying much of the criticism of NATO member levels of contribution is the implication that high defense expenditures by the United States are having an adverse impact on the U.S. economy. I do not subscribe to this assertion and, in fact, do not believe it is correct. Defense expenditures create jobs in the United States, as well as having major benefits in maintaining U.S. technology leadership. Even further, such an assertion implies the United States cannot maintain adequate levels of defense expenditures and meet other domestic economic priorities at the same time. In this regard, I would offer for consideration a comment from the recent statement of Dr. Alice Rivlin, Director of the Congressional Budget Office:

> In every year from 1955 to 1962, defense spending accounted for more than 8 percent of GNP, and by today's standards, those were years of remarkable price stability. If defense budget authority grows at a real annual rate of 7 percent, then the share of GNP going to defense will rise from its current level of about 6 percent to about 7 percent by 1987. The Federal Government can certainly afford to devote 7 percent of GNP to defense, provided we pay for the defense effort either by reducing spending in other portions of the budget or by increasing revenues.

But more to the point on the issue of U.S. jobs—an issue we are all vitally interested in—I might point out that the defense expenditures of allies in U.S. markets now account for a substantial number of jobs in the United States at this time, an important fact we should keep in mind.

Additionally, as we criticize our allies for relative levels of defense expenditures, we should recognize that they face a different but equally difficult internal political problem in maintaining appropriate levels of defense spending. Our NATO allies buy 13 times more defense equipment from us than we buy from them on an annual basis. This drain on their own trade balances is significant and is an issue they continually highlight in discussions. As they accurately point out, internal defense industries help to create jobs and the constituencies for overall political support for maintaining their obligations to NATO. As we press to achieve greater levels of defense spending for NATO, we must also be willing to accept the fact that this may not necessarily mean more purchases from the United States—or even provide a rationale for less defense spending by the United States—but rather may in fact encourage overseas competition for U.S. defense industries for NATO defense funds.

While neither the United States nor its allies are blameless concerning defense expenditure levels, the important thing to remember is that the alliance has been successful in its principal purpose—maintaining peace in Europe, and this overriding concern should not be endangered by hopefully transitory economic difficulties. As Gen. Bernard W. Rogers, the Supreme Allied Commander, Europe, said recently before the Committee on Armed Services,

> Given the commonality of our heritage, and our social, political, and cultural aspirations, the future of the democratic nations in Western Europe and North America will remain inextricably linked.

In conclusion then, I think it only fair to point out that the combat capabilities of our NATO allies are not insubstantial. They provide 60 percent of the armored forces; 52 percent of the tactical combat aircraft; an 37 percent of the naval force tonnage.

Although it is difficult to put precise dollar values on many types of allied contributions, I think it is worth pointing out that the allies have agreed to very extensive host nation support arrangements as part of an overall burden-sharing effort. For example, Germany will provide 90,000 reservists in wartime to support U.S.

combat forces operating in Germany. This eliminates the U.S. requirement to train and maintain such forces.

Mr. Chairman, let me say that I believe that our NATO allies can and should do more in the common defense and I applaud Mr. Regula's initiative in focusing the attention of this House on the issue. However, I do not want us to lose sight of our objective—which is to make NATO stronger and ourselves more secure.

Assuming that we are doing it all alone is—as I have pointed out—a clear overstatement of the fact. And assuming that we can force our European allies to do more by threatening to withdraw some of our forward deployed forces from Europe is dangerous and misguided. Withdrawal—or even the threat of withdrawal—will lessen American influence on the Continent, weaken the resolve of our allies, and increase the threat to our own security.

Great nations lead by example, not by impatience or punitive actions against their allies—of which the United States already has too few. To punish our allies is to trifle with security arrangements that have served us well for more than 30 years. Let us be firm. But let us not be foolish.●

● Mrs. BYRON. Mr. Speaker, I want to thank the gentleman from Ohio for this second opportunity to discuss the sharing of the burden of defense spending by our friends and allies.

As the gentleman knows, I am also concerned that by only concentrating on direct defense spending we are overlooking a very important aspect of the mutual defense responsibilities. I am referring to the transfer of technology to the Soviet Union and its Warsaw Pact allies.

We and our allies, particularly our friends in Europe, must get together and realize that the technology we sell or trade has a direct and lasting impact on every defense dollar we spend. Regardless of whether its catching up or staying ahead in military capability, the scarce defense dollars allocated to improvements in technology will only be as good as the edge in the quality and effectiveness in our systems performance.

Both sides of the Atlantic have a responsibility in this matter. While we carry much of the burden in defense R. & D. spending, the key to continued technological improvement, our allies commit their available resources as well. But the tendency of our allies is to guard their investment vis-a-vis the capability developed by the United States. What we must do is transfer that sense of secrecy they have toward their comparatively small R. & D. investment into a recognition that all defense technology, and much of the commercially developed technology, is as important once it falls into Soviet hands.

The sharing of the technology among our friends demands a sharing of the responsibility for the deliberate deployment and protection of technological advances.

We also have to increase and enhance our vigilance on illegal acquisitions of military designs. If anyone saw "60 Minutes" on March 14, it is obvious that espionage activity is still a threat and must be countered.

The employee from Hughes Aircraft who cooperated with Polish agents traded, for cash and/or gold, some of our most advanced radar and missile guidance designs. Of particular importance was the potential compromise of our radar system for the B-1 bomber and the advanced technology bomber which incorporates many of the Stealth technologies.

Additional defense dollars may be necessary to improve the systems or to invest in more advanced countermeasures.

Yet, our continued vigilance in this assault on our mutual technology base underscores two important facts. First, the Soviet Union in no way underestimates the importance of technology into its programs.

Second, we must be better in curbing the technology we allow the Soviet Union to obtain legally. Whether its our European allies, U.S. corporate subsidiaries in Europe, or U.S.-based corporations, a concerted effort is needed to stem the flow of sensitive and strategic technology to the East.

It matters not how the technology is obtained. The result will be the same: a higher rate of investment to improve our defense systems so that they remain effective.

Mr. Speaker, I would like to briefly develop these two points to indicate why we need to become more concerned in this area, and where we can begin to address this problem.

> We seem to have the technological initiative now in areas where that initiative is truly important to us to maintain an appropriate military balance. That initiative and the technology balance are fragile in a technologically competitive world where the Soviet Union is agressively seeking such an initiative in the face of systemic and other admitted deficiencies in its R. & D. process.

This statement is part of an interesting and pointed chapter, written by Bruno Augenstein, in "Arms, Men, and Military Budgets," "Military R.D.T. & E.: Raison D'Etre and Policy Background".

While published in 1976, the intent of the Soviet Union to integrate Western technology with its existing industrial base was recognized as a major goal to be met by imports. While the emphasis is on the military impact, it is important to note that much of the advances that the Soviet Union can and does make is a direct result of its access to commercial Western R. & D. systems which survive because of the integration of civilian and military product development.

I am including in this statement a part of Mr. Augenstein's chapter for the Member's information:

> Today's Soviet leadership is highly technology-oriented and trained.[7] In addition, the picture sketched by historians is consistent with some features of modern Soviet technology emphasis and technology development style that continue to puzzle and amaze Western observers. These features include: response to a technological challenge, rather than the innovation of new technology; the sudden realization of a technology gap, spurring a saw-tooth pattern of occasional major surges of technology development, followed by "coasting" (or incrementalism); the priority emphasis on military technology and its industries; the consequent development of an incentive structure highly biased towards the military technologies; the increasing premium on response to challenges whose time separation is being continually reduced; the emphasis on the importance of technology, leading to a relative continuity of effort, perhaps unconsciously motivated by the historical circumstances of Russian confrontation with technological challenges; contentment with the "mastering" of the technique of the West up to the contemporary level at which it had vindicated itself in Western hands; and the like.
>
> A significant danger is, of course, the combination of the Soviet historical perception of the importance of technology with a reduction in Western emphasis on technological prowess. It is this combination of circumstances which could prompt (and may now be prompting) the Soviet technological emphasis.
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> One can make the general case that, in reality, civilian and military technological development in high-technology industries is so intertwined that it makes little sense to try to segregate the end products of such industries on the basis of either civilian or military relevance. On the other hand, it is precisely all those components of the technology infrastructure that are really the stock in trade wherein the United States has a major military advantage which should not be relinquished lightly.
>
> It should be evident that military and civilian technologies are intertwined in many ways in the technologies of highly-developed countries. It is clear that this must generally be so, because the presence of a strong civilian industrial base allows opportunities for the diffusion and application of technologies which might otherwise be peculiarly military. In the process, more experts on the technologies and a higher general level of expertise can be developed by this broader technology base. At the same time, the existence of a large civilian industry provides one enormous impetus to cost-reducing developments which is not strongly present when a technology exists which is peculiarly and solely of military relevance. This impetus exists because of the different effective market structures in the civilian and military industries. Since, in the civilian or commericial market, product must compete on cost as well as quality, a very significant driving force for cost reductions of components and subsystems results.
>
> These cost reductions, in turn, extend back into the military market area, and allow next-generation military products to

be developed at substantially lower costs than they would have been in the absence of commercial markets. That is; while in the United States as well as many other advanced nations, military technology is still often the leading edge of advanced technology, the presence of larger commercial markets drives producers toward goals of cost reductions of a very substantial magnitude; and these cost reductions allow the producers for military markets to develop more sophisticated and complex articles at a significantly lower cost than would otherwise be the case.

* * * * *

The USSR is trying to acquire, via technology transfer, a number of US developments and advances in several aspects of computer assistance to manufacturing. The USSR is thus trying to overcome continued lags in its indigenous development of automated manufacturing. Such advances have already taken place in the United States in such critical areas as advanced aircraft design and production. There are, however areas which are at least as important in which both the US and USSR could gain major advantages, although neither country currently has exploited the advances possible—even though the United States could generate those advances more confidently and sooner than the USSR. Such an area is reflected by the potential of further automation in the production of small lots of items—that is, batch production. Any prognosis of comparative future developments in military manufacturing technology by either the US or USSR must consider the possible impact of advances in these areas. Such advances can have a pronounced impact on military manufacturing, as well as, of course, on manufacturing appropriate to domestic (civil) needs.

* * * * *

Neither the current technological difficulties experienced by the USSR nor the problems of diffusing the technology throughout the economy should be considered sufficient reason to prevent Soviet automation. Indeed, there are several reasons why the Soviets may find it both easier and more necessary to automate than the United States. It is known that the USSR uses approximately one and one-half times as much labor as the United States to produce a similar output of engineering products. As long as the labor supply is plentiful, such expenditures of manpower are acceptable. Quite recently, however, it has become apparent to the Soviets that their ability to expand the labor force to increase industrial output according to present plans would call for more workers than are available through natural increases in the labor force. Consequently, the USSR can no longer rely on a rapidly growing industrial force to sustain and increase production. Soviet industries must look for other means to increase productivity. The Soviet Union now has a fundamentally compelling reason to adopt means of production that increase productivity per worker, thereby releasing surplus labor for other uses. There is now a real need for technological innovation and diffusion, and for faster introduction of tools and techniques that will improve machinery, create more efficient management procedures, and automate production facilities.

Thus, an economic incentive to innovate and to diffuse technology exists in spite of the modest progress made in trying to automate parts of Soviet industry in the past. The Soviets seem to be trying to respond to this economic incentive. The Soviet government has shown interest in planning for mechanization and automation of production processes in the past, and is currently evincing substantial interest in this matter.

Should the Soviet Union automate the metal working and machine building industries, applicable benefits could be reaped within these industries, judging from results hypothesized for the US counterpart. Moreover, these benefits would extend beyond the immediate industry sectors to the whole of the Soviet economy. Increased efficiency in the machining and assembly parts of production would release more workers for other jobs. Production of the industry would increase, and presumably price per item might drop. More necessary goods would be available for civilian consumption as well as export. Surely the military would benefit from the increased efficiency and capacity generated by automation. The metal working and machine building industry of the Soviet Union is, as it is in the United States, the key industrial sector for defense-related work. Many of the factors facilitating automatic production are currently practices is use in Soviet weapons development. Indeed, official Soviet desire to automate, coupled with Soviet design capability, could unite to promote automation more rapidly and successfully than in the United States.

This manufacturing-related area is consequently one of those more paradoxical areas in which the payoffs to both countries would be great; neither one has yet made major moves; and yet the United States is in a better technological position to implement the potential advances. US inhibitions weighing against such advances have been significantly in the institutional and policy constraints surrounding this type of market intervention. The significant funding required has also been an issue. The USSR is in a better position to overcome such constraints. Such an ability, plus the acquisition of purely technological know-how, could bring the USSR to a position of preeminence. On the other hand, US pursuit of this field in the military production area could apparently begin to compensate, in an affordable way, for the current starkly greater capacity of the USSR to produce military hardware.

In closing Mr. Speaker, I must acknowledge that concentrating on this problem is of no importance unless we begin to develop the necessary steps to reform our system. In fact, identifying possible solutions has already begun.

There is in the other body an effort to evaluate an eight-point program to get control of the transfer of sensitive technology. Among the possible alternatives include a tieing of credit controls to strategic trade policy, strengthened the role of the Department of Defense, and developing tougher cooperative agreements with our allies.

Here in the House, the Subcommittee on Research and Development of the House Armed Services Committee has received testimony that the present export control system in this county needs improvement. Of particular importance is the fact that the Department of Defense does not have adequate statutory authority to provide an effective review of technology licenses and exports.

This is a function, of course, in the way we have delegated the responsibilities under the Export Administration Act. For example, both the Act and the Commerce Department prefer to favor technology transfer in the absence of compeling evidence against such tranfers. In addition, such provisions that require time limits on the review of applications further serve to discourage a complete evaluation of exported technologies. This is particularly true when failure to meet the time limitation is an automatic basis for approval.

The subcommittee also received testimony supporting the assumption that the Department of Defense does not receive all of the export cases for review that it should. And, when the Department indicates a negative recommendation on a technology's export, they are faced with a Commerce Department that is willing to trade one technology transfer for another.

The example used in the subcommittee was the Defense Department's rejection of a shipment of polysilicon, which is used in the production of microelectronics. The Commerce Department came forward with a proposal to have DOD sign off on a series of computer shipments to the eastern bloc in exchanges for adding polysilicon to the critical technologies list.

Mr. Speaker, we need to work a lot harder with our allies, and within our Government agencies, to improve the identification and processes employed to transfer technology. We need a fresh perspective. We need to realize that while our technology licensing and export system has provided successes in the past, it may need refinement. As was suggested to the subcommittee, we may need to have built into the technology transfer system a recognition that unless there is a demonstrable service to our national interest by authorizing a technology export, we should presume that the transfer not be made.

It is time to open this subject up to full debate.

This special order has given us an opportunity to identify where we, our friends, and our allies can come together for our common interests and defense. Technology transfers is one of these areas that we must face on a united front.●

● Mr. DASCHLE. Mr. Speaker, I join today with my colleagues in a discussion on defense spending by our NATO allies. As the leader of the free world, the United States has willingly taken it upon itself to be the defender of the free world as well. Following the devastation in Europe following the Second World War it was only natural for the United States to assume such a role. Events have significantly changed over the years, however, and our NATO allies are much stronger economically now than in 1945. It seems only fair that they should thus be more responsible for their own defense as well.

Following are two charts. The first one shows defense spending of NATO countries as a percent of gross domestic product (GDP).

	In percentage	
	1979	1980
Belguim	3.2	3.3
Canada	1.9	1.8
Denmark	2.3	2.4
France	3.9	4.1
Germany	3.3	3.3
Greek	5.5	5.6
Italy	2.4	2.4
Luxembourg	1.0	1.2
Netherlands	3.4	3.1
Norway	3.2	2.9
Portugal	3.5	3.6
Turkey	4.4	4.3
United Kingdom	4.8	5.1
United States	5.2	5.6
Japan	1.0	1.0

The second chart shows the percent of each Government's budget which is devoted to defense.

Belgium	9.2
Canada	9.7
Denmark	7.2
France	17.6
Germany	22.5
Greece	23.0
Italy	5.4
Luxembourg	3.3
Netherlands	9.9
Norway	10.3
Portugal	11.6
Turkey	19.4
United Kingdom	15.0
United States	24.5
Japan	[1] 5.2

[1] 1982.

As one can see, the United States is clearly ahead of virtually all our NATO allies in both areas.

Considering the fact that the United States has provided a nuclear umbrella or shield for our allies since the late 1950's and early 1960's, coupled with the fact that as a percent of GDP and national budget, the United States far outstrips most of our allies, former President Carter in 1977 proposed that our NATO allies strive for a 3-percent growth rate in defense outlays through 1984. This proposal was ratified by NATO Defense Ministers and later extended through 1986. Clearly, there is a wide discrepancy among our allies in meeting this goal as exemplified in the following chart:

Country	In percentages	
	1979-80	1980-81
Belgium	2.2	2.0
Canada	−0.9	5.1
Denmark	0.2	0.7
France	[1] 2.5	[1] 3.9
Germany	1.8	1.9
Greece	−2.9	−8.8
Italy	2.6	4.9
Luxembourg	3.5	16.3
Netherlands	3.9	−1.5
Norway	1.9	1.8
Portugal	2.9	10.1
Turkey	2.6	2.0
United Kingdom	3.0	2.7
United States	3.4	4.9

[1] DOD estimate.

Mr. Speaker, considering the fact that there are over 216,000 American troops in western Europe, which according to an aide to Senator STEVENS, costs the United States $32.1 billion a year to maintain, it is perfectly acceptable for our NATO allies to assume a greater role in maintaining for their own defense. It seems to me that a 3 percent growth rate goal is not too much to ask and I would hope that this colloquy among the Members today will send a signal to our NATO allies that we expect them to live up to the commitments reached back in 1977 and later in 1979.●

A TRIBUTE TO THE LATE DAVID A. LEVINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 60 minutes.

(Mr. ROSTENKOWSKI asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. ROSTENKOWSKI. Mr. Speaker, it is with a sense of great loss and sorrow that I now pay tribute to the late David A. Levine. David, who served the Congress as a page from my city of Chicago, died of cancer March 5, at the age of 18.

During his service from September 1980 through June 1981 as a page in the Democratic cloakroom, David clearly demonstrated his ability as a capable, motivated, and highly mature young man. It seemed he always had a way of handling the most hectic situation with grace and dignity.

David was an intelligent young man whose academic achievements were noteworthy at both New Trier High School and the Capitol Page School. Yet these qualities of maturity and intelligence portray only a small portion of this most unusual individual.

Beyond these qualities there was a young man of compassion and warmth. It seemed David's warmth came from his sincere and genuine concern for others. He always searched for individuals' positive qualities and downplayed their weaknesses. In his cheerful manner David seemed to never envy anyone—he always seemed most comfortable with himself.

I admired this young man and I respected him.

To David's father, Roy, and his mother, Saralyn, I offer my condolences. But amidst my sadness I must express that I have been deeply honored to have known a young man of David's stature.

In closing, I would like to submit for the RECORD the eulogy Mr. Donnald K. Anderson delivered at David's funeral. As we all know Mr. Anderson, as the manager of the Democratic cloakroom, was David's supervisor. But more than David's supervisor, Mr. Anderson was David's mentor, friend and confidant. We will all miss this young man.

EULOGY BY DONNALD K. ANDERSON

For the Members and staff of the United States House of Representatives, I and many of my co-workers have come from Washington to offer our heartfelt tribute to the memory of our friend, David Levine.

During the nine months David served the House as a page in the Democratic cloakroom, I was his supervisor. This was a time of extraordinary happiness for him and for the many of us who daily worked, studied, ate, played, talked and, yes, even occasionally argued with him.

We deeply mourn David's death, but far more significantly we celebrate his beautiful life, and are grateful to God for having made us a part of it until his life was fulfilled.

We have no doubt that David's life, though short, was indeed fulfilled and in the very finest sense. On David's birthday last week, one of several Members of Congress in a tribute to David from the House floor, observed that Washington is a city filled with monuments and with people who sometimes confuse themselves with those monuments.

David was not one of those people to whom the Congressman referred, for he became for us in his own right, a monument to the nobility of the human spirit. Unaffected by the imposing setting in which he lived and worked, David affected us indelibly and powerfully with his simple directness, his straightforward statements of personal morality and ethics, his unfailing respect for people and their institutions, his real compassion, and his ability to balance genuine good humor with serious discussion.

David's strong religious belief and love of God were ever reflected in his expressions of kindness and love for us, his friends. David and I frequently discussed God although we embraced different faiths. David spoke so wisely and so confidently as to cause me to forget that he was less than half my age.

We believe that each of us is a unique and unrepeatable creation of God. Might God have once been inclined to copy from his own creation, he may have done so in David's dear brother, Robbie, who possesses David's most beautiful qualities and yet with the distinct imprint of his own personality.

Roy and Saralyn have been blessed with two sons who bring honor to their name. David and Robbie have been likewise blessed with the rich inheritance of their parents' wisdom and love, their gift of life's most profound values, and the strength of character which comes only when family members truly understand and support one another.

I would share with you our mutual impressions of David's short but abundantly successful life: David achieved success because he lived well, laughed often and loved much; enjoyed the trust and respect of intelligent men and women, and the love of children; David always looked for the best in others and always gave them the best he had; David filled his niche and accomplished his task; David never lacked the appreciation of Earth's beauty or failed to express it; David has left the world better than he found it; David's life has been an inspiration; David's memory is a benediction.

David had a formula for success: be polite, prepare yourself for whatever you are asked to do, keep yourself tidy, be cheerful, don't be envious, be honest with yourself so that you will be honest with others, be helpful, interest yourself in your job, don't pity yourself, be quick to praise, be loyal to your friends, avoid prejudices, be independent, interest yourself in politics, and read the newspapers.

A successful man when once asked the secret of his success observed that it could be summed up in three words . . . "And then some". These three words, he said, explain the difference between ordinary people and really top people. The top people always do what is asked of them . . . and then some. Our friend, David always did what was asked of him . . . and then some.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

I would like to take just a moment to add my voice to the tribute paid to David by his sponsor in this House, the gentleman from Illinois (Mr. ROSTENKOWSKI).

There really is not much consolation, to put it simply, in the death of a young person. I find it particularly touching that this House would take a moment to reflect upon one of those challenges which life has for us and to which we must respond.

Young people do die. Tragedy notwithstanding, it is something with which we must deal, something which we must accept.

The gentleman will recall that just a couple of weeks ago several of us stood on the floor of this House to wish a happy 18th birthday to David. We knew at that time, but as far as I know, he did not know, that in all likelihood that would be his last birthday. I recall, as does the gentleman, the kind of warmth that was brought to this Chamber and to its anterooms by this young man from Chicago. It is a very special gift that he had. He shared it very, very generously with those of us who were here and all those who are privileged to be here.

I just hope that, human nature being what it is, we will respond in a way that I think would do him the honor he deserves. As you know, human nature is such that we usually wait until a tragedy of this dimension to awaken ourselves from the kinds of trivia to which we generally devote so much of our attention, and our energy, and our time.

So often and so sadly, it takes the loss of a member of our family or a loved one or a close friend to jolt us out of the ways in which we waste so much of our time and so much of our energy, particularly in this Capital of international business in which we work at this time.

So perhaps the best honor we could give to this young man is to try to remember that there are more important things than those to which we give so much of our own attention, and to thank him at this point and in this way for reminding us of those things and the way he lived, and as I say, if we can conduct ourselves in that fashion in the future, then his presence here will have been very special indeed.

Mr. Speaker, I thank the gentleman for having brought him here, and I thank him for this opportunity to pay this tribute.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I am grateful to the gentleman from Illinois (Mr. ROSTENKOWSKI) for taking the time to pay this tribute to a splendid young man.

I was really greatly saddened when I learned of the death of David Levine. David was one of those rare people who think only the best, give only their best, expect only the best, and deserve only the best.

□ 1445

He was a very shining example of the kind of students that we are privileged, as Members of Congress, to be associated with among the pages. I am sure that his spirit of enthusiasm and his dedication to his job and to this institution will set standards to which the other pages can repair.

As you know, David Levine lived and died fighting. He fought the good cause for everything that was right, as a person and as a student, and then he fought the great struggle, of course, against the devastation of cancer.

Each of us is a better person for having known David and we will carry his ideals forward all the rest of our lives.

I would like to extend my special condolences to David's parents and to his brother Robbie, and to his friends. His absence will be greatly felt by all of us here.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, on Friday, March 5, 1982, David A. Levine lost a 9-month battle with cancer. David served as a Democratic cloakroom page here, in the House, from September 1980 to June 1981.

David Levine excelled in both pursuits—he was an outstanding student, and worked assiduously to execute his page duties. Unfortunately, the many tiring evenings, pressurized days, and formidable tasks in the life of a page are just not acknowledged enough by those of us who rely so heavily on their services.

David Levine was one of our young people whose life disputes the myth that all youth are only concerned about having fun times and avoiding work. David ranked near the top in both the Capitol Page School, and prior to that, in his home school in Chicago. It is just a bit comforting to know that he was among those youth eager to gain some knowledge of the legislative process while serving the lawmakers daily.

I join my colleagues in extending heartfelt sympathy to David's family, and in assuring them that, although their son's life was short, it was, nonetheless full with the admiration gained by his service to others.

Mr. Speaker, I want to commend the gentleman from Illinois (Mr. ROSTENKOWSKI) for taking this special order. Here we are in this Nation caught in the grips of all sorts of potential international calamities, and our domestic situation threatens us each day. This Congress, in which I am honored to serve, is beset by problems that almost seem to defy solution. Yet in the midst of all of that chaotic activity, I think it is appropriate that we stop and pay tribute to a spirit, a very beautiful spirit which David Levine had. I teased him a lot. I know we were friends. I would tell him to "Wake up, you are supposed to be taking care of the Congressmen." He was wide awake. He would always have some teasing remark to give back to me.

As my colleagues know, we establish our own friendships in this Congress. But to establish a friendship with a young person is so meaningful because there is no hidden agenda, there is just the honesty and sincerity and decency.

I, too, share the grief that I know his parents must feel, and I would say to them some words that Robert Kennedy is alleged to have read over and over and over again at the time of the tragic death of his brother, John. Those words go:

> Even in our sleep, pain which cannot forget falls drop by drop upon the heart until out of our despair, even against our will, comes wisdom through the awesome grace of God.

I think if his parents and brother ponder on those words there might be something to assuage the pain that they must feel.

Mr. KILDEE. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Michigan.

Mr. KILDEE. Mr. Speaker, as a former teacher and the parent of three children, I have had the opportunity to observe many young people in the course of the years. David A. Levine, who served here as a page, was one of the few truly outstanding young men that I have ever had the privilege and the honor to meet. He was a real gentleman, a fine intellect, had high ideals and a keen sense of morality.

I chatted with David on several occasions here in the House Chamber, and one day while he was securing a telephone for me, I told David that if my children would grow up to be as fine as he was, I would consider myself a successful parent. These words were spoken from the heart and David accepted them with boyish embarrassment and genuine gratitude.

Those whose lives he has touched are better for the fact that they knew David Levine.

Mr. MAVROULES. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. Mr. Speaker, I rise to pay tribute to a young man of strong character, remarkable intelligence, and great courage.

Most of us knew David Levine during his service here as a page in the Democratic cloakroom. Those of us who did where impressed by his diligence—his unflagging devotion to his job, and his studies.

More importantly, Mr. Speaker, we were impressed by a level of maturity so rare in one so young.

David's strength of character was no secret to his many friends. It was underscored by the bravery he showed in his fight against the disease that tragically claimed his life.

This is a difficult time for David Levine's family and friends, and nothing anyone can do or say will make it easier.

But his parents, Roy and Saralyn Levine, and his brother, Robby, can be proud of what he accomplished in the limited time he had.

I think I speak for my colleagues in saying that all who knew him will miss him very much.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. Mr. Speaker, one of the most meaningful things that has happened to me as a Member of Congress is the opportunity to meet with and work with those young men and women who are the pages of the Congress of the United States. They are bright; they are articulate; they are concerned; they are highly motivated and they demonstrate every day a strong social concern.

In working daily on the floor of the House with these young men and women I come away with a good feeling about them and about America and, yes, about America's future. David to me exemplified all that is good with the Capitol pages and, yes, about young people in America.

In addition to being bright, articulate, concerned, highly motivated, and a person of strong social conscience, David Levine showed me, especially over the past several months, the true meaning of courage. The great American author, Ernest Hemingway, once described courage as grace under pressure. David in every respect, in every day, to those of us who knew him, exemplified the true meaning of courage.

To you, his sponsor, above all to his family, and to that group that I know is feeling this so much, his peers, the Capitol Hill pages, David, you exemplified courage. For those of us who knew you, our lives have been touched. We are indeed better for what you have meant to us.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, the death of a young person is always tragic, particularly someone with as much demonstrated ability and as much potential as David Levine.

David was an exemplary page, and a very fine person. I was particularly impressed with his maturity. He was always willing to take on any task requested of him. I lived in Evanston, Ill., from 1943 to 1946, and having gone to Evanston Township High School, I used to have some lively discussions about the rivalry with New Trier High School.

David's untimely death moved me very much, and I want to offer my sincere condolences to his parents, Roy and Saralyn Levine, and his younger brother, Robby. In fact, this last weekend a local radio station in the San Francisco Bay area conducted a 24-hour radiothon on behalf of the National Leukemia Society and since part of their research funds go to finding the cause and a cure of lymphonia, I contributed to that cause on his behalf.

We can be grateful that he was a participant in the page program and that we had the opportunity to get to know such an outstanding individual. We can take comfort in knowing that it was a time of extreme happiness for him.

David touched many lives while he was here. The warmth and caring that he showed is reflected now in the sorrow that we all feel on his loss.

Perhaps the truest form of testimonial to an individual cannot be expressed in words, but in the number of people that he influenced during his lifetime. It is a great tribute to David indeed that he touched so many of us.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, little more than 2 weeks ago I stood before the House to offer birthday wishes to David Levine, a Democratic cloakroom page who spent months in his Chicago home and in the hospital battling nobly against life-threatening cancer. On that occasion, all of us familiar with David's condition hoped against hope that he would emerge victorious and eventually return to us.

On March 5, 1982, David Levine lost his courageous fight and died. All of us in Congress join in extending our deepest sympathy to David's parents, brother, friends, and fellow pages. As a hard-working page and an outstanding student, David exemplified the excellence that we all associate with the valuable services performed by pages every day.

David Levine's personal contributions should not be overlooked. That side of him can best be depicted by those who knew him best, his friends and fellow pages. One good friend and fellow page, Andrew Glick, whom we all know from his role in the Democratic cloakroom, has asked me to share with you his thoughts on the loss of David Levine. I am honored to share with you now his personal "Tribute to a Friend":

A TRIBUTE TO A FRIEND

(By Andrew Glick)

Brian Piccolo was once a star football player for the Chicago Bears. However, just as his career began to accelerate, the doctors discovered that he had cancer, and Brian subseqently died from this cancer.

I do not want to tell you the story of Brian Piccolo but of another Chicagoan who died of cancer at a very young age, David A. Levine.

David died of cancer on Friday, March 5, 1982; he had just turned 18 four days earlier. David worked in the United States House of Representatives as a Democratic Cloakroom Page between September 1980 and June 1981. He was a very dedicated person, and he served with the utmost dignity. David was a favorite of all the people involved with the House of Representatives, and this love was seen during his duty as a page and during the time of his illness. I know many of my readers feel as sad as I do at the passing of such a wonderful and loving person.

David's illness began last June when he was finishing his duties as a page. He became quite ill, and he was admitted into Georgetown Hospital where they discovered that he had cancer. He then went home to Chicago where he was admitted into the Billings Hospital. He went through two sets of chemotherapy treatments that lasted for six months. They were very long and painful sessions, but David had the courage to fight them so that he would be able to stay alive.

Six months later, in December, the time came to celebrate the Jewish Holiday of Channukah. This holiday is the celebration of lights, of hope, and of life. I arrived home on the first day of Channukah and David called to tell me that his chemotherapy treatments were finished and that he was going to get well. Many people came into Chicago, and we celebrated his recovery. We were all relieved that this nightmare was over, but we were soon to find out that it was not.

Two weeks later, the doctors discovered an adhesion on David's liver and had to operate. They found more cancer but it had not gone into his liver. They removed as much as possible, and immediately started chemotherapy again.

One month later, David's father called the Democratic Cloakroom and told us that the doctors found cancer in David's liver and that he was only going to live for a few more weeks. At this time, David's 18th birthday was just five days away. Mr. Anderson, Mr. Mellody, and I went to Chicago for his birthday, but our real purpose was to say good-by to a dear, dear friend.

We went to his house on Sunday, February 28th, the day before David's birthday. We went upstairs to talk to David for awhile. He was in bed and in a great deal of pain. When we were about to leave, the three of us went to say good-bye to David. I shook his hand and wished him a happy birthday. I then walked out of the room and started to cry like I never had done before. We left the house knowing that we would never see David alive again. We were right—five days later David died of cancer.

A group of us went to Chicago for the funeral, where we represented a number of people that knew and loved David. I had the distinct honor of being a pall bearer and I knew that I was facing one of the most difficult tasks of my life. I want to tell you that I was very, very scared and did not know how I was going to react. It was very difficult, and as I put on the gray gloves to carry the casket, my hands became numb and I started to cry as I had done throughout the funeral service. I know many of my readers were crying with me, even the ones that were not present.

I know that eventually the Levine family will read this article. I would like to convey to them how loved David was by so many friends, and that we are going to miss him greatly. His memory will live with us forever.

Mr. DYSON. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Maryland.

Mr. DYSON. Mr. Speaker, I applaud and thank the gentleman from Illinois (Mr. ROSTENKOWSKI) for requesting this time today to speak in tribute to the memory of David Levine, one of our pages, who is no longer with us. It is a very difficult time. I think it is very difficult for all of us to stand before our colleagues and to try to say in a few words what one young individual meant to all of us.

□ 1500

I think those people who come to the Congress to work as pages, come to learn and to find out what this political system is all about. Sometimes some are only observers, and what they observe is probably not so good. Sometimes they leave and, for a lot of us, we hardly remember that they have even been here. That was not the case with David, who has made a tremendous lasting impression on all of us.

A few short days ago, I and a number of my colleagues, stood here on the House floor to wish him well on his birthday. I think at the same time we were wishing him well on his life, which was to be short. We are here today to tell his family and his friends that we do remember him and, in fact, that David has made a tremendous impact on all of us. I believe that David has left a small but indelible mark in the history of this country.

I again thank the gentleman from Illinois for granting me this time.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from Illinois for providing this opportunity for Members to express their regrets at the death of David A. Levine and to extend to his family our sincere sympathy.

All of us had an opportunity to know David during his service as a page in the House of Representatives and all of us held him in very high regard. In spite of his heavy responsibilities as a cloakroom page, David consistently ranked near the top of his class in the Capitol Page School, as he had at his home school, New Trier East, in Chicago.

A Congressman is so often called upon to say a few words on the passing of the many with whom we come in contact. But what words can be used for a passing so sadly out of season? David died on March 5, only 4 days past his 18th birthday.

I know that these words, and those of my colleagues, will bring small comfort to his parents, Mr. and Mrs. Roy Levine, and David's brother, Robby, but I want them to know the respect and affection in which David was held and that we all share some part of their loss.

● Mr. COELHO. Mr. Speaker, on March 5, David Levine who served from September 1980 until June 1981 lost his brave battle against cancer. Those of us who knew David during his service in the cloakroom never ceased to be amazed at his energy and willingness to be of help to us. He had a concern for others and enjoyment of his work that made him a pleasure to be with. I know that, even in the most difficult moments in his struggle against his illness, these qualities stood him in good stead. David was a very special individual, and his determination and courage will serve as a source of strength for his family and friends in their loss. My thoughts and prayers are with the Levine family at this time.●

● Mr. WRIGHT. Mr. Speaker, I am honored to join with my colleagues in paying tribute to a courageous young man, David Levine. My deepest sympathies are extended to his parents Roy and Saralyn Levine and to his younger brother, Robbie Levine.

It was my good fortune to know David when he worked in the Democratic cloakroom last year. He was an exceptional young man—very much interested in doing the best possible job in fulfilling his responsibilities to the House, and he was genuinely dedicated to obtaining the maximum education provided from his experience. It was a pleasure to work with such an intelligent, enthusiastic young person. He is easily remembered as a young man who inspired confidence in our younger generation and in our future.

We all mourn this tragic end to David Levine's life—a life full of promise.●

● Mr. GINN. Mr. Speaker, the untimely death of any young person is a special tragedy, and the tragedy is compounded when the death is in our own Capitol family. In that regard, I would like to join my colleagues in expressing my deep personal condolences to the family and friends of David A. Levine, who served with us as a page.

David was one of the bright, tireless young people who we take too much for granted in the page program. He was an outstanding student, a diligent worker, and a young person whose life was filled with promise. Now, his death this month after a 9-month struggle with cancer fills this Chamber with sadness.

While I know that our words this day cannot ease the sorrow of David's loved ones, I believe it is important that we come together in tribute to this fine young man. We are honored by the fact that David and other young people like him have chosen to work with us. They work for little pay, accept adult responsibilities early in life, and endure a rigorous work schedule in addition to their schooling.

This was the case with David. He excelled in the tough work and study environment of the page school. He served loyally and without complaint, and his early death shocks us into special recognition of his accomplishments.

Mr. Speaker, my thoughts and prayers are with David's family this day. On behalf of me and my staff, I am proud to join with the Congress in saluting David A. Levine for the tribute he paid to us all by his service in our midst. We were enriched by his presence, and we will suffer with his loss.●

● Mr. MAZZOLI. Mr. Speaker, the quality of life hits home to us each time we hear of the passing of someone we know.

Young David Levine was stricken with cancer shortly before he completed his duties as a Democratic page. There are great lessons for us to be learned from his courage and his fortitude. As we honor David, we thank him for his service to the House of Representatives, and for setting a high standard for each one of us in how to handle the burdens and the challenges of life.

I extend to his bereaved family my condolences and sympathies.●

● Mr. SHANNON. Mr. Speaker, I was extremely sorry to hear of David Levine's death last week. During the months which David spent here on the Hill, he became known as a kind, generous, and hard-working young man. He was well liked by his fellow pages, and by the Congressmen with whom he worked. David was also a bright and promising student. His death, at so early an age, is a great loss. I am sure I speak for my colleagues here in Congress in expressing my sincere condolences to his parents, Mr. and Mrs. Roy Levine, and to his younger brother Robby.●

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There is no objection.

AGRICULTURE: OUR NATION'S MOST BASIC AND BIGGEST INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wyoming (Mr. CHENEY) is recognized for 30 minutes.

● Mr. CHENEY. Mr. Speaker, there is little doubt that agriculture is our Nation's most basic and biggest industry. It is the common goal of Republican members of the House Committee on Agriculture to make sure that America's farming and ranching families are able to continue that unparalleled production, operating above a safety net of a sound, market-oriented farm and food policy.

Throughout the year, the Republican members of the House Committee on Agriculture worked closely with the House Republican policy committee, of which I am chairman, in establishing sound party positions regarding major agricultural issues facing America today.

It is therefore appropriate that we review what was achieved for farm families and their consumer customers in this 1st session of the 97th Congress.

The 1981 session produced many major new laws affecting agriculture. I commend the ranking minority member of the Agriculture Committee, the gentleman from Virginia (Mr. WAMPLER), for his effective leadership of his fellow minority members of the committee over the past year. Commendations are due also to all of the Republicans on the committee whose initiatives helped to enact better bills on numerous occasions and to avoid bad legislation on others. These efforts do reflect the positive role of Republicans on the committee and are deserving of some elaboration on their achievements. Let me start in order of seniority with my colleague, the gentleman from Virginia, WILLIAM C. WAMPLER, the ranking Republican on the House Agriculture Committee.

There is little doubt that the Agriculture and Food Act of 1981 consumed more of the energies and legislative time of the Agriculture Committee than any other single bill. As with any legislation of such a comprehensive nature, not everyone would agree with all of its provisions. It might even seem to some that the new Farm Act is "damned with faint praise."

But, as Mr. WAMPLER has pointed out on a number of occasions:

> The new farm act is, in reality, legislation that provides for the best farm and food programs the House-Senate conferees could develop, given the funding constraints that the administration must impose in order to limit the Federal budget deficits forecast during the four-year life of the legislation.

The gentleman from Virginia correctly felt the pulse of American agriculture when he said:

> Farmers, not unlike other Americans, want to see inflation brought under control and interest rates reduced. That is the best farm program this Congress or the administration can provide to our entire farm sector.

Let me bring to your attention four bills which Mr. WAMPLER introduced which are vital to the continuation of a sound agricultural system, in my opinion. He was joined in cosponsorship of these bills by several of his colleagues on the committee.

The first was H.R. 23, the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981, introduced by Mr. WAMPLER on the opening day of the 97th Congress. This bill was subsequently modified and introduced jointly by Mr. WAMPLER and Mr. BROWN of California on March 13, 1981, as H.R. 2561. This bill was incorporated as title XIV in the 1981 Farm Act. Title XIV was a Wampler initiative in the 1977 act and the new amendments will extend and improve it. The most important features are: First, a provision for a new Assistant Secretary of Agriculture to manage and speak for agricultural research and education in the Department of Agriculture itself, and throughout the Federal budget and research and education system, a task that has not been accomplished for several decades; second, a provision improving upon existing arrangements and establish in the statutes a lasting basis for Federal-State cooperative partnership in research, extension, and teaching in the food and agricultural sciences at the State land grant colleges and universities; third, a provision to increase the membership of traditional agricultural advisory bodies under the title and change the submission dates of reports by these advisory bodies, thus making the receipt of this data more timely and practical; fourth, a provision to place added emphasis on animal disease and health programs; fifth, a provision for new initiatives to establish aquacultural and rangeland research and extension programs within USDA and among the States authorized; sixth, a provision for funding authorizations for research, extension, and teaching programs in the food and agricultural sciences are reestablished and extended for another 4 years; seventh, a provision to include authorization for a research and extension program for rural development and small farm problems; and finally, eighth, a provision to include provisions to increase the funding for research and extension at the 16 so-called 1890 black land grant colleges plus Tuskegee Institute based on a revised formula funding system.

Another proposal which Mr. WAMPLER also introduced on the opening day of the 97th Congress was H.R. 638, the National Science Council Act of 1981. This bill previously introduced in the 2d session of the 96th Congress has been widely applauded as a move to bring scientific reason to the regulatory system by individual scientists, scientists who work for agricultural producers and the agricultural industries, and large segments of industry which produce chemicals or work with chemical products alleged to cause health hazards. The need for the bill arose when numerous scientists, producers, and consumers opposed the scientific basis used by Government regulatory agencies to ban or phase out a number of widely used chemical products or derivative substances—for example, saccharin, a substitute for sugar; nitrites, a food preservative for meats, poultry, and fish; the herbicide 2,4,5-T, an aid to timber reforestation; and other products.

Mr. WAMPLER's bill would transfer to an independent blue ribbon science council the determination of relevant questions of scientific fact involved in Federal regulatory decisionmaking dealing with chemicals. These chemicals are involved in the production of food and other products or found in the workplace or in the environment generally.

In June 1981, Mr. WAMPLER and the chairman of the House Committee on Agriculture, Mr. DE LA GARZA, of Texas, jointly sponsored the Food Safety Amendments of 1981, H.R. 4014. This legislation considers a number of changes in present food safety policies. Among other provisions this bill would require that the current basis for triggering the banning of a food additive be based on a finding of a significant risk, rather than the absolute "zero risk" principle required under the so-called Delaney clause. A significant-risk trigger is already required by the Federal courts for dealing with substances or conditions that cause most health hazards, except those found in food additives. Another major feature of this bill is a provision requiring an independent scientific peer review of scientific factual issues in cases that arise during regulatory decisionmaking with respect to the safety of foods and additives to foods. This provision purposely follows the general concept for independent scientific review advocated by Mr. Wampler in his science council legislation.

In the pesticide area, Mr. Wampler's amendments to H.R. 3271, the authorization bill for the Federal Fungicide, Insecticide and Rodenticide Act programs, reduced the authorization for the Environmental Protection Agency to operate the pesticide control programs during fiscal year 1982 from $72.1 million in the Carter budget to $62.1 million in the Reagan budget. His amendment also extends the authorization for the FIFRA Scientific Advisory Panel. Mr. Wampler also joined Mr. Brown, chairman of the Subcommittee on Department Operations, Research and Foreign Agriculture, to hold a number of hearing and markup sessions to develop substantive amendments to the current FIFRA Act. This culminated in a clean committee bill being introduced, H.R. 5203, at the close of this session. At this time it is contemplated that this bill will be a first order of business of the subcommittee in the new session.

Bill Wampler has always had a strong interest in food and nutrition issues. He has said on many occasions that he does support the food stamp program and that the program, when it helps the elderly and the disabled and those low-income people who are in need, is a very worthwhile program. However, Bill has expressed his concern about the growth and the cost of the food stamp program and supported all actions that eliminate fraud and legitimately reform that program, such as those that were contained in the Omnibus Reconciliation Act of 1981.

Because of this concern for a sound program, Bill offered an amendment to the farm bill to insure that the General Accounting Office will continue to have access to food stamp records at the State level. Over the past several years the GAO has conducted investigations and prepared reports at the request of Members of Congress. These reports have been the basis of some of the reforms in the food stamp program and other programs. Bill wanted to make sure that despite some questions raised concerning the authority of the GAO to review State food stamp records, that the GAO will continue to have clear access to the records necessary for them to do their job. Bill's amendment was accepted and is a part of the 1981 Farm Act.

I would like to mention a different type of nutrition program which Bill Wampler supports wholeheartedly. This is the expanded food and nutrition education program (EFNEP). This program is operated by the States' cooperative extension services and was designed to help low-income families, on a 1 to 1 basis, acquire the knowledge and skills necessary to achieve nutritious diets. The families receiving EFNEP services, many of whom receive food stamps, are taught the importance of nutrition and how to prepare meals on a limited income. Bill believes in programs, such as EFNEP, that teach people sound nutrition and buying habits.

The increasing importance of U.S. agricultural exports to farmers and to the national economy was emphasized in a series of hearings to review export issues and problems conducted by the Subcommittee on Department Operations, Research, and Foreign Agriculture. Mr. Wampler is the ranking minority member of this panel and he is joined in active interest by fellow Republicans—Mr. Thomas of California, Mr. Roberts of Kansas, Mr. Emerson of Missouri, and Mr. Evans of Iowa.

Paul Findley has championed market-oriented agriculture since he was elected to Congress in 1960. In the past year, he led the administration's fight to reduce Government involvement in agriculture, first introducing the administration's farm bill, and then working hard with his Agriculture Committee colleagues to assure that the final bill would provide farm income protection without breaking the Treasury.

Paul Findley is not afraid to take on the tough issues. Last spring, he led the fight to forgo the April 1 price support adjustment on milk, saving the Government an estimated $147 million. During consideration of the farm bill, he consistently worked for enactment of administration proposals to limit dairy price supports to levels which will discourage surplus production. While he has been criticized by some dairy lobbyists, he probably has done more to protect the long-term interests of the dairy price support program than any other Member of Congress. By working to see to it that program costs are kept under control, he has helped head off potential future overreactions which might have eliminated the program.

The gentleman from Illinois also fought hard to limit price support increases that encourage surplus production on marginal lands that should be devoted to other land conserving uses. He knows that farm economic problems cannot be solved by inflationary Treasury outlays; that throwing money at these problems makes them worse, rather than solving them.

Instead, he urged restraint in spending, arguing that farm programs should encourage farmers to produce for markets rather than for Government stocks.

Paul Findley's market orientation does not stop at home.

He believes that you cannot have a market-oriented domestic policy, if you do not have a market-oriented foreign policy. That is why he was out front in convincing President Reagan to lift the Carter embargo of grain sales to the Soviet Union.

At the same time, he has worked closely with the administration to assure that agricultural interests are properly represented in international trade relations. He worked hard to assure that Special Trade Representative Bill Brock knew there would be congressional support for administration efforts to head off soybean import restrictions in Europe. He has worked to generate support for U.S. efforts to head off European and Japanese restrictions on meat imports. And he has strongly supported STR efforts to resolve a 6-year-old dispute over European Economic Community wheat flour export subsidies.

While a strong supporter of Government efforts to assure adequate nutrition for poor people in this country and overseas, Paul Findley recognizes the value and dignity of American principles regarding work. For this reason, he might be called the father of American workfare. Under workfare, people work for their food stamps. As a result of successful projects, Congress this year adopted a Findley amendment to expand the workfare program to any community that wants to participate in it.

One of the ardent advocates of dairy farmers' interests in the Congress is Jim Jeffords, of Vermont. Even those of his colleagues who took a differing position during deliberation of the farm bill, in conference and on the floor, must admit that the gentleman from Vermont fights hard for his convictions. While the dairy support program contained in the Agriculture and Food Act of 1981 fell far short of Mr. Jeffords objectives, several of his proposals found support and became a part of the 1981 farm law.

Distribution of surplus stocks of cheese to needy families throughout the United States are being carried out under authority of an amendment to the farm bill sponsored by the distinguished gentleman from Vermont.

Although he was among the leaders of opposition to the final version of the 1981 farm bill, Mr. JEFFORDS had strong praise for the first action taken by President Reagan under that legislation—the announced distribution of 30 million pounds of surplus processed cheese to needy families through States and charitable organizations.

Noting that his amendment also allows direct distribution of surplus dairy products to recipients of federally funded nutrition programs, Mr. JEFFORDS has expressed his hope that larger quantities of the surplus stocks will be used in this way in the near future.

Other amendments introduced by Mr. JEFFORDS which remained in the final version of the farm bill passed into law included a new Federal policy favoring protection of prime farmland from conversion to development, a strengthened soil conservation effort, and extension of Vermont's pilot program to cash out food stamp benefits for elderly and disabled persons.

As the fourth ranking member on the House Agriculture Committee, TOM HAGEDORN has been one of the most effective leaders in defending the needs of agriculture, this Nation's most important industry.

Mr. HAGEDORN was a strong advocate of President Reagan's tax plan and introduced legislation to assist U.S. farm families in maintaining possession of their farmland through changes in the estate tax laws. His proposals to allow unlimited transfer of property between spouses with no payment of estate or gift taxes and to allow special use valuation of farm property at the time of a farmer's retirement rather than at death will help preserve the structure of the independently owned business and farm.

TOM HAGEDORN is the ranking minority member on the Livestock, Dairy, and Poultry Subcommittee. As such, he has been very instrumental in dealing with the major problems confronting these vital industries. His accomplishments include: Introduction of a bill requiring humane treatment of horses being transported for the intention of slaughter; recommendations to Secretary of Agriculture and the industry concerning the control and eradication of pseudorabies in swine; exhorting the Department of Agriculture to use all existing and potential outlets to dispose of surplus dairy products; cosponsorship a bill suspending import duties of sulfa drugs necessary for use by hog producers in treating their herds. In addition, Mr. HAGEDORN was a cosponsor of a bill to make improvements in current food safety laws.

Mr. HAGEDORN was an ardent supporter of a move to cancel the grain embargo and has advocated increasing agricultural exports abroad, particularly dairy products.

Finally, TOM HAGEDORN has been a tireless legislator in the development of the 1981 farm bill. He sought to develop a bill which will provide adequate stability and income protection while trying to operate within the budget restrictions to develop appropriate modifications and improvements that will enhance basic agricultural programs.

TOM COLEMAN, of Missouri, has been the leader on the Republican side when it comes to the food stamp program. As the ranking Republican on the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee he has been in the forefront for reform of the food stamp program while insuring that this program also helps those poor, elderly, and disabled who are truly in need.

It was through his efforts that the Omnibus Reconciliation Act contained true legislative form of the food stamp program, rather than the artificial savings originally reported by the Budget Committee. The Reconciliation Act included such major reforms as mandating retrospective accounting and periodic reporting for food stamp recipients, elimination of boarders and outreach from the program, tightening of the eligibility criteria and provisions for a block grant for nutritional assistance for Puerto Rico.

Savings for fiscal year 1982 for the food stamp program exceeded $1.6 billion in the Reconciliation Act. Due to TOM's leadership an additional $700 million was saved through legislation contained in the farm bill. Total savings for 1982 for the food stamp program exceeded $2.3 billion.

Because of TOM COLEMAN's desire to make sure that the food stamp program serves only those truly in need he has watched closely the activities of local, State, and Federal agencies who are responsible for both program administration and the elimination of fraud from the program. Through these activities TOM has observed the activities of the Department of Agriculture's Office of the Inspector General. Although this is the one agency charged with the responsibility for investigating criminal fraud in the food stamp program, it did not have basic law enforcement authority for pursuit of criminal fraud.

The USDA's Office of Inspector General has originated and participated in criminal investigations of food stamp fraud resulting in almost 800 indictments in fiscal year 1981. They uncovered activities in which food stamps were sold at a discount and the money used to buy such items as guns and illegal drugs. TOM COLEMAN has stated that food stamps are used just like money—that they are a second currency in this country—and that this type of involvement by criminals in a program for low-income people must be stopped.

Therefore he introducted H.R. 4530, the Food Stamp Law Enforcement Act of 1981. This legislation which was incorporated into the 1981 farm bill will provide basic law enforcement authority for the USDA Office of the Inspector General, so that they may continue and increase their activities aimed at the elimination of criminal activity in the food stamp program.

As you all know, the 1981 farm bill incorporates food stamp legislation as well. As I mentioned before, through Mr. COLEMAN's efforts and by working closely with the majority, the 1981 farm bill contains an additional savings in the food stamp program of $700 million for fiscal year 1982. Additionally there are other reforms aimed at curtailing waste, fraud, and abuse in food stamps, such as tightening the work requirements.

Despite what some people may believe, the food stamp program is not an entitlement program. The one factor that prevents it from becoming an entitlement program is the cap on authorization for appropriations. TOM COLEMAN has been active to make sure that this cap stays on the program and that the cap is set at a realistic level, incorporating both a specific sum to those truly in need and the reforms necessary for this program.

The food stamp program has been reauthorized only for fiscal year 1982 therefore we can all expect that Mr. COLEMAN will continue to work diligently on the food stamp issue so that only those who need food stamps receive them and that work continues on the elimination of criminal activity in the food stamp program.

In addition to his work on the food stamp subcommittee, TOM COLEMAN, was hard at work on farmer programs as well. It was Mr. COLEMAN who attempted to get a 2-year farm bill through the House, thereby maintaining target-and-loan prices for the major commodities that the Agriculture Committee had passed on. The measure failed by a narrow 13 votes.

As a member of the Conservation, Credit, and Rural Development Subcommittee of the Committee on Agriculture, he was concerned with soil and water conservation issues as well as the credit problem confronting Midwestern farmers, cattlemen, and hog producers.

Mr. RON MARLENEE, an aggressive supporter of grain and livestock producers, has been a very active member of the Agriculture Committee during this first session.

The ranking minority member on the House Agriculture Committee from a wheat-growing area, Mr. MARLENEE's amendment to the farm bill to protect farmers who summer fallow from excessive set-aside programs was accepted by the House-Senate farm bill conferees.

Mr. Marlenee was named a House conferee on the 1981 farm bill and also fought hard during conference committee action to raise loan rates for grain, and submitted a proposal that would have meant an additional export revenue of $3 billion to grain producers. The proposal was accepted unanimously by House conferees but was rejected 5 to 3 by Senate conferees.

A leading advocate of increased export sales, the gentleman from Montana sponsored a demonstration for Congress of a coproduct from gasohol production that could lead to larger foreign grain sales. The coproduct, a high protein mash, could be easily shipped and, since it is preprocessed, the mash would be easier to use and consume by Third World countries.

In another effort to stir up foreign sales, Mr. Marlenee traveled to Romania, Hungary, Greece, Turkey, and Spain to expand and solidify grain agreements with those countries. Mr. Marlenee and his colleagues, Mr. de la Garza, Mr. Wampler, and Mr. Hagedorn, held discussions with foreign trade representatives to reinforce America's leadership position on the world trading market.

In an effort to insure that the door to wheat exports is not slammed in the face of producers again through an embargo, Mr. Marlenee, with Mr. English, sponsored a bill that would protect grain producers from selective embargoes.

Mr. Marlenee also has shown his concern for livestock growers by introducing, again with Mr. English, a bill that would require that all imported beef be labeled as imported. Mr. Marlenee was also vocal in his support of legislation accepted by the conference committee that requires imported beef face the same testing standards as domestic beef. A vigorous advocate of improved predator control program, he has cosponsored legislation that calls for use of 1080 to combat coyotes that prey on animals on America's ranches.

Mr. Marlenee also spearheaded an effort to maintain low-interest loans for rural REA electric and telephone consumers, and was successful in keeping the rural telephone bank funded.

Mr. Marlenee also has introduced legislation that would convey small and disjoined Forest Service land tracts to local landowners or local governments. Both the Forest Service and Congress hailed the Marlenee bill as a benefit to taxpayers, private landowners, and the Government.

Larry J. Hopkins, of Kentucky the ranking Republican member of the Subcommittee on Tobacco and Peanuts, deserves credit for his efforts in helping to preserve the tobacco program.

During consideration of the 1981 farm bill, elimination of the tobacco program was sought by amendment on the House floor. To prevent the economic disruption that would have resulted with the passage of the amendment, Hopkins and other Members representing tobacco-producing areas, including Bill Wampler and John Napier, undertook a massive orientation program designed to familiarize other Members with the operation and benefits of the tobacco price support and marketing programs.

They participated in briefing sessions, met with other Members one on one, and provided informational materials, all of which served to alleviate common misconceptions about the tobacco program. Their efforts resulted in the defeat of the amendment and preservation of the tobacco program.

Mr. Speaker, I would like also to commend my colleague on the House Agriculture Committee, Representative Bill Thomas, for his work during the past year on behalf of American agriculture.

While recognizing the role of Federal stabilization programs in helping our Nation's farmers through lean years, Mr. Thomas believes that in too many cases, Federal assistance is being relied upon to the exclusion of the marketplace. His goal in shaping national farm policies has been to begin turning these programs more toward the marketplace—the international marketplace—for returns on the farmer's labors.

An example of this is Mr. Thomas' amendments to the cotton portions of the 1981 farm bill. He was responsible for tying the cotton target price to the cotton loan rate, which is already closely related to market prices. He argued against amendments which would have returned cotton to the acreage allotment system.

As a conferee on cotton standards and fees in the conference on the Omnibus Reconciliation Act, Mr. Thomas also was instrumental in bringing members of the cotton industry together with the U.S. Department of Agriculture in arriving at cotton classing and inspection fees which the industry could accept, while also staying within tight budget requirements.

Mr. Thomas achieved a similar compromise in the pink bollworm research and control program, supplementing grower fees with Federal assistance which remained within budget constraints. These funds had originally been deleted from the 1982 farm budget.

As a farm bill conferee, Mr. Thomas worked to keep farm programs for all commodities within responsible spending levels, supporting the administration's compromise proposal which conferees agreed upon.

American farmers are the world's most productive, which requires an aggressive export program. Mr. Thomas believes in the importance of a strong farm export program, and he has worked in Congress and with Federal agencies to promote this goal.

For example, U.S. rice growers have lost millions of dollars in potential rice sales overseas to Japan, simply because the Japanese undersold them in clear violation of the United States-Japan rice agreement. Yet our Government has neglected vigorous enforcement of this important trade agreement. There was poor communication between the various U.S. Government agencies responsible for administering the agreement.

As a result of Mr. Thomas' pointed inquiries at subcommittee hearings on the United States-Japan rice agreement, administration of that agreement will no longer be clouded by the recommendations of a nonagricultural agency, the State Department. Instead, at his suggestion, the USDA has established a policy team which will place our agricultural export interests foremost. U.S. growers will keep their traditional overseas rice markets, and Japan will resume its legal trade role as a residual supplier only.

Mr. Thomas recognizes the importance of agricultural exports and has been working closely with the U.S. Trade Representative's Office in remedying discriminatory duty treatment against U.S. farm products by foreign countries. His most recent inquiry won concessions for citrus products during multilateral negotiations on the general agreement on tariffs and trade.

At farm export hearings convened by the Subcommittee on Department Research, Operations and Foreign Agriculture, Mr. Thomas brought to public attention the problem of export barriers facing specialty crops grown in the United States. In many cases, these barriers are thrown up by our own Government, such as the lack of credit available to U.S. farm exporters who must compete in international markets with heavily subsidized foreign producers.

Another Government barrier which concerns Mr. Thomas is inflexible Federal environmental regulations which seriously hinder farmers trying to protect their crops and livestock through use of pesticides. He participated in subcommittee field hearings on the Federal Insecticide, Fungicide and Rodenticide Act with the aim of finding ways to allow quicker registration of new pesticides while maintaining environmental protection.

Mr. Thomas was successful in steering legislation through Congress which protects against infestation of our crops by foreign insects such as the Mediterranean fruit fly. This legislation, prompted by the California Medfly emergency, gives the Secretary of Agriculture authority to take emergency action to control such outbreaks when efforts by State governments are ineffectual. Authority already exists for controlling animal disease outbreaks; extending it to include plant pests provides much-needed protection for a multibillion-dollar farm produce industry at minimal Federal cost.

Because of Mr. THOMAS' efforts, I believe American agriculture has gotten better treatment in the international marketplace and from its own Government.

Congressman GEORGE HANSEN began service on the House Agriculture Committee in the 89th Congress and has taken an active role in agricultural matters during his six terms spanning two decades.

The Idaho Congressman also has the unique distinction of holding high office in the U.S. Department of Agriculture for 3 years as Deputy Under Secretary for Congressional Affairs and as Administrator of State and county operations for the Nation's farm programs through the Agricultural Stabilization and Conservation Services (ASCS).

Mr. HANSEN helped shape significant parts of the landmark farm legislation passed in the first session of the current Congress and led the early efforts requested by President Reagan to successfully reduce artificially high dairy supports.

One of the major changes to the food stamp program of the 1981 Agriculture Act was accomplished by Mr. HANSEN when the full Committee on Agriculture accepted his amendment to prohibit strikers from receiving food stamps if they did not otherwise qualify. This provision was later incorporated into the Omnibus Reconciliation Act of 1981, which was signed by the President in August and became effective on October 1, 1981.

The Hansen amendment brought about a basic change in the food stamp program which Members of Congress had discussed and debated since 1968—the perspective that persons who voluntarily leave a job should not receive Government assistance while on strike on the principle that the Federal Government should not become financially involved in a labor-management dispute.

Congressman HANSEN has led the fight in Congress and in the courts to protect family farmers from identified Immigration and Naturalization Service abuses regarding the hiring of farm labor. Contending that the civil rights of farmers and the human rights of migrants must be preserved, he has used his position on the committee to secure hearings and investigations and develop legislation to protect American jobs for American citizens while assuring the means necessary to provide needed employees for American farmers. He contends that we should not make felons out of farmers and fugitives out of aliens to conduct the business of American agriculture.

Congressman HANSEN has worked effectively with key members of the House Agriculture Committee to provide important programs for such items as sugar, FIFRA, beef inspection, timber sales, and Forest Service problems. Also, as a senior member of the Banking Committee and a former member of the Interior Committee, he has done much effective work on many related issues vital to the farming community such as financing, animal damage control, and water and reclamation law.

As a lifelong farmer, Congressman ARLAN STANGELAND was especially pleased to join the House Agriculture Committee in this, his third term and participate in the writing of the 1981 farm bill.

Among the major legislative accomplishments this session of the gentleman from Minnesota were his amendments to this year's House farm bill establishing price supports for sugar and sunflowers.

Mr. STANGELAND was at the forefront in assuring that a sugar program be included in the 1981 farm bill. With more sugar beet acreage in his congressional district than any other in the Nation, Mr. STANGELAND fought hard and successfully for a sugar support program. His proposal for a support program for sugar beets and sugarcane was adopted by the House Agriculture Committee, but deleted from the farm bill approved by the House of Representatives. However, the gentleman from Minnesota, in his capacity as a conferee on the farm bill, continued to push for a sugar program. His efforts paid off because a sugar program was agreed to by the House-Senate conference and ultimately became part to the 1981 Farm Act.

While Congressman STANGELAND's amendment to establish a sunflower price support program was not included in the farm bill conference committee agreement, he was successful in getting this program, important to Minnesota sunflower producers, passed for the first time by the House Agriculture Committee and the full House of Representatives. The Congressman was further able to persuade the House-Senate conferees to insert strong language in the conference committee report urging the USDA to seriously consider using its discretionary authority to implement a sunflower program in the event of future transportation tie-ups or other market disruptions.

Congressman STANGELAND also joined several other farm State Congressmen and Senators in urging the International Trade Commission (ITC) to limit casein imports. Congressman STANGELAND's testimony before the ITC pointed out the detrimental impact these imports have had on the cost of the dairy price support program and our Nation's individual dairy producers.

Mr. STANGELAND was also among the many farm State Members of Congress who successfully urged USDA Secretary Block to announce a voluntary wheat set-aside program as a means of controlling production and hiking up commodity prices.

Mr. Speaker, one of the most active and energetic advocates for the interests of agricultural producers in the Great Plains is PAT ROBERTS of Kansas. During his first year in the Congress he became a leading spokesman for the wheat country, to the extent that he was dubbed by the Washington Post as the "Congressman from Wheat."

PAT ROBERTS was directly responsible for the inclusion in the 1981 farm bill of the cost-of-production board of farmers and representatives of the agricultural community to review the methodology used by the U.S. Department of Agriculture in determining cost-of-production estimates. He also was a leading architect of the grain embargo provisions in the farm bill which provide financial protection for U.S. grain producers in the event of a future embargo. In addition, Mr. ROBERTS was an original cosponsor and supporter of another provision included in the farm bill authorizing short-term credit to be made from a new revolving fund under the Commodity Credit Corporation. The fund would be used to finance agricultural exports that would develop U.S. export markets or expand existing ones.

Protection of agricultural producers against elevator bankruptcies is a problem that received a great deal of attention and effort from PAT ROBERTS and others this past year resulting in the likelihood of substantive legislative action on the issue in 1982. Recognizing the need to inform and help educate urban Congressmen about the facts of farm country, the "Congressman from Wheat" sponsored a series of seminars in 1981 to do just that and to help gain support for constructive farm legislation of benefit to all Americans.

Another top legislative priority of PAT ROBERTS in this Congress was the revision of estate tax laws that often require the forced sale of family farms and small businesses by surviving family members. He was an early sponsor and supporter of legislation to accomplish this, and those who joined in that effort saw their hard work bring success in 1981. As a member of the Select Committee on Aging, Mr. ROBERTS was the leading advocate at the White House Conference on Aging of recognizing special needs in rural areas, including health care and transportation. He spoke out against regulations and programs that do not work in rural areas.

Finally, it is rare for a freshman Member of Congress to have a bill passed, but Pat Roberts was instrumental in obtaining adoption of a provision during the closing dates of the first session of Congress to save a portion of the Rock Island Line, a railroad that serves rural Kansas. These are only a few of the accomplishments of this very effective first-term Congressman from Kansas.

Even though one of the newest members of the House Agriculture Committee, having been appointed in this session, Bill Emerson of Missouri has taken a very active role in the work of the committee, not only on the farm bill, but in trying to protect the interests of farmers whose grain is involved in grain warehouse bankruptcy proceedings.

Mr. Emerson's bill, which was introduced simultaneously in the Senate by Senators Dole and Danforth, is designed to allow farmers to take possession of property stored in insolvent grain storage facilities and thus prevent the type of economic hardship endured by some farmers in southeastern Missouri and elsewhere in our farm country.

The amendments of the gentleman from Missouri would address this need by providing an expedited procedure for the release of grain assets involved in proceedings filed by an insolvent commodity warehouse, granting a statutory lien to farm producers on crops delivered to a warehouse upon a sales contract for which the producer has not been paid, and granting a priority position to farm producers in any distribution of assets to unsecured creditors.

Mr. Emerson's bill also would establish a timetable for the bankruptcy court to insure that farmers would not only be assured of possession of their assets, but that they would not face intolerable delays, and thus, costly disruptions in their farming operations. The bill is part of a judicial reform measure on the Speaker's desk awaiting a decision to go to conference.

As with many of our Members from farming districts, Mr. Emerson took up the cudgel on behalf of his rural constituents in urging President Reagan to end the selective embargo on sales of U.S. grain to the Soviet Union, imposed by the prior administration. In a letter to the President, Mr. Emerson argued eloquently that never again should America's farmers be asked to stand alone in sacrifice for our foreign policy objectives.

As with other members of the Agriculture Committee, the gentleman from Missouri spent many hours out of many days in hammering out the new 1981 Farm Act.

John L. Napier of South Carolina has proven to be another hard worker among the freshmen of the Agriculture Committee. Focusing on the vital tobacco price support program, he was a leading element in congressional strategy designed to prevent antitobacco legislation from passing in the House. Through his efforts to forge a bipartisan coalition, the tobacco program was continued.

During farm bill and budget reconciliation hearings, Representative Napier was a staunch defender of the rural telephone bank and rural electrification program, and worked to see that these programs were maintained at adequate funding levels and their administrators allowed access to the Federal financing bank.

Additionally, Representative Napier supported legislation to provide the Secretary of Agriculture the authority to implement set-aside programs and urged the Secretary to implement set-aside programs in an effort to reduce supplies and raise prices. He also supported efforts to expand commodity exports.

The farmer emergency loan program was supported by Representative Napier in an effort to insure that adequate financial support exists for small, undercapitalized farms. His approach of continuation of the program was designed to insure adequate sources of credit for small, minority, and young farmers.

Working to promote Farmers Home Administration programs of agricultural interest, Representative Napier also aided efforts to tailor programs to the FmHA's original purpose: to develop farm and small community basic services.

Another freshman member of the Agriculture Committee, Joe Skeen of New Mexico, took an active part in the long legislative work involved in developing farm legislation this year. Drawing on his practical experience from his family's sheep ranching operation, Mr. Skeen was instrumental in preserving the integrity of the Wool Act, embodied in the 1981 farm legislation.

As the only freshman Member from the House to serve as a member of the conference committee on the farm bill, he was able to educate the conferees—as he did colleagues in the House—with respect to the unique structure of this program.

The Senate—as a result of committee action—has repealed section 705 of the act, which mandated that payments made to the producer not exceed 70 percent of the duties collected on imported wool.

This provision is important for many reasons, not the least of which is that it sets a cap on the cost of the wool and insures that the program does not financially shoot through the roof as had been the case with many of the other commodities. The payments made to the producers cannot exceed 70 percent of the duties collected. Moreover, when originally passed in 1954, Congress clearly intended that the cost of the Wool Act would be offset by the revenues raised from these duties.

Repeal of section 705 would have rendered the Wool Act just another support program, thus undermining the popular support it has enjoyed for 26 years. More importantly, the rationale for continued duties on imported wool would have been eliminated. So long as Wool Act payments are tied to the duties collected, it is not feasible to reduce or eliminate those duties. In the absence of section 705, duties on wool would likely have been reduced. Since the National Wool Act was started in 1954, duties on imported wool have exceeded Wool Act payments by over $500 million.

Mr. Skeen's message was that any reduction in duties collected on incoming wool would seriously threaten the production of American wool and that because of wool's strategic importance, Congress should do everything in its power to prevent this.

As a farmer for 25 years and a State legislator for 14, Sid Morrison brings a unique combination of skills to Agriculture Committee proceedings. His solid professional background has made him a crucial information source on timber and agriculture interests in the Northwest.

Morrison is a former member of the USDA Research Advisory Committee and has a strong, basic research and extension background. In addition, he has held leadership roles within the agriculture industry in Washington State. He actively promoted Northwest products and encouraged opening of new markets as chairman of the Washington State Apple Commission.

During this first legislative session, the Washington Congressman's familiarity with Northwest concerns was invaluable to formulation of a new, comprehensive farm bill. Morrison supported workable programs for his dairy and grain growing constituents and pushed for reinstatement of a nontaxpayer funded sugar program to encourage a return of the sugar beet industry to central Washington.

Morrison cosponsored embargo protection legislation which was added to the farm bill providing price support loan levels if export of a single commodity in embargoed.

Another Morrison cosponsorship gives some tax relief to all taxpayers, but particularly farmers. An estate and gift tax provision passed Congress last summer as part of the tax package. Federal estate and gift taxes have often been the final blow to young farmers struggling to keep what their relatives have left them. The new provisions eliminate estate taxes on interspousal transfer, allow transfer of up to $600,000 tax free, and reduce the top estate tax rate from 70 percent to 50 percent.

In an effort to correct some misguided Federal regulatory zeal, MORRISON is cosponsoring the Farm Labor Contractors Reform Act. This legislation would clarify some of the ambiguous language in the current act and allow the Department of Labor to focus on protecting migrant workers and regulating crew leaders rather than harassing farmers.

In an attempt to preserve a Washington State tradition that has been in jeopardy for the last several years, MORRISON is cosponsoring legislation which would clarify Federal regulations that prohibit 10- and 11-year-olds from picking berries. Amendments to the Fair Labor Standards Act (FLSA) in 1977 have been interpreted by the Department of Labor to mean that children under 12 cannot work in the berry fields unless the individual grower proves that the level of pesticide toxicity in the fields is in compliance with Federal standards.

However, without the 10- and 11-year-olds, there is not enough help to harvest the fruit in time, and berries are rotting in the field. MORRISON's bill would amend the FLSA by transferring the responsibility for determining the toxicity of chemicals and pesticides to the Environmental Protection Agency. It would also clarify the agricultural chemical safety standard to put it more in line with congressional intent.

MORRISON's knowledge of agricultural concerns and the sensitivities of the export market has prompted him to take an active interest in the question of user fees. He is cosponsoring legislation to impose a compromise uniform national waterway user fee which would leave some of the cost of operation and maintenance with the Federal Government. Because the user fee would be applied nationally it would prevent shipping interests on the Columbia and Snake Rivers from bearing the entire brunt of the user tax.

Another very active member of the House Agriculture Committee is CLINT ROBERTS of South Dakota. Mr. ROBERTS introduced legislation on family enterprise estate and gift taxes geared primarily to protecting family farms. Many provisions of his bill were incorporated into the Tax Reform Act of 1981.

Like others whose farm constituents were impacted, Mr. ROBERTS was a strong proponent of lifting the Soviet grain embargo and he worked with key members of the Agriculture Committee to urge the President to end the embargo, an effort that was singularly successful.

Based on that experience, CLINT also is spearheading efforts to urge the administration to refrain from imposing a selective grain embargo against the Soviet Union because of the situation in Poland.

On the home front, Mr. ROBERTS cosponsored legislation to establish a workfare system in the food stamp program. The bill was partially incorporated in the 1981 farm bill. It now enables localities nationwide to adopt, if they wish to do so, workfare programs under which some able bodied food stamp recipients are required to perform public service work in return for their stamps.

CLINT was active in other areas of public concern as well during this first session. He cosponsored legislation on animal damage control, suspension of export sales, bankruptcy reform with regard to farm produce storage facilities, as well as other pieces of legislation to aid farm families and the rural communities of our Nation.

The American dairyman has found another outstanding advocate in freshman Congressman STEVE GUNDERSON of Wisconsin. From the outset, the gentleman from Wisconsin vigorously opposed significant changes in the current dairy price support program fearing that such alterations were "an overreaction to a temporary problem of overproduction."

As early as March 1981, he presented a four-point program to the Agriculture Committee that could have eliminated much of the present overproduction problem in the dairy industry and, at the same time, required little change in the dairy price support program.

Similarly, during consideration of the farm bill by the House, the gentleman from Wisconsin introduced an amendment expressing the sense of Congress that casein imports materially interfere with the domestic dairy price support program, and therefore, should be limited. While the rules of the House prevented the Committee of the Whole from considering the amendment at that time, an identical amendment on casein was approved by the Senate and later adopted by the House as part of the farm bill conference report.

Congressman GUNDERSON also introduced an amendment to the farm bill that would permit greater use of wholesome and nutritious dairy products in the Public Law 480 (Food for Peace) program by permitting the Secretary of Agriculture to reimburse the CCC at less than the export market price for excess dairy commodities used in that program.

Mr. GUNDERSON has also worked hard to promote the interests of America's family farmers and, in particular, the young and beginning family farmer. Time and again as a member of the Agriculture Committee and from the well of the House he has stressed the importance of molding both new and existing farm programs so as to preserve the family farm structure. As a member of the Conservation, Credit and Rural Development Subcommittee, he has also promoted strong, sound conservation programs to insure the well-being of our croplands for future generations of farmers and consumers.

Finally, I should note that the gentleman from Wisconsin was one of the early leaders of the move to upgrade the inspections required of foreign meat products in an effort to prevent further entry of adulterated meat products into the United States. Clearly, both producers and consumers alike will benefit from the accomplishments of Congressman GUNDERSON.

As a first term Member of the House of Representatives and its Agriculture Committee, Congressman COOPER EVANS has made significant contributions to agriculture through both agricultural and tax legislation. His amendment to H.R. 4242, the Tax Incentives Act of 1981, clarifies the special use valuation for farm estates. The law expands the bounds for estate tax breaks to family farms and small business when the heir continues to participate in the operation of the farm or business. The determination of this participation has been expanded to include renting the land on a cash basis as well as a crop arrangement.

A strong advocate of soil conservation, Mr. EVANS of Iowa has introduced a bill that would allow investment tax credit on those conservation expenditures which exceed 25 percent of gross income, or because the persons incurring such expenditures have no income from farming.

Another one of Mr. EVANS of Iowa's bills on soil conservation was adopted as an amendment to the 1981 farm bill. Through incentive payments, farmers will be encouraged to remove farmland from production for one growing season to install permanent conservation structures. This assistance will only be provided in areas where there is a considerable amount of frost in the ground, thus prohibiting certain construction from taking place in the winter months.

The 1981 farm bill extends power to the Agricultural Stabilization and Conservation Service county committees to forgive minor violations of ASCS regulations relating to commodity loans. Thus farmers who inadvertently violate a regulation will not be faced with the unexpected financial burden of repaying the loan.

Another provision Mr. EVANS of Iowa added to the 1981 farm bill updates the language of the Food Stamp Act of 1977. The 1977 act restricted the redemption of food stamps by retail grocers to commercial banks. Since 1977 the structure of savings and loans institutions have evolved so that they function like commercial banks. This provision will allow retail grocers to redeem the food stamps they receive at either savings and loans or commercial banks.

Mr. Evans of Iowa has an interest in preserving prime farmland for agricultural use. This led him to include in the Budget Reconciliation Act of 1981 a provision to direct FmHA, when making loans for nonfarm development on prime farmland, to charge an interest rate 2 percent higher than on other loans.

First-termer Gene Chappie from northern California has also been an active participant on the Agriculture Committee where he has put his 31 years of government experience to work. With 12 national forests in his congressional district, Gene sought assignment on the Forest, Family Farms, and Energy Subcommittee because of its oversight responsibilities for the U.S. Forest Service.

In early December, Gene traveled to the Northwest to participate in field hearings with Subcommittee Chairman Weaver on possible initiatives to revive the deeply depressed timber industry. Earlier in the year, the Interior Committee held field hearings, at Gene's request, where he and members of the Public Lands and National Parks Subcommittee heard testimony from northern Californians on the California wilderness bill and Chappie's bill, H.R. 3053. H.R. 3053, which opens up the possibility for skiing on Mount Shasta, was ultimately incorporated into the California wilderness bill which is currently awaiting action by the Senate.

Land-use issues remain an important concern to Gene Chappie and he has cosponsored measures such as the Wilderness Review Act of 1981 and the Small Tracts Act which are designed to remedy longstanding problems.

Of particular note is House passage of H.R. 2863 which Mr. Chappie sponsored. The bill deals with the sale of property currently owned by the U.S. Forest Service in Squaw Valley, Calif.

During the next session, Gene will continue to concentrate on his oversight duties and support efforts to streamline farm programs and increase farm productivity.●

GOVERNMENT SHOULD RESUME FUNDING FOR MOUNT ST. HELENS FLOOD PREVENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. Bonker) is recognized for 5 minutes.

Mr. BONKER. Mr. Speaker, scientists are now predicting that Mount St. Helens likely will erupt within 1 to 5 days. Earthquakes have been occurring in the vicinity nearly every day. The dome in the crater is swelling in a pattern similar to that observed before previous dome-building eruptions.

If there is a dome-building eruption, a thick flow of lava will continue to form the mountain's new cone. Scientists still caution, however, that a thinner lava flow could run down the mountain. An explosive eruption also is possible.

The threat of this new eruption exposes the senseless gamble our Government is taking with the communities that live in the shadow of Mount St. Helens.

By refusing to provide funding for dredging in the Cowlitz and Toutle Rivers, the administration has turned its back on the people of southwest Washington. This shortsightedness may soon prove disasterous.

A major eruption could induce a rapid snowmelt and widespread flooding that would devastate communities in Cowlitz County, Wash. Even if a major eruption does not occur, a warm rain could cause heavy snowmelt.

Consistent refusal to fund dredging work represents a false economy. While administration officials cling to their budget ledgers with their fingers crossed, a far more costly disaster is waiting to happen. And it is only a matter of time, with or without a major eruption.

The U.S. Army Corps of Engineers has spent $272 million since the May 18 eruption on recovery measures aimed at protecting the local area. Without additional funding to continue these efforts, this work is literally being washed away.

In addition, the Corps has projected that $3 billion in losses could occur within the next 5 years if their work is not continued. Most of these losses would have to be paid for by the Federal Government under disaster relief programs.

Due to the administration's policy, dredging was halted in September. Two weeks ago, one of the debris retaining structures built by the Corps was breached. The other is full. Dredge spoil sites are eroding back into the river, which has been filled in as much as 7 feet in places.

Should a major eruption or heavy rain occur, the Longview/Kelso Area and smaller communities such as Castle Rock would be in danger. A severe flood could spill over into the Columbia River, disrupting commerce and causing a ripple effect in the Pacific Northwest economy.

This eruption may not be a major one, but let this serve in no uncertain terms as a warning.

The administration should immediately commit itself to completing this work in an anticipatory fashion, rather than waiting for a tragedy to occur. The taxpayers' dollars will be more wisely spent preventing a disaster than picking up after one.

State and county representatives recently met with Federal officials and came away dismayed and disappointed that no one in the Government seems to care.

I would like at this time to include in the Record an article regarding those meetings, which appeared in the Pulitzer Prize-winning Daily News of Longview.

D.C. Frustrates Flood Lobbyists

(By Rick Seifert)

"The Reagan administration has written off Cowlitz County."

That was the grim assessment of County Commissioner Van Youngquist after four days of lobbying in Washington, D.C., to get the federal government to resume funding for Mount St. Helens flood prevention.

The administration refuses to "put one more dime into the work until there are more studies," which could take one to six years, said a frustrated Youngquist.

An emergency doesn't exist on the Cowlitz and Toutle rivers now, he admitted, but there could be one as early as next year if the Army Corps of Engineers doesn't resume dredging, rip-rapping levees and cleaning out behind two huge, sediment-engorged dams on the Toutle.

Because Democrats say they can't influence President Reagan, the fate of the funding drive now depends on pressure from three key Republicans—Gov. John Spellman, Sen. Mark Hatfield of Oregon and Sen. Slade Gorton of Washington, said Youngquist.

Praising the Northwest's congressional delegation for its help, he said the state-county delegation hopes the politicians can change the administration's tight-fisted position.

Another source of political pressure could be a possible *60 Minutes* television program on the funding deadlock.

The Youngquist group met Wednesday afternoon with a program official at CBS offices in New York. By Thursday, word came back to the delegation that he was already researching the story.

And when an official at the Department of Management and Budget heard that *60 Minutes* might be interested, "his jaw dropped to the floor," said Youngquist.

Conversations with OMB and the Army Corps left the impression that "it is too expensive to protect Cowlitz County" and too much money may already have been spent here.

At one point Bill Gianelli, assistant secretary of the Army for public works, said buying out river property owners might be the best solution, Youngquist said. But the delegation doubted the administration would pay for a buy-out when it wouldn't pay for flood prevention.

Gianelli told the group that the Army wanted to, as Youngquist put it, "back up and look at the problems and cost-effective solutions." The administration also wants state and local governments to agree to share the cost first.

Youngquist called Gianelli's remarks a change for the Army, whose Corps of Engineers has already spent $275 million on the Cowlitz and Toutle.

Youngquist blamed the new hesitancy on OMB, where the group ran into a stone wall.

In September, Don Cluff, OMB director of water resources, used budget balancing to justify spending no more money here. But this week, despite the administration's abandonment of a balanced budget, Cluff said there would still be no money for the project.

"They still aren't interested in saving lives and property," Youngquist said, adding that Rep. Don Bonker, D-Wash., who represents this area, "tore (Cliff) apart" for his attitude.

At one point Cliff said the Corps hadn't requested the money, but Gianelli said the Corps' request had been made and turned down.

"Somebody was not telling the truth," Bonker said.

"And I think it's rather obvious who," Youngquist added this morning, fingering OMB.

Cliff reneged on a promise to meet with the Youngquist group and Gianelli, Bonker, Gorton and Sen. Henry Jackson, D-Wash., leaving Gianelli to take the heat.

Youngquist, who called the trip "grueling," was joined by Hugh Fowler, director of Washington's Department of Emergency Services; Martin Carty, Cowlitz County Community Development Department director; and Sarah Deatherage, a community development planner.

THE NEED FOR A PEACE INITIATIVE IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. McHUGH) is recognized for 5 minutes.

Mr. McHUGH. Mr. Speaker, as you know, recent reports in the Washington Post suggest that the U.S. Government has authorized a program of covert operations and paramilitary activities to destabilize the Government of Nicaragua. However, other press reports deny that paramilitary activities are involved, and the resulting confusion has been reinforced by the understandable refusal of key U.S. officials to comment in public.

Whatever the facts may be, these reports raise serious questions to which the Congress must respond. For this reason, Representative CONTE and I are today introducing a resolution expressing the sense of Congress that:

The United States should not encourage or support, either directly or indirectly, efforts to destablize the government of any nation in Central America;

Other nations in the region share a similar responsibility; and

All of the interested parties should encourage a peaceful resolution of conflicts in the region through negotiations on a bilateral and multilateral basis.

Whatever else may be true, Mr. Speaker, there can be little doubt that the spread of violence in Central America threatens to engulf the United States and its neighbors in protracted conflict from which none of us is likely to benefit. Mr. CONTE and I believe that the initiation of a program of covert operation and/or paramilitary activities against Nicaragua would seriously escalate the level of violence in that troubled region and would do little to advance the cause of peace.

We also believe that other nations in the region have a similar responsibility. For example, it is wrong for the Government of Nicaragua to be infiltrating arms to guerrilla forces seeking to overthrow a government in El Salvador with which Nicaragua maintains diplomatic relations. To the extent that Nicaragua is doing so, its actions must be condemned.

Beyond this, we believe that the opportunities for a peaceful resolution of outstanding grievances have not been exhausted, and that the Congress should encourage all of the parties involved to engage in unconditional negotiations on both a bilateral and multilateral basis.

The prospects for success of a program of covert operations and paramilitary activities directed against Nicaragua are questionable at best. As you may recall, Mr. Speaker, the Senate Select Committee To Study Governmental Operations with Respect to Intelligence Activities concluded that covert operations were most likely to succeed when they are "consistent with, and in tactical support of, policies which have emerged from a national debate and the established processes of government * * *." Yet, as we all know, there is no national consensus to support military or paramilitary intervention in Central America.

The committee was especially troubled by paramilitary activities, such as those that are reportedly being put into operation now.

> The Committee's findings on paramilitary activities suggest that these operations are an anomaly, if not an aberration, of covert action. Paramilitary operations are among the most costly and controversial forms of covert action. They are difficult, if not impossible, to conceal. They lie in the critical gray area between limited influence, short of the use of force, and overt military intervention.

On the basis of its detailed examination of paramilitary activities, the committee came to two fundamental conclusions. The first was that "paramilitary operations have great potential for escalating into major military commitments." The second was that "on balance * * * the evidence points toward the failure of paramilitary activities as a technique of covert action."

I believe that the escalation of violence in Central America will serve only the interests of those with the guns, the extremists of the right and the left. U.S. policy should be designed to encourage moderates throughout the region who are prepared to seek peaceful solutions to difficult problems.

The resolution that Mr. CONTE and I are introducing today would put the Congress squarely on record as opposed to covert efforts by any party to destabilize governments in Central America, and in favor of negotiations designed to achieve a peaceful resolution of the region's complex problems. We urge our colleagues on both sides of the aisle to support this initiative.

□ 1510

ARMS SALES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, last December, the United States agreed to sell 24 F-16 fighters to Venezuela, at a total cost of $625 million. These planes are to be delivered over a 4-year period, and they are to replace F-5 and Mirage-type planes now used by the Venezuelan Air Force.

Mexico is buying a dozen F-5 aircraft, and a few days ago accepted delivery of two *Gearing*-class destroyers.

Why are we doing this? What external enemy is it that requires these countries to invest in so much hardware? Mexico, after all, already labors under a huge foreign debt. Its money might better be spent developing agriculture, for the nation is unable to produce enough food to meet its own needs. Notwithstanding the great—the immense—oil reserves of Mexico, it is a land tormented by the inability to provide jobs for anything even approaching those who seek work, by the vast gulf between the haves and have nots, and by the fear that someday all the bitterness will explode in a revolution not unlike those that torture Mexico's neighbors to the south.

For all its vast oil wealth, Mexico is a haunted land—haunted by the ghosts of the revolutionaries who cried out for land and liberty; cries that if heard today would be called Marxist, but back then were the simple cries of a people who lived too long in pain, who had never heard of Marx, and whose war was against oligarchs. The pain is still there, the shadow of Zapata still long, and Mexico is a land filled at once with peril and promise.

Yet our policy does not give priority to helping Mexico meet the needs of her people; it does not emphasize economic development. It is more a quest for symbols—a quest that substitutes Presidential meetings at border towns for hard talks about mutual interests, that substitutes sales of jet fighters for less beautiful, but more needed, tools and credit for simple farming.

At the moment, the question is one of whether the United States is using or being used by Mexico. President Lopez Portillo longs for his country and Venezuela to be the premier focus of leadership in Central America—natural enough since they are the biggest and richest powers in the area. The United States, for its part, seems content to let the burden of leadership slip away—without thinking where our own interests lie, and without thinking about how to stem the tide of violence in Central America.

Nobody pretends that Marxist dictatorships will be of help to anybody in Central America. Yet here we are, asking Mexico to use its good offices to broker an agreement of some kind in El Salvador—when it is this same Mexico that winks and smiles while the arms flow from Nicaragua south into that tormented little land. It was only last weekend, at long last, that Foreign Minister Jorge Castaneda admitted that, well, yes, the arms would have to stop flowing if there was to be any settlement, any end to the civil war.

Mexico's aim is not to reflect, not to promote the interests of the United States. Nobody is going to promote our interests except ourselves. Mexico is interested in expanding its own influence and power, not ours.

Wherein does our interest lie? Our arms manufacturers may like to make cash sales, or even credit sales to eager customers. But our efforts can no longer be that narrow or self-serving.

If we want to prevent bloodshed in Latin America, and if we want to promote our own long-term interests, our policy must be one that is on the side of the hopes and aspirations of ordinary people. It has to be one that speaks for social progress, economic development, and human liberty. The day of the Somozas is over. We cannot work through a country like Mexico that has its own terrible problems; we have to hold the burden of responsibility for ourselves. And if we want to proclaim the gospel of free enterprise and liberty, we have to do so with more than lip service, more than arms sales. We have to do it with a commitment to our own principles.

It is worthless to keep on with a public relations campaign to show that Nicaragua is bad and that El Salvador's rebels are Marxists. That may be so, but such claims do nothing to demonstrate that we are on the side of the hopes and dreams of people who are tired of waiting for justice. If we would send a symbol of freedom, would it be a schoolbook or a military rifle? If we were to send a symbol of hope, would it be a military truck or a farm tractor? If we would send a symbol of liberty, would it be a commitment to build jobs, or a contract to build a military airfield?

The answer is obvious. Our sign for too many years has been an easy commitment to arms sales, and for a tight fist for human opportunity. It is easier to buy a year's worth of repression than a month's worth of genuine human progress. It is easier to buy a Somoza than it is to build schools or factories or houses.

It is not too late to provide real leadership, to stand for the things that people want most—land and liberty, jobs and freedom. Such a course is not easy. Yet we have to ask ourselves, who are the real revolutionaries of the world? It is ourselves. It is we who have stood for individual freedom, human decency, and human dignity. It is we who have trusted the informed judgment of free human beings—not the Marxists, whose last, very last trust is in people. They substitute one kind of dictatorship for another—substitute a cage of one's own making for a cage made by somebody else. Our message is that there should be no cage at all. Yet we persist in failing to promote our own best message—we leave leadership to would-be power brokers like Mexico, whose claim to fame is a benign one party system—hardly a substitute for the malignant variety found so easily elsewhere.

Mexico does not rest easy at night. The shadow of Zapata is long indeed. How ironic, how pitiful it is, that the United States should lay down the mantle of leadership to a nation that is barely able to keep afloat economically, a nation of chronic unemployment, a nation of great potential and endlessly frustrated hope.

We have to speak for ourselves and act for ourselves. No one else will do it for us. It is not enough to sell arms always, to promote economic development off and on, and to utter nostrums about freedom. If we are committed to freedom, let us start with a commitment to stand with people who want to learn how to read, but lack books; people who want to farm but lack land and implements; people who want work, but are shut out; people who want houses, but lack opportunity; people whose only ambition, really, is to sleep free of hunger and free of fear. Is that too much? Of course it is not. That is what freedom is—a chance in life, freedom from arrogant and capricious government, hope for the future. If we cannot offer those things, no amount of arms sales and no amount of power brokering will make any difference.

If we do stand for human freedom and human decency, we will be standing for our own revolutionary principles—the same principles that have made us the light of the world. It is not just our money people want, it is our liberty. If we stand for liberty, if we stand for progress, the Marxists have no message to offer. If we deny our own principles, we have no one to blame but ourselves. The average El Salvadoran or Nicaraguan or Guatemalan has never heard of Marx, any more than Zapata had. He spoke to pain and offered release. We can do no less.

Our course cannot be easy. Let it at least be one that is true to ourselves.●

PROHIBITION OF COVERT OPERATIONS IN NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 10 minutes.

● Mr. BINGHAM. Mr. Speaker, over the past year I have become increasingly dismayed by the Reagan administration's policies toward Nicaragua. While I have not always approved of the conduct of the Sandinista government or been entirely convinced of their commitment to a pluralist society, I had hoped that the U.S. Government would encourage Nicaragua to preserve and strengthen its ties to the West. Instead I find that the statements and actions of the Reagan administration have consistently been hostile and destructive.

Justifying its policies with the as yet undocumented charge that Nicaragua has continued to arm Salvadoran guerrillas, the State Department has treated the Sandinista government as an enemy. This adversarial relationship was only reinforced by the strong anti-Communist stance adopted by President Reagan in his remarks to the Organization of American States. Given the current climate in Central America, it would seem to me that more carefully considered words, combined with a constructive policy, are in order—not rhetoric aimed at alienation.

In particular, I have been greatly disturbed by the Reagan administration's threats to destabilize the Sandinista government. The kind of paramilitary operation which numerous reports in the press attribute to the CIA violates the most basic principles of national sovereignty and nonintervention. Rather than offer my own speculations as to U.S. plans for covert operations in Nicaragua, I would like to draw my colleagues' attention to the undenied press report by Patrick Tyler and Bob Woodward of the Washington Post which asserts that CIA plans include the formation of a paramilitary force of Latin Americans that would eventually attempt to disrupt the Nicaraguan economy. The article will follow this statement.

I am pleased to hear that, in recent discussions with Mexican Foreign Minister Castaneda, Secretary Haig was somewhat more receptive to the idea of negotiations with the Nicaraguan Government. It is my earnest hope that those negotiations will take place and will bear fruit. Past experience with the Reagan administration would indicate, however, that reliance on executive prerogative yields militaristic rather than negotiated solutions. Congress allowed the President to retain discretion over military aid to El Salvador with certain preconditions. What have we seen as a result? We have seen a flimsy certification of human rights improvements coupled with increasing demands for military aid to El Salvador. We have seen no apparent attempt on the part of the State Department or the President to urge a negotiated settlement in El Salvador.

Congress cannot afford to passively hope that the Reagan administration will not entangle us in military and paramilitary operations in Nicaragua. Nor can we afford to allow the threat of covert operations to push the Nicaraguans further toward the Soviets and the Cubans. Neither the Reagan administration nor the Congress wants to see Nicaragua dominated by the Soviets.

Yet as long as the United States remains hostile to the Sandinista government, they in turn will maintain the arms buildup in Nicaragua, thus increasing their dependence on the U.S.S.R. and Cuba. The United States then uses the arms buildup to justify covert operations and continued hostile relations. It is a vicious and senseless cycle. As the more powerful of the two nations, the United States should be striving to break the cycle, not to perpetuate it.

Covert operations against the Nicaraguan Government also undermine our credibility in the eyes of nonrepressive governments in the hemisphere, and make a travesty of our condemnation of Nicaraguan involvement in El Salvador. How can we on one hand defend El Salvador's right to self-determination without external interference, while on the other hand we are working to destabilize the recognized Government of Nicaragua?

I strongly urge my colleagues to oppose U.S. plans for covert operations in Nicaragua. I have cosponsored the bill introduced by Mr. BARNES, H.R. 5828, which would prohibit U.S. support for military or paramilitary operations in Nicaragua. Today I am introducing a similar bill which would require congressional approval of military or paramilitary operations there. As in the case of the Clark amendment prohibiting such operations in Angola, which the Congress last year wisely decided to leave in effect, my bill prescribes procedures guranteeing speedy consideration of legislation approving military or paramilitary operations.

U.S. APPROVES COVERT PLAN IN NICARAGUA

(By Patrick E. Tyler and Bob Woodward)

President Reagan has authorized covert operations against the Central American nation of Nicaragua, which, administration officials have charged, is serving as the military command center and supply line to guerrillas in El Salvador.

According to informed administration officials, the president has ruled out the use of U.S. military forces in direct anti-Nicaraguan operations. But the authorized covert plan directs the CIA to begin to build and fund a paramilitary force of up to 500 Latin Americans, who are to operate out of commando camps spread along the Nicaraguan-Honduran border.

The officials stressed that it will take months for the paramilitary force to be recruited, trained and positioned to begin operations. They did not say precisely when the cross-border operations are scheduled to begin.

As part of this plan, the commandos eventually would attempt to destroy vital Nicaraguan targets, such as power plants and bridges, in an effort to disrupt the economy and divert the attention and the resources of the government. CIA strategists believe these covert operations inside Nicaragua will slow the flow of arms to El Salvador and disrupt what they claim is a Soviet- and Cuban-controlled government in Nicaragua.

Operating under a $19 million CIA budget, the planned 500-man force could be increased in size if necessary, officials said. The CIA force would be supplemented by another Latin American commando force of up to 1,000 men—some of whom currently are undergoing training by Argentine military officials.

This is the plan for CIA covert operations first reported in The Washington Post on Feb. 14 as part of the Reagan administration's strategy in the region. At the time, it could not have been determined whether the president has authorized the CIA's plan to build a paramilitary force against Nicaragua.

Several informed sources now say that the president, did formally authorize the proposal, but the precise timing of his authorization could not be determined. It may have occurred late last year.

The covert action proposal was developed by the CIA and first presented in detail to President Reagan by CIA Director William J. Casey at the Nov. 16 meeting of the National Security Council. It was supported by Secretary of State Alexander M. Haig Jr. and Defense Secretary Caspar W. Weinberger, according to knowledgeable officials.

Administration officials familiar with the CIA covert program stressed that the decision to focus on economic targets was based on a desire to disrupt the Nicaraguan arms supply line to El Salvador in a manner that is relatively inexpensive and least threatening to the civilian population.

"If you blow up a dam, you cause a lot of trouble, but you're not killing people," one high-level official said.

In his Feb. 18 press conference, Reagan was asked if the United States was planning covert operations in Nicaragua, but he declined to comment.

Nicaragua currently is ruled by the Sandinista National Liberation Front, whose guerrilla forces overthrew the government of dictator Anastasio Somoza in July 1979.

Honduras has a close military relationship with the United States, and Honduran officials fear that the political upheaval in El Salvador and Nicaragua will spill into their country. As a separate part of the U.S. strategy in the region, the U.S. military currently is engaged in two operations in neighboring Honduras to indirectly support anti-Nicaraguan efforts, informed administration officials said.

According to highly classified NSC records, the initial CIA proposal in November called for "support and conduct of political and paramilitary operations against the Cuban presence and Cuban-Sandinista support structure in Nicaragua and elsewhere in Central America." The CIA, in seeking presidential authorization for the $19 million paramilitary force, emphasized that "the program should not be confined to that funding level or to the 500-man force described," the records show.

Covert operations under the CIA proposal, according to the NSC records, are intended to:

"Build popular support in Central America and Nicaragua for an opposition front that would be nationalistic, anti-Cuban and anti-Somoza.

"Support the opposition front through formation and training of action teams to collect intelligence and engage in paramilitary and political operations in Nicaragua and elsewhere.

"Work primarily through non-Americans" to achieve these covert objectives, but in some cases the CIA might "take unilateral paramilitary action—possibly using U.S. personnel—against special Cuban targets."

After the initial presentation, the CIA proposal was turned over to the national security planning group, a subcommittee of the NSC, as a draft "presidential finding," which states the need for specific covert operations. Under national security statutes, no funds can be expended for covert actions "until the president finds that each such operation is important to the national security of the United States."

Senior U.S. defense and intelligence officials have said in recent weeks that without a slowdown in the arms supply to El Salvador by air, land and sea routes from Nicaragua, the position of government forces in the war-torn country could deteriorate rapidly, potentially prompting an escalation of Salvadoran requests for U.S. military assistance. Such requests are likely to run into strong congressional and public resistance.

According to administration officials, the covert plan is part of a broader program through which the administration hopes to achieve long-term stability in Central America by creating, nurturing and supporting new political coalitions of centrist forces in Nicaragua and other key countries.

Central America currently is experiencing a series of armed rebellions, and officials here say U.S. intelligence has obtained detailed outlines of Soviet and Cuban long-term financial, military and political plans to support armed insurgencies in the region. This outline of Soviet intentions—along with intelligence of current Soviet and Cuban activity in the area—has alarmed the president's national security advisers and, according to officials, is a central reason for the administration's covert program.

Several senior officials argue that intelligence gathering efforts in Central America lapsed significantly under presidents Nixon, Ford and Carter and that each of those administrations underestimated the problems of Central American governments and the strength of opposition movements.

The CIA station in El Salvador, for example, was closed for about five years—roughly from 1973 to 1978—to save money, and the United States had virtually no intelligence sources there during that period.

"It takes a long time to develop this intelligence, spread money around and put people in crucial places and make the kind of friends we need," one official said last week.

Only in the past year, offcals said, has the United States learned details of what the Soviets and Cubans hope to gain in the region. U.S. intelligence reports now show that in 1978 the Soviets and Cubans committed the money and resources for a major effort to support Cuban-style rebellions in Central America.

One senior offical said, "If you look what the goals were in 1978 and realize how far they have come by 1982, then where they want to be in 1987 has to be taken seriously and that would concern anyone" in the United States.

Other officals said they are alarmed by convincing intelligence reports that one Soviet-Cuban goal in the region is the development of an active insurgency to destabilize Mexico during this decade.

Some intelligence reports reaching the president support the administration charge of an increased Soviet and Cuban threat in Central America. One recent report indicates that the Soviet Union is training Latin American pilots to fly the most advanced Soviet fighter, the Mig 25 Foxbat, which has a radar system capable of directing other planes in a large battle area.

The nationalities of the Latin American pilots being trained on the Foxbat are not clear. Cuba already has acquired a squadron of Mig 23 supersonic fighters, and previous intelligence reports have confirmed that Nicaraguans have trained on less sophisticated Mig fighters.

Further, Guatemala, potentially the most prosperous Central American country, is also being threatened by a leftist insurgency and the most current CIA estimate is that the government will undergo a major change of status within 18 months.

While some members of the administration remain skeptical about broad claims of spreading Soviet and Cuban influence in the region, knowledgeable officials say this is the interpretation that has been largely adopted by President Reagan.●

INDIAN LAND CONSOLIDATION ACT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, today, I am introducing a bill which will allow Indian tribes to consolidate their tribal landholdings and eliminate some of the small, so-called fractionated heirship interests in some trust allotments.

Under present law, lands held in trust by the United States for the benefit of Indians cannot be sold or partitioned without the consent of all the owners and the United States. Since the allotment process started, at the turn of this century, many of these lands have passed from generation to generation by intestate succession since the practice of making wills was not common among Indians. As a result, today, many of these allotments are owned in undivided interests by a substantial number of heirs and some interests are as low as one-hundredth of 1 percent of the original allotment. Adding to this problem is the fact that many of these heirs do not even know that they own an interest in any allotments. Yet because of technicalities in the law, such property cannot be sold or partitioned without the consent of all the owners.

This bill will allow tribal governments to enact legislation providing that whenever an interest in such land is so minuscule as to be financially irrelevant to its owner, such interest cannot descend by intestacy but shall escheat to the tribe which has jurisdiction over such lands. The bill would also allow such allotments to be purchased at fair market value by tribes or Indians if over 50 percent of the owners of such lands or interests in lands consent to the sale.

Finally, this bill recognizes that trust lands were allotted for the benefit of Indians and as such, only Indians should be able to inherit trust or restricted lands within Indian reservations. This bill would allow tribal governments, if they so choose to do so, to enact legislation which would restrict intestate inheritance of such lands to Indians.●

LEGISLATION TO AID THE VERY ELDERLY OF OUR NATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation which would correct an unintended hardship which has been imposed through the provisions included in the budget cuts adopted in 1981. This problem has been brought to my attention by various elderly constituents of mine who have been severely affected by the restrictions placed on the payment of the social security lump-sum death benefit to funeral homes.

As you know, the lump-sum death benefit has previously been payable to funeral homes directly in the event an insured individual died. Many elderly persons, particularly those with no surviving spouse or children, have entered into contracts with funeral homes which depend on the $255 sum being paid by the Social Security Administration to the funeral homes directly, after the death of the individual in question.

With the enactment of the budget cuts, however, the law was amended to allow no direct payments to funeral homes, and to allow payments only to eligible spouses or children. While it certainly does make sense to tighten this benefit so it is only used for the purpose it was intended—covering the cost of death arrangements where families are needy—it is cruel to impose this requirement on elderly persons with no surviving spouse or child. I have heard from constituents of mine, for example, who had already entered into contracts with funeral homes before the enactment of the budget cuts, who now have no way to tap into the $255 benefit because they have no surviving children or spouse. It is unfair to penalize only those in this situation, while allowing those with children or a spouse to receive the benefits of this payment. For those individuals suddenly impacted by this change, it means being faced with paying a mortuary or funeral home the entire costs of burial or undergoing the psychological pain of knowing no arrangements have been made. For these lonely senior citizens, this sudden change has dealt a strong blow to their sense of security and psychological well-being.

I do feel that the basic intent of the change in law was correct, and thus do not seek to amend the laws governing payments to funeral homes prospectively. However, for those who already had written contracts with funeral homes at the time of the enactment of the Reconciliation Act, I believe that the Government owes it to these persons to carry through on its side of the bargain. Thus, I am introducing legislation which would restore the payability of the lump-sum death payment to funeral homes and other such businesses, provided that a written contract between a senior citizen existed with such a business as of the date of enactment of the Reconciliation Act, and provided they have no surviving spouse or child.

Clearly, this is a very conservative measure, designed to aid those who have experienced the most suffering with the enactment of the lump-sum death benefit provision of the act. The fiscal impact of this legislation would be negligible, but the benefits to the peace of mind of many of our oldest seniors would be positively affected. For those who find themselves without a spouse or child on whom to rely for funeral arrangements, a certain degree of security is provided by knowing that a funeral home will comply with the deceased's wishes for providing a funeral. In addition, a very real assistance is provided by the $255 which these senior citizens can count on being provided to the home. To make up this amount with their own funds in many cases would be impossible, as most seniors in this position are poor.

I hope that my colleagues will join me in this effort to restore a modicum of security to the neediest and oldest in our society, who have counted on receiving this benefit.

H.R. 5848

A bill to limit the applicability of the recently enacted restrictions on the lump-sum death payment under title II of the Social Security Act, in the event of previously executed written agreements with funeral homes, to cases in which there would be surviving beneficiaries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2202(b) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 834) is amended to read as follows:

"(b) The amendments made by subsection (a) shall apply—

"(1) only with respect to individuals who die after August 1981, and

"(2) in the case of any individual described in paragraph (1) who had in effect, as of the date of the enactment of this Act, a written agreement with a funeral home providing for the burial of such individual upon his death, only if there is with respect to such individual, as of such date, another individual who would be a survivor described in paragraph (1) or (2) of section 202(i) of the Social Security Act (as amended by this section) if such individual described in paragraph (1) had died on such date.".●

THE BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, the budget deficit last fiscal year was $57.9 billion. The public debt this fiscal year has been increasing at the rate of more than $9 billion a month and the deficit for this fiscal year could total $108 billion. The Congressional Budget Office estimates, on the basis of the administration's most recent budget proposal, deficits during the next 3 years could total another $389.1 billion. This is fiscal absurdity. During these 5 short years, budget deficits could total $555 billion or more than half a trillion dollars. As James Dale Davidson, chairman of the National Taxpayers Union, has said, the balanced budget amendment is needed now more than ever.

More than 3 years ago, soon after being elected to Congress, I introduced House Joint Resolution 218, a balanced budget constitutional amendment. Early last year, I again proposed a balanced budget constitutional amendment, House Joint Resolution 180. Alternative versions of a balanced budget amendment have also been introduced by other Members of Congress. Each of these has earned a degree of support. Unfortunately, as the public debt, deficits, and projected deficits have continued to increase, support in the House of Representatives for a balanced budget constitutional amendment has been divided among these proposed alternatives.

The balanced budget constitutional amendment which I am introducing today provides the means for building the consensus support in the House of Representatives which is needed, but does not now exist, for the passage of a balanced budget constitutional amendment. I urge my colleagues to join with me in support of this amendment. As James Dale Davidson has said, the balanced budget amendment is needed now more than ever.

Mr. Speaker, I request the text of the amendment which I am introducing today be printed in the RECORD at this point as well as the useful explanation of a balanced budget and tax limitation constitutional amendment which has been prepared by the National Tax-Limitation Committee.

H.J. RES. 439

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no longer greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SEC. 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SEC. 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SEC. 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SEC. 5. This article shall take effect for the second fiscal year beginning after its ratification."

EXPLANATION

The Tax Limitation/Balanced Budget Amendment would require Congress to adopt a budget statement ahead of each fiscal year under which outlays would not exceed receipts. In additon, the annual increase in planned or budgeted receipts would be limited to the rate of growth in national income in the preceding calendar year.

As the year progressed, actual receipts would not necessarily equal budgeted receipts, but actual outlays *could not* exceed budgeted outlays. This one provision effectively limits the growth in Federal spending to the growth in national income.

Exceptions are provided. In any year, projected outlays could exceed receipts. Congress *could* plan a deficit by a recorded vote of three-fifths of the whole membership of each house.

The increase in planned tax receipts could exceed the rate of growth in national income by a vote of a majority of the whole membership in each house and approved by the President.

The provisions of the article could be waived for any fiscal year in which a declaration of war were in effect.

Critics of a constitutional amendment to promote fiscal discipline argue that it would be inflexible and would hamstring contracyclical fiscal policies. Actually, the Tax Limitation/Balanced Budget Amendment would put neither the economy or the Congress in a policy straitjacket. Deficits could still occur without extraordinary votes in recessions as actual revenues fell short of those in the budget plan and vice versa in expansionary periods. Moreover, the Congress could deal with emergency conditions by a three-fifths vote on deficits or a majority vote on taxes.●

SEEKING THE CENTER IN CENTRAL AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. JAMES K. COYNE) is recognized for 30 minutes.

Mr. JAMES K. COYNE. Mr. Speaker, may I first begin by encouraging the gentleman from Pennsylvania to participate in this special order as a fellow Member who had a similar experience as I did over the past several weeks.

Recently public attention has been focused on the growing economic, political and social struggles in Central America, especially those in El Salvador and Nicaragua. Much of this public debate had been shaped by reports from several visiting Congressmen and an international press corps that has been accused of sloppy, if not biased, reporting.

Few people can claim to be an expert on the complex sociopolitical equation that frames this continuing drama a few hundred miles south of the border. I did not believe that in the space of 5 days I would become an expert on the situation in Central America, but I did feel that I could formulate my approach to the debate on U.S. policy that clearly lay ahead, both more responsibly and more effectively, if I acquired firsthand knowledge of the relevant issues.

I arrived in El Salvador on February 17 with three principal concerns:

First, is the turmoil in El Salvador a political quagmire in which the United States might become militarily bogged down?

Second, was the Salvadoran Government making "significant progress" in controlling the human rights violations that had appalled U.S. citizens and earned international condemnation?

Third, to what degree are the Cuban and Nicaraguan regimes supporting the Salvadoran rebels?

As I see it, the challenges we face is to synthesize the answers to those three questions in order to determine how the United States might foster a free and democratic system in El Salvador without involving the U.S. military. I am disturbed by the partisan and prejudiced propaganda that emerges from both the left and the right on this issue, and I seek to identify a path of accommodation.

Not surprisingly, I returned after this 6-day trip with more questions than answers. But I will insist on dispassionately posing those questions until credible answers emerge from the U.S. foreign policy crucible.

In El Salvador, we were both well received and well treated by the Government of President Napoleon Duarte. We met with President Duarte, with Defense Minister Guillermo Garcia, with U.S. Ambassador Deane Hinton, with Gen. Wallace H. Nutting and with leaders of the church and business community. We took advantage of the President's offer to travel wherever we pleased by visiting the village of San Antonio Abad and the Mariona Prison, where many of the political prisoners of the Government are currently held in San Salvador.

I was favorably impressed by the sincerity and commitment of President Duarte. I believe that he enjoys broad support among his people and that he will continue to implement his popular program of political and economic reform. He stressed, however, that the constituent assembly elections scheduled for March 28 are a critical element to the restoration of democracy in El Salvador, a position with which I strongly concur.

My favorable impression of the civilian government, however, is in contrast to my perception of El Salvador's military leadership. Few of the military leaders with whom I met seem to embrace the democratic ideals of President Duarte. I believe that this attitude was largely responsible for the apparent coverup of human rights violations which I will discuss later.

Furthermore, as a result of my private meeting with President Duarte, I concluded that the military is not representing the will of the civilian government. For example, when I confronted President Duarte with the informal weapons requests which had been made earlier in the day by Defense Minister Garcia, he was shocked, and he assured me that such a massive allocation of military aid was totally unnecessary.

The Defense Minister had informally requested enough helicopters to move 2,000 soldiers, which I calculated would require the transfer of more than 180 helicopters.

The President, on the other hand, maintained that he needed only 10 or fewer helicopters at the present time.

As I met with government and military leaders, I concentrated on the three concerns which I wished to confront, and I think the issues began to come into focus.

□ 1520

I found that drawing analogies with the sequence of events that led us down the path toward extended involvement in Vietnam were inescapable, but for each similarity there were dozens of significant differences. In Vietnam there was a war of reunification between North and South Vietnam. In El Salvador, however, it is a war of political and class division.

In Vietnam the most dominant national figure was certainly Ho Chi Minh, the primary leader of the north.

In El Salvador, the most popular national figure is more than likely Napoleon Duarte himself, America's ally.

In Vietnam, U.S. troops were demanded by the governments we supported, while in El Salvador I was pleased to learn that U.S. troops are neither required nor requested. In fact, they have been adamantly refused by no less a figure then Defense Minister Garcia himself.

The list of differences between Vietnam and El Salvador can continue at some greater length, but suffice it to say that the salient point is that we should learn lessons from our past involvement in Vietnam, but we must not allow this partial analogy to obscure our view of the reality.

The human rights question is equally difficult to fathom, not only because one quickly concludes that both generals and guerrillas alike often distort the truth, but because the question is shaped by historical and sociological tradition as much as by current day standards of military professionalism. Nevertheless, I could not help feeling that General Garcia's military forces exercised far too much autonomy and freedom from review, judicial or otherwise. In El Salvador, the local commanders, especially in rural areas outside of the main cities, have an authoritarian power that transcends civilian control, especially in the smaller areas distant from the oversight of the common commanders in El Salvador.

We accepted the tragedy of San Antonio Abad as exemplary of the confusion that often surrounds alleged violations of human rights perpetrated in a wartorn area. And in light of this, I sought to discern the truth about what occurred there. I visited this town and heard the stories of local residents that on one night this past January, members of the Salvadoran Armed Forces dragged citizens from their homes and systematically murdered them. Those whose families had been "visited" in the night, retrieved the bodies of their lifeless relatives the next morning from a stack of 20.

When we confronted General Garcia with this gruesome tale, he and his lieutenants denied that the murders were systematic and offered another version of the events. He insisted that his soldiers surrounded the town in hopes of locating a guerrilla stronghold. He contended that the soldiers were fired upon in the middle of the night, and in the ensuing battle 20 civilians were caught in the crossfire.

We were shocked by the difference between the two stories and impressed by the difficulty of discerning the truth. The most conclusive evidence, however, was contributed by a U.S. Embassy official who had viewed the bodies at the morgue and determined that most were shot in the back of the head at close range. This story discredited the version of Colonel Palacios and General Garcia and damaged their credibility and the credibility of the military in El Salvador, at least in my eyes.

I concluded that the Salvadoran military command does not have control over its frontline forces and, therefore, cannot prevent further violations of the human rights of its citizens at this time.

I believe, however, that President Duarte is dedicated to harnessing this traditionally uncontrollable military machine and will do what he can to correct the situation, if we provide him the encouragement and the incentive to do so. It is already clear that the tough international scrutiny to which General Garcia is subjected is bringing him to the realization that he must "clean up his act."

However, I should point out that there are continuing violations of human rights equally egregious from the left in El Salvador. Those of us who hear arguments that the revolutionary left must be supported, ask back, "What evidence do we have to suggest that their civilian leadership can control their military were they in power?" There are clear examples of dramatic violations of human rights by the guerrillas, stories which are equally hard to believe and which demand full scrutiny by U.S. press, public and politicians alike.

On February 20, I left El Salvador for Nicaragua, with the hope that I might be able to address my third concern regarding the provision of aid for the rebels in El Salvador by the Nicaraguan Government, by Cuban sources and, of course, by the Soviets as well. I also sought to identify a course of action of U.S. foreign policy that might strengthen the democratic strains in that country and at the same time diminish the antagonisms which are clearly growing between the United States and Nicaragua.

During our stay, I met with Comandante Daniel Ortega, the leader of the ruling Sandinista junta in Nicaragua, but also I met with Alfonso Robelo, the leader of the opposition party in Nicaragua and with Enrique Dreyfus, a business leader, who only 2 days before our arrival had been released from a cruel, extended detainment in the Managua prison. I also met with church officials and others, both within the Sandinista ruling junta and without. My visit, unfortunately, was framed by a background of strident anti-American rhetoric, due in part to the public commemoration of the death of Augusto Sandino, who I learned was the founder of the Sandinista movement. While I recognize that a residue of anti-American sentiment might be expected in a country in which we have been so directly involved in past decades, I was dismayed, shocked and terrified, to discover that this hatred is being perpetuated and employed by the Government as a distraction for the masses from the obvious shortcomings of their own political rule.

In meeting with the leaders of the Sandinista regime, I encountered an unwillingness on their part to diminish their belligerent accusations leveled against the United States and, I concluded that the Sandinista government clearly prefers to tilt, in fact overwhelmingly tilt, toward the Soviet Union and Cuba.

I asked Daniel Ortega, "Comandante, suppose I go back to the United States and somehow the U.S. Congress can be persuaded to change dramatically its relationship with Nicaragua, to take steps that would lead to a restoration of economic aid and to a guarantee of no external military intervention. What then could I say to the U.S. people, to our Congress, that you would be willing to do in return? Would you, for example, be willing to say that you would not allow the Soviets to build an air force base in Nicaragua? Would you be persuaded to discourage Nicaraguan support for other revolutionary movements in Central America?"

Sadly, I report that Comandante Ortega said no to all my offers for compromise.

While the Sandinistas did enjoy broad support at the inception of their rule, it is clear that this support is quickly eroding.

I was told that the original Sandinista movement was supported by almost 95 percent of the people of Nicaragua 3 years ago, but just last month I was informed that today only a third of the people in Nicaragua support the course that country is following.

The Sandinista government has lost the confidence of the middle class and the leadership of the Catholic church.

Just a week before my arrival, all seven bishops of the Catholic church in Nicaragua condemned the Sandinistas for the ruthless, forced resettlement of the Miskito Indians and the killing of innocent Miskito Indians who were unwilling to cooperate with the government in this resettlement program.

Both the church and the middle class are condemning this government for its repression, and sadly they have become the new victims of the Sandinistas' rhetorical abuse as a result.

I found my interview with Enrique Dreyfus and Alfonso Robelo particularly enlightening. Both of these leaders confirmed allegations that the repressive policies of the Sandinista regime have caused a marked decrease in the popularity of the government.

I found the violations of human rights in Nicaragua to be no less reprehensible than those in El Salvador, though obviously I recognize that the actual loss of life due to those violations and due to the continuing war in El Salvador is considerably greater.

I am particularly outraged, however, by the suffering that these Miskito Indians are enduring at the hands of the government. The Sandinistas have systematically relocated, jailed and caused great suffering to thousands of Indians in the northeast section of Nicaragua. We heard numerous reports about Indians who lost their lives at the hands of government soldiers.

When the congressional delegation requested an opportunity to travel to the riverfronts along the Coco River, where these villages have been burned and where massacres allegedly have taken place, we were flatly denied the chance to make a visit. This is in clear contrast to our experience in El Salvador, where the Duarte government allowed us a free rein and a free passport throughout the country.

My visit to Managua clearly demonstrated the broad extent of Cuba's involvement in that country, a role that neither the Sandinistas nor the Cubans seem to deny.

Although Mr. Ortega did not discuss the Nicaraguan role in supplying the rebels in El Salvador, both Mr. Dreyfus and Mr. Rubelo confirmed that the transfer of military assistance is extensive.

This trip left me with a great many impressions that I needed to assess. I had no doubt, however, about the need of our Government to act fairly and decisively in an effort to bring peace and democracy to Central America, both to left and right wing governments.

Following are several of my recommendations.

I believe that President Duarte and the political and economic reforms he has implemented deserve our continuing support.

Because the constitutent assembly elections scheduled for March 28 are a critical element of President Duarte's plan to restore democracy to his country, we must affirm our belief in the importance of these elections and strive to insure that they are fair and representative. Attainment of this goal will be more feasible if we enlist the support of our NATO and other Latin American allies in overseeing the voting process.

This support of free elections should be accompanied by negotiations aimed at involving as many political groups as realistically possible in the government, as has been suggested by Bishop Rivera y Damas and President Lopez Portillo of Mexico.

Furthermore, I applaud President Reagan's Caribbean basin initiative as a recognition that economic growth can promote political stability in this region.

It seemed to me that the guerrillas' effort to undermine the economic infrastructure of the country is at least as dangerous as an effort to overthrow the government.

President Duarte, for example, has emphasized the need for buses, pointing out that just in the past few weeks almost 200 buses have been destroyed in El Salvador.

I am opposed to further military aid to El Salvador at this time, however, not only because I believe that the military command has not adequately protected the citizens of El Salvador from violations of human rights, but also because I think that granting military aid at this time will strengthen the military faction of the government, especially in these weeks leading up to the elections, which cannot be supportive of a solution based on reconciliation achieved through peaceful means.

Furthermore, in recognition of the demonstrated gap in communication between the civilian and military leaders we must clarify that our support is for the civilian government's efforts to achieve a political and economic solution and not for the military's attempts to achieve victory on the battlefield.

Despite the unfriendly rhetoric which is emerging from Nicaragua, I believe that we must not pass up this chance to negotiate with the Sandinistas, but obviously we need a third party intermediary.

It is clear that we must use our leverage to do anything possible to discourage the Nicaraguans from continuing to support the flow of arms to the rebels in El Salvador.

For this reason, I have supported the initiative proposed by President Portillo of Mexico to establish substantive negotiations with the Sandinistas.

In this process, however, we must not ignore the violations of human rights that have been committed by the Nicaraguan Government, just as we do not ignore the violations in El Salvador.

Finally, I am convinced that U.S. military intervention in Nicaragua is not the avenue to the institution of peace and democracy in that country.

I believe that our evolving policy toward the turmoil in Central America must stress the importance of fair and free elections and negotiations, where appropriate, in an effort to foster democracy and stability and to avert further military conflict.

I believe that the President's Caribbean basin initiative is this type of response and I am strongly supportive of our efforts to promote economic and hence political stability.

I cannot, on the other hand, support the notion that further military aid to El Salvador at this time will be a constructive influence in this process, especially when we are trying to do all that we can to encourage a moderate conclusion in the election process just 2 weeks away.

Finally, I maintain that if we are to continue to employ the human rights records of other countries as a criterion in the provision of U.S. aid, then we must apply that requirement fairly and consistently.

Mr. Speaker, I would like to take this opportunity now to see if there may be other members, other colleagues, who would like to participate.

Mr. MURTHA. Would the gentleman yield?

Mr. COYNE. I would be delighted to yield to my colleague.

Mr. MURTHA. I would like to commend the gentleman from Pennsylvania on the position he has taken and add a few thoughts about what I found when I was down in El Salvador in particular.

I met with basically the same people that the gentleman from eastern Pennsylvania did, and I found basically that the Defense Minister and the President had been sensitized to the criticism in the United States and they were trying to improve the human rights violations in their country.

Even the bishop admitted there was a slight improvement of human rights. And he was very careful to go on to offer the suggestion that as long as there was Communist aid coming into El Salvador, he requested and suggested that the United States should continue its military and economic aid. And he was very clear about this, because I aked him to repeat it. I wanted to make sure there was no confusion that acting Archbishop Rivera y Damas would say yes, he thought there was an improvement in human rights and he also felt we should continue our aid.

The basic thing that I heard more than anything else was that as long as there is Communist aid coming in through Nicaragua into El Salvador, that if our aid were to stop the country would fall.

The land reform program that has been instituted is a radical land reform program. It is supported by the masses of people. I think it has gained tremendous widespread support for the Government itself.

□ 1540

The thing that I cautioned the people that I met with was, and they told me in turn they agreed, that they could not tell who was going to win the election, and they went on to say that there is a possibility that the right wing would win, and then they predicted the land reform would stop and that also the repressions would continue or be escalated. If that is true, then I recommended to the State Department when I came back that the United States cut off all foreign aid, and we should not be involved any longer. I think it is an important point. President Duarte said very clearly, "Give us a chance. Let us try to work these problems out. Let us work through the election process."

I think it is incumbent on the Marxists to prove why they should not be involved in the election process itself, because in a sense that is the negotiation. Then, once the election is over, then the United States should perhaps advise El Salvador on negotiation, but as far as I can see, if the election is honest and it goes to the moderates, we have a chance to have a moderate government improve its human rights position, and at the same time be an ally of the United States.

So, I have taken a very careful position on what is going on, and I hope that it will be a fair election. I hope that the moderates will win in El Salvador and that we will, over a long period of time, be able to have an ally in Central America.

I am quite concerned that if El Salvador were to go to the right and then eventually to the left, or go to the left at sometime in the future, of course that whole area would deteriorate.

So, I appreciate what the gentleman said, and I met with a group of Methodist clergymen who had been down to El Salvador 2 or 3 weeks before we had, and they endorsed the moderate position that we have taken entirely. This is a group, the Institute for Religion in Democracy. They were down there for 7 days, and they deplored the violence, as we do. They are concerned about the human rights violations, but they also see the aid coming into the Communist side, and they are suggesting that we should wait and see what happens in the election and make a decision.

They endorsed the same proposition I have made, that if the right were to win we should divorce ourselves from El Salvador.

The one other thing I learned, the thing the gentleman mentioned at the beginning of his speech, the American troops were not only not required or requested, they were declined in all respects. I think it would be a real mistake for American troops to be involved in El Salvador because all of us know that is really not the crux of the problem in Central America.

Mr. JAMES K. COYNE. Mr. Speaker, I would like to thank my colleague from Pennsylvania for his remarks, and underscore that we are both, I think, trying to define the center in Central America. It is ironic to call it Central America, because sometimes you go down there and do not see anything but extreme left or extreme right, but I think the vast majority of civilians in El Salvador, and perhaps in Nicaragua, do their best to share our ideals, to find peace and prosperity, to advance their economic and social standing. They certainly do not want to see the left or totalitarian position of the right, which is, of course, why I am also looking forward to these elections as a high watermark in shaping both of our policy toward El Salvador and of the hopes of the Salvadoran people.

I think between now and then we should do everything we can to strengthen the chances of the Duarte regime. It is ironic to note that only 15 years ago, Duarte, who was then the mayor of San Salvador, was considered too radical to allow U.S. aid to go to him. This, I should point out, was during the Johnson administration. Now, of course, we see a situation where a lot of people perceived Duarte to be something other than what he is, something other than a man who deserves the support of this country.

I want to reiterate that I hope that whatever U.S. aid, economic or military, that flows to El Salvador, we make it clear that Duarte is the man who has the leverage to continue demanding that aid from the United States, and not the generals, who do not yet in my view fully share the view of the country's progress that President Duarte does.

I would like to thank the Speaker for giving me this opportunity to address the House.

THE REAL EL SALVADOR

(Mr. DAN DANIEL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. DAN DANIEL. Mr. Speaker, every day all of our offices are bombarded with the opinions of experts in the matter of El Salvador. Some of what we receive is factual but most is opinion masquerading as fact and most, I regret to say, loses sight of the fact that we should have two primary concerns.

The first concern is where do the interests of this nation rest? And the second is, how can we improve the well-being of Salvadorans within the limits imposed by the first concern.

The March 29 issue of Forbes magazine puts this unfortunate country's recent history in better prospective than I have seen in public print. The total absence of inflammatory rhetoric and reliance upon facts should make it required reading for all in this body right now.

THE REAL EL SALVADOR

(By Allan Dodds Frank)

(What do we have against nuns? From what most Americans learn from the news—on television and radio and in the newspapers—it would appear that the U.S. government is aiding and abetting a military dictatorship in El Salvador that butchers American nuns and thousands of its own peasant people.

(The real issues in El Salvador go beyond which side is the bigger butcher. El Salvador's past is different from what you may have been told, and so is its present. It is a country where conscientious reformers are battling tremendous odds in an attempt to develop a modern society. That El Salvador story has been lost in a propaganda war that is being won by Marxist insurgents.)

They called El Salvador's industrious people the Israelis of Central America. Hardworking, sharp traders and—for Latin America—business innovators.

On a resource-poor spot of land only 170 miles long and 60 miles wide, split by two mountain ranges and marked with more than 20 volcanoes, the approximately 5 million people of El Salvador created the finest infrastructure in Central America. Two railroads stretched across the nation, one privately owned, one government run, and more than 5,400 miles of roads, nearly half paved, were in place. There was a good deepwater port on the Pacific and an international-class airport. The most extensive use of fertilizer in Central America produced three strong export crops: coffee, sugar and cotton. Before the invasion-rebellion, there was real progress, too. The industrial sector was growing fast and so was per capita income. As recently as 1976–78, gross domestic product real growth was averaging 4%, and domestic investment was averaging 17%.

Why then is El Salvador so poor, with GDP per capita only a fifth of Puerto Rico's? Leftists blame the Yanquis or capitalism, which buys raw materials cheaply and sells back industrial goods dearly. That's not just a myth. It's a bald-faced lie.

Others blame an oligarchy that controlled more than its share of the land and wealth.

But the truth is El Salvador is poor because it's a tiny overcrowded country. The population growth rate is twice Puerto Rico's, and the average family size is six. The population density is 8% greater than India's—582 per square mile, against 539 in India. Even an ideal economy might be able to support a population of at most 3.5 million to 4 million, experts say. El Salvador, like so much of the developing world, has become a victim of its own progress. Because infant mortality shrank and life expectancy widened, the population exploded. The industrious people of El Salvador had trouble keeping ahead of their own fecundity—"the Malthusian problem," one expert calls it. The war, meanwhile, has destroyed the progress being made. GDP fell an average 6.9% annually the past three years, exports are down 22%, investment has collapsed.

The seeds of today's struggle sprouted in 1969 with the so-called Soccer War with neighboring Honduras, says UCLA professor of Latin American history James Wilkie, an acknowledged expert on the area. What started as a brawl among fans in a three-game series of national teams was used as an excuse by the Hondurans to expel thousands of Salvadorans who had been squatters in Honduras. "It brought all this pressure back on El Salvador, which could not handle them," says Wilkie, "and it ultimately destroyed the Central American Common Market. It also left a large no-man's land between the two countries where the guerrillas could make a base." That was 1969, and for the next decade, while guerrillas trained in the no-man's land, the country went through the beginnings of political change and reform.

Jose Napoleon Duarte, then leader of the opposition, probably won the election of 1972. But the military imprisoned and then deported Durate. In October of 1979, however, a group of reform-minded officers overthrew the government, brought back Duarte, and early in 1980 began a series of dramatic economic moves, taking over the largest farms, nationalizing banks and exports. If it was authoritarian, it was pro-reform authoritarianism. A New Deal backed by force. The aim was equally to curb the left and right—Marxist guerrillas who had built their war chest with kidnapping and murder, and the murderous right-wing forces of Roberto D'Aubuisson, an expelled army major, and other security forces abetted by some military men.

The bloodshed was unleashed by those who opposed reform. Those on the right wanted to keep the status quo ante. Those on the left wanted power, pure and simple. "The Salvadoran people, as a group, have the best reputation in Central America for being productive," says a U.S. State Department official. "I have to admit they also have the reputation for being the most violent people around Central America, which is saying quite a lot."

Violent or not, history also tells us that small crowded nations can create successful economics with efficient agriculture or industrialization or both and a measure of social justice and discipline. Examples abound from Belgium to Hong Kong. That type of development is possible in a free El Salvador when peace comes: expansion of light industry tied to leather; shoes; other labor-intensive products; semifinished products from cotton and coffee and push into new exports of vegetables and fruit.

The linchpin of these hopes was the land reform program, aimed at splitting the large farms of the wealthy class and creating a new middle class of freeholders. So much has been done in this regard that one wonders what the leftists really want—other than power and blood.

So far, in Phase I of the plan, 326 plantations of 1,235 acres or more have been turned over to peasant-owned private cooperatives with nearly 60,000 members. Phase II, which was to have confiscated smaller farms—250 acres and up—was killed by widespread resistance and the realization that the owners were middle class, not upper class. A third phase of the reform, the Land to the Tiller program, aims to give title to 150,000 tenant farmers for the small plots—up to 17 acres—they now rent.

"The land reform has just about broken the back of the old oligarchy," says Jack Heberle of the AFL-CIO-funded American Institute for Free Labor Development. "The land reform had been the desire of the campesinos for the last 20 years. I sincerely believe it is going to be a permanent part of the Salvadoran economic, political and social backdrop."

Mary Temple, an official of the Land Council, a New York-based group supporting the land program, points out: "Successful land reform did happen in Japan, Taiwan and South Korea." It might have happened in Salvador as well, had not a rebellion nurtured from outside disrupted it.

There's another alternative, of course, the Marxist solution that some Americans seem to think makes sense. Considering the violence of the civil war, a rebel victory probably would bring on a massive refugee flight, larger, even, than those of Cuba or Vietnam, with the regime eager to get rid of people and the middle class fleeing for its life. There would be the usual military buildup, the massive bureaucracy; land reform would turn into collectivization and industrial and farm production would stagnate.

If there is one thing Marxist-Leninists hate, it is genuine social and economic reform. Probably the leftists do not really think they can seize power soon; but they can disrupt reform and thus pave the way for their own eventual takeover. Unfortunately, they have many allies in the U.S., the well-meaning but misinformed or willfully ignorant who prattle that Salvador is another Vietnam. "The only similarity with Vietnam is this erroneous concept of body counts," says Wilkie, who edits the Statistical Abstract of Latin America. "Why not say it's another Malaysia, where a democratic government is trying to put down insurgents armed from the outside?"

With a period of relative peace following the Mar. 28 elections, in which the U.S. is counting on President Duarte's favored Christian Democratic Party to win, the short-term prospects for the economy aren't all bad. The U.S. expects imports to increase this year, U.S. aid is going to be up sharply from the $160 million of last year, and the International Monetary Fund is expected to produce another $50 million. Given a couple years of stability, a State Department expert says, "people who are still in the country and have sent money out might start bringing it back."

"El Salvador's production capacity, despite large-scale economic sabotage, remains largely intact," reported Senators Claiborne Pell (D-R.I.) and Patrick Leahy (D-Vt.), after a trip there in February. "The private sector, one analyst told us, is on its knees right now, but not on its back."

The seeds of social justice and economic progress have been planted. All they need is a little peace and some time to grow.

"Most people want to try a reasonable form of democratic government," says Ernesto Rivas-Gallont, El Salvador's ambassador to the U.S. "I think Central America will become more democratic." Unless, that is, the American people are persuaded to turn their backs on the budding Salvadoran democracy.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BETHUNE (at the request of Mr. MICHEL), for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LOEFFLER) to revise and extend their remarks and include extraneous material:)

Mr. COATS, for 60 minutes, March 31.

Mr. CHENEY, for 30 minutes, today.

(The following Members (at the request of Mr. MCHUGH) to revise and extend their remarks and include extraneous material:)

Mr. BONKER, for 5 minutes, today.

Mr. MCHUGH, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mr. BINGHAM, for 10 minutes, today.

Mr. UDALL, for 5 minutes, today.

(The following Members (at the request of Mr. MCHUGH) to revise and extend their remarks and include extraneous materials:)

Mr. PANETTA, for 5 minutes, today.

Mr. WEISS, for 5 minutes, today.

Mr. DASCHLE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LOEFFLER) and to include extraneous matter:)

Mr. GINGRICH.

Mr. MARLENEE.

Mrs. ROUKEMA.

Mr. CARMAN.

Ms. FIEDLER in two instances.

Mr. PARRIS.

Mr. MITCHELL of New York.

Mr. LAGOMARSINO in three instances.

Mrs. SCHNEIDER.

Mr. DANNEMEYER in three instances.

Mr. GILMAN.

Mr. LUJAN.

Mr. DAVIS.

Mr. BROOMFIELD.

Mr. DORNAN of California.

Mr. LEBOUTILLIER.

Mr. SOLOMON.

(The following Members (at the request of Mr. MCHUGH) and to include extraneous matter:)

Mr. LEVITAS in two instances.

Mr. SCHEUER.

Mr. SCHUMER.

Mr. LAFALCE.

Mr. HAMILTON.

Mr. CONYERS.

Mr. YATRON.

Mr. FLORIO.

Mr. MURTHA.

Mrs. SCHROEDER in two instances.

Mr. STARK in two instances.

Mr. EDGAR.

Mr. FORD of Michigan.

Mr. BOLAND.

Mr. STOKES in two instances.

Mr. HOYER in three instances.

Mr. BENJAMIN.

Mr. MINISH.

Mr. STUDDS in two instances.

Mr. KASTENMEIER.

Mr. EDWARDS of California.

Mr. DASCHLE in five instances.

Mr. FRANK.

Mr. RATCHFORD.

SENATE BILL, AND JOINT AND CONCURRENT RESOLUTIONS REFERRED

A bill and joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2166. An act to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak"; to the Committee on Foreign Affairs.

S.J. Res. 149. Joint resolution to designate the week of June 6, 1982, through June 12, 1982, as "National Child Abuse Prevention Week"; to the Committee on Post Office and Civil Service.

S. Con. Res. 62. Concurrent resolution to congratulate Hadassah, the Women's Zionist Organization of America, on the celebration of its seventieth anniversary; to the Committee on Post Office and Civil Service.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 148. Joint resolution to proclaim March 18, 1982, as "National Agriculture Day."

JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on March 12, 1982, present to the President, for his approval, joint resolutions of the House of the following title:

H.J. Res. 348. An act to provide for the awarding of a special gold medal to Her Majesty Queen Beatrix in recognition of the 1982 bicentennial anniversary of diplomatic and trade relations between the Netherlands and the United States; and

H.J. Res. 373. Joint resolution expressing the sense of Congress that the Government of the Soviet Union should respect the rights of its citizens to practice their religion and to emigrate, and that these matters should be among the issues raised at the 38th meeting of the United Nations Commission on Human Rights at Geneva in February 1982.

ADJOURNMENT

Mr. MURTHA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Wednesday, March 17, 1982, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3398. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Department of the Army's proposed sale of defense equipment to Egypt (Transmittal No. 82-48), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3399. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to provide that certain service as a commissioned officer of the Public Health Service shall be counted as service creditable toward retirement as a member of the Armed Forces and for other purposes; to the Committee on Armed Services.

3400. A letter from the Under Secretary of Defense (Research and Engineering), transmitting the annual report of independent research and development and bid and proposal costs pursuant to section 203 of the 1971 Department of Defense Appropriation Authorization Act; to the Committee on Armed Services.

3401. A letter from the Under Secretary of Defense (Research and Engineering), transmitting detailed data from which the annual report of independent research and development and bid and proposal costs was prepared pursuant to section 203 of the 1971 Department of Defense Appropriation Authorization Act; to the Committee on Armed Services.

3402. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize training of personnel of the Armed Forces of NATO member countries, Japan, Australia, and New Zealand, and for other purposes; to the Committee on Armed Services.

3403. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1983 for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes; to the Committee on Armed Services.

3404. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act 4-164, "Stable and Reliable Source of Revenues for WMATA Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3405. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act 4-165, "District of Columbia Criminal Statute of Limitations Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3406. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act 4-166, "Candy, Confectionary, Soft Drink, and Chewing Gum Sales Tax Amendment Act of 1981," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3407. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act 4-167, "Reprograming Policy Act of 1980 Amendments Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

3408. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Egypt (Transmittal No. 82-48), pursuant to section 36(b) of the Arms Export Control

Act; to the Committee on Foreign Affairs.

3409. A letter from the Attorney-Adviser, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3410. A letter from the Secretary of Education, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3411. A letter from the Acting Administrator, Small Business Administration, transmitting the Administration's annual report under the freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3412. A letter from the Chairman, Securities and Exchange Commission, transmitting a report on the office's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3413. A letter from the Chairman, National Capital Planning Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3414. A letter from the Inspector General, Department of Labor, transmitting a report of a proposed computer match of Federal Employees' Compensation Act beneficiaries against the Veterans' Administration compensation pension payment recipients, pursuant to Public Law 95-452; to the Committee on Government Operations.

3415. A letter from the Executive Director, Board for International Broadcasting, transmitting a report on the Board's activities under the Government in the Sunshine Act during calendar year 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3416. A letter from the Acting Executive Officer, National Science Board, transmitting a report on the Board's activities under the Government in the Sunshine Act during calendar years 1980 and 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3417. A letter from the Secretary of the Interior, transmitting a report on donations received and allocations made from the fund "14x8563 Funds Contributed for the Advancement of the Indian Race, Bureau of Indian Affairs" during the fiscal year ending September 30, 1981, pursuant to public law; to the Committee on Interior and Insular Affairs.

3418. A letter from the Secretary of the Interior, transmitting notice of the deferral of payment of the 1981 annual construction charge installment due for H. & R.W. Irrigation District, Pick-Sloan Missouri Basin program, Nebraska, pursuant to section 17(b) of the Reclamation Project Act of 1939, as amended; to the Committee on Interior and Insular Affairs.

3419. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting comments of the Advisory Council on the proposal by the U.S. Army Corps of Engineers to issue a permit to construct an entrance channel and commercial marina complex in Murrells Inlet, Georgetown County, S.C., pursuant to section 202(b) of the National Historic Preservation Act; to the Committee on Interior and Insular Affairs.

3420. A letter from the Deputy Administrator, General Services Administration, transmitting 13 prospectuses for alterations at the several identified locations, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3421. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a report from the Chief of Engineers, Department of the Army, on Ponce regional water resources management, Puerto Rico, pursuant to section 204 of the River and Harbor Act of 1970, Public Law 91-611; to the Committee on Public Works and Transportation.

3422. A letter from the Secretary of Energy, transmitting notice of Department's delay in completing a comprehensive program management plan for wind energy systems for fiscal year 1983 for submission, pursuant to section 4 of Public Law 96-345; to the Committee on Science and Technology.

3423. A letter from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots; to the Committee on Veterans' Affairs.

3424. A letter from the Secretary of Defense, transmitting a report on the U.S. chemical warfare deterrence program for 1982 pursuant to section 818 of Public Law 94-106; jointly, to the Committees on Armed Services, Appropriations, and Foreign Affairs.

3425. A letter from the Comptroller General of the United States, transmitting the report on the status of the Great Plains coal gasification project loan guarantee, February 1982, pursuant to Public Law 95-238; jointly, to the Committees on Energy and Commerce, Banking, Finance and Urban Affairs, and Science and Technology.

3426. A letter from the Secretary of Energy, transmitting the sixth quarterly report on biomass energy and alcohol fuels, covering the period ended December 1981, pursuant to section 218(a) of Public Law 96-294; jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

3427. A letter from the Acting Secretary of Interior, transmitting a tentative proposed final 5-year Outer Continental Shelf oil and gas leasing program, pursuant to section 18 of the Outer Continental Shelf Lands Act, as amended; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

3428. A letter from the Deputy Secretary, Department of Energy, transmitting a notice of delay in issuing interim standards under the building energy performance standards program by August 1, 1981, as required by Public Law 94-385; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

3429. A letter from Chairman, Federal Election Commission, transmitting a copy of the Commission's supplemental appropriation request for fiscal year 1982, pursuant to section 307(d)(1) of the Federal Election Campaign Act of 1971, as amended; jointly, to the Committees on Appropriations and House Administration.

3430. A letter from the Acting Chairman, National Transportation Safety Board, transmitting the Board's request for a supplemental appropriation to cover the increase in the pay cap and the 4.8-percent pay raise in fiscal year 1982, pursuant to title III of Public Law 93-633; jointly, to the Committees on Appropriations, Energy and Commerce, and Public Works and Transportation.

3431. A letter from the Acting Chairman, National Transportation Safety Board, transmitting the Board's 1983 budget submission, pursuant to section 304(b)(7) of Public Law 93-633; jointly, to the Committees on Appropriations, Energy and Commerce, and Public Works and Transportation.

3432. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting the annual report on the Panama Canal Treaties of 1977 for the period October 1, 1980, through September 30, 1981, pursuant to section 3301 of Public Law 96-70; jointly, to the Committees on Merchant Marine and Fisheries, Foreign Affairs, the Judiciary, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follow:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; with amendments (Rept. No. 97-349, Pt. III). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; with and amendment (Rept. No. 97-349, Pt. IV). Ordered to be printed.

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; (Rept. No. 97-349, Pt. V). Ordered to be printed.

Mr. PRICE: Committee on Armed Services. H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; with amendments (Rept. No. 97-349, Pt. VI). Ordered to be printed.

Mr. BOLAND: Permanent Select Committee on Intelligence. H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; with an amendment (Rept. No. 97-349, Pt. VII). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 4627 referred to the Committee on Foreign Affairs for a period ending not later than April 22, 1982, for consideration of such portions of title IV of the amendment recommended by the Committee on Merchant Marine and Fisheries as falls within the jurisdiction of the Committee on Foreign Affairs under clause 1(i), rule XI.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI:

H.R. 5836. A bill to make miscellaneous changes in the tax laws, and for other purposes; to the Committee on Ways and Means.

By Mr. BINGHAM:

H.R. 5837. A bill to prohibit U.S. assistance for military or paramilitary operations against the Government of Nicaragua; jointly, to the Committees on Foreign Affairs and the Permanent Select Committee on Intelligence.

By Mr. BRODHEAD:

H.R. 5838. A bill to remove the column 1 rate of duty and fix the column 2 rate of duty on certain small toy and novelty items; to the Committee on Ways and Means.

By Mr. BROYHILL:

H.R. 5839. A bill to apply duty-free treatment to hosiery knitting machines; to the Committee on Ways and Means.

By Mr. EDGAR:

H.R. 5840. A bill to authorize the National Water Resources Policy and Development Act of 1982, to direct the Water Resources Council to act as the coordinating body for a program of water resources assistance to the States, and for other purposes; jointly, to the Committees on Public Works and Transportation, Interior and Insular Affairs, and Agriculture.

By Mr. FISH:

H.R. 5841. A bill to amend the Immigration and Nationality Act to provide for special immigrant status for certain aliens classified or previously classified as G-4 nonimmigrants and for certain members of their immediate families; to the Committee on the Judiciary.

By Mr. FUQUA:

H.R. 5842. A bill to authorize appropriations for activities of the National Science Foundation for fiscal years 1982 and 1983, and for other purposes; to the Committee on Science and Technology.

By Mr. GIBBONS:

H.R. 5843. A bill to recapture overall foreign losses in termination cases; to the Committee on Ways and Means.

By Mr. HEFNER:

H.R. 5844. A bill to provide a penalty for the robbery or attempted robbery of any controlled substance from any pharmacy; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 5845. A bill to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions; to the Committee on Ways and Means.

By Mr. MONTGOMERY:

H.R. 5846. A bill to amend title 38, United States Code, to extend for 1 year the authority for the provision of Veterans' Administration health care by contract in the Commonwealth of Puerto Rico and in the Virgin Islands; to the Committee on Veterans' Affairs.

H.R. 5847. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly-scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek; to the Committee on Veterans' Affairs.

By Mr. PANETTA:

H.R. 5848. A bill to limit the applicability of the recently enacted restrictions on the lump-sum death payment under title II of the Social Security Act, in the event of previously executed written agreements with funeral homes, to cases in which there would be surviving beneficiaries; to the Committee on Ways and Means.

By Ms. OAKAR:

H.R. 5849. A bill to encourage the development of shared housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEYSER:

H.R. 5850. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the Law Enforcement Assistance Administration to make grants to carry out local programs to prevent community crime and to improve relations between residents and personnel of law enforcement agencies; to the Committee on the Judiciary.

H.R. 5851. A bill to amend title 18 of the United States Code to provide an additional Federal penalty for certain Federal, State, and local criminal violations committed while released on Federal, State, or local bail, probation, parole, or other similar form of release; to the Committee on the Judiciary.

By Mrs. ROUKEMA:

H.R. 5852. A bill to require administrators of Federal employment and training services to secure commitments from employers to employ individuals who complete specific training programs provided by or under the supervision of those administrators, and for other purposes; to the Committee on Education and Labor.

By Mrs. SCHROEDER:

H.R. 5853. A bill to amend title 5, United States Code, to provide for voluntary reduced worktime as an alternative to reductions in force within the civil service; to the Committee on Post Office and Civil Service.

By Mr. SKELTON:

H.R. 5854. A bill to amend the Bail Reform Act of 1966 to authorize consideration of danger to the community in setting pretrial release conditions, to eliminate surety bond, to permit pretrial detention of certain offenders, and for other purposes; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 5855: A bill to amend the Internal Revenue Code of 1954 to deny deductions for interest paid or incurred on loans in connection with an unfriendly takeover, or attempted takeover, of a corporation; to the Committee on Ways and Means.

By Mr. UDALL:

H.R. 5856. A bill to provide for the consolidation of Indian lands; for the elimination of small fractional interests in Indian lands; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DASCHLE:

H.J. Res. 439. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

Mr. PEPPER:

H.J. Res. 440. Joint resolution designating April 28, 1982, as "National Nursing Home Residents Day"; to the Committee on Post Office and Civil Service.

By Mr. ST GERMAIN (for himself, Mr. Reuss, Mr. Minish, Mr. Annunzio, Mr. Mitchell of Maryland, Mr. Fauntroy, Mr. Neal, Mr. Patterson, Mr. Blanchard, Mr. Hubbard, Mr. LaFalce, Mr. Evans of Indiana, Mr. D'Amours, Mr. Lundine, Ms. Oakar, Mr. Mattox, Mr. Vento, Mr. Barnard, Mr. Garcia, Mr. Lowry of Washington, Mr. Schumer, Mr. Frank, Mr. William J. Coyne, Mr. Hoyer, Mr. Stanton of Ohio, Mr. Wylie, Mr. McKinney, Mr. Leach of Iowa, Mr. Evans of Delaware, Mr. Bethune, Mr. Shumway, Mr. Parris, Mr. Weber of Ohio, Mr. McCollum, Mr. Carman, Mr. Wortley, Mrs. Roukema, Mr. Lowery of California, Mr. James K. Coyne, Mr. Bereuter, Mr. Dreier, Mr. Gephardt, Mr. Dicks, and Mr. Snyder):

H. Con. Res. 290 Concurrent resolution reaffirming that deposits, up to statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WIRTH (for himself, Mr. Mineta, Mr. Panetta, Mr. Aspin, and Mr. Gephardt):

H. Con. Res. 291. Concurrent resolution expressing the sense of the Congress that the President should submit a revised budget for the fiscal year ending September 30, 1983; to the Committee on Government Operations.

By Mr. DYSON (for himself and Mrs. Boggs):

H. Con. Res. 292. Concurrent resolution expressing the sense of Congress concerning the President's prospective impoundment of the Army Corps of Engineers operation and maintenance funds for civil works; to the Committee on Public Works and Transportation.

By Mr. McHUGH (for himself and Mr. Conte):

H. Con. Res. 293. Concurrent resolution to express the sense of the Congress that activities designed to destabilize or overthrow the government of any nation in Central America are inappropriate, and that outstanding grievances between different nations of the region should be resolved through peaceful negotiations; to the Committee on Foreign Affairs.

By Mr. EMERY:

H. Res. 392. Resolution expressing the sense of the House of Representatives that the President should take all possible actions to insure adequate funding for the work-study, college student, financial assistance program based on campus; to the Committee on Education and Labor.

By Mr. FLORIO:

H. Res. 393. Resolution to express the sense of the House of Representatives that the Federal Government shall take no action to preempt any State law limiting due-on-sale clauses, or any other similar provision; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MARLENEE:

H. Res. 394. Resolution expressing the sense of the House of Representatives with respect to changes in the Railroad Retirement Act of 1974 proposed in the President's budget for fiscal year 1983; to the Committee on Energy and Commerce.

By Mr. RUDD:

H. Res. 395. Resolution expressing the sense of Congress concerning Members' salary cuts in view of recent economic conditions; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H. Res. 396. Resolution to amend the rules of the House of Representatives with respect to the disposition of a motion to reconsider a voice vote on final passage of legislation which adjusts the pay or affects the limitations on outside earned income of Members; to the Committee on Rules.

By Mr. YATRON:

H. Res. 397. Resolution concerning the observance by the Government of Romania of the human rights of the Hungarians in Transylvania, especially the right of self-determination; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

291. By the SPEAKER: Memorial of the Legislature of the State of South Carolina, relative to funding for the maintenance and operation of Georgetown and Port Royal Harbors, S.C.; to the Committee on Public Works and Transportation.

292. Also, memorial of the Legislature of the Commonwealth of Virginia, relative to tax advantages from investing in residential property; to the Committee on Ways and Means.

293. Also, memorial of the House of Representatives of the State of Kansas, relative to nuclear weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

294. Also, memorial of the Legislature of the State of Utah, relative to nuclear testing; jointly, to the Committees on the Judiciary and Energy and Commerce.

295. Also, memorial of the Legislature of the State of Georgia, relative to the Apalachicola-Chattahoochee-Flint Rivers waterway system; to the Committee on Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. D'AMOURS:

H.R. 5857. A bill for the relief of Birsen Yurtseven; to the Committee on the Judiciary.

By Mr. GREEN:

H.R. 5858. A bill for the relief of Mocatta & Goldsmid, Ltd., Sharps, Pixley & Co., Ltd., and Primary Metal & Mineral Corp.; to the Committee on the Judiciary.

By Mr. HILER:

H.R. 5859. A bill for the relief of Ivel Palmiter; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. Loeffler.

H.R. 29: Mr. Mineta.

H.R. 151: Mr. Blanchard.

H.R. 1193: Mr. Dymally and Mr. Gejdenson.

H.R. 1376: Mr. Peyser.

H.R. 1400: Mr. Lee.

H.R. 1918: Mr. Porter, Mr. Duncan, Mr. Weiss, Mr. Martin of New York, Mr. Ginn, Mr. Biaggi, Mr. Wilson, and Mr. Beard.

H.R. 2832: Mr. Dougherty.

H.R. 3117: Mr. Blanchard, Mr. Bonior of Michigan, Mr. D'Amours, and Mr. Donnelly.

H.R. 3355: Mr. Markey and Mr. Leach of Iowa.

H.R. 3752: Mr. DeNardis, Mr. Dwyer, and Mr. Gray.

H.R. 3998: Mr. Hansen of Utah.

H.R. 4147: Mr. Sunia, Mr. Roberts of South Dakota, Mr. Kramer, Mr. Whittaker, and Mr. Taylor.

H.R. 4562: Mr. Jeffords.

H.R. 4592: Mr. Santini.

H.R. 4830: Mr. Rudd, Mr. Dymally, and Mr. Beilenson.

H.R. 5086: Mr. Murphy.

H.R. 5133: Mrs. Schroeder, Mr. Guarini, Mr. Quillen, Mr. Volkmer, Mr. Watkins, Mr. Richmond, Mr. Shamansky, Mr. Lantos, Mr. Dwyer, Mr. DeNardis, Mr. Mollohan, Mr. Markey, Mr. John L. Burton, Mr. Solomon, Mr. Horton, Mr. Minish, Mr. Stratton, Mr. Leland, Mr. Edgar, Mr. Gaydos, Mr. St Germain, Mr. Jenkins, Mr. McKinney, Mr. Ertel, Mr. Snyder, Mr. Ford of Tennessee, Mr. Schumer, Mr. Moakley, Mr. Sawyer, Mr. Mica, Mr. Siljander, Mr. William J. Coyne, Mr. Dowdy, Mr. Boner of Tennessee, and Mr. Jones of Tennessee.

H.R. 5137: Mr. McCurdy, Mrs. Smith of Nebraska, Mr. Tauke, Mr. Bereuter, and Mr. Evans of Iowa.

H.R. 5192: Mr. Badham, Mr. Chappell, Mr. Fazio, Mr. Johnston, Mrs. Kennelly, Mr. Kogovsek, Ms. Mikulski, Mr. Ratchford, Mr. Swift, and Mr. Pashayan.

H.R. 5211: Mr. Porter.

H.R. 5318: Mr. Goodling.

H.R. 5332: Mr. Heftel and Mr. Pickle.

H.R. 5346: Mr. Gibbons, Mr. Gunderson, Mr. Fithian, Mr. Bailey of Pennsylvania, Mr. Clinger, Mr. Mitchell of New York, Mr. St Germain, Mr. Smith of Oregon, Mr. Wolpe, Mr. Moorhead, Mrs. Martin of Illinois, Mr. Gray, Mr. James K. Coyne, Mr. Lundine, and Mr. Fish.

H.R. 5414: Mr. Forsythe, Mr. Smith of Iowa, Mr. Whitehurst, Mr. Oxley, Mr. McDade, Mr. Ottinger, Mr. Jacobs, Mrs. Holt, Mr. Corcoran, Mr. Bedell, Mr. Roth, Mr. Dan Daniel, Mr. Gregg, and Mr. James K. Coyne.

H.R. 5416: Mr. Snyder.

H.R. 5428: Mr. Pepper, Mr. Roe, Mr. Dan Daniel, Mr. Oxley, Mr. Wilson, Mr. English, Mr. Murphy, Mr. Forsythe, Mr. Evans of Delaware, Mr. Bailey of Pennsylvania, and Mr. Fascell.

H.R. 5439: Mr. Hoyer, Mr. Synar, Mrs. Holt, Ms. Oakar, Mr. Anthony, Mrs. Chisholm, Mr. LaFalce, Mr. Parris, Mr. Davis, Mr. Howard, Mr. Walgren, Mr. Conte, Mrs. Bouquard, Mr. Fascell, Mr. Emery, and Mr. James K. Coyne.

H.R. 5448: Mr. Emerson.

H.R. 5457: Mr. Richmond, Mr. Kildee, Mr. Wilson, Mr. Mottl, Mr. Hertel, Mr. Murphy, Mr. Coughlin, Mr. Hughes, Mr. AuCoin, Mr. Benjamin, Mr. Ford of Michigan, Mr. Eckart, and Mr. Traxler.

H.R. 5459: Mr. Zablocki.

H.R. 5540: Mr. Bailey of Pennsylvania, Mr. Biaggi, Mrs. Bouquard, Mr. Brodhead, Mr. Butler, Mr. Clinger, Mr. DeNardis, Mr. Duncan, Mr. Dunn, Mr. Eckart, Mr. Emerson, Mr. Emery, Mr. Ford of Michigan, Mr. Forsythe, Mr. Frank, Mr. Gray, Mr. Hertel, Mr. LaFalce, Mr. Mavroules, Mr. Mollohan, Mr. Mottl, Mr. Murphy, Mr. Ottinger, Mr. Patterson, Mr. Parris, Mr. Pepper, Mr. Pritchard, Mr. Rahall, Mr. Rinaldo, Mr. Santini, Mr. Sunia, Mr. Smith of Pennsylvania, Mr. Stanton of Ohio, Mr. Traxler, Mr. Won Pat, Mr. Wright, and Mr. Zeferetti.

H.R. 5583: Mr. Dwyer.

H.R. 5584: Mr. Forsythe, Mr. Bliley, and Mr. Findley.

H.R. 5585: Mr. Bliley and Mr. Findley.

H.R. 5699: Mr. Matsui.

H.R. 5729: Mr. Frenzel.

H.J. Res. 151: Mr. Howard, Mrs. Kennelly, Mr. Jeffords, Mr. Phillip Burton, Mr. Hughes, Mr. Whitehurst, Mr. Boner of Tennessee, Mr. Bafalis, Ms. Ferraro, Mr. Butler, Mr. Nelligan, Mr. Brown of California, Mr. Lewis, Mr. Lantos, and Mr. Gradison.

H.J. Res. 416: Mr. Hatcher, Mrs. Heckler, Mr. Neal, Mr. Robinson, Mr. James K. Coyne, and Mr. Gore.

H.J. Res. 418: Mr. Seiberling, Mr. Horton, and Mr. William J. Coyne.

H.J. Res. 434: Mr. DeLugo, Mr. Jacobs, Mr. D'Amours, Mr. LaFalce, Mr. Glickman, Mr. Daschle, Mr. Washington, Mr. Dorgan of North Dakota, Mr. Scheuer, Mr. Florio, Mr. Mineta, Mr. Ertel, Mr. Bolling, and Mr. Fary.

H. Con. Res. 100: Mr. Tauke, Mr. Corcoran, and Mr. Oberstar.

H. Con. Res. 151: Mr. Schumer, Mr. Wolpe, and Mr. Gejdenson.

H. Con. Res. 219: Mr. Fascell, Mr. Zeferetti, Mr. Skelton, Mr. Nelligan, and Mr. Livingston.

H. Con. Res. 251: Mr. Dornan of California, Mr. McDonald, Mr. Kildee, Mr. Yatron, and Mr. Fish.

H. Con. Res. 281: Mr. Kemp, Mr. Boland, Mr. Pepper, Mr. Wyden, Mr. Forsythe, Mr. Foglietta, Mr. Martin of New York, Mr. Ford of Tennessee, Mrs. Schneider, Mr. Edgar, Mr. Porter, Mr. Wilson, Mr. Fauntroy, Mr. Gingrich, Mr. Markey, Mr. Mattox, Mr. Mitchell of New York, Mr. Vento, Mr. Jeffords, and Mr. McDade.

H. Res. 269: Mr. Dornan of California, Mr. Kildee, Mr. Dwyer, Mr. Dyson, Mr. Yatron, Mr. Evans of Georgia, and Mr. Livingston.

H. Res. 374: Mr. AuCoin, Mr. Brooks, Mr. James K. Coyne, Mr. Edgar, Mr. Hughes, Mr. Molinari, Mr. Pepper, Mr. Rinaldo, Mr. Sunia, and Mr. Swift.

H. Res. 377: Mr. Downey, Mr. Mitchell of Maryland, and Mr. Clay.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Res. 265: Mrs. Schroeder.

PETITIONS, ETC.

Under clause 1 of rule XXII,

373. The SPEAKER presented a petition of the Council of the city of New York, N.Y., relative to telephone rates; which was referred to the Committee on Energy and Commerce.

SENATE—*Tuesday, March 16, 1982*

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Rabbi Rafael G. Grossman, Senior Rabbi, Baron Hirsch Congregation, Memphis, Tenn., offered the following prayer:

Our G-d and G-d of our fathers, who, in time of trial and tribulation, sustains us with loving kindness and mercies that never fail. Unto Thee, G-d of all that lives, do we submit this petition of prayer. As we stand in this august Chamber, which is man's shrine of democracy and freedom, we ask that You inspire the hearts of our legislators with wisdom and profound love, as Thy servants here wrestle with problems that affect the weal and woe of this Nation and the world. In times fraught with peril and saddled with designs of evil men, who blaspheme Thy name and Thy word, we beseech Thee to give strength unto this Nation so that its banner of liberty and justice will prevail throughout this land and every land.

Thou, who has given unto America prophets of freedom, who were the incarnation of the blessings of democracy, decency and justice, as Thou hast spoken on Mount Sinai of old, which has made this Nation a light unto all, bring, we pray Thee, this light unto every darkened corner of man's heart. Let our bells of liberty ring loud for the tired and hungry, the poor and oppressed who yearn to be free. This Nation gives haven to G-d's children and binds the wounds of their broken hearts. This Nation which kindled the fires of hope for all people who survived man's most beastly acts. Six million were annihilated for the sole reason of their faith and birth. Millions more have suffered cruelty only because hate reigned. To the children of the martyred and abused, America said we shall help you and you shall have a land and a friend. For we the American people are our brothers' keepers.

Yes, dear G-d, America is a nation and a hope, a dream and a symbol. It symbolizes Your love for all of us, that you gave a land whose flag is red, white and blue; not all red, not all white, not all blue; not all Catholic, not all Protestant, not all Jew, but every faith, every creed, every race, and every way. Today some despair; today some doubt and though "weeping endures the night," and as sure as morning dispells the darkness, so shall the L-rd bless this land of the free with a new dawning and a new Sun, whose light will pierce the darkest clouds of human hate and enmity, out of which shall shine forth the great American ideal, and it shall proclaim hope and brotherhood from sea to shining sea, from behind curtains of iron and chambers of incarceration. May the leaders of this land, its people and ideals, behold for all of us that day when the aspirations of those who believe in Thee are fulfilled, as G-d's salvation will be brought to the ends of the Earth. "And all nations which Thou hast made, shall come before Thee, O L-rd, and give honor to Thy name."—Psalms 86: 9. Thy name is justice, liberty and righteousness.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RABBI RAFAEL GROSSMAN, GUEST CHAPLAIN

Mr. BAKER. Mr. President, I wish to take this opportunity to welcome Rabbi Grossman to the Senate as our guest chaplain. It is a great pleasure to have him here and to hear his inspirational prayer. It is a special honor for me to welcome him as a fellow Tennessean.

I understand that Rabbi Grossman is celebrating the 25th anniversary of his investiture and ordination as a rabbi. We congratulate him for that.

SCHEDULE FOR TODAY

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order, the distinguished Senator from Missouri (Mr. EAGLETON) will be recognized on special order for not to exceed 15 minutes, to be followed by a period for the transaction of routine morning business, as previously ordered, to extend not past 11 a.m., in which Senators may speak for not more than 10 minutes each.

At 11 a.m., also under the order previously entered, the Senate will resume consideration of S. 391, the Intelligence Identities Protection Act of 1981, and will continue to debate that matter until 12 noon, at which time the Senate will recess until 2 p.m., in order to accommodate the requirements of Senators on both sides of the aisle for caucuses of an official nature, off the floor of the Senate.

ORDER FOR RECESS FROM 12 NOON TO 2 P.M. TODAY

Mr. President, is there an order now for the Senate to recess from 12 noon until 2 p.m.?

The PRESIDING OFFICER (Mr. ARMSTRONG). The Chair advises the majority leader that the order has not been entered.

Mr. BAKER. Mr. President, I ask unanimous consent for that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, at 2 p.m., the Senate will resume consideration of the Intelligence Identities Protection Act of 1981. I hope the Senate will be able to complete its action on this measure today.

I encourage the managers on both sides and the principal sponsors of amendments to consider the possibility of time limitations which will produce that result.

There are other important matters which must be attended to by the Senate this day and beyond, and I hope we can have final disposition of this measure before this calendar day is over.

PRESIDENT REAGAN'S ADDRESS BEFORE JOINT SESSION OF THE TENNESSEE STATE LEGISLATURE

Mr. BAKER. Mr. President, yesterday, in my home State of Tennessee, President Reagan delivered an uplifting and determined speech before the State assembly. He said:

> Ours is not a negative administration trying to turn back the clock, our goal is to undo the damage of the big-taxing, big-spending policies that have put average

Americans of every race and creed, from every part of the country, into the financial bind they feel today.

Mr. President, I applaud these words, and I want to once again express my pleasure at the President's visit to Tennessee; all of us there hope he will return as soon as possible.

I ask unanimous consent, Mr. President, that the text of the President's speech be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The address follows:

Text of Remarks by the President to a Joint Session of the Tennessee State Legislature

I am delighted to be here in Tennessee—your motto is, "America At Its Best," which is why all Americans will be proud when Tennessee plays host to the world this summer at the Knoxville World's Fair. And I am particularly glad to be here in Nashville, the world's center for bluegrass and country music—where Minnie Pearl and Roy Acuff live, and where the Oak Ridge Boys have made their fortune.

It is an honor to come to the home State of my good friend Howard Baker, who has led the U.S. Senate so ably and whose leadership is key to the bipartisan coalition we must have to bring progress to our Nation. Together, with the rest of your fine congressional delegation and your innovative State leadership, we have the chance to make government work again—to finally get it off our backs and out of our pockets. And let me add a special thank you to Representative John Bragg for his help in working out our Federal initiative.

You know, flying in here this afternoon, looking out over your beautiful countryside, bordered by the blue Smokies on one side and Old Man River on the other, I was reminded of how many great leaders this State has shaped, and how much our country has relied on them. Some of our Nation's greatest heroes—Davy Crockett, John Sevier, Sam Houston and Andrew Jackson—all were Tennessee Volunteers. It's a history to be proud of.

All were known for their bravery and resourcefulness but chief among them was the man whose birthday we celebrate today. The first U.S. President to be born in a log cabin, Jackson spoke for the average citizen and fought the vested interests. Just a few hours ago I laid a wreath on his grave.

It was Jackson who reminded us, "One man with courage makes a majority." Throughout his stormy life, he lived by that motto, defending his honor, our Union and the inalienable rights of every American citizen, regardless of station.

"The eyes of all nations are fixed on our Republic. . . . Great is the stake placed in our hands; great is the responsibility which must rest upon the people of the United States."

Those are Andrew Jackson's words, but they still ring true. You and I have come to office in a time of crisis for our country. But we are working our way out of an inherited economic mess that is the worst this country has seen in the last 40 years.

Our Federal Government has become so bloated and fat that Jackson would not recognize it. Lines of responsibility between the levels of government have blurred beyond distinction. The tax and spend policies of the past have dragged this economy into a painful recession, throwing millions of Americans out of work, and sending interest rates soaring.

We have strayed far from the path blazed for us by this frontier President who believed so much in the freedom and dignity of the common man. We got in this predicament precisely because our leaders forgot what you know so well in Tennessee: that we built this Nation on individual genius, courage and effort. Our greatness comes from the kind of character found in the people who made their homes in the hills and fields of Tennessee, not from the handiwork of professional spenders dispensing the Federal dole in Washington, D.C.

We've gone astray from our first principles. The Federal Government has, at great cost, been attempting to perform tasks that are not its proper function. Those who led us down that path had good intentions. They just didn't see how far they were taking us from the Constitution. So today we seek to restore the Tenth Amendment, which says the Federal Government will do only those things called for in the Constitution and all other powers shall remain with the States or the people.

Government's first duty is to protect the people, not run their lives.

While the Federal Government has been assuming an ever-larger role in our daily lives, it has devoted a smaller and smaller portion of its resources to the one area for which it is clearly, solely responsible: our national defense.

Nothing tells the story half so well as our changing budget priorities. In 1962, defense spending took 46 percent of all Federal spending, while social programs accounted for 29 percent. Today those numbers have been reversed. Today, 29 percent of the budget is for defense while more than 50 percent is spent on the social programs that mushroomed during the Great Society.

In the last 10 years, Federal spending has increased more than 300 percent. Medicaid and medicare have gone up by more than 500 percent. Food stamps, in 15 years, have increased by 16,000 percent. While this was going on, our soldiers were cannibalizing equipment for spare parts and the readiness of our armed forces began to decline.

I grew up in the Depression. I watched one Christmas Eve as my father opened what he thought was a greeting from his boss only to find that he was fired. I know the humiliation every family feels when the head of the household can't find work, and I know there are times when only Government can help.

But let us not confuse the ideals that launched the last 40 years of uncontrolled Government growth with the mismanagement and waste that has resulted. We must recognize the good we have done, but also the damage that is mounting so fast we soon may be unable to undo it.

These are not easy times for any of us—whether we're elected officials trying to do our best for the people we serve, or average working Americans trying to make ends meet and build a better future. But that's exactly why this is such an important time for us and our country. It has fallen to our generation in our day to make basic choices and right basic wrongs that will affect not only our futures, but the futures of so many American generations to come.

To the young couple who wants to buy their own home but can't afford today's interest rates, I have a simple message: Our whole program for economic recovery is geared to a healthier economy that will have lower interest rates and make the dream of your own home come true.

To the laborer looking for work in a tight job market: It isn't easy today, because we're suffering from generations of Government over-taxing and over-spending. Our whole program is geared to generating new jobs and new opportunity for you and for all the working people of this Nation.

To the pensioners and senior citizens who are pinched by inflation: We've finally begun to break the back of inflation. I promise you, we are going to hold the line on Government spending and taxing so that inflation will never again become a nightmare for the working and retired people of America.

To the young and the disadvantaged of our country who may fear that Government is "turning its back" on them: We are not. We are doing everything we can to create an economy and a society in which there are work and opportunity for all who are willing to try, compassion for those who cannot, upward mobility for all who still dream the American dream.

Ours is not a negative Administration trying to turn back the clock. That's what some of our opponents would like to do—to go back to the bankrupt policies of the past. Our goal is to undo the damage of the big-taxing, big-spending policies that have put average Americans of every race and creed, from every part of the country, into the financial bind they feel today.

We are determined to change things for the better—to make America work again. But we can't do that through more spending and more taxing—that's how we got into this mess. We've got to return to the people more of the resources that have been gobbled up by big Government.

Our policy isn't a narrow party position or some vague theory—it's common sense and it is humanitarian. It is designed to help people, not special interests, in or out of Government.

The budget monster has been raging out of control. We have proposed a plan to rein it in, to cut back the growth of spending. We welcome any proposal to cut even more, as long as it doesn't jeopardize our security. We can no longer choose between national security and national welfare. The two have become one and the same.

We must strive to balance the budget, of course, but not at the cost of our freedom. America's survival requires that we go forward with our defense spending program. The most sobering experience I've had in this job is learning of the growing danger that we face. Even with the budget we have proposed, we will not begin to close the gap with the Soviet Union until the middle of this decade—or later.

We in America seek to live in peace. War is repugnant, and we are rightly awed by forces of nuclear destruction in the world today. When I accepted my party's nomination for this office, I said we must not be naive or foolish. Four times in my lifetime America has gone to war, sending its young men to die on foreign soil, and never once did we go to war because we were too strong. Our challenge today is to ensure that foreign aggressors are not tempted again by a false perception of American weakness.

We have made clear our commitment to peace and stability in the world, and our willingness to negotiate mutual arms reduction with potential adversaries. But no American President must ever sit across the negotiating table from someone dedicated to the destruction of our way of life unless our military strength is such that those on the other side of the table have a reason—a good reason—to legitimately negotiate a reduction of weapons for their own feeling of security.

It is being argued that we should cut defense spending to reduce the deficit. Well, if we eliminated all of the major weapons programs that are scheduled, we would reduce next year's deficit by only $6.5 billion in our $3 trillion economy. Most of the money in our defense budget is not for newfangled equipment or the latest in weaponry. Most of it will go for essential manpower, maintenance and readiness. The American people expect their planes to fly, their ships to sail and their helicopters to stay aloft. There will be no retreat in the commitment of this Administration to make sure that they do.

There are others who say the only way to balance the budget is to raise your taxes. Our taxes went up by more than 200 percent in the last 10 years. And during those 10 years we ran up the biggest string of budget deficits in our history. How can they believe it would be any different now?

Oppressive taxation is like a ball and chain on our economy, weighing it down by discouraging initiative, by punishing hard work, by making investment no longer worth the risk.

When President Johnson asked for increased taxes to balance the budget, he had a surplus that first year. But within 2 years, the deficits were back, big as ever. Quick fixes are not the answer to what ails our economy.

We think we have replaced patchwork policy with a long-term program for economic recovery that will work if we can find the courage and patience to let it work.

Last year an ovewhelming majority of the Congress joined in a bipartisan effort to cut taxes, cut the budget, cut regulations and begin the process of returning power and resources to the States. Today, an informal poll reveals that some who didn't support that effort are not only opposed to the further cuts we believe must be made, they are talking of adding almost $30 billion to the proposed budget. At the same time, they would raise taxes to reduce the deficit.

The American people are already taxed up to their eyeballs. Our budget deficit didn't come about because we're not taxing enough. We've got a deficit because we spend too much.

I haven't given up on a balanced budget. I still believe, as I have since we started spending more than we took in, that deficits have been a plague on our economy. But the cure lies in reducing the size of Government, in controlling programs that heretofore have been labeled "uncontrollable."

I want to erase the red ink from the bottom line of our budget, but not by taking more money from the working people in order to do it. We must not raise taxes on men and women who are already taking pay cuts just to keep their jobs.

Many of the same people who want to raise your taxes, who don't believe you should be able to keep a little more of your own money, also don't trust you to run your own affairs. These same people, who over the decades have pushed this country to the point of economic collapse, don't trust you to show compassion to your needy or justice to your disadvantaged. They consider statehouses such as this one to be the backwater of American politics.

I've got news for them. Here in Tennessee you've always had a balanced budget. You tell me who is the better manager.

For too long too many of our leaders have been afraid to trust the people who sent them to office. As they hoarded power in Washington, our economy came unglued, our productivity sank and unemployment hit the roof. Currents of dissatisfaction are running deep in this land. Those who ignore them do so at their peril. The Naysayers—those who are resisting our drive to return our Government and our economy to the people—are defending the status quo, and as we all know "status quo" is Latin for the mess we're in.

A citizen with a problem should be able to take a bus to city hall for an answer. He shouldn't have to take a jet to Washington. Removing the possibility of solving problems where they occur, forcing Americans to accept the dictates of a faraway bureaucracy, has to be one of the more serious mistakes of this century.

We have proposed the broad outlines of a plan to restore accountability to Government. It includes the transfer to the States of more than 40 Federal programs in the areas of education, transportation, community development and social services. And we want to send back the tax sources to pay for them, as well. The centerpiece of the proposal is the almost dollar-for-dollar swap of two of the largest areas of welfare. The Federal Government would take over medicaid in exchange for State assumption of aid to families with dependent children and food stamps.

This proposal is still in the planning stages. I am looking forward to working with you in the weeks and months ahead as we develop the details and discuss the alternatives that will make it work. But there is one aspect on which all should be clear: We will not turn our backs on people, communities or States in need of help. We will not create winners and losers, turning States and regions against each other. Our goal has been and will remain to bring prosperity to all Americans in every part of our country. We will hold fast to the guarantees of equal justice and opportunity for all Americans. We will protect those precious civil rights that define what it is to be an American.

Fifteen years ago a young Senator from Tennessee rose to take the floor of the United States Senate. He said, "I believe . . . the most urgent . . . problem confronting this Republic today is the threat to the traditional system of federalism." Such a system, he said, has produced the most good for the most people in the history of this Nation. The future of the country depends on our ability to preserve this idea of partnership.

The Senator was Howard Baker, and his helper at the time was an up-and-coming congressional aide by the name of Lamar Alexander.

Nearly 140 years before Howard made his plea in the Senate, another Tennessean rose in Washington to speak on the same subject—Andrew Jackson. Nowhere was the forthrightness for which he was famous more evident than at that Jefferson Day banquet in the spring of 1830. Rumors of secession swept the city. In the crowded banquet room of the Indian Queen Hotel, 24 men rose to toast the dissolution of the Union. Then the President rose to his ramrod-straight six-feet-one, and, beneath his thick brush of iron-grey hair, his eyes fixed as bright and fierce as an eagle's on John C. Calhoun.

He said, "Our Federal Union—it must be preserved!"

They were only seven words, but they were among the most important any American has ever spoken.

As history passes we find our system of government pulled and twisted first in this direction and then in that. Jackson's contemporaries sought to destroy it by tipping the balance too far toward the States. In our time it is threatened by those who would place all the weight in a centralized National Government.

Like Jackson we must cleave to that well-charted course first laid out for us by our Founding Fathers. Like Jackson we must govern through coalition, trusting in the people who sent us to office.

In this time when we and our people are so severely tested, it will help to remember the courage President Jackson could summon from the convictions in his heart. Let us draw on the same strength as we face the hard decisions ahead, as we withstand the swirling tides of changing political trend. Like Jackson, let us simply do what is right to preserve our Federal Union, which is in fact a federation of sovereign States. This is the last best hope of man on Earth.

POEM RECITED AT THE FUNERAL OF FORMER SENATOR CASE

Mr. BAKER. Mr. President, this week's poem was recited at the funeral of Senator Clifford Case of New Jersey. I am sure that I speak for all my colleagues in this Chamber when I say that he will truly be missed. I ask unanimous consent that the poem be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

ON A PUBLIC OCCASION

(By Archibald MacLeish)

Rinsing our mouths with praise . . .
Tin cup,
limestone spring in the cool of the mintbed
Earlier generations knew this place,
made their way through the fern. We have forgotten it:
we have kept to the streets too long, tongues
stale, hearts thirsty.
Listen to me!
God's will in the world if we could learn it, test it on our lips, would taste of praise.
Why else should the world be beautiful? Why should the
leaves look as they do, the light, the water?
Rinsing our mouths with praise of a good man . . .
I say what I mean. I do not say
a good man in a bad time.
All times are bad when the man fails them.
I say:
A good man in a time when men are
scarce, when the intelligent foregather,
follow each other around in the fog like
sheep, bleat in the rain, complain
because Godot never comes, because
all life is a tragic absurdity—Sisyphus

sweating away at his rock, and the rock
won't—because freedom and dignity . . .

Oh, weep, they say, for freedom and dignity!
You're not free: it's your grandfather's itch you're scratching.
You have no dignity: you're not a man,
you're a rat in a vat of rewards and punishments,
you think you've chosen the rewards: you haven't:
the rewards have chosen you.
Aye! Weep!

Rinsing our mouths with praise of a good man
in a time when men are scarce, when the Word
chirps like a cricket on the cellar floor
on the stone—when the mind maunders . . .

A good man! Look at him there against the time!
He saunters along to his place in the world's weather,
lights his pipe, hitches his pants,
talks back to accepted opinion.

Congressional Committees hear him say:
"Not what you think: what you haven't thought of."

He addresses Presidents. He says:
"Governments even now still have to govern:
no one is going to invent a self-governing holocaust."

The Pentagon receives his views:
"science," he says, "is no substitute for thought.
Miracle drugs perhaps; not miracle wars."

Adviser to Presidents, the papers call him,
Adviser, I say, to the young.
It's the young who need competent friends, bold companions
honest men who won't run out,
won't write off mankind, sell up the country,
quit, the venture, jibe the ship.

I love this man.
I rinse my mouth with his praise in a frightened time.
The taste in the cup is of mint,
of spring water.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have no further requirement for my time under the standing order, and I am prepared to accommodate the request of any Senator for time. I see no Senator seeking recognition for that purpose, and I am prepared to yield the remainder of my time to the distinguished acting majority leader, if he wishes.

Mr. PROXMIRE. I thank the distinguished majority leader.

I will consult with the minority leader as to whether he wants to retain that time, if I can reserve that time.

I understand that the minority leader will permit me to use approximately 2 minutes of his time, and I will now proceed.

RABBI RAFAEL GROSSMAN, GUEST CHAPLAIN

Mr. PROXMIRE. Mr. President, I congratulate the distinguished Rabbi Grossman for his prayer this morning. It was a moving prayer. He briefly mentioned the holocaust in Europe, in which 6 million Jews were exterminated—a terrible, terrible action.

It is a matter some of us have been addressing for a long time in the Senate, because we are anxious to secure the adoption of a Genocide Treaty, the adoption of which this country has secured before the United Nations, unanimously, in 1949; and it has been before the Senate for 32 years longer than any other treaty in history.

I hope that the helpful words of the distinguished Rabbi Grossman from Tennessee will serve as an inspiration to us to begin to move to address that treaty, which movement is long overdue.

TRAGEDY IN EAST TIMOR

Mr. PROXMIRE. Mr. President, the crime of genocide is not some forgotten relic of World War II and the Nazi Holocaust. There is no question that that was the worst example of genocide in history. In this era of great technological progress, human nature has not changed. Those who would disrupt or destroy entire peoples, for whatever reason, have found their work criminally easy. From Nicaragua to Iran, from the Miskito Indians to the Bahais, the testimony is plain: Oppressors apparently feel they can act without fear of retribution, without the concern that someday they might be brought to justice.

Just recently, an editorial in the Washington Post reminded us of the plight of East Timor. Six years ago, the Indonesians invaded this formerly independent nation, using American arms. Since then, nearly 100,000 East Timorese have died, either directly from war or indirectly from starvation. That number is one-sixth of East Timor's population—a number of incomprehensible proportions.

Even today the dying continues. The Washington Post editorial recounts charges that "farmers were used as a 'human fence' to keep (Timorese) resistance fighters and their families on the run." Of course, this took the farmers away from their fields, and now it seems likely that starvation will once again wipe out a large section of East Timor's population.

Mr. President, the right to live is by definition the most precious of human rights.

If there is any value which Congress should find of extreme importance, it is human life. That is the first priority. It is a right too often denied such people as those of East Timor. But it is a right that the United States, as leader of the free world, has an obligation to champion.

America has always been in the forefront of the fight for human rights. Yet, inexplicably, since 1949, the U.S. Senate has refused to ratify the one human rights covenant that deals with this most basic right to live—the Genocide Convention.

Never in the history of our country have we delayed acting so long on a treaty.

One wonders why the Senate has not ratified this treaty. All legal arguments against it have been refuted by the American Bar Association. Ratification of the treaty would serve our best international interests, would rebut Soviet charges of U.S. hypocrisy, and would improve our relations with the Third World. It is supported by every religious denomination. Yet, most importantly, the treaty is a significant moral statement. With so many people under attack in so many parts of the world, with people like the East Timorese constantly faced with the threat of eradication, can we fail to support the most important right of all—the right to live?

Mr. President, I urge the Senate to ratify this treaty and make plain the American people's view of this heinous crime.

Mr. President, I reserve the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR EAGLETON

The PRESIDING OFFICER. Under the previous order, the Senator from Missouri is recognized for not to exceed 15 minutes.

A SALUTE TO THE NATIONAL BUREAU OF STANDARDS

Mr. EAGLETON. Mr. President, it is not often these days that one hears a good word said about Government agencies and Government employees. Tragically, Government service has become the object of ridicule and scorn by too many self-serving demagogs whose caricature of bureaucrats as shiftless, overpaid, paper shufflers unfortunately has engraved itself on the public mind.

These attacks on a group of men and women who for the most part are highly qualified, dedicated, and motivated servants of the public interest are a distinct disservice to our goal of making Government more responsive and efficient. They serve to shatter the morale of those now in Government service and to discourage the kind of dedicated individuals we hope to attract in the future.

Mr. President, I rise today for the purpose of expressing my admiration and gratitude to one Government agency and one group of public servants. That agency is the National Bureau of Standards which, in its exemplary response to the recent hotel collapse in Kansas City, Mo., represents the highest level of Government service.

In the days which followed the collapse of the skywalks in the Hyatt Regency Hotel, there was great confusion as to the cause of the tragedy and anxiety about the possibility of similar disasters occurring. In the interest of alleviating those concerns, I contacted the National Bureau of Standards to inquire what assistance it could offer to the city and people of Kansas City. The response of the agency, under its fine Director, Dr. Ernest Ambler, and especially its Director of the Center for Building Technology, Dr. Richard Wright, was immediate. Without hesitation, they agreed on the spot to make available a team of experts to go to Kansas City and engage in a painstaking reconstruction of the incident and try to establish the cause.

Dr. Ambler and Dr. Wright asked only three things. First, they wanted an invitation from local authorities to make their services available. Mayor Richard Berkley promptly issued such an invitation with the support of myself, Congressman BOLLING and Senator JOHN DANFORTH. Second, they wanted assured access to the site and to such materials as they would need to conduct a thorough study. The owners of the Hyatt Regency cooperated in that regard. Finally, the Bureau wanted it understood by all concerned that its study would be objective, unvarnished, and would be the subject of a public report upon its completion.

Despite my offer to the Bureau to assist it in obtaining supplemental appropriations to cover the cost of this study, the Bureau declined, saying it would manage to carry out the assignment within existing, available resources. By itself, that may astound those who live by the stereotype of Government agencies, but it is a fact.

The Bureau began its investigation on July 22, 1981 and issued its report on February 25, 1982. The report was superbly done. It was objective, it was unvarnished. It was unambiguous about the cause, but appropriately avoided any fingerpointing about who was responsible for the events that followed.

Mr. President, I close this statement by again expressing my respect and admiration for this fine agency. I like to believe that its work in the aftermath of the Hyatt tragedy, while extraordinary in every respect, is not that untypical of the service offered day in and day out in less spectacular matters by Government employees throughout the country.

I ask unanimous consent that an editorial on the subject which appeared in the Kansas City Times on February 27, 1982, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

BUREAU OF STANDARDS

On July 18, 1981, no one in this area was prepared mentally or technically to investigate the cause or causes of Kansas City's worst disaster. Two days later, Sen. Thomas F. Eagleton, followed by Mayor Richard L. Berkley, Sen. John C. Danforth and Rep. Richard Bolling, called on the National Bureau of Standards in Gaithersburg, Md., to investigate the collapse of the Hyatt Regency sky walks.

For those politicians it was second nature to turn to the unique resources of the federal government for a thorough and impartial study that no party involved—not the city, the hotel owner, the builder or anyone else—could have provided. The mandate of the NBS is "to strengthen and advance the nation's science and technology and to facilitate their effective application for public benefit." The NBS is singularly suited to investigate such complex disasters as the Hyatt.

In the Hyatt investigation, the client is the public of the entire country, the people who use buildings in the course of their lives. The NBS study is paid for with taxpayers' money and the results are matters of public record, for all interested parties to see and learn from.

Ultimately, the results of the study could revolutionize building design and inspection procedures. Such a move would start from a broader base of public acceptance because of the impartial manner in which the NBS team worked to meet its primary obligation to satisfy the public's right to know what happed and why.

Imagine how different the results of the Hyatt study might have been had no pool of experts existed at the NBS headquarters. Imagine where the public would be had there been no such specialized federal agency for this confused, bewildered city to turn to in its time of great need.

Mr. EAGLETON. I thank the Chair, and I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11 a.m. with statements therein limited to 10 minutes each.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

RABBI RAFAEL G. GROSSMAN

Mr. SASSER. Mr. President, this morning the Senate was convened with prayer by a great American religious leader, Rabbi Rafael G. Grossman, the senior rabbi of the Baron Hirsch Congregation in Memphis, Tenn. The occasion is his 25th anniversary in the rabbinate.

It has been my genuine pleasure to know Rabbi Grossman and I want to use this occasion to join my distinguished colleague, the majority leader, to pay tribute to him.

Rabbi Grossman is known throughout the free world as one of the great spokesmen for religion today. He is a pillar of the Jewish community and a strong voice for the things this Nation stands for. His congregation, the largest Orthodox Jewish congregation in the United States, has flourished as a result of his leadership. This Nation has been the beneficiary of his wisdom and dedication.

Rabbi Grossman's career has been exemplary and inspiring. He has enjoyed the respect of many Americans and their profound appreciation. He was among the first to rouse world opinion on behalf of the Jews in the Soviet Union and has spoken out for the principles of democracy and freedom.

It is particularly significant that the rabbi, the 52d consecutive generation of rabbis in his family, celebrates a quarter century of his ministry. During this period of time, he has served as national vice president of the Rabbinical Council of America, chairman of the Southern Rabbinic Cabinet and has appeared before distinguished audiences throughout the world where he has won wide acclaim. His scholarly contributions in the areas of Biblical teaching and human behavior are universally recognized.

It is my distinct pleasure to congratulate Rabbi Grossman and his congregation and to wish them continued success.

FEDERAL GRANT SUBSIDIES FOR THE MEDICAID PROGRAM

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution that was adopted by the Ohio State legislature and which has been received by the Office of the President pro tempore.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution 27

Be it resolved by the General Assembly of the State of Ohio:

Whereas, For the last generation employment has been Ohio's greatest product; and

Whereas, Employment in Ohio has been a pivotal factor in the preservation of the general health, safety, and welfare of the citizens of the State; and

Whereas, The OPEC oil embargo and the increased importation of foreign automobiles has had a profound and negative impact on the U.S. national economy, and on Ohio in particular; and

Whereas, Ohio ranks second among the States in the vital automotive industry; and

Whereas, Manufacturing has been the bedrock of Ohio industry and employment, with a heavy dependence on the production of steel, rubber, glass, automobiles and related manufactured products, distribution, sales and services; and

Whereas, The foregoing factors and the national economic downturn has reduced Ohio to the nation's second most economically depressed State, with a chronic monthly unemployment rate which exceeds the national average by more than two per cent; and

Whereas, Ohio's population is highly concentrated in urbanized centers, and the state contains the greatest number of Standard Metropolitan Statistical Areas among the nation's states; and

Whereas, Severe economic dislocation, irretrievable manufacturing losses and increased out-migration of industrial and skilled work-force population groups, protracted periods of unemployment and increasing rates of worker unemployment compensation expirations and further impaction of welfare and Medicaid rolls in highly concentrated areas of population are inimicable to the public health, welfare, and safety; and

Whereas, Ohio's current federal medical assistance percentage of Medicaid appropriations severely restricts Ohio's capacity to render vital and necessary health services; and

Whereas, The Federal Economic Recovery Program and developing public policy will further reduce and restrict federal assistance to states for Medicaid and related social sevices programs; and

Whereas, It is a proper function of government to provide an adequate safety net of basic medical assistance to help citizens who cannot help themselves to maintain a reasonable state of good physicial health; now therefore be it

Resolved, By the 114th Ohio General Assembly to memorialize the 97th U.S. Congress to amend Sec. 1905, Title XIX of the "Social Security Act," as amended, which allocates from the federal Medicaid appropriation medical assistance grants to states solely on a per capita income basis (FMAP), to grant additional compensatory pro rata share payments to states whose annual average unemployment rate for the preceding 12 months exceeds that of the U.S. unemployment average for the same 12 months, and be it further

Resolved, That the legislative clerk of the Ohio House of Representatives transmit duly authenticated copies of this resolution to the Speaker of the United States House of Representatives, to the President Pro Tempore of the United States Senate, and to all members of the Ohio congressional delegation.

DELAY URGED IN CONSIDERATION OF DEREGULATION OF NATURAL GAS

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the Record a resolution that was adopted by the Oklahoma State Legislature and which has been received by the Office of the President pro tempore.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

Resolution No. 34

Whereas the current economic climate of the United States is very susceptible to the possibility of further economic chaos;

Whereas the deregulation of natural gas is shrouded in an atmosphere of economic uncertainty;

Whereas Congress passed the Natural Gas Policy Act of 1978 which sets forth guidelines for the deregulation of natural gas;

Whereas the deregulation of natural gas except as set out in the Natural Gas Policy Act could result in huge and immediate increases in the cost of natural gas;

Whereas such increases would contribute to more economic instability and could lead to catastrophic economic consequences nationwide: Now, therefore, be it

Resolved, by the Senate of the 2d Session of the 38th Oklahoma Legislature:

That the Oklahoma State Senate hereby memorializes the Congress of the United States to delay for one year any consideration of the deregulation of natural gas except as set out in the Natural Gas Policy Act of 1978.

That a copy of this resolution be dispatched to the President of the United States, the President Pro Tempore of the United States Senate, the Majority Leader of the United States Senate, the Speaker of the House of the United States House of Representatives, Members of the Oklahoma Congressional Delegation and the Governor of the State of Oklahoma.

SECRETARY HAIG'S TALKS WITH MEXICAN FOREIGN MINISTER JORGE CASTENEDA

Mr. CRANSTON. Mr. President, I wish to commend Secretary Haig and the Reagan administration for their new receptivity to proposals for Central American regional accords.

When these proposals were first put forward 3 weeks ago by Mexican President Jose Lopez Portillo, the Reagan administration offered little support.

But it is clear from statements made in New York yesterday by Secretary Haig and Foreign Minister Casteneda that the administration is giving these worthwhile proposals new and serious consideration.

I applaud this forward-looking move. I believe it is a farsighted approach which looks to direct talks with regional powers such as Mexico and discussions with other troubled nations, such as Cuba and Nicaragua. I believe such discussions could go far toward reducing the sources of military confrontation which promise a bleak decade ahead for Central America if negotiations are not pursued.

I do not believe that a few negotiating sessions with potential adversaries can resolve the problems of social injustice, political repression and external intervention which have brought so much turmoil to the Central American region. No talks can eradicate this troubled legacy.

But I do believe a dialog can prove constructive. It could reduce the flow of arms from such Soviet surrogates as Cuba to the rebels in El Salvador. It could reduce the sense of insecurity which has spawned the unwarranted Nicaraguan military buildup. And it could help achieve a climate where a nonmilitary solution to the El Salvadoran civil war might have a greater chance of success.

I encourage the administration to pursue aggressively the possibilities raised by Mexico's offer to mediate discussions on regional sources of tension. I believe such a constructive approach could win strong bipartisan support here in Congress.

GEORGE H. DUNLAP—A TRUE LEADER OF THE COOPERATIVE COMMUNITY

Mr. METZENBAUM. Mr. President, it is a privilege and an honor for me to be able to say something today about a man I deeply respect and who deserves and enjoys the respect of thousands who know him, and who know and appreciate his accomplishments.

I would like to call to the attention of my colleagues in the Senate an event that occurred this morning in Washington, D.C. honoring George H. Dunlap, a native of my home State of Ohio and honorary chairman of the Nationwide Insurance Organization. Nationwide is an industry leader in property, casualty and life insurance, with 7½ million policies in force in the United States. Nationwide also has international insurance operations and a growing broadcasting subsidiary.

This morning, Mr. President, the board room of the offices of the cooperative league of the United States of America (CLUSA) was dedicated in honor of the lifelong leadership of George H. Dunlap to Nationwide and the entire cooperative movement. The Nationwide Mutual Insurance Cos. have been members of the Cooperative League since 1934. The George H. Dunlap-Cooperative League Hall of Fame Board Room is a tribute to the outstanding achievements of Mr. Dunlap over more than half a century and it will remain a constant reminder to all who meet there that the cooperative way of doing business in the

United States, as well as developing nations abroad, is an effective method of enabling people to participate democratically in our free enterprise system.

George H. Dunlap was born near Cadiz, Ohio on February 14, 1908. He was raised on the farm where he was born. Both his father and grandfather were active in cooperatives.

Mr. Dunlap was one of the incorporators of the Harrison County Farm Bureau Cooperative Association and was its first secretary-treasurer. Since 1931, he has been a director of Farmers Mutual Insurance Co. of Harrison County. Having been elected a director of Ohio Farm Bureau Federation in 1933, he served on its board for 15 years. He was one of the incorporators of the Farm Bureau Cooperative Association in Columbus, Ohio, known today as Landmark, Inc.

Mr. Dunlap was elected a director of what became the Nationwide Insurance Cos. in 1939 and began serving as the chairman of its casualty company board in 1941. He was also a director of Nationwide's affiliated organization. He became a director of the Cooperative League of the USA (CLUSA) in 1953, representing the Nationwide Mutual Insurance Cos.

He was a member of his county school board from 1937 to 1958 and served as vice president of New Cooperative Co., in Dillonvale, Ohio, from 1947 to 1948. He was appointed chairman of an Ohio legislative advisory subcommittee on Agriculture in 1950.

George H. Dunlap is known very well for his support of people and the ability of people to "do" for themselves. He belives that when you are in business to serve others, you must never lose sight of those you are serving. As a young adult, George Dunlap learned his insurance fundamentals from the small county mutual insurance company that his grandfather started and operated. In those days, he also served as director of his county farm bureau when at the age of 27 he was the youngest director ever elected by the Ohio Farm Bureau Federation, serving in that position for over 15 years.

From 1969 until his retirement, George Dunlap served as general chairman and chief executive officer of Nationwide Organization, including the presidency of Nationwide Corp., the downstream holding company that today includes five life insurance companies among its 11 subsidiaries.

Upon his retirement in 1972, Mr. Dunlap was named honorary chairman of Nationwide and he has continued to maintain an active interest in his companies. According to the present general chairman, John Fisher:

> Its a very good thing that George Dunlap has been looking over our shoulders all these years. If he hadn't been doing that, I'm not sure that we'd be where we are today.

George Dunlap has clearly given dedicated leadership to the cooperative movement and organizations at all levels from his home county to the international scene where he has served as a delegate to many congresses of the International Cooperative Alliance (ICA) and its central committee, headquartered in London, England.

In addition to his leadership in the cooperative community, George Dunlap has given great support to the education of others through his service on local school boards and as a longtime trustee of Otterbein College in Westerville, Ohio, which has honored him with an honorary doctor of laws degree.

According to John Fisher at Nationwide:

> When you couple Mr. Dunlap's ability to master and analyze all forms of information with his ability to work with people and to understand them, you have the qualities of a leader.

Mr. President, it is an honor for me to recognize the outstanding abilities and leadership given by this citizen of the State of Ohio. I hope my colleagues will join me in wishing him congratulations on the dedication of the facilities in Washington in his honor this morning and continued good health and best wishes for the future.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the hour of 11 a.m. having arrived, the Senate will now resume consideration of the pending business, S. 391, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 391) to amend the National Security Act of 1941 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

Mr. DENTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. I yield to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I will be brief. I want to express my strong support for S. 391 and for the amendment proposed by the distinguished Senator from Rhode Island, Mr. CHAFEE. Having had years of experience and associating with the intelligence-gathering community, particularly in my capacity as vice chairman of the first Select Committee to Investigate the Intelligence Community, I have come to the conclusion that it is imperative that we protect the intelligence-gathering capability of the United States of America.

We already operate at a substantial disadvantage in this connection in competing with the Soviet Union. The Soviet Union is a closed society, with a vastly greater intelligence network than that possessed by the United States. It is proscribed by no rules and by no moral standards.

Now, we would certainly not want to trade our situation for that of the Soviet Union. We prefer an open society, whatever its disadvantages may be.

But it seems to me that we can take reasonable steps to protect our intelligence-gathering capability, considering the fact the Soviet Union, in addition to its enormous intelligence networks, maintains a clandestine infrastructure in virtually every country in the world. In the Third World, they are, for the most part, well organized, well disciplined, well funded, and, too often, well armed. Sometimes they are not so clandestine. We must have some capability to counter the threat that is posed by this enormous Soviet capability.

So I think it is essential that this legislation pass. I think without it we will find it increasingly difficult to fulfill the intelligence needs of the United States. We will find it difficult to get the support of the intelligence services of friendly countries that, in fact, as a result of our investigation, in the midseventies, in many instances, diminished their cooperation with the United States for fear that our passion for doing so many things in the open and forbear the operations, that sometimes the sources and methods of our intelligence-gathering community might compromise their own intelligence-gathering efforts.

I think it is important in our effort to provide leadership in the free world to provide a hedge against enormous global ambitions of the Soviet Union in order to deter the military and political ventures that they engage in throughout the world. We must have the most effective possible intelligence-gathering community. This is reasonable legislation and a step in the right direction. I strongly urge its passage and the passage of the Chafee amendment.

Mr. DENTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now stand in recess until 2 p.m.

At 12 noon, the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the Board of Visitors to the U.S. Air Force Academy: the Senator from Alaska (Mr. STEVENS), Appropriations; the Senator from Louisiana (Mr. JOHNSTON), Appropriations; the Senator from Arizona (Mr. GOLDWATER), Armed Services; and the Senator from Colorado (Mr. HART), at-large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors to the U.S. Naval Academy: the Senator from Idaho (Mr. MCCLURE), Appropriations; the Senator from Iowa (Mr. JEPSEN), Armed Services; the Senator from South Carolina (Mr. HOLLINGS), Appropriations; and the Senator from Maryland (Mr. SARBANES), at-large.

The Chair, on behalf of the Vice President, pursuant to title 46, section 1126(c), of the United States Code, appoints the Senator from New York (Mr. MOYNIHAN) to the Board of Visitors to the U.S. Merchant Marine Academy; and the Chair announces, on behalf of the chairman of the Committee on Commerce, Science, and Transportation (Mr PACKWOOD), his appointments of the Senator from Washington (Mr. GORTON) and the Senator from Hawaii (Mr. INOUYE) as members of the same Board of Visitors.

Mr. MOYNIHAN. Mr. President, I wish to thank the Chair and the Vice President for the distinction they have graciously conferred in appointing me a member of the Board of Visitors of the U.S. Merchant Marine Academy, an honor which I very much cherish and of which I hope to be worthy.

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to title 14, section 194(a), of the United States Code, appoints the Senator from Connecticut (Mr. DODD) to the Board of Visitors to the U.S. Coast Guard Academy; and the Chair announces, on behalf of the chairman of the Committee on Commerce, Science, and Transportation (Mr. PACKWOOD), his appointments of the Senator from Alaska (Mr. STEVENS) and the Senator from South Carolina (Mr. HOLLINGS) as members of the same Board of Visitors.

INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

The Senate continued with the consideration of S. 391.

Mr. MOYNIHAN. Mr. President, I rise to support S. 391, the Intelligence Identities Protection Act of 1981, as reported by the Committee on the Judiciary.

On January 24, 1980, I introduced the Intelligence Reform Act of 1980, one of whose sections was similar to the Intelligence Identities Protection Act we are considering today.

At that time, I explained the purpose of the relevant section as follows:

> In order to provide greater security for those who undertake intelligence work, our proposal will make criminally liable any individual who discloses the name of an intelligence operative, if he has learned the name as a result of his authorized access to such information, or if he discloses it with the intent of impairing or impeding the foreign intelligence activities of the United States.

At the time the Intelligence Reform Act was introduced, the cosponsors and I recognized that the part of the bill which dealt with disclosures by outsiders—which is to say, by those who had not had authorized access to the identifying information—posed a substantial constitutional problem.

The bill had to be drafted so as to be respectful of the freedom of the press enshrined in the first amendment, and, at the same time, to be usable against those who, in effect, had set up private counterintelligence operations for the purpose of identifying and exposing U.S. intelligence operatives, and clearly thereby impairing or impeding the foreign intelligence activities of the United States.

During the past 2 years, the Select Committee on Intelligence, on which I now serve as vice chairman, and the Committee on the Judiciary have wrestled with this problem, which presents ambiguities and difficulties to all of us in this Chamber.

Some have tried to argue that this problem is insoluble and that Congress has no choice but to allow persons such as the publishers of the Covert Action Information Bulletin to continue their private intelligence operations against the United States and to continue their practice, as they put it, of "naming names," for the explicit purpose of impeding our intelligence capabilities.

I recongnize the weight of this argument and certainly acknowledge its historical antecedents and the full sincerity of those who propound it; yet, I dispute it.

In taking this position, I rely in part on the majority opinion in Haig against Agee, which was decided by the Supreme Court on June 29 of last year. In commenting on the activities of Philip Agee—activities which also would be banned by the bill presently under consideration, Agee having had authorized access—the Court said:

> Agee's disclosures, among other things, have the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel. They are clearly not protected by the Constitution. The mere fact that Agee is also engaged in criticism of the Government does not render his conduct beyond the reach of law.

Nevertheless, the process of striking a balance between the Government's legitimate need to protect its intelligence activities and the right of the press to report what it is able to learn of the workings of Government has been a long and difficult one.

I believe that the Judiciary Committee has struck a proper balance, surely the best balance available to us, and that its version of the bill should be accepted by the Senate.

As reported by the committee, S. 391 would impose a criminal penalty on persons who disclose a covert agent's identity in the "course of an effort to identify and expose covert agents with intent to impair or impede the foreign intelligence activities of the United States by the fact of such identification and exposure."

An amendment offered by my distinguished colleague and friend, the Senator from Rhode Island, would strike the specific intent element and substitute what in the judgment of the Senator from New York is the less stringent requirement of proof of reason to believe that the conduct would cause harm to U.S. intelligence activities.

Here, Mr. President, I believe we speak from a large and ancient corpus of common law, statutory law, and case law that reason to believe requires a lesser standard of proof than intent.

It is the general case, as I understand, and I do not speak here as a legal scholar, that in matters of large consequence intent is the characteristic standard against which proof must be offered by the State in criminal trials.

The amendment offered by the Senator from Rhode Island also contains a course of conduct requirement, called a "pattern of activities", which is essentially the same as a "course of effort".

The purposes sought by the several versions over the past several years have remained the same. Each successive change has represented an attempt to be more precise in codifying these purposes in the most satisfactory legal language given the constitutional dilemma which I described at the outset of these remarks.

In reporting the Intelligence Reform Act 2 years ago, the Select Committee on Intelligence explained its legislative purpose. The report stated:

> It is the purpose of the committee * * * to preclude the inference and exclude the possibility that casual discussion, political debate, the journalistic pursuit of a story on intelligence or the disclosure of illegality or impropriety in Government will be chilled by the enactment of the bill.

I grant that it is one thing for a committee to say this and another thing to insure that it will be the case. But it is in any event within our power to do more than to say we have no intent to chill, we have no intent in any way to inhibit the legitimate activities of the press and the necessary and traditional purposes of political debate.

And the committee went on to state:

> The standard adopted * * * applies criminal penalties only in very limited circumstances to deter those who make it their business to ferret out and publish the identities of agents. At the same time it does not affect the first amendment rights of those who disclose the identities of agents as an integral part of another enterprise such as news media reporting of intelligence failures or abuses, academic studies of U.S. Government policies and programs, or a private organization's enforcement of its internal rules.

The specific intent standard adopted by the Judiciary Committee constitutes in my judgment, constituted then and constitutes now, a more accurate statutory expression of the Intelligence Committee's objectives. In addition, it is acceptable to the administration. This surely must be a matter that carries weight in this Chamber, as we are engaged in an effort to support the objectives of this administration as we were the objectives of the preceding one.

In this regard, in April 1981, the Director of Central Intelligence, the Honorable William J. Casey, wrote to the House Permanent Select Committee on Intelligence that the Central Intelligence Agency "would support enactment" of either version. Now I would hope it would be attended to in this Chamber that the present Director of Central Intelligence has stated in writing that either version is acceptable, that either version would be supported. It is then our responsibility to choose the better of the two.

In May 1981, before the Subcommittee on Security and Terrorism of the Senate Committee on the Judiciary, Richard Willard, then counsel to the Attorney General for intelligence policy, testified that the Department of Justice would support either version and that both "would be a great improvement over the present situation and both would be held constitutional and would be enforceable."

I emphasize that latter point. The Department of Justice, the counsel to the Attorney General for intelligence policy, says both would be a great improvement over the present situation, both would be held constitutional, and both would be enforceable.

While the administration continues to support both alternatives, let me concede that it has expressed "a preference" for the "reason-to-believe" language in the amendment of the Senator from Rhode Island on the ground that it will more likely lead to effective prosecution.

There appears to be general agreement that the specific intent standard would put the Government to a more exacting standard of proof, and surely we acknowledge, those of us who support the report of the committee, that we do intend to put the Government to an exacting standard of proof.

This is an unusual exercise by our Government and our Congress.

We have not, in the last 35 years, if memory holds, that the Central Intelligence Agency has existed, had any criminal statute dealing with protecting the identities of covert agents. Indeed in the history of the United States, after a rather too precipitate beginning in the 1790's when we adopted all manner of sedition laws—some directed at the not overly ominous activites of Quaker gentlemen who sought to negotiate peace here and there in the world—with a degree of concern for treason and espionage which was rather characteristic of that time, we did very little in the subsequent century. We passed the Espionage Act of 1917 in the height of a war fever and to our credit, we have wisely left it on the books ever since. So we come to this matter with only intermittent, spare, and cautious acts in our own time.

We are proposing an act which could bring journalists before the courts to be prosecuted by their Government for their journalistic activity. To require a more exacting standard of proof of government is hardly an imprudent or unwise course, becasue it reasonably reflects the traditional judgment of this Nation that our interests in preserving free speech and a free press transcend in importance the value of prosecutorial convenience.

We are not enacting this bill to ease the burdens of the U.S. attorneys. We are enacting this bill to protect the national security of the United States in the face of a new phenomenon, the deliberate effort on the part, in some cases, of previous members of the intelligence community, and in other instances, persons altogether outside, to harass, to impede, to impair the foreign intelligence activities of the United States.

This is new. This is not a decade old in our experience, and just as it is new in our experience, so ought we to be cautious in our response.

This standard of proof, which we propound, properly takes into account that the chief characteristic, which distinguishes a person who engages in the business of naming covert agents as against a journalist who reveals agents' names as part of a legitimate news story, is the intent with which each acts.

At the risk of being repetitious, Mr. President, may I repeat that the standard of proof which we propose takes into account that the distinguishing characteristic between a person who engages in the business of naming covert agents and a journalist who reveals names as part of a legitimate news story is the intent with which each acts.

The namer of names intends to expose the identity of agents with the ultimate purpose of disrupting intelligence operations. The journalist's purpose in disclosing the identity of an agent is not to disrupt intelligence activities in the large, in general, but to inform readers of things a journalist feels the reader has a right to know, not the least, the possibility of abuse or wrongdoing.

We have had in the interval since these matters have come before our committees and this Chamber an example of the disclosure by journalists of activities of former members of the intelligence community on behalf of avowed adversaries of the United States. This disclosure, it surely would be agreed today—any Member of this Chamber would agree—was very much in the interests of the intelligence community and the national security of the United States, and in no way intended to impair or impede intelligence activities. Yet it involved the disclosure of names which had at least heretofore not been public property.

The reason-to-believe standard is simply not an adequate statutory expression of the purpose of its supporters to protect press freedom. May I be most explicit in that regard? I have not the least question of the purpose of the supporters of the reason-to-believe standard—I do not, at least, deny that their purpose is to protect press freedom. We ask does their standard do this as well as the standard which we propose? Contrary to the suggestions made by some of my colleagues, the specific-intent standard would not make the statute ineffective as a prosecutorial tool against persons who assume the trappings of the journalistic profession for the purpose of disclosing the identities of covert agents. We have the testimony of Mr. Willard of the Justice Department to that effect.

One should be confident that prosecutors and juries will be able to detect those who assume the mantle of journalism for illegitimate purposes, just as they infer an illegitimate intent in other cases in the criminal law where convictions require proof of specific intent. This is a familiar standard in criminal jurisprudence, one which has served us well in the widest range of instances, and will also serve us well here.

May I emphasize that the Department of Justice has stated that this standard would indeed be enforceable. That is their word, "enforceable," and I would also refer my colleagues to the statement in the RECORD of March 4 of the junior Senator from Pennsylvania (Mr. SPECTER), drawing upon his distinguished service as a prosecutor. The Senator strongly confirmed the judgment of the Department of Justice that an intent standard would not be a barrier to effective enforcement. The criminal code is replete with intent standards which have been enforced for as long as common law and statutory law have existed.

I recognize that the reason-to-believe version may be interpreted to achieve substantially similar results as a specific-intent standard. For example, the Intelligence Committee's report on the Intelligence Reform Act of 1980 indicated in effect that the Government would be required to prove that a person who engaged in the prohibited pattern of activities had as his principal purpose the exposure of covert agents.

Referring to that report in a colloquy on March 3 with the Senator from Minnesota (Mr. DURENBERGER) the Senator from Rhode Island (Mr. CHAFEE) indicated that journalists need not fear prosecution if they disclose an agent's name as an anticipated incidental side effect of a news story intended to expose wrongdoing or report on some other controversial issue or, in other words, if the main direction of their efforts is not exposure of covert agents.

This is a helpful interpretation of the intent requirement in the pattern-of-activities clause but it gives too much latitude to prosecutors and to juries to determine the line of demarcation between prohibited conduct and protected press activities.

As I indicated, the key distinction should not be whether the disclosure of an agent's name was or was not an incidental side effect. Indeed, where the disclosure of an agent's name is central to the news story a journalist would be hard pressed to deny that he did not intend to expose the agent's identity. He would proceed at his peril that a prosecutor and a jury might find that his principal purpose was to expose covert agents.

To say that again, in slightly different words, a journalist, aware that certain names are central to the matter about which he is writing, could hardly deny that he intended to make the name public and, in doing so, he would put himself in peril that a prosecutor and a jury could find that this was his principal purpose. The only effective way to draw the line is in respect to the defendant's mental state as to whether he did or did not intend to harm the U.S. intelligence operations.

The only effective way to draw that line is on the question of intent. Did you intend to cause harm? The reason-to-believe standard draws this line at much too low a place and, as a consequence, it would encroach upon the province of press freedom. It would, Mr. President, encroach on the province of press freedom. It would permit a prosecutor to seek an indictment and a jury to convict on the basis of proof that damage to intelligence operations was the reasonably foreseeable consequence of the journalist's disclosure of names, when, indeed, it was a foreseeable consequence of the journalist's action, but not his intent.

The proponents of the amendment before us state that the reason-to-believe standard establishes an objective standard which, in effect, would permit the prosecutor and the jury to make a judgment of what damage a defendant reasonably foresaw in the light of what they, the prosecutor and jury, think most reasonable men would foresee in the same circumstances. In other words, it could potentially allow conviction even if the jury found that the defendant's bona fide conscious purpose was not to harm intelligence activities but to expose wrongdoing or to report on other important issues.

I put this matter again: Under the reason-to-believe standard a jury could find that a defendant's bona fide conscious purpose was not to harm intelligence activities but rather to expose wrongdoing or achieve other legitimate purposes, and yet still, his actions having had the probable consequence in the jury's judgment of impairing or impeding, it could find such a person guilty.

This would profoundly subvert the purposes of our legislation.

I understand the desire of the proponents that the reason-to-believe test would facilitate prosecution of those who engage in the business of naming the names of our Nation's covert agents.

There are not that many. They literally could be counted on the fingers of one hand. This is not a large industry in the United States. It might be in the Kremlin; I am sure it is. But we recognize we deal with only a very few cases, and I would hope we would deal with even fewer as the Nation comes to its senses in these matters.

Even so, this vague standard would vest far too much discretion in the hands of prosecutors which would undermine the stated objective of the statute which is that it not be used to chill legitimate journalism.

The word "chill" is in itself an inexact term, and yet it refers to a real phenomenon, the prospect of embroilment with the Government, and of being faced with charges which cannot but cause concern to anyone against whom they are brought, no matter what the outcome of the action.

There can be such events. There are. In some cases we have statutes intended to chill certain behavior because we wish to do that. We do not wish that here. We are dealing with constitutional rights, and we are dealing with an American interest in a free and inquiring and, if need be, cantankerous press.

Consider for a moment how a prosecutor might employ the reason-to-believe standard. In his October 6, 1981, testimony before the Subcommittee on Security and Terrorism of the Judiciary Committee, the Counsel to the Attorney General for Intelligence Policy, Mr. Willard, explained the administration's preference for the standard.

The problem, Mr. Willard said, is that:

> Senator Biden's (specific intent) approach would invite evasion of the will because people . . . like [the publisher of Covert Action Information Bulletin] and others would say, "Well, my intent was to help intelligence activities by disclosing unsavory activities," and that would give them a defense that they would seek to use. That is why we felt the objective reason to believe standard which Senator Chafee introduced to be better.

Listen to that. The implication of this analysis must be disconcerting to this body. The arm of Government, the Department of Justice, which will enforce this law seems to be saying that it wishes to minimize the possibility of a successful defense based on a claim that the person was intending to inform the public of wrongdoing or abuse by intelligence agencies.

Can we go over this once more? Mr. Willard, counsel to the Attorney General, said, If we have this intent standard, anyone we bring into court can simply say, "My intentions were credible," and this could prove a successful defense.

That very proposition reversed says that the Justice Department would wish to minimize the possibility of a successful defense based on a claim that the disclosure was intended to inform the public about wrongdoing or abuse by substituting the reason to believe standard for the intent standard.

Under the "preferred" standard, you might say, the prosecutors would seek, and the court might well issue, instructions to the jury that they could convict should they find that such harm was the reasonably foreseeable consequence of the defendant's conduct, even if the defendant did not intend that result.

I have even had responsible editors in our country say to me, "In the name of all that is holy, can you not conceive a situation where indeed we would publish names of covert agents knowing that it would impair or impede intelligency activities in order to inform the public of conduct we judged to be profoundly against the interests of the United States?"

I am vaguely aware from the Sunday morning book reviews that the newest blockbuster novel out of Washington has to do with a former CIA man who is advised the President is going crazy, or is himself going crazy, or in any event someone is about to start a third world war.

Suppose this case were noticed by the Associated Press. Would it not be wise and salutary for the Associated Press to so inform us? Alas, there are few things that can be imagined by novelists that do not happen in Washington, and fewer and fewer that can be imagined that have not, in fact, already happened.

It is disconcerting to have the Justice Department suggest that it wanted a standard which would make convictions easier and would make convictions possible where intent to harm did not exist, but only a reason to foresee harm did exist.

To be sure, this standard would make it easier to impose criminal penalties on the persons in the business of naming names, but it also places at greater risk of prosecution the legitimate journalist who discloses identities of covert agents in order to expose wrongdoing, in order to do his duty as it would be understood in his profession and as it is protected by the Constitution.

Not for nothing was the First Amendment to the Constitution directed to this freedom for all of us.

I also find disquieting the Justice Department's suggestion that the reason to believe standard constitutes a "negligence" standard.

On May 8, 1981, Mr. Willard, speaking for the Department, wrote a letter to the House Intelligence Committee which stated that the reason to believe language would permit prosecution of a person who "can be shown either to have known of, or disregarded, the risk of harm, or to have been negligent in overlooking the evident consequences of his actions for U.S. foreign intelligence activities."

When have we begun to consider it reasonable to send a journalist to prison because he or she was negligent? Negligent? What are the standards for negligence? It is a vague term and it is usually employed with respect to misdemeanors and small matters.

But in espionage matters, where the U.S. Government declares that a person has damaged the security of this country, should it be able to obtain a conviction on the grounds that he was negligent with respect to the spelling of names or the checking of dates or the handicraft of journalism? Espionage is not a matter to turn on negligence and neither is its near cousin with which we deal. To send someone to prison for having been negligent with regard to these matters would be an abuse of power by the Executive and to make it possible would be a great failing in legislation by the Senate.

With an interpretation so expansive as to include even negligence, it is no wonder the Attorney General prefers the reason to believe standard, and all the more reason for us to reject it. While it is admittedly unclear what specific meaning the proponents of the amendment would impart to the reason to believe standard, I do not believe they would agree with the Department of Justice. I note that, in support of his amendment, the Senator from Rhode Island, my good friend and colleague on the Intelligence Committee, cited Gorin against United States. That case held that reason to believe, when used in the espionage statutes which prohibit the gathering and communicating of national defense information with intent or reason to believe that it is to be used to injure the United States or give advantage to a foreign nation, requires a showing of bad faith, or, in the language of lawyers, scienter, which is to say guilty knowledge, a much higher standard than negligence.

However, the Gorin case deals with statutes which are considered by leading constitutional scholars to be inapplicable to information gathering, public speech, and publication which is pursuant to a good faith purpose to criticize Government policy or to inform the public.

Another espionage provision with a reason to believe standard which was cited by the distinguished Senator from Rhode Island was held by the district court decision in the Pentagon papers case to be inapplicable to publication activities. This is in United States against New York Times Co.

I repeat, Mr. President, the espionage statutes which the courts have held to require only guilty knowledge of the consequence of events have been held not applicable to publications. In contrast to the espionage laws, which focus on the clandestine transfer of our Nation's secrets to foreign nations, the provisions of the bill we are now considering would expressly criminalize the publication of information which may be drawn entirely from unclassified sources. We make it possible for information drawn from unclassified sources to be the cause of criminal sanctions.

In addition, Mr. President, this information concerns not sensitive technical secrets or policy secrets, if there are such, but the identities of persons who are the instruments for carrying out such policies. Their conduct and, at times, their identities may be of importance to public debate. I submit that a reason to believe standard has no place in such a law. Even if this standard were interpreted to require scienter or guilty knowledge, as it were, or knowledge of probable damage to intelligence activities, it could still permit prosecution and conviction of a journalist who disclosed agent identities for the bona fide purpose of disclosing wrongdoing or discussing other issues of public importance. I suggest to my colleagues that this standard could easily be turned into an instrument of mischief or worse by a government which may seek to suppress any news stories in which covert agents are identified, however innocent or even laudatory the intentions.

Mr. President, I do not believe it is the desire of anybody in this body, least of all the sponsors of the amendment before us, to penalize or discourage the kind of news reporting that occurred in the Wilson-Terpil case. But again, the Department of Justice would give no comfort to a newsman who wishes to pursue that kind of story, if it involved, as it well might, current undercover employees of the Central Intelligence Agency.

During the hearing on May 8, 1981, before the Committee on Security and Terrorism, Senator BIDEN—Senator BIDEN, here on the floor, valiant and indefatigable in these matters as always—asked Mr. Willard of the Department of Justice whether a journalist who engages for 3 years in a pattern of activity intended to identify double agents or moles in the CIA, and writes articles naming such person or persons, would have reason to believe that his activities would impair intelligence activities. He is informing the public that there is a spy in the CIA who is on the CIA payroll.

Suppose that, by some happy circumstance of diligence or good fortune or overheard conversation, a newspaperman learns of that spy and reports it. Senator BIDEN asked, would that indicate reason to believe that his activities would impair intelligence performance, perhaps because it would give the agency a less-than-complete reputation for security?

Mr. Willard equivocated. He equivocated. He did not say, "No, of course not."

He suggested, on the one hand, that exposing double agents might assist American intelligence, but on the other hand, it is "hard to predict from such a bare hypothesis exactly how the standard would be applied." But he acknowledged that there is at least a "question" whether a crime would have been committed. But here we are, Mr. President, already the Department of Justice is saying, "Let us see, is there a question here that a crime has been committed?" When, up until the day of this testimony, I do not think there was an American alive who would have thought such an act might be a crime.

May I ask, Mr. President, if, prior to May 8, 1981, anyone would have thought for a moment that it was a crime for a journalist to report that there was a KGB agent in the employ of the National Security Agency? Why, you would say, in such matters Pulitzer Prizes are won and the public's thanks are deeply forthcoming.

Mr. BIDEN. Will the Senator yield for a brief question?

Mr. MOYNIHAN. I am happy to yield.

Mr. BIDEN. If the Justice Department, Mr. Willard in particular, a man schooled in the law, helping to write the law in this case, was not sure whether or not the reporter in that hypothetical case would, in fact, be guilty of a crime, what does the Senator from New York think the editor of the New York Times would have to do when he sat down with that reporter to determine whether or not the New York Times should have reason to believe that this would, in fact, impair or impede the intelligence activities of the United States of America?

Mr. MOYNIHAN. I think the editor of the New York Times would ask him himself whether that reporter was married and how many children he had.

Mr. BIDEN. I think the Senator is probably right and I think that is what we call in the business a chilling effect.

Mr. MOYNIHAN. I think that would be a chilling factor.

The Senator has visited nuclear establishments where one may be exposed to some radiation. He is familiar with that little badge you get when you go in and, as you go out, they check that little badge and see if you have had a dose of radiation above an acceptable level while you are in the plant. I can see, in newsrooms at the end of the day, they will check whether you might have committed a crime that day. And maybe they will say, "We'll allow you a certain level of dosage over the year. You must not acquire more than five probable crimes or you are risking causing the legal department too much expense."

After all, even the New York Times can only afford to defend so many reporters in a year. It costs money. The U.S. Government can destroy a newspaper by suing it.

I say this to the Senator: The U.S. Government has endless resources in the courtrooms. They are the U.S. Government's courtrooms, as a matter of fact. They can destroy a journal by suing it.

Only a few newspapers in this country can sustain the kinds of costs the New York Times incurred in New Jersey when a journalist refused to show notes in a murder case—hundreds of thousands of dollars were involved. Not many newspapers could afford that. And none can indefinitely.

First, you sue the newspaperman, then you sue the copy editor, then you sue the city night editor, then you sue the linotypers—just consider what a government intent on impairing or impeding the freedom of the press could do with the standard Mr. Willard suggests.

Mr. President, I have talked long enough in this matter. But I want to conclude with a simple, final reference.

Mr. President, one of our colleagues, I regret to say—because he knows of my high personal regard for him—has not shared my concerns at all in this matter. The distinguished Senator from North Carolina expressed his opinion as follows:

> There is no national interest of greater importance than national security. Whatever intrusion there may be upon first amendment rights here—

I interpolate now: as the result of the amendment before the Senate.

> They are modest and gentle and consistent with the overriding need to protect the great national security interests.

Mr. President, in the hysteria of wartime, we have made mistakes in this Chamber, but we never pronounced them to be intrusions upon constitutional rights. In the hysteria of wartime, it may be that we have intruded on constitutional rights, or in the hysteria of the cold war, it may be that we have intruded on constitutional rights. But we have never knowingly and avowedly done so.

I inquire: What is a gentle intrusion, a modest intrusion?

I am reminded of Dr. Swift's modest proposal for resolving the difficulties of the then troubled state of Ireland, as we approach the "Patron's Day."

It will be recalled that there was much famine in the land. There was much hunger. There was great dissatisfaction and distress, as well as overpopulation.

Dean Swift, in a volume entitled "A Modest Proposal"—it was hardly more than a pamphlet—said, "Why not butcher the babies and eat them?" He suggested fricaseeing, baking, roasting, frying. He was not sufficiently advanced to be aware of all the vitamins, nutrients, and proteins that could be gained thereby; but he thought that a modest amount of cannibalism would be conducive to the well-being of the people of Ireland.

Are we to suggest that we will have only a modest intrusion into constitutional rights? I think not.

Mr. President, I respectfully suggest that we cannot blithely dismiss this amendment as only a modest and gentle intrusion on the first amendment rights of the press.

When the first amendment is threatened, so indeed is our national security.

The late and beloved Judge Murray Gurfein reminded us of this in his 1971 decision denying the Government an order enjoining the publication of the Pentagon papers. I read from his decision:

> The security of the Nation is not at the ramparts alone. Security also lies in the value of our free institutions. A cantankerous press, an obstinate press, an ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression and the right of the people to know.

I cannot suppose there could be any finer summation of this argument save perhaps the words of Thomas Jefferson, who wrote:

> The basis of our governments being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate to prefer the latter.

Thus, in the spirit of the courts and the spirit of Thomas Jefferson I plead with my colleagues not to accept the amendment before us but to abide by the wise counsel and decision of the Committee on the Judiciary.

Mr. President, I thank the Chair for its great patience during this lengthy discourse.

Mr. CHAFEE. Mr. President, that was an extremely eloquent speech by the distinguished Senator from New York. It obviously incorporated considerable thought and conviction on the part of the Senator, who has devoted many years to the areas he addressed. As he mentioned, he is a member of the Senate Intelligence Committee. He is the vice chairman, and he has acted as chairman when the distinguished chairman Senator GOLDWATER, was having a hip operation.

The only problem I have with the presentation of the Senator from New York, particularly in his final quotations, is that a listener cannot help but conclude that there should be no legislation in this field.

It is true that both versions are considered unconstitutional and objectionable by those who profess to be principally concerned with the protection of the press.

For example, the New York Times, which the distinguished Senator mentioned frequently, has consistently editorialized against both versions. They do say that, faced by the possibility of one or the other, they would prefer the committee versions. But this preference is totally unenthusiastic.

I read now from an article in the New York Times, in which the columnist, Mr. Stuart Taylor, Jr., wrote:

> More than 100 scholars signed a letter in the fall of 1980 denouncing the Chafee version of the bill as unconstitutional.

He goes on to say, in discussing both bills:

> Both bills would permit prosecution of journalists and others . . .

The article concludes:

> "Because there is a steamroller to pass a bill, we are asking the Senators to pass the least damaging bill," Jerry Berman, legislative counsel for the American Civil Liberties Union, said today. But he added that "we are prepared to challenge this bill in court," whether or not it includes the "intent" language.

So, editorial after editorial in the press—and we have submitted them for the record—has little to say in favor of any legislation. In other words, the view of the press is that it is unfortunate these publications, such as the "Covert Action Information Bulletin" are "naming names," but that is one of the prices of a free society. Maybe Richard Welch is murdered on assignment in Athens. Maybe the Kinsman home is shot up in Jamaica. Maybe the careers of agents or alleged agents of the CIA throughout the world are ruined. But that is life. We cannot help that in a free society, and we should not have any type of legislation such as that proposed—subsection 601(c)—in both bills.

I know that the Senator from Washington has been waiting patiently, since December 16, to speak, so I will be brief.

The Senator from New York spoke of both versions being acceptable to the CIA. That is true. However, Mr. Casey has made it very clear, in letters to this committee, to me, and to various Senators, that he believes that the best version is the so-called Chafee-Jackson version. This will best accomplish the job according to Mr. Casey.

I refer to a letter to me dated March 12 of this year, from Mr. Casey, in which he wrote:

> I believe it is important that you have the benefit of my position. Certainly the Judiciary Committee version of the Bill would be preferable to no legislation at all—

No legislation—which is the position of the news media.

> but it should be clear that the Intelligence Community firmly supports the Attorney General and the President in their belief that the version of subsection 601(c) passed by the House of Representatives and embodied in the Chafee-Jackson amendment to S. 391 is, as President Reagan put it in his letter of 3 February 1982 to the Majority and Minority Leaders of the Senate, "far more likely to result in an effective law." I believe Senator Specter fully understands that this is my position.
>
> Sincerely,
>
> William J. Casey.

The next point that the Senator made dealt with the subject of negligence, and it was his suggestion that what we have adopted in this legislation is a negligence standard. He is horrified or astonished that for the first time, as he indicates, one can be prosecuted criminally for something that is considered negligence.

I wish to discuss that from the point of view of the markup that took place in the Senate Judiciary Committee last October, October 6, in which this issue of negligence was raised by the Senator from Vermont (Mr. Leahy). He directed his question to Richard Willard, the Attorney General's counsel for intelligence policy.

Senator Leahy said, "Can you tell us, is this or is this not a negligence standard?"

The response by Mr. Willard, who I mentioned was the Justice Department's expert, was as follows:

> If the reason to believe standard stood by itself, if you only had the reason to believe standard and it were the only element of this offense I believe you are correct, that it would in many ways resemble negligence. However, as Senator Heflin pointed out there are so many elements of proof in this section as it exists that there is no way someone could accidentally or negligently violate the law. It would be very difficult to prosecute. There are other elements, including one of specific intent, intended to identify or expose covert agents which exist in Senator Chafee's bill. Therefore, while that one provision taken in isolation would be sort of a negligence standard, it is accompanied by five other elements which involve actual knowledge and specific intent.

So I believe the negligence argument is demolished.

I briefly wish to address the matter of intent. Is the intent standard the best one? Is the intent standard the standard that will most likely protect those inadvertent disclosures in the press that the Senator from New York was concerned about?

What we address now are the statements of Mr. Keuch. Mr. Keuch was the Associate Deputy Attorney General under the prior administration. This is what he said about the specific intent language, the language that is in the committee version before us now.

By the way, in that version it was 501(b); now it is 601(c):

> Section 501(b)'s specific intent requirement that an individual must have acted with "intent to impair or impede the foreign intelligence activities of the United States" and that such intent cannot be inferred from the act of disclosure alone is not a fully adequate way of narrowing the provision, either in serving First Amendment values or in facilitating effective prosecutions.
>
> The specific intent requirement may itself have the effect of additionally chilling legitimate critique and debate on CIA policy because general criticism of the intelligence community could seem to corroborate an intent to impair or impede.

The point Mr. Keuch is stressing there is when you have an overall criticism of the intelligence community after which you name a name, intent is inferred. You meant to be critical of the agency and disclosed in order to impair or impede intelligence activities.

Mr. Keuch goes on:

> A mainstream journalist who occasionally writes stories based on public information concerning which foreign leaders are thought to have intelligence relationships with the United States may fear that and other stories by him critical of the CIA will be taken as evidence of an intent to impede foreign intelligence activities.
>
> Speculation and debate concerning intelligence activity and actors would be seemingly more hazardous if one had ever taken a general position critical of the conduct of our covert foreign intelligence policy.
>
> Taking the problem from the other direction—

Mr. Keuch continues:

> since any past or present criticism of the CIA might provide the something extra beyond the act of disclosure to prove specific intent, citizens may be unwilling to hazard a speculative discussion of covert intelligence policy for fear they will unwittingly name an intelligence source correctly.

What Mr. Keuch is saying here is that your overall criticism of the intelligence community and then your inadvertent disclosure of a name may be used to infer intent that you are out to impair and impede the intelligence activities of the United States.

Mr. Keuch's statement I commend to each of you, and I will briefly quote a little more here:

> The specific intent requirement . . .

Mr. Keuch continues:

> . . . also can hamper effective enforcement . . .

Now he is on the other side of the coin. He is looking at it from the enforcement side—

> . . . by creating a difficult jury question. Any person willing to gamble on the outcome of a prosecution can claim to a jury that his intent was to inform the American people of intelligence activities he believed to be improper or unnecessary rather than to disrupt successful intelligence gathering; the government may often find it difficult to convince a jury beyond a reasonable doubt that there was intent to impede in light of such a claim.

Mr. President, I shall address that very point because it seemed to me that the Senator from New York was dismissing as ridiculous the fact that the publishers of bulletins such as Covert Action Information Bulletin could in any way ever claim that it was their intent to improve the intelligence activities of the United States. Yet let us turn to the testimony before the House Select Committee on Intelligence last year by an editor of the Covert Action Information Bulletin, Mr. William Schaap. Now this is what he said. This is what apparently he strongly believes. Obviously this would be his defense if accused:

> Our publication . . . is devoted to exposing what we view as the abuses of the Western intelligence agencies primarily though

not exclusively the CIA, and to expose the people responsible for those abuses.

We believe the best thing for the security and well being of the United States would be to limit severely, if not abolish the CIA.

This is his view.

And then he goes on:

Our intent . . .

This is his intent—

. . . both in exposing the abuses of intelligence agencies and in exposing the people responsible for those abuses is to increase the moral force of this Nation, not to lessen it.

That the CIA would assume our intent is simply to impair or impede their foreign intelligence also seems likely. Patriotism is to some extent in the eyes of the beholder.

This is their defense.

And so to suggest that it is preposterous that such a claim could be made is in my judgment obvious. This is not in my judgment alone but in the burden of proof here, in the statements of those handful of people, as the Senator from New York discussed, in their very view this is what they believed. This is their intent.

The Senator also suggested that the reason to believe standard which exists in current statutes in section 18 of the code does not apply to speech or publication.

That is not entirely accurate.

As we pointed out yesterday, in title 18, United States Code, and in title 42, United States Code, there are a series of acts which are forbidden in which the proof of the Government is based upon the reason to believe standard.

Now let us see if any of them apply to speech. I refer you to 42 U.S.C. 2274 dealing with communication of restricted data. It talks about anyone who communicates, transmits, or discloses. Disclosing obviously covers speech or publication.

In section (b) it goes on to say, "attempts or conspires to do any of the foregoing, with reason to believe."

So there it seems to me is an obvious case where reason to believe applies to a disclosure, be it by publication or by speech offense.

Finally, Mr. President, I refer to the mole argument. That is an argument that Senator BIDEN has raised, the distinguished Senator from Delaware, several times. The question is, Under my language, could you disclose the existence of a mole in the CIA?

First of all, the mole, a mole within the CIA would not necessarily be a covert agent within the definition of the term as we have it in the act. The famous moles who have existed, such as Mr. Philby in England, worked for the intelligence community. Everyone knew this. He was overt.

If one of those employees of our CIA was involved, he might also be an overt CIA employee. If we do not know he existed, and he was a covert agent, it might well be that we would have to display caution. This is not because of the danger of prosecution but because in many of the situations the so-called mole has been doubled.

For those who indicate the despair over the effect of this act, let me just say that in nearly every instance—the Wilson case, the Terpil case, the clear-cut cases where they were not covert agents—these men were not employees of the CIA. That is acknowledged. That was acknowledged by the CIA. They are no longer employees. They are former employees.

For someone to suggest that disclosures of their wrongdoing could not take place is really to drag a red herring across a very important discussion that should be devoted to the merits of the legislation before us.

So, Mr. President, this is not something the Republicans have dredged up. This legislation has the support not only of this administration, of the current Director of the CIA, but of the prior Director of the CIA, the prior Attorney General, the prior Justice Department, under a completely different administration of a completely different party.

Both of those administrations, both of those Attorneys General of the Department of Justice, both of those Directors of the CIA have pleaded with us to pass the amendment that is on the floor of the Senate today and up for consideration. They all want the Chafee-Jackson language.

So, Mr. President, I do hope my colleagues will support the amendment that is before us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TOWER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURKOWSKI). Without objection, it is so ordered.

Mr. BIDEN. Mr. President, while we are waiting for one of our colleagues to come to speak on this Chafee amendment, I would like to raise a couple of points and hopefully clarify the record. These are not major issues but they do, in a cumulative sense, impact upon some of the arguments made thus far on this names of agents bill and particularly the Chafee amendment.

One of the points which has been made by my distinguished colleague from Rhode Island concerns the intent language, presently in the Senate bill, which Senator CHAFEE is attempting to remove. It is that if that language passes the Senate it will be used as an excuse for a delay and a conference will never be called by the House side. The House has already passed a bill which incorporates the direction of the Senator from Rhode Island. If the version I am supporting passes the Senate, the Senator from Rhode Island, though not saying straight out, implies, in effect, that we will not have a bill or it will be hard to get a bill.

I wish to read into the RECORD at this point a letter from the chairman of the House Permanent Select Committee on Intelligence, Mr. EDWARD P. BOLAND.

It reads:

MARCH 15, 1982.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BIDEN: I understand that it has been suggested that, depending on the outcome of the Chafee Amendment in the Senate, the House might elect not to seek a Conference to resolve the differences between H.R. 4 and S. 391.

Let me assure you that insofar as I am able to influence the decision, the House would seek a Conference with the Senate on the differences between the two bodies on the issue of the protection of intelligence identities—regardless of the outcome of the vote on the Chafee Amendment.

With every good wish, I am,

Sincerely yours,

EDWARD P. BOLAND,
Chairman.

I would note further for the RECORD that we have spoken with the chairman's office on the House side and he not only suggested there would not be a delay but also that he would promptly move for a conference to resolve the differences.

The second point that I would like to raise is that during this debate, Senator CHAFEE indicated that the reason to believe standard is more effective than the intent standard and he relies on the testimony of Richard K. Willard, Counsel to the Attorney General for Intelligence Policy, who is in the record identified as a Democratic holdover.

I am not sure if it is important that he is a Democratic holdover or not. However, Mr. Willard came to the Justice Department, I am told he is not a Democratic holdover but a Reagan appointee at the Department of Justice.

Second, the best testimony to the greater effectiveness of the intent language is Senator SPECTER, who, I would argue, has more prosecutorial experience than Mr. Willard does, who happens to work for the Department of Justice. Although Mr. SPECTER is a Senator now, for years he was a prosecutor.

We use Mr. Willard constantly as justification for which standard is better because he is an "expert," and he is with the Justice Department.

The third point that I would like to make is that Senator CHAFEE argues that there are a number of statutes and cases where the standard of reason to believe can be used to convict someone under the espionage statutes. There are a number of statutes that do have the reason to believe standard, but none of them involve publication or at least none have ever been used to prosecute someone for publication. Therefore, I do not believe they involve the direct first amendment issue of free speech and publication and they involve usually covert communications or clandestine collections and distribution to the enemy, which does not involve the protected interest inherent in the first amendment.

It is one thing to publish a name and be subject to the standard of reason to believe. It can be published in an American newspaper. I think we can all argue that at least the first amendment can be debated, whether or not it comes into play. It is another thing to publish it in a memorandum to the KGB. I do not see where the first amendment issue really comes forward there. There may be some reason to believe standard in an espionage statute where if I identify the name of an agent or an activity of the Federal Government that is involved, or a covert action that is underway, and I, in fact, communicate that to a hostile power, that is not the same as to whether or not the first amendment comes into play even though there is a publication. It is a publication in another country's internal files and memoranda used for purposes of damaging the U.S. interests.

My point is that there is not a direct corollary between the reason to believe language and the espionage statutes and the reason to believe language as it applies to the first amendment.

Also, Mr. President, proponents of the bill as drafted make light of the argument I have made that there is really no difference between reason to believe and intent vis-a-vis the ability to argue that he had the benevolent intent. We hear time and again on this floor from those who support Senator CHAFEE's position, and from Senator CHAFEE, that the real reason why they are concerned about the adoption of the Senate version of the bill as before the Senate, the real reason they are afraid of the intent language, is that it will be able to be skirted; it will, in effect, be so difficult to prosecute someone and to prove intent that we will, in effect, not be able to protect our agents.

They go on further to say, time and time—I will bet you the following assertion appears 30 times in the RECORD—"Philip Agee and/or anyone else who publishes the name of an agent in an effort to name names, as the saying goes, if that person is required to be found guilty under an intent statute all they have to do is waltz into the courtroom, get up on the stand, and on direct examination from the defense counsel turn and look to the jury and say, 'Ladies and gentlemen of the jury, I didn't intend to hurt anyone. I did not intend to hurt the United States of America, I didn't intend to impair or impede. And because I said I did not intend to, you must accept that. Therefore, I cannot be found guilty of intending to impair or impede.' "

Well, that sounds good. It sounds pretty nice. But the fact of the matter is, that is not how the system works. The Senator from Pennsylvania (Mr. SPECTER) a long-time prosecutor, one of the most successful prosecutors in the country in one of the largest jurisdictions in the country, Philadelphia, pointed out very well why the intent standard would be easier under our system of justice to prosecute and find someone guilty of a reason to believe. Let me quote from his statement. He says:

> In our system of justice, criminal cases have traditionally required proof of criminal intent. That practice, which has been generally followed in this country for nearly 200 years, has proven to be both realistic and fair. The practice is workable even though we cannot get inside the accused's head—

Let me digress for a moment. Keep in mind, you have heard that phrase a number of times on the floor. We have heard it said by my opposition, if we have an intent standard, then we really have to get inside the head of the person who published the name of the agent in order to be able to find him guilty, the implication being that unless they say, "Yes, I intended to hurt," you are not going to be able to find them guilty.

Back to the statement of the Senator from Pennsylvania:

> to examine his intentions because of two well established legal doctrines. First, the accused is deemed to intend the "natural and probable consequences" of his actions. Second, his intent need not be proved by direct evidence, such as his statements, but may be inferred from his actions. Juries are instructed by the court that specific intent "may be determined from all the facts and circumstances surrounding the case." Even where the accused proclaims that his intent was innocent, juries often discount such statements and infer the requisite intent. On the basis of considerable personal experience in such cases, I know that the doctrine of inferred intent works and works well.

That is the end of the quote from the statement by Senator SPECTER. The fact of the matter is that the notion that if we have an intent standard, we will allow the Philip Agees to slide out from under prosecution because we cannot get into their heads is a specious argument. When we were in law school, we used to call it a red herring. If does not relate to the debate here at all.

I have said this before and it bears saying again: I believe if a defendant can walk into a courtroom and say, "I did not intend to impair or impede," they can make the same argument with the standard that the Senator from Rhode Island insists we put into the bill, which says "reason to believe." Why cannot a defendant walk in and say, "Yes, I published the name. Yes, I knew it was the name of an agent. Yes, I did that. But I did not have any reason to believe that I was impairing or impeding. I had reason to believe I was helping," and then go through the same arguments that the Senator from Rhode Island uses all the time when he is making his assault on the intent language? The fact of the matter is, whether it is reason to believe or intent language in the bill, juries are going to look and weigh the evidence and infer from the natural consequence of the actions of the defendant whether or not they meant to do it or did not mean to do it.

Mr. President, I really hope we stop all this talk about whether or not intent would allow people to slide out from under prosecution merely by saying, "I did not intend to do anything wrong."

I was on the other side of those legal cases as a lawyer when I practiced. I was not a prosecutor; I was a defense attorney. Let me give a specific case. This actually happened.

I was defending a fellow who was arrested for purse snatching, but he was charged with robbery. There is a difference between purse snatching and robbery. Robbery is a more violent crime and you put the person from whom you are taking possession in fear of or give reason to believe they are in danger. That has a more severe punishment than someone who snatches something from you and you do not even know it is gone. It is like the difference between a pickpocket and someone holding a gun on you. But he was charged with robbery.

The robbery was related to having been found as he turned the corner at a very brisk pace with a woman's pocketbook under his arm. He literally banged into a policeman as he turned this corner around this diner. This is an actual case I happened to defend. He smashed into a policeman. The policeman fell down.

Not many men in Delaware carry purses. The policeman thought he probably took it from somebody. So the policeman stood up, took out his gun and said, "Sir, will you stand up and let me see your purse?" Coming down the hill toward the same diner is a lady, mildly hysterical, who just had her purse snatched from her.

I had the dubious distinction of being appointed by the court to defend this noble young man. I went out to prison to meet with him, and I sat on the table you see in rooms when you visit in prisons and you are a lawyer. This happened to be a very tall young gentleman, about 6 feet 5. I said, "Look, you are charged with robbery. People convicted of robbery get an average sentence—this was 1971—of

9 years. I would strongly recommend that you acknowledge that you took this purse and plead guilty and we may be able to get it reduced" to what I think it really was, a purse-snatching case. This would not carry with it an 8- or 9-year sentence."

He said, "I didn't do it."

I said, "What do you mean, you didn't do it? You had the purse. The police officer literally, within 20 seconds of your taking it from the woman on the other street, as you turned the corner from Concord Avenue onto Market Street, bumped into you while you were running. You had it in your hand. How do you expect me to go into court and defend you?"

He said, "You don't understand."

I said, "I don't. Explain it to me." Mr. President, this is an actual case, I promise you.

He got up from the chair, there was a little skinny table like those in front. He said, "Man, take a look at me."

I looked.

He said, "You see how I got these long arms?"

He did have particularly long arms. I said, "Yes."

He said, "Man, when I run, I run like this, my arms swing back and forth."

This is the truth, I promise you.

He said, "My arms swing back and forth. This is my style of running."

He said, "I was running down Concord Avenue to catch the bus and," he said, "I was going full speed and as I turned the corner, I looked up and, my God, that purse was right on my arm. The only thing I can figure is as I passed that woman, my arm got caught in her arm and her purse came off onto my arm."

I said, "You are kidding. You want me to go into court and tell people that?"

He said, "You're my lawyer, aren't you, Jack?"

I said, "I am your lawyer, I was appointed to represent you. But I don't believe you. I have to believe you to defend you when you walk into court."

He said, and he was a better lawyer than I am, "The way I understand it, you just call me up to the stand and I will explain it."

I said, "OK, it is your neck."

He got up and said to the jury, "I did not intend to take that lady's purse. I didn't intend to do it. My arms flap when I run and I was going to catch the bus."

Coincidentally, there was a bus coming as the police officer and he banged into one another. He cited that as evidence.

And guess what? We summed up. My summation was, "You heard my client. Thank you." That was about my summation. The jury then retired to the jury room.

This is a case where it was required, under the laws of the State of Delaware, for the prosecution to prove beyond a reasonable doubt that the defendant intended to take that lady's purse. He stood there and told them, "I didn't intend it. It was an accident."

Guess what, Mr. President? The people of the State of Delaware, 12 jurors tried and true, walked into the jury room, which was off courtroom 6, did not even bother to take their seats, looked at one another and said, "Anybody believe it?" the foreman said, "No, we do not believe it."

Within 2 minutes, there was a knock on the door. "Your Honor, we have a verdict."

The judge said, "Are you sure?" He had not even gotten off the stand, to go back to his office.

Guess what. The jury did not believe the intent argument, that he did not intend it.

You probably all think I am just being facetious in reciting this. It is a bit of a humorous story and it did really happen. But the fact of the matter is that juries every day can infer intent from one's actions.

There was an action here. The action was the purse somehow got from the lady's arm to his arm. Somehow, he had been running down the street. Somehow, he banged into a police officer. And somehow, the lady came down and said, "he took my purse."

Now, that is what happens in all our criminal justice system.

We had a fellow named Wayne Williams down in Georgia, accused of murdering children, and specifically accused of murdering two in that trial, if I am not mistaken. They did not get inside his head. The jury did not establish, did not have established for them Wayne Williams' saying, "Yes, I did it." They did not have anybody else saying, "Wayne Williams told me he did it." They did not have any Wayne Williams cell mate coming in and saying, "Wayne Williams did it because I heard him talk in his sleep and say he did it."

Wayne Williams, throughout the trial, said, "I didn't do it." The prosecution introduced a great deal of circumstantial evidence. Yet, guess what? The jury was able to determine beyond a reasonable doubt that Wayne Williams had the intent—the mens rea to kill and, in fact, did kill at least two young men.

Wayne Williams is in serious trouble. He was convicted. I expect, from what I know of the case, and I do not pretend to be an expert on it, that that is likely to be upheld. Wayne Williams may very well depart this world in a consequence of inferred intent.

That is the way the system works. It has worked that way for 800 years in our English jurisprudence system.

So I hope my colleagues will disabuse themselves of the notion that when you have a requirement in the statute for specific intent, that raises a standard that is difficult for prosecutors to meet. It is not. It is done every day in the courtrooms of this country, day in and day out.

I thought the basic standard of criminality in this country was to establish guilt. What is so special about the reason to believe standard? There is a little difference here.

The reason to believe standard, as my colleague acknowledges, is an objective standard. What does that mean, as opposed to a subjective standard?

A subjective standard for criminality—whether I go to jail—is what is in my head, so to speak, as is the phrase used by those who oppose this bill. Did I mean to do it, or did I not mean to do it?

The objective standard, to be a little more graphic, is that I can have an intent not to do anything wrong. But if my four colleagues who are in the Chamber, from the four States represented, think that I should have had reason to believe that something was right or wrong, even though I did not intend to do anything wrong, even though I thought I was doing something right, even though I thought I was being a patriotic American, they are going to imply to me a negligence standard, a civil standard. That is a standard, I respectfully suggest, which should be kept to negligence cases, civil cases, not criminal cases.

I see that my distinguished colleague from the great State of Washington has arrived. I now yield to the Senator from Washington (Mr. GORTON).

The **PRESIDING OFFICER**. The Senator from Washington is recognized.

Mr. **GORTON**. I thank the Senator from Delaware.

Mr. President, when the motion to proceed to the consideration of this bill was laid before the Senate last December, I briefly addressed certain concerns I had with the differences between the two contending sides over appropriate provisions designed to prohibit the disclosure of the identity of covert agents of the United States. At that time, I suggested an approach which I believed could be the basis for a possible compromise.

As my colleagues are well aware, their differences concern the standard of proof which will be required in prosecutions pursuant to section 601(c) of the act. The bill, as introduced, required, to support a conviction, only that an individual have "reason to believe that the disclosure would impair or impede the intelligence activities of the United States." The bill as reported, however, requires that an individual have the "intent to impair or impede the intelligence activities of the United States." It is generally agreed that, as reported, the bill would require proof of specific intent, the criminal standard most difficult for a prosecutor to meet. I understand that those who advocate the specific intent standard do so, in part, because of the potentially expansive scope that could be given to the "reason to believe" language.

I believe that there is merit in both approaches as well as merit in the criticism each side has for the other's proposal. It is for this reason that I believe a compromise to be in order.

I would like briefly to share with my colleagues a bit of the frustration I have felt in the past several months in attempting to suggest a compromise which would address many of the concerns I have heard raised.

CHRONOLOGY OF COMPROMISE ATTEMPTS

My first attempt to find a compromise was offered on the floor during the debate on December 16, 1981. This approach would accept the structure of the intent standard as adopted by the Senate Judiciary Committee. But it would go on to include the following language in the way of defining intent:

> For purposes of this subsection, proof of intent to impair or impede the foreign intelligence activities of the United States by the fact of such identification and exposure:
>
> (1) May be established by proof of specific intent; or
>
> (2) May be inferred from the fact of such identification and exposure where the foreign intelligence activities of the United States have been impaired or impeded, and the impairment or impediment is a natural and probable consequence of such identification and exposure.

The purpose underlying this proposal was to offer a standard somewhere between the intent and "reason to believe" approaches. I was—and I remain—concerned that the House language may be so broad or vague that it would cause a chilling effect upon the exercise of protected first amendment rights; but the Senate Judiciary Committee language, in requiring proof of specific intent, may mandate such an arduous burden of proof that the act will be very difficult to enforce. My proposal sought the middle ground by allowing conviction upon proof of specific intent, but also, in circumstances in which specific, rather than generic, harm to the intelligence activities of the United States did occur, conviction could be obtained by a showing of general intent. This latter standard is less strict thant the specific intent requirement, and could be inferred where the court found the harm to have been the natural and probable consequence of the exposure of the agent's identity.

This proposal was misunderstood. Some believed it would adopt the specific intent standard, but would allow circumstantial proof of specific intent only where harm occurred. I did not intend to suggest that either type of intent could be proved only with direct evidence. The distinction my proposal made was between specific intent and general intent, either of which always could be established with circumstantial evidence, but which differ significantly with regard to the degree of proof required.

Others objected to this initial proposal on the ground that the language would imply that harm to the intelligence activities of the United States would not occur in all cases in which the identities of covert agents were exposed—and that this implication was objectionable since proof of harm would require intelligence agencies to reveal sensitive classified information.

In any case, it became clear that my first effort could not be the basis for an agreed compromise amendment. My next attempt followed the opinion of the Supreme Court in *Gorin* v. *United States* (312 U.S. 19 (1941)). In that case the Supreme Court interpreted language in the Espionage Act of 1917 punishing certain activities accomplished "with intent or reason to believe that the information obtained is to be used to the injury of the United States, or to the advantage of any foreign nation." The Court said that this statute—

> [R]equires those prosecuted to have acted in bad faith. The sanctions apply only when scienter is established. (312 U.S.C. at 28.)

In hearings before the House Permanent Select Committee on Intelligence, Richard K. Willard, counsel for the U.S. Department of Justice, Office of Intelligence Policy and Review, testified that he believed that the Gorin interpretation may not apply to the "reason to believe" standard in the context of the Intelligence Identities Protection Act. He suggested that the "reason to believe" language in this context might impose merely a negligence standard which would not necessarily even require an actual appreciation of the risk or a "reckless disregard" standard. Hearings before the Subcommittee on Legislation of the Permanent Select Committee on Intelligence, House of Representatives, 97th Congress, 1st session, regarding H.R. 4, pages 36, 38, and 40 (April 7 and 8, 1981).

My second effort to find a workable compromise was simply to try to find acceptable language which would clarify in the statute itself that the Gorin doctrine would apply to the "reason to believe" language in the context of S. 391—that at least some badfaith requirement would be involved. I was frustrated once again in finding specific language which both sides would accept.

My next try at finding the elusive middle ground involved a proposed colloquy between the distinguished Senator from Minnesota (Mr. DURENBERGER) and the distinguished Senator from Rhode Island (Mr. CHAFEE). In that exchange, the Senator from Rhode Island stated that the language of his amendment should be interpreted to mean that the scope of the "reason to believe" language is in fact limited in a way that the plain language of his proposal does not in itself suggest—at least to me. Mr. CHAFEE indicated that under his amendment the only class of persons who could be prosecuted would be those in the business of naming names of covert agents. Newspaper reporters, gadflies, and even radicals engaged in investigations of the CIA in which the exposure of covert agents was an "anticipated side effect" rather than "the main direction" of their efforts, could not be prosecuted since in such case the requisite "pattern of activities intended to identify and expose covert agents" would not exist.

I am not certain that this means of limiting the statute's scope is preferable to that inherent in my initial proposal of December 16, 1981. In fact, I prefer the latter. Nevertheless, I do believe that it could provide an acceptable means of resolving concerns about the chilling effect of Mr. CHAFEE's proposal on first amendment rights. As I indicated, however, the language of the amendment itself is not as narrow on its face as the colloquy suggests the intent of the drafters to have been. It does not say explicitly that the intent to identify agents must be the sole or primary focus of the "pattern of activities." The colloquy is helpful and thoughtfully and carefully prepared, but, of course, it is not binding. I am afraid, in fact, that it might even add to the potential constitutional problems which we have been discussing during the course of this debate.

In any case, it would be far preferable to incorporate into the language of the statute itself words limiting the statute to the scope described by the colloquy. I floated a number of draft proposals designed to accomplish that end, including one which would have simply provided that the "pattern of activities" must be "primarily intended to identify and expose covert agents." Meeting stubborn resistance once again, I finally settled upon what seemed to be the least intrusive possible language which would still add meaningful clarification to the statute. I suggested simply taking some of the language from the colloquy itself and adding it to the definition of "pattern of activities" which currently appears on page 9 of S. 391. This last proposal would provide, "[t]he main direction of said pattern of activities must be to identify and expose covert agents," Even this simple proposal was rejected as a basis for an agreed compromise even though it was stated by Mr. CHAFEE to be the meaning of the language of his amendment. I simply do not understand the rationale for that rejection.

I am faced, therefore, with the prospect of voting for the bill as reported or the bill as modified by the Chafee amendment. Before I do so, however, I would like to engage the principals of these proposals in a discussion.

It seems to me that in order to determine which of these proposals is preferable, there are some basic questions for which we all ought to have the same answers or at least an understanding that the disputants disagree and precisely how they do so. For the record, I would like briefly to pose some questions which kept occurring to me in the course of my attempts to offer a compromise, if only because it was clear that there was no agreement as to the answers.

First—from a rhetorical point of view before I get to the specifics—what is the danger against which we are attempting to protect? What activity creates the threat of that danger? Is it necessary to regulate all activity that creates the threat or only some of that activity? What method will we choose to regulate that activity? And, does the regulation of the activity inhibit or restrict the exercise of any constitutional right?

I wish to take this opportunity to question both the distinguished Senator from Rhode Island and his opponent, the distinguished Senator from Delaware, in order to clarify the answers to these questions for myself and for the entire Senate as they apply to their respective proposals.

If they will do so I will start with the first one by referring to page 11 of the committee report, committee finding No. 3. That finding states:

> The disclosure of such relationships to unauthorized persons is detrimental to the successful and efficient conduct of foreign intelligence, counterintelligence, and counter-terrorism activities of the United States.

My question for both Senator CHAFEE and for Senator BIDEN is: Did the committee by that finding intend to find that every disclosure causes a harm sufficient for Congress to regulate the disclosure, that is, does this finding recognize a generic harm on the part of such disclosures?

Mr. BIDEN. Will the Senator repeat the last part of the question?

Mr. GORTON. Did the Judiciary Committee in connection with this claim, that is, disclosure of such relationships to unauthorized persons is detrimental to successful and efficient conduct of various intelligence activities, intend to find every disclosure causes a harm sufficient for Congress to regulate the disclosure?

Mr. BIDEN. No. What we are trying to get at there, is the fact that there are certain disclosures which in fact are very detrimental to the conduct of the foreign intelligence activities of this Nation and were the disclosure of those relationships made known it would render the activity useless and/or harmful. It would thwart the legitimate intelligence activities of the Government.

Mr. GORTON. Only some such disclosures and not all disclosures?

Mr. BIDEN. The judgment would be made obviously by the agency in conjunction with the Justice Department to determine whether or not to pursue a certain disclosure as opposed to other disclosures. For example, there are certain people who are CIA agents who may not be working in any field, that is, they may be analysts out at Langley. They may be about to retire. They may be bookkeepers, et cetera. The name of that agent—he is still a CIA agent—he still works for CIA—disclosure of that name may be judged by the agency and the Justice Department not to have something that impaired or impeded or in this case the language talked about would negatively affect the efficient conduct of the various intelligence activities.

Mr. GORTON. I take it the Senator from Rhode Island agrees that the committee in his own amendment does not intend to prohibit every such disclosure but only some.

Mr. CHAFEE. Let me say the Senator asked two questions. The Senator asked first a question whether there is a generic finding that disclosure is harmful and did we intend to regulate every disclosure. So we have to answer both questions.

The answer is, yes, Congress made a generic finding that the disclosure of any covert agent's status is harmful, but Congress did not regulate every disclosure because of the awareness that the first amendment must be protected.

That is why we find in section 601(c) two additional elements, that are not found in sections 601(a) or 601(b). There is a total of six elements the Government has to prove beyond a reasonable doubt before the defendant can be found guilty under 601(c). In other words, it is not just the disclosure that is required. There is also the pattern of activities and a reason to believe that this disclosure would be harmful.

Mr. GORTON. I think my next question then would be only for the Senator from Rhode Island. Since his answer to the first half of my question as he interpreted it was yes, that there was a finding that all such disclosures were harmful, how does that square with his statement in the course of his colloquy with the Senator from Minnesota that in any prosecution brought pursuant to section 601(c) the defendant could contest the logic of the Government's assertion that a given disclosure would cause harm if Congress has in fact already found that every such disclosure would cause harm?

Mr. CHAFEE. I just went through the six elements that must be proven.

Mr. GORTON. So the defendant is not bound by this congressional finding?

Mr. CHAFEE. There are six elements of proof that must be met. The Government has to prove them beyond a reasonable doubt. We are not setting them up as defenses that the defendant has to raise. They are the six elements of proof the Government has to prove and, absent them, the case is dismissed as the Senator from Washington knows from his vast experience as a prosecutor.

The Government has to prove as one of the elements that the defendant had reason to believe his activities would impair or impede the foreign intelligence activities of the United States.

Mr. GORTON. But if I may point out to the Senator from Rhode Island, none of those six elements which the Government has to prove is that there was harm caused to its intelligence activities. Given that the Senator has asserted at one point that we are making a finding here that harm takes place under the circumstances of every disclosure, but he told Senator DURENBERGER that the defendant could contest the logic of the Government's assertion that a given disclosure would cause harm; but that is not going to be a defense, I take it. So why would he contest it?

Mr. CHAFEE. Give me the question again.

Mr. GORTON. We went through the six elements which the Government must prove. In those six elements, I take it, we do not include proof that harm resulted from the disclosure. The Senator has stated that it is the finding or the basis both of the committee's proposal, and I take it of his own, that harm does result from every such disclosure. Yet the Senator has told Senator DURENBERGER in a colloquy in which he engaged with him that the defendant could contest any assertion that the given disclosure caused harm; but now he is saying the Government does not have to prove harm anyway, so the proof that it would not cause harm on the part of the defendant would not be a defense and would do him no good, is that not correct?

Mr. CHAFEE. I will go through those six elements. First, the Government has to prove that there was an intentional disclosure of the information which indeed did identify a covert agent and, second, the Government has to prove that the individual who received the information was not authorized to receive classified information. Next, the Government has to prove that the person making the disclosure knew the information disclosed did identify a covert agent, and fourth, the Government has to prove that the United States was taking affirmative measures to conceal the covert agent's classified intelligence affiliation.

And then the last two elements are the ones I already mentioned, namely, there was a pattern of activities intended to expose agents' identities and that the person making the disclosure had reason to believe his activities would impair or impede the foreign intelligence activities of the United States.

Mr. GORTON. But there is no requirement of proof that harm resulted from the disclosure?

Mr. BIDEN. If I may interrupt, the Senator is absolutely correct, there is no requirement.

Mr. GORTON. I go on then to my next question and I will ask perhaps for an answer from both Senators. If in fact the committee found, and Senator CHAFEE agrees, that harm does result from every disclosure, why do we not have a bill before us which prohibits every disclosure?

Mr. CHAFEE. The answer to that is we are balancing two interests. We are balancing the first amendment against the national security and that is the whole careful exercise we are going through. We have not said that it is an offense every time to disclose the name of an agent. That is why we have these elements of proof which I have gone through before with the Senator.

Mr. BIDEN. I assume the Senator also wants me to respond to that. The Senator's first question was very incisive in pointing out what we are moving toward which, as I understand it, is whether or not there is a requirement of showing harm. There is no requirement of showing harm. Every disclosure is assumed to be harmful, assuming one other thing, the crime only comes into effect if, in fact, you intended to harm. The harm portion in the terms of the jury determining whether or not there was any harm done goes on its face to the mere disclosure of the name which, in this bill, is in fact the reason through which the Federal Government can move to prosecute. They then have to beyond that prove that you intended to do harm.

Really what we are trying to establish—maybe I will just stick to the question.

Mr. GORTON. Perhaps this brings me to my next question of the Senator from Rhode Island, and I am back again to his colloquy with the Senator from Minnesota.

My understanding in that respect was that one of the distinctions which the Senator from Rhode Island regarded as quite important was that the primary intent of the disclosure did have to be directed at same kind of harm to the United States before you wish to have criminal penalties adhere; is that correct?

Mr. CHAFEE. I think you should quote from the colloquy that you are suggesting.

Mr. GORTON. I think that is a good idea.

Mr. CHAFEE. If you would, I would appreciate it.

Mr. GORTON. In the course of the colloquy, Senator CHAFEE, at the end of one of Mr. DURENBERGER's questions was this statement:

> This crucial distinction between the main direction of one's conduct and the side-effects that one anticipates but allows to occur, because of one's other goals, forms an important safeguard for civil liberties. The amendment before us would bring that safeguard into play, would it not?

The answer from Mr. CHAFEE:

> Yes, it would, Senator Durenberger.

Now that seems to me fairly to conclude that the primary intent of the conduct must be the disclosure of the names of the agents. If I may, I will go on to the bottom line of this proposal which is if that is in fact, the case, given your answer——

Mr. CHAFEE. Let us finish this part.

Mr. GORTON. All right.

Mr. CHAFEE. I am not prepared to concede the very point you are making and that you are suggesting.

Senator DURENBERGER, in his question ends up:

> A newspaper reporter, then, would rarely have engaged in a pattern of activities with the requisite intent "to identify and expose covert agents." Instead, such a result would ordinarily be "the (anticipated) side effect of his conduct."

This is dealing with the pattern of activities which we discussed, this crucial distinction between the main direction of one's conduct and side effects that one anticipates but allows to occur—is this where you are?

Mr. GORTON. This is exactly where I am.

Mr. CHAFEE. "Forms an important safeguard for civil liberties. The amendment before us would bring that safeguard into play, would it not?" The answer is:

> Yes it would, Senator Durenberger, and that is one reason why I believe that my version is actually better for civil liberties than the bill as reported out of committee.

That has nothing to do with harm to the United States. That has to do with the disclosure of the name of an agent.

Mr. GORTON. But it certainly does have to do with the primary intent underlyins the pattern of activities, does it not? If, in fact, that is the thrust of your proposal. My question is why not include language in your proposal which points out that fact in the body of the provision rather than simply in this colloquy?

Mr. CHAFEE. Well, it seems to me you are heading in two directions. It seems to me you started off this afternoon by suggesting that there had to be harm to the United States, and that that was a defense. Both the Senator from Delaware and I have pointed out that that is not one of the elements of proof. Either it has to be with an intent to impair the intelligence activities of the United States or, my language, which is reason to believe.

But now you are taking this other language and somehow suggesting that in the colloquy I had with Senator DURENBERGER this is what I said. And that is not what I said at all.

Mr. GORTON. Mr. CHAFEE, the first proposal that. I made to you and to Mr. BIDEN did have an alternate method of proof which included harm, although it also left the specific intent standard, which does not require harm.

Our last suggestion, however, was simply that the definition of the term "pattern of activities" which you use in your statute, have added to it, and I quote, "the main direction of said pattern of activities must be to identify and expose covert agents." That does not include any test or implication of actual harm whatsoever. It seems to me that it is totally consistent with your answer to Senator DURENBERGER. My question is, therefore, why do you oppose its inclusion in that definition?

Mr. CHAFEE. The language you have proposed deals with and uses words that are not statutory words. Was not the language you proposed "main direction"?

Mr. GORTON. It is.

Mr. CHAFEE. That is just as nebulous, and it is on that basis we thought that was inappropriate.

Mr. GORTON. But it is taken from the Senator's colloquy. Was it nebulous there? Is the colloquy going to be used in court? If it is not nebulous there, why is it nebulous as a part of the statute?

Mr. CHAFEE. Because in the colloquy, one is setting forth the background, making a record, as it were, which is different from the specific language one uses in a statute. In the statute we used a word which has been discussed here to a considerable extent today; namely, "intent" to identify and expose covert agents.

Mr. GORTON. At this point I am not asking a question about intent at all. I am simply dealing with the definition in the statute of the term "pattern of activities," which "requires a series of acts with a common purpose or objective," and then asking why that should not be further clarified by adding the language, "The main direction of said pattern of activities must be to identify and expose covert agents."

I think that is totally consistent with your colloquy with Senator DURENBERGER. I do not believe that you have disagreed with me in that respect.

Is your only reason for opposing the amendment that you think the language which you used yourself in the colloquy is too vague?

Mr. CHAFEE. Pardon? The last words you said were what?

Mr. GORTON. Is the only reason you disagree with adding that kind of an amendment the fact that you think the language in your colloquy is too vague to be included in the statute?

Mr. CHAFEE. Yes. There is no history of the use of such language. Furthermore, the problem is you do not like my answers, but I cannot go any further with you.

The language, the intent, which we have included is sufficient, in my judgment. The language that you seek does not have a judicial history to it.

Mr. GORTON. Does Senator BIDEN have any reaction to that?

Mr. BIDEN. It seems to me it makes a lot of sense on the point. It seems to me you are right about the pattern of activities. A pattern of activities, by the way, to take it a step further, need not be established in testimony, need not be a pattern of disclosure. It needs to be only a pattern of activities which resulted in disclosure.

I do not see how your suggestion of clarification is harmful. It is consistent with what I think the Senator set out today—what Senator CHAFEE said it would do.

I would like to at some point to go back to your first point about the question of harm. I am not sure you want to do that now. I think when we get to that I can show you that is all the more reason why you need a tougher standard, an intent standard, rather than a reason to believe standard. If, in fact, the Government does not have to show there is actual harm done, then, in fact, it seems to me the burden should be greater upon the Government to show that you intended to do harm. But I am not sure you want to get to that right now.

(Mr. EAST assumed the chair.)

Mr. GORTON. I note in the opening statement of Senator CHAFEE on February 25 of this year, he stated "The pattern of activity includes more than one disclosure." By that does the Senator mean a disclosure of more than one name or the disclosure of a single name more than once, or both?

Mr. CHAFEE. Let me quote the language in the report of the Select Committee on Intelligence. That might be helpful. I will quote from page 22:

> A journalist writing stories about the CIA would not be engaged in the requisite "pattern of activities," even if the stories he wrote included the names of one or more covert agents, unless the government proved that there was intent to identify and expose agents and that this effort was undertaken with reason to believe it would impair or impede foreign intelligence activities. The fact that a journalist had written articles critical of the CIA which did not identify covert agents could not be used as evidence that the purpose was to identify and expose covert agents. To meet the standard of the bill, a discloser must be engaged in a purposeful enterprise of revealing names—he must, in short, be in the business of "naming names."

Then there are some illustrations that are given in this report language. There it is. I do not know what more I can give you, along with the definition that we have in the act itself.

Mr. GORTON. I was not referring to the report language. I was referring to the statement the Senator made in his opening salvo, in his argument on the floor. I think my question was fairly simple and is not answered by the report language. It involves proof of a pattern of activity. You say this requires more than one disclosure. But that is somewhat imprecise. I simply wanted to know whether the Senator meant by that the disclosure of more than one name or the disclosure of a single name more than once. If there is any implication in your answer by reading from the committee report, it may be that it was a disclosure of a name more than once. Am I correct on that or not?

Mr. CHAFEE. Well, go back and look at my statement. The Senator is taking the statement I made. Let me just say this: It appears to me that the Senator has misunderstood that. I did not say a pattern of activity necessarily includes more than one disclosure. I said the pattern of activity requires a series of acts with a common purpose and objective. It is not necessarily one disclosure. It is a pattern of activities to impair or impede U.S. foreign intelligence activities.

Thus, there must be proof not only with regard to a particular disclosure but also with respect to a pattern of activities in which the disclosure occurs.

The evidence must show that such activities were undertaken both to identify and to expose covert agents. That was the quote that I gave in my statement.

In other words, one disclosure, plus a series of acts leading to that disclosure, could be a pattern of activities. Many disclosures could also be a pattern of activities. However, it is important to state that this pattern of activities must be done with the required intent. I do not think you can brush that aside.

We are looking at this act without considering the six elements of proof which I have time and time again stressed. The pattern of activities must be done without the intent to identify and expose. In other words, you have to have a pattern of activities and you have to have the intent to expose.

Mr. BIDEN. Will the Senator yield?

Mr. CHAFEE. Let me just say one other thing. I think it is clear from the language of the bill and the accompanying legislative history that an individual could be liable for a single disclosure of a single name under either of these versions, either under the Biden language or under the language that I have proposed.

But it is also clear that the other elements would have to be proved as well.

Mr. GORTON. With that statement I certainly agree. Did Senator BIDEN wish to respond?

Mr. BIDEN. Yes, I would like to respond. Do not get carried away with the language in the report which talks about revealing or being in the business of naming names. You do not have to name names. You only have to name one name, No. 1.

No. 2, the Justice Department testimony before our committee was that their interpretation of a pattern of activity would mean that a single reporter going out and identifying a single name, if he or she in the course of trying to find out that name contacted several people, establishes a pattern. A pattern can be established by, literally, if I am a reporter, going to see the intelligence committee spokesperson and saying, "Is John Smith an agent?" They say, "No comment."

Then they go over and look in some old military records to see if John Smith had ever been in intelligence. That is another thing they have done. Then they go out to Langley.

They have established a pattern by that. The pattern of activity that Senator CHAFEE keeps talking about as one of the six protections is in fact no protection at all. There is not any protection.

He is quite correct, under the intent provision we do not require that there be a pattern of activity. The term pattern of activity just requires a common purpose or objective. The common purpose is established if you can show that the pattern was designed and activity undertaken to disclose a name. That is, again, all the more reason why there is a need for the "additional standard protection of requiring intent."

The pattern of activity is not any protection.

Mr. CHAFEE. The case that the Senator from Delaware cited in support of his language seems to me does not lie. It is clear, under his definition, that someone seeking to track down the name of an agent and who gets the name of an agent and publishes it after going through this effort, would be guilty under the Biden language. I do not see what defense the reporter would have in that instance.

Mr. GORTON. Both Senator BIDEN and I agree on that.

Mr. BIDEN. That is my point.

The point I am trying to make is that Senator CHAFEE and those who support his position constantly refer to the establishment of a pattern of activity as one of the six sacred safeguards. "The Government has to prove six elements here and one is a pattern of activity."

Well, that is not much of a hurdle to overcome. A pattern of activity can be easily established and because it can be, and because, further, there is not a requirement for the Government to prove that harm was done to the Government—neither of those requirements exist—that is all the more reason why we have to err on the side of sticking to the time-honored jurisprudential standard of requiring intent.

Mr. GORTON. In this colloquy, I am still not totally persuaded, I will say to the Senator from Delaware, about that point in its entirety. It certainly leads to my next question of the Senator from Rhode Island. Under the Chafee amendment, to support a conviction must the primary intent of the defendant have been to disclose the identity of agents as opposed to the disclosure simply being a side effect of the pattern of activities?

Mr. CHAFEE. Would the Senator restate the question?

Mr. GORTON. Let me repeat it.

Under the Chafee amendment, in order to support a conviction must the primary intent of the defendant have been to disclose the identity of an agent or agents as opposed to that disclosure being a mere side effect of a pattern of activities?

Mr. CHAFEE. Mr. President, I disagree with the point that the Senator from Delaware stresses. He seems to be taking over the definitions that come from our act and describing them as the pattern of activities and the intent being the same standard. I do not believe so at all. Nor are they meant to be.

The pattern of activities is as defined. That is something quite different from the intent to disclose.

Mr. BIDEN. Mr. President, I am not suggesting they are synonymous.

Mr. CHAFEE. Mr. President, I shall handle my section of the bill and the Senator can handle his.

Mr. BIDEN. Fair enough.

Mr. CHAFEE. In response to these questions of the Senator from Washington, in his very question, he proposes that the intent is part of the pattern of activities. That is not so. The intent to disclose an agent is an element. Indeed, an individual might have an intent to disclose the name of an agent, but the question remains—was this a part of a pattern of activities? It could well be that it was not and the absence of a pattern of activities would be a successful defense.

Mr. BIDEN. Mr. President, is it permissible for me to respond to that, because I think the Senators are making a very, very important point?

The reason for the notion of whether or not it was a primary intent or a side effect in the disclosure is that the pattern of activity which took place resulted in the disclosure of an agent. For example, someone could be out writing a book about how the CIA works and be trying to establish a particular point. In the process, as a side effect, he discloses a name. It is very difficult to determine whether or not it is primary purpose or secondary purpose or side effect. That is why we, those who took my position, abandoned that whole attempt to establish intent as it relates to disclosure. It is a nonwinning game. It is hard to pin down how that relates to disclosure.

Intent relates to the question of disclosure of a name in the Chafee bill. We abandoned that in our bill and intent goes to the question of whether or not there was an intent to do harm, not to disclose a name or not disclose a name.

The Senator from Washington is making, whether he intended it or not, a perfect case why the intent provision as it appears in the Chafee language is meaningless.

Mr. GORTON. Mr. President, I am frustrated by this exchange because, in fact, I read the Durenberger colloquy as being a very constructive step forward.

Mr. BIDEN. If that is what it really means.

Mr. GORTON. One which would have persuaded me to vote for the Chafee amendment were I persuaded that the courts would interpret "reason to believe" as the Senator from Rhode Island explained it to Mr. DURENBERGER. I have been trying to get an answer from the Senator from Rhode Island which would allow me to do that. I do not think my last question was a trick. I think that the way I read his colloquy with Senator DURENBERGER, when a disclosure is a mere side effect of the pattern of activities, there is not a sufficient degree of proof to sustain a conviction under the Chafee amendment. It must be the primary intent of the defendant to disclose the identity of agents.

I think that is what the Senator from Rhode Island told the Senator from Minnesota. My frustration comes from the fact that I do not think that, standing alone, his language leads to that conclusion. I simply wanted to propose a change, not from "reason to believe" to Senator BIDEN's "intent," but simply to put into the statute itself what the Senator from Rhode Island said his amendment meant.

Mr. BIDEN. Believe it or not, Mr. President——

Mr. CHAFEE. Wait a minute, Mr. President. If I am going to defend my amendment, I want to do the defending.

Mr. BIDEN. I think that is a good idea.

Mr. CHAFEE. If the Senator from Delaware wants to address a matter, he is perfectly free to do so. But I do not want him describing my amendment. I am perfectly capable of undertaking that by myself.

If he has a question, the Senator from Washington should go ahead and ask it. But in all fairness, he has been against this amendment right along, so I do not know what has changed all of a sudden that made it palatable to him. If it can be made palatable, I certainly would be delighted to do so within the realm of what is legal language and would hold up in court.

Mr. GORTON. Mr. President, I may say I cannot speak, of course, for the Senator from Delaware. I can, however, speak for the Senator from Washington, and I can only repeat that I felt that I had reached a point at which I could support the Senator from Rhode Island when I read his colloquy with Senator DURENBERGER. This was true, except for the fact that, as a cautious lawyer, I did not feel that what I understood from the colloquy was apparent simply from the plain meaning of the "reason to believe" language in the amendment itself.

It is for that reason that I suggested the softest possible amendment, an amendment which did not change the "reason to believe" standard of the Senator from Rhode Island, but which simply attempted to take the words out of his own colloquy with Senator DURENBERGER by adding to the definition of a "pattern of activity," the language, "The main direction of the pattern of activities must be to identify or expose covert agents."

I believe the Senator from Rhode Island has said that in fact is an accurate reading of what he said and meant in his colloquy with Senator DURENBERGER. My frustration stems from the fact that he is unwilling to put it in the statute.

It is just as simple as that, Mr. President. I would like to vote for the Chafee amendment.

Mr. CHAFEE. And, Mr. President, I would like to have him vote for it.

Mr. GORTON. Then why can we not add that language to the Chafee amendment? I suspect it would also secure the votes of a number of people who prefer the intent language.

Mr. CHAFEE. Mr. President, I do not know what else we can do. The Senator wants the changes made. The language which we have in here—we are plowing old ground now—deals with an intent to identify and expose agents. Why is that not clear enough? What does the Senator want?

Mr. GORTON. I do not propose to change that language, Mr. President. I do not propose to change a single word in that language. I simply propose to change the definition of "pattern of activities" to incorporate in it the explanation of that term which the Senator from Rhode Island accepted in his colloquy with Senator DURENBURGER.

Mr. CHAFEE. Mr. President, we have gone over this before and we can repeat it. Obviously, in a colloquy, one is not using exact, specific legal terms. A colloquy, history of the act, a report, all go into the makeup. But the specific language the Senator was seeking, I believe, is something different. Can he repeat his language, the main thrust, as it were?

Mr. GORTON. I can, President, and I shall be even more specific. The language in the bill is on page 9, subsection 10. That subsection says this:

> The term "pattern of activities" requires a series of acts with a common purpose or objective.

That is the entire definition as the bill appears now. I would add to that:

> The main direction of said patterns of activities must be to identify and expose covert agents.

I believe that this language—I do not mean to try to mislead the Senator from Rhode Island in any respect whatsoever—is the precise thrust of what he said that term "pattern of activities" did mean in answering questions of Senator DURENBERGER early in the course of this debate.

If I may say so—

Mr. CHAFEE. Let me just answer the Senator from Washington. He is an experienced lawyer, formerly attorney general of his State. What does he think of language that has words like "main direction?"

Mr. GORTON. I would suppose——

Mr. CHAFEE. Has he ever seen it?

Mr. GORTON [continuing]. That if I were a judge and I were dealing with a prosecution under this act and I had to give a jury instruction as to what the term "pattern of activities" means, and I were referred by either the prosecuting attorney or by the defense counsel to the debate over this in Congress because I was attempting to find out what it means, and I read the Chafee-Durenberger colloquy, I might very well make an instruction read that the term "pattern of activities" requires a series of acts with common purpose or objective, and the main direction of said pattern of activities must be to identify or expose covert agents.

I think I might very well take that right out of the debate over this bill. In my view, to a juror, that would be quite meaningful. That is plain, simple English; it is not even a particularly long sentence. Under those circumstances, why make the judge guess at making that instruction?

Mr. President, I do not think this language is vague or general, anymore than anything else in this proposal is. It is not something new. It is not in a foreign language. They are simple words.

I suppose that the reason that I bring this up is that it seems to me to consolidate and strengthen the position of the Senator from Rhode Island in this entire debate. If provides the great strengthening from his colloquy with Senator DURENBERGER by putting into the statute language which clarifies what he says it means.

Mr. CHAFEE. Mr. President, would the Senator remove the word "intent" on line 8, page 3, subsection (c)?

Mr. GORTON. I am sorry, Mr. President. Would the Senator repeat that?

Mr. CHAFEE. Would the Senator then remove the word "intent" in 601(c), where we say, "Whoever, in the course of a pattern of activities, intended to identify and expose * * *"?

Mr. GORTON. I do not think so. I was not proposing to make any changes there.

I was not proposing to strike anything from the Senator's amendment or from the bill. I was simply proposing to clarify the meaning of the term "pattern of activities."

Mr. CHAFEE. In the language we have, the pattern of activities has to have the intent. It has to be a pattern of activities, and it has to have the intent.

It seems to me that what the Senator from Washington is proposing is what we have in there. In the colloquy with Senator DURENBERGER—and I remember it—we put considerable stress on the very point of the intent.

Mr. GORTON. I believe that is so. A fair question in the colloquy with Senator DURENBERGER was whether or not we were dealing with what might be called the primary intent of the pattern of activities rather than a secondary or merely incidental intent. It was to clarify that question that the Senator from Rhode Island both set up the colloquy and answered as he did.

So, no, I do not think I would want to remove the word "intent" from the other portion in the statute. We probably could reach the same goal by simply putting "primary" before the word "intent" earlier in the act. However, I understood the Senator to object to that as being too drastic. I think this is a less drastic method of doing the same thing.

Mr. CHAFEE. Let us take it under consideration. Why does the Senator not move on, if he has other questions?

Mr. GORTON. No. As a matter of fact, since this is the central point in my colloquy with the Senator from Rhode Island, and since I intend to vote for the amendment of the Senator from Rhode Island if he accepts this proposal, the only conclusion I have here in my speech depends on what his answer is to my question.

Mr. CHAFEE. I shall have to consider that. We are not through yet. Obviously, we will be on this measure tomorrow.

Mr. GORTON. I am more than happy to have the Senator consider this proposition overnight and to obtain an answer later. At that point, I may have something further to say to Senator BIDEN.

Mr. CHAFEE. All right. By "all right," I mean that I heard the Senator, and I appreciate his suggestion.

Since the Senator has indicated that he is going to vote against me, anyway, I can only go up with regard to conforming to his wishes and, perhaps securing his vote.

Mr. GORTON. I thank the Senator from Rhode Island.

(Mr. ABDNOR assumed the chair.)

Mr. QUAYLE. Mr. President, I wish to respond to the debate of yesterday concerning the statement I made on January 25 of this year with respect to two fundamental points.

One, the appropriate element for a criminal statute, the issue there being the "reason to believe" standard versus the "intent" standard; and two, the question of gray mail.

Mr. President, the distinguished Senator from Rhode Island yesterday made some observations to which I should like to respond.

First, the fact that "reason to believe" language implies a negligence standard is well-founded throughout the legal community and by interpretation in the courts. The Senator from Rhode Island points out, with testimony from the Justice Department on October 6 of last year that:

> If the "reason to believe" standard stood by itself and were the only element of this offense, . . . it would in many ways resemble negligence.

So the Justice Department said, in response to a question by Senator LEAHY, that just by itself, yes, "reason to believe" language would be a negligence standard. Then the Justice Department goes on and is quoted in the RECORD as follows:

> Therefore, while that one provision, taken in isolation, would be sort of a negligence standard, it is accompanied by five other elements which involve actual knowledge and specific intent.

Mr. President, "intent" is the standard for a criminal statute. "Reason to believe" is the standard for a negligence statute.

I find it very interesting that the conclusion of the Justice Department goes to the actual knowledge and specific intent we are debating here today. I hope this body will view the debate in that context—that even the Justice Department is saying actual knowledge and specific intent are elements of the crime. Yet, we are going to be asked to vote on the Chafee amendment to insert "reason to believe."

The second point that my good friend and distinguished colleague brings up concerns the very important debate on the issue of gray mail, and the possibility that what the Chafee amendment would promote has been misunderstood. I do not believe that the arguments are complex, but it seems to me that, nonetheless, they are easily confused.

It has been suggested that the Chafee amendment would pose no problem of gray mail. With all due respect, I must disagree. The Senator from Rhode Island said yesterday:

> The "reason to believe" standard avoids this problem by focusing on overt acts rather than on some subjective state of mind.

I ask this: What other evidence, beside exposure of these overt acts, can be used to establish proof of guilt in such cases? What other evidence, beside exposure of such overt acts, would be thrown up as a defense?

I go back to the March 15 statement in the RECORD, where again the Justice Department is called upon to provide us with wisdom in correcting any uncertainties we may have. I read from the RECORD, page 4120, quoting Mr. Robert Keuch, Assistant Deputy Attorney General in the Carter administration:

> The Justice Department is concerned that the specific intent element will facilitate gray mail efforts to dissuade the Federal Government from prosecuting offenders.

What the Justice Department does not tell us is what the "reason to believe" standard will do to facilitate gray mail efforts to dissuade the Federal Government from prosecuting offenders.

Mr. President, this issue is much simpler than it is given credit for being. Obviously, the intent standard is more narrow; it is more difficult to prove. The "reason to believe" standard is broader in its context; it is more encompassing. Therefore, by logical sense, the "intent" standard in discovery elements will be more restricted, and the "reason to believe" standard in discovery will be expanded. That is the case we are arguing. That is the issue of gray mail.

Mr. President, I believe we will have to ask ourselves one very fundamental question, and it is this: Given a criminal statute, do we want a criminal standard? If the answer is yes, then the Judiciary Committee's language should stand. If the answer is no, then I suppose it would be advisable for those willing not to have a criminal standard to vote for the Chafee language.

Finally, I should like to comment on the recent colloquy I heard between the junior Senator from Washington and the Senator from Rhode Island. The colloquy left me with the understanding that the Senator from Rhode Island would be willing to consider the proposition put forth by the Senator from Washington. The Senator from Rhode Island did not give us any indication of what that consideration would be, but at least the discussion left me with the impression that he would be openminded with respect to the Gorton amendment, which keeps the basic principles of the Chafee amendment intact but does not agree with the precise language that was passed by the House of Representatives.

I find very disturbing what could happen here.

We have the "intent" and "reason to believe" language adopted by the House Committee on the Judiciary and overturned on the floor of the House of Representatives. We have the "reason to believe" or the "intent" language adopted by the Senate Judiciary Committee and a chance of being overturned on the floor of the Senate. We have two committees in both Houses which have paid far more attention to this issue than 90 percent of the Members of the House of Representatives or 90 percent of the Members of the Senate. That is the way the committee system works.

If we adopt the Chafee language without the amendment or without the suggestions from the Senator from Washington, we are not going to have a conference on this disputed language. There will be no middle ground. And we will in fact have both Houses overturning committees on a very important and substantive issue.

Speculation is that the vote is going to be reasonably close. I would say to those who are listening and to those who are not here today that, if there is a question in their minds on whether the Chafee amendment is the proper language, they vote against the Chafee amendment, unless Senator CHAFEE is willing to consider the proposition put forth by the Senator from Washington.

Otherwise, we will be doing something that ultimately we could be sorry for.

Deliberations have taken place in both committees, the House of Representatives and the Senate, and there is a chance now that those committees will be overturned.

Not even looking at the merits, but just looking at the simple process of overturning the committees and thus not having that item conferenceable, I believe would be a serious mistake in the legislative process that we so fervorishly support.

Mr. CHAFEE. Mr. President, I wish to address the last point of the distinguished Senator from Indiana and then I will address the others. The point he seems to be making here is that when committees have considered language, woe betide the rest of us on the floor of the Senate should we consider changing that. I just cannot believe that that is the thrust of his argument.

First of all, if we want to follow that through. If he accords such significant consideration in the committees to the language that therefore we are bound to follow it here on the floor at great risk if we do not do so, certainly is plowing a new path in senatorial conduct.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. CHAFEE. If I may finish, he will recall that this matter was set before and was considered in the subcommittee of the Judiciary Committee for something like 4 months and there the subcommittee approved the Chafee language. Then it came to the full committee in a rather short time. They overturned it by vote of 9 to 8. Is it your suggestion that based on that narrow vote which indeed reversed the vote of the subcommittee—and if you want to allocate time considered I would suspect the subcommittee devoted more hours than were devoted to the amendment in the full committee. Then the matter came to the floor where this is hardly being rushed through. We first considered it in December 1981, and it has been pending since then. We have debated it here 4 hours today and 3½ hours yesterday and there is plenty of time remaining. We stopped only because no one else wanted to speak or be heard on the matter.

So if that is the thrust of the Senator's argument, that we should not overturn a 9-8 vote in a senatorial committee, because we do not know the substance of this measure, that is an argument I really would have to reject, even though the man propounding it——

Mr. QUAYLE. Will the Senator yield before he has to reject the proposal?

Mr. CHAFEE. The man proponding the argument is such a knowledgeable person that his mere suggestion of it brings great weight to the argument. But even considering the meritorious factors that go with the proponent of this argument, the junior Senator from Indiana, I really have to say it does not seem to me to have much weight, contrary to most of the arguments he presents.

Mr. QUAYLE. Will the Senator yield for a weighty question?

Mr. CHAFEE. I yield.

Mr. QUAYLE. I wonder in the Senator's astute participation and observance of the legislative process over these years if whether in fact he can recall such action being taken where both Houses of Congress are going to in fact overturn committee decisions. I am not going to say and do not mean to say or to leave the impression that this body certainly does not have the right to do it. This body certainly has been deliberate. I only point out to the distinguished Senator from Rhode Island that there are a total of, let us see, three Senators on the floor at this particular time listening to this debate. There obviously is a question of whether the Chafee amendment is right. We have had a very prolonged debate. There is going to be consideration of the Gorton amendment. What I am suggesting to those who may not be completely comfortable at this time accepting the Chafee amendment is that they should vote against it with the anticipation of getting a compromise between the reason to believe standard and the intent standard.

What I am saying and warning this body is if in fact we adopt the Chafee amendment, there is no time left for negotiation on an in-between position on "reason to believe" and "intent." That is the thrust of my argument. I am not doing any kind of violence to this process, or casting any kind of question upon the deliberate body of the Senate. But I do want to caution those waivering Senators that they might find it convenient in the search of a compromise which many like to see to not vote for the Chafee language because we are not going to get a compromise if the Chafee amendment prevails.

Mr. CHAFEE. Let me respond to that.

First of all, can I cite a situation where an amendment—not the whole act, but an amendment—has been adopted in such a fashion in both Houses? I do not know. I am certainly sure that it is because the full bodies frequently go against the committees themselves.

Second, this amendment has been thoroughly considered. It is not as though we stumbled into it. We cannot observe only the fact there are three Senators on the floor. Obviously, there are Senators listening on their listening boxes in their offices. Indeed, this is a measure that has seen Senators from both sides proselytized by the newspaper association, by the ACLU, by a host of different organizations, including those interested in the intelligence agencies of our country. So it is not something that has just popped up and is being adopted in rapid fire fashion.

So, as to the question of compromise, this is not something that lends itself to compromise. There are two different approaches: Approach A and approach B. We cannot have an approach C that blends them both. I mean there is a difference here. When the Senator talks as though there is some magic way of weaving both forms of language in the amendment, it is not possible because the problem is this: Even though the United States Code has examples of statutes which state a person can have either "intent or reason to believe," the opponents of my amendment are objecting to the reason to believe standard. And so a compromise, for example, that went along with those statutes I have cited previously in 18 United States Code where we have a choice of both standards would be acceptable.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. QUAYLE. It is my understanding that there is a compromise floating around in the nature of the Gorton amendment, and if I heard the colloquy correctly, that you left the impression—and I tried to write it down here—that you would consider the proposition that has been put forth. You did not give us an answer one way or another, but certainly you would consider it, keep an open mind, because there is not a difference between A and B, that there could be a logical and preferable path, and that would be C.

So what we are going to be forced to do though if we adopt the Chafee language is to cut off any kind of a compromise, which would be the C element and not A and B as the Senator describes.

Mr. CHAFEE. Well, let me just say this: I do not think even Senator Gorton would suggest that his proposal is a C as opposed to an A or B.

He had various proposals for the modification of 601(c), the language which is the crucial element which we are debating here. But he withdrew those and now his proposal solely goes to adding a few words, something like six words, to the definition of "pattern of activities," which exist in section 606 of the act.

It is under the definition portion rather than under the crucial section 601(c).

Mr. QUAYLE. Mr. President, will the Senator yield? I would like to just read a March 11, 1982, letter from the Senator from Washington, the first paragraph:

> It seems to me that a compromise is nonetheless still a possibility if the bill proceeds to a conference on this issue. That will not happen, of course, if the Chafee amendment is adopted. Thus, even though I (Senator Gorton) am a cosponsor of the bill in the Chafee form I will vote against the Chafee amendment and hope the conference will work out a suitable compromise in light of this debate.

That is what we are talking about. This is not compromise if the Chafee amendment is passed.

Mr. CHAFEE. Well, you heard the proposal of the Senator from Washington. He suggested we added to the definition of "pattern of activities" words that would be acceptable to him.

I do not think anyone looking at this act would say that that goes to—changes the very heart of either my amendment or the committee bill that is on the floor here this afternoon.

I think one other point we should make is there are many of us who are deeply disturbed over the currently existing situation with regard to the disclosure of the names of our agents. One of the many virtues in voting for the Chafee amendment is that with the adoption of the Chafee amendment I am confident that the act will pass here. We then would be confident of swiftly having a bill, and thus the protection would be afforded rather quickly for our agents.

I know that early in the day the distinguished Senator from Delaware introduced a letter from the chairman of the Intelligence Committee in the House in which he said:

> As far as I am able to influence the decision, the House would seek a conference regardless of the outcome.

I believe that was followed up but not only would they seek a conference but also I think the Senator from Delaware repeated a telephone conversation in which he said that the chairman of the House Intelligence Committee would swiftly seek a conference. That may be. That is splendid.

But as the junior Senator from Indiana knows so well, having been experienced in the House, these things just do not happen that quickly. They do not get conferences that fast. You may have a conference, you may have it swiftly if the vacations can coincide and the times can be worked out. But in addition to that I have sat on conferences, and undoubtedly you have sat on conferences, that never came to a conclusion. Nothing happened.

We had an Economic Development Administration conference with the House in which neither side gave, and we never had a bill.

So one of the virtues in voting for the Chafee amendment is we know we will have a bill.

Mr. BIDEN. Mr. President, if the Senator will yield on that one point, we will have to have a conference anyway, let us make that clear, no matter what. If the Chafee language is adopted—and I will stand corrected if I am wrong—it is my clear understanding that we have to have a conference anyway. There are other differences in the bill, not as fundamental as the intent difference, on which there will have to be a conference.

But the Senator from Indiana is correct, there will be no compromise on what we agree on if the Chafee language is adopted here. The relevant portion is the same as what is in the House language, and there will not be any chance to compromise on that.

But the notion that a conference will not be called swiftly or if that language is passed there is no need for a conference should be disabused. We have to have a conference anyway.

Mr. CHAFEE. Let me say, in response to that, if I might, yes, there would be differences. If the Chafee amendment is adopted there will be differences in the languages. The Senator is quite correct when he said they were not major but minor. I believe they are minor. I believe the House still has the language pertaining to cover provisions. But that is a kind of matter that indeed can probably be worked out. I think we have seen examples of where you never even actually go to conference, it is worked out without meeting.

Mr. BIDEN. The point I want to make is you made reference to holidays and times, and whatever, as if that was an impediment.

Mr. CHAFEE. The difference is that when you do not have matters of substance, sometimes they can be worked out, really, without a conference. The two chairmen get together and that is it. But I think the crucial point is if the Senator from Indiana is suggesting that there is some magic compromise that is possible, he should know that the Senator from Delaware and I have been working on this matter for some time. There has never been a compromise suggested. I mean this is language that——

Mr. BIDEN. I am prepared to accept the compromise. I am prepared to consider this language and, quite frankly, the Gorton language which adds:

> The main direction of said pattern of activities must be to identify and expose covert agents.

I think that does go to the heart of the issue on which we have a disagreement. It is one I do not like as much as the intent language, but it is one I am willing to consider, and if we can get a compromise on it, it is better than the language that exists. It is a significant change. I am willing to do that, I am willing to go into that.

But I do not discard that out of hand because it really does make a significant difference. The additional language added by Senator GORTON is very critical, for example. The whole thing would read then:

> The term "pattern of activities" would require a series of acts with a common purpose or objective. The main direction of said pattern of activities must be to identify and expose covert agents.

It thus requires the courts to go back to the language in which the reason to believe standard is contained, and if those six elements are approved that the Senator from Rhode Island constantly refers to, which have some real teeth in them, in order to establish a pattern of activities, you have to show that it would be the burden on the State to prove that the main direction of the pattern was to identify and to expose.

Therefore, a logical defense would be "My main direction was not to expose the name of Charlie Smith, the agent. My main direction was to uncover a mole in the agency."

Then, in effect, the Gorton language is not quite as strong as "intent" but the Government essentially has to prove intent. So it is substantive, it is real. It is a compromise I would consider. But I do not think the Senator from Rhode Island can disagree with the effect of the Gorton compromise.

Mr. QUAYLE. The Senator from Delaware is saying there is a potential for compromise. The Gorton language does not suite the distinguished Senator from Delaware in all manners, but it is certainly preferable than leaving it as is.

I believe that we are in this posture, as was first brought out by the Senator from Washington, further advanced by the Senator from Delaware, that there is a potential of compromise. Well, certainly there is not going to be any magic wand waved to get a compromise between the two distinguished Senators from Rhode Island and Delaware. They have been working too long and too hard on this issue. But, at the final hour, as we come down to and prepare to vote for this, the Senator from Washington has put forth what appears to be a reasonable compromise. At least one element of this friendly confrontation that has been going on for months is willing to accede to the fact that it is a reasonable compromise.

Mr. BIDEN. I would add, if the Senator would yield, it is not merely that it is reasonable, it is a substantive change in both positions. Keep in mind the reason to believe standard would then be modified by a definition of the pattern of activity that essentially required proof of an intent to do something other than to write a story about uncovering a mole in the agency. The Government would have to be able to prove, under the Gorton language, that the main direction, the primary purpose of the activity that the writer engaged in was to expose an agent.

If, in turn, that writer, that newspaper person, could come into court and defend and say, "No, I can establish by the following 27 witnesses—ask my editor, ask my wife, ask the CIA agent I went to, they all know the reason I was going after this, I didn't care about John Smith's name, I wanted to know whether or not there was an illegality going on."

They can offer that proof as a defense and it has to be rebutted by the State. The State would then have to say, "No, no. The main direction of your pattern was to disclose it."

That is an additional safeguard. That is substantive. That is real. I do not think it goes as far as my intent language, which I prefer, but it is not cosmetic. It is real.

Mr. QUAYLE. Mr. President, I think we have made progress here.

Mr. CHAFEE. Let me just say this in response to what the Senator from Delaware is saying. When we get into the very problem that has been testified to by representatives of two separate administrations, you get into this business of the defense saying, "No, no. That wasn't my main direction. Ask my wife, ask my publisher, ask my adviser. My main direction was really to write a terrific book about the operations of the U.S. Government. My secondary direction was to identify and expose agents, but that wasn't my principal reason."

That is why you found me having such reluctance in connection with this suggestion of Senator GORTON and, indeed, my refusal to accept it here.

Mr. BIDEN. I guess the Senator does not like the Gorton language, is that what he is trying to say?

Mr. QUAYLE. Will the Senator yield?

Mr. BIDEN. Yes.

Mr. QUAYLE. Mr. President, I think I heard the Senator from Rhode Island, in response to the Senator from Washington, say that he would certainly take this language, consider this proposition of the Senator from Washington. So we now have one-half of the debaters saying, "Well, it is a compromise. I don't particularly like it, but I will support it." We have the other half saying, "I am going to take it under advisement."

I would say we are moving toward a resolution on this issue. All of us want an agent identities bill, at least this Senator does. There may be some Senators that do not. I do not believe by opposing the Chafee amendment that anyone ought to be put in the category of not wanting to see this bill passed as fast as possible. I want to see it pass for the very reasons that the Senator from Rhode Island has been working on this for how long? Two years, three years?

Mr. CHAFEE. Two and a half years.

Mr. QUAYLE. Two and a half years of his distinguished career in the U.S. Senate has been contributed toward this legislation.

I want to see it pass, but I also want to see it in the best language possible. I think we have the makings of a compromise, at least we are moving in that direction.

Mr. CHAFEE. We are not moving far in that direction.

Mr. QUAYLE. Let us move a little further.

Mr. CHAFEE. This Senator, this administration, the prior administration, both Justice Departments, both U.S. attorneys, and both heads of the CIA want legislation that protects first amendment rights and prohibits these activities that have gone on. So, as I said, I would consider it. But that does not mean I will take it.

Mr. BIDEN. I think that is a good place to end the discussion.

Mr. CHAFEE. I think that is a splendid place. But I do not want anybody walking out of here, or I do not want any newspaper reporters to say this is a magnificent solution that is going to settle all problems. We will review it. We are always open to reviewing anything.

● Mr. BAUCUS. Mr. President, the activities of those who intentionally and maliciously expose the identities of this Nation's intelligence agents must be stopped. Those who disclose the names of these agents with the express intent of jeopardizing the agents' positions should be held accountable for their actions. Recent, well publicized examples of such reprehensible conduct have resulted in at least one tragedy as well as the endangerment of the lives of countless numbers of our intelligence agents and their families.

It is absolutely essential for our Nation to have intelligence information which is timely and accurate. The United States can collect this vital intelligence only through the operations officers of its intelligence agencies. But the identities of these loyal Americans has been shown by the recent turn of events to be in need of more stringent protection, particularly from those who make it their business to be in the business of naming names.

In an effort to protect our national security and to stop this reprehensible conduct, the Senate Judiciary Committee has reported S. 391, the Intelligence Identities Protection Act of 1981.

While I strongly support the intent of this legislation, as we draft the specific provisions we must be mindful of the protections provided to individuals by the Constitution. Any attempt to prohibit the dissemination of information must be balanced with the Constitutional guarantees of free speech and freedom of the press. This issue before us is not whether we should protect the CIA. Rather the issue is whether we should draft legislation to protect the CIA that is careful not to impinge upon constitutional guarantees.

The language of 601(c), as currently written in the bill, both protects the constitutional guarantees of free speech and sufficiently penalizes those who undertake to identify covert agents "with the intent to impair or impede the foreign intelligence activities of the United States."

The basic rule of constitutional law, as written by Justice Holmes in 1919 is "whether the words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about substantive evils that Congress has a right to prevent." *Schenck* v. *United States* 249 U.S. 47 (1919). In other words, Congress can only place restrictions on speech where the damage from speech is imminent, where the danger outweighs the need for free expression and where the means chosen to restrict speech are not overbroad.

And that brings us to the crux of the matter: The means chosen which will least burden that constituional guarantee of free speech. The Supreme Court has defined Congress limits in *Broadrick* v. *Oklahoma*, 413 U.S. 601, 607 (1972) when it is said:

> It has long been recognized that the First Amendment needs breathing space and that statutes attempting to restrict or burden the exercise of First Amendment rights must be narrowly drawn and represent a considered legislative judgment that a particular mode of expression has given way to other compelling needs of society.

I believe the intent standard currently in this legislation will satisfy this requirement and withstand subsequent judicial scrutiny. The standard adopted in section 601(c) applies criminal penalties only to deter those who make it their business to ferret out and publish the identities of agents. At the same time, it does not affect the first amendment rights of those who disclose the identities of agents as an integral part of another enterprise such as news media reporting of intelligence failures or abuses, academic studies of U.S. Government policies and programs, or a private organization's enforcement of its internal rules.

The bill erects a number of hurdles against prosecution to protect the journalist and intelligence critic. The Government would have to prove each of the following elements beyond a reasonable doubt:

First, that there was an intentional disclosure of information which did in fact identify a covert agent;

Second, that the disclosure was made to an individual not authorized to receive classified information;

Third, that the person who made the disclosure knew that the information disclosed did in fact identify and disclose a covert agent;

Fourth, that the person who made the disclosure knew that the United States was taking affirmative measures to conceal the covert agent's classified intelligence affiliation;

Fifth, that the disclosure was made in the course of an effort to identify and expose covert agents; and

Sixth, that the person making the disclosure did so with the intent of impairing or impeding the foreign intelligence activities of the United States.

A newspaper reporter, acting in a professional capacity is not likely to have engaged in disclosing information with the requisite intent "to impair or impede the foreign intelligence activities of the United States by the fact of such identification and exposure." Instead, such a result would ordinarily be the side effect of his conduct and thus outside the scope of this legislation.

In my view, the "reason-to-believe" standard being proposed by the Senator from Rhode Island does not strike the correct balance between criminalizing the conduct we all agree should be stopped while at the same time preserving important press protections. More than 100 constitutional law experts share this perspective and believe the Chafee standard to be unconstitutional. The "reason-to-believe" standard is simply too broad to fall within the limit defined in Broadrick against Oklahoma. It would have a chilling effect on the press.

It is this chilling effect that the intent standard in the committee bill will effectively avoid, while preserving much needed sanctions for those who represent a very real threat to our national security. I therefore oppose the Chafee amendment, but strongly support S. 391, as reported by the Judiciary Committee.●

● Mr. GRASSLEY. Mr. President, earlier this year, as a member of the Senate Judiciary Committee, I voted in favor of S. 391, as originally introduced. I intend to reaffirm my strong support for the bill here today and I hope that we can restore the bill to its original form.

In this bill, as in other bills that the Judiciary Committee has studied in this and the prior session, we have been asked to balance first amendment rights against the Government's ability to suppress information necessary to protect the men and women of the intelligence community, whose secret work is vital to the Nation's security.

Some have opposed this legislation. The opposition states that the bill undermines first amendment rights. But, overwhelmingly, it has been viewed and it should be viewed as an attempt to bolster or protect our covert intelligence and counterintelligence agents.

Controversy over this legislation has focused on the specific intent requirements of the bill. The intent standard in the Chafee amendment "to identify and expose covert agents," rather than an intent "to impair or impede the foreign intelligence activities of the United States" establishes an objective standard that the defendant must be engaged in a conscious plan to seek out and expose undercover intelligence operatives where such conduct would impair U.S. intelligence efforts.

I have been convinced beyond a reasonable doubt that this legislation is needed to prohibit the systematic exposure of agents' identities under circumstances that pose a clear threat to intelligence activities vital to the Nation's defense. I am also convinced that this bill goes to great lengths to distinguish between the ghoulish business of furnishing the enemies of the United States with information that invites and facilitates violence against its agents and mere reporting. I am satisfied with the terms of this bill and the protection that it affords. I encourage all of my colleagues to support this bill and its goals.●

Mr. DECONCINI. Mr. President, S. 391, the Intelligence Identities Protection Act of 1981, is an extremely important bill, and I have been noting its progress, along with the progress of its counterpart in the other Chamber, H.R. 4, with great interest. I strongly support this bill because I believe that it is essential that we provide adequate protection to our intelligence agents.

The pernicious practice of naming names of U.S. intelligence agents must be brought to a halt. This practice has a negative impact on our intelligence gathering system in two ways; not only does it compromise the interests of the United States by hampering the effectiveness of our intelligence activities, it also has the more immediate and tragic effect of placing the lives and freedom of our individual agents in the field in danger.

There are, however, other interests which we must take into account, and it is one such additional interest which has led me to support Senator BIDEN's language, which is currently a part of S. 391, over the language proposed by Senator CHAFEE. The difference between these two proposals involves the standard of proof necessary to obtain a conviction under section 601(c) of the bill. Senator CHAFEE's language would eliminate the requirement that, to be guilty of a crime under the bill, a person must have specific intent "to impair or impede intelligence activities by the fact of identification and exposure" of agents. The amendment would substitute "reason to believe" for "specific intent," thereby reaching any investigative reporter who writes an article which identifies a covert agent. The individual's lack of purpose to impair or impede intelligence activities, and even his lack of knowledge that such a result would occur, would be irrelevant. Thus, the "reason to believe" standard would be the equivalent of a negligence standard.

I feel that such a standard would have a substantial chilling effect on the legitimate activities of the Nation's newspapers and news media, an effect that could well bring the law into direct conflict with the first amendment. Indeed, I have recently conferred with several representatives of the new media from my home State of Arizona, and they indicated to me that the language authored by Senator BIDEN would grant them the constitutionally requisite freedom of action in this area of press activity. I believe that S. 391, with Senator BIDEN's language intact, will allow us to stop the purposeful revelation of our agents' identities which currently threaten our intelligence activities, while at the same time allowing this Nation's news media to continue their legitimate reporting and investigatory activities as envisioned by the Bill of Rights.

I am certain that this bill will meet the concerns that were expressed by the Director of the Central Intelligence Agency to the Committee on the Judiciary, and that it will raise morale significantly within that agency. I urge the active support of my colleagues for this bill so that we may enact it into law as quickly as possible.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the protocol to the North Atlantic Treaty on accession of Spain; that the treaty be advanced through its various parliamentary stages, up to and including the resolution of ratification; and, that, on the resolution of ratification, there be the following time agreement: 1 hour, to be equally divided between the chairman of the Foreign Relations Committee and the ranking minority member or their designees; and that no reservations, amendments, declarations, or understandings be in order; and that, following conclusion of that treaty, the Senate turn to the nomination of Max L. Friedersdorf, of Florida to be consular officer and secretary in the Diplomatic Service of the United States, under a time agreement as follows: 30 minutes to be equally divided between the chairman of the Foreign Relations Committee and the ranking minority member or their designees and that, following that, the Senate turn to the confirmation of Calendar Nos. 616 and 667.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I shall not object. I am authorized by Mr. PELL to proceed on the basis of the time agreements that have been stated by the distinguished assistant Republican leader, so there is no objection on this side.

Mr. STEVENS. Is the time agreement agreed to, Mr. President?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROTOCOL TO THE NORTH ATLANTIC TREATY ON THE ACCESSION OF SPAIN

Mr. STEVENS. Mr. President, I now ask that the Senate go into executive session pursuant to that agreement and that the Senate turn to the consideration of the protocol under the agreement.

The PRESIDING OFFICER. Without objection, it is so ordered; and without objection, the treaty will be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification, which the clerk will state.

The assistant legislative clerk read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol to the North Atlantic Treaty on the Accession of Spain, signed in Brussels on December 10, 1981, on behalf of the United States and the other parties to the North Atlantic Treaty.

Mr. PERCY. Mr. President, I see in the Chamber the distinguished Senator from Rhode Island (Mr. PELL), the ranking minority member of the Foreign Relations Committee, and today, with a great sense of personal pleasure and privilege, I call upon the Senate to discharge a very significant responsibility.

In these time when we all spend our days grappling with international crises and intractable domestic economic problems, it is a lift to the spirits to turn to the business of Senate advise and consent to the ratification of the protocol to the North Atlantic Treaty on the accession of Spain.

On November 26, 1981, the Spanish Senate authorized the Government of Spain to seek an invitation to join NATO. In Brussels, on December 10, 1981, the Foreign Ministers of NATO members signed the protocol of Spanish accession to the North Atlantic Treaty. President Reagan on January 26, 1982, transmitted the protocol to the Senate for its advise and consent to ratification, calling Spain's rededication to the values and purposes underlying the North Atlantic Treaty and her decision to seek full partnership in NATO "historic developments and a source of inspiration in these troubles times." The Committee on Foreign Relations considered the protocol, reporting it to the full Senate favorably and without reservation on March 9, recommending that the Senate give its advise and consent to ratification. Today we have a unique opportunity to show our support for the new Spanish democracy, significantly strengthen the North Atlantic Alliance, and demonstrate the vitality of common Western values and institutions.

Spain's transition to democracy is an example of what a people determined to control its own destiny can accomplish. The death of General Franco in 1975 signaled the beginning of a new era in Spanish history. Since that time, Spain has made extraordinary progress in the restoration and strengthening of her democratic institutions. Senate endorsement of Spanish entry into NATO would confirm American support for this process.

U.S. relations with Spain have, for many years, been characterized by a deep mutual respect and understanding. The United States places great importance on continuing this climate of cooperation. Since 1953, the United States and Spain have enjoyed a close bilateral military relationship, and Spain has made important contributions to Western security. Spanish NATO membership will broaden this bilateral cooperation and, at the same time, substantially enhance Western unity and security.

Spain, occupying the major part of the Iberian Peninsula and fronting both the Atlantic and the Mediterranean Sea, is of unique strategic importance. Spanish accession will not only integrate Spain's important contribution to the peace and security of Europe and the Atlantic into alliance defense planning. It will also insure that Spain again takes its rightful place among the councils of Western nations. Spanish participation in the defense of Western values and institutions is only natural for a nation which has so greatly influenced the development of our civilization.

We hope the Spanish people will see our vote as an affirmation of close United States-Spanish ties. We intend it that way. The American people will see Spanish accession to NATO as a recommitment to the values and purposes underlying the North Atlantic Treaty, the determination "to safeguard the freedom, common heritage, and civilization of their peoples, founded on the principles of democracy, individual liberty, and the rule of law." Spain's historic decision to uphold these principles in every aspect of her national life, and to become a full partner in the common defense of these principals through NATO earns the immense respect and admiration of the American people.

Swift action now by the U.S. Senate will contribute to the process of prompt and convinced action by the legislatures of other NATO members. Four nations have already completed the ratification process—Canada, Iceland, Norway, the United Kingdom. It is hoped that remaining NATO member governments will complete ratification this spring, so that Spain can be welcomed formally into NATO councils and the alliance take proper pride in this significant strengthening of its defense strength and common democratic purposes.

As President Reagan affirmed on the occasion of King Juan Carlos' visit to Washington in October of 1981:

> We support Spain's decision to enter NATO. As Spain pursues its Western vocation, it can count on the United States as a strong and willing supporter.

Therefore, in support of the President's commitment, and on behalf of the Committee on Foreign Relations, I have the honor to ask the Senate to give its advise and consent to ratification of the protocol to the North Atlantic Treaty on the accession of Spain.

Mr. President, I wish to express deep appreciation to the distinguished Ambassador from Spain, José Llado, who has attended our hearings, who always has been available for advice and counsel, and who is a great friend of Spanish-American relationships and of this treaty. We are also happy to welcome Alonso Alvarez de Toledo, Chargé d'Affaires of Spain, and Navy Captain José Luis Fauste, Defense Attache of Spain.

Mr. PELL. Mr. President, for nearly 30 years—ever since 1953—the United States has been joined with Spain in formal mutual defense arrangements. Unfortunately, during much of this period, the relationship suffered from a basic ambivalence. For its own reasons, each Government valued the military aspects of the relationship. But on the political side, United States-Spanish relations were conducted at arm's length, as the United States sought to avoid too close an association with the repressive regime of Gen. Francisco Franco.

From one side came the argument that our policy had fallen into the perverse trap of alining itself with fascism in order to strengthen our cold war position against communism. From the other side came the rebuttal that, given Spain's strategic significance and Western Europe's rejection of Franco, a tenuous United States-Spanish connection represented the best practical compromise for Western security—at least until Franco's departure made possible the emergence of Spanish democracy.

In 1976 this issue was squarely joined when the Senate considered a newly negotiated defense agreement with Spain, proposed in the form of a treaty. Some on the Foreign Relations Committee, myself included, worried that unqualified endorsement by the Senate would send the wrong message to Spain, providing both to the Franco government and its opponents the erroneous impression that Americans were content with the Spanish status quo. Thus, after considerable deliberation, the committee attached to the resolution of ratification a clearly worded declaration that U.S. policy envisioned and supported the evolution of democratic institutions in Spain.

At the time, the Ford administration resisted this Senate initiative. And when it was nevertheless approved by the Senate and thereby became an integral part of U.S. ratification of the new treaty, the Spanish Government reacted with discernible displeasure. Yet the Senate's action soon proved itself to be more than prudent. Within a matter of months, Franco was dead. And in the tumultuous and uncertain period which followed, the United States was plainly strengthened in its relations with Spain's new leaders by having taken that position of principle. It was, one might say, a classic division of labor: the Senate having tempered the Executive's strategic efforts with a necessary emphasis on human rights.

Fortunately, Franco's passing did indeed release the Spanish democratic impulse which Franco's policies had so severely repressed. And under the adroit leadership of King Juan Carlos, political freedom has been nurtured and given life. The result today is that a Spain long ostracized by the European democracies has been gratefully accepted. Detailed negotiations on Spanish entry into the Common Market are well underway; and Spanish accession to the Atlantic alliance has been approved by all 15 NATO governments, subject to requisite procedures of ratification in each country.

In some alliance nations, such steps have already been completed. And our positive action today would render the necessary consent for American ratification. Since this action represents a hope the Senate enunciated some 6 years ago—Spain joining the family of Western democracies—I have no doubt as to the outcome of our vote. On behalf of the many Americans who have cared for the Spanish people through their long years of travail on the way to democracy, I welcome Spain to the Atlantic alliance.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield such time as he desires to the distinguished chairman of the Armed Services Committee, Senator Tower, who has supported this concept from its inception and has urged to speedy action by the Senate. I have been very pleased to continue to report to him as we have made progress through the hearing process, and so forth. We deeply appreciate his great support in this matter, as a strong, staunch defender of NATO from its outset.

Mr. TOWER. I thank the distinguished chairman of the Committee on Foreign Relations.

Mr. President, last November 25, our counterparts in Madrid, members of the Spanish Senate, voted to approve the Government of Spain's initiative to seek membership in NATO. Two weeks later, on December 10 in Brussels, NATO foreign ministers, including Secretary Haig, signed the protocol on Spanish accession to the North Atlantic Treaty. Now, in a ratification process underway in all 15 member states—and I should note already completed in 5—national legislatures are being asked to ratify this protocol.

Mr. President, I strongly support Senate ratification of the protocol on Spanish accession to NATO.

Less than 1 month ago, I had the opportunity to travel to Madrid at this auspicious moment in Spanish history, and I can assure this body that democratic institutions there are thriving. I met with many officials, including Prime Minister Calvo Sotelo, Foreign Minister Perez Llorca, Defense Minister Oliart, and the Spanish Senate's Defense Committee—a group whose members will visit us later this month in Washington. What was clear from my trip is that the overwhelming majority of all segments of Spanish society—business people, the military, the church, politicians—strongly support Spain's post-Franco transition to democracy. The change is remarkable: In 7 short years Spain has constructed a democratic way of life that will greatly complement those of the partners of the alliance that Spain now seeks to join.

This, then, is a paramount reason for our acting swiftly—and hopefully unanimously—today in ratifying this protocol. Spain's membership in NATO will further strengthen her commitment to democracy and welcome her back to the family of Western institutions.

Mr. President, I would also note the strategic importance of Spain and the very real contribution Spain will make to the strengthening of the Alliance's military capabilities. Spain's Armed Forces will help monitor the Western Mediterranean and will fortify the West's defense with a strong antisubmarine warfare force that is already near NATO standards. With a strong modernization effort, the Spanish Army will provide additional deterrent strength to the Alliance.

I note that the Spanish military is undergoing an 8-year modernization program that is rational, well planned, and I think will enable Spain to make an enormous contribution to the defense of Western democracy.

Perhaps far more important than the additional military hardware and men Spain will bring to NATO is the inspiration for Americans and West Europeans who see that even in these troubled times democracy has an irresistible appeal.

Mr. President, I commend the leadership of the Foreign Relations Committee, Senator Percy and Senator Pell, for timely action on this matter. I believe that it is essential that we act now. It is essential that Spain gain full accession to NATO prior to NATO's summit meeting scheduled for late in the spring to take her place along with leaders of the other Western democracies who form the bulwark against the aggressive designs of the Soviet Union on the free world.

It is important that we act now to serve as an example to other nations who have not yet acted to ratify this accession which hopefully we will do in a seasonable way.

Mr. President, I urge my colleagues to unanimously endorse, advise, and consent to this protocol.

Mr. LUGAR. Mr. President, as chairman of the European Affairs Subcommittee and as a U.S. Senator greatly pleased with the recent return of Spain to democracy, I join with the distinguished chairman of the Senate Foreign Relations Committee, Senator Percy, in warmly and strongly endorsing full Spanish membership in the North Atlantic Treaty Organization.

Spanish membership in NATO represents a reaffirmation and enhancement of Spain's traditional and important ties to the defense of Western democratic values. It is in the interests of both Spain and NATO that the newly reconstituted Spanish democracy become an active and full partner in the defense of the Western alliance.

Spanish entry into NATO is also a reaffirmation of the values and purposes underlying the North Atlantic Treaty Organization. With this in view, I urge my colleagues in the Senate to join with me in giving their unanimous advice and consent to the ratification of Spanish entry into NATO.

SPAIN WILL BECOME A MEMBER OF NATO

Mr. HARRY F. BYRD, JR. Mr. President, I am delighted that Spain will become a part of, a member of, the North Atlantic Treaty Organization. I have felt for many years that Spain could and would make a tremendous contribution to NATO.

Many years ago I urged that Spain be admitted as a member of the North Atlantic Treaty Organization, and I am glad it is now coming to pass.

Mr. President, I ask unanimous consent that several speeches I made on this subject in earlier years be printed in the Record tomorrow. I do not have the speeches available to insert tonight.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, so far as I know, there is no desire to speak on our side. I think we can yield back our time.

The PRESIDING OFFICER. Does the Senator yield back this time?

Mr. PELL. I yield back my time.

Mr. STEVENS. Mr. President, I ask for a division.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution of ratification.

All those in favor, please stand; all those opposed, please stand.

On a division, two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification is agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. PELL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

Mr. STEVENS. Mr. President, I now ask the Chair to lay before the Senate the nomination of Max L. Friedersdorf.

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of Max L. Friedersdorf, of Florida, to be consular officer and secretary in the diplomatic service of the United States of America.

Mr. PELL. Mr. President, it is with considerable reluctance that I rise in opposition to the nomination of Max L. Friedersdorf as a consular officer in the diplomatic service of the United States. With my colleagues on the Foreign Relations Committee, I have great respect for Mr. Friedersdorf and for the kind of work ne has done during his long and distinguished career in public service including his service as President Reagan's chief legislative liaison, as Commissioner of the Federal Election Commission, as staff director of the Senate's Republican Policy Committee, and as a special assistant to President Nixon on legislative affairs.

I am, however, deeply concerned that his appointment as consul general to Bermuda would set a precedent for political appointees to fill positions traditionally reserved for career members of the Foreign Service. The appointment of nonprofessionals to such positions would seriously undermine the morale of our Foreign Service and could do considerable harm to the effectiveness of our representation abroad.

This appointment has been vigorously opposed by the representatives of our professional service. In a letter to Secretary Haig, the president of the American Foreign Service Association, Ambassador Charles Whitehouse has written:

> Assigning noncareer officers as consuls general will have a serious adverse effect on the morale of the Foreign Service * * * what appears to be the blatantly political character of this assignment will be widely criticized by the Foreign Service which will be opposed not only to this particular case but will view it also as the opening wedge for further noncareer assignments to other similar posts.

As a principal author of the Foreign Service Act of 1980, I also share Ambassador Whitehouse's view that the appointment of noncareer persons as consuls general may violate the provisions of Section 502(b) of that act, which states,

> Positions designated as Foreign Service positions normally shall be filled by the as-

signment of members of the Service to those positions.

I believe the rare exceptions to this rule were intended to allow for the appointment of senior specialists to the senior Foreign Service and not for political appointees.

I would also like to comment on the virtually unprecedented nature of this appointment. Since the creation of the Foreign Service in 1924 only two men who were not career Foreign Service officers have been appointed consuls general. Both men, William Howard Taft III and Harris H. Huston, were appointed consul general more than 20 years ago and both had considerable experience—at least 7 years—in the State Department before receiving the appointment. Two exceptions, both of whom had reasonable qualifications, in 58 years underscores the extent to which the position of consul general has been the preserve of the career service.

My concern is that the appointment of Mr. Friedersdorf will set a dangerous precedent for the expansion in the number of Foreign Service jobs filled by nonprofessionals. While my colleagues on the Foreign Relations Committee did not join in opposing this nomination, they concurred in the view it should not set a precedent. To quote the Majority report on the Friedersdorf nomination:

> [A]s was clearly expressed at the March 9 meeting of the committee, the members of the committee emphasized that the Friedersdorf nomination is an exception to the well established practice of reserving consular appointments for career members of the diplomatic service. The committee believes that the Friedersdorf nomination should not be considered a precedent and that only in rare instances should noncareer appointments even be considered for such posts.

Mr. President, my opposition to this nomination is in no sense personal. As I said at the outset of this statement, I have the highest esteem for Mr. Friedersdorf and his many achievements in Government. I deeply regret the President did not see fit to use Mr. Friedersdorf's talents in a more appropriate—and certainly higher level, though not necessarily career—position.

I do, however, fully expect that Mr. Friedersdorf will be confirmed—in spite of my rather lonely stand—and I do wish him well. I am also confident he will perform his tasks in Bermuda with the same level of excellence he has applied to this other Government service.

My opposition to this nomination therefore is based on the potential it has for undermining the professionalism of the Foreign Service and hence our effectiveness abroad. I sincerely hope the administration will consider my views, and those of the majority of the committee, and make no further political appointments to posts of this kind.

Mr. PERCY. Mr. President, once again I am filled with admiration for the fact that my distinguished colleague and the ranking minority member on the Foreign Relations Committee when he comes to a disagreement with the chairman or the committee does so in a very agreeable way and never makes any attempt to hold up action of the Senate or the committee but always forthrightly expresses his viewpoints as he has in this particular case.

I concur with him in the fine things he has had to say about Max Friedersdorf.

Max Friedersdorf has been praised in the Senate and in the House of Representatives for his high professional standards, his ability to work effectively with members of both political parties, and his expertise as a communicator of the President's legislative objectives.

Certainly, I think we could say he is an experienced diplomat. Anyone who can get along as well as Max Friedersdorf has through the years with the congressional branch of Government representing the President many times on highly controversial issues and ends up with as many friends as he has is exercising diplomacy in the highest regard.

I think in principle Senator Pell has recognized and has high esteem for his confidence and for his capability. In this case Senator Pell has a difference of principle. The principle has been breached on two occasions in the past. There were unusual circumstances involved there. There are unusual circumstances involved here.

I join together with my colleague in saying this should not become a precedent, but there is precedent for a noncareer person getting a nomination, and in this case, not being an active Foreign Service officer, and Max Friedersdorf is not.

The position of the Department of State, however, is very clear. That position is pointed out in our report in which the State Department says:

> The appointment of a noncareer consul at this time is not any way inconsistent with the Foreign Service Act of 1980.

Mr. President, I ask unanimous consent to have printed in the Record a letter from Assistant Secretary Richard Fairbanks on behalf of the President and the Secretary of State.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of State,
Washington, D.C., December 28, 1981.

Hon. Charles H. Percy,
Chairman, Committee on Foreign Relations, United States Senate.

Dear Chairman Percy: Your staff has indicated that Senator Pell has requested background information regarding previous appointments to Consul General positions of persons who were not career Foreign Service. We are happy to provide you with the following information regarding such appointments:

There have been two Consuls General who were not career Foreign Service Officers:

William Howard Taft, III—was first appointed to the State Department as Ambassador to Ireland 1953-57. In 1957 and 1958, he was a GS employee and a member of the Policy Planning Staff. In 1959, he was appointed an FSR-2 and assigned January 10, 1960 as Consul General to Lourenco Marques, Mozambique.

Harris H. Huston—entered the State Department as a GS-16 in 1953. He was subsequently promoted to GS-17 and served as Deputy Administrator and Acting Administrator of the Bureau of Security and Consular Affairs. He was appointed as FSR-1 in October 1961 and assigned as Consul General to Curacao December 24, 1961.

Moreover, I would also like to note that the appointment of a non-career consul at this time is not in any way inconsistent with the Foreign Service Act of 1980. That Act clearly indicates through the phrasing of Section 502(b) that Congress intended to grant the Department flexibility to permit occasional appointment of persons who, while qualified in other respects, are not career officers to positions generally filled by career members of the Foreign Service. Specifically, Section 502(b) notes that "positions designated as Foreign Service positions normally shall be filled by the assignment of members of the Service to those positions." It should be noted that under the Foreign Service Act the term "members of the Service" includes non-career appointments in the Senior Foreign Service.

I hope this information will be helpful to you in replying to Senator Pell's questions.

Sincerely,

Richard Fairbanks,
Assistant Secretary for Congressional Relations.

Mr. PERCY. We have said in the committee that the Friedersdorf nomination is an exception to the well-established practice of reserving consular appointments for career members of the diplomatic service. The committee believes that the Friedersdorf nomination should not be considered a precedent, and that only in rare instances should noncareer appointments even be considered for such posts.

Consequently, taking account the positive position of the Department of State on the Friedersdorf nomination as well as the committee's view on the appointment of noncareer consuls to the diplomatic service, the committee by a vote of 12-to-1 urges the Senate to approve the nomination of Max L. Friedersdorf.

I would like to just comment, in closing, however, on what an area Bermuda is gaining in this respect. Bermuda is gaining a seasoned diplomat in the best sense of that term in that he does know how to negotiate, he knows how to represent opposing points of view, he knows how to take into account his constituents and to represent those views in the finest possible way. Also he carries with him something that is terribly important. He carries with him clout. He knows the White House intimately. He is known by the President intimately, and that cannot be said of many of the appointments that have been made, nominations which have been made, by the President.

He knows the power structure, he knows government, he knows how it really operates and how it works.

Going to a very important area I think this is important for them to recognize that in a sense the President has paid the highest compliment to Bermuda by having his personal representative designated in the form of Max Friedersdorf.

So I strongly recommend to the Senate its overwhelming support for Max Friedersdorf's nomination to be a consular officer and secretary in the Diplomatic Service of the United States in representing the United States in Bermuda.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. addressed the Chair.

Mr. PELL. I yield such time as the Senator may require.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from Rhode Island.

I associate myself with the remarks just made by the distinguished chairman of the Committee on Foreign Relations (Mr. PERCY). I have known Max Friedersdorf a long time. He is a tremendously able individual. I feel confident he will do a splendid job in his new assignment, and I am pleased to support his confirmation.

Mr. PERCY. Mr. President, I ask unanimous consent that an article from the National Journal of March 7, 1981 entitled "The Pennsylvania Ave. Connection—Making Peace on Capitol Hill," and with the subhead "The White House Congressional Liaison Office, Headed by Max Friedersdorf, Is Off And Running And Even Democrats On Capitol Hill Have Words Of Praise," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE PENNSYLVANIA AVE. CONNECTION—MAKING PEACE ON CAPITOL HILL

(By Dick Kirschten)

In the perennial war between the executive and legislative branches, few warriors are as unsung as those who toil in the no man's land in between.

Such is the lot of the White House congressional relations staff, the presidential envoys whose job it is to forge a truce between two forces that in recent years have behaved as natural enemies.

When Congress approves the executive's program, the praise is generally bestowed upon the President and his policy advisers. But when the White House is rebuffed, the finger of blame often points to those responsible for managing the Administration's congressional relations.

President Reagan's assistant for legislative affairs, Max L. Friedersdorf, has assumed a particularly formidable task. He represents an Administration that is bent on dismantling great chunks of government that many Members of Congress have worked hard to build and defend.

The new Republican majority in the Senate is a big help, but in the House, where Democrats still prevail, charges are already being made that the Reagan team is withholding the details of its economic proposals while putting on the heat for quick congressional action.

A Feb. 24 bulletin from the House Democratic Study Group charged that the Administration has imposed "what amounts to a gag rule on the program and agency experts who know the most about the effects of the [proposed budget] cuts. The information released thus far is vague, incomplete, confusing, lacking in detail, and includes questionable economic premises and projections."

There has also been grumbling on the other side of the aisle about the availability of White House information. Michael Johnson, press aide to House Minority Leader Robert H. Michel, R-Ill., said requests by Members of Congress for advance copies of Reagan's economic speeches had been refused. The White House engendered further ill will, he said, because the Democratic Study Group and the press got copies of the "black book" of proposed Administration budget cuts before most GOP Members of Congress saw it.

Friedersdorf, a veteran of the Nixon and Ford congressional liaison staffs, is no stranger to the partisan acrimony that comes with his job. "You have to be a certain type of personality, able to put up with a lot and come up smiling the next day," he said. "If you've got thin skin, you can't do this kind of work."

Frank B. Moore, chief of congressional liaison in the Carter Administration, was widely criticized for his performance, and Friedersdorf, appearing at a press briefing at Reagan transition headquarters last Dec. 17, duly promised to learn from the mistakes of his predecessors.

But in a February interview, Friedersdorf refused to speak ill of Moore, claiming little first-hand knowledge of the Carter team's operations on the Hill. "I would be reluctant to characterize what we are doing as an improvement," he added diplomatically.

Friedersdorf's deputies, Powell Moore for the Senate and Kenneth M. Duberstein for the House, go their boss one better. Both praise their predecessors, Danny C. Tate and Willam H. Cable, and have relied upon them to help get started in their new jobs.

On Capitol Hill, there is little hesitation to compare the Reagan and Carter lobbying efforts. A top aide to House Speaker Thomas P. O'Neill Jr., D-Mass., credited Friedersdorf's team with having "learned the lessons of the past."

"With Max running the show, they are experienced," said S. Ariel Weiss, executive director of the House Democratic Steering and Policy Committee. "Initially, their moves have clearly been good."

A veteran Republican aide, secretary of the Senate William F. Hildenbrand, described the Friedersdorf team as "the best we've seen in recent years, since LBJ's guys operated up here." He noted that Powell Moore, an aide to former Sen. Richard B. Russell, D-Ga., is well known on both sides of the aisle. "They won't ignore the fact that there is a minority. I see them working hard to make Democrats feel part of a bipartisan approach."

In a White House that is finely attuned to the projection of images, Friedersdorf's staff has been given offices in the East Wing—symbolically closer to the seat of power than the office occupied by Frank Moore's staff in the Old Executive Office Building. Friedersdorf, like Moore, has an office in the prestigious West Wing. He is among the five top aides who meet with Reagan each morning.

GETTING ORGANIZED

Within 10 days of his election, Reagan set up a congressional relations office at his transition headquarters in Washington. Tom C. Korologos, who headed that office, is an old colleague of Friedersdorf. Both had started work as Hill lobbyists for President Nixon on the same day—April 1, 1971.

In December, Friedersdorf, who was serving as chairman of the Federal Election Commission, was recruited to become Reagan's assistant for legislative affairs. By that time, the Reaganites were gearing up for Cabinet confirmation hearings, most of which were held prior to Inauguration Day. Dorologos stayed on to work almost full time on the hearings for Secretary of State Alexander M. Haig Jr., who was the most controversial of Reagan's appointments.

The Reagan team made one of its more skillful lobbying moves to pave the way for Haig's nomination. At a Jan. 7 luncheon with Senate Democrats, Reagan announced that he intended to retain former Senate Majority Leader Mike Mansfield, D-Mont., as ambassador to Japan.

Between courtesy calls to congressional leaders, Friedersdorf spent his time recruiting personnel and tending to the other confirmation hearings. He assembled a staff of 27, including 12 professionals, which is considerably leaner than the Carter legislative team of 41 staffers, including 8 detailees from other agencies. Two members of the transition staff, Moore and Nancy Risque, moved on with Friedersdorf to the White House.

Three members of the staff, led by Moore, devote full time to the Senate, and Duberstein heads a contingent of five House lobbyists. Friedersdorf regards them all as "generalists" who are capable of dealing with all issues, and none is assigned to any particular congressional faction. In a crunch, they are prepared to help out on either side of the Capitol.

Moore said he and his staff serve two sets of masters. "We see our role as people who are advocates for the President on Capitol Hill and advocates for the Senate inside the White House. If we don't deliver in the White House [with respect to congressional requests], then we're not going to deliver for the President on the Hill."

He added that White House aides who are involved in personnel and policy decisions must be aware of the importance of congressional suggestions. He noted that he already has met with deputy attorney general Edward C. Schmults to discuss the Senate's "constitutional role of advice and consent" in the appointment of federal judges.

On the House side, Duberstein and his colleagues accept the fact that there will be some tough going in a chamber dominated by Democrats. "We need 218 votes on every issue and that means that we need Democratic votes," he said.

With that in mind, Duberstein—as well as Reagan himself—has been particularly cordial to sophomore Rep. Charles W. Stenholm, D-Texas, who has organized the Conservative Democratic Forum, with 42 members.

Counting heavily on public support for Reagan's economic program, the House lobbyist expressed confidence that many Democrats will accept cuts in cherished programs for the sake "of the greater good of reducing inflation." Duberstein and his associates visited each of the 439 House offices in the first days after the inaugural to "introduce ourselves, offer to be of help and to let people know that they will be seeing a lot of us," he said. "We plan to live on the Hill."

Friedersdorf himself has joined the effort to establish a White House presence at the Capitol. A day seldom passes that he does not commute at least once from one end of Pennsylvania Avenue to the other.

He also has a keen interest in establishing close working relationships between his relatively small staff and the must larger congressional relations units in the executive branch agencies. Friedersdorf and his staff have been active in recommending and screening candidates for the top legislative affairs posts in the agencies.

An early task has been to coordinate his work with that of the major actors in the development of the economic initiatives that Reagan is sending to Congress. Janna L. Cullen, chief congressional liaison officer of the Office of Management and Budget (OMB), has been a daily participant in the morning meetings of the Friedersdorf staff. OMB director Dave Stockman and Treasury Secretary Donald T. Regan have themselves been frequent visitors to the Hill. "Lately I've seen Don Regan more than I've seen my wife," Friedersdorf said.

The champion congressional lobbyist thus far in the Reagan Administration has been the President himself. He has agreed to meet on a monthly basis with the bipartisan House-Senate leadership, an agreement dramatized by his Feb. 4 trip to Capitol Hill to meet the legislators on their own turf. Additionally, there has been a steady and diverse parade of legislators in and out of the Oval Office. Speaker O'Neill was a dinner guest at the White House two days before the President's economic address to the Congress.

MAX THE 'PRO'

White House staff director David R. Gergen described Friedersdorf's operation thus far as "a great success. Max is a pro. He is very experienced and he has a personality that lends itself to this kind of work. He makes friends well and he understands the issues."

Friedersdorf came to "this kind of work" after beginning his career as a journalist. He was a reporter for newspapers in Louisville, Indianapolis and Chicago before coming to Washington in 1961 to become an aide, and eventually administrative assistant, to former Rep. Richard L. Roudebush, R-Ind. After his first tour as White House lobbyist, from 1971-77, he served as staff director of the Senate Republican Policy Committee before being appointed to the Federal Election Commission in 1979.

Along the way, Friedersdorf has become well versed in the ways of Congress and is not likely to make enemies inadvertently. But Reagan's program is controversial, and there will be fierce fights over many of his proposals.

"It is hard to judge how effective the Administration's lobbying is going to be, since not much has come to a vote yet," observed House Democratic aide Weiss. "The President has initially given people a sense of being briefed, if not consulted. But I'm not sure if that will translate into support. The Administration's moves to promote public support may be more important in that respect."

Republican aide Hildenbrand agreed that "it is easy now and things will get hairy later. But when the fights come, they aren't likely to be long and drawn out. When they are over, people will still be friends. There won't be the personal vindictiveness that developed in the last Administration."

Moore stresses the importance of attention to small details, such as informing legislators of decisions that affect them before they hear about them from the press. "So much of this business is looking after the little things and the big things will take care of themselves."

Back on Dec. 17, when Friedersdorf was introduced as Reagan's choice for the post, he laughingly made the same point: "I still remember what brand of cigars Tip O'Neill likes."

● Mr. QUAYLE. Mr. President, I am pleased to rise in support of the nomination of Max Friedersdorf to serve as Consul General of the United States to Bermuda.

While there may be those who raise the issue of whether or not this diplomatic post should be filled by a career foreign service representative, there is no question that the United States of America will be well served by Max Friedersdorf. No one questions the ability, the integrity, and the loyalty of Max to carry out this important assignment.

It represents another step in a long career of public service for Max Friedersdorf. A native of my Hoosier State of Indiana, Max brings a wealth of experience gained from the legislative and executive branches of our Government to this new position.

He began his service in Washington in 1961 as administrative assistant to Congressman Richard Roudebush of Indiana. Later he moved to the Office of Economic Opportunity where he served under Donald Rumsfeld as director of congressional relations. He served three Republican Presidents in their relationships with the Congress. Max served as staff director of the Republican Policy Committee before being appointed by President Carter to the Federal Election Commission.

He returned to the White House in 1981 as assistant to the President for congressional relations.

He is well known to all of us in the Senate. Throughout his years of service in Washington, he demonstrated a gift of working with people. He knows the legislative process and understands the special concerns and problems which face Members.

Now he is prepared to serve our Nation in another important capacity. I am confident that he will be an outstanding representative of the United States in Bermuda. The President has made an excellent choice in sending not only a Consul General to Bermuda—but he has sent an able team in Max and Priscilla Friedersdorf.

I deem it a privilege to urge the confirmation of Max Friedersdorf.●

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield back the remainder of my time.

Mr. PERCY. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the confirmation of the nomination.

Mr. PELL. Mr. President, I ask for a division.

The PRESIDING OFFICER. All those in favor of a division? Without objection, it is so ordered. All those in favor of the nomination will please stand.

Senators standing.

The PRESIDING OFFICER. Those opposed.

Senators standing.

The PRESIDING OFFICER. The "ayes" appear to have it, the "ayes" have it, and the nomination is confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. PERCY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that Calendar Order 616 and 667, pursuant to the previous agreement, be taken up at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERSTATE COMMERCE COMMISSION

The assistant legislative clerk read the nomination of Frederic N. Andre, of Indiana, to be a member of the Interstate Commerce Commission.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Christian Hansen, Jr., of Vermont, to be U.S. marshal for the District of Vermont.

The PRESIDING OFFICER. The nomination is considered and confirmed.

Mr. STEVENS. Mr. President, I move to reconsider en bloc the votes by which the nominations were confirmed.

Mr. PERCY. I move to lay that motion on the table

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT ST. PATRICK'S DAY STATEMENT OF THE FRIENDS OF IRELAND

Mr. KENNEDY. Mr. President, I ask unanimous consent that the 1982 St. Patrick's Day statement by members of the Friends of Ireland may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

JOINT ST. PATRICK'S DAY STATEMENT, FRIENDS OF IRELAND

St. Patrick's Day 1982 marks the first anniversary of the founding of the Friends of Ireland—a bipartisan enterprise in the Congress of the United States dedicated to the promotion of cooperation and understanding between the Irish people and the American people. Our special goal has been to work together in the Congress for an end to the violence in Northern Ireland and for peace and reconciliation between the two parts of the community that has suffered so much from a decade of killing and destruction.

For all of us committed to the cause of peace in Ireland, 1981 was often a year of anguish. The extended hunger strike, the continuing bombings and random sectarian murders, the assassination of elected representatives, the relentless appeals to religious hatred, the rise of sectarian demagogery to new levels of virulence—these and other events bore violent witness to the worsening tragedy in Northern Ireland in the past year.

Other events in 1981 gave cause for hope. In particular, we were heartened by the summit conference last November between the Prime Ministers of Ireland and Great Britain, their creation of an Anglo-Irish Inter-Governmental Council, and their significant agreement on "the need for efforts to diminish the divisions between the two sections of the community in Northern Ireland and to reconcile the two major traditions that exist in the two parts of Ireland." And we note with interest the growing debate in both the Republic of Ireland and Northern Ireland on the role of Northern Protestants in Ireland's future. We regard all of these developments as signs of the good will and commitment to cooperation by both governments in the common search for peace.

We are also encouraged by the support expressed for the Friends of Ireland by both the Irish and the British Governments. We have met in the past year with representatives of those governments and with leaders of the political parties in Northern Ireland. We have tried to be a forum in the Congress to inform the American people about the causes of the conflict and the most hopeful means to end it.

In the coming year, we intend to pursue the path of peace in every way we can. Toward this goal, the Friends of Ireland is honored to accept the invitation from the Speaker of Dail Eireann for a delegation from the Friends of Ireland to visit the Irish Parliament at a suitable time this spring.

We also commend President Reagan for his commitment to peace in Ireland, his concern for an end to the violence, and his support for the Friends of Ireland. We welcome the President's meeting with Prime Minister Haughey tomorrow at the White House. And we urge the President to take the occasion of his forthcoming trip to Europe in June to make a substantial visit to Ireland.

As Friends of Ireland, we are also united in our condemnation of the violence on both sides in Northern Ireland. More than 2,100 men and women and children have died since the conflict began, and more than 23,000 have been injured. We therefore renew our earnest appeal to our fellow Americans to support positive policies for peace, to reject the path of violence, and to refuse to participate by word or deed or dollar in any effort that supports or condones the violence. No action in the daily life of any American should contribute in any way to the daily toll of death in Northern Ireland.

Finally, as Friends of Ireland, we renew our commitment to the goal of Irish unity as the most effective means to achieve a lasting peace. The unity we favor is an Ireland united on the basis of reconciliation between the Irish Protestant tradition and the Irish Catholic tradition. It is a unity to be achieved, not by the bomb or by the bullet, nor by the official coercion of any section of the community, but by the consent, freely given, of a majority of all the people of Northern Ireland.

U.S. SENATE

Edward M. Kennedy (D-Mass.); Daniel Patrick Moynihan (D-N.Y.); Christopher J. Dodd (D-Conn.); Joseph R. Biden, Jr. (D-Del.); Alan Cranston (D-Calif.); Thomas F. Eagleton (D-Mo.); Gary Hart (D-Colo.); John Heinz (R-Penna.); Daniel K. Inouye (D-Haw.); Paul Laxalt (R-Nev.); Patrick J. Leahy (D-Vt.); Carl Levin (D-Mich.); George J. Mitchell (D-Me.); Claiborne Pell (D-R.I.); William Proxmire (D-Wis.); Paul E. Tsongas (D-Mass.); Lowell P. Weicker, Jr. (R-Conn.).

HOUSE OF REPRESENTATIVES

Thomas P. O'Neill, Jr. (D-Mass.); Thomas S. Foley (D-Wash.); James M. Shannon (D-Mass.); Charles F. Dougherty (R-Penna.); Frank Annunzio (D-Ill.); Jonathan B. Bingham (D-N.Y.); Edward P. Boland (D-Mass.); Don Bonker (D-Wash.); Silvio O. Conte (R-Mass.); Baltasar Corrada (D-Puerto Rico); William J. Coyne (D-Penna.); Norman D. Dicks (D-Wash.); Bernard J. Dwyer (D-N.J.); Roy Dyson (D-Md.); Joseph D. Early (D-Mass.); Don Edwards (D-Calif.); Millicent Fenwick (R-N.J.); Geraldine A. Ferraro (D-N.Y.); Edwin B. Forsythe (R-N.J.).

Barney Frank (D-Mass.); Samuel Gejdenson (D-Conn.); Bill Green (R-N.Y.); James J. Howard (D-N.J.); William Lehman (D-Fla.); Edward J. Markey (D-Mass.); Paul N. McCloskey, Jr. (R-Calif.); Joseph M. McDade (R-Penna.); Joseph G. Minish (D-N.J.); Austin J. Murphy (D-Penna.); Henry S. Reuss (D-Wis.); Peter W. Rodino, Jr. (D-N.J.); Patricia Schroeder (D-Colo.); Stephen J. Solarz (D-N.Y.); Al Swift (D-Wash.); Bob Traxler (D-Mich.); Pat Williams (D-Mont.).

GOVERNORS

Hugh L. Carey (New York); J. Joseph Garrahy (Rhode Island).

PRIVATE EXPRESS STATUTES

Mr. STEVENS: Mr. President, as chairman of the Subcommittee on Civil Service, Post Office, and General Services, I am often asked the importance of the private express statutes, those laws which protect the Postal Service's monopoly of first-class letter mail, to the viability of maintaining a universal postal service. Suggestions have been made that the Postal Service monopoly in first-class letter mail be weakened in order to provide private industry the opportunity to deliver first-class mail. Those of us who represent people living in rural areas should be particularly alert to the dangers to our constituents if these proposals should see daylight.

One of the most succinctly written comments on the history and problems related to the relaxation of the private express statutes appeared in the February 20 issue of the National Rural Letter Carrier. This article outlines the position of the National Rural Letter Carriers' Association with regard to retaining these statutes. I ask unanimous consent to have inserted the complete text of the article outlining the NRLCA's position regarding the private express statutes.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POSITION OF THE NATIONAL RURAL LETTER CARRIERS' ASSOCIATION REGARDING THE PRIVATE EXPRESS STATUTES

1. What are they?

The Private Express Statutes are a group of Federal laws which are collectively codified in Title 18, United States Code, Section 1693-1699 and 1724, and Title 39, United States, Code Sections 601-606. They confer on the United States Postal Service the exclusive right to carry letters subject to certain exceptions. Based substantially on court decisions and opinions of the U.S. Attorneys General and of its chief legal officers, the Postal Service has defined a letter as a message directed to a specific person or address and recorded in or on a tangible object.

2. Recent changes in the statutes:

In November 1979 restrictions on private delivery were suspended for "extremely urgent" letters, where it was demonstrated the Postal Service could not competitively provide such timely service. On October 10, 1980, an additional suspension was adopted for advertisements which accompany addressed merchandise or periodicals. Finally, certain clarification to the regulations were made, including the position that a message is considered to be "addressed" and subject to the restrictions if it is marked for delivery to a specific person or place or delivered in accordance with a "selective delivery" plan.

3. Enforcement:

Violations of the Statutes are punishable by fine, imprisonment, or both. The Statutes may also be enforced by means of an injunction. Violators may be required to pay the Postal Service for postage revenue losses incurred as a result of the violations.

4. Why are they needed?

Essentially, the Statutes protect the revenue of the Postal Service so as to allow the Postal Service to fulfill the Constitutional mandate that it provide "prompt, reliable, and efficient service to citizens in all areas," and to "render postal services to all communities." They provide for a "natural monopoly" to avoid high duplicate capital expenditures of resources.

Comparisons can be made with other business entities in the public utilities field, such as the phone, electric and gas, and water companies. The revenue sources protected by the Statutes, in short, help to maintain fairly stable and affordable rates to insure a universal postal service by disbursing irrevocable fixed costs over a wider revenue base.

The Private Express Statutes also insure smooth domestic postal operations with 104 foreign postal administrations. Through the Postal Inspection Service, which no private entrepreneur would establish, the Postal Service provides comprehensive legal controls over mail to guard against fraud and false representation, as well as guaranteeing the sanctity of the mail. Finally, the Postal Service maintains appropriate records and forwards mail for the 20-25 percent of Americans who move each year.

5. What Would Competition Do?

Private firms which exist primarily to make a profit would obviously concentrate their efforts in densely populated areas where high mail volume can be anticipated. Avoiding the investment in fixed costs and excessive logistical commitments, their concentrated activities no doubt would be profitable and could result in lower postal rates—but at the expense of providing service to rural communities and even innercity ghetto areas. Since their businesses would be localized or even regionalized, what mail is left would find its way to the Postal Service, and it would in fact have a monopoly by default, in the areas avoided by private enterprise. The consequence of this would be higher postal costs to those using the Postal Service or greater subsidies from the federal treasury to overcome the disparity of lost volume and revenue and the fixed costs which can not be reduced proportionately.

Private enterprise would not provide those services described above nor would they assume the role of facilitator to numerous government programs in which the Postal Service has been involved—such as Draft Registration, Alien Registrations, Food Stamp and Duck Stamp distribution and an outlet for Treasury Department Programs.

In conclusion, it is recognized that the Postal Service can and must be improved to achieve more reliable, efficient and cost-stable service to all our citizens, but the introduction of competition is not the panacea.

We therefore, strongly, recommend the retention of the Private Express Statutes.

SOUTH CAROLINA STATE SENATE MEMORIALIZES CONGRESS TO CONTINUE AVAILABILITY OF INDUSTRIAL DEVELOPMENT BONDS

Mr. THURMOND. Mr. President, in an effort to stimulate local economic development and create needed jobs, Congress enacted the Industrial Revenue Bond Act of 1960. Through this device, local governments may issue tax exempt bonds in order to facilitate the economic development of their areas.

On December 16, 1981, our colleague, Senator Metzenbaum, proposed an amendment to a miscellaneous tax bill, H.R. 4717, which was adopted by the Senate. The Metzenbaum amendment would amend the Internal Revenue Code to forbid the use of tax exempt industrial revenue bonds in the financing of certain recreational ventures. Additionally, President Reagan, in his state of the Union message of January 26, 1982, mentioned a proposal to restrict the use of tax exempt industrial development bonds.

In response to these actions, the Senate of the State of South Carolina adopted a resolution which memorializes the Congress of the United States to continue to provide for industrial development through the Industrial Revenue Bond Act of 1960.

Mr. President, in behalf of Senator Hollings and myself, I ask unanimous consent to have this resolution printed in the Record following these remarks.

A Senate Resolution

Whereas, the Industrial Revenue Bond Act of 1960 was enacted by Congress to encourage local economic development and job creation; and

Whereas, industrial revenue bonds provide an alternative source of financing for industry that is an incentive for new and expanding industrial development; and

Whereas, industrial revenue bonds influence an investment decision which would not be made otherwise and encourage investment in depressed areas; and

Whereas, in times of inflation and high interest rates, industry's ability to grow and expand is increasingly dependent upon attractive financing; and

Whereas, the members of the Senate of the State of South Carolina believe that the Congress of the United States should continue to provide this type of industrial revenue bond financing and should not restrict or otherwise limit the use of these funds by industrial users. Now, therefore,

Be it resolved by the Senate of the State of South Carolina:

That the members of the Senate hereby memorialize the Congress of the United States to continue to provide for industrial development through the Industrial Revenue Bond Act of 1960.

Be it further resolved that copies of this resolution be forwarded to the President of the United States, to each member of Congress from South Carolina, to the President of the United States Senate and to the Speaker of the United States House of Representatives.

"HAPPY" CHANDLER ELECTED TO BASEBALL HALL OF FAME

Mr. FORD. Mr. President, I want to bring to the Senate's attention a great honor that has come the way of a former Member of this body and a former Governor of Kentucky, A. B. "Happy" Chandler, who last week was elected to the Baseball Hall of Fame.

This tribute is not only well deserved but long overdue for a man who has certainly left his mark in professional baseball, politics, and government as well.

Governor Chandler represented Kentucky in the U.S. Senate from 1939-45 when he resigned to become baseball commissioner. He served as commissioner until 1951. He also was elected to serve two terms as Kentucky's Governor.

At the age of 83, Governor Chandler is still in good spirit and health, living at home in Versailles, Ky. He will be inducted into the Hall of Fame at Cooperstown, N.Y., on August 2.

As a fellow Kentuckian, I am especially proud to see this honor bestowed on him. I extend my congratulations to Governor Chandler on this impressive achievement and I ask unanimous consent that an article from the March 11 Louisville Courier-Journal, detailing his election to the Hall of Fame, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Chandler Elected to Baseball Hall of Fame

(By Glenn Rutherford)

Versailles, Ky.—Kentucky's one-of-a-kind A. B. "Happy" Chandler, twice governor, thrice senator and once commissioner of baseball, was elected to the Baseball Hall of Fame yesterday.

The telephone at Chandler's home in Versailles rang with the news at 12:20 yesterday afternoon, and it seldom stopped ringing the rest of the day.

With his ever-present, bluegrass-bright smile, the man who is easily the state's youngest 83-year-old held court in his den for a dozen radio, television and newspaper reporters after the announcement.

Dressed in gray slacks, a blue sweater, down jacket, white socks and wing-tipped shoes, and equipped with one of the best memories this side of the Appalachians, Chandler admitted that this latest honor ranked right at the top of all the others he has garnered.

"It was an emotional moment," he said, beaming at the reporters gathered near the fireplace. "Just so happened that my son, Ben, was here with his family, so I grabbed Mama (his wife, Mildred) and surrounded myself with all of them. I broke down a little, I really did."

In between phone calls, Chandler said he knew he was being considered for a place in the Cooperstown, N.Y., shrine, but he wasn't certain he'd get the necessary votes.

"I've been away from the commissioner's office for 31 years," he said, "so I thought that maybe they'd forgotten me."

But they—the Hall of Fame's Veterans Committee—hadn't forgotten.

How could they?

How could they ever forget one of the two men most responsible for opening baseball to blacks?

How could they forget the commissioner who once gave manager Leo Durocher a year's suspension for allegedly consorting with gamblers?

And how could they forget the man who first negotiated television contracts for the World Series and All-Star games?

Money from those contracts is placed in the players' pension fund, and yesterday Chandler said he was proud that the players had one of the best retirement programs in the country.

But it is for his role in bringing blacks to baseball that Commissioner Chandler is probably best remembered.

He was serving in the U.S. Senate when baseball club owners decided he was the man to succeed Judge Kenesaw "Mountain" Landis in 1945. Chandler kept the job until 1951.

For more than two decades, Chandler said, Landis and the game's owners had refused to allow blacks to play for major-league teams.

"They probably thought that if the (race) decision ever came up, I'd go the other way," he said. "They knew I was a Confederate boy; they knew my granddad was shot at Shiloh. Granddad always said we could've whipped the Yankees with cornstalks, but they wouldn't fight with cornstalks."

But the Confederate boy didn't see things the way the owners had anticipated.

"I was there at that meeting in New York when they voted 15 to 1 against letting the blacks play," Chandler remembered.

That one vote belonged to Branch Rickey of the Brooklyn Dodgers. He had a young black infielder named Jackie Robinson playing for him in Montreal (then a Dodgers minor-league franchise), and Rickey wanted to see Robinson in a Brooklyn uniform.

"So he came to see me, and we sat right out back in my cabin and talked about it," Chandler recalled. "Most of the important decisions I've made in my political life and in baseball were made out there, and this one was too."

Rickey said he'd need the commissioner's support to get Robinson into the big leagues, and the man from Kentucky said he already knew that.

"I told him, 'One of these days I'll have to meet my maker, and if he asks me why I kept that boy from playing and I say because of race, that won't be a sufficient answer.'

"So I said, 'I'll approve the transfer of his contract from Montreal to Brooklyn, and then we'll make the fight.'"

And make it they did.

Chandler has always been proud of his strength and determination. "Tough as a Mississippi boardinghouse steak," he said yesterday. And some say that toughness may have cost him the commissioner's job.

"The black thing may have worked both ways," he said yesterday.

But there was no question that his actions, both on the blacks issue and in his dealing with players, made some enemies among the owners.

"Fred Saigh didn't like me and he went to jail (for tax evasion)," Chandler said.

Saigh, who was owner of the St. Louis Cardinals, asked Chandler to approve Sunday night games.

Chandler said no; the idea violated his religious convictions.

"Bill DeWitt (former owner of the Cincinnati Reds and an executive with five other major-league teams) didn't like me either," Chandler said, "and he just died."

For whatever reason, the owners asked Chandler to leave the commissioner's office in 1950, though he worked for another year while they searched for a successor.

It was a job, he said yesterday, that he could have been comfortable in for a lifetime.

As it was, his tenure in baseball provided the financial break all his political efforts had failed to produce.

"I made $10 a day as a state senator," he recalled. "Fifteen dollars a day as lieutenant governor. Then I got $6,500 a year my first term as governor, and $10,500 as a U.S. senator."

"All of a sudden they want me to be baseball commissioner, and it pays $75,000 a year. So we had a family meeting and decided the thing to do was take it."

Baseball paid him for all seven years of his contract, and Chandler said he was lucky enough to invest well and save the money necessary to put his children through school.

And as it turned out, he's glad he didn't last a lifetime as commissioner.

"I got to be governor of Kentucky again, and that was more dear to me than anything," he said. "If had 'em all to give up save one, I'd keep governor of Kentucky because of my love and devotion to the people of this state."

Chandler said all this with his famous smile that crinkles his bright eyes into a squint . . . a smile that's infectious to those around him.

And he smiled at the thought of the Hall of Fame induction ceremonies Aug. 2 in Cooperstown. He'll step into history alongside Hank Aaron and Frank Robinson, who were voted into the hall recently by baseball writers, and former New York Giant shortstop Travis Jackson, who was chosen with Chandler by the Veterans Committee yesterday.

"They've honored me beyond my due," he said as the reporters prepared to leave yesterday.

They couldn't get out the door, though, without feeling the former governor's biceps. "Here, feel that arm," he said.

It was hard as the walnut logs in his cabin, and as he laughed about his strength, Chandler took time to answer one last question.

Just what do you want the people to say about you, Governor, after you're gone?

"Say I was sober and meant to do every damn thing I did."

MESSAGE FROM THE HOUSE

At 2:01 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 262. An act for the relief of Dolly Akers, Fort Peck Indian Reservation, Mont.

The message also announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 272. Joint resolution to authorize and request the President to issue a proclamation designating April 4 through 10, 1982, "National Medic Alert Week"; and

H.J. Res. 361. Joint resolution to grant official recognition to the international ballet competition.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 148. Joint resolution to proclaim March 18, 1982, as "National Agriculture Day."

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE MEASURES REFERRED

The following joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 272. Joint resolution to authorize and request the President to issue a proclamation designating April 4 through April 10, 1982, "National Medic Alert Week"; to the Committee on the Judiciary.

H.J. Res. 361. Joint resolution to grant official recognition to the international ballet competition; to the Committee on Labor and Human Resources.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, March 16, 1982, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 148. Joint resolution to proclaim March 18, 1982, as "National Agriculture Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2982. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report relative to a rescission of library construction and services funds in the eighth special message of the President; to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to the order of January 20, 1975.

EC-2983. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation revising a prior draft of legislation authorizing supplemental military construction appropriations; to the Committee on Armed Services.

EC-2984. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notification of the intention to contract out without a cost comparison the motion picture film processing function at the Naval Audiovisual Center, Washington, D.C.; to the Committee on Armed Services.

EC-2985. A communication from the Secretary of the Navy transmitting, pursuant to law, a report on eight Navy weapons systems which have exceeded their baseline unit cost by more than 15 percent; to the Committee on Armed Services.

EC-2986. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics, transmitting, pursuant to law, a report on a decision to convert the data transcription/data entry function at the Naval Construction Battalion Center, Port Hueneme, Calif., to performance under contract; to the Committee on Armed Services.

EC-2987. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to authorize appropriations for fiscal year 1983 for procurement, research and development and personnel for the Department of Defense; to the Committee on Armed Services.

EC-2988. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale to Egypt; to the Committee on Armed Services.

EC-2989. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to enhance the transfer of technical information to industry, business, and the general public by establishing the Technical Information Clearinghouse Fund; to the Committee on Commerce, Science, and Transportation;

EC-2990. A communication from the Acting Chairman of the National Transportation Safety Board transmitting, pursuant to law, a supplemental budget request submitted to the Office of Management and Budget; to the Committee on Commerce, Science, and Transportation.

EC-2991. A communication from the Acting Chairman of the National Transportation Safety Board transmitting, pursuant to law, the Board's 1983 Budget; to the Committee on Commerce, Science, and Transportation.

EC-2992. A communication from the Secretary of Energy transmitting, pursuant to law, the February 1982 energy projections report; to the Committee on Energy and Natural Resources.

EC-2993. A communication from the Chairman of the Federal Energy Regulatory Commission transmitting a draft of proposed legislation to authorize the Commission to collect fees and charges for services and privileges in administering its regulatory programs; to the Committee on Energy and Natural Resources.

EC-2994. A communication from the Assistant Secretary of the Army for Civil Works transmitting, pursuant to law, a Main Report and Environmental Impact Statement on the Baltimore Harbor and Channels deepening project, the proposed deepening project of the Norfolk Harbor and Channels; to the Committee on Environment and Public Works.

EC-2995. A communication from the President of the United States transmitting his determination that peaceful nuclear cooperation by the United States with EURATOM should be continued for an additional 12 months; to the Committee on Foreign Relations.

EC-2996. A communication from the Assistant Secretary of the Treasury for Legislative Affairs transmitting, pursuant to law, project performance audit reports of the International Bank for Reconstruction and Development, the Interamerican Development Bank, and the Asian Development Bank; to the Committee on Foreign Relations.

EC-2997. A communication from the Attorney-Adviser, Department of State, transmitting, pursuant to law, international agreements, other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 342. An original resolution authorizing the printing of "Background Information on the Committee on Foreign Relations, United States Senate" (5th revised edition), as a Senate document; referred to the Committee on Rules and Administration.

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1422. A bill to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities (Rept. 97-322).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (by request):

S. 2205. A bill to authorize certain construction at military installations for fiscal year 1983, and for other purposes; to the Committee on Armed Services.

By Mr. THURMOND:

S. 2206. A bill to amend title 10, United States Code, to provide benefits under the survivor benefit plan to the spouses and dependent children of members of the Reserve components of the uniformed services who die after completing service requirements for participation in that plan but before being afforded the opportunity to elect participation in the plan and to provide for the payment of annuities under the plan to dependent children of members of the Armed Forces who die on active duty after becoming entitled to or qualified for retired or retainer pay, and for other purposes; to the Committee on Armed Services.

By Mr. DIXON (for himself, Mr. Durenberger and Mr. Quayle):

S. 2207. A bill relating to the financing of the activities of the Saint Lawrence Seaway Development Corporation; to the Committee on Environment and Public Works.

By Mr. HELMS (by request):

S. 2208. A bill to recover costs incurred by the Department of Agriculture in the administration of the promotion program for wool and the research and promotion program for potatoes, including costs incurred for the conduct of the wool and potato referendums; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2209. A bill to provide for recovery of costs associated with the postage, printing, and handling of market information and statistics pursuant to the Cotton Statistics and Estimates Act and the Tobacco Inspection Act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH (for himself, Mr. Rudman, Mr. Nunn, and Mr. Chiles):

S. 2210. A bill to amend the Commodity Exchange Act, to reduce fraud and improve the administration of such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (by request):

S. 2211. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S. 2212. A bill to amend the Internal Revenue Code of 1954 to disallow a deduction for expenses paid or incurred in connection with the illegal sale of drugs; to the Committee on Finance.

By Mr. DANFORTH:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes; to the Committee on Finance.

By Mr. SCHMITT (for himself, Mr. Packwood, Mr. Symms, Mr. Grassley, and Mr. Mattingly):

S. 2214. A bill to amend the Internal Revenue Code of 1954 to provide a partial exclusion for dividends and interest received and to eliminate the deduction for consumer interest paid or accrued; to the Committee on Finance.

By Mr. THURMOND (for himself, Mr. Bentsen, Mr. Bumpers, Mr. Jepsen, Mr. Long, Mr. Sarbanes, and Mr. Tower):

S. 2215. A bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Inc.; to the Committee on the Judiciary.

By Mr. THURMOND (by request):

S. 2216. A bill to reform habeas corpus procedures, and for other purposes; to the Committee on the Judiciary.

By Mr. HATFIELD (for himself, Mr. Thurmond, and Mr. Mattingly):

S. 2217. A bill to establish nationally uniform duties or taxes for purposes of financing operations, maintenance, and development of deep-draft commercial channels and harbors, and to provide for an expedited procedure for the approval and permitting of approved navigation improvement projects and related landside facilities in deep-draft ports, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 2218. A bill to provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue landfill site by the city of New York; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. Boschwitz, Mr. Levin, Mr. Riegle, and Mr. Dixon):

S. 2219. A bill to cancel all bonds issued by the Saint Lawrence Seaway Development Corporation; to the Committee on Environment and Public Works.

By Mr. DeConcini:

S. 2220. A bill to amend section 3146 of title 18, United States Code, relating to bail, to require judicial officers who release individuals charged with drug offenses to require an appearance equal to the street value of the drugs seized; to the Committee on the Judiciary.

By Mr. CANNON:

S. 2221. A bill to authorize funds for the Federal Trade Commission, to amend the Federal Trade Commission Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PRYOR (for himself, Mr. Chiles, Mr. Grassley, Mr. Durenberger, Mr. Baucus, Mr. Burdick, Mr. DeConcini, Mr. Cannon, Mr. Bumpers, Mrs. Kassebaum, Mr. Randolph, Mr. Domenici, Mr. Bradley, Mr. Lugar, Mrs. Hawkins, Mr. Melcher, Mr. Roth, Mr. Glenn, Mr. Hatfield, and Mr. Abdnor):

S. J. Res. 166. Joint resolution designating April 28, 1982, as "National Nursing Home Residents Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PERCY; from the Committee on Foreign Relations:

S. Res. 342. Original resolution authorizing the printing of "Background Information on the Committee on Foreign Relations, United States Senate" (5th revised edition), as a Senate document; to the Committee on Rules and Administration.

By Mr. SASSER (for himself, Mr. BAUCUS, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. EAGLETON, Mr. EXON, Mr. GORTON, Mr. HEFLIN, Mr. HUDDLESTON, Mr. LEVIN, Mr. MATSUNAGA, Mr. MELCHER, Mr. MITCHELL, Mr. PRYOR, Mr. SARBANES, Mr. RANDOLPH, and Mr. BOREN):

S. Con. Res. 70. Concurrent resolution relating to federally insured deposits; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. QUAYLE:

S. Con. Res. 71. Concurrent resolution expressing the sense of the Congress that the President, the Board of Governors of the Federal Reserve System, and the Congress must coordinate fiscal and monetary policy to insure that economic recovery and stable economic growth are not hindered by excessively restrictive monetary policy and high interest rates; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (by request):

S. 2205. A bill to authorize certain construction at military installations for fiscal year 1983, and for other purposes; to the Committee on Armed Services.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. THURMOND. Mr. President, by request, I introduce for appropriate reference a bill to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

I ask unanimous consent that the letter of transmittal requesting consideration of the legislation and explaining its purpose and the bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2205

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1983".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, $25,120,000.
Fort Campbell, Kentucky, $10,650,000.
Fort Carson, Colorado, $11,900,000.
Fort Devens, Massachusetts, $3,200,000.
Fort Hood, Texas, $7,950,000.
Fort Irwin, California, $31,340,000.
Fort Lewis, Washington, $21,700,000.
Fort Meade, Maryland, $2,500,000.
Fort Ord, California, $14,700,000.
Fort Polk, Louisiana, $16,850,000.
Camp Roberts, California, $2,050,000.
Fort Stewart, Georgia, $23,000,000.
Fort Wainwright, Alaska, $3,020,000.
Yakima Firing Center, Washington, $2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, $20,730,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, $15,500,000.
Fort Bliss, Texas, $21,300,000.
Fort Eustis, Virginia, $6,400,000.
Fort Knox, Kentucky, $8,400,000.
Fort Leavenworth, Kansas, $44,200,000.
Fort Leonard Wood, Missouri $11,000,000.
Fort McClellan, Alabama, $7,500,000.
Fort Rucker, Alabama, $17,750,000.
Fort Story, Virginia, $13,800,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, $9,400,000.
Pine Bluff Arsenal, Arkansas, $19,650,000.
Red River Army Depot, Texas, $39,000,000.
Tooele Army Depot, Utah, $4,150,000.
White Sands Missile Range, New Mexico, $5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, $2,910,000.
Iowa Army Ammunition Plant, Iowa, $1,030,000.
Kansas Army Ammunition Plant, Kansas, $7,200,000.
Longhorn Army Ammunition Plant, Texas, $230,000.
Louisiana Army Ammunition Plant, Louisiana, $3,410,000.
Milan Army Ammunition Plant, Tennessee, $5,500,000.
Radford Army Ammunition Plant, Virginia, $2,400,000.
Sunflower Army Ammunition Plant, Kansas, $3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, $7,550,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, $1,700,000.
Fitzsimons Army Medical Center, Colorado, $3,600,000.
Walter Reed Army Medical Center, Washington, District of Columbia, $9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, $20,000,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY

Korea, $68,300,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

National Missile Range, $21,600,000.

UNITED STATES ARMY FORCES COMMAND

Panama, $6,800,000.
Egypt, $53,000,000.

UNITED STATES ARMY, EUROPE

Germany, $248,090,000.
Turkey, $7,050,000.

UNITED STATES ARMY WESTERN COMMAND

Johnston Island, $1,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, $3,950,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $62,760,000.

FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Army is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Army is authorized to acquire sole interest in privately-owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units and community service facility for the Department of the Army, $70,095,000; five hundred seventy-two units;

Fort Irwin, California, one hundred forty-four units, $13,754,000.

Fort Lewis, Washington, one hundred fifteen units, $9,962,000.

Grafenwoehr, Germany, one hundred forty-three units, $17,214,000.

Hohenfels, Germany, thirteen units, $1,565,000.

Wildflecken, Germany, one hundred fifty seven units, $18,900,000.

Aliamanu, Hawaii, consolidated community center, $8,700,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Army, or the Secretary's designee, is authorzied to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $109,680,000, of which $43,800,000, shall be available only for energy conservation projects.

(f) The Secretary of the Army, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in Section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as amended, as follows:

Fort Hamilton, New York, one hundred eight units, $4,800,000.

(g) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561) is amended by striking out "$195,000" in the item relating to Fort McNair, Washington, D.C., and inserting in lieu thereof "$223,000".

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECTS

SEC. 105. Section 702 (1) of the Military Construction Authorization Act 1982 (Public Law 97-99); 95 Stat. 1375), is amended to read as follows:

"(1) for title I: inside the United States $391,356,000; outside the United States $395,006,000; minor construction $34,150,000; for a total of $820,512,000."

FORT LEWIS, WASHINGTON—WEYERHAEUSER LAND EXCHANGE

SEC. 106. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five (5) parcels of land aggregating approximately three-hundred (300) acres located along the westerly boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest and shall include the following reservations:

(1) a training easement over Tract 1-US, and

(2) an access easement over Tract 4-US.

(b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation shall—

(1) convey or cause to be conveyed to the United States all right, title, and interest in two (2) parcels of land aggregating approximately 290 acres, together with improvements, to be equivalent in value as determined by the Secretary to the land conveyed under subsection (a) and that are otherwise acceptable to the Secretary.

(2) pay all costs associated with surveying, installing boundary monuments, and fencing costs.

(3) shall not reserve any easements in the lands to be conveyed to the United States with the exception of two easements over roads in Tract 1-W.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to enter an agreement with the responsible officials of Pierce County, Washington, whereby the reversionary interest of Pierce County in the United States lands to be conveyed under subsection (a) is extinguished and replaced with a reversionary interest in the lands conveyed to the United States under subsection (b).

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, $4,650,000.

Marine Corps Base, Camp Lejeune, North Carolina, $28,550,000.

Marine Corps Base, Camp Pendleton, California, $33,965,000.

Marine Corps Air Station, Cherry Point, North Carolina, $31,800,000.

Marine Corps Air Station, El Toro, California, $7,200,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, $1,450,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $1,550,000.

Marine Corps Development and Education Command, Quantico,Virginia, $23,250,000.

Marine Corps Recruit Depot, San Diego, California, $27,100,000.

Marine Corps Air Station, Tustin, California, $7,350,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, $1,800,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, $16,900,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, $147,750,000.

Commandant Naval District of Washington, District of Columbia, $15,400,000.

Naval Support Activity, San Francisco, California, $1,400,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, $9,300,000.

Naval Station, Charleston, South Carolina, $12,250,000.

Naval Amphibious Base, Little Creek, Virginia, $1,850,000.

Naval Station, Mayport, Florida, $15,800,000.

Naval Submarine Base, New London, Groton, Connecticut, $5,900,000.

Commander Oceanographic System Atlantic, Norfolk, Virginia, $3,100,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, $2,085,000.

Naval Air Station, Norfolk, Virginia, $2,150,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, $1,900,000.

Naval Air Station, Alameda, California, $3,650,000.

Naval Air Station, Lemoore, California, $10,700,000.

Naval Air Station, Moffett Field, California, $11,800,000.

Naval Air Station, North Island, California, $31,070,000.

Naval Station, Pearl Harbor, Hawaii, $14,400,000.

Naval Station, San Diego, California, $27,300,000.

Shore Intermediate Maintenance Activity, San Diego, California, $14,100,000.

Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, $7,000,000.

Naval Air Station, Whidbey Island, Washington, $1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, $1,700,000.

Naval Air Station, Corpus Christi, Texas, $2,800,000.

Naval Training Center, Great Lakes, Illinois, $1,850,000.

Naval Air Station, Memphis, Tennessee, $8,400,000.

Naval Education and Training Center, Newport, Rhode Island, $1,100,000.

Fleet Training Center, Norfolk, Virginia, $5,400,000.

Naval Training Center, Orlando, Florida, $5,500,000.

Naval Air Station, Pensacola, Florida, $5,400,000.

Naval Technical Training Center, Pensacola, Florida, $4,450,000.

Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, $3,950,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, $9,700,000.

Naval Regional Medical Center, Camp Lejeune, North Carolina, $2,800,000.

NAVAL MATERIAL COMMAND

Naval Air Rework Facility, Alameda, California, $1,400,000.

Naval Weapons Station, Charleston, South Carolina, $1,140,000.

Naval Air Rework Facility, Cherry Point, North Carolina, $5,550,000.

Naval Weapons Center, China Lake, California, $8,700,000.

Naval Surface Weapons Center, Dahlgren, Virginia, $10,800,000.

Navy Public Works Center, Great Lakes, Illinois, $3,400,000.

Mare Island Naval Shipyard, Vallejo, California, $2,250,000.

Naval Underwater Systems Center, Newport, Rhode Island, $6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, $160,000,000.

Navy Public Works Center, Norfolk, Virginia, $16,030,000.

Naval Air Rework Facility, North Island, California, $18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, $1,400,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, $7,800,000.

Naval Supply Center, San Diego, California, $4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, $3,250,000.

Navy Public Works Center, San Francisco, California, $9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, $2,200,000.

Naval Air Development Center, Warminster, Pennsylvania, $1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, $5,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communications Area Master Station Eastern Pacific, Honolulu, Hawaii, $6,300,000.

Naval Communications Area Master Station Atlantic, Norfolk, Virginia, $1,850,000.

OUTSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, $2,000,000.

Marine Corps Air Station, Iwakuni, Japan, $1,350,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, $1,400,000.

Naval Station, Keflavik, Iceland, $8,800,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, $1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, $10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, $80,630,000.

Naval Activities, Kenya, $8,300,000.

Naval Activities, Somalia, $30,000,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Fleet Operations Control Center, Europe, London, England, United Kingdom, $3,250,000.

Naval Air Station, Sigonella, Italy, $31,900,000.

NAVAL MATERIAL COMMAND

Navy Public Works Center, Subic Bay, Republic of the Philippines, $2,050,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Western Pacific, Guam, $1,750,000.

Naval Communication Area Master Station, Mediterranean, Naples, Italy, $2,500,000.

Naval Communication Station, Thurso, Scotland, $1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, $9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, $3,000,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $61,068,000.

FAMILY HOUSING

SEC. 204. (a) The Secretary of the Navy, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Navy is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Navy is authorized to acquire sole interest in privately-owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units for the Department of the Navy, $83,513,000; one thousand seven hundred and forty-nine units;

Marine Corps Base, Camp Pendleton, California, one hundred and four units, $9,112,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, $10,908,000.

Naval Station, Long Beach, California, three hundred and sixty-eight units, $33,090,000.

Naval Air Training Center, Patuxent River, Maryland, one thousand units, $5,000,000.

Naval Station, Guantanamo Bay, Cuba, two hundred units, $25,403,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) Notwithstanding any other provision of law, the Secretary of the Navy is authorized to purchase ninety-one acres of real estate at a cost not to exceed $1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

(f) The Secretary of the Navy, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $47,333,000 of which $7,574,000 shall be available only for energy conservation projects.

(g) The Secretary of the Navy, or the Secretary's designee, within the amounts specified in subsection (f), is authorized to accomplish repairs and improvements to existing family housing in the amounts in excess of the dollar limitations prescribed in Section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as amended, as follows:

Naval Air Test Center, Patuxent River, Maryland, three hundred and thirty units, $16,800,000.

Naval Station, Guantanamo Bay, Cuba, one unit, $75,000.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

Sec. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, $5,845,000.

Kelly Air Force Base, Texas, $12,000,000.

McClellan Air Force Base, California, $9,000,000.

Robins Air Force Base, Georgia, $4,700,000.

Tinker Air Force Base, Oklahoma, $10,650,000.

Wright-Patterson Air Force Base, Ohio, $32,186,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, $6,600,000.

Edwards Air Force Base, California, $12,100,000.

Eglin Air Force Base, Florida, $13,200,000.

Fort MacArthur, California, $1,900,000.

Laurence G. Hanscom Air Force Base, Massachusetts, $10,650,000.

Cape Canaveral, Florida, $15,700,000.

Moffett Naval Air Station, California, $1,900,000.

Sunnyvale Air Force Station,, California, $11,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, $11,460,000.

Columbus Air Force Base, Mississippi, $1,150,000.

Goodfellow Air Force Base, Texas, $15,300,000.

Keesler Air Force Base, Mississippi, $9,000,000.

Lackland Air Force Base, Texas, $6,100,000.

Laughlin Air Force Base, Texas, $5,770,000.

Lowry Air Force Base, Colorado, $13,050,000.

Maxwell Air Force Base, Alabama, $15,150,000.

Randolph Air Force Base, Texas, $3,900,000.

Reese Air Force Base, Texas, $3,750,000.

Sheppard Air Force Base, Texas, $5,500,000.

Williams Air Force Base, Arizona, $8,700,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, $6,580,000.

Elmendorf Air Force Base, Alaska, $4,800,000.

Galena Airport Alaska, $2,050,000.

Shemya Air Force Base, Alaska, $1,200,000.

Various Locations, Alaska, $43,600,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, $1,060,000.

Andrews Air Force Base, Maryland, $13,200,000.

Bolling Air Force Base, District of Columbia, $4,200,000.

Charleston Air Force Base, South Carolina, $1,550,000.

Dover Air Force Base, Delaware, $2,500,000.

Kirtland Air Force Base, New Mexico, $3,570,000.

Little Rock Air Force Base, Arkansas, $5,500,000.

McChord Air Force Base, Washington, $3,700,000.

McGuire Air Force Base, New Jersey, $16,000,000.

Norton Air Force Base, California, $1,300,000.

Pope Air Force Base, North Carolina, $4,400,000.

Scott Air Force Base, Illinois, $4,850,000.

Travis Air Force Base, California, $2,400,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, $3,300,000.

NORTH AMERICAN AEROSPACE DEFENSE COMMAND

NORAD Cheyene Mountain Complex, Colorado, $1,900,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, $2,595,000.

Blytheville Air Force Base, Arkansas, $1,350,000.

Carswell Air Force Base, Texas, $54,500,000.

Dyess Air Force Base, Texas, $1,650,000.

Ellsworth Air Force Base, South Dakota, $1,350,000.

Francis E. Warren Air Force Base, Wyoming, $4,150,000.

Fairchild Air Force Base, Washington, $3,740,000.

Griffiss Air Force Base, New York, $49,050,000.

K. I. Sawyer Air Force Base, Michigan, $4,450,000.

Loring Air Force Base, Maine, $38,420,000.

Malmstrom Air Force Base, Montana, $49,900,000.

March Air Force Base, California, $1,550,000.

McConnell Air Force Base, Kansas, $3,000,000.

Offutt Air Force Base, Nebraska, $13,255,000.

Peterson Air Force Base, Colorado, $67,700,000.

Powell, Wyoming, $1,250,000.

Vandenberg Air Force Base, California, $91,459,000.

Various Locations, Continental United States, $1,900,000.

Wurtsmith Air Force Base, Michigan, $1,800,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, $5,450,000.

Cannon Air Force Base, New Mexico, $1,800,000.

Davis-Monthan Air Force Base, Arizona, $11,950,000.

George Air Force Base, California, $1,400,000.

Gila Bend Air Force Auxiliary Field, Arizona, $1,700,000.

Holloman Air Force Base, New Mexico, $3,902,000.

Homestead Air Force Base, Florida, $1,500,000.

Langley Air Force Base, Virginia, $15,550,000.

MacDill Air Force Base, Florida, $3,700,000.

Moody Air Force Base, Georgia, $2,550,000.

Mountain Home Air Force Base, Idaho, $4,350,000.

Nellis Air Force Base, Nevada, $19,900,000.

Seymour-Johnson Air Force Base, North Carolina, $3,620,000.

Shaw Air Force Base, South Carolina, $1,150,000.

Tyndall Air Force Base, Florida, $6,300,000.

Various Locations, Maine, $7,200,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, $6,050,000.

M-X

Various Locations, Continental United States, $207,000,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, $1,100,000.

Otis Air National Guard Base, Massachusetts, $3,440,000.

AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, $2,700,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Lajes Field Azores, Portugal, $55,700,000.

Rhein-Main Air Base, Germany, $7,270,000.

PACIFIC AIR FORCES

Camp Long, Korea, $1,750,000.

Clark Air Base, Republic of the Philippines, $14,380,000.

Diego Garcia Air Base, Indian Ocean, $36,550,000.

Kadena Air Base, Japan, $15,950,000.

Kunsan Air Base, Korea, $36,490,000.

Kwang-Ju Air Base, Korea, $2,450,000.

Misawa Air Base, Japan, $6,600,000.

Osan Air Base, Korea, $44,000,000.

San Miguel, Republic of the Philippines, $1,750,000.

Yaedake Radio Relay Station, Japan, $1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, $2,440,000.

TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, $3,600,000.

Various Locations, Worldwide, $45,000,000.

UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, $125,600,000.

Germany, Various Locations, $23,794,000.

Aviano Air Base, Italy, $7,200,000.

Oman, Various Locations, $60,350,000.

Torrejon Air Base, Spain, $4,000,000.

Incirlik Air Base, Turkey, $7,290,000.

Various Locations, United Kingdom, $64,610,000.

Various Locations, $128,330,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $104,691,000.

FAMILY HOUSING

SEC. 304. (a) The Secretary of the Air Force, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Air Force is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Air Force is authorized to acquire sole interest in privately-owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Air Force, $100,550,000; nine hundred sixty units:

Fort MacArthur, California, two hundred units, $20,000,000.

Powell, Wyoming, fifty units, $3,850,000.

MacDill Air Force Base, Florida, forty units, $3,200,000.

Incirlik Air Base, Turkey, two hundred units, $20,000,000.

Bentwaters Royal Air Force Station, United Kingdom, three hundred units, $35,000,000.

Greenham-Common, United Kingdom, one hundred seventy units, $18,500,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, rangers, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Air Force, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $76,500,000 of which $17,000,000 shall be available only for energy conservation projects.

(f) The Secretary of the Air Force, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in Section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as amended, as follows:

Loring Air Force Base, Maine, four hundred units, $13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred sixty-two units, $5,783,300.

Kirtland Air Force Base, New Mexico, one hundred twenty-five units, $4,123,700.

Holloman Air Force Base, New Mexico, one hundred forty-two units, $4,253,600.

Ramstein Air Base, Germany, one hundred twenty units, $7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, $1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, $934,900.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 305. The Military Construction Act, 1977 (Public Law No. 94-431, 90 Stat. 1349), as amended, is further amended as follows:

(1) In section 301 concerning the Arnold Engineering Development Center, Tennessee, delete "$519,010,000" and insert in lieu thereof "$561,010,000", and

(2) In clause (3) of section 602 delete the phrases "$759,759,000" and "$816,409,000" and insert in lieu thereof "$801,759,000" and "$858,409,000", respectively.

LAND CONVEYANCE, FLORIDA

SEC. 306. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940, Public Law 668, Ch. 437, 54 Stat. 628, 655 (1940), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to adjust the base boundaries at Eglin Air Force Base, Florida, to resolve encroachments by both the Air Force and private property owners resulting from reliance on inaccurate surveys. In doing so the Secretary is authorized (1) to disclaim intent to acquire property by prescription, which disclaimer shall be binding on all parties, (2) to dispose of tracts by gift, sale or exchange for privately-owned land adjoining Eglin Air Force Base to parties in possession of such tracts who mistakenly believed that they had acquired title to such tracts, and (3) to acquire tracts by purchase, donation or exchange for government-owned land at Eglin Air Force Base.

(b) Conveyances pursuant to this action may be made without consideration at the Secretary's discretion.

(c) The exact acreages and legal description of all properties are to be determined by surveys which are acceptable to the Secretary.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Elmendorf Air Force Base, Alaska, $27,00,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, $24,141,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, $75,500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, $2,100,000.

Defense Foreign Language Institute, Monterey, California, $31,000,000.

Defense Systems Management College, Fort Belvoir, Virginia, $4,600,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Guam, $43,900,000.

Defense Personnel Support Center, Kaiserslautern, Germany, $5,100,000.

Various Locations, Korea, $29,000,000.

SECRETARY OF DEFENSE ACTIVITIES

Classified Location, $13,000,000.

Mariana Islands, $35,000,000.

NATIONAL SECURITY AGENCY

Classified Locations, $8,557,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Bamberg, Germany, $3,470,000.

Kaiserslautern Air Base, Germany, $7,967,000.

Karlsruhe, Germany, $7,380,000.

Mainz, Germany, $2,830,000.

Nuremberg, Germany, $2,820,000.

Ramstein Air Base, Germany, $1,460,000.

Wuerzburg, Germany, $3,920,000.

Zweibruecken Air Base, Germany, $1,780,000.

Comiso, Italy, $15,280,000.

Yokota Air Base, Japan, $5,660,000.

RAF Greenham Common, United Kingdom, $15,250,000.

RAF Woodbridge, United Kingdom, $1,200,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which he determines to be vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of $30,000,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of $13,460,000.

FAMILY HOUSING

SEC. 404. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of Defense, or the Secretary's designee, is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense, or the Secretary's designee, is authorized to acquire sole interest in privately-owned family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the National Security Agency, $1,009,000; five units:

Classified locations overseas, five units, $1,009,000.

(d) The project and amount authorized by subsection (c) includes the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed $33,000 for the Defense Agencies.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. (a) The Secretary of Defense is authorized to incur obligations in amounts not to exceed $375,000,000 for the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

(b) Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives a description of obligations incurred by the United States during the preceding quarter for the United States' share of the cost of such multilateral programs.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529), and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated for fiscal years beginning after September 30, 1982, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: military construction inside the United States $489,540,000; military construction outside the United States $409,840,000; minor construction $62,760,000; family housing construction $179,775,000; family housing support $905,678,000; homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. S 3374), including acquisition of properties, $4,000,000; for a total of $2,051,593,000.

(2) for title II: military construction inside the United States $857,120,000; military construction outside the United States $199,820,000; minor construction $61,068,000; family housing construction $131,846,000; family housing support $659,439,000; for a total of $1,909,293,000.

(3) for title III: military construction inside the United States $1,080,002,000; military construction outside the United States $696,404,000; minor construction $104,691,000; family housing construction $177,050,000; family housing support $809,535,000; for a total of $2,867,682,000.

(4) for title IV: military construction inside the United States $140,041,000; military construction outside the United States $204,574,000; minor construction $13,460,000; emergency construction $30,000,000; family housing construction $1,042,000; family housing support $17,279,000; for a total of $405,396,000.

(5) for title V: for a total of $375,000,000.

(b) The amounts authorized to be appropriated for family housing support may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b) and (d), the total cost of all construction and acquisition in each of titles I, II, III, IV, and V, except as provided in subsection (c), may not exceed the total amount authorized to be appropriated for that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN NORTH ATLANTIC TREATY ORGANIZATION TOTAL.—When the Secretary of Defense determines that the amount set forth in the title V for the United States' share of the cost of the North Atlantic Treaty Organization program must be increased, the Secretary may incur obligations in excess of such amount if the amount of the increase does not exceed by more than 25 percent the amount set forth in such title. When the Secretary of Defense determines that the amount set forth in title V of this Act must be exceeded by more than 25 percent for the United States' share of the cost of the North Atlantic Treaty Organization infrastructure program, the Secretary may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and House of Representatives and either (1) fifteen days have elapsed from the date of submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(d) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS: REPORTS TO CONGRESS.—No individual project authorized in sections 101, 104, 201, 204, 301, 304, 401, and 404 of this Act for any specifically listed military installations for which the current working estimate is greater than the statutory upper limit for minor construction projects may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 percent; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 percent the amount authorized for such project by the Congress;

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for reduction in scope or increase in cost, has been submitted to the Committees on Armed Services of the Senate and House of Representatives and either fifteen days have elapsed from the date of submission of such report or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(e) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under section 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorized by the Congress for that project by more than 25 percent. The Secretary shall also include in such report each individual project with respect to which the scope was reduced by more than 25 percent in order to permit contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Further, such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business; the names of such firms; the total number of separate contracts awarded each firm; and the total amount paid or to be paid in the case of each such action under all such contracts awarded such firm.

REPEAL OF PRIOR YEAR AUTHORIZATION: EXCEPTIONS

SEC. 605. (a) As of October 1, 1983, or the date of the enactment of the Military Constuction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefor that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981 and not superseded or otherwise modified by a later authorization are repealed except—

(1) authorizations for public works and for appropriations therefor that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, and authorizations for appropriations therefor.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982, (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 101 of the Military Construction Authorization Act, 1981, (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of $2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of $2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount of $2,500,000 at Giessen, Germany.

(4) Energy Monitor and Control Systems in the amount of $840,000 at Karlsruhe, Germany.

(c) Notwithstanding the provisions of subsection (a) of this section and of section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 201 or such authorizations as were extended in section 605 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Municipal Sewer Connection construction in the amount of $2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(2) Nautilus Memorial in the amount of $1,930,000 at the Naval Submarine Base, New London, Connecticut.

(3) Energy Monitoring and Control System in the amount of $765,000 at the Naval Air Station, Jacksonville, Florida.

(4) Unaccompanied Enlisted Personnel Housing Modernization in the amount of $4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(5) Land Acquisition in the amount of $330,000 at the Naval Air Station, Fallon, Nevada.

(d) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 stat. 1770), shall remain in effect until October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Various Rapid Deployment Force Facilities, in the amount of $20,000,000 at Lajes Air Base, Portugal.

(2) Energy Showcase Initiatives in the Amount of $1,600,000 at McClellan Air Force Base, California.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 606. Titles I, II, III, IV, and V shall take effect on October 1, 1982.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to Chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army:

(a) for the Army National Guard of the United States, $33,000,000; and

(b) for the Army Reserve, $28,500,000.

(2) For the Department of the Navy: for the Naval and Marine Corps Reserves, $21,900,000.

(3) For the Department of the Air Force:

(a) for the Air National Guard of the United States, $89,800,000; and

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes, as amended (31 U.S.C. 529) and sections 2662, 4774, and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes, as amended (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use), by gift, purchase, exchange of Government-owned land, or otherwise.

NOTIFICATION ON USE OF LUMP SUM AUTHORITY

SEC. 703. Section 2233a(a), of Title 10, United States Code is amended:

(1) by striking the word "thirty" after the words "until after the expiration of" and inserting in lieu thereof the word "fifteen",

(2) by striking the words "Senate and the House of Representatives" after the words "Secretary of Defense or his designee notifies the" and inserting in lieu thereof the words "Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives",

(3) by striking the words "Senate and the House of Representatives" after the words "damaged or destroyed, where the" in exception (b) and inserting in lieu thereof the words "Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives", and,

(4) by adding an additional exception, subsection (c), as follows:

"(c) Facilities contained on the list of projects supporting the annual lump sum authorization, providing that the location or nature of the facility have not changed, and that the estimated cost is within 125 percent of the amount indicated on the supporting list.".

TITLE VIII—GENERAL PROVISIONS

REVISIONS TO MINOR CONSTRUCTION AUTHORITY

SEC. 801. Subsection 2674 of title 10, United States Code, is amended by—

(a) Deleting in paragraph (b)(2)(A) the word "Defense" and substituting therefor "the military department or the Director of a defense agency concerned", and providing a period after the word "Congress" and deleting paragraph (b)(2)(B) entirely,

(b) Deleting paragraph (3)(A) entirely, and renumbering paragraph (3)(B) to (3), and,

(c) Deleting, in paragraph (f) the words "Secretary of Defense, for" and substituting therefor "Directors of".

CONTRACTS FOR ENERGY OR FUEL FOR MILITARY INSTALLATIONS

SEC. 802. (a) Chapter 141 of title 10 United States Code, relating to miscellaneous Procurement Provisions is amended by adding at the end thereof the following new section:

"§ 2393. Contracts for energy or fuel for military installations

"(a) Notwithstanding any other provisions of law, if the Secretary of a military department or the Director of a defense agency determines that it is in the interest of the Government to do so, the Secretary or Director concerned may:

"(1) develop for the use or benefit of the Department of Defense any geothermal energy resource within lands under his jurisdiction, including public lands, if such development will not deter commercial development and use of other portions of such resource if offered for leasing.

"(2) contract, for a period not to exceed 30 years, (A) for the provision and operation of energy production facilities on real property under the Secretary's or Director's control or on private property and (B) for the purchase of energy produced from such facilities.

"(3) contract, for a period not to exceed 30 years, for the purchase of fuel derived from waste materials, commonly known as refuse derived fuel (RDF), or other waste sources. Contracts for refuse derived fuel may provide for the collection and disposal of solid waste from a military installation and for the delivery to a military installation of refuse derived fuel that exceeds such installation's generation of solid waste.

"(b) Any contract under subsection (a) may be made only after the Committees on Armed Services of the Senate and House of Representatives have been notified of the terms of the proposed contract, including the estimated dollar value of such contract and the estimated amount of energy or fuel to be delivered to the Government under such contract."

(b) The following provisions of law are repealed:

(1) Section 613 of the Military Construction Authorization Act, 1978 (Public Law 95-82; 91 Stat. 380).

(2) Section 803 of the Military Construction Authorization Act, 1979, as amended, (Public Law 95-356; 92 Stat. 585).

ADVANCED PLANNING, CONSTRUCTION DESIGN AND ARCHITECTURAL AND ENGINEERING SERVICES

SEC. 803. Section 612 of the Military Construction Authorization Act, 1967, as amended, (80 Stat. 756, codified at 31 U.S.C. § 723a), is further amended as follows:

(1) delete "$250,000" and insert in lieu thereof "50% of the amount set forth in § 2674(a) of title 10, U.S. Code", and (2) delete "30" and insert in lieu thereof "15."

RECYCLABLE MATERIAL

SEC. 804. Section 612 of the Military Construction Authorization Act, 1975 (Public Law 93-552; 88 Stat. 1765, 1766) is amended as follows: (1) delete "$50,000" and insert in lieu thereof "$200,000", and (2) delete the last sentence.

RESTORATION OR REPLACEMENT OF FACILITIES DAMAGED OR DESTROYED

SEC. 805. Section 2673 of title 10, United States Code, is amended to read as follows:

"The Secretary of Defense after notifying the Committees on Armed Services of the Senate and House of Representatives, may acquire, construct, rehabilitate, and install temporary or permanent public works, including appurtenances, utilities, equipment, and the preparation of sites, to restore or replace facilities that have been damaged or destroyed. The project for replacement or restoration shall adhere to Department of Defense building criteria, and may be of sufficient size as to accommodate the most up-to-date requirements of the mission or function served by the damaged or destroyed facility."

FAMILY HOUSING IMPROVEMENT AND MAINTENANCE

SEC. 806. Section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as amended, is amended further by striking out "$20,000" in the first sentence and inserting in lieu thereof "$30,000".

LEASING OF FAMILY HOUSING

SEC. 807. Section 2675(d) of title 10, United States Code, is amended to read as follows:

"(d) Expenditures for the rental of family housing in foreign countries (including the cost of operation, maintenance and utilities) may not exceed $1,400 per month for any one unit, provided, that not more than 29,132 family housing units may be leased in foreign countries at any one time, and provided further, that not more than 250 such housing units may exceed the cost limitations contained herein so long as such units are leased for incumbents of special positions or for personnel assigned to Defense Attache offices or are leased in countries where the excessive cost of housing would cause an undue hardship on Department of Defense personnel, as follows:

(1) for the Department of the Army, 18,573 units, of which 25 units may exceed the maximum dollar limitation prescribed in this subsection.

(2) for the Department of the Navy, 1,874 units, of which 47 units may exceed the maximum dollar limitation prescribed in this subsection.

(3) for the Department of the Air Force, 8,028 units, of which seven units may exceed the maximum dollar limitation prescribed in this subsection.

(4) for the Defense Intelligence Agency, 354 units, of which 170 units may exceed the maximum dollar limitation prescribed in this subsection.

(5) for the Defense Mapping Agency, one unit, which may exceed the maximum dollar limitation prescribed in this subsection.

(6) for the National Security Agency, 302 units."

MAXIMUM LIMITATIONS ON SPACE

SEC. 808. Section 2684 of title 10, United States Code is amended by adding at the end thereof the following new subsections:

"(e) The maximum limitations prescribed by subsection (a) do not apply to family quarters acquired or constructed by the Department of State for occupancy by members of the Armed Forces assigned to State Department missions."

WAIVER OF RESTRICTIONS ON UNITED STATES ORIGIN CONSTRUCTION MATERIALS

SEC. 809(a). Section 906 of the Military Construction Authorization Act, 1982, Public Law No. 97-99, 95 Stat. 1384 (1981) is amended as follows:

(1) in subsection (a) delete the phrase "subsections (b) and (c)" and insert in lieu thereof "subsections (b), (c) and (d)," and,

(2) Add the following new subsection:

"(d) In extraordinary cases where the authority of the project manager under subsection (c) to authorize the use of materials not produced, manufactured, or refined in the United States is insufficient to ensure the orderly and timely construction of such projects, the Secretary of the Military Department concerned may waive the restrictions of subsection (a)."

(b) Section 405 of the Military Construction Authorization Act, 1981 Public Law No. 96-418, 94 Stat. 1761 (1980) is amended as follows:

(1) delete subsection (e), and,

(2) amend subsection (f) to read as follows:

"(e) The provisions of subsection (c) of this section shall apply with respect to funds appropriated pursuant to section 201 and 301 for the construction of a naval support facility at Diego Garcia."

TITLE IX

SEC. 901. There are authorized to be appropriated for fiscal year 1984 such sums as may be necessary for the Secretary of Defense and the Secretaries of the Army, Navy and Air Force to establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities and equipment.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., February 18, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In accordance with Section 2212 of Title 10, United States Code, there is forwarded herewith a draft of legislation "To authorize certain construction at military installations for Fiscal Year 1983, and for other purposes". This legislation is consistent with the Budget of the United States for Fiscal Year 1983 as sent to the Congress on February 8, 1982. Appropriations in support of Titles I through IX of this legislation are discussed in that Budget.

Titles I, II, III, and IV of this proposal would authorize $7,233,964,000 in new construction and family housing support requirements for the Active Forces as follows: $2,051,593,000 for the Department of the Army; $1,909,293,000 for the Department of the Navy; $2,867,682,000 for the Department of the Air Force; and, $405,396,000 for the Defense Agencies. Also included in Title I, pursuant to Section 138 of Title 10, United States Code, as amended, is authorization for construction of production base support at Army Ammunition Facilities.

Title V would authorize $375,000,000 for the United States' share of the NATO Infrastructure Program.

Title VI contains Authorization for Appropriations and recurring Administrative Provisions applicable to the Military Construction Program. Title VIII contains nonrecurring general provisions applicable to the Military Construction Program.

Title VII, totaling $202,200,000, would authorize construction for the Guard and Reserve Forces as follows: $33,000,000 for the Army National Guard; $28,500,000 for the Army Reserve; $21,900,000 for the Naval and Marine Corps Reserves; $89,800,000 for the Air National Guard; and, $29,000,000 for the Air Force Reserve. These authorizations are in lump sum amounts, and will be utilized in accordance with the requirements of Chapter 133, Title 10, United States Code.

Title IX provides authorization for Fiscal Year 1984 to meet the basic requirements of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

The projects that would be authorized by this proposal have been reviewed to determine if environmental impact statements are required in accordance with Public Law 91-190. Required environmental statements will be submitted to the Congress by the Military Departments.

Sincerely,

WILLIAM H. TAFT IV.

Enclosure.

By Mr. THURMOND:

S. 2206. A bill to amend title 10, United States Code, to provide benefits under the survivor benefit plan to the spouses and dependent children of members of the Reserve components of the uniformed services who die after completing service requirements for participation in that plan but before being afforded the opportunity to elect participation in the plan and to provide for the payment of annuities under the plan to dependent children of members of the Armed Forces who die on active duty after becoming entitled to or qualified for retired or retainer pay, and for other purposes; to the Committee on Armed Services.

UNIFORMED SERVICES SURVIVOR BENEFITS AMENDMENTS OF 1982

Mr. THURMOND. Mr. President, in 1972, the 92d Congress enacted landmark legislation which established the military survivor benefit plan (SBP). The new law, Public Law 92-425, gave military careerists survivor benefits for their widows, similar to those enjoyed by other Federal employees.

Although the original survivor benefit plan contained basic inequities, the Congress has passed subsequent legislation to correct several of the flaws and inequities contained in Public Law 92-425.

Today, I am introducing a bill which addresses some of the remaining deficiencies. When taken in conjunction with S. 1411 and S. 611, which I introduced in the first session of this Congress, I believe that we will have addressed the current inadequacies in the survivor benefit plan for military widows.

Mr. President, this bill that I am introducing today, primarily for widows of our reservists and National Guardsmen, would make several vital changes.

My proposed legislation would permit payment of an annuity to a surviving spouse or a dependent child of a member or former member of the uniformed services, who was eligible for retired pay but who died before reaching age 60. Under Public Law 92-425, enacted in 1972, members of Reserve components were allowed to join the Reserve components survivor benefit plan. Yet, if these members died prior to reaching age 60, after attaining service eligibility, their spouse could not receive any portion of the annuity until Public Law 95-397 was enacted in 1978. Unfortunately, Public Law 95-397 did not include any retroactive provisions. My bill would allow those families of eligible Reserve service member or retirees, who died between 1972 and 1978, to receive a portion of the annuity.

This legislation would also permit service members who die during the long delay between qualification for retired pay and notification of eligibility to be covered under the Reserve components survivor benefit plan. This coverage would result in an annuity being paid to the surviving spouse or dependent child of such persons just as if the person had elected to fully participate in the Reserve components survivor benefit plan.

Under current law, in calculating the cost to the individual, the retiree pays 2½ percent of the first $300 of base pay and 10 percent of the remainder of base pay. This bill would change the minimum base amount of $300 to $750. The reason for increasing the base amount to reduce the cost to the retiree is that since 1972, when the present reduction formula was enacted under Public Law 92-425, the Consumer Price Index has more than doubled. Yet, there has been no corresponding increase in the portion of retired pay subject to the 2½-percent rate reduction. By increasing the base amount to $750 at 2½ percent and 10 percent of the remainder, the retiree would not have to pay an excessive amount for his SBP.

Finally, this proposal would authorize payment of an annuity to the dependent children of an Armed Forces member who dies on active duty after becoming entitled to retired pay, if there is no eligible spouse.

Mr. President, I hope my distinguished colleagues will carefully study this proposal and join me in removing these inequities in the survivor benefit plan.

Mr. President, I ask unanimous consent that this bill be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uniformed Services Survivor Benefits Amendments of 1982".

SEC. 2. Section 1448 (a) (2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new clauses:

"(C) to a person who dies before being notified under section 1331 (d) of this title that he has completed the years of service required for eligiblity for retired pay under chapter 67 of this title if on the date of death the person (i) had completed the years of service required for eligibility for retired pay under chapter 67 of this title, and (ii) was married or had a dependent child; and

"(D) to a person who dies during the 90-day period beginning on the date he receives notification under section 1331 (d) of this title that he has completed the years of service required for eligibility for retired pay under chapter 67 of this title if on the date of death the person (i) has not made an election under clause (B) to participate in the Plan, and (ii) was married or had a dependent child.".

SEC. 3. Subsection (d) of section 1448 of title 10, United States Code, is amended to read as follows:

"(d) If a member of an armed force dies on active duty after he has become entitled to retired or retainer pay, or after he has qualified for that pay except that he has not applied for or been granted that pay, and his spouse or dependent child is eligible for dependency and indemnity compensation under section 411 (a) or section 413 of title 38 in an amount that is less than the annuity the spouse or dependent child would have received under this subchapter if it had applied to the member when he died, the Secretary concerned shall pay to the spouse or dependent child an annuity equal to the difference between that amount of dependency and indemnity compensation and 55 percent of the retired or retainer pay to which the otherwise eligible spouse or dependent child described in section 1450 (a) (1) or 1450 (a) (2) of this title would have been entitled if the member had been entitled to that pay based upon his years of active service when he died.".

SEC. 4. (a) Section 1450 (j) of title 10, United States Code, is amended by adding at the end thereof the following new sentence: "An annuity payable by virtue of clause (C) or (D) of section 1448 (a) (2) of this title shall be effective on the first day after the death of the person to whom the Plan applies.".

(b) Section 1452 (a) (1) of such title is amended by striking out "$300" and inserting in lieu thereof "$750".

SEC. 5. (a) The Secretary concerned shall pay an annuity to any individual who is the surviving spouse or a dependent child of a member or former member of the uniformed services who—

(1) died during the period beginning on September 21, 1972, and ending on September 30, 1978; and

(2) at the time of his death would have been eligible for retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under 60 years of age.

(b) An annuity under subsection (a) shall be paid under the provisions of subchapter II of chapter 73 of title 10, United States Code, in the same manner as if the member or former member had died after September 30, 1980, and had elected under section 1448 (a)(2)(B) of such title to participate in the Survivor Benefit Plan established by such subchapter and had made a designation under section 1448 (e) of such title to provide an annuity to become effective on the first day after his death.

(c) If an individual entitled to an annuity under this section is also entitled to an annuity under subchapter II of chapter 73 of title 10, United States Code, based upon a subsequent marriage, the individual may not receive both annuities but must elect which to receive.

(d) As used in this section:

(1) "Uniformed services" means the Armed Forces and the commissioned corps of the Public Health Service and of the National Oceanic and Atmospheric Administration.

(2) "Surviving spouse" has the meaning given the terms "widow" and "widower" in section 1447 of title 10, United States Code.

(3) "Dependent child" has the meaning given such term in section 1447 of title 10, United States Code.

(4) "Secretary concerned" has the meaning given such term in section 101 (8) of title 10, United States Code, and includes the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

SEC. 6. The amendments made by sections 2, 3, and 4 and the provisions of section 5 shall apply to annuity payable and to reductions in retired or retainer pay for months beginning on or after the date of the enactment of this Act. No benefits shall accrue to any person by virtue of the enactment of this Act for any period before the date of the enactment of this Act.

By Mr. DIXON: (for himself, Mr. DURENBERGER, and Mr. QUAYLE):

S. 2207. A bill relating to the financing of the activities of the Saint Lawrence Seaway Development Corporation; to the Committee on Environment and Public Works.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION REFINANCING ACT OF 1982

Mr. DIXON. Mr. President, I am introducing today the St. Lawrence Seaway Development Corporation Refinancing Act of 1982.

The St. Lawrence Seaway was completed in 1959 at a cost of $133 million. The seaway receives no Federal appropriations and the debt retirement and operation and maintenance cost are covered by the existing tolls. It is the only U.S. waterway to charge tolls.

Mr. President, by the end of the 1980 shipping season, the U.S. St. Lawrence Seaway Development Corporation had returned $24.8 million in principal to the U.S. Treasury in repayment for its full construction cost of $133 million. The Seaway Corporation has also paid an additional $37.6 million in interest charges on the construction cost. These interest charges were eliminated in 1970. However, the St. Lawrence Seaway Development Corporation has paid to the U.S. Treasury a total of $62.4 million, while at the same time paying all of its own bills and covering its entire cost of operation, maintenance, and administration.

Mr. President, no other entity in Government is burdened with such a construction repayment debt, nor has one ever performed so efficiently, while not costing the taxpayers of the United States 1 cent.

Mr. President, the St. Lawrence Seaway Corporation is still required to repay a balance of $109 million on the construction cost. The seaway presently collects about $10 million in tolls per year with the annual debt repayment costs running about $2 million. This cost will increase substantially in 1986 to $9.5 million. The tolls on the seaway will have to be raised considerably. The increase in these tolls will be catastrophic to the Great Lakes ports. This financial burden will greatly hamper the Great Lakes competitive position and eliminate the limited international general cargo trade which remains on the Great Lakes. It will also substantially reduce bulk cargo exports, such as coal and grain, and reduce the total revenue to the Seaway Corporation, thereby preventing the Corporation from meeting its debt obligation in the near future.

Mr. Present, in 1978, the St. Lawrence Seaway Development Corporation along with the Seaway Authority of Canada, agreed to increase the tolls on the seaway by 100 percent over a 3-year period. The increased tolls have been a major contributing factor in the decline of vessel shipping since then. For example, shipping at Chicago dropped from a high of 351 in 1977 to 153 in 1980—Duluth from 462 to 273 and these are just 2 examples.

Mr. President, the St. Lawrence Seaway system is a great natural resource, which should be developed further. It affords the significant farming and manufacturing interests of the Midwest access to low cost water transportation serving the world markets. This system encourages competition among modes of transportation and results in lower transportation costs. Just one example is the freight rates governing Public Law 480 "food for peace" shipments. During the St. Lawrence Seaway season, 1980, shipping costs for this food ranged from $119 to $136 per gross ton. When the seaway closed for the season, the same commodity shipped from the same point of origin was quoted at rates ranging from $142 to $160 per gross ton.

Mr. President, this legislation gives equity to the Great Lakes, our Nation's fourth seacoast. Through this bill Congress would restructure the financing of the St. Lawrence Seaway Development Corporation. The legislation simply converts the $109 million construction debt into equity ownership by the Federal Government. This does not require the use of any taxpayers' moneys.

Mr. President, the tolls will remain sufficient to meet all operations and maintenance costs and allows the Secretary of Transportation to continue to negotiate the amount of these tolls with the Canadians.

Mr. President, the Canadian Government has already converted this debt to equity restructuring. It is time we in Congress did the same. I hope my colleagues will support me in this legislation.

By Mr. HELMS (by request):

S. 2208. A bill to recover costs incurred by the Department in the administration of the promotion program for wool and the research and promotion program for potatoes, including costs incurred for the conduct of the wool and potato referenda; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2209. A bill to provide for recovery of costs associated with the postage, printing and handling of market information and statistics pursuant to the Cotton Statistics and Estimates Act and the Tobacco Inspection Act; to the Committee on Agriculture, Nurtition, and Forestry.

WOOL, POTATO, COTTON, AND TOBACCO PROGRAMS

● Mr. HELMS. Mr. President, at the request of Secretary of Agriculture John R. Block, I am today introducing two bills. The first amends the National Wool Act of 1954 and the Potato Research and Promotion Act to allow the Department of Agriculture to recover its costs incurred in connection with the research and promotion programs under these acts.

The research and promotion programs carried out under these acts are funded through producer check-offs. However, the Department has historically performed certain administrative and supervisory functions and conducted referenda in connection with these programs as necessary. The costs incurred by the Department in performing these functions are, under current law, required to be paid for from appropriated funds.

This bill proposes to eliminate the Federal funding of the Department's costs incurred under these programs by authorizing the reimbursement of these costs from funds collected from producers in the case of the potato program and from payments due to producers under the wool support program. If enacted into law this bill will place these two programs on an equal footing with all of the other similar research and promotion programs subject to oversight activities by the Department.

The second bill would amend the Cotton Statistics and Estimates Act and the Tobacco Inspection Act to authorize the Department of Agriculture to recover its costs associated with the postage, printing, and handling of market information and statistics distributed under these acts. This bill is necessary to clarify the language of these two acts to provide the same authority for the recovery of such costs under these two acts as was included in the 1981 farm bill with respect to the printing and distribution of reports and publications by the Department generally.

I ask unanimous consent that the bills and the transmittal letters from the Secretary of Agriculture be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended in the third sentence by adding after the word "thereunder" the phrase ", including costs incurred by the Secretary, or such costs which the Secretary estimates will be incurred, in the administration of promotional activities and conduct of the referendum carried out pursuant to this section," and by inserting after the word "deducted" the phrase ", in excess of the costs incurred by the Secretary, or such costs which the Secretary estimates will be incurred, in the administration of promotional activities and conduct of the referendum carried out pursuant to this section,".

Sec. 2. Section 308(e) of the Potato Research and Promotion Act (7 U.S.C. 2617(e)) is amended by deleting the semicolon after the words "subsection (d) of this section" and inserting the following phrase ", including costs estimated to be incurred by the Secretary in any referendum and administration and supervision of the program;".

Sec. 3. Section 308(f)(1) of the Potato Research and Promotion Act (7 U.S.C. 2617(f)(1)) is amended by inserting after the words "potato products" the phrase ", any referendum, administrative, and supervisory costs incurred by the Secretary".

Department of Agriculture,
Office of the Secretary,
Washington, D.C., February 18, 1982.
Hon. George H. W. Bush,
President, U.S. Senate,
Washington, D.C.

Dear Mr. President: Enclosed for consideration by the Congress is a draft bill "To recover costs incurred by the Department in the administration of the promotion program for wool and the research and promotion program for potatoes, including costs incurred by the Department for the conduct of the wool and potato referenda."

The Department recommends enactment of this proposed bill.

The Department provides oversight on research, education and promotion programs for a number of agricultural commodities. With the exception of the programs for wool and potatoes, the Department is fully reimbursed for its costs. This proposed legislation would place the research and promotion programs for wool and potatoes on a comparable basis with other similar type programs which the Department oversees.

The Department proposes to eliminate Federal funding of costs incurred in the administration of research and promotion programs carried out pursuant to the National Wool Act and the Potato Research and Promotion Act as contained in the President's fiscal year 1983 Budget. Such action will reduce 1983 outlays by $63,000—$23,000 for wool which is currently funded under the Marketing Services appropriation and $40,000 for potatoes which is financed from Section 32 funds. Costs to be borne by the wool and potato industries will approximate 23 cents per wool producer per year and about $3 per potato producer per year. In addition, the proposed bill provides for recovery of the Department's costs incurred in the conduct of the wool and potato referenda. Estimated reimbursement to the Department for costs of the wool referendum which is to be conducted in 1982 is $128,000 or about $1.28 per producer. Reimbursement to the Department for conduct of the potato referendum will approximate $10,000 to $15,000, depending upon mailing costs at the time of the referendum, or about $1 per producer.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the President's program.

Sincerely,

John R. Block,
Secretary.

Enclosure.

S. 2208

A bill to recover costs incurred by the Department in the administration of the promotion program for wool and the research and promotion program for potatoes, including costs incurred for the conduct of the wool and potato referenda.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The National Wool Act of 1954 and the Potato Research and Promotion Act are amended as follows:

Sec. 1. Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended in the third sentence by adding after the word "thereunder" the phrase ", including costs incurred by the Secretary, or such costs which the Secretary estimates will be incurred, in the administration of promotional activities and conduct of the referendum carried out pursuant to this section," and by inserting after the word "deducted" the phrase ", in excess of the costs incurred by the Secretary, or such costs which the Secretary estimates will be incurred, in the administration of promotional activities and conduct of the referendum carried out pursuant to this section,".

Sec. 2. Section 308(e) of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended by deleting the semicolon after the words "subsection (d) of this section" and inserting the following phrase ", including costs estimated to be incurred by the Secretary in any referendum and administration and supervision of the program;".

Sec. 3. Section 308(f)(1) of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended by inserting after the words "potato products" the phrase ", any referendum, administrative, and supervisory costs incurred by the Secretary".

S. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Cotton Statistics and Estimates Act (7 U.S.C. 471-476) is amended by adding a new section 7 to read:

"Sec. 7. The Secretary of Agriculture may, by regulation, charge and collect such fees as the Secretary may determine to be reasonable to cover costs of postage, printing and handling of marketing information and statistics authorized under sections 1 and 3b of this Act, and the fees collected shall be credited to the account that incurs the cost of such services.".

Sec. 2. Section 9 of the Tobacco Inspection Act (7 U.S.C. 511h) is amended by deleting the words "without cost to the grower", and adding at the end thereof a new sentence to read: "The Secretary may, by regulation, charge and collect such fees as the Secretary may determine to be reasonable to cover costs of postage, printing and handling of such marketing information, and the fees collected shall be credited to the account that incurs the cost of such services.".

Department of Agriculture,
Office of the Secretary,
Washington, D.C., February 22, 1982.
Hon. George H. W. Bush,
President, U.S. Senate,
Washington, D.C.

Dear Mr. President: Enclosed for consideration by the Congress is a draft of a proposal bill "To provide for recovery of costs associated with the postage, printing and handling of market information and statistics pursuant to the Cotton Statistics and Estimates Act and the Tobacco Inspection Act."

The Department recommends enactment of this proposed legislation. This legislation, coupled with amendments contained in the 1981 Farm Bill, will enable the Department to recover costs associated with the postage, printing and handling of printed market news reports for all commodities. The President's fiscal year 1983 Budget proposes a reduction in appropriations of $1,250,000 for these activities, with the costs of such activities to be borne by the recipients of mailed market news reports.

The Market News Program administered by the Department's Agricultural Marketing Service (AMS) provides current reports on prices, supplies, movement, demand, and quality for fruits and vegetables, peanuts, ornamentals, livestock, meat, wool, poultry, eggs, dairy products, grain, sugar, cotton, and tobacco. Timely and equal access to the latest market information and statistics is provided to those who want the information; i.e., formers, shippers, packers, dealers, processors, wholesalers, and retailers, to help them decide the best time and the best place to buy and sell their products. The Market News Program is currently funded by an annual appropriation.

The 1981 Farm Bill provides general authority to the Department to recover costs associated with the printing and distribution of certain printed reports and publications. However, because of the language and legislative histories of both the Cotton Statistics and Estimates Act and The Tobacco Inspection Act, market news information is currently provided without charge to its recipients. To provide uniformity and consistency in the administration of the total Market News Program, legislation is proposed to provide explicit authority for the Department to charge postage, printing and handling costs for market information and statistics for cotton and tobacco. In addition, the proposed legislation would authorize the establishment of a fund available without fiscal year limitation into which fees collected for such costs will be deposited and utilized to maintain the effectiveness of the Market News Program. This change is also consistent with authority contained in the 1981 Farm Bill providing for establishment of a fund for the deposit of fees collected for printed reports and publications.

Upon enactment, this legislation will provide for recovery of approximately $300,000 of the projected $1,250,000 to be collected for printed market news reports.

The Department will initiate action in FY 1982 to develop a plan whereby annual subscription rates will be charged to all recipients of mailed market news reports, except for cotton and tobacco. Subscription rates will be based on the frequency of mailings, the number of pages, postage costs, and other factors involved at the time of implementation. A similar plan will be instituted for printed cotton and tobacco market news reports upon passage of this proposal.

The Department urges final action by the Congress on this legislation. In so doing, the Department will be able to effect its program to charge subscription rates for printed market news reports in an orderly and uniform manner.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the President's program.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosure.

S. 2209

A bill to provide for recovery of costs associated with the postage, printing and handling of market information and statistics pursuant to the Cotton Statistics and Estimates Act and The Tobacco Inspection Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Cotton Statistics and Estimates Act (7 U.S.C. 471-476) is amended by adding a new section 7 to read:

"SEC. 7. The Secretary of Agriculture may, by regulation, charge and collect such fees as the Secretary may determine to be reasonable to cover costs of postage, printing and handling of marketing information and statistics authorized under sections 1 and 3b of this Act, and the fees collected shall be credited to the account that incurs the cost of such services.".

SEC. 2. Section 9 of the Tobacco Inspection Act (7 U.S.C. 511h) is amended by deleting the words "without cost to the grower", and adding at the end thereof a new sentence to read: "The Secretary may, by regulation, charge and collect such fees as the Secretary may determine to be reasonable to cover costs of postage, printing and handling of such marketing information, and the fees collected shall be credited to the account that incurs the cost of such services.".●

By Mr. ROTH (for himself, Mr. RUDMAN, Mr. NUNN, and Mr. CHILES):

S. 2210. A bill to amend the Commodity Exchange Act, to reduce fraud and improve the administration of such act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

COMMODITY FRAUD BILL

Mr. ROTH. Mr. President, recently, the Permanent Subcommittee on Investigations, which I Chair, held 3 days of public hearings on the subject of commodity investment fraud schemes. The hearings focused primarily upon off-exchange trading, rather than activities occurring on the floor of an exchange, and were especially concerned with marketing operations conducted outside of the realm of legitimate commodity exchanges. Testimony was heard from victims, schemers, receivers, State and Federal Government officials, and subcommittee staff.

Evidence adduced at these hearings clearly indicates the significance of the problem and raises serious questions as to the ability of Federal authorities to cope with commodity fraud under existing law.

Fraudulent commodity sales operations, using the facade of legitimate commodities trading to lure unwary investors, represent a well-organized criminal element which systematically bilks the American public out of hundreds of millions of dollars each year. Based upon current figures gathered by the staff of the Permanent Subcommittee on Investigations, it is estimated that since 1975 customer losses have totaled at least $739 million and if it is assumed that CFTC is suing only one-half of the perpetrators the figure rises to $1.5 billion. This is particularly devastating to the many individuals who invest their life savings while seeking ways to hedge against high inflation.

Currently, the Commodity Exchange Act charges the Commodities Futures Trading Commission with exclusive jurisdiction over commodities regulation. The agency has only a small staff with which to police commodity frauds nationwide. By preserving "exclusive" jurisdiction in the Commission, State officials eager to render assistance in these cases are effectively preempted from doing so. Although the act was amended in 1978 permitting State officials to appear in Federal court to enforce the act or to proceed under their own general antifraud statutes, such actions have seldom occurred. In most instances, State officials require special authorization from their State legislatures in order to appear in Federal court and lack of familiarity with the Federal court system has created procedural obstacles for State officials. In addition, the Commission's interpretation of section 8(e) of the Commodity Exchange Act precludes effective cooperation with State law enforcement officials by providing that the Commission may not share information with the States. Several State securities commissioners expressed frustration with this restriction which often hampers State and local investigations. Willis F. Kirkpatrick, director of the Alaska Department of Commerce and Economic Development, Division of Banking, Securities, Small Loans, and Corporations, is just one of the State officials who expressed concern in this regard. He noted:

> The so-called permission to allow states to take action against commodity operators via the "amicus curiae" approach much publicized by the CFTC is, in practice, virtually impossible for a small state. The staff of the division has found that prosecutors are very reluctant to take on any commodity fraud case as long as the blanket federal preemption exists due to the possibility of having to fend off the federal government coming to the aid of the proposed respondent in order to defend its "turf", the complexities of preparing the case in light of federal involvement, and the question of whether any conviction or injunction would stand up due to the yet unresolved jurisdictional questions.

Current law is also unclear as to the right of individual commodity customers to bring suits under the act. While a customer reparations program does exist at the Commission, testimony at the hearings indicates that such proceedings are almost totally inadequate in view of the enormous caseload. The Commission currently has a backlog of over 2,000 cases, each requiring an average of 40 months to completion, despite the fact that the very nature of commodity fraud requires swift action in order to retain control of illegally gained assets. Subcommittee estimates reveal that only some 2.9 percent of the reparations claims are actually recovered.

Concerns over the existing CFTC registration requirements were also voiced during the hearings. Salesmen are constantly "recycled" throughout the industry and the recidivist rate among commodity fraud schemes is particularly high. Despite these facts, under existing regulations only minimal registration requirements have been established with virtually no background investigation conducted regarding past associations or job qualifications. Although the Commission was granted authority for fingerprinting and testing registrants in 1978, neither of these procedures has been implemented. The GAO has commented on this in its CFTC reauthorization report. Thus, salesmen who are "registered" with the CFTC move freely from one boilerroom operation to another under the guise of legitimacy.

Several weeks ago, Senator Lugar introduced, on behalf of the Commodities Futures Trading Commission, a comprehensive legislative package addressing the entire commodities industry. While this bill includes provisions which cover a number of important areas, my bill more directly addresses the commodities fraud concerns raised before the subcommittee. For this reason, Senator Rudman and I are today introducing a bill to amend the Commodity Exchange Act to facilitate effective regulatory action against criminals operating in the off-exchange commodity area. This measure will permit State enforcement of commodity or security antifraud laws except against contract markets, clearinghouses and floor brokers, and remove current limitations on State jurisdiction regarding leverage contracts, dealer options, and any contracts not traded on a contract market—off-exchange contracts.

The bill will extend Federal registration requirements to persons associated with commodity pool operators and commodity trading advisors, and will require the Commission to notify States of registrants intending to do business in their jurisdictions. Our bill will allow the State the means to petition the Commission and provide relevant information relating to the suitability of the applicant for registration. Such procedures will aid in the identification of individuals previously involved in fraudulent activity who have become undisclosed principals in other operations, many of which are themselves fraudulent. This recommendation was discussed at the hearings by Michael Unger, securities commissioner for the State of Massachusetts, on behalf of the North American Securities Administrators Association, Inc., who noted:

> Such a procedure puts a minor, if any, regulatory burden on industry and at the same time enables those authorities closest to the fraudulent activities, the state securities administrators, to bring such activities to the attention of the CFTC and possibly assist in the CFTC's investigation.

This bill will amend the Commodity Exchange Act to allow the Commission to share investigative information with States and will make explicit Congress intent to provide for a private right of action under the act.

The criminal penalties provision will be extended to cover commodity pool operators who, like futures commodities merchants, receive commission from their customers. Also, penalties for failure to comply with a Commission reparation order will be stiffened.

Finally, the bill will amend current law to eliminate the necessity for the Commission to give notice prior to seeking a temporary restraining order, where not otherwise required by the Federal Rules of Civil Procedure.

I believe that the adoption of the measures provided for in this bill will strike a telling blow at the commodity con artists and I urge my colleagues to consider it carefully.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of the bill be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Commodity Exchange Act Fraud Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

JURISDICTION OVER CERTAIN OFF-EXCHANGE TRANSACTIONS

Sec. 2. The first proviso in the third sentence of section 2(a)(1) (7 U.S.C. 2) is amended by striking out "and transactions subject to regulation by the Commission pursuant to section 19 of this Act" and inserting in lieu thereof "except that nothing in this Act shall supersede or limit the jurisdiction of a State regarding leverage, as defined by section 19 of this Act, dealer options, as defined by section 14c (d) of this Act, or any other contract not traded on a contract market designated pursuant to section 5 of this Act".

EMPLOYEES, ASSOCIATES, AND CONSULTANTS OF COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

Sec. 3. (a) The first sentence of section 4n(1) (7 U.S.C. 6n (1)) is amended—

(1) by striking out "or" before "any"; and

(2) by inserting ", or any person employed by, associated with, or serving as a consultant to a commodity trading advisor or commodity pool operator other than in a clerical capacity" before "may".

(b) Section 40(2) (7 U.S.C. 60(2)) is amended by striking out "or commodity pool operator" and inserting in lieu thereof ", commodity pool operator, or person employed by, associated with, or serving as a consultant to a commodity pool operator or commodity trading advisor other than in a clerical capacity".

(c) Section 4p (7 U.S.C. 6p) is amended—

(1) by striking out "futures commission merchants, floor brokers, and those persons associated with futures commission merchants or floor brokers," in the first sentence and inserting in lieu thereof "persons required to be registered under this Act";

(2) by striking out "as futures commission merchants, floor brokers and those persons associated with futures commission merchants or floor brokers," each place it appears in the second and third sentences; and

(3) by striking out "customers of futures commission merchants and floor brokers" in the fourth sentence and inserting in lieu thereof "public".

REGISTRANT NOTIFICATION OF STATES

Sec. 4. The Act is amended by inserting the following new section after section 4p (7 U.S.C. 6p):

"4q. (a) A futures commission merchant, commodity pool operator, commodity trading advisor, or a person associated with such a merchant, operator, or advisor who is registered or regulated under section 4d, 4f, 4k, 4m, 4n, 4p, or 8a, before engaging in activities for which he must be registered, shall notify—

"(1) the Commission of the States in which he is operating as a futures commission merchant, commodity pool operator, commodity trading advisor, or person associated with such a merchant, operator, or advisor; and

"(2) the appropriate official in such States of such operation.

"(b) An appropriate official of any State may petition the Commission to suspend or revoke the registration of a futures commission merchant, commodity pool operator, commodity trading advisor, or person associated with such a merchant, operator, or advisor who is operating within such State. The Commission shall promptly ascertain whether cause for suspension or revocation exists under subparagraph (B) or (C) of section 8a(2) and, if it does so exist, proceed under section 6(b).".

EX PARTE RESTRAINING ORDERS AND INJUNCTIONS

Sec. 5. Section 6c (7 U.S.C. 13a-1) is amended by striking out the colon and all that follows through "Court" in the first sentence.

STATE PROCEEDINGS AGAINST VIOLATION OF STATE ANTIFRAUD STATUTES

Sec. 6. Paragraph (7) of section 6d (7 U.S.C. 13a-2(7)) is amended to read as follows:

"(7) Nothing contained in this section shall prohibit an authorized State official from proceeding in a State court or in a State administrative proceeding on the basis of an alleged violation of any general civil or criminal antifraud statute of such State or on the basis of a commodity or security antifraud statute on such State, except that the Commission shall have exclusive jurisdiction over any case involving a contract market, clearinghouse, or floor broker.".

DISCLOSURE OF INFORMATION TO STATES AND FOREIGN GOVERNMENTS

Sec. 7. Section 8(e) (7 U.S.C. 12(e)) is amended—

(1) by inserting "a State, or a foreign government," after "United States," in the third sentence; and

(2) by amending the fourth sentence to read as follows: "However, any information furnished under this subsection to any Federal department or agency, State, or foreign government shall be furnished on the condition that such department or agency, State, or foreign government may disclose such information only in an action or proceeding under the laws of the United States, a State, or a foreign government to which it, the Commission, the United States, a State, or a foreign government is a party.".

APPLICATION OF CRIMINAL PENALTIES TO REGISTRANTS

Sec. 8. The first sentence of section 9(a) (7 U.S.C. 13(a)) is amended—

(1) by striking out "futures commission merchant" and inserting in lieu thereof "any person required to be registered under this Act"; and

(2) by striking out "commission merchant" each place it appears and inserting in lieu thereof "person".

FURNISHING ENFORCEMENT INFORMATION TO AGENCIES

SEC. 9. Section 12(a) (7 U.S.C. 16(a)) is amended by inserting the following before the period at the end thereof: "and shall furnish information necessary for enforcement purposes to any department or agency of the Government, any State, territory, district, or possession, or department, agency, or political subdivision thereof, or any person".

REPARATIONS DAMAGES; PRIVATE RIGHT OF ACTION

SEC. 10. (a) Section 14 (7 U.S.C. 18) is amended—

(1) in subsection (h) by inserting "and he shall, at the discretion of the commission, be liable for treble the damages originally assessed against him" after "fifteen-day period"; and

(2) by adding at the end thereof the following new subsections:

"(j) Nothing in this section shall impair the right of a person complaining of a violation of this Act to bring a suit based on that violation in the United States district court for the district in which the plaintiff resides or in which the defendant has his principal place of business, within three years after the cause of action accrues.

"(k) Nothing in this Act shall be construed to prohibit an action in a State court against a person required to be registered under this Act."

(b) The amendments made by subsection (a) of this section shall apply with respect to violations occurring on or after the date of enactment of this Act.

LEVERAGE TRANSACTIONS

SEC. 11. Section 19, relating to leverage transactions (7 U.S.C. 23) is amended by adding at the end thereof the following new subsection:

"(e) Nothing contained in this Act shall prohibit a State from requiring the registration of a person soliciting or accepting an order for purchase or sale under a standardized contract described in subsection (a) or prescribing rules with respect thereto, insofar as the exercise of such jurisdiction does not conflict with this Act, or rule prescribed or order issued thereunder.".

EFFECTIVE DATE

SEC. 12. Except as provided in section (10)(b) of this Act, the amendments made by this Act shall take effect one hundred and eighty days after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF COMMODITY FRAUD AMENDMENTS OF 1982

Section 1: Title of Bill.

Section 2: Amends Section 2 (a) (10) of the Commodity Exchange Act (the Act) [Definitions] by specifying those areas to which the exclusive jurisdiction of Commission shall extend. This amendment provides exclusive Commission jurisdiction over transactions on approved contract markets, but provides that States may exercise jurisdiction over transactions involving leverage, dealer options and contracts for sale of futures contracts that are not traded on exchanges approved by the Commission. This amendment, in conjuction with Section 6 of this bill, would allow the States to join the Commission in the regulation of commodity futures contracts and related instruments.

Section 3: Amends Section 4n of the Act [Commodity Trading Advisors and Commodity Pool Operators—Registration Procedure] by requiring registration of persons associated with CPOs and CTAs. This amendment is designed to help ferret out individuals previously involved in fraudulent activity who become undisclosed principals in other operations many of which are themselves fraudulent.

Section 3 of the bill also amends Section 4o and 4p of the Act to include persons associated with CPOs and CTAs within the fraudulent transactions prohibitions (Sec. 4o) and fitness standards (Sec. 4p) addressed in these sections by the Act. The rationale is the same as that behind requiring registration of persons associated with CPOs and CTAs.

Section 4: Adds a new Section to provide that the States will be notified of any application for registration with the CFTC, allowing the States the means to petition the CFTC and provide any relevant information relating to the suitability of the applicant for registration. This proposal is seen as a reasonable alternative to allowing States to require registration under their Blue Sky laws.

Section 5: Amends Sec. 6c of the Act [Restraining Orders] to eliminate the necessity for the Commission to give notice prior to seeking a temporary restraining order. Generally, notice will still be required pursuant to Rule 65(b), Federal Rules of Civil Procedure; however, that Rule provides for certain limited exceptions which should be permitted in commodity litigation providing the Commissioner can make the requisite showing.

Section 6: Amends Sec. 6(d)(7) [Jurisdiction of the States] to permit State enforcement of commodity or security anti-fraud laws except against contract markets, clearinghouses and floor brokers. This amendment will relieve the CFTC from the necessity of policing commodity frauds, particularly off-exchange commodity frauds, nationwide. Since the CFTC has only approximately 10 investigators to handle these types of cases, it will receive much needed assistance in its enforcement effort. Such an amendment has the overwhelming approval of the States and is supported, at least in part, by some segments of the legitimate industry.

This proposal is further reaching than the legislative proposal of the CFTC (S. 2109, introduced by Senator Lugar) which would only grant state jurisdiction over unregistered, off-exchange operators. Since many commodity con artists are registering, the CFTC proposal is seen as inadequate.

Section 7: Amends Sec. 8(e) of the Act [Disclosure of Traders or Boards of Trade] to allow the CFTC to share investigative information with the States. Section 9 amends Sec. 12(a) of the Act to make it clear that information can be shared with the States.

Section 8: Amends Sec. 9(a) of the Act [Criminal Penalties] to make its criminal penalties applicable to commodity pool operators since, like FCMs, COPs receive commissions from customers.

Section 9: Amends Section 12(a) of the Act to provide that the Commission will supply information to State and local authorities to facilitate enforcement.

Section 10: Amends Section 14 [Reparations Procedure] of the Act to make explicit Congress' intent to provide for a private right of action under the Act in the United States District Courts by adding 14j. This issue of whether Congress previously intended to grant such a right is currently before the U.S. Supreme Court. In view of the ineffectiveness of the reparations program a private right operation seems essential.

This section of the bill also amends Section 14h to make more severe the penalties for failure to comply with a CFTC reparation order. Study has shown that the reparations process is largely ineffective and that the CFTC's reparations orders are frequently ignored by the perpetrators.

Section 11: Amends Section 19 [Leverage Transactions] to permit State regulations of so-called "leverage" transactions. Staff study has shown more than $1 billion worth of business being done annually by these off-exchange leverage firms; no comprehensive set of regulations has ever been promulgated to cover their operations yet the States continue to be preempted. There would appear to be no economic or social justification for allowing the firms to avoid regulations while they maintain a monopoly in this leverage field as a result of this "grandfather clause" treatment.

● Mr. RUDMAN. Mr. President, I would like to commend Senator ROTH for his role in convening the commodity fraud hearings before the Permanent Subcommittee on Investigations. The result is a comprehensive piece of legislation which will provide enhanced enforcement of the law and a strong hearing record to supplement the broad reauthorization hearings held before the Committee on Agriculture, Nutrition, and Forestry and its Subcommittee on Agricultural Research and General Legislation.

The recent history of the commodities industry reflects a rapid change which has taken place over the last decade. During this time the market has grown and the distinction between commodities and securities has eroded. In 1970 there were 12.4 million futures contracts for nonagricultural commodities; in fact, over 10 percent were Treasury bond contracts. Now, the CFTC has approved applications for contracts on stock indexes, a move which during our hearings was termed the introduction of a national lottery. Also, even the once banned commodity option contracts are being authorized under a pilot program, without the safeguards recommended by the CFTC chief of enforcement. In all, 19 new contracts were authorized by the CFTC last year. Many of these highly speculative investments are similar to investments in securities. However, the safeguards currently in place under security regulations are missing under commodities regulations. There are no customer suitability requirements under commodities regulations; there is a shield of secrecy surrounding large futures positions; dual trading, although prohibited on the floor of securities exchanges, is prevalent on commodities exchanges; and State jurisdiction has been effectively preempted by the Commodities Exchange Act.

Many of the above issues will be fully considered by the Committee on Agriculture, Nutrition, and Forestry. It was the last, State preemption issue that we were primarily concerned with during hearings before the Permanent

Subcommittee on Investigations. The issue has caused considerable discussion, and, in fact, the CFTC has propounded a proposal similar to our own. However, there are several key differences between the two proposals.

First, although the CFTC agrees that the State preemption should be reduced, they would continue to exempt leverage transactions from State regulation. Leverage is a $1.89 billion industry and would not be regulated by the SEC, and the commodity industry's self-regulating body, the NFA, does not intend to undertake this responsibility. Consequently, under the CFTC proposal, leverage would continue under the auspices of the CFTC but no comprehensive set of regulations has ever been issued. Our bill carries forward our strong belief that States should have a role in commodities regulation, and would subject the leverage industry to State laws and regulations.

A second difference between the two proposals is in the area of registration. Understandably, the commodities industry and the CFTC oppose suggestions that would allow States to register members of the industry. They do so because they fear the extra burden and duplication of effort that could arise from registration by both Federal and State authorities. Unfortunately, under the present structure, registration operates as nothing more than a shield for unscrupulous operators. Although we are sympathetic to the industry's position regarding State registration, we are also aware that States can perform a vital function in the area of registration, especially involving information at the local level, and the ability to protect against the introduction of criminal elements into the industry. Therefore, we have devised an innovative registration concept which should prove to be an effective compromise. Our bill would require the Commission to notify States of registrants doing business in their jurisdiction. The bill would also permit the States to petition the CFTC to suspend or revoke the registration of a registered person if State officials had reason to believe that the person should not be granted registration by the CFTC. In this manner, States would play an important role without imposing an added burden on the industry.

A third area of deviation between the two proposals deals with the CFTC's ability to enjoin illegal operation of suspected operators. The CFTC proposal authorizes the CFTC to obtain ex-parte orders only to prohibit the destruction of books and records and removal of funds. Our proposal would allow the CFTC to obtain ex-parte orders for any circumstance in which a court would allow such an action. The law in this area is sufficiently established to provide reasonable safeguards for the industry.

Finally, we felt it necessary to include in our bill a provision specifically recognizing a private right of action against violators of the Commodity Exchange Act. Presently, there are cases pending before the U.S. Supreme Court which present the issue as to whether a private right of action exists. Although we feel that there is ample evidence to support the right, the fact that the issue has been raised suggests that it should be addressed in our legislation. Certainly, there should be little argument that this right should be available.

As I mentioned earlier, there are various other issues that should be addressed during reauthorization of the CFTC. Considering the present dismal status of productive commerical investment, we must closely scrutinize the introduction of increasingly speculative, nonproductive investments. It is also the proper time for recognition of the States' traditional role in combatting all types of fraud. We must insure that commodity fraud is no longer safe from State enforcement. This is the purpose for introduction of the bill, and I urge the Senate's support.●

● Mr. CHILES. Mr. President, I am pleased to join Senator Roth in cosponsoring this important piece of legislation. If enacted, it will establish the framework for better enforcement of the laws designed to prevent fraud in commodities trading.

Recently, the Permanent Subcommittee on Investigations held a series of hearings on the subject of fraud in commodity investment operations. Those hearings uncovered a massive, organized network of unscrupulous con men who bilk unsuspecting investors out of literally hundreds of millions of dollars each year. We heard from persons who had lost thousands of dollars—in some cases their life savings—as a result of phony investments they purchased from smooth talking, high pressure salesmen who operate out of "boiler rooms" set up specifically to defraud innocent citizens. The basic scam was simple: a salesman calls up a person on the phone, and plays upon that person's fear of inflation. The salesman offers a "risk free" investment, one which will be a hedge against inflation and which holds the promise of sizable future gains. So the unwary customer buys a contract—for gold, or oil-and-gas leases, or foreign currency—only to find out, weeks or months later, that the contract is worthless. In some instances, the customer is informed that he owes thousands of dollars to the people who sold him what was characterized as a "risk free" investment. In fact, little or none of the customer's money was ever invested. It all went into the pockets of the "boiler room" operators, who, not surprisingly, become difficult to get in touch with when the customer wants his money back. Florida's climate and its proximity to offshore banking facilities, where shell corporations can be easily set up and the profits can be "laundered", unfortunately have made Florida an attractive place for commodity fraud rings to set up headquarters. Today, between 50 and 100 such boiler rooms are in operation in Florida, according to Mr. Norris Penland, a postal inspector based in Florida who testified at the subcommittee's hearings.

Mr. President, the subcommittee hearings were able to establish the reasons for the growth in commodity scam operations: There are gaps in the Federal laws which hinder enforcement, and the Commodity Futures Trading Commission (CFTC) places too little emphasis on breaking up these rings. The bill being introduced today will shore up many of the shortcomings in the present laws, and help shut down the boiler room operations and put the con men who run them behind bars.

The bill will extend the antifraud penalties of the Commodities Exchange Act to more of the people associated with commodities trading. Today, gaps in the law have the effect of shielding some of the telephone salesmen from anything but the mildest of penalties. In fact, our hearings demonstrated that there is a pool of experienced telephone con men whom the boiler room operators can choose from to staff their operations. The salesmen's attitude is, "Give me a phone and an hour to learn a little bit about the product, and I can sell it to anyone." All too often, these salesmen get off the hook when a boiler room operation is uncovered, and simply move along to another boiler room. This bill will help put some of these unscrupulous people in jail. The bill would also require more persons to register with the CFTC, so that anyone who was previously involved in any sort of commodities fraud will be quickly identified. The bill also enhances the CFTC's ability to move quickly against boiler room operations by making it easier for the CFTC to get a preliminary court order suspending boiler room operations. Finally, the bill amends the so-called "reparations" provisions of the Commodity Exchange Act to make it easier for persons who have been victimized by commodities fraud to recover their money. Our hearings showed that the system in place today simply has not been effective.

Other provisions would help assure better enforcement of the antifraud laws by giving State law enforcement officials the authority to get involved in prosecuting commodity fraud schemes. Today, the law gives the CFTC exclusive jurisdiction to prosecute commodities fraud; this bill would enable the States to get involved in all off-exchange activities. It provides for registration information concerning commodity operations and individuals registering to be passed along to State officials, and it mandates Federal/State cooperation and information sharing in enforcement efforts. These provisions would result in more effective enforcement, as more resources could be directed to breaking up commodity fraud scams. Florida's law enforcement authorities, already overwhelmed by drug trafficking and violent crime investigations, have been hard pressed to stop these sophisiticated con men. I am confident that our State law enforcement officials, armed with the powerful new tools this bill would provide to them, will be able to move forward to help bring these criminals to justice.

Mr. President, one other finding made by the subcommittee was the woeful lack of resources devoted to policing commodity fraud activities. The CFTC only has 10 investigators and 25 lawyers who are assigned to investigate the types of fraudulent activities uncovered in our hearings. The involvement of State officials will help beef up enforcement. But we must also look at the enforcement resources in the CFTC itself, and make sure that it has the people and the capabilities it needs to do its job effectively.

Taken together, these changes would help change the approach to commodities fraud enforcement from a reactive posture to a proactive posture, one in which we are one step ahead of the con men instead of two steps behind them. That task will not be an easy one, since we are dealing with sophisticated criminals who believe that crime does pay. One important step in the fight will be to put these con men in jail, and not to let them off with just a fine. They have the resources to pay the fines; to them a fine amounts to no more than a tax on their business. But these pinstriped bandits who bilk people out of their life savings are every bit as deserving of a stiff prison sentence as are violent street criminals.

Mr. President, in closing, let me commend Senator Roth for the leadership he has shown in calling for these hearings and in drafting this bill. This bill is particularly timely, since it comes just as we in Congress are considering re-authorizing the CFTC. I am hopeful that the reforms set out in this legislation will be carefully considered and incorporated into any new Commodity Futures Exchange Commission. I certainly plan to work with Senator Roth and the other members of the Permanent Subcommittee on Investigations to get these much needed reforms enacted into law.●

By Mr. THURMOND (by request):

S. 2211. A bill to authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes; to the Committee on the Judiciary.

AUTHORIZATION OF APPROPRIATIONS FOR THE PATENT AND TRADEMARK OFFICE

Mr. THURMOND. Mr. President, I am introducing today legislation at the request of the administration which would authorize appropriations for the Patent and Trademark Office in the Department of Commerce.

The Patent and Trademark Office is the repository and center for processing for the thousands of patent and trademark applications filed each year by American and foreign inventors. This Office is one of the oldest in the Federal Government, gaining its heritage directly from article I, section 8 of the U.S. Constitution, which states that Congrss shall have power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries."

Unfortunately, inventors have had to endure with great patience in recent years the determination of whether a patent was to be issued or not. Currently, a patent applicant must wait an average of almost 23 months to receive a patent. Only in the last Congress did patent holders receive some relief with the enactment of a patent reexamination bill which permits the court to ask for the reexamination of a patent by the Patent Office in an infringement suit.

This proposed bill seeks to build on these efforts to improve the efficiency of the Patent and Trademark Office. It establishes user fees as a means to update and streamline the processing of patents and trademarks. The increases sought for user fees will not be without controversy, however, and the Committee on the Judiciary will consider carefully the merits of the administration's proposal and also the view of those who believe the fee increases proposed in this bill may be detrimental to the patent and trademark system.

The Committee on the Judiciary has held jurisdiction over patent and trademark matters for years. For the first time, however, there is an authorization bill for the Patent and Trademark Office. As chairman of the committee, I welcome this opportunity to be closer to the Office, its needs and that of the patent and trademark system generally. We must continue to encourage innovative development in America and this legislation will help to achieve that goal.

Mr. President, I ask unanimous consent that the letter of transmittal, a section-by-section analysis, and the bill be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated for the payment of salaries and necessary expenses of the Patent and Trademark Office to become available October 1, 1982, $68,086,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law. When so specified and to the extent provided in an appropriation act, any amount appropriated pursuant to this section and, in addition, such fees as shall be collected pursuant to title 35, United States Code, and the Trademark Act of 1946, as amended (15 U.S.C. 1051 et seq.), may remain available without fiscal year limitation.

Sec. 2. Notwithstanding any other provision of law, there is authorized to be appropriated for the payment of salaries and expenses of the Patent and Trademark Office, $121,461,000 for the fiscal year ending September 30, 1982, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Sec. 3(a). Section 41(b) of title 35, United States Code, is amended (1) by deleting "25" and inserting in its place "not more than 50"; and (2) by deleting "50" and inserting in its place "100".

(b) Section 41(c) of title 35, United States Code, is amended by deleting "25 per centum" and inserting in its place the phrase ", together with fees collected under subsection (b) of this section, 100 per centum".

(c) Section 41 of title 35, United States Code, is amended (1) by redesignating subsection (d), (e), (f) and (g) as subsection (e), (f), (g) and (h), respectively; and (2) by inserting the following new subsection (d):

"(d)(1) The Commissioner may accept the payment of any maintenance fee required by subsection (c) of this section after the six-month grace period if the delay in payment is shown to the satisfaction of the Commissioner to have been unavoidable. The Commissioner may require the payment of a surcharge as a condition of accepting payment of any maintenance fee after the six-month grace period. If the Commissioner accepts payment of a maintenance fee after the six-month grace period, the patent shall be considered as not having expired at the end of the grace period.

(2) No patent, the term of which has been maintained as a result of the acceptance of a payment of a maintenance fee under this subsection, shall abridge or affect the right of any person or his successors in business who made, purchased or used after the six-month grace period but prior to the acceptance of a maintenance fee under this subsection anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased or used. The court before which such matter is in question may provide for the continued manufacture, use or sale of the thing made, purchased or used as specified, or for the manufacture, use or sale of which substantial preparation was made after the six-month grace period but before

the acceptance of a maintenance fee under this subsection, and it may also provide for the continued practice of any process, practiced, or for the practice of which substantial preparation was made, after the six-month grace period but prior to the acceptance of a maintenance fee under this subsection, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced after the six-month grace period but before the acceptance of a maintenance fee under the subsection."

(d) Subsection (a) of section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), is amended by deleting "50" and inserting in its place "100".

(e) Section 42(c) of title 35, United States Code, is amended by adding the following sentence at the end thereof:

"Fees available to the Commissioner under section 31 of the Trademark Act of 1946, as amended (15 U.S.C. 1113), shall be used exclusively for the processing of trademark registrations and for other services and materials related to trademarks."

SEC. 4. Section 3(a) of title 35, United States Code is amended (1) by deleting the phrase "not more than fifteen"; and (2) by inserting the phrase "appointed under section 7 of this title" immediately after the phrase "examiners-in-chief".

SEC. 5. Section 111 of title 35, United States Code, is amended to read as follows:

"Application for patent shall be made, or authorized to be made, by the inventor, except as otherwise provided in this title, in writing to the Commissioner. Such application shall include: (1) a specification as prescribed by section 112 of this title; (2) a drawing as prescribed by section 113 of this title; and (3) an oath by the applicant as prescribed by section 115 of this title. The application must be accompanied by the fee required by law. The fee and oath may be submitted after the specification and any required drawing are submitted, within such period and under such conditions, including the payment of a surcharge, as may be prescribed by the Commissioner. Upon failure to submit the fee and oath within such prescribed period, the application shall be regarded as abandoned, unless it is shown to the satisfaction of the Commissioner that the delay in submitting the fee and oath was unavoidable. The filing date of an applicaton shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office."

SEC. 6. (a) Section 116 of title 35, United States Code, is amended (1) by deleting the phrase "Joint inventors" from the title and inserting in its place "Inventors"; and (2) in the third paragraph, by deleting the phrase "a person is joined in an application for patent as joint inventor through error, or a joint inventor is not included in an application through error" and inserting in its place the phrase "through error a person is named in an application for patent as the inventor, or through error an inventor is not named in an application".

(b) Section 256 of title 35, United States Code, is amended to read as follows:

"§ 256. Correction of named inventor

"Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his part, the Commissioner may, on application of all the parties and assignees, with proof of the facts and such other requirements as may be imposed, issue a certificate correcting such error."

"The error of omitting inventors or naming persons who are not inventors shall not invalidate the patent in which such error occurred if it can be corrected as provided in this section. The court before which such matter is called in question may order correction of the patent on notice and hearing of all parties concerned and the Commissioner shall issue a certificate accordingly."

SEC. 7. Section 6 of title 35, United States Code, is amended by deleting paragraph (d) thereof.

SEC. 8. (a) Section 8(a) of the Trademark Act of 1946, as amended (15 U.S.C. 1058(a)), is amended (1) by deleting the word "still"; and (2) by inserting the phrase "in commerce" immediately after the word "use".

(b) Section 8(b) of the Trademark Act of 1946, as amended (15 U.S.C. 1058(b)), is amended (1) by deleting the word "still"; and (2) by inserting the phrase "in commerce" immediately after the word "use".

SEC. 9. (a) Section 13 of the Trademark Act of 1946, as amended (15 U.S.C. 1063), is amended (1) by deleting the phrase "a verified" and inserting in its place the word "an"; (2) by adding the phrase "when requested prior to the expiration of an extension" immediately after the word "cause"; and (3) by deleting the fourth sentence.

(b) Section 14 of the Trademark Act of 1946, as amended (15 U.S.C. 1064), is amended by deleting the word "verified".

SEC. 10. Section 15 of the Trademark Act of 1946, as amended (15 U.S.C. 1065), is amended by deleting the phrase "the publication" an inserting in its place the word "registration".

SEC. 11. The first sentence of section 16 of the Trademark Act of 1946, as amended (15 U.S.C. 1066), is amended to read as follows:

"Upon petition showing extraordinary circumstances, the Commissioner may declare that an interference exists when application is made for the registration of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely when applied to the goods or when used in connection with the services of the applicant to cause confusion or mistake or to deceive."

SEC. 12. Section 21 of title 35, United States Code, is amended (1) by deleting the phrase "Day for taking action falling on Saturday, Sunday, or holiday" from the title and inserting in its place the phrase "Filing date and day for taking action"; (2) by inserting the following as subsection (a):

"(a) The Commissioner may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Commissioner.";

(3) by designating the existing paragraph as subsection (b); and

(4) by inserting the word "federal" in subsection (b), as designated above, immediately after the word "a".

SEC. 13. Section 6(a) of title 35, United States Code, is amended (1) by deleting the word "and", third occurrence, and inserting in its place a comma; (2) by inserting the phrase ", or exchanges of items or services" immediately after the word "programs"; and (3) by inserting the phrase "or the administration of the Patent and Trademark Office" immediately after the word "law", second occurrence.

SEC. 14(a). Section 115 of Title 35, United States Code, is amended by (1) deleting the phrase "shall be" and inserting in its place the word "is"; and (2) inserting the following immediately after the phrase "United States", third occurrence: ", or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States".

(b) Section 261 of Title 35, United States Code, is amended, in the third paragraph, by inserting the following immediately after the phrase "United States", third occurrence: ", or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States".

(c) Section 11 of the Trademark Act of 1946, as amended (15 U.S.C. 1061), is amended by (1) deleting the phrase "shall be", first occurrence, and inserting in its place the word "is"; and (2) inserting the following immediately after the phrase "United States", third occurrence: ", or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States".

SEC. 15. Section 13 of title 35, United States Code, is amended by deleting "(a)9" and inserting in its place "(e)".

SEC. 16. (a) Sections 1-4, 7, and 13-15 of this Act shall take effect on the date of enactment of this Act. The increased percentage recovery of Office costs from maintenance fees in section 3(b) of this Act shall not apply to patents applied for prior to the date of enactment of this Act. Until maintenance fees under section 41(c) of this title, as amended by section 3(b) of this Act, are in full effect, fees under section 41(b) of this title for the processing of an application for a patent, other than for a design patent, from filing through disposition by issuance or abandonment, shall recover in aggregate 50 per centum of the estimated average cost to the Office of such processing.

(b) Sections 5, 6, and 8-12 of this Act shall take effect six months after enactment.

THE SECRETARY OF COMMERCE,
Washington, D.C.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill "To authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes", together with a section-by-section analysis of the bill.

This proposed bill will lay the groundwork for revitalizing the United States patent and trademark systems. It will establish the user fees necessary to achieve this Administration's goals of acceptable patent and trademark processing times in the 1980's and a fully automated Patent and Trademark Office in the 1990's.

Today, a patent applicant must wait an average of almost twenty-three months to receive a patent. During fiscal year 1981, 20,000 patent applications were added to an already unacceptable backlog, bringing the total of pending applications to over 200,000. An average of six to seven percent of the estimated 24 million documents in the patent search files are missing or misfiled, and the percentage is higher in rapidly developing fields.

The trademark operation is equally in need of improvement. It takes nearly two years to register a trademark, about twice as long as it should. Last year, 6,500 trademark applications were added to the backlog, which reached a record high.

This Administration has embarked on an ambitious but realistic course of action to reverse the situation and give the country a first-class Patent and Trademark Office. We plan to reach an average patent application pendency time of eighteen months by fiscal year 1987. The first step in this plan is the recruitment and training of additional patent examiners needed to stem the totally unacceptable growth in backlog.

For trademarks, we plan by fiscal year 1985 to issue an examiner's first action or ruling on registrability in three months and dispose of the application within thirteen months.

Our other major goal for the Patent and Trademark Office is to move realistically toward a fully automated Office by the 1990's. Steps have already been taken to place available commercial data bases in the hands of examiners and in the Public Search Room. In addition, the first draft of an automation study mandated by section 9 of Public Law 96-517 has been prepared and distributed widely for review and comment.

In order to achieve these important goals under current fiscal constraints, we are recommending in the enclosed bill that user fees be increased substantially over those currently charged. Specifically, the enclosed bill would amend 35 U.S.C. 41 and 15 U.S.C. 1113 to achieve 100 percent cost recovery for patent and trademark application processing. In patents, 50 percent of the cost of processing would be recovered by filing and issue fees and 50 percent through maintenance fees paid at three intervals during the seventeen-year life of a patent.

The bill also contains a number of amendments to the patent and trademark laws to enhance to the effectiveness of those systems in serving industry and inventors. These amendments are fully explained in the enclosed section-by-section analysis.

The Office of Management and Budget has advised that enactment of the enclosed bill is in accord with the program of the President.

Sincerely,

MALCOLM BALDRIGE,
Secretary of Commerce.

SECTION-BY-SECTION ANALYSIS

Section 1. This section authorizes appropriations for the Patent and Trademark Office for the payment of salaries and necessary expenses of the Office. For Fiscal Year 1983, this section authorizes appropriations of $68,086,000 plus such additional and supplemental amounts as may be necessary to cover any increases in salary, pay, retirement, or employee benefits which may be authorized by law. In addition, fees collected pursuant to title 35, United States Code, and the Trademark Act of 1946, as amended (15 U.S.C. 1051 et seq.), will augment the authorized appropriation to provide the resources needed to conduct the operations of the Office for FY 1983. The total resources for the Office in FY 1983, that is, the amount appropriated pursuant to this section plus fees collected pursuant to the patent and trademark laws, which will be available to the Office, is estimated to be $154,934,000. Any supplemental amounts to cover increases in salary, pay, retirement, or other employee benefits which may be authorized by law will be in addition to, and will therefore increase, that program level. Finally, any funds appropriated pursuant to this section and all fees collected under Public Law 96-517 will remain available without any fiscal year limitation.

Section 2. This section provides that, notwithstanding any other provision of law, there is authorized to be appropriated to the Patent and Trademark Office for fiscal year 1982, $121,461,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law. This section increases the amounts authorized for the Patent and Trademark Office by $2.5 million over that authorized in Public Law 97-35. The President is recommending a supplemental appropriation of $2,500,000 for the Patent and Trademark Office for fiscal year 1982 in order to carry out the program recommendations included in his fiscal year 1983 Budget.

Section 3. This section increases the percentage of PTO costs recovered from patent and trademark fees. The full costs of processing applications for patents, from filing through abandonment, will be recovered through a combination of "front-end" fees (filing and issuance) and maintenance fees. The front-end fees, other than for design patents, will be increased to recover not more than 50% of the processing costs. In 15 years, the remainder of the processing costs necessary to achieve full recovery of such costs will be recovered through maintenance fees. However, until maintenance fees are in full effect, front-end fees for other than design patent applications will recover in aggregate 50% of Office processing costs. After maintenance fees are in full effect, the Commissioner may adjust fees so that maintenance fees recover more than 50% of Office costs, while front-end fees, accordingly, recover less than 50% of Office costs. Fees for processing design patents, which would remain front-end fees, will be increased to recover 100% of Office costs. Trademark fees will be increased to recover 100% of Office costs, but these revenues may be used only to carry out activities of the trademark registration process.

In order to avoid an inequitable loss of patent rights, the Commissioner is given the authority to accept payment of any maintenance fee after the six-month grace period if it is established that the delay in payment was unavoidable. It is intended that the Commission will issue regulations establishing guidelines for acceptance of late payment. After the expiration of a reasonable period of time, the patentee would bear a heavy burden of proof that the delay was unavoidable. A surcharge may be imposed by the Commissioner as a precondition to acceptance of a late fee. This surcharge may be in addition to any surcharge imposed for payment during the grace period.

A provision is included to protect the rights of one who began using or who took steps to begin use of a patent which expired for failure to pay a maintenance fee and which was subsequently reestablished by acceptance of the late payment. The intervening rights provision in section 41(d)(1) is similar to the intervening rights provision in 35 U.S.C. 252 concerning reissued patents.

A provision is inserted in section 42(c) of title 35 in order to ensure that the trademark fees collected are used to fund programs for the processing of trademark registrations and not the processing of patent applications.

Section 4. Section 3 of title 35 is amended by deleting specific reference to the number of examiners-in-chief in the first sentence. Elimination of the upper limit on the number of permanent members of the Board of Appeals would provide greater flexibility in filling most of its personnel needs, thereby avoiding an excess of examiner details. The authority to appoint acting examiners-in-chief, however, is maintained in order that temporary fluctuations in the workload of the Board may be accommodated.

Section 5. Under revised section 111 of title 35, the filing date of an application would be that on which the specification and drawings are received by the Patent and Trademark Office. The oath and filing fee could be submitted at such later time as established by the Commissioner, without any loss of the original filing date. Under the amendment, an applicant could either file the oath (including the applicant's signature) and fee together with an application or submit them at a later time as determined by the Commissioner. The Commissioner would normally set this time period to expire not later than the beginning of the examination process of the application in question, as it could be useful for the examiner to be able to rely on certain averments made in the oath or declaration. The section would also authorize the imposition of a surcharge as a condition for accepting payment of the oath or filing fee after the filing date of the application. Since an application filed without the oath would not be signed or "made" by the applicant, the amendment permits an attorney or agent, authorized by the applicant, to submit an application for the purpose of obtaining a filing date.

Should the applicant, however, fail to file the oath or pay the filing fee within the time limits set by the Commissioner, the application would be regarded as having been abandoned. The requirements for reviving an abandoned application would be the same as those which have to be met in connection with abandoned applications under section 133 of title 35.

Section 6. The third paragraph of section 116 of title 35 is amended to enlarge the possibilities for correcting misnamed inventive entities. As a consequence, correction would be permitted also in cases where the person originally named as inventor was in fact not the inventor of the subject matter contained in the application. If such error occurred without any deceptive intention on the part of the true inventor, the Commissioner would have the authority to substitute the true inventor for the erroneously named person. Although probably rarer, instances such as changes from a mistakenly identified sole inventor to different, but actual, joint inventors, conversions from erroneously identified joint inventors to different but actual joint inventors, and conversions from erroneously identified joint inventors to a different, but actual, sole inventor would also be permitted. In each instance, however, the Commissioner must be assured of the presence of innocent error, without deceptive intention on the part of the true inventor or inventors, before permitting a substitution of a true inventor's name.

Section 256 of title 35, which is a companion to section 116, would be amended to similarly enlarge the possibilities for correction of misnamed inventors in issued patents.

Section 7. Section 6(d) of title 35, which provides for the allocation of appropriated Patent and Trademark Office funds to the

Department of State for payment of United States financial obligations under the Patent Cooperation Treaty, is deleted. The Department of State has traditionally assumed responsibility for financial obligations for international agreements to which the United States adheres.

Section 8. Section 8(a) of the Trademark Act is amended to clarify that the continued use required to be shown in the sixth year be use "in commerce". Although it is believed by some that omission of the words "in commerce" may have been inadvertent in the 1946 Act, this section has been interpreted so that use in a foreign country, or use in intrastate commerce, is sufficient. Such interpretation is fundamentally in conflict with other requirements of the Act.

Section 8(b) of the Act is also amended to clarify that the continued use required to be shown in the sixth year be use "in commerce" for registrations published under section 12(c) of the Act. (This pertains to registrations issued under the Act of March 3, 1881 and the Act of February 20, 1905).

The word "still" has been deleted from sections 8(a) and 8(b). Thus, the owner of a registration issued on the basis of a foreign registration under the provisions of section 44(e) of the Act will have to submit an affidavit to the effect that the mark is in use in commerce. Since the mark need not be used in commerce when it is registered, the registrant cannot be required to state that it is "still" in such use.

Section 9. Section 13 of the Trademark Act is amended to delete the requirement that an opposition be verified. The sentence which allowed an unverified application to be verified at a later date has been deleted. In addition, a phrase has been added to make it clear that any subsequent extension of time to file an opposition, beyond the first extension, must be requested before the end of the preceding extension.

Section 14 of the Trademark Act would also be amended to delete the requirement that a petition to cancel a registration be verified.

Section 10. Section 15 of the Trademark Act is amended to change the term "the publication" to "registration" in the first sentence. This change makes the date of registration rather than the date of publication the crucial date for purposes of incontestability. It will also make section 15 consistent with sections 22 and 33 of the Act.

Section 11. Section 16 of the Trademark Act is amended to limit the declaration of interferences to those situations where a petition to the Commissioner shows that extraordinary circumstances exist. Unless extraordinary circumstances exist, the rights of the parties can be determined adequately by the existing opposition and cancellation procedures. Additionally, if an interference is declared between an application and a registration and the applicant wins, a cancellation must still be initiated against the registration.

Section 12. A new subsection (a) has been added to section 21 of title 35 to authorize the Commissioner of Patents and Trademarks to give as the filing date of any paper or fee which is required to be filed in the Patent and Trademark Office the date on which the paper or fee was deposited with the United States Postal Service. The Commissioner may also give as the filing date of any paper or fee which was required to be filed in the Patent and Trademark Office the date it would have been deposited with the United States Postal Service but for postal service interruptions or emergencies which the Commissioner designates. The requirements governing whether any given paper or fee may be given the filing date of the day on which it was, or would have been, deposited with the United States Postal Service will be set forth in regulations established by the Commissioner.

Section 21(b) of title 35 is identical to existing section 21 with two minor amendments. The word "federal" has been inserted before the phrase "holiday within the District of Columbia" to clarify the nature of the holiday.

Section 13. This section clarifies the authority of the Commissioner in section 6(a) of title 35 to enter into a wide range of cooperative agreements concerning the patent and trademark laws or the administration of the Patent and Trademark Office. These agreements are in addition to the exchange of publications authorized in 35 U.S.C. 11(b) and 12. These cooperative agreements may take the form of studies, programs, exchanges, and other similar ventures. Thus, the PTO could, for example, exchange patent copies, non-patent literature, tapes, or services in return for goods or services of value to the PTO.

Section 14. The amendments of 35 U.S.C. 115 and Section 11 of the Trademark Act of 1946 recognize the Hague "Convention Abolishing the Requirement of Legalization for Foreign Public Documents" which entered into force in the United States on October 15, 1981. The Convention abolishes the requirement of diplomatic or consular legalization for foreign public documents among countries adhering to the Convention.

For documents from all other countries, diplomatic or consular legalization will still be required.

The amendment of 35 U.S.C. 261 is intended to give affirmative effect to acknowledgments executed pursuant to the Hague Convention.

Section 15. This section corrects an incorrect citation. Public Law 96-517 amended section 41 of title 35, United States Code, in a way which eliminated 35 U.S.C. § 41(a)(9). Unfortunately, section 13 of title 35, United States Code, was not amended accordingly by P.L. 96-517. This section corrects that oversight.

Section 16. Section 16 specifies the effective dates of the Act. Increased filing fees resulting from the increased percentage recovery of Office costs will apply to all applications applied for on or after the date of enactment of this Act. Increased issue fees will apply to applications on file in the Office on such date. Increased maintenance fees shall only apply to applications filed on or after the date of enactment. Until the maintenance fees prescribed by section 3 of this Act are in full effect, front-end fees for other than design patent applications must recover in aggregate 50% of Office processing costs. After maintenance fees are in full effect, the Commissioner may adjust fees so that maintenance fees recover more than 50% of Office costs, while front-end fees, accordingly, recover less than 50% of Office costs.

By Mr. ARMSTRONG:

S. 2212. A bill to amend the Internal Revenue Code of 1954 to disallow a deduction for expenses paid or incurred in connection with the illegal sale of drugs; to the Committee on Finance.

TAX DEDUCTION ASSOCIATED WITH SALE OF ILLEGAL DRUGS

● Mr. ARMSTRONG. Mr President, incredible though it may seem, drug traffickers are now permitted by current tax law, as interpreted by the Tax Court to deduct from their income taxes all expenses incurred in illegal drug transactions.

These tax breaks for lawbreakers should immediately be repealed, in my opinion. Today I am introducing such legislation, and I urge on behalf of every American taxpayer, that this legislation should quickly be enacted.

This issue came to my attention by a incredulous taxpayer who read a U.S. Tax Court ruling last October that allowed a dealer of cocaine, marihuana, and amphetamines to deduct expenses incurred in his drug business. This ruling is nothing short of bizarre.

The case involved a taxpayer who filed an income tax return reporting $105,300 as the cost of amphetamines, cocaine, and marihuana sold during the year. The taxpayer also claimed deductions for telephone, transportation, packaging, and apartment rent—all incurred as part of his drug sale business which he operated at least partially from home.

The Internal Revenue Service disallowed the deductions, as well as a portion of the cost of goods sold.

The Tax Court, in a letter ruling, reversed the IRS position, in part saying "the taxpayer's automobile, packaging, and telephone expenses were all deductible as ordinary and necessary expenses incurred in connection with his business."

If that is what the law says, it is clearly not what Congress meant. The legislation I am introducing today will clear up any confusion that now appears to exist in our judicial system about tax treatment of illegal drug traffic and legitimate business. In the future, I do not want any court to be similarly mistaken that Congress intended such drug related deductions to be honored.

The bill I am introducing today is straightforward. Tax deductions will not be provided to any taxpayer engaged in a trade or business associated with the sale of illegal substances, as defined in titles I and II of the Controlled Substances Act. The effect of this bill is to make sure a stiff tax is paid on any income earned through illicit drug activity.

This bill also underscores that there are countless tax loopholes in current law thought ought to be closed, and fast.

I urge quick enactment of this legislation.

I ask unanimous consent that a summary of the court case that precipitated this legislation, as written by Commerce Clearing House, be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the Record, as follows:

7995DP(M)—*Jeffrey Edmonson, a/k/a Jeff Edmonson v. Commissioner,* CCH Dec. 38,379(M); Dkt. 4586-76, October 26, 1981, T. C. Memo. 1981-623, opinion by Judge Goffe. (Appealable, barring stipulation to the contrary, to CA-8.—CCH.)

Code Secs. 61, 162 and 6651

Gross income: Cost of goods sold: Illegal drug business: Business expenses: Business use of apartment: Additions to tax: Failure to timely file.—The Commissioner improperly disallowed portions of the taxpayer's cost of goods sold in his illegal drug business. The record as a whole supported the cost of goods sold claimed by the taxpayer on his return. The taxpayer was also entitled to deduct one-third of his rental expense on his apartment because he made substantial use of the apartment in his drug business. Finally, the taxpayer was liable for an addition to tax for failure to timely file his return.

During the 1974 taxable year, the taxpayer was self-employed in the trade or business of selling amphetamines, cocaine, and marijuana. The taxpayer received various amounts of the above drugs on consignment during the taxable year, but kept no records of those transactions. On his 1974 return, the taxpayer reported that his cost of goods sold for those products was $105,300. During the year, the taxpayer also incurred various expenses in his business, including telephone expenses, automobile expenses, packaging expenses and rent for his apartment, which was his only place of business. The Commissioner disallowed all of these expenses, as well as disallowing a portion of the taxpayer's claimed cost of goods sold.

The amount claimed by the taxpayer as cost of goods sold was upheld. The nature of the taxpayer's role in the drug market, together with his appearance and candor at trial, caused the court to believe that his reconstruction of income from his illegal activities was candid and honest. The taxpayer was also entitled to deduct one third of his rental expense on his apartment as an ordinary and necessary business expense. The taxpayer made substantial use of his apartment in his drug business as that was his only place of business. The taxpayer's automobile, packaging and telephone expenses were all deductible as ordinary and necessary expenses incurred in connection with his business.

Finally, the Commissioner's determination that the taxpayer was liable for an addition to tax for failure to timely file was sustained. The taxpayer made no effort to show that his failure to timely file was due to reasonable cause. Back references: ¶652.0771, 1382.51 and 5524.48.●

By Mr. DANFORTH:

S. 2213. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes; to the Committee on Finance.

INDEPENDENT CONTRACTOR TAX STATUS CLARIFICATION ACT OF 1982

● Mr. DANFORTH. Mr. President, today I am introducing legislation to provide clear guidelines for classifying workers as employees or independent contractors. It is essential that such guidelines be established so that workers and those for whom they provide services understand their respective obligations under the Internal Revenue Code. Independent contractors are an important part of our economy and play a key role in individual entrepreneurship in small business.

Over the past several years, the IRS has taken the position that many individuals who considered themselves to be independent contractors should be treated as employees. Toward that end, the IRS has attempted to reclassify particular categories of persons as employees. As a result of these attempted reclassifications, the recipient of the worker's services would have become liable, retroactively, for a variety of employment taxes.

In 1978, in response to growing criticism, Congress imposed a moratorium on certain reclassifications by the IRS to allow the Congress time to study the issue. This moratorium, which was at one time scheduled to end on December 31, 1980, now expires on June 30, 1982. With that deadline rapidly approaching, the Congress must address the employee-independent contractor classification issue in the near future.

As in other areas of taxation, if the classification of the relationship between worker and payor can be made by taxpayers with ease and certainty, there will be more equitable treatment of all taxpayers who are in similar circumstances. There will also be greater taxpayer compliance. My bill, which is similar to H.R. 4531, introduced in the House by Congressman Conable, would provide a method by which taxpayers may determine with certainty whether they will be treated as independent contractors.

Mr. President, the legislation I am introducing today does not directly deal with classification of licensed professionals such as emergency room physicians. Attention will have to be given to this problem. It is my hope that Congress can deal with this issue in a forthright manner.

Mr. President, I ask unanimous consent that the bill and a summary be printed in full in the Record.

There being no objection, the bill and summary were ordered to be printed in the Record, as follows:

S. 2213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: AMENDMENT OF 1954 CODE

(a) Short title.—This Act may be cited as the "Independent Contractor Tax Status Clarification Act of 1982".

(b) Amendment of 1954 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. ALTERNATIVE STANDARDS FOR DETERMINING FOR PURPOSES OF EMPLOYMENT TAXES WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

(a) In General.—Chapter 25 (relating to general provisions relating to the employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3508. ALTERNATIVE STANDARDS FOR DETERMINING FOR PURPOSES OF EMPLOYMENT TAXES WHETHER INDIVIDUALS ARE NOT EMPLOYEES.

"(a) General Rule.—Notwithstanding any other provision of this subtitle, solely for purposes of this subtitle (other than chapter 22) and chapter 2, if all of the requirements of subsection (b) are met with respect to service performed by any individual—

"(1) such service shall be treated as being performed by an individual who is not an employee, and

"(2) the service-recipient shall not be treated as an employer with respect to such service.

"(b) Requirements.—For purposes of subsection (a), the requirements of this subsection are met with respect to service performed by any individual if—

"(1) Control of hours worked.—The individual controls the aggregate number of hours worked and substantially all of the scheduling of the hours worked.

"(2) Place of business.—The individual does not maintain a principal place of business, or, if he does so, his principal place of business in not provided by the service-recipient, or, if it is so provided, the individual pays the service-recipient rent therefor. For purposes of this paragraph, the individual shall be deemed not to have a principal place of business if he does not perform substantially all the service at a single fixed location

"(3) Investment or income fluctuation.—

"(A) The individual has a substantial investment in assets used in connection with the performance of the service, or

"(B) The individual risks income fluctuations because more than 90 percent of the remuneration (whether or not paid in cash) for the performance of the service is directly related to sales or other output (which term includes the performance of services) rather than to the number of hours worked. For purposes of the preceding sentence, the term "other output" does not include piecework.

"(4) Written contract and notice of tax responsibilities.—

"(A) The individual performs the service pursuant to a written contract between the individual and the service-recipient—

"(i) which was entered into before the performance of the service, and

"(ii) which provides that the individual will not be treated as an employee with respect to such service—

"(I) for purposes of the Federal Insurance Contributions Act, the Social Security Act, the Federal Unemployment Tax Act, and income tax withholding, and

"(II) for purposes of the employee benefit provisions specified in subsection (e)(2); and

"(B) The individual is provided (in such contract or at the time such contract is executed) written notice which is designed to ensure that the individual understands his responsibilities with respect to the payment of Federal self-employment and income taxes.

"(5) Filing of required returns.—The service-recipient meets the requirements of section 6041A in respect of such service at the times prescribed therefor (including extensions thereof) unless the failure to meet such requirements is due to reasonable cause and not to willful neglect.

"(c) Definitions and Special Rules.—

"(1) Service-recipient.—For purposes of this section, the term 'service-recipient' means the person for whom the service is performed.

"(2) Section not to apply to certain individuals.—This section shall not apply to an individual described in paragraph (3) of section 3121(d) (relating to certain agent-drivers, commission-drivers, full-time life insurance salemen, homeworkers, and traveling or city salemen). For purposes of the preceding sentence, the determination of whether an individual is described in such paragraph (3) shall be made without regard to whether or not such individual is also described in paragraph (1) or (2) of section 3121(d).

"(3) Special rule for contracts entered into before June 30, 1982.—With respect to contracts entered into before June 30, 1982, subparagraph (b)(4) of this section shall be deemed to be satisfied if such contract clearly indicates that the individual is not an employee (either by specifying that the individual is an independent contractor or otherwise), provided that the type of notice described in subparagraph (b)(4)(B) is given before August 31, 1982.

"(4) Government regulation and coordination of performance of service.—Conformance with government regulatory requirements, operating procedures and specifications of the service-recipient pursuant to contract, or coordination of the performance of the service imposed by persons other than the service-recipient shall be disregarded in the determination of whether the individual meets the requirements set forth in subparagraph (b)(1) of this section.

"(5) Substantial investment in assets.—The individual shall be deemed to have a substantial investment in assets under subparagraph (b)(3)(A) of this section if the individual furnishes the asset or assets customarily used in the performance of the service and is entitled to an allowance for depreciation under section 167 or an investment credit under section 38 with respect to such asset or assets, or is entitled to a deduction under section 162(a)(3) provided the property has a useful life of 3 years or longer.

"(d) No Inference Where Standards Are Not Met.—If not all of the requirements of subsection (b) are met with respect to any service—

"(1) nothing in this section shall be construed to infer that the service is performed by an employee or that the service-recipient is an employer, and

"(2) any determination of such an issue shall be made as if this section had not been enacted.

"(e) Relationship to Other Provisions of Law.—

"(1) In general.—Except as provided in paragraph (2), the fact that all of the requirements of subsection (b) are met with respect to service performed by an individual—

"(A) shall not be construed to infer that, for purposes of any provision of law other than chapters 2, 21, 23, and 24, the service is not performed by an employee or the service-recipient is not an employer, and

"(B) any determination of such an issue shall be made as if this section had not been enacted.

"(2) Individual not entitled to exclusion for certain benefits.—If all of the requirements of subsection (b) are met with respect to service performed by an individual such individual shall not be treated as an employee for purposes of applying the provisions of—

"(A) section 79 with respect to group-term life insurance purchased for employees,

"(B) section 101(b) with respect to employees' death benefits,

"(C) sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans,

"(D) section 120 with respect to group legal service plans,

"(E) section 127 with respect to educational assistance programs, and

"(F) subtitle A with respect to contributions to or under a stock bonus, pension, profit sharing, or annuity plan and with respect to distributions under such a plan, or by a trust forming part of such a plan.

Subparagraph (F) shall not apply to individuals treated as employees under section 401(c)(1) (relating to self-employed individuals)."

(b) Amendment of Social Security Act.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Alternative Standards for Determining Whether Individuals Are Not Employees

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply and any reference in such section to chapter 2 or 21 of such Code shall be deemed to include a reference to this title."

(c) Clerical Amendment.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3508. Alternative standards for determining for purposes of employment taxes whether individuals are not employees."

SEC. 3. INFORMATION REQUIREMENTS FOR PAYMENTS TO INDEPENDENT CONTRACTORS.

(a) General Rule.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

"SEC. 6041A. RETURNS REGARDING PAYMENTS TO INDEPENDENT CONTRACTORS.

"(a) Payment of $600 or More.—If—

"(1) any person engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any individual for services performed by such individual as an independent contractor, and

"(2) the aggregate of such remuneration paid to such individual during such calendar year is $600 or more.

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name, address, and identification number of the recipient of such payments.

"(b) Services Performed as an Independent Contractor.—For purposes of this section, services shall be treated as performed by an individual as an independent contractor if a statement with respect to such services is not required to be furnished under section 6051, 6052, or 6053.

"(c) Applications to Governmental Units.—In the case of any payment by the United States, a State or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(d) Statements To Be Furnished to Persons With Respect to Whom Information Is Furnished.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name, address, and identification number of the person making such return, and

"(2) the aggregate amount of payments to the individual as shown on such return.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(e) Recipient To Furnish Name, Address, and Identification Number.—When necessary to make effective the provisions of this section, the name, address, and identification number of the recipient of the payment shall be furnished upon demand of the person making the payment."

(b) Penalties.—Section 6652 (relating to failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) Returns and Statements Relating to Payments or Sales to Independent Contractors.—In the case of each failure—

"(1) to make the return required by subsection (a) of section 6041A with respect to any individual, or

"(2) to furnish a statement required under section 6041A(d) to any individual,

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by the person failing to so make the return or furnish the statement, $10 for each such failure, but the total amount imposed under this subsection on any person for all such failures during any calendar year shall not exceed $25,000.

"(h) Denial of Deduction Where Second or Subsequent Failure.—

"(1) In general.—If—

"(A) but for this subsection, an amount would be imposed under subsection (g) with respect to any person for a calendar year, and

"(B) an amount was imposed under subsection (g) (before the date prescribed for filing the return required by subsection (a) of section 6041A for such calendar year) with respect to such person for a prior calendar year.

then there shall be paid (on notice and demand by the Secretary and in the same manner as tax) by such person an amount equal to the additional liability for tax which would arise under chaper 1 if there were disallowed all deductions under section 162 for payments with respect to which there was a failure described in subsection (g) for the calendar year.

"(2) Penalty in lieu of subsection (g) penalty.—The amount determined under paragraph (1)—

"(A) shall be imposed for the calendar year with respect to a person only if it exceeds the amount determined under subsection (g) for such person for such year, and

"(B) shall be in lieu of the imposition of any amount under subsection (g) with respect to such person for such year."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 6041 (relating to information at source) is amended by inserting "6041A(a)" before "6042(a)(1), 6044(a)(1)".

(d) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by inserting after the item relating to section 6041 the following new item:

"Sec. 6041A. Returns regarding payments to independent contractors."

SEC. 4. PETITION TO TAX COURT; DEFICIENCY PROCEDURES MADE APPLICABLE.

(a) DEFINITION OF DEFICIENCY.—Section 6211(a) (relating to definition of a deficiency) is amended—

(1) by striking out "and excise taxes imposed by chapters 41, 42, 43, and 44" and inserting in lieu thereof, "excise taxes imposed by chapters 41, 42, 43, and 44, and employment taxes imposed by subtitle C (other than chapter 22) on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer," and

(2) by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C (other than chapter 22) on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer," and

(b) FURTHER DEFICIENCY LETTERS.—Section 6212(c)(1) (relating to further deficiency letters restricted) is amended by inserting "of employment tax imposed by subtitle C (other than chapter 22) on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer," after "of estate tax in respect of the taxable estate of the same decedent."

(c) TECHNICAL, CONFORMING, AND CLERICAL AMENDMENTS.—

(1) Section 6161(b) (relating to the amount determined as deficiency when granting an extension of time) is amended by inserting after "chapter 1, 12" wherever it appears "21, 23, 24, 25".

(2) Section 6201(d) (relating to deficiency proceedings) is amended by striking out "and certain excise taxes," and inserting in lieu thereof "and certain employment and excise taxes."

(3) Section 6211(b)(2) (relating to the term "rebate") is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C (other than chapter 22) on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer,"

(4) Section 6212(a) (relating to notice of deficiency) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C (other than chapter 22) on account of a reclassification of an individual who had been treated as not being an employee by a taxpayer,".

(5) Section 6212(b)(1) (relating to address for notice of deficiency) is amended—

(A) by striking out in the title thereof "INCOME AND GIFT TAXES" and inserting in lieu thereof, "INCOME, GIFT AND EMPLOYMENT TAXES."

(B) by inserting "chapter 21, chapter 23, chapter 24, chapter 25," after "chapter 12."

(C) by inserting "chapter 21, chapter 23, chapter 24, chapter 25," after "chapter 12," the last place it appears.

(6) Section 6213(a) (relating to restrictions applicable to deficiencies; petition to Tax Court) is amended by striking out "subtitle A or B" and inserting in lieu thereof, "subtitle A, B or C (other than chapter 22) on account of a reclassificaiton of an individual who had been treated as not being an employee by a taxpayer,"

(7) Section 6213(f)(1) (relating to return) is amended by striking out "subtitle A or B" and inserting in lieu of "subtitle A, B, or C (other than chapter 22)".

(8) Section 6213(f)(2)(E) (relating to mathematical or clerical error) is amended by striking out "subtitle A or B" and inserting in lieu thereof "subtitle A, B, or C (other than chapter 22)".

(9) Section 6213(d) (relating to final decisions of Tax Court) is amended by striking out "subtitles A or B" and inserting in lieu thereof "subtitles. A, B, or C (other than chapter 22)".

(10) Section 6503(a)(1) (relating to issuance of statutory notice of deficiency) is amended by striking out "and certain excise taxes" and inserting in lieu thereof, ", and certain excise and employment taxes."

(11) Section 6512(a) (relating to effect of petition to Tax Court) is amended—

(A) by inserting "employment taxes imposed by subtitle C (other than chapter 22)" after "income, estate, gift," and

(B) by inserting "of employment taxes imposed by subtitle C (other than chapter 22) for the same calendar quarter" after "of estate tax in respect of the taxable estate of the same decedent,".

(12) Section 6512(b)(1) (relating to jurisdiction to determine overpayment determined by Tax Court) is amended by inserting "of employment taxes imposed by subtitle C (other than chapter 22) for the same calendar quarter" after "of estate tax in respect of the same taxable estate of the same decedent,".

(13) Section 6601(c) (relating to suspension of interest in certain cases) is amended—

(A) by inserting "EMPLOYMENT," after "INCOME, ESTATE, GIFT," in the title thereof, and

(B) by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(14) Section 6653(c)(1) (relating to definition of under payment) is amended—

(A) by striking out in the heading thereof "AND CERTAIN EXCISE TAXES" and inserting in lieu thereof "AND CERTAIN EMPLOYMENT AND EXCISE TAXES", and

(B) by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(15) Section 6659(b) (relating to procedure for assessing certain additions to tax) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(16) Section 6676(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(17) Section 6677(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(18) Section 6679(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(19) Section 6682(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(20) Section 6678(b) (relating to deficiency procedures not to apply) as amended by inserting "employment" after "income, estate, gift,".

(21) Section 6693(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(22) Section 6696(b) (relating to deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(23) Section 6697(c) (relating to certain deficiency procedures not to apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(24) Section 6698(d) (relating to deficiency procedures not apply) is amended by striking out "and certain excise taxes" and inserting in lieu thereof "and certain employment and excise taxes".

(25) Section 7422(e) (relating to stay of proceeding in civil actions for refund) is amended—

(A) by inserting "employment taxes imposed by subtitle C (other than chapter 22)," after "income tax, estate tax, gift tax," the first time it appears, and

(B) by striking out "or gift tax" and by inserting in lieu thereof "gift tax, or employment tax".

SEC. 5. CERTAIN TRAVELING OR CITY SALESMEN TREATED AS EMPLOYEES FOR PURPOSES OF INCOME TAX WITHHOLDING.

Subsection (c) of section 3401 (defining employee for purposes of withholding) is amended by adding at the end thereof the following new sentence: "The term 'employee' also includes any individual described in subparagraph (D) of section 3121(d)(3)."

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to payments after June 30, 1982.

SUMMARY OF S. 2213

Section 1. Short Title: Independent Contractor Tax Status Clarification Act of 1981

Section 2. General "safe harbor"

Under the proposal's first test, five requirements would have to be met in order for a worker to qualify as an independent contractor. These five standards involve control of hours, place of business, investment or income fluctuation, written contract and notice of tax responsibilities, and filing of required returns.

1. CONTROL OF HOURS

This standard would require that the individual control the aggregate number of hours actually worked and substantially all of the scheduling of the hours worked. Special rule excludes from "control" conformance with government regulation and coordination of service by a third party.

2. PLACE OF BUSINESS

This next requirement would be met by an individual in any one of four situations:

(a) an individual who does not maintain a principal place of business;

(b) an individual who maintains a principal place of business which is not provided by the payor;

(c) an individual who maintains a principal place of business and pays rent to the payor for providing the individual with it; or

(d) an individual who is deemed not to have a principal place of business because he does not perform substantially all the service at a single fixed location.

3. INVESTMENT OR INCOME FLUCTUATION

This alternative, investment or income fluctuation requirement would be fulfilled by a worker, either if he or she has a substantial investment in assets used in connection with the performance of the service, or if he or she risks income fluctuations because his or her remuneration is directly related to sales or other output rather than to the number of hours actually worked.

(a) Investment.—Interpretation of the "substantial" investment test requires, under a special rule, that the investment conform to the tax code provisions relating to depreciation, investment credit, and service life.

(b) Income fluctuation.—To meet the income fluctuation requirement, an individual would have to risk income fluctuations because more than 90 percent of the remuneration (whether or not paid in cash) for the individual's performance of the service is directly related to sales or other output (but not piecework), rather than to the number of hours worked.

4. CONTRACT AND NOTICE

This requirement would be fulfilled if the individual performs the service pursuant to a written contract between the individual and the person for whom such service is performed. It must be entered into before the performance of the service, and must provide that the individual will not be treated as an employee with respect to such service for purposes of the Federal Insurance Contributions Act, the Social Security Act, the Federal Unemployment Tax Act, and income withholding. In addition, the individual would have to be provided with written notice of his or her responsibility with respect to the payment of self-employment and Federal income taxes.

5. FILING

This requirement provides that the person for whom service is performed must file any information returns required in respect of the service under section 6041(a).

(a) No inference rule.—The proposed statute contains a "no inference" rule which would provide that, in cases where none of the alternative "safe harbor" tests is met, the statute may not be interpreted to create an inference that an employment relationship exists.

(b) Relationship to other laws.—The bill also would provide that the fact that the "safe harbor" criteria are met and an individual is not an employee for purposes of self-employment taxes, social security taxes, Federal unemployment compensation taxes, and Federal income tax withholding, shall not create any inference that the individual is not an employee and the service-recipient is not an employer for purposes of any other provision of law. Determinations of employment status under provisions of the Internal Revenue Code, other than chapters 2, 21, 23, and 24, would be made under common law principles, as if the "safe harbor" test were not enacted.

The bill would provide that if an individual is treated as an independent contractor under the "safe harbor" criteria of the bill, the individual shall not be treated as an employee for the purpose of certain employer-provided benefits which, if provided by employers to their employees, are not subject to tax under the Code. The individual would be denied the statutory exclusions provided under Code sections 79 (relating to group-term life insurance purchased for employees), 101(b) (relating to employee's death benefits), 104, 105, and 106 (relating to accident and health insurance or accident and health plans), 120 (relating to group legal service plans), section 127 (relating to educational assistance plans), and under subtitle A (relating to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan and with respect to distributions under such a plan, or by a trust forming part of such a plan).

Also, the bill contains a conforming amendment to the Social Security Act and a clerical amendment to the Internal Revenue Code.

Section 3. Information requirement for payments to independent contractors

The changes in information reporting would increase the IRS' ability to administer the tax laws and to ascertain compliance with the applicable income and employment taxes. It is generally agreed that penalty for failure-to-file information returns is insufficient to effect appropriate compliance with the information reporting requirements. Therefore, the failure-to-file penalty conforms to the newly enacted provisions of PL 97-34 with additional penalties for a second or subsequent failure to file.

Section 4. Petition to tax court

Many controversies have developed over the years concerning the proper treatment of workers either as employees or independent contractors for Federal employment tax purposes. These controversies often have serious tax consequences because an IRS reclassification of a worker (who previously was treated as an independent contractor) as an employee, make the payor liable for employment taxes, withholding, social security, and unemployment. Under present procedure, the payor must pay the assessment and then sue for a refund. The changes in this bill would enable the payor to go directly to tax court and pay only if he or she loses.

Section 5. Defining certain salesmen as employees, and Section 6. Effective Date.●

By Mr. SCHMITT (for himself, Mr. PACKWOOD, Mr. SYMMS, Mr. GRASSLEY, and Mr. MATTINGLY):

S. 2214. A bill to amend the Internal Revenue Code of 1954 to provide a partial exclusion for dividends and interest received and to eliminate the deduction for consumer interest paid or accrued; to the Committee on Finance.

SAVINGS AND INVESTMENT INCENTIVES ACT OF 1982

● Mr. SCHMITT. Mr. President, I am today introducing legislation on behalf of myself, Senator PACKWOOD, Senator SYMMS, Senator GRASSLEY, and Senator MATTINGLY, which is designed to provide a real and effective incentive for the public to increase its rate of personal saving and investment. This legislation will not only provide an added stimulus to economic recovery, it will also have a positive impact on our current high rates of interest by increasing the available pool of national capital.

Interest rates are the price of money and like any other commodity they move in accord with the forces of supply and demand. The source of our current high interest rates can be traced directly to two factors: First, the expected rate of inflation and, second, the existence of strong demand for credit by government, business and individuals who compete with one another. Coupled with a limited supply of capital resulting from our low rate of personal savings this process has led to sustained high levels of interest rates in spite of currently low and decreasing inflation.

The solution to our interest rate problem is threefold. The first is to bring inflation under control. The second is to restrain the amount of Federal borrowing in our financial markets, in other words, reduce the Federal deficit. But the third aspect of the solution is often overlooked, and that is the need to expend the supply of credit. This can only be accomplished if Americans increase their rate of saving.

It is a well-known fact that the rate of personal savings in the United States is critically low. The savings rate has fallen 47 percent in the past 8 years, from 8.6 percent in 1973 to 5.3 percent in 1981. This rate is especially low when compared to the savings rates of other industrialized nations. The Department of Commerce provides the following data on the savings rates of the major industrialized nations:

Savings rate, 1980

Country:	*Percent*
Japan (1979)	18.3
United Kingdom	15.1
Germany	14.5
France	14.3
Canada	10.1
United States	5.6

It is generally recognized that savings is the prime source for investment, and that investment is the generator of increased productivity and employment. Investment means new plant and equipment, as well as new jobs to build production facilities and operate machinery. If the critical element of personal savings is absent from this equation, then production and employment suffer. To achieve the economic goals of full employment and price stability that are the expressed objectives of our national economic policy, it is crucial that our economy generate increased investment through increased savings. By increasing the supply of available capital to satisfy the demand for credit by government, business, and consumers, interest rates will fall. Decreasing demand for credit simultaneously can aid such a lowering trend for interest rates. Now more than ever, incentives are needed to encourage savings while discouraging consumer credit expansion in order to stimulate badly needed business investment.

The legislation I am introducing today amends current law which provides for a 15-percent tax exemption of net interest income effective January 1, 1985. Net interest income is defined as the interest income earned in a given year minus any interest payments on consumer credit. Interest expenses related to residential mortgages and investments are not included in calculating net interest income.

The bill being introduced today would change current law in four ways. First, it would expand the percentage of tax exempt net interest income from 15 percent to 25 percent. Second, dividend income would also become eligible for the 25-percent exemption. Third, the effective date for enactment of this legislation would be moved up from January 1, 1985, to July 1, 1982. Fourth, the deductibility of consumer interest expense, with the exception of residential mortgage, automobile, and investment interest expense would be eliminated on a gradual basis, so that 25 percent would not be deductible beginning July 1, 1982, 50 percent in 1983, 75 percent in 1984, and 100 percent in 1985 and beyond.

The provision to include dividends provides incentive to those who use their available capital to invest in firms rather than saving that same capital at a depository institution. Investors should be given incentives like savers, because that investment increases the supply of capital available for businesses much the same as savings. A tax exemption increases the effective dividend yield, to encourage continuing investment, which is needed to bolster productivity and employment.

Expansion of the percentage of tax exempt net interest income from 15 to 25 percent would provide an even stronger incentive to save than presently available, at any level of interest income. Change in the enactment date to an earlier date 1 year sooner will provide adequate incentive to start saving immediately, rather than postponing savings for further in the future. Savings must increase in the short run to experience the positive effects of incentives in the near future, since a time lag exists between increased investment and the actual construction of new factories, increase in employment, and other benefits to be gained.

An important component of the legislation I am presenting today is that it gradually removes the incentive for consumers to go into debt by eliminating the deductibility of consumer interest expense. The elimination of this incentive to borrow is essential in light of the present credit explosion we have seen occur in the recent past.

CURRENT ALTERNATIVES TO STIMULATE SAVINGS

Under current law, there are alternatives available that attempt to create an incentive to save. However, they have also created some problems with various sectors of the economy. The all-savers certificate was promised to be a benefit for all savers, but this simply has not been the case. The all-savers certificate is limited in dollar amount, because of the ceiling of $1,000 interest income per single tax return and $2,000 interest income per joint tax return. In order to have any substantial impact on the national savings rate, an incentive proposal must offer a benefit to those who do the majority of the saving. According to the Internal Revenue Service, 85 percent, or $41 billion out of $48 billion of savings in this country was accomplished by those who earn more than $1,000 interest annually, based on the latest available data. Therefore, the all-savers certificates provide virtually no incentive effect for those who do the bulk of the Nation's savings, because there is no incentive for them to earn more than $1,000 interest.

In addition, studies show that investors with marginal tax rates below 40 percent could realize larger after-tax rates of return through investing directly in Treasury bills. A study by the Congressional Research Service states, "Only when an investment exceeds $9,000 with a marginal tax rate of 40 percent, or $6,000 with a marginal tax rate of 50 percent does a 1982 investment in all-savers certificates produce a greater after-tax yield than the same investment in Treasury bills in 1981." In the final analysis, these facts show that the all-savers certificates are not for all savers as touted, but for few savers: Only those in the 40-percent-tax bracket with enough capital to invest in these certificates to earn $1,000 interest. Finally, all-savers has been a failure in relative terms to increase the overall rate of savings, one of its chief objectives.

Other set dollar amount tax exemptions have similar limitations, because they do not provide incentives to save beyond that specific dollar amount. The legislation before us today provides incentives in a marginal sense so that all savers and investors can benefit, while helping the economy through expanding our pool of capital.

Mr. President, the legislation I am introducing today would indeed be an incentive for all savers. By increasing the exemption of net interest income from 15 to 25 percent, and including dividends in this exemption, the real after-tax rate of return on savings and investment would be increased. This would result in a shift in the relative attractiveness of savings versus consumption and would actually change the propensity of the public to save. This exclusion from taxation of interest and dividend income will effectively reduce the tax burden on savings and dividend income for all savers and investors by approximately one-quarter. For example, an individual in the 28-percent-tax bracket would see the effect marginal tax rate on savings and dividend income fall to 21 percent. The 40-percent bracket would effectively fall to 30 percent, and the 50-percent bracket to 37½ percent. This would result in substantial increases in savings, a switch out of tax shelters, reduced interest rates, and less pressure on the Federal Reserve to create money. It is a progrowth, anti-inflationary step that will have great effectiveness in our economy that is greatly needed.

INTERNATIONAL INDICATORS

Table 1 shows the comparison of savings rates, inflation rates, and GNP growth among several industrialized nations. The anemic level of U.S. savings as compared to these nations of the world accounts, in part, for the declining GNP growth rate and high inflation rate of the United States as measured against such nations as Japan and Germany. It is essential to note as well that both of these countries offer considerably greater incentives to savings and investment than does the United States. The fact that the savings rate as a percentage of disposable income for 1981 was lower than that of 1980 reinforces the need for incentives here in the United States.

TABLE 1

Period	United States	France	Federal Republic of Germany	Italy	Netherlands	United Kingdom	Japan	Canada
Consumer price rates:								
1976	5.8	9.6	4.3	16.8	8.8	16.6	9.3	7.5
1977	6.5	9.4	3.7	17.0	6.4	15.8	8.0	8.0
1978	7.7	9.0	2.8	12.1	4.1	8.3	3.8	8.9
1979	11.3	10.8	4.1	14.7	4.2	13.4	3.6	9.1
1980	13.5	13.5	5.5	21.2	6.6	18.0	8.0	10.2
Per capita GNP growth rates:								
1970	−1.2	4.8	4.9	4.6	5.1	2.0	10.6	1.1
1975	9.1	−.3	−1.4	−4.3	−2.7	−.2	.2	−.3
1976	4.6	4.8	5.8	5.2	4.7	3.7	4.1	4.2
1977	4.6	2.7	3.1	1.4	1.8	1.3	4.3	1.0

TABLE 1—Continued

Period	United States	France	Federal Republic of Germany	Italy	Netherlands	United Kingdom	Japan	Canada
1978	3.9	3.3	3.7	2.2	1.5	3.4	4.1	2.8
1979	2.3	3.1	4.5	4.5	1.6	1.3	4.7	2.2
1980	−1.0	1.2	1.5	3.7	0	−1.5	3.4	−1.0
Ratio of savings to disposable personal income (percent):								
1970	8.0	16.7	14.6	21.6	14.0	9.3	18.2	5.3
1975	8.6	18.6	16.4	23.2	14.5	12.7	22.1	10.9
1976	6.9	16.4	14.7	22.9	14.6	11.9	22.4	10.0
1977	5.6	16.6	13.6	22.5	12.6	10.8	21.0	9.7
1978	5.2	17.5	13.7	23.8	12.3	12.7	20.6	10.8
1979	5.2	15.9	14.4	......	11.4	14.1	18.3	10.3
1980	5.6	14.3	14.5	......	......	15.1	......	10.1

Source: Department of Commerce, International Indicators, December 1981.

CREDIT EXPLOSION

As stated earlier, this legislation would provide a disincentive against the use of consumer credit through the net interest income concept. It is an unfortunate reality that we have become a nation of debtors, with a consciousness of borrowing for today rather than saving for tomorrow. Credit is available everywhere: with consumer loans, installment loans, and credit cards, even the inexperienced can quickly build up a large credit line that is a constant temptation to use. Inflationary expectations have aggravated this credit explosion to create a self-fulfilling prophesy to fan the flames of inflation in the attempt to buy now, pay later. This excessive demand for credit has pushed interest rates to all time highs.

The Tax Code has supported this extreme credit demand through the itemized deduction of interest expense. It is interesting to note that the United States is the only industrialized nation that permits this deduction.

The demand for consumer interest expense discriminates against those who do not itemize, and favors high income groups. For example, if two people purchase television sets on credit at 18 percent interest, they each have the potential to take a tax deduction on their next tax return for the interest paid on the credit. However, if one of the two people does not itemize his tax return, he will not benefit from the deduction, and will pay the full 18-percent interest. The other person, who may be in the 50-percent bracket, has more to gain from itemizing, will take advantage of the opportunity, and cut his interest rate by half. In other words, the tax law discriminates against lower income groups while giving higher income groups a tax break to make borrowing less expensive. Eliminating this deduction on a gradual basis will eventually eliminate this inequitable provision.

Like any other commodity, the cost of money is a function of supply and demand. If we are really serious about bringing down high interest rates, then we must increase our supply of savings, and where consistent with our free market principles, reduce demand. This need to reduce the exploding consumer demand for credit was recognized during the Carter administration, but regrettably, while the diagnosis was correct, the medicine was ineffectual. President Carter ordered the Federal Reserve Board to impose credit controls. We know that this effort was a failure and why. The point is that it is absurd to implement a far-reaching program of Government regulatory control of credit, while through the Tax Code, we are subsidizing borrowers and encouraging them to go farther into debt.

The combination of a reduced savings rate and a high demand for credit by the Federal Government, the business sector, and consumers, has provided the impetus for interest rates to rise. We have an economy that saves a meager 5 or 6 percent of GNP, but tries to borrow 15 percent of GNP. Demand for money far exceeds supply, and the net effect is higher interest rates. The only way to reverse this upward cycle is to provide incentives for consumers to become savers. If this imbalance between supply and demand is not corrected, interest rates will not fall in the long run. We all know that the Federal printing press cannot lower high interest rates with more money pumped into the system without accompanying inflation. There is no such quick-fix. Incentives must be provided to change the American psyche from a nation of overconsumers to savers interested in long-term benefits.

All aspects of the economy and all segments of our population would benefit from the legislation presented today. Low- and moderate-income people will benefit in two ways. First, from lower taxes; and second, from the job production, real income growth, and overall increase in economic prosperity that will result from the greater inflows of savings and investment into our economy. Older Americans, on fixed incomes, facing high inflation rates, will benefit through an improved rate of return on their savings that are often used to derive many living expenses.

A larger exemption for income derived from interest and dividends is essential if the economy of the 1980's is to be one of strong, real growth. Full employment and low inflation can only be achieved if there is sufficient capital to finance the investments required to make new discoveries, technologies, and build new plants. Recent studies have shown a close correlation between rates of growth and the rates of savings and investment internationally. It is no coincidence that the United States, with the lowest rate of savings among major industrialized nations, is affected with stagnating economic growth.

In the long run, the increased productivity and employment levels resulting from the increased savings and investment would lead to increased revenue, while stimulating the economy without burdening it with additional taxes. The combination of gradually eliminating the revenue loss of the consumer interest deduction coupled with the expansion from 15 to 25 percent of the personal exemption for net interest has been estimated to actually increase Federal revenues by $2 to $4 billion through 1986. In this way we can create an economically feasible and effective incentive to save without additional burden upon the Treasury.

Mr. President, it is clear that in the past the United States has unintentionally created a tax system that is heavily weighted in favor of debt and consumption, and against savings and investment. This bill is intended as a complement to steps already made to reverse the weighted scales, and is designed to insure that the hoped-for increases in savings and investment that our economy must have if it is to grow will in fact occur. I urge my colleagues to give their support to this bill, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST.

(a) IN GENERAL.—Section 116 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

"(a) Exclusion From Gross Income.—Gross income does not include the sum of the amounts received during the taxable year by an individual as—

"(1) a dividend from a domestic corporation, or

"(2) interest.

"(b) Limitations.—

"(1) Maximum dollar amount. —The aggregate amount excluded from the gross income of a taxpayer under subsection (a) for any taxable year shall not exceed 25 percent of the lesser of—

"(A) $2,000 ($4,000 in the case of a joint return under section 6013), or

"(B) the excess of—

"(i) the amount of interest and dividends received by such taxpayer during such taxable year, over

"(ii) the sum of—

"(I) the amount of any deduction allowable under section 62(12) to such taxpayer for the taxable year, plus

"(II) the amount of qualified interest expenses of such taxpayer for the taxable year.

"(2) Transitional rule.—For purposes of applying paragraph (1) to taxable years beginning in calendar year 1982, '12.5 percent' shall be substituted for '25 percent'.

"(3) Certain dividends excluded.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

"(c) Definitions; Special Rules.—For purposes of this section—

"(1) Interest defined.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest) paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) an institution which is—

"(I) a mutual savings bank, cooperative bank, domestic building and loan association, or credit union, or

"(II) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(ii) an industrial loan association or bank chartered and supervised under Federal or State law in a manner similar to a savings and loan institution,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law),

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law, and

"(F) interest paid by an insurance company under an agreement to pay interest on—

"(i) prepaid premiums,

"(ii) life insurance policy proceeds which are left on deposit with such company by a beneficiary, and

"(iii) under regulations prescribed by the Secretary, policyholder dividends left on deposit with such company.

"(2) Distributions from regulated investment companies and real estate investment trusts.—Subsection (a) shall apply with respect to any dividend from—

"(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

"(B) real estate investment trust, subject to the limitations provided in section 857(c).

"(3) Certain nonresident aliens ineligible for exclusion.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b).

"(4) Qualified interest expenses.—The term 'qualified interest expenses' means an amount equal to the excess of—

"(A) the amount of all interest paid or accrued within the taxable year on indebtedness incurred by a taxpayer, over

"(B) the amount of all interest paid or accrued within the taxable year on indebtedness incurred by such taxpayer in—

"(i) acquiring, constructing, reconstructing, or rehabilitating property which is primarily used as a dwelling unit (as defined in section 280A(f)(1)), or

"(ii) carrying on a trade or business of such taxpayer.".

(b) Repeal of Partial Exclusion of Interest Provided in Economic Recovery Tax Act of 1981.—Subsections (a) and (c) of section 302 of the Economic Recovery Tax Act of 1981 are hereby repealed.

(c) Conforming Amendments.—

(1) The table of sections for part III of subchapter B of chapter 1 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(2) The first sentence of paragraph (2) of section 265 (relating to interest) is amended by inserting after "subtitle" the following: ", or to purchase or carry obligations or shares, or to make deposits or other investments, the interest on which is described in section 116 (c) to the extent such interest is excludable from gross income under section 116".

(3) Subsection (b) of section 854 (relating to other dividends) is amended—

(A) by inserting "and Taxable Interest" in the caption after "Dividends",

(B) by striking out the caption of paragraph (1) and inserting in lieu thereof "Deduction under section 243.—",

(C) by striking out "the exclusion under section 116 and " in paragraph (1),

(D) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(E) by inserting after paragraph (1) the following new paragraph:

"(2) Exclusion under section 116.—In the case of a dividend (other than a dividend described in subsection (a)) received from a regulated investment company—

"(A) which meets the requirements of section 852(a) for the taxable year in which it paid the dividend,

"(B) the aggregate interest received by which during the taxable year is less than 75 percent of its gross income, and

"(C) the aggregate dividends received by which during the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the sum of the aggregate dividends received and aggregate interest received bears to gross income. For purposes of the preceding sentence, gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year as does not exceed aggregate interest received for the taxable year.",

(F) by striking out "section 116 (b)" in subparagraph (B) of paragraph (4) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "section 116 (b) (2)",

(G) by striking out "section 116 (c)" in subparagraph (B) of paragraph (4) (as so redesignated) and inserting in lieu thereof "section 116 (c) (2)", and

(H) by adding at the end of paragraph (4) (as redesignated) the following new subparagraph:

"(C) The term 'aggregate interest received' includes only interest described in section 116 (c) (1).".

(4) The table of sections for part I of subchapter M of chapter 1 is amended by inserting "and taxable interest" after "dividends" in the item relating to section 854.

(5) Subsection (c) of section 857 (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

"(c) Limitations Applicable to Dividends Received From Real Estate Investment Trusts.—

"(1) Capital gain dividend.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b) (3) (C)) received from a real estate investment trust shall not be considered a dividend.

"(2) Other dividends.—In the case of a dividend received from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate interest received by the real estate investment trust for the taxable year is less than 75 percent of its gross income,

then, in computing the exclusion under section 116, there shall be taken into account only the portion of the dividend which bears the same ratio to the amount of such dividend as aggregate interest received bears to gross income.

"(3) Adjustment to gross income and aggregate interest received.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

"(B) gross income and aggregate interest received shall each be reduced by so much of the deduction allowable by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed aggregate interest received for the taxable year, and

"(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857 (b).

"(4) AGGREGATE INTEREST RECEIVED.—For purposes of this subsection, the term 'aggregate interest received' means only interest described in section 116 (c) (1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243 (c) (2).".

SEC. 2. ELIMINATION OF DEDUCTION FOR CERTAIN CONSUMER INTEREST PAID OR ACCRUED.

(a) IN GENERAL.—Section 163 of the Internal Revenue Code of 1954 (relating to interest) is amended—

(1) by striking out "interest" in subsection (a) and inserting in lieu thereof "qualified interest",

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively,

(3) by inserting after subsection (a) the following new subsection:

"(b) Qualified Interest Defined.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified interest' means—

"(A) the amount of interest paid or accrued within the taxable year on indebtedness incurred in—

"(i) acquiring, constructing, reconstructing, or rehabilitating property which is primarily used as a dwelling unit (as defined in section 280A (f) (1)),

"(ii) acquiring a passenger automobile (within the meaning of title V of the Motor Vehicle Information and Cost Savings Act),

"(iii) carrying on the trade or business of the taxpayer, or

"(iv) paying the higher education expenses of the taxpayer or of a dependent of the taxpayer (within the meaning of section 152), or

"(B) investment interest (as defined in subsection (e) (3) (D)).

"(2) TRANSITIONAL RULE.—

"(A) IN GENERAL.—In the case of taxable years beginning after December 31, 1981, and before January 1, 1985, the term 'qualified interest' includes, in addition to the amount of interest described in paragraph (1), an amount equal to the applicable percentage of the amount of interest other than interest described in paragraph (1) which is paid or accrued within the taxable year on indebtedness.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage shall be determined in accordance with the following table:

If the taxable year begins in:	The applicable percentage is:
1982	87.5
1983	50.0
1984	25.0

"(3) HIGHER EDUCATION EXPENSES.—For purposes of this subsection, the term 'higher education expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an institution of higher education (within the meaning of section 481 or 1201 (a) of the Higher Education Act of 1965),

"(B) fees, books, supplies, and equipment required for courses of instruction of such student at such an institution, and

"(C) a reasonable allowance for meals and lodging for such student while so enrolled.".

(4) by striking out "For purposes of this subsection" in subsection (e)(3) (as redesignated) and inserting in lieu thereof "For purposes of this section".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 483 (f) of such Code (relating to interest on certain deferred payments) is amended by striking out "section 163 (b)" and inserting in lieu thereof "section 163 (c)".

(2) Subsection (b) of section 703 of such Code (relating to partnership competitions) is amended by striking out "section 163 (d)" and inserting in lieu thereof "section 163 (e)".

(3) Subsection (d) of section 1055 of such Code (relating to redeemable ground rents) is amended by striking out "section 163 (c)" and inserting in lieu thereof "section 163 (d)".

(4) Paragraph (2) of section 1255 (b) of such Code (relating to gain from disposition of section 126 property) is amended by striking out "section 163 (d)" and inserting in lieu thereof "section 163 (e)".

SEC. 3. EFFECTIVE DATES.

(a) Partial Exclusion of Dividends and Interest.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 1 shall apply with respect to taxable years beginning after December 31, 1981.

(2) Repeal.—

(A) IN GENERAL.—The provisions of section 1(b) shall apply to taxable years beginning after December 31, 1984.

(B) APPLICATION OF CODE.—The Internal Revenue Code of 1954 shall be applied and administered as if the subsections repealed by section 1(b), and the amendments made by the subsections so repealed, had not been enacted.

(b) DEDUCTIBILITY OF INTEREST.—The amendments made by section 2 shall apply with respect to taxable years beginning after December 31, 1981.●

By Mr. THURMOND (for himself, Mr. BENTSEN, Mr. BUMPERS, Mr. JEPSEN, Mr. LONG, Mr. SARBANES, and Mr. TOWER):

S. 2215. A bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Incorporated; to the Committee on the Judiciary.

RECOGNITION OF NATIONAL ASSOCIATION OF STATE DIRECTORS OF VETERANS AFFAIRS

Mr. THURMOND. Mr. President, today, I am introducing legislation to grant a Federal charter to the National Association of State Directors of Veterans Affairs, Incorporated. I am pleased to have Senators BENTSEN, BUMPERS, JEPSEN, LONG, SARBANES, and TOWER join with me as cosponsors of this bill.

Many of you may be familiar with the work of this organization. The National Association of State Directors of Veterans Affairs is a nonprofit service organization of professionals who are dedicated to assisting veterans and their families without regard to their affiliation with any special interest veterans group. The association has a profound and enduring concern for the welfare of all veterans, notwithstanding their time or branch of service, their background, or their experience in the armed services.

The National Association of State Directors of Veterans Affairs had its inception at a conference of representatives from most of the States which was sponsored by the U.S. Army Air Corps in early 1945. The organization was founded in 1946 at the behest of General Graves B. Erskine, then Administrator of the Federal Retraining and Reemployment Administration, to encourage each State to provide services to veterans returning from World War II. At this organizational conference held here in Washington, D.C., the association adopted the following declaration of purpose:

> The purposes of the Association are to provide a medium for the exchange of ideas and information; to facilitate reciprocal State Services; to foster better understanding of the National veterans' problems; to secure uniformity and equality of service in all the States and the Territories; to maintain an interest in all veterans' legislation.
>
> The Association recognizes the great worth and merit of all existing congressionally chartered veterans organizations, and asserts a willingness to cooperate with such organizations. It further declares a deep and abiding interest in the welfare of all veterans, regardless of organizational affiliation or the lack of it.

The association had its first national convention in Chicago, Ill., in June of 1947. At that time, the association determined to hold a yearly meeting in Washington, D.C., in conjunction with the Washington Conferences of the American Legion or the Veterans of Foreign Wars. The National Association of State Directors of Veterans Affairs will be holding its 36th annual convention later this month here in Washington, D.C.

The National Association of State Directors of Veterans Affairs was incorporated in the District of Columbia on March 12, 1973. It is the only organization representing the State veterans affairs agencies. The function of the association is to advise veterans of available benefits and services; to coordinate the activities and purposes of the several States and territorial agencies affecting veterans; to serve as liaison between the Governors and concerned officials on the Federal level; and to maintain close contact with all branches of the Armed Services. The association operates wholly for charitable, educational, historical, patriotic, and research purposes.

The national scope of the association is clear from its membership, which currently consists of representatives from 48 States, 4 territories, and the District of Columbia. No other organization exists which, in addition to its other services, coordinates the efforts and policies of the State and territorial veterans affairs agencies in order to insure the fair and equitable treatment of veterans throughout our country. The association is a vital educational organization which fills the critical role of liaison between the Federal structure of veterans' services and entitlements and the various State structures of resources devoted to serving the Nation's veterans and their families.

The National Association of State Directors of Veterans Affairs has quietly served the needs of veterans and veterans' organizations for 36 years, and epitomizes the private initiative that has made our Nation great. A Federal charter will express the recognition of Congress for the association's efforts on behalf of countless veterans and their families. I call upon my colleagues to support this legislation and urge early enactment of this bill.

I ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2215

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The National Association of State Directors of Veterans Affairs, Incorporated, organized and incorporated under the Nonprofit Corporation Act of the District of Columbia, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The National Association of State Directors of Veterans Affairs, Incorporated (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes for which the corporation is organized shall be—

(1) to provide a medium for the exchange between veterans and veterans' organizations of ideas and information,

(2) to foster a better understanding of the national veterans' problems,

(3) to promote uniformity and equality of service to veterans in all the States and territories,

(4) to maintain an interest in all veterans' affairs,

(5) to disseminate advice and information to veterans or their dependents, regardless of their membership affiliation with any veterans' organizations,

(6) to actively participate in the national conventions of congressionally chartered veterans' organizations and service organizations recognized by the Veterans' Administration, as well as to perform liaison work and to cooperate with these organizations at their national, local, or Washington office headquarters, and

(7) to maintain close liaison with the four branches of the armed services of the United States wherever located.

The corporation shall function as an educational, patriotic, civic, historical, and research organization as authorized by the laws of the State or States wherein it is incorporated.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, office, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activites.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

Sec. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal Law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(57) National Association of State Directors of Veterans Affairs, Incorporated."

ANNUAL REPORT

Sec. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

Sec. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

Sec. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

Sec. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

Sec. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the Charter granted hereby shall expire.

By Mr. THURMOND (by request):

S. 2216. A bill to reform Habeas Corpus procedures, and for other purposes; to the Committee on the Judiciary.

REFORM OF HABEAS CORPUS PROCEDURES

Mr. THURMOND. Mr. President, I am today introducing an important proposal of the Attorney General on behalf of the administration to reform the habeas corpus procedures of the United States.

I ask unanimous consent that the bill and the executive communication on the measure from the Attorney General be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Habeas Corpus Reform Act of 1982".

SEC. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a state court fails to raise a claim in state proceedings at the time or in the manner required by state rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in state proceedings was the result of state action in violation of the Constitution or laws of the United States;

"(2) the federal right asserted was not recognized prior to the procedural default; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a state court. The limitation period shall run from the latest of the following times:

"(1) the time at which state remedies are exhausted;

"(2) the time at which the impediment to filing an application created by state action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such state action;

"(3) the time at which the federal right asserted was initially recognized; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence."

SEC. 3. Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a state court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

SEC. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"Rule 22.

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court, and in a motion proceeding pursuant to 28 U.S.C. 2255, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a state or the government or its representative, a certificate of probable cause is not required."

SEC. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)" respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(b) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in state proceedings."; and

(c) by redesignating subsection "(d)" as subsection "(e)," and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."

SEC. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was not recognized prior to the procedural default; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence."

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C. March 3, 1982.
Hon. GEORGE BUSH,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for your consideration and referral is a legislative proposal, "To reform habeas corpus procedures."

The proposal is part of the Department of Justice's legislative program for the 97th Congress. The Office of Management and Budget has advised me that this legislation is in accord with the legislative program of the President. We urge the Congress to give this legislation its prompt and favorable consideration.

The administration is firmly committed to the enforcement and protection of federal rights including the federal rights of criminal defendants in state proceedings. We believe, however, that there is no justification in the present day for the availability of federal habeas corpus as a routine means of review of state criminal convictions. In light of the expansion and development of state collateral remedies in recent years and the present competence and outlook of state judges concerning federal rights, review of state judgments by the lower federal courts through habeas corpus is at most justifiable as a backstop or fail-safe mechanism to guard against the rare instances in which state courts may have acted in defiance or disregard of federal law. Moreover, federal habeas corpus procedures should reflect a scrupulous regard for the integrity of state procedures and an appropriate recognition of the state courts as trustworthy expositors of federal law.

Judged against these standards, present habeas corpus procedures have been widely recognized to be seriously deficient and in need of legislative reform:

"The most controversial and friction-producing issue in the relation between the federal courts and the states is federal habeas corpus for state prisoners. Commentators are critical of its present scope, federal judges are unhappy at the burden of thousands of mostly frivolous petitions, state courts resent having their decisions reexamined by a single federal district judge, and the Supreme Court in recent terms has shown a strong inclination to limit its availability. Meanwhile, prisoners thrive on it as a form of occupational therapy and for a few it serves as a means of redressing constitutional violations."

Wright, Miller & Cooper, Federal Practice and Procedure: Jurisdiction § 4261, at 588 (1978).

In part, the current problems with the rules governing habeas corpus reflect an excessive concern with procedural formalisms which do little in substance to promote the interests of justice, but can, by the burdens they create, defeat the essential objectives of our criminal justice system. Judge Learned Hand identified this danger as long ago as 1923:

"Our dangers do not lie in too little tenderness to the accused. Our procedure has been always haunted by the ghost of the innocent man convicted. It is an unreal dream. What we need to fear is the archaic formalism and the watery sentiment that obstructs, delays, and defeats the prosecution of crime."

United States v. *Garsson*, 291 F. 646, 649 (S.D.N.Y. 1923).

In putting forward our proposals, we do not mean to disparage the salutary measures the Supreme Court has taken in recent years to establish a more appropriate scope of review of state court judgments in such areas as guilty pleas, fourth amendment exclusionary rule claims, and procedural defaults. See *McMann* v. *Richardson*, 397 U.S. 759 (1970); *Stone* v. *Powell*, 428 U.S. 465 (1976); *Wainwright* v. *Sykes*, 433 U.S. 72 (1977). We believe, however, that further reforms are necessary and should be accomplished through legislation. This reflects, in part, our general view that the creation of legal remedies, and the delineation of the scope of such remedies, are most appropriately legislative functions. It also reflects the limitations under which the courts operate in instituting such reforms—the constraints imposed by precedent and the language of existing statutes and the need to proceed in a piecemeal fashion, reacting to the facts of particular cases. We are strengthened in our conviction concerning the need for legislative action by the recent statement of the Chief Justice in his 1981 Year End Report on the Judiciary urging Congress to consider limiting federal collateral review of state court criminal convictions.

While our proposals rest primarily on considerations of federalism and appropriate recognition of the dignity and independent stature of the state courts, we believe that they will also tend to reduce the level of resources required of the states and the federal courts under the current system, and will accord more appropriate weight to the interest in finality in criminal adjudication. The latter considerations are also pertinent to applications for collateral relief by federal prisoners pursuant to 28 U.S.C. § 2255. Accordingly, we are also advancing certain proposals in connection with § 2255 motions by federal prisoners.

The specific changes proposed by our amendments are as follows:

The amendments would ordinarily bar consideration by a federal habeas corpus court of a claim that has not been properly raised in state proceedings where the state has provided an opportunity to raise the claim that is consistent with the requirements of federal law.

The amendments would establish a one year limitation period, normally commencing at the time when state remedies are exhausted, for application for federal habeas corpus, and a corresponding limitation for § 2255 motions.

The amendments would vest the authority to issue certificates of probable cause for appeal in habeas corpus proceedings exclusively in the courts of appeals and would impose a similar requirement in relation to appeals by federal prisoners in § 2255 proceedings.

The amendments would clarify that applications for writs of habeas corpus can be denied on the merits without requiring exhaustion of state remedies.

The amendments would require deference to state determinations of factual and legal matters that have been fully and fairly adjudicated in state proceedings.

We believe that these reforms would establish a more appropriate scope and function for federal collateral remedies without jeopardizing the legitimate protection of federal rights. We look forward to working with Congress to achieve the passage of this legislation.

Sincerely,

William French Smith,
Attorney General.

By Mr. HATFIELD (for himself, Mr. Thurmond, and Mr. Mattingly);

S. 2217. A bill to establish nationally uniform duties on taxes for purposes of financing operations, maintenance and development of deep-draft commercial channels and harbors, and to provide for an expedited procedure for the approval and permitting of approved navigation improvement projects and related landslide facilities in deep-draft ports, and for other purposes; to the Committee on Finance.

NATIONAL DEFENSE PORT SYSTEM ACT OF 1982

Mr. HATFIELD. Mr. President, 7 months ago I introduced a bill, S. 1586, which would have established a uniform national user fee for the use of ports and waterways in the United States. It was a relatively simple bill, designed to provoke comment among authorities on this subject and to present an alternative to the administration's port specific user charge bill, S. 809, which I considered damaging to the vast majority of the Nation's ports. That bill served its purpose very well. Subsequent to its introduction, I have had the opportunity to discuss issue with many Senators from States affected by the prospect of port and waterway user fees. Two gentlemen, Senators Thurmond and Mattingly, demonstrated deep concern and proved their willingness to spend a tremendous amount of personal and staff effort in creating a vehicle, based upon a national uniform user fee, which would embody the comprehensive and sophisticated approach necessary to turn this concept, into a useful final draft which can be passed by the Congress.

This bill will provide the funding necessary in both amount and form, to retain the vital system of ports necessary for the economic health of this Nation and at the same time remove this $300 million burden from the Federal budget. Several months of work have gone into it. Port authorities throughout the Nation, administration officials, legislators, State officials, shippers and others who would be affected by such a bill have been consulted. While we do not have the support of each person we have spoken to, we can claim widespread support throughout all of those sectors for the bill which we will introduce today. Negotiations have been protracted and no one has received everything he or she desires. Nonetheless, I think we have created a framework which provides the most workable situation for the ports which are already in existence; which maintains the value of the hundreds of millions of dollars which the Federal Government has invested in the Nation's deepwater ports; and which partially accommodates the administration's desire to see the U.S. port industry expanded on the basis of the marketplace philosophy favored by the Office of Management and Budget.

Mr. President, I sincerely believe that this bill will serve the Nation's port system well by recognizing that its status as part of an overall transportation system designed to permit the movement of people and goods throughout the United States and to our neighbors around the world. By way of explaining how we have achieved this end, I would like to outline the bill briefly.

In essence, the bill addresses two major areas of concern; the provision of funds to ports to continue dredging for operation and maintenance and new construction and the acceleration of Corps of Engineers' task of permitting construction by the ports of new channels and other improvements.

The task of providing funds to the ports is accomplished through the use of a trust fund. The bill requires the Secretary of the Treasury to create a task force which will compose a schedule of fees to be used by the Secretary to charge all imports and domestic movements carried on bottoms with a draft over 14 feet for the use of the dredged channels. The task force meets every 3 years or upon demand of the Secretary. Once it creates the schedule, the Secretary can revise any item on the schedule by 10 percent above or below the task force's recommendation. This is an attempt to give the Secretary of the Treasury some flexibility in his administration of this schedule while prohibiting an attempt by the Secretary to "bootstrap" the tariff on any commodity based on a prior increase of 10 percent. I think it is important to mention that the task force will contain a representative of the Secretary of the Treasury, the President's Special Trade Representative, the Secretary of the Army and two port representatives. This is important because it puts the ports in control of these funds to a large extent in order that they might have a great degree of participation in deciding how much money is needed and therefore, how much they are willing to assess themselves.

Once the assessment is made, the Internal Revenue Service is authorized to collect the excise on all imports and domestic cargo movements which enter into a port, at the time of unloading. This assures that no matter how many ports a ton of cargo traverses, it is only taxed once for the use of the system. In practice, the Internal Revenue Service will have the opportunity to delegate collecting responsibility to the U.S. Customs Bureau.

In deciding how to assess charges for the fund, a difficult situation was encountered. The U.S. Constitution, in section 9, says, "no tax or duties shall be laid on articles exported from any State." This has been interpreted by the Supreme Court to mean no Federal tax. In section 10, the Constitution says, "no States shall, without the consent of Congress, lay imposts or duties in imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imports laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress." However, these provisions of the Constitution run afoul of the General Agreements on Tariffs and Trade, a multilateral trade treaty of which the United States is a partner, which requires that any duties imposed on foreign commerce for the use of ports be imposed equitably on both domestic and foreign commerce. In order to accommodate these two conflicting passages, our bill gives consent of the Congress for local ports to tax exports using the same schedule of fees that the Federal Government uses to tax imports and domestic movements. If the port chooses to take advantage of the fund, it will be required to tax exports. If it does not want to tax its exports it will not have access to the fund and will still pay the Federal assessment on imports and domestic movements. In addition, the Federal Government has the authority to impose a vessel charge on vessels departing from any port which does not assess its exports for use of the trust fund for operations and maintenance of new construction in ports. While this is certainly a complicated procedure, it does accommodate both the GATT and the U.S. Constitution.

The purpose of the trust is to cover the needs of ports for operations and maintenance and some new construction. As such, the task force will have the duty of determining port needs as part of its process of determining the schedule of fees. It should be very clear that only those needs may be met under this legislation, and no excess funds may be collected for any other purpose.

With the money collected in the trust fund, the U.S. Army Corps of Engineers will be required to contract with the ports, as they are presently doing, to fund 100 percent of present operation and maintenance costs assumed by the local port districts. This will insure that any port which is presently in operation will be able to remain in operation at its present level for the foreseeable future. I think this is a very necessary provision in order to avoid further economic disruption in small port communities which have already received blow after economic blow as a result of high interest rates. It will also insure a large number of access points between the United States and our foreign trading partners.

The trust fund will cover 90 percent of all new construction under 45 feet which is presently paid for by the Federal Government. The local port district will be required to come up with the other 10 percent. In requiring a 10-percent contribution from local port funds we hope, in some small way, to accommodate the administration marketplace test for viable ports. The many port authorities and other interested parties with whom we spoke indicated that there were a number of cases where small ports might face large improvement projects which would make them much stronger and in a much better position to entice foreign trade. Thus, we were reluctant to require a small community to come up with a more significant percentage of its local share of new construction after assessing these funds to contribute to the trust fund. However, most authorities agree that requiring a port to provide 10 percent of the funding for any new construction under 45 feet was not unreasonable.

No fund moneys are available for new construction or maintenance over 45 feet. As many members are aware, 40 feet is the maximum draft for the vast majority of commercial vessels which haul commerce into and out of the United States. Very few ships have drafts up to 50 feet and these are primarily for the export of coal and the import of oil. There appears to be some potential for hauling grain on these deep bottoms as well. However, we decided that the relatively few ships which will be calling at U.S. ports at which will draw more than 45 feet make it difficult to promote an argument that these ships serve the vast majority of Americans. Therefore, we chose to exempt the improvements for channels over 45 feet from the trust fund. Any jurisdiction which decides it is in its best interest to dredge to 55 feet will be required to make that decision and fund that decision, locally. I would like to add that our bill calls for a 45-foot nominal depth which is, in fact, whatever depth is necessary to provide safe navigation for a 40-foot ship. I have understood that there are a few areas where a 40-foot ship will need more than 5 feet under the bow in order to navigate certain areas safely.

Senator THURMOND will discuss the fastrack provision briefly. There is one other change which this bill will make in the law and which I wanted to specifically note this afternoon. Until now, the Great Lakes region has been treated as a region apart. The St. Lawrence Seaway Corporation has levied tolls on all traffic coming into the Great Lakes and has been using that to dredge those channels. This has always struck port officials as an anomaly, since the Federal Government has been responsible for all other public channels and ports within the United States.

Our bill will eliminate that anomaly by including the Great Lakes in the trust fund recipient class and assessing ships passing through the St. Lawrence Seaway Canal at the same rate as all other U.S. trade. The St. Lawrence Seaway Corporation will continue to exist and to discharge its other responsibilities such as the operation and maintenance of bridges and the provision of services to ships traversing the canal. Our bill also retires the debt which the Seaway Corporation owes the United States for construction and maintenance of the canal. With the exception of the Panama Canal, this has been the only situation of its kind in U.S.-held territory.

I have mentioned that this bill had been negotiated for several months. I would like to thank a number of staff people from the various Senator's staffs as well. Mr. Cliff Humphrey of the staff of Senator MATTINGLY, Mr. Bris Marchant and Mr. Mark McKnight of Senator THURMOND'S staff have worked hour after hour on this legislation. Tom Maginnis of my staff has also been deeply involved in conjunction with these gentlemen. I would also like to note the contributions of port advocates from the ports of Portland, Oreg., Milwaukee, Wis., Savannah, Ga., and Charleston, S.C., together with others too numerous to mention. Experts from these ports have been invaluable in drawing up this measure.

Mr. President, at this time I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2217

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Defense Port System Act of 1982".

TITLE I—FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds and declares that—

(1) it is in the national interest to maintain and develop a viable marine transportation system within the United States, including a network of commercial deep-draft seaports adequate to accommodate the needs of foreign and domestic commerce, promote economic stability and provide for the national security of the United States;

(2) development and maintenance of the national system of transportation necessary to promote and accommodate foreign and domestic waterborne commerce has been accomplished through a productive partnership of the Federal Government, States, port authorities and private commercial enterprises, in which the Federal Government

has developed and maintained the navigability of deep-draft channels and harbors and facilitated maritime commerce, while States, port authorities and private commercial enterprises have provided the necessary landside port facilities and other navigational improvements necessary to accommodate foreign and domestic waterborne commerce.

(3) while each of the deep-draft ports has its own concerns, problems and opportunities which affect the flow of international and domestic commerce, it is in the public interest to treat each port as an essential component of the National Port System to facilitate the waterborne commerce of the Nation;

(4) ports in the United States are significant generators of national and regional revenue and customs revenues and are promoters of exports to improve the United States balance of trade, providing economic stability and growth; domestic and foreign shippers, producers, consumers and receivers of international commerce have been well-served by the Nation's unified seaport system;

(5) there have been unnecessary and costly delays in the authorization of, and the granting of required Federal permits for, new deep-draft navigation projects, and there is a backlog of economically justified projects which, if implemented, would enhance the overall efficiency of the Nation's waterborne transportation system; and

(6) due to the general state of the Nation's economy and Federal budgetary restraints there is currently a need to more directly recover the costs associated with the operation, maintenance and new construction relating to deep-draft commercial channels and harbors.

(b) It is the purpose of this Act to—

(1) provide a national policy that recognizes the significant role and importance of waterborne commerce to the economic well-being of the United States;

(2) establish a procedure to facilitate the orderly authorization of necessary maintenance, operation and construction projects for deep-draft navigational improvements and to provide consistency and predictability in the granting of required Federal permits with respect to such projects;

(3) provide the means to recover the costs of operation, maintenance and construction of navigation projects to promote the efficient movement of domestic and foreign waterbone commerce by authorizing the imposition of nationally uniform duties or taxes upon items of cargo and by establishing a trust fund consisting of revenues from such fees, while also ensuring that such cost recovery does not—of itself—introduce any new element which creates competitive disadvantages among existing deep-draft port facilities and/or impair the viability of any commodity or item of commerce in the World market; and

(4) liquidate the outstanding obligations of the Saint Lawrence Seaway Development Corporation to the United States and include the operation, maintenance and improvement of the Saint Lawrence Seaway and Great Lakes ports in a nationally uniform system of financing navigation projects.

DEFINITIONS

SEC. 102 (a) For purposes of this Act—

(1) the term "deep-draft commercial channel or harbor" shall mean any channel or harbor in a port or other place in any State which channel or harbor—

(A) is operated as either a private commercial enterprise or as an agency of a State or is operated under authority granted by a State;

(B) is open to public navigation, or is utilized by an individual, partnership or corporation for the commercial transportation of items of cargo by means of vessels with a draft exceeding fourteen feet; and

(C) is used primarily by such vessels engaged in domestic or foreign commerce;

(2) the term "item of cargo" shall mean any commodity, class or category of commodities or classification of articles of commerce, including the carriage or transportation of passengers for hire;

(3) the term "authorized navigation improvement project" shall mean—

(A) a project authorized by the Congress after the enactment of this Act to increase the depth, width, capacity or otherwise improve any deep-draft channel or harbor beyond its depth, width or capacity on the date of enactment of this Act, which project has received all required Federal permits, and shall also include—

(i) those navigation projects which have been previously authorized by the Congress and for which initial funding has been appropriated prior to fiscal year 1982; or

(ii) those navigation improvement projects which have previously been authorized by Congress and for which an environmental impact statement was filed with the Secretary of the Army after September 30, 1975;

(4) the term "qualified operations and maintenance costs" shall mean all costs associated with dredging or otherwise maintaining eligible deep-draft channels and harbors at their nominal depths and widths as authorized by the Congress; other deep-draft channels and harbors in operation on the date of enactment of this Act which load or unload items of cargo subject to duty or tax pursuant to sections 4231 or 4233 of the Internal Revenue Code of 1954; or in the case of locally financed projects constructed pursuant to section 402 of this Act, those projects which have entered into an operations and maintenance agreement with the Secretary of the Army as provided in such section: *Provided, however,* that the term "qualified operation and maintenance" shall not be construed to permit the deepening or widening of any channel or harbor to a depth or width greater than the greatest depth and width actually maintained during the 5 years period immediately preceding the enactment of this Act;

(5) the term "eligible deep-draft commercial channel or harbor" shall mean any deep-draft channel or harbor for which a duty or tax is imposed and collected upon items of cargo loaded, if any, for foreign destinations in accordance with section 4233(a) of the Internal Revenue Code of 1954, or upon which a vessel or tonnage tax is levied in accordance with section 4233(e) of the Internal Revenue Code of 1954;

(6) the term "State" shall mean any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States exercises jurisdiction;

(7) the term "State port authority" shall mean—

(A) a State;

(B) a political subdivision of a State;

(C) any authority established for the purpose of operating, promoting, developing or managing a port having a deep-draft channel or harbor under an interstate compact or under a law or ordinance of, or charter issued by, a State or political subdivision thereof;

(D) any individual or other nongovernmental legal entity engaged in the operation of a deep-draft channel or harbor for the commercial waterborne transportation of items of cargo by means of vessels with a draft exceeding fourteen feet;

(8) the term "forty-five feet nominal depth" shall mean deep-draft channels and harbors designed to accommodate vessels with a draft of forty feet (at mean low tide), regardless of the fact that some element(s) of such channel or harbor may necessitate maintenance or improvement to an actual depth in excess of forty-five feet to allow safe passage of such vessels;

(9) the term "landside facilities" shall mean facilities for the transfer, handling or storage of items of cargo at the point of loading or unloading between deepwater transportation and land or inland waterborne transportation.

TITLE II—CREATION OF TASK FORCE AND TRUST FUND TO ADMINISTER DUTIES OR TAXES

TASK FORCE

SEC. 201. (a) There is established the Deep-Draft Port Task Force (hereinafter referred to as the "Task Force").

(b)(1) The Task Force shall be composed of five Members to be appointed by the President as follows:

(A) two Members shall be representatives of State port authorities which Members shall be from differing coastal ranges or Great Lakes area, and vacancies shall be filled on a rotating basis to provide equitable representation;

(B) one Member shall be a representative of domestic and/or foreign water carriers who use ports having deep-draft channels or harbors, or a representative of exporters and importers who use such carriers;

(C) one Member shall be the Secretary of the Army, or his designee; and

(D) one Member shall be the Special Representative for Trade Negotiations, or his designee.

(2) The term of office for Members of the Task Force described in subparagraphs (A) and (B) of subsection (b)(1) shall be 5 years. Members shall receive no compensation for their services, but shall be reimbursed for all travel and other expenses incurred by them in performance of their duties. Vacancies shall not affect the powers of the Task Force and shall be filled in the same manner in which the original appointment was made.

(c)(1) The Task Force shall make recommendations to the Secretary of the Treasury regarding—

(A) the uniform rate of Federal duty or tax which will be imposed by section 4231 (a) of the Internal Revenue Code of 1954 on items of cargo unloaded at a deep-draft commercial channel or harbor in the United States, and

(B) the uniform rate of duty or tax which may be imposed upon the export of items of cargo by a State port authority pursuant to section 4233(a) of the Internal Revenue Code of 1954.

(C) the uniform rate of vessel or tonnage charges which may be imposed upon deep-draft commercial vessels utilizing a deep-draft commercial channel or harbor located in a State which does not impose and collect the duty or tax upon items of cargo as authorized by section 4233(e) of the Internal Revenue Code of 1954, and

(D) the uniform rate of vessel or tonnage charges which may be imposed upon deep-draft commercial vessels utilizing a deep-draft commercial channel or harbor, but from which vessel items of cargo are neither unloaded nor loaded at any United States port, including but not limited to the use of such channel or harbor for purposes of convenience, bunkering, refitting or repair as provided by section 4231(c) of the Internal Revenue Code of 1954.

(2) In making such recommendations regarding rates of duty or tax, the Task Force shall consider the factors described in subparagraphs (b)(1) (A) through (F) of section 4232 of the Internal Revenue Code of 1954.

(d) The Task Force may, for the purpose of making recommendations under subsection (c), hold such hearings and sit and act at such times and places, administer such oaths, and require the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers and other documents as the Secretary of the Treasury may by regulation prescribe, and may acquire from any Federal or State agency all available information useful in the discharge of its duties, and such agency shall cooperate by furnishing all information requested by the Task Force to the extent permitted by law.

(e) The Secretary of the Treasury shall make available upon request of the Task Force such necessary staff and personnel and such necessary financial and administrative services through the General Services Administration as he deems reasonable and necessary for the Task Force to carry out its duties, and shall advance from funds appropriated to the Department of the Treasury such sums as are reasonable and necessary to meet the initial operating expenses of the Task Force until such time as the schedule of duty or tax on items of cargo prescribed in section 4231 of the Internal Revenue Code of 1954 becomes effective. Sums so advanced shall be reimbursed to the Department of the Treasury from the Trust Fund.

TRUST FUND

SEC. 202. (a)(1) There is established in the Treasury of the United States a trust fund to be known as the "National Port System Trust Fund" (hereinafter referred to as the "Trust Fund") consisting of such amounts as are transferred to the Trust Fund under subsection (b)(1) of this section, and any amount credited to the Trust Fund under subsection (c)(3) of this section. The Trust Fund shall remain available without fiscal year limitation and the amounts in the Trust Fund may be used only for appropriations authorized under subsection (d) of this section.

(2) The Secretary of the Treasury shall be the trustee of the Trust Fund and shall report to the Congress not later than March 1 of each year on the operation and status of the Trust Fund during the preceding fiscal year and on the Trust Fund's anticipated operation and status during the five years immediately following such fiscal year.

(b)(1) The Secretary of the Treasury shall transfer from the general fund of the Treasury to the Trust Fund—

(A) all revenues from the duty or tax imposed by section 4231(a) of the Internal Revenue Code of 1954 during each fiscal year, and

(B) all revenues received into the Treasury from imposition of vessel or tonnage charges pursuant to sections 4231(c) and 4233(e) of the Internal Revenue Code of 1954, and

(C) all revenues received into the Treasury during the fiscal year from any port duty or tax imposed by a State in accordance with section 4233(a) of the Internal Revenue Code of 1954, and

(D) any revenues paid into the general fund by the Saint Lawrence Seaway Development Corporation pursuant to section 5(b) of the Act of May 13, 1954 (33 U.S.C. 985), and

(E) any other funds which may from time to time be appropriated by the Congress for qualified operations and maintenance or for authorized navigation improvement projects for eligible deep-draft commercial channels and harbors.

(2) Such revenues shall be so transferred at least quarterly on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in any amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the actual revenues from such duties or taxes for preceeding quarters.

(c)(1) It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price, or

(B) by purchase of outstanding obligations at the market price.

(2) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

(3) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to, and form a part of, the Trust Fund.

(d)(1) There are authorized to be appropriated for each fiscal year out of amounts in the Trust Fund such sums as are necessary to pay—

(A) 100 percent of the qualified operation and maintenance costs incurred with respect to each eligible deep-draft commercial channel or harbor for each fiscal year, including qualified operation and maintenance costs incurred with respect to the Saint Lawrence Seaway or in the Great Lakes or any of their connecting waters, and the operation and maintenance of any locks or other works in such Seaway, Lakes or waters to the extent that the United States or any agency or instrumentality of the United States has the responsibility for such operation and maintenance; *provided however*, if any deep-draft commercial channel or harbor is improved to a depth exceeding forty-five feet nominal depth after the date of enactment of this Act, then the Secretary of the Army shall determine the additional costs of operation and maintenance for that portion of such channel or harbor in excess of forty-five feet nominal depth, and such additional expense shall be reimbursed to the Corps of Engineers by the State port authority operating such channel or harbor;

(B) 90 percent of the costs of authorized navigation improvement projects for eligible deep-draft channels and harbors for such fiscal year for those projects not exceeding forty-five feet nominal depth;

(C) 100 percent of the costs incurred in carrying out the provisions of section 201 of this Act.

(e) No amount may be appropriated out of the Trust Fund unless the law authorizing the expenditure for which the amount if appropriated expressly provides that the appropriation is to be made out of the Trust Fund as provided in this section.

(f) Nothing in this section shall be deemed to authorize any program, project or other activity not otherwise authorized by law.

TITLE III—CONSTRUCTION AND FINANCING OF NAVIGATION IMPROVEMENT PROJECTS TO INCREASE THE DEPTH OF DEEP-DRAFT COMMERCIAL CHANNELS AND HARBORS

SEC. 301. (a) The Secretary of the Army, acting through the Chief of Engineers, shall annually recommend to the Congress new construction of navigation improvement projects which, in his judgment, should be authorized for deep-draft commercial channels and harbors upon completion of the required Federal studies and cost estimates. Projects shall be authorized only after agreement with a State port authority to pay and reimburse the Federal Government—

(1) in the case of new construction projects not exceeding forty-five feet nominal depth, at least 10 percent of the project construction costs and expenditures that are directly allocated and attributable to commercial navigation, including interest, and

(2) in the case of new construction projects exceeding forty-five feet nominal depth, 100 percent of the project construction costs and expenditures that are directly allocated and attributable to commercial navigation, including interest.

(b) For purposes of this section, the Secretary of the Army and the State port authority concerned shall enter into an agreement containing such terms and conditions as are necessary to protect the interests of the United States, and under which—

(1) the Secretary agrees to implement the project and to provide to such State port authority, to the extent provided for in appropriation Acts, advance funds for the construction of the project, and

(2) the State port authority agrees to reimburse the United States for the appropriate percentage of such construction costs as provided in subsections (a)(1) and (a)(2) of this section, plus interest, and provides to the Secretary of the Army evidence that it has established a mechanism that will assure payment of such amount.

(c) The entire amount of the new construction expenditures to be reimbursed pursuant to the requirements of this Act, including interest during construction, shall be reimbursed within the life of the project, but in no event to exceed fifty years after the date the project becomes available for use, as determined by the Chief of Engineers. The rate of interest shall be equal to the current rate for the longest term issue of United States Treasury securities at the time of signing the agreement described in subsection (b) of this section.

(d) The requirement in the Act for reimbursement by a State port authority for new construction of an authorized navigation improvement project applies to any construction, rehabilitation or alteration project to widen or deepen or otherwise improve a deep-draft commercial channel or harbor for which initial construction funds are provided to the Corps of Engineers on or after the beginning of the first fiscal year following enactment of this Act.

(e) This Act should not be construed to prohibit or otherwise interfere with any Department of the Army or other Federal authority to operate, maintain or improve any deep-draft commercial channel or harbor of the United States for purposes of Coast Guard navigation requirements, or for the defense and security requirements of the United States. Moreover, this Act shall not be construed to require any State port authority or other non-Federal contribution for navigation costs allocable to national defense transportation requirements, or to vessels not engaged in commercial service. The Secretary of the Army, in consultation with the Secretaries of Defense, Transportation and Treasury shall establish cost allocation guidelines to carry out this section that shall designate a cost allocation of or for national defense and noncommercial purposes.

(f) In cases where a natural disaster may occur at a deep-draft commercial channel or harbor undergoing an authorized navigation improvement project, a State port authority or other non-Federal entity will not be required to contribute to the rehabilitation or maintenance required because of said disaster, but such rehabilitation shall be financed from the general fund or from Trust Fund monies, as the Congress may direct.

(g) Nothing in this section shall be construed to prevent the construction of navigation improvements pursuant to section 402 of this Act.

(h)(1) The Congress consents under clauses 2 and 3 of section 10 of article I of the Constitution, to the levying by the States of a duty or tax on items of cargo loaded or unloaded at a deep-draft commercial channel or harbor within the State from any commercial vessel with a draft in excess of forty-five feet subject to the following conditions—

(A) revenue derived from such levey of duty or tax shall be used by the State port authority for the purpose of defraying the non-Federal portion of the costs of operations, maintenance or improvement pursuant to section 202 and section 301 of this Act; and

(B) such levy is made in compliance with the provisions of all laws and treaties of the United States.

(2) The Congress expressly reserves the right to withdraw the consent granted by it under paragraph (1) with respect to any State if at any time in the view of Congress the conditions of consent set forth in subparagraphs (A) and (B) are not being complied with by the State.

TITLE IV—IMPOSITION OF DUTY OR TAX ON DEEP-DRAFT CARGO

SEC. 401. (a) Chapter 33 of the Internal Revenue Code of 1954 (relating to facilities and services) is amended by inserting before subchapter B the following new subchapter.

"Subchapter A—Deep-Draft Facilities"

"Sec. 4231. Imposition of duty or tax.
"Sec. 4232. Rate of duty or tax.
"Sec. 4233. Duty or tax on exports."

SEC. 4231. IMPOSITION OF DUTY OR TAX.

(a) There is hereby established a duty or tax on each item of cargo unloaded from any commercial vessel with a draft greater than fourteen feet at any deep-draft commercial channel or harbor in the United States; *Provided, however*, That if the State port authority at the point of such unloading levies and collects a duty or tax on items of cargo loaded or unloaded from vessels with a draft exceeding forty-five feet pursuant to subsection 301(h) of the National Defense Port System Act of 1982, then the duty or tax imposed by this section and authorized by section 4233 hereof shall not apply to such vessels.

(b) Liability for payment of the duty or tax imposed under subsection (a) shall be determined by the Secretary of the Treasury, and until paid, such duty or tax shall constitute a valid lien against both the vessel and the item of cargo in favor of the United States. Payment of all duties or taxes imposed shall be collected by the United States Customs Service in accordance with such regulations as the Secretary of the Treasury shall determine.

(c) The Secretary of the Treasury may establish a nationally uniform schedule of vessel or tonnage charges which, upon the recommendation of the Deep-Draft Commercial Port Task Force, may be imposed upon deep-draft commercial vessels which utilize deep-draft channels and harbors, but from which vessels items of cargo are neither unloaded nor loaded at any United States port, including but not limited to the use of such channels and harbors for purposes of convenience, bunkering, refitting or repair.

SEC. 4232. RATE OF DUTY OR TAX.

(a) IN GENERAL.—The amount of the duty or tax imposed by section 4231 on any item of cargo shall be determined on the basis of a nationally uniform rate established with respect to such item of cargo under regulations prescribed by the Secretary of the Treasury.

(b) REGULATIONS.—

(1) IN GENERAL.—In prescribing regulations under subsection (a) with respect to the rate of duty or tax on an item of cargo, the Secretary of the Treasury shall consider—

(A) the potential effect on international and domestic trade of the duty or tax imposed by section 4231 on such item of cargo,

(B) the potential diversion of trade of such item of cargo to foreign ports due to the imposition of such duty or tax on such item of cargo,

(C) the potential effect on deep-draft commercial channels and harbors located within the United States by the imposition of such duty or tax on such item of cargo,

(D) the ability of such item of cargo to compete in the marketplace when such duty or tax is imposed on such item of cargo,

(E) the aggregate revenue from the duty, tax or vessel or tonnage charges imposed by section 4231 and imposed by section 4233 of this Act during the fiscal year which is necessary to pay the sum of—

(i) 100 percent of the qualified operation and maintenance costs incurred with respect to all eligible deep-draft commercial channels and harbors during such fiscal year pursuant to section 202(d)(1)(A) of this Act, plus

(ii) the portion of operation and maintenance costs incurred by channels or harbors improved to a depth greater than forty-five feet nominal depth after enactment of this Act pursuant to section 202(d)(1)(A) of this Act, and

(iii) the amount necessary to meet funding requirements under section 202(d)(1)(B) of this Act for authorized navigation improvement projects for such fiscal year, and

(F) recommendations of the Deep-Draft Commercial Port Task Force with respect to such rate of duty or tax on such item(s) of cargo for domestic, import and export commerce.

(c) REVIEW.—The Secretary of the Treasury shall review each rate of duty or tax established under subsection (a) at least once every two years.

(d) TASK FORCE RECOMMENDATIONS.—

(1) IN GENERAL.—The Secretary shall solicit the recommendations of the Deep-Draft Commercial Port Task Force with respect to the rate of tax imposed by sections 4231 and 4233 of this Act on any item(s) of cargo prior to—

(A) the initial establishment of such rate under subsection (a) of this section, and

(B) the review of such rate required under subsection (c) of this section.

(2) The Secretary shall be bound by the recommendations of the Task Force regarding such rates of duty or tax, except as provided in paragraph (d)(3) of this section.

(3) EXCEPTIONS.—The Secretary may increase or decrease the rate of tax imposed by section 4231 or the rate of duty or tax allowed by section 4233 on any item(s) of cargo, provided—

(A) the amount of such increase is less than 10 percent or of such decrease is less than 15 percent of the latest rate of tax recommended by the Task Force, and

(B) the Secretary has solicited the recommendation of such Task Force with respect to the rate of tax on such item of cargo at least once within the previous 2-year period.

SEC. 4233. STATE DUTY OR TAX ON EXPORTS.

(a) The Congress consents, under clauses 2 and 3 of section 10 of article I of the Constitution, to the levying by the States of duties or taxes on items of cargo destined for export from a State's deep-draft commercial channels and harbors, but only to the extent that such levy is consistent with the conditions of consent set forth in subsection (b) of this section.

(b) The consent of Congress under subsection (a) is granted with respect to any State on behalf of any State port authority operating a deep-draft commercial port facility in such State, subject to the following conditions:

(1) such levy may be imposed only upon those items of cargo which are loaded onto any vessel having a draft greater than fourteen feet at any deep-draft commercial port located in such State, and which items of cargo are to be unloaded from such vessel at a port located outside of the United States, and

(2) such levy may be imposed upon such items of cargo only in compliance with the uniform rate suggested for such items of cargo by the Secretary of the Treasury pursuant to section 4232 of this Act for the fiscal year, and

(3) except for the costs directly allocated and attributable to the collection of such duty or tax, the net proceeds of all such collections shall be paid into the general fund of the Treasury of the United States for the benefit and use of the Trust Fund established herein, and

(4) the State authorizes the United States Customs Service to collect payment of such tax on behalf of the State from the person liable for the payment thereof, or provides an adequate means for the collection of such duty or tax from the person liable for payment thereof, and

(5) the State imposes penalties on any person who fails to pay such duty or tax which are similar to the penalties imposed under the Internal Revenue Code of 1954 on persons who fail to timely pay the tax imposed by section 4231 of such Code, and

(6) if the State elects not to authorize the United States Customs Service to collect payment of such duty or tax, then—

(A) the State must provide to the Comptroller General of the United States, upon his request, such books, documents, papers or other information as the Comptroller General considers to be necessary or appropriate to enable him to carry out the audit required under subsection (d) of this section, and

(B) the State must designate an officer or other authorized representative of each State port authority within the State to receive export declarations from shippers, consigners and terminal operators, cargo manifests and such other documentation as may be necessary for the imposition, computation and collection of the duty or tax on exported items of cargo.

(c) The Congress expressly reserves the right to withdraw the consent granted by it under subsection (a) with respect to any State if at any time in the view of Congress, (1) the conditions of consent set forth in subsection (b) of this section are not being complied with by the State, or (2) an impediment to compliance with any of such conditions is imposed under State law.

(d) The Comptroller General of the United States shall carry out periodic audits of the deep-draft commercial harbor operations of States that have elected not to authorize the United States Customs Service to accept payment of the duty or tax levied under this section in order to ascertain if the conditions of consent are being complied with. The Comptroller General shall submit to each House of Congress a written report containing the findings resulting from each such audit and shall make such recommendations as he deems appropriate regarding the compliance of each State with the requirements of this section.

(e) The Secretary of the Treasury shall establish, after soliciting the recommendations of the Deep-Draft Commercial Port Task Force, a nationally uniform schedule of vessel or tonnage charges which shall be imposed on deep-draft commercial vessels utilizing the deep-draft channels or harbors of a State which elects not to impose and collect the duty or tax upon items of cargo as authorized by this section.

LOCALLY FINANCED CONSTRUCTION

SEC. 402. (a) Notwithstanding any other provision of law, any State port authority is hereby authorized to build and maintain any locally financed improvements to any port located in such State without the authorization of such locally financed improvement by the Congress.

(b) For purposes of this section, the term "locally financed improvement" means any improvement which—

(1) is undertaken in compliance with all applicable Federal and State law, and

(2) is financed without any Federal funds, loans, guarantees, or other Federal assistance.

(c) The cost of operation and maintenance of such locally financed improvements shall constitute qualified operations and maintenance costs to such extent as mutually agreed upon between the State port authority responsible for such improvement and the Secretary of the Army.

SAINT LAWRENCE SEAWAY

SEC. 403. (a) Section 5 of the Act of May 13, 1954 (33 U.S.C. 985), is amended to read as follows:

"FINANCING

"SEC. 5. (a) Except as provided in subsection (b), any revenue received by the Corporation may be used to finance any activity of the Corporation.

"(b) The Corporation shall pay into the general fund of the Treasury on a quarterly basis beginning with the effective date of sections 4231 and 4233 of the Internal Revenue Code of 1954 the amount, if any, of the revenue received by the Corporation under 33 U.S.C. 988 (a) during such quarter during which revenue exceeds the sum collected pursuant to activities authorized by 33 U.S.C. 984(a)(10) and (a)(11).

"(c) Upon establishment of regulations by the Secretary of the Treasury pursuant to sections 4231, 4232 and 4233 of the Internal Revenue Code of 1954 establishing rates of duty or tax upon items of cargo, all authority of the Corporation to levy tolls or other charges shall cease, except as necessary to carry out the activities authorized under 33 U.S.C. 984(a)(10) and (a), prior to the effective date of the National Defense Port System Act of 1982, and which is outstanding on such effective date, is hereby terminated.

(c) In 33 U.S.C. 984(a)(10) strike and repeal the words ". . . and facilities necessary in the maintenance and operation of the Seaway".

(d) In 33 U.S.C. 988(a) strike and repeal the words "Any formula for a division of revenues which takes into consideration annual debt charges shall include the total cost, including both interest and debt principal, incurred by the United States in financing activities authorized by this chapter, whether or not reimbursable by the Corporation.".

(e) To finance any non-federal share of its improvement activities, the Corporation may issue revenue bonds subject to applicable Federal laws. The total face value of all bonds issued shall not exceed an amount to be determined by the Secretary of the Treasury. Such obligations shall have maturities not in excess of fifty years and shall be redeemable before maturity in such manner as be stipulated therein, but the obligations thus redeemed shall not be refinanced by the Corporation.

TITLE V—EXPEDITED PROCEDURE FOR APPROVAL OF NAVIGATION IMPROVEMENT PROJECTS AND RELATED LANDSIDE FACILITIES PROJECTS

COMPLIANCE WITH PROJECT SCHEDULE

SEC. 501. (a) Not later than seventy-five days after a navigation improvement project is authorized by the Congress or upon petition by a State port authority on behalf of a locally financed navigation improvement project authorized pursuant to section 402 of this Act, the Secretary of the Army, in consultation with appropriate agencies, shall establish and publish in the Federal Register a project schedule for all agency decisions relating to such project and for all agency decisions relating to landside facilities which were included in the final report of the Chief of Engineers in connection with such project as part of an overall plan of improvement for the port. Each project schedule shall clearly identify the deadlines applicable to such decisions. The project schedule shall also suggest concurrent review of applications and joint hearings by such agencies. Each project schedule established under this subsection shall provide that all agency decisions governed by such schedule shall be made not later than twelve months after the establishment of the project schedule.

(b) The project schedule established under subsection (a) for a project and related landside facilities shall apply in lieu of any schedule which would otherwise apply and shall be binding on the agency and on all other persons to whom the project schedule applies.

(c) In the case of any agency decision or action subject to the project schedule, the agency may modify any schedule applicable to such action or decision (including a schedule relating to actions of any applicant or other person and including any schedule established by statute) where the agency determines that such modification will facilitate compliance by the agency with the project schedule. No such agency may modify the project schedule.

(d) The project schedule, and any schedule which is modified under subsection (c) of this section, shall be reasonably designed to ensure adequate consideration of all matters concerning such project and the related landside facilities under applicable law and to ensure adequate participation by interested parties in all applicable proceedings.

(e) All agencies shall consolidate, to the maximum extent practicable, its proceedings respecting actions and decisions which are subject to the project schedule with the proceedings of other agencies respecting actions and decisions which are also subject to such schedule.

(f) In consultation with any person responsible for—

(1) filing on behalf of a proposed navigation improvement project and related landside facilities any application or other petition for any agency decision, or

(2) taking any other action on behalf of such project or facilities which is necessary before such agency decision may be made,

and with appropriate agencies, the Secretary of the Army shall include in the project schedule deadlines for submissions by such person for any license, permit, or other approval which must be obtained in connection with the project or facilities. The schedule shall indicate the date on which any such filing shall be made and the materials which must be submitted.

(g) Upon the petition of any agency to which the project schedule applies, or on the Secretary of the Army's own initiative, the Secretary of the Army may modify the project schedule at any time. No extension of any time period applicable to any agency under such schedule may be granted unless the Secretary of the Army determines that—

(1) such agency has exercised all due diligence in attempting to comply with the schedule and is nonetheless unable to comply with such schedule; or

(2) it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, taking into account the personnel and funds available to the agency for complying with such schedule.

In no event may any such modification provide for an extension of time for an agency decision beyond the twelve-month period established under subsection (a) of this section for such decision.

(h) The Secretary of the Army shall monitor compliance with the project schedule by the agencies and persons to whom the project schedule applies and may require such agencies and persons to submit to the Secretary of the Army such information regarding compliance with such schedule as he deems necessary and appropriate for such purposes. If the Secretary of the Army determines that an authorized navigation improvement project or the development of related landside facilities is being delayed or threatened with delay, the Secretary of the Army shall determine the reason for such delay or threatened delay and notify the appropriate agencies and other persons of his determination. Following such notification, the Secretary of the Army may take such actions as he deems appropriate to bring such agency and other persons into compliance with the project schedule.

SEC. 502. (a) Subject to the provisions of section 503(b), and except as may otherwise be provided pursuant to the establishment or modification of a deadline or timetable by the Secretary of the Army under section 501 or 503(a)(2)(A) or pursuant to the modification of a schedule by an agency under section 501(c), the project schedule and each agency decision and other action with respect to which a deadline or timetable is specified on the project schedule shall be consistent with the statutory obligations applicable to the agencies governed by such schedule.

(b) Except as permitted under the authorities referred to in subsection (a), nothing in this title shall—

(1) affect the application to any authorized navigation improvement project or related landside facility of any requirement establishment by, or pursuant to, Federal, State, or local law,

(2) affect the basis on which any agency decision is made with respect to such a project or facility, or

(3) affect or influence the outcome of any such agency decision.

DECISIONS BY THE SECRETARY

SEC. 503. (a)(1) If the Secretary of the Army determines that an agency has failed, or is reasonably likely to fail, to make an agency decision within the time required by the project schedule, the Secretary of the Army shall provide notice of his determination to the appropriate agency, the person responsible for filing on behalf of the project and related landside facilities the application or other petition for the agency decision involved, and any parties to the agency proceeding concerned. During the period which is at least thirty but not more than forty-five days after such notification, the Secretary of the Army shall conduct on an expedited basis an informal hearing for the purpose of determining the cause of the delay and the actions taken to achieve compliance. A transcript shall be kept of any such hearing.

(2) Within thirty days after any hearing under paragraph (1), the Secretary of the Army may, in furtherance of the purposes of this Act—

(A) modify the project schedule to the extent necessary to provide an extension of time for that agency to make the agency decision involved if—

(i) such agency has exercised all due diligence in attempting to comply with the schedule and is nonetheless unable to comply with such schedule, and it would be impracticable for the agency to reach a decision or to complete the required action within the specified time, and

(ii) a previous extension has not been provided under this subsection for that agency decision; or

(B) make a decision in lieu of the agency action or decision as provided in subsection (b) of this section.

In no event may any modification of the project schedule under subparagraph (A) of this subsection provide for an extension of time for an agency decision beyond the twelve-month period established under subsection 501(a) for such agency decision. No determination by the Secretary of the Army under paragraph (1) of this subsection and no modification of a project schedule by the Secretary of the Army under subparagraph (a)(2)(A) of this section shall be subject to judicial review, except as may be required by the Constitution of the United States. If, following modification of the project schedule under subparagraph (a)(2)(A) of this section, the agency fails to make the agency decision concerned in compliance with such modified schedule, the Secretary of the Army may take action under subsection (b) of this section without conducting a further hearing as required by paragraph (a)(1) of this section.

(b)(1) If, upon completion of the hearing required under subsection (a)(1) of this section, the Secretary of the Army should determine that an agency action or decision is not forthcoming within the time specified in the project schedule and that an extension of time for the agency to make the agency action or decision involved as provided by subparagraph (a)(2)(A) of this section would not serve any useful purpose, but only lead to further delay in the process governed by the project schedule, the Secretary may issue an order requiring the agency to transmit all records of that agency pertinent to that decision or action to the Secretary of the Army for his action or decision in lieu of the agency action or decision involved. Notice of any such order shall be published in the Federal Register and transmitted to the agency and the person responsible for filing on behalf of the project the application or other petition for the agency decision involved. Any order under this paragraph shall not be subject to judicial review, except as may be required by the Constitution of the United States.

(2) Upon receipt of notice of an order under paragraph (1), the agency involved shall transmit forthwith all records in the possession of the agency pertinent to that decision or action. The Secretary of the Army shall take whatever additional action authorized under this Act as may be necessary to obtain an adequate record for a final decision.

(3)(A) The Secretary of the Army shall, within the twelve-month period established under subsection 501(a), promptly issue a decision under this subsection after obtaining an adequate record for such decision. The decision shall be published in the Federal Register.

(B) Any decision of the Secretary of the Army under this subsection shall be consistent with any requirement established by, or pursuant to, Federal, State, or local law which would be applicable in the absence of an order under this subsection.

(c) No requirement of Federal law which is enacted or promulgated after the establishment of a project schedule for a project and related landslide facilities under this Act and before the commencement of any activity relating to the completed project or landslide facilities shall apply to such project or facilities, respectively.

JUDICIAL REVIEW

SEC. 504. (a)(1) Any action for review of any final agency decision which is covered by a project schedule may only be brought in the United States Court of Appeals for the circuit in which the project concerned, or related landside facilities, are or are proposed to be located and may only be brought within forty-five days following the date on which notice is published that such decision has become final. An agency decision made pursuant to a project schedule established under this Act and a decision made by the Secretary of the Army under section 503(b) in lieu of such an agency decision are final agency decisions for purposes of this section.

(2) The court shall assign any action referred to in paragraph (1) of this subsection for hearing, and shall complete such hearing, at the earliest possible date. Such action shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be consolidated, to the greatest extent practicable, with other actions relating to the same project which may be brought in such court.

(3) Any agency decision with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any other proceeding.

(4) In issuing a final judgment in any action for review of any final agency decision which is governed by a project schedule, the court may award costs of litigation (including attorney and expert witness fees) to the prevailing party when, in the determination of the court, such action was instituted without good cause and for the purpose of delay.

(5) No court shall have jurisdiction to grant injunctive relief with respect to agency decisions covered by a project schedule except in conjunction with a final judgment entered in a case involving a claim filed under this Act. Review of an appealable judgment, decree, or order of the Court of Appeals made in accordance with this section may be had only upon direct appeal to the Supreme Court of the United States.

(b) The establishment of a project schedule under this Act and any action to extend or modify such a schedule shall not be subject to judicial review, except as may be required by the Constitution of the United States.

Mr. HATFIELD. Mr. President, I yield to my consponsor and one of the chief architects of this bill, the Senator from Georgia (Mr. MATTINGLY).

PORT COST RECOVERY

Mr. MATTINGLY. Mr. President, in 1978 the total waterborne commerce of the United States amounted to almost 2.1 billion tons. Of this some 1.1 billion tons was domestic commerce—either point to point within the Nation, or goods carried inland as a result of exports and imports—while foreign trade amounted to about 1 billion tons. Since that date, the amount of cargo carried on inland waterways and shipped from American ports has continued to increase.

It is an essential part of the President's economic recovery program to begin a process or recovering the costs of Federal activities from those who most directly benefit from any specific Government expenditure. In the case at hand, the Reagan administration proposes to recover at least a portion of the ongoing operations and maintenance costs expended on U.S. ports, harbors, and waterways, as well as moneys needed to make navigational improvements. The 1982 cost for operations and maintenance alone is approximately $617 million.

The legislation which has been reported out of the Senate Committee on Environment and Public Works would attempt to achieve cost recovery by allowing each port to assess a "user fee" against vessels on a port-by-port basis. While I support the administration's efforts to reduce Federal spending, and while I generally favor the effort to recover a portion of costs incurred in maintaining and improving our national system of waterways and harbors, I am totally opposed to the Moynihan-Abdnor bill because it's port-by-port fee system would result in a disastrous situation for medium and smaller sized ports by creating a distinct economic disadvantage for them. The committee proposal would provide that cargoes shipped from New York Harbor would be taxed at a rate of one-tenth of a cent per ton, while Savannah cargo would bear a tax of 6.8 cents per ton. Charleston would be 6.8 cents per ton, and yet Miami would only be eight-tenths of a cent per ton. This would cause many cargoes to seek out the least expensive port, and would cause the economic decline of most of our southeastern facilities.

I am happy to have this opportunity to join Senators HATFIELD, THURMOND, and others to present this alternative proposal which creates a nationally uniform user fee to recover costs. This is the only fair and equitable method which will provide for cost recovery, and yet not create an economic disadvantage for lower volume ports whose maintenance costs are proportionately higher than ports like Long Beach, N.Y., and Miami. Our legislation also includes provisions to streamline and speed up the process of obtaining permits for harbor improvements which currently results in years of delay with significantly increased costs.

Our objectives in proposing this legislation were:

First, to provide a mechanism which allows cost recovery for operations, maintenance, and improvements expenditures incurred by Corps of Engineers in conjunction with commercial ports and harbors.

Second, that the mechanism should provide funding levels which are adequate to insure that authorized projects and those anticipated by the corps will be completed expeditiously.

Third, that the mechanism be structured in a manner which does not create competitive disadvantages among existing facilities, or impair the viability of any one commodity of good in the world market.

This mechanism will be similar to the highway trust fund which has served well the entire country. If each section of the country had competed according to traffic for interstate highway funds, there would be many States isolated today without a single interstate crossing their borders.

The Moynihan-Abdnor bill would bring about severe economic disruption. Carriers would naturally be inclined to move to ports where their costs were lower. This would force shippers to transport their cargoes longer distances overland with higher costs. Industries now thinking of locating near smaller ports would have to consider the impact of this policy.

It is in our national interest to have a strong, viable system of ports and harbors. The Government has safeguarded that system for more than 150 years. Congress must pass a law that will be fair and equitable to all. We cannot cut the throats of the small- and medium-sized ports in this country.

I urge each of my colleagues to study this approach to the continued funding of our Nation's essential ports system. Believe me, this measure is just as important to inland States as it is to coastal areas.

I urge your support for this measure.

THE NATIONAL DEFENSE PORT SYSTEM ACT OF 1982

Mr. THURMOND. Mr. President, a bill to establish nationally uniform duties or taxes for purposes of financing operations, maintenance and development of deep-draft commercial channels and harbors, to provide for an expedited procedure for the approval and permitting of approved navigation improvement projects and related landside facilities in deep-draft ports, and for other purposes, is presently being introduced by the distinguished Senator from Oregon, Mr. HATFIELD, the distinguished Senator from Georgia, Mr. MATTINGLY, and myself.

Since the founding of our great Nation, its ports have played a vital role in its commerce and defense. Millions of tons of cargo worth billions of dollars pass through these ports each year, destined for both foreign and domestic markets.

Unfortunately, the cost of operating and maintaining existing harbors and channels, as well as constructing new ones, has increased dramatically over the past few years. Historically, these costs have been financed by the U.S. Government out of general revenues. With the ever-increasing demands on the limited Federal budget, however, there has been a call for these costs to be borne by those who use our ports and, therefore, benefit most directly from their continued operation and maintenance.

The proposal introduced today, in my opinion, properly responds to this call by establishing a nationally uniform system of commodity-specific port user fees. Under this bill, Congress would create a task force which would make recommendations to the Secretary of the Treasury as to the nationally uniform rate of duties or taxes to be imposed upon specific items of commerce loaded or unloaded at our Nation's ports.

Once the appropriate duty or tax has been established, the revenues generated by their imposition would be deposited into a separate trust fund within the Treasury of the United States. This fund would then be used to finance future port maintenance and improvements

This measure does not stop here, however. The prolonged delay often experienced in obtaining the necessary Federal permits after a port improvement project has been authorized is a problem which has plagued our ports for far too long. This legislation addresses this problem by providing an expedited procedure for obtaining and reviewing such permits. Under this procedure, the Secretary of the Army would publish a timetable with which the affected Federal agencies would be required to comply. Moreover, challenges to any final Federal agency action governed by this timetable would go directly to the Circuit Courts of Appeals for expedited consideration.

I believe this procedure is sound and will provide an effective mechanism for resolving the problems presented by the current delays in obtaining the necessary Federal permits for previously authorized port improvement projects. At the same time, this procedure will not sacrifice the safeguard provided by close judicial scrutiny of Federal agency action.

I hope my colleagues will carefully consider the merits of this proposal. I feel that it provides the most acceptable vehicle for solving some of the most pressing problems currently confronting our Nation's ports.

By Mr. D'AMATO:

S. 2218. A bill to provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue landfill site by the city of New York; to the Committee on Energy and Natural Resources.

FOUNTAIN AVENUE LANDFILL

● Mr. D'AMATO. Mr. President, today I am introducing legislation which would amend the Gateway National Recreation Area authorizing statute, Public Law 92-592, to provide for greater public recreation and use of Gateway and for utilization of the energy sources located at the Fountain Avenue landfill.

New York City deeded the Fountain Avenue landfill to the National Park Service in 1974, for inclusion in the Gateway National Recreation Area. In deeding the land to the National Park Service the city reserved for itself the right to continue to landfill at Fountain Avenue until December 31, 1985.

Since 1974, it has become feasible to extract methane, natural gas from landfills. In an effort to reduce its dependence on imported oil and to promote alternative energy sources, New York City has begun to develop a comprehensive methane recovery program, and would like to include Fountain Avenue in this program. The Fountain Avenue landfill could produce the equivalent of over 600,000 barrels of oil annually.

This bill would give to the city the rights to the methane which has been generated as a result of the city's use of this property as a landfill. New York City would pay to the National Park Service a percentage of its proceeds, which in turn, would be dedicated to the improvement of Gateway.

This methane recovery project is one which the Federal Government should support. However, I am not talking about financial support; there will be no cost to the Federal Government. Not a single taxpayer's dollar will be spent on this project. However, there will be substantial benefits to the public.

An alternative energy resource will be developed with a promising new technology, putting a landfill to good use. The recreation area will be made a safer and healthier place because the methane will be removed. I might add that this land cannot be used for the purpose for which it was intended until the methane is extracted. In addition, Gateway will receive moneys to be used for the improvement of its recreation facilities and programs.

I urge the Senate to move quickly to pass this legislation. Each day of delay wastes 10 million cubic feet of methane, which evaporates into the surrounding area.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of Public Law 92-592 is amended by adding at the end thereof the following new subsection:

(i) The United States hereby conveys to the City of New York all rights to the methane gas and associated byproducts resulting from solid waste decomposition on the area within the Jamaica Bay Unit known as the Fountain Avenue Landfill site, subject to payments to the United States of 12 per centum of the revenue received by the city of New York, if any, from the development of such rights. All such payments to the United States shall be credited to the appropriations of the National Park Service for the development and improvement of Gateway National Recreation Area.●

By Mr. DURENBERGER (for himself, Mr. BOSCHWITZ, Mr. LEVIN, Mr. RIEGLE, and Mr. DIXON):

S. 2219. A bill to cancel all bonds issued by the Saint Lawrence Seaway Development Corporation; to the Committee on Environment and Public Works.

SEAWAY EQUITY ACT

● Mr. DURENBERGER. Mr. President, the legislation we introduce today is designed to lift the heavy burden of the St. Lawrence Seaway debt from the shoulders of Great Lakes ports and midwestern farmers.

This measure removes an inequity which the users of the St. Lawrence Seaway have borne in silence for the past 23 years. It's an inequity unique in its application, since the seaway is the only waterway in American history compelled to generate revenues sufficient to cover its initial construction costs and its annual operation and maintenance expenses. This singular burden has placed the entire Great Lakes region at a competitive disadvantage, a disadvantage that will worsen considerably if a new system of user fees is imposed on top of the existing cost recovery structure. What we seek with this legislation is competitive equity—so that Great Lakes ports and the shippers that depend on them can compete on their own merits.

Minnesota's role in development of the seaway is now nearly a century old. In 1892, a Congressman from New Ulm, Minn., John Lind, introduced the first legislation to authorize construction of a water route to the sea. Thirty years later, Charles P. Craig, a lawyer from Duluth, Minn., founded the Great Lakes-St. Lawrence Tidewater Association, the first Washington lobbying group to promote a seaway. Today, another Minnesotan, David Oberlin, begins his 13th year as Administrator of the Corporation other Minnesotans strived so hard to create. And today, 90 years after John Lind introduced the first seaway legislation, I am introducing the Seaway Equity Act as a fitting conclusion to 90 years of sustained efforts by Minnesota representatives.

The seaway is an expensive facility to operate and maintain. But as the following chart illustrates, the St. Lawrence Seaway Development Corporation has met these expenses, and has not charged 1 cent to the American taxpayer. In fact, the Corporation has returned money to the Treasury. I ask, Mr. President, unanimous consent that a table detailing the St. Lawrence Seaway Development Corporation's revenue, expenditures, and payments to the U.S. Treasury be inserted in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION—REVENUE, EXPENDITURES AND PAYMENTS TO THE U.S. TREASURY, 1959–80

[In thousands of dollars]

Calendar Year	Revenues	Expenditures			Payments to U.S. Treasury	
		Operations, maintenance and administration [1]	Replacements and improvements [2]	Total	Interest	Principal
1959	$3,204	$951	$6,200	$7,151	$1,926	$224
1960	3,115	1,225	2,703	3,928	1,908	
1961	3,407	1,309	1,020	2,329	2,115	
1962	3,700	1,554	774	2,328	2,175	
1963	4,444	1,518	1,166	2,684	2,833	
1964	5,591	1,651	1,030	2,681	3,951	
1965	6,372	1,766	1,112	2,878	4,550	
1966	7,115	1,891	123	2,014	5,200	
1967	6,110	2,001	52	2,053	4,050	
1968	6,816	2,117	157	2,274	4,500	
1969	5,914	2,246	177	2,423	2,750	
1970	6,998	2,457	88	2,545	1,800	2,000
1971	7,473	2,754	192	2,946		3,900
1972	7,502	3,306	443	3,749		4,000
1973	7,739	3,480	670	4,150		2,500
1974	5,982	3,949	753	4,702		600
1975	6,313	4,323	459	4,782		2,000
1976	7,300	4,535	915	5,450		2,000
1977	8,638	5,189	839	6,028		1,000
1978	9,942	5,337	1,300	6,697		2,500
1979	10,996	6,346	1,385	7,731		2,000
1980	9,805	7,534	1,291	8,825		2,000

[1] Operations, maintenance and administrative includes $10,000,000 in extraordinary lock maintenance.

[2] Replacements and/or improvements (including those for season extension).

Mr. DURENBERGER. Mr. President, the bill we introduce today will have a negligible impact on Federal outlays. Its costs are minor in comparison with most other water, navigation, and public works projects. Our efforts are based simply on fiscal equity, and have the unanimous support of Great Lakes Governors and port directors. So that all Senators can have the benefit of further background on the Seaway debt issue, I ask unanimous consent that a history of the St. Lawrence Seaway be inserted in the RECORD at this point. I also ask unanimous consent that the legislation be printed in full in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, is as follows:

S. 2219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any bond issued under section 5 of the Act of May 13, 1954 (68 Stat. 94; 33 U.S.C. 985) is hereby canceled together with the obligation to pay such bond.

THE ST. LAWRENCE SEAWAY: A NARRATIVE HISTORY

(By Jacques LesStrang)

Not since the building of the pyramids, has mankind conceived, let alone realized, a civil engineering feat of the magnitude of the construction of the St. Lawrence Seaway. When it was readied for navigation in 1959, the Seaway had opened the Great Lakes to the sea, creating two score international deep-draft ports, tying the heartland of North America to the commerce of the world, permitting ships from Casablanca and Rotterdam and Le Havre to find ports of call at Cleveland and Detroit and Duluth.

In other words, the St. Lawrence Seaway created a new coastline for the United States—a fourth coast—and for Canada, opening a bold, new chapter in the maritime history of North America.

Compared to the construction of the Seaway, the digging of the Suez Canal was certainly a lesser accomplishment, as was the building of the Panama Canal—although both have been memorialized on a much grander scale in the history and geography books of the world, as well as in the minds of virtually everyone.

The geographer, looking at a geodesic globe of the world, would note that the Great Lakes of North America—the largest body of fresh water in the world—connects with the Atlantic Ocean through the St. Lawrence River at the Gulf of St. Lawrence. An economist would note, further, however, that albeit a series of small locks, the Great Lakes might well be landlocked: In terms of world transportation economics, the Lakes were virtually nonexistent. A shallow draft, plus white-water—the Lachine Rapids, the Soulanges and the swift-flowing International Rapids—made it impossible for the ocean ships which carried the commerce of the world to enter or leave the Lakes by way of the St. Lawrence River.

And so the maritime commerce that grew up in the Great Lakes was primarily regional—shipping went mostly from small lake port to small lake port, from the United States to Canada.

And so it remained during most of the 19th century.

The physical task of building the Seaway was immense. Each section of the 112-mile construction site developed its own seemingly unsurmountable obstacles; at Montreal, for instance, the Jacques Cartier Bridge had to be raised 80 feet to provide a 12-foot clearance for ships. A single mile of channel between Canada's Lower and Upper Beauharnois Locks was dug out of a hard, abrasive Potsdam sandstone which had to be blasted foot-by-foot, yard-by-yard, for a cost of $50 million for that one mile of Seaway.

After five years and the dredging of over 360 million tons of rock, after the resettlement of thousands of people, and entire towns, after changing the face of the earth and the homes and habits of thousands of its inhabitants—seven new locks and the world's largest joint power facility were completed. (Two of those locks, near Massena, N.Y., are owned and operated by the United States)

Ships could enter the St. Lawrence River at the Atlantic, and through these gigantic new locks, along with the Welland Canal and the Sault Ste. Marie Locks, rise the height of a 60-story building, stair stepped from the ocean to a fresh-water sea a full 600 feet above the ocean. And here, new international inland ports of two nations awaited them.

Ships now could travel 2,300 miles via inland waterways to the heart of a continent. Vessels could now carry grain from Duluth-Superior and the Canadian Lakehead directly overseas. Bulk carriers of the domestic Great Lakes fleet once hampered by shallow channels could now be loaded to a draft of 25 feet, 9 inches, each ship carrying 27,000 tons—more than a million bushels of grain: the yield from more than 50,000 acres of prairie farmland.

And so the Seaway took the midsection of the continent and linked it to the world. Factors of savings of money and time and fuel became apparent. Because most maps are Mercator projections it was at first difficult for mariners and industry alike to recognize that the ports of the Great Lakes—Cleveland, Toledo, Buffalo, Detroit, and many others—because of the Great Circle Route, were now actually closer to ports in the North Europe and Great Britian ranges than ports of the Atlantic Seaboard.

For instance, the distance from Baltimore to Liverpool was 3,936 miles. From Detroit to Liverpool, the distance was 236 miles less. The 236 mile difference assumed a greater importance to shippers when overland travel of 604 miles from Detroit to Baltimore was added on. So, it became apparent that a savings of over 840 miles—just short of 20 percent of the total distance—was realized in shipping via the Seaway rather than from the tidewater port.

Today the importance of these savings can be realized when we consider that, while coastal regions are normally the dominating areas of a nation, in North America, it is the midcontinent that is economically the most important in agriculture, population, industrial production and employment. This midcontinent region of North America, in fact, out produces all of the nations of the European Common Market or the whole of the Soviet Union.

Today, the agricultural and industrial greatness of the Seaway region—from the water gateway at Montreal to the lakehead ports of Superior and Michigan—is unequalled in any other area of the world. The five Lakes with 95,000 square miles of navigable waters, serve some 50 ports that each handle more than a million tons of cargo annually, from a tributary hinterland area of 17 states and four provinces.

Historically, by the end of the 19th century, a full third of United States tonnage shipped by water travelled between the comparatively small ports of the Great Lakes. Locks had been built at Sault Ste. Marie in 1855, and by the turn of the Century, the tonnage that passed through this minimum lock and canal operation—mostly bulk cargoes such as iron ore, grain and coal—doubled that of the Suez Canal. The time was right, it seemed, to talk about building a good and proper canal to put Midwestern grain directly, by water, into the ports of Europe, breaking the stranglehold which the railroads had for so long held over the prairie farmer.

A Swedish immigrant from the farm districts of Minnesota, John Lind, became the first of a long, long line of legislators to introduce legislation calling for the construction of such a water route to the sea. Lind, elected to Congress by the farmers around New Ulm, Minnesota, in 1892 sponsored a congressional resolution to provide for a joint United States-Canadian investigation of the possibility of improving the water transportation system from "the head of Lake Superior . . . to the sea."

Two years later, in 1894, a Canadian group formed what they called a Deep Waterways Association and voted their support for the Lind bi-national resolution. Even then, though, opposition to a Seaway was emerging from the Eastern railroads, and strangely enough, from the owners of the lake ships—water transportation interests who feared the potential competition of larger ships brought into the Lakes through an access to the sea.

Of course, improvements to the St. Lawrence had begun as far back as the beginning of the 18th century, when various small and crude locks and channels were dug. The now famous Welland Canal was completed in 1829, bypassing the Niagara escarpment and thereby allowing unobstructed vessel traffic between Lakes Erie and Ontario. Five years later a nine-foot channel was started at Cornwall, Ontario, and similar canals had been dug by 1908 all along the system, to permit a 14-foot draft in ports of the St. Lawrence River.

The success of the Lind proposal and the ultimate establishment by President Grover Cleveland of a joint United States-Canadian international commission to study alternatives for deep-draft ocean ships to enter the Lakes was to be the first—and for nearly half a century the last—major victory for the proponents of a Seaway.

The Deep Waterways Association promoted similar activity in Canada where Prime Minister Mackenzie Borden supported the action. A joint United States-Canadian commission was formed, and before much time had passed, it had affirmed that the best route to the ocean was to seek the Canadian seaboard via the St. Lawrence River.

The emphasis for the St. Lawrence River during the first decade of the 20th century seemed to deviate from navigation to power. The need for electric power to support the rapidly growing St. Lawrence region gave rise in 1906 to a Canadian public utility called Ontario-Hydro. Later, a request for a public power system in upstate New York came from New York's Conference of Mayors. In the meantime, downstream, the Canadians had decided to deepen the Welland Canal to 25 feet.

The United States and Canada signed the Boundary Waters Treaty in 1909 which created the International Joint Commission and enabled that all boundary waters "shall for ever continue to be free and open for the purposes of commerce." The treaty allowed each nation to levy tolls for the use of canals within its own terrritory, provided that charges apply equally to citizens and vessels of both countries.

Following World War I, a Duluth lawyer named Charles P. Craig convinced several Great Lakes states that they should provide delegates to form a Washington lobby to promote a Seaway. The Great Lakes-St. Lawrence Tidewater Association emerged from the meeting of those delegates, and for sixteen years, that powerful group pushed relentlessly, if unsuccessfully, for its construction.

Further International Joint Commission studies in the St. Lawrence River were followed in 1920-21 by hearings which outlined to Congress clearly for the first time, the combined potential benefits of transportation and power to emerge from this region.

Discussions—and arguments—consumed most of the next decade. Largely through the efforts of a young Congressman, Bertrand Snell, from upstate New York and St. Lawrence County Republican Chairman Harry Ingram, the Power Authority of The State of New York was created, authorized to develop St. Lawrence power and to cooperate with the Federal government in improving navigation on the River.

The United States now seemed eager to plan construction of the St. Lawrence Seaway. But Canada seemed unwilling to proceed. Canadian Prime Minister Mackenzie King was able to create delay after delay in discussions relating to the physical construction of the waterway until in 1930 the unresolved Seaway was one of the major issues which caused him to lose the national election.

Within two years, the new Prime Minister, R. B. Bennett, and President Herbert Hoover, had come to grips with the Seaway issue, and a treaty was signed by the two heads of state—a treaty to build a Seaway to a draft of 27 feet, making the United States responsible for completing work from Lake Superior to Lake Erie, Canada to be in charge of work in its national section of the River. Under the treaty, costs for work already accomplished would be shared equally.

In the United States, opposition to the Hoover-Bennett Treaty was strong, immediate and vocal: The railroads, privately owned utilities, coal, Eastern and Gulf port interests, and regional waterway organizations had joined forces to oppose the Seaway.

The Hoover-Bennett Treaty did not come up for ratification by Congress before the 1932 elections, and, of course, by then the nation was gripped in the Great Depression.

It was not until the 30's had passed from view that truly strong interest in the Seaway presented itself once more. It was in 1940, in fact, that President Franklin D. Roosevelt, in a statement to a Great Lakes/Seaway and power conference said that a seaway on the St. Lawrence River "along with its benefits to national defense, will contribute to the peacetime welfare of a multitude of laborers, small businessmen, home owners and farmers. . . . Such a development as we propose to carry out in the Great Lakes-St. Lawrence Basin unquestionably will result in greater activity for all ports and transportation agencies. This has been the history of all new navigation projects, and improvments directed to better commercial communication in this country and throughout the world. The fear that the Seaway will result in injury on the lower Mississippi or to our Atlantic ports is groundless."

And in a personal message to Canada's Prime Minister Mackenzie King, less than a year later, FDR noted, "I am convinced that the opening of the St. Lawrence deep waterway to afford an outlet for naval and cargo ships constructed in Great Lakes shipyards, far from representing a diversion of funds and resources from the defense effort, would have the opposite effect. Our shipbuilding program, to meet the requirements of defense, will call for a great expansion of shipyards with their associated machine shops and adequate supplies of skilled labor.

"I know of no single project of this nature more important to this country's future in peace or war. Its authorization will demonstrate to the enemies of democracy that, however long the effort, we intend to outstrip them in the race of production. In the modern world that race determines the rise and fall of nations."

On June 18, 1941, Frank Knox, Secretary of the Navy, told a Congressional committee, "We are going to live in a disturbed world for a long time, no matter what the outcome of the war may be, and in that world which is out of balance and struggling for a new and secure footing, the control of the seas is going to be of immense importance."

It was not until 1943 that the Senate actually turned its active attention to the still unratified Hoover-Bennett Treaty of 1932. Craig and his Tidewater Association fought furiously for it. But by a vote of 46 yea and 42 nay, failing the two-thirds majority required by the Constitution to ratify a treaty, the measure failed.

The Senate votes against the Seaway had been regional, of course, coming largely out of the Mississippi Valley, and from the East and Gulf coast regions; the geographic financial centers of strong tidewater and private utility lobbies; and the interlock of the forces of railroads, unions, private power and financial interests.

President Roosevelt, however, at a White House press conference held on the day of the vote—March 14, 1943—said that, "Whether the thing goes through this afternoon or not makes no difference at all. The St Lawrence Seaway is going to be built, just as sure as God made green apples . . ."

And there the matter rested until the second half of the century, when, in the early 1950's great new iron ore fields were discovered in the Labrador wilderness—an iron strike comparable to the discovery on the great Mesabi Range in Northern Minnesota. These rich ore fields required only a transportation system to get the ore out of the vast wilderness, and so a railroad was planned to carry it out, over 350 miles—to the St. Lawrence River.

By now, the Tidewater Association was dead. A group known as the National St. Lawrence Association was doing what it could to keep the Seaway concept alive. Its director, Julius Barnes, and Dr. N. R. Danielian, decided that now was the opportune time to restructure and reorganize their organization into the kind of strong fighting force that the Tidewater Association had been under Charles Craig.

And that they did. Bringing power interests into the group, Barnes molded a new Great Lakes St. Lawrence Association, with a Duluth banker, Lewis Castle, as its executive committee chairman, and Danielian as executive vice president. By 1951 the association boasted a staff of 12, and by then Danielian had become both the heart and the brains of the group. The St. Lawrence waterway was soon seen as the logical way to carry the ore from Labrador wilderness to U.S. mills.

The fact of increased up-bound cargoes of iron ore to balance the downbound cargoes of grain also helped demonstrate the Seaway's value. Militarily, too, a submarine-free access from ore field to mill was cited as being substantially in the best interests of the national defense. A lot of people now, as a result of the Labrador ore discovery, were beginning to pay close, positive attention to the Seaway.

The importance of the St. Lawrence Seaway and Power Project to national security was outlined in a document prepared by the National Security Resources Board, covering such areas as power, the safe transport of iron ore, and shipyard availability.

"If the Seaway is not built," the 1950 report stated, "a delay of at least 18 months or more after the outbreak of war probably would be needed to produce a dependable route for moving the large amount of ore vitally needed for war production. The Seaway route is capable of being more thoroughly, easily and cheaply protected than alternate routes involving long stretches of open ocean . . ."

It was Canadian Prime Minister Louis St. Laurant who provided the next impetus for Seaway construction. Now tired of delays, Canada decided it would build its own all-Canadian Seaway.

The United States began to show concern. Antagonistic forces said Canada was bluffing, that it would not, could not expend the manpower or the resources to construct the waterway alone.

A new Seaway bill was introduced to Congress in 1951, but was tabled by the House Public Works Committee by a vote of 15 to 12. Following this latest U.S. legislative defeat, Prime Minister St. Laurent came to Washington to seek President Truman's support for the all-Canadian Seaway. It was no bluff. Canada was moving ahead on her own. While Harry Truman wanted U.S. participation in the Seaway, he nonetheless reluctantly agreed to help St. Laurent by approving American participation in the power aspect of the Canadian project. A Canadian Seaway was better than no Seaway at all, the man from Missouri reasoned.

The Canadians moved quickly now. The St. Lawrence Seaway Authority was created by Parliament in 1951 and empowered—either on its own, or in cooperation with the United States—to build a Seaway from Montreal to Lake Erie.

A new wave of concern swept Washington. Seaway proponents in the United States, feeling with Truman that a Canadian Seaway was better than no Seaway at all, threw their weight toward the Canadian venture. Congress became alarmed, realizing that tolls paid by American shippers for use of the Seaway would cover most of the cost, but that Canada would control and own the Seaway—an access into the heart of the American nation.

Chief spokesman for the Seaway in the House of Representatives had been John A. Blatnik, a Democrat-farm-labor Congressman from Duluth. Coming to the Congress in 1947 with strong ideas regarding the Seaway, Blatnik had back then introduced a resolution calling for the construction of the Seaway, thus joining the decades-long fight for a St. Lawrence waterway.

Over the next seven years, he improved and refined his legislation, and after St. Laurent came to see Truman on Canada's Seaway effort, brought the Seaway measure back for consideration in Congress.

General Lewis Pick, Chief of the U.S. Army Corps of Engineers, had by now given his full support to the measure as had John D. Small, Chairman of the powerful U.S. Munitions Board.

Truman went to work again, telling Congress (January 28, 1952) that the question before it was "no longer whether the St. Lawrence Seaway should be built. The question before Congress now," Truman said, "is whether the United States shall participate in its construction and thus maintain joint operation and control . . . It is obviously of great significance for us to have an equal voice with Canada . . .

"In the event the United States does not elect to proceed with joint completion of the Seaway, Canada's Seaway Authority is to construct all the navigation works required to complete the Seaway from Lake Erie to Montreal . . .

" . . . It seems inconceivable to me," Truman said, "that the Congress should allow any local or special interest to divest our country of its rightful place in the joint development of the St. Lawrence River in the interest of all the people of the United States."

In June, 1952, by a vote of 43 to 40, the Senate killed the Seaway bill. A Canadian Seaway it was to be—or so it seemed, until Dwight Eisenhower came into office.

President Eisenhower supported U.S. participation in the Seaway. In the U.S. Senate, Senator Alexander Wiley (D. Wisc.) and in the House, Congressman George A. Dondero (R. Mich.), introduced virtually identical legislation stating that the United States would share in the construction of the international section of the Seaway.

On May 13, 1954 President Eisenhower signed into law the Act that created the Saint Lawrence Seaway Development Corporation—counterpart to the existing Canadian St. Lawrence Seaway Authority—to construct the U.S. portions of the Seaway. Lewis Castle, executive vice president of the Great Lakes-St. Lawrence Seaway Association, was named to serve as Administrator for the newly formed Seaway Corporation. In Canada, Lionel Chevrier was named President of the Canadian Seaway Authority.

Maj. Gen. Bernard L. Robinson, Deputy Chief of Engineers, United States Army, told legislators in June 1953, that "The Dondero Bill provides for imposition of tolls to liquidate the United States cost of participating in the St. Lawrence River Seaway. The costs to be covered include the full costs; namely, charges for interest, amortization, maintenance, operation, and repairs. Under the Canadian authorizing legislation of 1951, the Canadian Government likewise contemplates corresponding liquidation of its Seaway costs.

Gen. Robinson concluded, "the St. Lawrence Seaway with a 27-foot channel depth will contribute greatly to our national security, as well as to our peace-time economy. It is economically justified by a wide margin on the basis of sound estimates of cost. It will be a self-liquidating project, paying its own way without placing a burden on our taxpayers. Moreover, it is a project that will be built by Canada alone if we fail to take advantage of this last opportunity to participate in its construction. Such unilateral action would not be in the best interests of this nation from either defense or commercial consideration. I therefore urge in the strongest possible terms that the Congress authorize United States participation with Canada in this improvement, so vital to the welfare of our nation."

In April, 1953, President Eisenhower wrote Senator Wiley, "At my request, the National Security Council has considered the national security interests in the St. Lawrence-Great Lakes Seaway Project. The Council has advised me:

"1. Early initiation and completion of the St. Lawrence-Great Lakes Seaway is in the interest of national security.

"2. The United States should promptly take whatever action may be appropriate to clear the way for commencement of the project, whether by Canada alone, or, as may be later developed, by Canada and the United States jointly.

"3. It is desirable that the United States participate in the construction of the Seaway; the extent of and limiations upon such participation to be the subject of separated determination by authority other than the Council.

"The Council's findings and recommendations have my approval," Eisenhower said, "and I propose now to discuss with the Cabinet the extent of and limitations upon United States participation in the project."

It was now time—and for certain, the last time—for a vote on U.S. participation in the St. Lawrence Seaway.

That some month, on the other side of the Hill, the Senate Foreign Relations Committee approved the Wiley Bill 13 to 2, but Congress adjourned before further action could be taken.

Early in 1954, the Administration went to work again in earnest for the Wiley Bill—and through a series of political maneuvers, succeeded in finding the votes to pass it. On May 6, 1954, the House, by a vote of 241-158, passed the Dondero Bill, and with the Senate's acceptance of a few minor changes in the House Bill, the Wiley-Dondero Seaway Act was passed.

And so, after defeats in 1918, 1934, 1942, 1944, 1948 and 1952, after Canadian delays in 1914, 1922 and procrastination in the whole decade of 1920-30, a joint United States-Canadian Seaway was, at least on paper, at last, a reality.

The fight had been won.

Having been placed under the Secretary of Defense by Executive Order, the Seaway Corporation designated the Crops of Engineers as its design and contracting agency for actual construction on the U.S. part of the navigation project started in 1956. The approximate cost of the navigation project was over $470 million, of which Canada paid $336.5 million and the United States, $133.8 million. (The power portion of the project cost some $600 million and was shared equally by the two nations.) Two years later Congress authorized the Corps to deepen Great Lakes connecting channels to 27 feet, thereby opening the port cities of the Great Lakes to deep draft ocean commerce, turning them into true world ports.

In 1958, a year before the Seaway opened, another Executive Order transferred the Seaway Corporation's supervision from the Secretary of the Army to the Secretary of Commerce. Six months later, on January 29, 1959, the United States and Canadian Seaway entities entered into their first joint agreement on tolls. Tolls were levied on both St. Lawrence River locks and the Welland Canal, with a 29 percent United States, 71 percent Canada division of St. Lawrence revenues. The split was based upon the relative costs of operation anticipated by each nation. On the St. Lawrence, tolls were levied at .90/net ton for general and .40/ton for bulk cargoes, with .04 per gross registered ton for vessels. On the Welland Canal, .05/ton for general and .02/ton for bulk cargo was levied, with an added .02/ton for the registered vessel weight. The Welland tolls were suspended in 1962.

Although the Seaway was officially dedicated on June 26, 1959, the waterway was actually opened to traffic some three months earlier, on April 25—to iron out whatever "kinks" might exist in the complex system of locks before it officially came into existence. Official dedication ceremonies were held at Montreal and Massena and included among the dignitaries Her Majesty Queen Elizabeth II representing Canada and U.S. President Dwight D. Eisenhower.

And so the Seaway opened the Great Lakes to world commerce. The Flags of Great Britain, Sweden, Greece, South Africa, the Netherlands, France and Germany began flying in the harbors of Cleveland, Detroit, Duluth, Toledo—as the commerce of the world, at first slowly, then with increased volume, began to move into the inland seas of North America.

Tonnage through the new Seaway for the year 1963 reached 30 million and two years later, it topped 40 million.

In March, 1961, Deputy Administrator Martin Ottershagen was named Administrator of the Seaway Corporation following the death of Lewis Castle, a post Ottershagen held until December of that same year, when Joseph McCann was appointed to the post.

In October, 1966, the Department of Transportation was formed by Public Law 89-670, which also amended the Seaway Act, bringing the Seaway Corporation under the policy direction and supervision of the Secretary of Transportation. A move to increase Seaway tolls came about two months later, in December, and in negotiations which lasted until the end of March, 1967, Canada sought both an increase in St. Lawrence River tolls and lockage charges on the Welland. The United States wanted no increase.

The outcome of the negotiations was that tolls were not increased on the Seaway locks, but the United States surrendered 2 percent of the toll revenue to Canada, providing them with 73 percent of all St. Lawrence tolls rather than 71 percent. A lockage fee was installed on the Welland of $20 per lock for each of the eight locks, with a shared increase of $20 per lock per year until a maximum lockage fee was reached of $100 per lock in 1971. This income was retained by Canada.

On August 11, 1969, at the urging of Great Lakes interests, David W. Oberlin, Executive Director of the Seaway Port of Duluth, was appointed Seaway Corporation Administrator by the President. That same year saw both the commemoration of the 10th anniversary of the Seaway and the completion of the 1,200 foot long Poe Lock at Sault Ste. Marie. The opening of the toll-free Poe paved the way for the eventual construction of 1,000-foot bulk cargo vessels and the beginning of a new chapter in the history of intra-lake cargo movement.

By 1970, amendments to the Merchant Marine Act of 1936 were adopted, eliminating the need for the Seaway Corporation to pay interest on its construction debt, and establishing seacoast status for the entire

Seaway system—a milestone in the development of both the Great Lakes shipbuilding industry and Great Lakes ports. The U.S. Maritime Administration and the Federal Maritime Commission soon established regional offices in the Great Lakes, giving the Great Lakes-Seaway system for the first time equal status with other coastal ranges and/or maritime regions in the nation as contemplated by the 1970 Act.

Later that year, the Rivers and Harbors Act of 1970 created the "Great Lakes-St. Lawrence Seaway Navigation Season Extension Demonstration Program"—an initial $6.5 million effort which established the multi-agency Great Lakes/Seaway Winter Navigation Board and authorized an investigation into the economic benefit and engineering feasibility of extending the shipping season in the system.

Efforts toward evaluating an extended season have continued through additional Congressional funding. The Season Extension Project has determined that an extended season for both the St. Lawrence River and the upper Lakes is engineeringly feasible, is to the specific benefit of the nation, and does not present any apparent significant environmental hazards.

By the close of 1970, Seaway tonnage topped 50 million tons—an all time record.

In 1975, Congress recognized the importance of stability in the management of a government corporation and changed the status of the Seaway Administrator's Presidential appointment to a seven year term. Oberlin was nominated, then confirmed by the Senate, as the first Administrator to operate under the seven year mandate.

In 1977, another Seaway cargo record was set when tonnage moved well in excess of 60 million tons—a resounding 63.3 million.

The year previous, 1976, Canada had again initiated talks concerning toll increases and on March 20, 1978, the United States and Canada exchanged diplomatic notes formalizing a revised Joint Seaway Tariff of Tolls which restored the original St. Lawrence revenue split and incrementally raised tolls over a three year period on both the St. Lawrence and the Welland Canal—the first toll increase since the Seaway opened 19 years previously.

Even today most people do not realize that, although a government corporation, functioning for the general good of the nation, the Seaway Corporation does not cost the tax-paying public one cent. All expenses for the operation, maintenance and improvements to the Seaway locks comes from user charges (tolls)—and this figure includes the more than $58 million the Seaway Corporation has paid back to the U.S. Treasury.

Through 1978, in fact, the Seaway Corporation has redeemed $20.8 million in revenue bonds, reducing its original bonded debt from $133.8 million to $113 million. In addition, $37.6 million in interest payments had been returned to the Treasury prior to October 21, 1970, when the requirement for past and future interest payments was eliminated. The Seaway Corporation has never requested appropriated funds from Congress.

The Seaway at 20, an important part of the nation's transportation plan, looks to a new decade of challenge and opportunity with one enthusiasm born of struggle and matured by an ability to get things done. Historically, both the construction and the continuing operation and development of the St. Lawrence Seaway ranks as one of the most outstanding examples of international cooperation in the world—an example of two nations working side by side, sharing costs, problems—and strong economic benefit—for the good of its respective people.●

By Mr. DeCONCINI:

S. 2220. A bill to amend section 3146 of title 18, United States Code, relating to bail, to require judicial officers who release individuals charged with drug offenses to require an appearance equal to the street value of the drugs seized; to the Committee on the Judiciary.

SETTING OF BAIL FOR DRUG OFFENSES

● Mr. DeCONCINI. Mr. President, today I am introducing legislation to require that bail bonds for drug dealers and traffickers be set, at a minimum, at the street value of the drug seized at the time of the arrest. The street value of the drug would be determined at the detention hearing at which bail would be set.

Mr. President, the appalling growth in drug abuse and addiction in this country need not be chronicled again here. Growth has occurred not only in amounts by types as well. Cocaine, once little used, is today the leading recreational drug behind marihuana.

Cocaine, marihuana, heroin, illicit pills and other illicit drugs flood the streets of this country. According to the Drug Enforcement Administration 3.6 to 4.3 metric tons of heroin retailing between $7.9 and $9.5 billion entered the United States in 1980; 40 to 48 metric tons of cocaine retailing in today's market between $26.8 and $32.2 billion were smuggled into this country the same year; 10,200 to 15,000 metric tons of marihuana retailing between $18.3 and $26.8 billion entered the same year. The illicit trade in controlled pills exceeded $14 billion. For 1980, the total amount of illicit drugs retailed between $68.5 and $90 billion. In the recent Operation Tiburon, conducted by the Coast Guard in the fall of 1981, 840,000 pounds of marihuana were seized. The traffic continues relentlessly.

The drug dealer and trafficker is the linchpin in these smuggling operations. Once apprehended, however, the dealer or trafficker can often draw on large financial resources to meet the bail bond imposed with very little effect on those resources. Once on the street, the dealer disappears or promptly returns to his former business. With this proposed legislation, I hope to end the outrageous flaunting of our bail bond system. I am proposing a realistic approach to insure that the purposes of the bail bonding system, assurance of appearance and protection of the community, are truly met.

The only constitutional right conferred by the bail provision of the eighth amendment is that bail not be excessive. Bail is not excessive when the amount set is reasonable under the circumstances to guarantee the appearance of the accused at trial. With large resources at his command, the dealer and trafficker can easily meet large bail bonds, even those in excess of a million dollars.

In a recent seizure in Miami, Fla., some 3,570 pounds of cocaine were seized. This amount of cocaine exceeds $800 million in value. Would a bond of $1 million assure the appearance of the trafficker involved or insure that the community would be safe? Although this particular seizure was larger than most, identical principles apply in smaller seizures.

Mr. President, the struggle against drug smuggling has been long and expensive—it will continue to be long and expensive until we begin to control aspects of this insidious traffic with practical and direct devices like the one embodied in this proposed legislation.

Mr. President, I ask unanimous consent that this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 3146 of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding subsection (a), in a case that involves an offense for which a maximum term of imprisonment of ten years or more is prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of Public Law 96-350 (21 U.S.C. 955a), the judicial officer shall require the execution of a bail bond in an amount equal to or above the street value of the drugs seized incident to the arrest. The street value of the drugs shall be determined at a detention hearing by the judicial officer and subject to verification by expert testimony.".

By Mr. CANNON:

S. 2221. A bill to authorize funds for the Federal Trade Commission, to amend the Federal Trade Commission Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TRADE COMMISSION ACT OF 1982

● Mr. CANNON. Mr. President, I ask unanimous consent that the bill and a short section-by-section analysis of the bill be printed in the Record.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2221

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Act of 1982".

FALSE OR DECEPTIVE ADVERTISING

Sec. 2. (a) Section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a) is amended to read as follows:

"(B) rules which define with specificity—

"(i) false or deceptive commercial advertising in or affecting commerce within the meaning of section 5(a)(1) of this Act, or

"(ii) other unfair or deceptive acts or practices in or affecting commerce (within the meaning of section 5(a)(1) of this Act);

except that the Commission shall not develop or promulgate any trade rule or regulation with regard to the regulation of the development and utilization of the standards and certification activities pursuant to this section.".

(b) Section 5(a)(2) of the Federal Trade Commission Act (15 U.S.C. 45(a)(2)) is amended by inserting ", false or deceptive commercial advertising in or affecting commerce," immediately after "affecting commerce" the first time it appears therein.

STATE-REGULATED ACTIVITY

Sec. 3. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end thereof the following new subsection:

"(n) The state action doctrine applicable to actions under the Sherman Act of July 2, 1890, as amended (15 U.S.C. 1 et seq.) is applicable to any action under this section alleging conduct constituting unfair methods of competition under this Act.".

RULEMAKING AUTHORITY

Sec. 4. (a) Section 6(g) of the Federal Trade Commission Act (15 U.S.C. 46(g)) is amended by adding before the period at the end thereof the following: ", except that the Commission shall not have authority to make substantive rules principally based on unfair methods of competition".

(b) The second sentence of subsection (a)(2) of section 18 of the Federal Trade Commission Act (45 U.S.C. 57a(a)(2)) is repealed.

DEFINITION OF UNFAIR METHODS OF COMPETITION AND UNFAIR ACTS OR PRACTICES

Sec. 5. Section 5 of the Federal Trade Commission Act (15 U.S.C. 45), as amended by this Act, is further amended by adding at the end thereof the following new subsections:

"(o) As used in this section, 'unfair methods of competition' means conduct which is inconsistent with the principles of sections 1 or 2 of the Sherman Act of July 2, 1890, as amended (15 U.S.C. 1 et seq.), or the Clayton Act, as amended (15 U.S.C. 12 et seq.).

"(p) For purposes of this section, unfair acts or practices in or affecting commerce are acts or practices which have resulted in or will cause substantial injury to consumers, and such injury is neither reasonably avoidable by consumers themselves nor outweighed by countervailing benefits to consumers or competition.".

CIVIL INVESTIGATIVE DEMAND AUTHORITY

Sec. 6. (a) Section 20(a) (2) and (3) of the Federal Trade Commission Act (15 U.S.C. 57b-1 (2) and (3)) are amended by inserting "unfair methods of competition or" immediately before "unfair or deceptive acts or practices".

(2) Section 20(a)(7) of the Federal Trade Commission Act (15 U.S.C. 57b-1(7)) is amended by inserting "unfair method of competition or" immediately before "unfair or deceptive act or practice".

(b) Section 20(b) of the Federal Trade Commission Act (15 U.S.C. 57b-1(b)) is amended by inserting "unfair methods of competition or" immediately before "unfair or deceptive acts or practices".

(c) Section 20(c)(1) of the Federal Trade Commission Act (15 U.S.C. 57b-1(c)) is amended by inserting "unfair methods of competition or" immediately before "unfair or deceptive acts or practices".

CONGRESSIONAL REVIEW OF RULES

Sec. 7. The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by redesignating sections 24 and 25 as sections 25 and 26, respectively, and by inserting after section 23 the following new section:

"CONGRESSIONAL REVIEW OF RULES

"Sec. 24. (a)(1) The Federal Trade Commission, after promulgating any final rule, shall submit that final rule to the Congress for review in accordance with this section. The final rule shall be delivered to each House of Congress on the same date as the Commission transmits the rule for publication in the Federal Register. Any final rule shall be delivered to each House of the Congress while it is in session. The final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House, respectively.

"(2) The final rule shall become effective in accordance with its terms unless, before the end of the period of 45 days of continuous session after the date the final rule is submitted to the Congress, either committee orders reported or is discharged from consideration of a resolution of disapproval with respect to that rule. The rule may not thereafter become effective if—

"(A) within 30 days of continuous session of Congress after the date on which either committee reports or is discharged from further consideration of that resolution, one House of Congress agrees to a resolution of disapproval with respect to the rule;

"(B) within 30 additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, the other House agrees to that resolution of disapproval; and

"(C) within 10 additional days after the joint resolution is presented to the President, the President has not vetoed or not signed the joint resolution.

"(b)(1) The provisions of this subsection are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions which are subject to this section, and these provisions supersede other rules only to the extent that they are inconsistent with those other rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Any joint resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of that House to the Committee on Commerce, Science and Transportation of the Senate or to the Committee on Energy and Commerce of the House, as the case may be.

"(B) Whenever either committee reports a joint resolution of disapproval referred to in this paragraph, the joint resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) If either committee to which a joint resolution of disapproval is referred does not report the joint resolution before the end of the period of 30 calendar days of continuous session of the Congress after the resolution is submitted under subsection (a)(1) of this section, it shall be in order to move to discharge any such committee from further consideration of such joint resolution.

"(D)(i) A motion to discharge in the Senate may be made only by a Member favoring the joint resolution, shall be privileged (except that it may not be made after the committee has reported a joint resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other joint resolution with respect to the same final rule of the Commission.

"(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a joint resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) When a committee has reported, or has been discharged from further consideration of, a joint resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the joint resolution shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing such joint resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the joint resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such joint resolution was agreed to or disagreed to.

"(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

"(5) Notwithstanding any other provision of this subsection, if a House has approved a joint resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other joint resolution with respect to the same final rule which originates in that House.

"(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the final rule disapproved by the Congress; or

"(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

"(B) may contain such changes as the Commission considers necessary or appropriate.

"(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

"(d) Congressional inaction on, or rejection of, a joint resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

"(e)(1) For purposes of this section—

"(A) continuity of session is broken only by an adjournment sine die at the end of the second regular session of Congress; and

"(B) days on which either House is not in session because of an adjournment of more than 15 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

"(2) If an adjourment sine die at the end of the second regular session of Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

"(A) before the end of the period specified in subsection (a)(2); and

"(B) before both Houses have adopted a joint resolution of disapproval with respect to any final rule submitted by the Commission under this section;

the Commission may resubmit the final rule involved at the beginning of the next regular session of the succeeding Congress. The Commission may amend any final rule which it resubmits under this paragraph. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

"(f) For purposes of this section, the term—

"(1) 'joint resolution' means a joint resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of ...., which final rule was submitted to the Congress on ....". (The blank spaces shall be filled appropriately.); and

"(2) 'rule' means any rule promulgated by the Commission pursuant to this Act, other than any rule promulgated under section 18(a)(1)(A) of this Act (15 U.S.C. 57a(a)(1)(A)).".

PENALTIES

SEC. 8. (a) Section 5(1) of the Federal Trade Commission Act (15 U.S.C. 45(1)) is amended by adding at the end thereof the following: "The maximum civil penalty for which related series of violations under this subsection shall not exceed $1,000,000.".

(b) Section 5(m)(1) (A) and (B) of the Federal Trade Commission Act (15 U.S.C. 45(m)(1) (A) and (B)) are each amended by adding at the end thereof the following: "The maximum civil penalty for any related series of violations under this subsection shall not exceed $1,000,000.".

CEASE AND DESIST ORDERS

SEC. 9. Section 5(g)(1) of the Federal Trade Commission Act (15 U.S.C. 45(g)(1)) is amended by striking all after "(1)" through "time" the second time it appears therein, and inserting in lieu thereof the following: "Unless the court in which such a petition has been filed issues a stay of the applicability of such an order pending review of the order;".

CONFORMING AMENDMENTS

SEC. 10. (a) Sections 3, 5, 8 and 9(b) of the Wool Products Labeling Act of 1939 (15 U.S.C. 68a, 68c, 68f and 68g(b) are amended by striking "an unfair method of competition, and"

(b) Sections 3(a) through (e), 6(b), and 10(b) of the Fur Products Labeling Act (15 U.S.C. 69a (a) through (e), 69d(b), and 69h (b)) are amended by striking "an unfair method of competition, and"

(c) Sections 3 (a) through (c), 5(a), 6(c), 9, and 10(b) of the Texile Fiber Products Identification Act (15 U.S.C. 70a (a) through (c), 70c(a), 70d(c), 70g, and 70h(b)) are amended by striking "an unfair method of competition, and".

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. Section 24 of the Federal Trade Commission Act as amended by (15 U.S.C. 57c) is amended—

(1) by striking "and" after "1981;"; and

(2) by inserting the following immediately before the period at the end thereof: "; not to exceed $68,800,000 for the fiscal year ending September 30, 1983; not to exceed $70,500,000 for the fiscal year ending September 30, 1984; and not to exceed $72,300,000 for the fiscal year ending September 30, 1985.".

FEDERAL TRADE COMMISSION REAUTHORIZATION LEGISLATION, SECTION-BY-SECTION ANALYSIS

SECTION 1—TITLE

SECTION 2—FALSE OR DECEPTIVE ADVERTISING

This section would amend the section 18 rulemaking authority of the FTC Act to provide that the Commission may issue rules with respect to commercial advertising to prohibit "false or deceptive commercial advertising". This is an extension of a similar provision in the FTC Improvements Act of 1980, which would eliminate "unfairness" as a basis for rulemaking in the commercial advertising area.

For the purposes of discussion, this section also includes a provision which would eliminate "unfairness" as a basis for Commission case-by-case adjudication relating to commercial advertising.

SECTION 3—STATE REGULATED ACTIVITY

This section would clarify the Federal Trade Commission's authority expressly noting that the "state action" doctrine (as defined by the Supreme Court) is applicable to FTC actions just as it is to actions taken by the Department of Justice.

SECTION 4—RULEMAKING AUTHORITY

This section clarifies that substantive rules principally based on unfair methods of competition cannot be promulgated under section 6(g) and is included for purposes of discussion at the oversight hearing.

SECTION 5—DEFINITION OF UNFAIR METHODS OF COMPETITION AND UNFAIR ACTS OR PRACTICES

The first part of this section, included in the bill to promote a thorough discussion of the issue, expressly confirms and endorses the authority of the Federal Trade Commission with respect to unfair methods of competition. "Unfair methods of competition" is defined as "conduct which is inconsistent with the principles of the Sherman or Clayton Act", a definition grounded in well developed principles of current law. This would not affect the authority of the FTC to aggressively pursue anticompetitive mergers and acquisitions or the Commission's authority to protect small businesses under the Robinson-Patman Act.

The second part of this section incorporates the elements of the Commission's proposed definition of "unfair" as used in the term "unfair or deceptive acts or practices in or affecting commerce". "Unfair acts or practices" are defined as those which have resulted in or will cause substantial injury to consumers, and such injury is neither reasonably avoidable by consumers themselves nor outweighed by countervailing benefits to consumers or competition.

SECTION 6—CIVIL INVESTIGATIVE DEMAND AUTHORITY

This section simply extends the current requirement to focus the scope of overly broad subpoenas in the consumer protection area to subpoenas issued under the agency's competition authority.

SECTION 7—CONGRESSIONAL REVIEW OF RULES

This section extends for the life of the authorization a provision to require Congressional review of rules with expedited procedures for this review. Since the constitutionality of the legislative veto is in question and pending in the Federal courts, this provision requires a joint resolution of disapproval which requires the President's signature.

SECTION 8—PENALTIES

This section places a ceiling on the maximum civil penalty which the Commission can assess.

SECTION 9—CEASE AND DESIST

This section simply states that there is no automatic stay when an appeal is filed in the District Courts.

SECTION 10—CONFORMING AMENDMENTS

This section provides conforming amendments to reflect other changes in the Act made by the bill.

SECTION 11—AUTHORIZATION OF APPROPRIATIONS

This section extends the authorization of the agency for three years at the same level of funding as the Senate Commerce Committee recommended to the Senate Budget Committee.

It carries forward current funding levels which are higher than the proposed levels of the President's budget.●

By Mr. PRYOR (for himself, Mr. CHILES, Mr. GRASSLEY, Mr. DURENBERGER, Mr. BAUCUS, Mr. BURDICK, Mr. DECONCINI, Mr. CANNON, Mr. BUMPERS, Mrs. KASSEBAUM, Mr. RANDOLPH, Mr. DOMENICI, Mr. BRADLEY, Mr. LUGAR, Mrs. HAWKINS, Mr. MELCHER, and Mr. ROTH):

S.J. Res. 166. Joint resolution designating April 28, 1982, as "National

Nursing Home Residents Day"; to the Committee on the Judiciary.

NATIONAL NURSING HOME RESIDENTS DAY

Mr. PRYOR. Mr. President, today I am introducing a joint resolution which proclaims and authorizes the President to designate Wednesday, April 28, 1982, as "National Nursing Home Residents Day."

Older Americans have made a substantial contribution to the growth and development of this Nation. The joint resolution I am introducing will take a significant step toward honoring a most important segment within the senior citizens population—the more than 1.3 million citizens who reside in nursing homes throughout these United States.

Mr. President, we are all aware of the growing shift in our population—what is commonly called the graying of America. Currently, the more than 25.5 million senior citizens make up a full 11.3 percent of our population. It has been projected that, by the year 2000, 32 million Americans—an increase of nearly 26 percent over the next 20 years—will be 65 years of age or more.

But perhaps even more significant than this general shift in the population is the very dramatic shift that is taking place within the over-65 population itself. I am referring to the fact that between now and the year 2000, the oldest part of our senior citizens population—those 85 years and over—will be growing most rapidly. With this growth in numbers of the extremely aged population comes a greater need for the types of services that our nursing homes provide.

This demographic shift translates into some very real challenges for our institutions. It also demands a reassessment of our own personal attitudes toward our elderly, and specifically toward that group of elderly whose contributions are all too often forgotten—the institutionalized elderly of our Nation. These citizens are an invaluable source of wisdom and experience. It is our responsibility to foster reintegration of this group into their community—to join in support of, and to take fullest advantage of, this valuable resource that has, throughout the years, helped to make our Nation great. We in the Congress have a particularly important role in assuring that the safety, health, and personal rights of all nursing home residents be preserved.

Therefore, Mr. President, I am proud to introduce this joint resolution in the Senate. I hope my colleagues will join in sponsoring and work toward enactment of this joint resolution to establish April 28, 1982, as "National Nursing Home Residents Day." It is hoped that with the passage of this measure we will be able to yearly establish the last Wednesday in April as a day to honor nursing home residents. It is my understanding that the distinguished chairman of the House Select Committee on Aging, Congressman Claude Pepper, will introduce an identical resolution in the House of Representatives.

Mr. President, I am proud to have the following Senators join me today in sponsoring this resolution: Senators Chiles, Grassley, Durenberger, Baucus, Burdick, DeConcini, Cannon, Bumpers, Kassebaum, Randolph, Domenici, Bradley, Lugar, Hawkins, Melcher, and Roth.

Mr. President, I ask unanimous consent that this joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 166

Whereas over one million older Americans reside in nursing homes and one in five older Americans likely will reside in nursing homes at some time;

Whereas nursing home residents have contributed to the growth, development, and progress of this Nation and, as elders, offer a wealth of knowledge and experience;

Whereas Congress recognizes the importance of the continued participation of these institutionalized senior citizens in the life of our Nation;

Whereas in an effort to foster reintegration of these citizens into their communities Congress encourages community recognition of the involvement in the lives of nursing homes residents;

Whereas the Congress recognizes the importance of safeguarding the rights of nursing home residents; and

Whereas it is appropriate for the American people to join in support of nursing home residents to demonstrate their concern and respect for these citizens: Now therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That April 28, 1982, is designated as "National Nursing Homes Residents Day", a time of renewed recognition, concern and respect for the Nation's nursing home residents. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 351

At the request of Mr. Wallop, the Senator from Louisiana (Mr. Long) was added as a cosponsor of S. 351, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to the surface mining of stone, clay, and sand work.

S. 658

At the request of Mr. Nickles, the Senator from Alabama (Mr. Denton) was added as a cosponsor of S. 658, a bill to amend the Fair Labor Act of 1938 to exempt employees who are under 18 years of age from the provisions of section 6 of that act, and for other purposes.

S. 1325

At the request of Mr. Chiles, the Senator from Maine (Mr. Mitchell) was added as a cosponsor of S. 1325, a bill to reform the laws relating to former Presidents.

S. 1326

At the request of Mr. Sasser, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of S. 1326, a bill to amend title 38, United States Code, to authorize a service pension of up to $150 per month for veterans of World War I and for certain surviving spouses and dependent children of such veterans.

S. 1698

At the request of Mr. Denton, the Senator from South Carolina (Mr. Hollings) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 1759

At the request of Mr. Wallop, the Senator from South Carolina (Mr. Hollings), the Senator from West Virginia (Mr. Randolph), the Senator from Michigan (Mr. Riegle), the Senator from Florida (Mrs. Hawkins) the Senator from Wyoming (Mr. Simpson), and the Senator from Hawaii (Mr. Inouye) were added as cosponsors of S. 1759, a bill to clarify congressional intent regarding the full application of section 1073 of title 18, United States Code, to State felony parental kidnaping cases.

S. 1932

At the request of Mr. Bentsen, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 1932, a bill to amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments and agencies, and for other purposes.

S. 1947

At the request of Mr. Weicker, the Senator from Utah (Mr. Hatch) and the Senator from Montana (Mr. Melcher) were added as cosponsors of S. 1947, a bill to improve small business access to Federal procurement information.

S. 1958

At the request of Mr. Dole, the Senator from Vermont (Mr. Leahy) was added as cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 1992

At the request of Mr. Robert C. Byrd, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 1992, a bill to amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.

S. 2043

At the request of Mr. Humphrey, the Senator from Iowa (Mr. Grassley), the Senator from Hawaii (Mr. Inouye), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of S. 2043, a bill to amend title 18, United States Code, to provide criminal penalties for mailing of identification documents bearing a false birthdate.

S. 2061

At the request of Mr. Moynihan, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2147

At the request of Mr. DeConcini, the Senator from North Carolina (Mr. Helms) was added as a cosponsor of S. 2147, a bill to require amendment of the Internal Revenue Code of 1954 to provide a simple income tax with low marginal rates and to require the Secretary of the Treasury to propose legislation to establish such an income tax.

S. 2178

At the request of Mr. Baucus, the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 2178, a bill to prohibit user fees for hunters and fishermen on Federal lands.

SENATE JOINT RESOLUTION 138

At the request of Mr. Robert C. Byrd, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) was added as a cosponsor of Senate Joint Resolution 138, a joint resolution to authorize and request the President to designate the week of April 18, 1982, through April 24, 1982, as "National Coin Week."

SENATE JOINT RESOLUTION 144

At the request of Mr. Dodd, the Senator from Montana (Mr. Baucus) was added as a cosponsor of Senate Joint Resolution 144, a joint resolution declaring that it should be the policy of the U.S. Government to encourage unconditional negotiations for the purpose of achieving a cease-fire and a political settlement to the conflict in El Salvador.

SENATE JOINT RESOLUTION 156

At the request of Mr. Kasten, the Senator from Texas (Mr. Tower) and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of Senate Joint Resolution 156, a joint resolution to designate April 9, 1982, as "POW-MIA Commemoration Day."

SENATE JOINT RESOLUTION 161

At the request of Mr. Thurmond, the Senator from Nebraska (Mr. Exon) and the Senator from Indiana (Mr. Lugar) were added as cosponsors of Senate Joint Resolution 161, a joint resolution to designate the week commencing with the fourth Monday in June of 1982 as "National NCO/Petty Officer Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. Armstrong, the Senator from North Dakota (Mr. Burdick) and the Senator from North Carolina (Mr. Helms) were added as cosponsors of Senate Joint Resolution 165, a joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible."

SENATE RESOLUTION 299

At the request of Mr. Weicker, the Senator from Montana (Mr. Melcher), the Senator from Louisiana (Mr. Johnston), the Senator from Kentucky (Mr. Huddleston), and the Senator from California (Mr. Hayakawa) were added as cosponsors of Senate Resolution 299, a resolution to designate May 4, 1982, as "International Franchise Day."

SENATE RESOLUTION 338

At the request of Mr. Cranston, the Senator from Vermont (Mr. Leahy) was added as a cosponsor of Senate Resolution 338, a resolution providing for an investigation and report by a standing or select Senate committee regarding the propriety of executive branch activities allegedly designed to create improper conduct on the part of, or to develop information that might be used in attempts to compromise, Members of the Congress of the United States.

SENATE RESOLUTION 340

At the request of Mr. Robert C. Byrd, the Senator from Nevada (Mr. Cannon), the Senator from Florida (Mrs. Hawkins), and the Senator from Florida (Mr. Chiles) were added as cosponsors of Senate Resolution 340, a resolution to express the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

SENATE CONCURRENT RESOLUTION 70—CONCURRENT RESOLUTION RELATING TO FEDERALLY INSURED DEPOSITS

Mr. SASSER (for himself, Mr. Robert C. Byrd, Mr. Baucus, Mr. Boren, Mr. Cannon, Mr. Eagleton, Mr. Exon, Mr. Gorton, Mr. Heflin, Mr. Huddleston, Mr. Levin, Mr. Matsunaga, Mr. Melcher, Mr. Mitchell, Mr. Pryor, Mr. Sarbanes, and Mr. Randolph) submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. Con. Res. 70

Whereas depository institutions are the backbone of the American economic system, providing capital for community growth and secure investments for individuals and businesses;

Whereas the high interest rate environment continues to encourage the outflow of depositor dollars from local institutions and from productive use in local communities;

Whereas high interest rates are expected to continue for the foreseeable future;

Whereas reports of the outflows caused by high interest rates create public doubt about the future solvency of all depository institutions;

Whereas a decrease in confidence could accelerate the already dangerous rate of disintermediation;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the Congress of the United States shall authorize and appropriate such sums as may be necessary to assure the full coverage of all the deposits and accounts which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration Board upon documented notification of need by such agencies.

FEDERALLY INSURED DEPOSITS

● Mr. SASSER. Mr. President, one of the most frequently given reasons for the failure of interest rates to drop, in the face of lowered levels of inflation, is the lack of investor confidence on Wall Street in the economic recovery plan. A less discussed but equally pressing concern is the level of confidence among individual depositors.

However you feel about high interest rates—and I do not intend to take the floor again today to talk specifically on that point—it is a simple, obvious fact that the continuation of high interest rates has caused serious problems for our depository institutions. Individual deposits are, of course, insured up to $100,000; but I think we need to look carefully at the relationship between the aggregate amount of insured deposits and the actual cash on hand in the insurance funds. The 1981 figures will not be out until April, but it is a safe estimate that they will reflect a less favorable picture regarding, for example, the Federal Savings and Loan Insurance Corporation. In 1980, the FSLIC, which covers deposits in approximately 3,800 savings and loan associations amounting to about $465 billion, had $6.8 billion in its insurance fund and $750 million in borrowing authority.

The S. & L.'s problems, along with the above data on the FSLIC, have been widely reported in the national news media and have caused understandable concern among depositors across the country about the safety of their money. The cover story of Newsweek magazine from the week of March 15 amply demonstrates the economic problems threatening our Nation's depository institutions. There has been a tremendous outflow of funds from our thrift institutions—$39 billion in 1981 alone. And now many small savers are worried about the security of their deposits, virtually at the point of making withdrawals out of fear. Any threat to the general consensus that an individual's savings are safe is a threat to the very underpinnings of the industry.

As all of us are well aware, the threat to the thrift industry represents a commensurate threat to homebuilding and other housing-related industries. A number of my colleagues and I have come to the floor of the Senate time and time again in an effort to focus the attention of Congress on the need to respond to our housing crisis. We must not lose sight of the fact that the thrift industry has been at the heart of homeownership for almost half a century: If there is a crisis of confidence of major proportions in the thrift industry, any recovery in housing will be held back.

Mr. President, I ask unanimous consent that the March 15 Newsweek article on this matter be printed in full at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW SAFE ARE YOUR SAVINGS?

Amid the obvious disruptions of a recessionary economy, a deeper and more silent crisis is beginning to emerge. Years of inflation and backbreaking interest rates have profoundly eroded an industry that holds billions of dollars of small savings deposits. As a group, the nation's savings and loan associations and savings banks lost a staggering $6.4 billion in 1981—far more than the losses of the beleaguered auto and airline industries combined. Faced with the prospect of even larger losses this year, hundreds of thrift institutions will simply not survive.

There is no chance that individual depositors will ever lose their savings: accounts of up to $100,000 are fully insured by the Federal government, and regulators are making every effort to ensure that even the largest depositors of a failing thrift institution are made completely whole (page 55). In addition, the government has developed procedures to ensure that depositors can be paid off quickly. When Chicago's Economy Savings and Loan was liquidated last May, it took only five days for the Federal Savings and Loan Insurance Corp. to begin paying its customers. If another liquidation were to take place today, FSLIC insists that it could begin paying depositors immediately. "There is no doubt about the safety of deposits in our insured financial institutions," declares Utah Sen. Jake Garn, chairman of the Senate Banking Committee. "There is absolutely no way the Congress would or will walk away from its commitment to guarantee savings."

Reassuring as that promise may be, it also represents an open-ended obligation of the Federal government. Declaring that the nation's thrifts face "an imminent crisis," the United States League of Savings Associations and the National Association of Mutual Savings Banks called last week for a bailout with an estimated first-year price tag of $10 billion. Reagan Administration officials are resisting that and other costly rescue plans being contemplated in Congress. But the insurance pool backing $515.5 billion of S&L deposits may not be big enough, and an emergency cash infusion may soon be necessary. In the unlikely event that the gradual erosion of thrift-institution deposits ever grows into something more severe, the costs to the government could be immense. "From the point of view of the depositor, there is really no reason to be concerned," says Brookings Institution research associate Andrew S. Carron. "But everyone should be concerned as borrowers, businessmen, employees and taxpayers. There is likely to be a bailout of some kind now, and it can get very expensive."

Just how expensive depends on the mood of the saver—and by some indications he may be getting worried. Jerome Baron, a savings-and-loan analyst at Merrill Lynch, Pierce, Fenner & Smith says that the first question people used to ask him at cocktail parties was when interest rates would become affordable. "Now," he says, "the first question that comes up is, 'Is my deposit safe?'" It is, of course, but there are a few disquieting signs that some people are beginning to doubt it. Late last month, Miami's Biscayne Federal Savings and Loan Association said it might well exhaust its $12.5 million in net worth within six months, and after that announcement, says an official, withdrawals were "larger than normal." Earlier in February, the Hartford (Conn.) Federal Savings and Loan experienced the closest thing to a run by savers since the thrift-industry crisis began. After the institution disclosed a big 1981 loss, depositors flocked to its eleven branches and withdrew $3 million—much of it cash provided by FSLIC—before the scare subsided.

Erosion: The Hartford episode may have been an isolated case, but thrift-institution deposits continue to dwindle (chart). The erosion is partially due to competition from money-market mutual funds (page 52), but also to what Carron calls a "quiet run." Of the $39 billion that flowed out of the thrifts in the past year, about one-third was transferred into commercial-bank accounts yielding identical interest rates and backed by identical insurance. "The only reason for this flow can be a lack of confidence in the thrift institution," says Carron. "You and I can argue that the concern is foolish, but that doesn't mean the quiet run isn't occurring. It is going on—and has to be stopped."

The ultimate nightmare, of course, is that the quiet run could somehow turn into something very loud and insistent. That possibility is extremely remote, but in such a doomsday scenario, the Treasury would have to pump out gigantic sums of money, creating vast inflationary pressures and threatening the solvency of the economy as a whole. "The greatest potential crisis is the crisis of confidence," says Baron of Merrill Lynch. "The financial system is nothing more than a big confidence game, and confidence is coming down fast and hard."

To keep confidence from unraveling further, House Banking Committee chairman Fernand St Germain has scheduled hearings this month on a $7.5 billion bailout package of his own. In addition, Richard T. Pratt, chairman of the Federal Home Loan Bank Board, has asked the President to reaffirm the government's commitment to guarantee all savings deposits. The danger is that the very attention focused on the problem may undermine the confidence it is intended to bolster. But savings officials insist that there is no alternative to becoming more outspoken. "We have waited for interest rates to fall," says U.S. League chairman Roy G. Green, "but we can wait no longer."

Red Ink: Interest rates are at the heart of the thrift-industry crisis. Like other banking institutions, the thrifts borrow money from their depositors in the hope of relending it at a higher interest yield. Unlike commercial banks, however, the thrifts are legally required to concentrate most of their loans in long-term, fixed-rate mortgages—and when the cost of raising funds exceeds their mortgage income, the savings institutions are driven into the red (chart).

That is precisely what happened last year. Some 80 percent of the thrifts lost money in 1981, and most of those that were profitable were only barely so. Forced to live on its past earnings, the industry saw its financial position sharply erode. The net worth of the savings and loans alone dropped from $34 billion to $27 billion during the year. Balance sheets deteriorated dangerously at many individual thrifts, and Federal and state regulators moved to merge the failing and near-failing institutions with stronger ones.

By last January, the thrifts were forced to pay an average of 11.5 percent to attract savings while their own mortgage investments were paying only 10.1 percent. And there's no quick relief in sight on either side of the equation. Fully one-third of the thrifts' mortgages still yield under 9 percent, and the old mortgages are turning over less frequently both because of the current slump in housing sales and because homeowners simply know a good deal when they see it. The thrifts' costs could drop to profitable levels again if interest rates declined, but the money markets' fear of huge Federal budget deficits seems to rule out a significant drop anytime soon. Those deficits would only go higher if the thrifts have to be bailed out.

Merging: Meantime, the list of troubled institutions has grown longer. The net worth of the American Federal Savings and Loan of Southfield, Mich., fell from $18.1 million to $4.4 million in the course of last year, and the thrift is seeking a merger with a stronger partner. So are the troubled Freedom Federal Savings and Loan in Worcester, Mass., with $300 million in assets, and the New York Bank for Savings in New York City, which lost $34.7 million in the fourth quarter alone. Others are fast approaching the day when reserves may be exhausted. Another Manhattan-based thrift, Dry Dock Savings Bank, estimates it can stand the current earnings drain for slightly more than a year.

Most big thrifts have their computers programed to tell them instantly just how close they are to judgment: on command, the machines tell them exactly how many quarters they have to go before they hit zero net worth. An executive in another industry who recently moved to Washington says a fringe benefit of the switch was that he had to resign as a director of a big savings bank. "I don't have to look at that slow-motion countdown to oblivion anymore," he says. "Twelve quarters to zero, eleven quarters to zero, ten quarters to zero, nine quarters to zero. . ."

Last week top White House advisers were urging the President to propose a limited relief package for the thrifts, but hardliners in the Treasury were resisting. For the moment, the Reagan Administration must treat the thrifts' problems with the creaky machinery already in place. In most cases the rescues involve mergers arranged by FSLIC and the Federal Deposit Insurance Corp., which insures savings banks. FSLIC says that in "normal" years, there were 50 or so mergers of savings and loans annually, and few of those were due to financial difficulties. But in 1980, the number of marriages jumped to 139—eleven involving the infusion of FSLIC funds—and to 294 in 1981, with FSLIC putting up money in 23 of them.

Pratt of the Federal Home Loan Bank Board predicts the merger rate may rise at an even more alarming rate this year. As many as 1,000 to 1,200 consolidations may occur, he says, involving assets of $50 billion to $100 billion. Pratt insists that FSLIC can manage by borrowing manpower from other agencies. But others wonder whether the insurance fund will be rich enough to do the job. FSLIC's official assets are $7 billion, but after adjusting for previous commitments and the low market value of the mortgages and securities acquired from failing thrifts, less than two-thirds of that amount would actually be available.

Alarm: In order to save its cash, the FSLIC has resorted to some creative accounting practices. Last May, for instance, it liberalized its own rules of spotting and then merging troubled S&L's. A thrift now rates an "alarm" if its net worth drops to 3 percent of assets rather than the previous 4 percent. And the FSLIC does not force a merger until an institution's net worth drops to zero; previously, the threshold was about 1 percent. The agency also told S&L's that if they took over weaker thrifts, they could write off thrifts, they could write off losses on the mortgages they acquired over periods of as long as 30 years—reducing the impact on current earnings, and making it far more attractive to merge.

More recently, FSLIC has also shored up troubled thrifts with pieces of paper. Instead of cash, the agency gives an S&L what it calls "income capital certificates." The savings institution is in reality no richer, but the FSLIC counts the paper as part of its net worth. FSLIC would convert the certificates to cash only if the thrifts in question had to be liquidated. So far, the agency has issued about $100 million in these certificates. FSLIC director H. Brent Beesley says his agency cannot afford more conservative accounting. "The fact of the matter is that we don't have the wherewithal to close [all of the troubled thrifts] today," he says.

Inadequate: Even with these liberalized standards, some of the merged thrifts may be inadequately capitalized. Chicago's Talman Home Federal Savings and Loan, for example, became the seventh largest S&L in the country last month when it acquired three troubled sister thrifts. But Talman had lost $55 million in 1981; to keep the merged institutions's net worth at about 2 percent of its assets, FSLIC has issued $10 million in certificates and promised to provide up to $20 million more.

"There are only so many thrifts around that can take over other thrifts," says, Michael Lewis, an analyst at E.F. Hutton. Federal regulators have begun to encourage strong S&L's, especially the California-based giants, to take over weaker sisters in other states, giving the biggest S&L's a chance to expand across state lines—a move heretofore banned. Already, California Federal has acquired three thrifts in the Southeast, Home Savings and Loan of Los Angeles has taken over two institutions in Missouri and one in Pompano Beach, Fla., and Glendale Federal has picked up a thrift in Ft. Lauderdale.

Benefit: The regulators also see a chance of expanding the number of strong merger partners by relaxing their rules to let commercial banks buy thrifts. Weak savings institutions might not be great buys, but they would offer the big banks yet another way to break down the regulations against nationwide banking. Takeovers by commercial banks could have another benefit: infusions of cash from the FDIC, which has far greater reserves than FSLIC. The first acquisition of a thrift by a bank, however, was an intrastate affair. Last month the Marquette National Bank of Minneapolis took over the Farmers & Merchants Savings Bank in the same city, but commercial bank-thrift mergers across state lines appear almost a coming certaintly.

Today's frantic bailout efforts stand in sharp contrast to the historic position of the thrifts. Until recently, savings banks and S&L's have had a single purpose: to take in savings and lend them back out in the form of mortgages on homes. The Federal government provided the thrifts with some important advantages, allowing them, for example, to pay one-quarter of a percentage point more in interest than the commercial banks. Through the Federal Reserve Board's so-called "Regulation Q," a limit was set on interest rates that could be paid to savers. With that ceiling, the thrifts could charge mortgage customers 2 to 3 points more than they were paying their depositors and still offer cheap lending rates. All through the postwar boom years, running a thrift was almost a license to print money.

But inflation ultimately began to take its toll. Sophisticated investors began demanding higher interest rates to protect their capital. Smaller savers quickly caught on and started to divert money from the thrifts and put it where they could earn higher rates (chart, page 51). First, they bought Treasury bills, but since these transactions required minimum investments of $10,000, the thrifts managed to hang onto their small passbook accounts. But when innovative money-market-fund managers began offering high returns for investments of $2,500, the thrifts' prolems accelerated.

Boost: In 1978 the government allowed the thrifts to compete for funds by selling six-month savings certificates pegged to money-market rates. The move boosted thrift deposits, but it also significantly increased their cost of doing business. Meanwhile a battery of Federal and state regulations prevented them from increasing their mortgage rates as fast as the rates they were paying for their money. Eventually, Federal and state governments overturned most usury laws and allowed the thrifts to issue variable-rate mortgages, generally pegged to market rates. But by then, mortgage rates had risen so high that few prospective home buyers could afford them.

The regulators have continued their efforts to help, but the results have been contradictory. Last year, for instance, Congress created the new All Savers certificates, whose tax-exempt interest was designed to entice funds into the thrifts at reasonable cost. At about the same time, though, the Federal Reserve Board lifted the ceiling on rates that could be paid on 30-month savings certificates. When the rate jumped, savers moved quickly to lock up a high return for two and a half years. "Any help that the All Savers certificates gave us was totally negated by raising the ceiling on the 30-month rate," says John B. Zellars, president of Georgia Federal Savings and Loan. "It was a stupid act."

Diversifying: Critics of the thrift industry often charge that it is poorly managed, but recently it has been just as poorly regulated. "The thrifts are in trouble for doing just the same thing that the regulators and Congress told them to do—charge low interest rates on long-term mortgages," says New York State banking superintendent Muriel Siebert. "Here are names that came through the Civil War, the world wars, the Great Depression and the bank holidays—only to get in trouble now."

Not all of the 5,000 or so thrift institutions are in trouble, of course. The industry still has $650 billion in assets and many institutions can operate under current conditions for years. The big California S&L's were able to issue variable-rate mortgages sooner than most others, for instance, and many have higher-yielding portfolios as a result. Some thrifts have started hedging their mortgage holdings by trading interest-rate futures contracts. Others have survived by diversifying. Ten years ago, Arlington Five Cents Savings Bank in Arlington, Mass., saw the coming squeeze and began shifting from mortgages to installment loans and bonds, which although hurt by rising rates, can at least be easily sold. As a result, it has less than 40 percent of its assets in mortgages and last year earned $2.8 million.

Many thrifts have gone into mortgage banking, where they originate mortgages, sell them off to other investors, continue to service them—and live off the fees. Community Federal Savings and Loan Association in Hialeah, Fla., for instance, opened a subsidiary in McLean, Va., five months ago to handle mortgages on condominium conversions; last month, Community Federal turned a profit for the first time since September 1980.

One of the most profitable—and controversial—thrifts today is Los Angeles-based Financial Corp. of America. It earned $17.4 million last year, even though it suffers from the same negative spread on interest rates that plagues the industry. FCA makes its profits on fees it charges builders and home buyers for issuing mortgages on construction loans and on the company's own real-estate investments. Chairman Charles W. Knapp says the negative spread is meaningless because he does not intend to keep any mortgage in his portfolio for long. Some critics blanch at such an approach, while others warn that Knapp could run into trouble if some of the construction loans in his portfolio go bad. But Knapp insists new ideas are needed. "We're out there doing something," he says, "rather than waiting for the Lone Ranger and Tonto to come over the hill to the rescue."

Bailout: But such successes are exceptions to the rule—and last week thrift-industry leaders made their plight explicit with their petition for a $10 billion bailout. Specifically, they requested a Federal subsidy to help them carry about $250 billion in mortgages yielding 9 percent or less. Under that scheme the government would pay the thrifts half the difference between the rate on each mortgage and the yield on 30-month Treasury securities. The estimated cost to the government: $7.5 billion in the first year alone. The thrifts also requested a new series of promissory notes from the Treasury—akin to the FSLIC paper—that would be considered assets on their books. Finally, the industry proposed that it would knock a percentage point off the going rate on mortgages and the government would subsidize an additional 3-point reduction for the home buyer. "We feel this would be a tremendous impetus to the housing market and put some one-half million people back to work," says Green of the United States League of Savings Associations.

There was no rush of congressmen to embrace the thrifts' specific platform, but with the industry's problem deepening, increasing numbers of lawmakers are beginning to agree with Republican Rep. Barber Conable of New York who says, "One way or another, we're going to have to bail them out." House Banking Committee chairman St Germain has introduced a bill that would authorize the Administration to lend up to $7.5 billion to institutions whose net worth slipped below 2 percent of assets. A Senate banking subcommittee has also held hearings on a proposal that would allow the thrifts to package low-yielding mortgages and sell them as tax-free investments. If the interest on the investment were not taxable, the mortgages would command a far higher price in the marketplace. All of the proposals would be costly—and quite possibly counterproductive. Billions in aid for the thrifts could swell the budget deficit further, sending interest rates still higher and putting the thrifts' low-yielding mortgages further under water.

Options: So far, the White House has remained unmoved by the pleas. "Nobody ever guaranteed any S&L or its management perpetual bliss," says an Administration aide. But after a briefing by FHLBB chairman Pratt, Treasury Secretary Donald Regan ordered up a list of options for possible use in dealing with the crisis. Among the possibilities: a public statement by Regan or the President himself that, in effect, the Treasury has an open checkbook to pay off savers; approval of a new kind of account that would allow thrifts to pay money market interest rates on checking-account balances of $2,500 or more, and the temporary restoration of the thrifts' privilege of paying interest of one-quarter of a point more than commercial banks.

Regan denied that any strong action was imminent, though he did announce his support for changes to allow the thrifts to compete more readily in the changing marketplace. If necessary, he said, the United States will pledge its "full faith and credit" to protect depositiors. But given the rapid deterioration of savings and loans, the government may not have much time before it must take stronger action. "We are no-fooling scared now," says one official of the savings league. "The problem is to get the government to do something while not shaking depositor confidence any more." Even the most ardent of the Administration's free-market ideologues agrees that the government must intervene in a thrift-institution crisis. If the White House waits until the crisis really ripens, the cost to the Treasury—and the impact on the economy could well be enormous.

Mr. SASSER. Mr. President, what is required of Congress at this point, in view of the growing apprehension on the part of depositors across the country, is a unanimous reaffirmation of our ability and intent to support the FDIC, the FSLIC, and the NCUA Board. In this regard, I would note the quotation cited in this past Saturday's Washington Post, from the days when President Roosevelt called on Americans to bring themselves out of the throes of anxiety about their financial institutions:

> You must not be stampeded by rumors or guesses. Let us unite in banishing fear. We have provided the machinery to restore our financial system; it is up to you to support and make it work.

Senate Concurrent Resolution 70 is a step we can take immediately to help us unite in banishing fear about the security of our Nation's savings deposits. I understand the House will pass a similar measure Thursday, and I believe it would be timely and appropriate for the Senate to act in concert with the House in this matter on which we undoubtedly agree. I ask that the full text of the Washington Post article from Saturday, March 13, appear in the RECORD at this point in my remarks:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 13, 1982]

HILL, REAGAN, SET PLEDGES ON SAVINGS: PLAN TO REASSURE PUBLIC ON SAFETY OF ITS DEPOSITS

(By Nancy L. Ross)

The House of Representatives is expected to pass a resolution next week pledging the full faith and credit of the government behind the $100,000 federal insurance on funds deposited in U.S. banks and savings institutions. The Senate probably will follow suit.

Moreover, administration sources said yesterday it was likely that President Reagan or Treasury Secretary Donald Regan would make a similar public statement within the next 10 days.

The House resolution, which will be introduced Monday at the request of the thrift industry and its regulators, seeks to reassure Americans, worried by reports of the industry's financial difficulties, that their money is safe.

"Persons with deposits of $100,000 or less are totally safe, and there is no way anyone will lose a dime," declared Rep. Fernand St Germain (D-R.I.), chairman of the Banking Committee.

He said the resolution was necessitated by "numerous reports and news stories [that] have discussed serious problems in the thrift industry, raising false fears that depositors would face problems if there were large-scale failures of institutions."

A story last month in a local newspaper about the operating losses and possible merger of a small Connecticut savings and loan allegedly caused customers to withdraw $3 million in deposits in three days.

There have been articles questioning whether the resources of the government insurance agencies, particularly the Federal Savings and Loan Insurance Corp., would be adequate if substantial numbers of S&Ls should fail or be merged. Legal questions have been raised as to whether a guarantee from a federal agency is as good as one from the U.S. Treasury.

Last year savings and loans suffered a $25 billion net outflow of deposits. The thrift industry has complained for several years about uninsured money market mutual funds, which it claims are siphoning money from savings accounts as people are attracted by higher rates.

How much of the drain can be attributed to competition and how much to lack of confidence is difficult to measure. The Brookings Institution recently reported that one-third of the savings withdrawn from thrift institutions went into commercial bank accounts with identical interest rates.

The idea of addressing the issue publicly in hopes of dispelling any notion of danger to insured savings appears to have evolved last month. The President's Commission on Housing recommended that "the federal government should make clear and explicit its responsibility to maintain the viability of the financial system, including a commitment to use whatever resources are necessary to achieve that goal."

Federal Home Loan Bank Board Chairman Richard Pratt urged last month and again this week that Congress or the administration provide reassurance. The U.S. League of Savings Associations wrote the president last Tuesday requesting a public statement.

Should Reagan do so, it apparently would be the first time since the Depression that a president has had to reassure Americans publicly that the banking system is safe. Forty-nine years ago yesterday, President Franklin Delano Roosevelt devoted his first fireside chat to explaining the banking system in nontechnical language, "so that the great mass of our citizens . . . would be relieved of their anxiety as to whether they would ever see their money again."

Of course, the situation was entirely different then; the nation's banks were shut after some had failed, and there was no government insurance. But the message is the same: "You people must have faith," FDR said. "You must not be stampeded by rumors or guesses. Let us unite in banishing fear. We have provided the machinery to restore our financial system; it is up to you to support and make it work."

Mr. SASSER. Mr. President, the time to act is now. I believe we can and should pass this resolution by the end of this week. It will let depositors across the country know that the U.S. Government is prepared to make good on its deposit insurance commitments, whatever the contingency. That is an extremely important point to make in today's turbulent economic environment.

I am pleased to have as cosponsors of Senate Concurrent Resolution 70 Senators BAUCUS, BOREN, ROBERT C. BYRD, CANNON, EAGLETON, EXON, GORTON, HEFLIN, HUDDLESTON, LEVIN, MATSUNAGA, MELCHER, MITCHELL, PRYOR, RANDOLPH, and SARBANES.●

SENATE CONCURRENT RESOLUTION 71—CONCURRENT RESOLUTION RELATING TO MONETARY POLICY AND INTEREST RATES

Mr. QUAYLE submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 71

Whereas long- and short-term interest rates have remained six to ten percent above the current rate of inflation;

Whereas persistently high and volatile interest rates have depressed the investment in plant and equipment needed for a growing and competitive economy;

Whereas high interest rates have crippled housing production, created twenty percent unemployment in the construction trades, and deprived millions of Americans of the ability to purchase a new home;

Whereas high interest rates have depressed automobile sales and created an unprecedented level of unemployment in the auto industry;

Whereas high interest rates have deprived millions of farmers and small businessmen of the opportunity to gain a reasonable return on their investments, and have brought the rate of bankruptcy to its highest level in fifty years;

Whereas high interest rates have deprived State and local governments of capital needed to meet the basic infrastructure requirements of the nation;

Whereas high interest rates have depressed American agriculture export sales by inflating the value of the dollar;

Whereas recovery and growth in the American economy and reduction of unemployment can only be sustained if interest rates stabilize at a level representing a smaller premium over the inflation rate; and

Whereas high interest rates have been maintained by a combination of growing Federal deficits, restrictions on the growth of the money supply, and erratic fluctuations in the growth of the money supply: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the President of the United States and the Congress must work together to reduce substantially the budget deficits projected for fiscal year 1983 and following years;

(2) the President of the United States and the Board of Governors of the Federal Reserve System must take appropriate and timely action to assure that interest rates remain at a level commensurate with a vigorous and stable economic recovery; and

(3) the goal of monetary policy must be to stabilize interest rates at a level close to the historical average relationship between nominal interest rates and the rate of inflation.

MONETARY POLICY

Mr. QUAYLE. Mr. President, today the Nation stands at an economic crossroads. Production has declined since last summer, and there has been no net growth in the economy since 1979. Unemployment standards at 8.8 percent, close to the post-war high; 5.6 million people, the highest number ever recorded, are working part time. Despite the most important and much needed reduction in corporate taxation approved last summer, the Nation's industries are projecting less net investment in 1982 than in 1981.

Mr. President, American business cannot afford to make the investment necessary to spur growth and make American industry more competitive around the world. The reason for this is simple. Interest rates are too high. What corporation can afford to borrow at 16.5 percent to build new or more efficient plants? What family can afford to pay 16.5 percent for a long-term mortgage? What farmer can afford to pay 16.5 percent to buy seed and fertilizer to plant this year's crops? What businessman can afford to finance his inventory with 16.5 money when prices are falling?

Mr. President, we have all seen the devastating impact of high interest rates on the American economy and in our own States and hometowns. Let me just recite a few statistics which underscore the magnitude of the impact persistent high interest rates are having on individuals, on businesses, and on the long-term health of the American economy.

The housing industry has been the hardest hit. Last year new housing starts fell to their lowest level since 1946, and housing construction has fallen even further in 1982. Sales of existing housing declined by 40 percent between 1978 and 1981. Since the baby boom generation has now reached the age of starting families, and since the rate of household formation is the highest in our history, there is a huge demand for housing. The only way to avert a serious housing shortage in the near term is to maintain a rate of new housing construction close to the average for the 1970's. This cannot be done with interest rates hovering around 16 to 18 percent.

In the past 20 years American farmers have more than doubled their productivity, allowing us to enjoy unprecedented abundance and adding to our ability to provide food for the rest of the world. The American farmer has done this by investing heavily in modern equipment, fertilizers, and seed. In the process he has frequently gone into debt to finance the modernization of his farm. On top of this, the modern farmer must make large outlays for fertilizer, feed and fuel when he plants in the spring or fall. As a result of all these factors, the following requirements of most farmers has grown dramatically. Total outstanding farm debt increased by 600 percent between 1960 and 1980. Low farm prices have made the financing of this debt much more difficult in the last 2 years. Farmers simply cannot continue to finance their modern operations when interest rates hover around 16 or 17 percent. The problems of farmers, as we all know, also have an effect on related industries. We all know the problems of International Harvester, but do we really know what is happening to other equipment manufacturers, fertilizer producers, and seed producers?

The problems of small business are starkly reflected in recent bankruptcy statistics. Last year we had 17,043 bankruptcies, a number just 32 less than the high since the depression. This year business failures are running 50 percent above the 1981 rate, which suggests that even strong and well managed firms are being squeezed out by high interest rates and sluggish sales.

Many larger corporations have traditionally financed their operations through long-term bonds. This avenue of financing has effectively been closed off by the punishing level of interest rates in the long-term markets. As a consequence, corporations must turn to the short-term markets. Commercial paper issues have increased dramatically since last year. Use of short-term debt places great strains on the week-to-week cash flow of any business, especially when sales are weak and higher costs cannot be passed on to consumers. As a result of this explosion of short-term borrowing, the balance sheets of thousands of corporations are extremely precarious. Any default on commercial paper by a major corporation could lead to a serious credit squeeze like the one in 1970. I hesitate to speculate on the consequences of another similar credit squeeze.

As a final example of the difficulties created by high interest rates, I would like to draw attention to the plight of State and local governments. These jurisdictions normally finance their basic investments in roads, hospitals, sewers, airports, schools, and also help to finance housing through mortgage revenue issues, through long-term bonds. These bonds are typically exempt from Federal taxation. One index of these State and local bonds calculates their average interest cost at 13 percent, which represents an unprecedented level of return to the investor. Yet it also places a tremendous burden on the taxpayers which must support them. If we are to provide basic public services needed by a strong and competitive economy, then we must bring the interest rate down on long-term bonds.

Mr. President, it would be pointless to recite these statistics if they only represented a passing or cyclical phenomenon that will quickly reverse itself. Recessions historically result in a reduction in interest rates, as indeed we would predict under classical economic theory. The problem is that we have suffered these high interest rates for over 2 years, and there seems to be no end in sight. Furthermore, the recession keeps getting worse and classical economic theory offers no explanation for the unprecedented high interest rates.

I am getting more and more worried that we simply will not have an economic recovery because high interest rates will stop it dead in its tracks. If interests rates are at 16.5 percent now, in the midst of our most serious recession since the 1930's, I hesitate to think what they will be when the recovery starts and loan demand picks up. People will want to buy cars and homes, and businesses will want to invest in plant and equipment and to shift their debt from short to long term.

Classical economic theory also teaches us that slowdowns in economic activity should reduce inflationary pressures. This has indeed happened over the past year, and I think the most recent inflation figures show that we have made remarkable progress in the battle against inflation. But economists also have argued that there is some fairly constant relationship between inflation and interest rates. Savers and investors want some return on their lending; traditionally they have received 2 to 4 percent above the inflation rate.

Today, however, this relationship no longer holds. Investors seem to be requiring a so-called inflation premium of anywhere between 6 and 10 percent, double or triple the historical premium. I would like to ask, in these circumstances, what will happen when the economy recovers and the normal inflationary pressures of a growing economy are felt? Will interest rates again soar to new highs?

Mr. President, I think it is time for us to take a serious look at the causes of high interest rates. I am very concerned that the conditions we are experiencing today might only be exacerbated when the economy picks up steam again. We are headed for serious problems indeed if the projected economic recovery is cut short by another round of soaring interest rates.

I believe there are two major causes for these extremely persistent high interest rates: uncontrolled and expanding Federal deficits and excesively restrictive monetary policy. If we do not attack these two problems together, than we run the risks of worsening our economic situation even further.

There has been a great deal of debate recently about the effects of Government deficits on interest rates. Some think that Federal borrowing crowds out private borrowing and some think that the relationship between the Federal debt and the GNP has some immutable tie to interest rates. One thing is fairly clear: the Federal deficits projected over the next 5 years have fueled the inflationary expectations of most investors. Even though I am not a psychologist, and shy away from analyzing the psychology of Wall Street, I believe that these expectations are a reality. Furthermore, they are one of the reasons investors are demanding such a high premium in terms of real interest rates. We will not see a sustained recovery in the Federal Government.

The first thing we have to do is to bring these projected budget deficits down substantially. We absolutely must reduce the rate of growth in the Federal Government if we are ever to accomplish this. I, for one, am prepared to consider some hard choices to achieve this goal. I am prepared to look at all aspects of the Federal budget, including entitlements and defense spending as well as the revenue sude, to achieve this goal.

Mr. President, I also believe the Federal Reserve Board must allow enough growth in the money supply to accommodate the lower interest rates so badly needed for an economic recovery to succeed. I realize that the tight monetary policy of the last 2½ years has helped us to lower inflation, but we must not kill the patient with the cure to this disease. Furthermore, I am not convinced that some easing of monetary policy will inevitably lead to the type of inflation we saw in the 1970's. For one thing, excessive Federal spending was a major cause of the inflation at that time, and I firmly believe that we can bring spending under control. For another, some of the exogenous factors causing inflation, such as a quadrupling of oil prices and sudden increases in demand for American agricultural products, are not likely to be repeated in the near future.

Finally, it is not entirely clear to me that the Federal Reserve Board can really control the supply of money as closely as it would like. Changes in the financial services industry over the past few years have made the definition of money itself questionable, and have made it difficult for the Fed to control the creation and growth of what it calls money. The large increase in M_1 during December and January has never been adequately explained, even by Chairman Volcker. In these circumstances, I do not believe we should devote our exclusive attention to keeping monetary growth within very narrow limits. It is a goal very hard to achieve, and success in accomplishing it can lead to very mixed results.

I would argue, Mr. President, that the primary objective of the Federal Reserve Board, in conjunction with the President of the United States, must be to assure that interest rates are at a level allowing a sustained economic recovery. The economic health of the Nation should take precedence over any experiment with a particular monetary theory. I certainly hope that responsible action by Congress to reduce the Federal deficits will be enough to lower interest rates. I am convinced that monetary policy must also be conducted in a way to achieve the lower level of interest rates so vital to our economic recovery and long term economic growth.

Therefore, Mr. President, I am introducing a resolution today expressing the sense of the Congress that the Congress, the President and the Federal Reserve Board should work together to assure that interest rates are stabilized at a level permitting a sustained and strong economic recovery. I believe fiscal and monetary policy have too long been treated separately. I believe the economic recovery of the Nation is endangered by a continuing collision between monetary and fiscal policy. Therefore, I believe it is urgent that all three policymaking groups coordinate their policy with the single goal of economic recovery foremost in their minds.

SENATE RESOLUTION 342—ORIGINAL RESOLUTION AUTHORIZING THE PRINTING OF A SENATE DOCUMENT

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. Res. 342

Resolved, That a compilation of materials entitled "Background Information on the Committee on Foreign Relations, United States Senate" (fifth revised edition), shall be printed as a Senate document, and that there shall be printed two thousand five hundred additional copies of such document for the use of that committee.

AMENDMENTS SUBMITTED FOR PRINTING

EFFECTS OF FEDERAL RULEMAKING

AMENDMENT NO. 1337

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT (for himself, Mr. Levin, Mr. Grassley, Mr. Boren, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Boschwitz, Mr. Burdick, Mr. Harry F. Byrd, Jr., Mr. Chiles, Mr. Cochran, Mr. D'Amato, Mr. DeConcini, Mr. Denton, Mr. Dixon, Mr. Domenici, Mr. East, Mr. Exon, Mr. Garn, Mr. Goldwater, Mr. Hatch, Mrs. Hawkins, Mr. Hayakawa, Mr. Helms, Mr. Huddleston, Mr. Humphrey, Mr. Jepsen, Mr. Johnston, Mr. Kasten, Mr. Mattingly, Mr. McClure, Mr. Melcher, Mr. Nickles, Mr. Nunn, Mr. Packwood, Mr. Pressler, Mr. Pryor, Mr. Quayle, Mr. Rudman, Mr. Sasser, Mr. Simpson, Mr. Specter, Mr. Stevens, Mr. Symms, Mr. Tower, Mr. Wallop, Mr. Warner, and Mr. Zorinsky) submitted an amendment intended to be proposed by them to the bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

LEGISLATIVE VETO

Mr. SCHMITT. Mr. President, on behalf of myself, Mr. Levin, Mr. Grassley, and others, I submit an amendment to the bill S. 1080, providing for congressional review of proposed agency rules. I ask unanimous consent that the text of the amendment and a section-by-section analysis of the amendment be printed in the Record.

There being no objection, the amendment and analysis were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1337

At the appropriate place, insert the following:

CONGRESSIONAL REVIEW

SEC. . (a) Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULE MAKING

"Sec.
"801. Definitions.
"802. Congressional review of agency rules.
"803. Procedures for consideration of resolutions of disapproval.

"§ 801. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'rule' means any rule which is subject to section 553 of this title;

"(3) the term 'resolution of disapproval' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the recommended final rule issued by dealing with the matter of , which rule was transmitted to the Congress on .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress; and

"(4) the term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"§802. Congressional review of agency rules

"(a)(1) The provisions of this section do not apply to—

"(A) any rule for which an agency makes a finding under section 553(b)(3) of this title;

"(B) any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) any rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(2) of this title; or

"(ii) the head of the agency determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest; and

"(iii) on the date on which the agency issues the rule, the head of the agency submits to the chairman and ranking minority member of the appropriate committees a written notice specifying the reasons for the determination of the agency under clause (i) or (ii).

"(3) Notwithstanding any other provision of law, unless earlier withdrawn by the agency or earlier set aside by judicial action, a rule to which paragraph (1) (C) applies shall terminate 120 days after the date on which it is issued.

"(b)(1)Notwithstanding any other provision of law, any final rule subject to this section shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(2)(A) Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of 45 days of continuous session of Congress after the date on which the rule is received by the Congress under paragraph (4). If before the expiration of such 45-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval with respect to such rule, such rule may not become effective if within 30 days of continuous session of Congress after the date on which such committee orders reported or is discharged from further consideration of such resolution of disapproval of the rule and within 30 additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, such other House agrees to such resolution of disapproval.

"(B) Whenever an appropriate committee reports a resolution of disapproval pursuant to this paragraph, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) Notwithstanding subparagraph (A), a recommended final rule may become effective at any time after the day on which either House of Congress defeats a resolution of disapproval, and, in the case of the Senate, a motion to reconsider such resolution is disposed of.

"(3)(A) Except as provided in subparagraph (B), if Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) with respect to a recommended final rule, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with paragraph (4), and the periods specified in paragraph (2)(A) with respect to any such rule shall begin on the date such rule is transmitted to the Congress.

"(B) If—

"(i) Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) with respect to a recommended final rule;

"(ii) an agency transmits such recommended final rule to the Congress at least forty-five days of continuous session of Congress prior to the day on which Congress adjourns sine die at the end of a Congress; and

"(iii) either House of Congress does not adopt a resolution of disapproval with respect to such recommended final rule prior to the day on which Congress adjourns sine die at the end of a Congress, such rule may become effective at any time after the day on which Congress adjourns sine die at the end of a Congress.

"(4) (A) On the day on which a recommended final rule is transmitted for publication to the Federal Register, an agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of the complete text of such recommended final rule and a copy of any other materials transmitted to the Federal Register with such rule.

"(B) (i) If either House of Congress is not in session on the day on which a recommended final rule is transmitted for publication to the Federal Register, the periods specified in paragraph (2) (A) with respect to such rule shall begin on the first day thereafter when both Houses of Congress are in session.

"(ii) The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive recommended final rules and materials transmitted under this paragraph on days when the Senate or the House of Representatives, as the case may be, is not in session.

"(C) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule and the materials transmitted with such rule, or if a recommended final rule and such materials are transmitted on a day when either House of Congress is not in session, on the first day thereafter on which both Houses are in session, the Secretary and the clerk shall transmit a copy of such rule and such materials to the appropriate committees.

"(c)(1) If a recommended final rule of an agency is disapproved under this section, the agency may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"(A) shall be based upon—

"(i) the rulemaking record of the recommended final rule disapproved by the Congress; or

"(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rulemaking record; and

"(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and consideration of the resolution of disapproval with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (b) of this subsection, and such rule shall only become effective in accordance with such subsection.

"(d) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

"§ 803. Procedures for consideration of resolutions of disapproval

"(a) The provisions of this section, paragraphs (3) and (4) of section 801, and paragraphs (2)(B) and (4)(C) of section 802(b) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e), resolutions of disapproval shall, upon introduction or receipt from the other House of

Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B), if the committee to which a resolution of disapproval has been referred does not report such resolution within 30 days of continuous session of Congress after the date of transmittal of the recommended final rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution of disapproval transmitted from the other House has been referred does not report such resolution within 20 days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in writing by one-fifth of the Members, duly chosen and sworn, of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, it shall be in order, notwithstanding the provisions of Rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The notion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a resolution of disapproval shall be limited to not more than two hours, which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order. A motion to reconsider shall be in order only on the day on which the vote occurs on the resolution of disapproval, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If, prior to the adoption by one House of Congress of a resolution of disapproval which has been reported or ordered discharged from the committee to which it was referred, that House receives a resolution of disapproval with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House.

"(f) For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(2) the days on which either House is not in session because of an adjournment of more than 15 days are excluded in the computation of days of continuous session.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rule Making

(c) This section and the amendments made by this section shall take effect on the first day of the Ninety-eighth Congress.

SECTION-BY-SECTION ANALYSIS OF AMENDMENT TO S. 1080, PROVIDING FOR CONGRESSIONAL REVIEW OF AGENCY RULES

This amendment would amend S. 1080, a bill to amend the Administrative Procedure Act. To require federal agencies to analyze the effects of rules to improve their effectiveness and improve their compliance costs, and to provide for periodic and possible disapproval by both Houses of applicable rules.

SECTION 801. DEFINITIONS

This section defines the following terms: "agency" as defined in section 551(1) of title 5; "rule" as defined in section 553; "resolution of disapproval" as a concurrent resolution which indicates congressional disapproval of a recommended final rule issued by an agency; "appropriate committee" as the House or Senate committee with primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

SECTION 802. CONGRESSIONAL REVIEW OF AGENCY RULES

Subsection (a) makes the congressional review provisions inapplicable to the following kinds of rules:

Any rule for which an agency makes a finding under section 553(b)(3), when an agency for good cause finds that notice and public procedure thereon are unnecessary because of the insignificant impact of the rule and publishes an explanation of the reason therefor;

Any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

Any rule if an agency for good cause finds that providing notice and public procedure prior to effectiveness is impracticable or contrary to an important public interest and publishes an explanation of the reason for this finding; or

The head of an agency determines that the rule is being issued in response to an emergency situation and has submitted a reason for this determination to the chairman and ranking minority member of the appropriate committees.

Notwithstanding any other provision of law, emergency rules shall terminate 120 days after the date of issuance unless earlier withdrawn or earlier set aside by judicial action.

Subsection (b) provides that notwithstanding any other provision of law, any final rule subject to section 802 shall be considered a recommendation of the agency and shall have no force and effect as a rule unless it has become effective in accordance with the section.

Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of 45 days of continuous session after the date Congress receives the recommended rule. If before the expiration of the 45-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval, the rule may not become effective if within 30 days of continuous session after the reporting or discharge, one House agrees to a resolution of disapproval and within 30 additional days of continuous session after transmittal of the resolution of disapproval to the other House, that other House agrees to the resolution of disapproval.

A resolution of disapproval shall be accompanied by a committee report specifying the reasons whenever a committee reports a resolution of disapproval.

Notwithstanding the 45-day requirement, a recommended final rule may become effective at any time after the day on which either House defeats a resolution of disapproval and, in the case of the Senate, disposal of a motion to reconsider such resolution.

Except as provided below, if Congress adjourns sine die at the end of a Congress prior to the expiration of periods specified with respect to recommended final rules, the rule shall not become effective during that Congress. The agency may resubmit the rule in the next Congress and time periods begin on the date of resubmission.

If Congress adjourns sine die at the end of a Congress prior to expiration of periods specified for review, an agency transmits a recommended final rule at least 45 days of continuous session prior to the date of adjournment sine die, and either House does not adopt a resolution of disapproval, the rule may become effective at any time after the date of adjournment sine die at the end of a Congress.

An agency shall submit to the Secretary of the Senate and Clerk of the House a copy of the complete text of a recommended final rule and copy of other materials on the day on which a recommended final rule is submitted for publication in the Federal Register.

The periods of congressional review begin on the first day when both Houses are in session if either House is not in session on the day of transmittal to Congress.

The Secretary of the Senate and Clerk of the House are authorized to receive recommended final rules on days when their respective bodies are not in session.

The Secretary or Clerk shall transmit a copy of a recommended final rule and accompanying materials to appropriate committees on the day either officer receives them or, if received when either House is not in session, on the first day thereafter on which both Houses are in session.

Subsection (c) states that if a recommended final rule is disapproved, the agency may issue a new recommended final rule that relates to the same acts or practices as the disapproved rule. The new rule shall be based upon the rule making record of the disapproved recommended final rule, or that rule making record and the record established in supplemental rule making proceedings, and may reflect such changes as the agency considers necessary or appropriate in light of the congressional debate on the resolution of disapproval. The new recommended final rule shall be submitted to the Secretary of the Senate and Clerk of the House and shall become effective in accordance with the congressional review process.

Subsection (d) provides that congressional inaction or rejection of a resolution of disapproval shall not be deemed an expression of approval of the rule.

SECTION 803. PROCEDURES FOR CONSIDERATION OF RESOLUTIONS OF DISAPPROVAL

Subsection (a) provides that certain provisions are enacted as an exercise of the rulemaking power of the Senate and House and are deemed a part of the rules of each House and are enacted with full recognition of the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as in the case of any other rule of either House.

Subsection (b) indicates that resolutions of disapproval shall be immediately referred to the appropriate committee.

Subsection (c) relates to discharge of committees. A motion to discharge is in order if the committee to which a resolution of disapproval has been referred does not report it within 30 days of continuous session after the date of transmittal or if the committee to which a resolution transmitted from the other House does not report it within 20 days after transmittal from the other House. Any motion to discharge must be supported in writing by one-fifth of the Members of the House involved and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule). Debate is limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion and in the Senate equally between and controlled by the majority leader and minority leader or their designees. An amendment to the motion to discharge is not in order.

Subsection (d) provides that consideration of a resolution of disapproval shall be in accord with the rules of the Senate and House. When a committee has reported or been discharged from further consideration of a resolution of disapproval, it shall be in order anytime thereafter to proceed to immediate consideration of a resolution. Debate on a resolution of disapproval is limited to not more than two hours, to be equally divided in the House between proponents and opponents and in the Senate by the majority leader and minority leader or their designees. No motion to limit debate, amend, or recommit the resolution is in order. A motion to reconsider the vote is in order only on the day on which the vote occurs and is not debatable. Other motions are decided without debate.

Subsection (e) states that if, prior to adoption of a resolution of disapproval, either House receives a resolution adopted by the other House, the resolution from the other House shall be placed on the appropriate calendar of the first House.

Subsection (f) indicates that continuity of session is broken only by an adjournment sine die at the end of a Congress, and the days on which either House is not in session because of an adjournment of more than 15 days are excluded in the computation of days of continuous session. It amends the table of chapters for part I of title 5 of the United States Code by inserting after chapter 7 "8. Congressional Review of Agency Rule Making". The effective date of this section is the first day of the Ninety-eighth Congress.

THOMAS J. NICOLA,
Legislative Attorney,
American Law Division.

MARCH 16, 1982.

DONATION OF SURPLUS PROPERTY TO STATES FOR MODERNIZATION OF CRIMINAL JUSTICE FACILITIES

AMENDMENT NO. 1338

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the bill (S. 1442) to authorize the donation of surplus property to any State for the construction and modernization of criminal justice facilities.

NOTICES OF HEARINGS

SUBCOMMITTEE ON SECURITIES

Mr. D'AMATO. Mr. President, the Subcommittee on Securities will hold a hearing on April 27, 1982, to hear testimony on various proposals to amend or repeal the Public Utility Holding Company Act of 1935. Specifically, the bills to be considered are S. 1869, S. 1870, S. 1871, and S. 1977.

I anticipate that such additional hearings as may be necessary will be scheduled to occur at some point after May 15.

The April 27 hearing will be held in room 5302 of the Dirksen Senate Office Building, beginning at 9:30 a.m. Persons or organizations desiring to testify at the April 27 hearing or later hearings should submit a written request to me as soon as possible.

For further information, interested persons should contact Diane Sanger of my staff at (202) 224-6524 or John Daniels of the Banking Committee staff at (202) 224-1561.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, of which I am chairman, will conduct a hearing on the IRS's taxpayer assistance programs on Wednesday, March 24, at 9:30 a.m. in room 6226 of the Dirksen Senate Office Building.

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public a change in location for the Subcommittee on Water and Power hearing scheduled for March 27 on S. 956, to amend the Reclamation Safety of Dams Act of 1978. The hearing will be held in the capitol west wing, conference room 800, 1700 West Washington, Phoenix, Ariz.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Committee on Governmental Affairs will continue its hearings on the President's New Federalism initiatives. On Thursday, March 18, 1982 at 10 a.m. the committee will receive testimony from Dr. Terry Herndon, executive director of the National Education Association, Mr. Andrew Mott, vice president of the Center for Community Change, Mr. Jule Sugarman, president of the Human Services Information Center, and Mr. Robert Greenstein, director of the Center on Budget and Policy Priorities. The committee will meet in room 3302 of the Dirksen Senate Office Building. For further information, please contact Link Hoewing or Mike Mitchell at 224-4751.

An additional hearing on this issue will be held on Wednesday, March 24, 1982, at 10 a.m., in room 3302. Testimony will be received from Gov. Pierre DuPont of Delaware and Gov. George Busbee of Georgia.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CRIMINAL LAW

Mr. DENTON. Mr. President, I ask unanimous consent that the Subcommittee on Criminal Law, of the Judiciary Committee, be authorized to meet during the session of the Senate at 2 p.m. on Tuesday, March 16, to discuss the exclusionary rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DENTON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet during the session of the Senate at 10 a.m. on Tuesday, March 16, to discuss the President's Federalism initiatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. DENTON. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Mineral Resources, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate at 10 a.m. on Tuesday, March 16, to hold an oversight hearing to review the capacity, distribution, and status of the strategic petroleum reserve.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EMPLOYMENT AND PRODUCTIVITY

Mr. DENTON. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity, of the Labor and Human Resources Committee, be authorized to hold a joint hearing with the House Subcommittee on Employment Opportunities, of the House Committee on Education and Labor, at 9 a.m. on Tuesday, March 16, to discuss employment training programs.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity, of the Labor and Human Resources Committee, be authorized to hold a joint hearing with the House Subcommittee on Employment Opportunities, of the House Committee on Education and Labor, at 9 a.m. on Wednesday, March 17, to discuss employment training programs.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I ask unanimous consent that the Subcommittee on Employment and Productivity, of the Labor and Human Resources Committee, be authorized to hold a joint hearing with the House Subcommittee on Employment Opportunities, of the House Committee on Education and Labor, at 9 a.m. on Thursday, March 18, to discuss employment training programs.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 17, at 2 p.m., to hold an oversight hearing on the Department of Energy research and development programs.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

SUBCOMMITTEE ON THE BUDGET OF THE INTELLIGENCE COMMITTEE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Budget Subcommittee, of the Intelligence Committee, be authorized to meet during the session of the Senate at 10 a.m. on Wednesday, March 17, to receive testimony on the fiscal year 1983 intelligence budget.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WATER RESOURCES FUNDS

● **Mr. LEAHY**. Mr. President, I would like to place in the CONGRESSIONAL RECORD today a copy of a letter I have recently received from Mr. John Ponsetto, commissioner of the Vermont Department of Water Resources. Since 1981, the budget of the Environmental Protection Agency has been cut almost 40 percent. In a year in which a multitude of Government programs have suffered huge cuts, we often lose sight of the real impact of these cuts on our cities and towns.

The most important part of the letter is the five pages of examples of how these funds have been used in the past. Our State environmental agencies, using Federal funds, help the small businesses and towns which we all represent to comply with our environmental laws through cooperation and technical assistance.

What this letter shows is that, if these cuts are approved, local environmental protection efforts will become confrontational and ineffective.

As a member of the Senate Appropriations Committee, I will lead efforts this year to assure that the Environmental Protection Agency and our State environmental agencies have the funds they need to enforce the laws Congress has enacted to protect the health, safety, and the environment.

Mr. President, I ask that Mr. Ponsetto's letter and materials accompanying the letter be printed in the RECORD.

The material follows:

STATE OF VERMONT,
Montpelier, Vt., March 3, 1982.

Re EPA Fiscal Year 1983 Budget.

Hon. PATRICK J. LEAHY,
Senator, Russell Office Building, Washington, D.C.

DEAR SENATOR LEAHY: We understand from the media and from Mr. Cubie of your staff that you recently expressed concern over the impact that substantial reductions in EPA's budget request would have on the attainment of the goals of the various pieces of environmental legislation. We share this concern and write to provide you with some details of the types of activities we feel would be impacted by such reductions.

The Vermont Department of Water Resources and Environmental Engineering conducts the state's water pollution control, air pollution control, solid waste management and hazardous waste management programs. In addition to other activities related to water resource management, hydrology, groundwater, subdivision and public buildings, we operate with a budget of approximately $4.8 million of which $1.6 million is from program support grants, primarily from EPA.

The budget proposed by the administration for the environmental programs for fiscal year 1983 envisions substantial reductions to the operating budget of EPA on the premise that a significant portion of their programs will be delegated to the states for implementation. At the same time that budget proposes that the program support grants to the states be reduced by an average of 20 percent. It, therefore, appears that the states will be expected to do substantially more in the environmental management field with significantly less resources to do it with. This concerns us greatly.

During fiscal year 1982 Vermont received $902,400 in program support funds to assist the state in conducting its water pollution control, air pollution control, hazardous waste management and underground injection control programs. A proposal of the present for fiscal year 1983 would reduce this to $729,900. This is a reduction of over $170,000. When faced with a reduction of this magnitude the state agency is forced to retain its statutorily mandated functions and to reduce the non-statutory functions which involve assistance to the people seeking to comply with environmental regulations. In a state like Vermont, where its municipalities and industries are small and lack indepth technical administrative capabilities, the reduction in such assistance will have an adverse effect on our ability to meet the environmental goals with a minimal burden on the applicant.

You will find attached hereto a document which outlines the type of technical assistance beyond that required by statute which we provide and which is vulnerable when the budget is cut.

I would encourage you to take those actions which you feel prudent to insure that the total resources available for proper implementation of the environmental programs are available and that environmental management is not rendered ineffective by inappropriate funding limitations.

If I can provide you with further information in this regard please do not hesitate to contact me.

Sincerely,

JOHN R. PONSETTO,
Commissioner.

TECHNICAL ASSISTANCE IN WASTEWATER TREATMENT

The Permits Section and Operation and Maintenance Section of the Department of Water Resources and Environmental Engineering devote about 25 percent of their time to technical assistance to polluters to aid them in solving problems that are preventing them from complying with their discharge permits. This assistance is beyond the statutory obligations of either Section but is consistent with the charge of the Department to protect the waters of the State. Technical assistance to polluters is often the most cost effective way, for all parties, to bring a violator into compliance with its permit. Adversary relations are usually time consuming with uncertain results. Technical assistance has been well received by public and private treatment facility owners. Listed below are several examples of technical assistance projects carried out over the past two years.

SPRINGFIELD

Problem: A dairy processing plant located in North Springfield has not been able to meet its discharge permit. The industry has a treatment plant but it cannot produce an acceptable effluent. The discharge into the Black River is upstream of the dam in Springfield. The cost of building an adequate treatment plant and operating it was substantial for the dairy. The Town of Springfield has an overloaded municipal treatment plant in North Springfield and a large new underloaded plant in the main part of Town. There is no connection between the two sewer systems, thus limiting growth in the North part of Town.

Solution: The State suggested that the dairy and town might economically solve their wastewater treatment problems by connecting the North Springfield System to the Main System, abandoning the North Plant and hooking the pretreated dairy waste into the Town System. The State then acted as negotiator between the two parties and advisor on contracts, user charges and sewer ordinance modifications. An agreement was reached that will eliminate one satellite treatment plant, provide sewering to the entire Town, and provide adequate treatment of the dairy's wastewater.

Manpower: The State expanded about one man-month in negotiating this solution.

VERGENNES

Problem: Shortly after the new Vergennes municipal treatment plant began operation, the lagoons suddenly went septic. Upon investigation it was determined that the plant had many small designs, construction and operational problems and an industrial waste which contained pollutants in strengths not anticipated in the design of the plant.

Solution: The State assisted the City in identifying the many problems, evaluating their importance, and finding solutions. In the end each problem was solved and the plant lagoons were cleaned and restored. The industry was stopped from discharging its harmful waste, which created a problem for them as it was considered a hazardous waste for purposes of transport. However, it was proved by the City with the assistance of the State that this waste could be used elsewhere in the City Plant to remove phosphorus. Now a substantial portion of this troublesome waste is used in place of expensive chemicals to remove phosphorus to the benefit of both the City and the industry. As more treatment plants begin to remove phosphorus in Vermont a market for all the company's waste should be found.

Manpower: About two man-months of State effort was expended on this project.

BERLIN

Problem: The Town of Berlin has an aging treatment plant with severe hydraulic limitations that caused it to fail to meet its permit requirements. The plant also had a commercial contributor that placed a significant hydraulic load on it.

Solution: The State ran an extensive investigation on the plant and its operation including sampling. The hydraulic characteristics of the plant were defined and a chemical addition program instituted. By following the recommendations of this study the Town is now meeting its permit limitations.

Manpower: About two State man-months were devoted to this project.

WILLIAMSTOWN

Problem: An industrial laundry discharged to a small municipal treatment plant organically overloading it and contributing large quantities of oil and grease and toxic substances. The municipal plant went septic causing serious odor problems, and a septic tank-like effluent was discharged to a small stream.

Solution: The State acted as a moderator between the Town and industry as well as a party during a ten month negotiating period. In the end court action was necessary to bring about final agreement of the parties. The State caused the industry to change their cleaning operations, install pretreatment, run toxic scans on their waste, and reach a financial settlement with the Town. The State assisted the Town in establishing

Solution: Their legal rights and responsibilities, building a successful legal case against the industry, planning the cleaning of their treatment lagoons and renovation of equipment, supervising the clean-up operation, establishing safe clean-up techniques and disposing of their oily sludge by composting and landfill cover spreading. After the problem was resolved the State aided the laundry by helping design and install some of their pretreatment and sampling facilities.

Manpower: About three State man-months were spent on negotiating the solution to this problem. About one State man-month was spent assisting the Town clean-up their lagoons in an environmentally safe manner. About two State man-weeks were spent assisting the industry setup sampling and pretreatment equipment.

LARGE PAPER MILL

Problem: The paper company discharges secondary treated wastewater. The company is consistently and substantially in excess of its discharge permit for organic material during the winter months. Furthermore the paper company is unable to develop a solution to the problem.

Solution: As an alternative to immediate and strict enforcement of this discharge permit State Personnel responded by providing assistance in studying the problem. A performance report on the wastewater treatment facility was produced after an investigation. Specific causes for the permit violations were pinpointed including extremely low winter time water temperature, organic overloading and lack of adequate operational testing. Presently State Personnel are working with the paper company to improve operational testing methods and to identify waste streams within the plant which can be reduced or eliminated.

Manpower: The State spent approximately one man-month in the initial study and report development. Follow-up assistance for operational testing and wastewater stream identification will involve an additional two to three man-weeks.

WINDSOR

Problem: Windsor has a primary treatment plant that suffers from hydraulic short-circuiting and disinfection problems. A cheese manufacturer also moved into Town and discharged a high organic waste to the Town Treatment Plant, without any permission, and aggravated the problems there.

Solution: The State worked with the Town to gain control of this discharger and to set pretreatment requirements. The State suggested a chemical addition pretreatment system to allow the Cheese Company to continue to discharge to the Primary Plant. The State is also assisting the Town in modifying their plant to improve its performance, especially disinfection.

Manpower: About one man-month of State manpower has been expended on this project to date with at least another half a man-month anticipated.

HINESBURG

Problem: A cheese manufacturer discharges very high strength wastewater into a municipal lagoon-type treatment plant. The load imposed is beyond the capability of the plant to treat. The Town Plant has gone septic, producing very foul odors and is severely polluting the receiving stream. The cheese company has refused to comply with its pretreatment permit for many years.

Solution: The State has kept pressure on the company and worked with the Town to resolve the problem. The State has caused the company to begin to design a pretreatment system. The State supplied technical and legal support to the Town in court action against the company. The State aided in a negotiated settlement backed by a court order which sets a short schedule to bring the company into compliance. The State has aided the Town in setting up a monitoring system on the company discharge. The State has begun to collect information and intends to further assist the Town in planning and carrying out the clean-up and renovation of its treatment plant. The State is also collecting samples of the company's discharge to assist in enforcement.

Manpower: About two man-months of technical and legal time has been expended to date on this case. About an equal amount is anticipated or required before this problem is solved late this summer.

SPECIALTY PAPER MILL

Problem: A Specialty Paper producer was regularly by-passing its treatment plant and dumping raw paper waste into a river. An investigation was carried out and the mill prosecuted. The mill ceased its illegal discharge but had difficulty operating its pretreatment plant. This also caused the municipal plant that received the treated waste problems with fibers and color.

Solution: The State at the request of the Town and the mill assisted the mill in learning to operate its treatment facility properly. The proper operating procedures and treatment chemical choices were found. This allowed the mill to comply with its permit and prevented problems at the municipal plant.

Manpower: The State expended about one man-week of effort on this project after the investigation and prosecution.●

THE AMERICAN BAR ASSOCIATION ERRS

● Mr. **HELMS**. Mr. President, I am hearing with increasing frequency from distinguished attorneys across the country that the American Bar Association is no longer representing the majority opinion of U.S. attorneys on various matters involving the law and the Constitution.

Not being a lawyer, I am in no position to assess the degree of this rising concern. I do acknowledge that the ABA has had a history of service to the Nation. Congress has often been the beneficiary of ABA studies and advice.

But, Mr. President, the American Bar Association is reminding a great many citizens that it is not impossible of error. I am convinced, as are scores of fine attorneys who have written to me, that the ABA is wrong—dead wrong—in its opposition to congressional restriction of judicial excesses. I am convinced that the majority of lawyers in America, and an overwhelming majority of American citizens, are in strong disagreement with the strange posture of the ABA on this important issue.

Mr. President, under article III of the Constitution, Congress is clearly given power to regulate both the appellate jurisdiction of the Supreme Court and the general jurisdiction of the lower courts. The granting of such power to Congress is perfectly consistent with the Founding Fathers' theory that our Government is one of checks and balances among three branches of Government. Each branch has constitutional means for checking abuses and usurpations of the others. One certain method for Congress to provide a check on judicial excesses is its constitutional power to regulate court jurisdiction

That Congress has such power imposes upon it a duty to use it when the courts exceed their proper function. The Senate has recently done so in the area of forced busing to achieve racial balance. There are other areas of judicial excess where similar congressional action may be required. In the long run such action will be highly salutary in that it may not only correct actual errors but it also serves as a warning to the courts that they must stay within the bounds of judicial competence.

The ABA has been rather outspoken in opposing, as an institutional matter, congressional withdrawal of jurisdiction as a check on Federal judges. On this point I believe that the ABA is wrong. Should the ABA's view prevail, our tripartite system of government would be weakened by the presence of one branch which would have become, to a large extent, supreme. Certainly there are methods in addition to withdrawal of jurisdiction by which Congress can provide a check on the courts. But the presence of other vehicles does not negate the jurisdictional one.

Mr. President, William F. Buckley, Jr., is an outstanding American who needs no introduction to this body. A recent column by Mr. Buckley sheds light on the subject of congressional withdrawal of jurisdiction—and the somewhat peculiar machinations of the ABA. For the benefit of my colleagues in considering the proper role of Congress I ask that the Buckley column, published in the March 19, 1982, edition of National Review, be printed in the RECORD.

The column follows:

REFORMING THE COURT

NEW YORK.—Mr. David Brink of Minneapolis, the recently elected president of the American Bar Association, has written to me to criticize a recent analysis supporting the right of Congress to modify the jurisdiction of the federal courts. Mr. Brink is given to prose so apocalyptic that he even goes so far as to quote Fritz Mondale, whose rhetorical specialty is despair over the failure of Congress to pass a 100 per cent tax surcharge on anyone whose income is over 15 grand or so. Anyhow, Mr. Brink informs me that Mr. Mondale has said, "If statutory efforts to alter constitutional rights and remedies could be made successful merely by reciting the word 'jurisdiction,' the Congress could overrule any court decision, and the Constitution would be just a piece of paper." What he does not understand is that in the view of a growing number of responsible Americans, the Constitution has become exactly that—a piece of paper, sitting there, available to the Supreme Court on which to transcribe its legislative will. If this sounds extreme, permit me to remind Mr. Brink that nothing I have said has not been said with equal emphasis by members of the Supreme Court itself who deplore the Court's penchant to rewrite the Constitution—to make it exactly that, a piece of paper.

Mr. Brink writes that I am obviously motivated by a disagreement with certain court decisions. "These happen to be areas in which . . . you are in sharp disagreement with constitutional interpretations by the branch of the Federal Government to which constitutional interpretation was entrusted by our Constitution, namely abortion, prayer in public schools, and busing and other means of school desegregation." Now that is a most astonishing statement coming from any lawyer, let alone the president of the American Bar Association. It would be fascinating to learn just where in the Constitution the courts were vested with the power to write policy on prayer in public schools, abortion, and busing as a means of desegregation. The Constitution says plainly that all legislative power shall reside with Congress. Is it not for the Legislature to decide what are the appropriate means of achieving desegregation? If abortion is a civil right, can Mr. Brink kindly advise how it is that this, being so plain in the Constitution, was not discovered until 1973? I will go further and ask Mr. Brink, who I assume graduated from law school before 1973, kindly to point out where he, when the presidency of the American Bar Association was merely a gleam in his eye, announced, like Christopher Columbus making a landfall, that he had discovered a "constitutional right" heretofore virtually undreamed of?

Mr. Brink goes on: "Neither the proponents [of the redefinition of juridical authority] nor you, I believe, would favor stripping the federal courts of power to protect, for example, our First Amendment right to free speech, free assembly, or the free exercise of religion." Well, it is in pursuit of the free exercise of religion that a number of congressmen wish to pass legislation authorizing prayer in the public schools. What Mr. Brink is saying is that anything the Supreme Court affirms can only be revoked by passing a constitutional amendment. In so doing he professes a kind of judicial ultramontanism that is thoroughly alien to a society that set out to be self-governing. You cannot simultaneously be governed by elected representatives and by appointed judges. The whole argument is about the division of authority, and such totalism as Mr. Brink expresses amounts to a supine and anti-historical genuflection before a kind of judicial authority never contemplated by the same people who wrote the Constitution.

The psychology of some lawyers is an interesting subject. They are men brought up in the adversary process, and in almost any such situation only the antinomians will reject the kind of relief experienced from The Last Word. The Supreme Court, for such gentlemen, is The Last Word. And it comes as something of a relief, given the difficulty they tend to encounter in establishing right and wrong, truth and untruth, in a complicated world of litigation.

Most lawyers will go along in admitting that the Court, in exercising authority, has made a few mistakes. Most people will admit it was a mistake to permit the internment of Japanese-Americans during the war, and before that, to uphold the right of Americans to travel to Kansas, Nebraska, and points north and west, with their slaves.

Mr. Brink should acknowledge that the weight of tradition and scholarship simply does not hold Congress powerless to act in the event of usurpation, any more than the Courts or the Executive are powerless when faced with extravagant claims by sister branches of government. It is very difficult to understand exactly how the proponents of a careful manicuring of the predatory claws of the Supreme Court are acting other than as guardians of American liberty.●

UKRAINIAN INDEPENDENCE DAY

● Mr. TSONGAS. Mr. President, January 22, 1982, marked the 64th anniversary of the founding of a free Ukrainian National Republic as a sovereign State of the Ukrainian people. As my distinguished colleagues are well aware, the Ukraine has been suffering under the iron-fisted control of the Kremlin since a Soviet invasion put an end to the Ukrainian National Republic in 1920.

Mr. President, the story of this country is sadly reminiscent of the fate of other nations now suffering Russian domination. The Soviets have continually persecuted the Ukrainian people, denying them many of their basic rights for over 60 years. There is no exaggeration in stating that Russia's inhuman treatment and persecution in Ukraine is one of history's great holocausts. In the past, the Soviets have resorted to extortion, imprisonment, and even mass murder in order to break the back of Ukrainian resistance. In the early 1930's, more than 6 million Ukrainian farmers died during a famine contrived by the Soviets to punish those who opposed collectivization. More recently, we have seen the arrest and enslavement of Ukrainian dissidents who have expressed dissatisfaction with Soviet rule.

Meanwhile, the Soviet Government has consistently promoted the independence and sovereignty of the Ukrainian Soviet Socialist Republic. However, this Soviet propaganda has in no way hid the imperialistic and repressive nature of Soviet control.

Despite the trials and hardships of Russian domination, the Ukrainians have fought bravely to assert their own nationalism. Ukrainian freedom fighters have effectively opposed Soviet oppression by using petitions, demonstrations, and underground publications. Here in America, the Ukrainian Congress Committee of America, Inc., which has been commended by four different Presidents for its dedication to the ideals of freedom and liberty, has worked tirelessly on behalf of Ukrainian brothers and sisters, hoping to gain independence for Ukraine.

Mr. President, I believe it is vital that we raise the issue of Soviet imperialism in Ukraine and around the world in all appropriate forums. Thus, I think it is important that we in the Senate recognize and support the continuing efforts of Ukrainians, both here and in Europe, who resist Soviet oppression. They must know that they are not alone in their fight for freedom.

Mr. President, I ask that, in honor of Ukrainians, we insert into the RECORD, several proclamations declaring January 22, 1982, Ukrainian Independence Day in the Commonwealth of Massachusetts and in the city of Boston.

The proclamation follows:

A PROCLAMATION

Whereas, the 64th anniversary of the proclamation of free Ukrainian National Republic as the sovereign State of the Ukrainian people will be observed on January 22, 1982; and

Whereas, the Ukrainian people have not accepted the status of the Communist Russian enslavement and are continuing to struggle to regain their national sovereignty and independence; and

Whereas, Ukrainian Americans in Massachusetts appeal to President Ronald Reagan and Secretary of State Alexander M. Haig to take affirmative action at international forums for the implementation of national and human rights in captive Ukraine and in all captive nations under Soviet Russian domination; and

Whereas, Ukrainian Americans in Massachusetts urge President Ronald Reagan to use the power of the United States Presidency to appeal to the Soviet Government to release Yuriy Shukhevych, Mykola Rudenko, Oksana Meshko, Vyacheslav Chornoovil, Lev Lukianenko, Ivan Hel, Oles Berdnyk, Petro Sichko, and hundreds of other Ukrainian political prisoners from Soviet jails.

PROCLAMATION

Whereas, on January 22, 1982, Ukrainian Americans in Boston will mark the 64th anniversary of the proclamation of free and sovereign Ukrainian National Republic; and

Whereas, the sixty-fourth anniversary of Ukrainian independence provides a fitting opportunity to direct public attention to the continuous violations of national and human rights in captive Ukraine by the Soviet government; and

Whereas, the sixty-fourth anniversary of Ukrainian independence dramatizes the legitmate right of the Ukrainian people and of all captive nations to pursue freedom and national independndce.

PROCLAMATION—BOSTON CITY COUNCIL

Whereas, January 22, 1982, is observed as Ukrainian Independence Day in Boston and in Massachusetts, commemorating the 64th Anniversary of Ukrainian Independence;

Whereas, fifty million Ukrainians do not have national human and religious rights and cannot freely observe this Anniversary, because Ukraine is a captive country; and

Whereas, Ukrainian Americans in Boston continue to support the right of the Ukrainian and all captive nations for full national independence;

Therefore, be it

Resolved, that the Boston City Council joins Ukrainian Americans in Boston in reaffirming its support for the Ukrainian people, and all captive peoples under Communist Russian domination, for national self-determination;

Further, that the Boston City Council urges the President of the United States to exert all the possible means on the Soviet government for the restoration of national and human rights in Ukraine, as well as appeals for public pressure on the Soviet government for the release of all Ukrainian political prisoners from Soviet jails and concentration camps—Yuriy Shukhevych, Vjacheslav Chornovil, Lev Lukianenko, Rev. Wasyl Romaniuk, Yosyf Terelya, Ivan Hel, Ivan Kandyba, Oles Berdnyk, Mykola Rudenko, Oksana Meshko, Oleksiy Tykhyj and hundreds of others.

THE SOVIET RECORD IN ARMS CONTROL

● Mr. EAST. Mr. President, in the February 1982 issue of the National Security Record, No. 41, published by the Heritage Foundation, there is a report entitled "Arms Control and the Permanent Government." This article, which I commend to the attention of my colleagues, details the problems within the Arms Control and Disarmament Agency (ACDA) in this administration. It is the burden of this article that President Reagan's campaign promises on arms control are in the process of being subverted by the presence of Carter holdovers within ACDA. The Heritage Foundation points out that the Strategic Arms Limitation Treaty of 1979 (SALT II) negotiated under the Carter administration could not have been ratified if it had been submitted to the Senate. The lack of faith of the Senate in the proposed SALT II Treaty was due mainly to the inability of the United States to verify Soviet compliance with its terms and the apparent lack of interest on the part of the Carter ACDA in producing a verifiable treaty. The Heritage article demonstrates that several of the individuals involved in ACDA in the previous administration are present in the same agency in this administration, and it quotes an insider as stating, "Why does the Reagan administration think it can obtain Senate confirmation of a START treaty, when it has hired the same people who tried to sell SALT for Carter?"

Mr. President, I am genuinely concerned about the implications of the National Security Record article, but I am more concerned that, whoever is in office, a future strategic arms treaty will not take into account the key issue of verification and that it will ignore the very serious allegations of past Soviet violations of the existing SALT I Treaty. I wish to take this opportunity to review these problems and to go on record as stating that I will not support any arms control treaty that is not verifiable and does not provide for preventing Soviet violations. Indeed, the history of Soviet violations of SALT I is so outrageous that I must admit that I am skeptical of any arms control negotiation with the Soviet Union.

SOVIET DECEPTION IN SALT

1. SS-19

It was the understanding of the Nixon administration and its negotiators during the SALT I negotiations and afterward that the treaty did not allow Soviet deployment of a new ICBM into launchers more than 15 percent larger in volume than the present land-based ICBM launcher dimensions. The SS-19, however, deployed by the Soviet Union since SALT I, is 45-50 percent larger in volume than the SS-11 and 4 to 5 times its throwweight.

2. SEA-LAUNCHED BALLISTIC MISSILES (SLBM)

The Soviets presently maintain more modern nuclear submarines (SSBN) than allowed by SALT I and are constructing more. The protocol to the interim agreement of 1972 limited the Soviets to 62 SSBN's and 740 SLBM launchers and allowed them to replace deactivated SS-7 and SS-8 ICBM's or SLBM launchers with up to 210 additional SLBM launchers. Yet reports from authoritative sources continue to allege that the Soviets now possess more than the permitted 62 SSBN's, and both Secretary Laird and Admiral Zumwalt testified in 1972 that having more than 62 SSBN's under construction would violate the treaty.

3. MOBILE ICBM'S

In May 1972, President Nixon and Secretary Brezhnev gave mutual assurances that neither country would build land-mobile ICBM's. The United States thereafter issued a unilateral statement affirming that deployment of operational land-based ICBM launchers would be inconsistent with the objectives of the interim agreement. Yet it is known that the Soviets have secretly produced significant numbers of SS-16 mobile ICBM's. While this action on the part of the Soviets may be technically consistent with the literal meaning of the unilateral declaration, it clearly violates the spirit and purpose of the declaration and of the interim agreement.

4. ICBM SILOS

The interim agreement forbids the construction of new, fixed land-based ICBM launchers after July 1, 1972. The Soviets, by 1973, were building between 150 and 200 new silos. They claimed that these were launch-control facilities, yet observed characteristics of these facilities indicate that they have the capacity to launch ICBM's.

5. DISMANTLING OF ICBM LAUNCHERS

The interim agreement allowed each side to construct new SLBM tubes as replacements for older ICBM launchers, which would be dismantled. While the Soviets proceeded with new SLBM launchers, they delayed the dismantling of the 41 older ICBM silos. The United States noted and inquired about this delay. Secretary of State Cyrus Vance was persuaded that the terms of the treaty were being met, although certain unclarified expressions in his report to the Congress suggested that the process of dismantlement had not been completed.

6. ABM VIOLATIONS

The Soviets, according to Secretary Laird and other observers, have tested radars for antiballistic missile (ABM) purposes and have ignored U.S. protests of this violation of the ABM treaty. There is also evidence that the Soviets have at least initiated construction of radar systems along the northern missile routes to the United States that could be the basis for a new ABM system in violation of the agreement. The Soviets have also reportedly tested surface-to-air missiles (SAM's) in "an ABM mode," also violating the agreement. Furthermore, evidence suggests that the Soviets have developed mobile ABM components since the conclusion of the SALT Treaty and have installed an ABM radar site on the Kamchatka Peninsula. Both developments would violate the ABM Treaty.

7. THE PROBLEM OF VERIFICATION

In addition to the record of Soviet deception in the negotiations and implementation of SALT, the Soviets have taken advantage of every opportunity to prevent the United States from verifying their adherence to the treaty. Although the national technical means (NTM) of intelligence collection through satellites and electronic monitoring enjoys an almost mythical reputation of infallibility, the truth is that NTM is vulnerable to deception in several ways. Camouflage, construction of dummies, underground or nocturnal testing, and encryption of telemetric data are techniques that can prevent the United States from verifying Soviet adherence to arms control agreements. The Soviets have frequently made use of such methods, and the unverifiability of SALT II was the principal objection to its ratification by the Senate in 1979.

These violations and deceptions by the Soviets on observance of the terms of the SALT Treaty have long been noted by reliable observers, and my distinguished colleague from Utah, Senator HATCH, and many other legislators in both Chambers during the SALT debate deserve the highest credit for publicizing them.

The implications of this record are clear. The Soviet Union will exploit any arms control agreement with the United States to deceive us and to advance its own strategic forces at our expense. Moreover, we have no certain means of verifying Soviet adherence to an arms control treaty. Obviously, those who negotiate and promote the ratification of such treaties come to have a vested interest in claiming that they are successful and are being observed. The history of previous administrations is full of the evasive language of bureaucrats and politicians in the discussions and reports of Soviet violations. Seemingly, some negotiators will seize on any excuse to assure the Congress and the American people that their treaties are being observed and will ignore, excuse, or cover up reported violations. President Carter toward the end of his term in the White House was forced to undergo the humiliation of admitting that the Soviets had lied to him about Afghanistan. It is to the great credit of President Reagan that he began his administration with a frank and fully accurate recognition that the Soviets will not hesitate to lie and cheat to achieve their ultimate goal of world domination. It is my hope that the administration and its arms negotiators will bear this recognition in mind if and when they initiate discussions with the Soviet Union on strategic arms.

TRIBUTE TO JOHN AUSTIN BAKER

● Mr. PRYOR. Mr. President, on behalf of the Nation's farmers, I would like to pay tribute to John Austin Baker, who died March 2, 1982, at the age of 68.

Mr. Baker had a long and distinguished career as an agricultural economist. Over the years he held many important positions with the Department of Agriculture and the National Farmers Union.

In 1937, Mr. Baker assisted in the development and implementation of the Bankhead-Jones Farm Tenant Act, which converted the Resettlement Administration into the Farm Security Administration. The Farm Security Administration was the predecessor of the Farmers Home Administration, which today provides rural credit assistance for farm loans, rural housing, and rural community development.

During World War II he was a lieutenant in the U.S. Navy, assigned to the military government in Okinawa as an economic and agricultural officer. In 1947 and 1948, he was deputy director of national land administration for the U.S. military government in South Korea. During that time, he assisted in developing land reform plans in South Korea and Japan.

After the war, he returned to USDA where he served as an economist, program analyst, and executive assistant to the Under Secretary of Agriculture.

From 1951 to 1961, Mr. Baker served as the legislative director for the National Farmers Union. As the head of the National Farmers Union Washington legislative staff, Mr. Baker was widely respected as a farm legislation architect and strategist.

In 1961, Mr. Baker was appointed by President Kennedy to be USDA's Director of Agricultural Credit; and in 1962, he was appointed Assistant Secretary of Agriculture for Rural Development and Conservation.

In 1964, he created and won acceptance of the "adjusted parity ratio," which appears monthly in the USDA Agricultural Prices report. The adjusted parity ratio measures the relation between farm prices received and prices paid for specific items used in production.

After leaving USDA in 1969, Mr. Baker became a private consultant on rural development and authored a 1970 document, "Guide to Federal Programs for Rural Development."

In 1972, he served as a consultant to the Senate Agriculture Committee, being engaged by Senator Herman Talmadge to assist in the drafting of the Rural Development Act of 1972. That act has contributed to the improvement in living standards and working conditions for millions of farmers and smalltown residents.

Later, he became executive vice president of the National Farmers Union Green Thumb program, a program funded by the Department of Labor to provide senior citizens community employment. He administered this program, during a period when it had major growth, until his retirement in December 1979.

During his career, John Baker worked to weld together consumer and farmer interests; he was a perceptive observer of the political scene and a realistic vote counter. He was a leading proponent and defender of the farm parity concept and a respected authority on a variety of agricultural issues.

John Baker was born February 22, 1914, in Paris (Logan County), Ark.●

BEWARE THE OIL GLUT

● Mr. D'AMATO. Mr. President, to the joy of consumers and businesses alike, prices for gasoline and home heating fuel have dropped in recent weeks to their lowest point in more than a year. The seemingly endless rise in these prices has been reversed and experts say that we can expect a period of stable energy prices. Ostensibly, this seems to be the best news on the energy front since the United States began its struggle with its energy costs during the Arab oil embargo in 1973. But, as I have warned before, we must be wary of the oil glut and take a note of foreboding from the present euphoria.

While depressed oil prices may cause OPEC to scramble to lower prices and reduce production, lower energy costs also have a harmful effect on our energy future. Lower prices may remove the conservation ethic that has become instilled in the American fabric. However, conservation must remain one of our courses of attack to prevent the depletion of our energy resources.

Lower prices may remove the incentive for small businessmen, entrepreneurs, and capital managers to develop alternative energy plans. However, we must continue to develop alternative energy resources. With less assistance from the Federal Government in future years for this development, it is essential that private enterprise have the incentive to make investments to develop alternative methods.

During the past week, several editorials have appeared which recognize the predicament of which I speak. I wish to call them to the attention of my colleagues and hope that they will stimulate a discussion over some of the methods which we must pursue as we chart our difficult energy course.

I ask unanimous consent that the following editorials from the New York Times, Washington Post, and Business Week be inserted in the Record.

The editorials follow:

[From the New York Times]

The Energy Crisis Crisis

"I'm not saying the energy crisis is over," cautions Energy Secretary James Edwards. But many others are. Oil prices have fallen in the wake of the slump in world demand. And it is possible that prices will not recover for years, as exporters scramble for shares of a declining market.

That, alas, is not the only possibility. The difference between glut and shortage is just a few million barrels a day. And oil consumers remain terribly dependent on the steady flow of fuel from the politically unstable Persian Gulf.

Even if the oil does flow, there is a danger of rapid price fluctuations that undermine the American economy and prolong dependence on imported energy. Simple prudence dictates that we insulate the economy from oil shocks. The best way to do that is still energy taxes.

It's no wonder OPEC is in a jam. Oil-importing countries responded to the 1979-80 run-up in oil prices (and the recession that followed) with a dramatic conservation effort. America has cut imports strikingly, by nearly a third. In recent weeks oil has changed hands for $4 to $6 a barrel less than the official OPEC price.

But this is not the first time oil importers have been shocked by a price explosion and then lulled by price erosion. That's just what happened between 1974 and 1979. The lull came to an abrupt end, of course, with the Iranian revolution. Overnight, there were gasoline lines again. Oil prices doubled. Something quite similar could happen again today as the result even of rumors that exports from Saudi Arabia would be interrupted by war or boycott.

Such cycles do not merely unsettle energy markets; they disrupt whole economies. To contain the inflationary impact, governments create recessions. The world output lost in reaction to the 1973-74 price increase may have been as much as $500 billion. Then the damage is compounded when oil prices eventually work their way down again as businesses that planned for high energy prices are stuck with the consequences.

Today, for example, Detroit's huge investment in fuel-efficient cars is threatened by falling gasoline prices. So, too, are projects to develop secure higher-cost fuels like natural gas from unconventional sources and high-viscosity oil.

That dreary cycle suggests first the need for international agreements to limit crisis buying and for internal plans to limit consumer demand in emergencies. It is also important to insulate the American economy from rapid changes in world oil prices.

How might that be done? A stiff fee on imported oil—increasing its cost by a third or more—would buffer the shock of falling oil prices. And it would make rapid price increases less likely by reducing demand. Much the same result could be accomplished with a tax on gasoline.

None of this would be easy to achieve. Consuming nations are reluctant to tie their hands with purchasing agreements. The Reagan Administration is bitterly opposed to any emergency system for apportioning temporary domestic shortages. And hardly anyone who covets public office in America is willing to support energy taxes.

But unless Americans are willing to act now when the oil is flowing freely, we remain at risk the minute it stops. As former Energy Secretary James Schlesinger puts it: "The energy crisis is over until our next energy crisis."

[From the Washington Post]

Energy in Perspective

Ever since 1973, the energy policy pendulum has swung with depressing regularity from crisis to glut and back again. A steady resting point somewhere between has not been reached. That would be a point at which transient fluctuations in oil prices were not jarring and where American policy would accept the reality of a permanent shift from $3-a-barrel oil to $30-a-barrel oil.

Currently, we are in the glut phase. The combined effects of the 1979 oil price doubling and the current recession—themselves related—have cut deeply into demand. Producers are being forced to drop prices sharply. And once again we hear that the energy crisis is over. It isn't. Economic recovery alone would soak up much of the excess in today's oil market. Another war or revolution in the Persian Gulf—which any prudent person would have to consider possible—could swiftly send the oil-importing nations back into crisis.

In the United States, imports have dropped by half in the past couple of years. Domestic production is up, and consumption is down. The administration uses this improved outlook to buttress its case for dissolving the Department of Energy. But the appearance of reduced vulnerability to another oil supply interruption is deceptive and dangerous.

Some important changes in American energy use have occurred. The price of oil has been decontrolled, the strategic petroleum reserve is finally being filled, industry is using energy much more efficiently and the gas guzzler is an endangered species. But on the other hand, the price of natural gas is still artificially low, consumers still have no reliable source of help for reducing energy use in their homes and apartments, mass transit facilities compared with those of any other advanced nation are terrible, and the lack of a substantial gasoline tax helps to keep that from changing.

Nevertheless, the Reagan administration argues that higher energy prices have led to energy conservation and that there is therefore no reason for further federal support of research and other conservation programs. But the real issue is how much of what would be economically beneficial is not happening, and will not happen, under current policies. Do most types of energy use—technologies for supply and distribution, consumer information, manufacturing processes and the rest—reflect the reality of expensive energy or the past history of cheap energy?

The answer varies by sector. Large businesses with access to expertise and capital have adjusted well. Most other sectors have not. In residental and commercial buildings, which consume a quarter of all the energy used in this country, only a tiny fraction of the economically desirable savings is being captured.

In short, a good beginning has been made, but it is only a beginning. To abandon conservation programs and dismantle research efforts now is to save small amounts of federal dollars at a very large longer-range cost to the economy. And hopeful talk about the end of the energy crisis ignores the painful lessons of the past decade.

[From Business Week, Mar. 8, 1982]

A Plan For New Revenues

It is clear that the incentives pushed through by the Reagan Administration will substantially increase the nation's pool of savings. But while Administration spokesmen, such as Treasury Secretary Donald T. Regan, insist that new savings will be ample both for fueling private growth and financing budgetary deficits, many private economists are raising doubts. President Reagan has rightly decided not to tamper with the personal and corporate income tax cuts already in place (though his proposed minimum corporate tax would partly offset the business tax cuts), but he should consider other ways of generating new revenues that would help reduce future deficits and produce other benefits as well.

At the top of the list is a substantial increase in the gasoline tax. With gasoline prices now falling, there could be no better time to enact such a levy. It would generate revenues, of course; equally important, it would act as a continuing curb on gasoline consumption and be a healthy reminder that despite all the talk about gluts and price cuts, the country is still dangerously dependent on foreign oil. A local war in the Middle East or any other interruption of oil production could quickly return gasoline consumers to rising prices and lines at service stations. Finally, a gas tax, by decreasing the dollars the U.S. is sending to the OPEC producers, would benefit our balance of payments.

A second useful revenue source would be a speedup in the decontrol of natural gas and imposition of a windfall-profits tax. The Treasury Dept. estimates that even with level inflation, such a tax could produce from $9 billion to $10 billion a year in new revenue.

These new levies would not in themselves eliminate deficits. But they would reassure the financial markets that the Administration has a serious program for bringing the deficits under control. Additional spending cuts are also required, and along with trimming social programs the Administration must subject the defense budget to meticulous scrutiny not only for waste and duplication but also for redundant programs. The budget must reflect a defense strategy that goes beyond simply providing more of everything. This not only would save money but also would demonstrate that the Administration intends to make defense bear some fair share of the burden of essential spending cuts.●

ESTONIAN INDEPENDENCE DAY

● Mr. RIEGLE. Mr. President, February 24 marked the 64th anniversary of the declaration of Estonian independence. The recognition of this date takes on added significance in light of recent aggressive Soviet actions throughout the world, in blatant violation of the provisions of the final act of the Helsinki accords. All who cherish the fundamental right of liberty for all peoples of the world share the Estonian people's sense of dispair at the continued violation of that right by the Soviet Union.

While the Estonian people continue to live in the shadow of Soviet domination, history may give us some reason to hope for a brighter day. Let us not forget that at the time Estonian independence was declared in 1918, that country was controlled by the German Army. Soon after the Germans withdrew, in November of that year, the Russian Army attacked the fledgling state. Rallying to the call to arms of their great military commander, Col. Johan Laidoner, the Estonian Army successfully held the Russians at bay until Finish and British aid could help them carry the day. Russia was soundly defeated, and when the peace treaty between Estonia and the Soviet Union was signed on February 2, 1920, the latter "voluntarily and forever" renounced its sovereign rights over the territory and people of Estonia.

Today, Estonians everywhere retain the same sense of duty to country and love of liberty that characterized the actions of their forefathers. It is to the Estonian people, who have endured so much in the past, and continue to sacrifice so much in their fight to preserve the dream of freedom, that I pay a special tribute.

To that end, I would urge all of my Senate colleagues to lend their support to legislation I recently introduced to declare June 14 "Baltic Freedom Day," in commemoration of the continuing struggles of all the Baltic peoples to regain their independence.●

TAX CREDIT LEASES

● Mr. STENNIS. Mr. President, as I have previously pointed out, I am a cosponsor of legislation which would repeal that provision of the Economic Recovery Tax Act of 1981 which allows and permits the sale of tax credits from one company to another through paper transactions designated as "leases." I have spoken on the floor of the Senate on several occasions in support of this legislation and have also written Senator Bob Dole, Chairman of the Senate Committee on Finance, urging that his committee take up this matter on an urgent and expedited basis and report out legislation which would repeal or amend this unwarranted and unjustified provision of the tax law. The committee has not yet taken any action on this matter.

In this morning's Washington Post there is a story which says that General Electric, which had pretax earnings of $2.66 billion in 1981 was able to take advantage of the provision of the law which permits the leasing of tax credits to such an extent that, instead of paying taxes, it will get a net tax refund of $90 to $100 million from the Federal Government. The story to which I refer also cites other large corporations which were profitable in 1981 which were able to buy up tax breaks and thus substantially reduce their income tax liability. For example, the story asserts that Amoco, which had a pretax income of $3.46 billion, was able to reduce its Federal tax liability by $159 million through the paper transaction designated as "leases."

I say again, Mr. President, that the use of this tax provision in such a manner results in an outrageous raid on the U.S. Treasury for the benefit of wealthy corporations who take advantage of this tax provision to shelter their profits. At a time when we are faced with massive deficits, I do not believe that the taxpayers will take kindly to this situation.

A mistake was made, Mr. President, in passing this tax provision. We must rectify this mistake just as quickly as possible. The longer we delay, the more tax loss the Treasury suffers. I again urge that this matter be taken up by the Committee on Finance and the House Committee on Ways and Means on an urgent and expedited basis and that these committees report out legislation which will repeal this unwarranted and unjustified provision of the tax law.●

MRS. FRANCES HUMPHREY HOWARD

● Mr. ZORINSKY. Mr. President, a wise man once said,

> You give but little when you give of your possessions. It is when you give of yourself that you truly give.

I am sure those of us here will all agree with that one individual who exemplifies this thought is Mrs. Frances Humphrey Howard, sister of our late colleague and former Vice President of the United States, Hubert H. Humphrey.

Long involved with a variety of worthwhile organizations, Mrs. Howard recently took the time to visit my hometown of Omaha, Nebr., and tour the Boys Town Institute for Communications Disorders in Children.

Her 2-day visit stemmed from her position on the board of directors of the Hearing Educational Aid and Research Foundation, Inc., of Washington. With other board members, Mrs. Howard met with Boys Town executive director Father Robert Hupp and discussed medical and educational problems of hearing impaired children.

She was seeking possible cooperative projects in which Boys Town and the foundation could be involved.

Mr. President, knowing of Mrs. Howard's caring attitude, and knowing also of the worthy pursuits of the Boys Town Institute for Communications Disorders, I have no doubt that great things will come of this visit.

And I am sure my colleagues will want to join me in thanking Mrs. Frances Humphrey Howard for taking an interest in both Boys Town and the problems of hearing-impaired children. Through many years of dedicated service, she truly has "given of herself" many times over.●

ON THE FIFTH ANNIVERSARY OF THE IMPRISONMENT OF ANATOLY SHCHARANSKY BY THE SOVIET AUTHORITIES

● Mr. DOLE. Mr. President, yesterday marked the 5th anniversary of the imprisonment of the noted Soviet dissident Anatoly Shcharansky. For half a decade now, this dedicated human rights activist has been held hostage by his own government despite the appeals of the world community for his freedom.

On March 15, 1977, Mr. Shcharansky was arrested on the fabricated charges of treason, after having been accused of being an agent of the CIA. After being held for over a year in pretrial isolation, Shcharansky was sentenced on July 14, 1978 to 3 years in prison and 10 years in strict regimen camp.

The real motive behind the Soviet Government's imprisonment of Anatoly Shcharansky was the fact that he had attempted to make the authorities live up to the pledges they made when the Helsinki final act was signed in 1975. Mr. Shcharansky was one of the leading members of the Moscow Helsinki monitoring group, and this, combined with his attempts to emigrate to Israel, made him a prime target for harassment and arrest by the KGB.

As co-chairman of the U.S. Commission on Security and Cooperation in Europe, which monitors compliance with the Helsinki accords, I have for some time been extremely concerned with Anatoly Shcharansky's situation, and have written on numerous occasions to Chairman Brezhnev on his behalf. Further, Mr. Shcharansky's case has been raised officially and at the diplomatic level several times at the Madrid review conference on the Helsinki agreements.

CRUEL AND INHUMAN PUNISHMENT

The flagrant travesty of justice that led to Shcharansky's sentencing was compounded by the outrageous treatment he was subjected to at Chistopol prison and later at a labor camp near Perm. Solitary confinement, a starvation-level diet, and lack of medical attention have left him in a very serious state of ill health, a fact confirmed by those who have managed to visit him in his captivity.

Recently, Mr. Shcharansky was sent back to Chistopol prison for the alleged crime of "considering himself not guilty" of the false charges that resulted in his internment in 1977. After his harsh and degrading experiences in the labor camp, Anatoly Shcharansky now is likely to be subjected to even more brutal conditions while he is held in prison.

Now, 5 years after his arrest, Mr. Shcharansky remains a political prisoner of the Soviet system. Yet, this courageous man still endures, and dreams of one day being reunited in Israel with his wife, Avital. It is my hope that one day Anatoly Shcharansky will be able to realize his dream—until that day let him serve as a reminder to all, of the Soviet Union's failure to honor its human rights obligations.●

NASHVILLE ELECTRIC SERVICE WINS CONSERVATION AWARD

● Mr. SASSER. Mr. President, I would like to honor today a leader—a modern pioneer—in the field of energy conservation and management, the Nashville Electric Service (NES). NES has been awarded first place in the utility energy conservation program competition conducted by the President's Council on Environmental Quality and the Environmental Industry Council. The annual award was given to the utility that demonstrated outstanding technological achievement and leadership in the use of energy conservation programs. NES expanded existing technology for the industry while saving the ratepayers of Nashville significant amounts in their electric bills.

I want to congratulate the Nashville Electric Service for its great achievement. I also want to commend NES general manager Paul Hembree and his special assistant Thomas Green for their foresight and leadership in initiating NES's energy conservation project.

The project which NES has pioneered has been adopted by the Tennessee Valley Authority. This is a significant recognition of success in its own right. but the recognition by the CEQ and the Environmental Industries Council places NES's accomplishments on still a higher level. The national environmental industry awards have been called "the most prestigious in the environmental field," by United Press International.

The Nashville Electric Service's energy conservation program faced the problem of delivering a comprehensive community energy conservation program to a residential user group of over 600,000 people, of which an estimated 15 percent were in severe economic need of energy assistance.

In 1977, before the Federal Residential Conservation Service (RCS) program was established to spread utility involvement in community energy conservation to a national scale, Nashville Electric Service designed a program to provide low-income homeowners, the elderly, and other community residents with the benefits of energy conservation measures and financing.

The project has important technological significance as well. Many customers could afford the necessary investments because NES offered low-interest loans. New people were employed, adding to Nashville's trained labor force. A model solar program for both active and passive solar energy applications particularly adaptable to the Nashville climate was developed in cooperation with TVA.

Again finally, NES initiated a unique outreach and marketing program for home energy conservation measures.

And, I commend Paul, Tom, and NES for their good work.●

NATIONAL PRAYER BREAKFAST IN HONOR OF ISRAEL

● Mr. ARMSTRONG. Mr. President, recently I had the privilege of taking part in the National Prayer Breakfast in honor of Israel, held at the Shoreham Hotel on February 10. Among those who were on hand for this significant occasion were: Dr. Ben Armstrong; the Honorable ROBIN BEARD, U.S. Representative; Mr. John Beckett; Rabbi David Ben-Ami; the Honorable Morton Blackwell; Adviser to the President; Dr. Bill Bright; the Honorable John Conlan, former U.S. Representative; Rabbi Yachiel Eckstein; the Reverend Mike Evans; Mr. John Gilman; the Reverend John Giminez; Mrs. Fob James; Ms. Dorothy B. James; Dr. G. L. Johnson; Mr. Ed McAteer; Mr. Ivan Novick; Dr. Derek Prince; Mr. James Robinson; Dr. Gideon Shomron; the Honorable MARK SILJANDER, U.S. Representative; the Honorable ALBERT LEE SMITH, U.S. Representative; Dr. Bailey Smith; Ms. Kim Wickes; Mr. Bernard White.

Mr. Harry Hurwitz, Minister of Information for the Israeli Embassy, delivered the principal address. It was a message of remarkable candor, insight, and power.

But the most important aspect of the entire event was the "Proclamation Of Blessing," which was signed by most of those who were in attendance. The proclamation sums up succinctly the view of many American Christians whose support for the State of Israel arises not only from practical and political considerations, but also from a far more fundamental spiritual basis. I commend the attention of my colleagues to the proclamation.

PROCLAMATION OF BLESSING

As Bible-believing Americans, we believe there exists an iron-clad bond between the State of Israel and the United States. We believe that bond to be a moral imperative.

Representing the vast majority of evangelicals in the United States, we have gathered together at this National Prayer Breakfast to reaffirm our support and prayers, that this bond not be weakened or diminished.

We agree with the sentiments of our President:

"That a secure, strong Israel is in America's self-interest. Israel is a major strategic asset to America. Israel is not a client, but a very reliable friend."

"To weaken Israel is to destabilize the Middle East and risk the peace of the world, for the road to world peace runs through the Middle East."

We support Israel's right to their land spiritually and legally. History records that God deals with nations in accord with how these nations deal with Israel. We rejoice that here in America, for 206 years, we have been committed to the Jewish people. The Jewish people have found refuge here; they have found a people who love them; and we can take pride in saying that Israel is not an exclusively Jewish issue.

Bible-believing evangelicals consider the support of Israel a biblical mandate. Regardless of contrary opinion, we do not believe Israel has to offer an excuse for its existence. Israel lives today as a right! A right that has been hallowed by the Bible, by history, by sacrifice, by prayer, and by the yearning for peace.

"I will restore the captivity of my people, Israel. . . . I will plant them in their land, and they will not again be rooted out from their land, which I have given them, says the Lord your God." (Amos 9:14, 15)

We believe one of the reasons America has been blessed over the years is because we have stood with Israel. This promise is taken form Genesis 12:3, "I will bless them that bless thee." And so, for biblical reasons first and foremost, we support the State of Israel. For humanitarian reasons we support the Jewish people. For historical reasons, believing that Palestine belongs to the Jewish people, we support the State of Israel. For legal reasons, dating back to 1948, and even further to the establishment of the British Mandate, we believe the land of Palestine belongs to the Jewish people.

Israel and the United States are not separate and distinct—we are one. We share common ideals and common democracy. What unites us across the ocean, and brings Jew and Christian together, is the recognition that Israel is a nation that is a manifestation of what America was and is.

America has a strong interest in the Middle East. We affirm our belief that the nation of Israel is the key to that interest because of our common bonds, our common values, our common belief in social justice, and the godly principles on which our two countries were founded.

In affirmation of these beliefs, we hereby set our hands this 10th day of February, 1982.

ANALYSIS CONCERNING THE LEGISLATIVE VETO

● Mr. BUMPERS. Mr. President, when S. 1080, the Regulatory Reform Act, comes to the Senate floor, I am sure that the concept of legislative veto will be debated at length. The amicus curiae brief filed by the American Bar Association in Immigration and Naturalization Service against Chadha, pending before the Supreme Court, provides a superb analysis of the applicable constitutional and policy issues implicated by the legislative veto concept. The ABA forcefully argues that legislative veto in unconstitutional, and unsound as a matter of policy. I commend this brief to my colleagues in the Senate, and I ask that it be printed in the Record.

The brief follows:

[In the Supreme Court of the United States, October Term, 1981, Nos. 80-1832, 80-2170, 80-2171]

Immigration and Naturalization Service, Appellant, *v.* Jagdish Rai Chadha, *et al.*, Appellees

United States House of Representatives, Petitioner, *v.* Immigration and Naturalization Service, *et al.*, Respondents

United States Senate, Petitioner, *v.* Immigration and Naturalization Service, *et al.*, Respondents

(On appeal from and writs of certiorari to the United States Court of Appeals for the Ninth Circuit)

BRIEF OF AMERICAN BAR ASSOCIATION AS AMICUS CURIAE

The American Bar Association respectfully submits this brief as amicus curiae in support of the position that nullification by one or both Houses of Congress of actions taken by the Executive in execution of a statute is unconstitutional.

Interest of amicus curiae

The interest of the American Bar Association (the "ABA" or the "Association") is set forth in the preceding Motion for Leave to File this brief.

INTRODUCTION

Petitioners have sought to portray this case as involving a unique and disincentive statutory provision which, while falling within a general class called "legislative veto," can only be assessed individually in light of its own peculiar history and purpose. Such an approach, which would eschew any generally applicable basis of decision, ignores the compelling need for guidance by this Court. It would effectively condemn the administrative process to continued impairment by the legislative veto into the indefinite future.

Hundreds of legislative veto provisions have been enacted, most within the last decade. These include one-house vetoes,[1] two-house vetoes,[2] so-called one-and-one-half-house vetoes,[3] what might be called reverse vetoes (i.e., requirements for concurrent resolutions of approval before agency action becomes effective),[4] two-house vetoes by two-thirds vote,[5] even vetoes that alternate from one house to the other[6] or change from one-house to two-house[7] depending on the nature of the issue involved.

As to triggering mechanisms, Congress has enacted veto provisions activated automatically whenever the Executive takes certain action,[8] veto provisions triggered only by disagreement regarding the action between the President and an independent agency,[9] or between the President and one of his subordinates,[10] veto provisions activated by congressional committee disapproval,[11] and even negative veto provisions (requirement of resolution of approval) triggered by congressional committee disapproval.[12]

As to subject matter, some legislative veto provisions affect the very content of legislation, by permitting the President to amend it (absent legislative veto),[13] by eliminating entirely the powers that it confers,[14] by eliminating the powers that it confers on a selective[15] or section-by-section basis,[16] or even by altering (as opposed to merely eliminating) statutory provisions.[17] Those more numerous legislative veto provisions that seek to affect executive application of the law rather than the law itself may apply to the exercise of delegated authority that is merely permissive,[18] or delegated authority that is mandatory,[19] or authority that is not delegated at all but is part of the President's inherent Article II powers (although controllable to some degree by Congress).[20]

As to those whose actions are subject to legislative vetoes, they range from the President, to the President's subordinates, to the heads of independent agencies, to federally chartered corporations, and even to this Court itself (*see* page 20 *infra*).

In urging the Court to regard this case as presenting an individualized determination, petitioners are in effect suggesting that this proliferating collection of legislative veto provisions be inspected and classified one by one, even though only one (Section 244(c)) has been brought to the bar of this Court in the 49 years since enactment of the first such provision. The volume of enacted legislative veto provisions and the increasing exercise of them are a sufficient circumstance for urging the Court's resolution of the underlying issues in this case. It is the ABA's position that the constitutional infirmities of Section 244(c) are neither created by, nor can be validated by, its own peculiar history and purpose, but rather arise from the generic invalidity of the legislative veto device. A decision which recognizes this invalidity can prevent continued harm to our constitutional system in general and our system of administrative law in particular. By correcting Congress's misapprehensions,[21] the Court can eliminate the necessity for the Executive to make, statute by statute, the governmentally disruptive choice of either observing the veto or appearing to disregard the law.

Summary of argument

As shown in the Introduction, there is compelling need for guidance by the Court in this field. Congress has enacted literally hundreds of legislative veto provisions without authoritative determination of their validity. A decision that appropriately sets forth a clear, generally applicable principle to determine the validity of this form of congressional action can eliminate this harmful uncertainty.

As shown in Point I, the legislative veto violates the principle of separation of powers. That doctrine not only protects, but pre-eminently protects, the Executive obligation to "take care that the Laws be faithfully executed." In principle, unilateral congressional control of implementation of a statute represents an impairment of that function. In practice, the effect of the veto—as exemplified by its application to administrative rulemaking—has significantly disrupted the Executive's performance of its function.

As shown in Point II, the legislative veto represents an attempt to avoid the constitutional requirement that legislation be enacted by both houses of Congress and presented to the President for his signature. Whether viewed as involving the invalidation of executive action or the acceptance of executive "recommendations", the legislative veto produces congressional action that is legislative in character and effect. It therefore requires observance of the constitutionally prescribed procedures for legislation.

As shown in Point III, the legislative veto is invalid whether or not, in the particular case, it deprives the President of powers he would otherwise possess, and regardless of whether he acquiesces in, or even urges, its creation. The constitutionally required procedures for legislation were intended not only to protect the Executive from the Congress, but to protect the people from the two branches combined.

As shown in Point IV, there is no unique or irreplaceable legitimate function served by the legislative veto. It is not a necessary, or even an effective, means of assuring appropriate congressional control.

ARGUMENT I

The legislative veto violates the constitutional principle of separation of powers

Both petitioners in this case attempt to portray the central issue, on the merits, as one of separation of powers rather than the observance of constitutionally mandated legislative procedures. The House brief devotes less than three pages to the latter issue (House Br. 39-41), and the Senate brief explicitly states the view that "the fundamental issue in this case, if the merits should be reached, is the separation of powers and not issues of legislative formalities." (Senate Br. 32.) As discussed in Point II below, the ABA does not agree with this analysis, but even if it were correct, the legislative veto is invalid on separation-of-powers grounds alone.

As this Court explained in *Kilbourn v. Thompson*, 103 U.S. 168, 191 (1881):

> * * * "It is * * * essential to the successful working of this system that the persons intrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each shall by the law of its creation be limited to the exercise of the powers appropriate to its own department and no other."

This constitutional principle is of special importance in its application to the Legislative Branch.[22]

> "The legislative department derives a superiority in our governments from other circumstances. Its constitutional powers being at once more extensive and less susceptible of precise limits, it can with the greater facility, mask under complicated and indirect measures, the encroachments which it makes on the co-ordinate departments." *The Federalist*, No. 48, at 334 (J. Cooke ed. 1961) (J. Madison).

A. Governmental Functions Delegated to the Executive Are Protected by the Doctrine of Separation of Powers

The House brief (House Br. 25-26) asserts that the separation of powers doctrine is violated by Congress only if Congress interferes with some executive function other than the obligation to "take care that the Laws be faithfully executed" (Art. II, § 3). This in fact reverses the main thrust of the doctrine. The execution of laws enacted by Congress is the very core of the Executive's responsibility, as the title "Executive" alone should suggest. And it is precisely when the President is executing laws enacted by Congress that the need for clear separation of powers is most pronounced. The passage

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Footnotes at end of article.

from Montesquieu, quoted in The Federalist to provide a "demonstration of the meaning" of separation of powers, reads:

"When the legislative and executive powers are united in the same person or body . . . there can be no liberty, because apprehensions may arise lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner." The Federalist, No. 47, at 326 (J. Cooke ed. 1961) (J. Madison, quoting Montesquieu, The Spirit of Laws) (emphasis in original).

The House and Senate briefs attempt to avoid the force of this principle by seeking to equate it with "the discredited notion that the separation doctrine means total separation of each of the three great functions of government" (House Br. 22; see Senate Br. 34). It is not the same. The issue is not whether, as the House brief puts it (House Br. 24), Congress may "blend and mix" the functions of government. It assuredly may—by delegating to the Executive, for example, functions of a characteristically legislative or judicial nature. Rather, the issue is whether, once functions of whatever nature have been delegated, Congress may continue to exercise and control them unilaterally as though they were still within its own domain. A principle of "blending and mixing" in this sense would amount to a nullification of the doctrine of separation of powers.[23]

Congress may constitutionally confer upon the Executive a wide range of governmental functions, but, once conferred, they are insulated from direct congressional control except through the process of legislation.

B. The Legislative Veto Disrupts Executive Functions

Not all congressional impingement upon executive action violates the doctrine of separation of powers. The test, as expressed by this Court, is whether the congressional action "prevents the Executive Branch from accomplishing its constitutionally assigned functions." *Nixon v. Administrator of General Services,* 433 U.S. 425, 433 (1977).

The result of that test applied to a legislative veto should be clear, since the purpose and effect of the legislative veto is to transfer back to one or both houses of Congress dispositive control of implementation of a statute. Nonetheless, the ABA wishes to call the Court's attention to the concrete, disruptive effects of the legislative veto, particularly in the critical context of agency rulemaking.

Experience with the actual operation of the legislative veto had shown that it produces an *ad hoc,* after-the-fact, piecemeal approach to the formulation of general policy.[24] The veto of a rule belonging to an intergrated regulatory scheme leaves only a void which can distort or even destroy a comprehensive program.[25] It permits Congress to avoid the difficult task of devising an alternative rule, while providing little guidance to an agency seeking to fulfill its statutory mandate.[26]

The legislative veto inevitably increases delay and uncertainty in the administrative process.[27] Such delay infects rulemaking prior to the submission of rules to Congress, as agency staffs engage in protracted, tripartite negotiations with committee staffs of both houses, or as agencies await a politically propitious moment for the submission of rules. In order to avoid the possibility of a rule veto, agencies may choose to formulate their policy through case-by-case adjudication rather than notice-and-comment rulemaking, with consequently reduced guidance to the regulated. Disapproval of a rule halts the process of governing when an agency and either house differ irreconcilably over statutory interpretation or administrative policy. Even agency rules that are not disapproved bear the hidden cost of postponed implementation during the review period. With delay comes uncertainty as to the form and effective date of regulations, a burden borne by all who must plan and act on the basis of governmental decisions.

The legislative veto tends to undermine notice-and-comment rulemaking subject to the safeguards of the APA, replacing it with informal negotiations between the agencies and the staffs of congressional committees.[28] These negotiations can take on a life of their own, leading to the effective, if not readily recognized, amendment of statutes. While apparent power lies in agencies going through the process of public rulemaking, actual power is wielded by committee staffs operating beyond the public eye.

Even if a congressional committee were disposed to review all the agency rules committed to its charge by a legislative veto provision, and even if staff attention were deemed an adequate subsitute for personal consideration by elected representatives, a staff large enough to conduct the task is not likely to be available.[29] In fact, however, congressional intervention through the threat or exercise of a legislative veto has been sporadic and unpredictable, often responding to the political strength of the interests affected by the proposed rule.[30] There is no standard for exercise of a legislative veto and no discipline to assure consistency of treatment from one session of Congress to the next.

The judicial review stage of the rulemaking process is also impaired. When Congress disapproves a rule on the ground that the rule is not in accord with the authorizing statute's intent, it is effect preempts the judicial review function. Moreover, when a court reviews under Section 706 of the APA a rule that has passed challenge in the Congress, the court will be reluctant to apply normal standards—perhaps appropriately so if petitioners' theory that the failure to veto constitutes congressional "acceptance" of a "recommendation" is to be credited.

Some examples of the legislative veto in operation make these adverse effects clear:

1. In *Nixon* v. *Administrator of General Services,* 433 U.S. 425 (1977), this Court had before it the Presidential Recordings and Materials Preservation Act, Title I, 88 Stat. 1695, 44 U.S.C. § 2107 note (1974). The act required the Administrator of General Services to submit to Congress proposed regulations governing public access under the act and provided that they would be ineffective if disapproved by either house.

Notwithstanding the Administrator's compliance with the requirement that he submit the proposed regulations within 90 days of the enactment of the act, no regulations were yet in effect two and one-half years later when this Court rendered its opinion. The Court described the genesis of this deadlock as follows:

. . . "The initial set [of regulations] proposed by the Administrator was disapproved pursuant to § 104(b)(1) by Senate Resolution. . . . The Senate also disapproved seven provisions of a proposed second set, although that set had been withdrawn. . . . The House disapproved six provisions of a third set. . . . The Administrator is of the view that regulations cannot become effective except as a package and consequently is preparing a fourth set for submission to Congress." 433 U.S. at 437 (citations omitted).

2. Another example of the actual workings of the legislative veto is provided by the Federal Election Campaign Act of 1971,[31] as amended by the Federal Election Campaign Act Amendments of 1974.[32]

By the time of this Court's decision in *Buckley* v. *Valeo,* 424 U.S. 1 (1976), holding that the appointment of four members of the Federal Election Commission by Congress pursuant to the 1974 amendments violated the doctrine of separation of powers,[33] the Federal Election Commission had already produced rules to implement the 1974 amendments. One of these had provided for initial filing of reports of contributions and expenditures with the Commission, with copies to be forwarded to the Senate and the House. The House had vetoed that proposed rule on the ground that it conflicted with the provision of Section 438(d) of the act that reports were to be "received by" the Clerk of the House and the Secretary of the Senate "as custodian for the commission."[34]

The Commission has also proposed a rule to the effect that contributions received by an incumbent federal officeholder to defray the costs of office were subject to the statutory limitations on contributions and expenditures. 40 Fed. Reg. 32951 (1975). A Senate committee had criticized this, whereupon the Commission had submitted a revised proposal.[35] This had been rejected by the Senate,[36] its committee having concluded that the Commission "may have exceeded" its statutory authority.[37]

When the Federal Election Commission was reconstituted after this Court's decision in *Buckley* v. *Valeo,* it proposed new regulations and held a series of informational meetings in various regions of the country, as well as formal hearings. Nevertheless, because of the legislative veto provisions, no regulations had become effective by the time of the 1976 election:

"Despite the FEC's careful preparation, or perhaps because of it, the proposed regulations were again negated by Congress. This time, however, there was no open vote on a veto resolution in one of the houses of Congress, but a legislative version of the 'pocket veto.' When the Ninety-Fourth Congress adjourned sine die on October 1, 1976, The FEC's rules had lain before it for only twenty-eight of the required thirty legislative days. Congress had rejected requests by the Commission that it remain in session for two more days so that the rules could take effect before the 1976 elections; thus the rules were left in limbo." Bruff & Gellhorn, Congressional Control of Administrative Regulation: A Study of Legislative Vetoes, 90 Harv. L. Rev. 1369, 1408 (1977) (footnotes omitted).

3. The history of energy-related legislation provides further examples of the paralysis of executive action which is effected by the legislative veto. For instance, the Emergency Petroleum Allocation Act of 1973, Pub. L. No. 93-159, 87 Stat. 627 (1973), gave the Executive Branch power to exempt certain petroleum products from allocation and price controls, subject to a legislative veto. For nearly two years, repeated attempts by the Executive to exercise this delegated authority were frustrated by the threat and exercise of this veto power. See Bruff & Gellhorn, Congressional Control of Administrative Regulation: A Study of Legislative Vetoes, 90 Harv. L. Rev. 1369, 1390-92

(1977). Finally, Congress resolved the issue by legislation. Id. at 1392.

In sum, experience with operation of the legislative veto, as it has proliferated in the field of administrative rulemaking during the last decade, has amply demonstrated that it prevents the Executive Branch from performing its constitutionally assigned functions. A fortiori, the legislative veto can be expected to have a disruptive effect when applied to administrative adjudicatory actions, as in this case now before the Court.

II

The legislative veto is an invalid attempt to avoid the legislative procedures mandated by the Constitution

Even though the legislative veto is invalid on separation-of-powers grounds alone, that doctrine is not—contrary to petitioners' assertions—the sole issue in this case. That issue arises only *as a result* of Congress's failure to observe what petioners refer to (and dismiss) as "legislative formalities." No one contends that Congress' enactment of a *law* rescinding an agency rule or even revoking an agency order would be unconstitutional insofar as the doctrine of separation of powers is concerned (although issues might be presented under the ex post facto or bill of attainder clauses). Congress has acknowledged power to make or change the programs and policies to be implemented by the Executive, and the only issue is *how* it may do so. the other constitutional points raised by respondents below (evasion of the presidential veto and of the requirement of bicamerality) also turn upon the observance of "legislative formalities." Ultimately, the central issue with respect to the legislative veto is when Congress must follow the procedures for legislation set forth in the Constitution.

During the 145 years of our national history before enactment of the first legislative veto provision (and perhaps the more than 175 years before the first exercise of a legislative veto) it was quite clear when "legislative formalities" had to be observed. As the Senate Judiciary Committee stated in 1897, all of them—not only the requirement of presidential participation, but also the requirement of concurrent action by the two houses—must turn "not upon [the] mere form [of the resolutions], but upon the fact whether they contain matter which is properly to be regarded as *legislative in its character and effect.*" S. Rep. No. 1335, 54th Cong., 2d Sess. 8 (1897) (emphasis added).

A. The Invalidation of Executive Action Is Legislative in Character and Effect

The invalidation by Congress of executive action—whether in suspension of deportation or issuance of binding regulations—is action by Congress that is "legislative in its character and effect". The major proportion of federal legislation consists of authorization for executive action; and elimination or repeal of that authorization is a legislative act as well. The legislative veto consists of an announcement in a statute authorizing executive action that Congress reserves the right to eliminate that authorization by a means other than plenary legislation. The announcement might appear plausible in that Congress does not have to confer the authorization in the first place—so it would seem Congress may confer it with such limitations as it desires. In law, however, the greater does not always include the lesser. The power to withhold does not import unrestricted power to condition the grant. Congress may, for example, refuse entirely to fund a particular program, but if it chooses to do so it may not limit the beneficiaries to whites, or to Republicans, or in any other fashion that would violate constitutional prescriptions.[39] So also here. To affirm that Congress in a case such as this may withhold the immigration parole power from the Executive is not to establish that it may grant that power with the limitation that it be controlled or withdrawn in an unconstitutional fashion.

In its particular application to rulemaking, the legislative veto is sometimes defended on the ground that the congressional action need not follow constitutional requirements for legislation because it makes no change in the law. To the contrary, it is asserted, vetoing a rule prevents a change of law from occurring. This argument does not use the ambiguous term "law" in the relevant sense. Used in one sense, law is the body of governmental prescriptions binding upon the public, including agency rules—so that violation of a valid INS regulation is said to be a "violation of law". Used in another sense, law connotes only those prescriptions that are the work of Congress, many of which empower or restrict the Executive Branch of government but do not affect citizens directly—so that a valid INS regulation is said to be "authorized by law". It is possible to "change the law" in one of these senses without changing it in the other, but only a change in the legislature-made sense is relevant to the need for the constitutionally prescribed procedures. Thus, when an agency issues a new regulation, the law is not changed in the legislature-made sense even though there is a change in the law that binds the public. On the other hand, when Congress repeals a rulemaking authorization, the law is changed in the legislature-made sense even though the law binding upon the public may be unaffected—as would be the case if the rulemaking authorization had not been used by the authorized agency.

The exercise of a legislative veto makes the same sort of change in legislature-made law as repeal of a rulemaking authorization, because forestalling implementation of a valid rule is equivalent to rescinding the statutory authorization for that rule. While in the enabling statute that confers authorization for the rule Congress can give notice (through inclusion of a legislative veto provision) that it reserves the unilateral right to rescind, the exercise of a legislative veto is no less a rescission, no less a "change in the law" in the relevant sense. Congress' advance specification that it intends to disregard constitutionally required procedures in no way renders that disregard more pemissible. *Cf. Smith v. Maryland*, 442 U.S. 735, 741 n. 5 (1979).

B. The Acceptance of Executive Recommendations Is Legislative in Character and Effect

Petitioners advance another interpretation of the legislative veto provisions at issue in this case. According to the House brief, "[a]t no point . . . has Congress delegated to the Attorney General or the INS any final power to determine which illegal aliens shall be allowed to remain in the United States . . . Congress has retained that power unto itself". (House Br. 28) The Senate brief argues that "[t]he nature of the Attorney General's role" is "recommendatory", and in accepting or rejecting the Attorney General's "recommendation", "the Congress exercises its own judgment whether permanent residence should be granted." (Senate Br. 29, 30)

Such a characterization is not consistent with the language and structure of Section 244(a), delegating the power of status determination to the Attorney General.[40] Even if it were, however, there is no reason why it would alter the case. It amounts to an admission that the very same congressional "judgment whether permanent residence should be granted", which used to be made through the normal legislative process in the consideration of private bills, is now made through the legislative veto process. It is impossible to understand how that action can be "legislative in its character and effect" in one instance but not in the other.

To put the matter another way, what—other than Congress's own fiat in Section 244(c)—permits Congress to accept the Attorney General's "recommendation" through pure inaction, though it can only accept the recommendations of its own staff through the enactment of legislation? Or may it extend this technique to the recommendations of its staff as well? The idea is not as far-fetched as it might seem. Since its relatively recent birth in 1932, the legislative veto has been progressively extended from action (or "recommendation") by the President,[41] to action by his subordinates (e.g., the legislation at issue in the present case, involving action by the Attorney General), to action by independent agencies,[42] to action by this Court (the legislative veto of Court-adopted amendments to the Federal Rules of Evidence [43]), to action by a federally chartered corporation that is a federal instrumentality,[44] to action by a federally chartered corporation that is not a federal instrumentality.[45]

In short, neither of petitioners' suggested theories suffices to explain why the legislative veto is entitled to dispensation from normal legislative procedures. Viewed as a device to elicit executive "recommendations" to Congress, it runs afoul of the requirement for the constitutionally prescribed procedures when those recommendations are accepted. And viewed as a delegation subject to defeasance, it runs afoul of the requirement for the constitutionally prescribed procedures when the action effecting defeasance is taken. Nor does it save the veto process in the present case to describe it as "nothing more than a request for legislative mercy". (House Br. 40) Legislative mercy, like legislative justice, or for that matter legislative severity, must be meted out by legislation.

III

The legislative veto unconstitutionally augments the combined power of the executive and legislative branches

There runs through the House and Senate arguments in this case—as there runs through most arguments seeking to justify the legislative veto—the notion that, after all, the Executive is not really harmed. "Section 244," the Senate brief asserts (Senate Br. 28), "augments, and in no manner infringes upon, executive power." Before 1940, after all, the Executive had no role (except through the President's participation in the legislative process) in the canceling of deportations; now, it has "the important but limited role of suspending deportations and reporting to the Congress." (Senate Br. 29) Moreover, since the cancellation only occurs when the President (who, through the Attorney General, proposes it) and both houses (which, through failure to veto, approve it) agree, it is in effect legislation in reverse. Therefore the Executive is not harmed; therefore the principle of separation of powers is not violated; and therefore the device is constitutional.

It is not clear, however, that as a general matter the Executive is not harmed by the legislative veto. Viewed in a realistic fashion, it is impossible to say that the device does not profoundly affect the balance of powers between the first two branches. With respect to the vast majority of executive authorizations to which the legislative veto has been attached, the choice is not between no executive authorization and executive authorization with a legislative veto. Congress has, to be sure, the power to withhold the authorization unless the veto is attached to it; but as a practical matter it will not often do so. For example, the realistic choice is not whether the Environmental Protection Agency will have rulemaking functions with the legislative veto attached or no rulemaking functions at all; it is whether EPA rulemaking, which is sure to exist, will or will not be encumbered by the veto. The same may be true of the Attorney General's function at issue in the present case.

But even if the Executive were not harmed, the legislative veto would nonetheless distort our system of government. The "legislative formalities" set forth in the Constitution, which in Article I, Section 7 give the President a role in the legislative process, do serve to protect the Executive against encroachment upon his powers. More importantly, however, those formalities were designed to protect the people. The damage done to the people by ignoring them happens to be greatest when the damage done to the Executive is least—that is, when it is indeed true that if the President had not received the delegated authority subject to a legislative veto he would not have received the authority at all. In these situations, Congress and the Executive sometimes have combined to erect a structure that will deprive the people of their democratic right to have their representatives vote on major, often controversial, changes from the status quo—changes which Congress has not unconditionally approved, but which it later approves by inaction, in declining to veto the Executive's "proposal."

Congress may "reserve the decision to itself" instead of committing it to the Executive, but if Congress considers the decision that important, then when it decides, it must do so with observance of legislative formalities that include not merely Presidential participation in its decision (through Article I, Section 7) but also affirmative action by both houses. The Founding Fathers were not unaware that this was a cumbersome process, in which the forces of factionalism, regionalism, institutional jealousy and personal ambition would render legislative action difficult. But they regarded it as a necessary assurance against not merely the weakening of Executive authority but also the impairment of minority rights and, quite simply, ill-considered legislation.

"Another advantage accruing from this ingredient [of equal State representation] in the constitution of the senate, is the additional impediment it must prove against improper acts of legislation. No law or resolution can now be passed without the concurrence first of a majority of the people, and then of a majority of the states. It must be acknowledged that this complicated check on legislation may in some instances be injurious as well as beneficial. . . . But . . . as the facility and excess of law-making seem to be the diseases to which our governments are most liable, it is not impossible that this part of the constitution may be more convenient in practice than it appears to many in contemplation." *The Federalist*, No. 62, at 417 (J. Cooke ed. 1961) (J. Madison).

The Constitution does not provide that this cumbersome, bicameral, affirmative legislative process can be avoided, or converted into a process of mute legislation, by an Act of Congress "reserving its decision", nor even by mutual agreement between the Legislative and Executive Branches.

IV

The legislative veto is not a needed means of congressional control

Evaluation of the legislative veto's constitutionality should not be influenced by the mistaken belief that it is an essential device of modern government.

Petitioners contend that Section 244(c) is one of the "hybrids that work"; that it has "benefited thousands of deportable aliens over the past forty years"; and that it has "served an entirely beneficial purpose." (Senate Br. 24) But if, as petitioners suggest, that purpose were merely to permit congressional acceptance of executive "recommendations," could not those recommendations have been presented in the form of proposed bills as the Constitution envisions? The houses of Congress could even modify their procedures to permit expedited consideration of such recommendations, so that the proposed bills would be (almost always) routinely passed—just as under Section 244(c) the legislative veto is (almost always) routinely not exercised. Nothing of substance would be lost except the ability of Congress, under the present arrangement, to "accept" the recommendations without acting upon or even considering them.

In the present era of broad delegation of rulemaking authority to administrative agencies, the legislative veto is sometimes portrayed as an indispensable means of reasserting the power of a Congress that is displeased with agency excesses but that has no means available for "getting control of the bureaucracy." This portrayal, while generous in its treatment of Congress, is not accurate. Congress has at hand numerous means of control. It may, of course, legislate with more specificity in the first place. It may reverse agency rules by legislation—a course it pursued, for example, with respect to Department of Transportation automobile seatbelt requirements.[46] It may by legislation stay agency rulemaking and restrict agency authorization—a course it pursued recently with respect to the Federal Trade Commission.[47] It may decline to authorize or appropriate funds for agency rulemaking that it disapproves.[48] Instead of conferring authority to promulgate rules, it may confer authority to propose legislation—which was the power it originally granted to the Federal Trade Commission.[49] Or it may subject rulemaking to a "report and wait" provision, requiring the rule's effective date to be delayed for a specified period, during which Congress may act to stay or reverse it.[50]

Besides these direct means of congressional control, many indirect means are available. The reality of government is that every item for which an agency requires congressional action—from authorization for new programs, to funding for old ones, to appointment of new officials—can be made the occasion for congressional influence upon any activities of the agency. The agency's continuing dependency upon Congress assures that congressional reports and investigations, committee recommendations, speeches on the floor, even suggestions from individual members of the agency's oversight or appropriations committees, are rarely ignored. In short, the notion that the legislative veto fills some gap in Congress's power to perform its legitimate functions is without foundation.

While there may be problems in Congress's monitoring of the administrative government it has created, those problems appear traceable not to a lack of adequate means but to (1) the sheer volume and diversity of broad authority delegated to a multitude of specialized agencies,[51] and (2) the compartmentalized nature of the congressional committee structure, which generally requires legislation pertaining to an agency to be brought to the floor by a committee and staff whose point of view is likely to be as specialized as that of the agency itself. Far from solving these problems, the legislative veto may well aggravate them. Its existence serves to encourage broader and vaguer delegations by the implicit promise (which, as a practical matter, can rarely be redeemed) that actions pursuant to those delegations will be scrutinized by Congress; and its major effect is augmentation of the power of congressional committees and their staffs.[52]

CONCLUSION

A member of Congress might vote for a legislative veto of executive action on one or more of three grounds, each of which demonstrates the constitutional defect in its exercise:

1. He might wish to veto the executive action because he believes that action to be contrary to or in excess of the legislated intent of the Congress that passed the original statute; but that is to say that the executive action is violative of law—an interpretive function which belongs to the courts and not to the legislature.

2. He might wish to veto the executive action because, although he believes that action to be in accord with the legislated intent of the original statute and therefore not unlawful, he simply disagrees with the manner in which the executive's discretion under that statute has been exercised; but that is usurping the Executive's authority under the original statute (and it can surely make no difference that Congress served notice in the original statute that it intended to usurp).

3. He might wish to veto the executive action because he believes the legislated intent of the Congress which passed the original statute is, in the light of experience, unwise and that the scope of the Executive's discretion should be altered; but that requires an act of legislation which must observe the required constitutional "formalities".

For these reasons, The American Bar Association, as *amicus curiae*, respectfully requests that the Court affirm the judgment entered by the United States Court of Appeals for the Ninth Circuit on December 22, 1980.

Dated: January 8, 1982.

Respectfully submitted,

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Richard B. Smith,
Attorneys for American Bar Association as Amicus Curiae.

FOOTNOTES

[1] *See, e.g.*, Federal Election Campaign Act Amendments of 1974, §209(c), 88 Stat. 1287, 2 U.S.C. §438(c) (1974).

[2] *See, e.g.,* Federal Trade Commission Improvements Act of 1980, § 21, 94 Stat. 374, 15 U.S.C. § 57a-1 (1980).

[3] *See, e.g.,* Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 1207(a), 95 Stat. 718 (1981) (veto by one house invalidates executive action unless other house affirmatively approves).

[4] *See, e.g.,* Export-Import Bank Amendments of 1974, § 8, 88 Stat. 2336, 12 U.S.C. § 635e(b) (1975).

[5] *See, e.g.,* Trade Agreements Extension Act of 1958, Pub. L. No. 85-686, § 6, 72 Stat. 676 (1958), reduced to a simple majority of each house by Trade Expansion Act of 1962, § 351(a)(2)(B), 76 Stat. 899, 19 U.S.C. § 1981(a)(2)(B) (1962).

[6] *See, e.g.,* Federal Election Campaign Act Amendments of 1974, § 209(c), 88 Stat. 1287, 2 U.S.C. § 438(c) (1974).

[7] *Compare, e.g.,* District of Columbia Self-Government and Governmental Reorganization Act, Pub. L. No. 93-198, § 602(c) (1), 87 Stat. 814 (1973) (certain District actions subject to disapproval by both houses acting concurrently), *with id.* at § 602(c) (2) (other District actions subject to disapproval by either house acting alone).

[8] See, for example, the legislative veto at issue in the present case.

[9] *See, e.g.,* Trade Agreements Extension Act of 1958, Pub. L. No. 85-686, § 6, 72 Stat. 676 (1958). According to the Senate Committee report, "[t]he committee did . . . agree that Congress might well be the adjudicator when the President differs with the Tariff Commission, especially since the original constitutional responsibility and jurisdiction is vested in the Congress." S. Rep. No. 1838, 85th Cong., 2d Sess. 4 (1958).

[10] *See, e.g.,* Department of Defense Appropriation Authorization Act of 1975, § 709(c), 88 Stat. 408, 50 U.S.C. app. § 2403-1(c) (1975) (President may approve export application, despite Secretary of Defense's contrary recommendation, unless Congress adopts concurrent resolution of disapproval).

[11] *See, e.g.,* Department of Defense Reorganization Act of 1958, Pub. L. No. 85-599, § 3, 72 Stat. 514 (1958).

[12] *See, e.g.,* Colorado River Basin Salinity Control Act, § 208(a), 88 Stat. 274, 43 U.S.C. § 1598(a) (1974).

[13] *See, e.g.,* Act of June 30, 1932, ch. 314, § 407, 47 Stat. 414 (1932).

[14] *See, e.g.,* Act to Promote the Defense of the United States, ch. 11, 55 Stat. 32 (1941).

[15] *See, e.g.,* Mutual Defense Assistance Act of 1949, ch. 626, § 405(d), 63 Stat. 718 (1949).

[16] *See, e.g.,* The Defense Production Act of 1950, ch. 932, § 716(c)(2), 64 Stat. 822 (1950).

[17] *See, e.g.,* Universal Military Training and Service Act, Pub. L. No. 82-51, § 1(j), 65 Stat. 80 (1951).

[18] *See, e.g.,* the authority at issue in the present case, which may be exercised by the Attorney General "in his discretion". Immigration and Nationality Act, § 244(a), 66 Stat. 216, 8 U.S.C. § 1254(a) (1952).

[19] *See, e.g.,* Presidential Recordings and Materials Preservation Act, § 104, 88 Stat. 1696, 44 U.S.C. § 2107 note (1974).

[20] *See, e.g.,* War Powers Resolution, § 5(b), 87 Stat. 556, 50 U.S.C. § 1544(b) (1973).

[21] The absence of any decision by this Court that the legislative veto is unconstitutional has been argued in Congress to be an indication that the legislative veto is constitutional. *See, e.g.,* S. Rep. No. 96-184, 96th Cong., 1st Sess. 18 (1979) (additional views of Senators Schmitt and Goldwater):

. . ."It is clear, however, that if [the legislative veto] were unconstitutional, we would surely know it by now: since 1932, Congress has enacted over 295 provisions of law with legislative review or veto powers. On those occasions where the veto has been challenged in court, it has not been ruled unconstitutional."

[22] "Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them . . . ." *Springer v. Philippine Islands,* 277 U.S. 189, 202 (1928).

[23] Such unilateral congressional control is impermissible whether or not the delegated functions are of a characteristically legislative or judicial nature. In *Buckley v. Valeo,* 424 U.S. 1 (1976), the Federal Election Commission's "broad administrative powers" (*id.* at 140), including rulemaking, though conceded to be "more legislative and judicial in nature than . . . the Commission's enforcement powers" (*id.* at 140-141), were nonetheless held to trigger the President's exclusive constitutional prerogative to appoint "officers of the United States" within the meaning of Article II, section 2, clause 2 of the Constitution. The approach of that case is inconsistent with the notion that the Constitution's structural division of powers is somehow altered when "blended and mixed" functions are at issue.

[24] *See, e.g.,* symposium, *1976 Bicentennial Institute—Oversight and Review of Agency Decisionmaking,* 28 Ad. L. Rev. 569, 581 (1976) (statement of Roderick M. Hills, Chairman of the SEC); *id.* at 671, 698-699 (statement of Marcus A. Rowden, Commissioner, Nuclear Regulatory Commission).

[25] *See, e.g.,* Senate Committee on Government Operations, *Study on Federal Regulation II: Congressional Oversight of Regulatory Agencies,* S. Doc. No. 26, 95th Cong., 1st Sess. [hereinafter *"Study on Federal Regulation II"*] 120 (1977); 122 Cong. Rec. 31639 (Sept. 21. 1976) (remarks of Representative Anderson).

[26] *See, e.g., Study on Federal Regulation II* at 120 (testimony of Lloyd N. Cutler).

[27] *See, e.g.,* 126 Cong. Rec. S1090 (Feb. 6, 1980) (remarks of Senator Muskie), *Study on Federal Regulation II,* at 118-19; *Hearings on S. 2258, S. 2716, S. 2812, S. 2878, S. 2903, S. 2925, S. 3318, and S. 3428 Before the Senate Committee on Government Operations,* 94th Cong., 2d Sess. [hereinafter *"S. 2258 Hearings"*] 545 (1976) (statement of Roderick M. Hills, Chairman of the SEC); Bruff & Gellhorn, *Congressional Control of Administrative Regulation: A Study of Legislative Vetoes,* 90 Harv. L. Rev. 1369, 1379-80, 1397, 1400 (1977); McGowan, *Congress, Court, and Control of Delegated Power,* 77 Colum. L. Rev. 1119, 1146-47 (1977).

[28] *See, e.g.,* 126 Cong. Rec. S1096 (Feb. 6, 1980) (remarks of Senator Ford); Bruff & Gellhorn, *Congressional Control of Administrative Regulation: A Study of Legislative Vetoes,* 90 Harv. L. Rev. 1369, 1377-78, 1404, 1412-14, 1417-20 (1977).

[29] *See, e.g.,* 126 Cong. Rec. S1080 (Feb. 6, 1980) (remarks of Senator Hart); *id.* at S1095 (remarks of Senator Ribicoff); 122 Cong. Rec. 31636 (Sept. 21, 1976) (remarks of Representative Frenzel), *id.* at 31639 (remarks of Representative Bingham); Bruff & Gellhorn, *Congressional Control of Administrative Regulation: A Study of Legislative Vetoes,* 90 Harv. L. Rev. 1369, 1415 (1977); McGowan, *Congress, Court, and Control of Delegated Power,* 77 Colum. L. Rev. 1119, 1146, (1977).

[30] *See, e.g.,* 126 Cong. Rec. S1080 (Feb. 6, 1980) (remarks of Senator Hart); *id.* at S1081 (remarks of Senator Biden); 122 Cong. Rec. 31639 (Sept. 21, 1976) (remarks of Representative Bingham); *S. 2258 Hearings,* at 496 (statement of Karl E. Bakke, Chairman of the FMC), *id.* at 547 (statement of Roderick M. Hills, Chairman of the SEC).

[31] Pub. L. No. 92-225, 86 Stat. 3 (1972).

[32] Pub. L. No. 93-443, 88 Stat. 1263 (1974).

[33] The Court expressly noted that it was not passing upon the constitutionality of the legislative veto provisions of the 1974 amendments. 424 U.S. at 140 n.176.

[34] H.R. Res. No. 780, 94th Cong., 1st Sess.; 121 Cong. Rec. 33664-74, 33699 (1975).

[35] S. Rep. No. 94-409, 94th Cong., 1st Sess. 2 (1975).

[36] S. Res. No. 275, 94th Cong., 1st Sess.; 121 Cong. Rec. 31776 (1975).

[37] S. Rep. No. 94-409, 94th Cong., 1st Sess. 3 (1975).

[38] 41 Fed. Reg. 21571, 21591 (1976).

[39] *See, e.g., Sherbert v. Verner,* 374 U.S. 398 (1963).

[40] In this case, the Attorney General suspended deportation pursuant to subsection (a) of Section 244, 8 U.S.C. § 1254, which provides, in part:

. . . "[T]he Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien who applies to the Attorney General for suspension of deportation and—

(1) is deportable . . .; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship of the alien . . ."

The House of Representatives then vetoed the Attorney General's suspension order pursuant to subsection (c) of Section 244, which states:

"(2) In the case of an alien specified in paragraph (1) of subsection (a) of this section—

if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings."

[41] *See* Act of June 30, 1932, ch. 314, 47 Stat. 414 (1932).

[42] *E.g.,* Federal Trade Commission Improvements Act of 1980, Pub. L. No. 96-252, 94 Stat. 374 (1980).

[43] *See* Federal Rule of Evidence 1102, 28 U.S.C. § 2076 (1975).

[44] *See* Pennsylvania Avenue Development Corporation Act of 1972, Pub. L. No. 92-578, 86 Stat. 1266 (1972).

[45] *See* Section 8 of the Amtrak Improvement Act of 1975, Pub. L. No. 94-25, 89 Stat. 90 (1975).

[46] *See* Motor Vehicle and Schoolbus Safety Amendments of 1974, Pub. L. No. 93-492, 88 Stat. 1470 (1974).

[47] *See* Federal Trade Commission Improvements Act of 1980, §§ 7, 11, 19, Pub. L. No. 96-252, 94 Stat. 374 (1980).

[48] *See, e.g.,* Act Making Appropriations for the Departments of Labor, and Health, Education, and Welfare, and Related Agencies for Fiscal Year 1974, Pub. L. No. 93-192, 87 Stat. 746 (1973).

[49] Act to Create a Federal Trade Commission, § 6(f), 38 Stat. 717 (1914).

[50] *See, e.g.,* Act to Amend the Education of the Handicapped Act, § 620(b), 89 Stat. 773, 20 U.S.C. § 1411 note (1975). This was a technique used by Congress when it acted through legislation to stay, and ultimately to revise in some respects, this Court's proposed Rules of Evidence, *Compare* Act of March 30, 1973, Pub. L. No. 93-12, 87 Stat. 9 (1973), *with* Act of Jan. 2, 1975, Pub. L. 93-595, 88 Stat. 1926 (1975).

[51] *See* ABA Commission on Law and Economy, *Federal Regulation: Roads to Reform,* ch. 5 (1979).

[52] *See generally* Bruff & Gellhorn, *Congressional Control of Administrative Regulation: A Study of Legislative Vetoes,* 90 Harv. L. Rev. 1369 (1977).●

THE USE OF SAFE HARBOR LEASING

● Mr. DOLE. Mr. President, yesterday's Wall Street Journal and today's Washington Post carry stories describing the use of safe harbor leasing by General Electric Co. Safe harbor leasing will allow General Electric to reduce its taxes from $330 million to no more than $60 million—a reduction of over 80 percent. That $60 million of tax will be paid on income of $1.65 billion, an effective rate of 3.6 percent.

This example confirms what many of us have anticipated for some time—the current safe harbor leasing rules are an enormous windfall to many high-income lessors. In remarking this, I do not mean to castigate General Electric Credit Corp., the leasing arm of GE, or to single it out for public criticism. GE only took advantage of the existing law. Indeed, at that time repeal or substantial limitation of safe harbor leasing had not yet emerged as the most likely outcome of our further congressional review. The situation is different now. I stand behind my statement on February 19, that corporations entering into such transactions after that date do so at their own risk.

I ask that the Wall Street Journal and Washington Post articles be included in the RECORD.

The articles follow:

[From the Wall Street Journal, Mar. 15, 1982]

GE's Huge Tax-Leasing Benefits Expected To Heighten Controversy Over 1981 Law

(By Scott R. Schmedel)

New York.—When General Electric Co., which earned $1.65 billion in 1981 as the biggest U.S. electrical manufacturer, files its federal income-tax return Sept. 15, it may have a bit of a surprise for Uncle Sam:

GE expects to pay 1981 taxes of $50 million to $60 million, compared with $330 million for 1980.

And it will claim a refund of more than $150 million of taxes for prior years, mainly for 1978.

Refunds are rare for GE and refunds of that size are rare for anyone.

The source of the largesse is the $425 million in investment tax credits that GE piled up in 1981. About one-third of the credits stem from a GE subsidiary's avid participation in the purchase of tax benefits under the 1981 tax act's controversial tax-leasing provision.

In the hands of the critics of tax-benefit-transfer leasing, the disclosure of its value to GE is likely to become a political Molotov cocktail, although a GE official says the company simply has carried out the economic purpose of the new law.

The seven-month-old leasing provision is under fire because of congressional desires to raise tax revenue and shrink President Reagan's projected budget deficits. Leasing also has become a symbol to critics who charge the administration's tax cut last year was too generous to business.

Both the Senate Finance Committee and the House Ways and Means Committee are about to consider widely supported proposals to trim back the leasing provision. The Senate panel's chairman, Robert Dole (R., Kan.), announced last month that he would seek repeal and warned businessmen to beware of making new deals.

The Treasury, which insists that tax leasing is essential to its program to stimulate capital spending for equipment, is due before the end of the month to deliver its first analysis of the results of leasing so far.

Tax leasing mainly was intended to help companies that don't make a profit, or not enough to take advantage of the accelerated-depreciation provisions of the tax cut. The new law lets them keep title to new equipment, but "sell" the tax breaks to affluent concerns for cash representing a chunk of the tax breaks. The buyers become nominal lessors and gain the bulk of the benefits over a period of years.

Criticism of leasing arose partly because rich concerns such as Occidental Petroleum Corp. that pay low U.S. taxes because of foreign credits also have sold unusable tax benefits for cash.

GE, however, is a wealthy buyer. It increased its net income in 1981 by 9% from 1980's on a 9% rise in sales to $27.24 billion. Its subsidiary General Electric Credit Corp. already was one of the biggest factors in the conventional-lease business. The GE annual report issued Friday shows that in 1981, GE Credit bought $1.9 billion of equipment through conventional leases; that's about a 42% increase from $1.2 billion in 1980.

GE Credit jumped into tax leasing last fall with all fours. Only some of the effects of tax leasing are indicated by the GE annual report. More information was made available in an interview with John F. McCoy, manager, tax accounting operation, for Fairfield, Conn.-based GE. Mr. McCoy disclosed that GE Credit in 1981 acquired an additional $1.4 billion of equipment through tax-benefit-transfer transactions with such concerns as Chrysler Corp. that couldn't use the new tax benefits.

GE's $425 million in 1981 investment credits represents 10% of the $3.3 billion of equipment that GE Credit acquired through tax and conventional lease transactions, plus the $95 million credit that GE gets on equipment it bought for its own use. The total was far more than GE could absorb in 1981. Tax law limits the credits offset to 80% of a company's precredit tax liability; the excess credits may be carried back to the three prior years or carried forward up to 15 years.

GE's annual report shows some tax data, but it doesn't show the expected refund or how much GE expects to pay in 1981 taxes on the corporate-return deadline of Sept. 15. Mr. McCoy wouldn't disclose the figures, either. But he said an industry report of a $200 million refund was "somewhat overstated" and that a figure of more than $150 million would be "in the ballpark."

The refund is derived from excess credits carried back and "substantially all" applied to 1978 payments, Mr. McCoy said. Although about a third of the total credits came from tax leasing, Mr. McCoy cautioned that it wouldn't be accurate to say that a third of the refund would come from that source, because he couldn't say which credits would be applied to which years.

The amount carried back indicates GE was able to apply less than $275 million of credits to its 1981 tax liability. From that, and figures in the annual report, it was estimated that GE's 1981 tax payment would be $50 million to $60 million.

Mr. McCoy didn't dispute the number, which is $270 million to $280 million less than the $330 million federal tax GE paid for 1980. But he said the difference is "roughly equal" to the amount GE Credit paid to seven large and needy corporations for tax leases.

The seven were Chrysler, Amtrak (National Railroad Passenger Corp.), Pan American World Airways Inc., UAL Inc., Phelps Dodge Corp. and two electric utilities.

"These are the kind of companies the leasing law is trying to help," Mr. McCoy said.

Moreover, he noted, the big refund check from the Treasury won't pad GE's wallet; it will partly offset the $300 million to $400 million that GE shelled out to the sellers of the tax benefits. He said GE paid 20% to 30% of the value of the acquired equipment for the benefits. That covered the 10% investment credit and part of the depreciation write-offs "that flowed through to the sellers," he added.

"The incentive in tax leasing for the lessor isn't in cutting taxes in the first year, because the initial benefit has been passed along to the sellers," Mr. McCoy continued. "The economic benefit to GE has yet to come. It will come in future years from the depreciation."

Proponents of tax leasing argue that it doesn't create extra tax benefits; it simply distributes existing benefits that otherwise wouldn't be used. The short-term impact of the GE refund check, however, may lessen their long-term chances to prove their case.

[From the Washington Post, Mar. 16, 1982]

GE Gets Tax Refund on Billions Profit

(By Thomas B. Edsall)

General Electric, which had pretax earnings of $2.66 billion in 1981, capitalized so successfully on the bill Congress passed last year letting corporations buy and sell tax breaks that it will get a net tax refund of $90 million to $100 million from the federal government.

A second highly profitable firm that bought up tax breaks last year, Amoco, which had a pre-tax income of $3.46 billion, was able to reduce its federal liability by $159 million through tax "leasing," although the oil company did still pay several hundred million dollars in federal taxes.

These figures emerged from annual reports for 1981 that are just being released and from interviews with company officials.

GE and Amoco are generally believed to have been among the most active firms buying up tax breaks. They bought the credits and depreciation write-offs from such companies as Chrysler, Pan American, Cleveland Electric, Commonwealth Edison and Phelps Dodge.

The benefit was most dramatic in the case of GE, which went from $426 million in tax payments in 1979 and $330 million in 1980, down to its refund of $90 million to $100 million.

The company was able to achieve this negative tax situation largely through the purchase of tax credits and depreciation write-offs by a subsidiary, General Electric Credit Corp. GECC bought tax breaks from at least nine different companies and utilities through paper transactions called "leases" on about $1.4 billion worth of equipment.

The 1981 tax bill allowed companies to buy and sell tax breaks through leases; a company "leases" a piece of machinery and acquires the tax breaks associated with its cost.

The provision was sold to Congress as a benefit for weaker companies. It has become highly controversial largely as a result of disclosures that profitable firms, like Occidental Petroleum, are also selling their unneeded tax breaks.

Sen. Robert J. Dole (R-Kan.), chairman of the Senate Finance Committee, has warned that he intends to seek repeal of the leasing provisions retroactive to Feb. 19.

On the surface, the GE report indicates the company was preparing to pay $529 million in federal taxes for 1981. In the more detailed notes, however, the firm pointed out that the credit company subsidiary, GECC, produced "provisions for taxes recoverable" of $633 million for 1981.

This $633 million, about one third of which resulted from buying tax benefits, was used both to reduce the 1981 tax liability and to get a refund on prior year's taxes, according to John F. McCoy, the firm's tax manager.

Although GE did not spell out the process, McCoy noted that federal law restricts the use of investment tax credits, the major first-year benefits from tax sales, so that a company can only eliminate 80 percent of its federal liability by this means.

As a result, he said, the firm had to pay 1981 taxes of between $50 million to $60 million—he would not provide precise details—but then it was able to turn around, and by virtue of the same leases, collect a refund on past years of about $150 million, for a net gain of $90 million to $100 million.

McCoy noted that "even though we have reduced our 1981 liability and have generated credits," GE's benefit was not the full amount of the tax savings because it had to pay out significant amounts of cash to buy the tax breaks.

Amoco—Standard Oil Co. (Indiana)—said directly in its annual report that "income tax expense for 1981 has been reduced by

$159 million, reflecting the effect of tax benefits purchased."

The company said it expects to pay $390 million in federal taxes in 1981, compared to $433 million in 1980, although it was not clear whether the reduction resulted primarily from buying tax breaks.

Amoco did, however, note that investment tax credits for 1981 increased sharply from 1980, going from $106 million to $334 million, although no breakdown was provided to show how much of the credits resulted from investments for the firm and from purchased credits.

The effective tax rate when all state, local, foreign and federal taxes are calculated dropped from 46.7 percent in 1980 to 44.4 percent in 1981 "primarily due to higher investment tax credits associated with tax leasing arrangements," Amoco said in its report.●

CENTRAL AMERICA

● **Mr. HAYAKAWA.** Mr. President, I commend to my colleagues an article by former Director of the CIA, William Colby, which appeared in the "Outlook" section of the Washington Post on March 14. Entitled "Central America: Can We Shore Up the Center?" the article makes the point that political action is an essential corollary to security assistance if the Central American nations are to be saved from economic collapse and revolutionary dictatorship.

Mr. Colby argues that the United States must provide support to the "decent, responsible centrist leadership in these countries." Praising President Reagan's Caribbean Basin Initiative for its direct attack on the economic, political, and social roots which underlie the revolt of the masses in Central America, Colby argues that we should make greater use of radio—in similar fashion to Radio Free Europe and Radio Liberty—foundations and private American organizations in working with the forces of moderate change. Such entities should work with "schools, publications, activist organizations, congresses," and so forth, "to produce a better society under local leaders." By stressing the political factor, Colby believes that cohesion would be given to the economic, social, and security elements of our strategy in Central America. Furthermore, rather than waiting for political results to come about from such programs, the population would be mobilized to achieve them.

As most observers agree that the problems of Central America cannot be solved by a solely military approach, it seems to me there is much food for thought in Mr. Colby's recommendations. I urge my colleagues and the administration to give them careful consideration, and I ask that Mr. Colby's article be printed in the RECORD.

The article follows:

CENTRAL AMERICA: CAN WE SHORE UP THE CENTER?

(By William E. Colby)

In the cries of El Salvador's parallel to Vietnam, emotion overpowers rationality. A passive electronic-listening warship in international waters is equated to the Tonkin Gulf incident. M16 rifles in the hands of three American advisers are equated to the landing of the Marine combat forces in 1965. The problems of any guerrilla conflict are equated to the final defeat of South Vietnam at the hands of North Vietnamese artillery and armor. Perhaps we will also be presented with a desperate assault on the American Embassy in San Salvador for its media impact on American will—whatever its failure in practical terms.

Most disturbing is the view of the great American nation frightened of the prospect of military action, even in a dispute so close to its interests. What doubts must assail allies dependent on our treaty obligations of collective security as they observe this quivering panic produced by a few guerrillas in a neighboring country?

Yet there is some basis for the reaction. The frustration of the American military effort in Vietnam showed that something was wrong. The ponderous American military machine does not seem applicable to subversive war through proxies. The overthrow of the shah of Iran raises questions about the stability of an authoritarian force against revolutionary passion, whatever the economic and social improvements it may be making.

President Reagan's proposal for the Caribbean Basin and Central America properly allocates $5 for economic and social programs for every $1 spent on security assistance. This recognizes the deep-seated basis for revolt within Central America's oligarchic societies, grinding poverty and historically well-founded suspicion of the Yankee role. Only by such longer-term, positive economic and social programs can a change be made in these fundamentals in which revolutions are so easily founded.

In the meantime, security assistance is also essential to those nations struggling for their existence and the hope of a more democratic future. Not only are the revolutionary forces clear in their virulent hatred of the United States, but the examples of Iran, Vietnam and Cuba and, increasingly, Nicaragua also demonstrate that their authoritarianism will be more intense and brutal than what they propose to replace. A short-term security contribution to prevent an easy success of the proxy Soviet and Cuban adventure is well warranted.

But another dimension of strategy is glaringly absent: the political. The administration looks to elections to provide legitimacy in the nations of Central America, as though this will automatically produce popular allegiance. This is a nice theory, but it is obviously inadequate. It assumes that, if the revolutionary forces were to join the elections and win them, the outcome would be quite satisfactory. It also ignores the prospect that the most oligarchic and brutal forces may win elections, even free ones. The first outcome gives power to those hostile to the United States. The second ensures repudiation by American public opinion.

The United States must have a better choice than a brutal dictator or a hostile terrorist. The missing dimension must be vigorous support of decent, responsible centrist leadership and political forces in these countries.

In the 1950s and 1960s, this duty would have been quietly assigned to the CIA. In Western Europe, it was remarkably successful in supporting centrist forces against communist subversive campaigns. But after the orgy of recrimination against our intelligence agencies in the mid 1970s, it is clear that assigning this mission to the CIA would be quickly revealed and denounced.

It is not necessary to turn to the covert approach. Many of the programs which in the 1950s were conducted as covert operations now are conducted quite openly and consequently without controversy. Radio Free Europe and Radio Liberty have been turned over to the Board of International Broadcasting. The Asia Foundation and projects to build labor and agricultural organizations are now supported out of official AID and similar funds.

One or more foundations or similar organizations should be openly established to assist the development of centrist democratic elements in Central America. They should be autonomously managed by appointed boards and funded by Congress. Schools, publications, activist organizations, congresses and the like should be generated and assisted, to enlist supports in the effort to produce a better society under local leaders. Such foundations should welcome the support of political groups and forces from elsewhere in Latin America.

These foundations would of course have to obtain approval from local governments for their activities, and to act in the open. But official American support could be expressed by sympathetic ambassadors in strong terms. This would undoubtedly arouse protests from communist and proxy groups throughout the world. These should be given the same consideration that we give to the distinction they pretend between the activities of the Soviet government and those of the Communist Party of the Soviet Union and its international fronts.

This political factor would give cohesion to the economic, social and security elements of our strategy in Central America. Rather than waiting hopefully for political results to come from economic and social programs, it would mobilize the population to achieve them. Rather than pretending neutrality among the potential winners of free elections, it would link the United States with dynamic and healthy leadership. And it would have no historical reference point in Vietnam.●

MARYLAND ACTS TO CONTROL HANDGUNS

● **Mr. KENNEDY.** Mr. President, last week the State of Maryland joined the growing ranks of State and municipal governments in enacting legislation to gain control over the criminal use of handguns in our society.

By a vote of 28 to 16, the Maryland Senate voted in support of a bill sponsored by Senator J. Joseph Curran, Jr., of Baltimore, to increase the penalty for illegally carrying a handgun.

Senator Curran has introduced this measure over a period of 10 years, and has been a strong and responsible advocate for the control of handguns. I commend Senator Curran and the Maryland Senate for their action, which I hope will challenge the U.S. Congress to enact reasonable handgun control legislation at the Federal level. For until we act at the national level, State laws will never be completely effective, as important as they are.●

ORDERS FOR WEDNESDAY

ORDER FOR THE RECOGNITION OF VARIOUS SENATORS ON WEDNESDAY

Mr. STEVENS. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, the following Senators be recognized for not to exceed 15 minutes:

The Senator from Wyoming (Mr. SIMPSON), the Senator from Texas (Mr. BENTSEN), the Senator from Tennessee (Mr. BAKER), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. BAUCUS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Vermont (Mr. LEAHY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Carolina (Mr. EAST), and the Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON WEDNESDAY

Mr. STEVENS. Mr. President, I ask unanimous consent that following the special orders just identified there be a period for the transaction of routine morning business not to exceed 15 minutes with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. ON WEDNESDAY

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m. on Wednesday, March 17.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 391

Mr. STEVENS. Mr. President, I ask unanimous consent that following the conclusion of morning business on tomorrow the Senate immediately resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. The pending business will be the agent identities bill at that time?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEMOCRATIC SENATORS' SUGGESTIONS FOR BREAKING THE BUDGET DEADLOCK

Mr. ROBERT C. BYRD. Mr. President, this afternoon the members of the Democratic conference unanimously agreed to send a letter to the President containing specific suggestions for breaking the budget deadlock in which we find ourselves and which has lasted for about 6 weeks.

After an initial review and several meetings of an 18-member group of Senators which I asked to scrutinize the budget and to recommend ways to alter the current course away from huge deficits—huge deficits that are inherent in the President's budget—the conference voted unanimously, as I say, to adopt the group's recommendations and I was instructed to send them to the President.

We Democrats believe that these recommendations represent a valuable first step toward the development of a realistic alternative which will provide for a course on the road leading to reduced deficits and bringing interest rates down.

Our letter is not intended as a comprehensive alternative in any sense, but it does contain recommendations which will save roughly $100 billion, which is no small start.

There are two basic reasons we Democrats have moved at this time. The first is that the economy cannot afford the luxury of a continued administration-congressional deadlock on the budget.

Second, the administration budget proposal now on the table, taken along with those things that the President has placed off limits, is not, itself, a realistic and credible document.

There is virtual consensus among members of both parties that what the President has placed off limits cannot remain off limits because the prospect of cutting out 60 percent of the Government, which is what we would have to do to balance the President's budget in 1985, under the President's conditions—from which he is refusing thus far to budge—is not within the realm of the real. I used a rather revealing chart of CBO figures to illustrate this point at the press conference following the conference's actions.

The message should be clear. Senate Democrats have made some specific recommendations. We are willing to consider any and all recommendations that the President may come forward to offer.

Mr. President, I ask unanimous consent that my prepared remarks at the press conference be printed in the RECORD at this point, and I also ask unanimous consent that a copy of the letter which I was instructed by the Democratic conference to write to the President also be printed in the RECORD in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ROBERT C. BYRD TO THE NEWS CONFERENCE, MARCH 6, 1982

Today I would like to spend a few moments talking about the budget deadlock we are in, why this stalemate exists, and what steps I think are needed to get us moving.

We have seen many stories in the last two weeks, including those in the Post and Wall Street Journal, which I think accurately depict the intense bipartisan efforts in Congress to fashion an alternative to the Administration's budget, that would end the budgetary paralysis in which we find ourselves.

Leading Senate Republicans met again today and reached no conclusions on what to do about the budget and the huge deficits. Republicans at the Tidewater Conference, feeling the same frustration, passed a resolution recommending a balanced budget by 1985. The simple truth is that the deficits projected in this budget are unacceptable to everyone, and no solution is possible as long as those things the President has placed off limits remain off limits.

We simply cannot get there from here.

We are in a deadlock because the President's budget does not provide us with a meaningful place to start the debate. I will explain briefly what I mean, using figures from the Congressional Budget Office, and looking to the year 1985 since the Republicans voted this weekend to support a budget balance by that year.

Living within our means in 1985 would mean limiting expenditures to $776 billion, since that is the President's 1985 revenue level as CBO re-estimates it. The President has said he will not touch defense or social security, and the interest on the national debt must be paid. These three untouchables total $644 billion, using CBO re-estimates.

That leaves us with $132 billion to spend. That is $132 billion to cover every other services of the federal government. Unfortunately, CBO estimates those services, at current levels, would cost $385 billion. This leaves us with a projected 1985 shortfall of $226 billion.

It is this shortfall coupled with all those items that the President has put off limits, that has forced us to choose between truly frightening deficits or unimaginable cuts.

Let's say, for the sake of argument, that we preserve programs essential to the well being of millions—health care and unemployment. If we keep just those two programs, in addition to what he has placed off limits, we are left with no funds for anything else in the government.

No one is going to seriously propose such a thing, but while Democrats and Republicans in Congress have poured their sweat and energy into devising a way out of the dilemma that this Administration "voodoo economics" has placed us in, the Administration has stonewalled during six precious weeks of economic deterioration.

We have heard: "You can't touch revenues. You can't touch the largest proportional defense increase in peacetime history. You can't touch social security"—which, I might add, Democrats successfully defended last session from the President's proposed cuts.

This stalemate can't go on any longer. Playing politics with the budget does no one any good. That is why I am releasing a copy of a letter I have sent to the President. The Democrats' goal is to help us get off center, and to get the economy moving again.

My letter said in part:

"At the instruction of the Senate Democratic Conference, I am writing to you about the frightening budget outlook.

"You recently said that these large deficits are a necessary evil. We do not agree with that.

"The simple fact is that the budget will never be balanced under your conditions. To eliminate deficits by 1985 without altering your defense or tax policies would require a 60 percent cut in all non-defense, non-social security activities of the federal government. This is not a political statement, nor an ideological one.

"This is a statement of simple arithmetic. We cannot get there from here under your conditions.

"Mr. President, we are not attempting to provoke a political deadlock but to avoid one. For our part, Senate Democrats are willing to consider carefully all of your spending cut proposals. We will also give responsible consideration to your revenue enhancers and management initiatives.

"We ask that you submit a new FY 1983 budget incorporating lower deficits and a commitment to a balanced budget. To that end, we suggest that you consider the following proposals designed to help meet these goals:

"1. Scrutinize all parts of the federal budget including the Pentagon budget to eliminate waste, fraud, and abuse, to improve management, and to explore all areas of potential savings.

"2. Defer the third year of the 1981 individual income tax cut;

"3. Defer indexing of the tax code;

"4. Significantly modify the leasing provision of the 1981 tax cut, and close other tax loopholes.

"Furthermore, we believe that this effort to reduce the budget deficit must be met by a more moderate monetary policy. Only then will interest rates be reduced and recovery permitted. Therefore, we recommend that the Administration urge the Federal Reserve Board, in response to fiscal tightening, to move to a less restrictive monetary policy and thereby reduce interest rates.

"Mr. President, our economy needs a new economic policy. The American people rightly expect us to quit trying to blame each other and to work together in a nonpartisan fashion to help solve our nation's serious problems. We are ready to work with you to reach a reasonable compromise that will get our economy moving again."

It is my hope that by making this proposal public, and by graphically showing the extent of the problem we are facing, we can begin the dialogue which is so necessary to end this deadlock, which is threatening our country's economy.

U.S. Senate,
Office of the Democratic Leader,
Washington, D.C., March 16, 1982.

The President,
The White House,
Washington, D.C.

Dear Mr. President: At the instruction of the Senate Democratric Conference, I am writing to you about the frightening budget outlook. According to the bipartisan Congressional Budget Office, your deficits will add $390 billion to the national debt in the next three years. The deficit will be $140 billion in FY 1985 alone. Deficits of this magnitude will contribute significantly to continued high interest rates which, in turn, will retard or abort economic recovery. Unless swift and effective action is taken to reduce these deficits we will face continued recession and high unemployment, record business failures, the possible collapse of the housing, auto and thrift industries and, according to many economic forecasters, a possible depression. The country needs an immediate mid-course correction in the economic plan.

You recently said that these large deficits are a "necessary evil." We do not agree with that. You have also said that any budget reduction by Congress must come without changes in your defense buildup or the 1981 tax act. We do not agree with that either.

The simple fact is that the budget will never be balanced under your conditions. To eliminate deficits by 1985 without altering your defense or tax policies would require a 60% cut in all non-defense, non-social security activities of the federal government. This is not a political statement, nor an ideological one. This is a statement of simple arithmetic. We cannot get there from here under your conditions.

Mr. President, we are not attempting to provoke a political deadlock but to avoid one. We believe that the seriousness and magnitude of our present economic crisis permits neither Democrats nor Republicans, neither the Administration nor the Congress to adopt a position of ideological or political rigidity. For our part, Senate Democrats are willing to consider carefully all of your spending cut proposals. We will also give responsible consideration to your revenue enhancers and management initiatives.

We ask that you submit a new Fiscal Year 1983 budget incorporating lower deficits and a commitment to a balanced budget. To that end, we suggest that you consider the following proposals designed to help meet these goals:

1. Scrutinize all parts of the federal budget including the Pentagon budget to eliminate waste, fraud, and abuse, to improve management, and to explore all areas of potential savings;
2. Defer the third year of the 1981 individual income tax cut;
3. Defer indexing of the tax code;
4. Significantly modify the leasing provision of the 1981 tax cut, and close other tax loopholes.

Furthermore, we believe that this effort to reduce the budget deficit must be met by a more moderate monetary policy. Only then will interest rates be reduced and recovery permitted. Therefore, we recommend that the Administration urge the Federal Reserve Board, in response to fiscal tightening, to move to a less restrictive monetary policy and thereby reduce interest rates.

Mr. President, our economy needs a new economic policy. The American people rightly expect us to quit trying to blame each other and to work together in a nonpartisan fashion to help solve our nation's serious problems. We are ready to work with you to reach a reasonable compromise that will get our economy moving again.

Sincerely,

Robert C. Byrd.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMMORROW

Mr. STEVENS. Mr. President, we have been delaying in the hope that we might have a time agreement on the Chafee amendment for tomorrow. I am sorry to report that we do not have that agreement.

Under the circumstances, there being no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess pursuant to the previous order.

There being no objection, the Senate, at 6:52 p.m., recessed until tomorrow, Wednesday, March 17, 1982, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 16, 1982:

Interstate Commerce Commission

Frederick N. Andre, of Indiana, to be a Member of the Interstate Commerce Commission for the term of 7 years from January 1, 1981.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Department of Justice

Christian Hansen, Jr., of Vermont, to be U.S. Marshal for the district of Vermont for the term of 4 years.

Department of State

The following-named Member of the Foreign Service of the Department of State to be Consular Officer and Secretary in the Diplomatic Service of the United States of America:

Max L. Friedersdorf, of Florida.

EXTENSIONS OF REMARKS

REAGAN'S PROPOSALS WOULD DEVASTATE HIGHER EDUCATION

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. WEISS. Mr. Speaker, President Reagan's proposal to slash the student financial aid programs would effectively cripple higher education in this country. By abandoning our Federal commitment to higher education, the administration would jeopardize the future of millions of our youth, and ultimately, the future of our country.

As students and their families are painfully aware, last year the President and his supporters in Congress succeeded in steamrolling through Congress massive cuts in education and student aid programs. This was the first time in 25 years that Congress retrenched on our national commitment to expanding educational opportunity for all students. Drastic cuts in Pell grants and other needs-based programs will fall disporportionately on minority and low-income students, many of whom will be forced to forgo a college education. Thousands of students from middle-income families will be denied guaranteed student loans or be faced with increased borrowing costs.

In an especially callous move, Congress at the administration's behest eliminated social security benefits for college students whose parents have died, retired, or become disabled. By the end of September, over 400,000 students will lose part of this vital source of income and 200,000 students will be denied all benefits. To redress this gross injustice, I have introduced legislation to restore the social security student benefits for all eligible recipients.

The administration's 1983 budget goes far beyond last year's cuts to launch a full-scale war against student aid. In order to finance a tax bonanza for the wealthy and an unprecendented military buildup, the President proposes a staggering 50-percent cut in student aid. Over 700,000 students will lose their eligibility for Pell grants if the Reagan cut of 40 percent is adopted. An additional 1.3 million student grants will be wiped out by the proposed elimination of new Federal moneys for the supplemental educational opportunity grants—SEOG—national direct student loans—NDSL—and the State student incentive grants—SSIG—and the dramatic reduction in the college work study program.

The guaranteed student loan program, currently providing relatively low interest loans to 3.5 million students, is slated for another round of cuts which the administration wants implemented by April. Reagan's proposals would dramatically increase the cost of loans for all student borrowers and would completely deny this assistance to graduate and professional students. These changes would seriously threaten the continuation of many graduate and professional programs and force many undergraduates to attend lower cost institutions, delay their education, or simply abandon their plans altogether.

The administration's shortsighted policies overlook the fact that our Nation's potential will not be realized if we close the door to educational opportunity. A nation committed to increasing economic productivity, developing technological capacities to enhance the quality of life, and broadening cultural and intellectual horizons must also be a nation dedicated to expanding educational quality and opportunity.

Mr. Speaker, I know that my office is not alone in the hundreds of letters we have received from students and their families who will suffer as a result of these cuts. Americans everywhere are sending Congress an important message—they will not accept an abandonment of our respect for, and commitment to, education. I urge my colleagues to heed this public mandate and to support these important programs.

The New York Times has printed an excellent summary of the status of the student aid programs and the proposed cuts. I commend it to the attention of my colleagues.

[From the New York Times, Feb. 28, 1982]

TOUGH NEW TERMS FOR STUDENT LOANS

(By Deborah Rankin)

Of the many Government programs that have come under the Reagan Administration's budget knife, college financial aid programs have been cut especially hard. Funding for some of the Government-backed programs has already been slashed twice during the current fiscal year, and now the White House is proposing further cuts.

If it is successful and the latest cuts are adopted, some could take effect as early as April 1, affecting the aid available to college students in the 1982-83 academic year.

The reductions in aid levels have been so frequent that most guide books and Government financial aid publications are outdated, and students applying for grants and scholarships are understandably bewildered. The following is a review of the current status of the largest Government financial aid programs and the outcome if the Administration proposals are enacted.

Pell grants. These grants, designed for low- and middle-income students and named for Claiborne Pell, Democratic Senator of Rhode Island, are the backbone of most college financial aid programs.

Last December, Congress raised the maximum grant to $1,800, from $1,670, effective for the 1982-83 academic year. But it also tightened the standards for who qualifies for such aid. Currently, families with adjusted gross incomes of up to $27,000 are eligible, but next year the maximum will drop to $26,000.

On the other hand, Congress did liberalize the amount of assets a family can own without having the holdings count against them for purposes of the eligibility formula. In the coming academic year, the first $25,000 in home equity and the first $25,000 in accounts at financial institutions (including money market funds) will be exempt, along with the first $80,000 in equity in a closely held business or family farm.

The current exemption is $25,000 for home equity and bank accounts combined, and $50,000 for a small business farm.

The real crunch, however, could come in the 1983-84 academic year. The Administration has proposed a $900 million cut in the program, reducing the budget for Pell grants to $1.4 billion. The result would be that families with adusted gross incomes over $14,000 would no longer qualify for help, and the maximum grant would be reduced to $1,600. Furthermore, because the size of a Pell grant is related to the cost of the college attended, poor students who otherwise qualify for maximum grants but who enroll in low-cost community schools might receive awards far lower than the ceiling.

Campus-based aid programs. This category, which has been hit by budget cuts and will be affected by the new budget proposals, includes three aid programs financed by the Federal Government but administered by college financial aid officers. (Pell grants are directly administered by the Federal Government.)

Funding for the Supplemental Educational Opportunity Grant Program, which is based on need and pays a maximum of $2,000 a year, is designed to allow undergraduate students to continue who otherwise would have to drop out. It has already been cut twice this year. The result is that poor students get aid no matter where they go, but middle income students generally qualify only if they attend a high-cost school such as Harvard, which puts more of a strain on their parents resources. Some 615,000 students now participate in the program.

The Reagan Administration has proposed eliminating this program entirely as of October. While such a move would not affect high school seniors entering college in September, it would affect them and their older colleagues beginning in the 1983-84 academic year.

The Administration has also proposed a 28 percent funding cut in the College Work Study Program, which provides $550 million to permit both undergraduate and graduate

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

students to work on campus for nonprofit organizations at the minimum wage.

Even the National Direct Student Loan Program, which provides 5 percent loans to undergraduate and graduate students who demonstrate need, has not been immune from the White House cost cutters. Its budget has already been reduced twice this year, to $186 million from $286 million.

While the Administration's latest proposal would spare this program further budget cuts, it would also deny it any additional Federal funding. The program would continue but only to the extent that students who take the loans repay them. Because not all of them do repay, the American Council of Education, the umbrella organization representing the nation's colleges and universities, estimates that 266,000 students, or about half of all in the program, will be knocked out.

State student incentive grants. This a matching program under which the Federal Government contributes $77 million a year, and the states from where the students come then match on a dollar-for-dollar basis. Some 300,000 students receive the grants, which are awarded on the basis of need. The White House has proposed that the Government withdraw entirely from this program. The states of course, would be free to continue, but it is unlikely they could make up the shortfall.

Guaranteed student loan program. The Administration has reserved its harshest cuts for this program, which in the past served as the basic form of financial aid to the middle class. It provides $1.77 billion annually at 9 percent interest on loans for up to $2,500 a year for undergraduates and up to $4,500 a year for graduate students.

It used to be open to anyone regardless of need, but earlier this fiscal year the Administration limited the no-questions-asked provision to students from families with incomes below $30,000. It required that students from families with more than $30,000 in adjusted gross income pass an additional needs test that severely reduced borrowing opportunities for those attending low-cost state schools. It also imposed a 5 percent "origination" fee, which would reduce the proceeds on a $2,500 loan to $2,375, affecting all those in the program.

Effective April 1, the Administration proposes to subject everybody, even those with income under $30,000, to the needs test. It also wants to double the origination fee, to 10 percent. Furthermore, the 9 percent interest rate would now be increased to the market interest rate two years after a student begins repayment.

But worst of all, graduate students would no longer qualify for the guaranteed loans, a move that has enraged college officials. Financial aid officers estimate that some 600,000 students—or 50 percent of all graduate students—would no longer be eligible for such assistance.

Auxiliary loans to assist students. The White House hopes that this new program, sometimes known by the acronym, ALAS, will help to pick up the slack caused by cuts in the guaranteed student loan program. Parents, independent under graduates and graduate students can receive loans of as much as $3,000 a year, at an interest rate of 14 percent, under this program.

But there are two hitches. Repayment on the parental and graduate student loans must begin within 60 days, and only 14 states, including New York, New Jersey and Connecticut, have enacted banking legislation permitting the program to be set up.●

FAA RESPONDS TO CONGRESSMAN FROST'S INQUIRY ON PASSENGER SECURITY

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. FROST. Mr. Speaker, on March 10, 1982, I inserted into the RECORD a letter that I mailed to Mr. J. Lynn Helms, Administrator, Federal Aviation Administration in Washington. The letter was dated March 4, 1982.

On March 12, 1982, Mr. Alan W. Read, Acting Director of Civil Aviation Security, responded. I included in the RECORD the text of that letter:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., March 12, 1982.

Hon. MARTIN FROST,
House of Representatives,
Washington, D.C.

DEAR MR. FROST: Thank you for your letter of Mach 4 to the Administrator of the Federal Aviation Administration (FAA) which was referred to this office for response.

As you know, the FAA, through the Office of Civil Aviation Security, is responsible for the administration of the Civil Aviation Security Program mandated by Public Law 93-366. Immediately after the La Guardia Airport bomb incident in 1975 a Government/industry task force was created to study the alternatives available to U.S. carriers to prevent the introduction of explosive devices into cargo and checked baggage abroad an aircraft. The physical inspection of all cargo and checked baggage was considered totally inappropriate. Passenger facilitation, in conjunction with technical limitations, precluded the use of X-ray or other electronic inspection systems for this purpose. As an alternative, the task force developed a system designed to identify cargo and checked baggage that might be a potential hazard to air transportation through use of a "profile." Cargo or baggage that is identified under this system is subjected to additional security scrutiny. In addition, the receipt of credible information indicating a bomb threat will trigger the initiation of a number of procedures to include the search of air cargo and baggage by an explosive detection dog team.

Our inquiry into the March 4 incident revealed that the procedures to be used by the airlines to handle checked baggage were properly applied; however, the specific and unique circumstances of this case did not prompt the initiation of additional security scrutiny. Although the system could not guarantee absolute security, it has been in use for the last six years and has proven to be effective.

FAA has long recognized the potential problem posed by cargo and checked baggage and has had a very active research and development effort. Several technical approaches for effective and efficient detection of explosives in checked baggage, cargo, and mail are being developed and tested. As part of that effort, we are evaluating various vapor detection and electronic systems manufactured in this country and abroad. Progress is being made in these efforts; however, even after a technical breakthrough, the cost for such equipment systemwide may be prohibitive.

We appreciate your concern over the March 4 incident and want to assure you that we continue to monitor and evaluate the system to improve existing security procedures and safeguards.

Sincerely,

ALAN W. READ,
Acting Director of Civil Aviation Security.

Mr. Read's letter appears to give little comfort to airline passengers, and I have urged Chairman NORMAN MINETA of the Subcommittee on Aviation to ascertain the adequacy of the FAA's response.

I include in the RECORD my letter to Chairman MINETA:

HOUSE OF REPRESENTATIVES,
Washington, D.C. March 12, 1982.

Hon. NORMAN MINETA,
Chairman, Subcommittee on Aviation, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN MINETA: On March 4, I requested the Federal Aviation Administration, via a letter to Chairman J. Lynn Helms, to conduct "a full investigation" of the discovery of a homemade bomb that passed through two airport security systems without being detected. My concern centered around the apparent absence of adequate procedures to screen checked baggage for possible explosive devices. I am enclosing a copy of my letter to Mr. Helms and a copy of the response of the FAA.

In that letter dated March 12, 1982, Mr. Alan W. Read, Acting Director of Civil Aviation Security, states, "FAA . . . has had a very active research and development effort. Several technical approaches for effective and efficient detection of explosives in checked baggage, cargo, and mail are being developed and tested. As part of that effort, we are evaluating various vapor detection and electronic systems . . . progress is being made in these efforts; however, even after technical breakthrough, the cost for such equipment systemwide may be prohibitive."

I would request that your Subcommittee determine the adequacy of the FAA's procedures for identifying cargo and checked baggage that may hold "more severe consequences in the future", and the FAA's progress and potential in securing the detection that are described in Mr. Read's letter.

I remain concerned that the Nation's passenger flights appear to have a severe security problem, and I look forward to hearing from your Committee as to the programs described in the FAA's response to my letter—both those on the drawing board and those now in use.

Sincerely yours,

MARTIN FROST,
Member of Congress.

Mr. Speaker, the security of our Nation's airline passengers cannot be overstated, and I look forward to the results of the committee's efforts.●

FIFTH ANNIVERSARY OF THE ARREST OF ANATOLY SHCHARANSKY

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. SCHEUER. Mr. Speaker, March 15, the fifth anniversary of the arrest of Anatoly Shcharansky, is a date which must never go unnoticed as long as the groundless and unjustifiable persecution of this innocent man continues. The indiscriminate violations of international law by the Soviet Union ought to serve to remind us once again that we must continue to sustain our fight for worldwide justice.

Anatoly Shcharansky's sole crime was listening to his own conscience which demanded only the application of human rights, both for himself and others. In 1973 he applied for an exit visa to Israel and soon thereafter became a leader in the fight to gain unrestricted freedom to emigrate for all citizens, Jews and non-Jews alike.

Now he is imprisoned in a labor camp, suffering from a variety of debilitating physical disorders: back and stomach pains, spinal disease, headaches, and eye disorders. The only visitors he has had in the past 1½ years have been his mother and brother; he has not seen his young wife in 5 years. In 1976 he helped found the Committee To Monitor the Helsinki Agreements which had promised to "respect human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief." Now he is incarcerated for voicing the very principles the agreement was intended to uphold.

I am deeply offended and outraged by this callous display of Soviet disregard for an international agreement and more significantly, their nonadherence to the three most fundamental human rights: The right to free thought, the right to conscience, and above all else, the right to basic human dignity. The rights of Anatoly Shcharansky have been crushed by the Soviet Union for 5 years, and they will continue to be crushed if we do not remind the world of these shameless transgressions. It is up to us to lead.

But let us not forget the most important side of this issue: the human side. Anatoly Shcharansky is simply a human being who desires nothing more than freedom. He is courageous and tenacious enough to cling to the pursuit of this dream despite all privations.

I ask you to join me in saluting Anatoly Shcharansky, this brave and determined man who, despite all the efforts of his own oppressive Government, is committed to fight for what is right. Furthermore, let it be resolved that we will not stand by and permit the Soviet Union to commit such outrageous abuses of international law, and far more importantly, of basic human dignity. The Soviet Government must be called continually before the court of world opinion for the condemnation they have called upon themselves.●

HYATTSVILLE LIONS CLUB ANNIVERSARY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. HOYER. Mr. Speaker, it gives me great pleasure to rise today in recognition of one of Prince Georges County, Md.'s most active and effective Lions Club chapters. That chapter, the Hyattsville Lions Club, is celebrating its 45 years of service to the community, and I wish to extend to them our heartfelt congratulations.

The Hyattsville Lions Club was originally called an exchange club; however, in 1937 it, along with its 50 members, was sponsored into Lionism by the Anacostia Lions Club. Still today, there are many charter members on the rolls such as Carroll Beatty, the first district governor of this region, Walter Green and Ernest Maier. Carroll Beatty and Ernest Maier have been honored as life members of the club, joining Joe Rabbitt, Charles Cover, Harry Hall, and Harry McFarlin who have also been honored as life members for their efforts in Lionism.

Mr. Speaker, I am certain that every American is well aware of the true commitment each Lion makes to his fellow man when he undertakes the Lion oath. The Lions' efforts for the needy, the blind, the deaf have provided many thousands of dollars over the years to assist in their treatment and improving their well-being. More important even than fundraising, which is remarkable, is the time and personal involvement each Lion donates to these causes. Their motto, "Be a Lion—for the good of yourself and the welfare of the community," connotes the kind of spirit of giving these people possess. Their individual contributions to helping the blind, collecting discarded eyeglasses, collecting blood, providing wheelchairs, sponsoring girls and boys clubs, and hosting Christmas parties for handicapped children are indicative of the time and unselfish energies they all expend on behalf of those in need.

On Friday, March 26, 1982, the members and guests of the Hyattsville Lions Club will be assembled at the Maryland Inn in celebration of their 45th anniversary. Mr. Speaker, I know all of the Members of this House will want to join me in wishing their capable president, Mr. William Kola, and all those gathered, our sincere congratulations and appreciation for their 4½ decades of public service. We wish them every success as they proceed toward their golden anniversary still active in humanitarian causes.●

SOMALIAN PRESIDENT SIAD BARRE'S VISIT TO THE UNITED STATES

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. DORNAN of California. Mr. Speaker, this past Wednesday, March 10, 1982, President Siad Barre of Somalia began his official state visit to the United States. I hope that the outcome of his visit will be even more cordial relations between our two countries.

Somalia is located at the strategic crossroads between the Red Sea and the Indian Ocean where much of our oil passes from the Persian Gulf to Europe and the United States. It is also a location strongly contested by the U.S.S.R., Cuba, and East Germany.

The Soviets and their surrogates have complete control over South Yemen from which one-third of the population has emigrated since 1975. The Soviets have substantial control over Ethiopia, the most populous and important country in the Horn of Africa region. Libya has recently joined the Soviets in signing a treaty with Ethiopia and South Yemen, adding Libyan money and terrorist knowhow in an attempt to destabilize other Horn countries, particularly Somalia and the Sudan.

Somalia has offered us its hand in friendship as early as 1978. After some regrettable delays, the Carter administration finally concluded an agreement with Somalia in August 1980 in which Somalia provided us the use of its air and naval facilities at the Port of Berbera, close to the Straits of Bab el-Mandeb connecting the Red Sea and the Indian Ocean, and its air facilities at the capital, Mogadishiu. We promised to extend some FMS and ESF to Somalia in return.

The Reagan administration expanded our relations with the Democratic Republic of Somalia. Answering the plea of women and children in refugee camps of Somalia who had fled the Ogaden because of Ethiopian and Cuban brutalities, the United States in 1980 and 1981 extended, through the UNHCR, substantial help of a humanitarian nature. This aid helped prevent further starvation and it also diminished health hazards.

Somalia participated in September 1981 in the military exercise Bright Star, letting our troops land at the Berbera coast, and our Navy is studying expansion of the Berbera facilities.

In fiscal year 1982 we are extending $30 million economic support funds and $20 million FMS to Somalia in addition to sizable aid in development assistance and Public Law 480 funds.

Both the administration and the Congress are aware of the friendly relations and the strategic location of Somalia. Hopefully, we will be able to help Somalia overcome its manifold economic difficulties resulting from the refugee flow and the years of the Sahel drought and supply its legitimate defense needs arising from the lopsided military superiority of the Cuban-backed Ethiopian forces in the Ogaden.

I wish President Siad Barre Godspeed and success in his work to develop his nation and to fight for the rights of his brethren in the Ogaden.

Somalia must remain independent and non-Communist. This will benefit the Somali people, the United States, and the free world.●

THE MOST REVEREND JOHN R. McGANN

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. CARMAN. Mr. Speaker, on Wednesday, March 17, 1982, St. Patrick's Day, the Sky Island Club of Long Island, N.Y., will induct the Most Reverend John R. McGann into the Long Island Hall of Fame. Bishop McGann is being honored for his outstanding contributions and dedicated leadership to the people of Long Island. I consider it a deep personal privilege to bring Bishop McGann's accomplishments to the attention of the U.S. House of Representatives.

The Most Reverend John McGann was born in Brooklyn, N.Y., and ordained on June 3, 1950 at the Seminary of the Immaculate Conception in Huntington, Long Island. He has served Long Island at St. Anne Church, St. Joseph Convent and Academy, and Pilgrim State Hospital, all in Brentwood. Bishop McGann has had a long and varied career of service to the Diocese of Rockville Centre, the people of Long Island, and mankind. In 1959 he was elevated to Papal Chamberlain, in 1967 he was appointed vice chancellor of the Diocese of Rockville Centre, in 1971 he was made Titular Bishop of Morobisdus and Auxiliary Bishop of the diocese, in 1971 he became Vicar General and Episocopal Vicar of Suffolk County, and in 1976 he was installed as Bishop of Rockville Centre.

Bishop McGann currently serves as president of Mercy Hospital, Diocesan Services, Inc., and Diocisan Commodities, Inc. He is also chairman of Good Samaritan, St. Charles, and St. Francis Hospitals and of Consolation Residence. In 1977 he was awarded an honorary degree of doctor of humanities by Molloy College.

Mr. Speaker, I, too, wish to add my commendation to the worthy efforts and dedicated service of one of Long Island's most outstanding citizens, Bishop John R. McGann.●

ANATOLY SHCHARANSKY; CONGRESSIONAL CALL TO CONSCIENCE VIGIL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. FRANK. Mr. Speaker, this week marks the fifth anniversary of the imprisonment of Anatoly Shcharansky. It is urgent that we take this opportunity to reiterate to the Soviet Union our concern about the plight of Anatoly Shcharansky and the 2 million other Jews who cannot emigrate.

Anatoly Shcharansky was the dynamic leader of the Jewish movement to monitor Soviet compliance with the Helsinki accords signed in 1975 by the Soviet Union, the United States and 33 other nations. On July 10, 1978, Shcharansky was brought to trial on charges of treason and slander against the Soviet state. Four days later, Shcharansky was sentenced to 3 years in prison and 10 years hard labor. One reporter concluded of the trial that—

> No political trial in the last decade has contained the array of issues and emotions that this proceeding * * * holds for people inside and outside the Soviet Union. No case against a human rights advocate has been seen as such a vivid indicator of the direction in which Soviet policy, both domestic and foreign, is headed.

In January 1982, Anatoly Shcharansky's mother and brother were permitted to visit him for the first time in a year and a half. Following their conversation, Shcharansky's mother, Ida Milgrom, made the following appeal in behalf of her son:

> In March 1977, my son Anatoly was arrested and accused of spying for the CIA. On July 14, 1978, the Supreme Court of the Russian Federated Socialist Republic—in a farce resembling the Dreyfus Trial—handed him a brutal, unfounded sentence of 13 years deprived of freedom: 3 years in prison and 10 years in forced labor camp under the most severe conditions.
>
> At the so-called trial, my son declared that his case had been trumped up in order to crush the Jewish emigration movement in the Soviet Union. Despite blackmail and threats of capital punishment, he did not plead guilty and proclaimed that the accusations against him were absurd.
>
> Anatoly spent 3 terrible years in a prison and then was transferred to a forced labor camp. Acts of lawlessness and humiliation have been continuously committed against him. We have just found out that from January through October 1981, Anatoly was isolated in solitary confinement in the internal prison in the camp. Between October 1980, and October 1981, he spent 185 days in the infamous special punishment cell. Seventy-five days of this torture was given in succession. (The "kartser"—the special punishment cell is so severe that even Soviet law forbids a prisoner to be confined in it for more than 15 days at a time.)
>
> The food ration in the internal prison of the camp is a starvation one, containing absolutely no meat or fats. In the special punishment cell, this ration is given only once in 2 days. In this way my son was tortured by full starvation for 93 days and by partial starvation for an equal amount of time. As a result, he became completely physically exhausted and had to be removed from prison and taken to a hospital. From the hospital, Anatoly was medically transferred directly to the special punishment cell.
>
> At the end of October 1981, another scene of this grotesque farce took place. Anatoly was put on one more trial. This one was held at the camp and took exactly 5 minutes. Only a prosecutor, a judge, and two jury members were present. No lawyer participated. This so-called trial hardened the already monstrous sentence.
>
> The "guilt" found was that my son still would not plead guilty for the crimes which he was incriminated in the 1978 "trial".
>
> My son is now sentenced to 3 more years of labor camp under the strict regime conditions described above. The repression is continuing, the humility is growing. They want to break my son physically and morally.
>
> Is there any way this world can prevent the destruction of an innocent victim of arbitrary cruelty?

Conditions for Jews in the Soviet Union have steadily worsened since 1979. That year 51,320 Jews were permitted to emigrate. In 1980, however, the number dropped to 21,471, in 1981 to 9,447, and if the pattern of the first 2 months of 1982 continues, an estimated 2,438 Jews will be permitted to emigrate, the lowest number in the history of the modern emigration movement.

We must not forget Anatoly Shcharansky, the work he did as a leader of the refusenik community in Moscow, and the conditions he is now forced to endure. My distinguished predecessor, Father Robert Drinan, who serves as the chairman of the Committee for the Release of Anatoly Shcharansky, has been a leading spokesman for those who are seeking his release. Drinan once said that we must all "* * * rekindle the flame of hope for a better future for Anatoly Shcharansky and for all other ostracized dissidents and their relatives around the world. May this endeavor never fall short of success." If we are to fulfill this goal, we must continue our efforts in the House to record our ongoing concern for the plight of Anatoly Shcharansky.

On the anniversary of Shcharansky's arrest, I urge the Soviet Union to release him from prison and allow him to join his wife in Avital in Israel.●

NICARAGUA'S RECORD

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. BROOMFIELD. Mr. Speaker, I want to draw the attention of my colleagues to an article by Louis Halasz that appeared in the March 7 edition of the Baltimore Sun. It shows that despite declarations of the Nicaraguan regime to the American media that it really is supportive of peace and democracy, its voting record in the United Nations demonstrates that it alines itself with Cuba and the Soviet Union at almost every turn. One of the Nicaraguan junta's star spokesmen, Daniel Ortega, is further quoted in the article as praising the virtues of Libya's Qadhafi, North Korea, the PLO, and Cuba.

Clearly, the Nicaraguan revolution has been taken over by Cuban and Soviet Communist supporters. Their rhetoric demonstrates it, their actions in support of the guerrillas in El Salvador demonstrate it, and their voting record in the United Nations demonstrates it. The article follows:

[From the Baltimore Sun, Mar. 7, 1982]

U.N. Vote Records Define Central American Leaning

(By Louis Halasz)

Whether Secretary of State Alexander M. Haig has "overwhelming and irrefutable" evidence that the insurgents in El Salvador are controlled and directed from Nicaragua may still be open to question, but United Nations records provide ample proof of a sponsor-client relationship between the Sandinistas in Nicaragua and the opposition forces in El Salvador.

These records also show that Nicaragua's position on key international issues is hardly distinguishable from that assumed by Cuba on behalf of the Soviet Union.

A little over two weeks ago the Nicaraguan mission at the U.N. brought along a group that called itself a "Central American anti-imperialist tribunal" (apparently fashioned after the anti-American "war crimes tribunal" of the Vietnam era).

The leaders of the group, Claribel Alegria of El Salvador, Xavier Chamorro of Nicaragua and Moises Torrijos of Panama, brother of the late leader, wanted to hand over some 100,000 signatures they said they had collected to U.N. Secretary General Javier Perez de Cuellar.

They didn't get quite that far—apparently the U.N.'s new boss had no desire to be directly entangled in such a delicate and dangerous web—but his under-secretary, Diego Cordovez, "undertook to convey" to him their letter demanding that he "repudiate the White House policy, which threatens world peace."

Afterward the group went to the Nicaraguan mission to give a press conference, in the course of which Ms. Alegria said that if the U.S. intervenes in El Salvador, it "will evoke conflagration in Central America, and, if extended to the Caribbean, it will bring in the great powers, which in turn will cause a world explosion, bordering on global nuclear catastrophe."

Dire threats of this type as well as the vaguely uncomfortable nature of the group must have been the reason the Nicaraguans shied away from direct sponsorship of a press conference on U.N. premises and restricted their support to providing the facilities of their mission.

That was not, however, the case last fall when the coordinator of the Nicaraguan junta, Daniel Ortega Saavedra, took along "Comrade Guillermo Ungo," the leader of the El Salvador opposition, to the General Assembly hall as a member of his mission, and read out, on his behalf, the proposal of the Salvadoran Revolutionary Democratic front "to open a dialogue with the civilian and military representatives" of President Jose Napoleon Duarte.

Mr. Ortega also produced Mr. Ungo in a press conference, in the course of which the mild-mannered erstwhile political friend of President Duarte stressed that the front and its military branch were ready to negotiate with the central government in the presence of foreign observers.

Mr. Ungo's restrained presentation was in sharp contrast with Mr. Ortega's angry words about an American "campaign of lies," and his outrage at questions concerning Nicaraguan elections. "Our main concern is not elections," Mr. Ortega said; "our main concern is invasion from the United States.

He was quite vituperative in his Assembly address, nearly outdoing Cuba's foreign minister, Isidoro Malmierca Peoli, who had charged that "the imperialists, the agencies of the U.S. government, are using biological weapons against the people of Cuba." Mr. Ortega spoke of "the aggressive will of Yankee expansionism" and of American "blackmail" through the presence of the U.S. fleet, and claimed that "our country is threatened by aggression on a scale higher than that which we have known so far."

Anti-Yankeeism is, of course, a phenomenon freely indulged in by most Latin Americans, whether of the right or left, and, as diplomats are only too well aware, not without some reason. Even Guatemala's Castillo Valdes, whose government is a sworn enemy of Cuba, Nicaragua and the Salvadoran guerrillas, decried in his speech the Monroe Doctrine for "creating a monopoly in Central American intervention."

But Mr. Ortega's espousal, in exuberant words, of the virtues of Muammar el Kadafi's Libya, of the PLO, of North Korea, of "revolutionary Cuba," of the guerrillas of Puerto Rican independence, of "heroic" Vietnam, and his expression of solidarity with all of them represented an unmistakable political commitment to the Soviet-Cuban side of the ideological fence.

This political profile was reinforced by the voting pattern of Caribbean nations on key issues, such as Kampuchea, Afghanistan, the U.S. charges of Soviet-equipped germ warfare against Asians, as well as the items dealing with human rights violations in El Salvador and Chile.

Cuba—and little Grenada—quite naturally voted with the Soviet bloc on all these issues, defending Soviet occupation of Afghanistan, Vietnamese occupation of Kampuchea, ridiculing the American charges of "yellow rain," and condemning both the Salvadoran and Chilean governments.

The Nicaraguan voting pattern, particularly when compared with the rest of the Caribbean basin nations—19 all told in the U.N.—was a close approximation: It voted with Cuba and Russia on Kampuchea, El Salvador and Chile, but, in order to maintain nonaligned credentials it abstained on Afghanistan and on the issue of "yellow rain."

The other Caribbean basin delegations refused to vote with the Soviet bloc; some of them, such as Costa Rica, El Salvador, Guatemala and Honduras, went with the U.S. all the way, while others, like Panama, Trinidad-Tobago, Jamaica and Haiti were more restrained, abstaining on the more ticklish issues.

U.S. Ambassador Jeane J. Kirkpatrick has no doubt where the Sandinistas of Nicaragua belong. Speaking recently to the American Legion, she said the only difference between the dictator Anastasio Somoza Debayle and the Sandinistas was that the former was "friendly," while the latter included in their anthem a line about the United States being the "enemy of mankind."

Asked about that, the Nicaraguans indignantly said the line was not in the anthem but in the marching song of the Sandinista front—as if that would make any difference. And speaking before a Senate Subcommittee, Mrs. Kirkpatrick added that the Sandinistas were involved in "a coup d'etat by installments," against "one sector at a time," but were aiming for "the consolidation of power by Nicaragua's one-party dictatorship."

As in the case of Mr. Haig, Mrs. Kirkpatrick's assessment also falls short of the kind of "smoking gun," U.N. diplomats would require, but the evidence of Nicaraguan behavior in speeches and votes certainly tends that way.

The impression Guillermo Ungo created in his U.N. appearances is, however, of quite a different nature. There can be little doubt of his sincerity, and his outrage over the excesses of some of the Salvadoran military is shared by most. But just as Mr. Duarte is being compromised by the fascists of the ultra right, it is difficult to see how Mr. Ungo could avoid being tainted by the Marxists of the ultra left.

He insists that he would remain free even after victory. Asked about his Marxist guerrilla allies, he says, "I need them and they need me."

If this writer's experiences in his native Hungary during the second World War are any yardstick, Mr. Ungo is kidding himself. Making common cause with the Communists in the anti-Nazi underground was one thing; maintaining one's democratic independence after victory was quite another. Hitler's brown was exchanged by Stalin's red, and the only choice was between political prostitution or exile.

But Guillermo Ungo would not have to go back so far in time and so far away in space to know what may be in store for him. He would have only to ask Hubert Matos, Fidel Castro's closest comrade in the fight against Fulgencio Batista, and after victory the inmate of Cuban prisons for nearly two decades for the unforgiving sin of trying to remain a free man, Western style.●

ANATOLY SHCHARANSKY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. SCHUMER. Mr. Speaker, 5 years ago today Anatoly Shcharansky was imprisoned in the Soviet Union. I am joining many of my collegaues today in denunciation of this blatant violation of internationally recognized standards of human rights.

Many people are in Soviet prisons today for the same reason as Anatoly Shcharansky: they are Jewish. The Shcharansky case, however, is the archetype of repression against Soviet Jews. It is the most glaring example to two characteristics of repression Soviet style.

First, the Soviet's treatment of Shcharansky makes a mockery of the legal principles which they claim to adhere to. For example, the crackdown on Jewish emigration which has occurred over the past year has often been justified by a new Soviet law requiring a "first-degree" relative residing in Israel. Shcharansky's wife, Avital, has lived in Israel since 1977. With legal pretenses stripped away, the Soviet authorities continue to hold Shcharansky in Chistopol prison for, in their words, "continuing to consider himself guilty."

Second, the Shcharansky case epitomizes one of the great tragedies of the continuing state-sponsored repression of Soviet society, the destruction of many of the most talented, most courageous individuals of each generation. Shcharansky has been singled out by both the Soviet authorities and defenders of Soviet Jewry because he was a skilled leader of the struggle for human decency in the Soviet Union.

In conclusion, let us hope that there will be no need for speeches such as this on March 15, 1983. More importantly, though, let us make a firm commitment to doing what we can as long as the Shcharansky's of the world are imprisoned, stripped of their rights and their dignity. That is surely what Anatoly Shcharansky would be doing, if he were not languishing in a prison cell.●

BAY OF PIGS REVISITED IN NICARAGUA?

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. EDWARDS of California. Mr. Speaker, I would like to call the attention of my colleagues to an editorial which appeared in the San Jose Mercury on March 12, 1982. Recently, there has been a great deal of controversy over the extent of U.S. involvement in the affairs of Central America. The admission by the administration of CIA funding of paramilitaries involved in the destabilization attempts against the Government of Nicaragua only furthers these concerns.

I think my colleagues will find this article very interesting.

BAY OF PIGS REVISITED IN NICARAGUA?

Why send the Marines when you can hire a small, efficient, private army instead? According to the Washington Post and CBS News, President Reagan is contracting out the destabilization of Nicaragua. Reportedly, President Reagan has authorized the Central Intelligence Agency to build and fund a 500-man paramilitary force to conduct raids into Nicaragua from camps along the Honduran border. The guerrillas are supposed to destroy power plants, dams and bridges, forcing the Marxist regime to defend itself rather than export revolution to neighboring countries. But don't tell anybody. It's a secret.

Is this for real? The New York Times says the commando force is being organized by several South American governments, including Argentina and Venezuela, but that the United States declined to participate because of the involvement of pro-Somoza officers. Acccording to the Times, Reagan has agreed only to finance individuals and groups in Nicaragua that seek to preserve "moderate economic and political institutions."

Administration officials have refused to comment on the Post story, although the deputy director of the CIA did note that $19 million won't buy much sabotage these days; none of the allegations has been denied.

True or false, the stories are based in the Reagan administration's fear that Nicaragua is becoming another Cuba, an agent of Soviet adventurism. Aerial reconnaissance photos released Tuesday show Nicaraguan officials have lied about the extent of the military buildup, which has been aided and equipped by the Soviets, Cubans and other Eastern bloc countries. A group of former senior government officials left a State Department briefing Wednesday saying they were impressed by the evidence of Nicaraguan and Cuban aid to guerrillas in El Salvador.

Already Nicaragua has launched a propaganda counterattack. Agricultural Minister Jaime Wheelock complained to United Nations diplomats this week that his nation fears "an incident may be fabricated" to justify a U.S.-backed attack from El Salvador, Honduras and Guatemala. Four rival parties in Nicaragua united in asking worldwide condemnation of "U.S. economic, political and military imperialist aggression."

We have a few observations:

A CIA operation whose details appear in the Washington Post, and other newspapers across the country, is no longer covert. If there is a $19 million rent-a-guerrilla plan, and if it goes ahead, the world will know that the United States is trying to subvert the government of a foreign country whose policies Washington dislikes. The United States will look like an imperialist aggressor. It will be an imperialist aggressor.

President Reagan will be unable to denounce Soviet aggression in Afghanistan, or Cuban subversion in Central America, or Libyan intervention in Chad, if he is known to have a private army on the CIA payroll.

Latin America will resent bitterly the assumption that the United States has a right to decide what governments are acceptable in this hemisphere. Yes the Soviet Union does that in its sphere of influence, but America is not—thank God—the Soviet Union.

The United States had dreamed before of controlling events through proxies. The Bay of Pigs was a disaster of the '60s; Vietnamization was a disaster of the '70s. Even without advance stories in the Washington Post, proxy forces are correctly seen as puppets of the United States. U.S.-picked "leaders" are discredited before their own people.

There is an authentic, nationalist opposition to the Marxist regime; the Sandinista revolt against Somoza included many noncommunists who have been pushed out of the ruling government. Creation of a puppet army will label all anti-regime Nicaraguans as puppets of the United States.

In purely practical terms, a 500-man force is unlikely to defeat or even seriously annoy a standing army estimated at 25,000-30,000 and a militia of 70,000. It stands as though someone has been staying up late watching old World War War II movies on television.

This is not to belittle the dangers that Nicaragua poses to the rest of Central America. The Sandinista regime now openly proclaims itself to be Marxist, and the corrupt oligarchies of Central America are ripe for revolution. Nicaragua's new army, large and well-equipped, could disturb the military balance of power in the region—although claims the army is needed for self defense are looking more and more credible.

But Nicaragua is not Cuba; 1982 is not 1961. The Sandinista regime is nationalist as well as Marxist, and it is not inevitably hostile to the United States. Making these distinctions should be beyond the scope of the Reagan administration.

By refusing to deal with Nicaragua as an independent nation, by cutting off trade and diplomatic relations, above all, by hiring guerrillas to raid the country, the Reagan administration risks making Nicaragua into a Soviet satellite.

If the United States recognized the sovereignty of other nations, even small nations nearby, to run their own affairs, it would make an immense improvement in U.S. foreign relations. Washington might learn to deal with its Central American neighbors through diplomacy and trade rather than rented commandos.

If there is any validity to the stories about a CIA army—and we fear there is—then presumably those who leaked the information did so in order to kill the operation through publicity. We hope they succeed.●

FLORIO RESOLUTION ON MORTGAGE ASSUMPTIONS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. FLORIO. Mr. Speaker, the President's Commission on Housing has recommended that the Federal Government preempt any State law prohibiting due-on-sale clauses in home resales. The Department of

Housing and Urban Development is considering a proposal to require future FHA mortgages carry a due-on-sale clause.

In response to these developments, I have introduced a resolution expressing the sense of the House that the Federal Government should take no action to override the right of States to regulate the availability of mortgage assumptions.

Record high mortgage interest rates have devastated the housing sector and have forced millions of prospective home buyers and sellers out of the housing market. Sixty percent of all used home sales are successfully transacted through the availability of mortgage assumptions. Seventeen States have acted to limit the rights of lenders to impose due-on-sale clauses, and preserve the right of homeowners to pass on their existing mortgages to prospective buyers.

Even in those States which have not directly banned or limited mortgage due-on-sale clauses, the absence of a Federal preemption has encouraged lending institutions to agree to a mortgage assumption at a negotiated interest rate, above the old mortgage but below current market rates.

During present economic conditions, mortgage assumptions provide the principal means through which homes may be purchased at affordable mortgage interest rates. The National Association of Realtors estimates that a Federal override of State laws limiting the use of due-on-sale clauses would exclude up to 500,000 additional people from the home purchase market, and further depress our housing industries.

I hope that all Members will realize the seriousness of this situation and join me in preserving mortgage assumptions as an effective home resale instrument. I would be pleased to add my colleagues as cosponsors of this House resolution.

The resolution follows:

H. RES. 393

To express the sense of the House of Representatives that the Federal Government shall take no action to preempt any state law limiting due-on-sale clauses, or any other similar provision.

Whereas record high mortgage interest rates have forced millions of prospective home buyers and sellers out of the housing market;

Whereas record high mortgage interest rates have contributed to the longest recession in the housing sector or our economy in our nation's history;

Whereas 1981 was the second year in a row when the resale of single-family homes declined, marking the lowest level of home resale activity since 1974;

Whereas record high Federal borrowing will encourage interest rates to remain high, further diminishing housing opportunities for all Americans, and impose particular hardship on 41 million Americans who will enter their prime home buying years during this decade;

Whereas mortgage assumptions and seller financing occur in 60 percent of all single home resales, and provide the principal means through which homes may be purchased at affordable mortgage interest rates;

Whereas 17 states limit the enforcement of due-on-sale clauses in home resale transactions through statutory law or court decision;

Whereas a preliminary recommendation of the President's Commission on Housing calls for the Federal Government to preempt any state law prohibiting due-on-sale clauses;

Whereas a Federal preemption of states' rights to limit due-on-sale clauses would encourage lending institutions to set mortgage interest rates on home resales at current market rates;

Whereas it is estimated that a Federal preemption of state laws prohibiting due-on-sale clauses would increase the monthly payment of the average home by $170, and thereby make home ownership unaffordable for 500,000 additional persons and further exasperate our housing crisis: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the President of the United States should reject the preliminary recommendation of the Commission on Housing for a Federal preemption of state law permitting mortgage assumptions.

Section 2: It is the sense of the House that neither the President nor Federal agency or department shall take any action to limit the rights of states or the courts to prohibit or impose limits on the use of due-on-sale clauses.●

BUDGET OUTLAYS FOR AID TO ISRAEL AND EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a table prepared by the Foreign Affairs and National Defense Division of the Congressional Research Service indicating the considerable budget outlays resulting from the substantial economic and military assistance provided to Israel and Egypt since 1973. The Congressional Research Service estimates that over $15 billion in budget outlays have resulted from the programs for these two Middle East states.

The table follows:

U.S. BUDGET OUTLAYS FOR ASSISTANCE TO EGYPT AND ISRAEL

[Fiscal years 1973 through 1981; millions of dollars]

	1973	1974	1975	1976	Transition quarter	1977	1978	1979	1980	1981	Total
Egypt:											
Economic:											
Technical assistance	0.008										0.008
Development loan						0.229					.229
SA/ESF			0.024	54.034	19.277	173.701	519.533	377.145	591.955	690.526	2,426.195
Food for peace	.879	3.153	88.691	152.270	65.309	212.916	190.429	250.730	301.800	297.361	1,563.538
Military: IMET							.183	.391	.845	.846	2.265
Total	.887	3.153	88.715	206.304	84.586	386.846	710.145	628.266	894.600	988.733	3,992.235
Israel:											
Economic:											
Desalt plant				.459	(.454)	.323	.365	.357	2.053	6.046	9.603
Soviet Jew resettle	49.000	36.500	40.000	15.000		15.000	20.000	25.000	25.000	25.000	250.500
SA/ESF	77.388	66.501	173.236	401.540	237.031	662.113	840.949	1,089.906	785.000	764.000	5,097.664
Food for peace	49.543	32.247	10.550	18.550	.378	14.356	9.962	8.539	4.251	3.126	151.502
Military:											
Forgiven loans		1,500.000	100.000	850.000		500.000	500.000	500.000	500.000	500.000	4,950.000
Air base grant								800.000			800.000
Total	175.931	1,635.248	323.786	1,285.549	237.409	1,191.792	1,371.276	2,423.802	1,316.304	1,298.172	11,259.269

THE 70TH ANNIVERSARY OF THE GIRL SCOUTS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. HOYER. Mr. Speaker, it gives me great pleasure to call to the attention of my colleagues the 70th anniversary of the Girl Scouts of the United States of America.

It was on March 12, 1912, when Juliette Gordon Low formed the first Girl Scout troop in Savannah, Ga. From this single council, the Girl Scouts have developed into the largest voluntary organization for girls and women in the world.

Since its inception, more than 44 million girls, women and men have enriched their lives by participating in the Girl Scouts program. Troops are established in almost every country in the world and more than 13 million Scouts can be found from England to the South Pacific.

The Girl Scouts association is committed to developing the potential of each member. Through its unique program, young girls become productive, self-confident and socially responsible women. These goals are accomplished through the numerous programs and activities of the Girl Scouts.

The organization takes great pride in its educational program which highlights nonstereotyped career education, the sciences, sports for women and mainstreaming the disabled into the Girl Scouts program. From its inception, Girl Scouting has encouraged its members to look beyond themselves to the larger community. From the early days in Savannah when field trips and lessons in the natural sciences were a vital part of the activities, to today's lessons in advanced orienteering and programs in art, culture and government, the Girl Scouts have offered an unlimited array of opportunities for young women.

But young people are not the only beneficiaries of scouting. More than 500,000 adults benefit through the development of leadership and management skills, enhancing personal growth. Jane Deeter Rippin, national executive director in 1926 expressed it best when she said, "Nothing finer comes out of Girl Scouting than the spirit of the adult volunteer."

Local Girl Scout councils are funded through the sales of the well-known Girl Scout cookies and calendars, with some participation from the United Way. The annual cookie sales provide not only needed revenues, but also teaches skills in salesmanship, marketing and money management.

This year the Girls Scouts have designed a special series of activities for girls to perform as part of the 70th anniversary celebration. In keeping with the organization's interest in preserving and discovering the environment, and recognizing the United Nation's designation of the 1980's as the International Water Decade, these activities will be water related. They will join the proficiency programs in computer science, auto mechanics, communications and meteorology in which girls earn badges and awards.

Sir Robert Baden-Powell began the tradition of Scouting in England. His philosophy, which became the underlying philosophy of the entire Scouting movement expresses best the reasons for promoting the Girl Scout association.

"Look wide!" he said, "And when you think you are looking wide, look wider still."

I hope you will all join me in recognition of the outstanding achievements of the Girl Scouts of America on their 70th anniversary.●

A PUNITIVE, TRAGIC RESOLUTION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. LaFALCE. Mr. Speaker, on February 5, 1982, the United Nations General Assembly approved a resolution by a vote of 86 to 21, condemning Israel for its failure to comply with a number of Security Council resolutions. The passage of a resolution which calls for the suspension of economic, financial, and technological assistance cooperation, as well as the severance of diplomatic, trade, and cultural relations with Israel is a true tragedy. It makes the search for peace in the Mideast more difficult, while at the same time uses the United Nations as an instrument to deepen divisions and exacerbate conflicts. We have cause for alarm when the United Nations passes resolutions which are little more than ill-disguised antisemitism, grasping at any excuse to isolate or even obliterate Israel.

In addition, the charges of illegality against Israel for its extension of civil law to the Golan Heights, which precipitated this resolution, are disputed by experts in the field of international law. One such authority, Dr. Julius Stone, distinguished professor at the University of California Hastings College of Law, has published an excellent article, which discusses the extension of civil law to the Golan Heights in terms of international law. Dr. Stone's analysis represents many of my views. I call my colleagues' attention to that article, which follows:

THE GOLAN HEIGHTS AND INTERNATIONAL LAW

(By Julius Stone)

The charges of illegality against Israel for its extension of civil law to the Golan Heights has two counts. The first is that Security Council Resolution 242 of 1967 forbids any unilateral territorial change by Israel. The second is that general international law forbids any formal change in sovereignty in Golan affecting former Syrian territory.

As to Security Council Resolution 242 of November 22, 1967, it is correct to say that it is, along with Resolution 338 after the 1973 war, the most authoritative U.N. pronouncement concerning peace in the Arab-Israel conflict. The operative part of that resolution, drafted and sponsored by British representative Lord Caradon, instructed the Secretary General through his representative "to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles" set out in the resolution. Security Council Resolution 338, which based the cease-fire after the Syrian-Egyptian attack on Israel in 1973, decided—even more explicitly—that the Arab states and Israel should proceed "immediately and concurrently with the cease-fire" with "negotiations" for "a just and durable peace".

So that, for the last 14 years, Security Council resolutions have called for the Arab states to negotiate peace with Israel. Those states have for 14 years intransigently refused to obey. Their consistent war cry has been: No recognition of Israel, no negotiations with Israel, no peace with Israel. The one exception was Egypt, and the Israel response was generous—in agreeing to a peace process involving return of the whole of Sinai.

Resolution 242 did not command withdrawal of Israel from all the territories occupied in the 1967 war. Arab states and their supporters did try to compel Lord Caradon to change his resolution so as to require this. It is on the record that he and other members of the Security Council declined to do so. The legal result, as already shown, is that the operative part of the resolution is precisely to require the parties to negotiate on the extent of Israel withdrawal and its other provisions. This is what Israel has, for 14 years, been trying to do, and what its Arab foes have refused.

The other count in the charge of illegality seems to be that, apart from these Security Council resolutions, international law requires Israel to "hand back" all occupied territories to the Arab states, to which they "belong". So far as Sinai is concerned, Israel is already in the process of returning this to Egypt in accordance with the terms and procedures of the Camp David agreements.

As to Gaza, there is no basis under general international law for requiring return of this either to Egypt or any other Arab state. No other Arab state has ever had any legal or *de facto* claim to Gaza. Egypt itself only entered Gaza in the course of an unlawful attack on Israel in 1948. International law accorded Egypt no sovereign rights there, as Egypt itself admitted. As to the so-called "West Bank" (Judea and Samaria), Jordan did *claim* title. Its entry, too, was illegal, in the course of the war of aggression in 1948-1949. International law clearly negated that claim, and virtually no third state—not even the Arab League states—recognized the Jordanian claim.

The Golan Heights area is of course different. It did, indeed, belong to Syria before the Arab offensive against Israel in 1967. Syria used it consistently for many years before that to bombard mercilessly the peaceful Israel farms and villages in northern Israel which it overlooks.

Does this mean that international law now forbids Israel to change the territorial status of this area? The answer is emphatically in the negative, for the following reasons.

The Golan Heights became territory lawfully occupied by Israel in the course of halting the Syrian attack on it in 1967. What international law provides in this situation is that the lawful occupant may stay in place, exercising the necessary powers of security and administration, until the displaced sovereign (here Syria) negotiates the terms, including the territorial terms, of a treaty of peace.

The Syrian refusal for 14 years to negotiate a treaty of peace has, however, made any agreed territorial adjustment impossible. There is no rule of international law which requires a lawful military occupant, in this situation, to wait forever before putting the control and government of the territory on a permanent basis. Many international lawyers have wondered, indeed, at the long-suffering patience which led Israel to wait as long as it has before establishing that permanent basis.

International law allows formal annexation after conquest in lawful self-defense, and after a deliberate repudiation of a prevailing cease-fire, international law restores belligerent rights to both sides in the conflict.●

MEYERSDALE—AN ALL AMERICA CITY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. MURTHA. Mr. Speaker, congratulations are in order for the citizens of Meyersdale, Pa., as their community has been named an All-America City by the National Municipal League.

Having visited Meyersdale frequently, and worked with their community leaders, I agree wholeheartedly with the designation made on the basis of accomplishments in employment, housing, and community appearance, facilities, and pride.

The 10 members of the Citizens Tree Committee, headed by Mrs. Sharon Clapper and Mr. John J. Kane, deserve great praise for presenting the case for Meyersdale and making its progress and outstanding qualities clear.

For the information of the Members, I have enclosed a copy of an article from the March 13, 1982, Johnstown Tribune-Democrat, outlining details of this award.

The article follows:

TINY MEYERSDALE EARNS ALL-AMERICA CITY DISTINCTION

MEYERSDALE.—This southern Somerset County community has been named an All-America City.

Meyersdale, with a population of 2,581, was the smallest of 10 municipalities to achieve the title this year. The award is sponsored by the National Municipal League.

POPULACE "DELIGHTED"

"We're just delighted," said Sharon Clapper, secretary of the local Citizens Tree Committee, who presented the borough's case for the award at the Nov. 16 judging in Pittsburgh. "We feel Meyersdale deserved it."

Mrs. Clapper said the approximately 10 people who worked to prepare the borough's entry for the competition have not completed plans for local celebrations on receiving the award.

"I do know we will be having a dinner and one director of the National Municipal League will be coming down to present the award and banner," she said.

The All-America Cities Citizens Action Awards program bases its decisions on citizens' voluntary efforts to develop cooperative solutions to their community's problems. The program focuses on the methods used to attain goals, regardless of the outcome of a community's projects.

In November, Meyersdale was among 18 finalists gleaned from an initial field of more than 100 entrants to make a presentation before a jury in Pittsburgh. The judging was conducted in conjunction with the 87th national Conference on Government.

The borough's presentation of an allotted 10 minutes was given by Mrs. Clapper and John J. Kane, former borough manager. Their program focused on three general areas of accomplishments—employment, housing and community appearance, facilities and pride.

UDAG SUCCESS

The employment aspect centered on a citizens advisory committee's success in obtaining two federal Urban Development Action Grants for industrial and commercial activities, citizen and local-organization support of construction of a nursing home and a Chamber of Commerce study of business needs and opportunities.

In the area of housing, accomplishments were noted in adopting a fair-housing ordinance and building-safety codes, surveying rental-housing needs, preparing letters of support for developers of rental-assisted housing, receipt of Small Town Emphasis program funding for purchase and conversion of large Victorian homes to apartments and aiding in gaining funds for rehabilitation that will bring an estimated 80 owner-occupied homes up to code standards.

OTHER PROJECTS

Community appearance, facilities and pride projects included raising money for a new senior citizen center, expansion of the annual Maple Festival, formation of a volunteer committee to deal with the closing of the community center and a tree-planting campaign.

In addition to Meyersdale, the 1982 All-America City winners are Blacksburg, Va.; Bloomington, Ind.; Cleveland, Ohio; Des Moines, Iowa; Grand Island, Neb.; Independence, Mo.; Indianapolis, Ind.; Roanoka, Va.; and Valdez, Alaska.

The eight runners-up are Anaheim, Calif.; Battle Creek, Mich.; Bay City, Mich.; Laurinburg, N.C.; Long Beach, Calif.; Minneapolis, Minn.; Naperville, Ill.; and New Rochelle, N.Y.●

ANATOLY SHCHARANSKY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. FORD of Michigan. Mr. Speaker, today, March 15, 1982, marks the fifth anniversary of the imprisonment of Anatoly Shcharansky. His desire to seek freedom from political and religious oppression has cost him his liberty and forced him into a life behind bars until March 1990.

In 1977, Anatoly Shcharansky was arrested on charges of making contact with agents of the CIA—a charge which the United States has repeatedly denied. He is currently serving the remainder of his 13-year sentence for treason in the Perm labor camp, while his only "crime" was his leadership and effort in assisting Jews in exercising their constitutionally guaranteed right to emigrate.

Our expression of outrage toward the Soviet Union in their failure to uphold their agreement with the other nations in signing the Helsinki accords should continue and we demand that they recognize and provide basic human rights and religious freedoms to their citizens.

Anatoly Shcharansky should not be imprisoned. But while he is, it is up to those of us who are free to continue to spread his message of freedom. We must not allow the pressure to subside as long as there is an America which serves as the beacon of world freedoms or as long as this man and others like him cannot be free.●

ON THE PASSING OF ONE OF HIGHLAND PARK'S GREATEST CITIZENS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. CONYERS. Mr. Speaker, today there are few people left in the world who know about real struggle, strife, and degradation. There are even fewer individuals left who have the determination and strength to step into the vanguard of struggle to combat injustices that cause human suffering. An individual of this caliber, Mrs. Kathleen Bright, who unfortunately passed away recently, was such a person.

She was an outstanding member of my constituency in Highland Park, Mich., where she was the first black elected official in any capacity. This was very commendable, considering the obstacles one had to transcend to go from a secretarial science major at Tennessee State College in the early

1920's, to a highly respected elected official.

Mrs. Bright became a resident of the city of Highland Park, whose population is 84 percent black, in the year 1923. In that same year, blacks represented less than 1 percent of the total population. Despite the obvious obstacles that faced her, she did not let odds deter her in seeking to lift black residents of Highland Park to a higher level of educational, political, and economical respectibility.

The residents of Highland Park shared a great love and admiration for her, which was evidenced by the renaming of the Willard Elementary School in Highland Park in her honor. She joins the ranks of such great Americans as Ralph Bunche, Booker T. Washington, Malcolm X, Paul Robeson, and W. E. B. DuBois, who have had schools named after them. Mrs. Bright was also honored in a special ceremony in November 1979, where a resolution was presented to her by the Highland Park Board of Education that included the following:

> Mrs. Kathleen Bright is highly respected and admired for her warmth, friendliness, delightful sense of humor, quiet dignity, deep understanding of human values and conscious devotion to the welfare of the students and the community,
>
> Had a long distinguished record of service to school and community,
>
> Set an example of pioneering leadership for black citizens of Highland Park, and
>
> Expended enormous amounts of time and energy in the twin causes of the betterment of education and equal opportunities for the students in Highland Park.

This great citizen is an example of the kind of person, educator, and community leader our country so desperately needs at this time. It is important that we embrace the memory of the individuals who stand steadfastly to achieve the basic human rights we take for granted. We who live in Highland Park will miss her presence and contributions, as she meant so much to all of us.●

COAST GUARD ROLES AND MISSION STUDY

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. DAVIS. Mr. Speaker, I have drafted a substitute bill for H.R. 4996, the Coast Guard Transfer Act, which is an attempt to implement some of the constructive suggestions I have received for the legislation since I introduced it last November. While my intent to transfer the U.S. Coast Guard into the Defense Department is unchanged, I have altered the bill to reflect independent status for the Coast Guard within DOD during peacetime. The Coast Guard will continue to be placed in the Department of the Navy during wartime.

This should relieve many of the fears that have been expressed with regard to this legislation. Fears that the Coast Guard would not survive within the Navy Department, fears that Coast Guardsmen would soon be riding Navy ships if the bill passed, and fears that the legislation would result in undue administrative tasks for the Navy. I would also like to point out that this legislation would not in any way hamper the Coast Guard's ability to enforce law, especially important in view of the Coast Guard's drug interdiction mission, and also does not add a new Department of the Coast Guard or Secretary of the Coast Guard to our administrative burden.

The purpose behind this bill is simple. The Coast Guard is, by law, at all times an armed force. We cannot allow them to become useless to us in this crucial role. Coast Guardsmen have served in every U.S. military conflict since the 17th century. They are expected to be ready to assume their military role at any time. Yet, sadly, they are being neglected and, to my surprise, by an administration admirably dedicated to insuring our national security. Clearly the Transportation Department does not view the Coast Guard as a national treasure, or the unique bargain they represent to all our citizens.

I would like to submit for the RECORD the following memo in which our National Security Adviser William P. Clark expresses concern about the civilianization of the U.S. Coast Guard, and urge my colleagues to support H.R. 4996:

THE WHITE HOUSE,
Washington, D.C., February 16, 1982.

Memorandum for the Honorable Andrew L. Lewis, Jr., Secretary of Transportation.

Subject: Coast Guard roles and missions study.

I am concerned about the direction we appear to be headed in the ongoing Coast Guard Roles and Missions Study. In recent correspondence, the Defense Department has expressed grave reservations with the draft paper on "Military Operations/Military Preparedness/Reserve Training." My staff has reviewed the most recent draft of this paper. We believe that the issues articulated by Defense are significant and worthy of consideration by the Roles and Missions Study Policy Committee in their March review.

We appreciate your need to examine opportunities for improved efficiency and economy in the operation and management of the Coast Guard. Specific recommendations, however, must take full cognizance of the Coast Guard's contribution to national security. A call for major changes to the organization's military/civilian personnel mix, or to the provisions for statutory transfer to the Navy in time of war may well dilute our Administration's long-overdue improvement in defense capabilities.

Would you please ensure that your Policy Committee considers these views in their forthcoming deliberations.

WILLIAM P. CLARK,
(For the President).●

A LETTER FROM MR. ROSENBERG

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. SCHUMER. Mr. Speaker, one of my more eloquent constituents, Mr. Fred Rosenberg, sent me the following indictment of the Reagan administration and its policies. In the words of Mr. Rosenberg, a 73-year-old retired schoolteacher, the Reagan administration's policies have produced in many citizens "* * * an almost paralysis of fear, a concatenation of despair, frustration, cynicism, and hopelessness." It is my belief that we will all see more clearly the actions of this administration and its disastrous impact on the country through Mr. Rosenberg's articulate fears:

DEAR SIR: A frightening crisis faces our country, and possibly the world. Hence, I'm taking the time to endeavor to articulate my fears—and they are many.

President Reagan frightens me. His utter lack of sensitivity and compassion for human beings, his verbal bellicosity towards the Soviet Union, his hypocritical ignoring of our own lack of Human Rights, his unashamed support of Fascist rulers (El Salvador), his relentless erosion of progressive and humane legislation—a complete, almost 180° turn in attitude. His New federalism is a blatant bit of demagoguery—and his obsessive, almost maniacal, determination to build "Defense" and cut human social needs—his tenacious efforts to minimize criticism—his almost hectoring tactics—fill me and millions of Americans with apprehension. I thought Mr. Nixon reached the nadir point of criminality, but Mr. Reagan's megalomanical pursuit of his own plans, despite the dangers, is unique—and deadly. Stories of his mean callous disregard for the "underclass"—food stamps, Medicaid, welfare—his "cutting" the budget in one fell swoop regardless of its Draconian effect makes me feel that Mr. Reagan is almost sadistic. Ironically, his movie "image"—his contrived glossy Hollywood smile—his "nice guy" projection is a facade and slowly—too slowly—the people are beginning to realize the truth.

Many, many people I speak with express fear of the President. Not merely a perfunctory disagreement with a bit of legislation—rather, they fear his dehumanized disregard for the poor, the unemployed, etc. And frankly, I feel that his coterie of advisors—a cabal of Haig, Weinberger, et al.—are planning to get us into a war.

Congress kept silent while Lyndon Johnson connived (Gulf of Tonkin Resolution). Will the Congress again remain silent because they are afraid of bucking the higher-ups? Will they pusillanimously remain silent while the Haigs and company beat the War Drums re Cuba, Nicaragua, Russia, etc. Will they become victims of an artificial, manufactured, war hysteria to divert us from our economic problems? If yes, then they, Congress, are the arch villians because "all that is necessary for tyranny [fascism] to grow is for enough good men to remain silent." (Edmund Burke)

And I dread the summer with hundreds of thousands of minority young people deprived of jobs, because of the Sacrosanct "budget."

Thousands, I'm sure, feel the way I do, and lethargy keeps them from writing.

I realize you are only one—I trust that you will speak up and stem this frightening, dangerous trend to economic disaster, to human suffering, and finally, inexorably, to war or to the Ultimate in annihilation—Atomic decimination.

Respectfully,

FRED ROSENBERG.

P.S.—Can you visualize this approaching spring and summer with millions of unemployed youths "hanging out"—no jobs—cynicism rampant? Can you visualize the increase in crime (already astronomic)? People are psychologically barricading themselves—psychologically behind closed doors. But even then, ironically, they are still unsafe. Is this America? Our quintessential freedom (security) gone? Is this the New Federalism? Our President and Congressmen are acquiescing by their silence.●

KNBC-TV, LOS ANGELES, ENDORSES TOTAL DECONTROL OF NATURAL GAS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. DANNEMEYER. Mr. Speaker, I want to share with my colleagues a recent editorial by KNBC-TV in Los Angeles in which the station endorsed the total deregulation of old and new natural gas. The station's statement is a succinct defense of decontrol. It points out that decontrol of wellhead prices is in the consumers' long term interest.

It is indeed unfortunate that President Reagan recently decided not to submit a natural gas legislative package to Congress for consideration. The problems in the natural gas markets of the country will simply not go away. At a minimum, we must hold congressional hearings to provide an opportunity for all parties to present the varied arguments on this important issue. KNBC-TV has outlined the perfect solution by noting:

> But in the long run, price controls do us and our children no favor, and, we think, ceilings should be eliminated completely.

I would like to insert the full text of the editorial at this point in the RECORD. It was broadcast on February 11, 15, and 16, 1982.

DEREGULATING THE PRICE OF NATURAL GAS

Political blood at least will flow in the streets of Washington if Congress speeds up the removal of price ceilings on natural gas in old wells, but, we think, it's a move that should come, for the long term interests of all us gas consumers.

Right now, price controls that have been in place for nearly 30 years are scheduled to be lifted about halfway by 1985, gradually. At that point, gas prices will be roughly half the price of the equivalent amount of oil.

The reasons we favor the complete elimination of price controls on all gas, old and new, are first that keeping prices down guarantees shortages and confusion. Getting rid of price ceilings will make it worth while for gas producers to crank up extraction of gas from old wells, so supply will soon exceed demand and start pushing prices down, the same thing that's happening now with oil and gasoline. We're paying more, sure, but it's available, without standing in line, and people are using less.

The other reason we want to take price controls out of the hands of Congress is that it does not seem either fair or even wise to pay Canada and Mexico double and triple the price we're willing to pay our own citizens. This is a foreign subsidy that makes no sense at all.

Politically, it will be tough to speed up natural gas deregulation. All of us who vote have a warm spot in our hearts for Congressmen who appear to keep prices low for a commodity as vital as natural gas. But in the long run, price controls do us and our children no favor, and, we think, ceilings should be eliminated completely.●

RESOLUTION IN SUPPORT OF COLLEGE WORK-STUDY

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. EMERY. Mr. Speaker, today I am introducing a resolution which would express the sense of the House of Representatives in support of adequate funding of the college work-study program.

The campus-based college student financial assistance program provides aid in the form of salaries for positions in student support services, research and nonprofit community organizations. Federal funds are used to pay 80 percent of the student's salary, and the employer contributes the remaining 20 percent. Because the financial assistance is dispensed directly to the student as a salary, the college work-study program is well appreciated by both the students and their employers.

In the budgetary package we passed last year, Congress authorized the college work-study program to be funded at a level of $550 million per year for 1983 and 1984. Under the continuing resolution effective through this month, Congress included funding for the college work-study program, at a level which would enable 880,000 students to participate in the program in school year 1981-82. If the proposed funding level is accepted, Maine would lose over $1.6 million in work-study funds, denying over 2,500 students access to this program.

Overall, the administration's budget proposal for fiscal year 1983 includes a $2.1 billion reduction in programs for college student assistance. While we all recognize the necessity of reducing Federal spending in hopes of reducing the Federal deficit, I believe the hope of our Nation's future, our college students, should not be required to shoulder the tremendous and disproportionate burden of funding reductions as proposed by the administration.

The college work-study program provides financial assistance to college students while instilling leadership and community service values into their educational experience. I urge my colleagues to join me in expressing our support for this valuable program by cosponsoring this resolution.●

BUY AMERICAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. FORD of Michigan. Mr. Speaker, there are many causes of the recession that plagues our economy today, but one major cause is perfectly clear—the accelerating flood of imported goods in the American marketplace. Millions of Americans are out of work because the goods they produced have been displaced from the domestic market by cheaper imports. And those unemployed Americans can no longer contribute to the economy. They cannot produce anything; their purchasing power has been wiped out; they no longer pay taxes; they are reduced to becoming a drain on our social welfare system.

The flood of cheap imports has left American factories idle or at half capacity and has created millions of newly unemployed workers. But its effects do not stop there. For in every community where a factory stands idle, retail stores, groceries, gas stations, bars and restaurants, and other businesses all suffer sales declines and a loss of income.

The ripple effect of a plant closing or major layoff is obvious within the boundaries of a town or city, but the ripple effect does not stop there. When an automobile factory closes in Cleveland, jobs are lost and the economy suffers in Pennsylvania steel valleys, Indiana glass towns, Alabama tire centers, and North Carolina mill towns. Every imported car represents a loss to Americans all across the Nation.

As the following article by Chicago Tribune writer Bob Wiedrich points out, every American is faced with a choice. Will you buy an imported product to save a few dollars now and risk your neighbor's job? Or will you voluntarily buy American? The job you save may be your own.

[From the Detroit Free Press, Mar. 5, 1982]

WHY BUY AMERICAN? TO SAVE OUR OWN JOBS

(By Bob Wiedrich)

A colleague recently upbraided me for having written what he considered an attack on his patriotism for not buying an American-made car.

He said that it was unfair to suggest that we all buy American when imported products often give people better service for their money.

"It's my right to buy the best product available," he declared.

Then he went on to describe his successes with a Toyota he purchased nine years ago and on which he has spent less than $300 in repairs.

It has no rust, he said. It probably is good for another 50,000 miles. And when people are good to him, he comes back for more, he asserted in announcing his fidelity to the Japanese automobile maker's products.

He said he was getting weary of my writing what he characterized as a "vain hope" that Americans would voluntarily buy U.S.-built autos to bolster the sagging economy.

And I replied that I wasn't questioning his patriotism, but his personal sense of economic survival. His salary, after all, is directly dependent on the state of the U.S. economy. So is mine.

Therefore, if the U.S. auto industry and other retail merchants don't purchase advertising in my newspaper in amounts sufficient to keep the newspaper a profitable business, he and I soon could be out of jobs. Thus, it would behoove him and me to support those who support us—the economic community in which we live and work.

If it does, in fact, cost my colleague a few more bucks to buy and maintain a domestically produced car, he should consider it money in the bank, an investment in his own job security and life-style.

If the United States collapses economically and plunges into political chaos, that life-style will be threatened. Forget about his paycheck. Just consider his personal freedom.

Remember that this nation was fortunate in having a Franklin D. Roosevelt instead of an Adolf Hitler or a Benito Mussolini available to assume leadership during the Great Depression.

In essence, the same seeds that precipitated the rise of dictators in Germany and Italy also were present in the United States—economic turmoil and people desperate for work and financial stability.

Things haven't gotten that bad again—yet. We're still a long way from the 25 percent unemployment of those years.

But also remember that you're playing with dynamite if you permit your economy to become sorely battered and then expect it to rise like a phoenix, reconstituted and ready to go again. You've got to act. You cannot sit back and trust to fate.

I don't like protectionism any more than my colleague. But if you can accomplish the same end voluntarily rather than through legislation, then, by all means, buy American, even if it hurts, so that you will save your job and that of your neighbors.

It boggles the mind that people have to be reminded where their best interests lie. Sure, it's my colleague's right to buy whatever he pleases. He is free to fly a kamikaze mission by buying another Japanese-made car.

Granted, that is an individual act. But a lot of individual acts have a cumulative effect. And that is what has been happening.

Steel is largely dependent on auto production. So are rubber, glass, textiles for car interiors, and so on.

That ripple effect throws out of work other people who make batteries, radios, electronic parts, mechanical fasteners, hubcaps and paint. And that means that retailers cannot afford to buy advertising space in a newspaper because unemployed workers cannot afford to buy their wares.

So the guy on the street had better become astute enough to recognize that when he starts to see a proliferation of foreign cars on his block, including the one parked in front of his house, he is cutting his own throat with a hunk of imported chrome trim.

Faced with the reality that you're helping shut down American factories with imported car purchases, you should start to weigh the relative differences between the two products. And those differences might become negligible when such fine discernment results in a gross increase in the unemployment rolls.

Times have gotten so rough that Streator, Ill., is desperately bidding to have a state prison built there in the hope of hyping its economy. In other words, incarcerating human beings has become a profitable venture for some.

If this recession grows, state prisons might emerge as the only growth industry left in America. And that would be the saddest commentary of all.●

ANATOLY SHCHARANSKY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. ROSENTHAL. Mr. Speaker, I join with my colleagues in marking the date of Anatoly Shcharansky's arrest by Soviet authorities 5 years ago today on March 15, 1977. This courageous man has been forced to endure these past 5 years in Soviet labor camps. Today we are showing that we care; that we will not idly watch the Soviet Union continually abuse the rights of innocent individuals whose only crimes were requesting permission to leave a nation bent on denying them the freedom to practice their religious beliefs.

A recent visit by Mr. Shcharansky's mother brought reports of his deteriorating health and rapid loss of eyesight. The harsh living conditions, inadequate food, and limited communication with his loved ones are taking their toll. It is feared that he will not live to see the day of his eventual release unless drastic changes in his situation occur.

At his trial, Anatoly Shcharansky stated, "Now I say, turning to my people, my Avital, next year in Jerusalem." The Soviet Union should take note of the worldwide concern for Mr. Shcharansky. We will continue to voice our outrage until our voices are heard and Mr. Shcharansky is given the freedom he has sought for so long.●

HONORING THE TOWN OF GRAFTON

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. SOLOMON. Mr. Speaker, I rise to honor the town of Grafton on the occasion of its 175th anniversary. For the benefit of my colleagues I hereby present the following historical sketch of this outstanding community.

Mr. Speaker, On March 20, 1807, a law was enacted incorporating the town of Grafton as a separate entity; and that law read as follows:

> And be it further enacted, That all the remaining part of the town of Troy, and so much of the west side of Petersburg, as shall make seven miles in width from the east line of the town of Brunswick, cut off by a line to commence on the north line of Petersburg, seven miles east of the north-east corner of Brunswick; thence southerly parallel to the east line of said Brunswick to the south line of Petersburg, shall be a separate town, by the name of Grafton; and the first town-meeting shall be held at the dwelling-house of Nathan Hakes.

Subsequently, the first town meeting was held in the home of Nathan Hakes on the first Tuesday in April of 1807; and the town of Grafton has grown mightily since that date. The first record of inhabitants in 1807 shows an accounting of property owners and lessees which includes 169 men and 2 widows, the second is a census of 1810 which shows a population of 1,410 and the last census shows a population of 1,665.

The initial upsurge in population was due to the generosity and charity of General Van Rensselaer who offered an inducement of 200 acres to soldiers and their families from Massachusetts, Rhode Island, Vermont, and Connecticut who had lost all of their possessions through the ravages of the Revolutionary War.

These early settlers with experience in dairying, raising food, building homes, and a deep interest in government help the town grow rapidly.

Logging has always been the chief industry of the town, and to this day Grafton has held its people closely despite the fact most leave home early in the morning to earn a living in the surrounding cities, but always return home to the peace and quiet of Grafton.

On March 20, 1982, celebrations will be held under the direction of Mr. Nelson C. Darling, Jr., chairman; Mr. John E. Darling, cochairman; Mrs. Janet Smith, treasurer; and Mrs. Irma Wagar, secretary to mark the 175th anniversary of the incorporation of the town of Grafton.

Congratulations are due all the residents of this wonderful community on the occasion.●

BUSINESS OPPOSITION TO REAGAN GROWING

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. WEISS. Mr. Speaker, those who were thought to gain the most from Reaganomics, leaders of the business community, have begun to recognize the dangerous flaws in it. Soon after publication of the President's budget for fiscal 1983, business leaders began to mobilize against the Reagan plan. In fact, the Business Roundtable, representing the Nation's largest corporations, announced recently its displeasure with the administration's latest budget proposal. They have begun to see what many of us have been warning against for over a year, that even big business will pay exorbitant future costs for the irresponsibility of President Reagan's economic policy.

Big business opposition to Reaganomics may be the strongest indictment of the President's reckless budget cuts so far. This new source of dissent was represented with great eloquence by J. Richard Munro, president of Time, Inc., in an address to the Association of National Advertisers media workshop in New York City on February 25, 1982. In his remarks, Mr. Munro articulates his misgivings about the silence of his fellow business men who, according to Mr. Munro, are dazzled by the goodies Reagan has provided for business.

I take this opportunity to insert into the CONGRESSIONAL RECORD Mr. Munro's remarks with his permission. Hopefully, they will provoke other business leaders to rise in opposition to Reaganomics, and help my colleagues recognize that the Reagan plan benefits nobody.

The text of the address follows:

REMARKS BY J. RICHARD MUNRO, PRESIDENT, TIME, INC., AT THE ASSOCIATION OF NATIONAL ADVERTISERS MEDIA WORKSHOP

Thank you for the kind introduction. Congratulations on another fine television and media workshop—and for exploring some of the major challenges of our business.

It's an exciting business—full of creativity and rewards—and with a bright future. At Time, Inc., we look to the new video and print technologies for a host of new opportunities.

But I don't intend to speak on this subject today. I hope I don't disappoint you on that.

I want to talk instead about something that affects all of business and all of our society. Let me add that these are my personal views and not that of our editors.

I'm concerned that the Reagan Revolution is doing grave damage to the quality of life in America.

And I'm concerned at the silence about this from my fellow business executives. Is it because we don't realize what's happening? That's what I'd like to think.

Perhaps we're still dazzled by the goodies from Washington for business, especially the tax cuts. We got 10-5-3 and other corporate tax cuts we didn't imagine getting in our wildest dreams.

And now, as an ad in the Wall Street Journal stated: "If your company still plans to pay taxes in 1981, you obviously don't know enough about the new tax law."

Our personal incomes are sheltered better than ever—what with a 25 percent cut in rates, capital gains cuts, IRA's, and stock option tax cuts.

Also, we've just seen the 1983 fiscal year budget go to Congress, with plenty of programs to benefit business, especially if you can tap the defense budget. And we've seen one business regulation after another slip away.

This has been a good year for business.

But for everyone else, it's been a year of great uncertainty—for the poor, a new host of sacrifices—and for us all, a decline in the ethic of common obligation.

Let me begin with the 1983 budget, which raises defense spending by 18 percent—$34 billion—but deeply cuts social programs which affect the poor.

Last year, 70 percent of the $35 billion in cuts came from programs which affect the poor. This year, roughly 90 percent—about $23 billion of the $26 billion total cuts—come from these programs.

I'd like to detail some of those proposed cuts:

With the highest U.S. unemployment since the depression, and headed higher, the public service jobs program is all but wiped out. The Job Corps, our most successful long-term training program, is cut by one-third. The employment service—which helps the jobless find work—is cut again sharply—to half its 1981 level.

The poor served by Medicaid will have to begin paying a share of their bills. When I say poor, I mean poor. To qualify for Medicaid, a family of four has to earn less than $6,000 in New York, $3,700 in Delaware, and $1,700 in Texas—four people living on $1,700 a year.

Aid to families with children is cut by 30 percent, on top of a 1982 cut of half that amount.

One of the proposals to cut costs in this program I find astounding—rounding the cents on each check to the next lowest whole dollar. The budget proposes the same "rounding down" for unemployment checks.

Food stamps for the elderly and disabled families will be cut an average of 25 percent. Child nutrition programs will get a 15 percent cut. Already because of 1982 cuts, an estimated one million fewer needy children now get a school lunch.

As for legal aid for the poor—all funds are eliminated.

I don't want to pile on a lot of details about this. I'm not a budget expert, I'm a businessman. But I'm disturbed about both the practical and social impact of this budget—about its effect on the poor and, ultimately, the rest of us.

We all know that there was fat in these social programs. But the budget last year cut deeply into the muscle. This new one cuts into the heart.

Hand-in-hand with these deep cuts—and just as disturbing—is the New Federalism.

The social programs proposed for return to states will bring huge new costs with them. The excise taxes meant to pay for them expire in a few years, leaving the states to pay in full. The pressure on states to raise taxes will be enormous.

Just as important, the states will also start cutting programs. In one capitol after another, we can expect the fiscal equivalent of triage, as states decide which of the poor, the handicapped, the elderly to exclude from aid.

States which already do little for social programs will have to do even less. For example, Tennessee provides a family of four with $148 a month in aid now. Under the Administration proposal, it could cut that aid almost at will.

States which try to provide adequate help will face either much higher taxes or sharp cuts in services—not just welfare, mind you, but everything from education for the handicapped to road projects.

And if you buy the notion that people will vote with their feet—imagine a mass exodus of the dependent poor going north, with the productive skilled headed south.

After all, it was not long ago that the southern poor left by the millions for the jobs and social services of Chicago, Detroit, Philadelphia, New York and other northern cities.

The migration didn't stop until the programs of the 1960s and 70s tried to extend a minimum of support for the poor in every state. At long last, the poor could afford to stay in the south.

The minimum could well disappear in a few years—and there simply won't be a safety net for the poor in many states.

Besides the budget cuts and New Federalism, there is a third area that concerns me—the hasty retreat from government regulation.

Highway safety, job safety and health, environmental quality, and consumer protections are being severely weakened—far more than justified by the need for greater efficiency.

Since the mine safety budget was cut sharply last year, deaths in the mines are already higher than any year since 1976.

I have a special concern—the retreat from civil rights enforcement. The equal employment agency and labor department have exempted so many employers that the heat's off for affirmative action—companies can go back to business as usual.

Time Inc. does not intend to do that—and takes affirmative action very seriously. We are going ahead aggressively.

Also, the administration recently—and shamefully—reversed a long-standing denial of tax exemptions to segregationist private schools.

And when it comes to the most successful civil rights law of this century—the Voting Rights Act—the Administration proposes to weaken it seriously.

The fact is that there are many areas where government regulations are necessary—that retreat from them is dangerous—and that we need to take stock of what we've done.

Now, despite what you may fear, I won't go on about this all afternoon. But I want to add a bit of philosophical context to this.

There is a crying need in our country for improved productivity—for new investments—for greater incentives to take risks—and for economies that pay long-term dividends. We all accept that.

Yet the program begun last year has chosen short-term economies that either shift large costs elsewhere or ignore needed long-term investments.

Critics have already detailed how the social cuts directly can prevent the poor from working—and force many on welfare.

I'll just mention one example, cited by an Illinois congressman. He told of what happened when federal CETA job program funds stopped for one employee of a small day-care center:

"When that CETA employee was cut off, the center couldn't continue. It folded.

"The result: The former CETA employee is now drawing unemployment compensation; the four women who were full-time employees of the day care center are drawing unemployment compensation; four of the women who were able to work because they had a place to leave their children have had to quit their jobs and go on welfare.

"And so the bottom line: One CETA employee's salary saved, and nine added to the welfare and unemployment compensation rolls. Everyone is a loser including the taxpayers."

That's just one small, but telling, example of how this approach is backfiring.

And if we're serious about our decline in productivity growth, we must think about our human capital, as well as physical and financial capital.

We're rapidly entering a high-tech economy that Alvin Toffler has called the "third wave."

Yet we can foresee shortages of workers to build weapons, string our cable TV lines, program computers, operate word processors, repair robots—to do the millions of complex jobs we're creating—while lower birth rates have already dried up future supplies of skilled labor.

Yet the people who can make the difference between labor bottlenecks and unimpeded growth—they're going nowhere in back-country areas or city slums—poorly housed, in ill health, illiterate, becoming parents when they're 13 or 14 years old—with the odds against them at every step of their lives—and the odds growing worse with every new Federal budget.

We must realize that the notion that there's no free lunch applies to cuts in social spending too—that there will be high costs for business to pay in years to come.

For that matter, I can't forget how I—and many of you—benefitted from one of the biggest social programs in this century.

I went to college on the G.I. Bill, after I served in the Marine Corps in Korea. It paid for books, tuition, living expenses.

The G.I. Bill helped nine million World War II and Korean War veterans—and the payoff was huge.

The World War II G.I. Bill alone produced 450,000 engineers, 360,000 teachers—hundreds of thousands of professionals in medicine, law, and science—and many more in skilled trades.

We should be grateful that Dave Stockman was just in nursery school back then.

The fact is that there are large public investments needed to ensure an expansive and productive future. Cutting budgets doesn't make the needs go away—it just lets them pile up.

We need to begin making those investments again—in our cities, for one thing—but more broadly, in the human potential of people who otherwise will have nothing to add to our economy.

Let me make a final point: To me, the biggest weakness of the Reagan Revolution is that it is just plain unfair.

Deficits are soaring because of internal contradictions in the Administration's program—that were obvious from the start. We all knew that, but we went along anyway.

There's no way we could spend a trillion-and-a-half dollars for defense—cut taxes by three-quarters of a trillion—hold Social Security steady—balance the budget—go through a deep recession—and have money left over for anything else.

Yet who gets the blame? The poor. Who makes the sacrifices? The poor. And who had less to do with this mess than anyone else? The poor.

I agree with Norman Miller of the Wall Street Journal. He wrote this two weeks ago:

"Until the supply-side miracle occurs, if it ever does, the President's harsh social program cuts will impose more pain and sacrifice on the poorest members of society—while the rest of us enjoy a bonanza of immediate benefits."

We've come a long way in our two centuries as a nation. We have a lot at stake in sustaining both our material and human progress.

As business executives, we need an economy that provides a strong, expanding base for our companies to prosper.

As citizens, we need to help solve the problems of our country—even when our direct interests aren't involved.

And as individuals, we need to preserve the web of common obligation that makes our society a decent place to sustain family life, to reach our individual potential, and to live in peace with each other.

That indeed would be a step forward—and not the step backward we are now taking.●

REAFFIRMATION OF U.S. ROLE IN MIDDLE EAST PROPOSED

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. GEJDENSON. Mr. Speaker, I would like to submit for the RECORD an address by our colleague, the Honorable RON WYDEN of Oregon, before the World Affairs Council on February 11, 1982. Mr. WYDEN proposes a reaffirmation of the U.S. role in the Middle East to restore momentum to the peace process. I commend Mr. WYDEN's remarks to my colleagues:

First of all, thank you for the opportunity to be here tonight.

I want to take a few minutes to outline the situation in the Middle East and my views on the direction American policy should take in this strategic area.

More than thirty years ago, two young United States Congressmen named Jack Kennedy and Franklin Roosevelt, Jr. visited the new state of Israel. While on this trip, the two Americans paid a visit to Prime Minister Ben-Gurion.

During the visit, Congressman Kennedy raised the issue of Arab fears of an Israeli invasion. Prime Minister Ben-Gurion replied, "We were once in Egypt, and have no desire to return."

The Prime Minister's reference to the historic struggle for freedom is an indication of the rich and vibrant history of the Middle East—which is the birthplace of three major religions of the world.

Congressman Kennedy's question about Arab fears of invasion by Israel also identifies the vast changes which have taken place in three short decades.

It is important to remember the historic, moral and strategic importance of the Middle East. As the leader of the Free World, we have an obligation to protect Israel, our strongest and most dependable ally in the region, and its only democracy. Even before President Truman's recognition of the State of Israel, the future of Americans and Israelis were linked through our shared dreams for freedom and liberty.

And, as events in Afghanistan, Iran and the Horn of Africa underscore—this area of the globe is one of unparalleled strategic importance. The choke point of the Straits of Hormuz and ports on the Mediterranean must remain open and free. Our strategic and economic future, and that of our allies, demands it.

We have made dramatic progress in recent years—culminated in 1979 by the Camp David Accords—which brought two longtime antagonists together in a mountain retreat with a persistent American President and produced a meaningful framework to end the bloodshed. But, when Israel withdraws from the remainder of the Sinai peninsula on April 25, the Camp David process as we know it today may be over. And despite the good intentions of the United States, Egypt and Israel, we will be at an impasse.

We can see from President Mubarak's trip to Washington last week that he intends to maintain Egypt's friendship with the United States and with Israel—but he is charting a more independent course for his nation than Anwar Sadat.

The challenge before President Mubarak is to maintain the close relationship with the United States and Israel, but mend fences with the other Arab nations.

Initially, he must strengthen his domestic position. The woeful economy of Egypt was one of the most persistently troublesome problems for President Sadat. It will be an even greater challenge for President Mubarak. And the economic problems are aggravated by the fundamentalist religious violence, spearheaded in Iran, which has brought civil strife to the region.

President Mubarak wants to mend fences with the other Arab nations, and that is why he has not budged in the negotiations for Palestinean Autonomy. If he concedes anything to Israel before the withdrawal from the Sinai, it would appear that he gave in before he received anything.

But if he waits until after April 25, he can claim much of the credit for regaining the land. This would strengthen his hand and enhance his prestige as a leader in the Arab world.

In Israel, Prime Minister Begin presides over a fragile coalition that could unravel at the seams when Israel returns the remainder of the Sinai. This thorny issue is a source of political discomfort for Prime Minister Begin, and a strong test of his leadership. This may have provided the major reason for extending Israeli law to the Golan Heights, thus disarming Begin's critics on the right who were vehemently protesting the withdrawal.

The diplomatic climate also ties the hands of Prime Minister Begin. Israel is increasingly isolated in the world community. The question of the Golan Heights simply brought to a head the increasing tension between Israel and the United States. Our "suspension" of the strategic agreement, and Prime Minister Begin's sharp rebuke crystalized the concern Israel feels about our reliability as an ally.

I am convinced that both President Mubarak and Prime Minister Begin will continue to pursue peace in the Middle East. But both are constrained by these circumstances.

The Middle East process is crying out for an injection of creativity from the partners at the table.

The burst of creativity that rescued a framework for peace from the hopeless talks at Camp David.

The burst of creativity that brought longtime enemies to an embrace on the South Lawn of the White House.

The burst of creativity which assures Israelis and Egyptians that they will visit each other's land with cameras and children, instead of guns and tanks.

This injection of creativity would reinvigorate the momentum that has slowed since the Camp David Accords.

Archimedes once said, "Give me a lever long enough and a fulcrum strong enough, and I can move the world.

And it is the duty of the United States to use our prestige and our influence to serve as the fulcrum which gives the peace process new momentum and creativity.

We must move beyond the seemingly endless stream of visits to the Middle East by cabinet Secretaries and special envoys.

We must move beyond the constant shuttling from Tel Aviv to Cairo.

To restore the momentum we had at Camp David, the United States must speak and act clearly without hesitation to define our role in the Middle East.

First, we must act to assure Israel of our unwavering commitment to her safety. The recent bold actions by Israel, for which she was highly criticized, are actually the result of Israel's anxiety.

I believe the Israelis currently view the United States as a "summer soldier" and hesitant ally who breaks her promises. We must work to restore our credibility with Israel, so she is once again prepared to take a chance for peace.

The United States must continue our steadfast support for Israel in the United Nations. I find the kangaroo court atmosphere of the UN debate over Israel's action in the Golan Heights to be repugnant. we must use all available resources, from diplomacy to economic assistance, to stop the United Nations from being a platform to attack Israel.

Second, we must state without equivocation that the United States will defend the partners in peace in the Middle East, and that we will not tolerate the terrorist excursions of such people as Libyan leader Muammar Qaddafi.

I am proud to say that the first amendment I offered in the Congress passed, and put Libya on notice that business as usual with the United States is over.

Third, it is essential for the United States to reach out to those Arab nations who show they are willing to work for a just and lasting peace. We need to encourage and nurture these nations to bring them into the process.

In order to gain their trust, we must quit looking at the region through Cold War glasses manufactured in the 1950's. The Administration's irrational preoccupation with the Soviets is only an invitation to other nations to play one super power against the other.

I am encouraged by Secretary Haig's shift in priorities in the Middle East from the "strategic consensus" campaign of last year to the role of mediation apparent in his most recent trip.

By clearly definining our role in the Middle East as I have mentioned, we sow the seeds that can restore momentum to the process. This restored momentum will permit the parties involved to take risks vital for peace.

When Israel completes the return of the Sinai Peninsula to Egypt we will enter a new phase in the process. This new phase will demand the infusion of creativity and momentum.

Last fall the Administration handed the Congress a real lemon in the form of the proposed sale of AWACS, conformal fuel tanks for the F-15 Fighters, sidewinder missiles and tankers which give these planes an offensive capacity.

I believe we should take this lemon and make some diplomatic lemonade using our new leverage gained from the sale of AWACS. The first evidence of this new leverage is the defense agreement between the United States and Saudi Arabia announced Tuesday by Secretary Weinberger. This unusually visible agreement is the first glimmer of moderation from Saudi Arabia, and I hope it portends further breakthroughs.

It also means that the Saudis are concerned about their position in the region. The Saudi Arabian military, chronically plagued by manpower shortages, needs the assurance of United States protection from hostile forces in the region.

Building on this clue of Saudi cooperation, I urge the Administration to take two important steps after April 25.

First, call on Syria and Israel to begin negotiations on the status of the Golan Heights. To forge good faith negotiations between these two hostile neighbors would present evidence to the region that much can be accomplished when they are willing to talk.

Second, I urge the Administration to set the stage for Camp David II—bringing together Israel, Egypt, Saudi Arabia, Jordan and hopefully Syria.

This bold step would expand the process and inject new momentum and creativity into talks that are running out of steam.

This idea is fraught with risk, but we must ask ourselves what holds greater risk? To work as an honest broker who is willing to put superpower prestige on the line in the interest of peace; or to continue to let this dangerous region—where children are taught to hate each other at birth—boil until it erupts?

What has greater risk—to continue pouring nearly every kind of weapon manufactured in the world today into the region, or to sit down face to face, hour after hour, meeting after meeting until you reach an agreement?

What has greater risk—to force these nations to starve their economies in order to purchase the tools of war, or to take the gamble for peace that will bring economic vitality to nations plagued with inflation that runs nearly 100 percent?

I believe that Jordan, and perhaps other moderate Arab nations would follow if Saudi Arabia could be persuaded to negotiate with Israel. Even belligerants can negotiate without formal recognition. This step would be a catalyst the process must find after April.

While I believe Jordan would follow in negotiations with Israel, she does not have the economic or diplomatic strength to be first.

I am convinced that if the United States returns to our traditional role as a staunch and certain ally of Israel we would no longer see the kind of bold actions she feels she must take to be secure. This would permit the United States to exercise our new leverage with Saudi Arabia to expand the peace process and bring renewed momentum to our quest for peace.

To cynical observers this gamble would bring only failure and disarray. But who would have thought that we could come this far. A courageous initiative is imperative if we are to end our current policy of pouring weapons of every kind into the region—and then holding our breath, praying nobody will use them.

Traditionally, the so-called experts are abysmal pessimists—it's safer to be a pessimist. But it will take committed optimists like the late President Anwar Sadat—at Jerusalem and at Camp David—to make peace.●

THE NEED FOR COAL SLURRY PIPELINES

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. LUJAN. Mr. Speaker, I have long been a supporter of legislation to provide Federal eminent domain for interstate coal slurry pipelines. Because the House will soon be considering coal slurry legislation, H.R. 4230, I would like to offer for the RECORD a February 17, 1982, editorial from the Albuquerque Tribune entitled "Time to Pipe Coal."

TIME TO PIPE COAL

More than half the electricity used by Americans is generated from coal. The cost of moving coal from mine to powerplant is a major factor in the light bills millions receive every month.

That cost is higher than it needs to be. But for 20 years, the railroads—which carry 65 percent of all the coal mined in the country—have been blocking the only feasible alternative to the large-scale transport of coal between inland states.

The alternative is to pulverize coal, mix it with water or some other liquid and send the resulting slurry through pipelines.

The only operating coal slurry pipeline pumps 4.8 million tons of coal a year from Arizona to Nevada at a cost less than half what it would be if shipped by rail.

There could be more such pipelines, but the railroads won't let them cross their tracks.

Here in New Mexico, the Public Service Co. of New Mexico, the prime electric supplier to most of the businesses and residences of the state, converted its electric generating stations to use coal several years ago. PNM constructed major generating plants in the Four Corners area to take advantage of the coal deposits in that region.

Bills in both Houses of Congress would grant coal slurry pipelines the right of eminent domain, similar to that granted oil and gas pipelines during World War II (Also over rail industry opposition).

Yet for some curious reason, the Reagan administration has taken the position that this would be an unwarranted federal intrusion into a matter better left to the states.

We say it's curious, because coal pipelines clearly involve interstate commerce and it was the federal government which granted railroads their rights-of-way back in the 19th century.

The railroads have tried to justify their opposition by pointing out that many Western states are already short of water.

This is a smokescreen. Not only can slurry be made with oil or methanol, but the latest development is to put powdered coal in capsules and propel them with air pressure.

Coal slurry pipelines would introduce some much-needed competition into the business of transporting coal and lower prices for consumers. Congress should pass the legislation giving them the chance.●

THE MORAL ISSUE OF MONEY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. McDONALD. Mr. Speaker, since the beginning of time, various countries and civilizations have had difficulty with inflation, debased currency, and the value or "honesty" of the money circulated by the government or the monarch. Dr. Gary North recently discussed this subject in the Freeman magazine of February 1982. It contains some useful thoughts that are applicable to our debates on the upcoming budget. I commend it to the attention of my colleagues.

Because of the nature of the economics profession—"guild" might be a better word—it is necessary to put quotation marks around the words, "honest money." Economists will go to almost any lengths to avoid the use of moral terms when they discuss economic issues. This has been true since since the seventeenth century, when early mercantilistic pamphlet writers tried to avoid religious controversy by creating the illusion of moral and religious neutrality in their writings. This, they falsely imagined, would produce universal agreement, or at least more readily debatable disagreements, since "scientific" arguments are open to rational investigation. The history of both modern science and modern economics since the seventeenth century has demonstrated how thoroughly unreconcilable the scientists are, morality or no morality.

Nevertheless, traditions die hard. Economists are not supposed to inject questions of morality into their analyses. Economics is still supposedly a "positive" science, one concerned strictly with questions of "if . . . then." If the government does A, then B is likely to result. If the government wants to achieve D, then it should adopt policy E. The economist is completely neutral, of course. He is just an observer who deals with means of achieving ends. The economist can therefore deal with "complete neutrality," with this sort of problem: "If the Nazis wish to exterminate 50,000 people, which are the most cost-effective means?" No morality, you understand, just simple economic analysis.

The problem with the theory of neutral economics is that people are not neutral, effects of government policies are not neutral, social systems are not neutral, legal systems are not neutral, and when pressed, even economists are not neutral. Because societies are not neutral, the costs of violating a society's first principles have to be taken into account. But no economist can do any more than guess about such costs. There is no known way to assess the true costs to society of having its political leaders defy fundamental moral principles and adopt any given policy. And if the economists guess wrong—not an unlikely prospect, given the hypothetical moral vacuum in which economists officially operate—then the whole society will pay. (This assumes, of course, that policy-makers listen to economists.)

The inability of economists to make accurate cost-benefit analyses of any and all policy matters is a kind of skeleton in the profession's closet. The problem was debated back in the late 1930s, and a few economists still admit that it is a real theoretical problem, but very few think about it. The fact of the matter is simple: there is no measuring device for balancing total individual utility vs. total disutility for society as a whole. You cannot, as a scientist, make interpersonal comparisons of subjective utility. The better economists know this, but they prefer not to think about it. They want to give advice, but as scientists they cannot say what policy is better for society as a whole.[1]

This is why politicians and policymakers have to rely on intuition, just as the economists do. There is no scientific standard to tell them whether or not a particular policy should be imposed. Without a concept of morality—that some policy is morally superior to another—the economists' "if . . . then" game will not answer the questions that need to be answered. Without moral guidelines, there is little hope of guessing correctly concerning the true costs and benefits to society as a whole of any policy. The economist, as a scientist, is in no better position to make such estimations than anyone else. If anything, he is in a worse position, since his academic training has conditioned him to avoid mixing moral issues and economic analysis. He is not used to dealing with such questions.

WHAT IS HONEST MONEY?

Honest money is a social institution that arises from honest dealings among acting individuals. Money is probably best defined as the most marketable commodity. I accept a dollar in exchange for goods or services that I supply only because I have reason to suspect that someone else will do the same for me later on. If I begin to suspect that others will refuse to take my dollar in exchange for their goods and services in the future, I will be less willing to take that dollar today. I may ask the buyer to pay me a dollar and a quarter, just to compensate me for my risk in holding that dollar over time.

A currency unit functions as money—a medium of voluntary exchange—only because people expect it to do so in the future. One reason why they expect a particular currency unit to be acceptable in the future is that it has been acceptable in the past. A monetary unit has to have historic value in most instances, if it is to function as money. Occasionally, meaning very rarely, a government can impose a new currency unit on its citizens, and sometimes this works. One good example is the introduction of the new German mark in November of 1923, which was exchanged for the old mark at a trillion to one. But normally the costs are so high in having people rethink and relearn a new currency unit that governments avoid such an imposition.

HISTORIC STABILITY

The question policy-makers must ask themselves is this: To avoid the necessity of imposing a totally new currency unit on a population, what can be done to convince people that the future usefulness of the currency in voluntary exchange will remain high? What can be done to improve the historic value of money in the future? In other words, when people in a year or a decade look back at the performance of their nation's currency unit, will they say to themselves: "This dollar that I'm holding today buys pretty much what it bought back then. I think it's safe for me to continue to accept dollars in exchange for my goods and services, since people trust its buying power. I have no reason to believe that its purchasing power will fall in the future, so I can take the risk of accepting payment in dollars today." If people do not say this to themselves, then the dollar's purchasing power is undermined. People will demand more dollars in payment, meaning prices will go up, if they suspect that prices will go up. This, in turn, convinces more people that the historic value of their money has been unreliable, which then leads to higher prices.

The economist will tell you that prices cannot continue to go up unless the government, working with the central bank, accommodates price inflation by expanding the currency base. The economist is correct in the long run, whatever the long run is these days, or will be in a few years. But governments have a pernicious tendency to accommodate price inflation. Dr. Arthur Burns was forthright about this back in 1976:

"These days the Federal Reserve is now and then described as pursuing a restrictive monetary policy. The Federal Reserve is described as being engaged in a struggle against inflation. The Federal Reserve is even charged with being more concerned about inflation than about unemployment, which is entirely false. It is by generating inflation, or permitting inflation, that we get unemployment on a massive scale eventually. But let us in the Federal Reserve ask this question: Are we accommodating inflation at the present time or not? The answer—the only honest, professional answer—is that, to a large degree, we are accommodating the inflation; in other words, are making it possible for inflation to continue."[2]

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[1] For those who are curious about this great debate over the impossibility of making interpersonal comparisons of subjective utility, see the exchange that took place between Sir Roy Harrod and Lionel Robbins: Roy F. Harrod, "Scope and Methods of Economics," The Economic Journal (Sept., 1938) and Lionel Robbins, "Interpersonal Comparisons of Utility: A Comment," The Economic Journal (Dec., 1938). For some "new left" conclusions concerning the results of this debate, see Mark A. Lutz and Kenneth Lux, The Challenge of Humanistic Economics (Menlo Park, Calif.: Benjamin Cummings, 1979), pp. 83-89. For my own observations on its implications, see Gary North, The Dominion Covenant: Genesis (Tyler, Texas: Institute for Christian Economics, 1982), ch. 4.

[2] Federal Reserve Consultations on the Conduct of Monetary Policy, Hearings Before the Committee on Banking, Currency and Housing, House of Representatives, 94th Congress, 2nd Session (July 27 and 28, 1976), pp. 26-27. Printed by the U.S. Government Printing Office, Washington, D.C.

So we get a kind of self-fulfilling prophecy. The government expands the money supply in order to finance its deficits, or create a temporary economic boom, or whatever, and the prices for goods and services rise. Everyone in the "great American auction" has more dollars to use in the bidding process, so prices rise. Then the public gets suspicious about the future value of money, because they have seen the loss of purchasing power in the past. They demand higher prices. Then the Federal Reserve System is encouraged by politicians to accommodate the price inflation, in order to keep the boom going (to keep the "auction" lively). The dollar loses its present value, because it has lost its historic value, which encourages people to discount sharply its future value.

The secret of retaining the public's confidence in any currency unit is simple enough: convince users of the money that the issuers are responsible, reliable, and trustworthy. Government and its licensed agents have a monopoly of money creation. Private competitors are called counterfeiters. Sadly, in our day, it is very difficult to understand just what it is that counterfeiters do, economically speaking, that governments are not already doing. Fiat money is fiat money. (Perhaps the real legal issue ought to be the illegal use of the government's copyrighted material. Copyright infringement makes a much more logical case for Federal prosecution than counterfeiting.)

WHO GUARDS THE GUARDIANS?

There is an ancient question that every society must answer: "Who guards the guardians?" Or in more contemporary usage, "Who referees the referees?" The public needs an impersonal guardian to restrain the actions of those who hold a legal monopoly of money creation: the government, the central bank, and the commercial banks. The public can guard the guardians if citizens have the right to go down to the local bank and receive payment in gold, silver, or some other money metal. The issuers of money need only stamp on the paper money (or check, or deposit book entry) that the holder of the currency unit has a legal right to redeem his warehouse receipt for a stated weight and fineness of a specific metal.[3] Whenever the issuing agencies begin to issue more receipts than they have reserves of metal, the public has the option of "calling the bluff" of the issuers, and demanding payment, as promised by law. It is this restraint—implicit economically, but explicit legally—which serves as the impersonal guardian of the public trust.

The government can always change the law. Governments do this all the time. Whenever there is a major war, for example, governments suspend specie payments. They also suspend civil liberties, and for the same reason: to increase the power of the state at the expense of the citizens. Governments in peacetime are frequently unwilling to reestablish pre-war taxes, pre-war civil liberties, and pre-war convertibility of currencies, long after the war is over. Civil libertarians have not generally understood the case for a gold standard as a case for civil liberties, despite the obvious historical correlation between wartime suspension of civil liberties and wartime suspension of specie payments.

When the authorities declare the convertibility of paper into specie metals "null and void," it sends the public a message. "Attention!" This is your government speaking. We are no longer willing to subject ourselves to your continual interference in our governmental affairs. We no longer can tolerate illegitimate restrictions on our efforts to guard the public welfare, especially from the public. Therefore, we are suspending the following civil right: the public's legal right to call our bluff when we guarantee free convertibility of our currency. This should not be interpreted as an immoral act on the part of the government. Contracts are not moral issues. They are strictly pragmatic. However, we assure you, from the bottom of our collective heart, that we shall never expand the money supply, or allow the historic value of the currency to depreciate. It will be just as if we had a gold standard restraint on our printing presses. However, such restraints are unnecessary, and besides, they are altogether too restraining."

REDEEMABILITY REQUIRED

Critics of the gold standard tell us that the value of any currency is dependent on public confidence, not gold. But what the critics refuse to admit is that the existence of the civil liberty of redeemable money is an important psychological support of the public's confidence in money. Even when the public does not understand the gold standard's theoretical justification—an impersonal guard of the monopolistic guardians—citizens can exercise their judgment on a daily basis by either demanding payment in gold (or silver, or whatever) or not demanding payment. Like the free market itself, it works whether or not the bulk of the participants understand the theory. What they do understand is self-interest: if there is a profit to be made from buying gold at the official rate, and selling it into the free market (including foreign markets) at a higher price, then some people will enter the markets as middlemen, "buying low and selling high," until the government realizes that its bluff has been called, and it therefore is forced to reduce the expansion of the money supply.

What is the morality of a gold standard? Simple: it is the morality of a legal contract. A government's word is its bond. A government promises to restrain itself in the creation of money, in order to assure citizens that the monopoly of money-creation will not be abused by those holding the monopoly grant of power. The gold standard is very much like a constitution: an impersonal, reliable institution which has as its premier function the counterbalancing of potentially damaging monopolistic power.

FLEXIBLE MONEY

Flexible money is a euphemism for the government's ability to increase (but, historically speaking, rarely to decrease) the money supply. The degree of flexibility is determined by the political process, not by the direct response of those affected, namely, individual citizens who would otherwise have the right to demand payment in gold. Flexible money means monetary inflation. Very flexible money means a whole lot of monetary inflation. Monetary inflation means, within 24 months, price inflation.

Civil libertarians instantly recognize the danger of "flexible administrative law," or "flexible censorship," or "flexible enforcement of speed traps." Yet they have great difficulty in recognizing precisely the same kind of evil in "flexible monetary policy." The threat comes from the same institution, the civil government. It comes for the same reasons: the desire of the government to increase its arbitary exercise of monopolistic power over the citizenry, and to limit public resistance.

The inflationary implications of "flexible monetary policy" can be seen in a revealing exchange between Arthur Burns and Henry Reuss:

> Dr. Burns. Let me say this, if I may: the genius of monetary policy—its great virtue—is that it is flexible. With respect to the growth ranges that we project for the coming year, as I have tried to advise this committee from time to time—and as I keep reminding others, including members of my own Federal Reserve family—our goal at the Federal Reserve is not to make a particular projection come true; our goal is to adjust what we do with a view to achieving a good performance of the economy. If at some future time I should come to this committee and report a wide discrepancy between our projection and what actually happened in the sphere of money and credit, I would not be embarrassed in the slightest. On the contrary, I would feel that the Federal Reserve had done well and I would even anticipate a possible word of praise from this generous committee.
>
> Chairman Reuss. You would get it, and the word of praise would be even louder and more deeply felt if you came up and said that due to the change in circumstances you were proving once again that you were not locked on automatic pilot and were willing to become more expansive if the circumstances warranted. Either way you would get praise beyond belief.[4]

Praise beyond belief! Who wants anything less? Just take the monetary system off "automatic pilot," and turn it over to those whose short-run political goals favor a return of the inflation-generated economic boom, once the boom has worn off because the printing presses are not accelerating the output of fiat money—fiat money being defined as former warehouse receipts for metal, in which even the pretense of a warehouse has been abandoned. Gold is a tough-minded automatic pilot.

Politically, there is a great deal of flexibility in monetary affairs. Few people even pretend to understand monetary affairs, and most of those who do really do not understand the logic of the gold standard. The logic is very simple, very clear, and universally despised: It is cheaper to print money than it is to dig gold.●

HONORING CRAZY HORSE

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. DASCHLE. Mr. Speaker, recently, the Postal Service issued a stamp as part of its great American series honoring Crazy Horse. I would like to submit for inclusion in the Congressional Record a New York Times article by Samuel A. Tower which describes some of the reasons why we should recognize this great Sioux leader who fought to preserve a nation of people and a way of life. The article also describes the sculpture of Crazy Horse being done in the Black Hills. The artist is Korczak Ziolowski, well known as the sculptor of Mount Rushmore.

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[3] On money as a warehouse receipt, see Murray N. Rothbard, Man, Economy and State (New York: New York University Press, [1962] 1975), pp. 700-3.

[4] Federal Reserve Consultations, p. 13.

[From the New York Times, Jan. 10, 1982]

NEW 13-CENT ISSUE PAYS TRIBUTE TO CRAZY HORSE

(By Samuel A. Tower)

The United States is issuing this Friday a stamp to honor an Indian chief who fought to keep his people free a century ago and not subjugated by a great power. The Indian is Crazy Horse, chief of the Oglalas and the military genius of the Sioux Confederacy.

Crazy Horse was crushed, but the cause he fought for—freedom—is never crushed, and today he is remembered as a great American. He appears on the latest issue of the Great Americans Series, a 13-cent stamp for the new higher rate for postal cards.

The first-day ceremony is being held, appropriately, in the little town of Crazy Horse in the Black Hills area of South Dakota. Both the first-day ceremony and the unveiling ceremony last fall were held in the Indian Museum of North America. The museum, created by sculptor Korczak Ziolowski and his two sons, Adam and Casimir, and made of native pine, houses a collection of more than 2,000 artifacts representing more than 50 Indian tribes.

The symbolism of the new stamp was defined during the unveiling ceremony by Eugene C. Hagburg, Assistant Postmaster General, who said in part:

"We are honoring Crazy Horse because he was one of history's most able military tacticians. At the same time, I think it is important to recall why he fought as well as how. Crazy Horse fought not for his own glory, nor for personal gain. He fought valiantly for two reasons: to protect the very lives of his people and to preserve their valued way of life. To comprehend the history of Crazy Horse is to understand his struggle and the struggle of his people. It is to witness pain and to respect the power of the human spirit to endure and triumph.

"It is also to recognize that although the life span of this leader may have been brief in terms of years, his courage, conviction and sense of commitment have lived to inspire others. As long as human beings value loyalty and life, they will share Crazy Horse's vision of a world of freedom, peace and dignity for all the children of the Great Spirit."

Korczak Ziolowski, now 73, has been devoting some four decades of his life to carving out from Thunderhead Mountain in the southern Black Hills a monument to Crazy Horse. The undertaking is described as the largest sculpture the world has ever known. It will be taller than the Washington Monument.

The carving depicts Crazy Horse advancing toward his foe on a rearing horse. As an indication of scale, the horse's left eye is higher than a two-story house and is some 30 feet in length.

The design of the stamp, which is dominated by a portrait, is based on a model created by the sculptor for his mountain carving, since there is no known photograph of the Indian chief. He refused to allow any pictures of him to be taken. The sculptor based his model on detailed first-hand descriptions provided a number of years ago by a handful of Indian warriors who had fought by the side of Crazy Horse. In turn, the designer based his portrait, a pencil sketch, on the model and other studies by the sculptor. He is Brad Holland of New York City, a newcomer to philatelic design.

The stamp is light maroon in color and has been produced by intaglio. The name runs up the right side of the design from bottom to top. The postal data is in the upper left corner. It has been produced in post office panes of 100 and there is one group of plate numbers.

Crazy Horse, as his Indian name was translated, was born sometime in 1849. The name is said to stem from the incident of a wild pony dashing through his village at the time of his birth. As a young man he is believed to have taken an active part in the campaigns of the noted Oglala chief, Red Cloud, against the forts and settlements of Wyoming in 1865-1868. He married a woman of the Cheyennes. This brought him in closer affiliation with that tribe, which at various times provided him with most of his following.

In 1874, gold was discovered in the Black Hills. The United States, under an 1868 treaty, had guaranteed the Sioux that the Powder River country, including the Black Hills, was to be theirs forever and that no white men should ever be permitted to pass over this land or settle in it.

However, following word of the gold strike a few prospectors stole in, then more and more. The Sioux protested and protested. The government tried another tack. It offered $6 million to buy the mining rights. The Sioux said more than that had already been taken out. The Sioux said if the Great White Father wanted to get rich, they did too, and demanded $50 million.

The Government saw that other means of persuasion would have to be found, so an order went out: The bands of Sioux would have to come in and be "enrolled." Most of the bands obeyed.

Crazy Horse was one of the leaders of the "hostiles" who ignored the War Department's order that all roving bands be back on the Indian reservations by Jan. 1, 1876. So was Sitting Bull, a chief of the Teton Dakotas, who well understood what was behind the order and made plain he had no land to sell. A second order went out: The Army would act if the chief did not come in. "You can find me easily," said Sitting Bull. "I will not run away."

So the Sioux War of 1876-1877 began, as the Government turned to persuasion by the gun.

On June 25, 1876, in the famous battle of the Little Big Horn, this camp was attacked by a regiment of U.S. cavalry. The attack was defeated. Crazy Horse, shouting, "Today is a good day to fight, today is a good day to die," led a counterattack that cut off half of the attacking troopers. Every man in this surrounded group of cavalrymen was killed in a desperate, blazing fight that lasted less than a half hour.

The attacking force had been the elite Seventh Cavalry. The force had been led by Col. George Armstrong Custer, who had fought with distinction in the Civil War. Custer and more than 260 of his men were all killed in what has come to be known in American history as "Custer's Last Stand."

The news of the defeat reached the nation about July 4, 1876, in the midst of its celebration of its centennial. The reaction was inevitable. Such a humiliating defeat by a band of "savages" could not be tolerated by a modern nation of 40 million, especially as it was congratulating itself on the greatness it had attained in its first 100 years.

The Indian victory at the Little Big Horn was in effect the end of the war of the plains. Crazy Horse and Sitting Bull had lost by winning. From that point on U.S. troops harried them without mercy, and the Indians had no means of keeping a standing army in the field indefinitely.

After the Little Big Horn, Crazy Horse sought to acquire ammunition, supplies and recruits but was foiled by the close pursuit of U.S. soldiers. The Indian band took up winter quarters in the Wolf Mountains near the head of the Rosebud River in Montana. There, in one of the most desperate and daring battles of the war, Crazy Horse was attacked by a force with artillery pieces. His village was broken up, though he retired in good order.

With supplies and ammunition exhausted, his Cheyenne allies bitter and his own tribesmen deserting him, Crazy Horse began to be receptive to pleas that he give up the hopeless struggle. But he held out four months longer. Finally, on May 6, 1877, with about 1,100 men, women and children, he arrived at the Red Cloud Indian agency near Camp Robinson in Nebraska and surrendered.

He was not a subdued and defeated warrior. He was actually starved out, and came in to make the best terms possible with the military authorities for his suffering people. He asked only for rest and peace for himself and his tribesmen.

For four months after the surrender all went well. Then authorities in Washington apparently had misgivings and he was ordered arrested. He willingly accompanied Army officers to the guardhouse until he saw the cells and some prisoners in irons and suddenly realized that he was going to be locked up. He drew from his clothing a knife and attempted to fight his way out. In the confused fighting, he was stabbed in the abdomen and in a few hours was dead. On Sept. 5, 1877 the body was given to his aged parents, who buried it secretly somewhere in the hills near the camp.

Except for a grace period of 30 days instead of the customary fortnight for sending in orders for first-day-of-issue cancellations, the usual alternative procedures for acquiring covers prevail.

Collectors affixing stamps. Collectors acquiring stamps and affixing them on envelopes, which must be addressed, should send their orders, postmarked no later than Feb. 14, to "Customer-Affixed Envelopes, Postmaster, Crazy Horse, S.D. 57730-9991." If the stamp is affixed to an envelope, an additional 7 cents postage must be added for the first-class rate. No remittance is required.

Postal Service affixing stamps. Collectors wishing first-day servicing by the United States Postal Service should send their addressed envelopes to "Crazy Horse Stamp, Postmaster, Crazy Horse, S.D. 57730-9992." Postal Service will add 7 cents additional postage to meet the 20-cent rate when envelopes are sent in. The cost per envelope is 20 cents. Personal checks are accepted in payment but not cash or postage stamps. Orders must be postmarked no later than Feb. 14.●

IMPRISONMENT OF ANATOLY SHCHARANSKY

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. WEISS. Mr. Speaker, the continued imprisonment of Anatoly Shcharansky in a Soviet prison camp is a gross abuse of fundamental human rights and deserves the attention of all Members of Congress. On this occasion, the 5th anniversary of his imprisonment, it is important for us to question what it is that Anatoly Shcharansky has done wrong and why it is that he is not a free man.

In 1977, Shcharansky was convicted of treason and sentenced to 13 years in prison merely for desiring to emigrate to Israel to rejoin his wife. After being forced to leave the Soviet Union on the day following their wedding, Shcharansky's wife, Avital, was told that her husband would soon be permitted to follow. She still waits, more than 5 years later.

In the past year, Shcharansky's plight has worsened. He has received only one visit during that period, from his mother and brother. After the visit, which lasted only two hours, Shcharansky's mother reported that he suffered from headaches and visual disorders. This came only three months after Shcharansky had collapsed from hunger and was hospitalized. Immediately upon his release from the hospital, he was returned to Chistopol prison. Reportedly, conditions there are abhorrent.

The treatment of Shcharansky, whose health is threatened because of the poor care he receives, reveals a broader picture of the abuse of rights and overall mistreatment of Soviet Jews. Though an official emigration policy has been in place for more than 13 years in the Soviet Union, the Soviet Government continues to make emigration a difficult and exhausting ordeal. In fact, emigration is nearly unobtainable for Soviet Jews. And, Shcharansky's case shows that there is apparently no end in sight to this indiscriminate abuse.

Anatoly Shcharansky has been targeted for displaying the courage to stand up to Soviet inhumanity. He has been deemed a criminal for longing to leave and for no other reason. Now, he languishes in a prison camp as his physical condition worsens.

For these reasons, we must continue to work for the immediate release of Anatoly Shcharansky so that he can be reunited with his wife in Israel. Our calls for his freedom must be relentless, because as long as the human rights of Soviet Jews are abused, there can be no guarantee of freedom or justice in the Soviet Union.●

ON THE SITUATION OF HUNGARIANS IN ROMANIA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. YATRON. Mr. Speaker, today I am introducing a resolution requesting the President and the Secretary of State to discuss the issues of the human and national self-determination rights of the Hungarians in Transylvania with the Government of the Socialist Republic of Romania and with other appropriate governments.

The resolution has a long and eventful background in the House. As early as March 1965 nine members introduced a similar bill and dozens of speeches were held on the floor between 1965-68 and 1975-82 on this issue. In 1966, 52 Members wrote the then Secretary of State Dean Rusk outlining the human rights grievances of the Hungarians in Romania, and in March 1976, 68 of my colleagues, including myself wrote to the then President Ford asking for American diplomatic intervention in favor of the persecuted Hungarian minority.

Among outside organizations, the American Hungarian Federation bore the burden of the fight. Between 1965 and 1973 it presented countless well-balanced and documented memorandums on specific cases of human rights violations and continuous discrimination against the 2.5 million Hungarians of Transylvania with Dr. Z. Michael Szaz, Secretary for Foreign Relations, as its chief spokesman. Two other organizations, The Committee for Human Rights in Romania and The Transylvanian World Federation joined the fight after 1976 and carried it on by providing valuable data and information on the ongoing discrimination and persecutions against those insisting on human, educational, and cultural rights of this ethnic group which has ruled Transylvania from the 10th century to 1920.

Since 1979 a much broader based group, the National Confederation of American Ethnic Groups, Inc., which represent 35 national and state organizations of 17 different American Heritage groups from Europe, Asia, and the Caribbean also registered its concerns about the suppression of nationality groups in Romania. Again the work is being done by Dr. Szaz who since April 1979 serves as the executive vice president of the group.

Based upon the above documentation my distinguished colleague from California (Mr. LAGOMARSINO) sent a letter to Secretary of State Alexander M. Haig, Jr. on December 8, 1981 which was cosigned by 120 other members including myself. At this time I ask unanimous consent that the letter and Under Secretary of State Walter J. Stoessel's reply of January 7, 1982 be inserted into the RECORD.

Recent events in Romania, including the temporary default on CCC loan repayment by the Government of the Socialist Republic of Romania and the President's decision not to grant an additional $65 million of CCC credit to Romania as well as the improved text of the "Country Reports on Human Rights Practices for 1981" on the Hungarians in Romania give us hope that the administration is becoming increasingly aware of the government's human rights violations against its citizens in general and the Hungarians in Transylvania in particular.

Mr. Speaker, I believe that our economic leverage toward Romania has considerably increased in the last 6 months and will play an even more important role in the weeks and months to come. I believe that this is the time to raise the issue of an abatement of discrimination and persecution of the Hungarians in Transylvania as well as economic reforms already demanded by the IMF as a quid pro quo for our understanding, patience, and possible financial assistance.

We members of the U.S. House of Representatives must send an appropriate signal to our administration and to the Government of the Socialist Republic of Romania on this issue.

The Hungarian minority comprises 2.5 million people. If it were independent, it would constitute the 49th most populous state in the world. We are talking here about the second largest national minority in Europe outside of the U.S.S.R., people who have greatly contributed to Western culture and civilization, whose princes were inextricably intertwined with the history of the Reformation (Gabriel Bethlen) and with the golden age of Poland (Stefan Batory), and whose first sons came to the New World with John Smith in 1603. To countenance their slow but steady ethnocide would do injustice to our ideals, commitment to freedom, justice, and the human rights of people everywhere.

This resolution establishes how the House of Representatives feels about the human and national self-determination rights of the Transylvanian Hungarians and strengthens the hand of the administration in its dealings with Romania.

To outline the specifics of the case would take hours. Testimony was presented every year before the Subcommittee on Trade of the House Ways and Means Committee and the Subcommittee on International Trade of the Senate Finance Committee since 1975 in connection with the hearings on Romania's MFN status by the aforementioned American Hungarian organizations. In 1978, 1979, and 1981 testimony was also presented by Dr.

Szaz before the above committees on behalf of the American Foreign Policy Institute. I am aware that further materials have been collected and would be introduced in the near future by several of my colleagues.

It is my hope that the pertinent subcommittees of the House Foreign Affairs Committee—that is, the Subcommittee on Human Rights and International Organizations and the Subcommittee on Europe and the Middle East—will take early action on this resolution.

UNDER SECRETARY OF STATE
FOR POLITICAL AFFAIRS,
Washington, D.C., January 7, 1982.

DEAR MR. LAGOMARSINO: I have been asked to reply to the letter you and 120 of your colleagues sent to the Secretary on December 8 concerning the treatment of the Hungarian minority in Transylvania by the Romanian Government.

The Department has kept itself informed of the status of the Hungarian minority in Transylvania for many years, and has examined with care numerous reports to the effect that the Romanian Government systematically has pursued a policy of depriving Hungarians in Romania of their rights.

The Department has concluded, as indicated in our Human Rights reports over several years, that although the Romanian Government permits some expression of the Hungarian minority's cultural traditions, that expression is limited. I have enclosed a copy of our 1980 Human Rights Report on Romania for perusal.

The Romanians maintain that the treatment of the Hungarian minority in Transylvania involves questions of internal Romanian policy. Nonetheless, the United States has repeatedly raised with the Romanian Government our concerns for the well-being of the Hungarian minority in Romania. Where specifically-documented cases of human rights violations have been brought to our attention we have not hesitated to protest to the Romanian Government. On other occasions we have called to the Romanian Government's attention the negative impact which its perceived poor treatment accorded the Hungarian minority in Romania has had on our bilateral relations. We intend through these periodic U.S. approaches to the Romanian Government to help preserve the cultural traditions of the Hungarian ethnic minority. You may be sure we shall continue to follow the issue closely and will continue to raise it with the Romanian Government in the future.

Sincerely,

WALTER J. STOESSEL, Jr.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., December 8, 1981.
Hon. ALEXANDER M. HAIG, Jr.,
Secretary of State, Department of State, Washington, D.C.

DEAR SECRETARY HAIG: We, the undersigned, members of the United States House of Representatives, would like to call your attention to the continued deprivation of human and self-determination rights of the national minorities in Transylvania, particularly those Hungarians assigned to Romania in the 1947 Paris Peace Treaty.

These 2.5 million Hungarians of Transylvania, a province that had constituted part of the Hungarian Kingdom for a millennium, was assigned originally to Romania in the 1920 Trianon Peace Treaty—which the United States had never ratified.

The fate of the Transylvania Hungarians was systematic denationalization and discrimination under the royal Romanian regime as well as under Antonescu's Fascists and the Communist rule of Gheorghiu-Dej and Ceaucescu.

In the 1947 Peace Treaty, where the United States had yielded to extreme Soviet pressure to allow the reattachment of Northern Transylvania to Romania, the four great powers compelled Romania to guarantee the human rights of its citizens, a promise repeatedly broken since 1947.

For more than two decades, Romanian pressures against the Hungarians of Transylvania assumed characteristics of ethnocide including complete suppression of the social and youth activities and the internal independence of the Hungarian churches; destruction of the Hungarian-language schools still in existence in 1958 and their replacement with a steadily declining number of Hungarian-language "sections" in the Romanian schools; the systematic destruction of the documents of the Hungarian past of the province and finally a conscious dispersal of the Hungarian intelligentsia and the settlement of large number of Romanians amidst the Hungarian regions of the province.

Under these circumstances may we ask you to discuss the above grave violations of human rights and national self-determination, guaranteed in the Declaration of the Conference on Security and Cooperation in Europe of August 1, 1975 and in the International Covenant on Civic and Political Rights in bilateral negotiations with the government of the Socialist Republic of Romania and in talks with the other guarantors of the 1947 Peace Treaty—the United Kingdom, France and the U.S.S.R. The issue concerns both human rights and the self-determination rights of the Hungarians in Romania, living mostly in Transylvania.

To do so would be in harmony with our 205-year old ideals of liberty, self-determination and human rights so eloquently expressed in the Declaration of Independence and steadily pursued by many Administrations.

With best regards,

Sincerely,

LIST OF NAMES OF THE SIGNATORIES

Guy Vander Jagt, G. William Whitehurst, Peter W. Rodino, James J. Howard, Stan Parris, Arlan Stangeland, Robert J. Lagomarsino, Frank Horton, Ronald M. Mottl, Mary Rose Oakar, John LeBoutillier, Norman Mineta.

Don Bailey of Pennsylvania, Tom Lantos, Benjamin A. Gilman, Richard Schulze, Eugene Atkinson, Floyd Spence, Don Ritter, Frank Annunzio, Paul Simon, John J. Rhodes, Joseph M. McDade, Lawrence Coughlin, Charles Wilson, John Edward Porter, Claudine Schneider, John M. Ashbrook.

Bill Boner of Tennessee, Dennis Eckart, Millicent Fenwick, Robert Roe, Marjorie S. Holt, Robert K. Dornan of California, John G. Fary, Robert A. Young of Missouri, Robert Badham, Samuel Stratton, Thomas B. Evans, Jr. of Delaware, Gus Yatron, Philip M. Crane, Daniel B. Crane, Doug Walgren, Joseph G. Minish.

Carlos J. Moorhead, Ted Weiss, William Hendon, Anthony Toby Moffett, Don Young of Alaska, C. W. (Bill) Young of Florida, Henry J. Hyde, James Nelligan, Robert McClory, G. William Whitehurst, Paul Trible, Frank R. Wolf, Bob Stump, L. A. (Skip) Bafalis, Edwin B. Forsythe, James Oberstar, Guy V. Molinari.

Roy Dyson, Bill Green, Brian Donnelly, Jim Leach of Iowa, Don Bonker, John H. Rousselot, Barry M. Goldwater, Jr., Joseph P. Addabbo, Larry Winn, Jr., Clair W. Burgener, Sam Gejdenson, Ralph Regula, Mark D. Siljander, Jack Kemp, Fred Richmond, Bob McEwen, Ed Weber.

Geraldine Ferraro, James Courter, Daniel E. Lungren, Jerry Lewis, Peter Peyser, Matthew McHugh, Christopher H. Smith of New Jersey, Barbara G. Mikulski, Dave Evans of Indiana, Donald Mitchell of New York, Bobbie Fiedler, George Hansen of Idaho, Bernard J. Dwyer, Jack Fields, Robin Beard.

Bob Livingston, Bud Shuster, Bill Chappell, Marc L. Marks, Lawrence DeNardis, Joseph M. Gaydos, Ken Kramer, William Hughes, Daniel Mica, Stephen J. Solarz, Dan Marriott, Michael Barnes, William J. Coyne, Leon Panetta, Don Clausen.

Henry J. Nowak, Dante B. Fascell, Harold Sawyer, Tom Corcoran, Howard Wolpe, Silvio Conte, Larry P. McDonald, William S. Broomfield, Charles Stenholm, Ray Kogovsek, Norman D. Shumway, Tom Bliley, Phillip Burton.●

REMEMBERING STEVEN WICKBOLDT

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, It is with great sadness that I mourn the passing of an American hero, who was too young to reap the benefits of what assuredly would have been a long and valuable life of service and accomplishment.

Steven Wickboldt was one of nine men reported missing and now presumed dead when the *Golden Dophin* oil tanker exploded 2 weeks ago off the coast of Jamaica. Steven Wickboldt was a special person, and his colleagues as well as those not knowing him from the U.S. Merchant Marine Academy in Kings Point, N.Y., deeply grieve his passing.

Steven was a special, laudible person. He was an extremely bright student, and he always gave of his intellectual skills in order to help other cadets. His prowess earned him a well-paying merchant seamen's job, and he gave much of his earnings to his parents, family, and cadets.

The prayer that those who knew Steven say that he himself would have chosen as a eulogy speaks gently and poignantly to the life of Steven, and to the loss that a sorrowful community feels:

> As for me, the hour has come for me to be sacrificed; the time is here for me to leave this life. I have done my best in the race, I have run the full distance, I have kept the faith. And now the prize of victory is waiting for me * * *

Steven Wickboldt ran a distance far better than most people ever run, but there would have been greater gains had he lived. His life of hard work, accomplishment, bravery, and compassion are the things that true heroism is made of. Steven Wickboldt deserves the condolences of the Congress, and I know that I speak for my colleagues when I extend my deepest sympathies to his parents, Richard and Katherina Wickboldt.

Steven's friends and relations speak of him in the most moving terms, and their impressions were recorded in an especially moving article by Laura Durkin in Long Island's Newsday. I wish to reprint Ms. Durkin's story below:

Recalling a Seaman Who Lived at His Best

(By Laura Durkin)

Kings Point.—He was the kind of Kings Pointer who stayed up all night tutoring plebes even though he had a test the next day, the kind of student who had a 3.9 average all the way through the academy even though he racked up demerits for forgetting to spitshine his shoes.

He was also the kind of man who lived for 12 straight months on an oil tanker, in an age when most sailors come ashore after two or four months, because the chief engineer couldn't bear to lose his services. And with the $90,000 he earned for that year's hard work, he was the kind of man who bought his family a 30-room home on a 12-acre lot in New Hampshire and slipped $20 bills to the always-broke midshipmen on campus.

And, because of the kind of man he was, the communities of Great Neck and of the Merchant Marine Academy at Kings Point will come together tonight to remember Steven Wickboldt's legacy.

Wickboldt, 24, was one of nine men reported missing and presumed dead when the *Golden Dolphin* oil tanker exploded Saturday 700 miles off the coast of Jamaica. Sixteen other sailors were rescued. Wickboldt, who friends said was a whiz at repairing machinery, apparently was one of the nine men inside the tank when the explosion occurred.

Word got around that Wickboldt, a 1979 Kings Point graduate, was one of the nine victims, and phone calls about a memorial service started lighting up the switchboard at Kings Point. As a result, the service will be held at 8 tonight, in the academy's chapel. It will be attended by people from Wickboldt's youth and manhood, including the leaders of the Boy Scout troop he belonged to, the minister at the Episcopal church where the troop was based, his pastor, members of the volunteer fire department his father belongs to, the midshipmen he helped tutor and as many of his classmates as can fly in from around the country.

"I sort of like to think that Steve went down trying to help someone else when that tanker exploded" said Eric Heckel, now a senior at Kings Point. "He died a true sailor's death, and he'd be angry if he thought people were sulking."

Heckel said that he and Wickboldt had talked about death several years ago when a former Kings Pointer died in another ship accident. "Steve had the attitude, that I think you should have, that 'Hey, that's reality—but the fact that you have to live with the loss of one life is enough without ruining another.' That was Steve."

In the family home yesterday, at 25 Beach Rd., Great Neck, Wickboldt's parents, Richard and Katherina, said it was still hard to believe that he was gone. "He's been away at sea so long." Mrs. Wickboldt said. "It's the same, only now he's gone forever."

The Wickboldts said that after they were sure that their son was one of the victims, they and Mrs. Wickboldt's parents went to Jones Beach. "There is an old German song that my mother used to sing," Mrs. Wickboldt said. "It goes, 'You can't grow flowers on a sailor's grave.' We took roses and threw them into the ocean."

"He was academically brilliant—sixth in a class of two hundred fifty-three," said classmate Thomas McWeeney of Massapequa. "But as smart as he was, he was sort of absent-minded. He'd forget things on his uniform; his shoes were always really bad. We sort of mothered him on things like that. He was 'the Wick.' You didn't expect him to know those things."

Heckel said that he had asked to read a prayer at the service. It is one he believes Wickboldt would have chosen:

"As for me, the hour has come for me to be sacrificed; the time is here for me to leave this life. I have done my best in the race, I have run the full distance, I have kept the faith. And now the prize of victory is waiting for me . . ."●

INSPECTION OF PROCESSED MEAT AND POULTRY

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. MITCHELL of New York. Mr. Speaker, at the request of Mr. John Quinn, a constituent of mine and legislative officer for the American Federation of Government Employees for Food Inspection Local No. 2205, I would like to submit for insertion into the Record his letter of February 15, 1982, and a U.S. Department of Agriculture communication dated February 5, 1982, pertaining to the inspection of processed meat and poultry products.

American Federation of Government Employees, Food Inspection Local No. 2205,
Albany, N.Y., February 15, 1982.

Hon. Donald J. Mitchell,
House Office Building,
Washington, D.C.

Dear Don: Thank you for your letter of February 9th and the enclosed answer from USDA. Please be advised that we do not agree with this answer and that it is full of half truths and misconceptions.

We have seen plants which do only simple operations that are in need of the same coverage as more complicated canning plants. Unclean equipment, dirt and filth are not limited to canning operations. Consumer protection will be lowered if USDA is allowed to decide that some plants do not need continuous inspection. And this will also result in different levels of inspection for basically similar plants all across the country.

While it is true that small plants are on patrol assignment, the plants still know that the inspector will be in each plant every day at least once and that he can return at any time. This is the deterrent. In regard to the Kangaroo scandal, USDA is completely in error in stating that there has never been 100 percent inspection of imports. All lots of Boneless Beef previously were sampled and inspected, but under the present system if a plant has a good history, only one or two lots out of ten will even be sampled. We have to sign that this product is inspected and passed when we do not even look at it. A computer in Boston decides if a lot should be looked at. There is absolutely no doubt that some product which would have been rejected and condemned under the old procedures is now being passed and used in products sold to the American consumer. This is an absolute statistical fact.

In regard to the deficiencies found by GAO in slaughter plants, many of them are also found in processing plants and even with a inspector on duty every day there are still some unsanitary conditions. What will it be like without us there every day? Are we going to come in after something has happened and the consumer is sold contaminated product and then after the horse is gone, lock the barn door? There is absolutely no doubt that if we are not in the plants on a daily basis that there will be a loss of consumer protection.

Since the letter from USDA was written there have been many more outbreaks of either Salmonella Food Poisoning or of meat contaminated with Salmonella bacteria. One of the main reasons that we have had these problems is that USDA lowered the processing requirements for these products while at the same time there was not any additional inspection coverage. More inspector presence to more closely check these processing procedures could have made a difference in some of the cases. New York State officials went to Washington to urge USDA to change its processing requirements to better protect the consumer.

There can be no doubt that if the daily visits of processing inspectors are eliminated that far greater problems will develop. Consumers will be eating more contaminated product and will have a far greater statistical chance of becoming ill or even dying.

Please do not allow this change to be put into effect. Please help us maintain a strong inspection program for the protection of the American consumer. On behalf of the membership, we thank you for your consideration of this most vital issue.

Sincerely yours,
Joseph Iacovelli,
President.
John H. Quinn,
Legislative Officer.

Department of Agriculture,
Office of the Secretary,
Washington, D.C., February 5, 1982.

Hon. Donald J. Mitchell,
House of Representatives,
Washington, D.C.

Dear Congressman Mitchell: Thank you for your January 12 inquiry on behalf of Mr. John H. Quinn concerning the inspection of processed meat and poultry products.

The Department is proposing that the Federal Meat Inspection Act and the Poultry Products Inspection Act be amended to give the Secretary of Agriculture authority to adjust the staffing of plants based on the performance of the company and the degree of public health risk associated with a given type of product. For example, plants that produce canned products might require greater inspectional coverage than plants that merely cut up steaks and roasts because of the greater risk inherent in the canning process. We expect the proposal to be submitted to the Congress in early February as part of the Department's budget request for fiscal year 1983.

Under the present law, we must have an inspector in a plant every day the plant operates, regardless of the product. Consumer protection would not be endangered by a change in staffing of certain processing operations, and we would be able to make better use of resources. If this concept is adopted, it would not apply to slaughtering plants. An inspector would still he required to be present during all slaughter operations.

We would like to note that we do not now have an inspector present in all processing plants at all times. Some processing plants are under "patrol" inspection; inspectors on patrol assignment are responsible for several plants within a commuting area and visit each plant at least once a day. About one-half of processed meat and poultry production now under Federal inspection is inspected on a patrol basis.

In his letter to you, Mr. Quinn mentioned the importation of horsemeat and kangaroo meat. As you know, in August we discovered that shipments of Australian boneless beef had been adulterated with horsemeat, and we impounded all Australian boneless beef shipments in this country for testing. During the testing program we also found evidence of kangaroo meat.

As a result of that incident, we have implemented a routine sampling program for species verification testing for all imported boneless beef. We have also begun routine species verification testing for domestic product, and we will require countries shipping boneless beef to this country to have controls that would prevent species adulteration.

The Department of Agriculture (USDA) has never conducted 100 percent inspection of imported product because such inspection is not feasible. However, the Department does conduct random sampling of all imported product to ensure that it meets USDA standards.

On the question of the recent report on plant sanitation by the General Accounting Office (GAO), we would first like to note that the report (dated July 30, 1981) concerned slaughter plants only. As we said, any proposal we make concerning the continuous inspection requirement would not affect slaughter plants, and inspectors would still be required to be present during all slaughter operations. We would like to add, however, that many of the deficiencies that GAO found were only temporary conditions that are the result of normal operating procedures and are routinely corrected during the day. Even when fully staffed with inspectors, plants may go in and out of compliance with sanitation requirements because of the nature of the operations. Nevertheless, the Department is committed to finding innovative ways to conduct inspection more effectively and is undertaking a number of initiatives involving sanitation as a result of its own studies. Many of these programs follow GAO's recommendations.

Mr. Quinn is correct that there have been recent outbreaks of salmonellosis—specifically, outbreaks in some Northeastern States involving pre-cooked rare roast beef. Our investigations of the incidents have shown that the problems occurred because of post-processing contamination in two plants—that is, product that had been cooked was contaminated after coming into contact with raw roast beef.

Handling procedures within the two plants that were involved in the incidents were corrected, and steps have been taken to prevent a similar occurrence in all plants that produce cooked roast beef. The inspection program has developed a booklet to instruct inspectors and plant management on recognition of the critical control factors in roast beef production. Since the investigation, plants that produce cooked roast beef have also been required to install thermometers that record the temperature continuously through production so that inspectors are able to monitor the entire process. The investigation did not reveal that the problem was related to the presence or absence of a food inspector during production.

We hope this information is helpful. If you have any questions or if we can be of further assistance, please let us know.

Sincerely,

CLAUDE W. GIFFORD,
Acting Assistant Secretary for Governmental and Public Affairs.●

THE PRIVATE/PUBLIC PARTNERSHIP FOR JOBS ACT OF 1982

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mrs. ROUKEMA. Mr. Speaker, today I am introducing legislation, entitled the "Private/Public Partnership for Jobs Act of 1982", which would take a significant step toward insuring the effectiveness and relevance of Federal jobs training programs.

The bill would require that local administrators of those programs enroll at least 50 percent of their trainees in training programs with a commitment from a specific employer or group of employers to hire that individual. The legislation also provides greater resources to those local administrators in securing those commitments. In addition, the legislation would strengthen the linkage between job training and vocational education programs.

Before discussing the specifics of my legislation, I think it is important to point out the context in which this is being introduced. Congress this year will be working on authorizing legislation for a Federal role in jobs training programs. While there may be differences of opinion over the actual value of the existing programs, I think there are few who would disagree with the premise that there is a significant need to improve the training components. To do so will require a significant restructuring of the relationship with the business community, which ultimately will provide the employment.

Significant improvements have already occurred with the elimination of public service employment programs and the consequent focusing on training, which has shown a much greater employment success rate. However, as I am sure most members of this body are aware, the available funds for these programs are dwindling and, unless great strides are made this year in devising the most efficient, effective programs possible, a continued Federal role in job training may be completely abandoned or significantly eroded.

In my opinion, it is an absolute necessity that the private sector play a stronger role in the development, planning and operation of the job training programs. Most would agree that a serious stumbling block has been an attitude of distrust and dissatisfaction on the part of the business community. They have had only a very small role in developing the programs. Not only are they outsiders, but they are totally alienated by the redtape and bureaucratic labyrinths which have come to characterize these programs.

Yet, it is clear in recent years that leaders in the business community are more aware of the necessity for a greater involvement on their part in the programs. This has arisen in part due to commendable social concerns, but also, not surprisingly, out of an awareness that a healthy business community depends on a healthy social structure. As Reginald Jones, former chairman of the General Electric Corp., has noted:

> Businessmen have come to recognize in structural unemployment a threat to the business system itself. Realistically, how long can that system survive if we have in our body social a large group of frustrated and jobless youth, turned off by the system, and demanding fundamental changes?

Even more importantly, the business community is aware of the growing need for a larger pool of skilled workers in our economy. In testimony before the Senate Subcommittee on Employment and Productivity last spring, Dr. R. F. Mettler, chairman of the board and CEO of TRW, Inc. stated:

> * * * the primary focus of employment and training policy should be to improve national productivity through improved labor quality. Improving the skills of workers can make as important a contribution to restoring economic vitality as improvements in the nation's capital stock and technology.

It is now quite apparent that the Congress will be making a serious effort to improve this situation. In the major bills introduced thus far by House Employment Opportunities Subcommittee Chairman AUGUSTUS F. HAWKINS, our distinguished colleague from Vermont, JAMES M. JEFFORDS, and Senate Employment and Productivity Subcommittee Chairman DAN QUAYLE (whose bill has been introduced in the House by our distinguished colleague from Wisconsin, THOMAS E. PETRI), key provisions are included as necessary components of those bills which would strengthen the involvement of the business communities at the local level in the planning and operation of jobs training programs. These bills are under consideration in hearings currently being jointly conducted by the House and Senate subcommittees.

I must emphasize in the strongest possible terms the necessary relationship between the legislation I am offering today and the effort toward greater business participation in the programs and the vital need for a structured private sector component in the Federal job training programs.

I am fearful that if we simply provide private sector involvement in the planning and implementation of the programs, we are not going as far as we can and should to insure the effectiveness of the programs. Clearly, the most important role for the business community is to hire the program graduates. The most effective device for increasing the probability that an employer will want to hire a program graduate is to involve the employer before the training begins. Such involvement is the sensible, practical, and effective way for the business community to participate in the jobs training system.

Currently, most program operators report that they train only for occupations which the available data suggest will be in demand. Only a small percentage report that this training is linked to specific job openings at specific firms. Increasing this percentage would significantly improve the effectiveness of Federal job training efforts. Programs linked in this manner have several advantages. There is no dependence upon imprecise forecasts of occupational demand. Before training begins, an employer has indicated his willingness to consider program graduates. Most importantly, the probability of placing program graduates is high because trainee selection and curriculum development would be tailored more specifically to particular job openings.

Data from a Department of Labor evaluation of CETA effectiveness support this position. They suggest that CETA on-the-job training, which is inherently linked to a specific vacancy, is three times as cost effective as CETA classroom training which is seldom linked to a specific job vacancy. Furthermore, the costs per trainee are much lower in on-the-job training programs ($6,088 per service year in fiscal year 1980) than in classroom training ($8,046) and public service employment ($9,030). The long-term benefits of on-the-job training are also impressive. Studies of the effects on earnings of trainees enrolled in fiscal year 1976 programs showed that, 2 years later, on-the-job training graduates had earnings averaging 15 percent over a control group receiving no training. This compared to a 10-percent increase among classroom trainees and an 8-percent increase among public service employment graduates.

Therefore, my legislation would require job training administrators to enroll at least 50 percent of their trainees in what would be called "partnership training," that is, on-the-job training, upgrading or retraining of unskilled or semiskilled workers, prehire customized training, preapprenticeship training, apprenticeships, or other general or remedial training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training. I am sorry to say that the current nationwide percentage of trainees in these programs is only about 15 percent. I have arrived at a 50-percent requirement because, with other improvements in this program contained in this bill (discussed below) and the others currently under consideration (notably, the expanded role of private sector involvement in the programs), it is reasonable to expect the program administrators to insure positions for at least half of their trainees.

In many instances the current low percentage can be attributed to an inertia created by the lack of specific requirements for securing employer commitments. Yet, one will often find a clear preference on the part of employment and training administrators for these kinds of training positions, due to their cost-effectiveness and insured success in gaining employment for the trainees. Unfortunately, their hands are tied by: First, negative sentiments in the business community which I have already discussed, and second, statutory limitations on the resources available to the administrators in providing incentives to employers to commit themselves to the trainees. I have already indicated the urgent necessity that the former impediment be removed through greater business participation in the planning and operation of the programs. Meanwhile, my legislation specifically addresses the latter problem by strengthening the resources available to the program administrators. First, an employment bonus would be available to any employer making a prehire commitment to a trainee engaged in training that is not directly provided by that employer. This would allow a retroactive payment by the program administrator of up to 50 percent of the first 6 months wages of the trainee after that 6-month period is over. In the case of on-the-job training, administrators are already permitted to subsidize about 50 percent of the wages of trainees. However, the exact amount is limited to the difference between the wage and the training costs and lower productivity associated with the individual. My bill would allow an additional 20-percent wage subsidy to be applied retroactively after the trainee has been employed 6 months and the employer makes a commitment to keep the employee.

Finally, it is essential that something be done to eliminate the inefficiencies being caused by the great overlaps between employment and training programs and the vocational education programs. To a large extent, this occurs due to the nature of the two programs and their different delivery systems. Nevertheless, there are still gaps which can and should be eliminated to insure cost-effectiveness and restore confidence in our job training and vocational education systems. Therefore, my bill would require that, where viable vocational education institutions, both secondary and postsecondary, exist within the community, the jobs training administrator is required to utilize their facilities and services to avoid duplication in any programs on which Federal jobs training dollars are being spent. Current law on this question leaves a considerable amount of discretion to the program administrator and this discretion would be removed by my bill.

With changes in the administration of the jobs training programs that are presently under consideration in the Education and Labor Committee, I feel that the desirable private/public partnership embodied in this legislation will be both feasible and desirable. The ensuing improvements in the administration of the programs will go a long way toward providing the jobs skills necessary for a healthy economy, in addition to providing a brighter future for those individuals who are motivated to improving their own occupational and economic situation.●

DESERTED BY THE EPA

HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. LEVITAS. Mr. Speaker, we often take for granted the clean water we drink, the air we breathe, and the safety of the environment in which we live. But the progress of the past decades in protecting our environment has come about as a result of conscious policy decisions to prevent hazardous pollution of our environment. It now seems, however, that under the Reagan administration environmental safety is being eroded as a responsibility and priority of government.

An editorial in today's Atlanta Constitution tells the story well. As the article points out, the Environmental

Protection Agency has retreated from environmental protection efforts by eliminating annual reports from companies on hazardous waste dumping, by lifting the ban on unsafe hazardous waste dumping, by deemphasizing support for public sewage treatment, and by moving nowhere on setting water pollution control standards on toxic waste from industrial plants.

Georgia is fortunate to have a conscientious and effective State environmental protection division, but not all States do. And even where effective State programs are in place, many environmental problems are national in nature and cannot be dealt with on a State-by-State basis.

Winds blow and waters flow in utter disregard for man-made boundaries. Environmental problems are ones which often transcend State borders, and thus the Federal Government should be a responsible partner with the States in efforts to protect the environment. Unfortunately, however, as the Atlanta Constitution editorial points out, the EPA under the Reagan administration is deserting the States in these efforts.

At this point, I enter the Atlanta Constitution editorial in the RECORD and ask that all of my colleagues read it, keeping in mind what these policies will mean for their own States.

DESERTED BY THE EPA

Georgia is fortunate in having one of the more effective state-administered environmental-protection programs in the country. So perhaps we will not suffer as much environmentally from the federal government's continuing abdication of its responsibilities in the environmental area.

The latest sign of retreat comes in the Environmental Protection Administration's decision to eliminate required annual reports on hazardous wastes from companies that generate such materials. That alone may seem insignificant—just another welcome attempt to reduce paperwork. But taken in the context of other EPA actions and inactions, the latest decision can only be seen as a signal to the polluters to keep it up.

In recent months, the EPA also has lifted a ban on dumping hazardous liquids into landfills. Georgia's Environmental Protection Division has maintained a strict ban on such dumping.

In addition, EPA some time ago called on the states to develop plans for controlling industrial odors from paper mills and such. Georgia worked up such a plan, that would have cost Georgia industries $200 million to implement, only to discover that EPA had backed away from the program and intended to take no action on odor control.

EPA was charged with setting water pollution-control standards on toxic waste from industrial plants. It has barely moved off square one in meeting its responsibility in this vital area of environmental protection.

The Reagan administration has made much of "returning responsibilities to the states" in a number of areas, including environmental protection. That is fine. But, even as EPA appears to be bowing out, federal funding to aid in pollution abatement is lessening. Georgia's most severe environmental problem is water pollution by municipalities. Yet, federal funds to Georgia to facilitate construction and expansion of waste-water facilities have been cut by one-third, and that amounts to millions of dollars over the next few years. In addition, Georgia is losing hundreds of thousands of federal dollars for enforcement and training programs.

In the 1960s and early 1970s, great strides were made at the urging of the federal government in cleaning up the environment. Georgia, at the behest of the feds and with good leadership locally, built an outstanding environmental program. It is sad to see the federal government now retreat from its responsibility in the area of keeping our land, water and air clean. The state Environmental Protection Division should continue its unflagging efforts to protect our resources and not follow the sorry example being set in Washington.●

JUDGE MARY T. O'HARE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. HOYER. Mr. Speaker, I know my colleagues would want to join me in sending heartfelt condolences to the family of Mary T. O'Hare, who died on Saturday, March 13. There was probably no person more beloved in the Upper Marlboro Courthouse than the Honorable Judge O'Hare. Nor, might I add, was there one more dedicated to the needs and problems of those persons who came before her court.

Mary O'Hare served as a judge of the orphans court since 1966. Following her reelection in 1970, then Governor Marvin Mandel appointed her chief judge. She came to the court just at a time when the caseload was dramatically increasing, along with the county's population. Despite the added workload, she was able to modernize the court and bring to it a level of professionalism not seen before her tenure.

Judge O'Hare often referred to the orphan's court as her "second love." But it was most evident that her first love was for her family. Judge O'Hare was married to the former People's Court Judge George T. O'Hare, a fine and able jurist. Together they raised eight children, many of whom continue in their parents' tradition of public service. Judge O'Hare had 14 grandchildren, and many of her contributions outside her career centered around the concerns of children.

Over the years, Judge O'Hare donated her considerable skills and energies to the causes of the Girl Scouts, the Ardmore Center for the Retarded, the Heart Fund, March of Dimes, Community Mental Health, and Multiple Sclerosis campaigns.

The daughter of the late Mary L. and Dr. Francis J. McQuillan, founder of the Obstetrics and Gynecology Department at Providence Hospital in the District of Columbia, Mary O'Hare graduated in 1935 from Chestnut Hill College in Philadelphia with a bachelor of arts degree and a teaching certificate in secondary education. She taught school for 4 years and tutored young people during the summer months. Her involvement with local Democratic clubs and her appointment to the bench opened up new avenues for this vital and active woman.

Her concern for the welfare of the unfortunate, the troubled, the young, and the old struggling to maintain their dignity in her court never flagged. While, in these past months, her energies failed her, her dedication and will remained strong.

Mr. Speaker, Mary T. O'Hare was a fine and good lady, and her contributions, not only to the court system of Prince Georges County, Md., but also to the people who have always found justice and equity in her courtroom, will long be remembered. Mary O'Hare has left a legacy of public service and public spirit, and the memory of her tremendous dedication to the betterment of our county will always be with us.●

BOB RICKLES—EULOGIES

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. WEISS. Mr. Speaker, a dear friend and colleague, Robert Rickles, died February 10, 1982, at the age of 46. At his funeral service on February 12, two of his closest friends, Ray Gerson and Harold Holzer, delivered moving eulogies which caught the essence of this remarkable, compelling, and complex man. I am privileged to insert the eulogies to Bob Rickles into the RECORD at this time.

EULOGY DELIVERED BY RAY GERSON

Bob Rickles was my first boss, one of my closest friends, my most infallible advisor and my partner (some would say co-conspirator) in the fishing business.

There was a special bond between us. After all, two neurotic, Jewish, doctoral chemical engineers who have foresaken their professional discipline need each other for the constant reassurance that, in fact, they are not completely nuts. We worked together in the environmental movement—where Bob's quotable quips about "Asthma Alley" and "2,000 babies dying" if Con Edison had its way in Astoria—brought him the recognition he deserved as a strong and forceful advocate. We worked together in the McGovern campaign, gubernatorial and mayoral campaigns, and Bob's own campaign for Congress. We discussed literally scores of business ideas—from farming in Florida to calamari in Maryland. Some were good, most were bad, but all were interesting, challenging, creative and fun. And we talked about ourselves and our lives, sometimes ad nauseum.

Perhaps the best way to remember Bob is to remember his overwhelming intellect and the continuing variety of his life, his vision of the world and his compassion. There is not a person who knew Bob who would disagree that he lived a full, full live in his 46 years, a life that most of us can only envy. He was an engineer, and Arthurian knight, a public servant, a public advocate, a consultant in many fields, a businessman, a son, a husband, a father to two very special children, Larry and Fred, a friend, and an inspiration to us all.

For me, and for all of us, the world is a lesser place without Bob Rickles, and we should honor him by living up to the lofty aspirations he had for us all.

EULOGY DELIVERED BY HAROLD HOLZER

Just yesterday afternoon, a reporter from Newsday called me. He was doing a story on subway crime, he explained, and had just phoned Bob's office—not knowing he'd passed away—to get his views on the latest citywide effort to make the subways safer. And now, with no one else to turn to, the reporter had called me to say: "What am I going to do without Bob Rickles?"

My only answer was that we'd yet to come up with an answer to that question ourselves: what are any of us going to do without Bob Rickles?

I don't think anyone would dispute the assessment that Bob Rickles was an original.

Nobody else looked like him. Nobody thought like him. Nobody talked like him, laughed like him, shouted like him, or never whispered like him. Nobody was quite as happy as he was when he was happy; nobody quite as despondent when he was sad. Yes, he was moody, and he was difficult. But he was also smart—and sensitive—and sentimental. A man to whom birthdays, for instance, were so unexpectedly important—even the 75th birthday of the subways. Who else but Bob would have thrown a diamond jubilee for the IRT, serving wine and cheese alongside the vagrants of City Hall Park?

There was no one quite like him. And I suspect there never will be.

Many of us here shared parts of his life with him—politics, engineering, consulting work, business or research—I suspect he had so much to give it would have been impossible for him to share everything with everyone. To me he was friend, adviser, partner and collaborator. We wrote together. I'm very proud of the work I did with Bob, because of Bob, and I know he was, too.

Of course, when he wasn't writing with me, he was consulting, speaking, doing technical books, running for office, helping other people run for office—and that was his schedule on Mondays. He used his Sundays to write with me—Saturdays were always reserved for watching his son play football—and if we ever stopped typing our current story, even for a minute, Bob would begin badgering me about what we could write next. Or he would call ten times a day demanding the final draft of the next precis, or have his assistant, Shirley Marcus, call, or phone in himself from Albany, or Washington, or Florida, or wherever. I used to think that for a man like Bob, whose enormous reach was frustrated—stymied—by the current political climate, for whom opportunities to serve had been reduced, this new drive to write was an important outlet. I'm forever grateful I got to share it with him.

There was no rest for weary friends with Bob. Fortunately, he had enough energy for all of us. The great pity is that he didn't save enough for himself to last the lifetime he wanted him to have.

And he was unique in other ways: impossible to understand if you didn't take the trouble, difficult to penetrate even if you did. How many of us, after all, knew all about Bob? He was simply too complex, heading in too many different directions, for us to take full measure of him.

And what made him even more challenging was that, in a certain sense, the abiding trait that defined Bob Rickles was a contradiction: he was the most perplexing but most stimulating combination of idealism and cynicism I've ever encountered—never angry enough to lose his optimism, but never optimistic enough to discard his skepticism. Both emotions were always close to the surface, ready to pour out, at the top of his voice, if necessary, whether at a political meeting, a rally, a press conference, a board meeting, a restaurant or a street corner. Everyone within earshot knew where Bob Rickles was—and more important, why he was there.

I don't have to recite his credits. We all know them and lived through them with him. He did good work, for himself, his city, the people he believed in and the people who believed in him. More than enough good work for any man—except perhaps Bob.

With Bob, behind the great humor, the ability to laugh or make other people laugh, there was always lurking concurrently the more somber figure of a life he felt was at least partially unfulfilled—of expectations yet to be realized—and potential still to be reached.

So rich was the talent, so fertile the mind, so substantial the knowledge, there is every reason to believe the best was yet to be—and would have been.

So in a sense, the loss we all feel today, and will continue to feel for months and years to come, is of that remaining promise unfulfilled.

And there is that personal void that he leaves, too, this larger-than-life figure with the larger-than-life voice, who unashamedly told his friends he loved them if he did, the man who laughed at himself so genuinely and heartily, who taught us to take risks when the cause, not necessarily the moment, was right.

In the last time of the last article we wrote together for New York Magazine, Bob and I quoted MTA Chairman Dick Ravitch as questioning his ability to stay on the job long enough to witness the fulfillment of his dreams. Ravitch had high hopes for the future, but admitted: "I may not be around to cut any ribbons."

Ironically, Bob Rickles didn't live long enough to cut as many ribbons as he deserved, but we'll think of you, Bob, every time one of the projects you introduced or designed or inspired or nurtured sees the light of day.

We promise you: when we do cut the ribbons, we'll be thinking of you.

For those of us who knew and loved him, we'll have to be consoled until then by the knowledge that even if he didn't have time for all his plans to work out, at least we shared the excitement and stimulation of making them; that if, in the end, his ship did not always come in, at least we were privileged, and enlightened, to be along for a helluva ride.●

BUSINESS UBER ALLES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. McDONALD. Mr. Speaker, certain of our businessmen have been champions of East-West trade since World War II. They have aided and abetted the erroneous idea that increased trade lessens the chances of war and tension. It did not matter how anti-United States the country involved was if a dollar was to be made. In furtherance of this objective, many of our Nation's large bankers have made loans of various sorts to nations who could realistically never repay these loans, counting on their leverage with the U.S. Government to bail them out in case of trouble. Now these chickens are coming home to roost in Poland, Romania, and the U.S.S.R. Who is going to pay—the American taxpayers again? I commend to the attention of my colleagues Mr. Patrick Buchanan's recent column on this subject that appeared in the Richmond Times-Dispatch of March 8, 1982.

BUSINESS UBER ALLES

(By Patrick J. Buchanan)

WASHINGTON.—"Merchants have no country. The mere spot they stand on does not constitute so strong an attachment as that from which they draw their gains."

Thomas Jefferson, who was in the vanguard of those who risked "our lives, our fortunes, our sacred honor" in the War of Independence against Great Britain, penned that line during the War of 1812. What would the old patriot have made of David Rockefeller?

The retired chairman of Chase-Manhattan, the child of abundance whose name is synonymous with capitalism, explained to reporters in Zimbabwe the other day that the presence of Russian advisers and 20,000 Cuban troops in Angola really "has no direct bearing on American business operations. Clearly, it has not," said Rockefeller, "interfered with our own banking relations."

In an expansive mood, Rockefeller said it would be "to the advantage" of the United States if President Reagan would dump his present policy and recognize the puppet the Soviets installed when Agostino Neto passed away. "The more I've seen of countries that are allegedly Marxist in Africa, the more I have a feeling it is more labels and trappings than reality." Andy Young could not have put it better.

In the Rockefeller view, Marxist dictators like Edouard dos Santos in Angola and Samora Machel in Mozambique have as their primary interest "to improve the lot of their people and strengthen the economies of the country."

Dealing with communist regimes "really does not cause us [at Chase Manhattan] any problems at all. . . . We do business with at least 125 countries." Rockefeller proudly underscored the fact that his was the first American bank with a branch in Moscow, first with a branch in Peking. The general secretary may have threatened the nuclear castration of Teng's China in 1969, but the communist giants have something in common: a friend at Chase Manhattan.

The great Trilateralist then laid down what may be called Rockefeller's Rule for the Moral Neutralism of Multinational Corporations. "I don't think an international bank such as ours ought to try to set itself up as a judge of what kind of government a country wishes to have. We have found we can deal with just about any kind of government, provided they are orderly and responsible."

Orderly and responsible.

While that description apparently fits Peking and Moscow, one wonders if it would have fit 13 rebellious colonies with a dismal credit rating and worthless money seeking liberty from Great Britain.

Orderly and responsible. A relevant description of the type of government a new chancellor of Germany imposed—to bring an end to the chaos and turmoil of the Weimar Republic.

"Who knows what system works best? All we ask is: Can they pay their bills?" Thus did Rockefeller's banking colleague Thomas Theobold of Citibank endorse the Rockefeller Rule when pressed on the vast sums Western banks have been transferring to Moscow and Warsaw.

When FDR spoke of driving the moneychangers from their high seats in the temple of our civilization, he was not entirely wrong. It is a sentiment to which Reagan should hastily subscribe for the good of his party, to which Rockefeller and his like-minded banking friends profess allegiance.

The speech could be short, but to the point. He could speak with appropriate disgust of a rank political amorality that masquerades as worldly sophistication. He could tell his followers that Reaganism stands for higher values than the bottom line on a balance sheet; that what is good for Citibank and Chase Manhattan is not necessarily good for America; that the Republican Party is something more than the political action committee of the Fortune 500; that, unfortunately, our party, too, is rife with the collaborationists Lenin had in mind when he coined the phrase "the useful idiots."

"We have to save the West even if it means we have to save the [expletive] bankers," said a late anti-communist conservative intellectual. Perhaps so.

But if we are about to enter an age of barbarism, brought on by the vast and evil Soviet Empire, the certain knowledge that some of these bankers will be thrown up against the same wall will surely provide a measure of consolation for the extinction of Western civilization.●

40TH ANNIVERSARY OF THE HEAVEN ON EARTH RANCH

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Ms. FIEDLER. Mr. Speaker, I rise today to bring to the attention of the House a very happy event—the 40th anniversary of the Heaven On Earth Ranch. I want to especially give my thanks to John Carpenter who has given his heart and soul to making this home for handicapped children.

Forty years ago John had a dream of creating a unique experience for these special children. As a former cowboy in the movies, John thought it entirely appropriate that a western-style town for the theme of the ranch.

Recently the people of our Nation had a chance to share with those of us who know John the pride he has in his accomplishments with handicapped children through its showcasing on national television. Along the way John has received many awards and honors for his work with children including being named one of the top 25 Americans over 50.

The net effect of the hard work and devotion John has shown is the remarkable results he has achieved with handicapped children.

Several years ago our distinguished colleague, Congressman MOORHEAD, described John by saying that he "has been wearing cowboy gear so long and so comfortably that it is difficult to see where the man begins and the leather ends." I would amend that, Mr. Speaker to say that it is hard to tell where the man ends and the love begins.

I am happy to join with a grateful community in congratulating John and the Heaven On Earth Ranch for 40 years of selfless service to handicapped children and to wish him at least 40 more.●

HIGH SCHOOL STUDENTS LEARN QUICKER BY USING COMPUTER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. GINGRICH. Mr. Speaker, about 125 students have been using a computer to improve their skills in reading, math, and basic education.

These remedial students are so enthused by learning that they actually volunteer to study at the terminals in the afternoons. As their principal put it, they would come in on Saturdays if the school were open, according to Dr. Anne Emery of Walbrook High School in Baltimore.

I want to share a report Dr. Emery wrote about the progress of the students in the program. The success of the Walbrook program can be duplicated in every school district in the Nation. Every student should have access to this advanced education system, for the sake of the student and for the sake of this country. After all, America depends on the talent and innovation of young people to build a better future.

The report follows:

PLATO SYSTEM SPURS BALTIMORE STUDENTS TO NEW ACHIEVEMENTS

(By Anne O. Emery)

Last June (1979), 200 of the 538 Walbrook High School seniors failed City of Baltimore mathematics and/or reading proficiency tests mandatory for the first time for graduation. Needing a quick, effective solution, we decided to reeducate the students with a concentrated, computer-based basic skills learning program.

After 60 days of using the Control Data PLATO system for basic skills instruction, all but nine seniors passed the mandatory tests.

Although we have used the PLATO system at Walbrook for more than five years, including a small pilot operation, we have only 12 terminals. Many of the seniors who failed the tests last June hadn't had access to the computer-based education system. If we had our "druthers," we would have 100 terminals because a large number of students enter Walbrook High, an inner-city school, with reading and math skills below the sixth-grade level. The staff of just 110 teachers has only three years to work with 2,500 pupils.

Fortunately, though, 90 percent of the students chosen for the PLATO program increase their achievement levels. Youngsters at both ends of the learning spectrum have advanced as many as three grades within a single school year. Because of those results, we apply the PLATO system as much as possible.

More than 200 students currently are taking basic skills, about half of them in mathematics and half in reading. Another 60 are in foreign language classes, and we have a smattering of gifted youngsters taking subjects not usually taught at Walbrook.

Altogether, about 125 children receive PLATO instruction daily, usually spending half of a 50-minute period at a terminal, learning a skill, and the other 25 minutes in a more conventional teacher-classroom session, learning how to apply the skills.

Our staff recommends students for the PLATO program; department heads give approval. Seniors needing remediation have priority. Based on information from a pretest taken by a child at a terminal, the PLATO system then suggests where the student should be placed in the curriculum and which instructional material should be utilized. A youngster usually spends one semester on the system.

Getting students to use the terminals is no problem. They are clamoring for them at the beginning of the day; we have to chase them away in the afternoon, and they would come in on Saturdays if the school were open.

Moreover, some parents have moved into the Walbrook district so their children, both gifted and those needing remediation, could take advantage of the PLATO system.

Computer-based education is just one of several approaches we use to motivate our children. But it is one of the most effective because the PLATO terminals provide an individualized, self-paced training environment in which the student competes only against himself or herself, eliminating unnecessary peer pressure and embarrassment. This defuses the hostility found in a child who has experienced a lack of success in the past and anticipated a lack of it in the future.

Each unit within the PLATO Basic Skills curriculum has one or more objectives which the student must master before he or she can move on to another unit. The beginning units have several simple objectives; as the student progresses, the objectives become more complex. However, the student may repeat all activities in a unit as many times as necessary to master a given objective. And no one, not even other students working at terminals alongside is aware of how long it takes.

By presenting material in small increments, the PLATO method enables the student to build a history of successes. It encourages him with immediate feedback, impossible in a conventional classroom system. This reinforces and supports the successes and motivates the student to work harder because he sees that he can learn. By contrast, the conventional learning approach may take so long that the child is turned off and quits trying.

Student interest remains high while the child receives PLATO instruction thanks, in part, to course content, to dynamic, animated cartoon displays and to the "interactive" nature of the presentation. The students respond by simply touching the terminal's screen or keying-in data. They can even choose paths of instruction, thereby gaining greater control of their own learning environments.

The Basic Mathematics Skills course includes number concepts; arithmetic operations involving numbers, fractions and decimals; and special applications topics involving ratio, proportion, percent, geometry and measurement. The Basic Reading Skills course includes fundamentals of word structure, fundamental vocabulary development and basic comprehensive skills. Also available, but not currently used at Walbrook, is a Basic Language Skills course which includes language structure and word usage; sentence and paragraph structure; and mechanics and conventions in writing.

The PLATO system provides the type of individual remediation that most teachers in typical classroom situations simply cannot give. It stores data on each student's progress, which allows the teacher to evaluate the child's efforts.

For example, if a youngster is spending too much time on the tutorial aspects, the teacher can surmise that he or she is having a problem determining the task or interpreting the reading matter, which requires only a third-grade reading level.

At that point, the teacher will spend more time with the student. With half of the average basic skills class on the terminals at any one time, the teacher has more time to work with students.

The purpose of PLATO is to assist our staff, not replace it. In fact, without PLATO computer-based education, we'd have lost our entire Latin program due to budget cuts.

The PLATO system has benefited honor students, who can use the terminals unsupervised to expand their opportunities in higher mathematics, science, and foreign languages. For instance, one gifted student studies trigonometry, not usually offered at Walbrook, via the terminals. He is now doing mathematics at the college level and has been accepted at the Massachusetts Institute of Technology.

Good academic standing is required to participate in athletics, of course. And, if a student is on probation, he can't use PLATO. This is a real motivator, because the youngsters will sacrifice much to keep that privilege.

Significantly, the PLATO experience has shown that the dichotomy is not always that great between youths needing remediation and the gifted. As an example, a senior student was referred to the PLATO system as a failing student a couple of years ago. He is now an outstanding scholar, studying computer programming, helping develop programs and assisting Control Data representatives in demonstrating the Basic Skills programs to educators in other cities.

In summary, at Walbrook High School we use many means to challenge students and motivate them to achieve here so they can meet the challenges of college and/or the world of work.

The PLATO system is just one of those means, and it has been uniquely successful in helping students make quantum strides in basic mathematics and reading. Mastering those vital areas is essential if our young people are going to succeed in life, no matter what yardstick we use for success.

The only shortcoming we currently find with the system is our one dozen terminals. As I indicated earlier, we wish we had 100.●

CLASSIFICATION EXECUTIVE ORDER

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. BOLAND. Mr. Speaker, the Permanent Select Committee on Intelligence is one of several committees with an interest in the administration's plan to issue a new executive order on the classification of national security information.

Changes in the executive branch's rules are felt far beyond the executive agencies which deal with classified information, as the classification system affects the flow of pertinent information to both the Congress and the public. In addition, several statutes are directly tied to the classification system. The most topical is the Freedom of Information Act. Others are portions of the espionage laws, the oversight provisions of the 1981 Intelligence Authorization Act, and the Classified Information Procedures Act. The pending Intelligence Identities Protection Act would be another. Whether or not someone can be prosecuted and convicted under it depends on whether the identity disclosed was properly classified according to the terms of whichever executive order on classification is in effect.

I am concerned about the draft order and have transmitted my concerns to the White House. The major changes proposed are unnecessary from a classification standpoint and unsustainable as solutions to the problems the Government perceives it has in Freedom of Information Act litigation.

I have received several letters and telephone calls expressing opposition to the proposed executive order. One of these letters, which I commend to the attention of my colleagues, was written by Ambassador Samuel R. Gammon, executive director of the American Historical Association. The letter follows:

AMERICAN HISTORICAL ASSOCIATION,
Washington, D.C., March 4, 1982.

Representative EDWARD P. BOLAND,
Chairman, Permanent Select Committee on Intelligence, Washington, D.C.

DEAR CONGRESSMAN BOLAND: I am writing to you to express my grave concern about the proposed executive order concerning document classification. We urge that you give this order your closest scrutiny.

As you know, for the past thirty years presidents have issued executive orders on the standards and procedures governing the classification of government information. The successive orders issued by presidents Eisenhower, Nixion, and Carter have reflected a continuing bipartisan effort to weigh the acknowledged right of the American people to be informed about government activities and operations with the government's real and legitimate need to protect secrets vital to our national security and the conduct of diplomacy.

As a retired Foreign Service Officer, and as one personally acquainted with the problems of managing large bureaucracies, I share some of the reservations many have expressed about the existing Executive Order 12065 of 1979. That order has perhaps increased the risk that senstitive information may accidentally or erroneously become declassified. However, the draft order goes too far in the other direction and would result in a dangerous, extreme, and unwarranted reversal of past policy. National security concerns are real; in a free society the right of inquiry in pursuit of truth is equally deserving of protection.

As the executive director of the American Historical Association, the major national association of historians with a world-wide interest in history, I can report to you that the Draft Order will have a damaging impact on the progress of historical scholarship in America. Our concern is that substantial bodies of important information having only the remotest relevance to national security will be withheld indefinitely from scholars and historians. Some of the sections of the Draft Order that most concern us include the following:

1. Sec. 1.1(c) E.O. 12065 directed that when there is "substantial doubt" about classification, the determination should favor releasing the information. The Draft Order reverses the presumption, making doubt a cause for classification. I assure you that in a bureaucracy, the urge for playing it safe needs no such reinforcement. Materials with absolutely no relevance to national security conceivably may be needlessly classified as a result of this unnecessary exhortation to overclassify.

2. Sec. 1.3(a)(2) significantly expands the categories of consideration for classification by including information on the "vulnerabilities or capabilities of systems, installations, projects, or plans relating to national security." The breadth and impact of this change is impossible to estimate because of the susceptibility of "systems" and "projects" to multiple definitions. The thrust is again toward overclassifying.

3. Sec. 1.3(a)(3) alters the standards for classifying information from E.O. 12605's "Could reasonably be expected to cause identifiable damage to national security" to "could reasonably be expected to cause damage to national security." The deletion

of "identifiable" introduces vagueness and makes the definition of damage highly discretionary and uncertain. Moreover, the authority to make such decisions will be transferred under the order to lower-level personnel.

4. Sec. 1.3(b) introduces a new and troubling "mosaic" standard for determining classification. Documents or information in themselves entirely unrelated to national security concerns may become classified if "in the context of other information" they will damage national security. Such constructions by their nature are highly arbitrary and a further prod toward overclassification.

5. E.O. 12065 contains provisions for the automatic declassification of material after twenty or thirty years, unless it is specifically determined that a document should remain classified. The rule provides for the orderly release of historical documents without danger to those very few, highly sensitive documents requiring longer protection. The Draft Order contains no time limitation whatsoever. There is no schedule for mandatory review of classification. Documents may be declassified only when they no longer pose a threat to national security. Because there is no mandatory review, utterly harmless information could be withheld from researchers forever. The only records subject to systematic review are those accessioned into the Archives or any Presidential papers in the Archivists' possession and control. Even this, though, is threatened by the substantial budget reductions proposed for NARS.

6. Sec. 6.1(d) expands the categories for classification under foreign government information. Information obtained from any part of a foreign government becomes classified if the information was received with an "express or implied" promise of confidentiality. In effect, this would abdicate the control of classification of our own documents by our own government. As a senior diplomat, I regularly in my own words reported to the State Department on situations in the countries in which I served. These reports were based largely on oral information received from foreign government officials. The Draft Order would obligate us to follow foreign government assessment of sensitivity instead of our own.

One of the great virtues of this society, and certainly one that distinguishes us from totalitarian regimes, is the great regard we hold for freedom and openness. Not only is access to information vital to informed debate and inquiry on current issues, but it is essential to the construction of a balanced, honest and accurate written record of our nation's past. Secrecy has always been the accomplice of suspicion and unfounded allegation. It opens the door to the manipulation of information for the narrow purposes of self promotion or self-justification, aims which pose an incalculable danger to our country by eroding public confidence in government.

In conclusion, it is our view that the Draft Order is unacceptable in its open-ended present form. It will lead to the classification of new materials of dubious national security value; it establishes a presumption for classification; it hinders legitimate historical and scholarly research by eliminating the schedule for release of historical documents. In the interests of our country, and of sound and honest scholarship, we hope that you can suggest positive changes in the Order.

Sincerely,

Samuel R. Gammon,
Ambassador (Retired),
Executive Director.●

THE FEAST OF ST. JOSEPH

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 16, 1982

● Mrs. SCHNEIDER. Mr. Speaker, America is a nation whose strength comes from the diversity of its people and their culture. In our great Nation, this cultural diversity contributes to the enrichment and enlightenment of everyone's life. Within each of these ethnic or cultural groups, certain days are set off as a day of remembrance and celebration of who they are—where they have been and where they are going.

Today, I would like to call to the attention of my colleagues the celebration of one of these ethnic groups, who have in the course of little over a hundred years, made many important contributions to American society, namely Italo Americans. March 19 marks the date of the Feast of St. Joseph, a saint who has become the special patron of Italo Americans. Though the feast is a day of reverence, its importance and significance goes much deeper than that. For Italo Americans, and I am proud to say that many of them have chosen the great State of Rhode Island as their home, it is a reaffirmation of those qualities which are their hallmark: An open and generous nature, the firm bond of fraternity and a strong sense of community spirit. There are no strangers to Italo Americans, only friends they haven't met.

St. Joseph's Day is also a joyous reflection on those contributions and achievements which Italo Americans have made in all areas of American society. If I may at this point just mention a few of those Italo Americans whose contributions to America are widely recognized and acknowledged: Enrico Fermi, Fiorello LaGuardia, Arturo Toscanini. Rhode Island herself is proud to have as one of her native sons the first Italo American U.S. Senator, the Honorable John O. Pastore, who served Rhode Islanders and the Nation with integrity and distinction in the Congress for many years. His dedication and commitment to people and public service are an outstanding illustration of the spirit of Italo Americans.

I thank the Speaker and my colleagues for allowing me the time to share with them this recognition and acknowledgement of the important place which Italo Americans have in the history and society of America.●

THE ECONOMIC RECOVERY TAX ACT

HON. MANUEL LUJAN, JR.

OF NEW MEXICO
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 16, 1982

● Mr. LUJAN. Mr. Speaker, at the request of S. Theodore Reiner of Albuquerque, N. Mex., I would like to bring to the attention of my colleagues a paper which Mr. Reiner delivered to the University of New Mexico School of Business Administration's marketing association. I believe that Mr. Reiner makes some good statements in his presentation and the effect of the Economic Recovery Tax Act on the State of New Mexico.

The Economic Recovery Tax Act and Its Effect on New Mexico Industries

(By S. Theodore Reiner)[1]

INTRODUCTION

On August 13, 1981, the President signed The Economic Recovery Tax Act (ERTA). This Act is one of the most significant revenue Acts enacted in the past 27 years. It constitutes an attempt to infuse a degree of economic rationality into law better known for its economic irrationality and disincentives than for its economic rationality.

This discussion of ERTA will proceed in three stages: (1) the philosophical basic of the Act, (2) some of its major provisions, and (3) prognostications as to ERTA's effects, especially with regard to New Mexico taxpayers.

PHILOSOPHICAL BASIS

No tax is without a philosophical basis. ERTA is no different. However, unlike other laws, ERTA's philosophical basis rests in economics rather than in sociology or politics. In reviewing the philosophical basis of ERTA, one must understand that there are certain basic premises from which one develops an understanding of that philosophy: (1) Individuals can and do make rational choices. (2) Increases in price for a particular good tend to lower demand. (3) Increases in price for a particular good tend to increase supply. (4) Individual demand is a function of individual net spendable income. (5) Supply of a good is also a function of cost for that good, in that where demand sets a price for a particular good, manufacturers whose cost of manufacture of that good is in excess of that price, will not manufacture the good.

Each of these premises relates to a market-type exchange. Each individual has differing basic needs, not merely needs connected to existence, but needs relating to the individual's quality of life. In developing and obtaining that particular quality of life, it is the individual who must make the choices for himself. Trade and the market exchange enable an individual to arrive at the highest possible quality of life, in that individual's opinion, that is obtainable with that individual's resources.

A market exchange situation is graphically illustrated in Figure 1.[2] This graph represents the demand schedule and supply schedule for good A. Curve D-D illustrates the fact that there is an increase in demand as price decreases, and a decrease in demand as price increases. Curve S-S, representing the supply schedule, illustrates the fact that there is an increase in supply as price increases and a decrease in supply as price decreases. Where the two curves intersect there is an equilibrium, illustrating that at price P_0 there is a supply Q_0 available in the market.

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[1] Partner, Reiner and Gregory, Dallas and Albuquerque; B.A., Gettysburg College; JD, LLM Georgetown University Law Center; formerly associate dean S.M.U. School of Law and director, NYU Institute of Federal Taxation.

[2] Figures are not reproducible in the Record.

With this basic idea in mind we can view the Laffer Curve (Figure 2) and consider its derivation. It is the bottom half of an egg laid on its side within the positive/positive graphic quadrant. The vertical axis represents tax rates while the horizontal axis represents gross governmental revenue. This graph illustrates the theory that there is an optimal overall tax rate which will produce maximum gross governmental revenue. In all other situations, there will be two overall tax rates which will produce a particular amount of gross governmental revenue. We arrive at this intuitively, simply because we have not had the experience over a long period of time to establish it experimentally. However, by analyzing some past tax reduction and tax increase Acts, there does appear to be empirical evidence which tends to indicate that the theory is valid.

If one thinks about it for a moment one can understand the intuitive basis for the theory. If there is no tax, then there will be no gross revenue to the government. On the other hand, if there is 100 percent tax, then there will also probably be no revenue to the government, because there will be no incentive to produce. As the tax rate increases from zero, revenue to the government will increase. As the tax rate decreases from a confiscation point, there will be more and more producers entering into the economic stream, resulting in production of a taxable good which will further result in an increase in gross revenue.

Part of the problem in attempting to utilize this intuitive idea in relation to any particular taxing model is that the lack of hard information prevents one from pointing to any particular point on the curve and saying definitively, this is where we are today. As a matter of fact, we do not know whether we are on the upper curve or the lower curve, or at its apex. My sole criticism of that portion of ERTA which relies upon the Laffer Curve for its basis is that perhaps it is too fast with too much. The other side of the coin is the argument that it is necessary to do something drastic to establish credibility. There is, currently in the process of development, a small model in Puerto Rico, where the government is utilizing a Kemp-Roth-Laffer type overall tax reduction of 5 percent per year over a three-year period. Tentative results show that implementation of this reduction has brought about an increase in gross revenues to the commonwealth. Considerable analysis is necessary in order to determine whether it was in fact the tax reduction that triggered the increase of gross revenues. However, it does appear to be that way.

Figure 3 (not reproduced in RECORD) is a hypothetical graph of the demand schedule for a particular good at a particular price. The particular good described in this graph is "leisure", which we will define as nonproductive use of time. As the cost of that leisure increases, less will be spent on leisure, and more will be spent on productive endeavors. Leisure is not necessarily a trip to Mazatlan or Acapulco; it is simply nonproductive use of time. Thus, there is a tradeoff between leisure and productive use of time, or work. What is the effect of the tax rate on the work/leisure trade-off? When an individual is in the 70 percent marginal tax bracket, it means that every dollar he produces from work is taxed at 70 percent. The producer keeps only 30 cents out of that dollar. To trade off work against leisure costs that person 30 cents. The price of leisure in that scenario is relatively low. If that same taxpayer is in a 50 percent marginal tax bracket, he keeps 50 cents out of every dollar earned. The cost of not working, the cost of leisure, with respect to that additional dollar, is fifty cents. The price of leisure has gone from 30 cents to 50 cents per unit of leisure as the tax rate decreased from 70 percent to 50 percent. Thus as the marginal tax rate decreases, the cost of leisure increases, and going back to our basic premises, as the cost of the good increases, the demand for that good decreases. As the demand for leisure decreases, work, i.e. productivity, increases.

Now if one views this in connection with what Laffer is saying, one must conclude intuitively that he is correct.

Let's skip to one more aspect of the philosophical underpinnings of ERTA. For the past several years we have heard much about supply side economics versus demand side economics. We should understand that both of these theories involve a tampering with the open market. The demand side people would increase income so as to shift demand. The supply side would decrease costs so as to shift the supply curve.

The graph in Figure 4 depicts a subsidy type situation. D-D is the demand curve for a particular good. S-S is the supply curve for a particular good. P_0-P_0 is the point of intersection between the demand curve and the supply curve. The curve S^1-S^1 is the supply curve where a subsidy has been given to the producers to enable them to reduce prices. The curve is shifted down and to the right, intersecting D-D at P_1-Q_1. In the graph one can see that there has been an increase in supply and an increase in quantity from Q_0 to Q_1 and that there has been a reduction in price from P_0 to P_1.

ERTA has attempted to do two things: first, it has attempted to make the cost of leisure more expensive; and second, it has attempted to shift the supply curve down and to the right by an indirect subsidy to producers. How has it attempted to accomplish this?

TAX PROVISIONS

There are three major sections of ERTA considered in the confines of this brief philosophical discussion: (1) tax reduction, (2) cost reduction, and (3) estate tax reduction. The tax reduction provisions relate primarily to individuals to increase the cost of leisure. The cost reduction provisions relate primarily to businesses to subsidize supply indirectly. The estate tax provisions are designed to provide a capital pool and aid the states.

TAX REDUCTIONS

ERTA provides for a progressive reduction of rates over a three-year period. At the end of the tax rate reductions, beginning in January, 1985, there will be an indexing of the zero tax bracket and personal exemptions, in order to continue to maintain the integrity of the rates. This is to avoid inflation creep, which occurs when someone's real income remains stable but his actual dollar income increases by virtue of inflation. As a result thereof he is moved into a higher tax bracket. The impact is that, after taxes, his real income had decreased because he is paying a higher tax rate on his real income. In general the rate reductions are such that in viewing the new rates in comparison with the 1980 tax rates, 1981 will be 1.25 percent lower than the 1980 rate, 1982—11 percent lower, and 1983—19 percent lower than the 1980 rate. The 1984 rate will be 23 percent lower than the 1980 rate, and in 1985 the rates will be indexed. The other major rate change is that the maximum tax rate was reduced from 70 percent to 50 percent. There was a corresponding reduction in the maximum tax rate on capital gains fom 28 percent to 20 percent.

The tax exempt savings certificate was created to encourage savings. It provides for a once-in-a-lifetime exclusion of up to $1,000, or $2,000 on a joint return, of interest earned on a depository institution savings certificate which is issued after September 30, 1981, and before December 31, 1983. The certificate must be issued by a bank, a savings and loan, or similar institution and yield interest equal to 70 percent of the yield of 52-week T Bills.

To continue to encourage savings for taxable years beginning after 1984, the new law provides for an interest exclusion of 15 percent on up to $3,000 ($6,000 for taxpayers filing a joint return) of net interest income, or an exclusion of $450 a year, or $900 on a joint return.

Pre-ERTA law contained provisions for IRAs and Keogh plans. IRAs are Individual Retirement plans which could be entered into by individuals who were not covered by any other plan; Keogh plans are self-employed individual pension plans. Under prior law one could invest up to $1,500 as an individual in an IRA. One could also create a spousal IRA into which a married couple could contribute up to $1,750. The new law has changed these provisions. The prohibition against contribution to IRAs by participants in employer sponsored plans or government plans has been removed, and everyone can now make contributions to IRAs. The contribution limit has been increased from the lesser of $1,500 or 15 percent of earned income—to the lesser of $2,000 or 100 percent of earned income. And where both the husband and the wife have earned income to $2,000, the 100 percent of income limit applies to each separately. This enables people to earn an extra $2,000 which will not be included at any tax rate now, but will be taxed upon receipt. It also means that the self-employed individual who has hit a maximum of the contributions into his Keogh plan can form an IRA and get an additional $2,000 contribution as an individual. The Keogh plan limit used to be $7,500 per year or 15 percent of the individual's earnings from self employment. This has been increased to $15,000. These are considerable work and savings incentives.

There were many other changes that applied generally to individuals, but these aforementioned are sufficient to give an understanding of approach and hoped for results.

COST REDUCTION

The cost reduction aspect of ERTA is based upon an understanding that taxes are a component of cost. The major cost reduction aspects of ERTA relate to the rapid expensing of capital costs. By permitting a rapid expensing of capital costs there is a directed tax reduction. The taxes are reduced only to the extent that the producer undertakes to invest in means of production. One provision provides that for taxable years beginning after 1981, taxpayers may elect to deduct the cost of new or used personal property immediately when it is placed in service, up to a maximum of $5,000 a year in 1982 and 1983; up to a maximum of $7,500 a year in 1984 and 1985; and up to $10,000 a year after 1985.

Another major method of rapid expensing of capital costs is the new Accelerated Cost Recovery System (ACRS). Under old depreciation systems, an item was depreciated at a rate over the useful life of the property. It could be a straight line method dividing the useful life in years into the cost of the property, less salvage value, or a rapid cost recovery system, either a percentage declining balance method or a sum-of-the-years-digit method. But under either method the useful life of the property was significant. Under ACRS the useful life of the property is not significant. Concern is solely with recovery periods. Recovery periods are generally 3, 5, 10, and 15 years depending upon the type of property. Those classes relate to tangible personal property.

Real property has a different set of classes. Real property can generally be depreciated over fifteen years. There are specialized situations where they can be depreciated over shorter periods of time.

This is a considerable advantage over the useful life over which the property was previously depreciated.

Because innovative development is important to the well being of United States economy, ERTA added a credit to the tax code for incremental research and experimental expenditures paid or incurred after June 30, 1981. The credit is based on the excess of research expenditures for the year over the average yearly amount for such expenditures during a particular base period, which consists of the three immediately preceding years. The credit amounts to 25 percent of these incremental research and experimentation expenses. It must be emphasized that this is not a deduction. This is a dollar-for-dollar credit against tax. However, it should be pointed out that this credit is not in lieu of a deduction. It's an incentive to increase the research and experimental costs in that the government is subsidizing increased research and development.

ESTATE TAX CHANGES

There have been major changes in the estate tax area. The marital deduction is now unlimited. A spouse can pass property to the other spouse without immediate taxation. Under the old law there was only a 50 percent marital deduction. Several years ago Congress recognized that in order to save the family farm, ranch, etc., it was necessary that special use provisions must be introduced into the Code with respect to valuation. Traditionally evaluation has been fair market value, considered at its best use. Because of return on investment and other criteria, ranching or farming is often not the best use to which a particular property can be placed. Its value for estate tax purposes was generally higher than its value as a ranching business. The drastic increase in the value and resulting increase in the estate tax often made it unprofitable for people to continue using the property as a farm or ranch. To correct this there was introduced into the Code a concept of special use valuation. Under the old law the total reduction in the amount of value of a property for special use purposes in any estate was limited to only $500,000. That has been increased on a phase-in schedule from the present $500,000 limit up to $750,000.

Another change worthy of attention in the estate tax area is a modification of the provisions for installment payments of estate taxes where much of the estate value is tied up in a closely-held business. The new law permits a five-year deferral of estate taxes followed by a ten-year payment period if interest in a closely-held business exceeds 35 percent of the adjusted gross of the estate. Under prior law, it used to be 65 percent of the adjusted gross estate.

The last estate tax item of major importance relates to the size of the estate that can be passed tax free. There is a credit for estate taxes. The equivalency in taxable estate dollars at present is $225,000. In 1985 that will increase to $600,000, so that a single estate will be able to pass free of any taxation at least $600,000 of the estate to an individual other than the spouse.

The purpose of the estate tax provisions is not to (1) reduce individual tax rates which increase the cost of leisure time, or (2) reduce the cost of a particular good that has been produced, thereby shifting a supply. Their purpose is to try to avoid disruption of a productive asset and to keep money at home. The general theory is that heirs of decedents in New Mexico, for example, will retain their productive assets in New Mexico.

PROGNOSTICATIONS

The economic mix in New Mexico is somewhat different from that in the Eastern and Northeastern states, as might be expected. Agriculture comprises 5 percent; mining, 9 percent; construction, 8 percent; manufacturing, 7 percent; wholesale and retail business, 15 percent; finance, insurance, real estate, 4.3 percent; transportation, public utilities and communications, 8.2 percent; service businesses, 16.7 percent; and government activities, 25 percent.

ERTA benefits agriculture very little, primarily because the farmers and ranchers haven't been making a great deal of money over the past few years, and consequently the reduction in the rates to them is minimal. Most of the ranchers haven't been paying any taxes because they haven't been receiving any income. They have just been surviving.

Mining

Mining operations have a continual need for heavy machinery. The mining industry will benefit considerably from ERTA because the rapid cost recovery system makes financing of these machineries through tax sheltered partnerships very attractive. Essentially this means that more and more machinery will be available for natural resource exploitation, and this should produce a not-inconsiderable boom in the very near future.

Construction

There is nothing in ERTA that will increase residential construction other than the tax-free saving certificates, which are designed to make more money available for residential real estate, and IRAs invested in Savings and Loans. However, by virtue of the rapid depreciation of commercial real estate and commercial residential property, there should be an increase in that area of the construction industry. We are beginning to see commitments to large commercial and residential projects in Albuquerque now, through tax shelter partnerships.

Manufacturing

To the extent that the manufacturer does not have all of his equipment, or to the extent that he has obsolete equipment, the Economic Recovery Tax Act will at least cause him to consider purchasing or replacing equipment. Unfortunately, manufacturing is relatively new to New Mexico, so that plants are not yet obsolete. On the other hand, ERTA does encourage manufacturers to set up new plants. We are now seeing a gradual increase in this state of businesses moving in from the frost belt. My prediction is that ERTA will encourage this trend even further.

Wholesale and retail

There is very little additional incentive given by ERTA for the wholesale and retail trade, but as the general economy improves so will the wholesale and retail business.

Banking and insurance

The finance-insurance industry can anticipate good growth as construction and manufacturing in the state increase.

Transportation, public utilities and communications

There are some incentives in the tax law for transportation and public utilities, but these industries are relatively stable so that a substantial improvement in the economy, while beneficial, will not cause so dramatic an upsurge as in the other industries.

Service industries

Their sole incentives will come from the different and various ways in which they can utilize reduced tax rates. Service industries tend to flow dramatically with the economy. As this economy improves, so will the service industries.

While the upside benefits that flow into New Mexico from ERTA are not so great as they will be for the other states, simply because of our industrial mix, at least none of our industries or portions of our economy are going to be damaged by any of the provisions in ERTA, which is more than can be said for some of the prior tax Acts.●

A DREAM

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. STUDDS. Mr. Speaker, Richard Cohen's column in this Sunday's Washington Post is worthy of the attention of all Members of the House. He speaks for what is best in this country and in its people. Perhaps someday, we will also.

[From the Washington Post, Mar. 14, 1982]

PIPE DREAM

(By Richard Cohen)

I have a dream. I dream that someday the United States will be on the side of the peasants in some civil war. I dream that we will be the ones who will help the poor overthrow the rich, who will talk about land reform and education and health facilities for everyone, and that when the Red Cross or Amnesty International comes to count the bodies and take the testimony of women raped, that our side won't be the heavies.

It would be nice for once if our side did not wear gaudy military uniforms and hide their eyes behind dark glasses. I would love it if our guys wore the suspenders and the wide hats and slept at night in the countryside instead of behind the guarded walls of some villa with a wife and a mistress and a Mercedes Benz.

I suppose that what I am saying is that I would like us once to be on the side of history. It would have been nice to have won in Vietnam and China before that. It would have been terrific to have been the Shah's enemy and the friend of the people of Iran. It would have been just great to have not been the buddy of the Somoza family in Nicaragua and the pal of every dictator who sends his money to Switzerland and his children to American military schools. Maybe then things would have turned out differently. Maybe then we would not be looking into the face of anti-American zealots like Khomeini.

It would have been wonderful if we were the country the Sandanistas turned to when they started their revolution in Nicaragua. Why not? We believe in democracy and in equality and in freedom. This is the country that was formed in a revolution and that to this day is so unremittingly democratic that, at the Republican National Convention, the 55-mile-per-hour speed limit was denounced as government oppression.

Even now you have to wonder why we have this argument with Nicaragua. Why do we have to bolt in panic from any country that calls itself Marxist or socialist? So what if it is. China is Communist and it is our new buddy. Its chief enemies are other communist countries: the Soviet Union and Vietnam. The Vietnamese, in turn, fight the Cambodians and the Cambodians fight each other. Communist cohesiveness exists only in American myth.

No matter. We are sort of at war with Nicaragua. The president has authorized $19 million so the CIA can "destabilize" the Sandanista regime. When the Lybians allegedly sent 10 or 12 terrorists here to "destabilize" our government, we predictably went nuts. Nations can not do these sorts of things to other nations. So why then are we doing it to the Nicaraguans?

Once again, we are the heavies. Once again, we play the role of the bully. We are, after all, past masters at destabilization. We have destabilized Nicaragua before with the Marines and we destabilized Guatemala with the CIA and we tried to destabilize Fidel Castro at the Bay of Pigs, but he just would not destabilize. Now Castro is our implacable enemy.

Only a dreamy romantic could overlook the realities of big power politics. You sometimes have to make unholy alliances—deal with the sort of people you would not have to dinner. History can ensnarl you. We are paying now in Latin America for the sins of the United Fruit Co., for a patronizing view of Central and South Americans that showed itself in a thousand movies starring women who wore bananas on their heads.

And only an idiot could overlook that rhetoric is only words. The North Vietnamese had terrific slogans, but they were silent about boat people. Sometimes oppressive right wing regimes are replaced by more oppressive left wing ones—sometimes atrocious ones like the Khmer Rouge in Cambodia.

But that's no reason to settle always for the status quo, to attach ourselves like barnacles to whomever is in power and to compel the forces of change to look elsewhere for support. It is a perversion of history that a totalitarian regime like the Soviet Union gets to use the rhetoric of social progress and we get stuck on the side of privilege and reaction. It would be nice to proclaim our ideals, to have the poor and underprivileged of the world look to us—shout our slogans and consider us their friend.

There are difficulties with this, I know. Practical considerations, I know. Don't worry.

It's just a dream.●

GE GETS TAX REFUND ON BILLIONS PROFIT

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. RATCHFORD. Mr. Speaker, the Washington Post confirmed this morning what so many of us had feared to be true. The 1981 tax bill's "leasing" provision has given big business a chance to escape its tax liability. So while middle-income families face the prospect of layoffs and the loss of student aid for their college-age children, General Electric can receive a refund of $90 million despite rolling up pretax earnings of $2.66 billion last year. I am sure they are not alone in this situation.

Mr. Speaker, if we asked the working people of this Nation if they are better off now than a year ago, their answer—as we all have heard from constituents in our districts—would be "no." Ask a few of the big corporations, however, and the response will surely be different.

The article follows:

GE GETS TAX REFUND ON BILLIONS PROFIT

(By Thomas B. Edsall)

General Electric, which had pre-tax earnings of $2.66 billion in 1981, capitalized so successfully on the bill Congress passed last year letting corporations buy and sell tax breaks that it will get a net tax refund of $90 million to $100 million from the Federal government.

A second highly profitable firm that bought up tax breaks last year, Amoco, which had a pre-tax income of $3.46 billion, was able to reduce its Federal liability by $159 million through tax "leasing," although the oil company did still pay several hundred million dollars in Federal taxes.

These figures emerged from annual reports for 1981 that are just being released and from interviews with company officials.

GE and Amoco are generally believed to have been among the most active firms buying up tax breaks. They bought the credits and depreciation write-offs from such companies as Chrysler, Pan American, Cleveland Electric, Commonwealth Edison and Phelps Dodge.

The benefit was most dramatic in the case of GE, which went from $426 million in tax payments in 1979 and $330 million in 1980, down to its refund of $90 million to $100 million.

The company was unable to achieve this negative tax situation largely through the purchase of tax credits and depreciation write-offs by a subsidiary. General Electric Credit Corp. GECC bought tax breaks from at least nine different companies and utilities through paper transactions called "leases" on about $1.4 billion worth of equipment.

The 1981 tax bill allowed companies to buy and sell tax breaks through leases; a company "leases" a piece of machinery and acquires the tax breaks associated with its cost. The provision was sold to Congress as a benefit for weaker companies. It has become highly controversial largely as a result of disclosures that profitable firms, like Occidental Petroleum, are also selling their unneeded tax breaks.

Sen. Robert J. Dole (R-Kan.), chairman of the Senate Finance Committee, has warned that he intends to seek repeal of the leasing provisions retroactive to Feb. 19.

On the surface, the GE report indicates the company was preparing to pay $529 million in federal taxes for 1981. In the more detailed notes, however, the firm pointed out that the credit company subsidiary, GECC, produced "provisions for taxes recoverable" of $633 million for 1981.

This $633 million, about one-third of which resulted from buying tax benefits, was used both to reduce 1981 tax liability and to get a refund on prior year's taxes, according to John F. McCoy, the firm's tax manager.

Although GE did not spell out the process, McCoy noted that federal law restricts the use of investment tax credits, the major first-year benefits from tax sales, so that a company can only eliminate 80 percent of its federal liability by this means.

As a result, he said, the firm had to pay 1981 taxes of between $50 million to $60 million—he would not provide precise details—but then it was able to turn around, and by virtue of the same leases, collect a refund on past years of about $150 million, for a net gain of $90 million to $100 million.

McCoy noted that "even though we have reduced our 1981 liability and have generated credits," GE's benefit was not the full amount of the tax savings because it had to pay out significant amounts of cash to buy the tax breaks.

Amoco—Standard Oil Co. (Indiana)—said directly in its annual report that "income tax expense for 1981 has been reduced by $159 million, reflecting the effect of tax benefits purchased."

The company said it expects to pay $390 million in federal taxes in 1981, compared to $433 million in 1980, although it was not clear whether the reduction resulted primarily from buying tax breaks.

Amoco did, however, note that investment tax credits for 1981 increased sharply from 1980, going from $106 million to $334 million, although no breakdown was provided to show how much of the credits resulted from investments for the firm and from purchased credits.

The effective tax rate when all state, local, foreign and federal taxes are calculated dropped from 46.7 percent in 1980 to 44.4 percent in 1981 "primarily due to higher investment tax credits associated with tax leasing arrangements," Amoco said in its report.●

SURPRISING TRUTHS BEHIND EL SALVADOR'S REVOLUTION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. LAGOMARSINO. Mr. Speaker, many critics of the Government of El

Salvador characterize the revolutionary governing junta as a typical military dictatorship preserving the interests of the elite. The circumstances under which the junta is governing are quite different from the historical Latin example. I would urge my colleagues to read the following Reader's Digest article describing the revolution that took place in El Salvador in 1979 and the reforms that have been taking place since then.

SURPRISING TRUTHS BEHIND EL SALVADOR'S REVOLUTION

MANY PEOPLE ARE STILL RELUCTANT TO BELIEVE IT: OFFICERS OF A ONCE FEARED AND CORRUPTED ARMY TURNING THEIR BACKS ON THEIR RICH LANDOWNER PATRONS AND EMBRACING DEMOCRACY

(By Max Singer)

In 1938, at age 12, José Luis Ramirez went to work at San Cayetano, one of the great fincas (plantations) owned by the Regalado family of El Salvador. For the next 42 years he herded cattle and worked in the cane fields. Then on March 6, 1980, the revolutionary governing junta, which had come to power two months earlier, enacted a land-reform law. José Luis still works in the fields. But now he is also part owner of the finca.

As president of the supervisory committee of the peasants' cooperative that operates San Cayetano, José Luis meets with other cooperative members and government technical advisers to decide how to run the farm. He is enthusiastic about plans to add new crops, to begin rebuilding dairy herds, and to reduce the farm's bank debt.

Life has also changed for the Regalados and more than 200 other great landholding families who had, with the support of the military, dominated El Salvador for over 50 years. Now their estates have been taken by the government and sold to their workers and tenant farmers. The former oligarchs are being paid for their property with long-term bonds and cash. Nobody in El Salvador now owns more than 500 hectares of farmland. Before the revolution the Regalados alone held more than 20,000 hectares.

This turn of events surprised the Salvadoran people, who had witnessed many unsuccessful land-reform attempts in the past. They didn't believe that the army would ever carry out a program that threatened the landowning families. While elections were held every few years, the army always made sure that its candidate, usually a colonel, won. Many believed that the big landlord interests chose the army candidates.

Then, during the late 1970s, a number of graduates of El Salvador's military academy became convinced that the army should not be used to serve the interests of the wealthy landlords. But more fundamentally they felt that democratic principles and the rule of law had to prevail.

Mostly from relatively poor families, these men had won their way into the military academy by competitive examination. Of 1,000 applicants, no more than 150 were chosen—and of these only about 25 graduated. Once established in their careers, the young officers resented being blamed by their countrymen for activities in which most of them had no part—corruption and repression by the army's security forces of the *campesinos* (peasants).

By 1979 there were enough officers who felt this way for them to turn their ideas into action. They had seen how the generals stole the 1972 election from Christian Democratic leader José Napoleón Duarte, had him arrested and beaten, then forced him to leave the country—and how the ruling oligarchy forced the withdrawal of land-reform proposals in 1976. There was also pressure from the United States and the Organization of American States over civil-rights violations of Salvadoran citizens. And the officers were jolted by a revolution in Nicaragua in which the officer corps was brought down because of its association with the corrupt government of Anastasio Somoza.

In early 1979 Col. Jaime Abdul Gutierrez and a few others from his class in the military academy began recruiting officers in each army *cuartel* (garrison) to take part in a revolution. They found a receptive audience, and Col. José Guillermo Garcia, now El Salvador's defense minister, joined their group.

The revolutionaries agreed on four goals: (1) stop government violence and corruption; (2) redistribute wealth by means of land reform and other measures; (3) establish civilian government based on free elections; and (4) make peace with Honduras, with whom El Salvador had been on hostile terms for a decade.

At 8 a.m. on October 15, 1979, the revolutionaries arrested the commanders of all but four of the army *cuarteles*. And at 10 a.m. Colonel Gutierrez, a quiet but tough engineer officer, called Gen. Carlos Humberto Romero, the fraudulently elected president, and told him to leave the country. All political prisoners were released, and the commanders of the feared security forces were replaced.

Two days later the first Revolutionary Governing Junta (JRG), composed of Colonel Gutierrez and others, was set up. Its new, mostly civilian cabinet represented a wide range of parties and groups, from the Communist Party front to businessmen. But most members were well left of center.

El Salvador's democratic revolutionaries did not have a chance to govern in peace for long. The first assault came from several extreme-left guerrilla groups, headed by admirers of Fidel Castro, who soon succeeded in bringing them together in an effort to destroy El Salvador's moderate revolution.[1]

These Marxist guerrilla groups carried out attacks in the countryside and violent demonstrations in San Salvador, the capital. Buildings and hostages were seized, the U.S. embassy was attacked, newspapers were bombed. Terrorist forays, in which thousands of peasants and others have been killed, continue today.

The junta's efforts soon deteriorated into chaos. Instead of preparing reforms, the left-wing politicians bickered and maneuvered for power. Some even worked closely with the guerrilla groups that were trying to destroy the government. When extremist members of the teachers' association demonstrated against the government, Education Minister Salvador Samayoa left his office and joined them in the street. Later, on TV, Samayoa announced that he was leaving the cabinet to join a guerrilla group—some of whose armed and masked members appeared with him.

After the government collapsed in January 1980, the army did not turn to the business community or to the old oligarchs, nor did it try to run the country on its own. Instead it sought out the Christian Democratic Party, the main left-wing opposition group under the old regime. The party was led once again by Duarte, who had recently returned from exile. The army and the Christian Democrats signed a pact that reaffirmed the army's original revolutionary proclamation and led to the civilian government, made up mostly of Christian Democrats, which will be in office at least until an election this March of a constitutional assembly.

Soon after the formation of the new government, the army's reforms finally began to be enacted. On March 6, 1980, the JRG announced plans to expropriate 263 of the largest estates. Next, the JRG nationalized private banks and coffee- and sugar-export businesses.

On April 28 the JRG enacted another land reform—the "Land to the Tiller" law. This law automatically transferred ownership of all farmland worked under tenancy agreements from the landlords to the tenants. Thus, 150,000 landless rural families theoretically became landowners. To document their ownership, however, they have to receive land titles from the government. Many landlords are trying to prevent the program from working. Some evicted "tenants" who hadn't yet received title documents; others lied to the titling agency about which campesinos had been working their land.

Several of the former landowning families ordered death squads to kill government supporters. José Rodolfo Viera, head of the land-reform agency, was one assassination victim. In some regions, the old landlord class used local security forces to fight an underground war against the Land to the Tiller program.

When the new revolutionary leadership took control of the security forces, they faced a difficult task in ending the military's brutal activities in behalf of the landlord groups—many of whom were accustomed to paying the salaries of local soldiers and policemen. Col. Reynaldo Lopez Nuila, who took command of the National Police, dismissed 146 policemen for criminal offenses, including murder, perjury and many lesser crimes. He transferred or disciplined many others. All officers and men received training in proper police procedures, including how to respect citizens' rights and how to behave when operating checkpoints, controlling demonstrations, questioning suspects, and investigating political and other crimes.

Control by the leadership is still imperfect and killings still occur. Landlord resistance to the government continues—especially in areas that have become nearly lawless because of guerrilla fighting.

Despite bloody attacks from both right and left, however, El Salvador's moderate revolutionaries have pressed their reforms. They have reorganized and expanded the school system, for example. Instead of having all schools supervised by the Education Ministry in San Salvador, the country has been divided into hundreds of "nuclei." In each area, the schools are run by a board elected by local teachers and parents. In the smaller cities, 20 new high schools have been created so that now most teenagers can go to high school while living at home. As a result of the authority given to parents and teachers, the schools have benefitted from an outpouring of creativity and effort—and have been protected against nationwide disruption.

The United States is providing substantial help to the Salvadoran government—both arms to battle guerrillas and economic assistance. Most of the free countries of Latin America support the new leadership. But many people around the world—and even in El Salvador—have been slow to recognize El Salvador's great "surprise" army revolutionaries who believe in democracy—a form of democracy not unlike the kind in which we believe.●

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[1] See "El Salvador's Made-in-Havana Revolution," Reader's Digest, July 1981.

SPOTLIGHT EDITOR'S CONFESSIONS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. McDONALD. Mr. Speaker, for several years the tabloid Spotlight, the organ of Liberty Lobby and Willis Carto, has conducted a campaign of vilification against American conservatives and anti-Communists. The targets have included this Congressman and John Rees, Washington bureau chief of the Review of the News. Liberty Lobby/Spotlight commenced its scurrilous campaign after we noted its strange alliance with the totalitarian Communist cult headed by Lyndon LaRouche, the U.S. Labor Party, now calling itself the National Democratic Policy Committee.

James Tucker, for 6 years Spotlight's managing editor, came to my office not long ago and offered the following letter of apology:

JANUARY 11, 1982.

Hon. LARRY MCDONALD,
Member, U.S. Congress,
Washington, D.C.

DEAR MR. MCDONALD: For the first time in my six-plus years at Liberty Lobby, as managing editor of The Spotlight, I am at liberty to tell you how very much I regret, and how energetically I resisted, publishing stories that demeaned you and Mr. John Rees.

This is because I have at last resigned, as I felt compelled to do, over policy differences reflected above which cannot be reconciled.

My struggle began with the direct orders to publish stories reflecting favorably on the Labor Party which had made statements which some people at Liberty Lobby appreciated. I argued then and now that there is no way to quote self-avowed communists—even if, on a single matter, they should be right—and maintain credibility.

What followed, since the days we collaborated so well in the Canal fight, was a tragedy * * *.

Cordially,

JIM TUCKER.●

WOMEN'S HISTORY: EDITH STRATTON KITT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1982

● Mr. UDALL. Mr. Speaker, I would like to take part in the special order today to honor one of Arizona's renowned pioneers, Edith Stratton Kitt. Mrs. Kitt was born in Florence, Arizona territory, on December 15, 1878. She began the rough life of homesteading at the age of 1½ in a small adobe house on her family's ranch north of the Santa Catalina Mountains and taught school at many of Arizona's tough mining camps. Her book, "Pioneering in Arizona," provides us with a unique insight into the life of an early pioneer.

As president of the Arizona Federation of Women's Clubs, Mrs. Kitt helped Arizona women's groups to become active and to speak with a unified voice in Arizona politics.

Her concern for conservation inspired her to work toward the preservation of Arizona's historical sites and scenic wonders. Because of that dedication to Arizona history, she was installed as the Secretary of the Arizona Pioneers' Historical Society in 1925. She was the librarian, researcher and the prime mover of the society and under her leadership the society's research expanded to include all facets of Arizona and western history.

We are thankful to have had such a prominent citizen who preserved so much of Arizona's heritage and left us with an invaluable account of our past. I am happy to have this opportunity to pay tribute to one of Arizona's important historical figures.●

NAVAL ANNIVERSARIES—THE SEABEES, THE CIVIL ENGINEERING CORPS, AND PORT HUENEME, CALIF.

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Ms. FIEDLER. Mr. Speaker, we have the honor, this week, of celebrating two distinguished naval anniversaries: The 40th anniversary of the establishment of the U.S. Navy's Construction Battalions, the famous "Seabees" and the 115th anniversary of the establishment of the U.S. Navy's Civil Engineering Corps.

The Seabees were formed 40 years ago. It was a time when America's fortunes on the field of battle were low. Our resolve, however, was high, and it was realized that to gain the victory in the reaches of the far Pacific required a force to create bases where before there were only coral and sand. It was a task without precedent, and to carry it out there emerged a force without precedent—the Seabees. The original Seabees may not have had the glamour of youth—sailors were cautioned never to hit a Seabee, he might turn out to be your grandfather—but they certainly had ability. Throughout the war in the Pacific, the Seabees were on the scene, building airstrips, ports, supply dumps, usually under enemy fire. Their contribution to the Pacific war would be difficult to overestimate. Indeed, even Adm. Bill Halsey, a man not given to outbursts of emotion, said "Every time I pass a bulldozer, I want to stop and kiss it."

The Naval Civil Engineer Corps are also builders. Starting in the dockyards of the age of wooden ships and iron men, they have grown to be planners and builders of installations that would never have been dreamed of in the year of their founding, often in places that were not then even on the map. Where the Seabee's role is specialized—the building of forward bases in the combat zone—the Civil Engineer Corps mission is broad and encompassing many activities.

Today, the proud heritage of these groups lives on. The Seabees remain as ready today as they were 40 years ago to make the global mission of our Navy possible. The Civil Engineer Corps still plans and builds—if it is Navy and it does not float or fly, they are probably responsible for it. We are fortunate indeed in having major activities of both organizations at Port Hueneme, Calif.: The Seabee Center and the Civil Engineering Laboratory. The Navy's role at Port Hueneme also dates back to the Second World War, but it, like the organizations that make it up, remains active and vital, as important to the area where they are stationed as they are to the Nation that they serve.

Admiral Viscount Andrew Cunningham, the great British sailor of the Second World War, once said that while it takes 3 years to build a ship, it takes 300 years to build a tradition. With all due respect to Admiral Cunningham, I believe that we have established a tradition of excellence in somewhat less time. Indeed, we can boast of a splendid and interlocking set of traditions—of the Seabees, of the Civil Engineering Corps, and of Port Hueneme, Calif., all, in their different yet interdependent ways, among the very best.●

THE CONFLICT IN CYPRUS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. YATRON. Mr. Speaker, on April 22 Congressman WILLIAM BROOMFIELD and I will be conducting a special order calling for a peaceful settlement to the conflict in Cyprus. Since 1974, Turkish military forces have occupied this small island nation with U.S. armaments. The results of this unjustified and illegal occupation are tragic. During the Turkish invasion 200,000 Cypriots were forced to flee from their homes and villages and have, since 1974, lived as refugees in their own homeland. These proud and hard-working people have been struggling for almost 8 years to attain the basic necessities of life. As long as Turkish troops remain in the country, the economy will continue to deteriorate and the basic human rights of the Cypriots will be abused further.

Mr. Speaker, the United Nations Special Representative on Cyprus has been conducting intercommunal negotiations between Greek Cypriot and Turkish Cypriot representatives in hopes of reaching a negotiated settlement to this tragic conflict. For well over a year these negotiations have produced nothing more than ambiguous diplomatic rhetoric about the positive atmosphere in which these talks have been conducted.

The stark realities of this deplorable situation remain the same since 1974. The people of Cyprus will never realize their own political destiny as long as Turkish forces are stationed in their homeland. Pressure must be placed on the United Nations by the United States to press for the withdrawal of Turkish troops from Cyprus and for the unification of this troubled Aegean Nation under one flag representing all its people.

Mr. Speaker, our distinguished colleague from Michigan, Congressman BROOMFIELD has been an outspoken leader of the Cypriot cause and it is our hope this special order will attract strong bipartisan participation so that the Congress can send a message to the people of Cyprus and the United Nations that an equitable and peaceful settlement to this ill-fated dispute is a primary foreign policy objective of the United States.●

FLEXITIME LEGISLATION SHOULD BE REAUTHORIZED

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mrs. SCHROEDER. Mr. Speaker, unless reauthorizing legislation is passed by the Congress before March 29 the Federal Government's alternative work schedules experiment will expire. I think this would be a retreat on an innovative policy that has found wide acceptance in both the private and public sectors. It is disappointing to both the workers who participated in the program and for managers who saw the value in using alternative work schedules.

The 3-year experiment has been very successful. The program has improved employee morale by offering employees more control over their work schedules. At the same time, it has benefited the Government by reducing tardiness, absenteeism, and sick leave. It has also increased the number of hours that most organizations were open and available to serve the public.

Use of alternative work scheduling is no excuse for sloppy management inside or outside the Federal Government. In fact, it should encourage managers to review their management style. To assure a successful program, managers must do careful planning and insure that accountability is maintained. Employees on alternative work schedules are still required to put in their full 40-hour week. They are allowed, however, greater flexibility in the arrangement of their workday or workweek, within the context of the agency's program.

I would like to insert in the RECORD an article from the Denver Post about the flexible and compressed work hours program in Colorado.

PENDING DEMISE OF FLEXITIME IRKS FEDERAL EMPLOYEES

(By John Toohey)

The possible demise next month of the nearly three-year-old flexitime program for federal employees would upset established home routines, cause an increase in Denver-area air pollution and generally be the "last straw" for some civil servants.

That is the impression given by a number of federal employees interviewed at random in the downtown Denver Federal Office Building by The Denver Post.

The flexitime program, enacted in 1978, is scheduled to run out March 29. The House of Representatives recently voted 255-142 for an indefinite continuation of the program, but that tally fell short of the two-thirds majority needed.

Under the program, federal employees—with approval of their supervisors—have been allowed to set varying work hours so long as they worked a total of 80 hours during a two-week period.

Some employees worked four 10-hour days, others came in early or left earlier than the traditional 5 p.m. end of shift.

Of more than three dozen federal employees asked about the program's uncertain future, more than 70 percent said the program should be continued. Said one, "That's too bad. We federal employees are taking it on the chin recently with budget cuts, RIFs (reductions in force) and transferring our jobs to state agencies, and now they do this to us."

A report prepared last July by the Denver regional headquarters of the U.S. Office of Personnel Management showed that 44 Denver-area federal agencies have taken part in the program and 12,560 of the 33,000 employees were involved.

The study showed that employees drove less under the program because many worked only four-day weeks, and others made greater use of car pools, with resulting reductions in air pollution and gasoline consumption.

A related finding was that not only did employees drive fewer miles to and from work, but personal travel was down 49 percent compared with employees in agencies not on flexitime. But the study found no reason why flexitime appeared to reduce personal driving.

The Denver Federal Executive Board had hoped the program would reduce employee work miles driven by 20 percent. A reduction of about 15 percent was achieved, the study said.

Several agencies said their extended office hours also allowed better service to the public. Other supervisors said morale and staff efficiency improved, and productivity either increased or remained stable as a result of the staggered hours.

One disadvantage was that energy use in some federal buildings increased because they were open longer.

The Denver Regional Council of Governments worked with local federal officials to plan the study and hired an outside consultant to finish the work.

The study concluded that the Denver experience proves flexitime can work.

The program still has a chance of resurrection in the House. A new version of the bill extending the program is pending, and will be taken through regular voting channels, which require only a simple majority for passage.

Hearings also are under way in the Senate on the question of extending the legislation, but with some modifications, including more supervisory control over work schedules and periodic reports on employee productivity.●

VINCENZO AND TERESINA MARANTO CELEBRATE 71ST WEDDING ANNIVERSARY

HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. BENJAMIN. Mr. Speaker, Vincenzo and Teresina Maranto recently celebrated their 71st wedding anniversary.

The Marantos have enjoyed a history in the finest American tradition. Vincenzo Maranto, now 94 years old, first traveled to America from Sicily in 1899 at the age of 12. He returned to Sicily 10 years later to marry his wife Teresina Cesare. Vincenzo served in the Italian Army and in 1912 returned to America. Mrs. Maranto and their first daughter Mary immigrated to the United States a year later.

The young Maranto family settled for a short time in Missouri and then moved to Gary, Ind., where they purchased a neighborhood grocery store. Mrs. Maranto, now 87 years old, operated the store while her husband worked for the Elgin, Joliet & Eastern Railway.

The Marantos moved to East Hazelcrest, Ill., in 1923 where Mr. Maranto worked for the Illinois Central Railroad. For more than 25 years, the couple owned and operated a grocery store and a tavern.

The proud children of Vincenzo and Teresina Maranto are Mrs. Frank (Mary) Valenzuela of East Hazelcrest, Ill.; Mrs. Leo (Genevieve) Sacco of Calumet City, Ill.; Mrs. Pearl (the late Sam) Bushemi of Merrillville, Ind.; Mrs. Paul (Frances) Eilers of Hazelcrest, Ill.; Melo (Isabel) Maranto of Hazelcrest, Ill., and Anthony (Dorothy) Maranto of Harbert, Mich. The Marantos have 16 grandchildren, 19 great-grandchildren and 12 great-great-grandchildren.

Mr. Speaker, the Marantos are a tribute to the American way of life. Their 71 years together represent hard work and dedication to their family and community. It also represents the virtue of love, commitment, and fulfillment of the American dream.

It is a privilege to congratulate the Marantos today as a tribute to their heritage and to the fiber of America. May their example of human respect and toil remind all Americans that the adopted country of the Marantos will always be the land of opportunity if there is an unending contribution of love, respect, and labor. The 71 years of marriage and their success and that of their family are living testimony.●

TIMOTHY C. EVANSON, MONTANA'S WINNER IN VFW VOICE OF DEMOCRACY CONTEST

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. MARLENEE. Mr. Speaker, the Montana winner of this year's VFW Voice of Democracy contest is a young man from my district, Timothy C. Evanson of Great Falls. Tim is a junior at Great Falls High School. Based on the theme of "Building America Together," Tim has eloquently expressed his thoughts on his love for America and his optimistic view of today's young men and women who will be tomorrow's leaders. Tim has not lost faith in the American dream and expresses that the continued building of this Nation "lies in the dreams of our people and that these dreams must be forged into reality, brought to the people of America, and then beyond." At this time, I would like to insert Tim's moving entry into the CONGRESSIONAL RECORD.

BUILDING AMERICA TOGETHER

America. This is our country.

We go about our ways oblivious to the world around us. Yet at one time people were not apathetic to America and our lifestyle. They looked and saw their country, and they dreamed.

They dreamed of America as a ship—a ship that must go to the stars, plunge into the seas and soar through the vast expanses of the air. They built her out of the steel of a courageous heart, out of the wonderous alloys of her industries. Her skin is titanium, able to withstand the heat of a thousand suns. She is streamlined, a sleek stream of quicksilver. She has swept-back wings of gold. America's massive engines provide the thrust from her peoples' dreams. Her hull is a quicksilver hue, burnished and gleaming. Inside, America is a future today. The deep crush piled carpet is a golden wheat color. Deep mahogany panels lend to the luxury. Your every wish, every want, is instantaneously fulfilled by the near omnipotent electronics conducting America's operations.

All this seems like a dream, a wonderland. And that is exactly what it is—a home long ago destroyed.

For in reality we live in an America whose land has been raped. She has been defiled—not only by the trash, refuse and garbage we throw onto its land, but by its people. We have rioted, whereas before we accepted or peaceably changed the laws. We have not voted. We have not voiced our thoughts and feelings through our public servants. We have destroyed our governmental system by refusing to nourish its roots. We have become apathetic to our country's needs and wants.

We failed in our patriotism—failed to support America. We refused to acknowledge the problems we and other countries had and let them grow into nightmares, sucking more and more people down into poverty and despair.

We have forgotten and wasted our resources—the natural beauty of our country. We allowed the rape of our land, allowed it to be defaced.

We have failed to be stewards of America. We have failed our civic duty, failed to support our homeland, failed to protect our pristine wilderness and abundant resources.

We have failed . . . failed.

And yet hope still glimmers down the murky tunnel—hope in the form of dreams—dreams found burning, roaring in the furnaces of our youth and adults. Those old enough remember the Golden Years, hoping to restore them. Those young enough need to know about the American Dream and need a purpose to accomplish.

And this is our purpose: to rebuild our America, to restore its beauty, to once again participate in our heritage, our government and our dreams. We must learn to dream new dreams and turn them into reality. We must once again preserve and use wisely our bountiful country. This is a return to the Golden Age of yesteryear—a return to tomorrow.

Our building of America lies in the dreams of our people. These dreams must be forged into reality, brought to the people of America, and then beyond.

We can rebuild her. We have the technology. We have the power to build America together by joining together our dreams, hopes and hearts in one mass outpouring of pride and patriotism.

We can do it together—if we only dream.●

COL. FLOYD J. THOMPSON, VIETNAM HERO'S NINTH ANNIVERSARY OF FREEDOM

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. PARRIS. Mr. Speaker, 9 years ago today, March 16, 1973, Col. Floyd James Thompson was released from a prisoner-of-war camp in Vietnam. On January 29, 1982, Colonel Thompson received the Distinguished Service Medal for his heroism in Vietnam from the Secretary of the Army.

Colonel Thompson has had a distinguished career in the armed services for more than 25 years, serving as an infantry unit commander, Special Forces officer, and Ranger-Parachutist. In March 1964, Colonel Thompson was captured by Communist forces and was held as a POW in Vietnam longer than any other American in military history. During his 9 years of imprisonment, Colonel Thompson attempted to escape several times but was recaptured on each occasion. He suffered torture, physical and emotional trauma, and 5 years of solitary confinement but his actions were always in keeping with the highest traditions of the military services and reflected great credit on himself and the U.S. Army.

Since his release and recovery from Vietnam, Colonel Thompson has frequently spoken to community groups throughout the United States regarding his POW experiences. However, on February 26, 1981, Colonel Thompson suffered a massive and permanently disabling stroke. Although his condition has improved somewhat with the assistance of speech and physical therapy, his prognosis for independence in communication is guarded.

I urge my colleagues to recognize and salute this well-deserving, patriotic man for his bravery and honor in service to his country.●

RABBI ALVIN M. MARCUS

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. MINISH. Mr. Speaker, I am pleased to learn that on this coming Sunday, March 21, Congregation Ahawas Achim B'nai Jacob and David of West Orange, N.J., will hold its 16th annual dinner. What is special this year is that the congregation will extend life tenure to its distinguished rabbi, Alvin M. Marcus, who has served as its spiritual leader since 1968. This is an especially appropriate honor on Rabbi Marcus' bar mitzvah anniversary with the community, and the 30th anniversary of his ordination from Yeshiva University's Rabbi Isaac Elchanan Theological Seminary. I am honored to participate in this festive occasion for Rabbi Marcus, his congregation, and the whole community of West Orange.

Congregation Ahawas Achim B'nai Jacob and David is an important part of West Orange. The oldest orthodox synagogue in Essex County has absorbed many of the historical congregations of Newark and West Orange, and it now consists of some 400 families.

Rabbi Marcus has brought vigorous yet sensitive leadership to this distinguished religious community. The growth of average adult Sabbath attendance from 30 people when Rabbi Marcus arrived to over 300 today may be attributed in large measure to his appeal, as is also the case with the growth of religious services and educational and family activities through these years.

The remarkable man who fostered such progress earned a master's degree in social work at Yeshiva University. He has found time to serve as a member of the board of trustees of the Jewish Federation of Metropolitan New Jersey, the board of directors of the Daughters of Israel Pleasant Valley Way Home, and the board of directors of the Essex County Ritualarium (mikveh). He is cochairman of the rabbinic division of the United Jewish Appeal, cochairman of the Joint Chaplaincy Commission of Essex County, a member of the Rabbinic Cabinet for Israel Bonds, and a founding member of Vaad HaKashruth of Essex County. Rabbi Marcus is a director and chairman of the board of education at the Hebrew Youth Academy and a past president of the Council of Orthodox Rabbis of Essex County. Beyond our local area, he serves as president of the Rabbinical Council of New Jersey and vice president of the Rabbinic Alumni of Yeshiva University. A member of the Rabbinical Council of America, he distinguished himself as chairman of its education commission from 1974 to 1976. The extent and quality of Rabbi Marcus' selfless service in these and other activities is eloquent testimony to the kind of person he is.

Rabbi Marcus has found time in the face of all these demands to enjoy a rich family life with his lovely wife Marylin, his sons Jay, Joshua, and Saul, Saul's wife Phyllis and their two children. I think that the rabbi's warm personal qualities are at least as important as his great energy, impressive credentials, and sincere religious feeling in making him such an effective spiritual leader of his congregation and a force for good in the community at large.

I am grateful to Mr. Schulder, Dr. Schrader, Mr. Levitt and the whole congregation for allowing me the chance to participate in some measure in this auspicious occasion in Rabbi Marcus' life. His tenure only recognizes the permanent place he has earned in our community, and our delight in the continuity of his good work and his friendship.●

A TRIBUTE TO ALBERT "AL" JEWELL

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I am saddened to report to my colleagues the death of Albert "Al" Jewell, former mayor and police chief of Oxnard, Calif.

Mr. Jewell died Thursday, February 18, 1982, at Beverly Glen Hospital in Los Angeles after recent emphysema surgery.

Mr. Jewell was born in July of 1909, in Frederick, Okla. He then moved to St. Louis, Mo., where he was employed in law enforcement work from 1937 to 1941. He then served as deputy sheriff in that area for 2 years before his employment as a special agent in enforcing liquor laws in Jefferson City, Mo. He held that position until being hired as a patrolman for Oxnard on May 1, 1948.

Al Jewell steadily rose in rank until becoming the Oxnard police chief from 1953 until 1970.

At the time of his retirement, he vowed he would remain active in civic affairs. In accordance with his promise, Mr. Jewell took out nomination papers for a city council seat just 2 days after retiring from the police force. He won the election handily in a 12-candidate race in April of 1970.

During his 4-year term on the council, Al Jewell served 11 months as mayor, having been elected to that office by his colleagues. He became the city's first elected mayor in 1974. He retired in 1976 after 44 years of public service in St. Louis and Oxnard, with 28 of them in Oxnard.

Mr. Jewell was known to his colleagues and friends as a fine man of great integrity and dedication to service. One of his officers, Lt. Joe Hawkins, described him as being "the gretest boss and friend a man could ever have. He backed his officers all the way, even to giving up his badge, if necessary, if he knew they were in the right, but would punish them if they were in the wrong."

I count it a privilege to have known and been a friend of Al Jewell. In closing, I would like to extend my sympathy and condolences to his wife, Marie, his daughter, Joyce, and to his two grandchildren.●

FEDERAL EMPLOYEES VOLUNTARY REDUCED WORKTIME ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mrs. SCHROEDER. Mr. Speaker, today I am introducing legislation to allow Federal employees to reduce their work hours voluntarily as a way to avoid mandatory reductions in force (RIF's). Enactment of this legislation could reduce the paralyzing disruption which RIF's, furloughs and rumors of RIF's and furloughs cause in the Federal Government.

No one can doubt that we are in a period of contraction in the Federal sector. Whether or not President Reagan wins approval of his proposals for New Federalism, abolition of the Departments of Energy and Education, and reduced social functions, it is clear that taxpayers do not believe the Federal work force has to be as big as it is. Reductions in the size of the work force are inevitable.

These reductions can be done either in a humane way or in an inhumane way. Unfortunately, so far, the latter method has been preferred. Civil servants retiring, quitting, and switching jobs can account for more than the annual number of reduced Federal slots the President proposes. I strongly believe that no involuntary actions, like RIF's and furloughs, should be used until attrition proves incapable of meeting the reduction goal.

Nevertheless, because of specialized skills and bureaucratic barriers between agencies, attrition may not do the whole job. Further, when functions are changed, more rapid changes than attrition allows may be required. At this point, the Government has traditionally moved to RIF's. I think there should be an intermediate point. Management should ask employees whether they are willing to share the pain, by voluntarily reducing their work hours and pay.

The Federal Employees Voluntary Reduced Worktime Act would allow for this better way of handling a reduction. It would require agencies to poll employees who are in the work force affected by the RIF or furlough. If enough hours are offered up to meet the required reduction, no RIF or furlough could occur. If not, a RIF could be taken only to the extent not made up by the voluntary reduction.

Last year, the Equal Employment Opportunities Commission permitted employees to convert from full time to part time to prevent a RIF. Forty-four did so. Similarly, 400 employees of the Department of Labor's Office of Solicitor volunteered to take 10 days leave without pay to save 50 jobs. If given the opportunity, more Federal employees would volunteer their time in exchange for saving their jobs and the jobs of their colleagues.

We all know that RIF's are destroying the equal employment gains which have been made over the last few years. Minorities are getting RIFed at a rate 50 percent higher than nonminorities. Women in GS-12 positions and above are being RIFed at a rate 134 percent of that of men in similar positions. If we believe in a Federal Government representative of the diversity of our citizens, we must not allow RIF's to eliminate the female and minority representation which has been achieved.

Beyond EEO, reductions in the work force are crippling Government productivity. We are placing some of our very best people out on the streets or in positions for which they are grossly overqualified and overpaid. Further, some agency managers have used RIF's and reorganizations as a way of getting back at career civil servants who they think are disloyal to the goals of this administration. This bill would prevent misuse of these personnel tools.

Mr. Speaker, we can reduce the size of the Federal Government and preserve its productivity through the enactment of this legislation.●

COSPONSOR OF HOUSE CONCURRENT RESOLUTION 278 TO CONTINUE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. WEISS. Mr. Speaker, it is with a sense of urgency that I join Representatives Panetta and Conte in cosponsoring House Concurrent Resolution 278.

This measure puts the Congress on record in support of a level of funding that would maintain or increase the number of employment positions for the title V senior community service employment program (SCSEP) under the Older Americans Act.

This action is necessary because the administration wants to terminate funding for title V in fiscal year 1983. This would cause nearly 54,200 low-income older persons to lose their jobs this coming October.

The administration argues that title V is no longer needed because a new title II-B special targeted program in the draft 1982 Training Act would provide similar training and employment opportunities for older persons.

This is simply not true. The special targeted program would not provide paid community service employment opportunities for low-income older Americans. In fact, it prohibits the payment of wages and training allowances. This, of course, would discourage older Americans from participating in the program because income is their most basic need.

The training and supportive services authorized in the special targeted program would probably be of little value now, primarily because private sector jobs are scarce or virtually nonexistent for older persons with obsolete work skills and limited education.

Moreover, the special targeted program is grossly underfunded to serve the long laundry list of groups to be assisted. The draft proposal calls for $200 million to help older persons, native Americans, migrants and other seasonal farmworkers, displaced homemakers, persons with limited English-speaking ability, offenders, and others. This is $564 million below the fiscal year 1981 appropriation for programs serving these groups. Title V alone is now funded at about $274, or $74 million above the total amount the administration recommends for the entire special targeted program.

Over the years, the SCSEP has proved its value and worth to older Americans, the communities they serve, and our Nation. A program as successful and effective as title V should be continued, instead of terminated.

It has enabled low-income older persons to help themselves while helping others in their communities at the same time. Its administrative costs have been kept at rock bottom levels, permitting more disadvantaged older persons to participate in the program. And, it has operated free of fraud and abuse.

Title V is needed now more than ever. Poverty among persons 55 or older has increased by 800,000, from 5.1 million in 1978 to 1980. About 630,000 persons 55 or older are now unemployed—almost 100,000 above the level of last July. This, however, understates the problem because there is a substantial amount of hidden unemployment among the elderly. People, for example, who drop out of the labor force after a prolonged and futile search for a job are not counted as unemployed.

Poverty and unemployment are already serious problems for older Americans. They would be intensified if title V is terminated.

For these reasons, I reaffirm my support for House Concurrent Resolution 278 and urge my colleagues to sponsor this important measure to put the administration on notice that Congress wants the title V SCSEP continued, at a bare minimum, at the current jobs level of 54,200 positions.●

REMEDY SOCIAL SECURITY STUDENT BENEFIT CUTS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. GILMAN. Mr. Speaker, I rise to inform my colleagues that I have introduced a bill, H.R. 5792, to establish a new grant to remedy student aid modifications. This bill will redress the harm that was done to the recipients, and potential recipients, of the so-called adult student social security benefit which was modified as a result of the passage of the Reconciliation Act of last year.

Under the Social Security Act, monthly cash benefits were formerly paid to the adult children of insured workers who died, became disabled, or retired if those children are age 22 or under and are college students. these benefits were counted on by workers and taken into account as they planned their retirement or bought insurance. When the benefits were cut as a result of our zeal to cut the budget, the children of those workers were left with but few resources to finance their educations.

In December of 1980, about 800,000 individuals were receiving adult student benefits. The Reconciliation Act's provisions will decrease the monthly benefits of those attending college full time before May 1 by 25 percent each year for the next 4 years and will also cut out aid payments during the summer months. Students enrolling in college after April 30 will not be eligible to participate in the social security adult student benefit program.

My bill will create, a new subprogram within the Pell grant program. Any student whose social security benefit was reduced or eliminated by reason of the passage of the Reconciliation Act will be eligible for an additional Pell grant of the same amount, providing that financial aid was demonstrated—that is, provided that the cost of instruction justified such a grant and that the individual student or his parents did not have sufficient resources to finance the education themselves.

This bill will require an explicit appropriation for this new program; funds will not be taken from existing Pell grant funds to pay for it.

Mr. Speaker, I invite all of my colleagues to become cosponsors of this measure, and I ask unanimous consent that a copy of H.R. 5792 be printed at this point in the Record.

H.R. 5792

A bill to amend the Higher Education Act of 1965 to authorize grants to offset reductions in other forms of student financial assistance, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subpart 1 of part A of title IV of the Higher Education Act of 1965 is amended by inserting after section 411 the following new section:

"GRANTS TO REMEDY STUDENT AID MODIFICATIONS

"Sec. 412. (a) The Secretary shall, during the period beginning October 1, 1982, and ending September 30, 1986, increase the amount of the Pell Grant paid to each eligible student under section 411 in accordance with the requirements of this section.

"(b)(1) Except as otherwise provided in this section, the amount by which the Pell Grant to any student shall be increased shall be determined in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of Health and Human Services and the Administrator of Social Security, on the basis of the amount by which payments to or on account of that student under the Social Security Act are reduced or eliminated as a consequence of the amendments made by, and the other provisions contained in, section 2210 of the Omnibus Reconciliation Act of 1981.

"(2) Notwithstanding paragraph (1), no Pell Grant shall be increased to an amount which exceeds the difference between the expected family contribution for a student and the cost of attendance at an institution at which that student is in attendance (as required by division (ii) of section 411(a)(2)(B)). A Pell Grant may be so increased to an amount which exceeds the maximum dollar amount established under section 411(a)(2)(A)(i) and the maximum percentage of the cost of attendance established under section 411(a)(2)(B)(i).

"(c) funds for the purpose of increasing Pell Grants under this section shall be appropriated separately from funds for carrying out section 411. If the funds so appropriated are not sufficient to increase each student's Pell Grant by the amount" for which that student is eligible under subsections (a) and (b), the amount of each such increase shall be ratably reduced.●

THE ECONOMY

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. MOFFETT. Mr. Speaker, the resolution which we are considering today should never have been necessary. It should never have been necessary for the Congress of the United States to reaffirm obligations to bank depositors that have been the very core of the American banking system for the past half-century. The Government's guarantee of deposits in banks has provided the bedrock of stability and lending in the country ever since the New Deal. But the Reagan administration's economic policies, which threaten hundreds of savings and loan associations across the Nation with bankruptcy, and its dismal record of broken promises in general, have brought us to this resolution. Last spring, the administration claimed that its policies would bring a new era of massive economic growth to the economy. Now, barely a year later, the Congress has to state publicly that the Government will honor the letter of the law, when a financial institution collapses under the weight of high interest rates.

It is the administration's projected deficits which force us to pass this resolution. Ronald Reagan was the candidate of the balanced budget, a man who spent the last 25 year decrying deficits and their consequences. But now President Reagan has presented the Nation with his bill for Pentagon waste and a tax code which benefits only the truly wealthy—$500 billion in deficits over the next 3 years. The $500 billion figure is on the conservative side, according to all reputable estimates. I do not include, of course, the administration's figures, which no one other than the administration regards as realistic. The fiscal year 1983 budget alone will generate a deficit of nearly $160 billion, unless Congress makes massive and totally unwarranted slashes in vital social services. These would come on top of the disastrous cuts imposed last year, which have seriously impacted the health, education, and jobs of tens of millions of Americans. Even if the cuts are made for fiscal year 1983, which the administration requests, it projects a record deficit of nearly $100 billion. This would be more than a 50-percent increase over the previous record deficit in American history—that under Gerald Ford, in 1976, when the deficit was $66 billion. Mr. Speaker, it took the first 187 years of American history to accumulate a national debt of about $340 billion. Yet the Reagan administration will exceed that figure in just 2½ years of its economic policies.

These record deficits will absorb as much as three-fourths of all the credit available in the economy, according to the most recent estimates. That is the crux of the problem facing us today—that the Reagan deficits will produce a credit crunch of unprecedented proportions. It is the anticipation of that crunch that sustains high interest rates, even when the rate of inflation has fallen. The real rate of interest—the spread between the prime rate and the inflation rate—is greater now than at any time since the Great Depression. Today the real rate is over 8 percent, compared to a postwar average of just 2 percent. The spread on utility bonds is 7.53 percent, the highest since World War II. This enormous real rate is the direct result of the anticipated credit crunch.

The administration's economic policies have shaken the confidence of the business community, not to mention the American people. By a margin of 2 to 1, Americans now want to control impending deficits by reducing the scheduled tax cuts. They also want to repeal the ludicrous tax breaks awarded to wealthy corporations in the 1981 Reagan tax bill. The Washington Post reports today that General Electric, a prime beneficiary of the leasing of tax credits in the Reagan bill, will receive a refund of $100 million from the IRS, on profits of $2.66 billion, for 1981. That is Reaganomics for you—when a corporation with profits of $2.66 billion is entitled to a $100 million subsidy from the taxpayers.

The growing crisis of confidence that these policies have generated can be seen in the latest figures on business expansion. The New York Times reported yesterday that businesses have scaled back their plans for this year, in anticipation of very weak sales, to a 1-percent fall in growth. Among small business CEO's, the number who anticipated future higher sales has dropped 21 percent since September—from 52 percent to 41 percent. Yet it was the administration which claimed that its tax breaks, which effectively eliminated the corporate income tax, would provide a great thrust of business expansion. Exactly the reverse has occurred, as businesses have refused to expand in the face of recession, current and future high interest rates, and future massive deficits.

An even greater crisis of confidence is engulfing the savings and loans industry, which has been caught in a terrible squeeze between having to pay 17 to 20 percent for money, but only getting 8 percent on the mortgages they have in their portfolios. The result has been a record number of forced mergers, in order to prevent total collapse. An estimated one-third to one-half of the Nation's S. & L.'s are threatened by bankruptcy. In my own State last month, the Hartford Federal Savings & Loan Association was hit by panic withdrawals, and lost $3 million in a 2-day period; $3 million in 2 days. It was forced to merge with another S. & L. in Schenectady, N.Y. It is the administration's reckless and ill-conceived policies which are producing this kind of panic and lack of confidence in our savings institutions.

But we really should not be surprised. After all, look at the record of broken promises. The administration claimed that its tax breaks and budget policies would create an economic boom, and instead—and quite predictably—we have the second-worst recession since World War II. It may well become the worst since the Depression. We have an administration which promised to preserve a safety net for the truly poor, but which instead pushed through the first cuts in social security benefits since social security was created. The only people to have benefited from Reaganomics so far are the truly wealthy, and the truly wealthy corporations. Yet business leaders have so little faith in the administration's ecomomic mythology that their most eminent organization, the Business Roundtable, voted last week to ask for a reversal in Reaganomics. The Roundtable leaders went to the White House last week to plead their cause, only to be told by the President that he was committed to his policies. Similarly, the presidents of all the major financial institutions' organizations asked 2 weeks ago for an increase in taxes, and a cut in defense spending, in order to reduce projected deficits. They asked for these changes because they recognized that economic policies which impoverish the vast majority of Americans are not healthy for busniess. When Americans cannot afford to buy automobiles, homes, appliances, and other goods, the economy goes into a tailspin.

Consider just a few statistics. At 14.5 percent, the average priced home in the country—$71,000—will actually cost the buyer nearly $291,000 with a 30-year mortgage. More than 85 percent of all American households cannot afford the mortgage costs of the average-priced home today. Similarly, high interest rates have driven the costs of the average-priced car up to 15 percent of the gross median household income. This is a 50-percent increase over the 10 percent level that prevailed in 1975. Is it any surprise that industry is in trouble when only 15 percent of American families can afford the two keys to the American economy—autos and housing?

Consider a few more statistics: Business failures have risen 300 percent since 1978. In 1978, they were 28 per 10,000 businesses. Today they are 83 per 10,000. Housing starts have dropped 43 percent since the same time last year. In the North Central States, where the depression in autos has hit hardest, the housing starts have fallen an incredible 57.7 percent since 1 year ago. National unemployment is near 9 percent, although this omits the millions who have given up looking for work, or who are no longer eligible to receive unemployment compensation. The media are reporting on the thousands of Americans who have begun roaming the country, in search of work. The absolute number of unemployed is higher now than at any time since 1939. The number of Americans living in poverty has risen as a result of drastic cuts in social services and benefits, due to the Reagan budget.

These statistics reveal the failure of Reaganomics. The failure to invest, on the part of business, reveals the failure of confidence in the business community. The fact that we are reduced to having to vote on a resolution reaffirming the Government's guarantee of the banking system—an action that has not been necessary for half a century—is something truly pathetic. Yet the President keeps repeating that he will not budge on either his proposed cuts in vital social services, his proposed increases in truly unnecessary Pentagon spending, or his proposed reckless deficits. The question is, then, just where does that leave the American people?●

FAMILY PLANNING AND PARENTAL INVOLVEMENT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. DANNEMEYER. Mr. Speaker, a controversial item on the present agenda of public health issues concerns new regulations governing the family planning programs under title X of the Public Health Service Act. Specifically, Secretary Schweiker of the Department of Health and Human Services (HHS) has recommended that clinics funded by title X, Federal funds be required to notify the parents of minor children within 10 days of the provision of prescription contraceptives.

The Energy and Commerce Subcommittee on Health and the Environment, of which I am privileged to be a member, has already held 1 day of hearings on the regulations. Additional sessions may be held during the coming year. The regulations raise an important philosophical question as to the rights of parents and children in the context of the degree to which the Federal Government ought to come between parent and child in this sensitive area. To my way of thinking, the requirement for parental notification after the fact is a reasonable one. It is only the first step. Some have argued, and quite correctly, that Congress ought to examine the legislative language in title X, on the matter of parental involvement.

In light of recent media attention, I thought it would be appropriate to bring an op-ed piece to the attention of my colleagues. "Yes, Parents Should Know," was written by Eunice Kennedy Shriver, executive vice president of the Joseph P. Kennedy, Jr., Foundation. It is an excellent presentation of the case for parental involvement both as a means of preventing possible health-related problems associated with certain contraceptives and as a means of strengthening the parent-child family network that serves as the means of communicating moral values.

Mr. Speaker, I would like to have the full text of the article reprinted at this point in the RECORD. I urge my colleagues to consider it carefully.

The article follows:

[From the Washington Post, Mar. 12, 1982]

YES, PARENTS SHOULD KNOW

(By Eunice Kennedy Shriver)

Health and Human Services Secretary Richard Schweiker is embroiled in controversy over the comparative rights of parents and children. The controversy concerns changes in regulations requiring notification of parents whose minor children 17 and under are given prescription contraceptives by federally funded agencies.

As a mother of five children and a worker with pregnant teen-agers, I support Secretary Schweiker. I believe that while minor children have rights, parents have rights too. These rights include the right at least to know when their children are embarking on any course that is hazardous to their health and well-being; the right to know when secrets are being encouraged that can destroy family communication and family trust.

What are the facts about these regulations?

First, the regulations require parental notification within 10 days of the provision of contraceptive materials to the minor child.

Second, they apply only to prescription methods of contraception; that is, pills, diaphragms and IUDs. They do not apply to non-prescription methods such as condoms or spermicides. They do not apply to family planning information, counseling or testing for pregnancy.

Third, they specifically protect the child by withholding parental notification that could result in physical abuse, ejection from the home or similar harm.

There are two strong reasons for the proposed regulations.

The first is to alert parents to the possible hazards to the health of their children through the use of contraceptive pills or IUDs.

These hazards range from a significant increase in pelvic infections, uterine inflammations and ectopic pregnancies among adolescents to a variety of long-term hazards to health associated with the pill, including hypertension, blood clotting problems, pulmonary embolisms, tumors and strokes, to name just a few.

No parents should be kept in the dark about their children's exposure to such dangers. No physician should be asked to treat a child without knowing she is on the pill. No child should be encouraged to bear such risks, including always the risk of pregnancy, alone and in secret.

But the argument concerning hazards to health is only one reason why these regulations should be approved. The second and more compelling reason is that notification can expand and strengthen the support system of the family. It rejects the notion that there is a natural antagonism between the generations.

A leading family therapist, Dr. Salvadore Minuchin, has said, "I have found that the great majority of parents are concerned with their children's well-being. Intervening within the family network is a support for adolescents. For what we are addressing is their growth and development into maturity."

When children are on drugs or alcohol, when they are driving recklessly or perform acts of vandalism, it is the parents who are held accountable. Will anyone say that they are less accountable for actions that can harm the emotional and physical health of a 13-, 14- or 15-year-old girl, perhaps for life, or expose her to the risk of pregnancy, injury or disease?

Some say that counseling the adolescent is the answer. I have found that counseling the child without the parents is empty and futile. It perpetuates misunderstandings and widens the gulf between generations. What is more, it does not work.

There are, however, some significant examples where mobilizing the family support system has made a difference. Families have intervened to reduce significantly the use of marijuana among high school students because they were concerned about the health of their children. This same mobilization of the family support network is also possible in the area of sexual activity among children. Moral discourse should be fostered between generations which affirms that good sexual relationships are built on the human values of love, commitment and family—and yes, even marriage, though this idea may seem remote and old-fashioned.

In the adolescent pregnancy programs I have worked with such as the one at the Johns Hopkins Hospital in Baltimore, research has shown that when the family is involved, the young women are more likely to stay and finish school, have a better chance of getting a job, are less likely to have an early repeat pregnancy, are more likely to take better care of their babies and have more respect for themselves. If this type of family support works with adolescents already pregnant, why shouldn't it work for the non-pregnant teen-ager?

The new regulations will encourage this kind of family network and support system for families, and will give parents the chance to decide the course of action they will take when they are aware of their childrens' sexual lives. They can choose to do nothing, but I believe the vast majority will deal with the situation responsibly and with love. I believe also that most children will be relieved that an intense and troubling part of their lives does not have to be lived in secret.

At the very least, our nation's laws and regulations should give parents the chance to communicate with and support their children. This is what the new regulations seek to accomplish. Then it is up to us as parents to provide the kind of understanding, moral guidance and protective love that will make us a community of caring, not a society of coldness, secrecy and misunderstanding. This is the least we can do for our children and for ourselves.●

FOREIGN LANGUAGE WEEK

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. DASCHLE. Mr. Speaker, there is a growing awareness of the critical deficiency in foreign language skills in our country. This past week was designated as Foreign Language Week. The fact that this week was so designated is a symbol of the increased awareness of the serious lack we Americans have in the areas of foreign languages and international studies. Publicity surrounding this problem has moved from special interest newsletters to more widely read publications such as U.S. News and World Report and the Washington Post. For a nation that prides itself on having a highly educated citizenry, it is ironic that we have difficulty in filling overseas intelligence, military, and agricultural positions because of lack of people qualified in languages. This lack of language ability and understanding of other cultures does not go unnoticed by people of other nations, and contributes to the impression that Americans are parochial and arrogant. For us to be stereotyped this way is, of course, unfair, but there certainly is an urgent need for improvement on our part.

There is no excuse for the United States to have only one in five universities require a foreign language for admission, for only 15 percent of our high school students studying foreign language, and for only 1 percent of high school students studying languages which are spoken by three-quarters of the world's population. Other nations rank way ahead of the United States in foreign language ability.

There are, however, some hopeful signs that we are now beginning to address our foreign language and international studies program—the existence of an International Study Group in Congress, the successful effort last year in turning around the International Communication Agency on its proposal to cut its Educational and Cultural Affairs Division by 55 percent, and the fiscal year 1983 ICA budget proposal which does not request the drastic cuts put forward last year. And in the next few weeks, the House of Representatives will consider H.R. 3231, the Foreign Language Improvement Act.

I would urge the House to adopt H.R. 3231 which provides incentives to elementary, secondary, and postsecondary schools which provide foreign language instruction. On the elementary level, there would be a system of competitive grants for State model programs and on the college level there would be incentives for foreign language instruction based on enrollment in foreign language classes. The expenditures proposed by this bill would be an investment in our national security, in our international trade, and in the quality of American life. I urge my colleagues to support H.R. 3231 when it comes to the House floor.

I would like to submit for the RECORD two letters regarding H.R. 3231 and the need for expanded foreign language and international studies. One is from H. A. Linares and Dayton Cook, past president and president, respectively, of the South Dakota Foreign Language Association and the other is from Jo Faulman of Dakota State College.

NORTHERN STATE COLLEGE
Aberdeen, S. Dak., March 11, 1982.

Hon. THOMAS DASCHLE,
House of Representatives
Washington, D.C.

DEAR MR. DASCHLE: It has now been almost two and one-half years since the President's Commission on Foreign Language and International Studies reported that "Americans' incompetence in foreign languages is nothing short of scandalous, and it is becoming worse." As you are aware, not enough has been done to reverse this trend, even though it should be clear by now that increased foreign language study is in the best interest of individual Americans and the nation as a whole. Attempts to improve our position in defense, diplomacy, and international commerce must be linked with efforts to improve our ability to communicate with our friends and enemies in their own tongues. Therefore, on the occasion of National Foreign Language Week, we wish to express our appreciation for your continuing efforts to implement the recommendations of the President's Commission through appropriate legislative action. We particularly applaud your support of HR 3231, the National Security and Economic Growth through Foreign Language Improvement Bill.

Sincerely,

H. A. LINARES,
Past President,
South Dakota Foreign Language Association.
DAYTON G. COOK,
President,
South Dakota Foreign Language Association.

DAKOTA STATE COLLEGE,
Madison, S. Dak., March 8, 1982.

Congressman TOM DASCHLE,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN DASCHLE: I am writing to you to urge you to support House Bill 3231 that will make Federal funds available to elementary secondary schools and institutions of higher education for foreign language study.

Dakota State College and the Madison community have been involved in several endeavors recently that have caused those at the college and in the community to realize the growing need to speak a language in addition to English. As you are aware, this community has hosted a large group of Japanese students for two summers. Their ability to communicate in English and to function in the community has been most enlightening. According to these young Japanese, English language instruction in their country is quite widespread, and the youngster who does not study English is the exception rather than the rule.

Another event which has occurred during the past eighteen months has involved the college taking a very careful look at its future through an intensive long range planning effort that I have coordinated. This planning process has been rather unique in that we initially took an in-depth look at the society in which the college functions. With the help of many persons from around the state we researched areas such as the future of energy, the economy, population/demography, science and technology, and lifestyles. Several recommendations and direction for the college have been identified through this process. The need to internationalize our curriculum, particularly offering additional language instruction, is an area targeted by these committees. Even though South Dakota is a great distance from an area where language other than English is spoken, we can no longer function in isolation. Our futures are going to be increasingly influenced by those in other countries. With this growing influence we have a responsibility to strongly encourage our students to study other languages so that they will be able to communicate through the written and spoken words with peoples of other lands and cultures.

I feel that this is becoming increasingly more important in a state such as South Dakota whose economy is so dependent on agriculture and tourism. As you undoubtedly know, for the first item in modern history foreign tourists to this country outnumbered citizens from the United States travelling abroad. South Dakota has a unique opportunity to vie for these visitors. The need for employees in the tourism industry who are bi-lingual is becoming increasingly critical.

College and university graduates entering the field of agriculture are also facing the need to communicate in other languages. A recent article in the Sioux Falls *Argus Leader* spoke of the desirability to trade directly with other countries. It will become imperative, therefore, to include foreign language instruction in the curriculum for those intending to enter agriculture.

With the identification of these specific needs and the research done at Dakota State College pointing to the need for graduates to be prepared to function in the "world community," it is critical that the federal government recognizes its responsibility in helping to initiate and encourage foreign language study at all levels. The United States cannot afford to continue to have students graduating from schools, either secondary or college, who have not had the opportunity for language instruction.

I trust that you are in sympathy with this and will support House Bill 3231.

Sincerely,

Jo Faulmann,
Comprehensive Planner. ●

VIEWERS' GUIDE TO THE TELEVISED PROCEEDINGS OF THE U.S. HOUSE OF REPRESENTATIVES

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. STARK. Mr. Speaker, more and more of my constituents in the east bay area are reporting an interest in the television coverage of the House of Representatives by cable stations.

While some days we may not justify making the Nielsen ratings, on other days, the House can be very good theater—good debate, and fairly fast-paced action on issues of great importance to the country and the world.

On all days, however, the proceedings in the House can be confusing. With many of the motions and traditions traceable to the parliaments of 600 years ago, it is understandable that not everything that appears on the TV screen is intelligible. Even the best parliamentarian can get confused in the heat of debate, and the situation can become needlessly mysterious to the television viewer.

Several years ago, the House Broadcasting Service made available a pamphlet which helped explain the players and the rules to the television viewing audience. Unfortunately that publication is now out of print. It was very good, however; so to provide some help to the television viewers who are increasingly watching House proceedings, I would like to include in the Record at this point portions of that earlier publication, entitled "Viewers' Guide to the Televised Proceedings of the U.S. House of Representatives."

The excerpts follow:

VIEWERS' GUIDE TO THE TELEVISED PROCEEDINGS OF THE U.S. HOUSE OF REPRESENTATIVES

NOTES

Text—Descriptions and references to position throughout this Guide are set in relation to the TV viewer. "Left" and "right" thus refer to the left and right of the screen when looking at the Speaker's rostrum.

HOUSE BROADCASTING SYSTEM

Proceedings on the floor of the U.S. House of Representatives is extended for home viewers—currently a potential audience of 15 million people—by the Cable Satellite Public Affairs Network (C-SPAN). This non-profit news and public affairs network distributes the broadcast to approximately 700 cable television outlets in all 50 states. C-SPAN carries the House coverage gavel-to-gavel; in other words, from the time a day's session is opened until it ends.

Each day's broadcast begins with a listing of the tentative legislative schedule for that day and the remainder of the week. During the session, cameras will follow those speaking from the major activity areas. In some views, background activity will be visible. During a vote or quorum call, vote counts and identifying information about the issue will be shown using "live" data fed in from the Electronic Voting System. At the end of the broadcast the screen again will display the tentative schedule for the week, the time of adjournment and time of next meeting.

HOUSE CHAMBER AND SEATING OF MEMBERS

The House of Representatives meets in the Capitol in a room called the Hall of the House of Representatives, but commonly known as the House Chamber.

The presiding officer (usually the Speaker of the House) sits in the front of the Chamber at a desk elevated on a rostrum. Also on this rostrum are seats for the Parliamentarian, the Sergeant at Arms, the Clerk of the House, and a number of clerks and pages.

Each person on the rostrum has a defined role in the flow of activity in the Chamber. For the Officers of the House these duties are prescribed by House Rules. For the staffs of these Officers—the clerks and pages—the duties represent extensions of their supervising Officer and have come about primarily as legislative activity increased through the years.

Members of the House sit on the benches placed in a semi-circle around the rostrum. A central aisle divides the seats used by Democratic Members (on the left) from the seats of the Republican Members (on the right). This division gives rise to a common Congressional phrase "My respected colleague across the aisle" which is a polite way of saying "from the opposing party." Seats are not assigned; Members sit wherever they choose, sometimes even among Members of the opposite party. Many Members have favorite seats.

In the center of each party's seats stand the leadership and committee tables. During debates in which the respective party leaders have an active interest they are seated at these tables. Also, the committee chairman (and ranking minority Member on the Republican side), committee members, and staff specialists sit here when a bill from their committee is being considered.

Above the Chamber is the gallery. The section of the gallery behind the Speaker's rostrum is reserved for the press—reporters and journalists representing newspapers directly above the Speaker's chair, periodical press to the left, and radio and television network personnel to the right. Most of the gallery seating is for the public and staff.

THE SPEAKER AND OFFICERS OF THE HOUSE

The Speaker of the House is the elected presiding officer. The Speaker may call Members of his own party to the Chair at various points during the daily sessions. Also, he may designate a Speaker pro tempore (for the time being) by letter for up to three days (or up to ten days in case of his illness). For longer periods and in order to execute the Speaker's signatory power, the Speaker pro tempore must be elected by resolution.

The Speaker's position is powerful, by Rule and by tradition. As a head of the Majority party, he helps to decide when the House should consider each bill. During debate, he recognizes Members who wish to speak, decides points of order (see Parliamentarian) and maintains order in the House (see Sergeant at Arms). Since the Speaker is also a Member of the House, he may vote on all questions but does so rarely except to break a tie or to add the prestige of his vote to the question.

The Speaker must leave the Chair and designate another Member to preside when the House resolves itself into the Committee of the Whole House on the State of the Union. The House conducts much of its business in this hybrid form. The "Committee of the Whole" is a parliamentary device with its own rules, more restrictive than those which govern the House, which enable it to expedite consideration of major bills.

The Parliamentarian is seen to the left of the Speaker. His function is to advise the presiding officer and Members of Congress on parliamentary questions. In addition, he prepares compilations of the precedents of the House, and, under the Speaker's direction refers introduced legislation and other communications to the appropriate committees. It is the Speaker who will announce decisions on points of order, but usually his announcement will reflect the Parliamentarian's advice, and very rarely is a Parliamentarian's counsel rejected.

Another person vital to the conduct of business is the Sergeant at Arms who must enforce House Rules and maintain decorum in the Chamber. In his keeping is the Mace, prime symbol of parliamentary power and authority.

Beside him sits the Speaker's Page, actually on the staff of the Doorkeeper, but assigned especially to serve the Speaker's communication needs during each day's session.

If you watch the beginning of a day's session, you will see the Chaplain of the House (or a visiting clergyman) offer a prayer from the Clerk's lectern. The action is mandated by the Rules of the House and must take place before any business is conducted. The prayer is not official business, thus even a request for a quorum call cannot displace the opening prayer.

To the right of the Speaker is seen the formal seat of the Clerk of the House. As the chief administrative and fiscal officer, he has a multitude of responsibilities relating to operation of the House. His roles in the Chamber comprise taking all votes and certifying passage of bills, processing all legislation introduced, and overseeing recordkeeping for all House activities including daily debates and floor proceedings. It is also the Clerk who presides over each new Congress until a Speaker is elected. He is assisted in the Chamber by several clerks with specific duties. These clerks operate within the framework of the Clerk's defined role, thus they can be considered extensions of a single Officer. For example, it is a duty of the Clerk to read each item of business to the House when it is brought up for consideration.

Actually, this function is performed by Reading Clerks who sit on a lower level of the rostrum and read from the Clerk's lectern in the center of that level. As a further note, the formal seat of the Clerk, is during a session, usually occupied by the Timekeeper who is really on the staff of the Parliamentarian.

The Timekeeper's job encompasses the critical function of watching, computing, and reporting on time use during House activities (i.e., making sure "the gentleman from Indiana" who was granted one minute to express an idea, does not use 70 seconds or is not deprived of some of his time).

To the right of the Clerk's seat you will see two Documentation Pages (like all pages, they are part of the Doorkeeper's staff). These pages provide to those on the floor copies of all items or supplementary materials needed for work throughout the day's session. They also transport input from the floor to the Reading Clerks, and operate the legislative lights and bells signal system which alerts Members away from the Chamber concerning actions such as votes, quorum calls, or adjournment.

Also among the people you will see are the Doorkeeper and members of his staff who deliver official messages to the House (e.g., messages from the President and Senate) and escort official visitors. The Doorkeeper is the Officer of the House who supervises the Cloakroom adjacent to the Chamber, makes arrangements for Joint Sessions and Joint Meetings of Congress, and issues all House gallery passes.

The middle level of the Speaker's rostrum is occupied by the Clerk of the House in the person of his agents—the Journal Clerk, Tally Clerk, and Reading Clerk(s). Also, this level houses the Clerk's lectern from which business is read to the House and other actions are announced.

To the left of the Clerk's lectern is seen the Tally Clerk. He supervises votes and quorum calls, relying now most of the time on the Electronic Voting System which he controls through a computer terminal set into his area of the worktable. Committees file with the Tally Clerk the Conference and House reports they produce; by him are compiled the daily House Calendar, and Members' individual voting records.

To the extreme left, you see the Journal Clerk, responsible for maintaining the official record of proceedings as required of each House by the Constitution.

Reading Clerks use the seats seen to the right of the lectern. Among their duties are reading each item of business brought up for consideration by the House, preparing the "true copy" of bills to be considered (word for word these versions of bills will be accepted or rejected and an error—which can be devastating—must be corrected by separate action of the House). These members of the Clerk's staff serve as messengers to the other House of Congress, carrying decisions and messages in strict accordance with House Rules and traditions governing interaction of the two bodies.

The lowest level of the rostrum is occupied by a changing cast of House personnel whose duties center on the keeping of the various records of House action.

To the right are Reporters of Debates; stenographers whose verbatim notes are used to prepare the account of debates published in the Congressional Record. Each Reporter works approximately 15 minutes at a time, then is replaced so that his notes can be reviewed and transcribed.

In the center, the Clerks to the Official Reporters work busily on a huge book on the leaves of which they assemble, by number, all pieces of documentation (e.g., transcripts, speech texts, pairs lists) that represent the day's proceedings. These collected items also become part of the text of the Congressional Record.

At the left of center are seats which may be used by staff of several bodies that need to have representation on the floor at certain times, e.g., representatives of the Enrolling Digest Office charged with tracking major actions for the House Digest. The last seat seen to the left is used by the Bill Clerk, in whose charge is the Hopper—the box-like device into which bills are placed upon introduction (one could well think of this as the National Suggestion Box). The Bill Clerk receives not only bills and resolutions being introduced but also other items like lists of co-sponsors and texts of amendments to be published in the Congressional Record.●

SENATE—*Wednesday, March 17, 1982*

(Legislative day of Monday, February 22, 1982)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray:

Gracious God, our heavenly Father, as the Senate moves more deeply into its demanding legislative agenda, strengthen its unity. We are one as humans, one as Americans, one in leadership and purpose. Our goals are one. We differ in the means by which those goals are to be achieved. Let not the differences dominate and destroy the oneness. Help us to see that diversity is of the essence of unity, the raw material out of which the fabric of democracy is woven.

Grant O God, the will to unity. In the awareness that "without a vision the people perish," give us a fresh vision of the United States of America. Help us to see afresh the power in unity with diversity; unity among ourselves in respect, honor, and love for one another. Help us to appreciate the importance of each individual in this large Senate family. Help us to appreciate our need of each other that we may be an effective, productive team. Help there to be unity between Congress and the White House. Give us all the grace to find the "better way" for all the people. Deliver us from unrighteousness in our private and public lives. Free us from selfishness and greed and pride. We ask this in the name of Him in whom all virtue came together. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, under the order previously entered a series of Senators will be recognized on special orders for not to exceed 15 minutes each after the expiration of the time or the yielding back of the time allocated to the two leaders under the standing order, to be followed by a period for the transaction of routine morning business of not more than 15 minutes in length in which Senators may speak for not more than 5 minutes each as ordered on last evening.

At the expiration of this time the Senate will resume consideration of S. 391, at which time the Chafee amendment will be the pending question.

Mr. President, there is an order in my favor among those listed in the provisions of special orders. I ask unanimous consent that the time allocated to me on special order this morning be assigned to the distinguished Senator from Maryland (Mr. MATHIAS) which will be in addition to the time allocated to him on special order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have no immediate need for any further time under the standing order. I am prepared now to yield it to the minority leader if he wishes.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I will accept the time and I yield the time, that the distinguished majority leader has just yielded to me, if he has no need to have it back at some point, to Mr. BAUCUS.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I also yield the time under my order, 10 minutes of it to Mr. BAUCUS and 5 minutes of it to Mr. PROXMIRE.

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank the Chair and I thank the majority and minority leaders.

It is my understanding that this is the time allotted under special orders for Senator MATHIAS and myself.

May I inquire of the Chair if that is correct?

The PRESIDING OFFICER. The first special order is for the Senator from Wyoming (Mr. SIMPSON).

The leadership time of some 15 minutes is available to Senator BAUCUS at this moment for use as he may choose.

Mr. BAUCUS. Mr. President, I yield the time allotted to me at this point to the Senator from Wyoming with the understanding that subsequent to the time taken by the Senator from Wyoming that the Senator from Montana and the Senator from Maryland (Mr. MATHIAS) may then proceed to their special orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SIMPSON

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Thank you, Mr. President.

I thank my good colleague and my neighbor from Montana, Senator BAUCUS. I enjoy very much working with him in the Senate.

S. 2222—IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. SIMPSON. Mr. President, our present immigration law and enforcement procedures no longer serve the national interest. They no longer promote the well-being of the majority of the American people. Indeed, immigration to the United States is out of control. This fact is very clearly perceived not only by the American people but by people all over the world.

It is my judgment that uncontrolled immigration is one of the greatest threats to the future of this country.

I assure my colleagues that—while having just a bit of a Western propensity to exaggerate—in this instance I do not. I deeply feel that there is much to be lost through uncontrolled immigration, much potential harm to our country—to American values, traditions, institutions, and to our way of life. In contrast controlled immigration has been one of the finest traditions of our remarkable heritage. We have no desire to terminate that.

Mr. President, let me present a few statistics. When I served on the Select Commission on Immigration and Refugee Policy and when I took on the task as chairman of the Subcommittee on Immigration and Refugee Policy, I hoped that we would never reach that point where we talked so much about "numbers," since behind every number is a very real human being. But, unfortunately, we must.

In the last 5 years total legal permanent admissions to the United States increased from a little over 450,000 in 1976 to 800,000 in 1980—if the 135,000 Cubans and Haitians entering that year are counted that is the figure. As recently as 1965 the total was under 300,000. During the same 5-year period, the category of "immediate relatives" of U.S. citizens has grown 40 percent—from 114,000 to 152,000. Please keep in mind that under

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

present law there are no numerical limits on this type of family reunification.

In this same period, refugee admissions have ranged from 5,000 in 1977 to over 200,000 in 1980, four times the 50,000 level specified as the normal flow in the Refugee Act of 1980. A salient fact: The United States today is taking in more legal immigrants and refugees for permanent resettlement than the rest of the world combined—perhaps twice as many.

In addition, hundreds of thousands of illegal immigrants now cross our borders each year. Some estimate the net annual inflow at 500,000. The present inflow is probably substantially higher than it was 10 years ago. At least some indication of this can be found in the dramatically increased number of apprehensions. In 1967, the number was 162,000. In 10 years it had increased to over 1 million. Those are people apprehended.

Just 4 years ago applications for asylum, that is those who are refugees who apply for asylum here instead of in their country, was 5,000. That was several years ago. And today that backlog is over 106,000. That system is in total disarray and has been severely gimmicked.

The number of illegal aliens already in the country is unknown. The Select Commission on Immigration and Refugee Policy used the figure of 3.5 to 6 million as the number for 1978. Obviously there are more now.

Immigration—legal plus illegal—now appears to be accounting for 30 to 50 percent of our annual population growth of about 2 million.

Mr. President, I am certain that some of my colleagues are thinking "Why should any of that concern us?" Let me try to explain why all Americans should be concerned.

At the present time, net immigration—that is legal plus illegal—probably exceeds 750,000 per year. A net annual immigration of 750,000 would lead to a U.S. population in 100 years of 300,000,000, even if it is assumed that the fertility rate of the existing population remains at its present low level—which is unlikely—and the fertility rate of the new immigrants immediately declines to that of the present population as a whole—which is even more unlikely. One-third of this 300,000,000 would consist of immigrants arriving after 1980 and their descendants.

Indeed, these figures actually underestimate the impact of immigration, which is concentrated in only a few regions of the country.

For example, under the same assumptions, and assuming continuance of existing settlement patterns, the population of California would double by 2080.

The problems which may be caused by excessive population growth are well known and I shall not discuss them here.

Not only do we observe this high total number of legal and illegal immigrants, but only a small fraction of them are individually admitted for qualities which are likely to benefit the Nation as a whole, and this is limited only to an analysis of job market impact. Less than 5 percent even of new legal immigrants are certified by the Labor Department as not causing unemployment or adversely affecting the wages and working conditions of U.S. workers.

As a result of this and of the fact that the present labor certification process is probably of limited effectiveness, I believe there are serious adverse job impacts, especially on low-skilled Americans.

Although population and job market impacts are of great significance, I think most would agree with me that the national interest of the American people also includes certain even more important and fundamental aspects—such as preservation of freedom, personal safety, and political stability, as well as the public—and I emphasize the word "public"—cultural qualities and the political institutions which are their foundation.

Let me here say that I wish to reemphasize my deep personal belief that no individual applying to this country lawfully in search of freedom and opportunity, and desiring to integrate fully into American society, should be discriminated against because of race, color, or religion—which we have certainly sometimes done in our past. I say this to you because I realize that what I am about to say is directed to a most sensitive and complex issue and there is every risk of misunderstanding.

If immigration is continued at a high level, but a substantial portion of these new persons and their descendants do not integrate fully into the society, they may well create in America some of the same social, political, and economic problems which exist in the countries from which they have chosen to depart. Furthermore, if language and cultural separatism rise above a certain level, the unity and political stability of the Nation will—in time—be seriously eroded. Pluralism within a united American nation has been our greatest strength. That unity comes from a common language and a core public culture of certain shared values, beliefs, and customs, which make us distinctly "Americans."

Mr. President, I and my fine colleague, Ron Mazzoli, who is chairman of the House Immigration Subcommittee, intend to do our utmost to achieve the type of reform of U.S. immigration law and enforcement procedures which the American people desire and deserve—and upon which America's future depends. It is not our intention to seek to isolate the United States from the rest of the world. Immigration can continue to benefit the United States if the law is reasonably amended to be appropriate for present conditions—and if the law can be enforced.

Today Congressman Mazzoli and I are introducing in our respective Houses a bill intended to bring immigration to the United States back under the control of the American people. The bill contains what we feel are the minimum features required to meet the most serious deficiencies in present law and enforcement procedures.

Let me review with you the major provisions of the bill. I ask unanimous consent that a more detailed summary of the bill be printed in the Record after the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SIMPSON. Most importantly, the bill will contain provisions intended to reduce the problem of illegal immigration.

Intense illegal immigration pressure on the United States will decline only if (a) the availability of U.S. employment is eliminated, (b) the disparity in wages and working conditions is reduced—either through improvement in the Third World or deterioration in the United States.

I will say, too, we should do all in our power to assist development in the Third World. But we must remember that the achievement of substantially higher living standards is a long-term prospect at the very best. Since deterioration in the United States is certainly not an attractive resolution, only one approach remains: prohibiting the knowing employment of illegal aliens.

In order to protect both employers and members of minority groups legally in this country, particularly Hispanic Americans, we will require a secure system to enable employers to verify that job applicants are authorized to work in the United States.

It is claimed by some that a new verification system would pose a threat to privacy and civil liberties.

I have given much sincere thought as to how, say, changing the form of the social security card, which is one of the available alternatives, could pose risks to our liberty.

I have asked that question of many—from the ACLU to the chairman of the Civil Rights Commission, but no one has yet given a satisfactory answer. Others—never known for their neglect of civil and human liberties—agree with me, including Father Ted Hesburgh, former chairman of the Select Commission on Immigration and Refugee Policy and of the U.S. Commission on Civil Rights; my great colleague from Massachusetts, Senator Ted Kennedy, who is the ranking member of the Senate subcommittee which I chair; and let me at this point thank the members of that subcommittee—Senator Kennedy, and the minority staff director, Jerry Tinker, have been most helpful, most supportive; Ted Kennedy chaired this subcommittee for 15 years in this body and brought a depth of understanding and experience to our work that is critically important, and I thank him for his serious interest; and Senator Chuck Grassley, who has spent many hours, who has sat through many hearings, and who has learned much, and who has earned my great admiration; and Strom Thurmond, the chairman of the Judiciary Committee, so very helpful, available for counsel and advice and guidance, a fine chairman and a gentleman; and Dennis DeConcini of Arizona, participating thoroughly, joining in the process, attentively assisting—his efforts are appreciated; so indeed then, we see the editorial writers of the New York Times, the Washington Post, the Los Angeles Times-Mirror, the Boston Globe, the Chicago Herald-Tribune, and other major newspapers around the country embracing the critical aspects of a universal employment authorization verification system.

The bill also provides, of course, sanctions or penalties against employers who knowingly employ illegal aliens, and also penalties against persons who knowingly recruit or refer for employment such illegal aliens.

The bill provides if employers and those who recruit or refer for employment can show that they have in good faith followed the procedures outlined in the bill with respect to a particular job applicant, they will not be subject to any penalties. Tough criminal penalties are provided for the production, sale, or use of fraudulent documents. We will bring that virulent cottage industry under control.

The bill requires the executive branch within 3 years to design and implement a new and secure system to verify work authorization. I want to emphasize that that system will not be available for any purpose other than verification of eligibility to work. If, for example, the system were to utilize a card, it would not be one required to be carried on the person, it would not be required to be kept in one's home, it would not be an internal passport or national worker ID card. It would have to be presented only for the sole purpose of verifying eligibility to work in the United States.

The core bill also contains significant improvements in our exclusion and asylum adjudication procedures. It provides a summary exclusion proceeding without an appeal for those who enter the country without documents and who are not claiming asylum. For asylum cases, the bill provides for a hearing before a specially trained administrative law judge and one administrative appeal to an independent immigration board outside of the Immigration and Naturalization Service.

The bill streamlines the adjudication procedure for both deportation and exclusion.

The bill further provides that it is a criminal offense knowingly to transport an alien to the United States other than in accordance with prior authority.

We fully realize and recognize the possibility that a substantial adverse economic impact might occur on certain employers who have quite lawfully become dependent upon illegal foreign workers. We have attempted to deal with this problem in several ways.

First, the employer sanctions program would not apply to illegal aliens hired before the bill is enacted.

Second, the legalization program, which I discussed and will discuss later when my complete remarks are entered into the Record, will legalize many current illegal workers.

Third, the existing labor certification, which must be obtained for certain job-related immigrant visa categories, will be modified to allow a more efficient and accurate determination of when a foreign worker is needed.

Finally, the bill streamlines the H-2 program in order that employers who demonstrate a genuine need for a foreign worker for temporary services or labor will receive an approval within a reasonable period of time.

In addition to reducing illegal immigration, the bill is intended to bring legal immigration under control, as well.

Although immediate relatives of U.S. citizens would continue to be exempt from numerical limitations, the number available for other family reunification categories could be determined by subtracting the number of such immediate relatives admitted in a prior year from the figure of 325,000. A similar approach is provided for immigrants admitted under the economically related categories, using a base figure of 100,000. The effect of these changes is that for the next decade, at least, the total of all new immigrants, excluding refugees, will not exceed 425,000, which I remind you is approximately the current level.

The bill makes changes in the current system of allocating immigrant visas:

The family preference categories will not include what is now referred to as the fifth preference, that is the brothers and sisters of adult U.S. citizens—although those who have already received fifth preference status and are in the pipeline will be protected; the second preference will be narrowed somewhat to cover spouses and minor children of permanent residents.

The independent categories will include as one additional category investors creating jobs in high unemployment areas.

The bill also will provide special immigrant visas for certain children of American servicemen—American children—in Korea and Indochina, and for certain children and widowed spouses of employees of international organizations such as the U.N. and the World Bank, if they have resided in the United States for a certain number of years.

Finally, the bill allows the Attorney General and the Secretary of State to establish a pilot visa waiver program to waive the requirement of a visitor's visa in a certain country. It will allow for user fees on aliens who utilize the entry system. It will reform the law completely in regard to legal and illegal immigration.

Last, but not least—certainly not least in the controversy department—we come to the subject of legalization or amnesty.

We seek three major goals there:

The first is to avoid wasteful use of INS's limited enforcement resources.

The second goal is to allow dependent employers to continue lawfully hiring from this pool of labor.

The third is to eliminate from our society the illegal and fearful subclass now present in our society and afraid to use our police system, afraid to use our hospital system, unless, of course, it is for a birth, which then gives rise to a new American citizen, and afraid to go to their employers who say, "If you do that, I will report you to the INS."

The final issue on legalization, which I guess to me is a pragmatic rascal, is the question, "If you could not find them coming in, how are you going to find them to get them out?"

The bill provides for two categories of legalization.

First, illegal aliens who have continuously resided in the United States since January 1, 1978 will qualify for permanent resident status.

Second, those who have continuously resided in the United States since January 1, 1980 or who are in the Cuban/Haitian "entrant" status, will qualify for a temporary residence status, which may be adjusted to permanent status after 2 years. Aliens in the temporary status will not be eligible for most forms of public assistance with certain exceptions for aged, blind, disabled, and those requiring emergency medical care.

Certain aliens will not be eligible for either category of legalization, including persons convicted of certain crimes; those who have persecuted others; those who would endanger the welfare, safety, or security of the

United States; Communists, anarchists, and those seeking to overthrow the Government.

I will leave you with a final thought.

As has been frequently pointed out, the pressure of immigration is just beginning. The low economic and high population growth rate of the Third World—neither of which is under the control of the United States—present a dismal prospect, as does the fact that many developing countries of the world are only a walk or a short boat trip away.

As mortals, we live in a world of limits—and, tragically, that must include limits to our charity. Each man and woman here faces daily in his or her life the moral dilemma posed by other human beings in need: each must decide where to draw the line in helping others. It is tough—but we all have done that or we would not be here today.

If we in Government or politics are not able to bridle our compassion for the less fortunate people of other lands sufficiently to protect our national interest, then not only will we have failed in our primary official duty, including our duty to the least advantaged in our own Nation, but there is a substantial risk that in the long run the American people will be unable or unwilling to respond at all. I refer to this potential unwillingness to respond as "compassion fatigue." The signs are all around us that this is already developing.

So this legislation, Mr. President, should well serve as a symbol of fair reform and one without the repugnant aspects of racism, which has most unfortunately characterized most other reform attempts in our past.

Let me conclude by saying again—what a rich privilege it has been to work with my friend, **RON MAZZOLI** and his fine staff of Harris Miller, Skip Endres, Gene Pugliese and Ed Grossman of the House Subcommittee. And, I want to commend the fine staff of the Senate Subcommittee. Dick Day, chief counsel and staff director, the principle drafter and counsel Arnold Leibowitz, special counsel Chip Wood and special counsel Donna Alvarado. They brought much of themselves into this legislation.

I commend the measure to my colleagues.

EXHIBIT 1

IMMIGRATION REFORM AND CONTROL ACT OF 1982

I. The Bill contains provisions to increase control over illegal immigration.

A. EMPLOYER PENALTIES

Penalties against persons who:

Knowingly hire, recruit, or refer for employment in the U.S., an alien who is not authorized for such employment;

Knowingly continue to employ unauthorized aliens (except those hired before the date of enactment);

Knowingly hire, recruit, or refer for employment any person (whether a citizen or alien) without complying with the minimal verification procedures.

It is an affirmative defense against a charge of unlawful hiring, recruitment, or referral if the verification procedures have been followed in good faith.

Transitional (first 3 years) verification procedure: person who hires, recruits, or refers must attest, under penalty of perjury, that he has examined documents which establish both (a) eligibility to work, and (b) identity (showing that the individual presenting proof of eligibility to work is not presenting documents relating to another individual). A U.S. passport would establish both. Otherwise one document of each type would be presented: (a) Social Security card or birth certificate, and (b) INS-issued card, drivers license, other State-issued I.D. card, or other document approved by the Attorney General.

President is directed to develop and implement a new, secure system to verify work eligibility within 3 years. Such system would not be available for any other law enforcement purpose and, if it were to involve the use of a card, such card would not be required for any purpose except verification of work eligibility.

Penalty for failure to follow verification procedure: $500 civil fine per individual (whether citizen or alien).

Penalties for substantive violation:

First 6 months (education period): no penalty;

Second 6 months: warning for first offense;

First offense (after warning during second 6 months): $1,000 civil fine for substantive violation;

Second offense: $2,000 civil fine;

After 2 offenses: criminal misdemeanor penalty of up to $1,000 fine, 6 months imprisonment, or both;

Pattern or practice of knowingly continuing to hire: Attorney General may seek injunction.

Felony penalty (up to $5,000 fine or 5 years imprisonment or both) for activities involving the use, manufacture, or sale of counterfeit or altered identification documents.

B. INCREASED BORDER AND OTHER ENFORCEMENT; USER FEES

Creates new criminal misdemeanor for bringing an alien to the U.S., knowing, or in reckless disregard of the fact, that the alien had not received prior official authorization to enter.

States the sense of Congress that resources for border patrol and other enforcement activities should be increased.

States the sense of Congress that the Attorney General should use his present authority to impose fees for the use by aliens of border and other INS facilities and services in an amount commensurate with cost.

C. ADJUDICATION PROCEDURES AND ASYLUM

Summary exclusion of alien entering without documents unless he asserts some reasonable basis for entering the U.S. or claims asylum, in which case he shall have a hearing before a specially trained asylum adjudication officer and by the newly established U.S. Immigration Board (see below).

Exclusion (other than summary exclusion) and deportation cases, and cases involving an asylum claim by a legal nonimmigrant, to be adjudicated by a specially trained administrative law judge with an appeal to the 6 member Immigration Board:

Board would be appointed to 6 year term by the President with advice and consent of the Senate, and would operate in panels of 3.

ALJ decisions would be reversible by the Board if not supported by substantial evidence.

No judicial review in exclusion cases (except to the extent of the constitutional right of habeas corpus).

No judicial review with respect to issue of asylum.

Judicial review of deportation cases is available in circuit Court of Appeals.

D. ADJUSTMENT OF STATUS

Adjustment of status procedure would not be available to aliens who have violated the terms of their nonimmigrant visa.

II. The Bill reforms legal immigration in order to better serve the national interest.

A. IMMIGRANTS

Annual ceiling:

"Immediate relatives" of U.S. citizens and "special immigrants" remain numerically unlimited in accordance with our historical commitment;

The ceiling on numerically limited family reunification immigrants is 325,000, minus the number of "immediate relatives" in prior year. For various categories and allocations, see chart attached;

The ceiling on numerically limited independent immigrants is 100,000, minus the number of "special immigrants" in prior year. For the various categories and allocations, see chart attached;

The present total of aliens issued immigrant visas or adjusting their status to lawful permanent resident (excluding refugees) is approximately 425,000. Therefore, no reduction of the current level of legal immigration will occur.

Except for our contiguous neighbors, Mexico and Canada, the "per-country ceiling" for a country will remain 20,000, minus the number of "immediate relatives" and "special immigrants" admitted from such country in the prior year in excess of 20,000. For Mexico and Canada, each country will have a quota of 40,000 and either country will be entitled to the unused visas of the other country from the prior year.

New family reunification preference categories, along with their share of the total ceiling for such categories, are as follows:

(a)(1) unmarried adult sons and daughters of U.S. citizens (present first preference) 15%;

(a)(2) spouses and minor children of lawful permanent residents (present second preference, minus adult sons and daughters) 65%;

(a)(3) married adult sons and daughters of U.S. citizens (present fourth preference) 10%;

(a)(4) brothers and sisters of adult U.S. citizens whose visa petition has already been approved (the present fifth preference backlog as of March 1, 1982) 10%;

New independent preference categories, along with their share of the total ceiling for such categories, are as follows:

(b)(1) aliens of exceptional ability (similar to present third preference) will be allowed up to the ceiling;

(b)(2) skilled workers needed in the U.S. (part of present sixth preference), numbers unused in (b)(1);

(b)(3) investors of $250,000 in a new enterprise creating at least ten jobs in high unemployment areas, numbers unused in (b)(1) and (b)(2);

(b)(4) unskilled workers needed in the U.S. (part of present sixth preference), numbers unused in (b)(1)—(b)(3);

(b)(5) nonpreference workers (present nonpreference), unused in (b)(1)—(b)(4).

Labor certification will be granted on the basis of nationwide job market data, instead of on a case by case basis. Certification must include a finding that sufficient U.S. workers could not be trained within a reasonable time.

Relief provisions provided for certain Amerasian children.

Relief provisions are provided for certain children and widowed spouses of employees of international organizations.

B. NONIMMIGRANTS

Special procedure established for H-2 seasonal workers in agriculture:

The employer need not apply more than 80 days in advance of need;

The Secretary of Labor must provide a decision on the certification no later than 20 days in advance of need (otherwise the application for certification is deemed approved);

If the Secretary of Labor determines that a certain number of qualified U.S. workers will be available at the time needed, but at the determined time those workers are not qualified and available, an expedited 7-day procedure to determine continued need would be available.

After the INS has implemented an automatic data processing system to properly track the entry and exit of nonimmigrants, the State Department may establish a pilot visa waiver program for 5 countries which provide a similar benefit to the U.S. if the visa refusal and visa abuse rates for the nationals of such countries are minimal, and if the visitor has a nonrefundable roundtrip ticket.

Adjustment of status will not be available to a nonimmigrant student until he has returned and resided in his home country for two years, unless such a student is an "immediate relative" of a U.S. citizen, in accordance with the purpose of these educational programs for foreign students.

III. Legalization:

Immediate premanent resident status (not citizenship) for aliens who have continuously resided in the U.S. since January 1, 1978.

Temporary legal status for (a) aliens who have continuously resided in the U.S. since January 1, 1980, and (b) "Cuban/Haitian entrants" who were previously given special legal status;

Persons receiving temporary status will be able to adjust to permanent resident status two years from date of enactment.

Federally funded public assistance (other than medical care, aid to aged, blind, or disabled, and public health) will not be available to those in the 2 year temporary status (other than "Cuban/Haitian entrants").

Persons will not be eligible for legalization who:

Have been convicted of a felony or 3 misdemeanors committed in the U.S.;

Have assisted in political persecution;

Have been convicted of a crime involving moral turpitude, or 2 or more offenses for which sentences aggregating 5 or more years were imposed;

The government has reason to believe seek to enter for activities inimical to the welfare, safety or security of the U.S.;

Are, or have been, anarchists, Communists, or who advocate the overthrow of the government;

Are Nazis;

Would engage in subversive activities;

Have been convicted of a drug violation, other than simple possession of 30 grams or less of marijuana;

Was a nonimmigrant exchange alien subject to a two year foreign residency requirement.

Existing law	Core bill
Immediate relatives of U.S. citizens: Unrestricted	Unrestricted.
Special immigrants: Unrestricted	Unrestricted.
Preference categories:	
(1) (Unmarried adult sons and daughters of citizens): 20 percent of 270,000	A1 (Same): 15 percent of (325,000 minus imm. rel. in prior year) plus unused in A4.
(2) (Spouses plus unmarried sons and daughters of perm. res.): 26 percent of 270,000 plus unused in (1)	A2 (Excl. adult sons and daughters: 65 percent of (325,000 minus imm. rel.) plus unused in A1.
(4) (Married adult sons and daughters of citizens): 10 percent of 270,000 plus unused in (1), (2)	A3 (Same): 10 percent of (325,000 minus imm. rel.) plus unused in A1, A2.
(5) (Brothers and sisters of adult citizens): 24 percent of 270,000 plus unused in (1), (2), (4)	A4 (Existing 5th pref. backlog): 10 percent of (325,000 minus imm. rel.) plus unused in A1–A3.
(3) (Exceptional ability in arts, sciences plus prof'ns): 10 percent of 270,000	B1 (Exceptional ability): Up to 100,000 minus spec. immigrants.
(6) (Needed workers): 10 percent of 270,000	B2 (Needed skilled workers): (Not needed by B1).
	B3 (Investors): (Not needed by B1, B2) [not to exceed 10 percent].
	B4 (Needed unskilled workers): (Not needed by B1–B3).
Nonpreference: Not needed by (1)–(6)	Nonpreference (needed workers): (Not needed by B1–B4).
Per country ceiling:	
Imm. rel. and spec. imm.: Unrestricted	Unrestricted.
Preference immigrants: 20,000 per country	20,000 (40,000 plus unused, for Mexico and Canada) minus excess of immediate relatives and spec. imm, over 20,000 in prior year.
Ratio of family to independents: [None]	3.25 to 1.
Labor certification:	
Case by case	Nationwide labor market analysis.
No training requirement	Training requirement.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. SIMPSON. I yield.

Mr. THURMOND. Mr. President, I ask unanimous consent that I may respond for 3 minutes to the able Senator from Wyoming on this subject.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I wish to take this opportunity to commend the able Senator from Wyoming for the great work he has been doing on the subject of immigration. I do not know of a Member of the Senate who has worked harder and in a more dedicated manner to meet a very important responsibility of our country, of this Senate, and of the Judiciary Committee than the able Senator from Wyoming. He has spent many days, long days; he has made many trips; he has held many conferences, and he has done a fine job on this immigration bill.

Upon assuming the chairmanship of the Judiciary Committee, I realized that immigration was one of the most important responsibilities of this committee. In looking over the membership, I particularly selected him for this assignment because I knew of his expertise, his interest in this particular work, and I felt that no one would perform a better job on the question of immigration than the Senator from Wyoming.

I feel that we are on the right track. I hope that the Senate will back this bill and will expedite it to get it through. It is badly needed.

Mr. President, the legislation introduced today by the Senator from Wyoming reflects, as I have stated, the countless hours of work that has gone into this difficult area of the law. Certain subjects in the bill are, and will continue to be, controversial. Employer penalties for those who hire aliens not authorized for employment has many in the business community concerned.

A legalization program that would permit the adjustment of status for aliens in the United States prior to January 1, 1978, is also an issue which will be debated thoroughly during consideration of this legislation.

On the whole, however, I support the thrust of the Simpson-Mazzoli bill. It places an overall ceiling of approximately 425,000 on annual admissions. It permits summary exclusion of undocumented aliens and minimizes many of the legal impediments of the Government to deport nonimmigrants. A modified H-2 worker program is established that seeks to protect U.S. jobs, while permitting seasonal workers into the United States to take jobs that cannot be filled with U.S. workers.

I intend to work with Senator SIMPSON and the administration on this important legislation. We do need to retain control of our borders and this legislation takes the steps necessary to achieve that goal.

Again, in closing, I just wish to commend the Senator for the outstanding job that he has done.

Mr. SIMPSON. Mr. President, I thank the Senator from South Carolina, the chairman of the Judiciary Committee, who has been most gracious to me and most helpful. I appreciate his confidence and his support.

Mr. KENNEDY. Mr. President, I want to commend my distinguished colleague and chairman of our Subcommittee on Immigration and Refugee Policy, Senator SIMPSON, for the initiative and leadership he has shown today in introducing a critically important immigration reform bill.

As ranking minority member of the subcommittee, I have closely worked with Senator SIMPSON on the many immigration issues before us—as I did in the last Congress as a colleague with him on the Select Commission on Immigration and Refugee Policy, chaired by Father Ted Hesburgh of Notre Dame.

I want to state for the RECORD that I fully support the objectives of the bill introduced today by Senator SIMPSON and by Congressman MAZZOLI, chairman of the House subcommittee. It closely follows the recommendations of the select commission, which I voted to support, and it advances our efforts to achieve long-term reform of our outdated immigration law.

There are, of course, a few areas where I disagree. But I look forward to narrowing these differences during the joint hearings that have been scheduled in the days ahead.

Mr. President, I believe Senator SIMPSON and Congressman MAZZOLI have introduced an extraordinarily important bill, bridging many of the conflicts and controversies that exist in this area, and I pledge my best efforts to move it through Congress.

RECOGNITION OF SENATOR BENTSEN

The PRESIDING OFFICER. The Senator from Texas is recognized.

S. 2223—MULTILATERAL TRADE AGREEMENTS ENFORCEMENT ACT

Mr. BENTSEN. Mr. President, I am today introducing S. 2223 to promote U.S. exports through the active use of the existing multilateral trading system.

Mr. President, the United States has been resting on its laurels. Three years ago, we approved and implemented amendments to the general agreement on tariffs and trade (GATT). Those amendments were designed to put some spine into the GATT. At the time, Ambassador Robert Strauss, who negotiated the agreements, warned us that if the United States did not enforce those agreements, they were worthless. Well, Mr. President, our enforcement effort is lagging. We have consulted and cajoled foreign governments about their implementation of those agreements, and they have issued communiques and done studies, but very little has changed.

Every time it comes down to a question of whether we will institute a formal investigation of foreign government practices that are inconsistent with these multilateral agreements and institute international proceedings against them, a committee meets downtown to decide whether to take GATT actions.

This committee consists of representatives of all the agencies concerned in the Government, and usually there are a few folks at those meetings who say, "Now, wait a minute—if we start formal GATT action against that foreign government, they are going to be offended." And with that, our Government decides on another consultation or another study, or whatever.

I readily admit that the Government has initiated a number of GATT cases recently, but that was at the insistence of private industry. That is good, but it is only the beginning. When I say "enforcing" multilateral agreements, I mean an upfront Government policy of pressing our rights under these agreements based on the national interest.

We have given the administration all the tools it needs for this. The administration is like a man at the beginning of a journey who has the car gassed up and ready to go but has a backseat full of relatives telling him to drive so carefully, he cannot move at all. What my bill does is to give him a roadmap. I want that committee of bureaucrats downtown to use the process we gave them to improve our exports.

As we look around the world today, Mr. President, we can see the doors of trade creaking shut. We need to attack that problem by taking steps to open those doors; not steps that will get them slammed in our faces. That means using the multilateral system.

Today in the Congress we see steps to invoke the old principle of reciprocity—now interpreted to mean access to foreign markets equivalent to that provided by the United States—to solve our trade problems. Well, I urge my colleagues to be careful; we do not want to cut off our nose to spite our face if we announce to the world that it is our policy to enforce trade agreements mainly when foreign treatment is not the same as ours; other countries will see in that the specter of U.S. protectionism.

Moreover, as a practical matter, does the U.S. Congress really want to close this market in ways that other markets are closed to us? What if our problem is with only one foreign country acting unlike the United States—do we close our market in some product or in some fashion to nonoffenders as well as the one offender? Or is reciprocity really just a return to bilaterally negotiated quotas?

I fear that either we will not be able to do anything with the reciprocity authority or we will destroy free trade with it.

The better approach, in my view—the one that is plainly set out in the law—is for the administration to identify what this country really wants out of trade. For example, what do we think we can sell in Japan? Now I am sure someone in the Government has such a list, and if they do not, they ought to. Now let us identify what trade agreements are being violated to keep our products out. Finally, let us identify what we can do about it; for example, will other countries support us if we bring up the problem in GATT.

A policy like that—a policy of enforcing trade agreements to get the market access we want—that policy would send a free trade message to the world: The United States henceforth will fight for its rights under trade agreements.

A lot of nervous Nellies are going to say, "Maybe enforcing trade agreements will not work." Well, it is worth a try.

Almost a year ago, I pointed out to our present U.S. Trade Ambassador, the very able Bill Brock, that Canadian practices in the energy field were impairing U.S. concessions on customs duties for goods, even though those regulations related only to investment in Canada. The reason was that in regulating investment, Canadian authorities were terrorizing American investors into purchasing their supplies in Canada.

I suggested that negotiations and consultations with Canada were not going to change that policy, that what we ought to do is take Canada to the GATT. Well, we did not use GATT; we just talked. Eventually, Canada changed the language of its policy but not the intent. And as a result Ambassador Brock now is actively considering the possibility of GATT action against Canada, even though he has no private industry petition on the subject. Obviously, he thinks a GATT action is at least worth trying.

In fact, even Canadian officials have announced that they believe multilateral action against their practices is the proper way to raise the issue.

Japan has impaired every concession the United States ever got from it. By an affirmative Japanese policy to make sure that the United States and every other country never gets to import the products covered by Japanese concessions, Japan is just plain violating its international obligations. I believe some people in Japan realize this, and that if we begin GATT cases against them on this theory, we will eventually induce them to reduce significantly their restrictions on access to their markets without ever having to close our own.

Earlier this year, on the Senate floor and in the Finance Committee, I said the same policy ought to apply to European agricultural export subsidies and to other practices which offend the principles of the multilateral system.

In each of these cases, GATT proceedings ought to be instituted by the U.S. Government simply because of the significance of the foreign practices to our national economic life.

Japan's refusal to accept imports makes our economic recovery more difficult and increases our unemployment; Canada's investment practices limit the ability of American manufacturers to supply products to American companies investing in Canada; Europe's agricultural practices are withering our farmers' support for free trade by causing the most massive reductions in prices seen in this century in agricultural commodities.

And in growth industries, the industries of the future for the United States—outright protectionism is rampant, thus denying us access to potential markets that will provide us with the returns we need to continue investment in the United States into the 21st century. If we continue to rest on our rights in all these cases, the consequences for our economy could be tragic.

Many countries will support our enforcement efforts, Mr. President. These foreign practices are reducing overall total trade and the general welfare of every country party to the GATT, particularly the poor countries.

Mr. President, the time to consult is behind us. We need to have a program for enforcing these agreements that will give American business some confidence that if they invest in an export plant there will be a relatively open market available for them to exploit.

My "roadmap "is straightforward. It simply requires existing interagency committees in the executive branch to come up with national trade estimates which identify foreign practices that are important violations of foreign government trade obligations or major burdens on U.S. commerce, and then evaluate practical factors involved in starting formal GATT proceedings, such as what retaliation we can take if we win the GATT case that will not amount to shooting ourselves in the foot; how available is the necessary information; and what governments will support us in GATT? If a GATT case is likely to succeed, the President must proceed.

I have also provided two minor changes in existing law that recent witnesses before the Finance Committee have said discourage administration-initiated cases: A 90-day delay in commencing GATT proceedings to allow for information gathering; and improved guarantees of confidentiality for business and trade information. Of course, the President will be subject to existing requirements of consultation with private industry and public notice and hearing in self-initiated cases, just as he is subject to these requirements in cases initiated by private petition.

Finally, my bill contains a special roadmap for using GATT to promote foreign market access for the industries of the future—our growth industries.

The United States is the largest investor in research and development in the world, so our capacity to produce new products is awesome. But we need markets to be able to produce the income necessary to finance continuing innovation.

Other countries, especially Japan and France, have public industrial policies designed to promote industries which will produce these products of the future. But their plans include producing the products behind protectionist tariff and nontariff barriers, hoping later to be able to export them to the wide-open American market. These are some of the most protectionist actions in the world today, because they stifle future trade.

What is more, since they are becoming widespread, we may not be able to effectively enforce our trade agreement rights to get at them. What do we do then? As a last resort, I would advocate using trade agreements aggressively, by unbinding our duty levels.

I am, therefore, proposing in this bill an aggressive policy to pry open and keep open the international marketplace for U.S. exports of growth industries.

To aid in doing this, I have suggested in this legislation a process—entirely consistent with the GATT—that would give the President a basis for such negotiations. This process, known as the unbinding of customs duties, can be the most affirmative force for providing open world markets under the multilateral system.

I am assuming in proposing duty unbinding that no U.S. tariffs will ever be raised. Rather, I expect countries that are trying to build such industries would be delighted to agree to open their markets if we will only agree to rebind ourselves to open markets. My bill also would permit the President to negotiate mutual reductions of duties in these products, when those countries decide to come to the bargaining table.

I urge the administration to pick up this roadmap I have drawn, amend it, or embellish it as necessary but in any event get driving down the path of economic development that it lays out. Wasting time in bilateral negotiations and in agreements on quota levels only postpones the date on which we will ultimately make the hard decision that we must insist upon our international rights.

Mr. President, I ask unanimous consent that a section-by-section analysis of this bill on enforcing the international trading system be printed at this point in the Record, along with the text of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

Section-by-Section Analysis of the Bentsen Bill on Enforcing the International Trading System

Sections 1 and 2: Title Statement of purposes.—The statement of purposes proclaims the basic objective of the bill, to use existing multilateral agreements and statutory authorities to promote U.S. exports, not only on the basis of U.S. domestic exporter petitions, but also on the basis of national economic interests.

Section 3: The National Trade Estimate.—This section sets up a procedure for enforcing international multilateral trade agreements in the interests of total U.S. trade.

The heart of this procedure is the "National Trade Estimate." The bill requires the existing interagency system constantly to develop estimates of major barriers to U.S. exports and to study those factors which would argue for and against starting action under section 301 of the Trade Act of 1974 leading to disputes settlement under multilateral trade agreements to reduce or abolish those foreign trade restrictions. Note, however, that the existing bases under the law for commencing section 301 cases—basically, activities inconsistent with trade agreements and actions that impair U.S. commerce—are not augmented. The bill has no "reciprocity" clause.

At present, section 301 cases are not usually self-initiated in the Executive Branch against major trade obstacles. (Most cases are initiated on the basis of private petitions.) The purpose of this section is to encourage already established interagency bodies to take into consideration both the harm to the U.S. economy as a whole resulting from denial of trade agreement benefits and those practical considerations that reasonably ought to be considered in deciding whether to proceed with trade agreement enforcement cases—such as the degree of support for the U.S. position from other countries and the availability of domestic industry information.

Subsection (c) of Section 2 of the bill requires the President to initiate such cases on his own motion where these factors are favorable to multilateral disputes settlement procedures. The ultimate standard for him in making this decision is whether action under international agreements is likely to result in improving U.S. exports by reducing the effect of or eliminating acts, policies, or practices inconsistent with trade agreements or interfering with U.S. commerce. Existing law requiring the President to consult with U.S. industry would apply following initiation of the investigation; such consultation is not barred ahead of time.

Section 3 also makes a technical amendment to section 301 of the Trade Act of 1974 that is necessary in cases where the President takes action on his own motion to enforce international trade agreements. This section of the bill permits the President an additional 90 days in which to proceed to international disputes settlement in section

301 cases he initiates on his own motion. Under present law, consultations with foreign governments on U.S. trade complaints must begin on the same day on which a President decides to initiate his investigation. Present law may be appropriate for cases arising from private petitions, where the private complainants may have already done adequate factual research, but in cases initiated by the President, an additional 90 days after he determines to institute a section 301 case is necessary before he decides to proceed to international disputes settlement in order to allow him to define the facts of the U.S. case and to discuss the case with possible international allies. Once the President begins disputes settlement, time limits under present law begin to apply.

Section 4: Confidentiality.—Section 4, as section 3, is a technical amendment to existing section 301 designed to promote the affirmative use of trade enforcement laws. It responds to a concern expressed in recent Finance Committee hearings that sensitive business information, such as company marketing plans, customer lists, and prices may not be adequately protected by existing law notwithstanding that they are necessary to make out a GATT case. For example, "underpricing" is one definition of an effect inconsistent with the standards of Article 10 of the Subsidies Code (the agricultural subsidies article), yet such information is now difficult to obtain because it is usually contained in sealed bids. This section provides absolute insulation for this material under the so-called Freedom of Information Act, 5, U.S. Code 552. This should provide additional security to businesses approached by the Executive Branch for information in aid of trade agreement enforcement proceedings initiated by the President.

Section 5: Supplementary trade negotiations.—This provision provides a special negotiating authority for products in which export growth is possible. It also sets out a formal program for using present U.S. authorities under Article XXVIII of the GATT, the article on unbinding or modification of duties.

This section identifies growth industries as an area of foreign trade where free trade is particularly threatened. Current information is that industrial policies in other countries are frequently to protect government-identified growth industries while hoping exports to the relatively open United States market will make these industries profitable.

This section provides for "unbinding" duties on such products as a last resort means of creating incentives for such negotiations. The authority in this section is designed to enable the President to carve out and unbind duties for tariff schedule subcategories that will be applicable to products now being developed of which we may expect to receive importations—as well as to be able to export—in the future, but do not now.

Most U.S. duties are now "bound," meaning that the United States has agreed not only to a rate of duty, but also not to raise those rates in the future. Unbinding those duties, which requires compensation, would give the United States an absolute authority under the GATT to raise the duties or even embargo importation of the products covered, but it would not require it.

Compensation for unbinding usually means the United States reduces its duties on imports of other products from the countries adversely affected. This is anticipated by the legislation, which contains special compensation authority for this purpose. However, it is anticipated that the products chosen for the unbinding technique would be ones in which U.S. imports are at present very small; only anticipated imports would be large. Under existing GATT precedent, the "costs" in terms of U.S. concessions for unbinding these duties would be small.

This section also provides an authority to raise or lower a limited class of U.S. duties by limited amounts in order to arrive at trade agreements which result in reductions of foreign barriers to U.S. exports. Thus, if unbinding U.S. duties results in reducing or removing the protectionist effect of foreign government industrial policies in growth industries, the President is empowered to substantially liberalize U.S. trade in such articles of commerce.

Provision for consultations with U.S. industries on unbinding programs consistent with past consultation procedures and open hearings and public notice are, of course, also provided. Also, since this program provides a substantial advantage for qualifying exporters, the bill provides that if duties are raised under the section, they may not remain high unless the U.S. exporters at least double their exports in the next five years after the duties go up.

S. 2223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multilateral Trade Agreements Enforcement Act".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act—

(1) to improve and augment the ability of the President to enforce multinational trade agreements,

(2) to encourage the President to engage in practical and productive analysis of existing multilateral international trade agreements with the objective of increasing United States exports of products by pursuing United States rights under such agreements, and

(3) to improve and augment the President's authority to retaliate in cases arising under multilateral international agreements and to expand United States exports of products.

SEC. 3. NATIONAL TRADE ESTIMATES.

(a) In General.—Chapter 1 of title 3 of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 307. NATIONAL TRADE ESTIMATES.

"(a) Analysis of Foreign Trade.—The interagency trade organization established pursuant to section 242(a) of the Trade Expansion Act of 1962, under the chairmanship of the United States Trade Representative as provided in section 141(c)(1)(E), shall be responsible for continually analyzing the acts, policies, and practices of foreign countries or their instrumentalities to determine whether such acts, policies, or practices are—

"(1) inconsistent with the provisions of, or otherwise deny the benefits due to the United States under, any trade agreement, or

"(2) unjustifiably, unreasonably, or discriminatorily burden or restrict United States commerce, including exports of goods.

The interagency trade organization shall, on the basis of such analysis, make estimates with respect to the extent of the inconsistencies, burdens, or restrictions.

"(b) Factors.—In connection with the analysis required under subsection (a), the interagency trade organization shall take into account the following factors with respect to any major act, policy, or practice analyzed under subsection (a):

"(1) Countervailing, offsetting, or retaliatory measures the United States may take (with special regard for those measures not inconsistent with United States obligations or harmful to United States objectives under international multilateral trade agreements) if an affirmative determination is made under subsection (a).

"(2) The availability in information to document prices, market shares, and other phenomena necessary to demonstrate the effects of acts, policies, or practices identified under subsection (a).

"(3) Member countries of international multilateral agreements who have or might have interests similar to those of the United States.

"(4) Other factors which might bear upon the likelihood of reducing the effects of, or eliminating acts, policies, or practices identified under subsection (a) by means of the use of international multilateral trade agreements.

The interagency trade organization shall include information with respect to such factors in its estimates under subsection (a).

"(c) Report by Agency.—The interagency trade organization shall submit its estimates under subsection (a), together with the information under subsection (b), to the President and to the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives.

"(d) Action by United States Trade Representative.—

"(1) In general.—The United States Trade Representative shall—

"(A) consider the national trade estimates (and analysis relating thereto) under subsection (a), and

"(B) determine whether international dispute resolution is likely to result in reducing the effect of, or eliminating, any inconsistent, burdensome, or restrictive major act, policy, or practice indentified in such estimates.

"(2) Affirmative determinations.—If the United States Trade Representative makes an affirmative determination under paragraph (1)(B) with respect to any matter, such matter shall, for the purposes of this chapter, be treated in the same manner as if an affirmative determination had been made with respect to such matter under section 302(b)(2) on the date of such notice.

"(3) Time for consultation.—Notwithstanding section 303—

"(A) the United States Trade Representative may delay for 90 days any request for consultations with respect to any case described in paragraph (2), and

"(B) if such consultations are delayed, each time limitation under section 304 shall be extended for the period of such delay (but not in excess of 90 days).

"(4) Consultation.—The United States Trade Representative shall, before making any determination under paragraph (1)(B), consult with representatives of the private sector described in section 135 with respect to any action to be taken under this subsection.".

(b) Conforming Amendment.—The table of sections for chapter 1 of title III of the

Trade Act of 1974 is amended by adding at the end thereof the following new item:

"Sec. 307. National Trade Estimates.".

(c) Effective Date.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 4. CONFIDENTIALITY OF INFORMATION.

(a) In General.—Section 305 of the Trade Act of 1974 (19 U.S.C. 2415) is amended by adding at the end thereof the following new subsection:

"(c) Certain Business Information Not Made Available.—Notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the United States Trade Representative in aid of any investigation under this chapter arising under section 307 shall be made available if—

"(1) the person providing such information certifies that—

"(A) such information is business confidential,

"(B) the disclosure of such information would endanger trade secrets or profitability, and

"(C) such information is not generally available,

"(2) the United States Trade Representative determines that such certification is well founded, and

"(3) the person providing such information provides a nonconfidential summary of such information.".

(b) Effective Date.—The amendments made by this section shall apply to requests made on or after the date of the enactment of this Act.

SEC. 5. SUPPLEMENTARY TRADE NEGOTIATIONS.

(a) Supplementary Trade Negotiations.—If the President determines that—

(1) existing duties or other import restrictions or policies of any foreign government are unduly burdening or restricting, or are likely to unduly burden or restrict, trade in any product,

(2) the United States has a reasonable opportunity to expand the foreign trade of the United States with respect to such products, and

(3) at the time of the determination, there is a substantial probability of export growth and that the imports of such product are relatively low in value,

then the President may enter into trade agreements with foreign countries or instrumentalities to reduce their tariff or nontariff barriers to such products.

(b) Presidential Authority to Take Action in Connection with Supplementary Trade Negotiations.—

(1) In general.—In connection with supplementary trade negotiations authorized under subsection (a), the President may—

(A) withdraw, suspend, or modify any international obligation of the United States with respect to the trade of any foreign country or instrumentality thereof with respect to such products, including, but not limited to, withdrawing from, suspending, or modifying agreements not to raise rates of duty previously reduced;

(B) terminate (in whole or in part) any proclamation made under the Trade Act of 1974 (or similar provision of law) with respect to such products;

(C) proclaim with respect to any such product increases or decreases in the rate of duty for such products in rate column numbered 1 of the Tariff Schedules of the United States, except that such rate of duty—

(i) after any such increase shall not be higher than the rate which is 50 percent above the rate set forth in rate column numbered 2 of such Tariff Schedules; and

(ii) after any such decrease shall not (unless the initial rate of duty was not more than 5 percent ad valorem) be lower than the rate set forth in such column numbered 2 reduced by 40 percent; and

(D) renew concessions on rates of duty withdrawn, modified, or terminated pursuant to this pargraph.

(2) Compensation.—The President may, pursuant to his authority under section 123 of the Trade Act of 1974, compensate countries adversely affected by withdrawal, modification, or termination of trade agreements under this subsection.

(3) Public notice, etc.—In taking action under this subsection, the President shall—

(A) give public notice of the negotiating objectives under this subsection and of the trade agreements to be modified, withdrawn, or terminated pursuant to this subsection,

(B) consult with industry advisors pursuant to section 135 of the Trade Act of 1974, and

(C) permit public comment on any proposed actions to be taken under this subsection.

(c) Additional Authority.—Any authority provided the President under this section shall be in addition to any authority provided under any other provision of law.

(d) Export Performance.—

(1) In general.—If the domestic industry producing a product like or most nearly like that product with respect to which duties have been increased under subsection (b)(1)(c) does not expand exports of such product by at least 100 percent in terms of value during the five-year period following the effective date of such increase, then the President shall proclaim as the rate of duty for such product the rate of duty in effect for such product under column numbered 1 of the Tariff Schedules of the United States on the date of such increase.

(2) Effective date.—Any rate of duty proclaimed under paragraph (1) shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption after the 30th day following such proclamation.

Mr. CHAFEE. Mr. President, I am joining Senators Bentsen and Bradley in cosponsoring a bill entitled "Enforcement of Multilateral Trade Agreements and for Other Purposes." The bill expresses what I believe should be the major goals of our trade policy: To insure the full enforcement of our rights under our multilateral international trade agreements, and to expand U.S. exports.

At a time when we are having to deal with high unemployment, inflation, and high interest rates, and are feeling the effects of international economic declines through increased restrictive trade barriers in foreign markets, it is very tempting to respond, as we did in the 1930's, by adopting a policy of rigid reciprocity or by erecting restrictive trade barriers to protect our domestic market.

Recognizing our international economic interdependence, including the growing proportion of our GNP stemming from export and import trade, our focus should be on opening overseas markets, not on imposing retaliatory trade barriers. In pursuing this goal we should be guided by the principle of comparative advantage and should not base our actions solely on the size of our trade deficit with a particular nation or nations. We should sell those goods and services that we produce most efficiently and we should allow foreign countries to export to the United States those products which they produce most efficiently.

In a dynamic trading system it is wrong to expect equivalent market access. What is right to expect is the kind of market access guaranteed in our multilateral trade agreements. Because a foreign country has 10 percent of the U.S. market for a product, we should not expect to have 10 percent of that country's market for the same product. However, we should expect that in foreign markets our items will receive the same treatment as the domestic firms receive in that market.

While I believe that we should steer clear of reciprocity and should instead pursue the goal of enforcing trade agreements, I do not ignore the very real and serious trade barriers which are affecting the expansion of U.S. exports, particularly in Japan. I believe that at this time, our response to these barriers should be twofold.

First, we should set up a mechanism to respond to restrictive trade practices that violate our rights under the GATT. Second, the President should make an assessment of whether it would be in our national economic interest to take steps to eliminate or reduce those barriers. If the President so finds, he must file an action under section 301 of the 1974 Trade Act.

The bill that I join Senator Bentsen and Senator Bradley in introducing today accomplishes both of these objectives. Section 2 of the bill establishes an interagency system to conduct an ongoing analysis of major barriers to U.S. exports and, in those cases where necessary, to bring action under section 301 of the Trade Act of 1974 to reduce or eliminate such barriers.

If the action under 301 is likely to improve U.S. exports, the President is required to file such an action. The bill also allows the President an additional 90 days to conduct informal negotiations prior to initiating an action under section 301.

The bill also includes a section which deals with supplementary trade negotiating authority under section 125 of the Trade Act of 1974 to promote exports in industries with high-growth potential.

Under this section, the president's authority to unbind duties would be expanded to include the ability to lower tariffs on products in which imports of such products are low, but the product's export potential is high.

Mr. BRADLEY. Mr. President, I am pleased to join with my colleague from Texas, as a cosponsor of this bill. The challenges to open markets and multilateralism in trade may be as great today as they have been during any period since the Great Depression. Slow growth and joblessness now afflict most of the developed world. These conditions create pressure on governments to intervene in markets and close off trade borders. No matter that history demonstrates that protection reduces national income, ultimately weakens national industries and can precipitate global depression. Yet, governments still find it difficult to resist handy short-term protectionist remedies even though they injure prospects for long-term economic growth.

In the current economy, governments are becoming restless about their multilateral trade obligations. Abroad, and here, they seem to be looking for ways to bail out or work around their international commitments, all the while hoping that no one else will notice and retaliate. France and Italy have ceilings on automobile imports from Japan. Canada imposes investment performance requirements under its Foreign Investment Review Agency and plans to Canadianize. Japan has a stubborn network of licenses, standards, and informal commercial relationships which chill foreign business activity. And the United States has its own package of voluntary arrangements to which many Americans would like to add retaliatory powers against individual countries we judge to be preventing our access to specific product markets.

Everyone has their justification for protection and some are quite legitimate. But the sum of these proliferating individual restrictions is greater than its parts. They may well add up to a force able to shake the multilateral trading system. Yet it was this system, based on essentially open borders and multilateral guarantees, that brought the world out of depression and postwar ruin into an era of unrivaled global prosperity.

During this period of economic sluggishness and discontent about the fairness of foreign trading practices, it is natural to see the system of GATT rules as a glass half empty rather than half full. Criticism of the GATT failures comes more easily than appreciation of its achievements, or faith in its potential. But almost 40 years of reducing tariffs to nearly insignificant levels in the major trading countries of the world is no meager achievement. Nor should we discount the potential value of GATT's consultative and dispute settlement procedures, or that of the new codes disciplining various national laws and practices that act as nontariff barriers to trade.

In truth, we have come far in setting rules that support a world of liberal trade.

On the whole the trouble is not so much the weakness of existing rules and laws. Surely they warrant strengthening, but our worst omission is our failure to use and enforce them. Defending our rights under GATT rules and making U.S. law consistent with them is not protectionist. On the contrary, it strengthens the use of multilateral rules and procedures against recourse to unilateral retaliation.

The gains from free and fair trade can best be defended by preserving our trade discipline. Particularly during this period of economic stress, our top trade priority should be to make sure that our system works. Preserving and extending what we have is more important than breaking new ground. We should seek to extend GATT's multilateral discipline through negotiations to those important areas outside its coverage, such as services and investment, or new nontariff barriers. But we should be cautious about enacting new unilaterally determined trade principles and retaliatory procedures such as reciprocity.

In the spirit of seeking to preserve, strengthen, and work within GATT system of multilateral discipline, I am pleased to join my distinguished colleague from Texas in introducing legislation to improve the President's ability to enforce multilateral trade agreements. I believe the provisions of this bill encourage the President to take the leadership in using GATT procedues to enforce trade discipline, and thereby preserve and enhance the GATT system in the face of protectionist pressures threatening to erode it. The bill also sets an orderly basis for negotiations to expand GATT to practices not now covered by multilateral agreements, in a manner consistent with existing U.S. trade obligations.

The bill has two major features. First, it strengthens the President's ability to challenge foreign practices which impair U.S. benefits under international agreements or otherwise restrict U.S. international commerce. It does this by providing for the regular production of national trade estimates by the Office of the U.S. Special Trade Representative. These estimates would inform the President of foreign practices that impair U.S. trade and assess the ability of the United States to document and offset the impairment. Such information would provide the President with a sound basis for challenging unfair trade practices under GATT procedures and U.S. law and defining the remedies necessary to correct them. In addition, national trade estimates would provide the President and the Congress with a clearer understanding of changes in the world economy. Having a clearer picture should enable us to formulate a more effective trade strategy, and enable U.S. business to compete more effectively in foreign markets. The proposal for national trade estimates borrows from the idea of reports on barriers in Senator DANFORTH's bill, S. 2094.

Second, the bill authorizes the President to use his existing powers under U.S. law, in a manner consistent with our GATT obligations, to negotiate the reduction of tariff and nontariff barriers to products with high export growth potential. It authorizes the President to withdraw, suspend, or modify U.S. obligations or tariff findings concerning export growth industries, in a manner consistent with GATT provisions for making such changes. It also authorizes the President to negotiate tariff reductions in these areas. These authorities assure that the President will have effective means for achieving U.S. negotiating objectives, such as the reduction of foreign barriers to U.S. exports in these industries, while preserving U.S. obligations under GATT.

The procedures outlined in this bill for obtaining relief from foreign barriers, particularly barriers not explicitly covered under existing GATT agreements, build on and strengthen the GATT framework. Concessions are modified or withdrawn or augmented on a multilateral basis. If they are withdrawn or modified, the President is authorized to offer compensation, as required under GATT. Compensation is likely to be low because of the conditions governing the President's power to modify such concessions, and in any case are subject to negotiation with affected parties.

The statement of my distinguished colleague from Texas describes the provisions of the bill in greater detail and I will not repeat them. In my view, the most important contribution of this bill is that it strengthens the negotiating power of the United States by using existing U.S. law in concert with GATT rules and procedures. It offers us an option to make the system work. If we show that it can work for us, we will also show that it can work for others.

Finally, one reason the bill particularly appeals to me is that it should help set the conditions necessary for domestic economic growth. Today U.S. economic growth depends on our ability to compete in global markets, particularly in those industries where our production factors afford us a comparative advantage. Although no one has a crystal ball about where future U.S. comparative advantage will lie, our national strength in knowledge, skilled labor and capital suggests that we will do our best in industries that rely heavily on high technology, highly skilled labor, and information.

Our domestic policies must remove unwarranted obstacles to the full development of our potential in competitive U.S. industries. By the same token, our trade policies must vigorously seek the removal of unjustified obstacles to the export of competitive U.S. products. This bill focuses our trade efforts on where they promise to reap a maximum return to our economy. In the past, industries with the greatest export potential have not received adequate attention from U.S. trade officials and Congress. The emphasis in this bill on expanding exporting opportunities for such industries begins to correct that imbalance. Accordingly, I hope that it will be read as a challenge to U.S. industries with export potential to adopt a global orientation, improve their product competitiveness and aggressively penetrate foreign markets.

RECOGNITION OF SENATOR BAUCUS

The **PRESIDING OFFICER.** Under the previous order, the Senator from Montana (Mr. BAUCUS) is recognized for not to exceed 15 minutes.

CONGRESSIONAL ATTEMPTS TO LIMIT FEDERAL COURT JURISDICTION

Mr. BAUCUS. Mr. President, I would like to address what I see as a profound assault on the independence of one of the three branches of our Federal Government—the Federal judiciary. Recent developments have convinced me that the judicial branch is facing an attack of major proportions:

In April of 1979, the then democratically controlled Senate voted 51 to 40 in favor of an amendment, offered by Senator JESSE HELMS of North Carolina, to a Supreme Court jurisdiction bill. The amendment would have eliminated Supreme Court and lower Federal court jurisdiction over the issue of school prayer. Identical legislation is currently pending on the Senate Calendar.

Last year, subcommittees of both House and Senate Judiciary Committees held hearings on the overall issue of congressional attempts to limit the Federal courts.

On July 10 of last year, the Separation of Powers Subcommittee of the Senate Judiciary Committee favorably reported legislation that would eliminate lower Federal court jurisdiction in certain abortion cases. Identical legislation is pending on the Senate Calendar.

Last fall, the Separation of Powers and the Constitution Subcommittees reported legislation designed to prevent lower Federal courts from issuing any busing orders. Both bills are currently pending in the Senate Judiciary Committee.

The entire Senate recently completed a prolonged debate on an amendment to the Department of Justice Authorization bill which would severely limit those instances in which a Federal court could issue a busing order.

At last count, there are approximately 30 separate pieces of legislation pending in the House and the Senate that would limit the jurisdiction of the Federal courts.

Clearly, the issue of congressional control over the Federal courts is not merely an academic exercise. Rather, the issue may be the single most important item on our Nation's noneconomic agenda in the 1980's. In my view, the outcome of this debate will determine the status of individual rights and liberties in this country for decades to come.

IMPACT ON THE CONSTITUTION

The Framers of the Constitution designed a judicial branch which could protect the integrity of the Constitution. Alexander Hamilton stated in Federalist Paper 78 that it is the duty of the courts "to declare all acts contrary to the manifest tenor of the Constitution void. Without this," he observed, "all reservations of particular rights or privileges would amount to nothing."

This concept of the judicial branch was reaffirmed and expanded in *Marbury* v. *Madison*. Until recently, the role of the Supreme Court as the final arbiter over the terms of the Constitution has not been seriously challenged.

During the past 200 years, on four different occasions, our Nation has responded to controversial Supreme Court decisions by utilizing the constitutional amendment process. Even in the wake of the infamous *Dred Scott* decision, which held that black Americans were not citizens, it was recognized that the proper way to alter that decision was by constitutional amendment.

But today, several single-issue constituencies have failed to mobilize sufficient support to pass constitutional amendments to overturn constitutional decisions by the Supreme Court with which they disagree. Instead, they have begun to advocate a series of proposals that would permit Congress to overturn Supreme Court decisions by simple statute. These constituencies would have Congress respond to a court decision it disagreed with, by stripping the courts of the power to hear that category of cases.

The proponents of these bills argue that the "exceptions clause" in article III, section 2 of the Constitution provides Congress with the authority to enact these bills.

However, Mr. President, if the framers were trying to provide a significant legislative check on the judicial branch, it is most unlikely that they would have designed a check like the "exceptions clause." Robert Bork, President Reagan's nominee to the District of Columbia Court of Appeals, has commented:

> Literally, that language of the "exceptions clause" would seem to allow this result.
>
> I think it does not allow this result because it was not intended as a means of blocking a Supreme Court that had, in Congress' view, done things it should not . . . The reason I think it was not intended is that clearly in the most serious kinds of cases, where the Supreme Court might do something that the Congress regarded as quite improper, the "exceptions clause" would provide no remedy.
>
> For example, if the Supreme Court should undertake to rule upon the constitutionality or the unconstitutionality of a war, and the Congress was quite upset, thinking that is not the Supreme Court's business, as indeed I agree it is not, to use the "exceptions clause" to remove Supreme Court jurisdiction would have the result not of returning power to the Congress but of turning the question over to each of the State court systems. We could not tolerate a situation in which 50 States were deciding through their own judges the constitutionality of a war . . .
>
> I think the answer is that the Framers would not have devised a check upon the judiciary which does not return power to the Congress but returns power to the State judiciary systems, from which it probably cannot be removed. When one perceives that it is the result, then I think one has to say the Framers did not intend this as that kind of a check upon the Court.

This perspective on the "exceptions clause" is most instructive. The glaring deficiencies of the clause are an effective retort to the argument that it was intended to be used as a significant check on the judicial branch.

In the final analysis, the deficiencies of the "exceptions clause" are much less troubling than its ultimate power to undo the protections of the Constitution.

Under the analysis offered by the proponents of these bills, Congress authority under the "exceptions clause" is without limit. Theoretically, the Congress could dismantle any part of the Constitution it wished and paralyze the courts from reviewing the conduct. It is this theoretical opening which makes the premise underlying the court-stripping bills most distressing. Under their analysis, the Supreme Court is only free to enforce a constitutional guarantee if 51 percent of Congress does not preclude it from doing so.

IMPACT ON THE COURTS

In the face of these legitimate and seemingly overwhelming constitutional concerns, the court-stripping bills are still being actively considered in Congress. This is in large part, I think, because some Members of Congress believe the courts have blatantly violated their constitutional authority. They see these bills as part of an effort to get the courts back into line and encourage them to engage in more "traditional" and "stable" conduct.

However, it is difficult to imagine any set of proposals more inconsistent with the goals of stability or certainty in our judicial system than the court-stripping bills. No one really knows precisely what impact they would have on a specific body of law.

These bills could have precisely the opposite effect they are intended to have. Withdrawing court jurisdiction over abortion would not outlaw abortion. Withdrawing court jurisdiction over school prayer would not return prayer to the schools. Instead of prohibiting abortion or promoting school prayer, these bills will elevate the last Supreme Court decision on the subject to the "permanent" law of the land.

At the same time, the Supreme Court would no longer be able to enforce its previous decisions. The sponsors of these bills are actually promoting open invitations to State court judges to alter or reverse controlling Supreme Court decisions. The court-stripping bills would have no substantive impact unless State court judges were willing to seize this opportunity.

This aspect of the court-stripping bills was recently criticized by the Conference of State Court Chief Justices. Their resolution observed in part:

> These proposed statutes give the appearance of proceeding from the premise that State court judges will not honor their oath to obey the U.S. Constitution, nor their obligations to give full force to controlling Supreme Court precedents.

Mr. President, the simple fact is that the court-stripping proposals remove Federal court jurisdiction while offering State court judges no real indication of what judicial standard they should follow. It is ironic that those who are complaining about judicial usurpation of the legislative function are promoting legislative solutions devoid of any substantive direction and inviting further and potentially more disparate decisions. The more helpful solutions would be ones that actually set a new substantive standard for the courts to follow.

IMPACT ON CONGRESS

The impact of these bills on the judicial system, I think, has been underestimated. The same is true of the impact of these bills on Congress itself. If Congress decides to enter this arena, the pressure to respond to a wider range of constitutional rulings will increase. Every constituency that feels victimized by an adverse constitutional ruling will come running to Congress for a jurisdiction withdrawal bill.

The proponents of these bills suggest these fears of congressional abuse are exaggerated. They argue that the jurisdiction bills each represent a narrow "surgical" removal of a limited area of jurisdiction. However, a review of the proposals being considered by the 97th Congress is illuminating as to how the Congress might actually utilize this jurisdiction power.

One bill, H.R. 114, would actually remove lower Federal court jurisdiction over "any order of a court of a State if such order is, will be, or was, subject to review by the highest court of such State."

This hardly represents a carefully circumscribed removal of Federal jurisdiction.

Another bill, H.R. 2791, the "Women's Draft Exemption Act," is equally instructive. It would remove Supreme Court and lower Federal court jurisdiction over cases involving sex bias in the Selective Service.

This bill is particularly troubling. It is another excellent example of why the court stripping approach is totally inappropriate in so many instances. The sponsor was attempting to maintain an all-male draft. However, the solution being offered is to leave the question of the composition of the armed services to 50 separate State courts. The totally unsatisfactory result is that women from Pennsylvania might be constitutionally required to be drafted while women from Arizona might be immune from induction.

The proponents of these bills want us to believe that court stripping will only be used in the most flagrant cases of judicial excess. But in this case, the jurisdiction removal was being proposed before the Supreme Court had even rendered its decision. It is difficult to see how the court had abused its constitutional authority in this area.

If Congress can remove Supreme Court jurisdiction over an all-male draft before the Court has ruled in the case, why cannot it pass stringent gun control legislation and include a provision to prevent Supreme Court review of any case involving the right to bear arms? Why could not Congress impose onerous and discriminatory taxes and include a provision to prevent Supreme Court review of the constitutionality of all Federal taxation cases? Why could not Congress attempt to totally preempt the States from engaging in conduct traditionally within their power and remove Supreme Court jurisdiction over the 10th amendment?

These hypotheticals are the reasonable extension of the strategy being put forth in these court stripping bills. These potential abuses of the exceptions clause ought to be carefully considered.

CONCLUSION

The question presented by the court stripping proposals is simply this: Should we adopt measures that violate the spirit of the Constitution in order to address the issues of today?

That was the same question that faced Congress in 1937 when President Roosevelt proposed to increase the size of the Supreme Court.

He was deeply troubled by a series of Supreme Court decisions that threatened the success of his national recovery program. He hoped to alter the composition of the Court so that the Court would uphold the constitutionality of his economic plan.

The people and Congress rose up and resoundingly defeated that plan. The American public and a majority of its Representatives saw the court-packing plan for what it was—a significant threat to the independence of the judicial branch.

As we consider the courtstripping bills before us today, we should keep in mind the wise words of those who successfully defended the Supreme Court in 1937.

I wish to conclude with the words that Senator Burton K. Wheeler of Montana delivered 45 years ago which apply with equal force today:

> So I say it is morally wrong to do by indirection what cannot be done by direction. It is morally wrong to change the Constitution by coercive interpretation * * * Of course, Mr. President, there have been abuses in the court. I have been one who has disagreed with them, and I expect to disagree with them again, but I am unwilling on the basis of some specious argument or of some subterfuge that defies the spirit of the Constitution to participate in setting one of the most dangerous precedents that has ever been conceived by this Congress or any other * * *

Mr. President, I thank the Chair for the time to speak on this issue today. There are other Senators who I think wish to speak on this issue. I see one of them in the Chamber at the moment, and if he wishes to address this point, I reserve the remainder of the time allotted to me so the Senator from Maryland may speak to this issue.

RECOGNITION OF SENATOR MATHIAS

The **PRESIDING OFFICER**. The Senator from Maryland is recognized.

Mr. **MATHIAS**. Mr. President, we have requested of the Senate 2 hours today to discuss the probable consequences of the many court curbing proposals that are pending before us, and to encourage support for preserving the historic independence of the Federal judiciary.

In more than 20 years in Congress, I have never seen such a concerted assault on the Federal courts as has been mounted during this 97th Congress. We already have before us some 30 court-curbing bills. Several of them would drastically curtail Federal court jurisdiction. The sponsors of these bills are very candid. They make no bones about their purpose. They want to abolish Federal court jurisdiction over some very specific and controversial areas of the law. Abortion, school prayer busing, and the all-male draft are among—not limited but among—the issues they would remove from lower court and Supreme Court jurisdiction.

I have heard, as I am sure many Senators have heard, the Chief Justice of the United States complain on occasion about the very heavy workload of the Supreme Court. What judge does not complain about the judicial workload these days?

But I suspect that very few Federal judges would take kindly to the kind of a radical solution that is being proposed to the workload problem.

Indeed, none of us should view these proposals without some sense of alarm, although I must point out that this is not the first time court-curbing has been a hot topic in America. It all began in 1793 when the U.S. Supreme Court ruled that States could be sued in Federal court. That was the decision of the court in the case of Chisholm against Georgia. That decision raised a hue and cry of dreadful proportions.

One newspaper said that it "involved more danger to the liberties of America than the claims of the British Parliament to tax us without our consent. * * *"

The Georgia House of Representatives reacted even more violently. It passed a bill providing that anyone who executed any process issued in the case would be "guilty of felony, and shall suffer death, without benefit of clergy, by being hanged."

I suppose we should be grateful, the Senator from Montana and I, that such resort to violence is not being proposed today.

Fortunately, for the citizens of Georgia, that bill died in the Georgia Senate, but a national pastime had been born. Since then, literally hundreds of legislative proposals have been introduced in Congress and in State legislatures to counteract controversial court decisions or to preclude unwanted judicial pronouncements.

President Franklin D. Roosevelt's abortive attempt in 1937 to pack the Supreme Court with justices who would support his New Deal was only the most flamboyant in a long line of efforts to curb the Court.

In the past, Congress has considered constitutional amendments that would allow it to review and veto certain high court rulings. It has contemplated amendments that would require more than a simple majority of the Supreme Court to invalidate an act of Congress. It has entertained a bill that would require a unanimous court agreement to void any act of Congress, State law or State constitutional provision. And it has even deliberated over a resolution that called for a constitutional amendment providing that Supreme Court justices would be appointed by a panel composed of one judge from each of the highest State tribunals.

Since the Supreme Court's decision in Brown against Board of Education in 1954, almost every controversial high court ruling has provoked a legislative response aimed at limiting the Court's jurisdiction. Rulings on reappointment, obscenity, criminal confession, school segregation and Communist subversion, all of them have triggered such proposals.

The sponsors of the bills currently before the Congress are quite outspoken about their intention to bypass constitutional rulings.

The distinguished Senator from North Carolina, Mr. **HELMS**, in introducing his school prayer jurisdiction bill earlier this year, laid his cards right on the table. As I said earlier the sponsors of these resolutions are candid and honest about it. The Senator from North Carolina said, "The limited and specific objective of this bill is to restore to the American people the fundamental right of voluntary prayer in the public schools."

Neither the distinguished Senator from North Carolina, nor any of the other sponsors of these court jurisdiction bills, questions their legitimacy under the Constitution.

But, Mr. President, I do question their legitimacy under the Constitution.

I do question whether this is a constitutional way to proceed. Constitutional interpretations are subject to change either by the process provided within the Constitution itself—in this case, by invoking article V of the Constitution—or when the Supreme Court alters one of its prior constitutional holdings. There is just no question in my mind that what these bills are trying to do is to find a back door for changing the organic law of the land. I submit, Mr. President, that that is a radical proposal.

By approving the bills now before it, Congress would preclude the Supreme Court and lower Federal courts from dealing with important constitutional issues. Once you go down this road, once you take this route, there is no area of human endeavor that could not be reached by a simple act of Congress altering the jurisdiction of the Federal courts to control the outcome of cases. Tomorrow, our most basic constitutional protections could be at stake. In fact, the entire Bill of Rights could be up for grabs. The entire Bill of Rights could be defeated by a simple majority of Congress.

The authors of the Constitution were worldly men. They were scholars steeped in the history of civilization. They knew how the human race had dealt in the past with problems of government, authority, power, and conflict. They knew what had been successful and what had failed. And they distilled this knowledge of the history of mankind into the Constitution.

A proper division of power among the three branches of Government was the keystone to their theory of government. So, the Founding Fathers constructed strong and independent branches of Government specifically to prevent the concentration of too much power in one branch. Then, to make sure that no one branch would dominate the others, they added some institutional checks and balances. One was judicial review—the power given to the Supreme Court to void State and Federal laws that it judged to violate the Constitution.

Alexander Hamilton pointed out the fundamental importance of this power in Federalist 78. "Without this," he wrote, "all the reservations of particular rights and privileges would amount to nothing." Yet, it is precisely this check—the power of judicial review—that the bills now in Congress would emasculate.

But the danger is not limited to this. These bills also undermine the doctrine of judicial independence, which is a principle worth preserving. It is not a new principle. It is an ancient one. Its origins can be traced back long before the Constitution of the United States was written.

Herodotus, the historian of ancient Greece, has passed down to us this description of the Persian legal system of his day:

> The Royal judges are men chosen from among Persians, who continue in office until they die or they are convicted of some injustice. They determine causes between the Persians and are the interpreters of the ancient Constitutions and all questions referred to them.

Our Founding Fathers had read Herodotus. They were aware that by grafting judicial independence into the Constitution, they were embodying the wisdom of the ages into our organic law. In this area, they were not creating a new experiment in government.

In addition, they were all too familiar personally with the abuses associated with a dependent judiciary and they were determined to avoid them. In fact, one of the principal grievances listed against the British in the Declaration of Independence was that the King had made the colonial judges "dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries."

As a result, the Constitutional Convention adopted a system of life tenure for Federal judges, subject only to the power of impeachment, and protected their salaries from diminution. It also specifically rejected the concept of legislative control over the judiciary by defeating a proposal to create "a national judiciary * * * to consist of one or more Supreme tribunals, and of inferior tribunals to be chosen by the National Legislature to hold office during good behavior."

The third great constitutional question at issue here, which I mentioned earlier, is how our organic law is changed. The Founding Fathers wanted the procedures for amending the Constitution to be more flexible than those in the Articles of Confederation, which required the unanimous agreement of the States. But they did not want to make the process too easy.

Only after lengthy debate was a compromise struck which, to quote James Madison, "guards equally against that extreme facility which would render that Constitution too mutable; and the extreme difficulty, which might perpetuate its discovered faults."

If these court-curbing bills make their way through Congress, it will be a sad day for justice in this country. If enacted, these bills would shift the legal battleground for controversial social issues from the Federal to the State courts. Unlike their colleagues on the Federal bench, most State judges are elected to office. They do not have the security of life tenure. They are not free from political pressures. They are very vulnerable to the public mood and to the tyranny of the majority.

The American Bar Association made this same point recently when it adopted a resolution opposing the pending court jurisdiction bills. It emphasized that "* * * Congress should not subject State judges to often hard choices between oath and career."

This point was reiterated recently by the Conference of State Chief Justices when it adopted a resolution expressing "concern about the impact of these bills on State courts" and stating that these proposals are "a hazardous experiment with the vulnerable fabric of the Nation's judicial systems." In its report accompanying the resolution, the justices noted that:

> First, these proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oaths to obey the United States Constitution, nor their obligation to follow Supreme Court decisions interpreting and applying that constitution, thus breaking with a 200 year practice and tradition. So viewed, these efforts to transfer jurisdiction to the state courts for these purposes neither enhance the image of those institutions nor demonstrate confidence that state court judges will do their duty.

Last year, we saw a strenuous attempt in the Senate Judiciary Committee to force a Supreme Court nominee to commit herself, prior to confirmation, to voting to overturn the Court's 1973 decision on abortion. It does not take much imagination to picture the pressures that would be brought to bear to elicit such assurances from State judges during election campaigns.

One of the great strengths of the American system is that we have not allowed our Constitution to be pulled and hauled with each ebb and flow of the tide of public opinion. Today, however, the tug-of-war in Congress over these court-curbing bills threatens to rend the fabric of our Constitution—"the most wonderful work ever struck off at a given time by the brain and purpose of man."

We must not let that happen. We cannot adopt the cavalier attitude of George Washington Plunkett, a Tammany Hall ward heeler, who was fond of asking: "What's the Constitution among friends?"

Among friends and foes alike, the Constitution is the Alpha and the Omega of justice in our society.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the Arizona Republic entitled "Barry Jumps Ship," an article entitled "When Is a Conservative Not a Conservative?" and an article from today's Washington Post by David S. Broder entitled "Civil Rights: Detour . . ."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BARRY JUMPS SHIP

If Arizona Sen. Barry Goldwater is the conscience of the nation's conservative movement, he also has become something of a guiding light in the U.S. Senate.

Goldwater has defied expectations, and parted company with those who depended on him for me-toomanship.

For example, he has taken on the Department of Defense, and rebuked it for projected higher costs of an attack helicopter. For one who has been one of the most energetic supporters of the military, this attack may seem startling. Further, the helicopter he is attacking would be manufactured in Arizona.

However, he has not lost his verve for supporting a strong military establishment. But he has a greater obligation to prudence and efficiency in the use of the taxpayers' resources.

And there's more.

Goldwater now has announced that he will defy his conservative brethren on the floor of the senate, and fight their efforts to limit the authority of the federal courts on matters involving school busing, abortion and school prayer.

It isn't that Goldwater favors busing, abortion or the denial of prayers in the classroom.

But Goldwater has expressed a higher obligation—to maintain the traditional separation of powers between the legislative and judicial branches.

"I think it is dangerous for the country to limit the actions of the courts."

And he is correct.

The minute that a substantial majority in any session of Congress got its back up over a Supreme Court decision, and thought it should in effect veto the court's decisions through a new law, the separation of powers would be a mockery.

The Congress would become a superior among equals, interpreting the Constitution from one session to the next, and in a fashion that no one could predict from year to year.

Senators have their hands full enough with their own constitutional responsibilities without trying to annex the Supreme Court.

WHEN IS A CONSERVATIVE NOT A CONSERVATIVE?

(By Theodore R. Mann)

There are approximately 20 bills pending in the United States Congress which comprise the legislative agenda of the New Right and the so-called Moral Majority.

Many of these bills would eliminate federal court jurisdiction to hear cases involving laws or regulations which relate to voluntary prayer in public schools, to abortion, to public school assignments based on race, creed, color or sex, or which impose qualifications for teaching in public schools. Others would eliminate federal court jurisdiction to review the constitutionality of all-male draft registration laws. Still other bills would prohibit the judiciary from barring released time for required parenthood education courses conducted by churches, from interpreting "life"—as that term is used in the 14th Amendment—to exclude a fetus from the moment of conception, and from implementing a plan to assign students to public schools on the basis of race.

Another bill would cut off federal funds to educational agencies which prohibit voluntary prayer, which promote courses inculcating values or modes of behavior contradicting the beliefs and values of the community, or which purchase or prepare school materials diminishing the role differences between the sexes as those differences have been understood historically in the United States. It would likewise cut off funds to educational agencies which fail to ensure that parents and religious groups participate in establishing courses on religion, or fail to provide for parental review of textbooks prior to their use in the classroom.

Federal funds would also be denied to organizations which care for persons suffering from spousal or parental abuse, or provide assistance to runaway children; for programs which provide contraceptive devices, abortion services or venereal disease treatments to unmarried minors without first notifying the parents; and to any entity which presents homosexuality as an acceptable alternative life style. Federal legislation would also be prohibited in such fields.

The proposed legislation would also prohibit entities funded by the Legal Services Corporation from challenging criminal convictions, from attempting to compel institutions to perform or fund abortions, from seeking to desegregate public schools, and from litigating violations of the Selective Service Act or homosexual rights cases.

As will be seen, at least as far as the attempt to limit the Supreme Court's appellate jurisdiction is concerned, the legislation would be unconstitutional. Yet, it would be better for the nation if the proposals were defeated legislatively rather than judicially. A direct confrontation between two branches of the government is not likely to end with a judicial decision. The sponsors of the legislation believe that the Congress may deprive the judiciary of its power to review; it is hard to believe that they will graciously accede when the judiciary holds otherwise.

The pending legislative battle may create one of those rare opportunities when widespread debate, within and without the Congress, renews in many Americans an understanding of the real nature of our system. There are occasions when we are forced to look beyond our immediate selfish interests and consider what kind of country it is that we want to be living in.

Franklin Roosevelt's attempt to pack the Supreme Court was one such event; Richard Nixon's "Saturday Night Massacre" was surely another. These were attempted presidential power grabs, recognized as such even by those who were sympathetic to the initiators.

The national debate on these bills could have the same beneficent effect. It should be a debate about the proper role of government and its several parts. At a deeper level it should be a debate about the proper role of all institutions in our society—not only government. And at the deepest level it should be a debate about power—how much of it is necessary for a well-functioning and relatively free society, and how it should be distributed, not only within government but within the totality of our institutions.

Although the sponsors of the legislation regard themselves as "conservatives," I question whether these bills constitute "conservative" legislation.

What is meant by "conservative" is not at all clear. Generally, when we speak of political conservatism we refer to Edmund Burke's ideal of attaining political unity through slow, organic growth. In the modern vernacular such a conservative would live by the maxim, "If it's not broke, don't fix it," or "Don't throw out the baby with the wash." But to test this proposed legislation against the Burkean ideal would be engaging in straw man polemics.

Legislation which would so radically and suddenly wrench apart the intricate power balances built into a constitution that has served the society so well for two centuries has little to do with Burkean conservatism, and the point need not be belabored. More likely these legislators view themselves as "conservatives" in the sense that they champion limited government, as President Reagan did, for example, in his Independence Day message to Americans:

"Ours was a revolution that changed the very concept of government. Let the Fourth of July always be a reminder that here in this land, for the first time, it was decided that man was born with certain God-given rights; that government is only a convenience created and managed by the people, with no powers of its own except those voluntarily granted to it by the people. We sometimes forget that great truth and we never should."

Let us assume that the sponsors of this legislation regard themselves as conservatives because they believe that in America governmental power is severely limited, and that the greatness of the American experiment lay in the concept that government may not exercise powers withheld from it by the people. Let us assume it in order to ask whether the spate of legislation we are considering is consistent with that view of the American experiment.

The Supreme Court has already decided that legislative efforts to restrict abortions early in a pregnancy, or to require religion to be taught in public schools, exceed the powers granted by the people to their government. If the national or a state legislative were now to decide that a woman should not have the right to abort a fetus within her, whence would it derive the power to interfere in such a personal decision? Or if such a legislature were now to decide that church prepared courses in religion are to be taught in school, on what grant of power by the people would it stake such a claim?

Alexander Hamilton held the view that because government could not exercise powers not explicitly granted, a Bill of Rights was not essential. The people did not accept that view. The withholding of governmental power in the area of religion, speech, press and assembly was therefore explicitly enshrined in the First Amendment. How do these "conservative" legislators square their desire to legislate in such areas with their belief in the sanctity of the limitations on governmental power?

Power to interfere with the interior life of the individual was withheld even from our democratically elected government because, as John Stuart Mill later noted, "the tyranny of the majority is now generally included among the evils against which society requires to be on its guard."

Another anomaly in this legislative effort also requires special note. These "conservative" legislators, who would allow legislative interference in the most intimate personal matters, would prohibit federal legislation in the fields of child and spousal abuse and deny federal funds to organizations which care for abused children and spouses.

How can legislators at the same time protect the two-week-old fetus in the womb of a rape victim and deny funding for organizations which care for abused children? Exactly such "misapplied notions of liberty," directly contrary to conservative principles, were commented upon by Mill more than a century ago:

"One would almost think that a man's children were supposed to be literally, and not metaphorically a part of himself, so jealous is opinion of the smallest interference of law with his absolute and exclusive control over them. . . . When we compare the strange respect of mankind for liberty with their strange want of respect for it, we might imagine that a man had an indispensable right to do harm to others, and no right at all to please himself without giving pain to anyone."

Thirdly, how committed can these "conservatives" be to the concept of limited government—of government, in President Reagan's words, "with no powers of its own except those voluntarily granted to it by the people"—if they would deny jurisdiction to the courts to determine when government has exceeded those powers?

The proponents of this legislation respond that they do not seek to limit the jurisdiction of the state courts. But that is disingenuousness run rampant. They are attempting to eliminate federal jurisdiction in respect of constitutional issues already decided by the Supreme Court, in the obvious expectation of different decisions by state court judges, who do not have the life tenure and independence which our constitution gives the federal judiciary.

One would think that conservatives would be especially appreciative of our judicial branch of government. It is the least democratic of the three branches, least subject to majoritarian pressures, almost aristocratic, surely elitest in concept. Instead, these alleged champions of limited government would prefer to have the question whether they have exceeded the powers entrusted to them by the people, reviewed by a state judiciary over which they have greater control.

Powers not granted to the federal government by the Constitution, reside in the states or in the people. That principle is explicitly set forth in the 10th Amendment. But it is not a self-executing principle, and obviously cannot be. Someone must decide when the exercise of legislative or executive power has exceeded the power granted. That somebody is our courts. In reality, there are no withheld powers except those which the judiciary, ultimately the Supreme Court, decides were intended to be withheld. As one respected conservative put it:

"Limitations [on legislative power] can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing." (Hamilton, *Federalist No. 78*)

The powers expressly withheld from government, federal and state, are substantial. The large number of cases in which it has been judicially determined that although withheld, they were nevertheless exercised, testifies to the need for a judicial institution to give our constitution substance and make it live. Those who would deny the Supreme Court jurisdiction to determine when legislative power has been abused, are obliged to tell us what equally independent body, if any, will make that determination.

Courts are not always popular. It is not endearing to have the function of telling a President or a Congress that they have overstepped their bounds. But some independent institution must have that function, or else the whole concept of government with limited powers is meaningless. The courts "were designed to be an intermediate body between the people and the legislature . . . to keep the latter within the limits assigned to their authority." (Hamilton, *Federalist No. 78*). By and large the federal judiciary has exercised this critical function with admirable self-restraint.

Finally, the jurisdiction-limiting bills raise serious doubts about the proponents' commitment to "states' rights" as well. It is true that the legislation would diminish federal limitations on state action in a number of ways. Yet, one of the prominent rights expressly reserved to the states under Article V of the Constitution is their role in the process by which our constitution may be amended. Amendments—whether proposed by a two-thirds vote of both houses or by a convention—must be ratified in either case by three-quarters of the states. The bills would change the constitution profoundly by simple legislative fiat, thereby by-passing the state legislatures entirely.

And so it is clear, at least to this observer, that this legislation is not "conservative" legislation at all, by any definition of that term, no matter what its sponsors may choose to call themselves. They would extinguish ability to determine whether the powers exercised by government exceed the powers granted to it by the people. Thus, they cannot lay claim to a conservatism grounded in a belief that government has "no powers of its own except those voluntarily granted to it by the people."

They would radically, and abruptly, change the structural power balance within government created two centuries ago and developed carefully since then. Thus, they can hardly lay claim to being conservatives in the tradition of Edmund Burke. Burke believed in change, because "a state without the means of some change is without the means of its conservation." But he believed in slow change, in preserving even while reforming.

Both the speed with which these legislators would make such fundamental changes, and the nature of the changes themselves, mark them as dangerous innovators, altogether too ready to experiment with the liberties of Americans. Individual liberty, if they have their way, will exist or not exist depending on the will of the majority of the legislature. Another observation by Burke is in order:

"To make a government requires no great prudence. Settle the seat of power; teach obedience, and the work is done. To give freedom is still more easy. It is not necessary to guide; it only requires to let go the rein. But to form a free government; that is to temper together these opposite elements of liberty and restraint in one consistent work, requires much thought, deep reflection, a sagacious, powerful, and combining mind. This I do not find in those who take the lead in the National Assembly."

Nor can it be found in those who are proposing the legislation in question.

In order to demonstrate that the legislation is not consistent with its proponents' asserted belief in a government of strictly limited powers, we assumed that the greatness of the American experiment lay in the concept of withheld powers. In truth, it did not; it lay in the concept of carefully balanced powers.

It is true that our state papers are permeated with the concept that power not directly or by necessary implication granted by the people may not be exercised. But the founding fathers intended nevertheless to create a powerful central government. They knew that government was no mere "convenience," as President Reagan called it. It was utterly essential if men were not to eat each other up alive in the orgy we call anarchy, and required substantial power to function properly. The enigma lay in the fact that while a powerful central government was essential, that very power could extinguish individual liberties. The circle was squared by "so contriving the interior structure of government," to use Hamilton's (or Madison's) phrase (Federalist No. 51) or creating such an "antagonism of influences" (to use Mill's phrase) as would prevent any single branch of government from obtaining too much power, and yet not paralyze the whole.

"Ambition must be made to counteract ambition. . . . It may be a reflection on human nature that such devices should be necessary to control the abuses of government. But what is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary." (Federalist No. 51)

The conventional wisdom about power—that it "pollutes whate'er it touches"; that it "tends to corrupt and absolute power corrupts absolutely"—is somewhat off the mark. Power, at least when it is not absolute, is not inherently good or bad. It is merely the magnifier of already existing characteristics of those who wield it; it is they who are good or bad.

More accurately, the founding fathers understood more profoundly than any other nation builders before or after them, that all of us are both good and bad and that this duality is the permanent nature of man. This was the "given," upon which the Constitution was built. To the degree that power magnifies what is bad rather than what is good, it can crush the liberties of all. Other, antagonistic power must confront it in constant balance.

At bottom our protection from government does not lie in the concept of "withheld powers." It lies rather in the exquisite intricacy of a system of potentially antagonistic influences which allow for the use, but prevent the abuse, of power.

The constitutional concept of "limited power" by virtue of the "people" withholding it, was accompanied by the grant of power to one of those antagonistic influences—the judiciary—to declare void the attempts by other branches of government to exceed the powers granted them. Stripped of all its pretenses, the current attempt to curb that judicial power is in reality an attempt to expand the power of the legislative branch and make it unlimited.

The legislation in question is an attempt at a legislative coup, a legislative power grab, no less than the attempt to pack the Supreme Court and the Saturday Night Massacre were executive power grabs.

CIVIL RIGHTS: DETOUR . . .

(By David S. Broder)

If you ask most people, they will tell you that the changes of the past generation have erased many of the regional differences in the United States and have blunted the sharp moral edges of controversy over public issues. The conventional wisdom is that we are a homogenized society, governed by people of adaptable conscience.

Both those beliefs were sharply challenged this month in the Senate debate over legislation to restrict the federal courts and the Justice Department from using busing as a remedy for proven cases of school segregation.

The final Senate vote on the bill containing the restrictive language was 57-37. Among senators from outside the Old Confederacy, the vote was 34-36 against the measure. Among the senators from the Confederate states, the vote was 23-1 in favor.

The one southern senator who voted against the bill was Dale Bumpers of Arkansas. Outside his own state, not much was made of the fact. But his action is more than a rebuke to the majority in the Senate, which pushed through this radical and dangerous abridgment of the independence of the judiciary and the Justice Department. It was equally a reprimand to those who tend to see politics as a "go-along-get-along" scramble for the safest perch from which to prepare for the next campaign.

The point is not to elevate Bumpers to political sainthood. He is as fallible in his judgment as anyone else. But he comes from a state that in 1980 voted out of office two other Democrats, President Carter and Gov. Bill Clinton, who were moderates on race issues and opposed to the court-stripping efforts. He knew what the risks were in the stand he took in isolating himself from every other southern senator of both parties, including his own colleague, David H. Pryor.

This is what he said in explaining his stand: "My words here this morning will not change a single vote. I rise to speak on this issue because I do not want either my children or my constituents to think I acquiesced in or only mildly objected to what we are about to do here. I want them and any person within earshot, or whoever may read my words to know that the beginning of the end of constitutional guarantees in this nation occurred over my strenuous and vehement protest."

The essence of his argument was the same one made by the American Bar Association, the chief justices of the state supreme courts, Sen. Barry M. Goldwater (R-Ariz.) and other conservative individuals and institutions, who were prepared to risk offending popular prejudices in order to protect the Constitution.

The argument was that in barring the Justice Department from seeking busing orders or the courts from issuing them (beyond five miles or 15 minutes' travel time), no matter what the findings about segregation in the school system, the Senate was short-circuiting the Constitution and undercutting the independence of collateral branches of government.

The argument did not prevail in the Senate, and it may not prevail in the House, where pressures are building on the Democratic leadership to permit a vote on a similar measure.

Even writing about Bumpers' stance, two weeks after the fact, might be considered irrelevant, were it not for one other point the senator made.

"Completely aside from my own chagrin, dismay and repugnance over our action today," Bumpers said, "I am equally appalled by the virtual silence of the press, which either does not understand the implications of this action . . . or just has not been paying attention."

The precedent of this law, he pointed out, can easily be used to restrict the federal courts from reviewing libel decisions against the standard of the First Amendment or examining police searches of newspaper premises for possible violation of the Fourth Amendment.

Of course, there was regular coverage of the nine-month effort by Sen. Lowell P. Weicker Jr. (R-Conn.) and a few others to block this legislation. But in journalistic shorthand, it was usually described as a controversy about busing and a liberal-conservative fight. The real constitutional issue was submerged.

In time, I think the South will be glad that one of its senators said what Bumpers said about this assault on the Constitution. And the press will be ashamed that more of us did not.

Mr. MATHIAS. Mr. President, I reserve the remainder of my time.

May I inquire how much time I have remaining?

The PRESIDING OFFICER. The Senator used 18 minutes.

Mr. MATHIAS. Then I presume I have 12 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. MATHIAS. I yield the floor.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. PACKWOOD. Mr. President, will the Senator from Pennsylvania yield for a moment?

Mr. SPECTER. I yield.

Mr. PACKWOOD. I had intended to speak after the distinguished Senator from Maryland and indicated I would rather listen to the Senator from Pennsylvania speak first because I find his remarks illuminating. But I ask unanimous consent that I might speak following the Senator from Pennsylvania.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **SPECTER**. Mr. President, the 57 to 37 Senate vote on March 2, 1982, limiting the jurisdiction of the Supreme Court of the United States on busing may well mark the beginning of the most serious threat to the Bill of Rights and constitutional government in the history of our Nation. While blacks and whites alike agree that busing has been a failure, the real impact of that vote was the precedent-limiting court jurisdiction rather than the underlying substantive issue on busing.

If Congress can limit the jurisdiction of the Supreme Court on busing, then Congress can limit the jurisdiction of the Supreme Court on first amendment rights such as freedom of religion, freedom of speech, and freedom of the press.

Bad as that is, that is not the worst of it. The worst of it is that, assuming Congress can limit the jurisdiction of the Supreme Court on busing, then Congress can limit the jurisdiction of the Supreme Court to decide what is the Supreme Court's jurisdiction.

Up to this moment, no one has contended that the Supreme Court cannot make the ultimate decision on whether a congressional enactment is unconstitutional. Since Marbury against Madison, no one has contested the Supreme Court's power to invalidate congressional enactments on constitutional grounds. Those who argue that Congress can limit the Court's jurisdiction do so on the basis of the Supreme Court in ex parte McCardle. Implicit in that argument, at least up to the present time, is the principle that the Supreme Court could invalidate on constitutional grounds any congressional enactment to limit the Court's jurisdiction whether by overruling or merely distinguishing the McCardle case.

But that advocacy position is subject to change, given the intensity of the issue and the implications of the power of Congress to limit the Court's jurisdiction.

When Congress asserts the power to limit the court's jurisdiction on busing or any other substantive issue, there is nothing to stop Congress from enacting supplemental legislation which would say: Congress hereby limits the jurisdiction of the Supreme Court to decide whether it has jurisdiction over the busing legislation or over this legislation which takes away the Court's jurisdiction to decide whether it had jurisdiction.

Then there would be constitutional gridlock.

Given Marbury against Madison and the high improbability of the Supreme Court, or for that matter any governmental body, voluntarily ceding longstanding authority, the Supreme Court would doubtless declare unconstitutional a congressional enactment which says that the Court does not have the jurisdiction to decide the constitutionality of the legislation taking away the Court's jurisdiction.

After that decision, Congress could say the Supreme Court's action was a nullity just like the Supreme Court had said that the congressional action was nullity.

What then would be the next step?

In theory, the executive branch, through the U.S. Marshals has the responsibility to carry out the Court's orders. Except in rare situations, the beauty of our judicial system is that the Court's orders never need to be carried out. Customarily, no matter how bitter the dispute, the losing litigant accepts the decision of the highest appellate court and abides by that decision. There have been rare exceptions when President Eisenhower sent troops to Little Rock or when President Kennedy sent the Deputy Attorney General to Alabama on school segregation cases.

In such a gridlock between Congress and the Court, the issue might rest with the U.S. marshal, or his superiors, and then we would be back to days when Marshal Matt Dillon was the only law around.

Hopefully, events will not be carried so far. I believe that when the American people realize the jeopardy for constitutional government and the Bill of Rights, the American people will speak as one that they value our constitutional form of government much more than any single issue or combination of issues.

It is in my judgment insufficient to say that the congressional action deals only with remedies and not with constitutional rights. If a right cannot be enforced, it immediately ceases to be a right. Rights and remedies are, realistically viewed, mirror images that semantics cannot gloss over.

The success of the American experiment and the American dream has been rooted in the freedom which flows from the Bill of Rights. To preserve that system and constitutional government, let us abandon any further congressional effort to limit the jurisdiction of the Supreme Court and the subordinate Federal courts of the United States.

Mr. President, I now yield the floor to my distinguished colleague from the State of Oregon.

The **PRESIDING OFFICER**. The Senator from Oregon.

THE JURISDICTION OF FEDERAL COURTS

Mr. **PACKWOOD**. Mr. President, as we move into the discussion of the issue of denying to the Federal courts jurisdiction over certain cases, the argument is going to be raised on both sides as to whether or not we have the constitutional right to do so. Those who want to limit the Federal courts' jurisdiction will cite a variety of cases, including ex parte McCardle, to indicate that this Congress has the right to deny to this district court of appeals or, for that matter, the U.S. Supreme Court jurisdiction over any issues we want to take away from them.

Others will cite the contrary. They will distinguish McCardle as an unusual case that does not hold what its proponents say it does.

It is fair to say, however, that whatever we pass in Congress limiting the courts' jurisdiction will be tested in court as to whether or not it is constitutional.

I think for us to ask here whether what we are attempting to pass is constitutional begs the question. I think we would be wiser to ask: Is what we are attempting to pass good policy? Should this Congress be involved in taking away from the jurisdiction of the Federal courts in general, and the Supreme Court specifically, jurisdiction over issues because we do not like the decisions they have made?

That is what the nub of this controversy is, and I would like to think that at bottom this Congress as a matter of policy, before we ever got to the issue of constitutionality, would say:

> For the sake of all of our liberties if we do not like Supreme Court decisions we will try to change them in the way that our founders intended, which was a constitutional amendment rather than attempting to take away the jurisdiction by statute which requires only a majority vote.

I know the arguments that are made: Busing never was an issue at the time this Constitution was founded. Nobody had any concept of busing and racial integration. Besides that, the public is overwhelmingly opposed to busing and, therefore, take the jurisdiction of the Federal courts over the issue of busing away from them. The public does not support busing.

On the issue of prayer: Polls will be cited to show that, perhaps, by a margin of 2 to 1 the public wants to reinstitute prayer in public schools. so the proponents of court curtailment would say the public wants prayer back, "Take away the jurisdiction of the Supreme Court."

But when we come to the issue of abortion, on that subject in terms of polls by roughly a margin of 2 to 1, the public says:

> We think a woman should have a right to make a choice whether or not she wants an abortion. We support the Supreme Court's decision giving a woman that choice.

At that stage those who want to take the jurisdiction of the Court away say:

> Oh, well, we don't care what the public wants. This is murder.

Well, my fellow Senators, you cannot have it both ways. You cannot say "We will vote to take away from the Court all of those rights that the public by a majority vote decides they do not like the Court's decision on," and, at the same time, say, "Well, that does not count if the public opinion is not on our side."

I would like to think we have not come to a place in this country where fundamental liberties are going to be decided by a 49- to 51-percent vote, because if we have reached that, then picture this situation, and as surely as we are in this Chamber today it will happen.

You have a kidnap case, perhaps a Lindbergh situation or Patty Hearst situation. A person is caught and accused of the kidnaping. Let us assume a murder had followed after the kidnaping.

The issue goes to a State court for trial. Some statements that were made by the defendant to the police officers or, perhaps, the prosecuting attorney are admitted in court over the objection of the defense. The defendant does not take the stand and the defendant is convicted.

Then the case goes to the U.S. Supreme Court eventually, and the Supreme Court reverses the decision and they say, "The entry of those documents violated the defendant's right against self-incrimination."

If the passion in this country is as high as it was at the time of the Lindbergh kidnaping and murder or as it was at the time of the Patty Hearst kidnaping, had she been murdered, I can picture very easily a bill sliding through this Congress which would say that henceforth the Federal courts will be denied the right to pass on the issue of self-incrimination.

In a slightly analogous situation, picture a heyday of our fear of communism, radicals, and you have a situation where the local police break into someone's house, seize evidence, the evidence is quite incriminating as to radical or subversive activities.

Defendants are put on trial and convicted in the State court. The case goes to the Supreme Court and the Supreme Court reverses it saying that the seizure of the evidence violates the constitutional protection against search and seizure. Again this Congress, worked up by public opinion, passes a law that says that henceforth the Federal courts will have no right to pass on cases involving the constitutional protection against search and seizure.

And it can go right on—freedom of speech, freedom of the press—because there are moments when this country becomes very agitated because of what certain journalists write or say. They offend us on occasion. They violate our sense of proprieties or morals or patriotism. "They should not be allowed to say that," we say. "Take away from the Federal courts their protections."

My fellow Senators, I would like to think that we have reached a place in this country where we have enough history behind us that we realize the civil liberties of every one of us is the civil liberties of the least of us.

Unfortunately, for those in the vanguard of the defense of civil liberties it is often not a defense of some properly suited short-haired attractive defendant. It is often the defense of a wild-eyed, wooly haired, radical-looking defendant who runs against the grain of America. And we defend his rights because if his can be taken away procedurally, ours can be taken away procedurally.

It is interesting to note that the effort to take away court jurisdiction, in terms of whole great bodies of cases, over whole subjects, is relatively new to this Republic.

Now, the distinguished Senator from Maryland indicated we have tried to take away jurisdiction of the courts before in our history, and indeed we have. But it was jurisdiction over a relatively narrow issue. In the case of McArdle, right after the Civil War, it had to do with an issue of a statutorily created habeas corpus, which the Congress, in the middle of the case, and, as a matter of fact, after the case had been argued before the Supreme Court and before the decision, repealed the law.

I quote, however, from a memorandum from the Library of Congress by Leland Beck, one of their legislative attorneys, in which he said:

> Prior to 1956 there do not appear to have been any substantial proposals to except particular classes of cases from the Court's jurisdiction * * *
>
> Beginning in 1956, numerous proposals have been introduced to except a particular specie of cases from the Court's jurisdiction.

Mr. President, I ask unanimous consent that that entire memo be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HISTORICAL PROPOSALS TO EXCEPT PARTICULAR CASES FROM THE APPELLATE JURISDICTION OF THE SUPREME COURT OF THE UNITED STATES

(By Leland E. Beck)

This report reviews the major historical proposals to except particular cases from the Supreme Court's appellate jurisdiction. The Constitutional premise for these bills is the Exceptions and Regulations Clause of Article III, § 2, of the Constitution. After enumerating the types of jurisdiction contemplated in the Constitution and specifying when that jurisdiction is to be trial in nature, the Constitution provides: "In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Prior to 1956 there do not appear to have been any substantial proposals to except particular classes of cases from the Court's jurisdiction. The authority exercised by Congress was limited to the regulation of processes of review by the Court. Numerous calls were made in the early days of the Republic for the abolition of the Court's jurisdiction to review decisions of the State courts of last resort, but none of these proposals succeeded; on the contrary, there was a steady increase in the scope of both the Supreme and inferior federal courts' jurisdiction.[1]

Beginning in 1956, numerous proposals have been introduced to except a particular specie of cases from the Court's jurisdiction.[2] The purpose of these proposals has been to stop the Court from further elaborating particular areas of constitutional law. The proposals have included both generic rights and particular types of prospective legislative review, including: due process in subversive activities regulation, contempt of Congress, desegregation of schools, reapportionment of State legislative bodies, regulation of obscenity, prayer in public schools, abortion, gender discrimination in military conscription, and others. We will here review the proposals which have received serious Congressional attention.

The first bill to receive formidable consideration was introduced by Senator Jenner in 1957. S. 2646 proposed to except from the Court's jurisdiction "any case where there is drawn into question the validity of" five different areas of governmental regulation or activity. At the time of hearings, the bill provided:

> Notwithstanding the provisions of sections 1253, 1254, 1257 of this chapter, the Supreme Court shall have no jursidiction to review, either by appeal, writ of certiorari, or otherwise, any case where there is drawn into question the validity of—
>
> (1) any function or practice of, or the jurisdiction of, any committee or subcommittee of the United States Congress, or any action or proceeding against a witness charged with contempt of Congress;
>
> (2) any action, function, or practice of, or the jurisdiction of, any officer or agency of the executive branch of the Federal Government in the Administration of any program established pursuant to an Act of Congress or otherwise for the elimination from service as employees in the executive branch of individuals whose retention may impair the security of the United States Government;
>
> (3) any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State;
>
> (4) any rule, bylaw, or regulation adopted by a school board, board of education, board of trustees, or similar body, concerning subversive activities in its teaching body; and
>
> (5) any law, regulation of any State, or of any board of bar examiners or similar body, of any action or proceeding taken pursuant to any such law, rule, or regulation pertaining to the admission of persons to the practice of law within such State.[3]

By way of correlation, the first exception was founded on the authority of a Congressional Committee regarding witnesses and the power of contempt of Congress, and was in response to the Court's decision in *Watkins* v. *United States*.[4] Second, the bill would have removed jurisdiction to review any program to assure the loyalty of government employees, in response to the Court's decisions in *Service* v. *Dulles*[5] and *Cole* v. *Young*.[6] The third excision of jurisdiction centered on state "subversive activities" controls in response to, among other cases, *Pennsylvania* v. *Nelson*.[7] A still more

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Footnotes at end of article.

particular jurisdictional removal centered on rules or regulations of Boards of Education and like bodies concerning "subversive activities" by members of their teaching staff in response to the Court's decision in *Slochower* v. *Board of Higher Education.*[8] Finally the Jenner bill would have removed jurisdiction to review bar admissions practices and policies, a response to *Schware* v. *Board of Bar Examiners*[9] and *Konigsberg* v. *State Bar of California.*[10] All of these decisions were handed down during 1956 and 1957 and limited the Cold War loyalty and security programs. The bill was thus a major political response tuned to the perceived crisis of its time. The style of the bill, however, appears to be the first attempt to utilize in the strict linguistic sense the power of Congress to make "exceptions" to the Court's appellate jursidiction.

Hearings were held on the bill and a substantially revised and more limited version was reported to the floor of the Senate.[11] After it became apparent that the leadership would not call up the Jenner bill, proponents of the measure moved to attach it to another bill dealing with the federal courts. Both the new parent bill and the amendment, however, were laid on the table and were extinguished at adjournment sine die.[12] Less problematic responses to another court decision were more successful.[13]

A second major attempt to remove a particular subject matter from the Court's appellate jurisdiction was in response to the reapportionment decisions: *Baker* v. *Carr*[14] and *Reynolds* v. *Simms.*[15] H.R. 11926 was introduced in 1964 by Congressman Tuck to remove the Court's appellate jurisdiction and to deprive the inferior federal courts of trial jurisdiction in all cases relating to the apportionment of representation in state legislative bodies.[16] The bill was referred to the House Committee on the Judiciary, but the Committee gave no evidence of intention to act on the bill. Therefore, proponents of the measure introduced a procedural resolution, which was referred to the Rules Committee and reported out, to discharge the Judiciary Committee from consideration of the bill and calendar the bill for immediate action by the full House.[17] After an acrimonious debate, the resolution was passed and the bill was called for consideration.[18] By nearly the same margin, the bill was subsequently passed.[19] However, the Tuck bill died in the Senate without further action being taken.[20] In the case of the Tuck bill, the House was affirmatively on record in a formidable way as disapproving of a particular doctrine enunciated by the Court, and one peculiarly close to the political question doctrine of justiciability. The relevant language of the Tuck bill was as follows:

> The Supreme Court shall not have the right to review the action of a Federal court or a state court of last resort concerning any action taken upon a petition or complaint seeking to apportion or reapportiòn any legislature of any State of the Union or any branch thereof. . . .
>
> (c) The district courts shall not have jurisdiction to entertain any petition or complaint seeking to apportion or reapportion the legislature of any State of the Union or any branch thereof.[21]

The lack of action in the Senate on this bill is, however, illusory. The Senate had considered a bill introduced by Senator Dirksen which would have required that in cases before the federal courts which complained of malapportionment, the court, on petition, would be required to stay further action until two regular sessions of the legislature involved had passed. The House action in passage of a stronger measure was seen as a possible method of acquiring the Senate's approval of a lesser version; in fact, this was not to be successful.[22]

Other than the Jenner Bill in 1958 and the Tuck Bill in 1964, no substantial activity took place in Congress to except subjects from the appellate jurisdiction of the Court until the spring of 1979. During debate on the establishment of the Department of Education, Senator Helms proposed an amendment to exclude from the Court's appellate jurisdiction, and the inferior federal court's jurisdiction as a whole, any cases drawing into question the validity of state or local statutes or ordinances permitting voluntary prayer in public schools or other public buildings.[23]

Subsequently, on the premise that the Department of Education bill would not otherwise pass, the Helms Amendment was added to a bill abolishing for the most part the mandatory jurisdiction of the Court—i.e. The Appeals Docket—thus permitting the Court complete control and discretion as to what cases it would hear.[24] Thereafter, the Senate reconsidered the Helms Amendment as added to the education bill and tabled it; both the Department of Education bill and the Supreme Court jurisdiction bill was passed and sent to the House.[25]

In the House, the Supreme Court jurisdiction bill, with the Helms amendment, was referred to the Committee on the Judiciary, but the Committee took no action. Congressman Crane filed a petition to discharge the Committee on the Judiciary of further responsibility for the bill, thus allowing individual Members to indicate whether they desired the bill brought before the full House. The petition for discharge, which is filed with the Rules Committee, is essentially the written version of the up-or-down vote on the procedural resolution which brought the Tuck bill to the floor of the House in 1964, and requires a majority of Members' signatures to become effective. Thereafter the Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice held hearings on the school prayer amendment.[26] However, neither the Committee nor the discharge petition brought the bill to the floor and the measure died at adjournment.

At the beginning of the 97th Congress, Senator Helms reintroduced his proposal as a free standing bill. On the House side, Representative Crane introduced an identical bill. The language is as follows:

> § 1259 Appellate Jurisdiction; limitations
>
> (a) Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.
>
> For the purposes of this section, the term 'voluntary prayer' shall not include any prayer composed by an official or employee of a State or local government agency.
>
> § 1364 Limitations on jurisdiction
>
> Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title.[27]

Like its predecessors, the Helms bill responds to a perceived erroneous interpretation of the Constitution by the Court, in this instance to the cases of *Engel* v. *Vitale*[28] and *Abington School District* v. *Schempp.*[29] *Engel* held that the regulated recitation of the "Regents' Prayer" at the beginning of each school day violated the Establishment Clause of the First Amendment. *Schempp* held that mandatory Bible reading violated the Establishment Clause. The doctrinal development of the Establishment and Free Exercise Clauses has been steady since the mid-1960's. Most recently, the Court held that a University could not prohibit religious services held by students at its facilities, in *Widmar* v. *Vincent.*[30] The bills to limit jurisdiction in instances of State regulation relating to voluntary school prayer would appear to preclude adjudications such as *Widmar.*[31] The bills introduced in the 97th Congress are pending before the respective Committees on the Judiciary.

The only other substantial action in this area occurred in 1968 during consideration of what is now the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. § 3500 *et seq.* (1976). Similar provisions were included to limit the power of the Court in State criminal confessions cases, but these were dropped before passage.[32] Other bills have not received attention on either Floor; the bulk of proposals introduced to limit the appellate jurisdiction or remedies of the Supreme Court have been reintroductions of prior bills.

FOOTNOTES

[1] *See, generally,* F. Frankfurter and J. Landis, *The Business of the Supreme Court* (1928); C. Warren, *The Supreme Court in United States History* (3 vols., 1923); P. Freund, ed., *History of the Supreme Court of the United States* (Holmes' Devise, 4 of 11 vols., beginning in 1971).

[2] We would suggest that in excess of 100 such bills exist if the controlling factor is the exception of a particular specie of case, but there is a marked variation as to the inclusion of inferior courts, whether the bills are effectively limitations on remedy, not authority to hear and decide, etc.

[3] S. 2646, 85th Cong., 1st Sess. (1957). *Limitation of Appellate Jurisdiction of the United States Supreme Court,* Hearings before a Subcommittee to Investigate the Administration of the Internal Security Act and other Internal Security Laws, Committee on the Judiciary, U.S. Senate, 85th Cong., 1st and 2d Sess. (1958) (4 vols.)

[4] 354 U.S. 178 (1957).

[5] 354 U.S. 363 (1957).

[6] 351 U.S. 536 (1956).

[7] 350 U.S. 497 (1956).

[8] 350 U.S. 551 (1956).

[9] 353 U.S. 232 (1957).

[10] 353 U.S. 252 (1957).

[11] S. Rept. 85-1586, 85th Cong., 2d Sess. (May 15, 1958).

[12] 104 Cong. Rec. 18635-18690 (1958). Cf. H.R. 10775, 85th Cong., 2d Sess. (1958). See, generally, W. Murphy, *Congress and the Court: A Case Study in the American Political Process* (Chicago: University of Chicago Press, 1962); C. Pritchett, *Congress versus the Supreme Court,* 1957-1960 (Minneapolis: University of Minnesota Press, 1961).

[13] The lack of singularity in orientation is perhaps best illustrated in bills which were also introduced in the House and Senate to substantively alter the process under the *Jencks* rule that sources of information must be disclosed to defense counsel and statements provided. See, *Jencks* v. *United States,* 353 U.S. 657 (1957). The first round of substantive debates ended when a point of order was raised in the Senate that the conference report of a new bill to resolve the differences between the Houses included a compromise of new language, and therefore, the new language was not germane. The second round of substantive debate resulted in the Jencks Act, 18 U.S.C. § 3500 (1976). See, W. Murphy, *Congress and the Court: A Case Study in the American Political Process, supra* note 12.

[14] 369 U.S. 186 (1962).

[15] 377 U.S. 533 (1964).

[16] H.R. 11926, 88th Cong., 2d Sess. (1964).

[17] H. Res. 893, 88th Cong., 2d Sess. (1964).

[18] 110 Cong. Rec. 20213-20221 (1964).

[19] 110 Cong. Rec. 20221 (1964).

[20] 110 Cong. Rec. 21070 (1964). Because of the procedure taken in the House, there is no Committee Report in support of the bill; indeed, the House Judiciary Committee did not hold hearings.

[21] *Supra*, note 16.

[22] R. McKay, Court, Congress and Reapportionment, 63 Mich. L. Rev. 255, 268 (1964). A conference between Senators and Justice Department officials produced an amended version which was substituted, 110 Cong. Rec. 18846 (August 13, 1964), but the bill died when a motion to invoke cloture on debate failed by a margin of thirty to sixty-three. 110 Cong. Rec. 21236 (September 10, 1964).

[23] S. 210, 96th Cong. 1st Sess., (1979). 125 Cong. Rec. 7577-7581 (April 5, 1979).

[24] S. 450, 96th Cong., 1st Sess. 1979).

[25] 125 Cong. Rec. 7630-7657 (April 9, 1979).

[26] *Prayer in Public Schools and Buildings*, Hearings before the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee on the Judiciary, U.S. House of Representatives, 96th Cong., 2d Sess. (1980).

[27] S. 481, H.R. 865, 97th Cong., 1st Sess. (1981).

[28] 370 U.S. 421 (1962).

[29] 374 U.S. 203 (1963).

[30] —U.S.—(No. 80-689, December 8, 1981). *Widmar* involved a regulation which prohibited religious services on university property by recognized student organizations while other non-religious services could be held by similar groups. The Court held that the regulation was not a content-neutral regulation of speech necessary to serve a compelling state interest.

[31] The primary distinction in the factual settings between elementary and secondary schools on the one hand and colleges and universities on the other has been recognized in constitutional doctrine by the Court. However, the use of the generic term "schools" in legislation would normally require a broader reading inclusive of colleges, universities and other institutions of post-secondary education.

[32] S. 917, Title II, 90th Cong., 1st Sess. (1967). *See, The Supreme Court* Hearings before the Subcommittee on Separation of Powers, Committee on the Judiciary, U.S. Senate, 90th Cong. 2d Sess. (1968).

Mr. PACKWOOD. Mr. President, I ask unanimous consent that a memo of January 18, 1982, by David Ackerman, of the Library of Congress, entitled "Adoption of Bills Limiting Federal Court Jurisdiction Over Prayer, Busing, and Abortion by Either House or Senate, and Bills Pending in Present Congress" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADOPTION OF BILLS LIMITING FEDERAL COURT JURISDICTION OVER PRAYER, BUSING, AND ABORTION BY EITHER HOUSE OR SENATE, AND BILLS PENDING IN PRESENT CONGRESS

(By David M. Ackerman)

This is in response to your request for a listing of bills limiting Federal court jurisdiction over prayer, busing, or abortion which have been adopted by either the House or Senate, and for a listing and brief description of such bills pending in the current Congress.

With respect to prayer, the Senate on April 9, 1979, adopted an amendment sponsored by Sen. HELMS denying the Federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings.

Several days earlier the Senate had initially added this amendment to the bill establishing the Department of Education by a vote of 47-37 after rejecting, 43-43, a motion to table the amendment.[1] But on April 9 the Senate deleted the amendment from that bill and added it instead to a minor bill (S. 450) which specifically concerned federal court jurisdiction.[2] That bill was then adopted by the Senate and became the subject both of an unsuccessful discharge petition campaign in the House and of hearings by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee. But no further legislative action was taken on the bill.

With respect to abortion, neither the House nor the Senate has adopted any restriction on the federal courts' jurisdiction, although the Subcommittee on the Separation of Powers of the Senate Judiciary Committee has approved a bill (S. 158) which would, inter alia, deny the federal courts jurisdiction to issue any temporary or permanent injunction or declaratory judgment with respect to any state statute or municipal ordinance protecting fetuses or regulating abortions and an identical bill (S. 1741) has been placed directly on the Senate calendar.

Congressional action with respect to limitations on the jurisdiction of the courts to employ busing as a remedy in desegregation cases is detailed in the enclosed CRS report, "A Legislative History of Federal Anti-Busing Legislation: 1964 To 1981."

With respect to bills in this Congress relating to prayer, abortion, and busing which would limit or eliminate the jurisdiction of the federal courts, three constitutional amendments and thirty statutory limitations have been proposed. Each of the constitutional amendments—H.J. Res. 56, H.J. Res. 91, and H.J. Res. 95—would bar the federal courts from requiring that a student attend a particular school because of race. Eight of the proposed bills—H.R. 340, H.R. 761, H.R. 869, H.R 1079, H.R. 1180, H.R. 3332, S. 1005, and S. 1647—would similarly extinguish federal court jurisdiction to order the attendance of children at particular schools, while three bills—H.R. 2047, S. 528, and S. 1743—would limit federal court jurisdiction to order the transportation of any student except in specified circumstances. Six bills—H.R. 73, H.R. 900, H.R. 3225, S. 158, S. 583, and S. 1741—would bar the lower federal courts from issuing any injunctive or declaratory relief with respect to state statutes and municipal ordinances protecting fetuses or limiting abortions, while another bill—H.R. 867—would eliminate all original and appellate federal court jurisdiction over matters relating to abortion. Eleven bills—H.R. 72, H.R. 311, H.R. 326, H.R. 408, H.R. 865, H.R. 989, H.R. 1335, H.R. 2347, H.R. 4756, S. 481, and S. 1742—would eliminate all original and federal court jurisdiction over state statutes and regulations relating to voluntary prayer in public buildings. Finally, one bill—H.R. 114—would bar the federal courts from modifying any order of a state court that is or was reviewable in the highest court of a state. Enclosed is a more detailed summary of most, although not all, of these bills.

I hope the above is responsive to your request. If we may be of additional assistance, please call on us.

Mr. PACKWOOD. Mr. President, as the distinguished Senator from Maryland has indicated, the attempts to limit Supreme Court jurisdiction or Federal court jurisdiction have not solely been limited to the issues of busing, prayer and abortion. Those are the hot issues right now. But in the memorandum I just offered for insertion in the RECORD you will find all kind of efforts to limit Federal court jurisdiction over things that some Member of Congress is offended by. Often the argument is made, "Well, this Congress would not attempt to limit court jurisdiction over real civil liberties." And the proponents, the people who make those statements, try to distinguish between what are regarded as historical traditional civil liberties in this country—press, speech, religion—and what they regard as newly-established civil liberties—abortion or the prohibition against prayer. They say, "We would not try to limit the right of the court in terms of real civil liberties."

Mr. President, this Senate has attempted to do just that. There is no question but what the establishment of religion clause in the first amendment in our bill of rights is one of the original civil liberties of this country. We added that in our first amendment because we had seen the danger of an established church as it existed in Great Britain and we wanted none of it here.

And yet on April 9, 1979, this Senate passed an amendment attempting to take away from the Federal courts the right to review the issue of voluntary school prayer. You can crisscross it any way you want it, but the issue of school prayer, voluntary or otherwise, is an issue involving the establishment of religion and one that the court has had a right to pass on from the time of the founding of this country.

Again, I would like to quote from a memo from the Library of Congress, entitled "The Constitutionality of the Withdrawal of All Federal Court Jurisdiction Over Questions Involving Sponsored Prayer in Public Schools and Public Buildings."

> On April 9, 1979, the Senate adopted an amendment which would deny the federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over "any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings."

I continue to quote from the memo:

> That is, under this amendment, sponsored by Senator Helms, no case challenging the constitutionality of a state statute relating to voluntary prayer in the public schools

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[1] 125 *Cong. Rec.* 7577-7581 (April 5, 1979).

[2] On April 9 the Senate added an identical amendment to S. 450 by a vote of 51-40, then voted to reconsider its earlier amendment to the Department of Education bill by a margin of 50-43 and voted to table that amendment, 53-40. See 125 *Cong. Rec.* 7630-7657 (April 9, 1979).

could be heard in any federal district court. Such cases could be adjudicated only in state courts. Moreover, no decision by the highest court of any state concerning such a statute or regulation could be reviewed in the Supreme Court.

In the later stages of this memo the author concludes as follows:

As noted above, Congress has since the beginning of the Nation provided for Supreme Court review of State court decisions involving substantial questions of Federal law. Thus, the Senate amendment to S. 450 would, if enacted into law, be an unprecedented limitation on the jurisdiction of the Federal courts.

Mr. President, I ask unanimous consent that this memorandum from the Library of Congress be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C.

THE CONSTITUTIONALITY OF THE WITHDRAWAL OF ALL FEDERAL COURT JURISDICTION OVER QUESTIONS INVOLVING STATE-SPONSORED PRAYER IN PUBLIC SCHOOLS AND PUBLIC BUILDINGS

In the case of *Engel* v. *Vitale*,[1] the Supreme Court held the establishment of religion clause of the First Amendment to be violated by a state requirement that school children say aloud at the beginning of each school day the following prayer:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

The following year the Court similarly held unconstitutional, in the case of *Abington School District* v. *Schempp*,[2] a state requirement that at least ten verses from the Holy Bible be read at the beginning of each school day and that students join in the unison recital of the Lord's Prayer. The Court found these requirements to constitute establishments of religion notwithstanding that in both cases the states made provision for the excusal or nonparticipation of students either at their own request or at the request of their parent(s) or guardian(s).

On April 9, 1979, the Senate adopted an amendment which would deny the federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over "any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings."[3]

That is, under this amendment, sponsored by Senator Helms, no case challenging the constitutionality of a state statute relating to voluntary prayer in the public schools could be heard in any federal district court. Such cases could be adjudicated only in state courts. Moreover, no decision by the highest court of any state concerning such a statute or regulation could be reviewed in the Supreme Court. Each state's highest court would be its own final arbiter in such cases. *Engel* and *Schempp* would continue to stand as controlling precedents, but future litigation on the issue could be heard only in state courts, with no opportunity for review by any federal court.

The issue addressed in this report is whether Congress has the constitutional power to eliminate completely all federal court jurisdiction over a matter involving a constitutional right. Assuming the efficacy of the Senate-adopted amendment,[4] the constitutional right that is implicated is the First Amendment right to be free from governmental establishments of religion, in this instance, as held by the Supreme Court in *Engel* and *Schempp*, state-sponsored voluntary prayer in the public schools. The Senate amendment would remove *all* federal court jurisdiction, both original and appellate, over all cases related to such state-sponsored prayer. The issue is, does Congress have that power under the Constitution?

CONGRESSIONAL POWER OVER THE JURISDICTION OF THE LOWER FEDERAL COURTS

Article III of the Constitution defines the judicial power of the United States in the following terms:

"Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State;—between Citizens of different States; and Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects."

Article III does not by its terms create any of the inferior federal courts, but instead confers that power on Congress:

"Section 1. The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. . . .

This Congressional power is also affirmed in Article I of the Constitution concerning the legislative power, which states:

"Section 8. The Congress shall have the Power . . . To constitute Tribunals inferior to the Supreme Court."

It would appear to be generally conceded that under the provisions in Articles I and III Congress has extensive control over the jurisdiction of the lower federal courts. In *Cary* v. *Curtis*,[5] for instance, the Supreme Court stated:

". . . the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good. . . . (T)he organization of the judicial power, the definition and distribution of the subjects of jurisdiction in the federal tribunals, and the modes of their action and authority, have been, and of right must be, the work of the legislature. 44 U.S. (3 Howard) at 245."

Similarly, in *Palmore* v. *United States*[6] the Court construed Congress' power over the jurisdiction of the inferior federal courts to be virtually plenary:

"Article III describes the judicial power as extending to all cases, among others, arising under the laws of the United States; but, aside from this Court, the power is vested 'in such inferior Courts as the Congress may from time to time ordain and establish.' The decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create inferior Art. III courts to hear and decide cases within the judicial power of the United States * * *. Nor, if inferior federal courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Art. III. 411 U.S. 401."

And again in *Kline* v. *Burke Construction Co.*[7] the court stated:

"The Constitution simply gives to the inferior courts the capacity to take jurisdiction in the enumerated cases, but it requires an act of Congress to confer it. And the jurisdiction having been conferred may, at the will of Congress, be taken away in whole or in part * * *. 260 U.S. at 234."

It has sometimes been argued that the language of Article III compels Congress to vest the entire judicial power, as defined by that Article, in some federal court,[8] but Congressional practice and the course of judicial decisions since 1789 would seem to sanction extensive Congressional discretion in this matter. Not until 1875, for instance, did Congress vest the inferior federal courts with general federal question jurisdiction,[9] and it has consistently predicated such jurisdiction on a minimum amount in controversy. Moreover, the Supreme Court has consistently upheld such Congressional actions over the jurisdiction of the inferior federal courts as (1) withdrawing jurisdiction even as to pending cases,[10] (2) delimiting federal court jurisdiction over a particular cause of action to a single tribunal,[11] and (3) selectively withdrawing the jurisdiction of the lower federal courts to adjudicate particular issues or to order particular remedies.[12]

Nonetheless, it has occasionally been suggested that Congressional power to withdraw jurisdiction once granted to the Federal courts may be subject to other Constitutional provisions. For instance, in the Portal-to-Portal Act of 1947[13] Congress removed federal court jurisdiction over suits claiming overtime compensation, under the Fair Labor Standards Act,[14] for activities prior and subsequent to the principal employment activity of the day. The Supreme Court had held such activities as walking to and from employee's work stations, changing clothes, and cleaning up to be compensable under the FLSA.[15] Congress responded by passing the Portal-to-Portal Act defining such activities as not compensable and, further, removing all federal court jurisdiction over suits claiming compensation for such activities. In the leading case of *Battaglia* v. *General Motors Corporation*,[16] however, the U.S. Court of Appeals for the Second Circuit held the validity of the withdrawal of jurisdiction to depend on the validity of Congress' redefinition of compensable activities:

"We think . . . that the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is to say, while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of courts other than the Supreme

Court, it must not so exercise that power as to deprive any person of life, liberty, or property without due process of law or to take private property without just compensation. Thus regardless of whether subdivision (d) of section 2 (withdrawing federal court jurisdiction) had an independent end in itself, if one of its effects would be to deprive appellants of property without due process or just compensation, it would be invalid, 169 F. 2d at 257."

In other words, the court said that Congress cannot use its power over jurisdiction to deprive persons of rights otherwise protected by the Constitution.

Similarly, several cases suggest that Congress may exceed its power over jurisdiction if it uses it to deny a person all judicial remedies to a claimed deprivation of a federal right. In *Cary* v. *Curtis, supra,* Justice McLean argued in dissent that the majority misconstrued the effect of a Congressional statute. The statute in question had the effect of barring the traditional remedy of suing a customs collector personally for duties paid under protest or for indeterminate assessment. The statute required the collector to turn the moneys over to the Treasury upon receipt and authorized an appeal to the Secretary of the Treasury by complainants, without any judicial review. Justice McLean argues that this statute submitted citizens to summary executive action without any possibility of judicial review, and that, so construed, the statute exceeded Congress' power over the courts. The statute, he said, violated the independence and necessary function of the judiciary:

"In this aspect, then, I say, the act is unconstitutional and void. It not only strikes down the rights of the citizens, but it inflicts a blow on the judicial power of the country. It unites, in the same department, the executive and judicial power. . . . In my judgment, no principle can be more dangerous than the one mentioned in this case. It covers from legal responsibility executive officers. . . . If he cannot be sued, what may he not do with impunity. 44 U.S. (3 Howard) at 266 (McLean, J., dissenting)."

The majority avoided the force of this argument by saying that the statute in question did *not* have the asserted effect, that other avenues of judicial redress remained open to aggrieved citizens.

Again, in *Yakus* v. *United States, supra,* the Court upheld the unusual judicial review provisions of the Emergency Price Control Act which barred the issue of the validity of regulations issued under the Act from being raised as a defense in criminal prosecutions of alleged violations of the regulations. The Act provided that the validity of the regulations could be challenged only upon an administrative protest to the Administrator and subsequently upon review of his action by a specially-created Emergency Court of Appeals. In upholding this unusual procedure, the Court seemingly implied that some judicial review was a constitutional necessity:

"Unlike most penal statutes and regulations whose validity can be determined only by running the risk of violation, the present statute provides a mode of testing the validity of a regulation by an independent administrative proceeding. There is no constitutional requirement that that test be made in one tribunal rather than in another, so long as there is an opportunity to be heard and for judicial review which satisfies the demands of due process, as is the case here. 321 U.S. at 444."

In sum, it is clear that Congress' power over the jurisdiction of the inferior federal courts is extensive. Moreover, it should also be noted that even in those cases where the courts have suggested possible limitations on Congress' power, they have upheld the particular expressions of that power in the cases before them. In other words, the suggested limitations have not yet been employed by the courts as actual constraints.

CONGRESSIONAL JURISDICTION OVER THE APPELLATE JURISDICTION OF THE SUPREME COURT

Congressional power over the appellate jurisdiction of the Supreme Court would appear to be more problematic. In part this is due to the language of Article III itself. As noted above, Section 1 of Article III provides that:

"The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."

More specifically, Section 2 of Article III defines the original and appellate jurisdiction of the Supreme Court as follows:

"In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Thus, Article III confines Congessional power over the appellate jurisdiction of the Supreme Court to the making of "Exceptions and . . . Regulations . . ." a power seemingly less complete on its face than Congress' power to "ordain and establish" the inferior courts. Uncertainty also stems from the fact that beginning with the Judiciary Act of 1789[17] Congress has made no attempt to sharply curtail the appelate jurisdiction of the Supreme Court, and thus the possible limits of its power have not been fully tested. This is particularly true with respect to Supreme Court review of state court decisions concerning federal rights:

"(T)he Supreme Court has always had authority, under certain circumstances, to review a final judgment or decree of the highest court of a state in which a decision could be had, where . . . the judgment turns upon a substantial federal question *Moore's Federal Practice,* Vol. 1 (2nd ed.), Section 0.6(6), pp. 252-53."

Nonetheless, numerous statements by the Supreme Court can be found describing Congress' power over its appellate jurisdiction in terms as sweeping as those it has used to describe Congress' power over the jurisdiction of the inferior federal courts. In *Durousseau* v. *United States,*[18] for instance, Chief Justice Marshall stated:

"The appellate powers of this court are not given by the judicial act. They are given by the constitution. But they are limited and regulated by the judicial act, and by such other acts as have been passed on the subject.

"When the first legislature of the union proceeded to carry the third article of the constitution into effect, they must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court. They have not, indeed, made these exceptions in express terms. They have not declared that the appellate power of the court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affirmative description has been understood to imply a negative on the exercise of such appellate power as is not comprehended within it. 10 U.S. (6 Cranch) at 314."

Similarly, in The "Francis Wright"[19] Chief Justice Waite stated:

". . . while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe. . . . What (the Court's appellate powers) shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes of cases be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to reexamination and review, while others are not. 105 U.S. at 385-86."

Most significantly, in the leading case of *Ex parte McCardle*[20] the Court dismissed for want of jurisdiction an appeal of a *habeas corpus* proceeding when Congress repealed the statute on the basis of which the appeal was taken, even though the case had been argued before the Court and was awaiting final decision. McCardle had been imprisoned by the post-Civil War military government in Mississippi under the authority of the Reconstruction Acts for publishing allegedly libelous and incendiary articles in his newpaper. Under the authority of an 1867 statute he sought a writ of *habeas corpus* in federal circuit court alleging that the Reconstruction Acts were unconstitutional, and when that was denied brought an appeal to the Supreme Court, as authority by the 1867 statute. The Court held that it had jurisdiction of the appeal under the 1867 statute[21] and heard oral argument on the merits of the case. But before the Court could render a final decision, Congress repealed that part of the 1867 statute which authorized an appeal to the Supreme Court. After reargument on the effect of the repeal, the Court dismissed the case, stating:

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.

"What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. 74 U.S. (7 Wallace) at 514."

Other cases contain similar sweeping statements.[22]

Notwithstanding these assertions, however, some limitation would still appear to attach to Congress' control of the Supreme Court's appellate jurisdiction. In *Ex parte McCardle* itself and subsequently in *Ex parte Yerger*[23] the Court emphasized that the repeal of the 1867 statute did not deprive it of all appellate power over cases involving the constitutional right of *habeas corpus:*

"The act of 1868 does not exempt from that jurisdiction any cases but appeals from Circuit Courts under the act of 1867. It does not affect the jurisdiction which was previously exercised. 74 U.S. (7 Wallace) at 515."

That is, under the Judiciary Act of 1789 the Court had, prior to 1867, exercised the authority to review lower federal court decisions concerning *habeas corpus,* not by appeal but by a writ of *certiorari.* In *Ex* *parte Yerger* it was argued that the 1867 act authorizing direct appeals implicitly repealed the jurisdiction granted in the 1789 act, and that the subsequent repeal of the 1867 act deprived the Court of all appellate jurisdiction over *habeas corpus* proceedings. But the Court rejected the argument, stating:

". . . it is too plain for argument that the denial to this court of appellate jurisdiction in this class of cases must greatly weaken the efficacy of the writ, deprive the citizen in many cases of its benefits and seriously hinder the establishment of that uniformity in deciding upon questions of personal rights which can only be attained through appellate jurisdiction, exercised upon the decisions of courts of original jurisdiction. In the particular class of cases, of which that before the court is an example. . . . it is evident that the imprisoned citizen, however unlawful his imprisonment may be in fact, is wholly without remedy unless it be found in the appellate jurisdiction of this court.

"These considerations forbid any construction giving to doubtful words the effect of withholding or abridging this jurisdiction. *Ex parte Yerger*, 75 U.S. (8 Wallace) at 102-103."

The Court deemed the sudden withdrawal of jurisdiction in *McCardle* to be justified by "some imperious public exigency . . . within the constitutional discretion of Congress to determine. . . .[24] But it refused to construe the 1867 and 1868 statutes as withdrawing ". . . the whole appellate jurisdiction of this court, in cases of *habeas corpus*, conferred by the Constitution, recognized by law, and exercised from the foundation of the government hitherto. . . . *Ex parte Yerger*, 75 U.S. (8 Wallace) at 106."

Subsequently, in *United States* v. *Klein* [25] the Court held a particular Congressional statute limiting the appellate jurisdiction of the Supreme Court and the original jurisdiction of the Court of Claims to be unconstitutional.

The case concerned the effect to be given to Presidential pardons of those who had aided and abetted the rebellion during the Civil War. Several Presidential proclamations during and after the war had offered pardon and restoration of rights of property to those who had taken part in or aided and abetted the rebellion upon the taking and keeping of a prescribed oath. In 1869 the Court of Claims ruled in a case involving a claimant named Padelford and another involving Klein that such pardons cured any effects of having participated in the rebellion and held them entitled to the proceeds of cotton that had been seized and sold by the U.S. as abandoned during the conflict.

In 1870 the Supreme Court affirmed in *United States* v. *Padelford* [26] that claimants so pardoned were entitled to the proceeds of their seized property. Congress then attached a proviso to an appropriations bill providing that such pardons could not be introduced in evidence in support of a claim against the U.S., that proof of such a pardon would deprive the Court of Claims and the Supreme Court of any jurisdiction over a claim against the U.S., and that the Supreme Court would have no further jurisdiction over any pending case in which the judgment of the Court of Claims was based on a pardon.

The Supreme Court held this proviso unconstitutional as infringing the powers both of the judiciary and of the President. With respect to the judiciary the Court held that the proviso was not within "the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power" because it had the effect of prescribing what the Court must decide in the case pending before it:

". . . the language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end . . . (T)he denial of jurisdiction to this court, as well as to the Court of Claims, is founded solely on the application of a rule of decision, in causes pending, prescribed by Congress.

"Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the court must deny to itself the jurisdiction thus conferred, because and only because its decision, in accordance with settled law, must be adverse to the government and favorable to the suitor? This question seems to us to answer itself. 80 U.S. (13 Wallace) at 145-147."[27]

Other cases suggest further possible limitations based on the supremacy clause of Article VI of the Constitution, which states:

"This Constitution and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

It is argued that this constitutional provision would be a nullity if there were not a single supreme tribunal with the authority to interpret and pronounce on the meaning of the Constitution and of federal law. Thus, Justice Taney, in *Ableman* v. *Booth*,[28] stated:

"But the supremacy thus conferred on this Government (by the supremacy clause) could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitution and laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States and the Government of the United States would soon become one thing in one State and another thing in another. It was essential, therefore, to its very existence as a Government, that . . . a tribunal should be established in which all cases which might arise under the Constitution and laws and treaties of the United States, should be finally and conclusively decided . . . And it is manifest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it; (and) to make the Constitution and laws of the United States uniform, and the same in every State . . . 62 U.S. (21 Howard) at 517-18."

With even more dramatic flourish Justice Story justified Supreme Court review of State court decisions as follows:

"A motive of another kind, perfectly compatible with the most sincere respect for State tribunals, might induce the grant of appellate power over their decisions. That motive is the importance, and even necessity of *uniformity* of decisions throughout the whole United States, upon all subjects within the purview of the Constitution. Judges of equal learning and integrity, in different States, might differently interpret a statute, or a treaty of the United States, or even the Constitution itself: If there were no revising authority to control these jarring and discordant judgments, and harmonize them into uniformity, the laws, the treaties, and the Constitution of the United States would be different in different States, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two States. The public mischiefs that would attend such a state of things would be truly deplorable; and it cannot be believed that they could have escaped the enlightened convention which formed the Constitution . . . (T)he appellate jurisdiction must continue to be the only adequate remedy for such evils. *Martin* v. *Hunter's Lessee, supra*, at 347-348."

In other words, a Supreme Court with authority to review and revise lower and state court judgments may be constitutionally necessary to assure the national uniformity and supremacy of the Constitution and federal law.[29]

Another argument related to the above stems from the due process clause.[30] If appellate review by the Supreme Court were denied in cases involving a constitutional right, and if as a consequence different interpretations of the law developed in the various states or federal judicial circuits, then the effect would be unequal treatment of persons similarly situated. That is, persons asserting the same right would be treated differently in different jurisdictions. This result, it has been suggested, would be "a manifest abuse of due process, one of the bases of which is equal treatment before the law."[31] Thus, appellate review may be a necessary consequence of due process, "if such an appeal is necessary to secure uniform treatment before the law."[32]

In sum, then, it is clear that the full scope of Congress' power over the appellate jurisdiction of the Supreme Court has never been tested, but it would appear that some limitations exist. *Klein* establishes that Congress may not, in jurisdictional guise, mandate a rule of decision for particular cases. *McCardle* and *Yerger* establish that Congress can extinguish one means for obtaining appellate review of an asserted constitutional right when other means remain available, or, conversely, that the courts will narrowly construe jurisdictional statutes when to do otherwise would have the effect of extinguishing a constitutional right.

Other cases suggest that fundamental constitutional limitations on Congress' power may stem from the Supreme Court's essential functions of giving uniformity and national supremacy to federal law or from a due process right that constitutional freedoms not depend on geographic location in the United States. Nonetheless, it should be emphasized that these limitations remain indefinite and uncertain. With the exception of *Klein*, no Congressional restrictions on the Supreme Court's appellate jurisdiction have been struck down.

But neither, on the other hand, have there been many such restrictions: Congress has generally accorded the Court a broad scope of appellate review, and consequently there has been little opportunity for the Court to address possible limitations on Congress' power. Thus, the possible limitations remain, for the most part, indeterminate.

CONGRESS' POWER AND THE SENATE AMENDMENT

As noted above, Congress has since the beginning of the nation provided for Supreme Court review of state court decisions involving substantial questions of federal law. Thus, the Senate amendment to S. 450 would, if enacted into law, be an unprecedented limitation on the jurisdiction of the federal courts. Prior jurisprudence is no sure guide to the constitutionality of the amendment because the amendment raises questions concerning the Constitutional separation of powers which Congress and the judiciary have generally avoided putting to the test in the past. As Justice Jackson commented in the analogous context of President Truman's seizure of the steel mills:

"A judge, like an executive adviser, may be surprised at the poverty of really useful and unambiguous authority applicable to concrete problems of executive power as they actually present themselves. Just what our forefathers did envision, or would have envisioned had they foreseen modern conditions, must be derived from materials almost as enigmatic as the dreams Joseph was called upon to interpret for Pharaoh. A century and a half of partisan debate and scholarly speculation yields no net result but only supplies more or less apt quotations from respected sources on each side of any question. *Youngstown Sheet and Tube Co.* v. *Sawyer*. 343. U.S. 579, 634-35 (1952) (Jackson, J., concurring)."

Nonetheless, it would seem clear that several of the possible limitations on Congress' power suggested by the cases discussed in the previous two sections would not be relevant to the Senate-passed amendment. The amendment does not, for instance, deny aggrieved parties all judicial remedies: The state courts would remain open to suits concerning state-sponsored voluntary prayer. Nor can the amendment be said to mandate a rule of decision in cases concerning state-sponsored voluntary prayer that might come before the courts or directly deprive persons of their constitutional right to be free of state-sponsored voluntary prayer. *Engel* and *Schempp* would continue to stand as controlling precedents in this area, presumably binding on state court judges as they ruled on related cases.

The primary limitation that might affect the constitutionality of the amendment would appear to be its effect on the supremacy clause and the Supreme Court's role in giving effect to that clause. As discussed in the preceding section, that potential limitation asserts that the Constitution as a whole and particularly as manifested in the supremacy clause contemplates a single judicial tribunal capable of resolving divergent interpretations of the Constitution and federal law and imposing those resolutions as the supreme law of the land. These functions of maintaining the uniformity and supremacy of federal law, it is claimed, are essential constitutional functions. Consequently, legislation that would block or preclude altogether the Supreme Court from performing these essential functions would be an unconstitutional encroachment on the Court.

This argument would seem to have the sanction of several Court decisions early in the nation's history upholding the Court's power to review the decisions of the state courts in various contexts.[33]

But each of those decisions constituted an interpretation of the Court's jurisdiction as affirmatively granted or recognized by Congress in the Judiciary Act of 1789. Whether the argument has independent constitutional force against a Congressional denial of jurisdiction has yet to be adjudicated.

It may also be that the Senate amendment possesses some of the constitutional infirmity the Court found in *United States* v. *Klein, supra.* As in *Klein*, the Senate amendment would make the exercise of the Supreme Court's appellate jurisdiction depend on a determination as to whether "a certain state of things exists." As in *Klein*, the jurisdictional predicate is a finding of fact—the grant and acceptance of a pardon in *Klein*, the voluntariness of the prayer in the Senate amendment. As in *Klein*, the Senate amendment gives to that finding of fact an effect on the legal rights involved contrary to earlier decisions of the Court.

That is, in *Klein* the Court has held the grant and acceptance of pardon to be conclusive proof that the statutory conditions for recovery of the proceeds of captured and abandoned property were met. Congress by statute gave it the opposite effect and required jurisdiction to cease if the Court found a claim was based on a pardon. Similarly, in *Engel* and *Schempp* the Court has held the voluntariness of state-sponsored prayer in the public schools to be irrelevant to the issues of constitutionality, but the Senate amendment would make voluntariness of the determinative factor for jurisdiction. Finally in *Klein* the jurisdictional predicate was legislated in order to produce a particular outcome in pending and future cases; the Senate amendment similarly has as its purpose the production of a particular judicial result.[34]

The analogy is not perfect, however. The constitutional vice in *Klein* was that the deprivation of jurisdiction had the effect of deciding a pending case as well as future ones in favor of one of the parties, namely the government, and this, the Court said, "passed the limit which separate the legislative from the judicial power." The Senate amendment could have a similar effect:

If a decision were rendered by a state's highest court in favor of state-sponsored prayer and if the Supreme Court were then forced to dismiss an appeal for want of jurisdiction on the basis of a finding that the prayer in question was voluntary, the effect would be similar, that is, the government would prevail. But it would prevail for a different reason than in *Klein*, namely, because it had prevailed in the state court, not because there had been a statutory change in the significance to be given certain evidence. The constitutional vice in this, if there be one, would seem to be more akin to the supremacy clause and essential functions argument detailed above than to the usurpation of the judicial power struck down in *Klein*.

Thus, the constitutionality of the Senate amendment cannot be conclusively determined on the basis of existing precedents. The force of the supremacy clause and essential functions argument, particularly in light of the *Klein* holding that Congress' power over the Supreme Court's appellate jurisdiction is limited by the separation of powers doctrine, would seem, at the least, to cast some doubt on its constitutionality. But the paucity of past Congressional action so extensively limiting federal court jurisdiction over a particular class of cases and of consequent judicial interpretations of Congress' power makes that conclusion necessarily tentative.

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FOOTNOTES

[1] 370 U.S. 421 (1962).

[2] 374 U.S. 203 (1963).

[3] On April 5, 1979, the Senate had first added this amendment to S. 210, a bill to establish a Department of Education, by a vote of 47-37. But on April 9 the Senate added the amendment instead to S. 450, which specifically concerned federal court jurisdiction, by a vote of 51-40, then voted by a margin of 50-43 to reconsider its earlier amendment to the Department of Education bill and subsequently tabled that amendment, 53-40. See 125 Cong. Rec. 7577-7580 (April 5, 1979) and 7631-7657 (April 9, 1979).

[4] Several questions have been raised about the efficacy of the amendment as adopted by the Senate in accomplishing its purpose of depriving the federal courts of jurisdiction. For instance, it has been suggested that the federal courts could still assert jurisdiction in prayer-related cases simply by holding that the state-sponsored exercises in question were not "voluntary." That issue was not resolved by the Supreme Court's decisions in *Engel* and *Schempp*, because the voluntariness of the exercises was not deemed material to their constitutionality. This report, however, assumes the efficacy of the Senate amendment in depriving the federal courts of all jurisdiction over all cases relating to state-sponsored voluntary prayer in the public schools.

[5] 44 U.S. (3 Howard) 236 (1845).

[6] 411 U.S. 389 (1973).

[7] 260 U.S. 226 (1922).

[8] Justice Story, in *Martin* v. *Hunter's Lessee*, 14 U.S. (1 Wheaton) 304, 330-31 (1816), argued:

"Congress cannot vest any portion of the judicial power of the United States, except in courts ordained and established by itself; and if in any of the cases enumerated in the constitution, the state courts did not then possess jurisdiction the appellate jurisdiction of the supreme court . . . could not reach those cases, and, consequently, the injunction of the constitution, that the judicial power "shall be vested" would be disobeyed. It would seem, therefore, to follow, that congress are bound to create some inferior courts, in which to vest all that jurisdiction which, under the constitution, is *exclusively* vested in the United States, and of which the supreme court cannot take original cognizance . . . (T)he whole judicial power of the United States should be, at all times, vested either in an original or appellate form, in some courts created under its authority."

See also *Eisentrager* v. *Forrestal* 174 F. 2d 961 (D.C. Cir., 1949), *reversed on other grounds sub nom Johnson* v. *Eisentrager*, 339 U.S. 763 (1950).

[9] 18 Stat. 470, Sec. 1 (Mar. 3, 1875). In 1801 Congress had briefly granted the inferior federal courts jurisdiction over "all cases in law and equity, arising under the Constitution and laws of the United States (2 Stat. 89, Sec. 11 (Feb. 13, 1801), but a year later repealed that grant (2 Stat. 132 (Mar. 3, 1802)).

[10] *Bruner* v. *United States*, 343 U.S. 112 (1952) (amendment of statute concerning claims for service to U.S.—the Tucker Act—withdrawing federal district court jurisdiction over claims by employees as well as officers, without any reservation as to pending cases, requires dismissal of pending cases). See also *De La Rama Steamship Co., Inc* v. *United States* 344 U.S. 386 (1953) (general authority of Congress to withdraw federal court jurisdiction even as to pending cases affirmed, but General Savings Clause held to preserve pending claims in instant case).

[11] *E.g.*, the Emergency Price Control Act of 1942 (56 Stat. 23) required all challenges to the validity of regulations adopted to enforce it to be brought in a single Emergency Court and barred all other federal, state, or territorial courts from asserting jurisdiction over such challenges, The decisions of the Emergency Court were reviewable in the Supreme Court. This unusual jurisdictional scheme was held to be within Congress' constitutional power in *Lockerty* v. *Phillips*, 319 U.S. 182 (1943) and *Yakus* v. *United States*, 321 414 (1944). Similarly, the Voting Rights Act of 1965 (79 Stat. 437, 42 U.S.C. 1973) limited jurisdiction over proceedings to terminate the coverage of the Act in a particular area to a single court in the District of Columbia, and this was upheld in *South Carolina* v. *Katzenbach*, 383 U.S. 301 (1966). See also the jurisdiction of the Temporary Emergency Court of Appeals as created by the Economic Stabilization Act of 1970 (P.L. 91-379, 12 USC 1001) and as further defined

in the Emergency Petroleum Allocation Act of 1973 (P.L. 93-159, 87 Stat. 628, 15 USC 75 *et seq.)* and the Energy Policy and Conservation Act of 1975. (P.L. 94-163, 89 Stat. 871).

[12] In 1839 Congress by statute (Act of Mar. 3, 1839, chap. 83, sec. 2) disallowed suits in assumpsit against the collectors of customs duties which were allegedly assessed unlawfully, and this was upheld in *Gary* v. *Curtis*, supra. In the Norris-LaGuardia Act (47 Stat. 70, 29 USC 101 *et seq.*, Congress restricted the jurisdiction of the federal courts to issue restraining orders or temporary or permanent injunctions in labor disputes, and this was upheld in *Lauf* v. *E. G. Shinner & Co.*, 303 U.S. 323 (1938). In the Anti-Injunction Act (26 U.S.C. 7421 (a), first adopted in 1867, Congress barred all courts from entertaining suits to restrain the assessment or collection of any tax, and this was most recently upheld in *Bob Jones University* v. *Simon*, 416 U.S. 725 (1974). The Judiciary Act of 1789 exempted from the federal courts' diversity jurisdiction those cases in which diversity resulted from an assignment of a chose in action, and this exemption was upheld in *Sheldon* v. *Sill*, 49 U.S. (8 Howard) 441 (1850).

[13] 61 Stat. 84-90; 29 U.S.C. 251-262.

[14] 29 U.S.C. 216(b).

[15] *Anderson* v. *Mt. Clemens Pottery Co.*, 328 U.S. 680.

[16] 169 F.2d 254 (2nd Cir., 1948), *cert. den.* 335 U.S. 887 (1948).

[17] 1 Stat. 73.

[18] 10 U.S. (15 Otto) 38 (1810).

[19] 105 U.S. (15 Otto) 381 (1881).

[20] 74 U.S. (7 Wallace) 506 (1868).

[21] 73 U.S. (6 Wallace) 318 (1868).

[22] In *Turner* v. *Bank of North America*, 4 U.S. (4 Dallas) 8, 10 (1799), Justice Chase stated:

"The notion has frequently been entertained, that the federal Courts derive their judicial power immediately from the constitution; but the political truth is, that the disposal of the judicial power, (except in a few specified instances) belongs to congress. If congress has given the power to this Court, we possess it, not otherwise: and if congress has not given the power to us, or to any other Court, it still remains at the legislative disposal. Besides, congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal Courts, to every subject, in every form, which the constitution might warrant."

In *Daniels* v. *Railroad Company*, 70 U.S. (3 Wallace) 250, 254 (1865) the Court stated:

"The original jurisdiction of this court, and its power to receive appellate jurisdiction, are created and defined by the Constitution; and the legislative department of the government can enlarge neither one nor the other. But it is for Congress to determine how far, within the limits of capacity of this court to take, appellate jurisdiction shall be given, and when conferred, it can be exercised only to the extent and in the manner prescribed by law. In these respects it is wholly the creature of legislation."

[23] 75 U.S. (8 Wallace) 85 (1868).

[24] *Id.*, 104.

[25] 80 U.S. (13 Wallace) 128 (1871).

[26] 76 U.S. (9 Wallace) 531 (1870).

[27] With respect to the powers of the Presidency, the Court found the pardoning power to be granted "without limit" to the Executive and held the Congressional provision to be an unconstitutional impairment of that independent power.

[28] 62 U.S. (21 Howard) 506 (1858).

[29] For fuller development of this argument, see Ratner, "Congressional Power over the Appellate Jurisdiction of the Supreme Court," *University of Pennsylvania Law Review* 109: 157, 160-67 (1960). In Hart and Wechsler's famous dialogue on Congress' power over the jurisdiction of the federal courts, the limitation asserted as to Congress' power over the Supreme Court's appellate jurisdiction is simply that ". . . the exceptions must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." Bator, Mishkin, Shapiro, and Wechsler, *Hart and Wechsler's The Federal Courts and the Federal System*, (2nd ed., 1973), p. 331.

[30] Sedler, "Limitations on the Appellate Jurisdiction of the Supreme Court," *University of Pittsburgh Law Review* 20: 99, 113-114 (1958).

[31] Id., at 113.

[32] Id., at 114.

[33] *Ableman* v. *Booth, supra; Cohens* v. *Virginia*, 6 Wheaton 264 (1821); *Martin* v. *Hunter's Lessee, supra.*

[34] Senator Helms stated on offering his amendment:

"The limited and specific objective of this amendment, then, is to restore to the American people the fundamental right of voluntary prayer in the public schools." (125 Cong. Rec. S4130 (April 5, 1979).)"

BIBLIOGRAPHY OF LAW REVIEW ARTICLES

Brant, "Appellate Jurisdiction: Congressional Abuse of the Exceptions Clause," 53 *Oregon Law Review* (1973).

Eisenberg, "Congressional Authority to Restrict Lower Federal Court Jurisdiction," 83 *Yale Law Journal* 498 (1974).

Hart, "The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic," 66 *Harvard Law Review* 1362 (1953).

Merry, "The Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis," 41 *Minnesota Law Review* 53 (1962).

Nagel, "Court-Curbing Periods in American History," 18 *Vanderbilt Law Review* 925 (1965).

Note, "Congressional Power over State and Federal Court Jurisdiction: The Hill-Burton and Trans-Alaska Pipeline Examples," 49 *New York University Law Review* 131 (1974).

Note, "The Constitutional Implications of the Jurisdictional amount provisions in Injunction Suits Against Federal Officers," 71 *Columbia Law Review* 1474 (1971).

Note, "Limitation on the Appellate Jurisdiction of the Supreme Court," 20 *University of Pittsburgh Law Review* 99 (1958)

Note, "The Nixon Busing Bills and Congressional Power," 81 *Yale Law Journal* 1542 (1972).

Ratner, "Congressional Power over the Appellate Jurisdiction of the Supreme Court," 109 *University of Pennsylvania Law Review* 157 (1960).

Redich and Woods, "Congressional Power to Control the Jurisdiction of Lower Federal Courts: A Critical Review and a New Synthesis," 124 *University of Pennsylvania Law Review* 45 (1975).

Rotunda, "Congressional Power to Restrict the Jurisdiction of the Lower Federal Courts and the Problem of School Busing," 64 *Georgetown Law Journal* 839 (1976).

Thompson and Pollitt, "Congressional Control of Judicial Remedies: President Nixon's Proposed Moratorium on 'Busing' Orders", 50 *North Carolina Law Review* 809 (1972).

Van Alstyne, "A Critical Guide to *Ex Parte McCardle*," 15 *Arizona Law Review* 229 (1973).

Wechsler, "The Courts and the Constitution," 66 *Columbia Law Review* 1001 (1965).

Mr. PACKWOOD. Mr. President, that was an effort that passed this Senate. We are not talking about an abstraction. It passed this Senate in 1979. Fortunately, it died in the House. Taking away from every Federal court in this country—district court, courts of appeals, Supreme Court—the right to interpret the establishment of religion clause part of our first amendment as it relates to voluntary school prayer, is that what this Congress wants to do, start down that road? Where does the animus for these bills come from?

My fellow Senators, it is very clear—it certainly is not unique to today—there is a group in this country that is convinced the Supreme Court, especially in the areas of prayer and busing and abortion, have been making immoral or ungodlike decisions. And they are convinced that somehow this country is becoming immoral and turning away from God because of these decisions and that it is our right and purpose to change those decisions so that the law will be in accordance with the views of those who introduce them because those views are right in their minds.

How long has it been—not long—since we heard the chant of those hundreds of thousands of demonstrators about "Power to the people"? Are we that far removed from the Chicago Seven case and the attacks on Judge Hoffman and the whole Federal Court System by those who opposed the Vietnam War who said the establishment was rotten, the court system did not work and that the real decisions for the laws would be in the hands of the people?

How many of us opposed that? How many, especially those that are conservatives, denied the statement of "power to the people" and instead said, "power in the process," the process of legislation, the process of elections, the process of court decisions, because we felt so strongly that those processes were the processes that protected the fabric of democracy in this country?

Quoted in the Washington Post of February 17, 1982, is the following statement:

> Just because the Supreme Court says it, doesn't mean it is the law. The people are the law of the land.

That is not a statement from Jerry Rubin or Abby Hoffman. That is a quote from Arthur Martin, of Pineville, La., a member of the local school board where, in contra to the Supreme Court decision, they are still directing school prayer in the local school.

Let me read it again.

> Just because the Supreme Court says it, doesn't mean it is the law. The people are the law of the land.

My fellow Senators, if that philosophy becomes the prevailing philosophy in this country, then we are indeed back to vigilante justice. And we are indeed back to a time when the majority—any majority, no matter how inflamed or impassioned, no matter on what issue—is in the position to say, "The people are the law of the land and if we don't like the decisions that the courts make in the defense of civil liberties, the people have the right to take those liberties away."

Are we that far removed from the roots of our history? If our constitutional founders understood anything, they understood popular passion, and that is why they so carefully crafted a Constitution that first set up three branches of government and made those branches jealous of one another and did the best they could to institute a program of checks and balances so that each one of those branches could attempt to check the other. Indeed, the legislative check on the Supreme Court is to amend the Constitution. The Supreme Court cannot pass on it. The President cannot sign it. He does have to. It goes directly from the Congress to the State legislatures for ratification. That is the check on an abusive judiciary.

And our founders very carefully understood that in addition to the three branches checking one another, there were some liberties so fundamental that no single branch alone should be allowed to take them away. So they wrote those liberties into the Constitution, and most specifically into the Bill of Rights. Our founders said as to these liberties, press, speech, religion, self-incrimination, search and seizure, no branch of government can take those away. Only the people in their wisdom, after great deliberation and great time, shall even have the right to think about taking those away, and then only by the process of amending the Constitution, which very clearly the recent debate over the equal rights amendment indicates is a very long and laborious process, and was intended to be so.

No, I say to my fellow Senators, I hope we do not adopt the philosophy of Arthur Martin of Pineville, La., that what the Supreme Court says is the law is not the law if you do not like it. If we have come to that conclusion, if we are prepared by a majority vote to try to take away from the Supreme Court and the Federal courts the right to pass on, preserve, and protect the very fundamental liberties of this country, then the very thing that distinguishes this country from all but a handful of other countries in the world will be endangered and lost. That is that precious right of individual liberty, freedom to be what you want, to do what you want, to say what you want.

When that unique American quality is diminished and eventually destroyed, then there will be not much left that distinguishes us from most other countries in the world that have no liberties.

I would hope that the Congress would not just look long and hard at these bills to take away the jurisdiction of the court. I would hope that they would look at them and reject them by such overwhelming margins that we would say to every person in this country, "Your liberties were given to you by the Founders of this country, and passed along, and will continue to be protected, and preserved. Those of us in Congress, by turning down this legislation, will attempt to pass them along to our children a bit more secure than we received them from our ancestors."

I yield the floor.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Will the Senator from Maryland yield me time?

Mr. MATHIAS. I yield 5 minutes to the Senator from Missouri.

Mr. EAGLETON. I thank the Senator.

MISSOURI CHIEF JUSTICE DONNELLY'S PROPOSAL: DANGEROUS PRESCRIPTION FOR CONSTITUTIONAL EROSION

Mr. EAGLETON. Mr. President, anger and frustration often are the opponents of rational thinking.

Nowhere is this clearer than in the perennial public debate over the proper role of the Federal judiciary in our society. Far too often, otherwise responsible men and women have let their rage over particular court rulings lead them to remedies which, however expedient in the short run, would subvert the basic guarantees of our constitutional democracy.

Thus, sadly, the record of the great Franklin Roosevelt is tarnished by an ill-advised scheme to pack the Supreme Court with judges more sympathetic to New Deal programs. So, too, in the last few years, increasing numbers of citizens and legislators alike have vented their hostility toward controversial judicial decisions by seeking to strip the courts of jurisdiction to rule over particular classes of cases. The Senate recently participated in this unfortunate exercise as legitimate doubts about the wisdom of court-ordered busing led a majority to seek an absolutely illegitimate and unconstitutional remedy: a statutory limit on the powers of the Federal courts and the Justice Department.

These jurisdiction-stripping efforts—and we will face several more before this year is out—should be branded for what they are: Nothing more than disguised efforts to amend the Constitution through passage of a mere statute, rather than through the only means our Founding Fathers deemed legitimate when they crafted our Constitution—a constitutional amendment ratified by three-fourths of the sovereign States. The proponents couch their proposals in the cynical, Catch-22 argument that constitutional rights will still be fully protected by the State courts. Yet, if proponents of jurisdiction-stripping bills did not intend to alter the outcome of the constitutional decisions now emanating from the Federal courts, why would they bother? Clearly, these bills intend a substantial change in the very nature and direction of constitutional interpretation, and the argument about State courts is just a disingenuous attempt to hide the true intent. These jurisdiction-stripping proposals are not only unconstitutional as a matter of law, but egregious examples of public policy by expediency, undertaken on an end-justifies-the-means basis.

Regrettably, the distressing impulse to toss aside the Constitution in an effort to undo objectionable judicial decisions has taken a new form and acquired a new force in my home State of Missouri. Recently, the chief justice of the Missouri State Supreme Court, Robert T. Donnelly, devoted his annual address to the Missouri State Legislature to a broadside attack on his brethren in the Federal judiciary. Dramatically departing from the traditional subject of the chief justice's annual address, the problems of judicial administration faced by Missouri courts, Justice Donnelly accused the Federal judiciary of a "greed for power" constituting "an insidious disease." The justice's speech worked up to a rhetorical fever pitch and even hinted that certain Federal "judicial elites" might be subject to removal from office on grounds they violated the "good behavior" required by our Constitution for continued judicial tenure.

But Chief Justice Donnelly went far beyond mere rhetoric, proposing a breathtakingly sweeping and—to the best of my knowledge—unprecedented change in the status of Supreme Court decisionmaking. The chief justice actually suggested that, if a two-thirds majority of either the U.S. Congress or the State legislatures so decided, Supreme Court decisions could not become "the supreme law of the land and binding on the States" unless the decision is ratified by three-fourths of the States. In case you thought you did not hear me correctly, let me repeat: Upon the initiative of a two-thirds majority of the Congress or the State legislatures, a Supreme Court ruling would be treated like a constitutional amendment. It would have no binding force until ratified by the requisite number of States.

I wish I could report to you that our counterparts in the Missouri Legislature registered the disapproval, or at least the shock, for which this unorthodox, unbelievable proposal cries out. To the contrary, according to press reports, many legislators were supportive of both the justice's general sentiments and specific suggestion. In fact, 59 legislators thought enough of the proposal to cosponsor a resolution calling upon my Missouri congressional colleagues and me to recommend the scheme to the U.S. Congress.

Particularly in light of the call for congressional support, I do not believe I can stand idly by without giving my assessment of the Donnelly proposal. In my view, it is simply yet another constitutionally corrosive attack on the Supreme Court.

As I have stated, the jurisdiction-stripping proposals pose substantial dangers from both a legal and public policy standpoint. However, unlike Justice Donnelly's proposal, they do not question the fundamental power of the Federal courts—and particularly, the Supreme Court—to render authoritative interpretations of constitutional guarantees. While the proposals commit the constitutionally-fatal error of assuming that these authoritative decisions can be changed by statute, they recognize the general legitimacy of the role of Federal courts in giving meaning to our constitutional guarantees unless steps are taken to change decisions on a single subject. Not so Justice Donnelly. While avoiding the sin of the jurisdiction-strippers who seek to change court decisions by statute—his far-reaching proposal would be set into place by a constitutional amendment to article V of the Constitution—the justice follows a far more dangerous course by attacking the basic authority of the Federal courts to rule decisively on any subject. This can be seen clearly in the very questions that the Justice put to his audience early in his speech. I quote:

> In 1965, when I first became a judge of the Supreme Court of Missouri, I swore that I would support the Constitution of the United States. In so doing, did I also bind myself to follow the latest pronouncement made by a majority of the Justices of the United States Supreme Court on a given question as if such pronouncement equates with the express language of the United States Constitution?

And just a little later in the speech, the Justice inquires:

> [I]f a case ruled upon by the Supreme Court of Illinois is reviewed by the U.S. Supreme Court and an opinion is handed down by the U.S. Supreme Court, is that opinion "the supreme Law of the Land" and, therefore, binding on me in Missouri when I am confronted with a similar situation? Are decisions of the U.S. Supreme Court "the supreme Law of the Land" prescribed in Article VI of the U.S. Constitution?

Anyone who has taken a basic constitutional law course—indeed, anyone who has taken a high school civics course—will recognize the questions Justice Donnelly raises. They are questions raised and answered early and decisively in our Nation's history. They were initially answered in 1803, in Justice John Marshall's landmark decision in Marbury against Madison, that "it is emphatically the province and duty of the judicial department to say what the law is." Questions about the Constitution-interpreting role of the Federal courts have continued to be answered in a steady, affirmative series of cases holding that Federal court decisions are binding on the National Government, the political branches of State governments and—most pertinent to Justice Donnelly's questions—the State courts. The legitimacy of Federal court rulings in the constitutional arena has been tested and affirmed in a variety of crises, including the recent politically-charged climate of United States against Nixon. There, a unanimous Supreme Court stated: "Many decisions of this Court * * * have unequivocally reaffirmed the holding of Marbury against Madison."

Of course, Justice Donnelly knows all this. He is more than passingly aware of nearly 200 years of American legal history. It is likely that he does not really question that as a matter of law Supreme Court interpretations are to be given authoritative weight. To do so would be to swim against a strong, consistent tide of legal practice and precedent and the only logical conclusion from a constitution which declares itself to be "the supreme Law of the Land" and gives the Federal judiciary jurisdiction over legal questions involving that supreme law.

What is more likely is that Justice Donnelly has merely decided that the trend toward judicial "arrogance," "subjectivism" and "power grabs" requires a fundamental revision in the way our Government functions. Under Justice Donnelly's formulation, Marbury against Madison—and the Constitution—would be rewritten to read: it is "the province of the judicial department to say what the law is," as long as the legislative departments agree. What he proposes is the wholesale destruction of the judicial branch of Government. How else would one characterize a system in which the status of Supreme Court opinions as the "Supreme Law of the Land" depends entirely on the acquiescence of Congress and the State legislatures?

Is there really so little value or wisdom to the constitutional scheme we have lived with since 1787? Do the excesses of our judicial system begin to warrant this type of fundamental assault?

In my view, Justice Donnelly's proposal flies in the face of two related, fundamental principles, which underlie both the constitutional scheme of separation of powers and the Bill of Rights.

First, in our system, the power to make the laws and the power to interpret them do not reside in the same hands. This is a basic check against abuse of power. If Congress enacts a law, the constitutionality of which is challenged, we leave it to the Federal courts to rule on the validity of the law. By legal precedent and logic, the courts give Congress a reasonable degree of deference, particularly in areas where individual rights are not directly involved. But the ultimate decision rests with a disinterested judiciary. Justice Donnelly's proposal would allow the same Congress which enacted the law to overturn the court's decision that the law was unconstitutional, essentially by approving its own handiwork. Does concentrating power in that way really have any appeal? It certainly had no appeal to our founding fathers, who drafted the Constitution against a growing concern about the power of the legislative branch of Government. I submit it has no greater appeal today.

Second, our most precious constitutional rights are individual rights: The first amendment right of free speech, religion, and press; the fourth amendment right to be free from unlawful search and seizure; the 14th amendment right to due process and equal protection of the laws. History teaches that those individual rights—the rights of a criminal suspect who is beaten until he confesses; the rights of a newpaper to publish when the Government says no—are always vulnerable to overriding by the political majority. Our Founding Fathers were duly concerned that the Constitution would become a dead letter if individual rights were protected only by the same political majorities which threaten them. Yet, this is certainly what Justice Donnelly's proposal would invite. How many precious constitutional rights would have been washed away if they needed the approval of the courts and the Congress, or the courts and State legislatures? As Justice Black wrote in Chambers against Florida, "Under our constitutional system, courts stand against any winds that blow as havens of refuge for those who might otherwise suffer because they are helpless, weak, outnumbered, or because they are victims of prejudice and public excitement."

Let me make it clear that Justice Donnelly is not the first person to be aggrieved by judicial decisions. I have been troubled by some of the decisions of both the Warren Court and the Burger Court. I expect to be troubled at times in the coming years, given the fact that the Court will soon be dominated by Justices appointed by Presidents Nixon and Reagan, whose jurisprudential philosophies differ from mine. But in light of the compelling principles that made sense when our Constitution was written and are just as compelling today, I would take my chances on a Supreme Court made up of nine Warren Burgers or William Rehnquists any day rather than play the game of constitutional Russian roulette which Justice Donnelly apparently has in mind. The unanticipated consequences which can result from pulling at the seamless web which is our Constitution are likely to be enormous.

So far, I have presented the fundamental dangers of the Donnelly proposal. It also has some features that are simply unworkable. It commits some of the basic errors found in the court-stripping proposals, but enhances these defects by adding its own strange and inexplicable twists.

For example, the Donnelly plan shares with the jurisdiction-limiting proposals the problem that the Supreme Court would be removed as a force for reconciling differing State court interpretations of the same constitutional provision. The resulting risk of inconsistent, haphazard development of the Constitution has been criticized by a wide range of legal scholars and experts, including the very Conference of State Chief Justices of which Justice Donnelly is a member. That Conference made quite clear in a January 30, 1982, statement its concern about relegating Federal constitutional questions to the State courts:

> Without the unifying functions of Supreme Court review, the U.S. Constitution could well mean something different in each of the 50 States. Aside from the obvious effect of this anomaly on the Nation's citizens, the resulting inconsistencies in legal precedent and the more frequent jurisdictional disputes would further overload State courts.

Not only does Justice Donnelly ignore the sage counsel of his peers; he would further exacerbate the uncertainty in State court constitutional adjudication by two "refinements."

First, Justice Donnelly's plan only applies to the Supreme Court. Unlike the vast majority of jurisdiction-stripping proposals, the lower Federal courts would continue to hear constitutional cases. Yet, because the Supreme Court would not be able to serve its time-honored role or reconciling differences among the Federal judicial circuits by rendering definitive judgements, inconsistent and conflicting constitutional rulings from the Federal courts would be added to inconsistent and conflicting State courts. In fact, citizens of a single State might find that they are subject to irreconcilable rulings from their State and Federal judicial authorities on the most essential of constitutional matters.

Second, another unsettling new twist of the Donnelly plan is that, unless it were to become an absolute mockery, not every Supreme Court opinion would be subjected to the legislative ratification process. This would create hopeless confusion, with some court cases being "the law of the land" while others would float in a kind of legal limbo pending an uncertain, time-consuming resolution. I submit that the lower Federal and State courts would face a nightmare in dealing with the constitutional crazy quilt which the Donnelly plan would create.

Mr. President, I think it is high time that public officials reject the siren song of political expediency and recognize that a higher—indeed the highest—principle is at stake here: the very survival of our constitutional democracy. It is high time that we reject the false prophets who urge us to abandon almost 200 years of experience with our Constitution in favor of ludicrous proposals.

The alternative—a society in which supposedly enduring constitutional liberties endure only until the next legislative rollcall—is simply too dangerous to contemplate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I be permitted to use the time allocated to the Senator from Ohio at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Will the Senator yield to me for 30 seconds?

Mr. METZENBAUM. Surely, Mr. President.

PROPOSED LEGISLATION TO RESTRICT THE JURISDICTION OF THE FEDERAL COURTS

Mr. HEFLIN. Mr. President, I wish to compliment Senator MATHIAS, Senator BAUCUS, Senator EAGLETON, Senator LEAHY, Senator PACKWOOD, and Senator SPECTER for their initiative in focusing attention on the congressional attempts to limit the power and jurisdiction of the Supreme Court and the lower Federal courts. Such legislation may have serious constitutional implications, and it is, therefore, appropriate and necessary for the Senate to engage in such a discussion.

Much has been said concerning the merits of the substantive constitutional issues involved in the 20-odd bills now pending in this Congress to restrict Federal court jurisdiction. Much has been debated on the contours of the article III power granted to Congress to make exceptions and regulations to the Supreme Court's jurisdiction, and to establish inferior tribunals. But not enough has been said about the potential impact of such legislation on our State judiciary systems and ultimately on the delicate balance between State and Federal power.

The language of article VI of the U.S. Constitution reminds us that not only Federal but all judicial officers including those of the several States, shall be bound by solemn oath to uphold that Constitution. Our State judges, then, are required to interpret the Constitution without regard to local prejudice or personal predilection.

The Conference of Chief Justices, comprised of the 55 chief justices from the States and territories across our Nation has, in a resolution, expressed its concern over the impact of these bills on State courts and "views them a hazardous experiment with the vulnerable fabric of the Nation's judicial system."

The resolution rightly addresses the dubious assumption that State court judges will not honor their oath to obey the U.S. Constitution nor their obligations to give full force to controlling Supreme Court precedents. Those who believe that stripping jurisdiction from the Federal courts will result in the abdication of the constitutional duties charged to our State court judges are greatly mistaken. Our State judiciary will continue to regard the current holdings of the Supreme Court as the unchangeable law of the land, absent a constitutional amendment which is beyond the power of the U.S. Supreme Court or the State Supreme Court to overrule.

Yet, even when a State judge is doing his mortal best to discharge his oath of office, without the final verdict of Supreme Court review, there lies the very real possibility of 55 independent jurisdictions delivering 55 different interpretations of the document which was explicitly intended to be the Supreme Law of the land. The Conference of Chief Justices recognized in its resolution the inevitable divergence and confusion that would occur regarding the meaning of our U.S. Constitution if the unifying jurisdiction of the Supreme Court were eliminated.

The resolution also speaks to the concern of the confusion and uncertainty that will occur regarding how Federal acts will be enforced in State courts, how the States can properly act against Federal officers, and how the State courts could effectively declare a Federal law violative of the Constitution. The absence of constitutional procedures in these cases may lead to irreconcilable conflicts between Congress and the several States.

The confusion and uncertainty would be magnified by the added caseload burden which the State courts would have to bear. Before considering any jurisdiction-stripping proposals, we must, as a practical matter, examine with a skeptical eye the capacity of our State courts for taking on this responsibility, especially in a time where State resources are limited and Federal funding is unlikely.

I ask unanimous consent that the resolution of the Conference of Chief Justices be printed as part of the RECORD.

I thank the Chair.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION I—RESOLUTION RELATING TO PROPOSED LEGISLATION TO RESTRICT THE JURISDICTION OF THE FEDERAL COURTS

Whereas, there are presently pending in the United States Congress approximately twenty bills that would strip the federal courts, including the United States Supreme Court, of substantive jurisdiction in certain areas involving prayer in public schools and buildings, abortion, school desegregation and busing, and sex discrimination in the armed services; and

Whereas, the Conference of Chief Justices without regard to the merits of constitutional issues involved, expresses its concern about the impact of these bills on state courts and views them as a hazardous experiment with the vulnerable fabric of the nation's judicial systems, arriving at this position for the following reasons, among others:

A. These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents;

B. If those proposed statutes are enacted, the current holdings of those Supreme Court decisions targeted by this legislation will remain the unchangeable law of the land, absent constitutional amendments, beyond the reach of the United States Supreme Court or state supreme courts to alter or overrule.

C. State court litigation constantly presents new situations testing the boundaries of federal constitutional rights. Without the unifying function of United States Supreme Court review, there inevitably will be divergence in state court decisions, and thus the United States Constitution could mean something different in each of the fifty states;

D. Confusion will exist as to whether and how federal acts will be enforced in state courts and, if enforced, how states may properly act against federal officers;

E. The proposed statutes would render uncertain how the state courts could declare a federal law violative of the federal Constitution and whether Congress would need to wait for a majority of the state courts to so rule before conceding an act was unconstitutional;

F. The added burden of litigation engendered by the proposed acts would seriously add to the already heavy caseload in state courts; Now, therefore, be it

Resolved, That the Conference of Chief Justices expresses its serious concerns relating to the above legislation, approves the report of the Conference's Subcommittee of the Committee on State-Federal Relations, and directs its officers to transmit that report, together with this resolution, to appropriate Members of Congress.

Adopted at the Midyear Meeting in Williamsburg, Virginia on January 30, 1982.

RECOGNITION OF SENATOR METZENBAUM

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to join my colleagues in the Senate today. I think it is a rather momentous occasion when a number of Members of the Senate come to the floor to indicate their concern about the effort of Congress to move in on the jurisdiction of the Supreme Court of the United States and the courts of the United States. If there is anything that has made this Nation great, it is the fact that we have this tripartite kind of Government—legislative, executive, and judicial—and the checks and balances that have grown up over a period of 200 years, utilizing to the fullest those checks and balances.

Now we find that, by reason of two or three or four issues, there is a real effort being made to take away from the courts jurisdiction in particular areas.

Regardless of the merits, Mr. President, regardless of the views that any may have pertaining to those subjects such as abortion or busing or school prayer or any of the other issues, the facts are that we are dealing with something far more fundamental about our Government. We are dealing truly with the concept of this Government. In an effort to deal with a specific issue, we are saying, come hell or high water, we are going to move in and deal with that issue and if that means changing our form of Government, we are prepared to do so.

This Senator is not prepared to do so, Mr. President. In some instances, I may or may not be in agreement with respect to a particular issue, but I believe that it is a very, very dangerous precedent that we would be establishing once we start to deny the court jurisdiction on any of the particular social issues that are before us today.

To those who are most apt to come forward with these proposals, I throw up a note of caution and say that they, and all of us who do have a concern about property rights, should be forewarned and aware of the fact that it is entirely likely and entirely possible that, on that day when there is a strong feeling against private property rights, when there is a feeling of great unrest in the country, there will be an effort to deny the courts jurisdiction in issues such as appropriation without just compensation.

Maybe there should not be just compensation, maybe there should be. But the fact is, if we take away the right to decide that issue from the court, then we have, indeed, moved backward a long way.

What would happen if the States were suddenly to impair the validity of contracts and if we in Congress were to say that the courts were not to have jurisdiction in connection with such matters? Would anybody reasonably believe that that would be in the best interest of this Nation? But if Congress can do it in certain areas, then there is no limit as to what Congress can do. Congress can move in and go as far as it actually wants in impairing the validity of contracts. But the Constitution of the United States means something. The citizens of our Nation have always been able, in appropriation cases, in the question of impairment of contracts, in the question of States imposing confiscatory zoning and pollution control requirements, to turn to the courts to provide a constitutional protection.

If we move forward on this road having to do with one or two or three issues and say we are going to deny court jurisdiction, then the day will not be far when some will suggest that we deny the court jurisdiction in connection with the matter of protecting property rights.

How appropriate and how insightful it was, Mr. President, that the Conference of State Chief Justices saw fit on their own to indicate that they did not want that to happen. In January of this year, the Conference adopted a resolution expressing "its concern about the impact of the court-stripping bills on State courts." It viewed them as a "hazardous experiment with the vulnerable fabric of the Nation's judicial system." These were the chief justices of the State courts themselves speaking.

Mr. President, I consider this very dangerous territory. I believe it is erroneous to move in that area, and I believe that those on both sides of these issues that are so controversial ought to think again about whether they really want to change the concept of this Nation's Government, change the constitutional protections in an effort to pass one or more pieces of legislation that may or may not have validity.

Mr. President, I ask unanimous consent that excerpts from an op ed piece in the New York Times, written by Howard Fink, the distinguished professor of law at Ohio State University, be included in the Record at this point.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Excerpts From January 1981 New York Times Op Ed Piece by Howard P. Fink

The court-stripping bills, if passed and upheld by the courts, would undo the federalist victory led by Chief Justice John Marshall in the early 1800's under which the Republic has flourished. The bills would undermine the security of property rights as well as those personal rights that Americans long have taken for granted.

While we usually think of the Constitution as primarily protecting personal freedoms such as free speech and the right to vote, what is equally important is that it also protects property rights. Businesses and individuals are protected from having their property appropriated by the State without just compensation, from having States impair contracts already entered into, from States imposing confiscatory zoning and pollution control laws, and from States setting arbitrary limitations on the interstate movement of goods and on the rates that railroads and utilities might charge.

The system established by the Federalists encouraged investments from the Eastern States in our developing West and from foreign countries in the United States. Investors knew that their property was safeguarded by the Federal courts from arbitrary conduct of distant states that might fall into the hands of antiproperty political forces, and was safeguarded also in those times when even the Congress might adopt a populist course.

If the principle is established and accepted that Congress ultimately controls the subjects with which the courts can deal, then constitutional rights, whether personal or property rights, will depend upon which coalitions—James Madison called them factions—control Congress or a particular State government.

Just as today's rightwing faction would reverse the decisions that increase personal freedom and protect blacks, tomorrow's extremists could go after business interests by

> taking away Supreme Court jurisdiction in eminent domain, zoning, pollution control, bank regulation, and utility rate setting cases.
>
> Investments are premised on the assumption of long-range stability and certainty. Eliminate this sense of security and investors become reluctant to commit their capital.

Mr. METZENBAUM. Mr. President, I am not alone in my opinion.

The American Bar Association approved a resolution in August of last year opposing legislative curtailment of Federal jurisdiction to effect changes in constitutional law. In addition to questioning the constitutionality of court-stripping proposals, the ABA questioned the public policy wisdom of these proposals:

> The committee recommends to the association the adoption of this resolution because of one overriding conviction: The necessity to protect the integrity of the courts of this Nation, Federal and State, from misdirected legislative efforts to achieve something that can be done only through constitutional amendment . . . [t]he real issue, the only issue, is whether, as a matter of policy and of constitutional permissibility, this Nation is going to adopt a device whereby each time a decision of the Supreme Court or a lower Federal court offends a majority of both Houses of Congress, the jurisdiction of the Federal courts to hear that issue will be stripped away. We do not believe that is a system the Framers intended nor one that we should strive to institute.
>
> The Framers provided in article V a means of changing the Constitution and deliberately made it difficult to achieve. The "leaden-footed process of constitutional amendment," as Justice Frankfurter called it, with the requirement of extraordinary majorities in Congress and among the States, was designed to make sure that transient majorities could not easily change our fundamental law. Are we to believe that after constructing this formidable barrier to easy change, the Framers intentionally or inadvertently also put in place a system in which simple majorities could bring about a rewriting of constitution law?
>
> In No. 78 of "The Federalist," Alexander Hamilton explained that Federal judges had been given the maximum degree of independence and protection possible because they had a critical function to perform. They must assure, he said, that the limitations on legislative authority are enforced. "Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."
>
> We do not believe that the great rights set out in the first, fourth, fifth, and other provisions of the Constitution "amount to nothing." We deem it critical to their continued meaningfulness that these bills under consideration and other like them be defeated.

In a letter to the Judiciary Committee members last month, David Brink, president of the ABA, said:

> If . . . pending proposals to limit the jurisdiction of the Federal courts or deny remedies should be adopted, a dangerous precedent would be established. However individuals may feel about limiting the jurisdiction of the Federal courts on these particular issues, there would be no stopping the process of substituting action by Congress for the process of constitutional amendment once it is begun. A future Congress could similarly take away Federal jurisdiction or remedies on rights that the proponents of the present proposals hold most dear. In fact, if these bills succeed, jurisdiction over all constitutional rights could be taken out of the Federal courts, one at a time, or all together.

Mr. President, there are too many pressing issues that have to be dealt with—jobs, interest rates, inflation, El Salvador, Poland—we should not be engaging in these "hazardous" efforts which threaten to destroy the "vulnerable fabric" of our Nation's independent judicial system.

I thank the Chair, and I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. MATHIAS. Mr. President, I make a point of order that a quorum is not present, and I ask unanimous consent that the call for the quorum not be taken out of any unused time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I understand I have 31 minutes remaining, but I further understand that the Senator from Vermont has his own special time, so I yield to the Senator from Vermont.

RECOGNITION OF SENATOR LEAHY

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Senator from Montana.

Mr. President, the debate over limiting Federal court jurisdiction to make changes in the nature and quality of rights declared by the Supreme Court under the Constitution is not new. It seems that every generation is bound to test the strength and the limits of the principles of an independent judiciary and the separation of powers. I compare the current assault on Federal court jurisdiction to attacks through our history on the first amendment. It is by now a truism that the first amendment is most ardently embraced when there is relatively little dissent in the society and most challenged when unpopular views seem to disturb the placid consensus.

Much the same can be said of our courts, the branch of government devoted to interpreting our Constitution and laws, free of the pressures of the passing majority. A healthy and independent judiciary is never more necessary than at a time when there is impatience and discontent with the way the Supreme Court chooses to interpret the Constitution.

There are numerous bills before the Senate that seek to limit or eliminate the jurisdiction of the Federal courts on issues like abortion, school prayer, and busing. On some of the issues a majority of this body will agree with the underlying social goals of particular bills. The busing provisions of the Department of Justice authorization bill provide such an example. This Senate was willing to adopt a measure that would limit the jurisdiction of both the lower Federal courts and the Supreme Court in order to limit busing. But much more than busing, school prayer, and abortion are at stake, and much more than court jurisdiction will be limited if we let expediency become the engine of change.

In all of these examples, the right involved is a right declared and protected by the courts. The impatience and outrage of some Americans is directed to the fact that the courts move more slowly than legislative bodies, and a change in the law is brought about not in response to a public outcry for change but as a byproduct of a legal dispute arising under our laws—that is, a case or controversy.

In normal times we all perceive a great personal stake in the independence of the courts. No one can safely predict whose rights will depend on that independence in the future. Therefore, we favor a strong judiciary, under law, rather than a judiciary that bends first in one popular direction, then in another. But to make this system work, no one has the right to look to the courts for a quick fix. No one has a stake in courts that can be easily persuaded to follow the howls rather than the law.

I do not accept the proposition that if Congress creates lower Federal courts, it must endow them with unlimited authority to vindicate every federally created right. There have been limitations on Federal court jurisdiction, such as increases in the jurisdictional amount, changes in the nature of diversity and removal jurisdiction, and a few—very few—instances where Congress has limited Federal court jurisdiction altogether, such as the Norris LaGuardia Act and the Tax Injunction Act of 1937.

But not even the few instances where Congress limited the jurisdiction of the Federal courts in specific subject areas did Congress ever go so far as to remove from the total protection of the Federal courts rights guaranteed under the Constitution. Through the lengthy and sometimes tumultuous history of Congress, many bills have been introduced to do just that, and none has ever passed.

Through that long history the power of Congress to establish lower Federal courts and to make exceptions to the appellate jurisdiction of the Supreme Court has been exercised to adjust the scope and authority of the judiciary to better serve the needs of the litigants, to promote efficiency, to maintain a healthy balance between the State and Federal systems.

But there should be a clear distinction in the minds of every Senator between legislation to improve the courts and legislation to use the courts to accelerate changes in substantive constitutional law. The thrust of the court-stripping bills now before the Senate is to short-circuit the normal processes for amending the Constitution, which are difficult and time consuming. But they are difficult and time consuming for a reason. The Constitution should reflect the wise resolve of the people, tested over time.

In the Constitution Subcommittee hearings on court jurisdiction conducted last May and June, we observed the Nation's finest legal scholars in a sincere and technically complex discussion of the constitutionality of various proposals to limit lower and appellate Federal court jurisdiction on an issue-by-issue basis. It is hard to predict the outcome of that same debate in the courts, simply because there is a scarcity of precedents truly on point. The scarcity, however, results from the devotion of past Congresses to the principle of shared powers and an unwillingness to buy fast changes in law at a steep constitutional price.

Among the eminent law professors who appeared before the Constitution Subcommittee a few believed that there were few limitations imposed by the Constitution on Congress under article III and that an underlying purpose of Congress to extinguish particular rights did not, in general, signal a violation of the Constitution. But it is interesting that most of the scholars who read article III broadly—and that includes all of those who appeared before the committee besides two committed supporters of S. 158, the human life statute—also believe that it would be a tragedy for Congress to forego the self-restraint that has united each generation with the next.

One witness, Prof. Martin Redish of Northwestern University Law School, believed that Congress has a broad authority under article III and that the court-stripping bills may be constitutional. But he ended his visit with us on a very different note:

> In past years, previous Congresses were also disturbed with many substantive decisions of the Supreme Court. They, too, considered legislation to curb the Court's jurisdiction. But, with rare exception, those Congresses declined to take such drastic action. I strongly urge you to exercise similar restraint, both for the good of the nation and for the rule of law.

The hearings and the opinions can only help us to decide if we have the authority to act. We must answer the question of whether we ought to act. It is that issue which must concern us all.

Nothing less than the rule of law is at stake. It may be shocking to think that not every syllable of every word necessary to protect the rights of citizens under the Constitution is located within the four corners of that document, that so much of the quality of constitutional government rests with the judgment of the fallible men and women who serve in Government.

Limiting the jurisdiction of the courts as a means of reversing particular decisions or limiting their effects is a grave and potential threat to our system of checks and balances.

The separation of powers has never been absolute in our system of government. The three branches overlap. The lines of authority are at times unclear.

Underlying the success of the system over nearly 200 years, is a strong notion of comity and accommodation among the branches. The self-restraint exercised by each branch is strengthened by genuine concern about destroying that sense of comity, just as one is careful to nurture a faithful relationship with a good neighbor.

Congress is being exhorted now to define the limits of its power to shape and reshape Federal jurisdiction.

I hope that as the court-stripping bills make their way onto the Senate calendar, we can remember that what is permissible is not always wise. Congress must resist the temptation to adjust the jurisdiction of the lower Federal courts, or of all Federal courts, to respond to particular decisions of the Supreme Court.

The process of constitutional amendment is clearly open to the Nation to alter or reverse a judgment of the Supreme Court. While that process is slow, the result is a more certain measurement of national sentiment and a deeper respect for the law that results.

In addition to the amending process, the power of the President to affect the makeup of the courts over time through judicial appointments is an important one. As the overwhelming approval of Justice Sandra Day O'Connor showed once again, the Senate is concerned with fitness and qualifications when it confirms a judicial nominee, not philosophy. The President and, indirectly, the political process, will have a potent effect on law and public policy.

The 75th Congress was faced with a dilemma not unlike our own when it considered and rejected President Roosevelt's court-packing proposal. The Senate Judiciary Committee rose to the occasion, despite the great pressure to speed along legislation that was designed to ease the pains of the Great Depression. The words of that committee could be our own today:

> Let us, of the Seventy-fifth Congress, in words that will never be disregarded by any succeeding Congress, declare that we would rather have an independent court, a fearless court, a court that will dare to announce its honest opinions in what it believes to be the defense of liberties of the people, than a court that, out of fear or sense of obligation to the appointing power or factional passion, approves any measure we may enact. We are not the judges of the judges. We are not above the Constitution.

In conclusion, let me mention one thing.

Customs in governing are sometimes more important than we can rationally explain. Winston Churchill played a strong part in the plans to rebuild Parliament after World War II devastation. Many people suggested using the opportunity to eliminate the building's odd corners and those labyrinth walls that had grown up over the centuries. Churchill refused. We build our buildings, he said, and thereafter our buildings build us.

That thought is well applied to the most enduring of American Government structures, the Constitution.

Mr. MITCHELL. Mr. President, I take this opportunity to address both the wisdom and the constitutionality of the many bills presently before Congress which would in some manner limit lower Federal court or Supreme Court jurisdiction over specific kinds of cases. Although the large number of such bills is unprecedented, the substance of the bills is not. These bills are not simply efforts by Congress to improve or modify the organization of the Federal court system. They are, instead, attempts to overturn the results of the Supreme Court's decisions in controversial areas of constitutional law.

Efforts by Congress or the Executive to exert political control over the judiciary have occurred throughout our Nation's history. For instance, in the early 1900's when the Supreme Court was routinely striking down liberal social legislation, bills were introduced to "(abolish) the Supreme Court's power to pass upon the constitutionality of statutes." (Sager, "Foreword: Constitutional Limitations on Congress Authority to Regulate the Jurisdiction of the Federal Courts," 95 Harv. L. Rev. 17, 55 n. 110 (1981).) In a similar vein, when Franklin Delano Roosevelt's New Deal social programs met resistance in the Supreme Court, he sought to pack the Court—rather than simply to limit jurisdiction—and thereby create a majority of the Court in favor of his policies. And, in the 1950's, when the Federal courts attempted to keep the so-called witch hunting activities of Senator McCarthy within constitutional bounds, the Jenner bill was introduced to prohibit the Federal judiciary from ruling on any statutory or agency action aimed at alleged subversives. All of these attempts to undermine the Federal judiciary, both from liberal and conservatives forces, have failed, and with good reason.

During the past few years, bills have proliferated to prevent the Federal judiciary from ruling on certain hotly debated issues, particularly in areas where the Court's decisions are likely to violate the strongly held beliefs of certain moral or political interest groups. In general, these bills attempt to impose the beliefs of the groups on the Federal courts by eliminating either lower Federal court jurisdiction or the appellate jurisdiction of the Supreme Court with respect to specific subject areas or remedies.

I believe that these bills are both unwise and unconstitutional. With respect to the wisdom of these measures, the proposals to limit Federal court jurisdiction over specific subject areas or remedies make no sense in terms of the meaningful operation of our Government. If enacted, such legislation will have substantial adverse impacts on both the judiciary and Congress and will seriously undermine our constitutional system of Government.

As I will explain more fully in a constitutional context, these proposals undermine the principles of judicial independence and the separation of powers. In addition, the principle of stare decisis—the controlling effect of prior judicial decisions—will be eroded in the areas covered by the proposed legislation to withdraw Supreme Court review. While the legislation itself will leave standing prior Supreme Court decisions in those areas, the withdrawal of Supreme Court review presents an open invitation for State courts to overturn or misapply these decisions. Because this invitation exhibits a disrespect for the law of the land, it is not responsible. To the extent that State courts follow Supreme Court precedent, the legislation will have no effect.

Moreover, the bills withdrawing Supreme Court jurisdiction will disrupt the uniformity of Federal constitutional interpretation. For instance, the first amendment should offer the same protections in one State as another; the term "person" under the 14th amendment should have the same meaning in all States, and so on. As Alexander Hamilton stated in Federalist No. 80:

> [T]hirteen independent courts of final jurisdiction over the same causes arising upon the same laws, is a hydra in Government, from which nothing but contradiction and confusion can proceed.

To permit the courts of the 50 States to engage in setting different interpretations of constitutional terms—as the proposed legislation would allow, if not encourage—would destroy the ability of the Constitution to serve as a meaningful national document.

And if Supreme Court jurisdiction is withdrawn, in a given area, what happens to constitutional decisionmaking in this area? Is it to be frozen forever, never to be considered again? This makes no sense. In fact, the judicial decisions attacked by the bills are the very decisions that many agree the courts should reconsider.

The role of the courts is to apply enduring constitutional principles to changing circumstances, so that we have a living and growing body of constitutional law that adapts over decades and centuries, as our Nation changes. It would be unwise and irresponsible to try to halt this process at one point in time.

The real and unfortunate impact of these bills on Congress also would be great. First, should Congress enact this type of legislation, the pressures to respond in like manner to an even wider range of issues will grow. Every group that feels victimized by an adverse constitutional ruling will appeal to Congress for legislation to withdraw lower Federal court of Supreme Court jurisdiction over areas covered by that ruling. Second, future Congresses, reflecting transient but intensely held constituent views, may have significantly different views on substantive issues that can and should be dealt with by the courts. If legislation of the sort pending is upheld by the Supreme Court, then virtually no area of constitutional adjudication would be immune from congressional action. And changes in the respective Houses could spur a floodgate of legislation repealing prior withdrawal bills and proposing new ones. I feel that we must play a more important role in order to best serve our constituencies than that of closely controlling the manner in which the Federal courts carry out their intended performance in our system of Government.

Beyond these practical effects on the judiciary and Congress, the proposed bills raise fundamental constitutional concerns. The issue of Congress right to limit the jurisdiction of the Federal courts has entertained constitutional scholars, for years. Everyone is in basic agreement that article III of the Constitution allows Congress to place some limits on the jurisdiction of both the lower Federal courts and the Supreme Court. The question is the proper scope of that power. Some commentators argue that specific subject matter restrictions of Federal jurisdiction—such as those proposed in the bills currently before Congress—would pass constitutional muster; others disagree. Surprisingly, however, even some constitutional scholars who attack the court decisions at which the bills are aimed believe that the bills themselves would be unconstitutional.

For example, Robert H. Bork, an influential legal scholar who was recently appointed by the President to the U.S. Court of Appeals for the District of Columbia, testified last June before the Subcommittee of Separation of Powers of the Senate Committee on the Judiciary on S. 158, a proposal to limit Federal court jurisdiction over abortion cases. In his testimony, then Professor Bork said that although he believed that the Supreme Court's decision in Roe against Wade was unconstitutional, the measure before Congress to limit Federal court jurisdiction over abortion laws was not a proper response. In this regard, he pointedly stated that:

> [T]he question to be answered . . . is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformations.

Because Congress seldom has traveled into the murky area of its right to limit Federal court jurisdiction, the Supreme Court has had little chance to elaborate on the constitutionality of such efforts. The few relevant cases have generally held that article III of the Constitution grants Congress the plenary power to limit the jurisdiction of the Federal courts. This does not mean, however, that Congress is immune from limitations on this power that are found elsewhere in the Constitution, including the several amendments. In other words, while Congress may limit the jurisdiction by statute, those laws are no more immune from constitutional scrutiny than any others.

The most significant case concerning the extent of Congress ability to limit Federal court jurisdiction is United States against Klein,[1] an 1872 case arising out of the Civil War context. Klein, who had been a Confederate, sued in the Court of Claims to recover proceeds from the sale of his property which had been seized and sold by Union forces. The Court of Claims ruled in his favor because he had received a full Presidential pardon for his Confederate activities. Without the pardon, the governing statute would have prevented his recovery.

While the case was pending before the Supreme Court, Congress passed a law which provided that the Court would not have jurisdiction of cases in which it appeared that the judgment of the Court of Claims was based on such a pardon, without other proof of loyalty. The Supreme Court held the statute unconstitutional, primarily because the statute impaired the effect of a Presidential pardon and thereby infringed the President's constitutional power under article II, section 2 to

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[1] 13 Wall. 128 (1872).

"grant Reprieves and Pardons for Offenses against the United States." The Court stated that the statute was not "an exercise of the acknowledged power of Congress" over the Supreme Court's appellate jurisdiction. Although the legislation was phrased in terms of article III jurisdiction its effect was beyond the power of Congress because it was inconsistent with another provision of the Constitution.

Thus, although other cases may not seem wholly consistent with this case, it seems clear—under the language of the Constitution and as a matter of judicial precedent—that statutes enacted by Congress under its article III powers must conform to other constitutional provisions. For instance, if a statute were passed withdrawing Federal court jurisdiction to issue injunctions in suits brought by particular political, religious, or racial groups, it would be unconstitutional under the first amendment and the due process clause of the fifth amendment.

The bills currently before Congress vary widely in subject matter and in breadth of withdrawal of Federal court jurisdiction. Some withdraw jurisdiction from the lower Federal courts; some from the Supreme Court as well. Some withdraw all cases that relate to particular constitutional rights; others withdraw the power to use certain types of remedies in cases involving these rights. The bills share in common the feature of singling out a particular constitutional right, and confine their application to cases dealing with that right. As in the Klein case, these congressional attempts to curtail Federal court jurisdiction are properly subject to clear constitutional limitations.

Moreover, in my considered view, the bills limiting the jurisdiction of the Supreme Court over specific issues are unconstitutional for another reason. They do violence to the basic concept on which our constitutional system of government is based—the concept of three co-equal branches designed as a system of checks and balances.

It has been my privilege to serve in all three branches of this system—in the executive branch as a U.S. attorney; in the judiciary, as a Federal district court judge; and now in the legislature, representing Maine. I have learned on a firsthand basis that each branch has a different responsibility necessary to make our constitutional system work. It is only the judiciary, however, that is not—and should not be—responsive to an elective constituency. Indeed, one of the roles that the independent judiciary was designed to fulfill was that of protecting the constitutional rights of individuals or minorities, or our system of democratic procedures itself, even in the face of systematic political attack. For Congress to limit the breadth of issues with which Federal courts can deal—based solely on the views of a perceived political majority or an intensely concerned minority—is indirectly to impose the views of a constituency on the courts, undermine its independence, and thereby rob our system of one of its essential checks and balances.

Of course, courts can and do make mistakes. As one preventive measure, the executive must be careful and thoughtful in its selection of judges in the first place. Similarly, when Congress or the executive makes a mistake by taking action that violates the Constitution, it is the responsibility of the courts to overrule that action.

The bills before Congress to limit Federal court jurisdiction, in trying to change alleged mistakes made by the courts, would eliminate many of the Constitution's checks and balances. These bills envision a system of government in which the judicial branch's ability to protect constitutional rights and privileges can be overruled by a simple majority of Congress. But if Congress can determine what rights and privileges may be reviewed, Congress can effectively decide what rights and privileges exist. This removes a crucial aspect of the system of checks and balances that was intended by the framers of our Constitution. Although the independent judiciary will still exist in form, the proposed bills will remove much of its substance. The judiciary will operate at the sufferance of a legislature which would pose the very real threat of taking away from the judiciary all issues on which politically or socially unpopular judgments are rendered.

Although this might make a political majority or a politically influential minority happy for a short time, it would do so at the cost of our constitutional system. It would not be the constitutional system of Government that the framers developed for us, and it is not the Government that has worked so well for 200 years.

Our constitutional system already provides a means for a large majority to overrule the Supreme Court on issues of constitutional law—the procedure for amending the Constitution. This process intentionally requires a broad consensus in our society, so that the independence of the judiciary cannot be determined by passionate minorities or by efforts regarding transient, controversial issues.

To supplant this carefully balanced constitutional system with a method of overruling or undermining judicial decisions by abusing Congress powers to organize the judiciary's jurisdictional power would be a grave constitutional error.

Whether withdrawal of Federal court jurisdiction over particular issues is a constitutional exercise of congressional power poses a most serious question. If the Supreme Court is ever forced to rule on this question, it will precipitate perhaps the greatest constitutional crisis of our 200-year history. It is my view that this crisis need not and should not be confronted.

The arguments asserting the constitutionality of the proposed bills are basically threefold. First, it is argued that Federal jurisdiction can be limited so long as there is a forum someplace where constitutional rights can be vindicated and the Supreme Court can review the decision. Under this argument, statutes which eliminate lower Federal court jurisdiction but still maintain Supreme Court review of State court decisions would be constitutional. Second, it is argued that the limitations on jurisdiction are constitutional so long as they merely affect the remedy rather than the right to bring a suit. Finally, it is argued that article III grants Congress the plenary power to limit Federal court jurisdiction with no limitations at all imposed by the other sections of the Constitution.

I find none of these arguments persuasive. Indeed, many of the bills eliminate Supreme Court review of State court decisions on specific subjects. Even those bills which maintain Supreme Court review would attack the constitutional requirement of an independent judiciary. Although Congress was not constitutionally required to create the lower Federal courts, having created them, it cannot and should not attack the integral role that they play in our constitutional system of government. Similarly Congress may have control over remedies. But if we eliminate the only remedy that will effectively uphold a constitutional right, we essentially eliminate that right. Finally, I do not believe Congress has plenary power to do what it will with the courts as stated above. Other constitutional provisions limit this article III power as does the constitutional principle of the system of checks and balances.

We in Congress have an equal responsibility with that of the courts to enforce and respect the Constitution. Whatever the precedents, it is clear to me this legislation would subvert some of our most important constitutional principles. For these reasons, we have a special responsibility to defeat this legislation.

In conclusion, the bills to exert political control over the decisions of the Federal courts are both unwise and unconstitutional. In 1937, when considering Roosevelt's court-packing plan, the Senate Committee on the Judiciary asked:

> Shall we now, after 150 years of loyalty to the constitutional ideal of an untrammeled judiciary, duty bound to protect the constitutional rights of the humblest citizen against the Government itself, create the vi-

> cious precedent which must necessarily undermine our system?

After 150 years the answer was no. Today, after 200 years, the answer is still no.

The foundation for our way of government is our constitutional system, not the Supreme Court's decision of the moment. It is that system that these bills undermine. It is that system that is our national strength. It is that system that I refuse to change.

Thank you, Mr. President. I now yield to the Senator from North Dakota.

The **PRESIDING OFFICER**. The Senator from North Dakota.

Mr. **BURDICK**. Mr. President, I am delighted to join with a number of my colleagues this morning in expressing grave concern about the many bills introduced in this session of Congress, which would restrict Federal court jurisdiction over a variety of controversial issues. As is demonstrated by the disparate group of Senators anxious to address the issue, it is a concern that crosses party, ideological, and regional lines, for the Constitution belongs to all of us, and it is the Constitution which is at stake.

The Founding Fathers created a system of government which has proven remarkably adaptable and resilient over our 206-year history. From its infancy as a sparsely populated country with an agrarian economy concentrated on the eastern shore of the continent, America has matured into its current status as the preeminent military and economic power in the world. It has survived foreign invasion, civil war, economic depression, and severe racial unrest. The fact that it has emerged from these crises with new strength and vigor, instead of being torn asunder by them, is in large part a tribute to the character of its people. But it is also a tribute to the vitality of our Constitution.

That Constitution, which is the very essence of strength and flexibility in many respects, is at the same time a document of extraordinary balance and precision. The men who framed it were all too painfully aware of the dangers inherent in excessive concentration of power. They carefully and deliberately divided the Government's power between three coequal branches: executive, legislative, and judicial. And they further provided that neither the balance of powers set forth in this credo, nor the rights and liberties which it conferred on every American, could be altered or modified except by the cumbersome process of constitutional amendment.

We are gathered today to discuss a whole host of legislation which is nothing less than a frontal assault on the separation of powers mandated by the Constitution and the protection which it gives to the rights of a minority. An independent Federal judiciary, with members appointed for life terms, was expressly created to review the actions of a popularly elected legislature and safeguard the fundamental individual liberties which we Americans hold so dear. The series of bills at issue today would not affect the continued existence of those liberties. Their sponsors are unwilling, or more likely, unable to secure the two-thirds vote of Congress and ratification by the States which could add or detract from the rights already contained in the Constitution. Instead, they seek to achieve the same result by making current constitutional guarantees unenforceable in the Federal courts. The precedent established would be pernicious indeed: where an unpopular right is being exercised, Congress can simply expunge it. Today the rights involved are those of privacy, equal protection, and freedom of religion. Tomorrow they could be the rights of freedom of speech, freedom of the press, due process, or any other basic freedom.

I think that if the American people realized the full implications of this kind of legislation, they would raise a hue and cry that would reverberate through the halls of Congress. It is fascinating that the State courts, on which this new system of government would be foisted, want no part of it whatsoever. At a conference of State chief justices in Williamsburg on January 30 of this year, a resolution was unanimously adopted which decried legislation restricting the jurisdiction of the Federal courts. The justices pointed out that they are as much sworn to uphold the Constitution as are Federal judges, and that it is insulting to assume that their interpretation of it would be so different from that of their colleagues on the Federal bench. They also noted that current Supreme Court decisions in the affected areas would be "cast in stone" if this legislation is adopted, since State judges are obligated to give full force and effect to controlling Supreme Court precedents. In other words, these bills would have an effect exactly opposite of that which is desired by their proponents.

In "A Man for All Seasons," the classic play which recounts the steadfast adherence to conscience exercised by Sir Thomas More in his confrontation with Henry VIII, More is pressed by his daughter's suitor, William Roper, to defend the idea that the Devil himself must have the benefit of the law until he breaks it. Roper fervently states that he would "cut down every law in England" to get at the Devil. More's response is worth noting in the context of today's discussion:

> Oh? And when the last law was down, and the Devil turned round on you—where would you hide, Roper, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil himself benefit of law, for my own safety's sake.

Like England, our country is "planted thick with laws from coast to coast," and the Constitution is their most sacred and venerable embodiment. Senators and Congressmen come and go with a frequency which they find frightening but which is positively refreshing to those who elect and remove them from office. Federal judges stay the course a longer term, but eventually they too fade from the scene. The Constitution, God willing, shall endure forever. This order of things is not by accident but by design, and we tamper with it at our peril.

RECOGNITION OF SENATOR BUMPERS

The **PRESIDING OFFICER**. The Senator from Arkansas is recognized.

Mr. **BUMPERS**. Mr. President, Alexis De Toucqueville once commented about our unique system of judicial constitutional review:

> I am inclined to believe this practice of the American courts to be at once the most favorable to liberty and to public order . . . The power vested in the American courts of justice of pronouncing a statute to be unconstitutional forms one of the most powerful barriers that has ever been devised against the tyranny of political assemblies.

In the Federalist Papers, No. 47, Madison underscored the importance of the separation of powers concept imbedded in our Constitution when he wrote that:

> The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of a one, a few, or many, and whether hereditary, self-appointed, or elected may justly be pronounced the very definition of tyranny.

Separation of powers does not mean that each branch is completely independent of the other. It is axiomatic that the Congress makes the laws, the executive branch makes sure that the laws are faithfully executed, and the judicial branch is the ultimate arbiter of what the law is. Judicial constitutional review by an independent judiciary not beholden to the people or legislature for tenure in office or continued compensation was intended as a basic check on the power of the executive and legislative branches to invade fundamental individual rights and liberties. Cooper against Arron, the Little Rock school desegregation case that arose in the late fifties and which presented a classic clash between Federal and State authorities, echoed the basic Marbury against Madison precept that it is the province and duty of the judicial department to say what the law is. In Cooper the court said:

> This decision (Marbury v. Madison) declared the basic principle that the Federal judiciary is supreme in the exposition of the

> law of the Constitution, and that principle has ever since been respected by this court and the country as a permanent and indispensable feature of our constitutional system.

Mr. President, these basic principles are so sensible and salutary that they hardly need justification. Yet, we stand here today defending these basic precepts because more than 30 bills are now pending in the Congress which seek to strip the Federal judiciary of the power to decide basic constitutional rights, freedoms, and liberties. I hasten to point out that this is not unique in the history of our great Republic. Over the years there have been several ERAS in which Congress has been active in seeking to strip the Federal courts of jurisdiction to hear controversial issues. Court stripping bills flourished in the late 1860's after the Civil War and in the 1930's as this Nation was fighting its way out of the Great Depression. Again, in the 1950's several bills were introduced and were given serious consideration by congressional committees. Some of them were even passed by one House of Congress.

So the problem we are discussing today is not new. Over the years Members of Congress, liberals and conservatives alike, Republicans and Democrats alike, have sought to change the Constitution through a simple majority vote, and I cannot say it loud enough or often enough: It was wrong in the 1860's, it was wrong in the 1930's, it was wrong in the 1950's, and it is wrong today.

Mr. President, I stood on the floor of the Senate just a few weeks ago and said many of these same things. I want the record to be absolutely clear: I strenuously object to these court stripping bills.

Why this sudden rush now to pillage constitutional guarantee? There are legitimate reasons for alleviating some of the workload of Federal judges. Over the years the case filings in Federal courts have steadily increased and most Federal judges have more than they can say grace over. But if this is the problem, there are better and more efficient ways of dealing with it than by stripping the courts of jurisdiction to hear controversial constitutional issues.

I have not heard anyone seriously suggest that the State courts are institutionally better equipped to deal with these controversial constitutional issues. The State courts are filled with hundreds of distinguished jurists who understand that they are bound to abide by the Constitution, but it could not seriously be argued that these judges are institutionally better equipped than Federal judges to resolve questions of Federal constitutional law. So, it is clear that these court stripping bills do not rest on this as a rationale.

What other legitimate reasons might there be for these bills? Most assuredly the Senators and Representatives who introduced these measures did not do so out of a deep and abiding concern that our most basic constitutional guarantees should be even more vigorously enforced than they are now.

All of us stood in our offices or wherever we were sworn into the U.S. Senate, and we held up our hands and said, "I swear that I will uphold, defend, and protect the Constitution of the United States."

And it would be consistent with that oath to introduce measures in an effort to shore up constitutional guarantees, not erode them. But certainly, the authors of these bills are not trying to strengthen the Constitution.

No, the impetus for these measures is transparent. These measures are intended to weaken our basic constitutional guarantees, our rights and liberties. I can discern no other motivation for them, and none exists. The Members of the Senate and House who support these bills do so in the belief that the State courts will be less friendly to the guarantees of freedom of religion, freedom from discrimination in educational opportunities, freedom over one's bodily functions. Other limitations will certainly follow if we over break that dike and let the first one through.

Incidentally, some of the proponents of these bills might get a surprise. I can cite hundreds of State court decisions across the land that vigorously enforce the Constitution.

And as Prof. Laurence H. Tribe of Harvard University pointed out last year in testifying before a congressional committee, State courts may choose to "replicate the very rulings that has inspired jurisdictional restructuring, thereby freezing the law unwisely but otherwise rendering the shift from Federal to State courts too inconsequential to have been worth the effort * * *." On the other hand, there is some danger that the State courts would move in 50 different directions and there would be no uniformity in interpreting the Constitution.

The Constitution would mean one thing in my State and another thing in your State. That would be completely at odds with the intent of the Founding Fathers.

It would completely destroy the constitutional fabric that has kept our Nation free, our homes secure, our rights protected, and our institutions sound for almost 200 years.

Imagine, Mr. President, 50 separate interpretations of the freedom of speech clause, the freedom of press clause, or the freedom of religion clause of the first amendment. Imagine the chaos if due process meant one think in Iowa, another in California, and still another in Florida. Imagine if cruel and unusual punishment under the eighth amendment meant one think in Arkansas and just the opposite in Tennessee. What if the right to vote under the 15th amendment was vigorously guarded by the courts in Arizona but not by the courts in New York?

It is provided in the Constitution that you shall be protected against unreasonbale searches and seizures. What if unreasonable meant one thing in Maine and something else in Michigan?

Well, Mr. President, I hope it will never come to this. The proponents of these bills say, "Oh, it cannot come to that. The case is being overdramatized."

But I am telling you that once we erode the constitutional guarantees that have kept his Nation free for 205 years, then the next time we do it is not nearly so painful, and the next time it becomes even easier.

Mr. President, the lawyer Members of the Senate who have practiced in Federal courts know that most Federal courts guard the exercise of their jurisdiction jealously. Once a case is filed, the first thing they do is try to figure out why it should be dismissed and not heard at all. They look to see if the plaintiff has standing, and if he does not, the case is dismissed.

The court is careful to make sure that the plaintiff's case is not moot. A classic example of the dismissal of a case for mootness occurred just last week when the Supreme Court reversed and dismissed in the case of Murphy against Hunt. In that case, the plaintiff was charged with rape and detained in jail until trial under the terms of a Nebraska statute authorizing his detention. He filed suit in Federal court claiming a violation of his eighth amendment right not to be subjected to "excessive bail." the eighth circuit court of appeals heard the case and struck down the Nebraska statute. When the Supreme Court agreed to hear the case, many of us who are interested in the constitutionality of preventive detention anxiously awaited a final decision on the merits. But none was forthcoming. Just last week the Supreme Court dismissed the case because the plaintiff had been convinced by the Nebraska Supreme Court and the question of pretrial detention was moot. The Court could have seized upon the opportunity to decide an important question of constitutional law, but it did not do so. Again, my point is that the Federal courts jealously guard the exercise of their power.

Other principles that make it difficult to get into Federal court are abstention, federalism, and comity. Another is the rule requiring exhaustion of other remedies, whether administrative or State court. The point is that, generally speaking, Federal courts are not involved in a power grab. They decide cases when they have to, and they dismiss them when they do not.

Well, who are these Federal judges that everyone is wanting to get? Are they radicals?

As the Members of this body are aware, we confirm every one of them. Every one of them has received a majority vote in the U.S. Senate or they would not be sitting there.

As the Members of this body are aware, most Federal court judges come from fairly conservative backgrounds. Many came from prestigious and established law firms, where they represented corporate and business clients. I am sure that there are exceptions, but it is clear that the great majority of them are no more liberal nor conservative than the American people as a whole. They are a cross section of the lawyers that this Nation has produced over the years. They are there for a purpose. That is to enforce our basic constitutional guarantees as they understand them.

Mr. President, all of us can point to Federal court and Supreme Court decisions with which we strongly disagree. But I ask you, should our most precious constitutional rights be subject to mere political whim, fancy, or caprice? Or should they be ultimately resolved by an independent Federal judiciary? Judicial constitutional review by an independent judiciary not beholden to the people or legislature for tenure in office or continued compensation was intended as a basic check on the power of the executive or legislative branches to invade fundamental individual rights and liberties. It is absolutely fundamental to the preservation of those rights and liberties. As Hamilton wrote in the Federalist Papers:

> It could not be expected that men who had infringed the Constitution in the character of legislators would be disposed to repair the breach in the character of judges.

Mr. President, in the recent history of this country, Federal courts have stood as a bulwark for the protection of our basic constitutional guarantees. They have been willing to protect sometimes very unpopular constitutional guarantees when members of the legislative and executive branches have not had the courage to do so. We should support that role rather than detract from it if we are serious about keeping our oath to uphold the Constitution.

In closing, Mr. President, I want again to remind the Members of this body of the statements made by Martin Niemoeller in Nazi Germany, which they have probably heard hundred of times, and every schoolchild ought to have to hear it at least once a year. He said that in Hitler's Germany, when they came for the Communists, he did not stand up because he was not a Communist. When they came for the Jews, he did not stand up because he was not a Jew. When they came for the trade unionists, he did not stand up because he was not a trade unionist. When they came for the Catholics, he did not stand up because he was not a Catholic. Then they came for him, and there was nobody left to stand up.

So I ask the Members of this body, when attempts are made to erode the freedom of the press, who will stand? When efforts are made to leave the definition of freedom of religion to 50 different State courts, who will stand up? When action is taken to weaken our basic rights to privacy in our homes, due process, unreasonable searches and seizures, equal protection before the law, who will denounce the tyranny?

Mr. President, these bills, if they become a precedent, erode and will ultimately destroy the organic law of this Nation. That document is the bulwark between the people and a government that would certainly become tyrannical.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I am wondering whether the Senator from Arkansas has any time left on his special order?

The PRESIDING OFFICER. The time of the Senator from Arkansas expired just as he finished.

Mr. LEVIN. Mr. President, I ask unanimous consent that the 5 minute, 35 second balance of the special order remaining to the Senator from Maine be yielded to this Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair.

Mr. President, I am pleased to join this morning in the most critical constitutional issue which is besieging this country. That is the independence of the Federal judiciary. Dissatisfaction with Federal court decisions on busing or abortion or school prayer has prompted Members of Congress to introduce bills stripping the Federal courts of jurisdiction over these and other subjects that we might disagree with decisions on. But the issue is not really school busing or abortion or school prayer or whatever. The underlying issue is whether Congress should try to limit the ability of the Federal court to rule on constitutional claims. The people understand the difference in these issues.

Let me quote from the Grand Rapids Press. That is a newspaper in the second largest city in Michigan. It comments on the recent vote in the Senate relative to the stripping the courts in school busing cases. The Press wrote:

> The surface issue was school busing for purposes of desegregation. But there is no disputing the real aim of those who pressed the proposal in the Senate: circumvention of the courts. Never mind justice or the Constitution.

The editorial continued:

> The judiciary exists as a separate branch of government—a balance—to guarantee justice and constitutionality in a society that otherwise is ruled by the tyranny of the majority.
>
> What will the Constitution be worth if majority whims can declare certain government actions beyond the boundaries of court review?

I have an editorial in a similar vein, written by the Kalamazoo Gazette. These papers are not probusing. These papers are pro-Constitution. As a matter of fact, in Kalamazoo, where the Gazette is published, there is, in the words of this editorial, "significant discontent with school busing in Kalamazoo." The Kalamazoo Gazette editorial stated:

> To be against busing is, for most members of Congress, a popular position.
>
> But what is popular is not necessarily constitutional. That's where separation of powers comes in. The legislative branch makes the laws, the executive branch enforces them, and the judicial branch interprets them and is empowered to rule on their constitutionality. If the courts had no such power, there would be no protection for the rights of minorities.
>
> We believe that it is imperative for the federal courts to be the final arbiter over legislation. A free society, in order to remain free, must depend on a judiciary strong enough to protect the rights of all citizens.

Mr. President, there are many, many reasons why the Congress should reject attempts to strip the Federal courts of jurisdiction. First, bills limiting the jurisdiction of the Federal courts are an attempt to circumvent the requirements of article V by permitting Congress to alter the Constitution by simple majority. Article V establishes a process for amending the Constitution which is designed to prevent political decisions by lawmakers where essential rights and liberties are at stake. In its report on the proposals pending before the Congress to limit the jurisdiction of the Federal courts, the American Bar Association stated:

> Supreme Court decisions interpreting the Constitution establish binding precedents which are subject to alteration by the people through the process of constitutional amendment. The Framers provided in Article V a means of changing the Constitution and deliberately made it difficult to achieve. The "leaden-footed process of constitutional amendment," as Justice Frankfurter called it, with the requirement of extraordinary majorities in Congress and among the States, was designed to make sure that transient majorities could not easily change our fundamental law. Are we to believe that after constructing this formidable barrier to easy change, the Framers intentionally or inadvertently also put in place a system in which simple majorities could bring about a rewriting of constitutional law?

So wrote the American Bar Association. And, Mr. President, these bills would establish the dangerous precedent whereby Congress could avoid the more demanding prerequisites to amending the Constitution established in article V by limiting the Federal court's jurisdiction to hear certain cases or to order certain remedies. The end result of such curtailment will be to alter the Constitution. Should the Congress or the people seek to effect a constitutional change in any of these issue areas, it should do so only by obtaining the requisite votes of two-thirds of the Members of both Houses and the approval of two-thirds of the States.

Mr. President, not only does this approach radically alter the constitutional process of change, it actually undermines a basic concept of constitutional stability: The doctrine of separation of powers, which has been the foundation of this Government for over 200 years. The framers created these separate branches of Government with a system of checks and balances in order to guard against the possibility that any one branch would gain too much power at the expense of individual rights. The establishment of an independent judicial branch was intended to insure that legislation contrary to the Constitution would not be enforced. This "check" on the legislative branch is placed in serious jeopardy when the Congress seeks to remove certain constitutional issues from judicial review. This is clearly contrary to the intent of the framers. The system of checks and balances which these bills threatened was intended by the framers of the Constitution to be a cornerstone of our Government. Surely we should not act to erode it in this manner, regardless of our individual views on any one of these controversial issues.

Another effect of bills seeking to limit the jurisdiction of the Federal courts is to undermine the Federal nature of our Government. As the Supreme Court indicated in *Ableman* v. *Booth*, 62 U.S. (21 Howard) 506 (1958), such actions would have the effect of nullifying the supremacy clause of article VI of the Constitution. The Court reasoned that where there is not a single supreme tribunal with the authority to interpret and pronounce the meaning of the Constitution and of Federal law, "the Constitution and the laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States and the United States would soon become one thing in one State and one thing in another." As Robert H. Bork, former Solicitor General and a critic of judicial expansionism has stated:

> Use of the Exceptions Clause of Article III of the Constitution to remove appellate jurisdiction, plus a simultaneous removal of jurisdiction from the lower federal courts, would not return power either to Congress or to state legislatures but to state courts. The result would not be a restoration of democratic government to subjects over which it rightfully claims dominion, but, rather, continued judicial government by fifty state systems. There could be no hope of uniformity.

Unlike State court justices who are subject to political pressures by the very fact of having to seek election, the framers deliberately attempted to insulate Federal judges from public attack so as not to place them in the position of having to choose between the voters and the Constitution. Again, I refer to the American Bar Association's report on this point, which emphasizes the danger in shifting jurisdiction to the State courts:

> It is wrong because hundreds or thousands of state judges who are subject to periodic elections will be put in peril. The same interest groups that extract from an elected Congress jurisdictional alterations will demand from elected state judiciaries that they accept the congressional invitation to change.

Mr. President, even if the Congress authority to limit the jurisdiction of Federal courts to hear constitutional claims were clear cut, I would oppose these bills because they undermine the independence of the judicial branch and set a dangerous precedent which could lead to the eventual demise of our democratic form of government. Over the years, Congress itself has recognized the danger in supporting quick-fix remedies to unpopular Federal court decisions. Although a majority of the Congress supported the goals of the Roosevelt administration, for example, it rejected attempts by President Roosevelt in the thirties to "pack" the Supreme Court, because it would have reduced its status as an independent branch of Government. These efforts to strip the Federal courts of jurisdiction to enforce constitutional claims are court stripping bills, just as surely as the court packing efforts of the thirties. We should reject their superficial temporary appeal because of their undermining effect on constitutional guarantees.

I thank the Chair, and I yield the floor.

JUDICIAL INDEPENDENCE

Mr. GOLDWATER. Mr. President, recently I expressed my concern about proposals that would interfere with Federal court independence. These measures would put limits on judicial consideration of social issues, particularly busing, abortion, and prayer.

I happen to believe the Federal courts have wrongly decided these subjects. I am strongly opposed to the breakup of neighborhood schools. I think the unborn baby is entitled to some legal protection. And I believe schoolchildren should be allowed a few moments of voluntary prayer.

In my view, the Supreme Court has erred. But we should not meet judicial excesses with legislative excesses.

As vacancies occur, we can confirm Federal judges who believe in judicial restraint. We can amend the Constitution. We can use the power of the purse to deny Federal money for activities we disapprove, such as abortions. But to make a frontal assault on the independence of the courts is a dangerous blow to the foundations of a free society.

It is contrary to the will of the framers. It is destructive of the federal system. And it will result in the reverse outcome of what the Court's critics wish.

INTENT OF FRAMERS

Mr. President, I will examine the intent of the framers first, starting with four significant developments that occurred at the Constitutional Convention on August 27, 1787.

First, a motion was withdrawn that would have placed most original court jurisdiction in the states and allowed state legislatures to restrict Federal appellate review.

Second, an amendment was defeated that would have vested in Congress discretion to determine whether or not Federal jurisdiction should be original or appellate in cases where the United States is a party. The vote was five States against and three States for the proposal.

Third, an amendment to permit Congress to direct the manner in which the Federal judicial power may be exercised was defeated by a vote of six States against and two States for.

Fourth, the Convention dropped a plan to vest discretion in Congress to "assign any part" of judicial jurisdiction to lower Federal courts "in the manner and under the limitations it shall think proper." This clause had been reported by the Committee of Detail on August 6 and was stricken in the full Convention by the unanimous vote of eight States.

Before completing its work in September of 1787, the Convention made a last minute change further reducing legislative power relative to the courts. The Convention adopted a proposal by the Committee of Style to eliminate language in the judicial article that would have provided for only those lower courts "as shall, when necessary * * * be constituted by the legislature." By dropping the express power of Congress to decide when it is "necessary" to constitute courts, the final version of article III gives Congress less discretion than the earlier draft.

It is true that the second clause of section 2, article III, gives the Supreme Court appellate jurisdiction "with such exceptions, and under such regulations as the Congress shall make." Many historians believe, however, that in 18th century practice the terms "regulations" and "exceptions" were used for housekeeping purposes, such as providing that suits must be filed within a reasonable time period.

Whatever its original meaning, the "exceptions and regulations" clause must be read in the light of subsequent additions to the Constitution, particularly the first 10 and the 13th, 14th, and 15th amendments. These additions to the original charter strengthen the purposes of the framers and point to the Federal judiciary as the intended arbiter of the Constitution.

FEDERALISM

To these considerations, I would add the significance of the rejection by the framers of proposals to forever use the State courts as the sole inferior courts for most causes. By repulsing these attempts, the framers clearly linked the Federal judicial power to their plan of national union.

We must remember that instead of forming a loose connection of 13 different "countries," the framers deliberately turned to a federal structure with a stronger continental government than had existed under the Articles of Confederation.

Current efforts to limit Federal court independence repudiate federalism by reverting to State supremacy over matters of basic constitutional doctrine. The antifederalists lost this argument two centuries ago.

The interesting thing is that the State courts will have no part of this backward looking scheme. The supremacy clause of the Constitution, article VI, clause 2, provides that "the judges in every State shall be bound" by the Constitution and laws of the United States.

State judges are not blind to their obligations. In fact, the Conference of Chief Justices for State Courts unanimously adopted a resolution on January 30 of this year, at its general business meeting in Williamsburg, Va., expressing its serious concern about bills to restrict the jurisdiction of Federal courts.

Let us look at the reasons given by the State chief justices. First, the justices point out that they have taken an oath to obey the U.S. Constitution. Any idea that they will deliberately thwart the rulings of the Supreme Court and put their personal views ahead of the dictates of the Constitution is an exercise in futility.

Moreover, removing jurisdiction from Federal courts means there will be no opportunity for the Supreme Court to alter or distinguish its earlier decisions. The likely outcome of restricting Federal court authority is to seal in permanent stone the very holdings that court opponents condemn.

Once new cases arise that require new answers, the absence of Federal court jurisdiction could mean different rulings in each of the 50 States.

To this astute analysis of the State Chief Justices, I would add a point drawn from the early experience of the Republic. Patrick Henry once sponsored a law to disqualify the courts of Virginia from having jurisdiction of cases arising under the laws of the Union. If we should leave the State courts with the sole jurisdiction of certain Federal subjects, one or more States may follow this example by passing a law which bars access to the courts of those States over identical matters. This would leave no tribunal with jurisdiction over basic constitutional issues and totally defeat the exercise of the judicial powers of the United States.

REVERSE OUTCOME

To sum up my conclusions, I recognize that Congress has been granted some powers over the judiciary, but believe these powers are bound by all the other principles and provisions of the Constitution, including the separation of powers, the design of forming "a more perfect union" and the guarantees of basic individual rights.

What the court limitations boil down to is a radical proposition—a claim of unchecked power to do under the Exceptions Clause what is forbidden elsewhere in the Constitution. But the Supreme Court held in United States against Klein that Congress cannot restrict appellate jurisdiction "as a means to an end."

The sponsors of proposals to withhold particular remedies from the court claim their approach is different from putting a limit on court jurisdiction. But is the result not the same in either case? By denying the court authority to grant relief that is reasonably effective, does Congress not deny enforcement of a constitutional right?

What particularly troubles me about trying to override constitutional decisions of the Supreme Court by a simple bill is that I see no limit to the practice. There is no clear and coherent standard to define why we shall control the court in one area but not another. The only criteria seems to be that whenever a momentary majority can be brought together in disagreement with a judicial action, it is fitting to control the Federal courts.

Now it is busing and abortion and prayer. But what will be next? Will a majority lay hold of Congress who puts all actions of the Internal Revenue Service beyond judicial scrutiny? Might opponents of private schools muster sufficient support to deny a challenge in Federal court to confiscatory taxes which may be levied on church schools?

Under the theory put forward by advocates of court controls, Congress may deny judicial review of any such statute.

Mr. President, I see no safe boundaries on use of the power claimed for Congress. The same club wielded by social issue groups today can be swung against them in the future.

Whether or not Congress possesses the power of curbing judicial authority, we should not invoke it. As sure as the sun will rise over the Arizona desert, the precedent will return to oppress those who would weaken the courts. If there is no independent tribunal to check legislative or executive action, all the written guarantees of rights in the world would amount to nothing.

EFFORTS TO STRIP FEDERAL COURTS OF JURISDICTION OVER SOCIAL ISSUES

Mr. CHAFEE. Mr. President, busing, school prayer, and abortion are among the most divisive issues that have come before Congress in a generation. They are also, in my view, dangerous, because they have become the focal point of an unprecedented attack upon the integrity and independence of the Federal courts. By extension, they represent a potential threat to the civil rights and civil liberties of every American.

In years past, those who opposed Federal court decisions on these and other matters concentrated their efforts on a succession of constitutional amendments to overturn Supreme Court rulings. However, it is not an easy task to amend the Constitution. Not only must each House of Congress approve any amendment by a two-thirds vote, but three-quarters of the States—38—must ratify each amendment. The failure of sufficient numbers of States to ratify the proposed Equal Rights Amendment testifies to the difficulty involved.

Faced with such an imposing task, those who oppose busing and abortion and who seek a return to prayers in public schools have turned their attention to a different tactic; namely, the passage of simple legislation to first deny funds to the Justice Department to enforce the law by bringing suit and then to strip Federal courts of their authority to rule on these issues. Since legislation requires only a majority vote for passage, plus the President's approval, the goal is far easier to achieve.

A few words need to be said here to explain these tactics. The Constitution gives Congress the power of the purse strings. Congress has sole authority over the ultimate disposition of funds appropriated by Federal law, and it is within the power of Congress to direct an agency, any agency, to refrain from spending money for a specific purpose.

If Congress denies the Justice Department the authority to spend funds to pursue specific litigation, the major law enforcement agency of the Federal Government is effectively stifled. Thus, the first objective of those who seek to overturn Supreme Court decisions on abortion, prayer in schools, or busing is to prevent the Justice Department from enforcing the law as determined by the courts.

However, the Constitution also allows private citizens or organizations to seek relief in the courts. Thus, even if the Justice Department is prevented from bringing suit to enforce a desegregation order, to take one example, the NAACP could file its own suit.

Recognizing this, the second, and far more dangerous, objective of those seeking to overturn court decisions on these social issues is to strip Federal courts of their jurisdiction.

I do not want to give you a full legal lecture this morning, but it is necessary to briefly describe what the Constitution says on this matter. The second clause of section 2, article III, gives the Supreme Court appellate jurisdiction "with such exemptions, and under such regulations, as the Congress shall make." It is this language that is used to justify legislation that denies the Federal judiciary the right to rule in certain cases.

However, most constitutional scholars reject the argument that Congress has authority to restrict the jurisdiction of the Supreme Court in matters involving constitutional rights. It was Chief Justice John Marshall who, in Marbury against Madison in 1803, declared the basic principle that the Federal judiciary is supreme in the exposition of the law of the Constitution.

Furthermore, it is the view of most scholars that the use of the "regulations and exceptions" clause of the Constitution was directed at procedural matters, such as prescribing that suits be filed in a timely manner, and the like, rather than at the substance of the Constitution itself. Clearly, it was not the view of the Founding Fathers that Congress be given authority to subvert the independence of the Federal judiciary. As Alexander Hamilton wrote in The Federalist, No. 73:

> The complete independence of the courts of justice is peculiarly essential . . . This independence of judges is equally requisite to guard the Constitution and the rights of individuals.

Against this background, I will outline briefly some major bills on social issues that are now pending.

First, the busing fight. Two antibusing bills have been approved by subcommittees of the Senate Judiciary Committee. Both would bar Federal courts from ordering busing, pupil assignments, teacher transfers, or school closing as a means of achieving desegregation. Similar bills have been introduced in the House of Representatives.

Either of these bills would go further than the antibusing rider attached in the Senate 2 weeks ago to the annual Justice Department authorization bill. That rider, known as the Helms-Johnston amendment, would prevent the Department of Justice from bringing any legal action that could lead, directly or indirectly, to court-ordered busing. It would also prohibit the courts from ordering busing more than 5 miles or 15 minutes away from a child's home.

The Senate passed the Helms-Johnston amendment by a vote of 57 to 37 earlier this month, despite an 8-month battle against it, led by Senator LOWELL WEICKER of Connecticut and a bipartisan band of Senators, myself included, who are deeply disturbed by efforts to strip the courts of their authority.

The outlook for the Helms-Johnston amendment in the House of Representatives, where a much milder antibusing rider passed last year, is problematic. But an effort will be mounted to bring it to a vote, and the President has said he will sign it if passed.

Second, the fight over school prayer. Senator HELMS introduced a bill last year to prohibit the Federal courts and the Supreme Court from hearing any cases involving voluntary school prayer. To date, no hearings on this issue have been scheduled, although it is expected that an effort will be made to bring this bill to a vote in the Senate, possibly as a "rider" to another bill.

One other piece of legislation concerning school prayer has passed the House as an amendment to the Justice Department appropriation bill. The bill is still pending in the Senate. This amendment would prevent the Justice Department from spending money to block any voluntary school prayer program. But this amendment, while significant simply for its effort to restrict Federal Government activity in this area, would have little impact since the Justice Department has not pursued any school prayer litigation for years.

Third, and most divisive, are the antiabortion measures. Here, the antiabortion forces are deeply divided. Senator HATCH has sponsored a constitutional amendment which would overturn the 1973 Supreme Court decision legalizing abortion. The Hatch amendment would give the States and Federal Government a concurrent right to restrict or prohibit abortion. This amendment would not return the country to the condition that prevailed before 1973, when each State could legislate as it wished on abortion. Instead, the Hatch amendment would prevent any State from passing an abortion law that is more liberal than any Federal statute enacted.

This amendment was approved by the Senate Judiciary Committee last Wednesday by a vote of 10 to 7. Ironically, it has been strongly opposed by several antiabortion groups as not going far enough because it does not, by itself, flatly ban all abortions under the Constitution.

The other major antiabortion effort revolves around Senator HELMS' proposed legislation—already approved at the subcommittee level—which declares that life begins at conception and which would strip the courts from hearing challenges to laws prohibiting abortion.

These major antiabortion efforts, of course, go far beyond legislation that has passed and become law in recent years to deny the use of Federal funds to pay for abortions under medicaid. The most recent of these antiabortion riders have prohibited abortion. Even in cases of rape or incest, exempting only abortion to save the life of the mother.

While there are other antiabortion, antibusing, and school prayer measures pending in the House and Senate, those I have just outlined are the ones most likely to receive serious consideration.

Before going further, it should be noted that while President Reagan has indicated his support for these various bills and amendments, he also made it clear last year that he wanted votes on them delayed until his economic legislation had been acted upon. Given the current state of the budget and the continuing recession, I believe it is fair to say that economic considerations continue to dominate the administration's priority list.

However, the Senate rules to allow any Senator the right to propose any piece of legislation as an amendment to another bill. With the possible exception of abortion, where there is a deep division in antiabortion ranks over whether to pursue the Hatch constitutional amendment or proceed with the Helms bill, I believe that efforts will be made in coming months to debate and pass some of these proposals as riders to other legislation.

While I have outlined the major bills now pending that would deal with divisive issues by restricting the jurisdiction of the Federal courts, well over 50 such proposals have been introduced on a variety of topics, not all of them dealing with busing, abortion, or school prayer.

This is why these bills are so dangerous. If only one or two of them should succeed and be enacted into law, it does not take much imagination to foresee a time when this approach could be applied to rights that are now taken for granted. Today, the major issues are busing or school prayer; tomorrow it could be voting rights for 18-year-olds, regulation of newspapers, invasion of privacy, or protection of property rights.

Our system of government is imperfect, but it is the best that has ever been devised to protect the rights of individuals. One of the major reasons it has fared well is because of our independent Federal judiciary. As institutions, the Presidency and the Congress are both susceptible to popular whims of the moment. There have been dark moments in our history when fear caused the legislative and executive branches to turn away in the face of public hysteria. The anti-Catholic excesses of the "Know-Nothings" of the 1850's; the "red scare" of the 1920's; the anti-Semitism and racial bigotry of the Ku Klux Klan early in this century; and the anti-Communist witch hunt of Joe McCarthy in the 1950's come readily to mind.

In many of these cases, it was an independent judiciary that stood up, finally, to bigotry, discrimination, and prejudice. The courts are not perfect, and there is some merit to the addage that judges read election results as much as politicians. But there have been many moments in this Nation when the courts were all we had to protect fundamental liberties.

I do not what to see the time come when Congress can tell a Federal judge he cannot enforce constitutional rights.

I do not want to see the time come when the ruling passions of the day, whether they emanate from right or from the left, dictate the extent to which the Bill of Rights will be enforced.

The challenge to our courts today comes from the extreme right, and especially from the religious right of the Moral Majority and organizations such as Christian Voice, which has decreed that my voting record in 1981 was only 17 percent "moral" because I voted against tax indexing, against the dismantlement of the Legal Services Corporation, for aid to the African nation of Zimbabwe, and in favor of a resolution that we maintain existing arms limitation agreements with the Soviet Union.

Tomorrow, the challenge could come from the extreme left. It would be just as pernicious.

Let me close by quoting from a Senator who is know as "Mr. Conservative"—BARRY GOLDWATER. This is what Senator GOLDWATER had to say in a memorable statement in the Senate when he announced his opposition to the Helms-Johnston amendment:

> To make a frontal assault on the independence of the courts is a dangerous blow to the foundations of a free society. It is contrary to the will of the framers (of the Constitution). It is destructive of the federal system. And it will result in the reverse outcome of what the court's critics wish.
>
> . . . I see no safe boundaries on the use of the power claimed for Congress. The same club wielded by social issue groups today can be swung against them in the future.
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> . . . If there is no independent tribunal to check legislative or executive action, all the written guarantees of rights in the world would amount to nothing.

I agree.

Mr. WEICKER. Mr. President, I wish to congratulate my colleagues on their eloquent and courageous colloquy in defense of the Constitution. For most of the last 9 months, I led a filibuster focused on this very subject, the independence of the judiciary, and I am not sure there is much more I can add at this point. Perhaps, however, it would be helpful to cover some familiar ground for clarity's sake.

The 31 bills pending before the 97th Congress to strip away Federal court jurisdiction in cases involving abortion, school desegregation and school prayer do in fact constitute a serious threat to our Constitution and the rights it protects. But it should be made clear that my colleagues and I oppose these initiatives not just for the sake of those whose rights are currently at stake—the child seeking a quality education, the parent who objects to prayer in public schools or the woman who wants an abortion. We oppose these bills equally on behalf of those who are against abortion, against busing and for school prayer. For if by a simple majority vote, Congress can nullify the constitutional rights of one segment of the American public, no one's rights are safe.

It cannot be stated strongly enough that this is not a battle pitting liberals against conservatives. Throughout history, there have been many conservative advocates of an independent judiciary just as there have been many liberals who sought to impinge upon that independence.

In 1937, you will remember, President Roosevelt tried to pack the Supreme Court with Justices supportive of his New Deal policies. Congress balked at that idea as contrary to the Constitution. The Senate Judiciary Committee reported that—

> It is essential to the continuance of our constitutional democracy that the judiciary be completely independent of both the executive and legislative branches of the government, and we assert that independent courts are the last safeguard of the citizen, where his rights, reserved to him by the express and implied provisions of the Constitution, come in conflict with the power of governmental agencies.

In 1924, no less than Calvin Coolidge himself told the U.S. Chamber of Commerce that—

> It is not necessary to prove that the Supreme Court never made a mistake; but, if the power is to be taken away from them, it is necessary to prove that those who are to exercise it would be likely to make fewer mistakes.

President Coolidge knew that standard of proof was beyond the Congress or any other elected body vulnerable to partisan and pork-barrel politics. Considering the clout special interests and single-issue groups have on Capitol Hill today, the Congress is, in my opinion, even less able than in President Coolidge's time to cast the first stone at the Supreme Court.

What is at stake in the 97th Congress as so often before is the linchpin of our democracy which is, in the long run, the last safeguard of us all—Republican and Democrat, liberal and conservative, black and white, believer and agnostic.

George Washington had the foresight to realize that the country's overriding commitment must forever be to the Constitution and the separation of powers it ordained. He said in his 1796 farewell address:

> It is important that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres . . . The spirit of encroachment tends to consolidate the powers of all departments in one, and thus to create, whatever the form of government, a real despotism. If in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed.

Usurpation and the destruction of our free government are what this colloquy is about and what these court-stripping bills are about, not busing or school prayer or abortion. I hope my fellow Members of Congress will keep that in mind as they consider this legislation in the months ahead.

COURT STRIPPING

● Mr. HART. Mr. President, more than 20 bills have been introduced in both Houses of Congress to strip the Federal courts of their authority to decide cases in many controversial areas. If enacted and upheld as constitutional, these bills would have the effect of eliminating the independent role of the Federal courts in our constitutional democracy.

The issue is not one of being for or against abortion, busing, school prayer or other issues the Federal courts have ruled on. The issue at stake is our basic constitutional structure. If the Congress chooses to restrict the jurisdiction of the Federal courts, whenever it disagrees with specific decisions, no real limitation exists on the power of Congress to eliminate the judiciary branch as an effective check on the power of the other branches of our Government.

Such a radical departure from a system that has served our Nation well for nearly 200 years would upset more than the checks and balances and Federal arrangements inherent in our system. Any effort to tamper with the independence of the judiciary would also have a dangerous impact on the ability of our Federal courts to protect the individual rights of all Americans.

In a recent article for the Harvard Civil Liberties-Civil Rights Law Review, Prof. Lawrence Tribe explained why the proposed legislation to restrict the jurisdiction of the Federal courts is not only unwise and unconstitutional, but also goes against almost 200 years of constitutional interpretation. I ask that the introduction to this article be printed in the RECORD.

The article follows:

JURISDICTIONAL GERRYMANDERING: ZONING DISFAVORED RIGHTS OUT OF THE FEDERAL COURTS

(By Laurence H. Tribe*)

INTRODUCTION

This essay discusses the recent barrage of proposals to curtail the jurisdiction of the federal courts: at least eighteen such proposals were pending in the House of Representatives on June 3, 1981.[1] Those unfamiliar with the tenor of the pending measures might well conclude that lawyers and legalism had finally taken over Capitol Hill altogether, or perhaps that the Nation as a whole had developed an unaccountable fascination with matters that, in more robust times, would have seemed too technical and arcane to be of general concern.

In truth, of course, no interest in the arcana of jurisdiction as such lies behind the proposed bills; their proponents have, without exception, fastened on "jurisdiction [only] as a means to an end,"[2] the end being nothing less than the *de facto* reversal, by means far less burdensome than those required for a constitutional amendment,[3] of several highly controversial Supreme Court rulings dealing with such matters as abortion, school prayer, and busing.

Many will believe, as I do, that these issues are far too complex, their rights and wrongs far too ambiguous, to admit of indignant certitude and unhesitating moral outrage—in either direction. To all who share this view, the potential suitability of the underlying controversies for current resolution through constitutional amendment may seem problematic. Especially if the amendment process is deemed an inappropriate means of inducing and cementing change where, as with abortion, there seems at most a prospect for barely achieving (and not necessarily long retaining) the supermajorities specified by article V,[4] the notion of a right-to-life amendment to overturn decisions such as *Roe v. Wade*,[5] may seem misguided even to someone who regards those decisions as wrong.[6] Whatever one's view on this broad issue, proponents of legislative solutions short of amendments may persuasively urge the folly of too lightly turning to the amendment option—and the corresponding wisdom of choosing legislative reversal of unpopular precedents whenever that option is open. But accepting all of that for the sake of arguments, it simply does not follow that legislation to restrict the jurisdiction of the Supreme Court, of lower federal courts, or of both, is a defensible response to the rulings that have inspired the bills currently before the House.

At stake in any such response—particularly if it becomes a more or less common reaction to constitutional rulings that seriously displease a popular majority which finds itself not quite able to overturn them by amendment—is nothing less than the survival of a distinctly American institution, that of review of legislative and executive action by an independent judiciary entrusted to enforce the Constitution. In South Africa, by contrast, section 59(2) of the 1961 Constitution expressly provides that, with very few exceptions, "[n]o court of law shall be competent to enquire into or to pronounce upon the validity of any Act passed upon by Parliament," and some observers point to this exclusion of judicial review as an important reason South Africa's "Parliament has been able to ride roughshod over individual liberty."[7]

Needless to say, this isn't South Africa. But how much of the difference between us might be traced to an independent judiciary? That, no one knows. It has been suggested, though, that the constant presence of an independent judiciary lends an otherwise unavailable legitimacy to Congress, whose enactments might, in the absence of potential review, more readily be mocked as naked expressions of political power. The Supreme Court's very silence, its failure to strike down most of what Congress enacts, thus serves as a tacit sign that *politics has been contained by principle.*

For those who favor judicially unchecked congressional power to define federal court jurisdiction, the argument at this point takes a curious twist. Perhaps Congress shines in the reflected glory of the Court's independence, they say, but it is no less true that the Court—indeed, the federal judiciary as a whole—shines in the reflected glory of Congress electoral mandate—and does so only because a popularly elected Congress, armed with what such advocates allege to be plenary control over the jurisdiction of all federal courts, lends an otherwise unavailable legitimacy to these unelected tribunals by consenting, through its voluntary inaction, to whatever jurisdiction such courts are able to exercise.[8] Congress silence, in a word, serves as a second tacit sign, a sign that *principle has been embraced by politics.* Eliminate Congress plenary control over the jurisdiction of the federal judiciary, we are told, and the embrace is broken, the judiciary's legitimacy shaken, the entire structure jeopardized.[9]

But surely the proponents of that view have pushed their point too far. For one thing, the argument just summarized would imply that *no* congressional control of jurisdiction could safely be struck down; but I have yet to meet the advocate of sweeping congressional power who would not concede at least that an Act of Congress denying federal jurisdiction where blacks sue whites or where Catholics sue Protestants would be, and ought to be, held flatly unconstitutional. Beyond that, whatever one might believe about the legitimating effect on the judiciary of a congressionally wielded, if mythical, Sword of Damocles that hangs, but does not fall, over every federal judge's head, it is another matter entirely to suggest that the legitimacy of *either* branch would be enhanced were the sword indeed to fall and the Supreme Court to take the blow lying down. How much legitimacy could Congress possibly derive from the approval of a Court so supine? Can the puppetmaster truly bask in the approval of a mere puppet? And how much democracy could possibly rub off on the Court from a Congress that, merely by couching its laws in jurisdictional terms, could rewrite all the rules at will and unreviewably decree what "democracy" really means? On the contrary, if a mythical Sword of Damocles is to work at all, it must continue to be held high—and never truly tested by being allowed to drop as it would if the bills now under consideration were to pass.

There is a suggestive parallel in the case of Richard Nixon, who sought to show his allegiance to principle, and thereby to shore up his faltering legitimacy, by visibly binding his fate to the work of an "independent" special prosecutor, who derived a considerable part of *his* legitimacy, in turn, from being ultimately answerable to an elected President. So far so good. But the moment the sword fell, and the President asserted his authority by selectively withholding evidence that the prosecutor sought to use, the spell was broken and the President, unprotected even by his electoral mandate, ended up falling on the sword himself—so exposed had his ploy left him to judicial defeat.[10] Congress would repeat Mr. Nixon's mistake were it to forget that the awesome power some think it has so long held in reserve over the Court could, if unleashed, turn against Congress itself. True, the Court's own role in causing such a turnabout would be more difficult than in the *Nixon* case, since the Court would on this occasion find itself arrayed against both other Branches and would, to make matters even worse, be attempting to maintain its own power.[11] But, at all events, if the constitutional infirmities in the proposed enactments may be persuasively revealed to be as glaring and extreme as I believe they are, then the Court can hardly shrink from so holding—and the legitimating efficacy of Congress' supposed jurisdiction-checking power becomes questionable indeed.

In the first instance, of course, Congress itself must assess the constitutionality of those enactments; its oath to uphold the Constitution requires no less. But under our system it has become axiomatic that the authoritative constitutional verdict will be that of a court—ultimately the Supreme Court—when a case posing the issue is properly presented.[12] One might take the view that no such case could *be* properly presented because jurisdiction-restricting laws just lift things out of the judicial system all by themselves. To take that view, though, would be to cede literally boundless power to Congress—and to forget the way a federal court, almost of necessity, operates.

A litigant before such a court urges dismissal of the case, or denial of a remedy, on the basis of a statute limiting or eliminating jurisdiction; the court then looks at the statute—it has jurisdiction, everyone seems to agree, to do at least that.[13] And when the court looks, it necessarily sees not only the statute but, standing behind it, the Constitution: that is what the supremacy of the Constitution has come to mean.[14] So the court must decide whether the statute is valid in light of whatever the Constitution seems to say on the subject. Much of what the Constitution has to say will not be terribly explicit—but that's nothing new. "The tacit postulates" of the constitutional plan, Justice Rehnquist and Chief Justice Burger reminded us not long ago, "are as much engrained in the fabric of the document as its express provisions."[15]

As Congress and the courts assess proposed congressional controls over federal jurisdiction, the relevant "express provisions" and "tacit postulates" they encounter will fall into two categories. First, there will be *internal limits* set by the nature and sources of the power Congress is exercising when it attempts to define the jurisdiction of a federal court. What Congress seeks to do in the name of such power may simply be outside the authority granted. Second, there will be *external limits* set by the constitutional terrain Congress has chosen (or

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*Professor of Law, Harvard University. This essay is a somewhat expanded version of the author's testimony before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee, June 3, 1981, which has been read into the Congressional Record by Senator Gary Hart of Colorado. *See* 127 CONG. REC. 13358 (June 23, 1981).

[1] Footnotes at end of article.

happened) to traverse. Depending upon how the authority granted to Congress is deployed, its use may conflict with a right or prohibition that constrains *all* federal legislation, however amply "authorized."

FOOTNOTES

[1] These proposals purport to limit federal jurisdiction over: *abortions or abortion funding:* H.R. 73, H.R. 867, H.R. 900, H.R. 3225; *busing:* H.R. 761, H.R. 869, H.R. 1079, H.R. 1180; *gender discrimination in military service:* H.R. 2365, H.R. 2791; *"voluntary" prayer in public schools:* H.R. 72, H.R. 326, H.R. 408, H.R. 865, H.R. 989, H.R. 1335, H.R. 2397; and *state orders reviewable by the state's highest court:* H.R. 114.

All references to congressional bills in this essay are to measures pending in 1981 before the 97th Congress, 1st Session.

[2] United States. v. Klein, 80 U.S. (13 Wall.) 128, 145 (1871).

[3] The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. . . . U.S. Const. art. V.

[4] I must confess to some doubt, however, as to this sort of consensus criterion. (Would the Civil War amendments have met it? The proposed equal rights amendment? The first amendment?).

[5] 401 U.S. 113 (1973) (state cannot ban pre-viability abortions).

[6] *Cf.* Runyon v. McCrary, 427 U.S. 160, 190–92 (1976) (Stevens, J., concurring) (stating the case against turning back the pages of a progressive history even if one would have written it differently).

[7] J. Dugard, Human Rights and the South African Legal Order 35 (1978).

[8] *Cf.* L. Tribe, American Constitutional Law § 3-6, at 51 (1978) (a majoritarian Congress put federal courts "in a position to exercise . . . antimajoritarian power").

[9] *See, e.g.,* C. Black, Decision According to Law 18–19, 37–39 (1981).

[10] *See* United States v. Nixon, 418 U.S. 683 (1974).

[11] In contrast, in Marbury v. Madison, 5 U.S (1 Cranch) 137 (1803), the Court was "in the delightful position . . . of rejecting and assuming power in a single breath." R. McCloskey, The American Supreme Court 42 (1960).

[12] *See, e.g.,* United States v. Nixon, 418 U.S. 683, 703–05 (1974); Cooper v. Aaron, 358 U.S. 1, 18 (1958); Marbury v. Madison, 5 U.S. (1 Cranch) 137, 177–78 (1803).

[13] *See, e.g.,* Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic,* 66 Harv. L. Rev. 1362, 1387 (1953).

[14] *Marbury,* 5 U.S. at 178.

[15] Nevada v. Hall, 440 U.S. 410, 433 (1979) (dissenting opinion).●

RECOGNITION OF SENATOR EAST

The **PRESIDING OFFICER** (Mr. Kasten). Under the previous order, the Senator from North Carolina (Mr. East) is recognized for not to exceed 15 minutes.

Mr. EAST. Mr. President, I will attempt to be brief here as a part of this discussion that has been going on this morning. We have had a number of very able and distinguished colleagues state their position on this matter of whether Congress has the power to withdraw the jurisdiction of the Federal courts and the general implication of their remarks has been that we do not have that power.

I vigorously dissent from that point of view, and I know there are many others in this Senate and in this Congress who do support me in my position and others will in due course as this debate goes on in this session of Congress. They too will rise to the occasion to state what I think is obvious, that under article III of the U.S. Constitution, Congress does have the power to establish the jurisdiction of the Federal courts.

Article III is clear and unequivocal on the point.

One might question the prudence in certain situations of exercising that power, but the question of whether we have it or not certainly is not and could not be a debatable item.

Mr. President, I would like to attempt very briefly to put this in perspective. Let us look at the broad context of what the framers were attempting to do with the U.S. Constitution. The fundamental premise of our Constitution, and as it is brought out—Mr. President, may we have order in the Chamber?

The **PRESIDING OFFICER**. The Senate will be in order.

The Senator may continue.

Mr. EAST. The fundamental premise of the American democratic experience is set forth in the Federalist Papers, which are the principal document that underlies our Constitution; the principal premise is that it is the U.S. Congress that is the fundamental policymaker of the three branches of Government. The phrase that is used repeatedly throughout the Federalist Papers is the phrase "deliberative process," and that is what we have been attempting to engage in on a whole host of issues, and I would like to try to engage in on this matter of the power of Congress under article III.

If the United States stands for anything, it stands for the idea of representative government and that the U.S. Congress shall be the fundamental policymaker, that it shall not be the primary function of the judiciary to do that.

Under the concept of separation of powers that is the position of the Congress as fundamental policymaker. What is the primary function of the judiciary? To apply the law in specific factual situations, not to make it.

The concept of judicial review is not mentioned in the Constitution. It is mentioned in Federalist No. 78 by Alexander Hamilton. That is the definitive work on the power of judicial review, which is the power by which the Supreme Court and the lower Federal courts are claiming they can review statutes of the Congress and of other legislative bodies.

In Federalist No. 78 Alexander Hamilton made it clear that the power of judicial review was a very limited function. Hamilton said it should only be used to strike down acts of Congress that are clearly contrary to the express provisions of the Constitution. He mentioned, for example, bills of attainder and ex post facto laws which are forbidden in the Constitution, forbidden by Congress to do.

So if Congress should pass an ex post facto law or bill of attainder it would be appropriate under the power of judicial review for the Supreme Court or other lower Federal courts to strike down.

Why so asked Hamilton? Because the Constitution is the supreme law of the land. But he went on to note if the judiciary attempted to substitute its judgment on major policy questions for those of the legislative body, the Congress, they would be going beyond the proper role of judicial review.

Mr. President, I would like to point out that Marbury against Madison in 1803, the case that started the notion of judicial review, is right out of Federalist No. 78. It is striking down an act of Congress that expressly attempted to go beyond the provisions of the Constitution, the express provisions.

What has happened in recent years is the Supreme Court has gone way beyond that limited conception of judicial review as expounded in Federalist No. 78, in Marbury against Madison, and as generally understood by the founders of this country, and has attempted to move in and become the major policymaker in the United States. They have circumvented the legislative process, circumvented the deliberative process, and they have caused great political problems in the United States because they have run contrary to that fundamental tenet of democratic political theory that we, the Congress, ought to be making the fundamental policy judgments.

Yes, I will be candid, abortion, busing, prayer in the classroom have inflamed these issues because they have not allowed them to be resolved in the deliberative process where, in a democracy, you solve major problems of this kind.

There is no power in the Constitution that suggests that the courts ought to be moving into these very difficult and sensitive and delicate policy areas. They ought to be resolved in the legislative Chamber.

Mr. President, it is generally conceded today that Roe against Wade, the 1973 decision dealing with abortion, is a flagrant, indefensible example of judicial review. Even people who are pro-abortion so argue that it is. Why so? Because the court simply intervened and spun out of the whole cloth its conception of what ought to be the national abortion policy.

What is has done is it has nationalized an issue and inflamed an issue and brought us to the very polarized position we are in today.

I submit, Mr. President, if the issue had been left where it was expected by the framers, at the State level, or if we were to be involved at the constitutional level, the matter would be handled at least in terms of building some consensus on the issue.

But we have had an extreme position forced upon the American people by this decision. We have had an extreme position forced upon the American people in the area of busing. The polls show overwhelmingly that black and white communities are opposed to forced busing solely and exclusively for the purpose of achieving racial integration in the United States. It has been disfunctional to good education, it has been disfunctional to good race relations. We know that, our people know it, the country knows it.

The problem has been that issue, too, is a major policy one that should have been looked at by the legislative process and to build a consensus on it and seek some sort of solution to it.

The framers in article III have given us the power, where the court abuses theirs, to defend this responsibility of maintaining the deliberative process on major policy questions.

Mr. President, I ask anyone to fairly read article III and come to any other conclusion but that the Constitution gives us the power to do that. I would like to point out for the record, Mr. President, that in 1949, as one illustration, Justice Roberts made the point that people who did not like that fact, that we could withdraw the jurisdiction of the Federal courts or to amend the Constitution and, at least, that would be an honest and honorable and straightforward way to do it rather than to simply declare here in these Halls of the U.S. Senate that we do not have the power because it flies in the face of the express language of article III.

Again I submit, Mr. President, the question before Congress ought to be in the near term and in the long term, as we discuss these important matters, not whether we have the power—certainly we do—the question is would it be prudent to use it. I suspect, Mr. President, the American people would be disappointed to hear us in the Senate forfeiting the power in debate that the Constitution gives us to prevent the courts from usurping our power.

Judges individually enjoy independence, but certainly the Constitution does not leave them free as an institution to do whatever they want without any corresponding check or balance. They gave us a very specific way of dealing with this problem, namely, the jurisdiction of the courts. We could give them all of the jurisdiction we wanted to, we could take it all away, we can give them portions thereof.

I submit, Mr. President, a fair and balanced study of the history of this question will reflect that. It is not even in dispute. I hate to say it, Mr. President, but what we have been seeing here in the Senate Halls today are people simply coming in and declaring it is not so. But it is so. We have the power in article III. There are ample cases reflecting that. There is ample legal scholarship reflecting it.

I sometimes feel I am in a constitutional Alice in Wonderland here where we have to come in and defend that which is quite obvious.

Normally, courts would take judicial notice of the fact. In fact, they themselves have taken judicial notice of the fact that we have the power to take away their jurisdiction or to grant it. It is a fundamental check or balance that we have against the judiciary to make sure they do not usurp our power, our power to be the major policymaker in the United States.

So, Mr. President, I hope in the debates and discussions and deliberations that go on now for an indefinite period of time that I shall not have to find my distinguished colleagues in the U.S. Senate rising on the floor and conceding at the outset the very power the Constitution gave us. No wonder we have been brought into disrepute. No wonder the courts do not take us seriously. No wonder the bureaucracy has moved heavily into our policymaking area. We have been timid, we have been unwilling to assert, under the doctrine of separation of powers, our own fundamental responsibility to take charge and to make policy.

And that is what American democracy is about and that is what representative democracy is about. That is what distinguishes the American experience from every other experience in the world today and makes us the hope of the world—not that elite group of men who make those decisions for us, but that we make them through our elected representatives.

What is so radical about that concept? It strikes me it is about as American as you can get. What is new today is that bureaucrats and judges make the major policy decisions and we sit here and contend we are impotent to do anything about it. It is not so, Mr. President. Article III gives us the power to correct the imbalance, and let us not forfeit that at the outset of this great discussion.

Mr. President, I ask unanimous consent that the following articles supporting the right of Congress to control the jurisdiction of the Federal courts be printed in the Record: an article by Mr. Charles E. Rice, "Constitutional Checks Upon the Judiciary"; an article by Mr. Carl Anderson, "The Power of Congress To Limit the Appellate Jurisdiction of the Supreme Court"; an article by C. Dickerman Williams, "Congress and the Supreme Court"; and an article by myself, entitled "The Case for Withdrawal of Jurisdiction."

There being no objection, the material was ordered to be printed in the Record, as follows:

Constitutional Checks Upon the Judiciary

(By Charles E. Rice)

Numerous bills are pending in the Congress to restrain the activity of the Supreme Court and lower federal courts. Extensive hearings have been held on some of these proposals and the media have given the matter extensive coverage and public interest is considerable. There is an element of surprise here for lawyers, who are not accustomed to seeing public discussions of jurisdiction, justiciability and other arcane aspects of their profession. It is almost as if there were a Great Debate on the Rule against Perpetuities or on the doctrine of forseeability expressed in *Palsgraf* v. *Long Island Railroad.* On the other hand, we ought not to be surprised at the level of public interest in the current issues of judicial power and restraint. The proposals in Congress to curb the courts relate to subjects highly charged with emotion as well as conviction. The principal ones are abortion, public school prayer and racial balancing in public schools, all areas in which the courts have acted as the leading agents of change. It is understandable, therefore, that opponents of the courts' actions in these matters would go beyond proposals for substantive changes in the law and would seek procedural and jurisdictional curbs upon the courts themselves.

This paper will not debate the merits of the decisions of the Supreme Court and lower federal courts in these areas of abortion, prayer and what is loosely called busing. Rather, the subject of this paper is the question of what restraints upon the courts are permissible under the Constitution and what, if any, such restraints are prudentially advisable.

The framers of the Constitution envisioned a judiciary of limited power and function. While the Supreme Court was the only court established by the Constitution, the very existence and jurisdiction of lower federal courts were left entirely to the discretion and control of Congress. [See *Lockerty* v. *Phillips,* 319 U.S. 182, 187 (1943)] The Constitution provides that, "The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish" [Art. III, Sec. 1] and that "[i]n all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction." [Art. III, Sec. 2] In all the other cases within the judicial power of the United States, "the Supreme Court shall have appellate jurisdiction, both as the Law and Fact, with such Exceptions and under such Regulations as the Congress shall make." [Art. III, Sec. 2] Alexander Hamilton, referring to the federal judiciary as a whole, explained that "the national legislature will have ample authority to make such *exceptions,* and to prescribe such regulations as will be calculated to obviate or remove [the] inconveniences" arising from the powers conferred on the judiciary. [Federalist, No. 80] [Emphasis in original] With respect to the appellate jurisdiction of the Supreme Court, Hamilton stressed that the Court "will possess an appellate jurisdiction, both as to law and fact, in all cases referred to them, both subject to any *exceptions* and *regulations* which may be thought advisable." [Federalist, No. 81] [Emphasis in original] Indeed, Hamilton contended that "the judiciary is beyond comparison the weakest of the three departments of power." [Federalist, No. 78]

THE POWER OF CONGRESS OVER THE LOWER FEDERAL COURTS

Having chosen to create the lower federal courts, Congress need not empower them to decide the full range of cases that come within the judicial power of the United States. Thus, the lower federal courts had no general jurisdiction until 1875 in cases arising under the Constitution or laws of the United States. [See Hart and Wechsler, The Federal Courts and the Federal System (1953), 727-33] Today, the jurisdiction of the lower federal courts is limited in some respects by the requirement of jurisdictional amount and in other respects as to the classes of cases in which they are empowered to exercise jurisdiction. The Norris La Guardia Act, for example, withdrew from the lower federal courts jurisdiction to issue injunctions in labor disputes. The constitutionality of the Norris La Guardia Act was sustained by the Supreme Court in *Lauf* v. *E. G. Shinner and Co.* [303 U.S. 323, 330 (1938)].

More recently, in an extensive dictum in *Palmore* v. *U.S.* [411 U.S. 389, 400-402 (1973)] the Supreme Court summarized the status of the lower federal courts under Article III:

"Article III describes the judicial power as extending to all cases, among others, arising under the laws of the United States; but, aside from this Court, the power is vested "in such inferior Courts as the Congress may from time to time ordain and establish." The decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress. That body was not constitutionally required to create inferior Art. III courts to hear and decide cases within the judicial power of the United States, including those criminal cases arising under the laws of the United States. Nor, if inferior federal courts were created, was it required to invest them with all the jurisdiction it was authorized to bestow under Art III. "[T]he judicial power of the United States . . . is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercise, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court) . . . and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good." *Cary* v. *Curtis*, 3 How 236, 245 11 L Ed 576 (1845).[1] Congress plainly understood this, for until 1875 Congress refrained from providing the lower federal courts with general federal-question jurisdiction. Until that time, the state courts provided the only forum for vindicating many important federal claims. Even then, with exceptions, the state courts remained the sole forum for the trial of federal cases not involving the required jurisdictional amount, and for the most part retained concurrent jurisdiction of federal claims properly within the jurisdiction of the lower federal courts."

The clear intent of the framers was to vest in the Congress the power to make the policy decision as to whether constitutional cases should be decided in federal or state courts, or both, on the trial and intermediate appellate level. Various theories have been argued to restrict Congress' power over the lower federal courts, but none of them finds any support in Supreme court holdings. The dictum in the Palmore case, quoted above, reflects the reality that Congress may withdraw or otherwise restrict the jurisdiction of lower federal courts over the subjects of abortion, prayer and busing.

THE POWER OF CONGRESS OVER THE APPELLATE JURISDICTION OF THE SUPREME COURT

There was evidently concern in the Constitutional Convention and in some of the ratifying conventions that the Supreme Court would exercise appellate power to reverse jury verdicts on issues of fact. Nevertheless, the language of Article III, Section 2, explicitly gives the Supreme Court "appellate Jurisdiction, both as to Law and Fact." And it is evident that the power of Congress to make exceptions to that appellate jurisdiction extends to the Court's power to review questions of law as well as questions of fact. As Alexander Hamilton observed in The Federalist, No. 81, "the Supreme Court will possess an appellate jurisdiction, both as to law and fact, in all cases referred to them, both subject to any exceptions and regulations which may be thought advisable." (Emphasis in original.)

This power of Congress was so broadly interpreted that a specific authorization by Congress of appellate jurisdiction was construed by the Supreme Court to imply that such jurisdiction was excluded in all other cases. This "negative pregnant" doctrine was enunciated by Chief Justice John Marshall in *U.S.* v. *More*, in which the Court held that it had no criminal appellate jurisdiction because none had been expressly stated by Congress. Marshall, speaking for the Court, said: ". . . [an affirmative description of its powers must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described." [7 U.S. (3 Cranch) 159, 172 (1805)]

It is interesting to note that no criminal cases were appealable to the Supreme Court until 1891, simply because until then Congress had not specified that they could be so appealed. The only way a criminal case could be brought to the Supreme Court was "by certificate of division of opinion" in the Circuit Court "upon specific questions of law." [*U.S.* v. *Sanges*, 144 U.S. 310, 319 (1892); see also *U.S.* v. *Cross*, 145 U.S. 571 (1892) Ex parte Bigelow, 113 U.S. 328, 329 (1885)]

In 1810, in *Durousseau* v. *U.S.* [10 U.S. (6 Cranch) 307, 313 (1810)], Chief Justice Marshall emphasized that the Court is bound even by implied exceptions to its appellate jurisdiction, so that, in effect, it can exercise it only where expressly granted by Congress." The Congress, he said, "have not declared, that the appellate power of the Court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affirmative description has been understood to imply a negative in the exercise of such appellate power as is not comprehended within it." When Chief Justice Taney spoke to the issue in *Barry* v. *Mercein*, he said, "By the constitution of the United States, the Supreme Court possesses no appellate power in any case, unless conferred upon it by act of Congress; nor can it, when conferred be exercised in any other form, or by any other mode of proceeding than that which the law prescribes." [46 U.S. (5 How.) 103, 119 (1847)]

Prior to 1868, the Supreme Court never had to decide the validity of an act of Congess making a specific exception to its appellate jurisdiction. But when McCardle, a Mississippi editor, was imprisoned by the federal reconstruction authorities on account of statements he had made, he sought a writ of habeas corpus from the federal circuit court, asking that court to rule that his detention was invalid. When this petition was denied he appealed to the Supreme Court under a statute specifically permitting such appeals. After the Supreme Court heard arguments on the case and while the Court was deliberating, Congress enacted a statute repealing that part of the prior statute which had given the Supreme Court jurisdiction to hear such appeals from the circuit court. The Court, in confronting for the first time the issue of the positive congressional exception to the appellate jurisdiction, dismissed the petition for want of jurisdiction, even though the case had already been argued and was before the Court. "We are not at liberty to inquire into the motives of the legislature," said the Court. "We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words . . . without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case. And this is no less clear upon authority than upon principle." [Ex parte McCardle, 74 U.S. (7 Wall.) 506, 513-14 (1868)]

It is true that the 1868 statute upheld in *McCardle* did not bar the Supreme Court from reviewing all habeas corpus cases. Rather, it only barred review sought under the 1867 statute which had provided an avenue of review of such cases from the circuit court. The Supreme Court retained the habeas corpus review power which had been given it by the Judiciary Act of 1789 and which Congress had chosen not to withdraw. Later in 1868, the Court applied this distinction in Ex parte Yerger [75 U.S. (8 Wall.) 85 (1868)], where the Court held that the 1868 statute left untouched the Supreme Court's power to issue its own writ of habeas corpus to a lower court as provided in the Judiciary Act of 1789. But neither in McCardle nor in Yerger is there any indication whatever that the Court would not have upheld an act withdrawing appellate jurisdiction in all habeas corpus cases from the court.

Four years later, in *U.S.* v. *Klein* [80 U.S. (13 Wall.) 128, 145-46 (1872)] the Court had occasion to spell out one important limitation of the Exceptions Clause. *Klein* is the only Supreme Court decision ever to strike down a statute enacted under the Exceptions Clause. The claimant in *Klein*, who had been a Confederate, sued in the Court of Claims to recover the proceeds from the sale of his property seized and sold by the Union forces. He had received a full presidential pardon for his confederate activities, and the Court of Claims ruled in his favor for that reason. If he had not received a pardon, the governing statute would have prevented his recovery. While the appeal of his case was pending before the Supreme Court, a statute was enacted which provided that, whenever it appears that a judgment of the Court of Claims has been founded on such presidential pardons, without other proof of loyalty, the Supreme Court shall have no further jurisdiction of the case. The statute further declared that every pardon granted to a suitor in the Court of Claims which recited that he has been guilty of any act of rebellion or disloyalty, shall, if accepted by him in writing without disclaimer of those recitals, be taken as conclusive evidence of such act of rebellion or disloyalty and his suit shall be dismissed. While declaring the statute unconstitutional, the Supreme Court expressly reiterated that Congress does have the power to deny appellate jurisdiction "in a particular class of cases":

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[1] This was the view of the Court prior to *Martin* v. *Hunter's Lessee*, 1 Wheat 304, 4 L Ed 97 (1816). *Turner* v. *Bank of North America*, 4 Dall 8, 1 L Ed 718 (1799); *United States* v. *Hudson*, 7 Cranch 32, 3 L Ed 259 (1812). And the contrary statements in Hunter's Lessee, supra, at 327-339, 4 L Ed 97, did not survive later cases. See for example, in addition to *Cary* v. *Curtis*, 3 How 236, 11 L Ed 576 (1845), quoted in the text, *Rhode Island* v. *Massachusetts*, 12 Pet 657, 721-722, 9 L Ed 1233 (1838); *Sheldon* v. *Sill*, 8 How 441 12 L Ed 1147 (1850); Case of the Sewing Machine Companies, 18 Wall 553, 577-578; 21 L Ed 914 (1874); *Kline* v. *Burke Construction Co.*, 260 U.S. 226, 233-234, 67 L Ed 226, 43 S Ct 79, 24 ALR 1077 (1922).

> Undoubtedly the legislature has complete control over the organization and existence of that court and may confer or withhold the right to appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient. (Emphasis added)

The statute in *Klein* attempted to dictate to the Court how and by what processes it should decide the outcome of a particular class of cases under the guise of limiting its jurisdiction. The Court lost jurisdiction only when the Court of Claims judgment was founded on a particular type of evidence, that is, a pardon. And the statute further prescribed that the effect of the pardon would be such that the recitals in the pardon of acts of rebellion and disloyalty would be conclusive proof of those acts. "What is this," said the Court, "but to prescribe a rule for the decision of a cause in a particular way?" It is difficult to imagine a more flagrant intrusion upon the judicial process than this effort to dictate the rules to be used in deciding cases. Moreover, the statute in *Klein* intruded upon the President's pardoning power by attempting "to deny to pardons granted by the President the effect which this court had adjudged them to have." In these major respects the statute involved in *Klein* was wholly different from a statute simply withdrawing appellate jurisdiction over a certain class of cases.

Since the *Klein* case, the Supreme Court has not had occasion to define further any limits to the Exceptions Clause. In the Francis Wright case [105 U.S. 381, 386 (1881)], the Court said that what the "appellate powers" of the Supreme Court "shall be" and "to what extent they shall be exercised, are, and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to re-examination and review, while others are not." Chief Justice Waite, in his opinion for the court in Francis Wright, referred to *"the rule, which has always been acted on since, that while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe."* [105 U.S. at 385 (emphasis added)] Several statements of individual justices in the intervening years reinforce this conclusion. Thus Justice Frankfurter, in his dissenting opinion in *National Insurance Co.* v. *Tidewater Co.* [337 U.S. 582, 655 (1949)] noted that "Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *sub judice. Ex parte McCardle,* 7 Wall. 506." See also the opinion of Justice Harlan in *Glidden* v. *Zdanok,* [370 U.S. 567-68 (1962)]; and see the concurring opinion of Justice Douglas in *Flast* v. *Cohen* [392 U.S. 83, 109 (1968)], stating that "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of Section 2, Art. III. See *Ex parte McCardle,* 7 Wall. 506."

An indirect confirmation of the power of Congress to withdraw classes of cases from the appellate jurisdiction of the Supreme Court was the proposal in 1949 by retired Justice Owen J. Roberts of a constitutional amendment to protect the Court against Congressional tampering with its appellate jurisdiction. He acknowledged that the Constitution left "to Congress the right to define the appellate jurisdiction of the Supreme Court . . . Very early the Court was faced with the question whether it had a general appellate jurisdiction modified by what Congress had said on the subject. Chief Justice Marshall, in two decisions, said that was not the way to read the Constitution. He said that the Congress and the judiciary acts, having set forth in which cases the Supreme Court might have jurisdiction on appeal, impliedly provided that it should not take jurisdiction in any other class of cases. That is the settled law and I think it is right. It remains, therefore, so far as we can see, that Congress could affect the Court's powers, just as President Roosevelt could have in his way, unless there were a popular uprising that would frighten them out of doing what they threatened to do." [Roberts, Fortifying the Supreme Court's Jurisdiction, 35 A.B.A. J. 1, 3 (1949)]

In summary, the holdings of the Supreme Court and the statements of various individual justices compel the conclusion that Congress clearly has power under the Exceptions Clause to withdraw appellate jurisdiction from the Supreme Court in particular classes of cases. Indeed, this power is so strong that an exception will be implied in cases where Congress has not specifically "granted" appellate jurisdiction to the Court.

It will be useful here to mention some arguments that have been advanced against the use of the exception power by Congress. It has been urged, for example, as Professor Henry Hart put it, that the exceptions "must not be such as to destroy the essential role of the Supreme Court in the constitutional plan." [Hart, The Power of Congress to Limit the Jurisdiction of the Federal Courts: An exercise in Dialectic, 66 Harv. L. Rev. 1362, 1365 (1953)]. In addition to the difficulty of determining what is the Supreme Court's "essential role," that test would make the Court itself the final arbiter as to the extent of its powers. Despite the clear grant of power to Congress in the Exceptions Clause, no statute could deprive the Court of its "essential role;" but that role would be whatever the Court said it was. It is hardly in keeping with the spirit of checks and balances to read such a virtually unlimited power into the Constitution. If the Framers intended so to permit the Supreme Court to define its own jurisdiction even against the will of Congress, it is fair to say that they would have made that intention explicit.

Furthermore, the "essential role" test was advanced by Professor Hart in response to the suggestion that Congress could satisfy the Exceptions Clause by removing all but a "residuum of jurisdiction," for example, by withdrawing appellate jurisdiction in "everything but patent cases." Whatever the cogency of Professor Hart's "essential role" test would be to a wholesale withdrawal of jurisdiction, if it were ever attempted by Congress, his test cannot properly be applied to narrowly drawn withdrawals of jurisdiction over particular types of cases. It could hardly be argued that the "essential role" of the Supreme Court depends on its exercising appellate jurisdiction in every type of case involving constitutional rights. Such a contention would be contrary to the clear language of the Exceptions Clause and to the consistent indications given by the Supreme Court itself.

A related but more substantial argument against the exercise of Congress' Exceptions Clause power is that Supreme Court review of cases involving important constitutional rights is necessary to ensure uniformity of interpretation and the supremacy of federal statutes over state laws.

The argument that fundamental rights should not be allowed to vary from state to state begs the question of whether there is a fundamental right to uniformity of interpretation by the Supreme Court on every issue involving fundamental rights. The argument overlooks the fact that the Exceptions Clause is itself part of the Constitution. As Alexander Hamilton wrote in No. 80 of the Federalist, the Exceptions Clause is a salutory means "to obviate and remove" the "inconveniences" resulting from the exercise of the federal judicial power. Judging from what the Supreme Court has said about it over the years, it is not only an important element of the system of checks and balances, but one which grants a wide discretion to Congress in its exercise. There is, in short, a fundamental right to have the system of checks and balances maintained in working order. Without that system, the more dramatic personal rights, such as speech, privacy, free exercise of religion, could quickly be reduced to nullities. This right to a preservation of the system of checks and balances is itself one of our most important constitutional rights.

If it be contended that the Exceptions Clause cannot be used to deprive the Supreme Court of appellate jurisdiction in cases involving fundamental constitutional rights, it must be replied that such a limitation can be found neither in the language of the clause nor in its explications by the Supreme Court. Indeed, the Supreme Court's conclusion, prior to 1891, that there was no general right of appeal to that Court in criminal cases surely involved the denial of the right to appeal in cases involving constitutional rights. For what constitutional right is more fundamental than the Fifth Amendment right not to be deprived of life or liberty without due process of law?

The argument that Congress cannot exercise its Exceptions Clause power in cases involving fundamental rights can be further criticized by the fact that many of the rights in question are products of judicial imagination rather than the framers' intent.

It is only through an historically indefensible interpretation of the Fourteenth Amendment that the Supreme Court has decreed that the states are strictly bound by the provisions of the Bill of Rights. [See Berger, Government by Judiciary (Harvard University Press, 1977), ch. 8] Until the adoption of the Fourteenth Amendment in 1869, it was clear that the protections of the Bill of Rights bound only the federal government. [*Barron* v. *Baltimore*, 32 U.S. (7 Pet.) 243 (1833)] The Fourteenth Amendment is now interpreted, contrary to the intent of its framers, so as to bind the states strictly by the Supreme Court's conceptions of the First Amendment and then the First Amendment itself is interpreted in a manner that would shock its framers in the First Congress. Several areas, including abortion, school prayer, legislative apportionment and certain aspects of criminal procedure, similarly involve "fundamental" rights which were beyond the imagination of the framers of the Constitution and the Fourteenth Amendment and which owe their recognition only to the more fertile imaginations of the justices of the Supreme Court. The argument that the Supreme Court cannot be deprived of jurisdiction to hear appeals when they involve rights which the Court has itself created, is an exercise in bootstrap jurisprudence. It would make the Supreme Court not only supreme but absolute in some of the most sensitive areas of our constitutional life. Clearly, the Exceptions Clause was designed specifically to prevent such a result.

It should be noted, of course, that Congress could not withdraw from the lower federal courts or from the appellate jurisdiction of the Supreme Court, jursidiction, for example, "in any case where a Baptist shall be" plaintiff or appellant. This would be unconstitutional, not because the Exceptions Clause power is limited, but because of a specific prohibition elsewhere in the Constitution. The religion of the appellant has nothing to do with the authentic nature of the case. The fact that Congress is forbidden by the First Amendment to prohibit appeals by Baptists, Jews, etc., does not mean that there is any restriction on Congress' power to exclude classes of cases, as determined by the nature of the case, from the jurisdiction of the lower federal courts and the appellate jurisdiction of the Supreme Court.

A final comment is in order on the practical effect of the withdrawal of Supreme Court and lower federal court jurisdiction. The School prayer issue will serve as an example. Unlike a constitutional amendment, such a withdrawal would not reverse the Supreme Court's rulings on school prayer. Presumably, at least some state courts would strictly follow those decisions as the last authoritative Supreme Court expression on the subject. But there would at least be no opportunity for further extensions of its errors by the Court. And in cases where supporters of the school prayer decisions sought to extend them, for example, to outlaw voluntary prayer meetings by public school students outside of class time, those state courts would be apt to show a greater measure of prudence than the Supreme Court and lower federal courts have sometimes shown on the subject. It must be expected, however, that some state courts would openly disregard the Supreme Court precedents and would decide in favor of school prayer once the prospect of reversal by the Supreme Court had been removed. But that result would not be such a terrible thing. It must be remembered that we are talking about Supreme Court decisions which, in the judgment of the elected representatives of the people and the President (or of ⅔ of the Congress overriding his veto), would appear so erroneous as to be virtually usurpations. It would be a healthful corrective of those decisions for the people to trust for a time in the state courts upon which the framers of the Constitution primarily relied had to be protected against further excesses in that area on the part of the Court. In the process, the Court might learn a salutary lesson so that future excursions by the Court beyond its proper bounds would be avoided. Finally, because a statute rather than a constitutional amendment is involved, the Court's jurisdiction could readily be restored should the need for it become apparent.

It is often overlooked that uniformity in the interpretation of the Bill of Rights is a relatively recent development. The Supreme Court initially interpreted the due process clause of the Fourteenth Amendment so as to permit reasonable state regulations, the validity of which would be determined "by the gradual process of judicial inclusion and exclusion as the cases presented for decision shall require." [*Davidson* v. *New Orleans*, 96 U.S. 97, 104 (1877)] This process of case by case adjudication was applied to personal liberties as well as to economic regulations. In *Twining* v. *New Jersey* [211 U.S. 78, 99 (1908)], for example, the Supreme Court held that the states were not strictly bound by the Fifth Amendment protection against self-incrimination. The Court rejected the argument that the Fourteenth Amendment's due process clause was a shorthand application to the states of the restrictions applied to the federal government by the first eight amendments of the Bill of Rights. If some of the personal rights safeguarded by the first eight amendments of the Bill of Rights are "safeguarded against state action," said the Court, "it is not because those rights are enumerated in the first eight Amendments but because they are or such a nature that they are included in the conception of due process of law." In the 1937 case of *Palko* v. *Connecticut* [302 U.S. 319, 323, 325 (1937)], the Supreme Court held that Connecticut could properly re-try and convict a defendant whose first trial contained error which caused his acquittal. Connecticut could do so even though the federal government, which is subject to the direct restrictions of the Fifth Amendment, could not do so in a federal prosecution. Justice Benjamin Cardozo, writing the opinion for the Court, said that the Fourteenth Amendment applied to the states only those guarantees of individual rights which are "implicit in the concept of ordered liberty." The Fourteenth Amendment he stated, prohibits to the states only those practices which are "repugnant to the conscience of mankind." The distinction was spelled out by Justice Frankfurter in his concurring opinion in *Adamson* v. *California* [332 U.S. 46, 63-64, 67 (1947)]:

"The notion that the Fourteenth Amendment was a covert way of imposing upon the States all the rules which it seemed important to Eighteenth Century statesmen to write into the Federal Amendments, was rejected by judges who were themselves witnesses of the process by which the Fourteenth Amendment became part of the Constitution. Arguments that may now be adduced to prove that the first eight amendments were concealed within the historic phrasing of the Fourteenth Amendment were not unknown at the time of its adoption. A surer estimate of their bearing was possible for judges at the time than distorting distance is likely to vouchsafe. . . . Remarks of a particular proponent of the Amendment, no matter how influential, are not to be deemed part of the Amendment. What was submitted for ratification was his proposal, not his speech.

A construction which gives to due process no independent function but turns it into a summary of the specific provisions of the Bill of Rights would . . . tear up by the roots much of the fabric of law in the several States of opportunity for reforms in legal process designed for extending the area of freedom.

As Mr. Justice Robert Jackson said in his dissent in a 1952 case, "The history of criminal libel in America convinces me that the Fourteenth Amendment did not "incorporate" the First, that the powers of Congress and of the States over this subject are not of the same dimensions, and that because Congress probably could not enact this law it does not follow that the States may not." [*Beauharnais* v. *Ill.*, 343 U.S. 250, 288 (1952)] The Supreme Court has now abandoned this approach, choosing instead the goal of nationwide uniformity in the protection of individual rights. Virtually all of the restrictions of the Bill of Rights have been made strictly applicable against the states. [See, for example, *Malloy* v. *Hogan*, 378 U.S. (1984)] But this uniformity of interpretation cannot be said to be a mandate of the Constitution itself.

THE POWER OF CONGRESS TO DEFINE SUBSTANTIVE RIGHTS UNDER THE FOURTEENTH AMENDMENT

The Human Life Bill [S. 158], approved by the Senate Judiciary Committee, declares "that for the purpose of enforcing the obligation of the States under the Fourteenth Amendment not to deprive persons of life without due process of law, each human life exists from conception, without regard to race, sex, age, health, defect, or condition of dependency, and for this purpose 'person' includes all human beings." This proposal was prompted by the fact that the basic principle enunciated by the Supreme Court in *Roe* v. *Wade* is that "the word 'person', as used in the Fourteenth Amendment, does not include the unborn." [*Roe* v. *Wade*, 410 U.S. 113, 157-58 (1973)]

With respect to the intent of the Fourteenth Amendment as to its enforcement, Professor Raoul Berger concluded that "The debates indicate that the framers meant Congress to play the leading role, that they regarded Congress "as the primary organ for the implementation of the guarantees of privileges and immunities, due process, and equal protection." [Berger, Government by Judiciary (1977), 227, quoting from R. J. Harris, The Quest for Equality (1960), 53-54] Senator Howard, who introduced the Fourteenth Amendment in the Senate explained that Section 5 gave Congress a broad power to correct state laws:

"As I have already remarked, section one is a restriction upon the States, and does not, of itself, confer any power upon Congress. The power which Congress has, under this amendment, is derived, not from that section, but from the fifth section, which gives it authority to pass laws which are appropriate to the attainment of the great object of the amendment. I look upon the first section, taken in connection with the fifth, as very important. It will, if adopted by the States, forever disable every one of them from passing laws treaching upon those fundamental rights and privileges which pertain to citizens of the United States, and to all persons who may happen to be within their jurisdiction." [Congressional Globe, May 23, 1866, S. 2766]

Although the Supreme Court has consistently interpreted the Fourteenth Amendment as conferring upon the federal courts authority to declare void state laws which they hold to violate that amendment, the issue with respect to the Human Life Bill is whether Section 5 conferred upon Congress itself a power to enforce the amendment by declaring a class of human beings to be persons, contrary to a decision of the Supreme Court.

The historical record supports the conclusion, expressed by the Supreme Court in *Katzenbach* v. *Morgan*, that Section 5 is a grant of affirmative and broad legislative power to Congress. In Morgan, Justice Brennan speaking for the Court, stated that:

"Senator Howard, in introducing the proposeed Amendment to the Senate, described § as 'a direct affirmative delegation of power to Congress,' and added:

"'It casts upon Congress the responsibility of seeing to it, for the future, that all the sections of the amendment are carried out in good faith, and that no State infringes the rights of persons or property. I look upon this clause as indispensable for the reason that it thus imposes upon Congress this power and this duty. It enables Congress, in case the States shall enact laws in conflict with the principles of the amendment, to correct that legislation by a formal congressional enactment.'" Cong. Globe, 39th Cong., 1st Sess, 2766, 2768 (1866).

"This statement of § 5's purpose was not questioned by anyone in the course of the debate. Flack, The Adoption of the Fourteenth Amendment 138 (1908)." (384 U.S. at 648, fn. 8)

The Court in Morgan concluded:

"By including § 5 the draftsmen sought to grant to Congress, by a specific provision applicable to the Fourteenth Amendment, the same broad powers expressed in the Necessary and Proper Clause, Art I, § 8, cl 18. The classic formulation of the reach of those two powers was established by Chief Justice Marshall in *M'Culloch* v. *Maryland*, 4 Wheat 316, 421, 4 L Ed 579, 605.

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

"Ex parte Virginia, 100 US, at 345-346, 25 L Ed at 679, decided 12 years after the adoption of the Fourteenth Amendment, held that congressional power under § 5 had this same broad scope:

"Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of congressional power." [384 at 650]

"Correctly viewed," said the Supreme Court in Morgan, Section 5 "is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment." [384 U.S. at 651] There is no basis in the legislative history for concluding that Congress' power under Section 5 is limited to the finding of facts or to the implementation of the Supreme Court's own interpretations of the Fourteenth Amendment. In Morgan, the Court said:

"A construction of § 5 that would require a judicial determination that the enforcement of the state law precluded by Congress violated the Amendment, as a condition of sustaining the congressional enactment, would depreciate both congressional responsibility for implementing the Amendment. It would confine the legislative power in this context to the insignificant role of abrogating only those state laws that the judicial branch was prepared to adjudge unconstitutional, or of merely informing the judgment of the judiciary by particularizing the "majestic generalities" of § 1 of the Amendment. See *Fay* v. *New York*, 332 US 261, 282-284, 91 L Ed 2043, 2056-2058, 67 S Ct 1613." [384 at 648-49]

It is not surprising that Section 5 gave to Congress rather than to the courts the primary responsibility for enforcing the Fourteenth Amendment. At the time of the adoption of the Amendment, the courts, in the aftermath of Dred Scott, were distrusted by the Congress. [See Berger at 222-23] The preference of the framers for Congressional action, rather than judicial, was emphasized by the Supreme Court in 1879:

"It is not said that the judicial power of the general government shall extend to enforcing the prohibitions and protecting the rights and immunities guaranteed. It is not said that branch of government shall be authorized to declare void any action of a state in violation of the prohibitions. It is the power of Congress which has been enlarged. Congress is authorized to enforce the prohibitions by appropriate legislation. Some legislation is contemplated to make the amendments fully effective. Whatever legislation is appropriate, that is, adapted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibitions they contain, and to secure to all persons the enjoyment of perfect quality of civil rights and the equal protection of the laws against State denial or invasion, if not prohibited, is brought within the domain of Congressional power." [Ex parte Virginia, 100 U.S. 339, 345-46 (1879) (Emphasis in original)]

It is true that Justice Brennan's opinion for the Court in *Katzenbach* v. *Morgan*, enunciated what has come to be known as the "ratchet theory," that while Section 5 gives Congress discretion to enforce the Amendment, it "does not grant Congress power to exercise discretion in the other direction and to enact 'statutes so as in effect to dilute equal protection and due process decisions of this Court.'" We emphasize that Congress' power under § 5 it limited to adopting measures to enforce the guarantees of the Amendment; § 5 grants Congress no power to restrict, abrogate, or dilute these guarantees. Thus, for example, an enactment authorizing the States to establish racially segregated systems of education would not be—as required by § 5—a measure "to enforce" the Equal Protection Clause since that clause of its own force prohibits such state laws." [384 U.S. at 651, fn 10]

This "ratchet theory," however, would turn the Fourteenth Amendment on its head and make of Congress merely a ratifying and implementing agent for Supreme Court decisions. To ascribe such an intention to the framers whose intention in approving the Reconstruction Amendments was to overrule Dred Scott and who distrusted the judiciary, is unwarranted. [See Berger, 221-29] The pronouncement of the "ratchet theory" by Justice Brennan in the Morgan case was a mere dictum since it was not essential to the decision of that case. But even if such a doctrine were enunciated by the Supreme Court as a specific holding, fidelity to the meaning of the Fourteenth Amendment would require Congress to reject it as a theory of judicial supremacy which is at war with the intent of that amendment.

Nor is this conclusion altered by the case of *Oregon* v. *Mitchell* [400 U.S. 112 (1970)], in which five justices held that Section 5 did not give Congress the power to decree that the denial of the right of 18-year-olds to vote in state elections was a denial of equal protection. The Court in Oregon was widely split, with 5 separate opinions and no opinion for the Court. The case does not specifically overrule the Morgan decision's expansive interpretation of Congress' power under Section 5. And the later cases of *Fullilove* v. *Klutznick* [100 S. Ct. 2758 (1980)] and *City of Rome* v. *U.S.* [446 U.S. 156 (1980)] indicate that the Katzenbach interpretation of Section 5 is alive and well. In Rome, for example, the Court quoted approvingly the statement by the Court in Katzenbach that Section 5 "is a positive grant of legislative power authorizing Congress to exercise its discretion in determining whether and what legislation is needed to secure the guarantees of the Fourteenth Amendment." [446 U.S. at 176]

It is clear that the legislative intent of the Fourteenth Amendment supports the constitutionality of the Human Life Bill. Although this conclusion is reinforced by various statements of the Supreme Court [Ex parte Virginia, The Civil Rights Cases, *Katzenbach* v. *Morgan*], it must be acknowledged that there is no Supreme Court precedent squarely in point. In a sense, *Katzenbach* v. *Morgan* is the reverse of the Human Life Bill. In Morgan the Court held that Congress could properly forbid the enforcement of a state law which the Supreme Court had not held to be unconstitutional. In the Human Life Bill, Congress would seek to legitimize state laws which have been ruled unconstitutional by the Court. Seen in this light, the Bill presents a direct collision between Congress and the Court.

It could be said, of course, that the Bill is actually a corrective, not of *Roe* v. *Wade*, but of the permissive state abortion laws which have been enacted in the wake of Roe. The Fourteenth Amendment, according to Justice Bradley's opinion for the Supreme Court in the Civil Rights Cases of 1883, "does not authorize Congress to create a code of municipal law for the regulation of private rights; but to provide modes of redress against the operation of State laws, and the action of State officers executive or judicial, when these are subversive of the fundamental rights specified in the amendment." [Civil Rights Cases, 109 U.S. 3, 11 (1883)] The Human Life Bill would be a corrective of permissive state abortion laws enacted pursuant to the Roe decision. However, in the context of the abortion controversy, the Bill does involve a confrontation with *Roe* v. *Wade* itself.

If *Roe* v. *Wade* is premised on the mere failure of the Supreme Court to make the finding of fact that the unborn child is a human being, the Human Life Bill can be justified on the narrow ground that it is merely an exercise of Congress' power to make findings of fact. But if, as I believe, Roe is based on the Supreme Court's normative determination that the unborn child, whether or not he is a human being, is incapable of being regarded as a person within the meaning of the Fourteenth Amendment. Whether or not he is a human being, the issue is whether Congress has power under Section 5 to make a contrary determination on that issue of law so as to bind the Supreme Court. I am convinced that Congress has such power. The assertion that a constitutional amendment is the only remedy for an erroneous judicial decision involves an assumption of judicial supremacy contrary to the intent of the Fourteenth Amendment. Why should a Supreme Court decision, perhaps rendered by the margin of a single vote, require the nation to go through the cumbersome amending process in order to correct that decision? In fact, Section 5 has provided a more limited remedy. If it be objected that the recognition of Congress' power to enact the Human Life Bill would confer an undue supremacy upon Congress, it should be recalled simply that the power to enact such a statute is what the framers of the Fourteenth Amendment intended to confer upon Congress. [See generally, Berger, Government by Judiciary (1977)] Rather than making Congress supreme, the recognition of such a power under Section 5 is consistent with the general constitutional system of checks and balances. In any event, the Human Life Bill should not be regarded merely as a negative rebuff of the Supreme Court. Rather, it is primarily a positive affirmation of the rights of unborn children who are, at this time, wrongly regarded as non-persons.

THE REMEDY OF CONSTITUTIONAL AMENDMENT

Amendment of the Constitution is the ultimate weapon to correct a Supreme Court decision. Of course, it should be sparingly used. And to concede that a consitutional amendment is the only possible remedy to correct a Supreme Court constitutional decision implies that the Courts' ruling holds a rank equal to the language of the Constitution itself. Nevertheless, these may be sufficient reason to use the remedy of amendment to correct a serious misinterpretation of the Constitution by the Court. The Dred Scott case is an example. It is fair to say, however, that a constitutional amendment should be the last resort. Various amendments have been proposed to define the unborn child as a person with respect to his right to life, to return abortion jurisdiction to the state legislatures, to affirm the right of voluntary prayer in public schools, to forbid assignment of pupils to public schools on the basis of race, to forbid busing of public school pupils beyond their neighborhood, and for other purposes seen as correctives of judicial rulings in these areas. There is no question but that the Constitution can be amended for these purposes. The more interesting question is whether it should be so amended or whether a lesser remedy is more appropriate.

THE PRUDENTIAL CHOICE OF REMEDIES

In the abortion and school prayer areas the current controversy arose because the Supreme Court overturned state laws on those subjects. The school "busing" issue at this time, by contrast, primarily arises from the issuance of racial balancing orders by federal courts and only incidentally from the overturning of state laws. An appropriate remedy for the school desegregation problem, therefore, would not be a removal of Supreme Court and lower federal court jurisdiction over state laws on the subject, but rather a federal statute prohibiting the issuance by lower federal courts of orders mandating assignment of pupils to public schools on the basis of race. Such a statute could also include corresponding limitation of Supreme Court appellate jurisdiction.

The abortion and school prayer issues are more appropriate for use of the technique of limiting the appellate jurisdiction of the Supreme Court over state laws on the subject.

In my opinion, such a withdrawal of appellate jurisdiction is sufficient to solve the school prayer problem by restoring to the states their former power in the premises. And that remedy is appropriate in the abortion situation as well. However, abortion is an issue of such impact that, in my view, all available remedies should be pursued to the extent that such can be consistently done. The Alan Guttmacher Institute reports that 30 percent of all pregnancies in the United States ended in abortion in 1979, a total between 1,540,000 and 1.6 million, which figure exceeds the combined populations of Kansas City, Miami and Minneapolis. [Chicago Tribune, March 11, 1981, p. 8, col. 1] In human terms this is a catastrophe and no potential remedy should be neglected, including the statutory definition of personhood under the Fourteenth Amendment and the ultimate remedy of a constitutional amendment to restore that personhood with respect to the right to life. Indeed, the abortion issue presents such a fundamental choice that the process of constitutional amendment would be a useful means to the development of a coherent national consensus on the issue.

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THE POWER OF CONGRESS TO LIMIT THE APPELLATE JURISDICTION OF THE SUPREME COURT

(By Carl A. Anderson)†

The power of Congress to make exceptions to the appellate jurisdiction of the Supreme Court and that of lower federal courts may be examined through one of four inquiries: (1) what one would predict the Supreme Court would decide on the issue; (2) what one would wish the Supreme Court would decide on the issue; (3) what the Supreme Court would decide if it followed its own precedents; and, (4) what the Supreme Court would decide if it followed the Constitution. While these four approaches do not always lead to the same conclusion, this article will discuss the third and fourth questions, leaving conclusions as to the wisdom of such congressional action to the Congress and ultimately to its electoral constituencies.

Article III, Section 2 of the Constitution provides that "[t]he Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." As Professor William Van Alstyne has noted, the dependency of the Supreme Court's appellate jurisdiction upon the action of Congress was acknowledged early in our constitutional history by the Court in opinions "that continued an unwavering line through five consecutive Chief Justices including John Marshall."[1]

In 1796, the Court for the first time examined the power of Congress under the exceptions clause in Wiscart v. D'Auchy, a case of maritime jurisdiction applying the Judiciary Act of 1789.[2] The issue before the Court involved which section of the Judiciary Act of 1789 would apply. A case brought under section 21 would have come before the Court as an appeal and would have allowed a reexamination of both law and fact. A case brought under section 22 would come upon a writ of error and allow only a re-examination of law.

Justice Wilson argued that regardless of the terms of the Judiciary Act of 1789, the Court itself must be the final arbiter of the extent of its appellate power. In effect, Justice Wilson rejected the notion of a discretionary power of Congress under the exceptions clause. He maintained the case should be heard on appeal, reasoning that: "[N]otwithstanding the provisions of the judicial act, an appeal is the natural and proper mode of removing an admiralty cause; . . . and as there are not any words in the judicial act, restricting the power of proceeding by appeal, it must be regarded as still permitted and approved."[3] Indeed, Justice Wilson went so far as to assert that even a "positive restriction" by Congress would be superseded by the "superior authority" of the Constitution.[4]

The Court, however, rejected Justice Wilson's view. It held that the exercise of appellate jurisdiction by the Supreme Court depended upon an affirmative grant from Congress, deciding the case to be before it on a writ of error. Responding specifically to Justice Wilson's dissent, Chief Justice Ellsworth wrote:

"Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it. The question, therefore, on the Constitutional point of an appellate jurisdiction, is simply, whether Congress has established any rule for regulating its exercise?"[5]

Chief Justice Ellsworth's principle that the Supreme Court may exercise appellate jurisdiction only under terms established by Congress was a re-affirmed nine years later in *United States v. More.*[6] Speaking for the Court, Chief Justice Marshall developed the so-called "negative pregnant" doctrine.

"[W]hen the constitution has given congress power to limit the exercise of our jurisdiction, and to make regulations respecting its exercise; and congress, under that power, has proceeded to erect inferior courts, and has said in what cases a writ of error or appeal shall lie, an exception of all other cases is implied. And this court is as much bound by an implied as an express exception.[7]"

It is clear that Chief Justice Marshall understood that the exceptions clause would permit Congress to make exceptions to the Court's appellate jurisdiction over an important class of cases based on their subject matter. "[A]n affirmative description of its [this Court's] powers must be understood as a regulation, under the constitution, prohibiting the exercise of other powers than those described."[8] In *More*, the Court held it could not exercise appellate jurisdiction in criminal cases since Congress had failed to expressly grant it such jurisdiction. As the Court noted in 1892, after Congress had acted the previous year to grant its jurisdiction in criminal cases, "[t]he appellate jurisdiction of this Court rests wholly on the acts of Congress."[9]

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[1] Remaining footnotes at end of article.

In *Durousseau v. United States,*[10] Chief Justice Marshall reiterated that an affirmative grant of appellate jurisdiction limited to certain cases amounted to a decision by Congress to exclude jurisdiction in other cases. The Chief Justice maintained that in passing the Judiciary Act of 1789, Congress: "must be understood as intending to execute the power they possessed of making exceptions to the appellate jurisdiction of the Supreme Court. They have not, indeed, made these exceptions in express terms. They have not declared, that the appellate power of the court shall not extend to certain cases; but they have described affirmatively its jurisdiction, and this affimative description has been understood to imply a negative on the exercise of such appellate power as is not comprehended within it.

"The spirit as well as the letter of a statute must be respected, and where the whole context of the law demonstrates a particular intent in the legislature to effect a certain object, some degree of implication may be called in to aid that intent. It is upon this principle, that the court implies a legislative exception from its constitutional appellate power, in the legislative affirmative description of those powers.[11]"

In 1847, Chief Justice Taney "also acknowledged the utter dependency of appellate jurisdiction upon acts of Congress"[12] when, in *Barry v. Mercein,*[13] he wrote:

"By the Constitution of the United States, the Supreme Court possesses no appellate power in any case, unless conferred, upon it be act of Congress; nor can it, when conferred, be exercised in any other form, or by any other mode of proceeding than that which the law prescribes.

"And since this Court can exercise no appellate power unless it is conferred by act of Congress, the writ of error in this case must be dismissed.[14]"

Then in 1865, the Court again affirmed the essential function of Congress under the exceptions clause in *Daniel v. Railroad Co.*:[15]

"The original jurisdiction of this court, and its power to receive appellate jurisdiction, are created and defined by the Constitution; and the legislative department of the government can enlarge neither one nor the other. But it is for Congress to determine how far, within the limits of the capacity of this court to take, appellate jurisdiction shall be given, and when conferred, it can be exercised only to the extent and in the matter prescribed by law. In these respects it is wholly the creature of legislation.[16]"

Against this backdrop, the Court first considered the constitutionality of an act of Congress specifically creating an exception to its appellate jurisdiction.

Ex parte McCardle involved a Mississippi newspaper editor's appeal, under an 1867 amendment to the Judiciary Act of 1789, for a writ of *habeas corpus*[17]. There days after arguments on the merit of McCardle's appeal were made before the Court, Congress repealed the 1867 law fearing that the Court's decision in *McCardle* would declare unconstitutional the Military Reconstruction Act of 1867. Thirteen days later, President Johnson vetoed the repealing legislation, but his veto was then overridden by Congress within two days.[18] More than a year later the Supreme Court announced its unanimous decision. Citing *Durousseau*, Chief Justice Chase wrote:

"The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, it was an almost necessary consequence that acts of Congress, providing for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it.

"The exception to appellate jurisdiction in the case before us, however, is not an inference from the affirmation of other appellate jurisdiction. It is made in terms. The provision of the act of 1867, affirming the appellate jurisdiction of this court in cases of *habeas corpus* is expressly repealed. It is hardly possible to imagine a plainer instance of positive exception.

"We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words . . . . Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the case. And this is not less clear upon authority than upon principle." [19]

The Court, however, was unwilling to go further than Congress in the matter. It specified that it had lost jurisdiction only as to appeals under the Act of 1867, not its jurisdiction in *habeas corpus* cases under the Judiciary Act of 1789—a distinction that would be highlighted later that same year in *Ex parte Yerger.*[20]

In *Yerger*, the Court proceeded in two steps; did it have *habeas corpus* jurisdiction under the Judiciary Act of 1789, and if so, was that jurisdiction removed by the Repealer Act of 1868? It answered the first question affirmatively and the second one negatively. In doing so, Chief Justice Chase—again writing for a unanimous court—not only failed to use the occasion to develop restrictions on congressional power under the exceptions clause, but he specifically reaffirmed the constitutionality of the Repealer Act of 1868:

"The effect of the act was to oust the court of its jurisdiction of the particular case then before it on appeal, and it is not to be doubted that such was the effect intended. Nor will it be questioned that legislation of this character is unusual and hardly to be justified except upon some imperious public exigency.

"It was, doubtless, within the constitutional discretion of Congress to determine whether such an exigency existed; but it is not to be presumed that an act, passed under such circumstances, was intended to have any further effect than that plainly apparent from its terms.[21]"

Four years later, in the *United States v. Klein,*[22] the Court for the first and only time invalidated legislation enacted under the exceptions clause. Klein sought indemnification for property seized during the Civil War, in reliance upon prior Supreme Court and Court of Claims decisions that a presidential pardon would make him eligible for recovery. While the case was pending before the Court, Congress amended the Judicial Expenses Act of 1871 to provide that presidential pardons, like the one Klein had received, were not to be considered sufficient proof of loyalty to enable recovery. Furthermore, the Act provided that the facts recited in the pardon would be conclusive evidence of disloyalty, and at that point the jurisdiction of the court should cease and the suit must be dismissed.[23]

After recounting this would-be effect of the statute upon a judicial proceeding, Chief Justice Chase asked: "What is this but to prescribe a rule for the decision of a cause in a particular way?"[24] The Court struck down the statute as an impermissible invasion of the judicial process by Congress attempting to determine the outcome of litigation in favor of a particular class of litigants. The Court said: "It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power."[25]

It has been suggested that the decision in *Klein* somehow contradicts or casts doubt upon *McCardle.*[26] The Court in *Klein*, however, did not see it that way. It again affirmed a broad power of Congress under the exceptions clause:

"Undoubtedly the legislature has complete control over the organization and existence of that Court [the court of claims] and may confer or withhold the right of appeal from its decisions. And if this Act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make "such exceptions from the appellate jurisdiction" as should seem to it expedient.[27]"

Ten years after *Klein*, the Court in *The Francis Wright* upheld a congressional limitation of its jurisdiction in admiralty cases to questions of law. In his opinion for the Court, Chief Justice Waite wrote: "while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe. . . .

"What those powers shall be, and to what extent they shall be exercised, are, and always have been proper subjects of legislative control.[28] "

Despite the clear language of Article III and the Supreme Court's repeated acknowledgement of congressional power respecting the Court's appellate jurisdiction, legal scholars have nevertheless strained to argue the opposite. It has been suggested that the broad language repeatedly used by the Supreme Court in the aforementioned cases is inconsistent with the framers' intent regarding the exceptions clause.

The Constitutional Convention considered the following language as reported by the Committee on Detail: "In all other cases before mentioned, it shall be appellate, with such exceptions and under such regulation as the Legislature shall make." [29] The Convention added the phrase "both as to law and fact" after the word "appellate." [30] It then rejected a motion to substitute the following for the clause: "In all other cases before mentioned the judicial power shall be exercised in such a manner as the Legislature shall direct." [31]

Leonard Ratner argues that had the framers intended to confer upon Congress the power to make subject matter exceptions to the Supreme Court's appellate jurisdiction, it would have replaced the word "exceptions" with the substitute amendment. Rather employs the rather strained assertion that had the Convention intended to give Congress the power to make exceptions, it would not have used the "ambiguous" words "exceptions and regulations" but instead would have used what he considers to be the "unequivocal" phrase, "the judicial power shall be exercised in such manner as the legislature shall direct."[32] One suspects, however, that the framers had the vision to understand that the rejected substitute would not only cast in doubt congressional power to make exceptions, but would at the same time be an invitation to legislative invasion of the workings and independence of the judiciary similar to those confronted in *Klein*. There seems little doubt that had the rejected substitute become part of the Constitution, it would have permitted the congressional activity disallowed in *Klein*. In short, the framer sought to give Congress control of *when* the Court acts, not control of *how* it could act.

It has also been suggested that the exceptions clause is an historical anachronism limited to the concern of the framers to protect trial by jury while allowing Supreme Court review of facts in admiralty cases. This so-called "fact controversy" was addressed by Hamilton in the *Federalist Papers*. While it is clear that Hamilton identified the exceptions clause with review of fact determinations by juries, there is no evidence to suggest—nor did Hamilton ever write—that the clause was limited to the regulation of fact questions coming before the Court.[33] The bald assertion by Jerome Levy that "[t]he Hamilton approach deals with matters of fact exclusively, and gives Congress no control over jurisdiction of the Supreme Court in regard to matters of law" is simply wrong.[34]

Indeed, Hamilton's contention in *Federalist No. 81* that the exceptions clause empowered Congress "to obviate or remove" the "inconveniences" resulting from judicial activity indicates Hamilton understood the clause to provide an important aspect of checks and balances.[35] However, more instructive on the issue of the intent of the framers of the exceptions clause than the work of Hamilton is that the Oliver Ellsworth. As a member of the Committee on Detail, he helped draft the exceptions clause. As a Member of Congress, he was the principle author of the Judiciary Act of 1789. And as Chief Justice, he first interpreted the exceptions clause in *Wiscart* to affirm the broad power of Congress under it.

Equally instructive are John Marshall's remarks in 1788 before the Virginia ratifying convention:

"What is the meaning of the term 'exceptions'? Does it not mean an alteration and diminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far as the legislature may think proper for the interest and liberty of the people."[36]

Even Justice Joseph Story, who was repeatedly critical of congressional action under Article III, wrote in his *Commentaries on the Constitution* that the exceptions clause was intended "to enable Congress to regulate and restrain the appellate power, as the public interest, might from time to time, require."[37]

Relatively recent statements by members of the Supreme Court reinforce a broad interpreation of congressional power under Article III. In *National Mutual Insurance Co. v. Tidewater Transfer Co.*, Justice Frankfurter, dissenting, observed that "Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is *sub judice*."[38]

Also in 1949, Justice Roberts, writing in the *American Bar Association Journal*, proposed an amendment to the Constitution to vitiate the exceptions clause power of Congress, declaring, "I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions."[39]

Following Justice Roberts' warning, the House of Delegates of the American Bar Association approved in 1950, a resolution urging "an amendment to Article III, section 2 of the Constitution of the United States of America, establishing in the Supreme Court of the United States appellate jurisdiction in all cases arising under the Constitution of the United States, both as to law and fact."[40] Such an amendment to the Constitution was passed by the Senate in 1954.[41]

In 1957, Senator Jenner of Indiana introduced legislation to remove Supreme Court appellate jurisdiction in five categories of cases dealing with subversive activities.[42] Serious consideration of the bill in the Senate prompted the House of Delegates of the American Bar Association to pass a resolution in opposition to the Jenner bill the following year.[43] The bill as modified by Senator Butler of Maryland was favorably reported by the Senate Judiciary Committee, only to be defeated in the Senate by 8 votes.[44] Significantly, Senator Butler, the author of the 1954 Senate passed amendment to the Constitution establishing appellate jurisdiction in the Supreme Court, strongly supported the Jenner bill and its constitutionality. Three years later, in *Glidden Company* v. *Zdanok*, Justice Harlan, writing for the Court in an opinion joined by Justices Brennan and Stewart, affirmed the decision in *McCardle*:

"Congress has consistently with that article [Article III] withdrawn the jurisdiction of this Court to proceed with a case then *sub judice, Ex parte McCardle;* its power can be no less when dealing with an inferior federal court, *In re Hall*. For as Hamilton assured those of his contemporaries who were concerned about the reach of power that might be vested in a federal judiciary, 'it ought to be recollected that the national legislature will have ample authority to make such *exceptions*, and to prescribe such regulations as will be calculated to obviate or remove [any] . . . inconveniences.'"[45]

Justice Harlan observed, as well, that congressional "authority [under Article III] is not, of course, unlimited," citing only *United States* v. *Klein*.[46]

In his dissenting opinion in *Glidden*, Justice Douglas objected to this acceptance of *McCardle*. "There is a serious question," Douglas wrote, "whether the McCardle case could command a majority view today."[47] While this statement is sometimes cited to cast doubt on *McCardle's* continued vitality, it is just as frequently overlooked that, by 1968, Justice Douglas had changed his mind. Writing in *Flast* v. *Cohen*,[48] he maintained: "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of § 2, Art. III. See *Ex parte McCardle*. . . ."[49] Perhaps most interestingly, Justice Douglas' change of mind occurred after the 1964 action of the House of Representatives in passing Representative Tuck's legislation to deny the Supreme Court and lower federal courts jurisdiction in state apportionment cases.[50] One suspects Justice Douglas, as author of the majority opinion in *Gray* v. *Sanders*, had more than a passing interest in the fate of Rep. Tuck's legislation.[51]

Professor Henry Hart has proposed that the activity of Congress under the exceptions clause "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan."[52] While Professor Hart's theory is frequently cited,[53] the problems it raises are rarely addressed. The basic difficulty with the essential role test was recognized by Professor Hart himself when he observed that the Supreme Court has never "done or said *anything*" to indicate it would adopt his view.[54] Such a standard would require the Court to become the final authority regarding the extent of its own jurisdiction—a result contrary to the language of Article III and the Supreme Court decisions interpreting it, beginning with the rejection of Justice Wilson's position in *Wiscart* that a positive legislative restriction would "be superseded by the superior authority of the constitutional provision."[55]

Professor Hart advanced the "essential role" test in the context of a wholesale withdrawal by Congress of virtually all appellate jurisdiction. While a complete withdrawal of appellate jurisdiction may violate the essential role of the Court and may as well violate the intent of Article III to empower Congress to make "exceptions" to appellate jurisdiction, it does not follow that an essential role standard mandates that the Court exercise jurisdiction in every type of case in which a constitutional right is alleged. It is doubtful that the withdrawal of a narrowly defined class of cases such as those dealing with abortion or prayer in public schools could be said to destroy the essential role of the Court "in the constitutional plan."

But there is, or ought to be, a more fundamental question; just what is the constitutional plan? Professor Hart neglected to provide an answer except to say that "[i]n the scheme of the Constitution . . . [the state courts] are the primary guarantors of constitutional rights. . . ."[56]

The "constitutional plan" embodied in Article III provides that the "judicial Power of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."[57] It was essentially a compromise between two very different views of the role of federal judicial power.[58]

During the Constitutional Convention, Virginia proposed that a "[n]ational judiciary be established to consist of one or more supreme tribunals, and of inferior tribunals to be chosen by the National Legislature. . . ."[59] In the committee of the whole, the clause establishing "one or more inferior tribunals" was first agreed to and then repealed on the grounds that the states would adequately protect their citizens' legal interest.[60]

Wilson and Madison then offered language authorizing Congress "to institute inferior tribunals," arguing "that there was a distinction between establishing such tribunals absolutely, and giving a discretion to the Legislature to establish or not establish them."[61] That language, as modified by the Committees on Detail and Style, was ultimately adopted.[62]

As Professor Paul Bator has observed:

"The essence of that compromise was an agreement that the question of access to the lower federal courts as a way of assuring the effectiveness of federal law should not be constituted a matter of constitutional principle, but rather, should be left a matter of political and legislative judgment to be made from time to time in the light of particular circumstances."[63]

The power of Congress to define entirely the jurisdiction of lower federal courts is well settled.[64] Writing for the Court in *Lockerty v. Phillips*,[65] Chief Justice Stone stated:

All federal courts, other than the Supreme Court derive their jurisdiction wholly from the exercise of the authority to 'ordain and establish' inferior couts, conferred on Congress by Article III § 1, of the Constitution. Article III left Congress free to establish inferior federal courts or not as it thought appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by state courts with such appellate review by this Court as Congress might prescribe. . . . The Congressional power to ordain and establish inferior courts includes the power 'of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good."[66]

Chief Justice Warren echoed that understanding when he wrote in *Carroll v. United States:* "It is axiomatic, as a matter of history as well as doctrine, that the existence of appellate jurisdiction in a specific federal court over a given type of case is dependent upon authority expressly conferred by statute."[67] Justice Harlan, writing in *Glidden*, observed: "The great constitutional compromise that resulted in agreement upon Art. III, § 1, authorized but did not obligate Congress to create inferior federal courts. . . . Once created, they passed almost a century without exercising any very significant jurisdictions."[68]

More recently, Justice White, writing in *Palmore* v. *United States*, maintained, "[t]he decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress."[69] Recognizing that Congress was not required to establish lower federal courts, Justice White further observed that Congress was not "required to invest them with all the jurisdiction it was authorized to bestow. . . ."[70] It is little wonder that the Supreme Court has specifically upheld the power of Congress to withdraw federal court jurisdiction to issue injunctions in labor disputes through the Norris-LaGuardia Act of 1932.[71] In the context of 149 years of constitutional history, it could hardly have done otherwise.

It cannot be assumed that the framers of the Constitution isolated their careful consideration and drafting of the exceptions clause from the broader issue of the role of Congress in shaping the exercise of the federal judicial power. To the contrary, the broad power of Congress to establish exceptions and regulations to the appellate jurisdiction of the Supreme Court would appear to be a necessary function related to its power respecting the establishment of inferior federal courts. As Professor Herbert Wechsler concluded:

"There is, to be sure, a school of thought that argues that "exceptions" has a narrow meaning, not including cases that have constitutional dimension; or that the supremacy clause or the due process clause of the fifth amendment would be violated by an alteration of the jurisdiction motivated by hostility to the decisions of the Court. I see no basis for this view and think it antithetical to the plan of the Constitution for the courts—which was quite simply that the Congress would decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power; or stated differently, how far judicial jurisdiction should be left to the state courts, bound as they are by the Constitution. . . ."[72]

A corollary of the essential role test is the argument that Supreme Court review is essential to maintain the supremacy of the Constitution and federal laws, as well as to provide for the equal protection of the law. The simple incantation of the phrases "supremacy clause" or "equal protection clause" should be insufficient to resolve the question of such legislation's constitutionality, unless, of course, it is supposed that uniformity is the supreme constitutional mandate, in which case the matter would then be settled by definition. Is the supremacy clause or equal protection of the law violated by a congressional decision to permit *state* supreme courts to be the courts of final appeal regarding *state* statutes and executive actions on a particular subject?

In this context, consider Senate Bill 481 introduced earlier this year by Senators Jesse Helms and John East.[73] It provides, in part, that:

"[T]he Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

"For purposes of this section, the term "voluntary prayer" shall not include any prayer composed by an official or employee of a State or local governmental agency."[74]

First, Senate Bill 481 does not attempt either to "overturn" or to "freeze into the Constitution" the Supreme Court's opinions in *Engel v. Vitale*,[75] striking down the New York State Board of Regents prayer, or *School District of Abington Twp. v. Schempp*,[76] invalidating the Pennsylvania requirement of reading Bible verses and recitation of the Lord's Prayer. Under the terms of Senate Bill 481, requirements involving Bible-reading and government authorized prayers would remain within the Court's purview. The Court would, however, be prohibited from extending its past holdings to strike down a state practice in which students were permitted to recite prayers they themselves had composed or selected.

Senate Bill 481 would not affect the power of federal courts to protect individual rights related to the free exercise of religion: Allegations of coercion could still be heard and relief from involunatry activities could still be sought in federal court. Senate Bill 481 would effect only a realignment between the federal and state governments respecting the establishment clause and then only in regard to a single issue: voluntary prayer.[77] It can hardly be argued that uniformity of state practice concerning this issue was part of the "constitutional plan" intended by the framers of the first amendment, especially since five of the states which ratified the Constitution had established, tax-supported churches at the time.

No Supreme Court decision has ever concluded that the language of the exceptions clause means anything less than it says; namely that Congress possesses plenary power to make exceptions to and regulations of the appellate jurisdiction of the Supreme Court. Nor has any decision of the Court sought to amend Article III by providing that "notwithstanding the provisions of section 2, Congress shall make no exceptions to the appellate jurisdiction of the Supreme Court which affects the Court's ability to enforce the equal protection of the laws, or preserve the supremacy of it own decisions, or protect its essential role in the constitutional plan." The Court has recognized the authority of Congress in an unbroken line of opinions, of which its decision in *McCardle* was one consistent part. The decision in *McCardle* may be old, but as recently as 1961 it was found to still be good law by the Court in *Glidden*. The historical fact that this power has been infrequently used does not mean it has ceased to exist. There is no constitutional doctrine of atrophy.

Congressional power under the exceptions clause is itself an important aspect of the constitutional plan for the Supreme Court designed in Article III. The Constitution grants and the Court's own precedents recognize the power of Congress to restrict usurpations by the Court in its self-appointed role as "a political institution . . . for arriving at decisions on controversial questions of national policy.[78] When the Court acts "to impose extra-constitutional policies upon the community under the guise of interpretation,"[79] as it did for example in establishing a national abortion code[80] in its *Roe v. Wade*[81] and *Doe v. Bolton*[82] decisions, the Court highlights the wisdom of the founding fathers in reserving such issues to the states.[83] Rather than resolving a difficult legislative problem, judicial intervention in this area, as in others, has enflamed public debate and seriously altered American electoral demographics during the decades of the 1970's and 1980's.

Professor Louis Lusky has observed that the Court's new role rests upon the "assertion of the power to revise the Constitution, bypassing the cumbersome amendment procedure prescribed by Article V," and upon the "repudiation of the limits on judicial review that are implicit in the orthodox doctrine of *Marbury* v. *Madison*."[84] As Professor Hart suggested, the question of congressional power under the exceptions clause is related to the role of the Supreme Court in the constitutional plan, and that, as Professor Henry Abraham observed, "is not a question of judicial institutional capacity; it is rather one of judicial constitutional legitmacy."[85]

There simply can be no doubt that Congress may exercise its power under the exceptions clause to define the constitutionally permissible limits of judicial review. In exercising this power, Congress should heed the advice of Chief Justice Marshall to provide exceptions which "go as far as the legislature may think proper for the interest and liberty of the people."[86] In firmly establishing congressional power under the exceptions clause and in providing a solid foundation for judicial review, Marshall fully appreciated what he wrote in *Marbury* v. *Madison*: "The framers of the Constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature."[87]

FOOTNOTES

[1] Van Alstyne, *A Critical Guide to Ex Parte McCardle*, 15 Ariz. L. Rev. 229, 255 (1973).

[2] 3 U.S. (3 Dall.) 321 (1796).

[3] *Id.* at 324 (opinion of Wilson, J.).

[4] *Id.*

[5] *Id.* at 326 (opinion of Ellsworth, C.J.)

[6] 7 U.S. (3 Cranch) 159 (1805).

[7] *Id.* at 170.

[8] *Id.* at 172.

[9] United States v. Sanges, 144 U.S. 310, 319 (1892).

[10] U.S. (6 Cranch) 307 (1810).

[11] *Id.* at 313.

[12] Van Alstyne, *supra* note 1, at 256.

[13] 46 U.S. (5 How.) 103 (1847).

[14] *Id.* at 119–20.

[15] 70 U.S. (3 Wall.) 250 (1865).

[16] *Id.* at 254.

[17] 74 U.S. (7 Wall.) 506 (1368).

[18] Van Alstyne, *supra* note 1, at 241–42.

[19] *Ex parte* McCardle, 74 U.S. at 513–14.

[20] 75 U.S. (8 Wall.) 85 (1868).

[21] *Id.* at 104.

[22] 80 U.S. (13 Wall.) 128 (1871).

[23] *Id.* at 133–34.

[24] *Id.* at 146.

[25] *Id.*

[26] Bork, Constitutionality of the President's Busing Proposals 7 (1972).

[27] 80 U.S. at 145.

[28] 105 U.S. 381, 385–86 (1881).

[29] 2 The Records of the Federal Convention of 1787 at 186 (M. Ferrand ed. 1937).

[30] *Id.* at 424.

[31] *Id.* at 425.

[32] Ratner,*Congressional Power Over the Appellate Jurisdiction of the Supreme Court*, 109 Penn. L. Rev. 157, 172–73 (1960).

[33] The Federalist No. 81 (A. Hamilton) at 126–28.

[34] Levy, *Congressional Power Over the Appellate Jurisdiction of the Supreme Court: A Reappraisal*, N.Y.U. Intra. L. Rev. 178, 181 (1967); *see also* Merry, *Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis*, 47 Minn. L. Rev. 53 (1962).

[35] The Federalist No. 81 (A. Hamilton) at 118.

[36] 3 Elliott, Debates on the Adoption of the Federal Constitution, 560 (2d ed. 1888).

[37] 3 J. Story, Commentaries on the Constitution of the United States § 1589 at 453 (1833).

[38] 337 U.S. 582, 655 (1949) (Frankfurter, J., dissenting).

[39] Roberts, *Now is the Time: Fortifying the Supreme Court's Independence*, 35 A.B.A.J. 1, 4 (1949).

[40] *Proceedings of the House of Delegates*, 36 A.B.A.J. 948, 957 (1950).

[41] S.J. Res. 44, 100 Cong. Rec. 6255–60 (1954).

[42] S. 2646, 85th Cong., 1st Sess., was introduced in reaction to the Court's decisions in Watkins v. United States, 354 U.S. 178 (1957); Konigsberg v. State Bar of California, 353 U.S. 252 (1957); Cole v. Young, 351 U.S. 536 (1956); Service v. Dulles, 354 U.S. 363 (1957); Pennsylvania v. Nelson, 350 U.S. 497 (1956); and Slochower v. Board of Education, 350 U.S. 551 (1956).

[43] Elliot, *Court-Curbing Proposals in Congress*, 33 Notre Dame Law. 597 (1958).

[44] 104 Cong. Rec. 18635-687 (1958).

[45] 370 U.S. 530, 567–68 (1962) (citations omitted).

[46] *Id.* at 568.

[47] *Id.* at 605 n.11 (Douglas, J., dissenting).

[48] 382 U.S. 83 (1968).

[49] 392 U.S. at 109 (Douglas, J., concurring) (citations omitted).

[50] 110 Cong. Rec. 20212-300 (1964). The vote was 218–175.

[51] 372 U.S. 368 (1963); *see also* McKay, *Court, Congress and Reapportionment*, 63 Mich. L. Rev. 255 (1964).

[52] Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic*, 66 Harv. L. Rev. 1362, 1365 (1953).

[53] *See, e.g.*, Ratner, *Congressional Power Over the Appellate Jurisdiction of the Supreme Court*, 109 Penn. L. Rev. 157 (1960).

[54] Hart, *supra* note 52, at 1365.

[55] 3 U.S. at 324.

[56] Hart, *supra* note 52, at 1401.

[57] U.S. Const. art. III, § 1.

[58] *See* 1 J. Goebel, Antecedents and Beginnings to 1801, History of the Supreme Court of the United States, ch. 5 (1971).

[59] 1 The Records of the Federal Convention of 1787, at 21 (M. Farrand ed. 1937).

[60] *Id.* at 124–25.

[61] *Id.* at 125.

[62] 2 The Records of the Federal Convention of 1787, at 186, 600 (M. Farrand ed. 1937).

[63] Testimony before the Senate Subcommittee on the Constitution (May 20, 1981) (unpublished).

[64] *See generally* P. Bator, P. Mishkin, D. Shapiro, & H. Wechsler, Hart & Wechsler's the Federal Courts and the Federal System 309-438 (2d ed. 1973); C. Wright, Handbook of the Law of Federal Courts, 22–26 (2d ed. 1970).

[65] 319 U.S. 182 (1943).

[66] *Id.* at 187.

[67] 354 U.S. 394, 399 (1957).

[68] 370 U.S. at 551 (citations omitted).

[69] 411 U.S. 389, 400–01 (1973).

[70] *Id.* at 401.

[71] 29 U.S.C. §§ 101-15 (1976), *upheld* Lauf v. E.G. Shinner & Co., 303 U.S. 323 (1938).

[72] Wechsler, *The Courts and the Constitution*, 65 Colum. L. Rev. 1001, 1005 (1965) (footnote omitted).

[73] Such legislation has gained increased public attention, *see Lawscope, Say Dormant Prayer Bill Has Broad Implication*, 66 A.B.A.J. 437 (1980); *Hill Right Wing Readies Assault on Court Power*, Wash. Post, Feb. 5, 1981, at A16; *The Congress Vs. the Courts:* N.Y. Times, Mar. 16, 1981, at A16; *Fight Looms On Court Jurisdiction*, Nat'l L.J., Apr. 6, 1981, at 1.

[74] S. 481, 97th Cong., 1st Sess., 127 Cong. Rec. 2184 (Feb. 16, 1981). Section 3 of the bill provides that lower federal court jurisdiction would also be restricted: "Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title." An earlier, slightly different version of S. 481 was passed by a vote of 51–40 in the Senate during 1979 as an amendment to S. 450, 96th Cong., 1st Sess., the "Supreme Court Jurisdiction Act of 1979," *see* 125 Cong. Rec. 7644 (April 9, 1979).

[75] 370 U.S. 421 (1962). The Court held that a state may not proscribe an official state prayer to be said in the public schools, even if it is non-denominational and objecting students are not required to participate.

[76] 374 U.S. 203 (1963) (the state can not require Bible reading even if objecting students are excused).

[77] Berger, *Congressional Contraction of Federal Jurisdiction*, 1980 Wisc. L. Rev. 801, 802–03; *see also*, Rice, *The Prayer Amendment: A Justification*, 24 S.C.L. Rev. 705, 716–17 (1972).

[78] Dahl, *Decision-Making in a Democracy: The Supreme Court as a National Policy Maker*, 6 J. Pub. L. 279 (1957); *but see also*, Berger, *The Role of the Supreme Court*, 3 U.A.L.R.L.J. 1 (1980); Bork, *Neutral Principles and Some First Amendment Problems*, 47 Ind. L.J. 1 (1971); Rehnquist, *The Notion of a Living Constitution*, 54 Tex. L. Rev. 693 (1976).

[79] Mendelson, *Raoul Berger's Fourteenth Amendment—Abuse by Contraction vs. Abuse by Expansion*, 6 Hastings Const. L.Q. 437, 453 (1979).

[80] A. Bickel, the Morality of Consent 27–28 (1975); *see also* Carey, *Abortion and the American Political Crisis*, 3 Human Life Rev. 39 (1977).

[81] 410 U.S. 113 (1973).

[82] 410 U.S. 179 (1973).

[83] *See* A. Cox, the Role of the Supreme Court in American Government 51–55 (1976). *See also* J. Noonan, A Private Choice: Abortion in America in the Seventies (1979); Byrn, *An American Tragedy: The Supreme Court on Abortion*, 41 Fordham L. Rev. 807 (1973); Destro, *Abortion and the Constitution: The Need for a Life Protection Amendment*, 63 Cal. L. Rev. 1250 (1975); Ely, *The Wages of Crying Wolf: A Comment on Roe v. Wade*, 82 Yale L.J. 920 (1973); Rice, *The Dred Scott Case of the Twentieth Century*, 10 Hous. L. Rev. 1059 (1973); Uddo, *A Wink From the Bench: The Federal Courts and Abortion*, 53 Tulane L. Rev. 398 (1979).

[84] Lusky, *Government by Judiciary: What Price Legitimacy*, 6 Hastings Const. L.Q. 403, 406 (1979); *see also* L. Lusky, By What Right? (1975).

[85] Abraham, *"Equal Justice Under Law" or "Justice at Any Cost"? The Judicial Role Revisited*, 6 Hastings Const. L.Q. 467, 470 (1979); *see also*, Agresto, *The Limits of Judicial Supremacy: A proposal for "Checked Activism,"* 14 Ga. L. Rev. 471 (1980); R. Berger, Government by Judiciary: The Transformation of the Fourteenth Amendment (1977); J. Ely, Democracy and Distrust (1980).

[86] 3 Elliot, *supra* note 31, at 560.

[87] 5 U.S. (1 Cranch) 137, 179–80 (1803).

CONGRESS AND THE SUPREME COURT

(By C. Dickerman Williams)

A minor controversy—perhaps about to become a major one—has developed over the power of Congress to make "exceptions" to the appellate jurisdiction of the Supreme Court. A number of bills to make "exceptions" are now pending in Congress. The relevant language of the Constitution (Article III, Section 2) provides: "The Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions and under such Regulations as the Congress shall make."

Mr. Howard P. Fink, a professor of law at Ohio State University, has taught federal jurisdiction courses for the last 16 years. Recently he asserted in an Op-Ed article in the *New York Times* that "only once in our history . . . has this 'exceptions' clause been used to impair Supreme Court jurisdiction." And he went on to say that "many legal scholars [whom he does not identify] believe that Congress cannot validly use this 'exceptions' clause to impair Supreme Court jurisdiction . . ." The American Civil Liberties Union has expressed the belief that the bills now pending in Congress are unconstitutional. Mrs. Harriet Pilpel, a learned civil-liberties scholar, in an appearance on the TV show *Firing Line* denied the power of Congress to make "exceptions," quoting as her authority a Professor Herrick of the University of Chicago. According to Mrs. Pilpel, Professor Herrick had said, at the time of the appointment of Justice Brandeis, "that the Supreme Court has become the real law-creating body of our government." (Professor Herrick's remark seems more an observation of what has happened than a constitutional interpretation; considered as such, it is not without some validity. If so, the remark must be taken as a description of a violation of Article 1 of the Constitution providing that "all legislative powers hereby granted are vested in the Congress.")

This article will present, as briefly as possible, the history of the exercise by Congress of its authority in this respect. The fact is that Congress has, since the organization of the judicial system in 1789, repeatedly limited the appellate jurisdiction of the Supreme Court in many respects. The Court has uniformly acquiesced in and upheld these exceptions to its appellate jurisdiction.

WHAT IS THE MEANING?

Indeed, even prior to the ratification of the Constitution, this clause received comment from a high authority. John Marshall, later Chief Justice of the United States and usually regarded as the outstanding holder of that office, was a delegate to the Virginia Convention called in 1788 to consider ratification. Answering a fellow delegate who questioned the judicial article he said:

What is the meaning of the term *exceptions* (emphasis in the original[1])? Does it not mean an alteration and a diminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far as the legislature may think proper for the interest and liberty of the people.

When the First Congress convened in 1789, the creation of a federal judicial system was among its top priorities. On April 7, 1789, the first day after a quorum was present, the Senate appointed a special committee of seven members to draft a bill for this purpose. Among them were Oliver Ellsworth of Connecticut and William Paterson of New Jersey. These two men, often overlooked, deserve particular attention.

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[1] How a word in an oral speech came to be italicized in a published report is unclear.

They were the outstanding lawyers among the Founding Fathers; they had been active in the Constitutional Convention, and they played a key part in drafting this bill, which became the Judiciary Act of 1789. It created the original federal judicial system and first defined the appellate jurisdiction of the Supreme Court. The first nine sections of the draft bill are in Paterson's handwriting, and the next 14 in Ellsworth's. President Washington appointed both to the Supreme Court, Ellsworth being named Chief Justice. As Justices of that Court, Patterson joined in the opinion written by Ellsworth in which the Court first constructed the judicial article of the Constitution and the provisions of the Judiciary Act relating to its appellate jurisdiction, in *Wiscart* v. Dauchy, 3 U.S. 321 (1796).

The bill which became the Judiciary Act of 1789 received the most thorough consideration by the Senate. We do not have the stenographic minutes, but the Senate Journal shows that the bill was reported on June 12. Thereafter, beginning on June 22, it was the only subject considered by the Senate for 13 entire days, and it was further considered on parts of six additional days (we do not know how large a part). It was adopted on July 17 and sent to the House. The House considered the bill only superficially, and approved it on September 17. The exhaustive Senate discussion must surely have thoroughly educated Ellsworth and Paterson as to the meaning of the bill they had virtually drafted by themselves. President Washington approved the bill on September 25. The very next day he nominated and sent to the Senate for confirmation a complete list of proposed Supreme Court Justices, circuit judges, district judges, and United States attorneys and marshals. No dilatoriness there.

INFERIOR COURTS

The Judiciary Act of 1789, in providing for "inferior" federal courts, granted them jurisdiction only over maritime and criminal cases and suits between citizens of different states (the "diversity" jurisdiction). Jurisdiction over cases arising under the Constitution, laws, and treaties of the United States, known as "federal" claims, was not granted to the lower federal courts in any respect until 1866, and not in full until 1875.

As regards the appellate jurisdiction of the Supreme Court, the Act of 1789 allowed appeals in maritime cases; in actions between citizens of different states, the Act allowed a "writ of error" when the value in controversy was more than $2,000, and also a writ of error to the highest court of a state when the decision of that court had rejected a federal claim. The writ of error was a process by which an appellate court resolved issues of law decided by a lower court, but not issues of fact. It has now fallen into disuse.

It will be noted that the Judiciary Act of 1789 did not provide for appeals or "writs of error" in criminal cases. This was certainly not because the First Congress was unaware of the Bill of Rights. Both the Bill of Rights and the Judiciary Act of 1789 were before Congress at the same time, the summer of 1789. September 25, 1789 was both the day that President Washington approved the Judiciary Act and the day on which the Senate approved the Bill of Rights and sent it to the states for ratification. The First Congress therefore knew that the Bill of Rights was substantially devoted to the protection of persons accused of crime. The Fourth Amendment protects against unreasonable searches and seizures: the Fifth protects against compulsory self-incrimination: the Sixth assures the right of counsel; and the Eighth protects against cruel and unusual punishment. Thus, the First Congress, in defining the appellate jurisdiction of the Supreme Court, made an "exception" as to these constitutional rights.

Wiscart v. *Dauchy,* already referred to as the first case in which the Court considered its own appellate jurisdiction, was an action between citizens of different states which had been decided by the Circuit Court of Virginia and came before the Supreme Court on a writ of error. The party who had lost in the trial court asked the Supreme Court to review the issues of fact as well as those of law. The Court, observing that the Judiciary Act authorized only a writ of error, ruled that it could consider only issues of law. Finding no error of law, it affirmed the judgment of the Circuit Court. Chief Justice Ellsworth, speaking for the Court, explained the refusal to consider issues of fact:

"In all other cases [he had first discussed the Court's original jurisdiction] only an appellate jurisdiction is given to the Court and even the appellate jurisdiction is, likewise, qualified inasmuch as it is given 'with such exceptions and under such regulations as the Congress shall make.' Here then is the only ground upon which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction and if the rule is provided, we cannot depart from it.

"It is observed that a writ of error is a process more limited in its effects than an appeal; but whatever may be the operations, if an appellate jurisdiction can only be exercised by this Court conformably to such regulations as are made by the Congress, and the Congress has prescribed a writ of error, and no other mode by which it can be excercised, still, I say we are bound to pursue that mode, and neither make, nor adopt, another. The law may, indeed, be improper and inconvenient, but it is of more importance, for a judicial determination, to ascertain what the law is than to speculate upon what it ought to be."

Justice Paterson concurred in this opinion.

United States v. *More,* 7 U.S. 159, decided in 1803, is of importance because it was in this criminal case that the Court first expressly held that it had no appellate jurisdiction in criminal cases, noting that criminal cases were not mentioned in the Judiciary Act's description of the Court's appellate jurisdiction: ". . . An affirmative description of [the Court's] powers [of appellate jurisdiction] must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described." Finding itself without jurisdiction, the Court dismissed the writ of error. The opinion was by Chief Justice Marshall, also entitled to particular respect. Although not a member of Congress at the time of the adoption of the Bill of Rights, he had been a member of the Virginia Legislature when the Bill of Rights came before that body for ratification; indeed, it was largely due to his persuasiveness that the Virginia Senate had ratified the Bill of Rights after having first rejected it. He unquestionably knew that the Bill of Rights is largely concerned with the rights of the accused in criminal cases. He was therefore satisfied that Congress could exclude from the Supreme Court's consideration claims by an accused that his rights under these amendments had been violated in the trial court.

IMPLICATION

In *Durousseau* v. *United States,* 10 U.S. 307 (1810), the Court noted that Congress, having given the Court appellate jurisdiction in civil actions when the matter in controversy exceeded $2,000 in value, had, by implication, denied jurisdiction when the matter in controversy was less than $2,000 in value.

Barry v. *Mercein,* 46 U.S. 103 (1847), was a child-custody case. The Court held that under existing legislation the Court could not "take cognizance of cases to which no test of money can be applied nor indeed is this limitation confined to cases like the one before us. It is the same in judgments in criminal cases, although the liberty or life of the party may depend on the decision of the Circuit Court. And since this Court exercises no appellate power unless it is conferred by act of Congress, the writ of error in this case must be dismissed."

In 1859 a seaman named Plumer had been convicted of murder on the high seas and sentenced to death in the federal court at Boston. Represented by the redoubtable Benjamin F. Butler, then a leader of the Massachusetts bar and soon to gain additional fame as military governor of New Orleans and chief of the House of Representatives prosecution team in the impeachment of President Johnson, Plumer applied to Justice Clifford of the Supreme Court for a writ of error to the trial court. The arguments by Butler and two associates and the opinion of the Court are reported at some length. Justice Clifford denied the application, saying that the Supreme Court's decisions that there was no appellate jurisdiction in criminal cases "have for too long been acquiesced in as sound expositions of the judiciary act to be changed without an act of Congress." (27 Fed. Cas. 560.)

In *Daniels* v. *Railroad Co.,* 70 U.S. 250 (1865), the Court said that in respect of its appellate jurisdiction "it is wholly a creature of legislation."

In 1868 the Court decided *Ex parte McCardle,* 74 U.S. 506. The case is unusual in that an act granting appellate jurisdiction in the type of case at issue had been repealed 18 days after the appeal had been argued, but before it had been decided. The Court dismissed the appeal for want of jurisdiction. This case, perhaps because the Court was deprived of jurisdiction after argument, has received unusual attention and is mistakenly thought by many to be the only time Congress has restricted the Court's jurisdiction.[2]

In 1881, in *The Francis Wright,* 105 U.S. 381, the Court made what may be regarded as an authoritative summary of this phase of the law. The case was in admiralty and the most recent judiciary act had provided that on appeals in admiralty the Court might consider only issues of law. Regarding itself as bound by this limitation, the Court said:

"What those [its own appellate] powers shall be, and to what extent they shall be exercised, are and always have been, proper subjects of legislative control. Authority to limit the jurisdiction necessarily carries with it authority to limit the use of the jurisdiction. Not only may whole classes of cases be kept out of the jurisdiction altogether, but particular classes of questions may be subjected to re-examination and review, while others are not. To our minds it is no more unconstitutional to provide that issues of fact shall not be retried in any case, than that neither issues of law nor fact shall be retried in cases where the value of the matter in dispute is less than $5,000. The power to regulate implies the power to regulate in all things."

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[2] It is presumably this case to which Professor Fink referred in asserting that "only once in our history . . . has this 'exceptions' clause been used to impair Supreme Court jurisdiction." The remark is valid only as applied to cases already argued.

DRASTIC CHANGES

The Act of March 3, 1891 and various other statutes, in particular the Act of February 13, 1925, made drastic changes in United States appellate procedure. The Act of March 3, 1891 created the United States Court of Appeals for the various circuits into which the country was divided. The Circuit Courts of Appeals were granted plenary appellate jurisdiction in numerous classes of cases, including criminal cases, and the Supreme Court was authorized to review the decisions of the Courts of Appeals in its discretion by writ of certiorari (often colloquially referred to—as, for instance, in *The Brethren*—as "cert"). In some types of cases, direct appeal to the Supreme Court was still permitted by the Act of 1891, but the number of these was further reduced by the Act of 1925. The questions of "exceptions" and "regulations" seldom arose after the Acts of 1891 and 1925 because review by the Supreme Court had become largely a matter of its own discretion, but the Supreme Court did not alter its opinion as to its "appellate jurisdiction." Thus in *Luckenback S.S. Co.* v. *United States*, 272 U.S. 533 (1926), an appeal from the Court of Claims, the Court said: "The Constitution, Art. III, Sec. 2, declares the appellate jurisdiction of this Court shall be subject to 'such exceptions' and be exercised under 'such regulations' as the Congress may prescribe. This provision was much considered in *The Francis Wright*, and the views there expressed are particularly apposite here." The Court then quoted the same passage from *The Francis Wright* which we have already quoted. And in 1943 the Court, in concluding that it did not have jurisdiction under a particular statute because the statute granting jurisdiction had been impliedly repealed noted that "Our appellate jurisdiction is defined by statute" (*Stephan* v. *United States*. 319 U.S. 423). There are other cases to the same effect that have been omitted here in the interest of brevity.

In the 1960s there was active discussion of possible congressional limitation of the appellate jurisdiction of the Supreme Court, and various law professors wrote a number of more or less scholarly law-review articles on the subject. The most learned of these was by Professor Herbert Wechsler, Harlan Fiske Stone Professor of Constitutional Law at the Columbia Law School and director of the American Law Institute. His conclusion, although not emphasizing the same authorities, was the same as that of the present writer—a conclusion he reached with obvious reluctance and more or less against his will. He said (65 *Columbia Law Review* 1001, 1005-6):

"I see no basis for the view (that the exceptions clause has a narrow meaning, not including cases of constitutional dimension) and think it antithetical to the plan of the Constitution for the courts—which was quite simply that the Congress would decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power, or, stated differently, how far the federal judicial code should be left to the state courts, bound as they are by the Constitution as 'the Supreme Law of the Land, any Thing in the Constitution or laws of any State to the contrary notwithstanding.' "

As the cases demonstrate, Congress has—in the plain language of the Constitution and in the construction which the Supreme Court has repeatedly given that language—the power to remove from the appellate jurisdiction of the Supreme Court such cases as it sees fit. In considering the exercise of that power Congress surely has the right to recall what Justice Holmes said in 1930 with the concurrence of Justices Brandeis and Stone in *Baldwin* v. *Missouri*, 281 U.S. 586, a case holding unconstitutional a rather unimportant tax imposed by the State of Missouri. Holmes said:

"I have not yet adequately expressed the more than anxiety I feel at the ever increasing scope given to the Fourteenth Amendment in cutting down what I believe to be the constitutional rights of the States. As the decisions now stand, I see hardly any limit but the sky to the invalidating of those rights if they happen to strike a majority of this Court as for any reason undesirable. I cannot believe that the Amendment was intended to give us *carte blanche* to embody our economic or social beliefs in its prohibitions. . . ."

As late as 1930 the Court had done nothing compared to what it has since done "in cutting down the constitutional rights of the States." These decisions were often by majorities of only 5 to 4 and over bitter dissents. Undoubtedly the judges making up the majorities in these cases had good intentions (as did Chief Justice Taney in the *Dred Scott* case) but the fact remains that they were acting on the basis of their policy concepts, and that the Constitution vests "all legislative powers" in Congress. True also that these decisions reflect the opinions of many worthy people, especially the liberal intelligentsia.

Is it appropriate to remove a subject from the appellate jurisdiction of the Supreme Court because Congress is dissatisfied with the policy embodied in its decisions on a particular subject?

Congress has on several occasions severely limited the jurisdiction of the federal courts on particular subjects because it did not like the Court's decisions—notably the Norris-LaGuardia Act (Act of March 23, 1932; 29 United States Code, Chapter 6), under which the federal courts were denied jurisdiction to issue injunctions in labor disputes except in extraordinary circumstances. Other statutes restrict the jurisdiction of the federal courts in public utility rate cases (Act of May 14, 1934; 28 United States Code § 1342) and in local tax collection cases (Act of March 3, 1911; 28 United States Code § 1341). These statutes were aimed at the federal courts generally and not specifically at the Supreme Court, although they were drawn in sufficiently broad terms to cover it. The constitutionality of these statutes has not been questioned.

Whether or not Congress should exercise its power to make "exceptions" to the appellate jurisdiction of the Supreme Court is a serious question, not the intention of this article to pursue. That such power exists is, however, undeniable not only from the clear language of the Constitution but from the categorical language of the Court upholding it.

[From "A Blueprint for Judicial Reform," edited by Patrick McGuigan and Randall Rader, Washington, 1982]

THE CASE FOR WITHDRAWAL OF JURISDICTION

(By JOHN P. EAST)

The genius of the United States Constitution is that it creates no power without providing a means by which that power can be restrained. Judicial review, by which the federal courts have the power to decide that legislative acts are unconstitutional, was an institution without precedent in the history of the world when our Constitution was adopted. Courts had not theretofore shared in the sovereignty of nations; rather, they had been creatures of sovereigns, first of absolute monarchs and later of legislatures whose acts were supreme law.

If absolute sovereignty was not to reside in the United States Congress—as it most certainly was not—then some other institution must have power to declare when Congress had transgressed the limits of its power. The difficulty, of course, was that in giving the federal courts the power to check congressional excesses, the Framers left open the possibility of judicial excesses. When a court exercises power not granted to it by the Constitution—whether the usurpation is at the expense of Congress or of the state governments—the result over time can be just as dangerous to life, liberty and property as a similar abuse of power by the legislature. Absolute power corrupts absolutely, and absolute judicial power is even harder than absolute legislative or executive power to reconcile with any theory of government by the consent of the governed.

Fortunately, the Constitution provides ways by which the American people, acting through the political process at the state and federal levels, can check any tendency of the federal courts to abuse the power of judicial review. Perhaps the most important safeguard is that federal judges are to be appointed by the President with the advice and consent of the Senate. The American electorate has shown a marked preference in recent years for presidential candidates who promise to appoint judges who will construe the worlds of the Constitution in good faith rather than twist those words to suit their own policy preferences. It is also possible to reverse erroneous judicial interpretations of the Constitution, in cases where these interpretations are overwhelmingly unpopular, by resort to the extraordinary and rather unwieldly method of amending the Constitution. Finally, the Constitution provides that Congress may define and regulate the jurisdiction of the federal courts. Perhaps precisely because it is the most potent weapon in the legislative arsenal, this last method has been the least often used as a response to specific abuses of the judicial power. It is, however, a constitutionally permissible response to such abuses; I believe that under certain circumstances it is also a just and a wise response.

Congressional control over the jurisdiction of the federal courts is authorized by three distinct constitutional provisions. The clearest such provision is in Article III, section 2, stating that the United States Supreme Court shall have appellate jurisdiction "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court itself has held that the congressional power to make exceptions and regulations to the Court's appellate jurisdiction is clear and absolute. In *Ex Parte*

McCardle (1869),[1] a lower federal court had denied a newspaper editor's claim that he was being held in military custody in violation of the Constitution. The editor appealed to the Supreme Court, which held that it had jurisdiction to hear the appeal. Then Congress passed an act denying the Court jurisdiction of appeals such as McCardle's. The Court therefore dismissed the appeal for want of jurisdiction, rejecting arguments that Congress could not use its authority over Court jurisdiction to affect pending cases adjudicating constitutional rights:

> "We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words.
>
> "What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact of dismissing the case.[2]"

A second constitutional provision has been held to grant Congress the power to make exceptions to and regulations of the jurisdiction of federal courts other than the Supreme Court. Article III, section 1 provides that there shall be only "such inferior courts as the Congress may from time to time ordain and establish." Since Congress need not establish any lower federal courts at all, it has long been recognized that Congress need not vest all jurisdiction over constitutional cases in those federal courts that it does choose to create. Writing for the Supreme Court in *Lockerty* v. *Phillips* (1943),[3] Chief Justice Harlan Stone said congressional power over the lower federal courts includes the power "of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good."[4]

Finally, some congressional authority over the exercise of federal court jurisdiction has been said to flow from section 5 of the Fourteenth Amendment, providing that "Congress shall have power to enforce, by appropriate legislation, the provisions" of the Amendment.[5] Since a significant portion of the federal courts' caseload—and perhaps an even greater proportion of those cases in which the federal courts have extended their own power into areas traditionally regarded as legislative in nature—involve interpretations of the due process and equal protection clauses of the Fourteenth Amendment, and since the legislative history of the Amendment reveals that its framers distrusted the courts and regarded Congress as the principal guardian of the rights they were creating, this provision is potentially among the most powerful legislative tools for restricting the power of courts to enact judicial legislation in the guise of constitutional interpretation.

Despite the compelling textual and historical case for broad congressional control over federal court jurisdiction, and despite the Supreme Court's own consistent recognition of such congressional power, in the last three decades several theories have emerged according to which the power would be severely limited. These theories seem to have developed principally in response to specific suggestions for limitations on federal court jurisdiction in areas marked by particularly egregious judicial distortions of the Constitution.

The most interesting and the most solidly grounded of these limiting theories was advanced by Raoul Berger in his book "Congress v. the Supreme Court." Professor Berger, a careful student of the debates surrounding the proposal of the Constitution, noted that the Constitutional Convention debate on the "exceptions and regulations" clause focused on appellate review of jury fact-finding. He suggested that the clause therefore did not authorize exceptions and regulations of federal court jurisdiction over questions of constitutional law.[6] The Framers, however, had language at their disposal to limit the exceptions and regulations power to review of jury fact-finding; they chose not to use such language, but instead adopted the unlimited language of Article III, section 2. Professor Berger later revised his view of the exceptions and regulations power, in light of the Fourteenth Amendment and its grant of enforcement power to Congress over the areas in which judicial legislation has been most common and in which congressional limitations on federal court jurisdiction are therefore most likely.[7]

A second limiting theory holds that Congress has the power to enact exceptions and regulations of the federal courts' jurisdiction only where such limitations are "not inconsistent with the essential role of the courts."[8] This theory is designed to allow Congress to withhold jurisdiction, for instance, according to the amount of money in controversy or the parties' places of residence. Such limitations on the courts have been enacted frequently over the last two hundred years; indeed, from the passage of the Judiciary Act of 1789 until the present day the federal courts have *never* been granted all the jurisdiction they might possibly be granted under the Constitution. But under the "essential role" theory, only such "innocuous" limitations would be permitted. Congress would be constitutionally prohibited from limiting jurisdiction in such a way as to circumscribe the effect of judicial doctrines that Congress believed to be erroneous.

There are several problems with this theory. First, it would have a federal court conduct an overt or covert inquiry into the motive of Congress in granting or withholding jurisdiction. Since even "innocous" limitations on jurisdiction will result in denying the federal courts the right to resolve some constitution questions, it is primarily those limitations enacted by Congress *because* they result in the removal of controversial constitutional questions from the federal courts that would be held unconstitutional under the "essential role" theory. The courts are always reluctant to conduct inquiries into legislative motive,[9] and the Supreme Court in *McCardle* specifically rejected the suggestion that an impermissible motive could vitiate a congressional withdrawal of jurisdiction.[10]

An even more basic problem with the "essential role" theory is that it begs the question: What is the essential role of the federal courts? As articulated by Chief Justice John Marshall In *Marbury v. Madison* (1803),[11] judicial review was simply a corollary of the doctrine that our written Constitution is the supreme law of the land and as such is binding on the courts as well as on other branches of government. When a court has jurisdiction of a case, and when the issue is unavoidable, the court may sometimes have to choose the Constitution over a legislative act that seems to the court to conflict with the Constitution. To posit, however, that the federal courts have the duty or power to take jurisdiction where it has been denied, is to confuse judicial review with judicial supremacy. The super-legislative role assumed by the Warren Court and not yet wholly abrogated by the current Court is not essential to our republican form of government. Nothing in the Constitution requires that the federal courts have jurisdiction over every constitutional case, and the plain language of Article III gives Congress the power to deny such jurisdiction.

A closely related argument for limitations on congressional power over federal court jurisdiction starts with the observation that Congress itself is bound by the provisions of the Constitution, and particularly by the Bill of Rights. If Congress acts in such a way as to deprive anyone of free speech, freedom of religion, due process of law, or any other right guaranteed by the Constitution, then that act of Congress is unconstitutional. In theory, a law depriving the courts of jurisdiction on some selective basis could itself violate the Constitution. For instance, a law requiring that the courts dismiss for want of jurisdiction any suit brought by a Methodist would almost certainly be held to abridge the free exercise of religion. The law would be void, and the courts would retain jurisdiction over suits brought by Methodists. Some scholars have argued that a law denying jurisdiction in a whole class of cases—cases involving school prayer, for instance, or abortion—would similarly operate to deprive litigants of their constitutional rights.[12] Thus the jurisdictional limitations would be void, and the courts would retain jurisdiction over the questions in controversy.

Again, the scholars who propose this theory are reading their own view of what it means to have a constitutional right into the argument over jurisdiction. In their view, nobody has a constitutional right unless he can get that right enforced in a federal court. This assumes the whole ground in dispute, and reads the congressional exceptions and regulations power out of the Constitution. Not only the federal courts, but also Congress, the President and all executive officers, and all state officials have the duty to obey the Constitution. Just as the courts must sometimes interpret the Constitution in order to enforce it, these other state and federal officers must sometimes act on their own interpretations of the Constitution. Where a federal court has jurisdiction over a particular case, its reading the Constitution in binding on the parties to the case. Where there is no such jurisdiction, some other body will be the final arbiter. This does not constitute a denial of constitutional rights unless it is assumed that only the federal courts are capable of reading the Constitution correctly.

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[1] *Ex Parte McCardle*, 7 Wallace 506 (1869).

[2] *Id.* at p. 514.

[3] *Lockerty* v. *Phillips*, 319 U.S. 82 (1943).

[4] *Id.* at p. 187.

[5] *See* Raoul Berger, *Congressional Contraction of Federal Jurisdiction*, Wisconsin Law Review 801 (1980).

[6] Raoul Berger, *Congress v. The Supreme Court*, (Cambridge: Harvard University Press, 1969) pp. 285-96.

[7] Berger, *Supra* n. 5.

[8] *See, e.g.*, Hart, *The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic*, Harvard Law Review 1362, 1365 (1953); Rather, *Congressional Power Over the Jurisdiction of the Supreme Court*, 109 University of Pennsylvania Law Review 157 (1960); Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction*, 83 Yale Law Journal 498 (1974).

[9] *See, United States v. O'Brien*, 391 U.S. 367 (1968); *Flemming v. Nestor*, 363 U.S. 603 (1960).

[10] *Ex Parte McCardle*, 7 Wallace at p. 514 (1869).

[11] *Marbury v. Madison*, 1 Cranch 137 (1803).

[12] *See* Hearings on S. 158 before the Subcommittee on Separation of Powers, Committee on the Judiciary, United States Senate, 97th Congress, 1st Session (1980) (statement of Norman Dorsen); *cf.* Laurence Tribe, *American Constitutional Law*, (Mineola, New York; Foundation Press, 1978) p. 39.

As a practical matter, disputes not resolved in the federal courts will usually be resolved in the state courts, since Congress has no power to deny jurisdiction to these courts. State judges take the same oath as federal judges to uphold the Constitution of the United States. An act of Congress that effectively channels constitutional litigation into such courts does not violate the Constitution.

The existence of state courts as an alternative forum for litigation of constitutional questions bolsters the case for absolute congressional control of federal court jurisdiction, but it also suggests a problem with the jurisdiction-limiting technique as a means of counteracting erroneous interpretations of the Constitution. Few constitutional scholars argue, for instance, that the Supreme Court's holding in *Roe* v. *Wade* (1973),[13] striking down all fifty state anti-abortion laws, represents a correct reading of the Constitution. Insofar as cases involving abortion continue to be resolved in the federal courts, in the practical political sense *Roe* will continue to be "the law of the land" until the Supreme Court reverses its unconstitutional 1973 holding. If Congress were to remove jurisdiction over abortion cases from the federal courts, such litigation would be conducted in the state courts. Some state courts might read the Constitution as all courts read it for two centuries prior to *Roe* v. *Wade*, and uphold state anti-abortion laws as constitutional. But many other state courts would probably regard the United States Supreme Court decision as a binding precedent. In these states, *Roe* would continue to be the effective law, and since the Supreme Court would never have occasion to hear another case involving abortion, it would be impossible ever to restore a uniform and correct interpretation of the Constitution.

The exceptions and regulations clause is not a panacea. It cannot cure all the effects of the judicial activism of the last few decades. Moreover, many sincere people believe that to deprive the federal courts of jurisdiction even in one or two areas would set a dangerous precedent that could greatly reduce the value of the independent judiciary as a bulwark of those rights that genuinely derive from the Constitution and not just from the political ideals of a few judges. These concerns are not to be taken lightly; but they must be weighed against the harm that is being done by the current regime of judicial usurpation of legislative authority. I do not believe it would be such a bad thing to use the jurisdiction-limiting power to send the judges a message, so long as we are careful to send them the right message. We should be willing to tolerate unpopular judicial interpretations of the Constitution, and even interpretations with which some of us personally disagree, so long as they are sincere attempts at interpretation and not at law-making. And efforts to regulate jurisdiction should be carefully circumscribed so as to achieve the desired results without creating jurisprudential chaos or setting dangerous precedents.

One moderate approach to the regulation of federal court jurisdiction was suggested by the Norris-LaGuardia Act of 1932, which deprived the federal courts of jurisdiction to issue certain labor injunctions. Congress believed that the federal courts were abusing their power in this area, and so Congress restricted that power. Rather than to deprive the federal courts of all jurisdiction in labor disputes, Congress chose a more moderate approach by forbidding only a particular remedy. Since an injunction can affect the lives of the parties to a lawsuit even prior to a final adjudication of their rights and duties, it is an extreme remedy. Prior to 1932, in the judgment of Congress, the federal courts were using the injunction remedy too harshly and too frequently. In *Lauf v. E. G. Shinner & Co.* (1938),[14] the Supreme Court upheld the power of Congress to deny the courts the rights to resort to this remedy.

A number of recent proposals for curbing abuses of the judicial power use the technique suggested by the Norris-LaGuardia precedent. For instance, the Subcommittee on Separation of Powers of the Senate Judiciary Committee, of which I serve as chairman, recently reported favorably to the full Judiciary Committee on the Human Life Bill, one section of which deprives the lower federal courts of jurisdiction to issue injunctions in cases involving abortion. There are other areas in which this approach is promising. Mandatory busing of schoolchildren to achieve racial balance, for instance, and court-ordered affirmative-action quotas, are examples of the harsh and excessive use of the injunctive power by federal courts. Legislation has been proposed in this Congress which would curtail or eliminate the federal courts' authority to engage in these particular abuses of their jurisdiction.[15] Passage of such legislation would set no precedent not already set by the Norris-LaGuardia Act, and would not impair the power of the federal courts to hear civil rights cases and to grant relief other than mandatory racial-balance busing or injunctions involving racial quotas.

Should Congress enact into law any of these proposals to limit federal court jurisdiction, we can expect dire predictions about the future of our independent judiciary, our constitutional rights and our very system of government. Part of the answer to these alarms is to ask how the Framers of the Constitution would have reacted to the judicial excesses to which these legislative proposals respond. These were the men whose response to a centralized, unresponsive and arbitrary power was made manifest at Lexington and Concord. In providing for a system of checks and balances over any possible future assumption of absolute power by any one institution, the Framers were providing a moderate, political solution to an evil whose recurrence they feared. To employ one of the solutions they gave us, where the circumstances seem to warrant its use, is not only our power but also our duty.

Mr. EAST. Mr. President, I thank the Chair and I yield the floor.

Mr. BAKER. Mr. President, what is the next order of business?

The PRESIDING OFFICER. Presently before the Senate, under a previous order, the Senator from Utah (Mr. HATCH), was to be recognized for not to exceed 15 minutes.

Mr. HATCH. Mr. President, I commend my colleagues for calling this discussion on article III. The letter notifying me of this discussion, however, stated that following:

> These "court-curbing" proposals have been discussed in the narrow context of some controversial subject area. As a result, most of the debate has focused on the merits of the underlying issue addressed by each proposal, and not on the implications such bills have for the democratic process itself. It is time that those who are committed to an independent federal judiciary speak out on the floor of the Senate and elaborate on the many troubling constitutional and public policy issues raised by these proposals.

In order to assure that this important subject not be confused with other issues, the Subcommittee on the Constitution held hearings exploring the scope of the Senate's authority under article III of the Constitution to regulate the jurisdiction of the Federal courts. During these 3 days of impartial and balanced hearings, testimony was heard from at least a dozen law professors, attorneys, and experts in their fields representing top law schools such as Harvard, Yale, and Duke. These hearings have been printed and are available under the "Constitutional Restraints Upon the Judiciary" (Serial No. J-97-30).

We have examined this issue independent of the context of other controversial social and legal issues. Those opposed to congressional implementation of its article III authority have contended that Federal courts must remain supreme. On the contrary, the Constitution must remain supreme. That inspired document specifically obligates Congress to check the judiciary when it steps beyond constitutional limits just as the executive branch can use the veto to prevent congressional excesses. The majesty of the constitutional framework is that no branch is permitted to become supreme.

The drafters of the Constitution carefully composed article III to place with Congress the responsibility to assure that personal liberties are not endangered by an errant or arrogant judiciary. Section 2 lists the kinds of cases that the Supreme Court has the exclusive right to decide and then proceeds:

> In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, with such exceptions, and under such regulations as the Congress shall make.

With this language, the supreme Constitution charged Congress to regulate which cases the Federal courts could hear on appeal from State courts. A legislative decision to make an exception in Federal court appellate jurisdiction would give effect to the last article of the Bill of Rights which reserves to the States and the people all matters not specifically delegated by the Constitution to the National Government. Disputes would be settled by more accountable State and local decisionmakers rather than by national mandate.

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[13] *Roe* v. *Wade*, 410 U.S. 113 (1973).

[14] *Lauf v. E. G. Shinner & Co.*, 303 U.S. 323 (1938).

[15] *E.g.*, S 528, 1761, 1803 (97th Congress, 1st Session).

Even Alexander Hamilton, known for his predisposition to favor centralized governance, reassured those who feared the potential reach of the Federal judiciary by affirming that:

> The national legislature will have ample authority to make such exceptions and prescribe such regulations as will be calculated to obviate or remove these inconveniences.

In Hamilton's estimation, a mere "inconvenience" would warrant a use of the specific constitutional check on the Federal judiciary.

Substantial groups who feel that the Supreme Court has abridged their rights are now petitioning Congress to recognize its constitutional role. They contend that, under the guise of interpretation, the Supreme Court has been amending the Constitution to jeopardize their rights. For instance, a single amendment to the Constitution has been stretched by the Court into several controversial decisions. That single amendment has been employed to wrest from States and localities the decision of which school a child should attend, to permit programs favoring one race over another, and to reverse more than 150 years of exclusive State discretion over apportionment of congressional districts. On occasion, the tribunal has not even bothered to interpret the Constitution itself, but only its "penumbras," to declare that children are not persons before birth. Moreover, the Supreme Court claims that only a constitutional amendment by the prescribed article V method will be sufficient to alter these doctrines promulgated by five out of nine judges. Fortunately, the approval of two-thirds of Congress and three-fourths of the States is not the only way to cause five judges to reconsider their actions.

In weighing whether to employ its authority to protect individual rights, Congress need not rely solely on these errant opinions. On one occasion, the Court branded a course of conduct it had pursued for nearly a century:

> An unconstitutional assumption of power by the courts of the United States which no lapse of time or respectable array of opinion should make us hesitate to correct.

If the Court, by its own admission, had unconstitutionally assumed authority for almost 100 years, Congress is justified in asking what it might not have yet confessed.

When Congress did use its authority to withdraw appellate jurisdiction, the Supreme Court itself acknowledged congressional mandate as binding by immediately dismissing the withdrawn cases. The Court stated conclusively that

> We are not at liberty to inquire into the motive of the legislature. We can only examine into its power under the Constitution, and the power to make exceptions to appellate jurisdiction of this Court is given by express words.

The Supreme Court itself would seem to take issue with those Senators who favor a restrictive reading of the exceptions clause.

Before writing out of the Constitution this check on Federal court supremacy, these Senators should recall that the Supreme Court once ruled that a black man is not a person (similar to the ruling about unborn children) and could be regarded as property. More recently the Court decided that Japanese-Americans could be incarcerated during World War II simply on the basis of their national origin. If a future Court wanted to return to those precedents, we would all be more secure knowing that Congress could halt the legal abrogation of rights.

The Federal judiciary has been courting constitutional disaster by reading its own predilections into the Nation's foundational document. The Supreme Court is the body charged with policing the confines of the Constitution. When the policeman becomes a criminal, a higher authority must undertake to protect freedoms. The Constitution is that higher authority and has outlined the means to prevent overreaching. Jefferson provided the most graphic expression for this dilemma:

> It is jealousy and not confidence which prescribes limited constitutions to bind down those whom we are obliged to trust with power. * * * In questions of power, then, let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution.

The Constitution is supreme, not the Court. We should all be grateful that the Constitution includes the checks to assure that individual liberties do not fall prey to any single ambitious branch of Government.

(The following proceedings occurred during the foregoing debate and are printed at this point by unanimous consent:)

S. 2224—TAX CREDIT FOR JOB TRAINING

Mr. SPECTER. Mr. President, for many years the Commonwealth of Pennsylvania has operated through its department of community affairs a tax credit program called the neighborhood assistance program. It authorizes State business tax credits for corporations doing business in Pennsylvania who contribute to approved nonprofit projects serving low income and disadvantaged citizens. Approved programs include such activities as contributions of weatherizing materials, operation of day care centers for working mothers, neighborhood housing services, and job training. In fact, many of the most successful efforts have included corporate contributions to nonprofit organizations for job training designed to meet the particular needs of the disadvantaged.

As a specific example, Philadelphia area businessmen and civic leaders have been encouraged by the Neighborhood Assistance Act to contribute to three high school academies in applied electric science, automobile repair, and business skills. Students who at the time of enrollment often show less than average promise are provided this specialized training at public high school sites.

Business leaders believe this program is an important Philadelphia job training activity. Many students thought to be below average achievers have developed during the training highly marketable job skills. Drop out rates are a fraction of those of regular high school programs and the graduation rate is double. The involvement of local businessmen in the nonprofit corporations operating the program has helped assure placement opportunities for those who complete the program. Over 90 percent of the graduates are placed in jobs. The nonprofit corporations operating these three programs do not accept grants from public agencies. On February 23, I personally visited the electric academy and observed the school in operation. I was much impressed with what I saw.

Today, I propose a similar, though considerably more limited, national version of the Pennsylvania neighborhood assistance program by a proposed amendment to the Internal Revenue Code of 1954 to allow a credit of 20 percent against contributions to programs providing job training for handicapped and economically disadvantaged individuals. This credit, plus the already authorized deduction in most cases, will represent about a one-third net cost to the contributing corporation.

Each training program would be developed by qualified nonprofit organizations and certified by the regional Office of Employment and Training Administration of the Department of Labor as providing job training solely to handicapped persons, economically disadvantaged individuals, or workers with obsolete skills. Private corporations would contribute the training funds. Unlike most programs of this type, there are virtually no administration costs to the Federal Government and all of the contributed funds remain in the local community. There is no expensive corps of Federal bureaucrats to take a cut from these funds as they flow from the community to Washington and back again. Under my proposal, they never leave the local community.

The maximum credit available for any single corporation is $250,000; thus the program is especially supportive of training efforts by small- and middle-sized businesses.

There is little doubt that America is in a transition phase from heavy industry to high technology, many skilled and dedicated workers are losing their jobs because of technological obsolescence over which they have little control.

Yesterday's Pittsburgh Post-Gazette newspaper carried a news story "No One's Safe, Steel Layoffs Still Growing; White Collar Workers Also Hit." On the same day the Wall Street Journal headlined "Pittsburgh's Recession Shows How Layoffs Ripple Through Economy." While job training does not, of itself, create jobs, it will retrain skilled workers for new jobs as we create new jobs in the economy, as create we must for our American work force.

This bill, Mr. President, will encourage the private sector to sponsor job training and retraining programs for these workers, as well as for disadvantaged and handicapped citizens.

Mr. President, I suggest this bill can be an important part of the overall job training efforts of this Nation. With the administration's proposal for enterprise zones due at an early date—predicted this week—this bill can integrate effectively with that economic uplift plan. New industry will need new trained employees and this bill provides a vehicle for local planning, development, and administration of job training. Thus, this bill is consistent with the concept of enterprise zones. Nevertheless, it can also help develop and fund in areas which are not designated as enterprise zones, as well as those which are.

Mr. President, I ask unanimous consent that the bill be printed in the Record in full.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2224

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting after section 44G the following new section:

"SEC. 44H. CHARITABLE CONTRIBUTIONS TO QUALIFIED JOB-TRAINING ORGANIZATIONS.

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified job-training charitable contributions of the taxpayer for the taxable year.

"(b) Limitations.—

"(1) Maximum dollar amount.—The amount of the credit allowed under subsection (a) with respect to any taxpayer shall not exceed $250,000.

"(2) Liability for tax.—

"(A) In general.—The credit allowed by subsection (a) for any taxable year shall not exceed an amount equal to the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowed under a section of this subpart having a lower number designation than this section, other than credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(B) Carryback and carryover of unused credit.—

"(i) Allowance of credit.—If the amount of the credit determined under this section for any taxable year exceeds the limitation provided under subparagraph (A) for such taxable year (hereinafter in this paragraph referred to as the 'unused credit year'), such excess shall be—

"(I) a job-training credit carryback to each of the 3 taxable years preceding the unused credit year, and

"(II) a job training credit carryover to each of the 15 taxable years following the unused credit year,

and shall be added to the amount allowable as a credit by this section for such years. If any portion of such excess is a carryback to a taxable year ending before January 1, 1982, this section shall be deemed to have been in effect for such taxable year for purposes of allowing such carryback as a credit under this section. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 18 taxable years to which (by reason of subclauses (I) and (II)) such credit may be carried, and then to each of the other taxable years to the extent that, because of the limitation contained in clause (ii), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

"(ii) Limitation.—The amount of the unused credit which may be added under clause (i) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation provided under subparagraph (A) for such taxable year exceeds the sum of—

"(I) the credit allowable under this section for such taxable year, and

"(II) the amounts which, by reason of this paragraph, are added to the amount allowable for such taxable year and which are attributable to taxable years preceding the unused credit year.

"(c) Definitions.—For purposes of this section—

"(1) Qualified job-training charitable contributions.—The term 'qualified job-training charitable contributions' means an amount equal to the amount of charitable contributions to qualified job-training organizations.

"(2) Charitable contribution.—The term 'charitable contribution' has the meaning given to such term by subsection (c) of section 170.

"(3) Qualified job-training organization.—The term 'qualified job-training organization' means an organization which—

"(A) is described in section 501(c)(3); and

"(B) has been certified by the appropriate regional office of Employment and Training Administration of the Department of Labor as providing job training solely to one or more of the following: handicapped individuals, economically disadvantaged individuals, and displaced workers.

"(4) Job training.—The term 'job training' means instruction in vocational and other skills necessary to obtain employment or a higher grade of employment.

"(5) Handicapped individual.—The term 'handicapped individual' means any individual who—

"(A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and

"(B) can reasonably be expected to obtain employment or a higher grade of employment as a result of job training.

"(6) Economically disadvantaged individual.—The term 'economically disadvantaged individual' means any individual who—

"(A) receives cash welfare payments under a Federal, State, or local welfare program;

"(B) has an income, for the 6-month period before applying for job training with a qualified job-training organization, which—

"(1) would have met the qualifications for such welfare payments, or

"(ii) if computed on an annual basis, would not exceed the poverty level established by the Director of the Office of Management and Budget pursuant to section 673(2) of the Omnibus Budget Reconciliation Act of 1981; or

"(C) is a member of a family which meets the requirements of subparagraph (A) or (B).

"(7) Displaced worker.—The term 'displaced worker' means any individual who—

"(A) was employed by an establishment—

"(i) on a full-time basis, and

"(ii) for at least 1 year;

"(B) was not employed by such establishment in an executive, administrative, or professional capacity (as such terms are defined by the Secretary of Labor under section 13(a)(1) of the Fair Labor Standards Act of 1938); and

"(C) is currently unemployed because of—

"(i) a change in the technology of such establishment, or

"(ii) a total or partial closing of such establishment by reason of competing technology.

"(8) Establishment.—The term 'establishment' means any factory, plant, facility, or concern engaged in the production of goods or services, or both.

"(d) Special Rules.—For purposes of this section—

"(1) Aggregation of contributions.—

"(A) Controlled group of corporations.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the qualified job-training charitable contributions giving rise to the credit.

"(B) Common control.—Under regulations prescribed by the Secretary, in determining the amount of credit under this section—

"(i) all trades or businesses (whether of not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such trade or business shall be its proportionate share of the qualified job-training charitable contributions giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) Allocations.—

"(A) Passthrough in the case of subchapter S corporations, etc.—Under regulations prescribed by the Secretary, rules similar to the rules of subsections (d) and (e) of section 52 shall apply.

"(B) Allocation in the case of partnerships.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.".

(b)(1) Subparagraph (A) of section 55(c)(4) of the Internal Revenue Code of 1954 (relating to credits) is amended by inserting "44H(b)(2)(A)," before "53(b)".

(2) Subsection (c) of section 381 of such Code (relating to items of the distributor or transferor corporation) is amended by adding at the end thereof the following new paragraph:

"(30) Credit under section 44H.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and section 44H, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of section 44H in respect of the distributor or transferor corporation.".

(3)(A) Section 383 of such Code (relating to special limitations on unused investment credits, work incentive program credits, new employee credits, alcohol fuel credits, foreign taxes, and capital losses), as in effect for taxable years beginning with and after the first taxable year to which the amendments made by the Tax Reform Act of 1976 apply, is amended—

(i) by inserting "to any unused credit of the corporation under section 44H(b)(2)(B)," after 44G((b)(2),", and

(ii) by inserting "JOB-TRAINING CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(B) Section 383 of such Code (as in effect on the day before the date of the enactment of the Tax Reform Act of 1976) is amended—

(i) by inserting "to any unused credit of the corporation which could otherwise be carried forward under section 44H(b)(2)(B)," after "44G(b)(2),", and

(ii) by inserting "JOB-TRAINING CREDITS," after "EMPLOYEE STOCK OWNERSHIP CREDITS," in the section heading.

(C) The table of sections for part V of subchapter C of chapter 1 is amended by inserting "job-training credits," after "employee stock ownership credits," in the item relating to section 383.

(4) Subparagraph (C) of section 6511(d)(4) of such Code (defining credit carryback) is amended by striking out "and employee stock ownership credit carryback" and inserting in lieu thereof "employee stock ownership credit carryback, and job-training credit carryback".

(5) Section 6411 of such Code (relating to quick refunds in respect of tentative carryback adjustments) is amended—

(A) by striking out "or unused employee stock ownership credit" each place it appears and inserting in lieu thereof "unused employee stock ownership credit, or unused job-training credit";

(B) by inserting ", by a job-training credit carryback provided by section 44H(b)(2)" after "by an employee stock ownership credit carryback provided in section 44G(b)(2)," in the first sentence of subsection (a);

(C) by striking out "or an employee stock ownership credit carryback from" each place it appears and inserting in lieu thereof "an employee stock ownership credit carryback, or a job-training credit carryback from"; and

(D) by striking out "research and experimental credit carryback)" in the second sentence of subsection (a) and inserting in lieu thereof "research and experimental credit carryback, or, in the case of a job-training credit carryback, to an investment credit carryback, a new employee credit carryback, a research and experimental credit carryback, or an employee stock ownership credit carryback)".

(c)(1) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44G" and inserting in lieu thereof "44G, and 44H".

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Charitable contributions to qualified job-training organizations.".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

ONSITE DAY CARE

Mr. SPECTER. Mr. President, one of the major problems faced by women seeking to enter, or remain in, the labor market is the accessibility of day care programs.

Notwithstanding the personal income tax credits for child care services, families often find that the cost of day care and the time required for transportation present barriers to gainful employment.

Union Fidelity Life Insurance in my State of Pennsylvania has developed a successfully and innovative onsite day care center which has increased employee morale and attendance and, most importantly, reduced turnovers. Other businesses across the State have instituted similar programs and report favorable results. I commend these companies and am hopeful that others will follow their initiative.

Mr. President, I ask unanimous consent that an article from the Philadelphia Inquirer concerning onsite day care in Pennsylvania be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Philadelphia Inquirer, Jan. 31, 1982]

For Companies With Day Care, Big Dividends

(By Anne Lorimer)

In the fall of 1979, five key managers of the Union Fidelity Insurance Co. in Trevose were pregnant. Unable to find adequate infant day care, they planned to leave their jobs. As it turned out, however, they didn't have to.

Union Fidelity, unwilling to lose such a sizable chunk of trained staff, created a day-care facility for 20 children right on the first floor of the office building. The women delivered—and came back to work.

Those five babies have grown from infancy to toddlerhood right down the hall from their mothers. Business life holds no mystery for them—they call the security guard "Pop-Pop" and trick or treat around the offices on Halloween.

"I wouldn't look for a job elsewhere because of the advantage of the center," says Cynthia Tortura, whose job as a financial analyst requires her to work late at tax time. "The center stays open until 6 o'clock to accommodate me. If I put John in a neighborhood center I'd have to pay overtime rates after 5:30."

Karen Feeney's children, ages 2 and 4, have been in the center since they were infants, when Feeney would leave her office daily to nurse them. "I wouldn't think of staying home when I'm sick," she said. "It's easier to be sitting at my desk than chasing the kids around the house."

The center isn't free, or even especially cheap: Parents earning less than $18,000 a year pay $65 a week for an infant, $55 for a toddler and $50 for a preschooler; those making over $18,000 pay $5 more. (Day care runs $3,300 to $3,500 a year for the average 3- or 4-year-old in Pennsylvania.)

"Parent fees account for half of our expenses. The company covers the rest," said Union Fidelity's personnel director, Eleanor Wohlfarth. And considering the cost of replacing a valued employee—in recruitment, retraining and general lost know-how—Wohlfarth says the company considers it money well-spent.

As single parents and two-paycheck families become standard ingredients of the working world, child care is becoming something many employers must consider. Encouraged by tax breaks incorporated into the Reagan administration's revenue package, both small businesses and giant corporations are setting up infant- and early-childhood-development centers. Hospitals sponsor them as a way to keep nurses on the staff; unions advocate them as a job benefit. Philadelphia City Councilwoman Joan Specter has introduced a resolution to examine the feasibility of on-site, fee-paid care for the children of city employees. A conference here last fall on employer-sponsored day care drew 125 participants.

What parents gain from such centers is obvious. What employers gain can be increased productivity, reduced absenteeism and turnover, higher morale and more successful recruiting.

Take the case of Red Rope Industries, an office-supplies firm in Bucks County.

When Red Rope president Joseph Wexelbaum moved his paper-processing firm to Bristol in 1969, he was counting on favorable tax rates and an ample labor supply. What Wexelbaum had not anticipated was that his labor pool would turn out to be undependable.

"After spending over a million dollars to build this plant, we were faced with constant turnover," said Wexelbaum, who is now retired. "Absenteeism was rampant, even when we handed people bonuses for showing up. They'd work to make Christmas money, or to pay off a washing machine, and then they'd quit. At year-end, we had a stack of W-2 forms thick enough to choke a horse." Productivity was at an all-time low.

Wexelbaum set up a 9 a.m.-to-2 p.m. shift to draw working mothers into the plant. It did, but the five-hour-a-day operation wasn't profitable. Exploring further, Wexelbaum learned that many mothers actually wanted to work a full shift, but could find nobody to look after their preschool children all day, five days a week, at a price they could afford.

He decided to solve his assembly-line problems by solving his employees' child-care problems, and the Red Rope Center opened in 1972.

Red Rope Center is unusual in that it is free to employees. It has four teachers, an aide, a cook and an enrollment limited—by space—to 35 children. There's always a waiting list.

"We've curbed absenteeism by responding to the needs of the female workers," says industrial relations manager Gene McAleer.

Four-fifths of Red Rope's employees are women; at the Institute for Scientific Information (ISI), a West Philadelphia firm that provides information services to scientists, corporations, libraries and educational systems, the proportion is two-thirds. The company is preparing to break ground for a $2 million center for 168 children on the site of its offices. ISI operates 24 hours a day, and the child-care center will be open around the clock to accommodate second- and third-shift workers. There will be room for 40 to 60 infants, along with a full-service kitchen and fully accredited kindergarten.

"The center is being built with an eve to present and future employees," says Peter Aborn, vice president for administrative services. "The economics of competing with the Sun Belt requires offering unusual amenities to capture qualified professionals."

Nursing, a professional field dominated by women, is particularly hard hit by anything that lures women from the work force, so it is not surprising that hospitals have taken a lead in establishing child-care facilities. According to the U.S. Department of Labor, 100 hospitals have programs in place and more are opening every day.

Lancaster General Hospital, for instance, took over a nearby vacant elementary school in January 1981 and created the Child Enrichment Center. Twelve children were enrolled immediately. Now there are 102, 30 of whom are infants. The Fox Chase Medical Center—which includes the American Oncologic Hospital, the Institute for Cancer Research, Jeane's Hospital and Friends Hall—has opened a day-care facility with space for 50 children a half-mile from the medical center.

Presbyterian Hospital hasn't set up on-site day care, but is committed to purchasing 30 slots for its employees' children at the ISI center in West Philadelphia. That's called the "vendor" system and it's one of various options being chosen by employers. Some hire a day-care counselor to act as referral agent for employees. Some operate a voucher system in which the employee presents his child-care bills to the employer. Some, like McNeil Consumer Products in Fort Washington, contribute to an existing neighborhood center, which in turn gives employees a discount on fees. And some join other employers, or their labor unions, or the government, in a "consortium" program.

Situated on the first floor of the Garment Center at Eighth and Arch Streets, for instance, is Children's Village. It serves 40 garment firms as well as other local businesses in a 10-block radius, including Strawbridge & Clothier, Bell Telephone and Metropolitan Hospital. Operating under the umbrella of the Council for Labor and Industry, the center is funded by employers, the union, the U.S. Department of Labor and parent fees, charged on a sliding scale from $5 to $40 a week.

The center, which was established in 1976 to encourage young mothers to hold jobs in the troubled garment industry, is "supplying day care in an area where there hasn't been any before," according to director Esther Crystal. "There's a dense concentration of working people in need of our facilities."

Kitty Dudinow is one satisfied customer. Dudinow, who works for a local doctor, used to pay a neighborhood baby sitter $50 a week to care for each of her two children. Instead of any kind of developmental program, she says, they were being raised on "One Life to Live" and "General Hospital." She worried constantly. Now she pays $56 a week and gets peace of mind as well.

On-the-job child care is far from a local phenomenon. Stride Rite in Boston is involved in a community center. Levi Strauss contributes to family day-care homes in San Francisco apartment complexes where employees live. Polaroid Corp. in Cambridge, Mass., Intermedics in Freeport, Texas, and Corning Glass in Corning, New York, are involved in day care.

Many factors can discourage businesses from such involvement, however, not the least of which is cost. Another is what to do about non-parents who can't share in the benefits. Local companies are studying various options: a salary reduction plan in which a $2 of day care results in $1 reduced salary; a "cafeteria benefit plan" in which an employee has a certain number of benefit dollars to spend and chooses between medical, dental, day care, college tuition, and so forth; and other kinds of benefit trade-offs.

Location is a problem for major firms with branch offices, such as Bell Telephone. A spokeman for Bell, Vick Beradelli, says that Bell has no plans to implement day care because it is impossible to provide a center for each of Bell's 90 branches and a central location would further inconvenience employees.

Roberta Rosenbaum, Systems Analyst at the Hospital of the University of Pennsylvania, says that most of the hospital's 4,000 employees have already solved the day-care issue; however, the hospital is studying day-care alternatives. She questions parents bringing their children to work via public transportation.

But mothers like Union Fidelity's Karen Feeney would rather bring the children to work than worry about them somewhere else. "They are right down the hall if they get sick or have a problem. I'm there in a minute. If they were in a neighborhood center, I'd have a 40-minute drive to get there. I don't feel guilty about taking my children to work. I'd be guilty if I didn't."

THE FEDERAL RESERVE BOARD—THE ONLY ANTI-INFLATION GAME IN TOWN

Mr. PROXMIRE. Mr. President, for 43 years, this country has suffered the longest and most severe inflation in our economic history. The wholesale price index has zoomed to more than five times its level in 1939, when the current inflation began. The inflation has persisted through the end of wars—a phenomenal almost unprecedented development. After World War II, the Government released massive resources, and the vast majority of economists anticipated a fall in prices. After all, prices had fallen after every other war. But not this time. They increased. Similarly, after the Korean war and the Vietnam war, prices rose. Never before in our history had prices risen after the conclusion of war and the release of productive resources such a conclusion made possible. Almost as remarkable, the inflation persisted through recessions, as it did in the 1973–74 recession, and as it is doing in the current recession. If the economy revives even modestly, inflation will resume close to, maybe even beyond, it double-digit level.

Mr. President, what makes that inflation so bad? Can we not live with it? Is not unemployment—the kind we suffer right now—worse? The answer, Mr. President, is that the long and persistent inflation lies at the root of our unemployment and the high interest rates that have caused this unemployment.

Yes, high interest rates have persisted in recent months while inflation has fallen off. If inflation causes high interest rates, how can this be? Answer: Interest rates—particularly long-term interest rates—have been particularly stubborn because of the anticipation by investors of more inflation in the future. After all, why should any investor lend money for 5, or 10, or 20 years at 10-percent interest if he fears that inflation will resume at a double-digit level? He would get back in real terms less than he loaned out.

And how about unemployment? Mr. President, if ever we had a high-interest rate recession, this is it. Where are the big layoff industries? We know them: homebuilding, automobiles, farm implements, and the vast industries that supply and service these industries. What characterizes these industries? A single factor: They are all credit-sensitive—in fact, super-credit-sensitive. When interest rates go up, the homebuilding industry goes into a nosedive. The automobile industry loses sales by the hundreds of thousands, and autoworkers are laid off in droves.

Once again: What causes high interest rates? Persistent inflation, continuing year after year and convincing the investing public that the Government has neither the wit nor the will to stop it.

Stop it? The fact is that the Government has been contributing to inflation at an incredible pace ever since 1939. In that year, the Federal Government spent less than $9 billion in total—for everything. This year, we will spend more than $700 billion—literally 75 times as much. That colossal explosion of Federal spending undoubtedly contributed massively to inflation. We have shoved the national debt from $40 billion in 1939 to well over $1 trillion and, in the process, elbowed private borrowers, who would like to buy a home or a car, out of the credit markets, and run up interest rates that now require us to spend

$100 billion a year just to pay interest on that national debt.

Let us face it. Congress and a whole series of administrations have made the Federal Government into an engine of inflation.

Since October 1979, the Federal Reserve Board has been a lone and lonely holdout against inflation. It alone has waged the anti-inflation fight. To the extent that any Government agency deserves credit for slowing inflation—at least temporarily—it has been the Federal Reserve Board that has done the job. Unfortunately, there anti-inflation policy of restraining the increase in the money supply has collided smack into the congressional and administration fiscal expansion express. The result: a classic and record interest rate explosion and a serious recession with more than 9 million Americans out of work and business failures rising every day.

Lately some leading Members of Congress who should know better have been calling on the Federal Reserve Board to ease up. Unfortunately, the Federal Reserve Board has already started to do exactly that. In November, the annual growth rate of 1M_1—the measure of the money supply—doubled to 9.7 percent. It rose again in December to 12.1 percent, and—listen to this—nearly doubled again in January to 22.8 percent. But what happended to interest rates? Did they come down as the Fed signaled a very sharp easing of credit? No, indeed—not the long-term rates that cripple the credit sensitive industries. Those rates stayed up. Why? Because the investment community wisely feels that if the Fed—the only anti-inflationary game in town—throws in the sponge on inflation, nothing will stop it.

Mr. President, I hope Senate leaders will ask themselves, before they denounce the Fed as the villain in pushing up interest rates, a simple question: What would you do if you were Chairman of the Fed? How would you cope with a Congress and with administrations that year after year propose mammoth, hundred-billion-dollar deficits. Would you accommodate them by increasing the credit supply so that the Government, as well as the private sector, could get the credit they want and need? And if you did so, would you not simply throw in the sponge in the battle against inflation?

Our problem lies with us, Mr. President. If Members of Congress, including our leaders, want to know what is wrong, it is easy: Just look in the mirror.

EXILED

Mr. PROXMIRE. Mr. President, according to the Armenian Weekly, Variety magazine recently reported that the first film depiction of the 1915 Armenian genocide by the Turks is scheduled for production.

Based on a 1933 book by Serpouhi Tavoukdjian, who survived the slaughter but lost her mother, two sisters, and a brother, the film is entitled "Exiled."

Ms. Tavoukdjian moved to the United States at the age of 20. She worked as a nurse here in Washington, D.C., and now lives in St. Petersburg, Fla.

Producer Ralph Jarvis attributed the assassinations of Turks by Armenians seeking revenge for 1915 to the Turks "failure to acknowledge the genocide of which they are accused." He added that the film is not an attack on contemporary Turks, as it deals with the Ottoman Empire, in power at the time of the massacre.

Accounts vary as to just how many Armenians were killed. But one thing is certain. The Armenian massacre of 1915 was just the first case of genocide in the 20th century. It was followed by the Holocaust, which was followed by the genocide of 3 million Bangladeshis, which has been followed by the genocide of additional national, racial, religious, and ethnical groups.

Mr. President, ratification of the Genocide Treaty by the Senate would declare to the world once and for all that the United States considers genocide an international crime; 85 other nations already consider genocide an international crime, and have demonstrated their commitment to this concept by becoming parties to the Genocide Treaty. Within our own country, the treaty has received widespread support ever since it was first introduced by President Truman in 1949. The time has come for the United States to ratify the Genocide Treaty.

NUCLEAR ARMS CONTROL

Mr. MATHIAS. Mr. President, over the past several days I have been asked time and again why, in view of my longstanding commitment to nuclear arms control, I am not cosponsoring Senate Joint Resolution 163, a joint resolution on nuclear weapons freeze and reductions, introduced by the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Oregon (Mr. HATFIELD).

The answer is simple: It does not go far enough. I do not oppose it, but it does not do the job that needs to be done; and, quite possibly, it will impede getting that job done.

What we must do, and do urgently, is return to the negotiating table, sit down with the representatives of the Soviet Union, and stay there for as long as it takes us to hammer out agreements on strategic arms control and the elimination of nuclear weapons.

Nothing less than the future of mankind is at stake here and to freeze nuclear weapons at levels capable of destroying civilization will ratify, not remedy, the situation.

A proposal to freeze testing, development, and production of nuclear weapons might be an appropriate curtain raiser for renewed negotiations with the Soviet Union, but to delude ourselves that it is anything more than that is dangerous. Within the context of negotiations, it could have a very positive effect.

The fact that we are not engaged in substantive strategic arms negotiations with the Soviet Union at this very moment represents a grievous failure of the Reagan administration. The administration has lost touch with the American people, indeed with the vast majority of humanity, who recognize the urgent need to reduce the possibility of nuclear war.

Yet, we find ourselves today essentially without any strategic arms control process. We are doing nothing to limit nuclear weapons. We seem mesmerized by talk of linkage. This is ironic because the enormously successful 1963 Test Ban Treaty was signed shortly after the Cuban missile crisis, and SALT I was signed while we were engaged in a war with an ally of the Soviet Union. The enormity of the risks that nuclear weapons pose for mankind demand that we not take time off in our efforts to control them.

This is a classic case of the world's need for arms control, but it is more than that. It is a crisis of spirit for the human race because it has no precedent. Never before in all of history have such weapons existed, never before has such explosive power been at the command of leaders of nations, never before have so many millions of humans been subject to the possibility of mass destruction, never before has the preparation for war consumed such a volume of resources needed for normal economic progress, and never before has there been a relationship between two nations as crucial as that between the United States and the Soviet Union. The cry of the people of the Earth to their political leaders is "Do Something!"

Therefore, in recognition that the Reagan administration has had over a year to prepare its negotiating position, I am introducing a sense of the Senate resolution calling on the administration to reopen immediately strategic arms negotiations with the Soviet Union. That is the one absolutely essential step of avoiding nuclear holocaust. We must resume negotiations and we must pursue them relentlessly and single-mindedly until strategic nuclear arms are banished from the face of the Earth.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I am happy to yield for a question.

Mr. COHEN. I regret that I came in during the middle of the Senator's statement, but I thought I heard the Senator say that the Reagan administration is doing nothing to undertake serious negotiations with the Soviet Union on strategic systems.

In conjunction with that, is it not a fact that the United States and the Soviet Union have at least at this time agreed to abide by the so-called limitations contained in SALT II?

Mr. MATHIAS. More precisely I believe that we are doing nothing that is inconsistent with SALT II. But we are not moving from that rather static position to a position of actively negotiating for reductions. We are not even moving to consolidate what I believe to be gains made in the SALT II treaty to consolidate them into a permanent and lasting agreement between these nations. It is not likely to happen without negotiation.

Mr. COHEN. I must disagree with the likelihood or nonlikelihood of that occurring.

I suggest that the administration is in fact moving toward negotiation. I think the President made an excellent statement in his proposal to remove the nuclear weapons now pointed at Europe, and it seems to me that we are in fact vigorously trying to pursue such a strategy and hopefully we can expand it beyond the theater nuclear confines and broaden it to encompass strategic systems as well.

But I think we are missing a very important aspect if we ignore the fact that we are trying not only to engage in SALT limitation but to go well beyond that and talk and real reductions, so I have to suggest some modifications are in order about the Reagan administration's willingness to engage in strategic arms reductions negotiations.

Mr. MATHIAS. I hope that the Senator from Maine is right. I hope that history will prove him right and I hope he will work with me and with every other Member of the Senate to make it turn out exactly the way he predicts.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the resolution may be held at the desk until the close of business today and that it be open for further cosponsorship.

The PRESIDING OFFICER. Without objection, it is so ordered.

NUCLEAR ARMS CONTROL

Mr. DURENBERGER. Mr. President, the history of arms control has been one of mixed results. Such successful ventures as the Partial Test-Ban Treaty, the Non-Proliferation Treaty, and the ABM Treaty have been offset by the fact that we have seen more, and more lethal, nuclear weapons produced ever since we undertook the strategic arms limitation talks. For every weapon ostensibly "controlled," other weapons have been produced. Quantitative controls have been offset by qualitative advances, or have been evaded through the proliferation of warheads on delivery vehicles. It is no exaggeration to say that our attempts at arms control have left us facing a grimmer future than we faced before the SALT I Treaty was ratified.

It is therefore understandable that Americans have become frustrated and cynical about the ability of this Nation and other nations to achieve a significant and meaningful pause in and reversal of the momentum of the arms race. Reasonable people can look at what is commonly known about the size and capabilities of our strategic nuclear arsenal and can conclude that we have surpassed any reasonable margin of safety. Reasonable people can hear antiseptic discussions about how many Americans would survive a nuclear exchange and can reasonably conclude that the living would envy the dead.

Nuclear weapons can serve one purpose only: The deterrence of attack by other nuclear weapons. The horrible consequences which would follow from the use of nuclear arms against a comparably armed adversary make such use unimaginable. Nuclear powers have a very strong incentive never to use their weapons against other nuclear powers, and this is all to the good. Consequently, plans to seek a military "victory" with nuclear weapons in the event of a conflict are simply preposterous. The peace which would follow such a conflict would be the peace of the graveyard.

Like it or not, the world is held hostage to the behavior of the nuclear powers, and nothing can make this fact of life disappear. This is why all people have a stake in the arms race and in the military plans of the superpowers. Yet, so long as the consequences of a nuclear war outweigh any possible "gain"—and they always will—there is a strong incentive to approach international relations with caution and commonsense. This is the silver lining in the cloud.

Therefore, until we have achieved ultimate mutual disarmament, we must preserve sufficient—and sufficiently survivable—nuclear forces to deter a nuclear test of strength. But we should not delude ourselves that these weapons would have any military utility during a conflict, or that we could conduct a nuclear war and live to determine winners and losers.

What this means is that our efforts at arms control and arms reduction must be aimed at preserving deterrence until the day that we are able to put all nuclear weapons on the trashpile of history. Above all else, a program of arms control and reduction must foster stability in the event of a crisis. Our diplomacy should always insure that we minimize the prospects of a crisis. But our military programs and our arms control programs must work in tandem to insure that if diplomacy fails and we do, in fact, enter a crisis, we have the fundamental confidence to avoid and prevent a resort to force. As the Cuban missile crisis of 1962 reminds us, these are not abstract concerns. That incident was successfully managed. We must be sure that another such confrontation does not lead inadvertently but inevitably to conflict.

In crisis situations, confidence begets confidence and temptation begets temptation. A nation which is confident in the survivability of its deterrent forces is a nation which has no incentive to launch its weapons rather than see them lost to a pre-emptive strike. But if any nation fears that its forces could be eliminated—and fear is not based on rational calculations—then all nations are less secure. The nation which fears is a nation tempted to use its forces rather than lose them. The nation which confronts a fearful nation is a nation tempted to get in the first shot.

Mr. President, the world cannot afford doubts and insecurity on the part of any nation about the viability of its strategic nuclear forces. Our own survival in the event of a crisis is fully dependent on the survival of our deterrent. As Winston Churchill put it, "We have, through a process of supreme irony, reached the point where survival is the sturdy child of terror and safety the twin brother of annihilation."

As the debate over the MX missile has reminded us, we must insure that our diplomacy, our defense policy, and our arms negotiations all work to prevent crises where possible and manage crises where necessary. Arms reductions are not a matter of utopian good will. They are a vital element of our overall security. That is why the President has set out to begin negotiations aimed at actually reducing overall numbers of nuclear weapons. He deserves our support and our prayers.

But if we are to preserve international stability and obtain meaningful controls and reductions, we cannot afford to undertake the kind of action contemplated by those who advocate a freeze on all nuclear weapons programs. For instance, a freeze would make it difficult or even impossible to substitute sea-based forces, which are inherently more survivable, for land-based forces, which are causing many people to lose confidence in the deterrent. If a freeze means that we feel less rather than more secure, the world is not a safer place. As we are reminded by the results of the arms race, quantitative measures of security are not sufficient. We have to account for qualitative measures as well. Even if we have more strategic nuclear warheads than the Soviet Union, we are not necessarily any safer. If those warheads appear to be vulnerable—and appearances are crucial in the area of deterrence—we can actually be less safe. It can therefore be eminently sensible to replace less survivable weapons with more survivable ones, particularly if we are simultaneously reducing the overall number of warheads in the arsenals of the nuclear powers. But this kind of activity would be constrained or even prohibited by a total freeze.

Just as potentially dangerous would be the impact of a freeze on our diplomatic relations within the NATO alliance. It was the entire NATO alliance—some 15 nations—which collectively decided in December 1979 to address the issue of Soviet SS-20 missiles and other Eurostrategic systems by adopting a two-track approach. One track involves efforts at removing this threat through negotiations, which have been undertaken in Geneva. The other track involves being prepared, if necessary, to deploy limited numbers of long-range theater systems to offset Soviet deployments in the event that negotiations are not successful. Each track reinforces the other. To eliminate one is to undercut the other.

As Chancellor Schmidt of Germany reminded us in a significant speech before the International Institute for Strategic Studies in 1977, the issues posed by new Soviet theater systems are unique and uniquely dangerous. They cannot appropriately be addressed simply by relying on the strategic weapons based in the United States. This is why the long-range theater nuclear force decision was taken by the entire alliance. It was not a unilateral decision by the United States. Yet a freeze on all nuclear weapons would effectively undo a decision taken by the entire alliance, and would do so without prior consultation. It would make the current discussions in Geneva virtually meaningless and would represent the kind of unilateral arrogance which our allies have rightly come to resent.

Finally, it bears notice that the effect of the NATO decision has been to reduce, not to increase, the numbers of nuclear weapons in Europe. The decision called for the removal of 1,000 weapons from Europe, the substitution on a 1-for-1 basis of 108 Pershing II missiles for 108 Pershing I missiles, and the emplacement of 464 ground-launched cruise missiles. The 1,000 warheads have already been withdrawn. If worse comes to worst, and the Geneva talks prove unsuccessful, the overall number of nuclear weapons in Europe will still have been reduced by 536 missiles, a significant step in the right direction. Why undo this with a freeze?

As an editorial in today's Washington Post by R. James Woolsey makes clear, a freeze is understandably appealing to those many Americans who are justifiably concerned about the arms race and the flaws of past arms control efforts. A freeze is easy to grasp. It is dramatic. It is simple. But the issues involved in nuclear arms reductions are not simple, and ready-made nostrums can do us more harm than good.

I therefore believe that the approach which Senator MATHIAS and I have taken in this resolution is vastly preferable. It too is easy to grasp, dramatic, and simple. But it does not foreclose any options. It simply states that it is the sense of the Senate that the President should immediately invite the Soviet Union to begin negotiations on strategic nuclear arms and on nuclear proliferation. It does not attempt to set the agenda. It imposes no conditions on the Soviet Union or on our allies. It does, however, make crystal clear the impatience of this body, and of all Americans, with the arms race. It does make clear the vital urgency of controls and reductions. It sends a clear message to the Dr. Strangeloves in this country and in the Soviet Union that people will not long support a mindless growth in mass destruction.

Mr. President, I am pleased to cosponsor this sense of the Senate resolution, and I ask unanimous consent that the editorial by R. James Woolsey be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 17, 1982]

NUCLEAR FREEZE: IT'S NOT THAT SIMPLE

(By R. James Woolsey)

The total nuclear freeze is the Laffer Curve of arms control.

Hostility to both taxes and nuclear weapons is not only understandable—affection for either is more than a bit peculiar. But you want to watch out how you go about getting rid of either one.

There are two versions of the Nuclear Freeze: the total freeze now being placed on ballots and sweeping the small towns of New Hampshire and Vermont, and the somewhat differently worded freeze resolution recently introduced in Congress. Both pose serious problems, but the first is irremediable.

Remember the Laffer Curve? It was drawn, for the first and apparently the only time, on a restaurant napkin. How could there be anything wrong with an idea in economics that, for once, was so simple, so pure, so intelligible to you and me that it could be drawn on a napkin?

Cut taxes, the curve folks told us, and it will all work out—everything you're worried about. Fah, they said, to the nay-sayers with their quibbles about deficits, interest rates, monetary policy, time-lags and all those other details. If it looks like a tax and you see it standing around, cut it, and ask questions later. All you need to know is that you don't like taxes, I don't like taxes and the voters don't like taxes.

But as the implications of last summer's binge of enthusiasm for a world without taxes have crystallized in the winter's high interest rates and recession—for some, depression—the federal government's revenue base is metastasizing before our eyes. And the saddest thing of all is that there was an opportunity to do something specific and constructive to improve investment and productivity—an opportunity that was lost when the tax cutters were diverted by their exuberance.

Now the spirit that brought you the current recession/depression, the Kellogg-Briand Pact to renounce war and similarly bold and successful initiatives of public policy is looking for new fields to conquer, and its gaze has fallen on arms control. Fueled by people's agony about the threat of nuclear war, a national campaign is under way to bring about a bilateral halt to testing, production and deployment of "all" nuclear weapons, missiles and delivery systems. (The congressional freeze proposal omits the word "all" and adds that "special attention" should be given to "destabilizing" weapons.)

Poor old arms control. Step by difficult step, its practitioners have tried over the years to do such things as check the proliferation of nuclear weapons and improve the stability of the U.S.-Soviet strategic balance. It's not easy. It requires at least a passing acquaintance with some of the relevant technical issues. It requires the will to be tough with our allies on such matters as their exports of fissionable material and technology that are making nuclear weapons available to the likes of Gen. Zia, Col. Quaddafi and Saddam Hussein. It requires exquisite timing and close coordination with defense planning. It requires verification. It requires tough negotiating. But from time to time it can accomplish something.

Too complicated, say the total freeze advocates. If it looks like a nuke, stop it.

Many proponents of a total freeze argue, first, that it would be more easily verifiable because of its all-encompassing scope, and some argue also that—if there are indeed problems with verifiability or any other particular aspect—it is unimportant. The main thing, the advocates say, is to make a statement—in George Wallace's famous phrase, "to send them a message."

Their first point is false, the second disingenuous.

Soviet compliance with many extremely important restrictions under a total freeze could simply not be verified without the sort of inspection measures to which they have continually objected. The major unanswered questions that now exist about Soviet compliance with unverifiable international agreements banning biological and toxin weapons do not fill prudent arms control advocates with enthusiasm for relying on Soviet pledges. A freeze concentrating on "destabilizing" systems—such as large, fixed, vulnerable ICBMs—might be far more verifiable, but it is hard to say if this is what the ambiguously worded congressional version suggests.

Further, you should not be able to dismiss the flaws of a specific proposal for government action that you have made by arguing that the language you yourself have chosen should be disregarded. And the provisions of the total nuclear freeze have a distinctly Laffer Curve flavor. As the freeze careens forward, it becomes clear that it, too, if implemented, would produce some inadvertently but highly unfortunate side effects.

A total freeze would, for example, comparatively strengthen Soviet efforts to put our strategic forces at risk and would halt any shift away from vulnerable and toward survivable strategic systems—a stabilizing shift that could be encouraged by the right combination of arms control and strategic programs. Under a total nuclear freeze, currently existing Soviet nuclear forces and unconstrained Soviet work on certain nonnuclear programs could, combined, steadily increase our strategic vulnerability. Unless modernized and equipped with cruise missile, our bomber force would soon become vulnerable because of nonnuclear, and hence unconstrained, Soviet air defense improvements. Such a freeze would also make permanent the vulnerability of our existing ICBMs, leaving no paths by which we could shift to other basing methods in order to preserve their ability to deter. Such a freeze would prohibit us from countering the unconstrained, and substantial, Soviet efforts at anti-submarine warfare, since it would halt our construction of new quieter ballistic missile submarines as well as the longer-range missiles that are needed to enable them to patrol far from Soviet territory. And there is an added problem: if you agree to freeze something before persuading the Soviets to reduce, what do you use to encourage them to agree to reductions?

Like the tax cuts of last summer, a total nuclear freeze would supplant less dramatic but more workmanlike and potentially far more effective efforts—for instance, using arms control to help create incentives to reduce reliance on destabilizing strategic systems and replace them with more survivable ones. Many traditional and strong supporters of arms control will continue to balk at the movement for a total freeze, although they sense the agony of the U.S.-Soviet nuclear competition and the specter of Armageddon as keenly as anyone. They wince as they see a noble instinct, the love of peace, beginning to be diverted into those full-page ads, petitions and ballot resolutions. They know that the coming peace marches of spring and summer will be followed by a long winter of increased nuclear instability if the total freeze advocates' views prevail.

No, don't you understand? say the total freeze supporters. You're trapped in a little world of quibbles and details. It's really all so simple. All you have to know is whether you are for nukes or against them. Here, I'll write the whole thing out for you. On my napkin.

ROUTINE MORNING BUSINESS

The **PRESIDING OFFICER**. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements therein limited to 5 minutes each.

WOMEN IN THE MILITARY: A MATTER OF HUMAN POWER

Mr. **COHEN**. Mr. President, too often, when there are discussions of military manpower policies, those discussions center only on the use of men by our armed services. Perhaps the term "human power" would be more appropriate, because women are assuming an increasingly important role in today's military.

During the past few years, women have been given the opportunity to serve in military occupational specialties from which they had previously been excluded. In taking on these new responsibilities, they have, from all reports, done a very good job.

A recent article in Government Executive magazine, "Women in the Military: It Is Really a Matter of Human Power," touches on the important contributions being made by women in the military today. Barbara Oganesoff, the magazine's associate editor, discusses both those contributions and some of the problems which women have encountered while serving in our Armed Forces.

One quote from the article is particularly worth noting. Oganesoff cites a statement made by Adolph Hitler's weapons production chief, who told one Army Air Force commander in Europe that:

> The United States was wise to bring your women into the military. Had we done that initially, as you did, it could well have affected the whole course of the war. We would have found out, as you did, that women were equally effective, and for some skills, superior to males.

The article is an excellent one. I commend it to the attention of my colleagues and ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOMEN IN THE MILITARY—IT IS REALLY A MATTER OF HUMAN POWER

(By Barbara Oganesoff)

HIGHLIGHTS

From World War II to now, the development of policies governing uniformed women military has been anything but easy.

In recent years, the emergence of the equal rights movement as well as other social changes has added complex pressures to an already difficult situation.

It is obvious that the basic questions still remain but are being reformulated.

It may well be, as always, that the troops will teach the brass.

Human power is not what most people think of when they are asked about the effective utilization of women in the military. Many think of women's traditional/nontraditional roles or women being drafted and killed in combat or the effect women in the military have on the American family structure.

It is a volatile emotional issue that is just beginning to be quantified.

Dr. Sharon Lord, DOD Deputy Assistant Secretary for Equal Opportunity and Safety says recent polls indicate that the American public is much more flexible in its attitudes toward the abilities of women in different roles, including combat. She explains that as these attitudes become more flexible, personnel management models should be created in the military that address military readiness and at the same time utilize human power fully, to the limits of each individual's ability.

The result of upgrading these models will be more equitable treatment of both sexes. One practical example is the Air Force's physical strength testing program in which both men and women must meet certain physical requirements in order to be assigned a job with physically demanding tasks.

"What we are trying to do is to develop a methodology that within the constraints of the law (combat restrictions), outlines a set of physical and mental characteristics that are independent of gender. These characteristics will explain what is demanded of a job so that approximations can be made as to the number of women needed," explains Dr. Lawrence Korb, Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics).

It is a transitional period with respect to the policy surrounding the utilization of women due, in part, to the increased number of women.

In 1972, women made up only 1.5 percent of the active force or 45,033 women out of a total force of 2,323,079. With the advent of the all volunteer force in 1973, that percentage has climbed to 8.7 percent or 177,715 women out of a total force of 2,070,356. (The breakdown in numbers as of March 15, 1981 according to services was: Air Force 62,529, Army 70,935, Navy, 37,266 and Marine Corps 6,985).

After the Vietnam War DOD was faced with a drop in numbers of enlisted men. Helen Rogan, author of a book on women in the Army entitled Mixed Company, states that "the Women's Army Corps expanded rapidly in the 1970's because the planners decided that women could replace men in many Army jobs." The 70's also brought the feminist movement and this also contributed to the increased numbers of women in the services.

Korb explains manpower constraints DOD faces today, "We have a problem getting about 350,000 to 400,000 volunteers a year. The population of males and females is shrinking. To the extent that we limit the number of women, we have to take more men. To the extent that we have to take more men, it becomes harder for us to do our job. The more women we can take or are available to be taken into the service without affecting combat readiness, the better chance we have in meeting our goals."

But a recent DOD briefing paper states that "Women will not be increased in numbers as rapidly as programmed by the previous Administration. It is projected from non-prior accessions, that we will take in 40,000 annually over the next five years in all services." Higher reenlistment rates for women, however, may cause the total number to increase further during that five year period.

"There is now a critical mass of women and what we are finding is that we need to utilize more sophisticated models with different variables than we have considered before," says Lord.

Services are now developing new testing, standards and qualifications which Korb says "were not really developed well enough up to now." He adds that "previously there were targets/quotas on the number of women per service. Today, there are planning numbers, not targets. Services may look at certain skills and determine the probability of a man or woman meeting the requirement, of the skill. What we are essentially saying is 'first come, first serve.' If a woman qualifies to be a pilot and she meets the requirements, she gets the position."

Lord explains that the services first examine the combat restrictions when developing their utilization models for women. In a 1979 restatement, 10 U.S.C., S. 6015 says that, "Women may not be assigned to duty on vessels or in aircraft that are engaged in combat missions nor may they be assigned to other than temporary duty on vessels of the Navy except hospital ships, transports and vessels of a similar classification not expected to be assigned to combat missions."

This law pertains to the Navy and Air Force specifically; the Army is not under the auspices of any law but Army policy states that women will not be used in combat. To Lord, some of the sophistication of these models can come from the Services themselves since they have leeway in what they specifically define as a "combat speciality."

Lord goes on to say in a recent *Air Force Times* article that, the combat limitation should be lifted to give services "the full latitude to utilize their soldiers as they need in a time of crises. The Army has no law that restricts women from combat, but they have their own policy so that, as time would change, the Army would have full latitude to change without going to Congress . . . as the climate of the country changes, as our attitudes about what women can do or should do change—and that has been changing dramatically over time—the services could reflect that change in their internal policy."

In agreement with Lord, is the Defense Advisory Committee on Women in the Services who recommended during their Fall 1981 meeting, that DOD repeal the law. "It is more urgent now in light of the passage of the Defense Officer Personnel Management Act which provides for integrated selection boards for men and women, that full equality for women continues to be significantly inhibited by this legislation. Policy makers use the law as a shield to defend limitations on the assignment and utilization of women. In addition, the law is frequently used to prevent women from getting the necessary breadth of experience required for advancement and credibility."

Policy actions such as the removal of limitations on promotions and the increased number of military occupational specialties (mos's) now open to women have helped attract more women into military service. In 1967, Congress removed the 2 percent limit on women in the military and removed the regulations preventing women officers from holding permanent commissions above grade 0-5. They also eliminated existing differences in the retirement laws applicable to women. According to a DOD October 1981 report entitled, "Women in the Military," "Prior to the 1972 expansion of MOS's only 35 percent of all military specialties (primarily clerical and medical fields) were open to women in the military. Today about 95 percent of all skills are open to both female officers and enlisted women."

Korb outlines still other utilization concerns: (1) in the Navy's case, sea-to-shore rotation constraints in which there must be enough shore jobs for men serving on combatant ships to rotate to, and (2) in the Army's case, examining the trend of women leaving non-traditional skills and going into traditional skills. There is also consideration of the attrition rates, but Korb points out the need to examine these criteria carefully. "First term attrition, for example, is higher for women than it is for men but the percentage of women that are eligible to reenlist is higher for women so it just about balances out. And when examining the men versus women absence from duty rate, women are absent due to medical reasons whereas men are absent for non-medical reasons and these also balance out."

Lord goes one step further in her examination of women's absence due to medical reasons. She says, in some cases this is a result of poor medical care being provided by the services which shows up in the statistics as lost time. Pregnancy and the educational process associated with pregnancy, e.g., counseling and birth control is, in the hands of the womens' commanders or the type of doctors she may see at the on-base clinics. "We know that in many cases, the health services are inadequate and we also know from the commanders that this is 'one of the women's issues.' She clarifies that the sole women's issue for consideration is pregnancy. "We may need to address different pregnancy policy issues but the issue of attrition associated with pregnancy is more relative to training, sex education and availability of birth control. Beyond that the issues of sole parents, married military couples, etc. are gender issues or issues of changing gender roles."

OSD reports that there is no consolidated data on pregnancy rates and say that due to the association of funded abortions and the passage of the Privacy Act, collection of data is difficult. In their October 1981 report, they say that the Air Force reports about 9 percent of the female enlisted population becomes pregnant annually. The Army reports a rate of 7.7 percent and an annual incidence rate of approximately 10 percent. The Navy reports 7.4 percent for fiscal year 1979 and the Marine Corps, 10.4 percent for fiscal year 1980.

They are still examining the issue of sole or single parents as it affects readiness. In general, sole parents cannot enlist in the services without additional screening. Although the Air Force and Marine Corps consider waiver requests, the Army and Navy do not enlist sole parents who have principal custody of minor children.

The report continues: "Numerically, it appears that there are far more sole parent males than females. Proportionately, however, women are more likely to be sole parents. While about one percent of all male service members are sole parents, approximately 5 percent of all military women are sole parents."

The report adds that "the increase in military couples (which now total 45,700 couples or 91,400 military married to other military) have placed additional burdens on the military family support system. All services are striving to build physical, social and professional support systems adequate to the child care requirements of a changing military population. While it is often difficult to keep these requirements from being cut in the budget process, the Services are seeking additional appropriated funds for child care center construction and staffing."

Many in the military feel that the high number of women single parents again shows up on attrition statistics. It is also speculated by some that inadequate child care in the services may result in these women leaving the service.

What was once termed "women's issues" is what Lord says is changing dramatically in the services. To Lord, sexual harassment, for example, is a management and training issue, not a "women's issue" and she adds that managers are only now seeing that these previously termed "women's issues" are not problems of women but challenges to management seeking to effectively utilize women.

This change in philosophy could also result in changed personnel policy. "It has always been assumed that a career military person is a career person or if they leave the service, they leave for good. Why can we not conceive of in this very long life span that men and women live, a personnel policy that would allow for temporary interruption. I might say I want to make a career of the Army but need to interrupt my career for two years but I *do* fully intend to come back. It isn't really necessary to discuss whether I left for a hernia, pregnancy or needed to solve a drug problem," says Lord. The acknowledgement and accommodation of problems like these is an example of what she describes as "creative personnel policy."

She also points out that the roles of the "good soldier" and the "nurturant mother" are roles society has been comfortable with for years. One social critic and author, George Gilder, who testified before the Congressional Research Service Seminar on Women in the Armed Forces in 1980, says that "the efforts to bring about sexual equality in the military, as elsewhere in American society undermine the family structure . . . Women's role is inscribed in her very body, much of which is devoted to prodigious reproductive anatomy, and it is boys who are more aggressive and physically stronger than women—who need to be socialized. The breakdown of sexual barriers decreases the availability of all-male groups who can contribute to the socialization of young boys. . ." Another author who studied the integration of the first women cadets of the Air Force Academy restates the same point from a different perspective, "Were Women to enter combat, men would lose a crucial identity—warrior."

Further examination is needed but, not just in what are and are not women's issues. As Lord points out that there are drastic changes occuring in the entire soldier-soldier relationship. One Lieutenant Colonel who was discussing the nature of the male-female bonding which has occured since women were admitted to the service academies in 1976 states that this new "brother-sister relationship, with romantic entanglements tacitly excluded" is evolving and furthermore this new kind of bond might "be good for the rest of society in breaking down restrictive male bonding and all-male groups." Jones also notes that problems with women being assimilated into this soldier/soldier team are also reflected in higher female attrition rates during the first term.

Lord's resounding philosophy is that many people want to discuss the utilization of women only in terms of women in combat or women in the draft instead of looking at readiness and the human power issue.

Historically women were utilized in large numbers during World War II—350,000 were utilized primarily in health care, administration and communication. Martin Binkin and Shirley Back in their book Women and the Military explain that "They (women) demonstrated their competence in virtually every occupation outside of direct combat—as airplane mechanics, parachute riggers, gunnery instructors, air traffic controllers, naval air navigators and some 800 served as Women's Air Force Service Pilots (WASP's). Although this last group was never accorded full military status, they ferried all types of military planes, including combat aircraft."

Women also served overseas. These authors explain that, "The first American women's expeditionary force in history arrived in North Africa two months after the U.S. invasion. Approximately 2,000 Army women served in the Mediterranean and later followed the U.S. Fifth Army into Italy. Many of these women were stationed 12-35 miles behind the advancing troops.

In 1943, the first unit of military women reached Europe and although they were assigned primarily to administrative duties at the Army Air Force stations in England, less than one year later, these women were deployed to France and later to Germany. The first WAC unit landed in Normandy 38 days after D-day. The following excerpt from Binkin and Back's book gives a description of the conditions they met there:

"In the eight months before V-E day, WACS followed closely behind the fighting forces. Food, quarters and supplies were the same as those available to the men. The only reported difficulty concerning quarters was the absence of heat and hot water; doctors estimated that 25 percent of the women in one unit had childblains (an inflamatory swelling of sore caused by exposure (as of the hands or feet) to cold). Conditions were unsettled; medical and hospital care uncertain; there was cold, rain, snow and mud; it was seldom any longer possible to have advance inspection of housing. Nevertheless, the strenuousness of the period had no perceptible effect; authorities were in fact surprised to discover that the WAC sick rate was the lowest of the year."

General Douglas MacArthur discussed his utilization of WACS in the Southwest Pacific in 1944, "I moved my WACS forward early after occupation of recaptured territory because they were needed and they were soldiers in the same manner that my men were soldiers. Furthermore, if I had not moved my WACS when I did, I would have had mutiny . . . as they were so eager to carry on where needed."

Binkin and Bach also highlight the following quote from Adolph Hitler's weapons production chief who told one Army Air Force Commander in Europe that "the U.S. was wise to bring your women into the military. Had we done that initially, as you did, it could well have affected the whole course of the war. We would have found out, as you did, that women were equally effective, and for some skills, superior to males."

The women in the military issue can also be related to weapon systems, according to Congresswoman Pat Schroeder (D-Colo.), "No one ever tells us what we are going to need, or in this case, where we are going to fight and who are we going to need . . . We always carry around with us the mental mind set that is usually four years out of date. An example of this are people who think there is going to be clearly defined combat zones in another war," and Schroeder feels that it is the role of Congress to define what is meant by combat zone, rather than allowing each service to define it.

Schroeder makes the point that besides the unclear definition of what is combat, actual "combat" troops make up only 10-20 percent of the force. She adds that the momentum is towards reinstating the draft as a manpower solution but what is really happening is that new recruits are up because of high unemployment. The underlying sentiment by many conservative congressmen and senators is to decrease the number of women in the military by reinstating the draft. "If there is a war, we are going to need women and isn't it cruel not to have them trained" and trained in the sense that they become viable units of the readiness team.

Schroeder sees women's internal networks as one solution to the utilization problem. Even within the women's ranks, there is a difficulty with support. Many civilians, according to Schroeder, do not support those in the military because they view them as promoting a "macho" image.

She believes it also gets back to the "human power" philosophy. "Sure, there are a lot of women who should not be in combat but there are a lot of men who shouldn't be there either. The issue is if you have people (both sexes) who want to do it (fight) and you don't have a large surplus of human power, which we don't, why are we saying no to people who want (and are capable of handling) combat."

Congressman Sonny Montgomery (D-Miss.) says he is not pleased with today's all volunteer service, "I don't think we should recruit and bring in more women and then say our strength is up when we cannot put women in combat positions. There are not enough men to fill these combat positions, even in the reserves."

A Member of the House Armed Services Committee, Montgomery admits that women can improve readiness to the extent that many are coming into the military with more education, he estimates that only one in 1,000 has the capability to serve in a combat position. "I think DOD has gone further than they should in bringing women in positions where they are near the line of combat (e.g., driving supply trucks). They are not geared physically and in some cases mentally and there is a tendency for men to want to protect women if they are in combat together."

He explains that another problem surrounding the present all volunteer force is unemployment and he questions how that affects the caliber of people coming in. He favors the all male draft since he thinks we need men to fill combat positions. His fear is that "DOD will over recruit more women than they can use." A 6/25/81 Supreme Court ruling agrees with the all male draft concept, "Congress acted well within its constitutional authority to regulate armies and navies when it authorized the registration of men not women."

Senator John Tower (R-Tx.), Chairman of the Senate Armed Services committee says he does support women in the military in an active role but that they should not be in combat or drafted. "They have already volunteered in significant numbers and have made a significant contribution to the military force."

One House staffer reports that during the Carter Administration, DOD officials at the sublevels were told to be silent on the issue of women in the military but with the change in administration, the new philosophy is to speak out even if it is negative on the issue of women in the military.

THE NEED FOR FISCAL RESTRAINT

Mr. PROXMIRE. Mr. President, the New York Times this morning carried an article reporting that the 45 Democrats in the Senate unanimously offered alternative economic proposals to President Reagan on Tuesday and included deferring the third year of the Tax Code, and deferring the indexing of the Tax Code, both voted last year.

Mr. President, this Senator has been asked by reporters why I changed my position on those two issues since I voted for both of them last year.

Mr. President, I understand the conclusion of the reporters but let me make it absolutely crystal clear that this Democratic Senator does not at this time take a position on deferring the third year of the tax cut or deferring indexing the Tax Code. I voted for those measures last year. Whether I change my position on these measures depends entirely on the progress we can make over the next 15 months, and more.

The 1983 tax cut does not go into effect until July 1, 1983, no one can predict what the economic conditions may be at that time. The indexing provision does not go into effect until July 1984. I earnestly hope we can in the next 15 months make other changes in the Tax Code that will bring in more revenues. I also hope we can cut spending below the President's requests. If we can do so, if we can narrow the deficit and permit the Federal Government to balance the budget whenever unemployment falls below 7 percent, without deferring the 1983 tax cut or deferring the indexing of the Tax Code, then I would not vote to defer either the tax cut or the indexing.

Mr. President, that position is fully consistent with the letter sent by Minority Leader ROBERT BYRD. Let me quote from the letter. The minority leader wrote:

> We ask that you submit a new fiscal year 1983 budget incorporating lower deficits and a commitment to a balanced budget. To that end, we suggest that you consider the following proposals designed to help us meet these goals:

And then included as the second and third proposals were:

> 2. Defer the third year of the 1981 individual income tax cut;
>
> 3. Defer indexing of the tax code.

The letter calls on President Reagan to consider, Mr. President, these two changes in the Tax Code. No way does it commit 45 Democratic Senators to vote for deferring the tax cut or deferring indexing the Tax Code.

Certainly for our Democratic leader to ask the President to consider these alternatives does not deliver 45 Senate votes or any Senate votes for such an action.

So I have not changed my position on these tax measures, and whether I do or not will depend entirely on the progress the Congress and the President can make and the economy can make in achieving the fiscal restraint we so urgently need without such action.

WISCONSIN STATE LEGISLATURE URGES MUTUAL NUCLEAR WEAPONS MORATORIUM

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution that was adopted by the Wisconsin State Legislature, and which has been received by the office of the President pro tempore.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

1981 ASSEMBLY RESOLUTION 18

Whereas, the United States, the Soviet Union and other nations are engaged in a nuclear weapons race and are testing, producing and deploying nuclear warheads, missiles and delivery systems; and

Whereas, the United States, the Soviet Union and other nations are expending huge sums of money for such testing, producing and deploying of nuclear warheads and weapons; now, therefore, be it

Resolved by the assembly, That the Wisconsin assembly hereby memorializes the President and Congress of the United States to immediately attempt to initiate and enter into a mutual nuclear weapons moratorium, including an effective policing apparatus, with the Soviet Union and other nations; and, be it further

Resolved, That duly attested copies of this resolution be transmitted forthwith by the assembly chief clerk to the President of the United States, the presiding officer of each branch of Congress, to each of the members of Congress from this state, to Chairman Brezhnev and the members of the Politburo of the Soviet Union.

GUAM LEGISLATURE RESOLUTION RELATING TO LAND ACQUISITION

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD a resolution that was adopted by the 16th Guam Legislature, and which has been received by the office of the President pro tempore.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION No. 214

Be it resolved by the Legislature of the Territory of Guam:

Whereas, Public Law 95-248 authorized the appropriation of Sixteen Million Dollars ($16,000,000) for the acquisition of lands within the boundaries of the War in the Pacific National Historical Park; and

Whereas, the announcement of the park boundaries has caused land in the designated area to become undevelopable for both commercial and residential uses; and

Whereas, the landowners are being deprived of the use of their land without due compensation—a violation of one of the tenets of American government; and

Whereas, the War in the Pacific National Historical Park, when fully developed, will provide the necessary history of the United States, Japan, and Guam's involvement in World War II for current and future generations; now, therefore, be it

Resolved, that the Sixteenth Guam Legislature requests that the United States Government immediately take all actions necessary to complete acquisition of the property in the War in the Pacific National Historical Park and to provide just compensation to the landowners who are now unable to enjoy use of their land; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker, United States House of Representatives; to the President Pro Tempore of the United States Senate; to the Chairmen, House and Senate Appropriations Committees; to the Chairman, Committee on Energy and Natural Resources; to the Chairman, Committee on Interior and Insular Affairs; to the Honorable Ronald Reagan, President of the United States; to the Director, Office of Management and Budget; to the Secretary of the Interior; to the Administrator, General Services Administration, Region 9; to the Assistant Regional Administrator, General Services Administration, Region 9; to the Chairperson, Region 9 Federal Regional Council; to Congressman Antonio B. Won Pat; and to the Governor of Guam.

SENATOR STAFFORD COMMENDED FOR CONSTRUCTIVE LEADERSHIP

Mr. RANDOLPH. Mr. President, for the past year, it has been my privilege to serve with Senator ROBERT T. STAFFORD in his responsible position as chairman of the Committee on Environment and Public Works. BOB has been a member of our committee since he came to the Senate nearly 10 years ago. He has taken a constructive concern in all areas of the committee's jurisdiction and has contributed significantly to legislative progress.

As ranking minority member of the committee, Senator STAFFORD never let partisan affiliation impede his desire to develop legislation which responded effectively and fairly to the needs of the American people. As chairman of the committee, I worked closely with BOB STAFFORD. Without him, we would not have developed our reputation as a committee that places its responsibilities to the electorate above partisan politics. It is consistent with his record that BOB STAFFORD has been a cooperative and reasonable leader in the difficult first 12 months of his chairmanship. BOB STAFFORD does not rush to decisions without thorough study of the issues.

Chairman STAFFORD advocates environmental protection, but he is a pragmatist who knows that continued strength of the American economy must be considered as we strive to provide a clean and wholesome environment for citizens. He believes that Government is the custodian of the public trust and that we must assure that taxpayers receive careful consideration.

Senator STAFFORD has given over 3 years to the effort to reform the Federal Government's public buildings program. This uncompleted task indicates his determination to see matters through to successful completion.

Chairman STAFFORD is considerate of all members. He believes in full debate. Our chairman recognizes the responsibility of minority members and their rights as equal partners in the legislative process.

Mr. President, I have the unique pleasure of serving with BOB STAFFORD on two other panels: the Committee on Labor and Human Resources and the Committee on Veterans' Affairs. The breadth of his concern and his ability to grasp and understand vital subjects is fully utilized in these assignments on which we serve together.

Senator STAFFORD is an ardent advocate of the State of Vermont and its people. He served his State as attorney general, as Governor, and as a Member of the House of Representatives before coming to the Senate. His quiet demeanor and his New England humor are assets that contribute to BOB STAFFORD'S performance as a public leader. It is a joy to work with him and to have him as a friend. His first year as chairman of the Committee on Environment and Public Works was one of achievement. I look forward to continuing our partnership to resolve together the serious problems we face.

THE 125TH ANNIVERSARY OF WOODROW WILSON'S BIRTH RECALLS HIS SIGNIFICANT ROLE IN MODERN WORLD HISTORY; PROFESSOR LINK SPEAKS

Mr. RANDOLPH. Mr. President, it was my privilege recently to attend the observance of the 125th anniversary of the birth of the 28th President of the United States, Thomas Woodrow Wilson.

The occasion was a commemorative dinner on February 3 which followed a reception for Vice President George Bush at the Wilson Center. James H. Billington, director of the Wilson Center, introduced the distinguished speaker, Prof. Arthur S. Link of Princeton University and editor of "The Papers of Woodrow Wilson."

Aside from his renown scholarship and recognition as a Wilsonian authority, Dr. Link also is a native of my home State of West Virginia. His mother, Helen Elizabeth Link, still resides near Charles Town in Jefferson County. His late father, John William Link, was a Lutheran minister in that community for 65 years. A brother, Wesley Link, resides at Charles Town and, in Dr. Link's words, there are "hundreds of family members scattered throughout the area."

Our purpose, however, is to focus on the individual honored during the evening, the former Governor of New Jersey and president of Princeton University who rose to the highest office in the land. His domestic and foreign affairs policies and philosophies set the pattern for our present international relations. His work in creating the Treaty of Versailles and the Covenant of the League of Nations in 1919 resulted in his receiving the Nobel Peace Prize in the following year.

I recall now that I was, as a boy of 10, with my father, Ernest Randolph, in 1912 at the Democratic National Convention in Baltimore, Md. My father was a delegate from West Virginia. He was an active supporter of Wilson.

Mr. President, I hope that copies of Dr. Link's knowledgeable address on the service of Woodrow Wilson will be available at the Wilson Center. I ask unanimous consent that a few significant excerpts from his lengthy speech be placed in the Record and I urge my colleagues and others to study closely the progressive ideas for world peace espoused by this remarkable President and world leader.

There being no objection, the material was ordered to be printed in the Record, as follows:

Excerpts From: Woodrow Wilson, the Hinge of the 20th Century

(By Arthur S. Link)

The period of the Wilson presidency was a time of revolutionary upheaval, a cataclysmic world war which engulfed the entire planet, and of mankind's first efforts to preserve peace through effective international organization. In all of these events, Wilson played a central and sometimes dominant role.

As Sir Winston Churchill later put it, "Writing with every sense of respect, it seems no exaggeration to pronounce that the action of the United States with its repercussions on the history of the world depended during the awful period of Armageddon upon the workings of this man's mind and spirit to the exclusion of almost every other factor and that he played a part in the fate of nations incomparably more direct and personal than any other man." This statement is, I believe, altogether true. And, since we have devoted this afternoon to the subject of Wilson the domestic leader, I would like to say a few words tonight about Wilson the international statesman, and the aspects of his thought and policy which made him the hinge or pivot of the twentieth century in foreign policy.

The foundations of Wilson's political thinking were the beliefs and ethical values which he derived from his Christian faith. Indeed, it is not too much to say that his Christian faith informed and influenced his every action and policy. Wilson was like a little child in his faith: he never doubted, always believed, and sought guidance and strength for daily life from reading his Bible, church attendance, and prayer.

He believed in a sovereign God, just but also loving; in a moral universe, the laws of which ruled nations as well as men; in the supreme revelation of Jesus Christ; and in the Bible as the incomparable word of God and the rule of life. He believed that God controls history and uses men and nations to achieve His preordained purposes.

A second main theme in Wilson's political thinking with large implications for his foreign policy was his belief in democracy as the most advanced, humane, and, in the long run, most effective form of government. From the beginning to the end of his adult career, he studied, wrote about, and put into practice the essential aspects of democratic government. We do not have time to review his splendid synthesis of democratic theories and traditions. However, it is important to understand how these determinative political beliefs helped to form his objectives and to shape his policies in foreign affairs * * *.

RESPONSIBLE ADVERTISING

Mr. HAYAKAWA. Mr. President, I would like to call my colleagues' attention to an article that appeared in the March 15, 1982, edition of the Los Angeles Times. The article, written by sex educator and sociologist Marty Klein, discusses the ban on the advertising of contraceptives on television. I understand the National Association of Broadcasters' code of standards is currently being challenged in court and a final decision has not been rendered. One aspect of this code is the ban on contraceptive advertising. I appreciate Mr. Klein's timely and tasteful presentation of this subject. His logic and arguments are incontrovertible.

As someone who has studied communication and its power, I believe we cannot underestimate the message television communicates to our teenagers. Mr. Klein points out that television sexually stimulates teenagers, yet it does not ask them to be responsible with sex. In promoting free speech in television broadcasting, we must also consider the consequences and promote responsibility. We are constantly confronted with sexual episodes and sexual stimulation in television advertising. Still, there is no message about responsibility about sex. Through advertising contraceptives in a sensible, tasteful manner we could use the power of television in a very positive way.

Mr. President, I ask unanimous consent that the article be printed in the Congressional Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Los Angeles Times, Mar. 15, 1982]

Advertise Contraceptives on TV? Yes!

(By Marty Klein)

This year, more than a million American teen-agers will get pregnant. More than one-third will have abortions. Many of the babies that are carried to term will end up on welfare or as victims of child abuse or broken homes.

These teen-agers don't read books. They don't talk to their doctors or ministers. They don't listen to lectures about their being too young for sex. They do watch television—which stimulates them sexually, shows them how to be sexually attractive and suggests the importance of being sexually active, then denies them the information and social support for responsible sexual behavior by banning ads for contraceptives. This from a medium that bombards us with commercials for products related to every other intimate function of the human body.

The ban is about to be debated again when the National Association of Broadcasters' code boards meet next week. (Other media outlets, including The Times, also reject such advertisements, but I am focusing on television because of its particular effect on teen-agers.)

About two-thirds of the nation's television stations (and half of the radio stations) belong to the association and subscribe to its advertising codes. These have historically been interpreted as prohibiting ads for contraceptives, which, broadcasters fear, would so offend the public that the dreaded wrath of Congress would fall on the industry.

But is this anticipated audience discomfort a good enough reason to ban such ads? The public is already highly offended by television advertising (the Federal Communications Commission receives more complaints about commercials than programming), yet the offensive ads persist.

As a society, we endure offensive advertising because we consider the principles of free speech—a social value—more important than the annoying content of a given commercial—a personal judgment.

The same reasoning should persuade broadcasters to lift their ban on advertising of contraceptives. Given the pressing social problems ot teen-age pregnancy, the divisive abortion controversy and the epidemic of sexually transmitted disease, we must allow the public airwaves to make the use of contraceptives more socially acceptable.

When the code boards meet, they will examine the results of the association's recent study, in which a majority of respondents opposed advertising of contraceptives on the air. But those opposed also agreed that such advertising would help reduce unwanted pregnancies and venereal disease.

As a sex educator, I believe that the broadcasters' obligation is clear. It also is logical. After all, television and its advertisers thrive on appeals to our sexuality. But what the medium delivers is fantasy sex—glamorous, oversimplified, macho/seductive adolescent fantasy sex—which does not exist in real life for most of us. The fantasy sexuality on the screen doesn't include any problems, considerations or risks—especially of pregnancy—that are part of sexual activity.

In refusing to accept advertising for contraceptives, the broadcasters are deliberately withholding information about products that can help people react responsibly to the sexual arousal that television so methodically provides. This stimulation/withholding combination almost assures us of social problems related to irresponsible sexual activity.

Tasteful television advertising can make contraception a natural part of sexual behavoir, just as concern about gas mileage has become a natural part of buying a car. In Jamaica, for example, commercials admonish: "Be a man . . . take responsibility for what you do." In several European countries, a popular theme involves a couple discussing their future, deciding to "definitely have children—when we're ready." In Sweden, such advertising has been cited as a factor in a dramatic decline in venereal disease.

This is more effective solution to pressing social problems than preaching abstinence or yearning for a return to "old values." With blue-jeans manufacturers using adolescent girls to seduce us between segments of the evening news, broadcasters are showing where their "values" lie selling the maximum number of products while offending the minimum number of people. Since broadcasters hold the reins on history's most powerful shaper of thought and behavior, they have an obligation to risk some discomfort and serve a greater, urgent problem that affects all of society.

VOTE ON CHAFEE AMENDMENT NO. 1256

Mr. BAKER. Mr. President, before we conclude morning business, I see the distinguished Senator from Rhode Island and the principal sponsor of the pending business, the Chafee amendment, is on the floor, as is the distinguished Senator from Delaware, and others.

Mr. President, I believe this request now has been cleared on both sides.

I ask unanimous consent that the vote on or in relation to the Chafee amendment occur beginning at 1 o'clock. Is there a rollcall vote ordered on the Chafee amendment?

Mr. CHAFEE. There is not.

The PRESIDING OFFICER. At the present time, there is no rollcall vote ordered.

Mr. BAKER. And if a rollcall vote is ordered on the Chafee amendment, that the rollcall vote extend from the hour of 1 p.m. until the hour of 2:15 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am prepared to yield the floor. I know of no further morning business to be transacted.

Mr. CHAFEE. Mr. President, I ask for the yeas and nays on my amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BIDEN. Parliamentary inquiry. Are we now on the Chafee amendment?

The PRESIDING OFFICER. The Senate is still in morning business.

Mr. CHAFEE. Parliamentary inquiry. It is my understanding that we will start the rollcall vote on my amendment at 1 o'clock, is that correct?

The PRESIDING OFFICER. The Senator is correct.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 391, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 391) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources, and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

The Senate resumed consideration of the bill.

Mr. BIDEN. Mr. President, I yield to the Senator from Kentucky.

AMENDMENT NO. 1256

Mr. HUDDLESTON. Mr. President, I thank the distinguished Senator from Delaware.

Mr. President, there is no subject that is of more interest to me than the one we are considering at the present time. As one who has served on the committee of the Senate dealing with our intelligence operations since its inception, I have been keenly aware of the problem that we are confronted with in the matter of agents being identified to the detriment of our intelligence activities in this country.

I can think of no more despicable act than that of identifying agents with the purpose of impeding our intelligence service. Not only does it place the lives of many dedicated citizens in jeopardy, but it is, in fact, in my judgment, almost tantamount to a treasonous act against the interests of the United States.

I support the bill that has been produced by the Judiciary Committee, without the amendment that has been proposed, and I urge my colleagues to do likewise.

Mr. President, many loyal and decent Americans work for the intelligence agencies of this country. They work long and hard to help give our country the strong and effective intelligence system it needs in today's world. Most of their efforts go unrecognized in the outside world. In many instances, even the families and close associates of these individuals cannot be privy to the nature of their work. Such people assume a solemn responsibility; they are entrusted in the course of their work with some of the most sensitive information in the possession of the U.S. Government. Theirs is not an easy task. It takes an extraordinary kind of person to work within such strictures. Fortunately for America, there are many such dedicated, patriotic citizens working within the ranks of the U.S. intelligence community. Most of these people handle their responsibility admirably, respect the conditions under which they work, and do not abuse their trust.

A few exceptions exist, however. With increasing regularity these days, we learn of individuals who fail to uphold the commitment they have made to maintain the confidentiality of the information with which they work. The flood of leaks of intelligence information in recent years has been alarming. One kind of leak is especially irresponsible, it seems to me. I refer to the revelation of the identities of U.S. intelligence agents which appears to be in vogue these days.

Certain parties in our society have made it their business to publish lists of people they claim are working for U.S. intelligence agencies overseas. They are prompted, they assert, by the highest of principles, as if by exposing these names, they are helping to eliminate, one man at a time, the alleged evils of U.S. intelligence activities overseas and perils of American interventionism.

Their approach is naive, but the tactics they employ are terribly reckless. It is not an idea or a principle that lies in the balance, it is the lives and livelihoods of people—of individuals who serve their country under cover overseas, performing intelligence missions necessary to the security of their fellow citizens and otherwise furthering the principles for which this Nation stands.

There is an impression abroad in certain quarters that intelligence activities, by virtue of their clandestine nature alone, are inherently suspect—and that therefore all facets of intergovernmental and international relations should be open to public scrutiny. Such reasoning is simply wishful thinking in the complicated times in which we live. We demand that our intelligence agencies act in a responsible manner; we have oversight committees in each House of Congress to help insure that they do, but we cannot reasonably ask to be made aware of every detail of their dealings. Often sensitive tasks which can be crucial to the formulation and conduct of a sensible foreign policy lie in the hands of the country's clandestine service. In intricate negotiations or fast-moving international crises, it is often extremely valuable to have confidential information on the bottomline positions of the various parties. An individual operating undercover will be more readily trusted with off-the-record assessments than an individual operating in an official capacity would be.

In short, in a number of instances, confidentiality is not only a useful adjunct to, but a key component of, our relationships with other nations. To reveal the identities of people serving undercover abroad or to expose their relationship with U.S. intelligence services would radically reduce if not completely destroy their effectiveness in accomplishing their mission overseas. And yet this is precisely what some individuals are dead set on doing.

A recent book of this genre, "Dirty Work II," features an appendix of biographies of individuals alleged to be U.S. intelligence agents overseas. This "Who's Who" listing is entitled "Naming Names." Such naming of names must stop.

We have before us today a bill that will go far to stop these evil activities. I am a cosponsor of that bill and believe it is necessary. Even while moving toward stopping "the naming of names," this body must be careful to meet the requirements of the first amendment which states in part that:

> Congress shall make no law . . . abridging the freedom of speech, or of the press.

The main purpose of the first amendment is to protect discussion concerning governmental activities. As the Supreme Court has stated:

> The freedom of speech and the press guaranteed by the Constitution embraces at the least the free discussion of governmental affairs. See, e.g., *Mills* v. *Alabama*, 384 U.S. 214.

Without a free exchange of information, conducted largely through the facilities of the press, an informed electorate—the prerequisite for a vigorous democracy—could hardly exist.

Thus, we must be certain in passing S. 391 that legitimate criticism of the Government, its policies, or its intelligence agencies is not unduly or unnecessarily abridged. In a time when efforts of the press have uncovered former Government officials abetting world-wide terrorism, the importance of the press in a free and open society is clear.

Any bill must be aimed at those people who are in the business of naming names and not those engaged in criticism of the Government. The uncle of my honorable friend from Rhode Island, the great legal scholar Zechariah Chafee, recognized that critics of the Government would receive protection under the first amendment if a specific intent standard is included in statutes designed to foster the national security. Professor Chafee condemned a decision of the Supreme Court dealing with the espionage statutes of the day because he felt the court had not required specific intent to harm the United States. See *"A Contemporary State Trial—The United States* v. *Jacob Abrams, et al."* 33 Harvard Law Review, 747, 765 (1920).

Fortunately, in the bill as reported by the Senate Judiciary Committee, there is a requirement that any prosecution against any person who has revealed the name of an agent will only be justified when the person has acted with intent to impair or impede the foreign intelligence activities of the United States.

This provision will protect those whose intention it is to further free discussion of governmental activities, but at the same time it will allow prosecution of those who name names in order to harm the United States. In the recent case of Haig against Agee, the Supreme Court upheld the revocation of the passport of Philip Agee, a former CIA agent who made a practice of revealing the alleged identities of officials serving overseas undercover. This could be done, the Court said, because "Agee's disclosures * * * had the declared purpose of obstructing intelligence operations and the recruiting of intelligence personnel."

In other words Agee's disclosures were not furthering free discussion of intelligence activities in the United States, instead his disclosures were, for all intent and purposes, action designed to inhibit the Government's legitimate intelligence operations. It is not speech per se that would be punished, but instead the harm to foreign intelligence activities of the United States that flows from the disclosure.

The statute would be no different in this way from the espionage or treason statutes. One can criticize the United States forever and a day, but when one begins transmitting information to a foreign country, these criticisms can be used to prove the state of mind necessary for punishment under the espionage statutes.

Similarly, under the treason statute, specific intent to aid and comfort the enemy must be proven.

I am not a lawyer but I feel that S. 391 as reported by the Judiciary Committee and especially that committee's amendment to section 601(c) will inhibit those in the business of naming names while permitting continued free discussion of governmental affairs. Let us then pass this bill with a provision that will protect the first amendment even while deterring those who wish to obstruct the lawful functions of our intelligence agencies.

At the end of the floor debate on Tuesday, Senator GORTON and Senator QUAYLE strongly urged Senator CHAFEE, and Senator BIDEN to agree to a compromise. The basic idea of the compromise is to put into the bill itself the essential legislative history of the Chafee amendment that was first adopted in 1980 by the Senate Intelligence Committee and that was reaffirmed in a floor colloquy between Senator DURENBERGER and Senator CHAFEE.

Senator CHAFEE's amendment uses the words "pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States."

Senator GORTON proposed a definition of pattern of activities that would require proof that the main direction of the pattern of activities is to identify and expose covert agents.

Under Senator GORTON's compromise, it would not be necessary to prove intent to impair or impede foreign intelligence activities. However, it would be necessary to prove that someone is in the business of naming names. This is exactly what Senator CHAFEE has said is the meaning of this amendment. It is what the Senate Intelligence Committee's report established as the legislative history of Senator CHAFEE's language when it was first reported in 1980. And it represents a serious effort to resolve the issue by reasonable compromise rather than continued confrontation.

Everyone recognizes that the Senate is deeply divided over this bill. But is that kind of division the best way to legislate on matters as vital to the Nation as it's intelligence capabilities and the freedom of the press?

If one side or the other wins on this issue, then it will be taken as a defeat either for the intelligence community or for the first amendment. It is a mistake to let this happen. Given the choice, our fundamental commitment to the constitutional guarantees of freedom of the press requires us to choose the alternative that better protects the right to print the news. But it would be far better to make the extra effort on both sides needed to reach agreement on standards that strike the delicate balance in a way that can secure the widest agreement.

Mr. BIDEN. Mr. President, I would like to make one closing comment on this bill. The fact of the matter is that this is a distinction with a difference. It is a significant difference. The difference would be, in my opinion, that if, in fact, this amendment is passed changing the requirement from intent to a requirement of reason to believe, that we are making a significant move in the direction that we have not moved in the past from applying a negligence standard on criminal actions.

The Senator from the State of Washington, Senator GORTON, came forward yesterday with several compromises, one in particular that was of particular consequence. I believe that even if the Chafee amendment fails, I quite bluntly do not see how the intent language is going to survive in a conference. The House voted down the intent language overwhelmingly.

The Gorton language, if we get to that point and I am a conferee, which I will be, will be language that I will push as a compromise, assuming that there is a rejection of the intent language.

It is a reasonable compromise. It sets out a standard for defining what constitutes a pattern of activity, so that it is something of consequence. It is a protection that would be consistent with the constitutional requirement, as I understand it, to protect the actions and publications and freedom of speech of those who would publish the names of agents.

The essence of it is fairly simple. It suggests that in order for you to be able to convict a reporter who has, in fact, mentioned the name of an agent, you would have to show that it is his purpose, his primary purpose, to do that. If it is an ancillary effect, if he is writing a book or a piece on the corruption within the Agency and/or a particular individual and he can show that in court, he is not guilty of a crime. The protection is not as significant as the protection of intent, but it is significant. It is not unimportant. I want my colleagues to be aware of that.

I see the Senator from Rhode Island on his feet, and since we have 30 seconds left I will yield it to him to have the last word.

Mr. CHAFEE. I thank the Senator very much.

Mr. President, the so-called Gorton language imposes a standard that would be extremely difficult for the prosecution to meet because the defense would clearly be that it was not the primary purpose.

As was mentioned yesterday in the debate, the defense would be, "I told my wife that was not the primary purpose. I told my editor. I told my publisher."

So the defense that this was not the primary purpose of the disclosure of these names would be a very difficult one for the prosecution to overcome.

For those reasons, I urge my colleagues to support the Chafee-Jackson amendment before us today.

Mr. President, for the past 2½ years, the Senate has labored over legislation to prohibit the unauthorized disclosure of the names of covert agents. The distinguished Senator from Alabama, the distinguished Senator from Delaware, and many, many of my colleagues from both sides of the aisle have worked hard to see that we pass legislation which is effective, and which is protective of first amendment rights.

Now we are coming down to the line on this legislation. We are coming to the point at which we must make a choice and vote. Two and one-half years and many thousands of hours—all will stand or fall on what we do today.

Mr. President, in summarizing my remarks, I would like to make the following points:

First, neither the Chafee-Jackson language nor the committee language, if law, would have prevented the New York Times from publishing stories on the Wilson-Terpil case. Wilson and Terpil were former employees of the CIA, and former officers are not protected in either version of the Senate bill.

Second, nothing in the Senate language would have prevented the Washington Post from publishing the name Mel Weinberg, who was involved in the Abscam case. He, too, is not a covert agent as defined by this bill.

Third, the House of Representatives passed a bill containing the Chafee-Jackson language by a vote of 354 to 56 last year. If the Senate does not support the amendment language here today, there will be a conference involving major differences between two bills. Mr. President, it is very important for Senators to understand that a vote against the Chafee-Jackson amendment is a vote for the possibility there may be no bill at all on this subject this year.

Fourth, there has been a lot of debate on the "specific intent" standard which the Judiciary Committee adopted by a narrow vote of 9 to 8, and the "reason to believe" standard that Senator JACKSON and I are promoting in our amendment. Mr. President, 2 years ago in hearings before the Senate Intelligence Committee, Robert L. Keuch, Associate Attorney General under President Carter testified that:

> The "specific intent" requirement may "chill" legitimate critique and debate on CIA policy;
>
> The "specific intent" requirement can hamper effective enforcement by creating a difficult jury question;
>
> The "specific intent" requirement will facilitate greymail efforts; and
>
> The Carter Administration Justice Department did not know whether the "specific intent" requirement would be upheld as constitutional.

It was because of Mr. Keuch's concerns that the Senate Intelligence Committee and the Justice Department reworked the "specific intent" standard and came up with the objective standard of "reason to believe." Regarding the objective standard, Deputy Attorney General Renfrew of the Carter administration, then wrote:

> This formulation substantially alleviates the constitutional and practical concerns expressed by the Justice Department with regard to earlier versions of this bill that included a requirement that prohibited disclosure made with specific "intent to impair or impede" U.S. intelligence activities.

Fifth, the Chafee-Jackson language is the only version that has been endorsed by both the Carter and Reagan administration Justice Departments. It has passed the House of Representatives. It is preferred by the CIA. If the Senate goes back to the "specific intent" standard which the Judiciary Committee narrowly adopted, we will be going right back to a standard which the Justice Department—the Carter administration Justice Department—declared inadequate over 2 years ago. This does not make sense to me.

Sixth, there has been a good deal of press and media attention paid to agent identities legislation. Some of my colleagues may have been mislead into thinking that press criticism applies only to our amendment. Mr. President, let us be fair on this point. Press criticism of this legislation has consistently applied to all versions of identities legislation. On March 4, the New York Times editorialized that:

> Congress cannot reach private citizens like Louis Wolf, publisher of the "Covert Action Information Bulletin," without chilling other, more precious journalism or debate.

On March 2, the Christian Science Monitor wrote in an editorial that to deny American citizens the right to publicize information obtained through public sources "may be sufficient in itself to render the act unconstitutional." Mr. President, the American Civil Liberties Union, the so-called 100 distinguished law professors and virtually all of the newspaper editorials enclosed in Senator BIDEN's recent "Dear Colleague" letter oppose both versions of the language in subsection 601(c). They call for deletion of this subsection. They claim, in effect, that the problem of "naming names" cannot be solved, and that the Congress should not try.

Finally, while the media may counsel the Congress not to attempt this legislation, I believe we have a responsibility to do so. Long ago, it was decided that one's right to freedom of speech ends where another man's safety begins. My uncle, Zechariah Chafee, wrote in his classic work titled "Free Speech in the United States" that the boundary line of free speech "is fixed close to the point where words will give rise to unlawful acts." Mr. President, naming names has given rise to unlawful acts. Richard Welch was murdered in Greece. The Kinsman family was terrorized in Jamaica. Even as I speak here today, American officials are being detained, threatened, and harassed in Nicaragua. There is no right under freedom of speech to cry "fire" in a crowded theater. There is no right, having observed the departure of a troopship, to publish this fact to the world.

Mr. President, it is my judgment as well as my deepest belief, that this Congress can and must place a criminal penalty on the pernicious activity of "naming names." We must protect the lives and missions of those men and women who serve this Nation and this Congress on difficult and dangerous missions abroad.

I urge my colleagues to vote for this amendment.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senators who wish to put statements into the RECORD on this matter be allowed to do so even after the vote while business is open today and have their statements appear as if made prior to the vote. That is because we were not able to confer with all Senators on this unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I rise in opposition to the amendment offered by the Senator from Rhode Island, Senator CHAFEE. The legislation we are considering is intended to address a serious problem affecting our national security. The reprehensible actions of a few individuals who seek to impede our intelligence activities by disclosing the names of our covert agents overseas deserve the Senate's concern. Within the limits of the Constitution, we must act to prevent the recurrence of these disclosures and to protect the safety of our covert agents.

There is no disagreement over the bill's objectives. The disagreement is over how best, and constitutionally, to achieve those objectives. Specifically, the disagreement centers on the legal test to be applied to the motivation of the person accused of naming names.

Did the person have reason to believe that his or her actions would impair or impede the foreign intelligence activities of the United States? Or did the person intend to impair or impede the foreign intelligence activities of the United States? The difference is significant, both with respect to the practical effect and the constitutionality of the legislation before us.

The subject matter of this bill falls within a questionable area of constitutional law. There is no established case law or precedent that establishes whether our attempts to prohibit this activity are constitutional. Constitutional scholars offer widely varying analyses of the constitutionality of both versions of the bill. Many believe that any attempt to punish the publication of information derived solely from public sources is unconstitutional.

We cannot here resolve that aspect of the issue. Unquestionably, a court, perhaps the Supreme Court, will be the final arbiter of the constitutional question. But that does not mean we should ignore the constitutional significance of this or any other legislation we consider.

It is obvious that this bill will be tested by comparing the interests involved under constitutional principles. We are considering a proposal which affects the exercise of rights guaranteed by the first amendment. We are proposing that certain activities, which on their face fall within a constitutionally protected area, become illegal and punishable.

We know that this legislation will be challenged in court. Obviously, we should carefully analyze these proposals to assure that we achieve the objective of prohibiting further disclosures endangering our intelligence activities while at the same time, making a minimal intrusion on the exercise of the first amendment rights.

Clearly, the "reason to believe" standard is open to more serious and credible constitutional challenge than the intent standard. Clearly, the "reason to believe" standard would have a more chilling effect on more first amendment activity.

The compelling question, then, becomes whether S. 391, as reported, will achieve the objective we all share. Will individuals who have engaged in a systematic effort to destroy our intelligence capabilities to operate covertly by disclosing agents' identities be subject to prosecution and conviction under the "intent" standard?

I think they will. A large number of my colleagues think they will. Even the administration, which favors the Chafee language, thinks they will. In response to a question posed by Senator BIDEN at a hearing on this bill, Mr. Richard K. Willard, testifying on behalf of the Attorney General, unequivocally stated that the administration would support either version.

What then is the controversy? Much of it has focused on whether the reason to believe language would have a chilling effect on the investigative reporting of persons not engaged in the activity of naming names, but rather in the activity of exposing abuses of power by the executive branch, through the operations of the CIA.

The Chafee amendment would apply to those who "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States * * *".

Senator CHAFEE has argued that the pattern of activities language is designed specifically to narrow the scope of criminal liability so as to protect the civil liberties of those, such as investigative reporters, who are not in the business of naming names.

But what constitutes a pattern of activities? Section 606(10) of the bill defines a pattern of activities as a series of acts with a common purpose or objective. What then constitutes a series of acts?

For the sake of discussion, let us consider a hypothetical situation in which a reporter for the New York Times learns of a CIA plot to overthrow the Sandinista government in Nicaragua. Given recent press reports, this may be more than hypothetical. Nonetheless, let us assume that in the course of the investigation the reporter conducts interviews with Nicaraguan officials for the purpose of identifying and exposing those agents within the CIA who are involved in the plot to overthrow the government there. Would these repeated interviews not constitute a "pattern of activities," that is, a series of acts in the context of the Chafee language?

Further, let us assume that prior to writing the story the reporter contacted a high-ranking CIA official who informed her that if the Times runs the story it will definitely impede the foreign intelligence of the United States. In writing the story, then, would not the reporter have had a reason to believe that her activities would impair or impede the intelligence activities of the United States?

Given the above circumstances, a jury would have no alternative but to find the reporter guilty of violating the law, under the Chafee language. I firmly believe that this is not the intent of my good friend from Rhode Island. Nonetheless, I am convinced that this would be the outcome if the Chafee language were enacted.

Senator CHAFEE has argued that his amendment would substitute an objective "reason to believe" standard for an overly broad, "subjective intent" standard. I submit that it is the "reason to believe" standard, not the intent standard, which is overly broad.

It has also been argued that the intent standard would pose prosecutorial problems in those cases where an individual claims his or her intent was not to impair or impede the intelligence activities of the United States, but rather to inform the public, or even to "improve" U.S. intelligence. In the words of Senator CHAFEE, in these cases, the intent standard would provide "a loophole big enough to drive a truck through."

But it is not enough merely to assert what the defendant's intent was. It will be up to the prosecution, before a jury, in a court of law, to prove intent. It will be up to a jury to decide, based on the evidence presented at the trial, what the defendant's intent was in publishing the names of the covert agents.

We could debate forever what we believe a person's intent was in a given hypothetical. The fact remains, however, that it will be up to a jury to decide. To assert that juries do not have the ability to determine intent borders on the ludicrous. As a former Federal judge, I can assure my colleagues that every day in every State juries determine intent.

Finally, during the course of this debate it has been argued that the "reason to believe" standard will in fact protect investigative reporters' first amendment rights more than will the intent standard. I disagree. The Society of Professional Journalists, the American Newspaper Publishers Association, the National Newspaper Association, the Reporters Committee for Freedom of the Press, and the National Association of Broadcasters all disagree. The editors of virtually every major newspaper in the country disagree.

I ask unanimous consent to have printed in the Record a few excerpts of some of these editorials. I want to make it clear that these excerpts do not represent the endorsement by these papers of the agent identities bill; rather, they express their preference for the intent standard over the "reason to believe" standard.

That preference is well founded. Proof of criminal intent is fundamental to conviction of a crime. It should be required here.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 4, 1982]

The Spy Bill Wrapped in the Flag

The closer the Senate gets to voting on the "Intelligence Identities Protection Act," the clearer it becomes that this bill dangerously exceeds its announced purpose. It was prompted by former agents who break their oaths and expose American secret agents in risky intelligence work. But Congressional anger soon spread to individuals who never worked for the Government but engage in similar exposures using publicly available information. And that, in turn, has raised concern about the possible use of the act against news organizations.

If there was any doubt that the act extends that far, it has now been put to rest. Senator John Chafee, a chief sponsor, has clarified the bill's threat to conventional journalism—and public discussion generally.

Asked whether a prosecutor could use the bill against reporters and news organizations for exposing crimes and abuses by agents and informants, the Senator had this reply: "I'm not sure that The New York Times or The Washington Post has the right to expose names of agents any more than Mr. Wolf or Mr. Agee," two of the bill's main targets. "They'll just have to be careful about exposing the names of agents."

Senator Chafee makes the bill's danger explicit without seeming to understand its cost to public discussion of security issues. Perhaps inadvertently, he makes the case for trimming back this inflated piece of legislation. No assurances that the law would be carefully administered can suffice when the warning to reporters is: be careful about getting the Government mad.

Unfortunately, to cite a case in The Times's experience, being careful doesn't help decide how to deal with former spies like Edwin Wilson and Frank Terpil. The Times put together—carefully—stories about how the former agents trained terrorists abroad and engaged in suspicious weapons and technology deals. The stories raised questions about the former spies' connections to the Central Intelligence Agency, whether real or feigned.

At a minimum, these foreign adventures challenged the country's ability to avoid embarrassment by once-trusted employees. The stories brought about other investigations, by Congress and the C.I.A. itself.

But it doesn't seem to matter how much care went into those stories. It doesn't matter how much they have been supported by official investigations. None of that would protect the paper against a wrathful prosecutor armed with the pending bill.

The Senate should restrict it to the punishment of people like Philip Agee, the former spy who first specialized in agent exposure. Congress cannot reach private citizens like Louis Wolf, publisher of the Covert Action Information Bulletin, without chilling other, more precious journalism and debate. In no case can the Senate responsibly follow the House's reckless example and make it a crime to identify an agent without even requiring proof of criminal intent.

Until now, the Reagan Administration has managed to wrap this bill in the flag. That conceals its danger to liberty—and to the public knowledge on which true national security rests. There is a difference between patriotism and chauvinism. Senators Biden, Bradley, Leahy, Specter and Quayle have been in the forefront of those who have exposed at least some of the bill's excesses. The entire Senate needs equal courage and wisdom.

[From the Washington Post, Mar. 3, 1982]

Protecting Intelligence Agents

The Senate has begun consideration of a bill that would outlaw the activity of a small band of individuals determined to destroy America's foreign intelligence apparatus by revealing the names of covert intelligence agents. The practice, associated with author and former CIA officer Philip Agee, has already been cited as leading to the murder of the CIA station chief in Athens in 1975 and to an assassination attempt on the life of another American official in Kingston, Jamaica, in 1980. Mr. Agee has revealed the names of 1,000 alleged CIA officers, and a newsletter, Covert Action Information Bulletin, edited by Louis Wolf, has printed 2,000. Legislation to inhibit such practices is not a bad idea as such.

Prosecuting private citizens for publication of *any* material has constitutional implications, however, and special care must be taken to delineate the conduct Congress wants to inhibit while protecting legitimate activities where no intent to disrupt intelligence activities exists. Readers will note that this newspaper, like all others, has a strong interest in preserving broad latitude in reporting foreign affairs.

The best way to ensure that the real culprits are reached by the law while others are protected is to require the government to meet a standard of proof that includes "intent to impair or impede the foreign intelligence activities of the United States." This is the language of the bill that was reported by the Senate Judiciary Committee last fall and that is now being considered by the full Senate. It is expected, however, that an amendment will be offered that would substitute for the intent standard a simple requirement that the accused simply "had reason to believe" such a result would occur. This amendment is identical to one that was adopted on the House floor when that body passed the bill last September. It is the version preferred by the administration, though Richard Willard, the attorney general's counsel for intelligence policy, has stated that either version of the bill is acceptable so long as some bill is enacted without further delay.

The requirement that intent be proven in criminal cases is an essential element of Anglo-Saxon jurisprudence. It is especially important that it be preserved in this instance because a lesser standard may inhibit the exercise of legitimate First Amendment rights by those having absolutely no desire to cripple our intelligence services.

[From the Louisville Times, Feb. 26, 1982]

Senate Version of Spy Disclosure Is Best—It Must Not Adopt Oppressive House Version, Which Goes Too Far

Congress appears determined to pass a new law this year that will make it a crime for citizens to disclose the identity of American intelligence agents, even when the information comes from public or unclassified sources.

The object is to crack down on a few anti-CIA zealots who maliciously publish agents' names and whose dirty work has had tragic results.

While Congress is justly angry about such disclosures, its remedy could do more to deny the public legitimate information about the government than to protect U.S. spies.

Since there's little doubt that a "names of agents" law will be passed, however, the issue is which of two versions the lawmakers will adopt. A crucial choice is expected early next week in the Senate.

Unfortunately, the House has already passed a bill that would discourage public scrutiny of spy agencies and is surely unconstitutional.

A far better version being considered by the Senate could deal with the problem that concerns Congress without insulating the CIA from legitimate inquiry. It deserves the support of Senators Ford and Huddleston.

No one seriously objects to portions of the bill that would punish former agents who deliberately disclose secrets and betray erstwhile colleagues.

But there are important differences in the provisions that apply to the rest of us—Americans who do not have classified information, but do have an interest in finding out whether intelligence agencies operate within the law.

The House went seriously astray when it decided that a person could be guilty of a crime if he disclosed an agent's identity *with reason to believe* that intelligence activities would be impaired. A reporter or other citizen who exposes CIA abuses could go to jail under that standard.

That's why it's imperative that the Senate insist on the version which requires the government to prove a person acted with *intent* to damage intelligence activities.

This language would apply to those whose sole purpose is to impair intelligence but not, most observers agree, to publication of legitimate information.

Moreover, the "intent" version is acceptable to the CIA. If there must be a law, this one does what Congress wants in the least offensive manner.

[From the Pittsburgh Post-Gazette, Sept. 28, 1981]

An Unsound Spy Law

Like other human beings, journalists are sometimes tempted to exaggerate the dangers to society of measures that might limit their freedom of operation. So there is undoubtedly some hyperbole in dire predictions that investigative journalism will be fatally crippled by a bill in Congress that would punish the publication of CIA agents' names. It will take more than one clumsily drafted (or even unconstitutional) law to prevent journalists from investigating abuses by any government agency, the CIA included.

Still, that is no argument for the enactment of a bill that might needlessly interfere with journalistic investigation of the sort of illegal CIA spying on Americans that the agency would like to have the nation forget. And a bill passed last week by the House fits just that sorry description.

Designed to deal with the identification of CIA agents by agency renegades like Philip Agee, the bill as it emerged from the House Intelligence Committee would have made it a crime to identify intelligence agents only if the person making the revelation did so with the "intent to impair or impede the foreign intelligence activities of the United States." That careful language obviously was designed to deal with the discrete problem that prompted legislation in this area in the first placed—the deplorable campaign by avowed opponents of U.S. foreign policy to cripple the CIA abroad.

Unfortunately, on the House floor, conservative Republican Rep. John Ashbrook succeeded in having that qualifying language stricken and replaced with a less precise provision making persons criminally liable if they "had reason to believe" that disclosure of an agent's name would harm the national interest.

The difference between the two formulas might seem a matter for legal hairsplitters. But the Ashbrook language, endorsed by the Reagan administration could be used against not only the Philip Agees of the world but also journalists who happened on CIA activities directed (illegally) against American citizens or in contravention of presidential or congressional directives.

Depressingly, similarly broad language has been adopted by framers of a Senate version of the spy bill. That makes it unlikely that a conference committee will take the—admittedly speculative—fears of journalists into account when writing a compromise measure. But those senators and representatives who believe that seemingly fine distinctions can be important should press for a defeat of the broader bill in the respective chambers.

[From the Chicago Tribune, Oct. 27, 1981]

. . . AND LIMITING A DANGEROUS BILL

The U.S. Senate is about to consider a bill that could have a serious impact on the ability of Americans to discuss the government's intelligence activities. It makes it a crime, under certain circumstances, to divulge the name of a secret U.S intelligence agent.

The goal—to protect agents abroad from the kind of campaign of disclosure that has been mounted by ex-CIA agent Philip Agee—cannot be faulted. But when the House of Representatives got its hands on this idea, it pushed it well beyond the Agee situation and passed a bill that puts at his peril anybody who for any reason decides even to talk about the subject.

One particularly dangerous feature of the bill passed by the House does not yet appear in the Senate version that cleared committee and is heading for a floor vote. The House version requires that prosecutors only show that a person accused of violating the law had "reason to believe" the disclosure would "impair or impede" the work of U.S. intelligence agencies.

This language, written into the bill at the last minute, renders the motivation of the disclosure irrelevant, putting the university president concerned about having intelligence agents on his faculty or the journalist reporting the misdeeds of a rogue operative on the same footing as the notorious Agee. And it strikes so deeply into the ordinary fabric of expression—forbidding all discussion of a matter that certainly can be of legitimate interest to the public and even forbidding discussion motivated by a reasonable concern that one's employes have undivided loyalties—that it makes what is a questionable law to begin with almost certainly unconstitutional.

The CIA has said that it does not object to the Senate version, which would require prosecutors to prove an intention to do damage to intelligence activities before they could get a conviction. There is no reason to push any further this troubling law—which would punish disclosures even if the information is gleaned from purely public source material.

Undoubtedly there will be a move on the Senate floor to amend the bill to conform to the House's foolish version; if the bill itself cannot be voted down, at least this amendment must be defeated.

[From the New York Times, Nov. 2, 1981]

SHOWING OFF ON SECRET AGENTS

Should Congress decree that information in the public domain may not be publicly repeated? The very idea represents a radical departure from the American tradition of free speech and press. Yet Congress is seriously considering a bill to make publishing names of covert intelligence agents, even on the basis of publicly available knowledge, a crime. The House passed such a measure last month and a similar bill, almost as objectionable, awaits a vote by the Senate. The Senate should bring Congress to its senses and reject this proposal.

Government is free to keep its secrets—in ways that do not offend the First Amendment. It may swear employees in sensitive jobs to secrecy and it may punish violations of their oaths. But to pass a law that declares non-secrets off limits is to abridge the freedom of speech and press. Congress may not do that.

The legislation has strayed from an earlier, more reasonable course. Congress was rightly angry that Philip Agee, a former C.I.A. agent, misused inside information when he published lists of secret American agents for the avowed purpose of destroying their effectiveness. Present and former agents may not violate their secrecy oaths even in pursuit of their First Amendment rights.

But then the bill's drafters went further, provoked by the antics of Louis Wolf, who never worked for the Government and was never entrusted with its secrets. Working from public documents, he has compiled and published similar lists of supposed agents.

However reprehensible such activity may be, it is simply unconstitutional to try to punish outsiders for trying to figure out, talk about and write about those secrets. It is also unwise, for it could reach more conventional reporting, which often must and should say things that Government doesn't want said.

Even more dangerous is the loose standard of proof in the House version. A prosecutor could bring a charge, and a jury could convict, if the evidence merely showed that the publisher had "reason to believe" the disclosure would hurt U.S. intelligence. That is, whatever his state of mind, the defendant should have known better. At least the pending Senate bill requires evidence that the accused fully intended to impair or impede American intelligence by the very act of disclosing a secret name.

The Reagan Administration wants the looser version but doesn't need it. William Casey, the C.I.A. chief, wrote Congress last spring that either version would meet the Government's needs. Congress has every reason to believe that both versions are unconstitutional, so a Senate vote this week for either amounts to posturing, showing off a reckless patriotism. And there is no excuse at all for choosing the more offensive version.

[From the New York Times, Sept. 28, 1981]

A DUMB DEFENSE OF INTELLIGENCE

The House of Representatives voted the other day to prohibit the identification of present and former American intelligence agents, even if the knowledge is gained from public sources. Fortunately this legislative folly is forbidden by the Constitution, which says Congress shall make no law abridging free speech and press. Unfortunately for freedom—and national security—such a law could inhibit a lot of worthy speech before the courts administer the final constitutional rites.

It's a case of blind zeal and misdirected anger. Understandably incensed by a few individuals who specialize in blowing the cover of secret operatives abroad, the House would indiscriminately suppress reporting that exposes intelligence abuses and stirs reform. Perhaps it will still be rescued by a clear-eyed Senate Judiciary Committee.

Congress's anger was first drawn by Philip Agee, a former C.I.A. agent who practiced a crude and brutal form of politics. Applying his knowledge of spying, he tried to destroy covert operations by figuring out which Americans were stationed abroad under false cover and publishing their names. Louis Wolf, a writer who never served in Government, does the same thing, apparently without the benefit of inside information.

"The Philip Agees of this world" are said to be the targets of this reckless legislation and Mr. Agee, at least, has had few defenders. He has obviously violated his oaths and obligations to protect intelligence secrets gained on the job. But outlawing what Louis Wolf does strikes at every reporter and scholar who would publish facts that Government prefers to keep concealed.

Constitutional freedoms aside, such a prohibition is profoundly unwise. Most reporting, even in embarrassing terrain, advances American interests. In recent weeks, for example, this newspaper has published numerous articles about the shady activities of two former American spies, Edwin Wilson and Francis Terpil. Their ambiguous ties to the C.I.A. and their dealings with terrorists have damaged the United States and fostered violence abroad. Names are indispensable in such stories.

The House bill is so loosely drawn that a prosecutor more interested in secrecy than reform could well consider The Time's stories illegal. Never mind that they have inspired official soul-searching and a necessary Senate inquiry.

The danger within the danger is this bill's standard of legal proof. It would ask a jury to decide whether a publisher had "reason to believe" that disclosing an agent's identity would damage national security; in other words, the mere assertion by a protective Government that it might suffer damage would become evidence of a crime of speech. The House refused to settle for a more rational standard, requiring proof of "intent to impair or impede" the nation's foreign intelligence. Not even the Director of Central Intelligence, William Casey, wanted to go beyond that.

National security is not synonymous with secrecy at all costs. Prudent safeguards against the irresponsible do not require a sacrifice of constitutional liberties. Members of Congress are paid to know the difference.

[From the Christian Science Monitor, Sept. 29, 1981]

Throughout United States history there has always been an uneasy tension between those persons who have sought to protect national security and state secrets and civil libertarians who favored maximum freedom of speech and the abosolute accountability of public officials. Sometimes the tension has equalized itself out. All too often, however, there have been periods of excess when the hand of authority was used to stifle dissent, as in the case of the Wilson administration during World War I when it vigorously sought to jail "subversives" and Congress enacted the Espionage and Sedition acts.

While the present period obviously represents nothing like the drama of those years, there is a certain mood in the land which, unless carefully controlled, could invite a return to the kind of secrecy and lack of accountability that often marked government before the Watergate-era reforms of the mid-1970s. Efforts are currently underway to so shroud U.S. intelligence agencies in a privileged shield of secrecy as to make such agencies virtually unanswerable to the inquiries of a free press or a critical public. Two recent manifestations of this trend are noteworthy:

1. The House last week enacted a measure that would make it a crime for private citizens to disclose the identity of a U.S. intelligence agent, even if the information came from public sources. Lawmakers have sought such a measure for the past five years after a CIA station chief in Athens was assassinated following publication of his name.

2. CIA chief William Casey is urging Congress to exempt national intelligence agencies from the Freedom of Information Act, which allows private citizens (including journalists) the right to petition government agencies for nonclassified information.

Admittedly there is something to be said on behalf of both moves. Identifying names of secret agents is reprehensible. The press, for its part, must exercise the highest degree of responsibility and professionalism in national security matters.

What is worrisome, however, is that the way the House bill has been drafted could prevent the disclosure of abuses by intelligence agencies. The measure says that a person, including a journalist, would be criminally liable if he or she had "reason to believe" that disclosure of the agent's identity would harm national security interests. This was a change from a more restrictive House Intelligence Committee version that said criminal liability would result if the person doing the disclosing had specific "intent to impair or impede the foreign intelligence activities of the United States."

The Senate should reject the House phrasing and adopt the stricter-intent requirement. The fact is that in recent years there have been disclosures of a number of cases where federal officials and intelligence officials have misused their authority and violated the law. Would the public be better served for not having had the abuses come to light, or even letting the persons involved continue in their wrongdoing? The House bill invites coverups based on "national security" allegations.

As for totally excluding the CIA and other intelligence agencies from the Freedom of Information Act, such a step would be injurious to the public. The Freedom of Information Act already excludes the release of a broad range of classified information. To exempt a spy agency entirely from any measure of accountability is to make that agency in a sense the master of the public.

For lawmakers and the Reagan administration, the delicately balanced goal must be to protect US agents and spy agencies—as well as the public and nation they are called upon to serve.

[From the Boston Globe, Sept. 29, 1981]

The overwhelming House approval of sweeping legislation making it a crime to disclose the names of US intelligence agents poses a threat to the workings of the press and could limit the opportunity of Americans to learn about the doings of their own government.

So-called "names of agents" bills have been a staple of the legislative diet in Washington for five years. The primary target of all of the bills has been one man, former CIA agent Philip Agee, who has made a career of ferreting out and exposing the names of clandestine US agents abroad.

The object of Agee's work is to undermine US intelligence efforts and he does not have and should not have any political support. Thus, there is no opposition to provisions of the bill enacted by the House which would make it a crime for persons with access to classified information to make public the names of agents.

The issue has always been how to treat the disclosure of agents' names by persons never with the intelligence community; that is, by reporters and scholars. Years have been spent trying to draft the narrowest possible language.

The House Intelligence Committee, led by Rep. Edward Boland (D-Mass.), ultimately agreed on careful wording that made it a crime for those without direct access to classified information to name agents only if they disclosed identities with the specific "intent to impair or impede the foreign intelligence activities of the United States."

This wording would not have prevented a reporter or scholar from reporting the activities of intelligence agents in a foreign country if the intent was to report on the activities of the American government—that is, to inform the American public about actions being taken in their behalf—not more narrowly with the specific purpose of undermining the work of those agents.

On the House floor, however, that wording was stricken and new language inserted. It allows for the criminal prosecution of persons who report the names of agents if they "had reason to believe" it would harm national security interests. That language is so broad that it ignores the motivation of the writer involved. It could well chill efforts, whether by scholars or journalists, to understand and publish accounts of American intelligence activities, including activities that would be abhorrent to the vast majority of Americans if revealed.

The next move is up to the Senate Judiciary Committee where there is certain to be a close vote on the precise language involving those, without direct access to classified information, who reveal the names of intelligence agents. The active involvement of Sen. Edward Kennedy particularly could be the key to approval of a reasonable bill that seeks to prevent the sabotaging of bona fide intelligence efforts without undermining First Amendment rights.

[From the Washington Post, Oct. 27, 1981]

Naming Agents

Congress is intent upon ending the practice of a few spoilers' exposing the names of the United States' secret intelligence agents. This is a worthy purpose, but it gives rise to a troubling complication. The two main legislative proposals offered to punish namers of names would penalize publication, including in some instances publication of unclassified information available in the public domain, and thus both of the proposals would cut into the integrity of the First Amendment. One of the proposals, however, would cut a good deal less than the other. It is important that Congress recognize this difference as the crucial stage of Senate floor action draws near.

The House last month passed a bill that would criminalize publication of an agent's name merely, if there was "reason to believe" publication would impair foreign intelligence activities. This is dangerous legislation. It is not at all difficult to see how language of that sweep and looseness could be applied to journalists or others who brought news of American intelligence to light. Journalists regularly publish information that they suspect will have a negative impact. The First Amendment assures them their right to do so.

The Senate Judiciary Committee has since voted out, 9 to 8, a more acceptable bill. It opens namers of names to prosecution only if they acted with an "intent to impair or impede" intelligence activities. Such an intent—the traditional criminal test—would hardly be a part of most journalism. Meanwhile, the administration supports an effort to adopt the House bill on the Senate floor.

Supporters suggest that only the House bill would adequately protect the country's secret agents. But this contention is far overdrawn. Either bill in Congress would supply a legal sanction to move against the Philip Agees, the unprincipled people who have made a practice of blowing the cover of American agents in order to disable the CIA. Even the Reagan Justice Department now accepts that there is no potential Philip Agee beyond the prosecutorial reach of the Senate bill; that legislation is, a department official says, "enforceable and constitutional."

But where the House bill bites deeply into the First Amendment, the bill reported out of Senate Judiciary bites less severely. The House measure targets not only the Philip Agees but, potentially, also legitimate journalists. The Senate Judiciary bill strikes just at the Philip Agees. That is the reason why, of the two, we believe the Senate Judiciary bill deserves to be carried on the floor. But we trust that senators will note, at least in passing, that both infringe, to one degree or the other, a constitutional right.

[From the Indianapolis News, Oct. 12, 1981]

Saving Freedom Two Ways

The Reagan administration appears to be passing up a good opportunity to take a stand on behalf of freedom of the press and still establish firmer protection for U.S. intelligence operations.

The issue is a law to make it a crime to identify undercover U.S. intelligence agents. The House of Representatives, with the support of the Reagan administration, has approved a sweeping version of legislation to make it illegal to identify agents. The Senate Judiciary Committee, on the other hand, has approved similar legislation, but with a provision designed to protect freedom of the press.

The difference between the two bills appears on an ordinary reading to be a matter of splitting hairs. The House bill would make it a crime for anyone to identify an agent or informer "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede" foreign intelligence operations. The proposal approved by the Senate Judiciary Committee would make exposure illegal when it is done "with the intent to impair or impede" foreign intelligence activities "by the fact of such identification or exposure."

Sen. Joseph R. Biden Jr., D-Delaware, offered this amended version of the legislation to avoid putting a damper on legitimate investigative reporting. A reporter could be prosecuted, for example, for uncovering and naming a Soviet spy in the CIA or for naming former CIA operatives engaged in narcotics smuggling.

A Reagan Justice Department official, Richard K. Willard, acknowledged before the Senate Judiciary Committee that the House legislation could be used to thwart ordinary news media reporting, but he said it probably would not be used that way in practice.

That's nice. The Reagan administration, we keep hearing, is made up of pretty nice guys who mean no harm to anyone. But the Reagan administration will not be around forever, and a future administration might not see things quite the same way.

Why legislate a potential threat to a basic constitutional principle? The amended version of the bill should serve just as well to prosecute persons such as Philip Agee, a former Central Intelligence Agency agent, and others who have published lists of agents for the stated intent of hindering intelligence operations.

The Reagan administration has already established a disturbing pattern of efforts to close off the free flow of information required by the Freedom of Information Act. Lining up on the side of the Senate Judiciary Committee version of this bill would offer a chance to reverse that pattern. The Biden amendment also provides a way to protect intelligence agents as well as freedom of the press.

[From the Nevada State Journal, Oct. 5, 1981]

SLAMMING SHUT ANOTHER DOOR

Here they come again, closing public doors faster than the public can turn around to see the doors slam shut.

"They" are our Washington representatives. And what they are closing, steadily, surely, and with increasing speed, is access to government.

In the latest instance, the House rode roughshod over its own Intelligence Committee Sept. 23 and voted to make it a federal crime to disclose the identity of a U.S. intelligence operative even if the operative's name is a matter of public record. And the act would be a crime no matter what the circumstances involved.

The committee had recommended making disclosure a crime only when there was "intent to impair or impede the foreign intelligence activities of the United States." But the House would have none of this, and voted 354 to 56 to install a sudden floor amendment to make disclosure a crime even if the news media were reporting the names of agents engaging in illegal activities, or trampling on citizens' rights.

The penalty: 10 years in prison and a $50,000 fine for past or present government officials, and three years in prison and a $15,000 fine for journalists.

This bill of course arose from a legitimate concern about the safety of agents. Former CIA officer Philip Agee has made a new and despicable career out of exposing agents, endangering their lives, and damaging the overseas operations of the CIA. And publications such as the Covert Action Information Bulletin and Counterspy routinely print the names of overseas CIA agents with the avowed intent of hindering their work. One would be hard pressed to defend any of these activities; and, in fact, few have—while many have quite properly condemned them.

Yet the House of Representatives, in its concern about these revelations, is creating an equal danger. It has declared that public records are not public, that intent is no factor, and that constitutionality does not matter.

For make no mistake about—the House bill's constitutionality is clearly questionable, according to legal scholars and other experts who testified before the committee.

What the floor amendment did was make the disclosure of an identity a crime whenever the government has reason to believe it might impair or impede foreign intelligence activities. This makes the government the accuser, the witness and the judge; i.e., it places the government in the role of dictator, able to conceal its own mistake as well as disclosure of agents, without let or hindrance.

But there is more: Rep. Ted Weiss, D-N.Y., complained that this bill "presents an incursion on the First Amendment unparalleled in the history of the nation during peacetime. Never has the publication of information in the public domain by private citizens been made an offense."

In all intellectual modesty, one must ask how "secret" agents whose names are already in the public domain are endangered by the publication of their names. Certainly the "enemy," whomever that might be at a given time, would already have ferreted out this information. Under this bill as it stands, it really seems that it is the bureaucracy which is the main object of protection, rather than CIA agents. And it is the public which is most injured.

The Senate Judiciary Committee is scheduled to vote tomorrow on a similar bill containing the same reason to "believe" language. Nevadans should object vigorously to the bill in its present form. Time is short, but the bill can be defeated even now, if the public shows it knows the dangers created by the bill.

Let us protect overseas agents indefinitely. But let us do so through constitutional means which protect our control of government as well as the agents.

[From the Richmond Times Dispatch, Oct. 15, 1981]

PROTECTING U.S. SPIES

Philip Agee, a former CIA agent, indulged in the despicable practice of publishing the names of U.S. intelligence agents abroad in an effort to destroy their effectiveness. In the process, he gravely endangered the lives of these persons.

A law is needed to enable the government to move forcefully against anyone who intentionally puts our secret agents in jeopardy by revealing their identities. Congress is in the process of enacting such legislation.

The House of Representatives passed a bill designed to achieve that goal, but many people worry that while the bill's intent is laudable, its wording runs afoul of the First Amendment's protection of free speech. The bill would make it a crime for anyone to publish such names if he had "reason to believe" it could endanger the persons named. The fear is that a newspaper or broadcasting station or an individual writer might effectively be prevented from making public information about government corruption involving an intelligence agent if a government representative warned in advance that the publication could damage the agent.

So the Senate Judiciary Committee has voted 9-to-8 to narrow the bill to the extent that a person could be prosecuted for revealing agents' names only if he acted with specific "intent to impair or impede" the nation's intelligence activities. There was not the slightest doubt that Philip Agee acted from such a motive.

It is not easy to draft a bill that attains the proper balance between protecting agents' identities, on the one hand, and First Amendment rights, on the other. The most effective protection of the agents might be provided by making it illegal to publish their names under any conditions, but that would do violence to the principle of free speech, since there could be unusual situations in which such publication would be justified in the overall national interest.

The Senate committee amendment appears to represent a reasonable effort to strike the proper balance.

[From the Louisville Times, Oct. 21, 1981]

BAD BILL, BETTER BILL—SENATE SHOULD REJECT HOUSE CIA MEASURE

If there's a lesson to be learned from the government's lethargic reaction to the disclosure that former CIA agents helped Libyan terrorists, it's that public scrutiny of the intelligence agency is more necessary than ever.

Yet the House of Representatives, urged on by the Reagan administration, has passed a bill that could severely penalize newsmen and other researchers who disclose names of spies when reporting on intelligence activities.

Senators Huddleston and Ford can help head off this ill-conceived measure by backing a much tighter Senate version, which could come to the floor as early as this week. Mr. Huddleston has a special interest since he helped draft a charter designed to keep the CIA within constitutional bounds.

Both bills have the worthy goal of protecting undercover agents stationed abroad. On two occasions, CIA employees were attacked after anti-agency zealots disclosed their identities.

The trouble is that reporters and scholars and, for that matter, all private citizens, could be fined and jailed even if they "reveal" names gleaned from unclassified sources.

One result, whether intended or not, would be to discourage legitimate, necessary discussion of CIA failures, blunders and abuses, of which there have been plenty. Under the House bill, a prosecutor would only have to prove a reporter had "reason to believe" his investigation would impair or impede intelligence activities. Well documented stories often "impair or impede" misguided government programs.

Defenders of this approach argue lamely that newsmen and other citizens could report intelligence misdeeds to Congress, the CIA director or the Justice Department. These, of course, are the same folks who have been less than eager watchdogs in the past.

Or, goes the argument, critical material could be published without the names of wayward agents. In many cases, however, such self-restraint would simply contribute to a cover-up.

The Senate Judiciary Committee has come up with a better bill, and the Kentucky senators should join those who hope to fend off amendments. Under the Senate version, a citizen could be successfully prosecuted only if he disclosed names with malicious intent to disrupt intelligence work. That language could not easily be stretched to cover legitimate reporting.

President Reagan has given the senators another excellent reason to resist changes in their bill. He is considering a plan to allow the CIA to spy on American citizens, open mail, infiltrate legal groups and all the rest. This is not the time, in short, to relax surveillance of the intelligence community.

Mr. DENTON. Mr. President, there has been much rhetoric about the alternate approaches which we are now considering.

We have been told that the objective standard set forth in the Chafee/Jackson amendment would somehow impose a chilling effect on the press, which, it is asserted, would be inhibited from exercising its duty and right to uncover and disclose, to the public, incidents that its representatives believe violate the standards to which the intelligence community should be held.

We have heard that, with such an objective standard, reporters working with unclassified information could not contribute to the discovery of a mole who worked his way into the CIA. We have been told that the matter of Frank Terpil and Edwin Wilson would not have come to light if S. 391 were on the books with the "reason to believe" standard, because reporters would fear criminal prosecution. Both these arguments, in my judgment, miss the mark.

First of all, a Soviet mole in the CIA would be a Soviet covert agent, not a CIA covert agent, whatever his job description may say. He would work for the Soviets. They would be his masters, indeed his principals. To say that a Soviet mole would be a CIA covert agent is incomprehensible. His employment simply would be a cover, the means by which he would gain access to sensitive information.

So I think it is wrong to suggest chilling of the press—if in fact the target of its investigation is a mole. Parenthetically, I must note that a U.S. journalist has the same responsibility as any U.S. citizen to report such suspicions to Government authorities. This bill provides that the two Intelligence Committees of Congress should receive information of that nature.

A second argument has been advanced. It has been suggested that, had it not been for the press, we would not know what we do about Terpil and Wilson. I must say that I believe that argument overlooks the excellent work performed by the FBI, the U.S. Department of Justice, and the New York State Prosecutor's office. Yes; it is true that little had appeared in the press concerning Terpil and Wilson before one of the parties to the conspiracy furnished information to a noted journalist. The point is that, prior to that time, the investigation and prosecution of the case had been carried forward by State and Federal authorities. In fact, indictments had already been returned in New York, and were subsequently returned in the District of Columbia.

I am very sensitive to the concerns of the press, but on balance I believe that the American people want a law with teeth and that the agents who lay their lives on the line for us every day have a right to expect a law that affords them maximum protection. To adopt the "specific intent" standard would be misleading, for it would purport to provide a solution to the very serious problem of unauthorized disclosure of the names of intelligence agents without actually doing so. Moreover, the "subjective intent" standard would compel the Government to gather and present evidence about the particular motives of the defendant.

Mr. President, I urge my colleagues who are interested in putting a stop to the dangerous practice of naming names to join me in supporting the Chafee/Jackson amendment.

Mr. WEICKER. Mr. President, I strongly urge my colleagues to support S. 391, the Intelligence Identities Protection Act, as reported by the Judiciary Committee.

S. 391 makes it a crime to disclose the identity of undercover or covert intelligence agents. This criminal sanction applies to three classes of persons, the first two of which are persons who have had access to classified information which directly or indirectly identifies covert agents.

The third class of persons affected by the bill are those who had authorized access to classified information with its accompanying duty of care, but who:

> In the course of an effort to identify and expose covert agents with the *intent* to impair or impede the foreign intelligence activities of the United States by the fact of such identification and exposure * * *

discloses to any individual not authorized to receive classified information, any information that identifies an individual as a covert agent.

This third classification of persons without authorized access to classified information—section 601(c)—is clearly the most controversial section of the bill. The thrust of the bill is to make criminal those disclosures which clearly represent a conscious and pernicious effort to identify and expose agents with the intent to impair or impede the foreign intelligence activities of the United States by such action. As stated in the committee report:

> It is the purpose of the committee in carefully specifying the above class to thereby preclude the inference and exclude the possibility that casual discussion, political debate, the journalistic pursuit of a story on intelligence, or the disclosure of illegality or impropriety in Government will be chilled by the enactment of the bill.

In carefully crafting this provision, the committee has wisely rejected the version passed by the House on September 23 which would apply the bill to those who disclose agent identities:

> In the course of a pattern of activities intended to identify and expose covert agents and with *reason to believe* that such activities would impair or impede the foreign intelligence activities of the United States.

Interestingly, the House Intelligence Committee had voted 17 to 1 to report a bill with the same intent standard reported by the Senate Judiciary Committee. However, the full House adopted an Ashbrook amendment substituting the "reason to believe" standard. The House-passed language was incorporated into the bill introduced in the Senate but later amended in committee.

Mr. President, I am concerned with the constitutionality of both versions of the bill; however, I am convinced that the looser "reason to believe" standard represents an unwarranted assault on first amendment rights under the Constitution.

Both the House and Senate bills will adequately protect American intelligence agents; however, the Senate bill allows prosecution of those who disclose agent identities with the "intent to impair or impede" intelligence activities. In adopting the intent standard of proof—the traditional criminal test—the Judiciary Committee has acted responsibly to provide a legal sanction against those who intentionally blow agents' cover. The administration agrees that this bill will reach the Philip Agee's and other unprincipled individuals who seek to disable the CIA around the world. The Justice Department and the CIA have indicated that this bill is acceptable to it.

I strongly oppose any effort to substitute the House language establishing a "reason to believe" standard of proof. Such a loose standard is a dangerous assault on the first amendment in that it could affect conventional reporting by legitimate journalists. The narrower committee provision, adopted in response to serious concerns raised by many constitutional scholars, is clearly the responsible alternative, and I urge its adoption.

Mr. ROBERT C. BYRD. Mr. President, for too long our intelligence agencies have been the subject of attack and scorn and abuse. For too long, these agencies have been pilloried and accused of being responsible for virtually everything that goes wrong anywhere in the world. And these agencies, operating in the necessarily gray world of utter secrecy, are virtually helpless to defend themselves.

But there is a point at which a responsible line must be drawn, a point where we in the Congress have a responsibility to stand up and be counted and say, "No; beyond this line you are not permitted to go."

That line, in my judgment, involves the intentional publication of the actual names and identities of secret U.S. intelligence agents who have willingly put their lives on the line in defense of our country. That line involves those situations where agents' names are being published for the express purpose of harming these individuals and their missions.

No criticism of our policies requires the sacrificing of our intelligence agents. Therefore, Mr. President, this strong new criminal law, which would penalize the naming of these agents, is entirely justified.

There is little doubt that there is a handful of reckless individuals who at times seem to be intent on wanting to see harm befall our officers. Some of them have publicly expressed their desire to damage the intelligence operations of this country. It is their conduct which is the focus of this legislation.

Mr. President, I will be voting in favor of S. 391 in its present form because we must make sure that in our zeal to penalize the kinds of individuals I have just described, we do not exaggerate our effort to the point of losing this bill in the courts.

We must make clear that we are accomplishing what we say we are trying to accomplish; we must not leave our purpose open to challenge. I am fearful that in today's judicial climate, a challenge might be successfully maintained against a bill which sought to punish purely negligent reporting, as distinguished from the intentional revelation of names for the purpose of harming our country.

So I support S. 391 in its present form. The bill makes clear that we are seeking to punish those unscrupulous individuals who are avowedly seeking to harm our intelligence operations.

I commend the Senator from Delaware (Mr. Biden) and the Senator from New York (Mr. Moynihan) and their colleagues on the Judiciary and Intelligence Committees for their wisdom in seeking to add this tough and essential provision to our Nation's criminal laws.

The PRESIDING OFFICER. Under the previous order, the hour of 1 o'clock having arrived, the Senate will now proceed to vote on the amendment of the Senator from Rhode Island. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'Amato) and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. D'Amato) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from South Carolina (Mr. Hollings), and the Senator from Rhode Island (Mr. Pell) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. Pell) would vote "yea."

The VICE PRESIDENT. Are there any other Senators who desire to vote?

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—55

Abdnor
Andrews
Armstrong
Baker
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Chafee
Chiles
Cochran
Danforth
Denton
Dole
Domenici
Durenberger
East
Garn
Glenn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Long
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Percy
Pryor
Rudman
Schmitt
Simpson
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—39

Baucus
Bentsen
Biden
Bradley
Byrd, Robert C.
Cohen
Cranston
DeConcini
Dixon
Dodd
Eagleton
Exon
Ford
Gorton
Hart
Hatfield
Huddleston
Inouye
Kennedy
Leahy
Levin
Mathias
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Proxmire
Quayle
Randolph
Riegle
Roth
Sarbanes
Sasser
Specter
Stafford
Tsongas
Weicker

NOT VOTING—5

Cannon
D'Amato
Hollings
Pell
Pressler

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY addressed the Chair.

The VICE PRESIDENT. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Mattingly). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, before leaving the floor, I wish to thank all the Senators who supported my amendment. In particular, I would like to thank the senior Senator from Washington (Mr. Jackson) who did such a wonderful job. I also thank Senators Thurmond, Denton, and East, who have worked hard to see this amendment become law.

I also thank Senator Baker, the distinguished majority leader, and Senator Goldwater, chairman of the Senate Intelligence Committee, as well as Senators Grassley, Tower, Heflin, Hayakawa, Durenberger, and Wallop, who have taken the time to speak on this issue on the floor of the Senate.

Finally, I would like to thank Will Lucius, of Senator Thurmond's staff, Joel Lisker, and Bert Milling, of Senator Denton's staff, and Sam Francis of Senator East's staff, on the Judiciary Committee for their untiring efforts in getting this amendment through the committee, as well as Chip Andreae of Senator Lugar's, staff, Bob Butterworth of Senator Jackson's staff, and Victoria Toensing, chief counsel of the Senate Intelligence Committee. They have made a great contribution, and they should be commended for it.

Also, a special thanks to Rob Simmons, who is the staff director of the Senate Intelligence Committee.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 828

(Subsequently numbered amendment No. 1339.)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from New Jersey (Mr. Bradley) proposes an unprinted amendment numbered 828.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "Intelligence Identities Protection Act of 1981".

SEC. 2. (a) The National Security Act of 1947 is amended by adding at the end thereof the following new title:

"TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

"PROTECTION OF IDENTITIES OF CERTAIN UNITED STATES UNDERCOVER INTELLIGENCE OFFICERS, AGENTS, INFORMANTS, AND SOURCES

"SEC. 601. (a) Whoever, having or having had authorized access to classified information that identifies a covert agent, intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than $50,000 or imprisoned not more than ten years, or both.

"(b) Whoever, as a result of having authorized access to classified information, learns the identity of a covert agent and intentionally discloses any information identifying such covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such covert agent and that the United States is taking affirmative measures to conceal such covert agent's intelligence relationship to the United States, shall be fined not more than $25,000 or imprisoned not more than five years, or both.

"(c) Whoever, in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States, discloses any information that identifies an individual as a covert agent to any individual not authorized to receive classified information, knowing that the information disclosed so identifies such individual and that the United States is taking affirmative measures to conceal such individual's classified intelligence relationship to the United States, shall be fined not more than $15,000 or imprisoned not more than three years, or both.

"DEFENSES AND EXCEPTIONS

SEC. 602. (a) It is a defense to a prosecution under section 601 that before the commission of the offense with which the defendant is charged, the United States had publicly acknowledged or revealed the intelligence relationship to the United States of the individual the disclosure of whose intelligence relationship to the United States is the basis for the prosecution.

"(b)(1) Subject to paragraph (2), no person other than a person committing an offense under section 601 shall be subject to prosecution under such section by virtue of section 2 or 4 of title 18, United States Code, or shall be subject to prosecution for conspiracy to commit an offense under such section.

"(2) Paragraph (1) shall not apply in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States.

"(c) It shall not be an offense under section 601 to transmit information described in such section directly to the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives.

"(d) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent.

"PROCEDURES FOR ESTABLISHING COVER FOR INTELLIGENCE OFFICERS AND EMPLOYEES

"SEC. 603. (a) The President shall establish procedures to ensure that any individual who is an officer or employee of an intelligence agency, or a member of the Armed Forces assigned to duty with an intelligence agency, whose identity as such an officer, employee, or member is classified information and which the United States takes affirmative measures to conceal is afforded all appropriate assistance to ensure that the identity of such individual as such an officer, employee, or member is effectively concealed. Such procedures shall provide that any department or agency designated by the President for the purposes of this section shall provide such assistance as may be determined by the President to be necessary in order to establish and effectively maintain the secrecy of the identity of such individual as such an officer, employee or member.

"(b) Procedures established by the President pursuant to subsection (a) shall be exempt from any requirement for publication or disclosure.

"EXTRATERRITORIAL JURISDICTION

"SEC. 604. There is jurisdiction over an offense under section 601 committed outside the United States if the individual committing the offense is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act).

"PROVIDING INFORMATION TO CONGRESS

"SEC. 605. Nothing in this title may be construed as authority to withhold information from the Congress or from a committee of either House of Congress.

"DEFINITIONS

"SEC. 606. For the purposes of this title:

"(1) The term 'classified information' means information or material designated and clearly marked or clearly represented, pursuant to the provisions of a statute or Executive order (or a regulation or order issued pursuant to a statute or Executive order), as requiring a specific degree of protection against unauthorized disclosure for reasons of national security.

"(2) The term 'authorized', when used with respect to access to classified information, means having authority, right, or permission pursuant to the provisions of a statute, Executive order, directive of the head of any department or agency engaged in foreign intelligence or counterintelligence activities, order of any United States court, or provisions of any rule of the House of Representatives or resolution of the Senate which assigns responsibility within the respective House of Congress for the oversight of intelligence activities.

"(3) The term 'disclose' means to communicate, provide, impart, transmit, transfer, convey, publish, or otherwise make available.

"(4) The term 'covert agent' means—

"(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

"(i) whose identity as such an officer, employee, or member is classified information, and

"(ii) who is serving outside the United States or has within the last five years served outside the United States; or

"(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

"(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

"(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence of foreign counterterrorism components of the Federal Bureau of Investigation; or

"(C) an individual, other than a United States citizen, whose past or present intelligence relationship to the United States is classified information and who is a present or former agent of, or a present or former informant or source of operational assistance to, an intelligence agency.

"(5) The term 'intelligence agency' means the Central Intelligence Agency, a foreign intelligence component of the Department of Defense, or the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation.

"(6) The term 'informant' means any individual who furnishes information to an intelligence agency in the course of a confidential relationship protecting the identify of such individual from public disclosure.

"(7) The terms 'officer' and 'employee' have the meanings given such terms by sections 2104 and 2105, respectively, of title 5, United States Code.

"(8) The term 'Armed Forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

"(9) The term 'United States', when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

"(10) The term 'pattern of activities' requires a series of acts with a common purpose or objective. The main direction of said pattern of activities must be to identify and expose covert agents."

(b) The table of contents at the beginning of such Act is amended by adding at the end thereof the following:

TITLE VI—PROTECTION OF CERTAIN NATIONAL SECURITY INFORMATION

"Sec. 601. Protection of identities of certain United States undercover intelligence officers, agents, informants, and sources.
"Sec. 602. Defenses and exceptions.
"Sec. 603. Procedures for establishing cover for intelligence officers and employees.
"Sec. 604. Extraterritorial jurisdiction.
"Sec. 605. Providing information to Congress.
"Sec. 606. Definitions.".

Mr. BRADLEY. Mr. President, the amendment I am offering is a substitute for the Intelligence Identities Protection Act as amended by Senator CHAFEE.

My amendment is a very simple one. It strikes a balance between protecting covert agents on the one hand and preserving freedom of speech and a free press on the other.

It achieves this balance by retaining the "reason to believe" test adopted by the Chafee amendment and by defining pattern of activities in the terms suggested by Senator GORTON earlier in the debate on this bill.

The Bradley substitute is thus essentially identical to the bill now before you except that the definition of pattern of activities is changed to read:

> The term "pattern of activities" requires a series of acts with a common purpose or objective. The main direction of said pattern of activities must be to identify and expose covert agents.

As so many of my colleagues have eloquently argued, Mr. President, this change makes it clear that no criminal sanctions apply to disclosures of identities unless the primary intent of such disclosures was to expose a covert agent. Thus, where exposure is a mere side effect, as when a journalist is writing with the purpose of uncovering corruption in government, it would not make the author criminally liable under this statute.

Mr. President, as I have said many times before, it is imperative that we protect the men and women who daily risk their lives for our national security. It is also imperative that we do so without unnecessarily chilling free speech and freedom of the press.

This substitute, I believe, serves both goals. I urge my colleagues to support it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, in the course of yesterday's debate on this legislation, the junior Senator from Washington asked that I consider an alternative to the amendment which I had on the floor. I indicated that even at that late date I would certainly be willing to review the Senator's proposal.

I have studied the suggestion, and this, of course, is the same language which the Senator from New Jersey is offering today.

The language states, as the Senator from New Jersey has pointed out, that the main direction under the pattern of activities must be the identification and exposure of covert agents.

Mr. President, I point out that this language has never been considered in the committees. It is language which neither the Department of Justice nor the Central Intelligence Agency endorses.

The problem with this language is that it imposes every difficulty on the prosecution that was originally the problem with the language as reported from the Judiciary Committee.

Obviously, in preparing this legislation, we had two matters to consider: We had to consider the first amendment rights and the protection of those in legitimate journalism who might mention the name of an agent inadvertently, or the names of several agents indeed. On the other side of the coin, we have the problem of providing protection for our agents abroad.

The difficulty with the language of the Senator from New Jersey is that it places an extraordinary burden on the prosecution.

We already have defenses for the defendant, the so-called six defenses that we have talked of many times, under section 601(c). But what is added now by the Senator from New Jersey is one more defense which, indeed, is impossible, or practically impossible, to overcome. That is, that the main direction of the disclosures were the identification of the names of agents. The defense obviously is, "That was not my main direction. My main direction was to expose the CIA activities across the world," or, "My main direction was to discuss the operations of the U.S. intelligence activities in Africa. And as an aside, an inadvertent aside, I claim I happened to list a whole string of agents' names."

> As I stated yesterday in the debate, the sources of defense would be that the author told his wife he was just trying to write a book about Africa and the Central Intelligence Agency in Africa.

However, Mr. President, that is language that would destroy the whole purpose of section 601(c).

For those reasons, we rejected it yesterday. I considered it because the Senator asked me to do so and because I wanted to give every benefit of doubt to some type of accord that we might reach. But after careful consideration that language was rejected; indeed, it destroys the whole purpose of what we are attempting to achieve under 601(c).

I am prepared to yield the floor, Mr. President. If no one else wishes to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HUMPHREY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I rise briefly to comment on the vote taken earlier today on the amendment of the distinguished Senator from Rhode Island which, of course, passed. It was not a close vote. There were 55 votes in favor, 39 votes against. I cannot fail to note that what was originally neither a partisan matter nor one in which the administration took a strong stand obviously ended as such, for the Vice President was in the chair prepared to cast his vote were the Senate evenly divided and he, of course, would do that in response to the request of the President. We are always happy to see him here and welcome him on any occasion, but we know that his presence signifies an occasion when the outcome of a measure is expected to be close, and the administration feels strongly enough to wish to decide it, if possible.

Mr. President, I regret that, because it was clearly understood indeed, it was my understanding as vice chairman of the Select Committee on Intelligence, that the intelligence community wanted legislation but was prepared to have passed either the version of the distinguished Senator from Rhode Island or the version of the distinguished Senator from Delaware.

I wish to simply restate a thought I offered to the Senate yesterday, which is that we have embarked on a most unusual and, on the edge, alarming course. We are choosing to criminalize the publication in the press of information publicly available. If it became necessary to do this, we should have set the narrower of the grounds available to us and not the broader.

I speak, Mr. President, to a matter about which I can claim some knowledge and some feeling. I believe it is the case that I am the only Member of the Senate at this time who has served as an ambassador overseas in situations where there were members of the intelligence community in the Embassy in which I worked and in embassies in other parts of the world.

I would like, if I could interject, to make the point that I have also served as the U.S. permanent representative at the United Nations. There are no intelligence community personnel at the United Nations. We keep our commitment to the U.N. charter under article 100 in that regard. But overseas, as is well known, we have intelligence activities as do all nations, and in the case of India where I served, our intelligence activities were known to the Government of India.

The point I wish to make, Mr. President, is that owing to a long practice in our Government well known—I do not disclose a thing that is not fully in the public domain—we have failed to provide any but nominal cover as it is called for American intelligence operatives. Not that some do not have deep cover, as it is called, but those who work in American embassies might as well all be Alabamans or Georgians with a deep accent or Texans with high-heeled boots or Rhode Islanders with their wonderful accents, so conspicuous in evidence and well known are they.

And it is almost beyond the capacities of an American journalist in a foreign capital not to know the names of the intelligence community operatives. Nor is there any great reason they should not. I mean the better part by far of their activities is making semi-informed guesses about what the effects of the drought in Gujarat will be on the wheat crop there and the consequences for imports or exports, or what you will. I mean they are in the business of reporting matters of economic, political, and military intelligence. That is why they then watch parades on national days and look at the newest Soviet missiles as they rumble across Red Square.

I make this point, Mr. President, only to make it clear that we are making, we are on the edge of making, a crime out of the publication of information which is commonly available, information which is not difficult to obtain.

Now if we are going to make it a crime to publish such matters in the press, and the administration is so anxious to do so, do they realize that they have put in jeopardy a whole profession that might wish to report such matters as ongoing quasi-public activities of their Government?

Is the administration going to take, for example, any comparable measures to make these covert agents sufficiently so, so as to establish some real reason to be surprised that anyone knows their names?

I do not think so. I think we are errantly and somewhat arrogantly crossing a constitutional boundary. We are trivializing some of the most revered and protected and depended on constitutional protections that we have known in our country, the first amendment to our Constitution, not a recent one, not one that somehow came along at the time of the income tax measure.

I happen to believe that the amendment we adopted this afternoon is unconstitutional. I would not firmly assert that the alternative which was proposed to us by the Committee on the Judiciary was on the securest of constitutional grounds, but an argument certainly could be made that it is in the same basic form and structure which espionage acts have taken in the past and they have survived a court test, as they must. The court, in the Agee passport case, said the Government has a right to protect itself in these matters, and its actions would not fail a constitutional test. We have learned that this past year.

Even so, I would like to say today that I believe we have passed an unconstitutional amendment and, just as important, it is not just a "modest" violation of first amendment rights as a Member of this body has said and, nor, as he said, is it "consistent with overriding national security interests", because there are no such interests which would not be protected by the version offered by the Judiciary Committee. And so, a Member of this body has said this amendment may well intrude upon the Constitution, but only a little bit, as in the famous condition of being a little bit pregnant. This cannot be but a mournful and ominous event.

I do not wish to think of myself as someone who stands in this Chamber bringing forth ominous events on every third afternoon. Most events are too mundane or too familiar to be called ominous.

I make not just a constitutional point, but I want to raise the further fact, as I see it, that we are dealing here with the decision to criminalize the publication of information which, in so many cases, is for every practical purpose public. We are going to—I repeat—make criminal the publication of information which in many, many, many instances, in more instances than not, is public already.

Might I ask of anyone who wishes to respond, have we not made the decision to put our intelligence community in large buildings with names, of them and with signs pointing to them? If anyone were to park his car opposite the entrance to the CIA's headquarters in McLean, Va., and just take note of who comes and goes and were to draw the not unreasonable assumption that those who come at 9 in the morning and leave at 6 in the evening work there, how is that not to be known?

There are, as some of you may know, persons who are not friends of our Government, although unhappily citizens of our country, who have published a simple guide on how to tell the intelligence agents in an embassy. It is sort of a guide to spring wildflowers. It shows the various characteristics of the stamens and the petals and the various characteristic structures that will tell you that is a primrose—or if you wish to use a more threatening comparison, a guide to mushrooms in the forest; a guide that gives you the distinguishing characteristics of those you can and those you cannot safely eat. This is easily done.

I can report that one Sunday morning when I was serving in New Delhi, a colleague and I sat down over coffee one Sunday morning, and, pretending not to know, went through the diplomatic list we had submitted to the Government of India.

Then we went through the biographies as they are published in the so-called "Stud" book of the Department of State, looked at the work histories, and followed the directions for how to identify the intelligence agents. It obviously was not a rigorously scientific test, but we suspended our own knowledge as much as we could, and we said, "Sure, this person fits the following five categories; the probability is that he would be, she would be," and indeed they were.

I do not know that this is that well known in this Chamber. I hope it will be better understood, as we are not finished with this debate. It may be it is going to be one of those debates that goes on for a very long time.

Mr. President, I repeat two points: The amendment we approved is, in my view, unconstitutional. My view can have no greater weight than anyone else's in this Chamber, and less than jurists' and prosecutors'. But as a former Ambassador, I would like to plead with the Senators to understand that we are making criminal the publication of information, which is in a very wide degree already public.

I thank the Chair for his courteous attention.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER** (Mr. SYMMS). The clerk will call the roll.

Will the Senator suspend or defer his request?

Mr. **MOYNIHAN**. I am happy to do so.

Mr. **CHAFEE**. Mr. President, I would like to direct a couple of questions to the distinguished Senator from New York, whose remarks I listened to. I appreciate the point that he was making, that indeed we are making criminal activities of citizens who use material that is not classified. That is the whole point of section 601(c) in the amendment we passed this afternoon.

As I understood the Senator's forebodings as he expressed them, they would apply both to the committee language and to the amendment that was adopted this afternoon. On that point there is no difference.

Does the Senator agree with that?

Mr. **MOYNIHAN**. The Senator agrees. Before my distinguished friend came on the floor, I expressed my own genuine doubts about the committee language. I made the point that if we are to commence such a legislative exercise, the very least we could do is to pick the narrowest of grounds available to us.

Mr. **CHAFEE**. But either one, either the narrow version or what the Senator refers to as the broader version, encompassed activities of those who are not relying upon classified sources.

Mr. **MOYNIHAN**. That would be correct.

Mr. **CHAFEE**. So, thus, if that is the concern of the Senator, I do ask him what do we do? This is the quandry that I believe we all face. No one, certainly, and I know those that I have worked with on this amendment, no one willingly reduces the scope of the first amendment in any degree. But we are confronted with a problem. The problem is that we have Americans delving into unclassified sources to identify the names of covert agents—and it is not something now that you can sit down on a Sunday morning over coffee and talk about. This is because far greater efforts are now being made than were formerly made to protect the identities of agents.

As the Senator noted, once upon a time you could gather one or two publications and from that, with some knowledge of the background and of how the State Department and embassy employees are listed, you could come up with a reasonable facsimile of who might be the covert agents. This is no longer the case.

Mr. MOYNIHAN. And the Senator recognizes that. He was a distinguished Secretary of the Navy. He has some familiarity with these matters. And that is the case.

Mr. CHAFEE. That was the case. But it is my clear understanding, from testimony both from the Secretary of State in the prior administration, Secretary Vance, and others, that far greater steps are now being taken to conceal the identities, to provide so-called cover for our agents. It is not perfect, however.

As the Senator knows, the State Department is very jealous of certain prerogatives—what is a foreign service officer, for example? So the cover is not perfect.

So those Americans, with diligence, some knowledge, no classified materials, indeed never having dealt with or having been cleared in any way for classified material, can, by intense activity, produce lists that, while not perfect, come fairly close to the mark of disclosing who the agents are. In our language here, we always say "alleged agents" because that protects us. But unquestionably they are accurate enough to cause concern. Now there we are. This is what happens.

On the other hand, we send American men and women abroad on dangerous missions on behalf of this Nation. It seems to me we cannot continue to permit the publication of these names while at the same time we are funding, urging, and supporting wholeheartedly in this Congress the activities of these agents that we send abroad. Now what do we do? What is the answer?

Mr. MOYNIHAN. I recognize the dilemma. The Senator from Rhode Island knows of my absolute respect for his sincerity in this matter and his knowledge in this matter.

Could I leave him with one thought: He and I are members of the Select Committee on Intelligence. It has been said that better protection, in terms of cover, is to be provided our people. It would not be any great misuse of our time to have the committee hold a hearing on this sometime just to see how the things we have been given to think would happen have progressed. Because, if this becomes law, and obviously, it will, there ought then to devolve upon the administration a genuine responsibility to protect the identities of persons for whom we have legislated in the way we are going to do.

Mr. CHAFEE. I agree wholeheartedly with what the Senator is saying. He has had a very distinguished career on the Intelligence Committee, in which indeed he has been vice chairman and acting chairman for some time at different periods. I agree, I think it is incumbent upon this administration, as indeed it is on any administration, to do everything it can to provide effective cover.

We did have hearings 2 years ago on the subject in the Intelligence Committee, in which we had before us various witnesses. We worked hard on the cover matter, and we will continue to do so. I will support it and I hope we will continue our efforts.

But, nonetheless, for a variety of reasons no cover is perfect. And thus we get into this dilemma that truly exists. The Senator recalls 2 years ago we passed legislation dealing with this problem. So that was to be a help; incidental, but it was to be a help.

But cover is not perfect. And these lists go on. These lists are published. We have all seen them. Those who "name names" work hard at it. And I just feel we cannot tolerate that. To throw up our hands and say, "The first amendment prevents us from moving in and protecting Americans who are on these very dangerous jobs. The first amendment will not permit us Americans from prohibiting other Americans from publishing the names of American citizens sent abroad by this Nation," why that is incomprehensible.

Maybe the solution is not perfect. The Senator has indicated it is his belief it will not stand up in court. Our information is that it will. The Carter and Reagan administration Justice Departments say it will. But I would hate to think that the problem is so insurmountable that we would not tackle it.

Mr. MOYNIHAN. The Senator from Rhode Island knows I agree with him in that regard. And we will learn the outcome of the legislation as it appears to be going forward. And when we do, if it turns out that the courts do not accept it, we can go on to alternative measures.

In the meantime, let us indeed see if we have anything to show for the very late-blooming concerns in the Department of State as to the nature of this problem.

I thank the Senator.

Mr. CHAFEE. I certainly agree with the Senator.

Mr. President, I thank the Senator. We are both working for a common solution. If my solution is not the right one, and the court in any way indicates this to be the case, we will take another try at it.

Mr. MOYNIHAN. I thank the Senator.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask unanimous consent that it be in order to set aside temporarily the pending amendment offered by the Senator from New Jersey, and that it be in order to take up an amendment in the nature of a sense of the Senate resolution.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 829

Mr. HART. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. Hart), for himself, Mr. Kennedy, Mr. Quayle, Mr. Mitchell, Mr. DeConcini, Mr. Sasser, Mr. Leahy, Mr. Exon, Mr. Robert C. Byrd, Mr. Sarbanes, Mr. Weicker, Mr. Heflin, and Mr. Heinz, proposes an unprinted amendment numbered 829.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT

At the end of the bill, add the following:

Because, the Congress finds it is in the interest of the national security of the United States to combat international terrorism, and

Because, the present regime in Libya is aiding and abetting international terrorism, and

Because, Libya is able to threaten its neighbors and international order because of the revenues it derives from its oil trade, and

Because, the President of the United States, after consultation with Congress and discussions with appropriate foreign governments has decided to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of U.S. origin oil and gas technology and equipment that is not readily available from sources outside the U.S.,

Therefore, it is declared the sense of the Senate that Congress strongly supports the President's decision to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of U.S. origin oil and gas technology and equipment that is not readily available from sources outside the U.S.

Mr. HART. Mr. President, I wonder if I might ask the distinguished Senator from Rhode Island, the floor manager, what the proper procedure might be for obtaining a rollcall vote on this amendment at the proper time, which I understand will be sometime tomorrow, if that is permissible, and stacked with other pending votes.

Mr. CHAFEE. I was not clear whether the Senator wished a rollcall vote or not.

Mr. HART. Yes, I would like that, but I did not know what the proper procedure was for obtaining that.

Mr. CHAFEE. I wonder if the Senator would accept a brief delay here, or proceed and let me get back to him on that.

Mr. HART. I will proceed with my statement. If the Senator from Rhode Island would assist me in this matter, I would be most appreciative.

Mr. CHAFEE. I will do that.

Mr. HART. Mr. President, last Wednesday, March 10, 1982, the administration announced its plans to prohibit the import of Libyan oil to the United States and to deny licenses for the export of selected American oil and gas technology to Libya.

This measure is long overdue, but it is still most welcome and deserves the support of the Congress. Therefore, Mr. President, I am offering a resolution, as an amendment to the agent identities bill, to express the Senate's support for a ban on American imports of Libyan oil.

For years, the United States has supported Qadhafi's terrorism in north Africa and the Middle East by paying billions of dollars for Libyan oil supplies. When we bought Libyan oil, we replenished Qadhafi's treasuries, allowing the man whom the late Anwar Sadat called a certified lunatic to embark in more adventurism in the most volatile region of the world.

This unconscionable practice now has ended, by virtue of the President's decision last week. The United States has demonstrated it will not stand by passively and allow Qadhafi to sow violence and terror with impunity. Moreover, we have ended the hypocritical and expedient policies which lead us to sell arms to African countries threatened by Libya while refusing to take punitive actions against Qadhafi by cutting off an important source of Libyan income: American petrodollars.

Boycotting Libyan oil at this time should have no appreciable effect on the supply or price of oil used in the United States. Libyan oil constitutes only 2 percent of American oil imports and less than 1 percent of total American supply. According to the Department of Energy, American imports of Libyan oil in December 1981 were only 122,00 barrels per day. With the current surplus in world oil markets, American importers can replace Libyan oil with supplies from other foreign sources, including West African producers offering a sweet, light crude comparable in quality of Libyan oil.

To be serious about combating international terrorism, the United States must cut off the flow of American petrodollars to Libya. My resolution simply tells the President that the Congress recognizes how American oil dollars have supported Qadhafi's terrorism and that the Congress supports the administration's decision to end this intolerable practice.

Mr. President, as the principal sponsor of three measures last fall, starting in September 1981, to bring this policy about, I most personally and wholeheartedly endorse and welcome the President's decision. I would have preferred that it had come earlier in recognition of the facts that this statement has just outlined, concerning which those amendments and resolutions were proposed some months ago. Nevertheless, the action has been taken and I think it deserves the wholehearted support of the Senate and the Congress, as well as the American people. I think it would be timely on the occasion of this legislation to put this body on record in support of the President's action.

U.S. BANS IMPORTATION OF LIBYAN CRUDE OIL

● Mr. KENNEDY. Mr. President, I am pleased to join Senator HART and my other colleagues in sponsoring this resolution in support of the President's decision to prohibit imports of Libyan oil into the United States. Senator HART and I have called for this action for over 6 months. I welcome at long last the President's decision to implement our proposals.

Libya has continued to work against the interests of the United States in the Middle East. It is in the forefront of those Arab rejectionist states that call for the total destruction of the State of Israel. It continues to call for joint Arab action and sanctions against Egypt because of its decision to join the search for a true and lasting peace in the Middle East. Most recently, Colonel Qadhafi launched a vicious verbal attack against Saudi Arabia because of that country's relationship with the United States.

Libya continues its support for international terrorism. Openly the Government of Libya provides major diplomatic support and military assistance to the PLO. It has covert ties with numerous other international terrorist organizations.

As I have said repeatedly since last fall, it is immoral for the United States to provide Libya with the means to finance terrorism by importing Libyan oil. American industry and American homes should not be fueled by oil tainted with the blood of Libyan terrorism. Banning the importation of Libyan oil at this time will have no appreciable effect on the supply or price of oil used in the United States. Libyan oil now constitutes only 2 percent of total American oil imports and other sources of sweet, light crude comparable to Libyan oil are available from other foreign sources including countries in West Africa.

I hope this most recent action by the administration will be a loud and clear signal to Libya and to any other government that supports international terrorism that the United States will not condone state supported terrorism.●

Mr. HART. Mr. President, I have no further statement to make. I yield to the Senator from Rhode Island on procedure.

Mr. CHAFEE. I believe I can be helpful. First, as I understood the Senator when he offered this, it was a resolution which I thought stood by itself, but, as I understand, the Senator wishes to attach it to the measure we are considering.

Mr. HART. Yes, Mr. President. It would be an amendment in the nature of a sense of the Senate resolution, an amendment to the present bill.

Mr. CHAFEE. While not arguing with the Senator on that point, has he considered just having it as a resolution by itself? That does not affect the procedural matter but it would then stand by itself. I suspect it will be overwhelmingly approved. The other bill has to go to conference and may be bogged down. Maybe the Senator would wish that. I do not know.

Mr. HART. I understand the concern and the point the Senator from Rhode Island is making. A similar resolution was introduced a number of weeks and months ago. Unfortunately, as the Senator knows, one does not always get immediate consideration of those matters by appropriate committees. Hearings have to be held, and so on. In the meantime, as I say, some days ago the President has already acted. While we waited for a resolution to make its way out of committee, get to the floor and be put on the calendar, I think weeks and weeks would go by and any sense of immediacy of this matter would be lost.

Mr. CHAFEE. Mr. President, obviously, whatever the Senator wishes to do is fine. I am not objecting. I do not see any problems, however, in just having the resolution on its face and considering it in passing. I do not think that it would be necessary for this resolution to go to conference, would it?

Perhaps I am mistaken.

Mr. HART. Not as a sense-of-the-Senate resolution, No; it would not.

Frankly, Mr. President, I say to my friend and colleague that this is as much a symbolic gesture as anything else, putting the Senate on record in support of the President. If it were adopted at the conference, it would be all the better, because then the House would be on record in support also. It is merely a resolution thanking the

President and supporting his action. Therefore, I do not think it should be a serious item in the conference.

Mr. CHAFEE. So it is the Senator's desire to have it as he suggests here, as an amendment to the bill.

Mr. HART. If the distinguished floor manager so agrees, yes.

Mr. CHAFEE. Mr. President, I wonder if we may have a brief conference here.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I withdraw the amendment.

The amendment (UP No. 829) was withdrawn.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 72—REAFFIRMATION OF U.S. BACKING OF DEPOSITS IN FEDERALLY INSURED DEPOSITORY INSTITUTIONS

Mr. GARN. Mr. President, on behalf of the Committee on Banking, Housing, and Urban Affairs, I wish to submit a Senate concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

It is to be submitted on behalf of myself, Mr. Tower, Mr. Heinz, Mr. Lugar, Mr. D'Amato, Mr. Chafee, Mr. Schmitt, Mr. Proxmire, Mr. Cranston, Mr. Riegle, Mr. Sarbanes, Mr. Dodd, Mr. Dixon of the Committee on Banking, Housing, and Urban Affairs; Mr. Baker, Mr. Hatch, Mrs. Hawkins, Mr. McClure, Mr. Murkowski, Mr. Rudman, Mr. Eagleton, Mr. Heflin, Mr. Baucus, Mr. Randolph, Mr. Sasser, Mr. Domenici, Mr. Pryor, Mr. Ford, and Mr. Cannon.

This is a joint effort. I want to make sure the record understands this. I have worked with the chairman of the House Banking Committee, Mr. St Germain, and all members of the House Banking Committee are sponsoring a similar resolution which was introduced in the House of Representatives day before yesterday, which I would expect to be passed tomorrow in the House.

There is no doubt that the savings and loan industry has been having great difficulty. There are many people who have been asking questions about the safety and soundness of the institutions. I believe everybody is aware that accounts are insured up to $100,000 through the FDIC and the FSLIC. Both committees of the House and the Senate want to make sure that the American public and the depositors with these institutions understand that, even beyond the FDIC and the FSLIC in these difficult times, this concurrent resolution would put everyone on notice that Congress stands behind the insured amounts up to $100,000, with the full faith and credit of the U.S. Government so there would be no possibility of these insured accounts losing any of their money.

Mr. RIEGLE. Mr. President, I urge all Senators to vote for this concurrent resolution.

Simply stated the concurrent resolution says that all deposits in federally-insured depository institutions are backed by the full faith and credit of the United States up to the statutorily prescribed amount, which is $100,000.

Americans naturally assume that their deposits are safe and secure when they are placed in federally-insured banks, savings and loan associations and other federally insured depository institutions.

This assumption is not misplaced, and this concurrent resolution will stress again that ironclad Federal guarantee.

Since the 1930's the American people have relied upon Federal deposit insurance to guarantee their funds. I believe it is important in the present financial climate to emphasize that the Congress and the Federal Government stand behind our national commitment to safeguard these funds. In many cases the money in a single account often represents an entire life's savings. This concurrent resolution reaffirms that depositors' funds are both safe and secure.

Mr. GARN. At this time, I will withhold for just a moment. I will ask unanimous consent that this be placed on the calendar, but then being the only Senator on the floor, I believe we do need approval of the minority.

While we are gaining that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Warner). Without objection, it is so ordered.

Mr. GARN. Mr. President, I now yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I am pleased to join and have joined as a cosponsor of this concurrent resolution. I applaud the initiative of the chairman of the committee in bringing it before the body at this time.

All the minority members of the Banking Committee are cosponsors, and we have cleared this via the hotline with all offices of the minority, so we are prepared to proceed.

Mr. GARN. I thank the Senator from California.

I add, since my opening remarks, that we have had several additional Senators who desire to cosponsor the resolution. They are: Mr. Dole, Mr. Melcher, Mr. Exon, Mr. Gorton, Mr. Huddleston, Mr. Cohen, Mr. Levin, Mr. Warner, and Mr. Robert C. Byrd.

Mr. President, I ask unanimous consent that the concurrent resolution be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROMPT ACTION NEEDED ON DEPOSIT INSURANCE

Mr. SASSER. Mr. President, I was very pleased to note the action of the Senate Banking Committee in securing unanimous committee endorsement of a concurrent resolution pledging the full faith and credit of the United States to the commitments of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. The cosponsorship of Senate Concurrent Resolution 72, corresponding to House Concurrent Resolution 290, scheduled to be agreed to by the House tomorrow, will insure that the intent of the concurrent resolution is carried out. That intent is to reassure the American people, large and small depositors alike, that their money is safe in our financial system.

It has been a matter of certainty to those involved in policy and planning in the financial system that insured deposits would be covered by the FDIC/FSLIC and ultimately the U.S. Treasury if necessary.

But recent reports in the news media about the troubles encountered by U.S. savings and loans, coming on top of 2 years of worsening economic news, have created a level of anxiety among the public about the safety of their deposit accounts.

This anxiety, if allowed to grow unchecked, could lead to the kind of fears that encourage depositors to withdraw their funds—thereby creating even more dislocations in our fragile economy, leaving less capital available for critically-needed development and business expansion. If the drain from depository institutions accelerated to a sufficient degree, it would also cost U.S. taxpayers in direct contributions to the insurance funds from the Treasury.

In an effort to head off this trend before it gained any more credence among the American public, I, along with 16 of my colleagues submitted Senate Concurrent Resolution 70 on March 16. In essence, that concurrent resolution provides the same assurances as the House and Senate Banking Committee versions under consideration. I am pleased to join with my colleagues from the Banking Committee in cosponsoring Senate Concurrent Resolution 72 in a show of unanimity on this vital issue, and I would also note the indorsement of the cosponsors of Senate Concurrent Resolution 70 of the Banking Committees' version.

It is my hope and belief that the concurrent resolutions to be agreed to by the House and Senate this week will have the necessary effect of calming any fears among the public regarding the safety of their money in the Nation's depository institutions. And I would again compliment Banking Chairman GARN on the speed and thoroughness of his leadership in bringing this concurrent resolution before the Senate.

Mr. President, I ask unanimous consent that the Senator from Kentucky (Mr. FORD) be listed as a cosponsor of Senate Concurrent Resolution 70.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I further state that I particularly appreciate the support of Senator HEINZ from the Banking Committee who was very helpful in cooperating and in getting this concurrent resolution ready to go to the Senate floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized.

INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

The Senate continued with the consideration of the bill (S. 391).

REAFFIRMATION OF U.S. POLICY TOWARD CUBA

Mr. SYMMS. Mr. President, it was my intention to offer an amendment to this legislation which deals with the critically dangerous situation we have developing in the Caribbean. After careful consideration of the importance of the Intelligence Identities Protection bill, S. 391, I have decided not to offer my amendment today on this legislation. I have deferred offering my amendment because I do feel that this is a very, very important piece of legislation that is long overdue, that is certainly needed by the intelligence community in the United States.

I would like to announce to the Senate, however, that it is my strong intention to seek a vote within the next couple of weeks on the floor of the Senate on the amendment that I was planning to attach to the agent identities bill. I will, just for the information of the Senate, point out that this resolution that I introduced, Joint Resolution 158, on March 4, 1982, has 14 cosponsors, including the majority leader of the Senate. The other 13 cosponsors are as follows: Senators HELMS, DENTON, EAST, MATTINGLY, HAYAKAWA, GOLDWATER, WARNER, THURMOND, MCCLURE, KASTEN, TOWER, GARN, and myself.

The original Joint Resolution 230 passed the House and the Senate with overwhelming bipartisan majorities in September of 1962. I will be offering it either in the form of an amendment on pending legislation that will come before this body in the near future or as a standing up or down resolution if an agreement can be reached between the majority and the minority to bring it before the Senate soon for a vote.

There are several important aspects of this amendment. First, and most significantly, it reaffirms the law of the land on American policy toward Cuba, as embodied in the Senate Joint Resolution 230 passed overwhelmingly by bipartisan majorities of both Houses in September 1962. It is Public Law 87-773 (76 Stat. 697). Second, the amendment reaffirms the Monroe Doctrine first announced in 1823, and the Rio Treaty of 1947. Third, the amendment has several policy thrusts:

It expresses the determination of the United States to prevent, by force if necessary, the Soviet-backed Communist regime in Cuba from engaging in aggressive or subversive activities in any part of the Western Hemisphere;

It expresses American determination to prevent the Soviets from establishing a military base in Cuba;

It states American support for the freedom and self-determination of the Cuban people.

The amendment is fully consistent with and supportive of President Reagan's Caribbean policy announced on February 24, 1982.

Mr. President, I would like to take this opportunity to make some comments on my amendments before we vote on S. 391. It was highly appropriate and germane that I was considering offering an amendment to the National Security Act of 1947, as will be seen.

First, Mr. President, I would like to reiterate the most significant Soviet activities going on now in Cuba. General Jones, our current Chairman of the Joint Chiefs of Staff, has joined me and Representative JACK KEMP, of New York, in accusing the Soviets of clear-cut violations of the Kennedy-Khrushchev agreement of 1962. The Soviet acts which violate the agreement according to numerous press reports over the years, are as follows:

The Soviet strategic submarine base built at Cienfuegos, complete with a nuclear warhead handling facility.

The visits of Soviet *Golf* and *Echo* class submarines to Cienfuegos, carrying strategic nuclear warhead-equipped, long-range missiles.

The Soviet TU-95 Bear heavy bombers, capable of carrying nuclear bombs or nuclear air-to-surface missiles, which regularly fly to Cuba.

The 66,000 tons of Soviet military equipment shipped to Cuba during 1981, three times more than in 1962.

The nuclear-missile-equipped Soviet naval task force tours of the Caribbean in 1981, threatening vital oil fields.

The 40 nuclear delivery capable Mig-23/27 fighter-bombers in Cuba.

The Soviet combat bridage in Cuba.

Mr. President, it is important to have available the Kennedy-Khrushchev agreement of 1962, not only for our colleagues but also for the public. Accordingly, I have made the full declassified text of the Kennedy-Khrushchev agreement available. Even a cursory comparison of the Kennedy-Khrushchev agreement and the Soviet actions reported in the press, that I have noted, shows how flagrantly that agreement is being violated.

I would add, Mr. President, that our President now faces a very difficult problem. What faces the Commander-in-Chief, is the fact that in the soft underbelly of the United States, the Caribbean basin, Fidel Castro has become a real cancer clearly threatening American security. We must do everything in our power as Senators to support the President in this hour of grave danger to our national security. If our troops are ever committed to thwarting Communist aggression and subversion in the Western Hemisphere, we must back them to the hilt.

Mr. President, other top Reagan administration officials, besides Joint Chiefs Chairman General Jones, have charged the Soviets with violating the Kennedy-Khrushchev agreement. The Director of the CIA, Mr. William Casey, said the following in an interview with U.S. News & World Report:

> QUESTION. Does what is happening now in Cuba violate the 1962 Kennedy-Khrushchev agreement ending the missile crisis?
>
> Answer by CIA Director CASEY. Oh sure it does, because the 1962 agreement said the Soviets would send no offensive weapons, and it also said there would be no export of revolution from Cuba. The agreement has been violated for 20 years.

Mr. President, I think it is also useful to cite exactly what JCS Chairman General Jones actually said on the Soviet violations of the Kennedy-Khrushchev agreement of 1962; Congressman JACK KEMP asked General Jones the following question on March 4, 1981, in open hearings before the House Budget Committee:

> Congressman KEMP. You talked about the global threat, General Jones. I wanted to ask you, is it not true that those Mig-23 jets on the docks of Cuba, and with new helicopters in Cuba, and a massive infusion of military equipment by the Soviets into Cuba, that there is a de facto, if not a de jure violation by the Soviet Union of understandings that this country has (had) with them.
>
> General JONES answered. We interpret it (Soviet actions in Cuba) as a violation. In my judgment, they (the Soviets) have gone beyond the 1962 accords and have gone beyond clearly the Monroe Doctrine (in) Central America. They (the Soviets) are now the dominant military power in the Car- ibbean by a wide, wide margin. They (the Soviets) are building up Nicaraguans to be the dominant military power in Central America.

Mr. President, I would also like to mention a colloquy between my colleague, Senator DENTON, and Under Secretary of Defense for Policy, Dr. Fred Ikle, on March 11, 1981. At that time, Under Secretary Ikle appeared in effect to confirm the New York Post headline of March 11, 1982, "Nuke Bases in Cuba." Moreover, Ikle stated that the 1962 Kennedy-Khrushchev agreement had been eroded away to nothing by Soviet actions.

Senator DENTON asked Under Secretary Ikle the following on March 11, 1982:

> There is a headline in the New York Post, March 11, 1982: "Nuke Bases in Cuba, Sites Ready to Launch Soviet Atom Subs, War Planes, Bigger Threat to United States Than the 1962 Missile Crisis." If in fact these press reports are accurate—and we have other reasons to believe that they are—in your opinion, have the Soviets engaged in a clearcut violation of the Kennedy-Khrushchev agreement of 1962?
>
> Secretary IKLE. There are two observations to be made. One, in direct answer to your question, that agreement has been constantly eroded so that there is very little left of it, indeed if there is anything left. Secondly, it is really not an actual agreement; it is a juxtaposition of unilateral positions, and one of the conditions, the verification condition of President Kennedy, was never fulfilled.
>
> So in that sense their part of the bargain at the very outset was not completed. But even apart from that, what remained of their promises, as I said, has been constantly eroded.

Mr. President, on Sunday, March 14, Congressman ROBERT DORNAN, of California, was interviewed on NBC's Meet the Press program. Congressman DORNAN cited new Soviet submarine pens being built at Cienfuegos in Cuba, and Soviet Mig-27 nuclear-capable fighter-bombers being deployed in Cuba. Representative DORNAN has therefore joined JACK KEMP, General Jones, CIA Director Casey, Under Secretary Ikle, and myself in accusing the Soviets of violating the Kennedy-Khrushchev agreement of 1962.

Before I go into the specific aspects of the Kennedy-Khrushchev agreement that are being violated, I would like to show you this copy of the New York Post. As I mentioned, the headline and feature story "Nuke Bases in Cuba" was in effect confirmed as accurate by Under Secretary Ikle. I would also like to make my colleagues aware of several other Soviet actions in Cuba which are largely unknown but which further violate the Kennedy-Khrushchev agreement:

First, there are pictures in both Cuban and Miami, Fla., newspapers of Soviet long-range, nuclear warhead equipped, surface-to-surface cruise missiles being paraded in Havana in 1964, 1965, and 1966. Two types of long-range cruise missiles were shown, one naval, called the SS-N-12 Shaddock, and the other, the J-3, launched from truck trailers. Both of these types of missiles have a range estimated to be greater than 1,450 nautical miles, which is comparable to the Soviet SS-4 Sandal, medium range ballistic missiles deployed to Cuba in 1962.

Second, there are several authoritative published reports that not all of the Soviet SS-4 MRBM's were withdrawn in 1961. At that time the Soviets publicly admitted having 42 SS-4 MRBM's in Cuba, and pledged to withdraw them all. But according to various authoritative published reports, only 38 of the 42 Soviet SS-4 MRBM's were actually observed by U.S. intelligence aerial reconnaissance photography as actually being withdrawn. Where are the remaining four MRBM's? In some of the many Cuban caves?

Third, according to page 20553 of the CONGRESSIONAL RECORD of September 20, 1962, the day the original Senate Joint Resolution 230 was so overwhelmingly approved, the Soviets had 75 Mig jet fighters in Cuba, and 250 tanks. But according to the testimony of Under Secretary Ikle on March 11, 1982, there are now over 200 Soviet Mig fighters and over 650 Soviet tanks in Cuba. The number of Soviet Mig's in Cuba has thus almost tripled, and the number of Soviet tanks in Cuba has likewise almost tripled. Moreover, the Soviets have given the Cuban Navy two *Foxtrot* attack submarines, which are offensive weapons capable of interdicting vital U.S. Shipping lanes throughout the Caribbean.

Fourth, in 1966 there were photographs of Soviet Frog surface-to-surface nuclear-warhead equipped tactical missiles being paraded in Havana. These missiles have short range, but their range is sufficient to attack targets in the United States, and they too have never been withdrawn.

Mr. President, the above evidence can be added to the evidence I cited earlier of Soviet violation of the Kennedy-Khrushchev agreements. I would now like to cite the relevant portions of this agreement, which are being violated:

> . . . work to cease on offensive missile bases in Cuba and for all weapons systems in Cuba capable of offensive use to be rendered inoperable . . . you (Khrushchev) would agree to remove these weapons systems from Cuba under appropriate United Nations supervision, and undertake . . . to halt the further introduction of such weapons into Cuba . . . Khrushchev stated that "We—the Soviets—have instructed our officers . . . to take the necessary measures to stop the construction of the facilities indicated—missile sites—and to dismantle and return them to the Soviet Union" "I (Kennedy) consider my letter to you as firm understandings on the part of both our governments which should be promptly carried out."

Mr. President, in conclusion, I would like to point out that last weekend, the Tidewater Conference of Republican leaders unanimously passed a resolution which explicitly left open the option for the United States to use force if our interests are threatened in Latin America. This resolution is very similar to the wording of the amendment now being offered. Second, I ask for bipartisan support for my amendment. An identical amendment was passed overwhelmingly on September 30, 1962, by a bipartisan vote of 86 to 1. The only dissent was from a Senator who thought the resolution was too weak. He wanted an immediate quarantine and blockade of Cuba. Our revered, late President Kennedy signed the joint resolution into law on October 3, 1962.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FLEXITIME

Mr. STEVENS. Mr. President, I have a bill that I would like to introduce and have it held at the desk for the purpose of considering it tomorrow following the action on the agent identities bill and on the Libyan oil resolution. It is my understanding that it would require unanimous consent to have this bill taken up. Incidentally, it is a bill that would be cosponsored by the distinguished Senator in the chair at the present time.

The PRESIDING OFFICER. For the record, that is the Senator from Virginia.

Mr. STEVENS. The Chair is correct.

Mr. FORD. Which Senator from Virginia is that?

Mr. STEVENS. The Senator from Virginia (Mr. WARNER).

We have worked on this bill and are prepared to offer it to try to deal with the problem that the flexitime and compressed schedule authorization in Public Law 95-390 expires on March 28. It has been a long, hard road to get to this point where we do have a bill which I believe I can state has no opposition, so far as the bill itself is concerned, although not everyone is entirely happy with it.

The Senator from Colorado is here and he has indicated in discussion a time agreement to take this bill up. I am prepared to ask for a time agreement to take this up following the consideration of the Libyan resolution tomorrow, with a 1-hour time frame for its consideration to be equally divided in the usual form.

Let me inquire of my friend from Colorado. Would he have an amendment to be covered by such a time agreement also?

Mr. ARMSTRONG. Mr. President, if the Senator will yield, before responding directly to his question I would like to compliment the Senator from Alaska for so skillfully bringing this matter to a conclusion, or at least to a near conclusion.

The notion of flexitime which has been tested during the last 3 years by Federal employees has proven to be, in many instances, a very popular and worthwhile program. Flexitime is not for everybody, it is not for every agency, it is not the kind of thing that is applicable in every circumstance. But the general response of places where it has been tried, including in my own State of Colorado, indicates that it has been a successful experience.

Nonetheless, there was some opposition to the idea of simply extending the flexitime concept and, as I understand it, and the Senator can correct me if I am mistaken, it is my understanding that it will expire in a few days unless further action has been taken.

I am aware that behind the scenes the Senator from Alaska has very skillfully brought together different interests and people who have concerns about this legislation, and has put together a package which is broadly acceptable not only within this Chamber but which is believed to be acceptable in the other body and in the White House and, for that matter, which will serve the needs of employees and the general public. So I congratulate him for that.

I am somewhat in doubt, however, about the need for a time agreement. I do have some amendments to offer, and I understand there may be some other Senators, at least one, who wish to offer amendments. But I can assure the Senator from Alaska that there is no intent on my part, nor so far as I know the intention of any other Senator, to delay the passage of this bill, to bring in extraneous issues, or in any way to slow down the consideration of this matter, which is very timely and very worthy of consideration.

I would suggest that when the proper moment arrives I would encourage the Senator simply to ask unanimous consent to proceed to the consideration of the bill in the normal course. Certainly, the Senator from Colorado will offer no objection, if that is the case.

Mr. STEVENS. I might say to my friend that it is my understanding that in order to make this bill the subject of consideration by the Senate it would take unanimous consent.

Mr. ARMSTRONG. I will not object, I say to the Senator.

Mr. STEVENS. It is my understanding, however, that there will be an objection from the distinguished acting minority leader on behalf of at least one other Senator—and now I am informed several Senators——

Mr. ARMSTRONG. Would the Senator yield to allow me to inquire what is the objection? Perhaps they know something about this legislation that I do not know. My impression is that this is worthy legislation and that there is general agreement that the flexitime matter has been successful. Why would Senators object?

Mr. STEVENS. Mr. President, it is my understanding that there would be an objection if an attempt was made to offer an amendment which dealt with flexitime or compressed schedules contrary to the Walsh-Healy Act, and that that was the nature of the amendment the Senator from Colorado intended to offer.

Mr. ARMSTRONG. Mr. President, if the Senator will yield further, I would like to make two observations in response to that.

First, the whole idea of requiring as a condition of preclearance of legislation that Senators forfeit their right to offer amendments on any subject just does not go down well with me. I am one of those who thinks we are here to legislate, and I am a legislator. I am here to consider legislation and, where I think it is appropriate, to offer amendments.

I would be hopeful that it is not the intention of the distingushed acting minority leader to tell us that amendments will simply be ruled out, that for some reason we cannot even get consent to take up bills if Senators do not agree in advance to forfeit their right to offer amendments. I am sure that is not his intention.

Mr. FORD. Will the Senator yield?

Mr. ARMSTRONG. Yes.

Mr. FORD. Mr. President, I am not objecting to the Senator's right, I am objecting to a time certain, as he is objecting. I have a right to object, as he does. I am not objecting to keep the Senator from offering amendments. I am going to object to the bill, for any time certain for any amendments. I am not sure that it has gone the route of the committee. I am not sure that the Senator's amendment is germane. I am just here trying to protect the rights of other Senators, as well as I am trying to protect his right.

I do not want to be placed in the posture of trying to preclude the Senator's offering an amendment. I say to the Senator from Colorado that he gave eloquent words to the ability of the Senator from Alaska and I agree with those. What they have put together is obviously reasonably acceptable on our side and probably, if we could just take the bill and move with that, without any other amendments, in the view of this Senator, it could probably fly tonight. Otherwise, there will be inaction on this side.

Mr. STEVENS. Mr. President, may I say that the amendment of the Senator from Colorado is not within the jurisdiction of the subcommittee that I chair. Therefore, it could not have been considered by our committee as it was brought to the floor. I am sure the Senator from Colorado realized that. It is entirely within his province and within his right to offer such an amendment on the floor but it does give us the added problem of securing clearance for a unanimous-consent request to set aside the business that is already ordered by the Senate in order to consider this.

As I have stated, it is my understanding that it is on that basis that the Senator from Kentucky has been asked by Senators to object if there is an attempt to take up the bill, on the basis that amendments that would not be within the jurisdiction of our subcommittee would be considered in connection with a limited timeframe for consideration of this bill on an emergency basis.

Mr. ARMSTRONG. Mr. President, if the Senator will yield, I think there is perhaps a misunderstanding, because that is not what the distinguished acting Democratic leader has said. On the contrary, he has said that he would not object, if I have understood him correctly, to a unanimous-consent request to proceed to consideration of the bill; that only if the request incorporated a limitation on time for debate of any amendments that the Senator from Colorado or others might offer would he object. So, at least as I understood him, he was not attempting to preclude my right to offer amendments to this legislation.

Mr. STEVENS. Mr. President, I do not know whether the Senator from Kentucky wants to respond, but I will say in my capacity as acting majority leader at this time we do not have the authority, we have not cleared on our side the setting aside of the legislation which is already scheduled to follow flexitime and the Libyan resolution, namely the regulatory reform legislation, except for the consideration of unanimous-consent items, and a 1-hour time frame for debate on flexitime is considered to be a unanimous-consent item. I leave it to the Senator from Kentucky to respond.

I am not authorized to make the request to set aside the existing schedule and take up a flexitime bill that I might introduce, or be prepared to introduce, without a time agreement. The Senator from Kentucky is prepared to object to a time agreement unless it contains, as I understand it, provisions which assure that the Walsh-Healy Act amendment not be considered.

Mr. ARMSTRONG. That may be true, Mr. President, but that is not what the Senator from Kentucky has said. I am hopeful that he will not make such a request. I understand that the Senator from Kentucky is willing to have the bill come up and that he has no instructions to object to the offering of amendments, only to a limitation on time for debate of the amendments.

I want to make it clear, I have no intention whatsoever of taking any lengthy period of time for the debate of my amendment. I can understand why Senators on his side of the aisle might object to a time agreement which would preclude their right to debate, at whatever length seemed fitting to them, the bill or the amendments. I have no objection to that.

But I want to make it clear, first, Mr. President, that I do not object to the consideration of the bill; I would not expect to speak at any great length. The amendment which I have in mind and which I understand would enjoy the support of other Senators would not, in my opinion, be inconsistent with the supporters of the bill and I am hopeful that we can work this out and tomorrow ask for unanimous consent to take up the bill and let nature take its course thereafter.

Aside from this particular bill and my particular amendment, the whole idea of Senators having to forfeit the right to consider an amendment in order to get bills considered seems to be a technique that could be used sparingly and I am hopeful we can work this out overnight with the majority leader and work out a time to take this up. For my part, I am eager to cooperate and move quickly.

Mr. STEVENS. Mr. President, I do appreciate that offer on behalf of the Senator from Colorado. I do indicate, however, that in my discussion with the majority leader, I indicated to him that I would not bring this up nor would I bring it to the desk unless we had a time agreement that would assure that it would be considered and passed tomorrow. I do not have that ability, apparently, to get such a time agreement at this time.

I leave the Senate on notice that if we can work out a time agreement for the consideration of the bill, with or without the amendment that the Senator from Colorado may wish to offer, we will make the request tomorrow.

I can say to the Senate that unless the Senate passes the flexitime bill tomorrow, the House of Representatives will not be able to complete its consideration prior to March 28 and flexitime and compressed work schedules on behalf of Federal employees will terminate as of that date. As a matter of fact, we have been informed that some of the Federal agencies plan to terminate their program on March 22, which is necessary in order to coordinate the termination of these schedules with the beginning of the new pay period, because a portion of the pay period would be after March 28, a portion would be before. They would have to put the employees on notice that as of March 22, they can no longer have the compressed work schedules or flexitime that is permitted by the current law. So tomorrow is the last day that the distinguished Senator from Virginia and I may offer this bill.

As I have said, it is reluctantly acceptable, as I understand it, tonight to the parties involved. We owe a great deal to my very capable assistant on our subcommittee, Jamie Cowen, who has worked with our staff and the staff of the House and with Dr. Devine of the Office of Personnel Management.

Representative FERRARO, as the Senate knows, attempted to get the rules in the House suspended to have consideration of the bill she introduced and that suspension was denied by the House. So we are faced, Mr. President, with the proposition that unless the Senate initiates a bill that could be acted upon Tuesday next, flexitime and compressed work schedules will no longer be authorized for Federal employees after the 28th and, for some employees, on the 22d.

However, if we initiate the bill and it has passed one House, I believe the action that is scheduled for March 28 could be delayed.

I can only say to my colleagues that I understand their positions. They have every right to take the action that both of them indicated they feel compelled to take. I am not prepared to make the request for a time agreement now, because I must have further conference with the majority leader and, I think, with the minority leader in order to determine what timeframe might be available. But I am confident that the leader will not authorize the setting aside of the schedule that has already been approved by the Senate in order to take up the flexitime legislation without a time agreement.

(Mr. NICKLES assumed the chair.)

Mr. WARNER. Mr. President, will the Senator from Alaska yield?

Mr. FORD. Will the majority leader yield to me to make one short statement?

Mr. STEVENS. Yes.

Mr. FORD. Mr. President, I might say to the distinguished acting majority leader that on this side, we had intended to cooperate as best we can. I understand the problem. He has not been able to get a time agreement which he has said we must have. I am not in the posture to give unanimous-consent agreement because of an amendment that will come, based on the disagreement on our side. So we will, from this point on, be glad to work with our side to see if we can work out or help the Senator get to the position he wants to be in as relates to flexitime and compressed work schedules. We look forward to doing that overnight and probably tomorrow. I had hoped we could work it out here this afternoon, but it is obvious we cannot.

Mr. WARNER. Will the Senator yield?

Mr. STEVENS. I am happy to yield to my distinguished friend.

Mr. WARNER. Mr. President, I am very pleased to be a cosponsor of this flexitime legislation.

The pilot projects developed in many Federal agencies have proved to be cost-effective, have increased productivity, and have increased the level of service furnished to the public.

Senator STEVENS has worked very hard to achieve the agreement of compromise included in this legislation, and he is to be commended.

This bill will allow a continuation of flexible and compressed work schedules in Federal agencies, protecting the rights of all parties, while keeping the best interests of the public.

The executive branch needs this management tool as they strive to provide the best possible service to the taxpayer.

Mr. President, I urge my colleagues to support this legislation.

Mr. President, I bring to the attention of my distinguished colleague from Colorado that, while we respect his position, we seem always to bring Government employees up to the brink of everything—continuing resolutions and now we are at the brink on this resolution. This brinksmanship wears thin from time to time. I hope he might take that into consideration as he evaluates the merits of what has been said here this afternoon.

(Mr. ARMSTRONG addressed the Chair.)

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from Colorado is recognized.

Mr. ARMSTRONG. Mr. President, who has the floor?

Mr. WARNER. I yield the floor to my distingished colleague.

The PRESIDING OFFICER. The acting majority leader has the floor.

Mr. ARMSTRONG. If the acting majority leader will yield to me, I should like to respond to my friend from Virginia in two ways. First of all, I agree that it is unfortunate that we seem to always act at the last minute, and that very often it is in fact the Federal employees who are the sacrificial lambs and who are forced to pay the penalty for the irresponsibility of the Congress. It is unfortunate that in many cases the public is also seriously inconvenienced. What is worse even than the actual inconvenience and the monetary loss and the hardship that is brought down upon the public and the Federal employees is the growing perception that Congress does not know what it is doing, that the only time we can ever get our act together is about 5 minutes before midnight on some day when there is a deadline. I very much regret that.

But I want to make two points. We have had a more extended discussion of this issue than I expected tonight, but since we have, I think we ought to make the whole record clear.

First of all, the Senator from Colorado does not object in any way, shape, or form to the adoption of the bill which is proposed by the Senator from Alaska and the Senator from Virginia. I applaud it. I think it is well advised. In fact, my constituents, including Federal employees, think Federal flexitime is a great idea. So I again compliment them for their leadership in bringing this matter to the attention of the Senate.

I believe the record is pretty clear as to who has been dragging their feet on it and if in fact, I say to the Senator from Virginia, we end up at the brink, I think the Federal employees are going to know that it was not the Senator from Virginia, the Senator from Alaska, nor the Senator from Colorado who put them in this kind of jam; that it is very clear exactly who are the parties in and out of Congress who are responsible for holding flexitime hostage.

Much has been made of an amendment which I may decide to offer, and which in fact I do intend to offer, as if this were some kind of stray cat that had been dragged in across the floor, a completely unrelated issue. All my amendment seeks to do is afford to a group of people in the private sector the same flexible working privilege that we think is good for Federal employees.

Mr. FORD. Will the Senator yield for a question?

Mr. ARMSTRONG. If I may just complete my point, I will be happy to yield.

We are not talking here about some new, untried, novel idea. We are talking about my amendment simply saying that if flexitime is good for Federal employees and good for a large segment of the private sector as well, then that segment of the private sector which is now not permitted to have flexitime ought to have the same thing. I cannot imagine that Senators will be willing to come to the floor and openly in debate say that they want to give to Federal employees a prerogative, a privilege that they are unwilling to permit people in the private sector to have.

In my State, we have labor contracts that have already been negotiated between management and labor organizations representing thousands of workers which incorporate the flexitime principle but which cannot go into effect because of a provision of the Walsh-Healy Act that prevents it. These agreements contemplate that once an amendment such as I am going to propose is adopted, these agreements will automatically go into effect. So I just want my friend from Virginia to know that in Colorado and in other States around the country private workers are being held hostage by the intransigence of Congress if we are unwilling to at least consider this legislation.

I am not asking for any guarantees that my amendment will be adopted. I am not asking anybody to pledge they will vote for it. But I do resist—and I feel in conscience I must resist—any notion that I should not be permitted to offer it.

Finally, let me make this one additional point—that is, that the amendment which I propose to offer is not only solidly based in merit and justice but also has passed the Senate on previous occasion. So this is not a new idea. The Senate has previously considered this matter and has voted to adopt it.

I am confident that when we vote on it again, we will pass it. So what is really at stake is whether we are willing to send it over to the other body. The Senator from Alaska says, "Oh, no, the other body will never take this; they will never consider it."

That is why we have a bicameral system. If it is their judgment that this is not good legislation, let them say so. But I do not think we ought to stand for a procedure in which we are not even permitted to offer amendments in the Senate because somebody over in the other body does not think that is a good practice. So I hope, as both the acting majority leader and the acting minority leader have said, that we will be able to work this out overnight and get on with it.

Again, I pledge that I am not going to take any lengthy time to explain my amendment. The issue is pretty well understood, and in a very few minutes I can present this issue to the Senate, with some confidence that it will be quite a popular amendment.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I appreciate the statement of the Senator from Colorado, and I certainly would not want to imply there is anything improper in his insistence upon his right to offer an amendment or in the Senator from Kentucky, in carrying out his responsibilities, objecting to a time agreement if it includes any ability of the Senator from Colorado to make an offer. I think that the Senator from Colorado is correct, that there will be no problem about taking up the bill, so far as the Senator from Kentucky is concerned, without a time agreement. There is a problem so far as the majority leadership taking up the bill without a time agreement, and I find myself in an unfortunate position of wearing two hats in that regard. I say to the Senator from Colorado that I am not prepared to make the request.

I do intend tomorrow, once again, to see if I can work it out.

I am familiar with the Senator's amendment. I know it has been adopted by the Senate before. But there is a time problem involved in this, so I feel obligated to attempt to get the time agreement, to obtain unanimous consent tomorrow to take it up in some way. I will do that.

I do thank the Senator. He has been very understanding, and my good friend from Virginia and I will see what we can do tomorrow.

I have to say that I really do not have much hope that we will get the time agreement, from the way I read things, unless there is some change of position on one side or the other.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 11 A.M. ON THURSDAY MARCH 18

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. on Thursday, March 18.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS DANFORTH AND KASTEN TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, the following Senators be recognized for not to exceed 15 minutes each for special orders: the Senator from Missouri (Mr. DANFORTH) and the Senator from Wisconsin (Mr. KASTEN).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that following the special orders tomorrow, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

Mr. STEVENS. Mr. President, I ask unanimous consent that following morning business tomorrow, the Senate resume consideration of the pending business, S. 391.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROHIBITION OF LIBYAN OIL IMPORTS

Mr. FORD. Mr. President, I send a resolution to the desk on behalf of Mr. HART, for himself and Messrs. KENNEDY, QUAYLE, MITCHELL, DECONCINI, SASSER, LEAHY, EXON, ROBERT C. BYRD, SARBANES, WEICKER, HEFLIN, HEINZ, and FORD, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 344) supporting the President's decision to prohibit imports of Libyan oil into the United States.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to the consideration of the resolution, which reads as follows:

SENATE RESOLUTION 344

Whereas, the Congress finds it is in the interest of the national security of the United States to combat international terrorism, and

Whereas, the present regime in Libya is aiding and abetting international terrorism, and

Whereas, Libya is able to threaten its neighbors and international order because of the revenues it derives from its oil trade, and

Whereas, the President of the United States, after consultation with Congress and discussions with appropriate foreign governments has decided to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of U.S. origin oil and gas technology and equipment that is not readily available for sources outside the U.S., therefore be it.

Resolved, it is the sense of the Senate that Congress strongly supports the President's decision to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of U.S. origin oil and gas technology and equipment that is not readily available from sources outside the U.S.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on that resolution at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

S. 391

Mr. STEVENS. Mr. President, I ask unanimous consent that any rollcall votes ordered today in connection with S. 391 be postponed to begin back-to-back at 2 p.m. tomorrow, with the first roll call vote to occur in connection with the Bradley amendment No. 1339.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Further, Mr. President, I ask unanimous consent that no additional amendments will be in order to S. 391 tomorrow; that following the final passage of S. 391 or its companion measure, H.R. 4, the Senate proceed to a vote immediately on the Hart resolution as just introduced by the distinguished acting minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 1080

Mr. STEVENS. Mr. President, I ask unanimous consent that following the disposition of S. 391 or its companion measure, H.R. 4, and the Hart resolution dealing with Libyan oil, the Senate proceed to the consideration of S. 1080, the regulatory reform bill. It is my understanding that it does require unanimous consent in order to displace the television resolution. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I do ask that unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 20

Mr. STEVENS. Mr. President, I ask unanimous consent, further, that not earlier than the disposition of S. 1080, or, in any event, not earlier than March 29, 1982, the Senate resume the consideration of Senate Resolution 20 when the majority leader, after consultation with the minority leader, so indicates.

Mr. FORD. Mr. President, reserving the right to object—and I do not believe I will object—in order to be sure that I am clear for my side, in the consideration of S. 1080 we hope there will be no votes on Friday with respect to regulatory reform.

Mr. STEVENS. It is my understanding that the majority leader has so indicated, and I state that that is the policy of the majority leadership, that there will be no votes on S. 1080, the regulatory reform bill, on Friday.

Mr. FORD. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I further ask unanimous consent, with respect to the measures on which we have just had unanimous consent, that no call for the regular order serve to take the measure off the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I wish to amend one of the unanimous-consent requests. When I referred to March 29 in connection with the disposition of S. 1080, I intended to state the time of 1 p.m. on March 29.

So, I ask unanimous consent that not earlier than the disposition of S. 1080, and, in any event, not earlier than 1 p.m. on March 29, 1982, the Senate resume consideration of Senate Resolution 20 when the majority leader, after consultation with the minority leader, so indicates. It will be not earlier than 1 p.m. on March 29.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

SPAIN BELONGS IN NATO

Mr. HARRY F. BYRD, JR. Mr. President, at long last Spain will become a member of the North Atlantic Treaty Organization.

The Senate yesterday gave its approval.

While other nations likewise must approve, it is obvious that Spain will shortly take its rightful place in an alliance of Western nations seeking to protect the freedom of Western Europe.

My support for Spanish membership in NATO goes back more than a decade. In 1971, during a trip to Spain, North Africa and NATO headquarters in Brussels, Belgium, I became particularly aware of the importance of including Spain in the Western Alliance.

Its strategic location, its relatively strong military force and strong anti-Communist commitment all argued for Spanish integration into NATO.

Returning to the United States, I reported my findings to the Senate in a speech on May 6, 1971, which began as follows:

> Mr. President, it is my view that the time has come to invite Spain to become a member of the North Atlantic Treaty Organization.

Five years later, after the death of Generalissimo Francisco Franco, and after I had further opportunity to study the strategic situation in the Mediterranean and Eastern Atlantic I spoke again in the Senate, urging that our Western European allies accept Spain as a full partner.

So today I rise again to say that I am delighted that this is now coming to pass.

I ask unanimous consent that the texts of my speeches on May 6, 1971 and April 27, 1976 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Congressional Record, May 6, 1971]

SPAIN SHOULD BECOME A MEMBER OF NATO

Mr. BYRD of Virginia. Mr. President, it is my view that the time has come to invite Spain to become a member of the North Atlantic Treaty Organization.

During the Easter recess of the Congress, I visited Spain, North Africa, and NATO headquarters at Brussels in an effort to assess two things:

The extent and significance of Soviet penetration of the Mediterranean region, particularly North Africa; and

The situation concerning the commitments of the United States and our partners in the North Atlantic Treaty Organization in Europe.

I came away deeply impressed with the strategic importance of Spain in the defense of Europe and the Mediterranean.

Spain always has been of great importance in European defense plans. The United States recognized this as early as 1951, when diplomatic relations between this country and Spain were renewed after the interlude of World War II and the immediate postwar period.

In 1953 the United States negotiated its first base agreement with the Spanish Government, which has been twice extended, with modifications.

Today the Spanish bases have greater importance than ever before.

One reason why this is so is the extensive penetration of the Middle East, the Mediterranean, and North Africa by the Soviet Union. During my visit to that region, it was driven home to me that the Russians are seeking to become the dominant power in the entire Mediterranean area.

Not only do the Soviets maintain a sizable fleet in the Mediterranean waters, but they have become the major force supporting the Arab Nations in their continuing struggle against Israel.

Today Egypt has become virtually a dependency of the Soviet Union. And just this month an Arab federation was formed.

Actually, the five nations on the African shore of the Mediterranean, only Tunisia and Morocco are friendly to the West. Algeria, while not yet in the Soviet orbit, is unfriendly to the Western allies and represents a fertile field for Russian penetration.

After a revolution deposed the former Government of Libya, the United States was forced to close down the operations at Wheelus Air Base located in that country. These operations were moved to Zaragoza, one of two modern U.S. air bases in Spain. A third air base is on a standby basis in Spain.

The U.S. naval base at Rota, on the Spanish Atlantic coast near Gibraltar, is extremely important to the operations of the U.S. 6th Fleet in the Mediterranean Sea.

Given the present political and strategic situation in the Mediterranean region. It is clear that Spain is of critical importance to the south flank of the NATO alliance.

The exclusion of Spain from NATO results primarly from the opposition of powerful socialist parties in several European nations, notably Norway, Denmark, the Netherlands, and Belgium.

Much of the opposition to Spanish entry into NATO can be traced to the role of Spain in the early years of World War II.

It seems to me that it is time for such matters to be forgotten. We should bear in mind that two of this Nation's strongest allies are Japan and Germany, the nations who were the chief opponents of the Allies in World War II.

Portugal is already a member of NATO. Inclusion of Spain in the alliance would extend NATO coverage across the Iberian Peninsula. This in turn would greatly strengthen the position of NATO both in Europe and in the Mediterranean.

The peacetime army of Spain consists of five divisions and 16 brigades. The mobilization potential of this army is considered to be 40 divisions.

Spain also has a navy of 80 ships and an air force of nearly 200 modern aircraft. Both the navy and the air force could be more than doubled in time of war.

In overall military power, only two of our NATO partners—West Germany and Turkey—clearly are stronger than Spain. Spanish membership in NATO certainly would represent a desirable strengthening of the alliance.

I think it would be a step in the direction of realism if Spain were to be admitted to NATO. Difference of political ideology within member countries of the alliance have not destroyed it in the past, and there is no reason to suppose that the addition of Spain to the ranks of the allies would in any way weaken it.

We should bear in mind that the Soviet Union is never reluctant to cooperate with other nations whose governments are ideologically opposed to communism.

Realism suggests that the members of NATO should not attempt to insist that all members of the alliance be models of democracy.

Addition of Spain to NATO could help reduce the burden on the United States of maintaining a huge contingent of forces in Europe. Today the United States has 300,000 servicemen and 200,000 dependents in the European area.

There has been a great deal of discussion in this country as to whether the United States should maintain its present level of troop commitments in Europe. In the Senate itself, Senator Mansfield has sponsored a resolution calling for a reduction in the U.S. troops level in Europe.

Addition of Spanish forces to NATO would help to make feasible a reduction in the American burden and would make a solid contribution to the strength of the alliance.

Spain is a member of the West European family of nations. She belongs in the ranks of the alliance which is the principal instrument of West European security.

[From the CONGRESSIONAL RECORD, Apr. 27, 1976]

SPAIN BELONGS IN NATO

Mr. HARRY F. BYRD, JR. Mr. President, the death of Gen. Francisco Franco last year ended his nearly 40-year reign over Spain.

Franco's successor, Juan Carlos de Borbon, was inaugurated as King of Spain, only 2 days after Franco's death, on November 22 of last year.

The transition in Spain's political leadership has to date not produced any major outbursts of violence, and the fear that Spain would follow the tumultuous and uncertain path of Portugal has not yet been realized.

In the 5 months that King Juan Carlos has been in power he has shown strong leadership and sensitivity in meeting the problems confronting his country.

He defused the political impasse between Spain and Morocco over the Spanish Sahara through personal diplomacy, and he has also undertaken steps to meet with the Catalans and Basques, who are seeking greater autonomy from the central government for their respective regions.

Early this year the new Spanish Government also announced its intent to develop a program of domestic reform, which will include among other things, the creation of a two-house parliament and a modification of the antiterrorists decree.

Both of these proposals are seen as a major shift in policy, and the creation of a two-house parliament, in particular, should provide the Spanish people with more direct and responsive representation in their Government.

This is not to say, however, that it will provide a democracy such as we have in the United States.

But I have had the opportunity to discuss the current political situation in Spain with the distinguished Senator from Rhode Island (Mr. Pell), who is a member of the Foreign Relations Committee, and who recently had the opportunity to visit Spain.

Senator Pell was most impressed by the steps taken by King Juan Carlos, to ease the internal political restrictions. These steps have included, among others, the release of political prisoners, open political activity, and freedom of the press.

Senator Pell feels, as I do, that the United States, and the free world, now have the opportunity to encourage this progress in Spain.

The Senator from Missouri (Mr. Eagleton) also made an excellent speech in the Senate on February 5 concerning the situation in Spain.

In this context, it deserves to be emphasized that Spain's clandestine, but well-organized, Communist Party has not been able to exploit the political situation, as its Portuguese counterpart did in neighboring Portugal. Nevertheless, Spain's new young King faces numerous domestic and international problems, and Spain's extremist elements appear ready to challenge his authority should a political vacuum develop, or should a political or economic crises arise.

Undoubtedly many of these elements will promote dissidence in the hope of undermining the new Government. But with support and encouragement from the United States, and our European allies, the new Government of Spain will be able to respond to the challenges it will encounter, and it will be able to undertake the reform of its own institutions, in a responsible and enlightened way, without fear of intrusion from outside powers.

The United States and Spain have, in fact, just concluded a new defense agreement. This agreement is the latest in a series of defense agreements between the two countries which date back to 1953. At that time the United States recognized the strategic importance of Spain in the defense of Europe and the Mediterranean.

Indeed, Spain should have been permitted to join the NATO alliance when it was formed. But opposition from some of our European allies prevented Spain from being admitted to NATO.

At the outset much of the opposition to Spain's entry into NATO could be traced to the role of Spain in the early years of World War II. Later the opposition continued more out of opposition to the nature of the Franco regime.

In 1971, I urged that Spain be admitted to NATO, but strong opposition to Spain entering the alliance continued from some of our other European allies.

The strategic importance of Spain for Europe and the Mediterranean, particularly its importance to the southern flank of the NATO alliance, has, however, not diminished over the years. On the contrary, given the present political and strategic situation in the Mediterranean region, Spain is of more importance to the security of the free world than ever before.

The southern flank of the NATO alliance is in precarious balance.

Two traditional U.S. allies and friends Greece and Turkey, find themselves embattled over Cyprus, with both threatening to decrease or eliminate their NATO roles unless a mutually satisfactory solution to the Cyprus problem can be found.

The political revolution in Portugal in 1974 also brought domestic disorder and government instability to that NATO ally. Vast Soviet expenditures supported the activities of the Portuguese Communist Party, as it sought to circumvent constitutional procedures, overrule the outcome of popular elections through its organized cadres, and sympathetic elements in the military forces, and assume government control, contrary to the popular will.

While the pendulum now seems to have swung back in favor of the moderate forces in Portugal, the outcome is far from certain, and its role in NATO remains in question.

The political and economic chaos in Italy, which threatens to bring formal Communist participation to the national government, is illustrative of the internal weakness and potential difficulties facing NATO in all of the countries which constitute the alliance's southern flank.

But while the publicity surrounding detente may have dimmed the popular awareness of existing military and political threats to the free world, which in turn has contributed to an erosion in the western alliance system. Communist Russia has no such problems.

The Warsaw Pact's land forces represent one of the most awesome military machines ever created, and Russia is simultaneously seeking dominance over Europe's waters.

The day has long gone since the U.S. 6th Fleet sailed the Mediterranean Sea unchallenged. The Soviets now maintain a sizeable fleet in the Mediterranean, and they seek to become the dominant power in that region.

So Spain, which has always played an important role in the formulation of European defense plans, assumes ever-increasing importance for West European security.

Through bilateral agreements, the United States has had base rights in Spain, the most important of which is Rota. Located near the strategic Atlantic approaches to the Mediterranean, Rota serves as a base for the U.S. naval fleet, a communications center, and as a monitoring center for Russian naval activities.

The United States has now signed a new 5-year agreement with Spain for continuing these base rights, but the two governments have also agreed to a "Treaty of Friendship and Cooperation," which must be approved by two-thirds of the U.S. Senate.

The new treaty between Spain and the United States illustrates the importance the United States attaches to the stability and orderly development of that country, and it represents an American commitment of support.

But I think the time has come to go even further.

Spain belongs in NATO, and it is my view that now is the time for the United States to spearhead a drive for Spain to become a member of that defense organization, in cooperation with our European allies.

At a time when the resolve of the free world is being questioned, admitting Spain into the North Atlantic Treaty Organization would help restore some of the declining credibility confronting the alliance today.

With Spain in the NATO alliance the strategic security of Europe would be strengthened, and that country's military forces would also add meaningfully to the defense capability and readiness of NATO's conventional forces.

Spain has a navy of approximately 90 ships, including 10 submarines, 1 helicopter carrier, 1 cruiser, 13 destroyers, as well as a number of mine sweepers, torpedo boats, patrol craft, landing ships, and frigates.

The air force consists of 200 combat aircraft, and the peacetime army of Spain consists of 5 divisions, and 16 brigades.

The mobilization potential of this army is considered to be 40 divisions.

Spain has more than 300,000 men under arms, of which 213,400 are conscripts, and in 1974 that country spent $1.43 billion on defense out of a GNP of approximately $65 billion.

In overall military power, only two of our continental NATO partners—West Germany and Turkey—clearly are stronger than Spain.

Spain, then, could make a solid contribution to the NATO alliance, and would represent a desirable strengthening of the alliance.

As a member of the West Europe family of nations, Spain belongs in the ranks of the alliance which is the principal instrument of West European security. And on time could be more propitious than now.

As Spain enters a new stage in her history she should do so with the full support of the countries that constitute the North Atlantic Treaty Organization.

SENATOR TOWER ON DEFENSE SPENDING AND MILITARY READINESS

Mr. COHEN. Mr. President, probably no Member of this body has a greater understanding of our military strengths and needs or a greater commitment to a strong defense capability than the distinguished chairman of the Armed Services Committee, JOHN TOWER.

Senator TOWER has been steadfast and strong in his efforts to insure that our Nation has the military resources it requires to maintain peace throughout the world and to withstand the Soviet threat. He has shown true leadership in providing support for necessary programs and challenging those for which the Defense Department has not made a sufficiently strong case.

Those of us concerned about the state of the Nation's defense look to Chairman TOWER for guidance on how to meet our military obligations as efficiently and effectively as possible. In this time of fiscal austerity, when we face difficult spending choices, JOHN TOWER's guidance and advice are especially valuable.

His speech given March 13 at the commissioning ceremony for the U.S.S. *Carl Vinson* bears special significance in light of today's difficult budget debate. It clearly lays out the challenge before us and emphasizes the importance of not accepting quick fixes or simplistic solutions as ways of reducing defense spending are sought.

As Senator TOWER said, we must not allow ourselves to support any alternative which would hurt readiness, sustainability, or force modernization. If reductions are forced upon us, he said, the option of cutting force structure is the one he will pursue.

Chairman TOWER stresses this point:

> I would much prefer to have a smaller and yet well-equipped and well-trained military force than to send our boys to the field with obsolete weaponry because Congress failed to modernize our military forces properly. If Congress insists on these defense cuts, Congress must be able to identify which commitments we will no longer be able to honor. We cannot have it both ways.

His message should be essential reading for all of us with decisionmaking responsibilities. I commend his speech to the attention of my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SENATOR JOHN TOWER (R-TX), CHAIRMAN OF THE SENATE ARMED SERVICES COMMITTEE, COMMISSIONING CEREMONY OF THE U.S.S. CARL VINSON

It is appropriate that this great ship bear the name of a man whose personal qualities, record of achievement, and dedication to this country have been and will continue to be an inspiration to all of us.

This is a giant 93,000-ton warship and for those of us who knew Carl Vinson and for those of us who are familiar with his contribution to this country, we know what a giant of a man he was.

The real purpose for constructing this ship is to promote peace and we all pray that she and her crew will never experience one day of combat. By the same token, Carl Vinson dedicated his life to peace. And he recognized better than anyone the wisdom of the phrase "peace through strength." As he stated in 1932:

"The pacifist will tell you that military and naval strength cause war. Such a statement is about as logical as one which declares that crime can be abolished by destroying our police forces, that disease can be eradicated by abolishing our hospitals and that fires can be eliminated by abandoning our fire departments."

It is a tribute to the employees of Newport News Shipbuilding that this ship was delivered one month early and approximately $24 million below its original projected cost.

Let me interject here—that although this great man has passed away, I have observed many of the same admirable qualities that he possessed in his great nephew who is a friend and colleague of mine on the Armed Services Committee, Sam Nunn. Like Carl Vinson, Sam Nunn's devotion to his work in the Senate and bipartisan approach to defense issues have already won him the admiration and respect of his colleagues on both sides of the aisle.

Much of what Carl Vinson said years ago still applies today, on the occasion of his 90th birthday, Carl Vinson cautioned:

"In two thousand three hundred years of recorded history, there have been only two hundred and seventy years of peace. The lesson is plain: We must always be prepared for war, for only in this way can we avoid war."

This brings me to a topic which, in the past several months and which in the months ahead, will be the subject of increased debate within the Congress: namely, whether we should reduce the $258 billion defense budget proposed by the Reagan Administration for fiscal year 1983.

On November 4, 1980, the American people elected a man who they felt had the leadership qualities that the Nation so desperately needed to rejuvenate our national spirit and provide us with a renewed sense of direction.

The American people have demanded and Ronald Reagan willingly accepted the challenge of revitalizing our weakened military forces. Congress too was sensitive to this mandate from the American people and overwhelmingly approved President Reagan's $214 billion fiscal year 1982 defense budget which was only a down payment designed to make up for a decade of neglect.

The irony of the defense spending debate is that only two and one half months have passed since the Defense Appropriations Bill was signed into law and only 32 percent of that $214 billion has been spent to date—certrainly not enough to make any meaningful improvements in our military forces.

Why do you suppose some of my colleagues are willing to retreat on our objective of revitalizing our military forces before we've really accomplished anything? Have the Soviets demonstrated a less aggressive military and political posture around the world?

Have they removed their foothold in Ethiopia, South Yemen, or Mozambique?

Have they pulled all of their 90,000 plus troops out of Afghanistan?

Have they tempered Cuban military involvement in Angola, Zambia, Madagascar or Nicaragua?

Have they loosened their stranglehold in Poland?

Have we suddenly been guaranteed unfettered access by the Soviets, even in time of hostility, to the energy resources and raw materials which we and our allies so vitally depend upon for our economic lifeblood?

Have we reached a mutually acceptable strategic arms limitation agreement which now makes it prudent to send this signal to the Soviets that we weren't really serious about rebuilding our defense in the first place?

I suggest that Soviet activity within the past eighteen months does not justify our retreating from the November 4 commitment to revitalize our military forces. To the contrary, I think the American people are and should be more concerned than ever about Soviet global intentions as a result of events which have occurred in recent months.

Perhaps then you share my concern that some of my colleagues—Republicans and Democrats—would consider this shortsighted and ineffectual solution of reducing defense spending to cure our deficit problems. Such a reduction would involve a risk that I am certainly not willing to impose on the American people given the world situation as we currently see it.

Perhaps those who now propose defense cuts, feel that we already have a sufficient number of weapons to cope with the Soviet threat and that the procurement of more weapons is simply "over kill". Could they be comforted by the fact that we are producing approximately 300 tactical fighter/attack aircraft per year while the Soviets are producing approximately 1,300 tactical fighter/attack aircraft per year or with the fact that we have approximately 12,000 tanks and are producing roughly 700 tanks per year while the Soviets have approximately 50,000 tanks in their inventory and are producing approximately 3,000 tanks per year or are my colleagues comforted that we have approximately 311 surface combatants in our inventory and are constructing roughly 13 surface combatants per year as compared to the 1,297 surface combatants in the Soviet inventory with the Soviets producing roughly 60 surface combatants per year or with the fact we have approximately 129 strategic and attack submarines and are producing 3 submarines per year while the Soviets have 377 submarines and are producing 12 submarines per year.

The Soviets are producing weapons as if they were on a wartime footing and, despite this well known fact, some of my colleagues still do not fully comprehend the implications.

Perhaps some feel that we enjoy a "qualitative" edge in our weaponry which more than compensates for the "quantitative" edge that the Soviets clearly enjoy. Unfortunately while this notion may have been true seven or eight years ago, today in many areas it is simply not accurate. The U.S. is losing its lead in key technologies, including electro-optical sensors, guidance and navigation, hydro-acoustics, optics and propulsions, and high powered lasers. The Soviet T-80 tank, the Typhoon, Oscar and ALFA-class nuclear powered submarines, and the RAM K and L series fighter aircraft are but a few examples of Soviet weapon systems which in all likelihood may equal or exceed qualitatively weapons systems in our inventory.

As you can see, we have no reason to be any less concerned about the threat now than we were eighteen months ago or four months ago.

Some individuals, both inside and outside of Congress, have attempted to characterize the issue as a defense spending vs. balanced budget debate. If Congress were to cut just out of the fiscal year 1983 defense budget all of the so-called controversial "big ticket" programs; such as the AH-64 helicopter, the PATRIOT missile system, the M-1 tank, the F-18 aircraft, the Trident submarine, the B-1 bombers and the MX missile, the total reduction in obligational authority would be approximately $24 billion. But, because of the peculiarly slow spend out rates for these programs, only $3.6 billion will be spent in fiscal year 1983 and thus the projected $91.5 billion deficit would be reduced by only $3.6 billion. And consider for a moment the disastrous consequences to our strategic and conventional force inventory that such a reduction would cause. Even this $3.6 billion is an overstatement since we would, as a practical matter, have to replace these weapons systems with cheaper, less effective systems. The only other option is to reduce our readiness and sustainability accounts and I am at least happy to report that for this option there is very little political support. To make the kind of reductions in defense that would meaningfully improve the deficit problem, we would simply have to ravage the defense budget and forego our original commitment to rebuilding our military capability. I need not explain to this audience what disastrous long term consequences this would pose for the U.S. and its allies.

If reductions in defense spending are forced upon us, I for one will attempt to cut force structure—namely Army divisions, aircraft wings, battle groups, and the like in lieu of reducing our readiness, sustainability and force modernization accounts. I would much prefer to have a smaller and yet well-equipped and well trained military force than to send our boys to the field with obsolete weaponry because Congress failed to modernize our military forces properly. If Congress insists on these defense cuts, Congress must be able to identify which commitments we will no longer be able to honor. We cannot have it both ways.

I will leave you with one more quote from Carl Vinson: "We can choose military preparedness—immediate preparedness and sustained, lasting preparedness, or we can choose to continue that blood stained, costly and perilous course of entrusting our freedom and our national security to the fickle hope that our enemies will in the near future, as they have in the past, give us time to prepare."

At this time I would like to wish Captain Dick Martin, the crew of the U.S.S. *Carl Vinson,* and its airwing "fair winds, following seas, and very few night bolters."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ECONOMIC COOPERATION FOR THE CARIBBEAN BASIN—MESSAGE FROM THE PRESIDENT—PM 119

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

On February 24, before the Organization of American States, I outlined a major new program for economic cooperation for the Caribbean Basin. Today I am transmitting this plan to the Congress for its action.

The economic, political and security challenges in the Caribbean Basin are formidable. Our neighbors need time to develop representative and responsive institutions, which are the guarantors of the democracy and justice that freedom's foes seek to stamp out. They also need the opportunity to achieve economic progress and improve their standard of living. Finally, they need the means to defend themselves against attempts by externally-supported minorities to impose an alien, hostile and unworkable system upon them by force. The alternative is further expansion of political violence from the extreme left and the extreme right, resulting in the imposition of dictatorships and—inevitably—more economic decline, and more human suffering and dislocation.

Today, I seek from the Congress the means to address the economic aspect of the challenge in the Caribbean Basin—the underlying economic crisis which provides the opportunities which extremist and violent minorities exploit.

The crisis facing most of the Basin countries is real and acute. Deteriorating trade opportunities, worldwide recession, mounting debt burdens, growing unemployment and deep-seated structural problems are having a catastrophic impact throughout the region. This economic disaster is consuming our neighbors' money reserves and credit, forcing thousands of people to emigrate, and shaking even the most established democracies.

This is not a crisis we can afford to ignore. The people of the Caribbean Basin are our neighbors. Their well-being and security are in our own vital interest. Events occurring in the Caribbean Basin can affect our lives in profound and dramatic ways. The migrants in our midst are a vivid reminder of the closeness of this problem to all of us.

The program I am presenting to Congress today is integrated and designed to improve the lives of the peoples of the Caribbean Basin by enabling them to earn their own way to a better future. It builds on the principles of integrating aid, self-help and participation in trade and investment which I emphasized at the Cancun Summit last October. It is a different kind of assistance program for developing countries, based on principles and practices which are uniquely American and which we know have worked in the past. It will help revitalize the economies of this strategically critical region by attacking the underlying causes of economic stagnation. Most significantly, it helps expand economic opportunities for the people of the Caribbean Basin to make possible the achievement of a lasting political and social tranquility based on freedom and justice.

I want to emphasize that this program is not an end in itself. What we seek in the final analysis is to help the people in the Basin build for themselves a better life, not just economically but across the full spectrum of human needs and aspirations. History, and particularly the history of this Hemisphere, has shown that a pluralistic society with strong, free private institutions—churches, free trade unions, businesses, professional and other voluntary associations, and an independent press—is our best hope in moving toward that ultimate goal.

Our development program takes this into account; it will encourage progress in the beneficiary countries toward reasonable workplace conditions and opportunities for workers to associate freely and bargain collectively.

The United States has been developing this program in close consultation with the countries of the region and with other donor countries. Last July, we joined with Canada, Mexico and Venezuela to launch a multilateral action program for the region. It was agreed that each country would develop its own program but within a multilateral consultative framework. Mexico and Venezuela are operating an oil facility for the Caribbean Basin. Canada is more than doubling its aid. The program I am presenting today is our contribution.

We have worked carefully with both government officials and the private sector in the Basin countries to assess their needs and their own priorities. We have also consulted with other potential donors, including Colombia, as well as multilateral development institutions. This program is part of an overall coordinated effort by countries within and outside the region. Its structure will ensure not only that our own actions will be effective, but that their impact will be multiplied by the efforts of many others.

The program is based on integrated and mutually-reinforcing measures in the fields of trade, investment and financial assistance:

—Its centerpiece is the offer of one-way free trade. I am requesting authority to eliminate duties on all imports from the Basin except textiles and apparel items subject to textile agreements. The only other limitation will be for sugar; as long as a sugar price support program is in effect, duty-free imports of sugar will be permitted only up to specified ceilings. Safeguards will be available to U.S. industries seriously injured by increased Basin imports. Rules of origin will be liberal to encourage investment but will require a minimum amount of local content (25 percent). I will designate beneficiary countries taking into account such factors as the countries' self-help policies.

—I am proposing an extension of the 10 percent tax credit that now applies only to domestic investment to new equity investments in qualifying Caribbean Basin countries. A country would qualify for the benefit for a period of five years by entering into a bilateral executive agreement with the U.S. to exchange information for tax administration purposes.

—I am requesting a supplemental appropriation for the FY 1982 foreign assistance program in the amount of $350 million in emergency economic assistance. This assistance will help make possible financing of critical imports for the private sector in Basin countries experiencing a severe credit crunch. I expect to allocate the emergency supplemental in the region as follows:

El Salvador: $128 million. El Salvador's economy is in desperate straits. The insurgents have used every tactic of terrorism to try to destroy it. El Salvador desperately needs as much assistance to stimulate production and employment as we can prudently provide while also helping other countries of the region.

Costa Rica: $70 million. Costa Rica has a long tradition of democracy which is now being tested by the turmoil of its economy. Once Costa Rica has embarked on a recovery plan, it will need significant assistance to succeed in restoring investor confidence and credit to its hard-hit private sector.

Honduras: $35 million. The poorest country in the Central American region, Honduras faces severe balance of payments constraints, spawned primarily from falling prices of major exports and rising import costs.

Jamaica: $50 million. Jamaica's recovery is under way but continued success is still heavily dependent on further quick-disbursing assistance to overcome a shortage of foreign exchange for raw materials and spare parts.

Dominican Republic: $40 million. The Dominican Republic is attempting to adjust to drastically-reduced economic activity brought on primarily by falling prices of its major export crop (sugar) and heavy dependence on imported oil. Critical economic reforms must take place in a difficult political climate as elections grow near. Once the free trade provisions go into effect, the Dominican Republic will also receive as a result of the duty-free quota for its sugar exports immediate benefits going beyond the $40 million indicated here.

Eastern Caribbean: $10 million. Economic stagnation has dried up investment and strangled development in these island mini-states where unemployment is a particular problem, especially among youths.

Belize: $10 million. Newly-independent Belize faces a perilous economic situation brought on by falling sugar prices and stagnant growth. Belize needs short-term assistance as a bridge to the development of its own considerable natural resources.

Haiti: $5 million. Illegal immigration from Haiti is spurred by stagnant economic activity and a credit-starved private sector in a country already desperately poor.

Latin American Regional/American Institute for Labor Development (AIFLD): $2 million. Free labor movements, assisted by our small AIFLD programs, can be the underpinning of a healthy private sector and its ability to expand and grow, leading the region to stable social and economic progress.

In a separate action I am also requesting action on the economic assistance program for FY 1983. This includes $664 million in economic assistance for the Caribbean Basin. This program will be directed largely into longer-term programs aimed at removing basic impediments to growth. Although not a part of the legislation which I am transmitting today, the FY 1983 aid request is an integral part of our overall program for the Caribbean Basin. We cannot think of this program as a one-time injection of U.S. interest and effort. If it is to succeed it must be a sustained commitment over a number of years. I strongly urge the Congress to approve this request in full.

In addition to these legislative requests, I am directing the following actions, which are within the discretion of the Executive Branch:

—We will extend more favorable treatment to Caribbean Basin textile and apparel exports within the context of our overall textile policy.

—We will seek to negotiate bilateral investment treaties with interested countries.

—We will work with multilateral development banks and the private sector to develop insurance facilities to supplement OPIC's political risk insurance coverage for U.S. investors.

—The U.S. Export-Import Bank will expand protection, where its lending criteria allow, for short-term credit from U.S. banks, as well as local commercial banks, to Caribbean Basin private sectors for critical imports.

—With the governments and private sectors of interested countries, we will develop private sector strategies for each country. These strategies will coordinate and focus development efforts of local business, U.S. firms, private voluntary organizations, the U.S. Government, and Puerto Rico and the Virgin Islands. The strategies will seek new investment and employment opportunities and will also seek to remove impediments to growth including lack of marketing skills, trained manpower, poor regional transport, and inadequate infrastructure.

Puerto Rico and the U.S. Virgin Islands have a long-standing special relationship with the United States. Their development must be enhanced by our policy toward the rest of the region. We have consulted closely with Puerto Rico and the Virgin Islands about the Caribbean Basin Initiative and the legislation I am requesting today will reflect Puerto Rican and Virgin Island interests in many important ways.

—The Accelerated Cost Recovery System (ACRS) and the Investment Tax Credit (ITC) will be extended to property used by companies operating in Puerto Rico and the U.S. Virgin Islands. Similar benefits will be available to other U.S. possessions.

—Excise taxes on all imported rum will be transferred to Puerto Rico and the Virgin Islands.

—Inputs into Caribbean Basin production from Puerto Rico and the U.S. Virgin Islands will be considered domestic inputs from Caribbean Basin countries for purposes of the rules of origin.

—Industries in Puerto Rico and the Virgin Islands will have access to the same safeguards provisions as mainland industries.

In addition, we will support proposed legislation which will permit products from the Virgin Islands whose foreign content does not exceed 70 percent to receive duty-free treatment. At present the maximum foreign content permitted is 50 percent.

To further the integrated agricultural development of the Caribbean Basin, we will make greater use of the agricultural and forestry research, extension and training facilities of the Federal Government and those of Puerto Rico and the United States Virgin Islands, especially the tropical agricultural research facility at Mayaguez, Puerto Rico.

All these elements in the Caribbean Basin program are inextricably linked together, and to the fundamental objective of helping our neighbors help themselves. A key principle of the program is to encourage a more productive, competitive and dynamic private sector, and thereby provide the jobs, goods and services which the people of the Basin need for a better life for themselves and their children. All the elements of this program are designed to help establish the conditions under which a free and competitive private sector can flourish.

Most countries in the Basin already recognize that they must reform many of their economic policies and structures in profound and sometimes painful ways in order to take advantage of the new economic opportunities of this program. We—the United States and other outside donors—can offer assistance and support, but only the people in the Basin themselves can make this program work.

Some of the benefits of this program will take considerable time to mature; others are designed to have an immediate effect. But the challenge is already upon us; the time to begin is now. I urge the Congress to act with maximum speed.

I also urge the Congress to consider very carefully any changes in this program. The actions in trade, aid and investment are inter-related. Each supports the other, so that together they comprise a real spur toward the entrepreneurial dynamism which the area so badly needs. A significant weakening in any of them could undermine the whole program.

In the Caribbean Basin, we seek above all to support those values and principles that shape the proud heritage of this Nation and this Hemisphere. With the help of this Congress, we shall see these values not only survive but triumph in a Caribbean Basin which is a community of peace, freedom and prosperity.

RONALD REAGAN.

THE WHITE HOUSE, *March 17, 1982.*

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 4:19 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 262. A bill for the relief of Dolly Akers, Fort Peck Indian Reservation, Mont.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 143. Joint resolution to authorize and request the President to designate the week of May 2 through May 8, 1982, as "National Physical Fitness and Sports for All Week."

EXECUTIVE REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

John L. Coffey, of Wisconsin, to be U.S. circuit judge for the seventh circuit;

William W. Caldwell, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania;

Glenn E. Mencer, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania;

Carol Los Mansmann, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania; and

Clarence M. Pendleton, Jr., of California, to be a Member of the Commission on Civil Rights.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMPSON (for himself, Mr. Grassley and Mr. Huddleston):

S. 2222. A bill to revise and reform the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. BENTSEN (for himself, Mr. Bradley and Mr. Chafee):

S. 2223. A bill to improve the ability of the United States to enforce multilateral international trade agreements, and for other purposes; to the Committee on Finance.

By Mr. SPECTER:

S. 2224. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions to programs providing job training for certain individuals; to the Committee on Finance.

By Mr. BAUCUS:

S. 2225. A bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. D'Amato, Mr. Danforth, Mr. Hatfield, Mrs. Hawkins, Mr. Hayakawa, Mr. Helms, Mr. Huddleston, Mr. Heinz, Mr. Kasten, Mr. Packwood, Mr. Pressler, Mr. Weicker, Mr. DeConcini, Mr. Garn, Mr. Stafford, Mr. Sasser, Mr. Ford, Mr. Gorton, and Mr. Goldwater):

S. 2226. A bill to amend the National Housing Act to provide for emergency interest reduction payments and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PERCY (by request):

S. 2227. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, to authorize additional security and development assistance programs for fiscal years 1983 and 1984, and for other purposes; to the Committee on Foreign Relations.

By Mr. DURENBERGER:

S. 2228. A bill for the relief of Solomon Tulu Cherne; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 2229. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for youth employment during the summer of 1982, and for other purposes; to the Committee on Finance.

By Mr. STEVENS:

S. 2230. A bill to provide for an automobile research competition to produce a radically new automobile embodying high fuel economy, safety, and environmental standards, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURENBERGER (for himself, Mr. Dodd, Mr. Domenici, Mr. Pressler, Mr. Moynihan, Mr. Denton, and Mr. D'Amato):

S.J. Res. 167. Joint resolution to commemorate the 100th anniversary of the Knights of Columbus; to the Committee on the Judiciary.

By Mr. BAUCUS:

S.J. Res. 168. Joint resolution to establish reciprocal entrance fees for Canadian citizens entering Glacier National Park in connection with the 50th anniversary of the Waterton-Glacier International Peace Park; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS (for himself, Mr. Baucus, Mr. Eagleton, Mr. Gorton, Mr. Leahy, Mr. Durenberger, Mr. Danforth, Mr. Stafford, Mr. Dodd, Mrs. Kassebaum, and Mr. Chafee):

S. Res. 343. A resolution expressing the sense of the Senate with respect to beginning strategic arms negotiations with the Soviet Union; to the Committee on Foreign Relations.

By Mr. HART (for himself, Mr. Kennedy, Mr. Quayle, Mr. Mitchell, Mr. DeConcini, Mr. Sasser, Mr. Leahy, Mr. Exon, Mr. Robert C. Byrd, Mr. Sarbanes, Mr. Weicker, Mr. Heflin, Mr. Heinz, and Mr. Ford):

S. Res. 344. A resolution supporting the President's decision to prohibit the import of Libyan oil into the United States; submitted and considered.

By Mr. GARN (for himself, Mr. Tower, Mr. Heinz, Mr. Lugar, Mr. D'Amato, Mr. Chafee, Mr. Schmitt, Mr. Proxmire, Mr. Cranston, Mr. Riegle, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Baker, Mr. Gorton, Mr. Hatch, Mrs. Hawkins, Mr. McClure, Mr. Murkowski, Mr. Rudman, Mr. Eagleton, Mr. Heflin, Mr. Baucus, Mr. Melcher, Mr. Randolph, Mr. Sasser, Mr. Domenici, Mr. Pryor, Mr. Ford, Mr. Cannon, Mr. Dole, Mr. Exon, Mr. Huddleston, Mr. Cohen, Mr. Levin, Mr. Matsunaga, Mr. Mitchell, and Mr. Robert C. Byrd):

S. Con. Res. 72. A concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States; submitted by unanimous consent and placed on the calendar.

By Mr. HEINZ:

S. Con. Res. 73. A concurrent resolution to condemn the Iranian persecution of the Bahai community; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMPSON (for himself, Mr. Grassley, and Mr. Huddleston):

S. 2222. A bill to revise and reform the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. Simpson and Mr. Kennedy on this legislation appear earlier in today's Record.)

By Mr. BENTSEN (for himself, Mr. Bradley, and Mr. Chafee):

S. 2223. A bill to improve the ability of the United States to enforce multilateral international trade agreements, and for other purposes; to the Committee on Finance.

(The remarks of Mr. Bentsen and Mr. Bradley on this legislation appear earlier in today's Record.)

By Mr. SPECTER:

S. 2224. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for contributions to programs providing job training for certain individuals; to the Committee on Finance.

(The remarks of Mr. Specter on this legislation appear earlier in today's Record.)

By Mr. BAUCUS (for himself, Mr. Moynihan, Mr. Leahy, and Mr. Kasten):

S. 2225. A bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items; to the Committee on Finance.

CHARITABLE CONTRIBUTIONS

● Mr. BAUCUS. Mr. President, today Senators Moynihan, Leahy, and Kasten join me in introducing a revised version of the Artist's Tax Equity and Donation Act introduced last year. The purpose of the revised version, like that of the original bill, is to rectify an inequity in the tax code adopted in 1969.

Since 1969, authors, poets, musicians, scientists and artists have been able to deduct only the cost of the paper, ink and paint used in their creative work when making a gift of their creations to a library or museum. A collector, on the other hand, making a similar gift may take the full market value as a charitable deduction. The intent of the proposed legislation is to restore to the creative artists and scientists a charitable tax deduction equal to the fair market value of the gifts of their works of art or manuscripts to nonprofit organizations.

Not only is the current situation extremely unfair to the creators, but it has also had a devastating effect on the ability of libraries and museums to receive and preserve important collections for future generations. For example, before 1969, the Library of Congress' Music Division was annually receiving from 35 living composers the original manuscripts of their work. Between 1963 and 1970 the manuscripts added to the collections came to 1,200. But in all the years since, a scant 30 have been received.

In addition, in 1980, two major collections on deposit were withdrawn from the Music Division since a tax deduction was not forthcoming. The Library is now being put on notice by other depositors that they may withdraw their potential gifts if the law remains unchanged.

The Library of Congress Manuscript Division was receiving manuscript collections totaling nearly 200,000 manuscripts each year before 1969. Although bequests and donations of other materials have occurred, the Library of Congress has received only one major gift or self-created material of a living author since 1969.

The inability of the Library of Congress to obtain collections is, of course, magnified many times in smaller libraries, museums, and universities throughout the country. The consequences of this reduced level of acquisition will be disastrous for scholarship and for the study and appreciation of American civilization. Museum and library visitors all over the country are deprived of the opportunity to see works of great beauty and sources of spiritual and intellectual values.

Creators are now forced to disperse their collections by selling them on the open market—mostly to individual collectors. The material ceases to be available for research in public institutions. Even more alarming, these materials are often stored where they suffer rapid deterioration and are subject to risks of fire, flood, and theft—lost forever.

The Artist's Tax Equity and Donation Act which we are introducing today has been revised to incorporate the suggestions made at the hearings conducted on November 10, 1981, before the Senate Finance Subcommittee on Estate and Gift Taxation. We have also benefited from the comments of the American Arts Alliance; American Association of Museums; American Council on the Arts; American Library Association; Artists Equity Association; Association of Art Museum Directors; Association of Research Libraries; Council of Creative Artists, Libraries and Museums; American Association of Universities; National Assembly of State Arts Agencies; the National Association of Independent Colleges and Universities, and many others. In addition, and in particular, Senator Moynihan has shared his long interest and experience on this issue.

The revised version differs from the original in two areas: First, it deals solely with gifts of living artists, authors, musicians, and scientists. We concluded that the inequity of the estate tax treatment of artistic gifts has largely been solved by the estate tax changes enacted last year. Second, the bill provides two alternatives for establishing the fair market value of the donated work including comparison with the sale or exchange price of a similar work by the same artist or an appraisal of the value of the work.

Earlier this year, the Presidential Task Force on the Arts and Humanities called for the repeal of the 1969 law. Creative artists, scholars and all Americans have already lost 13 years of opportunities. We must not allow any more works to vanish. We ask that you join us in supporting this legislation.

I ask unanimous consent that the full text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Artist's Tax Equity and Donation Act of 1982".

Sec. 2. Charitable Contributions of Certain Items Created by the Taxpayer.

Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) Special rule for certain contributions of literary, musical, or artistic compositions.—

"(A) In general.—In the case of a charitable contribution of any literary, musical, or artistic composition, any letter or memorandum, or similar property, if such property was created by the personal efforts of the taxpayer making such contribution, the amount of such contribution shall be the fair market value of the property contributed at the time of such contribution and no reduction in such amount shall be made under subparagraph (A) or (B) of paragraph (1).

"(B) Certain contributions by public officials.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter, memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee.".

Sec. 3. Effective Date.

The amendment made by section 2 shall apply to contributions made after December 31, 1981.●

By Mr. Lugar (for himself, Mr. D'Amato, Mr. Danforth, Mr. Hatfield, Mrs. Hawkins, Mr. Hayakawa, Mr. Helms, Mr. Huddleston, Mr. Heinz, Mr. Kasten, Mr. Packwood, Mr. Pressler, Mr. Weicker, Mr. DeConcini, Mr. Garn, Mr. Sasser, Mr. Stafford, Mr. Ford, Mr. Goldwater, and Mr. Gorton):

S. 2226. A bill to amend the National Housing Act to provide for emergency interest reduction payments and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EMERGENCY MORTGAGE INTEREST REDUCTION PAYMENT ACT

● Mr. LUGAR. Mr. President, all Senators, those who agree with the economic program passed in 1981 and those whose disagree, concur that today's unemployment rates are intolerably high. All of us are impatient for recovery to begin; many of us think that some decisive action is necessary to get recovery started.

To address this problem, I have been searching for a legislative vehicle which meets three tests: First, it must create the greatest amount of jobs in the shortest amount of time; second, it must be consistent with the overall economic recovery program passed by congress last year; and third, it must be temporary and not establish a permanent Federal financial involvement.

I hope you will agree with me those tests have been met in a bill I am introducing today along with 12 of my colleagues. The bill is aimed at putting 700,000 Americans back to work within several months of passage. We have selected, as the most efficient antirecession step, a one-time stimulus of the homebuilding industry.

The bill authorizes a total of $5.12 billion during the next 5 years to reduce mortgage interest rates on new homes by up to 4 percent. Between 350,000 and 450,000 new homes would be started this year, leading to estimated new employment of 300,000 workers in the building trades and 400,000 in related industries.

Although the bill does increase first year Federal outlays by $1 billion, we estimate an offsetting revenue increase of up to $2.5 billion in personal and corporate taxes in the first year after enactment.

This does not count the reductions in Federal expenditures due to getting thousands of American families off the unemployment compensation and food stamp rolls and back to work.

The bill also has a repayment feature. Individuals who qualify for these special reduced mortgage interest rates will have to pay back to the Federal Government the full amount of subsidy upon resale or refinancing of the home. Consumer protections have been added to the bill so that all of the homebuyer's equity is not taken by the Government.

The States and localities would also realize a positive financial impact. In my State of Indiana, it is estimated the new construction generated by this bill would bring in $40 million in State sales taxes, $15 million in State income taxes, and $25 million to local governments in property taxes.

Under the provisions of this bill, the U.S. Department of Housing and Urban Development would have 1 month to begin providing, through the

Government National Mortgage Association and existing lending institutions, special growing equity mortgages to the qualified buyers of new homes built after March 6, 1982.

These mortgages would be reduced a maximum of 4 points, but in no event below a 11-percent interest rate. If the market rates fall below 12.5 percent the program will cease operations.

Only low- and medium-income families, those with gross family incomes of $30,000 or less a year, would be eligible for the special reduced-rate mortgages. The maximum loan limit is $67,500.

In a growing equity mortgage, a family's monthly mortgage payments increase 0.75 percent of the mortgage amount each year, with all of the increase going to build up the buyer's equity in the property. For example, on a $65,000 mortgage the increase would be $40 a month after the first year.

With a $65,000 mortgage, the total 5-year subsidy would be $12,754. This money would be due to the Federal Government when the home is sold or refinanced. However, the repayment is limited to 60 percent of the net equity or the amount of the Government's assistance, whichever is less.

The mortgages would be made available in every State. The funds for the reduced-rate mortgages would be allocated following a three factor formula which measures State population, unemployment, and the rate of decline or lag in new housing starts.

There is an incredible amount of pent-up demand for new housing in this country. Interest rates on home mortgages, running anywhere from 15 to 20 percent, have locked large numbers of potential home buyers out of the market for many months. Since people cannot afford to pay the high interest rates to buy new homes, homebuilders stop working and many have gone out of business. Carpenters and bricklayers cannot find work as unemployment spreads through the economy. With no new homes, lumber and building suppliers, appliance manufacturers, electrical and plumbing industrial workers, railroads, and truckers all suffer.

Housing has led us out of past recessions, and it can do so again with this program. Unemployment in construction is 18.7 percent. One out of every eight unemployed persons is a construction worker. Housing starts last year totaled 698,000 units, compared with 1.4 million in 1978. If we do not do something now to preserve housing-related jobs, when recovery comes, industry capacity will be insufficient and we will see terrific inflationary pressures, like those that followed the 1975 recession.

An important study prepared in February by Market Opinion Research Corp. entitled "Homeownership and National Policy" shows that in 1982, 44 percent of all persons who are likely to move for job relocation or other reasons and 61 percent of all those persons who are possible movers in 1982 would like to purchase a home. But in each case, less than 34 percent of the likely movers and 30 percent of the possible movers are willing to pay more than a 12-percent interest rate on mortgages. These numbers drop dramatically—8 percent and 7 percent respectively—when interest rates reach 16 percent. Translated in whole numbers, of 9 million Americans who would possibly move in 1982, the report says less than 3 million "are actually considering purchasing a home and have the necessary income to pursue that desire." The report concludes that, "High mortgage interest rates have dramatically suppressed the market of home buyers and sellers."

Based on this study, if we assist this very large group of potential home buyers this year, the resulting impact on the homebuilding industry and the entire economy would be immediate and forceful.

I am pleased to pay special tribute to the Senator from Oregon (Mr. PACKWOOD), who is the principal cosponsor of my bill. Senator PACKWOOD, in his capacity as a Finance Committee member, will shortly be introducing a companion tax measure, which I will support and which will bring much needed changes in the Tax Code, providing longer range improvements in the availability of mortgage money generally.

I must report that I have received no assurances of support from the administration. But it is my feeling that the administration is searching for an emergency jobs stimulus program, and I am convinced that this is the best such program.

I have talked to Secretary Pierce, who chairs the President's Housing Task Force, and to other key members of the administration who have assured me that they will carefully consider my bill.

I intend to hold the necessary hearings on this proposal in my subcommittee on Housing and Urban Affairs starting March 23, so that if Congress makes a decision to act, we will have a bill that has been studied indepth.

My bill is a temporary emergency action to create jobs now. The Federal machinery to make it work is already in place.

Last year, we adopted a strong, long-run economic recovery program by cutting taxes to encourage investment, by controlling Federal spending to decrease inflation, and by reducing Federal regulation of the economy. Those fundamentals are in place and must remain. But in the short term we have to strengthen the foundation with some emergency measures to put people back to work now.

This bill presents a real opportunity to move the Nation out of recession. I must point out that if it is to work, we must view it as truly urgent business which must be enacted in the next 3 months. To wait beyond that point only discourages builders from taking advantage of the imminent building season. I, therefore, intend to try to move my bill on a separate track, keeping it apart from the HUD authorization, which will take longer to shape. I ask your support not only for my bill but for our cooperative effort to help our country regain its full economic vitality at the earliest possible moment.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2226

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title II of the National Housing Act is amended by adding at the end thereof the following:

"EMERGENCY MORTGAGE INTEREST REDUCTION PAYMENTS

"SEC. 247. (a) For the purpose of assisting middle- and lower-income families in acquiring a home, a manufactured home, or membership in a cooperative association operating a housing project, the Secretary is authorized, through the Government National Mortgage Association, to make and to contract to make periodic interest reduction payments on behalf of such families. Such assistance shall be accomplished through payments to mortgagees and lenders or their transferees holding mortgages and loans meeting the requirements of this section.

"(b) The Secretary may not enter into any contract to make emergency home mortgage interest reduction payments under this section during any month unless the Federal Home Loan Bank Board's home mortgage interest rate index for conventional home mortgage loans closed, based on the moving average for the most recent two-month period, exceeds 12.5 per centum per annum.

"(c) To be eligible for emergency interest reduction payments under this section, the first mortgage or loan secured by the property, manufactured home, or shares in a cooperative must be insured under this section or be eligible for insurance under this section, as determined by the Secretary.

"(d) Assistance payments under this section may be made over a period of not to exceed five years with respect to any mortgage.

"(e) The amount of all emergency interest reduction payments made under this section shall constitute a second lien on the property or shares with respect to which the payments are made and shall be repayable—

"(1) when the property is sold;

"(2) when the owner ceases to occupy the property as a principal residence for a period longer than 9 months;

"(3) upon any other disposition of the property specified in regulations of the Secretary; or

"(4) upon the refinancing of the first mortgage or loan on the property or shares, except that the amount repaid may not exceed 60 per centum of the homeowner's net equity, as determined by the Secretary.

"(f) The amount of the emergency mortgage interest reduction payments with respect to any mortgage or loan shall be an amount not exceeding the lesser of—

"(1) the difference between the amount of the monthly payment for principal and interest which the mortgagor or borrower is obligated to pay under the mortgage or loan, and the monthly payment for principal and interest which the mortgagor or borrower would be obligated to pay if the mortgage or loan were to bear interest at the rate of 11 per centum per anum; and

"(2) the difference between the amount of the monthly payment for principal and interest which the mortgagor or borrower is obligated to pay under the mortgage or loan, and the monthly payment for principal and interest which the mortgagor or borrower would be obligated to pay if the mortgage or loan were to bear interest at a rate four percentage points less than the rate specified in the mortgage or loan.

"(g) To be eligible for insurance under this section, a mortgage or loan shall—

"(1) be executed by a mortgagor or borrower whose adjusted gross income did not exceed $30,000 during the year preceding the application for the mortgage or loan and who intends to occupy the property as a principal residence;

"(2) have a principal obligation not to exceed $67,500;

"(3) involve a one- to four-family dwelling the construction or manufacture of which was completed on or after March 6, 1982;

"(4) provide for complete amortization over a period of not to exceed thirty years, but provide that (A) the mortgage or loan payment shall be adjusted for the second, third, fourth, fifth, and sixth years of the mortgage or loan by increasing the payment required during each such year by 0.75 per centum of the original principal obligation, and (B) the amount of the increase will be applied to reduce the principal obligation;

"(5) provide, after the sixth year, for equal monthly payments in the same amount as the amount required in the sixth year, but only for the period necessary to pay off the remaining principal obligation;

"(6) have been accompanied by disclosures of the scheduled adjustments in the monthly payment and of the requirements of subsection (e);

"(7) be originated by a mortgagee or lender who is responsible and able to service the mortgage or loan properly;

"(8) in the case of a manufactured home loan, comply with the regulations issued under section 501(c) of the Depository Institution Deregulation and Monetary Control Act of 1980; and

"(9) bear interest and contain such other terms and conditions as the Secretary may prescribe.

"(h) The Secretary shall allocate the amount available to carry out this section among the States on the basis of a formula so that—

"(1) one-third of such amount is allocated on the basis of the ratio of the population of each State to the population of all States;

"(2) one-third of such amount is allocated on the basis of the ratio of the decline in one- to four-family housing starts, measured from 1978 to 1981, of each State to the decline for all States; and

"(3) one-third of such amount is allocated on the basis of the ratio of each State's seasonally adjusted unemployment rate for the most recent 3-month period prior to the allocation to the seasonally adjusted unemployment rate for all States for such 3-month period.

"(i) Any mortgage insured or assisted under this section shall be eligible for purchase by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

"(j)(1) The Secretary shall assure that the amounts allocated pursuant to subsection (h) are made available in a manner which maximizes participation by eligible lenders and borrowers.

"(2) The Secretary shall issue final regulations, make allocations, and issue commitments pursuant to this section not later than 30 days after the enactment of legislation appropriating funds to carry out this section.

"(k) There are authorized to be appropriated to carry out the provisions of this section not to exceed $5,120,000,000. Any sums so appropriated shall remain available for commitment until November 1, 1982.".●

● Mr. PACKWOOD. Mr. President, I want to commend the senior Senator from Indiana for developing this idea to provide home buyers and the housing and construction industries with the relief they so desperately need. The bill we are introducing today will allow almost half a million frustrated Americans to buy homes at reduced interest rates. It will stimulate the construction of up to 450,000 new homes, and put as many as 700,000 people back to work.

This legislation gives a 4-percent interest subsidy to individuals buying newly constructed homes when interest rates are at or above 15 percent. When market rates fall below 15 percent, the individual can receive a Lugar loan at 11 percent. We believe this will provide the kind of stimulus the housing industry needs to start on the road to recovery and provide the most possible jobs for Americans in the shortest period of time.

Senator Lugar and I recently held joint hearings between the Housing Subcommittee and the Taxation Subcommittee on his thrift partnership bill and the financial problems facing the savings and loan industry. I learned of a common concern Senator Lugar and I have about housing and unemployment in this country. I respect my colleagues efforts to translate these concerns into legislation and am looking forward to working with him on this bill.

Mr. LUGAR. Mr. President, I thank the Senator from Oregon for his kind words. I am delighted that the ranking majority member of the Finance Committee is as enthusiastic about this bill as I am. I look forward to combining our efforts to put Americans back to work and to give the depressed housing industry the boost it needs.

Mr. PACKWOOD. Mr. President, my colleague from Indiana and I believe the emergency relief provided in this new housing bill is crucial. I think we also agree that there is another side of the problem which should be addressed. I am talking about the need to set in place today the necessary instruments to help insure that we can meet our housing needs 10 years down the road and beyond.

In an effort to begin discussion on this issue, we will follow up our action today by attempting to open up IRA's for housing. The purpose of an individual retirement account is to help a person prepare for retirement. Owning your own home is certainly a large part of the security you seek at retirement. We are also interested in hearing ideas about ways to provide for appropriate increases of pension investments in housing.

Today we have started the ball rolling on a major emergency housing proposal which will progress through the Banking Committee. Senator Lugar and I agree that the resources of both the Banking and Finance Committees are important if we are to develop a comprehensive plan for the recovery and continued health of the housing industry.

Mr. LUGAR. Mr. President, I would like to commend the Senator from Oregon for his foresight. I agree that it is important to address the long-term needs of our housing industry. I look forward to a more in-depth review of the idea of using IRA's for housing and making pension investments in mortgages more likely, and thank the Senator for his support.●

● Mr. HATFIELD. Mr. President, I am pleased to join with Senator Lugar in proposing legislation to provide an immediate job producing stimulus to the housing industry. I commend Senator Lugar for his leadership in proposing this legislation and am extremely pleased that hearings will be held very soon on the legislation.

In 1979, the Federal Reserve Board reversed its policy of monitoring interest rates and moved to directly curtail the growth of the money supply. Credit immediately tightened, interest rates rose dramatically for the average home buyer and thousands of two by fours from homebuilders arrived in our congressional offices. Efforts were made to reactivate a housing stimulus program, but the Carter administration and the Congress rejected the request by stressing the importance of holding down spending and lowering the rate of inflation. Housing advocates were told to wait for the long term results. The industry and the home buyer have been patient—in 1980 and 1981 funds were reduced for housing subsidies and it was accepted because the package of budget cuts and tax cuts were felt to be important to achieving economic recovery.

However, in the spring of 1982 we can wait no longer. In my State, one-half of the lumber mills are either closed or barely operating. The unemployment rate in the forest products industry is placed at 50 percent. Entire communities are going under, people are losing confidence in their government and in themselves. Before it was fashionable in the Washington editorial pages to talk of Depression, the citizens of my State have been living in that fear.

In essence, we are witnessing one of the greatest expansions of centralized economic power that has occurred in my lifetime. How ironic it is that we are talking about a New Federalism that attempts to decentralize political power at a time when the access to credit for the farmer, the small businessman, the contractor and homeowner is being eliminated. We are witnessing a dismantling of our economic system that is destroying our small business sector—even though they provide the key to providing the jobs that America needs.

In the timber industry irreparable damage has already occurred. The larger companies may make it, or will merge into larger corporations. Local savings and loans are madly scrambling for merger partners while some experts predict 1,000 Savings and Loans to go under in 1982. Banks, especially the rural and smaller institutions are facing the same pressures as they compete against large money market funds. I cannot help but see a world where a few money center institutions will dominate the mortgage finance system to the detriment of community run financial institutions that loan to needy small businesses that produce jobs in that community.

Mr. President, considering the implications of continuing the status quo, I believe that the Lugar bill is a modest step that is critical to getting this economy back on its feet. This bill provides a hefty subsidy in a very efficient way by the utilization of an interest buy down plan instead of outright purchases of the mortgages themselves. Innovative recapture provisions are provided in the legislation to insure that the Government is repaid the money provided.

A similar program was used in 1974–75 to get the housing industry going again; 300,000 buyers were aided, $12 billion in lending activity undertaken, and some $7 billion of Government aid was provided. Because there was a recapture provision, the Government nearly broke even on the program.

For those who remain unconvinced that the program would pay for itself, I would offer the suggestion that the all-savers certificates be curtailed as of June 1, 1982. No one who has brought certificates already would be penalized. We need to face up to the fact that the all-savers certificates have not lived up to their purpose. The certificates were promoted as the savior of housing last summer but the evidence is mounting that the certificates have helped a large number of wealthy investors and a needy thrift industry, but has done liitle to generate new housing.

The cost of the all-savers certificates will be $5.2 billion over the next 3 years and it will not even make a dent in meeting our housing crisis. Can we really argue that we would not be better off if we cut short the all-savers certificate and replaced it with the targeted Lugar bill?

Mr. President, I strongly urge my colleagues to support this legislation and include it in the 1983 budget at the earliest opportunity.●

● Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor S. 2226, the legislation introduced by the distinguished chairman of the Subcommittee on Housing and Urban Affairs.

There is no need to dwell upon the depths to which the housing industry has fallen. We all know the the statistics much too well. Housing starts have dropped to 1,085,300. Unemployment in the housing industry has risen to more than 18 percent and spilled over into a number of related industries, such as appliance manufacturing. We also all know too well the pent-up frustration and demand of those who desperately want and need new shelter but who simply cannot afford the high cost of today's interest.

In 1981, in my State of Kentucky, housing starts fell to 8,500, including multifamily units. This was the lowest year since 1945 and down significantly from the second lowest year, 1980, when 13,800 units were started.

Today, it is estimated that only 5 percent of the people in my State can afford a new home. The legislation being introduced today would increase the number of such persons to 25 percent. It could result in as many as 1,100 new starts by the third quarter of 1982 and almost 6,400 over the life of the program.

The proposed legislation would accomplish this by subsidizing interest rates by 4 percent or the difference between the market rate and 11 percent, whichever is less. The loan limit would be $67,500, the current FHA limit. The income limit for qualifying would be $30,000. Participant's monthly mortgage payments would increase by 0.75 percent of the mortgage amount each year, over a 5-year period, with the increase going into principal to create equity. At the end of the 5-year period, the participant would pay according the the terms of the original mortgage. The amount of the subsidy would be repaid when the home is resold or refinanced.

On a nationwide basis, it is estimated that up to 450,000 houses would be produced and that more than 700,000 jobs—300,000 in construction and 400,000 in related areas—would result. Thus, the bill will address the dual problems of unemployment and depressed housing production.

Mr. President, it is important to note that the proposed fiscal 1983 budget contains no housing production funds. The programs which we have known in the past—principally section 8 new construction and section 235—are not there. There will be no stimulus for construction unless we put it there. Obviously, we must all be extremely cognizant of the economic situation, and we must undertake appropriate reductions. But, with high interest rates and the termination of a number of traditional housing programs, the housing sector is being asked to bear too much. Construction workers, applicance manufacturers, lumbering concerns, realtors, and related areas are simply being asked to carry a disproportionate burden for improving the economy.

Decent and affordable housing have long been primary objectives of our society. They have contributed to pride among our people and stability in our communities.

The bill being introduced today offers the opportunity to address two of our most pressing problems—unemployment and stagnation in the housing sector. It offers the opportunity to address them on a temporary basis, rather than through lengthy Federal commitments of 20 or 30 years. And, it offers a means for the Government ultimately to recoup its subsidy. It is a means not only of addressing immediate concerns but also of investing in tomorrow.●

● Mr. PRESSLER. Mr. President, I am pleased to join as a cosponsor of this emergency mortgage interest reduction payment legislation which will lower interest rates by 4 percent on home mortgages for qualifying individuals and could put more than 700,000 persons back to work.

I have sponsored this legislation because of my deep concern for the thousands of persons in the housing industry who have been laid off or who have gone out of business and because of the estimated 90 percent of working families currently priced out of the homeownership market.

In my State of South Dakota, there has been a 64-percent drop in housing starts within the past 4 years. There is virtually no new construction taking place in the entire State. This is, of course, not because families do not need housing but because interest rates have made it impossible for the middle- and lower-income family to afford current mortgage payments. Whereas a $60,000 mortgage at 11 percent interest would result in monthly principal and interest payments of $571, that same mortgage at 17 percent interest, the current rate, is $855 per month. Most of our families simply cannot afford this type of payment.

The legislation introduced today will stimulate production of up to 450,000 new homes. It does this by providing a mortgage subsidy to families currently earning less than $30,000 yearly.

The subsidy is a 4-percent interest reduction or a reduction of the market rate to 11 percent, whichever will cost the Government less. The interest reduction will be provided on a growing equity mortgage.

The tax revenue raised from this bill will far exceed the cost of this program to the Government. This program will lower deficits by getting people back to work and back to paying taxes. Many housing related interests such as the lumber industry, furniture and appliance industry, and plumbing and heating industries will also benefit should this legislation be enacted.

My State of South Dakota is composed almost entirely of agriculture and small business persons. We have been devastated by high interest rates. I view this legislation as a small step in reviving a portion of the economy that has been especially victimized by these interest rates. However, I want to also state that I will continue to work to strengthen our economy and bring down interest rates so that all sectors of the economy can once again prosper.

Mr. President, I believe this bill is a step in the right direction and I urge my colleagues to join me in supporting this legislation.●

Mr. SASSER. Mr. President, I am pleased to join with my distinguished colleague, Senator LUGAR, in cosponsorship of S. 2226, an emergency stimulus plan for our Nation's housing industry.

The dimensions of our housing crisis are well known. Housing production is at an all-time low. The unemployment figure in residential construction is 18.7 percent. The unemployment rate in our forest products industry is well over 30 percent and rising. These unemployment rates are unacceptable.

Our current policy of high interest rates and high budget deficits are bringing our economy to its knees. And the housing industry has borne the brunt of our tight monetary policies.

S. 2226 will be of immense assistance to our housing industry and to our Nation's realtors. It will help produce some 450,000 housing units and also help restore employment to some 700,000 Americans. It will help the economic recovery of one of our most basic industries.

The legislation will also make it possible for some 7.8 million more families to enter the housing market for the first time. This is most important to the all too many young families that have been frozen out of the housing market because of high interest rates.

In this regard, I would urge my colleagues not only to pass S. 2226 but also to consider enactment of my mortgage bond legislation, S. 1348. With a revived mortgage bond program, we could help build another 250,000 housing units at little cost to the Federal Government. State and local governments stand ready to get their mortgage bond programs moving again, and my legislation would be an ideal complement to S. 2226.

I urge my colleagues to make a strong commitment to S. 2226 and other related legislation that will help bring about an economic revival in our Nation's housing industry.

By Mr. PERCY (by request):

S. 2227. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, to authorize additional security and development assistance programs for fiscal years 1983 and 1984, and for other purposes; to the Committee on Foreign Relations.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1982

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act.

This legislation has been requested by the Department of State and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Secretary of State to the President of the Senate dated March 10, 1982.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "International Security and Development Cooperation Act of 1982".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

FOREIGN MILITARY SALES CREDITS AUTHORIZATION AND AGGREGATE CEILINGS

SEC. 101. (a) Section 31(a) of the Arms Export Control Act is amended by striking out "$800,000,000" the second time it appears and inserting in lieu thereof "$1,739,000,000".

(b) Section 31(b)(1) of such Act is amended by striking out "$800,000,000" the second time it appears and inserting in lieu thereof "$1,739,000,000".

(c) Section 31(b)(2) of such Act is amended by striking out "$3,269,525,000" the second time it appears and inserting in lieu thereof "$3,928,800,000".

(d) Section 31(b)(3) of such Act is amended by striking out "$1,400,000,000" the second time it appears and inserting in lieu thereof "$1,700,000,000" and by striking out all that follows "Israel," and inserting in lieu thereof "of which not less than $550,000,000 for fiscal year 1982 and not less than $500,000,000 for fiscal year 1983 shall be available as credits under section 23 of this Act.".

(e) Section 31(b)(4) of such Act is amended by striking out "and not less than $280,000,000 for the fiscal year 1983".

(f) Effective as of October 1, 1982, paragraphs (6) and (7) of section 31(b) of such Act are repealed, and section 31(b) is amended by the addition of a new paragraph (6) as follows:

"Of the total amounts of credits (or participations in credits) extended under section 23 of this Act for the fiscal year 1983, Egypt and Sudan shall be released from their contractual liabilities to repay the United States Government with respect to such credits and participations in credits in amounts up to $400,000,000 for Egypt and $50,000,000 for Sudan.".

(g) Section 31(c) of such Act is amended by striking out "each such year" and inserting in lieu thereof "fiscal year 1982, and $500,000,000 of such liability for fiscal year 1983".

ADMINISTRATIVE SURCHARGE

SEC. 102. Paragraph (1)(A) of section 21(e) of the Arms Export Control Act is amended by inserting immediately after "costs" the phrase "(which would not otherwise be incurred by the United States Government)."

CHARGES FOR ADMINISTRATIVE SERVICES

SEC. 103. Section 43(b) of the Arms Export Control Act is amended by inserting "and extraordinary" immediately after "recovery of administrative."

EXCHANGE TRAINING

SEC. 104. The Arms Export Control Act is amended by inserting immediately after chapter 2A the following new chapter:

"CHAPTER 2B—EXCHANGE TRAINING

"SEC. 30. GENERAL AUTHORITY.—The President is authorized to provide for attendance of foreign military personnel at professional military education institutions in the United States (other than Service academies) without charge in accordance with agreements requiring the exchange of students on a one-for-one, reciprocal basis each fiscal year between such institutions and comparable institutions of eligible foreign countries and international organizations.".

GOVERNMENT FURNISHED EQUIPMENT OR MATERIALS

SEC. 105. (a) Subject to the conditions specified in subsection (b) of this section, the President may, on a negotiated contract basis, under cash terms (1) sell defense articles at not less than the estimated replacement cost thereof, or (2) procure and sell defense articles at not less than the contract cost thereof to the United States Government, to any United States company for incorporation into end-items (and for concurrent or follow-on support) to be sold by such company on a direct commercial basis to a friendly foreign country or international organization pursuant to an export license or approval under section 38 of the Arms Export Control Act. The amount of reimbursement received from such sales shall be credited to the current applicable appropriation, fund, or account of the selling agency of the United States Government.

(b) For the purposes of this section, defense articles as defined in the Arms Export Control Act may be sold, or procured and sold, pursuant to subsection (a) of this section only if (1) the end-item to which the defense article applies is to be procured for the armed forces of a friendly foreign country or international organization, (2) the defense article would be supplied to the prime contractor as government furnished equipment or materials if the end-item were being procured for the use of the United States Armed Forces, and (3) the defense article is available only from United States Government sources or is not available to the prime contractor directly from United States commercial sources at such times as may be required to meet the prime contractor's delivery schedule.

GRANT TRAINING

SEC. 106. Section 542 of the Foreign Assistance Act of 1961 is amended by striking out "$42,000,000" the second time it appears and inserting in lieu thereof "$53,700,000".

INTERNATIONAL NARCOTICS PROGRAM AND INTERNATIONAL MILITARY EDUCATION AND TRAINING NOTIFICATIONS

SEC. 107. Section 634A of the Foreign Assistance Act of 1961 is amended by adding at the end thereof: "This notification requirement shall not apply to any such reprogramming of funds for use under the authority of Chapter 8 of Part I and Chapter 5 of Part II which is less than $50,000.".

PROHIBITIONS AGAINST ASSISTANCE TO THE PEOPLE'S REPUBLIC OF CHINA

SEC. 108. (a) Section 620(f) of the Foreign Assistance Act of 1961 is amended—

(1) by striking the period at the end of the first sentence of the subsection and adding at the end of that sentence "listed in this subsection.";

(2) by striking in the third sentence of that subsection the words ", but not be limited to,"; and

(3) by striking from the list of countries set forth in that subsection the words "People's Republic of China" and "Tibet".

(b) The Agricultural Trade Development and Assistance Act of 1954 is amended by adding a new section 414 to read as follows:

"SEC. 414. Notwithstanding any other provision of this Act, the People's Republic of China shall be considered to be a friendly country eligible to enter into sales agreements under title I of this Act and to receive assistance under title II of this Act.".

PEACEKEEPING OPERATIONS AUTHORIZATION

SEC. 109. Section 552(a) of the Foreign Assistance Act of 1961 is amended by striking out "$19,000,000" the second time it appears and inserting in lieu thereof "$43,474,000".

PEACEKEEPING OPERATIONS EMERGENCIES

SEC. 110. (a) Section 552 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting in subsection (c) the number "(1)" immediately after "the President may";

(2) by inserting in subsection (c) immediately after "$15,000,000" the words "or (2) in the event the President determines that unforeseen circumstances exist which require the immediate provision of assistance under this chapter, he may direct the drawdown of commodities and services from the inventory and resources of any agency of the United States Government of an aggregate value not to exceed $10,000,000 in any fiscal year"; and

(3) by inserting at the end thereof the following subsection: "(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for commodities and services provided under sub-section (c)(2) of this section.".

(b) Section 652 of such Act is amended by inserting ", 552(c)(2)," immediately after "under section 506(a)".

TITLE II—ANTI-TERRORISM ASSISTANCE

SEC. 201. (a) Part II of the Foreign Assistance Act of 1961 is amended by adding the following new chapter at the end thereof:

"CHAPTER 8—ANTI-TERRORISM ASSISTANCE

"SEC. 571. GENERAL AUTHORITY—(a) The President is authorized to furnish, on such terms and conditions as the President may determine, assistance to foreign countries in order to enhance the ability of their law enforcement personnel to deter terrorists and terrorist groups from engaging in international terrorist acts such as bombings, kidnapping, assassination, hostage-taking and hijacking. Such assistance may include training services and the provision of equipment and other commodities related to bomb detection and disposal, management of hostage situations, physical security and other matters relating to the detection, deterrence, and prevention of acts of terrorism, the resolution of terrorist incidents, and the apprehension of those involved in such acts.

"(b) Notwithstanding section 660 of this Act, services and commodities may be granted for the purposes of this chapter to eligible foreign countries, subject to reimbursement of the value thereof (as defined in section 644(m)) pursuant to section 632 of this Act from funds available to carry out this chapter.

"(c) Whenever the President determines it to be consistent with and in furtherance of the purposes of this chapter, and on such terms and conditions consistent with this Act as he may determine, any agency of the United States Government is authorized to furnish services and commodities, without charge to funds available to carry out this chapter, to an eligible foreign country, subject to payment in advance of the value thereof (as defined in section 644(m)) in United States dollars by the foreign country. Credits and the proceeds of guaranteed loans made available to such countries pursuant to the Arms Export Control Act may be used for such payments. Collections under this chapter shall be credited to the currently applicable appropriation, account, or fund of the agency providing such assistance and shall be available for the purposes for which such appropriation, account or fund is authorized to be used.

"SEC. 572. APPROPRIATIONS.—There is authorized to the appropriated to the President to carry out this chapter $5,000,000 for the fiscal year 1983.

"SEC. 573. PURPOSES.—(a) Activities conducted under this chapter shall be designed—

"(1) to enhance the law enforcement antiterrorism skills of friendly countries by providing training and equipment to deter and counter terrorism; and

"(2) to strengthen our bilateral ties with friendly governments by offering concrete assistance in this area of great mutual concern.

"(b) This chapter does not apply to information exchange activities conducted by agencies of the United States Government under other authority for such purposes.

"SEC. 574. ADMINISTRATIVE AUTHORITIES.—Except where expressly provided to the contrary, any reference in any law to part I of this Act shall be deemed to include reference to this chapter and any reference in any law to part II of this Act shall be deemed to exclude reference to this chapter.".

(b) Section 502B(d)(2)(A) of the Foreign Assistance Act of 1961 is amended by inserting the phrase "or chapter 8 (antiterrorism assistance)" after the phrase "chapter 6 (peacekeeping operations)".

(c) Section 644(m)(5) of the Foreign Assistance Act of 1961 is amended by inserting the phrase "or services provided under chapter 8 of part II of this Act" after the phrase "military education and training".

TITLE III—ECONOMIC SUPPORT FUND

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 531(b) of the Foreign Assistance Act of 1961 is amended by striking out "$2,723,500,000" and inserting in lieu thereof "$2,886,000,000".

PROVISIONS RELATING TO THE USE OF FUNDS

SEC. 302. (a) Section 532(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "and for the fiscal year 1983" and by striking out "and for each such year" wherever it appears.

(b) Section 532(a)(2) of such Act is amended by striking out "years 1982 and 1983" and inserting in lieu thereof "year 1982".

(c) Section 532(a)(5) of such Act is amended by striking out "and for the fiscal year 1983," and "for each such year".

(d) Section 532(b)(1) and section 532(b)(2) of such Act are each amended by striking out "and for the fiscal year 1983" and "for each such year".

(e) Section 532(d) of such Act is amended by striking out "and $7,000,000 or more for the fiscal year 1983".

(f) Section 533(a) of such Act is amended by striking out "for each of the fiscal years 1982 and 1983" and inserting in lieu thereof "for the fiscal year 1982".

(g) Section 533(b) of such Act is amended by striking out "and for the fiscal year 1983," "for each such year," and "for the fiscal year 1982 and $10,000,000 for the fiscal year 1983".

(h) Section 537 and section 538 of such Act are each amended by striking out "years 1982 and 1983" and inserting in lieu thereof "year 1982" and by striking out "for each such year".

(i) Section 539 of such Act is amended by striking out "and $20,000,000 for the fiscal year 1983".

TITLE IV—DEVELOPMENT ASSISTANCE

EDUCATION AND HUMAN RESOURCES DEVELOPMENT

SEC. 401. Section 105(a) of the Foreign Assistance Act of 1961 is amended by striking out "$103,600,000 for the fiscal year 1983" and inserting in lieu thereof "$116,383,000 for the fiscal year 1983".

ENERGY, PRIVATE VOLUNTARY ORGANIZATIONS, AND SELECTED DEVELOPMENT ACTIVITIES

SEC. 402. Section 106(e)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$147,200,000 for the fiscal year 1983" and inserting in lieu thereof "$166,757,000 for the fiscal year 1983".

AGRICULTURAL AND PRODUCTIVE CREDIT AND SELF HELP COMMUNITY DEVELOPMENT PROGRAMS

Sec. 403. Section 222A(h) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983".

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Sec. 404. Section 302(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out the second sentence thereof.

TRADE AND DEVELOPMENT PROGRAMS

Sec. 405. Section 661(b) of the Foreign Assistance Act of 1961 is amended by striking out "$6,907,000 for the fiscal year 1983" and inserting in lieu thereof "$10,500,000 for the fiscal year 1983".

TITLE V—MISCELLANEOUS PROVISIONS

INTERNATIONAL NARCOTICS CONTROL

Sec. 501. Section 482(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$37,700,000" the second time it appears and inserting in lieu thereof "$40,000,000".

OPERATING EXPENSES

Sec. 502. Section 667(a) of the Foreign Assistance Act of 1961 is amended by striking out "$335,600,000 for the fiscal year 1983" and inserting in lieu thereof "$376,000,000 for the fiscal year 1983".

TITLE VI—AUTHORIZATIONS FOR THE FISCAL YEAR 1984 AND EFFECTIVE DATE

Sec. 601. There are authorized to be appropriated to the President for the fiscal year 1984 such sums as may be necessary to carry out programs and activities for which appropriations for the fiscal year 1983 are authorized by this Act or by the International Security and Development Cooperation Act of 1981.

Sec. 602. The amendments made by this Act shall take effect on October 1, 1982.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1982

I. INTRODUCTION

Title I consists of amendments to authorizations and new authorizations for military sales and related programs under the Foreign Assistance Act of 1961, as amended (hereinafter referred to as "the FAA") and the Arms Export Control Act (hereinafter referred to as "the AECA"). Title II authorizes a new anti-terriorism law enforcement assistance program. Title III provides amended authorizations for the economic support fund. Title IV contains amendments to FAA development assistance provisions. Title V contains miscellaneous amendments to the FAA including authorizations for the international narcotics program and operating expenses for the Agency for International Development.

II. PROVISIONS OF THE BILL

Section 1. Short title

This section provides that the bill may be cited as the "International Security and Development Cooperation Act of 1982".

TITLE I—MILITARY SALES AND RELATED PROGRAMS

Section 101. Foreign military sales credits authorization and aggregate ceilings

This section amends section 31(a) of the AECA to increase from $800,000,000 to $1,739,000,000 the authorization for fiscal year 1983 to carry out the foreign military sales credit program. Section 31(b)(1) of the AECA is amended to increase from $800,000,000 to $1,739,000,000 the limit on the total amount of loans which may be extended during fiscal year 1983 under section 23 of the AECA. Section 31(b)(2) of the AECA is amended to increase from $3,269,525,000 to $3,928,800,000 the limit on the total principal amount of loans for which guarantees may be issued during fiscal year 1983 under section 24(a) of the Act. Section 31(b)(3) of the AECA is amended to provide that no less than $1,700,000,000 shall be available for Israel, of which not less than $550,000,000 shall be for fiscal year 1982 and not less than $500,000,000 shall be available for fiscal year 1983 in the form of credits under section 23 of the Act. Section 31(b)(4) is amended to eliminate the fiscal year earmarking of funds for Greece. Sections 31 (b)(6) and (7) of the AECA are repealed effective October 1, 1982, having the effect of eliminating certain earmarkings of credits for Egypt and the Sudan; a new paragraph (6), to be effective October 1, would authorize forgiveness of repayment of credits by Egypt and Sudan up to a total of $400,000,000 and $50,000,000 respectively in fiscal year 1983. Section 31(c) of the AECA is amended to provide that $500,000,000 of Israel's liability for the repayment of loans for fiscal year 1983 under section 23 are forgiven.

Section 102. Administrative surcharge

Paragraph 1(A) of section 21(e) of the AECA is amended to further explain that "costs" which must be recovered by the United States Government are those costs which would not otherwise be incurred by the United States. This change is comparable to the revisions of training prices effected by section 115 of P.L. 96-533. Enactment of this amendment is not expected to result in a reduction of the current administrative surcharge percentage, but will avoid the necessity of an immediate increase in that percentage levied on all foreign military sales.

Section 103. Charges for administrative services

Section 43(b) of the AECA is amended to provide that the United States is to recover "extraordinary" as well as administrative expenses for services calculated under section 21(e)(1)(A) of the AECA. The amendment will permit the use of administrative funds to augment military assistance (MAP) funds available for security assistance representational activities.

Section 104. Exchange training

The bill would provide for the establishment of a new chapter 2B in the AECA concerning exchange (barter) training. The President is authorized to provide foreign military personnel professional military education training only at U.S. war colleges and U.S. command and staff colleges in the United States. The training of each foreign student under this authority will be conditioned on the requirement that, commencing in the same U.S. fiscal year, a U.S. military student be trained in a foreign college which the U.S. military department involved determines to be comparable to its military colleges. Such exchanges would take place in accordance with bilateral agreements to be negotiated with foreign countries and international organizations after enactment.

Section 105. Government furnished equipment or materials

This provision gives the President the authority to sell government-furnished defense articles to United States firms acting as prime contractors for foreign governments or international organizations for incorporation into end-items and for concurrent or follow-on support pursuant to an export license or approval under section 38 of the AECA. The amount or reimbursement received from such sales is to be credited to the account of the selling agency of the U.S. Government. Subsection (b) limits the conditions under which these sales, or procurements for sale, would take place in support of direct commercial exports.

Section 106. Grant training

Section 542 of the FAA is amended to authorize an appropriate of $53,700,000 for the International Military Education and Training (IMET) program for fiscal year 1983.

Section 107. International narcotics program and military education and training notifications

Section 634A of the FAA is amended to establish a threshold of $50,000 on advance reprogramming notices to the Congress for International Narcotics and IMET programs. Had such a threshold been in effect during fiscal year 1981, sixteen of the total thirty IMET notices would not have been required, thus permitting prompt execution of small but politically sensitive training programs. This amendment would provide a fast reaction capability for response to opportunities that will impact on the illicit narcotics environment. Under this amendment no program of any value will be initiated for a country for which no program had previously been justified to the Congress for that fiscal year.

Section 108. Prohibitions against assistance to the People's Republic of China

Section 620(f) of the FAA of is amended to remove the People's Republic of China from the category of countries to which assistance is prohibited. As a result of this amendment, the People's Republic of China would not be considered as a "communist-bloc" country for the purpose of section 620(h). A new section 414 is added to the Agricultural Trade Development and Assistance Act of 1954 to designate the People's Republic of China as a friendly country eligible to enter into sales agreements under Title I and to receive assistance under Title II of the Act. This would remove any prohibition on sales or assistance to the People's Republic of China under sections 103(d), 103(j), 201 and 202 of that Act.

Section 109. Peacekeeping operations authorization

Section 552(a) of the FAA is amended to authorize an appropriation of $43,474,000 for fiscal year 1983 to carry out peacekeeping operations programs. These programs would include the United States budgetary contribution to the Multinational Force and Observers (MFO) for the Sinai.

Section 110. Peacekeeping operations emergencies

Section 552(c) of the FAA is amended to provide that the President may draw down commodities and services of an aggregate value of not to exceed $10,000,000 each fiscal year from any United States Government agency for peacekeeping purposes if he determines that unforeseen circumstances have developed which necessitate immediate assistance under the peacekeeping provisions of the FAA. A new subsection (d) authorizes appropriations to reimburse the applicable account for emergency peacekeeping commodities and services rendered pursuant to this section. Section 652 of the FAA is amended to provide that if the President were to exercise this new authority, he would be required to notify the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate in writing that he intended to exercise this authority and to give a justification for and the extent of the exercise of such authority.

TITLE II—ANTI-TERRORISM ASSISTANCE

Section 201. Anti-terrorism assistance

This section would add a new Chapter 8 to Part II of the FAA to authorize an anti-terrorism assistance program. Under section 571(a), the President is authorized to furnish, on such terms and conditions as he may determine, anti-terrorism assistance to foreign countries in order to enhance their ability to deter and prevent terrorism. Section 571(b) provides that notwithstanding the prohibition in section 660 of the FAA on funding certain police and law enforcement assistance in foreign countries, services and commodities may be granted to eligible countries subject to reimbursement and allocation limitations contained in sections 644(m) and 632 of the FAA. Section 571(c) provides that, as an alternative to grants under subsection (b), the President may make available services and commodities to a foreign country to carry out the purposes of this chapter subject to payment in advance by the recipient country. Section 572 would authorize to be appropriated to the President to carry out this new chapter $5,000,000 for the fiscal year 1983. Section 573 defines the purposes for which the anti-terrorism activities are to be designed, namely, to enhance the law enforcement anti-terrorism skills of friendly countries and to strengthen ties with friendly countries by offering assistance in the anti-terrorism field. It also states that this chapter is not intended to limit or prohibit information exchange activities by U.S. government agencies under other authority to serve these anti-terrorism objectives. Section 574 provides that this ani-terrorism program will be conducted under the non-military authorities of the FAA, as is the case of the Economic Support Fund and Peacekeeping Operations, for example. Finally sections 502B(d)(2)(A) and 644(m)(5) of the FAA are amended to ensure that relevant definitions of "security assistance" and "value" in the FAA are altered appropriately.

TITLE III—ECONOMIC SUPPORT FUND

Section 301. Authorization of appropriations

Section 531(b) of the FAA is amended to authorize an appropriation of $2,886,000,000 for the Economic Support Fund for fiscal year 1983.

Section 302. Provisions relating to the use of funds

This section removes the fiscal year 1983 earmarkings and certain other limitations contained in sections 532, 533, 537, 538 and 539 of the FAA.

TITLE IV. DEVELOPMENT ASSISTANCE

Section 401. Education and human resources development

Section 401 amends section 105(a) of the FAA, which authorizes funds for education and human resources development. Section 105(a) is amended to increase the authorization for these programs for the fiscal year 1983 from $103,600,000 to $116,383,000.

Section 402. Energy, private voluntary organizations, and selected development activities

Section 402 amends section 106(e)(1), which authorizes funds for energy, private voluntary organizations, and selected development activities. Section 106(e)(1) is amended to increase the authority for these programs for the fiscal year 1983 from $147,200,000 to $166,757,000.

Section 403. Agricultural and productive credit and self-help community development programs

Section 403 amends section 222A of the FAA, which authorizes a pilot guarantee program in Latin America, by extending the authority for the program from September 30, 1982, to September 30, 1983.

Section 404. International organizations and programs

This section amends section 302(a)(1) of the FAA, which authorizes funds for international organizations and programs, by eliminating the earmarks on that account.

Section 405. Trade and development program

This section amends section 661(b) of the FAA, which authorizes funds for the Trade and Development Program. Section 661(b) is amended to increase the authority for this program for the fiscal year 1983 from $6,907,000 to $10,500,000.

TITLE V. MISCELLANEOUS PROVISIONS

Section 501. International narcotics control

This section amends section 482(a)(1) of the FAA to authorize an appropriation of $40,000,000 for International Narcotics Control in fiscal year 1983.

Section 502. Operating expenses

This section amends section 667(a) of the FAA, which authorizes funds for operating expenses of the International Development Cooperation Agency and the Agency for International Development. Section 667(a) of the FAA is amended to increase the authorization for the fiscal year 1983 from $335,600,000 to $376,000,000.

TITLE VI. AUTHORIZATIONS FOR THE FISCAL YEAR 1984 AND EFFECTIVE DATE

Section 601. Authorizations for the fiscal year 1984

This section, in accordance with the requirements of section 607 of the Congressional Budget Act of 1974, authorizes appropriations for fiscal year 1984 for all programs for which appropriations for the fiscal year 1983 are authorized by this Act or the International Security and Development Cooperation Act of 1981.

Section 602. Effective date

This section provides that the effective date of amendments made by the bill shall be October 1, 1982.

THE SECRETARY OF STATE,
Washington, March 10, 1982.

Hon. GEORGE BUSH,
President, U.S. Senate.

DEAR MR. PRESIDENT: I herewith transmit on behalf of the President a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize additional security and development assistance programs for fiscal years 1983 and 1984 and for other purposes.

The programs authorized by this bill are designed to help meet the major international challenges to the United States and to advance our nation's foreign policy and national security. Through these programs, the United States assists allied and friendly nations to defend themselves against regional threats, deter aggression, contribute to regional stability, combat the causes of economic, social and political instability, promote economic development and social progress, and attack hunger, poverty and other problems of developing societies. Moreover, these programs provide us the invaluable opportunity both to demonstrate our attentiveness to the legitimate problems of our allies and friends and to contribute significantly to advancement of our own national interests.

The security and development assistance programs that this bill addresses are essential elements in the framework of our national security and foreign policy. They supplement and complement other aspects of policy—our national defense, private sector investment, trade, and political relations. In this time of scarce resources, the programs, and particularly the additional authorizations, are designed to meet only the highest priority needs of national policy.

In developing these priorities our focus has been on countries (1) of critical strategic and political importance to the United States, (2) with whom we have formal alliances and commitments, (3) important to the United States because of their proximity to our territory or other geostrategic locations, (4) whose support is critical for key foreign policy and security initiatives, and (5) countries on whom we are dependent for essential raw materials. Our assistance programs are also to be measured against the commitment of potential recipients to reduce domestic poverty through the adoption of sound economic policies, to oppose, condemn, and stop terrorist activities, illicit narcotics trafficking, and nuclear weapons proliferation, and to promote the basic human rights of their citizens and the protection of the global environment.

The bill incorporates amendments to authorizations for fiscal year 1983 security and development assistance and, in accordance with the requirements of the Congressional Budget Act, authorizations for fiscal year 1984. Title I consists of amendments to authorizations and new authorizations for military sales and related programs under the foreign Assistance Act of 1961 (FAA) and the Arms Export Control Act (AECA). Title II authorizes a new anti-terrorism law enforcement assistance program. Title III provides amended and new authorizations for the economic support fund. Title IV contains amendments to FAA development assistance provisions. Title V contains miscellaneous amendments to the FAA, including authorizations for the International Narcotics Program and operating expenses for the Agency for International Development (AID).

Improving the President's ability to provide assistance in emergency situations is necessary in this period of continuing challenges to United States interests and the interests of allies and friends. Emergencies are by definition unpredictable, yet the flexibility to respond fully to emergencies is still lacking. The bill contains a number of provisions which would provide the President the necessary authority and resources to respond quickly when United States interests are jeopardized. Congress recognized the need and provided some relief for fiscal years 1982 and 1983 by authorizing special requirements funds for both economic support fund assistance and the military assistance programs, and by appropriating funds for the ESF program.

In addition to $50,000,000 budgeted for special requirements for the military assistance program (MAP), this bill would provide $75,000,000 for economic support fund (ESF) special requirements in fiscal year 1983. While $50,000,000 of the latter fund is for the Caribbean Basin region, these sums are not allocated to any particular program or activity; rather, they would be available to meet contingencies in countries and regions where the provision of such assistance would further United States national interests. The great utility of these funds is underscored by the delays and difficulties in meeting such requirements from planned country programs, by delaying assistance until the next budget cycle, or by forcing us to take funds from one needed effort to fund another. The bill authorizes the President to drawdown up to $10,000,000 in commodities and services from the inventory and resources of any United States Government agency to meet emergencies that require peacekeeping operations assistance. Our experience in responding to the request for assistance by nations contributing to the Organization of African Unity peacekeeping force for Chad is only a recent example demonstrating the need for a modest authority for this purpose. Additionally, the bill would amend the peacekeeping operations authorization to $43,474,000 to cover the costs to the United States of the Multinational Force and Observers (MFO) for the Sinai and the United States contribution to the United Nations Forces in Cyprus (UNFICYP).

The authorization for fiscal years 1982 and 1983 of $238,500,000 in military assistance program funds and $800,000,000 in forgiven credits for the Foreign Military Sales (FMS) financing program is evidence that Congress shares the view that certain friendly and allied nations are economically unable to finance their defense needs on market terms. The Administration, however, believes that the most satisfactory method of dealing with the problem is to provide direct FMS credits—some at concessional interest rates and some on which repayment would be forgiven. Accordingly, the bill would increase the authorization to $1,739,000,000 for FMS credits for fiscal year 1983, including $950,000,000 in forgiven credits for Israel ($500,000,000) Egypt (up to $400,000,000) and Sudan (up to $50,000,000) and $789,000,000 to be provided at concessional interest rates to nations important to the United States who are clearly in need.

The bill proposes new authority to establish an anti-terrorism law enforcement assistance program. International terrorism has become a cancer on the body politic of the world community. The Administration is firmly committed to combat this disease. The proposed program, which is one aspect of the Administration's efforts against terrorism, would provide anti-terrorism assistance to law enforcement officials of friendly and allied nations selected for this purpose because of their vulnerability and need. The bill authorizes $5,000,000 for this purpose for fiscal year 1983.

In addition, this bill:

Amends 620(f) of the FAA and adds a new section 414 to the Agricultural Trade Development and Assistance Act to remove prohibitions on the provision of foreign assistance and P.L. 480 to the People's Republic of China;

Authorizes a new provision in the AECA for reciprocal one-for-one exchanges of United States and foreign military students between senior and intermediate-level professional military schools of the United States and equivalent schools of foreign countries on a reimbursement-in-kind basis;

Amends section 634A of the FAA to establish a threshold of $50,000 for 15-day advance reprogramming notices to Congress of International Narcotics and International Military Education and Training country program changes.

The bill authorizes the President to sell government-furnished defense articles to United States firms acting as prime contractors for foreign governments or international organizations for incorporation into end-items and for concurrent or follow-on support; it amends section 21(e) of the AECA to provide for full-cost recovery of all additional expenses incurred by United States Government agencies in carrying out functions under the AECA.

With particular regard for the authorizations requested in this bill for security assistance programs for Greece and Turkey, I hereby certify, in accordance with section 620C(d) of the FAA, that the furnishing of such assistance to Greece and Turkey will be consistent with the principles set forth in section 620C(b) of the FAA. The explanation of the reasons for this certification in each case is contained in the Congressional presentation materials for the fiscal year 1983 security assistance programs.

The development assistance portion of the bill contains various amendments to the authorized funding levels for fiscal year 1983. The bill authorizes higher amounts for the Education and Human Resources account; the Energy, Private Voluntary Organizations and Selected Development Activities account; the Trade Development Program; and Operating Expenses. In addition, the bill extends the expiration date for the guaranty program authorized by section 222A of the FAA, and amends section 302(a)(1) to eliminate the earmarks on the International Organizations account.

The programs authorized by the bill have been formulated with both the national interests of the United States and our budget stringencies in mind. These programs are a cost-effective way of complementing our own defense measures and promoting the stability and economic prosperity of developing nations. While not a substitute for our ongoing efforts to build a strong defense establishment, our security assistance programs serve as an important addition to the strengthening of our defense posture and revitalizing of our defense alliances.

World events since the Administration came into office have demonstrated the need for the United States to maintain its vigilance and to augment this with continued assistance to solve the human problems of the developing world and to assist our friends and allies in acquiring, utilizing and maintaining the means to protect their own security. This bill would contribute to these ends, and I urge its prompt enactment.

The request for fiscal year 1982 authorization of appropriations and other measures necessary to carry out the Caribbean Basin Initiative, announced by the President on February 24, 1982, will be transmitted separately.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

ALEXANDER M. HAIG, Jr.●

By Mr. DURENBERGER:

S. 2228. A bill for the relief of Solomon Tulu Cherne; to the Committee on the Judiciary.

RELIEF OF SOLOMON TULU CHERNE

Mr. DURENBERGER. Mr. President, I am today introducing a bill for the relief of Solomon Tulu Cherne, and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Solomon Tulu Cherne may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by John Cherne and Jacqolyn Cherne, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

By Mr. GRASSLEY:

S. 2229. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for youth employment during the summer of 1982, and for other purposes; to the Committee on Finance.

EMERGENCY YOUTH EMPLOYMENT TAX INCENTIVE ACT

● Mr. GRASSLEY. Mr. President, today I am introducing legislation which I hope will become a top priority for the Congress in the weeks ahead. It addresses a problem that has become increasingly more serious in our current economic dilemma, that of youth unemployment. The most recent Department of Labor statistics show the unemployment rate for youths has risen to 22 percent. Even more disturbing is the fact that unemployment among black youths is approaching 45 percent—five times the rate of all workers. However, the employment problems of our young people, who find it difficult to compete in the labor market because of lack of education or training, are not just problems of our youth, but of our families. Youths are contributing to the economic survival of many families, especially as the number of one-parent families with children continues to rise.

The bill I am introducing today is designed to enhance the job prospects and career prospects for low-income youths aged 16 to 21 who have had the most severe problems in entering the labor force. It would encourage the private sector, as well as States and local governments, to hire youths on a one-time emergency basis during the summer months of 1982. This legislation, which has been introduced in the House by my distinguished colleague, Representative GOODLING, provides a bridge of hope between our current economic condition and the eventual economic recovery that the administration's plan envisions. It does not involve a Federal, State, or local makework program. Rather, it provides an incentive for private and public employers to act according to self-interest while accomplishing Federal policy objectives. It is a truly cost-effective way to increase the productivity of our work force and assist the disadvantaged in our society in entering the job market.

My plan would essentially build on the current targeted jobs tax credit by allowing employers an 85-percent tax credit for wages paid to low-income youths between May 17 and September 17, 1982. In addition, wages would be excluded from the gross income of the individual subject to personal income tax, as well as excluded for the purposes of the Federal Insurance Contributions Act and Federal unemployment tax.

I urge my colleagues to join in support of this legislation that offers hope to many youths who face a potentially bleak and jobless summer. I feel that this approach would allow many of our young people the opportunity to obtain useful job skills that will help them become productive workers in the future.

Mr. President, I ask unanimous consent that a list of the major provisions of the bill be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EMERGENCY YOUTH EMPLOYMENT TAX INCENTIVE ACT

Duration of Emergency Employment Period: May 17, 1982–September 17, 1982.

Qualified Youth: Individual who begins work between May 17 and September 17, 1982; aged 16 to 21 (not attained 21 on hiring date); is certified by the designated local agency as being a member of an economically disadvantaged family; 15% of the youth hired by any one employer not required to be economically disadvantaged (flexibility to employer to hire deserving youth who might not otherwise qualify).

Amount of Tax Credit: 85% tax credit for wages paid to qualified youth instead of 50% tax credit under the targeted jobs tax credit program.

To Obtain Tax Credit: Must be able to certify that qualified youth has not displaced any other individual from employment; hires qualified youth between May 17 and September 17, 1982; assure that qualified youth works on a substantially full time basis.

Exclusion from Income and Employment Taxes (affects private and public sectors): Personal income tax; Federal Insurance Contributions Act; Federal unemployment tax.●

By Mr. STEVENS:

S. 2230. A bill to provide for an automobile research competition to produce a radically new automobile embodying high fuel economy, safety, and environmental standards, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AUTOMOBILE RESEARCH COMPETITION ACT

Mr. STEVENS. Mr. President, today I am introducing legislation that would establish an automobile research competition to produce a passenger automobile capable of attaining 80 to 100 miles of travel on 1 gallon of gas or diesel fuel.

Mr. President, in 1978 our country consumed 18.8 million barrels of oil a day and imported approximately 6.4 million of that amount from overseas. For all of 1981, Americans consumed an average of 15.9 million barrels of oil a day, and our imports in December of 1981 had dropped to 3.8 million barrels of oil a day.

Much of this reduction must be attributed to the efforts of all citizens who are using less energy in all facets of their lives. This energy conservation, coupled with the downturn in demand because of the current economic conditions, has dropped the price of oil dramatically.

This result of the law of supply and demand also has some additional benefits. Besides cutting the energy bills of the industrial nations by over $50 billion, it should boost economic growth and contribute to further reductions in inflation. In fact, for every $2 reduction in the price of oil, the consumer price index is reduced by a half a percentage point. Chase Econometrics just released a forecast based on $25 a barrel by the first quarter of 1983. At that level, the real GNP would rise 0.5 percent faster, disposable income would be 1.3 percent higher, and the CPI would fall by 1.9 percent.

However desirable this current drop in oil prices is, Mr. President, we cannot stray from our goal of energy independence and energy efficiency. I am fortunate to be from a State rich in natural resources, especially oil, but Alaskans recognize how vital it is that our Nation's energy research be continued so that we are prepared to deal with eventual shortages of oil.

This legislation is also being introduced in the House by Congressman BOB SHAMANSKY of Ohio.

This bill provides American industry with an additional incentive to develop a fuel-efficient vehicle that is far superior to anything now in use. The legislation establishes a research competition conducted by the Secretary of Transportation by which a challenge is put to American industry to come forward with vehicle prototypes that would:

Get 100 to 105 miles per gallon with diesel and 80 to 85 miles per gallon with gasoline engines;

Hold four passengers and luggage;

Have an average useful life of 100,000 miles;

Meet safety and environmental standards; and

Cost $6,000 to $6,500 in 1982 dollars.

Also, the entrants would have to provide feasibility studies concerning the marketing and manufacturing of the vehicle. The Secretary would then select one winner and four consolation winners. The consolation winners would each receive $20 million for their research and development costs. The winner would receive a per-car reimbursement of the difference between $20 million (1982 dollars) and the manufacturer's list price (1982 dollars) for the first 10,000 units produced. Assuming the list price is $6,000 (1982 dollars), this would be a reimbursement of $140 million. Thus, the total cost to the Government of acquiring and introducing this vehicle to the American public would be about $220 million.

I must emphasize that there is no budgetary impact this year—only in the year that the challenge is met. All research and development costs are borne by the private sector, and no Government funds are awarded until the competition has been successfully completed. The competition is anticipated to be a 3- to 5-year program. Mr. President, if the challenge is met and the bill spells out specifications which will not be easy to overcome, then surely it would be worth the effort and the Government's cost for having obtained this vehicle technology.

To those who would say that this bill is asking the impossible, I would reply that much of the technology already exists—it need only be further developed and applied. Volkswagen is only 3 to 5 years away from introducing a 75-mile-per-gallon vehicle. This proposal has been well thought out and is based on research done by the Battelle Memorial Institute of Columbus, Ohio—the world's largest private nonprofit research institute. Additionally, Mr. President, I have been in touch with the Department of Energy's Conservation and Renewable Energy Division, and the unofficial, but positive view, is that this incentive program for high technology development does not suffer from many of the problems of former incentive research programs.

Finally, Mr. President, I believe this legislation is a good complement to the program for economic recovery. We are encouraging American industry in that program to become more efficient and productive so that America can be more competitive in world markets. This bill provides additional opportunity for industry to do just that, and I urge all my colleagues to give it their support.

By Mr. DURENBERGER (for himself, Mr. DODD, Mr. DOMENICI, Mr. PRESSLER, Mr.

Moynihan, Mr. Denton, and Mr. D'Amato):

S.J. Res. 167. Joint resolution to commemorate the 100th anniversary of the Knights of Columbus; to the Committee on the Judiciary.

ANNIVERSARY OF THE KNIGHTS OF COLUMBUS

Mr. DURENBERGER. Mr. President, the year 1982 marks the 100th anniversary of one of the Nation's most distinguished fraternal organizations—the Knights of Columbus.

From a small beginning in New Haven, Conn., in March 1882, the Knights of Columbus has grown to more than 1.3 million members in 7,100 local councils. This dramatic growth should be no surprise to anyone familiar with the organization's record of service. Whether comforting soldiers on the front lines, offering job services for returning veterans, providing recreation and educational services for youth, or donating volunteer service to their communities, the Knights of Columbus have consistently personified the best tradition of American volunteer and community service.

The Knights won the gratitude of the Nation with their efforts to comfort allied servicemen during the First World War, Hospitality huts erected by the Knights stood near the front lines, each bearing the inscription "Everyone welcome; everything free." When the war ended, the Knights did not forget the veteran. They created their own job training and employment service to ease the soldier's transition back to civilian life.

In the three-quarters century since World War I, the Knights have compiled a remarkable record of voluntary, community service. Every year the Association provides millions of dollars for youth education and recreational activity. It currently sponsors more than 1,000 Boy Scout troops. And last year alone, Knights of Columbus members donated more than 9.2 million hours to volunteer service. Nationwide, the organization gave more than $32 million to various charitable and benevolent activities, with special emphasis on projects to aid the handicapped and underprivileged. The record is too strong and too lengthy to recount here in full. But, I have had the privilege of serving in the Knights of Columbus in Minnesota, and can personally attest to the value of the experience.

In early August, the Knights of Columbus will hold its centennial convention in Hartford, Conn. I can think of no better way to honor the organization and its members than by adoption of this joint resolution. The Knights have bettered the quality of life in thousands of communities touching every State in the Nation. I hope that every Senator will take a moment to say "Thanks" by cosponsoring this joint resolution.

Mr. President, I ask unanimous consent that the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

Senate Joint Resolution 167

Whereas the Knights of Columbus was established in New Haven, Connecticut, 100 years ago on March 29, 1882, to promote the well-being of its members and the community; and

Whereas this association has grown to more than 1 million members in the United States and to 1.35 million members in 7,000 local councils throughout the world; and

Whereas this association won the gratitude of the nation for its efforts in comforting Allied servicemen during World War I through hospitality huts near the front lines bearing the invitation, "Everybody welcome; everything free"; and

Whereas the Knights of Columbus continued its assistance to members of the armed services after World War I by providing both job training and employment service for returning veterans; and

Whereas the society has dedicated itself to the training of youth leaders by establishing its own youth branch, the Columbian Squires, which currently has more than 1,000 circles; by sponsoring almost 1,000 Boy Scout troops; and by providing recreational and educational activities for youth at a cost of millions of dollars every year; and

Whereas the society's ardent love for country led to the formation on February 22, 1900, of a special branch known as the Fourth or Patriotic Degree, with about 1,000 assemblies, which has as its chief concern the good of the nation; and

Whereas the Knights of Columbus long has been dedicated to the principle of people-to-people service and in the last recorded year gave more than 9.2 million volunteer hours to the community and in excess of $32 million for various charitable and benevolent activities, particularly to aid the handicapped and underprivileged; and

Whereas the Knights of Columbus is committed to strengthening the family as the basic institution of society and the key to the nation's strength and well-being; and

Whereas this organization always has been devoted to the moral and cultural as well as the material uplift of all mankind: Therefore be it

Resolved, that the Senate and House of Representatives of America in Congress assembled, pay tribute to the Knights of Columbus on its centennial for its constructive and patriotic idealism, and express the country's gratitude for its many contributions to the nation.

By Mr. BAUCUS:

S.J. Res. 168. A joint resolution to establish reciprocal entrance fees for Canadian citizens entering Glacier National Park in connection with the 50th anniversary of the Waterton-Glacier International Peace Park; to the Committee on Energy and Natural Resources.

WATERTON-GLACIER INTERNATIONAL PEACE PARK ENTRANCE FEES

● Mr. BAUCUS. Mr. President, this year marks the 50th anniversary of Waterton-Glacier International Peace Park, comprised of Glacier National Park in Montana and Waterton Lakes National Park in the Province of Alberta. According to the language of the bill originally creating the international park, Glacier National Park united with Waterton Lakes National Park in 1932 "for the purpose of permanently commemorating the long-existing relationship of peace and good will existing between the people and governments of Canada and the United States."

Montana's Representative Leavitt, the original sponsor of this measure, asserted that the International Park would "become a great monument to the idea of international peace and good will." The park has been a success not only as a symbol of our amiable relationship with Canada but also a token of international peace.

The idea to combine these two parks into one international park first took form at a meeting of Rotarians from Montana and Alberta held at Waterton Lakes in 1931. In furtherance of these goals of international peace and good will, I am today introducing a resolution to establish reciprocal entrance fees for Canadian citizens entering Glacier National Park in connection with the 50th anniversary of Waterton-Glacier International Peace Park.

During 1981, Waterton-Glacier International Peace Park hosted approximately 1.8 million visitors from around the world. About 20 percent of these visitors were Canadians. As a result, the estimated revenue loss from this proposal would be $52,300, minimal compared to the significant sum that Canadian visitors invest in our economy.

Glacier National Park is the epitome of beauty, of undisturbed nature, and of peacefulness. This world-renowned wilderness, camping, hiking, and fishing area, often called the crown of the continent, lies astride that Great Divide of the Rocky Mountains in the northwest corner of Montana. Glacier National Park was named for the more than 50 glaciers found there. These 50 streams of pushing, grinding ice are among the few in the United States which are comparatively accessible. The park also encompasses more than 1,500 square miles of snow-capped peaks, sharp spires, deep green alpine valleys and meadows, and hundreds of sparkling lakes and glacial streams.

The uniting of Glacier National Park with Waterton Lakes National Park was a remarkable tribute to the peaceful relationship we have enjoyed with our neighbors to the north. These two monuments of nature's beauty combine to form nearly 2,000 square miles of alpine wilderness in which the visitors are free to hike and explore without any restrictions imposed by the international border. The great beauty and natural resources of

Waterton-Glacier International Peace Park are shared by Canadians and Americans alike. As Representative Leavitt noted some 50 years ago:

> There is no area in America more replete with beauty of the highest order than that comprised within these two national parks. Tremendous mountains with carved cirques in which the snows and glaciers of countless ages are encompassed, innumerable lakes, each a gem of its kind, canyons of the character described by Robert Service when he speaks of "canyons plumb full of hush"—these are the describable features of this region. But it has about it something indescribable. Perhaps the imminent presence which broods over it and which is universally felt may best be described as peace.

At this point, Mr. President, I ask that this measure, which would establish reciprocal entrance fees for Canadian citizens entering Glacier National Park in connection with the 50th anniversary of the Waterton-Glacier International Peace Park, be printed in the RECORD. I urge my colleagues to join in support of this proposal.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 168

Whereas the Waterton-Glacier International Peace Park was created to commemorate the long history of friendship and goodwill between Canada and the United States;

Whereas 357,000 or approximately 20 percent of all visitors to Glacier National Park are Canadians;

Whereas the Park is nearly 2,000 square miles of alpine wilderness in which visitors are free to hike and explore without restrictions imposed by international border;

Whereas the revenue loss in entrance fees due to reciprocal entrance would only amount to $52,000, while Canadian visitors inject many times that amount into the regional economy; and

Whereas 1982 is the fiftieth anniversary of the establishment of the Waterton-Glacier International Peace Park: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, Canadian citizens may enter the Glacier National Park without cost by displaying a Canadian parks pass under the terms of entrance provided by such pass.

SEC. 2. The first section shall be effective beginning with the date of enactment of this resolution and ending December 31, 1982.●

ADDITIONAL COSPONSORS

S. 422

At the request of Mr. GLENN, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 422, a bill to provide for the extension of the period for repayment of revenue bonds issued by the St. Lawrence Seaway Development Corporation to the Secretary of the Treasury from 50 years to 80 years, and for other purposes.

S. 1758

At the request of Mr. DECONCINI, the Senator from Missouri (Mr. DANFORTH) was added as a cosponsor of S. 1758, a bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement.

S. 1939

At the request of Mr. GOLDWATER, the Senator from Arizona (Mr. DECONCINI), the Senator from Arkansas (Mr. PRYOR), the Senator from South Carolina (Mr. THURMOND), the Senator from Montana (Mr. MELCHER), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2036

At the request of Mr. QUAYLE, the Senator from Hawaii (Mr. INOUYE), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2036, a bill to provide for a job training program, and for other purposes.

S. 2124

At the request of Mr. PRESSLER, the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2124, a bill to provide relief from honey imports.

S. 2130

At the request of Mrs. KASSEBAUM, the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Mr. SARBANES), the Senator from Nevada (Mr. CANNON), the Senator from North Dakota (Mr. BURDICK), the Senator from Michigan (Mr. LEVIN), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of S. 2130, a bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes.

S. 2149

At the request of Mr. BOREN, the Senator from Texas (Mr. BENTSEN), the Senator from South Dakota (Mr. ABDNOR), the Senator from Michigan (Mr. LEVIN), the Senator from North Dakota (Mr. ANDREWS), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 2149, a bill to provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers temporarily unable to make payments due to circumstances beyond their control.

S. 2193

At the request of Mr. MITCHELL, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2193, a bill to amend the Tariff Act of 1930 to provide greater access to antidumping and countervailing duty proceedings, and for other purposes.

S. 2198

At the request of Mr. DOLE, the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 2198, a bill to amend the Internal Revenue Code of 1954 to improve taxpayer compliance, and for other purposes.

SENATE JOINT RESOLUTION 143

At the request of Mr. THURMOND, the Senator from New York (Mr. D'AMATO) the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Florida (Mrs. HAWKINS), the Senator from Nevada (Mr. CANNON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Vermont (Mr. STAFFORD) the Senator from Minnesota (Mr. DURENBERGER), the Senator from Hawaii (Mr. INOUYE), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Alabama (Mr. HEFLIN), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of Senate Joint Resolution 143, a joint resolution to authorize and request the President to designate the week of May 2 through 8, 1982, as "National Physical Fitness and Sports for All Week."

SENATE JOINT RESOLUTION 155

At the request of Mr. COHEN, the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of Senate Joint Resolution 155, a joint resolution redesignating the St. Croix Island National Monument in the State of Maine as the "St. Croix Island International Historic Site."

SENATE JOINT RESOLUTION 160

At the request of Mr. HAYAKAWA, the Senator from Indiana (Mr. QUAYLE) was added as a cosponsor of Senate Joint Resolution 160, a joint resolution to designate July 9, 1982, as "National P.O.W.-M.I.A. Recognition Day."

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. GARN, the Senator from Maryland (Mr. SARBANES), the Senator from Delaware (Mr. ROTH), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Kentucky (Mr. FORD), the Senator from Nebraska (Mr. EXON), the Senator from South Dakota (Mr. ABDNOR), the Senator from Vermont (Mr. STAFFORD), the Senator from Hawaii (Mr. INOUYE), the Senator from North Dakota (Mr. BURDICK), the Senator from Georgia (Mr. MATTINGLY), the Senator from Indiana (Mr. LUGAR), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Nevada (Mr. CANNON), the Senator from Wisconsin (Mr. KASTEN), the Senator from Alabama (Mr. HEFLIN), the Senator from South Dakota (Mr. PRESSLER), the Senator from North Dakota (Mr. ANDREWS), the Senator from Illinois (Mr. PERCY), the Senator from South Carolina (Mr. Thurmond), the Senator from Louisiana (Mr. Johnston), the Senator from Wyoming (Mr. Wallop), the Senator from Maine (Mr. Cohen), the Senator from Utah (Mr. Hatch), the Senator from Nevada (Mr. Laxalt), the Senator from Virginia (Mr. Warner), the Senator from New Mexico (Mr. Schmitt), the Senator from New York (Mr. D'Amato), the Senator from Minnesota (Mr. Durenberger), the Senator from Idaho (Mr. Symms), the Senator from New Hampshire (Mr. Humphrey), the Senator from Iowa (Mr. Jepsen), the Senator from New Jersey (Mr. Bradley), the Senator from Kansas (Mr. Dole), the Senator from Virginia (Mr. Harry F. Byrd Jr.), the Senator from Alaska (Mr. Stevens), the Senator from Iowa (Mr. Grassley), the Senator from Arkansas (Mr. Bumpers), the Senator from Mississippi (Mr. Cochran), the Senator from Georgia (Mr. Nunn), the Senator from Texas (Mr. Tower), and the Senator from Florida (Mr. Chiles), were added as cosponsors of Senate Concurrent Resolution 52, a concurrent resolution expressing the sense of the Congress that members of the National Guard of the United States and the Reserve forces of the Armed Forces of the United States deserve public recognition for their vital contribution to our national defense and that members of these forces need the support and cooperation of their civilian employers in order to train and remain ready to respond to national emergencies.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. Moynihan, the Senator from Iowa (Mr. Grassley), the Senator from Missouri (Mr. Eagleton), the Senator from South Carolina (Mr. Hollings), the Senator from Florida (Mr. Chiles), and the Senator from Minnesota (Mr. Durenberger) were added as cosponsors of Senate Concurrent Resolution 68, a concurrent resolution regarding membership in the United Nations General Assembly.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. Sasser, the Senator from Kentucky (Mr. Ford) was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution relating to federally insured deposits.

SENATE RESOLUTION 325

At the request of Mr. Dixon, the Senator from Rhode Island (Mr. Pell) and the Senator from Pennsylvania (Mr. Heinz) were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that a supplemental appropriation should be enacted to restore full funding of the WIN program.

SENATE RESOLUTION 334

At the request of Mr. Metzenbaum, the Senator from West Virginia (Mr. Randolph), the Senator from Kentucky (Mr. Ford), the Senator from Maryland (Mr. Sarbanes), the Senator from Delaware (Mr. Biden), and the Senator from Nebraska (Mr. Zorinsky) were added as cosponsors of Senate Resolution 334, a resolution to express the sense of the Senate disapproving the policy of the administration with respect to railroad retirement for fiscal year 1983.

AMENDMENT NO. 1267

At the request of Mr. DeConcini, the Senator from North Dakota (Mr. Burdick) was added as a cosponsor of amendment No. 1267 intended to be proposed to S. 1080, a bill to amend the Administrative Procedures Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations; and for other purposes.

SENATE CONCURRENT RESOLUTION 72—CONCURRENT RESOLUTION RELATING TO INSURANCE OF CERTAIN DEPOSITS

Mr. GARN (for himself, Mr. Tower, Mr. Heinz, Mr. Lugar, Mr. D'Amato, Mr. Chafee, Mr. Schmitt, Mr. Proxmire, Mr. Cranston, Mr. Riegle, Mr. Sarbanes, Mr. Dodd, Mr. Dixon, Mr. Baker, Mr. Gorton, Mr. Hatch, Mrs. Hawkins, Mr. McClure, Mr. Murkowski, Mr. Rudman, Mr. Eagleton, Mr. Heflin, Mr. Baucus, Mr. Melcher, Mr. Randolph, Mr. Sasser, Mr. Domenici, Mr. Pryor, Mr. Ford, Mr. Cannon, Mr. Dole, Mr. Exon, Mr. Huddleston, Mr. Cohen, Mr. Levin, Mr. Matsunaga, Mr. Mitchell, and Mr. Robert C. Byrd) submitted the following concurrent resolution; which was ordered placed on the calendar:

S. Con. Res. 72

Whereas, since the 1930's, the American people have relied upon Federal deposit insurance to ensure the safety and security of their funds in federally insured depository institutions; and

Whereas the security of such funds is an essential element of the American financial system: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress reaffirms that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

SENATE CONCURRENT RESOLUTION 73—CONCURRENT RESOLUTION RELATING TO IRANIAN PERSECUTION OF THE BAHAI COMMUNITY

Mr. HEINZ submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 73

Whereas the Bahâi community in Iran is experiencing persecution, harassment and disappearances of family members, job discrimination, seizure of bank funds, destruction of personal property, and torture;

Whereas current reports show at least 111 executions of Bahâis and Bahâi religious leaders by the government of Iran; and

Whereas the continued harassment and murder of Bahâis demonstrates that the government of Iran has launched a conscious effort to destroy the Bahâi community.

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States condemns persecution of the Bahâis, holds the government of Iran responsible for upholding the rights of all its citizens, including the Bahâis, and expresses the hope that the discrimination and brutal executions within the Bahâi community cease immediately. The Congress urges the Iranian government to take whatever means are necessary to end this extermination of law abiding citizens who only wish to worship in freedom.

PERSECUTION OF BAHAI COMMUNITY

● Mr. HEINZ. Mr. President, extensive persecution has been the history of the Bahai community in Iran. The reported 111 executions of Bahai citizens in recent months shows clearly how serious the situation has become since the advent of the Khomeini regime; and how determined the Iranian Government is to destroy the Bahai religion.

That the leaders of the Bahai struggle for basic human rights are frequently the victims of the most brutal acts of persecution is by no means coincidental, for it is reported that there is a conscious effort on the part of the Iranian Government to destroy Bahai leadership, thus crippling the entire community. Clearly, the Bahai situation is no longer simply a case of discrimination, but rather one of violent oppression. It has become impossible for the Bahais to live under the rule of the present Iranian regime.

The reported 111 executions I just mentioned show the degree of terror the Iranian Government is willing to inflict upon the Bahai community. More importantly, it dramatizes the urgency of the matter and the need for us to speak out forcefully.

The Bahai people are not restless political revolutionaries, but are people striving to hold onto their most fundamental human rights and their freedom of religion.

For many decades they have struggled against this unfair oppression alone, but now as their plight worsens, it is time for our help. As a country dedicated to upholding democracy and freedom, we cannot tolerate the continued persecution of the Bahais in Iran. We must commit ourselves to helping the Bahai people sustain their courage and their struggle to obtain their most fundamental human rights.

That is why I am today submitting a concurrent resolution, calling for an end to this unfair denial of human rights. We have a responsibility to speak out in this manner, even though our relationships with the Government of Iran are strained at best. People of good conscience cannot ignore terror and murder, and perhaps by bringing it forcefully to the world's attention we can in some way influence the course of events in Iran.●

SENATE RESOLUTION 343—RESOLUTION RELATING TO STRATEGIC ARMS NEGOTIATIONS

Mr. MATHIAS (for himself, Mr. Baucus, Mr. Eagleton, Mr. Gorton, Mr. Leahy, Mr. Durenberger, Mr. Danforth, Mr. Stafford, Mr. Dodd, Mr. Chafee, and Mrs. Kassebaum) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 343

Whereas the number of nations possessing nuclear arms or the capacity to produce nuclear arms is proliferating;

Whereas the sophistication of nuclear weapons technology is advancing so rapidly that verification of the numbers and capabilities of weapons is becoming increasingly difficult;

Whereas the United States and the Soviet Union each maintain arsenals of nuclear weapons in a volume exceeding any comprehensible need;

Whereas the production and maintenance of these nuclear arsenals is destructive to the economies of the United States and the Soviet Union and increasingly of other nations;

Whereas the mere existence of these arsenals is a danger to the health and lives of the people of the world and a burden to their spirit;

Whereas nuclear war would be an unprecedented catastrophe for the participants in the conflict;

Whereas the likelihood of nuclear war may be increasing with expanding and proliferating nuclear arsenals; and

Whereas strategic arms negotiations have not been conducted between the United States and the Soviet Union since June 1979: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should immediately invite the Soviet Union to begin nuclear arms negotiations with respect to—

(1) strategic arms held by or proposed to be developed by either superpower; and

(2) control of the proliferation of nuclear weapons and technology.

SENATE RESOLUTION 344—RESOLUTION RELATING TO IMPORTS OF LIBYAN OIL

Mr. HART (for himself, Mr. Kennedy, Mr. Quayle, Mr. Mitchell, Mr. DeConcini, Mr. Sasser, Mr. Leahy, Mr. Exon, Mr. Robert C. Byrd, Mr. Sarbanes, Mr. Weicker, Mr. Heflin, Mr. Heinz, and Mr. Ford) submitted the following resolution; which was considered.

S. Res. 344

Whereas the Congress finds it is in the interest of the national security of the United States to combat international terrorism, and

Whereas the present regime in Libya is aiding and abetting international terrorism, and

Whereas Libya is able to threaten its neighbors and international order because of the revenues it derives from its oil trade, and

Whereas the President of the United States, after consultation with Congress and discussions with appropriate foreign governments has decided to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of United States origin oil and gas technology and equipment that is not readily available from sources outside the United States: Therefore, be it

Resolved, That it is the sense of the Senate that Congress strongly supports the President's decision to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of United States origin oil and gas technology and equipment that is not readily available from sources outside the United States.

AMENDMENTS SUBMITTED FOR PRINTING

AGENT IDENTITIES LEGISLATION

AMENDMENT NO. 1339

(Ordered to be printed.)

Mr. BRADLEY proposed an amendment to the bill (S. 391) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying agents, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that a hearing on the reauthorization of the food stamp program has been scheduled before the Committee on Agriculture, Nutrition, and Forestry on Monday, March 29, beginning at 10 a.m. In room 324, Russell Building. Anyone wishing further information should contact the committee staff at 224-2035.

SUBCOMMITTEE ON SOIL AND WATER CONSERVATION

Mr. JEPSEN. Mr. President, as chairman of the Senate Agriculture Subcommittee on Soil and Water Conservation, I wish to announce that a hearing on the Department of Agriculture's proposed soil and water conservation program has been scheduled on Tuesday, March 30, beginning at 10:30 a.m. in room 324, Russell Building. Representatives of the U.S. Department of Agriculture, conservation and producer groups have been invited to testify. Anyone wishing further information should contact Denise Alexander or John Cozart of the Agriculture Committee staff at 224-2035.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserve Water to consider S. 2133, the Mount Saint Helens National Volcanic Area Act of 1982. The hearing will be held on Wednesday, April 7, beginning at 8 a.m. in the Cedar Room of the Kelso Thunderbird Motor Inn, located at 510 Kelso Drive, Kelso, Wash.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Tony Bevinetto, Committee on Energy and Natural Resources, Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510 (202-224-5161) or Ms. Vicki Boyle, office of Senator Jackson, U.S. Courthouse, 1010 Fifth Avenue, Seattle, Wash. 98104 (206-442-7837), by close of business on Friday, April 2.

Witnesses should supply the subcommittee with 25 copies of their written statements 24 hours in advance of the hearings, as required by the rules of the committee. The copies should be delivered to Mr. Bevinetto at the Thunderbird Motor Inn on Tuesday, April 6.

Because of the number of witnesses expected to testify, time will be limited. Witnesses will be arranged in panels and are requested to summarize their written statements during their oral testimony.

For further information regarding this hearing you may wish to contact Mr. Bevinetto at 202-224-5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE OF THE JUDICIARY

Mr. MATHIAS. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate at 11 a.m. on Wednesday, March 17, to discuss the nominations of Glenn E. Mencer, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, William W. Caldwell, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania, Carol Los Mansmann, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania; John L. Coffey, of Wisconsin, to be U.S. circuit judge for the Seventh Circuit Court of Appeals; Clarence M. Pendleton, Jr., of California, to be a member of the Commission on Civil Rights; and other pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FEDERALISM AND FREEDOM

● **Mr. GOLDWATER.** Mr. President, in his state of the Union address on January 26, President Reagan proposed a comprehensive plan to revitalize the Federal system. He called for a New Federalism that would shift 40 or more grant programs to the States. These programs involve basic services which are logically administered and operated at the local and State level. Another part of the President's program provides for a complete takeover of medicaid by the Federal Government, saving States over $25 billion by fiscal year 1987. The main idea of his program is, in the President's words, "to make our system of federalism work again."

Mr. President, you may find it interesting to know that two decades ago another prominent Republican, who was then a State Governor, presented his Nation with a creative plan for strengthening federalism. The theme of his proposal was "that the supreme issue before us * * * is this: How to make freedom itself work and endure in the world today." His answer was "that the future of freedom lies in the Federal idea."

He defined the Federal idea broadly in the traditional sense of a shared sovereignty, "a political system that has more than one center of sovereign power, energy, and creativity." He explained that under our Constitution this means State, local, and Federal Governments are each key centers of power, none having power to destroy another.

He added an important insight, an observation that is relevant to current legislative efforts to interfere with judicial authority. He said our Federal idea also "involves a balance of strengths. It puts into play a sharing of powers not only among different levels of Government but—on each level—a separation of powers between the legislative, executive, and judicial branches of Government."

The astute observer of Government also offered a refreshing thought. He said that "the striking fact in our domestic political experience since World War II has not been the growth of Federal Government—but the far more rapid expansion of State and local government, to meet growing social needs."

Mr. President, I have just quoted from a lecture delivered by Nelson Rockefeller in 1962 at Harvard University. He delivered three talks, which were known as the Godkin Lectures. They were given on the evenings of February 7, 8, and 9, 1962. Each of these lectures are as pertinent today as when first delivered.

The first two lectures involved domestic subjects and the third discussed free world order. Since the first two lectures explain so clearly what federalism is all about and why the success of President Reagan's new plan is important to our freedoms, I will ask that they appear in consecutive issues of the RECORD, beginning today with the lecture of February 7, entitled "Freedom and Federalism."

The material follows:

FREEDOM AND FEDERALISM

(By Nelson Rockefeller)

In the ominous spring of 1939, a bright and sunny May 3rd was a day marked by Adolf Hitler with another bellicose speech to the Reichstag calling for a showdown on Poland. On the same day, the League of Nations opened its "peace pavilion" at the World's Fair in New York City. And also on this same day, which seems so remote from the present instant, there was published a vigorous critique of American political life by a visitor from abroad, famed in intellectual and academic circles, who had just delivered a series of lectures on the American presidency. The visitor was Harold J. Laski. And the obituary he wrote upon an historic American political doctrine bore the title: "The Obsolescence of Federalism."

How did Professor Laski conclude that the age of federalism was languishing near death?

He did concede that "federalism is the appropriate governmental technique for an expanding capitalism." But, he declaimed, a "contracting capitalism cannot afford the luxury of federalism." Leaping from this premise, he insisted that the failure of the federal idea was unmistakably plain not only in the United States but also elsewhere in the world—in Canada, Australia, Germany. And he explained this universal failure in these words: "Whether we take the conditions of labor, the level of taxation, the standards of education, or the supply of amenities like housing and recreation, it has become clear that the true source of decision is no longer at the circumference, but at the center, of the state. For 48 separate units to seek to compete with the integrated power of giant capitalism is to invite defeat in almost every element of social life where approximate uniformity of condition is the test of the good life."

The two decades since have dealt a harsh retort to Professor Laski's pronouncement on federalism in the United States. It has been proven wrong in economic, social, and political terms.

In the first place, the American free economy has not contracted but has continued its dynamic expansion. Private enterprise has become more vigorous, more creative—and better able to bring to the American workingman and woman the highest standard of living ever known by any nation, any time, anywhere in history. The power of the people over the functioning of the economy, all this while, has been maintained and even extended. A great array of political and economic devices—the income tax, inheritance laws, antitrust statutes, new and diversified mechanisms for capital accumulation, and the revolution in science—has assured that "giant capitalism," far from becoming more "integrated," has become more decentralized.

The grim prognosis of 30 years ago has also been proven wrong in strictly political terms. For federalism—its ideas and its practice—has continued to show itself the adaptable and creative form of self-government that the Founding Fathers of this nation conceived it to be. Decisions vital to national well-being have increasingly been made at the "circumference"—the states—as well as at the national "center," of political power.

These lectures are dedicated to the conviction that these basic political, social, and economic facts of life—and the lessons they carry for us—are crucial to the whole fate of freedom and of free men everywhere in this mid-twentieth century.

I do not use the word "freedom" casually. For nothing less than the historic concept of the free individual's worth and dignity, defined and attested by the whole Judeo-Christian tradition, is at stake in our world. Nor do I mention this nation's Founding Fathers from mere historic sentimentalism. The basic belief that these lectures will finally state is the urgent, historic necessity summoning Americans of this generation to match the founders of this nation in their political creativity, boldness, and vision.

The Founding Fathers devised a structure of order for a nation within which free men could work and prosper in peace. We are required to help build such a framework for freedom not merely for a nation but for the free world of which we are an integral part. And we are called to do this with far greater speed, I believe, than many of us realize or admit.

Ultimately, the great part of our debt to the past may lie in this fact: the federal idea, so basic to both personal freedom and national unity in the history of America, can now be extended and applied to bring order, strength, and progress to the world of free peoples.

Let us look, first, at the federal concept and its evolution in our nation. Let us examine some of its practical applications on working levels of national, state, and local government. Let us observe its capacity for adaptation and change, over the decades. Let us see its critical relevance and relation to a free economy—and a pluralistic society. Let us always remember, however, that the supreme issue before us through all the inquiry is this: how to make freedom itself work and endure in the world today.

I am sure you are not surprised that a governor of a large state in our federal union elects to speak of the federal idea of political life. The concept is associated in all our minds with the rights and powers of the individual states. Yet, my own political experience began in appointive posts at the national level under three different Presidents.

In 1940—more than two decades ago—I went to Washington. After mingled accomplishment and frustration in various appointive posts over a period of 16 years, I turned to elective public office on the state level—and ran for Governor of New York in 1958. I made this choice on the basis of my recognition that the critical political decisions in government are, and must be, primarily shaped and made by elected officials—or, as my Latin-American friends would say, by "the authentic representatives of the people."

It is with this particular perspective on our democratic processes that I underline my deep personal conviction that the future of freedom lies in the federal idea.

THE FEDERAL IDEA

The federal idea: what does this mean?

Let me first make it clear that I do not speak of the federal idea as merely a mechanical or technical or abstract formula for government operations. I refer to the federal idea broadly as a concept of government by which a sovereign people, for their greater progress and protection, yield a portion of their sovereignty to a political system that has more than one center of sovereign power, energy, and creativity. Not one of these centers or levels has the power to destroy another. Under the Constitution, for example, there are two principal centers of government power—state and federal. As a practical matter, local government, by delegation of state authority under the principle of "home rule," is a third such key center of power. The federal idea, then, is above all an idea of a shared sovereignty at all times responsive to the needs and will of the people in whom sovereignty ultimately resides.

Our federal idea is complex and subtle. It involves a balance of strengths. It puts into play a sharing of powers not only among different levels of government but—on each level—a separation of powers between the legislative, executive, and judicial branches of government. And it clearly signifies more than mere governmental structure. It demands faith in—and an environment for—the free play of individual initiative, private enterprise, social institutions, political organizations, and voluntary associations—all operating within a framework of laws and principles affirming the dignity and freedom of man.

A federal system, then, seeks stability without rigidity, security without inertia. It encourages innovation and inventiveness—governed by principle, and guided by purpose. It assures responsiveness more thoughtful than mere reflex—and liberty that does not lapse toward anarchy. In short, it seeks to hold the delicately precarious balance between freedom and order upon which depend decisively the liberty, peace, and prosperity of the individual.

A more full and meaningful "definition" of the federal idea may be offered in the form of what I believe are four of the critical ways in which the federal concept operates.

First, the federal idea fosters diversity within unity. In this land that reaches from ocean to ocean, the great social, economic, and political problems vary profoundly as they may appear, for example, before the people of Wyoming, the people of Louisiana, or the people of Massachusetts. In meeting many of these problems, a sweeping generalized edict from the national government might well be futile or even fatuous. Yet, in our federal concept, the national government is called upon to work with state governments in ways encouraging the states more effectively to resolve their own problems in their own way.

The simplest technical illustration of this practice is the granting of federal aid to the states, which has two key purposes. It stimulates the states to action—and to higher standards of action—by offering matching funds on specific conditions. And it also strives to equalize opportunities for the citizens of states with unequal resources. Thus, in terms of the federal tax-dollar, a state like New York "pays out" $3 for every $1 of federal aid returned, while a state like Arkansas gives $1 and receives back more than $2.50. By all such devices, the federal concept recognizes diversity—and achieves unity.

Second, the federal idea permits and encourages creativity, imagination, and innovation in meeting the needs of the people. Those needs, if not met by private action, can be met at the local, the state, or the national level of government.

By providing several sources of political strength and creativity, a federal system invites inventive leadership—on all levels—to work toward genuine solutions to the problems of a diverse and complex society. These problems—whether they concern civil rights or urban development, industrialization or automation, natural resources or transportation—never arise at the same instant and in the same way throughout a great nation. A federal system, however, allows these problems to be met at the time and in the area where they first arise. If local solutions are not forthcoming, it is still possible to bring to bear the influence, the power, and the leadership of either the state or the national government.

Third, the federal idea is a pluralistic idea. It gives scope to many energies, many beliefs, many initiatives, and enlists them for the welfare of the people. It encourages diversity of thought, of culture, and of beliefs. It gives unparalleled opportunity for the development of private institutions—social, political and economic.

Whereas a tightly centralized government tends, by its disproportionate weight and power, to stifle diversity and creativity in both the public and private sectors, a federal system provides room for both infinite variety and creativity in all sectors of national life. This is equally true for political organizations, philanthropic associations, social institutions, or economic enterprises.

Fourth, the federal idea is characterized by a balance which prevents excesses and invites the full, free play of innovation and initiative. This balance is essentially achieved by: the division of powers between the national and state governments, the separation of legislative, executive, and judicial authority, the absence of monolithic national parties, the permissive encouragement given to local municipal governments to achieve a measure of home rule either in fact or in law, the competitive action of commercial enterprise, and—above all—the freedom of individual initiative, rooted in a basic and unwavering belief in the dignity of the human person.

Let me now meet here an obvious challenge on the question of the balance within the American federal system. This is the assertion that the most dynamic forces in our society—social and economic needs, technological evolution, national peril, and governmental complexity—all conspire to decree a pitiless growth in the centralization of political authority, whether we wish it or not. The massive pressures of the Great Depression and of World War II (so it has been argued) made a bloating of central government inevitable. And hence state and local governments supposedly must withdraw from the arenas of great political, economic, and social decision.

THE GROWTH OF GOVERNMENT

As the demands of society have increased, the national government has, indeed, not only become larger but also has become more deeply involved in state and local affairs. But, the striking fact in our domestic political experience since World War II has not been the growth of federal government—but the far more rapid expansion of state and local government, to meet growing social needs.

With the resources and attention of the federal government increasingly devoted to defense, foreign aid, and international relations, the rising pressures to meet domestic needs have been directed more and more to state and local government.

It is true that, from 1950 through 1960, total national expenditures moved from 40.3 billion to 77.2 billion a 92 percent increase in a decade. We must note, however, that practically all of this increase was allotted directly to the Defense Department. If we subtract the expenditures of the Defense Department, national expenditures increased only 24 percent—from 27.1 billion to 33.5 billion. And included in these figures are huge sums for activities clearly tied to the defense effort—the Atomic Energy Commission, veterans' affairs, and mutual security. Considering the increased cost of goods and services in the fifties, there was only a modest increase in nondefense expenditures at the national level during the decade.

In the same period, total state expenditures jumped from 13.2 billion to 32.5 billion—an increase of 146 percent. Allowing for large population increases, this meant a leap from $89 per capita in 1950 to $182 per capita in 1960. Expenditures at the local level are equally impressive. In cities over 25,000, for example, the outlay went from 4.9 billion in 1950 to 12.3 billion in 1960, a staggering jump of 150 percent.

If we recall again the dismal prognosis offered on the future of federalism more than 20 years ago, we are tempted to ask: if this be "obsolescence," what, then, would be the size of growth?

THE ROLE OF THE STATES

I offer further proof by referring simply to the magnitude of certain programs of the government of the State of New York—and their comparative relation to matching efforts by the government of the United States:

IN EDUCATION.—State aid to elementary and secondary education in the State of New York totaled $753 million in the 1961-1962 fiscal year, or $87 million more than the President requested of the Congress for the whole nation in 1961 (and, as you know, what was requested on the national level far surpassed what was appropriated).

IN CIVIL DEFENSE.—The $100 million for the New York program, made law in the special session of the State Legislature in the fall of 1961, is equivalent to approximately one-third of the program enacted in Washington the same year for the entire nation.

IN POWER DEVELOPMENT.—The State Power Authority of New York has built more hydroelectric generating capacity on the Niagara and St. Lawrence rivers in the past ten years, with the funds of private bondholders, than all the hydroelectric dams of the TVA system.

IN HOUSING.—While the federal housing program enacted by the Congress last year authorized the sum of $5 billion, I recently proposed a New York State housing program which for New York City alone would involve the identical sum of $5 billion—these funds to be supplied through the newly created State Housing Finance Agency at no cost to the taxpayers.

I do not cite these facts and figures to imply that state and national governments are pitted against one another—locked in some bizarre contest to surpass one another in size and expenditure. Nothing could be further from the true relation of complementing and cooperating that must mark a healthy federalism. Yet these statistics do suggest that the role of the state, within American federalism, is far from "obsolete." It is as dynamic and promising as is the federal idea itself.

Something more than arithmetic attests the unique role of the state. It is dramatized by the whole sweep of our modern social history. Erroneously, this history has come to be exclusively associated, in the mind of a generation, with the New Deal. The historical fact is, of course, that the New Deal did face and meet deep crises in our society, did institute vital social reforms and economic regulations, and did take the force out of stresses that could have resulted in conflict and catastrophe for the nation.

Yet—while the New Deal accomplished these major social advances and did much to restore the confidence of the people—its leaders did not display great comprehension of the nature and workings of our economic system. They showed little or no awareness of the need to create a climate for growth to encourage an expanding American economy, vital to the achievement of full employment, social objectives, and the self-realization of the individual. For all the New Deal's conscientious concern for human values, it took the advent of World War II to dispose of the problems of depression and unemployment.

This experience brought home the fact that it does not suffice to understand social needs and aspirations—without also fully understanding the dynamics of our economic system.

THE ROOTS OF SOCIAL REFORM

A still more striking—and overlooked—fact about the New Deal is that its major and most successful actions in social reform had been anticipated, by experiment and practice, on the state level or by private institutions.

The history of the years before 1932 tells this story plainly. Time and again, states like Massachusetts, Wisconsin, or New York acted on their own initiative to protect the health, safety, and welfare of the individual, while guarding his rights and broadening his opportunities in the nation's free economy. This was true of factory inspection or the limitation of hours of labor. It was true of child labor or women's labor. It was true of unemployment compensation and social security.* In all such cases, the ferment of ideas and innovations worked its way up through the federal system—often from private initiative.

It is also important to note, too, that those elements of the New Deal which failed were largely in areas not tested by prior experience at the state level. These included such major economic regulatory actions as the National Recovery Administration, the Agricultural Adjustment Act, and other actions based on an economy of scarcity and on the restriction of competition and production. These were examples of action by centralized government which proved counterproductive to the goal of full employment. They turned out to be deterrents to economic growth.

This parenthesis on the impact of the New Deal only serves to make still clearer the practical workings—and ultimate implications—of the federal idea. This idea deeply involves the whole political, cultural, social, and economic environment—just as it reflects a great part of our history as a nation. And while this idea implies limits and checks against excessive power, its living purpose and intent are creative and affirmative. It is not a theoretical device to narrow or constrict political action. It is a way to amplify it.

The federal idea is not an excuse for keeping necessary things from being done. It is almost the exact opposite—a flexible and imaginative device to open not one but many avenues of political action for economic and social progress.

The essential supremacy of the people through the exercise of political power is, above all, vital to the life of the federal idea.

So close to the people, so interwoven with their deepest beliefs and their daily lives, is the federal concept that this concept is, in fact, conceivable and workable only when the people act as responsible individuals—as concerned citizens—and not merely as members of an economic class, ethnic group, religious faith, occupational calling, or private organization. The working of the federal idea, in short, depends upon the whole political environment, the full intellectual climate, the sum of the spirit and purposes of all citizenry, and their individual and collective sense of responsibility. This responsibility—I believe deeply—means political participation, not merely in voting, but in active working for one's party and in standing for public office.

My own decision to run for governor in 1958 was firmly grounded in this belief. I promptly received much contrary advice. "Don't get into politics," I was told repeatedly. "Politics is a dirty business." My reply to those who gave me this advice was simply this: "Politics is the life blood of democracy. To call politics 'dirty' is to call democracy 'dirty.' "

The truth is that anyone in a democratic society who believes that his political environment has become "dirty," and therefore scornfully turns his back on it, has become, in effect, a political refugee in his own society. Politics, of course, requires sweat, work, combat, and organization. But these should not be ugly words for any free people.

"Organization" in politics, for example, is not a sign of some sordid tyranny. It is what makes democracy itself function. And its roots must strike far beneath the surface of national, state, or community government. It must draw its strength and vitality from the people—through the ward leaders, the precinct chiefs, the block captains.

No concept of government, not even the lofty and rich promise of the federal idea itself, can truly work except as dedicated men and women in these positions, men and women in the tens of thousands, make it work. Grand ideas of government—lofty abstract principles, even the wisest constitutions and laws—depend for their very life and meaning on the willingness of citizens and leaders to apply them and to improve them.

What factors, then, tend to impair—in political practice—the effectiveness of our federal system in theory?

In the political environment of today, I would mark three pervasive attitudes or tendencies as plainly damaging to our processes of government. The first is the scorn or scepticism toward practical, partisan politics that I have already mentioned. The second is an addiction to political labels and slogans, along lines loosely called "liberal" and "conservative." The third is a timidity of leadership that rarely glimpses the dawn of any new concepts—but passively awaits the high noon of crisis.

POLITICAL ALOOFNESS

The aversion to the "rough-and-tumble," the public exposure, of partisan political life has choked off a vast amount of civic energy and creativity, precisely at the time in our history when such energy and creativity are most urgently needed. And the sources of this aversion go beyond the shallow attitude that shuns politics as "dirty."

For a whole generation, now, this withdrawal has tended to be rationalized as something wise and discriminating. A great part of our youth has grown up to believe that political parties are cheap and shoddy instruments, that political life is either comic or corrupt, and that partisanship itself must be intellectually suspect. The fashion, in all this, has been to exalt the calm and detached surveyor of the cluttered political scene, untroubled by the noisy turmoil beneath him, serene upon his pinnacle of self-appreciation, uncontaminated by the touch of reality.

I am not criticizing active intellectual independence or political mobility. Freedom—and freshness—of political judgment are essential to the vitality of our two-party system. The voter who splits his ticket—or who changes parties when he feels the candidates or the issues warrant it—is adding to the responsiveness and responsibility of both national parties.

But I do criticize political aloofness—based merely upon an overly fastidious distaste for partisanship itself. This I deeply deplore. It is foolish, because it ignores the very nature of a democratic process that depends upon active, intelligent, aggressive partisanship for its very life. And it is reckless, because the level of this real life combat—the constructiveness of political debate and the rationality of political argument—cannot be improved by persuading a free people to declare themselves, politically, a nation of conscientious objectors.

No democracy, in short, can afford to view the political scene as a kind of spectator sport, played for the amusement of the detached observers. The truth is that our democracy needs to sharpen the debate between parties and within the parties. And this need is denied or evaded by a condescension and contempt for the political life, a muting of voices, a preference for smug silence.

POLITICAL LABELS

A second distortion of political reality can be equally damaging. This is the obsession with political labels which results in the rigid classification of laws, leaders, and policies as "liberal" or "conservative." We all know that, in any serious historical sense, these terms have lost all meaning. The use of such artificial labels, in political debate, merely distorts the issue and confuses the citizen. It substitutes the slogan for thought, the false label for the serious goal. It invites the citizen, in effect, to say: "Don't confuse me with the facts. I've already made up my mind."

The confusion caused by such labels can be quickly seen if we note, for example, the policies and actions essential to accelerated economic growth—which is basic to all our major objectives as a people today. Under the now-meaningless terms of "liberal" and "conservative," some would hold that economic policies welcomed by labor are "liberal," while those cheered by business are "conservative." Yet all progress for all sections of the community depends upon interrelated factors of economic growth.

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*Factory inspection, Massachusetts, 1879; old age pensions, Alaska, 1915; child labor, Massachusetts, 1942; women's hour laws, 42 states by 1933; unemployment insurance began with private plans but reached fruition in Wisconsin Unemployment Compensation Act of 1932.

A prospering business depends upon a favorable economic climate. Labor depends upon the jobs that only a prospering business can provide. Business depends upon a responsible and prospering labor force. Both need the productive genius of agriculture. And all the social services of the government depend for their financing upon revenues attainable only through general economic progress and growth.

This is the dynamic circle of progress for our free society. It must not be broken by false issues, imaginary conflicts, or false labels. And it can be forged only by the kind of political leadership that looks, realistically and steadfastly, to the general good of all the people.

To illustrate specifically from personal experience . . . When I took office as governor, there were 600,000 unemployed in the State of New York. Business had been leaving the state because of an unfavorable economic climate. And the outgoing administration left, as its fiscal heritage, budget requests calling for expenditures of $2.3 billion, backed by revenue of only $1.6 billion—a deficit of $700 million.

To restore the state's fiscal integrity required cutting and expenditures, instituting economies, and raising taxes. None of these moves was popular, I can assure you. But the restoration of confidence in the state was fundamental to improving the climate for economic growth. And it sets us on the road to expanding business and industry, rising employment, declining unemployment, and a far greater capacity to meet our social responsibilities as a state. As an example of this capacity, the state this year is providing $500 million more for education than when I took office—in other words, a 90 per cent increase in state aid to education in just four years.

Where—in all this brief history—does a policy or an act become "liberal" or "conservative"? According to these labels, action to improve the business climate is "conservative," and increased aid to education is "liberal." The fact is that the implied distinction is false and deceiving.

If an action clearly serves the public good, what responsible leader will refrain from it for fear of the label it may bear? And if the action bring harm to the common weal, no label—or slogan—can make it right.

POLITICAL LEADERSHIP

The power of the federal idea rests, in important part, upon the opportunity it gives for action. We have noted some of the ways in which this power and opportunity may be limited, in real life. Yet the truth is that there may be limitation upon leadership of any kind so severe as the simple unwillingness to lead.

In concrete terms: if a state government lacks the political courage to meet the needs of its people by using its own taxing power—if it prefers to escape by letting the national government do the taxing and then return the money to the state—the leadership of this state puts itself in an exceedingly poor position to weep over the growth of federal power. The preservation of states' rights—in short—depends upon the exercise of states' responsibilities.

The key to this exercise, obviously, is responsible leadership in the executive and legislative branches of government. Here—as with federalism itself—we cannot seize some simplified definition to explain the matter. The quality of leadership is a many-faceted thing—subtle in the kind of strength that prudently falls short of the arbitrary or the authoritarian. But I think that this leadership has one most clear sign and expression. It must have the vision to foresee and the courage to meet problems and challenges before they grow to the ugly size of crises—by which time even the most detached or unperceptive public opinion clamors for action.

We live in an age that, by its very pace of change, severely tests all capacity for such leadership. The challenges themselves come large, and they surge swiftly. In higher education, for example, and in New York State alone, a survey of coming needs based on existing school enrollments has shown that we must double the total of all existing facilities in the next 10 years—and triple them in 25 years. Full public awareness of such accelerating needs almost surely must lag behind the facts.

In such a time of rapid change, timidity in government only compounds the problems. One is reminded, here, of the French premier who said sardonically: "The art of politics lies not in finding solutions to fundamental problems, but in keeping quiet those who raise them." To anyone who might be tempted to live by this formula in politics, I can only say that it offers a possible prescription for the tragedy that befell France 20 years ago. Surely we can find happier models for our American destiny.

Yet few things may trouble this destiny so much as a political disposition to confuse the leading of public opinion with the reflecting of it. We have all witnessed, in recent years, the widening temptation to hinge political judgment on the techniques of marketing research—the polls and surveys supposedly measuring the public temper. There exist, today, some 40 or 50 firms operating on the national level to tell political leaders and groups how the public is reacting and what it would most like to hear. Any leadership that is merely a creature of such devices is not even playing politics. It is merely caught in the complex conjuring act of a ventriloquist.

I do not believe for an instant, either, that the public, in our democracy, wants any such passive and acquiescent leadership. It does not turn to leadership as to a mirror, to study its own reflection. It looks for something very different: a definition of, and a dedication to, those principles and policies which enable a free people to grow, to prosper, and to extend its own horizon of hope.

I doubt if any democracy, without such vision and courage, without such leadership, can seriously expect to survive the mortal trials of our century.

Let me summarize briefly:

The historic application of the federal idea—reconciling unity and diversity—is probably the supreme American contribution to the struggle of all self-governing peoples to build political structures strong enough to assure freedom and order in their lives.

Our own federal system provides a unique arena for imaginative and inventive action and leadership, responsive and responsible to the people.

The practical fulfillment of this promise in our political heritage depends critically, however, upon the health of the national economy, the momentum of our social progress, and the vitality of the whole political environment. This environment can be rendered cold and barren by a citizenry fearful of political partisanship, by a public or a leadership that prefers to deal with labels and slogans rather than real problems and needs, or by a leadership too timid to venture from seemingly safe paths of the past.

The truth, in short, is that the federal idea—like the whole American experience—is a political adventure. It is no static thing, no dead definition, no dogmatic proclamation. Old as it is in our history, its secret strength is that it forever summons a free people to learn and try the new.

It requires us, I believe, to imitate its authors in only one respect: to be, like them, unchained to the past and unfearful of the future, to be—in our time as they were in theirs—political pioneers.●

THE GREAT OIL SWINDLE

● Mr. JOHNSTON. Mr. President, recently there has been a great deal of public attention paid to the so-called oil glut. Broadcast and print media are rife with descriptions of supply surpluses, falling prices, and growing disunity among OPEC nations. The danger of such publicity is that it may lead to the naive assumption that the oil crisis is over. This misconception appears to be growing not only among private citizens, but also among Government employees confronted with questions of energy policy on a daily basis.

Recently, Forbes magazine, a publication not exactly known for knee-jerk liberalism, published a detailed discussion on the subject entitled "The Great Oil Swindle." I would like to quote briefly from the conclusions of that article:

> Anyway you look at the situation it is an unholy mess. Far from fading away, the energy problem is as threatening as ever. Long-term supplies are limited, and control of most of the world's crude reserves remains concentrated in a few Middle Eastern countries.
>
> So the U.S.—and the world, for that matter—has become more vulnerable rather than less. We are all more dependent on the Middle East than we used to be and can no longer count on the international oil companies to allocate supply as efficiently as they did during the 1973-74 embargo.

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> The conclusion seems inescapable: Whether it lasts six months or three years, the so-called glut is only a correction and not a change in the fundamental conditions of supply. It is not the coming of spring, but that rare sunny day in January.

Mr. President, in recognition of this very conclusion, and an expression that the Nation should prepare to deal with a severe energy supply disruption during a period of relative surplus, the Congress recently voted overwhelmingly to approve S. 1503, the Standby Petroleum Allocation Act. President Reagan will soon be confronted with the decision of whether to sign that bill. I commend the Forbes article to his attention and to that of my colleagues. I ask that the article be reproduced in the RECORD at the conclusion of my remarks.

The article referred to is as follows:

THE GREAT OIL SWINDLE

(By James Cook)

Even down 50% and more, oil shares have few buyers. The word is out: The oil crisis is over. In real and perhaps even in nominal terms the price of crude is going down. OPEC—the Organization of Petroleum Exporting Countries—is a paper tiger, a victim of its own unbridled greed.

You can't pick up a newspaper or magazine or turn on the tube these days without hearing about plunging oil prices and the mounting glut. Falling prices carry their own momentum, just as rising prices do. So prices may yet go lower, considerably lower.

Yet the most dangerous thing in business and in investment is to draw long-term conclusions from short-term happenings, and in that respect the idea that the oil crisis is over will go down in history as the great oil swindle of 1982. Don't blame OPEC; we are really swindling ourselves with this delusion. Yet, if OPEC wanted to lull its victims into a vulnerable complacency, it could hardly do worse than encourage the notion that the world was choking on oil.

What has really happened is this: Three circumstances have conjoined to create a temporary oversupply.

One, as the market continues to absorb the huge impact of the 1979-80 price increases, the law of supply and demand is working to reduce oil usage—a price-driven conservation. At some point, however, demand adjusts to the new price, and only further price rises will encourage further conservation. With worldwide consumption off 10% in two years, we are about at that point right now.

Two, for both political and economic reasons the rulers of Saudi Arabia decided to push production higher than their revenue needs require—out of a desire to unify prices and to maximize their own long-term advantages and in exchange perhaps for a promise of U.S. military protection.

Three, a worldwide recession is dampening down demand, closing down energy-consuming factories all over the world and throwing millions of workers on the unemployment rolls. Governments cannot effectively combat this recession without sending inflation—and probably oil prices—soaring again.

For another year, perhaps for two, oil prices will remain under pressure. During this period it may be all the Saudis can do to hold prices steady in nominal terms, and that means real prices, i.e., inflation-adjusted prices, will inevitably decline. But then the chances are high that once again the world will face another oil shock comparable in severity to those of 1973 and of 1979 and 1980. Oil prices have not really permanently peaked. They have merely risen erratically: a sharp thrust upward, followed by a leveling off or even a decline—then, almost without warning, another spike upwards. The situation is as unnerving as it is economically dangerous.

"Oil is going to remain the premium, the paramount commercial fuel for a very long time to come," says Melvin A. Conant, a Washington energy consultant who once headed the Federal Energy Administration's international energy section. "With the exception of a very few countries—the U.S., Japan, possibly Germany—the energy mix in the industrial world has not really changed appreciably." Indeed, between 1974 and 1980, oil's share of the world energy market shrank only one percentage point—to 43.6%—with the gains being made not by coal, which also gave up 1% of the market, but by natural gas and nuclear energy.

In the U.S., at least, these gains in reduced energy consumption have been made at a devastating price. Import your steel and your automobiles and, of course, you use less energy. That's how a good deal of American "conservation" has come about. The saving in oil consumption has been achieved only at the cost of the export, obsolescence and subsequent dismantling of a substantial portion of America's energy-intensive industrial machine. And not only the auto industry has suffered, but those industries that traditionally support it—auto parts, metalworking, machine tools. And so have iron and steel, aluminum, coke, even petrochemicals and refined petroleum. Gone, much of them, and unlikely ever to return.

Yale University lecturer Philip Verleger, a former Treasury Department energy adviser, puts the reduced demand for oil in chilling perspective: "I have said I can see the price of a barrel of oil below $25 by the end of the year, but there is an economic forecast behind that prediction that is very grim."

Despite this reduction in demand, energy costs absorbed 12% of the U.S. GNP last year, up from 1% or less in the early Seventies. According to Bankers Trust, it now takes twice as much capital to develop the same volume of energy as it did a decade ago. You have to dig deeper, look harder and spend more money. In economic terms, the marginal efficiency of the extra capital involved is very, very low. The drain on the U.S. economy—and that of the world—has been devastating. Whether you put the primary blame on oil prices, inflation or interest rates, they're part of the same complex of problems. "The enormous price hikes in 1973-74 and 1979-80," says Herbert W. Krupp, Bankers Trust energy economist, "drained consumer purchasing power in the United States, disrupted international trade, provoked economic distortions and accelerated inflation."

In short, even if oil drops to $25 a barrel, the crisis isn't over. The oil economy and the world economy are increasingly one and the same. Without wasting unnecessary sympathy on the oil companies, this is something to keep in mind when people talk about their "obscene profits." Much of that profit is simply channeled into new capital investment, much of it at relatively low return. For every dollar that a Mobil wastes on a Marcor, many, many more dollars go into the search for oil, with a good part of the oil dollar literally disappearing into dry holes in the ground.

Is there any wonder that the world economy is in recession, with so much purchasing power, so many investment dollars drained away?

In a decade when oil prices first quadrupled and then tripled, economic growth slowed everywhere—in the U.S. and Europe, the developing world and even Japan. As against a 5% annual growth rate between 1965 and 1972, world real GNP rose only 3.8% annually between 1973 and 1978, only 2.6% between 1979 and 1981. Prospects for the Eighties as a whole are dismal. The generally optimistic World Bank doesn't foresee much more than a 3% industrial world growth rate—scarcely enough to keep up with a growing population, to say nothing of raising living standards. For better or worse, the world is committed to economic growth and will be as long as population and aspirations keep expanding.

A few years ago one of Royal Dutch/Shell's managing directors maintained that a growth rate of less than 3 percent would be "not far short of an economic disaster for most of the world," resulting in underemployment, lack of material progress and social unrest. "Low growth," he said, "would lead to a situation of despair for the majority of the world's population." The ingenuity of modern institutions and the determination of the men who ran them have so far kept catastrophe at bay. But they may not manage to do so forever. One day a straw may break the camel's back, a stray spark ignite the tinder.

It would be a terrible mistake to conclude from all this that the free market has broken OPEC's power. Tested it perhaps, but certainly not broken it. As long as Saudi Arabia has more money than it needs—that is, for the foreseeable future—OPEC will probably have the power to trim production to fit demand, setting its prices at levels that will optimize its long-term advantage. Which is to say: not so high as to provoke its customers to retaliatory violence or to push them into chaos.

Why, then, have prices weakened lately? It is a question, in part, of the delay involved in responding to what has already happened in the market.

"From 1975 to 1981," says Yale's Verleger, "you could predict what OPEC was going to do based on what the Rotterdam spot market was doing. OPEC follows the market. What happens is OPEC will take eight months to two years to catch up. Consumer prices don't rise, so consumers don't get a signal to conserve and inventories don't get liquidated."

The oil market is anything but free and probably never has been. It was the discovery by the Libyans, in the early Seventies, of how it could be manipulated that brought OPEC to power in the first place [Forbes, Apr. 15, 1976]. Soon after Qaddafi came to power in 1969, the Libyans began to demand an increase in both their tax rates on oil and the price on which those taxes were based. The oil companies refused. To enforce their will at a time when supplies were tight, the Libyans ordered a cutback in production. In this way, Libya broke the international oil companies' control of the price. The companies knuckled under to Libya's demands and they have knuckled under to OPEC ever since. Higher prices often meant reduced supply—supply reduced enough to support the increase in price.

But now, or so the theory goes, OPEC has been fatally damaged, destroyed by its own greed and avarice. For, as OPEC prices moved upward, production slowly expanded elsewhere in the world—in Egypt, Mexico, the North Sea. At the same time, overall oil demand slackened, the consuming countries cut back on their purchases from OPEC and OPEC's market share began to decline—from 65% as recently as 1976 to 51% last year. During the same period, OPEC production dropped from 31 million barrels a day to roughly 22 million.

Several individual OPEC countries priced themselves right out of the market last year. Algeria, Ecuador, Iran and Iraq already have current account deficits in their balance of payments, and by 1984 or 1985 OPEC as a whole could move into the red. As against a 1980 peak of $117 billion, Bankers Trust London economist Susan Bluff expects OPEC's current account to shift from a $51.8 billion surplus in 1982 to a $7.1 billion deficit in 1985.

To fund their development program, the OPEC countries need to maintain a certain level of revenue, and so, as they move into deficit, the financial pressures could be considerable. Will OPEC crack under the strain? Don't bet on it. Self-interest is a powerful glue. A return to a genuine free market in oil would result in a level of income for most OPEC countries that would thrust them back into the poverty from which they arose and send their ruling classes fleeing to London, Paris and New York with howling mobs at their heels. If intelligent self-interest does not hold OPEC together, blind fear of the consequences of a collapse in its monopoly will.

It was not loss of freedom that threw Poland into turmoil but a deterioration of a none-too-high standard of living. "One of the reasons for the Iranian revolution," Says Bijan Mossavar-Rahmani, a member of Iran's OPEC delegation from 1976-78, now an energy consultant and member of Harvard's Energy Security project, "is that a cash crunch forced the government to cut back on some of its spending and development projects at a time when expectations had been increasing at a rapid rate. One can see the same pressures building up in some of the other countries—Iraq, for example. Expectations have been raised, and if they cannot be met. . . ."

But even if the producers are chary of cutting back much on development, there are other alternatives. They can live off their accumulated financial reserves temporarily, or they can even move into the capital markets to finance their deficits just as the nonoil LDCs have.

"Events are going to test OPEC a good bit as a cartel," says Exxon's Chairman Clifton C. Garvin. "But they've had a remarkable facility in the last few years to hang together."

Despite the continuing glut and the steady slackening in demand, OPEC is in one sense even stronger now that it was a decade ago. Despite the sharp decline in Iranian and Iraqi production, the Gulf producers—Saudi Arabia, Iran, Iraq, Kuwait and the Emirates—still generate roughly two-thirds of OPEC's total output. The U.S. especially has become more vulnerable, buying over 22% of its imports from the Middle East, vs. 10% in 1973.

In the end, Saudi Arabia is the key. It produced 43.7% of OPEC's total output last year, vs. 28% in 1976, and still boasts the world's richest reserves. But that is only half of the country's strength. With a native population of perhaps 5 million, Saudi Arabia does not have the huge economic demands of an Indonesia, a Nigeria or a Mexico. A poor man with no money and lots of kids can't afford to be unemployed; a rich man with a few kids and a fat bank account can.

As proprietor of the world's largest oil reserves, Saudi Arabia has a vested interest in seeing the oil era extended for as long as possible. That means pricing its product at a level that will prevent the development of alternative fuels. It means trying to maintain stable, if steadily rising, prices as well, so the customer can absorb them without damaging his economy.

The Saudis' objectives were neatly distilled a year or two back in a report of OPEC's long-term strategic policy committee (Forbes, Jan. 19 1981). The report advocated a program of steadily increasing the real price of oil in the face of inflation. Intelligent greed, enlightened self-interest even. Milking the cow, but not starving her to death. That would mean an annual price increase of maybe 10%, a doubling in prices every 7½ years. That orderly and rational program is now in the "deep freeze," as Saudi Oil Minister Ahmed Zaki Yamani puts it, the victim of the present oil surplus. In its place is uncertainty and prospective disaster. "You're not going to get a long period of steady movement of oil prices in one direction or the other," says Philip Verleger. "The world just doesn't work that way."

But to mistake this instability as the prelude to the collapse of OPEC or a long-range oversupply of oil is like maintaining the climate is changing because we happen to have a warm day in January. In oil, we may have a series of warm days, but the basic climate still has not changed.

To sustain the price at current levels of demand, Saudi Arabia has already cut back production in the last six months, from 10 million to 8.5 million barrels a day, and Yamani has said repeatedly that this country may well cut even further. The kingdom needs 6.5 million barrels a day to finance the $235 billion development program it expects to complete in 1985, and it also needs 6.5 million barrels a day to provide the associated gas it needs to support its new petrochemical industries. Thus, some analysts argue, that 6.5 million constitutes an irreducible production minimum.

But Yamani dismisses such simplifications. The kingdom, he has said, could conceivably cut back to as little as 3 million or 4 million barrels a day if it had to. And maybe it will. Nobody knows at this point, including the Saudis very probably. But by the end of this year Saudi Arabia's financial surplus will probably run around $200 billion. Given the factions among Ibn Saud's progeny that are opposed to rapid development, a cut in production might not be entirely unwelcome.

The world's current oil surplus seems to be somewhat less than 2 million barrels a day, maybe 4 percent of world production, but the Saudis might have to cut back much further than 2 million barrels to eliminate the present surplus entirely. Last November's cutback has already been offset by increases in Nigerian production, and a cut to 6.5 million barrels a day might simply enable Kuwait, Libya and Algeria to recover their earlier production levels. Some optimists have read into this situation a loss of control by OPEC over price and production.

"Saudi Arabia could defend the price on its own," Yale's Verleger says. "They could go down to 4 million barrels a day temporarily and bring the whole [glut] process to a stop—on their own—right now."

"It's maintaining the price when there's a surplus that requires real cartel power," says John Lichtblau, head of New York's authoritative Petroleum Industry Research Foundation. "And they have been able to do that. I don't think anybody in OPEC is deliberately going to undermine the floor price."

Why, then, the current glut? OPEC's problem is in part a matter of timing. OPEC has never succeeded in formally prorationing production among its membership, and so lacks the ability as yet to respond quickly in pricing situations, the way the Federal Reserve or the Bank of England can in a currency crisis. But it is learning.

This is not to minimize the strains within OPEC. In the past few years the pressures within the cartel have grown increasingly complex, mixing politics and economics in bewildering and even contradictory ways. Traditional price-hawks like Libya, Nigeria and Iran want a larger share of the oil market, even at the cost of lower prices. Saudi Arabia's neighbors and cohorts in the Persian Gulf tend to resent Saudi dictation: Kuwait complains that Saudi Arabia has reduced its market from 1.2 million to 600,000 barrels a day; the Emirates have plans to increase production by 900,000 barrels a day at a time when Saudi Arabia itself is planning to add 1.5 million barrels a day of capacity.

Most important of all: The Iranian revolution has shifted the power balances itself, widening the abyss between Saudi Arabia and its ancient enemy, Iran, drawing Saudi Arabia and leftist Iraq closer together. One analysts even argues that Saudi Arabia's refusal to increase prices a year ago had less to do with economics than with a desire to deprive Iran of badly needed additional revenues and to discipline Libya for its outspoken opposition to Iraq.

What happens if all that Iraqi and Iranian oil comes suddenly flooding back into the world markets? The Iranian revolution and then the Iraqi-Iranian war took close to 7 million barrels of oil off the world market. Though the war still rages, both countries want to raise their production to 4 million barrels a day, *vs.* 1 million or fewer currently, and Iraq has ambitions of going to 6 million barrels a day within a few years.

Won't all this extra oil more than offset any Saudi cutbacks? In the real world, restoring Iraqi and Iranian production will be easier said than done. Neither Iran nor Iraq has hesitated to attack the other's oil facilities. The Iranians have blown up Iraq's shipping terminal in the Gulf, while terrorists have periodically shut down its pipeline access to the export market through Turkey, Syria and Lebanon.

Peace would not necessarily restore order and discipline to Iran, however, nor end the threat of an internal upheaval in Iraq. Dictator Saddam Hussein has scarcely covered himself with glory in the war, and Iran's sectional interests threaten it with chaos.

Saudi Arabia sees Iran as a major force for trouble in the region. Along with Kuwait, Qatar and the Emirates, it loaned $14 million to Iraq to tide it over its present financial difficulties, at a time when Iran's own reserves have dwindled to under $2 billion. Last May, Saudi Arabia and the other Gulf states organized the Gulf Cooperation Council to ensure security and stability in the region. There's no question that the council's principal villain is Iran, and with good reason. Three times Iran has bombed Kuwait's territory to discourage its support for Iraq, and it supposedly promoted an unsuccessful coup in Bahrain in December that was engineered in part by pro-Iranian Saudi Shiites. It's a safe bet, then, that OPEC will be prepared to cope with the situation when Iranian oil and Iraqi oil start flowing copiously again—if and when it does start flowing copiously.

Actually, Mideastern dissension could as easily lead to cutbacks and disruptions in supply as to a breakup of OPEC. Whatever current pressures supply and demand may bring on price, they are nothing beside the impact another political upheaval could have, including the oft-predicted overthrow of the present Saudi regime. Harvard's Mossavar-Rahmani expects such an interruption to occur in the mid-Eighties, either because of a political disruption or because of a decision to cut back production, a shock he figures could send prices into the $70-to-$80 range.

So the U.S.—and the world, for that matter—has become more vulnerable rather than less. We are all more dependent on the Middle East than we used to be and can no longer count on the international oil companies to allocate supply as efficiently as they did during the 1973-74 embargo. Then they marketed over 90 percent of the world's oil; today they handle no more than 50 percent. The International Energy Agency has inherited the responsibility, but it's unlikely to have either the expertise or the political authority necessary to do the job.

The conclusion seems inescapable: Whether it lasts six months or three years, the so-called glut is only a correction and not a change in the fundamental conditions of supply. It is not the coming of spring, but that rare sunny day in January.

And that is where the great oil swindle comes in, the great self-delusion. The current price weakness is not necessarily good for us. Ever since 1974, production outside of OPEC has been steadily rising, increasing by nearly a third in under eight years. What has made much of that increase possible is the sharp rise in the international oil price. Only last December, for example, Atlantic Richfield conceded it was the 1979-80 price increases that really justified putting its new, high-cost Kuparuk field in Alaska into full production. The result is that there are now plenty of companies—and countries outside OPEC—that are vulnerable to any decline in the price of oil.

The U.S. government's interest in avoiding prolonged price weakness in oil is especially strong. Some $24 billion of its fiscal 1982 tax revenues will come from the windfall profits tax, and every $1 drop in the price of oil, Philip Verleger calculates, will cost the Treasury $1.4 billion.

Higher prices are also the best hope of preserving what's left of the U.S. synfuels program—oil shale, coal gasification and liquefaction. The truth is we still need a synfuels program every bit as much as we ever did. Not only does such a program serve to warn OPEC that there really are limits to how high its prices can go, it also offers hope of providing the U.S. with the energy security it needs in the event of a disruption in worldwide supplies. "Oil is so essential to our economic and strategic well-being," says New York oil consultant Walter Levy, "that we would be unwise not to try to reduce or eliminate our dependence on oil imports."

With its very national existence at stake, South Africa has been prepared to pay the price for energy autonomy, through its Sasol coal-gasification project. The price of a U.S. synfuels program could be equally high, but it would still probably be a lot cheaper, more productive and more reliable than the billions the U.S. is committing these days to defending the Persian Gulf. At today's prices, oil shale at least seems to be just at the point of becoming economic, but who is going to put up hundreds of millions of dollars without some protection against a drop in price? Exxon, Union Oil and Occidental are going ahead with their Colony, Parachute Creek and Logan Wash projects, but Occidental, Tenneco and Exxon, among others, have postponed or abandoned various other long-standing proposals.

Higher prices have also been crucial in enabling the U.S. to stabilize its declining domestic oil production, making it economic to undertake projets that were too costly to attempt before—small reservoirs, secondary recovery, deep-drilling prospects. The long-delayed decontrol of U.S. oil prices three years ago touched off a drilling boom of unprecedented proportions. Investors funneled billions into oil and gas drilling programs, and domestic drilling soared 21% in 1980, 29% in 1981. But it now seems only a matter of time before weakening oil prices affect drilling as they already have U.S. oil company profits. Drilling costs are rising more rapidly than prices, demand is weakening and a squeeze is inevitable.

Mitterrand came to power in France promising an end to unemployment and an increase in government programs. In the U.S. the pressures mount daily on President Reagan and Federal Reserve Chairman Paul Volcker to stimulate the economy, to cease inflicting the relatively modest amount of pain their anti-inflation policies have caused so far. In time, in the democracies at least, these pressures will become irresistible. And when they do, good-bye to the oil glut.

Time properly, a U.S. tax on imported oil would help; it would further encourage conservation and, by putting pressure on the world price, make it more difficult for OPEC to raise its own prices later on. But how does the government tell the American people that oil prices are going up, just when some relief seemed in sight? FORBES recently asked a prominent U.S. senator what he thought of such an import tax. He replied, in all honesty, that he thought it would be good for the country but he would vote against it anyhow: His constituents need oil to stay warm and gasoline to drive to work.

New York-based consultant Walter Levy is one of the world's shrewdest observers of the oil scene. Levy warns against a return to the complacency that beset the U.S. in the late Seventies, when consumption recovered from the first oil shock and again resumed its rise. "It is quite certain," he says, "that if there is any substantial recovery, demand to a considerable extent will go up again."

Therefore, before you sell your last share of oil stock, trade your compact for a gas-guzzler and heave a sigh of relief at the end of the oil crisis, consider the realities.

Any way you look at the situation, it is an unholy mess. Far from fading away, the energy problem is as threatening as ever. Long-term supplies are limited, and control of most of the world's crude reserves remains concentrated in a few Middle Eastern countries. And the damage the oil price increases have done to the world economy is still unrepaired. The energy problem explains in good part why the U.S. savings rate has fallen so far; why capital investment has become less profitable; why the current recession is so intractable.

"We read there is no longer an oil gap," says Ulf Lantzke, executive director of the International Energy Agency. "But there is still an oil gap, only now it is expressed in the number of unemployed."

"Price changes in oil will not be gradual," says energy expert Melvin Conant philosophically, "not orderly or gradual. There will be the same kind of surging we experienced in the Seventies."

The oil crisis is over? Who's kidding whom?●

THE NEED TO RETURN TO TRADITIONAL MORAL VALUES

● Mr. EAST. Mr. President, I wish to share with my colleagues excerpts from two chapters which appeared in Francis A. Schaeffer's recent book, "A Christian Manifesto." Dr. Schaeffer, a frequent lecturer and author of 22 books, is one of the most influential Christian thinkers of the day. "A Christian Manifesto" explains how the erosion of morality and freedom have hurt important areas of our lives.

Dr. Schaeffer emphasizes that—

> The modern concept of separation is an argument for a total separation of religion from the state. The consequence of the acceptance of this doctrine leads to the removal of religion as an influence in civil government. * * * To have suggested the State separated from religion and religious influence would have amazed the Founding Fathers.

I think it is important that we, as elected officials, be aware and sensitive to the differing views of widely read, influential thinkers in society. While Dr. Schaeffer's conclusions may not be acceptable to all Americans, he is certainly articulate in explaining his concerns for our modern society.

I submit for the RECORD these excerpts from his book.

The excerpts follow:

A CHRISTIAN MANIFESTO

(By Francis A. Schaeffer)

CHAPTER 2.—FOUNDATIONS FOR FAITH AND FREEDOM

The Founding Fathers of the United States (in varying degrees) understood very well the relationship between one's world view and government. John Witherspoon (1723-1794) has always been important to me personally, and he is even more so since I have read just recently a biography of him by David Walker Woods. John Witherspoon, a Presbyterian minister and president of what is now Princeton University, was the only pastor to sign the Declaration of Independence. He was a very important man during the founding of the country. He linked the Christian thinking represented by the College of New Jersey (now Princeton University) with the work he did both on the Declaration of Independence and on countless very important committees in the founding of the country. This linkage of Christian thinking and the concepts of government were not incidental but fundamental. John Witherspoon knew and stood consciously in the stream of Samuel Rutherford, a Scotsman who lived from 1600-1661 and who wrote *Lex Rex* in 1644. *Lex rex* means law is king—a phrase that was absolutely earthshaking. Prior to that it had been *rex lex*, the king is law. In *Lex Rex* he wrote that the law, and no one else, is king. Therefore, the heads of government are under the law, not a law unto themselves.

Jefferson, who was a deist, and others, knew they stood in the stream of John Locke (1632-1704), and while Locke had secularized *Lex Rex* he had drawn heavily from it. These men really knew what they were doing. We are not reading back into history what was not there. We cannot say too strongly that they really understood the basis of the government which they were founding. Think of this great flaming phrase: "certain inalienable rights." Who gives the rights? The state? Then they are not inalienable because the state can change them and take them away. Where do the rights come from? They understood that they were founding the country upon the concept that goes back into the Judeo-Christian thinking that there is Someone there who gave the inalienable rights. Another phrase also stood there: "In God we trust." With this there is no confusion of what they were talking about. They publicly recognized that law could be king because there was a Law Giver, a Person to give the inalienable rights.

Most people do not realize that there was a paid chaplain in Congress even before the Revolutionary War ended. Also we find that prior to the funding of the national congress all the early provincial congresses in all thirteen colonies always opened with prayer. And from the very beginning, prayer opened the national congress. These men truly understood what they were doing. They knew they were building on the Supreme Being who was the Creator, the final reality. And they knew that without that foundation everything in the Declaration of Independence and all that followed would be sheer unadulterated nonsense. These were brilliant men who understood exactly what was involved.

As soon as the war was over they called the first Thanksgiving Day. Do you realize that the first Thanksgiving Day in this country was called immediately by the Congress at the end of the war? Witherspoon's sermon on that day shows their perspective: "A republic once equally poised must either preserve its virtue or lose its liberty." Don't you wish that everybody in America would recite that, and truly understand it, every morning? "A republic once equally poised must either preserve its virtue or lose its liberty." Earlier in a speech Witherspoon had stressed: "He is the best friend of American liberty who is most sincere and active in promoting pure and undefiled religion." And for Witherspoon, and the cultural consensus of that day, that meant Christianity as it had come to them through the Reformation. This was the consensus which then gave religious freedom to all—including the "free thinkers" of that day and the humanists of our day.

This concept was the same as William Penn (1644-1718) had expressed earlier: "If we are not governed by God, then we will be ruled by tyrants." This consensus was as natural as breathing in the United States at that time. We must not forget that many of those who came to America from Europe came for religious purposes. As they arrived, most of them established their own individual civil governments based upon the Bible. It is, therefore, totally foreign to the basic nature of America at the time of the writing of the Constitution to argue a separation doctrine that implies a secular state.

When the First Amendment was passed it only had two purposes. The first purpose was that there would be no established, national church for the united thirteen states. To say it another way: There would be no "Church of the United States." James Madison (1751-1336) clearly articulated this concept of separation when explaining the First Amendment's protection of religious liberty. He said that the First Amendment to the Constitution was prompted because "the people feared one sect might obtain a preeminence, or two combine together, and establish a religion to which they would compel others to conform."

Nevertheless, a number of the individual states had state churches, and even that was not considered in conflict with the First Amendment. "At the outbreak of the American Revolution, nine of the thirteen colonies had conferred special benefits upon one church to the exclusion of others. In all but one of the thirteen states, the states taxed the people to support the preaching of the gospel and to build churches. It was not until 1798 that the Virginia legislature repealed all its laws supporting churches. In Massachusetts the Massachusetts Constitution was not amended until 1853 to eliminate the tax-supported church provisions."

The second purpose of the First Amendment was the very opposite from what is being made of it today. It states expressly that government should not impede or interfere with the free practice of religion.

Those were the two purposes of the First Amendment as it was written.

As Justice Douglas wrote for the majority of the Supreme Court in the United States v. Ballard case in 1944:

"The First Amendment has a dual aspect. It not only 'forestalls compulsion by law of the acceptance of any creed or the practice of any form of worship' but also 'safegards the free exercise of the chosen form of religion.'"

Today the separation of church and state in America is used to silence the church. When Christians speak out on issues, the hue and cry from the humanist state and media is that Christians, and all religions, are prohibited from speaking since there is a separation of church and state. The way the concept is used today is totally reversed from the original intent. It is not rooted in history. The modern concept of separation is an argument for a total separation of religion from the state. The consequence of the acceptance of this doctrine leads to the removal of religion as an influence in civil government. This fact is well illustrated by John W. Whitehead in his book The Second American Revolution. It is used today as a false political dictum in order to restrict the influence of Christian ideas. As Franky Schaeffer V says in the Plan for Action:

"It has been convenient and expedient for the secular humanist, the materialist, the so-called liberal, the feminist, the genetic engineer, the bureaucrat, the Supreme Court Justice, to use this arbitrary division between church and state as a ready excuse. It is used, as an easily identifiable rallying point, to subdue the opinions of that vast body of citizens who represent those with religious convictions."

To have suggested the state separated from religion and religious influence would have amazed the Founding Fathers. The French Revolution that took place shortly afterwards, with its continuing excesses and final failure leading quickly to Napoleon and an authoritative rule, only emphasized the difference between the base upon which the United States was founded and the base upon which the French Revolution was founded. History is clear and the men of that day understood it. Terry Eastland said in Commentary magazine:

"As a matter of historical fact, the Founding Fathers believed that the public interest was served by the promotion of religion. The Northwest Ordinance of 1787, which set aside federal property in the territory for schools and which was passed again by Congress in 1789, is instructive. 'Religion, morality, and knowledge being necessary to good government and the happiness of mankind,' read the act, 'schools and the means of learning shall forever be encouraged.'

* * *

"In 1811 the New York state court upheld an indictment for blasphemous utterances against Christ, and in its ruling, given by Chief Justice Kent, the court said, 'We are Christian people, and the morality of the country is deeply engrafted upon Christianity.' Fifty years later this same court said that 'Christianity may be conceded to be the established religion.'"

"The Pennsylvania state court also affirmed the conviction of a man on charges of blasphemy, here against the Holy Scriptures. The Court said: 'Christianity, general Christianity is, and always has been, a part of the common law of Pennsylvania . . . not Christianity founded on any particular religious tenets; nor Christianity with an established church and tithes and spiritual courts; but Christianity with liberty of conscience to all men.'. . .

"The establishment of Protestant Christianity was one not only of law but also, and far more importantly, of culture. Protestant Christianity supplied the nation with its 'system of values'—to use the modern phrase—and would do so until the 1920's when the cake of Protestant custom seemed most noticeably to begin crumbling."

As we continue to examine the question of law in relation to the founding of the country, we next encounter Sir William Blackstone (1723-1780). William Blackstone was an English jurist who in the 1760s wrote a very famous work called Commentaries on the Law of England. By the time the Declaration of Independence was signed, there were probably more copies of his Commentaries in America than in Britain. His Commentaries shaped the perspective of American law at that time, and when you read them it is very clear exactly upon what that law was based.

To William Blackstone there were only two foundations for law, nature and revelation, and he stated clearly that he was speaking of the "holy Scripture." That was William Blackstone. And up to the recent past not to have been a master of William Blackstone's Commentaries would have meant that you would not have graduated from law school.

There were other well-known lawyers who spelled these things out with total clarity. Joseph Story in his 1829 inaugural address as Dane Professor of Law at Harvard University said, "There never has been a period in which Common Law did not recognize Christianity as laying at its foundation."

Concerning John Adams (1735-1826) Terry Eastland says: ". . . most people agreed that our law was rooted, as John Adams had said, in a common moral and religious tradition, one that stretched back to the time Moses went up on Mount Sinai. Similarly almost everyone agreed that our liberties were God-given and should be exercised responsibly. There was a distinction between liberty and license."

What we find then as we look back is that the men who founded the United States of America really understood that upon which they were building their concepts of law and the concepts of government. And until the takeover of our government and law by this other entity, the materialistic, humanistic, change world view, these things remained the base of government and law.

In the United States the materialistic, humanistic world view is being taught exclusively in most state schools. But then, those holding the humanistic world view move to control (through the curricula and other ways) the Christian or other private schools—even though these schools were set up at private cost by the parents in order to give their children an education based on the world view of a universe created by a God who objectively exists.

There is an obvious parallel between this and the situation in Russia. And we really must not be blind to the fact that indeed in the public schools in the United States all religious influence is as forcibly forbidden as in the Soviet Union. Marxism usually is not taught here, but the total exclusive secularization is as complete. It should be noted that this is not only a problem for Christians but for other religious groups.

We must never forget that the humanistic position is an exclusivist, closed system which shuts out all contending viewpoints—especially if these views teach anything other than relative values and standards. Anything which presents absolute truth, values, or standards is quite rightly seen by the humanist to be a total denial of the humanistic position.

As a result the humanistic, material-energy, change world view is completely intolerant when it presents itself through the political institutions and especially through the schools. In his book Leftism, Erik von Kuehnelt-Leddihn writes that as humanism begins to dominate the state "religion is then removed from the market place and the school, later from other domains of public life. The state will not tolerate any gods besides itself." The school is their special target.

This is readily apparent in the Soviet Union. And it is carried forth in the name of religious freedom. For example, the Soviet Constitution provides:

"Art 124. In order to ensure to citizens freedom of conscience, the church in the U.S.S.R. is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognized for all citizens."

Though this is clearly apparent in Russia in regard to its schools, it is also apparent in the public schools of the United States. The humanistic, material-energy, chance world view intolerantly uses every form of force at its disposal to make its world view the exclusive one taught in the schools.

One of the unhappy things in our country is that when states have objected to the continued encroachment on the original rights of the individual states, the objection has usually been motivated by some selfish end. However, if this could be put aside and the matter considered objectively, then we must realize that the individual states, in the origin of the United States, did not trust an overly powerful Federal Government, and the Constitution limited the Federal Government to definite areas. It was understood that powers not specifically granted to the Federal Government were not its prerogative.

James Madison (1751-1836) in The Federalist, no. 45, wrote: "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which remain in the state governments are numerous and idefinite." In the intervening years this has been totally reversed.

Having lived in Switzerland for 33 years, I am especially sensitive to this. The individual Swiss cantons have courageously resisted the growth of Federal encroachment in Switzerland much more resolutely than the states have in the United States. Thus, the checks and balances in government between canton and Federal Government are functioning for governmental freedom in Switzerland much better than those between the individual states and the Federal Government in the United States. In our day, the checks and balances in government which resulted from the Reformation are functioning in this regard more consistently in Switzerland than they are in the United States. In Switzerland, federal statism has thus been somewhat restrained.

We must realize that the Reformation world view leads in the direction of government freedom. But the humanist world view with inevitable certainty leads in the direction of statism. This is so because humanists, having no god, must put something at the center, and it is inevitably society, government, or the state. Russia is the perfect example. But with the weakening or loss of the Christian consensus the Reformation countries have also become an example—including the United States. Thus, if the United States is to move back toward the original Reformation basis, this would mean severely limiting the scope of Federal State authority.

It is curious that the present Socialist Government in France, out of sheer pragmatism, is trying to dismantle its overly centralized government. It may be only pragmatic and "political," but it is instructive. This overcentralization is the outgrowth of Napoleon's Governmental Code. They are trying to dismantle the authoritarian result which was produced by the chaos caused by the French Revolution. These results of chaos and then Napoleon's resulting authoritarian regime with its network of administrative bureaucracy were the very opposite of that which was produced by the American Revolution on its base which placed God above the government. It is worth repeating James Madison's statement concerning the purpose of the United States Constitution: "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which remain in the state governments are numerous and indefinite." But as the Judeo-Christian consensus in the United States has weakened and all but disappeared, with lack of vision even from a pragmatic perspective, let alone principle, the United States federal government has continually taken over the very power the original government of the United States did its best to curtail, limit, and resist.

Again we must see that what we face is a totality and not just bits and pieces. It is not too strong to say that we are at war, and there are no neutral parties in the struggle. One either confesses that God is the final authority, or one confesses that Caesar is Lord.●

THE ELECTIONS IN GUATEMALA

● Mr. **KENNEDY**. Mr. President, earlier this month, 48 percent of the eligible voters in Guatemala went to the polls. Four candidates for President of Guatemala representing the ruling military regime, the far right, and a portion of the moderate opposition participated in the electoral process. They did so following promises by the Guatemalan Government that elections would be "pure, clean, and free" and despite the fact that more than 240 moderate center leaders had been killed or exiled previously.

Early election results from urban areas showed a substantial number of votes for the opposition candidates. Then, the smooth process of vote tabulation appeared to break down. An increasing number of accusations of fraud and other irregularities came not only from the extreme right and moderate parties, but from independent observers acquainted with the fraudulent procedures of the past. These irregularities included questionable tabulation, recording, and transmission of votes.

After many pollwatchers were forced to certify election returns with which they did not agree, all opposition parties withdrew their representatives from the electoral council and from the national tabulation center. A demonstration, called by all the opposition parties to protest the government's actions, was broken up by force and the three opposition presidential candidates were arrested. During this crackdown, Mr. Geraldo Rivera and his ABC team were also detained.

Mr. President, these actions call into question the entire election process in Guatemala and stand in stark contrast to the preelection understandings of the Guatemalan Government. By their actions the leaders of Guatemala are alienating the remaining democratic elements that have chosen thus far to participate within the political system. A government which has ruled in the past by repression with no truly democratic processes and with the worst human rights record in the area seems committed to these same disastrous policies in the future.

I therefore strongly believe that the United States must not lift longstanding prohibitions of military assistance to Guatemala until there are fundamental improvements in human rights and progress toward democracy in that country. Instead of reinforcing repression in Guatemala, the administration should use its influence to insure that the violence ends and to help the Guatemalan people achieve peace and justice in their land.

Mr. President, the Washington Post on March 9, described the generals who now rule Guatemala as "hopelessly ineffective as instruments of anticommunism not to speak of social justice. They are the best thing the guerrillas have going for them." I request that the full text of that editorial and two articles by Loren Jenkins reporting on the Guatemalan elections appear at this point in the RECORD.

The material follows:

[From the Washington Post, Mar. 9, 1982]

FIGHTING COMMUNISM IN GUATEMALA

The elections in Guatemala seem to have produced a crop of allegations of fraud. What the elections might have meant even in the absence of such allegations is uncertain. The current president, Gen. Romeo Lucas Garcia, has spent four years presiding over the murder, "disappearance," exile or intimidation of the considerable swath of political leaders to his left—literally thousands of people have died, unquestionably most of them by the government's hand or with its tacit encouragement and approval. His policy has been to destroy guerrillas and all others the government regards as connected to them. He has earned his regime a reputation as perhaps the bloodiest in the world, Communists and the occasional Third World crazy aside. Nothing in the record or stance of the likely next president, a general who was until recently minister of defense, augurs change.

The administration hopes the Guatemalan generals can emerge from the elections disinfected and ready, or nearly ready, for American support. The generals lost that support in the Carter years because of their indiscriminate bloodletting. Some American officials suggest that the new president must first demonstrate he can abate the slaughter of civilians. Others do not feel even that demonstration is necessary; elections are enough.

This is, to us, absolutely wrong. The guerrilla forces appear to be growing, and Cuban support may be growing, too. There is a real danger that these forces will continue to exploit the terrible social tensions in the country and eventually help tip the geopolitical balance against the United States. This is precisely the reason to repudiate the generals. They are hopelessly ineffective as instruments of anti-communism, not to speak of social justice. They are the best thing the guerrillas have going for them. In El Salvador the armed forces, or some part of them, are striving to treat civilians better and to support reforms. In Guatemala the armed forces do nothing of the kind.

We do not deny that, at this urgent moment in Central America, it is risky to hold at arm's length an embattled government dedicated to fighting Marxism. Superficially—only superficially—it is inconsistent with American help for the Salvadoran junta. It could give the guerrillas a boost. The guerrillas, though, are coming on strong. They will likely come on stronger, with or without American aid to the government, unless the generals choose to start shifting toward the policies that alone offer a chance of reversing the tide.

[From the Washington Post, Mar. 9, 1982]

RESULT OF VOTE IN GUATEMALA STILL UNCLEAR—GOVERNMENT CANDIDATE SAYS HE WON ELECTION; RIVALS DISPUTE CLAIM

(By Loren Jenkins)

GUATEMALA CITY, March 8.—Results of yesterday's national elections were surrounded by confusion today as the official Guatemalan government candidate for president put himself forward as an early winner while his two chief rivals cried foul.

With only a small fraction of the vote counted this morning, Gen Angel Anibal Guevara, the former defense minister, appeared before reporters to shouts of "Viva el presidente" from compaign aides. Guevara thanked voters "for the great confidence" he seemed convinced they had expressed for him at the ballot box.

The general's news conference came only hours after charges of outright electoral fraud were made by the extreme right-wing candidate Mario Sandoval Alarcon and by Alejandro Maldonado, the lone moderate in the election who ran with the support of Guatemala's assassination-decimated Christian Democratic Party.

The two opposition candidates based their charges on the glacially slow—and selectively announced—tabulation of Sunday's national vote and what they claimed were a string of irregularities in transmission of results from the country's 22 provinces to the capital of Guatemala City.

The secretary of the election commission, Hector Augusto Villatoro, told foreign journalists that there was still no tally of how many of Guatemala's 2.3 million eligible voters had gone to the polls.

Villatoro said that my mid-afternoon only 383,360 votes had been tabulated, which would represent about 16 percent of the country's eligible voters. Of these votes, the commission's count showed Guevara ahead with 143,440 votes, or 37 percent. Sandoval was second with 105,415, or 27 percent, followed by Maldonado with 96,000 votes, or 25 percent.

The fourth candidate, architect Gustavo Anzueto, was far behind, as had been expected.

The accusations of fraud, which were rejected by a government statement at midday, openly challenged the credibility of outgoing president Romeo Lucas Garcia. Under U.S. pressure to clean up his country's image so as to facilitate American economic and military support of his guerrilla-besieged Central American nation, Lucas had promised last week that the elections would be "pure, free and clean."

Defense Minister Rene Mendoza met this afternoon with the four vice presidential candidates to hear their views about how the election was carried out. To those who claimed fraud, he said their recourse was to state their case before the country's electoral tribunals.

Guatemala has a long history of electoral fraud and election reversals by the armed forces, who have been the arbiters of politics here since the overthrow of the leftist regime of president Jacobo Arbenz by a CIA-organized coup d'etat in 1954.

The Reagan administration, appalled by the Lucas government's human rights record but concerned about an increasingly active insurgency by four leftist guerrilla groups, had encouraged Guatemalan officials to hold democratic elections. The hope has been that the elections would produce a government willing and able to restrict widespread killing of civilians throughout the country, which even U.S. Embassy officials here acknowledge is often caused by the armed forces or by right-wing "death squads" that are often tolerated and protected by the government.

U.S. estimates were that last year alone an average of 300 persons per month died in political violence around the country. That number has jumped to more than 500 a month this year.

Today, as the carefully nurtured image of democratic elections here appeared to crumble, U.S. officials privately expressed uneasiness while officially refusing to make any comment. U.S. concern was evidenced by the fact that Ambassador Frederick Chapin refused to let embassy officials brief journalists about the elections today.

U.S. officials had previously indicated that a victory for Guevara, the candidate selected by the armed forces as Lucas before him, would have made it difficult to convince critics in the U.S. Congress that real change was at hand in Guatemala.

Both Sandoval's National Liberation Movement and Maldonado's Opposition Union coalition claimed that despite an apparently high voter turnout and seemingly correct voting procedures at local polling stations where observers were present, the results were being manipulated and falsified, especially in outlying rural districts where the Army and the government were often able to carry out tabulations and the transmission of results unobserved.

"This is the most scandalous fraud in Guatemalan history," declared the National Liberation Movement's vice presidential candidate Lionel Sisneros in a press conference attended this morning by his running mate, Sandoval. Sisneros protested that the government was announcing Guevara victories even in areas, such as the western provinces, that have long been Sandoval's traditional strongholds.

Maldonado, in a separate press conference, said that despite private information he had received showing a victory by his coalition in all urban centers where there were voting concentrations, the results were being "manipulated." He said that reports from often isolated rural outposts with no independent supervision were pouring in with Guevara majorities that often exceeded the total registered vote for the communities.

The vote for the country as a whole presented by the electoral commission contrasted with the final Guatemala City vote, which showed Maldonado winning with 36 percent of the vote to Guevara's 25 percent, a figure that reinforced Opposition Union party claims that the urban votes supported their candidate.

Independent observers here who are acquainted with the ways of previous votes said that the rural vote appeared to be "the traditional delivered vote that the government has always been able to pull out." The sources said that the large turnout—the exact magnitude of which the government has yet to quantify—was as much the result of intimidation and coercion as of outright vote falsifications.

Opposition Union spokesman Edmund Mulet said among the many irregularities marring the election results was the fact that his party's central headquarter's 22 phone links to party poll watchers in the provinces had remained cut throughout Sunday night.

Although the phone links were restored this morning, long distance calls to provincial capitals remained all but impossible.

Mulet also charged that two of his poll watchers in the town of Chinautla, only 20 miles from the capital, had been detained and threatened by armed men when they refused to sign the official voters' certification at their polling station on the grounds that they disagreed with the vote count. As of this afternoon the two men were reportedly still held.

Seemingly unbothered by the accusations of fraud, Guevara spoke at the news conference this morning as if his election was already a foregone conclusion.

Talking of the policies he would follow if his election is confirmed, he promised a "new era" and said, "When the country is in danger, all citizens must understand that what comes first is the country, what comes second is the country, and what comes third is the country."

Many independent observers of Guatemalan politics in the capital remained skeptical, however Guevara's election, said one foreign businessman who has lived in Guatemala for years, "will mean the country will be governed by the same group of people with the same crap, and the same corruption."

Under the Guatemalan constitution, if no single candidate for the presidency gains an overall majority it remains for the outgoing national Congress—where Guevara supporters have a strong majority—to pick the next president from among the two leading candidates.

GUATEMALAN POLICE DETAIN CANDIDATES SEEKING TO PROTEST ELECTION AS FRAUD

(By Loren Jenkins)

GUATEMALA CITY, March 9.—The three trailing candidates in Guatemala's presidential election Sunday were detained for an hour by armed riot police today as they sought to march on the presidential palace to present documents they said proved that the vote was fraudulent.

Candidates Mario Sandoval Alarcon, Alejandrol Maldonado and Gustavo Anzueto were driven off in a police bus as blue-helmeted riot police battle-dressed troops and secret police wielding automatic rifles fanned through the heart of the city. They fired into the air and tossed tear-gas canisters to clear the streets of more than a thousand supporters who defied a government ban on demonstrating.

The three were driven to police headquarters, where they presented their petition for annulment of the election. After about an hour at the headquarters, the three were released without charge and driven to their homes.

"This is stupid politically," said Sandoval. "By their actions they have only confirmed the fraud because the three of us together represented 80 percent of the electorate."

No final tally is available yet in the dragged-out count, although the latest total shows the official candidate, Gen. Angel Anibal Guevara, with 270,017 votes to 201,136 for Sandoval and 175,842 for Maldonado. Anzueto was out of the running.

The trailing candidates had called for today's demonstration, only to be told by the defense ministry, Gen. Rene Mendoza, that it would be illegal since a permit was required.

Before the candidates were detained, secret police rushing through the square in front of the palace pistol whipped a woman who argued with their order to get out of the square. Some civilians were pushed, others' hair pulled, and others knocked to the ground with rifle butts. At least five men, four of them in business suits, were arrested.

ABC-TV reporter Geraldo Rivera and his three-man camera crew were also roughed up and detained by secret police for trying to film the incidents. They were released several hours later, after U.S. Embassy officials interceded on their behalf.

Police also ripped away the cameras of an American photographer on assignment for Newsweek, Steve Clevenger, but they were returned by authorities this evening.

The three presidential candidates were detained by the police after they left a midtown hotel for the walk to present their documents alleging fraud to the presidential palace. They were accompanied by dozens of aides and a horde of foreign journalists.

The sidewalk procession was stopped in a side street by a phalanx of riot police with carbines. The square had been brutally cleared of hundreds of people, some peaceful demonstrators representing the opposition, others just office workers heading for home, unaware of the confrontation.

The candidates were protesting the self-declared electoral victory of Gen Guevara, the ex-defense minister supported by outgoing President Romeo Lucas Garcia. The trailing candidates argued in the street with the riot police for about half an hour, demanding the right to be allowed to present their case to Gen. Lucas in person.

The police finally told the three they would be allowed to go to the palace on their own without their aides. The police said, however, that they would have to board a police bus for the trip. After the candidates boarded the bus with policemen and waited in the street for about 10 minutes, an escort of police vehicles roared up, and the whole convoy sped off in the opposite direction of the presidential palace.

The spectable of the losing candidates demanding the annulment of the elections because of alleged fraud in the countryside, followed by the government's harsh dispersal of demonstrators, served to put further in question the government's case that the elections Sunday had been "pure, free and clean." Guevara, for his part, said his "victory" represented a "new era" of democracy for Guatemala.

"We had hoped that the election Sunday would bring us peace," a woman university professor, who did not want her name to be used, said as she sought to flee the city center tonight by taxi. " It looks like things have only gotten worse."

The owner of a small coffee plantation, who also declined to have his name used, told reporters in front of the presidential palace that the action was just one more case of the "sort of repressiveness that has given Guatemala such a dirty name abroad."

The unlikely coming together of the presidential rivals, including Sandoval, an extreme rightist with his own private army, and Maldonaldo, a more moderate conservative supported by the middle-of-the-road Christian Democratic Party, was just one more wrinkle in the confusion.

Guatemala is beset by a wave of urban violence, much of it carried out by right-wing "death squads" that often have been supported by the government, and an increasingly active insurgency in the countryside by left-wing guerrillas.

Many in Guatemala, as well as the U.S. government, have held out the hope that the elections would undercut the violent extremists and lead to solution of severe economic and social troubles that Gen. Lucas is accused of magnifying with his hardline policies.

Although the voting Sunday was carried out in an orderly fashion, the tabulation, recording and transmission of votes since have thrown the integrity of the election into doubt and brought the charges that once again the government has swung the election in favor of the candidate of its choice.

This afternoon, results from six of the country's 22 provincial capitals had yet to reach the capital, and the government had not computed how many of the nation's 2.3 million eligible voters had voted.

Gen. Mendoza said that the slowness of the vote count was the result of difficult conditions in some of the provinces where the guerrillas were active and where vote boxes had to be brought out by helicopter, an operation that had been hampered by heavy rain yesterday.●

ENERGY TARGETS

● Mr. JOHNSTON. Mr. President, title III of the Energy Security Act establishes a process under which, at the beginning of each Congress, Congress itself will have an opportunity to review and act on the best estimates by the administration as to the energy we will need at specific times in the future. In adopting these energy targets, Congress is forced to consider the means by which this needed energy will be brought to market.

In the second session of each Congress, the administration is required to publish a report on the energy targets adopted in the previous year. As stated in the conference report on the Energy Security Act—

> This report will contain comments of appropriate Federal departments and agencies on the targets, including evaluation of the impact of any additional relevant information acquired in the previous year on the targets transmitted, recommended modifications in such targets and comments on modifications, if any, made in the targets as a result of Congressional consideration under this title.
>
> In addition, such report should identify energy production, consumption, conservation, or other programs necessary to achieve the energy targets (or proposed revisions thereof); the strategies that should be followed and the resources that should be committed to implement these programs; a comparison between these strategies and the most recent plan or plans developed pursuant to title VIII of the Department of Energy Organization Act (42 U.S.C. 7321); and the legislative and administrative actions necessary to achieve the energy targets (or proposed revisions thereof) including recommendations on taxes or tax incentives, Federal assistance regulatory actions, antitrust policy, foreign policy, and international trade policy.

The intent of this legislation is to encourage Congress to take a comprehensive look at our future energy requirements and the actions that need to be taken to achieve those requirements.

On March 5, 1982, Secretary of Energy Edwards transmitted his report on the targets adopted by Congress in the Omnibus Budget Reconciliation Act of 1981.

The current administration, as we all know and as we are often reminded, favors the free market. Because of this, the report Secretary Edwards submitted contains very little about the means by which these targets will be achieved. In particular, one might wonder how, with the nuclear industry in its current condition, we will manage to more than triple the amount of energy supplied by nuclear power from the 1981 level of 2.9 quads to the 10.6 quads projected for the year 2000. One might also wonder how coal use can be made to grow from 18.2 quads in 1981 to 42 quads in the year 2000 without some measure of Federal activism.

Of course, the point of the energy targets exercise is to raise these kinds of questions. Therefore, for the interest and edification of my colleagues and the public, I ask that the energy targets report submitted by Secretary Edwards on March 5, 1982, and a table showing estimated energy supply and use for 1981 be inserted in the RECORD at this point.

The material follows:

Estimated energy balance, 1981

Domestic production:	
Oil and NGL	20.42
Natural gas	19.98
Coal	18.25
Nuclear	2.91
Hydro/geothermal	2.72
Renewables and other	.13
Subtotal	64.41
Imports (net):	
Oil	11.41
Natural gas	.85
Coal	(2.94)
Other	.20
Total supply	73.93
End-use consumption:	
Petroleum liquids	29.66
Natural gas	16.46
Direct coal	3.46
Electricity	7.21
Decentralized solar	.00
Subtotal:	
Conversion losses	17.55
Stock increase	(.41)
Total consumption	73.93

Source: Energy Information Administration, Monthly Energy Review, February 1982.

THE SECRETARY OF ENERGY,
Washington, D.C., March 5, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am pleased to transmit the enclosed report on energy projections required by section 301(c) of the Energy Security Act, Public Law No. 96-294.

Sincerely,

JAMES B. EDWARDS.

FEBRUARY 1982 ENERGY PROJECTIONS SUBMISSION

PURPOSE

This report is submitted in response to the requirements of Title III, Energy Targets, of the Energy Security Act, Pub. L. No. 96-294. This title requires that in February of 1981 and of every second year, the Administration transmit to Congress a set of energy projections for net imports, domestic production and end-use consumption of energy for 1985, 1990, 1995, and 2000. During the first calendar week of February, 1982, and of every second year thereafter, the Administration is required to transmit a report on the projections transmitted in the previous year.

BACKGROUND

As stated in the April 1981 submission of these projections, this Administration is committed to an energy policy that will rely on the marketplace to stimulate efficient energy production and cost-effective conservation. Numerous private decisions over many years will determine the exact amounts and type of energy produced and consumed in the future. Removing unwarranted regulations and restrictions on energy markets and supporting limited long-term research and development will permit market forces to take us in the direction of appropriate, economically efficient, energy production and use.

Energy projections should not be seen as a description of what the Federal Government believes energy markets should do. Government energy projections can not reflect all the information that private consumers, workers, managers, inventors and investors will have and use in shaping our energy future. Nor can projections anticipate all those political, economic, and technological developments and changes, both foreign and domestic, which experience has shown so frequently occur. The most that the Federal Government should provide is a projection of the range of possible values for energy supply and demand, given a set of reasonable assumptions about the behavior of future energy markets.

As discussed in a March 11, 1981, letter to Senator Johnston, Government-prescribed targets for energy production and consumption are inconsistent with the Administration's policy of allowing energy markets to determine energy demand and supply. A free energy market is one that continually adjusts the balance of all economic factors.

We must emphasize the inherent limitation of any set of energy projections, because it would be misleading to the Congress, and the American people, to imply that the government—or for that matter any group of forecasters—can produce hard and fast forecasts for ten to twenty years in the future. Consequently, the Administration has proposed that the provisions of law requiring this report be repealed.

The 1981 estimates were a set of "Base Case" energy projection ranges which were developed in November 1980, and represented the Department's "best estimate" of future energy supply and demand at that time. The April projections represented a future with policies and programs as of November 1980, and assumed continuation of the policies and programs of the Carter Administration. They did not formally incorporate this Administration's policies.

Specifically, they did not reflect the effects of President Reagan's Economic Recovery Program, his decision of January 28, 1981 to accelerate decontrol of oil prices, or the energy-related budget proposals now before the Congress. Nor did they reflect the effects of the many actions this Administration has taken and will take to relieve unnecessary regulatory burdens on energy producers and consumers.

The following sections: Compare the energy projections transmitted in April 1981, with projections submitted to Congress in July as part of the National Energy Policy Plan (NEPP); discuss effects on energy projections of the Economic Recovery Act passed after NEPP; and describe the Administration view on energy policy.

COMPARISON WITH NEPP

Since submission of the energy projections in April 1981, a new set of energy projections was prepared and incorporated in the National Energy Policy Plan (NEPP). These projections were submitted to Congress in July of 1981.

The April submission, based on analysis completed in November 1980, did not include the three to four dollar increase in the world oil price between October 1980 and January 1981. Also, reevaluation of world oil demand and supply trends led to a selection of higher world oil prices in 1985 through 2000 for NEPP compared to the April submission. In addition, the NEPP projections reflect the effect of immediate oil decontrol effected in January of 1981, while the earlier submission assumed phased decontrol. The NEPP economic growth assumptions are almost the same as those contained in the April submission. NEPP does not include impacts of the Economic Recovery Act (discussed in a later section).

The April 1981 energy projections submitted by the Administration were a "high/low" range. Using this range, the Congress established a single set of energy projections in Title X of the Omnibus Budget Reconciliation Act of 1981. Both the projections in the Reconciliation and the range are presented in Table 1, along with the NEPP projections. Because of revised assumptions, the NEPP projections differ somewhat from the April submission.

As Table 1 shows, energy production is higher throughout the NEPP forecast compared to the April submission. Conventional oil and natural gas liquids production is higher due to higher oil prices, decontrol and the subsequent increase in drilling activities, and relaxed leasing constraints. These effects were somewhat mitigated by a downward revision in the estimate of the enhanced oil resource base.

Natural gas production, also higher in NEPP than in the projections, was the subject of substantial reevaluation. Changed assumptions include more development of existing fields in the new projection and a larger unconventional gas resource base. Also, revisions in the assumed pricing structure under current law (the Natural Gas Policy Act of 1978) let to higher gas prices, which in turn had some upward effect on gas production.

The NEPP estimates of renewables production are lower than those in the April 1981 submission due to more conservative estimates of the market penetration rate for renewables in the NEPP projections.

The NEPP nuclear forecast is equivalent to the EIA 1980 Annual Report to Congress projection, and is slightly higher than that assumed in the April submission due to an assumption of shorter delays in the siting and licensing of nuclear power plants.

Combined with lower overall electricity demand in NEPP, the higher nuclear path dampens utility coal demand, resulting in slightly lower projections of domestic coal consumption (defined as coal production minus coal exports). The difference in coal consumption is exacerbated by greater capital costs and decreased conversion efficiencies for synfuels technologies in NEPP.

Slightly higher world oil prices combined with a more optimistic assessment of projected energy conservation (how consumers react to higher energy prices) resulted in about a 3 quad reduction in projected consumption in 1990 for NEPP compared to the April submission. The increased conservation was primarily in the most expensive and most vulnerable fuel—petroleum.

TABLE 1.—COMPARISON OF NEPP ENERGY PROJECTIONS AND 1981 ENERGY TARGETS SUBMISSION

[Quadrillion Btu per year]

	1985				1990				1995				2000			
	1981 submission		NEPP		1981 submission		NEPP		1981 submission		NEPP		1981 submission		NEPP	
	Mid-range	Range	Mid-range	Range	Mid-range	Range	Mid-range	Range	Mid-range	Range	Mid-range	Range	Mid-range	Range	Mid-range	Range
Domestic production: [1]																
Oil and NGL	18	16–20	18	17–20	17	15–21	18	16–21	18	15–21	19	16–21	18	15–21	20	17–24
Natural gas	18	17–19	18	17–19	18	16–19	18.5	16–21	16	15–18	18.5	16–21	15	14–17	18	14–21
Coal	21	20–24	22	20–23	27	24–32	27	24–30	32	29–41	34.2	30–37	41	35–53	42	37–45
Nuclear	5	5–5.5	5.5	4.9–6.2	7	7–8	7.6	6.7–8.7	8	7–10	9.2	6.6–9.6	9	7–12	10.6	7.4–14.0
Hydro/geothermal	3	3.3–3.6	3.4	3.2–3.6	4	3.4–4.3	3.6	3.3–3.9	4	4–5	4.0	3.3–4.1	4	4–6	4.3	3.7–4.9
Renewables and other	2	1.0–2.7	2.2	2.0–2.4	3	2.4–4.0	2.8	2.4–3.3	5	3.5–6	3.9	3.3–4.3	6	4–9	5.4	3.9–7.0
Subtotal [2]	67	63–74	69	64–75	76	69–87	78	68–88	83	75–99	89	75–97	93	82–113	100	83–116
Imports:																
Oil [3]	18	20–15	13	18–10	14	18–8	10	15–4	11	16–3	6.2	15–3	7	15–0	3	11–0
Natural gas	2	2–2	2	1–3	3	3–3	2	1–3	3	3–3	2.1	1–3	2	2–2	2	1–3
Coal	(1.8)	(1.8)–(3)	(2.7)	(2.0)–(3.1)	(2.1)	(2.2)–(4)	(3.5)	(2.3)–(4.3)	(2.2)	(3)–(6)	(4.5)	(2.3)–(5)	(2.4)	(4)–(8)	(5.9)	(3.4)–(8.4)
Subtotal [2]	18	20–14	13	17–10	15	19–7	9	14–3	11	16–0	3.8	14–1	7	13–(6)	0	9–(5)
Total supply [4]	85	84–87	82	79–85	90	88–93	87	80–94	94	92–99	93	84–101	100	95–107	100	90–110
End-use consumption: [5]																
Petroleum liquids	32	33–32	29	28–30	29	31–28	27	26–29	28	30–26	25	24–26	27	30–25	24	23–25
Natural gas	17	16–18	17	17–17.5	18	16–19	18	17.5–18.5	18	16–19	19	17–20	18	16–20	20	18–22
Direct coal	5	4–5	4.7	4.4–5.0	6	5–7	5.5	5.0–6.4	6	5–8	6.6	5.6–7.3	7	5–9	7.5	6.6–8.2
Electricity	9	8–9	8.3	7.8–8.8	10	10–11	9.6	8.5–11	11	11–12	11	9.3–12.2	12	12–13	12	10–14
Decentralized solar	2	1.8–2.6	2.1	2.1–2.2	3	2.3–3.9	2.7	2.6–2.8	4	3–5	3.4	3.3–3.6	5	3.5–8	4.2	3.9–4.5
Subtotal [2]	64	63–65	62	60–64	66	65–67	63	59–67	67	66–69	65	60–70	68	67–72	68	62–74
Conversion losses	21	20–22	20	19–21	25	24–26	24	21–27	18	26–30	28	24–31	32	28–35	32	28–36
Stock increase																
Total consumption	85	84–87	82	79–85	91	88–83	87	80–94	94	92–99	93	84–101	100	95–107	100	90–110

[1] Ranges in domestic production reflect uncertainties in assumptions about U.S. energy supply.

[2] Totals may not add due to rounding.

[3] Oil import ranges go from high to low because high oil imports will occur when domestic production is low.

[4] Range on total supply adjusted to reflect uncertainty in consumption and may not equal the sum of ranges on production plus net energy imports.

[5] Ranges in total energy consumption result from varying GNP assumptions. Total consumption rounded to the nearest quad.

In summary, the NEPP projections show reduced energy consumption and an increase in production over what was presented in the April 1981 submission. This results in a projection of considerably lower net oil imports. In 1990, for example, net oil imports are 10 quads (5 MMBD) for NEPP compared to 14 quads (7 MMBD) for the April 1981 projections.

To emphasize the main point, once again, the reader is urged to take these projections and changes in them with an appropriate grain of salt. In the final analysis, the amount of natural gas produced or renewable energy used will be determined by the American people in response to market forces and not by projections based on assumptions made in Washington.

EFFECTS OF NEW ENERGY POLICIES

In addition to changes in various market forces, government policy changes can have a marked impact on energy supply and demand. These include policies dealing directly with energy such as deregulation of energy prices as well as other government actions, such as changes in tax laws. The NEPP energy projections incorporated the effects of decontrol of domestic oil prices in January of 1981.

In addition, the 1981 Economic Recovery Act will affect energy production and consumption. Provisions of the Act which may affect energy supply and demand include accelerated cost recovery, corporate tax rate reduction and reduction of the Windfall Profit Tax. One effect of these provisions will be to increase corporate cash flow. This will have two effects on energy consumption. The accelerated cost recovery system will allow more rapid depreciation of capital investments. This should result in a more rapid rate of capital stock turnover, increased investment in more energy efficient capital stock, and a reduction in energy consumption. If corporations use the increased cash flow to expand operations, then an increase in energy demand could result.

On the supply side, the effects of the Economic Recovery Act will be positive. Reduction in the Windfall Profit Tax should stimulate oil exploration and production. In addition, the accelerated depreciation provisions for R&D equipment should encourage development of new technologies such as synfuels. There will also be an improvement in the ability of corporations and utilities to finance long-term capital investments in all types of energy production.

It is not possible at this time to quantify the net effects of the Economic Recovery Program on future U.S. energy consumption and production.

ADMINISTRATION ENERGY POLICY

The committee report accompanying the Energy Security Act requires that this document discuss Administration policies and programs necessary to achieve the energy targets. The Federal government has one overriding concern in energy during the years ahead. That is to establish sound, stable public policies that will encourage individuals and groups in the private and public sector to produce and use energy resources wisely and efficiently. When individual choices are made with a maximum of personal understanding and a minimum of governmental restraints, the result is the most appropriate energy policy. This, while the NEPP energy projections may be a plausible indication of current expectation of future energy supply and demand, no special policies are required or desired to ensure achievement of these projections.

A detailed description of the Administration's energy policy is presented in two documents: the National Energy Policy Plan (NEPP), and the Title X Review. The Presidential Budget for fiscal year 1983 reflects the results of the policies outlined in these documents.

The President's action to end oil price controls and to dismantle the burdensome regulatory apparatus associated with those controls was a major step in implementing an energy policy focused on market realities. The challenge ahead is to provide a healthy economy and policy environment that enables citizens, businesses, and State and local governments to make rational energy production and consumption decisions—decisions that reflect the true value, in every sense, of all the Nation's resources.

It is this, rather than trying to achieve a set of targets, that is the key to sound economic policy.

CONCLUSIONS

The one thing that is certain about the future is that the path of energy developments and markets is uncertain. Technological innovations, geologic discoveries, changes in the economy at home or abroad, political or military conflict—all of these are unpredictable events that can alter the Nation's energy situation drastically. We cannot be certain that the key assumptions about future energy prices, the economy and energy markets will hold true. For example, new assumptions have combined to make the current energy outlook (as contained in the National Energy Policy Plan) more optimistic than previous assessments (as contained in the earlier energy projections).

As indicated throughout this report, the Federal government under this Administration will try to allow energy markets to function effectively. This will allow energy consumers and producers to use, find, and produce energy more efficiently.●

ST. PATRICK'S DAY

● Mr. EAST. Mr. President, as this is St. Patrick's Day, I would like to bring to the attention of my colleagues a biographical sketch by Ernest O. Hauser entitled "Patrick, Patron Saint of Ireland" from the March 1968 issue of Reader's Digest. Saint Patrick, honored by Roman Catholics and Protestants alike, holds an important place in the history of Western civilization. Not only was he a great religious leader but the learning he promoted changed Ireland from a cultural outpost into a center of civilization from which knowledge spread abroad throughout the Dark Ages. Mr. President, I ask that this article be printed in the RECORD.

The article follows:

PATRICK, PATRON SAINT OF IRELAND

(By Ernest O. Hauser)

"I Patrick, a sinner, the most uncouth and the least of all the faithful . . ." Thus starts the *Confession of Saint Patrick*, an epistle to "those who believe and fear God, whosoever shall deign to look upon and receive this writing."

Unfortunately, Patrick, putting quill to parchment shorty before his death in 461, cared little for the details of his life that might fascinate posterity. He leaves large holes in his biography. So, the story of his life, as it has come down to us, is a rich, flowery tale in which the Saint appears more as a wizard, spellbinder and conjurer than in his true role of a spreader of the Word.

Born storytellers, the Irish have embroidered their scanty knowledge of the saint's career with many an ancient pagan sage. Though people always knew that Ireland had no snakes, the claim that Patrick "drove them our" was added to his exploits about the year 1100. The delightful notion that he used the shamrock to illustrate the doctrine of the Trinity is of an even later date.

Though Patrick was no Irishman, and first arrived in Ireland most unwillingly, he is more intimately linked with his adopted country than any of its native sons. Both Catholics and Protestants revere him. (Ireland's Protestant *Book of Common Prayer* contains a plea to God who in His providence did choose His "servant Patrick to be the apostle to the Irish people.") Patrick has been a popular Irish name for so long that "Paddy" has come to stand for "Irishman." And it was Patrick's living spirit that traveled with Irish immigrants to the New World. Today, New York City's vast annual Saint Patrick's Day parade joyfully asserts the continuing Irish presence in America.

ADVENTURE STORY

Who was the real Patrick? Modern scholars have re-examined the historical evidence, and we are at last able to see Ireland's patron saint as he was—a rough and rugged figure, whose burning faith and iron will made him a giant among men.

In the three decades of his mission, Patrick opened Ireland to the West. For with the churches he built, and with the learning he promoted, there came the Latin alphabet—the key to Western European culture. And what had been the end of the known world soon turned into a center of civilization. Two centuries after the apostle's death, when much of Europe was overrun by pagan hordes, arts and letters flourished in Ireland.

Patrick's known life is a fast-moving adventure story. Patrick himself never forgot the miracle of it. "I was like a stone lying in the deep mire," he writes in his *Confession*, "and He that is mighty came, and in His mercy lifted me up, and placed me on the top of the wall."

Patricius Magonus Sucatus—reportedly Patrick's full Latin name—was born, of British parents, about the year 385, probably somewhere near the Severn estuary, on England's west coast. Already Christianized, England still lay within the borders of the crumbling Roman Empire, and Patrick grew up a Christian and a Roman citizen. His father was a landowner, and Patrick was a carefree, pleasure-loving youth, moving in the company of other boys, he tells us, who did not keep God's commandments.

Across the stormy sea lay misty, mysterious Ireland, whose people, never subdued by Rome, frequently raided the British coast. In one such raid, young Patrick, barely 16, was captured and taken to Ireland, where he was sold as a slave. For six years, according to his own account, he herded sheep, huddled in woods and caves, "humbled in truth by hunger and nakedness." He was alone with nature, and with God. Seeing in this harsh fate just punishment for his ungodly ways, he felt his spirit stirred, and soon spent days and nights in prayer, kneeling in snow, frost and rain.

One night, when the poor shepherd had dropped off to sleep, he heard a voice: "Lo, thy ship is ready!" Directed by the Lord to a seaport 200 miles away, Patrick awoke, escaped, and found a ship ready to sail. Reaching land—possibly present-day France—the crew trudged for days through uninhabited country, presumably in search of a market town where they might do some trading. The men were hungry, and the captain turned to Patrick: "Christian, can you not pray for us?"

As Patrick prayed, a herd of pigs strayed into their path. After they had eaten, his pagan mates gave thanks to God and honored Patrick. He left them at last and made his way to England, where his family received him with great joy—no doubt expecting him to marry and settle down.

IRELAND'S CALL

At this point in his narrative, Patrick tells us about a dream that was to be the turning point of his career. In it, a man approached him with some letters. He handed Patrick one of them, and Patrick read: "The Voice of the Irish." Of a sudden, the air was filled with many Irish voices, crying out, "We beseech thee, holy youth, to come and walk once more among us." Touched to the heart, Patrick awoke.

Patrick was no hysteric. His many visions, coming at crucial moments of his life, added up to a single message: an overwhelming call to save the souls of those Irish rustics whom he had known as a slave. But was he qualified? All through his writing runs the theme that he is "ignorant in all things." Hence, before setting off to preach the Gospel, he must pick up some basic knowledge.

How did he go about it? Evidently, he spent some years in the cathedral city of Auxerre, 110 miles southeast of Paris, a celebrated center of learning known for its links with Ireland and Britain. The man of action never did become a finished scholar; however, he became well-grounded in the Bible and took holy orders. And we may assume that he begged his superiors to let him lead a mission to the Irish.

But the past came between Patrick and his goal. When 15, he had committed a sin. He does not tell us what it was, but he unburdened himself to a friendly cleric when he was about to be made a deacon. This "dearest friend," as Patrick calls him, proved false. When Patrick's name came up in connection with an Irish mission, the confidant revealed that early sin. As a result, an outsider, Palladius, got the job.

Patrick's unabated zeal restored the confidence of his superiors, however, and he was soon dispatched to join Palladius as an assistant. He had not yet reached his port of embarkation when he received word that Palladius had died. Patrick's sponsors, sensing the hand of Providence, hastily consecrated him a bishop and sent him off in style.

IN THE DRUIDS' DEN

Patrick was in his 40's when he arrived once more in his green isle of destiny. It was as rough a place as he had left it. There were no cities and few roads through the thickly wooded, brigand-infested countryside. Kings were at one another's throats, each eager to enlarge his lands. Although some pockets of Christianity existed, as a result of trade with France and England, most otherworldly matters were tended by the Druids, a class of learned men believed to be endowed with magic powers. Serving as counselors to kings and princes, they kept the people in a state of gaping ignorance.

And so we find Patrick walking boldly through what is now Northern Ireland, debating with the suspicious Druids as he spread the Word. The man who had once been a wretched shepherd in these hills, and who now came with bishop's cross and crosier, awed and impressed the countryfolk. His grassroots knowledge of the country, his commanding presence, and the fact that he spoke Irish were mighty weapons in his arsenal.

He was a man of singular intensity. Once, we are told, when preaching to a chief who wanted to be baptized, he inadvertently transfixed the listener's foot with the sharp metal point of his crosier. When Patrick saw, at last, what he had done, he asked the chief why he had not protested. The poor fellow answered that he had thought the ritual called for inflicting Jesus' wounds on a new convert.

Everywhere he went, Patrick founded churches and trained local priests. He was most successful in the north of Ireland, where tens of thousands turned from their idols to the Christian faith. To this day, the leaders of Ireland's Catholic and Protestant churches live in the busy little town of Armagh, site of Patrick's mission headquarters.

In his drive for spiritual conquest he inevitably collided with the island's central power: the fierce and formidable Laoghaire, who lorded it as High King over the rich plains of central Ireland. His hill fortresss was Tara, traces of whose splendid halls can still be seen.

According to tradition, Patrick decided on a frontal challenge. One Easter Saturday, which coincided with a pagan feast at which no fire could be lighted until the king had lighted his own, he climbed the hill of Slane, ten miles from Tara, and kindled a great paschal fire. The king's chief Druid declared that "unless that fire is put out at once, it will burn forever, consuming all of Ireland."

A heated argument ensued between the royal Druids and Patrick, who by sheer force of prayer sent the chief Druid flying high into the air, dashing out his brains on the ground as he came down. Terrified, the High King asked to be baptized. An Irish flight of fancy? To be sure. Still, scholars think it likely that Patrick came to terms with Ireland's central rulers and was permitted to evangelize their people.

THE SAINT LIVES

Today, two of Christianity's toughest disciplines immortalize the force of Patrick's spirit. The three-day pilgrimage to Station Island ("Saint Patrick's Purgatory") in Lough Derg calls for bare feet, a full night's vigil, and no nourishment but water biscuits and black tea. The other is a nighttime trek up Croagh Patrick, the "Reek," a lonely, 2510-foot peak rising majestically beside island-studded Clew Bay, in the west of Ireland.

On Garland Sunday, the last Sunday in July, some 50,000 pilgrims still make the difficult ascent of the Reek each year. In line with age-old ritual, the climb is made at night, and, after dark on Saturday, you can see a slender thread of flashlight points winding upward. At sunrise, the multitude attends an outdoor service on the summit. It is from this holy mountain that Patrick is supposed to have driven out all serpents and other loathsome creatures.

An older legend tells another story about the mountain. Having retired to the storm-swept Reek to fast for 40 days, Patrick is said to have been plagued by demons in the shape of hideous birds. At last, he flung his bell at the dense flock, and the black spirits vanished, to be replaced by beautiful white birds led by an angel. As a reward for Patrick's suffering, the angel made many promises—among them that the "Saxons" (then conquering Britain) would never hold Ireland, and that Patrick himself, on Judgment Day, would be allowed to judge the Irish.

This ancient myth was to assume immense importance during the bitter centuries of foreign rule. The Irish looked at Patrick as their advocate and savior: he had pleaded for them, he had asked the seemingly impossible—and God had granted his request. It is the Reek that turned the Saint into a hero, the symbol of a stubborn people, a bond uniting Irishmen over the world.

One of Patrick's fondest wishes, to shed his blood for Christ, was not fulfilled. Likely as not, he died in harness, preaching to roadside crowds. No one knows where he is buried, nor does it matter. For Patrick is wherever you set foot in Ireland. Every church and town boasts a connection with the apostle. In the green meadows and along the silver shore, his presence lingers, an inspiration to his chosen people.●

EXPORT TRADING COMPANIES ARE NECESSARY—VI

● Mr. HEINZ. Mr. President, my discussions thus far in this series about the need for export trading companies have focused on the banking part of the bill. The antitrust title, of course, is equally critical. A recent article by Jack G. Kaikati, an associate professor of marketing at Southern Illinois University, titled, "The Anti-Export Policy of the U.S.," (California Management Review, spring 1981), includes a section detailing the difficulties businessmen have with current antitrust law and enforcement policy. The article does not discuss export trading company legislation, but it spells out clearly the kind of problems it is intended to attack.

I ask that it be printed in the RECORD.

The article follows:

THE SHERMAN ANTITRUST AND WEBB-POMERENE ACTS

The U.S. is the only country in the world that applies its stringent antitrust legislation on an extraterritorial basis. The large trading companies that dominate Japan's international trade are encouraged by their government and face no antitrust problems even when they cooperate with each other. U.S. companies of great size would face difficult antitrust questions if they behaved in a similar manner.

With increasing frequency, government officials are suggesting that many business practices commonly employed outside the U.S. contravene the letter and spirit of U.S. antitrust laws. These warnings have prompted many established multinational corporations to seek clarification of the antitrust division's intentions to prosecute alleged antitrust violations involving business transactions outside the U.S. This effort produced a rather noncommittal statement of enforcement intentions by the antitrust division concerning various categories of anticompetitive behavior.

The department's current policy refrains from making broad claims of enforcement intentions to create undue fear among possible antitrust violators. Still, it does little to inform businesses of areas where the use of certain common competitive techniques that might substantially facilitate market entry would be condoned in the absence of clear findings of substantial impact to trade with the U.S.

Various business organizations have sought to enlarge antitrust exemptions now provided under the Export Trade Act of 1918, sometimes called the Webb-Pomerene Act. The act was initially intended to allow American exporters to compete on a more equal basis with foreign cartels in overseas markets. It exempts the formation and operations of export trade associations from the prohibitions of the Sherman Act. The exemption is granted only if an association's activities cause: no restraint of trade within the U.S.; no restraint of the export trade of any domestic competitor; no effect on prices within the U.S. of the commodities exported by the association; or no substantial lessening of competiton or restraint of trade within the U.S.

The act has fallen short of accomplishing its intended purpose. A study of the number of associations formed under the act indicates there was initial interest, followed by a slump, then a steady decline. From the passage of the act in 1918 through 1955, a total of 162 export trade associations representing 2,658 member firms have been formed. In 1965 there were 32 registered export associations of which only 29 were active. The typical association deals in producer goods and standard products. Exports by these associations account for less than 3 percent of all U.S. exports. The Federal Trade Commission reviewed fifty years of experience under the act as follows:

"A half century of experience with the Webb-Pomerene Act reveals that associations have not proved to be effective instruments either for the expansion of overall United States exports or for the expansion of exports by small firms. As a whole, the business sector of the economy appears to be disinterested in organizing cooperative associations to promote exports."

Foreign cartels are stronger and more numerous today than ever before. Often subsidized by their respective governments, foreign business syndicates frequently possess economic and legal resources unavailable to American firms. Foreign cartels have literally driven their American competitors from large sectors of the export market. Both horizontally and vertically integrated, foreign monopolies offer prospective customers a range of goods and services difficult or impossible for a single American company to match.

In order to encourage more associations, there have been over the years congressional proposals to broaden the scope of the act but nothing has been enacted. The principal reason for the act's failure is its vagueness. No definitive standards are prescribed for permissible activities, and no explicit procedure is stipulated for prior review of a Webb-Pomerene association's operation. The inevitable result of this uncertainty has been administrative and judicial rule making which has done more to restrain than advance the intent of the act.

A thorough reappraisal of the act is needed. Some students of the law, including the Justice Department and the Federal Trade Commission, have advocated repeal of the act or amendments that would restrict the current approach to easy formation of Webb-Pomerene associations. These students are suggesting that the statute has not been effective in attracting smaller firms into export trade. A "need" test has been proposed for granting permission to form an association. This derives partly from the heavy participation of large American firms in association activity.●

FEDERAL TRADE COMMISSION ACT AMENDMENTS

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. CANNON. Mr. President, I introduced legislation yesterday which would make several amendments to the Federal Trade Commission Act. This bill is intended to clarify the authority of the FTC and to address a number of issues which were not resolved in the 1980 FTC Act.

Mr. President, I believe that the FTC has an important mission to protect consumers against fraud and other abusive practices and to insure a competitive marketplace free from unreasonable restraints on trade. The bill I introduced yesterday contains no wholesale exemptions from the authority of the Commission; rather it attempts to define and clarify the authority the Commission may exercise. This bill responds to the criticism of scholars and businessmen that Congress has given regulatory agencies broad, vague, and undefined powers and insufficent guidance regarding the actions these agencies are expected to undertake.

The bill would define the Commission's authority to act against unfair methods of competition. It is very clear from the Supreme Court's decision in 1972 in the S & H case that the Commission is entirely free to go beyond the principles enshrined in either the letter or the spirit of the antitrust laws—405 U.S. at 244. The definition proposed in the bill provides that "unfair methods of competition" means conduct that is inconsistent with the principles of the Sherman Act or the Clayton Act and would carry forward the Commission's authority to enforce the Robinson-Patman Act. This definition is not intended to, and would not prevent, the FTC from carrying out its antitrust mission. The definition is grounded in well-developed principles of current antitrust law. It would not affect the authority of the FTC to aggressively pursue anticompetitive mergers and acquisitions or the Commission's authority to protect small businesses under the Robinson-Patman Act.

As many of you know, just 1 year ago the Reagan administration proposed the abolition of the FTC's antitrust authority. A number of legal scholars have endorsed that view. This bill rejects that view and instead reaffirms the Commission's antitrust mission.

Mr. President, my bill would also define the Commission's authority to take action against "unfair acts or practices." The bill incorporates the essence of the Commission's own proposed definition of the elements of conduct constituting unfair acts or practices. There has been considerable concern regarding the unbridled authority of a majority of sitting Commissioners to define whatever conduct they personally feel should be prohibited as an unfair act or practice.

Mr. President, I do not believe that any agency should be given such broad discretion to establish regulations according to their own personal views of sound policy. It is incumbent upon the Congress to establish clear and objective criteria to utilize in enforcing the FTC Act.

Before turning to the specific provisions of this legislation which I will explain briefly, let me just say that I would not claim that every element of this bill is perfected at this point and I would encourage those who are supporters as well as critics of the Federal Trade Commission to comment on the strengths or weaknesses of this bill and to point out better alternatives if they have them. But I will emphasize again that I feel it is incumbent upon the Congress to define as clearly as possible the authority of regulatory agencies and to provide the clearest guidance possible to those who are empowered to enforce our laws.

Mr. President, let me now outline the principal provisions of the bill.

First, the bill provides that the Commission will have authority to issue rules to prevent false or deceptive advertising. This will prohibit the FTC from using unfairness as a basis for advertising rulemaking. The Congress adopted a similar provision in 1980, and this amendment would simply make that policy permanent law. The bill would also make a similar conforming amendment to section 5 of the FTC Act. I am aware of the concern that there is some need for unfairness authority to deal with ads that might encourage children to engage in unsafe conduct. I hope the hearings will focus on this issue.

A second major provision of the bill would apply the "State-action doctrine" to actions brought under section 5 of the FTC Act alleging unfair methods of competition. This amendment will not interfere with current FTC practice, but it will remove considerable concern and doubt among many persons, including professional organizations, that the FTC might seek to assert its antitrust authority where a State has established a clear regulatory policy and where the Department of Justice would not be authorized to proceed. The amendment would simply place the FTC and the Department of Justice on an equal footing.

The third major amendment would prohibit the FTC from issuing substantive rules under such section 6(g) of the FTC Act that are aimed at conduct that principally involves unfair methods of competition. This amendment would not affect the Commission's rulemaking authority over unfair acts or practices. The effect of this amendment would be to end a longstanding dispute over whether the FTC has any independent, substantive rulemaking authority over antitrust matters under section 6(g). As far as I know, no significant rule exclusively directed at anticompetitive practices has ever been issued by the Commission. The octane rating rule was in essence a rule designed to prevent unfair acts or practices. And although the Commission has considered antitrust rules dealing with oil pipelines, Blue Shield plans, and other matters, they have never promulgated a pure antitrust substantive rule. I think it is quite clear from past experience that antitrust investigations are fact intensive and that proceeding on a case-by-case basis is a more appropriate means of enforcement. This amendment will not prevent the FTC from issuing interpretive rules and guidelines in antitrust matters. I should add that this amendment would also prevent the Commission from issuing a rule in the standards and certification rulemaking proceeding. It seems clear to me that if the Commission believes that standards groups have engaged in anticompetitive practices, the Commission should proceed against them on a case-by-case basis.

The fourth major amendment would define unfair methods of competition and unfair acts or practices. The bill would attempt to clarify the commission's antitrust authority by defining unfair methods of competition to reach conduct which is inconsistent with the principles of the Sherman or the Clayton Antitrust Acts, a definition grounded in well-developed principles of basic antitrust law. This would eliminate the apparently open-ended authority of the FTC to go beyond the principles in either the letter or spirit of the antitrust laws which the Supreme Court appeared to affirm in the S & H case. Let me emphasize again, that in defining unfair methods of competition, we are reaffirming the FTC's antitrust mission and rejecting the proposals that the FTC's antitrust mission should be ended. And, as I mentioned, this would not affect the authority of the FTC to aggressively pursue anticompetitive mergers and acquisitions or the Commission's authority to protect small businesses under the Robinson-Patman Act. It is simply an effort to state more clearly the basic rationale for the Commission's antitrust mission.

The second major definition contained in the fourth proposed amendment would define unfair acts or practices. Unfair acts or practices are defined to include "acts or practices which have resulted in or will cause substantial injury to consumers, and such injury is neither reasonably avoidable by consumers themselves nor outweighed by countervailing benefits to consumers or competition." This definition should provide a more objective test for defining unfair acts or practices. It incorporates the essence of the Commission's own policy statement of 1980 which in turn was a distillation of Commission cases and enforcement policy. This definition is not offered to restrict the Commission, or prevent them from pursuing any legitimate enforcement action.

The fifth major provision of the bill would extend the civil investigative demand procedures to the FTC's antitrust investigative authority. This amendment is merely an extension of the action taken by Congress in 1980 when it made the CID procedure applicable to investigations of unfair acts or practices. Moreover, the procedure will not prevent the Commission from obtaining any relevant evidence necessary to pursue investigations of possible unfair methods of competition. At the same time, however, it will prevent the Commission from issuing sweeping subpenas which fail to define the purposes of the inquiry or the relevance of the evidence sought. The scope of the Commission's CID is to be the same as the antitrust civil process act and is modeled after the criteria and procedures used by the Department of Justice. Each CID must state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to it. This procedure has worked well for the Department of Justice and provides a reasonable procedure for judicial review of subpenas. However, this requirement is not intended to be overly strict or to be interpreted in a manner that would defeat the Commission's antitrust mission.

The sixth major provision of the bill would provide for congressional review of any FTC trade regulation rule. The review procedures correct a number of technical errors in existing law and also provide for review by means of a joint resolution requiring the President's signature. This scheme will remove any constitutional problems which have been created by recent judicial decisions overturning one or two House veto laws.

The bill also contains provisions which would put a cap on penalties which may be imposed for any single violation or series related violations. Similar limitations on damages are contained in the laws of other regulatory agencies. The bill also provides that there is not automatic stay when a Commission order is appealed in a circuit court of appeals. The court would be authorized upon a proper showing to grant a stay. Finally, the bill provides for a 3-year authorization at current funding levels, adjusted for inflation, in order to provide the Commission with adequate resources to carry out its consumer protection and antitrust mission.

Mr. President, I hope the bill I am introducing today will stimulate discussion and debate of how we can better define and clarify the authority of the Federal Trade Commission. I hope to work closely with the chairman of the committee, the Senator from Oregon (Mr. Packwood) with whom I have worked closely in the past, and also with the chairman of the Consumer Subcommittee, the Senator from Wisconsin (Mr. Kasten), as well as my Democratic colleagues on the Commerce Committee, and particularly the Senator from Kentucky (Mr. Ford) who played such a leading role in our last reauthorization effort.

Mr. President, every day State legislatures enact laws to further clarify the law of wills or real estate or commercial transactions, and the Congress does the same in numerous areas. It is in that spirit that I offer this bill.●

THE FTC USED CAR RULE

● Mr. DANFORTH. Mr. President, the Senate will soon be called upon to consider a resolution which would veto the Federal Trade Commission's used car rule. I think that action would be a mistake. The rule is very simple. All it requires is that a dealer disclose known defects in the cars he sells. Nonetheless, there has been no shortage of rumors concerning the rule—not the least of which is the notion that the rule requires inspections, or that the rule will lead to the prosecution of dealers who make good faith efforts to comply but misdiagnose a defect.

Nothing could be further from the truth. Recently, the FTC issued a "statement of enforcement policy" concerning the rule. I urge my colleagues to read it. In that statement, the FTC makes clear that the rule does not "in any manner or for any purpose, in theory or in practice" require inspection. Further, the Commission states that "dealers who make good faith efforts to provide accurate information to consumers will not risk prosecution."

Mr. President, I ask that the FTC's enforcement statement be printed in the Record.

The statement follows:

Statement of Enforcement Policy for the Federal Trade Commission's Used Car Rule

The Used Car Rule, promulgated by the Federal Trade Commission on August 18, 1981, requires that a "Buyers Guide" sticker be affixed to the window of each used car offered for sale. The sticker has two basic features. First, it requires disclosures concerning the type of warranty coverage offered on a used car, or whether the car is sold without any warranty ("as is"). Second, the sticker contains a blank where dealers must disclose all known defects in a car's major mechanical systems which they discover in the ordinary course of their business. On the reverse side of the sticker, the universe of defects which must be disclosed if known are listed. All of the rule's requirements are contained on the one sheet of paper which is the "Buyers Guide".

Under the Federal Trade Commission Improvements Act of 1980, the Rule is subject to a two-house legislative veto and was submitted for Congressional consideration during this session on January 28, 1982.

Many misconceptions about the rule's requirements appear to persist among used car dealer trade association representatives. In particular, the dealers are concerned that the rule would require dealers to inspect all cars prior to sale and that failure to do so would subject dealers to large civil penalties under the FTC Act. In an effort to address these concerns, the Commission has decided to issue this enforcement policy statement. The statement contains the basic elements of the policies and programs the Commission would adopt to enforce the rule.

At the outset, the Commission wishes to reiterate, unequivocally, that this rule does not—in any manner or for any purpose, in theory or in practice—require that dealers inspect used cars prior to sale. Section 455.6 of the rule states: *"Dealers are not required to conduct inspections;* however, they are required to disclose certain material defects, *if known at the time of sale."* (emphasis added) Because of that language, it should be absolutely clear that no dealer can ever be subject to an enforcement action by the Commission for not inspecting. To remain in complete compliance with this part of the rule, dealers must only disclose information about specific defects in a car's major mechanical systems which they discover in the ordinary course of their business.

Although the rule does not require dealers to inspect, the record developed in five years of proceedings shows that dealers learn a great deal about the cars they sell in the ordinary course of their business. They must learn of major problems in order to decide how much to pay for a car at wholesale, what price to seek for the car at retail and whether to offer warranty coverage. The rule would simply require that they share this information with consumers.

In order to prevail in an enforcement action challenging a dealer's alleged failure to disclose a known defect, the FTC has the burden of proving that a dealer had knowledge (See Section 455.2(c) of the Rule). To meet that burden, the FTC would have to demonstrate that a reasonable person under the circumstances would have concluded that the specific, particular defect was present in the car. Thus, the Commission's burden is substantial and requires the factfinder to weigh all evidence concerning the car's mechanical condition at the time of sale. Because this burden is substantial, the Commission will focus its enforcement efforts on violations of the Rule where serious patterns of abuse and substantial injury to consumers can be demonstrated. Dealers who make good faith efforts to provide accurate information to consumers will not risk prosecution. For example, assume a dealer sees that the car is leaking radiator coolant on the lot. The leakage could be caused by one of several problems in the car's major mechanical systems. The FTC would not prosecute the dealer who simply disclosed the existence of coolant system leakage and did not investigate further to discover the cause of the leakage.

The Commission's primary focus during the initial period after a rule goes into effect is industry and consumer education concerning the rule's requirements. The Commission spends considerable time and substantial resources in this educational effort. Through press releases, consumer and industry educational materials, advisory opinions, speeches, personal meetings of Commissioners and staff with industry, and publication of compliance manuals, the Commission attempts to assist the industry's compliance efforts. Frequently, these efforts involve working with trade associations to disseminate information to their members about a rule's requirements and to enlist their cooperation in encouraging voluntary compliance by their members. An important goal of all these efforts is to prevent inadvertent violations of the rule. The Commission's experience has been that its intensive efforts to inform an industry about a rule's requirements have resulted in extraordinarily high levels of voluntary compliance by their members.

Safeguards exist to insure that the Used Car Rule will be equitably enforced. First, in any enforcement action, the Commission must be able to prove that the dealer knew that a specific defect existed. Second, as a matter of policy, the Commission will only enforce the rule when a repeated pattern of abuse can be demonstrated. Finally, the merits of a Commission enforcement action are decided by the federal courts, and not by the Commission.

To illustrate how these safeguards would operate in practice, take the case of a dealer who failed to disclose six defects (cracked engine block; leaking battery; insufficient brake pedal reserve; slipping clutch; bent frame; and inoperable defroster).

The Commission would enforce the rule against the individual dealer only if it could prove that the dealer knew of those defects, and only if the dealer's repeated failures to disclose defects had brought potential violations to the attention of the Commission. Moreover, the Commission would recommend a complaint only if negotiations with the dealer did not result in a settlement.

The Commission would then notify the Department of Justice and ask the Attorney General to file suit against the dealer on behalf of the Commission. If the Department of Justice believed the case was meritorious, it would then file suit in the appropriate United States District Court. That court would hear the case and decide whether civil penalties should be assessed and if so in what amount. If the Department of Justice were to decline to file the case, the Commission could consider filing the case itself in a federal district court.

The amount of civil penalties the Commission would seek in negotiations or in a complaint would depend on an evaluation of the factors set forth in the Magnuson-Moss/FTC Improvements Act:

The degree and nature of the violations alleged;

The history of the company's prior conduct;

The company's ability to pay;

Any effect on the company's ability to continue doing business; and

"Such other matters as justice may require". (15 U.S.C. § 45(m)(1)(C)).

In defining "such other matters as justice may require", the Commission considers the injury to the public caused by the alleged violations, the profit derived directly from the unlawful practice ("unjust enrichment"); the good or bad faith of the company involved; the need to deter other potential law violators; and the cost of any consumer redress or other affirmative educational programs the company has agreed to undertake as part of the consent settlement.

It should also be noted that, for all the trade regulation rules which have become effective to date, formal Commission action resulting in assessment of civil penalties or other sanctions is but a small part of the Commission's effort to secure compliance with its rules and it is reserved for only the most serious violations. Most violations are resolved informally by Commission staff through letters or phone calls.

The enforcement history of the Commission's Holder-in-Due-Course, and Mail Order and R-value Rules illustrate the Commission's enforcement policies. The Holder-in-Due-Course Rule (Preservation of Consumers' Claims and Defenses) covers many millions of sellers. Since it became effective on May 14, 1976, the Commission has initiated seven law enforcement actions brought by the Department of Justice involving Rule violations. Of these, five resulted in consent settlements before a complaint was filed and two are presently in litigation. In addition, three non-public investigations involving possible rule violations are currently pending.

With regard to the Mail Order Rule, which became effective in February 1976, the Commission has initiated 55 formal investigations. Of these, 40 were closed with no action taken by the Commission, 4 resulted in consent agreements, 2 are currently in litigation initiated by the Department of Justice and 9 investigations remain open. There are at least 6,000 mail order sellers who are covered by the Mail Order Rule.

The R-value Rule, which has been in effect since November 1980, covers all sellers of new homes and retail sellers and manufacturers of insulation. The Commission has not yet brought an enforcement action under the rule but has instead devoted available resources to industry and consumer educational efforts.

As the above histories indicate, the large majority of rule enforcement matters have been closed without action or have been settled by the mutual consent of the Commission and the respondent company.●

IN UTAH, BASKETBALL IS AT ITS PEAK

● Mr. HATCH. Mr. President, in today's Washington Post sports section a column by Dave Kindred brought a smile to my face. Mr. Kindred writes of his amazement at the healthy glow of Utah's residents and the interest in basketball in the State. This is something I could have told him about, but I must confess I am pleased that he took the opportunity to visit my home State.

As a former participant in the Mormon Church leagues, I have only the best of memories. I am sure my senior colleague from Utah, Senator Garn, will attest that every young man and woman in Utah becomes enthused with basketball either through the L.D.S. church program or the various youth leagues available. This zeal for the game has led Utah to a position where it leads the Nation in collegiate basketball attendance on a percapita basis. The games between intra-State rivals are taken very seriously.

If Mr. Kindred has not already found out, he should notice that Utah also provides the best skiing in the world. So much for nothing to do in the winter. Should he care to stay a while longer he would have the time to visit the canyonlands of Southern Utah. I warn him, though, if he stays too long he will come to the realization that all of us from Utah have a secret; Utah is the only place to live. If he likes, I could call either Lee Bentson of the Deseret News or John Mooney of the Salt Lake Tribune to inquire if they have need for another sports writer.

Mr. President, I ask that the above mentioned article be reprinted in the Record.

The article follows:

In Utah, Basketball's at Its Peak

(By Dave Kindred)

Sundance, Utah, March 16.—Because the boss said he wanted some local color on basketball in Utah, here I am in a snowstorm on top of a mountain at Robert Redford's ski resort. To get here, you take Rte. 89 into Provo Canyon, turn left just past Squaw Peak Steakhouse and drive two miles straight up. I'm told by lots of people that I bear an uncanny resemblance to Redford, so I wore sunglasses rather than cause panic among the ski bunnies.

Well, maybe not a lot of people notice the Redford resemblance.

Late one night in front of the fire, my wife said, "Robert Redford used to have an awful mustache like yours, but he shaved it off."

Anyway, as my Hertz dog mushed up this mountain, I was seized by the question, "If Donny Osmond plays basketball, is he the lead guard or the small forward?"

Just four days in Utah is time enough to learn that everybody under 30 looks like Donny and Marie and everybody over 30 looks like Redford and Fonda. If health were contagious, every germ in Utah would be out of work. I'm 40, often ambulatory and always awake by noon, but out here I feel like Vincent Price looks.

I mean, here I am at Sundance, with the snow floating down from the mountain top and the lodge warm with the fire of youthful vigor. There's a fellow wearing an eye patch, the Hathaway man on skis perhaps.

Outside, I look toward the mountaintop, now lost in clouds, and ask a rainbow polyestered fellow, "Does Donny Osmond play basketball?"

Not really. I asked if the ski lift goes on through that cloud. The fellow is a business executive from Memphis, late 40ish, who doesn't look anything like Redford. "I don't know," Tim Heaton says, "This is my first time at Sundance."

From inside my black cloth coat, I say, "Mine, too. Actually, I'm in Provo for the basketball tournament."

"These Utah folks," Heaton said, "are crazy about their basketball, you know."

Basketball is so big in this beautiful little state of 1.5 million people that the state's four university arenas seat 59,970. There's also the Salt Palace, with 12,000 seats for the Utah Jazz of the NBA. That's one seat for every 21 people in Utah. To equal that per-capita dedication to basketball, our nation's capital would need seven arenas the size of Capital Centre.

In 1979, all four universities made it into the NCAA tournament: Utah State, Weber State, Brigham Young U. and Utah (the '44 NCAA champion, the '47 NIT winner). Utah was host to the NCAA basketball finals in '79, and the West Regional thrice has come to BYU.

Even for a rural state without much to do in the winter, these are sizable accomplishments that trace their roots to January 1897 when women played the first basketball game in Utah. The University of Utah's president, George Thomas, fresh back from Harvard, brought with him this newfangled game, only 5 years old.

Historian Walter A. Kerr said the second Utah game was memorable because "the basketball girls appeared in baggy bloomers, which was quite a shock to many people at that time and the young ladies of the team were often indignant at the rude behavior of some young men who came uninvited to see the game."

Utah's men began varsity competition in 1908, playing the local YMCA as well as The Church of Jesus Christ of Latter-day Saints.

"My philosophy on why basketball is so popular here," said Arnie Ferrin, the Utah athletic director and star of those mid-'40s champions, "is that the LDS has such a large basketball organization. Virtually everyone in Utah has played basketball and knows the game."

Of the Mormons' 2,370 congregations in Utah, where the church has 1 million members, each has at least three basketball teams playing in its attached "cultural hall."

Over 5,000 teams in organized play," said Don LeFevre of the LDS public communications office.

I asked LeFevre, "This is off the wall, but does Donny Osmond play basketball?"

He told me to call the Osmonds' office in Orem, just outside Provo, and ask Donny's p.r. man, Ron Clark.

"Sure, he plays basketball," Clark said. "Our road crew gets up a game of football or basketball with young people from the town. Donny's a good tennis player. He skis. He'll be on the air with a disc jockey and challenge him to handball. He's such a good all-around athlete you wouldn't believe it."

It probably isn't true that Osmond blinds his defenders with a smile first, but Clark insists that the little guy (he's 5-10) "shoots very well, and probably could be a good forward."

SAFE-HARBOR LEASING

● Mr. BOREN. Mr. President, today I learned of several more companies that have unfairly benefited from the tax benefits provided by the safe-harbor leasing provisions enacted in the Economic Recovery Tax Act. General Electric, a highly profitable company with pretax earnings of as high as $2.66 billion in 1981, through use of this loophole will get a net tax refund of as high as $100 million. Another quite profitable company, Amoco, reduced its pretax income of $3.46 billion by $159 million by the use of the leasing provision. While these actions are legal under current law, they certainly constitute glaring examples of wasteful loss of Federal tax dollars. It is estimated that the annual revenue loss resulting from the leasing provisions will reach as high as $80 billion by 1990.

I introduced on January 25, S. 2010, a bill to repeal the safe-harbor leasing provisions of the Economic Tax Recovery Act. The beneficiaries of this expensive loophole are not the individual taxpayers who may have just lost their jobs, or cannot afford to borrow the money for planting next year's crop. The beneficiaries are the well-to-do corporate taxpayers such as GE and Occidental who will pay no income taxes at all. The public sees these reports of legal tax avoidance and they justifiably feel resentment. These voters are especially alarmed about the additional taxes and budget cuts which have been proposed by the administration to make up for the revenue which is being lost through this unjust tax loophole. When we ask those on fixed incomes and those who are genuinely disabled to make sacrifices in order to balance the budget, how can we meet any standard of fairness and allow those who are very prosperous to escape paying any taxes at all?

Because I believe it is so important to rally all citizens behind the effort to balance the budget, I feel very strongly that the people have a right to expect that the burdens will be fairly distributed.

The deficits looming before us are frightening. It would be irresponsible for Congress to play partisan political games and not to do all within its power to reduce this deficit. It is clear to me that the budget proposed by the administration will not reduce this deficit sufficiently. I think that measures like mine which will greatly reduce the deficit now as well as in the outyears are a mandatory first step toward more responsible fiscal policy. I strongly urge the administration again, as I did in my letter to the President on January 21, to get behind the repeal of the safe-harbor leasing provisions. In addition, I urge my colleague, the chairman of the Senate Finance Committee, to take early action on its repeal.●

YES, PARENTS SHOULD KNOW

● Mr. GARN. Mr. President, I was impressed with an article that appeared in the Washington Post over the past weekend by Eunice Kennedy Shriver on the controversy surrounding regulations recently proposed by HHS that would require notification of parents whose minor children are given prescription contraceptives by federally funded agencies.

The rules, she says, would "reject the notion that there is a natural antagonism between the generations." She cites her own experience that "counseling the child without the parents is empty and futile. It perpetuates misunderstandings and widens the gulf between generations. What is more, it does not work."

I agree with Mrs. Shriver that "at the very least, our Nation's laws and regulations should give parents the chance to communicate with and support their children."

Mr. President, I highly recommend the article to all of my colleagues, and ask that it be printed in the RECORD.

The article follows:

YES, PARENTS SHOULD KNOW

(By Eunice Kennedy Shriver)

Health and Human Services Secretary Richard Schweiker is embroiled in controversy over the comparative rights of parents and children. The controversy concerns changes in regulations requiring notification of parents whose minor children 17 and under are giving prescription contraceptives by federally funded agencies.

As a mother of five children and a worker with pregnant teen-agers, I support Secretary Schweiker. I believe that while minor children have rights, parents have rights too. These rights include the right at least to know when their children are embarking on any course that is hazardous to their health and well-being; the right to know when secrets are being encouraged that can destroy family communication and family trust.

What are the facts about these regulations?

First, the regulations require parental notification within 10 days of the provision of contraceptive materials to the minor child.

Second, they apply only to prescription methods of contraception; that is, pills, diaphragms and IUDs. They do not apply to non-prescription methods such as condoms or spermicides. They do not apply to family planning information, counseling or testing for pregnancy.

Third, they specifically protect the child by withholding parental notification that could result in physical abuse, ejection from the home or similar harm.

There are two strong reasons for the proposed regulations.

The first is to alert parents to the possible hazards to the health of their children through the use of contraceptive pills or IUDs.

These hazards range from a significant increase in pelvic infections, uterine inflammations and ectopic pregnancies among adolescents to a variety of long-term hazards to health associated with the pill, including hypertension, blood clotting problems, pulmonary embolisms, tumors and strokes, to name just a few.

No parents should be kept in the dark about their children's exposure to such dangers. No physician should be asked to treat a child without knowing she is on the pill. No child should be encouraged to bear such risks, including always the risk of pregnancy, alone and in secret.

But the argument concerning hazards to health is only one reason why these regulations should be approved. The second and more compelling reason is that notification can expand and strengthen the support system of the family. It rejects the notion that there is a natural antagonism between the generations.

A leading family therapist, Dr. Salvadore Minuchin, has said, "I have found that the great majority of parents are concerned with their children's well-being. Intervening within the family network is a support for adolescents. For what we are addressing is their growth and development into maturity."

When children are on drugs or alcohol, when they are driving recklessly or perform acts of vandalism, it is the parents who are held accountable. Will anyone say that they are less accountable for actions that can harm the emotional and physical health of a 13-, 14- or 15-year-old girl, perhaps for life, or expose her to the risk of pregnancy, injury or disease?

Some say that counseling the adolescent is the answer. I have found that counseling the child without the parents is empty and futile. It perpetuates misunderstandings and widens the gulf between generations. What is more, it does not work.

There are, however, some significant examples where mobilizing the family support system has made a difference. Families have intervened to reduce significantly the use of marijuana among high school students because they were concerned about the health of their children. This same mobilization of the family support network is also possible in the area of sexual activity among children. Moral discourse should be fostered between generations which affirms that good sexual relationships are built on the human values of love, commitment and family—and yes, even marriage, though this idea may seem remote and old-fashioned.

In the adolescent pregnancy programs I have worked with such as the one at the Johns Hopkins Hospital in Baltimore, research has shown that when the family is involved, the young women are more likely to stay and finish school, have a better chance of getting a job, are less likely to have an early repeat pregnancy, are more likely to take better care of their babies and have more respect for themselves. If this type of family support works with adolescents already pregnant, why shouldn't it work for the non-pregnant teen-ager?

The new regulations will encourage this kind of family network and support system for families, and will give parents the chance to decide the course of action they will take when they are aware of their children's sexual lives. They can choose to do nothing, but I believe the vast majority will deal with the situation responsibly and with love. I believe also that most children will be relieved that an intense and troubling part of their lives does not have to be lived in secret.

At the very least, our nation's laws and regulations should give parents the chance to communicate with and support their children. This is what the new regulations seek to accomplish. Then, it is up to us as parents to provide the kind of understanding, moral guidance and protective love that will make us a community of caring, not a society of coldness, secrecy and misunderstanding. This the least we can do for our children and for ouselves.●

A ST. PATRICK'S DAY REFLECTION

● Mr. MOYNIHAN. Mr. President, there are many things to be said for the annual observance of the feast of St. Patrick. It occasions the opportunity for a remarkable joyous celebration of what it means to be Irish, indeed, what it means to be full of life generally.

Mr. President, I have associated myself with a statement issued yesterday by the Friends of Ireland, a bipartisan enterprise composed of Members of both the Senate and the House. That statement sets forth the belief we all share that this St. Patrick's Day, 1982, ought rightfully to be a moment to mark the progress and disappointments over the last year on the way toward peace and reconciliation in Northern Ireland.

To that statement, I should wish to add only these following thoughts on the meaning of the day we devote to the memory of St. Patrick. On Sunday, in the New York Daily News, Terence Cardinal Cooke, archbishop of New York, authored a most eloquent and thoughtful commentary on the spiritual significance of St. Patrick's Day.

I dare say that his article was provoked, in part, by the unseemly behavior that has worked in recent years to tarnish the splendor of an otherwise magnificent day. Yet Cardinal Cooke has hit upon another matter upon which I would remark today.

St. Patrick's Day is, above all, a religious celebration. As the Cardinal notes:

> The feast of this extraordinarily holy man is observed primarily in a prayerful way as the sons and daughters of Ireland gather to worship God.

Mr. President, Cardinal Cooke offers us all something extra to think about on this special day. I ask that his article be printed in the RECORD.

The article follows:

[From the New York Daily News, Mar. 14, 1982]

ON THE TRUE CELEBRATION OF ST. PATRICK'S DAY

(By Terence Cardinal Cooke)

Almost 1,600 years ago, a man named Patrick came to the people of Ireland—first as a captive slave and, later, as a courageous, inspiring missionary—to share with them the teaching of the Gospel of Jesus Christ and the heritage of faith and love of the Catholic Church. He was unquestionably a man of action, a persuasive preacher, a powerful apostle and, as his own recorded words reveal, a man of prayer, a mystic. Through the inspiration of the Holy Spirit, his labors bore fruit and his teaching took root. In the span of a single lifetime, Patrick influenced the people of Ireland as few other human beings have affected an entire nation.

In Ireland and in the United States, and in many other places throughout the world, the feast of this extraordinarily holy man is observed primarily in a prayerful way as the sons and daughters of Ireland gather to worship God. In almost every era of Irish history, these prayers have included petitions for an end to injustice and oppression and for peace and unity in Ireland. This year we continue to pray for healing, for reconciliation, for peace among all our brothers and sisters in the North of Ireland.

The observance of the feast has traditionally included other elements—familial and cultural—as the Irish celebrate their rich heritage in music, in poetry and in gatherings of people who know how to enjoy the gift of laughter. Here in the New York metropolitan area, for more than 200 years, the St. Patrick's Day Parade has provided an opportunity for wholesome enjoyment, for the "wearing of the green," as we march or cheer on the marchers up Fifth Ave.

In recent years though, a disturbing situation has developed in connection with the parade. A disruptive atmosphere—described by some as "a beginning of spring festival"—in direct opposition to the spiritual, familial and cultural meaning of the feast—has marred the celebration of our patron saint. A growing number of people—of different ages and from various places—have engaged in excessive and even illegal activity, including rowdyism and vandalism, some of it closely associated with public drinking and drug abuse. This kind of conduct has nothing whatsoever to do with the feast of St. Patrick. It is indeed totally opposed to all that the feast represents. It is offensive to the vast majority of participants and observers of the parade who rightly find it abhorrent.

On the eve of St. Patricks Day, I regret that is is necessary, once more, to express deep concern about the misuse of a spiritual and cultural celebration. I wish to encourage the large number of Irish Americans and those of every national or ethnic group to continue as the vast majority have done over the years, to observe the true meaning of the day by emphasizing the religious, cultural and family richness of the celebration. I ask for the cooperation of all who possess the heritage of the Irish and indeed of all our fellow citizens who appreciate how much this day really means.

The time has come to eliminate the excesses and, in the very best sense, to make this a great day for the Irish and for all.●

OUR GUARD AND RESERVE FORCES: A NATIONAL ASSET

● Mr. GARN. Mr. President, the September 2, 1981, edition of the Review of the News included an interview with Maj. Gen. Francis S. Greenlief. As most of my colleagues are aware, General Greenlief serves as the Executive Vice President of the National Guard Association of the United States. This interesting and informative interview provides a good overall view of the contribution made by our National Guard and Reserve Forces to the defense readiness and national security of our country. I am pleased, therefore, to bring this interview with General Greenlief to the attention of my colleagues; if they did not know of it before, I am certain that after reading this article my colleagues will recognize the leadership of General Greenlief and the organization he represents.

The men and women of our Nation's Guard and Reserve Forces need the support of the Congress and their fellow citizens. They, indeed, play a critical role as integral members of our total force concept for defense. Without their dedication and sacrifice, there would be no chance of maintaining an All-Volunteer Force. I am enthusiastic about the many congressional actions, often initiated by the Senate Armed Services Committee, to provide the necessary funding to modernize the equipment used by our Guard and Reserve personnel. I am confident that our support will continue.

Another aspect of maintaining a ready and healthy Guard and Reserve Force is the support these members receive from their employers and families. This support, or the lack thereof, is often found to be an important factor in attracting people into our Guard and Reserve Forces and keeping these skilled individuals involved in the ongoing work of defending this country.

It is, therefore, for these reasons that I introduced Senate Concurrent Resolution 52 on December 8, 1981 which expresses the sense of the Congress that our National Guard and Reserve Forces deserve public recognition for their vital contribution to our national defense, and that members of these forces need the support and cooperation of their civilian employers in order to train and remain ready to respond to national emergencies.

I am pleased to say that 41 of my colleagues have thus far agreed to join me in this effort of reaffirming our support for the Guard and Reserves. Those colleagues are: Senator CHILES, Senator SARBANES, Senator ROTH, Senator PROXMIRE, Senator FORD, Senator EXON, Senator ABDNOR, Senator STAFFORD, Senator INOUYE, Senator BURDICK, Senator MATTINGLY, Senator

Lugar, Senator Huddleston, Senator Cannon, Senator Kasten, Senator Heflin, Senator Pressler, Senator Andrews, Senator Percy, Senator Thurmond, Senator Johnston, Senator Wallop, Senator Cohen, Senator Hatch, Senator Laxalt, Senator Warner, Senator Schmitt, Senator D'Amato, Senator Durenberger, Senator Symms, Senator Humphrey, Senator Jepsen, Senator Bradley, Senator Dole, Senator Harry F. Byrd, Jr. (Va.), Senator Stevens, Senator Grassley, Senator Bumpers, Senator Cochran, Senator Nunn, and Senator Tower.

In conclusion, Mr. President, I thank my colleagues for their support and invite them to review the interview with General Greenlief. I ask that the interview from the Review of the News be printed in the Record.

The interview follows:

Interview With General Greenlief

(By John Rees)

A native of Hastings, Nebraska, Major General Francis S. Greenlief (U.S.A., Ret.) enlisted in the Nebraska National Guard in July 1940 at age 18 and began his active duty a few days after Pearl Harbor. He served in Europe in the Normandy, northern France, Rhineland, and Ardennes campaigns. After the war he rejoined the Nebraska National Guard and rose to the rank of colonel. In 1960, Greenlief was ordered to active duty and assigned to the Army Division of the National Guard Bureau.

Within three years, General Greenlief was appointed Deputy Chief of the National Guard, and from 1970 until his retirement in 1974 he served as Director of the Army National Guard while continuing as Deputy Chief of the National Guard Bureau. Following retirement, Francis Greenlief went to work as a private citizen to help build up the strength of the National Guard. He joined the executive staff of the 48,000-member National Guard Association and serves as its executive vice president.

Q. General Greenlief, what is the origin of the National Guard?

A. Its role dates to the founding of our country. The Founding Fathers were wisely suspicious of strong central government. Under British rule, they had developed a fear of standing armies, and so each of the former colonies formed its own militia for self-protection. When the Articles of the Confederation were superseded by the Constitution, clauses were included to protect the states in maintaining the discipline of their militias and allow the governors to appoint appropriate officers.

The structure of the militia or National Guard we have today is mandated under the Dick Act of 1903.

Q. How does it work?

A. In times of peace the militias are controlled by the states. The governors appoint the officers, but appointments are not recognized by the federal government unless officers meet federal standards. In practice these are the standards of the Army and Air Force. The states conduct National Guard training under the discipline of Congress, and that discipline is in practice the training prescribed by the Army and Air Force.

Q. What then is the role of the National Guard in meeting America's defense needs?

A. It was defined most recently by the establishment in August 1970 of what is called the Total Force Policy. At that time the Nixon Administration was trying to reduce the Defense budget. It was decided to do this by eliminating large segments of the regular Armed Services—the regular Army and Air Force. A memorandum signed by Defense Secretary Melvin Laird stated that those savings would be achieved by passing missions to the Guard and Reserve, and by providing those forces with the resources to meet their increased role.

Q. What does that mean in terms of the total military picture?

A. The Army National Guard, for example, makes up approximately 57 percent of all the infantry battalions in the total Army; 43 percent of all tank battalions; 50 percent of all artillery battalions; and, 30 percent of all the Army aviation. In other words, the National Guard units and Army Reserve provide a little over 50 percent of the deployable United States Army. If that 50 percent cannot do its job in time of war we are not likely to win.

Q. How important is the Air National Guard to the Air Force?

A. We provide something like 27 percent of the total attack fighter force; 27 percent of all the tactical airlift aircraft in the Tactical Air Command; 17 percent of the refueling capability of the Strategic Air Command; and, 65 percent of the Air Defense forces.

Q. Are both the air and land aspects of the National Guard sufficiently equipped to accomplish their missions?

A. The Air National Guard and Air Force Reserve are pretty well able to handle their missions. The Air National Guard is fully equipped, albeit some of its equipment is obsolete or marginal at best. Obsolete equipment obviously limits readiness, but even those units equipped with obsolete equipment are supported by the Air Force so that they can, in fact, fly. They are tasked to be able to deploy in 72 hours, and they can do that. Now whether all of their equipment is good enough to stand up to sustained fighting in Europe is another question.

The major trouble is on the Army side, where the National Guard has not been given the resources to perform the missions we've been assigned. Because of this, to be blunt, we cannot perform them. And that means we have a very serious problem.

Q. I recall officials of the Carter Defense Department claiming the opposite; contending that our National Guard units are ready to go into battle at virtually a moment's notice.

A. I believe they meant that sufficient equipment could be stripped from the whole National Guard force to equip some smaller fighting force.

Q. Is this lack of preparedness the fault of the states?

A. If you consider the many factors that go toward establishing the combat readiness of a unit, the roles controlled by the states really boil down to recruitment of personnel and conduct of the training. In the training department, the one thing the National Guard does independently, the Guard excels.

Q. Have the well-equipped units capable of fighting been created by stripping other units of their battle readiness to give us things like the Rapid Deployment Force?

A. Let me start by saying that, in my view, the R.D.F. is largely a myth. In reality it is a planning headquarters working on development of a Rapid Deployment Force. They are developing scenarios and saying that, in particular circumstances, we'd deploy a particular unit more quickly. The R.D.F. units are merely units already in existence in the Army, Army National Guard, Air Force, and Air National Guard.

Q. Does the R.D.F. concept serve any useful purpose?

A. The R.F.D. concept is necessary because of our present inability to equip our whole force. The thing is to be able to get our forces rapidly to wherever in the world they are needed. That's why the CX transport was proposed. Our greatest limitation has been lack of lift—airlift and sealift. It's obvious that to make R.D.F. work we must have that. All we are talking about is preplanning to move existing units equipped as best we can.

Q. Then R.D.F. is a fancy headquarters staff working on logistical problems?

A. It's really solving force structure problems, because our active-duty regular forces currently are structured in such a way that they can't be used to feed the appropriate balanced force without drawing on the Guard and the Reserve.

Q. How did that come about?

A. Some years ago Congress started pushing the Army to change its "tooth to tail" ratio. In other words, Congress thought the Army's ratio of support units to combat units was too high. As a result, many support units were eliminated from the Army and transferred to the Army Reserve. The trouble with this is that, if you've got to fight, you need those support units. So today, whether you are talking about the R.D.F. or any other kind of mission, the Army cannot feed the force and maintain it in combat without calling on the National Guard and the Reserves.

I must tell you, although it may upset a lot of the Guard leadership, that I have a little trouble with that concept. The regulars ought to be structured so that they can be moved at a moment's notice. God help us if they are not readier than the Guard and the Reserve.

Q. What is the difference between the federal mission and the state mission of the National Guard?

A. First, the National Guard is the only component of the United States Armed Forces that has a dual state-federal mission. In time of peace, the National Guard is under the control of the states; it is the governor's emergency force, and the state legislators raise the money to pay for it. They use federal equipment, but the states are responsible for providing the fuel, maintenance, and other forms of support. If there were no National Guard, and an emergency situation arose, the only place to turn would be to the Army. So when the National Guard is performing a state mission it is really doing so in lieu of calling in the regular Army.

Q. And in war or other emergencies?

A. Under existing laws, in the event of war or emergency, the President can order the National Guard to duty. At that point, it is under the command of the Commander-in-Chief and becomes part of the U.S. Army with the states no longer having authority.

Q. Suppose the Guard were called up and a state emergency arose, for example, in which riots broke out during an international crisis?

A. States can also meet their emergency requirements by organizing a State Guard; all states have statutes on their books enabling them to do it. This country did that in both World Wars when State Guards were raised to replace the National Guard forces that had gone off to war.

Q. General, when you gave testimony to the House Armed Services Committee last April you outlined a number of deficiencies facing the Guard. Do you see signs that these deficiencies are being corrected?

A. Our principal deficiencies have been in equipment. The Reagan Administration, as you know is placing a great emphasis on ending the unpreparedness of our Armed Forces. It has budgeted a large increase in procurement, but unfortunately none of that was for the National Guard and Reserves.

Q. Why was this?

A. I don't come down too hard on the Administration because its people were brand new and probably didn't yet have much of a handle on how serious the equipment problems of the Guard and Reserves have become. Also it was to be expected that, when asked to repair deficiencies, they would first increase procurement for the Army and Air Force because the regulars are in serious need. But the Senate Armed Services Committee provided a $600 million add-on in equipment for the Guard and Reserve. The House Armed Services Committee added $952.2 million for equipment plus some additional Operations and Maintenance money that total just over one billion dollars. That's a tremendous improvement and was badly needed.

Q. Are measures being taken to continue to upgrade the National Guard and Reserve equipment?

A. Attached to the Department of Defense Authorization bill is the important Stennis Amendment. This would require the Secretary of Defense to make an annual report to the Congress by February 15th which would indicate the equipment requirements of the Guard and Reserve, tell how much they have on hand, and present the Defense Department's plans for each of the next three years to provide equipment. If the House accepts that language, and if Congress then holds the Defense Department's feet to the fire on it, we will get the situation in hand.

Q. What shortages remain?

A. There are serious problems. The shortage on the Army Guard side is $2.6 billion if you count only major items. If you add in spare parts and supporting equipment it's a $4 billion shortage. On the Air National Guard side of the ledger, we need an additional $10 billion.

Q. That's quite a lot of money.

A. Those are the figures we in the Guard reached after working out how the National Guard should be equipped to meet its mission. Other experts in the Administration or elsewhere are welcome to challenge our estimate. But no matter how they look at the matter it is still a multibillion-dollar shortage.

Q. What about National Guard manpower?

A. Manpower is not a serious problem in the Air National Guard. Our current strength is 97,698; our budgeted strength at the end of fiscal year 1982 will be 98,083; and, our wartime strength is 100,949. We have exceeded our budgeted strength for the past four years, and at the end of fiscal year 1982 we will be at 98 percent of our full wartime strength. The Air Guard's manpower problems lie in shortages of personnel with certain skills.

Q. And the Army Guard?

A. On the Army side our current strength is 383,534. We had an increase of 21,000 men last year; we've had a net increase each month this year. We are aiming for a strength of 397,651 at the end of Fiscal 1982, and I think we'll reach that. The problem is that although the peacetime strength of the Army Guard has been about 400,000, because of the I.R.R. shortage we have to consider our peacetime strength as our full wartime strength, which theoretically is 442,200.

Q. What is the I.R.R.?

A. the I.R.R. is the Individual Ready Reserve. It is the pool of pretrained manpower whose purpose is to fill regular Army units on Mobilization day because the regular Army is never authorized to be at full strength. The shortage of the Army Guard and Army Reserve is on the order of 160,000 men. And then we have the problem of filling our requirement for replacement of combat losses. Our Selective Service system is inadequate for this. It is set up so that, if everything works well, we can begin to produce trained manpower about six to seven months after a war starts.

Q. If war were to break out in Europe we wouldn't have that sort of time, would we?

A. We would have a period, say from M-day to M plus six, in which we would have to start providing combat loss replacements. How many that would take depends on whose war scenario you accept. There are disagreements between the Defense Department and the Army, but the number is generally conceded to be on the order of 500,000 for six months. That gap between M-day and the time our Selective Service system begins to turn out trained manpower is the number America needs in her I.R.R. pool.

The 500,000-men figure is on the low side. And in our Individual Ready Reserves we have only 200,000 men. In the period since their active duty, about 30 percent of them will have become unqualified because of physical disabilities, changes in their dependents status, ducking, and so forth. Additionally, there will be mismatches of specialties in which men trained when they were on active duty for one skill will be needed in something else.

If our present I.R.R. group of 200,000 can produce half that number of usable soldiers it will be a tremendous performance.

Q. Which do you see as the National Guard's most immediate headache, hardware or manpower?

A. Clearly it's equipment because that problem could never be solved in time if war were to come. Any equipment authorized and funded by Congress after a conflict starts would not be delivered until after the war was over. It takes two years lead time just to produce a set of landing gear for a new aircraft.

Q. The maneuvers of the Soviet and Warsaw Pact forces make clear that they place heavy emphasis on chemical and biological warfare, for which their regular, commando, and shock troops train. Does our National Guard train to deal with that sort of attack?

A. There is a grave shortage of equipment. You know that as a matter of national policy under the previous Administration this country stopped preparing itself for defense against chemical or bacteriological warfare. Our combat troops need familiarization with procedures for surviving and winning on contaminated battlefields. In this respect we of the Guard and Reserves are probably not much worse off than the regulars.

Q. In the combat competitions between Air National Guard pilots and the regular Air Force, the Guard has generally come out ahead. Why is this, General?

A. The level of experience of the Air Guard pilots is generally greater. Furthermore, our requirements for logging flying hours generally are greater and our maintenance is very much better. You see, the Air Guard's maintenance force is stable. If a technician's job is fixing some sort of electronic "black box" on one of our interceptors or fighters, or working on air frames or engines, he often stays on that job for years working with the same group. In the regular Air Force, a maintenance technician will come in, serve a couple of years with two or three units, then leave.

Q. Am I correct in recalling that the Air National Guard has carried out many of the recent intercepts of Soviet and Cuban aircraft violating our air space and flying along our shores up and down the Atlantic?

A. I don't have the figures here with me on those incidents, but I can tell you that our Air Guard provides 65 percent of all the air-defense aircraft on runway alert in the United States. We fly those missions day in and day out.

Q. Does the Air Guard also have a strategic role?

A. Other than participation in the tanker refueling mission with the Strategic Air Command, the Air Guard is strictly a conventional warfare force.

Q. But, if there were a conflict and the Soviet MiGs and Backfire bombers in Cuba were to become a factor, wouldn't your Air National Guard be called upon to provide our principal defense?

A. Yes. As a practical matter, air defense comes very close to being a "strategic" role. And at some point when the "Star Wars" concept of laser weapons, satellite-based energy beam, and anti-missile weapons comes into being, I am sure that our air-defense role will be involved to some degree. The F-15 fighter, for example, could play a role in an anti-satellite mode. General Wilbur Lyman Greech said in his testimony on air defense this year that there was a need for an F-15 squadron on both the West and East Coasts deployed in an anti-satellite role. To me, that seems to be a simple extension of the current mission of our Air Guard and would be a very easy role for the National Guard to perform well.

Q. What is the state of National Guard readiness for responding to civil disorders?

A. I believe it to be good, but lower than it was during the late 1960s, say from Watts in 1965 through Newark and the King riots of 1968. The National Guard then spent a lot of time training for urban disorders. In more recent years the threat was believed to have diminished and so we reduced the number of hours spent on such training to about eight per year. If necessary we could build that up again quickly.

Q. I was thinking also of duty in the cities in case of blizzards, earthquakes, and other natural disasters.

A. The number of days of National Guard state duty in floods, fires, tornados, and prison riots like the one in New Mexico, has increased. The variety of missions that National Guardsmen perform is astonishing. On the same day, you'll find them fighting a forest fire in one part of the country and, in another, caring for the patients of a mental hospital where state workers have gone on strike. Once the governor of a state has deployed his very limited state and local police forces, the National Guard is the only trained, organized, and disciplined force he has at his disposal. Governors use these forces for every imaginable emergency.

Q. Sometimes, as when fighting forest fires, the image of the National Guard as a military force fades and a sort of Boy Scout or public service image takes its place.

A. Yes, and there is more to that than just good public relations. I like to believe that you don't get into the National Guard unless you are a pretty good American. Local people recruit Guardsmen, and they won't take you if you're a bum.

Q. And of course it is the Guard's ability to deploy these good Americans quickly that is one of its chief virtues.

A. Absolutely. And that is one aspect of the National Guard that the regular Army people sometimes do not appreciate. The Defense Department is very concerned, as you know, about problems in mobilizing our forces. It is important to remember that our Guard units mobilize and deploy twice a year when they go for training. In addition they regularly mobilize and deploy to meet such emergencies as flooding and hurricanes.

A large part of the ability to be an effective functioning military unit comes from being able to work as a team under the direction of sound leadership. The Guard is continually exercised, and I am convinced that this gives our forces advantages that can't be measured on readiness reports. Let me tell you it creates an esprit de corps, a pride among Guard members in their ability to do well at whatever mission they are assigned. That ability to go in and do a job well so that you can look back on it with satisfaction is very important in civilian life, but it is even more important in the military. That's one of the reasons our National Guard is an American institution of which we can all be proud.•

SUPPORT FOR RONALD REAGAN

• Mr. SYMMS. Mr. President, the "Farmer Stockman of the Midwest," is a weekly paper out of the State of Nebraska with a large nationwide readership. This newspaper conducted a national poll of its readers in January 1980, which indicated strong support for Ronald Reagan as a Presidential contender. This was at the same time that the media scoffed at the President's chances for the Republican nomination. The latest "Farmer Stockman" poll of some 2,000 readers asked questions similar to those of better known polling firms such as Gallup and Lou Harris, yet the results were entirely different. •

I am pleased to bring to the attention of my colleagues these poll results which show that the President continues to command the overwhelming support and confidence of the American people.

The article referred to is as follows:

POLL RESULTS SHOW PRESIDENT REAGAN STILL VERY POPULAR

With 2,298 ballots in from 44 states the Farmer-Stockman poll gives a clear impression of what Mid-America is thinking and the strange thing is that this same feeling seems to exist nationwide. Our staff members who have shared the recording of more than 50,000 units of tabulation have constantly remarked "they are voting the same all across the country". We did watch to see what state was voting and which way it gave its support to different questions.

Ronald Reagan proved to receive 89.7 percent of the favorable vote from the very first day, but most of the negative vote recorded against him which was slightly over 200 votes came from Kansas and Nebraska with some opposition coming from other close states like Oklahoma, Missouri and Colorado, but despite this small opposition the President had polled more than 2,000 supporting votes by last Tuesday.

Many of the questions drew one-sided results, but there were a few questions that might be considered a draw such as whether Congress should control the Federal Reserve, or the question relative to endorsing the 55 mph speed limit.

The Farmer-Stockman conducted its first poll in January of 1980. At that time no one knew who would be the Republican or Democratic nominees for president, although it was assumed that Jimmie Carter would win out over his competition which was Jerry Brown and Edward Kennedy and a few others. On the other hand Reagan had as competition for the nomination, John Connally, Howard Baker, George Bush, Bob Dole, Philip Crane, John Anderson, Gerald Ford and others. In our question at this time the vote showed 40 percent favoring Reagan for president, Jimmy Carter receiving only 6 percent of the vote and the other candidates receiving the balance.

Then in June, 1980 another poll was conducted and this was still before the national convention. This time Reagan received a total of 1,074 votes or 96 percent of the vote and Carter only 46 votes for 4 percent.

Needless to say at that time none of the other national polls were giving Reagan hardly a chance for the nomination. The national media was heralding Carter's handling of the Iranian and Afghanistan problems and were telling that Carter had the public's complete approval.

Then in a poll this publication took in early September, 1981, after President Reagan had been in office for six months we asked "Is President Reagan doing a good job?" We received 1,278 "yes" replies and 49 "no" replies. This was about 96 percent "yes" support to 4 percent "no".

Now another six months later in February, 1982, we have asked questions exactly like those asked by the Gallup, Harris and other national polls "Do you approve of the way President Reagan is handling his job as President?" and a second question "Do you blame President Reagan for the difficulties the country is experiencing?" These questions tend to request opposition, but despite this President Reagan received 89.7 percent favorable vote to 10.3 percent opposed to his efforts in office. Reagan received 2,035 votes as of Wednesday compared to 234 opposing him.

PUBLIC OPINION QUESTIONNAIRE

The Farmer-Stockman of the Midwest in late years has made it a practice to make a poll of its readers from time to time on questions facing agriculture, livestock and the nation.

A total of 2,298 was received from 44 states. Copies of the poll are being mailed to representatives in Washington to give them an idea of how our readers feel about different issues.

	Percent	Number
1. Do you approve of Congress voting more tax raises as are being proposed in Washington, D.C. at this time?		
Yes	11.5	255
No	88.5	1,962
2. Do you approve of the U.S. spending enough for defense to effect military stalemate with our adversaries?		
Yes	82.5	1,906
No	17.5	404
3. Do you favor a shift of some government functions to the states?		
Yes	92.7	2,107
No	7.3	166
4. Do you blame President Reagan for the difficulties the country is experiencing?		
Yes	10.3	234
No	89.7	2,035
5. Do you favor a parity price to the producers of the only thing (food) that sustains life on this planet?		
Yes	67.1	1,498
No	32.9	733
6. Would you support Puerto Rico for statehood?		
Yes	34.8	712
No	65.2	1,332
7. Do you support the resumption of the importation of millions of threatened kangaroo skins from Australia?		
Yes	10.0	208
No	90.0	1,876
8. Would you support the resumed use of the deadly chemical poison 1080 for predator control?		
Yes	51.3	1,070
No	48.7	1,016
9. Do you favor abolishing the Federal Department of Education?		
Yes	84.0	1,821
No	16.0	348
10. Should the United States continue to support the United Nations?		
Yes	44.1	957
No	55.9	1,211
11. Should Congress End Forced Bussing?		
Yes	95.3	2,153
No	4.7	107
12. Should Congress have control of the Federal Reserve organization?		
Yes	51.5	1,030
No	48.5	969
13. Should the death penalty be installed?		
Yes	92.5	1,868
No	7.5	152
14. Do you favor Daylight Savings Time as it is now observed?		
Yes	42.7	949
No	57.3	1,275
15. Do you approve of the way Ronald Reagan is handling his job as president?		
Yes	85.2	1,895
No	14.8	328
16. Do you approve of immigrants to this country receiving welfare (3 million are now receiving it) who have never paid a dime into the Social Security fund or paid taxes?		
Yes	3.9	87
No	96.1	2,137
17. Do you favor the licensing and registration of handguns?		
Yes	23.5	529
No	76.5	1,718
18. Should large corporations be allowed to make investments in farm land for income tax shelters?		
Yes	9.1	204
No	90.9	2,035
19. Do you think the national budget should be balanced in the years ahead?		
Yes	95.9	2,162
No	4.1	93
20. Do you endorse the 55-mile per hour speed limit?		
Yes	54.9	1,244
No	45.1	1,022

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SHOW BIZ DIPLOMACY

• Mr. GARN. Mr. President, a very interesting article was recently brought to my attention concerning our Nation's "Hollywood diplomats" and our foreign policy toward Central America. The article, written by Mr. Arnold Irvine, is entitled, "Hollywood Foreign Policy," and was published in Utah's Deseret News.

El Salvador is not a funny subject, nor is the spectacle of our self-appointed show biz diplomats. In this regard, I believe Mr. Irvine has captured the spirit of the situation, and I commend his observations to the attention of my colleagues.

Mr. President, I ask that the article, "Hollywood Foreign Policy," be printed in the Record.

The article referred to is as follows:

Hollywood Foreign Policy

(By Arnold Irvine)

At last, one of the big gaps in U.S. foreign policy is being plugged. Several Hollywood celebrities, headed by Edward Asner, have come forward to correct the mistakes being made by the Reagan administration in El Salvador.

Ever since Jane Fonda abdicated as Hollywood's ambassador to Hanoi, the country has had no one to handle these delicate international problems. Miss Fonda lost interest in the job after she had achieved her objective of getting the Americans out of Vietnam, so the communists could take over.

This ended all the shooting and fighting by the opponents of the communists which was bothering Miss Fonda. After the American pullout, the communists continued shooting, but that didn't interest her.

Now, with a brush fire springing up in another part of the world and Washington doing all the wrong things again, the Hollywood State Department is coming to the rescue with a new corps of diplomats. They fear that El Salvador will be another Vietnam.

Backing Mr. Asner a thousand percent are such noted foreign affairs experts as actress Lee Grant, actor Howard Hesseman, actress Penny Marshall, actor Ralph Waite, and film maker Bert Schneider. They are all highly qualified.

Mr. Asner, as Lou Grant in the television version of what goes on at a metropolitan newspaper office, has to be knowledgeable in all areas of foreign policy. He also has to be very diplomatic in his role as city editor. City editors are diplomatic if they are anything.

If his credentials in the newspaper business are not enough, Mr. Asner can point to his many years as the television station news director on the Mary Tyler Moore show. This certainly gave him a vast understanding of world affairs.

Most of the new group of Hollywood diplomats are in television, so undoubtedly have good contacts with such pundits as Dan Rather, Tom Brokaw, and Howard Cosell. This enhances their standing as experts on foreign policy.

Obviously, these show business people are well qualified to determine what course the United States should follow vis-a-vis El Salvador. They know what they are doing when they give $25,000 to a representative in Los Angeles of the Democratic Revolutionary Front in El Salvador.

The money is to be sent to some unnamed doctors in Mexico City, who are to buy medical supplies and ship them to the rebels in El Salvador. This is a sure-fire way of getting exactly what you want into the proper hands.

For some reason, Washington keeps wanting to support governments that are friendly to the United States, such as the government of El Salvador. This ridiculous policy is opposed by the Hollywood diplomats. Any government friendly to the United States has to be suspect.

The show biz diplomats prefer to assist the rebels who are getting guns and advice from Fidel Castro, who has done such a terrific job of leading Cuba into receivership. Leonid Breshnev is the receiver.

If Mr. Asner and company do as well in Central America as Miss Fonda did in Vietnam, the United States won't have to worry much about Central America for long. Washington's only concern will be where to get the money for the tolls Moscow will be charging at the Panama Canal.●

● Mr. BAUCUS. Mr. President, in the fiscal year 1983 budget, the President has proposed to dismantle the railroad retirement system. The administration would abolish the Railroad Retirement Board, shift tier I payments to the social security program, convert tier II benefits into a private pension system, and reduce dual benefit payments.

I am a cosponsor of Senate Resolution 334, which expresses the sense of the Senate that this proposal should not be implemented. I have also consistently supported full funding for "dual windfall benefits," which were cut last year.

Mr. President, I have received almost 1,000 letters from Montanans who are enraged and frightened by the President's new proposal. One of the most thoughtful of these was written by Mr. James J. Hagen, of Arlee, Mont. I urge my colleagues to read his letter and to keep in mind the fact that we are dealing here with Americans who have dedicated their working lives to keeping people and freight moving on our Nation's rails. These workers and retirees deserve fair treatment, and I do not believe that the administration's proposals represent fair treatment.

I ask that Jim Hagen's letter be printed in the Record.

The letter follows:

Arlee, Mont.,
March 7, 1982.

Senator Max Baucus,
U.S. Senate,
Washington, D.C.

Dear Senator: I object very strongly to the proposal for the emasculation of the Railroad Retirement System designed by David Stockman and the Reagan administration.

I began working in the railroad industry in 1937 and have always considered the retirement plan as one month working for and contributing to.

It is unjust that a report is being circulated that railroad employees and their employers are feeding at the public trough. The railroad employees are one of the most productive groups of people in the nation.

For forty-five years I worked on the railroad, first on the Northern Pacific, and then on the Burlington Northern. I was part of the team that kept the railroad moving through some of the toughest going in the Rocky Mountains. I have been with crews that worked in −30 degree temperatures, up to our waists in snow, in floods, and in heat.

I have helped maintenance workers carry two hundred pound oak ties up steep hills for as long as forty-two hours at a stretch; train men carry forty pound knuckles the length of a sixty car train in the same snow to get trains moving.

In spite of all this, a few years ago we were called "featherbedders".

I began my railroad career at the end of the Hoover depression, that saw my father and mother trying to care for themselves, five children, and a grandfather and grandmother because the old folks had no other place to go.

Now there is the railroad retirement plan to take care of the old employees. I have just retired this year and have severe arthritis. My wife is also disabled with arthritis and hypertension, and we do not want to be a burden to our children, because of the fact that the present administration does not have the hindsight to remember what happened in the past or the foresight to see, or care, about the future.

Three quarters of a million railroad workers believe the retirement plan is sound and desperately hope you will help us keep it that way.

Sincerely yours,

James J. Hagen.●

RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 6:12 p.m., recessed until tomorrow, Thursday, March 18, 1982, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 17, 1982:

Equal Employment Opportunity Commission

Clarence Thomas, of Maryland, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 1986, vice Eleanor Holmes Norton.

Federal Council on the Aging

Tony Guglielmo, of Connecticut, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1983, vice Wesley C. Uhlman.

Federal Reserve System

Preston Martin, of California, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1982, vice Frederick H. Schultz, term expired.

Preston Martin, of California, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years, vice Frederick H. Schultz, term expiring.

National Institute of Building Sciences

The following-named persons to be Members of the Board of Directors of the National Institute of Building Sciences:

Charles A. Doolittle, Jr., of Kansas, for a term of 3 years (new position).

Van Norden Logan, of California, for a term of 3 years (new position).

National Railroad Passenger Corporation

Charles Luna, of Texas, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years (new position).

Robert D. Orr, of Indiana, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term of 4 years (new position).

Ross E. Rowland, Jr., of New Jersey, to be a Member of the Board of Directors of the

National Railroad Passenger Corporation for a term of 4 years (new position).

In the Army

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, 533:

JUDGE ADVOCATE GENERAL'S CORPS

Captains

Addicott, Jeffrey F., [redacted]
Altherr, Robert F., [redacted]
Andrews, Douglas C., [redacted]
Battles, Emmett L., [redacted]
Benson, Nolan J., Jr., [redacted]
Black, Scott C., [redacted]
Bond, Kevin W., [redacted]
Breeden, William L., [redacted]
Brown, Harold E., Jr., [redacted]
Capofari, Paul A., [redacted]
Carter, Richard M., [redacted]
Castle, Edwin S., [redacted]
Cleary, Terence M., [redacted]
Crane, David M., [redacted]
Faustino, Alfred L., [redacted]
Forrester, Kathryn M., [redacted]
Forrester, Vance M., [redacted]
Groot, Lonnie N., [redacted]
Hall, Joseph J., [redacted]
Hockley, Michael D., [redacted]
Jentzer, Lyle D., [redacted]
Laymon, Paul W., Jr., [redacted]
Lewis, Calvin L., [redacted]
Little, David A., [redacted]
Maher, Christopher M., [redacted]
Manuele, Gary M., [redacted]
Mason, Thomas O., [redacted]
McGhee, Jack L., [redacted]
Merck, Sarah S., [redacted]
Miller, Richard A., [redacted]
Minor, Robert L., [redacted]
Mulliken, Steven K., [redacted]
Odegard, Adele H., [redacted]
Pyrz, Thomas A., [redacted]
Rice, Jackie L. [redacted]
Riffe, Rebecca S., [redacted]
Romig, Thomas J., [redacted]
Smith, Robert J., [redacted]
Spaulding, Milton C., [redacted]
Steinbrenner, Carl J. [redacted]
Stewart, Andrew D., [redacted]
Stokes, William G., [redacted]
Trant, Charles E., [redacted]
Twitty, Theophlise L., [redacted]
Ward, Joseph M., [redacted]
Warner, Karl K., [redacted]
Warren, Thomas D., [redacted]
White, Ronald W., [redacted]
Wright, Daniel V., [redacted]

In the Marine Corps

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 2107, subject to the qualifications therefor as provided by law:

Baker, Emily L.
Chilton, John H., Jr.
Crawford, Charles R.
Curran, Thomas, P.
Curtin, Lawrence M.
Daniel, Edward D.
D'Antonio, Paul A.
Cart, Steven, G.
Davis, Norman C.
Davison, James D.
DeJesus, Carlos J.
Dedinger, James D.
Devlin, Peter H.
Doyle, Phillip G.
Dunn, Bruce E.
Dunn, James B.
Dunning, Robert L.
Elliot, David M.
Emery, Stephen J.
Epplin, Michael A.
Erb, Steven E.
Fanniel, Lonzel
Fennell, Jack E.
Fermin, Robert J.
Ferris, Peter G.
Foley, Thomas A.
Fox, William A., III
Gallagher, Christopher J.
Garant, Pierre C.
Garcia, Carl B.
Garfield, Gregory G.
Garner, Harold J.
Garner, James M.
Gearhard, Glenn E.
Gehin-Scott, Charles E.
Glodosky, John P.
Goebel, Thomas E.
Goodwin, Jeffery A.
Gordon, Nelie, III
Gorg, Paul C.
Goudreau, Robert R.
Grabowsky, Erik
Graczyk, Donald A.
Guptill, Murray T.
Guzik, Dennis M.
Gwinn, John J.
Gwinner, John D.
Haberbosch, Curtis E.
Hack, Steven J.
Hagwood, Derle G., Jr.

In the Marine Corps

The following-named Naval Reserve Officers Training Corps graduates for permanent appointment to the grade of second lieutenant in the U.S. Marine Corps, pursuant to title 10, United States Code, section 2107, subject to the qualifications therefor as provided by law:

Abraham, Louis P.
Adams, Robert S.
Albee, Donald H.
Albert, Michael R.
Aldridge, Aaron E.
Allman, Steven M.
Alsheimer, Lance W.
Amarello, Joseph M.
Andrews, Michael T.
Angel, Roger D.
Ansley, Keith G.
Artis, Jeffrey L.
Avery, Kenneth E.
Bacheller, John S.
Bailey, Lindley A.
Bancroft, Richard A.
Barker, Bradley, A.
Barnes, Christopher A.
Barrett, Sean P.
Barry, Michael S.
Barthalow, Henry D.
Baxter, James D.
Becker, Miles G.
Belcourt, Llewellyn N., Jr.
Bennett, William J.
Blair, James L.
Blount, Phillip A.
Boggs, Craig L.
Bose, Eugene N.
Bradley, William J., III
Brauchler, David A.
Brown, Daniel P.
Buelow, Douglas J.
Burch, Douglas A.
Burton, Roger L.
Butler, Frank
Cantrell, Mark E.
Carlitti, Justin P.
Castleberry, Charles K., Jr.
Chamberlin, James M.
Chase, Stephen L.
Clement, Joseph A.
Close, David L.
Colabatistto, Gennaro A.
College, Dean K.
Coming, Michael W.
Compere, Kenneth J.
Cook, Thomas V.
Corbett, Michael J.
Cox, Robert J.

HOUSE OF REPRESENTATIVES—*Wednesday, May 17, 1982*

The House met at 3 p.m.

The Reverend John Carroll, St. Vincent de Paul Church, Washington, D.C., offered the following prayer:

Let us pray:

God our Father, You have given all peoples one common origin, and Your will is to gather them as one family in Yourself. Fill the hearts of all men with the fire of Your love and the desire to insure justice for all their brothers and sisters. By sharing the good things You give us may we secure justice and equality for every human being, an end to all division, and a human society built on love and peace.

We pray for those who hold and exercise authority in our country, especially for the Members of this assembly. Enable them to discharge their duties with honesty and ability. Give them the spirit of Patrick of Ireland which enabled him to say:

"I arise today through God's strength
to direct me,
"God's might to uphold me, God's
wisdom to guide me,
"God's eye to look before me, God's
ear to hear me,
"God's word to speak for me, God's
hand to guard me,
"God's way to lie before me, God's
shield to protect me."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Vice President, pursuant to section 194(a) of title 14, United States Code, appointed Mr. DODD as a member, on the part of the Senate, of the Board of Visitors to the U.S. Coast Guard Academy. The chairman of the Committee on Commerce, Science, and Transportation, under the above cited law, appointed Mr. PACKWOOD, Mr. STEVENS, and Mr. HOLLINGS as members of the same Board of Visitors.

The message also announced that the Vice President, pursuant to section 1126(c) of title 46, United States Code, appointed Mr. MOYNIHAN as a member, on the part of the Senate, of the Board of Visitors to the U.S. Merchant Marine Academy. The chairman of the Committee on Commerce, Science, and Transportation, under the above cited law, appointed Mr. PACKWOOD, Mr. GORTON, and Mr. INOUYE as members of the same Board of Visitors.

The message also announced that the Vice President, pursuant to section 6968(a) of title 10, United States Code, appointed Mr. MCCLURE, Mr. JEPSEN, Mr. HOLLINGS, and Mr. SARBANES as members, on the part of the Senate, of the Board of Visitors to the U.S. Naval Academy.

The message also announced that the Vice President, pursuant to section 9355(a) of title 10, United States Code, appointed Mr. STEVENS, Mr. JOHNSTON, Mr. GOLDWATER, and Mr. HART as members, on the part of the Senate, of the Board of Visitors to the U.S. Air Force Academy.

FATHER JOHN A. CARROLL

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I am pleased today to be able to welcome to the House of Representatives the Reverend John A. Carroll and to thank him for his prayer opening today's session.

Father Carroll is a first generation American from County Galway, Ireland, and grew up in South Boston, Mass. He studied for the priesthood at St. Joseph Seminary in Newburgh, N.Y., and was ordained at the Shrine of the Immaculate Conception in 1966. His academic degrees include philosophy and sociology.

He taught English at Epiphany College in Newburgh for 10 years prior to serving at St. Vincent de Paul Parish in Beaumont, Tex. In September 1981, he was appointed to St. Vincent de Paul Parish in Washington, D.C., where he serves as pastor.

Father Carroll bears the same name as another distinguished Catholic priest, John Carroll, the first American bishop, who guided his church through the difficult days of its early formation in a country torn by revolution. Father Carroll's dedication to the work of his order, in bringing the church to the poor and to the disadvantaged, continues the goals of his early namesake in making the church a useful and constructive force for change and justice in this Nation.

THE TAX CREDIT GAME

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, thanks to the tax-leasing gimmick contained in the Economic Recovery Tax Act of 1981, it appears that General Electric's Federal tax bill for 1981 will drop more than 80 percent from 1980.

General Electric has scooped up millions of dollars' worth of tax credits from other companies through the leasing device. And largely because of these purchased credits, GE's Federal taxes will not only plunge, but GE will also claim a refund of $150 million in Federal taxes paid in earlier years, according to the Wall Street Journal.

The leasing game is bad tax policy and must be stopped. It has become a back-door giveaway not only to struggling companies, but to profitable conglomerates like GE, while the Federal deficit soars. I have introduced H.R. 5131 to repeal tax leasing, and I urge your support.

Tax leasing amounts to the sale of Government benefits to the highest bidder. Only the big boys can play—not the average Joe Taxpayer. Let us get rid of this new corporate loophole, the faster the better.

AUTOMOTIVE RESEARCH COMPETITION ACT

(Mr. SHAMANSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SHAMANSKY. Mr. Speaker, today my distinguished colleague, the majority whip of the other body and I, are introducing legislation to recapture leadership in automobile building.

My bill, the Automobile Research Competition Act, provides for an automobile research competition to produce the next generation car, embodying high fuel economy, safety, and environmental standards. The Battelle Memorial Institute, in Columbus, Ohio, the world's largest nonprofit private research institute, conducted automotive and energy studies which showed that U.S. industry can build a four-passenger vehicle with a normal luggage load that can get 100 to 105 miles per gallon with a diesel engine and 80 to 85 miles per gallon with a gasoline engine. The car would sell for $6,000 to $6,500 in 1982 dollars, have a service life of 100,000 miles, meet all environmental and safety standards, and be developed in 3 to 5 years.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Is this technologically feasible? One needs only look at West Germany and Japanese automotive research. Volkswagen, for example, has developed a prototype powered by a direct injection diesel. Tests indicate a similar car with a gasoline engine will get 70 miles per gallon in everyday driving.

This country cannot afford to allow its automobile market to be dominated increasingly by innovative foreign competitors. A competition open to all American firms offers the only practical way to bring our engineering and manufacturing skills to bear in this race. I urge my colleagues to join me in support of this bill.

Mr. Speaker, I submit my bill to be printed at this point in the RECORD.

H.R. 5880

A bill to provide for an automobile research competition to produce a radically new automobile embodying high fuel economy, safety, and environmental standards, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Automobile Research Competition Act".

SEC. 2. (a) There is established the Automobile Research Competition (hereinafter in this Act referred to as the "competition") to be administered by the Secretary of Transportation (hereinafter in this Act referred to as the "Secretary") under such regulations as the Secretary may promulgate.

(b) The competition shall begin at the end of the 12-month period beginning on the date of enactment of this Act and shall be open for such period as the Secretary shall prescribe except that such program shall be open for a period of at least three years but not more than five years.

SEC. 3. (a) To be eligible to participate in the competition under this Act, a participant must be an entity—

(1) owned and operated by—

(A) an individual owing allegiance to the United States,

(B) a partnership, company, or association composed of such individuals, or

(C) a corporation which is organized under the laws of the United States, any territory or insular possession of the United States, any State, or the District of Columbia and a majority interest in which is held by or on behalf of individuals described in subparagraph (A); and

(2) operated within the United States.

(b)(1) Any entity intending to compete for the research award described in section 5 of this Act shall notify the Secretary of such intention within such period of time as the Secretary may prescribe.

(2) Any entity which has given the Secretary notice of its intention to participate under paragraph (1) of this subsection and which subsequently withdraws from the competition shall notify the Secretary immediately of such withdrawal.

SEC. 4. For an entity to qualify for the research award established under section 5, the entity must satisfactorily complete the following:

(1) Design, develop, manufacture, and submit to the Secretary six identical motor vehicles which meet the following minimum requirements:

(A) An automobile with sufficient capacity to transport four adults with luggage (weighing a total of not less than 850 pounds) in over-the-highway service.

(B) 100 miles per gallon fuel economy rating in a diesel version or 80 miles per gallon in a gasoline version as measured by following the procedure used by the Administrator of the Environmental Protection Agency in accordance with section 503(d) of title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)).

(C) Performance standards which at least equal the following requirements:

(i) An ability to start and accelerate without damage to the transmission on a 30 percent grade in forward and reverse while carrying a minimum of 850 pounds.

(ii) An ability to climb a 7 percent grade at 55 miles per hour while carrying a minimum of 850 pounds.

(iii) A 0-60 miles per hour acceleration time of 19.0 seconds while carrying a minimum of 850 pounds.

(iv) A 40-60 miles per hour passing acceleration time of 10.0 seconds while carrying a minimum of 850 pounds.

(v) A 50-70 miles per hour passing acceleration time of 13.0 seconds while carrying a minimum of 850 pounds.

(vi) Braking distances equal to or better than the average braking distance for all 1982 model passenger cars offered for sale in the United States.

(vii) Emissions which will comply with applicable Federal law.

(viii) Handling characteristics and operating characteristics under adverse weather conditions equal to or better than the average for all 1982 model passenger cars offered for sale in the United States.

(ix) Safety and crashworthy characteristics which will comply with applicable Federal law.

(D) Ability to enter into normal United States automobile traffic patterns and mix well in traffic with the various types of motor vehicles currently in use.

(E) A service life of 100,000 miles.

(F) A manufacturer's list price of between $6,000 and $6,500, in 1982 dollars, for production lots of 100,000 vehicles a year.

(2) Show evidence, through the submission to the Secretary of production, marketing, and financial plans, of the commercial feasibility of manufacturing and selling to the public in the United States, at a minimum rate of 100,000 vehicles per year for a minimum of three years, automobiles equivalent to the vehicle model submitted in the competition. Not more than 25 percent of the cost of manufacture of each automobile shall be for the manufacture or assembly of parts made outside the United States.

SEC. 5. (a) After the competition has ended, the Secretary shall declare the winner of the research award to be the entity that best meets or exceeds all of the prescribed requirements of section 4 of this Act. The total amount of the research award shall be the product of—

(1) 10,000, and

(2) the difference between $20,000 (1982 dollars) and the manufacturer's list price (1982 dollars) for the first 10,000 automobiles manufactured and offered for sale to the public which meet such requirements.

(b) The four entities, other than the one declared the winner under subsection (a) of this section, that best meet or exceed the requirements for the research award, as determined by the Secretary, shall each receive a consolation research grant of $20 million.

(c)(1) The Secretary shall promulgate, by regulation, the testing standards to be used to measure the requirements under section 4(1)(B) of this Act and clauses (i) through (vii) of section 4(1)(C).

(2) The Secretary shall determine and publish the standards to be used to measure all requirements under section 4 of this Act for which no testing standards were established under paragraph (1) of this subsection.

(3) In order to evaluate properly the motor vehicles submitted pursuant to the competition, the Secretary may request assistance from the Environmental Protection Agency, the National Bureau of Standards, and any other Federal department or agency which, by nature of its public duties, is qualified to perform tests and render judgment on a subject governed by the standards described in section 4 of this Act. Upon receipt of a request from the Secretary, any Federal agency or department shall perform any tests and prepare an opinion on any subject requested of it.

(4) The Secretary may, at his discretion, seek the advice and opinion of private individuals or groups concerning the acceptability of the motor vehicles entered in the competition with regard to the need of the public for safe, reliable, fuel-efficient, and economical personal transportation.

SEC. 6. All determinations by the Secretary with respect to this competition are final and no appeal shall lie from any such determination in any court of the United States.

SEC. 7. No authority under this Act to enter into any contracts or to make any payments shall be effective except to the extent and in such amounts as are provided in advance in appropriations Acts. Any provision of this Act which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

THE CORPORATE TAX LEASING WINDFALL

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, yesterday, the Washington Post carried a front page story indicating that one American corporation, General Electric, will receive a net tax refund of between $90 and $100 million this year despite pretax earnings of over $2½ billion. This tremendous windfall is the result of the corporate tax leasing provision of last year's tax bill. As Republican Senator ROBERT DOLE, chairman of the Senate Finance Committee, warned yesterday, this is only the tip of an iceberg—an iceberg, I might add that is sinking this country into deeper and deeper debt.

As struggling middle and lower income people across this country are about to pay their share of the tax burden, it is an outrage that some extremely profitable corporations will be paying absolutely nothing. It is unfair, it is unjust, it is bad for the economy, it must stop now.

There is currently a bipartisan effort in both Houses of this Congress to repeal the special tax loopholes that have permitted these gross inequities. I urge all my colleagues to join in this effort.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4509

Mr. EDGAR. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 4509.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A CONSTITUTIONAL CONFRONTATION AVOIDED

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, I rise today to discuss briefly the arrangements made yesterday by the Oversight Subcommittee of the Energy and Commerce Committee and Secretary James Watt.

First, as a member of the subcommittee, I would like to praise our colleague, the gentleman from Michigan (Mr. DINGELL) for his diligence in pursuing a conclusion to this situation with Interior Secretary James Watt regarding documents relevant to his determinations of reciprocity under the Mineral Lands Leasing Act.

I particularly praise the chairman, given the vast numbers of duties that he has got on Capitol Hill. At the same time, I think that while it is good for the country that we have avoided a constitutional confrontation, I believe it is regrettable that we may have set an unwise and unfortunate precedent in the exchange of important and invaluable information between branches of Government.

The process of viewing sensitive materials at a one-time sitting is to say at the very least cumbersome. Because in this case there are only a few documents involved, this procedure is manageable; but if the documents were more complicated and the documents more numerous, this procedure would be wholly inadequate.

I, like many newer Members of Congress, was elected because of my pledge to do valiant legislative oversight here in Washington. The public expects us to concentrate more on making current laws work, rather than trying to pass new laws. We cannot have a doctrine of executive privilege that gives bureaucrats unelected in the bureaucracy more power than Members of Congress who have to run every 2 years.

I am very happy that we have avoided the constitutional confrontation this time. Let us note this example yesterday as a precedent for tomorrow.

LEGISLATION AUTHORIZING THE STUDY OF A GROSS INCOME TAX SYSTEM

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, I am today introducing a bipartisan bill along with six other members of the Ways and Means Committee directing the Secretary of the Treasury to conduct an indepth study detailing the economic and administrative consequences of adopting a low-rate, gross income tax system. As members of the Ways and Means Committee, we feel it is our duty and responsibility to examine alternative structures and systems by which the essential revenues for operating the Government are raised.

There is currently much debate surrounding the complexity, equity, and level of compliance of our present net income tax system. The legislation which we are introducing addresses these issues and may well represent the embryonic stage of the most significant change in our Nation's tax laws since the first income tax was adopted in 1913.

This legislation is very simple and straightforward. The Secretary of the Treasury would be directed to study the feasibility of replacing: First, the present individual income tax; or second, both the individual and corporate income taxes with a simplified gross income tax.

The study would examine the problems and benefits of a gross income tax system, and would propose possible solutions to deal with potential problems. The Secretary would be instructed specifically to consider the protection of the economically disadvantaged from any adverse effects of implementing a gross income tax system. The Secretary would also be required to prepare a final report to submit to Congress, within 6 months from the date of this bill, containing the findings and recommendations of the study.

We hope that our colleagues will note that this is a bipartisan initiative, which we hope will produce data that can be utilized to fashion a comprehensive legislative proposal in the near future.

I would also like to acknowledge the fine work of Mr. Jim Jones of Blanco, Tex., with whom I have worked closely to develop this legislation.

We urge all of our colleagues in this body to join us in our efforts to adopt this important legislation. Thank you.

A CARING FARM POLICY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, when the President travels between Washington, D.C., and the west coast, I am hoping that as he crosses that great Midwest he looks out the window and sees what is the most efficient food-producing region in this world; that he will see not only that broad farm belt of America, but he will also see an economy that is in serious, serious trouble; some of the lowest farm prices since the 1930's, measured by parity levels; also high interest rates are forcing farm families to leave the farm. They simply cannot make it.

Now, in January, 42 Members of Congress, Republicans and Democrats, asked for a meeting with the President to talk about the serious predicaments facing the farm belt. To date the President has not been able to find time in his schedule to have that meeting. I just received a letter from the White House the other day that said they are still working on it.

I would like to say that the President finds time in his schedule to do plenty of things. I have noticed that he has met with the Clemson football team, with the National Hockey League All Stars, and a number of other appointments that are interesting and probably useful, but it is also important for the President to spend some time meeting with folks from this body who care about farm policy. Every day that he stalls, farm families are having to leave the farm. I do not think this problem is going to go away by ignoring it.

I would like to see a little cooperation from the White House and I am hoping they can get those scheduling problems ironed out soon.

THE PRESIDENT IS RESPONSIBLE FOR HIGH INTEREST RATES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, today's New York Times contains an article entitled "The Myth of the Fed," which makes this point:

> During the last half-century, there has been no single instance in which Federal Reserve policy has long been at odds with the wishes of an administration.

This very important statement places the responsibility for economic policy, including monetary policy, where it properly belongs—on the President as well as the Congress, not the Federal Reserve. I have introduced a resolution which would direct the President to consult with the Federal Reserve concerning its restrictive monetary policies and report those consultations to Congress.

A change in monetary policy may not in itself bring down interest rates, but it is a step which must be taken in conjunction with other actions to reduce the deficit. I invite my colleagues to join me and 38 cosponsors in supporting House Joint Resolution 319, a resolution which will involve the President in solving his administration's high interest rates.

☐ 1515

JOINT RESOLUTION INTRODUCED CALLING FOR IMMEDIATE BEGINNING OF START TALKS

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZABLOCKI. Mr. Speaker, the growing controversy in recent weeks over the effectiveness of the Reagan administration's arms control policy has led to an unfortunate polarization of views both here and abroad. That debate has served only to undermine U.S. arms control negotiators and to blunt momentum for the kind of mutual and verifiable agreements we all want and need.

In an effort to bridge the gap between administration critics who have called for a freeze on further nuclear weapons production and the administration's position that a U.S. military buildup is necessary as a way of forcing the Soviets to accept meaningful agreements, I am today introducing a joint resolution calling for an immediate beginning of the START talks.

This resolution reflects a realistic effort to develop an overarching national security framework that integrates strategic and theater nuclear arms control efforts while preserving needed nuclear modernization efforts. Such an approach enhances the prospects for a genuine and verifiable reduction in the present nuclear capabilities of the two superpowers. It embodies the following basic ingredients of a sound arms control and national security policy:

Continued Soviet and U.S. adherence to present limitations and controls as embodied in SALT I, SALT II, and the ABM Treaty.

An immediate beginning of the strategic arms reduction talks (START).

An end to the costly and destabilizing nuclear arms race currently being pursued by both the United States and the U.S.S.R. by calling for actual reductions, as opposed to a nuclear freeze.

The need for mutual and verifiable reductions of current nuclear systems.

The continuation of the INF talks in Geneva and the eventual merging of those talks into START.

The opportunity to implement those U.S. nuclear modernization efforts that enhance the prospects for a negotiated reduction in both strategic and theater nuclear weapons.

The maintenance of an adequate deterrence posture by discouraging present trends toward new and destabilizing nuclear weapons.

Greater compliance with the Nonproliferation Treaty which calls for nuclear weapons states to cease the nuclear arms race and to begin the process of disarmament in return for the nuclear nonweapons states to forego nuclear arms.

I believe this resolution provides a significant, effective, and practical outline of what our arms control objectives should be. The need for Congress and the President to speak with one voice is essential if progress in arms control is to be achieved.

Such progress has never been more important to the survival of mankind. Therefore, I invite my colleagues to join me in this effort and urge quick approval of this resolution.

DEBATE ON DEFICITS AND INTEREST RATES SHOULD FOCUS ON ISSUES, NOT ON POINTING FINGERS

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, as we continue this important national debate over the budget deficits and interest rates, I have been interested in the last several days to hear the administration's spokesmen, and indeed some of our Republican colleagues in the House, take credit for the declining inflation rate which the Nation is now experiencing and enjoying, which of course is acknowledged to be a direct result of the recession we are now in.

At the same time, the administration claims that the high deficits and high interest rates and other economic problems of the present are an inherited mess, although according to those same spokesmen last year's budget and tax victories would have immediate effect to bring economic recovery.

I do not see how they can take the position, and be consistent, that the inflation reduction, which is a result of the recession, was not inherited, unless they want to take the blame for the recession we are in. It seems to me that the nature of the debate ought to focus on the issues, and not on pointing fingers. We must find bipartisan solutions to the high deficits and high interest rates and stop so much of the hypocritical posturing that is being heard today.

CONGRESS SHOULD TAKE LEAD IN EXERCISING FISCAL RESTRAINT

(Mr. WEBER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Ohio. Mr. Speaker, my remarks today are in behalf of the 15 very committed men and women who serve as my congressional staff, both here and in Toledo. Thanks to their loyalty, ability, and commitment, I have been able to carry out the duties of my office during the past year without the expenditure of the full allowance authorized to me. In fact, I am able to return to the Treasury $75,566.74 in unspent funds symbolized by this check payable to the American taxpayer.

This excess money did not need to be spent in order to do my job, and so it was not. I hope that this will serve as an example to all of the other persons in Government who control the expenditure of Federal funds. If we are able to ask the American people to accept fiscal restraint for the good of our economy, we must be the first, not the last, to demonstrate our willingness to cut back on our own congressional budgets.

CONGRESS IS NOT DOING A THING

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, I would like to talk today about the schedule of this House. It really will not take too long because we are not doing anything here anyway.

In January of this year—I would like to begin with January but we did not do anything in January. We held one quorum call.

In February, on February 2 we did nothing; February 3, no legislative business; February 4, no legislative business; February 8, pro forma.

On February 9 we got around to it and called five votes on some important items; February 10, two votes; February 22, pro forma, no votes; February 23, no legislation; February 24, no legislation; February 25, no legislation.

We are not doing anything in this House. Here it is St. Patrick's Day, and I realize that is an important holiday, but what it represents is an expression of congratulations to a country, a strong country, the people of that country who came here and who are hardworking people, and we are not working. There are a lot of people walking around here wearing green, but the American people today are seeing red because the Democratic leadership of this House has failed to do a darn thing about this country and the problems that this country is facing.

SUPPORT URGED FOR RESOLUTION REAFFIRMING SAFETY OF DEPOSITS IN FEDERALLY INSURED DEPOSITORY INSTITUTIONS

(Mr. MORRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON. Mr. Speaker, I wish to take this opportunity to strongly urge my colleagues to support House Resolution 290, which reaffirms that deposits up to the statutorily prescribed amount in federally insured depository institutions are backed by the full faith and credit of the United States.

Amid much discussion of the health of the savings and loan industry, perhaps we, in Congress, need to reaffirm our responsibility for the safety and soundness of funds deposited in our savings and loans—a responsibility existing since 1934 when the Federal Savings and Loan Insurance Corporation was established.

No one will argue that our savings and loan industry is going through a tough period, and we will undoubtedly see considerable changes in the next few years for the industry and its customers. However, we can be sure that S. & L.'s will continue to be an important source of mortgage credit, and an important presence in our communities, notwithstanding economical and regulatory activity.

Mr. Speaker, we need to assure Americans that our S. & L.'s will continue to meet specific financial needs during this difficult economic period—and, we need to assure Americans that Congress intends to continue its support and faith in the savings and loan industry as a viable financial institution that will emerge successfully from this period of adjustment.

I am confident that my colleagues share my support for the industry and will vote to pass House Resolution 290.

THE UNFAIR AGRICULTURAL TRADE BARRIER RELIEF ACT

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, as the American economy continues to sag under an almost $20 billion trade deficit with Japan, that nation persists in denying significant market access to American agricultural products, products for which a substantial demand exists on the part of Japanese consumers. It is extremely difficult to explain to unemployed Americans why we continue to provide the generous level of access to Japanese auto imports, electronics goods, and other products, while at the same time, our agricultural producers are suffering from low commodity and livestock prices because we are unable to dispose of price-depressing surpluses in foreign markets. The Japanese must come to understand that resentment and frustration are rapidly building over their restrictive policies. The American people are appropriately demanding action, and that action will be forthcoming.

I am today introducing the Unfair Agricultural Trade Barrier Relief Act, designed to require action on the part of the President in response to these outrageously unfair quota systems and other nontariff barriers. I urge my colleagues, particularly those who represent agricultural interests, to examine my bill and to join with me in demanding equitable action on behalf of the agricultural producers of this Nation.

SKELTON SPEAKS AGAINST THE PROPOSED CUTS IN BRUCELLOSIS PROGRAM

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKELTON. Mr. Speaker, the administration's proposed budget cuts in the Department of Agriculture's brucellosis control program are ill-advised. If approved by Congress, they will ruin many excellent State programs, and undermine the progress that has taken place in this area in recent years.

Brucellosis is a bacterial disease that causes infertility and abortion in breeding stock and reduces milk productivity in dairy animals. The program the administration proposes to cut consists of testing for the disease at markets, dairies, and slaughter plants; tracing the disease back to herd origin and testing area herds for additional infection; quarantining of infected herds; requiring the slaughter of infected animals and paying the owners indemnities; and vaccinating uninfected calves and adult animals. The Federal Government provides 60 percent of the funding for this program, while the States contribute the remaining 40 percent. For fiscal year 1982, the Federal appropriation for the brucellosis control program was $90,896,000. The administration recommendation for fiscal year 1983 is $59,896,000. But, more ominously, the administration foresees reducing this funding to $6 million by fiscal year 1985, thus eliminating the program.

Mr. Speaker, there is no doubt that this program, like so many other Federal programs, could be run more efficiently and with less cost. State officials from Missouri have suggested to me that there are too many Federal employees involved in the program, and that the indemnities could be cut. However, cuts of the magnitude involved in the administration proposal are excessive. In those States which have taken a positive approach and adopted meaningful, practical programs, the results have been excellent. In my own State of Missouri, through a cooperative effort of market owners, veterinarians, producers, and regulators, the number of known brucellosis-infected cattle herds has decreased from a high of 315 to the current level of 195. At the same time, a very aggressive educational program has dramatically increased participation in the important calfhood vaccination program.

Mr. Speaker, Missouri cattlemen, veterinarians, and officials of the Missouri Department of Agriculture feel that, without a federally coordinated and funded program, their efforts would be futile. Dr. Taylor H. Woods, director of animal health for Missouri, estimates that if the program is stopped now, Missouri would have 1,000 infected herds in 1 year, and 4,000 in 2 years. This would come not only from increased infection in Missouri's native cattle population, but also from reduced ability to guard against the possibility of infection from transient cattle shipped to or through Missouri from more highly infected areas to the south. The economic effect of an increased incidence of brucellosis in Missouri cattle herds would be disastrous. At the present time, Missouri cattle producers export 70 to 75 percent of their calf crops to other States. In large part, this is made possible by the low rate of diseased animals, and preventive testing for the disease. If the administration proposals are approved by Congress, Missouri's export industry in cattle is in serious jeopardy.

Mr. Speaker, neither the State of Missouri nor the financially troubled cattlemen in our State are in any position to take over the funding of the brucellosis control program. It is wrong to believe the truth of the administration's statement in their justification for eliminating the program that "economic loss from the disease is expected to rise somewhat but should level off and begin dropping sharply as more producers manage the disease through increased vaccination and selective purchasing of breeding stock." A more accurate assessment of the ramifications of the administration proposal is contained in the following paragraphs included in a letter to me from Dr. R. L. Hackler, a veterinarian from Hermitage, Mo., who has extensive experience working with cattle and cattle diseases:

> All funds earmarked to fight the disease since the beginning of a program will have been used in vain. When the realization dawns that brucellosis has increased to an uncontrollable level, it will then take millions of dollars to attain the status we presently have accomplished. The other alternative would be to live with it, although this

will finally put the cattleman out of business.

As a veterinarian, I shudder to think what the elimination of brucellosis funding will mean to us as a Nation, to Missouri cattlemen (and others who have conscientiously pursued progressive efforts to produce a good product), and finally to the consumers of America.

I strongly urge you for all consideration to investigate reasonings behind these proposals and determine for yourself if this budget cut justifies the ramifications that will come as a result of them.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. Levitas) laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C. *March 17, 1982.*

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives, Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted in the Rules of the House of Representatives, I have the honor to transmit a sealed envelope from The White House, received in the Clerk's Office at 12:50 p.m. on Wednesday, March 17, 1982 and said to contain a message from the President on the Caribbean Basin Initiative.

With kind regards, I am,

Sincerely,
Edmund L. Henshaw, Jr.,
Clerk, House of Representatives.

PROGRAM FOR ECONOMIC COOPERATION FOR THE CARIBBEAN BASIN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-153)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, without objection, referred to the Committee on Ways and Means and the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, March 17, 1982.)

ADDRESS BY IRISH PRIME MINISTER AT WHITE HOUSE ON ST. PATRICK'S DAY, 1982

(Mr. DOUGHERTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DOUGHERTY. Mr. Speaker, I have asked for this time so that I may enter into the Record the address made by the Prime Minister of Ireland, Mr. Charles Haughey, at the White House luncheon hosted by President Reagan.

The House has been pleased to have Prime Minister Haughey with us at a reception this afternoon.

I do this on behalf of the gentleman from Washington (Mr. Foley) and myself and other friends of Ireland.

Mr. Speaker, the text of the address is as follows:

Address by the Taoiseach, Mr. Charles Haughey, T.D., at the White House on St. Patrick's Day, 1982

Mr. President, I would like to thank you for your kind words of welcome and for the warmth and splendour of your hospitality. My wife and I and the members of our party are overwhelmed by the friendliness and cordiality shown to us on this short visit to your great country. For any Irishman, it is an exceptional honour to be received in this House, which was designed by an Irishman and is in itself a symbol of the manner in which the history of our two countries are woven together. To be received in the White House by a President who bears an Irish name and cherishes his Irish heritage is a unique and special experience.

The United States was the first nation in the world's history to be founded on a dream. It was a dream which, over the years, has commingled with the reality; sometimes, as dreams will, outshining it and at other times again fading away from it. But in those valleys which all nations experience, when the reality has seemed to fail the dream, there have not been wanting great statesmen and men of courage to reshape the destinies of this land and to recall their countrymen to the brightness of the original vision. And if the United States has been, for its citizens, ideal and fact, dream and reality, so it has been for millions of Irish men and women also.

I need hardly remind a St. Patrick's day gathering of that deep wish for a new life across the sea which for so long sustained so many of our countrymen, or of the countless thousands who came to these shores, in sorrow and bewilderment, and found what they had scarcely dared to hope for; found that their own personal individual dream had at last come true. But though they made their own of this great new land, they rarely severed their ties with home and the letter from America has entered deep, as folklore and as fact, into the Irish consciousness, into our literature, our tales of the past, our family memories.

And because those who came here wrote home so faithfully, more than any other people in Europe, we have dreamed the American dream and shared the American reality along with you.

The ancient nation of Ireland emerging in this century into a modern state has been founded on those same ideals which you were the first to set forth. Wolfe Tone, the first Irish political thinker to conceive the dream of an Irish Republic where all whom God had created equal should be recognized as equal; all whom God had created free should really be free; was deeply influenced by the fact that there was already in existence beyond the sea a great new nation, conceived in liberty and dedicated to equality.

From that day to this, as we dreamed our dream and fought to establish a Republic dedicated to equality we have always turned to you as a source of vision and help. The greater part of the island of Ireland today has become a modern state where all are free and equal before the law; where bigotry and discrimination have faded away and sectarianism holds no place in our laws, our Constitution or our daily lives.

And in speaking of these things to Americans, I know the sympathy and understanding they will evoke; for no man can speak of freedom and equality to Americans without striking chords; of the lamps burning in the belfries of New England; of the farmers that stood by the rude bridge at Concord; and of the great document that the Founding Fathers composed at Philadelphia.

But there is one thing we Irish have not achieved; and of which we are constantly reminded everywhere we go in this great capital city where the memory of Abraham Lincoln and his struggle to save the American Union and to avoid the partition of his country are so beautifully and splendidly commemorated.

Whereas Lincoln sought to prevent the partition of his country, we are seeking to bring an end to the partition of ours. The obstacles to that goal are in part the age-old ones which also nearly sundered the young United States; misunderstanding, ignorance, prejudice, suspicion, and fear.

We have pledged ourselves to overcoming those obstacles, to further the reconcilement of the two great traditions of our island; to giving, to that end, any pledge that may be sought, any guarantee that may be thought necessary and to making unassailable constitutional arrangements for those in the northern part of Ireland and who may feel a special need for such provisions.

Irish people everywhere yearn for that day when their country will finally find peace and justice in unity and they in their turn in their land will create "a shining city on a hill." With the goodwill of that worldwide Irish spiritual empire which is stronger here in the United States of America than anywhere else, the Irish Government will do all we can through the Anglo-Irish process or any other forum to achieve that historic purpose.

In the noble words of Lincoln's Second Inaugural Address, inscribed on the walls of his beautiful memorial in this city the work we are engaged upon is: "To bind up the nation's wounds."

Countless millions of ordinary Irish men and women have by their labour and their sacrifice contributed to the power and stature of this great American republic and in their name I look confidently for support and encouragement for our endeavours in Ireland today.

Ireland holds a special place in the affections of millions of Americans and it is my hope that that feeling will inform American policy and actions and ensure that the encouragement of Irish unity ranks high among her international objectives. There is much to be done; and the first thing is that Britain be encouraged to seek more positively and persuade more actively a change in attitudes and outlooks which would pave the way for unity and so enable her final withdrawal from Ireland to take place with honor and dignity.

We, in Ireland know, Mr. President, that your regard for our country is no mere sentimental attachment to your Irish roots, but that you have a sympathetic and concerned interest in Ireland, her people and their problems.

This is hardly surprising in one whose ancestors played their own part in Ireland's history. The Reagans were "The defenders of the hills" and for more than seven centuries against all comers they held the only pass through their territory of Y Regan in the Slieve Bloom Mountains. They held it against friend and foe and the English at one stage of their long and unsuccessful efforts to conquer our country, paid the O'Regan's a great compliment. Their commanders, methodical men, prepared and sent to London maps on which were marked the names of the most redoubtable Irish chieftains—those from whom the strongest resistance was to be expected.

I have brought with me such a map, dating from the sixteenth century and showing the Slieve Bloom mountains and the unconquered territory of the O'Regans. I present it to you, Ronald Reagan, "defender of the hills", President of the United States of America and friend of Ireland.

□ 1530

GENERAL LEAVE

Mr. DORGAN of North Dakota. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks, and to include therein extraneous material, on the subject of the special order speech today by the gentleman from Kentucky (Mr. MAZZOLI).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

A PRESCRIPTION FOR PUTTING THE ECONOMY ON THE RIGHT TRACK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, I would like to begin this afternoon by noting that we are here a little after 3:30 in the afternoon, having conducted about a half hour of business, and then we are shutting down the House, and the business that we have conducted consists of a series of 1-minute speeches and little else. The American people should be disturbed that their Congress, even though this is a holiday and a holiday of some moment, is not doing the business of this Nation.

We face some very severe economic concerns at this point. This Congress has not been dealing with those economic concerns. We have not been working on the House floor.

Today is a good demonstration of the fact that this House really has not been working. We should note that this is a holiday, that it is St. Patrick's Day, and that St. Patrick is noted, of course, for driving the snakes out of Ireland. But I think maybe today for a little while we ought to talk a little bit about driving the snakes out of the economic process.

What do I mean by that? I am going to start this afternoon by referring to the message the Democratic leadership of the Senate sent to the President yesterday in which they said to the President that what is needed to be done in the economy today is to Carterize the economy; let us go back to the good old policies of the Carter administration.

We all remember those policies. Those policies consisted of higher taxes and bigger spending and a double-digit inflation, and that is precisely the program that was put forth by Senator ROBERT BYRD and the Democrats from the other body yesterday when they talked about what the President should do to make a midcourse correction in his program.

Their midcourse correction called for precisely those elements. They called for an unrestricted money growth, so that means double digit inflation again. They called for higher taxes because they want to cut back on the tax cuts, and they called for bigger spending—take a look at all these spending programs you have; go back and re-Carterize the economy.

I think the American people as a solution to the present economic situation would be disturbed to find out that that is exactly what the alternative proposal consists of.

Is there another way? Is there the kind of program that will deal with the recession? That is what I really want to talk about in detail here this afternoon, because in fact we could get this economy rebounding again. We could put this economy back on the right track if we would begin to take the steps necessary to get economic growth started.

What are the steps that are necessary? The main step necessary is to take the tax cuts that were put in place last year and instead of waiting until July of this year to see the next round of tax cuts and July of next year to see a round of tax cuts, begin the process of having those tax cuts in place right now. We ought to accelerate those tax cuts; we ought to put those tax cuts back to January of this year and move it back to January of next year so that we start the process of economic growth once again, so that we get this economy moving, and so that we put people back to work and start the process of having America on an upward track rather than a downward track.

How does this all come about? Why do we think that sort of thing could happen? Well, because the indications are already there. If we take a look at what happened after the 5-percent tax cut of last October, we will find that we set in place some things which could have resulted in some tremendous economic growth had those things not been choked off by the social security tax increase that went into place in January.

What happened in that last quarter of last year? A 5-percent tax cut took place in October. It was fairly minimal. Gee whiz, for most of the average workers in this country it added up to a negligible amount in their paychecks. And yet in that last quarter of last year there was an 18-percent increase in savings in this country.

Now, what happens when we get savings of that magnitude? Well, we get investment, and out of that investment comes jobs, and out of those jobs comes the kind of economic growth we are trying to bring about in this country.

Well, what happened? Why is it not still going on? Well, as I said, we got a tax increase. The tax increase came in in January. The social security tax increase choked off the recovery immediately, and down the economy began to turn again. The savings dropped again, and now we are going to have to wait until July to see the savings rate go up, when the 10-percent tax decrease comes in and thereby attracts the kind of economic growth this country can proceed with.

What I am suggesting is that perhaps we ought to get that economic growth started, get the savings started, get the investment started, and put people back to work right now, accelerating the tax cuts, putting them into place right now, and making certain that American workers are back on the job.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am very glad to yield to the gentleman from Oregon.

Mr. SMITH of Oregon. Mr. Speaker, I rise in support of H.R. 4999. As a cosponsor, let me say that this bill would move the July 1982 tax cut retroactive to January 1982 and make the July 1983 tax cut effective to January 1983.

As this recession continues, we are beginning to hear a chorus of voices calling for tax increases, as my colleague has said. It reminds me of the old saying: "How soon they forget." A few short months ago this body enacted a reduction in tax rates. It was not really a tax cut as we understand it, and it has moved the marginal tax rates down, but it has not given us the real tax cut that we need; it has just been a tax rate cut.

I think that is something that the gentleman from Pennsylvania (Mr. WALKER) and I would really like to discuss here today. I think it is very important that we understand that we have not had a tax cut; we have had a tax rate cut. We are still going to tax more from the American people in this year than we did last year and more in the following year than we are this year through the insensitive bracket creep that we have become so aware of as it continues to raise more revenues each year.

Even though the American people think we have had a tax cut, we have had only a tax rate cut; is that not true?

Mr. WALKER. Mr. Speaker, I think the gentleman from Oregon (Mr. SMITH) makes an excellent point. In fact, taxes went up for the average taxpayer in this country last year;

they did not go down. Even though we took 5 percent off those tax rates in October of last year, all Americans paid in more taxes last year than they paid the year before, and they will pay more in taxes this year than they paid the year before, even with the cuts in place. It is not until we get out into the third year of tax cuts that there are any real tax savings to the average worker, and even then they are minimal; it is about 3 percent of real tax savings when we get out into the third year.

So anybody who talks about delaying the tax reductions that were enacted last year, anybody who talks about canceling them is really talking about higher taxes. They are not talking about deferral, they are not talking about anything except raising taxes, and I think that is the point the American people have to be aware of. We are not talking about taking back to the Government money that the Government somehow deserves; we are talking about increasing taxes, and that is what all these proposals to delay the tax cuts or to do something about the tax cuts is about, because they are really talking about increasing taxes in one way or another.

Mr. SMITH of Oregon. Mr. Speaker, if the gentleman will yield further, if we would just look at the situation we are in today in which people are forgetting we have not really had a tax cut and yet they are calling for an increase in taxes or a deferral of the tax rate cuts, I think we, if we look at the last 15 or 16 months since the election in November of 1980, have really seen a growing awareness of the American people that they have had a tax cut. This is what the media has talked about every day, it is what the Members of Congress have talked about, and as the gentleman from Pennsylvania (Mr. WALKER) pointed out just a couple of minutes ago, we see the increasing clamor to try to do something about putting off these tax cuts. But these are not tax cuts; they are tax rate cuts.

It is a tragedy for the people who want to save more and who want to become more productive by having those dollars and being able to invest them in homes that are so important to my part of the economy, that is, in forest products, in the automobile industries, and in the other areas of small business.

These are just people who are out earning those dollars, trying to keep them and becoming more free, if you will, to exercise that freedom that is so important to this Nation in keeping those dollars and putting them to work after they earn those dollars.

In the Congress, if we have had one success last year, it is in the area of the advertising of the tax cut, because we really did not have a tax cut. I think that is important for everybody to understand.

Mr. WALKER. Mr. Speaker, the gentleman from Oregon (Mr. SMITH) is absolutely correct. What we have really done is we have stopped the increase from being as much as it otherwise would have been. But taxes are still increasing for the American people.

So those who come up with the idea that somehow they are going to defer this tax program are really saying they want taxes to increase more than they will increase under the program that was enacted here. And so they are really calling not just for higher taxes but for much higher taxes, and the American people had better understand that that is what is behind these calls, because they want to generate the kind of additional revenues that will go on with the other aspects of the program I talked about, with bigger spending as well.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I understand the point the gentleman from Pennsylvania is trying to make, and in fact it is the point I made last year, that these kinds of tax cuts, particularly the first installment we saw last year, were an illusion. It was not a tax cut. As the gentleman said, that tax cut was soaked up by the social security tax increase.

But it is true that in the tax cut last year, although the working people did not come up with anything very fruitful, the large corporations in this country came up with a very real and a very sizable tax cut, to-wit: Yesterday's front page story in the Washington Post pointing out that one of the Nation's largest corporations earned $2.6 billion and not only did not pay any income tax cut but received a $90 million refund.

Mr. WALKER. Mr. Speaker, the gentleman from North Dakota (Mr. DORGAN) makes a good point. I would like to comment on it because I think it is important to realize and for the American people to realize where those corporate tax cuts got started.

They did not get started in the Reagan White House: They got started here on Capitol Hill. Most of those things were written right here in the Democratic Ways and Means Committee and in the Republican Finance Committee on the other side. That is where those provisions were put in. The President sent up a very simple program. It called for a 30-percent, across-the-board cut for individuals, and it called for accelerated depreciation. It called for those two things only. I think that was a far better tax program than the one we ultimately passed around here. What we ended up doing was we gave the corporate interests all of their tax welfare last year, but we stopped the individuals from getting theirs until the last quarter of last year.

□ 1545

So far, where the Reagan program called for a 20-percent tax cut for individuals to be in place by the time that we are standing here today, they have gotten 5 percent, and yet all of the corporate interests in the country have gotten all of theirs.

I think that is a bad program. I think what we need to do is to begin to speed up, accelerate the tax cuts for the individuals, to make certain that they catch up with what we have already given corporate America. And that is exactly what my bill is all about. I would hope that maybe the gentleman would join me as a cosponsor.

Mr. DORGAN of North Dakota. If the gentleman would yield further, I agree with the gentleman that that is what happened last year, but I want the gentleman to know that the party was held at the White House was not for the bill that was written in the Ways and Means Committee or the Senate Finance Committee. It was the party held for the victory of the administration's tax bill, which included a lot of bad things. But there were a lot of bad things put in on both sides.

I would like to make just one other point on the comments in the gentleman's special order, and that is that, in my opinion, the absence or presence of that tax cut is not what has thrown this economy into this recession. Interest rates have thrown this economy into this recession. And as long as interest rates remain at 15½ percent, 16½ percent, or 17½ percent, we are not going to have economic recovery. Those interest rates are not Republican or Democratic interest rates; they are the product of monetary policy that is a schizophrenic policy and does not work with the fiscal policy that this administration is pursuing.

Mr. WALKER. The gentleman again makes an excellent point. I would submit to the gentleman that the reason why the economic policy looks somewhat schizophrenic is because this Congress did not once again put in the program in toto the way the program should have been put in.

It is true that there was a tight monetary policy as a part, as an initial part of the program, early on in the administration. However, going along with that, the President had proposed an economic growth mechanism as a part of the economy, too. So at the same time you were tightening the money supply, you were giving the American people the opportunity to participate in the economy and move it ahead, help it to grow, with the 10-percent tax cut. That part of the program never went into effect. That part of the program was delayed and was delayed to the point that right now there has been no real tax cut for the American people.

I think we should have enacted precisely the program that the President originally outlined. Sure, tightening up somewhat on the monetary supply so that we did not have double-digit inflation, but at the same time allowing the kind of economic growth that comes from a fiscal policy that recognizes that the American people should have more of their own earnings to spend and to save and to invest.

That is what we failed on. We failed on that around here. And I think that, had we put that tax cut into effect before January, last year, that what we would have is not a recession, but we would have economic growth very much underway right now, with interest rates at their more historic level, tracking the inflation rates. Because right now inflation has been brought down dramatically; the interest rates which normally decline, to accompany it, have not come down, and I think that that is a failure of the economic policy that was, in essence, developed around here when we stopped the economic growth mechanism from going into place.

Mr. SMITH of Oregon. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oregon.

Mr. SMITH of Oregon. One of the things I think we need to think about and talk about a little bit is the way the operation of the House committees works. There was no opportunity, really, to hold hearings on the tax package that the Reagan White House brought down here. It was crafted in the hall, the final bill. The President did send down a very simple tax message, a 3-year tax cut and corporate depreciation changes, and what was fashioned, the hearings were not held on that bill. The hearings were held on the Speaker's bill and Mr. ROSTENKOWSKI's bill, and I think that is extremely important to note, that there were never any hearings on the tax bill that we have today in code.

Mr. WALKER. The gentleman makes an excellent point, because had hearings been held, we could have pointed to the kind of historic evidence that exist, that when you cut tax rates in this country you bring about the kind of economic growth that we all want—sustained economic growth without inflation.

All we have to do is go back and point to the Kennedy round of tax cuts that took place in the 1960's. The Kennedy round of tax cuts, according to a recent study in the Cato Journal, showed that those tax cuts paid for themselves within 2 years, and they brought about the kind of sustained economic growth throughout the rest of the period of the 1960's which allowed the economy not only to finance Lyndon Johnson's irresponsible spending, but ultimately brought about a balanced budget in 1969.

Now, here was a time when we were spending for guns and butter. We were spending more money than we knew what to do with, and yet the budget of this country was able to absorb all of that, even though it was terribly irresponsible, because we had the kind of growth that had been brought about by the tax cuts. That is the kind of thing that could have been put on the record in the Ways and Means Committee hearings had we listened to the President's program. But instead, we listened to this conglomerate of special interest taxes that was put together in the committees around here, rather than the President's tax package. I think that some of that was a mistake.

I would be, for instance, for repealing some of the sections of what we did in the tax package last year. I think they have proven to be irresponsible. But what we hear is not taking away from the corporate tax welfare. What we hear people talking about is taking away from the individuals who have not gotten anything yet. Well, that, to me, is just lunacy. I think it is high time that we get the American people focusing on the fact that they deserve a real tax cut. They are going to get a real tax cut if this whole program has a chance to move forward. They are not going to get a real tax cut if Senator BYRD and some of his colleagues have their way.

Mr. SMITH of Oregon. If the gentleman will yield further, I think it is very important to the situation we find ourselves in now. With the gentleman's bill, H.R. 4999, there is an opportunity to move these tax rates forward, to really give people the opportunity to use this tax cut to become more productive and to save and to have incentives to go out and work in the marketplace.

Again, I agree with the other gentleman about the interest rates, but I think it is also important, as we are talking about the way the House functions and the lack of opportunity to have a hearing on the particular bills, as we look at the process we are involved in right today and the lack of a credible budget alternative, it would be nice if we could really get that budget from the Speaker and get that budget into a position where we could talk about what kind of a future we are going to have in the economy of this country and get that on the docket here and hold hearings on that as soon as possible, and I would just hope that we are able in the very near future to see the alternatives come forward.

I, as the gentleman knows, have offered an alternative that would freeze Federal spending, and it would appear that, with the increased tax revenues that we have been talking about, we would have within a short period of time an opportunity to balance the Federal budget.

Mr. WALKER. The gentleman shares my concern about the budget deficits that are projected in the President's budget, that are projected in a number of other budgets that we have seen submitted around here.

But I think that we also have to recognize that virtually 80 percent of those deficits over the next 3 years, in other words, $185.3 billion of the deficits projected over the next 3 years in the President's budget, 80 percent of it is the result of an economy which is stagnant.

The receipts, due to lower GNP growth, cost this Government $142 billion over the next 3 years. The increased spending on unemployment programs and other transfer payment programs comes to almost $12 billion over the next 3 years. Higher interest rates are going to cost $31.5 billion over the next 3 years. Those are things as a result of economic stagnation.

What H.R. 4999 proposes is, let us stop the economic stagnation, let us take that 80 percent out of the budget deficits there and begin working with realistic kinds of budget deficit figures that are on a plane of economic growth. That is what we have got to be doing. If we do not start balancing the budget from the standpoint of economic growth, we are going to have an awfully hard time getting a balanced budget.

Mr. SMITH of Oregon. If the gentleman will yield further, all we would be doing with H.R. 4999 is putting us back on the right track that the President called for originally in the tax bill that he sent down to the Congress originally, with the July cut moved up to January of 1982 and the 1983 tax rate cut moved up to January 1983. Is that not correct?

Mr. WALKER. What we want to do is to make certain that the American people, as we stand here today, would have a 15-percent tax cut in place rather than a 5-percent tax cut and, as of January of next year, would have their full 25-percent tax cut rather than 15 percent that they would otherwise have. That is what we are trying to do. That would certainly bring about the kind of economic growth that could be done in a noninflationary way and yet could get us out of this recession.

Mr. SMITH of Oregon. But all we are doing is going back to what President Reagan asked of the Congress originally; is that correct?

Mr. WALKER. Not only what he asked of the Congress but what he pledged the American people he would do when he was campaigning last year when they went out and elected him overwhelmingly.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Speaker, I have certainly enjoyed the colloquy, and I want to commend the gentleman from Pennsylvania (Mr. WALKER) for getting this special order. I am considering the gentleman's point of view.

I think two things are important to note, and I think they make the gentleman's case.

First, there are 60 to 70 million more people in America today than there were 10 to 12 years ago, so that in one short decade, if you will, we have increased our population load on the sled by a third.

The second point I think that should be made is that our savings rate was one of the worst in the modern industrial world. And until you couple savings for capital formation with the investment requirements that that heavier sled requires, you cannot move this economic engine forward.

I think the other aspect I would like to emphasize that I think would help the gentleman make his case would be that, although the population baby boom brought about a 3-percentage point growth in our job market the last 20 years, that has topped out now, and we are in a decline for the next 12 years of the number of persons that will reach, for example, the age of 18 and then enter the job market.

Well, at first blush one might think that that might be an advantage in an economy that is constrained. But the other side of that is that there are fewer taxpayers who, arguably, if we keep going in the direction we are going, will keep that sled burdened down—fewer taxpayers paying higher rates.

What the gentleman is speaking to in his legislation is to reduce that margin enough to create a possibility for savings that will stimulate the capital base to move this sled along at a much more rapid rate. I commend the gentleman for taking this special order, and I think it is important that the gentleman continue his dialog, to help this Congress understand what is really at stake in economic recovery.

Mr. WALKER. I thank the gentleman very much for his contribution because what he says is absolutely correct. If we do not begin to bring down marginal rates of taxation, what we will end up doing is taxing the American people to the point where we will indeed get less revenues for the Federal Government rather than more revenues, and we will pile deficit on top of deficit.

The one hope that we have of bringing down deficits is to bring down the tax rates as well. And that is precisely what this bill would end up doing.

I think it is also necessary to address another question that has come up about tax cuts, and that is the question of fairness, because a lot of people are now running around the country demagoging the issue, saying that somehow the tax cut program benefits the rich and not the poor and that what the Republicans have done is that they have set in place a program to help only their rich friends.

That is a kind of ultimate example of demagoguery because the people who are saying those kinds of things have to know that because of the President's tax program we are going to shift in fact more of the overall tax burden to the rich than has been in place over the last several years and shift more of the tax burden away from the lower and middle income classes.

For example, if you take a look at the figures, you find that the people over $50,000 in income in this country today pay somewhere in the vicinity of 32 percent to 35 percent. Let me get the right figures. People over $50,000 pay a total right now of 32.9 percent of the total tax burden of this country. They represent about 3 percent of the population. So that they are already picking up a considerable share of it but, nevertheless, it is 32.9 percent.

Under the President's program, we move that up to 34 percent. In other words, they are going to pick up a greater share of the tax burden. If you take the people who are going from zero to $40,000, in other words, those people from the low to middle income, today they are picking up 54.9 percent of the tax burden, primarily because those are the people who are the most in the population. They will be reduced by over a point, down to 53.8 percent under the President's program.

So, in other words, we are shifting the tax burden more toward the rich and having them pay less in the low- and middle-income ranges. That is exactly the kind of equity and fairness that I think the American people have been asking for. Let those who pay, pay the greater share. Let those who do not have the assets to pay, pay a lesser share. That is exactly what this program ends up doing, and it is the kind of equity and fairness that I think that the American people have been demanding.

The sooner we can bring it on the line, the faster we can put that program into place, the faster you will get that greater equity. I think that is another good reason for accelerating the tax cuts.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

I would like to add just two more figures to that litany of figures. I think it is important to analyze who pays the tax burden in the country, who finances what we do in Government in this country.

According to an article in Business Week not too long ago, it said that in 1960 corporations in this country paid 23 percent of the income tax in America.

As soon as this new tax bill that was passed, which is the administration's tax bill, flushes through this economic system of ours, corporations will not pay 23 percent; they will pay 7 percent of the U.S. income tax burden.

What that means is a dramatic shift from the corporate sector to the individuals. What corporations do not pay, the individuals do. I think that that figure ought to be considered when analyzing what is the fairness of this tax system.

Mr. WALKER. I would like to comment on what the gentleman has just said. I say once again to the gentleman that most of the corporate tax breaks were not written by this administration, were not a part of their original tax plan. They were written right here in this Congress.

□ 1600

We are the people who added on those corporate tax breaks, and insofar as there is responsibility for that, it rests right here on Capitol Hill. I, for one, would be willing to vote to get rid of the tax leasing provisions and some of these things that were put in there, because they have absolutely nothing to do with supply side economics. They have absolutely nothing to do with the base of the Reaganomics program.

I think we can eliminate them and get the additional revenue that comes from that and we would not interfere with our program one iota.

I think that is fine, but the point that I am making is that for individual Americans, for the individuals that have to pay their taxes, the rich are going to pay a greater share of the tax burden. The poor are going to pay a lesser share of the tax burden, when this tax cut, this cut in tax rates is fully put into place. That, I think, is an equitable program. That is what should be done in this country and that is what we need to put in place in a much faster way than we are presently programed.

Mr. DORGAN of North Dakota. Mr. Speaker, if the gentlemen will yield once again, I think I would agree with the gentleman. Congress is hardly blameless for cluttering up that tax bill with a lot of corporate ornaments; but let me remind the gentleman that the tax bill that passed was not the one Congress wrote. The tax bill that passed was the administration's tax bill. That is why they had the celebration in the White House.

I would like to say this, it seems to me——

Mr. WALKER. Well, if the gentleman would yield on that point—I guess I control the time. I would take my time and then I will be glad to yield further to the gentleman.

I would simply point out to the gentleman that yes, the administration signed that bill. Yes, they were pleased that it contained the kinds of things the President campaigned on last year, but I would have to say that the gentleman is absolutely correct. The special interest ornaments were added right here, and so insofar as the corporate interests of this country can celebrate what was done, they can celebrate their ability to impact on the legislative process and not on the executive.

I will be glad to yield further to the gentleman.

Mr. DORGAN of North Dakota. Well, I think the gentleman needs another knuckle in that finger that the gentleman is pointing with, because I think that although I do not hold Congress blameless, I think the bill that passed was the administration's bill and they matched ornament for ornament with the congressional leaders on that tax bill.

The beneficiaries were those who are going to benefit from a tax law that is fundamentally unfair.

But I want to say this: When you talk about tax burdens in this country, what we ought to do is back away just a bit and stop this nonsense of turning what ought to be a very simple civic duty, that is, paying taxes to support Government, from turning it into a significant nightmare for most Americans and most business people. The gentleman and I and others on both sides of the aisle in this body ought to work together, to step away from this series of volumes of complexities in our tax laws, to start moving toward a simple income tax that people can understand; they can understand how to pay it, they can understand whether it is fair to them and their neighbors and to the businesses they buy from on the main streets of the towns of this country.

I certainly sympathize with the kinds of things the gentleman is saying. There was not a tax break last year. It was an illusion, but that does not detract from the fundamental problem in our taxes and the lack of fairness in those taxes that confront the American people right now when they fill out their income tax returns.

Mr. WALKER. I thank the gentleman for his comments. I would certainly support some kind of simplification and getting us to more fairness, too; but I think what we have to focus on is that is not what the opposition is saying needs to be done to the program. If you listen to what is being said by the minority leader on the other side, he is really saying that his program is to simply defer the tax rate reduction program. That is what I have as a concern, because that is not the kind of economics this country needs.

What the real debate has to be about here is whether or not we are going to move forward, whether or not we are going to produce some economic growth in this country. The way to produce economic growth is by accelerating the tax cuts already in place. When you do that, you begin to get the economy growing again. That is what this debate is all about. That is what this special order is all about and the point I am making, it does two things: It promotes economic growth and also in terms of the individual income tax payer's share of the tax burden, it makes the system far more equitable than it is today.

Mr. DAUB. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Nebraska.

Mr. DAUB. I think it is important to note when we talk about incremental bracket reduction, whether it is the 5 percent on October 1, which by the way, from November forward has commenced to show tne greatest repayment of installment debt as a percentage of the outstanding debt in America in our history, so that for the last several months we have seen equity develop again in some of our concerns, whether it is $3, $6, $12 or $24 was the bottom line to a worker in this country, multiplied times 91 to 96 million workers, impacted in the private sector, I say to my colleague, probably to the tune of multibillions of dollars worth of ripple effect in the private sector, as opposed to the public sector getting it and wasting it in the transfer process.

So whether it is the July 1, 10 percent, or the January acceleration of 10 percent, as the gentleman suggests by his legislation, the tax bracket reduction, that tax bill may have some bad things in it, but it should be pointed out, I think, that there were some good things.

For example, the individual retirement account could potentially mean $250 billion to $260 billion worth of hard currency equity financing in the next 5 years, times 5 in the turnover could mean a $1.250 trillion, one and a quarter trillion dollars worth of equity financing for America; not that each person who has taken advantage of it has that money in the bank saved, but they have committed themselves to a course of restructuring that objective. That is what tax cuts at the margins do, and that is what the gentleman is talking about.

Mr. WALKER. I certainly am, and I thank the gentleman for his comments. There are some other provisions in there, too. As the gentleman well knows, there are many farm families who believe that the family farm is going to survive as a result of the changes that we made in the inheritance tax laws and some things like that; so that there were some other very worthwhile provisions in there; but I think the focus here needs to be on what we are going to do to get the economy growing now when we are faced with a recession and that is what is involved here.

In the bill, H.R. 4999 that I have sponsored, I would also point out that there are a number of groups who have endorsed this idea. The Wall Street Journal, for instance, calls the bill "the best economic policy idea coming out of the House of Representatives." It calls for accelerating the reductions in the 1981 tax bill.

The Heritage Foundation points out that when people look at the economy, they say "blaming the tax cuts does not hold much water, because the recession began 2 months prior to the October 1, implementation date.

"Accelerating the tax cut will reduce and eventually eliminate the budget deficit by creating the foundation for a prosperous economy." That is really what we are saying here.

The chamber of commerce has pointed out that by moving the full 10-percent tax cut up to January 1, 1982, the "effect on the deficit could be smaller than that of a serious recession; better still, the economy would be growing and workers would be spared the pain of unemployment." The human tragedy of unemployment, the human tragedy of recession, is in large part there because we have not taken the actions necessary to get this economy growing again.

It is also well to point out that there was a poll conducted which asked the American people in terms of economic policy and tax policy which direction they preferred to go; would they prefer to go the direction that many liberals are suggesting, and that is a 6-month delay, or deferring the tax cut. Well, 21 percent of the American people said that that was their preferred option; 29 percent of the people said that they thought that the cuts ought to be left in place, just as they are; 30 percent of the people, or the largest number, said that they believed we ought to accelerate each of those tax cuts for 6 months.

In other words, when you go out to ask the American people and ask them what do they think the policy should be, most of them see the wisdom of giving them a greater tax break so that they have more money to save, they have more money to invest and that jobs can be produced.

Well, I think, Mr. Speaker, the point is clear, that the way in which we get the economy growing, the way we get ourselves out of this recession is based upon not only economic projections, but also on the history of economic performance, is to accelerate the tax cuts, move them forward so that we get out of the recession.

● Mr. FIELDS. Mr. Speaker, I would like to commend the gentleman from Pennsylvania, Congressman Bob Walker, for requesting this special order and for his valuable leadership on this most important issue.

As a cosponsor of H.R. 4999, I am pleased to join in this effort and am hopeful the House of Representatives will, during this period of inactivity, consider legislation to accelerate the individual tax cuts which this body overwhelmingly approved last year.

Despite the rumblings, from our Democratic colleagues, I firmly believe the Reagan economic recovery program will succeed. But as with all endeavors, nothing will be gained if it is not ventured, and accordingly we must give the recovery program adequate opportunity to work.

What we must not forget is that our current economic difficulties are not the result of decisions made last month, last year or even 5 years ago, but are the product of 20 years of misguided economic policies.

These were policies initiated by our Democratic colleagues who to this day continue to believe that the only solution to our economic problems is to increase the already onerous tax burden on the American people.

Mr. Speaker, higher taxes do not reduce prices nor fight inflation. Higher taxes do not increase employment nor stimulate economic growth. Rather, tax increases exacerbate the problems of unemployment, low productivity, and economic stagnation.

I believe the American people clearly indicated last year that they will no longer tolerate the notion of ever-increasing taxes. It is a tribute to their efforts that this Congress finally listened and overwhelmingly approved the Economic Recovery Tax Act of 1981.

While this legislation was hailed in the press as a bold, revolutionary tax cut, which in fact it is, the simple truth is that the revolution has barely just begun and we have only just taken the first step in a long journey on the road to economic recovery. Unfortunately, this journey was impeded when in the heat of the battle an agreement was made to postpone the effective dates of the individual tax cuts.

The means that taxpayers realized only a 1.25-perecent effective cut in their 1981 tax rates and will not get their long overdue 10-percent cut until July of this year.

Despite this miniscule tax cut, personal savings as a percentage of disposable income has increased to nearly 6 percent per month, which is up from 5.2 percent in the month prior to the implementation of this legislation, Americans are therefore now saving a greater percentage of their income than in any time since September 1976.

With these funds, more and more money is becoming available for private investment in industrialization, modernization, and new businesses. This, in turn, will create new jobs and enhance productivity, thus pulling the economy out of its prolonged stagnation and putting it firmly on the road to recovery.

Unfortunately, however, all good things take time. And, just as we did not get in our current economic mess overnight, we will not, no matter how much political rhetoric, undo the damage of 20 years of bad policies overnight.

What then should we do? Many of my colleagues on the other side of the aisle would like nothing more than to unravel the President's economic recovery program and turn back the clock to those bygone days of Democratic rule when we all suffered through 20 percent inflation, 20 percent interest rates, negative productivity, and the lowest savings rate of any industrialized nation.

I reject this notion, however, and urge my colleagues to reject it also, not because of partisan politics but because we must, once and for all, have a consistent economic policy. How can this body continue to send mixed signals to the American people and yet fail to recognize the economic havoc our political inconsistencies are having on our Nation.

Mr. Speaker, I believe there are two roads we can travel. The first road would be to allow the President's individual tax cuts to take effect on schedule. While these tax cuts will provide a tremendous stimulus to our economy, I feel we cannot afford to further delay these benefits but should instead immediately accelerate these individual tax cuts by 6 months and retroactively move the first 10-percent cut back to January 1 of this year.

Mr. Speaker, what we are proposing here today is an idea designed to benefit all Americans. For in this time of economic uncertainty, we must do all we can to increase the amount of available capital. Capital is the lifeblood of our economy, and without it we will continue to experience high interest rates, unacceptable unemployment rates, trade imbalances, and sagging levels of productivity.

I believe that if enacted, this legislation, H.R. 4999, will unlock important sources of capital and will allow American industries to expand their facilities, to create thousands of jobs, to more effectively compete abroad, and to more efficiently produce those products we depend upon in our daily lives.

I urge my colleagues to join me in this effort to accelerate economic vitality for this great Nation by sending this positive signal to the American people that we are committed to the long-term economic recovery of this Nation.

Mr. Speaker, I would again like to compliment the gentleman from Pennsylvania for his leadership on this most important issue.

GENERAL LEAVE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous matter on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

HONORING LOU KLEWER, TOLEDO BLADE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. Weber) is recognized for 15 minutes.

Mr. WEBER of Ohio. Mr. Speaker, by the time most people reach age 82, they are more than willing to relax and reflect on past accomplishments—especially if those accomplishments include exploring the North and South Poles, hunting jaguar in Columbia, winning several professional boxing matches, and spending 58 years as a top-notch journalist.

But not Lou Klewer.

He says jokingly it is about time he gets on with his life.

Lou recently wrapped up his journalism career at the Toledo Blade where he spent more than a half century tracking nature and writing about his outdoor adventures. He had churned out the longest unbroken series of outdoor columns for a single newspaper in the United States.

Spirited, sometimes audacious and always informative, Lou's columns took readers to nearly every corner of the world. Closer to home, Lou earned a near-legendary status as an expert fisherman and hunter in northwest Ohio.

His advice to other outdoorsmen will be sorely missed, as will his animated tales of his travels.

But somehow there is relief in knowing that Lou has always done—and always will do—what he wants, when he wants, with little to keep him from slowing down.

When Lou was a boy, he was fascinated by nature along the Maumee

River. His appetite to learn about the outdoors was enormous. He eventually joined the Boy Scouts, thus beginning a career in scouting that would span six decades. Few of the neighborhood boys were interested in scouting though, as Lou could rarely don his uniform and walk to the Scout meeting at the local YMCA without getting into at least one fist fight along the way.

But like nature, Lou quickly adapted and became an excellent boxer, thanks to a talented coach and a mountain of self-pride. Soon, Lou was not only able to walk to the Y unmolested, but he also became a good enough boxer to turn pro and become one of Ohio's finest lightweights.

In college, Lou bypassed selecting a major and instead enrolled in a smorgasbord of classes. He admits that everytime he met an interesting young woman he became interested in her area of study, too, and thus studied over a wider range than he might otherwise have pursued.

He took enough journalism courses, however, to land a job at the former Toledo Times. His first assignment was to cover a bowling tournament, but Lou picked up a bigger story, discovering that the Boston Braves had just signed a local sandlot baseball player. It was the top story the next morning, scooping the two afternoon papers. His fast start proved to be no fluke, as Lou produced the top stories the next 3 days, again scooping the competition.

A year later, he joined the Blade and was soon offered the position of sports editor. But Lou felt at home covering sports and the outdoors, and he elected to continue reporting.

And continue he did.

In the next several years, Lou crossed the equator 50 times in search of wild game, adventure, and intriguing stories. He has hunted jaguar in Columbia, kangaroo in Australia, antelope in Africa, wallaby in New Zealand and Rocky Mountain goat in Canada.

He was also as much an explorer as a hunter, having explored the South Pole and the Arctic Circle. But caves were a favorite of Lou's to explore. He crawled through many caverns in Ohio and Kentucky, charting as he went, and opening up new passages when he could go no farther.

Lou's long journeys were not enough to keep him from his interests at home—scouting and animals.

In 1953, Lou was presented with the Silver Beaver Award for his service to the Toledo-area Boy Scouts. He received the Distinguished Eagle Award in 1973 for his dedication to the Scouting movement and his involvement in community conservation efforts. He became the first Toledoan to win such an award.

Lou was also named acting director of the nationally recognized Toledo Zoo in 1950. That job is normally a full-time responsibility, but Lou kept his tasks at the Blade as well. Two years later, he became zoo director. He is still on the zoo board of directors and often collects animals for the zoo in his safari trips.

Lou may be retiring from the newspaper business, but you can bet he won't retire from contributing to his community or to aspiring outdoorsmen.

He might still frequently be seen offering pointers to fishermen along the Maumee River, but those who knew Lou only through his columns will miss his visits and words of advice.

Seldom can a writer transmit his own personality through such informative columns. But readers were easily able to identify with Lou's venturesome, high spirited, yet seemingly relaxed life style.

It is my hope, and also the hope of everyone in northwest Ohio, that in retirement, Lou Klewer will continue to be blessed with good health and retain his taste for adventure that we all have come to enjoy through his columns.

□ 1615

NATIONAL AGRICULTURE DAY

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker. I rise to remind the Members of this body that tomorrow we commemorate the occasion of National Agriculture Day.

This day brings with it special significance this year. Not only must we call to the attention of the American public the achievements of the agricultural sector, but we must point out that current economic difficulties are devastating the farmer.

American farmers, accounting for only 2 percent of the population, provide nearly one-third of all exports our country relies upon to offset our foreign imports.

Additionally, Americans still enjoy some of the least expensive food worldwide. Yet midwestern farmers are facing their third consecutive year of reduced prices. The combination of high interest rates and low commodity prices are reeking havoc in the breadbasket of the world.

If we are to encourage our farmers to continue this proud tradition, we must do three things: First, this economy must be turned around such that businesses, including farms, can once again turn a fair profit. Second, we must seek new and innovating alternatives to what this Congress offered the midwestern farmer in its 1981 farm bill. Finally, we must expand international demand for U.S. agricultural products, by aggressively seeking new markets and defending our trade interests against unfair trade policies practiced by trade competitors.

Please—let us use National Agriculture Day to its fullest: let us promote the farmer and his efforts, rather than discourage him.

MILK MARKETING AND PROMOTION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. Jeffords) is recognized for 5 minutes.

● Mr. JEFFORDS. Mr. Speaker, today I am introducing legislation which will reduce the Government cost of the dairy price support program without causing economic strife in that producing sector.

The dairy farmers of this country have done their part to reduce the cost of Government and they are willing to do more. We cannot forget that the American dairy farmer has not received an increase in his support price since October 1980—he agreed to forgo a required adjustment in April 1981 and again in October. The 1981 farm bill that was recently accepted by this body only allows for a 15-cent-per-hundredweight adjustment in the support price in October 1982, a mere 1-percent increase.

The dairy farmers have accepted significant reductions in their incomes. For example, the president of the Farm Credit Banks of Springfield, Mass., the major agricultural lending institution in the Northeast, tells me that 20 to 30 percent of their borrowers will face significant cash flow problems within the next year. Many dairy farmers are facing an economic crisis, and they are producing more milk just to survive.

While many of us had hoped that milk production would begin to decline, we now find that production nationally is increasing by over 2 percent of where it was 1 year ago, and the cost to the Government is expected to exceed $2 billion for this marketing year. A majority of this increase in production is taking place in the western part of the United States. Dairy farmers in my own State of Vermont, for example, have reduced their production, for according to the U.S. Department of Agriculture, January production was 2 percent less than the 1981 production level for the same month and 1 million pounds less than the 1980 level of production for the same month.

Since the passage of the 1981 farm bill, I have been searching for an equitable solution to the overproduction problem—one which would allow efficient producers a fair return without jeopardizing the future production potential of the industry. In my quest for such a solution, I have visited with representatives to the European Economic Community, reviewed reports on the operation of dairy programs in other major non-EEC dairy producing countries, and evaluated the various legislative proposals that have been considered over the years in Congress. A summary of some of the various national dairy policies is provided below.

NATIONAL DAIRY POLICIES

A comparison among national dairy policies, as applied in the developed countries of Western Europe, North America, and the Pacific, brings out, with the possible exception of New Zealand, a number of common elements. Most countries have some form of guarantee of returns to milk producers. Only in the cases of Canada and the United States do these appear, however, to incorporate explicit indexation of returns. Most countries employ such instruments as the payment of direct subsidies on milk production (Canada and Japan), the payment of state subsidies into equalization funds (most of the West European countries other than the EEC), the establishment administratively of market support prices (as in the EEC, the U.S.A., and Canada), or their combination, to achieve levels of guaranteed returns or income. Many countries apply policies to try and manage supply, including the application of national or individual producer production or marketing quotas (Canada, Switzerland, Austria, Japan), financial disincentive policies (overproduction levies as in Canada, the co-responsibility levy as in the EEC, the setting of producer returns at less than the rate of inflation as in the EEC), or policies to influence inputs (such as premia to encourage herd conversion to beef, herd slaughter, taxes on feed concentrates, or withdrawal of fodder acreage.) Some countries use consumption stimulation policies to balance milk markets, including the fixing of retail prices (as in much of Western Europe and New Zealand) at levels lower than those which might otherwise prevail, the payment of direct subsidy on retail market consumption (such as the EEC-financed butter subsidy in the U.K., Ireland, and Denmark, and Canadian subsidy on skim milk powder, discontinued in 1978), special occasion or group "cheap" product sales (as in the EEC), or the subsidization of dairy product consumption for animal feed (such as the EEC's subsidization of milk and milk powder for calf feed or the U.S. CCC tender system for feed powder sales). These domestic dairy policies have had to be supplemented by increased border protection (quotas, levies) in most countries and export assistance measures (such as the EEC restitutions) to dispose of surplus products.

During my visit to the European Economic Community earlier this year, I asked some of the representatives to the EEC if they felt a coresponsibility levy has been successful in reducing milk production in the EEC. Since September 1977, the milk producer has had to make a contribution in the form of a percentage of the price of milk. In other words, he pays a proportion of his income into a special fund to be used for promoting and expanding the outlets for milk products. The use of this fund is decided by the Commission following consultation of the producer groups. Milk producers are thus made responsible by being directly involved in the prices policy. The response I received was a resounding no. Those representatives with whom I spoke told me that the Community milk products policy now costs annually about half of the total European farm budget and the best immediate way to bring down costs in an equitable manner would be through supply controls.

In researching the history of the U.S. dairy support program, I find that supply controls have been discussed in the past. In 1963, then Secretary of Agriculture Orville Freeman proposed a milk supply control program. Almost 10 years later, in 1972, the National Milk Producers Federation considered and authorized for discussion a supply management program. During both of these periods, the supply imbalance changed before legislative action was taken.

During my review of our domestic dairy policy, I came across two major studies. A Department of Agricultural Economics report from Cornell University dated September 1963 (A.E. Ext. 267) concludes that—

> Some type of mandatory supply management program appears to offer the most effective means of reducing current program costs by significant amounts without a sacrifice in producer incomes. Lower levels of support prices would curtail support purchases and reduce government costs, but at a cost in producer incomes.

The report evaluates other alternatives and concludes that—

> Some producers would still find it advantageous to expand with a two-price program, particularly if expansion resulted in lower unit production cost and did not require added capital expenditures.

A 1955 U.S. Department of Agriculture report on the operation of the dairy support programs, "A Study of Alternative Methods for Controlling Farm Milk Production and Supporting Prices to Farmers for Milk and Butterfat," also concludes that a mandatory supply management program offers more potential for short-run supply reduction than any alternative program. The same report also found that any gradual reduction in support levels would not result in quick production adjustment because of the slowness of response to price changes. Eventually, this report concludes, adjustments in resource use would accelerate but at a cost in farm income.

Another area that must be addressed when proposing changes in domestic dairy policy is the ability to trade dairy products on the world market. While it is true that we must do a better job to develop these markets, we cannot rely on these foreign outlets for disposing of our excess produced dairy stocks. This is true not only because the United States is a party to international dairy trade agreements such as the General Agreement on Tariffs and Trade (GATT) and other agreements made during the Multilateral Trade Negotiations (MTN), but also because world markets are relatively small and account for less than 5 percent of world dairy production. As a number of reports have concluded, the volume of world trade remains marginal to world milk supply and its growth and character remain heavily influenced by the domestic support policies of the developed countries, Western Europe, North America, and Japan. The world market offers only limited outlets and is well supplied.

The legislation which I am introducing today is designed to meet this difficult overproduction situation head on. Other proposals will be made. I am convinced, however, that my bill represents our best chance of meeting two very essential objectives: Eliminating the burden of the dairy program on taxpayers, while allowing dairy farming to remain viable in the various production regions of the United States.

Under my bill, dairy farmers would select one of the two options in a national referendum. The first option would be to simply cut prices to a clearinghouse level, to dispose of the surplus stocks and force reduced production. The consequences of this would be, in my view, potentially disastrous, but it is a decision which can and should be made by dairy farmers themselves.

The second option is being referred to, for want of a better description, as a base plan.

The base plan would work as follows. A base support price would be established at the traditional minimum, 75 percent of parity. Parity is the theoretical fair price for farmers to receive for their milk, computed by a complex formula. However, that support price would only apply if any individual farmer's production did not exceed what he produced the year before. For any production in excess of that, the farmer would get a support price of only half the base price. This would obviously be a very strong disincentive for increased production. The plan, if adopted, would remain in effect for 2 years.

There are other features of the base plan. The first is an automatic contribution by each farmer, of 5 cents per hundredweight, for a program to promote milk sales. Any individual farmer who objects to this could request, and receive, a refund. The other feature is creation of a milk board which would have the job of disposing of surplus milk, with emphasis on exports to other nations.

I should point out that other, alternative bills will be considered as well, including a plan prepared by the National Milk Producers Federation. This plan is similar to that used in European nations, and its effectiveness is in question because those nations have had overproduction problems in recent years. I also question it because it may reinforce our current problem, and may not be equitable.●

IMMIGRATION REFORM AND CONTROL ACT OF 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. MAZZOLI) is recognized for 5 minutes.

● Mr. MAZZOLI. Mr. Speaker, today I am introducing the Immigration Reform and Control Act of 1982, the most fundamental reform of our immigration laws in over 30 years. The bill is complex, but its purposes are simple: To reform outmoded and unworkable provisions of the present immigration law and to gain control of our national borders.

This is an historic occasion, not only because of the significance of the bill itself, but also because an identical bill is being introduced in the Senate by Senator ALAN K. SIMPSON, of Wyoming, chairman of the Senate Subcommittee on Immigration and Refugee Policy.

It is rare when a House and a Senate subcommittee chairman agree to introduce an identical bill. It is extraordinary when the chairmen are introducing such an identical bill on one of the most controversial subjects of our times. It is even more extraordinary when the chairmen are from different parties, and different regions of the country.

We have reached this point for two reasons:

First, the issue of immigration is so important to our Nation and the need to reform our laws is so pressing that all party and regional loyalties, as well as differences, must be transcended. As elected Representatives, we must reflect the interests and concerns of those who elected us. But, we cannot also forget that on certain fundamental issues—national defense, foreign policy, crime, drug abuse, and, now, immigration—the importance of the subject requires a totally objective, nonparochial approach.

The second reason we have come to this point in immigration reform is ALAN SIMPSON. He is an unusual man and an unusual Senator. He and his very capable staff have been a joy and a pleasure to work with during the past 13 months as we have studied this issue together.

Before assuming the chairmanship last year, as you all know, Senator SIMPSON served as one of the members of the Select Commission on Immigration and Refugee Policy, chaired by my good friend, Father Theodore M. Hesburgh, president of Notre Dame, my alma mater.

Since becoming chairman of the Senate subcommittee, he has been extremely helpful to me and my staff and has been thoroughly cooperative as we have worked on this issue.

For the first time in 30 years, our two subcommittees held joint hearings on the subject of immigration reform. We have traveled together to study immigration problems, most recently earlier this month to the State of Florida. We have traveled what I have termed the equivalent of the borscht circuit of immigration putting on our Immigration Today show at conferences, such as one at Williamsburg sponsored by the Rockefeller and Ford Foundations, and the conference at San Diego sponsored by the San Diego City Club.

For these last few weeks, we have had extensive, detailed meetings on all aspects of the bill we are introducing today, with a true dialog, so that today we have a joint venture of which we are both proud.

What we are introducing today is a fair and equitable and workable and balanced bill. Neither of us is happy with each and every one of its provisions, but we believe that, as a whole, it is the type of package that people who study this issue carefully, will agree is the best approach to that most nettlesome of moral, social, economic, and political of issues—immigration.

Senator SIMPSON and I have traveled a long road to reach this point. Both of us have given exhaustive study to this issue. Right now, I want to pay tribute to the six other members of my subcommittee—SAM HALL of Texas; PAT SCHROEDER, of Colorado; BARNEY FRANK, of Massachusetts; HAM FISH, of New York; DAN LUNGREN, of California; and BILL MCCOLLUM, of Florida—who have participated in endless hours of hearings and meetings, and acquired a firm understanding of this matter. Without them, the product we have before us today would not have been possible.

I wish also to thank my professionally competent and personally devoted subcommittee staff—Harris Miller, Skip Endres, Peter Regis, Gene Pugliese, and Bonnie McGuire—for their fine help.

Also I want to thank Chairman PETER W. RODINO, JR., of the full committee; ranking minority member, Congressman ROBERT MCCLORY; and committee staff director, Garner Cline, for their consistent support.

Let me review briefly what has transpired leading to the development of this legislation.

First, the most recent three administrations have proposed major immigration reform. Presidents Ford and Carter, and now President Reagan, have recognized the importance of immigration. And all three proposed strikingly similar packages to deal with it. All elements of earlier formulations are in the bill I am introducing.

The Attorneys General who served under the three Presidents I cited—especially our present Attorney General, William French Smith—deserve special commendation for their interest in immigration.

Frankly, as I told Attorney General Smith when he came before our subcommittee:

> When they were wooing you to leave sunny California to come to Washington, I doubt that anybody bothered to advise you that the nettlesome immigration question would be sitting there in the middle of your desk as the first of your many hot potatoes.

But, to the Attorney General's credit, he has plunged into this issue with full dedication. I hope he and the President will give their full and influential support to the bill Senator SIMPSON and I have drafted.

Another element which helped produce our bill on immigration reform was the Select Commission on Immigration and Refugee Policy, which was established 4 years ago by Congress and which, just 1 year ago, issued the most comprehensive report and set of recommendations on immigration since 1911.

That Commission was chaired by Father Hesburgh, as I noted, one of the most talented individuals of our age. Having chaired my own subcommittee in the study of this multifaceted issue for the past year, I appreciate even more the talent of Father Hesburgh who was able to bring together so many diverse points of view—from eight Members of Congress, four members of the previous administration, and four public members—into one comprehensive set of recommendations.

The work of that Select Commission has been invaluable to Senator SIMPSON and me in putting together our bill. Just as I believe that Presidents Ford, Carter, and Reagan will see a lot of what they recommended in our bill, so do I believe that Father Hesburgh and the other Commissioners will see a lot of their dedicated work reflected in our measure.

Since becoming chairman of the House Subcommittee on Immigration, Refugees and International Law last February, I have spent more time on the immigration issue than on any other policy issue since my arrival in the House over 11 years ago.

My subcommittee held 12 days of extensive hearings on all aspects of immigration reform, including, as I noted earlier, 4 days of joint hearings with Senator SIMPSON's subcommittee.

We have heard from witnesses from all walks of life. We have heard the pros and cons articulated on every element of this bill. Even one who had never heard anything about immigration reform, but took the time to read our hearings would quickly become a reigning expert on the issue.

Senator SIMPSON and I have not only learned from our hearings directed specifically to immigration reform, but also from more generalized hearings on the operations of the Immigration and Naturalization Service, on the consular operations of the Department of State, on our refugee program, and on other related immigration problems.

Several of the problems dealt with in my bill were on private immigration bills, highlighted in hearings I have conducted. My subcommittee members and I have taken several major subcommittee investigative trips to places such as southern California, Florida, Mexico City, Southeast Asia, and Europe. Reports of these trips have been published so others could obtain a more personal feeling for the issues before us. Finally, we have had many private meetings with individuals concerned about immigration who have brought us information and insights which have proven invaluable.

In sum, I do not think that anybody can say that we have not done our best to learn and understand. I believe our bill reflects that.

The details of the bill Senator Simpson and I have prepared follow my remarks.

Also to follow is a copy of a letter I addressed to the Attorney General today dealing with the detention of Haitians at the Krome facility in Miami.

Suffice it now to say, Mr. Speaker, that I believe this bill to be fair, balanced, workable, and equitable. It should be enacted into law.

Immigration Reform and Control Act of 1982—A Brief Summary

(See longer summary of Act for more details.)

EMPLOYER SANCTIONS

Makes it unlawful to knowingly hire, recruit or refer any alien unauthorized to work.

For 3 years, an employer can rely on three forms of identifiers in screening prospective employees (i.e. U.S. passport; social security card or birth certificate plus an identifier carrying vital statistics and/or picture).

Creates an affirmative defense for employers to have complied with verification procedures (i.e. attest to documentation examination).

Requires a secure employment eligibility system to be in place after three years.

Establishes a graduated penalty structure—fines for first two offenses, $1000 and $2000 per alien, criminal misdemeanor charge for third offense. Provides no penalties during first six months of program, with a warning for first violation during second six months of program.

Requires an extensive outreach program to inform employers, unions and general public of requirements under the legislation.

Makes it illegal to produce and use fraudulent documents to obtain valid U.S. document or to obtain employment.

IMMIGRATION BOARD

Establishes an independent U.S. Immigration Board (USIB), five members plus chairman appointed for 6 year term by President with advice and consent of Senate.

Main Function: To review decisions of Administrative Law Judges.

Chairman of USIB will appoint Administrative Law Judges from Civil Service list.

Precludes review by Attorney General of USIB decisions; no exclusion matter reviewed by courts; deportation cases may be brought to U.S. Circuit Court.

ASYLUM

Provides for summary exclusion of aliens seeking to enter without documents unless alien applies for asylum immediately.

Prohibits reconsideration of a denied asylum application unless there are changed circumstances in home country.

Requires asylum determinations to be made by specially-trained Administrative Law Judges, who are separate from INS.

Provides that asylum hearings will be open, with right to counsel and cross-examination and complete record of proceedings.

Allows review by USIB of negative asylum decisions.

LEGAL IMMIGRATION

Establishes total annual immigration ceiling of 425,000 (including present unrestricted immediate relative of U.S. citizen category).

Two categories: Family reunification, 325,000, independents, 100,000.

20,000 per country ceiling per year (except from Mexico and Canada, for which the number will be 40,000 with unused numbers transferred from one country to another).

Labor certification, with some modification, remains for independent category.

AMERASIANS

Provides special immigrant visas for Amerasians (children fathered by U.S. servicemen in Korea, Laos, Vietnam, and Kampuchea) and permits 2,000 such admissions per year for 5 years.

G-4 VISA HOLDERS

Provides special immigrant visas for certain children and surviving spouses of International Agency officials (e.g. World Bank).

TEMPORARY WORKERS

Revises the current temporary worker (H-2) program to create a special streamlined program for agriculture.

Prohibits workers from staying for more than 8 months in any one year.

STUDENTS

Prohibits students from adjusting to permanent resident status unless married to U.S. citizen. Readmission only possible after 2 year stay in home country.

VISA WAIVER

Nonimmigrant Visa Waiver-creates a 3 year pilot program for five countries with low visa refusal rate after Attorney General certifies Immigration and Naturalization Service has a workable arrival/departure system in place.

LEGALIZATION

Authorizes immediate permanent resident alien status for persons who entered before January 1, 1978.

Creates a temporary resident status for Cuban/Haitian entrants and for persons who entered between December 31, 1977 and January 1, 1980, with adjustment to permanent residence after a period of 2 years.

Makes temporary residents ineligible for most forms of public assistance (certain exceptions for aged, blind, disabled and persons requiring medical care).

Prohibits legalization for persons who have committed crimes, are a serious danger to the U.S., or are excludable for specified reasons.

Immigration Reform and Control Act of 1982

I. THE BILL CONTAINS PROVISIONS TO INCREASE CONTROL OVER ILLEGAL IMMIGRATION

A. Employer penalties

Penalties against persons who: knowingly hire, recruit, or refer for employment in the U.S., an alien who is not authorized for such employment; knowingly continue to employ unauthorized aliens (except those hired before the date of enactment); knowingly hire, recruit, or refer for employment any person (whether a citizen or alien) without complying with the minimal verification procedures.

It is an affirmative defense against a charge of unlawful hiring, recruitment, or referral if the verification procedures have been followed in good faith.

Transitional (first 3 years) verification procedure: person who hires, recruits, or refers must attest, under penalty of perjury, that he has examined documents which establish both (a) eligibility to work, and (b) identity (showing that the individual presenting proof of eligibility to work is not presenting documents relating to another individual). A U.S. passport would establish both. Otherwise one document of each type would be presented: (a) Social Security card or birth certificate, and (b) INS-issued card, drivers license, other State-issued I.D. card, or other document approved by the Attorney General.

President is directed to develop and implement a new, secure system to verify work eligibility within 3 years. Such system would not be available for any other law enforcement purpose and, if it were to involve the use of a card, such card would not be required for any purpose except verification of work eligibility.

Penalty for failure to follow verification procedure: $500 civil fine per individual (whether citizen or alien).

Penalties for substantive violation: first 6 months (education period): no penalty; second 6 months: warning for first offense; 1st offense (after warning during second 6 months): $1,000 civil fine for substantive violation; 2nd offense: $2,000 civil fine; after 2 offenses: criminal misdemeanor penalty of up to $1,000 fine, 6 months imprisonment, or both; pattern or practice of knowingly continuing to hire: Attorney General may seek injunction.

Felony penalty (up to $5,000 fine or 5 years imprisonment or both) for activities involving the use, manufacture, or sale of counterfeit or altered identification documents.

B. Increased border and other enforcement; user fees

Creates new criminal misdemeanor for bringing an alien to the U.S., knowing, or in reckless disregard of the fact, that the alien had not received prior official authorization to enter.

States the sense of Congress that resources for border patrol and other enforcement activities should be increased.

States the sense of Congress that the Attorney General should use his present authority to impose fees for the use by aliens of border and other INS facilities and services in an amount commensurate with cost.

C. Adjudication procedures and asylum

Summary exclusion of alien entering without documents unless he asserts some reasonable basis for entering the U.S. or claims asylum, in which case he shall have a hearing before a specially trained asylum adjudication officer and by the newly established U.S. Immigration Board.

Exclusion (other than summary exclusion) and deportation cases, and cases involving an asylum claim by a legal nonimmigrant, to be adjudicated by a specially trained administrative law judge with an appeal to the 6 member Immigration Board:

Board would be appointed to 6 year term by the President with advice and consent of the Senate, and would operate in panels of 3.

ALJ decisions would be reversible by the Board if not supported by substantial evidence.

No judicial review in exclusion cases (except to the extent of the constitutional right of habeas corpus).

No judicial review with respect to issue of asylum.

Judicial review of deportation cases is available in circuit Court of Appeals.

D. Adjustment of status

Adjustment of status procedure would not be available to aliens who have violated the terms of their nonimmigrant visa.

II. THE BILL REFORMS LEGAL IMMIGRATION IN ORDER TO BETTER SERVE THE NATIONAL INTEREST

A. Immigrants

Annual ceiling: "immediate relatives" of U.S. citizens and "special immigrants" remain numerically unlimited in accordance with our historical commitment; the ceiling on numerically limited family reunification immigrants is 325,000, minus the number of "immediate relatives" in prior year. For various categories and allocations, see chart attached; the ceiling on numerically limited independent immigrants is 100,000, minus the number of "special immigrants" in prior year. For the various categories and allocations, see chart attached; the present total of aliens issued immigrant visas or adjusting their status to lawful permanent resident (excluding refugees) is approximately 425,000. Therefore, no reduction of the current level of legal immigration will occur.

Except for our contiguous neighbors, Mexico and Canada, the "per-country ceiling" for a country will remain 20,000, minus the number of "immediate relatives" and "special immigrants" admitted from such country in the prior year in excess of 20,000. For Mexico and Canada, each country will have a quota of 40,000 and either country will be entitled to the unused visas of the other country from the prior year.

New family reunification preference categories, along with their share of the total ceiling for such categories, are as follows: (a)(1) unmarried adult sons and daughters of U.S. citizens (present first preference) 15 percent; (a)(2) spouses and minor children of lawful permanent residents (present second preference, minus adult sons and daughters) 65 percent; (a)(3) married adult sons and daughters of U.S. citizens (present fourth preference) 10 percent; (a)(4) brothers and sisters of adult U.S. citizens whose visa petition has already been approved (the present fifth preference backlog as of March 1, 1982) 10 percent.

New independent preference categories, along with their share of the total ceiling for such categories, are as follows: (b)(1) aliens of exceptional ability (similar to present third preference) will be allowed up to the ceiling; (b)(2) skilled workers needed in the U.S. (part of present sixth preference), numbers unused in (b)(1); (b)(3) investors of $250,000 in a new enterprise creating at least ten jobs in high unemployment areas, numbers unused in (b)(1) and (b)(2); (b)(4) unskilled workers needed in the U.S. (part of present sixth preference), numbers unused in (b)(1)-(b)(3); (b)(5) nonpreference workers (present nonpreference), numbers unused in (b)(1)-(b)(4).

Labor certification will be granted on the basis of nationwide job market data, instead of on a case by case basis. Certification must include a finding that sufficient U.S. workers could not be trained within a reasonable time.

Relief provisions provided for certain Amerasian children.

Relief provisions are provided for certain children and widowed spouses of employees of international organizations.

B. Nonimmigrants

Special procedure established for H-2 seasonal workers in agriculture: the employer need not apply more than 80 days in advance of need; the Secretary of Labor must provide a decision on the certification no later than 20 days in advance of need (otherwise the application for certification is deemed approved); if the Secretary of Labor determines that a certain number of qualified U.S. workers will be available at the time needed, but at the determined time those workers are not qualified and available, an expedited 7-day procedure to determine continued need would be available.

After the INS has implemented an automatic data processing system to properly track the entry and exit of nonimmigrants, the State Department may establish a pilot visa waiver program for 5 countries which provide a similar benefit to the U.S. if the visa refusal and visa abuse rates for the nationals of such countries are minimal, and if the visitor has a nonrefundable, nonrefundable roundtrip ticket.

Adjustment of status will not be available to a nonimmigrant student until he has returned and resided in his home country for two years, unless such a student is an "immediate relative" of a U.S. citizen, in accordance with the purpose of these educational programs for foreign students.

III. LEGALIZATION

Immediate permanent resident status (not citizenship) for aliens who have continuously resided in the U.S. since January 1, 1978.

Temporary legal status for (a) aliens who have continuously resided in the U.S. since January 1, 1980, and (b) "Cuban/Haitian entrants" who were previously given special legal status; persons receiving temporary status will be able to adjust to permanent resident status two years from date of enactment.

Federally funded public assistance (other than medical care, aid to aged, blind, or disabled, and public health) will not be available to those in the 2 year temporary status (other than "Cuban/Haitian entrants")

Persons will not be eligible for legalization who: have been convicted of a felony or 3 misdemeanors committed in the U.S.; have assisted in political persecution; have been convicted of a crime involving moral turpitude, or 2 or more offenses for which sentences aggregating 5 or more years were imposed; the government has reason to believe seek to enter for activities inimical to the welfare, safety or security of the U.S.; are, or have been, anarchists, Communists, or who advocate the overthrow of the government; are Nazis; would engage in subversive activities; have been convicted of a drug violation, other than simple possession of 30 grams or less of marijuana; was a nonimmigrant exchange alien subject to a two year foreign residency requirement.

EXISTING LAW		CORE BILL	
Immediate relatives of U.S. citizens	Unrestricted		Unrestricted.
Special immigrants	Unrestricted		Unrestricted.
Preference categories:			
(1) Unmarried adult sons and daughters of citizens	20 percent of 270,000	A1 (same)	15 percent of (325,000 minus imm. rel. in prior year) plus unused in A4.
(2) Spouses plus unmarried sons and daughters of permanent residence.	26 percent of 270,000 plus unused in (1).	A2 (excl. adult sons and daughters).	65 percent of (325,000 minus imm. rel.) plus unused in A1.
(3) Exceptional ability in arts, sciences and professions	10 percent of 270,000	B1 (exceptional ability)	Up to 100,000 minus spec. immigrants.
(4) Married adult sons and daughters of citizens	10 percent of 270,000 plus unused in (1), (2).	A3 (same)	10 percent of (325,000 minus imm. rel.) plus unused in A1, A2.
(5) Brothers and sisters of adult citizens	24 percent of 270,000 plus unused in (1), (2), (4).	A4 (existing 5th pref. backlog).	10 percent of (325,000 minus imm. rel.) plus unused in A1–A3.
(6) Needed workers	10 percent of 270,000	B2 (needed skilled workers).	Not needed by B1.
		B3 (investors)	Not needed by B1, B2 (not to exceed 10 percent).
		B4 (needed unskilled workers).	Not needed by B1–B3.
Nonpreference	Not needed by (1)–(6)	Nonpreference (needed workers).	Not needed by B1–B4.
Per country ceiling:			
Imm. rel. and spec. imm.	Unrestricted		Unrestricted.
Preference immigrants	20,000 per country		20,000 (40,000 plus unused, for Mexico and Canada) minus excess of immediate relatives and spec. imm. over 20,000 in prior yr.
Ratio of family to independents	None		3.25 to 1.
Labor certification:			
Case by case		Nationwide labor market analysis.	
No training requirement		Training requirement	

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 17, 1982.
Hon. WILLIAM FRENCH SMITH,
Attorney General,
Department of Justice,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: I am writing to share with you some of my findings and observations resulting from my recent trip to South Florida. In particular, I wish to relate some of my deep concerns relating to the operation of the Krome North detention facility.

I certainly appreciate the difficulties confronting the Immigration and Naturalization Service (INS) in operating this detention facility and readily acknowledge that they are performing in an admirable manner under these trying circumstances.

From all accounts, conditions at Krome have improved considerably in recent months and a good deal of credit must be given to INS for these improvements.

Nevertheless, I believe further actions must be taken immediately to alleviate several continuing problems and to address the deepening depression among the Haitian detainees.

First of all, in a meeting with Haitian leaders at Krome, the water problem was identified as being the most serious current concern. It was their strong belief that the water was contaminated and was responsible for "itchy skin" and "hair fallout". Many refused to drink the foul-tasting and odorous water which has an unusually high content of iron.

Although there is currently no evidence of contamination, I would strongly urge that arrangements be made to have bottled water transported to the facility for drinking purposes. Further, proper facilities to rinse clothing must be provided and the sewage capacity of Krome must be expanded.

Second, I found a shortage of instructional materials in the course of observing several language classes. I understand that these educational materials have been ordered, but that certain delays have been encountered. I would urge your personal intervention to insure that an adequate supply of these materials are promptly delivered.

Third, I would request your assistance in obtaining suitable equipment and supplies and sufficient space for the dental clinic at Krome.

While these problems are very serious, they pale by comparison to the mental health problems of many detainees resulting directly from their lengthy incarceration (some for as long as 8 months), separation from families, and constant boredom.

The Federal Government must make every effort to respond to the mental health needs of the Krome populations to insure that this already desperate situation does not get worse.

I am concerned by this situation and strongly believe that it cannot be allowed to continue for much longer.

In the event exclusion hearings to resolve their legal status do not commence in a reasonable time (in my view they have already been subject to unreasonable delays) I recommend the controlled release of Haitian detainees to the voluntary agencies.

The U.S. Catholic Conference has apparently offered to resettle these persons into the community at its own expense and this offer must be seriously considered to prevent the prolonged detention of Haitians if the legal process problems are not cleared up in the immediate future. Such arrangements should, of course, require the agencies to insure the Haitians' presence when called for hearings.

In this regard, I trust that your Department is fully prepared to commit the necessary resources to expedite the scheduling and holding of these hearings.

Finally, I am concerned that INS is charged with the responsibility of administering and operating this detention facility. It is my view that INS officers (both Border Patrol and Detention and Deportation officers) have not been trained for long-term detention. The responsibility for this particular activity should be transferred to the Bureau of Prisons, so that INS can concentrate its enforcement efforts on controlling our land and sea borders and on short-term detention.

I sincerely hope you will give these recommendations your careful consideration. I look forward to working with you in devising a more expeditious asylum and exclusion procedure that will obviate establishment of another detention facility like Krome.

Sincerely,
ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law.●

● Mr. McCLORY. Mr. Speaker, I congratulate the gentleman from Kentucky (Mr. MAZZOLI) for his leadership in producing this significant legislation.

I am pleased to serve today as a cosponsor of this measure which makes major reforms in our immigration law. Its introduction today represents a significant step in our national effort to address a critical issue facing the United States—our lack of control over immigration. Last year, the Select Commission on Immigration and Refugee Policy issued its report to the President and Congress. I had the opportunity, together with a number of colleagues on the Judiciary Committees of the House and Senate, to participate actively in the Commission's deliberations and to join in many of its recommendations. More recently the new administration prepared the Omnibus Immigration Control Act—a bill designed primarily to address the problem of aliens entering the United States illegally.

The bill we introduce today builds upon the work of the Select Commission and the administration—and incorporates insights based on months of public hearings by the Immigration Subcommittees of the House and Senate. This legislative proposal, aptly described by Senator SIMPSON as the "core bill," focuses on the most urgently needed reforms in immigration law. Its enactment by this Congress will give our country the tools both to control projected increases in numbers of persons entering the United States through legal means and to deter widespread illegal entry.

This bill recognizes that the attraction of employment in the United States serves as a magnet to illegal entry. A Federal law forbidding employers to hire aliens lacking work authorization is the key to removing the magnet. The Select Commission recognized the link between jobs and illegal entry when it endorsed employer sanctions by an overwhelming vote. The related issue of the method for verifying work eligibility, however, proved deeply divisive. This bill resolves the Select Commission's dilemma by authorizing employers to rely—for the time being—on existing identifiers and requiring the President to develop and implement a fraud-resistent employment verification system within 3 years.

The United States, at the same time that it acts decisively to deter future illegal flows, must respond compassionately to the plight of those illegal aliens who have acquired important equities in our society through years of living in the United States. Here the Select Commission pointed the way by its unanimous recommendation to legalize a substantial percentage of the undocumented population. That recommendation represented a recognition of the need to provide humane treatment for persons who possess a major stake in this country. A mass deportation effort directed at persons who have lived among us for a number of years would prove seriously disruptive of our national life. The United States, moreover, simply lacks the tools to round up and expel millions of generally law-abiding people. This bill attempts to deal realistically with persons who can document years of U.S. residence and firmly with both recent illegal arrivals and persons intent on violating our immigration laws in the future.

This bill does not approach the problem of illegal entry in isolation but recognizes that the potential for large future increases in numbers of legal immigrants also must be addressed. This legislation retains the numerically exempt classifications for immediate relatives of citizens and special immigrants, but limits other categories of legal immigration to a figure that takes into account the level of numerically exempt admissions. The bill's total figure for legal immigration of 425,000 corresponds to today's totals of numerically exempt immigrants—approximately 155,000—and numerically limited immigrants—270,000.

The United States possesses the capacity, for the foreseeable future, to continue to admit legal immigrants at approximately today's overall levels. We must, however, show enough foresight to fashion an immigration policy for this decade that takes into account projected increases in close family admissions. The setting of a clear limit today—in anticipation of the future—is far better than allowing the expansion to go unchecked and then responding with severe cutbacks.

This bill represents a fair and balanced approach to our major immigration problems. I urge my colleagues to give it their strong support.●

FIRST-TIME HOMEOWNERS OPPORTUNITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 10 minutes.

● Mr. FRANK. Mr. Speaker, today I am reintroducing, in slightly modified form, the First-time Homeowners Opportunity Act, originally introduced by me last week.

The modification has to do with the income eligibility limitations under the program. Rather than basing the limit on the area family median income, the revised version of the bill would utilize the statewide family median income, a statistic which is already kept by the Department of Housing and Urban Development. I believe the use of the statewide figure would be more equitable and would eliminate the possibility that families with identical incomes in neighboring communities in the same State would or would not qualify for the program based upon the statistical area in which they happened to reside. This concept continues to recognize, however, that incomes around the country vary from State to State and takes that into account in determining the proper income limitations. As in the prior bill, eligibility would be for those at or below 130 percent of the family median income, but as I have said, the statewide, not area, median would be employed. There are no other changes to the legislation.

High interest rates are making it virtually impossible for first-time homebuyers, even those with very reasonable incomes who have saved diligently, to afford a home. Besides the devastation caused to these families by their inability to participate in the American dream of homeownership, construction and building trades persons, homebuilders, realtors, building suppliers, and those in financial institutions have suffered greatly. As millions of the postwar baby-boom generation have reached adulthood, the problem has only gotten worse and the administration, unable or unwilling to propose concrete solutions, has done nothing. Unacceptably high interest rates show no sign of significantly decreasing any time soon.

The First-time Homeowners Opportunity Act would provide mortgage assistance in fiscal year 1983 to more than 100,000 first-time home purchasers whose family incomes are no more than 130 percent of statewide median. This assistance would be utilized to reduce the cost of an FHA-insured mortgage—by direct payments by the Federal Government to the mortgage holder—to as low as 9½ percent but would be limited to no more than the amount necessary to reduce monthly payments for the mortgage, insurance, and real estate taxes to 30 percent of the homeowner's income. The limitations requiring the homeowner to expend 30 percent of income on housing costs means that the mortgage will not necessarily be subsidized to as low as 9½ percent, thus saving Federal expenditures and allowing us to serve a greater number of first-time buyers.

Payments would continue for 10 years—unless the homeowner sold the home—but could be continued after 10 years if the Secretary of HUD determined that the family was still financially unable to assume the full cost of the mortgage. Assistance would be recaptured upon sale of the home but would be limited to 50 percent of the net appreciation of the value of the property.

Purchasers of new and existing single-family homes and individual condominium and cooperative units—which do not result in the displacement of a tenant—could utilize the program. The maximum sales price would be 110 percent of the maximum FHA mortgage which will mean a price limit of $74,000 in most parts of the country. The minimum downpayment would be 5 percent of the purchase price.

Mr. Speaker, to illustrate the dramatic effect this program can have on the lives of first-time homeowners, take the following example: To purchase a $60,000 home, a modestly priced dwelling by today's standards, and to carry a $57,000 mortgage at 15½ percent—the current FHA interest rate limit—for 30 years, cost $767 including mortgage insurance. Adding real estate taxes and hazard insurance means the monthly housing cost is likely to be over $900. A family earning $35,000 applying 30 percent of its income to housing could not afford such a mortgage without the assistance this program would provide. On the other hand, with the help the First-time Homeowners Opportunity Act would offer, a family with an income of approximately $25,000, applying 30 percent of its income, could afford the same mortgage and home and could therefore have a chance to participate in the American dream.

The $400 million appropriation authorized in this legislation would help alleviate the most serious and widespread crisis we have witnessed in the housing industry since the Great Depression. It would provide new hope for Americans, particularly our younger families, devastated by their inability to own a home. Against the administration's policy of doing nothing to address these problems, this investment in our citizens is absolutely critical.

H.R. —

A bill to provide assistance to individuals and families purchasing a residence for the first time

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "First-time Homeowners Opportunity Act".

SEC. 2. Section 235 of the National Housing Act is amended by adding the following new subsection at the end thereof:

"(r)(1)(A) Notwithstanding any other provision of this section except subsection (n), the Secretary shall, to the extent approved in appropriation Acts, make and enter into contracts to make periodic assistance payments on behalf of homeowners (including owners of individual units in a cooperative or condominium project) to mortgagees or other lenders holding mortgages which meet the requirements of this subsection and are insured under this subsection. In addition, the Secretary may insure mortgages which meet the requirements of, and are to be assisted under, this subsection. The authority of the Secretary to enter into new contracts under this subsection shall terminate on September 30, 1983.

"(B) In addition to the aggregate amounts of other contracts authorized in this section, the Secretary shall, to the extent approved in appropriation Acts, enter into ten-year contracts under this subsection. The aggregate amount of payments made pursuant to the contracts shall not exceed $400,000,000 per annum, and the aggregate amount which may be obligated over the duration such contracts may not exceed $4,000,000,000.

"(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies eligibility requirements relating to creditworthiness as may be prescribed by the Secretary and who—

"(A) has not owned a dwelling unit within the preceding three years, as determined by the Secretary; and

"(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the Statewide median income (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

"(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

"(4) The amount of the assistance payments made with respect to a mortgage shall not at any time exceed the lesser of—

"(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 30 per centum of the mortgagor's income; or

"(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 203(b), other than mortgages subject to section 3(a)(2) of Public Law 90-301, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9½ per centum per annum.

"(5) The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under paragraph (4), as the Secretary deems appropriate to reimburse the mortgagee for its reasonable and necessary expenses in handling the mortgage.

"(6) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sale price of, or other consideration paid in connection with, the purchase by the homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary.

"(7) The Secretary may, in addition to mortgages insured under subsection (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements described in paragraph (2). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

"(8) To be eligible for insurance under this subsection, a mortgage shall—

"(A) be a first lien on real estate held in fee simple or on a leasehold under a lease which meets terms and conditions established by the Secretary, or, in the case of individual units in a condominium or cooperative projects, be a first mortgage or lien described in section 203(n)(2) or 234(b);

"(B) have been made to, and be held by, mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

"(C) involve a single-family dwelling which is existing or newly constructed; except that, in the case of individual units in a condominium or cooperative project which is being converted from a rental project, the only units with respect to which assistance may be made available are units purchased by tenants who have resided for not less than one year in the individual unit for which assistance is to be provided;

"(D) involve a principal residence the sales price of which does not exceed 110 per centum of the applicable maximum principal obligation of a single-family mortgage which may be insured in the area pursuant to section 203(b)(2), determined without regard to the last sentence of such section;

"(E) have maturity and amortization provisions satisfactory to the Secretary;

"(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 203(b);

"(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 5 percent of the Secretary's estimate of the cost of acquisition; and

"(H) contain such other terms and conditions which are consistent with the purposes of this subsection and are prescribed by the Secretary.

"(9) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by single-family residences which contribute to the conservation of land and energy resources.

"(10) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits over the most recently completed 8-year period, the need for increased housing production, relative decline in sales of new and existing homes over the most recently completed 8-year period, and other factors which the Secretary deems appropriate. Assistance provided under this subsection shall not be subject to section 213 of the Housing and Community Development Act of 1974.

"(11) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner rents the property for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount provided under paragraph (5), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term 'net appreciation of the property' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 245. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture. All funds received from recaptures under this subsection shall be utilized in accordance with paragraph (13).

"(12) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4).

"(13)(A) There is hereby created a fund to be used in accordance with this paragraph. There shall be deposited into such fund all amounts recaptured pursuant to paragraph (11).

"(B) Such fund shall be utilized, to the extent approved in appropriation Acts, for the purpose of making payments pursuant to contracts described in paragraph (14)(B).

"(C) Money in the fund not needed for current operations shall be invested in direct obligations of the United States or obligations guaranteed by the United States.

"(14)(A) Except as provided in subparagraph (B), payments on behalf of any mortgagor under this subsection may not exceed 10 years.

"(B) In the case of any mortgagor who, as determined by the Secretary, is unable to assume full payments required by the mortgage after 10 years of receiving assistance under this subsection, the Secretary shall enter into a contract to provide continued assistance to the mortgagor under this subsection by utilizing the fund described in paragraph (13)(A)."●

THE FOURTH WORLD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE) is recognized for 5 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, the administration's bellicose response to the situation in El Salvador makes it clear that it is not sensitive to the problems of the Third World.

By its reductions in urban development, infrastructure repair, and job training programs, the administration shows its lack of understanding of the problems in what I call the "Fourth World"—those older, industrial regions of the country which are now bearing the brunt of a calculated recession.

Mr. Speaker, my city of Pittsburgh has an unemployment rate of 10.2 percent. That shocking figure is dwarfed by the unemployment rate of a nearby municipality. Butler, Pa. has an unemployment rate of 17.7 percent. Last week the city received the news that the 80-year-old Pullman-Standard railcar plant will close for good, leaving 3,000 employees jobless.

The administration's response to this increasingly critical situation has been one of startling unconcern. It seems more intent on insuring that its tax breaks, which mainly favor the well-to-do, remain untouched.

I urge the administration to devote more of its attention to the problems of the most distressed regions of our country.

I would like to share with my colleagues an article from the March 16 Wall Street Journal which describes the effect of the recession on the city of Pittsburgh.

The article follows:

PITTSBURGH'S RECESSION SHOWS HOW LAYOFFS RIPPLE THROUGH ECONOMY

(By Carol Hymowitz)

PITTSBURGH.—It's called the ripple-effect theory, and in simple form, it goes like this: A basic industry falters and lays off workers. Suppliers soon succumb and lay off workers too. Next come service firms and more layoffs. Presto, a recession.

The theory works, judging by a visit to the state unemployment claims office in a blue-collar area on this city's South Side. Hundreds of steelworkers who in better times clocked in at Jones & Laughlin Steel Corp.'s big mill just a few blocks away now line up to file for unemployment benefits. J&L, a division of LTV Corp., has laid off about 23% of the mill's 3,200 employees.

And as the slump in steel continues, out-of-work steelworkers are being joined by thousands of other people formerly employed in steel equipment and repair shops, as well as in restaurants, stores and offices that depend on the steel business. "We're seeing unemployment ripple right through the job market," says John Lester, manager of the South Side unemployment claims office. "With so many steelworkers trying to get by on unemployment checks, local merchants aren't selling and have had to lay off people too."

Pittsburgh's unemployment rate of 10.2% in January was well above the nationwide level of 8.5%. But the growth of white-collar jobs here has made Pittsburgh less susceptible to recessions than it was more than a decade ago when nearly half of its residents worked in steel mills or factories. Today manufacturing jobs account for only 24% of the area's employment.

HEAVY TRAFFIC

At the unemployment office on the South Side—an old, ethnic, working-class neighborhood two miles south of downtown—the traffic is heavy. Some 5,694 unemployment benefit claims are being processed here each week, a 20 percent increase over a year ago.

Phillip Slebrich, a steelworker at the J&L mill who was worked on and off for about five months during the last 12 months, reports here on Friday to sign for his unemployment check. He passed the two- or three-hour waiting time exchanging news and joking with fellow steelworkers. "Bring doughnuts next week," he shouts to a work buddy on an adjacent line.

But Mr. Slebrich's banter doesn't quite mask his anxiety. His unemployment benefits, he notes, total just $183 a week, less than half the $500 a week he averaged in wages at J&L. And since February, he hasn't received any Supplementary Unemployment Benefits. With so many steelworkers on extended layoffs, the supplemental fund has been depleted and only those with 20 years or more seniority are receiving the benefits; Mr. Slebrich, with only 13 years in the mills, doesn't qualify.

NOT MUCH LEFT

Getting by on $183 a week has been "very tight," he says. After he pays for rent ($220 a month), heat (as much as $250 a month) and food for his family of six, "there isn't anything left," he says. What's more, Mr. Slebrich already has used up 28 of his allotted 39 weeks of unemployment insurance and may soon be without any income. Like many other steelworkers in line with him, Mr. Slebrich has weathered recessions before ("we hardly worked at all in the 1972 slump," he recalls). "The steel industry is going down the tubes," he says angrily.

Along with steelworkers, Mr. Slebrich has the company of numerous blue-collar workers from plants that supply the mills. Behind him in line one recent morning were a production worker from a chemical coating used in steelmaking, several workers from local steel equipment plants and several truck drivers who haul steel.

Most are very aware of the ripple pattern of recession layoffs. "Once the mills shut, the equipment plants shut too, the haulers stop hauling and it's that way down the line," says Regis Lutz, Jr., an unemployed machinist from nearby Mesta Machine Co., a mill-equipment manufacturer.

FULL-TIME JOBS ARE SCARCE

Mr. Lutz, who was laid off from Mesta Machine at the end of December, has been trying to supplement his weekly unemployment benefits of $198 by working part-time for his local steelworker union's credit office and doing odd jobs. Under Pennsylvania regulations, he can earn up to $72 a week and still collect full benefits.

But Mr. Lutz hasn't had any luck finding a new full-time job. "The only openings in the papers are out of town," he says, adding that he doesn't want to leave Pittsburgh or lose the 16 years of seniority he has at Mesta Machine or the equity he has in the house he bought six years ago. "To sell my house in this market and then need a new mortgage at today's high interest rates would mean losing everything I've built up," he says.

Farther along the line at the South Side office are several white-collar and service employees who also have suffered recession layoffs or been forced to accept reduced work weeks. For Peggy Finnegan, a photography printer at the Premier Photo Shop, which is near the South Side, it is the first time she has been in an unemployment line in her 21 years of working.

TOUGH FOR PROFESSIONALS

"The last thing people on layoffs are going to spend money on is photos," says Mrs. Finnegan. Since January she has been working just two days a week, instead of full time.

The same sort of work reduction has hit Donna Kissell, a waitress downtown at Gimbel's department store restaurant. Mrs. Kissell began noticing the effects of the recession at the restaurant in January: Instead of her usual 80 to 90 customers a day, she suddenly found that she was serving only 35 to 40. In February she was told to report to work just one day a week instead of her customary four days.

Mrs. Kissell, who is supporting herself and her daughter, is earning between $25 and $50 a week and collecting some $37 in partial unemployment benefits. It isn't enough to cover her bills. But, she says, she won't apply for welfare or accept "a $1.35 an hour nonunion waitressing job, which is what Reagan probably thinks I should do. I want a union job that at least offers minimum wage and medical benefits."

Some white-collar professional employees who find themselves at the South Side unemployment office are having a hard time accepting that they are unemployed. "I didn't expect to be laid off, and it's still somewhat of a shock to be here," says 26-year-old Mary Ann Smyth, who until last December was comptroller at a division of Koppers Co. She was one of 60 professional and clerical employees who since November have been laid off at the manufacturing, engineering and construction company. "Obviously they aren't doing well in the recession, and I was one of the youngest and newest," she says.

IT WAS A RELIEF

Mrs. Smyth and her husband, an unemployed student, are managing to live on the $195 she collects each week in unemployment. One cost-cutting measure they adopted: keeping their thermostat at 55 degrees and gas bills to $130 a month.

What's harder, Mrs. Smyth says, is explaining her layoff to prospective employers. "I spend half the interview trying to convince them that it was recession, not performance, related," she says.

Others in line here who previously clung to jobs at companies that are going into the red say there is a positive side to being laid off. "It was a relief," says Joseph Colosimo, a former claims investigator at Eazor Express Inc., a trucking firm that recently closed its biggest division.

Mr. Colosimo had taken a 15% wage cut in his last months at Eazor. He expects to earn almost as much in unemployment benefits. (He is still waiting for his first check.) And now that he is officially unemployed, he is feeling freer to look for a new job.●

INTRODUCTION OF H.R. 5840

(Mr. EDGAR asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. EDGAR. Mr. Speaker, yesterday I introduced H.R. 5840, a bill designed to reform and overhaul the system by which the Federal Government plans and undertakes water resources development projects. Title I of the bill is called the Water Resources Policy and Development Act of 1982 and contains provisions for greater State involvement in planning and developing water resources projects, equitable distribution of water development funding, redefinition of the congressional role in project authorization, and consistent provisions for local cost-sharing in water development funding.

Title II of my bill, the Water Supply Rehabilitation and Conservation Act of 1982, would authorize and direct the corps to address the special needs of urban areas whose long-neglected water supply infrastructure is deteriorating. This provision goes hand in hand with equitable funding for those regions of the country which have not received adequate assistance in addressing their water development needs. This title also requires water conservation measures for all federally assisted water supply projects and lays out the measures to be implemented to promote water conservation.

I want to share the full text of H.R. 5840 with my colleagues in order to elicit their suggestions on how the water policy reform issue can best be addressed.

The text follows:

H.R. 5840

A bill to authorize the National Water Resources Policy and Development Act of 1982, to direct the Water Resources Council to act as the coordinating body for a program of water resources assistance to the States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

CONGRESSIONAL FINDINGS

SEC. 101. (a) The Congress finds that development of important and necessary water resources projects and the wise expenditure of Federal funds has been frustrated by increasing delays in the implementation of Federal water resources programs. The Congress finds further that it takes, on average, twenty-six years from the time that planning of a typical water resources project is authorized until the initiation of its actual construction, and that such delays are caused by a variety of factors, including the lack of expeditious congressional action, as well as the failure of the Federal Government and the States to establish an effective system to develop priorities which determine those water resources projects most needed for the development of the national economy.

(b) The Congress, therefore, declares that the Nation's water resources development will operate more effectively and efficiently when projects are developed in accordance with a system of Federal and State priorities, and administered with an increased degree of State participation.

(c) It is, therefore, the purpose of this Act to establish and encourage a cooperative Federal-State program to solve water resources problems throughout the Nation, providing the State with greater responsibility for establishing priorities and timing projects, while maintaining reliance on the technical expertise and financial assistance of the United States and its water resources agencies.

FEASIBILITY STUDIES

SEC. 102. (a) Each State shall periodically review the water resources needs of such State, including the need for specific projects in such State, and may submit requests to the Water Resources Council (hereinafter referred to as the "Council") for detailed studies of specific, identified water resources needs and problems within such State of its region. The Council shall, within fifteen days of receipt of any such request, publish notification of such request in the Federal Register and transmit such request to the appropriate Federal water resources agency or agencies, and such transmittal shall be deemed to be authorization for such study.

(b) In addition to the requests under subsection (a) of this section, each State shall, no later than July 1, 1983, submit to the Council a list of those studies that were authorized prior to the date of enactment of this Act, but which have not been initiated or completed as of July 1, 1983, and which such State finds are necessary to meet identified water resources needs and problems in such State or region.

(c) For any feasibility study submitted or listed as a result of subsection (a) or (b) of this section, as well as any other studies previously authorized, each State shall, after public hearings, submit to the Council, no later than August 1, 1983, and annually thereafter, a list of those studies, in order of priority, which such State wishes to have undertaken or completed by the appropriate Federal water resources agencies. Within the funds available under this section the appropriate Federal water resources agencies shall make detailed evaluations of specific water resources needs or problems, analyze alternative solutions, determine the most effective and desirable solution to such need or problem, and determine whether such solution or solutions should be recommended for implementation. The Federal water resources agency shall take into account the requirements of any affected interstate compact relating to water use and any relevant court decrees. No studies of a specified and identified water resources need or problem shall be eligible for funding after September 30, 1983, except as provided by the terms of this section or section 106 of this Act.

(d) Before any Federal water resources agency may initiate, under the terms of this section, any study which had not been commenced prior to enactment of this Act, the Council must receive from the appropriate Governor or Governors of the State or States in which implementation is likely to occur, or other non-Federal body, an agreement that such State, States, or non-Federal body will pay 25 per centum of the cost of such study upon its completion.

(e) Once a study is initiated under the terms of this section, the appropriate Governor or Governors shall appoint one or more employees of such State or States, up to a total agreed to by the appropriate Federal water resources agency or agencies, who shall work in coordination with the appropriate Federal water resources agency or agencies in the formulation and development of such study. Such State or States shall be reimbursed out of funds authorized by this section for the salary and services of the person or persons appointed under this subsection.

(f) Any Federal water resources agency may contract with a State or States for the preparation of a study under this section.

(g) At the conclusion of any study under this section, the Federal water resources agency or agencies shall, as soon as possible, submit a detailed report on such study to the Council, together with the specific recommendations of that agency or agencies regarding whether or not a project should be implemented, together with certification by the appropriate Governor or Governors that implementation of the project described in such study would be desirable, needed, and entitled to priority consideration within such State or States.

(h) To the extent practicable and reasonable, Federal and State agencies shall attempt to complete any study under this section within three years of its initiation and shall consolidate hearings and studies required by law in order to expedite completion of any study under this section.

(i) To the extent practicable and reasonable, the Council shall seek to assure that expenditures under this section are allocated among the States on the same basis as the funds are allocated under section 104 of this Act, and meet the priorities established by each State under subsection (c) of this section.

(j) For the purposes of undertaking feasibility studies under this section, there is authorized to be appropriated to the Council, for distribution among appropriate Federal water resources agencies, $150,000,000 for the fiscal year ending September 30, 1983, and each fiscal year thereafter.

PROJECT AUTHORIZATION AND CONSTRUCTION

SEC. 103. (a) Each State shall schedule public hearings at least once a year to review projects and proposals for water resources development that merit priority consideration. Following such hearings, each State shall develop a priority list for those water resource needs and projects that are to be studied and implemented, and submit such list to the Council by July 1, 1983, and annually thereafter. Each such list shall be published by the Council in the Federal Register, and shall be utilized to establish the order and rate of funding for such projects.

(b) In considering projects for the priority list required by subsection (a) of this section, each State shall consider the needs for alternative water resources or projects in such State, and the need to assure widespread benefits for any proposed project.

(c) The list submitted by a State under the terms of subsection (a) of this section shall be deemed to be approved within sixty days of its submission to the Council unless the Council finds that such list was developed without an adequate and full opportunity for public hearings and participation. In the event the Council finds the list was developed without an adequate and full opportunity for public hearings and participation, the Council shall immediately notify such State, which shall conduct such hearings and submit a new list as soon as practicable. No funds under this section shall be available for expenditure in any State until a priority list for such State has been submitted and approved.

(d) Within thirty days of the submission of a study report, as required by section 102 of this Act, the Council shall publish in the Federal Register a summary of the project described in such report, together with the recommendations of the Federal water resources agency and the certification of the Governor or Governors. Ninety days after such publication, the project described in such report shall be deemed authorized for implementation under this title, and eligible for inclusion on a State's priority list for implementation under the terms of section 104 of this title, and eligible for funding utilizing moneys allocated by section 104 of this title.

(e) Notwithstanding the provisions of subsection (d) of this section, any project report involving implementation of a project in one State, where the Governor of another State in the affected watershed objects in writing to the Council within ninety days after the publication in the Federal Register required in subsection (d) of this section, and shows that such project would adversely affect the quality or quantity of water available in such other State, such study report shall, within sixty days of the receipt of such objection, be transmitted by the Council to Congress. Implementation of the project described in any study report so transmitted to Congress may only be authorized by an Act of Congress.

(f) Notwithstanding the provisions of subsection (d) of this section, any study report shall require the approval of the Council if the Federal water resources agency or agencies recommend against implementation of the project described in such study, and the Council shall, if it approves implementation of the project described in such study report, publish a summary of the project described in such report in the Federal Register, as provided by subsection (d) of this section. Should the Council fail to act on a study report within one hundred and eighty days of the receipt of such report, implementation of the project described in such study report shall be deemed authorized for the purposes of this title. Whenever the Council sustains the recommendation of a Federal water resources agency or agencies against implementation of a project described in such study report, the Council shall transmit such recommendation and the study report to Congress within thirty days. Implementation of the project described in any study report so transmitted to Congress, may only be authorized by an Act of Congress.

(g) Any project that was under construction at the time of enactment of this Act, may, at the discretion of the Governor or Governors of the State and States in which such project is located, become eligible for funding under the terms of this section.

(h) Any project to be constructed using funds authorized by this section shall be designed according to principles and standards established by the Council, incorporating regional development benefits, environmental impact, and other social effects, and may be constructed, notwithstanding the computation of the project's national economic benefits and costs, so long as such project is on a State's priority list under the terms of subsection (a) of this section. It shall be the responsibility of the Federal water resources agency to ensure that such project is designed according to the principles and standards established by the Council under this subsection.

(i) For the purposes of the construction of projects to be undertaken under the terms of this section, there is authorized to be appropriated to the Council for allocation under the terms of section 104 of this title, the sum of $2,500,000,000 for the fiscal year ending September 30, 1983, $2,800,000,000 for the fiscal year ending September 30, 1984, $3,100,000,000 for the fiscal year ending September 30, 1985, $3,400,000,000 for the fiscal year ending September 30, 1986, $3,700,000,000 for the fiscal year ending September 30, 1987; and $4,000,000,000 for the fiscal year ending September 30, 1988, and for each fiscal year thereafter, with such sums to remain available until expended. Before any project may be underaken under this section, the cooperating State, or States jointly, or other appropriate non-Federal body, shall first agree to pay, or contribute in kind, 25 per centum of the cost of constructing such project, and 50 per centum of the cost of efficienty operating and maintaining such project upon its completion.

(j) The non-Federal contribution on projects authorized prior to the date of enactment of this Act to be constructed under the terms of this section may, at the discretion of the non-Federal interests, be contributed over the life of the project, including a reasonable rate of interest to be determined by the Council, and revenues received by the United States as a result of the sale of water or other benefits produced by such project shall be available for use toward computing a portion or all of such non-Federal payments.

(k) Whenever a project provides electrical power, municipal and industrial water, or other revenue-producing benefits, revenues from the sale of such benefits shall, on those projects where the non-Federal interests contribute their share at the time of construction of such project, be shared between the contributing non-Federal interests and the participating Federal agencies on the basis of that percentage contributed by each entity toward the project's construction costs and its operations and maintenance. Revenues received by the Federal Government as a result of the preceding sentence shall be deposited in the Treasury. Revenues repaid directly to the non-Federal interests under this section shall be available to such interests for any purpose.

(l) For the purpose of protecting human life and property, projects that were authorized prior to the date of enactment of this Act for the stated purpose of the elimination of hazards and failure of dams shall be subject to the cost-sharing described in such authorization.

STATE ALLOCATION

SEC. 104. (a) Beginning in the fiscal year that ends September 30, 1983, sums authorized to be appropriated pursuant to section 103 of this title shall be allocated by the Council among the States at the beginning of each fiscal year in accordance with regulations promulgated by the Council, one-half in the ratio that the population of each State bears to the population of all of the States, and one-half on the ratio that the area of each State bears to the area of all States; except that (1) no State shall receive less than one-third of 1 per centum of the sums allocated annually among all the States, and (2) the sum of $100,000,000 or 3 per centum of the funds appropriated pursuant to section 103 of this title, whichever is the lesser, shall be allocated annually to the State of Alaska.

(b) Sums allocated to a State under subsection (a) of this section shall be available for obligation on and after the date of such allocation, provided such State meets the requirements of section 103(c) of this title. Such sums shall continue to be available for obligation in such State for a period of three years after the close of the fiscal year for which such sums are authorized. Any allocated sums which have not been obligated by the end of such three-year period shall be reallocated by the Council on the basis of the ratio used in making the original allocation of sums under this section. Any sum made available to a State by reallocation under the preceding sentence shall be in addition to funds otherwise allocated to such State for grants under this title during any fiscal year.

DEAUTHORIZATION

SEC. 105. Any project authorized for construction prior to enactment of this Act, but on which no construction has begun within five years following the date of enactment of this Act shall cease to be authorized five years after the date of enactment of this Act unless such project has been placed on the priority list of the appropriate State or States, and such project can reasonably be expected to receive construction funding within the succeeding five years, or unless such project is included under the terms of section 106(b) of this title.

SPECIAL REGIONAL PROJECTS

SEC. 106.(a)(1) As a result of its review under section 109 of this title, or other information made available to the Council, the Council may direct the study of water resources projects that, in the view of the Council, have or are likely to have a national significance and priority. The Council shall direct that such studies be undertaken by the appropriate water resources agency or agencies.

(2) By concurrent resolution, Congress may direct the Council to initiate a study under the terms of paragraph (1) of this subsection.

(b) From among projects authorized prior to the enactment of this Act, the Council shall, within six months of enactment of this Act, select up to ten projects of a regional character that have national significance and priority. Upon the listing of a project under the terms of this subsection, such project shall be eligible for funding by direct appropriation of Congress without regard to the terms of section 103 of this title, or the limitations of subsection (f) of this section.

(c) Projects constructed under the authority of this section must produce national economic benefits that exceed the cost of such project, using a reasonable rate of interest as determined by the Council.

(d)(1) Projects studied under the terms of subsection (a) of this section, if subsequently authorized specifically by the Congress, and projects listed under the terms of subsection (b) of this section, shall be constructed at full Federal cost; except that once the project is available for utilization, the users or beneficiaries of such projects shall pay a fee, as the Council or law may require, that is designed to recover all or an appropriate percentage of the project's cost, with interest, during the project's anticipated life, together with its cost of operation and maintenance.

(2) The Inland Waterways Trust Fund established by the Inland Waterways Revenue Act of 1978 (P.L. 95-502) and any trust fund established to augment or replace the Inland Waterways Trust Fund shall be available to repay costs under the terms of paragraph (1) of this subsection for projects authorized for the purposes of commercial inland navigation.

(e) There is authorized to be appropriated to the Council $20,000,000 for the fiscal year ending September 30, 1983, and for each fiscal year thereafter, for feasibility studies of regional, water resources projects that have a national significance and priority. No more than fifteen such projects of national priority shall be under study and design at one time, while no more than ten such projects of national priority shall be under construction at one time.

(f) While projects under this section may be constructed wholly within one State, such projects must provide benefits significantly affecting two or more States, and receive the approval of the Governors of such States.

OPERATIONS AND MAINTENANCE

SEC. 107. For the purposes of operating and maintaining facilities of water resources agencies that are in existence at the time of enactment of this Act or are constructed under the terms of this Act, the sum of $1,000,000,000 is authorized to be appropriated for the fiscal year ending September 30, 1983, and annually thereafter to the Council for distribution to the appropriate water resources agencies.

CLARIFICATIONS

SEC. 108. Nothing in this Act shall alter the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

STUDIES

SEC. 109. (a) The Council, after public hearings and in consultation with the States, shall—

(1) make a detailed estimate of needs and costs regarding (A) the national priorities for water resources management through the year 2000, together with an estimate of the needs for cost-effective implementation of projects throughout the Nation by the year 2000, (B) the needs, over a twenty-year period, in each State for water resources projects, and (C) a study of the best ways to achieve the maximum efficient use of water supplies from existing Federal projects; and

(2) a review of present cost-sharing mechanisms for water resources projects, including any changes adopted subsequent to the enactment of this title.

(b) There is authorized to be appropriated to the Council the sum of $5,000,000 to carry out the purposes of this section.

(c) The Council shall transmit the studies authorized by this section to Congress no later than January 1, 1984.

DEFINITIONS

SEC. 110. As used in this title—

(1) the term "water resource agencies" means the United States Army Corps of Engineers, the Bureau of Reclamation in the Department of the Interior, and the Soil Conservation Service in the Department of Agriculture;

(2) the term "project" means any publicly owned water resources facility, device, system, or nonstructural management plan designed for flood protection, erosion control, reclamation (including renovation of existing works), hurricane protection, mu-

nicipal and industrial water supply (including renovation of existing works), navigation, power generation, saline water conversion, water-based recreation, dam safety, sediment control, water conveyance, or related water purposes undertaken by a water resources agency;

(3) the term "Governor" shall include any official or body under State law with responsibility for water resources in such States; and

(4) the term "Water Resources Council" means the Water Resources Council, or any agency to which the responsibilities of the Council, as defined by law as of January 1, 1981, may be subsequently transferred.

SHORT TITLE

Sec. 111. This title may be cited as the "National Water Resources Policy and Development Act of 1982".

TITLE II

CONGRESSIONAL FINDINGS

Sec. 201. (a) Congress finds that many urban water supply systems are in substantial deterioration and that previous authority has not been granted to the United States Army Corps of Engineers to carry out rehabilitation of urban industrial and municipal water systems. Because many regions of the Nation are facing serious water supply problems as a result of old and deteriorating water supply and distribution infrastructure, and in light of historic and continuing Federal involvement in meeting many other water supply needs, Congress declares that there is a national need to rehabilitate and upgrade existing urban water supply systems.

(b) Congress finds that in all regions of the country and in all circumstances in which the Federal Government is involved in providing water supply, it is advisable to promote water conservation. Congress finds that promoting the retrofitting of homes and buildings with low-flow plumbing fixtures, requiring new buildings to have low-flow devices, improving metering and rate schedules, and adopting other water conservation methods saves not only water but also saves energy and cuts down on the volume of sewage to be treated.

WATER SUPPLY REHABILITATION

Sec. 202 (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to survey, plan, and carry out rehabilitation of existing urban water supply and distribution systems subject to the provisions of title I of this Act.

(b) The Secretary of the Army, acting through the Chief of Engineers, after public hearings and consultation with the States and municipalities affected by this Act, shall—

(1) undertake a comprehensive review of methods of rehabilitating and upgrading means of urban water supply for the purpose of determining the most cost effective of such methods;

(2) study methods of maintaining and preserving adequate urban water supply systems for the purpose of determining the most cost effective of such methods; and

(3) transmit the studies required by this subsection (including any recommendations of the Secretary regarding the most cost-effective of the methods studied under paragraphs (1) and (2) of this subsection) to the Congress no later than Janaury 1, 1984.

(c) There is authorized to be appropriated $5,000,000 to conduct the studies required by this section.

WATER CONSERVATION

Sec. 203. (a) No project for which a primary purpose is municipal water supply shall be undertaken or approved for Federal financial assistance by any Federal water resource agency unless such agency determines that each community to be served by the proposed water supply project will, to the best of its ability, implement a model water conservation program or an innovative water conservation program which is equivalent to a model water conservation program, before beginning operation of the proposed water supply project.

(b) For the purposes of this section, the term "model water conservation program" consists of the following:

(1) Establishing plumbing codes which promote water conservation in new construction.

(2) Utilizing water meters which promote water conservation.

(3) Establishing water rate schedules conducive to water conservation.

(4) Providing a comprehensive leak repair service for water delivery systems.

(5) Making public information available on home and business water conservation techniques and benefits.

(6) Developing a drought contingency plan.

(7) Utilizing pressure-reducing devices in municipal water delivery systems where such devices may efficiently reduce water usage.

SHORT TITLE

Sec. 204. This title may be cited as the "Water Supply Rehabilitation and Conservation Act of 1982".●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Lantos of California (at the request of Mr. Wright), for March 15 through April 6, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Rogers) to revise and extend their remarks and include extraneous material:)

Mr. Lungren, for 60 minutes, today.

Mr. Weber of Ohio, for 15 minutes, today.

Mr. Jeffords, for 5 minutes, today.

(The following Members (at the request of Mr. Dorgan of North Dakota) to revise and extend their remarks and include extraneous material:)

Mr. Mazzoli, for 5 minutes, today.

Mr. Dorgan of North Dakota, for 5 minutes, today.

Mr. Alexander, for 15 minutes, today.

Mr. Frank, for 10 minutes, today.

Mr. William J. Coyne, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Dyson, for 15 minutes, March 18, 1982.

Mr. Anthony, for 10 minutes, March 18, 1982.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Edgar, and to include extraneous material notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,309.

(The following Members (at the request of Mr. Rogers) and to include extraneous matter:)

Mr. Dannemeyer in two instances.

Mr. Nelligan.

Mr. Gunderson.

Mr. Gradison.

Mr. Broomfield in two instances.

Mr. Williams of Ohio.

Mr. McGrath in two instances.

Mr. Walker.

Mr. Lent.

Mr. Erdahl.

Mr. Rudd.

(The following Members (at the request of Mr. Dorgan of North Dakota) and to include extraneous matter:)

Mr. Peyser.

Mr. Solarz.

Mr. de Lugo.

Mr. Guarini in two instances.

Mr. Ford of Michigan.

Mr. LaFalce in three instances.

Mr. Mavroules.

Mr. Stokes in two instances.

Mr. Fazio.

Mr. Wolpe in two instances.

Mr. Mottl.

Mr. St Germain.

Mr. Oberstar.

Mr. Hamilton.

Mr. Frank.

Mr. Bolling.

Mr. Frost.

Mr. Dicks.

Mr. Roe.

Mr. Flippo.

Mr. Shannon.

Mr. Wyden.

Mr. Barnard.

Mr. Weiss in two instances.

Mr. Phillip Burton.

Mr. Wirth.

Mr. Leland.

Mr. Long of Louisiana.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 262. An act for the relief of Dolly Akers, Fort Peck Indian Reservation, Mont.

ADJOURNMENT

Mr. EARLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, March 18, 1982 at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3433. A letter from the Assistant Secretary for Research, Development and Logistics, Department of the Air Force, transmitting notice that a study has been conducted with respect to converting the grounds maintenance function at McClellan Air Force Base, Calif., and a decision has been made that performance under contract is the most cost effective method of accomplishment, pursuant to public law; to the Committee on Armed Services.

3434. A letter from the Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness, Department of Energy, transmitting the draft environmental impact statement for conversion to coal of New England Power Co.'s Salem Harbor Station (DOE/EIS-0086-D, February 1982); to the Committee on Energy and Commerce.

3435. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting copies of political contributions for Peter H. Dailey, to be Ambassador to Ireland and James L. Malone, to be Ambassador at Large in connection with his appointment as Special Representative of the President of the United States for the Law of the Sea Conference, and Chief of Delegation, pursuant to public law; to the Committee on Foreign Affairs.

3436. A letter from the Director, Office of Legislative Affairs, Agency for International Development, transmitting a report on the Turkish economy and debt payment prospects, pursuant to public law; to the Committee on Foreign Affairs.

3437. A letter from the Comptroller General of the United States, transmitting a list of reports prepared and transmitted in February 1982, pursuant to the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

3438. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a report on modification of Lake Sherburne Dam, Milk River project, Montana, pursuant to public law; to the Committee on Interior and Insular Affairs.

3439. A letter from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting a report on competition in the coal industry, pursuant to public law; to the Committee on Interior and Insular Affairs.

3440. A letter from the Director, Office of Management and Budget, transmitting a watershed plan and environmental impact statement for the South Zumbro watershed, Minnesota, pursuant to public law; to the Committee on Public Works and Transportation.

3441. A letter from the Chairman, Interstate Commerce Commission, transmitting a report on the study of loading and unloading practices in the motor carrier of property industry, pursuant to the Motor Carrier Act of 1980; to the Committee on Public Works and Transportation.

3442. A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to extend the authority for the program of grants to States for State home facilities, and for other purposes; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of Mar. 16, 1982]

Mr. BOLAND: Permanent Select Committee on Intelligence. H.R. 4326. A bill to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy; with an amendment (Rept. No. 97-349, Pt. VII). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEREUTER:

H.R. 5860. A bill to require the President to take certain actions to obtain relief from nontariff trade barriers imposed by foreign countries against agricultural goods produced in the United States; to the Committee on Ways and Means.

By Mr. BRODHEAD (for himself and Mr. VANDER JAGT):

H.R. 5861. A bill to amend the Internal Revenue Code of 1954 with respect to the treatment of certain campaign committees; to the Committee on Ways and Means.

By Mr. DOUGHERTY (for himself, Mr. HYDE, Mr. TAUKE, and Mr. WEBER of Minnesota):

H.R. 5862. A bill to protect unborn human beings; jointly, to the Committees on Energy and Commerce, Education and Labor, Post Office and Civil Service, and the Judiciary.

By Mr. ECKART:

H.R. 5863. A bill to amend the Internal Revenue Code of 1954 to provide employers a nonrefundable tax credit for hiring unemployed auto workers and to provide unemployed auto workers a refundable tax credit for retraining expenses; to the Committee on Ways and Means.

By Mr. EVANS of Iowa:

H.R. 5864. A bill to amend the Federal Crop Insurance Act to prohibit private insurance agents and brokers from selling Federal crop insurance unless they are licensed under applicable State law; to the Committee on Agriculture.

By Mr. GRADISON:

H.R. 5865. A bill to amend the Internal Revenue Code of 1954 to treat barter exchanges as third-party recordkeepers for purposes of the special procedures applicable to third-party summonses; to the Committee on Ways and Means.

By Mr. GRAMM:

H.R. 5866. A bill to remove artificial impediments on the use of natural gas and to provide incentives for increased natural gas production; to the Committee on Energy and Commerce.

By Mr. GUARINI:

H.R. 5867. A bill to amend the Internal Revenue Code of 1954 to clarify the standards used for determining whether individuals are not employees for purposes of the employment taxes and to assist in the administration of the tax law with respect to payments for personal services; to the Committee on Ways and Means.

By Mr. HANCE (for himself, Mr. MOORE, Mr. HEFTEL, Mr. ARCHER, Mr. JACOBS, Mr. DUNCAN, and Mr. BAILEY of Pennsylvania):

H.R. 5868. A bill to direct the Secretary of the Treasury or his delegate to conduct a study of the advisability of replacing the current Federal income tax system for individuals and corporations with a system under which income tax is imposed on gross income; to the Committee on Ways and Means.

By Mr. JEFFORDS:

H.R. 5869. A bill to maintain the productive capacity of the milk production industry, to promote the orderly marketing of an adequate national supply of milk and the products of milk, and for other purposes; to the Committee on Agriculture.

By Mr. KASTENMEIER:

H.R. 5870. A bill to amend the manufacturing clause of the copyright law; to the Committee on the Judiciary.

By Mr. MATSUI:

H.R. 5871. A bill to amend the Social Security Act with respect to the timing of Federal payments to States under their AFDC, medicaid, and title XX programs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. MAZZOLI (for himself, Mr. MCCLORY, and Mr. FISH):

H.R. 5872. A bill to revise and reform the Immigration and Nationality Act, and for other purposes; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.R. 5873. A bill to designate the Helen Hayes and Morosco Theaters in the city of New York as a national historic site, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MONTGOMERY:

H.R. 5874. A bill to amend title 38, United States Code, to prevent relatives other than spouses, children, and dependent parents from inheriting any part of the estate of a mentally incompetent veteran that was accumulated from benefits provided under laws administered by the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 5875. A bill to amend title 38, United States Code, to terminate the authority of the Administrator of Veterans' Affairs to make advance payments of educational and subsistence allowances; to the Committee on Veterans' Affairs.

H.R. 5876. A bill to amend title 38, United States Code, to terminate the veteran-student services work-study program for veterans who are pursuing programs of education or training under chapter 34 of that title; to the Committee on Veterans' Affairs.

H.R. 5877. A bill to amend title 38, United States Code, to require that persons enrolled in a course of instruction under chapter 34 or 35 of that title certify or show on a monthly basis that they are currently enrolled and are making satisfactory progress in their programs of study; to the Committee on Veterans' Affairs.

By Mr. PRICE (for himself and Mr. Dickinson) (by request):

H.R. 5878. A bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes; to the Committee on Armed Services.

By Mr. RODINO (by request):

H.R. 5879. A bill to amend the Immigration and Nationality Act to extend for 3 years the authorization for appropriations for refugee assistance, to make certain improvements in the operation of the program, and for other purposes; to the Committee on the Judiciary.

By Mr. SHAMANSKY:

H.R. 5880. A bill to provide for an automobile research competition to produce a radically new automobile embodying high fuel economy, safety, and environmental standards, and for other purposes; to the Committee on Science and Technology.

By Mr. SUNIA:

H.R. 5881. A bill authorizing the government of American Samoa to issue bonds and other obligations, and providing that such bonds and obligations shall be exempt from taxation; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI:

H.R. 5882. A bill to declare a portion of the Burnham Canal, Milwaukee, Wis., to be not a navigable water of the United States; to the Committee on Energy and Commerce.

By Mr. COELHO (for himself, Mr. Dyson, Mr. Simon, Mr. Stenholm, Mr. Alexander, Mr. Evans of Iowa, and Mr. Deckard):

H.J. Res. 441. Joint resolution to express appreciation for the outstanding productivity of those farmers chosen for membership in the 1982 65 Club; to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California:

H.J. Res. 442. Joint resolution proposing an amendment to the Constitution of the United States establishing English as the official language of the United States; to the Committee on the Judiciary.

By Mr. ZABLOCKI:

H.J. Res. 443. Joint resolution with respect to nuclear arms reductions; to the Committee on Foreign Affairs.

By Mr. McGRATH (for himself, Mr. Lent, Mr. LeBoutillier, Mr. Porter, and Mr. Barnes):

H. Res. 398. Resolution to express the sense of the House of Representatives that Alexsei Murzhenko and Yuri Fiodorov should be released from prison and allowed to emigrate from the Soviet Union; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

296. By the SPEAKER: Memorial of the Legislature of the State of California, relative to hazardous waste treatment and disposal sites; to the Committee on Energy and Commerce.

297. Also, memorial of the Assembly of the State of Wisconsin, relative to mutual nuclear weapons moratorium; to the Committee on Foreign Affairs.

298. Also, memorial of the Legislature of the Territory of Guam, relative to the Pacific National Historical Park; to the Committee on Interior and Insular Affairs.

299. Also, memorial of the Legislature of the State of South Carolina, relative to the Ancient Indian Land Claims Settlement Act of 1982; to the committee on Interior and Insular Affairs.

300. Also, memorial of the Legislature of the State of Oklahoma, relative to election of U.S. district court judges; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FISH introduced a bill (H.R. 5883) for the relief of Caterina Spadaro; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 70: Mr. Minish.

H.R. 1193: Mr. Rangel.

H.R. 2832: Mr. McDade and Mr. St Germain.

H.R. 2855: Mr. Solarz.

H.R. 4309: Mr. Smith of New Jersey.

H.R. 4362: Mr. Hyde.

H.R. 4389: Mr. Simon.

H.R. 4709: Mr. Conyers, Mr. Brown of Ohio, Mr. Kindness, Mr. DeNardis, Mr. Andrews, Mr. LaFalce, Mr. Mica, Mrs. Schroeder, Mr. Simon, Mr. Stump, Mr. Wolpe, Mr. Young of Missouri, Mr. Bliley, Mr. Collins of Texas, Mr. Corcoran, Mr. Philip M. Crane, Mr. Dreier, Mr. Edwards of Oklahoma, Mr. Emery, Mr. Erdahl, Mr. Hagedorn, Mr. Hendon, Mr. McCollum, Mrs. Martin of Illinois, Mr. Miller of Ohio, Mr. Rousselot, Mr. Sensenbrenner, Mr. Skeen, Mr. Smith of Oregon, Mr. Snyder, Mr. Staton of West Virginia, and Mr. Young of Alaska.

H.R. 4957: Mr. Miller of California, Mr. Brown of California, Mr. Jeffords, Mr. Mitchell of New York, Mr. Corrada, Mr. Synar, Mr. DeNardis, and Mrs. Collins of Illinois.

H.R. 4982: Mr. Fowler.

H.R. 4990: Mr. Duncan, Mr. Bereuter, and Mr. Morrison.

H.R. 5147: Mr. Young of Missouri.

H.R. 5193: Mr. Hollenbeck, and Mr. Scheuer.

H.R. 5194: Mr. Dwyer.

H.R. 5421: Mr. Frank and Mr. Vento.

H.R. 5485: Mr. Dwyer, Mr. Fish, and Mr. Holland.

H.R. 5556: Mr. Lowry of Washington, Mr. Wyden, Mr. AuCoin, Mr. Bonker, and Mr. Swift.

H.R. 5598: Mr. Pepper.

H.R. 5674: Mr. Wilson and Mr. Murphy.

H.R. 5684: Mr. Duncan, Mr. Mitchell of Maryland, Ms. Mikulski, Mr. Mineta, Mr. Dwyer, and Mr. Pepper.

H.R. 5708: Mr. Aspin and Mr. Markey.

H.R. 5728: Mrs. Schneider, Mr. D'Amours, Mr. Fazio, Mr. Hutto, Mr. Livingston, Mr. Bailey of Pennsylvania, Mr. St Germain, Mr. Edgar, Mr. Robert W. Daniel, Jr., and Mrs. Holt.

H.R. 5821: Mr. Brown of California.

H.J. Res. 172: Mr. Winn, Mr. Fazio, Mr. Lagomarsino, Mr. Horton, Mr. Oberstar, and Mr. Fauntroy.

H.J. Res. 305: Mr. Frank.

H.J. Res. 363: Mr. Barnard, Mr. Nelligan, Mr. de la Garza, Mr. Findley, Mr. Brown of California, Mr. Frost, Mr. Fazio, Mr. Shelby, Mr. Lowery of California, Mr. Shaw, Mr. Lee, Mr. Evans of Delaware, and Mr. Hughes.

H.J. Res. 417: Mr. Stangeland, Mr. Hyde, Mr. Dreier, Mrs. Fenwick, Mr. Hammerschmidt, Mr. Forsythe, Mr. Napier, Mr. Foglietta, Mr. Oxley, Mr. Sunia, Mr. Murphy, Mr. Molinari, Mr. Roe, Mr. Fary, Mrs. Holt, Mr. Clinger, Mr. AuCoin, Mr. Mineta, Mr. DeNardis, Mr. Frenzel, Mr. Yatron, Mrs. Kennelly, Mr. Minish, Mr. de la Garza, Mr. Stokes, Mr. Hughes, Mr. Crockett, Mr. Horton, and Mr. Dwyer.

H.J. Res. 426: Mr. Moakley, Mr. Oberstar, Mr. John L. Burton, Mr. Fauntroy, Mr. Mitchell of Maryland, Mrs. Chisholm, Mr. Sabo, Mr. Clay, Mr. Gejdenson, Mr. Rahall, Mr. Weaver, Mr. Mineta, Mr. Beilenson, Mr. Lehman, Mr. Dymally, Mr. Patterson, Mr. Wolpe, Mr. Weiss, Mr. Rangel, and Mr. Stark.

H. Con. Res. 243: Mr. Daschle, Mr. Fauntroy, Mr. Coleman, Mr. Bonker, Mr. Scheuer, and Mr. Hoyer.

H. Con. Res. 273: Mr. Fauntroy.

H. Con. Res. 274: Mr. Bedell, Mr. Morrison, and Mr. Nichols.

H. Con. Res. 278: Mr. Shannon, Mr. Corrada, Mr. Roybal, Mr. Frost, Mr. Weaver, Mr. Ottinger, Mr. Emery, Mr. Coelho, Mr. Fascell, Mr. Schumer, Mr. Forsythe, Mr. Aspin, Mr. Gejdenson, Mr. Wortley, Mr. Fazio, Mr. Rahall, Mr. Addabbo, Mr. Jeffords, Mr. Rangel, Mr. Weiss, Mr. Downey, Mr. Sabo, Mrs. Heckler, Mr. Petri, Mr. DeNardis, Mr. Young of Alaska, Mr. Rodino, Mr. Dicks, Mr. Fowler, Mr. Hightower, Mr. Moakley, Mr. Horton, Mr. de la Garza, Mr. Bafalis, Mr. Lowry of Washington, Mr. Davis, Mr. Young of Florida, Mr. Dougherty, Mr. Mavroules, Mr. Pepper, Mr. John L. Burton, Mr. Conte, Mr. Lehman, Mr. Frank, Mr. Boland, Mr. Pritchard, Mr. Daschle, Mr. Chappie, Mr. Dyson, Mrs. Kennelly, Mr. Oberstar, Mr. Brodhead, Mr. Chappell, Mr. Lee, Mr. Dunn, Mr. William J. Coyne, Mr. Rosenthal, Mr. Murphy, Mr. Ralph M. Hall, Mr. Sunia, Mr. McDade, Mr. Daub, Mr. Roe, Mr. Andrews, Mrs. Schroeder, Mr. Mollohan, Mr. Traxler, Mr. Whitehurst, Mr. Jacobs, Mr. Mitchell of Maryland, Mr. Marlenee, Mr. Markey, Mr. Kildee, Mr. Kazen, Mr. Bonior of Michigan, Mr. Bevill, Mr. Clinger, Mr. Vento, Mr. Crockett, and Mr. Roth.

H. Con. Res. 289: Mr. AuCoin, Mr. Beard, Mr. Blanchard, Mr. Brodhead, Mr. Courter, Mr. Daub, Mr. Dougherty, Mr. Edwards of California, Mr. Ford of Tennessee, Mr. Forsythe, Mr. Frank, Mr. Gingrich, Mr. Goldwater, Mr. Gradison, Mr. Hagedorn, Mrs. Heckler, Mrs. Holt, Mr. Jacobs, Mr. Jeffries, Mr. Lagomarsino, Mr. Lehman, Mr. Lent, Mr. Long of Maryland, Mr. Markey, Mr. Marriott, Mr. McGrath, Mr. Moffett, Mr. Nowak, Mr. Ottinger, Mr. Oxley, Mr. Porter, Mrs. Schroeder, Mr. Schumer, Mr. Smith of New Jersey, Mr. Synar, Mr. Vander Jagt, Mr. Won Pat, Mr. Wortley, Mr. Young of Alaska, Mr. Kogovsek, Mr. Kramer, Mr. Horton, Mr. Badham, Mr. Fithian, Mr. Petri, Mr. Weber of Ohio, and Mr. Wyden.

H. Res. 252: Mr. UDALL.

H. Res. 264: Mr. GREGG.

H. Res. 297: Mr. LANTOS, Mr. MOAKLEY, Mr. RINALDO, and Mr. MCDADE.

H. Res. 348: Mr. EDGAR, Mr. OTTINGER, Mr. PEPPER, Mr. AKAKA, Mr. LEHMAN, Mr. ROSENTHAL, Mr. KILDEE, Mr. MINETA, Mr. WEISS, and Mr. DWYER.

H. Res. 376: Mr. AUCOIN, Mr. HOLLAND, Mr. ECKART, Mr. DUNCAN, Mr. LOWERY of California, Mr. BARNES, Mr. MATSUI, Mr. GEJDENSON, Mr. SCHUMER, Mr. MOAKLEY, Mrs. SCHNEIDER, Mr. MINETA, Mr. SUNIA, and Mr. DWYER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors where deleted from public bills and resolutions as follows:

H.R. 4509: Mr. EDGAR.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

374. The SPEAKER presented a petition of the Council of the city of New York, New York, N.Y., relative to the rail freight service in the Northeast corridor; which was referred to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

SOL CHAIKIN ON IMPORTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FRANK. Mr. Speaker, Sol Chaikin, president of the International Ladies' Garment Workers' Union, has done a great deal to demonstrate the negative impact of an unrestricted flow of imports into this country on many of the most economically vulnerable members of our society. As president of the International Ladies' Garment Workers' Union, Mr. Chaikin is obviously concerned with the effect of imports on his membership. He has, however, in a variety of articles, speeches, and congressional testimony, ranged beyond his concern with his own members to discuss the implications for our economy in general of national policies which ignore the need to provide a steady flow of manufacturing jobs for American workers.

Recently, Mr. Chaikin sent a very thoughtful response to the New York Times in answer to an interview in that newspaper which appeared on January 12, which was critical of the multifiber arrangement. Unfortunately, the New York Times has neither printed Mr. Chaikin's letter, or excerpts therefrom, nor given Mr. Chaikin the opportunity to respond in print in a similar interview format.

Because Mr. Chaikin's comments on this question are of such importance, not only to the many members of his union, but to our economy at large, I think the membership would benefit greatly from reading his remarks and I ask that they be printed here.

TEXTILE PACT: THE OUTLOOK

(By Sandra Salmans)

When the Multifiber Arrangement, a 50-nation treaty that lays the ground rules for international trade in apparel and textiles, was recently renegotiated, the United States and the European Economic Community won provisions to limit the growth of exports—or even permit absolute cutbacks—from the major suppliers, Hong Kong, Taiwan and South Korea.

Specific trade restrictions between countries are contained in dozens of bilateral agreements, most of which will be renegotiated this year. Here, Martin Wolf, an economist with the Trade Policy Research Center in London who has studied textile trade and quotas, discusses the impact of trade restrictions.

Q. How will the M.F.A. affect consumers in developed nations?

A. It's been calculated that quotas may raise the price of clothing by 5 percent to 10 percent. In the case of the United States, this implies a cost to consumers on the order of $2 billion to $4 billion a year. Tariffs may cost an additional $9 billion.

Q. What would happen to American textile and apparel manufacturers without an M.F.A.?

A. Ultimately, there might be a 40 percent penetration of the clothing market, up from 15 percent now. For the next 10 or 15 years, however, developing nations will lack the capacity to produce as much clothing as the United States consumes. Capacity would have to increase six- or sevenfold. Hong Kongs will not spring up all over the world overnight.

Q. But if America's apparel industry declines, what happens to its textile industry?

A. Clothing manufacturers are only a part of the business; industrial users are another. You can't blame Hong Kong for the collapse of the American car industry. There is no possibility that the industries in the United States would disappear under free trade. The American textile industry is larger than that of all the exporters together, and very competitive. In free trade, it would have a substantial opportunity to export textiles to the less-developed countries.

Q. Wouldn't jobs be lost?

A. Yes, in the short run. But the probability is that the labor force will decline, whatever we do about trade. There is lots of pressure on any labor-intensive industry to improve productivity. One study has indicated that protectionism actually accelerates reduction in the labor force. When an industry under threat is protected and thus gets better prices and profits and better ratings with banks, it will buy more cost-reducing machinery. That happened in the American footwear industry.

Q. What is your response to American manufacturers who argue that, under free trade, exporters would form a cartel and charge extortionate prices?

A. The M.F.A. is a cartel we create against ourselves. It's designed to create unfair competition among our suppliers. If we had free trade, we would potentially have supply from 50 or 60 countries. The chances of their cartelizing the apparel industry successfully are substantially lower than with almost any industry in world.

Q. Where do the Japanese figure in the trade balance?

A. They've had a much larger swing than the United States and Europe, from net exporters to net importers of clothing. Their logic is to let the garment industry go. The policy on textiles for a long time has been to cut capacity and jobs and raise productivity, and they have done well.

Q. What is the long-term impact of protectionism on developed nations?

A. It's the cost of specializing in the wrong industries. Protection is a tax paid by consumers and by other industries, by bidding resources away to the protected industries. I wouldn't argue that the protection of any one industry, even one as large as textiles, has had an appreciable impact on the development of other industries, but it's a precedent for what you do about other large, vulnerable industries. If you do it on a large enough scale, the costs will become quite sizable and could deter new dynamic industries.

INTERNATIONAL LADIES'
GARMENT WORKERS' UNION,
New York, N.Y., January 21, 1982.
The EDITOR,
New York Times,
New York, N.Y.

DEAR SIR: Your January 12 interview with Martin Wolf on the renewal of the Multifiber Arrangement on December 22, 1981 is misleading on the issues in textile and apparel trade, distorts many facts and is completely one-sided and replete with misstatements. Your interviewer, Sandra Salmans, also betrays a lack of familiarity with MFA in her brief introduction to the interview. Before commenting on Mr. Wolf's observations, I would like to say a few words about Ms. Salmans' preface. She asserts that in the MFA renewal "the United States and the European Economic Community won provisions to limit the growth of exports—or even permit absolute cutbacks—from the major suppliers, Hong Kong, Taiwan and South Korea."

Someone writing on the subject should have been aware that the mechanisms to limit import growth, designed to avoid market disruption while seeking to foster exports from developing countries, have been incorporated into MFA since it went into force in 1974. Similar provisions go back to MFA's 1961 predecessor arrangement for cotton textile products. Had Ms. Salmans looked at, among other sources, the 1980 book, "Textile Quotas Against Development Countries," co-authored by the man she was interviewing, she would have been aware of the historical background and would not have misled her readers. Furthermore, the U.S. representative at the MFA renewal talks stated publicly that this country would not seek cutbacks in trade, but only in quotas on specific products.

Now to Mr. Wolf's comments. He goes through the free trade litany, assuming that mere restatement of that philosophy is sufficient to prove his point. In response to the very first question put to him, he tells us that "it's been calculated that quotas may raise the price of clothing 5 percent to 10 percent. Calculated by whom?

On what evidence? we are never told. Interestingly, Mr. Wolf does not assert that apparel imports lead to lower prices to the consumer, but, by deft use of language, he leaves the reader with the impression that this is indeed the case. There are, of course, a number of academic studies on the impact of quotas on the price of clothing. However, these studies are based on unproven theoretical assumptions, which, in their very formulation, foretell the results produced.

An examination of the price data collected by the Bureau of Labor Statistics results in very different conclusions than those reached by Mr. Wolf. Between 1973 (the year prior to the year in which the first MFA went into effect) and November 1981, wholesale prices of all industrial commodities in the U.S. rose by 145.5 percent. In the same period, wholesale prices of apparel advanced by only 58.6 percent.

Retailers typically mark up imported apparel considerably higher than domestically produced merchandise. Among many examples of this phenomenon is a statement

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

made by Thomas M. Macioce, President and Chief Executive Officer of Allied Stores Corporation in an interview with Women's Wear Daily (April 18, 1977). Asked whether retailers are really buying markups when they purchase imports, Mr. Macioce responded, "Sure, we are indeed buying better markup, but that's our job. We would be delighted to buy only American made goods if we could make the same type of markup." This conclusion is also underlined in an article in the Wall Street Journal of September 25, 1981, which quoted J. Hart Lyon, Vice President of Carter Hawley Hale, one of the larger department stores, as saying that, despite the appreciation of the dollar, which theoretically should have led to a lowering of import prices, "I can tell you flat out that import prices aren't going to come down. . . This is a margin opportunity for both importers and retailers."

Although I could cite many additional examples, I will confine my final comments on this point to a study made by our Union and presented in testimony I gave on March 25, 1976 before the Trade Subcommittee of the House Ways and Means Committee. I produced actual products of both domestic and foreign manufacture that were identical, sold under the same label, bought at the same time and in the same stores and presented the sales slips which showed identical retail prices. If there are benefits from lower prices of imported apparel, they go to the retailer and importer, not the ultimate consumer.

Mr. Wolf goes on to deal with what would happen to the American textile and apparel industries without an MFA. He says that, "ultimately, there might be a 40 percent penetration of the (American) clothing market, up from 15 percent now." This increased penetration rate, he adds, "would occur in 10 or 15 years because until then developing nations will lack the capacity to produce as much clothing as the United States consumes". Mr. Wolf, however, never defines penetration. His purpose can only be to minimize the extent to which imports are threatening jobs and the very life of the American apparel industry.

Import penetration can be looked at in relation to domestic apparel production and with respect to the apparent domestic market. Either way, Mr. Wolf's figure is way off base.

Apparel imports are about 50 percent of domestic production; in terms of total domestic consumption, the rate is 33 percent. These figures have been computed by the Research Department of the International Ladies' Garment Workers' Union. Its methodology was reviewed by the Office of Business Economics of the U.S. Department of Commerce, which compiles national income statistics. Although this is not the arena for discussion of statistical methodology, it is of some importance to point out that, after "very careful review", the director of the OBE wrote that the "methodology was good" and there was "no way of making it better."

Ratios of imports to domestic production for specific apparel categories are published by the International Trade Administration, U.S. Department of Commerce in a report entitled "U.S. Production, Imports & Import/Production Ratios for Cotton, Wool & Man-Made Fiber Textiles & Apparel." The latest edition, dated June 1981, presents data for 1979 from which I will cite a few examples. Imports to domestic production ratios for women's and children's coats made of cotton were 169.9 percent and those of man-made fiber textiles 62.8 percent; woven cotton shirts for men and boys equalled 103.9 percent and in women's, girls' and infants' blouses 214.9 percent; cotton sweater imports were 146.5 percent of domestic production, while imports of men's and boys' sweaters made of man-made fiber amounted to 78.6 percent and those of women, girls and infants were 133.0 percent. In one category, women's, girls' and infants' wool sweaters, the figure was 260.7 percent of U.S. production. This means that more than two-and-one-half wool sweaters were imported for each domestically produced. Ratios for 1980 and 1981 are not yet available, but they can be expected to top previous levels. Although the recent growth rate in retail apparel sales in the U.S. has been about one-and-one-half percent per year, imports of women's and children's apparel rose by 12.0 percent in 1980 and by an estimated 9.0 percent in 1981.

The issue is not, as Mr. Wolf would have us believe, that "for the next 10 or 15 years" the developing countries will not have the capacity to produce all of the clothing consumed in the U.S. The issue is the continued displacement of a significant portion of the domestic apparel industry and further severe declines in employment of its workforce. Between 1973, the last year before MFA went into effect, and 1981, production worker employment in the industry decreased by more than 200,000 workers—from 1,242,600 to 1,038,100. In this period, imports of apparel, measured by the Department of Commerce in square yards of material used in their production (in order to eliminate price changes), advanced by 50.4 percent—from 2,090 million to 3,144 million square yards.

Similar data released by the National Cotton Council of America show that domestic apparel production, measured in square yards equivalent, declined from 10,244 million in 1973 to 9,755 million in 1980. While domestic apparel production dropped by nearly 500 million square yards equivalent in these years, imports rose by almost 800 million square yards equivalent. Domestic production continued to drop in 1981 as imports continued to rise, suggesting that whatever growth occurred in domestic apparel consumption was at the further expense of U.S. production. If there were no MFA or its predecessor agreements relating to cotton textile products, imports would have been even larger—to the detriment of domestic production and employment of its production workers. While none of these arrangements have stopped import growth in physical terms, they have somewhat retarded the complete destruction of the apparel industry and the jobs it offers.

Our Union estimates that a half million actual and potential job opportunities have been lost as a result of apparel imports. This loss has affected those least able to be without work. Typically, the majority of garment workers are women, many come from minority groups, many are 45 years of age or older. They are not casual workers, but work to support themselves and their families. These workers have few alternative job opportunities. Family ties limit their geographic mobility as does limited educational exposure. As the jobs available for these workers erode, there is increased pressure on public funds because of increased costs for public welfare, unemployment compensation and earlier than desired retirement, coupled with lower income taxes from workers and employers.

Mr. Wolf is then asked what will happen to the textile industry in the United States if the apparel industry declines. He responds with ease that clothing manufacturers represent only a part of the textile business, that industrial users are another part. He is apparently unaware that these two sectors are distinct and not interchangeable and require different equipment and know-how. The domestic textile industry is largely a supplier of yarn and fabrics for apparel products. Any cutback in apparel operations would result in an absolute decline in the textile sector as a whole. If there were sufficient domestic and foreign demand, the textile industry might invest in expansion of industrial lines and develop the necessary know-how.

While the textile industry is competitive, it has fared better with respect to imports when the value of the dollar has been low and has been severely affected when the dollar has risen in value. In 1981, for example, the industry lost some of its markets as a result of the relatively strong dollar throughout the year. The U.S. textile industry also had an important competitive trade edge in man-made fibers until 1981, when decontrol of oil, the feedstock for the product, caused important declines in exports.

In blithely assuming that the textile industry would be able to "export textiles to the less advantaged countries", Mr. Wolf neglects the reality that these countries have many restraints on textile imports—totally aside from MFA. He believes in the "free trade" premise that the textile industry can, without restriction, export to developing countries. But that's not the real world as can be seen in a study published periodically by the U.S. Department of Commerce, Foreign Regulations Affecting U.S. Textile/Apparel Exports."

Mr. Wolf concedes that jobs will be lost "in the short run" if import regulation is abandoned, "whatever we do about trade." Based on "one study", Mr. Wolf goes on to generalize that, "When an industry under threat is protected and thus gets better prices and profits and better ratings with the banks, it will buy more cost-reducing machinery." This may be true of some industries, but Mr. Wolf adduces no proof that it is the case with apparel. He fails to examine the technology of the apparel industry and its labor-intensive characteristic. He is oblivious to the available data, published by Dun and Bradstreet, Robert Morris Associates and the U.S. Treasury, none of which reveal any profit improvement in the apparel industry. Nor is there any foundation for his allegation that the industry would get "better ratings from the banks."

Mr. Wolf is anything but specific on what he means by "cost-reducing machinery", particularly in the apparel industry. As anyone who has examined this industry is aware, competition in it is fostered by its relatively simple technology and the small amount of money needed to start a business. Most of the machines used in the industry may best be described as mechanized tools. The sewing machine is the basic tool and auxiliary equipment and increased subdivision of labor simplify operations further.

The simple technology needed, modest capital requirements, ease of entry and the existence of many thousands of firms producing for a large market make the apparel industry one of the most competitive in the U.S. This competitive environment, in turn, results in a discipline that keeps apparel prices closely in line with costs and, thus, limits profits. Unwarranted price increases are also precluded, as is evident from the wholesale prices charged for apparel compared with the wholesale price of all manufactured goods.

The MFA, Mr. Wolf then tells us, is a cartel directed "against ourselves" and "designed to create unfair competition among our suppliers." This statement ignores the fact that many new entrants, including small nations, have joined the exporting nations. MFA is not just a club of developed countries. The representatives of the smaller nations worked actively for its renewal.

Mr. Wolf then says that, if we had free trade, "we would potentially have supply from 50 or 60 countries". He is clearly not familiar with the fact that 146 countries and territories ship textiles and apparel into the U.S. He also appears to be unaware that many smaller suppliers are not affected by MFA until they significantly increase their exports. MFA makes it possible for the smaller exporting nations to compete with the giant apparel exporters—Taiwan, South Korea and Hong Kong—which account for almost two-thirds of all apparel exports to the U.S. Mr. Wolf's free trade would permit the three principal apparel exporters, which may now properly be called newly industrialized countries, to swamp the remaining 143 apparel exporters. He also seems unaware that some of the recent arrivals on the apparel export scene are countries with planned economies—most notably the Peoples' Republic of China. The production and export apparatus of such countries are in effect national cartels. The very concept of "free trade" is utterly meaningless to them.

If permitted to export to the U.S. without limit, the three principal exporters would, for all practical purposes, eliminate their competition, while preventing our own industry from providing badly needed jobs. The ILGWU has always supported the efforts of workers in developing countries to raise their living standards and employment opportunities. We continue to do so. We see in the renewed MFA a real basis for economic assistance to developing countries without creating market disruption or the threat of such disruption. It offers the promise not only of limiting the rate of decline of the domestic apparel industry and in jobs for U.S. workers, but of also providing for genuine assistance to the developing countries.

Mr. Wolf contends that Japan is seeking "to let the garment industry go" as they have in textiles. Yet, it is significant that at last year's discussion on MFA renewal, Japan took an outspoken stand in favor of its extension, along the lines recommended by the U.S.

In his response to your interviewer's final question, Mr. Wolf expresses concern about a nation "specializing in the wrong industry." He does not tell us what the "right" industries are, but admits that he would not argue that protection of any particular industry, "even one as large as textiles", would appreciably affect development of other industries. However, he fears the precedent that would be set. Done on a "large-enough scale", protection of "other large, vulnerable industries", Mr. Wolf says, would entail sizable costs and "could deter new, dynamic industries." However, it is apparent that as a result of insufficient investment in plant and equipment, many of our key industries are in danger of becoming, if they are not already, Mr. Wolf's wrong industries.

I wonder whether Mr. Wolf would accept as part of the logic of his thinking a de-industrialized U.S., a nation that would concentrate not on manufacturing, but on service and service-related industries, characterized by lower income levels, which would mean lower living standards. Is that the logic of his "free trade" view—a concept that has never existed in reality and is, at best, a theoretical construct? With industry after industry and hundred of thousands, if not millions, of jobs lost or threatened, is Mr. Wolf truly content with theorizing in a vacuum of his own creation?

Economic theory certainly has its place, even the discredited, never-practiced theory of free trade. But it is not a substitute for truly meeting the needs of all people, including those in the U.S. It is simple to theorize without regard to the real problems of real people. It is quite another thing to tell us how to deal with practical problems in a constructive manner.

Very truly yours,

Sol C. Chaikin,
President.●

TAX EXEMPTIONS AND THE IRS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. DANNEMEYER. Mr. Speaker, on January 8, when the Treasury Department announced that, without further guidance from Congress, the IRS would no longer revoke or deny tax-exempt status for religious, charitable, educational, or scientific organizations on the grounds that they do not conform with certain public policies, there was such an outcry from the media and affected interest groups that many of the details leading up to that decision were lost in the confusion. I would like to share with my colleagues an article from the January/February issue of Regulation magazine, which I think admirably fills in the information gaps:

Private Schools, Tax Exemption, and the IRS

In the cloud of dust produced by the heavy feet of executive and legislative officials running for cover, some of the facts in the controversy over tax exemptions for private schools have been obscured. Regardless of its outcome, it is an interesting case study in the development of law through the interplay among Congress, the executive, and the courts. And if you think the problems will be settled by Congress's mere failure to enact any new legislation and the Internal Revenue Service's return to its prior interpretation of the law—then you probably have dust in your eyes.

The story begins in 1969, when a group of lawyers filed a class action suit in the United States District Court for the District of Columbia on behalf of black parents and students from Mississippi to enjoin the Internal Revenue Service from granting tax exemptions to private schools in that state suspected of racial discrimination. That suit, *Green* v. *Connally*, was initially contested by the IRS—not least of all because established law denied the plaintiffs' standing. In 1970, however, the service changed its position and took the plaintiffs' side on the general point at issue. It announced that henceforth it would require schools to certify that they did not discriminate on racial grounds; beyond that, it promised no specific procedures for enforcing its new policy. The plaintiffs, however, were not content with such generalities and pressed for a more sweeping remedy. A three-judge district court in the District of Columbia agreed with them. It enjoyed the service from granting exemptions to the Mississippi schools unless they not only certified that their operations were not discriminatory, but also conducted publicity and recruitment campaigns aimed at black students and reported to the IRS on the results. The IRS acquiesced in these strictures in Mississippi but continued to follow a self-certification policy elsewhere in the nation.

The district court in Green based its decision not on the Constitution or federal civil rights laws, but on the Internal Revenue Code. Section 501(c)(3) of the code provides exemptions for organizations "operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes." No one denied that the Mississippi schools were "educational," but the court took the novel position that they had to be "charitable" as well. After that leap, it was only a few skips to the proposition (drawing on the common law of charitable trusts) that no organization violating public policy could be considered charitable, to the proposition that racial discrimination violates public policy, and to the conclusion that private educational institutions that discriminate by race cannot claim the benefit of section 501(c)(3).

Although the IRS was perfectly happy with its new powers, the district court's decision did not go unchallenged. A group of white intervenors appealed to the Supreme Court, which affirmed it in 1971. Since, however, the affirmance was not accompanied by an opinion, the basis for the Court's action was unclear. The effect of the affirmance was further diminished by the Court's gratuitous observation in a later case that since the IRS had "reversed its position while the case was on appeal . . . the Court's affirmance in Green lacks the precedential weight of a case involving a truly adversary controversy." Since then, the D.C. circuit has affirmed the holding of Green (without opinion), as has the Fourth Circuit in the two cases now on appeal before the Supreme Court.

The issue of the meaning of section 501(c)(3) is further confused by later congressional action. In 1976, for example, Congress enacted a provision denying tax exemptions to social clubs that discriminate by race. On the face of things, this would suggest a congressional belief that racial discrimination will not destroy an otherwise available exemption unless the law is amended to that effect. The legislative history, however, indicates that Congress assumed the Green decision to be law with respect to private schools. Or perhaps it indicates only that Congress accepted the permissibility, though not the inevitability, of the IRS's applying the statute in that fashion. Or that Congress accepted the fact, but not the correctness, of the Green decisions. Leaving such doubts aside for the moment, on with the story:

In 1975 the IRS took the next step. It moved to replace its process of self-certification with a nationwide system of required affirmative action and reporting similar to that imposed in Mississippi. These rules were put into effect without incident. Three years later, the service decided, under legal pressure from civil rights groups, that it needed to shift the burden of proof to the schools themselves. It proposed to supplement its 1975 procedures with a special set of rules for "reviewable schools," which it defined as schools "formed or substantially expanded about the time of desegregation of public schools" and having "an insignificant number of minority students." That definition would include almost all private schools in the South, both religious and secular; the schools set up by refugees from forced busing in the North; and many miscellaneous schools with the misfortune to be founded or expanded at the "wrong" time. If a "reviewable" school did not meet a specified quota of minority students, it would be required to prove its innocence by clear and convincing evidence of extensive minority recruitment and scholarship programs.

With its 1978 proposals, the IRS for the first time encountered significant opposition. The expense of mandated scholarship programs would have bankrupted many of the new schools, especially those run by poorer fundamentalist congregations. Parents condemned what they perceived as interference with their First Amendment rights, and objected to the presumption of guilt attached to their schools. The IRS received 150,000 letters on the proposal, the most in history on any subject.

Congress received a few letters as well. The next year, it curbed the authority of the IRS in the area by attaching two different amendments to the Treasury appropriation bill: one barring the use of funds to implement the 1978 proposals, and a second barring the use of funds "to formulate or carry out any rules, policy, procedure, guideline, regulation, standard, or measure" leading to the loss of tax exemption "unless in effect prior to August 22, 1978." Together, the two amendments seemed to lay the 1978 proposal to rest.

The District of Columbia courts, however, were still open. Two suits were at hand. One was the familiar *Green* v. *Connally* case. This time the plaintiffs had reopened it in order to ask the court to impose the 1978 rules in Mississippi. In the other case, entitled *Wright* v. *Miller*, the plaintiffs were asking the court to impose the 1978 rules everywhere else in the country. It was in fact during the settlement negotiations in these two suits—from which the IRS, incidentally, excluded the representatives of private schools—that the IRS agreed to adopt the 1978 rules. When Congress intervened and the settlement became impossible, the suits naturally proceeded.

The IRS once again proved a cooperative defendant on the issue of substantive law (though it continued to challenge the plaintiffs' standing). Its Green brief argued:

". . . the restrictions in the Appropriations Act place the Service in a serious dilemma. On the one hand, the Service has now concluded that its current procedures and guidelines are inadequate to implement fully the Service's obligation to deny tax exemption to discriminatory private schools. On the other hand, the Service is prevented from implementing new rules in this area because of the Congressional action. Thus, defendants believe that the Congressional action conflicts with Code Section 501(c)(3) as interpreted by the Green court and other courts."

It is unclear why later congressional action cannot conflict with earlier congressional action. One would suppose that is what distinguishes preexisting statutes from preexisting constitutions. Nonetheless, the service asked the court to resolve its "dilemma" by "declaring the riders unconstitutional" or by at least interpreting the riders to bar only the implementation of new rules by administrative fiat, and not the execution of new court orders to the same effect.

Ultimately the District of Columbia Circuit Court of Appeals agreed with the second argument. On June 18, 1981, a panel of that court held by a 2-1 vote that "the riders . . . do not purport to control judicial dispositions," and remanded the case to the district court so that it could decide whether to impose the 1978 rules. (The case is now on appeal.)

Congress could see a nationwide court order coming, and acted immediately to head it off. On July 30 the House, by a vote of 337-83, added a new rider to the old ones, forbidding the enforcement of court orders entered after August 22, 1978. The new rider was approved by the Senate Appropriations Committee, and was made part of the continuing resolution passed at the end of the session. Thus, in a constitutional impasse perhaps unique in American history, the legislative branch has barred the executive branch from carrying out the orders of the judicial branch.

So the regulation of private schools had proceeded through three stages: the 1970 settlement in which the IRS first asserted its power; the 1975 rules in which it imposed affirmative action and reporting requirements on private schools; and the 1978 initiative in which it established racial quota requirements—which, if not met, would shift the burden of proof and impose even greater affirmative action obligations. While the third stage was being thrashed out between the courts and Congress, the first two stages were under challenge too. Bob Jones University and Goldsboro Christian Schools had sued to save their tax exemptions, and had lost in the Fourth Circuit on the basis of Green. These cases were decided under the 1975 procedures, and thus did not raise the issue of the 1978 rules and the resulting congressional riders. (On the other hand, they raise some additional issues—such as whether First Amendment religious liberties prevent denial of the exemption and what constitutes "prohibited" discrimination—that will not be pursued here. The issue of First Amendment religious liberty was important enough to provoke amicus briefs on behalf of Bob Jones before the Supreme Court from the National Council of Churches and the National Jewish Commission on Law and Public Affairs.)

In the appeal of those cases to the Supreme Court, the government once again changed its position to agree with the plaintiffs—but this time all hell broke loose. And that is where the reader came in.

There is plenty of room for valid criticism of the administration's handling of this matter—perhaps on policy grounds (if total elimination of the ban on tax exemptions for "segregation academies" was really its original intent); and then perhaps on technical grounds (if the IRS's originally announced intention of reversing the regulations was meant to apply even to Mississippi, where there was still an outstanding court order in Green); and surely on the grounds that legislation to plug the discrimination loophole left by the abandonment of Green should have been part of the original package. But what has been lost in the dust is the fact that the administration's determination to get rid of Green is eminently sound, and should have the support of a Congress that purports to be an implacable foe of excessive agency and judicial power.

It seems clear that Congress would vote against tax-exempt status for private schools that discriminate on the basis of race. It also seems clear that the Green court, and the IRS, were engaging in an audacious bit of activism when they said Congress had already done so. It was, moreover, a seminal sort of activism, since it opened the tax-exemption section of the Internal Revenue Code to continuing policy making by the IRS and the courts. For if, in order to qualify for the "educational" exemption, an institution must also be "charitable" (and thus comply with all important public policies), then presumably the same condition attaches to all the other exemptions as well, notably the "religious" exemption. And if the public policy against racial discrimination is thus imported into the Internal Revenue Code, then so, presumably, are other public policies that can be identified by the service or the courts. Since, for example, there is a clear public policy against discrimination on the basis of sex, it follows very nicely that private boys' schools or girls' schools cannot be tax-exempt—or even, for that matter, religions that refuse to ordain women.

It is doubtful that the present IRS, or even the present D.C. circuit, is about to adopt such a position. But the point is that a statute which permits them to adopt such a position places entirely too much power in their hands. So also does a statute which permits them to convert a ban on racial discrimination into a requirement for quotas or minority scholarships.

The administration is correct that the neat way to solve the former difficulty is to amend the statute to make clear that it does deny tax-exempt status to institutions that discriminate by race, but does not confer a public-policy hunting license upon the IRS and the courts. Events have shown, however, that it is not a politically feasible approach. It would take a long time to explain the Green case on the evening news; but it takes only a moment to note that the administration is asserting the current availability of tax exemptions for schools that discriminate.

The only way out is the way we came in—through the courts. The Supreme Court's 1974 disclaimer of having adopted the Green theory suggests an awareness of the problem. Our prediction is that the Court will preserve the ban on racial discrimination by tax-exempt institutions through reliance on congressional acceptance of that IRS policy displayed in post-Green legislative enactments; but will consign Green itself to the one (one would hope) bygone era of runaway judical activism to which it properly belongs. The administration could accommodate itself to that approach—and make the road easier for the Court—by interpreting what now seems to be the almost certain congressional refusal to pass its proposed statute as an affirmation of that legal state of affairs, and by adjusting its legal position accordingly.

Thus the future harm that might be wrought by past judicial activism will be avoided. It should be noted, however, that past effects will not be undone. By reason of this interplay among the administrative, judicial, and legislative process, Congress will have "voted" to deny the tax exemptions without ever having to face down a filibuster on the issue.

The remaining problem of what the IRS is permitted to demand—or may be required by the courts to demand—as proof of nondiscrimination is perhaps more difficult. Its solution will require the continued involvement of our reluctant legislators when the IRS is unduly demanding (as it was in 1978) or, for that matter, unduly lenient. But the courts, we predict, will take themselves out of the action, by returning to the traditional doctrine of standing, which denies citizen A the right to sue to increase citizen B's taxes. Which is to say that the function of the courts is not to make sure that the laws are faithfully executed, but only to come to the aid of particular individuals whom the law or its execution has harmed. We may be wrong in this prediction—but if so, the constitutional confrontation presented by the 1981 rider to the Treasury appropriations is merely the first of many.●

THE PERLOV FAMILY

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. MAVROULES. Mr. Speaker, it is the sad duty of those of us in Congress to point out to the world, from time to time, the abuse of fundamental human rights in the Soviet Union.

I rise today to bring to your attention, and to that my colleagues, another chapter in this long tale of persecution.

Leonid Perlov is an engineer. His wife, Evgeny, is a music teacher, and their son, Vladimir, a high school student. In August 1979, the Perlov family applied for exit visas to leave their home in Moscow, and make a new life for themselves in Israel, the home of their ancestors.

Their application was rejected, Mr. Speaker, and, as a result, they have been subject to abuse and discrimination at the hands of Soviet authorities.

Despite his professional training, Leonid has been forced to work as a collector of bus tickets. Evgeny has not been able to find any work at all.

As is so often the case, the alleged reason for the rejection of the Perlovs' application was Leonid's access to classified materials in his engineering job. The truth is, Mr. Speaker, that Leonid Perlov had no access to such materials. Moreover, the rejection of the initial visa application took nearly 2 years to be processed. Even by Soviet standards, this was more than enough time to concoct a false justification for this action.

Of course, the Perlovs had little choice but to accept this decision, at least for the time being. But in August of last year, they applied once again for an exit visa. This time, the rejection came swiftly, and for the same reason. In September, the Perlovs' application was once again denied for security reasons.

Two factors underline the callous brutality of the Soviet authorities in this case. One is that Leonid Perlov's sister, Galina Mirmelshteyn, was allowed to emigrate in August of 1979, along with her husband and daughter. Eventually, the Mirmelshteyns made their way to my own district; they currently reside in Swampscott, Mass.

Leonid Perlov has no close relatives left, other than the members of his own immediate family, and his sister. Ironically, his father was killed in World War II, in defense of a regime that would ultimately persecute his only son.

The final, crucial, factor that makes this case so heart-rending, Mr. Speaker, is that the Perlovs' son, Vladimir, is subject to the draft upon his graduation from high school in June of this year. If he is drafted into the Soviet Army, he must serve a minimum of 2 years. He would then carry a security status for another 5 years, thus preventing his emigration for at least 7 years, and perhaps much longer.

Obviously, his parents will not leave the country without him. So, in a very real sense, this may well be the last chance for the Perlov family.

It is possible for the Perlovs to apply once again for exist visas this month. One can only hope that, in the name of simple decency, the Soviet Union will permit this small family to escape their persecution, and live in peace.

Some of us might ask, Mr. Speaker, why we must concern ourselves with the plight of the Perlov family. It is important to remember that, if not for our good fortune, we, too, might have found ourselves confronted with a government that can tear families apart, and ruin lives, without a moment's remorse.

On behalf of the congressional call to conscience vigil, I urge my colleagues to join me in asking the Soviet Union to abide by the Helsinki accords, by permitting the free emigration of the Perlov family, and all those in similar situations.●

WOZNICKI HONORED WITH POLISH HERITAGE AWARD

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. MOTTL. Mr. Speaker, rarely does a person combine a successful business life with a happy family life and active civic participation as does Ted Woznicki, a Greater Cleveland constituent of mine. Ted has been selected as the "Good Joe of 1982," by the Cleveland Society of Poles.

This is the highest honor bestowed by the society to a member for fostering the cultural heritage of Poland and promoting the principles of American citizenship. He is a past president of the society.

The honoree, Ted Woznicki, was born and raised on the south side of Cleveland. After graduating from St. John Cantius Elementary School and the original Lincoln High, he enlisted in the U.S. Army. After serving 3 years in the European theatre, he later graduated from Miami University with a B.S. degree in business administration.

He operated the Ted Woznicki Insurance Agency in the Hanna Building for 22 years, and was one of the first tenants to move into the Investment Plaza Building (now the Ohio Savings Plaza) in July 1969. Mr. Woznicki continued to operate his agency until 1971, at which time he merged with the Graber-Stewart Agency.

This year marks his 33d year in the insurance business. He has received numerous insurance production awards, including the Travelers' "Man of the Year" Award.

He has involved himself in many charitable and educational activities serving as past president of the board of trustees of Marymount Rehabilitation Services; board of trustees of Urban Community School; board of trustees of Sigma Nu Fraternity of Miami University; alumni area coordinator for Miami University; board of trustees of Federation of Catholic Community Action; advisory board of Trinity High School; member of Insurance Board of Greater Cleveland; Ohio Insurance Agents Association; National Association of Insurance Agents; Kosciuszko Foundation; and other community groups.

Mr. Woznicki and his wife, Polly, reside on Laurel Lane in Brecksville, Ohio, and are the parents of Barbara (Mrs. Michael Radis) and sons Ted, Paul, and David.●

PRESIDENT REAGAN'S BUDGET WOULD IMPOSE CRIPPLING CUTS FOR ELDERLY NEW YORKERS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WEISS. Mr. Speaker, President Reagan's budget for fiscal 1983 lacks passion; it imposes the greatest hardships on the most disadvantaged sectors of society and benefits the affluent. I am especially concerned about its effects on older Americans, specifically the low-income aged.

The elderly have suffered greatly in recent years. Nearly 600,000 people 65 or older were added to the poverty rolls from 1978 to 1980, the largest poverty increase for the elderly ever over a 2-year period. Experts are projecting additional increases for 1981.

Clearly, President Reagan has turned his back on older Americans. This is especially evident in my home State of New York where the impact of the recommended cuts would be devastating. Older New Yorkers stand to lose more than $28 million in fiscal 1983 based on President Reagan's proposed funding levels for the Older Americans Act.

The New York State Office for the Aging has prepared a detailed analysis of the impact of the administration's proposed cuts on nearly 2.2 million elderly New Yorkers.

I insert this analysis into the Congressional Record and urge my colleagues to carefully study the implication of the President's latest budget proposal:

THE 1983 FEDERAL BUDGET ANALYSIS

OLDER AMERICANS ACT

The Reagan Administration's proposed 1983 budget would result in the loss of more than $300 million nationally in home-delivered meals and senior center meals, social services and the elimination of the Senior Community Services Employment Program.

Included in the $28.3 million loss to New Yorkers in 1983 would be more than 2 million meals—1.3 million meals at senior centers and 718,000 home-delivered meals. The home-delivered meals go to the most frail and vulnerable among New York's more than three million persons over the age of 60.

The "zeroing-out" of the senior employment program would end the jobs of 4,028 low-income New Yorkers. (Nationwide, more than 52,000 poor, older persons would lose employment.) The loss of these jobs has a compounding effect in that many of the workers under this program had performed valuable duties for older persons as drivers, cooks and homemakers.

The overall change in funding levels for the Older Americans Act for the period from Fiscal Year 1981 through 1983 would represent a loss of 45 percent or $31.8 million in New York.

LOW INCOME ENERGY ASSISTANCE

The proposed 1983 budget would remove $450 million nationally from the Low Income Energy Assistance program. This program provides relief to low-income persons—in New York, the program, known as HEAP (Home Energy Assistance Program) is expected to provide $48.6 million in benefits in 1982 to 324,000 elderly households. The average benefit level was $150.

The Reagan budget proposal would bring a cutback of 25.6 percent, with a minimum loss of $12.5 million to the elderly in New York.

Older persons are particularly susceptible to hypothermia and other conditions caused by inadequate heating. Further, many of the homes occupied by New York's older population are inadequately protected against the elements and often must rely on inefficient heating systems.

Further, the Reagan Administration's proposal to count Energy Assistance funds as income for purposes of determining eligibility for food stamps will compound the problem some elderly already face—whether to "heat or eat."

WEATHERIZATION

The Reagan Administration proposes to end funding for home weatherization programs, resulting in a loss of benefits to 5,200 elderly households in New York—a loss of $5.2 million in funds.

The 1982 allocation for this program in New York had been $15 million of which $5.2 million went to older households.

These cuts are coupled with reductions in the Home Energy Assistance Program, and will have especially harsh effects on older people.

Further, there is the fact that this represents the elimination of a demonstrably effective energy conservation program, at a time when the national emphasis is on finding ways to save energy.

FOOD STAMPS

The President proposes to cut the Food Stamp program by $1.8 billion in 1983—17 percent—from a level of $11.3 billion to $9.5 billion. New York State's share of food stamp benefits would be reduced by $150 million from $1 billion to $850 million in 1983.

This would result in an average reduction of $95 for each elderly household in New York, representing a $17 million loss for elderly New Yorkers. (The present average benefit to the 178,500 elderly households in the State receiving food stamps is $570 per year. The income levels for eligible households of two persons may not exceed $7,146. For a single individual, the level of income cannot exceed $4,917.)

In addition to reductions in funding, the Administration is also proposing to tighten the eligibility standards for the program by such devices as counting energy assistance payments as income.

SOCIAL SERVICES BLOCK GRANT

If there is one place to look to see the illusion of the "safety net" it is in this area.

The Reagan Administration's Social Services Block Grant in 1983 would be reduced by 21 percent—$500 million—to a level of $1.9 billion nationally.

This represents a total cut of $1 billion under President Reagan. The block grant system already suffered a reduction of $500 million in 1982, presenting a situation where some programs were forced to be eliminated despite their quality or value.

In 1981, an estimated 337,400 older New Yorkers received services costing $39.6 million under the grant. Assuming the reduction in the block grant is applied across the board, the reduction to older persons in the state would total $8.3 million, with 70,800 elderly recipients at risk. Critical home care for 1,300 elderly in New York would be eliminated. Funding of senior centers could be severely curtailed, resulting in the closing of some centers or reduced services.

The overall change in funding levels for the block grant from fiscal year 1981 through 1983 in New York would show a reduction of 40 percent, down from $244 million in 1981 to $146 million in 1983.

SUPPLEMENTAL SECURITY INCOME

Proposals by the Reagan Administration will affect all 204,000 elderly recipients of Supplemental Security Income in New York. (131,000 SSI recipients qualify on basis of age 65+; 37,000 are age 65+ and are disabled, and 36,000 are ages 60-64.)

The Administration proposes to tighten disability eligibility criteria by doubling to two years the period for which a doctor must diagnose a recipient to be disabled. An estimated 13,800 disabled elderly, aged 60 to 64, could be eliminated from the rolls in New York, for a total loss to recipients of $36.8 million.

Other proposals would round off payments to the lower dollar, removing an additional $1.2 million from New York's older low-income recipients; in addition a change in regulations would reduce benefits by $20 per month for an estimated 15,300 new elderly participants in the system.

FEDERAL HOUSING PROGRAMS FOR THE ELDERLY

Section 8

President Reagan is proposing to rescind the 1982 program to reduce contract authority by $335 million nationally, a 37 percent cut and an expected loss of 53,500 units of housing. The effect in New York will be a loss of 2,125 units in 1982.

Eligibility for Section 8 housing is based on a figure equal to 80 percent of the median income in a metropolitan area.

For 1983, the President calls for elimination of all new construction or substantial rehabilitation, with the exception of 10,000 units of housing nationally for the elderly and handicapped.

In addition, a new voucher system for subsidized rent payments for the elderly would sharply reduce benefits, would not take into account inflation over time and would require HUD Section 8 tenants to pay a higher proportion of their income for rent—an increase from 25 percent to 30 percent of income.

Section 202

Section 202 loans are provided at below market interest rates for construction, rehabilitation or alteration of housing for the low-income elderly or handicapped. While Congress provided $799 million in 1982, the Administration is seeking to rescind $346 million nationally. The loss to the nonprofit sponsors of housing for the elderly in New York would be $16.2 million.

MEDICAID

The Reagan Administration's proposals for 1983, coupled with the effects of inflation, could reduce New York's Medicaid funding from the federal government by $350 million. New York's 430,000 elderly recipients of Medicaid would lose $140 million in funding.

The budget calls for Medicaid allocations to states to total $18.8 billion in 1983. Assuming that New York State continues to draw its expected portion (15.8 percent) of the national allocation, the state would receive $2.6 billion in 1983, a reduction of $200 million from 1982 and $100 million from 1981 levels.

Factoring in inflation, the net loss to the state since 1981 would be $650 million.

Of the $2.6 billion which would come to New York in 1983 under the President's plan, approximately 40 percent would go to the low-income elderly.

Two other proposals in Reagan's budget would have direct fiscal impact on the state's older population and their families. The first proposal would require cost-sharing by Medicaid recipients for physicians, clinics, hospital outpatient services and hospital days—these changes would cost older New Yorkers an estimated $21.3 million in 1983. The second proposal would allow states to mandate contributions by families toward the cost of institutional services provided to Medicaid recipients—this proposal could cost families with institutionalized elderly $33 million in 1983.

MEDICARE

Currently more than 2.1 million individuals in New York are covered under the Medicare program, which typically covers no more than 38 percent of an individual's health care cost. Cumulative cutbacks in the program would cost beneficiaries in New

York $222.6 million in 1983, with $196 million of that loss borne by the elderly.

The budget includes a number of initiatives aimed at modifying the methods under which physicians and hospitals are reimbursed under the Medicare program. The elderly already face a great difficulty in finding health care providers willing to accept payment schedules and strictures of the present Medicare system, and the new proposals will make it even more difficult.

The elderly will be forced to pay more for out-of-pocket expenses for health care, as well. As examples: The Part B deductible (non-hospital expenses) which about 70 percent of participants in New York pay each year, would be linked to the Consumer Price Index. The deductible portion of this coverage was increased on January 1 of 1982 to $75 per year, up from $60 per year. Plans now call for an increase of 5 percent in 1983 and again in 1984. The budget message also proposed that the elderly pay a 5 percent co-payment on all home health services provided under Medicare. This would be expected to cost New York's elderly an additional $3.5 million in 1983.

Governor Hugh Carey, in his State of the Health Message on February 9 said the Reagan budget proposals on Medicare could bankrupt many of the state's hospitals because of its proposal to reduce by 2 percent reimbursable Medicare charges.

In New York State, 40 percent of total hospital days in New York State are used for individuals over the age of 65 and are reimbursed by Medicare—a total of 10.3 million days in 1980. Thus, the proposed 2-percent cut could mean more than 206,000 days of hospital care would not be covered in the state.●

A MEMORIAL TO DAVID LEVINE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. STOKES. Mr. Speaker, I thank my distinguished colleague, the gentleman from Illinois, Mr. DAN ROSTENKOWSKI, for taking this special order so that Members of this body can memorialize David Levine, a former Democratic cloakroom page.

As many of my colleagues know, David Levine died on March 5, 1982, at the age of 18 after losing a courageous battle to cancer. He had served as a page in the House of Representatives from September 1980 to June 1981.

Mr. Speaker, like so many of the young people who journey to Capitol Hill from their homes to serve as a page, David was filled with enthusiasm for his job and for the opportunity to learn firsthand about his Government. David Levine came to Capitol Hill with an extraordinary sense of purpose and dedication to his assignment. This earned him the esteem and admiration of both his peers and many persons who came to know him.

Mr. Speaker, I understand that David was an exemplary student in the Capitol Page School and was very competitive. Conscientious, innovative, and highly motivated are some of the words people have used to describe his academic performance.

David displayed these same admirable qualities in his position as a Democratic cloakroom page. In that respect, he was an asset to the cloakroom and to all of the Democratic Members who utilized the cloakroom for information and assistance.

With those thoughts in mind, Mr. Speaker, I must say that we have lost a very youthful, energetic warrior with the passing of David Levine. His vitality and drive were refreshing. David's dedication and quest for knowledge were encouraging. He was one of this country's brightest hopes for the future.

At this time, I extend my condolences to the Levine family. I say to them and to my colleagues that if each one of us can capture, even momentarily, the enthusiasm for this Nation that David possessed, we will never lose site of his spirit. That will be a fitting tribute to this courageous young man—the late David Levine.●

THE VIRGIN ISLANDS AND IRELAND SHARE MORE THAN THE GULF STREAM

HON. RON de LUGO

OF VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. DE LUGO. Mr. Speaker, on a day when everyone trys to be at least a little bit Irish, I would like to establish my own credentials as a son of Eire. During the 12th century, there was a large influx of Normans from France that settled in Ireland. The merging of these two great cultures benefited both people and their heirs live there today. Family names such as, de Coursey, de Bourca, and maybe somewhere, de Lugo, are a part of Irish history and tradition. Somewhere along the line, perhaps one of my ancestors moved to an equally beautiful, but much warmer island in the Caribbean. I am not certain of the circumstances of such a move, but what is it about island people that makes them so lovable?

As my colleagues ponder this question, let me extend an invitation to you all to come to St. Croix for the most extraordinary of all St. Patrick's Day celebrations. On that day, the streets are filled with revelers dancing to traditional Irish tunes played on metal drums to a Cruzan beat. Parades in New York, Boston, Chicago, and other American cities where large Irish-American communities live, pale in comparison to our festivities.

In closing, Mr. Speaker, let me share with the Members of this body a poem in the spirit of this great day.

WEST OF IRELAND

(By Patricia Cullen)

This landscape is unimaginable without
the lean, calm face of a woman,
walking its fields and seasons.

The past is furrowed upon her face
like fields under plough
and long thin crevices of rocks under rain.

She is landscape and seascape,
whittled and honed slowly,
by time and season,
until soul rises
from water, stone, flesh
of her soil.

Beauty is not
this cosmetized cover-girl of the magazine
I read in the train going West;
It is in nothing new.
Its growth is slower than trees.●

JOYCE MARIE DAPPER

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. ST GERMAIN. Mr. Speaker, on April 24, 1982, the citizens of Cumberland, R.I., will gather to dedicate the auditorium at Cumberland High School, naming it in honor of Joyce M. Dapper, a distinguished alumna of the school, who suffered a tragic death in July 1981. I would like to acquaint my colleagues with the accomplishments of this distinguished young Rhode Islander.

Joyce Marie Dapper was a graduate of the high school to which she was assigned on her becoming a dance instructor for the town of Cumberland. From 1971 to her tragic death in July 1981, Miss Dapper worked at the Cumberland High School-Transitional School Complex as a teacher of dance.

Miss Dapper, a graduate of the Teachers College of Columbia University with a master of arts degree and Anna Maria College with a bachelor of arts degree, was the guiding force in the development of Project Talent for the students of Cumberland. Project Talent is a unique program for talented and gifted students in dance and the arts. Project Talent incorporates instruction from various artists who are "in residence" during the course of the school year. As the director of one of the leading examples of programs for the gifted and talented, Miss Dapper represented her program at a conference held at Duke University in 1981 where she received the honor of being requested to perform and give workshops on her special program at St. Thomas in the Virgin Islands. Miss Dapper also represented Cumberland's pioneer program at a conference held in Washington, D.C., in 1980 where she was personally congratulated for her work in arts in education programing by the Secretary of Education. Due largely to Miss Dapper's work in the arts, Cumberland received a citation from the Rhode Island Department of Education for its work for the artists-in-residence programs.

Joyce M. Dapper was a member of the National Education Association of Rhode Island, and the Cumberland Teachers' Association. Her professional affiliations also included the American Dance Guild, the Dance Therapy Association, and the Boston Dance Teachers' Association. She was a member of the board of directors of Project Dance in Rhode Island, a member of the Rhode Island Department of Education's panel for dance and theater teacher certification, and a member of the education panel for the 1980 Rochambeau Celebration. She was also a representative to the National Endowments for the Arts on its planning for the artists-in-residence schools, dance component. In Cumberland, Miss Dapper acted as the director of Project Talent and a member of the identification and selection committee for Project Claire, a program for the gifted and talented students in grades K to 3.

Joyce M. Dapper was not only a teacher in the Cumberland School System but also at the Ruth Dapper School of Dance in Pawtucket, R.I. She had danced with the American Festival Ballet Co. in Providence, R.I. Miss Dapper, as a dancer and choreographer, was trained by dance professionals in New York, Providence, New London, Canada, and Cannes, France. This was the background that she shared with the students of Cumberland. It is in gratitude, therefore, for the energy, exuberance, and talent of Miss Dapper that the auditorium at Cumberland High School is now named in her honor—the Joyce M. Dapper Auditorium.●

CONCERN FOR EVGENY LEIN

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WYDEN. Mr. Speaker, as a participant in the 1982 Congressional Call to Conscience Vigil, I would like to share with you my deepest concern for Evgeny Lein.

Mr. Lein, a Soviet Jew, has been unfairly detained in the U.S.S.R. since August 1981. He is one of countless Soviet Jews persecuted for his faith and his quest for the most fundamental of freedoms.

Mr. Lein has committed no crime. He is being punished simply for attempting to keep alive the Jewish culture and heritage. Mr. Lein's perseverence in the face of unrelenting persecution teaches us all a lesson about strength and courage.

Following is a chronology of the harassment Mr. Lein has suffered under the Soviet authorities. I urge you to join with me in support of efforts to have Evgeny Lein released from detention.

HISTORY OF HARASSMENT AND ARREST

April 1978—The family applied for permission to emigrate. August—Permission refused on grounds of "secrecy".

Constant 1979—harassment and systematic refusals to their applications to be allowed to emigrate.

August 1980—Yevgeny's daughter, Sasha, was assaulted in the street. The police did everything possible to avoid having to charge the attackers.

The parents had by now become well-known as being among the activists of the refuseniks in studying Hebrew and Jewish culture and history.

May 10, 1981—Some of the leading Refuseniks planned to celebrate Israel Independence Day at the home of the Lein family. The celebration was planned for 6 p.m.

At 5 p.m. a six-man police picket was posted outside the building preventing all entrance and exit. At 6 p.m. a police officer came to Yevgeny Lein in his home and demanded that the meeting be cancelled, giving the excuse that neighbours had complained about drunkenness and debauchery. The presence of the large number of police attracted a large gathering of neighbours who hurled anti-semitic epithets at those who came to attend the celebration, and at the Lein family personally.

May 14—Seventy Jews met for their usual history seminar at the home of another refusenik, Grigory Vasserman. The police broke up the gathering and demanded to see the internal passports of all those present. As the police did not identify themselves, being in plain clothes. Yevgeny Lein refused to show his documents. He and several others were arrested. All were later released, except two who were given 15 days detention, and Lein was accused of "offering resistance to the authorities". (The subject of the seminar was "The relevance of the Sabbath").

August 5—After a trial lasting two days, Yevgeny was found guilty of assaulting a policeman and given "two years deprivation of freedom . . . the punishment imposed to be considered suspended and he is directed to work in places determined by the authorities."

October 18—News that Yevgeny is being transported to a distant region near the Caspian Sea.●

THE RECORD CARRIER COMPETITION ACT OF 1981

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WIRTH. Mr. Speaker, at the close of the 1st session of the 97th Congress, the House agreed to the Senate amendments to S. 271, clearing the measure for the President's signature. This bill, the Record Carrier Competition Act of 1981, repealed a 38-year-old provision of the Communications Act of 1934, which artificially divided the record communications market.

The House's consideration of the measure was relatively brief, and during the confusion of the closing days of the session, a portion of the floor debate was inadvertently omitted from the RECORD. I had originally intended to have this oversight corrected for the permanent RECORD. However, in light of the fact that the Federal Communications Commission is currently implementing the statute, and that certain parts of its proposed implementation violate very clearly articulated congressional intent, I insert the colloquy in full at this point in the RECORD. I hope that the Commission will take note of the debate on this issue, and revise its proposals to conform with the will of the Congress when it passed S. 271.

Mr. WIRTH. Mr. Speaker, last Tuesday, December 8, the House passed H.R. 4927, the Record Carrier Competition Act of 1981, by unanimous voice vote. We then discharged the Committee on Energy and Commerce from further consideration of S. 271, a similar Senate bill; struck all after the enacting clause and inserted the text of H.R. 4927, and returned the bill to the Senate for its consideration.

Since that time, the majority and minority staffs of both the Subcommittee on Telecommunications, Consumer Protection and Finance and the Committee on Energy and Commerce have been working with their counterparts from the other body to propose compromise language that Members of both Houses could support.

The Senate has recently agreed to the House bill with an amendment. The Senate's amendment is a fair compromise between the House bill and that previously passed by the Senate. In particular, the Senate has agreed to the transitional mechanism established by the House bill. However, since interconnection requirements are already in the Communications Act of 1934, and have simply been restated in the House-passed bill, the Senate proposes to sunset these provisions after 3 years.

It seems to me that this proposal makes a good deal of sense. None of the provisions which would be sunsetted grant any new authority to the Commission—the provisions of the House bill are explanations to the Commission of how the Congress would like to see the Commission implement its current obligations.

This guidance extends to the mandatory interconnection provisions. It extends to the "return flow" provisions, which will enable new carriers to enter the marketplace.

Finally, it extends to the concept of division of revenues derived from the provision of joint and through service.

While the transitional mechanisms of the House bill will be sunsetted after 3 years, the Commission's powers; obligations and authorities will not be.

In addition, there are a few other changes proposed by the Senate amendments.

First, the cross-subsidy provisions have been revised, in order to enable a customer or terminal equipment manufacturer to go directly to court or the Commission in order to halt cross subsidies from regulated services.

In addition, the current 214 process has been suspended for the provision of domestic record service, removing one of the regulatory barriers currently imposed by the Communications Act of 1934.

Mr. Collins. Will the gentleman yield?

Mr. Wirth. I yield to the gentleman from Texas, the distinguished ranking minority member on the subcommittee.

Mr. Collins. If I understand the gentleman's remarks correctly, the provisions of the House bill which are being "sunsetted" will not affect section 201 of the existing act, which requires interconnections between and among carriers, and the division of revenues for the provision of joint and through service?

Mr. Wirth. The gentleman is correct. All of the powers of the Commission remain—those in section 201 as well as those contained in other sections of the act.

Mr. Collins. If the gentleman will yield further, one of the changes made by the Senate amendments is to exempt carriers who do not have a substantial market share from the requirement that they treat their domestic and international operations as different carriers for the purposes of interconnection. Which carriers will be required to treat their domestic and international operations separately under this provision?

Mr. Wirth. If the gentleman will yield, I think it's clear that the major international record carriers will be affected. In particular, Western Union International, ITT, RCA and TRT will be affected. In addition, of course, if Western Union ever offers international service, it too will be subjected to this requirement. Finally, any new carriers which obtain a substantial market share will also be affected.

I would point out to the gentleman that although we've been talking about a lot of sunset provisions, I would emphasize that this particular provision remains in effect until it is repealed by the Congress.

Mr. Collins: I thank the gentleman for his explanation.

Mr. Speaker, this was a good bill when it passed this House last week. It is even better now.

The Senate amendments leave intact the fundamental objective of the bill—to clear away market divisions that have been incorporated into the law so that competition can develop in all aspects of the record carrier industry. Moreover, the Senate amendments improve the bill by further reducing Government regulation of this industry. Under the Senate amendments, companies desiring to offer domestic record services will not normally be forced to get the FCC's permission before initiating such service. This will reduce Government redtape. Moreover, under the Senate amendments, many of the other transition regulations that were in the House bill—such as FCC-prescribed usage charges for interconnected carriers and the so-called international return-flow provision-will be terminated in 3 years.

Three years from now our hope and our belief is that we will have true competition for the first time in both the domestic and the international record industries. When that happens, there will be no need for Government regulation. The Senate amendments recognize this and take action to assure that Government regulation is reduced as competition develops.

Mr. Speaker, I endorse S. 271 as amended by the Senate. I urge my colleagues to pass the bill and send it to the President so that customers of record services in this country can begin to enjoy the fruits of competition early next year.

Mr. Wirth. Mr. Speaker, the reason that the Congress must address this issue is the fact that, despite the explicit obligations to interconnect that are contained in the Communications Act of 1934, full and fair interconnection among record carriers have not been implemented. The carriers involved have not lived up to their obligations, and, more importantly, the FCC has not forced them to. Had the Commission done its job, and mandated that record carriers interconnect, the Congress would not have had to address this issue—and if there were a need for Congress to address this issue, it most certainly would not be in this level of detail.

Thus, when the specific interconnection provisions of S. 271 cease to have effect in 3 years, I would advise the Commission to implement its standing interconnection obligations as specified in the act. In particular, I would point out the concern of this House about the inability of new carriers to obtain operating agreements with foreign carriers. The House bill—and the Senate amendments thereto—address this problem in a unique fashion. If this problem persists, and new entrants remain unable to obtain these operating agreements, it is certainly our intent that the return-flow provisions which expire be extended as necessary. As the House said in its committee report on H.R. 4927, it is extremely concerned about the problem posed by foreign carriers' refusal to interconnect. The standing powers that the Commission has are certainly sufficient to extend the return-flow provision cited in subsection (c)(1)(A)(ii), which will help to mitigate this vexing problem.

If the Congress has to revisit the issue of return flows or interconnection in 3 years because of the inability of the FCC to carry out its obligations under the Communications Act of 1934, then the Commission itself may be unnecessary. I trust that this will not be the case.

Mr. Speaker, there is one additional provision which the Senate has attached to S. 271, which has nothing at all to do with record communications. This provision effects the bankrupt Rock Island Railroad, which is being dissolved pursuant to bankruptcy court order.

This amendment is intended to clarify what the congressional intent was in enacting section 122(a) of the Rock Island Transition and Employee Assistance Act. The House and Senate committees with jurisdiction understand the critical emergency facing shippers and communities in Texas, Oklahoma, and Kansas as a result of the Bankruptcy Court's recent interpretation of section 122(a). Because of this emergency situation, the House committee has agreed to accept this amendment, despite the lack of any hearings or committee action. However, the House committee feels strongly that it must have the opportunity to review this problem, and other problems related to the Rock Island Railroad, through normal committee procedures, next year. For that reasons, the clarification intended by the amendment is effective, with respect to the OKT Railroad, the subject of ICC Service Order 1498, only until May 15, 1982.

Mr. Speaker, this amendment has been cleared with the Subcommittee on Transportation and Commerce; it has been cleared with the full Committee on Energy and Commerce. Both the majority and minority have agreed to this language. It is of a limited nature; it has been agreed to unanimously, and, most importantly, it is needed prior to the adjournment of the Congress this year.

Mr. Speaker, I regret that this insertion was necessary. However, in the FCC's initial Notice of Proposed Rule Making, and in several of the parties' "Comments" thereon, there are several statements which fail to take into account the intention of the Congress when it enacted S. 271 as amended.

First, the statute requires the "equitable allocation of revenues" for the provision of joint and through service. The Commission's NPRM proposes that one carrier interconnecting with another carrier pay the same amount for part of the services as the public pays for the entire service. It was the clear intent of Congress that some appropriate discount should be given to connecting carriers, because recognition of the cost savings associated with providing connecting service, and of the particular rate structure of the dominant domestic record carrier is necessary to implement the procompetitive mandate given the Commission as part of the legislation.

Second, the floor debate on the bill expresses quite clearly those carriers which are to be subjected to the requirement separating domestic and international services. FTCC, a very small record carrier, is not one of those mentioned by the Congress. However the Commission's NPRM ignores this congressional guidance, and would apply this provision to FTCC. Incidentally, a similar conversation was held during the Senate's consideration of the legislation, and exempted FTCC from this requirement by the Senate as well.

Finally, one of the central provisions of the bill would permit a new carrier to share a bearer circuit of another carrier, and offer international service on its own. In fact, bearer circuits were specifically referenced in House Report 97-356. Such a provision was, of course, necessary, because new carriers are precluded from this market by foreign PTT's, which refuse to sign operating agreements and insist on maintaining the status quo.

I recognize that the section which that legislative history described was amended by the Senate. However, the elimination of the additional protection afforded by section (2)(e) in no way eliminated the right to shared bearer circuits which was recognized in the House bill.

The Commission's refusal to implement this section not only frustrates the will of the Congress in passing this provision, but also makes a mockery of the expressed will of the Congress to open up this market to new entrants. As long as entry is controlled by foreign PTT's, this Congress can do little to increase the level of competition in the international record market.

Mr. Speaker, I regret the need to bring the Commission's actions to the attention of the House. It is my hope that further reminders will be unnecessary, and that the Commission will implement Public Law 97-130 and its procompetitive policies forthwith.●

ENGINEERING AND SCIENCE MANPOWER BILL ENDORSED

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FLIPPO. Mr. Speaker, one of the most significant issues facing the Nation and its future economic health is the dearth of qualified American students entering graduate studies in engineering.

Though not an issue which has received widespread public attention, it is one well recognized by our business community, particularly those in high technology fields.

As chairman of the Subcommittee on Space Science and Applications, I am particuarly concerned that unless we act in a timely fashion to reverse this situation our technological leadership will slip to other industrial nations such as Japan, West Germany, France, and the Soviet Union.

The Committee on Science and Technology has been deeply involved in an attempt to remedy this situation and has approved H.R. 5254, the Science and Engineering Manpower Act, sponsored by our chairman, Don Fuqua, and Congressman Doug Walgren, chairman of the Subcommittee on Science, Research and Technology.

U.S. News & World Report in its March 15 edition devoted a full page editorial to a definition of the problem and an endorsement of H.R. 5254, which I submit for the Record:

A Scary Shortage

(By Marvin Stone)

It's not the liveliest issue around, but it's a serious one nevertheless: We should be taking more notice of the near-disastrous shortage of engineers in the country.

Some members of Congress have already noticed. So has former Vice President Walter Mondale. In a recent conversation with this magazine's staff, he zeroed in on "the deterioration of what we have assumed to be centers of superb excellence in research and development and education. . . .

"I have talked to four or five of our leading high-technology firms," he reported. "There's one thing you hear wherever you go: 'Not enough engineers. We're stealing each other's engineers. . . .' There is a very severe crisis there." Present trends, he declares, "cripple the long-term future of our nation."

The decline includes not only a shortage of engineers, but a shortage of teachers of engineering and a shortage of talent, on average, in those teachers presently teaching.

In the 1960s, engineering was steadily expanding. But late in that decade a bust in the West Coast aerospace industry so glutted the job market that, according to Henry Petroski, a graduate professor at Duke University, "engineering soon became about as popular on college campuses as Vietnam."

When demand for engineers surged upward again, enrollment ballooned. Unready undergraduate programs could accept, in some cases, only 1 of every 6 or 7 applicants. Good candidates for graduate classes were few; high salaries lured away the best of the B.S.'s.

Not only that, but many of the most able teachers followed the golden trail into industry. In bare numbers, some 2,000 teaching vacancies recently remained unfilled.

Why is the engineer shortage so important? Because, in a high-technology society racked by fierce international competition, engineers' performances can decide the survival or withering of an industry—prosperity and paychecks or unemployment and hunger.

As it happens, the role of this gilt-edged profession can be traced through the story of the memory chip. A sliver of silicon the size of a baby's thumbprint, a single memory chip can store up to 64,000 bits of information for use of the computer in which it is installed. Once the statement might have been made that the memory chip carried the flag of U.S. industrial leadership. But somehow the Japanese gained the reputation, temporarily at least, of making a better product. The Japanese share of sales crept up from 20 percent to 40 percent and now 60 percent.

L. J. Sevin, founder of an important semiconductor company, expounds one reason: "The American lead in memory was so thinly based." In 1978, he says, two big U.S. producers had between them no more than "a dozen top engineers designing products. That was our American lead. Japan's got engineers to burn."

Engineering lag is related to a long-recognized falloff in U.S. research while Japan, West Germany and France scored gains based on increased effort in the field. Despite such defeats, the administration has felt compelled to withdraw much of federal support for science and engineering education. The idea is that industry should pick up the tab. But, so far as engineer training is concerned, the prize contribution has been 15 million dollars from Exxon. Welcome though it may be, educators refer to that contribution as a drop in the bucket.

Against such a background, Representatives Don Fuqua (D-Fla.) and Doug Walgren (D-Pa.) have introduced a remedial bill. It would set up a council to work out a consistent policy toward engineering, technical and scientific manpower, and at the same time offer federal funds to match private, state or municipal money put into training programs.

When everything is being cut to the bone, it is hard to urge restoration of a specific funding program. But letting the future die is a scary way to salvage the present.●

FAIRNESS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. LaFALCE. Mr. Speaker, concerns have been expressed that the new budget presented by the Reagan administration and last year's tax cut do not treat all of our people fairly.

I share these concerns and was pleased to read in the New York Times earlier this week that I am joined by several leading Republicans. The issue is whether the administration has violated the principle of equity in the cuts it is calling for in its budget and in the cuts included in its tax package.

The Times article quoted Senator Robert Dole, chairman of the Finance Committee, as saying:

> The perception (of unfairness) is fairly widespread, and I think to some degree it's accurate.

Senator Pete Domenici, chairman of the Budget Committee, said the President's new budget "fails to respond to the perception that it is inequitable." And Senator Mark Hatfield, chairman of the Appropriations Committee, said he saw the administration's policies as "cutting from the truly needy and giving to the truly greedy."

These are the comments of eminent, concerned Republicans. I hope that all Members read the following article that appeared in the March 15, 1982, issue of the Times. It raises issues all of us need to examine as we act on the new budget and tax matters.

Following is the article:

[From the New York Times, Mar. 15, 1982]

Fairness Is Issue in Budget Debate—Belief That Reagan's Policies Favor Rich Over Poor May Affect Plan's Chances

(By Robert Pear)

Washington, March 14—The equity and fairness of President Reagan's economic and social program have emerged as a political issue affecting prospects for Congressional approval of his budget proposals.

Questions of equity, rarely raised amid the confusion and excitement of budget-cutting activity last year, have moved to the forefront of the debate here in the last few weeks.

Democrats, as might be expected, cite new studies indicating that Mr. Reagan's budget and tax cuts have been inequitable. But now several influential Republicans, including Senators Bob Dole, Pete V. Domenici and Mark O. Hatfield, have expressed concern about what they see as a public perception that Reagan policies take from the poor and give to the rich.

"The perception is fairly widespread, and I think to some degree it's accurate," said Mr. Dole, the chairman of the Senate Finance Committee. "It's a real concern for Republicans and the President." While generally supporting the President's policies, the Kansan has made it clear that he would resist some of the proposed reductions in food stamp benefits.

BUDGET CHAIRMAN SEES PROBLEM

In a recent speech to the Conference Board, a business organization, Mr. Domenici, the chairman of the Senate Budget Committee, said that Mr. Reagan's budget for the fiscal year 1983 "fails to respond to the perception that it is inequitable." The New Mexican said that Congress "must redress that perception."

Mr. Hatfield, the chairman of the Senate Appropriations Committee, said in a recent conference at Harvard University, that his constituents in Oregon recognized the "irresponsibility of cutting human services so that more nuclear weapons can be built." Without criticizing Mr. Reagan by name, he said he perceived the nation's current policy as "cutting from the truly needy and giving to the truly greedy."

Senator Charles E. Grassley, a freshman Republican from Iowa, said that in more than 40 town meetings with his constituents this year he was surprised to find a widespread "perception of unfairness" in the Reagan budget. To deal with that perception, he said in an interview Friday, he wants to freeze 1983 spending at current levels.

In response to its critics, the Administration has, in turn, emphasized several arguments.

Mr. Reagan said at a news conference last month that his budget for the next fiscal year, which begins Oct. 1, contained $382 billion for human and social services, an increase of 4.5 percent over the current year. Other Administration officials said the President's success in fighting inflation had reduced the "cruelest tax" on poor people and increased their purchasing power above what it would otherwise have been.

TRICKLE-DOWN EFFECT

Further, they said, although the greatest, most immediate benefits of the tax cut would go to people in upper-income brackets, it should provide incentives for the savings and investment needed to finance a general expansion of the economy. That, in turn, according to Reagan officials, will produce jobs and other benefits for lower-income groups.

Welfare programs themselves perpetuate inequity, according to Administration officials, because they result in "unequal treatment of people in similar circumstances." Welfare families, the officials say, are often better off than similar families that forgo welfare to take jobs.

Finally, some Administration officals contend that it is fundamentally unfair for the Government to redistribute income to poor people because "income belongs to those who earn it," in the words of Robert B. Carleson, a White House policy analyst.

Despite such conditions, debates over the fairness and equity of the Reagan program have held up Mr. Reagan's 1983 budget in several key committees of Congress. The idea of an across-the-board cut in Federal benefit programs has gained momentum precisely because it appears to be equitable.

WILLINGNESS TO ACCEPT CUTS

Spokesmen for several groups of veterans and elderly citizens said this week that they might be willing to accept reductions in anticipated benefits if the cuts were distributed fairly, as part of a broad effort to curb spending.

In recent weeks, some comedians and newspaper cartoonists have exploited the so-called Reagan Hood theme, which depicts the President as robbing the poor to give to the rich. Privately, several advisers said they recognized the "unfairness issue" as one on which Mr. Reagan was vulnerable.

To counter criticism of his programs, the advisers emphasize his personal qualities, which, they say, include compassion. William I. Greener 3d, a spokesman for the Republican National Committee, said public opinion polls conducted for the party showed that a majority of respondents still believed the President's economic program was fair.

The question of equity has also been raised pointedly in several Congressional hearings and independent analyses, including a study by the Congressional Budget Office. The study found that families with the highest incomes * * * lies lost the most from the package of budget and tax cuts enacted last year.

Democrats on the Joint Economic Committee, in their annual report issued this month, asserted that the Reagan Administration has "turned its back on the principles of fairness and opportunity for all."●

THE ACTION: SUSPENSION OF GRAIN AND OTHER AGRICULTURAL PRODUCT EXPORTS TO THE SOVIET UNION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FINDLEY. Mr. Speaker, last week I placed before the Members a summary of a report entitled "Effects of the 1980 and 1981 Limitations on Grain Exports to the U.S.S.R. on Business Activity, Jobs, Government Costs, and Farmers."

This report was prepared for the National Corn Growers Association and contains information that is vital to all individuals involved in policy formulation.

Today, I would like to give my colleagues an opportunity to review the first chapter of this report, a review of the suspension of grain and other farm product exports to the Soviet Union.

The facts are simple enough. On January 4, 1980 President Carter ordered an indefinite suspension of shipments of agricultural products and some other goods to the USSR. The principal direct effect was to prevent the shipment of 13 million metric tons (mmt) of U.S. corn, 4 mmt of U.S. wheat, and 1.3 mmt of U.S. soybeans and soybean meal that had been sold to the USSR for delivery before October 1, 1980. All but the soybeans were sold under terms of the fifth year of the U.S.—USSR grain agreement. (Poultry and a few other agricultural commodities affected by the action are not considered here).

Grain shipments to the USSR up to the 8 mmt that had been guaranteed by the U.S. under the Agreement entered into in 1975 were allowed to continue, both in the 1980-81 and the 1981-82 season. This accounts for the term "suspension" which was used in official government descriptions of the action, as distinguished from "embargo" which was commonly used outside the government. When the 8 mmt of grain that the U.S. had agreed to ship between October 1, 1979 and September 30, 1980 had been sent, the suspension became an embargo until October 1, 1981 when another 8 mmt was authorized to be sold and exported to the USSR under the Agreement. Shipments of soybeans, broilers and some other agricultural products not under a trade agreement were embargoed from January 4, 1980 through April 1981 when the action was ended by President Reagan.

While the purpose of this report is to describe and estimate the effects of the loss of grain shipments, principally corn, to the USSR in 1980, it also touches on soybeans. Soybeans are produced on the same farms as corn and in some cases wheat. They move through the same marketing system using the same transport and storage equipment. Therefore, conclusions drawn for grains apply directly to soybeans even though not all our estimates include soybeans.

The 1980 action affected the volume of US-USSR trade and overall commercial relations directly in all of 1980 and until April, 1981. The indirect effects continue to the present and will continue for an indefinite period. Their effects need to be taken into account and are treated here.

In describing the action and its effects, it is necessary to recognize economic linkages that go well beyond U.S. borders. When 13 mmt of U.S. corn, 4 mmt of U.S. wheat, and 1.3 mmt of soybeans and products could not be shipped to the USSR between January and October 1980, the Soviets turned to Canada, Australia, and Argentina for grain. Argentina which did not join with the U.S. in limiting grain shipments to the USSR, shipped additional quantities and was then unable to deliver the usual quantities to its regular markets. U.S. sales to some of those markets increased somewhat as a result. However, as discussed below, other exporting countries also responded to the larger market in the USSR, resulting from the U.S. embargo, by increasing total exports and later by increasing production.

While U.S. grain exports did not decline by the full amount of the direct 17 mmt decline in wheat and corn exports to the USSR in the 1979-80 season, this magnitude of decline is probably not a bad estimate of the loss in U.S. exports in the two years following the January 4, 1980 embargo. For example, during the (current) sixth year of the U.S.-USSR Grain Agreement beginning October 1, 1981 the U.S. has offered the Soviets 23 mmt of grain, but it appears that they will take only about 11 mmt from the U.S. The USSR purchased 16 mmt from other sources in 1979-80, 26.5 mmt in 1980-81, and will probably buy about 29 mmt from non-U.S. sources in 1981-82.●

A TECHNICAL VIEW OF REAGANOMICS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WEISS. Mr. Speaker, one need not be an economist to recognize that the latest administration budget lacks passion by seeking to fund the affluent at the expense of the poor. One need not be a budget expert to see that President Reagan's proposals demonstrate a radical boost in funding for an overblown defense sector. However, as legislators, it befits us to examine carefully the facts and figures that support the human realities of irresponsible budgeting.

There are some who have attempted to demonstrate, in precise numerical terms, the faults of Reaganomics. I would like to call to the attention of my colleagues one such explanation. In the February 21, 1982, edition of the New York Times, economist William H. Nordhaus described the relationship of the Reagan plan to "fiscal thrust," a measure of economic expansion. He notes that increased fiscal thrust has never coincided successfully with decreased tax revenues. Mr. Nordhaus also affirms that President Reagan's indiscriminate slashing of support for the disadvantaged is counter to sensible and realistic economic theory.

I insert into the Congressional Record Mr. Nordhaus' prognosis and invite my colleagues to examine it carefully:

The Budget: Let Them Eat Jelly Beans

(By William H. Nordhaus)

A Presidential budget deserves the closest scrutiny. Budgets are the central tool by which Presidents can translate their philosophies, their visions for the country, into reality. By examining both the broad sweep and minutiae of budgetary proposals, we can trace Presidential wishes and fantasies.

In President Reagan's budget, general confusion about solving the nation's economic ills is combined with a view of social problems reminiscent of Marie Antoinette.

That budget, like all budgets, presents a program on two different levels. The budgetary totals, together with taxes and monetary policies, form the macro-economic policies of the Administration. This set of policies determines the path of output, inflation, interest rates and unemployment over the coming two or three years.

The second aspect of the budget, the details of the individual programs, constitutes the Administration's micro-economic policies, or policies for individual sectors or groups within our country.

The President's macro-economic policy was presented in February 1981 and has been reaffirmed in the current budget proposals. It represents a combination of a dramatic reduction in taxes—cutting the ratio of taxes to G.N.P. by almost two percentage points between 1981 and 1984—with outlay cuts to follow sometime in the future. This "supply-side package" is a gamble that the increased deficits will inflame neither the economy nor the polity.

The economic impact of the budget can be measured by its "fiscal thrust." Fiscal thrust shows the change in the ratio of the high-employment deficit—the deficit after correcting for the influence of booms and recession—to high employment G.N.P. A fiscal thrust of 1 percent, for example, means that the high employment deficit is increasing by 1 percent of G.N.P., which constitutes a highly expansionary movement.

As the accompanying table shows, the official estimate suggests that the President's program is mildly expansionary, with a fiscal thrust of one-tenth of 1 percent per year over the 1981 to '83 period.

THE NEW PRIORITIES—THE FEDERAL BUDGET FROM 1973 TO 1983

[In percent]

	Annual real growth rate	
	1973–81	1981–83 [1]
Total expenditures	4.8	−0.5
Past and future wars (includes defense, interest, and veterans' payments)	3.5	8.0
Income support:		
For the poor (chiefly food stamps, welfare, and unemployment insurance)	9.3	−9.3
For the middle class (social security, retirement programs, and agriculture programs)	6.0	2.3
Public goods:		
National (includes science and new energy technologies)	4.2	−17.4
Regional (includes roads, waterways, and grants to State and local governments	2.5	−18.1
Real GNP growth	2.3	1.1
Fiscal thrust	.1	[2].1 [3].7

[1] Figures for 1983 are proposals under the Reagan budget; 1981 and 1973 are actual. All figures are deflated by the GNP deflator.

[2] Administration.

[3] Nordhaus.

However, these numbers are more fantasy than forecast. They include several unlikely elements, such as a withholding tax on interest and dividends. A more realistic estimate—such as what would occur if only minor changes in current law took place—would be that the fiscal thrust would be seven-tenths of 1 percent per year over the fiscal years 1981 to 1983.

How expansionary is this realistic assessment in historic perspective? The prospective fiscal thrust over the next two years will be about half as great as it was at the height of the Vietnam buildup from 1965 to 1967. The tragic irony is that in 1982, as in 1966, the President refused to listen to his economic advisers' counsel that he raises taxes to offset an expansionary budget. That this parallel goes unheeded recalls Heinrich Heine's observation: "We learn from history that we do not learn from history."

The accompanying table presents as well a grouping of budgetary items according to broad national purposes. This table shows the average annual growth in real expenditures in the eight years before the Reagan years as compared to the Administration's proposals out to 1983.

Beginning with broad budget categories, we see that the overall Reagan budget indeed attempts to reverse quite buoyant budgets of earlier periods. Whereas real outlays have grown at almost 5 percent annually over the 1973 to 1981 period, under the current Administration's proposals the real outlays of the Federal Government would actually decline.

Turning to individual items, the major increase, of course, is the acceleration in defense outlays, which are scheduled to increase 8 percent annually over the 1981 to 1983 period.

Income-support programs can be usefully broken into two groups: those that benefit the middle class—chiefly Social Security and Medicare—and those that benefit chiefly poor groups, such as food stamps, Medicaid and welfare.

It is clear that the President's strategists have not had the courage to attack middle-class entitlement programs, although they propose slower growth in these programs from earlier years. But the income-support programs for the poor—a group whose political power cannot match that of the middle class—are being decimated each year. The Reagan budget proposed a cut in real benefits in these programs, which had expanded rapidly over the last eight years, of almost 10 percent annually.

The other broad category of Federal programs represents support of "public goods." In paying for public goods, the Government provides services like science, public health or roads, that free markets are unlikely to provide in sufficient amounts.

One set of public goods is "national" in scope: outlays in science, the judiciary, or the strategic petroleum reserve. These functions grew relatively rapidly—at a rate of more than 4 percent annually in real terms—in the period 1973 to 1981. The Reagan program has attempted to reverse in two years the growth that had occurred in eight years.

A second set of programs is "regional" in scope, although there may be sufficient national spillover to merit Federal outlays. This category includes roads, waterways and financial assistance to states and localities. As can be seen from the table, the growth of regional public goods has been quite modest over the perid 1973 to 1981, growing at about the same rate as the overall economy. Under the Reagan budget, the regional public goods will also experience extremely sharp cuts at almost 20 percent per year in real terms over the 1981-83 period.

Over all, then, the Reagan budget shows three forces at work. The first is the attempt to create a powerful military establishment—an undertaking that appears to have the simple goal of matching Soviet military spending. Such a policy does not by itself pose grave economic dangers, however dubious the strategic theories on which it is based. The second force is a stalemate over middle-class income support programs between the politically powerful groups and an obvious desire of the Administration to cut these programs.

The third force is the indiscriminate cutting of everything from programs to protect the poor to those investing in human or social capital such as health, science, education, training or energy. The pattern of proposals indicates that the President is insensitive to both the people whose lives are supported and to the tangible needs these programs will fill.

How long since the President has gone to bed hungry in a cold house? Do the shock absorbers in the Presidential limousine protect him from the bone-jarring rides that the rest of us experience on the nation's deteriorating highways? Has he forgotten his trip to the South Bronx and his brief encounter with chronic unemployment, unemployability and racism?

Life on the ranch has clearly isolated the President from the realities of American society in the late 20th century.●

FRIEND OF IRELAND

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. SHANNON. Mr. Speaker, as one of the founders of the Friends of Ireland, an organization consisting of 64 Members of the House and Senate who are dedicated to the pursuit of a peaceful solution to the problems of Northern Ireland, I would like to submit the following statement:

JOINT ST. PATRICK'S DAY STATEMENT: FRIENDS OF IRELAND, MARCH 16, 1982

The undersigned members of the Friends of Ireland in the Senate and House of Representatives of the Congress of the United States issued the following statement today:

St. Patrick's Day 1982 marks the first anniversary of the founding of the Friends of Ireland—a bipartisan enterprise in the Congress of the United States dedicated to the promotion of cooperation and understanding between the Irish people and the American people. Our special goal has been to work together in the Congress for an end to the violence in Northern Ireland and for peace and reconciliation between the two parts of the community that has suffered so much from a decade of killing and destruction.

For all of us committed to the cause of peace in Ireland, 1981 was often a year of anguish. The extended hunger strike, the continuing bombings and random sectarian murders, the assassination of elected representatives, the relentless appeals to religious hatred, the rise of sectarian demagogery to new levels of virulence—these and other events bore violent witness to the worsening tragedy in Northern Ireland in the past year.

Other events in 1981 gave cause for hope. In particular, we were heartened by the summit conference last November between the Prime Ministers of Ireland and Great Britain, their creation of an Anglo-Irish Inter-Governmental Council, and their significant agreement on "the need for efforts to diminish the divisions between the two sections of the community in Northern Ireland and to reconcile the two major traditions that exist in the two parts of Ireland." And we note with interest the growing debate in both the Republic of Ireland and Northern Ireland on the role of Northern Protestants in Ireland's future. We regard all of these developments as signs of the good will and commitment to cooperation by both governments in the common search for peace.

We are also encouraged by the support expressed for the Friends of Ireland by both the Irish and the British Governments. We have met in the past year with representatives of those governments and with leaders of the political parties in Northern Ireland. We have tried to be a forum in the Congress to inform the American people about the causes of the conflict and the most hopeful means to end it.

In the coming year, we intend to pursue the path of peace in every way we can. Toward this goal, the Friends of Ireland is honored to accept the invitation from the Speaker of Dail Eireann for a delegation from the Friends of Ireland to visit the Irish Parliament at a suitable time this spring.

We also commend President Reagan for his commitment to peace in Ireland, his concern for an end to the violence, and his support for the Friends of Ireland. We welcome the President's meeting with Prime Minister Haughey tomorrow at the White House. And we urge the President to take the occasion of his forthcoming trip to Europe in June to make a substantial visit to Ireland.

As Friends of Ireland, we are also united in our condemnation of the violence on both sides in Northern Ireland. More than 2,100 men and women and children have died since the conflict began, and more than 23,000 have been injured. We therefore renew our earnest appeal to our fellow Americans to support positive policies for peace, to reject the path of violence, and to refuse to participate by word or deed or dollar in any effort that supports or condones the violence. No action in the daily life of any American should contribute in any way to the daily toll of death in Northern Ireland.

Finally, as Friends of Ireland, we renew our commitment to the goal of Irish unity as the most effective means to achieve a lasting peace. The unity we favor is an Ireland united on the basis of reconciliation between the Irish Protestant tradition and the Irish Catholic tradition. It is a unity to be achieved, not by the bomb or by the bullet, nor by the official coercion of any section of the community, but by the consent, freely given, of a majority of all the people of Northern Ireland.

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S. William Green (R-N.Y.).

Hugh L. Carey, Governor, State of New York.●

INNOVATION BILL REACHES 200

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. LAFALCE. Mr. Speaker, I am pleased to announce that 200 Members of Congress are now cosponsors of H.R. 4326, the Small Business Innovation Development Act. It is fitting that we reached that milestone on the day that all committees completed action on the bill. We can at last look forward to bringing this important piece of legislation to the House floor for passage.

Those Members who brought the bill to the 200 mark should be thanked. They are BILL FORD of Michigan, MARGARET HECKLER of Massachusetts, GENE TAYLOR of Missouri, and VIRGINIA SMITH of Nebraska. This bill has strong bipartisan support and has been moved this far because of the hard work of many Members.

I also want to take this opportunity to insert in the RECORD a recent article from Business Week on the Japanese effort to expand in the biotechnology area. This article highlights the very serious challenge our Nation faces and the need for enactment of the Small Business Innovation Development Act to meet this challenge.

The article follows:

[From Business Week, Dec. 14, 1981]

A GOVERNMENT BOOST FOR THE BIOTECHNOLOGY INDUSTRY

Japan's push into knowledge-intensive industries in the 1980s extends beyond electronics and computers. The Japanese are also betting heavily on the emerging field of biotechnology. By combining the new technology of gene-splicing with their existing world leadership position in cultivating living microorganisms, the Japanese hope to wean their chemical industry from imported oil and develop new products for industries ranging from pharmaceuticals and food to textiles.

"Japan has taken up biotechnology as an important industry of the future," says Yukio Yoda, deputy chief of the technology planning bureau of Japan's Ministry of International Trade & Industry (MITI), which in October initiated a 10-year, $110 million biotechnology research program. Indeed, some 200 Japanese companies are now estimated to be involved in biotechnology research. And unlike the small startup companies in the U.S., Japanese leaders are billion-dollar companies such as Ajinomoto Co. and Mitsubishi Chemical Industries Ltd. "Everyone wants to get into the game," according to Hitoshi Sawai, editor of Nikkei Biotechnology, a newsletter in Japan.

The companies are rushing to establish new biotechnology facilities, sending researchers to the U.S. to study, and signing joint agreements with U.S. and European companies to gain a window on the new technology. In addition, the Japanese are capitalizing on their expertise in fermentation technology—a technique used to grow microbes that has been employed to produce beer and wine for centuries.

Japan uses fermentation far more widely than does the U.S. and is the dominant producer of amino acids and industrial enzymes. Of the 24 top-selling industrial amino acids, 21 are produced in quantity only in Japan, says Darrel E. Whitten, an analyst for Bache Halsey Stuart Shields Inc. in Tokyo.

Still, Japan is a relative latecomer in the rush into biotechnology. In the 1970s, both Japanese industry and universities were slow to develop capabilities in gene-splicing and other technologies that enable scientists to modify the genetic structure of living organisms.

The basic research in biotechnology was concentrated in the U.S. and stringent Japanese government safety rules discouraged many experimenters in the field. "Modern biology hit the scene, and Japan missed it," comments one U.S. researcher.

Now Japan is making a concerted effort to close the gap. Not long ago many researchers believed that Japan trailed the U.S. in biotechnology by three to five years. But Peter J. Farley, president of Cetus Corp., based in Berkeley, Calif., believes the lag is now only one year—and maybe less. "The Japanese are coming on like gangbusters," he says.

In their race to catch up, Japanese companies are seeking closer ties with foreign companies. Green Cross Corp. has been the most aggressive pursuer of offshore ventures. The Osaka-based biological-products maker has joint research deals with two U.S. biotechnology companies—Collaborative Research Inc. in Waltham, Mass., and Genex Corp. in Bethesda, Md. The company has also obtained licenses to produce and market a hepatitis B vaccine developed by Biogen, a biotechnology company headquartered in Geneva that has laboratories in Cambridge, Mass.

Other companies are working out similar deals. Takeda Chemical Industries Ltd. plans to produce interferon with technology that it has licensed from Hoffmann-La Roche Inc. In addition, Toray Industries Inc. and Daiichi Seiyaku Co. are funding South San Francisco-based Genentech Inc.'s interferon research in return for Japanese marketing rights. Also, Mitsubishi Chemical is using cell-fusion techniques to produce monoclonal antibodies, proteins from the body's immune system that have applications in diagnosing and treating disease. Mitsubishi has agreed to distribute the monoclonal antibody products made by Hybritech Inc., and it hopes to sign a joint research agreement with the La Jolla (Calif.) company.

Indeed, U.S. companies are being all but assaulted by Japanese companies eager to buy into their technology. In the past month alone, more than 100 Japanese researchers have asked to visit Cetus' facilities in California. "We're approached by Japanese companies nonstop asking to license our technology," says Cetus' Farley, who has so far made no deals with the Japanese.

At the same time, Japanese companies are beefing up their in-house efforts by enlarging their research staffs and buying new equipment. Vega Biotechnologies Inc., a U.S. supplier of computerized machines that automatically synthesize genes, expects that it will sell as many machines in Japan as it will sell in the U.S. in 1982.

The focus is on combining the new technology of gene-splicing with existing world leadership in cultivating living organisms.

Nearly a dozen companies, ranging from Toray to Kyowa Hakko Kogyo Co., are now using gene-splicing to produce interferon. Others, including Meiji Seika Kaisha, hope to produce antibiotics and other drugs from genetically altered organisms. At Ajinomoto, the world's leading producer of amino acids, President Katsuhiro Utada has designated gene-splicing as the company's "No. 1 priority in basic research."

Already, Ajinomoto researchers are using genetic engineering to improve the yields in amino acid production, and the company has applied for patents on four genetically engineered organisms. One of those modified organisms can cut the cost of producing threonine, an amino acid used as a nutritional supplement, by as much as 90 percent, according to Hiroyuki Matsumiya, president of Biosystems International Inc., a Tokyo consulting firm.

Similarly, the cost of producing another amino acid—lysine—could be reduced by one-third. "For some amino acids, costs can be cut significantly," says Ajinomoto's Utada.

Such ongoing efforts will get a boost from MITI's biotechnology project. That funding will go to 14 companies to support research in gene-splicing, growing of cells in large volumes, and designing of new "bioreactors" for mass commercial production. Such research will benefit all companies pursuing biotechnology, but the project's primary goal is to aid Japan's chemical industry, which has been battered by the rising price of petroleum. That industry consumes 15 percent of the 1.8 billion bbl. of petroleum that Japan now imports annually. "The Japanese chemical industry is well aware of its bleak future because of the shortage and high price of petroleum," says MITI's Yoda.

ALTERNATIVE FEEDSTOCKS

Biotechnology offers the chemical industry the prospect of switching to biological processes that require less energy because they can run at lower temperatures and pressures. It could also allow the industry to use alternative feedstocks such as biomass.

"We hope to cut, to some extent, our need for Mideast oil," says Wataru Yamaya, general manager of the Life Sciences Dept. at Mitsubishi Chemical. That company is already committing one-third to one-half of its annual research budget to biotechnology. And it plans to convert 20% of its production to bioprocesses within the next 10 years.

It is in these high-volume applications that Japan's expertise in biologically based production could give the nation an edge over the U.S. Besides leading in fermentation technology, Japan has also pioneered the use of immobilized enzymes to create continuous production systems that are less costly than the batch processes now commonly used. Tanabe Seiyaku Co. in 1969 developed the first immobilized enzyme system for producing amino acids and has added several more since then. And Mitsubishi developed the immobilized enzyme system that is used to produce 40% of the world's high-fructose corn syrup. "As we move into mass production, the Japanese will be tough competitors," predicts James Gower, marketing director at Genentech.

Nonetheless, Japan still faces some obstacles in its biotechnology drive. Government safety regulations are stiffer than in the U.S., and there is no indication that they will be relaxed. Further, topflight scientists are still a scarce commodity.

But Japanese officials are convinced that biotechnology will open up myriad new business opportunities, and they are determined not to miss out. "Within 10 to 20 years," says Mitsubishi's Yamaya, "biological developments will do even more than the development of the integrated circuit."●

NEEDED: A TECHNOLOGICALLY ORIENTED TRADE POLICY

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. BOLLING. Mr. Speaker, I want to call my colleagues' attention to the forward-looking material on semiconductors in the recently released Joint Economic Committee's (JEC) annual report.

Semiconductors, we are fast learning, are going to have more of an impact on mankind's future than did gunpowder, the printing press, or the automobile. The JEC annual report stresses the fact that the semiconductor industry is the catalytic center of industries as varied as computers, robots, telecommunications, and a host of electronic products. The report recommends that the objective of U.S. policy toward the semiconductor industry should be to maintain a climate in which an already highly successful industry can continue to flourish, and to guard against policies by other governments which might unfairly advantage their competing semiconductor firms to the detriment of ours.

The report pointed out that the administration's policy of tight money and high interest rates has led to an overvalued dollar which has helped produce a sharp overall drop in our overall trade balance. The most alarming numbers in this foreign trade picture have to do with our deficit with Japan which is presently over $18 billion and rising rapidly. Trade experts agree that the most disturbing sector of those imports is the surge in what we regarded up to last year as a U.S. specialty—semiconductors.

On February 18, the JEC published a 200-page study, "International Competition in Advanced Industrial Sectors: Trade and Development in the Semiconductor Industry." This is the best analysis of any industrial trade problem I have ever read. Step by step it shows how, using ways our antitrust laws would not permit the Japanese, led by their Ministry of International Trade and Industry (MITI), worked very closely together to take over this industry in which we had established a big lead because of our pioneering research and development.

In contrast to the proliferating competition here, the Japanese Government guided six large integrated electronic firms in research and development and protected their market.

Unlike the American firms that have thrived on rapid product innovation, the protected Japanese were able to focus on reducing the price and improving the quality of large volume standardized semiconductors.

You do not have to read the footnotes or study all the charts and tables to understand that the Zaitbatsu syndrome is alive and well in Japan today and that MITI is the doorkeeper, concierge, and nanny.

First, the Japanese market remains closed in significant respects to U.S. exports. Japan can thus compete for the world market, while the United States is excluded from Japan, the world's second largest consumer of semiconductors, and so Japanese manufacturers can maintain a significant cost and volume advantage in certain mass-market chips. Second, high technology industries in Japan are specifically targeted by the Japanese Government, and so have assured access to finance capital, and other assistance. Third, lower Japanese capital costs also contribute to a potential cost advantage for the Japanese semiconductor manufacturer. The lower Japanese interest rates are in part a function of Japan's more balanced macroeconomic policy, but they also reflect the relative isolation of Japan's financial markets.

In this environment, it is vital that the U.S. Government develop and maintain close links with our merchant semiconductor producers, and that it become fully equipped to monitor developments in world semiconductor markets, especially Japan. Support for technical education necessary to foster the next generation of electronic engineers should be maintained and strengthened. The impact of Defense Department research requirements on commercial semiconductor research and development should be evaluated, and recommendations made to insure that we do not needlessly sacrifice the competitiveness of this industry.●

MYKOLA RUDENKO

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FORD of Michigan. Mr. Speaker, I am proud to be a part of the Congressional Call to Conscience Vigil, the vigil for all Soviet citizens who have been denied the basic dignity of human rights.

Today, I would like to call your attention to Mykola Rudenko, a Ukrainian writer and poet who is presently serving a 12-year term as a prisoner in a Soviet corrective labor colony. There appears to be no justification for the arrest and subsequent conviction of Mr. Rudenko. On November 9, 1976, the Ukrainian Public Group to promote observance of the Helsinki accords was formed in Kiev with Rudenko as chairman. The creation of an open and unauthorized public group under a totalitarian regime began a new era in the life of Ukrainian dissent. The group proposed as its aim the informing of all participants of the Helsinki Act of the problems of Ukraine within the U.S.S.R. During a series of police searches at the homes of the Ukrainian group members 1 month later, group documents and Rudenko's manuscripts were confiscated. Mr. Rudenko was arrested in February 1977, and later sentenced at a closed trial to 7 years in strict regimen labor camps followed by 5 years of internal exile. He was charged with anti-Soviet agitation and propaganda while his only crime was his attempt to promote the implementation of the Helsinki accords in the field of human rights.

The fate of Mykola Rudenko is of grave concern. He is an invalid of World War II with a severe injury to his spinal cord. He has had an operation for a double hernia while in camp, with his condition at this time unknown.

I call your attention to Mykola Rudenko not because his case is unique, but because there are many Mykola Rudenkos imprisoned in Soviet prison camps. These are men and women who have attempted to insure basic human rights for their fellow citizens, but instead find themselves in Soviet prisons. While these people are silenced, it is up to those of us who are free to continue to spread their message of freedom and condemn the Soviet Union for violating their human rights. We must not allow the pressure to subside as long as there is an America which serves as the beacon of world freedoms or as long as Mykola Rudenko and others like him cannot be free.

As Members of Congress I encourage you to call for the immediate release of Mykola Rudenko and other prisoners unjustly incarcerated throughout the world. I commend the gentleman from New York, Congressman NORMAN F. LENT, for chairing this congressional vigil, and I hope that this Congress will continue to alleviate the suffering of Soviet citizens unjustly imprisoned.●

MATERNAL AND CHILD HEALTH SERVICES

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. BARNARD. Mr. Speaker, I would like to share with the Members of the House a letter I received this week from Prof. Warren Umansky, head of the early childhood special education department at the University of Georgia. Professor Umansky is greatly concerned about the future of maternal and child health services and offers a persuasive argument in support of maintaining funding for these services. I believe that his comments are important and would therefore insert them in the RECORD for the benefit of my colleagues:

> DEAR CONGRESSMAN BARNARD: Our country has a singular distinction among industrialized nations of the world that should cause all of us great concern. Our rates of newborn deaths, infant deaths, maternal deaths, and teenage childbearing are among the highest in the world. With these rates climbing, now is the time to strengthen our efforts even more to support programs of maternal and child health services.
>
> Maternal and Child Health includes support for services and research in newborn hospital intensive care, sudden infant death syndrome, crippled children's services, lead-based paint poisoning, adolescent pregnancy, genetic counseling, and hemophilia. These services were incorporated in the MCH block grant to states through the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35). Fiscal year 1982 funds available to states for direct services and research were reduced from the authorization level of $362 million to a level of $295.39 million. The experiences of Georgia prior to federal budget cuts and subsequent to them reflect a significant impact on children and families.
>
> The national infant mortality rate is 12.8 per 1,000 live births. Georgia's rate is 14.6. Our goal is to reduce our state rate to 9.5, but that will be difficult to do with less money for services and research.
>
> One cause of infant deaths, of course, is poor prenatal care. About 9 percent of Georgia mothers receive inadequate prenatal care. The U.S. rate of 5.6 percent is also unacceptable. Infants of mothers who had less than five prenatal visits were about six times as likely to die before their first birthday as were infants of mothers who had five or more prenatal visits.
>
> Some of the most distressing statistics, however, are those for teenage childbearing. About 2.9 births per 1,000 in Georgia are to girls between 10 and 14 years of age, and 77.5 births per 1,000 are to girls in the 15–19 age group. In Georgia, as in the entire U.S., these rates have increased over the years.
>
> Mothers and children in all states have benefitted from MCH services that monitor the progress of high-risk pregnancies and improve the care and follow-up of high-risk infants and young children. We are beginning to see that early quality care for mothers and their high-risk children saves money in the long run.
>
> Without specialized care, low birthweight and other high-risk newborns may develop serious disabilities that require continued and costly medical care and education.
>
> Research at the University of Georgia indicates, however, that most *infants* who receive specialized care develop normally through their later years. The system of regional intensive care and follow-up for low birthweight and otherwise traumatized newborns has seen many successes in Georgia. Programs to reduce deaths from SIDS (Sudden Infant Death Syndrome) through counseling and infant monitoring have saved many lives. The genetic counseling

programs have reduced the likelihood of parents delivering severely impaired children and have given other parents the confidence to raise a normal family.

We are at an important crossroads with regard to the future of our great nation. We can ignore our youth today and watch the need continue to grow for special education services, jails and prisons, and social welfare programs. Our future generations can be marked by increased and more severely handicapped individuals and by more hungry, poorly educated, and unemployed persons.

The alternative is to take care of our children with special needs while they are still young. Evidence shows that such care can have a significant influence on the tone of future generations. MCH programs have been successful and cost-effective. Even in these times of fiscal restraint, it would be ill-advised to cut them.●

NASSAU COUNTY OFFICIALS COMMENT ON THE STRIFE IN NORTHERN IRELAND

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. LENT. Mr. Speaker, St. Patrick's Day in the United States is a day of celebration and recognition of the Irish heritage and the many contributions made by the Irish who have settled here since the birth of the Nation. In the midst of this celebration and revelry, however, I think we should pause and give thought to the conflict that continues to rage in troubled Northern Ireland. St. Patrick's Day is a special day for all Ireland, but in Belfast, Londonderry, and other communities, even this special day will be marred by the violence, hatred and tension that is ever present.

In my congressional district in Nassau County, N.Y., there is deep concern about the continuing conflict. Two of our local leaders, County Comptroller Peter T. King and District Attorney Denis Dillon have been active in the movement to end the strife in Northern Ireland and they have traveled there on several occasions to witness firsthand this tragic situation. On this St. Patrick's Day they have issued a statement which sums up their view on the conflict and the role of the United States.

THE 1982 ST. PATRICK'S DAY STATEMENT OF NASSAU DISTRICT ATTORNEY DENIS DILLON AND COMPTROLLER PETER T. KING

The true spirit of St. Patrick's Day compels Irish-Americans—and indeed all men and women of good will who treasure human dignity—to direct their concern to the tragic and inhumane conditions which beset the suffering people of Northern Ireland.

It has become the custom in the past several years for certain elected officials of Irish extraction to issue an annual St. Patrick's Day statement on Northern Ireland. It should be noted that, except for this interest which they display once a year, they are otherwise uniformly silent on the six counties. Their annual statements have been continually misdirected in their emphasis and have failed to acknowledge the immutable fact that the prime cause of the strife and bloodshed in Northern Ireland is the immoral conduct of the British government.

It is the intention of this statement to attempt to refocus and redefine what we believe should be the proper role for concerned Americans as regards Northern Ireland.

There occurred in 1981 two of the most momentous movements against government repression in the entire history of Western civilization. One, of course, was the inspired struggle of Solidarity against Soviet might in Poland. The other was the unprecedented deaths of ten Irish hunger strikers who gave their lives so that the world would realize forever more the great moral dimension of their struggle against British tyranny.

When the Soviet puppets imposed martial law in Poland to break the back of Solidarity, the civilized world was outraged. The United States government in particular forthrightly and correctly spoke out against this blatant aggression. Yet, when the British government of Margaret Thatcher callously allowed ten brave Irish patriots die the most agonizing deaths rather than accord them the human dignity to which they were entitled, the American government and American opinion makers were terribly silent. The American State Department would have us believe that somehow there is a marked difference between Russian tyranny in Poland and British tyranny in Northern Ireland—when in fact there is none. Indeed, Lech Walesa realized this when he stated after Bobby Sands had died on the 66th day of his hunger strike that "Sands was a great man who sacrificed his life for his struggle."

Northern Ireland was created in 1921. Its boundaries are artificial and sectarian based and have no geographical basis. From the inception of Northern Ireland's existence, Catholics were effectively denied the right to vote, were precluded from meaningful employment and were refused equal housing. When the Catholics peacefully demonstrated against this oppression in 1968 and 1969, they were met with force of arms by loyalist mobs and Northern Ireland security forces. British troops, which were ostensibly sent to Northern Ireland as a neutral, peace-keeping force, soon allied themselves with the loyalists and were guilty of such murders and atrocities as "Bloody Sunday" in Derry City in 1972. Countless Catholics were interned without trial in Northern Ireland prison camps and many of them were subsequently tortured and otherwise degraded. Indeed, England's conduct toward these prisoners was such that it was condemned by the European Commission on Human Rights at Strassbourg. Recent findings, including the Bennett Report, demonstrate that this torture and barbarism continue unabated. To this day, Catholic nationalists in Northern Ireland are denied the right to a jury trial, are subjected to extensive and brutal interrogation without the right to counsel and are, in the overwhelming majority of cases, convicted solely on the basis of the confessions extracted from them.

In August 1981, we had the opportunity to serve as members of an International Tribunal in Belfast which investigated the use of plastic bullets by the security forces in Northern Ireland. This Tribunal heard testimony which demonstrated that the plastic bullet is a lethal weapon which is used to intimidate the Catholic community by the cold-blooded murder of innocent men, women and children.

England is America's closest ally. To the extent, therefore, that the American government stands silent in the light of such flagrant violations of human rights in Northern Ireland, there is blood on America's hands. The United States cannot be a credible leader against Soviet tyranny so long as it tolerates British oppression in Northern Ireland.

The time has come for the United States, as the leader of the free world, to effectively exert its considerable power and influence so that England will (a) cease its violations of human rights in Northern Ireland, (b) specify a date certain when it will leave Northern Ireland and (c) begin immediate and meaningful negotiations with all parties in Northern Ireland and with the Republic of Ireland. It is only then that peace can come to all the people of Ireland.

When we were in Belfast in December 1980, we were privileged to address a torchlight demonstration of 5,000 Catholics who had gathered in the face of British guns and armored cars. On that night those people begged us that we not forget them and that we tell the people of America the hellish conditions under which they must live. We assured them that we would.

It is in that spirit that we have issued this statement. To have done otherwise, would have been to fail in our responsibility to those brave people—and to our Creator.●

IN SUPPORT OF HOUSE JOINT RESOLUTION 433 CALLING FOR A NUCLEAR ARMS FREEZE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. DICKS. Mr. Speaker, last week, I joined 130 of my House colleagues in cosponsoring House Joint Resolution 433, calling for a mutual and verifiable freeze and reduction in nuclear weapons.

This resolution recognizes the significant and growing concern among Members of Congress and the American public at the grassroots level that the dangers of nuclear war being launched either by design or accident are real and growing. A Gallup poll issued last year indicated 72 percent of the people supported an agreement to build no more nuclear weapons, and the percentage has no doubt grown since then. A Newsweek poll released last October indicated that 30 percent of the public felt that it is either almost certain, or that there is a good chance, that within the next 10 years there will be an all-out nuclear war between the United States and the Soviet Union. When asked if even a limited nuclear war against military targets was launched, what their chances of survival would be, only 9 percent said good, 43 percent poor, and 43 percent just 50-50.

Some analysts, including individuals who have demonstrated a long and sincere desire for arms control and reduction, argue that the freeze proposal would undermine prospects for negotiations because of a perceived Soviet advantage in the status quo.

I seriously question whether either side, with the current arsenal levels, can have confidence that they maintain any meaningful advantage in destructive overkill. Past experience and current trends show that any effort to catch up or achieve nuclear superiority is doomed to failure. While we develop the MX, B-1, Trident II, Pershing II and GLCM, the Soviets are rapidly deploying more SS-20's, modern ICBM's, and highly capable nuclear submarines. According to recent reports, they are also aggressively developing a new intercontinental bomber and space based nuclear weapons.

If this is not the time to stop the nuclear arms race, when will that time ever come?

It is especially important to act now, before the pressures for nuclear proliferation become so great that any despot will have the power to set off Armageddon.

Finally, if the administration really believes that a nuclear arms freeze is not the best way to achieve arms reductions, it can easily offset the groundwell by aggressively pursuing arms reductions, or by combining the freeze and reduction negotiation elements.

I joined many in this House who applauded the arms reduction commitments enunciated by the President last fall. The administration is to be commended for its initiative on theater nuclear arms and I fervently hope they will work to reach an agreement. But I am sorely disappointed that the promised negotiations on strategic nuclear arms have not begun.

If this resolution and the public concern behind it do nothing more than hold the President's feet to the fire on making nuclear arms agreements a top priority of this administration and leads to immediate initiation of arms reduction negotiations, they will make a beneficial contribution to the future of mankind.●

JAMES KIRKPATRICK DEVLIN

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FROST. Mr. Speaker, as you know, today is St. Patrick's Day. I am pleased to have the opportunity to extend my congratulations to Mr. James Kirkpatrick Devlin on the second anniversary of the founding of his company, U.S. Telephone Communications, Inc. You may have noticed that Mr. Devlin bears a distinctively Irish name, and I can assure you that is no coincidence that he opened his offices on March 17.

You will recall that as a result of a series of FCC and court decisions, companies providing telephone service were permitted the resale of that service. It was determined that this service would serve the public's best interest. And, in fact, the decisions have resulted in increased competition, greater efficiency, and lower prices to consumers. Two years ago, U.S. Telephone began offering discount long-distance telephone service to the Dallas area. Since then, U.S. Tel has grown to be the largest resale common carrier in the United States with service in Texas, Louisiana, and Oklahoma. Today, U.S. Tel's service will also be available in the Chicago area.

This company is experiencing a growth rate of 5 to 10 percent per week. It is astounding that, in such a short time, the customers now number 26,000. In light of the present economic picture for small businesses in this country, it is gratifying to know that entrepreneurship is still viable. To U.S. Telephone: Happy Birthday. To Mr. James Kirkpatrick Devlin: Congratulations and Happy St. Patty's Day.●

HERB CAEN COMMENTS ON NUCLEAR WAR

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I want to bring to the attention of my colleagues a thoughtful article by San Francisco's best-known journalist, Herb Caen. As he says in the article, most of us try to ignore the possibility of nuclear war—I commend him for so forcefully bringing forth this most serious of issues.

The column follows:

It's a subject we try to shunt to the back of our minds, or block out completely, but some people continue to think about the unthinkable. Allen Smorra suggests a self-canceling phrase: "Nuclear survival," to go along with Jack Green's "limited nuclear war." A few days ago I quoted the Rev. Robert L. Herhold, Lutheran, of Palo Alto, as follows: "There will be nuclear disarmament as soon as the Pro-Life people discover that the bomb kills fetuses." The Pro-Lifers, as quick on the draw as the Nat'l Rifle Assoc., were not slow to respond. The gist of a dozen angry letters: "More people—fetuses to you liberals—have been killed by abortion than by nuclear bombs." The unthinkable thought that there will be no people at all after a nuclear holocaust is the subject addressed by Jonathan Schell in a series of three articles currently running in The New Yorker magazine.

Happy birthday, Presidents Lincoln and Washington, wherever you are. You faced and surmounted grave crises in your lifetime, but not the possible extinction of mankind itself. It took our benighted generation to come up with that one. There is, in fact, an entire world of middle-aging people who were born into the nuclear age. I wonder what this does to their hearts and minds. They might never know war, as earlier generations knew it, but they have never known peace, either. They have lived every day of their lives on the edge of obliteration that could come in the next second, tomorrow—or never, if we are very very lucky, and our leaders are very very careful, and the bomb doesn't fall into irresponsible hands, and—well, the fact that this list could go on and on is a measure of the peril.

Herman Kahns "Thinking about the unthinkable" is a phrase that sticks in the mind even of those who try not to think about the end of the world. Most people are like those San Franciscans who don't want to think about the next major earthquake, one that could mean the end of a city. The difference, of course, is that a nuclear holocaust would be man-made whereas a quake is an Act of God. Fatalistically, or stupidly, we are relieved to read that the survivalists' bomb shelters would be useless against nuclear attack. Doctors are fighting against the arms race by warning—in increasing numbers—that they would be helpless in such an unimaginable disaster. It is important to know that.

"The most trusted man in America was here a weekend ago for a series of lectures. At Marin Civic Center, he was introduced, jokingly, as "The next President of the United States." Walter Cronkite has brushed aside all attempts to get him to run for public office, but the audience applauded the introduction. The applause was even stronger during and at the end of his lecture, a powerful political speech in which he called the arms race "mad," expressed his fears that this administration is heading straight toward war, came out for negotiations with the USSR ("There is no other way") and applauded Brezhnev's call for serious arms talks ("I wish Reagan had said that"). At the end of the evening, I got the feeling again that people are looking for a leader dedicated to peace. The Most Trusted Man in America could be that leader. "We can't win by force of arms," he said. "We must do it by example."

The New Yorker is an odd magazine. The glory days of Founder Harold Ross are long gone. E. B. White, Thurber, Benchley, Dorothy Parker, Woollcott, Wolcott Gibbs, Fadiman, the young Irwin Shaw, Cheever, Helen Holinson—an all-star cast like that cannot be replaced, and the product plainly shows it. It is still successful, however, as demonstrated by the pages of slick ads. And it still has a conscience, which saves if just as you are thinking darkly, "I can live without the New Yorker." Hersey's "Hiroshima" came along at the right time, as did Rachel Carson's "Silent Spring." And now, after a long dry spell, Jonathan Schell's "The Fate of the Earth," a series on the nuclear holocaust running in the Feb. 1, 8 and 15 issues.

In the second installment of this long rambling, painfully well-constructed piece, Schell thinks the unthinkable thought of a world entirely dead—"the peril of human extinction, which exists not because every single person in the world would be killed by the immediate explosive and radioactive effects of a holocaust . . . but because a holocaust might render the biosphere unfit for human survival." As for a holocaust that would bring about "the extinction of mankind and other species, by mutilating the ecosphere," it would be "the first to result from a deliberate action taken by the creature extinguished." He goes on: "Evolution has brought forth an amazing variety of creatures, but there is no evidence that any species, once extinguished, has ever evolved again."

Thus "The Second Death, the death of mankind," the possibility that the living can stop the future generations from entering into life. "How are we to comprehend the life or death of the infinite number of possible people who do not yet exist at all?" Writes Schell: "Our modest role is not to create but only to preserve ourselves." "The alternative is to surrender ourselves to absolute and eternal darkness . . . in which never again will a child be born; in which never again will human beings appear on earth, and there will be no one to remember that they ever did."

Have a nice day.●

WATER: AN ESSENTIAL INGREDIENT TO NATIONAL DEVELOPMENT

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. RUDD. Mr. Speaker, in response to a local editorial last month, attacking water projects as reclamation ripoffs, Bureau of Reclamation Commissioner Robert Broadbent responded with a column of facts I would like to share:

The dry Western States continue to grow at astonishing rates, resulting in vastly increased demands for energy and water availability.

Hydropower and water sales for purposes other than farming return 85 percent of the construction costs for water projects.

Reclamation activities generate over $1 billion in State and local taxes and nearly $3 billion in Federal revenues.

The proposed 23-percent increase in the Bureau's budget, due in large part to the massive migration, will increase State and Federal revenues by the same 4-to-1 ratio.

By comparison, on Washington's Metro Subway System, costing an estimated $10 billion, the dollar return is not so apparent, with an 80-percent Federal subsidy never to be repaid.

For the RECORD, I am inserting the February 19, 1982, Washington Post editorial "Reclamation Ripoff" and Commissioner Broadbent's responding column of March 13, 1982, "Wait Till Washington Needs Water."

[From the Washington Post, Feb. 19, 1982]

RECLAMATION RIPOFFS

Question: To what government agency does the Reagan budget assign a proportionately larger increase than the 18 percent growth proposed for the Department of Defense? The answer is the Bureau of Reclamation, which is slated for a 23 percent increase. This is not good news. Rather it is merely news of a decision to proceed with a very wasteful federal susbsidy, but one that has great political resonance in the West. The budget figure itself represents a triumph of politics over budget-cutting principle.

The Bureau of Reclamation builds irrigation projects under a 1902 law designed to encourage small family farmers to settle the then empty and arid West. The law formally restricts the provision of federally subsidized water to farms of 160 acres or less, but for decades that limitation has been ignored. A hugely disproportionate share of the program's benefits go to corporations running farms as large as 20,000 acres.

Another requirement honored only in the breach is that users of the water repay the cost of the project. A recent General Accounting Office study of six of these "full repayment" plans found that the taxpayer subsidy in fact ranged from 92 to 98 percent. In a not unusual South Dakota project, for example, users will pay $3.10 per acre-foot of water that costs $131.50. In California's Westlands reclamation district—where the average farm is 2,400 acres and produces annual profits of almost half a million dollars—the federal government is providing water under a decades-long, inflation-free contract for about $10 per acre-foot. In neighboring areas water on the free market can cost 100 times that amount.

You might think that now that the West includes many of the fastest-growing parts of the country, a program designed to lure settlers would have outlived its purpose—and you would be right. The provision of an arid land's most valuable resource at a fraction of its real value not only milks the taxpayer of billions of dollars, but encourages flagrant waste of both water and money. Projects that flood as much good agricultural land as they irrigate would never be built if the money had to come from local funds. And today's flagrantly wasteful irrigation techniques would have long since gone the way of the gas guzzler if farmers were paying anything close to the real cost of their water.

Early last year Interior Secretary James Watt had some encouraging words to say about the need to stop reclamation ripoffs. But there was no follow-up to the tough rhetoric. The administration's "reform" bill—supported last week by the western-doninated House Interior Committee—proposed that the land limitation for federal subsidy be raised from 160 to 960 acres per farm. But while pricing reform languishes, and cuts in some other programs reach the crisis level, reclamation projects will get a healthy boost next year.

[From the Washington Post, Mar. 13, 1982]

WAIT TILL WASHINGTON NEEDS WATER

(By Robert N. Broadbent)

I take strong issue with The Post's Feb. 19 editorial "Reclamation Ripoffs." The editorial made no attempt to present or consider the other side's viewpoint. Not only is The Post's position uninformed; it borders on the negligent. Obviously, The Post has remained closed except to those voices it wants to hear.

The reclamation program has been a lifesaver for the West in every sense of the word, and it remains that to this day. The absolute constant throughout the arid West is the need for water, not less but more. The migration to the West continues unabated, and more people means the need for more water for homes and cities. In addition, there is the impending need for more water for the development of energy.

Where will this water come from? As a partial solution, we have been engaged in promoting conservation. But regardless of how effective the conservation techniques are, they will fall far short of meeting the growing demand. The only remaining solution is the creation of additional storage and distribution systems.

The benefits of the reclamation program—and repayment of those benefits—far surpass those generally attributed to it by the ill-informed. The Post limits its view to that portion of water project costs (nearly $2 billion) repaid to the U.S. Treasury by direct users and fails to recognize that indirect beneficiaries of the reclamation program have returned vast sums to the Treasury since the program's inception in 1902.

Irrigation farmers alone cannot pay back the federal dollars invested in project facilities. However, approximately 85 percent of construction costs are repaid through the sale of hydropower and water for purposes other than farming. Moreover, a stiffer pricing policy is now being developed to increase the government's return on its investment.

The original concept of the Reclamation Act of 1902, as The Post pointed out, was to open the West for development. And it did. But the West continues to grow at an astonishing rate, and the demand for water will increase proportionately. Would The Post suggest that, due to limited water supplies, nobody else can move West?

The reclamation program continues to contribute substantially to the economic foundation of the West. Moreover, a healthy western economy supports the nation's economy; the power generated by reclamation projects contributes to our energy independence; the food and fiber produced are a constant, year-round supply for the nation and the world.

Attacks on the reclamation program, such as The Post's editorials, have a divisive ring to them. Lashing out at the West for what The Post believes to be "favored treatment" is contradictory to its support of a subsidized program here in its own backyard that is a drain on federal funds. That is the Metro subway system.

As of today, some $8.2 billion has been invested in the Metro system with the final cost probably exceeding $10 billion. And Metro funding is strictly a one-way street. Metro is in the red, and it is obvious to all that the 80 percent subsidy by the federal government will never be repaid.

On an annual basis, the Bureau of Reclamation's activities generate over $1 billion in state and local taxes and nearly $3 billion in federal revenues, quite an accomplishment for an agency with a budget of less than $1 billion. The 23 percent increase in the reclamation budget, which apparently prompted The Post's editorial, will increase state and federal revenues by the same 4:1 ratio. I don't see how anyone can call that "pork barrel."

As a great newspaper that prides itself on its national perspective, The Post's views on water appear to be quite parochial. The Post might be far removed from the West and presently can afford the luxury of an ill-informed and cavalier point of view. But what will its position be when the crisis comes to Washington?●

INDEPENDENT CONTRACTORS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. GUARINI. Mr. Speaker, today I am introducing the independent contractors legislation reported out by the Select Revenue Measures Subcommittee during the 96th Congress.

As many are aware, the Select Revenue Measures Subcommittee will be holding hearings on the tax treatment of independent contractors on March 23 and 24.

My purpose in introducing the old H.R. 5460 is to permit the subcommittee to have before it for consideration the compromise legislation which was laboriously hammered out 2 years ago.

Although I realize that this subcommittee is not bound by what occurred in the 96th Congress, it was my feeling that what with a number of other bills pending on this issue, as well as changes in subcommittee membership, it would be helpful for this subcommittee to have the opportunity to review the work done in the last Congress.

Thank you.●

CARIBBEAN BASIN INITIATIVE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. BROOMFIELD. Mr. Speaker, I am an enthusiastic cosponsor of President Reagan's Caribbean Basin Initiative. At a time of unstable economic conditions worldwide, rising international lending rates, and increased Cuban subversion within our hemisphere, the Caribbean Basin Initiative provides a beacon of hope for our poorer neighbors. The initiative reflects the administration's clear understanding that it is absolutely essential to solve the region's economic problems if we are to provide stability on our frontdoor step. The initiative is a positive venture toward strengthening democratic governments in the Caribbean, and constructing a necessary bulwark against Communist-inspired insurgency and revolution.

I am pleased that the United States, in developing the Caribbean Basin Initiative, has coordinated its approach with other donor nations in the region. I am speaking of Canada, Mexico, Venezuela, and Colombia.

A unified attack on the problems of poverty, inflation, and unemployment is necessary if we are to have the maximum impact in the shortest possible timeframe. This spirit of cooperation demonstrates that the good neighbor policy still exists, that others in the hemisphere are prepared to work in harmony with us in achieving common goals, and that the definition of an American is broader than is often thought. It means being not just a citizen of the United States as we so often refer to ourselves, but being a citizen of the Americas, whether the specific location be Caracas, Barbados, or San Jose.

Briefly stated, the Caribbean Basin Initiative would do the following things. It would spur investment by granting tax credits now offered in the United States. It would supply short-term economic aid to address critical problems that need attention now. It would lower duties on products entering from the Caribbean, thereby affording a more open market in the United States and stimulating production in the Caribbean. And it would extend credit guarantees by the Export-Import Bank.

These concessions are vital to the development of the countries in the Caribbean. They will assist these countries in fulfilling their potential in the economic, social, and political fields. In order to avoid future problems of instability and military turmoil, I believe that the United States must act now to help alleviate some of the basic causes of dissatisfaction in the hemisphere.

To the extent that we can help create wealth throughout the region, with opportunities for all to share in this wealth, then we will have gone a long way toward making the people of the region understand that they have a stake in democracy, that they have a stake in free enterprise, and that they have a trusted friend in the United States.

Today, I was privileged to be present at a White House ceremony launching the Caribbean Basin program at which the President made the following remarks:

REMARKS OF THE PRESIDENT AT THE CARIBBEAN BASIN CEREMONY

The PRESIDENT. Ladies and gentlemen, three weeks ago in an address to the Organization of American States I presented a comprehensive proposal designed to help the peoples of the Caribbean Basin cope with a crisis of unprecedented proportions. Today I am transmitting this plan to Congress. The well-being and security of our Caribbean Basin neighbors are in our own vital interests. Today both their economic well-being and security are threatened. Economic disaster is consuming our neighbors' money reserves and credit, it is forcing thousands of people to immigrate and threatening even the most established democracies. Extremist groups and violent minorities are exploiting this economic misery to gain new footholds in this hemisphere. If we don't act now the dangers will grow. New Cubas will arise, and the cost of insuring our security to the south will escalate.

The plan that I am offering today addresses the underlying concept—or I should say, the underlying economic crisis that offers opportunities to the foes of freedom. Our program, like the crisis itself, is unprecedented and consists of mutually reinforcing measures in the fields of trade, investment, and financial assistance. The package is a balanced one and every component is essential. It is not foreign aid as usual, but a program that is based on unique American practices that we know work.

It will support our neighbors' efforts to achieve economic progress, political democracy, social justice, and freedom from outside intervention. By encouraging a more productive and dynamic private sector, it will develop the jobs, goods, and services which the people of the Basin need for a better life. This is our contribution. Others in this hemisphere are also increasing theirs. Our willingness to act boldly has been a catalyst. Earlier this week Al Haig and Bill Brock met with ministers of Colombia, Mexico, Venezuela, and Canada to discuss programs. These countries are making substantial contributions.

Colombia, which is itself a developing country, is increasing trade credits, balance of payment swaps, and technical assistance, and will extend trade preferences. Canada will more than double its assistance. Mexico and Venezuela, in addition to the $700 million per year oil facility, are increasing other programs including trade preferences.

Our countries agree jointly to ask the Europeans and Japan to pitch in too, and we will be meeting with them soon.

I am acutely conscious that we ourselves are going through a period of economic difficulty. I wouldn't propose this program if I were not convinced that it is in our vital national interest. The economies of these countries are small, the impact of the trade measures will develop slowly. Every protection available to U.S. industry and labor against disruptive imports will remain.

The crisis in the Caribbean Basin is not a partisan issue. I urge the Congress to move with maximum speed. Congress' leadership is crucial. Our security cannot wait.●

IMPACT OF THE PRESIDENT'S LATEST BUDGET PROPOSALS ON THE NORTHEAST AND MIDWEST

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WOLPE. Mr. Speaker, I would like to commend to the attention of my colleagues the following editorial which appeared in one of my district newspapers, the Lansing State Journal. I am submitting the editorial because it articulately expresses the concerns that many of us from the economically distressed States of the Northeast and Midwest share about the impact that the President's latest budget proposals would have on our area.

[From the Lansing State Journal, Feb. 10, 1982]

SOME DEBTS TO BE REPAID

A coalition of congressmen from Northeast and Midwest states have zeroed in on a catastrophic neglect in the Reagan budget that certainly should stir regional hackles in Congress.

The industrialized North, which for almost a century churned out the products of the American success story, is being short-changed as the productivity of the past is ignored in Reagan's pursuit of economic recovery.

Reps. Carl Pursell, R-Mich., and Robert Edgar, D-Pa., issued a joint statement as leaders of the Northeast-Midwest Congressional Coialition earlier this week that was a warning to Reagan that the industrialized states do not accept his plan as equitable.

"Our region's declining share of America's wealth and the surging unemployment in our cities have stripped state and local governments of the revenues they need to maintain public services, repair aging (water and sewer) systems, create conditions for new investment or meet basic human needs."

Michigan Sen. Donald Riegle, co-chairman of the Senate regional coalition, added that the budget "fails to offer real hope of economic relief to states in America's industrialized heartland."

The coalition enumerated areas in which the Reagan budget would toss billions of dollars into projects in Sun Belt states at the distress of the industrialized areas.

In the historic years of industrialization in the North and Midwest, the federal government reaped untold billions in tax dollars as workers left the farmlands of the south and moved into factories and plants. During World War II, these workers produced tanks and guns. Later, they turned back to automobiles. Their productivity in these times made America the greatest industrial power in history.

In more recent years, as the economy has soured because of foreign competition, inflation and scarce money, the populations of these industrial states has dropped as workers left for the South and West where there were more jobs. The migration of earlier years was reversing itself.

Nonetheless, the North and Midwest states that contributed so greatly to the gross national product in the past should not be handed a gross deficit by the federal government when the economy is suffering because of policies fostered by that same federal government that have given foreign competitors the edge over American industry.

Now that the peaches are gone, Reagan would take the cream.

The Defense Department's budget would rise by 14 per cent, spending $878 per capita in the Western states while Michigan would get only $201.

The U.S. Employment Service, designed to help jobless workers find work, faces severe cuts and this hits directly at Michigan, with the highest unemployment rate in the nation; the Trade Readjustment Assistance would be eliminated within two years and with it goes benefits to workers who've been put out of work because of foreign competition.

Northern states, surviving one of the coldest winters in recorded history, face the loss of weatherization and energy conservation money (95 percent) and a 70 percent cut in solar, oil and natural gas funds.

Again with the bad winter in mind, perhaps the most insane proposal would chalk up home heating payments to the poor as income, to be calculated against aid to dependent children and food stamp benefits.

And in Michigan, a state long noted for its multitude of colleges and universities, a 21 percent cut in education programs will hurt inequitably.

All of Reagan's budget must pass Congress, of course, and we would demand that members of the coalition raise no less than unholy hell about the second-class citizenship role the budget casts upon citizens of their states.

Flatly stated, there are some old debts to be paid.

Our representatives in Congress cannot allow the Reaganomics trickle-down theory to be interpreted as meaning that federal dollars should drip from North to South or West.●

ACID RAIN HITS MASSACHUSETTS HARDEST

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FRANK. Mr. Speaker, the problem of acid rain and its devastating effects on the environment of many States has received growing recognition. In a recent column in the Boston Herald American, Dix White discusses the terrible impact that acid rain has on the State of Massachusetts with particular attention to the very negative consequences it has for fishing in our State. Mr. White goes on to note that while fishermen "stand to lose the most, the quickest, due to acid rain" there is a broader interest in stopping the downfall of acid rain on our State. He notes:

> Increased water treatment costs are passed on to the consumer. Health problems multiply. Acid rains affects on our soils, food production, roadways, general wildlife, and forest ecology, will have an economic impact on all of us.

Mr. White correctly points out that the solution "must come at national and international levels." I urge my colleagues, when we take up the Clean Air Act this year, to keep in mind the need to reduce the devastating effects which acid rain can have on Massachusetts and other States. The article follows:

[From the Boston Herald American]

ACID RAIN HITS MASSACHUSETTS HARDEST

(By Dix White)

The state Division of Fisheries and Wildlife indicates that acid rain (and snow!) caused in part by the burning of sulfur-containing coal in the mid-western U.S. is falling on us with increasingly devastating effects. A recent survey of the states east of the Mississippi found Massachusetts to be getting the worst acid rain among the lot. To compound the problem, our soils are largely silica-based and can't adequately buffer the incoming acid. The southeastern part of the state with its clear ponds and sandy soils is particularly vulnerable, but the whole state shows signs of increasing acidification.

Each spring, trout stocking is delayed in many waters, because fisheries personnel must wait until the pH levels are adequate to allow for trout survival. Reproduction has ceased in some southeastern ponds. Headwaters of the Swift and Millers rivers that once contained native brook trout populations are now devoid of fish. Large numbers of spring-stocked rainbows in the Quabbin have died due to pH fluctuations. We're just beginning to see the tip of the iceberg.

F&W is currently classifying Bay State ponds and lakes according to their remaining ability to neutralize additional acid input. Once this capability (measured in parts-per-million of calcium carbonate) is exhausted, the pH of a body of water is at the mercy of incoming acidic precipitation and may begin to fluctuate badly.

As calcium carbonate is used up in buffering acid, other buffering systems in our soils come into play which release aluminum, lead, mercury, chromium and even arsenic to leach into our waters. The agency currently lists 39 ponds and lakes as 'critical' and many more as 'endangered.' It's likely that more ponds will be listed as testing continues.

The liming of our ponds and lakes appears to be the only viable, if temporary, solution to the acid problem here. Liming has many drawbacks: It's expensive, time consuming, only applicable to certain specific situations and a temporary solution. But, it's the only solution presently available and F&W will lime eight ponds on the critical list from now through spring. These include: Spectacle Pond, Sandwich; Pinlico Pond, Falmouth; Marys Pond, Rochester; Higgins Pond, Brewster; Fearings Pond, Plymouth; Little Pond, Plymouth; Dennis Pond, Yarmouth and Wallum Lake, Douglas.

The cost of liming these ponds—with 1300 lbs. of lime per acre—comes to over $14,000 and officials hope the treatment is good for about six years. The lime to treat the other 13 ponds on the critical list will cost about $100,000—far beyond the division's financial abilities. F&W Director Dick Cronin said "We're desperately seeking liming funds from the Metropolitan District Commission, Department of Environmental Management and any other state agencies related to today's water resource management."

Fishermen, who stand to lose the most the quickest due to acid rain, should be at the forefront of the battle to stop it. But, the general public should also be demanding solutions. Increased water treatment costs are passed on to the consumer. Health problems multiply. Acid rain's effects on our soils, food production, roadways, general wildlife and forest ecology will have an economic impact on all of us.

The final solution must come at national and international levels. Probably, legislation to limit sulfur and nitrogen emissions from coal-fired plants will be the place to start. Reader's suggestions are welcomed.●

THE MOROSCO THEATRE

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. MITCHELL of New York. Mr. Speaker, I am today introducing H.R. 5873, a bill to designate the Helen Hayes and Morosco Theatres in the city of New York as a national historic site in recognition of their important historic and cultural associations and architectural characteristics, and in recognition of their significance to this Nation as sites for the performing arts since early in this century.

A host of recognized experts have concurred in the architectural and historical importance of these theaters. James Marston Fitch, an expert in the field of architectural preservation, has stated that the Morosco "is a distinguished example of neo-Regency design," "has long been known for its excellent acoustic behavior," and "has for half a century been the scene of distinguished productions in which a succession of famous actors have appeared."

Giorgio Cavaglieri, of the New York chapter of the American Institute of Architects, has cited the Morosco as "deserving of national recognition for its architectural design, its historic past and also the exceptional intimacy that it permits the spectator to enjoy."

Clive Barnes, the distinguished New York theater critic, has called the theaters "part of Broadway's royal blue lifeblood," and "gems of theater building," and Arthur Miller, the distingished playwright, has cited the Morosco as "the best theater in New York," with "superb" sightlines and "remarkable" acoustics.

Cyril M. Harris, the acoustical cosultant for the Kennedy Center, the Metropolitan Opera House, and other important theaters, has said, "in my professional opinion, there is no better theater, from the standpoint of acoustics, on Broadway."

Last fall the National Park Service determined that the Morosco Theatre was of such significance to the Nation that it was found eligible for listing in the National Register of Historic Places. I quote a portion of a letter from Mr. Jerry Rogers, Associate Director for Archeology and Historic Preservation of the National Park Service, dated November 17, 1981:

> The National Register is the list of districts, sites, buildings, structures and objects significant in American history, architecture, archeology, engineering and culture. Theatre buildings are eligible for the National Register if they possess integrity of location, design, setting, materials, workmanship, feeling, and association, and meet one or more of the four specific National Register criteria, A, B, C and D. The Morosco Theatre possesses the various types of integrity mentioned above because it sits on its original location; the design, materials, and workmanship remain essentially intact; the character of its immediate setting is appropriate to its historic period; and it evokes a sense of its historic period and associations.
>
> Criterion A qualifies properties "that are associated with events that have made a significant contribution to the broad patterns of our history" for inclusion in the National Register. The Morosco Theatre is significant for its role in the development of the Times Square/Broadway area in New York as the undisputed center for American Theatre since the early 20th century. The development of American theatre is an important theme in American history.
>
> The Morosco Theatre was built during the major period of expansion of the performing arts in New York, was the second of nine theatres on its block and has remained open and in continuous use as a legitimate theatre until this year. At the time of construction, Oliver Morosco recognized that a theater's reputation influences the success or failure of the plays presented in it. An important gauge in evaluating a theatre's ability to represent the essence of New York theatre is association with milestones in the profession. The Morosco's history of successful and artistically acclaimed productions and performances is impressive. The Pulitzer Prize is an acknowledged measure of excellence, and the Morosco has produced more Pulitzer Prize-winning plays than any other theatre in the city. Production of plays, especially important, prize winning plays, which have made lasting contributions to American theatre art, is a critical quality which demonstrates length, continuity, and strength of association. The fact that certain plays moved elsewhere for further presentation attests to the significance of the plays rather than to the insignificance of the Morosco. Overall the Morosco's distinguished record of association with important plays is strong enough that it would be eligible under criterion A if there were no other areas of significance.
>
> Criterion B applies to properties "that are associated with the lives of persons significant in our past." In considering associations with the lives of persons significant in the past, the National Register emphasizes associations with aspects of that person's life that represent the significant achievements in his field. The importance of Eugene O'Neill's career to the development of American theatre is unquestioned, and his first full-length Broadway play, "Beyond the Horizon," is recognized as a watershed in the history of American drama. Regardless of the length of the play's run, or the location of subsequent performances, the opening of the play at the Morosco was a noteworthy event. As the location of that event, the Morosco is an important resource in representing the beginning of O'Neill's extraordinary influence on American theatre. A long list of other distinguished playwrights, producers, directors, and actors, including Thornton Wilder, Arthur Miller, Tennessee Williams, Katharine Hepburn, Kitty Carlisle Hart, Margaret Hamilton, and Helen Hayes, have also had significant associations with the Morosco. It is not necessary for there to have been an exclusive or continuous association with any one individual.
>
> Criterion C applies to properties "that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction." The Morosco Theatre is significant as an embodiment of distinctive characteristics of a type and period. Designed by Herbert J. Krapp in 1916, the Morosco is considered to be an excellent example of functional theatre design for theatres of its period in New York, with particularly notable acoustics. We note the comments of Arthur Miller, Cyril Harris, and Christopher Jaffe concerning the excellence of its functional design including its scale, sight lines and acoustics. These design qualities need not be unique or irreplaceable to make the Morosco Theatre significant. This decision is not based upon architectural significance as a relection of aesthetics or artistic achievement.
>
> We recognize that differences of opinion exist on the eligibility of the Morosco Theatre; however, having considered all of the material submitted it is our conclusion that the theatre is eligible for the National Register.

Mr. Speaker, the bill I am introducing today is intended to help save the Helen Hayes and Morosco Theatres as an important representative portion of America's cultural heritage in the performing arts.

The complete text of my bill follows:

H.R. 5873

A bill to designate the Helen Hayes and Morosco Theatres in the city of New York as a national historic site, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of their historic and cultural significance to the Nation as sites for the performing arts for more than 50 years, and in recognition of their important historic and cultural associations and architectural characteristics, that real property known as the Helen Hayes and Morosco Theatres, located in the city of New York in the State of New York, is hereby designated as the Helen Hayes-Morosco Theatre National Historic Site.

SEC. 2. Notwithstanding any other provision of law, no department or agency of the United States shall assist by any loan, grant, license, or otherwise in the demolition of the Helen Hayes-Morosco Theatre National Historic Site, or in the alteration of the site, unless such alteration contributes to the preservation and protection of the site and its historical, cultural, and architectural character.●

IMMIGRATION REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, March 17, 1982, into the CONGRESSIONAL RECORD:

It is time for Congress to come to grips with the problem of immigration.

More people entered the United States in 1980 than at any other time in the history of this nation. Net immigration—legal and illegal immigrants, as well as refugees—now totals in excess of one million persons per year. Many of these people arrive illegally; it is estimated that more than one-half million illegal immigrants cross our borders each year. This rapid influx of people from overseas has serious social and economic implications for the United States.

It is important to set these figures in context. The United States accepts twice as many immigrants and refugees as do the rest of the world's nations combined. Legal and illegal immigrants account for one-half of the rate of growth of our population and a rising percentage of our welfare dependency and crime. Despite our marvelous record of assimilating immigrants in years past and our obvious openness to them today, it is doubtful whether we can successfully integrate such a staggering number of newcomers into our society. Most experts expect that unless some restrictions are put into place soon, the rate of immigration is likely to accelerate. The Third World countries from which many of the immigrants come are unable to absorb their own rapidly expanding populations. They simply are not going to be able to create jobs fast enough to keep already high rates of unemployment from rising. For example, Mexico's population, now 70 million persons, will double by the end of the century. During the next two decades, the third world must find jobs for more people than now make up the developed world's workforce.

As these facts make clear, the United States has two basic immigration problems. First, there is the problem of the rate of growth and sheer size of the number of people who are immigrating. Second, there is the problem of illegal immigration. Congress should address both problems without delay. It must decide how many immigrants we will accept and how we will regain control of our borders.

For several reasons, immigration policy has never been easy for Congress. The pressures for people to leave the developing countries are strong. We want to maintain good relations with those nations, and we rely on many of them for raw materials (for example, we purchase oil from Mexico). Also, the diversity of interests in immigration in our own country is very great. Powerful political cross-currents from business, labor, environmental, and civil rights groups emerge during the consideration of almost any immigration legislation. Moreover, the practical and moral consequences of immigration reform disrupt the usual liberal-conservative alignments in Congress. It is impossible to read a legislator's political orientation into his or her votes on immigration. The lack of consensus on what to do and the strong feelings generated by differing religious, ethnic, and racial viewpoints all make immigration a very tough matter for Congress to handle. Finally, the issue is all the more intractable and postponement of debate all the more attractive because there are no sound data on the number of illegal immigrants and the long-term effect of immigration.

Nevertheless, the immigration problem is urgent. Congress has to address it now.

In the short term, at least, two steps should be taken. First, we should increase the number of police on our borders and improve their technical ability to control the movement of people across them. Second, we should make it illegal for employers to hire people who have no authorization to work in the United States. Employers who may be tempted to break the law should face fines large enough to constitute a real disincentive to hire illegal workers. This second step is a controversial one, but it is essential if we are going to have an effective program to discourage the entry of illegal immigrants into the United States. Without it, any effort at enforcement would be immediately overwhelmed by the thousands of foreigners who are willing to risk detection and deportation for the chance to find a job here. Because the law would work only if employers could tell illegal immigrants from legal job seekers, a system of work authorization for all new employees would have to be designed and adopted. Whatever system were used, it should serve as a simple and fair test of a worker's eligibility, not lend itself to discrimination against foreign-appearing workers, not intrude on individual freedom any more than necessary, and be as cost-effective as possible.

The mass deportation of illegal aliens now in the United States is a step we should not take. Such an action would involve a huge and costly army of police, widespread violations of internationally-recognized human rights, and irreparable damage to American prestige in the world. In order to avoid a mass deportation, we would have to allow illegal immigrants who entered the United States before a certain date and who had been in continuous residence for a period of time to remain here as permanent resident aliens. The Federal government says that there are now some 3.5 million to 6 million people who might be eligible to remain. An "amnesty" might cause significant administrative problems, as well as problems of equity, but it, too, is an essential component of any effective short-term approach to the immigration problem.

In order to help change the conditions abroad which prompt foreigners to seek entry into the United States, we should work with other nations to develop suitable policies on economic development and immigration. It is especially important that developing countries undertake job-creating projects, so that their people will not be forced to leave home in search of work.

(Note: Information for this newsletter was drawn from a recent report of the Economic Policy Council of the U.N.A.-U.S.A.)●

EPA'S DOUBTFUL COMMITMENT TO HAZARDOUS WASTE CONTROLS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. BROWN of California. Mr. Speaker, once again the Reagan administration has chosen to cushion industry from its responsibility to manage the proper treatment, storage, and disposal of hazardous wastes—a problem universally recognized to pose life-threatening dangers to our communities. Their policies have turned the Environmental Protection Agency from guardian of the health of our communities, to a mercenary on the side of industry's regulatory rebellion.

In a series of manuevers, the Environmental Protection Agency has attempted to defer enforcement of its own regulations to restrict the disposal of containerized liquids in landfills. On February 18, EPA announced it was lifting the restrictions on liquid waste disposal in landfill for 90 days, effective February 25, while the Agency held public hearings on proposals to allow limited landfilling of such wastes.

This 90-day ticket for unrestricted dumping came 3 days before industries were required to apply for a permit to authorize the storage of liquid wastes on their property beyond the compliance period. It was a well-recognized problem that many industries had been stockpiling the liquids at their facilities and needed to alleviate the accumulation of toxic substances. But it is not standard procedure to suspend the regulations while considering new solutions to ingrained problems of regulatory compliance.

The President's nominating policies seems also to reflect his low-key concerns for environmental protection. Consistent with his past nominating patterns, President Reagan recently chose Rita Lavelle, a former industry spokeswoman for one of the Nation's most serious polluters, as Administrator for Solid Waste and Emergency Response. This position includes management of the $1.6 billion superfund program, and the hazardous and solid waste programs. Ms. Lavelle's experience with waste disposal problems sprung from her role as communications director for an Aerojet subsidiary that was sued by California for ground water contamination.

Ms. Lavelle may be a benign addition to the decay of regulatory enforcement that seems already to prevail at EPA. However, her image, as perceived by the media in my local paper, fuels public concern about the administration's commitment to environmental protection. I share with you an editorial from the Riverside Press Enterprise that views the nomination as a complement to the President's "fox-in-the-henhouse" approach to the administration of our regulatory agencies. I also include an article from today's Los Angeles Times:

[From the Riverside Press Enterprise, Feb. 25, 1982]

INCENDIARY NOMINEE

President Reagan has announced his choice of administrators for the government's toxic waste disposal program, and if nothing else, it shows his tolerance for fox-in-the-henhouse jokes is not yet exhausted.

The president's selection for the job is Rita Lavelle, who until a few months ago served as spokeswoman for a firm which the Environmental Protection Agency has labeled as one of the nation's largest polluters.

As chief spokeswoman for Aerojet-General Corp., Rita Lavelle defended a subsidiary of that firm against state-filed charges that it had allowed trichloroethylene, an industrial chemical, to contaminate the water table in an 8,000-acre area near Sacramento.

The state originally sought penalties of $31,000 a day for every day the company allowed pollution to continue—that allegedly spanned a full decade—and the EPA has labeled the area one of the 115 most hazardous sites in the nation.

As such, it could receive money from the federal toxic waste cleanup "superfund"—which she, as an assistant EPA administrator, would oversee.

Environmental factions, calling the nomination symbolically bizarre, immediately promised to fight against her confirmation in the Senate.

In her defense, the administration suggests its nominee is experienced in the problems of hazardous waste, and that she has an administrative vitality; she worked for Mr. Reagan when he was California governor.

Rita Lavelle also has sworn to stay uninvolved in matters affecting her old company.

Even so, remembering that it's an election year and that toxic waste is a subject that can generate its own heated controversy, she promises to be an incendiary nominee.

[From the Los Angeles Times, Mar. 17, 1982]

HAZARDOUS WASTE: THE PUBLIC WILL PAY

(By James Lewis and Katherine Durso-Hughes)

Every time government makes it cheaper for industry to casually discard hazardous waste—as the U.S. Environmental Protection Agency recently did by allowing the burial of liquid hazardous waste in landfills—the true cost of disposing of that waste is shifted to the general public in the form of massive clean-up expenses, lost resources and spiraling rates of cancer, birth defects and disease.

With the Love Canal in New York, Stringfellow quarry near Riverside, Calif., and similar toxic monsters around the country, industry has exhausted public willingness to accept these costs. The 1976 Resource Conservation and Recovery Act was the federal government's first step toward making industry—and, indirectly, a particular industry's specific customers, instead of the public at large—pay these costs through proper treatment and disposal, improved manufacturing to reduce waste and financial responsibility for environmental damage. But, during the past 14 months, the Reagan Administration has removed many of the strong regulations, as well as the enforcement and fines, that could make safe waste management the economical choice.

The EPA's decision last month to reverse the ban on landfill disposal of liquid hazardous waste is one in a series of major changes guaranteed to shift true waste-disposal costs to the public, increase the probability of toxic contamination and undermine efforts to control hazards and to develop safe treatment and disposal facilities.

Some other major agency changes will (1) eliminate rules requiring a facility operator to have a plan of action should hazardous wastes escape a landfill; (2) drop requirements that existing hazardous-waste incinerators not emit any of the wastes they burn into the atmosphere; (3) lift rules requiring hazardous-waste-management facilities to carry insurance adequate to pay for cleanup, damages and injuries resulting from the release of toxic chemicals into a community, and (4) substitute a random sampling for the annual report previously required of all companies generating hazardous wastes.

These changes leave public protection from toxic-waste mishaps to "interim" federal rules that are inadequately enforced, limited in scope and "not intended to provide health and environmental protection," according to the U.S. General Accounting Office. And if these meager precautions fail, the public must depend on the much-lauded but severely overburdened "Superfund" waste-site cleanup program. This program, funded well below the amount authorized by Congress even though most of its money comes directly from the chemical industry, will at best cover the cleanup of a few hundred of the thousands of toxic dumps across the nation.

Of course, not all governments or industries are trying to balance the cost of hazardous-waste management on the backs of the public. Some state governments and some companies are taking a long-term look at the problems and devising strategies for reduction and proper disposal of wastes. California is a notable example, with a program that not only bans landfill disposal of certain highly toxic wastes but also provides industry with technical assistance to find alternative disposal and reduction techniques. Michigan, North Carolina and Wisconsin offer tax incentives for companies that reduce or recycle their wastes. Kansas, Indiana, Maine and Florida charge industry for what one law calls "the privilege of generating hazardous waste."

Companies as large as Uniroyal Chemical Co. and as small as Reliable Plating Co. of Milwaukee are discovering that it pays in the long term not to produce waste—even when this means a sizable short-term investment. Uniroyal, for example, invested $48,000 to turn some of its hazardous waste into steam power, and in one year saved $183,000 in energy and disposal costs. Reliable Plating invested $30,000 in a system that was first considered a regulatory burden, but after eight months had reduced raw material (chrome) purchases by 90% and water use by 12,000 gallons per day.

By weakening hazardous-waste rules, the Reagan Administration is making it impossible for environmentally responsible companies to compete in the marketplace. Deficient regulations and indifferent enforcement encourage unscrupulous waste handling, removing the investment incentive from safe waste management and making waste mismanagement seem attractive in the short run. But the long-term costs of increased health and environmental problems are incalculable. Only one thing is certain: The public will pay.●

WOMEN'S HISTORY WEEK: A TRIBUTE TO MINNESOTA'S HANNAH JENSEN KEMPFER

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1982

● Mr. OBERSTAR. Mr. Speaker, I am pleased to join my colleagues in commemorating Women's History Week and to bring to your attention a dedicated and compassionate woman from the history of the State of Minnesota.

Hannah Jensen Kempfer—December 22, 1880, to September 27, 1943—a Minnesota State legislator, was born literally on the North Sea, the child of an unknown sailor and a ship stewardess. Abandoned in the Norwegian Port of Stavanger, she was placed in a home for foundlings. Several months later Martha and Ole Jensen adopted Hannah and, in 1886, brought her with them to America.

Like many Norwegians the Jensens settled in Minnesota, at first in Adams and then, at Erhard in Ottertail County. Hannah grew up in poverty. Her parents, squatters on a slice of railroad land, lived in a small log house with a sod roof and a dirt floor, eking out a bare subsistence. By working at odd jobs as a child, from milking cows to cleaning a doctor's office in Fergus Falls, Hannah managed to attend school. After completing her work at the country school, she enrolled at the public school in Fergus Falls long enough to pass the teachers' examination.

Fulfilling a dream, Hannah, at 17 became the teacher of the district school in Friberg Township, Ottertail County. Strong, sometimes stern, but deeply compassionate, she did everything possible to help her pupils. During these years she also organized church socials and quilting bees, and led township meetings. On May 20, 1903, she married Charles Taylor Kempfer, a young farmer from Fergus Falls. Although childless, the Kempfers helped rear a whole host of children. Their home near Fergus Falls quickly became a veritable community center as Hannah continued to take the lead in many affairs of the area.

By the spring of 1922 many people in her area were urging Hannah Kempfer to run for the State house of representatives. The nonpartisan league endorsed her, but she chose to run as an independent. That fall she was one of the top votegetters and was elected.

Therefore, except for a defeat in 1930, Hannah Kempfer served continuously in the Minnesota House of Representatives from 1923 to 1941. Throughout these years she remained an independent. Her orientation, however, was that of middle western agrarian progressivism. If she leaned to any political party, especially in her later years in the legislature, it was to the Republicans. Still, she was prepared to back many phases of Gov. Floyd B. Olson's farmer-laborite program during the decade of the Depression.

During her legislative career, Mrs. Kempfer served at one time or another on all but one committee. Deliberate and forthright rather than flamboyant or flashy, she was elevated to the chairmanship of the Game and Fish Committee, a post that she vigorously fought for. Conservation and social welfare were her two main interests. She was a leader in the passing of a fishing license law, the revenue from which would help pay for the stocking of Minnesota's lakes and rivers. She also helped pass a bill outlawing the cruel steel jaw game trap, which had been in use almost everywhere in the State. She was constantly visiting the State's various welfare institutions. Remembering her own childhood, she was especially concerned with the needs of women and children. Among the several welfare measures she helped pass was a bill to improve the status of illegitimate children.

Hannah Kempfer was regarded as completely fearless by many and utterly uncompromising in her honesty. She never hesitated to rebuke her colleagues in the house publicly; some called her a thorn in the flesh and a bean spiller, but few could bully or cajole her. Despite the fact that she was one of the most prominent women on the floor of the house over a period of 20 years, she quickly slipped into obscurity after her retirement in 1941. Two years later, at the age of 62, Hannah Jensen Kempfer suffered a fractured hip and died at Fergus Falls. She was buried in the Tonseth Luthean Church Cemetery in Friberg Township.●

FOCUS ON HIGH TECHNOLOGY

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. LONG of Louisiana. Mr. Speaker, in its latest annual report to the Congress, the Joint Economic Committee emphasized the crucial role high technology can play in the Nation's economic future. The committee presented its analysis as part of its statutory duty to respond to the President's annual report with its own recommendations for short-term and long-term economic policy.

In our report, we focused on the catalytic role played by the semiconductor industry in facilitating growth of related high technology industries. Over the past several years, innovative U.S. semiconductors manufacturers have greatly increased the capacity and sharply decreased the cost of semiconductor chips used to store information. Great advances have also been made in designing microprocessors which utilize these chips. The United States' lead in memory and logic chips has helped keep U.S. computers, telecommunications devices, and a range of other electronic goods ahead of international competition.

The U.S. lead in semiconductor technology, however, is threatened. A recently released JEC study, "International Competition in Advanced Industrial Sectors: Trade and Development in the Semiconductor Industry," paralleling our annual report points to the impact Japanese competition has had on the market for the crucial 64 k ram—a semiconductor that can store 64,000 bits of information that can be accessed independently or randomly. In the past, independent producers of semiconductors have relied on each generation of semiconductors to provide the profits and experience that paves the way for the next innovation. By carefully nurturing their semiconductor industry in what is a largely protected home market, the Japanese threaten to "short circuit" that process.

The independent semiconductor manufacturers are also feeling the twin burdens of recession and high interest rates. A sluggish market, high interest rates, and dwindling profits have all deterred capital spending in the industry. However, if American firms fail to keep up with the latest innovations in process technology, they will fall further and further behind the Japanese. With Japanese growth in GNP expected to average about 4 percent and Japanese interest rates near 6 percent, the Japanese producers have continued to modernize their plants as more modern manufacturing equipment becomes available. Ironically, much of this equipment is bought from American suppliers.

In our annual report, we suggest that economic policy should reflect the importance of a healthy semiconductor industry to our industrial future. First, we have proposed a change in the mix of macroeconomic policies that would bring lower interest rates by reducing deficits and allowing the money supply to be somewhat more accommodating. Second, tax and Government spending policies should reflect the need for greater levels of investment in new plant and equipment, research and development, and technical education. Third, an adequate venture capital market is vital for the health of the semiconductor industry as well as other high technology, high risk investments. Fourth, Europe, Japan, and many of the newly industrialized countries are intent in challenging America's current leadership in a wide range of high technology goods. In many cases, our international competitors have relied on closed markets to help stimulate domestic production. U.S. trade policy must actively resist the tendency of foreign competitors to maintain or erect trade barriers to our high technology exports.

The international competitiveness of our basic industries as well as many high technology industries will be greatly affected by the strength of U.S. semiconductor firms. The Joint Economic Committee's report contains one set of proposals that will help build that high technology future. I commend our report to my colleagues' attention.●

TOO GOOD TO BE TRUE

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. FAZIO. Mr. Speaker, it sounded too good to be true when Secretary of Interior Watt proclaimed that our wilderness areas "are special lands and should be preserved in a natural state," recently on "Meet the Press."

We now know that Secretary Watt disguised a plan that threatens our wilderness areas as a proposal to protect them. It features some unacceptable provisions that would significantly weaken the existing law protecting the small percentage of our land that remains unspoiled.

This is not the stewardship of the land Secretary Watt often talks about. Rather, it provides limited, short-term protection for our wilderness areas in exchange for allowing long-term damage.

The widespread concern of the people of northern California was expressed in an editorial in the Sacramento Bee on February 27, 1982. I include that article in the RECORD at this point for your consideration.

WATT'S OLIVE BRANCH: A SHAM

We should have known. When Interior Secretary Watt last weekend talked about banning development of federally protected wilderness areas until the year 2000, we believed him. We thought this was a step forward—a useful gesture to defuse the anxieties Watt himself had created with his earlier promises to industrialize the wilderness. We thought Watt was creating a base of sanity on which the debate over exploitation of other federal lands could be conducted. We were wrong.

The draft Watt has now submitted of his proposed wilderness legislation protects nothing. He has conceded only what he had already lost—the window between June 1, 1982, and Dec. 31, 1983, during which current law permits mining and drilling in wilderness areas. It is a window that the Interior Department was too far behind schedule to use and that Congress was about to close anyway.

In exchange for his "concession," Watt's draft legislation demands the unilateral right to withdraw lands from wilderness protection—with a majority of both houses of Congress necessary to veto any withdrawal. This is a far cry from the withdrawals only with the approval of Congress that Watt was talking about last weekend.

The draft legislation doesn't leave the question of future protection to be settled in the year 2000 either—a suggestion that seemed reasonable enough when Watt originally made it. The version of the proposal now being passed among Republicans in Congress instead would require that wilderness areas be opened to exploitation in the year 2000.

As to the rational debate about development of non-wilderness areas, for which Watt seemed to be laying the groundwork, it has been pre-empted in the draft legislation. Watt's proposal now includes an answer to questions about the federal lands that are currently being studied for possible inclusion in the protected wilderness category. And it is an answer which would make it much harder than existing law does to protect these lands—and much easier to develop them. The draft legislation, if passed, would also put the congressional seal of approval on Watt's determination to exploit other non-wilderness federal lands as quickly and thoroughly as possible.

So much for Watt's new moderation and his graciousness in the face of the imminent defeat of his earlier wilderness plans. We confess to being too eager to believe such miracles were possible. What had seemed to be a tactical retreat (indeed, a brilliant one) turns out to be a new assault on the natural heritage the interior secretary is supposed to be preserving. His draft legislation for "wilderness protection" is a sham.●

ST. PATRICK'S DAY PEACE WISHES FOR NORTHERN IRELAND

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. ROE. Mr. Speaker, I rise today on the celebration of St. Patrick's Day to call attention to the continuing struggle for freedom taking place in Northern Ireland.

It is indeed unfortunate that on this day of gaiety I must rise in this Chamber to note the suffering that still plagues that beleaguered land.

The year since that last St. Patrick's Day has not been a good one for Northern Ireland. The death of Bobby Sands and other IRA members from voluntary starvation sent shockwaves throughout the world. And the violence that followed those deaths deeply emphasized the frustration of the Irish people in having their lives controlled by Great Britain.

To that end, I have sponsored House Concurrent Resolution 146 which "recognizes the right of all the people of Ireland, including Northern Ireland, to control their own political destiny."

Mr. Speaker, I have gone on record many times in this Chamber outlining the terrible record of the Royal Ulster Constabulary, the major British police force in Northern Ireland. The actions of that group against the Irish people has been condemned by human rights organizations from around the world. It is heartening to note that the Reagan administration has no plans to change an embargo on the sale of U.S. arms to the Royal Ulster forces.

As a member of the Ad Hoc Committee on Irish Affairs, I strongly favor a peaceful and diplomatic solution to the violence in Northern Ireland that has taken the lives of scores of innocent people.

Mr. Speaker, at this moment in Belfast and the small villages and hamlets that make up Northern Ireland, children are afraid to play in the streets and women fear for their lives while going shopping because of the violent drama that has engulfed their lives these many years.

It is my most fervent wish that next St. Patrick's Day will find a new era of freedom, peace, and prosperity for our brothers and sisters in Northern Ireland.●

THE TORRANCE-KASHIWA SISTER CITY PROGRAM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. ANDERSON. Mr. Speaker, the newspapers are too often filled these days with the latest acrimonious exchanges between nations. We here in Congress are unfortunately forced to spend much of our time considering these same problems. It seems, at times, as though the entire concept of international harmony is an anachronism, something of the 19th century that our schoolchildren study in history books. Even with all the depressing developments, however, there are still strong and positive relationships between countries. We in the United States maintain strong ties with our European allies; we have stable and good understandings with our neighbors to the north and south; and we have an excellent relationship with our ally across the Pacific Ocean, Japan.

Mr. Speaker, I want to bring to my colleagues' attention today a sister cities program between Torrance, Calif. and Kashiwa, Japan. These two communities have actively participated in the program since February 20, 1973; and, while this relationship may seem trivial in comparison to the great international difficulties our world faces, I think that its success provides a refreshing perspective to the problems between states.

The relationship itself includes a variety of activities. Under the student exchange program, Kashiwa has hosted about 62 youths and 8 adult leaders from Torrance, while Torrance has hosted 65 youths and 8 adults from Kashiwa. Torrance sponsors an annual Bunka-Sai, or Japanese Cultural Festival, which, besides providing an opportunity for Torrance residents to learn more about Japan, raises funds for the student exchanges. A thriving cultural exchange program has sponsored an exchange of artwork between the cities; in 1978 Kashiwa sent a 50-member cultural delegation to Torrance. A teacher exchange program, started in 1979, has been responsible for sending teachers from one city to the other. The government exchange sponsors visits by local government officials of the two towns. Torrance has been pleased to host about 30 officials from Kashiwa, including 2 mayors. Mayor Jim Armstrong, of Torrance, will be making a similar visit to Kashiwa in April. In addition to these worthwhile programs, the sister city relationship includes a pen pal program, industry and commerce exchange programs, and a library exchange program.

The excellence of the Torrance-Kashiwa sister city program has been acknowledged by the Sister City International Organization. The international organization selected the program—out of a total of over 700 participating U.S. cities—for special project awards in 1978 and 1979, and for a special achievement award in 1980.

I said earlier that this program provides a refreshing perspective on the international problems of the day. I think that, to build a strong and stable relation between two nations, we must work at building positive relationships between the peoples of each state. And nothing is doing this so enthusiastically and so well as the Torrance-Kashiwa sister city program.●

LOOKING OVER JORDAN

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. ROSENTHAL. Mr. Speaker, I commend to my colleagues the March 10, 1982, editorial in the Washington Post concerning the disturbing approach this administration has taken to promote U.S. influence in the Middle East. Even though the administration expresses in words a continuing loyalty and commitment to the nation of Israel, its recent actions illustrate the hollowness of those vows. Actions speak louder than words, and starting with the AWACS sale and continuing right on through to the contemplated sale of sophisticated F-16 fighter-bombers and Hawk antiaircraft missiles to Jordan, we have witnessed this administration's attempt to court the Arabs at the expense of Israel's security. This is a dangerous and misguided approach. It is dangerous because it will only set the stage for increased hostility between Israel and the Arab world when we should instead be promoting rapproachement through peaceful negotiations. It is misguided because it sacrifices U.S. commitment to our strongest ally in the region on the chance that the Arab nations who have undermined the peace process in the past—and continue to do so—will somehow come around in the future, even though we extract no such concession as conditions to our arms sales. It is a terribly wrong course to follow.

The full text of the March 10, 1982, editorial follows:

LOOKING OVER JORDAN

Here we go, off on another bruising, careening battle over the sale of arms to Arabs. This time the would be recipient is Jordan, whose king, his appetite apparently whetted by the administration's secretary of defense, indicates that he is ready to put in for a new matched set of American anti-aircraft missile, and combat airplanes. Does he "need" the gear? Should he be sold it? King Hussein says yes; the Israelis say no. To catch the argument, it is almost enough to play the AWACS record again.

The argument has to do in the first instance with the military balance, which in the Middle East, is a tenuous and shimmering equation measuring states of mind as much as forces and capabilities. Over the years, the Israeli effort, to which President Reagan has just formally recommitted the United States, has been to maintain a qualitative edge. The Arab effort, to which Secretary Weinberger has apparently committed the United States at least in the matter of Jordan, has been to dull that edge.

The Jordanian military can make a perfectly good case for the equipment being sought. Unfortunately, the new stuff, if acquired, will almost certainly diminish the discretion that kept Jordan out of the last war and spur Israel to attack Jordan preemptively in the next. The forces driving Jordan to make its request have little to do, strictly speaking, with military security.

With what, then? With politics. Not alone in the Arab world, Jordan defines the Middle East problem as the product of excessive American support of Israel. For Jordan, the requirement is not to build the forces to win a war—that's regarded as foolish and self-defeating. The requirement is to loosen a little—no one expects a lot—the American embrace of Israel and then . . . Actually, the Arabs don't have a "then," a plan. But they are eager to set American and Israelis at odds. They do this by asking the United States for arms. Israel always objects, but the Arabs insist, and eventually the United States at least partially relents. This administration is not the first to be whipsawed by this tactic.

Something better is available. The curse of American policy in the mideast, through successive administrations, has been to substitute arms deals for an all-out diplomatic effort to close the Israeli-Palestinian breach. Mr. Reagan continues this appalling tradition. As long as he does, he sets up the United States for just such raids on its arsenal as King Hussein is undertaking now.●

STRIKING A PROPER BALANCE BETWEEN FEDERAL AND STATE PROSECUTIONS

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. CONYERS. Mr. Speaker, I would like to take this opportunity to continue my discussion of the improvements H.R. 5703, the Criminal Code Revision Act of 1982, makes in H.R. 1647, the Criminal Code revision bill reported by the full Judiciary Committee last Congress.

In contemplating revision of the Federal criminal laws, it is important to keep in mind that the proper role of the Federal Government in the enforcement of criminal laws is highly restricted. Federal prosecution should be reserved for crimes that interfere with the rights guaranteed by the Constitution, crimes that threaten the proper functioning of the Federal Government, and crimes of such broad scope as to require coordinated multistate investigation and prosecution. Thus, the Federal Government has a proper role in the prosecution of civil rights, political corruption and election offenses; of assults against public officials, interference with the mails, and offenses endangering national security; and of organized crime, white-collar crime, and large-scale drug operations. In all other situations, federalism requires the Federal Government to defer to State governments for prosecution.

H.R. 5703 makes a number of significant improvements over previous Criminal Code bills by striking a better balance between Federal and State jurisdiction:

First, H.R. 5703 facilitates the prosecution of public corruption. Like H.R. 1647, my bill allows bribery of local officials to be prosecuted through the bribery provision (sec. 1751), rather than through the complicated jurisdictional provisions of the current Travel Act (18 U.S.C. 1952). Unlike H.R. 1647, however, H.R. 5703 does not require special Attorney General or Assistant Attorney General certification for such prosecutions. Moreover, H.R. 5703 simplifies the process by which the Hobbs Act (18 U.S.C. 1951) and mail fraud provision (18 U.S.C. 13) have been used to prosecute local corruption cases by creating the new offenses of fraudulent scheme to corrupt a government (sec. 1762) and extortion under color of official right (sec. 1763). In the case of the latter offense, H.R. 5703 eliminates the specific intent requirement that appears in the analogous offense in H.R. 1647 (Mail Fraud, sec. 2534) and which would make prosecution considerably more difficult.

Second, H.R. 5703 creates a new offense which for the first time allows corporations and individuals who endanger human life by flouting Federal safety and environmental laws to receive punishment comparable to those who endanger lives in other ways. The offense of endangerment (sec. 2754) would make it a felony to place human life in peril by violating certain Federal laws in a manner showing an unjustified disregard for the life of another.

Third, H.R. 5703 limits Federal jurisdiction where the Federal interest rests solely upon an effect on interstate commerce. Current Supreme Court interpretations of the Hobbs Act (18 U.S.C. 1951, prohibiting robbery and extortion affecting interstate commerce) have created a situation where practically every robbery or extortion in this Nation is a Federal crime. A similar interpretation could be made of any other criminal provision that authorizes Federal prosecution when there is an effect on interstate commerce. H.R. 5703 limits Federal jurisdiction based upon interstate commerce to those instances where the effect on commerce is direct and substantial. This limitation, recommended by the National Association of Attorneys General, assures that the Federal Government will become involved only when the Federal interest—that is, the free flow of commerce—is seriously threatened.

Fourth, H.R. 5703 recognizes that local community standards must govern the enforcement of laws involving local moral standards. The Supreme Court has indicated that the Constitution will tolerate the prohibition of material judged obscene according to local standards. The degree to which such prosecutions are pursued must, for the same reasons, be decided by the local community. Thus, H.R. 5703 does not contain a Federal prohibition against the transfer of obscene material (sec. 2734 in H.R. 1647). Current prohibitions are maintained, however, in those cases where there is little question regarding the scope of the problem or the standard involved, such as child pornography (chap. 27, subch. V).

Finally, H.R. 5307 prohibits the Federal Government from second-guessing the States and reprosecuting a case following a determination of guilt or innocence in State court (sec. 705). Exceptions are made for offenses where the State may not be appropriately interested or able to best protect the public: Public corruption, organized crime, and civil rights violations. There is also an exception where Federal interests would be harmed if prosecutions were prevented.

Each of these provisions has the endorsement of numerous witnesses and organizations. I believe that these changes add significantly to the continuing effort to achieve the proper balance of Federal and State power.●

A TRIBUTE TO DEBRA CARTER

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mrs. BOUQUARD. Mr. Speaker, I am pleased to take this opportunity to recognize the courage and achievements of my constituent, Ms. Debra Carter. She was named the "Outstanding Rehabilitant for 1981" by the Tennessee Division of Vocational Rehabilitation for her refusal to allow cancer or a handicap to restrict her ambitions.

After learning that a lump on her right arm was caused by synovial cell cancer, a rare and potentially fatal cancer, Debra underwent surgery to amputate her hand at mid-forearm to prevent the spread of the cancer. A year of physical and occupational therapy at Walter Reed Hospital here in Washington, D.C., followed the surgery. Then, as soon as it was possible, Debra resumed her independent lifestyle. She proved her capabilities as a medical secretary in the District of Columbia and later as a medical clerk in her native Cleveland, Tenn.

Debra still had other goals and was determined not to give in to her handicap. To pursue her dream of a nursing profession, she applied for financial assistance from the Tennessee Division of Vocational Rehabilitation and was accepted. Debra also convinced the director of the Erlanger School of Nursing in Chattanooga that she was fully capable of performing nursing duties. After 3 years of school, through which she worked part time, Debra graduated with honors. She works now at Erlanger Hospital and will soon be completing a post-graduate course in critical care, a very intense and difficult program.

Debra Carter's determination and positive self image can teach us all that with the right attitude, any goal is within reach. I believe that I can speak for the full House in congratulating Debra and wishing her the best of success in the future. She certainly deserves it.●

THEY GROANED OVER $164,000 BUDGET CUT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WALKER. Mr. Speaker, I take this opportunity to call to the attention of my colleagues in the House a story which appeared recently in the Lancaster. Pa., New Era about our local office of aging's attempts to cope with Reaganomics. Although several tough decisions were required, I believe this espisode dramatically illustrates how a vast majority of our social service organizations can deal with reductions in Federal subsidies. The story as well as an editorial which appeared the next day follow:

[From the Lancaster (Pa.) New Era, Mar. 10, 1982]

THEY GROANED OVER $164,000 BUDGET CUT

(By Ernest Schreiber)

How much does it hurt to chop $164,000 from a county department's budget?

Not much at all, if it's the Office of Aging budget you're cutting.

There might be a public gnashing of teeth when it occurs.

And perhaps a private moment of sighing for the couple of programs that actually shrink a bit.

But otherwise, a hundred thousand dollars or so can be sliced away as easily as a scissors cuts through air. You hear it going by, but never see a thing.

It was two weeks ago that the administrators of the Office of Aging proclaimed the loss of $164,000 in federal funds.

The cuts were "significant," David Haverstick, assistant director of the agency, said at a meeting of county commissioners.

The public was told the cuts would result in "substantial reductions in across-the-board services to the elderly countywide, including free transportation, outreach activities, food services and staff and their fringe benefits . . ."

It seemed severe enough to make loyal grandchildren cast a group sneer toward Washington.

Wrongly.

In fact, the agency was able to shed $164,000, about 10 percent of its budget, with little impact, if any, on its programs.

How?

Here's the explanation, direct from agency director Peter Dys and his assistant Haverstick:

The feds ordered a budget cut of $163,764.

In the affected federal programs, about $30,000 had been budgeted for "in-kind services." That's bureaucratese for the value of the rent, office expenses and other in-house services that the county would have supplied to the programs this year, if they had run at the level originally planned.

Since the programs were cut back, the county's "in-kind" contribution to them would not take place. Its $30,000 cost became an expense that would never occur. The funds could evaporate from the budget without a trace of pain. (Dieting should be so easy.)

The funds were deleted; the budget deficit dropped to $134,365.

What next?

Well, when the budget was prepared last year, $20,000 had been tucked away as "unobligated monies" in the transportation section of the budget. (Dys says he was "trying to anticipate" what was happening in Washington.)

"Unobligated monies" is fat in its finest form. Budget padding, in normal English.

Since the funds never had an assigned purpose, Dys and his staff could ruthlessly slash from the budget.

They did. The deficit fell to $114,465. And still no pain.

The search for excess continued.

In its original budget, the Office of Aging had provided sufficient funds to give all elderly clients free rides to senior citizen centers.

No matter that many senior citizens enjoy walking in their neighborhood, live along bus routes, or own and drive cars. Everybody got a free ride.

Until the budget crunch.

By changing the policy so that those who have their own transportation get their own rides to senior citizen centers, the department cut about one-third of its weekly transportation cost.

In dollars, that savings amounted to $11,835.

The remaining deficit: $102,530.

What else might go?

A furious line-by-line attack on the budget showed plenty.

The cost of administrative staff had been overestimated by $2,061. It was zapped out of the budget. Ditto for fringe benefits of $173, and $1,000 in audit expenses.

A plan to update the office computer program, costing $1,500, was held off. Administrators were told to use the phone more and travel less, a savings of $400.

Another $400 had been proposed for "staff development," that's seminars, weekend courses or the like. "It's a luxury," admitted assistant administrator Haverstick. It was eliminated.

A supervisor of caseworkers resigned to have a baby. The position was not filled.

The impact on the staff of that move: each of the nine present caseworkers now handles an average of four new cases a week. Before, each of the 10 workers had an average 3.5 cases a week.

The savings: $5,548.

And there was more.

Caseworkers were told to use the telephone more and their cars less, a $700 savings in travel expense. The newsletter was put on a bi-monthly, rather than a monthly schedule, a $242 savings. The budget for awards to volunteers was cut back $76, their travel expenses $200.

All in all, $13,341 was sliced from staff operations, much of it technical adjustments for overestimating.

The remaining deficit: $89,189.

Then there was the food.

The Office of Aging serves meals to the elderly at its senior centers on 250 days a year.

If you happen to estimate the cost of those meals high by perhaps a dime a meal, said assistant director Haverstick, the amount can climb rapidly.

The Aging Office estimated the meals high by $194 a day, a total of $48,600.

That overestimate was knocked out of the budget. No meals were lost; no one will go hungry.

So was $6,000 the office had planned to spend on "oil-based paper products."

"You mean Styrofoam cups and plates?" Haverstick was asked.

"Right," he said. "Now we use washable trays."

Another $3,000, set aside for legal suits by clients against the office, had gone unused. As had $7,000 of the funds planned for the senior center on Pershing Avenue. And $1,340 budgeted for rent, $400 for printing and $147 for advertising.

Chop, chop, chop. The items were snipped from the budget, so that the spending document began to closely resemble what the office actually was doing with its money.

Five hundred dollars budgeted for a new podium and loud speakers at a senior center was cut, $1,400 in maintenance was deferred, the consultation time of a nutritionist was reduced from 20 hours to 10 hours a week, for a savings of $2,300.

An "ombudsman" program with area nursing homes, originally planned as work for an outside social service agency, will instead be conducted by the office staff. The savings: $3,845.

In total, through all its programs, the aging office directors found $92,783 that could be removed from the budget.

That put them just $9,747 short of the cuts they needed to find.

That shortfall was easily made up by "voluntary contributions" from the elderly.

By what?

Well, explained Dys and Haverstick, the office frequently receives payments, voluntarily made, when senior citizens get meals or other services at senior centers.

Those funds are set aside for unspecified future uses.

It was no problem to dip into that fund for the needed $9,747, as well as another $5,014 to keep new client enrollment services going.

How much more was in that fund? Haverstick said he didn't know. Nor did Dys.

The bottom line of this cutting and slashing: the full $163,764 was removed from the budget, all programs remained virtually unchanged.

Late last week, however, the state legislature, mindful that elections were near, appropriated $6 million to replace the federal funds cut from all the offices of aging throughout the state.

Lancaster County's share of that money, said Haverstick and Dys, would be used here to counter the federal budget cuts.

Did that mean that all the overestimates, removed just one week earlier, would be restored to the budget?

No, said Haverstick.

And no, he added, he didn't know exactly what use the office would have for the new funds.

But he did say they would accept them.

[From the Lancaster (Pa.) New Era, Mar. 11, 1982]

BUDGET CUTTING WITHOUT PAIN

Considering the whimpering that issues from network news just about every night of the week, one might conclude that distress among the nation's poor and elderly has been pushed beyond decency by the Reagan administration's budget cuts.

Considering the experience of Lancaster County's Office of Aging with a federal budget cut of nearly $164,000, however, one finds little pain in the trimming.

That does not mean nobody is being hurt by federal reductions and the recession. It does suggest that one should listen to the nightly news with skepticism.

Office of Aging officials had said the $164,000 in cuts (about 10 percent of the agency's budget) would result in "substantial reductions in across-the-board services to the elderly countywide, including free transportation, outreach activities, food services and stuff and their fringe benefits."

In fact, few, if any, of these services and people were touched by the budget-cutters, as shown by a detailed analysis in Wednesday's New Era. Ten percent of the budget, it turned out, was not needed.

Simple reductions included $30,000 in nonessential "in-kind services;" $20,000 in "unobligated monies" (that is, pure fat); and $11,835 in free rides for senior citizens who had their own transportation.

In addition, agency officials found $92,783 in unnecessary line items throughout all its programs. These included such things as reducing travel expenses and serving meals on washable trays instead of Styrofoam plates.

The final $9,747 came out of a fund of "voluntary contributions" made by senior citizens who could pay for services they received. That fund has not been depleted; agency officials don't even know how much money is in it.

That was it. Cutting 10 percent of the agency's budget was accomplished without altering any essential services. The $164,000 was all excess ("luxuries" one official called it) developed during the fat years of government spending. Now the lean years are merely cutting back to the level where such services should have been all along.

Unfortunately, this example of fiscal responsibility enforced by budget reductions is flawed. Last week the state legislature appropriated $6 million to replace the federal funds cut from all offices of aging in the commonwealth.

Officials of the local Office of Aging say they won't use the $164,000 to replace the fat cut from the budget. They don't know what they'll do with that money. But they will take it all. Then they'll figure out what to do with it.

So the nightly whimpering goes on, and the taxpayer continues to pay the bill, whether it comes out of federal or state monies. It's business as usual in a nation that continues to pad services for some with taxes from others.●

COMMUNITY SERVICES PROGRAM

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. ERDAHL. Mr. Speaker, this week of March 14 through 20 has been proclaimed in honor of the Older Worker. In my State of Minnesota, the Senior Community Services program, established under the Older Americans Act, has been especially important to seniors who are no longer in full-time employment. The program in Minnesota employs 1,345 low-income seniors presently and more than 53,000 are employed nationwide. Of the 1,345, 714 are in a program known as "Green Thumb," so-called because it employs workers in community beautification projects.

Studies have shown that the title V community services program is cost-effective in that savings of public assistance funds result, and some revenues are produced. In Minnesota, the average single-member family income of participants before entry into the program is $2,293. This is only 52 percent of the poverty level. For a family of two, the average income is $3,817 or 67 percent of the poverty level.

Communities benefit from the services, as was the intention. Many of the direct beneficiaries are other seniors. Through this program workers have built county and city parks, planted seedlings for erosion control, weatherized homes for low-income elderly, worked as curators, caretakers, and coordinators for historic preservation projects, staffed small community libraries, and served as companions to shut-in or lonely elderly. The list could go on.

One constituent from Red Wing, Minn., wrote me recently expressing concern that the program's funding was in jeopardy. Let me quote from her letter:

> My husband passed away suddenly last May, leaving a big void in my life that needed to be filled. I went over to our community building many times to talk with our Green Thumb workers and they always listened to me. Then I decided to help. . . . I learned quickly how badly these workers were needed and helped as much as I could . . . In January I was employed as a full-time worker and was proud of the fact that I qualified for this very special program. I now get paid for four hours a day, but I put in many more hours than I get paid for. Many of these people would be in rest homes if they didn't have our program. The shut-ins are in their 80's or 90's, and we have a worker who visits them at least once a week, more if necessary. At our community building we have Health Care, Craft Works, etc. Sometimes we make low cost meals, making certain it is nourishing food and a meal they would not make for themselves. Many times we buy small gifts, cards, etc. from our own money to add to their pleasure. I think I can put it in two words. We Care. I know if the program is cut, I will again offer my help, but I hope this fine program is not cut.

Programs like Minnesota's Green Thumb and Senior Aides, of course, employ only a small number of retired older Americans. But as we reflect this week on how the older worker has contributed, and still contributes, to the quality of life in our society and among its individual members, this program stands out as one area where a relatively small amount of Government bread is cast upon the waters and returned in good measure.●

VOLUNTARISM—BUILDING A NATIONAL NEIGHBORHOOD

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. GUNDERSON. Mr. Speaker, who is your neighbor? A neighbor is not a person—it is an idea, an approach, an attitude. It is compassion. Unless we reach out to our neighbors, to lend a hand in time of need, they cease to exist. a neighborhood can be one person or an entire nation. The capacity lies in each one of us.

One county in my district has become a neighborhood through the leadership and energy of one woman. As volunteer coordinator for Grant County's Department of Social Services, Colleen Barnett has mobilized a force of well over 200 volunteers to participate in local nonprofit programs.

When Mrs. Barnett began as volunteer coordinator for Grant County, 10 years ago, the rural community in western Wisconsin had no transportation programs to chauffeur elderly and infirmed residents to doctors' appointments. No public transportation has ever been available, and the only assistance was provided through a local gas station which offered fuel discounts to people on medical assistance. But that only helped those with their own cars. In a rural county with an extensive elderly population, many people simply received no help at all.

Likewise, before the volunteer program got underway, the community had no Big Brother/Big Sister program. A group of doctors and local Boy Scout leaders had tried to start the service. But the proper network never developed and the group disbanded, leaving children from broken or widowed homes without recreational outlets and companionship.

Through years of dauntless effort, the Department of Social Services constructed programs to fill these voids, including a volunteer driver/escort service, a thrift shop, nursing home and neighborhood visitors programs, big buddy services, a Christmas Empty Stocking Club, an emergency food closet. And the work has not stopped there. This year the department has begun a volunteers with juveniles on probation program linking volunteers with social workers helping delinquent children. These efforts required hundreds of hours in meeting with local clergy and civil leaders. But those hours were well spent.

The country thrift shop began with a single rack of clothes in a homemaker's basement. Now the shop receives regular donations from local businesses and families. Last year alone, 44 volunteers worked 2,624 hours and brought services to 2,957 persons coming to the shop.

The very popular Christmas Stocking Club received 256 requests for help from families and single people, and 209 individuals, families and organizations participated in the 1981 project.

For the transportation program, the gas station is a distant memory. Last year more than 100 volunteers drove 138,869 miles to aid people in need of daily help.

The unselfish efforts in this county of barely 50,000 residents surpass anything we can imagine. In light of this extraordinary work, I have nominated Ms. Barnett and her coworkers for one of the President's Volunteer Action Awards to be presented in mid-April.

In a recent newsletter to volunteers, Mrs. Barnett outlined the continuing dilemma facing Grant County:

> Increasingly local problems will need to be met by local resources as State and Federal funding decreases. For that reason we encourage everyone to look around and see how they can help.
>
> Charity begins in the home, and there are many homes in Grant County that need it!

If charity begins in the home, neighborhoods must begin there, too.●

NATIONAL AIRPORT IS OUTMODED

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. DANNEMEYER. Mr. Speaker, as the debate over the safety of Washington National Airport wages on, I would like to insert the following editorial reply into the Record for the edification of my colleagues. This thought-provoking article is from the Washington Post's March 13, 1982 issue:

[The Washington Post, Mar. 13, 1982]

That Airport Is Outmoded

(By John G. Colby)

I would like to respond to Hank Street's comments ["Hands Off That Airport!" Free for All, March 6] not as an "architect-developer," but as a pilot and reluctant user of Washington National Airport.

Fact: Effective with the Metropolitan Washington Airports Policy of Dec. 6, 1981, National must operate under a "cap" of 16 million passengers annually. Beyond this level, soon to be reached, all regional growth must be accommodated elsewhere. This is why I categorized National's declining share of the market as irreversible ["A News Town at National?" op-ed, Feb. 12].

Fact: At 6,870 feet, National's runway 18-36 is the shortest and busiest runway of any major airport in the United States. National poses unique problems of safety arising from stringent takeoff and approach procedures, surrounding water, prohibited airspace, vertical obstructions and population density. This is compounded by inadequate instrument landing, distance marker and overrun facilities.

Fact: Dulles International Airport is 12 times the size of National, has two runways each almost twice as long as National's longest and has the most advanced air traffic control facilities available in the country. The accompanying map illustrates that the recent Air Florida tragedy, from rotation to impact, could fit on either of Dulles' two main runways. In fact, all of National Airport could fit on the taxiways between those two runways.

Fact: Regional population growth and commercial development, especially that involving air traffic demand, is occurring much more rapidly outside the Capital Beltway than within it. Indeed, according to a recent survey by the Metropolitan Washington Council of Governments, 50 percent of the air travelers in the region would prefer to use Dulles or Baltimore-Washington International if their flights were available there.

I submit that National is neither an example of free enterprise, nor the result of a public referendum. Least of all is it a reflection of any sound regional transportation policy. "Your" airport is outmoded, inadequate, unsafe and a downright madhouse at peak hours. An awful lot of us wouldn't use it if we didn't have to.●

COMMEMORATION OF ST. PATRICK'S DAY

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. NELLIGAN. Mr. Speaker, today we honor St. Patrick, the patron of Ireland, who was in large measure responsible for bringing Christianity and civilization to Ireland.

The wearing of the green is truly an American tradition. From the earliest period of our country's history until the present time, the observance of St. Patrick's Day has been a fixed institution in most American cities and towns. Today the 17th is celebrated wherever there are Irishmen or descendants of Irishmen.

Along with our celebration on this day, I think it is fitting, particularly for Americans of Irish descent, to recall the violence in Northern Ireland. The situation continues to be of grave concern to all who cherish the ideals of freedom and liberty. It is our fervent hope that peace will be restored in Ireland in the very near future.

Mr. Speaker, I join with Americans of Irish descent in Pennsylvania's 11th Congressional District, which I am privileged to represent, in commemorating the rich tradition, the proud heritage that this day celebrates.●

IN MEMORY OF DR. JACOB BERNSTEIN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. SOLARZ. Mr. Speaker, Dr. Jacob Bernstein, a beloved educator and resident of my district, passed away last fall. I was a student at Midwood High School, and served as mayor of Midwood, during the time he was principal of the school, and his influence and guidance have remained with me throughout my life.

The Midwood High School PTA Bulletin recently printed a memorial to Dr. Bernstein which beautifully describes his life and many contributions to our community. I would like to share this fitting tribute to Dr. Jacob Bernstein with my colleagues today.

In Memory of Dr. Jacob Bernstein

The P.T.A. and the administration offer the following tribute in memory of Dr. Jacob Bernstein, former principal of Midwood High School, who died on October 21, 1981.

Dr. Bernstein's career in public education spanned a period of 48 years. From 1921 when he began teaching at Boys High School he moved up the educational ladder to become Chairman of History at Manual Training High School (now John Jay). Dr. Bernstein became the first Chairman of Social Studies when Midwood High School opened in 1941. During this period he authored the textbook "Citizen in a Changing Community" and initiated student participation in a student government program which became known as the "City of Midwood".

He served as Principal of Morris High School in The Bronx. During his tenure he organized the Morrisania Council—an organization of local business people and the school—which raised the expectations of underprivileged youngsters by providing job opportunities and counseling.

In 1953 he returned to his beloved Midwood High School as Principal. He initiated a six-major program which was a precursor of Midwood's successful Bio-Med Program. He also instituted an XG program which provided for double English and Social Studies periods in his effort to help students who were low achievers. He was years ahead of the time.

Dr. Bernstein served a full term from 1970-1973 as a member of the first District 22 Community School Board elected under the Decentralization Law. He brought to the Community School Board a dedication and ability honed by almost fifty years of educational and community service to the children of the city and district. His tenure on the Board was during a time of great change in education. His widsom, counsel and guidance enabled District 22 to establish a base for the excellent public school educational program it enjoys.

Dr. Bernstein was an active member of the East Midwood Jewish Center for over 35 years, during which time he served his religious community in many capacities. He was Principal of Yeshiva of Flatbush for five years from 1969-1974 and Chairman of the Board of Education of the Rabbi Harry Halpern Day School and the Talmud Torah, of the East Midwood Jewish Center. When he retired from this position the membership elected him President, an honor he held for five years. In this role he provided innovative leadership, becoming the first President to address the congregation at the end of sabbath services.

Jack Bernstein was indeed a "Man for All Seasons". He combined a knowledge of law (he was a lawyer) and education with a love and regard for all with whom he came into contact. He never failed to provide the needed assistance, accompanied by a smile and a story, to those who looked to him for guidance. For all of these traits he will be remembered.

He made many important and lasting contributions to our community. There are four grandchildren who are graduates of our school, and a fifth grandson who will be graduated in June. The Bernstein family legacy continues to enhance our school and community with the commitment and dedication of our own Mrs. Gladys Bernstein, who is a daughter-in-law.

The school and community family has countless fond memories of him which will always be cherished.●

A TRIBUTE TO THE KNIGHTS OF COLUMBUS ON ITS 100TH ANNIVERSARY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. GUARINI. Mr. Speaker, on March 29 of this year, the Knights of Columbus, the oldest and largest lay Catholic organization in the world, is celebrating its 100th anniversary.

Founded in New Haven, Conn., by Father Michael J. McGivney, who met with nine men in the basement of St. Mary's Church, the organization's purpose was defined to help the families of several men who had died as their families were left destitute.

The name Knights of Columbus was chosen by the group on February 6, 1882, and the first council, San Salvador No. 1, was instituted in New Haven on May 5, 1882.

Well over a million Catholic men participate actively in religious and community work in councils in the United States, Puerto Rico, the Philippines, Mexico, Canada, and other areas.

I am most proud of the great work the Knights of Columbus has done in New Jersey, especially in the Hudson County district which I represent. Jersey City Council No. 137 was started by John J. Cone on November 3, 1895, who was the organization's first grand knight. Because of his leadership he went on to be the first district deputy, the first New Jersey deputy, and the fourth supreme knight.

At the turn of the century four councils in Jersey City were active. In addition to Jersey City Council there were Paulus Hook, Conception, and Hope Councils. Conception and Jersey City Councils are now merged and are together for the common good.

The purposes of the society are: First, to provide for financial aid to its members and its beneficiaries; second, to assist sick and disabled members; third, to promote intellectual association among its members; and fourth, to promote and conduct educational, cultural, religious, social, and patriotic activities, and a leisure-time program, for boys of the ages of 14 to 18, conducted through an organization known as the Columbian Squires.

The Knights of Columbus has been very active combating subversive activities in a most comprehensive program and their remarkable work during World War II proved time and time again the greatness of their ideals of charity, unity, fraternity, and patriotism.

Their contributions have been many in the area of education, and they have provided a $500,000 endowment fund for graduate scholarships in the Catholic University of America, where they have also endowed a chair in American history.

On a New Jersey State level, literally thousands of children have been assisted with scholarships in many colleges and academies.

The fourth degree group of the Knights of Columbus is renowned for its annual essay contest on American history. A noteworthy program of the national Knights of Columbus was the establishment in 1944 of the supreme council, an educational trust fund of $1 million to provide a Catholic college education for the sons and daughters of the Knights of Columbus members who lost their lives in the Armed Forces during World War II or became disabled as a result of military service.

In 1948 the Knights of Columbus inaugurated an excellent program of advertising Catholic doctrine and practices in secular magazines of large circulation. Their official organ, Columbia, is published each month at its own printing plant.

In Hudson County there are 17 councils, with 6 in Jersey City: Conception 137, the oldest council in New Jersey; Paulus Hook 475; Greenville 3,988; St. Thomas More 4,341; Our Lady of the Most Holy Rosary 7,648, and all-Filipino council, the first in New Jersey and in the United States of America, instituted on August 28, 1980; and St. Peter's College 7,913, instituted August 23, 1981. The last two councils were instituted by District Deputy Vincent S. Costanza.

The other councils in Hudson County are: Hoboken Council 159; Star of the Sea Council 371 in Bayonne; Palisade Council 387, Carrol Council 1,378, and Santa Rosa de Lima 6,209, a Spanish council, all of Union City; Baret Council 1,273 in west New York; Our Lady of Fatima 3,415, Secaucus; Madonna Della Libera 3,630 and Pope John XXIII 5,837 in North Bergen; Our Lady of Grace 402 in Harrison; and St. Cecilia Council 6,928 in Kearny.

Vincent S. Costanza, district deputy of the Knights of Columbus, in the area which covers Hudson County, does an excellent job helping to lead and encourage the good work of the thousands of members and their families.

The Knights of Columbus deserves the salute of all my colleagues today because of their great work not only in religious functions but in helping advance the challenge of brotherhood and the development of character with their words of encouragement and friendship to those in need, teaching us all to express gratitude for the many things we enjoy. As Ballou said:

> Gratitude is the fairest blossom which springs from the soul.

Their patriotic programs also have deeply impressed me. Their work proves that "America is a tune which must be sung together."

Our beloved Prince of Peace Pope John Paul II expressed his thanks and appreciation to the Knights of Columbus in a speech to that group on October 7, 1979, on the occasion of his visit to the United States. His Holiness said:

> Many times in the past and again today you have given expression to your solidarity in the mission of service. I see in your support a further proof, if further proof were ever necessary, of your awareness that the Knights of Columbus highly value their vocation.

I am sure that my colleagues will join with me in providing a well-deserved salute to the Knights of Columbus who have proven time and time again their desire to be a friend of man working silently and sincerely to their hearts' content.

I believe Oscar Wilde expressed the joy each Knights of Columbus member experiences in his statement:

> Contentment lies not in the enjoyment of ease—a life of luxury—but comes only to him that labors and overcomes—to him that performs the task in hand and reaps the satisfaction of work well done.●

A SALUTE TO DR. JEAN PILCHER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. STOKES. Mr. Speaker, it is a pleasure and an honor for me to present to my colleagues the 84-year-old premiere grand lady of Cleveland—Dr. Jean Pilcher. People from virtually every sector of the Cleveland community know and respect her.

Mr. Speaker, that respect is rooted in the fact that Dr. Jean Pilcher is a phenomenal person. She is outspoken yet not abrasive; dedicated to her convictions yet not dictatorial; and a philanthropist yet not a publicity seeker.

Mr. Speaker, primarily Jean Pilcher is a great lady and the kind of human being who gives her all everyday for her fellow human beings.

Both I and my brother, Carl, have known Dr. Pilcher for many years. She was instrumental in my brother's successful compaign for mayor of Cleveland and also has been one of my strongest supporters in each of my campaigns for the U.S. House of Representatives. She has been a friend to many influential people in the Cleveland metropolitan area.

Mr. Speaker, Dr. Pilcher also has been a friend through the years to the downtrodden and to just causes. She was an active participant in the World War II Committee To Defend America by Aiding the Allies. She was very vocal in support of the civil rights movement in this country. Finally, she is currently at the forefront of the prochoice movement in Cleveland.

Taking into consideration her professional experiences as a pediatrician and her activism, Dr. Jean Pilcher has touched the lives of people from every socioeconomic level in Cleveland. In many cases, she has been the guiding force in movements which have improved the quality of life for Clevelanders and people across this great land.

Mr. Speaker, Dr. Jean Pilcher is literally an 84-year-old dynamo. Just viewing her accomplishments refreshes those persons around her. She is, by every description, an unceasingly energetic woman. Mr. Speaker, the citizens of Cleveland are fortunate to have her as a member of the community.

With those thoughts in mind, Mr. Speaker, I would like to insert in the RECORD, an article which appeared in the March 1, 1982, Cleveland Plain Dealer on my dear friend—Dr. Jean Pilcher. I ask my colleagues to pause at this time to salute Dr. Pilcher.

[From the Plain Dealer, Mar. 1, 1982]

AT 84, ACTIVIST'S FOOTPRINTS ARE FRESH

(By James Neff)

Twice a week without fail, you can find her in the cool, chlorinated depths of the Jewish Community Center's pool, floating, stretching, kicking, bending, twisting her 84-year-old limbs in a half-hour of exercise called aquatics.

"You work hard every minute and you feel thoroughly stretched and refreshed," said Dr. Jean Pilcher, pediatrician, liberal activist, public health expert and marvel to behold.

To the casual observer of Cleveland's political and social landscape, Pilcher may be invisible. But examine closely the panorama. You'll find her footprints throughout, treading on the complacent toes of all kinds of foes: racists, right-wing politicians, religous fanatics, wrong-thinking Republicans.

"Jean is a remarkably articulate and gentle woman," Carl B. Stokes, former Cleveland mayor, said recently. As president of the Cleveland chapter of Americans for Democratic Action, Pilcher pitched her support behind Stokes in the mid-1960s and helped put him in office.

"She has a great sense of history and is an authority on the labor movement," Stokes continued. "I've never heard her raise her voice. She would use her scathing sarcasm and make you feel like a damn fool."

"She's really a one-person lobbying organization," said Chris Link, a public-health activist. "She's really been a mentor to younger people in the health field."

John Lawson, a former Cleveland councilman, benefited from Pilcher's campaigning during last year's council races.

"I can't say enough good about the lady," he remarked. "She provided me with positive criticism and suggestions. She was not the kind of constituent who called me about a chuckhole. She has a broad range of interests."

Dr. Jean Pilcher is a spry, soft-spoken woman with a self-effacing manner. She does not want to answer questions about her background. She would rather discuss what she sees as the stupidity of the Hatch Amendment, the anti-abortion proposal that has been gathering momentum during this country's recent swing to the right.

But she is too polite to stonewall. So we learn that she was born Jean Lorrain-Smith in 1897. Though of Scottish descent, she was born in Belfast where her father, a doctor, taught pathology at the University of Belfast.

She studied literature and science at the University of Edinburgh in Scotland before entering medical school. In 1923, fresh out of medical school, she became acquainted with John Masefield, the celebrated poet who wrote in a narrative style similar to Chaucer's Masefield was named poet laureate of England in 1930. His sometimes earthy verse offended British blue-noses.

Pilcher and Masefield corresponded for several years.

"He just poured out his letters to the great delight of many," she said, "We didn't think about age. There wasn't any generation gap back then."

She recently donated 62 of those letters to the department of special collections at Case Western Reserve University's Freiberger Library.

In 1926, she journeyed to Cleveland to start a year of special study at Rainbow Babies' and Children's Hospital. There she met another pediatrician, J. Douglas Pilcher. They married the next spring.

A few months later, she traveled to Scotland to tell her family of her new status, knowing she would see little of them thereafter. Transatlantic travel then was not the snap it is today.

"I was terribly torn seeing them," she said.

Before long, she took leave of Cleveland's medical field to raise a family, which came to include three children. Only James Pilcher, a stockbroker here, survives. Her husband, who taught pediatrics at Western Reserve's medical school, died in 1954.

Pilcher's activism began to flower in the late 1930s, when she worked with the Committee to Defend America by Aiding the Allies. This group encouraged the United States to enter World War II. Its opposition was the America First Committee.

"We really fought part of the Battle of Britain over here," Pilcher said.

In 1949, Pilcher was hired by the city health department to be a pediatrician in its public clinics in poor neighborhoods. She weighed and measured newborns, administered primary health care and advised mothers on nutrition. If serious maladies were discovered, the babies were sent to a hospital.

Pilcher was shaped by her work in the ghettos.

"It really was an eye-opener," she recalled. "It was interesting to me from a sociological point of view. These were the lowest-income level people, and you had to think in their terms."

Pilcher, a supporter of Planned Parenthood, had to keep to herself her birth-control philosophy, considered progressive at the time.

"I was careful not to tread on the toes of the Catholic nurses."

But that wasn't always possible. Pilcher instructed some women about the mysteries of birth control and, at times, advised them to go to Planned Parenthood. The nurses complained, Pilcher said, and she was called before her boss.

"It's public money, and we mustn't take sides." Pilcher remembered the man telling her.

"The most touching thing ever said to me," Pilcher recalled, "was from a woman who had open heart surgery and was ill. I said, "You do realize you ought not to have another child."

Pilcher said the woman's faith forbade birth control. But the woman decided to use it anyway, telling Pilcher, "I'm a Catholic all right, but I do believe that Jesus is just."

Lately, Pilcher has been active in Cleveland's pro-choice movement. She is on the board of the Cleveland Abortion Rights Action League. Her letters criticizing the Hatch Amendment have been published on newspaper editorial pages.

"We are not pro-abortion," she insisted. "We are pro-choice. There are times we don't want women to have an abortion—over some frivolous matter."

Activism comes as naturally as breathing to Pilcher.

"It has always seemed to me much worse to sit and wring your hands about something wrong," she said. "It is really a relief to be able to do something, instead of just feeling the frustration of doing nothing. So you did it out self-defense almost. You relieve your guilty feeling that you were sitting back and enjoying yourself—which you weren't."

Pilcher acknowledged she is not a Ronald Reagan fan, but added that at least the president has shaken the Democrats, populists and liberals out of their lethargy.

"Reagan thinks he has a mandate from people," she said. "They were voting for a change, and that's all they got.

"Before I die, I might see it swing back in the other direction. We've got to have a level-headed middle line for people."●

CRIME: WHAT SHOULD THE FEDERAL GOVERNMENT'S ROLE BE

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. PEYSER. Mr. Speaker, yesterday I introduced two pieces of legislation dealing with the subject of crime, legislation which I am asking my colleagues to cosponsor as worthwhile Federal initiatives in our efforts to halt the spiraling crime rate.

I introduced these bills, Mr. Speaker, shortly before the occasion of a town meeting on the subject of crime I am sponsoring on Monday, March 22 at Public School 76 in the Bronx. The topic of the town meeting is "Crime: What Should the Federal Government's Role Be?" Participating at this meeting will be members of the crime prevention units of the 47th Precinct in the Bronx and the Metropolitan Transit Authority, as well as members of local neighborhood anti-crime organizations.

The subject of crime, and what to do about it, has been receiving an increasing amount of attention among educators, sociologists, policemen, lawyers and judges, and of course, elected officials, as a result of justified citizen concern about the safety of our streets. This concern is now no longer limited to our cities and urban areas, but is prevalent in suburban and rural areas as well. Poll after poll identifies crime as one of the major concerns of the American public, as the crime rate in recent years has risen about 10 percent. According to the FBI, one criminal offense is committed in our country every 2 seconds. The breakdown for individual crimes is one burglary every 8 seconds, one aggravated assault every 48 seconds, one robbery every 58 seconds, and one murder every 23 minutes.

Whether this increase in crime has resulted from increased unemployment levels, or other factors, is unclear. What is clear, however, is that crime is having a devastating effect on the quality of life in our neighborhoods. In a recent poll, crime was the most common response given when people were asked what their community's worst problem was. Nearly 50 percent of the respondents favored hiring additional police officers even if it meant paying higher taxes, and 75 percent felt there was as much or more crime in their area compared to a year earlier.

Since our country was founded the Federal Government has played a very limited role in law enforcement. Most direct criminal law authority is at the local level, and while Federal criminal jurisdiction has expanded considerably in the last few decades to fight interstate and organized crime, the Federal Government today investigates and prosecutes fewer than 5 percent of the Nation's total criminal justice workload.

The most noted Federal initiative in criminal law of recent years was launched in response to the report of President Johnson's Commission on Law Enforcement in 1967 which advocated legislation to fund State and local criminal justice programs with Federal money. The Omnibus Crime Control and Safe Streets Act of 1968 was the result, and under this law many State and local programs have received funding through the Law Enforcement Assistance Administration (LEAA). Appropriations for LEAA reached a high of $895 million in 1975.

Under President Reagan, however, the appropriations to LEAA for criminal justice grants to the States have fallen to zero. In spite of get tough rhetoric about the crime issue, the Reagan administration has done little to aid in the fight against crime, and in fact has insisted that the fight be waged with fewer, rather than greater resources. The Reagan budget has called for significant cuts in funding for the major agencies which deal with crime, drugs, and criminals—the FBI, the Drug Enforcement Administration, the Bureau of Prisons, the Coast Guard, and the Bureau of Alcohol, Tobacco and Firearms.

I contend, as does a recent report of the House Judiciary Committee, that the Federal Government can provide three important types of services to its citizens in the criminal justice area. First, it can mount an effective and efficient response to the crimes which are exclusively or primarily Federal. Second, it can maintain adequately funded Federal law enforcement agencies which provide backup and assistance to the States when they are not capable of responding. And finally, the Federal Government can provide leadership to the States and local governments by creating and funding model anticrime programs, as well as conducting research and compiling criminal justice statistics.

It is with this mandate in mind that I offer, Mr. Speaker, these two bills.

The first bill, H.R. 5851, would assist local police and prosecutors in dealing with repeat offenders who abuse the bail and parole system. The bill expands Federal jurisdiction to include serious crimes committed by someone while released on Federal, State or local bail, probation, parole, or similar form of release. This bill is intended to attack the problem of habitual criminals who abuse their release from confinement by committing a serious offense such as robbery, rape, burglary, assault, murder, manslaughter, arson or kidnaping. Under my legislation any such offense would become punishable under Federal law by an additional penalty of up to 10 years in prison.

While it is true that these crimes have traditionally been prosecuted by State and local officials, it has become increasingly apparent that many local criminal justice systems are severely overloaded, and cannot adequately deal with repeat offenders. In fact, the inability to deal swiftly and surely with lawbreakers destroys the deterrent value of the law. This is certainly true in New York City, where prosecutors, judges, attorneys, and the police must contend with a huge backlog of pending cases.

The Federal Government can and should supplement local authorities in cases where crimes are committed by those on bail or prison release of some kind. Statistics show the Federal courts normally try criminal cases within 4 months. Under the Federal system, prosecutions of repeat offenders on bail or parole as suggested by this bill would be swifter, and the penalty and deterrent effect therefore surer. I am confident that local and Federal law enforcement authorities and prosecutors can work together closely on these crimes as they do in other areas of criminal law where there is shared jurisdiction.

The second bill, H.R. 5850, Mr. Speaker, enhances the existing authorization of the LEAA and provides for targeting funds to community anticrime programs, such as escort services for the elderly and neighborhood block watch organizations. Many criminal justice officials recognize that effective law enforcement and crime prevention must include an involved and an aware citizenry. In many cities and towns across the country, community and neighborhood efforts have resulted in a reduction in street crime. Rather than pull back and abandon such innovative programs, I believe the LEAA should continue funding such activities which are beyond the means of traditional funding sources for local governments, and in fact, money should be targeted to assist local programs which can have a real impact on reducing crime and enhancing public safety.

Mr. Speaker, might I conclude by stating that while historically the Federal Government has had a limited role in fighting street crime, I believe it is essential that it become more involved, and that it not abdicate responsibility for what everyone acknowledges is a national problem. I ask the support of my colleagues for these two measures.●

THE ARTHUR M. GINZLER LABORATORY

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. WILLIAMS of Ohio. Mr. Speaker, St. Joseph's Riverside Hospital in Warren, Ohio, recently announced that its new laboratory, which is now under construction, will be named "The Arthur M. Ginzler Laboratory" in honor of Dr. Arthur M. Ginzler who served as chief pathologist and director of the laboratory from 1960 until his retirement in 1978. A ceremony to mark the occasion and to honor Dr. Ginzler was held in Warren on February 20, 1982.

Dr. Ginzler is an outstanding example of a person who by quiet, persistent leadership makes his community a better place. When he came to eastern Ohio in 1960, he had already achieved an enviable reputation as a teacher and author in the field of pathology. He had written many articles and contributed to a number of books in the field. Dr. Ginzler had also compiled a distinguished record in the Medical Corps of the U.S. Army Reserve. He spent the rest of his career improving the practice of medical science in Warren and the surrounding area. The honors recently bestowed upon him are well merited. It gives me great pleasure to join with Dr. Ginzler's associates, family, and friends in paying tribute to him.

The following article, which appeared in the Warren, Ohio Tribune Chronicle, relates the details of the ceremony to honor Dr. Ginzler.

The article follows:

[From the Warren (Ohio) Tribune Chronicle, Feb. 21, 1982]

NEW LAB AT ST. JOE'S NAMED AFTER DR. GINZLER

When the new laboratory is completed in St. Joseph Hospital's Project 80s addition, it will be named "The Arthur M. Ginzler Laboratory." This is in honor of the physician who served as director of laboratories from 1960 through 1979 and now serves as a consultant.

The tribute to Ginzler was announced when 100 of his colleagues and friends met Saturday afternoon at Jimmy Chieffo's Restaurant. Members of the Sisters of the Humility of Mary and the hospital board of trustees planned the event.

Sister M. Consolata Kline, H.M., president of the Sisters of the Humility of Mary, presented Ginzler with a framed replica of the plaque that will be hung in the new laboratory.

Mrs. Edwin R. Westbrook was master of ceremonies. Other participants were Ginzler's wife, Rose; his two daughters, Mrs. Stephen Robb of West Lafayette, Ind., Dr. Ellen Ginzler of New York City; hospital trustee Charles J. Foley; medical staff members, John A. Grima, M.D., and Alfredo R. Gorospe, M.D.; Paul Martin, president of the hospital's development foundation; George P. Mancuso, hospital executive director; attorney Michael Rosenberg; and Herbert Levine.

The plaque will be inscribed, "in grateful recognition of his outstanding professional and personal contributions to St. Joseph Riverside Hospital and in appreciation of his true dedication to the hospital and his patients."

Ginzler joined St. Joseph's staff in 1960 as a pathologist and director of laboratories. He previously served at St. Vincent Hospital, Bridgeport, Conn., and at Sydenham Hospital and the Hospital for Joint Diseases in New York City.

He earned his medical degree from Wayne State University College of Medicine, Detroit, in 1932, completed a residency in internal medicine at Herman Kiefer Hospital, Detroit, and residencies in pathology at Newark (N.J.) Beth Israel Hospital and Mount Sinai Hospital, New York City.

During World War II, he was chief of pathology in the medical division of the Army Chemical Warfare Service, and had served in the active reserve as a lieutenant colonel in command of the 2291st General Hospital in Akron.

Ginzler has had numerous scientific articles published. He is certified by the American Board of Pathology, and is a member of the Trumbull County Medical Society and numerous other professional organizations.●

THIRD-PARTY RECORDKEEPERS

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. GRADISON. Mr. Speaker, today I am introducing legislation to permit barter exchanges to become "third-party recordkeepers" under internal revenue laws. Current tax laws discourage barter exchange membership because they allow members to be subject to frequent subpenas. The clients of parties identified as third-party recordkeepers have greater procedural protections in the event IRS subpenas their tax records.

Section 7609 of the Internal Revenue Code of 1954 requires a taxpayer to be notified whenever an IRS administrative summons is issued to a third-party recordkeeper requesting the taxpayers' records. That individual receiving notice then has the right to intervene and seek a stay of compliance with the summons. If this is done, the IRS must go into Federal court and show why it requires the documents, and the taxpayer may appear to contest this action.

Congress enacted this provision to allow the IRS to use the third-party summons as an investigative tool, while assuring that the IRS did not violate a taxpayers' rights of privacy by issuing a summons for their records without notifying them of this fact or giving them an opportunity to object in a court of law. This procedural safeguard is unavailable to clients of non-third-party recordkeepers.

Section 7609(a)(3) defines the term "third-party recordkeeper" for purposes of this special summons procedure to include:

> Any mutual savings bank, cooperative bank, domestic building and loan, other savings institution chartered and supervised as a savings and loan or similar association under Federal and State law, any bank . . . any credit union . . . any consumer reporting agency . . . any person extending credit through the use of credit cards or similar devices . . . any broker . . . any attorney, and any accountant.

These various organizations were specifically enumerated because they keep accurate tax records in the ordinary course of their business. Barter exchanges also have this function but were new and yet unrecognized when this statute was written.

The taxpayer members of a barter exchange should be accorded these rights for the following reasons:

First, a barter exchange, in maintaining the records of other taxpayers, is no different than a bank, broker, lender, lawyer, accountant—all of which are recognized as third-party recordkeepers in section 7609. It is unfair for taxpayers' records to be protected when they are held by a bank or broker, and not protected when held by a barter exchange.

Second, a taxpayer's records should only be sought by the IRS when they are truly relevant to a tax inquiry, not because they might be relevant. The requirement to give notice and to obtain court permission for the records keeps the IRS from overstepping this bound.

A barter exchange functions primarily as a marketplace where members contract to buy and sell each others products or services and take payment in-kind rather than in money. Units of account called trade units are used to record purchases and sales. When a member sells his product or service he earns trade credits which he may then spend to purchase goods from other members of the barter system. Exchanges employ computer record systems making it possible for thousands of businesses across the country to trade reciprocally. The exchange receives an annual fee and a commission on each transaction. Members include restauranteurs, hotel owners, doctors, dentists, accountants, mechanics, advertisers, printers, and numerous other product and service producers. The industry estimates that there are approximately 300 trade exchanges nationwide. These exchanges handled $300 million in barter transactions during 1981.

Current IRS rulings make barter income taxable in the same manner as ordinary business income. Therefore, if a lawyer writes a will in exchange for auto repairs, the value of those repairs is taxable to the lawyer as income. Commercial barter exchanges maintain transaction records and issue monthly statements to their members.

The Treasury Department is compiling regulations requiring barter exchanges to submit an informational return to the IRS on each client showing the amount of barter income received during the year. The industry has supported infomation reporting and has worked with the IRS to develop this system. Such reporting should make broad IRS subpenas of barter exchange records less necessary. When these regulations are in force it can no longer be argued that recognizing exchanges as third-party recordkeeepers would be an obstacle to tax compliance. There will be a strong incentive to report this income on tax returns, since it will be reported to the IRS by the exchange. Only in exceptional cases, will the IRS have to seek a taxpayer's detailed records.

This legislation would help strengthen the barter industry which serves an important business function. By allowing members of purchase goods using their excess inventory or ability to perform services, rather than cash which can be in short supply, this bill would increase their purchasing power, and maintain or strengthen their liquidity.

Frequent and broad IRS subpenas have made it increasingly likely that barter exchange members' tax returns will be audited. This bill would protect exchange members by requiring notification if their records are subpenaed and would give them the opportunity to exercise their legal rights by requiring a court evaluation of the IRS record requests. I encourage my colleagues to support this proposal.●

TED WOZNICKI, CLEVELAND SOCIETY'S GOOD JOE OF 1982

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 17, 1982

● Mr. STOKES. Mr. Speaker, I ask my colleagues to join with me and the Cleveland Society, Inc., in saluting Mr. Ted Woznicki of Cleveland, Ohio. On March 20, Mr. Woznicki will be honored with the highest Polish heritage award bestowed by the Cleveland Society, the "Good Joe of 1982."

Mr. Speaker, this coveted award is given by an organization which since 1923 has committed its members to fostering the traditions and cultures of Poland and promoting the principles of American citizenship. Appropriately, Mr. Woznicki has embraced these philosophies and has helped to perpetuate them in the Cleveland metropolitan area.

At this time, Mr. Speaker, I would like to share some insight into the accomplishments and character of Mr. Ted Woznicki with my colleagues.

Ted Woznicki's name in Cleveland is synonymous with quality insurance services. This year marks Mr. Woznicki's 33d year in the insurance business.

Mr. Speaker, Ted Woznicki operated an insurance agency for 22 years and was among the first tenants to move into the Investment Plaza Building in 1969. In the early 1970's he merged with the Graber-Stewart Agency. Largely because of Mr. Woznicki's expertise, the Graber, Stewart and Woznicki agency expanded as a casualty agency representing some of the leading stock companies in the Cleveland metropolitan area.

After achieving a new level of capability and service, a need for a specialized life insurance agency developed. As a response to that need in 1974, Mr. Woznicki became a principal in the Parkhurst, Stewart and Woznicki, Inc. Agency. Within a short period of time, the agency became a leading producer of life insurance in the State of Ohio and the leading producer for Travelers Insurance Co.

It is evident, Mr. Speaker, that Ted Woznicki has dedicated most of his life and energies to serving the public through the insurance industry. During his career, quality service to the public has been the apparent motto of Ted Woznicki. It is not hard to believe that Ted Woznicki has received numerous awards for this same outstanding service to the public. The list of achievements include being named the Travelers Insurance "Man of the Year."

However, Mr. Speaker, even though Mr. Woznicki has made his livelihood through the insurance industry and has helped many persons through his work, his interests also include working with many charitable organizations and educational groups. These activities have also resulted in many awards and citations. His exhaustive list of achievements outside of the insurance industry include serving as the past president of the board of trustees of Marymount Rehabilitation Services; board of trustees of Urban Community School; board of trustees of Sigma Nu fraternity of his alma mater Miami Univesity; board of trustees of Federation of Catholic Community Action; and the advisory board of Trinity High School.

In conclusion, Mr. Speaker, Mr. Ted Woznicki is that rare kind of human being who, through his work, professional associations, and community involvement, has helped others. I know that the Cleveland Society, Inc., is proud to have him as a member. I am just as proud to have him as a resident of the Cleveland metropolitan area and to present his accomplishments to my colleagues. At this time, I ask my colleagues to join me in applauding the work of Mr. Ted Woznicki, Cleveland Society's "Good Joe of 1982."●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 18, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 19

8:30 a.m.

Armed Services

Strategic and Theater Nuclear Forces Subcommittee

To hold closed hearings to review budget proposals for fiscal year 1983 for intelligence activities of the United States.

212 Russell Building

9:00 a.m.

Finance

To continue hearings to review the administration's tax proposals for fiscal year 1983.

2221 Dirksen Building

Labor and Human Resources

Employment and Productivity Subcommittee

To hold hearings on productivity in the American economy.

4232 Dirksen Building

9:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for education programs of the Bureau of Indian Affairs, Department of the Interior.

1114 Dirksen Building

Commerce, Science, and Transportation

To continue oversight hearings on activities of the Federal Trade Commission, and on proposed legislation authorizing funds for the Federal Trade Commission.

235 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume oversight hearings on the Department of Energy research and development programs, focusing on energy research, inertial confinement fusion, nuclear materials security and safeguards, and environmental protection.
3110 Dirksen Building

10:00 a.m.
Armed Services
Sea Power and Force Projection Subcommittee
To continue open and closed hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense, focusing on major strike platforms (Naval aircraft carriers).
224 Russell Building

Foreign Relations
To hold hearings on the nomination of Herman W. Nickel, of the District of Columbia, to be Ambassador to the Republic of South Africa.
4221 Dirksen Building

2:00 p.m.
Armed Services
Sea Power and Force Projection Subcommittee
To continue open and closed hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense, focusing on airlift programs.
224 Russell Building

Finance
To continue hearings to review the administration's tax proposals for fiscal year 1983.
2221 Dirksen Building

Select on Intelligence
Budget Subcommittee
To continue closed hearings on proposed legislation authorizing funds for fiscal year 1983 for intelligence activities of the United States.
S-407, Capitol

MARCH 22

9:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Telecommunications and Information Administration, Department of Commerce.
235 Russell Building

9:30 a.m.
Judiciary
Security and Terrorism Subcommittee
To hold hearings on the alleged role of the Soviet Union, East Germany and Cuba in fomenting terrorism in South Africa.
2228 Dirksen Building

10:00 a.m.
Energy and Natural Resources
To hold hearings to discuss natural gas policy and regulatory matters, including related proposals modifying existing law.
3110 Dirksen Building

Finance
Oversight of the Internal Revenue Service Subcommittee
To hold hearings on the compliance gap and the proposed Taxpayer Compliance Improvement Act.
2221 Dirksen Building

MARCH 23

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Holocaust Memorial Council, and the Bureau of Land Management of the Department of the Interior.
1114 Dirksen Building

Energy and Natural Resources
To continue hearings to discuss natural gas policy and regulatory issues, including related proposals modifying existing law.
3110 Dirksen Building

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Food and Nutrition Service, and the Human Nutrition Information Service, Department of Agriculture.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Bureau of the Census, National Telecommunications and Information Administration, and the Economic and Statistical Analysis.
S-146, Capitol

Banking, Housing, and Urban Affairs
Housing and Urban Affairs Subcommittee
To hold hearings on the proposed Emergency Mortgage Interest Reduction Payment Act.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for weather programs of the National Oceanic and Atmospheric Administration, Department of Commerce.
235 Russell Building

Judiciary
To hold hearings on proposed legislation authorizing funds for the Department of Justice.
2228 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the statute of limitations relating to Indian Affairs.
6226 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Veterans' Administration.
1224 Dirksen Building

Environment and Public Works
Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending nominations and other committee business.
4221 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Tennessee Valley Authority.
S-128, Capitol

2:30 p.m.
Environment and Public Works
To hold hearings on the nomination of Rita M. LaVelle, of California, to be Assistant Administrator for Solid Waste and Emergency Response, Environmental Protection Agency.
4200 Dirksen Building

MARCH 24

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Helsinki Commission, Board for International Broadcasting, Japan-United States Friendship Commission, Arms Control and Disarmament Agency, and the International Communication Agency.
S-146, Capitol

Finance
International Trade Subcommittee
To hold hearings on S. 2094, proposed Reciprocal Trade and Investment Act, and other related measures.
2221 Dirksen Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the Internal Revenue Service's taxpayer assistance programs.
6226 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To resume hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.
2228 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1785, increasing the penalties for violations of the Taft-Hartley Act, requiring immediate removal of certain individuals convicted of crimes relating to his official position, broadening the definition of the types of positions an individual is barred from upon conviction, increasing the time of disbarment from 5 to 10 years, escrowing a convicted official's salary for the duration of his appeal, and clarifying the jurisdiction of the Department of Labor relating to detection and investigating criminal violations relating to ERISA.
4232 Dirksen Building

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the National Highway Traffic Safety Administration of the Department of Transportation, and the Interstate Commerce Commission.
1318 Dirksen Building

Banking, Housing, and Urban Affairs

To hold hearings on the nomination of Preston Martin, of California, to be a member and Vice Chairman of the Board of Governors of the Federal Reserve System.

5302 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Governmental Affairs

To resume hearings to review the President's proposals on New Federalism.

3302 Dirksen Building

Judiciary

Criminal Law Subcommittee

To hold hearings on S. 1446, proposed act for the implementation of the convention on the physical protection of nuclear material.

5110 Dirksen Building

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Nuclear Regulatory Commission, and the Federal Energy Regulatory Commission of the Department of Energy.

1114 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

MARCH 25

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearing on proposed budget estimates for fiscal year 1983 for the Office of Indian Education, Navajo and Hopi Indian Relocation Commission, and the Pennsylvania Avenue Development Corporation.

1114 Dirksen Building

9:30 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Farmers Home Administration, Rural Electrification Administration, and the Office of Rural Development Policy, Department of Agriculture.

1318 Dirksen Building

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for international organizations, International Communication Agency, and the Chrysler Loan Board.

S-146, Capitol

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To hold hearings on Proposed legislation authorizing funds for the National Science Foundation.

235 Russell Building

Foreign Relations

To hold hearings on the Caribbean Basin initiative.

4221 Dirksen Building

Judiciary

To hold hearings on the Proposed divestiture of American Telephone & Telegraph, focusing on its effect on local rates.

412 Russell Building

Judiciary

Security and Terrorism Subcommittee

To continue hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.

2228 Dirksen Building

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Highway Administration of the Department of Transportation, and the Office of the Secretary of Transportation.

1224 Dirksen Building

Energy and Mineral Resources Subcommittee

To resume oversight hearings to review the capacity, distribution, and status of the strategic petroleum reserve.

3110 Dirksen Building

Environment and Public Works

Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).

4200 Dirksen Building

Governmental Affairs

To hold hearings on S. 1932 and H.R. 2098, bills establishing an Office of Inspector General in each of the Departments of Defense, Justice, and Treasury and in the Agency for International Development, and on other related measures.

3302 Dirksen Building

2:00 p.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Secretary of Agriculture, to review the general agricultural outlook, and to review the overall budget for the Department of Agriculture.

1114 Dirksen Building

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.

1318 Dirksen Building

Judiciary

Criminal Law Subcommittee

To resume hearings on S. 101, S. 751, and S. 1995, bills providing for an alternative to the exclusionary rule in Federal criminal proceedings.

2228 Dirksen Building

Labor and Human Resources

To hold hearings on the nomination of Tony E. Gallegos, of California, to be a member of the Equal Employment Opportunity Commission.

4232 Dirksen Building

MARCH 26

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the U.S. Coast Guard, Department of Transportation.

235 Russell Building

Judiciary

To hold oversight hearings to review the effects of merger policy on the national railroad system, focusing on the Burlington Northern Railroad.

2228 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on the role of the Federal Government in the operation of U.S. payment systems.

5302 Dirksen Building

Finance

Health Subcommittee

To hold hearings on S. 1250, proposed Professional Standards Review Amendments of 1981, and S. 2142, proposed Peer Review Improvement Act.

2221 Dirksen Building

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

10:00 a.m.

Environment and Public Works

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the public buildings program of the General Services Administration.

4200 Dirksen Building

MARCH 29

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on proposed legislation authorizing funds for the food stamp program.

324 Russell Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Civil Aeronautics Board.

1318 Dirksen Building

Environment and Public Works

Toxic Substances and Environmental Oversight Subcommittee

To hold hearings to review proposed authorizations for the safe drinking water program.

4200 Dirksen Building

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.

1114 Dirksen Building

MARCH 30

9:00 a.m.

Energy and Natural Resources

Energy Conservation and Supply Subcommittee

To hold oversight hearings to review budget proposals for fiscal year 1983 for energy conservation programs of the Department of Energy, focusing on State grant, research and development, and solar energy programs.

3110 Dirksen Building

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Foreign Agricultural Service, Food for Peace program (Public Law 480), Office of International Cooperation and Development, Agricultural Marketing Service, and the Federal Grain Inspection Service, Department of Agriculture.
1318 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
235 Russell Building

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the U.S. Coast Guard of the Department of Transportation.
1224 Dirksen Building

Environment and Public Works
Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

10:30 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation Subcommittee
To hold oversight hearings on the implementation of the Resource Conservation Act (Public Law 95-192).
324 Russell Building

Veterans Affairs
To hold hearings to receive Veterans of Foreign Wars legislative recommendations for fiscal year 1983.
318 Russell Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

MARCH 31

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for strategic petroleum reserve and naval petroleum reserves of the Department of Energy.
1114 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on activities of the National Highway Traffic Safety Administration, Department of Transportation.
235 Russell Building

Judiciary
Agency Administration Subcommittee
To resume hearings on S. 1775, making the Federal Government liable for constitutional torts and generally the exclusive defendant in all tort suits involving Government employees acting within the scope of their employment.
5110 Dirksen Building

Labor and Human Resources
To hold hearings on proposed authorizations for certain health programs of the Department of Health and Human Services.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To continue hearings to review proposed authorizations for the safe drinking water program.
4200 Dirksen Building

Governmental Affairs
To hold hearings on the substance of S. 1724, proposed Federal Employees' Compensation Act Antifraud Amendments of 1981.
3302 Dirksen Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1318 Dirksen Building

APRIL 1

9:00 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on expanding employment opportunities for older workers in the private sector.
4232 Dirksen Building

9:30 a.m
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Commodity Futures Trading Commission, to review budget proposals for the Department of Agriculture's Inspector General, and agricultural aspects of the General Accounting Office.
1318 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
235 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Federal Emergency Management Agency and the Selective Service System.
1224 Dirksen Building

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the United States Railway Association, and Conrail.
S-128, Capitol

Select on Indian Affairs
To hold oversight hearings on the implementation of indirect costs and contract provisions of the Indian Self-determination and Education Assistance Act (Public Law 93-638).
6226 Dirksen Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

APRIL 2

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on productivity in the American economy.
4232 Dirksen Building

10:00 a.m.
Foreign Relations
To resume hearings on the Caribbean Basin initiative.
4221 Dirksen Building

APRIL 13

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for the railroad safety program, Department of Transportation.
235 Russell Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 810, prescribing a system of user fees to be levied on commercial transportation on inland waterway projects, amendment No. 32 thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the cost of such works, amendment No. 637, clarifying the intent of the bill, and related measures.
4200 Dirksen Building

APRIL 14

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Supreme Court, Securities and Exchange Commission, Federal Maritime Commission, and the Federal Trade Commission.

S-146, Capitol

Labor and Human Resources

To hold oversight hearings on the Office of Federal Contract Compliance Programs, Department of Labor.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.

1114 Dirksen Building

*Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on proposed legislation authorizing funds for programs of the Endangered Species Act

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.

1114 Dirksen Building

APRIL 15

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Land and Water Conservation Fund, and to receive testimony from congressional witnesses.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the judiciary, International Trade Commission, and the Marine Mammal Commission.

S-146, Capitol

Labor and Human Resources

To hold hearings on proposed authorizations for the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of Science and Technology Policy and the Council on Environmental Quality.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the tribally controlled community college program.

6226 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

APRIL 16

9:30 a.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

APRIL 19

9:30 a.m.

*Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold oversight hearings on title X of the Public Health Service Act relating to health aspects of teenage sexual activity.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To hold hearings on S. 1885, to place electric utilities, including members of registered holding company systems, on the same basis as nonutilities to encourage their investment in cogeneration and small power production facilities.

3110 Dirksen Building

*Environment and Public Works

Environmental Pollution Subcommittee

To resume hearings on proposed legislation authorizing funds for programs of the Endangered Species Act.

4200 Dirksen Building

APRIL 20

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Indian Health Service, Department of Health and Human Services, and the Geological Survey, Department of the Interior.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of State, focusing on the Office of the Secretary and administration of foreign affairs.

S-146, Capitol

Labor and Human Resources

Business meeting, to consider proposed legislation authorizing funds for health programs and the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Environmental Protection Agency.

1224 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to consider pending calendar business.

4200 Dirksen Building

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for foreign assistance activities of the Department of the Treasury.

1318 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Labor.

1114 Dirksen Building

APRIL 21

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Small Business Administration, Federal Communications Commission, Equal Employment Opportunity Commission, and the Maritime Administration.

S-146, Capitol

Environment and Public Works

Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for the Federal aid highway program.

4200 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Employment and Training Administration, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Railroad Administration of the Department of Transportation, and Amtrak.

1318 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 1889, authorizing funds for fiscal year 1983 and 1984 for the establishment of a national institution to promote international peace and resolution of international conflict.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

Transportation Subcommittee

To continue hearings on proposed legislation authorizing funds for the Federal aid highway program.

4200 Dirksen Building

APRIL 22

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Forest Service, Department of Agriculture.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain related programs.

S-146, Capitol

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold hearings on promoting voluntarism in America.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, and the Employment Standards Administration, Department of Labor.

1114 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Occupational Safety and Health Administration (OSHA), and the Mine Safety and Health Administration, Department of Labor.

1114 Dirksen Building

APRIL 23

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for Bureau of Labor Statistics, departmental management services, and the President's Committee on Employment of the Handicapped, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the Urban Mass Transportation Administration, Department of Transportation.

1318 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.

4232 Dirksen Building

APRIL 26

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for the Federal Aviation Administration of the Department of Transportation.

1318 Dirksen Building

Energy and Natural Resources

Energy Regulation Subcommittee

To hold oversight hearings to review programs administered by the Office of Federal Inspector, Alaska Natural Gas Transportation System, and the Economic Regulatory Administration and Federal Energy Regulatory Commission, Department of Energy.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on proposed authorizations for programs of the Resource Conservation and Recovery Act.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.

4232 Dirksen Building

APRIL 27

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of the Federal Inspector, Alaska Natural Gas Transportation System, Bureau of Mines of the Department of the Interior, and the National Endowment for the Arts.

1318 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold hearings on S. 1869, S. 1870, S. 1871, and S. 1977, bills revising or repealing certain provisions of the Public Utility Holding Company Act of 1935.

5302 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Science Foundation.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to consider proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

APRIL 28

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings to receive testimony from congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for certain transportation programs.

1318 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold oversight hearings on the implementation of guidance and counseling programs of the Department of Education.

4232 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

APRIL 29

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for fossil research and development and fossil construction programs of the Department of Energy.

1318 Dirksen Building

9:30 a.m.
Judiciary
Criminal Law Subcommittee
To resume hearings on proposals providing for a ban on the manufacture or sale of nonsporting handguns, mandatory sentences for the use of a firearm in committing a felony, and a preclearance procedure for the sale or transfer of any handgun.
Room to be announced

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, on certain transportation programs.
1224 Dirksen Building

Environment and Public Works
Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.
4200 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive AMVETS legislative recommendations for fiscal year 1983.
Room to be announced

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

APRIL 30

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for certain transportation programs.
1318 Dirksen Building

MAY 3

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 4

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Smithsonian Institution, Woodrow Wilson International Center for Scholars, and the Advisory Council on Historic Preservation.
1318 Dirksen Building

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 5

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Aeronautics and Space Administration.
1224 Dirksen Building

Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 6

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the U.S. Fish and Wildlife Service, Department of the Interior, and the National Capital Planning Commission.
1318 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 604, requiring all new telephone receivers to be equipped with hearing aids for the handicapped.
235 Russell Building

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 7

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 11

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Endowment for the Humanities, Institute of Museum Services, and the Office of Surface Mining, Department of the Interior.
1114 Dirksen Building

9:30 a.m.
*Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on the extended family.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Institute of Building Sciences, Federal Home Loan Bank Board, and National Credit Union Administration.
1224 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

MAY 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

MAY 13

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.
1114 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.
1114 Dirksen Building

MAY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development.
1224 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the implementation of Indian education programs.
6226 Dirksen Building

MAY 19

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation.
1224 Dirksen Building

Select on Indian Affairs
To continue oversight hearings on the implementation of Indian education programs.
6226 Dirksen Building

MAY 24

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

MAY 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

JUNE 9

9:30 a.m.
*Select on Indian Affairs
To hold hearings on law enforcement problems on Indian reservations, including the authority and effectiveness of the Bureau of Indian Affairs police, tribal police, and the Federal Bureau of Investigation, and the quality of U.S. prosecution of criminal offenses.
6226 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATIONS

MARCH 25

9:30 a.m.
Foreign Relations
Closed briefing, to discuss the recent progress in the intermediate range nuclear force negotiations.
4219 Dirksen Building

10:30 a.m.
Foreign Relations
To hold hearings on the nomination of Paul H. Nitze, of Maryland, to be Ambassador while serving as head of the U.S. delegation to the intermediate range nuclear force negotiations.
4221 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, March 18, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O Lord God, may Your blessing be with those whose lives are given to helping others—those who heal the sick, those who feed the hungry, those who comfort the lonely and forgotten. Encourage all people to see their responsibility to share their time, their talents, and treasure with those whose lives are burdened with pain and uncertainty. Help us all to open our eyes to the needs about us that we may express our true humanity in deed as well as word. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **GREGG**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **GREGG**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 17, answered "present" 3, not voting 76, as follows:

[Roll No. 23]

YEAS—337

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conte
Conyers
Courter
Coyne, James
Coyne, William
Craig
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Donnelly
Dorgan
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Florio
Foley
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Mineta
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Oxley
Panetta
Pashayan
Patman
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Robinson
Roe
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sawyer
Scheuer
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—17

Barnes
Burton, John
Dickinson
Edwards (OK)
Emerson
Evans (IA)
Forsythe
Gejdenson
Goodling
Harkin
Miller (OH)
Mitchell (MD)
Roemer
Sabo
Schroeder
Walker
Weber (MN)

ANSWERED "PRESENT"—3

Aspin
Moffett
Ottinger

NOT VOTING—76

Addabbo
Applegate
Ashbrook
Atkinson
AuCoin
Boggs
Bonker
Brooks
Brown (OH)
Butler
Carman
Chisholm
Clay
Conable
Corcoran
Coughlin
Crane, Daniel
Crockett
de la Garza
DeNardis
Dixon
Dornan
Dougherty
Dowdy
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Foglietta
Ford (MI)
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hawkins
Heckler
Heftel
Hoyer
Jacobs
Jeffords
Kastenmeier
Lantos
Latta
LeBoutillier
Lewis
Lott
Lowery (CA)
Luken
Lungren
McCloskey
McDade
Miller (CA)
Murtha
Neal
O'Brien
Parris
Patterson
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Santini
Savage
Schneider
Smith (IA)
Udall
Weiss
Whitten
Williams (MT)
Wilson
Wortley
Young (AK)
Young (FL)

☐ 1015

Mr. CRAIG changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. **LUNGREN**. Mr. Speaker, on rollcall No. 23 today, the vote on the approval of the Journal, I was unavoidably detained because my 8-year-old son was having surgery this morning in the hospital.

Had I been here, I would have voted yes.

ANNOUNCEMENT BY THE SPEAKER

The **SPEAKER**. In the interests of accommodating the committees which need to meet to mark up later today, the Chair will take the votes before the 1-minute speeches.

Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion to suspend

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the rules on which further proceedings were postponed on Tuesday, March 16, in the order in which that motion was considered.

Votes will be taken in the following order:

H.R. 3620, by the yeas and nays;
H.R. 4468, by the yeas and nays;
H.R. 4688, by the yeas and nays;
H.R. 3345, by the yeas and nays;
H.R. 2329, by the yeas and nays; and
H. Con. Res. 290, by the yeas and nays;

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

HOBOKEN PIER TERMINALS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3620, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from North Carolina (Mr. Jones) that the House suspend the rules and pass the bill, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 336, nays 43, answered "present" 1, not voting 53, as follows:

[Roll No. 24]

YEAS—336

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
AuCoin
Badham
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, John
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappell
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conte
Conyers
Courter
Coyne, James
Coyne, William
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
Deckard
Dellums
Derrick
Derwinski
Dicks
Dingell
Donnelly
Dorgan
Dougherty
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Fascell
Fazio
Ferraro
Fiedler
Findley
Fish
Fithian
Florio
Foglietta
Foley
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gramm
Gray
Green
Guarini
Gunderson
Hall, Sam
Hamilton
Hance
Hansen (UT)
Harkin
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
LaFalce
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCurdy
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Pashayan
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shelby
Shuster
Siljander
Simon
Skeen
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Spence
St Germain
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whitten
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—43

Archer
Bailey (MO)
Cheney
Collins (TX)
Craig
Dannemeyer
Dickinson
Dreier
Edwards (OK)
Emerson
Fields
Gradison
Gregg
Grisham
Hagedorn
Hall, Ralph
Hammerschmidt
Hansen (ID)
Hopkins
Jeffries
Kramer
Lott
McCollum
McDonald
Miller (OH)
Moore
Mottl
Patman
Roberts (KS)
Roemer
Shaw
Shumway
Skelton
Smith (OR)
Snyder
Solomon
Stangeland
Stump
Taylor
Walker
Weber (MN)
Whittaker
Winn

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—53

Addabbo
Ashbrook
Atkinson
Brooks
Brown (OH)
Butler
Conable
Corcoran
Coughlin
Crockett
de la Garza
DeNardis
Dixon
Dornan
Dowdy
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Ford (MI)
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hawkins
Heckler
Heftel
Jacobs
Lantos
Latta
Lewis
Lowery (CA)
Lungren
McCloskey
McDade
Miller (CA)
Neal
O'Brien
Parris
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Santini
Savage
Schneider
Williams (MT)
Wortley
Young (AK)
Young (FL)

□ 1030

The Clerk announced the following pairs:

On this vote:

Mrs. Fenwick and Mrs. Heckler for, with Mrs. Schneider against.

Mr. WHITTAKER changed his vote from "yea" to "nay."

Mr. CONYERS changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LUNGREN. Mr. Speaker, on rollcall No. 24, the vote on H.R. 3620, the Hoboken Pier terminals bill, I was unavoidably detained because my 8-year-old son was having surgery this morning in the hospital.

Had I been here, I would have voted "yes."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. Dingell). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

SECRET SERVICE ZONES OF PROTECTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4468, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. Synar) that the House suspend the rules and pass the bill, H.R. 4468, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 379, nays 1, answered "present" 1, not voting 52, as follows:

[Roll No. 25]

YEAS—379

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham

Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Dougherty
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Foglietta
Foley
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Robinson
Roe
Roemer
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—1

Murphy

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—52

Addabbo
Ashbrook
Atkinson
Brooks
Brown (OH)
Coughlin
Crockett
de la Garza
Dellums
DeNardis
Dixon
Dornan
Dowdy
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Florio
Ford (MI)
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hawkins
Heckler
Heftel
Jacobs
Lantos
Latta
Lewis
Lowery (CA)
Marks
McCloskey
McDade
Miller (CA)
Neal
O'Brien
Parris
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Santini
Savage
Schneider
Williams (MT)
Wortley
Young (AK)
Young (FL)

□ 1045

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY PERSONNEL AND CIVILIAN EMPLOYEES' CLAIMS ACT OF 1964 AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4688, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR) that the House suspend the rules and pass the bill, H.R. 4688, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 370, nays 11, answered "present" 1, not voting 51, as follows:

[Roll No. 26]

YEAS—370

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Cheney
Chisholm
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Courter
Coyne, James
Coyne, William
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Florio
Foglietta
Foley
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo

Ritter
Roberts (KS)
Robinson
Roe
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker,
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—11

Bedell
Brown (CO)
Craig
Evans (IA)
Hansen (ID)
Hansen (UT)
Johnston
Mottl
Roemer
Rogers
Smith (OR)

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—51

Addabbo
Ashbrook
Atkinson
Brooks
Brown (OH)
Chappie
Clausen
Coughlin
Crockett
de la Garza
Dellums
DeNardis
Dixon
Dornan
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Ford (MI)
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hall, Ralph
Hawkins
Heckler
Heftel
Jacobs
Lantos
Latta
Lewis
Long (MD)
McCloskey
McDade
Miller (CA)
Neal
O'Brien
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Santini
Savage
Schneider
Williams (MT)
Wortley
Young (AK)
Young (FL)

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that Act."

A motion to reconsider was laid on the table.

TECHNICAL AMENDMENTS TO THE PATENT AND TRADEMARK LAWS AND THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3345.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR) that the House suspend the rules and pass the bill, H.R. 3345, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 0, answered "present" 1, not voting 50, as follows:

[Roll No. 27]

YEAS—382

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Florio
Foglietta
Foley
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Robinson
Roe
Roemer
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—0

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—50

Addabbo
Ashbrook
Atkinson
Brooks
Brown (OH)
Coughlin
Crockett
de la Garza
Dellums
DeNardis
Dixon
Dorgan
Dornan
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Ford (MI)
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hall, Ralph
Hawkins
Heckler
Heftel
Jacobs
Jenkins
Lantos
Latta
Lewis
McCloskey
McDade
Miller (CA)
Neal
O'Brien
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Savage
Schneider
Stenholm
Williams (MT)
Wortley
Young (AK)
Young (FL)

□ 1100

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CHEROKEE NATION OF OKLAHOMA

The SPEAKER pro tempore (Mrs. KENNELLY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 2329, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR) that the House suspend the rules and pass the bill H.R. 2329, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 174, nays 215, answered "present" 1, not voting 43, as follows:

[Roll No. 28]

YEAS—174

Akaka
Albosta
Alexander
Anderson
Annunzio
Anthony
Aspin
Bailey (PA)
Barnes
Bedell
Beilenson
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bowen
Brodhead
Brown (CA)
Burton, John
Burton, Phillip
Chisholm
Clausen
Clay
Coleman
Collins (IL)
Conyers
Coyne, William
D'Amours
Daschle
Davis
Deckard
Derrick
Dingell
Donnelly
Dorgan
Downey
Dwyer
Dymally
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
English
Ertel
Evans (GA)
Evans (IA)
Fascell
Fazio
Ferraro
Florio
Foglietta
Ford (MI)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Glickman
Gore
Gray
Guarini
Hamilton
Harkin
Hefner
Hertel
Hightower
Holland
Howard
Hoyer
Huckaby
Hughes
Jenkins
Jones (NC)
Jones (OK)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Leach
Lehman
Leland
Levitas
Loeffler
Long (LA)
Long (MD)
Lowry (WA)
Luken
Lundine
Lungren
Markey
Marks
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McHugh
Mikulski
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Murtha
Nelson
Nowak
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Price
Rahall
Rangel
Ratchford
Reuss
Richmond
Roe
Rostenkowski
Roybal
Russo
Sabo
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Smith (IA)
Smith (PA)
Solarz
Stark
Stokes
Studds
Stump
Synar
Tauzin
Traxler
Udall
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weiss
White
Whitten
Williams (MT)
Wilson
Wirth
Wolpe
Wright
Yates
Zablocki

NAYS—215

Andrews
Applegate
Archer
AuCoin
Badham
Bafalis
Bailey (MO)
Barnard
Beard
Benedict
Benjamin
Bereuter
Bethune
Bliley
Boner
Bonker
Bouquard
Breaux
Brinkley
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clinger
Coats
Coelho
Collins (TX)
Conable
Conte
Corcoran
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dickinson
Dicks
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dyson
Emerson
Emery
Erdahl
Evans (DE)
Fiedler
Fields
Findley
Fish
Fithian
Foley
Forsythe
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Goodling
Gradison
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hendon
Hiler
Hillis
Hollenbeck
Holt
Hopkins
Horton
Hubbard
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Johnston
Jones (TN)
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Leath
LeBoutillier
Lee
Lent
Livingston
Lott
Lowery (CA)
Lujan
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClory
McCollum
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Miller (OH)
Mitchell (NY)
Molinari
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nichols
Oakar
Oxley
Parris
Pashayan
Patman
Paul
Petri
Pickle
Pritchard
Quillen
Railsback
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Robinson
Roemer
Rogers
Rosenthal
Roth
Roukema
Rudd
Santini
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stratton
Swift
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whitley
Whittaker
Williams (OH)
Winn
Wolf
Wyden
Wylie
Yatron
Young (MO)
Zeferetti

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—43

Addabbo
Ashbrook
Atkinson
Brooks
Brown (OH)
Coughlin
Crockett
de la Garza
Dellums
DeNardis
Dixon
Dornan
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hawkins
Heckler
Heftel
Jacobs
Lantos
Latta
Lewis
McCloskey
McDade
Miller (CA)
Neal
O'Brien
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Savage
Wortley
Young (AK)
Young (FL)

The Clerk announced the following pairs:

On this vote:

Mr. Miller of California and Mr. Dellums for, with Mr. Addabbo against.

Mr. Fary and Mr. Ford of Tennessee for, with Mr. Lewis against.

Mr. DAUB and Mr. WEBER of Ohio changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

☐ 1115

REAFFIRMING TO THE PEOPLE THEIR INSURANCE ON SAVINGS DEPOSIT ACCOUNTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 290).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 290), on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 382, nays 7, answered "present" 1, not voting 43, as follows:

[Roll No. 29]

YEAS—382

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
AuCoin
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Courter
Coyne, James
Coyne, William
Craig
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Derrick
Derwinski
Dickinson
Dicks
Dingell
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Fascell
Fazio
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Florio
Foglietta
Foley
Ford (MI)
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly

Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Robinson
Roe
Roemer
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wright
Wyden
Wylie
Yates
Yatron
Young (MO)
Zablocki
Zeferetti

NAYS—7

Crane, Daniel
Crane, Philip
Green
Jeffords
Jeffries
McDonald
Paul

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—43

Addabbo
Ashbrook
Atkinson
Brooks
Brown (OH)
Coughlin
Crockett
de la Garza
Dellums
DeNardis
Dixon
Dornan
Erlenborn
Evans (IN)
Fary
Fenwick
Flippo
Ford (TN)
Fountain
Ginn
Goldwater
Hall (OH)
Hawkins
Heckler
Heftel
Jacobs
Lantos
Latta
Lewis
McCloskey
McDade
Miller (CA)
Neal
O'Brien
Pursell
Roberts (SD)
Rodino
Rose
Rousselot
Savage
Wortley
Young (AK)
Young (FL)

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ELECTION AS MEMBER OF COMMITTEE ON VETERANS' AFFAIRS

Mr. LOTT. Madam Speaker, I send to the desk a privileged resolution (H. Res. 399) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 399

Resolved, That James L. Nelligan, of Pennsylvania, be and hereby is elected to the Committee on Veterans' Affairs.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Madam Speaker, I have asked to address the House for 1 minute for the purpose of receiving the legislative schedule for next week, and I would be glad to yield to the distinguished whip, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. I thank the distinguished Republican whip for yielding.

Madam Speaker, this will conclude the business for the day and for this week.

The House will meet on Monday at noon. There is no legislative business scheduled for Monday.

On Tuesday, the House will meet at noon and consider three bills under suspension of the rules. Recorded votes on the suspensions will be postponed until after the debate on all three suspensions. The suspensions are:

H.R. 5014, the Gateway National Recreation Area Commission.

H.R. 4750, Living Memorial to Franklin Delano Roosevelt in Warm Springs, Ga.

S. 146, historic preservation for Camden, S.C.

On Wednesday and the balance of the week, the House will meet at 3 p.m. on Wednesday and 11 a.m. during the balance of the week.

The legislative program for that period will be announced later.

Mr. LOTT. If the gentleman would allow me to ask a few questions, it was not clear whether or not it was the impression or the intention to be in session next Friday. Does the gentleman have any information on that at this time?

Mr. FOLEY. Well, I do not have specific information. I think the likelihood is that the House will not be in session on Friday, but I wish to caution Members that the lack of any announcement at this point should not lead Members to expect the absence of legislation on Wednesday and Thursday. There is a very real possibility of significant legislation being scheduled on those days.

Mr. LOTT. Well, it is my understanding that we very likely will have up either on Wednesday or Thursday, either one or both of the two bills, the committee funding resolution or the continuing resolution; is that correct?

Mr. FOLEY. That is very possible. We do not have a precise announcement at the moment, but both of those are possible matters for scheduling on Wednesday or Thursday.

Mr. LOTT. Not wanting to overload the schedule for next week, but I would like to inquire about the regulatory reform bill that has been reported out of the Judiciary Committee. The gentleman from Georgia (Mr. LEVITAS) usually inquires about it. That is legislation that there is a lot of interest in. I wonder if we have any feeling yet as to when that possibly might come up this year.

Mr. FOLEY. Well, I do not have an announcement to provide the gentleman. I am sure that the gentleman from Georgia will appreciate the inquiry of the gentleman, because the gentleman from Georgia has consistently expressed concern about the scheduling of this bill.

As the gentleman from Mississippi knows, the bill was reported about 2½ weeks ago. I believe there still is no request from the chairman for a rule, but I am confident that the bill will be before the House for consideration in due course.

Mr. LOTT. If I could ask just one other question. Do we anticipate any possibility at all that the Justice Department authorization conference report might be brought up next week under the indication here that conference reports can be brought up at any time?

Mr. FOLEY. Well, I have no information as to that specific bill. The usual reservation applies, subject to the determination of the committee chairman of jurisdiction, whereby direction of the committee conference reports might be brought up at any time. I am not in a position to advise the gentleman on the Justice bill at this point.

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. LOTT. I would be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Once again I have to admit that I am somewhat disturbed about the fact that we have a very light schedule at a time when the Nation really is looking for this House to be acting. I have been admonished on several occasions as I have raised this point that somehow we should not just be pushing legislation on to the schedule that has not been properly looked at by the committees.

So I had my staff look at how much legislation is backlogged that has come through the committees. It was interesting when we did a computer printout on it, we found a stack about that thick of legislation that has emerged from the committees and yet still has not made it to the floor.

You know, it does continue to disturb me that week after week we are coming up here with schedules that just do not reflect the kind of crisis atmosphere that many people in the country seem to feel, and I thank the gentleman for yielding.

Mr. SCHUMER. Madam Speaker, would the gentleman from Pennsylvania yield for 1 minute?

Mr. LOTT. Well, I have the time, but I would be glad to yield to the gentleman.

Mr. SCHUMER. I thank the gentleman.

It is my understanding that the gentleman from Pennsylvania did not like government and did not like us to do things. I find it rather ironic that now the gentleman is getting up and saying we should do more.

We welcome the gentleman to this side of the aisle where we can do some more things.

Mr. WALKER. Madam Speaker, will the gentleman yield?

Mr. LOTT. I yield.

Mr. WALKER. I think it is important to put that to rest. The gentleman from Washington last week had a very nice quote from James Madison and so on.

I guess what the gentleman from Pennsylvania is saying is that I think it is more important that we start acting on major issues coming before this Congress than acting on the things that we have already done, like Peach Month and National Contractors Month.

I mean, we have got people out there that cannot get houses built because this Congress is not acting on major economic matters, and yet we pass National Contractors Week.

Now, I think it is high time that we start acting on the major business, which is important to this Nation.

CONGRESS IS CONDUCTING ITS BUSINESS

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Madam Speaker, I have asked for this minute, because I think it would be wrong to leave the American people who are concerned about our proceedings to misunderstand what the legislative process involves.

The gentleman from Pennsylvania (Mr. WALKER) is a skilled parliamentarian and well familiar with the rules. We have much more than merely resolutions that are acted upon on the floor. Just to name one committee, the Committee on Appropriations, has had over 130 hearings since the President's budget was submitted on February 8. No one in this House that I know of, at least I would be surprised if the gentleman from Pennsylvania would think so, believes we should go forward to consider legislation that would be in violation of the Budget Act until the budget resolution is adopted. The Budget Committee has been holding hearings for that purpose. There is obviously difficulty in framing those budget issues. That is well recognized on both sides of the aisle.

But to suggest that the House of Representatives has been acting frivolously or has no concern for the economic plight of the country is a disservice to the Members on both sides of the aisle and to the actual work that is being undertaken by the House of Representatives.

I do not think that should be allowed to stand on the record unchallenged.

ADJOURNMENT TO MONDAY, MARCH 22, 1982

Mr. FOLEY. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1130

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Madam Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

OMB ENGAGES IN ILLEGAL IMPOUNDMENT

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Madam Speaker, in January the OMB ordered the Department of Education to withdraw and withhold $20 million in funds for the Library Service and Construction Act. On February 5, the GAO, after I had made a request of them to study this, issued a statement saying this was clearly an act of illegal impoundment on the part of the administration.

OMB brought a tremendous amount of pressure to bear on the GAO, and insisted that they review their findings and issue another statement. Just 10 days ago, the GAO has issued a complete, detailed study of the whole issue on impoundment, and has reaffirmed their position that the Government is illegally impounding $20 million from that act, and potentially from many other of the rescissions that the President requested.

Madam Speaker, it seems that the OMB recognizes no law but its own. Mr. Baker and the White House recently assured me that the moneys would be released if the GAO supported our opinion. Now, the GAO has done this, and OMB is still refusing to release these funds.

I think perhaps it is time the Speaker and the House acted on this issue.

LEGISLATION INTRODUCED TO EXTEND AND MAKE PERMANENT DEMONSTRATION PROJECT ALLOWING STATE HIGHWAY OPERATION OF VENDING MACHINES

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, today I am introducing, along with my colleague, Mr. MOFFETT, legislation that would extend and make permanent a demonstration project under the Secretary of Transportation that allows State highway agencies to operate vending machines at interstate highway rest areas.

The State of Connecticut is one of six States currently participating in the demonstration project, which was authorized by the Surface Transportation Act of 1978. In Connecticut, the project provides the blind with much needed funding while allowing private vending companies access to markets which would otherwise be closed to them. It also provides a useful service to all who travel our interstate highways.

Unless the program is continued, the vending machines must be removed by October 1, 1982.

In Connecticut, the board of education and services to the blind, by agreement with Connecticut Department of Transportation, has arranged for private businesses to set up machines at 10 locations. Net commissions, which totaled $193,000 in the last 15 months, supplement Connecticut's services to the blind. This money goes to health insurance, sick pay, and vocational rehabilitation efforts; it helps make possible Connecticut's own mini-Randolph-Sheppard Act.

This program has worked well in Connecticut, and deserves to be continued.

WORDS OF WISDOM FROM ANSEL ADAMS

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, most Americans are familiar by now with the great photographer, Ansel Adams, whose book, "The American Earth" and others are among our cultural heritage. He is now in his eightieth year.

I received a letter the other day from him, and I would like to read some excerpts from that letter.

Mr. Adams says:

> I believe the Reagan administration to be the most potentially disastrous in our history. I am joined by most of my friends—liberal and conservative, Democrat and Republican—in this opinion. We are alarmed and bewildered. There is no anchor to depend upon, the rudder steers us towards deprivation for the less privileged, gross reduction of funds to education, abandonment of the fine arts, destruction of our wildlands, a ruined economy and careless threats of war and extinction.
>
> I know far more than I did at forty, but if I were forty again I would have the necessary strength and energy to assert myself in the preservation of our society. Recognizing that I am in the evening of my efforts, I ask of you, what can I do, as an individual American, do to help you to resolve this dire situation?
>
> I suggest that without delay we seek the support of our citizens to stop the fatal descent to oblivion our present administration promises. With great firmness and without violence or bigotry we must assert ourselves in the strongest possible ways and work for the preservation of the United States and the ideals it represents.

My colleagues, I hope we will hear the words of this great American before it is too late.

DO NOT WATCH TV

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, like another great national leader, Spiro Agnew, who made a career out of attacking the national media press, Reagan is now trying to blame the national media for the failures of his ill conceived economic policies.

This is the third time this week that the President or one of his top aides has accused the news media of unfair coverage or distortion.

Scapegoating is nothing new.

First, the President last year tried to blame the Democrats.

Then he tried to blame Wall Street, and after that America's business community who lately seem to show more commonsense than the White House.

After that did not work he was back to blaming the Democrats and now it is the national news media.

The problem is that he is now running out of people to blame.

Is not it the capital irony that the former movie and TV actor and star of TV's "Death Valley Days" is now blaming and blasting the very same media that propelled him to fame.

Well, maybe what we need is another great economic summit at Camp David. If we believe the President that the TV networks are to blame then perhaps he should invite NBC's President Grant Tinker, ABC's whiz Roone Arledge and if he is lucky he might be able to coax CBS's Walter Cronkite out of retirement.

But this time "Death Valley Days" is for real. We are surrounded by wolves and coyotes of high unemployment, mountains of high interest rates and the dry gulch of budget deficits, but this time there is no opportunity for retakes or changing the script because we deal in the real world.

TV brings us many things: "The Super Bowl," "Saturday Night Live," "Hee Haw," "Lawrence Welk," and "Captain Kangaroo" and now we are told that it is bringing us a recession.

If we are to believe the President and that television is responsible for our recession then the solution is really very simple.

Do not watch TV.

PRESIDENT REAGAN'S ATTACK ON NEWS MEDIA UNSEEMLY

(Mr. SCHUMER asked and was given permission to address the House and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I, too, was amazed to see the President attacking the national news media today. It seems to the President that if the news media describes somebody who is unemployed, that is not in the national interest.

This is the same President, ladies and gentlemen, who has used the news media more effectively than any President since Franklin D. Roosevelt. This is the same President who, every night before there was a major vote last year, went on television, used that media to the hilt to convince people, rather unfairly in my opinion, of what his bills were all about.

I would dare say that if we compared the President's speeches on those national news media to the coverage that he has received, I ask, which is more unfair and more unbiased?

Ladies and gentlemen, past Presidents of both parties, when they have been desperate, have gone to certain parts of the country and attacked the news media. Not only did Spiro Agnew do it, but Richard Nixon did it, Jimmy Carter did it. Now, Ronald Reagan is doing it.

I think we are in a sorry state of affairs when a President does not want us to see the damage his program has produced, whether it be in south Succotash or south Brooklyn.

STATE OF MARYLAND COMMITS $20 MILLION FROM STATE PENSION FUNDS FOR RESIDENTIAL MORTGAGES

(Mr. WYDEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYDEN. Mr. Speaker, this morning's Washington Post carried a story indicating that the State of Maryland has committed $20 million from State pension funds for residential mortgages. Maryland Gov. Harold Hughes said that the State pension funds would receive a healthy return from what he termed a secure investment. I think he is absolutely right.

This example in particular points the way to something I have been very interested in; that is, freeing up a portion of the vast sums in private pension funds for the housing industry.

I think all of us know that the housing industry is on its knees. One reason is because of high interest rates driven up by competition for credit in the marketplace. The individual home buyer is ill prepared to compete with corporate giants or the Federal Government for credit dollars for a mortgage. Thus, only 1 out of every 10 households can now afford to buy a home.

Mr. Speaker, President Reagan has indicated an interest in seeing that the pension funds be made available for housing, but the Department of Labor has dragged its feet in developing regulations we need to get this job done.

I rise today to urge Members to make clear to the Secretary of Labor that we expect him to move quickly to aid the housing industry in this country. It is high time that we slash the redtape that is strangling release of badly needed capital for the housing industry in this country.

SAVE RAILROAD RETIREMENT

(Mr. MARLENEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARLENEE. Mr. Speaker, I rise today in strong opposition to the administration's proposal to shift railroad retirement tier I payments to the Social Security Administration, to shift tier II payments to privately negotiated systems, and the effort to reduce the dual benefit payment.

Such moves are counterproductive, unnecessary, and certainly not beneficial.

In fact, these efforts are extremely detrimental to the railroad retirees, who have been jolted into fighting for their earned retirement benefits.

These efforts are not beneficial to the social security system, which will have to add another 1.5 million recipients to its already overburdened system.

These efforts will not help privately negotiated systems, which will enter into mayhem and confusion with 20 unions and 50 to 60 railroads deliberating over optimum coverage.

And finally, the administration's effort to abolish the Railroad Retirement Board will not result in savings to the Federal Government.

No one would benefit from this shortsighted move to drastically alter railroad retirement.

I urge my colleagues to oppose this effort on behalf of our senior citizens and over 1 million railroad retirees. No one wants to balance the budget more than me, but to do so in this fashion borders on criminal action toward our elderly.

CONGRESS HAS CONSTITUTIONAL RESPONSIBILITY FOR FISCAL POLICY

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, if there is anything that worries me more than the condition of our economy, it is the anarchy of the congressional response. The reaction has been an exercise in hurling blame, bitter complaints about the President's budget proposals, and a frantic charging off in different directions in frantic searches for solutions.

I would remind the House that the Congress has the constitutional responsibility for fiscal policy. It is of no value to have Members bellowing that the President should do something about the deficit, because Congress is responsible for the levels of spending and taxing.

I would like to see leadership from our leaders. I would like to see our majority leader and minority leader work together to forge agreements and coalitions in the relevant committees. I want to see bipartisan leadership to bring order out of the chaos I see today.

We are facing an economic emergency, and nothing could be worse than having this House spend the whole year in trench warfare on economic issues without being able to pass a budget that responds to the grave condition of our economy.

Let us get our act together. When I served on the Budget Committee, I found that agreements and coalitions were possible. They are possible today.

NAVAJO CODE TALKERS DAY

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, today I am introducing a resolution to establish August 14, 1982, as National Navajo Code Talkers Day. August 14 is the anniversary of the surrender of the Japanese in World War II, and I believe that it is fitting that this year we set aside that day to honor this group of heroes whose contributions to that great victory has gone too long unheralded. Since the code talkers' work required absolute secrecy, they never enjoyed the national acclaim they so richly deserve. These more than 400 men returned to their Southwestern homelands as quietly as they had left. For the benefit of my colleagues, I wish to submit for the RECORD a brief history of the Navajo code talkers.

Just over 40 years ago, the Japanese Empire inflicted a devastating blow to the American military with a surprise attack on Pearl Harbor which crippled our Pacific Fleet. Despite heavy losses, it was crucial for the United States to maintain a foothold in the Pacific. But the American military effort was repeatedly and consistently frustrated by the rapidity with which ingenious Japanese cryptologists were able to decipher our combat codes.

Philip Johnston, a Los Angeles engineer, who had grown up on the Navajo Reservation as the son of missionary parents, had an ingenious idea for a secret weapon. He was convinced that the Navajo language with its complex verb forms and tonal characteristics would be an ideal base for the development of a code which would be impregnable to Japanese cryptologists. The code he had in mind would substitute Navajo words for military terms. The code would always be used orally and never reduced to writing.

In early 1942, Mr. Johnston approached the U.S. Marine Corps with his concept and after a successful demonstration, 29 young Navajo men were recruited into the corps from the Arizona and New Mexico reservations for unique communications training. Thus was born the first group of Navajo code talkers.

The initial group constructed a code to include the 211 words most frequently used in military lexicon. A Navajo word was substituted for the military term. For example, a howitzer became the Navajo word for short big gun. Words not included in the code were spelled out with each English letter assigned a Navajo equivalent. For the most frequently used letters of the alphabet, alternate words were selected. For instance, the letter "a" became the Navajo word for ant, apple, or ax depending on whether it was the first, second, or third use of that letter in a word.

Ultimately, the code was expanded to include 450 terms, all of which had to be committed to memory. Once memorized, the Navajo code talkers could encode, transmit, and decode messages much more rapidly than any other existing method. The ingenuity of the code itself coupled with the exceptional bilingual fluency of the code talkers created a devastating weapon. It was never deciphered by the Japanese throughout the war.

Over the course of the war, approximately 400 Navajo code talkers were trained as marine signalmen and more than 250 served in actual combat. They provided the crucial communications network for the invasion of Guadalcanal as well as other islands in the Pacific. The code talkers served with courage and distinction alongside their marine comrades under intense combat fire. Many marines believe that Iwo Jima would never have been taken by American forces had it not been for the Navajo code talkers.

I hope the Congress will not allow the unique contribution of the Navajo code talkers to fade into history without notice and that all of my colleagues will join this effort to pay them overdue tribute.

NATIONAL AGRICULTURE DAY—1982

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, by joint resolution the Congress has proclaimed this day, March 18, 1982, National Agriculture Day. I join with my colleagues in recognition of this proclamation. It is not a national holiday, but it should be. Nothing is more important to the well-being of this Nation than the production of food and fiber from our Nation's farm and ranches.

One of the purposes of this special day is to remind everyone of agriculture's importance and to reacquaint them with the singular role agriculture plays in the American economy.

It is important for all people to know that agriculture is the Nation's No. 1 industry and as such is the No. 1 employer, the No. 1 inflation fighter and the Nation's No. 1 exporter.

Interest in agriculture should never be considered parochial cultivated by just a few of us who represent districts more rural than urban. It should be universal because a healthy agriculture is the backbone of the entire Nation. It is the underpinning of small towns across America.

Think of it—there are 23 million jobs in Agriculture, and the output of these workers represents 20 percent of our gross national product. As I have said many times, repeating an aphorism of note, "Never have so many owed so much to so few."

This year's observance comes at a time when agriculture is battling against tremendous odds. Farm income is down for the third straight year. Our producers cannot sell their commodities for what it costs to produce them. They must borrow money to stay in business and they must pay abnormally high interest rates in order to get the necessary operating capital. Everything they buy is sold at inflated prices. The rate of inflation is coming down but still they are caught in that infamous cost-price squeeze.

Unfortunately, we will lose some of our producers this year. They are victims of the times. They cannot be expected to go deeper in debt and mortgage their very souls to see that grocery shelves are full and that meat counters offer a wide selection.

But agriculture will survive and let us all hope; prosper because of the character of the people involved. Those who "tough it out" are strong, self-reliant, independent-minded families used to taking risks against the weather, pests, low prices and high interest rates. Eternal optimism is basic to their makeup. They expect this year to be better than the last and next year to be the best of all. They will battle all odds to make it so.

They love their way of life. To them it is the good life, worth all the risks, the hard work and the uncertainty of getting their commodities in the hands of consumers.

In recognizing the importance of the No. 1 industry on this National Agriculture Day, we must also pay proper respect to all of the fine people who make agribusiness in the United States what it is—a fantastic food machine that is the envy of the entire world and the savior of mankind.

□ 1145

REPUBLICAN FRESHMEN DISAPPOINTED AT DO-NOTHING CONGRESS

(Mr. MORRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. MORRISON. Mr. Speaker, Americans will see and hear an increasing parade of Republican freshmen Congressmen at this microphone. A parade whose underlying theme is frustration and disappointment, perhaps even anger. Frustration because the other side of the political aisle controls this House of Representatives and we have not done a thing all year. Oh sure, a few symbolic votes—but 11 weeks of 1982 have gone by without meaningful action. Disappointment because there is so much that could be done. If those of you who control this House cannot produce a budget, or are afraid to because it would look like the President's, let us get some other issues like creating jobs through export trading companys out here for a vote. Anger—because of the accumulated frustration and disappointment. Anger that makes us lash out and demand rollcall votes and raise parliamentary questions. That seems like all we can do to call attention of the country to a do-nothing Congress at a time when much needs to be done. The parade of Republican freshmen will continue until we once more can feel pride in serving in the Congress of the United States.

INDIANA FLOOD DISASTER

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, it has been said that America cannot be renewed because the spirit of the American people no longer exists. It has been said that we cannot turn government back to the local communities because the local people do not have the capacity to deal with the problems. It has been said there are no heroes anymore.

My home town of Fort Wayne, Ind., has been devastated by its worst flood in history. More than 8,500 people are homeless, scores of businesses are closed, and transportation is disrupted. People in Fort Wayne and northeastern Indiana are hurting.

Having just returned from a firsthand look at the situation, I stand here today to tell the House of Representatives and the American people that heroes do exist, and that thousands of them are struggling right now to save the city of Fort Wayne.

What I personally witnessed in Fort Wayne yesterday is almost beyond description—6,000 volunteers filling and stacking and loading 500,000 sandbags at Memorial Coliseum, thousands of volunteers, many of them students, building and maintaining 10 miles of dikes along our three rivers. Precious Blood, Trinity English Lutheran, Blackhawk Baptist, and many other churches housing and feeding the many homeless and evacuated residents, State police, civil defense, Red Cross, National Guard, local police, city officials, Alert teams, and numerous other volunteer groups all pulling together in an unprecedented display of unity and cooperation.

Mr. Speaker, I wish I had the time to describe the individual acts of selfless and tireless effort taking place in Fort Wayne and other parts of Indiana. If I could, there would be no doubt in anyone's mind that the concept of neighbor helping neighbor is alive and well, that the spirit of America is alive and well and that there are thousands of heroes performing thousands of unrecognized but nevertheless heroic tasks right now in Fort Wayne, Ind.

A MOVE TO EXPEDITE THE BUDGET RESOLUTION

(Mr. HILER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, we are now just 2 to 3 weeks from a spring recess, and we have still not passed a budget or even set a schedule to have a budget vote in this House. It is becoming increasingly obvious that until a budget resolution is passed there will be no stability brought to the credit markets, preventing this country from embarking on an economic recovery program that will bring our unemployment down.

Mr. Speaker, the Democratic leadership of this House, the party that controls this House, continues to criticize the President's budget while offering no constructive, comprehensive alternative or even offering a schedule so that the Members of this body might debate a budget.

To help move this body forward, 39 Republican freshman Members are today introducing a resolution stating that it is the sense of this House that neither House of Congress should recess or adjourn for a period of more than 3 days at a time until such time as Congress completes action on the first concurrent resolution on the budget. There will be plenty of time for a recess after we pass a budget, not before.

Mr. Speaker, the American credo has always been that you rest after working, not before.

ECONOMIC PROBLEMS DEMAND ACTION BY THE HOUSE

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, it is high time that this House gets down to business and does something this session. Ignoring such important issues as high interest rates and unemployment will not make them go away. Problems with the budget and economic recovery will not solve themselves.

While the few bills that we have considered this session—on those few days when legislative business has actually been scheduled—may have been important to the groups directly affected by them, they have hardly begun to address the problems faced by our Nation as a whole. Only by tackling these problems head-on can we expect to find a solution.

So far, counting today, the House has been in session a total of 22 days.

That translates to roughly 10 days in session per month since Congress reconvened at the end of January. The 22-day figure is highly misleading, however, for on only eight of those occasions, including today, have there even been any votes. I might add that there would not have been any votes today were it not for the action of my freshman colleague, JUDD GREGG, in requesting votes on Tuesday's suspensions.

It is not merely irresponsible for this body to continue to avoid the important issues facing it; it is inexcusable. If the American people cannot count on their elected representatives to address their needs then we have indeed reached a sorry state. I say it is time to end this extended Christmas recess and get to work.

SPIRIT OF TIMELY COMPROMISE IS KEY TO BUDGET PROBLEMS

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I am more fortunate than most Members perhaps because I return to my congressional district each day and sometimes twice a day. Being so close to Arlington, Fairfax, and Loudoun Counties gives me an added advantage of being able to talk to my constituents and listen to their concerns each and every day. In recent weeks, the concern that I have heard expressed over and over again is the state of the economy. In order to reassure our citizens that we are working to solve today's urgent economic problems and in order to fulfill our constitutional responsibilities, I believe that we should act with all deliberate speed toward enactment of a meaningful and substantive budget proposal for fiscal year 1983.

In my discussions with many Members, I know that there are wide-ranging concerns on different aspects of the budget. As a result, even more time than usual will be needed to forge a consensus on the budget which is another reason we should put all energies into this important task. This budget will test our ability to compromise and I suggest we start now.

A WELCOME TO A VISITING IOWA FARM FAMILY

(Mr. BEDELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, it was with great pride that I was able to welcome to Washington, D.C., two of my farmers from my own hometown of Spirit Lake, Iowa, who have been recognized this week as one of the 10 outstanding farmers by the American Cyanamid Co. They came to Washington, and I had the opportunity of presenting an award to Dean and Elayne Hummel, who are recognized in our local area not only as great farmers but as great citizens of the area, and I wanted to take this opportunity to let both of them know and indeed let our country know of the great admiration I have for them and for the great job they are doing for agriculture.

RESPONSES TO CRITICISM OF REAGAN ADMINISTRATION POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MARKS) is recognized for 60 minutes.

Mr. MARKS. Mr. Speaker, I have requested this special order today to report to the Chair, to my colleagues, and to the country the response that I have received as a result of the speech I gave on the floor of this House on March 9, 1982.

I have brought with me today all of the negative letters, mailgrams, telegrams, post cards, and a list as well of the negative phone calls, and it is my intention to read from all of those negative responses. I intend, also, Mr. Speaker, to read from as many of the affirmative responses as time will permit.

I shall comment also on the amount and the substance of the coverage that has been given to those words by the press, both editorially and otherwise, and, as well, the radio, cable, and the television media, both negative and affirmative.

All of these responses, Mr. Speaker, will be available to the press in my office this coming Monday, March 22, between the hours of 8:30 a.m. and 5:30 p.m., for any of the press who would like to see the originals or read them in detail.

It is my intention, Mr. Speaker, to comment as well on any or all repercussions that have developed toward me or my family, and I believe, I say to my colleagues, that they will find interesting and perhaps even elightening the differences in the tone and the substance between the negative and the affirmative responses. What I will report to the Members now should give courage to those among us who will be facing the political realities of a traumatic upcoming election.

I believe that when I have finished, they will no longer be afraid of the effects they will have on their constituencies by being forthright and honest about the awful situation we face in this country today, nor will they need to be afraid, Mr. Speaker, that the great communicator, with all of his power, can harm them, for what these letters and calls testify to, is that he, in fact, has communicated to millions upon millions in this country the fact that he and his cronies do not have the compassion and the understanding to guide this country and to save this Nation.

Mr. Speaker, I would like to suggest first that the coverage of the speech of a week ago last Tuesday was enormous, that we had not only America's leading newspapers such as the New York Times and the Washington Post and not only America's leading magazine, Time, but an overwhelming number of all the major newspapers throughout the country, and those who may not be considered major newspapers.

Mr. Speaker, the radio networks throughout this land, in the North and South and East and West, gave me the opportunity to speak out to the Nation again and answer questions to hundreds of people who called in on those programs.

□ 1200

Mr. Speaker, something I think my colleagues might be interested in knowing is that my appearance on C-SPAN, which, as you know, carries the proceedings in this forum from start to finish, brought in an enormous response from responsible people, and they asked me to come back the following Friday and spend an hour answering questions from all over the country. This again indicated to me the deepness and the sincerity of the millions of people that are suffering under this administration. The NBC Nightly News and the CBS Nightly News saw fit to make no comment—but ABC did carry the speech.

Mr. Speaker, I have in my hand the Washington Post dated Thursday, March 18, 1982, which headlines: "Reagan: TV News Hurts Economic Recovery."

I could only think, as I read that headline and read that article "shades of Spiro Agnew." The troubles of this Nation have not been caused by this administration, according to this President, but, he suggests, the troubles are because the television networks are responsible enough to broadcast what is the truth, to show people on the street corners, at the moment on the street corners, holding up the signs, "Give me back my job, give me back my self-respect." That is what the TV networks are doing, because that is what is happening out in America. Anywhere in America that one goes today you find that to be so. And those people, Mr. Speaker, are the people that I have been speaking to, because they are the ones who cry out, as I said a week or so ago, "Enough is enough, we can't take this anymore."

They are the ones who, before the summer, not during the summer, but before the summer, with their children at their sides, will be walking in the streets, marching in the streets.

And when this President tells us on this side of the aisle and his cronies tell us on this side of the aisle that they may not be able to campaign as much for Republican Members of the Congress as they would like, because of security reasons, I say to you it is not security from Qadhafi; it will be security from the people who will be in the streets, and they will not be carrying just placards.

And I know—I know—that sounds dramatic, overly dramatic, but if you talk to the responsible Members of this body and of the Senate, they will tell you that, as they have returned home, this word is out!

Mr. Speaker, I would like now to read from the negative responses that I have received, and I shall read from each one of them. I would first like to read from one, if not the only, major newspaper who was critical of my remarks, and I will read it in detail, and then, if I may, read you the letter I gave them in answer. This was the Richmond Times Dispatch of Friday, March 12. I will save the headline until last.

Marc Lincoln Marks, a three-term Republican from Pennsylvania, is retiring from Congress because of a back injury. Now, compliments of Mr. Marks, President Reagan has one, too—the kind that comes from a knife between the shoulder blades.

Hear Mr. Marks rant: "The time is now to . . . [end] this murderous mandate!" Hear him rave about "a president and his cronies whose belief in Hooverism has blinded them to the wretchedness and to the suffering they are inflicting." See him chip his ivories upbraiding Mr. Reagan for "lack[ing] the compassion necessary to be president."

What has happened to Mr. Marks? One suspects that it is just what happened to St. Paul on the road to Damascus, but in reverse: He has been blinded by the dark. Mr. Marks, it is recorded, marched lockstep with the congressional majority in approving the administration's tax and budget cuts last year—measures that, however painful to some at present, are designed to make life better for most Americans. But in the twinkling of an eye he recanted, embracing the Welfare State that has done to the economy what Lugosi did to his lady friends.

The gentleman's litany of Mr. Reagan's supposed victims, delivered Tuesday to a few House colleagues, began routinely enough ("the sick, the poor, the handicapped . . ."), but took a creative twist to include "families that deserve the right to send their children to . . . graduate school." Never mind that oftentimes it is the working poor who are made poorer still because they must subsidize the dissertations of the Izod sweater set. Mr. Marks is not a logician in the Aristotelian mode, nor a frontrunner for the Pulitzer in history (he apparently believes that Mr. Reagan is scuttling social programs started by George Washington, like the Job Corps).

The GOP ship, if not sinking, is listing badly, so Mr. Marks may be simply the first hand to jump ship. You cannot begrudge him that. But did he have to run the skipper through before he leaped?

Mr. Speaker, the headline from that responsible paper read: "Marksist Propaganda."

I would like to read you my answer:

WASHINGTON, D.C.
March 17, 1982.

EDITOR,
Richmond Times-Dispatch,
Richmond, Va.

DEAR SIR: I read your editorial of March 12, 1982, "Marksist Propaganda," with some degree of interest.

I not only had expected some editorial criticism of my speech but had there not been any, I would have worried that what I said was not as meaningful as I myself had felt it to be. Therefore, I appreciated your editorial and particularly the light vein in which it was written ("But did he have to run the skipper through before he leaped?"—I thought was a great line and one that I wish I had thought of). The thing that I mind, however, in all candor, was your headline, "Marksist Propaganda." I minded it because I have been an admirer of your newspaper (though not necessarily in agreement with its editorial policy) since I first began to read it in 1951 while a student at the University of Virginia, and I felt that the connotation that you meant to leave by the headline was less than the professional approach that a paper of your stature should have taken.

Most respectfully, may I suggest that the response to the speech, which in less than a week, has been over 300 letters, over 700 telephone calls, many mailgrams and telegrams, has been 98 percent in approval of what I said and has come from all over this country.

I respect your right to differ with me on what this President and his Administration are doing to the country, but I would have hoped that you would have expressed that difference in a fashion that would not have left the implication that your headline suggests.

Respectfully,
MARC LINCOLN MARKS,
Member of Congress, 24th District of Pennsylvania.

I would like now to read to you from the negative letters. The first one is from Erie, Pa.

It says:

I can't believe that all this is true. You certainly are not representing the views of the people that elected you.

The next one is from Larchmont, N.Y.:

DEAR MR. MARKS: It is gratifying to know that you are not seeking a fourth term in the House. You are a deserter to the Republican Party, and I suggest you either keep quiet or change your political affiliation.

From Orlando, Fla.:

I tuned on C-SPAN and just in time to catch your act.

This is really great. She goes on to say:

Frankly, you should be on the stage in England or someplace.

This letter, from the Shenango Valley in Pennsylvania:

MY DEAR REPRESENTATIVE MARKS: I am a rather prominent person in the Shenango Valley area and a life-long Republican. You are a disgrace to this district, Representative Marks, to our country and to our party. Every time your name was on the ballot I voted for you. I am now profoundly ashamed.

From Dayton, Ohio:

We condemn your scathing attack on President Reagan. You are an affront to the nation.

From Harrisburg, Pa.:

In watching your speech today on television, I feel that you are a disgrace to the Republican Party.

This is from Salina, Kans.:

You SOB. We are tired of taxes as you want us to pay. You are trying to make a name for yourself. Welfare is out of hand. Gen—

I assume they mean—

Generation after generation are on welfare. Well, damn sick of it. You bet you left a fingerprint. You are getting a big padded salary and all the perks. I hope you get lost. You must be a nigger.

And from Tulsa, Okla.:

Thank God it is reported that you are retiring. The Republicans do not need one like you. Anyone who would praise Tip O'Neill in no way can really be a Republican. You looked over TV like and you talked like an old white-headed senile has-been, and the country is fortunate that you are not coming back to Congress.

And now from New Bedford, Pa. This lady called to say how she was displeased and "the Congressman is apart from the system and he shouldn't air his dirty linen or the party's dirty linen in public."

From Erie, Pa.:

You've just exposed yourself as an opportunist and a liar. I think you're a socialist.

And now from Harrisburg again:

It was good news to hear that you are not running for re-election. All Members of Congress, it seems are completely irresponsible individually and collectively. They keep providing themselves with luxury at public expense. I am convinced that if the media had not intervened in Abscam operations, the entire Congress would have been wiped out. I must tell you that President Reagan is about the only person who has shown any courage and a willingness to and ability to start cleaning things up. So I say that your departure is welcome news. It's good riddance to one more scoundrel.

From Cape Girardeau, Mo.

I watched your tirade on C-Span this morning. You are apparently sitting on the wrong side of the aisle. You are a liberal Democrat or, better yet, a 'turncoat.' To equate Tip O'Neill to a saint was so far from reality that I could not believe that you actually said it.

And I am not really going to editorialize on these things except to tell that what apparently is not such a sweet little old lady out there that he really is a saint, he is an awfully nice guy.

From Greenville, Pa.

I read with interest your remarks on Reagan's murderous mandate and, though I agree that unemployment and interest rates are far too high, I just as strongly agree with your personal vendetta against the President's economic plans and the Republican Party's platform. Does your decision not

> to run open the door to freedom to you to lash out against policies, party and people you have supported and who have supported you? Would it rather not be right and prudent to work within the system, like Senators Dole, Domenici and others you refer to as the real brave guys—

And I did do that—

> who are trying to work with the President for a change?

☐ 1215

Ebensburg, Pa. This lady calls in and says she feels that MLM is a traitor, said that he is very disgruntled.

Now from Philadelphia:

> Your performance before the House yesterday was nonsense economics, poor politics and bad theater. I shall personally spend my time and effort and money to see that you are not reelected. After all, Mr. Marks, when you are defeated at the polls, you will only have us Pennsylvanians who support President Reagan and his policies to blame.

I did not want to take up too much time on these, but there are so few as compared to the huge number of affirmatives I will try to get through them all.

From Oakland, Calif.:

> In my view, your attack on the Republican Administration is somewhat unjustified, especially since you apparently are a part of it. I am disenchanted with the fact that many people are suffering, but unless appropriate actions were taken, won't more people be suffering. Glad to see that you will be leaving Congress. I wish you the best in your future endeavors.

There is a kindhearted soul.

Again from Erie, Pa. This gentleman called to say that he was irritated about the speech, said, "I am a very much liberal in my thinking."

From North Andover, Mass.:

> DEAR LINCOLN MARKS: I heard you on the Jerry Williams Show. First I want you to know I did not vote for President Reagan. I think the only people we should help are those who can't and have no one to call for themselves. As for education, and low-interest loans, let them work a few years. As my husband said this morning, those who started this country had very little formal education.

A telephone caller from Sharpsville, Pa., called and said that she heard I was going to speak out against the President and wanted me to know she was very upset. It turns out that she was a Reagan coordinator for that county and secretary of the Republican Party in the county.

From Washington, D.C.:

> I have sat here in front of my TV listening to you speak on the floor of the House glorifying the Speaker of the House while you gave an ugly disgusting description of the President and his lovely wife. I can no longer remain silent. You are sick. Why don't you switch to the Democratic Party. You sound more like a Democrat than a Democrat. The Communists really must be delighted with your speech today.

From Lawrence, Kans.:

> DEAR CONGRESSMAN MARKS, after watching your remarks from the floor of the House I feel sick. You should change parties. I feel ill that you are a member of the Republican Party. I am extremely pleased you are leaving Congress because I would do whatever it would take to defeat you. You are an embarrassment to the party.

Now, Mr. Speaker, again from Greenville, Pa.:

> No one likes a struggling economy and high unemployment but criticizing a man with merit makes no sense to me. The purpose of this letter is to voice my opposition to your insulting your represented people's intelligence.

Mr. Speaker, rather than read all of these postcards, I will make them available for the press and go on with the letters.

Mr. Speaker, a letter from Erie, Pa.:

> DEAR SENATOR: The deficit should be reduced by new taxes and withholding tax on interest. Also some new taxes may be in order. The main thing though is to cut spending.
>
> Last of all, I hope you will support the anti-busing legislation recently passed in the Senate.

From Jamestown, N.Y.:

> I am very sorry for your health problems but I am certainly not sorry that you will not be running for reelection in your district. The American taxpayer spoke out loud and clear in the last election and I can tell you that if President Reagan depended only upon the rich, which you and so many Democrats keep saying, he would never have been elected. President Reagan is on the right track and I for one am glad he will not have you in the House of Representatives to vote against him.
>
> Mr. Marks, I do thank you, however, for always responding to my letters and wish you good health in the years ahead.

A very thoughtful person.

This letter is from Chattanooga, Tenn.:

> Were you one of the original . . .

I cannot read that.

> If not, you are surely the biggest joke in the House of Representatives other than Tip O'Neill.

The lady puts me in good company, she says:

> Your kind makes me sick. Let me inform you that I am a senior citizen near retirement. I don't get welfare or food stamps and I don't get any special favors, and I can tell you one thing, the President won't start a war as some people think . . .

I guess it says. I hope the lady is right.

This from Erie. A call from one of the Republican people in Erie saying that the Democrats will use this speech against the Republican candidates.

I say to that lady that the Democratic Party is no less astute as we as Republicans and obviously are saying and hearing and reading what is going on throughout the country.

With or without my comments, the Democratic Party would point out what is happening under any circumstances.

This letter from Mercer, Pa., which was sent to Senator HEINZ and Senator SPECTER:

> This letter is to let you know I am a constituent of the 24th Congressional District who is not in agreement in any way with the news given out by Representative Marks.

From Hermitage, Pa.:

> I was astonished when I read excerpts of your speech, but after a few months you think you should be back to business as usual. Your opinions are a very important part of the debate going on today. I do understand what you are saying. You have given a great deal of time and energy to your job as Representative and I do appreciate that. I am sorry I can't agree with you.

Erie, Pa., again:

> We are very upset with your tirade. We fully support the Administration's economic policies and * * *.

I cannot read the other. I cannot understand it.

This is from Townville, Pa.:

> We voted for you because we thought you were the man for us and continued to think so until recently.

Then from Washington, D.C.:

> I am sure your mail has increased. I don't pretend to know your reasons for blasting President Reagan. I do think you could have disagreed with our President in a nicer way. Needless to say, I think President Reagan is trying hard to correct many of the problems and he should be given a chance. You shouldn't say those nasty things.

A telephone call from Erie, Pa., again against my remarks because I have given the Democrats ammunition for the next congressional race. Sir, I repeat to you as I told the lady before, the Democrats already have the ammunition and that ammunition was not given by me, sir, or any of my Republican colleagues, but they were given by this President and his cronies.

From Broken Arrow, Okla.

> Representative Marks, congratulations, your disgusting and vulgar criticism of the Reagan Administration even made the Oklahoma papers. Here is the hope that you lose in 1982 and a real Republican will replace you.

From Fairview, a gentleman called to say he was disappointed in the comments that I made, that I am a turncoat, and here are a list of many of the other calls that go with it all. We are continuing to receive letters as fast as they can be delivered. For those of my colleagues who cannot see them, but to whom these will be available, this is to give you some idea. We figured out that there may be 26 or 30 of these. I do not know how many hundreds there are of the affirmative ones, and I want to take the rest of my time to read from them because I think they will give my colleagues an indication of the difference in the people who are writing.

These people, as the Members will see, are writing to say thank you to me because they need help.

I should say in starting to read the affirmative letters that I apologize to all of you for having to repeat the word courageous, honest and all that stuff, but it is a part of the substantive part here, and I do not do it for any other reason but that.

From Larchmont, N.Y.:

At last someone realizes the Emperor has no clothes. Your excellent speech on the House floor was courageous and long overdue and exactly on target. Thank you.

From Forest Hills, N.Y.:

I am happy that your sane voice is speaking out against the mad policies of the Reagan Administration. The Reagan policy is based on anti-communist mania and actions which show the height of hypocrisy are beyond belief.

From New York City, N.Y.:

DEAR CONGRESSMAN MARKS: I am a New Yorker and registered Democrat. If I were your constituents I would cast my vote for you. As an American I applaud you for your courageous statements in the House this week and I support you wholeheartedly. Since the New York Times offered only excerpts of your speech, I would appreciate a copy. May your back improve and may you decide to run for reelection. Thank you.

I am looking forward to my back improving. I have no intention to run for reelection.

From Brookfield, Mo.:

DEAR SIR: I heard your speech on C-SPAN about the President. It is correct. Would you please send me a copy if you could do so.

From New York City:

I was willing to give President Reagan a chance, but I am now totally thoroughly dismayed by his form of so-called leadership. I hope he doesn't totally ruin this country. Intelligent, brave, outspoken Republicans like yourself give me hope and confidence that such things won't happen.

This letter from Croton on Hudson, N.Y.: "Dear Sir. Thank you."

This letter from San Francisco:

DEAR REPRESENTATIVE MARKS: I read a summary of your speech in the San Francisco Chronicle. I want to say how much I admire you for your courage. I am 66 years old and consider myself a conservative moderate. I can remember ten U.S. Presidents in my lifetime. This one scares the hell out of me. You may have done a greater service to your country than you think. Thank you for your service and best wishes.

Chicago, Ill.:

Congratulations for having the nerve to say what millions of Americans believe are having trouble getting across to the President. As you said Reagan's policy and proposals may result in a massacre for this country if more people don't speak up.

From Eckhart, Ind.:

I voted for him—

Meaning the President—

because he said he would get rid of fraud, excess government spending. He has only gotten rid of the programs that make this country great. He said he couldn't undo what it took 40 years to create. The last 40 years have been the best. Before that we had nothing.

My husband and I just retired last year and we have worked hard all our lives. My check mostly went for taxes, Social Security and now we have to worry about that being cut down or even off. I am afraid the Republican Party is in big trouble. The cold, cruel and indifferent feelings of our leaders, I am also afraid of their foreign policy. We were in Europe last summer during the controller strike and people we talked to there thought no one, no man, should have the power to fire them the way he did. This fall we will be among the many people at the polls getting rid of all the Republicans on the ticket that go along with his policies.

That might be a very significant letter.

From Upper Saddle River, N.J.:

I have been thinking exactly along the lines of your speech and wondering why there was no one in this big country able and willing to see through the smoke screen put up by this President. I am also a Republican but as I have so clearly expressed, the voodoo economics is destroying the most progressive and advanced effective regime by our Federal Government.

This letter is from Hackensack, N.J.:

I read today in the New York Times your recent speech on the floor of the Congress. Your denunciation of President Reagan and his cohorts. I consider you a brave man, a person whose conscience has upheld the most basic precept of our government and Constitution, the separation of powers of the legislature and the Executive Branch. You and others like you can add only more credence to the basic element of our freedom which we all cherish very much.

I remember when General Eisenhower was elected, he stated that when it pertains to fiscal matters he was a conservative, but when the issues pertained to the people of this country, he was a liberal. The present President and his associates are insensitive to the basic needs of our people.

□ 1230

This letter, Mr. Speaker, is from Goldsboro, N.C.:

DEAR CONGRESSMAN MARKS. I can't begin to express the joy I felt within as you spoke to the Members of the House on both sides of the aisle, being a Republican myself. When Mr. Reagan terminated the Air Traffic Controllers, Mr. Reagan said he terminated them because they took an oath and they breached their oath when they didn't come to work. When Mr. Reagan was elected to the office of President, he also took an oath to uphold and defend the Constitution of the United States.

From Washington, D.C.

I had the great pleasure of hearing your speech. It will go down as one of the greatest of this year. You could get elected President if you want to run. Your speech did get a lot of people here in South Texas—

I am sorry, this letter is from Houston, Tex., I see, not Washington. It was addressed to me in Washington:

You are now our new hero. My old neighbor when I lived in Houston, Tex., Vice President BUSH, is here in Texas often. I am very proud of you, Congressman MARKS.

And so forth.

This letter is from Fairfax, Va.:

The Washington Post, March 10th, had an item of your speech of March 9. I am 63 years old, a retired person and currently a Professor of history and political—

I assume political science—

I grew up in a strongly Republican family in New England, which was the liberal progressive Republicanism of Leverett Saltonstall, George Aiken, Margaret Chase Smith, and Raymond Baldwin. Indeed, I heard some of my relatives describe them as New Deal Republicans. I have been dismayed over the ultra-conservative trend within the Republican party and today I fear the party is dominated and controlled by reactionary elements. It would appear that the traditions of Theodore Roosevelt and George Norris, Robert LaFollette, have died and the party is now an instrument for the selfish greed, the powerful, the rich, the country club set. I remain true to my liberal Republican heritage.

This letter is from Jacksonville, Fla.:

Your speech, Hoover Revisited, struck the heart of America. I tried to call you on C-span, but couldn't get through. My only regret is that you are leaving public office and won't be there to speak for us next year. God bless you and please send me a copy of your speech. Pass the torch to someone.

Mr. Speaker, again, may I ask how much time I have left?

The SPEAKER pro tempore. The gentleman at the microphone has 22 minutes remaining.

Mr. MARKS. I thank the Speaker.

Mr. Speaker, this letter is from Brookline, Mass.:

Just when we had almost thrown in the lifeline comes your voice out of the wilderness. Thank you. The Boston Globe carried only a small blurb this a.m., but I happened to hear part of your conversation this afternoon with Jerry Williams. Cheers for you. You echo the sentiments of many of us and you were eloquent. I am sorry about your back, but you have given many of us the impetus we needed. You may be our hero of '82. How do you feel about that?

Thank you.

Mr. Speaker, my colleagues, I have a note here from the Benedictine Sisters:

DEAR CONGRESSMAN MARKS: Thank you for being true to your promise to the Erie coalition group last fall. You have spoken out against federal injustices and at a price, I am sure. Know that our prayers are with you as you use these last months to serve the oppressed.

Thank you, sisters.

This is a card that says, "God bless you on St. Patrick's Day," and inside is a very long scribbled letter from a person that obviously is up in age. It is difficult for me to read, because I am a little tired and the other because it is just difficult; but it indicates here:

I will always remember you and hope that you will continue to speak out. We old people need that.

That letter, I think I mentioned, was from northern Virginia, looks like a Washington postmark.

Trumbull Hill Road—I am sorry, this is from Shaftsbury, Vt.:

I read some excerpts from your Tuesday speech in the House as printed in the New York Times. I hope that the Good Lord will give you strength and vitality to continue along these lines in giving the American people your evaluaton of the lack of compassion of the present administration. The article mentioned that you were suffering back problems. Allow me to mention that I have been doing some research—

And with that the gentleman gave me a great many helpful hints:

I am sorry to hear about your back trouble. I sympathize with you and regret that it will keep you from running again. You are just what the country needs in the age of B-picture cowboys and the—

I cannot read that word—

of the mean rich who haven't the slightest notion of how destructive they are to most of the country's people and their hopes.

That letter was from Philadelphia, Pa.

From Pittsburgh, Pa., a telegram that says only, "Hear, hear."

Wichita Falls, Tex.:

I would like a copy of your speech. I have heard part of it. Keep up the good work. I'm so glad you had the will power to bring things out in the open.

From Courtland, N.Y.:

As a registered Republican who did not vote for Reagan and who has been increasingly disturbed by his social, economic and foreign policy—

I am sorry, he said "Did vote for Reagan."

I wish to congratulate you on your courage and your thoughtfulness in speaking out. I read with great interest and delight the report of your speech in the New York Times. Thank you. I do wish that you would change your way to run again. Both my husband and I stand with you in your beliefs and will give no support to the conservative Republican party.

New York, N.Y.:

DEAR CONGRESSMAN MARKS: Thank you on behalf of all those helpless who cannot march for themselves for speaking out against Ronald Reagan. It is heartening to read the New York Times article today, page 11, that there is one Republican, perhaps more, I assure you, man, there are, who does not condone the infliction of suffering on millions of their fellow men and is against the undoing of the work of 50 years of improvement in other areas.

From New York City again, just the word "Bravo."

Columbia University, New York City:

Thank you for your perceptive and courageous speech. Please do not quit public life. Your country needs you. Most sincerely.

From Fairfield, Conn.:

The New York Times story about your extraordinary speech in the House this past week is a landmark step forward for humanity in a seemingly stunned and uncaring nation. Thank you for your courage. Unfortunately for me, I live in the very affluent Fairfield County where representation—

And there are some other comments I will pass—

We need more organized ministers of responsible disturbance such as you were. I would only hope that your constituency will uphold and reelect you. Meanwhile, I would very much appreciate a copy of the text of your remarks.

Marion, Ohio:

I heard part of your speech on C-span. I appreciate you very much. We need you as President of the country. I am praying your health will improve. I hope you will make your letter response open to other Congressmen. Maybe it will give them courage to speak out as you have. We need people like you in the Congress. Pray for us all.

This is from Arlington, Va.:

DEAR CONGRESSMAN: Hundreds of my friends and business associates join me in saying in a loud voice, thank you—

I emphasize business associates—

for your timely and appropriate speech. We need more of your kind in Congress. Wish you would run again.

This letter is from San Mateo, Calif.:

Thank you for saying what most of us feel, yet either don't say or don't have the opportunity to say regarding the economic and social programs of this current administration. You may not have had much of an audience on the day that you made your speech—

And frankly, I don't have much of an audience today, either—

However, I am pleased the news media published the account—

As am I—

And I am sure that you have lifted the spirits of many Americans, myself included, with your heartfelt and truthful remarks.

From the University of Wisconsin in Milwaukee:

I was reading the New York Times this morning and could hardly believe my eyes. I have often fantasized that someone in Congress would say what you said, how you said it, not only about the heartlessness of the Reagan administration, but about so many other public issues. What was said with particular decency, directness and grace, was that few people have the effective freedom and the opportunity to say it, all necessities aside. I don't believe it is only because you are about to be leaving Congress that you said it. There are many who have left who have kept a discreet silence. It takes substance to have thought to say it that way to begin with, no less to have done it. My only regret is that you will not continue to be there and I am hoping the mail accumulates to persuade you otherwise, but in my case I want to thank you for what is a rare statement of the straightest candor by an elected official.

The gentleman is a professor at the University of Wisconsin.

From Boulder, Colo.:

I am writing to thank you very much for the speech you gave on the floor of the House of Representatives—and other nice things—I feel that you have addressed the Reagan presidency in exactly the correct fashion and your speech can only help to go far in the necessary task of stripping away Reagan's facade and the illusion created by his administration. For me and many of my loved ones, Reagan's domestic and military policies are nothing short of terrifying.

From San Mateo, Calif.:

I read the newspaper article in the San Francisco Chronicle about your recent speech concerning the dissatisfaction with the present administration. I also read of your concern about not having to be able to make a difference while you were in office. I want to let you know at least from my point of view that it is to the contrary. This country needs more people like you, people who have the courage and faith in their fellow man enough to voice that dissatisfaction, rather than sit silently by regardless of party affiliation or whatever. You took the time to make a public speech that appeared no doubt in papers all over the country. You make a difference to me. There are no doubt so many people who feel the same way as you do who read that article this morning. Thank you for making the difference.

This letter comes from Savannah, Ga.

DEAR CONGRESSMAN: I am a 16 year old high school junior. I have many high hopes to one day serve in the United States Senate. Although I know parts of the American political process, I certainly need to learn much more. On March 9th I learned quite a bit about politics. Not ten minutes ago I saw a section of your speech which came on C-SPAN. I learned a valuable lesson about oratory and about principles. I write my own speeches at my high school and I take some sort of pride in them, but your speech was wonderful. I can say that I am a true blue Democrat, but I saw a vision of prosperity in your eloquent oration. I think that Mr. Reagan and his million dollar infield have let the ball roll between their legs.

Mr. Speaker, may I again ask how much time I have left?

The SPEAKER pro tempore. The gentleman at the microphone has 11 minutes remaining.

Mr. MARKS. Thank you, Mr. Speaker.

Mr. Speaker, from Montclair, N.J.:

We want to add our voices to those applauding your political courage in speaking out against Reaganomics. As thoughtful citizens and professional social workers, we have watched with increasing dismay the impact this administration's policies are having on our people who are least able to understand them and survive them. We feel that we are more representative than the President thinks of the voters in this country. As taxpayers we are not adverse to having our tax dollars help the less fortunate.

I would like to repeat that again:

As taxpayers we are not adverse to having our tax dollars help the less fortunate. We feel that not only the country today is in need of social programs that are being demolished, but that there will be no educated leadership in the future who can clean up after what you rightly term a massacre. Thank you for speaking for us.

From Hawthorne, N.J.:

My wife and I have just read excerpts of your speech. You have said what has been on our minds for a long, long time and we are very happy that you are in a position to do so.

□ 1245

A card from Seattle, Wash.:

This seemed an appropriate card to use to say thank you for your courage.

And there is a picture of Mount St. Helens on the front.

From Waldwick, N.J.:

DEAR CONGRESSMAN: We were watching the C-Span program the day you appeared as a guest on that program.

That was the day, the Friday after the Tuesday, that I was invited back to speak where they replayed the speech again, and I answered questions throughout the country.

> We are sorry we did not have the good fortune of hearing the speech you have recently made. We do hope very much that you will send us a copy of the speech. The people of this country cannot afford to lose an honest man. It takes an honest man with guts like you have to stand up. We are behind you. Like you said, if things are not going right, then something else should be tried. Up until now the President fails to see that. Being a little on the religious side, we cannot use the words that really describe him.

From Sarasota, Fla.:

> Former resident of Western Pennsylvania and quite familiar with Sharon, Mercer, and the surrounding area. Did not hear your speech, but I did watch you on the C-Span. From the little I heard, I would agree wholeheartedly and hope you will continue.

From Westminster, Md.:

> We wish to express our appreciation and thanks for your act of courage in speaking out at the direction our present administration is trying to go. Please be assured there are many of us who welcome this kind of frank evaluation and trust and wisdom of the people and of the legislative process that will change that direction.

From San Francisco:

> Thank you for your speech opposing the murderous mandate of President Reagan and his programs. I believe that this is a concern of all thinking people, and to have someone with your position and knowledge speak against these injustices will encourage others to speak out. I hope you have good health and will continue your good work. God bless you.

From Los Angeles:

> God bless you for your courage. I am absolutely scared to death to live in my beloved America anymore. I have never been afraid before. Now, I want to run. Thank you, and the best to you.

This is from Tulsa, Okla.:

> I am a retired and registered Republican, and I want to compliment you on your recent speech which I saw on C-Span. Your thoughts in the speech were well taken, and as I believe that many of us who voted for the President are now afraid his program is not working, when you mentioned those who warned the program is not working, I would like to include Congressman Jim Jones of Tulsa. I would appreciate a copy of your speech. Thank you. God bless you.

Pebble Beach, Calif.:

> Thank you for your forthrightness in speaking out for the people of the United States whom you represent. If only others of our Senators and Congressmen would do the same. Hopefully, it will happen soon to get us back to being a people.

Fayetteville, Ark.:

> I caught your speech on C-Span. You have done a service to the country. I only hope that this administration and your colleagues on both sides take heed of the state of affairs. This administration has no compassion for those people who really need their help.

This letter is from New York, N.Y.:

> My wife and I applaud your courageous floor speech which found its way into the New York Times this morning. We are sorry that a man of your caliber will be leaving. You mentioned the fact that we have free speech. We wonder how long this will remain, given the climate of the White House.

This from Piedmont, Calif.:

> I applaud your courageous speech attacking the President. I am sorry that you are leaving Congress, but hope you will continue. People like ourselves need your help.

The SPEAKER pro tempore. The Chair would like to remind the gentleman at this time that he has 5 minutes remaining.

Mr. MARKS. I thank the Speaker.

Mr. Speaker, in light of the fact that I have but 5 minutes left, and in light of the fact that I am making all of the letters available to the press, I would like now for an additional reason, if I may, because I am a little bit tired, complete this special order. I would like to finish, if I may, by indicating in these last few minutes that except for some crank phone calls threatening my wife and my children and me by what were obviously wild people and really cranks, there have been no repercussions; not from the White House, not from my Republican colleagues, and certainly not from my Democratic colleagues in either House.

I should state that even those colleagues on my side of the aisle, who have differed with my assessment of what is happening have been most gentlemanly and understanding, and I have not even sensed, except from a very few, that they are seething inside. Except for one gratuitous suggestion by a reporter in one of the newspapers that I would have a difficult time getting a job when I leave here, there have been no threats of retaliation for what I said, as yet.

Mr. Speaker, this huge outpouring, which is continuing minute by minute, as the letters keep pouring in, and the calls keep coming in, these extraordinary cries for help should convince those who have any doubts, that this compassionless President and his subordinates are attempting to destroy what I mentioned before. A Federal Government brought into being by Washington, saved by Lincoln, and strengthened by Franklin Delano Roosevelt; a Federal Government that should be helping, not hurting, the people that it serves."

CALIFORNIA FARMER JOHN HARRIS NAMED TO THE 65 CLUB

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COELHO) is recognized for 60 minutes.

Mr. COELHO. Mr. Speaker, I am very proud to inform my colleagues in the House that one of my constituents, Mr. John Harris of Coalinga, Calif., has been chosen for membership in the 1982 65 Club.

The name of this important program, which is sponsored by the American Cyanamid Co., was derived by the fact that when the club was formed, the average U.S. farmer produced enough food and fiber for 65 persons at home and abroad. Members of the 65 Club now produce much more than this.

Mr. Harris is 1 of 10 farmers in the United States who will be recognized this year for his record of achievement as an agricultural producer and his successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, Carole, Mr. Harris is in Washington this week to participate in official National Agriculture Day ceremonies today as a member of the 65 Club.

Mr. Harris' 20,000 acre farming operation is impressive, and it is an excellent example of how important productivity is to the U.S. farming community. He grows 10,000 acres of cotton with an average yield of 1,250 pounds per acre; 2,500 acres of grain; 1,000 acres of tomatoes with an average yield of 35 tons per acre; 1,000 acres of fruit and nut trees and grapes; and 1,000 acres of garlic and onions. He also has the largest cattle feedlot operation in the State of California.

Productivity had a lot to do with Mr. Harris' selection to the 65 Club, but so did his proven leadership to his community. He is a member of the Council of California Growers, the California Tomato Growers Association, National Cotton Council, and the California Farm Bureau. In addition, he is a member of the board of directors of the California Westside Farmers.

The proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally, and I am proud that John Harris of Coalinga, Calif., is one fine example of this productivity.

Mr. Speaker, I yield to the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Speaker, I want to congratulate my colleague from California for taking this special order to recognize the outstanding agricultural people across the country. I, too, am privileged to have among my constituents a gentleman who is recognized by the American Cyanamid Co.'s 65 Club. This gentleman's name is Larry Boyer of Culdesac, Idaho.

Mr. Boyer is 1 of 10 farmers in the United States who will be recognized this year for his record of achievement as an agricultural producer and his successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, June, Mr. Boyer is in Washington this week to participate in official National Agriculture Day ceremonies on March 18, as a member of the 65 Club.

Mr. Boyer's 6,000-acre farming operation is impressive, and constitutes an important part of the overall productivity of the American farming community.

The allocation of his land includes the use of 4,500 acres of wheat with an average yield of 68 bushels per acre; 1,000 acres of peas with an average yield of 1 ton per acre; and 500 acres of barley with an average yield of 1.5 tons per acre.

Mr. Boyer considers his most important new farming practice to be the testing of prototype equipment for International Harvester.

Productivity had a lot to do with Mr. Boyer's selection to the 65 Club, but so did his leadership in his community. He is a member of the board of directors of the Idaho Pea and Lentil Commission; a member of the Nez Perce County Grain Growers Association; and has been a 4-H adviser for the past 15 years.

Mr. Speaker, the proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally.

I am pleased and honored that one of my constituents has been chosen for membership in the 65 Club. I know that you and all other Members of the House join with me in extending our congratulations to Mr. Boyer for this important achievement.

Mr. COELHO. Mr. Speaker, I thank the gentleman, and I yield to the gentleman from South Carolina (Mr. NAPIER).

Mr. NAPIER. Mr. Speaker, I would say to the gentleman from California that we are very appreciative of his making this time available so that we around the country can honor truly outstanding members of American agriculture.

Mr. Speaker, I am also quite proud to inform my colleagues in the House that one of my constituents, Mr. Laurie Lawson of Darlington, S.C. has been chosen for membership in the 1982 American Cyanamid Co. 65 Club.

The name of this important program—which is sponsored by one of the largest manufacturers of agricultural chemicals—was derived from the fact that when the club was formed, the average U.S. farmer produced enough food and fiber for 65 persons at home and abroad. Members of the 65 Club, however, now produce much more than this.

Mr. Lawson is 1 of 10 farmers in the United States who will be recognized this year for his record of achievement as an agricultural producer and his successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, Betty, Mr. Lawson is in Washington this week to participate in official National Agriculture Day ceremonies on March 18, as a member of the 65 Club.

Mr. Lawson's 1,717-acre farming operation is impressive, and constitutes an important part of the overall productivity of the American farming community. The allocation of his land includes 1,100 acres of soybeans with an average yield of 30 to 33 bushels per acre; 240 acres of small grain with an average yield of 40 bushels of wheat per acre; 180 acres of cotton with an average yield of 750 to 800 pounds lint per acre; 87 acres of tobacco with an average yield of 2,400 pounds per acre; 50 acres of sweet potatoes with an average yield of 350 to 400 bushels per acre; and 50 acres of pasture.

Mr. Lawson is known as a hard working and efficient farmer. He plants soybeans using a minimum till method after harvesting his small grains early in the summer. Planting two crops—soybeans and small grain—each year on the same acreage enables him to increase his return per acre.

Mr. Lawson was chosen for his membership in the 65 Club not just because of his productivity, but also because of his leadership. In 1979 he was appointed chairman of the South Carolina Agriculture Commission. He is a trustee of the Trinity United Methodist Church, and is quite active in various church activities and organizations; is vice chairman of the board of trustees of Epworth Children's Home in Columbia, S.C.; is member and past chairman of the board of directors of the C. & S. National Bank of South Carolina in Darlington; is member and past chairman of the Darlington County Development Board; director and past president of the Darlington County Associated Club; and member and past president of the Kiwanis Club. Since I have had the job of representing South Carolina's Sixth District, I have witnessed first-hand Laurie Lawson's concern and compassion. He has often been to Washington to argue the needs of American agriculture—and he does so most effectively.

Mr. Lawson's work and achievement in the community have been duly recognized. In 1962 he was named an Outstanding Young Farmer by the Darlington Junior Chamber of Commerce; in 1976 he received the "Professional of the Year" award from the Darlington Chamber of Commerce. Laurie Lawson is an outstanding farmer, an outstanding gentleman, an outstanding family man, and an outstanding leader in South Carolina and the Nation. The name Laurie Lawson is synonymous with what is right with our country.

Mr. Speaker, the proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally.

I am pleased and honored that one of my constituents has been chosen for membership in the 65 Club. I know that you and all other Members of the House join with me in extending our congratulations to Mr. Lawson for this important achievement.

□ 1300

Mr. COELHO. Mr. Speaker, I thank the gentleman from South Carolina (Mr. NAPIER).

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Speaker, I am quite proud to inform my colleagues in the House that one of my constituents, Mr. Freddie Max Stuart of Sylvester, Tex., has been chosen for membership in the 1982 The American Cyanamid Company 65 Club™.

The name of this important program—which is sponsored by one of the largest manufacturers of agricultural chemicals—was derived from the fact that when the club was formed, the average U.S. farmer produced enough food and fiber for 65 persons at home and abroad. Members of the 65 Club, however, now produce much more than this.

Mr. Stuart is 1 of 10 farmers in the United States who will be recognized this year for his record of achievement as an agricultural producer and his successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, LoVelle, Mr. Stuart is in Washington this week to participate in official National Agriculture Day ceremonies on March 18 as a member of the 65 Club.

Mr. Stuart's 3,500 acre farming operation is impressive, and constitutes an important part of the overall productivity of the American farming community.

The allocation of his land includes the use of 1,600 acres of cotton with an average yield of 735 pounds per acre; 900 acres of wheat with an average yield of 33 bushels per acre; and 700 acres of alfalfa with an average yield of 6 tons per acre.

Mr. Stuart is a hard working and efficient farmer. He uses a mechanical cotton packing process in the field in order to speed up harvesting. He also has the capacity to store his grains on the farm, which gives him the option to hold his grain for better markets.

Productivity has a lot to do with Mr. Stuart's selection to the 65 Club, but so did his proven leadership in the community. He is a member of the board of directors of the Rolling Plains Cotton Compress; a member of the board of directors of the Farmers Union Cooperative; and is active in the Roby Booster Club.

Mr. Stuart's hard work has been recognized in the community as well. He has been presented the Lone Star Farmer Awards, been made an honorary Lone Star Farmer, and been named a State 4-H adult leader.

Mr. Speaker, the proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally.

I am pleased and honored that one of my constituents has been chosen for membership in the 65 Club. I know that you and all other Members of the House join with me in extending our congratulations to Mr. Stuart for this important achievement.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Texas (Mr. Stenholm).

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, let me say to my colleagues in the House that, first of all, I would like to commend our colleague, the gentleman from California (Mr. Coelho), for providing leadership on this issue, as he has on so many other matters. This body is fortunate to have a leader like Tony Coelho.

Mr. and Mrs. Sherwood Danner, who live near Mount Vernon, Ill., have been selected for membership in the American Cyanamid Co. 65 Club, and I am pleased that these constituents of mine are among those honored in the Nation this year.

Mr. Speaker, we face a problem on our farms. This morning, I heard someone say on one of the local television stations that the economy is basically in good shape except for construction and automobiles. Well, they left out quite a few other things, including the whole field of agriculture. American farmers are hurting, and they are hurting severely, make no mistake about it, and we are not going to have a healthy national economy if we do not have a healthy agricultural economy.

Five things, I think, need to be done, among other things. No. 1, we have to attack these deficits and get interest rates down. Farmers are reliant on borrowing as few other business people are. That is No. 1.

No. 2, we have to look at farm income. They say that if you get 12 farmers together, you have to come up with 12 different farm programs, and there is much truth to that. I personally think that we ought to rely more and more on target pricing, which helps the consumer and the family farmer at the same time. For example, the phaseout of the economic emergency loan program, I think, was a mistake.

Third, we ought to restructure our farm program—and I would appeal to my colleagues on the Committee on Agriculture concerning this—so that it helps the actual farmers and not corporations, for instance, who invest for one reason or another. If I may be very personal, my wife and I owned a farm for a while, and we used to get payments for one thing or another. We were not the active farmers. There is no reason that someone who is not actively farming should be receiving the benefits of some of these programs. We ought to be encouraging active farmers who own their property.

Fourth, we have to take a look at farm-related tax policies. There was one good thing that happened in the last tax bill that I voted against, basically because it was a very bad bill. However, we did improve the inheritance tax area. But there are other tax programs that encourage corporations to buy farm land. We should look at the whole real estate tax area, and I realize this is not the responsibility of Congress. But the whole real estate tax field unfairly hits farmers—there is just no question about it. I think an examination of the whole tax field is in order.

Finally, we need to encourage stable outlets for our farm production. The mistake that has been made by administrations of both political parties in having embargoes or even talking about embargoes depresses farm prices and hurts the American farmer. If there is one clear message from history in the last few decades, it is that embargoes do not make any sense whatsoever unless you have a monopoly on the product. We do not have a monopoly on food production, and to boycott food products, whether we have a Democratic or Republican administration, no matter who the President is, makes no sense.

Again, Mr. Speaker, I commend my colleague, the gentleman from California (Mr. Coelho), for his leadership on this matter and for his leadership generally. If I might just add something parenthetically here that is not the subject of the special order, our colleague, the gentleman from California, has been most impressive in his performance in this body, and I understand this is only his third year here. He seems like a veteran of a much longer period of time than that. I thank the gentleman very much for his leadership.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Illinois (Mr. Simon) very much for his kind personal remarks.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. COELHO. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding.

First of all, I would like to join my colleague, the gentleman from Illinois (Mr. Simon), in his remarks and say that I just think he hit everything exactly on the head as he made his remarks concerning our colleague, the gentleman from California (Mr. Coelho) and as he made his remarks particularly about the embargo problem.

I also had two farmers who received the American Cyanamid Co. 65 award and who were among the 10 farmers across the Nation who were so honored today. They are Dean and Elayne Hummel, and not only are they from my district but they are actually from my home town of Spirit Lake, Iowa. They went to the same school I attended. Not only are they great farmers, they are great citizens in our community and in our Nation.

Mr. Speaker, I wanted to take these few moments to at least acknowledge how proud I am of them for this fine honor they have been awarded, and I thank the gentleman from California for giving me this opportunity.

Mr. COELHO. Mr. Speaker, I thank the gentleman from Iowa (Mr. Bedell) very much.

I would just like to conclude my remarks, Mr. Speaker, by saying that not only is this gentleman from California gratified by the honor received today by Mr. Harris and his wife Carol for their great contribution to California agriculture and American agriculture but by the efforts of so many other farmers from our area who have done a tremendous job in providing that critical element which is productivity.

In my congressional district, we grow commercially 220 different agricultural commodities. There is no other region of its kind in the world in its different commodities and its productivity. So I think it is very fitting that we honor them.

● Mr. ALEXANDER. Mr. Speaker, I am quite proud to inform my colleagues in the House that one of my constituents, Mr. Muriel Allison, of Walnut Ridge, Ark., has been chosen for membership in the 1982 American Cyanamid Co. 65 Club.

The name of this program to recognize producers of food and fiber was derived from the fact that when the club was formed, the average U.S. farmer produced enough food and fiber for 65 persons. Members of the 65 Club, however, now produce much more than this.

Mr. Allison is one of 10 farmers in the United States who will be recognized this year for records of achievement in agricultural production and successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, Wanda, Mr. Allison is in Washington this week to participate in official National Agriculture Day ceremonies as a member of the 65 Club.

Mr. Allison's 2,180-acre farming operation constitutes an important part of the overall productivity of the American farming community. The allocation of this land includes 1,400 acres of rice with an average yield of 120 bushels per acre; 600 acres of soybeans with an average yield of 30 bushels per acre; and 180 acres of wheat with an average yield of 55 bushels per acre.

Mr. Allison is known as a hardworking and efficient farmer. He practices rotation of crops within a field to help control insects, and increase soil fertility and crop yield. He uses pivot irrigation, which is a large mechanical operation that sprays water on the crops while traveling in a circle around the field. This irrigation system helps increase crop yields by controlling the water variables.

Mr. Allison also uses an air seeder to force the seed out by air instead of mechanically incorporating the seed into the ground. This reduces planting time.

Mr. Allison was chosen for membership in the 65 Club not just because of productivity, but also because of his leadership. He is a member of the board of directors of Farm Service Inc., a member of the board of directors of the White River Production Credit Association and is active in the Lawrence County Farm Bureau.

In addition, he received the 1978 Farm Family of the Year award in Lawrence County.

Mr. Speaker, the proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally.

I am pleased and honored that one of my constituents has been chosen for membership in the 65 Club. I know that you and all other Members of the House join me in extending our congratulations to Mr. Allison for this achievement.●

GENERAL LEAVE

Mr. COELHO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates, the President approved and signed bills and joint resolutions of the House of the following titles:

On February 15, 1982:

H.J. Res. 389. Joint resolution making an urgent supplemental appropriation for the fiscal year ending September 30, 1982, for the Department of Agriculture.

On February 22, 1982:

H.J. Res. 391. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982.

On March 2, 1982:

H.R. 3782. An act to revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel Oceanic Constitution into the trade.

On March 16, 1982:

H.R. 5021. An act to extend the date for the submission to the Congress of the report of the Commission on Wartime Relocation and Internment of civilians.

On March 17, 1982:

H.R. 4625. An act to authorize the Secretary of the Army to return to the Federal Republic of Germany certain works of art seized by the U.S. Army at the end of World War II.

TRIBLE INTRODUCES HOME CARE TAX CREDIT BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 15 minutes.

● Mr. TRIBLE. Mr. Speaker, no hardship suffered by older Americans is as tragic as being forced from their homes to receive health care. Too often, our elderly must be admitted to hospitals and nursing homes for relatively minor treatment or for long-term care which could be provided adequately at home.

This tragedy is a consequence of medicare's pervasive system of third-party payments. Because medicare reimburses medical facilities only, older Americans must be institutionalized to take advantage of their benefits. In many cases it proves less expensive to send grandparents or parents to institutions than to care for them at home. This is true despite the fact that hospital stays can easily run into the thousands of dollars.

Although some support for home health care is available, the existing system is so complex and unresponsive that it is far less troublesome to seek hospital or nursing home care. The costs of this system, in personal terms, are staggering. In instance after instance, institutionalization causes a debilitating loss of self-esteem among our elders and far too frequently destroys the will to live.

Today I have introduced legislation that would encourage families to maintain their loved ones at home. It would redress the perverse financial incentives which foster institutionalization and lower the obstacles to home care. It would also help elderly, self-supporting citizens to stay in their own homes. A tax credit will allow our elderly to have the most important medicine—loving care.

These reasons alone are enough to justify a credit for home health care, yet compelling considerations of national health policy suggest that the tax credit would be a wise measure. America's aged population is growing and will continue to grow. In my State of Virginia, for example, there will be more than 1 million people over the age of 60 in less than 20 years. Approximately 300,000 will be over 75 years of age and 11 percent, or more than 100,000, who will be over 85.

And our medicare system now dictates that medical costs and Federal outlays will continue to rise even faster. To avert a health care budget crunch, we should promote less expensive forms of health care wherever possible. Home care is one of the best—and most economical—alternatives. It merits the stimulus my bill would provide.

A health care tax credit would keep the elderly at home—where they belong.●

DEFENDING THE ADMINISTRATION'S ECONOMIC POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LUNGREN) is recognized for 60 minutes.

Mr. LUNGREN. Mr. Speaker, it is not my intent to make a special mea culpa here. Perhaps we do not get much press coverage for special orders that come not to condemn but to praise an administration that is in power. But I think that some of us ought to be standing up and talking about the fact that we knowingly, wittingly, and enthusiastically voted for the policies of this administration that are now in place, and we are willing to defend them and defend them strongly.

The fact of the matter is that many of those who talked today about the major concern they have about a balanced budget are rather latecomers to this philosophy, Year after year they came forward on this floor and voted time and again for budget deficit after budget deficit which were larger, as a percentage, of the gross national product than the deficit we see staring us in the face right now. They thought that was all right.

What has changed? What has really changed is the fact that we embarked on a program of cutting taxes at the same time we started being concerned about balancing the budget. There is no magic to balancing the budget continually on the backs of the taxpayers of this country. There is no magic, except that it does not work. We have tried that over the last few years. We have doubled the income tax on the American citizens in the last 5 years. Yet we have had the largest deficits we have ever had in the history of the United States.

We attempted in the last year to change that. Some of those who are now attacking this administration's policies for not being effective are the same ones who fought those very policies. As a result they delayed our having those policies put into effect until about a year after we wanted them in effect.

□ 1315

It is strange, it seems, that most people agree that the recession ought to bottom out just coincidentally with the next major tax cut taking effect. It takes effect on July 1. Most economists suggest that is when we will bottom out of the recession and start back up.

Does that happen despite a tax cut? No. It happens, in large part, because we do have a tax cut.

And yet some of those same people, who worked against the programs of the President and caused them to go into effect later rather than sooner, now attack those programs for not being successful.

I would suggest that they have the burden of proof to come before us in the Congress and tell us whether they are saying that the way to get out of the economic difficulties we now have is to reject the thrust of the Reagan administration's proposals, and, instead, to hang massive tax increases on the American taxpayer. They should say whether they believe that somehow, some way, in repeating what we have done in the last administration, we will have a different result than that which we saw at the end of that same administration.

If that is their argument, let us say it up front. Let us come here and tell the American people that we have failed in our attempt to try and control the expenditures of the Federal Government, and the only way we can go is to have ever-increasing taxes. Because make no mistake about it, despite the President's tax proposal that we put into effect last year, after it had been amended and watered down in some ways, the average taxpayer in each and every one of our districts is paying more on his taxes today than he did a year ago. He paid more this past year than he did the year before that. Only next year, if the third year of the tax proposal actually goes into effect, will he actually come out ahead of the game.

Why? Because in the wisdom of this Congress in the past few years, we had adopted staggering increases in the social security tax. These increases come about because we will now tax the individual at a higher percentage of his income and we will also expose a larger portion of his income to that particular social security tax.

In both ways the tax is going to be higher.

I have heard Member after Member come to the floor and talk about the fact that the administration's proposal for cutting taxes was unfair because those below $20,000 are not getting helped and they are going to pay larger and larger amounts of money.

It happens to be true that they will pay more but it is not because of the tax cut. It is because of the fact that they are the ones who are hit most by these staggering increases in the social security taxes that we have imposed over the last few years.

We can, perhaps, fool some of the people some of the time, but we are not going to get to the bottom of our real problems until we recognize that we have an ever-increasing tax burden placed on the average taxpayer in America and we have some obligation to try and help him out of that.

I wonder why we have been defeated in any efforts to even look at the social security system in order to take care of the problems that we have there.

I wonder why the Democratic chairman of the Subcommittee on Ways and Means, Mr. PICKLE, who was involved in an ongoing process in trying to come to a solution for social security was told by the leadership of this House, "No more hearings, go no further on this, let's let it simmer, let's let it stew a little bit in an election year."

If we are truly sincere about talking about those people who are under $20,000 a year, we have an obligation to come forward to deal with the entire social security situation, not only on the benefits side, but also on the taxing side. The people below $20,000 a year are losing faith in us that we will ever give them a hope of receiving anything back from the social security system. They are told to pay in more and more every year, with less and less expectations that they will get out what they are putting in at the present time.

As long as we want to demagog, as long as we want to divorce the issue of the taxpayer from the issue of social security that affects that group, it should not really surprise us that the American people are losing faith with the Congress and with the institutions of Government that are here in Washington, D.C.

Some talk about the size of the deficits. I hear speaker after speaker after speaker talking about the size of the deficits. They say, "We have to get the deficits down."

What are we doing now in the House of Representatives? Virtually every single committee that has any ability to make any judgment on the budget in terms of authorization or appropriation, is reporting out programs that will break the budget that the President has brought down.

So we are not talking about a $91 billion deficit. We are talking about $100 billion, $110 billion, $120 billion, $130 billion, $140 billion deficit that should be laid here at the feet of the Members of Congress.

We are the ones who decide how much is going to be spent in this Government and how much will not be spent. It is time for us to take that obligation on ourselves.

And to hear some Members talk on this floor about the compassionless President of the United States makes me wonder: Who are we to be questioning the sincerity of another in terms of our deep commitment to one program or another?

We are made up here of Representatives of the entire community that is the United States. The President was elected by all of those people. We are asked to exercise some judgments as to how we will get out of the problems that we see today. It will help us not one whit if we start talking about one another being compassionless as somehow one or another of us has the corner on compassion in this country.

How compassionate is it, I ask my colleagues, to say to someone who is unemployed, "Sure, we recognize with the increase in minimum wage benefits since 1952 that we have had a massive increase in unemployment among youths, particularly black teenage youth. But we are unwilling to change that."

Does it make much sense to talk to someone who is unemployed and say, "Sure, we have helped you. If you ever get a job, we have made sure that you will get a certain amount. But by absolutely guaranteeing that amount, we have, basically, cut the rungs off of the bottom of the economic ladder, and have made sure you will get no job."

We have got to address those fundamental problems in this country. And to say one side is full of compassion and the other side is not is to suggest that, somehow, someone has the pure, pristine vision of America and the pristine knowledge of how we achieve that goal for America—and no one else can join the debate. I think that is wrong. I think it is tragic that we get involved in those sorts of declamations here in the House.

The fact of the matter is that what we did last year placed us in a position now that can truly be called crucial.

Last year, when we decided to cut tax rates and embark upon cutting the increase of spending of the Federal Government, we found that, inevitably this year we would be faced with the question of whether we were going to go back on our commitment to cutting taxes so that tax rates would be down in levels that would not be oppressive, or whether we were going to give in and say we are absolutely incapable of controlling spending.

This is the year we make the decisions. Last year set the stage. Now is the time for real action. This is the year we are going to make some decisions as to whether or not we cannot control spending.

To suggest that because we want to control spending on the domestic side that we are cruel and heartless is to suggest that John F. Kennedy was cruel and heartless. John F. Kennedy's administration brought in budgets that only allowed about 23 percent of the total budget to go to domestic spending and 47 percent of the Federal budget to go to defense spending.

I am waiting for one of the Members to take the floor and talk about John Kennedy being a warmonger, being cruel and heartless, being against the downtrodden, being absolutely against what is good for America, being without compassion.

I do not think anyone would suggest that is the case. Yet his budget gave substantially less in terms of percentage of the Federal budget than the budget the President has presented to us for domestic spending.

The President's budget this year in terms of defense spending is significantly less as a percentage of overall budget toward defense than was that of John Kennedy 20 years ago. Then let us dismiss the quick draw criticisms of this President's compassion.

So the question is: Are we going to change some of these trends that we have seen over the past few years?

We are really faced with the question now as to whether we think the American people are fundamentally undertaxed. Well, we ought to say it out front. That is basically what the argument is. Are the American people fundamentally undertaxed in this country or are they overtaxed?

And I submit that if you go home to your own districts and talk to the people you will find that the strong sentiment is that they are not fundamentally undertaxed. Rather, they believe they are overtaxed, and overtaxed in ways which do not give us an ability to have the investments, the savings, the capitalization that is necessary to make us competitive in this modern age.

The longer we fail to deal with those problems, the longer we create a self-fulfilling prophecy in which Government becomes so uncontrollable.

Right now, some suggest that we cannot do anything about the budget, that we cannot touch uncontrollables. Well, frankly, if we are unable to control the uncontrollables, then truly Congress is out of control. We might as well pack up and go home. We might as well tell people that government of the people, by the people, and for the people is as out of date as the rating system they used on movies 30 years ago.

We should then admit that somehow taxation without representation is again in vogue. What we are saying then is that we do not have the guts in this House, or the ability in this House to look at those things that have been locked into formulas in the past.

I think it is unworthy of our obligation to the American people to not look at those proposals as we face the predicted deficits.

To some that suggest that this President is cruel and heartless and compassionless and those who support his policies are so, I would suggest that you are missing what this President is attempting to do. In fact, he is trying to save the New Deal from the excesses of the Great Society. Democrats have argued for years that Franklin Delano Roosevelt saved the capitalist system from the excesses of the capitalists. Whether you accept that analysis or not, I would suggest that the same analysis could be applied toward what this President is attempting to do.

Go out there and talk to the people in your district. Sure, they want people to get a fair break. But I have never had people complain about welfare fraud and abuse more than those people in my district who had been on welfare or were currently on welfare, who had seen cheating on welfare. They ask why we in government did not do something about it. When you look into it, in many cases it is because on the Federal level we have hamstrung local jurisdictions from being able to police their own operations.

We have got to look at these domestic programs to see whether they are working toward the purposes for which we established them. The fact of the matter is, you do not get a deficit because of programs started with bad intentions. Every program that we have before us for which we have enacted legislation and for which we are spending money and which adds up to the deficits we have seen was brought about with good intentions.

With good faith we were attempting to deal with problems we thought had to be dealt with on our level. But is it not time, almost 20 years after the Great Society, that we ought to take a look at some of these programs, that we ought to see if in fact they are doing what they were set up to do, to see whether there are some excesses? And would it not be better if we look at those seriously, rather than start name calling and start saying that one side is heartless or cruel and the other side is not?

I think we have a greater obligation here. And although we may have some disagreements with the President on the precise details of his program, we have the obligation in the House to come up with our alternatives.

□ 1330

Anybody can stand back and throw bricks. Anybody can say that this President does not have the perfect budget. I will say this President does not have the perfect budget. I do not in any way intend to defend a $91 billion deficit. But I will tell the gentleman this: A $91 billion deficit is a lot better than a $146 or $153 billion deficit, which is what we have without the budget cuts that this President has suggested.

We have heard excuses on the floor time and time again as to why we are not doing any work here. Some say you have got to realize that the Appropriations Committee is meeting, that the Budget Committee is meeting. That is absolutely true. The Budget Committee and Appropriations Committee have to begin anew every year. But has everybody forgotten about the fact that we are in a 2-year cycle for substantive legislation on all the other committees.

I am on the Judiciary Committee. We have buried in the Judiciary Committee right now the Criminal Code reform bill that we passed out of the committee last year. We are not going anywhere on that. Do we not want to deal with that issue?

We have all sorts of law enforcement initiatives within that committee that have not been acted on on the floor.

We passed out a regulatory reform bill some months ago out of our committee. It has not been scheduled for debate here. So what our leaders can say, and many times have said, is that No. 1, there is not an agreement on the President's budget; No. 2, we are dealing with the budget in our own way in committee so we cannot bring it to the floor; and No. 3, everything else has to stay away from the floor.

I say that is utter nonsense. If we have disagreements with the President's budget, then show what those specific disagreements are. But we should show where we would make another savings if in fact we do not agree with the one that is there.

If there is some opportunity on the floor of the House, when we are not dealing with budget items, let us deal with substantive legislation. There are many issues we have dealt with over the last 12 months and we have not gotten anywhere here in the House of Representatives.

Let us bring those forward and let us bring those forward now. We are not truly representative of the people unless we take our oaths seriously and believe that we have some obligation to act here.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I agree with the gentleman that it is incumbent upon Members of this body to come up with some solutions. The thing that is puzzling is that last year during the debate on the budget, and the debate on the tax cut, the gentleman from that side of the aisle suggested that if we cut taxes deeper than we ever cut them in the history of America, and if we embarked on a program to increase military spending faster than we have ever increased military spending in the history of this country, somehow we would come up with a balanced budget.

The fact is that the budget is not balanced; $91 billion is not a detail, it is a disaster.

I do not support it. Neither does the gentleman speaking. The question is, "What do we do about it?" If, as the gentleman says, he does not support it, then the question is what kind of program does the gentleman proposed to deal with that kind of a deficit.

Mr. LUNGREN. In the first place, when the gentleman talks about the fact that many of us on our side of the aisle truly believe in the stimulative effect of tax cuts, I still do believe in the stimulative effect of tax cuts. To suggest they have not worked to this point is to suggest that somehow the entire program has been brought into play. That is not the case.

I would refer the gentleman to an editorial from the New York Times about 6 or 9 months after we passed—a year before I got here—the capital gains tax cut, the one that had been sponsored by Congressman Steiger for so long. For 6 months or 9 months after it had gone into effect, the New York Times editorialized about the failure of the program. It said that it proved the erroneousness of the argument that if you cut tax rates, Government will actually take in more money because of the stimulative effect on the economy. Six months after they said that, the figures were irrefutable, that every dime that would have been lost because of a static analysis of a tax cut, had been regained by the Treasury. In fact the Federal Government received more money into the Treasury than it would have otherwise. It continues to be a fact today.

If the gentleman can tell me why it makes sense to say that if you tax someone higher at the marginal rates, you should be surprised that that person will not work as hard or will be discouraged from future work or savings or investment, I would be happy to accept the gentleman's analysis.

Mr. DORGAN of North Dakota. The other side of this argument suggests that somehow today there are millions and millions of Americans shirking and slothing and that through some kind of social engineering in the Tax Code that the gentleman and the people of his party proposed, we will unleash a spurt of new activities by all of these workers.

The kind of welfare that the gentleman talked about a while ago—certainly I agree with the gentleman that we ought to better manage these welfare programs, but the kind of welfare the gentleman talked about ignored what I think is one of the most scandalous items of welfare in our Government, and that is the kind of welfare that was noticed on the front page of the Washington Post the other morning in which a major corporation earning $2.66 billion not only does not pay any income tax, but in fact gets a $90 million refund. That is the kind of welfare program we have to deal with.

Mr. LUNGREN. Absolutely. That has nothing to do with the basics of the President's proposal.

If the gentleman will recall, the President of the United States, Ronald Reagan, presented to this Congress two simple proposals: An across-the-board tax cut over 3 years for individuals and rapid depreciation for business.

He asked that those two things be passed in one clean bill and that we then go back to the other tax programs. The President's request was rejected—not on this side of the aisle, but on that side of the aisle—by the chairman of the Ways and Means Committee and a Ways and Means Committee that is stacked 2 to 1 against this side, so the President had one of two options: Either absolutely give up in his effort to try to give tax relief to the average American—something that he had campaigned on for years and years and years—or join in the bidding war, which was within the auction controlled by the Ways and Means Committee.

The President decided to get the essentials of his program through. He would join in the auction presented by the Ways and Means Committee.

The fact of the matter is that some excesses resulted. I would happily get rid of the excesses involved in the tax credit leasing program. That was not an essential of the President's program. But to come here and say that the President should be criticized for joining a game, the rules of which were drawn by that side, the referees of which were controlled by that side, is disingenuous at the least.

Mr. DORGAN of North Dakota. I would like to say that at the conclusion of the vote on the most substantial tax bill in this country's history, that side of the room was cheering, while this side of the room was rather glum. They were serving punch and cake down at the White House because they won. It was not the bill from the Ways and Means Committee that succeeded. It was the President's bill.

All I am saying is that the "incentives" in that bill represent the kind of social engineering that goes on which results in a corporation——

Mr. LUNGREN. I would like to take my time back and suggest to the gentleman that if anybody is involved in social engineering, it is the gentleman speaking to me on that side of the aisle. To suggest that every dollar an individual makes is, first of all, fair game for the Federal Government, and only secondarily a property of the individual, that is the ultimate in social engineering.

To suggest that present individual tax rates, which have gone up substantially over the past few years, where marginal rates on income of average Americans are now those that we had thought would be only for the wealthy in the early sixties, is something that we can accept, I think, is ludicrous.

If the gentleman suggests that we should go back and remove the President's tax proposals on individuals, then the gentleman should step forward and say that.

Does the gentleman know how far the tax cuts will move the American people back? Does the gentleman know how much the individual tax cuts will move the American people back? All the way back to 1977. Only 1977.

Now we are saying we cannot afford that? If we are saying we cannot accept that, then we ought to tell the American people that they deserve a massive tax increase, because that is what the gentleman is saying.

If the gentleman is suggesting some excesses were made in some parts of the bill—I agree—and I would support getting rid of the excesses, specifically, the tax credit leasing program.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Iowa.

Mr. BEDELL. The gentleman said we should not have demagoguery. I agree with the gentleman.

But the gentleman is misleading the people if he is trying to say that the President did not have the right to bring forth to this Chamber whatever tax bill he wanted to bring forth.

Mr. LUNGREN. Can the gentleman tell me how many members on the Ways and Means Committee are Democrats and how many are Republicans?

Mr. BEDELL. It does not matter.

Mr. LUNGREN. Does the gentleman know what the ratio is? The ratio is over 2 to 1 on the gentleman's side.

If the gentleman can show how the President can be Houdini, to get in the middle of the Ways and Means Committee and somehow bring forth a bill, then I will be happy to acknowledge the gentleman's argument.

Mr. BEDELL. Will the gentleman give the gentleman from Iowa a chance to be heard?

Mr. LUNGREN. Yes.

Mr. BEDELL. The President could not determine what the Ways and Means Committee brought forth. The President had the opportunity to offer whatever he wanted on the floor. That offer was made and he made that offer. The fact is he did not have to get into a bidding war. The composition of the Ways and Means Committee had nothing to do with what the floor vote was. The President put that in his bill and the people should understand that he put it in the bill and in my opinion the gentleman does a great disservice to try to mislead the American people to say that it is somebody else's fault. The President put that in his bill.

Mr. LUNGREN. I will take my time back. If we want to start a civics lesson so that the American people can understand how this House works, maybe we can.

The fact of the matter is that on several committees of the House they are absolutely stacked against the minority side, and unless the gentleman recognizes that——

Mr. BEDELL. The gentleman recognizes that.

Mr. LUNGREN. One of them happens to be the Ways and Means Committee.

Mr. BEDELL. The gentleman recognizes that.

Mr. LUNGREN. The President had no ability to have one simple bill on his individual tax cuts and his accelerated depreciation to come forward from the Ways and Means Committee.

In the process the Ways and Means Committee started an auction in which they went to different special interests and put in a little thing here and a little sweetener there to get people away from the essentials of the President's plan.

Human beings being what they are, the President's plan would not have passed unless he put some sweeteners in to get some of those same people——

Mr. BEDELL. Oh, fine. That is why the President did it, was because he wanted to get special interests to vote for it. If that is the case, that is fine, just so everybody understands.

Mr. LUNGREN. The gentleman again clouds the issue by not recognizing the fact that the control of the committees is a tremendous power in this House. Once you attract Representatives in this Congress who happen to have certain interests in their own districts—there is nothing wrong with that since such interests give employment in certain districts—but which interests in a nationwide analysis may not be best for a total economic plan, and they commit themselves to a bill as it comes, through, the President, if he were going to have any hope whatsoever of having the essentials of his program passed through, had to deal with that reality.

The President is a practical man. The President is someone who learned while he was Governor of the State of California that you have to do the legislative dance. If the tune is played by the other side, you do not have control of the dance. And the tune is played by the other side in this House. It has been played by the other side in this House for 25 years.

If the gentleman suggests that somehow the President should have given up on his vision to cut taxes across the board for individual citizens, because this House is controlled by the other party, then that is only the gentleman's opinion.

The President made a different decision. He thought we would get the essentials of his program through. But if the only way to get through the legislative process here was to get involved in the auction block, one had to be involved in the auction block.

We know who the chief auctioneer was. Let me remind you that he was not of my party. If some excesses resulted, let us go back and deal with those things. Let us not attack the third year of the individual tax cut. Let us not attack indexing. Let us not come here and suggest that we made a major mistake in terms of our supply side analysis when in fact we had to postpone the application of the program and when, in fact, there were some distortions in the overall program as it was finally passed out. More importantly we should admit that many of us, even those of us who are confirmed supply siders, probably did not fully appreciate the total cynicism of the American public with respect to the actions of previous Congresses and the Executives.

Let me point out what I am trying to say.

The average Americans have been told time and again by Congress that they will get a tax cut in a particular year, yet they look at their paychecks and actually see that they are getting a tax hike.

They have been told time and again by Congress and previous administrations that spending is to be cut and lo and behold, spending is increased year after year.

Now we have a President who comes in and did what no one said could be done. He started to slow down the growth of spending. He started to bring down tax rates to reasonable levels. The American people want to know whether we in fact are going to do that, or whether we are going to step back.

When we pass a program in September, late August or early September, the first part of which only goes into effect in October, and some Members are already talking in December and January of getting rid of the second and third year of the tax cut, why are we surprised that people are skeptical?

□ 1345

My first theorem of politics is that people are not stupid. They have been fooled enough by the judgments of the Congress as a whole and by the White House in terms of economic policy in the past. We have got to convince them that we meant what we said. That was one of the key points in the 3-year program. You establish a 3-year program so people can have some security in knowing that is the way things are going to be for 3 years.

Well, if you just passed the program and before it even gets into complete effect, you have people saying let us get rid of the second or third year, let us get rid of the indexing, how do you expect our constituents to respond? They respond with some skepticism. I would suggest to the gentleman that that skepticism is something that we did not fully appreciate. We have got to get beyond that skepticism by showing the American people that we meant what we said when we talked about a 3-year tax cut. We meant what we said when we talked about indexing. Once they believe that, once they are convinced that that will be done in conjunction with cutting the size of this Federal Government, then they will be convinced that they ought to work and save and invest for the future, rather than borrow and put off those things to some distant future when maybe they will have a Congress with the guts to help them.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield for the final time?

Mr. LUNGREN. I will be happy to yield.

Mr. DORGAN of North Dakota. I agree with some of the things the gentleman says. I think we share a common feeling about a number of issues. What I sense in this House is that people on that side believe they are right and people on this side believe they are right on all these issues. Instead of getting the best of what both sides have to offer, we often get the worst of what each side has to offer. I think that is what the gentleman was talking about in that bidding war, that auction sale, that went on with the tax bill.

But the fact is that supply side economics is at best a theory, an experiment. I do not know whether it is going to work. I have my own judgment. I do not think it will work, but nonetheless, I do not think supply-side economics——

Mr. LUNGREN. Would the gentleman tell me the alternative?

Mr. DORGAN of North Dakota. Well, supply side economics is a suggestion that the problem in this economy is inflation. Inflation is caused by too much money chasing too few goods. The solution, supply side, explode the supply of goods.

I want anybody in this town to tell me how you explode the supply of goods and production in this country as long as you have double-digit interest rates.

Mr. LUNGREN. Well, let me take back my time to explain to the gentleman what those of us who are supply siders mean by it.

Mr. DORGAN of North Dakota. I would be most interested.

Mr. LUNGREN. The gentleman obviously is not a supply side devotee.

The essential fact or characteristic of supply side economics is belief that people make rational judgments with respect to economic decisions. People respond differently to incentives than they do to disincentives.

In fact, we have been ignoring that year after year in heaping larger and larger marginal tax rates on the American citizenry. We believe you have to reverse that trend. That is the essential of supply side economics. That being the keystone, we then go on to say that if you encourage people to earn more, to save more, to invest more, they will produce more. Producing more then drives up supply, obviously, and demand follows supply. This is opposed to the old thought that somehow we on the Federal level could build up demand by throwing dollars out through Government spending and then supply would somehow respond to demand.

One of the essentials is that oftentimes a demand cannot exist because the supply does not already exist. I mean, how do you talk about new entrepreneurs? How do you talk about computers?

If the gentleman suggests to me that somehow you could have created the computer industry on the demand side starting in 1942, I would suggest the gentleman has his argument backward. There was no demand for it because there was no supply. Supply creates demand far more than demand creates supply.

Mr. DORGAN of North Dakota. I have read those economic books and I understand the theory. All I am saying is this, that if supply side economics represents the manifestations of the programs we see today, the deepest tax cut in American history, the largest military buildup in American history, and at the same time embracing double-digit interest rates which the White House has been doing, suggesting that the Fed is on the right track, then I am saying it is a schizophrenic economic policy that leads us right into economic quicksand. The more you wiggle, the deeper you sink.

Mr. LUNGREN. Fine, I asked the gentleman the alternative. Let me present the alternative as envisioned under the last 5 years, particularly under the Carter administration. The Government decided it would rapidly increase the tax rates across the board, which was done because of bracket creep, and because of social security taxes. The size of Government was drastically increased. The percentage of gross national product taken by the Federal Government was drastically increased. All these things were done contrary to a supplyside plan, and what happened? We got double-digit inflation. Has the gentleman forgotten that? We got double-digit inflation 2 years in a row for the first time in peacetime in the United States.

What else did we have? We had the highest interest rates since the Civil War—21.5 percent. We had the largest total 4-year deficits in the history of the United States. We had 3 years back-to-back negative productivity growth.

Now, if the gentleman can show me how you are going to get this economy back on its feet by having back-to-back years of negative productivity growth, I am all ears.

Mr. DORGAN of North Dakota. I am not supporting yesterday's economic policy. I am saying we live today and we are going to live tomorrow and we have to come up with a sound economic policy.

Mr. LUNGREN. Well, what is the alternative? That is what I am asking the gentleman. What is the alternative?

Mr. DORGAN of North Dakota. The alternative certainly is not $90, $100, and $120 billion deficits. My guess is that the gentleman is suggesting that the inflation we lived through in the late seventies came from deficit spending and we are going to see in the next 3 or 4 years——

Mr. LUNGREN. Among other things.

Mr. DORGAN of North Dakota. Pardon me?

Mr. LUNGREN. Among other things.

Mr. DORGAN of North Dakota. Well, certainly, among other things, probably the most important of which was the large increase in energy costs that came coursing through the economic veins of this country.

All I am saying is that President Reagan has told us that deficit spending has caused most of our economic troubles. I am saying that supply side economics with high interest rates is going to cause the largest deficits in the history of this country.

I agree with much of what the gentleman has said and I think we have a lot in common. What we are talking about is how to fix this today and how to move toward tomorrow with an economic policy of moderation that provides for economic growth and that makes more sense than this President's program.

Mr. LUNGREN. Well, I would just suggest that the President is trying something new. I cannot guarantee it is going to work. I have every confidence that it will; but I can tell the gentleman the alternative, as I have seen it presented from the other side, basically was embodied in the previous administration. It was an abject failure. I can guarantee it would fail again.

I would ask the gentleman, where was the gentleman in 1976 when the deficit took up 4 percent of the gross national product, as opposed to the projected 2.7 percent of the gross national product in the President's suggested 1983 deficit?

Mr. DORGAN of North Dakota. Well, I was not serving in this body, but if the deficits are the problem, then the gentleman would be the first to admit that the kind of deficit the President is proposing is one we cannot accept. The gentleman cannot accept them and I cannot accept them; but at least we agree on that point.

Mr. LUNGREN. But I still am wondering what the alternative is? I have not heard an alternative.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I think it needs to be pointed out as well, that the deficits are not supply side deficits. The deficit is projected over the next 3 years at 80 percent, made up of economic stagnation; so insofar as the deficit projections are looked upon as a measurement of the economy, they are a measurement of what happens when you allow an economy to stagnate, because they are not based upon the supply side. They are based upon static economic analyses based upon stagnant economic conditions and that is a leftover problem from the Carter years. Those are the kinds of deficits that we are now faced with.

What supply side would tend to do is reverse that trend and allow us to move out of stagnation so that you can rapidly bring down those kinds of deficits by putting larger GNP growth into the economy, by putting more people back to work and thereby bringing down the deficits almost totally and doing so in a rapid fashion.

I thank the gentleman for yielding.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield further?

Mr. LUNGREN. I would be happy to yield.

Mr. DORGAN of North Dakota. Well, I just want to say that at some point, today's behavior has to be related to today's intoxication. I have heard for months on this floor that all the bad things are the result of yesterday and all the decent signs, all the encouraging signs, are the results of today's program.

Mr. LUNGREN. Well, if the gentleman will yield on that point, I guess it is like someone who has been on PCP for some time and went out on a binge last night. Probably the greatest danger to his health and behavior was the PCP he took months ago, even though he may have had too much to drink last night. I mean, there are different types of poison and I think the overriding illness in this economy is the problems we have had over a number of years, not just in the last year.

We cut the budget a whole $35 billion last year—right?

Mr. DORGAN of North Dakota. Right.

Mr. LUNGREN. $35 billion in a $700 billion budget, and yet that was too much?

Did the gentleman support the cuts we had last year, by the way? Did the gentleman support the President's cuts last year when we cut $35 billion?

Mr. DORGAN of North Dakota. I voted for a budget proposal on this floor that cut more than the President asked for, $1.2 billion more.

Mr. LUNGREN. Did the gentleman support the President's budget of $35 billion in cuts?

Mr. DORGAN of North Dakota. I voted for the Democratic committee budget, which cuts $1.2 billion more.

Mr. LUNGREN. So the answer is that the gentleman did not.

Mr. DORGAN of North Dakota. The answer is, of course, not.

Mr. DASCHLE. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman.

Mr. DASCHLE. Well, I commend the gentleman for bringing to the floor of the House what I think has been a very enlightening debate. I think the gentleman raises some interesting points.

The problem is that since we passed that tax cut, things have gotten worse. It does not make any difference whether it is our fault, or whether it is the fault of the other side. Regardless of who is pointing the finger, we tend to find a culprit that really does us no good.

The problem is that things are getting worse. Dun & Bradstreet is now saying close to 500 businesses a week are going out of business.

On this National Agriculture Day, we find that 1,100 farmers went out of business last week.

We are finding that the economic indicators as we project for the next year are getting worse.

So what we have to decide to do is whether or not we lock ourselves into decisions made last year, or whether we move ahead with some midcourse corrections.

I detected through much of what the gentleman from California said that there are some midcourse corrections that even the gentleman and his party would support, eliminating, for example, the leasing arrangement that we passed in the tax cut last year.

Certainly, I think we are dealing with a question of fairness here and when we see our people exasperated because they are out of work, because they have no businesses, when they see an element of fairness that is not being applied as we try to find economic recovery, then I think we are called upon in this Congress to make some changes. That is what I think we are saying. That is what I understand the gentleman to be saying and that is what I think we have to do. In an element of fairness, we have to try to find a way in which we can bring about economic recovery. I think the gentleman agrees there are some points where fairness has not been very evident and that is I think what we have to contend with as we look to the next year.

Mr. LUNGREN. Well, I suggest to the gentleman that the tax-leasing provision that the gentleman refers to does not have anything to do intrinsically with supplyside economics.

Mr. DASCHLE. I am not arguing that point, if the gentleman will yield. I am saying that is one element of the fairness question.

Mr. LUNGREN. Oh, I understand. I understand what the gentleman is saying. I would also say that in fairness we ought to look at all parts of the economy. When the President took office, the inflation rate was double digit for the second year in a row and for his first year, it was 8.9 percent. For the first 2 months of this year, it was going around 3.5, 3.8 percent. We not only had double-digit interest rates when he started, we had them over 20 percent.

Mr. Kaufman, who spoke on the Hill yesterday with some criticism of the administration's present policies, also criticised the administration early last year and predicted that we would have interest rates in excess of 25 percent by November of last year. The gentleman recognizes what happened. It went from 21½ percent down to 16½ percent. It has been fluctuating at 15½ and 16½ percent ever since. I would like to see it lower, but I would say that 16-percent interest rates are certainly better than 21½ interest rates.

In 1981, for the first time in 4 years, we had an increase in productivity growth, which is at least one good indication.

We actually had a small or marginal, but nonetheless, real increase in GNP growth during President Reagan's first year. That was the first time we have had that in 2 years. We had no increase at all in the last year of the Carter administration.

So there are some things which I think indicate that we are on the right track.

With respect to the problem that the recession is lasting longer and perhaps is deeper than any of us thought, I absolutely agree. That is why I wanted the individual tax cut to go into effect last year, not this year. That is why I support a program to have the individual tax cut that is supposed to go into effect in July made retroactive to January of this year. I think that the No. 1 thing we can do to create jobs in this country is to stimulate the economy through a tax cut right away, not next year, not 3 months from now, but actually right now.

Mr. DASCHLE. Mr. Speaker, if the gentleman will yield further, I think the gentleman makes eminent good sense in much of what he has said, especially in regard to the tax cut for people, for individuals, I should say.

The problem comes in some of the others. You know, we were talking earlier about the rise in taxes and the increase in the burden that people have to bear. I think a large part of that is because there are many in our society that are not bearing any at all.

We find that there are now $260 billion worth of tax expenditures. I think as we look at those ways in which we can lower taxes, we have to find out whether everyone is bearing their fair share and I do not think that is the case today.

Again, it is that equity issue, it is that fairness question that we are going to have to contend with if we hope to keep the credibility of all the people in this country. That is what we are not addressing.

Mr. LUNGREN. Well, I appreciate the gentleman's remarks. I would just suggest that when we talk about the large number of "tax expenditures" we have, every person who owns a house in the United States has a "tax expenditure" because he gets to write off his payments on that.

Those people who are in debt get to write off their interest payments.

If you make charitable donations right now to established charities, schools, churches, in fact every sort of eleemosynary institution, you have a tax expenditure.

So, I think we would have to look at the whole thing in its entirety.

You know, if we were to start over, I would agree with the gentleman. It would be great to have just a flat across-the-board tax with no deductions, but I doubt that we are going to get to that point anytime soon.

You know, one man's tax expenditure is another man's legitimate tax break. I have heard people come here on the floor criticizing the breaks we gave to the oil companies and then they talk about the royalty fee. Well, most of the royalty interests in my district happen to be 65- and 70-year-old widowed men and women who happen to have a little bit of oil that is under the house that their families bought in Long Beach, Calif., in the 1920's, 1930's, or 1940's. They get a little bill right now that shows that maybe a third of what they would be getting is going to the Federal Government. These are people on social security or veterans' benefits or something similar.

So we have to analyze these things. All I am saying is let us make sure the essentials remain. Let us make sure the individual tax cut across the board remains. Let us make sure the indexing provision remains.

I will be happy to join the gentleman if he supports those things to make that a part of the principles we establish in midcourse corrections.

□ 1400

Mr. DASCHLE. I do not think the gentleman will find much disagreement there.

Mr. LUNGREN. But I have already seen some of it.

Mr. DASCHLE. We do have to analyze it. No one will doubt the benefit to individuals of some of these tax cuts, just like no one will doubt the benefits to those individuals of ADC payments or food stamps. The point is, we do not analyze those tax expenditures in the same way. We do not take the critical view as we do in so many other entitlement programs. If we are interested in bringing about not only a balanced budget, but some equity in this whole process, let us look at it all the same way and analyze whether it is in the national interest to give those tax cuts in the same way that we give all the entitlement programs.

Mr. DORGAN of North Dakota. Mr. Speaker, If the gentleman will yield, I appreciate the chance for this dialog, because there is precious little of this type of dialog on the floor of this House in that respect. I just think we have to go back to square 1 and recognize that we cannot, at the same time that we spend $1.6 trillion in the military buildup, tell the American people, "You folks go ahead and enjoy the largest tax cut in the history of America."

I am suggesting that the two do not work together, and what we have got to do is come back to more moderate economic policies.

Let me just suggest three quick things and see whether the gentleman agrees with them. First, I think we have to have more moderate increases in defense spending. I am not suggesting that we erode this country's strength. I am saying make wise and careful investments in defense programs that work.

Mr. LUNGREN. Where does the gentleman suggest that we cut? I may not disagree with him ultimately, but I am just asking. If we cancel all our major weapons programs for next year, every single one, we would save $4.6 billion maximum. Is that where the gentleman would cut?

Mr. DORGAN of North Dakota. I think the gentleman creates a strawman.

Mr. LUNGREN. No, no; I am just wondering. I have a concern about this because up until a year ago the average guy who joined the Navy, who might be out on maneuvers as much as 3 months, away from his family, standing watch 16 hours a day would make less take-home pay than the person who sat next to him at the local high school and decided to work at the local McDonalds. He gets to go home every day after 8 hours of work. It was fundamentally unfair. So we made some changes in the last 2 years and they cost money. One of the largest parts of our overall budget in terms of defense is the money we pay our personnel. I was a strong supporter, working on the staff on the Senate side a number of years ago, of the All Volunteer Service. I would like to see if we can actually make that thing work. But we are not going to make it work by just pulling money out of that part of it.

Mr. DORGAN of North Dakota. The personnel discussion is an interesting one. My guess is that if the gentleman has looked at the statistics he will find that the Defense Department is too heavy with more lieutenant colonels, generals, and admirals than we need, and more than we have had in wartime situations. But I would just like to mention that when we talk about the small amount of money that is in the defense budget for procurement, if we are talking about building the B-1 bomber, building the Stealth bomber, building the MX missile, we are talking about a tremendous investment the American taxpayer will have to finance in the future. My guess is one of the things that we ought to agree on together, people on that side of the room and this side of the room, is that we should stop paying for the Japanese portion of our defense budget. Let us get some of our allies to start picking up the tab so that we can balance our budget.

Mr. LUNGREN. I agree with the gentleman about our allies. I would say this about defense: When I go home in my district, I would be considered foolish if I went to a city council or a county board of supervisors and said to them, "We have a need for a new battleship, I want you to build one. We have a need for a new division; I want you to build one up. We have a need for a new weapon system of any type." Indeed they would think I was nuts. And properly. But yet, we have for years allowed local jurisdictions to come to Washington and say, "Take care of our problems because we do not have either the vision or the guts to tax the people at the local level to do those things we think are necessary."

When you look at the overall Federal budget, I think you have to recognize, even granting there may be some trimming we can do in defense, that there is no backup for the U.S. defense. We are the only level of government that provides it. There is backup for domestic programs. It is State government, it is local government, it is charitable institutions, it is churches, it is families, and so forth.

I think sometimes we forget about that, and we ought to recognize it. As someone said to me the other day, "I do not know how you gage how much you are spending for defense, but how much would it have been worth to have spent sufficient money on defense so that we could have avoided Pearl Harbor?"

That is a tough question to answer. I am not sure you want to err on the stingy side of defense, although there is obviously waste there as there is in any place else.

Mr. WILLIAMS of Montana. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the gentleman for yielding. I was passing through the House Chambers a few minutes ago on other business, and I heard the gentleman describing what I thought was good economic times in this country and an improved economy, and I thought I had stepped through the looking glass and was in wonderland, because I just came back from Montana, western Montana, where the unemployment rate is 2 percent higher than national average. The gentleman and I both know that the national average is far too high. I came from a town called Superior, Mont., where the unemployment rate is 30.2 percent.

Now, I have heard a lot, not from the gentleman today, but from some Members on his side of the aisle who say that the New Deal is chiefly responsible for today's problems, but I had an old gentleman in Superior, Mont., tell me that if it was not for the programs of the New Deal and programs that are in place—unemployment benefits, supplemental unemployment benefits, protection for savings accounts through FDIC and FSLIC and many, many programs such as that, including the guarantee of pensions and social security, Superior, Mont., and those other cities across this country would be in a first class depression of the classic variety of the 1930's.

Mr. LUNGREN. I thank the gentleman for his comments. The gentleman did not hear me say that I wanted to destroy the New Deal or that it has caused our problems. What I have actually said was that if you analyze the President's budget process, I think he is attempting to save the New Deal from the excesses of the Great Society. In other words what we want to do is to make sure that we can produce what we promise.

The gentleman makes a point about the fact that unemployment is higher now than a year ago, and then suggests that the New Deal solved some of the problems that we have seen today. I am sure the gentleman is aware of the fact that unemployment was higher after 1 year of Franklin Delano Roosevelt being in office; that most of the economic indicators were in a more negative fashion a year after he took office; yet I do not think that the gentleman would have wanted to serve in Congress at that time and, because of the fact that there were some lagging difficulties from previous administrations, adjudge the New Deal a failure. But I am suggesting that we ought to also analyze today's economic statistics in accord with the answer to the old joke about "how is your friend," or "how is your wife."

The answer, of course, is "Well, compared to what?"

The fact of the matter is, you cannot analyze where you are unless you analyze where we were or where we would be if we followed other plans. I have not seen a rational, comprehensive, omnibus alternative to what the administration has basically set out that would put us in a better position than we are today.

I also suggest to the gentleman that the first year we came out of World War II, unemployment went way up, the gross national product went way down, the economic indicators were down. We then enacted a tax cut, cut Government spending, and within a little over a year, things started to work themselves out. So you have got to analyze the situation as circumstances are now, as they were just prior to when you first started to make some changes, and as to what they would be if those changes were not in effect.

Mr. WILLIAMS of Montana. Let me respond for a minute. As I hear the gentleman, he has made two points. First, the New Deal really did not work back then, but took years and years——

Mr. LUNGREN. The gentleman did not say that. The gentleman misunderstood.

Mr. WILLIAMS of Montana. The gentleman indicated that 1 or 2 years went by and things got worse, and I, and I suppose others, really would not want to be here around the time of Franklin Roosevelt.

Mr. LUNGREN. I said I do not think the gentleman would want to be making a suggestion at that time that the New Deal policies were a total failure simply because the economic circumstances were worse after 1 year of putting those programs into effect, as the gentleman apparently is suggesting is the case today.

Mr. WILLIAMS of Montana. Well, the New Deal worked, the New Deal is still working, first; and second, what we are trying now is not working. The gentleman did say that what we are trying now is about all we can do.

Mr. LUNGREN. No; I just asked the gentleman now whether he would prefer double digit interest rates, higher than they are now, running about 25 percent; whether the gentleman would prefer the inflation rate in double digits, perhaps up to 20 percent; if the gentleman would prefer a fourth consecutive year of negative productivity growth, and if the gentleman would prefer a second straight year of gross national product decline.

Mr. WILLIAMS of Montana. Well, I would prefer what the latest polls showed, that 60 percent of the American people would prefer, and that is that Reaganomics had not been accepted.

Mr. LUNGREN. If the gentleman will look at that particular poll, he would find an interesting thing. About 56 percent of the people, when asked, "Do you support Reaganomics," said "no," but when broken down into the elements of Reaganomics, they went along with the President overwhelmingly in all the major thrusts of his program. So, you might say, as someone suggested, that perhaps the media has had some effect. I do not know who has had the effect. Perhaps they have made Reaganomics a dirty word; but when you ask people what they want us to do, they basically give you the recipe for Reaganomics.

So, I suggest that the gentleman ought to look very closely at that particular poll.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

I think it is well to point out that President Carter said we could measure the economy by the misery index. He himself created the misery index for major components of the economy, and during the 4-year period during which the gentleman who has just been speaking was a rather consistent supporter of the Carter administration, the misery index rose by 57 percent in that 4-year span of time. During this same time, during this past year under the Reagan administration, the misery index has dropped by 37 percent in the 1 year that the Reagan administration has been in effect. That does not mean that everything is wonderful. Obviously, there are problems. Interest rates and unemployment are problems, but the fact is, by President Carter's own measurement of economic performance, this economy is better off today than it was during the 4 years of the Carter administration, and I do not think that is something that can be overlooked.

Mr. LUNGREN. I thank the gentleman for that comment. The one point I would try to make is this: If we are concerned about jobs, I have not heard a proposal for creating real, lasting jobs in this country, that is an alternative to the stimulative effects of the tax cut going into effect on July 1 of this year. In fact, some of us would like to bring it closer, either to the present or make it retroactive to January 1.

Mr. WILLIAMS of Montana. Mr. Speaker, if the gentleman will yield further, we have heard a lot about, from the gentleman's side of the aisle, "what is your alternative?"

I used to teach school, and part of my years were spent teaching sixth and seventh graders. Teachers go around to the other classes, and occasionally we would get down into the first grade or kindergarten classes and talk to the children. Invariably there would be some enterprising young man building a house out of blocks, and invariably another child would come in and kick those blocks over and destroy the house. When the little child that was the architect would start to cry and ask the teacher to do something, the teacher would never turn to that little fellow that built the house and say, "what is your alternative?"

Here we have a President who has come in and is trying to kick over what has been built up over past years, and much of which worked. I think the Democrats have a right to resent members of the Republican Party, which has been bankrupt for 50 years, looking at us and saying "what is your alternative?" It is simply not fair.

Mr. LUNGREN. I appreciate the gentleman's comments. But I am sorry that he has perhaps a selective memory. I do not think the gentleman would suggest that President John Kennedy was attempting to kick down the New Deal with his budgets proportioned between domestic and defense spending as they were.

PUBLIC ASSISTANCE SYSTEM—THE TRUTH OF THE MATTER FOR THE WORKING POOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 5 minutes.

● Mr. TAUKE. Mr. Speaker, below is a copy of a letter I received from one of my constituents. I am very concerned about the implications of this letter. We often hear stories about individuals who are capable of working but are actually better off remaining on AFDC and receiving medicaid and other Federal public assistance funds. This letter documents one of these appalling situations.

As you can see, both the businessman and the public assistance recipient are at a disadvantage. In order to keep the employee on staff full time, the employer would have to increase the employee's pay by at least $1.22 per hour. This would just cover the expenses of the employee should he/she remain on public assistance. It would not provide any additional compensation for working. The incentives in our public assistance system are clearly wrong.

We can no longer approach this problem by raising the minimum wage or decreasing public assistance payments. The time has come for us to seriously address the issue of what we are trying to accomplish with public assistance. If this means adjusting the system to provide basic support for the working poor in order to make it profitable for them to work and earn a living, then we should consider legislative alternatives that encompass this idea. It occurs to me that we could save a great deal of money by just helping those who are working and contributing to our economy—helping them to stay in the work force and off the rolls of the totally welfare-dependent.

For the past two Congresses we have worked to encourage small businesses to expand. These same small businesses provide the majority of all newly created jobs in our country. However, if the businesses are going to survive, they must be able to afford to pay staff. The environment must be good for both employment and work. The letter from my constituent, which I am sharing with you, makes this point very clear. I hope that you find it as enlightening as I have.

FEBRUARY 22, 1982.

Congressman TOM TAUKE,
House Office Building, Washington, D.C.

DEAR TOM: I write this letter out of concern for our social system as well as anger about the system for welfare benefits that prevail at this time. The system seems to discourage working and very detrimental to work ethics which has made our land free.

I wish to give you an example of a current situation in my business.

Employee: Three children under 18, unmarried with no child support. She has worked for Duchess Cleaners for about 3½ years, starting at $3 per hour and now is receiving $4.05 per hour. She recently informed me that she is better off if she quits working and draws food stamps, ADC, free medical care and utility subsidy.

The figures are: Food stamps, $218; ADC, $419; Free medical and dental, $196 (cost of Blue Cross family plan); and utility subsidy, $20, for a total of $853.

Also, she doesn't pay any social security, no income tax or any expenses to receive the money.

In comparison, if she works for us at $4.05 per hour for 40 hours per week, her gross pay is $160.20 per week or $694.20 per month. After taking off social security, her take home pay is $648. Since she gets $648.20 she is not eligible for free medical, no ADC, only $96 in food stamps and the utility subsidy. The end result is she would be receiving $764 versus $853 from the welfare benefits.

In order for me to compete against the social program, I would need to pay her $5.27 per hour. She says why should I go to work even at $5.27 per hour when I can stay home, no travel expenses and still receive the equivalent of $5.27. So, the Government says that the minimum is $3.35—how about $5.27.

I think that someone needs to review the minimum standards for each class such as individuals, and each increase in number of eligible children. It is difficult to believe that a person is better off to stay at home than work.

In summary, it appears to me that for a family of 4, the minimum standard wage is $10,965 per year for the adult of the family plus any amount of wages a child under 18 can secure. As in this case, the total family income is about $14,000 as a result of welfare benefits and the income her children receive. Not bad income for a family of four people.

It is very difficult to compete in small business with the welfare benefits as they are so high and keeps the smart people who figure out the system away from work. Please review and help get the benefit programs to provide the basic needs but not a standard that people are better off not working. It certainly makes the small businessman feel like a rope is around his neck as I try to keep my business afloat plus pay a share of all the unemployment as well as those who do not choose to work because of the welfare benefits.

Sincerely,

——— ———.●

ADRIFT IN THE TROPICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BONIOR) is recognized for 15 minutes.

● Mr. BONIOR of Michigan. Mr. Speaker, included is an interesting article by Russell Baker that I would like to share with my colleagues:

ADRIFT IN THE TROPICS

(By Russell Baker)

The Government's performance in the Central American mess is mysterious to me. I'm in no doubt that there are malcontents aplenty down there and they don't wish us any good, but on the other hand why should they?

What have we done for them lately? What have we ever done for them? There must be something, but Secretary of State Haig doesn't say what it is. I might be able to get sore at them if somebody would show that they're a bunch of ingrates like the Japanese.

After putting the Japanese on their feet, picking up their defense bills and letting them flood our markets with cars and TV sets, what thanks do we get? They make it as hard as possible for us to sell anything in Japan. That's what I call a bunch of ingrates, but it's not the Japanese I'm supposed to be sore at; it's the Nicaraguans.

Is Detroit going broke because every other American you know is buying a Nicaraguan car? Did we rebuild Nicaragua into one of the world's leading economic powers and then find that Nicaragua wouldn't let us sell Pac-Man on their territory?

Maybe we ought to be sore at Nicaragua because we haven't done anything for it and are therefore deprived of the self-pitying pleasure of thinking of the Nicaraguans as ingrates.

I know, I know: some of them are in cahoots with Fidel Castro, who doesn't wish us any good. On the other hand, why should he? We financed an invasion of Cuba to throw him out and when that failed we tried to have him murdered by the Mafia. Once the C.I.A. even tried to slip a depilatory chemical into his boots that would work its way through his body all the way up to his jaw and make his beard fall out.

Is that any way to make somebody like you?

Well, of course Castro is in cahoots with Moscow, which doesn't wish us any good, and having Moscow interfere in Central America is a challenge to us because Central America is our territory.

I can buy that, but it would help if somebody in Washington explained why it's all right for us to interfere in Poland, which is Moscow's territory, but all wrong for Moscow to interfere in Central America, which is our territory. Maybe it is, but why doesn't Secretary Haig explain why?

I'm more puzzled, though, about what the Government wants to do in Central America. The usual leaks from Washington say that one thing the C.I.A. is doing is pumping millions of dollars into the "moderate elements" down there.

Washington's idea of "moderate elements" in Central America is usually a group of men in uniforms who transfer Washington's millions to Miami bank accounts.

After immoderate elements chase them out of the palace, they fly to Florida, Spain or Switzerland, cease being moderate elements and live like kings. On my money.

There's also talk of "paramilitary operation" to bounce the Marxists and restore order. Is this sound?

A "paramilitary operation" is a military attack conducted by professional soldiers wearing civilian clothes. It is often run by the C.I.A. and usually results in putting a dictator in the palace.

We conducted a famous "paramilitary" operation in Guatemala in 1954. It was run by the C.I.A. with the usual result: a dictator in the palace. Now, 28 years after the C.I.A. triumph, Guatemala is a place you wouldn't want to visit unless you were the kind of person who enjoyed smashing other people's kneecaps.

Sooner or later, I'll bet, somebody will fly from Guatemala to Miami and live like a king on my money while Washington tries to make me get sore because the palace has been taken over by Marxists who like Fidel Castro.

The leaks from Washington have it that Argentina is very interested in supplying help for a "paramilitary operation" in Nicaragua. This is supposed to make us feel good about it, I guess, because it suggests American soldiers won't be involved.

What puzzles me is why Washington would want to get caught sponsoring Argentine military mischief in Central America.

Argentina is a country where thousands of people have answered a nighttime knock at the door and never been seen again.

Why would we try to save Central America from the horrors of Communism by sponsoring a visit by soldiers representing a country like Argentina? Isn't that like shooting a friend in the jaw to relieve his toothache?

Washington must have some better ideas for Central America than it's let anybody know about. Lately there has been talk of passing the problem to Mexico. That would free the State Department for things it's better at, like keeping us all from getting sore at those Japanese ingrates.●

NATIONAL AGRICULTURE DAY—1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 30 minutes.

GENERAL LEAVE

Mr. DASCHLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Dakota?

There was no objection.

□ 1415

Mr. DASCHLE. Mr. Speaker, the message today is that agriculture is in a depression. Not a recession or a temporary downswing, but a downright bona fide depression. We have not seen a situation similar to this since 1933.

The name given this day is National Agriculture Day. A day to draw into clear focus the distinct relationship between the farm economy and the Nation's economy. It is also a day to consider the devastated state of agriculture in 1982.

Those of us at this table believe that on this Agriculture Day, the crisis which is already as bad as the farm problems of the 1930's, is now getting worse.

As in the 1930's, when farm parity plummeted; parity has dropped more than 30 points to 58 percent and is getting worse.

As in the 1930's when farm income plummeted to $12 billion, farm income has declined 39 percent in the last 2 years while an additional 25 percent decline is forecast in 1982 to a nearly identical level.

While merely 30 years ago farm debt was only $12 billion, it is now $180 billion—8 times higher than net farm income.

And as in the 1930's when tens of thousands of farmers were forced off the farm, the weekly toll in 1982 stands at more than 1,100.

In hearing after hearing, in statement after statement, Secretary Block tells us to "wait it out." "Wait it out and it will get better," we are being told.

And the President is silent.

While speaking in the heart of farm country—in Des Moines—in Tulsa, not one word is spoken about the crisis in agriculture. What is more, 2 months after a request by a bipartisan group of 42 Congressmen to meet with him in the White House to discuss the gravity of the situation, we are told that he does not have time. Yet, we learn that time has been made for football teams, hockey clubs, and movie stars. And while the threat of agricultural trade sanctions by this administration are rumored, this country virtually gives away our grain in the world market.

The Secretary of Agriculture has the authority to do something about this crisis. It is written right into the farm bill. The Secretary can enhance price through higher loan rates and a better set-aside program, but he does not. The Secretary has the power to implement the economic emergency loan program, but he does not. The Secretary can work within the administration to make major improvements in farm export policy, but he does not. This administration has enough discretion in current credit, but like its predecessors, Hoover and Coolidge, it says "wait it out."

We are here today to announce the organization of the Farm Crisis Group. Our role will be very easily described: To improve the economic condition of agriculture as quickly and as effectively as humanly possible. To do so we hope to enlist the broadest range of Members of Congress, both Republican and Democrat, who share our concern over this crisis. We recognize the legislative time constraints under which we must work as well as the budget limitations with which we must contend. It is our firm intention to work within the confines of both.

Next week we will hold a legislative drafting session at which the items to be included in what will be called the Farm Bill Repair Act of 1982 will be proposed. In part, it will comprise the following actions:

A call for an emergency White House Conference on the crisis in agriculture. It will bring together the best minds in agriculture in emergency session to resolve this crisis.

A proposal to enhance supply management. It will be designed to alleviate and prevent the cronic oversupply in the market today.

A flat commitment from the Congress and the administration that there be no trade embargoes or other interferences on farm exports and that further, specific export marketing tools be created immediately.

An endorsement of the voluntary orderly marketing program, the "20-10-20" concept already initiated.

Proposals to change farm credit conditions. No greater emergency exists than the grave instability currently found in agricultural loans.

In addition to legislation, we renew our effort today to meet with the President at the earliest possible time. We urgently desire to make the resolution of this crisis a concerted effort.

Finally, we hope to include all farm organizations who share our sincere determination to bring an early end to this depression. We welcome their ideas. We seek their counsel. We urge their participation.

We do so with the utmost sense or urgency. We do so with the most determined hope of success.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. DASCHLE. I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to compliment the gentleman for taking this special order. I think that too little of this country knows and understands the difficulties that our farm belt and our agricultural producers are experiencing.

The fact is that if you take a look at the numbers, we have a group of farmers out there who are the most efficient food producers in this world, and they are suffering through some of the worst economic times they have ever seen. They have income equivalent to 1930 income levels in constant dollars, and day after day, week after week, and month after month we see more farm families having to leave the farm.

I grew up in a farm area in North Dakota. North Dakota is one of the most rural States in the Nation. I have had a chance to fly across the State of North Dakota a good deal during the past year, and in the evenings you look out the side of that airplane window and you see all the little yard lights that dot the landscape, and all those yard lights represent the economic blood vessels that feed into the small towns, the kind of towns I grew up in. And it represents a rural lifestyle. Farming is not just a business; it is a way of life, and it has been for many, many decades in American history.

More and more of those yard lights are going out across this country week after week because those family farmers cannot make it. There are lots of reasons for it.

Prices are too low, for a number of reasons. We have a Secretary of State who feels that instead of using food as an instrument of peace we ought to use it as a weapon of war, and he continually threatens to shut off the supply of food around the world. And by using food in that manner, he in fact establishes a de facto embargo across this world, and it has a depressing effect on farm prices. That is one of the reasons prices are low.

Second, the philosophy of this administration, stretching back to a previous Secretary of Agriculture, Mr. Earl Butz, is—"Look, you folks out there on the farm, you plant fence row to fence row and things will work out for you. Just plant as much as you want, things will be fine."

We are discovering that that kind of advice and that kind of rhetoric is catching up with this administration.

Now, at a time when income is depressed and we have serious, serious problems out on the farm, the Farmers Home Administration is called downtown to the Office of Management and Budget, and the OMB says, "Look, fellows, we've got a plan. What we are going to do is tighten up on everybody in the whole credit market, and those of you who are in farm credit, we want you to start tightening anew."

And so they do. They develop goals to reduce Farmers Home delinquencies and start sending out letters, so-called servicing letters, and God knows I would not want to be serviced by letters like those. Those kinds of service letters say to the family farmer, "You are not making much progress. We are asking you to consider cutting back or quitting." That is the advice that was given out to some of the young beginning family farmers in this country.

The Farmers Home Administration was put on the pan by the Agriculture Committee, and finally they decided to change their minds and loosen up a bit in February, and they sent another memorandum to their district offices, so we have gotten them to loosen up just a bit.

But this administration nonetheless has cut back $2 billion on farm credit through the Farmers Home Administration, if you consider all the categories of farm credit available to family farmers. That means that during one of the most difficult periods in farming history in this country they were restricted in cutting back on farm credit.

I think what we have to do is just what the gentleman suggested. We have to get together a group of people in this Congress who are interested in the common goal of preserving the family farm. It is an effective unit; it is an important unit in this country's history. And there are several ways we can do it, and it will not cost the Federal Government money. It is not going to cost the Federal Government money if we approach this thing in a reasonable manner and have a paid diversion program and a host of other programs that work together to avoid paying out billions, literally billions of dollars, in deficiency payments 2, 3, 4, or 5 years down the road.

None of us want to do that.

There are ways of using supply management techniques to get that family farmer a decent price for his product, and I think that is what all of us want to see happen.

I would like to say in conclusion that the efforts of 42 Members of Congress, Republicans and Democrats, who last January asked the President if they could meet with him to talk with him about the farm problem, have so far gone almost unnoticed by the White House. I say, "Almost unnoticed," because at a recent press conference, during one of the President's most difficult periods of that press conference—and those difficult periods happen often these days—the President was asked by a reporter, "Why aren't you going to meet with those 42 Republicans and Democrats who asked to meet with you about the farm problem?"

And the President clearly did not know about our letter asking for that meeting because he said, "Well, I am sure the problem is simply that we couldn't meet at the time they asked for the meeting."

That was not the problem at all. We were willing to meet with the President anytime, anyplace. The fact is that he did not know about the request. But he did suggest that he was going to meet with farm State Congressmen.

Well, as the gentleman has said, he has met with the National Hockey League All Stars, he has met with the Clemson football team, and he has had a lot of interesting meetings. I am not criticizing him. Probably they were very productive and necessary in the conduct of his duties. But I am saying this: While the farm belt suffers, while families are being forced off the farm day after day and week after week, I think it is incumbent upon this President, whose administration has drafted a farm policy that does not work and cannot work, to meet with Members of Congress, Republicans and Democrats, to talk about what we can do to shore up the farm economy in this country. It is in his interest, it is in our interest, and it is certainly in the interest of the American farmer to do something about it.

We might not succeed in our effort to draft a bill, but I think it is important that we try. If we do not try, no one else will, and someone has to try on behalf of the family farmer.

Mr. DASCHLE. Mr. Speaker, I thank the gentleman from North Dakota (Mr. DORGAN) for his eloquent remarks, and I also want to commend him for taking the leadership that he has in joining together 42 Members of Congress to meet with the President. As the gentleman said so emphatically, there is not a time nor a place that the President can suggest that we will not be there to talk about this very serious problem.

This is National Agriculture Day, and I am amazed really that the President has not chosen to make this a day in which he addresses this issue. Certainly we can talk about statistics all afternoon, and the statistics are actually getting worse. I understand that in the Farmers Home Administration now, in the operating loan area alone, we find that farmers are now delinquent by 58 percent, and we find statistic after statistic to demonstrate what we are saying today, that we are in the throes of a depression, and we have to deal with it.

I am asked constantly, and we were asked this morning, "What makes you think you can change things?" Obviously we went through a very difficult last year, and we were not very successful.

I think the gentleman from Iowa addressed that very well. He said that we have to try. We cannot go back to our districts and talk to people, as we have, the people behind those statistics—the young farmers, those people who have not been in agriculture that long, who tell us in a face-to-face meeting across the kitchen table that they cannot make it anymore, that they have had to sell off everything, and that they do not see any future in agriculture—that we cannot at least make an effort to try.

So that is what we are trying to do in this farm crisis group and this Farm Bill Repair Act of 1982. It is an effort on the part of a lot of Members of Congress, both Republicans and Democrats, to try to bring us out of the throes of depression.

Mr. Speaker, I believe as sincerely as I stand here today that if we cannot do that, perhaps we ought to all go home.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding, and I particularly thank him for his leadership in helping to arrange this special order and for the leadership he has shown throughout our efforts to try to do something about the serious problem that the entire agriculture area faces today.

I think we should look a little bit into what has really happened in rural agriculture. I believe we should look at what happened as far as the farm bill which we passed here in Congress is concerned. In my opinion, the Agriculture Committee of the House of Representatives came up with what was a pretty decent farm bill. But make no mistakes about it, that conference committee between the House and the Senate was not a conference meeting between the House and the Senate;

that was a conference meeting between the House of Representatives and the administration. The administration simply refused to budge in any way toward saying that they were going to have the worst possible farm bill we could have from the choices available between the Senate and the House bill.

I should tell the Members that the information taken from the Department of Agriculture figures showed that by taking the Senate bill, which we did, rather than the House bill, income just for feed grain, corn, and other feed grain producers over the period of the bill would be $9 billion less with the bill that we passed then they would have been if we had passed the House bill. I submit that by our taking the worst farm bill we could have, because of the insistence of the administration, instead of helping our deficit, we are reducing farm income so severely that we are actually significantly increasing the deficit that we are going to have because if our farmers and if our small businessmen who serve those agricultural areas simply do not make any money, then they will not pay any taxes, and then we will not have the revenues coming into the Federal Treasury.

The word that we have—and the Department of Agriculture refuses to admit it—is that within the Department the projections are that for 1982 we can expect a decrease in farm income from 1981, which was a disastrous year for farmers, of over 30 percent in farm income for 1982.

I submit that our farmers are in serious trouble. I submit that the small business people who serve those farmers are in serious trouble. I submit that all of rural America is in serious trouble, and somehow, unless we can get the administration to realize the magnitude of this problem, I fear that we will be in even more difficult times than we already are.

I am pleased that some members of the Agriculture Committee have said that we are going to get busy to see if we can fashion some legislative corrections to try to prevent the disaster that otherwise may well occur in our agricultural areas.

Mr. Speaker, I again commend the gentleman from South Dakota (Mr. Daschle) for his leadership in this effort.

Mr. DASCHLE. Mr. Speaker, I thank the gentleman from Iowa (Mr. Bedell) for his contribution to this colloquy, and I might say that had we perhaps selected the approach that the gentleman outlined during the debate on the farm bill through his amendment, we might be far better off than we are today. But that is water under the bridge and it is not worth considering, and we have to go from here.

Obviously there are proposals that are worthwhile and innovative solutions to the problems that we are facing. These are problems, unlike any that we have faced in more than 50 years, that we must address next Wednesday at our first drafting session.

□ 1430

At this time I yield to the gentleman from Michigan (Mr. Albosta).

Mr. ALBOSTA. I thank the gentleman for yielding, and I, too, want to commend the gentleman for the efforts and the leadership that he has shown in bringing a group of us Congressmen together that represent rural areas in America, who are experienced in this deep recession and the problems that are associated with a legislative act that we passed a short time ago that gave the Secretary of Agriculture a lot of discretionary power in how he implemented that law. But he has chosen, of course, not to use the law to the effective position that he could, by simply not choosing to bring the loan rates far enough or to make the bill work as it could work, as the intent of Congress was to have it work.

I think that it should be noted, also, that we are in effect subsidizing the Russians when we sell commodities below the cost of production. We also subsidize the Japanese. I think there is all kinds of evidence available that would lead us to believe that that is in effect what we are doing. We are selling commodities to them at below the cost of production, and that in effect is giving that government more money to build military hardware, whatever that might be, and not pay as much for the food as they should, at least to have reached that cost of production.

So I think when the American people realize this, they will want this Congress to do something to change that and, in effect, about the only way—and it is a simple enough way that we can do that—is to raise that loan rate and get that high enough so that at least the cost of production is built into that safety net that is provided.

I am sure that most American farmers would agree that if that was in effect now, they would not be experiencing the type of recession that we have, and in order to get enough of the farmers and enough land out of production to reduce the amount of commodities, that we are going to have to have some incentive there to be able to accomplish that.

So again I want to say to the gentleman that I appreciate very much his leadership. I want the gentleman to know that I am going to work with him, and do everything I can in designing this Repair Act. And, hopefully, we will be able to get the majority of the Members of Congress to agree with us so that we can pass it and get the President to recognize the problem that is out there in the rural areas so that he then will sign the bill.

Mr. DASCHLE. Mr. Speaker, I thank the gentleman for his contribution. It should be noted that the gentleman is one of the few working farmers that we have in the House of Representatives, and to have that kind of expertise in the direction he provides us now as the newest member of the House Agriculture Committee is very welcome and certainly encouraged.

We also recognize the fact that unless we get a bipartisan coalition on this farm crisis group, we have little chance of success. And those of us who have spoken on the floor this afternoon encourage our Republican colleagues to join with those of us on the Democratic side to find a bipartisan answer, a bipartisan resolution to this problem. We must recognize the fact that to do nothing is to fail, and there are too many farmers whose lives and whose livelihoods depend upon whether we do succeed or fail. Certainly our efforts must intensify in the next few weeks.

I thank those gentlemen who have participated this afternoon, and I urge the President to join with us in a bipartisan coalition to resolve this depression and to resolve our commitment on this, National Agriculture Day, to insure that we can find a long-term solution to what is obviously one of the most devastating and crucial times in the history of agriculture in this country.

● Mr. BEREUTER. Mr. Speaker, I rise today in salute to the agricultural producers of America, the hardest working and most productive sector of our entire economy. As our farmers struggle daily with soaring production costs and chronically depressed commodity prices, it is entirely fitting that we take a moment to express our appreciation to those who produce the food and fiber for this Nation and who contribute the most to the reduction of our balance of trade deficit. It goes without saying that this Nation would not be the world power that it is today if it were not for that great food-producing capability provided by the farm families of America.

I urge all my colleagues, but particularly those from urban districts, to take a few minutes today to reflect on the importance of agriculture to their consumer constituents and to the economic health of the country, and to make a commitment to support those of us who represent farm districts in our efforts to provide for our farm families.●

● Mr. COLEMAN. Mr. Speaker, today is National Agriculture Day. This morning, it would have been good to pick up the morning newspaper from back home and read that farmers in the Corn Belt were selling corn for $3.50 a bushel. Had they received such a price, they would have made a fair return on their investment. Unfortunately, corn prices around $3.50 a bushel are not the case today. They have ranged between $2.54 and $2.81 per bushel during the last several months at Kansas City, and considerably less than that at country elevators. That price—around $2.50—is a 35- to 62-cent per bushel loss to farmers.

Mr. Speaker, must I tell you and every one of our colleagues from nonfarm areas that a businessman who loses 62 cents on each unit of his production is not long for his particular occupation. And yet, thousands of farmers face this predicament because they have little or no control over the price of what they sell.

While many farmers around the country face hard times or even bankruptcy, Americans continue to fuss about the price of food. But compare the numbers and you will find that Americans spend less for food than most anyone else in the world. Today, Americans can buy more for their food dollars than they could in 1950. Yet, we hear talk about the high price of going to the supermarket, where the American farmers' share is 37 cents of each dollar spent.

It is this great industry that is the foundation of our economy, and too few of us around the country—and around this Chamber—realize that fact. Very few consumers realize how their breakfast this morning reached their tables; fewer probably care. But they should know, and they may care in the future.

The American farmer produces so abundantly he continues to disprove the Malthusian forecasters; but, because rising production costs have made the farmer push his land to produce more efficiently in an effort to meet the economies of scale he now faces another economic law—supply and demand. He simply is producing himself into oblivion, and that is the problem.

We must get grain moving into the international markets again. We must get our sales pitch to the buyers. It is a good one: We have the best quality farm products found in the world, we can meet the demands of a hungry world, and we have the most efficient export industry anywhere. We must continue to share this message with the world, and that should be the main objective of the U.S. Department of Agriculture right now.

I urge the Secretary of Agriculture to support an immediate appropriation of $500 million for the export credit revolving fund which can be used to finance foreign agricultural export sales. This money is seed money that will be paid back to the Treasury. It is a good investment for American agriculture.●

● Mr. ROTH. Mr. Speaker, it is fitting that we pay tribute to the American farmer on this National Agriculture Day. Agriculture is America's greatest resource and the world's largest commercial industry.

Providing abundant food at reasonable prices has been a consistent achievement of our farmers. We spend the smallest amount of our disposable income in the world on food, and that percentage keeps dropping—in 1960, 20 percent; in 1970, 17.2 percent; and today, 16.6 percent. Indeed, we are the most fortunate people in the world to have an agricultural industry which is at once a blessing to humanity and an example of the highest achievement of human effort.

More than 22 percent of America's labor force, or 23 million Americans, are employed in agricultural manufacturing, transportation, merchandizing, and farming. One person working on a U.S. farm produces food and fiber for 78 persons, 51 in the United States and 27 abroad.

Despite unremittant challenges of weather, changing markets, complex economic forces, pests, and disease, the American farmer continues to produce bumper crops and record harvests.

National Agriculture Day is an appropriate acknowledgment of a tremendous contribution to the economic well-being of the United States and the entire world. As supply and distribution of food take on even greater significance in the years ahead, I am confident that American agriculture will meet new challenges with the same dexterity and excellence that have marked the production of food in America throughout our history.●

● Mr. HOPKINS. Mr. Speaker, as a member of the Agriculture Committee of the U.S. House of Representatives, I am honored to commemorate today, March 18, as National Agriculture Day. I would like to take this opportunity to share with you the importance of American agriculture to all of our citizens, and Kentucky's vital contribution to this great industry.

Agriculture is the Nation's largest industry. Its assets, totaling $927 billion, are equal to about 88 percent of the capital assets of all manufacturing corporations in the United States.

Agriculture is also the Nation's largest employer. Between 14 and 17 million people work in some phase of agriculture—from growing food and fiber to selling it in the supermarket. Farming itself uses 3.6 million workers—as many as the combined payrolls of transportation, the steel industry, and the automotive industry.

American farmers are efficient producers. Today they produce over 76 percent more crop output on the same number of acres than did their fathers. Today, 1 hour of farm labor produces 14 times as much food and other crops as it did in the 1919-21 period.

One farmworker now supplies enough food and fiber for 68 people. Only 10 years ago, the farmworker was producing enough for 45. Because of the farmer's efficient output, we can enjoy a satisfying quantity and variety of food.

Farmers produce not only enough food for us, but also enough to make large quantities available for international trade. Our country exports more agricultural products than anyone else in the world. Agricultural exports have increased sixfold over the past decade. In 1980, farm exports contributed a net of $23 billion to our balance of trade. To put it another way, our farm trade surpluses this year and last will amount to more than one-third of our Nation's bill for imported oil.

In 1980, Kentucky contributed 4 percent of all U.S. dairy products which were exported. Total milk production for the State in 1978 was 2,322 million pounds valued at $239.4 million. This total made Kentucky the 13th largest dairy State in the Nation.

Kentucky's No. 1 cash crop—tobacco—is also an export product. One-third of all U.S. tobacco is exported and almost 15 percent of Kentucky's burley crop is shipped abroad. Tobacco exports are more than four times greater than imports which greatly aid our balance of trade.

Over 100,000 farmers in Kentucky grow a variety of crops including: tobacco, corn, soybeans, wheat, and hay. These farmers have played an important role in America's agricultural development. We can see how far Kentucky agriculture has progressed in this century by looking back at the 1910 Census of Agriculture of Kentucky.

The average size farm in that year was 85.6 acres, much of it unimproved woodland. The value of the average farm in the State was $2,986—including buildings and equipment. Today one acre of good farmland would sell for nearly that amount.

In 1910, over 80 percent of the farms in the State were mortgage free. Today, most farms are financed and many even borrow short-run operating capital to buy the year-to-year inputs such as seed, pesticides, and fertilizer.

Annual cash farm receipts reached just over a half billion dollars in 1959, increased to just under $1 billion in 1969, and climbed to $2 billion in 1978.

The Bluegrass State has outpaced the rest of the country since 1973 in cash farm income. Kentucky's cash farm income increased 49.4 percent, compared to 26.5 percent increase for the Nation. The State's total agricultural industry, including agribusiness, generates about $6 billion a year in Kentucky's farm economy.

As ranking member on the Tobacco and Peanuts Subcommittee of the House Agriculture Committee, I am particularly aware of the important contribution which burley tobacco makes to the agricultural economy of the State of Kentucky as well as to the entire Nation. Only 3 of Kentucky's 120 counties are untouched by the farming, auctioning, manufacturing or wholesaling sectors of the tobacco industry. So it is no wonder the Bluegrass State ranks second nationally in employment generated directly by tobacco.

One of every 14 jobs in Kentucky, directly or indirectly, exists because of tobacco. The industry itself accounts for more than half of these. The rest are created in nontobacco sectors by the spillover effects of the industry and the companies that supply it.

Truly golden in every sense of the word, America's leaf provides almost 82,000 jobs in Kentucky, $916 million in personal compensation and, because all basic sectors of the industry operate in Kentucky, adds more than $220 million to local, State, and Federal treasuries to benefit all Kentuckians.

Again, I praise the work of the farm men and women of this Nation and, in particular, I commend the achievements of the Kentucky agricultural producers.●

● Mr. GOODLING. Mr. Speaker, I would like to take this opportunity to pay tribute to those individuals who are the backbone of our country—the American farmer. This being Agriculture Day, it is only fitting that we take this time to recognize the valuable contributions made by our Nation's farmers and other individuals in the agricultural community.

We are, by far, the richest country in the world so far as agriculture goes. Not only do we have an abundance of food with which to feed our own citizens, but we are able to supply the rest of the world with some of the food items necessary for survival—making agriculture one of the most positive factors in our balance of trade.

Mr. Speaker, it takes hard work to be a successful farmer. Farm families have no special hours. They work from sunup to sundown or whatever hours it takes to get the job done. And yet, there are no guarantees that they will have a successful crop. No matter how hard the farmers and their families work, no matter how much money they invest, they are reliant upon the uncontrollable conditions of nature for the survival of their crops.

But, Mr. Speaker, these individuals continue to pursue a career in farming. They continue to work to supply our country and other countries throughout the world with an abundant supply of food.

Mr. Speaker, I join my colleagues in the House of Representatives in saluting the more than 23 million men and women in our country who hold jobs in the food and fiber system. Their hard work and persistence has helped make our great country what it is today.●

● Mr. JONES of Tennessee. Mr. Speaker, usually, when a sector of our Nation is singled out to be honored on a special day, it is supposed to be a day of celebration. Today, however, on national Agriculture Day, America's family farm sector is in a state of deep despair—a mood of pessimism, hinging on panic, is growing wider every day.

The current state of America's farm economy is not altogether unlike the situation we found ourselves in over 50 years ago. I can remember the Great Depression of the 1930's when America was on the verge of collapse. But what keeps coming back to me is the cold reality that America's depression had its roots in the farm depression that began 10 years earlier.

Between 1919-21, farm income fell 60 percent.

Between 1929-32, it plummeted 70 percent.

Then came 40 years of relative stability, due largely to the Federal farm programs and Government farm policies which grew out of the New Deal.

Now, USDA's own forecast for farm income of less than $14 billion in 1982 would spell a plunge of more than 50 percent since 1979.

Farm debt has more than doubled in the past 5 years, and now stands at over $200 billion. But what frightens me is the evidence that farmers in large numbers are simply unable to pay this debt.

The latest data released by the Farmers Home Administration indicates that—as of the first of this year—more than half of its farm loan borrowers nationwide were delinquent. In some States, the rate was as high as 80 percent—and this data is nearly 3 months old.

I don't believe anyone would argue that conditions have improved since January 1, and I suspect that a nationwide delinquency rate of 50 percent is a fairly conservative estimate today.

On top of all this, the Reagan administration's Office of Management and Budget is now proposing a series of crippling changes in regulations affecting the Farm Credit System. If pursued, these proposals would have a devastating effect on the System's access to the Nation's money markets, and would result in farmers having to pay even higher interest rates on loans from PCA's and Federal land banks.

Since the Farm Credit System doesn't receive 1 red cent from the Federal Treasury, I am at a total loss to understand why David Stockman would seem intent on further driving up farm production cost.

How much more can the American family farmer stand? I can tell you that my farmers in Tennessee have stood about as much as they can stand.

I am now to the point where I am searching for some hard answers. Together with my colleagues, I will begin today to work toward some kind of reasonable alternative to the misguided farm policies which are proving to be disastrous.

At this point I would like to enter into the RECORD a reprint of an article by George Anthan in the Des Moines Register regarding the administration's proposal affecting the Farm Credit System.

[From the Des Moines Register, Mar. 5, 1982]

"STAGGERING" FARM CREDIT RULES QUIETLY PROPOSED BY REAGAN

(By George Anthan)

WASHINGTON, D.C.—The Reagan administration is proposing changes in regulations affecting the Farm Credit System that an official of the FCS says would have a "staggering" impact on the nation's leading agricultural lender.

The effort, which has not been publicized, is believed to be part of a larger strategy by the White House to mask adverse financial effects—including high interest rates and inflation—of the Reagan administration's projected huge deficits.

FCS gets the money it lends to farmers by selling its highly regarded securities in the nation's money markets. If FCS could be weakened, its securities would be less attractive, and money that would have gone to FCS would be available at cheaper rates to the Treasury Department, which must sell its own bonds to finance government deficits.

"If they can get us out of the money markets, then there's more room for them," an FCS official said. "It's as simple as that. We're a high-quality outfit that's out there competing for the money they want to finance those big deficits."

Agriculture Secretary John Block apparently has collided with others in the administration over the plans for the FCS. He has persuaded the Office of Management and Budget not to act on its proposals until the USDA produces a report on what the FCS is and how it functions.

Some officials say privately the USDA study, due to be completed this spring, really is a tactic to delay the proposals.

FCS receives no federal money. Its bonds, whose proceeds are loaned to farmers, are not guaranteed by the federal government. There is no government investment in the system's Federal Land Banks, its Federal Land Bank Associations, its Federal Intermediate Credit Banks and its Production Credit Associations.

FCS initially was set up with federal money, but that has long since been repaid.

The system does enjoy some benefits from government, though. Its banks don't pay federal corporate taxes; its securities are exempt from state and local taxes; federally chartered credit unions can buy its bonds; state and national banks can satisfy their Federal Reserve collateral requirements with FCS holdings.

The Reagan administration proposal to end these advantages would drive up the Farm Credit System's costs, force it to charge farmers more for loans and reduce its value as a major provider of credit to the nation's agricultural economy, according to officials at the FCS and USDA.

The FCS currently has about 1 million loans outstanding, to individual farmers and cooperatives, with a total value of $78 billion.

The administration proposals come at a time when the agricultural economy is facing a third consecutive year of deep recession and a growing number of farmers are believed to require extraordinary financial help to stay in business.

In the meantime, the Reagan administration has refused to use $600 million provided by Congress for emergency loans to farmers.

The OMB proposals would:

Restrict with Federal Reserve regulations the amount of FCS securities that can be held by commerical banks.

Prohibit purchases of FCS securities by federally chartered credit unions and savings and loan associations.

Remove tax-exempt status of federal land banks and other FCS agancies.

Allow income from FCS securities to be taxed by state and local governments (they're already subject to federal taxes).

Require FCS to drop the name "federal" from its various agences.

In its 1983 fiscal year budget, the Reagan administration said that "government sponsorship" of FCS has provided the agency "with advantages in the securities markets that completely private institutions do not have." This enables FCS "to borrow at rates only slightly higher than those of the Treasury."

The administration seeks to "modify the special relationship" between FCS and the federal government and transform the agency into a "completely private" organization, the budget says.

C. T. Fredrickson, senior deputy governor of FCS, said the administration's proposals "may be explainable in terms of the need on the part of the U.S. Treasury to fund current and prospective budget deficits through borrowings in the money markets."

Fredrickson added, "The necessity to compete for money . . . with the Farm Credit System . . . decreases the availability and increases the cost of that money to the Treasury. It is argued that direct competition for funds could be minimized if organizations such as (FCS) were to be totally separated in fact and appearance from any federal government involvement."

FCS in most cases can offer loans to farmers at 1 to 2 percent below commercial rates, officials said, mainly because money market investors value the system's securities as among the soundest in the country.

Fredrickson said of the OMB proposals that "each of them would be harmful in some significant degree to the interest of farmers and ranchers and cooperatives who own and depend on the Farm Credit System," and that "taken in total, these proposals would have a staggering effect on the ability of FCS to continue effective service to the industry of agriculture."

The FCS consists of three major components: the 12 federal land banks that make long-term real estate loans; the 423 production credit associations that make intermediate-length loans to farmers, rural homeowners and farm-related businesses, and the 13 banks for cooperatives that lend to farmer-owned cooperatives.

In 1981, the FCS system held almost 40 percent of farm real estate debt and 25 percent of farm operating debt.

The USDA study launched by Agriculture Secretary Block to stall the OMB is being done in cooperation with the FCS, with Dr. George Irwin, an FCS economist, a member of the study team. The team also includes William Lesher, chief USDA economist, John Lee, acting head of the department's Economic Research Service, and Emanuel Melichar, agricultural economist for the Federal Reserve Board.●

GENERAL ACCOUNTING OFFICE OBJECTS TO OLYMPIC COIN ACT OF 1981

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, as chairman of the Consumer Affairs and Coinage Subcommittee, I have spent many months studying the issue of striking commemorative coins for the 1984 summer Olympics to be held in Los Angeles. I am deeply interested in helping our athletes train and prepare for these games, and for that reason I introduced H.R. 3879, calling for the minting of a single silver dollar coin to be sold directly by the mint.

There is a second proposal which takes an approach radically different from mine. That proposal, the Olympic Coin Act of 1981, is contained in S. 1230, which passed the Senate in December. That bill calls for 25 different copper-nickel, silver, and gold coins to be struck at the mint but to be sold by private marketers.

For over 25 years the United States has not issued any commemorative coins because of abuses in past programs. I wanted to be sure that these abuses would not recur. Therefore, I asked the General Accounting Office to examine the two proposals. The auditors have given me an oral report listing five main points.

First, the auditors recommended that the price the Government sells the coins for must include both the face value of the coins plus the value of the precious metals in the coins. The auditors concluded that failing to do so results in the Government effectively contributing the face value of the coins to the purchasers.

S. 1230 provides that payment need only be made for the higher of face value or metal content. While my bill does not provide a formula for determining the price of the coins, the auditors felt that the price would be sufficiently high in relation to the $1 face value so as not to be a problem with my legislation.

Second, the General Accounting Office believed that the Olympic coins would not be a good buy from a numismatic, bullion, and Olympic-support view. Their conclusion is based upon investment advisory services that focus their attention on S. 1230. The General Accounting Office found that the coins would have little numismatic value to collectors because they would be too common and the large number of designs, 25 in all, are opposed by coin collectors. That conclusion is buttressed by a resolution passed on February 18, 1982, by the federally chartered American Numismatic Association, calling for no more than one design each of a gold and silver coin.

The coins will be sold at a price far above the value of their bullion content. Thus, the coins will not appeal to bullion investors such as those who buy Canadian "Maple Leaf" coins, Mexican pesos, Krugerrands, or silver ingots.

The General Accounting Office told me that the same investment services are bluntly telling their readers that if they wish to support the Olympics that they should just write a check and send a contribution. The services point out that much of the profits from the sale of the coins under S. 1230 would go to the private marketers.

Third, the General Accounting Office was unable to obtain any documentation from the coin marketing group, the Los Angeles Olympic Organizing Committee, or the Treasury Department concerning the marketing arrangements under S. 1230. The General Accounting Office is concerned that Congress cannot make an intelligent evaluation of S. 1230 without access to information documenting the claims of those who would market the coins under the bill. The auditors believe that should Congress act without having received full and adequate disclosure of the pertinent information about the marketing of the coins, there would be a backlash of resentment toward the Government, and particularly the Congress, because of the Olympic coin program.

Fourth, the General Accounting Office is concerned about the tax implications of the coin program under S. 1230. According to the auditors, the Los Angeles Olympic Organizing Committee told them that they planned to tell purchasers of the coins that some or all of the purchase price could be considered a tax deductible contribution. According to an informal Internal Revenue Service opinion supplied to the General Accounting Office, however, no part of the purchase price would be tax deductible. If it were tax deductible, the revenues lost to the Government as a result, would exceed the amount raised for the 1984 Olympics by the sale of the coins.

In short, the auditors said that if a tax deduction is allowed, it would be cheaper for the Federal Government to simply give money to the Los Angeles Olympic Organizing Committee than to have a coin program such as S. 1230. The auditors found no tax problems with my bill since there is no issue of a tax deduction.

Fifth, the General Accounting Office found the provisions of S. 1230 that called for a resolicitation process for choosing a marketer of the coins to be a sham. They determined that the resolicitation provision is so rigged in favor of the current marketer that it is unlikely that anyone else would even take the time to submit an offer. This is because the current marketer has the final right to meet any competing bid, and if it does, it automatically gets the contract.

As much as anyone else, I want to help our Olympic athletes have the training necessary to compete and win in these games. But I want to be sure that there will not be another event added in the 1984 Olympics. That event is world scandal. That is one event that we do not need.●

RISE IN POVERTY MUST BE HALTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. William J. Coyne) is recognized for 5 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, in its rush to make the already comfortable more comfortable, the administration has lost sight of the needs of what has been termed the "other America"—the poor people. There is evidence that the sheer number of poor people is growing, reversing a downward trend in recent years.

In the Halls of Congress, we hear many statistics about such things as the relative tax savings level of individuals, or the profitability of lowering the tax on capital gains. All too rarely, however, do we hear that the number of poor people in our country is growing.

According to a Census Bureau study, from 1979 to 1980, more than 3 million persons entered the federally defined ranks of the poor. Those classified as poor rose from 11.6 percent of the population in 1979 to 13 percent in 1980—a rather dramatic rise for such a short time period. The effect of the budget and tax cuts enacted last year—cuts which disproportionately punish the poor while lightening the burdens of the well-to-do—seems likely to cause that number to grow.

As we begin the debate on proposed new cutbacks in such programs as aid to families with dependent children, I think we should give special attention to the rise in our Nation's poverty. We cannot allow the impoverishment of one sector of our society while rewarding another.

I was pleased to be able to attend National Urban League hearings in Pittsburgh March 8 on the proposed cuts in the aid to families with dependent children program. I would like to share with my colleagues the views of two Pittsburgh residents on the effect of the proposed cuts. Gordon Lewis, an associate professor of sociology at the Carnegie-Mellon University School of Urban and Public Affairs, analyzes how the administration approach to AFDC may actually discourage recipients from finding useful employment. Frankie Mae Jeter, executive director of the Welfare Rights Organizations—Allegheny County, describes how flawed perceptions of who benefits from the program contribute to unfortunate political myths.

I am including in the Record at this point the observations of Professor Lewis and the testimony of Frankie Mae Jeter:

WORK INCENTIVES FOR THE WORKING POOR (OR, HOW TO INCREASE THE NATIONAL DEBT BY ENCOURAGING TOTAL WELFARE DEPENDENCY)

(By Gordon H. Lewis)

President Reagan believes in the merits of work. President Reagan wants to get people off welfare and back to work. It is bitter irony. therefore, that this President has pushed for changes that encourage total dependence on welfare and that discourage work. Prior to this Administration, a mother in New York City with a preschool child was always better off working than living entirely on welfare; because of this Administration, that same mother would have to earn more than $11,000 a year to be better off working.

CHANGES IN THE LAW

Before 1967 the AFDC benefit was reduced by one dollar for every dollar of net income, i.e., income after taxes and other work expenses. Since every dollar of net earnings meant the loss of one dollar of AFDC, there was obviously little or no incentive to work. In 1967, to create some incentive to work, Congress provided that families could keep the first $30 they earned and one-third of the remaining earnings, without benefit reduction. In August 1981, at President Reagan's request, Congress eliminated the work incentive for any family that works more than four months. In addition, at President Reagan's request, Congress specified that if the family's gross earnings exceed 1.5 times the need standard, the family is eliminatd from AFDC.

THE EFFECTS

These changes have serious consequences on a family's "effective income", earnings and benefits, minus taxes and necessary work expenses. For the working poor these benefits include AFDC, food stamps, the earned income tax credit, and the average value of medicaid for a welfare family.

Using a computer model, effective income was calculated for the most common AFDC family type, a single parent with one child, assuming $40 per week for full time day care, $300 a month for shelter and utilities, and $40 a month for transportation when working full time. The calculation also assumes that if the parent is working the employment has been for more than four months.

Under prior law, increased monthly earnings meant increased effective income: if the family in New York earned nothing, the effective income was $592; if the family worked full time at the minimum wage, the effective income rose to $756. Under current law, increased earnings can mean decreased effective income: if the family in New York earns nothing the effective income is still $592, but if the family works full time at the minimum wage the effective income drops to $338.

No single statistic better summarizes the new law's negative work incentives than the annual earnings required to equal not working at all. In New York, the parent would have to earn $11,512 per year. In Pennsylvania the earnings needed are $8,524; in Missouri, $7,020; in Texas, $2,462.

Given these work disincentives, why did the Administration push the present law? Superficially the changes make the government better off. Consider again the parent in New York working full time at the minimum wage. Under the old law the government spent $392 more in monthly benefits than it received in taxes. Under the new law, if the parent continues to work full time at the minimum wage, the government actually receives $26 more in taxes than it pays out in benefits.

If the parent quits work in order to increase the family's income, however, the government pays out $592 per month in benefits and receives nothing in taxes, an outlay $200 greater than that required under the old law.

Technically, if parents quit work they are not eligible for welfare, but effective enforcement of this provision seems doubtful. It is the larger outlay for every parent who quits work that potentially increases the national debt, and at last count there were 447,000 AFDC families in which the parent was working all or part time.

In addition to the direct costs of inducing greater reliance on welfare, there are other less tangible costs. What does total welfare dependence do to the self-image of persons in the family? To the stability of the family? To the probability that the family will become chronically dependent on welfare? These are matters of debate, but the debate is about the magnitude, not about the direction of the effect. There is widespread agreement that becoming totally dependent on welfare is not good for anyone.

The working poor and the taxpayer alike should be outraged at the changes made by Congress and the President. It is one thing to have a safety net; it is another to push people into it.

MYTHS AND FACTS ABOUT AFDC TESTIMONY

(By Frankie Mae Jeter)

My name is Frankie Mae Jeter. I am Executive Director of Welfare Rights Organizations—Allegheny County (WROAC). WROAC is an organization with over 1,000 members in Western Pennsylvania. Our members are poor people and their advocates.

I address this panel of our elected representatives on behalf of the 7½ million children, black and white, brown, red and yellow, who are supported by the Aid to Families With Dependent Children (AFDC) program. 50,000 of those children live in Allegheny County. WROAC's message on the children's behalf is simple: there must be no new cuts in AFDC this year and those cuts hastily enacted in the infamous Omnibus Budget Act of 1981 must be reversed. The Reagan Administration's proposals are unnecessary, cruel, and finally, stupid and counterproductive in the long run. This rich country cannot create a healthier economy and reduce its budget deficits by further increasing the deficits in the budgets of every poor family in America. The result will be more ill-nourished children, higher school dropout rates, more broken homes, and more crime born of human desperation.

We are here to give you facts and dispel myths. There will probably be some repetition in what speakers say today, but we do not apologize for that. The facts bear repeating; old myths die hard, especially when they are being promoted by a suave, smiling President. That President should spend more time and energy solving the real economic problems of the country and less on cutting poor people's meager support.

We at WROAC are experts on welfare and work. I personally was on welfare but struggled to get myself and my family off. Project HOPE, the job training arm of WROAC, recently cut back in funding, has trained dozens of its graduates for meaningful jobs in both the public and private sectors. No one wants to be on welfare. Like all other recipients, we at WROAC demand jobs.

As we discuss some specifies of last year's cuts in AFDC and this year's proposals for even deeper cuts, I want everyone to remember that the AFDC cuts are being made as part of a package which includes the destruction of the public housing program in America, as well as dangerous cutbacks in public health programs and food stamps. All these cuts primarily hurt America's children.

At the outset, I said the cuts were unnecessary. The Reagan Administration's mythology would have the public believe that AFDC and similar programs are causing our economic troubles, inflation, high interests rates, etc.—nothing could be further from the truth! I'm not a Ph. D. economist, but I can see that cuts in the social programs, which taken all together total about 8 percent of the budget, cannot significantly effect the overall economic picture in an $800 billion budget. The bloated defense budget and the greedy Pentagon's $230 billion are the place to make the cuts! Contrary to another popular myth, the AFDC rolls are not increasing. There were actually about one-half million fewer people nationwide on AFDC in 1981 than 1975, despite rising unemployment. Nor has the total monetary expenditure kept pace with inflation: a recent congressional study showed that the average family of 4 actually lost 27 percent of their benefits from 1970 to 1980, measured in constant dollars against inflation.

Myths also abound regarding the people supported by the AFDC program. Let's look at some facts:

(a) 70 percent of recipients are children under 18 deprived of support by the death, disability, absence or unemployment of one or both parents.

(b) The families are small, averaging 2 children, contrary to the absurd myth that poor women have babies to get the meager increase.

(c) The most dangerous myth is that people are lifetime, even cross-generational welfare recipients. The truth is that 75 percent of all families are off within 5 years, 55 percent within 3 years. Poor people are not stupid, they do not want to be on welfare.

(d) 80 percent of the families are headed by women and over 50 percent include at least one child under six. Even if jobs were available, most of these women could not work because child care is not available, due in part to the stupid cutback in that program by Reagan.

(e) Finally, to talk of more cutbacks in a program such as AFDC which brings the typical family of 3 to only 50 percent of the poverty level (75 percent of Food Stamps are considered) is monstrous. The Reagan's "safety net" is a cruel illusion—a Madison Avenue catchphrase.

Let's look at some of last year's cuts and those proposed this year. Two particular cuts, while not the most important in themselves, show the small-mindedness and unfeeling attitude of the administration. One of these was last year's abolition of grants under $10.00 per month. If a poor family was eligible for less than $10.00—they didn't get anything. That $10.00 is not a small amount for a recipient who received a nationwide average of $103.00 per month. Even IRS gives tax refunds of $1.00! Another cut shows the meanness proposed in the new budget: now they will take the pennies away from poor children by rounding grants off to the next lower dollar. For example, if the family's grant is $82.90 they will get only $82. I wonder if the pennies will fuel the Presidential yacht.

Last year's cuts were primarily directed against the working poor, who are mostly women. These working women have seen in most states, grants for their children cut off because they had obtain minimum wage jobs. For example, in oil-rich Texas, a family of 4 is now totally ineligible if the mother earns a gross income of $212 per month. Congress hardly read any of last years proposals before passing the Omnibus Act—these proposals, starting with the destructive 150% rule, should be repealed. The system of work incentives and expense disregards painstakingly fashioned by Congress over previous years must be restored. When a single parent pays the price of leaving her children to take a low paying job, she should be able to retain a decent level of benefits for the children.

Besides loss of cash benefits to the working poor, even more important for many families is the loss of Medical benefits which occurs automatically with the loss of AFDC. This again will fall primarily on children, whose families cannot now afford medical care. Congress must have the courage to correct its mistakes of last year.

As well as reversing the cruel, short-sighted changes enacted last year, Congress must scrutinize the administration's new proposals even more carefully because Reagan has turned up the heat on poor people as a result of the budget deficit he created by bloating the defense budget and cutting taxes for the rich.

Several proposals demand particular scrutiny. The first is Reagan's curious "workfare" proposal. Last year Congress gave the states the option of setting up workfare programs. The states overwhelmingly rejected this option, realizing that these programs have been shown to be financially wasteful and useless in creating job skills for people. In perversion of "New Federalism" Reagan will now force the states to enact workfare. WROAC is opposed to Reagan's workfare, which means forcing welfare mothers out of the home into make-work jobs at minimum wage, with no training or skills developed. It is based on the insulting myth that poor people have no "work ethic". We have a work ethic, now we need work. We need real jobs now, as well as job training. That is what will save money in the long run, not workfare, which will require a new army of bureaucrats to administer, at a time when states are cutting back their casework staff. Reagan's workfare is a thinly-veiled form of exploration, which will weaken the poor even further, in the name of the so-called work ethic and will save no money.

Other new Reagan proposals are even more outrageous. He has proposed: withholding benefits from families until they prove they can't find a job. This means that the kids may not eat until after the mother proves her futile job search to the caseworker. We say "Mr. President—children have to eat every day".

Ending the emergency assistance program, which helps families get a new start with small special grants after a disaster, such as a fire or a robbery.

Penalizing poor people for sharing housing by counting income of even unrelated adults in the home, against the welfare grant, even if they do not support the children. The extended families common in poor communities will be hurt and families moving in together who are obviously still well below the proverty level will see their benefits cut because they tried to stretch their grants.

Count special energy assistance payments against the grant of poor families. This is based on the absurd idea that such payments are "double-dipping" by poor people. Obviously it neglects the fact the AFDC grants for utilities are ridiculously low everywhere.

End AFDC for parents when the youngest child is 16. Someone should tell the President that the child's age has nothing to do with the employability of the parent! This is merely a way of snatching money from the poor. This is not a complete list of all the new cuts, but it should serve to show Congress that the new cuts are unfair and dangerous to America's children.

Finally, I want to say to all our representatives that, as you consider these cuts, we are watching you carefully. We know all your votes from last year's debates and we will know your votes this year. WROAC has made voter registration a priority this year and poor people around this country will vote in unprecedented numbers this year. We will fight for our children.

Thank you.●

POSITION OF CONGRESSMAN RODINO ON RECORD VOTES TAKEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I was unavoidably detained this morning while having a physical examination at Walter Reed Hospital, and therefore, missed the votes taken earlier today on the six bills under suspension. Had I been present, I would have voted for H.R. 3620, H.R. 4468, H.R. 4688, H.R. 3345, H.R. 2329, and House Concurrent Resolution 290.●

MAYOR BARNEY SCHWARTZ OF PASO ROBLES, CALIF., RETIRES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Califorina (Mr. Panetta) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I would like to call the attention of my colleagues to the retirement after a long period of dedicated service of Mayor Barney Schwartz of Paso Robles, Calif. Barney was first elected to the Paso Robles City Council in

1962 and has been elected mayor by his fellow council members 10 consecutive times. He will be greatly missed by his colleagues and by all of us in government in the Paso Robles area.

Barney Schwartz first came to California after heroic services with Patton's 3d Army during World War II. In 1950, he and his brother Dale purchased radio station KPRL, which, though sold in 1960, remains a thriving and vital radio station in that part of California. From 1950 to 1960, Barney was a director of the chamber of commerce, and he was president for 2 of those years.

In his 32 years of service, on the city council, as Mayor Barney has been a leader in the Paso Robles community in bringing industry, tourism, and other business to the city as well as encouraging agriculture. He has contributed enormously to the revitalization of the city's sewer system, streets and roads, bridges, and a host of other projects.

I have had the pleasure of working with Barney for several years, and ours has been a friendly, cooperative, and constructive relationship. He has always recognized the need for local, State, and Federal officials to work together to solve the problems facing towns like Paso Robles, and his hard work and can-do attitude have been very important in bringing needed assistance to the city.

It is my understanding that Barney, following his retirement, intends to pursue his career in freelance writing—something he was actively involved in before he entered government, was able to continue while in government, and is now excellently qualified to pursue with all his energy. I wish him the best, and I know my colleagues join me in giving thanks to this great public servant.●

A BILL TO AMEND THE MINERAL LANDS LEASING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. KOGOVSEK) is recognized for 5 minutes.

Mr. KOGOVSEK. Mr. Speaker, I, along with several of my colleagues, am introducing legislation today to amend the Mineral Lands Leasing Act of 1920, as that act was amended by the Federal Coal Leasing Amendments Act of 1976.

The 1976 amendments were born in an era marked by the hysteria following the October 1973 OPEC oil embargo. The Nation and Congress were seeking alternative energy sources to the oil we had become so dependent upon. While almost 90 percent of our total domestic recoverable hydrocarbon reserves were coal, only a small portion of the Nation's energy requirements were being supplied by coal—less than 20 percent. Of that small portion of our energy requirements being met by coal, Federal coal was supplying a mere 3.3 percent of total U.S. coal production, yet the Federal reserves represented over 60 percent of western coal. In essence, the contribution of federally owned coal to the Nation's total energy requirements was woefully deficient.

In 1975, Congress decided that the Mineral Lands Leasing Act was instrumental in the shortfall of coal production on Federal reserves, and set out to correct what it perceived as deficiencies in the act. The result was the 1976 Federal Coal Leasing Amendments Act, which made sweeping changes to the whole procedure of acquiring a Federal coal lease. Unfortunately, many good features were also swept out with the changes. In other instances, counterproductive provisions were adopted. But most importantly, we are not producing coal at the rate we should be producing. In short, the 1976 act is in need of adjustment and fine tuning. The bill I introduce today is intended to effect needed adjustment, but I hasten to add that it is a limited bill, addressing only a few of the perceived deficiencies of the 1976 act. It is a limited bill because we are into the 3d month of the 2d session of the 97th Congress, and addresses only those issues which need attention forthwith.

First, there is a provision in section 3 of the FCLAA of 1976 which prohibits the Secretary of the Interior from issuing any type of mineral lease to an entity which holds and has held for a period of 10 years a Federal coal lease without producing that lease in commercial quantities. This provision has been interpreted to mean that the Secretary cannot issue any additional coal leases, or leases for oil and gas, oil shale, sodium, potassium, phosphate, or for any other type of lease obtainable under the Mineral Lands Leasing Act of 1920, simply for failure to produce one Federal coal lease within 10 years.

This is an overly harsh penalty and is the kind of overkill that can occur in an atmosphere of hysteria. It is a penalty that is applied only to coal. No other leasable mineral under the 1920 act is subject to such a provision.

The section 3 penalty is also unnecessary in light of new authority under the 1976 amendments to terminate coal leases not producing in commercial quantities on a date certain. The public interest is not served by this provision. It is unnecessary overkill and should be eliminated.

Second, there is a requirement in section 5 of the FCLAA that all coal lands in a logical mining unit, a device which permits the packaging of coal properties so they can be developed in an efficient, economical, and orderly manner, be contiguous or touching. This requirement does not recognize that coal deposits may be interrupted by physical separation or geologic conditions, and that surface contiguity may be destroyed by legal separations such as rights-of-way or boundary lines. The concept of a logical mining unit is frustrated by the requirement of contiguity because the basic purpose for creating a logical mining unit, that is, because it makes economic and geologic sense, is ignored. For these reasons, the contiguity requirement should be deleted from the definition of a logical mining unit.

The third provision of the 1976 act addressed by the amendments which I introduce today requires that the coal reserves of a logical mining unit be exhausted in a period of 40 years. No other type of leasable mineral is subject to such a forced production requirement. The 40-year mineout is impractical in situations where there are extremely large reserves or where the coal must be recovered by sequential surface and underground mining operations. This requirement works a particular hardship on the steelmaking industry because long-range reserves of metallurgical coal are needed for continuing support of steel-producing operations. The annual coking coal requirements for a steel plant are typically fixed within narrow volume limitations, and it is impractical and uneconomical to activate the mining of metallurgical coal on scattered leases. It is clearly wasteful to utilize this limited commodity for purposes other than steelmaking.

The 40-year exhaustion requirement does not recognize that coal contracts for the sale of steam coal now exceed 50 years, nor does it recognize that generating facilities have longer lives than 40 years. Of more importance, however, the 40-year exhaustion may have the effect of creating bust towns by compelling lessees to prematurely close down an operation which could utilize available transportation, infrastructure, and local employment for longer periods of time. If coal operations are permitted to continue in a more orderly fashion according to long-term contractual commitments and geologic conditions, this bust-town effect would not occur. Therefore, the 40-year exhaustion is counterproductive and should be deleted from the statute.

Fourth, the 1976 amendments imposed strict diligent development standards which require the production of coal in commercial quantities within 10 years. The amendments which I offer today do not eliminate the requirement of diligent development. Rather, they address some very practical problems posed by this requirement.

As the diligent development requirement now exists, a lease must be produced or terminated. Unlike the condition of continued operation, the concept which requires continued production once the initial threshold of diligent development, or startup, is achieved, there are no saving factors which would excuse the operator from producing coal in commercial quantities. Current law permits the Secretary of the Interior to suspend the condition of continued operation upon the payment of advance royalties in the event of strikes, the elements or casualties not attributable to the lessee. No such provision applies to the condition of diligent development.

Startup times for large-scale western surface mines depend upon the lessee's ability to acquire a market for the coal, the availability of transportation to that market, acquisition of all the necessary permits, licenses, and approvals now required by the 1977 Surface Mining Act, procurement of equipment and financial assistance, and the construction of ground facilities and associated powerplants. All of this takes time. But under current law, the lessee must be producing coal in commercial quantities by the end of 10 years or he loses his lease. This termination provision does not even comport with the 20-year primary term of a coal lease.

The amendments which I offer today would allow flexibility to this 10-year production requirement where it is needed. But at a price. In the event that commercial production cannot commence by the end of 10 years, the lessee would be required to pay an advance royalty of 1 percent of his recoverable reserves in the lease. This advance royalty, which is already authorized to be paid in lieu of the condition of continued operation, could be used for satisfaction of either diligent development or continued operation, but for not more than 10 years in total. This would afford the lessee some degree of flexibility in achieving diligent development if it is required, because the lessee would not automatically lose his lease for failure to achieve commercial production within 10 years. It would, however, result in a loss of management flexibility at the other end of the spectrum because, in the event of a suspension of operations after diligence is achieved, the operator will have subtracted from his total of 10 years for which advance royalties can be paid the number of years for which he has already paid advance royalties in lieu of diligent development.

The concept of shared revenue under the 1976 amendments would not be affected by this modification. States and the Federal Government will share equally in advance royalties paid for either diligent development or continued operation. In the event that commercial production is not achieved at the end of the primary term of 20 years, all advance royalties paid to that point would be forfeited, the lease would be terminated, and the United States would retain the coal deposits. This result will certainly be a deterrent to speculation and unnecessary delays in lease development.

The advance-royalty concept would provide revenue to the States and the Federal Government at the same time flexibility is provided to lessees who genuinely require more than 10 years to get their mines into production. It is in the public interest to provide this degree of flexibility, yet it would also be in the public interest to terminate the lease of anyone who attempts to abuse this provision.

The fifth aspect of the 1976 amendments addressed by the bill I offer is the requirement that a lessee submit an operation and reclamation plan to the Secretary of the Interior for approval within 3 years after lease issuance. This plan is designed according to the needs of the lessee's customer, and the lessee rarely has a customer within 3 years. More importantly, the requirement that the plan be submitted within 3 years is superfluous in light of the requirement under the Surface Mining Act that a coal operator obtain a permit before conducting surface coal mining operations. An exhaustive mining and reclamation plan must be submitted in order to obtain this permit.

By eliminating only the 3-year aspect of the requirement to submit an operation and reclamation plan under the FCLAA, the lessee could submit this plan contemporaneously with his mining and reclamation permit application. The U.S. Geological Survey construes the 3-year plan required under the FCLAA as a plan which demonstrates that the requirements of diligent development, maximum economic recovery, and prevention of waste will be achieved. It would make more sense to allow the lessee to submit his FCLAA plan at a time when he has a customer and knows in greater detail how his operaton will be conducted. The 3-year submission date should be eliminated from the current law as an unnecessary and unreasonable requirement.

Finally, I am proposing an amendment which would provide some much-needed flexibility to the requirements of diligent development and continued operation to the producers of metallurgical coal. As I mentioned earlier, metallurgical or coking coal is used for steelmaking. It is a unique commodity separated from steam coal by its chemical characteristics. And it is a commodity which is reasonably scarce and located only in certain regions of the country.

The amendment which I offer would exempt coking coal from diligence and continued operation so long as the coking coal deposits are used in or will be used in or are dedicated to the support of steelmaking facilities. Because steel plants operate within fixed volume limitations each year, it makes no sense to require the production of more coal than will be required for cokemaking each year. Yet, if at any time the coking deposits are used or sold for other than metallurgical purposes, the exemption would be lost. This would mean that those deposits would be subject to standard diligence requirements and possible lease termination if the lessee fails to comply with those requirements.

Conditions have significantly changed since 1976. In the 6-year period from 1974 to 1980, Federal coal production more than tripled, while total U.S. coal production increased by a third. The Federal share of total U.S. coal production has more than doubled, and is now almost 8½ percent of all coal produced in this country. In 1980, Federal coal production exceeded 69 million tons, and it is steadily increasing.

The Office of Technology Assessment recently issued an exhaustive study on the development and production potential of Federal coal leases which shows significant progress in lease development, a matter of great concern to Congress in 1976 when the leasing amendments were enacted. Of 565 Federal leases studied, 198 have approved mine plans and another 118 have mine plans pending. Only 63 of the remaining number of leases, representing 3 percent of the recoverable coal reserves under lease, are unlikely to be developed, primarily because of difficult mining conditions, lack of adequate transportation, and insufficient minable reserves of marketable quality.

The OTA study clearly indicates that Federal leases are being developed and produced—leases issued before the 1976 act. It is doubtful that the 1976 act had any effect on the increased production. But, the experience of the last 6 years has taught us that there are several inequities in the 1976 amendments which need to be addressed. There are certain provisions which require flexibility, and there are some which frustrate the purpose of the 1976 amendments. These are the defects my bill addresses.

I urge my colleagues to join me in enacting this legislation.

PROPOSAL TO RESCIND BUDGET AUTHORITY PREVIOUSLY PROVIDED, NEW DEFERRALS, AND REVISIONS TO EXISTING DEFERRALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-155)

The **SPEAKER** pro tempore laid before the House the following message from the President of the United

States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Thursday, March 18, 1982.)

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FORD of Tennessee (at the request of Mr. JONES of Tennessee), for today, on account of Illness.

Mr. JACOBS (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. YOUNG of Florida (at the request of Mr. MICHEL), for today, on account of official business.

Mr. FOUNTAIN of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROGERS) to revise and extend their remarks and include extraneous material:)

Mr. TRIBLE, for 15 minutes, today.

Mr. LUNGREN, for 60 minutes, today.

Mr. MCEWEN, for 60 minutes, March 30.

Mr. TAUKE, for 5 minutes, today.

Mr. LEACH of Iowa, for 60 minutes, March 30.

(The following Members (at the request of Mr. DASCHLE) and to include extraneous matter:)

Mr. BONIOR of Michigan, for 15 minutes, today.

Mr. DASCHLE, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. MCHUGH, for 60 minutes, on March 30.

Mr. WILLIAM J. COYNE, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. KOGOVSEK, for 5 minutes, today.

Mr. GORE, for 30 minutes, on March 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROGERS) and to include extraneous matter:)

Mr. EVANS of Delaware.

Mr. SHUMWAY in two instances.

Mr. HOPKINS.

Mr. MICHEL.

Mr. ROUSSELOT in two instances.

Mr. GOODLING.

Mr. ROTH.

Mr. MILLER of Ohio in three instances.

Mr. CARNEY.

Mr. DECKARD.

Mr. EMERSON.

Mr. MCGRATH.

Mr. COLLINS of Texas in two instances.

Mr. FINDLEY.

Mr. BEREUTER in two instances.

Mr. CARMAN.

Mr. COLEMAN.

Mr. DAUB in two instances.

Mr. LEACH of Iowa.

Mr. LEBOUTILLIER.

Mr. MORRISON in two instances.

Mr. LENT.

Mrs. FENWICK.

Mr. BROOMFIELD.

Mr. HANSEN of Utah.

Mr. EVANS of Iowa.

Mr. GUNDERSON.

Mrs. HECKLER in two instances.

Mr. GREEN.

Mrs. SCHNEIDER.

Mr. EDWARDS of Oklahoma.

Mr. STANGELAND.

(The following Members (at the request of Mr. DASCHLE) and to include extraneous matter:)

Mr. FRANK.

Mr. GARCIA.

Mr. DOWNEY.

Mr. MOFFETT in two instances.

Mr. BONIOR of Michigan.

Mr. LAFALCE.

Ms. FERRARO in two instances.

Mr. HUBBARD.

Mr. ST GERMAIN.

Mr. LOWRY of Washington.

Mr. BEILENSON.

Mr. CROCKETT.

Mr. BOWEN.

Mr. RODINO.

Mr. FROST.

Mr. COELHO.

Mr. DERRICK in two instances.

Mr. LONG of Louisiana.

Mr. LUKEN in two instances.

Mr. DYSON.

Mr. WIRTH in two instances.

Mr. FAUNTROY.

Mrs. SCHROEDER.

Mr. LELAND.

ADJOURNMENT

Mr. DASCHLE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 37 minutes p.m.), under its previous order, the House adjourned until Monday, March 22, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3443. A communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1982 (H. Doc. No. 97-154); to the Committee on Appropriations and ordered to be printed.

3444. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970 and other rail safety statutes; to the Committee on Energy and Commerce.

3445. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting notice of intent to issue commercial export license for certain defense articles or services which involve certain transfers from Italy to Brazil, pursuant to public law; to the Committee on Foreign Affairs.

3446. A letter from the Director, Office of Management and Budget, transmitting a watershed plan and an environmental impact statement on the Upper Mud River watershed, West Virginia, pursuant to public law; to the Committee on Public Works and Transportation.

3447. A letter from the Secretary of Health and Human Services, transmitting a report on implementation of the program of reviewing decisions made by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, pursuant to public law; to the Committee on Ways and Means.

3448. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to limit the amount of unemployment compensation payable for 1 week of unemployment, and for other purposes; to the Committee on Ways and Means.

3449. A letter from the Secretary of Labor, transmitting a draft of proposed legislation to amend the Trade Act of 1974 to eliminate trade readjustment allowances for workers not enrolled in approved training on July 1, 1982, and for other purposes; to the Committee on Ways and Means.

3450. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on the findings of validation surveys of hospitals accredited by the Joint Commission on Accredition of Hospitals for fiscal year 1980, pursuant to public law; jointly, to the Committees on Energy and Commerce and Ways and Means.

3451. A letter from the Federal and State Cochairmen, Alaska Land Use Council, transmitting a report on the activities of the Alaska Land Use Council for the period ending December 1981, pursuant to public law; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4750. A bill to authorize a study for the establishment of the Franklin D. Roosevelt Warm Springs Living Memorial in Warm Springs, Ga.; with amendments (Rept. No. 97-460). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. H.R. 4709. A bill to require the Federal Government to pay interest on overdue payments, and for other purposes; with an amendment (Rept. No. 97-461). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 1481. A bill for the relief of George Herbert Weston and Mabel Gregson Weston (Rept. No. 97-462). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 3592. A bill for the relief of Uili Tuifua, Talameafoou Tuifua, Heta Tuifua, Sateki Tuifua, Ilaisaane Tuifua, and Ofa Hemooni Tuifua; with an amendment (Rept. No. 97-463). Referred to the Committee of the Whole House.

Mr. FRANK: Committee on the Judiciary. S. 1093. A bill for the relief of Sandra Reyes Pellecer (Rept. No. 97-464). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL:

H.R. 5884. A bill to apply duty-free treatment to machines specifically designed for stretch or heat-set texturing of continuous filament manmade fibers; to the Committee on Ways and Means.

By Mr. CONTE:

H.R. 5885. A bill making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; to the Committee on Appropriations.

By Mr. BURGENER (for himself, Mr. Badham, Mr. Butler, Mr. Forsythe, Mr. Kindness, Mr. Petri, Mr. Rudd, and Mr. Trible):

H.R. 5886. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide that fully insured individuals reaching the age of 65 may elect to institute a moratorium on old age insurance benefits, employee taxes and employer taxes, in order to continue working until choosing to retire; to the Committee on Ways and Means.

By Mrs. FENWICK:

H.R. 5887. A bill to provide that rates of pay for Members of Congress shall not be subject to adjustment under the Federal Salary Act of 1967 or subject to any other automatic adjustment, and to provide that any bill or resolution, and any amendment to any bill or resolution, which would increase Members' pay may be adopted only by a recorded vote; jointly, to the Committees on Post Office and Civil Service and Rules.

By Ms. FERRARO (for herself, Mr. Molinari, and Mr. Green):

H.R. 5888. A bill to amend title 3, United States Code, to provide improved protection for foreign diplomatic missions; to the Committee on Public Works and Transportation.

By Mr. FRANK:

H.R. 5889. A bill to provide assistance to individuals and families purchasing a residence for the first time; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FUQUA:

H.R. 5890. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Technology.

By Mr. GIBBONS:

H.R. 5891. A bill to reduce temporarily the duty on certain hospital and surgical apparel; to the Committee on Ways and Means.

By Mr. HANSEN of Utah (for himself and Mr. Marriott):

H.R. 5892. A bill to extend the period during which certain grazing privileges granted with respect to Federal lands in the Capitol Reef National Park may be exercised; to the Committee on Interior and Insular Affairs.

By Mrs. KENNELLY:

H.R. 5893. A bill to amend title XVIII of the Social Security Act with respect to determining the amount of payment for certain drugs under the medicare program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mrs. KENNELLY (for herself and Mr. Moffett):

H.R. 5894. A bill to amend title 23, United States Code, to authorize the placement of vending machines in rest areas on the Interstate System; to the Committee on Public Works and Transportation.

By Mr. KOGOVSEK (for himself, Mr. Marriott, Mr. Cheney, Mr. Murphy, Mr. Hansen of Utah, Mr. Rahall, and Mr. Staton of West Virginia):

H.R. 5895. A bill to amend the Mineral Lands Leasing Act of 1920 and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEACH of Iowa (for himself and Mr. DeNardis):

H.R. 5896. A bill to condition U.S. military support for El Salvador on participation by the Government of El Salvador in negotiations with all major parties to the conflict which are willing to engage, without preconditions, in such negotiations for the purpose of achieving a cease-fire and an equitable political solution to the hostilities; to the Committee on Foreign Affairs.

By Mr. MATSUI:

H.R. 5897. A bill to establish nationally uniform user taxes for purposes of financing port development and to provide that the administrative provisions of the Internal Revenue Code of 1954 shall apply to such taxes, to give the consent of Congress to the levying of duties of tonnage by State port authorities for purposes of financing certain deep-draft navigation projects, to provide for an expedited procedure for the approval of navigation projects and related landside facilities in such ports, and for other purposes; jointly, to the Committees on Public Works and Transportation, Merchant Marine and Fisheries, and Ways and Means.

By Mr. PARRIS:

H.R. 5898. A bill to amend the Service Contract Act to prohibit the discrimination against employees of predecessor employers under that act, and for other purposes; to the Committee on Education and Labor.

By Mr. PASHAYAN:

H.R. 5899. A bill to eliminate a conflict between the official cadastral survey and a private survey of certain lands of the Sequoia National Forest, State of California; to the Committee on Interior and Insular Affairs.

By Mr. MICHEL (for himself, Mr. Wright, Mr. Zablocki, Mr. Broomfield, Mr. Lagomarsino, Mr. Barnes, Mr. Gilman, Mr. Conable, Mr. Gibbons, Mr. Vander Jagt, Mr. Frenzel, and Mr. Kemp):

H.R. 5900. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. PEASE:

H.R. 5901. A bill to amend the River and Harbor Act of 1968 to authorize the Army Corps of Engineers to carry out nonstructural projects to prevent or mitigate shore damages attributable to Federal navigation works; to the Committee on Public Works and Transportation.

By Mr. PEPPER:

H.R. 5902. A bill to amend the Community Services Block Grant Act to provide a Federal set-aside for comparison food shopping services; to the Committee on Education and Labor.

By Mr. ROYBAL:

H.R. 5903. A bill to amend title II of the Social Security Act to extend gratuitous wage credits to individuals who served in the U.S. Cadet Nurse Corps during World War II, and for other purposes; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 5904. A bill to encourage States to provide unemployment benefits to certain partially unemployed workers; to the Committee on Ways and Means.

By Mr. SHUMWAY:

H.R. 5905. A bill to amend the Internal Revenue Code of 1954 to provide for equipment which conserves irrigation water an additional 10-percent investment tax credit; to the Committee on Ways and Means.

By Mr. STUDDS:

H.R. 5906. A bill to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to clarify provisions relating to claims, financial responsibility, and civil penalties; to the Committee on Merchant Marine and Fisheries.

By Mr. TRIBLE:

H.R. 5907. A bill to amend the Internal Revenue Code of 1954 to provide an income tax credit to individuals for maintaining a household for older dependents; to the Committee on Ways and Means.

By Mr. RUDD:

H.J. Res. 444. Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navajo Code Talkers Day"; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK:

H. Res. 400. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation that affects the rate of pay of Members, and for other purposes; to the Committee on Rules.

By Mr. FINDLEY:

H. Res. 401. Resolution expressing the sense of the House of Representatives with respect to the assassination of Kemal Arikan, a consul general of the Government of Turkey assigned to the United States; to the Committee on Foreign Affairs.

By Mr. HILER (for himself, Mr. Oxley, Mr. Dunn, Mr. Hartnett, Mr. Morrison, Mr. Shaw, Mr. Parris, Mr. Emerson, Mr. Weber of

Minnesota, Mr. Coats, Mr. Siljander, Mr. Brown of Colorado, Mr. Daub, Mr. McCollum, Mr. McEwen, Mrs. Martin of Illinois, Mr. Napier, Mr. Gregg, Mr. Johnston, Mr. Evans of Iowa, Mr. James K. Coyne, Mr. Staton of West Virginia, Mr. Roberts of Kansas, Mr. Bliley, Mr. LeBoutillier, Mr. Fields, Mr. Gunderson, Mr. Bailey of Missouri, Mr. Hunter, Mr. Weber of Ohio, Mr. Rogers, Mr. Skeen, Mr. Smith of New Jersey, Ms. Fiedler, Mr. Hendon, Mr. Wolf, Mr. Nelligan, Mr. Hansen of Utah, and Mr. Craig):

H. Res. 402. Resolution expressing the sense of the House of Representatives that neither House of the Congress should recess or adjourn for a period of more than 3 days at a time until such time as the Congress completes action on the first concurrent resolution on the budget; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII,

301. The SPEAKER presented a memorial of the Legislative Assembly of the Commonwealth of Puerto Rico, relative to the President's Caribbean Basin Initiative; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. HANSEN of Utah:

H.R. 5908. A bill for the relief of Braun Green; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 5909. A bill relating to the licensing of the vessel *Querube II* to engage in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

By Mr. ZEFERETTI:

H.R. 5910. A bill to confer jurisdiction on the U.S. Court of Claims with respect to claims presented in the action entitled "Salmon C. Harvey and James V. Aquavella against the United States of America"; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mr. McHugh.

H.R. 450: Mr. Robert W. Daniel, Jr.

H.R. 768: Mr. Stenholm.

H.R. 852: Mr. Wirth and Mr. Roybal.

H.R. 1918: Mrs. Schneider, Mr. Railsback, Ms. Ferraro, and Mr. Myers.

H.R. 1999: Mr. Nowak.

H.R. 3600: Mr. Sawyer.

H.R. 4454: Mr. Marriott, Mr. Walgren, Mr. Rosenthal, Mr. Zeferetti, Mr. Railsback, Mr. Young of Alaska, Mr. Ottinger, Mr. Sawyer, Mr. Goldwater, Mr. Markey, Mr. Craig, Mr. McDade, Mr. Albosta, Mr. Chappie, Mr. Collins of Texas, Mr. Corcoran, Mr. Breaux, Mr. Dannemeyer, Mr. Clinger, Mr. Bonior of Michigan, Mr. Hughes, Mr. Minish, Mr. Dreier, Mr. Vander Jagt, Mr. Clausen, Mr. Rousselot, Mr. DeNardis, Mr. Luken, Mr. Lott, and Mr. Scheuer.

H.R. 4535: Mr. Neal, Mr. Moffett, Mr. Howard, Mr. Lowry of Washington, Mr. Wyden, Mr. Fish, and Mr. Conyers.

H.R. 4709: Mr. D'Amours.

H.R. 5050: Mr. Albosta, Mr. Chappie, Mr. Corcoran, Mr. James K. Coyne, Mr. Robert W. Daniel, Jr., Mr. Davis, Mr. Dougherty, Mr. English, Mr. Gingrich, Mr. Hartnett, Mr. Hillis, Mr. Howard, Mr. Lent, Mr. Lott, Mr. McGrath, Mr. Mottl, Mr. Roe, Mr. Sensenbrenner, Mr. Smith of New Jersey, Mr. Weber of Ohio, Mr. Whitehurst, and Mr. Wilson.

H.R. 5252: Mr. Snyder, Mr. O'Brien, Mr. Coats, Mr. Watkins, Mr. Gaydos, Mr. Bailey of Missouri, Mr. Hiler, Mr. Applegate, Mr. Daniel B. Crane, Mr. Kindness, Mr. Smith of Alabama, and Mr. Napier.

H.R. 5348: Mr. Nelson, Mr. Railsback, Mrs. Bouquard, Mr. Andrews, and Mr. Ford of Michigan.

H.R. 5404: Mr. Wolpe and Mr. Porter.

H.R. 5469: Mr. Dwyer.

H.R. 5472: Mr. Mitchell of Maryland, Mr. de la Garza, and Mr. Corrada.

H.R. 5509: Mr. Matsui, Mr. Pease, Mr. James K. Coyne, Mr. Mineta, Mr. Dwyer, Mr. Crockett, Mr. Edgar, and Mr. Barnard.

H.R. 5530: Mr. Parris.

H.R. 5551: Mr. Addabbo, Mr. Bedell, Mr. Benjamin, Mr. Boland, Mr. Brown of California, Mrs. Chisholm, Mr. Clay, Mr. Corrada, Mr. James K. Coyne, Mr. Crockett, Mr. D'Amours, Mr. Dixon, Mr. Dreier, Mr. Edgar, Mr. Fazio, Mr. Fish, Mr. Ford of Tennessee, Mr. Frank, Mr. Frost, Mr. Gore, Mr. Hatcher, Mrs. Heckler, Mr. Hughes, Mr. Kastenmeier, Mr. Kogovsek, Mr. Leland, Mr. Lowry of Washington, Mr. McDade, Mr. Murphy, Mr. Nelligan, Mr. Oberstar, Mr. Roth, Mr. Schumer, Mr. Stark, Mr. Vento, Mr. Wampler, and Mr. Wolpe.

H.R. 5600: Mr. Atkinson, Mr. Daschle, Mr. Dougherty, Mr. Dunn, Mr. Dymally, Mr. English, Mr. Fields, Mr. Frank, Mr. Gregg, Mr. Kazen, Mr. Leland, Mr. Morrison, Mr. Parris, Mr. Paul, Mr. Perkins, Mr. Shelby, Mr. Smith of New Jersey, Mr. Smith of Pennsylvania, Mr. Synar, Mr. Whitehurst, Mr. Wolf, Mr. Won Pat, and Mr. Wyden.

H.R. 5627: Mr. Dickinson.

H.R. 5645: Mr. Vento, Mr. Murphy, Mr. Stark, and Mr. Weaver.

H.R. 5646: Mr. Vento, Mr. Murphy, Mr. Stark, and Mr. Weaver.

H.R. 5647: Mr. Vento, Mr. Murphy, Mr. Weaver, and Mr. Dwyer.

H.R. 5648: Mr. Vento, Mr. Murphy, and Mr. Frost.

H.R. 5717: Mr. Daschle, Mr. Mollohan, Mr. Clinger, Mr. Boner of Tennessee, Mr. Roberts of Kansas, and Mr. Yatron.

H.R. 5729: Mr. Hughes.

H.J. Res. 380: Mr. Corcoran.

H.J. Res. 395: Mr. Matsui, Mr. Weber of Ohio, Mr. Foglietta, Mr. Bingham, Mr. Dwyer, Mr. Fish, Mr. Weiss, and Mr. Bliley.

H.J. Res. 418: Mr. Dwyer and Mrs. Kennelly.

H.J. Res. 428: Mr. Roemer, Mr. Brown of Ohio, Mr. Udall, Mr. Snyder, Mr. DeNardis, Mr. Dorgan of North Dakota, Mr. McHugh, and Mr. Gray.

H.J. Res. 441: Mr. Craig and Mr. Napier.

H. Con. Res. 289: Mr. Weiss, Mr. Corcoran, Mr. Coughlin, Mr. Foglietta, Mr. Ireland, Mr. Gejdenson, Mr. Bliley, Mr. Grisham, and Mr. Winn.

H. Res. 243: Mr. Won Pat.

H. Res. 339: Mrs. Schneider, Mr. Ratchford, Mr. Mottl, Mr. O'Brien, Mr. Wyden, Mr. Gingrich, Mr. Miller of Ohio, Mr. Staton of West Virginia, Mr. Jeffords, Mr. Rhodes, Mr. Gephardt, Mr. Wolpe, Mr. McKinney, Mr. Marriott, Mr. McEwen, Mrs. Roukema, Mrs. Bouquard, Mr. Wortley, Mr. Gradison, Mr. Hagedorn, Mr. Tauke, Mr. Dunn, Mr. Edgar, Mr. Huckaby, Mr. Kildee, Mr. Courter, Mr. Dyson, Mr. Evans of Iowa, Mr. Bedell, Mr. Grisham, Mr. McHugh, Mr. Florio, Mr. James K. Coyne, and Mr. Lundine.

H. Res. 371: Mr. Addabbo, Mr. Applegate, Mr. AuCoin, Mr. Bailey of Pennsylvania, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Benjamin, Mr. Bingham, Mr. Blanchard, Mr. Bonker, Mr. Brodhead, Mr. Clay, Mr. Coelho, Mr. Coleman, Mr. Conte, Mr. William J. Coyne, Mr. Crockett, Mr. D'Amours, Mr. Daschle, Mr. Dellums, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Dougherty, Mr. Downey, Mr. Dunn, Mr. Dwyer, Mr. Dymally, Mr. Eckart, Mr. Edgar, Mr. Edwards of California, Mr. Ertel, Mr. Evans of Iowa, Mr. Fary, Mrs. Fenwick, Ms. Ferraro, Mr. Fithian, Mr. Florio, Mr. Foglietta, Mr. Ford of Michigan, Mr. Ford of Tennessee, Mr. Frank, Mr. Gaydos, Mr. Gejdenson, Mr. Gephardt, Mr. Gingrich, Mr. Glickman, Mr. Goodling, Mr. Gore, Mr. Gray, Mr. Guarini, Mr. Hall of Ohio, Mr. Harkin, Mr. Hertel, Mr. Hollenbeck, Mr. Howard, Mr. Hoyer, Mr. Jacobs, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kildee, Mr. Kogovsek, Mr. LaFalce, Mr. Leach of Iowa, Mr. Long of Maryland, Mr. Lundine, Mr. Markey, Mr. Marks, Mr. Marlenee, Mrs. Martin of Illinois, Mr. Matsui, Mr. Mavroules, Mr. Mazzoli, Mr. McHugh, Mr. McKinney, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell of New York, Mr. Mitchell of Maryland, Mr. Mollohan, Mr. Mottl, Mr. Neal, Mr. Nowak, Mr. O'Brien, Ms. Oakar, Mr. Oberstar, Mr. Panetta, Mr. Patterson, Mr. Pease, Mr. Peyser, Mr. Porter, Mr. Rahall, Mr. Rangel, Mr. Ratchford, Mr. Richmond, Mr. Rinaldo, Mr. Rodino, Mr. Roe, Mr. Rosenthal, Mr. Roth, Mr. Savage, Mrs. Schneider, Mr. Schumer, Mr. Seiberling, Mr. Shannon, Mr. Simon, Mr. Skelton, Mr. Smith of Pennsylvania, Mr. Smith of Iowa, Mr. Solarz, Mr. Stark, Mr. Stratton, Mr. Studds, Mr. Swift, Mr. Traxler, Mr. Vento, Mr. Volkmer, Mr. Washington, Mr. Waxman, Mr. Wyden, Mr. Yates, Mr. Young of Missouri, and Mr. Zeferetti.

H. Res. 374: Mr. McHugh, Mr. Florio, Mr. Scheuer, Mr. Simon, and Mr. Stark.

PETITIONS, ETC.

Under clause 1 of rule XXII,

375. The SPEAKER presented a petition of the City Council, Philadelphia, Pa., relative to Federal responsibility of existing harbor and river channels and user fees on port facilities; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

SENATE—*Thursday, March 18, 1982*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray:

Bless the Lord, O my soul; and all that is within me, bless His holy name!

Bless the Lord, O my soul, and forget not all His benefits, who forgives all your iniquity, who heals all your diseases—Psalms 103: 1-3.

Loving Heavenly Father, we pray this morning for all in our Senate family who are in need. We commend to Thee Senator Javits. May he be comforted in these hours by Thy loving presence and may he be aware of the love and concern of his many friends in this place. We pray for the rapid and complete recovery of Senator BAKER and the total healing of Senator THURMOND.

There are those in our midst whose needs we know not. Be with those who are ill or lonely or discouraged. Encourage those who are frustrated and feel like quitting. Help those who have financial need, especially those facing election, who in addition to their unrelenting responsibilities here, must organize their campaigns and raise funds. We pray for our families, for wives who feel neglected or abandoned, for children who feel cheated because they have so little time with father.

Gracious God, touch every life in this large Senate family with healing and renewal, physically, mentally, emotionally, and spiritually. We ask this in the name of the Great Physician. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order today, the distinguished Senators from Missouri and Wisconsin, Mr. DANFORTH and Mr. KASTEN, will be recognized in that order on special orders of not to exceed 15 minutes each.

After the execution of the special orders, there will be a period for the transaction of routine morning business of not longer than 15 minutes in length, in which Senators may speak for not more than 5 minutes each.

At the close of morning business, according to the order previously entered, it is my understanding that the Chair will lay before the Senate once more S. 391, the agent identities bill, at which time the pending question will be the amendment, No. 1339, of the distinguished Senator from New Jersey (Mr. BRADLEY).

An order has been entered, I believe, for a vote to occur on the Bradley amendment at 2 p.m., to be followed by third reading and final passage of S. 391, or the consideration of H.R. 4, which is the companion measure, without further amendment, debate, point of order, or appeal.

Could I inquire of the Chair if that statement is a correct statement of the situation as it exists?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I thank the Chair.

After the disposition of S. 391 or H.R. 4, the companion measure, if that is the will of the Senate, and without debate, according to the order entered on last evening, the resolution of the distinguished Senator from Colorado (Mr. HART), Senate Resolution 344, will be laid before the Senate and a vote will occur thereon.

After the disposition of Senate Resolution 344, the Senate will proceed to the consideration of S. 1080, the regulatory reform bill.

It is expected, Mr. President, that the Senate will have reasonably normal working hours today. Notwithstanding that this is Thursday and the regularly scheduled late evening as necessity may dictate, I do not foresee that requirement for this day and I expect the Senate to complete its business at approximately 6 p.m.

Barring unforeseen circumstances and requirements that would indicate otherwise, I do not intend to ask the Senate to be in session on Friday; rather, to ask consent to recess over until Monday next. I will not now put that request so that we may judge the progress that is made in the course of the day.

It is my understanding as well that at some point during the course of this day, an effort will be made once more to proceed to the consideration of the so-called flexitime proposal. Senators should be on notice of that possibility.

Mr. President, I have no further requirement for my time under the standing order. I see no Senator seeking recognition.

I am prepared to yield it to the control of the distinguished acting minority leader, or if he has no requirement for it, to ask the Senate for permission to reserve that time until a later time.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. DIXON. I thank the President and I thank the majority leader.

I ask to reserve our time until later.

I thank the Chair very much.

Mr. BAKER. I thank the acting minority leader.

Mr. President, in view of that, I ask unanimous consent that the remainder of my time remaining and the remainder of the time remaining to the distinguished acting minority leader or the minority leader may be reserved for general purposes until any time before the recess of the Senate in the course of this calendar day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

RECOGNITION OF SENATOR DANFORTH

The PRESIDING OFFICER (Mr. ABDNOR). Under the previous order, the Senator from Missouri (Mr. DANFORTH) is recognized for not to exceed 15 minutes.

THE NUCLEAR IMPERATIVE: A PROPOSAL TO REDUCE ARMAMENTS

Mr. DANFORTH. Mr. President, across the world, people are awakening to the threat of nuclear destruction. There is a growing understanding that nuclear weapons represent a grave peril to the continuity of life on our planet. In this country and in Europe, expressions of concern about the nuclear arms race are increasing. The church is involved both here and abroad. Physicians in both West and East are united in their determination to reduce the risk of nuclear holocaust, an event they describe with horrifying and clinical precision as the ultimate medical problem. In Japan, the

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

only nation to experience the devastation of nuclear attack, even insignificant increases in defense spending evoke popular demonstrations against any move by Japan to join the nuclear club. Town meetings in Vermont and New Hampshire have called for a freeze on nuclear weaponry. In Congress, resolutions are circulating which call variously for the superpowers to renounce the use of nuclear weapons or to freeze immediately their testing, production, and deployment of warheads.

The attention to nuclear weaponry is healthy and overdue. The most important moral issue in the history of humanity is whether we will destroy the world with nuclear weapons. Our determination to prevent nuclear holocaust must be our most pressing commitment as long as humanity holds the power to destroy itself and the Earth.

The imperative of preventing the destruction of the Earth must be faced realistically and with no delusions about the nature or the intentions of the Soviet Union. The Soviet Union is a large and powerful nation with values and interests fundamentally adverse to our own. In the past 5 years, while the United States was cutting back in some areas of arms production, Soviet military assembly lines were outproducing the United States 3 to 1 in most strategic and tactical weapons. In conventional arms, the Soviet Union produced four times as many tanks as the United States, twice as many fighter planes, and 11 times as many submarines in 1980 alone.

The 1982 Department of Defense Posture Statement estimates that the Soviet Union has outspent the United States by $450 billion in the last decade. The United States cannot afford to be like Alice in Wonderland. This is the real world. Unilateral arms restraint, no matter how fervent our hope that it would induce similar restraint by the Soviets, has not worked in the past and will not work in the future.

Business as usual between the United States and the Soviet Union is, nevertheless, intolerable. The future of the planet is in the balance. The shared interest in reducing the risk that we will destroy life on Earth is overwhelming. It must serve as a point of departure toward a new sanity in nuclear armaments.

We cannot ignore the fourfold increase in strategic weapons deployment during the 12 years of Strategic Arms Limitation Talks (SALT). We cannot ignore 50,000 nuclear warheads equaling 20 billion tons of TNT. We must act to reverse the inexorable march toward destruction.

On Wednesday, I joined with Senator MATHIAS in cosponsoring a resolution which calls for United States-Soviet negotiations on strategic arms held or planned by either superpower, and on measures to control the proliferation of nuclear weapons and technology. Such negotiations are crucial; already the two superpowers have enough nuclear warheads to destroy each other many times over. A nuclear war is not winnable.

I have studied the resolution recently introduced by Senators HATFIELD and KENNEDY, calling for a freeze of testing, production and deployment of nuclear weapons and delivery systems at current levels, followed by efforts to negotiate reductions. I am in deep sympathy with the objective of the resolution: bringing the nuclear arms race to a halt. I have reservations about the practical effects of the proposal. I am concerned the proposal is not compatible with the zero-option approach proposed by the President last year with respect to deployment of missiles in Europe. Further, I am convinced that immediate efforts are needed to reduce nuclear weaponry and am concerned that a freeze could remove any incentive for the Soviets to dismantle their nuclear arsenal.

I believe that negotiations, as outlined in the Mathias resolution, point the way to dramatic action by the administration to attain reductions in the most destabilizing part of our respective nuclear arsenals: multiwarhead land-based missiles which, because of their size and accuracy, have first-strike capability.

I propose a simple and immediate point for discussion by the United States and the Soviet Union. In exchange for Soviet agreement to dismantle their SS-18 missiles, President Reagan should renounce development, construction, and deployment of the MX missile.

The President, with the approval of Congress, has committed the United States to development and deployment of 100 MX missiles, each capable of delivering 10 nuclear warheads to targets in the Soviet Union. Congress is about to approve $2.8 billion for engineering development and $1.5 billion for procurement in the next fiscal year. Flight testing will begin in 1983; in 1986, the first MX missiles will be deployed. When 40 missiles have been installed in fixed silos, another 60 will be located elsewhere, possibly in more survivable modes. When the program is complete, the United States will have spent at least $50 billion.

The Soviet SS-18 missile was deployed in 1974; it was fitted with multiple warhead capability (MIRVed) in 1976, to carry 10 warheads in the 2-megaton range. Today, 308 are operational. They have greater throw weight than any missile in existence. They have been tested for cold launch and are as accurate as our best missile.

The cancellation of MX and the decommissioning of the SS-18 would eliminate the most threatening and destabilizing systems on both sides while preserving a reasonable symmetry in Soviet and American forces.

The United States would retain 450 Minuteman II's with 1 warhead and 550 highly accurate, MIRVed Minuteman III's with 3 warheads. The Soviets would retain the backbone of their ICBM, force, more than 300 MIRVed SS-19's, each with 6 warheads. The SS-19 is as accurate as the Minuteman III and considerably more accurate than the Minuteman II. Thus, under my proposal, the United States would not feel compelled to develop even more accurate ICBM's and the Soviets would not have to develop yet another generation of land-based strategic weapons. The spiral would stop.

In summary, my proposal is immediate, simple, and would enhance stability by reducing the deployment of highly MIRVed ICBM's. It would be the first real step toward strategic arms reduction, especially if the SALT II restriction on modernizing existing land-based ICBM's remains in force. But it would only be a first step. I would hope that this proposal, with its limited goal, would be practical to negotiate. I have been very encouraged by the public statements of President Reagan placing emphasis on the need to achieve actual reductions in strategic forces and renewing the U.S. commitment to the negotiating process.

I do not believe that the United States and the Soviet Union—with all their profound differences—will ignore the most pressing moral imperative in human history. We can succeed in reducing the chance of nuclear holocaust. We must.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR KASTEN

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for a time period not to exceed 15 minutes.

SENATOR KASTEN'S PLAN FOR ECONOMIC RECOVERY

Mr. KASTEN. Mr. President, today I present my budget plan for fiscal year 1983, which provides enough spending restraint and economic growth to balance the budget by 1985.

Unlike other alternatives being discussed in Congress, this plan uses President Reagan's fiscal year 1983 budget and economic assumptions as a base. I revise the Reagan budget to include a real defense increase of 7 percent, a stretchout of the automatic cost-of-living adjustment periods for entitlements, and acceleration of the personal tax rate reductions.

Spending restraint in all areas of the budget is essential. The high cost of government has pushed all Americans to the economic brink. The administration's budget forecast shows massive deficits for the next few years unless Congress takes action now.

The huge budget deficits we face today are, in large part, a result of the recession. When people are out of work, they cannot pay taxes, and many have to turn to Washington for financial help. According to the Congressional Budget Office, a 1 percent drop in real economic growth widens the deficit $66 billion by 1986.

Real economic growth and spending restraint are the only way to balance the budget. We have tried to balance the budget through tax increases in the past, and all we have to show for the effort is more spending, less savings and investment, and less economic productivity. Tax increases are part of the reason that we are in economic trouble today.

For this reason, I believe we must accelerate the third year of the personal tax cut. This would put us back on the schedule originally proposed by President Reagan 1 year ago. If we had kept to the original Reagan tax cut schedule, we would not be faced with high unemployment and low economic growth. Acceleration of the tax cut would not add to the deficit, because I would offset it by repealing the business tax credit leasing provisions of last summer's tax bill.

I share President Reagan's commitment to a strong national defense. Defense spending has declined from the 1964 level of 43.4 percent of the budget to 26.5 percent in 1982. Clearly this is a trend that must be reversed if we are to adequately defend our country. We have more than a decade of underfunding to correct, but our defense budget should receive the same careful scrutiny that social programs received last year. We must make sure that our defense dollars are spent as efficiently as possible. My budget plan, therefore, calls for a real increase in defense spending of 7 percent for each fiscal year through 1985. Of all the alternative budget plans, this is the smallest reduction in defense spending from the President's request. Defense would still be funded at a level well above the last Carter request.

Mr. President, the remaining deficit cannot be significantly reduced by cutting only nondefense discretionary programs, such as vocational education, historic preservation, and guaranteed loans. These kinds of domestic discretionary programs and accounts made up 16.5 percent of the budget in fiscal year 1982 compared to 23.0 percent in fiscal year 1964. For this reason, my plan assumes only three-fourths of President Reagan's proposed spending reductions in discretionary programs. This would give Congress room to accommodate both spending restraint and congressional priorities.

At the same time, Congress should push for the sale of nonessential Federal assets, such as abandoned military bases, Federal office buildings, and some financial holdings. We could raise at least $45 billion over the next 3 years through the sale of such items. This is only 4 percent of the total $1 trillion the U.S. Government spent to acquire these assets, and the liquidation of a few of them would go far toward closing the budget gap.

But the real boom in Government spending—from $118.6 billion in 1964 to $704 billion this year—comes from the growth in entitlement programs, which have grown from over 33.6 percent of the budget in 1964 to 57.0 percent in 1982. This growth is due primarily to the large automatic cost-of-living adjustments for these programs, which occur each year. In most cases, these adjustments far exceed the wage increase for average American workers.

Many workers, both union and nonunion, have shown that they are willing to accept smaller wage benefit packages this year. The Federal Government should follow the lead of the private sector and stretch out all scheduled pay and cost-of-living adjustments for 3 months in each of the next 3 years. Federal civilian employees would be included as well. This proposal alone would reduce the deficit by $33 billion by 1985.

Unlike many of the entitlement proposals being discussed these days, mine does not call for elimination or a freeze of COLA's, and pay raises. Current benefits would not be cut; recipients would simply wait 15 months for their full COLA's instead of the current 12 months. As in the case of American workers, this proposal would bring the increases in line with real economic productivity.

In the weeks ahead, Congress will be putting together a budget for the upcoming fiscal year. With high unemployment, soaring interest rates, and a stagnant economy, it is essential that Congress act now. I believe that my budget plan offers a well-balanced approach that will enhance President Reagan's plan for economic recovery. It is my hope that it will serve as a springboard for a successful solution to our economic problems.

Mr. President, I ask unanimous consent that an outline of my budget proposal be printed in the RECORD.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

KASTEN PLAN—1983 BUDGET

[Assumes Reagan budget and economic estimates; in billions of dollars]

	Fiscal year—			Total
	1983	1984	1985	
Reagan budget baseline:				
Outlays	799.0	868.6	946.3	
Revenues	653.3	703.8	778.3	
Deficit (before policy changes)	−145.6	−164.8	−168.0	−478.4
Proposed deficit (with proposed budget changes)	−91.5	−82.9	−71.9	−246.3
Revenue changes:				
Reagan request less the provision for withholding on interest and dividends	12.8	19.3	22.5	54.6
Repeal the safe-harbor leasing provision of the Economic Recovery Tax Act of 1981	3.6	5.1	6.7	15.4
Accelerate the 3d year of the personal rate reductions. This figure assumes no added revenue that would be gained from greater economic activity and a broader tax base	−15.4			−15.4
Total revenue increases	+1.0	24.4	29.2	54.6
Outlay reductions:				
Defense TOA increases are limited to 7 percent real growth each year. Active duty military pay could be funded at the Reagan request	4.8	6.9	9.3	21.0
Disposal of nonessential Federal assets, such as abandoned military bases, Federal office buildings, financial assets, etc	10.0	15.0	20.0	45.0
Delay automatic cost-of-living adjustments 3 mo. in each of the next 3 yr. This would leave the actual index alone and stretch the adjustment period from 12 to 15 mo. beginning in fiscal year 1982	5.2	8.5	11.7	25.4
Delay pay raises for Federal civilian employees 3 mo. in each of the next 3 yr	.7	1.4	2.2	4.3
Management initiatives—assumes the Reagan request	14.8	18.5	19.2	52.5
Discretionary and other program reductions—Assumes ¾ of the Reagan request	8.6	19.6	26.5	54.7
Entitlement reforms—the Reagan request, which includes the basis of New Federalism	12.8	18.1	23.8	54.7
User fees—Assumes the full Reagan request	1.2	2.1	2.2	5.5
Interest savings due to the smaller size of the deficits	3.1	11.0	24.8	38.9
Total outlay reductions	61.2	101.1	139.7	302.0
Deficit/surplus (with Reagan and Kasten budget changes)	−83.4	−39.3	+.9	−121.8

APPOINTMENT BY THE VICE PRESIDENT

The **PRESIDING OFFICER.** The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the board of visitors to the U.S. Military Academy: the Senator from Connecticut (Mr. WEICKER), Appropriations; the Senator from Hawaii (Mr. INOUYE), Appropriations; the Senator from Georgia (Mr. NUNN), Armed Services; and the Senator from Delaware (Mr. ROTH), at large.

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to exceed 15 minutes, with statements limited therein to 5 minutes each.

THE GREAT OIL SWINDLE

Mr. HUDDLESTON. Mr. President, I commend to the attention of my colleagues an article from the March 15 issue of Forbes magazine entitled "The Great Oil Swindle."

It argues very forcefully against prematurely declaring that the oil crisis is over, and concludes that:

> Whether it lasts six months or three years, the so-called glut is only a correction and not a change in the fundamental conditions of supply. It is not the coming of spring, but that rare sunny day in January.

With planning and coordination, the current relaxation of prices and supply could give us the breathing room we need to develop alternatives to imported oil. But, absent a cohesive energy policy, the current glut of oil is a double edged sword of the most dangerous sort. It not only lulls us into a false sense of security regarding oil supplies, but also effectively undercuts any efforts we might make toward energy self-sufficiency by making them economically unattractive.

In this atmosphere of low oil prices and high interest rates, Government direction and assistance is crucial to the development of alternatives to foreign oil and to energy conservation. This is no time to abandon the programs we have so painstakingly developed. To do so will leave us more vulnerable than ever to the next supply interruption or price increase.

I ask unanimous consent that the Forbes article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE GREAT OIL SWINDLE

(By James Cook)

Even down 50% and more, oil shares have few buyers. The word is out: The oil crisis is over. In real and perhaps even in nominal terms the price of crude is going down. OPEC—the Organization of Petroleum Exporting Countries—is a paper tiger, a victim of its own unbridled greed.

You can't pick up a newspaper or magazine or turn on the tube these days without hearing about plunging oil prices and the mounting glut. Falling prices carry their own momentum, just as rising prices do. So prices may yet go lower, considerably lower.

Yet the most dangerous thing in business and in investment is to draw long-term conclusions from short-term happenings, and in that respect the idea that the oil crisis is over will go down in history as the great oil swindle of 1982. Don't blame OPEC; we are really swindling ourselves with this delusion. Yet, if OPEC wanted to lull its victims into a vulnerable complacency, it could hardly do worse than encourage the notion that the world was choking on oil.

What has really happened is this: Three circumstances have conjoined to create a temporary oversupply.

One, as the market continues to absorb the huge impact of the 1979-80 price increases, the law of supply and demand is working to reduce oil usage—a price-driven conservation. At some point, however, demand adjusts to the new price, and only further price rises will encourage further conservation. With worldwide consumption off 10% in two years, we are about at that point right now.

Two, for both political and economic reasons the rulers of Saudi Arabia decided to push production higher than their revenue needs require—out of a desire to unify prices and to maximize their own long-term advantages and in exchange perhaps for a promise of U.S. military protection.

Three, a worldwide recession is dampening down demand, closing down energy-consuming factories all over the world and throwing millions of workers on the unemployment rolls. Governments cannot effectively combat this recession without sending inflation—and probably oil prices—soaring again.

For another year, perhaps for two, oil prices will remain under pressure. During this period it may be all the Saudis can do to hold prices steady in nominal terms, and that means real prices, i.e., inflation-adjusted prices, will inevitably decline. But then the chances are high that once again the world will face another oil shock comparable in severity to those of 1973 and of 1979 and 1980. Oil prices have not really permanently peaked. They have merely risen erratically: a sharp thrust upward, followed by a leveling off or even a decline—then, almost without warning, another spike upwards. The situation is as unnerving as it is economically dangerous.

"Oil is going to remain the premium, the paramount commercial fuel for a very long time to come," says Melvin A. Conant, a Washington energy consultant who once headed the Federal Energy Administration's international energy section. "With the exception of a very few countries—the U.S., Japan, possibly Germany—the energy mix in the industrial world has not really changed appreciably." Indeed, between 1974 and 1980, oil's share of the world energy market shrank only one percentage point—to 43.6%—with the gains being made not by coal, which also gave up 1% of the market, but by natural gas and nuclear energy.

In the U.S., at least, these gains in reduced energy consumption have been made at a devastating price. Import your steel and your automobiles and, of course, you use less energy. That's how a good deal of American "conservation" has come about. The saving in oil consumption has been achieved only at the cost of the export, obsolescence and subsequent dismantling of a substantial portion of America's energy-intensive industrial machine. And not only the auto industry has suffered, but those industries that traditionally support it—auto parts, metalworking, machine tools. And so have iron and steel, aluminum, coke, even petrochemicals and refined petroleum. Gone, much of them, and unlikely ever to return.

Yale University lecturer Philip Verleger, a former Treasury Department energy adviser, puts the reduced demand for oil in chilling perspective: "I have said I can see the price of a barrel of oil below $25 by the end of the year, but there is an economic forecast behind that prediction that is very grim."

Despite this reduction in demand, energy costs absorbed 12 percent of the U.S. GNP last year, up from 1 percent or less in the early Seventies. According to Bankers Trust, it now takes twice as much capital to develop the same volume of energy as it did a decade ago. You have to dig deeper, look harder and spend more money. In economic terms, the marginal efficiency of the extra capital involved is very, very low. The drain on the U.S. economy—and that of the world—has been devastating. Whether you put the primary blame on oil prices, inflation or interest rates, they're part of the same complex of problems. "The enormous price hikes in 1973-74 and 1979-80," says Herbert W. Krupp, Bankers Trust energy economist, "drained consumer purchasing power in the United States, disrupted international trade, provoked economic distortions and accelerated inflation."

In short, even if oil drops to $25 a barrel, the crisis isn't over. The oil economy and the world economy are increasingly one and the same. Without wasting unnecessary sympathy on the oil companies, this is something to keep in mind when people talk about their "obscene profits." Much of that profit is simply channeled into new capital investment, much of it as relatively low return. For every dollar that a Mobil wastes on a Marcor, many, many more dollars go into the search for oil, with a good part of the oil dollar literally disappearing into dry holes in the ground.

Is there any wonder that the world economy is in recession, with so much purchasing power, so many investment dollars drained away?

In a decade when oil prices first quadrupled and then tripled, economic growth slowed everywhere—in the U.S. and Europe, the developing world and even Japan. As against a 5% annual growth rate between 1965 and 1972, world real GNP rose only 3.8% annually between 1973 and 1978, only 2.6% between 1979 and 1981. Prospects for the Eighties as a whole are dismal. The generally optimistic World Bank doesn't foresee much more than a 3% industrial world growth rate—scarcely enough to keep up with a growing population, to say nothing of raising living standards. For better or worse, the world is committed to economic growth and will be as long as population and aspirations keep expanding.

A few years ago one of Royal Dutch/Shell's managing directors maintained that a growth rate of less than 3 percent would be "not far short of an economic disaster for most of the world," resulting in underemployment, lack of material progress and social unrest. "Low growth," he said, "would lead to a situation of despair for the majority of the world's populations." The ingenuity of modern institutions and the determination of the men who run them have so far kept catastrophe at bay. But they may not manage to do so forever. One day a straw may break the camel's back, a stray spark ignite the tinder.

It would be a terrible mistake to conclude from all this that the free market has broken OPEC's power. Tested it perhaps, but certainly not broken it. As long as Saudi Arabia has more money than it needs—that is, for the foreseeable future—OPEC will probably have the power to trim production to fit demand, setting its prices at levels that will optimize its long-term advantage. Which is to say: not so high as to provoke its customers to retaliatory violence or to push them into chaos.

Why, then, have prices weakened lately? It is a question, in part, of the delay involved in responding to what has already happened in the market.

"From 1975 to 1981," says Yale's Verleger, "you could predict what OPEC was going to do based on what the Rotterdam spot market was doing. OPEC follows the market. What happens is OPEC will take eight months to two years to catch up. Consumer prices don't rise, so consumers don't get a signal to conserve, and inventories don't get liquidated."

The oil market is anything but free and probably never has been. It was the discovery by the Libyans, in the early Seventies, of how it could be manipulated that brought OPEC to power in the first place (Forbes, Apr. 15, 1976). Soon after Qaddafi came to power in 1969, the Libyans began to demand an increase in both their tax rates on oil and the price on which those taxes were based. The oil companies refused. To enforce their will at a time when supplies were tight, the Libyans ordered a cutback in production. In this way, Libya broke the international oil companies' control of the price. The companies knuckled under to Libya's demanded and they have knuckled under to OPEC ever since. Higher prices often meant reduced supply—supply reduced enough to support the increase in price.

But now, or so the theory goes, OPEC has been fatally damaged, destroyed by it own greed and avarice. For as OPEC prices moved upward, production slowly expanded elsewhere in the world—in Egypt, Mexico, the North Sea. At the same time, overall oil demand slackened, the consuming countries cut back on their purchases from OPEC and OPEC's market share began to decline—from 65% as recently as 1976 to 51% last year. During the some period, OPEC production dropped from 31 million barrels a day to roughly 22 million.

Several individual OPEC countries priced themselves right out of the market last year. Algeria, Ecuador, Iran and Iraq already have current account deficits in their balance of payments, and by 1984 or 1985 OPEC as a whole could move into the red. As against a 1980 peak of $117 billion, Bankers Trust London economist Susan Bluff expects OPEC's current account to shift from a $51.8 billion surplus in 1982 to a $7.1 billion deficit in 1985.

To fund their development program, the OPEC countries need to maintain a certain level of revenue, and so, as they move into deficit, the financial pressures could be considerable. Will OPEC crack under the strain? Don't bet on it. Self-interest is a powerful glue. A return to genuine free market in oil would result in a level of income for most OPEC countries that would thrust them back into the poverty from which they arose and send their ruling classes fleeing to London, Paris and New York with howling mobs at their heels. If intelligent self-interest does not hold OPEC together, blind fear of the consequences of a collapse in its monopoly will.

It was not loss of freedom that threw Poland into turmoil but a deterioration of a none-too-high standard of living. "One of the reasons for the Iranian revolution," says Bijan Mossavar-Rahmani, a member of Iran's OPEC delegation from 1976–78, now an energy consultant and member of Harvard's Energy Security project, "is that a cash crunch forced the government to cut back on some of its spending and development projects at a time when expectations had been increasing at a rapid rate. One can see the same pressures building up in some of the other countries—Iraq, for example. Expectations have been raised, and if they cannot be met. . . ."

But even if the producers are chary of cutting back much on development, there are other alternatives. They can live off their accumulated financial reserves temporarily, or they can even move into the capital markets to finance their deficits just as the nonoil LDCs have.

"Events are going to test OPEC a good bit as a cartel," says Exxon's Chairman Clifton C. Garvin. "But they've had a remarkable facility in the last few years to hang together."

Despite the continuing glut and the steady slackening in demand, OPEC is in one sense even stronger now than it was a decade ago. Despite the sharp decline in Iranian and Iraqi production, the Gulf producers—Saudi Arabia, Iran, Iraq, Kuwait and the Emirates—still generate roughly two-thirds of OPEC's total output. The U.S. especially has become more vulnerable, buying over 22% of its imports from the Middle East *vs.* 10% in 1973.

In the end, Saudi Arabia is the key. It produced 43.7% of OPEC's total output last year, *vs.* 28% in 1976, and still boasts the world's richest reserves. But that is only half of the country's strength. With a native population of perhaps 5 million, Saudi Arabia does not have the huge economic demands of an Indonesia, a Nigeria or a Mexico. A poor man with no money and lots of kids can't afford to be unemployed; a rich man with a few kids and a fat bank account can.

As proprietor of the world's largest oil reserves, Saudi Arabia has a vested interest in seeing the oil era extended for as long as possible. That means pricing its product at a level that will prevent the development of alternative fuels. It means trying to maintain stable, if steadily rising, prices as well, so the customer can absorb them without damaging his economy.

The Saudis' objectives were neatly distilled a year or two back in a report of OPEC's long-term strategic policy committee (Forbes, Jan. 19, 1981). The report advocated a program of steadily increasing the real price of oil in the face of inflation. Intelligent greed, enlightened self-interest even. Milking the cow, but not starving her to death. That would mean an annual price increase of maybe 10%, a doubling in prices every 7½ years. That orderly and rational program is now in the "deep freeze," as Saudi Oil Minister Ahmed Zaki Yamani puts it, the victim of the present oil surplus. In its place is uncertainty and prospective disaster. "You're not going to get a long period of steady movement of oil prices in one direction or the other," says Philip Verleger. "The world just doesn't work that way."

But to mistake this instability as the prelude to the collapse of OPEC or a long-range oversupply of oil is like maintaining the climate is changing because we happen to have a warm day in January. In oil, we may have a series of warm days, but the basic climate still has not changed.

To sustain the price at current levels of demand, Saudi Arabia has already cut back production in the last six months, from 10 million to 8.5 million barrels a day, and Yamani has said repeatedly that his country may well cut even further. The kingdom needs 6.5 million barrels a day to finance the $235 billion development program it expects to complete in 1985, and it also needs 6.5 million barrels a day to provide the associated gas it needs to support its new petrochemical industries. Thus, some analysts argue, that 6.5 million constitutes an irreducible production minimum.

But Yamani dismisses such simplifications. The kingdom, he has said, could conceivably cut back to as little as 3 million or 4 million barrels a day if it had to. And maybe it will. Nobody knows at this point, including the Saudis very probably. But by the end of this year Saudi Arabia's financial surplus will probably run around $200 billion. Given the factions among Ibn Saud's progeny that are opposed to rapid development, a cut in production might not be entirely unwelcome.

The world's current oil surplus seems to be somewhat less than 2 million barrels a day, maybe 4% of world production, but the Saudis might have to cut back much further than 2 million barrels to eliminate the present surplus entirely. Last November's cutback has already been offset by increases in Nigerian production, and a cut to 6.5 million barrels a day might simply enable Kuwait, Libya and Algeria to recover their earlier production levels. Some optimists have read into this situation a loss of control by OPEC over price and production.

"Saudi Arabia could defend the price on its own," Yale's Verleger says. "They could go down to 4 million barrels a day temporarily and bring the whole [glut] process to a stop—on their own—right now."

"It's maintaining the price when there's a surplus that requires real cartel power," says John Lichtblau, head of New York's authoritative Petroleum Industry Research Foundation. "And they have been able to do that. I don't think anybody in OPEC is deliberately going to undermine the floor price."

Why, then, the current glut? OPEC's problem is in part a matter of timing. OPEC has never succeeded in formally prorationing production among its membership, and so lacks the ability as yet to respond quickly in pricing situations, the way the Federal Reserve or the Bank of England can in a currency crisis. But it is learning.

This is not to minimize the strains within OPEC. In the past few years the pressures within the cartel have grown increasingly complex, mixing politics and economics in bewildering and even contradictory ways. Traditional price-hawks like Libya, Nigeria and Iran want a larger share of the oil market, even at the cost of lower prices. Saudi Arabia's neighbors and cohorts in the Persian Gulf tend to resent Saudi dictation: Kuwait complains that Saudi Arabia has reduced its market from 1.2 million to 600,000 barrels a day; the Emirates have plans to increase production by 900,000 barrels a day at a time when Saudi Arabia itself is planning to add 1.5 million barrels a day of capacity.

Most important of all: The Iranian revolution has shifted the power balances within the region and within OPEC itself, widening the abyss between Saudi Arabia and its ancient enemy, Iran, drawing Saudi Arabia and leftist Iraq much closer together. One analyst even argues that Saudi Arabia's refusal to increase prices a year ago had less to do with economics than with a desire to deprive Iran of badly needed additional revenues and to discipline Libya for its outspoken opposition to Iraq.

What happens if all that Iraqi and Iranian oil comes suddenly flooding back into the world markets? The Iranian revolution and then the Iraqi-Iranian war took close to 7 million barrels of oil off the world market. Though the war still rages, both countries want to raise their production to 4 million barrels a day, *vs.* 1 million or fewer currently, and Iraq has ambitions of going to 6 million barrels a day within a few years.

Won't all this extra oil more than offset any Saudi cutbacks? In the real world, restoring Iraqi and Iranian production will be easier said than done. Neither Iran nor Iraq has hesitated to attack the other's oil facilities. The Iranians have blown up Iraq's shipping terminal in the Gulf, while terrorists have periodically shut down its pipeline access to the export market through Turkey, Syria and Lebanon.

Peace would not necessarily restore order and discipline to Iran, however, nor end the threat of an internal upheaval in Iraq. Dictator Saddam Hussein has scarcely covered himself with glory in the war, and Iran's sectional interests threaten it with Chaos.

Saudi Arabia sees Iran as a major force for trouble in the region. Along with Kuwait, Qatar and the Emirates, it loaned $14 billion to Iraq to tide it over its present financial difficulties, at a time when Iran's own reserves have dwindled to under $2 billion. Last May, Saudi Arabia and the other Gulf states organized the Gulf Cooperation Council to ensure security and stability in the region. There's no question that the council's principal villain is Iran, and with good reason. Three times Iran has bombed Kuwait's territory to discourage its support for Iraq, and it supposedly promoted an unsuccessful coup in Bahrain in December that was engineered in part by pro-Iranian Saudi Shiites. It's a safe bet, then, that OPEC will be prepared to cope with the situation when Iranian oil and Iraqi oil start flowing copiously again—if and when it does start flowing copiously.

Actually, Mideastern dissension could as easily lead to cutbacks and disruptions in supply as to a breakup of OPEC. Whatever current pressures supply and demand may bring on price, they are nothing beside the impact another political upheaval could have, including the oft-predicted overthrow of the present Saudi regime. Harvard's Mossavar-Rahmani expects such an interruption to occur in the mid-Eighties, either because of a political disruption or because of a decision to cut back production, a shock he figures could send prices into the $70-to-$80 range.

So the U.S.—and the world, for that matter—has become more vulnerable rather than less. We are all more dependent on the Middle East than we used to be and can no longer count on the international oil companies to allocate supply as efficiently as they did during the 1973-74 embargo. Then they marketed over 90% of the world's oil; today they handle no more than 50%. The International Energy Agency has inherited the responsibility, but it's unlikely to have either the expertise or the political authority necessary to do the job.

The conclusion seems inescapable: Whether it lasts six months or three years, the so-called glut is only a correction and not a change in the fundamental conditions of supply. It is not the coming of spring, but that rare sunny day in January.

And that is where the great oil swindle comes in, the great self-delusion. The current price weakness is not necessarily good for us. Ever since 1974, production outside of OPEC has been steadily rising, increasing by nearly a third in under eight years. What has made much of that increase possible is the sharp rise in the international oil price. Only last December, for example, Atlantic Richfield conceded it was the 1979-80 price increases that really justified putting its new, high-cost Kuparuk field in Alaska into full production. The result is that there are now plenty of companies—and countries outside OPEC—that are vulnerable to any decline in the price of oil.

The U.S. Government's interest in avoiding prolonged price weakness in oil is especially strong. Some $24 billion of its fiscal 1982 tax revenues will come from the windfall profits tax, and every $1 drop in the price of oil, Philip Verleger calculates, will cost the Treasury $1.4 billion.

Higher prices are also the best hope of preserving what's left of the U.S. synfuels program—oil shale, coal gasification and liquefaction. The truth is we still need a synfuels program every bit as much as we ever did. Not only does such a program serve to warn OPEC that there really are limits to how high its prices can go, it also offers hope of providing the U.S. with the energy security it needs in the event of a disruption in worldwide supplies. "Oil is so essential to our economic and strategic well-being," says New York oil consultant Walter Levy, "that we would be unwise not to try to reduce or eliminate our dependence on oil imports."

With its very national existence at stake, South Africa has been prepared to pay the price for energy autonomy, through its Sasol coal-gasification project. The price of a U.S. synfuels program could be equally high, but it would still probably be a lot cheaper, more productive and more reliable than the billions the U.S. is committing these days to defending the Persian Gulf. At today's prices, oil shale at least seems to be just at the point of becoming economic, but who is going to put up hundreds of millions of dollars without some protection against a drop in price? Exxon, Union Oil and Occidental are going ahead with their Colony, Parachute Creek and Logan Wash projects, but Occidental, Tenneco and Exxon, among others, have postponed or abandoned various other long-standing proposals.

Higher prices have also been crucial in enabling the U.S. to stabilize its declining domestic oil production, making it economic to undertake projects that were too costly to attempt before—small reservoirs, secondary recovery, deep-drilling prospects. The long-delayed decontrol of U.S. oil prices three years ago touched off a drilling boom of unprecedented proportions. Investors funneled billions into oil and gas drilling programs, and domestic drilling soared 21% in 1980, 29% in 1981. But it now seems only a matter of time before weakening oil prices affect drilling as they already have U.S. oil company profits. Drilling costs are rising more rapidly than prices, demand is weakening and a squeeze is inevitable.

Mitterrand came to power in France promising an end to unemployment and an increase in government programs. In the U.S. the pressures mount daily on President Reagan and Federal Reserve Chairman Paul Volcker to stimulate the economy, to cease inflicting the relatively modest amount of pain their anti-inflation policies have caused so far. In time, in the democracies at least, these pressures will become irresistible. And when they do, good-bye to the oil glut.

Timed properly, a U.S. tax on imported oil would help; it would further encourage conservation and, by putting pressure on the world price, make it more difficult for OPEC to raise its own prices later on. But how does the government tell the American people that oil prices are going up, just when some relief seemed in sight? Forbes recently asked a prominent U.S. senator what he thought of such an import tax. He replied, in all honesty, that he thought it would be good for the country but he would vote against it anyhow: His constituents need oil to stay warm and gasoline to drive to work.

New York-based consultant Walter Levy is one of the world's shrewdest observers of the oil scene. Levy warns against a return to the complacency that beset the U.S. in the late Seventies, when consumption recovered from the first oil shock and again resumed its rise. "It is quite certain," he says, "that if there is any substantial recovery, demand to a considerable extent will go up again."

Therefore, before you sell your last share of oil stock, trade your compact for a gas-guzzler and heave a sigh of relief at the end of the oil crisis, consider the realities.

Any way you look at the situation, it is an unholy mess. Far from fading away, the energy problem is as threatening as ever. Long-term supplies are limited, and control of most of the world's crude reserves remains concentrated in a few Middle Eastern countries. And the damage the oil price increases have done to the world economy is still unrepaired. The energy problem explains in good part why the U.S. savings rate has fallen so far; why capital investment has become less profitable; why the current recession is so intractable.

"We read there is no longer an oil gap," says Ulf Lantzke, executive director of the International Energy Agency. "But there is still an oil gap, only now it is expressed in the number of unemployed."

"Price changes in oil will not be gradual," says energy expert Melvin Conant philosophically, "not orderly or gradual. There will be the same kind of surging we experienced in the Seventies."

The oil crisis is over? Who's kidding whom?

Mr. HUDDLESTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, apartheid is more than just an expression of racism. It is the institutionalized oppression of one race by another. As an institution, it is formidable. Constructed over the years, apartheid insures and extends white dominion over all aspects of South African life.

Few South Africans have had the courage to resist apartheid, but those brave few have been outspoken.

One of these outspoken writers, Alan Paton, heightened public awareness of apartheid in his book, "Cry, the Beloved Country." His new book, "Ah, But Your Land Is Beautiful," continues that story by detailing its evolution in the fifties and reveals much about the mechanics of apartheid. It tells of the fear that drove many to support a system of which they did not approve and it tells of the courage of those who found the strength to say "no."

It is that story of individual courage, Mr. President, which recalls the horror of genocide which occurred under Adolph Hitler. It is that all too familiar saga of the many cowed by fear, and the few who found the courage to fight back, to resist and cry, "No more."

Of course, genocide is not apartheid and I do not want to equate them because no action committed by man can ever equal in magnitude and horror the crime of genocide.

Genocide is defined in terms of destruction—the elimination of an entire ethnic, racial, religious or national group. Apartheid is defined in terms of obstruction—the legal suppression of human potential * * * basic and fundamental human rights.

Mr. President, it is crucial that the United States be among those few who are willing to cry, "No more"—"no more" to the brutality of Communist totalitarian despots such as Pol Pot in Cambodia; "no more" to the unconscionable restrictions on human freedom and the right of emigration by the Soviet Union and its allies; "no more" to systems of human oppression, whether they are instituted by friends or foes.

But if we are to speak out, and speak out forcefully, we need to use all of the tools at our disposal. As you know, Mr. President, there is a treaty that is pending before the Senate, pending since 1949—33 years ago—when President Truman first submitted it to the Senate, which would strengthen our voice in this effort. This important human rights treaty, the Genocide Convention, is a tool that we can ill afford to disregard.

The time for ratification has been here for many years. It is time that the Senate hear and respond to that call.

Mr. President, I yield the floor.

FORGET THE FREEZE

Mr. COHEN. Mr. President, there is probably no issue which is receiving greater attention throughout the Nation today than the question of whether the United States and the Soviet Union should enter into a mutual nuclear weapons freeze.

In town meetings all through the Northeast, resolutions are being passed calling for a nuclear arms freeze. The State legislature in my State has passed such a resolution, and I expect similar efforts will be considered across the country in coming months.

New attention was focused on the nuclear freeze question when Soviet President Brezhnev this week proposed that a freeze be applied to intermediate-range missiles in Europe. That proposal, I believe, gives us the opportunity to look at the merits of a freeze, as opposed to the kinds of reductions proposed by President Reagan last November.

The calls for a freeze have, I believe, obscured the significance of the President's November 18 speech. In it, he called for the so-called zero option for theater nuclear arms in Europe and for the beginning of Strategic Arms Reduction Talks—START. His call was for more than a freeze of existing arsenals; it was for actual cutbacks in the nuclear stockpiles of the United States and Soviet Union.

George Will, in an article appearing in today's Washington Post, does a typically superb job of placing this issue in perspective. He emphasizes why, as we seek the common goal of reducing the danger of nuclear conflict, we must go beyond a freeze and devote our efforts to true reductions.

"Proponents of a freeze advertise it as a first step toward President Reagan's more ambitious goal of reductions in force levels," Will says. "But were the Soviets to agree to a freeze, it would remove the only incentive—ongoing U.S. programs—for the Soviets to negotiate reductions."

All of us wish to reduce the danger of nuclear conflict. It is the means of best achieving that goal which is in question. As George Will says, freezing the United States into a position of inferiority and halting our strategic modernization effort will only reduce the inclination of the Soviets to negotiate arms reductions.

His piece is an excellent one. I commend it to the attention of my colleagues.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 18, 1982]

FORGET THE FREEZE

(By George F. Will)

I note with regret, but not amazement, that those who are advocating a mutual U.S.-Soviet "freeze" of nuclear arsenals are not like Albert Einstein, who said: "Everything should be made as simple as possible, but not simpler." Simplicity makes the freeze proposal politically attractive, and irresponsible.

In the 1970s, while the Soviets raced ahead, America unilaterally practiced a semi-freeze. It deployed multiple warheads (MIRVs) on some existing missiles, but deployed not a single new ICBM. America deployed not a single new submarine-launched ballistic missile (SLBM) in the 1970s.

Applied to intermediate-range missiles in Europe, the freeze proposal is the Soviet negotiating position: accept the Soviet's 300 SS20s and permit no comparable U.S. missiles. Furthermore, if their general superiority in offensive systems were secured by a freeze, the Soviets could further refine their destabilizing counter-force capabilities.

For example, a freeze would prohibit new SLBMs but not new attack submarines that hunt SLBM submarines. These could eventually give the Soviets a destabilizing capability for destroying the U.S. sea-based deterrent.

A freeze would kill the B1 bomber, but would not inhibit the air defenses by which the Soviets degrade the effectiveness of America's ancient B52s. To try to preserve even a shadow of this leg of the strategic triad, America would have to spend heavily. The B52's "escape time" (the time it takes to get out of range of nuclear effects from incoming missiles) is inferior to the B1's and inadequate to the threat of Soviet SLBMs off the U.S. coast. Therefore, B52's would have to be rebuilt for better escape capability and would have to be more dispersed (B52's can use fewer airfields than B1s, so airfield modernizations would be necessary) at prohibitive cost.

The budgetary impact of a freeze would be modest. Strategic programs—weapons, command, control, communications—account for just 15 percent of the defense budget. The freeze would prevent some procurements, but would make other spending necessary to ameliorate the freeze's destabilizing effects.

(The freeze proposal makes it timely to note that some aspects of existing arms-control agreements are destabilizing. The ban on missile defenses (ABMs) is one example. Another is the ban on new silos. This prevents, for example, deploying any of our permitted number of ICMBs on the south sides of mesas. Given the inherent limits on ballistic missile trajectories, such basing would make America's land-based deterrent more survivable, and the world safer.)

The proposed freeze would extend to "testing, production and further deployment of nuclear warheads, missiles and other delivery systems." But proponents cannot explain how they will provide for verification of, say, a freeze prohibiting improved yields of warheads, or improved throw-weights of missiles, or even new missiles. How, for example, will they verify whether new Soviet cruise missiles are nuclear armed? Such verification is beyond the capability of our national technical means, and the Soviets will not permit the necessary on-site inspection.

The freeze proposal illustrates the dangerous asymmetry inherent in U.S.-Soviet arms negotiations. Such seductively simple panaceas pander to the widespread desire to believe that there can be an easy, cheap escape from the dangers posed by modern physics and the modern Soviet state. In the only superpower where public opinion matters, the freeze proposal will undermine support for modernization of strategic weapons. The argument will be: any new U.S. program will "provoke" the Soviets to reject a freeze.

But the Soviets are serious about arms limitations only when America's ongoing programs compel Soviet seriousness. The Soviets rejected the ideal of limits on defensive systems—until the Nixon administration won congressional approval for ABMs.

Then the Soviets reversed themselves. However, the fact that congressional support for the ABM was so fragile (a one-vote margin in the Senate) encouraged the Nixon administration to accept a destabilizing result in SALT I: a temporary (five-year) and ineffective restraint on offensive systems, but effectively, a ban in perpetuity on ABMs.

Proponents of a freeze advertise it as a first step toward President Reagan's more ambitious goal of reductions in force levels. But were the Soviets to agree to a freeze, it would remove the only incentive—ongoing U.S. programs—for the Soviets to negotiate reductions.

The freeze proposal is popular with many who supported, and served in, the previous administration. That administration wasted four precious years killing and retarding U.S. strategic programs, and—not coincidentally—negotiating arms control agreements so imbalanced and porous that a Democratic-controlled Senate would not ratify them. The freeze proposal is another example of posturing and wasted motion that the world can ill afford.

GUN CONTROL ORDINANCES

Mr. SYMMS. Mr. President, I should like to call the attention of my fellow Senators to an editorial which appeared in the Menard Time. The Menard Time is unique in that it is the prison newspaper of the Menard Correctional Center, Menard, Ill.

The January 22, 1982, issue of this inmate paper carried an interesting editorial which discussed the Morton Grove handgun ban from the view of those who have broken the law.

Their opinions as to the effectiveness and wisdom of such an ordinance should come as no surprise to anyone aware of the reality of the nature of crime. As I have pointed out in previous statements, we do not have a gun problem in the United States, we have a criminal problem. Such attempts by a city or locality, no matter how well intentioned or altruistic, to attack the problem of criminal violence in this manner can only result in failure.

Such attempts will end in failure because as Mr. Link, an inmate at Menard, states in his editorial:

> When a criminal needs a handgun, in 99 percent of the cases, it isn't one stolen from a home or taken from some potential Wyatt Earp. The weapons are bought illegally from an infinite number of sources in the criminal world.

Therein lies the failure of such attempts, Mr. President. Such laws have no effect on those who break laws as a matter of course. Their only effect is to hinder law abiding citizens in the exercise of legitimate rights or as Mr. Link states:

> [T]he law is meaningless and useless in curbing crime. However, it is very effective in curbing the general, law abiding populace.

This is, and ever will be, the result of such control ordinances.

I would hope that such ordinances which prohibit private ownership of handguns, even in one's own home, have their end in Morton Grove. Mr. Link rightly admonishes the Morton Grove City Council when he warns:

> No wise village fathers, you've pulled a classic boner. . . You may be "brave enough to attack the beast," but you are attacking the wrong beast. Even worse, you are attacking the tail of the snake and not the head.

Mr. President, for the consideration of my colleagues the full text of the Menard Time's January 22 editorial on gun control, I ask unanimous consent to have the editorial printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NO HANDGUNS IN MORTON GROVE—BIG DEAL!

(By Mitchell Link)

The village of Morton Grove, Illinois, has seen fit to become a trend-setter with one of the most insane laws enacted to date. In their infinite wisdom, the village fathers have banned the sale and ownership of handguns in their fair burg.

OK, now what, the old arguments espoused by gun owners and the National Rifle Association (NRA)? Well, let's not get into all that again, but try to approach it from a somewhat different angle.

What is important is to take a look at what these lawmakers think they have accomplished.

To this end, I made it a point to get the view of those in the "real know"—convicts here for armed robbery; some of them extremely professional individuals with years of experience in their chosen field.

The comments I heard were unanimous in their one-sided view of the law: thank you Morton Grove, for making things a bit easier for us!

To a man, they all said the same thing: the law is meaningless and useless in curbing crime. However, it is very effective in curbing the general, law-abiding populace.

This coming from "hardened criminals," professionals, convicts—they are doing the talking—someone should listen!

Since a sawed-off weapon is illegal, the law-abiding store owner would have to keep a rifle or shotgun with a 30-inch barrel under the register and Baby Snooks could outdraw that maneuver! He's probably better off with no gun.

Only the law-abiding citizen will turn his handgun in, but if he doesn't, do you knock on his door at midnight because he is now a criminal too? Shades of Poland and World War II!

When a criminal needs a handgun in 99 percent of the cases, it isn't one stolen from a home or taken from some potential Wyatt Earp. The weapons are bought illegally from an infinite number of sources in the criminal world. In many instances, the guns may even be the result of some "big score" in a neighboring town or state; not a home, but a sporting goods store or even an armory.

Sorry, but each of those incarcerated felons said the same thing: The only way you'll even come close to keeping me from getting a handgun if I want one, is to have laws banning the sale, manufacture or import of handguns throughout the U.S., and even then I could probably get one. If that didn't work, then a sawed-off weapon would be my next choice.

No, wise village fathers, you've pulled a classic boner—or perhaps you feel it was politically advantageous?

You may be "brave enough to attack the beast," but you are attacking the wrong beast. Even worse, you are attacking the tail of the snake and not the head!

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

INTELLIGENCE IDENTITIES PROTECTION ACT OF 1981

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of S. 391. The clerk will state it by title.

The legislative clerk read as follows:

> A bill (S. 391) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and sources and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

The Senate resumed consideration of the bill.

Mr. BAKER. Mr. President, I understand that there are at least two speakers who wish to proceed at this point with statements. I believe both Senators are on their way to the floor. While we await their attendance, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. DENTON. Mr. President, I am indeed gratified that yesterday so many of my colleagues voted for and overwhelmingly adopted the Chafee-Jackson amendment to S. 391. In so doing, the Senate restored to the Intelligence Identities Protection Act the original language as reported by the Senate Intelligence Committee and the Subcommittee on Security and Terrorism of the Senate Judiciary Committee.

In addressing the language which the Senator from New Jersey has incorporated in his unprinted amendment, in the form of a substitute to change the definitional language of pattern activities as it now appears in section 606(10) of the bill, I offer the following:

In its present form, the term "pattern of activities" requires a series of acts with a common purpose or objective. Under the Bradley language, there is added the sentence, "the main direction of said pattern of activities must be to identify and expose covert agents."

In my judgment this language, although unquestionably well intentioned, would open an enormous loophole in this bill. Any defendent could claim that although he did, in fact, "name names," the main direction of his activity was simply to educate the public or conduct research to write news articles. How could one ever marshall evidence to prove the contrary? Again, we would be faced with an intrusive standard which would require prosecutors to go beyond the action of the defendant, to get inside his head, as it were, and try to examine his motivation and, of course, his political beliefs. It is the need for "witch hunting" to establish states of mind that we are trying to avoid.

The Chafee-Jackson language, which we adopted yesterday by vote of 55 to 39, sets forth six stringent elements of an offense: The Bradley amendment adds yet a seventh, which in my view, would destroy the effectiveness of the Chafee-Jackson bill. The term "main direction" as used in the substitute language of the Bradley amendment is not a term of art. It is not a legal term. It is a term which in itself is subject to more than one interpretation with respect to definition. The language has never been explored, to my knowledge, in a Federal criminal statute or in a court case. Moreover, it has not been the subject of any hearings at the full committee level, nor at the subcommittee level, in either house of the Congress. It is supported neither by the Justice Department nor by the CIA. And it certainly is not contained in the House version of this bill, H.R. 4, which last fall passed by a vote of 354 to 56.

In addition, Senator Bradley's amendment also restored section 603 to the bill, despite the fact that the Senate had agreed by unaminous consent on March 1, 1982, to remove it, because this section was considered to have serious adverse implications for the Peace Corps. As a result, Senators CRANSTON, BAUCUS, TSONGAS, BIDEN, DODD, and I agreed to eliminate this language from the bill.

Mr. BIDEN. Mr. President, when I first came to the Senate, I heard a senior colleague of mine, in 1973, speak with reference to a piece of legislation which was very controversial, an important amendment that impacted upon what that piece of legislation meant. The amendment changed the direction of the legislation. There was an attempt to follow on and modify the change that had been made, to try to move it back toward what the original language was.

That is what we are doing with the Bradley language. I do not want to get the Presiding Officer, the Senator from Washington (Mr. GORTON), in trouble, but it is really the language of the Presiding Officer that Senator BRADLEY is introducing here today. That is what we are trying to do here.

The senior colleague to whom I referred, long gone from the Senate, stood up and said, "Gentlemen, I'm going to vote for this language." Do not think that I do not understand that the train has left the station. The train has left the station. As a matter of fact, not only did I not make it on the train, but also, I am not sure where the train went. It left so fast and with so many more cars than I thought it had, that I am not sure this exericise we are going through now is of any practical consequence in terms of whether or not it will succeed. But I believe it is of serious consequence in terms of making a record in this body.

It is misleading to call this the Bradley language, but I have not asked the permission of the Presiding Officer to call it his language. However, the Bradley language, which I strongly endorse, and which requires that there be a main direction, if you will, is very important—very, very important.

I believe that what the language does, which Senator BRADLEY is attempting to insert here to define a pattern of activity, is totally consistent with what many Members of this body thought the Chafee and Durenberger colloquy established.

We witnessed the reluctance of Senator CHAFEE and my distinguished colleague on the Judiciary Committee, Senator DENTON, and others to accept that language. So we are in a bit of a quandary here. Here we have a record that has been built with the greatest care, because we know it is going to be challenged immediately, which says this is what we meant by pattern of activity. Senator DURENBERGER, in his usual eloquence, lays it all out about what we meant. The manager of the bill, Senator CHAFEE, the chief sponsor of the so-called Chafee amendment, said, "Yes, that is what we mean."

Now we come along and we are about to vote down that language. I am not naive. I do not want to mislead anybody. I do not think I have persuaded 15 people overnight to change their votes from yesterday. I said the train has left the station.

In effect, we are going to vote down that colloquy. We are about to say, "Nope, that ain't what we meant. That is not what it means." So here we go.

This presents some of us with a real quandary, a really difficult question. How are we going to vote on final passage? I do not want to be on record as saying that I, in fact, voted against the bill that was out there to protect agents.

I am going to say something that is very presumptuous and self-serving.

One of the first pieces of legislation that recognized the need to protect agents and classified information which identified agents was a bill that I was a major sponsor of and wrote and helped get passed that was called the graymail legislation. And we said in the original graymail report in 1977 that we have to protect these agents, not in the actual verbiage of the legislation but in the report.

So I start off on this, having designed, desired, and been involved in calling for the need for protecting the agents.

We are at a point where if the Bradley amendment goes down, which I fully expect it will, we then have to decide do we vote for a bill that is unconstitutional. And let us assume for the sake of discussion that when we balance the life of an agent versus the Constitution, some would say the Constitution is not all that important. I do not happen to share that view, but let us assume that. Let us assume it is really an issue between the life of an agent and the Constitution.

That makes it a little difficult vote. What I am afraid is going to happen here, Mr. President, and I mean this sincerely, this is going to be passed today, and it is going to go through overwhelmingly. I would not be surprised if 99 percent of those Senators who are here today vote for the bill.

Then we will get a conference pretty quickly, and it will get passed. The President will sign it real quickly, and there is going to be reason to believe—no pun intended—on the part of the agency and all other intelligence agencies around the world that we have now protected these agents, and there will be a mild euphoria which is understandable, and we need to protect them.

Then within months we are going to be in court. We are going to be challenged, whether it is ACLU challenging us or whomever it is going to be. There is going to be a court case. There is going to be a test case, and we are going to find out.

We are going to lose in that test case all these agents who thought they were covered; all these agents who thought we had done something positive for them are going to once again be looking up on the Hill and say, "What in God's name kind of ball club am I playing with here? What team did I sign onto? Where am I?"

And we are going to be back to block 1. I hope I am wrong about that. But I truly believe that is what is going to happen.

It is very dangerous to make any predictions in this Chamber about anything. I am running the risk of not having made more than probably one prediction in 10 years speaking in this Chamber. I am about to make my second prediction.

The first prediction I made was President Nixon was not going to be around very long when I stood up and called for impeachment.

My second prediction is that we are going to be back on this bill. It may not be this year. It is going to be next year. But we are going to be back on the bill because I am afraid it is going to be declared unconstitutional.

When that happens I suspect we will not have much problem moving through intent language or language as the Senator from Washington drafted and the Senator from New Jersey is introducing. I really and truly think we are better served with this language which if we voted down in a sense we have done the worst of all worlds. I almost wish we never raised it now. That is the language that has been brought up. I understand why we did it. It is a calculated risk. It was important to do it.

But what worries me now is it is before this body and voting it down is a refutation of the colloquy.

As the Presiding Officer and my colleagues who are attorneys know, the first thing the courts do in determining ambiguity in legislation is to look to the legislative intent. They go to the Record and they pick it up and they read it. And they would then been able to find a rationale for a constitutionally-protected action that was taken, an action that was constitutional as reflected in the so-called Durenberger-Chafee colloquy.

Now we are saying we do not mean that, which I think further increases the prospect that this is not going to survive a court test.

There are three sections of the bill, and I will end in just a moment, because I know everyone else has other business, and we heard these arguments 1,000 times, and it is probably important to no one but me in terms of how it is clear on the Record of how I feel about this.

We have adopted the reason to believe language. I will not make all the arguments about why I think that is basically a negligence standard. We are about to eliminate the legislative history on what pattern of activity means to make it mean what I am afraid it meant all along and obliterate the Durenberger colloquy, and we are about to pass a bill that is going to be signed into law by the President.

There are three parts to the bill. The first part says if you are working for the Government and you name a name, you are in serious trouble. No one argues about that. The second kind of person covered is if you did work for the Government and you name a name you are in trouble. The third part relates to those people who neither worked for the Government nor are working for the Government.

That is what is in question. I think we would be better served to make this severable and pass the law with regard to the first two sections, pass it as a bill, call it the Chafee bill, call it the Senate bill, call it anything, pass it, and then pass a separate piece of legislation that in fact covered the third category of people, as the Senator from Rhode Island now has it drafted with a reason to believe standard.

That way if I am right and he is wrong, and this is unconstitutional as it relates to the third section and they knock it out, we are not faced with the problem of not being able to do anything about Philip Agee for the next 6 months or 1 year or however long it takes us to get back in the ball game. I think that would be a wiser way for us to do it.

Quite frankly, I have not figured out mechanically how to do it and as a matter of fact I think the train has left the station. If I do it, I think I am probably delaying the Senate's time.

I wish to reemphasize that as to the Philip Agees of the world, the present and former employees of the world, none of us have any argument about. I believe that is language for a lot of reasons I will not go into again that is clearly constitutional because of the makeup and the nature of the relationship of the persons naming the name to the entity that they are exposing.

The fact of the matter is the third section I believe is unconstitutional and I believe passing it here now sends out the word. "We have it fixed, folks, you are safe, and there is a remedy."

But if the court is going to come down and knock it all out, we are going to all be in trouble.

So, Mr. President, it is going to be a very difficult vote, being very blunt about it, and even more difficult to explain. I mean I can see the full-page ads now in 1984. I am not suggesting the Senator from Rhode Island in any way subscribes to this. But I can see the full-page ads now when I am running for reelection. I can see it now saying something to the effect of "Biden voted to kill CIA agents by refusing to protect them."

I suspect that little thought ran through a number of people's minds as those vote counts changed yesterday. It was like a moving crap game here—I mean the numbers change pretty rapidly, and it was a decisive victory and to Mr. Chafee's great credit, and I mean this sincerely, I want to publicly commend the Senator from Rhode Island for the masterful job he did.

That reminds me of what the Senator from the great State of Mississippi said to me once. That was the chairman of the Judiciary Committee, Senator Eastland. I went to ask him for some help on a matter. This is a true story. I asked help on the matter whether or not I could gain access to the chairmanship of a subcommittee. He looked at me and said: "Joe, can you count?" I said: "Beg pardon, Mr. Chairman."

He said: "Can you count."

I did not know what he said. I did not know whether that was counter or count. So I said, "I beg your pardon, Mr. Chairman."

He said, "Can you count, boy?"

And I said, "Yes, I think I can count, Mr. Chairman."

He said, "Have you counted?"

And I said, "No."

He said, "Come back to me when you count it."

So I went out and counted my colleagues.

Well, I counted my colleagues yesterday, and the Senator from Rhode Island counted our colleagues yesterday. And guess what?

Where did the Senator from Rhode Island go to college? It was Yale, was it not?

Mr. CHAFEE. Yes.

Mr. BIDEN. It only goes to prove that a Yale education is better than a University of Delaware education because he can count better than I can count.

As a matter of fact, he counted so well he added a number to his count that I was unaware of. As a matter of fact, he promised he would share his list with me after the vote was all over. I want to see—I cannot figure out how he got as many as he got.

Nonetheless, he deserves a great deal of credit.

In conclusion, Mr. President, I want to compliment the Senator from Rhode Island. I do not have any doubt in my mind that he believes with all his heart and soul that this is fully constitutional. I do not have any doubt in my mind that he thinks this is going to do the job. I never have questioned nor do I now question his motivation to protect the Agency or his dedication to constitutional principles and that of the first amendment.

I have no doubt whatever that it has been a pleasure working with him. The Senator from Rhode Island (Mr. Chafee), and I have been doing this off and on for close to 2 years, and I do not remember any time where we have not crossed swords, but we have not crossed words at all.

I want to compliment him on the able staff work he has had. He won straight up, but I am afraid that in winning he may have lost. I am afraid in winning the battle he may have lost the war. I hope I am wrong. I hope it is going to be shown that this turns out to be constitutional and does get the job done. I am afraid it will not.

I think we would be better served in passing the first two sections as one bill and the last section as it relates to employees or non-Government employees as a separate bill and let it run its course that way. In that way, if I am right, it does not all go down, we still grab the Philip Agees.

As I say, the train has left the station, but I predict it will be back in the station, and when it is back in the station I have no doubt in my mind we will be able to get a bill through this body in a matter of 20 minutes because we will have it first refined by the court. But I think it is a mistaken way to do business.

I have already taken too much of the Senate's time, not just today but throughout this. I am going to vote for the Bradley amendment because I think it is a substantial improvement.

I think the Senator from the State of Washington, who is presiding now, and I am going through this and it sounds like a swan song, but it is true, it is not often that freshmen come into this body and make the kind of impact in such a specific and detailed way that the Senator from Washington (Mr. GORTON) has, not only in this legislation but in all other legislation.

I admire the way in which he approaches a subject. He does it with profound intellect and a sincere dedication to what he set out to do, and I want to publicly compliment him. It is easy to do it now because he cannot respond from the Chair, and that is the way I like it best.

I compliment him in the way in which he went about it.

I also want to compliment my good friend from Alabama. We serve on the Judiciary Committee together, and it has been good working with him. I hope he and others are right so we will not be working on this again, but I am afraid we will get a chance to work on it again.

I plan on voting for the Bradley amendment. If it fails I plan on voting against the bill because to do otherwise would be totally inconsistent with what I have said in the past 2 years.

I thank the Chair and I yield the floor.

Mr. CHAFEE. Mr. President, first, I would like to express to the Senator from Delaware my appreciation for the joy that we have had working together on this measure. He was accurate in saying that although we have crossed swords there have not been any crossed words. This has gone on now for over 2 years. Our positions have been opposed on the Intelligence Committee, but they were forthrightly expressed.

We had a measure very similar to this, that includes the so-called Chafee-Jackson amendment, that came before the Intelligence Committee a year and a half ago. The Senator from Delaware very clearly made his views known then. He was one of the few who voted against that measure, so he has been entirely consistent and sincere in his opposition to this point of view we have taken. His opposition is not because he does not believe in the objective. That is very clear. He supports the objective of this legislation as strongly as I do.

But he has felt right from the beginning that my version was unconstitutional and, therefore, as he mentioned in his summary, we would be winning the battle but be losing the war.

I will say that this language has been reviewed by those who have given a good deal of thought to the Constitution. They have found it constitutional, in their judgment. Obviously, there are many learned people on the other side who feel otherwise. But I will say this. Those who feel so strongly on the other side, the great percentage of them, also believe that the Senator from Delaware's version, the intent standard in 601(c), also would be unconstitutional. So the ACLU, Mr. Berman, and the others, have pointed out, and they make no secret of this, that they feel we have a problem here. They feel it is really impossible to solve the problem through legislation. They believe the proper route to take is for the Government to provide better cover for its agents.

The Senator mentioned that in 1984, when he runs for reelection, there would be large advertisments taken in the Delaware papers saying that he was not for protecting the lives of agents in the CIA. Well, anybody who ran advertisements like that would be guilty of absolute misstatement. The sincerity of the Senator from Delaware in protecting the lives of agents is just as great as mine, and I would be perfectly free to so testify, or to sign any counter advertisement to that effect.

But I suspect that the Senator from Delaware is in such good shape in that State, as was evidenced by the last election, that his concerns are minimal, no matter how big the advertisements might be.

Now, Mr. President, I should like to point out two things. First, the amendment of the Senator from New Jersey includes the language which we previously struck dealing with the provision of cover. Indeed, his language does not even have the language of the Judiciary Committee amendment dealing with the Peace Corps. I suspect, perhaps, that that is inadvertent. But, in any event, there it is. So that certainly runs contrary to the unanimous vote, which the Senate took on March 1, 1982, when we eliminated section 603 completely.

The next point is a more substantive one because really this vote which we are taking at 2 o'clock involves language that has been added to the definition of "pattern of activities."

The Presiding Officer (Senator GORTON) has been deeply involved in this, and he as well as others, principally the Senator from New Jersey and the Senator from Delaware, subscribe to the language that has been added. The support describing a "pattern of activities" further by saying:

> The main direction of said pattern of activities must be to identify and expose agents.

That is language that, pursuant to the request of the junior Senator from Washington, we took under consideration earlier this week. It was not the first time that it had been considered, but due to the sincerity and anxiety of the junior Senator from Washington in reaching some kind of a bill that he felt he could vote for—and I know he subscribes to the protection of the names of the agents and protection of their lives as much as any of us do—he felt that this would be helpful.

We took it up with the Justice Department and also with the CIA. Naturally I looked at it myself, and gave it thorough consideration.

Both the Justice Department—the Attorney General's office—and the CIA are opposed to that language, as am I. The reason why we are opposed to it is that there are a whole series of defenses imposed on the prosecution, proofs that must be met by the prosecution. These are the so-called six defenses. I know the Senator from Delaware dismisses those six defenses. Why he does it so blithely I do not know, but he is eloquent, and frequently he is persuasive. He has not convinced me that those are just papier mache defenses, however.

Those are real defenses, the proof of which lies on the Justice Department to meet.

Now, a seventh defense is raised in the form of the Gorton language. It is that the pattern of activities must have this main direction of identifying and exposing covert agents. Now, we went over yesteday our rationale for objecting to that language. But I would repeat it here briefly today.

Main direction—who knows what it means? To the best of our knowledge, it has never been in any Federal criminal statute. The junior Senator from Washington said, "Well, that is no reason to object to it. It, in itself, is self-explanatory. Main direction—principal thrust."

But this language is vague, not understood, has no judicial definition, has had no hearings, and never was raised in the committee. You would think that in the 2 years of going through laborious hearings in the House, in the Senate Intelligence Committee, in the Senate Judiciary Subcommittee on Security and Terrorism, headed by the able Senator from Alabama, in the full Judiciary Committee, and so forth, this language might once be raised. But it never was.

Another, and I think even more persuasive point, is that this language does not represent the thrust of the legislation. What we wish to prevent is the pattern of activities intended to identify and expose covert agents.

Now, with the "main direction" language in there a defendant could say "This was not the main direction of my activity." "My main direction was to expose the CIA in Africa or to discuss American activities in Central America. And just as an aside, perhaps as a subordinate but nonetheless major portion of my direction, but not the main direction, I also listed 46 agents working for the CIA; Americans serving our country abroad in 10 different countries in Central and South America."

Now we cannot countenance that. Obviously, this legislation is not designed to affect legitimate news gathering organizations that publish and have published for many years, have published derogatory information about the CIA but have managed to do so without the exposure of agents or through very limited exposure perhaps. Incidentally, a name or two appeared on occasion, but obviously there was no pattern of activities intended to identify and expose covert agents.

But those who were in the business of naming names can well take the defense, for the very reason that we objected to the intent language that was submitted by the Senator from Delaware and adopted by the full committee, and can say, "This was not our intent." Even now there is a new defense. They can say this was not their main direction. "Oh, true, we listed 40 agents, but clearly that was not our main direction, because we say so," they can claim.

It was stated the other day that one could establish a defense by talking to the wife of the defendant, or his agent, or his publisher. And the publisher would say, "He told me specifically that naming names wasn't his main direction." And so the wife testifies in this fashion, and so do others.

It seems to me, Mr. President, that if we should adopt the language that Senator BRADLEY is proposing today, we go right back to square one. We really go back to where we were when we started this whole debate on the Chafee-Jackson language 2 years ago.

So for those reasons, Mr. President, I would urge colleagues to vote "no" on the amendment that is before us at 2 o'clock.

Mr. President, I have no further comments. I would like to thank all who have worked on this. I particularly tip my hat to the distinguished Senator from Alabama, who has worked hard. I express my appreciation to his staff, and to Quentin Crommelin, the staff director of the Senate Judiciary Committee.

I thank the junior Senator from Washington for the interest he has taken in this matter. He has shown an extraordinary diligence in this, as he has in other matters. I serve on other committees with him and I think it is extraordinary that he is able to devote so much time and constructive effort to various matters, whether it is the Budget Committee or the Clean Air Act or this act.

I would also like to thank the Senator from Iowa, Senator GRASSLEY, for his remarks yesterday.

In conclusion again I say to that happy warrior from the other side, the Senator from Delaware, that I have enjoyed this. From it I emerge one luncheon richer than when I started. It has been a pleasure. I would hope that in the future we could be able to blend our talents and work together on legislation as we have in the past and as I am confident we will in the future.

Mr. BIDEN. If the Senator will yield, the lunch is one that I owe the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I just want to add my own testimony to that of the distinguished Senator from Rhode Island regarding the possibility of any newspaper ads which might be placed attacking the distinguished Senator from Delaware. I serve with him on the Subcommittee on Security and Terrorism.

I would like to acknowledge that in the field of intelligence, particularly in matters regarding the FBI and the field of drug enforcement, Senator BIDEN has shown not only extreme patriotism but he has also contributed greatly in focusing our attention on the real cause for the continued massive proliferation of drug traffic in our country; namely, the profit motive. In that vein, he has also been a leader in pointing out the need to look at the financial institutions and the banks, where the drug money is laundered. I have found his advice and initiative to be of great value to me in my capacity as chairman of that subcommittee. I wish to acknowledge that and to thank the Senator.

Mr. BIDEN. The Senator is very gracious. I thank the Senator.

Mr. DENTON. I would like to reiterate that two administrations, the Carter and the Reagan administrations, have had Departments of Justice which consider the wording of the Chafee amendment and the bill, as it now stands, to be constitutional.

Although I respect the opinions of others, I do not share their gloomy predictions about the alleged unconstitutionality of this measure.

It seems there are no further remarks to be made at this time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there is an order, I believe, to proceed to a rollcall vote at 2 p.m. on the Bradley amendment No. 1339 to S. 391. Is that correct?

The PRESIDING OFFICER. The majority leader is correct.

RECESS UNTIL 1:45 P.M.

Mr. BAKER. Mr. President, I believe both cloakrooms have contacted their Members with regard to speaking requirements. They find that no Member seeks recognition.

In view of that, Mr. President, I ask unanimous consent that the Senate now stand in recess until the hour of 1:45 p.m.

There being no objection, the Senate, at 12:42 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ANDREWS).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of North Dakota, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DENTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I want to take this opportunity to thank my colleagues on both sides of the aisle who have labored so long and hard over this vital piece of legislation. It is gratifying for me to know, as a result of this experience, how energetic, resourceful, and effective we can be as a body in contributing to the successful passage of an important piece of legislation such as the Intelligence Identities Protection Act of 1981. I observe with satisfaction the bipartisanship involved in the vote on that passage.

I want to express my sincere appreciation to my colleagues on the Subcommittee on Security and Terrorism, Senators HATCH, EAST, BIDEN, and LEAHY. I also want to thank the distinguished chairman of the Judiciary Committee, Senator THURMOND, and the distinguished chairman of the Senate Intelligence Committee, Senator GOLDWATER, and, of course, the distinguished Senator from Rhode Island, JOHN CHAFEE, without whose masterful guidance and continued support we would not be voting on this historic legislation today. I would also like to thank the respective staffs on both sides of the aisle who labored so diligently and for so long on this bill.

AMENDMENT NO. 1339

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m.

having arrived, the Senate will now proceed to a vote in connection with amendment No. 1339 offered by the Senator from New Jersey (Mr. Bradley). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon) and the Senator from Louisiana (Mr. Long) are necessarily absent.

The PRESIDING OFFICER (Mr. Nickles). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 37, nays 59, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—37

Baucus
Biden
Bradley,
Byrd, Robert C.
Cohen
Cranston
DeConcini
Dodd
Eagleton
Exon
Ford
Gorton
Hart
Hatfield
Hollings
Huddleston
Kennedy
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Packwood
Pressler
Proxmire
Quayle
Randolph
Riegle
Roth
Sarbanes
Sasser
Specter
Stafford
Tsongas
Weicker

NAYS—59

Abdnor
Andrews
Armstrong
Baker
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd,
Harry F., Jr.
Chafee
Chiles
Cochran
D'Amato
Danforth
Denton
Dixon
Dole
Domenici
Durenberger
East
Garn
Glenn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Murkowski
Nickles
Nunn
Pell
Percy
Pryor
Rudman
Schmitt
Simpson
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NOT VOTING—3

Cannon
Long
Mathias

So Mr. Bradley's amendment (No. 1339) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. D'AMATO. Mr. President, I am pleased that the Senate will today pass the Intelligence Identities Protection Act of 1981. The intelligence community is our Nation's first line of defense. S. 391 protects our intelligence network by making it a criminal penalty to name names. In recent years the disclosure of the identities of our agents has placed our agents in grave danger while also serving to compromise the effectiveness of our Nation's covert operations. I commend Senator Chafee for his efforts in S. 391.

While S. 391 serves to protect the true identities of our agents, something must be done to prevent the further weakening of the CIA as a result of sensitive information which is presently obtainable under the Freedom of Information Act. The dissemination of such information has resulted in the publicizing of CIA methods and the undermining of CIA operatives. On May 20, 1981, together with Senators, Goldwater, Nickles, Grassley, Dole and Helms, I introduced S. 1235, a bill which would modify the Freedom of Information Act to exempt all CIA materials involving personnel selection, training, reorientation, internal operations, office management, and organization of the CIA.

S. 391, the Intelligence Identities Protection Act is a major step in restoring the safeguards which are vital to an effective intelligence community. I am hopeful that the Senate will continue to move in this direction and that we can take action in the near future on S. 1235.●

● Mr. ROTH. Mr. President, I will vote for final passage of S. 391, the Intelligence Identities Protection Act, but I will do so with reservations. I believe that the Senate vote yesterday adopting the amendment offered by the distinguished Senator from Rhode Island, Mr. Chafee, was unfortunate, but it is essential that we enact legislation now to halt the insidious practice of deliberately disclosing the names of covert intelligence agents.

As I said when I announced my opposition to the Chafee amendment on Monday, I believe the "reason to believe" standard for prosecution contained in the Chafee amendment is unnecessarily broad and could have a chilling effect on legitimate news reporters and broadcasters. I felt that it would have been better for the Senate to adopt a more stringent "intent" standard, and then watch to see if the law accomplished its purpose, or whether some other standard of prosecution might be necessary to provide for the conviction of violators.

Now that the Senate has decided to adopt the "reason to believe" standard, however, those of us who are determined to halt the systematic publication of agents' names must vote for this measure and hope that it proves effective without becoming an instrument for stifling the flow of information to the public. The reprehensible activities of such publications as the Covert Action Information Bulletin must be halted before any further harm is done to the national security for to the safety of our covert agents and their families. S. 391 as amended is now the vehicle available to us to accomplish that goal, and for that reason I will vote for its passage.●

● Mr. HART. Mr. President, as a former member of the Select Committee on Intelligence, I have considerable sympathy with the concerns which gave rise to S. 391, the Intelligence Identities Protection Act. The United States and its intelligence agencies are ill-served by sensation-seekers who endanger the lives of our intelligence personnel and put at risk this country's national security. We are correct in trying to seek properly balanced legislation which will prevent these abuses.

The key phrase is "properly balanced."

Press representatives across the country have expressed great concern about the implications this bill has for first amendment freedoms. It is one thing to make criminal the public disclosure of the identities of U.S. intelligence personnel. It is quite another to hold the sword of possible prosecution over the head of a journalist for doing his or her job to report on the Central Intelligence Agency.

We should be prepared to support efforts to punish unprincipled people who intend to disable the CIA. We should not be prepared to support looser language which imposes criminal penalties on individuals when there is only reason to believe that publication of information will impede our intelligence work.

We need legislation which clearly protects those who courageously risk their lives for our national security and at the same time clearly preserves first amendment rights of free speech and free press.

The intent language which had been in this bill before the Chafee amendment passed Wednesday struck the necessary balance. Many of us were prepared to vote for such a bill.

Senator Bradley's amendment, which would have required prosecutors to prove that a defendant's pattern of activities had been specifically designed to identify and expose covert agents, would also have struck the necessary balance. Many of us were prepared to vote for a bill containing this language.

However, I cannot support legislation which raises as many first amendment concerns as this bill does. Our country's national security is also served by a free and vigorous press. We must not take steps which impair that freedom. I hope that in conference there will be thorough reconsideration of the ways in which Congress can properly provide for the protection of national security and the protection of free speech.●

Mr. SPECTER. Mr. President, I am voting for S. 391, the Intelligence Identities Protection Act, even though its constitutionality, in my judgment, is subject to serious challenge. Ultimately, it may be invalidated by the courts. If so, rather than protecting agents' identities, it will only have created the illusion of protection.

Five years from now, after such a court decision, we may once again be considering this subject in the U.S. Senate. Meanwhile, those who are in the evil business of naming names may be able to continue to do so with impunity.

Even in the short term, the bill may be applied infrequently, if at all, because of graymail and other prosecution problems.

The better course for the Senate would have been to reshape the bill into a more effective tool to protect intelligence agents. However, there is no consensus for further work.

The intelligence agencies have been seeking protection for more than 5 years already, and some legislation is necessary. Given the extensive debate, the courts will have substantial guidance to interpret the bill to protect first amendment rights. With reservations, I consider it the lesser of the evils to vote for the bill.

Mr. BRADLEY. Mr. President, I firmly believe that America must protect its covert agents from wanton or malicious disclosure of their identities. Such disclosure both threatens their lives and impairs U.S. intelligence activities. At the same time, I believe we must be careful that our legislation does not conflict with basic freedoms in America.

In my judgment, both the bill reported by the Senate Judiciary Committee and the substitute bill I offered yesterday after adoption of the Chafee amendment strike the proper balance. These bills protect covert agents from reckless or malicious disclosure. But they also guard the constitutional rights of all Americans to freedom of speech, a free press, and the public's right to know.

The bill before us does not do these things. Although its supporters say it will not interfere with the ability of the press to present the news fully and fairly, nothing in the language of the statute or its legislative history persuades me this is so.

I am also unpersuaded that this bill only punishes "naming names." Indeed Senator CHAFEE's statements to this effect are belied by the statutory language. The statute punishes disclosure of "any information that indentifies an individual as a covert agent." The Senate report accompanying S. 391 also indicates that naming names is not required. The report states the "though the identity disclosed must be classified, the actual information disclosed need not be." In other words, it is sufficient to publish any information that identifies a covert agent. Revealing his or her name is unnecessary.

Finally, I believe the courts will declare this bill to be unconstitutional. Thus, it will serve neither our agents' nor the public's interest. It also means that the protection the Senate is supposedly providing covert agents is illusory. No court can convict someone for disclosing an identify if the criminal statute on which the conviction is based violates the first amendment. By passing this bill instead of the Judiciary Committee version or the Bradley substitute we have lost the opportunity to enact legislation that would have given our intelligence community the genuine protection it needs and deserves.

Thus, I remain concerned that disclosures of serious illegality in Government or egregious breaches of official policy would subject those making the disclosures to criminal sanctions. This will inevitably have a chilling effect on news reporting and deny the American people access to information that is in the national interest for them to know.

In offering a substitute for S. 391 as amended, I hoped to provide a vehicle that would protect the identity of our covert agents yet guarantee fundamental American freedoms. My amendment was defeated. Thus, even though I am reluctant to oppose this bill, I have no choice but to vote against it.

IMPORTANCE OF COMPLETE SEPARATION OF PEACE CORPS FROM INTELLIGENCE ACTIVITIES

Mr. CRANSTON. Mr. President, consistent adherence to the longstanding policies insuring the complete separation of the Peace Corps from intelligence activities is vital to the continued effectiveness of the Peace Corps and the safety and wellbeing of Peace Corps volunteers and staff overseas. On several occasions during the past year, however, these policies and their appropriate application and ramifications have been the subject of debate and some controversy. Thus, I would like to take a moment to discuss them and underscore their importance—particularly in light of the issues before us in the context of the pending legislation.

As a whole, these policies are designed to make it possible for Peace Corps volunteers and staff, by avoiding assiduously even the appearance of any connection between the Peace Corps and intelligence activities, to achieve the essential programmatic goals of the Peace Corps—building links between the United States and the peoples of developing countries at the grassroots level; providing practical and humanitarian assistance on a voluntary basis; and demonstrating through the personal commitment of the volunteers the concern of American citizens for the welfare of individuals in developing countries.

In a May 4, 1981, letter to Senators DENTON and BIDEN, former Secretary of State Dean Rusk noted that, in addition to being essential to the effectiveness of the Peace Corps, the policy of absolute separation from intelligence activities—which was first enunciated while he was Secretary—is necessary for the safety of the volunteers. Urging that any statutory requirement that Government agencies provide assistance to intelligence agencies include a Peace Corps exception, he stated that, in his opinion:

> [A]ny action that suggests that the United States had modified the policy of absolute separation between the Peace Corps and intelligence would also increase the danger to Peace Corps volunteers and staff. During the last twenty years there have been countless examples of volunteers continuing to perform their duties despite civil strife. Indeed, they have many times been protected by the ordinary citizens with whom they live and work from any harm. Instability and terrorism have already substantially increased the dangers to Americans abroad. These dangers Peace Corps volunteers necessarily assume. The United States should do nothing to increase these risks.

Thus, very strict policies of the U.S. Government precluding both the reality and the appearance of any connection between the Peace Corps and intelligence activities have been carefully developed and maintained throughout the Peace Corps' 20-year history.

These policies fall into three separate categories, each one being critically important. First, a set of policies totally prohibits any involevment of Peace Corps volunteers and staff in intelligence activities. These policies prohibit Peace Corps volunteers and staff from participating in intelligence activities and prohibit the intelligence community from in any manner using Peace Corps volunteers or employees as cover and, more specifically, from contacting, questioning, or in any other way seeking to use Peace Corps volunteers or staff as intelligence sources.

Second, to avoid any appearance of Peace Corps involvement with intelligence activities, strict Peace Corps policies prohibit former Central Intelligence Agency employees from ever serving as Peace Corps volunteers or staff. In addition, any Peace Corps volunteer or staff applicant with a background in any non-CIA-type intelligence activities is barred from Peace Corps service for a period of at least 10 years following the cessation of the individual's involvement in intelligence. Even after that 10-year period has expired, an applicant's suitability is reviewed if his or her non-CIA intelligence activities were particularly extensive or involved covert activities.

Third, also to preclude the appearance of Peace Corps involvement in intelligence activities, CIA policy prohibits that agency from employing Peace Corps volunteers or staff until after a 5-year period following their Peace Corps service has expired and prohibit former volunteers and staff from ever being assigned to any intelligence duty in any country in which they served in the Peace Corps. Other intelligence agencies have similar bars to the employment and assignment of former Peace Corps volunteers and staff.

These policies were recently outlined by the Judiciary Committee in its report on the pending legislation (S. Rept. No. 97-201, pages 13 and 14 (Star print)).

Earlier this year, the policy regarding the second leg of this triad of policies—the intelligence-background bar—received considerable attention in connection with the nomination of Thomas W. Pauken to be the Director of the ACTION Agency. Because of Mr. Pauken's extensive training and experience in overseas covert intelligence operations during his military service from which he was discharged in 1970, I strongly believed that his nomination to be the head of the umbrella agency under which the Peace Corps functions was highly inadvisable. In a statement appearing on pages 7432 through 7442 of the Record for April 27, 1981, I urged that Senate action on that nomination not be taken while the Peace Corps was still within the ACTION Agency. It was my position then that for him to serve as the Director of the ACTION Agency while the Peace Corps was still a part of that Agency would create an appearance of a connection between the Peace Corps and intelligence that should be avoided.

In substantial part because of the issues that the Pauken nomination raised, I became convinced that the time had come to separate the Peace Corps from the ACTION Agency. Subsequent events have intensified my conviction in this respect. On April 27, 1981, I introduced legislation to make the Peace Corps a fully independent agency within the executive branch. That legislation was incorporated into S. 1196, the International Security and Development Corporation Act of 1981, and was enacted as Public Law 97-113 on December 29, 1981. At the time of Senate consideration of the conference report on that measure, I outlined again the importance of securing the Peace Corps as an independent entity—Congressional Record, December 15, 1981, 31324.

Recently, during the pendency of the Peace Corps separation legislation before the Congress, an incident occurred that dramatically highlighted the need for Peace Corps independence and, I also believe for the Congress to express itself on the policy of the separation of the Peace Corps from intelligence activities. In the November 1, 1981, issue of the New York Times, an article dealing primarily with Peace Corps budget issues noted—in my view, accurately—that the movement in the Congress to restore the Peace Corps' independence had been given impetus by the appointment of Mr. Pauken to be Director of the ACTION Agency and that the Peace Corps has a strict prohibition against former intelligence agents within its agency. In response, Donald Thorson, the ACTION Agency's Assistant Director for Legislative Affairs—as part of that Agency's continuing campaign against the Peace Corps autonomy legislation by attempting to discredit the intelligence-background bar and promote a totally absurd thesis of discrimination against Mr. Pauken because his military service was in Vietnam—wrote a letter to the editor of the Times, which appeared in the November 27 issue. In that letter, he flatly stated that the statement regarding the "strict prohibition" was "not true". Indeed, the current Director of the Peace Corps, Loret Ruppe, and her predecessor, William G. Sykes, in a March 18, 1982, letter to me in connection with Ms. Ruppe's confirmation then under consideration by the Foreign Relations Committee, described the intelligence-background bar as I outlined it above and pledged "to enforce the policy strictly, as has been done for the past two decades."

Mr. President, I was truly astonished by Mr. Thorson's reckless assertion that such a prohibition does not exist. In a December 9, letter to the editor that appeared in the Times today, I noted—

> It is a sorry state of affairs that a high official of the ACTION Agency, in his determination to keep the Peace Corps within ACTION at any cost, is willing to jeopardize a policy intended to protect the integrity of the Peace Corps and the safety of its volunteers and staff.

Mr. President, I ask unanimous consent that the Times article and these letters be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. without objection, it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Also, Mr. President, in light of the vital importance of the complete separation of the Peace Corps from intelligence activities and the great need to avoid any appearance of involvement, I was deeply disappointed that the December 4, 1981, Executive order on "United States Intelligence Activities"—E.O. 12333—did not provide an express exception for the Peace Corps from the general requirement in section 1.6(a) that executive branch departments and agencies give the Director of Central Intelligence access to all information relevant to national intelligence needs and generally cooperate with the Director. The omission of a Peace Corps exception in that context can be seen as presenting the same issue that the enactment of section 603 of the pending measure without a Peace Corps exception would raise and which I discussed on March 1 in a lengthy colloquy with the sponsors of this measure and others concerned about the Peace Corps.

Mr. President, I would note that I appreciate the statements last summer by the current Director of Central Intelligence and the current Director of the Peace Corps—in their July 15, 1981, and June 25, 1981, letters, which the Senator from Rhode Island (Mr. Chafee) inserted in the Record during the March 1 colloquy—that they have no intention of deviating from the long-standing policies of total separation of the Peace Corps from intelligence activities. Unfortunately, there has been no comparable statement by the President of the United States. Hence, I believe that a strong statement of congressional policy is very desirable in order to provide needed clarification and to bolster the assurance in the nations where the Peace Corps serves that its complete separation from intelligence activities is being maintained.

Thus, I am most gratified that the distinguished Senators from Rhode Island (Mr. Chafee), Delaware (Mr. Biden), Alabama (Mr. Denton) and Vermont (Mr. Leahy), among others—as expressed in a colloquy on March 1, 1982, Congressional Record, page 2589—share my view that, whether or not the conference report on the pending measure includes a section 603, the conferees should state that section 1.6(a) of the Executive order should not be construed as altering in any way the historic policy of complete separation of the Peace Corps from intelligence activities. Such an unequivocal statement of principle in the joint explanatory statement accompanying the conference report would clearly reassert the strong position of the Congress on this important matter and confirm its strong commitment to maintenance of the policy of total separation.

(Exhibit 1)

[From the New York Times, Nov. 1, 1981]

Peace Corps Asks a Review of Cuts

(By Barbara Crossette)

Washington, Oct. 31—The Peace Corps, with its modest $105 million budget cut this year to $53.6 million, has appealed to the Administration for reconsideration.

Loret Miller Ruppe, the organization's director, said yesterday in her office just before setting out on a month-long tour of volunteer outposts in North and West Africa, that she had met with Secretary of State Alexander M. Haig Jr. about the budgetary problem and had found him "very supportive."

"He said what we were doing was right in line with the Administration's foreign policy," she said. "But we haven't heard anything yet about our appeal."

The Peace Corps, now 20 years old, is very different from what it was in the 1950's. The average age of volunteers is higher—about 27. There are fewer of them—about

5,000 in 60 countries compared with 11,115 in 57 nations in 1967.

FISHERIES AN IMPORTANT PROGRAM

Most important to the Peace Corps now is the development of programs in agriculture and alternative sources of energy. Jody Olsen, the regional director for North Africa, the Near East, Asia and the Pacific, said that among these progams, training in fisheries was one of the most important.

"This is bringing protein into areas where it is almost impossible to get meat," Miss Olsen said. She also described projects in teaching simple market gardening in primary and secondary schools and the raising of rabbits for food supply. Agriculture specialists are in great demand by the Corps.

In its training program, volunteers are taught not to expect to see changes in their two-year period of service.

"With rabbits, for example," Miss Olsen said, "it may be easier to raise rabbits than build fisheries, but you have to introduce the concept of eating rabbits, and of cooking rabbits. In some places that could take six to eight years."

The leadership of the Corps, struggling to live within the new financial restraints, is made up of loyal Republicans. Mrs. Ruppe, a Midwesterner, worked on Vice President Bush's campaign for the Presidency and went on to become cochairman of the Reagan-Bush committee in Michigan.

VIRTUES OF SELF-HELP EXTOLLED

She extols the virtues of self-help in public speeches, saying the work of the Corps is "right up Mr. Reagan's alley" in teaching self-sufficiency.

Lon Randall, a graduate of Fort Wayne Bible College and the president of Malone College in Canton, Ohio, who is now associate director for programs, prefaces remarks about the response of the Peace Corps to budget cuts with his support for "the President's move toward restoring sound fiscal policy."

In line with Administration moves in other agencies—notably the Agency for International Development, with which the Peace Corps works closely overseas—the Corps has created an office for liaison with the private sector. Its director is John Calvin Williams Jr., a former Peace Corps volunteer in Morocco and Niger who is on leave from Chase Manhattan Bank, where he directed activities in French-speaking Africa.

The Peace Corps offices are shared with several other volunteer agencies, including Volunteers in Service to America and the Foster Grandparent Program, all of which were combined by President Nixon in 1971 into a coordinating agency called Action.

MOVES TO RESTORE INDEPENDENCE

There have been moves in Congress to restore the independence of the Peace Corps, which many feel has lost its identity under the Action umbrella.

The movement was given new impetus in March, when President Reagan appointed Thomas W. Pauken director of Action. Mr. Pauken had served as a military intelligence officer in Vietnam, and the Peace Corps has a strict prohibition against former intelligence agents within its agency. Rumors of Central Intelligence Agency links to the Peace Corps, never proved, cost the Corps its India program, which was terminated by New Delhi in 1976.

Senator Alan Cranston of California led a successful Democratic drive to write Peace Corps autonomy into legislation this year. This month the full Senate upheld that legislation. Mrs. Ruppe says that the legislation was not necessary because she had been assured she would continue to report directly to the executive branch.

EVALUATION IS UNDER WAY

According to Mr. Randall, the associate director, the Peace Corps is in the process of "global evaluation" of its programs. Mr. Randall, who worked with the Agency for International Development in Thailand, said that, especially in a period of tight budget restraint, "the aim of the Peace Corps is to leave a country."

He said that as soon as a country's per capita income and quality of life had reached an acceptable level, the Peace Corps would disengage itself, as it has done recently in Chile, leaving the work in the hands of local officials and allowing the Corps to concentrate its resources on the "poorest of the poor."

The degree to which a country contributes to a Peace Corps presence has become important to whether the agency will agree to set up or expand programs. There are still many more requests for Peace Corps volunteers from foreign countries than the agency can have to meet.

[From the New York Times, Nov. 27, 1981]

THE PROPER PARENT FOR THE PEACE CORPS

WASHINGTON, D.C., *November 6, 1981.*

To the EDITOR: Your Nov. 1 news story "Peace Corps Asks a Review of Cuts" contained a number of inaccuracies on the issue of the Peace Corps' separation from the Action agency.

The article stated that there have been moves in Congress to "restore the independence of the Peace Corps." But the Peace Corps has never been independent. From 1961 to 1971 it was under the State Department; in 1971 it became a part of Action.

The article also declared that the "Peace Corps has a strict prohibition against former intelligent agents within its ranks." This is not true. In fact, the deputy director of the Peace Corps from 1969 to 1971, Tom Houser, served in Army counterintelligence in the mid-1950's.

It is true that some supporters of separation have attacked the appointment of Tom Pauken as Action director because he served in Vietnam in military intelligence. The obvious question arises: Why is a Vietnam veteran being treated differently from a 1950's veterans with an equivalent background?

It is significant that the Reagan Administration strongly opposes the separation of the Peace Corps from Action because such a move would cost the taxpayers more money. New independent agencies always require additional funds. To create another Federal agency during a period of budget cuts makes no sense whatsoever.

DONALD THORSON,
Assistant Director,
for Legislative Affairs, Action.

PEACE CORP SAFE DISTANCE FROM C.I.A., ET AL.

WASHINGTON, D.C., *December 9, 1981.*

TO THE EDITOR. As the principal Senate sponsor of legislation to separate the Peace Corps from the ACTION agency. I was astonished by the letter (Nov. 27) from Donald Thorson. ACTION's assistant director for legislative affairs, accusing The Times of inaccurate reporting. It is Mr. Thorson who is inaccurate.

Mr. Thorson states that it is "not true" that the Peace Corps has a strict prohibition against former intelligence agents within its ranks. The truth is that ever since its inception in 1961 the Peace Corps has had a policy designed to preclude even the appearance of a connection with intelligence activities.

This policy bars any former agent or employee of the C.I.A. from ever serving as a Peace Corps volunteer or employee. And it strictly prohibits anyone else from serving if he or she has engaged in intelligence activities in the preceding 10 years.

Thomas Pauken, director of ACTION, Loret Ruppe, director of the Peace Corps, and William Casey, director of the C.I.A., have said that they intend to continue this policy.

Mr. Thorson states that Thomas Houser served in Army counterintelligence 13 years before he became deputy director of the Peace Corps in 1969. However, no information to that effect was brough to the attention of the Senate at the time of Mr. Houser's confirmation.

Mr. Thorson also claims that separating the Peace Corps from ACTION would "cost the taxpayers more money." The evidence points in exactly the opposite direction. Internal Peace Corps budget documents estimate that, while separation will cost about $900,000 in first-year administrative expenses, it will save $1 million annually thereafter.

Finally, the controversy over Mr. Pauken's nomination arose not because he is a Vietnam veteran, as Mr. Thorson falsely suggests, but over the question whether the extent and nature of his service in military intelligence violated—or appeared to violate—a policy indepensable to the effectiveness of the Peace Corps, if not to its very survival. The Foreign Relations Committee narrowly voted for his confirmation, 10 to 7.

Making the Peace Corps an independent agency will reaffirm its fundamental policy of keeping free of all taint of an "intelligence connection." It is a sorry state of affairs that a high official of ACTION, in his determination to keep the Peace Corps within that agency at any cost, is willing to jeopardize a policy intended to protect the integrity of the Peace Corps and the safety of its volunteers and staff.

ALAN CRANSTON,
U.S. Senator from California.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 391) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I move that the Senate now proceed to the consideration of Calendar 294, H.R. 4.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain United States intelligence officers, agents, informants, and to direct the President to establish procedures to protect the secrecy of these intelligence relationships.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader.

The motion was agreed to, and the Senate proceeded to the consideration of the bill.

UNPRINTED AMENDMENT NO. 830

Mr. DENTON. Mr. President, I ask unanimous consent that H.R. 4 be amended with a series of perfecting amendments which I send to the desk and which conform its text to S. 391, as amended, and further ask unanimous consent that these amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. DENTON) proposes an unprinted amendment numbered 830.

Mr. DENTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 1, line 4, immediately following the word "Act" add "of 1981.".

2. On page 2, line 3, strike the word "Disclosure" and substitute in lieu thereof "Protection".

3. On page 4, line 3, strike the word "in" and all that follows up to and including the word "exposure," on line 7, and substitute in lieu thereof the following: "in the case of a person who acted in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the foreign intelligence activities of the United States,".

4. On page 4, immediately following line 13, insert a new subsection 602(d) as follows:

"(D) It shall not be an offense under section 601 for an individual to disclose information that solely identifies himself as a covert agent."

4A. On page 4, line 14 through page 5 line 8, strike from the word "Procedures" to "disclosure."

5. On page 5, line 17, strike the word "shall" and insert in lieu thereof the word "may".

6. On page 5, line 18, immediately preceding the word "Congress" insert the word "the".

7. On page 6, line 9, strike the word "a" and substitute in lieu thereof the word "any".

8. On page 6, line 10, strike the capital "R" in the word "Rule" and substitute in lieu thereof a lower case "r".

9. On page 6, strike line 18 and all that follows through line 16 on page 7, and insert in lieu thereof the following: "(4) the term 'covert agent' means—

"(A) an officer or employee of an intelligence agency or a member of the Armed Forces assigned to duty with an intelligence agency—

"(i) whose identity as such an officer, employee, or member is classified information, and

"(ii) who is serving outside the United States or has within the last five years served outside the United States; or

(B) a United States citizen whose intelligence relationship to the United States is classified information, and—

"(i) who resides and acts outside the United States as an agent of, or informant or source of operational assistance to, an intelligence agency, or

"(ii) who is at the time of the disclosure acting as an agent of, or informant to, the foreign counterintelligence or foreign counterterrorism components of the Federal Bureau of Investigation; or

10. On page 7, line 3, immediately following the ";" add the word "or".

11. On page 7, line 6, insert a "," immediately following the word "information".

12. On page 7, line 19, immediately following the word "classified" insert the word "information".

13. On page 7, line 24, strike the word "the" and insert in lieu thereof the word "a".

14. On page 7, line 25, strike the word "components" and insert in lieu thereof the word "component".

15. On page 8, line 1, strike the word "counterterrorist" and insert in lieu thereof the word "counterterrorism".

16. On page 8, line 15, strike the quotation marks and period which follow the word "Islands.".

17. On page 8, immediately following line 15, add the following new subsection 606(10):

"(10) The term 'pattern of activities' requires a series of acts with a common purpose or objective.".

18. On page 9, in the Table of Contents, delete the word "Disclosure" from the entry for section 601 and insert in lieu thereof the word "Protection".

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. CHAFEE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Louisiana (Mr. LONG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 6, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—90

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Lugar
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—6

Biden
Bradley
Cranston
Hart
Moynihan
Pressler

NOT VOTING—3

Cannon
Long
Mathias

So the bill (H.R. 4), as amended was passed.

Mr. DENTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DENTON. Mr. President, I ask unanimous consent that the first technical amendment be amended to read "1982" instead of "1981."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DENTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. NICKLES) appointed from the Committee on the Judiciary Senators THURMOND, DENTON, EAST, BIDEN, and LEAHY; from the Committee on Intelligence Senators CHAFEE, LUGAR, JACKSON, and BENTSEN conferees on the part of the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that S. 391 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, what is the business pending before the Senate?

The PRESIDING OFFICER. The pending business is Senate Resolution 344.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

FLEXITIME LEGISLATION

Mr. STEVENS. Mr. President, I would like to state to the majority leader and the Members of the Senate that we have been attempting to work out the flexitime bill. It is apparent that we cannot get the agreement we are seeking. I intend to introduce the flexitime bill and have it referred to the Committee on Governmental Affairs and not have it held at the desk.

PROHIBITION OF LIBYAN OIL IMPORTS

The PRESIDING OFFICER. The Senate will now resume consideration of Senate Resolution 344.

Mr. PERCY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. BAKER. Just one moment.

Mr. President, is there a vote ordered on Senate Resolution 344?

The PRESIDING OFFICER. The Senate will be in order. There is a vote ordered on Senate Resolution 344. The yeas and nays have been ordered.

Mr. BAKER. Is not Senate Resolution 344 identified as the Hart amendment with various cosponsors dealing with importation of Libyan oil into the United States?

The PRESIDING OFFICER. The majority leader is correct.

MR. BAKER. I thank the Chair.

● Mr. PELL. Mr. President, I support enthusiastically the resolution of the Senator from Colorado (Mr. Hart) expressing the sense of the Senate strongly supporting the President's decision to prohibit Libyan oil imports and to deny licenses for the export to Libya of oil and gas technology and equipment of U.S. origin not readily available from non-U.S. sources.

The Committee on Foreign Relation's Subcommittee on Near Eastern and South Asian Affairs received testimony just this morning dealing with international terrorism. The subcommittee was told by the Department of State that, following a thorough review of various nations involved in international terrorism,

> We continue to regard Libya, Syria and the People's Democratic Republic of Yemen as supporters of international terrorism.

The representative, Deputy Assistant Secretary of State, Ernest Johnston, Jr., told the subcommittee that Libya is one of the several nations "which are today's greatest source of support for terrorist activities."

Accordingly, Mr. Johnston said, the United States is imposing strict export control actions in order to avoid "contributing, through trade, to resources used for (Libyan leader) Qadhafi's adventures."

Mr. President, I think it would be appropriate to analyze exactly what the impact of President Reagan's March 10 decision will have in the economies of the United States and Libya. First, I do not think U.S. energy consumers need fear that they will be forced to pay a penny more on their monthly oil bills or at the gasoline station. After all Libyan oil, prior to the embargo, made up a very modest portion of U.S. oil imports and U.S. consumption. We only imported 150,000 barrels of oil daily from Libya—only 3 percent of our total imports and 1 percent of total U.S. consumption. This modest amount will be easily replaceable given the current world glut of oil which has seen many oil producers slashing prices in order to maintain sales.

What about the impact on Colonel Qadhafi's economy? That seems to be somewhat of a different story. If he does not find alternative customers for his expensive oil which he seems unlikely to do in today's market, he stands to lose $2 billion—roughly 25 percent of his total annual foreign exchange revenues. Given Colonel Qadhafi's rather ambitious and ruthless agenda—a $70 billion, 5-year domestic development plan; and expansion of the military, while continuing his rather expensive and despicable foreign policy and terrorist objections—the loss of 25 percent of his funds should cause difficult economic choices and constraints.

Mr. President, I am glad to see strong bipartisan support for this measure giving the Senate backing to the administration's strict imports and exports policy toward Libya. I believe that Libya's Colonel Qadhafi has demonstrated a disdain for sweet persuasion. He is the kind of repugnant figure on the world's stage who can only learn the error of his ways through strict and effective measures by nations who abhor his activities.●

● Mr. QUAYLE. Mr. President, one of the more important problems in the world today is to stop the rising tide of international terrorism, which threatens all countries and indiscriminately endangers the lives of innocent people here and abroad.

But our attention to terrorism is sporadic. We react with indignation when the innocent are murdered or taken hostage. Such stories capture headlines and are the main focus of television news broadcasts. Our attention is riveted to the screen while the events are in progress, and people inside and out of the Government clamor for new measures to prevent a recurrence of the event.

Yet, as that particular crisis is ended, our concern seems to fade as we return to a more normal existence. Perhaps that is in the mistaken belief that such things will not happen again, because terrorism is so alien to our culture and thinking.

Regretably, terrorism will not stop of its own account. Even as we meet here today there are probably evil and maniacal plots being hatched in a variety of places, for a variety of purposes. We cannot ignore these simply because there is no new atrocity in this morning's headlines. We must address the issue and implement corrective action on a continuing basis, rather than wait for some horrible occurrence to spark our interest.

I was pleased to cosponsor the initial draft resolution by Senator Hart, and I am pleased to cosponsor the amended version which endorses President Reagan's action to prohibit oil imports of Libyan oil and to deny export of key technologies to that country.

They are particularly appropriate in light of the fact that the Libyan Government seems to support international terrorism as a means of calculated national policy. It is bad enough that terrorism is practiced by individuals and small groups outside the control of any national government, but it is outrageous and unacceptable for a government to aid and abet terrorism as a part of its foreign policy. To the extent that we can invoke measures which penalize such governments we must take those steps, and rigorously enforce them until their behavior shows a return to accepted norms.

I call upon my colleagues to support this resolution.●

The PRESIDING OFFICER. The question is on agreeing to the resolution. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. Mathias) and the Senator from Mew Mexico (Mr. Schmitt) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Michigan (Mr. Levin) and the Senator from Louisiana (Mr. Long) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon) would vote "yea."

The PRESIDING OFFICER (Mr. Simpson). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—94

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum

Kasten
Kennedy
Laxalt
Leahy
Lugar
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—5

Cannon
Levin
Long
Mathias
Schmitt

So the resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 344) together with the preamble are as follows:

SENATE RESOLUTION 344

Whereas, the Congress finds it is in the interest of the national security of the United States to combat international terrorism, and

Whereas, the present regime in Libya is aiding and abetting international terrorism, and

Whereas, Libya is able to threaten its neighbors and international order because of the revenues it derives from its oil trade, and

Whereas, the President of the United States, after consultation with Congress and discussions with appropriate foreign governments has decided to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of U.S. origin oil and gas technology and equipment that is not readily available for sources outside the U.S., therefore be it.

Resolved, it is the sense of the Senate that Congress strongly supports the President's decision to prohibit imports of Libyan oil into the United States, and to deny licenses for the export to Libya of U.S. origin oil and gas technology and equipment that is not readily available from sources outside the U.S.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

THE BREZHNEV PROPOSALS—PRESIDENT REAGAN IS RIGHT

Mr. ROBERT C. BYRD. President Reagan was correct Tuesday in rejecting, as propaganda, Premier Leonid Brezhnev's recent arms control proposals. The Soviets are proposing a freeze on the deployment of their SS-20 medium-range missiles aimed at Western Europe and a possible dismantling of some of their older missiles. In exchange, they are asking the United States and our NATO allies to cancel plans for the deployment of new Pershing II and ground-launched cruise missiles in Western Europe which is scheduled to begin next year.

But reality dictates that the President stand pat on his zero-option proposal. And the President stood firm on the side of reality and prudence. Under the zero-option proposal, NATO would abandon plans to deploy the 572 new U.S. missiles in Europe if the Soviets dismantle their SS-20, SS-4, and SS-5 missiles. What Brezhnev proposed, at a minimum, was freezing in place the estimated 300 SS-20 medium-range missiles, each capable of carrying three nuclear warheads. I agree with the statement issued by the White House Tuesday. That the unilateral moratorium offered by Brezhnev is neither unilateral nor a moratorium.

Both our British and West German allies agreed with the President's characterization of the Soviet proposal. British Prime Minister Margaret Thatcher correctly observed that it would freeze "the total superiority of the Soviet Union in these fearsome nuclear weapons."

West German Government spokesman Kurt Becker called upon Brezhnev to accept President Reagan's zero solution.

If we are to come to grips with the problem of the escalation in strategic and medium-range nuclear missiles, then sincere efforts have to be made in the mutual reductions of these arsenals. The United States and our allies should not be lulled into believing that the Soviet Union has now become serious in negotiating mutual reductions in nuclear armaments.

Therefore, I believe the President should press for the opening of strategic arms reduction talks just as soon as possible. He should capitalize on the obvious propaganda ploy implicit in Brezhnev's offer. By doing this, both the American people and our Western European allies quickly would gain a sense of whether or not the Soviets are serious, or merely content to engage in hollow and meaningless rhetoric on the nuclear arms control issue.

The President is to be supported for rejecting Brezhnev's proposals for the deployment of medium-range missiles in Western Europe. I applaud his resolve and his willingness to assess, correctly and in explicit terms, the Soviet Union's newest proposals—proposals which are not legitimate efforts at serious arms control.

Mr. President, I yield the floor.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

SENATE RESOLUTION 20, PROVIDING FOR THE BROADCASTING OF SENATE CHAMBER PROCEEDINGS

Mr. PERCY. Mr. President, it is with longstanding conviction that I wish to speak today in support of Senate Resolution 20, to provide for the broadcasting of Senate Chamber proceedings. Having cosponsored a similar resolution in the 95th Congress and introduced, with my distinguished colleague from Delaware (Mr. ROTH), a related measure in the 96th Congress, I have devoted considerable thought to the issues which underlie the matter of broadcasting Senate proceedings.

Mr. President, it is my firm belief that those whom we have been elected to represent and serve have the right to witness the official forum for our endeavors. Whether or not they will like what they see is not and should not be a factor in determining if we will provide them this access to their Government. The very spirit of our democracy is best served by maximum communication between constituents and their elected representatives.

The observation of Senate floor proceedings should not be a right extended only to those present in the gallery. The many citizens who are unable to gain this first-hand exposure to Senate activity are equally deserving of the opportunity to witness, judge, and participate in the deliberations of their legislators.

Earlier in this debate, some of my distinguished colleagues suggested that the RECORD provides an adequate means for the public to remain informed of Senate proceedings. I maintain that, in the effort to follow a floor debate, far fewer are likely to locate and peruse the RECORD than to switch on the television. Television has become a prime means of communication as well as a national pastime. The time is long overdue for us to avail our constituents of this great technological resource, in order to simplify substantially their efforts to gain rightful access to the legislative proceedings of the Senate.

Mr. President, I firmly believe that we cannot and should not hide ourselves from our constituents through the denial of television access to floor proceedings. Public scrutiny of our manner of conducting our duties as elected representatives would be likely to benefit the Senate, as well as the public. I believe that Senate debate, rather than increasing in length, would become more concise and pointed, in response to the demands of an observant and astute constituent audience.

We need only look across the rotunda to the House of Representatives to see that this would be the result of television coverage. While limited in its application because of the strict time limits imposed on Representatives, this comparison reveals that the hours in session did not increase or even remain the same in response to broadcasting, but actually decreased by approximately 30 percent in the 3 years since its implementation. This is a significant and revealing statistic by all accounts. Superfluous and redundant debate will simply not be tolerated by an informed American public.

An expansive viewing audience might well affect other improvements in Senate proceedings. Several of my colleagues have expressed apprehension about the possible negative public reaction to the small percentage of time spent in floor debate. On this point, I concur with the remarks made earlier by the distinguished majority leader. The increased floor participation which would be a likely response to public scrutiny would better serve our democratic principles through enhancing the role of the Senate Chamber as a great forum for public debate. Expanded communication and greater exchange of ideas among ourselves on the many important issues on which we legislate would do credit to the Senate's status as the greatest deliberative body in the world.

If our constituencies express disapproval of what they see on their screens, few of us would not benefit from consequent improvements, whether personal or procedural, in the manner in which floor debate is conducted. Even in the unlikely event that the quality of floor debate does not improve in response to television broadcasting, we must extend to our constituents the opportunity and the right to witness the legislative consideration of matters of vital importance to them. I trust that this body will recognize the importance of this long-overdue obligation, no matter what their views on its potential effects on Chamber proceedings, and give favorable consideration to Senate Resolution 20.

U.S. IMPORT DUTIES WILL NOT HELP IN SAUDI ARABIA

Mr. PERCY. Mr. President, those words accurately sum up my own feelings about our trade policy. They are a quote from one of the foremost industrialists in this country, Lee Morgan, chairman of Caterpillar Tractor Co.

Caterpillar Tractor Co. is an American company, headquartered in House minority leader Bob Michel's city of Peoria, that has stayed on top in fierce international competition for construction and farm equipment. Years ago, these products were built primarily by American manufacturers. Now that has changed. Caterpillar is the world's No. 1 manufacturer of earthmoving machinery, followed by Komatsu of Japan, IBH of Germany and Fiat-Allis, a United States-Italian company that is 90 percent Italian-owned.

I am proud that Caterpillar maintains its world headquarters in Peoria, Ill. It is a great American corporation that has risen to the challenge overseas with outstanding directors, officers and employees. Caterpillar typifies the best of American business and its successes here and abroad merit a close look by everyone who would have this country succeed in international trade.

Mr. President, I have read—and given—many speeches on international trade over the years. Yet one of the best I have ever read was delivered by Lee Morgan before the Peoria Rotary Club on February 12, 1982. I ask unanimous consent that it be included in the Record at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. In his remarks, entitled "The Japanese Challenge in the 1980's," Mr. Morgan outlines some of his observations about why Japan is so formidable a competitor for American firms. He points out that the Japanese have a total dedication to exports and a very high productivity growth. But there is more to Japan's success than these important factors, and Lee Morgan lays them out in his address. Low factory inventory levels, emphasis on quality, support for economic growth, low absenteeism, worker discipline, and a different wage structure combine to give Japanese firms an advantage.

Caterpillar has recognized that these advantages give their Japanese competition a keen edge overseas. As Mr. Morgan states, "We are not sitting still with this knowledge, but actively trying to employ it in our Caterpillar strategies."

The Caterpillar answer to stiff competition, then, is to study the Japanese and apply their knowledge to our own production. Mr. Morgan makes clear that Caterpillar does not support efforts to impose higher duties or limit imports. The leadership of this company knows that would be very shortsighted. After all, well over 50 percent of the company's sales last year were overseas and 90,000 jobs were created in this country as a result. Moreover, such trade barriers would not help American companies compete in overseas markets like Saudi Arabia. That policy would do nothing to help us add jobs through exporting. In fact, it would seriously undermine it.

For all these reasons, Lee Morgan's speech is worthy of close study and I commend it to my colleagues who are interested in trade policy and our own domestic economic renewal.

Exhibit 1

The Japanese Challenge in the 1980's

In recent years, many of us have become increasingly absorbed with Japan. Planes crossing the Pacific are filled with American businessmen, off to find the "secret" of Japanese success. Newsstands and book stores are jammed with materials about Japan.

Just about everybody has a theory. One writer says the Japanese succeed because they live so close together, and thus have been forced to learn how to cooperate. There may be some truth to that theory.

Japan has about 115 million people . . . half the population of the United States. But they live in an area one-twenty-fifth the size of our country . . . and most of their land is mountainous, unusable for living space. It's hard to imagine one-half of our people living in an area smaller than California, but that's the way it is in Japan. Such crowded conditions must affect people's behavior. And yet, there are other places in the world just as crowded—but far less successful.

What is the secret behind Japan's economic growth? After about 20 trips to Japan . . . numberless conversations . . . many hours of meetings . . . and dozens of books and articles . . . the one thing I'm sure of is that there is no single answer. It's a combination of culture, geography, and recent history . . . plus a large amount of hard work, mixed with total dedication to exports, and a blending of government, business, and labor interests that's unknown in America.

Whatever the reasons, the Japanese have achieved an enviable record. High productivity growth. Control of inflation and unemployment. Low crime rate. World leadership in the production of automobiles and steel. Today, the majority of television sets, cameras, sewing machines, and a host of other products bear the label "Made in Japan" . . . which has become a greater sales asset than "Made in U.S.A." That's a recent switch. Many consumers in the world now have a mindset that "Made in Japan" signals better quality and better value than "Made in U.S.A." And, more and more, construction and mining projects in many parts of the world now have earthmoving machines with a "Made in Japan" label . . . carrying brand names like Komatsu, Kato, Hitachi, and Kawasaki. It's important that we be precise when talking about the competitive challenge Caterpillar faces from Japan. Caterpillar is not at this time in a battle for survival . . . but we are in a battle for leadership—and the jobs and advantages that depend upon the outcome of that battle. Our manufacturing sources, our breadth of product line, our financial strength, our dealer organization, our dedicated employees . . . all have helped maintain our current edge over competitors. But we have seen strong U.S. competitors slip quickly behind, to be replaced by companies from outside the United States . . . and we know it could happen to us as well. Today, the world's number two manufacturer of earthmoving machinery is Komatsu of Japan . . . number three is IBH of Germany . . . and number four is Fiat-Allis, an Italian controlled company. American companies were once our top competitors . . . but no more. Also, I'm sure you're well aware of what's been happening with International Harvester Company . . . and the plight of American auto manufacturers is well documented. We don't intend to let it happen at Caterpillar. We are strong competitors and intend to remain so . . . but against an ever-increasing challenge from Japan.

Ryoichi Kawai, president of Komatsu, has said publicly—and I quote—"We will not remain satisfied to be in second place to Caterpillar forever. For the time being, we will strive to be the world's number one in terms of product quality, technology, standards, and after-sales service"—unquote.

At Caterpillar, we take Mr. Kawai's comment with utmost seriousness. One of our continuing strategies has been to learn all we can about competition—especially, these days, Japanese competition.

Frankly, we don't spend too much time on theories . . . I believe we're practical people, and prefer to concentrate on facts gained through experience and day-to-day competitive encounters.

We've gained our knowledge about Japanese methods in several ways, but most clearly by working with a major Japanese firm in a joint venture. We have been involved in a 50-50 ownership joint venture with Mitsubishi Heavy Industries since 1963. Today, Caterpillar Mitsubishi has 8,000 employees and makes several models of track-type tractors, track and wheel loaders, dozers, rippers, and hydraulic controls. Caterpillar Mitsubishi is our single source for the D3, 910, and 931 models—the smallest crawler tractor, wheel loader, and track loader we sell. We ship these machines throughout the world from Japan. Our direct involvement in Japan through Caterpillar Mitsubishi has allowed us to learn a great deal about Japanese methods . . . but we've also looked extensively at other companies. Many of our senior executives have been to Japan, visiting companies like Nippon-denso, Nissan Motors, Nippon Steel, Fujitsu Fanuc, and many others.

I'd like to share with you some of the things we've learned.

First, the Japanese maintain low factory inventory levels. Japanese companies don't allow buildup of subcomponents, raw materials, and other supplies. Instead, they work in a system called "Kanban," which literally means "just in time." What the factory needs today is either made today or delivered today. Suppliers and plants alike adhere to the system. As one of our plant managers said after a visit, "Why, they don't even use tote boxes!" A tote box . . . for those of you not familiar with manufacturing operations like ours . . . is a large container used to store and transport components or raw materials. We have many thousands of them at Caterpillar . . . most of them in use, containing some form of "inventory" . . . and that inventory costs money, especially in these days of high interest rates. Jim Geier, president of Cincinnati Milacron, a major machine tool manufacturer, said that "material in a typical U.S. plant is being machined or having value added only five percent of the time . . . 95 percent of the time, it's waiting." We're learning from the Japanese some ways to reduce that inventory by concentrating on machine set-up time, production schedules in the shop, optimum lot sizes, supplier deliveries, and so on. We're seeking the active help of employees to come up with ideas to reduce factory inventories.

Second, the Japanese emphasize quality, just as we do. Their goal, no defective product should ever go to the next work station. Japanese managers use a number of methods to achieve the goal—employee education and training programs . . . quality control audits . . . and an enormous volume of statistics that provides fast evaluation of almost every aspect of quality. Above all, however, every employee is dedicated to quality. Interestingly enough, the methods Japanese firms use to instill this thinking are largely the inventions of American industrial engineers. American workers must recapture this same spirit if the "Made in America" label is to regain its respect in world markets.

Third—growth is good in Japan. You might think that goes without saying . . . that all people believe growth is synonymous with progress and a better way of life. But in this country we have a significant number of people who question the value of continued industrial growth. In Japan, on the other hand, there is not only a general belief that growth is good, but an understanding that true growth is growth in productivity. It's not uncommon in Japan for a group of workers to have their own objective to increase personal productivity. Japanese plants use improvement teams and old-fashioned teamwork . . . all to gain productivity improvement.

Fourth—work is beneficial. It's obviously beneficial for the business enterprise, but in Japan the typical employee agrees that work is beneficial for the individual as well. Japanese employers don't even understand what the term "absenteeism rate" means. The Japanese have a zest for work that should inspire us to continue to strive for excellence . . . and they believe wasted time and motion are wrong.

Fifth—discipline is good. In America, we too often confuse discipline with punishment. It can mean that, but it also means instruction . . . rules governing conduct . . . orderly patterns of behavior. For example, the Japanese tea ceremony is a discipline . . . orderly behavior. We can see this kind of discipline in sports. Both the Japanese and we are avid sports fans, and we all know it's the disciplined team that succeeds most often. Doing your job right involves discipline . . . that is, a consistent pattern of behavior. For the Japanese, discipline is a means toward working together in a non-adversarial relationship. In our schools, in our families, in our factories . . . it's time to give more emphasis to the positive values of discipline. Here we can learn much from the Japanese.

Sixth—American workers are paid more and work fewer hours than Japanese. The average hourly wage, including benefits, for a production worker in the United States in 1981 was $10.97—but in Japan, only $6.24, a difference of $4.73 an hour . . . or, put another way, the American worker earns 76 percent more than a Japanese counterpart.

American auto companies report a current wage and benefit total of about $20 per hour versus $11 for Japanese competition. Caterpillar's experience is similar. Our wage and benefit package for U.S. hourly payroll employees is now more than $19. At our Japanese competitor—Komatsu—compensation is about $10 an hour.

The reasons for the big difference in wages between the U.S. and Japan have nothing to do with the quality of workmanship, the quantity of work performed, or the difficulty of the job. Rather, union demands—agreed to by business management—have driven wages up without corresponding increases in productivity.

Further, it has been estimated that the typical Japanese production worker is on the job at least two weeks a year more than the average worker in U.S. heavy industry. The difference, which doesn't include overtime, is due to more paid time off for the American worker.

At Caterpiller, the average worker in the plant is working the equivalent of a four-day week.

The labor contract provides for about 45 days of paid time away from work, on the average. That includes vacation time . . . holidays . . . paid absence allowance of 50 hours per year . . . attendance bonus amounting to two hours credit for each full week on the job . . . jury duty . . . bereavement time . . . paid lunch time . . . and temporary military service.

The difference in wages and hours worked between Japan and America gives Japanese competitors a significant cost advantage.

This advantage is hurting sales of U.S. products in America, in Europe, in Japan . . . and, most seriously, in developing nations. Third world countries now represent a larger market for American goods than Europe and Japan combined, and have greater potential for growth. Japan is gaining a threatening competitive edge in these countries.

These, then, are some of the reasons for Japanese business success:

Good inventory control management,

Emphasis on quality,

Employee agreement that growth is good and work is beneficial,

Discipline—orderly behavior—is necessary, and

Americans are paid more but work fewer hours than their Japanese counterparts.

We're not sitting still with this knowledge, but actively trying to employ it in our Caterpillar strategies. Also, we continue to develop our traditional strengths. We're investing heavily in research and engineering—$363 million in 1981, an all-time high. We'll continue to expand and improve our product line. We're also expanding our productive capacity and upgrading existing facilities. Caterpillar plants are more modern and better equipped than those of Komatsu. In the past five years, we added 28 percent of manufacturing floor space . . . now more than 43 million square feet. That's the equivalent of 86 buildings the size of our Administration Building down the street. Our capital expenditures for plant and equipment in 1981 reached $836 million, another record high. We're working with the dealer organization on new and better ways to provide service, with training, diagnostic tools, and parts availability.

Also, quality assurance programs involving each of our products continue to receive maximum attention. Caterpillar's reputation is built on quality product, and we don't intend to relinquish our leadership in quality to anybody.

We believe we can meet the Japanese challenge, but it will take the cooperation of many people.

Caterpillar employees on management, hourly, and weekly payrolls . . . suppliers . . . labor union leaders . . . people in the communities where we have facilities . . . local, state, and national government leaders—all will have to help.

One thing we don't need or want is so-called help in the form of trade protectionism. Caterpillar has always been a strong advocate of free and fair trade, and we plan to continue on that path.

It's been suggested by some people that we should urge our government to legislate import duties so the Japanese tractor will cost more in this country.

Such proposals miss a basic point about Caterpillar business. 56.6 percent of our sales dollars were outside the United States last year—export of U.S.-made products accounted for two-thirds of that. We exported $3.5 billion worth of product from the United States in 1981—and that volume created about 31,000 jobs in our U.S. facilities. Further, we estimate that our exports were responsible for more than 60,000 jobs for Caterpillar suppliers in the United States.

We must compete throughout the world, and U.S. import duties will not help us in places like Saudi Arabia . . . where, incidentally, Komatsu has made inroads and sold large quantities of tractors at prices far below those for Caterpillar products.

Import duties lead to trade wars in which everybody loses . . . violate the basic premise of free enterprise . . . and completely ignore the realities of international business.

We don't want the United States government to impose artificial restraints on Japanese imports, nor do we want the Japanese government to curb the flow of products into that country. Such restraints ultimately harm all people.

Rather than trade protectionism, what we need for government is encouragement, a cooperative attitude, and freedom to compete on an equal footing with other companies . . . freedom from excessive and nonproductive regulations that increase costs . . . freedom from burdensome taxes.

From our suppliers, we seek improved commitments on quality, prices, and timely delivery schedules that closely fit our day-to-day production needs. We must work together to reduce in-process inventory and the costs related to it.

From employees, we seek renewed commitment to quality workmanship and a great understanding of our competition.

Quality must be a state of mind and productivity a way of life.

Caterpillar management must do a better job of tapping the intelligence and experience of the total work force. We're learning that leadership doesn't mean "top down" control where you tell people what to do, how to do it, when, and how much. We need to listen to the employees who perform the work, then act on their suggestions. The dedicated people who report to work every day at Caterpillar factories and offices can provide many answers to the Japanese challenge. The job of managers is to tune in on that human resource and listen and effectively respond.

I believe that we at Caterpillar can maintain our competitive edge against Japanese firms . . . and I believe that other American companies can renew their competitiveness as well. But we can't do it by working less and less, and we can't do it by frittering away our efforts in adversarial relationships among management, labor, and government. We can't continue to increase the gap between us and competitors.

The best job security for employees is a profitable company.

We need a new way of thinking in this land. Moderation, where excess now rules. Efficiency, where waste abounds. Cooperation, where confrontation now is the mode. Work, not apathy and absenteeism. Communication, where we all too often refuse to listen to each other. Understanding . . . not confusion and rhetoric which generate more heat than enlightenment.

We can meet the Japanese challenge . . . but it won't be easy. "Business as usual" won't get the job done. Competing in the '80s demands awareness and extraordinary effort from each of us . . . and now more than ever.

As I'm sure you're aware, just two days ago we were forced to announce additional layoffs and plant shutdowns. The recession is still very much with us. It will take maximum effort to cope with today's low tide of business without sacrificing our long-term growth objectives which are so important in meeting the Japanese challenge.

And we realize full well that you in the business community are having problems as well. One of our suppliers said the other day, "When Caterpillar catches cold, I get pneumonia."

I believe we will outlast the current economic downturn . . . and still meet the Japanese challenge. As President Reagan said in his budget message a few days ago, "Our task is to persevere," and we intend to do just that.

DEALING WITH A NEW INFLATION

Mr. PERCY. Mr. President, all of us in the Senate have been striving for many years to bring down inflation. It has been one of the most corrosive economic problems to ever confront this country. Inflation not only undermines wages and prices, but it slowly destroys the fabric that holds this great democracy together. We have committed ourselves to ending inflation and we must make sure we keep that goal in mind as we begin work on next year's budget.

Since President Reagan took office over a year ago, we have seen a dramatic improvement in the inflation rate, as measured by the Consumer Price Index. Only 2 years ago Americans were receiving the news of a CPI running at an annual rate of nearly 20 percent. Even after that alarming rate declined, it stayed in the double-digit range. Our inflation rate in 1979 was 13.3 percent. In 1980 it dropped slightly to 12.4 percent. Then last year we saw a much hoped for development as inflation made a marked decline to 8.9 percent.

The President's Economic Report for 1982 projects further improvement this year, with inflation averaging 7 percent for the year.

Mr. President, no one would question the adherence of our President to a strong anti-inflation program. His economic recovery program has made needed structural changes in both our spending and tax policy arenas. There is, of course, more that can be done. Our entire economy is now suffering from very high interest rates. Normally in a recession, interest rates will fall, but in this recession, that economic norm has not seemed to operate. There is a feeling among some in the financial community that a double-digit return on investments is still warranted, even though inflation is now on steep decline and has been for well over a year.

We may want to look at some other anti-inflationary proposals that will enhance the economic recovery program that the President has proposed. I know my colleagues have an open mind on this point and it is for that reason that I would like to bring to their attention a valuable article by a good friend of mine, Alexander Hehmeyer of Chicago.

Mr. Hehmeyer is an attorney with the distinguished Chicago law firm of Isham, Lincoln & Beale, but his experience goes far beyond the practice of law. He has served as executive vice president of Field Enterprises, Inc., and had business responsibilities over the financial operations of a major diversified company of 3 divisions and 10 domestic and 9 foreign subsidiaries with sales of over $500 million. He has also had widespread overseas business experience. In short, Mr. Hehmeyer speaks with a thorough knowledge of the United States and world economy.

His expertise on the subject of inflation is long standing. In 1978 when I convened a conference on inflation in Chicago, Mr. Hehmeyer was one of the best prepared participants and made a valuable contribution to our discussions, which were led by Dr. Arthur Burns.

This paper outlines a number of ways to reduce inflationary pressures. We may not agree with all of the prescriptions, but I strongly commend this article to my colleagues.

Mr. President, I ask unanimous consent that key excerpts of Mr. Hehmeyer's paper, "The United States Now Suffers From a New Kind of Inflation—A Social Inflation. What Can We Do About It?" be entered in the Record at the close of my remarks.

There being no objection, the excerpts were ordered to be printed in the Record, as follows:

Our New "Social" Inflation Is an Evolutionary Byproduct of Our New Productive Economy

Two hundred years ago, at the time of the formation of the United States, wealth came from agriculture, craft businesses and trade in much the same manner as throughout prior world history. There was then little need for social-political institutions to attempt to control or to direct the economy except to create political stability, to protect commerce, to have a stable national currency and to provide some protection for infant industries from the more advanced European economies.

A hundred years later, as a result of the industrial revolution of the 19th century, the U.S. found itself with wholly new wealth creating methods and techniques. These in turn, produced a need for new social-political controls and institutions.

It was "normal" for businessmen, a hundred years ago, in the 1880's to take full advantage of the new manufacturing, transportation and communication facilities to maximize their profits by price fixing, monopolizing and similar techniques. Appropriate social-political controls for these undesirable by-products of the industrial revolution were first imposed by such "devices" as the creation of the Interstate Commerce Commission (1887) and the adoption of the Sherman Anti-Trust Act (1890). These pioneering "controls" over the new economic-social behavior patterns created by the industrial revolution were followed by innumerable other laws designed to enhance, control and divert into socially desirable channels, the economic output of a new industrial world.

Today, in the 1980s, another major problem has evolved from our continually expanding industrial revolution, namely, our "social" inflation—wages increasing at faster rates than productivity. The human behavior which has created this "social" inflation is much the same as the behavior of businessmen 100 years ago—a "normal" desire to maximize economic rewards by those in a position of power to do so, without any particular regard for the consequences to others or the nation as a whole.

In short, we should approach the necessity to control our "social" inflation as a "normal" by-product of our achievement in having built a productive economy which can support our "safety-net" programs and give reality to many of the hopes of the "revolution of rising expectations". We should approach the problem of creating the necessary, anti-inflation procedures in a dispassionate and objective way, but always realizing that we face many subtle difficulties because we are dealing with a "people problem" in a democratic society of many politically powerful special interest groups.

STEP 1—WHAT TO DO IN 1982

The immediate problem facing the nation is the upcoming inning of the "heavy hitters"—in 1982 contract renewal negotiations for several million workers in the auto, rubber, meat packing, petroleum and trucking industries.

So much will depend on the leadership of both business and labor during such negotiations. The suspicion and antagonism that has characterized labor-management relations in the past should be dispelled in every possible way. Business, labor and government all have much more to gain by cooperation than by confrontation. Fortunately, there seems to be a good deal of evidence that business and labor are now finding it to their mutual benefit to cooperate, as evidenced by the numerous recent "give back" arrangements. These reflect a recognition by both sides that wage and benefit increases which are in excess of productivity are fatal to business profitability and hence jobs. This is painfully difficult for elected union leadership working within today's closed, structured labor organizations which have little entre for new blood or new ideas; but the trend is hopeful and reflects the fact that union members are now more interested in job security and also that the professionals on the staffs of our larger unions, the lawyers and economists, are painfully aware that, in terms of the national economy, wage increases cannot exceed productivity improvements without creating inflation, hurting business, creating unemployment and encouraging imports (with the related loss of jobs for union members).

We must understand that what society has created it must also control and, therefore, that, long range, we must have tandem packages of controls to preserve society's "safety-net" world without the devastating side effect of continued inflation; and this should be done without impairing (and hopefully even assisting) the creative forces of a basically private, wealth creating, free-market economy.

The inflation impact of our "social" inflation in 1982 will be temporarily muted by the absence of "shock" inflation forces (good 1981 crops and an oil glut) and by the "beneficial" by-products of the recession which has been induced by tight money policies, namely, union "give back" agreements, a moderation of union wage demands, a hardening of the negotiation stance of public and private employers and a cooling of "fever" inflation in real estate.

Given this 1982 climate, business and labor should both find it helpful and face-saving if Government took a strong stand against any new union contracts which seek to continue wage and benefit increases at the high annual rate of recent years.

The Reagan Administration, as a prelude to the formulation of a long range program to control our "social" inflation, should pressure business and labor during the 1982 wage negotiations to hold down the rate of future wage increases to something like 5%, justifying this on the basis of the prediction of its supply-side economists that the new tax rates, the new incentives to savings and the reduction of waste in government will cause productivity increases of around 4%.

Presidents Kennedy, Nixon, Ford and Carter all attempted, under different circumstances and with different degrees of skill and intensity, to hold down wage increases by "jaw-boning". President Reagan should be more successful, given the recessionary climate, his emphasis on "hard" economic policies and his reputation for firmness as a result of standing up to the air controllers union. A rigid stand in 1982 in opposition to excessive wage increases would probably be supported by the American public which is now anxious to have its political leaders "do something" to stop inflation and to get the economy working again.

In reaching our assumed desirable long-range objective of finding permanent ways to stop our "social" inflation, we must recognize that this inflation has continued for so long and has so increased inflation expectations and costs (and hence prices) that any sudden return to a zero inflation rate would create all kinds of problems. Any over-all roll back of prices is neither possible nor desirable. Our objective should be a "soft landing", gradually bringing down our inflation rate so that in a few years we can get back to a zero or minimum (up to 2%) inflation rate.

In 1980, U.S. wage cost increases in excess of productivity were about 10% to 12% thereby adding a comparable cost push pressure (there being no productivity gains in 1980) to almost every sector of the American economy. This wage cost pressure, combined with oil "shock" and real estate "fever" inflation pressures, caused the 1980 inflation rate to be about 12%.

In 1981 there was a slowdown in the rate of wage and benefit increases; they increased at the annual rate of 8% to 10%; but again there was no (or very little) productivity increase. So the 1981 inflation rate was 8.9%.

A target of limiting 1982 wage increases to a suggested 5% or less would be a most helpful start in slowing down our "social" inflation. This, combined with government programs to enhance productivity and eliminate waste and the recession pressures on businessmen to do likewise should, in the absence of any new "shock" inflation, make it possible to bring the 1982 inflation rate down substantially (hopefully to below 5%), even after the spill-over effect of previously granted larger wage increases and the impact of indexing in so many union contracts and pension and benefit programs.

A firm stance in 1982 for non-inflationary wage increases by the leaders of the "free-enterprise" oriented Reagan Administration will not be easy. They should remember Burke's classic observation:

Most political decisions are a choice between the disagreeable and the intolerable.

STEP 2—A LONG RANGE PROGRAM

Whatever success we may have in 1982 in holding down wage and benefit increases due to the favorable opportunities for then doing so, the results will be only a temporary cessation of our "social" inflation unless we recognize that this is a dangerous new type of inflation which calls for a simultaneous attack on two fronts:

(i) the creation of attitudes and legal devices with the objective of slowing down and controlling the future pressures for wage and benefit increases which exceed productivity gains (i.e., a direct frontal attack on the "social" inflation) and

(ii) to increase productivity—so that wage increases can be granted without creating inflation and simultaneously to expand the economy so there will be a bigger pie for everyone to divide and a resulting reduction of "social" inflation pressures.

Suggestions for controlling wage-increase pressures

There is no single or simple way for us directly to attack our "social" inflation. We need to use a composite of a number of policies, programs and devices.

Public Opinion: We live in a democratic society whose roots of government depend on an informed public opinion.

Public opinion, in turn, is a process of education. The education links to the public are the mass media (newspapers, magazines, radio and television) and the specialized media (books, professional journals, trade publications, news letters and the like) which communicate to the leadership groups.

The first job, therefore, is to try to educate the editors, writers, academicians and commentators who constitute the human input for the media and who, regrettably, are, for the most part, economic illiterates.

Somehow these leadership groups must learn that we have a "social" inflation and that, if we want to put an end to this inflation, we must find ways to control these "social" inflation pressures on the one hand and to enhance productivity on the other.

The failure of the press properly to communicate the impact of wage increases is endemic. A good example is a recent newspaper headline: "Chicago Firemen Settle For 2 Percent". The accompanying story failed to point out that this 2 percent increase was on top of a 6½ percent increase effective 9 months earlier and, in addition, that another 1 to 2 percent of increase was reflected by a new uniform allowance, an extra day off as a "personal holiday" and a costly program of free dental care for firemen and their families; plus, of course, the increased pension benefits which the wage increases triggered. The total 1981 wage and benefit increase to the firemen was probably over 15 percent; and in the absence of any productivity gains the many millions involved will have to be recouped by further increases in local taxes, and ergo, more inflation.

Our media people should do much more than they do to communicate to the public the reality that wage costs have the same impact on prices as, for example, gravity has on the flow of water. There should be a continuous stress on the need to hold wage and benefit increases in line with productivity gains and to stress that productivity improvements are brought about by the better organization of people and skills, more efficient work habits, more modern equipment—and that this is the only way we can afford higher wages and benefits and also create a bigger pie for all of us to divide. The media and the academic worlds should also understand, and communicate, the reality that for economic stability we must accept the economic reality that some jobs should have terminal compensation levels and that people in those jobs who desire to earn more money must either moonlight or move into other more productive occupations.

The desire of employees for more money (and benefits), the power of unions, and the "ability" of business and government to pass on costs by higher prices or taxes, must not continue to be, as they have been, the only elements in the bargaining process.

Management and Union leadership: Management must learn to improve its managerial skills. In many instances unions and workers are unjustly blamed for lack of industrial efficiency which is due to the lack of creative, competent and hard working management.

Management should put much greater emphasis on long range planning and find ways to inhibit executive compensation policies which emphasize short-term profits at the expense of long-term benefits. There is a growing recognition that in too many cases the managements of U.S. companies have stressed short-term profits instead of spending earnings for research and new equipment which, while temporarily depressing earnings, would in the long run (and, unhappily, under the next generation of management) enhance productivity and profitability. The Japanese put a much greater stress on spending money for future efficiency and profitability without regard to any temporary negative effect on earnings. American management should do likewise.

It is to be hoped that the rank and file members of unions can be educated by their union leaders about economic realities with the hoped for consequence of reducing the pressures on the leaders to exact constantly increasing wages. This may be euphoric; but perhaps not.

Professionals on the staffs of the larger unions are, for the most part, of a high calibre though until recently they have been helpless in arguing reasonableness because of the pressures by their union officers who in turn continue to be pressured by the rank and file. Let us hope that the climate within unions can be improved and that the bargaining process gets raised to a higher level with both parties—labor and management—really understanding the economic implications inherent in the bargaining process.

Government Leadership: Our public officials, particularly at the Federal level should do all they can to mold public opinion to the necessity of relating wage increases to productivity gains. They should also do much more in their official roles in standing firm against the pressures from the public sector unions, in improving the efficiency of government agencies (which are painfully inefficient in so many instances), eliminating wasteful and excessive costs in all government programs (including the "safety-net" programs) and in opposing politically inspired wage-ballooning schemes, such as the Davis-Bacon Act and the related "prevailing wage" determinations of the U.S. Department of Labor.

The Reagan Administration has stressed its desire to eliminate waste in government. Regrettably it has not yet, for pragmatic political reasons, concentrated its efforts in areas of enormous waste such as the billions involved in pork-barrel water development schemes, in some areas of military procurement, farm subsidies, non-service related hospital and medical benefits of the Veterans Administration, among others. Let us hope it can do better in the future.

Economic Impact Statement: We should require by law that all proposed union contracts (public and private) which involve over a certain number of people (say over 5,000 employees) must be accompanied by an "Economic Impact Statement" setting forth in a prescribed manner the true, total cost of any proposed wage benefit changes (i.e., the total cost of the wage increases and all pension, medical, holiday and other benefits).

Such an Economic Impact Statement should be required to be made public for a reasonable waiting period (say 60 days) to give everyone a full understanding of what the proposed wage settlement involves and to have time for Government to decide whether the new levels are acceptable in the light of the nation's productivity gains and the policy of inhibiting inflation.

Wage and Price Controls: Our Government needs, as part of its inflation defense arsenal, stand-by laws for wage and price controls to be available for selective application. This would be a most useful tool to supplement an Economic Impact Statement requirement. If an unacceptable increase in wage costs seemed imminent in a major sector of the economy, such as in the building trades, a stand-by wage control law would be one way for Government to stop such an inflation-causing wage escalation.

Traditionally, wage controls have been accompanied by price controls because this has been assumed to be both a political and an economic necessity. Query if it is an economic necessity? In a free market economy, with an abundant availability of goods and services, market forces will keep prices in line. Hence we need not always impose price controls in tandem with wage controls because price controls (assuming a reasonable availability of goods and services) are only necessary where markets are not free. This might be true to some extent in major industries, such as automobiles and steel, where even with goods in long supply, free markets are largely absent. Price controls in such industries might be a needed adjunct to wage controls but not in the sectors of ample supplies where competition exists, as in farm commodities, retail outlets and the large areas of our economy consisting of small, competing companies.

A wage and price control standby authority is a much needed, essential tool for Government to possess to help control "social" inflation. The power should be used sparingly; but having the legal machinery in place might, by itself, reduce inflation expectations and certainly would make it possible for Government to put real pressure on unions and management to reach non-inflationary bargaining settlements.

Duration and Expiration Dates of Union Agreements: Japan limits union wage agreements to one year and all must expire in March. We should consider requiring all our major union agreements to be limited to one year and not to continue for 3 years as so many now do. This would avoid building today's inflation expectations into tomorrow's wage increases, such as the 35 percent or more of increases over a 3 year period in the recent coal workers settlement.

If all major wage agreements simultaneously expired each year, the inflation impact of proposed new agreements would always be clearly and currently visible and not, as is now the case, fogged by scattered expiration dates.

Prohibit Wage and Benefit Indexing: We should prohibit the indexing of wages and benefits, the so-called COLA schemes (cost of living adjustment clauses). These, in one form or another, are now in effect for nearly 50 percent of U.S. wage, pension and "safety net" arrangements. They should be called "snowball" clauses because they automatically make our wage and benefit costs get bigger and bigger. A prohibition of indexing would quickly bring home to the public the full impact of inflation by requiring ad hoc negotiated or legislated, and not automatic, future increases and should be of major help in fighting our "social" inflation. Many European countries now prohibit wage and benefit indexing.

Monetary Policy: Since tight money is an effective tool—albeit inefficient and costly—for slowing down our pervasive wage-push "social" inflation by inducing a recession, a tight money policy should be available and used whenever "social" inflation forces are not controlled by other means.

Money controls are also needed in dealing directly with "shock" inflation which in turn tends to foster "social" inflation. Monetary control policies should be aggressively targeted upon any sectors of the economy (such as the stock market or real estate) which might be subjected to a "fever" inflation. The selective use of monetary controls to stop or slow down overheated sectors should involve a credit rationing process which does not have the negative consequences for the economy as a whole caused by excessively high interest rates. The legal and monetary tools by which the Federal Reserve controls the money supply seem adequate; it is only a question of the Fed using these tools with the right timing, intensity and direction. If we could find other ways to control our "social" inflation, basic interest rates could get back to a 3% to 5% level.

An International Inflation Study Conference: While of itself it would not be an inflation tool, a most useful anti-inflation initiative for our Government would be its sponsorship of a top-level international conference among the OECD countries to study the causes of "social" inflation in the free-market democratic societies and to suggest politically acceptable ways for the various governments to combat that inflation.

The OECD economists in Paris have for many years been making perceptive studies of the inflation phenomena of the OECD world but their findings are not being effectively communicated.

Such a high level OECD economic study conference could well put the "social" inflation trends of the OECD countries into the perspective of a "cancer-like disease" of the free world of at least the same international concern as atomic pollution and ocean pollution.

Such a high level conference, if properly structured and aggressively publicized, might well contribute towards finding and communicating useful de-politicalized inflation fighting solutions to offset the insatiable social and political pressures behind the "social" inflation which is now a serious economic disease in most of the OECD democratic societies.

PRODUCTIVITY GAINS—THE OTHER SIDE OF THE COIN IN STOPPING INFLATION

It would, finally, be in order briefly to comment upon the second part of the attack on inflation, viz: offsetting the consequences of our "social" inflation by productivity gains.

In a sense, we are now engaged in a war on the territory of our economy between two contending forces: the army of "social" inflation (with its continuing 10% or so wage inflation pressure weapon) vs. the productivity defense army, staffed by supply-side economists (with their tax incentive weapons designed to create annual 4% anti-inflation productivity increases) and aided by the recession inducing weapons of the monetarists.

As matters now stand, the inflation forces, though weakened, are still the stronger, with the productivity defense army in danger of having its incentive-scheme weapons smothered by the recession created by its well meaning monetarist allies. The incentive based hopes of the productivity forces will be frustrated unless the "social" inflation forces are attacked directly in the manner discussed. A two prong inflation strategy is needed: an attack on the inflation causes and a counter-attack of productivity gains. If we can at least weaken the "social" inflation forces by our direct attacks we will make it possible for the productivity incentives to take hold and produce the needed productivity gains.

Many productivity encouraging schemes are already in place: lower income taxes, saving incentives (the new tax free investment pools—IRA, Keogh, All Savers); tax credits for research; faster write-offs for plant and machinery investments and the like. A number of refinements and additions could be suggested, such as portable tax loss carry-forwards (to encourage risky entrepreneur investment companies); elimination of the heavy energy severance tax burden imposed on the industrial Northeast and the Mid-west by a few, exploiting energy rich states; faster write-offs for productive machinery (why not 100% in the first year since it is just a deferral of corporate income taxes because there will then be no further depreciation deductions); more emphasis on eliminating unnecessary government regulations; decontrol of business and industry wherever possible and practical, and so forth.

The supply-side economists must stop nostagically recalling the economic growth with only a minimum of inflation which followed the Kennedy tax cut—business incentive programs. What they fail to see is that our "social" inflation was then only slowly gathering momentum and wage and benefit increases were only slightly exceeding our then 3% annual productivity gains. Our economy can benefit from productivity encouraging policies—but today we need first to attack the "social" inflation forces which make it so difficult for such policies to have the beneficial economic consequences they had 20 years ago.

We have a strong work ethnic in the United States, the necessary labor and management skills and all the political stability, technical and industrial tools for real economic growth. If we are able to control our "social" inflation pressures, interest rates will drop to the "normal" basic 3%-5% levels of a non-inflationary economy, thus again making it possible to finance capital type expenditures. If we then also stress the need for, and foster, increased productivity, we will have set the stage for many years of prosperity.

The first, and essential, step is to identify our "social" inflation and then be willing and able to do something about it.

We must somehow overcome the cultural and political taboos which so inhibit the press and politicians from intelligently and rationally discussing wage and benefit subjects.

For decades our good intentions have allowed wages (and benefits) to increase far in excess of productivity gains. However well motivated, the process has now backfired and has created our "social" inflation with all its stagflation and other negative consequences.

It is no longer a question of liberal vs. conservative thinking—if it ever was. The public, government, management and labor must all now join forces in creating a new climate of realistic economic thinking and rational cooperation. Everyone then benefits, especially those most in need of the additional jobs which only a prosperous and growing economy can create.

SELWA "LUCKY" ROOSEVELT—A WOMAN OF GREAT QUALITY TO BE NEXT U.S. CHIEF OF PROTOCOL

Mr. PERCY. Mr. President, last week, the President announced his intention to nominate Selwa Roosevelt to be the next U.S. Chief of Protocol. I wish to commend the President on his selection of Mrs. Roosevelt for one of the most demanding posts in the Federal Government.

The Chief of Protocol occupies a unique position within the Federal Government, advising the President, Secretary of State, and other high-ranking Federal officials on all aspects of protocol—an integral part of the establishment, maintenance, and promotion of international relations between the United States and other nations throughout the world. Highest priorities for the Chief of Protocol include planning and preparing for Presidential visits outside the United States. In addition, among other duties, the Chief of Protocol acts on behalf of the President or the Secretary of State in welcoming the most distinguished foreign nationals who visit the United States at the invitations of the President or the Department of State. Clearly, given these significant and substantial responsibilities, the Chief of Protocol must be well versed in U.S. foreign policy concerns and, at the same time, be comfortable working with the wide assortment of people and interests that make up the Washington diplomatic community.

Having been a longtime friend of Selwa "Lucky" Roosevelt, I believe she possesses all the qualities necessary to be an outstanding Chief of Protocol. Throughout her adult life, she has demonstrated a real interest in U.S. foreign policy having graduated with honors from Vassar College with a degree in international relations. Soon after her graduation, "Lucky" came to the Nation's Capital and joined the staff of the Washington Star where she authored a column titled, "Diplomatically Speaking," which covered the Washington diplomatic community. Following her marriage in 1950 to Archibald Roosevelt, Selwa embarked on a second career with her husband who served at U.S. diplomatic posts in Istanbul, Madrid, and London. Upon their return to Washington in the early sixties, she resumed her work as a journalist writing for such publications as McCalls, Family Circle, and Town & Country of which she is a contributing editor and has played an important supportive role in his top management position in the international affairs of the Chase Manhattan Bank.

Throughout her varied career, Selwa Roosevelt has continued to be a keen observer of life on Embassy Row which has provided her with invaluable experience and insight for the new challenge that lies ahead. Considering all her strengths—education, experience, intellect, and temperament—Selwa "Lucky" Roosevelt should prove to be an exceptionally fine choice for the Chief of Protocol. She enjoys a close personal relationship with both the President and the First Lady. I look forward to working closely with her and offer my warmest congratulations to "Lucky" and her family.

Mr. President, I ask unanimous consent that two recent articles in the New York Times and the Washington Post profiling Selwa Roosevelt be printed in the RECORD at this time.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 3, 1982]

FOR PROTOCOL: "A 4TH OF JULY AMERICAN"

(By David Shribman)

WASHINGTON, March 4.—Evan Dobelle, who held the position for part of the Carter Administration, used to compare being the United States Chief of Protocol to being the mayor of a small city—except, he would add, "you don't get the 3 A.M. phone calls about getting out the snowplows."

Washington's diplomatic community of some 10,000 people is about to get a new mayor, a woman who has written about the totems and taboos of diplomatic life and who, as the wife of an American diplomat, has experienced that life firsthand.

When President Reagan on Wednesday announced his intention to nominate Selwa Roosevelt as Chief of Protocol, he selected the daughter of a Lebanese immigrant who is an enthusiastic backer of his policies. "I really am a flag-waving, Fourth of July kind of American," Mrs. Roosevelt said in an interview today. "I feel an enormous affinity with the President. I know we're on the same wavelength."

The 53-year-old Mrs. Roosevelt, whose husband is a grandson of Theodore Roosevelt, is well known in Washington's diplomatic and social circles and has frequently defended Nancy Reagan against cocktail talk involving her wardrobe and her new White House china. In a recent Washington Post column entitled "Give the First Lady a Break," Mrs. Roosevelt urged members of the press to grant Mrs. Reagan the opportunity "to chart her course as First Lady in keeping with her personality, her upbringing and her own interests."

CONSERVATIVE VIEWS

Mrs. Roosevelt's conservative political views date to her college days at Vassar, where she wrote her thesis on Communism in the Middle East. And she has retained her interest in Middle East affairs. "She's not only likable," said a longtime Washington friend, "but she's extremely serious as well."

Her father, who was born in a Lebanese village and was a stowaway on a ship bound for the United States at the turn of the century, settled in Kingsport, Tenn. By the time she was 16 years old she was working on The Kingsport Times-News. Later she wrote a column on life in Washington's diplomatic community for the now-defunct Washington Star. Her articles on foreign styles of life often appear in Town and Country and an article she wrote on alcoholism and drug dependency appears in the current edition of Family Circle.

Mrs. Roosevelt followed her husband, Archibald B. Roosevelt Jr., who is now director of international relations for the Chase Manhattan Bank, to diplomatic posts in Istanbul, Madrid and London. But, she said today, "I'm the one who is the Chief of Protocol. As much as I adore my husband, his career is not my qualification."

FOURTH WOMAN IN POST

If confirmed by the Senate, Mrs. Roosevelt will succeed Leonore Annenberg, who resigned in January, and will be only the fourth woman to fill the once male-dominated position. Her female predecessors include Shirley Temple Black and Edith Dobelle, who succeeded her husband.

"I think she brings a lot to the job," said James W. Symington, a former four-term Congressman from Missouri who was Chief of Protocol under President Johnson. "She has moved easily and for some time in the circles she'll be working with."

The Chief of Protocol advises the President and high officials on questions of protocol and is responsible for arranging arrival ceremonies for visiting heads of state, administering the oath of office for new American ambassadors and accompanying foreign ambassadors when they present their credentials to the President. In all, it means attending as many as 500 social events a year.

But, said Mrs. Roosevelt, "It isn't one big party. It's very much something else. It's a way of conducting international relationships. It's decorum and good manners and good taste."

[From the Washington Post, Mar. 4, 1982]

ROOSEVELT NAMED FOR PROTOCOL POST—WHITE HOUSE NOMINATES WRITER TO VACANCY

(By Donnie Radcliffe)

Washington socialite and freelance journalist Selwa (Lucky) Roosevelt has been nominated as U.S. chief of protocol, the White House announced yesterday. The $58,500-a-year position carries the rank of ambassador.

"I'm thrilled and honored by the confidence this president has shown by nominating me," Roosevelt, 53, said last night. Her nomination requires Senate confirmation.

A staunch defender of First Lady Nancy Reagan, whom she first covered when Ronald Reagan was governor of California, Roosevelt becomes the fourth woman in a job that, until a few years ago, traditionally was held by men.

She is married to Archibald B. Roosevelt Jr., grandson of President Theodore Roosevelt and director of international relations for Chase Manhattan Bank. Her nomination, announced in Los Angeles where President and Mrs. Reagan are on a brief vacation, ends several months' speculation about who would succeed Leonore Annenberg. She resigned Jan. 1 after less than a year on the job, saying her husband, wealthy Philadelphia publisher Walter Annenberg, wanted her to spend more time with him.

Roosevelt is a native of Kingsport, Tenn. In 1950, she received a degree in international relations from Vassar College, where she was graduated with honors.

The White House announcement described her as "a Washington hostess" as well as journalist whose "beat" in the early 1950's, when she was on the staff of the now-defunct Washington Star, was a column titled "Diplomatically Speaking."

"I've observed the job for years and think it is one of the most exciting there is," said Roosevelt. "Covering state visits was one of my favorite jobs as a young reporter."

If confirmed as chief of protocol, Roosevelt's duties at the State Department will include arranging and implementing state and official visits by foreign heads of state and government and serving as liaison with the more than 140 nations represented by Washington's diplomatic community. She will assist the president, vice president and secretary of state in their personal and official contacts with the diplomatic corps here, as well as accompany the president on visits abroad.

In its announcement, the White House said Roosevelt "interrupted" her own writing career to accompany her husband, who was with the Central Intelligence Agency and later was an ambassador, on various diplomatic assignments abroad. They resided in Istanbul from 1951 to 1953, in Madrid 1958-'61 and London 1962-'67.

Fluent in Spanish, she has traveled widely on her own as a journalist, writing frequently for Town and Country (of which she is a contributing editor), McCall's and Family Circle, in whose current issue there is an article by her on alcoholism.

As a free-lance journalist for The Washington Post in 1968, she covered the Republican National Convention where Ronald Reagan, then governor of California, was first seen as a potential presidential candidate.

"I was assigned to cover Mrs. Reagan, though I'm sure she doesn't remember that," Roosevelt said last night.

The daughter of a Lebanese immigrant who came to the United States at the turn of the century, the former Selwa Showker was 16 years old when she began working as a cub reporter during summer vacations and after school for the Kingsport newspaper.

"I'd hardly set foot out of Tennessee until I went to college," she said of her childhood.

Reached by United Press International at her home in Johnson City, Tenn., last night, Roosevelt's mother, Najla Showker, said she did not find it unusual that her daughter should have been selected for the job.

"She is a very able person. She has led quite an interesting life, met all sorts of people. She knows how to handle herself."

Roosevelt, herself, said she was informed a few days ago by White House Deputy Chief of Staff Michael K. Deaver that she was being considered for the position. Shortly after that, she said, she also was telephoned by the first lady, whose life style and social awareness she had defended in an article written for The Washington Post's op-ed page last fall.

"She was as sweet as she could be and said she would be pleased and delighted if I accepted," said Roosevelt.

A self-described "good Republican (I always have been)," Roosevelt has written extensively about Embassy Row and the significance of Washington entertaining.

"I realize now that I probably have been preparing for this role all of my professional life," she said.

She called previous protocol chief Leonore Annenberg "supportive, so wonderful—I realize I'm going to have a hard act to follow." At the State Department, acting protocol chief Tom Nassif, who had been among those mentioned as a possible candidate for the job, called Roosevelt's selection "outstanding."

"She's not a neophyte but has the background that will lend an added dimension to the job," said Nassif.

Roosevelt called her husband "the most supportive husband in the world" since the days when she was a young reporter covering the embassy beat.

"He says he is delighted to be prince consort," she said.

In Washington, where she has lived since 1967, she has been active in the Folger Shakespeare Library and the Children's Hearing and Speech Center of Children's Hospital. She is a member of the citizens advisory board of Duke University's comprehensive cancer center and recently joined the board of the American-Italian Foundation for Cancer Research.

She is the fourth woman to be named to the protocol post, all within the past eight years. Shirley Temple Black served under Gerald Ford and Edith (Kit) Dobelle under Jimmy Carter. By choosing Roosevelt as he did Annenberg, President Reagan has again reached into the inner circle of Nancy Reagan's friends.

A REPORT ON KOREA

Mr. PERCY. Mr. President, Henry Scott Stokes of the New York Times has written a comprehensive news report on the political and economic situation today in the Republic of Korea. It appears to be a balanced piece, based on a number of interviews with those currently in power as well as those in opposition. I would like to share it with my colleagues.

The United States and Korea are celebrating the 100-year anniversary of the establishment of diplomatic relations between the two nations. American admiration and affection for the Korean people is strong and sustained. We are pleased that the nation now seems to be emerging from several turbulent years and progress is being made in a number of areas. Economically, the nation is rebounding from the 1980 slump. Politically, President Chun has provided stability. We hope that measures taken so far toward political liberalization will continue and expand. As for security, renewed U.S. pledges to maintain the presence of American troops, combined with measures taken by the Korean defense forces to modernize, have improved the military balance on the peninsula. President Chun's proposals for peaceful reunification, though still rejected by the North, are wide-ranging and positive. Our best wishes for continued progress in these areas are with the Korean people during this anniversary year.

I ask unanimous consent that "South Korea Under Chun: A New Sense of Vigor" which appeared in the

March 4 edition of the New York Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOUTH KOREA UNDER CHUN: A NEW SENSE OF VIGOR

(By Henry Scott Stokes)

SEOUL, SOUTH KOREA.—President Chun Doo Hwan, completing his first year as head of state under South Korea's new Fifth Republic, appears to have won the confidence of his allies abroad and much of the military and business elite at home.

After taking office on March 3, 1981, and making a slow start marked by discord and official repression, Mr. Chun, a former army general, has injected a sense of vigor into his administration, and the economy is reviving after a bad spell. He has emerged as a rival to Kim Il Sung, the North Korean President, on the emotional issue of Korean reunification and, in consequence, as a forceful leader in the Korean peninsula.

Meanwhile, he has apparently persuaded a reluctant Japanese Government to grant him several billion dollars in long-term credits. His quest for international acceptance received further impetus from the International Olympic Committee's surprise decision to bestow the 1988 Olympic Games on Seoul and not on the Japanese city of Nagoya, which fully expected the games.

PREDECESSOR WAS MURDERED

These are not small achievements. South Korea went through a traumatic period in 1979 and 1980 after the murder of President Park Chung Hee by his own security chief. Now the situation is quieter, and the streets of Seoul bustle with well-dressed people. The shops are full of electronic goods.

Early this year Mr. Chun ended a nationwide midnight-to-4. A.M. curfew that had been in effect for 36 years. This was a largely symbolic gesture, but it marked a gradual return of confidence, with business picking up and the threat of armed conflict with North Korea seemingly under control.

[On Tuesday, in a move aimed at conciliating critics at home and abroad, Mr. Chun reduced from life to 20 years the sentence imposed in 1980 on his chief political rival, Kim Dae Jung, while awarding amnesty or reduced sentences to 2,862 other convicts, including 297 listed as political prisoners. Although no major political prisoners were released, the gesture demonstrated Mr. Chun's increased self-confidence.]

STILL A ONE-PARTY STATE

At the same time, however, South Korea remains essentially a one-party state and Mr. Chun has made only modest progress toward his own avowed goal of "democracy." And there is much residual bitterness among those on whom he cracked down hard during his rise to power, particularly in the universities, the press and rival political factions.

That worries United States officials in Seoul.

In view of its "spectacular" economic progress over the last two decades "and the increasing importance of its international activity," said the United States Ambassador, Richard L. Walker, "the Republic of Korea has the basis for a more confident approach" to political liberalization.

The 51-year-old Mr. Chun, a snubnosed, partly bald man, direct in conversation and far more willing than his austere predecessor, Mr. Park, to seek the counsel of ordinary Koreans in private talks, gave his own sense of priorities in a New Year speech before the National Assembly.

SUBSTANTIAL ECONOMIC GROWTH

"Nineteen eighty-one was a year in which we extricated ourselves from political and social chaos and restored stability," he said. "As a result, substantive progress was achieved, including a 7 percent economic growth—a reversal of the negative growth of 1980."

In his speech, the first to the Assembly by a head of state since 1968, Mr. Chun outlined a comprehensive proposal for the unification of Korea, by far the most complete program so far submitted by South Korea. It would start with an exchange of permanent Cabinet-level officers between Seoul and Pyongyang, the North Korean capital.

North Korea responded negatively. But the offer, which was followed up by more unification proposals from Seoul, remains on the table.

President Chun, advised by the newly appointed chief of his presidential staff, Lee Bum Suk, a Pyongyang-born former diplomat who is regarded as a leading expert on the North, had previously made a shrewd move last year when he offered to meet Kim Il Sung at any time and place without a set agenda.

REUNIFICATION THE KEY GOAL

The significance of these maneuvers arises from the fact that the dream of Korean reunification remains a major issue in the hearts of virtually all Koreans. For years, Kim Il Sung carried the torch of reunification; Mr. Park, by contrast, seemed to lack confidence in dealing directly with the Communists. The torch may now have passed to Mr. Chun.

A career soldier who received part of his training in the United States, and who engaged in no political activity until 1980, Mr. Chun appears to have developed a sense for the political gesture. His decision to speak before the National Assembly—something that President Park avoided—was such a move, seemingly intended to underline his belief in "democracy."

But what democracy means to Mr. Chun is unclear. He seems to share some of Mr. Park's disdain for politicians, speaking before the Assembly of "fatuous political behavior characterized by strife and confrontation, and opposition for the sake of opposition."

As an apparent alternative to Western-style parliamentary democracy, he proposed "judicious nurturing of the national strength through dialogue and compromise," with "Major efforts to insure clean government." Politicians could interpret this Confucian sentiment as meaning, in essence, "Follow me."

LEADING POLITICIANS BANNED

Mr. Chun has banned 567 former leading politicians from political activity until 1988. His attitude toward politicians generally is based on an almost Khomeini-like emphasis on purity of motive. "Hidden pockets of corruption must be uprooted," he has said. "As long as anyone is inclined that way, corruption will raise its head."

There is an element of shrewd political calculation in all this, but Mr. Chun's moral posture appears basic to much that he has done. It manifests itself in his frequent admonitions to the business community, a source of bribes under the Park administration; in his "purification" programs for the nation; in his dealings with a greatly weakened political opposition, and in his efforts to cleanse Seoul of criminal and dissident elements alike by interning them at what Korean officials describe as "rehabilitation" camps scattered at military bases across the country.

Meanwhile, the press is not free in any conventional Western sense. Although formal censorship disappeared with the ending of martial law a year ago, the Government, using Draconian legislation, exercises considerable authority over the news media.

400 JOURNALISTS DISMISSED

In theory, the "basic press law" adopted in December 1980 guarantees "the people's right to know," but in actuality the press, radio and television went through what the semiofficial Korea Herald called a "voluntary reorganization" under which 400 journalists were dismissed.

Not long afterward, the authorities gave editors written instructions called "suggestions for cooperation on the news." These suggestions, which discourage criticism of the Constitution or of Mr. Chun, are not technically mandatory, but they have had an inhibiting effect.

Mr. Chun's key aides include Ho Ham Su and Ho Hwa Pyong, former brigadier generals who were on Mr. Chun's staff when he was the chief of army intelligence under Mr. Park. Their influence with the President, a subject of intense speculation among South Koreans and diplomats here, is believed to be partly tempered by civilian aides, notably economists, whose expertise gives them access to and influence on Mr. Chun.

Foremost among the economists, who are United States-trained, are Kim Key Hwan, recently made president of the Korea Development Institute, and Kim Jae Ik, a member of the presidential staff. Mr. Chun inherited both aides from Mr. Park.

UNEMPLOYMENT RATE IS DOWN

Official statistics suggest there has been a major turnaround in South Korea since a 1980 slump caused in part by a worldwide surge in oil prices. Job offers for young blue-collar workers exceed job-seekers in the big cities and basic unemployment is presently about 4 percent of the total workforce.

Meanwhile, exports rose by 18 percent to a record of more than $20 billion, one-third of the whole economy, at a time when world trade contracted. There was a bumper rice crop. And inflation fell back to single digits after touching nearly 50 percent not long ago.

But Kwon Jung Dal, another former general from army intelligence, who runs Mr. Chun's new ruling Democratic Justice Party, warned that South Korea still had a long way to go. "With growth of 7 percent this year and negative growth of over 5 percent in 1980, we are only back where we were in 1979," he said in an interview.

Revival of the economy recalls a remark by Gen. John A. Wickham Jr., the United States military commander in Korea, in the dark days of 1980. "Provided foreign countries find Korea a fertile area for investment, provided peace and stability can remain here, I'm very optimistic about Korea's economic future, whatever the leadership she has," the general said.

THREAT FROM NORTH PLAYED DOWN

A healthy economy is seen by United States officials as vital for security, and vice versa. That is perhaps why Mr. Chun, seeing the economy move ahead again, has placed much less emphasis on the "threat from the North," once a favored slogan, in recent speeches. Operating on the assumption that a "perceived threat" is bad for business and foreign investment, he offered his unification proposals instead.

South Korea's foreign debts have risen to $30 billion and will increase further under a five-year plan that will depend heavily on low-interest loans from Japan. By comparison, North Korea, virtually outside the world economy under President Kim's "juche," or "self-reliance," philosophy, has foreign debts of only about $3 billion. But it has had difficulty in covering payments on those, defaulting on its debt in the mid-1970's, because its exports are weak.

The South, with 38 million people and a $60 billion economy, has twice the population and about four times the economic activity of the North, and the gap is increasing again. Although North Korea is hardly on its knees, as some reports circulated in Seoul maintain, experts say it was seriously short of oil in 1981, unable to pay world market prices.

NORTH'S IMPORTS SAID TO LAG

A Cabinet source said that last year the Pyongyang regime obtained only 2.08 million tons of oil imports, compared with home demand estimated at 3.72 million tons and refinery capacity of 4 million tons. The Chinese and the Russians, who ship oil to North Korea at prices one-third below world levels, were discouraged by the unattractive business outlook, the source maintained.

For years Kim Il Sung was portrayed in Northern propaganda as the leader of the nonaligned world. But there too he has lost ground. When the International Olympic Committee awarded the 1988 games to Seoul, raising the prospect of a flood of visitors from the third world and vast publicity for South Korea, it was a bitter pill for the 69-year-old leader.

Meanwhile Mr. Kim is engaged in possibly the most tricky exercise of his 36-year rule. On April 15 he will hold a gigantic celebration in Pyongyang, with guests from all over the Communist and nonaligned world, to mark his 70th birthday. He is expected to appear at the party with his 40-year-old son Kim Chong Il to lay the ground for what would be the first Communist dynasty in history.

THE BIGGEST CULT OF THEM ALL

"His basic concern is passing on power to his son," said a spokesman for South Korea's Agency for National Security Planning. "He saw what happened after Mao and Stalin died and their cults collapsed. Kim has the biggest cult of them all, and to avoid a cruel posthumous fate he seeks to hand over to his son, guardian of his cult. The turning point is the 70th birthday."

North Korean sources in Tokyo say that the younger Mr. Kim is actually running things in the north on a day-to-day basis already. Experts in North and South say that President Kim is committed to a feat of dynastic gymnastics that some here are sure will fail.

"It cannot work, no way, I am 100 percent sure of that," said Mr. Lee, Mr. Chun's chief of staff. "You have Kim Il Sung's second wife, Kim Sung Ae, who has her own son to promote, watching unhappily from the wings."

"There has to be all kinds of Renaissance-style intrigue up at the palace," Mr. Lee said.

DISSIDENT'S TRIAL STIRRED PROTESTS

But Mr. Chun is not without problems of his own. There was much resentment at the arrest and trial of Kim Dae Jung. Later, thousands massed in protest in the streets of Kwangju, and many were killed by Mr. Chun's troops.

Mr. Kim was charged with sedition and with having organized the Kwangju uprising, though he was in prison when it broke out. He was sentenced to death but the sentence was commuted to life imprisonment just before President Chun made an official visit to Washington and after the Reagan Administration and other Western powers brought pressure to bear on Mr. Chun.

South Korea's relations with the West have improved steadily since then, but diplomats in Seoul have not taken much comfort in the way Mr. Chun has consolidated his power. Having quietly invited President Choi Kyu Hah, an ineffectual former diplomat who had been President Park's Prime Minister, to pack his bags and leave the Blue House, the presidential mansion, in August 1980, Mr. Chun moved in and then had a Constitution drawn up that gave him a stacked electoral college. This guaranteed him automatic election to a full seven-year term in the presidency a year ago.

CHUN'S PARTY HOLDS MAJORITY

Subsequently, Mr. Chun's ruling party won a majority of the 290 seats in the National Assembly, in part because it managed to spend more than 90 percent of the money available for political campaigning and advertising.

The opposition, such as it is, is less than happy. Shin Sang Woo, a leader of the Democratic Korea Party, said in an interview that he appreciated "stability" under Mr. Chun but was unhappy over the President's refusal to allow normal political activities, something that is difficult without funds.

"I desire that the political curfew be lifted now that the midnight curfew has gone," he said.

Other opposition demands include revision of the Constitution to deny the Government the power to stack presidential elections by controlling slates of candidates for the electoral college. Mr. Park used a similar tactic to get himself re-elected with only nominal opposition. In that sense the Fifth Republic is a carbon copy of Mr. Park's last one, critics said.

TRUE DEMOCRACY SEEN AS DISTANT

Will Mr. Chun takes steps toward "liberalization, diversity, flexibility and pluralism," if not real democracy, as urged on him by Western diplomats? "There's a match flickering at the end of the tunnel," a diplomat commented. "Will it light the candle?" This man and other ambassadors appear to doubt that the "candle" of freedom will be lighted easily by Mr. Chun. But, on the other hand, can the President muster widespread popular support, for himself and for his reunification program, if he will not take the risks involved?

There are no easy answers to these questions, as Mr, Chun himself is aware. As early as this spring Mr. Chun may face restive opposition parties and disturbances on campuses. His problem is that if he eases up he might be forced from power or lose the confidence of the armed forces leaders, his ultimate prop, but if he does not liberalize, resistance may grow underground.

STABILITY MAY BE THE KEY

The great majority of his people plainly want stability, and if Mr. Chun offers that, as well as continued economic growth, he is likely to remain in command.

Indeed, he seems to have sensed this and has tried to capitalize on it by frequent public appearances, having turned up in every major city to meet the people since his inauguration last year. In this, he is following a policy deliberately different from that of Mr. Park, who became a virtual recluse after the assassination of his wife in 1974 and disappeared into the security of the Blue House.

"But what we need also is, as Chun claims to be, a convincing patriot who also embodies Korean nationalism," a conservative church leader remarked not long ago. "My question is whether Chun is not in some vital ways unable to gather true national support."

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

BUDGET CRISIS AT THE NATIONAL ARCHIVES

Mr. EAGLETON. Mr. President, last June, Senator MATHIAS and I introduced S. 1421, legislation to make the National Archives and Records Service (NARS) an independent agency of the executive branch, ending its subordination to the General Services Administration (GSA), which began in 1949.

At that time, I noted that the relationship of the Archives to GSA had troubled historians and archivists from the start; that the Archives unique mission and purpose was simply incompatible with the major concerns of a business-oriented conglomerate such as GSA; that the Archives budget and the morale of its employees have suffered over the years because of the agency's lack of independence; and that study after study has confirmed that GSA and Archives constitutes a serious misalliance. I expressed my belief that severing the tie would benefit both agencies and demonstrate a real commitment on the part of Congress to preserving our precious historical legacy.

I still believe that in the long run, the Archives will not attain its full potential until Congress makes it independent of GSA. However, the Archives today faces an immediate crisis as the result of the crippling budget cuts scheduled to be inflicted on the Archives in fiscal year 1982 and the cuts proposed for fiscal year 1983. These budget cuts threaten to cause such harm to the Archives, and to our documentary history, that they warrant the immediate attention of all Members of Congress, whatever these views might ultimately be on the issue of independence for the Archives.

The principal source of my information is the record compiled by Congressman ENGLISH's Subcommittee on Government Information on March 2 and 4. Congressman ENGLISH and his staff deserve great credit for their superb hearings which made the plight of the National Archives unmistakably clear.

The continuing resolution which presently governs NARS activities reflects a 16-percent reduction since the administration's 1982 budget submission. NARS current funding for fiscal year 1982 is $75,138,000, a reduction of over $12.9 million—14.6 percent—since fiscal year 1981. The significance of the reduction is magnified by changes within the budget. The high fixed costs of maintenance, security, and operation of NARS facilities by GSA have increased as a percentage of NARS budget. In fiscal year 1981, these costs were 31 percent of NARS budget. By comparison, they are 41 percent of the budget for fiscal year 1982. As a result, NARS operating programs are receiving less of the budget. NARS programs were 60 percent of the fiscal year 1981 budget; they are now only 54 percent of 1982. Stated another way, funds for NARS operations have declined by $12.5 million, or 23 percent, from fiscal year 1981.

For fiscal year 1983, the President's budget proposes $85 million for the Archives. That figure would still leave the Archives funding several million dollars below the level of fiscal year 1981.

According to the General Accounting Office, the Organization of American Historians, and other witnesses before Congressman ENGLISH's subcommittee, the consequences of the budget cuts include the following:

The Archives has already announced that it was discontinuing the interlibrary loan of Archives microfilm publications.

The staff in accessioning and declassification has been dropping steadily over the past decade—down 25 percent—and more RIF's are slated to follow. The result is ever-lengthening delays in making important classified materials available.

The Washington Post reported that 14 of the 31 archivists handling President Nixon's tapes and papers have been laid off, including 5 cleared for top secret work. This means that Archives will not come near meeting its 1985 deadline for making the Nixon tapes and papers available to the public.

Accessioning of new records has come to a screeching halt. Public release of the FBI's records of the J. Edgar Hoover years; the Justice Department's World War II files; the Pentagon's and State Department's central files of the Korean war—all promised for this year—have been delayed indefinitely.

NARS has already reduced its staff by about 140 people through reductions-in-force. Extensive furloughs will also be utilized. RIF's could ultimately reach 25 percent of NARS personnel.

NARS may no longer be able to provide 24-hour-a-day environmental controls critical to archival preservation in the nine Presidential facilities which house material from the administrations of Presidents Hoover through Carter.

Work on preserving more than 1.3 million original color negatives maintained by the Office of Presidential Libraries may be halted.

Scholars must now wait 2 hours to look at records kept by the diplomatic, judicial, and fiscal branches which hold the records of the State, Justice, and Treasury Departments. Telephone and mail requests for records are no longer honored if the material takes longer than 30 minutes to find. Xerox copies of records in the Archives are now limited to 25 per person. Previously, the only limiting factor was the charge per copy.

These specific cutbacks in service and performance by the Archives are deeply troubling. But I believe that even the specifics fail to convey the full impact of the likely damage to the Archives. Samuel Gannon, testifying for the American Historical Association, put it this way:

> AHA's representatives on the Archives Advisory Council have reported that budget cuts have created a crisis at the National Archives and severely compromised the ability of that institution to fulfill its mission. The Archives has sharply reduced some services and will terminate others. Even more distressing, particularly for the long term, government mandated reductions-in-force (RIFs) have forced many talented archivists to leave NARS and, with morale sinking, many others have resigned. As a result, the process of accessioning records has slowed, care of the records has deteriorated, and, perhaps most important, knowledge of the Archives' collections has been reduced, limiting the value of those collections. For scholars and for the general public who rely upon the Archives as a primary repository for understanding the past, this is a crisis of enormous proportions.

The GAO, not given to hyperbole or undue alarm, offered this assessment:

> Budget reductions . . . will severely restrict NARS' ability to fulfill its mission . . .
>
> Such severe budget cuts can only serve to promote the deterioration and ultimate loss of valuable historic records.

And the brilliant, Pulitzer Prize-winning historian Barbara Tuchman testified:

> To reduce the Archives') program funds by 30 percent is sheer destruction because continuing records cannot be accessioned, catalogued, properly housed so as to be available—and if not available, they might as well not exist. Without adequate staff, they may at best be stored in unopened crates in the basement; at worst, not acquired at all. It is like the burning of the Library of Alexandria in the third century B.C.: the ancients wept at what was lost.

I have opposed many of the Reagan budget cuts because they struck me as tragically shortsighted. The budget cuts inflicted on the Archives represent the classic case of being penny-wise and dollar foolish. For a short-term savings that can only be described as minuscule—several million dollars annually—we demoralize the Archives, impede historical research, leave fascinating historical documents in crates unavailable to the scholarly community, and risk the destruction of truly vital national treasures.

The Archives situation presents a rare opportunity: A case where relatively little money can make an enormous difference. The "Coalition to Save Our Documentary Heritage," a group made up of historians, archivists, geneologists, and other users of the Archives, have prepared estimates of what the Archives would need to fulfill its mandated mission. Those of us accustomed to dealing with the Defense or HHS budget will be stunned at what is being sought by way of additional funds. For example: $1 million for installation of 24-hour climate control in all records storage areas where it is currently needed; $2 million for additional staff and supplies for preservation of deteriorating documents; $.8 million to reinstate the interlibrary loan program that has recently been terminated; and $2.6 million to replace the 20 percent of the Archives staff laid off since September 1980.

Even in these difficult times, I believe that we can find sums of money like this.

The case against these budget cuts becomes even more compelling when we realize that the Archives budget was on a tight leash long before the current budget-cutting mania. From 1976 to 1981, before these hurtful cuts, the overall staff of the Archives actually decreased by 1 percent. The rate of growth in the Archives budget has been far less than that of the Smithsonian, the Library of Congress, or our other cultural institutions. In January 1980 former Archivist James B. Rhoads criticized the lack of funding which had traditionally plagued the Archives and cautioned that $2 million, an increase slated for Archives at that time, was "simply not enough to make any significant headway against a 150-year backlog of neglect." Against this background, there can be no justification whatsoever for these cuts.

This funding crisis at the Archives further confirms my belief that Congress must act to make NARS independent of GSA. Most observers of the Archives believe that traditionally an inadequate budget has resulted in large part from the absence of an effective advocate for the Archives. GSA Administrators have had other budget priorities; OMB budget examiners studying GSA's requests have not been attuned to the Archives' unique needs and functions.

The current GSA Administrator, Gerald Carmen, has recently acted to ease the Archives' financial plight by removing the Archives building and all Presidential libraries from the obligation to make standard level user charge (SLUC) payments to the Federal buildings fund. Because of Mr. Carmen's action, NARS will now only reimburse the fund on the basis of actual costs. This step will save NARS an estimated $4.8 million in fiscal year 1982, which Mr. Carmen proposes to reprogram to NARS operating expenses.

I applaud Mr. Carmen's action. However, the sum involved is not sufficient to allay my concerns; nor is an ad hoc, administrative reprograming, however well intended, a good substitute for an adequate Archives budget, enacted in legislation, reflective of Congress understanding and concern. Moreover, I share the belief expressed by the Organization of American Historians that Mr. Carmen has been wholly unrealistic in statements suggesting that Archives could absorb the 16-percent budget cut without any loss of services, or filing and preservation functions.

I also strongly believe that a proper respect for the importance of history demands that Congress provide adequate funding for the National Historical Publications and Records Commission (NHPRC). Although the program has traditionally been funded at a very modest level, $4 million in fiscal year 1981, NHPRC has made an enormous contribution to the preservation and publication of the historical materials relating to America's past. Through its publications program, NHPRC has begun to lay before the American people documentary editions, free from partisan interpretation, concerning the Founding Fathers and the creation of the Government: Such as the Papers of Thomas Jefferson, the first Federal Congress, and the early years of the Supreme Court. Their editions have gone beyond Government as well, to cover military affairs, social concerns, labor, and the arts and sciences.

Through its grants program, NHPRC has advised and assisted State and local historical societies, archives, libraries and associations to insure the discovery and preservation of valuable historical documents. NHPRC has been very successful in using Federal money as "seed money," effectively leveraging money from other levels of Government and private dollars in a unique collaboration. In 1963, Justice John Harlan observed that the work of the Commission "touches the concerns of all who hold positions of responsibility in public life, indeed, of every thoughtful citizen though enjoyed in purely private endeavors." Yet the Congress, with a tragic lack of perspective, did not conform NHPRC for fiscal year 1982, and later grudgingly permitted the earmarking of $1 million out of the already depleted Archives budget. I believe that NHPRC funding should be restored to its previous level, and I strongly oppose the idea that a decent level of authorization for NHPRC can occur only at the expense of the Archives. We owe it to ourselves to fund both.

Mr. President, our House colleague Tim Wirth put the importance of these matters eloquently in a recent letter:

> The documentary record of this country's heritage, the yellow and faded documents fighting the ravages of time, must not be a budget afterthought. We must face the reality that lethargy and unconcern will surely bring a grave loss, one that Americans of all classes and political persuasions will share.

And as Samuel Gannon, executive director of the American Historical Association, put it:

> A land without history is a will-o'-the-wisp at the mercy of every transient impulse and enthusiasm of the moment.

I intend to offer an amendment to substantially raise the funding for the Archives and NHPRC for the remainder of fiscal year 1982 and to fight for workable funding levels in fiscal year 1983 as well. I am confident that my colleagues will recognize what is at stake and will join me in rejecting the shortsighted budget cutting at the expense of history.

IN CELEBRATION OF AMERICAN AGRICULTURE

Mr. HAYAKAWA. Mr. President, today, March 18, has been designated Agriculture Day for the year 1982. This is a special day, one of recognition, tribute, and homage to the industry upon which our Nation was built. Daniel Webster said: "When tillage begins, other arts follow. The farmers, therefore, are the founders of human civilization." Truly, their endeavors are as old as the civilized society of man.

I say this in all seriousness. When savage man learned not to eat his seed corn and put it aside to plant in the spring in expectation of a harvest, that is when time entered into human life as a dimension of human existence.

Time, as the semanticist Alfred Korzybski said, is the human dimension and we are a time-binding class of life. Agriculture is one of the first professions—it is the first profession—in which time is the essence. Therefore, planning ahead is the essence of success.

This, too, is farmers day, a day on which we celebrate the drive and fiercely independent spirit of farmers. Their belief in a lifestyle that demands so much and often returns so little in monetary terms, sets them apart from much of our Nation's population.

The farm family, and the values which it represents, is worthy of our highest admiration. The faith, ethics, and moral values of farm life are indeed venerable. I wish to share with my colleagues a poem by Wendy Thomson, a farm girl in Kern County, Calif. As she writes to her father the farmer, she gives us a glimpse of that beautiful institution, the farm family:

> Letting the earth slide
> through your fingers
> that's how I'll
> always
> think of you.
> Toiling for us
> even busy in your leisure.
> . . . Fixing the fence
> pruning the trees
> Yes . . . you'll go on
> to live
> forever
> in the soil
> which you live, love and give.

Congress has a tremendous responsibility in protecting the best interests of our Nation's agriculture. I believe we have, at times, gone too far in our efforts to help farmers. From our zeal to protect them, we have given birth to some programs which threaten to poison our agricultural economy. With elaborate income transfer schemes, we have fostered inefficiency; we have encouraged overproduction. We have, in effect, built an agricultural system which has thousands of farmers dependent on the farm welfare programs passed here in Washington.

Enough, this is not an epitaph. This is a celebration. Today I bring California agriculture to the attention of the Senate. Although California is perhaps best known for its movie stars, hot tubs, freeways, and beaches, the magnificence of her agricultural machine is truly worth noticing.

California is our Nation's largest agricultural State. In fact, if California were an independent country, it would be the seventh largest agricultural economy in the world.

California leads the Nation in production of 50 different crops and livestocks products—while ranking in the top in 20 additional agricultural products. Among these, the State produces 100 percent of the total U.S. output of four crops; more than 90 percent of nine other crops; and more than half of the country's production of another 14 farm products.

Moreover, the diversity of the State's agriculture is truly impressive. Over 250 different crops and livestock products combine to give California an agriculture revenue in excess of $14 billion in 1981.

California's importance as an exporter of agricultural commodities is growing rapidly. Currently we rank third in the Nation, following Illinois and Iowa.

I should point out that, without water, much of the State would be desert. Through years of developing its water resources and harnessing the runoff from the Sierra Nevada Mountains, California farmers have made the desert bloom. It is the water users who have developed the water projects that have brought millions of acres of land into the production of row crops, vines, citrus, nuts, tree fruits, and vegetables.

Today, Mr. President, I take my tam off to the farmers of the Golden State. I salute the farmers all across the United States who are, indeed, the backbone of this great Nation.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I believe there is an order to proceed next to the consideration of the regulatory reform bill.

The PRESIDING OFFICER. That is the next item of business.

Mr. BAKER. Mr. President, may I announce for the benefit of all Senators that I am advised by the Senator from Nevada that he expects that little more than opening statements will be dealt with today and that no votes should be expected on this matter today. Therefore, I announce there will be no more record votes today.

ORDER FOR RECESS UNTIL MONDAY, MARCH 22, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I thank the Senator from Nevada for allowing me to make the announcement and arrange for the convening of the Senate on Monday. I do not anticipate, Mr. President, that the Senate will remain in session unduly long today. As soon as a convenient break point is reached by the distinguished managers of the bill, I will be glad to confer with them on the time to recess over. In any event, I would not expect the Senate to be in session past 6 o'clock this evening.

REGULATORY REFORM

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1080, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Regulatory Reform Act".

RULEMAKING

SEC. 2. (a) Section 551 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(15) 'emergency rule' means a rule that may be temporarily effective according to the provisions of subsection (b) of section 553 of this title without prior compliance with the provisions of subsections (c) through (g) of section 553 if the agency finds that a delay in the effective date of the rule would—

"(A) seriously injure an important public interest; or

"(B) seriously damage a person or class of persons without serving any important public interest.".

(b) Section 551(4) of title 5, United States Code, is amended by adding at the end thereof the following: *"Provided, however,* That the term 'rule' does not include statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing;".

SEC. 3. Section 553 of title 5, United States Code, is amended to read as follows:

"(a) This section applies to every rule making except as provided in subsection (b).

"(b)(1) This section does not apply, except when notice or hearing is otherwise required by statute, to any—

"(A) rule to the extent that such rule involves a matter pertaining to a military or foreign affairs function of the United States;

"(B) rule relating exclusively to internal personnel rules and personnel practices of an agency;

"(C) interpretive rule, general statement of policy, or rule of agency organization, procedure, or practice, unless it has general applicability and substantially alters or creates rights or obligations of persons outside the agency;

"(D) rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services;

"(E) rule for which the agency for good cause finds that full compliance with the provisions of subsection (c) through (g) of this section is unnecessary or may be reasonably delayed due to the insignificant impact of the rule; or

"(F) emergency rule.

"(2) In the case of a rule for which an agency makes a finding under subparagraph (E) of paragraph (1) of this subsection, the agency shall publish the rule in the Federal Register with a statement of the finding of the agency under such subparagraph and the reasons therefor.

"(3) In any case in which an agency promulgates an emergency rule—

"(A) the agency shall publish the rule in the Federal Register with a statement which describes the emergency necessitating the promulgation of the rule, the reasons why the agency chose the rule promulgated as a response to the emergency, and the reasons why the agency was unable to comply with the provisions of subsections (c) through (g) of this section prior to the promulgation of the rule;

"(B) the agency shall comply with the provisions of subsections (c) through (g) of this section to the maximum extent feasible prior to the promulgation of the emergency rule and shall fully comply with those provisions as soon as practicable thereafter; and

"(C) the emergency rule may not be effective longer than a reasonable period necessary to complete agency compliance with subsections (c) through (g) of this section.

"(c)(1) Notice of proposed rule making shall be published in the Federal Register, unless each person subject thereto is named and personally served with notice or otherwise has actual notice thereof in accordance with law. Such notice shall include—

"(A) a statement of the time during which public comments will be received concerning the proposed rule, and the time, place, and nature of any hearings to be held concerning the proposed rule;

"(B) a statement of the specific statutory authority under which the rule is proposed and the congressional intent specifically sought to be achieved by the rule;

"(C) the proposed provisions of the rule, including a succinct statement of the need for, and the objectives of, the rule;

"(D) a statement that the agency seeks proposals from the public for alternative ways to accomplish the objectives of the proposed rule that are more effective or less burdensome than the approach used in the proposed rule;

"(E) a description of any data, methodology, reports, studies, scientific evaluations, or other similar information developed by or for the agency in connection with the rule making, or that pertains directly to the rule making and that the agency has considered in connection with the rule making, including an identification of the authors or sources of such information, and an identification of the particular information on which the agency plans to rely in the rule making and the purposes for which the agency plans to rely on such information;

"(F) a statement of where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected or copies of the file may be obtained at a reasonable cost;

"(G) the statement and explanation of whether the proposed rule is a major rule, required to be issued under section 622(a) of this title; and

"(H) a summary of any preliminary regulatory analysis required to be issued pursuant to subchapter II of chapter 6 of this title.

"(2) Whenever the agency revises the provisions of a proposed rule such that the original notice of proposed rule making no longer fairly apprises the public of the issues involved in the proceeding or of the substance of the proposed rule, the agency shall publish in the Federal Register a notice of the revisions in the proposed rule, together with the information relevant to the revision required by the applicable provisions of this section.

"(d)(1) After publishing the notice of proposed rule making required by subsection (c) of this section, the agency shall give interested persons not less than sixty days to participate in the rule making through the submission of written data, views, arguments, and statements. The agency may use such other procedures as it determines are appropriate to collect relevant information and to identify, and ensure full public comment on, the significant issues of law, fact, and policy of a particular rule making.

"(2) The opportunity for participation in the rule making provided by paragraph (1) shall include the opportunity for oral presentation of data, views, and information at informal public hearings for a major rule, as defined by chapter 6 of this title; and in any other instance in which the agency determines that such presentations are appropriate for the resolution of significant controversies in a rule making. Transcripts of all informal public hearings shall be made. Such oral presentations may include oral rebuttal or argument where appropriate, and shall include direct and cross-examination when other procedures are determined to be inadequate for the resolution of material issues of fact. The agency may establish reasonable procedures to regulate the course of informal public hearings to ensure an orderly and expeditious proceeding.

"(3) No court shall hold unlawful or set aside an agency rule because of a failure by the agency to use a particular procedure pursuant to paragraph (2) of this subsection unless—

"(i) an objection to the procedure used was presented to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection, and

"(ii) the court finds that such failure has precluded a fair consideration and informed resolution of a central issue of the rule making taken as a whole.

"(4) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(5) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.

"(e)(1) Except for rules which grant or recognize an exemption or relieve a restriction, a final rule shall be published in the Federal Register not less than thirty days before its effective date. Publication of a final rule shall be accompanied by a statement of its basis and purpose, which shall include—

"(A) a statement of the need for, and the objectives of, the rule;

"(B) a description of each of the reasonable alternatives to the rule which were considered by the agency, and a statement of reasons why each such alternative was rejected;

"(C) a memorandum of law supporting the determination of the agency that the final rule is within the authority delegated by law and consistent with congressional intent;

"(D) a succinct explanation of how the factual conclusions upon which the rule is based are substantially supported in the rule making file, and a summary of the assessment made by the agency of the comments presented by the public;

"(E) a description of the data, methodology, reports, studies, scientific evaluations, or other similar information upon which the agency is substantially relying in promulgating the final rule, and of the purposes for which the agency is relying on such information, including an identification of the author or sources of such information; and

"(F) a summary of any final regulatory analysis required to be issued pursuant to subchapter II of chapter 6 of this title.

"(2) In promulgating a final rule, the agency may not substantially rely on any factual or methodological material that was not identified in the notice of proposed rule making unless such material was placed in the rule making file in time for interested persons to comment thereon during the period for public participation in the rule making. The agency may rely upon such material that was not available in time for comment during the period for public participation in the rule making as long as the material was placed in the rule making file promptly upon its receipt by the agency, and, if the material is of central relevance to the proceeding, interested persons were afforded an opportunity to comment thereon.

"(f)(1) The agency shall establish a public file for each rule making proceeding, and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (2) of this subsection shall constitute the rule making record for purposes of judicial review. Except as provided in paragraph (2) of this subsection, the file shall contain all the relevant matter before the agency as a result of the rule making, including—

"(A) the notice of proposed rule making and any supplement to or modification or revision of such notice;

"(B) copies or an identification of the place at which copies may be obtained at a reasonable cost, of all material identified by the agency pursuant to subparagraphs (c)(1)(E) and (e)(1)(E) and of any other material not identified by the agency pursuant to subparagraph (c)(1)(E) that pertains directly to the rule making and that the agency considered in connection with the rule making;

"(C) all written comments received on the proposed rule;

"(D) transcripts of any informal public hearings taking place in the rule making;

"(E) all material that the agency by law is required to make public in connection with the rule making; and

"(F) any statement, description, or analysis required to be prepared by the agency in formulating the rule, including any preliminary or final regulatory analysis published by the agency pursuant to chapter 6 of this title.

"(2) The file required by paragraph (1) of this subsection need not include any material that is not required to be disclosed under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which such material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for comment by interested persons through the use of summaries, aggregations of data, protective orders, or other appropriate mechanisms so as to protect the confidentiality of such material to the maximum extent possible.

"(3) Any analysis of a proposed or a final rule required by another provision of this title or by another statute may be included in the notice of proposed rule making and in the statement of basis and purpose published with a final rule under this section to the extent that such analysis satisfies, or is not inconsistent with, the requirements of this section.

"(g) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule, for advice or an interpretation regarding the application of a rule, and for a variance or exemption from the terms of a rule. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.".

SEC. 4. (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapter III—

"(1) 'agency' means an agency as defined in section 551(1) of this title;

"(2) 'rule' means a rule as defined in section 551 of this title;

"(3) 'major rule'—

"(A)(i) means a rule or a group of closely related rules that the agency, or the President or the officer selected under section 624 reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in direct or indirect enforcement and compliance costs;

"(ii) but does not mean—

"(a) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate, or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing, or a rule that involves the internal revenue laws of the United States; or

"(b) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product or service that, pursuant to statute, could not lawfully be introduced into commerce or marketed in the absence of the rule; and

"(B) means a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the officer selected under section 624, on the ground that the proposed rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions;

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets; or

"(iii) other effects that warrant subjecting the rule to a regulatory analysis pursuant to section 622 of this title;

"(4) 'benefit' or 'benefits' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

"(5) 'cost' or 'costs' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of any proposed rule, each agency shall determine whether the rule is or is not a major rule within the meaning of subsection 621(3)(A) and, if it is not, whether it should be designated a major rule under subsection

621(3)(B). For the purpose of this determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of subsection 621(3)(A) and where applicable, of its designation as a major rule under subsection 621(3)(B).

"(b) The President, or the officer selected under section 624 may determine that a rule is a major rule within the meaning of subsection 621(3)(A) or may designate a rule as a major rule under subsection 621(3)(B) not later than thirty days after the publication of the notice of proposed rule making for that rule. This determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation. The Presisent or the officer selected under section 624 may designate no more than 75 rules as major under subsection 621(3)(B) in any fiscal year.

"(c) When the agency publishes a notice of proposed rule making for a major rule, the agency shall also issue a preliminary regulatory analysis. When the President or the officer selected under section 624 has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue a preliminary regulatory analysis for the rule. The rule making may not proceed until the preliminary regulatory analysis has been issued. Each preliminary regulatory analysis shall contain—

"(1) a succinct description of the benefits of the proposed rule, including any beneficial effects that cannot be quantified; and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(2) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified; and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs.

"(3) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that require no Government action; that will accommodate differences between geographic regions; and that employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule; and

"(4) except where the enabling statute pursuant to which the agency is acting directs otherwise, an explanation of how the identified benefits of the proposed rule are likely to justify the identified costs of the proposed rule, and an explanation of why the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d) When the agency publishes a final major rule, the agency shall also issue a final regulatory analysis. Each final regulatory analysis shall contain—

"(1) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(2) except where the enabling statute pursuant to which the agency is acting directs otherwise, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used. In making a determination as to which costs and benefits are relevant, the agency shall not rely on cost or benefit information submitted by any person that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The determination required by subsection (c) of this section shall only be made, and the preliminary and the final regulatory analysis required by this section shall only be performed, by an officer or employee of the agency. This requirement shall not preclude the gathering or analysis of information by a source outside of the agency to be used in any such regulatory analysis. If information is gathered or analyzed by a source outside of the agency, the agency shall specifically identify, in the preliminary and the final regulatory analysis, the information gathered or analyzed by such source, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 that a rule is a major rule within the meaning of subsection 621(3)(A), and any designation by the President or the officer selected under section 624 that a rule is a major rule under subsection 621(3)(B) shall not be subject to judicial review in any manner.

"(c) The determination of an agency of whether a rule is or is not a major rule within the meaning of subsection 621(3)(A) shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination. Any designation by an agency that a rule is a major rule under subsection 621(3)(B) shall not be subject to judicial review in any manner.

"(d) Any regulatory analysis prepared under section 622 shall not be subject to judicial consideration separate or apart from review of the rule to which it relates. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall be considered by a court in determining the legality of the rule.

"§ 624. Executive oversight

"(a) The President shall have the authority to establish procedures for agency compliance with chapter 6 of this title. Such procedures shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. The President shall have the authority to monitor, review, and ensure agency implementation of such procedures. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of chapter 6 of this title.

"(b) The President may delegate this authority, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(c) The exercise of this authority, or a failure to exercise this authority, by the President or by an officer to whom this authority has been delegated pursuant to subsection (b), shall not be subject to judicial review in any manner under this Act.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register for comment by interested persons a proposed schedule for the review, within a ten-year period beginning on the effective date of this section, of each major rule in effect on such date.

"(2) At least ninety days before publishing the proposed schedule in the Federal Register, each agency shall make the proposed schedule available to the President or an officer designated by him. Each proposed schedule shall contain a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule and shall include a date set by the agency for the completion of the review of each such rule. The agency shall set a date for initiation of review of each item on the schedule in a manner to ensure the simultaneous review of related items and to achieve a reasonable distribution of reviews over the period of time covered by the schedule. The President or an officer designated by him may select additional rules to be reviewed pursuant to subsection (c) of this section.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish the response of the agency to comments received concerning the proposed schedule with the final review schedule.

"(4) Except where explicitly provided otherwise by statute or where an extension has been granted pursuant to subsection (f), each major rule that is in effect on the date of enactment of this section shall be reviewed by the agency within ten years of the date of enactment of this section. Pursuant to such review, the agency shall determine to renew, amend, or rescind that rule.

"(b)(1) Except where explicitly provided otherwise by statute or where an extension has been granted pursuant to subsection (f), each major rule promulgated, amended, or otherwise renewed by an agency after the date of enactment of this section shall be reviewed by the agency within ten years of the date on which such a rule becomes effective. Pursuant to such review, the agency shall determine to renew, amend, or rescind that rule.

"(2) The President or an officer designated by him may select additional rules that were promulgated by an agency after the date of enactment of this section to be reviewed pursuant to subsection (c) of this section.

"(c) An agency shall publish in the Federal Register a notice of its proposed action regarding a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and a determination of whether the rule continues to fulfill the intent of Congress enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule;

"(4) for a rule that the agency determines no longer falls within the definition of a major rule, or for a rule that the agency proposes to renew with modifications that would exclude the rule from the definition of a major rule, an explanation of the determination or proposal; and

"(5) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to rescind or amend the rule, after issuing the notice required by this subsection the agency shall comply with the provisions of section 553 and chapter 6 of this title; and the requirements of those provisions and related requirements of law shall apply to the same extent, and in the same manner, as in the case of a proposed agency action which is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew the rule without amendment, the agency shall—

"(1) give interested persons not less than sixty days after the notice required by this subsection to comment on the renewal; and

"(2) publish the renewed rule in the Federal Register at least thirty days prior to the date on which the renewal of the rule is to become effective with an explanation of the continued need for the rule, and, if the renewed rule remains a major rule, an explanation of the reasonable determination of the agency that the rule continues to comply with the provisions of subsection (c)(2) of section 622.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (a) or (b), may request the President, or an officer designated by him, to establish a period longer than ten years for the completion of the review of such rule. The President or an officer designated by him may extend the period for review of a major rule to a total period of not more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or an officer designated by him, or shall, at the direction of the President or an officer designated by him, amend any schedule required by this section for the review of rules if such amendment is published in the Federal Register.

"(g) In any case in which an agency has not completed the review of a major rule within the period prescribed by subsection (a), (b), or (f) the agency shall immediately publish a notice proposing to withdraw or renew the rule under subsection (c), and shall complete proceedings pursuant to subsection (d) within one hundred and eighty days of the date on which the review was required to be completed under subsection (a), (b), or (f).

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or withdraw in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information by law—

"(1) a general description of the rule, including a citation to the authority under which the action is to be taken, or a specific explanation of the congressional intent to which its objectives respond;

"(2) a statement of whether or not the rule is or is expected to be a major rule within the meaning of paragraph 3 of section 621 of this title;

"(3) an approximate schedule for the significant action dates relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule; and

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule.

"(b) The President or his designee shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding months. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if it publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any determination by an agency concerning the applicability of this section to any action of the agency shall not be subject to judicial review.".

(b) Chapter 6 of title 5, United States Code, is further amended—

(1) by inserting immediately after the chapter heading the following:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

(2) by inserting immediately before section 601 the following:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(3) by striking out "this chapter" each place it appears and inserting in lieu therefore "this subchapter".

(e) Such chapter 6 is further amended by inserting at the end of the chapter analysis the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.".

JUDICIAL REVIEW

SEC. 5. (a) Section 702 of title 5, United States Code, is amended by designating the present provision as paragraph (a) and adding the following two new paragraphs:

"(b) The United States courts of appeals shall have exclusive jurisdiction of any action to enjoin, set aside, suspend, modify or otherwise obtain judicial review, other than in an enforcement proceeding, of any rule promulgated under section 553 of this title.

"(c) Notwithstanding any other provision of law, a petition to review an agency rule may be filed with the United States Court of Appeals for the District of Columbia Circuit, or for the circuit in which such person resides or in which such person's principal place of business is located.".

(b) Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rule making file, viewed as a whole, for the asserted or necessary factual basis, as distinguished from the policy or legal basis, of a rule adopted in a proceeding subject to section 553 of this title; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under clause (2)(C) of subsection (a) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of or against agency action.".

VENUE

SEC. 6. (a) Section 2112 of title 28, United States Code, is amended by deleting the last three sentences of subsection (a); redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and inserting the following as new subsection (b):

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than five days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than five days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within five days of the first proceeding, that such multiple proceedings have been instituted; and shall identify each court for which it has notice that such proceedings are pending. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604 of title 28, United States Code, is amended by redesignating subsection (a)(17) as subsection (a)(18), and by inserting immediately after subsection (a)(16) the following new subsection:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

PRESIDENTIAL AUTHORITY

SEC. 7. Nothing in this Act (i) limits the exercise by the President of the authority and responsibility that he otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices, or (ii) alters in any manner rule making authority vested by law in an agency to initiate or complete a rule making proceeding, or to issue, modify or rescind a rule.

EFFECTIVE DATE

SEC. 8. (a) Sections 2, 3, and 5 of this Act, and the provision of section 4 of this Act adding a new subchapter II of chapter 6 of title 5, United States Code, shall take effect on January 1, 1983, and shall not apply to any proceeding for which a notice of proposed rulemaking was issued before such effective date or to any other agency action initiated before such effective date.

(b) The provisions of section 4 of this Act adding a new subchapter III to chapter 6 of title 5, United States Code, shall take effect six months after the date of enactment of this Act and shall apply according to the provisions thereof.

(c) Section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

And from the Committee on Governmental Affairs in lieu of the language proposed to be inserted by the amendment of the Committee on the Judiciary, insert the following:

That this Act may be cited as the "Regulatory Reform Act".

RULEMAKING

SEC. 2. Section 551(4) of title 5, United States Code, is amended by adding at the end thereof the following: *"Provided, however,* That the term 'rule' does not include statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing;".

SEC. 3. Section 553 of title 5, United States Code, is amended to read as follows:

"(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy;

"(2) a matter relating to agency management or personnel or to grants, loans, or benefits;

"(3) a rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services; or

"(4) an interpretative rule, general statement of policy or rule of agency organization, procedure, or practice, unless it has general applicability and directly and substantially alters or creates rights or obligations of persons outside the agency.

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Each notice of proposed rule making shall include—

"(A) a statement of the time, place, and nature of public rule making proceedings;

"(B) a statement of the need for and specific objectives to be attained by the proposed rule;

"(C) a statement of the specific statutory authority under which the rule is proposed;

"(D) the terms or substance of the proposed rule;

"(E) a statement that the agency seeks proposals from the public for alternative methods, including the use of performance instead of design standards, to accomplish the objectives of the proposed rule that are more effective or less burdensome than the methods used in the proposed rule;

"(F) a statement of where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected and how copies of the items in the file may be obtained; and

"(G) a statement requesting comments from State and local governments on the costs that will result to such governments from the proposed rule.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and made effective without first complying with the provisions of this section if the agency for good cause finds that providing notice and public procedure thereon before the rule is made effective would be impracticable or contrary to the public interest and publishes, at the time of publication of the final rule, such finding and a brief statement of reasons therefor. The agency shall publish the notice required by paragraph (1) of this subsection within sixty days after the effective date of such a rule and shall comply fully with the provisions of this section as soon as practicable thereafter.

"(3) Except when notice or hearing is required by statute, subsection (b), subsection (c) and subsection (f) do not apply to a rule when the agency for good cause finds that notice and public procedure thereon are unnecessary and publishes, at the time of publication of the final rule, such finding and a brief statement of the reasons therefor.

"(c)(1) After providing the notice required by this section the agency shall give interested persons at least sixty days to participate in the rule making through the submission of written data, views, or arguments, with or without an opportunity for oral presentation. If, after such period, there has been an inadequate opportunity for public comment on factual material of central relevance to the rule making, the agency shall, by notice in the Federal Register, provide an additional fifteen days for interested persons to participate in the rule making with regard to such material. The agency may in its sole and unreviewable discretion use such other procedures as it determines are appropriate to collect relevant information and to identify, and ensure full and representative public comment on, the significant issues of a particular rule making.

"(2) The agency may not substantially rely on any significant factual material other than material referred to in subsection (f)(2) unless such material is in the rule making file or is material of which the agency properly can take official notice.

"(3) Unless all persons subject to the rule are named and either personally served or otherwise have actual notice thereof in accordance with law, an agency shall publish any rule it adopts in the Federal Register, together with a concise general statement of the basis and purpose of the rule and a notice of when the rule is to become effective. The statement of basis and purpose shall include—

"(A) a discussion of the issues addressed in the notice of proposed rule making;

"(B) a discussion of any significant issues raised by the comments on the proposed rule; and

"(C) a succinct explanation of the agency's determination that its factually based conclusions are correct, including a description of any reports, studies, scientific evaluations, or other similar factual material upon which the agency is substantially relying in promulgating the final rule.

"(4) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title shall apply instead of this subsection.

"(d) An agency shall publish the rule adopted in the Federal Register at least thirty days before the effective date of the rule, unless persons subject to the rule are named and either personally served or otherwise have actual notice thereof in accordance with law. An agency may make a rule effective in less than thirty days after publishing notice of the rule in the Federal Register in the case of a rule that grants or recognizes an exemption or relieves a restriction, or as otherwise provided by the agency for good cause found and published in that notice.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.

"(f)(1) The agency shall maintain a file for each rule making proceeding conducted pursuant to this section and shall maintain a current index to such file. The file shall be open to the public following the initial publication concerning the rule and shall include—

"(A) the notice of proposed rule making and any supplemental notice concerning the rule making;

"(B) a copy of all written comments submitted by the public concerning the rule and all written comments submitted by Federal agencies pursuant to this section;

"(C) a transcript of any public hearing taking place in the rule making;

"(D) a copy or an identification of the place where a copy may be obtained of any data, studies, reports, scientific evaluations, or other similar factual material upon which the agency relied in formulating the rule;

"(E) a copy of any other factual material developed by the agency in connection with the rule; and

"(F) all material that the agency by law is required to make public in connection with the rule making.

"(2) The public file required by paragraph (1) of this subsection need not include any material that need not be made available to the public under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. To the extent that the agency relies substantially on any such material in formulating a rule, it shall make aggregations or summaries of the material available for comment by interested persons.

"(g) A final rule issued pursuant to this section shall have no effect on any contract, cooperative agreement, or grant existing between a Federal agency and a State or local government for a period of one year from the effective date.".

SEC. 4. (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapter III—

"(1) 'agency' means an agency as defined in section 551(1) of this title;

"(2) 'rule' means a rule as defined in section 551 of this title other than a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial, structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing;

"(3) 'major rule'—

"(A)(i) means a rule or a group of closely related rules that the agency, or the President or the officer selected under section 624 reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in direct costs;

"(ii) but does not mean—

"(a) a rule that involves the internal revenue laws of the United States; or

"(b) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product, pursuant to sections 346(b), 348(c), and 376 of title 21; or

"(c) a rule exempt from notice and public procedure pursuant to section 553(a) of this title; and

"(B) means a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the officer selected under section 624, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

"(4) 'benefit' or 'benefits' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

"(5) 'cost' or 'costs' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of any proposed rule, each agency shall determine whether the rule is or is not a major rule within the meaning of subsection 621(3)(A) and, if it is not, whether it should be designated a major rule under subsection 621(3)(B). For the purpose of this determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of subsection 621(3)(A) and, where applicable, of its designation as a major rule under subsection 621(3)(B).

"(b) The President, or the officer selected under section 624 may determine that a rule is a major rule within the meaning of subsection 621(3)(A) or may designate a rule as a major rule under subsection 621(3)(B) not later than thirty days after the publication of the notice of proposed rule making for that rule. This determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c) When the agency publishes a notice of proposed rule making for a major rule, the agency shall issue and place in the rule making file a preliminary regulatory analysis and include a summary of the analysis in such notice. When the President or the officer selected under section 624 has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue and place in the rule making file a preliminary regulatory analysis for the rule and publish a summary of such analysis in the Federal Register. The agency shall give interested persons not less than sixty days to submit written data, views, arguments, and statements on the preliminary regulatory analysis. Each preliminary regulatory analysis shall contain—

"(1) a succinct description of the benefits of the proposed rule, including any beneficial effects that cannot be quantified; and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(2) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified; and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(3) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that require no Government action; that will accommodate differences between geographic regions; and that employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule;

"(4) where the proposed rule is based on scientific evaluations or information, a description of action undertaken by the agency, including any outside expert scientific review, to verify the quality, reliability, and relevance of such scientific evaluations or scientific information; and

"(5) where not inconsistent with the law pursuant to which the agency is acting, an explanation of how the identified benefits of the proposed rule are likely to justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d) When the agency publishes a final major rule, the agency shall also issue and place in the rule making file a final regulatory analysis, and include a summary of the analysis in the statement of basis and purpose required by section 553(c)(3) of this title, unless the issuance of such analysis may be delayed pursuant to section 553(b)(2) of this title. Each final regulatory analysis shall contain—

"(1) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(2) where not inconsistent with the law pursuant to which the agency is acting, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used. In evaluating and comparing costs and benefits, the agency shall not rely on cost or benefit information submitted by any person that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy and reliability of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The preparation of a preliminary or final regulatory analysis required by this section, or a description or analysis of the benefits, costs, and adverse effects of a proposed rule, shall only be performed by an officer or employee of the agency. This requirement shall not preclude the gathering of information by a source outside of the agency to be used in such regulatory analysis, description or other analysis. If such information is gathered by a source outside of the agency, the agency shall specifically identify in the regulatory analysis, description or other analysis, the information gathered and such source, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 that a rule is or is not a major rule within the meaning of subsection 621(3)(A), and any designation by the President or the officer selected under section 624 that a rule is or is not a major rule under subsection 621(3)(B) shall not be subject to judicial review in any manner.

"(c) The determination of an agency that a rule is or is not a major rule within the meaning of subsection 621(3)(A) or the designation by an agency that a rule is a major rule under subsection 621(3)(B) shall not be subject to judicial review in any manner.

"(d) When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall be considered by a court in determining the legality of the rule. A rule shall not be set aside or held unlawful solely on the ground that the regulatory analysis for such rule was prepared without observance of procedure required by law.

"§ 624. Executive oversight

"(a)(1) Subject to the provisions of subsection (2), the President shall have the authority to establish procedures for agency compliance with chapter 6 of this title: *Provided, however,* That if any such procedures include Presidential review of proposed or final major rules and associated regulatory analyses of independent regulatory agencies, such reviews must be concluded within one hundred and twenty days following the receipt of the relevant draft rules and analyses. Such procedures shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. Subject to the provisions of subsection (2), the President shall have the authority to monitor, review, and ensure agency implementation of such procedures: *Provided, however,* That any Presidential review of proposed or final major rules and associated regulatory analyses of independent regulatory agencies shall be concluded within one hundred and twenty days following receipt of the relevant draft rules and analyses. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of chapter 6 of this title.

"(2) Any exercise of authority by the President concerning proposed or final major rules or associated regulatory analyses of an independent regulatory agency pursuant to subsection (1) shall be limited to nonbinding advisory recommendations.

"(3) For the purposes of this subchapter and subchapter III, the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Civil Aeronautics Board, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Home Loan Bank Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(b) The President may delegate this authority, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register. Any such delegation shall be accompanied by an assurance from the respective delegate or delegates that every reasonable effort shall be made to respond to congressional inquiries concerning the exercise of executive oversight authority.

"(c) The exercise of this authority, or a failure to exercise this authority, by the President or by an officer to whom this authority has been delegated pursuant to subsection (b), shall not be subject to judicial review in any manner.

"(d) Nothing in this section divests an agency of authority delegated by law to take final action in a rule making.

"§ 625. Certification of duplicative State and local requirements

"Except as otherwise provided by law, the head of every Federal agency is authorized to certify and utilize State or local government regulations, procedures, recordkeeping, or reporting requirements after an agency determination that they duplicate Federal regulations, procedures, recordkeeping, or reporting requirements and are consistent with the goals of applicable Federal statutes. An agency head shall provide a written statement of the reasons for any such reasons. Such statement shall be available to the public.

"§ 626. Additional procedures for major rules

"(a) The opportunity for participation in a rule making undertaken pursuant to this subchapter shall include the opportunity for oral presentation of data, views and information at informal public hearings.

"(b) The agency shall permit cross-examination of individuals who present testimony, documents or studies at such hearings but only to the extent the agency determines that other procedures would be inadequate for the resolution by the agency of significant issues of fact upon which the rule is based.

"(c) Such other procedures may include, where permitted under the agency's rules of practice and other applicable law:

"(1) agency publication of an advanced notice of proposed rule making;

"(2) public meetings, conferences or panel discussions;

"(3) provision of a time period after the close of the public comment period for the submission of rebuttal comments;

"(4) the creation of expert advisory councils;

"(5) the presentation of staff arguments for written comment and rebuttal; and

"(6) any other procedure that the agency believes will be useful in gathering relevant information or resolving issues in dispute.

"(d) The agency may establish reasonable procedures to regulate the course of informal public hearings under this section, including the designation of representatives to make oral presentations or engage in cross-examination on behalf of several parties with a common interest in a rule making, to ensure an orderly and expeditious proceeding. Transcripts shall be made of all such public hearings.

"(e) No court shall hold unlawful or set aside a rule because of a failure by the agency to use a procedure required by this section unless—

"(i) an objection to the failure to use the procedure was made to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection, and

"(ii) the court finds that such failure was so serious and of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if the procedure omitted by the agency and requested under subsection (e)(i) had been used.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register for comment by interested persons a proposed schedule for the review, within a ten-year period beginning on the effective date of this section, of each existing rule which, if adopted on such date, would be a major rule under subsection 621(3)(A) of this title and of each additional existing rule selected by the agency for review. Each proposed schedule shall contain a brief explanation of the reasons the agency considers each rule on the schedule to be such a major rule or otherwise in need of review and shall include a date set by the agency for the completion of the review of each such rule. The agency shall set a date for initiation of review of each item on the schedule in a manner to ensure the simultaneous review of related items and to achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) At least ninety days before publishing the proposed schedule in the Federal Register, each agency shall make the proposed schedule available to the President or an officer designated by him. The President or an officer designated by him may select additional rules to be reviewed pursuant to subsection (c) of this section.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish the response of the agency to comments received concerning the proposed schedule with the final review schedule.

"(b)(1) Except where explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review:

"(i) each rule on the schedule promulgated pursuant to subsection (a) of this section;

"(ii) each rule promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section which is a major rule under subsection 621(3)(A) of this title; and

"(iii) such rules promulgated after the date of enactment of this section as the President or an officer designated by him shall select.

Except where an extension has been granted pursuant to subsection (f), such review shall be completed within ten years of the effective date of this section or within ten years of the date on which the rule to be reviewed is adopted, amended, or renewed, whichever is later.

"(2) If an agency determines that a rule required to be reviewed pursuant to subsection (b)(1) would not be a major rule under subsection 621(3)(A) of this title if it were adopted at the time it is scheduled for review, the agency need not review such rule pursuant to subsections (c) through (e) of this section. When the agency makes such a determination, it shall publish a notice and explanation of the determination in the Federal Register.

"(c) An agency shall publish in the Federal Register a notice of its proposed action regarding a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and a determination of whether the rule continues to fulfill the intent of Congress in enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule;

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend the rule, after issuing the notice required by this subsection the agency shall comply with the provisions of chapter 5, and chapter 6 of this title or other applicable law; and the requirements of those provisions and related requirements of law shall apply to the same extent, and in the same manner, as in the case of a proposed agency action which is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew the rule without amendment, the agency shall—

"(1) give interested persons not less than sixty days after the notice required by subsection (c) to comment on the proposed renewal; and

"(2) if it determines to renew the rule, publish notice of renewal in the Federal Register along with an explanation of the continued need for the rule, and, if the renewed rule remains a major rule under subsection 621(3)(A) of this title, an explanation of the reasonable determination of the agency that the rule continues to comply with the provisions of subsection (d)(2) of section 622.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (a) or (b), may request the President, or an officer designated by him, to establish a period longer than ten years for the completion of the review of such rule. The President or an officer designated by him may extend the period for review of a rule to a total period of not more than fifteen years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or an officer designated by him, or shall, at the direction of the President or an officer designated by him, amend any schedule required by this section for the review of rules if such amendment is published in the Federal Register.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsections (a), (b), or (f) the agency shall immediately publish a notice proposing to withdraw, repeal, or renew the rule under subsection (c), and shall complete proceedings pursuant to subsections (d) or (e) within one hundred and eighty days of the date on which the review was required to be completed under subsections (a), (b), or (f).

"(h) No court shall review the failure of any agency to comply with the procedures set forth in this section, provided however, that the failure to complete action required by subsections (a) and (g) may be considered by a court in making a determination under section 706(a)(1) of this title.

"(i) Nothing herein shall relieve any agency from its obligation to respond to a petition to issue, amend or repeal a rule submitted pursuant to section 553(e) of this title.

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or withdraw in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information required by law—

"(1) a general description of the rule, including a citation to the authority under which the action is to be taken, or a specific explanation of the congressional intent to which its objectives respond;

"(2) a statement of whether or not the rule is, or is expected to be, a major rule within the meaning of paragraph 3 of section 621 of this title;

"(3) an approximate schedule for the significant action dates relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule;

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule;

"(5) whether each rule listed on the previous agenda has been published as proposed, published as final, become effective, been withdrawn, or is pending in some other status; and

"(6) a cumulative summary of the status of the rules listed on the previous agenda in accordance with (5), above.

"(b) The President or his designee shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding months. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if it publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any compliance or noncompliance by the agency with the provisions of this section shall not be subject to judicial review.

"§ 633. Establishment of deadlines

"(a)(1) Whenever any agency publishes a notice of proposed rule making pursuant to section 553 of this title, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the matter.

"(2) If any agency announcement under this section indicates that the proceeding relating to such matter will require more than one year to complete, the agency shall also indicate the date by which it intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the matter possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection shall not apply to any matter in which the agency intends to complete action within one hundred and twenty days of providing notice of the proposed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of the proceeding, by the date announced, or, in the case of a proceeding described in subsection (a)(3) of this section, if an agency fails to complete action within one hundred and twenty days of providing notice of such proposed action, and the expected delay in completing action will exceed thirty days, the agency shall promptly announce the new date by which the agency intends to complete action in such proceeding, including each major portion of the proceeding.

"(c) Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review except according to the provisions of subsection (d).

"(d) In determining whether to compel agency action unreasonably delayed pursuant to section 706(a)(1) of this title, the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to comply with this section.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"§ 641. Annual report

"Not later than January 31 of each year, the President shall report to the Congress on the regulatory activities of the Government. The report shall include—

"(1) a description of the regulatory functions and activities of the Government, and the relations of those functions and activities to national needs; and

"(2) an estimate, for the national economy and for each of the major sectors of the national economy, of the costs of compliance with and the benefits resulting from—

"(A) all major rules promulgated during the preceding fiscal year;

"(B) all major rules included on the regulatory agenda published under section 632 of this title during April and October of the year preceding the year in which the report is made; and

"(C) all major rules scheduled for review under section 631 of this title to the extent possible.".

(b) Chapter 6 of title 5, United States Code, is further amended—

(1) by inserting immediately after the chapter heading the following:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

(2) by inserting immediately before section 601 the following:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(3) by striking out "this chapter" each place it appears and inserting in lieu therefore "this subchapter".

(c) Such chapter 6 is further amended by inserting at the end of the chapter analysis the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.
"625. Certification of duplication State and local requirements.
"626. Additional procedures for major rules.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.
"633. Establishment of deadlines."

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"641. Annual report.".

Sec. 5. Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under clause (2)(C) of subsection (a) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent.".

VENUE

Sec. 6. (a) Section 2112 of title 28, United States Code, is amended by deleting the last three sentences of subsection (a); redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and inserting the following as new subsection (b):

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than ten days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than ten days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within ten days of the first proceeding, that such multiple proceedings have been instituted; and shall identify each court for which it has notice that such proceedings are pending. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604 of title 28, United States Code, is amended by redesignating subsection (a)(17) as subsection (a)(18), and by inserting immediately after subsection (a)(16) the following new subsection:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

PROHIBITION AGAINST INTERVENOR FUNDING

Sec. 7. (a) Subchapter II of chapter 5 of title 5, United States Code, is further amended by adding at the end thereof the following new section:

"§ 562. Prohibition against intervenor funding

"Except as provided in subsection (b), section 504 of this title, section 2412 of title 28, section 319 of the Federal Power Act, section 18(h) of the Federal Trade Commission Act, section 7(d)(2) of the Consumer Product Safety Act, section 22 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, paragraphs (4) and (5) of section 6(c) of the Toxic Substances Control Act, and otherwise as expressly authorized by statute, no appropriated funds available to any agency may be used to pay the expenses of persons participating or intervening in agency proceedings.".

(b) The table of sections for such chapter is further amended by adding at the end thereof the following:

"562. Prohibition against intervenor funding.".

Sec. 8. Section 3 of the Federal Advisory Committee Act, Public Law 92-463, as amended by Public Law 94-409 is further amended to strike current subparagraph (iii) and insert in lieu thereof the following:

"(iii) Any committee which is composed wholly of full-time officers or employees of the federal government, or elected officials of state or local governments when acting in their official capacities or their representatives or representatives of their national organizations.".

PRESIDENTIAL AUTHORITY

Sec. 9. Nothing in this Act limits the exercise by the President of the authority and responsibility that he otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

EFFECTIVE DATE

Sec. 10. (a) Sections 2, 3, and 5 of this Act, and the provision of section 4 of this Act adding a new subchapter II of chapter 6 of title 5, United States Code, shall take effect on January 1, 1983, and shall not apply to any proceeding for which a notice of proposed rulemaking was issued before such effective date or to any other agency action initiated before such effective date.

(b) The provisions of section 4 of this Act adding a new subchapter III to chapter 6 of title 5, United States Code, shall take effect six months after the date of enactment of this Act and shall apply according to the provisions thereof.

(c) Section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

(d) The provision of section 4 of this Act adding a new subchapter IV of chapter 6, United States Code, and sections 7, 8, and 9 of this Act shall take effect immediately upon enactment.

Mr. LAXALT. Mr. President, I ask unanimous consent that the amendment in the nature of a substitute reported by the Committee on the Judiciary and the amendment in the nature of a substitute reported by the Committee on Governmental Affairs be withdrawn.

The PRESIDING OFFICER. Is there objection? Hearing none, without objection, it is so ordered.

AMENDMENT NO. 640

Mr. LAXALT. Mr. President, I ask unanimous consent that the printed amendment numbered 640 be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment in the nature of a substitute (No. 640) was agreed to as follows:

On page 26, beginning on line 21, strike out through line 4 on page 103 and insert in lieu thereof the following:

That this Act may be cited as the "Regulatory Reform Act".

DEFINITION OF RULE

Sec. 2. Section 551(4) of title 5, United States Code, is amended by inserting before the semicolon at the end thereof a comma and the following: "except that the term 'rule' does not include agency statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing".

RULEMAKING

Sec. 3. Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rule making

"(a) This section applies to every rule making, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management and personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, or rule of agency organization, procedure, or practice, unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services.

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Each notice of proposed rule making shall include—

"(A) a statement of the time, place, and nature of public rule making proceedings;

"(B) a succinct explanation of the need for and specific objectives of the proposed rule;

"(C) an explanation of the specific statutory authority under which the rule is proposed;

"(D) the proposed provisions of the rule;

"(E) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rule making that are more effective or less burdensome than the approach used in the proposed rule;

"(F) a description of any data, methodologies, reports, studies, scientific evaluations, or other similar information on which the agency plans to substantially rely in the rule making, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

"(G) a statement specifying where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected and how copies of the items in the file may be obtained.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with the provisions of this subsection and subsections (c) and (f) of this section if—

"(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable or contrary to an important public interest;

"(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

"(C) the agency complies with the provisions of this subsection and subsections (c) and (f) of this section to the maximum extent feasible prior to the promulgation of the final rule and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

"(3) Except when notice or hearing is required by statute, this subsection and subsections (c) and (f) of this section do not apply to a rule when the agency for good cause finds that notice and public procedure thereon are unnecessary due to the insignificant impact of the rule and publishes, at the time of publication of the final rule, such finding and a succinct explanation of the reason therefor.

"(4) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rule making did not fairly apprise the public of the issues ultimately to be resolved in the rule making or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule which is required by the applicable provisions of this section and which has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

"(c)(1) After providing the notice required by this section, the agency shall give interested persons at least sixty days to participate in the rule making through the submission of written data, views, or arguments.

"(2) In order to collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rule making, the agency may use such other procedures as the agency determines are appropriate, including—

"(A) the publication of an advance notice of proposed rule making;

"(B) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of proposed rule making through the Federal Register;

"(C) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

"(D) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rule making; and

"(E) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in a rule making.

The decision of the agency to use or not to use such other procedures in a rule making pursuant to this paragraph shall not be subject to judicial review.

"(3)(A) The opportunity for participation in a rule making for a major rule (as defined in section 621(1) of this title) shall include the opportunity for oral presentation of data, views, and information at informal public hearings. Such public hearings—

"(i) may include an opportunity for oral rebuttal or argument where appropriate; and

"(ii) shall include an opportunity for direct and cross-examination of the principal agency employees or other persons who prepared for the agency data on which the agency substantially relied in formulating the rule, and of any other persons who present testimony, documents, or other information at such hearings, where other procedures, such as the convening of public meetings, conferences or panel discussions, or the presentation of staff arguments for comment and rebuttal, are determined to be inadequate for the resolution of significant issues of fact upon which the rule is based.

"(B) No court shall hold unlawful or set aside an agency rule because of a failure by the agency to use a particular procedure pursuant to subparagraph (A) of this paragraph unless—

"(i) an objection to the failure to use such procedure was presented to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(ii) the court finds that such failure substantially precluded a fair consideration and informed resolution of a central issue of the rule making taken as a whole.

"(4) To ensure an orderly and expeditious proceeding, the agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (2) and (3) of this subsection, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rule making. Transcripts shall be made of all such public hearings.

"(5) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(A) an explanation of the need for, objectives of, and statutory authority for the rule;

"(B) a discussion of any significant issues raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected; and

"(C) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rule making file maintained pursuant to subsection (f) of this section.

"(6) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(d)(1) An agency shall publish the final rule adopted in the Federal Register at least thirty days before the effective date of the rule. An agency may make a rule effective in less than thirty days after publishing the final rule in the Federal Register in the case of a rule that grants or recognizes an exemption or relieves a restriction, or in the case of a rule for which the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefore, with the final rule.

"(2) In promulgating a final rule, the agency may not substantially rely on any factual or methodological material that was not placed in the rule making file maintained pursuant to subsection (f) of this section in time to afford an adequate opportunity for public comment thereon during the period for public participation in the rule making. Notwithstanding the preceding sentence, an agency may rely on such material—

"(A) if, in the case of material developed by or for the agency, such material was placed in the rule making file promptly upon its completion and, if such material is of central relevance to the rule making, was made available in time for interested persons to have an adequate opportunity to comment thereon;

"(B) if, in the case of material submitted by a person outside the agency, such material was placed in the rule making file promptly upon its receipt by the agency and, if such material is of central relevance to the rule making, the agency provided not less than fifteen days for interested persons to comment thereon in addition to the period for comment provided under paragraph (1) of subsection (c);

"(C) if such material is material of which the agency properly can take official notice; or

"(D) if such material is material referred to in subsection (f)(2) of this section and the agency has complied with the requirements of that subsection.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule, for an interpretation regarding the meaning of a rule, and for a variance or exemption from the terms of a rule if the agency may grant such variance or exemption. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.

"(f)(1) The agency shall maintain a file for each rule making proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (2) of this subsection shall constitute the rule making record for purposes of judicial review. Except as provided in paragraph (2) of this subsection, the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule. The file shall include—

"(A)(i) the notice of proposed rule making and any supplement to or modification or revision of such notice; and

"(ii) any advance notice of proposed rule making;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript of any public hearing conducted in the rule making;

"(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(F) of this section and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rule making and that the agency considered in connection with the rule making, or that was prepared by or for the agency in connection with the rule making; and

"(E) any statement, description, analysis, or any other material that the agency is required to make public in connection with the rule making, including any preliminary or final regulatory analysis issued by the agency pursuant to chapter 6 of this title.

"(2) The file required by paragraph (1) of this subsection need not include any material that need not be made available to the public under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms so as to protect the confidentiality of such material to the maximum extent possible.

"(g) For a period of one year after the effective date of a final rule issued pursuant to this section, such rule shall not substantially change the requirements of any contract, cooperative agreement, or grant existing on such effective date between a Federal agency and a State or local government. The preceding sentence does not apply to any case in which the agency for good cause finds that a delay in the effect of the rule would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.".

REGULATORY ACTIVITIES: ANALYSIS; PRIORITIES AND REVIEW; REPORT

SEC. 4. (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapters III and IV of this chapter:

"(1) The term 'agency' has the same meaning as in section 551(1) of this title.

"(2) The term 'person' has the same meaning as in section 551(2) of this title.

"(3) The term 'rule' has the same meaning as in section 551(4) of this title, except that such term does not include a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial, structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing.

"(4) The term 'major rule' means—

"(A) a rule or a group of closely related rules that the agency, the President, or the officer selected under section 624 of this title reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

"(B) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the officer selected under section 624 of this title, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets.

For purposes of subparagraph (A) of this paragraph, the term 'rule' does not mean—

"(I) a rule that involves the internal revenue laws of the United States;

"(II) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product, pursuant to sections 408, 409(c), and 706 of the Federal Food, Drug, and Cosmetic Act; or

"(III) a rule exempt from notice and public procedure pursuant to section 553(a) of this title.

"(5) The term 'benefit' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"(6) The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A) of this title and, if it is not, whether it should be designated a major rule under section 621(4)(B) of this title. For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4)(A) of this title and, if applicable, of its designation as a major rule under section 621(4)(B) of this title.

"(b) The President or the officer selected by the President under section 624 of this title may determine that a rule is a major rule within the meaning of section 621(4)(A) of this title or may designate a rule as a major rule under section 621(4)(B) of this title not later than thirty days after the publication of the notice of proposed rule making for that rule. Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation. The President or the officer selected by the President under section 624 of this title may designate not more than seventy-five rules as major rules under section 621(4)(B) of this title in any fiscal year.

"(c)(1) When the agency publishes a notice of proposed rule making for a major rule, the agency shall issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis and shall include in such notice of proposed rule making a summary of the analysis. When the President or the officer selected by the President under section 624 of this title has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis. Following the issuance of a preliminary regulatory analysis under the preceding sentence, the agency shall give interested persons an opportunity to comment thereon pursuant to section 553 of this title in the same manner as if the preliminary regulatory analysis had been issued with the notice of proposed rule making.

"(2) Each preliminary regulatory analysis shall contain—

"(A) a succinct description of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to receive such benefits;

"(B) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to incur such costs;

"(C) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no Government action;

"(ii) will accommodate differences between geographic regions; and

"(iii) employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule;

"(D) in any case in which the proposed rule is based on scientific evaluations or information, a description of action undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information; and

"(E) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is proposing the rule, an explanation of how the identified benefits of the proposed rule are likely to justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rule making file maintained under section 553(f) of this title a final regulatory analysis, and shall include a summary of the analysis in the statement of basis and purpose required by section 553 (c)(6) of this title. Notwithstanding the preceding sentence, in any case in which an agency, under section 553(b)(2) of this title, is not required to comply with subsections (b) through (f) of section 553 of this title prior to the adoption of a final rule, an agency is not required to comply with the preceding sentence prior to the adoption of the final rule but shall comply with such sentence when complying with section 553(b)(2)(C) of this title.

"(2) Each final regulatory analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(B) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e)(1) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used.

"(2) In evaluating and comparing costs and benefits, the agency shall not rely on cost or benefit information submitted by any person that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy and reliability of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The preparation of the preliminary or final regulatory analysis required by this section shall only be performed by an officer or employee of the agency. The provisions of the preceding sentence do not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such regulatory analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the preliminary or final regulatory analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 of this title that a rule is a major rule within the meaning of section 621(4)(A) of this title, and any designation by the President or the officer selected under section 624 of this title that a rule is a major rule under section 621(4)(B) of this title shall not be subject to judicial review in any manner.

"(c) The determination of an agency of whether a rule is or is not a major rule within the meaning of section 621(4)(A) of this title shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination. Any designation by an agency that a rule is a major rule under section 621(4)(B) of this title shall not be subject to judicial review in any manner.

"(d) Any regulatory analysis prepared under section 622 of this title shall not be subject to judicial consideration separate or apart from review of the rule to which it relates. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall, to the extent relevant, be considered by a court in determining the legality of the rule.

"§ 624. Executive oversight

"(a) The President shall have the authority to establish procedures for agency compliance with this subchapter and subchapter III of this chapter. Such procedures shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. The President shall have the authority to monitor, review, and ensure agency implementation of such procedures. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of this chapter.

"(b) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(c) The exercise by the President or by an officer to whom authority granted under subsection (a) of this section has been delegated pursuant to subsection (b) of this section, or any failure to exercise such authority, shall not be subject to judicial review in any manner under this Act.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1)(A) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(4)(A) of this title, and

"(ii) each rule of the agency in effect on such effective date (in addition to the rules described in clause (i)) which the agency has selected for review.

"(B) Each proposed schedule required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be such a major rule under section 621(a)(4)(A) of this title or of the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with the provisions of subsection (b)(1) of this section, for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed rule.

"(C) The agency shall set a date to initiate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) At least ninety days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the President or an officer in the Executive Office of the President designated by the President whose appointment has been subject to the advice and consent of the Senate. The President or that officer may select for review in accordance with this section any additional rule that the President or such officer determines to be a major rule under section 621(4)(A) of this title.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except where explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e) of this section, review:

"(A) each rule on the schedule promulgated pursuant to subsection (a) of this section;

"(B) each major rule under section 621(4) of this title promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

"(C) each rule promulgated after the date of enactment of this section which the President or the officer designated by the President pursuant to subsection (a)(2) of this section determines to be a major rule under section 621(4)(A) of this title.

Except where an extension has been granted pursuant to subsection (f) of this section, the review of a rule required by this section shall be completed within ten years after the effective date of this section or within ten years after the date on which the rule is adopted, amended, or renewed, whichever is later.

"(2) If, at the time an agency intends to review a rule required to be reviewed under subparagraph (B) or (C) of paragraph (1), an agency determines that such rule would not be a major rule under section 621(4) of this title if such rule were adopted at that time, the agency need not review such rule pursuant to this section. When the agency makes such a determination, it shall publish a notice and explanation of the determination in the Federal Register.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and a statement specifying the agency's determination of whether the rule continues to fulfill the intent of Congress in enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c) of this section, comply with the provisions of this chapter and chapter 5 of this title or other applicable law. The requirements of such provisions and related requirements of law shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons not less than sixty days after the publication of the notice required by subsection (c) of this section to comment on the proposed renewal; and

"(2) publish in the Federal Register notice of the renewal of such rule and an explanation of the continued need for the rule, and, if the renewed rule is a major rule under section 621(4) of this title, include with such notice an explanation of the reasonable determination of the agency that the rule complies with the provisions of section 622(d)(2)(B) of this title.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (b) of this section, may request the President, or the officer designated by the President pursuant to subsection (a)(2) of this section, to establish a period longer than ten years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than fifteen years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or the officer designated by the President pursuant to subsection (a)(2) of this section, or shall, at the direction of the President or that officer, amend any schedule required by this section for the review of rules if such amendment is published in the Federal Register.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to amend, repeal, or renew the rule under subsection (c) of this section, and shall complete proceedings pursuant to subsection (d) or (e) of this section within one hundred and eighty days of the date on which the review was required to be completed under subsection (b) or (f) of this section.

"(h)(1) Agency compliance or noncompliance with the provisions of subsection (a) of this section shall not be subject to judicial review in any manner.

"(2) Agency compliance or noncompliance with the provisions of subsections (b), (c), (e), (f), and (g) of this section shall be subject to judicial review only pursuant to section 706(a)(1) of this title.

"(i) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to section 553(e) of this title.

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or repeal in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information required by law—

"(1) a general description of the rule, including a citation to the authority under which the action with respect to the rule is to be taken, or a specific explanation of the congressional intent to which the objectives of the rule respond;

"(2) a statement of whether or not the rule is or is expected to be a major rule;

"(3) an approximate schedule of the significant dates on which the agency will take action relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule;

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule;

"(5) a statement specifying whether each rule listed on the previous agenda has been published as a proposed rule, has been published as a final rule, has become effective, has been repealed, or is pending in some other status; and

"(6) a cumulative summary of the status of the rules listed on the previous agenda in accordance with clause (5) of this subsection.

"(b) The President or an officer in the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding month. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if the agency publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any compliance or noncompliance by the agency with the provisions of this section shall not be subject to judicial review.

"§ 633. Establishment of deadlines

"(a)(1) Whenever any agency publishes a notice of proposed rule making pursuant to section 553 of this title, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the rule.

"(2) If any agency announcement under this section indicates that the proceeding relating to such rule will require more than one year to complete, the agency shall also indicate in the announcement the date by which the agency intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the rule which is possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection shall not apply to any rule on which the agency intends to complete action within one hundred and twenty days after providing notice of the proposed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of the proceeding, by the date announced pursuant to subsection (a) of this section, or, in the case of a proceeding described in paragraph (3) of such subsection, if an agency fails to complete action within one hundred and twenty days after providing notice of such proposed action, and the expected delay in completing action will exceed thirty days, the agency shall promptly announce the new date by which the agency intends to complete action in such proceeding and new dates by which the agency intends to complete action on each major portion of the proceeding.

"(c) Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review except in accordance with subsection (d).

"(d) In determining whether to compel agency action unreasonably delayed pursuant to section 706(a)(1) of this title, the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to comply with this section.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"§ 641. Annual report

"Not later than January 31 of each year, the President shall report to the Congress on the regulatory activities of the Government. The report shall include—

"(1) a description of the regulatory functions and activities of the Government, and the relationship of such functions and activities to national needs; and

"(2) an estimate, for the national economy and for each of the major sectors of the national economy, of the costs and benefits resulting from—

"(A) all major rules promulgated during the preceding fiscal year;

"(B) all major rules included on the regulatory agenda published under section 632 of this title during April and October of the year preceding the year in which the report is made; and

"(C) all major rules scheduled for review under section 631 of this title to the extent possible.".

(b) Such chapter is further amended—

(1) by inserting after the chapter analysis the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by striking out "this chapter" each place it appears in subchapter I and inserting in lieu thereof in each such place "this subchapter".

(c) The chapter analysis of such chapter is amended—

(1) by inserting after the chapter heading the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.
"633. Establishment of deadlines.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"641. Annual report.".

JUDICIAL REVIEW

SEC. 5. Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rule making file, viewed as a whole, for the asserted or necessary factual basis, as distinguished from the policy or legal basis, of a rule adopted in a proceeding subject to section 553 of this title; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under subsection (a)(2)(C) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of or against agency action.".

VENUE

SEC. 6. (a) Section 2112 of title 28, United States Code, is amended—

(1) by striking out the last three sentences of subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting the following new subsection:

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than five days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than five days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within five days of the first proceeding, that such multiple proceedings have been instituted and shall identify each court for which it has notice that such proceedings are pending. Pursuant to a system of random selection devised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively, and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

ADVISORY COMMITTEE

SEC. 7. Clause (iii) of section 3(2)(C) of the Federal Advisory Committee Act is amended to read as follows: "(iii) any committee which is composed wholly of full-time officers or employees of the Federal Government, or officials of State or local governments acting in their official capacities.".

PRESIDENTIAL AUTHORITY

SEC. 8. Nothing in this Act (1) limits the exercise by the President of the authority and responsibility that he otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices, or (2) alters in any manner rulemaking authority vested by law in an agency to initiate or complete a rulemaking proceeding, or to issue, modify, or rescind a rule.

CONFORMING AMENDMENTS

SEC. 9. (a) Section 33(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 789(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(b)(1) Section 3(e)(1) of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended by inserting "(a)" after "section 706".

(c)(1) Section 5(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(d) Section 19(c)(1)(B)(iii)(II) of the Toxic Substances Control Act (15 U.S.C. 2618(c)(1)(B)(iii)(II)) is amended by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(6)".

(e) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(3)(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(f) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided under section 553(b)" and inserting in lieu thereof "exceptions provided under subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(g)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (c) and inserting in lieu thereof "section 553"; and

(B) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (e) and inserting in lieu thereof "section 553".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and inserting in lieu thereof "subsection (a)(3)".

(h) Section 426(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (a) thereof" and inserting in lieu thereof "subsection (a) (1), (2), and (4) of such section".

(i) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(j) Section 10(a) of the Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 43a(a)) is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section 553 of title 5, United States Code, the provisions of chapters 5, 6, and 7 of such title".

(k) Section 2(a)(2) of the Act of June 25, 1936 (52 Stat. 1196; 41 U.S.C. 47(a)(2)) is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to clauses (1), (2), and (4) of subsection (a) of such section)".

(l) Section 170A(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(m) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(n) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "subsection (a)(2) of such section with respect to public property, loans, grants, or contracts" and inserting in lieu thereof "subsection (a)(4) of such section".

(o) Section 307(d) of the Clean Air Act (42 U.S.C. 7607(d)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" in paragraph (1)(N) and inserting in lieu thereof "subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(p) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(q) Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by striking out "section 553(a)(2)" and inserting in lieu thereof "clauses (2) and (4) of section 553(a)".

EFFECTIVE DATE

SEC. 10. (a) Sections 2, 3, 5, and 9 of this Act, and the provision of section 4 of this Act adding a new subchapter II of chapter 6 of title 5, United States Code, shall take effect on January 1, 1983, and shall not apply to any proceeding for which a notice of proposed rulemaking was issued before such effective date or to any other agency action initiated before such effective date.

(b) The provisions of section 4 of this Act adding a new subchapter III to chapter 6 of title 5, United States Code, shall take effect six months after the date of enactment of this Act and shall apply according to the provisions thereof.

(c) Section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

(d) The provision of section 4 of this Act adding a new subchapter IV of chapter 6, United States Code, and sections 7 and 8 of this Act shall take effect immediately upon enactment.

Mr. LAXALT. Mr. President, I ask further unanimous consent that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, a little over 35 years ago, another Senator from my State of Nevada, Senator Pat McCarran, stood before this body to begin the Senate consideration of the original Administrative Procedure Act. That act, as Senator McCarran put it, was intended "to improve the administration of justice by prescribing fair administrative procedure." It was, again in my predecessor's words, "a bill of rights for the hundreds of thousands of Americans whose affairs are controlled or regulated in one way or another by agencies of the Federal Government."

Today, we consider the first major amendment to the Administrative Procedure Act since it was enacted in 1946. Developing this legislation has been a prodigious effort on the part of the Senate, to say the least. Work on legislation to improve the process by which Federal regulations are promulgated and enforced has been continuing, with varying degrees of intensity, for at least 17 years. Over a period from January 1977 to December 1978, the Committee on Governmental Affairs published its six-volume study of Federal regulation. In the last Congress, after many hearings and extensive committee work, the Committee on the Judiciary and the Committee on Governmental Affairs each reported major regulatory reform legislation.

Mr. President, I am truly pleased to report that the work on S. 1080, right from its initial drafting, proceeded with the closest involvement and cooperation of Senators from both parties and with close coordination between the Judiciary and Governmental Affairs Committees. As the report filed by the Judiciary Committee recounts in full detail, this legislation contains proposals advocated by many Senators over the course of the years, and, in this sense, is a product of the full Senate.

Specific acknowledgments of those Senators are set out in the Judiciary Committee's report, and I do not intend to reiterate that catalog here. Needless to say, I very much appreciate the contributions and cooperation of these colleagues. In addition, Mr. President, S. 1080 could not have reached the Senate floor without the effective leadership of the Senator from South Carolina (Mr. THURMOND) and the Senator from Delaware (Mr. BIDEN), the chairman and ranking minority member of the Judiciary Committee respectively, and of the Senator from Delaware (Mr. ROTH) and the Senator from Missouri (Mr. EAGLETON), the chairman and ranking minority member of the Governmental Affairs Committee. Furthermore, I would like to recognize the fine work done by my fellow subcommittee chairman, the Senator from Iowa (Mr. GRASSLEY), whose Subcommittee on Agency Administration held hearings on the judicial review provisions of S. 1080.

Finally, Mr. President, I express my personal thanks to the Senator who is very much my partner in developing and advancing S. 1080, the Senator from Vermont (Mr. LEAHY). Without the cooperation and commitment of Senator LEAHY and his very capable staff, we would not be considering this legislation here today. We worked closely on this legislation, making major changes only by mutual agreement. We both compromised at times, and, as a result, we have been able to build a very substantial consensus supporting S. 1080.

Since January 1981, when work on this legislation first began, both the Senator from Vermont (Mr. LEAHY) and I, and our staffs, have attempted to work with the broadest circle of persons interested in this legislation. Not only did we seek out the views of Senators who have been previously active in this area, but we remained open to the contribution of any Senator interested in this legislation. At all times, we strove to keep the members of our committee fully informed of the progress of this bill.

In addition, we solicited the views of people not in the Senate. We have maintained continued contact with our counterparts on the House Judiciary Subcommittee on Administrative Law and Governmental Relations, which has devoted extensive effort to a similar bill in the other body. Interested persons off the Hill were also consulted. Indeed, our doors have been open to the broadest variety of comment, and our staffs have spent countless hours with interested persons of all philosophical stripes. And I know that this effort was duplicated in the Governmental Affairs Committee by that committee's chairman (Mr. ROTH) and its ranking minority member (Mr. EAGLETON).

Thus, this bill, though initially conceived by the Senator from Vermont (Mr. LEAHY) and myself, has been the subject of extensive and wide-ranging consideration at each step of the legislative process. At the outset, views were strongly held. Philosophies of government differed markedly. Threats to important interests were perceived on many sides. Yet by a determined effort to develop a consensus, views were reconciled, philosophies found to overlap, and interests preserved. All those involved recognize that the Nation needs this legislation, and now is the time for its enactment.

THE NEED FOR REGULATORY REFORM

Mr. President, the effect of Federal regulation has been the subject of massive study. The Judiciary Committee report surveys some of this literature. I do not plan to reiterate our report in detail here. However, some discussion of the reasons for this legislation is necessary. There are essentially two general problems toward which this legislation is targeted.

The first concerns the effectiveness and the burdens of Federal regulation. By many estimates, the cost of complying with Federal regulations has reached $100 billion per year. These costs are ultimately reflected in a combination of higher prices for consumer goods and of lower returns to the working people providing the land, the labor and the capital needed to produce those goods.

The impact of regulatory costs on the welfare of Americans can be seen more broadly in the effect of those costs on the ability of the economy to expand and, thereby, to provide the jobs and the goods and services Americans need and want.

In short, by directing our resources toward compliance with regulatory standards, and away from more materially productive uses, regulation tends to dampen our economic productivity.

To speak only of regulatory costs and the broad impact of those costs is to consider only half of the problem, Mr. President. As national policymakers, we must also consider whether the achievements of Federal regulation are worth these costs

Certainly, achieving the important goals which lay at the base of most Federal regulatory statutes is costly, but this is not to say that such goals—clean air and water, safe workplaces, and the like—are not worth their costs.

There is a growing amount of data about the achievements and the burdens of Federal regulation, some of which is conflicting. Some studies suggest that a particular regulatory approach to a specific problem has been quite productive, while others challenge the effectiveness of that approach,

Similarly, various studies have estimated the costs of regulation in different ways, whether estimating costs to specific industries, to various sectors of the economy, or to the Nation at large.

With only this information—of various degrees of reliability—we legislators cannot have a clear sense of how the regulatory apparatus we have put in place is working. We can make various judgments about the state of regulatory affairs based on certain data, but such judgments can often be contradicted by someone else wielding different data.

The very absence of consistently reliable information about the impact of Federal regulation—both its successes and its burdens—provides serious cause for concern and a motive for regulatory reform. How are we to know if we are any closer to achieving the goals articulated in our regulatory statutes? Can we move faster toward those goals? And what of the burdens of regulation? Are we to continue to impose the millions of dollars of compliance costs on ourselves merely in the hope of achieving our goals?

On balance, it is unlikely that the effects of Federal regulation have been uniformly good or bad. I conclude that, in many areas the benefits of regulation have not been worth their costs. Such a conclusion is hardly a wholesale indictment of the national policies regulation is intended to execute.

Rather, it reflects the view that in some cases regulation does not produce the results it intends or claims; and that in others it generates excessive costs.

Mr. President, one of the main reasons we do not have reliable estimates of the effects of regulation is also one of the main reasons why regulation can often be ineffective or excessively costly: Agencies do not in most instances have any obligation to thoroughly and publicly evaluate and balance the potential tradeoffs of their proposed regulations. Even where Presidents have tried to institute such an obligation, agencies have avoided doing this kind of analysis.

As OMB reported in reviewing agency compliance with President Carter's Executive order, which required a form of regulatory analysis:

> [A]gencies are at times reluctant to do regulatory analyses and make them available to the public because they are "too hard." Agencies try to avoid the requirement afraid that if they do an analysis, it will be the subject of public "sniping" or peer criticism.

Requiring agencies to evaluate the tradeoffs of a proposed regulation according to the provisions of S. 1080 is critically important, not only from the perspective of regulatory burdens on the private sector, but from the perspective of insuring the achievement of the national policies underlying those regulations. The regulatory analysis provisions of this bill are designed to introduce such an evaluation into the regulatory process.

This regulatory analysis recognizes that regulatory policy is economic policy, that Federal regulation has large economic consequences that should be taken into consideration in promulgating rules. This legislation expresses the basic intent of Congress that the regulatory activities of agencies should be guided by certain commonsense principles.

First, agency decisions should be subject to reasonable public scrutiny and comment, and should be based on adequate information concerning the need for and consequences of proposed agency action.

Second, regulatory action should not be undertaken unless the potential benefits to society from each action can be reasonably seen as justifying its potential costs.

And, third, when regulatory action is undertaken, an agency should strive to achieve the regulatory objectives through the most cost-effective use of public and private resources. These principles can only enhance our efforts to achieve the important goals which the regulatory system was intended to accomplish.

The second general problem toward which S. 1080 is targeted is the growing inadequacy of the original APA provisions governing rulemaking. Those provisions require an agency to give public notice of a proposed rule and to give interested parties an opportunity to submit written comments on the proposed rule.

Outside of this mere outline of procedure, nothing further is required by the APA for the promulgation of most rules except for the publication of a concise general statement of the adopted rule's basis and purposes.

This very rudimentary procedure seems to have been shaped by a perceived need for agency flexibility in policymaking, an assumption that rulemaking would not ordinarily involve complex disputes of facts, a failure to consider the need for an adequate record as a basis for judicial review and, above all, by a failure to anticipate the explosive growth and massive impact of agency rulemaking in the following three and a half decades.

A range of different inadequacies in the rulemaking provisions of the APA have been identified by scholars, administrative law experts, and judges over the years. These include overbroad exemptions, insufficient means for developing the factual underpinning of a proposed rule, the absence of a procedure to fairly test the reliability of critical data or conclusions, and the lack of a uniform record of rulemaking proceedings to insure reasonably effective judicial review.

These weaknesses in the APA have been sporadically remedied by the courts, imposing additional procedures for rulemaking on a case-by-case basis, and by the Congress, enacting more detailed procedures in individual regulatory statutes. In this fashion, the procedures actually governing rulemaking have become a hybrid of the original informal process and more formal, detailed procedures. S. 1080 attempts to codify and, thereby, make clear and uniform the best of these additions to the original provisions of the APA.

Mr. President, we do not have the time for me to explain in detail all the provisions of S. 1080. However, I wish to discuss a major element of the bill, what may be the central contribution of this legislation, the provision for a regulatory analysis of major rules.

REGULATORY ANALYSIS

MAJOR RULES

All the significant regulatory reform legislation of the last Congress included provisions requiring some kind of evaluation of the impact of regulattions. The regulatory analysis requirements of S. 1080 can be viewed as organized commonsense, essentially requiring an agency to publicly set out and evaluate the tradeoffs of a rule. The bill applies these requirements only to major rules because of the time and resources required to do a thorough regulatory analysis.

What type of rule warrants a regulatory analysis is not an easy question to answer. The Federal regulatory mechanism has grown so large that Federal rules invade daily life to an extraordinary degree. There is no single formula by which to judge when a proposed rule could be so disruptive that it is worth the closer look required by regulatory analysis.

In order to effectively capture those rules which should be analyzed, S. 1080 defines a major rule in two different ways. Under the first definition, a rule will be major if the agency proposing the rule, or the President, reasonably determines that the rule is likely to have an annual effect on the economy of $100 million or more in reasonably quantifiable direct and indirect costs. This is intended to be a relatively straightforward threshold. The $100 million figure was originally used by OMB to determine what was a major rule for the purposes of the regulatory analysis required under President Carter's Executive Order 12044.

Though, to a certain degree, arbitrary, it is a general rule of thumb for gaging whether a rule is likely to have an effect on the economy that reasonable people could say is major.

The second definition for a major rule is admittedly much more subjective, reflecting the fact that evaluating what is a major rule in some circumstances will require the application of informed judgment to particular facts, and not the use of some general formula. Under this second definition, a rule will be considered major if the agency proposing the rule, or the President, designates it as major on the ground that it is likely to result in a substantial increase in costs or prices for wage earners, consumers, individual industries, State governments, or similarly identifiable sectors of the economy, or on the ground that the rule is likely to result in significant adverse effects on competition, employment, productivity, the environment, public health, and the like.

These two definitions fit together quite simply. When proposing a rule, the agency must determine whether or not the rule is likely to have an impact of $100 million or more. If the agency concludes that it is not likely to have this impact, the President, functioning in an oversight role, may disagree with the agency and determine that the rule will have such an impact. If the President makes this determination, the agency must perform a regulatory analysis of the rule.

If both the agency and the President conclude that the rule will not have a $100 million impact on the economy, the agency may designate a rule as major under the second definition. Once again, the President is given an oversight role, being permitted to designate a rule as major under the second definition if the agency fails to do so. However, the President may designate no more than 75 rules as major under this provision.

THE PROCESS OF REGULATORY ANALYSIS

Mr. President, the regulatory analysis itself proceeds in essentially two steps, closely following the familiar process for promulgating rules. A rulemaking is initiated by publishing a notice of proposed rulemaking. For a major rule, the agency must include a preliminary regulatory analysis in this notice. The preliminary analysis includes a description of the benefits of the proposed rule, an explanation of how the agency expects the rule will produce those benefits, and a description of who is likely to receive those benefits. A similar exercise is done for the expected costs of the rule; the costs must be described, how these costs will result from the rule must be explained, and who will bear such costs must be identified. The agency must describe reasonable alternatives for achieving the benefits of the rule; and, where the rule is based on scientific data, it must describe its action taken to verify the reliability of such data. Finally, the agency must evaluate the tradeoffs of the proposed rule where such an evaluation is not precluded by the statute under which the agency is promulgating the rule. In this evaluation, the agency must explain how the identified benefits of the proposed rule are likely to justify the identified costs of the rule, and it must explain how the proposed rule is likely to substantially achieve the objectives of the rulemaking in a more cost-effective manner than the alternatives to the rule.

Following the publication of the notice of proposed rulemaking, the Administrative Procedure Act allows the public to comment on the proposed rule. S. 1080 preserves this comment period, insuring that no less than 60 days is allotted for comment. A vital part of regulatory analysis is this public contribution to identifying and evaluating the potential impact of a proposed rule. Accordingly, it can be expected that much public comment will be directed to the preliminary regulatory analysis. Commenters could suggest benefits or costs not considered by the agency; they could challenge the agency's representation that the rule will produce certain costs or benefits; or they could suggest alternatives which would substantially produce the identified benefits but with less cost.

Mr. President, the final step of the regulatory analysis takes place when the agency publishes its final rule and the statement of basis and purpose for that rule. For a major rule, the agency must publish its final regulatory analysis in that statement of basis and purpose.

The final regulatory analysis is intended to recount the accumulated wisdom of the preliminary regulatory analysis and the contributions of the public comments. It must include a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking. Finally, once again, where not precluded by the enabling statute, the final regulatory analysis must include the reasonable determination of the agency that the benefits of the rule justify its costs and that the rule will substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives considered.

In spite of the fact that the bill uses the words "benefits" and "costs," this regulatory analysis is not at all a "cost-benefit analysis" in the strict mathematical sense of that term. "Benefits" includes both the quantifiable and nonquantifiable beneficial effects of a rule, while "costs" includes the quantifiable and nonquantifiable adverse effects of a proposed rule. The agency determination about benefits "justifying" costs is not required to be made primarily on a numerical basis. Indeed, that is the reason the word "justify," and not words like "exceed" or "outweigh," were used in the bill. The word "justify" expresses the sense that this evaluation of the tradeoffs of a rule must to a great extent rely on the judgment of the agency. This determination is not committed to the exclusive discretion of the agency, to be sure; but it is based on human judgment, reasonably and responsibly exercised.

Mr. President, the Congressional Budget Office has estimated the additional costs the Government would incur as a result of the enactment of S. 1080. CBO estimates that the regulatory analyses the agencies would conduct would cost $7 million in fiscal year 1983, $9 million in fiscal years 1984 and 1985, and $10 million in fiscal year 1986. I call Senators' attention to the fact that S. 1080 does not authorize the appropriation of any new budget authority to cover the costs. The committees intend that the costs of implementing the bill will be absorbed by the affected agencies. This legislation is not intended to drive up agency budget requests.

JUDICIAL REVIEW OF REGULATORY ANALYSIS

To preserve some oversight of the agency, Mr. President, while insuring that the judgment of a court is not substituted for that of the agency, judicial review of the regulatory analysis has been limited. The analysis is not subject to any interlocutory review. The analysis may not be reviewed apart from the rule to which it relates, coming before a court only as part of the whole rulemaking record.

Obviously, where an agency completely fails to do a regulatory analysis of a major rule, the resulting rule would not be based upon a consideration of the factors required by Congress and would not be a lawful rule. Where the regulatory analysis has been done, however, the regulatory analysis, and any other information in the record, would be considered by a court in determining whether the rule was lawful under the established standard for review; that is, whether the rule is arbitrary or capricious. In making the regulatory analysis part of the entire rulemaking record on review, this "arbitrary or capricious" evaluation is focused not on the regulatory analysis by itself, but on the analysis only as it is relevant to the arbitrariness and capriciousness of the whole rule.

RELATIONSHIP TO OTHER STATUTES

Mr. President, in explaining the regulatory analysis provisions of S. 1080, I think it is important to address a central concern of both the Judiciary and the Governmental Affairs Committees in developing these provisions. That concern is the relationship of the determinations required in regulatory analysis—that the benefits of a rule will justify its costs, and that the rule is cost-effective—to particular enabling statutes which might be seen as precluding any role for such a determination in rulemaking.

I recognize that this is a particular concern of several other Members of the Senate. Last summer, the Senator from South Carolina (Mr. THURMOND), the Senator from Delaware (Mr. BIDEN), the Senator from Vermont (Mr. LEAHY), and I responded to an inquiry on this point from the chairman of the Committee on Environment and Public Works (Mr. STAFFORD) and that committee's ranking minority member (Mr. RANDOLPH). This whole subject is exhaustively discussed in the reports of both the Judiciary and Governmental Affairs Committees. In addition, it is discussed further in the explanation of the consensus substitute amendment for S. 1080.

The regulatory analysis in S. 1080 is shaped by the fact that some regulatory regimes in individual enabling statutes preclude, either expressly or by necessary implication, any role for an evaluation of the relationship of the benefits of a rule to its costs, or of a rule's cost-effectiveness, in the formulation of that rule.

The difficulty in writing statutory language to avoid inadvertently overriding the provisions of such statutes is a consequence of the many different types of regulatory statutes, many of which were enacted by Congress without even addressing the issue of how regulatory costs were to be considered.

Looking back over this body of statutory law, whether a particular enabling statute precludes the determinations required by the regulatory analysis of S. 1080 will in most cases be dependent on whether and how that statute provides for the consideration of the benefits of a proposed rule in light of its costs.

Generally speaking, the body of enabling statutes can be broken down into three different approaches to these matters. First, some clearly do preclude expressly, or by necessary implication, the consideration of costs and adverse effects in the manner contemplated by the determinations required in S. 1080. A common example of this kind of statute is the Delaney clause of the Food, Drug, and Cosmetic Act, which bans any food additive which has been found to induce cancer.

Second, other enabling statutes are less clear because they are ambiguous as to whether and how costs and adverse effects are to be considered in relation to potential benefits. And third, still others require or allow costs and adverse effects to be considered, sometimes spelling out how.

There are many examples of this third category of statutes. Indeed, a CRS study commissioned by the Subcommittee on Regulatory Reform identified over 200 statutes which require some form of economic consideration in rulemaking. The Flood Control Act of 1936, for example, directs the Federal Government to participate in the improvement of navigable waters for flood control purposes "if the benefits * * * are in excess of the estimated costs * * *" The provisions of the Water Pollution Control Act regarding the development of the "best practicable technology" to control effluent limitations includes, as one factor to be considered, the "total costs of application of technology in relation to the effluent reduction benefits to be achieved from such application."

Both the Judiciary and the Governmental Affairs Committees originally used different language to address the relationship of the regulatory analysis determinations required by S. 1080 with these various enabling statutes. But the goal of both committees was identical: To insure that S. 1080 did not inadvertently override provisions in other statutes which, expressly or by necessary implication, preclude an agency from making these determinations in rulemaking; that is, the determinations that the benefits of the rule justify its costs, and that the rule is cost-effective.

Further improvement was made in the proposed language of S. 1080 after both committees reported the bill. The formulation agreed upon for the consensus substitute amendment requires that the regulatory analysis determinations be made "where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting."

These words convey the intent of the committees that an enabling statute's preclusion of these regulatory analysis determinations does not necessarily have to appear in express language on the face of the statute. What the provisions of any statute mean in a particular situation must often be interpreted from conventional sources of legislative history.

Thus, the use of the words "the provisions of the enabling statute" does not in any sense limit this exemption from the regulatory analysis determinations to only the express language of an enabling statute, but allows for the traditional use of legislative history.

At the same time, Mr. President, these words also convey the committees' intent that any such preclusion of these determinations must be seen as affirmatively flowing from an enabling statute, and not the result of congressional silence, or from the absence of a requirement that such determinations be made.

For example, an enabling statute setting out factors to be considered in rulemaking should not automatically be seen, without more, as being so inconsistent with the regulatory analysis determinations as to preclude their use.

Rather, the language of the exemption envisions that the regulatory analysis determinations could be seen as precluded by the terms of an enabling statute in two basic ways. Such a preclusion could be found in statutory terms, as informed by legislative history where needed, which discuss and disclaim the appropriateness in a particular rulemaking of determinations concerning the tradeoffs of a proposed rule of the type required by S. 1080.

Second, such a preclusion could be found in statutory terms which create a statutory regime which is so inconsistent with these determinations as to evidence a congressional intention that they not be made.

Mr. President, with the other sponsors of the consensus, I believe that it would be inappropriate to attempt to specify particular statutes which would by necessary implication preclude the regulatory analysis determinations of S. 1080. In some cases, such specification would put us in a position of appearing to make authoritative interpretations of statutes with which we are not intimately familiar. Further, a discussion which placed certain statutes in a particular category would be interpreted—wrongly—as an implied finding that other analogous statutes omitted from the discussion were not to be afforded similar treatment.

Insofar as the interpretation of a statute is the subject of legitimately conflicting opinions, or even of litigation, it would be inappropriate for one group of Senators or one committee to attempt unilaterally to resolve currently disputed matters of law.

The sponsors of the consensus recognize that the specific application of this provision must of necessity proceed on a case-by-case basis, in the first instance by an agency, and, upon challenge, by a reviewing court. The effort in drafting this legislation, and in explaining it both in the committee reports and in the explanation of the consensus, is to set out clearly the governing principles intended. As a practical matter, looking over not only the language of this exemption, but the way we have crafted the regulatory analysis requirement, it is unlikely that the determinations in regulatory analysis required by this bill will be inconsistent with the provisions of an enabling statute.

This regulatory analysis should be seen as a rudimentary framework for regulatory decisionmaking, a framework which can be shaped and molded to fit the demands of particular enabling statutes. As the Judiciary Committee report puts it, this regulatory analysis is designed to be plugged-in to the various enabling statutes.

In this regard, Mr. President, the requirement that the benefits of a rule must justify its costs signifies two things.

First, a precise quantification of costs and benefits is neither required nor anticipated in all cases.

Second, agencies are free to bring to bear certain judgmental factors in making the required determination.

So, if an enabling statute specifies certain factors to play a role in a regulator's decisionmaking, that regulator should give those factors added weight in determining whether the benefits of a rule justify its costs.

CONCLUSION

Mr. President, I shall not take any more time of the Senate in explaining the various provisions of S. 1080. The reports of the Governmental Affairs and Judiciary Committees and the explanation of the consensus substitute amendment go into great detail to explain what it is this legislation is trying to achieve, and how the particular language chosen is designed to achieve it.

Mr. President, this legislation attempts to establish a very commonsense principle.

Simply put, we need some balance in our regulatory policy. We must not undermine the important national policies which motivate Federal regulation, but, at the same time, we must understand that our regulatory efforts absorb critically needed resources. These resources are not only taken from our productive capacity, but are often diverted from efforts to achieve other important social goals.

S. 1080 represents an effort to make agencies aware of the resources they consume in regulating, and to require them to try to use these resources effectively.

This is not just a simple matter of reducing regulatory costs. The much more difficult challenge this legislation presents to agencies is to make regulations more effective in the broadest sense. Can a regulation produce more benefits for the same cost? Can a regulation produce equivalent benefits for less cost? Is a regulation reasonably drafted to produce sufficient, or any, benefit?

These are the questions that S. 1080 makes a normal part of a rulemaking. These are fundamental questions which I suspect every Member of the Senate feels agencies should try to reasonably answer.

Indeed, Mr. President, for that reason, 81 Senators are sponsoring this legislation. And it is for that reason that S. 1080 merits the support of all the Members of the Senate.

Mr. LEAHY. Mr. President, the fact that we need to improve the Federal regulatory process is constantly called to our attention:

Estimates on the costs to American business of complying with Federal regulation range from $30 billion to in excess of $100 billion a year. We hear that regulation may cost the economy between $25 and $50 billion in paperwork alone. I have heard from officials in Vermont who cannot understand why they have to fill out Federal paperwork on matters with no impact in Vermont like cotton gins, coke ovens, Blackfeet Indians, and welfare adjustments under the Alaskan Native Claims Act.

We also heard from one small business taxpayer who, in response to his request for some help from the IRS in filling out one form, received 15 booklets in the mail.

Beyond the bureaucratic blunders and guffaws, Mr. President, very few people in or out of Government would seriously suggest that Government regulation is about to or should disappear. Indeed, the benefits of measured and thoughtful regulation are substantial. They are the very foundation of some of our most important health, safety, and environmental programs, and those programs are the foundation of a civilized industrial society in which it is possible for the average citizens to lead a decent life.

A year ago when my distinguished colleague from Nevada (Mr. LAXALT), and I began writing this legislation, we started with a few basic premises. From our work together on the Administrative Practices Subcommittee in the last Congress, we knew it was high time to make regulatory reform a reality. We committed ourselves and the resources of the Judiciary Committee's new Regulatory Reform Subcommittee to that end.

We began with the need to set out a procedural framework to provide the full benefits of Federal regulation and lower costs to regulated industries and to the public. Federal regulators have to consider the impact their regulations will have on those regulated—the businesses, industries, and ultimately, the consumers who bear the brunt of Federal regulations. But that is not the end of the matter. The full job of those regulators is to bring about known benefits like a clean environment and healthier workplaces and to do so while lowering social and compliance costs. First and foremost are the benefits of Federal regulatory programs. In these times of increasingly scarce resources and heightened awareness of the adverse health consequences of modern technology, we have to provide those benefits and we have to do so in a way which reduces compliance costs for regulated industries without shifting those costs to workers, consumers, and other third parties in the form of social costs.

Thus, the key to S. 1080 is the decision to achieve more cost-effective regulation by amending the informal rulemaking procedures of the Administrative Procedure Act to require Federal regulators to evaluate the benefits and costs of proposed major regulations, through the regulatory analysis contained in new section 622 of the APA.

Our second premise is that regulatory analysis is a value neutral regulatory management tool and S. 1080 is a value neutral regulatory reform bill. It applies equally to regulatory and deregulatory action. It recognizes that both costs and benefits are important in determining the final outcome of a rulemaking. We are not out to dismantle the bureaucracy or kill regulation, but to maximize the benefits of Federal regulation and, at the same time, to make regulation more cost effective and less burdensome.

Third, we would not and could not override substantive regulatory statutes. Our job is only to update and revamp the procedures the agencies use in promulgating regulations. The shape of Federal regulatory programs lies entirely with the appropriate substantive congressional committees.

Next, we recognized that if regulation is to be effective, those affected by it must have an adequate opportunity to participate in the rulemaking and let their views be known to the agency. At the same time, we want to keep informal rulemaking informal and to promote expeditious rulemaking. The American people want less, not more, redtape.

We understand the danger that amendments to the Administrative Procedure Act could become the lawyers relief bill of 1982. We have taken a major step to guard against that danger by including very important restrictions on judicial review of its major provisions.

We also made every effort to develop a clean bill which could gain broad bipartisan support. This is not to say we avoided controversial issues. Indeed, many are included in the consensus amendment we offer today. Others will be hotly debated during our consideration of this bill.

Nonetheless, we did make a conscious decision not to attempt to cure every regulatory ill in one piece of legislation. Rather than trying to amend the entire APA, or take on all the issues which can be encompassed in the broad term "regulatory reform," we wanted to present more limited reforms—reforms which would pass the Congress in a bill which the President could sign.

Finally, we were determined to work closely with our colleagues on the Governmental Affairs Committee to which S. 1080 was jointly referred. Although there were differences between the bill as reported by the two committees, we knew our shared goals were too important to permit those differences to kill or delay enactment of this legislation. I am proud to join with my colleagues Senators LAXALT, EAGLETON, and ROTH in introducing amendment No. 640, the consensus substitute for S. 1080.

These fundamental concepts of using regulatory analysis and increased public participation as value neutral regulatory management tools to improve the informal rulemaking process, without altering substantive law or promoting litigation for its own sake have been with us throughout the development of this legislation. They have so shaped the Laxalt-Leahy regulatory reform effort that I would like to elaborate on them.

Regulatory analysis is the key to S. 1080. It requires the agencies to set out and evaluate, on a nonmathematical basis, the tradeoffs of proposed regulations in terms of their direct and indirect costs and benefits. This requirement applies only to major rules, those 150-250 regulations each year of major significance to our society and economy.

Many experts have questioned the whole approach of cost-benefit analysis. They point out that such analyses are inexact and may appear to provide a more precise result than is justified by the analytic method or the data that go into the analysis. The analysis may be relatively precise where compliance costs are involved, but hazy in describing equally important benefits. It is inherently difficult to establish a common basis for weighing costs against benefits, since each side of the scale will hold calculations of different precision. These drawbacks counsel against too great a reliance on numbers, not against performing some analysis of the costs and benefits of proposed regulations.

Even proponents of cost-benefit analysis recognize its limitations. Murry Weidenbaum, Chairman of the President's Council of Economic Advisers, testified in our subcommittee hearing,

> Although the emphasis on benefit-cost analyses is welcome, such analytical techniques have not been developed to the extent necessary to make them the exclusive basis for evaluating regulatory proposals.

This is why S. 1080 does not use cost-benefit analysis in a strict economic sense.

For too many years, the cost side of the cost-benefit analysis has gotton all of the publicity, all of the financial analyses, and all of the colorful rhetoric. Murray Weidenbaum created a quotable number that is now the rhetroical standard in the field—the costs of regulation is $120 billion per year. It is a nice number because it is large and divides by the number of months in the year without the use of a pocket calculator.

But what does this number mean without calculating the benefits? I like the example used by Mark Green, writing in the Washington Post a few months ago. What if someone attacked General Motors for imposing $60 billion dollars' worth of costs on the economy, without mentioning that the company also produced four million cars?

Two vital points must be made whenever these cost figures are held up as a reason to cut back Federal regulation. First, it is imperative for us to look at what percent of the figures relate to inefficiency and what percent are the costs attributable to having worthwhile programs.

Second, the benefits of Federal regulation are every bit as important as their costs. Indeed, they are the reason Congress passed the Occupational Safety and Health Act and Resource Conservation and Recovery Act, the Clean Air Act, and other important health, safety, and environmental statutes in the first place. What are the benefits and what are those benefits worth, if they can be computed?

Widespread evidence of the substantial benefits arising from government regulation, particularly health, safety, and environmental regulation, continue to mount. The Center for Policy Alternatives at the Massachusetts Institute of Technology prepared a study quantifying these benefits.

A few of the center's conclusions serve as an example of the kinds of benefits we must maximize. This study concluded: The benefits of regulating air pollution from major sources range from $5 billion to $58 billion per year; OSHA limitations on worker exposure to asbestos may result in a reduction of 630 to 2,500 deaths per year from lung cancer and asbestosis; motor vehicle occupant protection standards saved over 28,000 lives between 1966 and 1974.

In an independent study prepared for EPA by three western universities, researchers concluded that the benefits of controlling stationary source air pollution are at least twice as large as their costs. The study found that the reduction in deaths and chronic illness which resulted from air pollution reductions from stationary sources achieved from 1970 to 1977 amounted to more than $8 billion annually.

In that study, "National Accomplishments in Pollution Control: 1970 to 1980," the Environmental Protection Agency has compiled a list of case studies concerning the Clean Water Act which shows similarly dramatic improvement of our water resources.

Other studies clearly indicate that OSHA inspections result in reduced exposure and reduced mortality. One researcher at Cornell estimates the value of the benefits of these inspections at $5 billion per year.

A study by Mark Green and Norman Waitzman calculated the aggregate benefits from five health and safety agencies to be $37.1 billion in 1978 alone.

These studies, calculating the benefits already achieved by Federal regulatory programs, demonstrate the importance of the benefit component of regulatory analysis. At the same time, S. 1080 recognizes that future benefits are generally harder to project than potential costs. The bill does not suggest that agencies should struggle to assign numerical values to potential costs, benefits or effects which are really subjective. Where the bill directs agencies to compare costs and benefits, it makes clear that the agencies need not do so either on a monetary or mathematical basis. The Regulatory Reform Act recognizes that many costs and benefits cannot be quantified. They need only be described by the agency in the rulemaking. In addition, when numerical estimates are used, the agencies are required to specify the ranges of their predictions and explain the margins of error involved in both the methods and the estimates used.

There is no unique way to value human pain and suffering, diseases and injury in monetary terms. S. 1080 recognizes the impossibility of this task and, unlike some approaches, does not require that benefits outweigh costs. Rather, the requirement is that the benefits of a rule justify its costs.

This leads me to the second principle which has shaped the development of this legislation: regulatory reform is value neutral. It has to be if we are to deal effectively with the competing demands facing our modern complex industrial society. The American people are demanding that we get rid of overly burdensome Federal rules and regulations. Our businesses and industries are demanding that we cut through the mountains of time consuming and complicated redtape. They need relief from the burdens of overlapping and duplicative regulations. All Americans are demanding that we streamline the regulatory process and get the Government off their backs.

But with an equally loud voice, the American people are telling us that we must continue to clean up our environment. In fact, a recent Harris poll concluded that "not a single major sector of the public wants to see environmental laws made less strict."

During the summer of 1980, Public Opinion magazine issued by the American Enterprise Institute concluded that 68 percent of the American public agrees that if companies were left to themselves, and not regulated, all consumers would suffer.

A majority of Americans feel that it is a proper role of the Federal Government to protect public health and safety. Not only do the American people feel that Government has a proper role to play, they are demanding that we make workplaces safe and healthy, that we eliminate cancer-causing chemicals from our food, our children's clothing, our schools and our homes, and that we insure that toxic and nuclear wastes do not endanger the health and well-being of generations of Americans not yet born.

Just last month we learned that 27 recognized or suspected carcinogens routinely have been stocked in chemistry laboratories at secondary schools around the country. As legislators we have a responsibility to guard against letting the hidden costs of our marvelous industrial technology be the lives of our grandchildren or reduced life expectancy for students in high school chemistry classes. We have seen what happens when we do not have strictly enforced regulations to guarantee the safe storage and disposal of toxic and hazardous materials. These are costs we just cannot afford to impose on society today or 100 years from now.

Because of these demands, the Regulatory Reform Act directs agencies to assess costs and benefits in a neutral way. While an agency must address the costs to business from requiring technology controls to reduce a health hazard, it must also address the adverse effects on workers from substituting personal protective devices for technology control. When the National Cancer Institute estimates that 2.5 million people will die prematurely over the next 35 years because of inhaling cancer-causing asbestos fibers in the workplace, OSHA must take those millions of lives into account, and must look at the failure to save them as a cost to our society.

Likewise, the provisions of S. 1080, from regulatory analysis to the Bumpers amendment apply equally to regulatory and deregulatory activity. This legislation sets out good tools for producing better regulation. It therefore should apply equally when regulators want to shift risks and burdens from business and industry to the workers, consumers, and taxpayers whom Congress sought to protect by establishing regulatory programs in the first place. Deregulatory actions should be fully analyzed and should be subject to the same scrutiny as other regulations.

Having described the basic philosophy of regulatory analysis, I would like to spend a few minutes on the mechanics of how the regulatory analysis provisions of the bill will operate. When an agency publishes a notice of proposed rulemaking for a major rule, the notice will include a summary of the preliminary regulatory analysis. The analysis itself will be available to the public as part of the rulemaking file.

The preliminary regulatory analysis will include succinct descriptions of the potential costs and benefits of the proposed rule and explain how they will come about, including descriptions of the people likely to receive the benefits or incur the costs. This requirement that agencies describe the classes of people who will be primarily affected by the rulemaking serves two important purposes. First, certain statutes identify special persons or classes of people intended to receive special protection. Some examples of such special populations include the handicapped, the elderly, pregnant women, or provisions in the Clean Air Act meant to protect asthmatics. Second, our consensus amendment addresses the concerns raised by Senators SASSER and SPECTER that the agencies must identify particular levels of Government likely to recieve the benefits or incur the costs of a particular rule.

We deliberately chose the word "succinct" in section 622(c)(2) to underscore the preliminary nature of this analysis. The preliminary regulatory analysis forms the basis for public comment on major rules. We do not want the agency to have so thoroughly assessed costs and benefits that they are already locked into a position. At this stage in the rulemaking, the agencies should not be wasting reams of paper filling the Federal Register or the rulemaking file with an analysis which we fully intend will change as the parties affected by the rulemaking comment on it.

As the Regulatory Reform Act has developed, we have taken several steps to deal with the problem that costs are generally overestimated while benefits are underestimated. This is so because the regulated industries themselves provide the data for compliance costs. Learning curves, economies of scale, and technological innovation are generally ignored.

The Judiciary Committee recognized one aspect of the problem of industry's propensity to overestimate costs when it indicated in its report that compliance costs are to be amortized:

> "Annual effect" also should include that portion of the amortized capital costs of compliance that may reasonably be attributed to a given year.

The consensus amendment also adopts language proposed by Senator KENNEDY during the Judiciary Committee's consideration of the bill. The agencies may not rely on cost or benefit information submitted by outside parties unless it is accompanied by supporting data or analysis enabling the agency and other commenters to assess its reliability. Similarly, the consensus amendment incorporates the Governmental Affairs Committee's requirement that agencies describe in the preliminary regulatory analysis the action they have taken to verify scientific data.

Because regulatory analysis is a management tool, we have placed it in chapter 6 of title 5 with consequences, particularly for judicial review, which I will describe later. It, like the other management devices in chapter 6, will be used to improve and coordinate the Federal regulatory process.

Regulatory analysis is in short, a procedural tool for pulling together information and getting valuable input from interested members of the public. After all of the relevant information is gathered, and reasonable lawful alternatives have been considered in light of the public comments received, S. 1080 directs the agency to ask two questions before it issues a final regulation: Do the benefits of the rule justify its costs and is the rule effective?

These two questions are phrased in statutory terms in section 622(d) of the consensus amendment. Except where it would be inconsistent with the enabling statute pursuant to which the agency is acting, when it issues a major rule, the agency must make a reasonable determination that the benefits of the rule justify its costs and that the rule will substantially achieve the objectives of the rulemaking in a more cost effective manner than the alternatives considered.

This language and the parallel language in the preliminary regulatory analysis is both deliberate and important. First, the agency must make reasonable determinations. Complicated formulas and unintelligible assessments are not contemplated. The regulatory analysis is just a way for the agency to set out the policy choices which will fulfill the purposes of the enabling legislation, compare on a nonmathematical basis the costs and benefits it foresees, make rational judgments about the tradeoffs involved and finally, to articulate in plain English why it made the policy decision it did.

This is a commonsense approach to rulemaking. The questions asked are no more than those a reasonable person would ask before making any important decision and the model is the familiar reasonable man standard in tort law. Within the bounds of the principles and objectives of the substantive statutory scheme which governs agency actions, we are giving the agencies a procedural framework for assessing the social and economic impact of their major rules.

Next the bill rejects the notion that the ultimate test of regulation is whether benefits exceed or outweigh costs. The statutory question is whether the benefits of a rule "justify" its costs. Rulemaking cannot be a ledger sheet with costs on one side and benefits on the other, and the term "justify" underscores our rejection of policymaking by numbers. In many regulatory settings no numbers are available, and benefits and costs cannot be quantified.

In all regulatory decisions, the qualitative judgment of the agency is essential. Indeed, the primary factors to be considered in rulemaking—the policies and principles of the underlying substantive statute—are always qualitative.

We are asking the agencies to make reasonable commonsense choices. We are canalizing their application of substantive statutory principles by having them articulate how the benefits of the rule fulfill the purposes of the rulemaking proceeding and thus justify the costs involved. Since the overriding concern is the benefits Congress sought to achieve in enacting the enabling legislation, frequently the benefits of a rule will warrant its costs even though the rule would fail a strict cost-benefit test.

Similarly, by requiring the agencies to make reasonable determinations that their major rules substantially achieve rulemaking objectives more cost effectively than the alternatives they have considered, we are not directing them to choose the least costly alternative. Having considered the alternatives recommended by the affected public, the agencies must evaluate the alternatives' effectiveness in achieving the stated objectives of the rule, not seek cheaper ways to achieve less. The goal is to maximize the benefits of regulation, while minimizing the costs and burdens on the public, not to reduce the costs of regulation at all costs.

The cost effectiveness provision of S. 1080 is intended to state a basic, and the sponsors believe, indisputable point: That the most cost effective alternative is the one which will achieve the same goal, in terms of health or other benefits, at a lower cost—both social and economic—than the other alternatives considered. In most cases, this requirement will reduce compliance costs for regulated industries. I say "most cases," because a regulation which shifts those costs to workers, consumers, or other third parties, is not cost effective.

Many of our colleagues have expressed to me their concerns about the impact of S. 1080's regulatory analysis provisions on substantive statutes. S. 1080 is a procedural bill. Both the Judiciary and Governmental Affairs Committees took steps to insure that S. 1080 would not alter substantive statutes. To avoid overriding other provisions of law, the consensus substitute provides that a regulatory analysis shall be made "where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting." Thus, S. 1080's regulatory analysis provisions will apply only where they are consistent with the underlying statute.

Since 1946, the Administrative Procedure Act has defined the procedural steps an agency must follow in rulemaking. As the Judiciary Committee affirmed in its report, nothing in this bill alters the procedural nature of the APA. Substantive factors which agencies must consider in rulemaking decisions are still determined by substantive enabling legislation. Moreover, when the enabling statute sets out the way various factors—whether costs to be avoided or benefits to be attained—should be considered, the provisions of the enabling statute, rather than S. 1080, are dispositive.

In considering this legislation, we must remember—just as the agencies and the courts which will implement it must always keep in mind—that Congress has already made an overarching judgment about the benefits of a policy warranting its costs when it makes safe, healthy workplaces, clean air and water or other goals national priorities, and establishes regulatory programs to achieve those goals. This bill does not upset the balances Congress strikes in writing such statutes, because regulatory analysis cannot be applied where it is inconsistent with the enabling statutes.

The determination of whether the regulatory analysis is inconsistent with the relevant enabling statute should be made on the basis of statutory language, legislative history, previous court interpretations of related statutory provisions and other evidence of congressional intent. S. 1080's regulatory analysis and other provisions give the agencies a framework for articulating policy options, benefiting from public discussion of those options and exercising their rational judgment in choosing regulatory alternatives. A procedural bill, like this one, cannot—and S. 1080 does not—introduce into the decisionmaking process, factors which are inconsistent with Congress intent in enacting particular regulatory laws.

This bill is premised on the principle that we cannot stand here and amend statutes ranging from OSHA and the Clean Air Act, to the Securities and Exchange Act and other statutes governing trade and banking, through the backdoor. That is, by means of a procedual bill. If these statutes need to be reformed at all, they should be amended on a case-by-case basis, by the appropriate committees of the Congress.

As Senators LAXALT, THURMOND, BIDEN and I wrote to Senators STAFFORD and RANDOLPH in describing the narrower exceptions clause in the Judiciary Committee bill—

> The important point to emphasize is that S. 1080 will not alter or override the provisions of the Clean Air Act, or any specific enabling statute. Thus, the enabling statute pursuant to which an agency is acting will ultimately determine what factors cannot be considered in a particular rulemaking.

Increased public participation in rulemaking is a key part of this legislation. From discussing regulatory reform with business people in my home State of Vermont, I am convinced that the principal reason we hear such a loud cry for regulatory reform from all over the country, is the redtape and paperwork which is being imposed on good, hardworking people by Washington regulators who have lost touch with what it means to have to deal with their regulatory requirements. This is why S. 1080 directs Federal regulators to solicit and carefully consider ideas from the public of ways to achieve the benefits of regulation through more cost effective, less burdensome alternatives. The agencies will also be required to take into account and, where appropriate, to accommodate differences between the various geographic regions of the United States.

One of the ways the Regulatory Reform Act will promote public participation in rulemaking is through the use of hybrid rulemaking procedures when major rules are being considered. Under current law, in informal rulemakings, an agency must give interested persons notice of the proposed rulemaking and allow them an opportunity to comment in writing. The agency may use procedures in addition to simple notice and comment, in its discretion. These additional procedures have been dubbed hybrid procedures because they are a cross between the notice and comment procedures of informal rulemaking and the full trial-like procedures of formal rulemaking which are used only when required by statute.

These hybrid procedures include useful techniques like public meetings, panel discussions, presentation of staff arguments for comment, oral presentations and direct and cross-examination of witnesses. They will enhance interested parties' opportunity to comment on the agency's thinking prior to promulgation of a final major rule.

The main reason for using hybrid procedures in S. 1080 is to collect information from the public and fully air the issues involved in the rulemaking. These procedures are designed to assist the agency in resolving material issues of fact, and to avoid future litigation by confronting conflict at the rulemaking stage. When hybrid rulemaking works, the result is a more informed agency, a better chance of resolving differences among members of the regulated community or between the public and the agency, and in the end, a better rule.

But the other side of the coin is the impact of hybrid rulemaking on the length and complexity of the hearing process. Such procedures may increase the time necessary to complete informal rulemaking proceedings and make them even more formal and trial-like than the current rulemaking system. Public participation is essential to fair and effective rulemaking, but a needlessly long and complex hearing will unfairly affect those participants less able to pay the costs of lawyers, consultants, and expert witnesses if the rulemaking is being dragged out by the parties with the deepest pockets.

Second, intensively contested hearings could result in agency decisions to avoid rulemaking altogether, rather than to sustain the added procedural burdens and the threat of judicial wingclipping. The use of hybrid procedures may be healthy in some rulemakings, but using them too much may poison the atmosphere and impede action on vital agendas. Also, Federal regulations have to be written in plain English, and an excessively adversarial proceeding may result in regulations that sound more like court decrees than rules implementing acts of Congress.

The hybrid rulemaking issue has been examined thoroughly during the hearings on the bill and in the development of this consensus substitute. I believe this compromise strikes a good balance between the sometimes competing needs for thorough and open rulemaking proceedings and the prompt completion of those proceedings.

I was also concerned that individuals and public interest groups would be at a disadvantage where their counterparts in business and industry are able to sustain the high cost of lengthy and complicated proceedings. Therefore, the consensus amendment encourages the agencies to establish procedures to insure orderly and expeditious proceedings, including the designation of representatives to make oral presentations or conduct direct or cross-examination on behalf of multiple parties with common interests.

We have also dealt with the serious concern that the agencies would unnecessarily formalize the informal rulemaking process by adopting adversarial procedures in order to avoid judicial reversal. Wisely, S. 1080 carefully limits the use of the most trial-like procedures—direct and cross-examination—to those major rules where the agency has determined that other procedures are inadequate to resolve significant factual issues on which the rule is based.

In addition, judicial review of agency procedural choices is very limited. There is no judicial review of an agency's choice of procedures in nonmajor rulemakings. An agency's failure to use a particular procedure is grounds for appealing only major rules, and even then, the scope of judicial review is restricted. Unless it has precluded a fair consideration and informed resolution of a central issue of the rulemaking taken as a whole, the failure to adopt a particular hybrid mode will not result in a remand.

S. 1080's hybrid rulemaking procedures have one aim: To open the door to more flexible informal hearing procedures, but not to create a procedural trap for the unwary or a vehicle for imposing delay and complexity where they might be viewed as useful results for a particular party to the rulemaking. I think the compromise we have struck achieves that goal.

These limitations on the use of hybrid rulemaking procedures bring me to another critical feature of the Regulatory Reform Act. Any major piece of legislation will spawn some litigation, but we have spurned the idea of turning this bill into a relief program for lawyers.

At every point where we, and the many litigators we have consulted in developing S. 1080, felt a particular provision might give rise to litigation for its own sake or as a delay tactic, we have restricted the scope of judicial review.

The first set of restrictions is on judicial review of the trigger for regulatory analysis, the decision of whether or not a rule is a major rule. As introduced, S. 1080 permitted full judicial review of the major rule determination.

We rejected that approach in favor of a combined system of limited executive oversight and even more limited judicial review, for two reasons. First, the judicial review mechanism does not begin to operate until after the process has been completed and both the agency and outside parties have spent enormous amounts of time and money in the rulemaking proceeding. Second, there was a real danger that the agencies would assign major rule status to more rules than necessary in order to avoid judicial reversal. We have a responsibility to be sure agency resources will be directed at the truly most important regulations, the 150-250 rules each year which really have a significant impact on our society and economy. If more than that go through an elaborate and expensive cost-benefit analysis, the quality of those analyses will go downhill very quickly.

A rule may be selected as major and subjected to the regulatory analysis process in several different ways. For the most part, these decisions are not subject to judicial review. Under the consensus amendment, when the President or his designee determines a rule is major because of the factors listed in the bill, that determination or designation is not subject to judicial review. Likewise, when an agency designates a rule as major because of a substantial impact on particular sectors of our society and economy listed in S. 621(4)(B), there is no judicial review.

The Judiciary Committee permitted one exception to the general preclusion of judicial review of the question whether a rule is major. The agency's determination of whether a rule is or is not major under the $100 million impact test may be set aside "only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination." There is no interlocutory review.

After an agency has already gone through full notice and comment, the courts should not overturn a rule lightly. The reviewing court should not force the agency to go back and do a regulatory analysis unless the agency clearly was shirking its responsibility to thoroughly evaluate a rule which without a doubt would have a $100 million impact on the economy.

Anyone challenging a rule because of any agency error in determining whether or not a rule is major, must meet a very high burden of proof. The challenger must demonstrate to the reviewing court that the agency's determination was clearly erroneous. Moreover, this burden must be met solely on the basis of data and information available to the agency at the time it made the determination. Data received or developed during the comment period will not be admissible on this point.

The second restriction on judicial review addresses the important problem of how to provide for regulatory analysis as an evaluative tool without inviting judicial review of the regulatory analysis itself. We do not want to create a judicial review mechanism resembling the judicial treatment of environmental impact statements under the National Environmental Policy Act of 1969 (NEPA), or to generate the complex and time-consuming litigation that followed NEPA.

A great deal of thought has gone into this problem over the last 3 years. In our joint report on S. 262 in the last Congress, the Governmental Affairs and Judiciary Committees quoted Charles Schultze, chairman of President Carter's Council of Economic Advisers. That quote pinpoints the reasons S. 1080 again strictly limits judicial review of the regulatory analysis:

> * * * Judicial evaluation of the quality of these analyses will hamper achievement of the goal, not promote it. The key function of the Federal courts in reviewing administrative action is to evaluate the substantive conformity of the decisions to the statute and to assure individual rights have been respected in the decision process. The court's function is not to second guess internal management judgements or processes. If every assertion, phrase or figure in a regulatory analysis can be subjected to adversary attack and litigation, then new delays in the regulatory process seem a likely prospect. These delays will happen with no offsetting gains in the quality of analysis in its actual use by the decisionmaker. In fact, given human nature, if these documents are to become the basis of invalidating agency action, then they are likely to become litigation oriented briefs rather than candid attempts to examine the difficult choices that regulations inevitably involve. Their value to decisionmakers, as well as to the Congress and the public, will be severely impaired * * *

Section 623(d) of S. 1080 adopts the same restriction on judicial review of the regulatory analysis as we included in S. 262. The regulatory analysis itself shall not be the subject of judicial review. Neither the manner in which the regulatory analysis was performed, nor the agencies' methods and findings, nor the contents or sufficiency of the analysis is subject to judicial review.

When a court reviews an agency action, the issue is whether the rule itself is legally valid. The statute clearly directs the courts' focus on whether the agency, in issuing the rule, acted in an arbitrary or capricious manner.

Thus the courts should not second-guess the agencies' policy decisions. We do not want them appraising, affirming or reversing an agency rule on the basis of what a regulatory analysis says or how it was done. But the regulatory analysis will be one part of the rulemaking record on review. To the extent relevant to an issue before the court, it will be available to and maybe considered by a court in determining the legal validity of the rule which is the subject of the analysis.

The court will look at the statement of basis and purpose published by the agency to determine whether the rule is valid when viewed in light of the factors which the agency is required or permitted by law to consider. The regulatory analysis, along with all of the other information in the rulemaking file will serve as background information to explain the agency's thinking to reviewing court. The material listed in section 553(f) will show the court how the agency reached the regulatory policy decision it did. It is only that policy decision, the final rule, that is subject to judicial review, and the standard is the arbitrary and capricious test.

This restriction on judicial review of the regulatory analysis is consistent with the goals of the Regulatory Reform Act. The purpose of the bill is better regulatory management by the agencies. The regulatory analysis is a procedural tool to help the agencies develop well-reasoned rules which will achieve the objectives established by the underlying substantive legislation, and the courts may not look at it in any other way. We have prohibited judicial review of the regulatory analysis itself because such judicial review would result in increased litigation and unnecessary delay.

Another regulatory management device in S. 1080 is the periodic review of rules. The agencies will review their existing major rules on a 10-year cycle, to insure that they continue to fulfill the objectives of the enabling statute and do so cost effectively. The agencies will not have to review all of their rules. Rather their efforts will be concentrated on rules which are major at the time of review.

The last major feature of S. 1080, its executive oversight provisions, was developed during committee consideration of the bill. The principles of avoiding delay in rulemaking, having appropriate oversight occur at the beginning of the rulemaking process, not altering substantive law and limiting regulatory analyses to major rules govern these provisions.

The consensus substitute permits the President to establish procedures for both executive and independent agencies' compliance with S. 1080's regulatory management tools. These tools are described in chapter 6 of title 5. They include the regulatory analysis, the 10-year review of rules, the regulatory agenda and calendar, regulatory deadlines and the President's annual report to Congress on Federal regulatory activity.

The President may delegate this authority to establish procedures for agency compliance with subchapters II and III of chapter 6, to the Vice President or to an officer appointed by and with the advice and consent of the Senate.

The procedures established by the executive branch under section 624(a) must be consistent with prompt rulemaking and the public must be given an opportunity to comment on them before they are adopted.

Next, the President or his designee will have the authority to monitor, review and insure agency implementation of the procedures they established. It is very important to recognize that this review is strictly procedural. New section 624 makes this clear, and the point is underscored in section 8 of the bill which emphasizes that S. 1080 in no way alters rulemaking authority which Congress has vested in the agencies.

Thus, the President or his designee, which would almost certainly be the Office of Management and Budget, cannot delay or overrule agency decisions concerning the substance of specific rulemakings. Substantive rulemaking authority remains in the agencies.

In addition, all written comments will be part of the rulemaking file so that when OMB does exercise this authority its written comments will be on the record.

The regulatory analysis provisions permit the President or his designee to decide a rule is a major rule under the $100 million test, or because it will have a substantial impact on specified sectors of our society and economy. This authority may only be exercised by the executive branch within 30 days after the agency issues a notice of proposed rulemaking. This provision will prevent OMB from delaying promulgation of a rule by declaring it major and requiring the agency to do a regulatory analysis after the rulemaking is well underway.

There is also a 75-rule cap on the number of rules the President or OMB designate as major in any fiscal year. The reason for this provision is simple. Regulatory analysis cost money. GAO testified before the Governmental Affairs Committee last summer that the cost of a single analysis can range from $33,000 to $1.2 million. The average estimated cost of such an analysis is $128,000.

We have a responsibility to prevent the agencies from wasting their limited resources doing regulatory analysis where it is not warranted. This 75-rule cap serves a signal that we want better regulation and that we do not want to tie up Federal regulators.

Finally, S. 1080 is a solid bipartisan regulatory reform bill. It represents years of effort for some of us, since it embodies previous legislative proposals to reform the regulatory process. The country needs this legislation and needs it now. It is an important part of our effort to get the economy back on its feet.

I think we all know how urgently our country needs this legislation or we would not have 81 cosponsors. Having worked with Senator LAXALT for over a year now to write and nurture this bill, I think I have a good grasp on how important the balances we have been able to strike really are. If we are going to see S. 1080 passed and signed by the President this year, maintaining that balance is crucial.

We cannot afford to delay enactment of S. 1080 by adding marginally related amendments which will be so hotly contested as to prolong debate indefinitely. Nor can we risk the President's vetoing the bill because unconstitutional amendments were added here.

We will be considering several amendments during this debate. I have described the principles which guided Senator LAXALT and me in developing S. 1080. These guiding principles will also be the criteria against which I measure all of the amendments we discuss.

As a manager of the bill, here are the questions I will ask myself as we debate and vote on each amendment to the Regulatory Reform Act:

Will it boost the agencies' ability to maximize the benefits of regulatory programs while lowering social and compliance costs? If so, I will fight for it, for this is the essence of this legislation.

Will it promote prompt and expeditious rulemaking? If so, I will support it.

Will it invite concerned Americans—small business people, individuals, and public interest groups of every stripe—to lend their practical experience to the decisionmaking process? If so, I will support it.

Will it give business and industry a free ride by shifting regulatory compliance costs onto the backs of American workers and consumers? If so, I will fight it.

Does it abuse the committee process by trying to amend substantive statutes through the backdoor? If so, I will vigorously oppose the amendment.

Will the amendment kill this bill? I will not stand by and risk enactment of the Regulatory Reform Act with unconstitutional amendments which would force the President to veto this important legislation.

Before we move on to the debate there are several people I want to thank for all their help and support in putting together this legislation. First, my friend Senator LAXALT whose ability, hard work, and willingness to meet my concerns in a true bipartisan spirit has been extraordinary. I appreciate not only his expertise, but the close personal relationship we have had in putting this bill together.

Senators EAGLETON and ROTH and their staffs have worked with us to reconcile the differences between the Judiciary and Governmental Affairs Committees' versions of the bill. Benefiting from the work and efforts of the members of both committees, we have been able to improve the bill and bring to the floor a good compromise vehicle.

Certainly I want to join with the distinguished Senator from Nevada in thanking Senators THURMOND and BIDEN and their staffs, who have supported and aided our efforts.

Most of all, I want to thank the staff of the Regulatory Reform Subcommittee who have worked so hard on this important legislation:

Jock Nash, Bob Cynkar, Anne Gerrity, and Susan Fanning from Senator LAXALT's staff.

John Podesta, Ann Harkins, Ben Scotch, Sam Kinzer, Sarah Schubert, Karen McQuillen, and especially Nancy Rowe, of my own staff.

Charles Kinney with Senator BYRD.

Mr. THURMOND. Mr. President, the Senate today begins consideration of a very important piece of legislation, S. 1080, the Regulatory Reform Act. This bill, introduced by Senator PAUL LAXALT on April 30, of last year, enjoys a remarkable degree of support from Members of this body, as evidenced by the fact that 81 Senators joined Senator LAXALT in sponsoring this legislation. While there are different points of view regarding various provisions of S. 1080, some of which will find expression in the form of floor amendments, there still appears to be a solid consensus on the need for this type of legislation.

Before briefly discussing some of the major provisions of S. 1080, I would like to compliment and to thank Senator LAXALT, chairman of the Regulatory Reform Subcommittee, for his fine work on this bill. Also, Senator LEAHY, ranking minority member of the subcommittee, has taken a strong interest in S. 1080 and has been instrumental in assuring careful and favorable consideration of this bill in the Judiciary Committee. Finally, Senators ROTH and EAGLETON, of the Committee on Governmental Affairs, are to be commended for the contributions which their committee made to a balanced debate on this bill.

As I am sure most of our colleagues are aware, S. 1080 was jointly referred to the Committee on the Judiciary and to the Committee on Governmental Affairs. Both committees reported amended versions of S. 1080, which differed significantly on several points. I am pleased to note, however, that our committees have been able to work out a consensus version which resolves most of the differences in the bills reported by the Judiciary and Governmental Affairs. A few significant differences remain, however, and I understand that floor amendments will be offered which deal with these differences. Most notably, the committees were unable to resolve the issue of Executive oversight of independent agencies.

Unlike certain bills which the Judiciary and Governmental Affairs Committees considered during the 96th Congress, S. 1080 is not intended to be a comprehensive regulatory reform bill. Its provisions focus on the promulgation of new rules and the review of existing rules. Its single most important feature is the requirement that agencies describe and analyze the benefits, costs, and other adverse effects of each new major regulation, and that an agency make a reasonable determination that the benefits of a particular regulation justify its costs and other adverse effects. S. 1080 also establishes new procedures to be utilized in informal rulemaking and establishes a mechanism whereby all existing major rules are reviewed over a 10-year period to assess whether they should be continued, revised, or withdrawn.

Other important provisions of the bill relate to judicial review of agency rulemaking. Section 706 of the Administrative Procedure Act (APA) would be amended to require that a reviewing court determine whether the factual basis of a rule promulgated pursuant to section 553 has substantial support in the rulemaking file. S. 1080 also directs a reviewing court not to accord a presumption of validity to an agency's determinations on issues of law, but still allows the court to give the agency interpretation such weight as it warrants. These changes in the judicial review provisions of the APA are part of a legislative proposal which has come to be commonly referred to as the Bumpers amendment. The provisions of the Bumpers amendment have generated some amount of controversy and were an area in which S. 1080, as reported by the Judiciary Committee, differed from the verson reported by Governmental Affairs. I am pleased to note, however, that a compromise version of the Bumpers amendment language has been worked out between Senator BUMPERS and those interested in his judicial review proposals, including representatives of the Reagan administration. I understand that Senator BUMPERS will offer that compromise as a floor amendment to S. 1080.

Having summarized the major provisions of S. 1080, I would like to briefly discuss the need for legislation such as the Regulatory Reform Act. In reviewing the performance of our numerous Federal agencies over the past two decades, two facts become increasingly apparant. First, this vast regulatory apparatus has not brought about significant improvements in general health, safety, and environmental quality for the American people. This point is carefully documented in the report of the Judiciary Committee on S. 1080, report No. 97-274. This fact was also discussed at hearings on S. 1080, which were held before the Subcommittee on Regulatory Reform on May 14 of last year. For example, Robert Crandall, senior fellow at the Brookings Institution testified that, "Thus far, we have little evidence that any of these programs has improved human health or safety."

A second fact which becomes readily apparent is that these various Federal regulatory schemes, which are relatively unsuccessful, are being carried out at a tremendous cost to the American taxpayer and to American businesses. A variety of statistics can be cited to describe the very high cost of Federal regulation. For example, regulatory costs are now running in excess of $100 billion each year or about $1,800 for every American family. Federal paperwork annually costs businesses from $25 to $32 billion. In 1978, Federal environmental and safety requirements increased the price of a car by $666. In 1977, Government regulations added between $1,500 and $2,500 to the cost of a new house. These are but a few of the figures documenting the high cost of Federal regulatory programs.

Mr. President, looking at the increasing number of studies and amount of literature describing the ineffectiveness of Federal regulatory programs and their high cost to American citizens, one quickly comes to the conclusion that the costs of these regulatory programs are exceeding their benefits. That situation is what economists refer to as overregulation of our economy. The serious adverse effects of overregulation are becoming increasingly well known. They include a high inflation rate, lower productivity, and less innovation on the part of the private business sector. Because governmental regulation has such a far-reaching impact on our economy and because of the present state of that economy and our current budget deficits, there should be every incentive to avoid inefficient, ineffective, costly Government activity.

The Federal Government simply cannot continue along the path which it has pursued for the past two decades. First, Federal agencies must wean themselves away from the notion that a new regulation is the best cure for every social ill. As the Governmental Affairs Committee concluded in its exhaustive "Study on Federal Regulation":

> Simply because a problem exists and, in theory, is remediable does not mean that regulation or other government intervention is desirable. Controls should only be undertaken where there is a clearly identified problem that cannot otherwise be solved, and where the anticipated achievements are significant and not vitiated by projected adverse consequences.

Second, once an agency has determined that a regulation is clearly necessary, it should make every effort to promulgate the best regulation possible—one in which benefits and costs are carefully analyzed and compared and which takes the most cost-effective approach to the particular problem to be solved.

This second area is one in which passage of S. 1080 should have a very beneficial effect. As I stated earlier, the key provisions of S. 1080 are those which require the agencies to identify, analyze, and compare the benefits of a new regulation with its costs and other adverse effects. More specifically, an agency is directed to include in its notice of proposed rulemaking for a major rule a description of the benefits of a proposed rule, a description of the costs and other adverse effects of the rule, and a description of alternatives for achieving the identified benefits. Also required, "where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting," is an explanation of how the benefits of the rule are likely to justify the costs and other adverse effects and why the rule is more cost-effective than other alternatives. When the agency promulgates a final major rule, it is required to include in its statement of basis and purpose its determination that the benefits justify the costs and other adverse effects and that the rule is the most cost-effective alternative.

Mr. President, the application of some form of cost-benefit and cost-effectiveness analysis to agency rulemaking is essential, in my opinion, if we are to effectively combat the problem of overregulation of our economy. The need to bring some measure of objectivity to agencies' decisionmaking processes through such analysis seems clear and has been encouraged by a number of economists. For example, Bruce Yandle, a professor of economics at Clemson University, testified before the Subcommittee on Regulatory Reform as follows:

> When government decision makers are required to make explicit the process used in arriving at decisions, they become engaged with the problem, gain a greater perception of the potential costs and benefits, and have an added incentive to offer improved rules, or regulations that provide greater benefits at lower costs. Furthermore, the confrontation with analysis sometimes causes the decision maker to back away, to recognize that the problem in its present state is less costly than the alternative originally contemplated by the regulator.

No one would deny that there may be difficulties in estimating with great precision the costs and benefits of a regulation, particularly in the various areas of social regulation. The difficulties in doing such analyses should not, however, be a deterrent to doing them at all. To argue otherwise is to suggest that we have been and should continue to promulgate regulations with no clear idea as to what the effects on our society will be. That, in my opinion, is not an acceptable way to run a government.

Also, it is important for those who have concerns about the regulatory analysis provisions of S. 1080 to understand that S. 1080 does not mandate cost-benefit analyses in the strict economic sense. An agency is not required, for example, to evaluate costs or benefits primarily on a mathematical or numerical basis. S. 1080 requires an agency to determine whether the benefits of a proposed rule justify the costs and other adverse effects. Quantitative terms such as "outweigh" or "exceed" have been avoided. The goal of regulatory analysis is to require agencies to identify as precisely as possible the range of effects of a particular rule before making a reasonable determination as to whether it should be promulgated. Viewed in this light, regulatory analysis is simply a decisionmaking tool for bringing some degree of objectivity to the regulatory process.

Another important improvement found in S. 1080 is its revision of section 553 of the APA, setting forth the procedures which agencies must follow in informal rulemaking. The current section 553 simply requires that notice be published in the Federal Register and that interested persons be allowed to submit written comments. S. 1080 alters this procedural format in several ways. It requires, for example, a minimum comment period of 60 days. It lists a number of procedures which agencies may, in their discretion, utilize to elicit greater public participation in informal rulemaking.

With regard to major rulemaking, the bill requires agencies to hold informal hearings at which interested parties may make oral presentations. Such hearings would include an opportunity for direct and cross-examination where other procedures are inadequate to resolve material issues of fact. S. 1080 carefully limits, and in some instances precludes, judicial review of an agency's choice of procedures. These provisions, together with certain others creating a rulemaking file and expanding the notice requirements of section 553, embody what has collectively come to be known as hybrid rulemaking, because it combines aspects of both formal and informal rulemaking. The inclusion of hybrid rulemaking provisions in S. 1080 reflects a recognition by the two committees that the APA, enacted in 1946, no longer provides sufficient guidance to the agencies as to what procedures they should follow in promulgating rules which involve complex factual issues. S. 1080 should provide this necessary guidance. These procedures will help agencies to identify and resolve complex issues, allow for a careful probing of the factual basis of a particular rule, and produce a better record for judicial review. To those critics who charge that these procedures may be too time-consuming, I would respond that perhaps what our economy needs is fewer, but better and more carefully analyzed regulations.

A final aspect of S. 1080 which I feel will be helpful in improving the regulatory process is its Executive oversight section. The consensus version contains the oversight language reported by the Judiciary Committee. I understand, however, that Senator **Glenn** plans to offer an amendment which would essentially insulate independent agencies from Presidential oversight of their compliance with the regulatory analysis provisions of S. 1080.

I am opposed to such an amendment because I believe that centralized oversight and management of these new procedures is essential to insure that all agencies comply with these provisions and that conflicting and duplicative efforts of various agencies are eliminated. For these purposes, I see no reason to distinguish between independent and executive branch agencies. The Reagan administration has made an excellent beginning in the area of Executive oversight with the promulgation of Executive Order 12291 and the establishment of the Task Force on Regulatory Relief, and I would like to see its efforts in this regard continued.

In closing, Mr. President, I want to emphasize that the purpose of S. 1080 is not to create additional work for Federal agencies—to require them to surmount additional procedural hurdles in promulgating a rule. The purpose of S. 1080 is to make certain needed procedural changes in the regulatory process, which thus far has produced relatively unsuccessful programs. There is no question that the American people desire safe and healthy workplaces and a healthy environment. These are goals which I strongly support.

There can be, however, very significant differences of opinion regarding how best to achieve these goals, particularly regarding the extent and the type of Government involvement required. Passage of S. 1080 would be a beginning toward correcting some of the problems of our regulatory system which have become increasingly apparent in recent years. I hasten to add that it is only a beginning and that an across-the-board procedural reform bill such as S. 1080 is but one approach to revamping our regulatory system.

Strong and effective Presidential oversight is of crucial importance, and the Reagan administration has certainly demonstrated its commitment in this area. Appointment of new individuals to fill important policymaking positions in the agencies is another important aspect of regulatory reform. Review and revision of various organic statutes, while a difficult and tedious task, is absolutely necessary and certainly promises the most significant reform. Modification of organic statutes promises, however, to be time-consuming and politically controversial. Passage of S. 1080 will, on the other hand, make some important and more immediate changes such as imposing a needed economic discipline on agencies, improving rulemaking procedures, and strengthening Executive oversight. I urge my colleagues to support the Regulatory Reform Act.

Mr. ROTH. Mr. President, I support S. 1080, the Regulatory Reform Act, a major legislative initiative which is the product of careful and painstaking work by both the Senate Judiciary Committee and the Governmental Affairs Committee. This legislation, the first significant revision of the Administrative Procedure Act since its enactment in 1946, effects a major change in the procedures governing regulatory action. As one of the principal cosponsors of this legislation, I am confident that future scholars will look back on it as one of the most significant initiatives undertaken by this Congress.

Before proceeding with my remarks, I pause to recognize the crucial role which the junior Senator from Nevada has played in the development of this legislation. As chairman of the Regulatory Reform Subcommittee of the Judiciary Committee, Senator LAXALT has been the driving force behind this legislation. Working closely with Senator LEAHY, the ranking minority member on that subcommittee, the Senator from Nevada has marshaled an impressive degree of bipartisan support for the legislation, including the cosponsorship of 82 Members of the Senate. We are all indebted to the Senators from Nevada and Vermont for their leadership on this highly complex yet crucial issue.

The scope of Federal regulatory activity has expanded greatly in the recent past and has had successes and failures. Simply because many regulatory programs have not lived up to expectations, however, is no reason to advocate a retreat from the goals these programs sought to attain. We cannot escape from the dangers posed by modern technology without a substantial governmental role. However, given the costs of regulations, we must take care that they are imposed only where necessary and except where otherwise provided by law in the most cost-effective manner feasible, consistent with the achievement of statutory goals. The fundamental purpose of this legislation, therefore, is to improve and rationalize the operations of the regulatory process, in order to better achieve regulatory goals.

Any discussion of regulatory reform proposals must begin with a recognition of the revolutionary change in the regulatory climate since the inauguration of Ronald Reagan almost a year ago today. President Reagan came to office with a recognition of the need to slow, and where possible to reverse, the gowth of Federal regulation in order to ease its crushing burden on the economy. However, unlike prior administrations which had expressed the same concerns, this administration has converted rhetoric to reality.

Operating pursuant to Executive Order No. 12291, the President's Task Force on Regulatory Relief has instituted an aggressive program of regulatory review and analysis, requiring among other things that the benefits of any regulation exceed its projected costs. As implemented by the Office of Management and Budget through the review of each new regulatory proposal, this program should produce a real reduction in regulatory costs in the foreseeable future. Already, the number of pages in the Federal Register, a generally accurate measure of the regulatory activities of the Federal Government, has declined by almost a third over the past year. The administration estimates that regulatory changes adopted in the past year have saved the private sector over $16 billion in regulatory costs.

Mr. President, I shall now address briefly each of the three fundamental issues which this legislation raises: First, the legal procedures which agencies must use in issuing regulations; second, the regulatory analysis mechanism as a device for comparing regulatory costs and benefits; and third, the mechanism for insuring compliance with the requirements of this legislation, most notably the role of the President in the regulatory system.

When the Administrative Procedure Act was adopted in 1946, we lived in a much simpler world where the scope of Federal regulatory activity was relatively limited and unobtrusive. It was not unreasonable at that time to permit Federal agencies to issue regulations through the simple mechanism of "notice and comment" rulemaking. This involves publishing the proposed regulation in the Federal Register, accepting written comments from the public, and, after considering those comments, issuing a final rule. Since that time, Congress has enacted legislation governing a wide range of economic and technical issues, including such sweeping areas as occupational safety and health, consumer product safety, and environmental protection. When dealing with such complex environmental and safety issues, some of which involve scientific and technical issues at the very threshold of human knowledge, more detailed and elaborate procedures may be necessary.

Following a line of Federal appellate court cases, the legislation has codified the so-called hybrid rulemaking case law developed by Federal courts, establishing a hybrid between simple notice and comment rulemaking and more formalized on-the-record proceedings. Such changes include a more detailed description of the proposed regulation, a requirement that all relevant documents be placed in a public rulemaking file and a requirement that the agency not rely on information which was not made available to the public. Even more detailed procedural requirements, including the limited use of cross-examination of expert witnesses is provided for "major rules," defined as those rules which will have a $100 million impact annually on the economy or which are otherwise significant.

While these additional procedural requirements are reasonable and consistent with agency practice, there is a danger in so burdening agencies with procedural requirements and restrictions that it becomes impossible for them to function. As Lloyd Cutler pointed out on a recent article on foreign affairs, it is becoming increasingly difficult for Government to organize and act with any degree of efficiency. The addition of more judicially reviewable procedures to the already burdened regulatory system will only exacerbate this problem. Our legislation attempted to draw a fine line between these conflicting concerns and I believe it provides adequate public protections without hamstringing the decisionmaking capabilities of the executive branch.

The second major change initiated by this legislation is the requirement that a regulatory analysis be prepared by an agency in adopting each major rule. Furthermore, where consistent with its enabling statute, no major rule may be issued unless the benefits of the rule justify the costs and the rule adopts the most cost-effective regulatory alternative. Congress and the public have recognized that the benefits of regulatory programs do not come cheap and that given our current economic difficulties, we cannot afford a risk-free society. I believe that the requirement for a limited form of cost-benefit balancing will only codify what should be good decisionmaking practice in any case: Adopt the least costly and most effective approach where possible and make sure that the benefits of your proposed action bear a reasonable relationship to costs.

Let me reiterate the point stressed by Senator LAXALT and others: These cost-benefit requirements do not apply where they would be inconsistent with the terms of the enabling statute pursuant to which the agency is promulgating a regulation. Where Congress, in another statute has already decided that cost-benefit and cost-effectiveness considerations should not apply, S. 1080 would not alter that result.

Finally, section 624 of the bill provides a significant role for the President in monitoring and reviewing agency compliance with the regulatory analysis and review requirements of this legislation. S. 1080 would provide the President with authority to establish procedures to guide agency compliance with the regulatory analysis requirements of the legislation and goes on to state that the President could "monitor, review and insure compliance" with those procedures. Any such procedural directives must, of course, be consistent with the enabling legislation underlying the statute and the agency is not divested of its authority to take final action in a rulemaking. Our intent was to provide a statutory reinforcement for the constitutional authority the President is currently exercising under the Executive order. This would remove any doubt that the President does have this authority and extend that authority to the independent agencies.

Given the recognized need to limit the judicial reviewability of these new requirements, I believe that a significant role for the President is essential if this legislation is to have a meaningful impact. It has become increasingly obvious that only the President can adequately coordinate the conflicting statutory mandates of many regulatory programs. We cannot rely exclusively on ad hoc agency coordination or congressional oversight to insure coordinated and cost-effective regulations.

The role of the President in the regulatory process is one of the most critical issues addressed by this legislation. Section 624 of the bill acknowledges that the President must play an important role in overseeing agency compliance with the procedural requirements of this bill yet not displace any authority which the agency may have to make the ultimate decision in the rulemaking. I strongly support this section of the bill and consider it essential for meaningful regulatory reform.

Senator GLENN has expressed concern about the unique status of the independent regulatory agencies and the need to insulate them from unwarranted Presidential interference. I share this concern to some extent, but believe that when such agencies issue legislative rules which govern the conduct of broad segments of society, some Presidential oversight of their procedures is appropriate. I hope that we can reach some agreement with the Senator on this issue.

Another important issue is the need to insure that the President's participation in the rulemaking process be open to public scrutiny to the greatest extent possible. I understand that Senator LEVIN will offer an amendment to address this issue. While I share the Senator's objective, I believe that there are several problems with his proposal and therefore will offer with the Senator from Nevada, a perfecting amendment to insure that written communications between the President and the agencies about regulations are made public. However, our amendment will not subject these requirements to judicial review and would minimize the attendant paperwork burdens. I urge that the Senate give careful attention to this issue when it is brought up.

In closing, it is my hope that this legislation will provide a means to achieve national regulatory goals without imposing such heavy burdens on the economy as to interfere with our vital economic recovery program. I believe that we can achieve statutory goals of protecting public health and safety without undue costs to the economy. This legislation is a milestone in that direction and I strongly urge its prompt passage.

Mr. EAGLETON. Mr. President, when S. 1080 was introduced last April, the legislation immediately attracted more than 70 cosponsors spanning the ideological spectrum in the Senate. This show of support represented a clear indication of the level of dissatisfaction in the Congress and the country with the recent performance of Federal regulation and a recognition that S. 1080 was the regulatory reform vehicle for this Congress. In a very real sense, regulatory reform has become a motherhood and apple pie issue: Everyone is for it.

Of course, if intensity of concern were enough to produce a regulatory reform bill, the Senate would have done so long ago. My colleagues are well aware that a comprehensive regulatory reform bill is coming to the Senate floor today only after at least 3 years of painstaking, continuous and sometimes acrimonious debate in the Judiciary and Governmental Affairs Committees and elsewhere. Fashioning effective legislation in this area has proven to be a daunting task. I want to particularly commend Senators LAXALT, LEAHY, and ROTH and their staffs for working so long, hard, and doggedly to get this bill to the state in which the Senate finds it today. Working in good faith and in the spirit of bipartisan cooperation, they have wisely recognized the value of achieving consensus where possible on a bill this controversial and technical.

The basic challenge in fashioning a regulatory reform bill has been to improve the regulatory process, not paralyze it or destroy it. Every Member of this body has his own litany of horror stories from constituents about the excesses of Federal regulation. We can all cite examples of regulation that were trivial, wrongheaded, duplicative, maddening or simply inane. We know that regulations have sometimes been promulgated without serious regard to the burden imposed on those regulated.

Generally, however, despite the frequent frustrating failings of regulation, Members of Congress, and our constituents, recognize the need for Federal regulation. Reflected in the deliberations of the Judiciary and Governmental Affairs Committees on this and previous reform proposals is a recognition that this modern, complex society cannot exist without considerable Federal regulation, particularly where the environment, health and safety are concerned.

Our substantial commitments in these areas have been more than laudatory; they have been essential to our hopes of maintaining a decent society.

We can do a great deal to improve the regulatory process; to make our regulations more cost conscious; to permit regulated parties more discretion to devise imaginative ways to reach stated goals, rather than dictate methods of compliance. But the goal remains clear: improving regulation. If there is one thing we can be certain of in this complex world, it is that the free and unfettered play of market forces will not produce a decent society in the late 20th century. The American people know that intuitively and consistently reflect that sentiment in public opinion polls; they have no desire to pretend that we can return to a simpler age when Government regulation was unnecessary.

I believe that the so-called consensus amendment which reconciles most of the differences between the Judiciary and Governmental Affairs Committees successfully walks the tightrope needed to improve regulation throughout the Government. Because such a balancing act is essential to the support which other Senators and I have given to this reform effort, I think it is important to spend some time explaining how the consensus amendment attempts—and by and large succeeds—to bring about reforms which are both meaningful and balanced. Such an explanation also demonstrates, I believe, just how important it is to avoid unbalancing the bill during Senate consideration.

TAKING CARE SO THAT PROCEDURAL REFORM LEGISLATION WILL NOT UNDERCUT SUBSTANTIVE REGULATORY LAWS

One of the difficulties involved in fashioning S. 1080 relates primarily to the scope and potential impact of the legislation. S. 1080 represents the first comprehensive revision of the Administrative Procedure Act since 1946; therefore, the changes it makes promise to affect the procedures of Federal rulemaking everywhere the APA governs, and sweep over a striking diversity of agencies, functions and problems. It applies equally to rulemakings involving entry requirements for truckers and the installation of scrubbers in coal-fired powerplants. In sweeping across this vast area, the legislation must walk some fine lines. As is made clear many times in the committee reports, and as will be made clear during floor debate, S. 1080 is procedural legislation. It has been designed to avoid doing violence to hundreds of statutes produced by Congress dealing with the substance of Federal regulation.

This general design was particularly present in the work of the committees to clarify how the provisions of S. 1080 operate when requiring an agency to explain how regulatory benefits justify regulatory costs and how the alternative selected is the most cost-effective among those which will substantially achieve the rulemaking objectives. Both committees have emphasized that S. 1080 is not intended to require cost consideration when to do so would be inconsistent with the language or congressional intent expressed in the underlying enabling statute.

BALANCING THE NEED FOR ADDITIONAL RULEMAKING PROCEDURES AGAINST THE NEED FOR AGENCY FLEXIBILITY AND EXPEDITION

Even where procedures are concerned, this general legislation had to be fashioned with obvious care. The legislation prescribes procedures for agencies which have vastly different missions, challenges, problems, and track records. In adopting the APA originally, Congress was sensitive to this diversity. The very limited "notice and comment" requirements of section 553 on informal rulemaking were designed to give the agency full flexibility and latitude in bringing its expertise to bear in the way judged most effective.

In recent years, both Congress and the courts have taken a variety of steps based on a shared belief that the stakes are simply too high in informal rulemaking concerning significant rules for such scanty procedures. This legislation responds to the consensus that the agencies should be subject to additional congressionally mandated, general requirements. Yet, the need for some flexibility remains even more acute than when the APA was promulgated, because many more agencies with diverse and challenging missions have been created. If we are going to have an Environmental Protection Agency to bring its technical expertise to bear on some of the most difficult, scientific, and technological questions facing society, it makes no sense to prescribe procedures which are so numerous or time-consuming that the agency will be too busy jumping procedural barriers or shuffling paper to consider acid rain or toxic wastes. Nor does it make any sense to think that a set of detailed procedures, however well-conceived, will be equally beneficial to the EPA and the ICC.

For this reason, the consensus amendment intends to preserve the essential goal of fuller and more thoughtful regulatory deliberation, while decreasing the chance that regulatory analysis will become a regulatory quagmire. For example, while the consensus amendment decided that the "major rules"—generally, those with a $100 million or equally significant impact—required more extensive new procedures, it was careful to keep in mind the economic, and social, costs of overloading the regulatory system. We have been careful to limit the regulatory controversies for which cross-examination would be used and made several refinements in the concept of major rule to reduce the possibility that agency resources would be spread too thin.

INSURING AN APPROPRIATE ROLE FOR REGULATORY ANALYSIS OF COSTS, BENEFITS, AND ALTERNATIVES

The same kind of balance is particularly evident in the way in which both committees described how a regulatory analysis should be conducted. I have long supported the notion that agencies promulgating major rules should be required to do a regulatory analysis assessing the anticipated costs and benefits of regulatory proposals and their alternatives. To my mind, our weakened economic condition necessitates more rigorous attention to the costs of regulation. Regulations do have a significant impact on business, although that impact is usually exaggerated severalfold, and I believe that agencies should anticipate and understand that impact to the extent reasonably possible.

I also envision that benefits should be assessed as well costs, with due allowance for the fact that some benefits do not lend themselves to quantification. In structuring S. 1080, we have kept in mind the number of authoritative studies, including those of the Governmental Affairs Committee, which show that cost-benefit analysis is and will likely remain a primitive and imprecise tool. We have been particularly cognizant of the tendency of cost-benefit analysis to give inordinate weight to costs, because they give the appearance—whether real or illusory—of being more quantifiable.

As a result, S. 1080 will require a serious, professional effort to realistically assess likely beneficial and adverse impacts of a rule, including economic impacts, and to quantify costs and benefits where reasonable. It will recognize the all-too-frequent tendency of agencies doing cost-benefit comparison to provide only sketchy information about assumptions and methodologies employed; regulatory analyses will present quantifications in their appropriate units of measurement, with error rates and assumptions clearly apparent to the reader.

Also, S. 1080 will require that, where benefits or costs are not reasonably quantifiable, they must nevertheless be an integral part of the analysis. They can neither be clothed in false quantification nor given short shrift, but must be succinctly and precisely stated and considered in all important aspects of the regulatory analysis.

Senators may recognize the pattern just set out as essentially the "better practice" now employed by agencies with some years of successful experience with regulatory analysis. For, this may in fact be S. 1080's most important accomplishment in the regulatory analysis area: insuring a more consistent application Government-wide of existing techniques for appropriate analysis and alternatives at issue in major rulemakings.

What the supporters of S. 1080 have consistently and deliberately avoided is the false assumption made by some cost-benefit enthusiasts, and, indeed, possibly implied in the President's Executive Order on Regulation (E.O. 12991) that benefits and costs can be weighed or "netted out" with anything resembling mathematical precision. This understanding is essential, because allowing regulations to emerge only where the benefits—somehow quantified—outweighed the costs would be unrealistic, deceptive, and frequently abhorrent.

AN EVEN-HANDED APPLICATION TO REGULATION AND "DEREGULATION" ALIKE

One of the issues the Governmental Affairs Committee considered in its hearings on S. 1080 was the extent to which the regulatory analysis scheme at its heart could be usefully applied to so-called "deregulatory rules," rules which reduce the burden on regulated parties. In his testimony, noted Brookings Institution economist Lester Lave, told the committee that "there is no question that regulatory analysis can be used for deregulation, and furthermore, no question that it should be used."

This testimony confirmed the belief of several committee members, including myself, that regulatory analysis provisions must provide for a careful review of the relative benefits and costs or deregulation and a comparison of alternative deregulatory schemes in order to minimize their potential adverse consequences. The consensus amendment is completely consistent with this intent by recognizing that deregulatory rules are still "rules" under the APA and should be subjected to the same procedural protections which S. 1080 would impose on other regulatory decisions.

THE WORK REMAINING AND THE THREAT OF AN UNBALANCED BILL

I have pointed out some of the important ways in which the bill before us seeks to achieve a meaningful and balanced reform in the constructive, bipartisan spirit that has prevailed on this matter for several years. However, I am by no means saying that it is perfection personified. Some important refinements which individual Senators or committees correctly seek were not included in the "consensus bill" and must be if the bill is to be truly balanced. Conversely, several troubling amendments not considered at any stage of the deliberations have been proposed and need to be defeated. All told, there is a danger that the end result of Senate work on the bill could undercut the goals which so many of us have worked so long and hard to achieve.

I urge my colleagues to be very concerned, as we work on this bill, about the cumulative impact of the various "reforms" that we might be called upon to include in S. 1080. The legislation already contains significant new analytical and other requirements for regulatory agencies. The vast majority of these are justified on their own terms. However, in pursuing valid goals, the new requirements will clearly take some toll by making regulation a more difficult and time-consuming process.

Against that background, we should be especially wary of multiplying the difficulties through unprecedented changes in the way that regulations—once they emerge from the reformed regulatory process at the agencies—will be treated by the President, the courts and the Congress.

To begin with, the question of Presidential involvement in the regulatory process: I believe that there is a legitimate role for the President or his high-level designees to play in dealing with the problems caused by the present system of "regulatory pluralism."

By that I mean single-focus agencies pursuing single-minded regulatory missions, often with little awareness of the cumulative impact. Recent Presidents of both parties have become increasingly troubled by this problem—particularly in light of our recent economic woes and the continuing proliferation of new regulatory subjects. While I have some substantial concerns about the scheme that President Reagan has employed, I generally understand the need felt by recent Presidents to experiment with strengthened executive oversight pursuant to Executive order.

Frankly, I am not sure that, if I had complete say in the matter, I would have attempted to codify a Presidential oversight power in this legislation. I question whether we have acquired sufficient experience with the various Executive order experiments to legislate meaningfully and carefully on the subject.

Further, as Senators ROTH and LAXALT know only too well, the inclusion of an Executive oversight provision in legislation of this type can raise as many questions as it answers and require a very delicate balancing act.

Section 624 of S. 1080 addresses this most difficult of issues and moves toward providing a responsible balance. The section only gives the President or his designee the authority to monitor, review, and insure compliance with the procedures of this legislation—a recognition of both the advantages of some uniform, centralized administration of these new requirements and a recognition of the President's obvious responsibilities in this area.

However, in light of the clear questions raised by a general grant of authority to insure procedural compliance, the legislation puts important strictures on exercise of the oversight power: The agency head remains the substantive decisionmaker; his statutory authority to initiate or complete a rulemaking is not displaced.

And it is my understanding that Senator GLENN's continuing concern over the impact of Executive oversight on independent agencies will result in further clarification of our clear intent to limit Executive oversight to insuring agency compliance with regulatory analysis procedures. Senator GLENN's work will also lead to the placement of tight time frames on what may be an important component of executive oversight under section 624: review of the regulatory analyses which agencies are to prepare for major rules.

These time frames will add to the general injunction now in section 624, that the procedures devised by the President to carry out Executive oversight are to be consistent with the prompt completion of a rulemaking.

One important element of the Executive oversight balancing act remains: Adoption of Senator LEVIN's amendment to insure that Presidential oversight, whether under section 624 or some other authority, is carried out a manner harmonious with the values of the Administration Procedure Act, this legislation and, even more broadly, fair play.

Failure to adopt a meaningful requirement that OMB play by the rules which all other rulemaking participants do would undermine public confidence. It would raise the prospect of politicized regulatory decisions, with wealthy interests obtaining from the White House in secret what they could not make a convincing case for in public before the agencies.

Obviously, the provisions of this bill with respect to court review also require a very careful balancing act. A good job has been done with respect to judicial review of the new regulatory analysis procedures which are the heart of this bill. With one notable exception that will be the focus of an amendment five other Senators and I will offer, the bill wisely hews to the previous consensus that regulatory analysis requirements should not be subjected to separate procedural review. Rather, the fruits of the regulatory analysis should be consulted as part of the relevant record when the rule itself is reviewed.

And, while I initially had substantial objections to the Bumpers amendment, on grounds that it would inject substantial uncertainty and an unwise degree of judicial interference during review of regulations, the current compromise between the White House and Senator BUMPERS is something I can live with.

As I understand it, the compromise essentially applies throughout the court system the better practices of the courts most experienced with judicial review of rulemaking.

Courts will give agency factual findings a hard look as part of their determination that a rule is not arbitrary, capricious (or) an abuse of discretion. And they will not automatically and blindly presume that agency legal interpretations should be taken as gospel, although appropriate deference to agency expertise will be reserved.

Nevertheless, care must still be taken to insure that vexatious litigation issues are not interjected into the court review process to the detriment of the public and even those regulated parties, generally small businesses, which are more interested in regulatory certainty than lawyer-created delays.

One necessary step is adoption of the amendment which Senators MATHIAS, DANFORTH, COHEN, LEVIN, and RUDMAN, and I will offer to preclude separate judicial review of the agency's major rule determination.

Another essential step is a vote to table or reject the DeConcini-Simpson amendment on Federal court venue. This amendment raises a host of legal and policy problems, not the least of which would be needless court wrangling over such questions as where a lawsuit would have the greatest impact.

This would run directly counter to the "race-to-the-courthouse" provisions of S. 1080, which seek to settle, not unsettle, the question of where an appeal of agency action should be brought.

Finally, we also face the substantial danger that we could complete a circle of excessive judicial and executive involvement by interjecting the Members of Congress and their staffs into ongoing, detailed involvement in the writing of hundreds of regulations. I refer to the Schmitt-Grassley-Levin-Boren two-House legislative veto proposal.

I oppose this amendment for a host of policy reasons sure to be discussed in subsequent debate. My worst fears about the unconstitutionality of veto schemes not involving Presidential approval were recently confirmed by a lengthy, persuasive, and conclusive opinion by the U.S. Court of Appeals for the District Court circuit. And, I am very very concerned about the adverse impact of attaching a controversial legislative veto provision to this bill.

Again, in the name of permitting balanced reform to see the light of day I urge that the Schmitt-Grassley-Levin-Boren proposal be rejected.

I hope by this point that Senators understand why I have devoted this opening statement both to the S. 1080 consensus provisions and to the amendments that are to come; I see them as inextricably bound.

For, of what use will it be if we produce a blueprint for smarter, more economic-minded and creative regulation only to have those rules be buried by review in the courts, at OMB, and in the Congress?

What legitimate interests would be served if vital health, safety, and environmental regulations, supported by a clear majority of the public, become irretrievably lost in a maze of procedural passages, even if that maze is labeled "regulatory reform?"

Mr. President, we have it in our power to enact either regulatory analysis or paralysis. The future of this bill—and much more—awaits our further work.

Mr. COHEN. Mr. President, I am pleased to participate in the floor debate on S. 1080, the Regulatory Reform Act, a debate which represents the culmination of years of work by the Governmental Affairs Committee and the Judiciary Committee. I look forward to Senate passage of the bill and to working with the House to enact this vital legislation into law as soon as possible.

The role of Government has so expanded in recent years that it is difficult to imagine an aspect of American life that is not affected by regulations. There are now 56 major regulatory agencies in the Federal Government, and, even with the modest decrease in the staffing for fiscal year 1982, these agencies will still employ 89,000 persons. The growth in the size of the Federal Register from 10,000 pages of regulations in 1955 to 60,000 pages in 1978 illustrates the trend of assuming that regulations solve problems.

Overregulation has been very costly for the Federal agencies which must administer complex regulations, for the businesses which must comply with regulations, and for the consumers who finally pay the price of regulations in the marketplace. In fiscal year 1982, expenditures for Federal regulatory activities will total $7.4 billion in spite of President Reagan's cuts of $400 million.

Estimates of what businesses pay to comply with Federal regulations vary dramatically, but what is illustrative is a study done in 1977 for the "Business Roundtable" which measured the incremental costs of regulations for six Government agencies. The compliance cost of $2.6 billion was 10 percent of capital expenditures, 15.7 percent of net income, and 43.3 percent of research and development costs for the 48 companies involved.

A National Association of Manufacturers' survey showed that 48 percent of businesses felt that complying with regulations is a major burden, 46 percent said it was a fairly serious problem, and only 6 percent said it was not much of a problem.

Businesses use resources to comply with regulations that would otherwise be used for productive purposes. This harms productivity both at home and abroad as U.S. regulations in many areas are stricter than those of our trading partners.

Small businesses are at a particular disadvantage in complying with regulations. It is more difficult for small businesses to be aware of the existence of regulations, to understand them, and to bear the compliance costs. The Subcommittee on Energy, Nuclear Nonproliferation and Government Processes recently released a report based on regional hearings illustrating some of the frustrations experienced particularly by small businesses. An owner of a small water conditioning company in Elk Grove Village, Ill., was cited by the EPA for violating a regulation he was unaware of and was charged substantial fines.

Another Illinois small businessman was cited by the Department of Labor for paying after-school students working in his drug store subminimum wages without proper certification. He was unaware of the certification requirement. These subminimum wage regulations have been a problem for many small store owners in Maine who also were completely unaware of the certification process.

Ultimately, the consumer pays for the cost of regulation through increased prices for products. It has been estimated that the average American family pays $1,200 per year in taxes and higher prices because of regulatory policy.

Clearly there is a need for reform in this area. I commend President Reagan for the high priority he has given to reducing the burdens of regulation. The issuing of the Executive order to review regulations and the establishment of the Task Force on Regulatory Relief are important first steps.

In discussing the burdens of regulation, we must not lose sight of the benefits that regulations have brought to our society. Many Americans take the existence of a safe food supply for granted and favor strong protection for our environment. American workers also need the assurance of some degree of protection in the hazardous workplaces. These goals are all accomplished through regulations.

I am confident that the bill before us today strikes an appropriate balance between the need to protect important statutory goals of health and safety and the need to reduce unnecessary regulatory cost.

One of the major provisions of S. 1080 would require that agencies perform regulatory analyses for all major rules. This provision is designed to insure that agencies consider alternative rules, carefully weigh the costs and benefits of rules and their alternatives, and choose the most cost-effective options where possible. The objective of the regulatory analysis is to insure that the benefits of new regulations will justify the costs.

S. 1080 would also require periodic review of existing regulations over a 10-year period in order to ascertain whether a regulation is still needed, should be modified, or eliminated.

The bill also authorizes the President to insure that agencies comply with the procedures of this legislation to avoid conflicting and duplicative rules.

I am pleased that the Governmental Affairs Committee adopted an amendment offered by Senator DANFORTH to prohibit agencies from paying the expenses of intervenors in agency proceedings except where explicitly authorized by statute. I have long had reservations about the fairness of this practice in terms of selecting which views should be represented and which should not. I will support Senator DANFORTH's efforts to attach this provision to the consensus substitute worked out as a compromise to the bills reported by the Governmental Affairs and Judiciary Committees.

Once again, I commend Chairman ROTH for his efforts to bring this vital legislation before the Senate, and I urge my colleagues to support the bill.

Mr. KENNEDY. Mr. President, I am pleased to support S. 1080, the Regulatory Reform Act. I commend Senator LAXALT, Senator LEAHY, Senator ROTH, and Senator EAGLETON for their untiring efforts to develop a bill worthy of bipartisan support. This legislation marks an important step in improving the regulatory process.

I have long been concerned about the impact of Government regulation on the competitive marketplace. I was proud to join Senator CANNON in leading the successful efforts to deregulate the airline industry and the trucking industry. The latter reform alone has already brought freight shipping costs down by 10 to 20 percent.

I believe that when regulation is necessary—and it is necessary to protect public health and safety—it should take the least burdensome approach.

In the past decade, Government regulation has mushroomed as attention has focused on the multiple threats to human health and the natural environment posed by our highly technological society. As cancer levels skyrocketed in neighborhoods located close to hazardous waste dumps, as spectacular mountain vistas disappeared under brown smog, and as significant numbers of workers were stricken with job-related accidents and diseases, Americans sought Federal intervention to examine such serious issues as environmental pollution, worker safety, and consumer protection and to develop essential safeguards.

As a result, Congress initiated many new regulatory programs. Since 1970, it has created seven new regulatory agencies and enacted 29 major regulatory statutes. Permanent full-time positions in regulatory agencies grew from 28,000 in 1970 to 81,000 in 1979. Some economists estimate that the expenditures for major regulatory functions increased by 400 percent over the decade.

Just as society reaps the benefits of Government regulation, it also bears the costs of such regulation. In light of the significant increase in regulatory functions in recent years, it is appropriate to look closely at Government regulation to make sure that it is limited to that which is necessary to implement congressional policies and to safeguard the public, and that it is crafted in a way that minimizes economic burdens.

The Regulatory Reform Act now before us attempts to improve agency regulatory decisionmaking without altering existing substantive statutes. The principal requirement of the act is that agencies evaluate new rules and identify those with a major economic impact. For such major rules, agencies are directed to prepare a regulatory analysis, which examines the costs and benefits of the proposed rule and reasonable alternatives. Where not inconsistent with the statute under which the rule is promulgated, the agency must determine that the benefits of the rule justify the costs, and that the proposed rule achieves the rulemaking objective in a more cost-effective manner than alternatives considered by the agency.

While few would dispute the value of striving to maximize cost-effectiveness in regulation, the lynchpin in cost-benefit analysis is adequate and accurate assessment of the costs and benefits involved. Cost-benefit analyses cannot be effective where the sole source of cost estimates is the regulated industry.

For this reason, I introduced an amendment to the bill, which was accepted by the Judiciary Committee and is retained in the present bill, to require that estimates of regulatory costs and benefits must be substantiated by the persons offering them during agency rulemaking proceedings, so that other interested persons can assess the accuracy and reliability of the information and have the opportunity to respond.

The utility of cost-benefit analysis in the area of health and safety regulation is limited because of the difficulty of quantifying many of the important benefits of such regulation.

What is the value of the more than 200,000 Americans who would not be alive today in the absence of Federal automobile and highway safety regulation? How shall we measure the benefit of preventing birth defects and childhood leukemia through regulating disposal of toxic wastes? How much is a picturesque sunset or a sparkling lake worth?

Extreme care must be taken to assure that the benefits, as well as the costs of health, safety, and environmental regulation are even-handedly arrayed. We must not use regulatory reform as a smokescreen to eliminate regulations designed to preserve clean air and water, to protect land from irresponsible strip mining, and to limit worker exposure to carcinogens and cotton dust, while leaving in place regulatory protections which constitute questionable interference in the marketplace.

Mr. President, as a member of the Democratic Regulatory Reform Task Force in the Senate, and as a longtime advocate of fair and equitable regulatory reform, I welcome this measure to improve the quality of Government regulation, without affecting the agencies' ability to protect the public health and safety.

● Mr. GRASSLEY. Mr. President, we have before us today the Regulatory Reform Act, an anxiously awaited piece of legislation designed to alleviate our society of overburdensome regulation and result in a more responsible rulemaking procedure.

When I was elected to this fine body, I was asked by the Republican leadership which committee assignments I wished. Since I campaigned on the basis of an overhaul of our domestic economic policy, I examined which committees directly affected those policies and requested membership on those. Developing budget and tax proposals on the Budget and Finance Committees has been a gratifying experience and is perhaps the most visible way of participating in economic reform to the American people.

A less visible, but an equally important approach to economic recovery, is through loosening the regulatory stranglehold currently around the neck of American business. This bill which has eminated from the Senate Judiciary and Governmental Affairs Committees, once passed, will be an effective tool in accomplishing our collective goal of economic prosperity.

I am extremely pleased that the Judiciary Committee, a committee generally thought of as one which is unconcerned with such matters, has taken on the task of regulatory reform with such fervor and I am proud to say that I am a member of the committee and a strong supporter of this legislation.

In addition to being a cosponsor, the Subcommittee on Agency Administration of which I chair, had the good fortune to hold 1 of the 2 days of hearings on the bill, particularly centering around the Bumpers amendment. Therefore, I feel especially close to this regulatory reform product introduced by my able colleagues today.

I would particularly like to commend those colleagues, Senators LAXALT, ROTH, LEAHY, and EAGLETON for their tireless efforts in trying to achieve a bill which has the cosponsorship of 74 Senators, the support of the administration, and still has some teeth to it—a feat almost unheard of.

Of course, I don't think we should stop examining the regulatory area for abuses once the bill is passed, but I do feel that it is a starting point in regaining control of the runaway bureaucracy and will go far in propelling American productivity upward again.●

Mr. LAXALT. Mr. President, I ask unanimous consent that amendment No. 640, which was adopted, be considered to have stricken all after the enacting clause of S. 1080 and to have inserted the language contained in that amendment, subject to the same conditions as previously specified.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 831

(Purpose: To clarify the so-called Bumpers amendment)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 831.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, strike section 5 and insert in lieu thereof the following:

SEC. 5. Section 706 of title 5, United States Code, is amended to read as follows:

§ 706. Scope of review

"(a) To the extent necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

"(A) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under subsection (a)(2)(C) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of our against agency action, but in reaching its independent judgment concerning an agency's interpretation of a statutory provision, the court shall give the agency interpretation such weight as it warrants, taking into account the discretionary authority provided to the agency by law.

"(d) In making a finding under subsection (a)(2)(A) of this section, the court shall determine whether the factual basis of a rule adopted in a proceeding subject to section 553 of this title is without substantial support in the rulemaking file.".

Mr. BUMPERS. Mr. President, the purpose of this amendment is to clarify section 5 of the bill. Section 5 is the so-called Bumpers amendment, which modifies the standards for judicial review of agency action under 5 U.S.C. 706.

I first introduced this measure in 1975. Since then, the amendment has slowly evolved as a result of my extensive efforts to meet all legitimate drafting concerns. As a result of these efforts, which included extensive meetings with representatives from the American Bar Association, business groups such as the Business Roundtable, representatives from the Carter White House, and other groups and individuals, a consensus compromise was worked out. I introduced that compromise as S. 67 during the 97th Congress, and when Senator Laxalt introduced S. 1080, the consensus compromise was section 5 of the bill.

The Bumpers amendment was reported unanimously by the Senate Judiciary Committee last year, but some concerns were raised by some members of the Governmental Affairs Committee and by the White House. In an effort to meet those concerns as well, I entered into negotiations with the White House, notably Vice President Bush, to whom President Reagan had delegated responsibility for this issue; and the agreement we reached is reflected in the clarifying amendment I have just sent to the desk. The amendment clarifies in certain respects the substantial support criteria and the no presumption criteria.

I ask unanimous consent that a letter from Vice President Bush dated February 23, 1982, which indicates that the White House is supportive of this clarifying amendment, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

The Vice President,
Washington, February 23, 1982.

Hon. Dale Bumpers,
U.S. Senate,
Washington, D.C.

Dear Dale: We have reviewed your proposed amendments to S. 1080 and the explanation of those amendments. We believe that these changes as explained by what would be the legislative history are significant improvements to Section 706 of Title 5, United States Code, as that section is revised by S. 1080. The Administration has determined that these changes make the concluding sentence of subsection (c) and the new subsection (d) acceptable as a compromise.

We appreciate your efforts and those of Bill Massey of your staff in reaching this agreement.

Sincerely,

George Bush.

Mr. BUMPERS. Mr. President, I am pleased with the compromise that has been reached. I thank Senator Laxalt for his assistance and support, and I thank all the other Senators who have steadfastly supported the Bumpers amendment. I am convinced that it is an absolutely essential plank in any responsible regulatory reform platform. This clarifying amendment still has the vigorous support of the American Bar Association, the Business Roundtable, and countless other groups and organizations.

I ask unanimous consent that a statement of legislative intent explaining this clarifying amendment be printed in the Record.

There being no objection, the statement was ordered to be printed in the Record, as follows:

Statement of Legislative Intent

THE "NO PRESUMPTION" CRITERIA OF SUBSECTION (C)

The purpose of this amendment to the second sentence of Section 706(c), as added by S. 1080, is to make clear, in the statutory language itself, that a court may, in reviewing agency interpretations of questions of law consider an agency's interpretation and rely upon it in construing a statute to the extent that the court finds it to be persuasive. While Senator Bumpers' statement in the Congressional Record of April 30, 1981, 127 Cong. Rec. 7947 and the Senate Judiciary Report on S. 1080, at pages 170-171, reflect that Congressional intent, fears have persisted that Section 706(c) of S. 1080 as currently drafted may be read to preclude a court from considering and utilizing agency expertise as an aid in construing a statute. While permitting a court to consider the agency interpretation, this amendment does not permit a court to presume that the interpretation of the agency is correct simply because it is the interpretation of the agency. The interpretation of the agency should be afforded "weight" by the reviewing court *only* because of its persuasiveness, not because of the source of the interpretation. (See *International Brotherhood of Teamsters v. Daniel*, 439 U.S. 551, 53 L.Ed. 2d. 808, 99 S. Ct. 790 (1979)).

This prohibition on presumption does not alter the substantive criteria for judicial review under Section 706(a)(2). Those criteria remain unaffected; but, the agency's interpretation of a question of law may not be presumed to be correct in determining whether those criteria have been met. Thus the second sentence of Section 706(c), as clarified by this amendment, only precludes a court from presuming that the agency interpretation of law is correct; it does not relieve the court of the obligation of critically analyzing the basis of that interpretation.

In the instance of so-called mixed questions of fact and law and/or policy, the prohibition against presumptions which would be applicable to agency interpretations of questions of law should not be extended to questions of fact or policy because of the "mixture". Rather, the court must assume its traditional responsibility to parse questions of law, fact and policy; and the presumption prohibition should apply only to an agency's interpretation of questions of law. Questions of fact or policy are governed by other criteria in the Section.

This floor amendment to Section 706(c) as added by S. 1080 makes clear that section 706(c) does not affect the rule that "agency expertise" may be relied upon by a reviewing court where it actually exists. Courts should continue to consider the construction or interpretation of statutes by agencies and should utilize as aids to the court's own independent statutory construction such factors and considerations as: whether the interpretation is made by an agency charged with primary or central expertise under the statute; whether the interpretation of a statutory word or phrase involves a matter that is "technical," where the expertise of the agency is specialized, well-developed or unique.

It is not intended that Section 706(c) would affect the policy choice of an agency where a court finds the Congress had delegated to that agency a certain policymaking authority by giving it discretion to apply statutory terms. For example, the Federal Communications Commission has authority to issue rules that will serve "the public convenience, interest or necessity." This also includes instances where an agency decides not to act even though a statute authorizes, but does not require, the agency to act. *FCC v. WNCN Listeners Guild et al.*, 450 U.S. 582 (1981); *See, also Watt v. Energy Action Educational Foundation, et al.*, 50 U.S.L.W. 4031 (U.S. Dec. 1, 1981). Section 706(c) also does not preclude an agency from the consideration of other policies in its administration of a statute, unless the statute itself precludes such consideration.

As indicated in the Senate Judiciary Committee Report on S. 1080, at 172, Section 706(c) would apply even when the agency is not a party to the judicial action or the administrative action under review (See Daniel, *supra.*). In other words the same application of the presumption prohibition would occur when a statutory interpretation of an agency is relevant to action between two other parties. Although an agency interpretation of a statutory provision that governs procedure may not be presumed to be correct, the second sentence of Section 706(c) otherwise has no bearing on procedural matters and does not shift traditional burdens of going forward.

II. THE "SUBSTANTIAL SUPPORT" CRITERIA

The purpose of this floor amendment—establishing a new subsection (d) to section 706 and deleting the new provision 706(a)(2)(F) that would have been added by S. 1080—is to clarify the intended purpose of this aspect of the "Bumpers Amendment" and to accomplish its objectives without creating unnecessary ambiguities. This new subsection (d), like the provision it replaces, applies to all agency rulemakings "subject to section 553 of this title." Like the new subsection (c) of section 706 which instructs courts on the application of section 706(a)(2)(C), the new subsection (d) provides guidance to courts on the application of the substantive standards in section 706(a)(2)(A). The purpose of the new subsection (d) is clear: reviewing courts are instructed to give a "hard look" to the factual underpinnings of informal rulemakings conducted by agencies. The approach taken by Judge Leventhal in *Portland Cement Ass'n v. Ruckelshaus,* 486 F. 2d 375 (D.C. Cir. 1973) cert. denied 417 U.S. 921 (1974), is the model.

New subsection (d) clearly applies the "hard look" doctrine to judicial review pursuant to section 706(a)(2)(A), not as a separate, ambiguous substantive provision. In other words, a court in reviewing an agency rulemaking not subject to sections 556 and 557 would be required to "look hard" and specifically at the "factual basis" of a rule in ascertaining whether the rule was "arbitrary, capricious, or an abuse of discretion."

This requirement applies only to section 706(a)(2)(A) because factual issues in informal rulemaking are most relevant—and arise most frequently—in review pursuant to these standards. Its application to 706(a)(2)(A) avoids the problems associated with an entirely new subsection—706(a)(2)(F). This application is also a more faithful codification of the "hard look" doctrine in *Portland Cement.*

In this way, we hope to clarify what we described in the Judiciary Committee report, pages 165-166, as the meaning of this provision.

Mr. LAXALT. Mr. President, first of all, I commend the distinguished Senator from Arkansas for the work he has done for many years in connection with this amendment.

I can recall, as most of my colleagues can, when the Bumpers amendment hit this floor. I believe it was one of the most surprising and unprecedented developments I have seen.

This amendment makes abundant sense. It has long been the view of many that judicial review of regulatory action has been sadly deficient, not only in terms of its ineffectiveness, but also in terms of affording any judge who is so disposed of a way out from performing his proper duty and responsibility.

I believe that whatever we are able to do here to modify regulatory procedures will not begin to achieve thorough reform until we attack the whole problem of judicial review. The Bumpers amendment does that, and does it well.

So I commend the Senator. This improves the bill immeasurably, and I believe it will improve immeasurably the process as well. We have no objection whatever. The majority strongly supports this modification.

Mr. BUMPERS. I thank the Senator very much for his kind words.

Mr. LEAHY. Mr. President, I should like to echo those words. I voted for the original Bumpers amendment, and I have watched what Senator Bumpers has done in putting together this amendment. He has taken into consideration the concerns of supporters and opponents of the original amendment, and he has drafted a fine piece of work. I join the Senator from Nevada in urging adoption of the amendment.

Mr. BUMPERS. I thank the Senator from Vermont.

● Mr. GRASSLEY. Mr. President, the Regulatory Reform Act which has been introduced by Senator Paul Laxalt along with 74 other Senators including myself includes a section known as the Bumpers amendment, named after its originator, the distinguished Senator from Arkansas. I now rise in support of that section and the revisions sponsored by its author.

This section amends the Administrative Procedure Act in these respects:

Reviewing courts are instructed to make independent determinations on all questions of law whether they be jurisdictional, constitutional, or procedural. No presumption of validity will attach to agency regulations. The court will be the final arbiter as to whether an agency has gone beyond congressional intent in taking certain actions, and will be able to consider an agency's interpretation based on its persuasiveness, not upon the agency presumed "all knowing" posture which has often been present in past judicial decisions regarding rulemaking.

On September 7, 1979, the Senate adopted a similar proposal as a part of the Federal Courts Improvement Act. The House Judiciary Committee approved the Bumpers amendment with only one dissenting vote on September 17, 1980, as part of a comprehensive regulatory reform package. However, neither of these bills incorporating the amendment were ever finally enacted into law.

It has been demonstrated, through the extensive hearing process, that this legislation is necessary now more than ever. Testimony elicited before the Subcommittee on Agency Administration indicated that great deference has been given to various agencies in delineating their own authority. This function is clearly one for the courts, not for the agency. Examples have been given time and time again of agencies taking broad statutory language and construing it to justify certain agency action clearly going beyond congressional intent. The purpose of this legislation is not to allow courts to constantly second-guess policy decisions properly made by agencies but instead to return to the courts the role of final arbiter of questions of law. It has always been the court's job to construe statutes and to determine if an agency is operating within its statutory authority.

In addition, the reviewing court shall set aside agency regulations where substantial support is lacking for the necessary factual determinations which provide the basis for the rule. Courts will be required to examine the factual underpinnings of the rule with a hard look. The absence of this standard is partially responsible for our present problem of overburdensome regulation in America. The hard look standard will assure the promulgation of necessary regulations while preventing those which are overburdensome and unjustified.

Senator Bumpers first introduced similar legislation in 1975. It was reintroduced in the 95th and 96th Congresses. At this point, I would like to reiterate my long-term support for this section demonstrated by my introduction of the amendment in the House in 1979 and the fact that I was fortunate enough to chair the hearing on the amendment held before the Subcommittee on Agency Administration of the Senate Judiciary Committee. It should be noted that the language of the amendment has gone through change over these years including this most recent revision arrived as a compromise between the administration and Senator Bumpers.

The other major criticism raised against the judicial review provision of this bill is that this section may result in increasd litigation. This fear is unfounded. What this section will result in is promulgation of more responsible rules. As Mr. Neil Kennedy, former Senate legal counsel, indicated in his testimony, agency lawyers "are going to have to live with this provision and advise their agencies" accordingly. "This should result in no more litigation than at present and you may have fewer rules * * * and better * * * more modest and realistic rules." Mr. Kennedy continued, " * * * after the experience of the last years, I would ask, is that bad?"

I ask the same question and believe the answer is obvious. The most recent figure on the cost of regulations to America's economy is $126 billion annually. If we translate that figure into personal terms, Federal regulations cost about $575 per capita each year or $2,290 per four-member family. This is without question a contributing factor to the serious inflation problems we are facing today. Excessive regulation is eating away at the capital investment which instead should be flowing into new production.

If we expect American industry to increase production or even remain operational it is time for serious reevaluation of our regulatory system. Adoption of the Bumpers amendment is just one aspect of this process. This, along with the passage of legislative and Presidential disapproval mechanisms over agency regulations, will restore the balance of power to the three branches of Government enumerated in the Constitution and return the bureaucracy to its proper function of administering the law.●

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 831) was agreed to.

Mr. **LAXALT.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **LEAHY.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 832

(Purpose: To modify the definition of the term "rule" as set out in section 621(3) and to except, for a specified period of time certain rules relating to depository institutions from the provisions of section 621(4)(A))

Mr. **LAXALT.** Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. LEAHY), and myself, I send to the desk an amendment and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. LAXALT), for himself, Mr. EAGLETON, Mr. ROTH, and Mr. LEAHY, proposes an unprinted amendment numbered 832.

On page 13, beginning on line 24, strike out all through page 14, line 4, and insert in lieu thereof the following:

not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing; or

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System.

On page 15, line 13, strike out "or".

On page 15, line 15, strike out the period and insert a semicolon and "or".

On page 15, between lines 15 and 16, insert the following:

"(IV) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to, depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board.

On page 44, line 14, insert "(1)" after "(a)".

On page 44, between lines 20 and 21, insert the following:

"(2) The provisions of section 621(4)(IV) of title 5, United States Code, shall not be in effect after June 30, 1985, unless the President certifies that the extension or reinstitution of those provisions is necessary to allow the federal agencies authorized to issue rules identified in that section to take expeditious and appropriate action to preserve the viability, safety, or soundness of federally insured depository institutions. Any certification by the President under this subsection may only be made for a single one-year period beginning after June 30, 1985.

Mr. **LAXALT.** Mr. President, within the last few weeks we have received many expressions of concern from various agencies, including the Fed, inquiring as to the impact of the regulatory analysis provisions of this piece of legislation on the discharge of their duties.

It was never the intent of this bill to impair in any manner the monetary functions of any of the financial regulatory agencies, particularly the Fed. Our respective staffs with great difficulty attempted to craft an appropriate modification in language acceptable to all concerned. This was no mean achievement; but I think our final product achieves our purpose. I think it will add to the act and be beneficial.

Therefore, Mr. President, the Senator from Missouri (Mr. EAGLETON), the Senator from Delaware (Mr. ROTH), the Senator from Vermont (Mr. LEAHY), and I are submitting this unprinted amendment to make certain limited exceptions from the application of the regulatory analysis provisions of S. 1080 to certain unique rules dealing with monetary policy and the stability of federally insured depository institutions.

MONETARY POLICY EXCEPTION

The exception for actions of the Federal Reserve Board relating to monetary policy is intended to carry forward, with some minor exceptions, the present treatment the Administrative Procedure Act affords to the Federal Reserve Board's monetary policy function.

Congress has consistently recognized that the effective conduct of monetary policy, and the related ability to fulfill the role of lender of last resort, requires a high degree of discretion and a minimum amount of rigidity in the form of procedural rules. Successive enactments have emphasized the importance of the Federal Reserve's ability to chart an appropriate course for monetary policy and to act with the speed and flexibility that is needed for the effective conduct of monetary policy.

The activity of the Federal Reserve Board which can appropriately be called monetary policy is a unique governmental enterprise distinct from the operations of all other agencies of the Federal Government. Setting monetary policy involves acts which establish the money supply and influence the availability and cost of bank reserves, bank credit, and money. Various distinct actions of the Federal Reserve Board are involved in these highly sophisticated financial matters, including the terms of the discount window, reserve requirements, margin credit, deposit instruments, deposit rate regulations, and open market activities.

Many actions taken by the Federal Reserve Board to establish monetary policy are not rules within the meaning of the APA, and therefore, are not within the purview of S. 1080. Some of these actions are technically rules, although it is by no means clear that the purposes behind notice and comment procedures have an application to this unique type of agency action. To insure the flexibility needed in the area of monetary policy not now afforded by the public rulemaking procedures required by the APA, and to avoid harmful speculation that could result from premature public disclosure of Federal Reserve Board deliberations, the Fed now claims the APA's good cause exemption to avoid engaging in public procedures before taking monetary policy actions which are, or could be, rules. As one can easily see, this use of the good cause exemption to an extent remedies the difficulty of applying the APA's definition of rule in this context.

The sponsors of S. 1080 did not feel that this legislation, with its limited scope, was the appropriate vehicle for a full reworking of the APA's definition of rule. A range of unrelated areas, including novel areas not explicitly provided by the APA such as informal adjudication, would be affected by such a move. However, S. 1080 does make some important changes to the existing good-cause exemption, changes commanding broad and well-considered support.

The sponsors of the consensus amendment concluded that a limited exemption from the major rule classification for the monetary policy actions of the Federal Reserve Board is justified because, as a consequence of these uncertainties in the APA, some of the Federal Reserve Board's actions relating to monetary policy might qualify as major rules, subjecting them to S. 1080's new requirements for a sophisticated analysis of costs, benefits, and alternatives, more extensive public participation requirements (including, in appropriate cases, cross-examination) and potentially time-consuming subjection of regulatory analysis to Presidential oversight. In light of this potential effect of S. 1080, and in recognition of the unique emphasis which the Congress has always placed on speed and flexibility in this area, the cosponsors of the consensus amendment have concluded that applying the major rule provisions of the act to monetary policy actions could hamper the ability of the Federal Reserve to adjust its actions to deal effectively with rapidly changing economic developments.

The exemption granted has been carefully and narrowly drafted, consistent with the general goal of S. 1080 to apply reform procedures broadly and generically. Thus, the exemption deals only with those procedures which flow from a rule being major. The various refinements and additions which S. 1080 would bring to the section 553 notice and comment process for all rules (whether major or nonmajor) would apply to monetary policy rules as well. Further, the exemption would only apply to a discrete subset of Federal Reserve Board actions—those that are intended to affect the availability and cost of money and credit. The full range of S. 1080's reform procedures would apply to all rules of the Federal Reserve Board not involving monetary policy, including rules involving the Home Mortgage Disclosure Act, fair housing and other antidiscrimination matters, redlining, the Truth in Lending Act, and community reinvestment. The cosponsors believe that rules in this latter category, as with other economic regulations, can benefit from appropriate application of regulatory analysis procedures.

TEMPORARY EXCEPTION FOR CERTAIN INSURED DEPOSITORY INSTITUTION RULES

The second change this amendment makes is more limited than the monetary policy exemption and based on different reasoning. This change temporarily expands the existing exemption from the $100 million impact test for what is a major rule to include a rule relating to the viability, stability, or asset powers, categories of accounts of, or permissible interest rate ceilings applicable to, depository institutions and holding companies the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration. The rationale for this exemption is based on both the unique role the depository institution regulators play with respect to these matters and the temporary transitional difficulties in which the financial industry finds itself—particularly the thrifts. The presence of Federal deposit insurance confirms their importance. The loss of public confidence in depository institutions can have disastrous consequences, as was demonstrated in the 1930's.

This temporary exemption is justified in particular by the unique role of the Federal Government as the ultimate insurer for deposits held in commercial banks and thrift institutions. In light of the tremendous amount of assets covered by the depository insurance, the Federal Government is, at least theoretically, exposed to significant potential financical liability dependent upon the stability and soundness of thousands of private financial institutions. Obviously, this role for the Federal Government is unique. The authority to implement rules related to the viability or safety or soundness of depository institutions, including bank holding companies, has been entrusted to the Federal financial regulatory agencies in order to assure that public confidence in the Nation's depository institutions is preserved. The Nation's financial system has been carefully structured to assure that the unique and crucial role played by such institutions is preserved.

This unique depository insurance role of the Federal Government combines with the revolution now sweeping through the financial marketplace to create an unprecedented need for regulators to respond quickly to exigencies which threaten depository institutions.

The current financial environment, characterized by inflation, constantly changing technology and increased competition from the nondepository institution sector, demands that regulators continue to be authorized to provide regulated institutions with appropriate powers, within prescribed statutory limits, on an expeditious basis. In enacting the Depository Institutions Deregulation Act of 1980, Congress acknowledged that the decades old efforts to maintain interest rate ceilings on savings accounts and other deposits at federally insured institutions could no longer function effectively in an era of high interest rates, increased consumer access to alternative investment vehicles (such as money market mutual funds) and growing consumer sophistication. In that act, Congress created the Depository Institutions Deregulation Committee (DIDC) and charged it with the responsibility of eliminating all governmentally imposed limitations on deposit interest rates as soon as feasible, but not later than April 1, 1986. Thus, the extremely fluid financial environment makes it essential that financial institution regulators have the flexibility to quickly adjust regulations to keep regulated depositories financially viable.

Much of the work of all of the financial depository institution regulators directly relating to the viability and stability of such institutions and holding companies for such institutions, and thus directly relating to depository insurance role of the Federal Government, is done by regulation. The additional procedures required by S. 1080 for a rule determined to be major would, in this context, serve to hinder the necessarily swift actions by these financial regulatory agencies. Furthermore, most regulations involving the viability or stability of depository institutions could be seen as having over a $100 million impact on the economy, thereby making these regulations—almost automatically—major rules. As a result, the amendment we are proposing takes this limited class of rules out of consideration as major rules under the $100 million impact standard. They are not, however, totally beyond consideration as major rules. Under the second part of the major rule definition, which is not subject to judicial review, the agency or the President may still designate these rules as major due to their significant social or economic effects.

It is important to note that only a limited body of rules promulgated by these agencies are encompassed by this exemption. Rules regarding the viability or stability of depository institutions involve such matters as required or permissible levels of liquid assets, borrowings, reserves, or net worth; appropriate accounting, appraisal or underwriting practices; and prudent involvement in the futures or forwards markets—in general, those related to observance by a financial institution of proper or prudent practices that do not threaten abnormal or undue risk or loss to itself, or that do not tend to undermine public trust and confidence in such institutions. Rules that would be covered under asset powers would involve matters, for instance, such as implementation of statutory authority to offer NOW accounts or to engage in new lending or investment activities. Also covered are rules relating to the various rates of interest payable on deposits or categories of accounts which can be offered. In short, the rules involved here concern matters which help insure depository institutions will survive the transition period and not be a drain on the Federal Treasury. A broad range of regulations issued by these agencies are not covered by this exemption. These include Community Reinvestment Act regulations, Fair Housing Act regulation, Truth in Lending regulation, regulations requiring reports under the Bank Protection Act, and Freedom of Information Act and Privacy Act regulation.

Furthermore, as this situation in the financial markets is unprecedented, and due to unique factors such as statutorily commanded deregulation, it is not expected to continue indefinitely. Recognition of this limited time is an essential element of this exemption, which automatically expires on July 1, 1985, roughly 2½ years after S. 1080 becomes effective. If the President finds that the same conditions in the financial markets will continue past that date, or that future conditions present another crisis, he may extend or reinstitute the exemption for a single period of 1 year. The sponsors of the consensus version of S. 1080 feel that the significant contributions that regulatory analysis can make to all major rulemakings and the temporary nature of this situation in the financial marketplace makes any more extensive exemption unwarranted at this time.

Mr. LEAHY. Mr. President, I note that the portion of the amendment relating to insured depository institution rules runs to June 30, 1985. I think it takes care of the temporary problems noted by the distinguished Senator from Nevada concerning the viability and stability of federally insured financial depository institutions.

I move adoption of the amendment and yield back any time I have on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada.

The amendment (UP No. 832) was agreed to.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 833

Mr. LAXALT. Mr. President, I have an unprinted technical amendment which I would like the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. LAXALT) for himself, Mr. LEAHY, Mr. ROTH, and Mr. EAGLETON proposes an unprinted amendment numbered 833.

Mr. LAXALT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 7, insert "the" between "of" and "proposed".

On page 6, line 24, strike "621(1)" and insert in lieu thereof "621(4)".

On page 25, line 2, strike "rule" and insert in lieu thereof "schedule".

On page 26, line 19, strike "adopted" and insert in lieu thereof "promulgated".

On page 26, beginning with line 21, strike out all through the period on page 27, line 1, and insert in lieu thereof the following:

"(2) A rule required to be reviewed under the preceding subsection on grounds that it is major need not be reviewed if the agency determines that such rule, if adopted at the time of the planned review, would not be major under the definition previously applied to it.

On page 29, beginning with the comma in line 7, strike out all through line 9, and insert in lieu thereof:

alter the timing of review of rules under any schedule required by this section for the review of rules if an explanation of such alteration is published in the Federal Register at the time such alteration is made.

On page 25, beginning with line 11, strike out all through the period on line 13, and insert in lieu thereof:

to the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 6245(b) of this title.

On page 22, line 10, between "title" and "shall", insert the following:

, or any failure to make such a designation,

On page 22, line 19, between "title" and "shall", insert the following:

, or any failure to make such a designation,

Mr. LAXALT. Mr. President, this amendment, as I indicated, is technical in nature. If Senator LEAHY has no objection, I move its adoption.

Mr. LEAHY. I have no objection to it and I join in that motion.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Nevada.

The amendment (UP No. 833) was agreed to.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAXALT. Mr. President, so far as I know, in terms of S. 1080, we have accomplished what we set out to do, and that means completion of the opening statements and the processing of the amendments we have presented.

So if the distinguished Senator from Vermont has no objection we will conclude the proceedings on S. 1080 for today.

Mr. LEAHY. Mr. President, I understand no further amendments are ready to go with respect to this bill. We will be back on it Monday, and I have no objection to that, and I will join the distinguished Senator here on Monday.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. LAXALT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMEMORATING THE 200TH ANNIVERSARY OF THE BIRTH OF JOHN CALDWELL CALHOUN

Mr. THURMOND. Mr. President, today marks the 200th anniversary of the birth of John Caldwell Calhoun, a native South Carolinian, who served his State and this Nation with unparalleled enthusiasm and determination. His legacy of public service at the Federal level spans the years of 1811, when he first came to Washington as a Congressman, through 1850, when he died in office as a Senator. In the years between, John C. Calhoun served as Secretary of War under President James Monroe, Secretary of State under President John Tyler, and Vice President under Presidents John Quincy Adams and Andrew Jackson.

In the words of Daniel Webster, eulogizing his colleague in the Senate:

> He had the basis, the indispensable basis, of all high character; and that was, unspotted integrity—unimpeached honor and character. If he had aspirations, they were high, and honorable, and noble. There was nothing groveling, or low, or meanly selfish, that came near the head or heart of Mr. Calhoun.

Mr. President, I send to the desk a resolution on behalf of myself and Senator HOLLINGS calling upon the Senate to pay tribute to the memory of a true statesman and one of our greatest Senators, John Caldwell Calhoun. I ask unanimous consent that the clerk read this resolution and that the Senate proceed to immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

S. RES. 345

Whereas, March 18, 1982, marks the two hundredth anniversary of the birth of John Caldwell Calhoun;

Whereas, John Caldwell Calhoun served with great honor and distinction as a Senator and a Congressman representing the State of South Carolina with eloquence and dignity;

Whereas, John Caldwell Calhoun selflessly served this Country with supreme dedication as Secretary of War, Secretary of State, and Vice President;

Whereas, John Caldwell Calhoun left a legacy of public achievement and personal excellence which inspired his colleagues in the Senate and set a standard of virtue and merit which all who succeed him strive to achieve;

Whereas, John Caldwell Calhoun was a true patriot, a brilliant Statesman and a scholar of the highest order whose devotion to freedom helped nurture and establish the greatness of this Nation. Now, therefore, be it

Resolved, That the Senate honors and pays tribute to the memory of John Caldwell Calhoun on this the day of the two hundredth anniversary of his birth for his outstanding and significant achievements as a Senator and for his lifelong contribution to the growth and development of America.

The Senate proceeded to consider the resolution.

Mr. THURMOND. Mr. President, as this resolution indicates, it is on behalf of the junior Senator from South Carolina (Mr. Hollings) and myself. I want to be sure the Record shows it.

Mr. HOLLINGS. Mr. President, I am glad to support this resolution. I have the distinction of standing here at the desk of John C. Calhoun in this Chamber. It belongs to the distinguished senior Senator from Louisiana (Mr. Long). Both his mother and his father stood at this same desk, and for that reason I have not been able to inveigle the Senator so as to be able to take the desk away from him. But it is a distinction that we do have the desk here.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 345) was agreed to.

The preamble was agreed to.

Mr. THURMOND. Mr. President, we will now repair to the Old Senate Chamber where the ceremonies will take place between 4 and 5 o'clock.

RECESS UNTIL 5 P.M.

Mr. LAXALT. Mr. President, we have some remaining items on the Executive Calendar, but the minority leader is attending to other matters at the present time. So, in view of that, I ask unanimous consent that the Senate stand in recess until the hour of 5 o'clock.

There being no objection, the Senate, at 4 p.m. recessed until 5 p.m. at which time the Senate reassembled when called to order by the Presiding Officer (Mr. Cohen).

CEREMONIES IN THE OLD SENATE CHAMBER COMMEMORATING THE 200TH ANNIVERSARY OF THE BIRTH OF JOHN C. CALHOUN OF SOUTH CAROLINA

Mr. THURMOND. Mr. President during the past hour, while the Senate stood in recess, ceremonies were held in the Old Senate Chamber to commemorate the 200th anniversary of the birth of John C. Calhoun of South Carolina, who has been recognized by this body as one of our most notable Senators.

Senator Hollings and I were privileged to speak in that Chamber where Calhoun served and where he helped to shape our history. We were joined there by descendants of John C. Calhoun, by some of our colleagues in the Senate, by three distinguished Calhoun scholars from South Carolina, and by others who assembled with us to pay tribute to this great American and native son of South Carolina.

Mr. President, I ask unanimous consent that the remarks made during these proceedings in the Old Senate Chamber, honoring the memory of John C. Calhoun on this date, be printed in the Record following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

Address by Senator Strom Thurmond (R-SC) Commemorating the 200th Anniversary of the Birth of John C. Calhoun of South Carolina

Mr. President, Distinguished Guests, Ladies and Gentlemen. We gather today in this historic Chamber to commemorate the 200th anniversary of the birth of a great American statesman and patriot, John C. Calhoun of South Carolina.

It is most fitting that we should assemble in this Chamber, because it was here that Calhoun served. In fact, his desk was located at the place where I now stand. It was here that the voice of Calhoun—one of our greatest orators—was raised so eloquently and passionately in debates of great historic moment.

John Caldwell Calhoun was born on March 18, 1782 in the Abbeville District—now McCormick County—of South Carolina. The son of Scotch-Irish parents, he attended Waddel's Academy in Georgia, was graduated with honors from Yale College in 1804, and studied law at Litchfield Law School in Litchfield, Connecticut, and in the law office of Henry W. DeSaussure in Charleston.

In 1811, Calhoun married his cousin, Floride Bonneau Calhoun—a woman of great beauty and charm—who bore him ten children, of whom seven survived to maturity. We are honored today by the presence of several descendants of John C. Calhoun—his great granddaughter, Mrs. Mildred Calhoun Wick, of Cleveland, Ohio; his great-great-great-granddaughter, Mrs. Gertrude Calhoun Bacon, of St. Augustine, Florida, and her son Milton E. Bacon, III; his great-great-great grandson, Colonel Creighton Lee Calhoun of Pittsboro, North Carolina, his wife, Edith, and their son Andrew Calhoun; his great-great-great niece, Ms. Melissa Rice, of Alexandria, Virginia; and his two great-great-great-great nieces, Ms. Margaret Calhoun and Ms. Katherine Calhoun, both also of Alexandria, Virginia.

From his parents, John C. Calhoun inherited an independence of mind and a passionate commitment to freedom—both political and religious. His abiding love of the land derived from his father, a highly-respected and hard-working small planter.

Those who knew Calhoun describe him as gentle yet courageous, gracious yet somewhat reserved, indulgent of differing views yet intolerant of vulgar expression and meanness of spirit. An acquaintance, writing about Calhoun at the height of his career in the Senate, described his appearance as "unlike that of other men. His action is quick, and both in society and in the Senate very expressive. He speaks with the utmost rapidity, as if no words could convey his speed of thought; his face is all intellect, with eyes so dazzling, black, and piercing that few can stand their gaze."

The public career of John C. Calhoun is a model of faithful, dedicated, and steadfast service to his State and Nation. Few Americans have served with greater distinction in such a variety of important public offices as John C. Calhoun, but his most notable service was here in the U.S. Senate. In 1957, the Special Senate Committee on the Senate Reception Room selected Calhoun as one of five outstanding Senators whose portraits would be placed in the present Senate Reception Room. Calhoun's portrait hangs there today, along with those of Henry Clay of Kentucky, Daniel Webster of Massachusetts, Robert LaFollette of Wisconsin, and Robert A. Taft of Ohio.

Before his first election to the Senate in 1832, however, Calhoun already had held several other major offices in state and Federal government. In 1808, he was elected to the South Carolina House of representatives and served there through 1809. In 1810, he was elected to the United States House of Representatives, where he served until 1817. He was Secretary of War from 1817 to 1825 under President James Monroe. He was Vice President of the United States from 1825 to 1832, serving first under President John Quincy Adams and then under President Andrew Jackson.

Calhoun served twice in the United States Senate—from 1832 to 1843 and from 1845 to 1850. In between these periods of service in the Senate, he was Secretary of State under President Tyler—from April 1844 to March 1845.

These facts about the life of John C. Calhoun are impressive enough in themselves. Yet, Calhoun's impact upon American history and American political thought goes far beyond the normal influence of the offices he held. Of course, much of what Calhoun stood for belongs to his day and time and must be seen in the context of that period in our history. On the other hand, many of his ideas and concerns are relevant today.

To understand Calhoun, one must understand his dedication to his country, his dedication to preserving the Union, and his prophetic—almost despairing—insight into the events that were leading to its dissolution, which occurred some ten years after his death in 1850. He, who fought so ably and nobly for compromise, foresaw the collapse of all hope for sectional conciliation, but death prevented him from witnessing the armed conflict between North and South and its aftermath.

John C. Calhoun is most remembered as a strong and forceful advocate of States Rights. Yet, he was, in the words of one historian, "a Nationalist in his heart to the day of his death." Elected to Congress in 1810, Calhoun aligned himself with those who sought American expansion. He worked diligently for the annexation of Texas, and he championed American rights to the territories of Oregon and Washington. He stressed the need for a strong national defense and for interstate highways and canals to further develop the interior of the Nation. At the same time, Calhoun favored local solutions for local problems as the essence of an enlightened Federalism.

During the debate over the so-called "Tariff of Abominations" in this Chamber in 1828, Calhoun articulated his famous doctrine of nullification in his essay, "South Carolina Exposition and Protest." Though a formal compromise was finally reached on the issue of tariffs in 1833, the intensity of debate that it had precipitated filled Calhoun with pessimism for the future of the Union and the future of his beloved South.

While this debate proceeded, one of the more interesting and dramatic confrontations between men and principles in this period occurred—between Calhoun and Andrew Jackson. To Calhoun, the preservation of liberty was foremost in importance. Foremost in importance to Jackson was preservation of the Union. At a dinner hosted by President Jackson in 1828 and attended by Calhoun, other Administration officials, members of the Congress, and other dignitaries, a series of toasts was given. President Jackson rose first and lifted this glass. "To the Union," he proclaimed, "may it long endure!" Calhoun, who was then Vice President and whose differences with Jackson by then had become pronounced, rose next, as a hush fell over the gathering. "The Union," he responded, "next to our liberties, most dear!"

The doctrine of nullification set forth by John C. Calhoun in his "Exposition" and other writings did not originate with him, but this concept was elaborated and refined by him. He drew upon this theory in his efforts to avert conflict between the states and the Union—and, more particularly, between the North and the South. "Power," said Calhoun, "can only be opposed by power, and on this theory stands our beautiful federal system."

Besides his "Exposition and Protest," two of Calhoun's works—his Disquisition on Government and his Discourse on the Constitution of the United States—are classics in American political thought, and they embody the essential elements of Calhoun's philosophy and work. These two essays contain an elaborate theory of "concurrent majorities," which has as its theme the protection of all interests in the Nation, including minorities, by mutual accommodation, to prevent the tyranny of absolutist majorities. His abiding concern throughout these essays—as well as his other writings and his speeches—was how best to preserve the Union in the interests of all its parts while maintaining effective power in the whole to deal with purely national issues. In a very real sense, Calhoun can be seen as a precursor of modern American pluralism, the balancing of sectional and factional interests to protect the rights of all. Indeed, an entire body of contemporary political theory has developed around the writings of Calhoun.

The last great words of John C. Calhoun were not delivered by him in person, but by another. During debate in this Chamber over what came to be known as the compromise of 1850, Calhoun became ill. His final words in that debate were read by Senator James Mason of Virginia, as Calhoun lay desperately ill and only days from death. "The South," he declared, "asks for justice."

Calhoun died while Clay and Webster were still negotiating the Compromise, the last major effort to reconcile intensifying sectional differences. Despite his love of the Nation and his desire for unity, his keen insight enabled him to ascertain the critical situation, as on his death bed his last words were, "The South. The poor South."

It has been said that John C. Calhoun fought against the dominant forces of his age and lost. In certain respects, this is true. However, his legacy is to be found not only in his battles over specific issues on the floor of the Senate or in other forums, but also in his vision of national greatness, in his commitment to principle, in his love of country, and in his reverence for the Constitution, which he regarded as a compact to which each state is a co-equal partner.

Although the ideas propounded by John C. Calhoun were not always popular even in his own lifetime, some have particular relevance today. Ideas of a balanced federal system are consistent with the national mood today, and much can be learned by the experiences of his day and time in comparison to conditions in American society today. Calhoun's fear of big government and the consequences of sectional rivalry are instructive in how states, regions, majorities, and minorities must work to resolve differences without fragmenting our system.

Even those who say Calhoun was wrong on certain issues might agree with historian Arthur Schlesinger, Jr., who concluded that even when he was wrong, "he was a greater man and senator than many people who have been right."

Of the tributes that could be paid John C. Calhoun, one of the most revealing was given by Daniel Webster in an obituary address in this Chamber on April 1, 1850, shortly after the death of Calhoun. "Those of us who have known him here," said Webster, "will find that he has left upon our minds and our hearts a strong and lasting impression of his person, his character, and his public performances, which, while we live, will never be obliterated. We shall hereafter, I am sure, indulge in it as a grateful recollection that we have lived in his age, that we have been his contemporaries, that we have seen him, and heard him, and known him. We shall delight to speak of him to those who are rising up to fill our places. And, when the time shall come when we ourselves shall go, one after another, in succession, to our graves, we shall carry with us a deep sense of his genius and character, his honor and integrity, his amiable deportment in private life, and the purity of his exalted patriotism."

In honoring John C. Calhoun here today, we honor those elements of greatness that are uniquely his, those qualities of Calhoun about which Webster and others have spoken and written. These set Calhoun apart in life and distinguish him in the history of our Nation, in the history of South Carolina, and in the hearts of all those assembled here today.

TRIBUTE OF SENATOR ERNEST F. HOLLINGS ON THE 200TH ANNIVERSARY OF THE BIRTH OF JOHN CALDWELL CALHOUN, MARCH 18, 1982

Mr. President, honored descendants of the great Carolinian we honor today, ladies and gentlemen:

To tell the history of John C. Calhoun is not my purpose today. Indeed, to recount his biography here would be to recapitulate over 40 years of America's development—from the War of 1812 on to the Jacksonian era, Texas, the Mexican War, and the unravelling of the ties which bound the Union together.

Nor would I try to turn historian in the company of such eminent scholars as we have with us today—Charles Lee, George Rogers and Robert Lambert—not to mention my wife, Peatsy, who is an historian too.

So instead of the detachment the historian strives for, I would try to bring the perspective of the politician—and maybe together we can better understand the most illustrious of all of South Carolina's sons.

Legend has it that John C. Calhoun was often unyielding and indeed stubborn, unable, indeed unwilling, to compromise. Well, as Harry Truman used to say, before you become a statesman, you must first be a successful politician—and for over 40 years, John C. Calhoun was a successful politician. He could and did compromise in reaching for his goals and he did so in a way that earned him the trust of that great generation of politicians of which he was a part. He could compromise on the tariff, he could compromise on the way Texas was brought into the Union, and even at the close of his life during those titanic debates over the compromise of 1850, we can see some signs at least that he was willing to bend some of his thoughts in order to preserve the Union.

The case can be made, successfully I think, that throughout his life, Calhoun's goal was to reconcile the diverse interests of the country within the context of Union. Over the years, his tactics changed, even aspects of his program changed, but if you look for the lodestar, you find it I think in the preservation of the Union and in Calhoun's search for a method to hold it together without violating the interests of any section. In 1833, during the Nullification Crisis, Calhoun and Clay compromised on the tariff and Calhoun, though ill, hurried through day and night to reach Charleston where the Nullification Convention was reassembling. The firebrands had him censured before he arrived. But when he got there, he pleaded with the Convention for patience and for avoiding the disruption of the Union. And he won. The kind of politician who can walk into a hall and do that is no ideologue.

None of this is to say that John C. Calhoun was just another politician. No one who came in touch with him ever thought that. He inspired both love and hatred. To his dying day, Andrew Jackson maintained that his greatest mistake had been not shooting Henry Clay and hanging John C. Calhoun. To his admirers, he was preeminent among the statesmen of the nation. Even more revealing, however, are the sentiments of those colleagues with whom he often disagreed. Daniel Webster with whom he so often disagreed, thought Calhoun "much the ablest man in the Senate," the greatest man he had ever met in public life. Webster called him "a Senator of Rome when Rome survived," and declared that Calhoun could have demolished Newton, Calvin or John Locke in argument.

Sometimes when we look back on our national past, we get so bogged down in the details of the trees that we lose sight of the forest. When we look at the 1830s and 1840s and 1850s, we remember only sectional differences, arguments over the tariff and banking, and then the issue of slavery. All that is true, of course, true as far as it goes; but the America which John C. Calhoun departed on March 31, 1850—his coffin, by the way, lay right there in the middle aisle of this Chamber—was a far different country from the infant republic Calhoun found when he came to the Congress in 1811. It had 23 million people instead of 7 million, and 30 states in place of 17. It was a nation, North and South, heavily involved in commerce and coming at one speed or another under the sway of the Industrial Revolution. It had spawned a large and growing network of turnpikes, canals and, increasingly, railroads—the Federal government playing a significant role in all of this. That nation—that union if you will—had been the dream of men of great and expansive vision and among those men of union and vision—many times in the forefront—was John C.

Calhoun. Now we don't usually focus on union and national government and vistas of an expansive future when we contemplate Calhoun. We think Southern. We think of a way of life fast becoming obsolete.

But it is the vision and the consistency in his life that we should remember today. His methods for preserving the Union over the years underwent some changes as his homeland became more and more on the defensive—but throughout it all, he saw the vision of a Union held together not only by adherence to strict Constitutional theory, but also by the roads and canals and other internal improvements for which he had worked.

So when I think of Calhoun, I think of a staunch defender of Southern rights, yes, but always in the context and in the hope of continued Union.

I think of a political thinker of the first rank, but also of an able politician who could compromise and who worked so many times to contain the extremism and excesses of others.

I think of his unmatched intellect, of those thoughts which speak to us still across the years. "Liberty and security are indispensable," he said, realizing then what most have not appreciated until our own time—that political freedom must rest on a foundation of economic security. A century before our time he devised new ways to hold together the various interests and factions comprising the nation, and if his concurrent majority was cumbersome, let us in this day of single-interest pressure groups realize that we still lack a satisfactory solution, and that here too Calhoun was far ahead of his time in dealing with a problem we have come to only lately. And then there was that stark realism which accounted, I am sure, for the occasionally-brooding personality. "The Union is doomed to dissolution . . . within twelve years," he sadly told a friend. "The probability is that it will explode in a presidential election." Eleven years before the fact, that was an incredible display of predictive power.

I think of a man of total integrity.

And finally, I think of his appreciation of America and his understanding of the sacrifices necessary to perpetuate it. "The last and only refuge of freedom," he called America. And who can forget his eloquent injunction on the citizen's duty: "Those who would enjoy the blessings of liberty must undergo the hardships of sustaining it."

That is John C. Calhoun, speaking not only to his generation of Americans, but speaking here, in this Chamber, in March of 1982.

STATEMENT BY DR. ROBERT S. LAMBERT, PROFESSOR OF HISTORY, CLEMSON UNIVERSITY, CLEMSON, S.C.

THE PRIVATE CALHOUN

The forebears of John C. Calhoun were lowland Scots who migrated to Northern Ireland in the 17th century and who with thousands of others made their way across the Atlantic to settle in the interior of Pennsylvania in the 1730s. Patrick Calhoun, his father, later joined the stream of families who moved southward into the great valley of Virginia from which, after a brief residence there, he and his brothers and their families moved on to the South Carolina backcountry in the 1750s.

The Calhouns established their settlement on Long Cane Creek in modern Abbeville County where Patrick prospered as a land surveyor and substantial farmer who for many years served his neighbors in the general assembly. It was here that John C. Calhoun the youngest of five children, was born in 1782, the year in which the British Army finally evacuated South Carolina. The boy grew up in a settlement of God-fearing Presbyterians in an area that still suggested the frontier and where vivid recollections of the bitter Civil War between Patriots and Tories were still fresh. It is little wonder that almost from birth he developed a love of the land, a sense of right conduct and personal integrity, and a veneration for the Union so recently forged in the struggle for independence.

His family apparently recognized that his serious and studious nature called for an extra effort to provide him with educational opportunities. He was enrolled in Moses Waddell's Academy from which at the age of twenty he entered the junior class at Yale College. After graduation from Yale, he studied law with Tapping Reeve in nearby Litchfield, Connecticut, before returning to South Carolina to prepare for the bar.

Calhoun earnestly began the practice of law but soon found it "dry": After a term in the legislature he won election in 1810 to the National House of Representatives, thus launching a life-long career in national government and politics.

My purpose in the remainder of these remarks is not to deal with Calhoun's public career and contributions, an interesting subject that others will emphasize today: Rather, I will attempt to see him as others saw him and to note those family influences that reveal a side of this unusual man that is generally less well known.

Those who observed Calhoun in public life immediately noted his physical appearance: He was tall, lanky, and spare of flesh, but graceful of movement. The most notable feature of his countenance was the arresting dark eyes that could be piercing or warm as the occasion demanded. But it was his demeanor, often described as "austere," that caused one observer to dub him the "cast-iron man": For Calhoun not only had a scholar's mind but in formal social gatherings showed a tendency to be detached from what was going on around him. While he could be gracious, even charming, on more intimate social occasions, he was clearly not a man to engage in mere chitchat. His serious manner often made his political subordinates uncomfortable around him. Their admiration for him was genuine, but they never felt on intimate terms with him. The awe in which he was held caused his more radical followers in South Carolina to chafe under the restraint of his powerful personality.

In personal habits he was also spare, exhibiting unusual self-control and moderation in the use of food and drink. He had the farmer's habit of rising early. As he once explained to his daughter: "Life is a journey. If we lose this morning, it will require hard and fatiguing travel to reach our stage. . . ." This self discipline carried over to his participation in Senate debates; in an age of florid oratory, Calhoun's speeches were marked by reasoning and conviction, and he never tried to match oratorical flights with his great contemporaries in the public forums. Daniel Webster, referring to Calhoun in his famous seventh of March speech, said simply, "What he means he is very apt to say."

Calhoun, finding the Unitarian and Episcopal denominations more to his liking, did not follow the Presbyterian faith of his ancestors. Yet in the true sense of the word he was a religious man, believing strongly that only the existence of a divine providence could account for the order and wonder of life.

Like many men who enter public life, Calhoun was driven by the twin forces of personal ambition and a sense of duty. Throughout his career he, like his great colleagues Clay and Webster, hoped that the people would call him to the presidency, and he actively pursued that goal. He was aware of his ambition, saying to a friend on one occasion: "It would be mere affectation to pretend such indifference (about the presidency), but I trust, however strong may be my ambition, my sense of duty is still stronger." He never lost hope that he would be called to the highest office, but as he became more immersed in the struggles of his beloved south, his sense of duty overtook his ambition and kept him in public life long after his prospects for the presidency had dimmed.

There were three great passions in Calhoun's life, and they consumed his every waking moment. Best known, of course, was his devotion to politics. His family, however, was at least of equal importance to him. He had married his cousin and they were the parents of ten children, seven of whom lived to maturity; but there were also many cousins and in-laws residing in upcountry South Carolina. It was in the setting of the family plantation, Fort Hill, amid the comings and goings of people of all ages that this other Calhoun presided as the concerned parent and gracious host. While his personal tastes were simple, he insisted that his children have every advantage in education and business enterprise that he could provide for them. He died heavily in debt, at least in part because he assumed the debts of one of his sons who was threatened with bankruptcy. While he had just cause to resent the extravagance and poor judgment of his children, Calhoun's patience and concern for them and his sense of family seemed to have no limits.

His favorite among his children was Anna, a wonderfully intelligent and mature young woman who filled the void left because Mrs. Calhoun had no interest either in politics or the management of the farm. Anna became her father's confidante with whom he conversed and corresponded on the most important topics of the day. Her interest in politics and her concern for him pleased him greatly, causing him to comment in a letter to her that women "have as much interest in the good condition of their country" as men; although it would be "unbecoming them to take an active part. . . . Their opinion, when enlightened, cannot fail to have a great and salutary effect."

Calhoun's other great love was farming, and like Jefferson, he would have preferred to remain at home and manage his plantation. He was away so much of the time that he was forced to rely on his brothers-in-law for oversight of the farming operation and to meet family emergencies. When at home Calhoun was an active, prudent, and progressive manager of his property, but the many years of low cotton prices and the increasing demands of his large family made money a perpetual source of worry to him. In one of his last letters to Anna, who was living abroad in Brussels where her husband held a diplomatic post, he described for her the beauty of Fort Hill in the early summer, saying, "I ride or walk, according to the weather twice a day, morning and evening over [the farm], for the double purpose of exercise and superintendence. . . . I would be delighted to have you and the children with me occasionally, in my walks."

This is a glimpse of the other side of the Calhoun who in March, 1850, so feeble that he could not deliver it himself, listened to a colleague read in this very chamber the last great speech of his illustrious career. Within the month he was dead.

STATEMENT BY GEORGE C. ROGERS, JR., CAROLINE MCKISSICK DIAL, PROFESSOR OF HISTORY, UNIVERSITY OF SOUTH CAROLINA, COLUMBIA, S.C.

LADIES AND GENTLEMEN: A republican government must make use of the diverse talents of many great men—and let us not be hesitant to say that there have been great men. There is no single model, no one mold. The vitality of a society arises from the clashing aspirations of its talented members—Daniel Webster believed in one nation indivisible, John C. Calhoun in the sovereignty of the states, and Henry Clay in the need to bind all together. That three such men should have sat in the Senate of the United States at one time would have made that a memorable body—that they sat for so many years together made those Congressional years a golden age. In 1850 the Senate of the United States contained not only Calhoun, Clay, and Webster, but also William Henry Seward, Stephen A. Douglas, Salmon Portland Chase, Lewis Cass, Thomas Hart Benton, Jefferson Davis—perhaps a more distinguished group than ever sat in this chamber. Yet in that body in 1850 only one could have been considered the last of the Founding Fathers. That was Calhoun.

A republic of virtue was the goal of the Founding Fathers. They understood the connection between structure and character. They knew that the most perfectly constructed government would need men of power and ability and goodness to run it.

Their republic was designed to embrace a great extent of territory and to hedge in the excesses of a pure democracy. Because of the vast extent of territory many varied interests would each have a voice—in fact, the states would most likely represent those interests—thus the federal character of the union. A pure democracy was always in danger of being swept away by the passions of the moment—thus the representative character of the government. The republic assembled the voices of the American people at varying intervals—every two years in the House of Representatives, every four years in the presidency, every six years (at least in one sense) in the Senate, and the Supreme Court would catch the voice of the people in the longer run. Safety would rest in the multiplicity of interests and voices. No one interest, no one passion would overwhelm the government.

It was Calhoun's great contribution to perceive that these two fundamental achievements of 1787 were threatened by the rise of the institution of the political party between 1793 and 1832. The political party tended to compress the interests and to merge the voices into one. Calhoun's thinking was therefore devoted to analyzing what the men of 1787 had not foreseen. In his "Disquisition on Government," Calhoun explained how the American political process worked:

"If no one interest be strong enough of itself, to obtain [control of the government], a combination will be formed between those whose interests are most alike—each conceding something to the others, until a sufficient number is obtained to make a majority. The process may be slow, and much time may be required before a compact, organized majority can be thus formed; but formed it will be in time, even without preconcert or design, by the sure workings of that principle or constitution of our nature in which government itself originates. When once formed, the community will be divided into two great parties—a major and [a] minor—between which there will be incessant struggles on the one side to retain, and on the other to obtain the majority, and, thereby, the control of the government and the advantages it confers."

Calhoun saw in this process two evils—the rise of a majority which would endanger the rights of all minorities (the triumph of King Numbers) and a system of patronage which would corrupt the politicial process by permitting the dominant party by the use of federal funds to stay in power for an indefinite time.

Calhoun offered solutions for both dilemmas. The Founding Fathers had established a system of checks and balances which the political party had eroded. To restore the balance he offered another check—nullification, interposition, the state veto, a new gear which would help the constitutional machine to run more smoothly. Each great interest would henceforth have a more secure platform from which to parry the will of King Numbers.

But if there were to be so many platforms, so many voices, how could the nation ever act? This was the point at which the character of the men in office became so important, because the men in office must put public interest before private interest, the good of the country before the need to remain in office.

Calhoun was a member of the second generation of great American leaders. He, as they, had inherited the fruits of the American Revolution from their fathers. Accepting the achievements and shedding the doubts of the first generation, they, the second generation, became the War Hawks. As Calhoun confidently said in December 1811, the United States should resent every insult no matter how small. Here were the seeds of that nationalism which emerged after the War of 1812 and which Calhoun reflected so admirably in his role as Secretary of War in Monroe's cabinet. This nationalism was shared by Calhoun, Clay and Webster—indeed by all the men of their generation—and was the motive force behind the Compromise of 1850. The remnants of this persuasion were to be found in the Constitutional Union Party of 1860.

Put in another way it was the ability and the desire to compromise—*the concurrent majority*. By the concurrent majority, Calhoun meant, *not that just a simple majority ruled*, but that important actions had to be taken with *the consent* of all the significant effected minorities. The majority had to act so as to win the willing consent of the minority for higher purposes, not just lord it over the minority because it was weaker. Such was the plea of Calhoun's last great speech in the Senate in March of 1850.

This patriotism, this need for unanimity, this consent of all, was a major theme of his *Disquisition on Government*. It was the kind of unity which a jury must reach in order to arrive at a verdict. Calhoun used late medieval Poland as the ultimate example of this principle of unanimity. Every member of the Diet, Poland's supreme legislative body, had a veto in all of its proceedings—thus making a unanimous vote necessary to enact a law. Each individual was thus an Estate of the Kingdom. And yet this government lasted for two centuries, the period of Poland's greatest power. "Twice, during its existence," Calhoun emphasized, Poland "protected Christendom, when in great danger, by defeating the Turks under the walls of Vienna and permanently arresting thereby the tide of their conquests westward."

What a contrast—Poland past and present. Then, each had a veto; today, there are only two possible platforms, Solidarity and the Church, yet neither is permitted more than a murmur.

Do not dismiss Calhoun as a man who failed. He may not have succeeded in a constitutional sense, but he did succeed in a political sense. Nullification was not a device grafted on to the Constitution, but the concurrent majority still prevails. In 1836 the Democratic Party adopted the two-thirds rule for nomination to the presidency. That rule endured for 100 years until Franklin Roosevelt broke it in 1936. That rule forced the members of the Democratic conventions to arrive at a consensus before a nominee could be found—ever smaller interests had a veto on the choice.

Standing committees were organized in the third and fourth decades of the 19th century and the rule of seniority followed, which permitted persons who served for long periods in the House and the Senate to obtain more than ordinary effectiveness. This system gave a voice to small groups. Even the filibuster might be considered the equivalent of the vote in the Polish Diet.

South Carolina though a small state still speaks with a mighty voice because of the concurrent majority. When I saw former Governor James Edwards flanked by Senators Thurmond and Hollings at Governor Edwards' confirmation hearing, I said to myself there is the concurrent majority—that is visible power.

Can we not agree therefore with one notable American historian who has written that Calhoun was "probably the last American statesman to do any primary political thinking, . . ." Calhoun *was* the last of the Founding Fathers.

STATEMENT BY CHARLES E. LEE, DIRECTOR, S.C. DEPARTMENT OF ARCHIVES AND HISTORY, COLUMBIA, S.C.

As this brief hour celebrating the two hundredth anniversary of the birth of John C. Calhoun draws to a close, it seems to me proper for us to remember that for the past thirty years a concurrent majority of whom Calhoun would approve has been engaged in an endeavor which commemorates not simply his birth but his entire career—indeed the very life which the great South Carolinian devoted to the service of the people of his state and the American Republic.

I refer, of course, to the Papers of John C. Calhoun, fourteen volumes to date, but a project of far greater scope and significance than can be encompassed in the books which bear that title—fine though they are. The published volumes and those yet to come will contain only a portion, although the most important portion of the words written by or to Calhoun. In addition to the published volumes, available in libraries throughout the country, the editors have assembled for study in manuscript or photocopy at the University of South Carolina, after years of painstaking search, *all* of the known words written by or to Calhoun.

For one who trusted more strongly than any other American, "in the power of words engrossed on parchment to keep a government in order" (Walton H. Hamilton, "Constitutionalism," *Encyclopedia of the Social Sciences,* IV, 254), this mass of assembled words is perhaps his most fitting monument, truer to his essential spirit than his numerous biographies, his many portraits, or even the statutes which honor him here in the United States Capitol, in the rotunda of the State House in Columbia, and atop the pedestal at Charleston's Marion Square.

The concurrent majority responsible for the Calhoun Papers has been both organizational and individual. Listed in 1951 by Philip M. Hamer, Executive Director of the National Historical Publications Commission, as among the foremost needs of students of American history, the Calhoun Papers has enjoyed continued, though modest support from NHPC, its successor, the National Historical Publications and Records Commission, and the Executive Directors who followed Dr. Hamer: Oliver Wendell Holmes, E. Berkeley Tompkins, and Frank G. Burke. Support by NHPRC has also meant support by the members of that Commission—Senators, Congressmen, Justices of the Supreme Court, persons appointed by the scholarly associations, citizens appointed by the Presidents from Eisenhower to Reagan, and four Archivists of the United States, who have served as chairmen of the Commission: Wayne C. Grover, Robert H. Bahmer, James B. Rhoads, and Robert M. Warner, who is with us today. Behind NHPRC and the National Archives, of course, has been their supervising agency, the General Services Administration, and undergirding this national support and making it possible has been the Congress of the United States, particularly the chairmen of the authorizing and appropriation committees and subcommittees, who year after year have committed themselves to publication of the papers of Calhoun and other great men and women of American history. Among these committee chairman, to whom documentary history is so indebted, I may be pardoned for signaling out the Honorable Jack Brooks of Texas, both because of his long tenure as head of the House Government Operations Committee and because of my close association with him over the years. Congressman Brooks has been a consistent friend of the National Archives and the National Historical Publications and Records Commission.

On the State level the concurrent majority of institutions and persons who have stood behind the Papers of John C. Calhoun has been equally impressive. Presidents of the University of South Carolina, from Donald Russell to James Holderman, have provided office space and support and have been proud to boast of publication of the volumes by the University of South Carolina Press. State appropriations for the project from 1954 through the current fiscal year have been provided by the General Assembly through the South Carolina Department of Archives and History; my predecessor, J. Harold Easterby, and I have been honored by our association with the endeavor. State appropriations would not have been possible, without the approval of South Carolina's history-minded patriotic Governors, from James F. Byrnes to Richard W. Riley. Among these, of course, was our present junior Senator, Ernest F. Hollings, but not our senior Senator, Strom Thurmond, who had left the Governor's chair by the time the Calhoun Papers got started. Mr. Thurmond was, however, in at the beginning. He was a member of the advisory committee set up to plan the undertaking in 1952; and when the project began to need funds he was instrumental in bringing about a annual contribution of money from the South Caroliniana Society, a citizens group devoted to the preservation of South Carolina documentary history. This annual contribution has continued until today, and the South Caroliniana Society merits its name on the pages as one of the sponsoring institutions.

The Calhoun Papers has had three editors. The first of these was Robert L. Meriwether, my life-long mentor and friend—a model for me to emulate since I was a small boy. I was present, I think, when Phil Hamer, his fellow South Carolinian and Wofford College classmate, persuaded Rob Meriwether to put aside his plans for continuing his definitive work on the expansion of South Carolina to undertake the assembling and publication of the Papers of John C. Calhoun. The decision was made, fittingly enough, under the portico of the old South Carolina College Library, designed by Robert Mills, architect of the Washington Monument and other magnificent structures here—another great South Carolinian who devoted his talents to the nation. Meriwether wrote the synopsis for the play, set the stage, and assembled the actors. When he died in 1958, Volume I, which served as a model for all which followed, was almost completed. In 1959, W. Edwin Hemphill came on for the long haul. Affable, scholarly, meticulous, and indefatigable, Ed Hemphill was ideally suited for making the dream a reality. He saw Volume I through the Press and edited and published eight more before his retirement in 1977. Volume X, published in that year, was the joint work of Dr. Hemphill and his associate editor, Clyde O. Wilson. Since becoming full editor Dr. Wilson has edited and published four more, and Volume XV is ready for the Press. The work of all three editors has been greeted with scholarly and critical acclaim.

Volume XV will bring Calhoun up to December 5, 1841, with nine years of his life, his tenure as Secretary of State, his final years in the Senate, and the vitally important Compromise of 1850, yet to be documented by the published Papers. With so much still to come, it is with some anxiety that I have to report that the concurrent majority which has so notably supported the Calhoun Papers during the past thirty years is in some danger of dissolution. Primary responsibility for the project during its early years lay with the South Carolina Department of Archives and History. More recently, as the Department has seen more clearly its central task as the management, preservation, use, and publication of the South Carolina state and local records (a task no one else can assume), more and more responsibility has been assumed by the University of South Carolina. Both Department and University are dependent upon State appropriations, and revenues in South Carolina, as elsewhere, are in decline and much sought after by other agencies with claims as valid as our own. The State of South Carolina will, I am convinced, maintain its level of support for the continued publication of the Papers of its outstanding son. Through its two present Senators, each of whom in his own way models himself and his politics on their great predecessor, South Carolina's influence in the councils of the nation is stronger than it has been in all the years which have gone by since the death of John C. Calhoun.

But Calhoun belongs not only to his State; he belongs also to the Nation. Like his colleagues and rivals in the Senate, Daniel Webster and Henry Clay, like the great men who preceded them and the great men and women who have come after, Calhoun, in the clarifying words of the XIVth Amendment was equally a citizen of the United States and of the State which he called home. He was born in Abbeville County, South Carolina; he died in Washington, D.C.

Thus it is incredible to be told that the present Administration and Congress hesitate, stand in doubt, about whether they should continue the national commitment of some thirty years in support of the collection and publication of the papers of the great figures of our past—that they should seriously entertain the satirical question with which Webster taunted Hayne: "What is all this worth?"

Of what worth to the Nation are the lives and thoughts and service of Washington, Adams, Jefferson, Madison, Jackson, Webster, Clay, and Calhoun? Who can set a price on the contributions of Andrew Johnson, Frederick Douglass, Jane Addams, and Woodrow Wilson?

Is $2,000,000 a year, the meager sum earmarked in recent appropriations to NHPRC, too much to let men and women like these live again in all their brilliant complexity for American scholars and citizens?

We know our strength as a nation from the American past. As the motto on the National Archives proclaims, "What's past is prologue." We must not forget that the quotation from Shakespeare continues: "What to come [is] in yours and my discharge." ("The Tempest," Act II, Scene I, lines 244-45.)

NATIONAL PHYSICAL FITNESS AND SPORTS FOR ALL WEEK

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 459, Senate Joint Resolution 143.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side.

NATIONAL PHYSICAL FITNESS AND SPORTS FOR ALL WEEK

The joint resolution (S.J. Res. 143) to authorize and request the President to designate the week of May 2 through May 8, 1982, as "National Physical Fitness and Sports for All Week," was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 143

Whereas one of every two adults in our country is a regular participant in exercise and sports;

Whereas the number of physically active men and women has doubled in ten years and continues to grow rapidly;

Whereas today we recognize that physical activity is an important part of daily life for people of both sexes and of all ages;

Whereas physical activity is vital to good health and is a rich source of pleasure and personal satisfaction;

Whereas our physical fitness and sports programs are one of the primary means by which we strengthen our bodies and refresh our spirits; and

Whereas it is essential that we make fitness and sports programs increasingly available so that all of our citizens will be able to experience the joys and benefits they offer: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of May 2 through May 8, 1982, as "National Physical Fitness and Sports for All Week", and to call upon Federal, State, and local government agencies, and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

THE EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering Calendar Nos. 673, 674, 675, 676, and 677.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The legislative clerk proceeded to read various nominations.

Mr. STEVENS. Mr. President, I ask unanimous consent that the nominations to which I have just referred be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations, considered and confirmed en bloc, are as follows:

THE JUDICIARY

John L. Coffey, of Wisconsin, to be U.S. circuit judge for the seventh circuit, vice Thomas E. Fairchild, retired.

William W. Caldwell, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania, vice R. Dixon Herman, retired.

Glenn E. Mencer, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice Daniel J. Snyder, deceased.

Carol Los Mansmann, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania, vice William W. Knox, deceased.

COMMISSION ON CIVIL RIGHTS

Clarence M. Pendleton, Jr., of California, to be a member of the Commission on Civil Rights, vice Arthur S. Flemming.

Mr. STEVENS. Mr. President, I move to reconsider en bloc the votes by which the nominations were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of that action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

RESCISSION AND DEFERRAL PROPOSALS—MESSAGE FROM THE PRESIDENT—PM 120

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred, pursuant to the order of January 30, 1975, to the Committee on Appropriations; to the Committee on the Budget; to the Committee on Energy and Natural Resources; to the Committee on Finance; and to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one proposal to rescind $215.2 million in budget authority previously provided by the Congress, five new deferrals totaling $58.9 million, and two revisions to existing deferrals increasing the amount deferred by $14.6 million.

The rescission proposal affects programs in the United States Postal Service. The deferrals affect programs in the Departments of Energy, Health and Human Services, the Interior, and the Treasury.

The details of each rescission proposal and deferral are contained in the attached reports.

RONALD REAGAN.

THE WHITE HOUSE, *March 18, 1982.*

MESSAGES FROM THE HOUSE

At 12:42 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 634. An act to authorize the exchange of certain lands in Idaho and Wyoming.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3171. An act for the relief of Dr. David Pass;

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke;

H.R. 4350. An act for the relief of Arthur J. Grauf; and

H.R. 4490. An act for the relief of Lehi L. Pitchforth, Jr.

At 2:08 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House insists upon its amendment to the amendment of the Senate to the bill (H.R. 4717) to delay for 1 year the effective date of certain provisions recognizing gain on certain dispositions of LIFO inventories, to make adjustments in the net operating loss carryback and carryforward rules for the Federal National Mortgage Association, and to require information returns with respect to safe harbor leases; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. RANGEL, Mr. STARK, Mr. FORD of Tennessee, Mr. CONABLE, Mr. DUNCAN, and Mr. FRENZEL as managers of the conference on the part of the House.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 290. A concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3171. An act for the relief of Dr. David Pass; to the Committee on the Judiciary.

H.R. 3835. An act for the relief of Rutherford K. Clarke and his wife Ida T. Clarke; to the Committee on the Judiciary.

H.R. 4350. An act for the relief of Arthur J. Grauf; to the Committee on the Judiciary.

H.R. 4490. An act for the relief of Lehi L. Pitchforth, Jr.; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION PLACED ON CALENDAR

The following concurrent resolution was read, and ordered placed on the calendar:

H. Con. Res. 290. A concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

ENROLLED BILL PRESENTED

The Secretary reported that on today, March 18, 1982, he had presented to the President of the United States the following enrolled bill:

S. 262. An act for the relief of Dolly Akers, Fort Peck Indian Reservation, Montana.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Rear Adm. Herbert R. Lippold, Jr., National Oceanic and Atmospheric Administration, to be a member of the Mississippi River Commission;

Frederic Arnold Eidsness, Jr., of Colorado, to be an Assistant Administrator of the Environmental Protection Agency.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself and Mr. DeConcini) (by request):

S. 2231. A bill to amend chapter 223 of title 18 of the United States Code to provide limitation of the fourth amendment exclusionary rule; to the Committee on the Judiciary.

By Mr. HELMS:

S. 2232. A bill for the relief John W. Pope; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. Matsunaga):

S. 2233. A bill to provide for the payment of incentive special pay to Veterans' Administration psychologists who obtain certain board certification in a professional specialty; to the Committee on Veterans' Affairs.

By Mr. INOUYE (by request):

S. 2234. A bill to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Alani Lipine* to be documented as a vessel of the United States so as to be entitled to engage in coastwide trade; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN (for himself and Mr. D'Amato):

S. 2235. A bill to amend title 3, United States Code, to provide improved protection for foreign diplomatic missions; to the Committee on Environment and Public Works.

By Mr. INOUYE:

S. 2236. A bill authorizing the Secretary of the Army, acting through the Chief of Engineers to make studies in cooperation with the governments of the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the purpose of providing plans for the development, utilization, and conservation of water and related land resources of such Territory and Commonwealth, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOLE (for himself, Mr. Percy, and Mr. Danforth) (by request):

S. 2237. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; to the Committee on Finance.

By Mr. METZENBAUM (for himself and Mr. Randolph):

S. 2238. A bill to amend title XVIII of the Social Security Act to provide coverage for dental care, eyeglasses, and hearing aids under the part B supplementary medical insurance program; to the Committee on Finance.

By Mr. WEICKER (for himself, Mr. Pell, Mr. Sarbanes, and Mr. Bentsen):

S. 2239. A bill to end the use of steel-jaw, leghold traps; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself and Mr. Warner):

S. 2240. A bill to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules; to the Committee on Governmental Affairs.

By Mr. HEINZ:

S. 2241. A bill to fight violent crime and combat illegal drug trafficking; to the Committee on the Judiciary.

By Mr. RIEGLE (for himself and Mr. Melcher):

S. 2242. A bill to amend titles XVIII and XIX of the Social Security Act to provide more adequate coverage of the services of mental health specialists under the medicare part B program and under the medicaid program; to the Committee on Finance.

By Mr. HATFIELD (for himself, Mr. Weicker, Mr. Kennedy, and Mr. Eagleton):

S. 2243. A bill to condition United States military support for El Salvador on participation by the Government of El Salvador in negotiations with all major parties to the conflict which are willing to engage, without preconditions, in such negotiations for the purpose of achieving a cease-fire and an equitable political solution to the hostilities; to the Committee on Foreign Relations.

By Mr. HOLLINGS:

S.J. Res. 169. A joint resolution to designate the week of April 18, 1982, as "National Architecture Week"; to the Committee on the Judiciary.

By Mr. RANDOLPH (for himself, Mr. Sarbanes, Mr. Inouye, Mr. Riegle, Mr. Baucus, Mr. Chiles, Mr. Pryor, Mr. Burdick, Mr. Levin, Mr. Bentsen, Mr. Sasser, Mr. Nunn, Mr. Bradley, Mr. Pell, Mr. Hollings, Mr. Kennedy, Mrs. Hawkins, Mr. Weicker, Mr. Denton, Mr. Hatch, Mr. Packwood, Mr. Stafford, Mr. Humphrey, Mr. Grassley, Mrs. Kassebaum, Mr. Hatfield, Mr. Cohen, and Mr. Durenberger):

S.J. Res. 170. A joint resolution to designate the week of November 7, 1982, through November 14, 1982, as "National Hospice Week"; to the Committee on the Judiciary.

By Mr. PERCY:

S.J. Res. 171. A joint resolution with respect to nuclear arms reductions; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND (for himself and Mr. Hollings):

S. Res. 345. A resolution to commemorate the two hundreth anniversary of the birth of John Caldwell Calhoun; considered and agreed to.

By Mr. HUDDLESTON (for himself, Mr. Zorinsky, Mr. Melcher, Mr. Pryor, Mr. Boren, Mr. Dixon, Mr. Baucus, Mr. Bentsen, Mr. Bumpers, Mr. Robert, C. Byrd, Mr. Eagleton, Mr. Exon, Mr. Ford and Mr. Sasser):

S. Res. 346. A resolution expressing the sense of the Senate that emergency action should be taken by the President and the Secretary of Agriculture to stabilize the farm economy; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PELL:

S. Con. Res. 74. A concurrent resolution expressing the sense of the Congress concerning the ongoing negotiations with respect to a comprehensive law of the sea treaty; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. DeConcini) (by request):

S. 2231. A bill to amend chapter 223 of title 18 of the United States Code to provide limitation on the fourth amendment exclusionary rule; to the Committee on the Judiciary.

EXCLUSIONARY RULE

Mr. THURMOND. Mr. President, I am pleased to introduce, along with the Senator from Arizona (Mr. DeConcini), on behalf of the administration the Attorney General's proposal to amend title 18 of the United States Code to provide limitation of the fourth amendment exclusionary rule.

I ask unanimous consent that the bill and the executive communication from the Attorney General on the measure be inserted in the Record following these remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"**§ 3505. Limitation of the Fourth Amendment Exclusionary Rule**

"Except as specifically provided by statute, evidence which is obtained as a result of a search or seizure and which is otherwise admissible shall not be excluded in a proceeding in a court of the United States if the search or seizure was undertaken in a reasonable, good faith belief that it was in conformity with the fourth amendment to the Constitution of the United States. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable good faith belief, unless the warrant was obtained through intentional and material misrepresentation.".

(b) The table of sections of such chapter is amended by adding at the end thereof the following item:

"3505. Limitation of the Fourth Amendment Exclusionary Rule.".

Office of Legislative Affairs,
Washington, D.C., March 10, 1982.

The Vice President,
U.S. Senate,
Washington, D.C.

Dear Mr. Vice President: Enclosed for your consideration and appropriate reference is a legislative proposal to amend title 18 of the United States Code by adding a new section, 3505, to Chapter 223 to limit the application of the fourth Amendment exclusionary rule in federal court proceedings. The proposed bill would eliminate the application of the exclusionary rule in situations where the rule's deterrent purpose is not served because evidence was obtained pursuant to a search or seizure undertaken by law enforcement officers in the reasonable and good faith belief that their actions were lawful.

The proposal is intended primarily to enhance the operation of the federal criminal justice system by allowing courts greater access to all reliable evidence relevant in determining the guilt or innocence of the defendant, and to promote renewed respect for that system as a search for the truth in the minds of our citizens.

The exclusionary rule is a judicially created rule under which evidence is barred from introduction at a proceeding such as a criminal trial if the evidence is determined to have been obtained as a result of a search or seizure that violated the first clause of the Fourth Amendment, which provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." The rule is of comparatively recent vintage and was not even applied by the Supreme Court in the context of the Fourth Amendment until 1914, 123 years after the Fourth Amendment was adopted; it has only been held applicable to state criminal proceedings for the past twenty years.

There are no constitutional or statutory provisions which specifically set limits on what is meant by an "unreasonable" search or seizure. Instead the law in this area is an amalgam of cases dealing with a vast range of issues relating to the undertaking of searches and seizures. Yet courts continue to apply the rule even as they continue to develop the law of search and seizure. The heart of the present problem in application of the rule is that it has been expanded gradually by the courts to apply in situations in which the rule cannot possibly serve its primary purpose of deterring police misconduct. This distortion of the rule's purpose has resulted in a substantial cost to our society as law enforcement officers and private citizens alike have lost faith in our criminal justice system.

In considering those costs the Supreme Court has stated that the rule "deflects the truthfinding process and often frees the guilty," *Stone* v. *Powell*, 428 U.S. 465, 490 (1976); its "cases have consistently recognized that unbending application of the exclusionary sanction to enforce ideals of governmental rectitude would impede unacceptably the truthfinding functions of the judge and jury." *United States* v. Payner, 447 U.S. 727, 734 (1980). The Court's recognition of the price exacted by the rule now causes it to answer the question of whether the rule should be applied in a particular context "by weighing the utility of the exclusionary rule against the costs of extending it . . ." *Stone* v. *Powell, supra* at 489.

When first imposed by the Supreme Court in 1914, the exclusionary rule was justified both as a means of deterring unlawful police misconduct and on a judicial integrity ground, which sought to prevent courts from being accomplices in willful constitutional violations. Over time, it has become clear that the deterrence rationale is the foremost reason behind the rule. Cases such as *Stone* v. *Powell, supra, Michigan* v. *DeFillippo*, 443 U.S. 31 (1979), *United States* v. *Peltier*, 422 U.S. 531 (1975), and *United States* v. *Calandra*, 414 U.S. 338 (1974), have clearly established that today the rule will be invoked to protect Fourth Amendment rights only when to do so is deemed efficacious as a deterrent to unlawful conduct by law enforcement authorities. In consistently focusing on the deterrence rationale in defining and limiting the application of the rule, the Court has all but ignored the judicial integrity ground. At any rate, to the extent that notions of "judicial integrity" are still a basis for the rule's retention, the Supreme Court in *Peltier, supra*, has stated that "the 'imperative of judicial integrity' is also not offended if law enforcement officials reasonably believed in good faith that their conduct was in accordance with the law . . ." 422 U.S. 531, 537-38.

Although the Court recognizes deterrence as the rule's paramount purpose, it has not limited the rule only to those situations in which the law enforcement officer's conduct is susceptible to being deterred. For example, courts continue to suppress evidence seized by law enforcement officers during searches conducted pursuant to duly authorized warrants obtained in good faith but later found defective by an appellate court. Such was the situation in *Spinelli* v. *United States*, 393 U.S. 410 (1969). The exclusionary rule was also applied in a recent case where DEA agents, following a rule of law adopted in their circuit and two other circuits, seized evidence only to have it suppressed years later by the Supreme Court, which rejected that particular rule. See *Steagald* v. *United States*, 451 U.S. 204 (1981). Cases such as those involve disagreements by federal judges, not police misconduct. Yet the evidence is suppressed despite the fact that the officers are conducting themselves properly by carrying out the orders of the court.

A more frequent problem with application of the rule arises when police in the field are confronted with a question as to whether they can make a warrantless search or arrest. Although arrests and seizures may sometimes be made without a warrant, the specific rules governing police conduct are to be found in hundreds of appellate court decisions that are often confusing or even flatly contradictory. The police must make an immediate legal analysis, often while confronting a known criminal. These situations often present such difficult factual situations coupled with a high degree of danger to the officer that the rule can in no way act as a deterrent.

The rule was applied in precisely this type of case by the Supreme Court last term in *Robbins* v. *California*, 101 S. Ct. 2841 (1981). In *Robbins*, the Court excluded evidence of a substantial quantity of marihuana found in a car trunk in a decision based largely on two previous cases, *United States* v. *Chadwick*, 433 U.S. 1 (1977) and *Arkansas* v. *Sanders*, 442 U.S. 753 (1979), neither of which had been decided at the time of the search in *Robbins* in 1975. The *Robbins* decision overruled previous decisions of the trial and appellate courts in California that the search was valid. When finally decided, 14 judges had reviewed the search; seven found it valid; seven invalid. To add to the confusion, less than three months after it decided *Robbins*, the Supreme Court granted certiorari in *United States* v. *Ross*, 102 S. Ct. 386 (1981) and asked both sides to address the question of whether *Robbins* should be reconsidered. It is unrealistic to think that the exclusionary rule can motivate even the most conscientious law enforcement officer to apply flawlessly the teaching of a body of law that the courts are still developing and debating, especially when the examination to test his knowledge is suddenly presented in a potential life or death situation.

It is the type of situation exemplified by *Spinelli, Steagald* and *Robbins*, where the conduct of the officers could not be deterred, that would be covered by our proposal. The often highly probative evidence found during a search undertaken by the officers in reasonable good faith would be admitted and the attention of the court in a criminal case would remain focused on the question of the defendant's guilt or innocence, not diverted to a consideration of possible police error in applying the ever evolving law or search and seizure. Our proposal would still allow consideration of police conduct but the issue would be whether the actions of the law enforcement officers were undertaken in a reasonable and good faith belief that they were lawful. Such good faith is clearly shown when an officer makes an arrest in reliance on a statute that is later found to be unconstitutional or relies on a duly authorized search warrant, a judicial mandate to search which he has a sworn duty to carry out. Hence, the proposed bill specifically provides that a showing that evidence was obtained pursuant to and in the scope of a warrent constitutes prima facie evidence of such a reasonable good faith belief.

It is important to note that a search pursuant to a warrant would not constitute such evidence if the warrant were obtained through intentional and material misrepresentation. This standard is derived from *Franks* v. *Delaware*, 438 U.S. 154 (1978) where the Court emphasized the presumption of validity with respect to an affidavit offered in support of a warrant but held that "where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request." 438 U.S. at 155-156. If at the hearing the defendant establishes that perjury or reckless disregard for the truth was present, and with the affidavit's false material set aside the remaining material is insufficient to establish probable cause for the warrant's issuance, it must be voided and the fruits of the search excluded.

Our proposal is not, however, limited to searches executed pursuant to a warrant. An officer may in good faith make a reasonable interpretation of a statute which a court determines to be inconsistent with the legislative intent, or may reasonably and in good faith conclude that a particular set of facts and circumstances gives rise to probable cause to conduct one of the types of judicially sanctioned warrantless searches, or that a warrant is not required. The proposed legislation would cover such situations as well.

Although intended primarily to apply in criminal proceedings brought in federal court the proposal is drafted so that the same reasonable good faith test would apply to the obtaining of evidence offered in all types of proceedings in federal courts such as applications for federal habeas corpus petitions filed by state prisoners and federal civil cases. Indeed these are the types of cases where the deterrent effect of the rule has already been found to be minimal at best and greatly outweighed by the societal cost of excluding the evidence. In *Stone* v. *Powell, supra*, the Supreme Court held that where a state has provided a full and fair opportunity for litigation of Fourth Amendment claims, a state prisoner may not be granted federal habeas corpus relief on the grounds that evidence obtained by an unlawful search and seizure was introduced at trial. In *United States* v. *Janis*, 428 U.S. 433 (1976), the Court held that the exclusionary rule should not be applied to forbid the use in federal civil proceedings of evidence seized by state officers in good faith reliance on a search warrant that proved to be defective. While the *Janis* holding (the scope of which would not be affected under our proposal) related specifically to the use in the courts of one sovereign of evidence obtained by law enforcement agents of another sovereign, the lack of any deterrent effect of applying the rule would be analogous in the case of a search by federal officers who were acting in good faith.

Our proposal will still encourage and require law enforcement officers to keep abreast of the complex law of search and seizure because the conduct of an officer will have to be informed to be reasonable. Our proposal does not reward ignorance on the part of the police. It simply restrains the rule to its proper boundaries where it will remain as a "judicially created remedy designed to safeguard Fourth Amendment rights generally through its deterrent effect . . ." *United States* v. *Calandra*, 414 U.S. 338, 348 (1974). Thus our proposal would not eliminate the exclusionary rule but rather will eliminate the disrespect for the law that its application often engenders in the minds of the police and the public alike. Moreover, when the rule is applied in the case of a trivial violation or mistake by the police as to whether the requirements of the law have been complied with, and result in the acquittal of a criminal guilty of a serious crime or alters the result in a significant civil proceeding, the lack of proportionality of the sanction applied to the officer's mistake is so great that the confidence of the public in our system of justice cannot help but be eroded. In cases of this nature, where the police have reasonably tried to apply the complex law of search and seizure, the rule has a grossly distorting effect on our system of justice where the central purpose is to search for the truth and, in criminal cases, ensure that the guilty are convicted and the innocent are acquitted.

The Department is satisfied that the Congress may, and indeed should, act to limit the exclusionary rule. In fact, the dissent of the Chief Justice in *Bivens* v. *Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 422-424 (1971), invited Congressional action. Since our proposal is grounded primarily on the cases decided over the past ten years in which the Supreme Court has emphasized the deterrence of unlawful conduct as the sole or primarly purpose of the rule, the Department has concluded that such a modification would be held to be constitutionally permissible. In addition, as mentioned above, our proposal is fully consistent with the principle of judicial integrity as well as with that of deterrence.

The proposal I am submitting is very similar to that already adopted by the Fifth Circuit *en banc* in *United States* v. *Williams*, 622 F. 2d 830 (1980), *cert. denied*, 449 U.S. 1127 (1981) in a decision based on a thorough analysis of relevant Supreme Court cases, and it basically follows the recommendation of the Attorney General's Task Force on Violent Crime which conducted hearings on the issue around the country and received the opinions of distinguished citizens and jurists of all points of view.

The Office of Management and Budget advises that submission of this proposal is in accord with the Administration's program.

Sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General,
Office of Legislative Affairs.

By Mr. HELMS:

S. 2232. A bill for the relief of John W. Pope; to the Committee on Finance.

RELIEF OF JOHN W. POPE

● Mr. HELMS. Mr. President, I offer a bill to provide for the private relief of Mr. John W. Pope.

Mr. Pope, a taxpayer in North Carolina, had a pension plan with his company, Variety Wholesalers, Inc. The plan was terminated in 1976, and there was a distribution of all the plan's assets in December of that year except for an insurance policy on Mr. Pope's life, which he wished to purchase but could not because at the time Pension Benefit Guaranty Corporation regulations prohibited the sale of a life insurance policy by a pension plan.

In early 1977 Mr. Pope established a rollover IRA account with the proceeds from his payout. Also in early 1977, the PBGC changed its regulations governing the sale of a life insurance policy by a pension plan to allow such a sale. Mr. Pope was able to purchase his policy, and he promptly deposited these funds in a rollover IRA account. A complete rollover of all funds received by Mr. Pope from the terminated pension plan was thus accomplished within 60 days of the plan's termination.

The IRS audited Mr. Pope's 1976 and 1977 tax returns and disallowed the entire rollover because of a technicality that requires all payouts to be made within 1 calendar year. The IRS assessed an income tax deficiency, plus interest and a substantial penalty.

Mr. President, Mr. Pope has been unjustly penalized by the IRS because the PBGC changed the rules regarding the sale of a life insurance policy by a pension plan. When Mr. Pope's pension plan was terminated, PBGC regulations barred the sale of his life insurance policy. But within weeks the PBGC changed its regulations to allow such a sale.

Congress never intended to penalize taxpayers who comply with requirements of the Employee Retirement Income Security Act, but who nevertheless face adverse treatment by the IRS because the payout of the proceeds of a terminated pension plan straddles 2 calendar years.

Mr. President, my bill simply provides that in the administration of the provisions of section 402(a)(5) of the Internal Revenue Code of 1954, that portion of the distributions received by Mr. Pope from the Variety Wholesalers, Inc., pension plan during December 1976 and January 1977, and deposited into an individual retirement account described in section 408(a) of the Code, shall be treated as a qualifying rollover distribution and shall not be included in gross income. The bill would also allow Mr. Pope to file a claim for credit or refund which is attributable solely to the enactment of my bill within 1 year after the date of its enactment.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in the administration of the provisions of section 402(a)(5) of the Internal Revenue Code of 1954, that portion of the distributions which were—

(1) received by Mr. John W. Pope from the Variety Wholesalers, Inc. pension plan during December 1976 and January 1977, and

(2) deposited into an individual retirement account described in section 408(a) of such Code,

shall be treated as a qualifying rollover distribution and shall not be included in gross income.

(b) Notwithstanding any period of limitation on the time for filing a claim for credit or refund, Mr. John W. Pope may, within 1 year after the date of the enactment of this Act, file a claim for credit or refund which is attributable solely to the enactment of this Act.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2233. A bill to provide for the payment of incentive special pay to Veterans' Administration psychologists who obtain certain board certification in a professional specialty; to the Committee on Veterans' Affairs.

INCENTIVE PAY FOR SPECIALTY CERTIFICATION

● Mr. INOUYE. Mr. President, today, on behalf of Senator MATSUNAGA and myself, I am introducing legislation to amend the Veterans' Administration incentive pay provisions in order to provide our Nation's psychologists the same professional opportunities that we have accorded their physician colleagues.

Our proposal would authorize and direct the Veterans' Administration to provide for the same $2,500 bonus as the Veterans' Administration physicians presently receive, when a member of the psychological profession has passed his or her national specialty boards.

To be eligible today to sit for the American Board of Professional Psychology, Inc.'s diploma, a psychologist must have been awarded a doctoral degree in psychology from a college or university which meets the standards of the American Psychological Association and must have completed 5 years of qualifying experience, 4 years of which must have been postdoctoral. I understand that the actual examination involves both a detailed work sample and an oral examination by one's professional peers. Further, I understand that currently less than 8 percent of all eligible psychologists ever achieve this distinction.

In our judgment, it would very much be in the best interests of our Veterans' Administration to actively encourage professional development by its health care practitioners of all disciplines and, accordingly, we would strongly urge our colleagues on the Veterans' Affairs Committee to give our proposal every consideration.

Mr. President, I request unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter I of chapter 73 of title 38, United States Code, is amended—

(1) by redesignating section 4119 as section 4120; and

(2) by inserting after section 4118 the following new section:

"§ 4119. Incentive special pay for psychologists

"(a) The Administrator may pay incentive special pay to any psychologist appointed under this chapter who—

"(A) executes an agreement with the Administrator to complete a specified period of service in the Department of Medicine and Surgery; and

"(B) is awarded a diploma as a Diplomate in Clinical Psychology or as a Diplomate in Counseling Psychology by the American Board of Professional Psychology.

"(b)(1) The amount of incentive special pay which the Administrator may pay under this section to any psychologist may not exceed—

"(A) $2,500 per annum in the case of any full-time psychologist; and

"(B) a proportional amount of $1,500 per annum in the case of any part-time psychologist as provided under paragraph (2) of this paragraph.

"(2) The proportional amount of the incentive special pay payable under paragraph (1) (B) of this subsection shall be calculated on the basis of the ratio which the part-time employment of such psychologist in the Department of Medicine and Surgery bears to full-time employment.

"(c)(1) Any agreement entered into by a psychologist under subsection (a)(1)(A) of this section shall specify a period of one year of service in the Department of Medicine and Surgery unless the psychologist requests an agreement for a longer period of service not to exceed four years. Any psychologist who entered into an agreement under this section and has not failed to refund any amount which such psychologist became obligated to refund under any such agreement shall be eligible to enter into a subsequent agreement under this section.

"(2)(A) Any such agreement shall provide that the psychologist, in the event that such psychologist voluntarily, or because of misconduct, fails to complete at least one year of service, or such longer period of service as provided for in the first sentence of paragraph (1) of this subsection, pursuant to such agreement, shall be required to refund the total amount received under this section, unless the Chief Medical Director determines, in accordance with regulations prescribed under subsection (f) of this section, that such failure is necessitated by circumstances beyond the control of the psychologist.

"(B) Any such agreement shall specify the terms under which the Veterans' Administration and the psychologist may elect to terminate such agreement.

"(3) Any psychologist who enters into an agreement under this section is eligible to receive incentive special pay beginning on the date on which the agreement is entered into, or the date on which the psychologist becomes employed, whichever date is later.

"(d) Any amount of incentive special pay payable under this section shall be paid in biweekly installments.

"(e)(1) Except as provided in paragraph (2) of this subsection, any additional compensation provided as incentive special pay under this section shall not be considered as basic pay for the purposes of section 5551, 5552, or 5595 of title 5, chapter 81 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(2) Additional compensation paid as incentive special pay under this section to any full-time employee shall be included in basic pay for the purposes of chapter 83 of title 5. Notwithstanding the preceding sentence, special pay paid to any full-time employee shall be included in average pay, as defined in section 8331 (4) of such title, for the purposes of computing an annuity under such chapter only if—

"(A) the annuity is paid under section 8337 of such title or under subsection (d) or (e) of section 8341 of such title; or

"(B) the employee has completed not less than 15 years of full-time service in the Department of Medicine and Surgery (except that, regardless of the length of such employee's service, no incentive special pay may be included by reason of this clause in average pay in computing an annuity that commences before October 1, 1985, and only one-half of any incentive special pay paid after the effective date of this section may be included by reason of this clause in average pay in computing an annuity that commences on or after October 1, 1985, but before October 1, 1990.

"(3) Any additional compensation provided as incentive special pay under this section shall be considered as annual pay for the purposes of chapter 87 of title 5, relating to life insurance for Federal employees.

"(f) The Administrator shall prescribe such regulations as he considers necessary to carry out this section.".

(b) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 4119 and inserting in lieu thereof the following:

"4119. Incentive special pay for psychologists.
"4120. Relationships between this subchapter and other provisions of law.".

Sec. 2. The amendments made by this Act shall take effect October 1, 1982.●

By Mr. MOYNIHAN (for himself and Mr. D'Amato):

S. 2235. A bill to amend title 3, United States Code, to provide improved protection for foreign diplomatic missions; to the Committee on Environment and Public Works.

PROTECTION FOR FOREIGN DIPLOMATIC MISSIONS

● Mr. MOYNIHAN. Mr. President, the city of New York has historically been a city of diverse nationalities, a port of entry for millions of people from all over the world who have made America their home. Since 1945, New York has also been host to thousands of people of nearly every nationality residing there while representing their countries at the headquarters of the United Nations.

New York's diplomatic community of 35,000 is the largest in the world. Protection of that population is primarily the responsibility of the law enforcement authorities of the city of New York. Not until December 31, 1975, when Public Law 94-196 became effective, did the Federal Government acknowledge its responsibility for bearing all the extraordinary costs associated with this protection. That law authorizes Federal reimbursement of up to $3.5 million annually for the costs of protecting permanent foreign diplomatic missions and visiting foreign diplomats to the United Nations.

I am introducing a bill today, with the cosponsorship of my distinguished colleague from New York, Senator D'Amato, to amend this law in two respects. First, it will raise the annual authorization from $3.5 million to $15 million. Second, it will clarify authority for reimbursing expenses incurred in providing security for motorcades. Since 1980, provisions of successive appropriations acts have made clear that those expenses are reimbursable, and the Treasury Department, which administers this law, has revised its regulations to the same effect. The bill would enact this understanding into law.

The authorization of $3.5 million has been insufficient to reimburse New York for the annual costs of protecting U.N. diplomats almost from the beginning. For the past several years, the authorization has not been sufficient to meet the allowable claims of New York under the law and, by the end of fiscal year 1982, New York will have accumulated $18.4 million in uncollected, reimbursable expenses. New York's expenses under the law are estimated at $6 million for fiscal year 1983. Alarmingly, the administration has requested just $1 million for this assistance in its fiscal year 1983 budget. If approved, that would place the Federal Government an additional $5 million behind in its reimbursements, increasing the amount in arrears to $23.4 million.

New York City does not ask for or receive reimbursement for protecting the United Nations buildings, the United States Mission to the U.N., diplomatic residences, foreign commercial offices in New York, or for maintaining order at demonstrations outside the U.N. And New York has fully carried out its obligations despite its fiscal circumstances, which have forced a reduction in its police force of one-third since the law was passed.

With this decrease in personnel and an inadequate Federal payment, the city has been faced with an increasing security workload. In 1981, there were 17 diplomatic visits to the U.N. requiring extraordinary security measures. Moreover, there has been a startling and disturbing increase in the number of terrorist attacks aimed at diplomats and diplomatic buildings in New York. Since December 1979, there have been 18 bombings, the most recent directed at the Egyptian Tourist Office. In the fall of 1980, a Cuban diplomat was murdered on a city street. He was the first diplomat killed in New York since the U.N. headquarters was located in the city. During all or part of 1981, the city police department had to maintain fixed sentinel posts at 54 diplomatic missions.

Protecting foreign diplomats in the United States is a matter of national concern, just as is Americans' insistence that our diplomats be protected wherever they are stationed abroad. The protection of delegates to the United Nations is a matter of international obligation and the underpinning of international reciprocity.

The arrangements instituted in this law also protect the interests of the American taxpayer. They are cost effective. The Treasury Department estimated several years ago that dispatching a member of the Secret Service Uniformed Division from Washington to New York poses twice the expense of assigning a New York City police officer to the same duty.

I ask unanimous consent that a copy of the bill and a letter on this subject from the mayor of the city of New York to the Secretary of the Treasury be inserted in the Record following my remarks.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 208(a) of title 3, United State Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof: ", including those utilized to provide protection for motorcades and at places associated with a visit qualifying under section 202(7).".

(b) Section 208(b) of title 3, United States Code, is amended by striking out "$3,500,000" and inserting in lieu thereof "$15,000,000".

Sec. 2. The amendments made by this Act shall take effect on October 1, 1982.

The City of New York,
Office of the Mayor,
New York, N.Y., January 15, 1982.

Hon. Donald T. Regan,
Secretary of the Treasury,
Department of the Treasury,
Washington, D.C.

Dear Don: I want to raise with you a problem that is a source of growing concern to me and Police Commissioner McGuire.

The cost of providing police security for New York's diplomatic community is increasing dramatically, and while the Federal Government has recognized its obligation to reimburse the City for these expenditures, the authorization levels of the controlling legislation, Public Law 94-196, are manifestly inadequate to meet these obligations. At the same time, severe resource constraints brought about by the City's fiscal difficulties have reduced the police force by over one-third since 1975. Indeed, police manning levels are at their lowest levels since 1954, when the volume of major felony crime was less than half of what it is today. Accordingly, it is becoming increasingly difficult to meet the security requirements of both the diplomatic community and the citizens at large of our City. We therefore need the determined assistance of the Administration in persuading Congress to raise from $3.5 million to $15 million the annual authorization level for appropriations under the law, and to make permanent the favorable language regarding motorcade security costs that has been contained in recent annual appropriation bills.

The security climate in which New York City's diplomatic community carries out its responsibilities is becoming increasingly troublesome for the senior commanders of the Police Department. Until recent years field units were preoccupied mainly with low-level incidents such as egg throwing or paint daubing at Missions, or organized sit-ins that amounted to harassment, but rarely posed greater danger. Indeed, prior to 1980, New York City had a perfect safety record with respect to the personal security of diplomats and their families. In the 34 years since the establishment of the United Nations, no diplomat had been assassinated or abducted and a procession of popes, members of royalty and heads of state had moved through the City and departed in safety. In the fall of 1980, however, an employee of the Cuban Mission holding diplomatic status, Feliz Garcia-Rodriguex, was shot to death on a City street, ending New York's enviable record of no diplomatic blood shed.

This event, when coupled with an increase of violent assaults on doplomatic facilities in the City, has led the police department to conclude that European-style acts of terrorism may soon become more prevalent in the diplomatic life of New York. During the two-year period from December 1979 through December 1981 there were 18 terrorist bombings in New York City, including attacks against the Cuban Mission, the Soviet Mission, the Turkish Mission, the Yugoslav Bank, Aeroflot, the Cuban Ambassador's car, the Honduran Consulate, the United States Mission to the United Nations, a number of vehicles owned by the Soviet Mission, the automobile of a diplomat accredited to the Nigerian Mission, the Mexican Mission and the Egyptian Tourist Office. In five of these instances, armed devices were removed prior to detonation.

Incipient guerrilla activity against diplomatic establishments in New York City is consistent with widespread acts of terror against diplomatic communities all around the world. As you well know, since 1975 there have been 51 attacks on embassies or other diplomatic establishments representing 30 countries in 39 cities. Six attacks were made upon U.S. Embassies and five American Ambassadors have been killed during this period.

New York's diplomatic community, which numbers approximately 32,000, is the largest in the world. The Police Department's Intelligence Division estimates that there are more than 1,000 disruptive or terrorist groups operating in the United States, many of which are based in New York. A basic tactical police response to security hazards that threaten the safety of diplomats has been the posting of police sentinels at those Missions or other diplomatic properties where concrete threats exist against peace and security of the relevant promises. These fixed posts are maintained, usually on an around-the-clock basis, as long as the threat is thought to be viable. During 1981 the Department maintained coverage at 54 separate diplomatic locations.

Security arrangements are far more extensive and complex for extraordinary hazards that arise in connection with the visit to the City of heads of state and other foreign dignitaries. Exclusive of the 36th General Assembly, there were during 1981 17 visits to New York by 13 foreign dignitaries who required the security attention of the New York police.

Federal reimbursement to New York City for costs incurred in both routine fixed post assignments and extraordinary protective need operations associated with visits by major diplomatic personages is now broadly authorized under revised Treasury regulations promulgated in the fall of 1980.

Intelligence operations have been undertaken to include surveillance of members of terrorist organizations and convicted bombers; round-the-clock bomb watches of frequently targeted diplomatic premises; the broad collection and analysis of information relating to international events which could impact upon diplomatic security considerations in New York City; the bodyguarding of diplomats against whom concrete and viable threats of harm have been made; and specialized training for security personnel assigned to duty at diplomatic premises.

The Police Department currently has United Nations security claims in the amount of $5.6 million pending with the Treasury. The items covered include expenses associated with the 35th General Assembly (1980-1981), security for the Cuban Ambassador and fixed post expenses for the calendar year 1980. Treasury has approved and will pay, out of these submissions, a disbursement of $4.2 million. There is, however, only $2 million remaining out of the 1981 Congressional appropriation for this purpose.

In addition to those $5.6 million in submitted claims, the City will be submitting this week an additional $19.7 million in claims. These include fixed post costs for the years 1974 through 1978 and for 1981, and costs associated with the presence in New York City during 1981 of various dignitaries. Expenses associated with the 36th General Assembly (1981-82), which is still in session, have not been finally computed by the Police Department.

Under the 1982 general appropriation, $3.5 million will be available for reimbursement purposes. Assuming all claims are approved in full, there will be a negative balance of $18.4 million.

If authorization levels in the Federal budget for the reimbursement category continue at the $3.5 million level, the current balance owed to the City would not be eradicated until the 1988 appropriation. Obviously, the Federal Government's debt to the City will be growing during this period, since we have been spending over $5 million annually for diplomatic security since 1979. The 1981 claim will exceed that amount.

The Treasury Department estimates that sending Secret Service Uniform Division personnel to perform these duties would be twice as expensive as having the New York City police assigned to the same duty.

Accordingly, I earnestly request the Administration's support for the necessary legislative changes. City Officials will be taking up the matter with the New York Congressional delegation in Washington on January 18th. Once the appropriate legislation has been introduced, I will be in touch again, asking you to assist us in every way possible.

Sincerely,

EDWARD I. KOCH,
Mayor.●

● Mr. D'AMATO. Mr. President, I am introducing a bill today, with my distinguished colleague from New York, Senator MOYNIHAN, which enables the city of New York to continue supplying adequate protection to foreign diplomats in New York City.

New York's 35,000 diplomats comprise the largest diplomatic community in the world. In the past, the New York City Police Department has done an outstanding job providing security for the diplomatic community, which often includes visiting heads of state. The police department's work has been exemplary despite the fact that their ranks have been cut by one-third in the last 5 years.

Public Law 94-196 authorizes Federal reimbursement of New York City in amounts up to $3.5 million annually for expenses incurred in protecting its diplomatic community. In its fiscal year 1983 budget, the administration has requested only $1 million for diplomatic protection.

It is important that we realize that most of the diplomats in New York City are there to represent their nations in dealing with the entire United States. In reality, the responsibility for the protection of that diplomatic community should be borne by the Federal Government. We must insure that foreign diplomats in our country are secure from the acts of terrorism which are so prevalent throughout the world today.

Our bill would increase the annual authorization from $3.5 million to $15 million. While this would enable the city to receive repayment for reimbursable claims of nearly $6 million annually, the $15 million yearly authorization would also allow the city to begin recovering prior claims which now total $23.4 million. This $23.4 million represents money spent since 1975 by New York City in protecting the diplomatic community.

The U.S. Treasury Department has stated that it would cost twice as much if New York's diplomatic community was protected by the U.S. Secret Service. It is critical that we continue to provide a secure environment for New York City's 35,000 diplomats. I ask for your support.●

By Mr. INOUYE:

S. 2236. A bill authorizing the Secretary of the Army, acting through the Chief of Engineers to make studies in cooperation with the governments of the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the purpose of providing plans for the development, utilization, and conservation of water and related land resources of such territory and Commonwealth, and for other purposes; to the Committee on Environment and Public Works.

RESOURCES OF CERTAIN POSSESSIONS OF THE UNITED STATES

● Mr. INOUYE. Mr. President, I wish to introduce today a bill that would authorize the construction, repair, and preservation of certain public works on rivers and harbors for navigation, and flood control in the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and for other purposes.

During the Senate's deliberations concerning H.R. 7590, making appropriations for energy and water development for the year ending September 30, 1981, we appropriated $150,000 to the Army Corps of Engineers to begin the investigation of the comprehensive water resource plans and needs of the Commonwealth of the Northern Mariana Islands. According to the Senate report (96-927) accompanying H.R. 7590, this allocation was subject to approval of an authorization.

We have since come full circle and there is yet to be an authorization generally or specifically approving the Corps study.

This bill will give the Corps of Engineers the authority to expend the $150,000 that we approved in the 96th Congress, in the manner directed in Public Law 96-367. Let me not be misunderstood, I am not seeking to appropriate $150,000. I am however seeking to authorize a study in the Northern Marianas.

I wish to emphasize that except for individual project authorizations, there has been no public law since 1976 (Public Law 94-587) that contained project authorizations, studies of potential water resources projects, modifications to authorized projects and other provisions relating generally to the water resources development program of the Corps of Engineers. However, during the 96th Congress the House did approve H.R. 4788, entitled the Water Resources Development Act of 1979. This bill did not pass the Senate.

It is important to note that the House bill, H.R. 4788 authorized $2 million for the study I am today seeking to authorize for $150,000. I hope the Senate will move to act favorably on this matter so the Corps can begin its work as soon as is practicable.

Mr. President I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2236

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to make studies in cooperation with the Governments of the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the purposes of providing plans for development, utilization, and conservation of water and related land resources of such Territory and Commonwealth at an estimated cost of $150,000. Such studies shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation, regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality, enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.●

By Mr. DOLE (for himself, Mr. PERCY, and Mr. DANFORTH) (by request):

S. 2237. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; to the Committee on Finance.

CARIBBEAN BASIN ECONOMIC RECOVERY ACT

● Mr. DOLE. Mr. President, I am happy today to join the President in his efforts, through the Caribbean Basin Initiative (CBI), to assist our southern neighbors to build themselves economically and to join in a new, mutually beneficial relationship with the United States. I am sponsoring the legislation to implement this important initiative at the President's request, along with Senator PERCY and Senator DANFORTH.

The desperate economic situation of many of the Caribbean and Central American nations that will benefit from this plan belies the richness of their cultures and resources. Too long we have missed the opportunity to bring to fruition the substantial benefits certain to arise from the development of a full partnership with them. We in the Congress will want to examine closely some of the implications of the CBI for trade and tax policy, and for our longtime friends the Virgin Islands and Puerto Rico. I am confident that we will provide the President with the tools he needs to lend these neighbors a strong helping hand, and to ward off the risk of increasing militarization of the social and political conflicts that trouble the region today.

This bill will provide the necessary legislative authority, to expire in 12 years, for the integrated trade, aid, and investment measures the President proposes to provide the beneficiary countries. Each is essential, alone and in combination with the others, to the success of the program.

Title I sets forth eligibility requirements for the program. Generally, every nation on the Central American peninsula between Mexico in the north and Colombia in the south, plus all the nations of the Caribbean Sea, are in the universe of potential beneficiaries. Subject to overriding national security concerns, however, the legislation prevents the President from naming any nation which disqualifies itself for specific reasons, including being Communist or expropriating U.S. property contrary to international law. In addition, the President must take into account a number of other factors that characterize a potential beneficiary's willingness to participate in the world trading system, following free enterprise principles. The President must report to the Congress his determinations to extend or to terminate the benefits of the program to each country.

Title I further establishes a one-way free trade area with the beneficiary nations. This means that articles from those countries will not be subject to tariffs upon entry into the United States, although U.S. products exported to them will remain dutiable as they determine appropriate. Although approximately 87 percent of the products of these nations already enter the United States duty-free, the extension of such treatment to products especially important to the area will spur growth in sectors in which those countries are demonstrably competitive. Because of a liberal rule of origin in the bill—only 25 percent of value added of products need originate in the area as a whole—outside investors, including ones in the United States, will find it attractive to contribute to that growth.

Textile and apparel products will not be entitled to duty-free entry, but the beneficiary nations should enjoy export growth in them in any case because the President has stated his intention to negotiate liberal quota agreements with the Caribbean nations within the context of overall U.S. textiles policy. No threat to U.S. sugar producers and the sugar price support program should materialize because of quotas that will nevertheless allow for substantially increased imports of the duty-free sugar from these countries. Safeguard relief will protect other U.S. industries from injurious surges in duty-free imports. Moreover, a fast-track safeguard mechanism will be available to U.S. producers of perishable agricultural products. In sum, the President expects that substantial export opportunities will accrue to those nations willing to take advantage of them; at the same time, because of the still relatively small volume of increased exports in proportion to the countries' current trade positions and overall U.S. imports, and because of the safeguard mechanisms, U.S. industries should withstand easily the new competition.

Finally, title I includes some of the measures the President intends to implement to promote the growth of Puerto Rico and the Virgin Islands, and to protect them from significant competitive harm arising from the free trade arrangement. Puerto Rico and the Virgin Islands long have enjoyed preferental market access to the United States that has enabled them to develop economically much faster than their similarly situated Caribbean neighbors. The one-way free trade arrangement will diminish this competitive advantage. The President therefore will undertake a number of compensating and protective measures, not all of which will require legislative action. Included in title I, however, will be authority to remove duty-free treatment of rum from the beneficiary countries when it threatens the revenues Puerto Rico and the Virgin Islands now derive from rebates of Federal excise taxes on rum to them. Title III of the bill will provide that excise taxes on rum from other nations will be rebated also to Puerto Rico and the Virgin Islands. In addition, the President proposes to extend the accelerated cost recovery system and investment tax credit to qualifying property used there. Finally, the bill will accord to Puerto Rico and the Virgin Islands the same access to safeguard relief as U.S. industries.

Title II of the bill would authorize a supplemental appropriation of $350 million in economic support funds this year. The President believes these funds are essential to redress current balance-of-payment crises and a critical lack of private sector credit that, unless remedied, will render meaningless the access to the U.S. market and investment incentives offered by the initiative.

Title III of the bill contains a tax measure designed to enhance the region's attractiveness to U.S. investors. It is an extension for 5 years of the investment tax credit, presently available only for personal property used in the United States, to qualifying property in the beneficiary nations. Agreements will be reached with those countries to insure the information necessary for the Internal Revenue Service to administer properly this provision and to prevent the extension of this benefit to tax haven countries.

Mr. President, I invite my colleagues to give their most serious attention to President Reagan's proposals as contained in this legislation. I believe that through such a package, the United States can provide the necessary leadership and assistance for these nations to achieve, through their own efforts, the economic stabilization and growth that will contribute to their political stability, and to long-term good will to the United States that is important to our own national interest.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2237

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean Basin Economic Recovery Act".

TITLE I—DUTY-FREE TREATMENT

SEC. 101. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions in this title.

SEC. 102. BENEFICIARY COUNTRY.

(a)(1) For purposes of this Act, the term "beneficiary country" means any country in subsection (b) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title. Before the President designates any country as a beneficiary country for purposes of this Act, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into such decision.

(2) If the President has designated any country as a beneficiary country for purposes of this Act, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least 60 days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation, together with the considerations entering into such decision.

(3) For purposes of this title, the term "country" means any foreign country, or any overseas dependent territory or possession of a foreign country.

(b) In designating countries as "beneficiary countries" under this Act, the President shall consider only the following countries and territories or successor political entities:

Anguilla
Antigua and Barbuda
Bahamas, The
Barbados
Belize
Costa Rica
Cuba
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Guyana
Haiti
Honduras
Jamaica
Nicaragua
Panama
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Cayman Islands
Montserrat
Netherlands Antilles
Saint Christopher-Nevis
Turks and Caicos Islands
Virgin Islands, British

In addition, the President shall not designate any country a beneficiary country under this Act—

(1) If such country is a Communist country;

(2) If such country—

(A) has nationalized, expropriated, or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property,

unless—

(D) the President determines that—

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association,

(ii) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute; or

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress.

Paragraphs (1), (2) and (3) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary country under this Act, the President shall take into account—

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own eonomic development; and

(8) the degree to which workers in such country are afforded reasonable work-place conditions and enjoy the right to organize and bargain collectively.

(d) General headnote 3(a) to the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to products of insular possessions) is amended by adding at the end thereof the following paragraph:

"(iv) Subject to the provisions in Section 103 of the Caribbean Basin Economic Recovery Act, articles of which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act."

(e) The President shall, after complying with the requirements of subsection (a)(2), withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

SECTION 103. ELIGIBLE ARTICLES

(a) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article if—

(1) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(2) the sum of (A) the cost or value of the materials produced in a beneficiary country or 2 or more beneficiary countries, plus (B) the direct costs of processing operations performed in such beneficiary country or countries is not less than 25 percent of the appraised value of such article at the time of its entry into the customs territory of the United States. For purposes of determining this percentage the term "beneficiary country" shall include the Commonwealth of Puerto Rico and the Virgin Islands of the United States.

The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection.

(b) The duty-free treatment provided under this title shall not apply to textile and apparel articles which are subject to textile agreements.

(c) For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by Section 22 of the Agricultural Adjustment Act, as amended, (7 U.S.C. 624) to protect a price support program for sugar beets and sugarcane, the importation and duty-free treatment of sugars, sirups, and molasses classified under items 155.20 and 155.30 of the Tariff Schedules of the United States shall be governed in the following manner:

(A)(1) For all beneficiary countries, except those subject to subparagraphs A(2) and B below, duty-free treatment shall be provided in the same manner as it is provided pursuant to Title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), at the time of enactment of this Title: provided, however, that the President upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the value limitation provided for in Section 504(c)(1) of the Trade Act of 1974 on the duty-free treatment afforded to beneficiary countries under this section if he finds that such adjustment will not interfere with the price support program for sugar beets and sugarcane and is appropriate in light of market conditions.

(2) As an alternative to subparagraph (A)(1), the President may, at the request of a beneficiary country not subject to subparagraph (B) and upon the recommendation of the Secretary of Agriculture, elect to permit sugar, sirups and molasses from that country to enter duty-free during a calendar year subject to quantitative limitations to be established by the President on the quantity of sugar, sirups and molasses entered from that country.

(B) For the following countries whose exports of sugar, sirups and molasses in 1981 were not eligible for duty-free treatment because of the operation of Section 504(c) of the Trade Act of 1974, the quantity of sugar, sirups and molasses which may enter the customs territory of the United States in any calendar year shall be limited to no more than the quantity specified below:

	Metric tons
Dominican Republic	780,000
Guatemala	210,000
Panama	160,000

Such sugar, sirups and molasses shall be admitted free of duty, except as provided for in subparagraphs (C).

(C) The President, upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the quantitative limitations imposed under subparagraphs A(2) and B if he determines such action will not interfere with the price support program for sugar beets and sugarcane and is appropriate in light of market conditions. The President, upon the recommendation of the Secretary of Agriculture, may suspend the duty-free treatment for all or part of the quantity of sugar, sirups and molasses permitted to be entered by subparagraphs A(2) and B if such action is necessary to protect the price support program for sugar beets and sugarcane.

(d)(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed pursuant to section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962. Any Proclamation issued pursuant to section 203 of the Trade Act of 1974 in effect when duty-free treatment pursuant to section 101 of this title is proclaimed shall remain in effect until modified or terminated.

(2) In any report by the International Trade Commission to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries. With respect to any article which is subject to import relief in effect at the time duty-free treatment is proclaimed pursuant to section 101 of this title, the President may reduce or terminate the application of such import relief to imports from beneficiary countries prior to its otherwise scheduled date pursuant to the critieria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.

(3) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, as amended, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be made under subsection (a) and (c) of section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(e)(1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection with respect to such article.

(2) Within 14 days after the filing of a petition under paragraph (1) of this subsection:

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency action and so advise the petitioner.

(3) Within 7 days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to subparagraph 2 of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by subparagraph 3 of this subsection shall cease to apply (1) upon the proclamation of import relief pursuant to section 202(a)(1) of the Trade Act of 1974, (2) on the day the President makes a determination pursuant to section 203(b)(2) not to impose import relief, (3) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or (4) whenever the President determines that because of changed circumstances such relief is no longer warranted.

(5) For purposes of this subsection the term "perishable product" shall mean—

(A) fresh or chilled vegetables provided for in TSUS items 135.10 through 138.42;

(B) fresh mushrooms provided for in TSUS item 144.10;

(C) fresh fruit provided for in TSUS items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21, and 149.50; and

(D) fresh cut flowers provided for in TSUS items 192.17, 192.18 and 192.21.

(f) No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 104. MEASURES FOR PUERTO RICO AND U.S. INSULAR POSSESSIONS

(a) Item 813.31 of Schedule 8 of the Tariff Schedule of the United States (19 U.S.C. 1202) is amended by striking out "4 liters" and inserting in lieu thereof "5 liters", and by inserting after "United States," "and not more than 4 liters of which shall have been produced elsewhere than in such insular possessions, ".

(b) If the sum of the amounts of taxes covered into the treasuries of Puerto Rico and the United States Virgin Islands pursuant to section 302 of this Act is reduced below the amount that would have been covered over if the imported rum had been produced in Puerto Rico or the United States Virgin Islands, then the President shall consider compensatory measures and, in this regard, may withdraw the duty-free treatment on rum provided by this title. The President shall submit a report to the Congress on the measures he takes.

(c) Section 1112 of the Trade Agreements Act of 1979 (19 U.S.C. 2582) is repealed.

(d) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) on coffee imported into Puerto Rico.

(e) For purposes of chapter 1 of Title II of the Trade Act of 1974, the term industry shall include producers located in the United States insular possessions.

SEC. 105. TIME LIMIT TO ACT.

No duty-free treatment under this Act shall remain in effect after the date which is 12 years after the date of the enactment of this Act.

TITLE II—EMERGENCY ECONOMIC ASSISTANCE

SEC. 201. EMERGENCY ECONOMIC ASSISTANCE

There are authorized to be appropriated for the fiscal year 1982, in addition to funds otherwise available for such purposes, $350 million to carry out the purposes of Chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, for countries in the Caribbean Basin (which shall include the states of Central America).

TITLE III—TAX PROVISIONS

SEC. 301. AMENDMENT OF INTERNAL REVENUE CODE OF 1954

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revene Code of 1954.

SEC. 302. PAYMENT OF EXCISE TAXES COLLECTED ON RUM TO PUERTO RICO AND THE UNITED STATES VIRGIN ISLANDS

(a) In General.—Section 7652 is amended by inserting after subsection (b) the following new subsection:

"(c) Shipments of rum to the United States.—

"(1) Disposition of excise taxes on rum.—All taxes collected under section 5001 on rum imported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands, provided, however, that the amount of such taxes covered over to Puerto Rico and the Virgin Islands under this subsection shall not exceed the taxes which would be covered over if the rum had been produced in Puerto Rico or the Virgin Islands and transported to the United States. The Secretary shall by regulation prescribe a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for covering over of such tax collections.

"(2) Rum.—The term "rum" means alcoholic spirits classified under Items 169.13 and 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1202)."

SEC. 303. EXTENSION OF INVESTMENT TAX CREDIT FOR CARIBBEAN BASIN PROPERTY

(a) Credit or Caribbean Basin Property.—Section 48(a)(2)(B) is amended by inserting immediately after subparagraph (xi) the following new subparagraph:

"(xii) Caribbean Basin property (within the meaning of subsection (q)) which is placed in service after [the date of enactment] and before [five years after the date of enactment]."

(b) Definition of Caribbean Basin Property.—Section 48 is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) Caribbean Basin Property Defined.—For purposes of this section—

"(1) In general.—The term "Caribbean Basin property" means section 38 property (as defined in section 38(a)(1)), which is used predominantly in a qualifying country (as defined in paragraph (2)) or any two or more qualifying countries, other than property which has previously been used predominantly in a beneficiary country (as defined in section 102(a)(1) of the Caribbean Basin Economic Recovery Act).

"(2) Qualifying country.—The term "qualifying country" means any beneficiary country (as defined in section 102(a)(1) of the Caribbean Basin Economic Recovery

Act), which is a party to a bilateral executive agreement with the United States providing for the exchange of information between the United States and the beneficiary country.

"(3) AUTHORITY TO CONCLUDE EXCHANGE OF INFORMATION AGREEMENTS.—The Secretary or his delegate is authorized to negotiate and conclude an agreement for the exchange of information with any beneficiary country (as defined in section 102(a)(1) of the Caribbean Basin Economic Recovery Act). An exchange of information agreement shall provide for the exchange of such information, not limited to information concerning nationals or residents of the United States or the beneficiary country, as may be necessary and appropriate to carry out and enforce the tax laws of the United States and the beneficiary country, including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or determination of appeals in respect of taxes of the United States or the beneficiary country."

"(c) CARIBBEAN BASIN PROPERTY USED PREDOMINANTLY OUTSIDE UNITED STATES FOR PURPOSES OF ACCELERATED COST RECOVERY SYSTEM.—Section 168(f)(2)(d) is amended by inserting after the words "under subparagraph (B)" the words "other than clause (xii)".

"(d) CREDIT MAY NOT BE USED BY FOREIGN CORPORATION.—Section 882(b) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) INVESTMENT CREDIT NOT ALLOWED FOR CARIBBEAN BASIN PROPERTY.—Foreign corporations shall not be allowed the section 38 credit with respect to Caribbean Basin property (as defined in section 38(q)(1)."

SEC. 304. PASS-THROUGH OF CREDIT TO FIVE PERCENT UNITED STATES SHAREHOLDER OF FOREIGN CORPORATION

Section 46 is amended by inserting after subsection (h) the following new subsection:

"(i) SPECIAL RULES FOR FOREIGN CORPORATIONS INVESTING IN CARIBBEAN BASIN PROPERTY.—

"(1) IN GENERAL.—A United States person who owns five percent or more in value of the outstanding stock of a foreign corporation shall be deemed for purposes of section 38 to have made a qualified investment (within the meaning of subsection (c)) or qualified progress expenditures (within the meaning of subsection (d)) in an amount equal to the lesser of—

"(A) the shareholder's pro rata share of the foreign corporation's aggregate qualified investment in Caribbean Basin property (without regard to the taxable year, ending after [the date of enactment], in which such property was placed in service and without regard to adjustments to the basis of such property under section 1016(a)(2)), determined on the last day of the taxable year of the foreign corporation ending in or on the last day of the shareholder's taxable year, or

"(B) an amount equal to the excess of

"(I) the shareholder's basis in the stock of the foreign corporation at the end of the shareholder's taxable year (without regard to adjustments to the basis of the shareholder's stock under section 551 or section 961, or as a consequence of a consent dividend under section 565), over

"(II) the shareholder's basis in the stock of the foreign corporation on [the date of enactment],

reduced by the amount of qualified investment of the foreign corporation with respect to which the shareholder has previously used an investment credit under section 38.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations providing rules for the application of section 47 (relating to certain dispositions, etc., of section 38 property) and section 46(c)(8) (relating to at risk limitations) with respect to the shareholder's qualified investment under this subsection in a manner similar to their application to shareholders of an electing small business corporation (within the meaning of section 1371)."

SEC. 305 RECAPTURE OF CREDIT

Section 47(a) is amended by inserting after paragraph (8) the following new paragraph:

"(9) Special Rules for Caribbean Basin property—If during any taxable year any Caribbean Basin property (as defined in section 48(q)) taken into account in determining qualified investment under section 46(c) or section 46(d) is used predominantly outside a qualifying country (as defined in section 48(q)(2)) or two or more qualifying countries, or the United States, such property shall cease to be Caribbean Basin property in such taxable year. Property shall not cease to be Caribbean Basin property because a qualifying country in which the property is used ceases to be a qualifying country."

SEC. 306. EXTENSION OF INVESTMENT TAX CREDIT AND ACCELERATED COST RECOVERY TO PROPERTY OWNED OR USED BY CERTAIN CORPORATIONS AND CITIZENS ENGAGED IN TRADE OR BUSINESS IN PUERTO RICO OR OTHER POSSESSIONS

(a) EXTENSION OF INVESTMENT TAX CREDIT AND ACCELERATED COST RECOVERY.—Section 48(a)(2)(B) (vii) is amended to read as follows:

"(vii) any property which is owned by a domestic corporation or by a United States citizen and which is used predominantly in a possession of the United States by such a corporation or a citizen, or by a corporation crated or organized in, or under the law of, a possession of the United States;"

(b) PASS-THROUGH OF INVESTMENT TAX CREDIT AND ACCELERATED COST RECOVERY DEDUCTIONS TO CERTAIN SHAREHOLDERS OF DOMESTIC CORPORATIONS ELECTING UNDER SECTION 936 OR ENTITLED TO BENEFITS OF SECTION 934(b).—

(1) SECTION 936 CORPORATIONS.—Section 936 is amended by inserting after subsection (g) the following new subsection (h):

"(h) PASS-THROUGH OF CERTAIN TAX ATTRIBUTES.—

"(1) IN GENERAL.—If a corporation with respect to which an election provided in subsection (a) is in effect for the taxable year (the "electing corporation") would be a member of an affiliated group under the rules of section 1504(a) (without regard to section 1504(b)(4)), then a corporation which would be a member of such affiliated group and which owns common stock of the electing corporation shall be allowed as a credit against the tax imposed by this chapter its pro rata share of the amount determined under section 38 and as a deduction its pro rata share of fifty percent of the amount determined under section 168 with respect to property owned by the electing corporation. A corporation with respect to which an election provided in subsection (a) is in effect for the taxable year shall not be allowed a credit under section 38 or a deduction under section 168 if one or more of the shareholders of such corporation qualify for the benefits of this paragraph.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including but not limited to regulations providing rules for the application of section 46(c)(8) (relating to at risk limitations on qualifying investment in section 38 property), section 47 (relating to certain dispositions, etc., of section 38 property), section 465 (relating to at risk limitations on deductions), section 1245 (relating to certain dispositions of depreciable property) and section 1250 (relating to certain dispositions of depreciable realty)."

(2) SECTION 934 (B) CORPORATIONS.—Section 934 is amended by inserting after subsection (d) the following new subsection (e):

"(e) PASS-THROUGH OF CERTAIN TAX ATTRIBUTES TO CERTAIN DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—If a domestic 934(b) corporation would be a member of an affiliated group under the rules of section 1504(a) (without regard to section 1504(b)(8)), then a corporation which would be a member of such affiliated group and which owns common stock of the domestic 934(b) corporation shall be allowed as a credit against the tax imposed by this chapter its pro rata share of the amount determined under section 38 and as a deduction its pro rata share of fifty percent of the amount determined under section 168 with respect to property owned by the domestic 934(b) corporation. A corporation which is a domestic 934(b) corporation for the taxable year shall not be allowed a credit under section 38 or a deduction under section 168 if one or more of the shareholders of such corporation qualify for the benefits of this paragraph.

"(2) DOMESTIC 934(B) CORPORATION.—The term "domestic 934(b) corporation" means a domestic corporation satisfying the conditions of paragraph (1) and paragraph (2) of section 934(b) for the taxable year.

"(3) REGULATION.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including but not limited to regulations providing rules for the application of section 46(c)(8) (relating to at risk limitations on qualifying investment in section 38 property), section 465 (relating to at risk limitations on deductions), section 1245 (relating to certain dispositions of depreciable property) and section 1250 (relating to certain dispositions of depreciable realty)."

(3) TECHNICAL AMENDMENTS.—Section 1504(b) is amended by inserting after paragraph (7) the following new paragraph:

"(8) A domestic 934(b) corporation, as defined in section 934(e)(2)."

SEC. 307. EXCEPTIONS TO DEFINITION OF QUALIFIED LEASED PROPERTY

Section 168(f)(8)(D) is amended by striking out "(other than a qualified rehabilitated building within the meaning of section 48(g)(1))", by striking out the period after the words "under section 103(a)" and inserting the words ", and", and by inserting immediately thereafter the following new clause:

"(iv) which is not

(I) a qualified rehabilitated building within the meaning of Section 48(g)(1),

(II) Caribbean Basin property within the meaning of Section 48(q)(1), or

(III) property which is owned by a domestic corporation which has an election in effect under section 936 or a domestic 934(b) corporation, as defined in section 934(e)(2), or which is used by such a corporation or by a United States citizen entitled to the benefits of sections 931, 932, 933, or 934(c), or by a corporation created or organized in, or under the law of, a possession of the United States."●

CARIBBEAN BASIN INITIATIVE LEGISLATION

● Mr. PERCY. Mr. President, the Caribbean Basin Initiative is a positive and constructive proposal for stimulating the economic development of the Caribbean community. The CBI is especially important at the present time because it tries to provide long-term solutions to the problems of the neediest countries in the region, those that often are the most economically troubled and politically unstable. I am enthusiastic about it and will give it my personal hearty endorsement. I believe also that the President will have strong bipartisan support for this legislative package.

The key proposal in the CBI is the creation of a one-way free trade zone for the region. The countries of Central America, the island nations of the Caribbean and Guyana, and Suriname will be affected. The free trade initiative is a direct response to one of the most important demands of the developing world, the "South," that of access to the markets of the developed world. I think it will be recognized as an important opportunity by the countries in the region. But the Caribbean Basin Initiative also lays the groundwork for expanded use of private investment opportunities to stimulate economic development in the region and to encourage trade in both directions. Thus, the package will be good for both producers and consumers in the United States as well as in the Caribbean Basin.

Equally important, the CBI sends an important message to our neighbors in this troubled region, a message that says the United States is committed to their economic well-being and is willing to take bold steps to work with them for a more prosperous future.

This package is complex and touches on some issues that are sensitive in the Congress. However, I believe it is the right way to approach the development needs of this region. It creates opportunities. It does not prescribe responses. It is a program for the present as well as the future.●

By Mr. METZENBAUM:

S. 2238. A bill to amend title XVIII of the Social Security Act to provide coverage for dental care, eyeglasses, and hearing aids under the part B supplementary medical insurance program; to the Committee on Finance.

MEDICARE COVERAGE

Mr. METZENBAUM. Mr. President, I am today introducing an amendment to medicare that will have enormous impact on the well-being of millions of older Americans. This bill will expand medicare coverage to include eye care, eyeglasses, ear care, hearing aids, dental care and dentures for the disabled and those over 65 years of age.

Some might question the appropriateness of expanding the medicare program at a time of skyrocketing health care costs. I too am seriously concerned about escalating costs and their impact on the budget. However, I believe that efforts to control costs can and must be made in areas which do not deny our elderly citizens needed health care.

The national debate on the budget has been so skewed by this administration that people are now seriously discussing whether this country can continue the commitment which it has already made to the elderly in the area of health care. The notion of survival of the fittest is no longer shocking to the conscience—rather, it is openly accepted by some as an appropriate principle upon which to base Government policies. I for one refuse to allow administration rhetoric on the budget to cloud the real issue of budgetary priorities. The real question is whether we will continue to unquestioningly spend billions of dollars on weapon systems which are outmoded before they are completed rather than to meet the most basic health needs of our elderly citizens. For me, the answer has been and continues to be an emphatic no.

The bill I am introducing today is intended as an affirmation of our commitment to assure adequate health care for older Americans. Virtually all of the nearly 25 million elderly persons in America are dependent on one or more medical appliances such as eyeglasses, hearing aids, or dentures.

But, Mr. President, the sad fact is that millions of people who need these appliances to perform even the most basic living tasks cannot afford to purchase them.

Public and private health benefit programs provide only limited help in this area. And despite the medicare program, average out-of-pocket costs of medical care for the elderly have more than doubled in the last 10 years.

When we consider that one-third of all elderly persons live at or below the poverty level, we cannot escape the conclusion that millions of our Nation's elderly are being forced to choose whether they want to eat and be warm, or whether they want to see or hear.

More than 20 million Americans over 65 years of age, or 92 percent of our Nation's elderly population, need corrective lenses.

The prevalence of eye disorders increases dramatically with age. For example, the rate of blindness in older Americans is over 8½ times that of persons under 65.

Proper eye care is essential to detect those eye diseases that are more common among older Americans and that if not treated promptly, can eventually lead to blindness.

In some documented cases, older persons have been mistakenly labeled as senile or mentally impaired, when in fact, they are simply unable to see properly.

Reduced vision results in decreased mobility, increased isolation and feelings of helplessness in older persons. No longer are they able to travel within their environment, visit friends, shop, or perform other simple daily living tasks.

Medicare covers virtually no optometric services.

In 1978, 37 States provided some coverage of eye exams and optometric services, however that number is dwindling because of limited State financial resources.

The situation regarding the elderly population's need for dentures is equally serious.

Half of all persons over 65 years of age have no natural teeth.

This fact has serious implications for the health of America's older citizens. Without teeth or the aid of dentures, chewing and digesting foods become an almost impossible task. For the elderly, this comes at a time when nutritional needs are most critical. Frequently, they are forced to choose foods that are easier to chew but lower in nutritional value—avoiding foods like meats, raw vegetables, and fresh fruits.

Medicare provides dental care only for surgery to the jaw or to a structure contiguous to the jaw. Routine dental care and dentures are not covered.

Dental services are optional under the medicaid program, so only aged people who are lucky enough to live in a State which has opted to provide dental services receive needed assistance.

The picture is also grim with respect to the need for hearing aids.

Half of all persons over 65 years of age suffer from impaired hearing.

The results of a hearing impairment are varied. The person may simply be unable to hear sounds loudly enough. He may be able to hear sounds but he may not be able to hear them clearly. What is heard may resemble garbled speech from a broken radio.

As with sight loss, hearing loss may result in a person being mistakenly labeled as senile or mentally retarded. And, hearing loss causes isolation and loneliness as well. Medicare pays for neither hearing aids nor hearing aid examinations.

I know the current mood in Congress is one of curbing expenses and paring the budget—and rightly so.

But tightening our belts does not mean closing down the Government. Programs necessary to our Nation's vital interests can, and will, go on.

I submit that there is no interest more vital to this Nation than the health of the people for whom this Government exists.

We cannot allow the people who worked all their lives to build a better society to be cut off from the fruits of their labor in their later years. But that is exactly what we are doing when we deny the elderly access to medical appliances that can enable them to continue to lead full and independent lives.

I do not pretend that this legislation is without some monetary cost. To provide eye care, eyeglasses, ear care, hearing aids, dental care, and dentures to the disabled and older Americans over 65 years of age will cost approximately $3 billion the first year.

The cost should come down as the need for dentures, one of the most expensive appliances, decreases due to a demonstrated decline in the number of elderly who are missing teeth.

Furthermore, additional savings will be realized in a decreased need for institutionalization when older persons are helped to live more independently.

But a strict cost analysis is not the issue here. I do not believe that you can put a dollar value on an older person's being able to talk to his or her grandchild on the telephone, or to see that child take her first step.

The cost is great because the need is great. But, Mr. President, the human cost of relegating millions of older persons to spending the remaining years of their life in isolation and frustration far outweighs the dollar cost of this legislation.

I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(s)(8) of the Social Security Act is amended—

(1) by striking out "(other than dental)"; and

(2) by striking out "including replacement of such devices" and inserting in lieu thereof "including dentures (or other devices replacing teeth or structures directly supporting teeth), eyeglasses (but not to exceed one pair in any calendar year), and hearing aids (but not to exceed one in any calendar year), and including replacement of any such devices".

(b) Section 1861(s) of such Act is further amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon;

(3) by redesignating paragraphs (11) through (14) as paragraphs (14) through (17), respectively; and

(4) by inserting immediately after paragraph (10) the following new paragraphs:

"(11) eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, and procedures performed (during the course of an eye examination) to determine the refractive state of the eyes;

"(12) examinations for hearing aids; and

"(13) services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth.".

(c) Section 1862(a)(7) of such Act is amended by striking out ", eyeglasses or eye examinations for the purpose of prescribing, fitting, or changing eyeglasses, procedures performed (during the course of any eye examination) to determine the refractive state of the eyes, hearing aids or examinations therefor,".

(d) Section 1862(a) of such Act is further amended—

(1) by adding "or" after the semicolon at the end of paragraph (11); and

(2) by striking out paragraph (12) and redesignating paragraph (13) as paragraph (12).

(e) Section 1864(a) of such Act is amended by striking out "paragraphs (11) and (12)" and inserting in lieu thereof "paragraphs (14) and (15)".

SEC. 2. The amendments made by this Act shall be effective with respect to items and services furnished on or after the first day of the first month beginning after the date of the enactment of this Act.

By Mr. WEICKER (for himself, Mr. PELL, Mr. SARBANES, and Mr. BENTSEN):

S. 2239. A bill to end the use of steel-jaw, leghold traps; to the Committee on Environment and Public Works.

USE OF STEEL-JAW, LEGHOLD TRAPS

● Mr. WEICKER. Mr. President, I am pleased to introduce legislation to ban from interstate and foreign commerce all furs and leathers from States and foreign countries which have not banned the steel-jaw, leghold trap.

Mr. President, the steel-jaw, leghold trap is a cruel and inhumane device designed to keep animals alive and breathing so as to keep the pelt of the trapped animal fresh and soft. The trap imprisons and cripples animals, often leaving the animal trapped for days unable to defend itself against predators, the elements, and starvation.

Mr. President, prohibiting the use of this trap is not just a concern of humane groups and environmental organizations. Outrage and concern about this trap has been expressed worldwide. Currently, some 56 countries have banned or restricted the use of the steel-jaw, leghold trap because of its inhumane effects. All of these countries have banned the trap without experiencing economic hardship. This is particularly remarkable in Norway, Germany, and Switzerland which have major fur industries. I consider this to be conclusive testimony that the fur industry is not contingent upon the steel-jaw, leghold trap. In fact, most of the furs imported by U.S. fur merchants come from countries where leghold traps are banned.

In my home State of Connecticut public objection to the cruelty of these traps has generated local initiatives to outlaw these devices. The representative town meeting of the town of Branford, Conn., voted to ban the use of these traps by a wide margin after receiving reports of the maiming of domestic pets by steel-jawed traps. The Connecticut Association of Veterinary Medicine has unanimously called for such a ban in a recent resolution passed by that organization.

The indiscriminate pain and maiming inflicted by these traps illustrates the fundamental reason why these devices should be outlawed. One study of their use under the U.S. Department of the Interior's animal damage control program shows that 78 percent of all animals trapped were nontarget animals of no fur-bearing value. There have also been numerous cases of small children sustaining severe injury through accidental contact with these traps.

Domestic pets have suffered greatly because of these devices. Veterinarians across the country report rising numbers of cats and hunting dogs that have been caught in steel-jawed traps. In one case, a dog owned by a member of my staff was recently injured by a steel-jawed trap which was severely rusted and appeared to have been abandoned for years.

The efforts to ban the steel-jaw trap in this country have widespread support. The original congressional hearings on this issue were held during the 94th Congress. Last year, Representative CLARENCE LONG's bill which had 108 cosponsors in the House received over 300,000 letters of support when it was being considered by the Subcommittee on Transportation and Commerce. Already, the bill Representative LONG reintroduced in the 97th Congress has over 84 cosponsors. In addition, I would like to draw my colleague's attention to a study conducted by Yale University, funded by the U.S. Department of the Interior, it revealed that 78 percent of this Nation's population supports a ban on the use of steel-jaw leghold traps.

Mr. President, I feel strongly that the United States must clearly demonstrate its sensitivity to the welfare of animals by going on record with the other 50 countries of the world which have already prohibited the use of the leghold trap. This made all the more necessary by the fact that the Department of the Interior, ironically, is the largest U.S. user of the steel-jaw leghold trap, through its subsidy program to reduce predators on public lands. In light of the number of foreign governments that have completely banned this trap, I believe that this is an indefensible position for the U.S. Government.

Mr. President, across the Nation laws have been enacted to provide humane conditions for laboratory animals. Bull fighting, cock fighting, and dog fighting have been outlawed, yet, as a nation, no action has been taken to address the pervasive threat to animal welfare presented by the steel-jawed leghold trap.

Any person who has ever loved a dog, cat, or other pet animal cannot but wish to see this cruel and vicious device forever banned from our land just as it has been banned around the world. I urge every Member of this Senate to consider this legislation and the strong public support for its objectives. This legislation has been considered long enough: It is time for the Congress to act and ban this trap now so that millions of animals can be spared from its vicious and deadly bite.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND POLICY

Section 1. (a) The Congress finds that—

(1) the steel-jaw, leghold trap is a cruel and inhumane device for trapping animals;

(2) this device has inflicted needless maiming and suffering upon wild animals;

(3) this trap is also responsible for inflicting pain, causing psychological trauma, and infection of domestic pets;

(4) only a small percentage of those animals caught by these traps are of fur bearing value; and

(5) there are numerous alternative methods and devices for trapping animals in a more humane way.

(b) The Congress declares that it is the policy of the United States to prohibit the manufacture, sale, interstate shipment, and use of steel-jaw, leghold traps in the United States.

SHIPMENT OF FUR

Sec. 2. (a) No fur, leather, or other byproducts, whether raw or in finished form, shall be shipped into interstate or foreign commerce if such fur, leather, or other byproducts come from animals trapped in any State or foreign country which has not banned the manufacture, sale, and use of steel-jaw, leghold traps.

(b) The Secretary of Commerce shall ban all imports of fur, leather, or other byproducts from animals from any and all foreign countries which have not banned the manufacture, sale, and use of such steel-jaw, leghold traps.

CURRENT LIST

Sec. 3. The Secretary of Commerce shall compile, publish, and keep current a list of foreign countries which have not banned the manufacture, sale, and use of steel-jaw, leghold traps.

PENALTIES

Sec. 4. Anyone shipping or receiving fur, leather, or other byproducts in contravention of section 2 of this Act shall, for the first offense, be fined not more than $1,000; for the second or subsequent offenses, he shall be fined not more than $5,000 and imprisoned for not more than two years.

SHIPMENT OF TRAPS

Sec. 5. Whoever delivers, carries, transports, or ships by any means whatever, in interstate or foreign commerce, any steel-jaw, leghold trap or whoever receives, acquires, or purchases, knowingly, any such trap so delivered, carried, transported, or shipped, shall for the first offense, be fined not more than $1,000; for the second or subsequent offenses, he shall be fined not more than $5,000 and imprisoned for not more than two years.

DEFINITIONS

Sec. 6. As used in this Act, the terms—

(1) "State" includes each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States; and

(2) "interstate or foreign commerce" shall have the same meaning as that provided by section 10 of title 18, United States Code.

EFFECTIVE DATE

Sec. 7. The provisions of this Act shall become effective one year after the date of its enactment.●

By Mr. STEVENS (for himself and Mr. Warner):

S. 2240. A bill to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES FLEXIBLE AND COMPRESSED WORK SCHEDULES ACT OF 1982

Mr. STEVENS. Mr. President, I am introducing a bill today to reauthorize the Government's alternative work schedules program.

Public Law 95-390 authorized a 3-year experiment of various alternative work schedules for the Federal agencies. The experiment involved what are commonly known as both flexible and compressed work schedules. Flexible work schedules allow employees, within limits, to vary the times they report for duty and depart from work. Compressed schedules allow employees to complete their same hourly requirements in fewer days. The experiment's authorization ends March 28, 1981. We have received notice from some Federal agencies which plan to terminate their program as early as March 22 because they must coordinate the termination with the beginning of a new payroll period.

During the past 3 years, more than 325,000 Federal employees in 1,500 organizations took part in this experimental program. In the letter of communication to the President Pro Tempore of the Senate accompanying the experiment's interim report last fall, Dr. Donald Devine, Director of the Office of Personnel Management, reported that the program was generally a success. However, quoting from Dr. Devine's letter:

> In some limited circumstances, however, problems have arisen with alternative work schedules, making it quite apparent that greater management control must be provided on the decision to use, or to cease using, alternative work schedules in specific instances.

On March 3, 1982, the Subcommittee on Civil Service, Post Office, and General Services, Senate Governmental Affairs Committee, held a hearing on two proposals to reauthorize this program. One was H.R. 5366, introduced by Congresswoman Ferraro of New York and reported from the Committee on Post Office and Civil Service, which reauthorizes the current program without change. The other was the administration's proposal now embodied in S. 2156, introduced by Senator Hatch, which tightens management controls over the institution and termination of specific alternative work schedules.

The bill introduced today attempts to walk a narrow line between the two proposals. It preserves the negotiation process between management and labor over the whole range of decisions affecting the use of alternative work schedules. It, however, establishes standards which the schedules must not breach. Irrespective of any negotiated agreement, if an agency finds a schedule to have reduced productivity or service to the public or increased agency costs, the agency must attempt to amend or to terminate such a schedule. If the agency reaches an impasse with an affected union over amending or terminating such a schedule, the agency may seek to terminate such a schedule before the Federal Service Impasses Panel. If the agency can show that one of the standards has been violated, the Panel must uphold the agency's decision to terminate. This provides the agencies with a necessary out if a particular schedule will not or has not performed well.

In addition, all current programs, regardless of any negotiated agreements, authorized under Public Law 95-390 are subject to immediate termination. Under authority of this bill, all current schedules may be continued without change. However, if an agency determines that a schedule has reduced productivity in agency operations or level of service to the public or added considerable costs to agency operations, the agency may immediately terminate. This termination authority is nonreviewable.

It is hoped, however, that agencies will use this authority with discretion. The termination and reinstitution of various schedules may cause greater chaos and cost considerably more than simply altering the particulars of an existing schedule.

By Mr. HEINZ:

S. 2241. A bill to fight violent crime and combat illegal drug trafficking; to the Committee on the Judiciary.

CRIME CONTROL

Mr. HEINZ. Mr. President, today I am introducing a package of crime control provisions to strengthen law enforcement capabilities and to impose stiffer mandatory penalties for the use of a firearm in the commission of a Federal felony.

The rate of violent crime over the last decade has been steadily increasing despite the determined efforts of Federal, State, and local law enforcement officials to slow this trend. The fundamental problem is twofold: First, law enforcement officials have insufficient tools to fight violent crime, and second, when criminals are apprehended and convicted our laws do not adequately punish these felons.

The actual figures on violent crimes are astonishing. In 1980, for example, nearly 1½ million violent crimes were committed nationally. This represents an increase of 11 percent over 1979. Furthermore, the breakdown of individual violent crimes reinforces this bleak picture: Murders were up 7 percent over 1979, rapes were up 8 percent, aggravated assaults were up 7 percent, and robberies were up 18 percent. One violent crime was committed every 24 seconds.

Mr. President, perhaps more important than the percentage increases in violent crime is what this means in human terms. Americans live in constant fear of violent criminals. Numerous public opinion polls have measured the startling reaction of our society to increasing rates of violent crime—greater numbers of Americans have found it necessary to use multiple locks on their doors and property, to carry weapons for defense, to install elaborate security systems, to buy guard dogs, and to use any number of other protective devices.

This is not healthy for a society whose strength lies in the free and open exchange of ideas among its citizens. The streets of our towns and cities simply must be kept safe, whatever the cost. We cannot allow lawless hoodlums to dictate the behavior of our citizens.

Mr. President, with this in mind, I am proposing a comprehensive package of provisions that will bring the full force of the law against violent criminals and provide law enforcement officials with the tools they need to keep violent criminals off the streets.

MANDATORY SENTENCING

Mr. President, my bill first requires that Federal courts not suspend sentences, or grant probation or parole for those felonies involving the use or the threatened use of violence with a firearm.

Second, it prescribes higher additional penalties than currently authorized under law for felonies committed with firearms. These additional penalties are boosted to a minimum of 5 years and a maximum of 10 years in prison for first offenders, a minimum of 10 years and a maximum of 25 years for second offenders, and a minimum of 25 years and a maximum of life imprisonment for third or subsequent offenders. In addition, the bill requires that these additional penalties be served consecutively to the sentence for the underlying felony and not concurrently, as is often the practice today.

Third, the bill deletes the current requirement that a firearm be carried "unlawfully" in order for the additional penalties to be prescribed. In its place, the bill states that the additional penalties would be applied in those felonies involving or the threat of violence.

Fourth, the bill stipulates that the penalty for violent crimes shall not apply if the underlying felony consists solely of the illegal possession, transportation, or sale of a firearm, so that minor, technical, so-called paper violations of the 1968 Gun Control Act do not result in an application of the higher penalties.

Mr. President, I believe that this mandatory sentencing section will provide adequate punishment for those convicted of violent crimes, while still giving judges some leeway in determining the appropriate length of a sentence. It will send the proper signals to the criminal element that the law will be enforced to its maximum extent in dealing with violent criminals. It will also send a message that we will not tolerate abuses of the rights of our society's citizens. This most certainly will be a deterrent to violent criminals, faced with the prospect of finally being punished for their offenses.

FEDERAL INCARCERATION OF STATE CONVICTS

Mr. President, the second major provision of my crime control package deals with Federal incarceration of State convicts. The purpose of this section is to attempt to gage the feasibility of giving States the opportunity to turn the most hardened State convicts over to Federal prison facilities.

The basic problem most States have encountered is that there is not enough State prison space to accommodate all of the prisoners that belong behind bars. The consequence of this is quite predictable—States now have swollen prison populations that are increasingly hostile, rehabilitation is a travesty, and judges are reluctant to commit new criminals to these institutions because of insufficient space.

In my own State of Pennsylvania, for example, State prison facilities have a capacity of 8,600 inmates. The current State prison population is 9,642. The overcrowding that has resulted is a constant difficulty. Fortunately, Pennsylvania's elected officials have been willing to address this problem. But it has been a struggle and it has involved some difficult decisions.

Pennsylvania recently enacted a prison construction bill which would authorize the expansion of State prison facilities over the next 5 years. But there is a larger question of whether the additional prison facilities to be constructed will be adequate to handle the current surplus prison population as well as additional prisoners generated as a result of Pennsylvania's new mandatory sentencing law, also recently enacted.

Pennsylvania's situation is not unique. In fact, most State prison facilities face similar problems. Overcrowding in State prison facilities will continue to be one the most pressing criminal justice problems in the years ahead. I think the Federal Government has a responsibility to our society to be of some assistance in ameliorating this situation if it is feasible.

My bill would permit States to request that the Federal Bureau of Prisons arrange and accept custody of State convicts who fall into the following two categories:

First. Those convicted of a felony involving the use or threatened use of violence with a firearm; and

Second. Those convicted of two or more felonies.

The Federal prison system would only accept these State prisoners if the Federal prisons have space available for them.

Furthermore, the Attorney General is directed to recommend such sums of money necessary to provide additional Federal prison space to accommodate the additional prisoners generated by such a change in the law and by the Federal mandatory sentencing provisions in my bill.

It is my belief that the Federal Government should accept responsibility for incarcerating hardened State convicts, if it has the space for them. By directing the Attorney General to conduct a study on exactly how much funding is needed to equip Federal prisons to handle more prisoners, we will be encouraging the Federal Government to protect citizens from the most dangerous criminals in our society.

In addition, reducing the size of State prison populations and removing the most violent criminals from State facilities will permit States to carry out their roles in rehabilitating those prisoners who are not violent and who have a better chance of leaving prison to become contributing members of society.

COORDINATOR OF NARCOTICS POLICY

The third major provision of my bill would establish a Cabinet-level office to manage and coordinate Federal agencies involved in the fight against illegal drug traffic: The Office of the Coordinator of Narcotics Policy.

The Coordinator would be given the authority and responsibility to develop, review, and enforce U.S. Government policy with respect to illegal drugs. The Coordinator would also direct and manage all U.S. Government efforts to halt the flow into, and sale and use of drugs within the United States, including the authority to temporarily reassign personnel within the Federal Government in order to implement U.S. policy. Finally, the Office of the Coordinator would serve as a source for information and analysis concerning the illegal drug problem.

Under current law, there is no one Federal authority which coordinates U.S. drug policy, and which efficiently allocates existing resources. Frankly, our Nation's efforts to prevent the importation, use, and sale of illegal drugs has been fractured, ineffective, and insufficient. At least 11 Federal agencies are engaged to some degree in the battle against narcotics, ranging from the CIA to the customs service. Each of these Federal agencies initiates its own policy, allocates its own resources, and conducts its own resources with respect to the illegal drug problem.

I do not believe that the individuals who serve in the Federal agencies are at fault. They are competent and dedicated. I have been extremely pleased by the honesty and professionalism of the various drug enforcement officials with whom I have met. These officials do not need to be replaced or duplicated. The system needs to be redesigned so that Federal resources and personnel can be marshaled within the existing bureaucracy to attack illegal narcotics with precision.

A Cabinet level official, assisted by a small support staff, could accomplish this necessary reform.

Any legislation designed to reduce crime in this country must take into account the importance of illegal drugs to the soaring crime rate. International drug trafficking is an international business, grossing over $64 billion a year. Trafficking in drugs creates addicts—addicts who turn to crime to finance their expensive habits. For instance, a recent study conducted by Temple University tracked 243 addicts from Baltimore, Md., over an 11-year period. In those 11 years, these 243 individuals committed almost 500,000 felonies. Until drug trafficking is reduced, the crime rate will continue to rise.

INFORMATION SOURCE REFORM

The fourth provision in this bill would require the Attorney General to develop and prepare alternate proposals for the exchange of Federal, State, and local information relating to criminal records. In particular, the Attorney General is required to consult with State and local law enforcement officials in order to assure that the needs of these officials are considered when designating the type of information which would be placed in the national data base.

Currently, the FBI maintains a central record of criminals through the National Crime Information Center. The NCIC contains arrest records and final dispositions of individual cases forwarded to the FBI by State and local enforcement officials. Most of the NCIC is manually operated, although there has been a greater use of computers over the last several years.

A review of our current data base is especially critical with the recent advances in computer technology. Rapid transmission of accurate, detailed, and up-to-date criminal records would facilitate the work of local law enforcement officials, detain criminals who would otherwise go free, and clear individuals who have been mistakenly arrested. All of these benefits would be realized in a much shorter time frame than under the current system.

POSTAL FRAUD REFORM

The fifth provision of the bill would authorize the Chief Postal Inspector to subpena evidence pertinent to a mail fraud investigation. In addition, the bill would make several changes in the Postal Service's ability to detect and halt fraudulent mail schemes.

As chairman of the Special Committee on Aging, I am particularly aware of the deleterious impact that fraudulent schemes conducted through the mail have on the elderly. Postal authorities estimate that 60 percent of mail fraud is perpetrated on the elderly. Such schemes include work-at-home offers, investment and land sale fraud, and spurious medical promotions.

Older persons who live alone, who have lost loved ones, and who are depressed are most susceptible to con artists. While the Postal Service has an outstanding record in protecting citizens from these fraudulent individuals, the Congress must enact several prudent changes in current Postal Service authority in order to better eliminate the use of the mails for deceptive and illegal activities.

VICTIM PROTECTION

Finally my crime control package addresses the issue of proper protection for victims of crime. Our criminal justice system must recognize that the rights of the victims are vitally important.

My bill includes a victim injury assessment provision which requires that judges must include in the sentencing report a physical, social, psychological, and financial assessment of the damage suffered by the victim as a result of the crime. The purpose of this provision is to require judges to consider the deleterious effects of a crime of victims, before a sentence is given. This provision is an important step in the struggle to guarantee that victim's rights will be protected no less than the rights of the accused under our criminal justice system. Later this month, I will be introducing more comprehensive victim's rights legislation.

Mr. President, the rate of violent crime in this country is unacceptably high. We need to restore public confidence in the ability of our law enforcement and criminal justice systems to apprehend, prosecute, and incarcerate criminals who prey on our society. It will be a difficult battle and it will involve the determined efforts of Congress, the Reagan administration, Federal and State courts, and Federal and State law enforcement agencies.

I feel that my crime control package will contribute to the efforts already underway to improve our criminal justice system. The goal ahead is to once again create a safe environment for the citizens of our Nation—a nation that jealously guards the fundamental right of all Americans to live peaceful and productive lives as members of our society.

By Mr. RIEGLE (for himself and Mr. MELCHER):

S. 2242. A bill to amend titles XVIII and XIX of the Social Security Act to provide more adequate coverage of the services of mental health specialists under the medicare part B program and under the medicaid program; to the Committee on Finance.

COVERAGE OF MENTAL HEALTH SERVICES UNDER MEDICARE AND MEDICAID

Mr. RIEGLE. Mr. President, today I am introducing legislation which would make outpatient mental health services more accessible to beneficiaries of medicare and medicaid. My bill is similar to the more far-reaching legislation, S. 123, introduced by the Senator from Hawaii (Mr. INOUYE) in January 1981. Senator INOUYE has been a leader with issues relating to health care and mental health care financing and I would like to take this opportunity to commend him for the significant role he has played.

Both S. 123 and the bill I am introducing today would provide reimbursement for outpatient mental health services provided by clinical psychologists, clinical social workers, and psychiatric nurse practitioners who meet specifically defined qualifications. Unlike S. 123, however, my bill would not alter the ceiling on reimbursement, nor would it change the 50-50 copayment ratio now explicit in current law. Under present law, medicare will pay 50 percent of the cost of mental health treatment up to a maximum of $250 per year when treatment is provided by a physician. By expanding providers to include social workers, psychologists, and psychiatric nurses, my bill would provide beneficiaries the opportunity of choosing from a range of providers and would insure that elderly and low-income individuals have access to mental health services in areas where psychiatrists are not available.

My bill also has the potential of saving valuable health care dollars. Mental illness is a major and costly health problem that severely affects our economy and our society. The National Institute of Mental Health estimated in a 1977 study that mental illness cost this Nation $22 billion in lost productivity, absenteeism, and increased medical utilization. This figure does not begin to address the cost of human suffering resulting from emotional disorders.

In addition to the economic and emotional costs of mental illness, the high cost of general medical care has become a great concern to legislators, government officials, and citizens throughout our Nation. Studies have shown that emotionally distressed individuals are unnecessarily heavy users of general health services, and that significant declines in the use of those services can occur when individuals receive psychological services. A recent study funded by the National Institute of Mental Health concluded that "the utilization of mental health services has resulted in decreased utilization of physical health services." Also the President's Commission on Mental Health strongly suggested "that the cost of including or expanding mental health coverage would be partially or wholly offset by decreasing use of general medical services." I believe there is increasingly strong evidence that mental health treatment is cost-effective and that expanding eligible providers would help to reduce high medical utilization rates and other costs associated with mental illness. It is noteworthy that the Department of Defense has been directly reimbursing psychologists and psychiatric nurses in its CHAMPUS program for some time now.

I would like to reemphasize that my bill does not add any new services. It would simply permit beneficiaries of medicare and medicaid to obtain mental health services from the mental health professional of their choice, without regard to whether the provider is a psychiatrist, as in current law, or a clinical social worker, psychologist, or phychiatric nurse specialist.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first sentence of section 1861(r) of the Social Security Act is amended by inserting, immediately before the period at the end thereof, the following: ", or (6) except for the purposes of section 1814(a) (other than paragraph (2)(A) thereof), section 1835(a)(2) and (b)(1), and subsections (j), (k), (m), and (o) of this section, a mental health specialist, but (unless clause (1) of this subsection also applies to him) only with respect to functions which he is legally authorized to perform as such in the State in which he performs them".

(b) Section 1861 of such Act is further amended by adding at the end thereof the following new subsection:

"Mental Health Specialist

"(dd)(1) The term 'mental health specialist' means an individual who is a clinical psychologist (as defined in paragraph (2)), a clinical social worker (as defined in paragraph (3)), a psychiatric nurse specialist (as defined in paragraph (4)), or a psychiatrist (as defined in paragraph (5)).

"(2) The term 'clinical psychologist' means an individual who (A) is licensed or certified at the independent practice level of psychology by the State in which the individual so practices, (B) possesses a doctorate degree in psychology from a regionally accredited educational institution, or in the case of an individual who was licensed or certified prior to January 1, 1978, possesses a master's degree in psychology and is listed in a national register of mental health service providers in psychology which the Secretary deems appropriate, and (C) possesses two years of supervised experience in health service, at least one year of which is postdegree.

"(3) The term 'clinical social worker' means an individual who (A) possesses a master's or doctor's degree in social work, (B) after obtaining such degree has performed at least two years of supervised clinical social work, and (C) is licensed or certified as such in the State in which the individual practices, or if such State does not license or certify clinical social workers, is listed in a national register of social workers who, by education and experience, qualify as health care providers in clinical social work.

"(4) The term 'psychiatric nurse specialist' means an individual who (A) is licensed to practice nursing by the State in which the individual practices nursing, (B) possesses a master's degree or higher degree in psychiatric nursing or a related field from an accredited educational institution, and (C) is certified as a psychiatric nurse by a duly recognized national professional nurse organization.

"(5) The term 'psychiatrist' means a physician who (A) is described in clause (1) of section 1861(r), and (B) is board certified by the American Board of Psychiatry and Neurology or has successfully completed a minimum of three years of approved graduate medical training in psychiatry.".

Sec. 2. (a) Section 1905(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (17),

(2) by redesignating paragraph (18) as paragraph (19), and

(3) by inserting immediately after paragraph (17) the following new paragraph:

"(18) services of a mental health specialist (as defined in section 1861(dd)); and".

(b) Section 1902(a)(10)(C)(iv) of such Act is amended by striking out "numbered (1) through (17)" and inserting in lieu thereof "numbered (1) through (18)".

Sec. 3. The amendments made by this Act shall be effective in the case of services furnished after the date of the enactment of this Act.

By Mr. HATFIELD (for himself, Mr. Weicker, Mr. Kennedy, and Mr. Eagleton):

S. 2243. A bill to condition U.S. military support for El Salvador on participation by the Government of El Salvador in negotiations with all major parties to the conflict which are willing to engage, without preconditions, in such negotiations for the purpose of achieving a cease-fire and an equitable political solution to the hostilities; to the Committee on Foreign Relations.

EL SALVADOR

Mr. HATFIELD. Mr. President, today, along with Republican Congressmen Jim Leach and Lawrence DeNardis in the House of Representatives, I am introducing legislation making the continuation of military aid and U.S. advisers for El Salvador contingent on either the commencement of negotiation between the warring factions or a certification by the President that the reason negotiations are not taking place is that the insurgent forces refuse to do so without prior conditions. This legislation does not conflict with the scheduled March 28 election in El Salvador. It also complements the gracious offer by President Portillo of Mexico, stating his friendship and alliance with the United States, to facilitate a negotiation process that would meet the concerns of the United States.

As the U.S. Ambassador to El Salvador, Dean Hinton, has pointed out, the March 28 elections will not have a critical impact on the outcome of the civil war. It is also important to note that the March 28 constitutent assembly elections are only a first step. Presidential elections are not scheduled for completion until mid-1983. To wait for completion of the elections before negotiating would entail another year of needless bloodshed and suffering for the people of El Salvador. Furthermore, both the opposition forces and the Government of El Salvador agree that fair elections can serve as an important component of a political solution.

This legislation is designed to strengthen the hand of President Duarte and those moderates of like mind associated with both the Salvadoran government and the opposition. The preamble of this legislation notes that the Bishop of San Salvador, Rivera Y Damas, offered last year to mediate between the warring factions in El Salvador. It further notes that the President of El Salvador, Napoleon Duarte, promptly accepted that offer. Most observers agree that President Duarte's inability to move forcefully in this direction can be attributed to forces outside of his control.

It has become increasingly apparent that the principal obstacle to negotiation, a policy supported overwhelmingly by the American people and, by many indications, the majority of our allies, is the Salvadoran military and the extreme right. Opposition leaders are now unanimous in their call for unconditional negotiation.

There can be no harm in challenging them on this point. It is important to note that no one need give away anything prior to or during discussion at the negotiating table. All matters of discussion, including the cessation of outside interference, the attainment of a cease-fire, the continuation of the election process, and the integration of the currently hostile armed forces can be dealt with in the context of negotiation. The bill does not entail unnecessary bureaucratic work. In order for military aid to continue, the President need only make one of two simple certifications: First, that the Salvadoran Government is engaged in a negotiation process; or, second, that the reason negotiations cannot go forward is because the FDR and the FMLN refuses to negotiate without prior conditions.

This legislation merely recognizes that those who are currently unwilling to endeavor to end the violence and the continued drain on U.S. resources must be given concrete incentives to change. Otherwise, a meaningful peace process cannot possibly move forward.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 620F. United States Military Support for El Salvador.—(a) The Congress notes—

"(1) the offer of the Bishop of San Salvador, Rivera Y Damas, to serve as a mediator between the warring factions in El Salvador;

"(2) the prompt acceptance of that offer by the President of El Salvador, Napolean Duarte;

"(3) the publicly-stated position of the Revolutionary Democratic Front (FDR) and the Farabundo Marti Peoples' Liberation Front (FMLN) that they will commence negotiation without preconditions;

"(4) that both the FDR-FMLN and the Government of El Salvador agree that fair elections conducted with effective guarantees can serve as an important component of a political solution to hostilities;

"(5) that the election process now underway in El Salvador is not scheduled for completion until mid-1983;

"(6) that the President of Mexico, stating his friendship and alliance with the United States, has publicly expressed a willingness to facilitate a negotiation and a resolution of the Salvadoran crisis and has further offered to provide guarantees that the principal concerns of the United States will be honored;

"(7) the traditional desire of the people of the United States for peaceful, rather than violent, resolution of conflict; and

"(8) that postponement and delay can only lead to more suffering among the people of El Salvador and further polarization of the conflict.

"(b) United States military support for El Salvador may not be provided after the end of the 45-day period beginning on the date of enactment of this section unless the President transmits to the Congress, at the end of that 45-day period, a report certifying that—

"(1) the Government of El Salvador is actively engaged in good faith in a negotiation process to achieve a cease-fire and an equitable political solution to hostilities with all major parties to the conflict in El Salvador which are willing to participate, without prior conditions, in such a negotiation process; or

"(2) the Government of El Salvador cannot proceed with such a negotiation process because the FDR and the FMLN are not willing to participate without prior conditions.

In making the determination required by this subsection, the President shall consult with the Congress.

"(c) As used in this section, the term 'United States military support for El Salvador' means—

"(1) the obligating of funds for assistance for El Salvador under chapter 2 or 5 of part II of this Act, and the issuing of letters of offer, extending of credits, or issuing of guarantees for El Salvador under the Arms Export Control Act;

"(2) the assigning or detailing to El Salvador of members of the United States Armed Forces to perform defense services under this Act or the Arms Export Control Act, to conduct international military education and training under chapter 5 of part II of this Act, or to perform international military assistance and sales management functions under section 515 of this Act; and

"(3) the assigning or detailing to El Salvador, or other introduction into El Salvador, of members of the United States Armed Forces (other than members of the Armed Forces responsible for security at the United States Embassy in El Salvador), except that this paragraph does not prohibit the introduction of United States Armed Forces into El Salvador in order (A) to meet a clear and present danger of hostile attack upon the United States, or (B) to meet a clear and present danger to, and to provide essential and immediate evacuation of, citizens of the United States."

By Mr. RANDOLPH (for himself, Mr. Sarbanes, Mr. Inouye, Mr. Riegle, Mr. Baucus, Mr. Chiles, Mr. Pryor, Mr. Burdick, Mr. Levin, Mr. Bentsen, Mr. Sasser, Mr. Nunn, Mr. Bradley, Mr. Pell, Mr. Hollings, Mr. Kennedy, Mrs. Hawkins, Mr. Weicker, Mr. Denton, Mr. Hatch, Mr. Packwood, Mr. Stafford, Mr. Humphrey, Mr. Grassley, Mrs. Kassebaum, Mr. Hatfield, Mr. Cohen, and Mr. Durenberger):

S.J. Res. 170. Joint resolution to designate the week of November 7, 1982, through November 14, 1982, as "National Hospice Week"; to the Committee on the Judiciary.

NATIONAL HOSPICE WEEK

● Mr. RANDOLPH. Mr. President, today I am introducing a joint resolution designating the calendar week of November 7, 1982, as "National Hospice Week."

I am pleased to introduce this joint resolution on behalf of myself and Senators Sarbanes, Inouye, Riegle, Baucus, Chiles, Pryor, Burdick, Levin, Bentsen, Sasser, Nunn, Bradley, Pell, Hollings, Kennedy, Hawkins, Weicker, Denton, Hatch, Packwood, Stafford, Humphrey, Grassley, Kassebaum, Hatfield, Cohen, and Durenberger.

Mr. President, hospice care as an alternative to the typical, expensive, and often impersonal care we are able to give to terminally ill men, women, and children in our society needs national attention, recognition, and support. Families need to know that hospices are places where both the patient and his or her family can have their physical, as well as emotional, grief-related symptoms more completely and compassionately controlled.

Sadly to say, Mr. President, most families, even those in communities that offer hospice care are not aware of its existence.

The word "hospice" means a place of refuge for travelers. Like the words hospitality and hospital, it stems from the Latin word "hospes," which can mean host or guest. Until recently, in our society, the term, if familiar at all, conjured up an image of an Alpine hut and brown-robed monks with St. Bernard dogs rescuing snowbound travelers, or a rescue mission clothing and feeding humanity in a city slum. Both images are historically correct.

Today, however, the word hospice has a new meaning that remains true to its origins. It now refers to a way of caring for people nearing the end of life, faced with dying and in need of refuge.

Also, the modern notion of hospice is comprehensive. It can refer to a special place, a literal refuge, where the dying are sheltered and cared for.

Hospice is a place, people, and a philosophy. It is a system of care that seeks to restore dignity and a sense of personal fulfillment to the dying. The focus is on the patient and the family, rather than on the disease—and the aim is not to extend life through heroic life support systems, but to improve the quality of the life that remains. Traditionally, the patient has a chronic disease, most often cancer. But it can also respond to the end-stage cardiac patient dying in an intensive care unit, a bereaved couple in the labor room who have just lost a newborn, or the spouse of an accident victim who has just died in an emergency room.

Hospice care providers, made up of interdisciplinary teams recruited from the community from many disciplines, including the clergy, nursing, social work, medicine, the allied health professions, and very importantly, lay volunteers, provide both palliative and supportive care to meet the special needs that arise for both patient and family during the final stages of illness, and in bereavement. It implies a continuum of appropriate institutional and home care, available 24 hours a day, 7 days a week.

Presently, Mr. President, there are about 200 Hospices in all 50 States—and that is not enough to serve a nation comprised of nearly 240 million people during a time when terminal disease, such as cancer, is expected to cause the death of about 430,000 persons this year. That is 1,180 people a day, or 1 every 73 seconds.

Statistics show that about 58 million Americans now living will eventually have cancer—1 in every 4 persons.

I cannot, ever, say enough about our hospitals and the medical personnel attached to them, who are doing their best to provide efficient care of terminally ill patients and their families as they struggle to cope with the ravages of terminal illness. But Mr. President, efficient care is not enough to offer someone nearing the end of life's journey here on Earth. Too much efficiency removes the time for love and compassion in the care of these acute patients.

The 200 Hospice care centers now established in the United States are supported totally through local contributions, memorials, and community grants—and staffed almost totally through volunteer efforts from within the communities where they are located.

All of us have knowledge of the public debate on whether terminally ill individuals should receive hospital-based, life-prolonging care. But more importantly, there are many of us who have our own personal experience and knowledge about such things.

Just as there is a hugely successful volunteer force in the field which forms the basic structure for private sector participation in the war on cancer, there can be an increase of hospice volunteers staffing more and more centers throughout the country to provide an alternative care system for the dying and their families.

No one knows more than I how much lay volunteers can do for any effort that involves humankind—for causes large and small. It is not easy for individuals and families to use their time and resources in volunteer work during cancer crusades—because these people cannot see or witness an immediate and tangible result.

But in the case of "Hospice Care," there is an immediate and tangible result—appropriate sensitivity and personal support instead of machines. Dignity and peace of mind, instead of loneliness and despair. Surrounded by family, instead of alone in the stark reality of a hospital room. Those are but a few of the immediate and tangible results that volunteers witness when they involve themselves in "Hospice Care."

If we do not identify and define what "Hospice" means on a national scale, concerned citizens cannot come forward as volunteers in providing such care.

Who is not moved by the words of the Psalmist: "Cast me not off in the time of old age; forsake me not when my strength faileth"? Providing comfort is the single-most important goal "of Hospice Care," and it deserves special consideration.

Within the Senate, there are two measures currently pending which will be of interest to my colleagues. One is a bill, S. 1958, to allow medicare-eligible persons to be treated in a hospice as opposed to traditional hospitalization during terminal illnesses, and the second is a bill, S. 2013, to establish a temporary program under which heroin would be made available through qualified hospital pharmacies for the relief of intractable pain of terminally ill patients. I am a cosponsor of both bills, and I am hopeful that they will be acted on affirmatively during this Congress.

Mr. President, the reason for introducing this joint resolution designating a "National Hospice Week," is that outreach to a nation whose people are, by tradition, readily attracted by an idea that is humane and timely. The joint resolution neither recommends nor requires Government spending, participation or influence in the hospice care movement.

Hospice care is a grassroots movement—and it has worked so far because people are willing to sacrifice. If public awareness is aroused, and the concepts are intelligently harnessed by capable organizers, then the hospice care concept will become more and more a valid and worthy concept whose time has come. There are, of course, many unanswered questions.

At the national level, there is funding, the definition of what constitutes proper hospice care, establishing a criteria for patient selection, and a determination of the best models for our country.

At the local level, establishing a good hospice requires months or years of painstaking planning to define specific goals, set up operational guidelines, achieve funding, educate and train local volunteers and medical community personnel, and to assemble staff.

Shortcuts in this process are likely to have objectionable consequences. Until all of the concerns over what should or should not be standard definitions of hospice care are resolved, we are not seeking blanket Government support or coverage by third-party insurers. It is my hope that national and local concerns will be addressed and resolved in the very near future, for it is my wish for millions of Americans that they may realistically hope for the alleviation of unnecessary physical, emotional, and spiritual pain and grief attendant on terminal illness.

The joint resolution, which I hope will win the support of a majority of my colleagues, requests the President to proclaim November 7, 1982 as "National Hospice Week," and calling on all Government agencies, the medical community, appropriate private organizations, and the citizens of the United States to observe that week with appropriate forums, programs, and activities designed to encourage national recognition and support for the hospice care concept as an achievable and humane response to human suffering.●

Mr. RIEGLE. Mr. President, I am pleased to cosponsor the joint resolution of the Senator from West Virginia (Mr. RANDOLPH) designating the week of November 7, 1982 as "National Hospice Week." Millions of Americans are unaware of this important alternative available to terminally ill persons and their families. It is my hope that the designation of the second week in November as "National Hospice Week" will help inform millions of our citizens of this important alternative.

Mr. President, during these difficult times we are often confronted with decisions that involve reducing funds for needed programs. It is a rare moment when we are able to find alternative ways of providing essential services in a cost efficient manner while actually improving the quality of those services. For many individuals, hospice care is precisely such an alternative. By providing terminally ill persons and their families with the comprehensive care that is needed when confronting terminal illness, hospice care has the potential of lessening the tremendous hardship, both physical and emotional, that accompanies such illness.

Mr. President, it is for those reasons that I am also a cosponsor of S. 1958, a bill which provides for coverage of hospice care services under the medicare program. This bill offers individuals the option of selecting hospice care in lieu of more costly and often inappropriate hospital care. Introduced in the Senate on December 15, 1981 by Senator DOLE, chairman of the Senate Committee on Finance, with a long list of bipartisan cosponsors, S. 1958 is the companion measure to H.R. 5180 introduced by Congressman PANETTA on December 11, 1981 in the House. I am encouraged by the support these measures have received in both Houses of Congress and I urge all of my colleagues who have not already done so, to carefully examine this important approach to terminal care.

Mr. President, S. 1958 provides us with an excellent opportunity to carefully explore the Federal Government's role in promoting Hospice care. We will want to take great care to assure that the original objectives of hospice care are not compromised or distorted as a result of the increased availability of such services under the medicare program. S. 1968 will provide the Congress with an excellent starting point to explore all of these concerns as well as the many other important issues that surround the hospice movement.

In providing a nurturing setting for patients in need of palliative rather than curative care, the hospice movement is meeting a criticial need for terminally ill persons. The approach taken by the Hospice movement has been to help terminally ill individuals continue to function with the minimum disruption to their routine activity. A central component of such an approach has been in maintaining a family environment within the Hospice together with providing a broad range of counselling and services designed to minimize the trauma of terminal illness.

I look forward to the day when all dying patients will have the option available to them of the kind of compassionate care which the Hospice movement has already provided to thousands of Americans.

By Mr. PERCY:

S.J. Res. 171. A joint resolution with respect to nuclear arms reductions; to the Committee on Foreign Relations.

NUCLEAR ARMS REDUCTIONS

Mr. PERCY. Mr. President, on March 10, 20 Senators and more than 100 Congressmen introduced a joint resolution calling upon the United States and the Soviet Union to achieve a mutual and verifiable freeze on the testing, production, and further deployment of all nuclear weapons. The idea of a nuclear weapons freeze originated not in the Halls of Congress, but rather at the grassroots level across the country.

It is vital that we in Washington try to understand why the freeze initiative has suddenly arrived at our doorstep with such momentum and broad popular support. I would suggest that this grassroots initiative is the product of both anxiety and frustration:

Anxiety that officials at the highest levels of our government may believe that nuclear war might somehow be winable or survivable;

Anxiety that we may witness in our lifetime the horrow of nuclear war;

Anxiety over the plan to add another 17,000 warheads to our nuclear inventory over the next 10 years;

And frustration with the dearth of demonstrable evidence that the administration is genuinely seeking an accommodation with the Soviet Union to restrict strategic nuclear weapons.

To understand the appeal of the nuclear freeze proposal, one must realize that not a single accord limiting strategic weaponry has entered into force during the last 10 years—an era marked by the deployment of tens of thousands of new nuclear devices. To be sure, three nuclear arms control agreements (the two test ban treaties and the SALT II Treaty) were signed, but none of the three has been ratified.

Equally disturbing, this June will mark the passage of the third consecutive year in which there have been no face-to-face negotiations between the United States and the Soviet Union on the further limitation of strategic nuclear weapons, even though President Reagan pledged late in his campaign that, if elected, he would "immediately" resume negotiations. Almost 9 months ago, Dr. Eugene Rostow, appearing before the Foreign Relations Committee for confirmation to the post of Director of the Arms Control and Disarmament Agency, pledged that the administration would give its highest priority to having the new strategic reduction talks (START) started within 9 months. And in November, Secretary Haig informed the committee that the negotiations could be underway by February or March. Yet not only has START not started, we still have no firm indication when it will.

In the face of such a discouraging record, and absent any confident expectation that a new breakthrough may be coming, it is not surprising that the public is mobilizing in support of arms control and demanding action in place of rhetoric. As Senator PAUL TSONGAS said in a Foreign Relations Committee hearing last week, the continuing stalemate in getting START started has created a whole new American constituency favoring arms control.

A society that has traditionally regarded war as too important to be left to generals now seems to be saying that arms control is too important to be left to governments. In contrast to the arcane and staggeringly complex terms of the proposed SALT II Treaty, the advocates of the nuclear weapons freeze propose the simplest of all possible arms control formulas: In a word, that both sides simply "stop."

This, then, brings me to the specifics of the freeze resolution. Whatever our sympathy and understanding for the constructive motivation of the initiative, we still are obliged to ask whether the simplicity of the proposal is a virtue or a liability. As chairman of the committee that would hold hearings on the proposed ratification of any treaty that encompassed the freeze proposal, I have a special responsibility to carefully examine the political, technical, and strategic practicality of the proposal. However strongly one feels about the freeze, it must receive two-thirds approval in the Senate to be put into force. In this regard, I must say that I see a number of practical problems with the freeze resolution as now drafted that would likely provoke significant opposition.

First, the freeze resolution calls for adequate verification measures but remains silent as to just how this would be achieved. We must remember that verification was a point of great debate during SALT II, and experts like Senator GLENN spent countless hours pouring over every detail relating to our ability to verify the proposed treaty.

If it is assumed that the freeze's ban on the testing, production, and deployment of all nuclear weapons systems—including even the smallest such devices, such as nuclear torpedos and mines—would have to be verified through each side's independent technical means, then we would likely be providing a clear opportunity for cheating. As you may know, SALT focused on limiting weapons launchers, rather than weapons themselves. This was because we were not confident that we could monitor all Soviet strategic weapons production using national technical means alone. Launchers, on the other hand, are readily identifiable from satellite surveillance.

On one previous occasion—the 1975 convention banning the development and production of bacteriological weapons—the United States willingly acceded to an arms control treaty with the Soviet Union knowing that it was largely unverifiable. The convention provides for no on-site inspection, and our intelligence agencies advised the President that national technical means of verification could not be relied upon to detect the testing and production of such small devices and bacteriological bombs. Lacking confident verification, the United States hoped that the risk of being caught cheating would be sufficient to deter the Soviets from violating the conventions's terms. Yet what happened is history. As evidenced by the celebrated incident at Sverdlovsk in 1979 and the recently confirmed evidence of Soviet use of bacteriological agents, known as "yellow rain," in Southeast Asia, we must assume that the Soviets may violate an arms control agreement unless we can rigorously monitor its implementation.

If the nuclear weapons freeze proposal cannot be verified through independent means, then we would have to rely on Soviet consent to station Americans in their factories and defense plants to monitor their compliance with the agreement. Unfortunately, our experience in dealing with the Soviets in SALT offers little hope that they would accept such an unprecedented American intrusion on their soil. To be sure, the still-unratified Peaceful Nuclear Explosions Treaty of 1976 for the first time incorporated Soviet consent to some limited on-site verification provisions. But a much more comprehensive on-site monitoring and inspection arrangement would be required to enforce the freeze. Just last month, though, the Soviets presented a new negotiating offer at the Vienna talks on mutual and balanced force reductions (MBFR) in which they once again refused to grant the most fundamental of all of NATO's negotiating demands: that they allow Western observer posts on their territory to monitor the pull-out of the specified troops and equipment.

A second difficulty concerns certain force asymmetries that currently favor the Soviet Union. Let me just point to one example where a freeze would be detrimental to U.S. and NATO security interests. The Soviet Union has now deployed over 300 SS-20 medium-range missiles, each with three independently targetable warheads. The Western Alliance will not have the first such weapons deployed for another year and a half. Were NATO to agree to a freeze in place, the Alliance would be permanently locked into this position of decided inferiority. Although advocates of the freeze look at the global distribution of nuclear weapons and see a rough parity, Europeans are naturally much more troubled by the immediate danger posed by the 900 SS-20 warheads which directly confront them in Europe.

For this reason, NATO has steadfastly rejected Premier Brezhnev's calls for a freeze in place and recognizes the unilateral freeze that he announced earlier this week as a propaganda ploy designed to erode European support for the December 1979 NATO decision on intermediate-range nuclear forces. The best hope for persuading the Soviets to agree to the NATO negotiating position—which would go well beyond a freeze by eliminating all Soviet intermediate-range nuclear missiles—is to convince them that we will carry out our planned deployment program unless the "zero option" is adopted.

The nuclear weapons freeze would undo the "zero option," thereby undercutting the basic Allied strategy in the ongoing negotiations on intermediate nuclear forces. Moreover, if the freeze were adopted by the two superpowers without the consent of the NATO Allies, our European friends would react angrily to having had America pull the rug out from them on another major issue involving nuclear weapons. Indeed, some European governments might fall as a result of the U.S. action. At the least, a widespread suspicion might again arise that the United States is prepared to accept arms control arrangements with its main adversary that are severely disadvantageous to European interests.

Lastly, the nuclear weapons freeze would significantly impair the prospects that START, once begun, could succeed in mandating deep reductions in current levels of strategic weaponry. The freeze resolution would prohibit the deployment of the MX, the B-1, and the Trident missile, and without the expectation of these systems coming on line in the near future, I see little chance that the Soviets would agree to dismantle a substantial percentage of their recently deployed, fourth-generation ICBM force. Secretary Haig, in Foreign Relations Committee hearings last November, expressed his view that the success of the START talks depends on U.S. willingness to proceed with the B-1 and MX, a view that I have strongly endorsed, though President Reagan has stated that everything in our strategic program will be on the table for discussion and negotiation.

Despite these practical problems, though, I do believe that the freeze initiative has established a valuable foundation for studying and debating how we can move forward in arresting the strategic weapons competition. While we continue to study the freeze proposal, I intend to press the administration to get on with START. The date for commencing these talks is past due, and the administration must recognize that the longer it delays, the stronger the support will grow for the freeze proposal. I am convinced that if the United States can persuade the Soviets to accept its proposals for deep cuts in strategic weaponry, we will have achieved an outcome far superior to that offered by the freeze. But absent a clear alternative of this nature, I am equally convinced that Americans will increasingly look to the freeze initiative as perhaps the last clear hope for reversing the mad momentum of the nuclear arms race.

In closing, let me mention one other step that I believe would contribute enormously to an easing of current anxieties about nuclear war, that is, a Reagan/Brezhnev summit. The American people want reassurance that the Governments of the United States and Soviet Union can establish and maintain a dialog on strategic concerns, and this should include direct, face-to-face contact between our respective leaders. A summit need not undermine our resolve on issues such as Poland and Afghanistan. Rather, it can serve as yet another indication that we are committed to exploring every avenue for moderating tensions and settling disputes.

Mr. President, in conclusion, what the country needs at this moment is a realistic approach to arms control. With this in mind, I have been working with Chairman CLEMENT J. ZABLOCKI of the House Foreign Affairs Committee to fashion a resolution that calls for the immediate beginning of the START talks and which states the objectives of those talks.

Chairman ZABLOCKI introduced his resolution (H.J. Res. 443) in the House yesterday. My resolution differs from that of Chairman ZABLOCKI only in modest ways to make clear that limits on testing and deployment of new and destabilizing nuclear weapons systems should be negotiated and to make clear that the Geneva INF and START talks should be eventually linked rather than immediately merged.

I would also note that my introduction of this resolution today is not intended to indicate any lack of support on my part for the resolution introduced yesterday by the senior Senator from Maryland Senator MATHIAS. His resolution makes an extremely important contribution to the current debate and has my support.

Mr. President, I therefore send to the desk a resolution with respect to nuclear arms reductions.

ADDITIONAL COSPONSORS

S. 131

At the request of Mr. INOUYE, the Senator from Tennessee (Mr. SASSER), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Oklahoma (Mr. BOREN), the Senator from New York (Mr. D'AMATO), and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 131, a bill to incorporate the Pearl Harbor Survivors Association.

S. 1595

At the request of Mr. INOUYE, the Senator from Vermont (Mr. LEAHY), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1595, a bill to provide for the designation of income tax payments to the U.S. Olympic Development Fund.

S. 1678

At the request of Mr. HATCH, the Senator from Alaska (Mr. STEVENS), was added as a cosponsor of S. 1678, a bill to amend the Employee Retirement Income Security Act of 1974 with regard to mortgage investments.

S. 1688

At the request of Mr. SPECTER, the Senator from Utah (Mr. HATCH), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of

S. 1688, a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

S. 1698

At the request of Mr. Denton, the Senator from Hawaii (Mr. Inouye) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces Personnel.

S. 1770

At the request of Mr. Inouye, the Senator from California (Mr. Cranston) was added as a cosponsor of S. 1770, a bill to direct the Secretary of the Department of Transportation to conduct an independent study to determine the adequacy of certain industry practices and Federal Aviation Administration rules and regulations, and for other purposes.

S. 1862

At the request of Mr. Moynihan, the Senator from New York (Mr. D'Amato) was added as a cosponsor of S. 1862, a bill to modify the navigation project for Moriches and Shinnecock Inlets, N.Y.

S. 1916

At the request of Mr. Cannon, the Senator from Florida (Mr. Chiles) was added as a cosponsor of S. 1916, a bill to amend the Federal Trade Commission Improvements Act of 1980 to provide for an evaluation by the Federal Trade Commission of the effects on interstate commerce and on consumers of acquisitions of domestic petroleum companies by major international energy concerns, and for other purposes.

S. 1939

At the request of Mr. Goldwater, the Senator from Hawaii (Mr. Matsunaga), the Senator from Nevada (Mr. Cannon), the Senator from South Dakota (Mr. Abdnor), the Senator from Georgia (Mr. Nunn), the Senator from Iowa (Mr. Grassley), the Senator from Virginia (Mr. Warner), and the Senator from Idaho (Mr. Symms) were added as cosponsors of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2013

At the request of Mr. Inouye, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) was added as a cosponsor of S. 2013, a bill to amend the Controlled Substances Act to establish a temporary program under which heroin would be made available through qualified hospital pharmacies for the relief of pain of cancer patients.

S. 2149

At the request of Mr. Riegle, his name was added as a cosponsor of S. 2149, a bill to provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers temporarily unable to make payments due to circumstances beyond their control.

S. 2179

At the request of Mr. Robert C. Byrd, the Senator from Missouri (Mr. Eagleton), and the Senator from California (Mr. Cranston) were added as cosponsors of S. 2179, a bill to amend the war powers resolution to require specific authorization before the introduction of any U.S. Armed Forces into hostilities in El Salvador, and for other purposes.

S. 2217

At the request of Mr. Hatch, the Senator from Oklahoma (Mr. Nickles) and the Senator from Georgia (Mr. Nunn) were added as cosponsors of S. 2217, a bill to establish nationally uniform duties or taxes for purposes of financing operations, maintenance, and development of deep-draft commercial channels and harbors, and to provide for an expedited procedure for the approval and permitting of approved navigation improvement projects and related landside facilities in deep-draft ports, and for other purposes.

S. 2222

At the request of Mr. Simpson, the Senator from Georgia (Mr. Mattingly) was added as a cosponsor of S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

SENATE JOINT RESOLUTION 163

At the request of Mr. Kennedy, the Senator from Ohio (Mr. Metzenbaum) and the Senator from Montana (Mr. Baucus) were added as cosponsors of Senate Joint Resolution 163, a joint resolution on nuclear weapons freeze and reductions.

SENATE JOINT RESOLUTION 166

At the request of Mr. Pryor, the Senator from Nebraska (Mr. Zorinsky), the Senator from Pennsylvania (Mr. Heinz), the Senator from Michigan (Mr. Riegle), the Senator from California (Mr. Cranston), the Senator from Tennessee (Mr. Sasser), and the Senator from Maine (Mr. Cohen) were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating April 28, 1982, as National Nursing Home Residents Day.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. Hatch, the Senator from Tennessee (Mr. Sasser) was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution to congratulate Hadassah, the women's Zionist organization of America, on the celebration of its 70th anniversary.

SENATE CONCURRENT RESOLUTION 70

At the request of Mr. Sasser, the Senator from Arizona (Mr. DeConcini) was added as a cosponsor of Senate Concurrent Resolution 70, a concurrent resolution relating to federally insured deposits.

SENATE RESOLUTION 332

At the request of Mr. Kennedy, the Senator from Wisconsin (Mr. Proxmire), the Senator from Maryland (Mr. Sarbanes), the Senator from Michigan (Mr. Riegle), the Senator from Washington (Mr. Jackson), the Senator from Illinois (Mr. Dixon), the Senator from Nebraska (Mr. Exon), the Senator from New York (Mr. Moynihan), and the Senator from Michigan (Mr. Levin) were added as cosponsors of Senate Resolution 332, a resolution to assure Israel's security and to oppose advanced arms sales to Jordan.

SENATE RESOLUTION 340

At the request of Mr. Robert C. Byrd, the Senator from Tennessee (Mr. Sasser), and the Senator from Michigan (Mr. Riegle) were added as cosponsors of Senate Resolution 340, a resolution to express the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

SENATE RESOLUTION 343

At the request of Mr. Ford, his name was added as a cosponsor of Senate Resolution 343, a resolution expressing the sense of the Senate with respect to beginning strategic arms negotiations with the Soviet Union.

SENATE RESOLUTION 344

At the request of Mr. Hart, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of Senate Resolution 344, a resolution supporting the President's decision to prohibit imports of Libyan oil into the United States.

At the request of Mr. Nickles, his name was added as a cosponsor of Senate Resolution 344, supra.

AMENDMENT NO. 1267

At the request of Mr. DeConcini, the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of amendment No. 1267 intended to be proposed to S. 1080, a bill to amend the Administrative Procedures Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs, to provide for a periodic review of regulations, and for other purposes.

AMENDMENT NO. 1306

At the request of Mr. Denton, the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of amendment No. 1306 intended to be proposed to S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

SENATE CONCURRENT RESOLUTION 74—CONCURRENT RESOLUTION RELATING TO THE LAW OF THE SEA

Mr. PELL submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 74

Whereas for more than ten years the United States has taken a leadership role in promoting a comprehensive treaty on the law of the sea;

Whereas the United States supported the resolution adopted by the United Nations in 1970 which endorsed, inter alia, the principle that the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction are the common heritage of mankind;

Whereas the Third United Nations Conference on the Law of the Sea, representing more than 150 countries, has been formulating a comprehensive draft treaty since 1974;

Whereas the provisions of the current draft treaty of the Third World Nations Conference make vital and valuable revisions in and additions to the existing body of international law concerning the law of the sea, including provisions governing fishing, marine scientific research, protection of the marine environment, and exploitation of offshore energy resources;

Whereas provisions of the draft treaty relating to military navigation and over-flight are vital to the national security interests of the United States;

Whereas the draft treaty establishes a regime of uniform national boundaries that is vital to the efficient transportation of energy resources and other goods in international commerce;

Whereas the establishment of such a regime of uniform national boundaries would limit the steady seaward expansion by certain countries of their national boundaries;

Whereas the seabed contains an abundant supply of hard minerals such as nickel, copper, manganese and cobalt, and it is in the national interest of the United States for these minerals to be available independently of the export policies of foreign countries;

Whereas United States participation in a comprehensive treaty on the law of the sea is essential to the uniform application and continuing vitality of such a treaty;

Whereas failure to conclude a comprehensive treaty on the law of the sea would continue to subject United States commercial and military activities to the conflicting requirements and regulations of different countries; and

Whereas the United States has reviewed the draft treaty of the Third United Nations Conference on the Law of the Sea and has decided to participate in the eleventh session of the Third Conference held in March and April of 1982:

Resolved by the Senate (the House of Representatives concurring), That,

(a) It is the sense of the Congress that the successful conclusion of a comprehensive treaty on the law of the sea is of strategic importance to the United States.

(b) The Congress urges the United States delegation to the eleventh session of the Third United Nations Conference on the Law of the Sea—

(1) to seek appropriate changes in the draft treaty of the Third Conference that would protect United States interests while recognizing that the draft treaty is composed of diverse, interlocking parts that represent the compromises reached among the multiplicity of interests represented at the Conference; and

(2) to seek the successful conclusion of a comprehensive international treaty on the law of the sea at the Third Conference at the earliest possible time.

LAW OF THE SEA

● Mr. PELL. Mr. President, as you know, the Third United Nations Conference on the Law of the Sea reconvened in New York, on March 8, for its 11th and perhaps final session of negotiations on a comprehensive Law of the Sea Treaty. After almost a year of review of the work of the conference by the Reagan administration, President Reagan wisely decided, in my judgment, that the United States should be among the more than 150 nations participating in New York because it was in our national interest.

On January 29, President Reagan reaffirmed his commitment to the multilateral treaty process for reaching agreement on the Law of the Sea. Now the time has come for the Senate and the Congress as a whole, to once again express its strong support for a comprehensive treaty to govern the myriad uses of the oceans. It is for this reason that, today, I am submitting this concurrent resolution, which is identical to one submitted in the House by my colleague from Rhode Island, Representative CLAUDINE SCHNEIDER.

The concurrent resolution reiterates our long-term recognition of the need for a comprehensive Law of the Sea Treaty; highlights the benefits to be gained by such a treaty; reminds the U.S. delegation not to lose sight of the many beneficial provisions already contained in the current text while seeking improvements; and urges the delegation to seek the successful conclusion of negotiations at the earliest possible moment.

None of my colleagues, I am sure, need to be told of the critical importance of this treaty. Anyone familiar with the text of the draft convention is well aware of the vital issues, many now incorporated in the text, which were paramount in our decision to join the negotiations in the first place. Provisions for example which guarantee free transit to U.S. ships and aircraft through and over some 116 highly strategic but narrow straits which would otherwise be closed by expanded territorial claims, are of critical importance both to our security and economic vitality. Equally important are provisions of the treaty which, once and for all, call a halt to those ever-creeping jurisdictional claims by coastal states. So, too, are provisions which make it clear that the management of recovering the potentially vast oil and gas deposits found beneath the Continental Shelf of the United States as far from shore as 350 miles rests with the United States.

Mr. President, I need not remind you of my longtime interest in, and commitment to, establishing an international legal regime for the oceans. I believe that an international agreement is the only way to insure and encourage the peaceful uses of the oceans. Twice before—in 1967 and 1969—I introduced resolutions (S. Res. 172 and S. Res. 33) urging the United States to enter negotiations on such a treaty. I have also served as a congressional adviser to the delegation during the duration of this Conference.

It is with great satisfaction that, after 14 years, the goal which I have sought for so long seems to be close at hand. Congressional reaffirmation of U.S. national interest and commitment to a comprehensive Law of the Sea Treaty, I believe, will serve as a helpful signal to all the participants at the Conference—both for the United States and other nations. It is for this reason that I urge my colleagues to give it careful consideration.●

SENATE RESOLUTION 345—COMMEMORATING THE BIRTH OF JOHN C. CALHOUN

Mr. THURMOND (for himself and Mr. HOLLINGS) submitted the following resolution, which was considered and agreed to:

S. RES. 345

Whereas, March 18, 1982, marks the two hundredth anniversary of the birth of John Caldwell Calhoun;

Whereas, John Caldwell Calhoun served with great honor and distinction as a Senator and a Congressman representing the State of South Carolina with eloquence and dignity;

Whereas, John Caldwell Calhoun selflessly served this Country with supreme dedication as Secretary of War, Secretary of State, and Vice President;

Whereas, John Caldwell Calhoun left a legacy of public achievement and personal excellence which inspired his colleagues in the Senate and set a standard of virtue and merit which all who succeed him strive to achieve;

Whereas, John Caldwell Calhoun was a true patriot, a brilliant Statesman and a scholar of the highest order whose devotion to freedom helped nurture and establish the greatness of this Nation: Now, therefore, be it

Resolved, That the Senate honors and pays tribute to the memory of John Caldwell Calhoun on this the day of the two hundredth anniversary of his birth for his outstanding and significant achievements as a Senator and for his lifelong contribution to the growth and development of America.

SENATE RESOLUTION 346—URGING ACTION OR STABILIZATION OF THE FARM ECONOMY

Mr. HUDDLESTON (for himself, Mr. ZORINSKY, Mr. MELCHER, Mr. PRYOR, Mr. BOREN, Mr. DIXON, Mr.

BAUCUS, Mr. BENTSEN, Mr. BUMPERS, Mr. ROBERT C. BYRD, Mr. EAGLETON, Mr. EXON, Mr. FORD, and Mr. SASSER) submitted the following resolution, which was referred to the Committee on Agriculture, Nutrition, and Forestry.

S. RES. 346

Whereas the people of the United States and millions of people elsewhere in the world depend on U.S. agriculture for food and fiber;

Whereas a strong agriculture is essential to the economic well-being of the Nation;

Whereas U.S. agriculture is highly capital-intensive and farmers must borrow substantial amounts of money to sustain efficient production;

Whereas, in the past, a depressed farm economy has foreshadowed severe recession in the general economy;

Whereas farm income in 1982 (after adjustment for inflation) will, in the absence of changes in the Administration's agricultural policy, be the lowest ever reported due to a combination of falling commodity prices, high production costs, including interest charges, and sluggish export markets;

Whereas, because of reduced commodity prices and high interest rates, many farmers are delinquent in meeting their obligations under loans and having trouble obtaining new loans to continue farming;

Whereas abnormally low farm income and the credit problems many farmers now face are seriously weakening U.S. agriculture;

Whereas the Federal Government stands to expend billions of dollars if (1) Farmers Home Administration loans to farmers are foreclosed and the debt security on the loans does not cover the amounts owed, and (2) due to falling commodity prices, large sums must be paid to farmers in deficiency payments under the wheat, feed grain, upland cotton, and rice programs; and

Whereas the Consolidated Farm and Rural Development Act, the Agricultural Act of 1949, and other Acts of Congress give broad authority to the Executive Branch of the Government to take emergency action to strengthen U.S. agriculture in time of economic stress: Now therefore, be it

Resolved, That it is the sense of the Senate that the President should work with, and encourage, the Board of Governors of the Federal Reserve System to adjust its monetary policy, as soon as practicable, so as to reduce the rate of interest farmers must pay to obtain credit for necessary production items.

SEC. 2. It is further the sense of the Senate that the President and the Secretary of Agriculture should use the broad authorities vested in them by Congress to take emergency action immediately to stabilize commodity prices received by farmers and provide credit assistance to farmers, including, but not limited to, the following actions:

(1) the implementation of a voluntary paid land diversion program in 1982 for producers of wheat, feed grains, upland cotton, and rice;

(2) the establishment of price support loan rates for the 1982 crops of wheat, feed grains, and rice at levels, significantly higher than those previously announced, that will provide more adequate price protection to farmers;

(3) the implementation of an aggressive export development program to expand existing markets, and open new markets, for U.S. agricultural commodities, using all authorities available to them, including the Commodity Credit Corporation Charter Act and the Agricultural Trade Act of 1978;

(4) the provision of loan guarantees to finance the establishment of facilities that use grain to produce alcohol for use in fuel, as provided for in section 137 of Public Law 97-51 (making continuing appropriations for fiscal year 1982);

(5) the implementation of a temporary program to (a) provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers who are not now able to meet their debt obligations without unduly impairing their ability to meet essential farm needs (including family subsistence) due to circumstances beyond their control, and (b) permit such farm borrowers to obtain reamortization or rescheduling of their loans to provide equitable repayment terms (including an interest charge at the original rate established for the loan) consistent with their farm and financial condition; and

(6) the nationwide implementation of the economic emergency loan program to provide operating credit to farmers, using repayments by farmers on prior loans to fund the program.

SEC. 3. It is further the sense of the Senate that the President, in nominating persons for positions on the Board of Governors of the Federal Reserve System that will become open in 1982, ensure that agricultural interests are provided fair representation on the Board.

SEC. 4. The Secretary of the Senate shall transmit copies of this resolution to the President and Secretary of Agriculture.

Mr. HUDDLESTON. Mr. President, today is National Agriculture Day. Several of my colleagues join me today in observance of this particular day. In assessing the dismal economic situation that many of our agricultural producers are faced with at the present time, and in offering some suggestions as to what actions might be taken to help alleviate those economic conditions, I ask unanimous consent to make a statement relating to this subject.

Traditionally, this has been a day for glowing words from the floor of the Senate and the House, and from the President, in recognition of farmers for their contributions to our society and in praise of our American system of agriculture as the best in the world.

Certainly, no segment of our society is more deserving of such recognition and praise.

But the economic condition of the agricultural sector requires far more than praise and recognition. It requires our immediate attention, and I am pleased that 13 of my colleagues are joining me in introducing a resolution calling upon the President and the Secretary of Agriculture to take emergency action to stabilize the farm economy.

The production and marketing of food and fiber is the Nation's No. 1 industry. Over $1.1 trillion in assets are committed to food and fiber production and marketing. The food and fiber industry is the Nation's largest employer—employing 23 million people.

And, as a nation, we depend on agricultural exports as the biggest positive factor in our balance of trade.

Historically, American farmers have been among the most efficient producers in our economy. Today, one farmer produces enough to feed 78 people—three times the output of 1960. American consumers spend only 14 cents of each dollar of disposable income on food—down from 20 cents in 1960 and the lowest for any nation.

In 1981, farmers received only 36 cents from $1 purchase of food, down from 37 cents in 1980 and 38 cents in 1979. In addition, the cost of producing a dollar's worth of food has increased by 20 percent since 1979.

In 1981, increased costs of production, high interest rates, and failure to achieve big increases in agricultural exports results in the second consecutive year of extraordinarily low farm income.

Unless some action is taken, real farm income for 1982 is expected to be even lower. Without action, if projections of real farm income for 1982 prove to be accurate, farmers will have the lowest real farm income since the U.S. Department of Agriculture began making such estimates in the early part of this century.

It is now projected that real farm income will fall below $10 billion in 1982, as it did in 1980 and 1981.

The last time this happened in 3 consecutive years was in the midst of the Great Depression.

Just as it was in the 1930's, many farmers today are confronting the prospect of liquidation either because they cannot pay their bills, or because they simply cannot continue to operate at a loss. Unless action is taken to prevent massive farm liquidations, the state of the national economy will deteriorate further.

Falling land values could jeopardize lender security on the 200 billion dollars' worth of outstanding farm debt.

A reduction in the value of our agricultural exports, something we may experience this year for the first time in a decade, would further damage our already negative balance of trade with other countries.

Thousands of small businesses in rural areas have already been adversely affected, along with the steel, chemical, transportation, and other industries, by the miserable state of the farm economy.

These and many other valid comparisons can be made between the state of the farm economy today and that of the 1930's.

But there is a significant difference.

Today, the President and the Secretary of Agriculture have the programs and the authority necessary to avert a repeat of that depression era when farmers experienced huge surpluses, depressed prices, and massive foreclosures while millions here and abroad went hungry.

Current agricultural policy simply is not responsive to the worsening situation for farmers.

Today, my colleagues and I are offering a plan of action that is a reasonable alternative to the current policy.

Since our plan relies on the use of existing authorities—authorities that were specifically designed by Congress to be used under circumstances such as those we face today—action can and must be taken at once.

The proposals we are setting forth are fiscally sound and deserving of bipartisan support. If these proposals are adopted, the agricultural economy will experience immediate relief, and the national economy will benefit from increased demand and reduced pressure on financial institutions.

In addition to changes in agricultural policy, we are calling on the President to use his authority to influence the policymaking apparatus of the Federal Reserve Board. Interest rates are a major factor contributing to our agricultural problem. Lower interest rates are essential to a successful economic recovery and the continued survival of our family farms.

The proposal would express the sense of the Senate that emergency action must be taken by the President and the Secretary of Agriculture to stabilize the farm economy.

Specifically, we ask the President to work with, and encourage, the Federal Reserve Board to adjust its monetary policy so as to reduce the rate of interest farmers must pay to obtain credit for necessary production items. Further, the President should insure that agricultural interests are provided fair representation on the Board when nominating persons for positions that will become open in 1982.

The resolution provides that the President and the Secretary of Agriculture, using the Board authorities vested in them by Congress, should take emergency action to stabilize commodity prices received by farmers and provide credit assistance to farmers, including the following:

First, a voluntary paid land diversion program in 1982 for producers of wheat, feed grains upland cotton, and rice;

Second, increased price support loan rates for the 1982 crops of wheat, feed grains, and rice;

Third, implementation of an aggressive agricultural export development program;

Fourth, use of loan guarantees to finance construction of facilities to produce fuel alcohol from grain:

Fifth, with respect to farmers who, through no fault of their own, are temporarily unable to meet their debt obligations on Farmers Home Administration farm loans, the use of existing authorities that permit deferral of loan repayments and moratoriums to prevent loan foreclosures; and

Sixth, the immediate nationwide implementation of the FmHA economic emergency loan program.

These actions we are proposing will provide immediate, although temporary, relief to American farmers until such time as our overall national economy begins to return to health.

The Senate Agriculture Committee has already placed the Senate Budget Committee on notice that it may be necessary to reopen the farm bill enacted last year if the farm economy does not improve.

Remedial legislative action on the farm bill may be necessary under any circumstances.

If the administration continues to sit on its hands and recite its unfulfilled promise that relief is just around the corner, legislative action will clearly be in order.

My colleagues and I do not intend to sit idly by and watch our farm economy slide into depression through the failure of the administration to exercise the authorities the Congress has provided.

I ask unanimous consent that a summary of the resolution be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

The resolution expresses the sense of the Senate that emergency action should be taken by the President and the Secretary of Agriculture to stabilize the farm economy.

Specifically, the resolution expresses the sense of the Senate that—

(1) the President should work, and encourage, the Federal Reserve Board to adjust its monetary policy so as to reduce the rate of interest farmers must pay to obtain credit for necessary production items;

(2) the President and Secretary of Agriculture, using the broad authorities vested in them by Congress, should take emergency action to stabilize commodity prices received by farmers and provide credit assistance to farmers, including the following actions—

(a) a voluntary paid land diversion program in 1982 for producers of wheat, feed grains, upland cotton, and rice;

(b) increased price support loan rates for the 1982 crops of wheat, feed grains, and rice;

(c) the implementation of an aggressive agricultural export development program;

(d) providing loan guarantees to finance the construction of facilities to produce fuel alcohol from grain;

(e) with respect to farmers who, through no fault of their own, are temporarily unable to meet their debt obligations on Farmers Home Administration farm loans—

(i) permitting them to defer making repayments on the loans;

(ii) declaring a moratorium on loan foreclosures; and

(iii) permitting borrowers to reamortize or reschedule their loans; and

(f) the immediate nationwide implementation of the FmHA economic emergency loan program; and

(3) the President, in nominating persons for positions on the Federal Reserve Board that will become open in 1982, ensure that agricultural interests are provided fair representation on the Board.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Energy and Mineral Resources to consider S. 2063, a bill to amend the Naval Petroleum Reserves Production Act of 1976 to authorize the Secretary of the Interior to permit local entities to extract and use coal from lands within the national petroleum reserve in Alaska for heat and generation of electricity. The hearing will be held on Thursday, April 8, beginning at 9:30 a.m. in room 314 of the Federal Building in Fairbanks, Alaska, located at 101 12th Avenue.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Roger Sindelar, Committee on Energy and Natural Resources, Subcommittee on Energy and Mineral Resources, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510, (202-224-4236) or Ms. Marsha Cozie, Office of Senator MURKOWSKI, Federal Building, 101 12th Avenue, Box 7, Fairbanks, Alaska 99701 (907-452-6227).

Witnesses should supply the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. COHEN. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for March 23, 1982, beginning at 9:30 a.m., in room 6226 of the Dirksen Senate Office Building. Testimony is invited regarding oversight on the statute of limitations relating to Indian Affairs.

For further information regarding the hearing you may wish to contact Timothy Woodcock of the committee staff at 224-2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DENTON. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, March 18, at 9 a.m., to hold a hearing on Senate Resolution 231, a resolution dealing with excess Federal assets.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. DENTON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to hold a hearing during the session of the Senate at 10 a.m. on Thursday, March 18, to discuss the President's Federalism initiatives.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SUBCOMMITTEE ON THE BUDGET OF THE COMMITTEE ON INTELLIGENCE

Mr. DENTON. Mr. President, I ask unanimous consent that the Budget Subcommittee of the Intelligence Committee be authorized to meet during the session of the Senate at 10 a.m. on Thursday, March 18, to receive testimony on the fiscal year 1983 intelligence budget.

Mr. **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Thursday, March 18, to discuss the President's tax proposals.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL AGRICULTURE DAY

● **Mr. BOREN.** Mr. President, today is National Agriculture Day. It is a day in which I hope we can succeed in making the American people, from coast-to-coast, think seriously about the role of agriculture in our American way of life.

The agricultural economy is in a desperate condition today. We need only look back, in our history, to the late 1920's. It was the collapse of agriculture, the collapse of land values, that caused us to have trouble in the rest of our economy for more than a decade. We simply cannot afford, for the sake of our total economy, to allow agriculture to collapse again.

Many times, I think we take agriculture for granted. We forget that it really contributes almost one-fourth of our entire gross national product. Agriculture is the No. 1 positive contributor to our country's balance of trade. In fact, agricultural exports cut our nonfarm trade deficit in half just last year. This helps us to keep up the value of our dollar and that is something that affects not only the farmer in Oklahoma, but it affects the housewife in New York City, the investor in California, or the businessman in Philadelphia. As you can see, all of us have a stake in what happens to agriculture.

Mr. President, right now, agriculture faces the most serious situation it has faced since the Great Depression. The statistics we see today read like the statistics from the 1930's. In just the last 20 years, we have gone from a situation in which annual farm income and total farm debt were roughly equal: $12 billion a year for annual net farm income, and $12 billion for total farm debt. Last year, the estimated net farm income was approximately $20 billion. If we adjust that for inflation, it is only around $8 billion, the worst it has been since 1938. And what was farm debt last year? Was it still $12 billion? No, farm debt has now reached nearly $200 billion, almost 10 times as much as net farm income.

During this same time, the prices farmers have received have remained below the cost of production and interest rates have gone up at a drastic rate. Between 1978 and 1980, interest costs to farmers have increased by 130 percent. To put it in perspective, we ought to think about this fact: This last year, as I stated earlier, our farmers had a net farm income of $20 billion. At the same time, farmers were paying $19 billion in interest payments alone!

Mr. President, it is obvious that we simply cannot let this situation continue without having a lot of farmers go broke, without losing the family farm and the family ranch. And when we lose the family farmers of this country, we are going to find out, too late, what a good deal we have had. We are going to find out, when the diversified corporations take over agriculture after the family farms fail, just what a good food bargain we have had in the past. When we begin having shortages of food, and when we are no longer able to purchase food at reasonable prices, people who are silent now will be speaking up and saying, "Why did we not help the farmers?"

My hope is that we can convince those people to help now, before it is too late. I hope we can reach those who simply do not understand that, when they pay 90 cents or $1 for a loaf of bread in the supermarket, the farmer only receives less than a nickle for the wheat he produced to go into that loaf of bread.

No element of society could continue to get along receiving the same prices they received 40 and 50 years ago, when everything else they have to buy has gone up 4, 5, and in some cases, as much as 10 times. And yet, that is what we have been expecting agriculture to do.

I am extremely pleased that my colleagues have joined in voicing their support for my bill, S. 2149, which is included as a section in the resolution we have introduced today. S. 2149 will provide some relief to our farmers by putting a moratorium on farm foreclosures by the Farmers Home Administration (FmHA) in those situations where the farmer could not make his payments through no fault of his own. In other words, he still has the assets necessary for a sound loan and, if normal market conditions prevailed so that he was receiving adequate prices, and if he were paying a normal interest rate, he would be able to make it.

Mr. President, we do not want to force these farmers out-of-business. We do not want to see these good managers foreclosed upon. This bill would at least give us a little time. This would let us prevent what happened back in the 1920's when we had a domino effect—when we had farmers going broke and the value of land decreasing because of its being forced on the market, resulting in a reduction in value of those assets for everybody else. Let us hope we can learn from the past. Let us hope that this Agriculture Day will cause us to reassess and not take farmers for granted anymore, but to realize that they are a key element to us, not just in my State of Oklahoma, but all across the country. Let us remember what agriculture means to us on this day we observe National Agriculture Day.●

NATIONAL AGRICULTURE DAY

● **Mr. HELMS.** Mr. President, today is National Agriculture Day, and I think it is important to take a few moments to consider the tremendous achievements of our Nation's agricultural producers.

National Agriculture Day was conceived with the goal of recognizing the achievements and contributions of American agriculture. All too often, we take our generous, cheap food supply for granted. Our abundant source of high-quality food in America goes scarcely noticed.

I am convinced most American consumers believe that their loaf of bread at the supermarket comes direct from the bakery—just like magic. Little thought is given to the countless hours and dollars that are devoted to producing that loaf of bread.

As we become a more urban-oriented society, we also grow further away from our understanding of rural America and its importance to our economic, as well as moral, fiber. Rural America is what this country is all about. Strength, dedication, and hard work is what made this Nation the most powerful in the world. That combination of qualities, which is so common among farmers, will continue to keep this Nation strong.

Hence, the reason for National Agriculture Day—we want to recognize the importance of American agriculture and, hopefully, bridge the gap between farmers and consumers.

Rather than present a lengthy discussion on the merits of American agriculture, I have two articles prepared by the North Carolina Agricultural Extension Service which dramatically tell the story of American agricultural achievement.

There are two important points to be drawn from these North Carolina Extension Service articles:

First, consumers who are concerned about higher food costs should understand that the real reason for higher food costs is inflation, not the farmer. In fact, the farmer's share of the consumer's food dollar has decreased in the last year.

Second, the economic health of the farm sector is important to the economic health of the entire Nation and the world. American agriculture is the Nation's largest employer. Everyone benefits from a healthy agriculture.

Mr. President, I submit the two articles to be printed in the RECORD.

The articles referred to are as follows:

FARMER GETS 36 CENTS OF FOOD DOLLAR

The farmer's share of the consumer's food dollar declined to 36 cents last year—down from 37 cents in 1980.

As usual, however, the proportion of the retail food dollar going to the farmer varied greatly among products, say agricultural extension specialists at North Carolina State University.

Generally, farmers receive a larger share of food dollars spent at retail for products from animal agriculture, and a smaller share of dollars spent for processed crop products.

Farmers who produce eggs, for example, receive about 60 cents of each retail dollar. Dairy farmers receive 58 cents of the milk dollar.

For choice beef the farmer's share is 59 cents; for pork, 47 cents. Overall, slightly more than half the retail price of meats goes to farm producers.

For fresh vegetables the farmer gets 32 cents of the consumer's dollar; for processed vegetables, 20 cents.

And for white bread, the share received by the farmer is only 10 cents. For all bakery and cereal products, the proportion of the retail dollar going to the farmer is 14 cents.

These are national average figures compiled by the U.S. Department of Agriculture.

U.S. retail food prices rose 8 percent in 1981. The increase in farm value accounted for only one-sixth of the retail price rise.

Food that cost $1 in 1981 is expected, on the average, to cost $1.07 this year. Of the additional seven cents, less than a penny will go to the farmer.

CROP PLANTING BEGINS CYCLE WHOSE BENEFITS EXTEND FAR AND WIDE

(By Bill Humphries)

RALEIGH.—Recently compiled figures show that agriculture—the total food and fiber system—continues to be a major component of the U.S. economy.

Farmers now make up only about 3 percent of the national labor force, but their activities generate a huge ripple through much of the total economy.

There are 3.3 million workers engaged in farm production. The labor force that supplies and supports them, however, is more than six times as large, totaling 20.4 million.

This means the agricultural industry is the nation's largest employer. It provides jobs for 23.7 million people—nearly 23 percent of the total available work force of 104.7 million.

In 1980, economic activities generated by agriculture contributed nearly $533 billion to the Gross National Product (GNP). That was slightly more than 20 percent of the total GNP, which exceeded $2.6 trillion.

The tremendously large agriculture-related contribution to the GNP came about because each farm dollar (as measured by consumer purchases and exports) generated $2.30 in gross business. This is what economists call the "multiplier" effect of agricultural dollars.

Farm-produced goods account for 19 percent of U.S. export earnings from all products.

In 1981 the nation's agricultural exports totaled nearly $44 billion and agricultural imports were $17.4 billion. Thus, agriculture's net contribution to the U.S. balance of payments were $26.6 billion.

In nonagricultural trade, the United States last year incurred a deficit of more than $60 billion. Agriculture reduced the overall trade deficit to $33.4 billion.

Oil is the most costly U.S. import item, but there are many others. They include automobiles, cameras and electronic goods from Japan, wines from Europe, coffee and sugar and bananas from Latin America, diamonds from Africa, and thousands of additional products from all over the globe.

Corn and soybeans are the leading American farm exports. About one-third of all cultivated U.S. cropland is used to produce raw commodities for export.

Total agricultural exports in 1981 generated jobs for approximately 1.2 million workers, two-fifth of whom were farmers.

Agricultural exports are big business for North Carolina. The value of the state's share of U.S. agricultural exports in 1980 rose to a record $1.222 billion—equivalent to about a third of the state's $3.6 billion gross farm income that year.

Tobacco and tobacco products constitute the largest Tar Heel agricultural export, with a 1980 value of $664 million. Shipments of soybeans and products were valued at $173 million; corn and other feed grains and products, $163 million.

This year, U.S. tobacco exports of all types are expected to exceed U.S. tobacco imports by about $2.4 billion—a hefty contribution to the nation's balance of payments.

For generations, tobacco and cotton were the principal U.S. export crops. In fact, tobacco shipments date back to John Rolfe at Jamestown in 1613. When the Civil War broke out in 1861, the South expected to pay for its military effort with the proceeds from cotton exports, particularly to England and France.

Over the past 20 years, the composition of U.S. farm exports has changed drastically and volume has soared. The efforts of many nations—including the Soviet Union—to upgrade the diets of their citizens have led to a tremendous surge in worldwide demand for wheat and for such major livestock feed crops as corn and soybeans.

The United States is the major supplier of these commodities for world markets.

Economists say the U.S. agricultural industry is able to operate at a much higher level of efficiency than otherwise because it produces for world markets.

When the farmer begins his spring planting, he sets in motion a chain of activities whose economic benefits extend far beyond the farm. To produce he must have seed, fertilizer, fuel, chemicals, labor, machinery and equipment, and many other items of supply.

Farm supply industries employ 7.5 million workers—about 7 percent of the national labor force. And about 12.8 million people—comprising 12 percent of the labor force—are engaged in all the varied activities associated with the marketing of farm products.●

NATIONAL AGRICULTURE DAY AND OUR AILING NATIONAL FARM ECONOMY

● Mr. ZORINSKY. Mr. President, this is National Agriculture Day, the day we set aside annually to salute farming, the world's largest and probably most productive commercial industry. Unfortunately, Agriculture Day, 1982, is anything but a happy occasion. Despite being the single most positive factor in our balance of trade and the employer of a third of our workforce, agriculture is ailing more this year than at any time since the Depression years of the thirties.

Record crops, high interest rates, sagging export demands, and falling prices have combined to produce the lowest net farm income in half a century. And many of our family farmers—the backbone of our agriculture industry—simply cannot last much longer if things do not improve.

Just listen to the sorry state of agriculture, 1982: Real farm income is forecast at the lowest level in history—a purchasing power that is $100 million less than that during 1932. The value of agricultural exports declined last year for the first time in more than a decade. And in fiscal year 1982, forced liquidations of farm operations will top any year since the Farmers Home Administration was founded in 1937.

Such statistics, and the slim likelihood of improvement anytime soon, caused me last fall to warn of a farm depresssion reminiscent of that which launched the great national Depression of the thirties. And the figures I have seen since then have only heightened my concern, not just for our farm economy, but for the survival of the entire American food producing system as we know it today. Regrettably, I can foresee the day when giant agricultural conglomerates will come to dominate our farm economy because they alone can survive in our farm economy.

But perhaps the most depressing point to be made on Agriculture Day, 1982, is that this sorry picture does not have to be. Things do not have to be this bad. The outlook does not have to be this bleak. Existing Federal law includes all kinds of tools that can be used to help the growing number of farmers who are pushed to the economic brink by dwindling incomes and mounting debts. All the executive branch has to do is use them.

To encourage just this, in January, I called on the Reagan administration to impose a 1-year moratorium on foreclosures of Farmers Home Administration loans. That same month, I urged imposition of a meaningful, paid set-aside program for farmers. And in February, I asked Agriculture Secretary John Block to make some $600 million in emergency economic assistance loans to financially strapped farmers. The authority to do the latter was written into the administration's own 1981 farm bill, which provided little else to ease the plight of economically distressed farmers. And still the administration would not act.

On the contrary, it responded with a meaningless unpaid set-aside program that is not worth the paper it was written on, by turning local FmHA officials into virtual bounty hunters for farmers with delinquent loans, by considering yet another trade embargo affecting agriculture and by proposing a woefully inadequate 1983 USDA budget that simply does not face the reality of today's ailing farm economy.

In a final act of indifference, when one of the few remaining beneficial farm programs—the storage facilities loan program—ran out of money last month, the administration did absolutely nothing to get it funded again.

Clearly, our seriously ill agricultural economy came to the wrong doctor in the administration of Ronald Reagan. And, just as clearly, something must be done or that farm economy may not survive much longer.

Legislation I am introducing today along with several of my farm State colleagues may not be the complete cure. But it is an excellent initial prescription. It lists six specific steps the administration can take to put agriculture on the road to recovery. In addition to a foreclosure moratorium, a paid set-aside and the economic emergency loan program, these steps include increased loan rates for wheat, feed grains, and rice; an aggressive agricultural export development program, and loan guarantees for builders of gasohol plants.

I want to emphasize that actions such as a moratorium on FmHA foreclosures do not amount to charity or a handout for farmers. Farmers would only be eligible to defer loan payments if they can show that circumstances beyond their control have left them in default. And they must repay loans after the deferral period expires.

To those who might question the cost of these actions, I would point out that the cost is minimal when compared to the consequences of inaction—the possible collapse of the entire American food producing system. And to those who question why agriculture merits special attention when our entire economy is ailing, I would return to the concept of National Agriculture Day itself. Agriculture truly is America's heartbeat. One out of three American workers is employed, directly or indirectly, by agriculture. If it were not for agriculture and airplanes, our balance of payments deficit might put even the national debt to shame. And, at a time when we are striving for increased productivity, 1 farmworker supplies enough food and fiber for an incredible 78 people.

Put another way, to a great extent, agriculture is our American economy. And if agriculture is healthy, we are all healthy. This resolution amounts to a prescription for immediate relief of today's sick national farm economy. And there is no more appropriate day than National Agriculture Day to start on the road to recovery. I urge all my colleagues to join me in supporting this legislation.●

FEDERALISM AND FREEDOM—II

● Mr. GOLDWATER. Mr. President, yesterday I presented the first part of two excellent speeches by Nelson Rockefeller on the subject of federalism. Today I will present to the Senate the second of the famous Godkin lectures which Nelson Rockefeller delivered at Harvard University in February 1962.

The theme of this lecture is summed in the following excerpt:

> The essential political truth is that—today more than ever—the preservation of states' rights depends upon the exercise of states' responsibilities. We stand, in fact, upon the threshold of a new test of leadership at the state level. For—so great and urgent are the demands of national defense and foreign policy upon all resources of the national government—that, now as never in our history, state governments are challenged to face and meet the pressing domestic concerns of our society.

Mr. President, this concept is pertinent to President Reagan's New Federalism plan which would restore the responsibility for many basic services to the States. In view of the continued meaning that the Rockefeller lectures have to our current deliberations, I ask that the address entitled "Federalism and National Life" appear in the RECORD.

The address follows:

[From the Godkin Lectures, 1962]

II. FEDERALISM AND NATIONAL LIFE

(By Nelson Rockefeller)

The reports of the death of federalism, so authoritatively asserted in the nineteen-thirties, were, as we have seen, highly exaggerated. It serves little purpose, however, to dwell on the pitfalls of prediction. The task I have set for myself in this lecture is to examine the performance and the expanding promise of federalism in light of the hopes and aspirations of contemporary society for social progress, economic growth, and political stability. . . .

If one examines the catalogue of hopes and fears before us today, there appears a striking similarity to the list that confronted our countrymen in 1787 when the new Constitution, proposed by the Philadelphia Convention, was submitted to the thirteen states for ratification. What was the dialogue between the voices in praise of and in condemnation of the proposed federal frame of government?

The fears were many, and they were stridently expressed. In my own State of New York, in a series of letters signed "Cato," Governor George Clinton denounced the Constitution as being "as inconsistent with the sovereign rights and powers of the states as it would be of the civil rights and liberties of the citizens." A North Carolina preacher campaigning for election as a delegate to the state ratification convention declared that "the proposed Federal City would be a fortified fortress of despotism." Elsewhere, critics attacked the powers given to Congress by the new Constitution, contending that the hangman's noose "would be among the mild instruments Congress used to discipline." And one of the most frequently expressed criticisms of all was the brooding fear that the new government would establish a standing army "to enslave the people who will be disarmed."

Any catalogue of these laments reveals that what most bothered these early Americans were quite specific fears: loss of sovereignty, arbitrary central authority, loss of freedom of action, loss of control over their own destiny, and a domination of both people and government by provincial self-interest. This was an imposing list, and in light of their fresh recollections of oppression, none of these fears could be casually brushed aside.

Side by side with these fears, however, were the hopes of those patriots who perceived the far brighter side of the promise of American federalism under the new constitution. These were preeminently hopes for common security, for assuring personal freedom and protecting civil rights, for economic growth through a wider free-trade area and a common currency, and for social progress through the spread of education, cultural institutions, and other monuments of human progress without which no great civilizations can exist.

We all know, more or less well, the dramatic tale of how hope prevailed over fear in the launching of the American federal system. Yet, as André Gide remarked, ". . . you know the story. Nevertheless we will retell it. Everything has already been told; but as no one listens, we must always be begining again."[1] Seldom in the long corridors of history can we find a better example of where the past can instruct the present.

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[1] *The Return of the Prodigal, Preceded by Five Other Treatises, with Saul, a Drama in Five Acts,* tr. D. Bussy (London, 1953), p. 3.

In that remarkable document, *The Federalist*, which Jefferson called "the best commentary on the principles of government ever written," Hamilton, Madison, and Jay brilliantly marshalled the arguments for the hopes of the new government. The overriding mission of these men was to demonstrate in political practice that the "more perfect union" they envisioned would best serve the interests of their countrymen, and thus to expound a sweeping federalist idea beyond mere administrative federation.

This was a goal well outlined in the minds of many among the Founding Fathers, but for most of the people, it remained yet a matter of discovery, persuasion, and a need for unflagging leadership.

As we review the record after the passage of almost 175 years, the outstanding fact is that the federal framework of government, as it has evolved in the United States, has been a dramatic success.

The fears of those early Americans as they considered the new Constitution of 1787 for ratification have not materialized. The constitutional authority of the individual states today is undiminished. No arbitrary central authority has seized power, nor has provincialism crippled national policy. There has been no loss of freedom of action by the states nor of the people's control over their own destiny.

Rather the hopes of our forefathers have been realized, in some respects, beyond their wildest imaginings. The common security they sought has been maintained through seven wars from 1812 to Korea—including the terrible struggle of the Civil War in which the very life of the federal union was at issue. This nation's strength has not only tipped the scales in favor of freedom's cause in the two great world wars of this century: it has also been, for more than 16 years since World War II, the bulwark of freedom throughout the world.

Jefferson was convinced our federal system would nourish life, liberty, and the pursuit of happiness in an infant nation of less than four million people with an economy built around the small, independent farmer and shop proprietor. Yet this same fundamental political system today embraces and serves an economy that has achieved the widest distribution of individual earning power and wealth and the highest standard of living in recorded history. This is a nation producing 35 percent of the world's goods through the organized effort of only 6 percent of the world's population. Such economic growth has resulted not only from achievement of free trade among the states and adoption of a common currency, but also from a climate of economic freedom that has unleashed the dynamism and mobility, the inventiveness and the incentive, of free enterprise.

It is this economic growth, in turn, which has made possible achievement of the social, cultural, and educational goals our forefathers sought. For they succeeded in creating, in short, a federal system that, over the years, has proven flexible enough to foster both Hamilton's dream of modernized economic progress and Jefferson's passionate regard for the enhancement of individual freedom, opportunity, and responsibility. I think that Jefferson would indeed be pleased by the degree to which his values have been preserved in Hamilton's world.

Why has our federal system worked so well? Why has it been able to foster and adapt itself to fantastic growth and change over 175 years while preserving our fundamental human goals?

The answer lies in the nature of the federal idea and in the leadership which it summons. The truth is that in our federal system, the sources of productive power, initiative, and innovation are to be found at *all* levels of government, and they forever interact on each other, with the initiative depending importantly on where the most dynamic leadership exists. This means leadership with the vision to anticipate emerging problems and shape the forces behind them before they overwhelm us as crises.

As the needs and desires of peoples are perceived, in a federal system, they thus can be met as the opportunity, imagination, and energy of those who staff the multiple posts of power make it possible. At one time this may mean the thrust of wholly private initiative that matches a need with both action and ideas. As often, it will be an agency of state or local government that seizes the opportunity to serve. Or again—when the nation, as a whole, is moved by a condition not resolved by other public or private institutions—the national government can and will act with the necessary boldness and understanding.

There are many illustrations of this complex and productive sharing and yielding of power. Let us look, for example, at the persistent and fundamental concern of our people for civil rights.

It is significant that the Federal Constitution was approved by the states only when there was assurance that the first ten amendments designed to guarantee individual rights would be added. And most of the later amendments of substance have had similar purpose. Such basic guarantees in our society have enabled individual states to advance the granting of additional privileges and enhancement of civil liberties. Women's suffrage, for example, started in Wyoming in 1869, 51 years before the Nineteenth Amendment to the Federal Constitution. And such action by one state can create the issue and the pressure for action by other states and by the national government.

My own State of New York, I am happy to note, has been a pacesetter in effective legislation for individual opportunity and human rights. Over the years, it has pioneered in outlawing discrimination—based on race, creed, color, or national origin—in employment, education, public housing, multiple private housing, places of public assembly, and common carriers. Just last year we took action to close the final major gap with legislation outlawing discrimination in multiple private housing and commercial space—including discrimination by real estate brokers and mortgage institutions.

The power of the national government is available, and in many cases has been used, to resist state or local action which might deprive a person of basic civil rights. Thus in the nineteen-thirties it acted to assure freedom to read aloud the Declaration of Independence in Jersey City during the regime of Frank Hague. And more vivid and recent was the action to allow Negro students to attend the public schools in Little Rock.

There is still need, however, for more courageous leadership at the national level, both legislative and executive. For example, discrimination in federally financed housing could be eliminated by executive action alone.

DUAL SOVEREIGNTY

The dual sovereignty of state and national governments has, thus, provided a practical method of meeting truly national problems without the establishment of an arbitrary central authority.

The sovereignty of the states, and their willingness to exercise it, stands as one of the principal barriers to the creation of a monolithic national bureaucracy that would stifle local initiative and regional creativity, and threaten liberty and opportunity. The local governments have no "sovereignty" to counterbalance federal sovereignty, nor the fiscal power to resist its blandishments. And this is a fact to be kept in mind when considering federal legislation in the areas of housing, social reform, urban renewal and the like, particularly if that legislation is designed to bypass the states.

Let me give you, from my own experience as governor, two different examples of how the willingness of a state to assert its sovereignty in the face of federal power has been productive of good for the people.

The first instance developed from legislation which I recommended to the Legislature, and which the people of New York State subsequently approved, providing a $75 million program to acquire land now for adequate park and recreation facilities, particularly in fast-growing metropolitan regions, before these facilities disappeared through development or became too expensive.

One particularly desirable site was owned by the federal government, which had declared it surplus. Acting under the preferential policy established for state and local governments to acquire such lands, our state representatives undertook negotiations. These negotiations, however, dragged on and on. There were differences as to market value, price, and for part of the property, appropriate use. Finally, federal officials decided to cut up the property into parcels and sell them to private parties. To save the land for park purposes, New York State took the position it would condemn the parcels for park purposes as soon as the federal government sold them. This proved a turning point in the negotiations. The state now owns the property and is developing it into a public park.

ATOMIC ENERGY

My second example is more dramatic—the asserting of state sovereignty in the field of atomic energy.

The national government once wholly monopolized this field, and, for military purposes, screened it in secrecy for more than a decade. Since 1954, private enterprise has been permitted by federal law to become active in this field, but it has not been able to mobilize sufficient resources to diminish significantly the federal government's effective monopoly in both research and development. As a result, the development and control of atomic energy has largely been isolated from the political and economic institutions closest to the people. These constricting circumstances have in many ways worked not only to the disadvantage of atomic development for the nation as a whole, but also to the detriment of the particular localities and regions that could benefit most from the free play of economic forces in this new and vital field.

This situation has been challenged and is being changed in New York. For the promotion of economic development and the protection of the public health and safety are critical and traditional responsibilities of states and localities. Early in 1959, we created an Office of Atomic Development to meet these responsibilities. This office has brought a new dimension to development of the atom for the peace-time needs and purposes of our state and nation.

Within a year following New York's action, and not unrelated to it, the Congress for the first time recognized and encouraged responsible state agencies to share the task of regulating atomic activities. More than this, we have created in New York a respected center to attract and stimulate new enterprises in atomic development, research and operations. We are now in the process of taking the next logical step.

The New York Legislature now has before it a proposal to create a State Atomic Research and Development Authority. By this Authority's ability to raise funds through public sale of bonds, it will for the first time sustain creative atomic development at a state and local level, with the stimulus it will bring to private research and industrial development. The Authority—if approved by the Legislature—will operate the state's new facility for processing and storing atomic industrial wastes. And it will launch such new explorations of the peaceful possibilities of atomic energy as a reactor for the testing of materials, a project for desalting sea water, and development of nuclear port facilities.

Thus have we been able to take the initiative in bringing this new energy to our state as a source of progress for our people in the fields of health, agriculture, and business. And the total social result will mean: new jobs, new products, new industries, and new knowledge.

To match this work on peaceful use of the atom, New York has pressed initiative—and prompted belated federal action—in a field supposedly an exclusive concern of the national government: the field of national defense.

No state responsibility is more fundamental than the protection of the health, the safety, and the well-being of each and every citizen. For lack of a truly serious effort at the national level, it is a fact that our people have been vulnerable and unprotected against the hazards of possible nuclear attack. In the absence of an effective national effort to meet this gravely serious state of affairs, it was left to the states and to the Governors' Conference to take the lead—by action, by example, and by advocacy—to create the awareness and the political tensions that only now, three years after the initial efforts, have led to a proposal for an effective national program to protect our people. This experience again strikingly demonstrates that, under a federal system, the states can take decisive initiative in any area where the needs of the people are truly perceived and truly involved.[2]

All these examples, drawn from divergent fields, illustrate the vitally important balance between state and national sovereignty within a federal system. To hold this vital balance, all of the states themselves must fully awaken to—and act on—their responsibilities and their opportunities. It is healthy, then, that there are movements underway to remove the state constitutional, statutory, and administrative shackles that have prevented many states from playing their proper role. For if the states ignore or evade their responsibility to act in these areas, there will be alternative to direct federal-local action. If state inaction creates a vacuum, the federal government, under the pressure of public opinion, will fill it.

Even without state inaction, however, there is ever-present danger of direct federal-local action bypassing the states. And any such tendency would be a giant step toward unitary, monolithic government. The Kestenbaum Commission, appointed by President Eisenhower, stated the matter well: "The strengthening of State and local governments is essentially a task for the States themselves. . . . The success of our federal system thus depends in large measure upon the performance of the States."[3]

My own initiation to state government was as chairman of the State Constitutional Revision Commission. One of my first acts as Governor was to initiate the first comprehensive reorganization of the executive branch of the New York state government since the pioneering reorganization of Governor Alfred E. Smith nearly 40 years ago. To date we have passed one constitutional amendment and 45 statutes reorganizing the executive branch of New York state government, as well as a constitutional amendment providing for the first reorganization of our New York state-court system in 115 years.

FEDERAL GRANTS-IN-AID

One of the major factors in preserving the balance in the federal system—and averting the growth of arbitrary central authority, while meeting essential social and economic needs requiring federal participation—has been the federal program of grants-in-aid to the states.

Grants-in-aids first appeared in modern form in 1879. Ever since, they have made it possible to draw upon the huge fiscal resources of the federal government to meet urgent needs without direct national administration of the programs. By the last year of the Hoover administration, federal expenditures under grant-in-aid legislation totalled over $200 million. With the great surge of federal aid under the New Deal, with postwar inflation and with new postwar programs, federal grants-in-aid had climbed to $2.3 billion by 1952. The value and need of such programs, however, have been recognized by both our national parties—as indicated by the fact that, by the end of the Eisenhower administration, their sum had risen to an annual $7.3 billion, principally as a result of a major expansion of the federal interstate highway program.

Rather than promote arbitrary central authority, the grant-in-aid has served to strengthen the weaker states fiscally, to equalize opportunity for participation in social programs, and to establish certain minimum standards of performance. A state like Wyoming draws almost one-third of its budget from such grants. The comparable figure for New York State is barely eight per cent.

STATE GRANTS-IN-AID

Again, in the spirit of our federal system, state governments, in order to preserve and advance the vitality and strength of local governments, have themselves given grants-in-aid to equalize opportunity and assist in the financing of education, highways, and social programs. Today this New York State aid to localities reaches a sum six times the size of such federal aid. This has enabled local governments to continue to administer services close to the people, frequently on a scale beyond the limited fiscal capacities of many local communities.

The budget which I have just submitted to the New York State Legislature, for example, allocated $1,381,000,000 for local assistance purposes in the form of state grants-in-aid. This is about 51 per cent of a budget totalling some $2.6 billion. Some idea of the growth of state aid can be gauged when one notes that in this budget, some $908 million is for aid to education—as against $569 million when I took office three years ago. In other words the State Legislature and I will have added $85 million per year for four successive years in aid to education.

The abiding importance of all such federal devices and procedures—evolving over the decades since the adoption of the United States Constitution—has been to help meet and dispel all initial fears that the people would lose control over their own destiny. Innumerable other measures have helped to secure that control. Suffrage has been vastly extended. Democratic procedures like the secret ballot, direct primaries, and popular election of United States Senators have been instituted.

The federal government thus has not become an uncontrollable colossus, and over the years the nation's Congress has been a bulwark of the federal system—its membership, and the political parties represented within it, alike being state-based. This is not to say that the Congress does not look beyond local interests to national and international ones, but it does provide an ever-present voice for state and local concerns within the framework of the national government itself. As Governor, I recognized early in my administration the immportance of close cooperation with New York state's 45-member Congressional delegation. We have met periodically on a nonpartisan basis. A steering committee of the Congressional delegation, chaired by a senior member of the House of Representatives—a Democrat, by the way—is in continuing communication with the state administration in furthering state programs and interests.

THE URBAN CHALLENGE TO THE FEDERAL IDEA

There is no greater challenge in our age to the inventiveness of the federal idea than the surging tide of urbanism. And here—while all three levels of government in the United States are necessarily involved—the states have a crucial role. Regrettably, they are only now coming to recognize it.

The problems of urbanism have outrun individual local government boundaries, legal powers, and fiscal resources. And the national government is too remote to sense and to act responsively on the widely varying local or regional concerns and aspirations. The states—through their relations with local governments, their greater resources and powers, and their closeness to the people and the problems—can and should serve as the leaders in planning, and the catalysts in developing, cooperative action at local-state-federal levels.

During the last three years, we have been working to adapt the structure of New York

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[2] Equally significant is the fact that the very type and magnitude of national action can be directly shaped by state leadership. In November of 1961, for example, the State of New York appropriated $100 million principally for encouragement of fall-out-shelter construction near schools and colleges throughout the state, and in public buildings. It was not until after New York State launched this major effort that the President proposed a new federal program similar in type for the entire nation.

[3] The Commission on Intergovernmental Relations: A Report to the President for Transmittal to the Congress (June 1955), pp. 36, 37.

State government to meet the requirements of urbanism. Three new offices have been created—an Office for Local Government, an Office of Transportation, and an Office for Urban and Regional Development.

The Office for Local Government serves as a clearing house for information and provides technical assistance for counties, cities, towns, villages, and special districts. In its brief three-year lifetime, it has served well in stimulating and facilitating interlocal cooperation. As a result of the activities of this office, comprehensive legislation has been enacted creating a framework within which local governments can plan and work together.

The Office of Transportation has concentrated its attention and efforts in the long neglected area of commuter rail service and other metropolitan transportation problems. This office, in cooperation with the Port of New York Authority, administers the state's new $100 million commuter-car program, while also conducting a series of transportation planning and cost studies.

The Office for Urban and Regional Development serves to coordinate the work of our own state departments and agencies—conservation, parks, highways and public works, housing and urban renewal, commerce and transportation. And it strives to relate these state activities to plans and programs on three other levels: local, regional, and federal.

Apart from these coordinating agencies, the state is undertaking large-scale substantive programs to meet directly the growing problems of urban life. In the field of low-rent housing, New York has been a pioneer. It entered the field in 1926, well before the federal government. Now, in recent years, the state has pioneered in the particular sphere of middle-income housing. The magnitude of the problem in this sphere is clearly illustrated by the fact that in 1959, when I took office, 45 percent of New York City's population fell in the middle-income bracket, and yet only 12 percent of the housing being built was in the middle-income range.

Since I have been governor, I have been trying to solve the problem of how to tap the sources of private capital to greatly expand the privately sponsored middle-income housing program. This past year a major break-through was achieved with creation of the State Housing Finance Agency as a vehicle for the financing of limited-profit, middle-income housing with 90 percent loans to private builders. The agency has an authorized capital of over $500 million which it raises by the sale of bonds to private investors with its mortgages as security. In less than a year, it has already committed $237 million for housing projects under private ownership.

In similar ways, the challenge of urban problems across the nation is being met with state and local public-works projects which stagger the imagination in size and scope. The State of California has just approved a $2 billion bond issue for water supply. New York State is completing a thruway costing over $1 billion.

INTERSTATE COOPERATION

All these massive problems of urbanism also pose new challenges for cooperation *between* and *among* the states, as well as for local-state-federal cooperation. And although there are striking examples of interstate cooperation, the potentialities for cooperative action in this area are virtually untapped. For interstate action can at times obviate the need for federal action, and interstate action with federal participation in regional problems is only in its early infancy.

New York and New Jersey, through the Port of New York Authority, have successfully worked together some 40 years to develop their joint port areas, including operation of toll bridges and tunnels between the two states. The two states are also directing the Port Authority to undertake a $350 million project to construct a World Trade Center in lower Manhattan, and to take over the bankrupt Hudson and Manhattan railroad, a crucial commuter facility running between northern New Jersey and New York City. This will represent the first time in our country, to my knowledge, that the proceeds from automobile toll facilities will be helping to finance commuter rail transportation. And this same bi-state Authority is also planning a fourth major airport for the New York Port area—at an estimated cost of more than $300 million.

Such potentialities of interstate cooperation have further been dramatically illustrated in the four-state effort to keep the New Haven Railway in operation. In August of 1960, when the critical situation of that railroad was brought to our attention, I joined with the Governors of Massachusetts, Connecticut, and Rhode Island in establishing the Interstate Staff Committee on the New Haven. This committee has been at work ever since and has developed an interim plan to assure the railroad's operation until a long-range solution could be developed. In an unprecedented example of joint state action, the four states have passed legislation to eliminate $6.2 million annually in taxes from the railroad, thus virtually freeing this railroad from all real-property taxes. Passenger fares were raised ten per cent and, in New York State, local governments were authorized to take over passenger station maintenance. Unfortunately, the federal government has not yet eliminated the ten per cent passenger excise tax, and the recommended labor-management savings have not been achieved.

JOINT INTERSTATE AND FEDERAL ACTION

To meet regional problems satisfactorily, however, there is real need for much more cooperative planning and action between the states and the federal government.

The New Haven Railway—again—is a case in point. This is an interstate railroad under federal jurisdiction, a vital artery for interstate commerce and national defense. Since interstate action alone cannot guarantee the railroad's continuance, the interested governors have requested the President to name a representative to the Interstate Staff Committee and to establish a focal point in the federal government with which we could work to resolve the railroad's problems.

We also have urged upon the President the establishment of a transportation policy for the United States. Unless there is a national transportation policy established by the only government with the authority to set one, there is no satisfactory framework within which the states, either individually or together, can act on matters like the New Haven railroad or the large number of railroad mergers, consolidations, and control proposals now pending.

Another promising and pioneering effort at joint interstate and federal action is the recently-created Delaware River Basin Commission. Here the Governors of four states—Delaware, Pennsylvania, New Jersey, and New York—sit with a single representative of the federal government appointed by the President as the governing board of an agency to plan and develop the water resources of the Delaware River basin.

And yet a third such example is the Tri-State Transportation Committee established in August of 1961 by the Governors of New Jersey, Connecticut, and New York to deal with transportation problems and their relation to land-use patterns of the New York metropolitan region. The federal government was invited to have representation on the committee, and we are pleased that the United States Bureau of Public Roads and the Housing and Home Finance Agency have been actively participating through their representatives.

These three instances of new action have one important quality in common: in all three, it was the *states* that took the initiative. Again, we are strikingly reminded of the limitless creative potential in the federal idea—if it be but clearly seen and courageously applied.

I have drawn these explicit examples—from the political laboratory of state government—to suggest the range and variety of challenges that invite state initiative within the federal system. I believe they dramatically prove that this is no time for states to mourn a lack of challenges—or a lack of the power to meet them.

The essential political truth is that—today more than ever—the preservation of states' rights depends upon the exercise of states' responsibilities. We stand, in fact, upon the threshold of a new test of leadership at the state level. For—so great and urgent are the demands of national defense and foreign policy upon all resources of the national government—that, now as never in our history, state governments are challenged to face and meet the pressing domestic concerns of our society.

This, then, can prove to be a historic moment in the long evolution of our federal idea. For it summons us to remember and to apply a basic fact of American political history—the fact that our states are designed to be our great centers for political experiment. This—as Lord Bryce discerned long ago—is perhaps the key role of the state: to be the proving ground for ever new ventures in free government. The crisis of the nineteen-thirties impelled too many of us to forget all this. As national government was hailed to be the source of great political initiative, the state government tended to fall back into a defensive posture. They showed themselves fretfully concerned with rights, rather than boldly concerned with responsibilities.

The time is upon us now to assert again the older and more vital tradition—to call upon our states to be active where they have been passive—progressive where they have been timid—creative where they have been merely cautious. In a word, it is time for the states to—lead.

This makes good history, good politics, and good sense. But it signifies something still more meaningful. It can help to make America, in the eyes of a world watching and wondering about the fate of freedom itself, a living proof of the ability of free men to govern themselves in ways forever new, inventive, and inspiring. And thus it can help the nation to fill its role of leadership among the free peoples of the world.

It is, then, an historic challenge. In its full sweep, it requires us, as Americans, to do two things. It invites us to look to our past—inward, upon our own national experience with the federal idea. And it summons us to look to our future—outward, in a vision that can embrace the destiny of all free peoples.

We see, as we look upon our own past, beginning with our birth as a nation, the historic host of achievements so closely bound to our own practice of the federal idea . . . the blending of thirteen separate sovereignties into a federal union that would bring civil order and peace—to a whole continent . . . the national commitment to the principle of personal freedom, so that all political power has been defined, limited and directed to serve—and never to suppress—the people . . . the liberation of the creative energies of a free economy, made possible by a political framework of order encouraging individual initiative, providing a common currency, and widening the area of free trade and commerce . . . the unmatched pace of scientific and technological advance, propelled both by individual imagination and capital accumulation . . . the constant—not always swift, but never forgotten—struggle to assure civil rights and liberties to all citizens . . . a struggle that once carried us as a people into the chasm of civil strife . . . and a struggle that, even as it scores new gains each decade and year, still demands proof, forever fresh and new, of our faith in the dignity of man . . . the struggle, too, across the whole front of social progress, as we have sought to give all men an essential measure of human and social security, to extend to all equal opportunity, and to widen constantly the range of this opportunity—for the well-being of all, the self-fulfillment of each.

All these are great and memorable attainments for a people. We can and do take pride in them. And we can recognize and respect the role, in their achievement, that belongs to the federal idea. Yet—when we look outward upon this world of the midtwentieth century—we must face the clear challenge of a paradox. All the triumphs of our own national life still do not assure even our national security in the world we live in. We see, then, that all the monuments of the past are matched—in number and in greatness—by the menaces of the present.

There is the lack of even simple safety that we—or any nation, however mighty or healthy—can enjoy in solitude.

There is the inexorable need of all free peoples to devise new formulas of unity—for their physical security, their political stability, their economic progress . . . a need quite as compelling as that which required this union of colonies into a new nation almost two centuries ago.

There are the impediments to economic growth in a world of free peoples lacking political unity or stability—the tariff walls choking off channels of trade, the artificial shielding behind these walls of uneconomic industries, the towering difficulties of capital accumulation in new-born nations, and the virtual impossibility of free economic initiative in a political world of uncertainty and upheaval.

There is the threat that even such political bonds as do exist, among free peoples, may be sundered by the claims and rigors of quickening economic competiton—as great powers clash in conflict for markets too narrow to admit all.

And there is the constant, unrelenting menace of a Communist imperialism—eager to divide all free nations, prompt to fill all political vacuums, ready with its own rude version of a world order.

All these factors write their warning message to free nations in letters tall and bold enough for all to read. It says simply: the attempt of any free nation today to stand alone—or its refusal to strive toward new and larger unity with other free peoples—conveys no more sense or realism, hope or promise, than for a Massachusetts or a New York to try to pit itself against such challenges and such forces. Thus are we led—by our experience as a people and as a nation—to turn and face the world, and boldly seek the answer to the question: how can all free peoples, so fatefully bound together in this twentieth century, attain such unity and strength as free men of the eighteenth century built upon this land of ours?

AMERICAN AGRICULTURE DAY

● Mr. **BAUCUS**. Mr. President, I am pleased to be a cosponsor of the congressional resolution designating March 18 as Agriculture Day. U.S. farmers and ranchers certainly deserve to be recognized for the contribution they make to our overall economy—not to mention providing us all with an abundance of food.

However, I am concerned that we do more for U.S. agriculture then designate a day in their honor. Actions speak louder than words. And, U.S. agriculture is in desperate need of action to reverse an alarming trend of low farm prices, high interest rates and ever increasing costs of production.

Farmers and ranchers have increased farm productivity by over 20 percent and total farm output by over 30 percent in the last 10 years. U.S. agriculture contributes nearly $50 billion in exports to our balance of trade. Agriculture employs one out of every five Americans. Agriculture provides a full one-fifth of our GNP. These contributions deserve recognition.

But, the administration, consumers, and Congress must understand that agriculture will not continue to provide so much without our support.

In the United States, our food dollar buys more than anywhere else in the world. Yet farm prices—the price received by the producer—are at the lowest level ever recorded, despite the continuing rise in the costs of production. Measured in 1967 dollars—net farm income is projected to dip to $5.5 billion in 1982. That is nearly $1.5 billion less than the $6.9 billion yearly average during the depression years of 1930-34.

Low farm prices and interest rates between 16 and 20 percent have sent our farm economy into a tailspin. The administration prescribed low Government support prices and a free market to bolster farm income and productivity. That is like putting a Band-Aid on a broken leg.

We must invest in agriculture to revive the farm economy. Every dollar of farm income is multiplied five to seven times in benefits to the overall economy; putting people to work, building new equipment and constructing new homes and businesses.

The only effort I see the administration making to help American farmers is the set-aside, or acreage reduction program. I believe it is a shame that the only effort being made to increase farm prices is being made at the expense of the producer. Even if the market price for wheat increases 15 percent, the producer in the acreage reduction program is no better off.

Last week, USDA announced the suspension of the emergency feed program. By suspending this program, USDA is removing protections against the unpredictability of the weather that was provided for livestock producers.

The emergency feed program was designed to assist livestock producers maintain adequate levels of feed during periods of drought. Suspending the program is just another example of the administration's disregard of the needs of U.S. agriculture.

In my home State of Montana, $20,749,000 was allocated to livestock producers during fiscal year 1981. I hope that this program will not be needed in the coming years, but we need to have assistance in place in the event of future drought.

One final point I would like to address is the farm credit situation. Farmers have seen their debt to net income ratio multiply over six times in the last 10 years. Today, every dollar of net farm income supports over $12 of debt.

There will be no investment in new machinery and equipment with interest rates at today's levels and farm prices as low as they have ever been. Farmers are hard-pressed to continue their operations—hoping that economic conditions will improve.

One small form of relief, I and many of my colleagues have advocated, is calling for Secretary Block to release $600 million in Economic Emergency funding for the Farmers Home Administration. Secretary Block was given authority by Congress in the 1981 farm bill to utilize this money. The administration claims that there is an adequate amount of financing available through the FmHA increase in operating loan money. Yet, in my home State of Montana, no new loans are being considered to insure that previous borrowers have loan money available to them.

I do not believe the Reagan administration has to take all of the blame for the condition of U.S. agriculture today—farm embargoes under past administrations certainly took a step in the wrong direction. However, the administration must realize the seriousness of the conditions facing U.S. agriculture. A free market approach will not alleviate these problems without serious damage being done to the structure of U.S. agriculture.

I believe agriculture is a good place to begin our efforts at economic recovery. I would hope Agriculture Day recognizes the past contribution American farmers have made to our economic well-being. But, I also hope that Agriculture Day is the kick off for renewed efforts aimed at improving farm prices and income.

Mr. President, I want to commend the ranking minority member of the Senate Agriculture Committee, Mr. HUDDLESTON, for introducing a resolution today to address the growing problems of agriculture. I thank Senator HUDDLESTON for his leadership and I am proud to support his resolution as a cosponsor.

I ask that a summary of the Huddleston resolution be printed at the conclusion of my statement. I fully support this effort to revitalize our farm economy and will work toward the adoption of the resolution.

The summary follows:

SUMMARY

The resolution expresses the sense of the Senate that emergency action should be taken by the President and the Secretary of Agriculture to stabilize the farm economy.

Specifically, the resolution expresses the sense of the Senate that—

(1) the President should work with, and encourage, the Federal Reserve Board to adjust its monetary policy so as to reduce the rate of interest farmers must pay to obtain credit for necessary production items;

(2) the President and Secretary of Agriculture, using the broad authorities vested in them by Congress, should take emergency action to stabilize commodity prices received by farmers and provide credit assistance to farmers, including the following actions—

(a) a voluntary paid land diversion program in 1982 for producers of wheat, feed grains, upland cotton, and rice;

(b) increased price support loan rates for the 1982 crops of wheat, feed grains, and rice;

(c) the implementation of an aggressive agricultural export development program;

(d) providing loan guarantees to finance the construction of facilities to produce fuel alcohol from grain;

(e) with respect to farmers who, through no fault of their own, are temporarily unable to meet their debt obligations on Farmers Home Administration farm loans—

(i) permitting them to defer making repayments on the loans;

(ii) declaring a moratorium on loan foreclosures; and

(iii) permitting borrowers to reamortize or reschedule their loans; and

(f) the immediate nationwide implementation of the FmHA economic emergency loan program; and

(3) the President, in nominating persons for positions on the Federal Reserve Board that will become open in 1982, ensure that agricultural interests are provided fair representation on the Board.●

TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

● Mr. HART. Mr. President, hundreds of Colorado's schoolchildren have written to me in recent months to state what parents and education experts, including this administration's own, have been telling all of us for some time: Title I of the Elementary and Secondary Education Act works. Heidi Rhodes from Longmont, Colo., puts it plainly:

> I'm a 4th grader at Columbine School. Thanks to Title I, I learned how to read and how to spell better. Please save Title I at my school.

In Heidi's case, as in the case of 5 million participating children, title I is providing essential help in reading and math to low-achieving elementary students during their most important, formative years in school. It is giving these children the chance to lead productive lives and it will ultimately save the Federal Government billions of dollars in welfare, unemployment and criminal justice.

This administration proposes a 39-percent budget cut for title I, from the $2.9 billion currently appropriated to $1.9 billion in fiscal year 1983. If enacted, about 2 million children would lose title I services and thousands of schools would be eliminated from the program. I urge Senators to consider, briefly, these essential facts about title I:

Title I, now known as chapter 1 of the Education Consolidation Improvement Act, is the only federally funded program that assures special help for educationally deprived schoolchildren. Since its enactment in 1965, 87 percent of the Nation's public school districts have used title I to help 90 million low-achieving children in poor areas do better in school.

Most title I money is used to pay the salaries of teachers and classroom aides to work with carefully identified disadvantaged children in small groups. Funds are also used to train and involve parents as classroom aids, and to purchase special materials and equipment.

Presently, only 45 percent of the 11 million children who are eligible for title I assistance, actually receive it. In the current school year, 1981-82, 14,000 school districts and 5.4 million schoolchildren are receiving title I services.

Title I works. Students in title I programs make significant gains in reading and math because of the services they receive. One study cited by the Education Department reports that title I students show achievement gains as much as 75 percent higher than students not in title I.

A recent report by the National Assessment of Educational Progress indicates the reading scores of disadvantaged students have risen dramatically over the last 10 years, and that these gains are attributable to title I.

Even this administration's top education spokesman has attested to the effectiveness of this program. Education Secretary Terrel Bell told a House Education and Labor Committee last year: "I can testify to this committee that our title I programs are successful."

Mr. President, the 39-percent budget cut for title I proposed by this administration would eliminate approximately 2 million children from this program. A State-by-State analysis of the devastating impact of this cut has been prepared by the National Education Association in conjunction with the Council of Great City Schools and the American Association of School Administrators. This analysis shows how many children will be eliminated from the program in the next 2 years. I ask that the table be printed in the RECORD at this point.

The table referred to is as follows:

CHILDREN SERVED BY CHAPTER I OF THE EDUCATION CONSOLIDATION IMPROVEMENT ACT—TITLE I

State	Participants 1981–82 school year	Expected participation under revised 1982–83 budget proposals	Expected participation under 1983–84 budget proposals
Alabama	142,445	113,870	93,770
Alaska	5,000	3,953	3,256
Arizona	49,191	39,320	32,380
Arkansas	79,500	64,242	52,903
California	787,650	622,795	512,870
Colorado	40,683	33,230	27,363
Connecticut	38,345	30,650	25,240
Delaware [1]			
Florida	150,026	120,000	98,760
Georgia	161,728	130,690	107,620
Hawaii	10,901	8,715	7,175
Idaho [1]			
Indiana	119,133	97,305	80,130
Illinois	140,541	112,350	92,520
Iowa	42,275	34,900	28,740
Kansas	37,054	30,586	25,190
Kentucky	139,874	113,025	93,080
Louisiana	137,606	110,000	90,585
Maine	20,000	16,160	13,310
Maryland	69,326	55,420	45,640
Massachusetts	80,960	64,720	53,295
Michigan [1]			
Minnesota	58,141	48,000	39,520
Mississippi	128,305	103,000	84,500
Missouri	95,359	77,060	63,450
Montana	15,433	12,470	270
Nebraska	32,457	26,510	21,830
Nevada	5,588	4,320	3,560
New Hampshire	8,750	6,842	5,635
New Jersey [1]			
New Mexico	34,000	27,475	22,625
New York	367,674	291,000	239,000
North Carolina	144,236	117,000	96,000
North Dakota	9,486	7,665	312
Ohio	138,006	111,520	91,836
Oklahoma	91,806	74,186	61,100
Oregon	41,500	34,256	28,210
Pennsylvania	228,324	185,000	152,000
Puerto Rico	238,809	185,000	152,000
Rhode Island	18,000	14,500	12,000
South Carolina	86,234	70,000	57,400
South Dakota	19,776	15,980	13,160
Tennessee	104,774	85,000	70,000
Texas	374,387	299,280	246,000
Utah	17,563	14,190	11,685
Vermont	7,288	5,700	1,695
Virginia	97,907	80,000	66,000
Washington	61,318	50,082	11,240
West Virginia	42,500	34,700	29,000
Wisconsin	88,630	72,400	9,600
Wyoming	4,496	3,475	2,865

[1] Figures not available.

Mr. HART. Mr. President, by whatever criteria we evaluate title I remedial education, it is clearly a program that achieves its goals. It serves children who have demonstrated needs and has proven effective in improving their basic learning skills. These two elements—serving those in need and proven effectiveness—meet President Reagan's own criteria for identifying those items which should have highest budget priority.

During the weeks ahead, I intend to work closely with the supporters of title I in the Senate, both in Budget Committee and on the Senate floor, to insure full funding for title I.●

OPPOSITION TO GOLD STANDARD INSIGNIFICANT

● **Mr. HELMS.** Mr. President, in a poll made available to the Institute on Money and Inflation commissioned by a major multinational firm, it has been shown that the often proclaimed opposition to the gold standard may be mostly a media creation. Ten percent of Americans say they do not want one. The corollary to that discovery is that only a few more (14 percent) say that they do want one.

In other words, the key discovery here is that the move to a gold standard would meet almost no popular opposition, whereas a move to an inflation-proof currency would meet with the overwhelming support that has been indicated by poll results indicating inflation and interest rates are the chief economic problems.

The reasons some people support or oppose a gold standard are often interesting, and indicate that some of the media campaign against a gold standard has been absorbed by the mind of the average American. Even so, 40 percent more Americans support the gold standard than oppose it.

The institute on Money and Inflation has done an outstanding service concerning this poll. It is consistent with other work the institute has done in recent years to bring closer the day that we have a monetary standard.

I ask that the article from the Bulletin of the Institute on Money and Inflation entitled, "Opposition to Gold Standard Shallow" be printed in the RECORD.

The article follows:

OPPOSITION TO GOLD STANDARD SHALLOW

The Institute on Money and Inflation has received permission to publish details of a recent poll conducted on "public knowledge and awareness of the Gold Standard." The analysis indicates that fewer than 10 percent of Americans actually oppose a new gold standard, indicating that there would be few political obstacles to a move in that direction by the President. The poll also shows that not many more people advocate a gold standard. In other words, most Americans don't care what kind of monetary system they have. Other opinion polls have consistently shown, over the past decade, that Americans want a stable dollar. Inflation remains the number one national problem in the minds of most Americans.

The key question, "Are you in favor of the United States returning to a gold standard?" turned up the following results: 14 percent favor, 10 percent oppose, and 76 percent either "don't care," "don't know," or gave "no response."

Among those who responded either "pro" or "con": 66 percent of high school graduates, 60 percent of those who attended college but did not graduate, and 47 percent of college graduates favored the gold standard. Even among college graduates, 67 percent did not express an opinion.

By age, again among those who did have opinion, only those in the 35-44 group did not show a majority in support of a gold standard: that group split 50/50 percent; though 80 percent of those in this age group were in the undecided categories.

Geographically, only in the North Central part of the nation did a majority, 57 percent of those who responded "pro" or "con" (13 percent of the whole sample), express opposition. The "liberal" Northeast produced 14 percent in favor, and 9 percent opposed. Interestingly, it was in the North Central region that the smallest percentage of people correctly understood what was meant by a gold standard: 49 percent were either correct or partially correct, while other areas averaged over 55 percent in the same measurement.

When asked about the advantages of a gold standard, a larger number of people had views to express. Twenty-seven percent thought a gold standard "gives us economic stability" or "would curb inflation. "Eleven percent said "the dollar would be worth more"; 7 percent said a gold standard "backs up paper money." Three percent said "less money (would be) circulated (or) printed," and an equal number believed "people would do better," that it would be "better for poor people," produce a "better standard of living," and that "people (and) foreign countries would have more confidence in the dollar." One percent said that "people (and) government would have to pay for what they buy (and) have less credit." Twenty-three percent saw "no advantages," and 33 percent gave other reasons or did not know.

Perhaps most revealing are the verbatim comments which were recorded by the pollster, indicating that many people do think seriously about money, but that like many politicians and economists, they have some curious ideas about it.

Following are some of the comments recorded, with the terms "(pro)" or "(con)" indicating the basic position expressed by those who made them. First, the comments received when the pollster asked what would be the advantages of a gold standard:

"History shows we fare better with the gold standard . . ." (pro) "Won't be as much paper money being circulated . . ." (pro) "It will never make it. There is too much paper money around to get rid of." (con) "We'd have gold to back up our money. Wouldn't print so much money . . ." (pro) "It would be stable and a security factor—people would feel more secure if there were something behind the paper we print to back it up . . ." (pro) ". . . (M)ore favorable to poor—gold is more profitable for the poor . . ." (con) ". . . (R)eturn of the value of the current dollar . . ." (pro) ". . . (A)chieves economic stability . . ." (con) ". . . (H)elp level out inflation, a more solid monetary situation . . ." (pro) "The economy would be in better shape . . . Once they changed, the economy went crazy . . ." (pro) ". . . (H)elps inflation . . ." (pro) ". . . (G)ive a daily determinable price to the dollar . . ." (con) "Our dollar would be worth more instead of 35 or 36 cents, and put more in perspective . . ." (pro) ". . . (C)urb inflation because the dollar will be backed and they will issue more money . . ." (pro)

Then, the comments made in response to a request to list the disadvantages of a gold standard:

"The country that handles or controls the gold has the upper hand . . ." (con) ". . . (H)ard to carry around . . ." (con) "There isn't enough gold and it isn't practical . . ." (pro) ". . . (N)ot as much money. People would have to limit their lifestyles . . ." (pro) ". . . (J)ust like we are now . . ." (pro) ". . . (E)conomy based on faith in government . . ." (con) "People would not be spending money as freely as they have been . . ." (pro) "Foreign countries could call on us to redeem our dollars with gold which we may, or may not, have . . ." (con) "The trade balance between the U.S. and other countries would be more stable. . . ." (pro)

In coding the question, "What is meant by a gold standard?" the pollster used a dictionary definition: "A monetary standard under which the basic unit of currency is equal in value to and exchangeable for a specified amount of gold." Some of the definitions offered by those polled follow:

". . . (B)ased on the value of gold as opposed to the value of the dollar . . ." "They want the gold to back the money . . ." "Our currency would be equivalent to its worth in gold . . ." ". . . (L)ike bar, instead of having gold reserves in Ft. Knox, instead of having paper money . . ." "We have gold in the Treasury to back up the gold that is printed." "The gold standard is when the government says we have X amount of gold and sets a standard and says—$1.00 is worth 23 grams of gold or an X amount of gold . . ." ". . . (I)ts a standard, more or less, a value as standards to go by . . ." ". . . (T)he money market, value of the dollar . . ." "(D)ollars backed by gold . . ." "(W)e pay everything in bills . . ." "The gold standard controls your money. Buys gold, which backs your money . . ." ". . . (B)asing all economic transactions on gold value, specific goods tied to the value of gold . . ." ". . . (U)sing gold as money . . ." "It would directly tie the value of currency to gold bullion . . ." "(H)ave to have gold to back our currency . . ." "The gold standard is a way the currency of the United States is backed by some of the gold stored in the vaults depending on what percentage of the U.S. dollar is backed by gold. . . ."

Under the agreement IMI has made with those who commissioned the poll, we cannot release their name, but we would be glad to provide photocopies of the statistical breakdown of the responses to the questions asked.

Our conclusion is that there are some problems with this particular poll. Although it might have produced slanted responses, we would have liked to see the question, "The President has promised a 'stable dollar.' Do you think the adoption of a new gold standard would enable him to keep that promise?" Or: "In the past, a gold standard has worked to stop inflation. Do you think the United States should adopt one today?" Or: "Do you feel that a gold standard would help cure inflation?"●

BRAVERY IN THE AIR SAVES LIVES

● **Mr. PELL.** Mr. President, I should like to share with my colleagues a dramatic story of personal heroism and bravery which took place recently in Rhode Island.

On February 21, 1982, a Pilgrim Airlines commuter plane, carrying 10 passengers and a crew of 2, en route from New York to Boston, crashlanded on the ice-covered Scituate Reservoir in Scituate, R.I.

The crash occurred after a fire started in the plane's cockpit, severely burning the pilot and the copilot. Despite flames which were burning their legs, and intense heat in the cabin, the pilot, Thomas Prinster of North Kingstown, R.I., and the copilot, Lyle Hogg of Groton, Conn., were able to bring the plane down on the ice-bound Scituate Reservoir.

Despite their severe burns, Prinster and Hogg helped their passengers out of the downed plane and onto the ice. Tragically, one passenger died in the crash. The heroic actions of the pilots, however, prevented a heavier loss of life. Prinster was hospitalized, initially in critical condition, with burns over 50 percent of his body. He remains hospitalized in serious condition. Hogg suffered burns over a quarter of his body.

The survivors, in newspaper accounts of the crash, hugely praised the bravery of Prinster and Hogg. With the flames blackening their legs, Prinster and Hogg battled intense heat and blinding smoke—flying with their heads out of the windows of the plane—to locate the reservoir and bring the plane down in what was described by survivors as a smooth landing on 18 to 24 inches of ice.

Mr. President, I commend the heroic actions of Thomas Prinster and Lyle Hogg, and wish them Godspeed in their recovery.●

THE M-1 MAIN BATTLE TANK

● Mr. TOWER. Mr. President, it is difficult to recall any weapon system in recent memory that has been treated more critically by the press than the Army's M-1 main battle tank.

Much of that criticism has focused on problems that appeared during the development and testing of the tank—the very stages during which such problems are expected to appear. And though the major discrepancies have now been corrected, findings from 1 and 2 years back are repeatedly dredged up, dusted off, and replayed in the press with a freshness that would lead the reader to conclude that our Army can neither fix tanks nor read newspapers.

Those of us who monitor these weapons programs on a regular basis find this flow of misinformation particularly frustrating. At a time when the Government is attempting to fulfill the public mandate to strengthen our Nation's defenses, it is imperative that the public know the truth about such major programs as the M-1 tank.

I wish to invite the attention of my colleagues to two recent articles on the M-1. They are both from respected publications, the Economist and the Christian Science Monitor, and both focus on recent information about the tank.

Of particular note is the Economist article by a British author. Since any major conflict involving the M-1 will most likely occur on their side of the Atlantic—in defense of NATO territory—the opinions of our NATO allies should not be lightly regarded.

Mr. President, I ask that these two articles be printed in the RECORD.

The articles follow:

[From the Economist, Mar. 13, 1982]

A TANK AHEAD OF RUSSIA

The first batch of the American army's new Abrams tanks, protected by Chobham armour and propelled by a powerful gas-turbine engine, has started to arrive in West Germany. This new tank is superior to any of the Warsaw pact's tanks; its speed and agility could start a minor revolution in armoured warfare. Our defence correspondent went to watch it in action—and operate it himself.

The three most important things a good tank needs are mobility, protection and firepower. The Abrams represents a huge advance in the first two of these requirements. Its 1,500-horsepower turbine is a radical departure from the diesel-driven tanks of the past. This engine can push the Abrams from zero to 20 miles per hour in four seconds and can carry it effortlessly over the roughest terrain. The tank is simple to drive. Its near-miraculous suspension makes banging over tree stumps no more troublesome than riding a bicycle on the high street. Crews will stay fresher longer.

A turbine engine is more powerful than a diesel (in relation to its weight); it is much quieter; it creates no tell-tale smoke; and it needs no warm-up. But it is a fuel hog. At 35 miles per hour on the road, the Abrams burns around 2½ gallons a mile, roughly a fifth more than a diesel would. Stop-starting along, it may burn three or four times as much. On average, the Abrams' turbine will probably use twice as much fuel as a diesel.

The combination of the tank's high fuel consumption and its speed is going to obilige the American army to change its fuel-supply methods, which are still based on ordinary trucks moving on roads. (General Patton outran his fuel trucks in the second world war with tanks travelling at about a third the speed of the Abrams). The army may, for example, have to invent a tracked vehicle to carry its fuel. The Abrams' speed will also require new tactics and control arrangement. More, smaller tank companies have already been created, and field commanders now travel in the tanks rather than in (too slow) command vehicles in their wake.

The tank's main protection is a version of the Chobham armour developed by Britain, which was designed to resist both shaped charges and long-rod penetrator projectiles—the two principal anti-tank weapons in use today. It has an innovative ammunition storage system; a full load of ammunition can be blown up in its locker without injuring the crew.

The tank's main weapon is the 105mm rifled gun the Americans already use (also designed in Britain) which, with modern ammunition, can still knock out any Warsaw-pact tank. To shoot, the gunner moves the sight to the target, tracks the target for three seconds, and then trigger the laser range-finder, which tells the computer the precise range. The computer then aims the gun where the target will be when the shell gets there.

By day the sight is a normal telescope; by night it is an infra-red sensor which provides almost as good a picture. This is a similar system to that used by other existing tanks, but the Abrams will be able to shoot on the move more accutately because it has a better suspension system and a better way of keeping the sight on the target when the tank is pitching over bumpy terrain.

The Abrams has been attacked in the American press because of its cost and because it lacks a bulldozer blade. Both criticisms seem wide of the mark. The cost in today's dollars (including research and development) is about $1.5m per tank. So the cost of 15-20 tanks is about the same as the cost of one modern fighter aircraft. This is about the same ratio as in the second world war.

Bulldozer blades on tanks are used mainly to clear away small obstacles; they can also dig tanks in. Most armies equip only a small portion of their tanks with blades. The blades are always mechanically troublesome and slow the tank down. Digging in a tank is arguably bad tactics anyway.

The Abrams does, however, have several snags. The tank commander needs a 360-degree viewer instead of the present periscopes. The starter motor fails regularly—a disaster for a tank that must be shut down whenever possible, to save fuel. There is no auxiliary power supply to operate the turret and sight when the tank is parked. The turbine has to be started every two hours or so to maintain the batteries' power. Despite these troubles, the Abrams crews and their commanders are full of praise for their new tank.

The arrival of the Abrams puts NATO a big step ahead of the Warsaw pact. It will take years for the communist armies to replace their 50,000 tanks with a machine that could cope with the Abrams; and by then the west may have moved even further ahead. If the Abrams and its cousins—the German Leopard-2 and the British Challenger—can be deployed fast enough. Nato will have gone a long way to eliminating the imbalance in tank-power between itself and the Warsaw pact. This should sharply reduce the danger of a Russian attack in central Europe.

[From the Christian Science Monitor, Mar. 15, 1982]

OVER BUNKERS, THROUGH THE FIELDS IN THE M-1 TANK WE GO

(By Brad Knickerbocker)

Dina Rasor, meet Steve Armstrong.

Yes, Dina, I know you're the Wonder Woman of whistleblowers. As director of the Project on Military Procurement, you've unearthed much of the critical information on Pentagon weaponry. And no doubt you've forced the generals and admirals to make improvements in such costly and controversial beasts as the M-1 Abrams tank.

But I think it would help to see things from Steve's point of view, too. He's a young staff sergeant, in his 20s like you, and a family man from Ohio with twin six-year-old girls. He spent three years in West Germany staring across the border of the Ivans and Vanyas in their T-64 and T-72 tanks and leaves soon for another hitch with NATO. Steve's an M-1 tank commander.

The criticisms of the M-1 are well known. It costs five times as much as when it was introduced. It breaks down often. It's an incredible gas-guzzler. You've brought much of this to light, Dina, for which all cost-conscious Americans should be grateful.

The Army laid on a public relations counterblitz the other day to defend the M-1. Generals and colonels and majors with charts and graphs spent three hours taking on the criticisms of the M-1 point by point, and I must say they did it forthrightly and with some persuasion.

The brass would not have to drive the M-1 in a shooting war, of course. So it was even more interesting to hear from the enlisted men they had flown up from Fort Knox, Ky. Men like Jim Miller from Amarillo, Texas, a sergeant first class who was wounded in Vietnam. Or Kevin Crowley from Minneapolis, just a few years out of high school and earnestly trying to grow a moustache.

First, Maj. Gen. Jim Maloney tried to explain the cost escalation by comparing the M-1 to the "Oldsmobile Vistacruiser with lots of goodies on it" he bought in 1972. It had a price tag of $5,000 then, but would cost $14,000 now.

The difference with the M-1 is more startling: $507,000 apiece in 1972, $2.6 million now. The Army says 14 percent of this can be accounted for in "value added" improvements like better armor and more protection against biological, chemical, and radiological attack. Five percent, the Army admits, is growth for which they'll accept the blame, but the rest (81 percent) is just plain old inflation. Without that, the general said, the M-1 would cost $604,000 today.

Yes, the M-1 does swill fuel like there was no OPEC, the Army says, but we knew it would. After all, it is argued, it has twice the power of its predecessor, the M-60. And for 1,500 horsepower and a 60-ton bebemoth designed to leap hills at 45 miles per hour, you aren't going to get a Toyota.

Yes, the M-1's track life is only about half what we's like (2,000 miles), but we're working on that. On the other hand, the officers argued, system reliability has exceeded design goals: 350 "mean miles between failure" instead of 320.

Well, the reporters eyes were beginning to glaze over with all these numbers, so the Army PR men pulled out their ace: They helicoptered us out to the Aberdeen Proving Ground in Maryland and let us play with the M-1 and the older M-60.

We watched them lunge around a muddy field like two iron-sized target 2,000 meters away. Naturally the M-1 won.

Then they let us do it, and for a few minutes I was George Patton himself (actually, George C. Scott playing General Patton). With a grin full of dirt, I crashed through hedgerows and leaped over bunkers, blasting away at Nazi machinegun nests. "Slow down!" the instructor yelled, but how often does a middle-aged boy get to play with a $2.6 million toy? There was no slowing down.

I was seeing things from Steve Armstrong's point of view.

"I'm glad they listened to the troops for a change," he said, watching an M-60 strain up a 60 degree grade while the M-1 whizzed up without much effort. "I can move faster on the battlefield and support more people. I've got more things to contend with now, like anti-tank missiles. With the M-1, the power and speed are available, and I don't have to hope that I won't get hit."

At day's end, I felt grateful to both you and Steve, Dina. You for forcing the Army to build what we all hope will be a better tank. And Steve for knowing how to use it, just in case. You're both good patriots.●

MILITARY EFFECTIVENESS

● Mr. HART. Mr. President, over the past few months a good number of my colleagues in the Senate and the House of Representatives have expressed growing interest in the issue of military reform: Making our military more effective.

The goal of military reform is to bring our defense priorities back into line with what history tells us is important in winning—and therefore, in deterring—wars. We believe problems exist in each of the three basic building blocks of our military: Personnel, strategy and tactics, and hardware. And we believe the problems will not be solved by merely spending more on defense.

Mr. President, the military reform movement will continue to grow as the expanding size of the defense budget focuses public attention on the issue of military effectiveness. As an example, an editorial in the February 28 edition of the Denver Post examines the fallacies in the administration's proposed defense budget and suggests that a proposal by my colleague from Colorado, Congresswoman PAT SCHROEDER, may help correct some of those fallacies.

Unless the administration can prove that huge increases in the defense budget will produce a strong defense, it may lose the overwhelming consensus on defense it enjoyed when it took office. Indeed, the administration's mandate was not to write the Pentagon a blank check; rather, it was to improve our national defense. Doing that requires more than just spending money; it requires spending money wisely and, in many cases, making improvements in our military that require no money at all.

Mr. President, I submit for the RECORD the February 28 editorial from the Denver Post.

The editorial follows:

TEN-FOOT RUSSIANS?

During the 1950s, a joke circulated about efforts of the U.S.A. and the USSR to "psyche" each other. In the "G"-rated version, the Soviets decided to unnerve the Americans by ordering army bunk beds from a U.S. manufacturer—and specifying the beds had to be 10 feet long.

As expected, the patriotic bedmaker passed this "intelligence" to the Pentagon, which bucked it to the president. Recognizing the Soviet ploy, the president trumped it with an order to "send them the 10-foot bunks—but stamp each one 'medium.' "

These days, each side seems determined to convince *itself* that the enemy is 10 feet tall. The Pentagon's recent report, "Soviet Military Power," limned Soviet strength in worrisome terms. The Soviets parried vigorously. But as Rep. Pat Schroeder, D-Colo., has been arguing effectively, such "man for man and tank for tank" comparisons ignore crucial differences in the two nations' political and strategic situations.

The U.S.A. is only the strongest link in an alliance of free nations. In a showdown, the combined economic and military power of such friends as Britain, Canada, France, West Germany, Australia, Israel, Italy, South Korea and many others would reinforce America.

In contrast, the Soviet Union is an anachronism, the last great imperialist power. Much of its strength has to be deployed keeping people who detest it in subjugation. As Schroeder notes, much of the reported "gap" in U.S.-Soviet military spending vanishes when the $100 billion spent by our NATO allies is tallied against the estimated $30 billion spent by the Soviet Union's Warsaw Pact satellites. Overall, NATO even has a slight edge in manpower over the pact. The biggest question of all, of course, is whether Poland, East Germany, Hungary and Czechoslovakia would side with their oppressors or their liberators in a final crisis.

Finally, our borders are with Mexico and Canada—good friends. In contrast, the lands stolen from China by the Russian czars are like Germany's theft of Alsace-Lorraine from France in 1870—a source of enduring enmity with an unforgiving neighbor.

Of course, the U.S.A. can't be complacent. Our reserve forces, with the exception of aviation units, have deteriorated badly. Our Navy's sea control capability is inadequate. The Army is only beginning to scrap the outmoded "Verdun" doctrine of firepower and attrition and revamp its equipment and tactics around maneuver principles—the key to victory since Alexander knocked off Darius. All services need help in retaining trained cadre.

But the proposed military budget seems guided more by what defense contractors want to sell than by any rational assessment of our security needs.

Schroeder has proposed trimming $30 billion, including $13.5 billion in the upcoming fiscal year. She would slow procurement of the orphaned MX missile and the Navy's bungled F-A-18, scratch the B-1 bomber and one of two new nuclear aircraft carriers. Such trims would only slow our defense buildup to a manageable pace. We disagree with her proposal to slow the Trident missile submarine, however. Without a new bomber or missile, it's prudent to strengthen the remaining and most crucial leg of the strategic "triad."

But overall, the congresswoman is to be commended for realizing that panic buying spurred by fears of 10-foot-tall Russians is no substitute for measured reforms to revitalize American military power.●

SENATOR BELLMON'S "FOOD FOR THOUGHT"

● Mr. HELMS. Mr. President, Senator Henry Bellmon of Oklahoma, a distinguished former colleague, recently wrote a timely and thought-provoking article on the current situation in American and world agriculture.

All Senators privileged to serve with him will recall Senator Bellmon's record of forceful leadership and guidance in agriculture.

However, Senator Bellmon's leadership in American and world agricultural affairs has not diminished since his retirement. The Oklahoma Senator, in this recent essay, provides some "food for thought"—or, I should say he provides us some "thoughts on food," which I believe are worthy of consideration.

The Senator warns that American agriculture, renowned for its ability to produce an abundance of cheap food, is on the brink of producing bankruptcy for U.S. farmers and widespread catastrophe in the developing world.

He further suggests that our food policies are fostering long-term poverty abroad in dozens of countries that are not developing their own food-producing capacity because of cheap U.S. food imports.

There is a great deal of discussion about what America can do to alleviate world hunger. We should be concerned about the plight of nations and people less fortunate. However, I believe that most of our aid efforts have exacerbated the problem.

Mr. President, we have shipped millions of bushels of wheat and feed grains to poor countries. Most of this food never reaches the really deserving people who so desperately need the food. The massive infusion of direct food aid destroys the poorer nations' agriculture while our own farms teeter on the edge of bankruptcy.

Senator Bellmon has suggested an international agreement among food-exporting nations to stop the practice of selling below costs of production. I believe that real economic growth in the Third World is perhaps more integral to a stable world food supply.

Senator Bellmon's ideas are a step in the direction of addressing the problems associated with world hunger. They certainly merit our careful consideration.

The article follows:

FOOD FOR THOUGHT

(By Henry Bellmon)

American Agriculture, renown for its ability to produce an abundance of cheap, wholesome food, is on the brink of producing bankruptcy for U.S. farmers and widespread catastrophe in the developing world.

The economic blight in U.S. farming has become so grave that, despite deep cuts being made elsewhere in federal spending, the Reagan administration has been forced to agree to pay billions of dollars to farmers to cut back 1982 grain production. Still, the situation is desperate.

The American wheat farmer is the victim of a pricing mechanism that gives him a return lower than the cost of production. The same artificially created low price is fostering long-term rural poverty abroad in dozens of countries that are not developing their own food-production capacity because of cheap food imports.

Nigeria is a case in point. Once a food exporter, it is now heavily dependent on imports.

Nigerian markets are selling high-quality rice from the United States at one-fourth the price of low-grade Nigerian rice, according to one recent report. The cheap food from America may appear to be a boon to the rapidly growing population, but where will food for 100 million people come from once Nigeria's oil production drops, and there is no money to pay for imports?

Shortsighted food polices are already at the root of political problems in many countries. Food riots in 1977 shook the government of Egypt's Anwar Sadat, forcing him to back down from his attempt to let bread prices increase as an incentive to increase Egyptian food production.

The relationship between U.S. and foreign food production can be seen clearly in one crop: wheat, America's principal food grain.

It now costs a little more than $6 for a wheat-belt farmer to produce one bushel (60 pounds). At present, a bushel sells for about $3.80. Government subsidies in 1982 will make up about 20 cents of the $2.20 loss on each bushel, according to the U.S. Department of Agriculture.

A bushel of wheat will yield enough flour for 78 one-pound loaves of bread. To meet production costs, a farmer needs to receive about 7.7 cents per loaf—2.8 cents more than the current return.

Last year, U.S. growers produced 2.7 billion bushels of wheat. Of this record crop, 700 million bushels were for U.S. consumption; most of the remainder was to be exported.

In effect, by selling wheat at less than the cost of production, the U.S. grower is subsidizing foreign consumers by $4 billion.

At the same time, those exports spread poverty among food producers in many nations that will not, or cannot, develop domestic production potential as long as cheap U.S. food can be imported.

Per-acre grain production in India and Bangladesh could be doubled, even tripled, if farmers, in those starvation-threatened countries could afford the improved seeds, fertilizer, irrigation and other agricultural practices employed in Japan, whose fewer acres are less fertile.

Are American farmers willing to produce and sell themselves and their fellow farmers abroad into bankruptcy? Emphatically no. There have been farmer protests in Washington. There has been sporadic withholding of commodities from market, as well as general compliance with crudely administered federal programs to reduce production and deposit grain in the farmer-owned reserve, this keeping it off the market.

What would happen if, through some act of God or government or "farmers united," the price of wheat suddenly increased to the cost of production—from $3.80 a bushel (78 loaves of bread) to $6 a bushel (2.8 cents more per loaf)? if the past is any guide, we could expect the miller's and baker's organizations to start agitating with warnings that the price of bread would rise dramatically. Consumers would complain to their elected officials. Politicians, who are more attentive to the wishes of 220 million consumers than to a few hundred thousand producers, would enact an embargo on wheat exports and the price would fall.

Export embargoes have been put into effect by each of the last three presidents. How much of the present rural depression is the result is difficult to determine, but one thing is certain: Export embargoes have not contributed to a well-being of U.S. agriculture. In response to world food shortages in the mid-1970s, American farmers were urged to plant fence-to-fence. They responded with record crops. Embargoes cut off their access to world markets. Prices plummeted and depression followed.

It is difficult to criticize the obvious success that has been achieved under our national commitment to production of abundant, high-quality, cheap food. U.S. citizens have available the best diet, costing the lowest percentage of take-home pay, of any people in the world. But will that historic abundance continue?

First, Americans need to understand that food, like other consumer goods, cannot be produced continuously unless the producer has the means and the incentive to stay in business.

Second, an international agreement must be worked out among principal food-exporting nations to stop the practice of selling below costs of production.

It has been authoritatively estimated that our planet has the potential to produce an adequate diet of food for 10 times its present 4.2 billion inhabitants. The major obstacle lies in the shortsighted, politically expedient food policies being followed by so many governments.

For the moment, food is cheap. But unless policies are changed, food will soon become a scarce and costly luxury for even the richest nations of the world.●

S. 2058—THE TRADE IN SERVICES ACT

● Mr. INOUYE. Mr. President, recently, Senators CHAFEE, ROTH, and I introduced a bill S. 2058, the Trade in Services Act, which is designed to encourage the discussion of service issues in multilateral negotiations, encourage the formation of a services promotion infrastructure within the U.S. Government, and provide additional remedies to the U.S. service exporters in the case of unfair foreign trade practices. I am also the principal sponsor of S. 1233, the Service Industries Development Act, which I introduced with Senator PRESSLER.

Increasingly the services component of the economy is being studied and appreciated for its significance. Although it is acknowledged that the United States is a service economy, policymakers have by and large ignored the implications of this fact. Moreover, even though services have outperformed the manufacturing and agricultural sectors during the current recession, have enjoyed higher productivity increases, and have provided us with a large surplus to offset the terrible deficit in goods, they still do not receive appropriate attention from Government.

This difference has begun to change, and credit must be given to Ambassador Bill Brock and his staff at the Office of the U.S. Trade Representative for seizing and maintaining the initiative on this issue. I am encouraged that the OECD had undertaken useful preparatory work in this area and that the European Community has signaled its willingness to discuss seriously the problem of obstacles to the trade in services in multilateral forums.

There are still many problems inhibiting U.S. service exporters. Information suppliers still find it difficult to obtain connection rights in Japan, and U.S. banks and insurance companies are severely restricted in their Japanese operations if permitted at all. American data processors are barred from Canada and Brazil. Outrageously high landing fees plague American air carriers in Europe and Australia.

An excellent analysis of services in U.S. trade recently appeared in the February 10, 1982, issue of the Wall Street Journal, and I commend it to my colleagues. I have only one reservation about the article, and that is the argument that services can displace goods in our international trade through the licensing of technology. While this is possible, companies recognize that licensing is desirable only if the export of goods is not possible or would be very difficult to achieve. Companies recognize the fact that licensing transfers technology and creates potential rivals.

This caveat notwithstanding, I think that this article is an excellent summary of information on the international trade in services, and I ask that it be reprinted in the RECORD.

The article follows:

[From the Wall Street Journal, Feb. 10, 1982]

SERVICE TRANSACTIONS KEEP BALANCE OF TRADE IN SURPLUS DESPITE THE LARGE DEFICIT ON GOODS

(By Alfred L. Malabre, Jr.)

It is widely recognized that the current recession would be far more severe were it not for the persistent growth of service businesses. Less well known is the degree to which trade in services—from international licensing agreements to tourism—is buttressing the nation's overall trade position.

This support can be seen in the adjoining chart. It traces the yawning dichotomy that has developed over the last dozen years within the country's overall trade balance. In 1970, U.S. exports of goods and services exceeded such imports by some $5.6 billion. Last year, early estimates place the comparable surplus at roughly $12 billion.

Consider, however, how this healthy picture changes without services. A goods-only surplus of $2.6 billion in 1970 turns into a goods-only deficit of some $27.8 billion in 1981.

"HORRENDOUS" BUT FOR SERVICES

"Without the service factor, which tends to be overlooked when foreign trade is mentioned, our current trade situation would be horrendous," declares a Commerce Department economist who helps compile the data.

Among beneficiaries of this service factor, remarks an analyst at New York's Chase Manhattan Bank, is the U.S. dollar. "Since a trade surplus normally acts to strengthen the dollar," he says, "it's clear that the dollar now would be in serious trouble" without services.

In fact, the dollar has strengthened substantially in the period of heavy deficits in merchandise trade shown in the chart. Since early 1973, for instance, it has appreciated more than 10 percent against an index of 15 other major currencies that is compiled by Morgan Guaranty Trust of New York.

The crucial role that services now play in keeping the U.S. trade balance in surplus has tended to escape attention, analysts say, partly because service items remain a relatively minor part of overall trade volume. Indeed, Commerce Department data show that service trade—exports plus imports—constitutes a shrinking portion of overall trade. Although trade in both goods and services has risen briskly over the years covered in the chart, the sharper rise has been in goods.

A statistic: Trade in services amounts to slightly over 40% of trade in goods, a decline of about 10 percentage points in 10 years.

A WIDE SPECTRUM

A larger reason that service trade has tended to elude notice, economists say, involves its makeup. Some service-trade categories may appear familiar enough. But others reflect transactions that hardly spring to mind when the topic is trade. A few illustrations suggest the wide range:

A West German tourist visits Chicago and his spending there shows up as a service export in the "travel" category of U.S. trade data. A New Yorker flies to London on British Airways and his ticket payment to the foreign carrier counts as a service import in the "passenger-fares" category. A Japanese firm ships autos from Yokohama to Portland, Ore., and pays for ship-handling services at the U.S. port; these count as service exports under "transportation." A U.S. company licenses its desalinization process to a Middle Eastern concern and the fee appears as a service export under "royalties and fees."

In recent years, trade within each of these service categories has risen. However, as the swelling surplus in services indicates, the sharper gains have come on the export side of the ledger. The table pinpoints the pattern during a recent 12 months. In every instance, the export rise exceeds the import increase by an appreciable margin.

[In percent]

	Export Gain	Import Gain
Travel	21	10
Passenger fares	20	13
Transportation	15	5
Royalties and fees	14	2

A decade ago, when the service-trade surplus was a small fraction of recent surpluses, the situation was reversed. Imports expanded faster than exports in each of the four categories. And the gaps generally were large. Passenger-fare imports soared 24%, while such exports rose 14%. Imports of royalties and fees climbed 22%, while such exports gained only 9%.

Another major trade category that government statisticians place, however incongruously, within the service column is investment income. Income derived through American ownership of assets abroad constitutes a service export. Income gained by foreigners through their ownership of U.S. assets goes down as a service import.

TWO-WAY GROWTH

Such income flows, largely in the form of dividend and interest payments, have expanded briskly in both directions in recent years. Again, however, export gains have outstripped import gains. For instance, there was a surplus approximating $24 billion on such transactions last year. That's more than double the comparable surplus a decade ago. It accounts for over half of last year's overall service-trade surplus of some $40 billion.

Such surpluses reflect the relatively large sums that Americans have plowed into investments abroad over many decades. These U.S.-owned assets abroad exceed $215.5 billion. This dwarfs the more than $65.5 Billion of assets that foreigners own in the U.S.

In the last several years, it should be added, the growth of foreign-owned assets in the U.S. has accelerated, while that of U.S.-owned assets abroad has slowed. Since 1976, U.S. assets abroad have risen some 56%, while foreign assets in the U.S. have soared some 113%.

"In the long run, if it persists, this pattern could narrow the trade surplus on such income flows," says a Commerce Department analyst.

Still another unlikely service-trade category reflects various government activities. These range from payments to foreigners employed at U.S. embassies abroad (a service import) to toll receipts from foreigners for use of the U.S. portion of the St. Lawrence Seaway (a service export). Called government transactions, this category is an exception to the rule. It has shown a substantial trade deficit in nearly all the years covered in the chart. Its only surplus—a relatively meager $727 million—occurred in 1977.

PROTECTIONISM A WORRY

Looking ahead, some analysts question whether the rise of service-trade surpluses can long continue. One worry is that protectionism will grow in such transactions. The unlikelier parts of this trade, such as the government-transactions category, may largely escape such pressures. But there is concern about more familiar categories whose trade positions have strengthened over the years.

James D. Robinson III, the chairman of American Express Co., warned in Washington recently that "the potential for growth in U.S. service exports in tremendous, as long as foreign markets remain open." However, he went on, "barriers, both visible and invisible, to trade in services are in place and growing; as the world economy undergoes serious strains, the barriers will multiply."

The executive ticked off diverse illustrations to service-trade barriers already existing abroad. The list includes discrimination against U.S. shippers seeking to transport foreign cargo; administrative delays that hinder licensing arrangements; discriminatory ground-handling services for U.S. airlines, including the denial of access to reservation systems; restraints on the international flow of information carried on U.S.-owned telecommunications networks; and banning of operations by U.S.-owned insurance firms.

The protectionist threat in service trade isn't unnoticed in Washington. U.S. officials recently put together a list of hundreds of examples of barriers to the international flow of services. The matter is expected to be pressed by the U.S. at the next round of multinational trade talks. These are to begin this fall in Geneva, under the auspices of the General Agreement on Tariffs and Trade.

Heretofore, such GATT negotiations have focused on barriers to merchandise trade. This helps to explain, analysts say, the relatively rapid expansion over the years of such trade, as opposed to service trade.

Also pressing the cause of service trade in Washington is a recently formed organization called the Coalition of Service Industries. Robert Strauss, a top trade-policy official in the Carter administration, is its counsel. The group's sponsors include American Express and a score of other service-oriented concerns, ranging from banks with extensive overseas operations to consumer-finance companies.

Whatever safeguards eventually emerge to protect the exports of service businesses, analysts anticipate a continuing problem of another sort. They note that measures to expand service exports also can work in the long run to curtail exports of goods.

To some degree, gains in service exports come at the expense of the merchandise sector," comments an analyst at the National Bureau of Economic Research, a nonprofit group based in Cambridge, Mass.

To illustrate the point, the economist supposes that a new camera is introduced by a U.S. manufacturer. Sales of the camera to customers abroad initially will serve to lift merchandise exports. However, the producer has declared a willingness to license the camera's manufacture to other companies overseas. The fees from this would turn up as a service export. But the resulting foreign-made cameras would tend ultimately to reduce shipments abroad of U.S.-made counterparts. This, of course, would act to trim merchandise exports.●

THE WASHINGTON EDUCATION PROJECT

● **Mr. HATFIELD.** Mr. President, today I am entering into the RECORD one of the most worthwhile projects I have encountered in the private sector, designed to help the functionally illiterate gain the knowledge and skill necessary to survive in today's world.

The Washington education project is the brainchild of Mr. Norman Manasa, a young man with a very good idea. In 4 years of success at the University of Miami the Summon program, as the project was called in the Miami area, assisted hundreds of people in the basic concepts of reading and verbal skills.

This program falls in line with the goals the President set during his first year in office. Self-sufficiency, less dependence on the Federal Government, and government in general. It allows the student to understand the real environment he or she will be encountering after college.

The Washington education project is an academic program which adds an experiential component to the humanities training of college students by putting them to work teaching the poor to read. Undergraduates enter this project by registering in three-credit, pass/fail courses which marry the reality and the theory of sociology, education, economics, and so forth, and which teach college students things that cannot be learned through traditional classroom instruction. Since these are elective courses, all undergraduates may participate, regardless of their major.

Undergraduates in this project tutor 6 hours per week in selected community agencies as a supplement to the education programs which are already in operation in these agencies. The tutoring is done on a regular schedule throughout the semester and the undergraduates sign in and sign out for each tutoring session. In addition, they meet each week in a seminar with their monitoring professor where the theory of the humanistic discipline in which they are registered is explained in light of their experience in the community.

The undergraduates benefit in four ways:

First, they obtain real-world experience which gives them a fuller understanding of the humanities;

Second, they obtain an experiential background which will help them to choose a major and a career;

Third, they obtain an entry into the world of work and postgraduate employment;

Fourth, they learn compassion by being compassionate.

In addition, this project does not provide the illiterate poor with more subsidy; rather, it provides them with the kind of real help which they desperately need. One must be skilled in reading, writing, and mathematics in order to create wealth in a literate society. Without these skills, the poor will always remain poor regardless of whatever other help they may obtain and they cannot learn these skills without long-term individual tutoring. Since academic credit guarantees the attendance of the undergraduates as well as the expertise of the university faculty, the Washington education project provides the illiterate of the community with reliable and competent help at no cost to them.

This project has two economies: One that might be called the microeconomy and one that might be called the macroeconomy. The microeconomy is that economy of operation which is at the heart of this project in that there is no capital expenditure to erect new buildings or to rent storefronts; there is no outlay for books or special consultants; the tutors are not paid—indeed, they pay tuition to take the courses which permit them to do the tutoring. There is no time wasted arguing over experimental teaching methodologies.

The Washington education project uses the buildings—notably the public schools—that already exist, the books that have already been purchased, and the teaching methodology that is already in operation. The classroom teacher tells the undergraduate which of the students is to be tutored, and in what subject, and with what book, and the tutoring takes place in the classroom with the learning environment in force and the classroom teacher right there to provide whatever help may be necessary.

There is nothing mysterious about this tutoring process. It is done at the level of helping the neighborhood kids with their homework and is an honorable method of instruction as old as learning itself. Even Alexander the Great had a tutor.

And this may be the only project of which the Senate has heard that brings its own money with it; that is to say, the tuition of the undergraduates. It would probably require outside funding to get this project started at various colleges but the tuition of the students could maintain the project, if a college so chooses, after seed moneys are ended.

But it is the macroeconomy, one that is external to this project and national in scope. For 200 years, people in this country could create wealth even if they were illiterate since the nature of work itself required vast numbers of workers to lift, move, plant, and reap the things that the Nation produced. Even as the country changed from an agricultural society into an industrial society and workers moved from the farms to the factories, this held true. It is the modern age, however, that sends the great machines and robots to do the manual labor of the Nation so that, as each day passes and as each new computerized marvel is introduced, the illiterate become less and less able to create wealth in any form.

The United States, if it is to remain a leader in the marketplace of the world, no longer has the luxury of keeping great numbers of its citizens illiterate. These people must be made literate for the technological era or they will likely become a vast, unemployable, and, eventually, ungovernable mass which will have to be supported for their entire lives by the rest of us.

This is a burden that the Nation cannot bear. But how are these people to be made literate? Clearly, they require individual tutoring since they have not learned to read and write, and will not learn, in a group setting. And where are we to find the thousands of tutors that are needed? Since the tutors must be literate themselves, there are only three places to look.

The literate people who work for a living have the ability to tutor, but they cannot because they are producing. There is also a great number of literate retired Americans who could do the tutoring but, since tutoring requires the tutor to appear day after day for a long period of time, these tutors, in order to be both reliable and manageable, would have to be paid. This would necessitate a $1 billion Government program with a national bureaucracy, something clearly out of the question today.

The last group, is the college undergraduates, literate, talented, enthusiastic, and very willing, I believe, to serve if asked to do so in a sensible fashion. And, with 10 million undergraduates at 3,000 colleges across the country, large enough to meet the illiteracy problem on its own scale. Undergraduates generally take eight elective courses during their college years; there is no reason why two or three of these courses cannot be devoted to this sort of a project.

At present, the undergraduates require some subsidy but create no wealth, although they are preparing to do so upon graduation. Under this project, these same undergraduates would enroll in elective humanities courses where they would create vast new wealth by teaching reading, writing, and mathematics to the illiterate poor. And the undergraduates, themselves, would get a better education in the bargain.

For the same dollar investment on the part of the Nation, thousands of undergraduates, on a purely voluntary basis, would work in community agencies all across America which desperately need the tutorial help this generation of college students can provide. I should add that this is not a dream but a description of a model project that has already worked and one that had undergraduates tutoring in jails, ghetto schools, Head Start centers, migrant camps, and homes for the emotionally disturbed.

The Washington education project reduces the economic rhetoric of the day to a workable program. Under this project, the human capital of undergraduates would expand the base of the economy by transferring to the poor the power to create wealth, thereby turning taxeaters into taxpayers. This is a worthy project that provides undergraduates with an education in life, teaches them compassion, and heals the wounds of those who suffer.

Mr. President, I submit for the RECORD information about the project.

The information follows:

THE WASHINGTON EDUCATION PROJECT

I. DESCRIPTION

(1) A better way to educate college students during part of their training in the humanities is to put them to work in the community, under the guidance of professors, teaching the poor to read.

(2) This work will provide undergraduates with an experiential component to traditional classroom instruction. At the same time, it will help them to learn their immediate responsibility to care for another

(3) Poor people—the imprisoned, the illiterate, the retarded and the destitute—will receive competent and reliable help on a large scale. There are thousands of college students in the District of Columbia (and many more across the nation) who are able and available to teach people to read.

(4) Expenditures for higher education would yield greater productivity. Instead of "preparing" students for life through traditional classroom instruction year after year, these funds would get undergraduates a better education by having them actually do productive and essential work.

(5) The economics of the times support such an effort. College students and the poor constitute two distinct groups which consume great quantities of wealth produced by the society-at-large but which produce little wealth themselves. This project is an attempt to "transfer wealth" by having college students pass on to the poor their skills in letters and numbers. The poor will then be able to create wealth in their own right since they will have the skills which are essential to the production of goods and services in a literate society. They will then be able to advance themselves through their own efforts and, at the same time, help to support the nation in the marketplace of the world.

(6) The program proposed here actually works. An experimental model ran for four years (1969-1973) at the University of Miami and such a program could work in the District of Columbia and at colleges across the nation.

II. WHAT A STUDENT IN THE WASHINGTON EDUCATION PROJECT IS REQUIRED TO DO

Students who participate in this program do so by enrolling in a three credit, pass/fail course in one of several humanities departments. In order to receive the academic credit, students at the Miami project were required to:

(1) Tutor six hours each week for the semester;

(2) Attend one seminar with the supervising professor each week;

(3) Submit a one-page report each two weeks;

(4) Maintain a private journal of their experiences; and

(5) Submit a final paper at the end of the semester.

Eligibility

All university students, with the exception of first semester freshmen, were eligible to take this course each semester of their undergraduate career. It did not matter what their major field of study was.

III. REPRESENTATIVE COMMUNITY AGENCIES

College students in this program do tutoring and they can do it effectively in almost any community setting. Below is a representative list of agencies from the Miami project:

(1) The After School House—a community school for young children in the impoverished area of South Miami;

(2) Boystown—a home for dependent boys maintained by the Catholic Arch-Diocese of Miami;

(3) Carver Junior High School—an integrated county school for seventh and eight graders;

(4) The Dade County Jail—literacy training in the men's division;

(5) The Dade County Jail—literacy training in the women's division;

(6) The Dade County Stockade—sentenced prisoners are prepared to take the State high school equivalency examination;

(7) Haven School for the Retarded—a private facility for moderately handicapped children and adolescents;

(8) J.R.E. Lee Community School—a county school for emotionally disturbed children;

(9) Montanari Residential Treatment Center and Clinical School—a private facility for emotionally disturbed adolescents;

(10) Saint Alban's Day Nursery—a day care center in the Black community of Coconut Grove;

(11) South Miami Junior High School—a newly integrated county school;

(12) Spectrum House—a private, residential treatment center for people addicted to hard drugs;

(13) Tucker Elementary—a newly integrated county school for grades K-4;

(14) Dade County Youth Hall—a detention center for juveniles.

IV. UNIVERSITY DEPARTMENTS WHICH MIGHT PARTICIPATE IN THIS PROJECT

Humanities departments which participate in this program would register students in a three credit course on a pass/fail basis. Departments which might participate are: (1) Sociology,[1] (2) Economics,[1] (3) Speech,[1] (4) Elementary Education,[1] (5) Educational Psychology,[1] (6) Education: Administration and Curriculum,[1] (7) Psychology, (8) American Studies,[1] (9) Philosophy, (10) Management,[1] and (11) Geography.[1]

V. THE ORGANIZATIONAL COMPONENTS OF A SINGLE COLLEGE PROJECT WITHIN THE WASHINGTON EDUCATION PROJECT

When established at a college, this project would have five parts. They are:

(1) The Project Director—holds responsibility for the operation of the project.

(2) The Faculty Representatives—meet each week with their assigned students in order to provide the theoretical background for their experiences, as well as supervision, review, advice and evaluation. They also make site visits.

(3) The Student Agency Coordinators—these students already have had one semester's experience in the project as a regular student. They now assume the responsibility for the operation of an individual community agency. They schedule work hours for the other students, arrange transportation, keep attendance records, manage communications, and help set up effective tutoring situations.

(4) The Agency Representatives—these are staff members appointed by the community agency who have primary responsibility for effective placement for each college student within the agency.

(5) The Participating University Students—those who enroll for the course and choose, from a list of community agencies, where they will tutor for the semester.

(Please note: In the operation of an agency, the Student Coordinator does most of the leg work. The time required of a faculty member or agency representative, therefore, is about 3-6 hours per week.)

VI. WHAT IS LEARNED THROUGH THIS PROGRAM

The education which takes place in the program proposed here is of two kinds: that which the university student obtains, and that which is obtained by the people in the community.

(A) The Education Obtained By The University Student:

(1) This program centers on the humanities and permits students to "learn by doing." It blends reality and classroom theory at the same time by giving students experience in the world beyond the campus against which to measure the value of academic instruction.

(2) Students learn compassion by being compassionate. They learn their immediate responsibility to care for another. In this way, students take some first steps out of the artificially prolonged adolescence of the college years.

(3) Students learn about other cultures within our society and learn not to be so afraid of them. This knowledge is essential if a multi-cultural society such as ours is to work.

(4) Students learn about their own abilities and, therefore, can make more knowl-

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[1] Departments which participated in the Miami project.

edgeable career decisions. They can also take an initial step toward eventual job placement for themselves.

(B) The Education Obtained By The Community Resident:

(1) Community residents receive regular and competent training in the use of letters and numbers, skills which they must have if they are to advance themselves in a literate society.

(2) By working day after day with someone from another culture, they learn not be so afraid of that culture.

(3) The poor gain a greater appreciation of their own worth because they see themselves obtaining basic skills, and also because someone else thinks they are important and demonstrates this by providing competent help over a long period of time.

VII. SOME ECONOMIC ARGUMENTS FOR THIS PROJECT

(1) The value of the tutoring which the college students will do is measurable in dollars. A tutor for a grade school child in Washington, D.C., for example, presently earns $15.00 per hour. A college student in this program would tutor six hours each week and, thereby, produce $90.00 per week in real wealth.

(2) This program envisions projects at individual colleges which will continue after "seed" monies are withdrawn since the basic source of funds for any course offering (i.e. the tuition of the students) will still be there.

(3) Using information which already exists, we could demonstrate how much wealth a literate person creates in a lifetime as opposed to that created by an illiterate or functionally illiterate person. Thus, we may be able to measure the amount of wealth which the college students in this program will make it possible for others to create.

(4) Literacy is basic to the production of wealth. If people are not trained in the use of letters and numbers, the nation will not be able to produce the goods and services necessary to support itself. Inflation will continue to increase, our position in the world will be eroded, and the value of the dollar (as seen, for example, in the pension and social security disbursements of the future) will be greatly diminished.

PROJECT OBJECTIVES

(1) To offer all university undergraduates, regardless of their major field of study, courses in the humanities which will put them to work, under the guidance of university professors, teaching the poor to read. This is an attempt to marry experience and theory in individual humanities courses. Students would tutor six hours per week in an established community agency where they would directly experience the "reality" of one of the humanistic disciplines. In addition, the students would meet with their monitoring professor each week in a seminar where the theory of the academic discipline would be explained in light of the student's experience in the community.

These are seen as three credit, pass/fail courses which may be taken by undergraduates as electives or as part of their major or minor field of study. The final decision on these matters would rest, of course, with the individual university.

(2) To permit university students to learn compassion by being compassionate.

(3) To provide large-scale, competent and reliable tutorial help to the illiterate of the community at no cost to them. These are the people who cannot read and write now and probably never will without day-after-day, long-term individual tutoring.

GETTING THE FIRST SEMESTER STARTED—WHO DOES WHAT

(1) What you can do

You may already know someone at your local college or university. If not, the Dean of the School of Arts and Sciences is, perhaps, the most likely person to see. This project involves the several humanities departments and these are usually found within this School. Before doing this, however, the Washington Education Project will be happy to send you the "red packet" which contains the detailed internal structure of the project in outline form.

To get started, this project only needs one or two professors from one or two departments and, perhaps, 10-30 undergraduates. There should be at least two community agencies prepared to receive the students.

(2) What the project Director does[2]

The project Director at each university arranges with individual community agencies (schools, jails, Head Start Centers, facilities for the retarded, etc.) to provide tutors as a supplement to the base teaching staff of the agency. University departments are matched with community agencies that have some relation to their field of study. A hand-out is distributed to undergraduates at registration which lists the participating agencies, notes the days and times in which the work can be done, describes the specific work that the student would do, and lists the courses in which the undergraduate can register in order to work at that agency.

For example:

(1) Emerson Head Start Center:—M-F 9:00 a.m. to 3:00 p.m.—tutor inner-city pre-school aged children on a 1:2 ratio as well as small group activities. Register in Elementary Education 422 or Educational Psychology 503.

(2) The City Jail: M, W, F 3:00 p.m. to 6:00 p.m. only—tutor functionally illiterate adults in basic reading and writing. Sociology 500 or Economics 485.

The project Director also sets the time and place of the first general meeting of the semester. It is held on campus and all project participants must attend.

(3) What the undergraduates do[2]

At registration (indeed, at pre-registration), students choose one agency from the list of community agencies prepared by the project Director. They then register in the corresponding course and will work at this agency for the entire semester. They attend the general organizational meeting.

(4) What the community agencies do[2]

Agency heads determine which of their staff want tutors and name a staff member to be the agency representative for the project. The agency representative attends the general organizational meeting.

(5) What the faculty members do[2]

Faculty members make a site visit to the community agency with which they are matched; meet the agency head or agency representative; attend the general organizational meeting.

(6) What the Student Coordinators do[2]

The Student Coordinators make a site visit to the community agencies with which they have been matched; meet the agency head and agency representative; meet the university professors with whom they will be working; prepare for the first organizational meeting.

(Please note: It is the duty of the Student Coordinator to handle the day-to-day affairs of the undergraduates at their agency. They are responsible for scheduling, transportation, the record keeping of attendance, general communications, etc. This relieves the faculty members and agency staff of most of the leg work.)

(7) The first organizational meeting

All members of the project (faculty, agency representatives, students, Student Coordinators, and the project Director) attend this meeting. It is held immediately after registration for the Spring or Fall semesters.

The project Director first explains the general operation of the project and then the large group is broken down into groups by agency. Here the ground rules of the agency are established by the agency representative ("Yes, you can bring books into the jail if you first show them to the guard. No, you may not bring any cakes."); work schedules and transportation schedules are arranged; the time and place of the first faculty seminar is established, etc.

When this organizational meeting is completed, each undergraduate should know something about the agency in which they will be working, where it is located, how they are going to get there, what their days and hours of work are (students must tutor six regularly scheduled hours per week . . . for example, M, W, F 9:00 to 11:00 a.m. . . . they must sign in and out for each tutoring session . . . they must make up any sessions they may have missed), who to see when they arrive at the agency, and when they see their faculty member next.

If, at this general meeting, a student cannot arrange suitable transportation to the agency, the student must choose another agency but this agency must be matched with the department in which the student has already registered.

The undergraduate should spend the first week of the semester touring the agency with the agency representative and should also receive some basic instruction in tutoring methods from the faculty member.

Actual tutoring should begin no later than the second week of the semester.

GENERAL OPERATION

This project would be directed by a member of the university faculty and the courses would be offered on a pass/fail or credit-no credit basis. As a practical matter, students who do the required work are awarded academic credit. However, the decision to award credit remains with the faculty member who is monitoring the student. By the same token, since the agency representatives are responsible for the people in their care, they may, of course, refuse to allow university students to participate at their agency who they feel do not serve the best interests of their charges.

University students who complete the five requirements of this course listed in the "red packet" are awarded three credits at the end of the semester. Students who are not doing the work properly are informed early on of their deficiencies (poor attendance, etc.) and are permitted to drop the course or are given an "Incomplete" if their performance is not made satisfactory. (In any event, if a student's performance in the community is not satisfactory, the student should be withdrawn from the agency.)

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[2] The complete list of duties for each project participant throughout the semester is contained in the Washington Education Project "red packet". The duties listed here only pertain to getting the project started.

The time required of a faculty member or agency representative is about 3-6 hours per week.

Participation in this project is based on the free choice of its various members. That is to say, no one would be compelled to participate and this could include the universities themselves, their professors and students as well as the community agencies and the members of their staffs (for example, individual classroom teachers, etc.).

SUCCESS OF THE MIAMI MODEL

The Miami project ran for four years (1969-1973) and sent over 1,000 undergraduates and 60 professors to 14 city agencies. A complete list is in the "red packet" but these students worked as tutors in jails, inner-city schools, migrant camps, homes for the retarded, etc., in the Miami area. There were measurable successes such as these: jail inmates passed the State High School Equivalency Examination and obtained a high school diploma, the reading ability of emotionally disturbed children was raised two years within 3-5 months, retarded children improved their ability to feed and dress themselves and make their own beds, migrant children who spoke only Spanish gained some skill in speaking, reading and writing English.

To the general services already provided to these people by the community, the university students were able to act as that indispensable supplement which brought reliable, day-in-day-out tutoring to people who could not advance themselves without individual attention. All the community had to do was provide the base within which the undergraduates could work.

NATIONAL APPLICABILITY

This project can be adopted on a very broad scale since the problems it addresses are national in scope and since universities and colleges generally are composed of the same organizational elements, i.e., faculty, students, academic credit, course registration, etc. Any college, therefore, in any part of the country can establish this project and can do so without modification of its existing internal structure.

COSTS

The administrative overhead of this project is its main cost. The undergraduates are not paid for their work (indeed, they pay tuition to the college to take these courses). There is no capital outlay since all tutoring takes place in community agencies which are already established (schools, jails, etc.).

The financial benefits of this project are easily seen and considerable. They are of two kinds:

Firstly, there is the transfer of literacy from those who have it to those who do not. A college student who tutors 6 hours per week as this project requires creates $90.00 of real wealth per week (the current rate of pay for a private tutor in Washington, D.C. is $15.00 per hour; $15.00 per hour× 6 hours per week=$90.00).

Secondly, the person who obtains the power of literacy is now able to create wealth, both for himself and the community, for a lifetime. As is clearly seen, people without literacy skills in a literate society are pretty much left to pushing brooms or taking welfare whereas people who can read and write are able to become steady economic contributors to the community.

This is not an expensive project to operate. There are virtually no costs to the community agencies and the colleges can obtain seed money from one of several Federal agencies to cover initial costs.

THE DISTRICT OF COLUMBIA,
Washington, D.C., September 21, 1981.
NORMAN MANASA,
Director, The Washington Education Project, Washington, D.C.

DEAR MR. MANASA: Your proposal to grant academic credit to university students for tutorial activities in public institutions is an intriguing idea. A city such as ours needs a literate citizenry if it is to remain a vibrant place in which to live. People, especially our youth, must be able to read and write if they are to have some control over their own lives and to obtain work that has both meaning and dignity. I encourage programs, such as the Washington Education Project, which might enhance these critical skills in our city's public school students.

I am hopeful about the participation of humanities undergraduates from local colleges and universities which your project envisions. Working through accredited university courses and under the supervision of their professors, these students would seem to be a pool of potential excellent tutors providing a vital public service.

As the Mayor, I exercise no control over the operation of the public school system. Policy-making authority and direct supervision of the school system's programs are vested by law in the Board of Education. I suggest that you work closely with the Superintendent of Schools, Mrs. Floretta D. McKenzie, to secure her support for this effort.

You have my good wishes for the success of this project. Please contact my Special Assistant, Patricia E. Miner, if you need any further help in developing your program.

Sincerely,

MARION S. BARRY, Jr.,
Mayor.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS,
OFFICE OF THE SUPERINTENDENT,
Washington, D.C., August 25, 1981.
Mr. NORMAN MANASA,
Director, The Washington Education Project, Washington, D.C.

DEAR MR. MANASA: I write to thank you for your explanation of the Washington Education Project and to encourage the work of this project within the Public Schools of the District of Columbia.

This project seems to be a workable effort since it would draw undergraduates from the local colleges who as part of their training in the humanities, would tutor children in the city school system. Since these undergraduates would do this essential work for course credit and under the general supervision of university faculty, I believe they would be both reliable and effective. Certainly, the community representatives who participated in the Miami project seem to support this view.

There is no doubt that this sort of intensive tutorial instruction, done in the classroom as a supplement to the work of the teacher, would be of great help to our students. But it is also beyond question that working with District school children for a semester would provide a profound educational experience for the undergraduates themselves.

I would be happy to provide whatever help I could and hope you will keep me advised of your progress.

Sincerely,

FLORETTA D. MCKENZIE,
Superintendent of Schools,
Chief State School Officer.

U.S. SENATE,
COMMITTEE ON LABOR AND HUMAN RESOURCES,
Washington, D.C., January 1982.
To Whom It May Concern:

The Washington Education Project may hold some of the answers to the problems we face as a nation, and I thought you would want to know about it.

This project enrolls undergraduates in three credit humanities courses and sends them to impoverished community agencies to teach the illiterate poor to read and write. For the undergraduates, it is a course that combines experience with classroom theory. They would tutor six hours per week but they would also meet with their monitoring professors in weekly seminars where they would hear the theories which attempt to explain the world beyond the campus walls. Since this is an elective course, it is open to all college students, regardless of their major field of study.

The undergraduates, I believe, need this sort of experience in order to understand the value of their classroom instruction. But there are other things to learn in college and undergraduates need to do this sort of work so that they may learn the obligation that citizenship imposes upon those who live in a free society, and so that they may learn compassion through the act of compassion.

This project also holds great promise for the dispossessed of America. It cannot be denied that literacy is basic to the creation of wealth, particularly in an increasingly technological society where computers are doing so much of the work that had been done manually for many generations. Those who are not skilled in the use of letters and numbers are slowly becoming unable to create wealth in any form and must be cared for by the rest of society. There may have been a time when teaching these people to read, write and compute was considered to be an option. Today, it is a compelling necessity that will not go away.

I believe college students would be quite able and very willing to take up this responsibility. As with any other generation of Americans, they need only be asked to serve and to be given the workable means by which to do so. The Washington Education Project may be the kind of project through which much of this work can be accomplished, and I would be happy for whatever consideration you would be able to give it.

Ever sincerely,

CLAIBORNE PELL.

SUMMON

This report was written by Mr. Charles F. Collard, Administrative Supervisor of the J.R.E. Lee Community Center, a Dade County school for emotionally disturbed adolescents. It was written in 1972 or 1973. Please see page 2 of this report.

(SUMMON was the name of the Miami project that ran from 1969-1973).

The SUMMON Program has been functioning at J.R.E. Lee Center for more than five semesters. The tutors have been under the supervision of a University Professor, Student Coordinator, and our school's Reading Director.

The tutors work in one-to-one situations with our emotionally disturbed, junior high students. They are remediating those students who are reading on primer to third grade levels. Their two-fold objectives are to establish rapport with strong interpersonal relationships and to remediate the deficit reading skills.

Since all of the tutors are freshmen through juniors and have had no prior teaching experiences, our program is so structured as to allow them freedom for innovative techniques within a framework of accepted educational practices. They are instructed in the use of our reading methods and materials by the Remedial Reading teacher and the University advisor. In addition, the tutors meet in bimonthly evening sessions to discuss interpersonal and instructional dynamics with our teacher and the advisor.

The tutors work with their students for one forty minute period each school day. They have continued to be extremely conscientious about meeting their schedules. The service that the tutors perform is irreplaceable. They bring a vital freshness and objectivity to our students' situation, which is often lost with "volunteer" organizations. Their help makes possible the individual attention and instruction that our students so need.

Because of these factors, our remedial reading students have had reading level gains of one to two years within a three to five month period of tutorage. Since we have a real need for the SUMMON people in providing a more comprehensive and effective program for our students, Lee Center tries to be the first in line when the tutors are assigned at the beginning of a semester.

THE CENTER FOR THE STUDY OF DEMOCRATIC INSTITUTIONS/THE FUND FOR THE REPUBLIC, INC.,
August 31, 1979.

To Whom It May Concern:

As one who has written extensively about the problems of inner city education, and has been a front-line observer of the efforts to effectively desegregate our public school systems, I have seen one program that seemed to me to give realistic promise of preparing socially handicapped children to take advantage of new educational opportunities opened to them under court order. This was launched ten years ago by Norman Manasa, who enlisted University of Miami students to provide one-on-one or small group tutoring for children deficient in verbal skills.

Manasa's program was in operation, with the support of the University administration and various public and private agencies in Dade County, for four years—enlisting the active participation of over one thousand university students and sixty faculty members. The ability to improve verbal skills is attested by experience in some of the most difficult circumstances, including those found in juvenile correctional institutions as well as inner city public schools.

The arguments for expanding this effort seem to me compelling:

(1) Such instruction does not require professional qualification; any literate adult can readily acquire the skills needed to drill youngsters in reading and writing.

(2) The program can be adapted to children of any age, from kindergarten through high school—and is certainly suitable for the critical earliest years.

(3) The activity complements the regular school program by providing the individual, time-consuming attention that is clearly beyond the capacity of teachers burdened with the usual full-time class load.

(4) The instruction is basic. Without adequate verbal skills education is impossible. And if a child can be helped and inspired by tutelage he will acquire the incentive and self-discipline the educational system requires.

The program as Manasa conceives it could provide a bridge between white and black middle-class young people and the multiracial underclass in the ghettoes. It is not inconceivable that it might provide the kind of spark that moved an earlier generation of college students to respond to the appeal of public service in the days of the Peace Corps. In any case, Manasa has a track record that should command the attention of anyone who is concerned over the polarization of racial attitudes—the predicted division of our major cities into separate, hostile black, white, and now brown communities.

HARRY S. ASHMORE.

METROPOLITAN DADE COUNTY, FLA.,
CORRECTIONS AND REHABILITATION DEPARTMENT,
Miami, Fla., February 28, 1979.

To Whom It May Concern:

In 1970 I had the pleasure of meeting Mr. Norman Manasa who brought into the three (3) institutions, under our control, a program known as "SUMMON." This program consisted of college students, hand picked by Mr. Manasa, to deal on a one to one basis with clients of our institutions that were having problems comprehending subjects being taught by school board instructors. Mr. Manasa showed great ability in discovering our clients disabilities and then picking the best individual on his staff to deal with the person/s problem. This program was in progress for a three year period and was one of the most successful programs that was ever developed in our institutions. We are sorry that Mr. Manasa and his program was discontinued.

Mr. Manasa proved to be one of the most devoted and understanding people that we have ever had from the outside world, to come into our institutions and deal with inmate problems.

I would not hesitate to recommend Mr. Norman Manasa for any position he is desirous of seeking.

Sincerely,

PATRICK C. GALLAGHER,
Assistant Director.

MIAMI-DADE COMMUNITY COLLEGE,
DIVISION OF STUDENT DEVELOPMENT/LEARNING SUPPORT SERVICES,
Miami, Fla., February 26, 1979.

To Whom It May Concern:

It is a pleasure for me to endorse and support the efforts of Mr. Norman Manasa to develop a broad-based program combining educationally sound experience of college students with service to the needy of the community.

I had an opportunity to observe his model program in operation at the University of Miami for several years and, as a professional educator, believe that it offers particularly advantageous opportunities for students in the social sciences and humanities while being of relevance to any individual wishing to contribute to the needs of general society.

A major undergirding principle of the program is that it vividly demonstrates possibilities for successfully integrating segments of our society who have skills to offer those within the society who are of greatest need in a manner beneficial to both.

I believe that it is equally important to note that this program is "exportable" to a variety of educational institutions at the higher education level. The concept could, in my opinion, be successfully implemented at the community college, the four-year college and the university levels with equal measure of success. In fact, I would be most supportive of a model program of this type being established here at Miami-Dade Community College.

Sincerely,

NICHOLAS D. GENNETT,
Dean, Student Development/Learning Support Services, North Campus.

[From the Washington Post, Dec. 21, 1981]

MAYBE JOHNNY COULD READ IF . . .

(By William Raspberry)

Norman Manasa has an idea that he thinks would boost the education of inner-city children, reduce adult illiteracy, supplement the training of college students and uplift the entire community—all without costing very much money.

He's disappointed, though not yet discouraged, that he hasn't been able to sell it.

What Manasa, a 35-year-old machinist and college dropout, has in mind is simplicity itself: give college students academic credit for teaching nonreaders to read. He would have undergraduate tutors spend six hours a week in selected community agencies—ranging from public elementary schools to St. Elizabeths to the D.C. jail. Their efforts would be under the supervision of the agency and would be monitored by a professor at their university. While the course supplement would be elective, participants would have to attend every tutorial session or make up the work later.

Aside from the obvious benefits to those tutored, Manasa says, the college students—mostly humanities majors—would gain real-world experience. They would learn something about how their community operates, and they would learn compassion.

Public officials (including Washington's Mayor Marion Barry and Superintendent of Schools Floretta McKenzie) have been supportive. But so far, he has not been able to sell any local university on trying it out—even though he claims four years of success with it at the University of Miami.

The trouble, he says, is that college officials are reluctant to view it as an academic program. But Manasa says the "academic-credit part is vital"—and also entirely justifiable. "The program operates on the premise that a student who tutors six hours a week, who has seminars and makes reports and has his efforts critiqued, has learned something—even if that something is not gradable."

In some ways, Manasa's approach is reminiscent of literacy efforts in some Third World countries—Ethiopia and Somalia, for instance—where college students work to educate the peasant population. Authorities in those countries claim benefits both to those who are taught and to those who teach. They also see it as a way of bringing their people together, across class lines.

"I've been talking mostly about reading, but the program doesn't have to be limited to that," Manasa said in a recent interview. "It could work just as well with writing, fractions, using a dictionary—virtually anything that students need to drill on."

How does he suppose that inexperienced college students would be able to do what professionally trained educators have been unable to do?

"The great advantage a tutor has is being there day after day with the same few children in an atmosphere of continuity and concern. Teachers have 30 kids on maybe five distinct levels of achievement, plus all their bureaucratic responsibilities. They can't impart the personal element, but a tutor can do it extremely well. . . . We're talking about the transfer of skills, of course, but also about a value system that says education is important."

Nor would it matter that the tutors lacked specific teaching skills, he said. "They would be working right in the classrooms under the direct supervision of the teacher."

He estimates that the program would cost $150,000 for two years, with 90 undergraduates per semester.

And what's is it for Manasa? "I'd be happy to attach myself to the sponsoring university and help any way I could. But they could also do it without me. I wouldn't insist on being part of the bargain. As for the money, the program brings its own money with it in the form of undergraduate tuition, so it really wouldn't cost very much extra."

The hardest part, he said, is to sell the colleges on changing some of their concepts of what constitutes academic education. "Teachers, principals and community organizations in Miami were most enthusiastic about the program," he said. "We had a waiting list of 54 agencies that wanted our services. And no wonder, they know it works. In one school for emotionally disturbed junior high students, we were able to achieve reading gains of one to two years in only three to five months of tutoring."

Whether he is able to sell the program to university officials, he has convinced Superintendent McKenzie.

"There is no doubt that this sort of intensive tutorial instruction, done in the classroom as a supplement to the work of the teacher, would be of great help to our students," she said. "But it is also beyond question that working with District schoolchildren for a semester would provide a profound educational experience for the undergraduates themselves."●

HEALTH AND SAFETY OF AIRLINE PASSENGERS AND CREWS

● Mr. INOUYE. Mr. President, on October 23, 1981, I introduced S. 1770, a bill which would require the Secretary of Transportation to direct the Administrator of the Federal Aviation Administration to conduct an independent study of airline industry practices and FAA rules and regulations, and minimum standards relating to the health and safety of airline passengers and crews.

Since that time, I have attempted to persuade my Senate colleagues of what I perceive to be a serious problem jeopardizing the health and therefore the safety of the flying public and airline flight crew.

In my introductory statement on October 23, 1981, I referred to and attached a copy of an April 12, 1981, article entitled, "Today's Skies Not So Friendly" which appeared in the Buffalo News.

In continuing my effort to focus attention to the problems currently existing I am pleased to share with my Senate colleagues a copy of a February 19, 1982, article that appeared in the Wall Street Journal entitled, "Risks of Flying in High-Altitude Jetliners for Some Passengers Are Listed by AMA".

According to a special report filed by the Commission on Emergency Medical Services of the American Medical Association.

> . . . people who should avoid flying modern, high altitude commercial jetliners are those with severe colds and sinus conditions, recent eye or abdominal surgery, a recent heart attack or stroke and women in the last month of pregnancy.

The article discusses in further detail various conditions and its effects on certain persons.

Since my Senate colleagues make every effort to return to their homes States as frequently as possible, I thought they would all find this article most interesting.

Mr. President, I ask that a copy of the article that appeared in the February 19, 1982, issue of the Wall Street Journal be printed in the RECORD.

The article follows:

RISKS OF FLYING IN HIGH-ALTITUDE JETLINERS FOR SOME PASSENGERS ARE LISTED BY AMA

(By Jerry E. Bishop)

Among the people who should avoid flying modern, high-altitude commercial jetliners are those with severe colds and sinus conditions, recent eye or abdominal surgery, a recent heart attack or stroke and women in the last month of pregnancy, a committee of the American Medical Association said.

In a special report on the medical aspects of traveling by jetliner the committee also urged that people with chronic heart or lung conditions be given supplemental oxygen during jet flights, that scuba divers wait at least 12 hours after their last dive before flying and that infants be given frequent sips of water during a jet flight.

The recommendations were made by the AMA's Commission on Emergency Medical Services and published in this week's issue of the Journal of the American Medical Association.

The commission explained that most medical problems linked to commercial air travel stem from the decreased air pressure in the plane's cabin as it rises above 22,500 feet. "A modern jet airliner flies at crusing altitudes from about 28,000 feet to 43,000 feet and, rarely, even to 45,000 feet," the commission noted.

CABIN PRESSURES

A jetliner's pressurization equipment can keep the cabin air at sea-level pressure only up to 22,500 feet of altitude. Beyond that, the cabin pressure drops so that when the aircraft reaches 35,000 feet the cabin pressure is the equivalent of 5,500 feet altitude. At 40,000 feet the cabin pressure drops to the equivalent of 7,500 feet of altitude.

One problem caused by the drop in cabin pressure is that less oxygen dissolves in the blood as it passes through the lungs. A healthy person's lungs, heart and blood vessel system can compensate for this decrease but there are several chronic conditions in which people have difficulty, even at sea level, of getting oxygen.

"All patients with chronic cardiovascular or pulmonary problems . . . should have supplemental oxygen at all times during flight at levels above 22,500 feet," the commission said. It cited such conditions as cystic fibrosis, chronic emphysema, congenital heart defects that interfere with oxygen absorption, chronic asthma, and coronary insufficiency where the heart's coronary arteries are unable to supply sufficient blood to the heart muscle.

If tests disclose a person's blood is already low in oxygen, "consultation with the airline surgeon and provision of a suitable face mask to deliver 25% to 30% humidified oxygen is recommended," the report said. Most airlines will supply such oxygen masks for an individual on 48 hours notice, it said.

Another problem stems from the fact that as the pressure drops, air, or any gas, will expand, including any pocket of air or gas trapped inside the body. A pocket of gas trapped in the intestinal tract "may cause mild to severe discomfort or nausea and vomiting," the commission said.

For this reason, "flying should be deferred for 14 days after urologic or gastrointestinal tract surgery," it said. Expanding gas trapped in an abscessed tooth or a defective filling can cause a toothache during ascent, a pain the doctors have labeled "aerodontalgia."

"A special circumstance that may be a serious threat to health is that of the vacationer who has been scuba diving earlier in the day and wishes to fly home," the report said. The pressures encountered in diving force nitrogen to dissolve in the tissues. This bubbles out at a harmless rate when the diver returns to sea level pressure. But if the diver boards an aircraft where the cabin pressure is the equivalent of 5,000 feet altitude, the nitrogen will bubble out too rapidly, causing a case of "bends." Hence, divers should wait at least 12 hours after their last dive, or 24 hours if they've done deep diving, before flying the jets, the commission said.

MORE COMMON PROBLEM

A more common problem is suffered by persons whose nasal passages and sinuses are congested from colds and allergies. As the jet descends and the cabin pressure rises, air should reenter the head to equalize pressure. If the Eustachian tube in the ear is congested, the air pressure in the middle ear will remain lower than the surrounding air pressure and an earache will develop accompanied by decreased hearing and tinnitus or "ringing" in the ear. Congested sinus passages can lead to similar sinus pains.

If a person with a bad cold has to travel, decongestant sprays or nose drops should be used an hour before descent, the commission said.

Among other medical problems of jet flight is slight dehydration due to the low humidity of the cabin air. "Infants should be given water in frequent small amounts throughout the flight," the report said. "If fed during descent, the sucking and swallowing mechanism may be helpful in ventilating the middle ear," it added.

The commission also cited a number of medical conditions that should bar flying the jets altogether. These include a heart attack within the previous four weeks or a stroke within the previous two weeks; severe high blood pressure; surgical wiring of the jaw (dangerous if motion sickness should cause vomiting); epilepsy that isn't well-controlled by medication; severe anemia, sickle cell disease or hemophilia, and pregnancy advanced beyond 240 days or threatened by miscarriage.●

OIL IMPORT FEE

● Mr. MITCHELL. Mr. President, recent news reports indicate that an oil import fee is being seriously considered as a part of an alternative to President Reagan's 1983 budget. Although I believe that there are many ways to improve the President's proposed budget, the imposition of an oil import fee is not one of them. In today's Washington Post, columnist Hobart Rowen presents a strong case against the imposition of such a fee. I recommend Mr. Rowen's column to my colleagues and ask that it be included in the Record.

The column follows:

TAX IMPORTED OIL? NONSENSE

In the wake of tumbling crude-oil prices, the latest panacea being examined by government officials and debated in corporate boardrooms is a tax on oil imports—maybe $5 to $10 a barrel. This presumably would stimulate domestic output, encourage conservation and further reduce dependence on imports, especially from OPEC.

It is a half-baked idea based on faulty reasoning. Milton Russell of Resources for the Future put it succinctly: "The idea that these oil prices going down is bad for us is perverse."

Fear is the basic rationale behind the proposal. We are warned that lower oil prices will reverse the healthy trend of the past couple of years toward sharply reduced consumption: car buyers will go back to gas-guzzlers, wasteful practices will be resumed by industry, the search for alternatives to oil will be slowed and dependence on OPEC will be increased, rather than weakened.

None of these reasons stands up under close scrutiny. OPEC's influence on oil prices is already on the way down, its notorious oil "weapon" disarmed, thanks to its greed, which stimulated conservation and led to discovery and exploitation of other oil sources and alternative fuels.

A $5- or $10-per-barrel oil import fee not only is unnecessary to de-fang OPEC, but would reverse the only visible healthy economic trend in the United States—reduced inflationary pressures stemming in good part from lower oil prices. For those looking for an anti-OPEC weapon, a better strategy is to fill the strategic petroleum reserve while oil is cheap.

As economist Alan Greenspan says: "The trend to reduced consumption is irreversible. Lower prices aren't going to trigger a massive increase in fuel consumption. Sure, there will be some increase [as prices drop]. And there will be some increases as economic recovery gets under way. But we are seeing a semi-permanent response [to the earlier big jump in oil prices]."

For example, homeowners aren't going to pull the insulation out of their houses if fuel oil prices go down. In industry, Greenspan adds, the major research-and-development effort launched to cut fuel consumption costs, beginning with the first oil shock, is leading to permanent changes.

Russell agrees with Greenspan. "People are not dumb," he said in an interview. He expects them to "accept the short-term benefits" of soft oil prices. For example, they may opt this summer for a cross-country trip instead of nearby resorts with cheaper prices at the gas pump. But the small car is here to stay (high sticker prices and interest rates buttress the trend). Moreover, it's hard to find gas-guzzlers; even larger cars today are relatively fuel-efficient.

But the import-oil fee backers have other motivations. In part, the proposal reflects a panicky feeling in the domestic energy industry—oil and other fuels—that the soaring price joy-ride they've enjoyed in the 1970s is coming to an end too fast. They fear it jeopardizes investments in new energy ventures based on the expectation of high-priced oil. It may well stall some projects (that's already happening). But as Greenspan suggests, that could be a good thing, saving the investors and the nation "from constuction of a long series of white elephants."

Russell believes that capital investment decisions are based on long-term probabilities, which down the road still point to expensive energy, compared to the 1960s. "But it may be that it's economically wise to delay some investments that industry thought would pay off earlier—and I think that's both publicly and privately wise."

When you get right down to it, the only "benefit" of an import duty would be the yield to the Treasury of about $40 billion in new revenues from the import duty directly, and from the windfall profits tax on domestic oil—which would be allowed to rise to the duty-fattened import price.

But the costs of such a benefit to the budget deficit would be enormous in other directions. Higher oil prices would have a serious inflationary impact. Because oil costs would be higher here than in the rest of the world, one more noncompetitive element would be added to American exports, already struggling in world markets.

Worst of all, the oil import fee would deliver a wholly unjustified bonanza to domestic oil producers whose profits would swell, even after the windfall profits tax. Such a multi-billion-dollar gift to the domestic oil industry would fatten its purse for an additional burst of questionable industrial takeovers.●

STUDENT AID

● Mr. HART. Mr. President, there are many prescriptions for improving the economic health of our Nation. It is clear we must design an economic strategy to put America on a path of sustained growth. This strategy must include, among other things, concerted efforts to prepare Americans for new employment opportunities is requiring a variety of technical skills along with crucial basic skills in science, mathematics, reading, and writing.

Investing in the education of our citizens, at every level of learning, is wise and forward-looking, and is an integral part of insuring economic growth, stability, and competitiveness internationally. Yet the administration contends, in the form of budget cuts in student financial aid and other educational programs, that the Government need not have a central role in making that investment. In fact, availability of Government assistance often makes the difference between having a college education and not having one; student aid allows poor and middle class alike to take advantage of educational opportunities, and to gain the knowledge that enables them to compete in a rapidly changing world.

Carl T. Rowan vividly makes this point in his article entitled "The Old Rob the Young of Education." I ask that it be printed in the Record.

The article follows:

THE OLD ROB THE YOUNG OF EDUCATION

(By Carl T. Rowan)

There was a time when, to get my children from underfoot and out to the baseball field or skating rink, all I had to do was start to tell anew the hard-times stories of my youth.

"I left McMinnville with 77 cents in my pocket, my clothes in a cardboard box, hitching a ride on a truck when I went to Nashville to go to college . . ." I would begin.

They had vanished to a pickup football game, or something, before I got around to talking about how I worked for $1 a day scrubbing floors and sloshing up food at a TB hospital to get my $20-a-quarter tuition money.

I grew up on Booker T. Washington, and "Up From Slavery," the way Ronald Reagan grew up on Horatio Alger. Boy works hard; boy conquers all; boy becomes president—or even gets rich, preferably both.

That "All-American-boy-conquers-all" pabulum sticks high in the craw these days as we watch the old Booker T. and Horatio Alger hogwash mashed into the faces of millions of American youngsters who won't go to college next fall because their government is snatching away the grants and subsidized loans that really made it possible for kids from "ordinary" families to believe that their horizons were as far-reaching and bright as those of the children of the super-rich.

I told my "Up from Slavery" stories to my children in half-jest and half-hope that I might produce a little inspiration. But now I see President Reagan, Treasury Secretary Donald Regan, budget director David Stockman trying to make their Horatio Alger braggadocio a sort of national religion. Stockman told a congressional committee that the federal government has no obligation to help anybody get a higher education because "If people want to go to college bad enough, then there is opportunity and responsibility on their part to finance their way through the best way they can."

Regan told me shortly after he took office that poor parents have to remember that "state universities and community colleges do not cost the same as my alma mater, Harvard."

It is a matter of theology for the Reaganauts to say, "No more crutches, young Americans. No Pell grants, no Guaranteed Student Loan Program. You work your way through college the way we real Americans did."

So young Americans who cannot now find work at the minimum wage of $3.35 an hour are supposed to grub for $15,950 for first-year tuition in the Georgetown University Medical School, plus $2,040 for books and instruments and $6,650 for living expenses. Or those wanting to be lawyers are supposed to mow lawns and wash cars and come up with at least $8,000 to meet first-year bills at George Washington University.

The Reaganauts have got the village idiot laughing, because everybody knows that in this pitiful economy, even the most motivated youngster can hardly work his or her way through a state institution that may set tuition at $1,000 or so a year.

Well, I'm ready to confess to my children: Daddy would never have gone to Oberlin College, or to postgraduate study in journalism at the University of Minnesota, but for a costly, giveaway, federal welfare program called "The GI Bill." I could never have washed enough floors at TB hospitals, or mowed enough lawns, or hoed enough bulb grass, to get a degree in math at Oberlin and journalism at Minnesota. Only the wise largesse of Uncle Sam made it all possible.

In terms of relative dollars spent, that GI Bill has done more to give America a preeminent place in the world than the Marshall Plan, the Korean War, the Vietnam conflict or anything else I can think of. When educated, finely trained people are sure to be the key to national security in the years ahead, it strikes me as lunacy for the federal government to make it difficult if not impossible for millions of Americans to get the best educations that their God-given talents will absorb.

The problem is that old men like to glorify the achievements of their youth, even to the detriment of the current generation. This is a government of old men—older in mentality than chronology—who turn blind eyes to the reality that without help, even upper-middle-class youngsters cannot become doctors, lawyers, scientists.

They are so elitist that they could hardly give a damn that in economically troubled Washington state, the number of students in community colleges dropped from 101,000 to 89,000 when tuition was raised from $306 to $519.

The Reaganauts are doing more than produce a system where the Donald Regans go to Harvard and tell other Americans that they must be happy with a state or community college. They are saying that the appetite for college and the professions should not be developed among those "lower class" Americans, other than the few Horatio Algerists who can work enough to make their own way.

This is combining old-man's ego and right-wing theology to forge policies that will cripple America for many generations.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule XXXV that I place in the Congressional Record this notice of a Member who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign organization.

The Select Committee on Ethics has received a request for a determination under rule XXXV which will permit Senator Pell to participate in a program sponsored by a foreign educational organization, the American Luxembourg Society, in Luxembourg from March 19 to 23, 1982.

The committee has determined that Senator Pell's participation in the program in Luxembourg, at the expense of the society, to discuss United States-European relations, is in the interests of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule XXXV which would permit Mr. Alexander V. Netchvolodoff, of the staff of Senator Danforth, to participate in a program sponsored by the Van Leer Jerusalem Foundation in Israel from March 13-23, 1982, to discuss Middle East issues.

The committee has determined that participation by Mr. Netchvolodoff in the program in Israel, at the expense of the Van Leer Jerusalem Foundation, is in the interest of the Senate and the United States.●

FLORIDIANS SPEAK OF FLORIDA

● Mr. CHILES. Mr. President, I want to take a moment to share with my colleagues a remarkable story of determination and individual initiative. It is a story that shows that American citizens are not apathetic, and are willing and ready to take actions that make a difference. It is a story that shows how individuals, working together in the community, can have an impact in Washington.

Yesterday, I had the pleasure of meeting with several people from Miami, people who have worked long and hard, on a person-to-person level, to get the people in Miami to come together and let Washington and the rest of the country know that Miamians will not sit idly by in this time of crisis in south Florida. Over the last few months, the rest of the country has become aware of a situation that we Floridians have, sadly, been familiar with for far too long. I am referring to the crime situation and the drug trafficking problems and the immigration crisis in south Florida.

A lot of individual citizens, confronted with these problems, would simply have shrugged their shoulders. But Miamians and Floridians have taken the initiative to come to grips with these problems, and that initiative and determination, in the long run, will be the key to success. The group I met with yesterday is one example of this determination and spirit. Over the last few months, these individuals have set up a grassroots organization called "Floridians Speak to Washington." "Floridians Speak to Washington" has generated public support for seeking solutions to the current crisis in south Florida by taking a petition from door to door throughout south Florida. The response to their efforts has been tremendous, and some 25,000 people have signed it already.

Yesterday, some of the people who put together "Floridians Speak to Washington" came to Washington, and visited wih me and my colleague Senator Hawkins. They also visited with key officials in the White House, the Justice Department, the Immigration and Naturalization Service, and the Congress. They came with a simple message, a message which said:

> Miami is an example of what can happen to a community confronted with uncontrolled immigration, and with organized drug trafficking. We need help from Washington to make the situation in Miami better. And equally important, we want to help Washington and the rest of the country make sure that the federal government has the policies and resources in place to prevent situations like the one Miami has experienced from our occurring again in the future. We want to help in any way we can to put effective immigration laws on the books, and to cut off the drug smuggling which has helped drive up the crime in Miami. And there are 25,000 more of us in Miami who want to help, too.

Mr. President, over the last year as I travel through Florida, I have seen this type of dedication grow up among individual citizens throughout the State. They are coming together to let the Federal Government know just how serious the situation in Florida is, and to offer to work with the Federal Government to improve the situation. I believe that their efforts are paying off. A cross section of the civic leaders in Miami set up a group called Miami Citizens against Crime, and they were able to get results. Last month, the President set up a special task force designed to deal with the crime and the drug trafficking problem in south Florida. That task force, under the leadership of Vice President Bush, has moved with extraordinary speed and launched a full scale attack on crime in south Florida. The citizens of Miami, by making their voices heard, helped to set up this task force. Yesterday, immigration reform legislation was introduced simultaneously in both Houses of Congress, legislation which has good chance of passage this year. Once again, I believe that the citizens and the leaders of the Miami community, through their actions, have helped demonstrate the need for immigration reform legislation. Once again, individual citizens on the grass roots level who took the time to make their voices heard have made a difference.

These initiatives, by themselves, will not turn around the situation in Miami overnight. We all know that.

Much more needs to be done. We need to enact bail reform laws, get the Internal Revenue Service fully involved in the drug trafficking fight, pass tougher sentencing laws, and eliminate frivolous appeals. These are all necessary steps in stopping drug trafficking and cutting down on crime. We need to pass immigration reform legislation, legislation that allows the United States, and not foreign governments, to set our immigration policies. These will not be easy steps to take, but I am convinced that the people of Florida are committed to doing what they can to help the Federal Government move on these matters.

Mr. President, the people who organized Floridians Speak to Washington were not paid to spend hours of their own time to go from door to door with a petition. No one asked them to put so much personal effort into what they did. They took it upon themselves to put this organization together, and to come to Washington, and to speak out. To each one of them, to Susan Maschino, Carole Masington, Marlene Josefsberg, Faith Records, Joy Tenen, and Laurel Wolfson, I send my congratulations. They have shown that people are willing to act on their own to do something about a problem. And to all the people who helped them and who signed the petition, you should know that your message is being heard. You have made a difference by caring. And by working together, I am certain that we can make even more of a difference.●

DECONTROL OF NATURAL GAS

● Mr. KENNEDY. Mr. President, nearly 4 years ago, Congress enacted the Natural Gas Policy Act of 1978, which provided for an orderly, phased decontrol of natural gas. During the campaign, President Reagan proposed to undo the act by calling for accelerated decontrol of natural gas, a policy that would more than double the cost of natural gas to consumers.

Many of my colleagues and I have firmly opposed this proposal. I was gratified that the President heeded the voices of Members of Congress and the Nation's consumers and decided this winter not to introduce legislation that would accelerate decontrol.

I am deeply concerned by recent actions and statements from the FERC which indicate an intention to subvert the Natural Gas Policy Act through administrative action. The FERC should not try to slip decontrol through the back door while the administration is unwilling to stand up publicly and defend this unwise policy before Congress.

The proposal to allow producers to charge up to 150 percent of the statutory ceiling price for so-called near-deep gas—produced from depths of 10,000 to 15,000 feet—is the latest example of FERC's effort to accelerate decontrol of natural gas prices. This proposal is neither warranted by the Natural Gas Policy Act nor supported by adequate evidence. For this reason, I am pleased to join with Senator METZENBAUM and other concerned colleagues in filing comments with the FERC opposing the proposed rule.

If adopted, this proposal would cause serious harm to the Nation's gas consumers and damage our efforts to recover from the recession. According to a study conducted by the Energy Action Project of the Citizens/Labor Energy Coalition, the average residential gas consumer would have to pay $94 to $147 in higher direct and indirect gas costs over the next 2 years. This proposal would mean an additional $86 million to $134 million in natural gas costs to New England consumers by 1984.

The FERC and proponents of this steep price increase have failed to demonstrate that the proposal is justified by extraordinary risks or costs associated with producing gas from these wells. Accordingly, I join my colleagues in urging the FERC to withdraw its proposal.●

CLARITY ITSELF

● Mr. PRYOR. Mr. President, last Sunday, Edwin Newman published in the New York Times an article on something in the Pentagon called "The Professional Organizational Effectiveness/Development Publication of the United States Army." Mr. Newman is a notable detective of sins against the language. He is eminently qualified to judge the style of documents from the Pentagon. He points out in this article the utter nonsense, the wasted time, and the poor management of this so-called operating model for a new age of leadership.

As a worker in the field of bureaucracies, I see every day the violation of good judgment in the use of English. Why does the Government insist upon the complicated when the simple is at hand? Why does the Pentagon, especially, deal in convolutions when it could easily go straight to the mark? Off all the special areas of Government, the military knows the value of being crisp and to the point. Yet it is probably the most guilty in using jargon and bombast.

Mr. Newman's article is perceptive and accurate, and I recommend it to my colleagues. It is humorous as well. But Mr. Newman makes a serious point, and I hope this will not be lost on his readers. Here it is:

The Pentagon budget is bloated beyond all reason. Congress is looking for places to cut back. This year's struggle over spending, in fact, promises to be one of heroic proportions. Yet the Pentagon sponsors high performance programing that features "a new cognitive model" in the form of "nested frames of reference" intended to be useful as "a general diagnostic framework and as a self-refining roadmap for leader and organization development."

I know, Mr. President, that the M-X, the B-1, chemical weapons, and cost overruns on the Trident are all much larger than the budget for high performance programing. But I agree entirely with Mr. Newman's conclusion: When the time comes to cut the Pentagon budget, this may be the place to start. I ask that his article be printed in the RECORD and read by all concerned with the language—and with the Pentagon budget.

The article referred to is as follows:

[From the New York Times, Mar. 14, 1982]

CLARITY ITSELF

(By Edwin Newman)

Leaks are in fashion. I've been given one. It is from OE COMMUNIQUE, which is "The Professional Organizational Effectiveness/Development Publication of the United States Army." Stamped "Secret" and passed to the Kremlin, it might end the arms race. For anybody reading this document would conclude that America is doomed and that no outside effort will be needed to bring it toppling down.

The article from OE COMMUNIQUE is called "High Performance Programming: An Operating Model for a New Age of Leadership." The authors are LTC Frank Burns and Dr. Linda Nelson, assisted by Robert Klaus and LTC Lee Gregg. LTC (Lieutenant Colonel) Burns, evidently the key author, has been director of a personal growth center, is a certified master practitioner of Neuro-Linguistic Programming, and is 5Z ASI qualified, meaning that he is qualified in Organizational Effectiveness. We are also told what High Performance Programming is. It is "a new cognitive mdoel," in the form of "nested frames of reference," intended "to be useful as a general diagnostic framework and as a self-refining road map for leader and organization development."

At the outset, LTC Burns and the other authors explain their method: "As an exercise in consciously disciplining our own conceptual modeling we have chosen a *set* of interlinked operating presumptions." They go on: "This set of propositions forms an encircling paradigm for our HPP model, and a metastrategy that continues to guide our refinement and use of it."

Let's pause here to follow the wise advice the creators of HPP give their readers: "Clear your receiver processes so that this new information can come in cleanly without getting garbled." Now then, a couple of the interlinked operating presumptions that survived the consciously disciplined conceptual modeling:

"The purpose of any *system* is to produce a valuable future in the larger and lesser systems served."

"High performing systems and leaders choose their values and beliefs and then reinforce them in others through congruent bahavior."

Receiver processes still clear? On to the "Preframe": "A model of sufficient elegance to meet the challenges of the future must provide a framework which is capable of transforming the shifting complexities of the present into a coherent pattern. As well as providing a master pattern, such a model must have the generative capacity to install an expensive cognitive program in the reader."

At this point, my cognitive program collapsed, but stern measures got it back into shape to receive the next HPP installment: "We have been programmed to think of performance as the outcome of supervision which is responsive to orders and tasks . . . Although this frame of reference has been useful, it we now want to elicit higher levels of performance (than we currently obtain operating within this frame) we need an enlarged frame of reference that generates a greater range of behavioral options. (This is 'basic Ashby'—whose Law of Requisite Variety should guide our cybernetic designs.)"

Now comes the revelation. The basic Ashby enlarged frame of reference is the proactive, which "generates a greater range of options and shows what we must do to tune up our whole organizations as proactive systems." The proactive thereby "achieves results-oriented performance through values-based leadership practices which link objs-oriented mgmt procedures to individual performance evaluation processes."

I have now worked through 10 pages of "High Performance Programming," picking out what may generously be called the highlights. There are nine pages to go, pages laden with paradigm shifts, autocatalytic reactions, and step-function enhancements, and with charts and heavy lines and light lines and broken lines, arrows in various forms and thicknesses, and boxes, shaded and unshaded and with or without words. There is also the linking of the proactive with the responsive, which takes in Holistic Leadership, Evolutionary Management, Capacity Identification, Paradigm Planning, and Metasystems Development, with high performing the result.

So there it is, all fitted into an "outframe" that "is suggested as the next logical enhancement in our perspective."

Is the Army really spending time and money on this nonsense? Yes. OE comes under the Army's Management Directorate, which is under the Chief of Staff. There is an OE Center and School at Fort Ord, Calif., where lecturers appear by invitation; a seminar on HPP was attended by generals and other high-ranking officers and civilians.

The HPP article was originally published by Delta Force, which is "a futures group that looks at new ways and new things," and which uses meetings, seminars, and papers "to get feedback."

Here is some feedback: Cut the Pentagon budget? I know a place to start.●

ALEX SANDERS DESERVES COMMENDATION

● Mr. SASSER. Mr. President, last February 12, 1981, on a cold and icy Friday night, a terrible tragedy took place on a highway in middle Tennessee when a fiery auto-van crash took the lives of three people. Similar accidents occur every day throughout our country and, as we all know, the yearly toll is counted in the thousands and each is a senseless waste and loss to the families and communities from which these victims come.

What undoubtedly sets this familiar occurrence apart from the many others is the heroic and unselfish acts of bravery on the part of Alex Randall Sanders, 17, of Cumberland County, Tenn., who lives in the immediate vicinity of the site of the accident. Alex was in the shower when he heard the crash. He threw on his trousers and ran barefoot out of the house to the crash site.

Others who had also heard the impact of the head-on collision had come down to find that fire had erupted and was quickly spreading. Without a regard to his personal safety, and without the slightest hesitation, Alex ran up to the snarl of burning twisted metal and pulled two of the victims from the wrecked vehicles. Seconds later gasoline exploded and consumed the van. Miraculously, three of those involved in the crash survived.

I am proud to represent Alex Sanders, and I am sure Senator BAKER shares my pride. This young and brave Tennessean has set an exemplary standard for all of us. We owe him the recognition due to only very special heroes whose deeds reflect the noblest instincts of mankind: The risk of one's own life to save others, his courage and valor serve as an inspiration to all Americans, and on behalf of the U.S. Senate, I wish to commend him and honor him for his act of heroism.●

A SALUTE TO THE AMERICAN FARMER

● Mr. PRYOR. Mr. President, it is with pride and pleasure that I come today to salute the most productive machine this world has ever known—the American farmer.

Today, March 18, has been set aside to honor this Nation's farmers. When the Declaration of Independence was enacted, fewer than 3 million persons occupied a narrow fringe along our eastern coast. Agriculture was the main economic activity. It took 19 out of 20 workers to feed the country's inhabitants and provide a surplus for export in exchange for foreign goods. Today, it takes fewer than 1 out of 20 workers to feed the over 220 million inhabitants and provide a surplus that makes the United States the largest single exporter of food in the world.

Our American agriculture has truly become an awesome machine.

Mr. President, I am particularly proud of the Arkansas farmer. Arkansas is often called "the Land of Opportunity," and for agricultural purposes this is an appropriate statement. Its geographical location, moderate temperatures, fertile soils, and abundant water make it well suited for the production, processing, and distribution of many commodities.

Agriculture has always been a mainstay of the Arkansas economy. Arkansas agriculture employs 78,060 Arkansans directly and another 44,460 indirectly. It produces gross income of $3.8 billion within the farm sector, another $3.9 billion in the forest and forest product area, and $4.2 billion in value added to these products for transporting, storing, processing, financing, wholesaling, and retailing. This total of $11.9 billion compares to a gross State product of about $16 billion.

Mr. President, I have said on several occasions that agriculture is a unique industry. It is the one basic enterprise that reaches into every sector of this country's economy. It affects every citizen. Its health or sickness is a mirror of our country's financial state.

Agriculture is truly the Nation's largest industry. Farming and agricultural-related activities account nationwide for approximately one job in every five, and agriculture accounts for about 20 percent of the gross national product. Because of this crucial importance, careful attention must be paid to the agricultural economic picture.

Everyone admits that our consuming public receives substantial benefits from the farmer. In fact, America is blessed with an abundance of food and other farm products unimagined elsewhere in the world. That abundance is available to consumers at prices lower than anywhere else. The American consumer today spends only 15 percent of his disposable income on food, while his counterparts in Eastern European countries must spend twice and even three times that amount on food of a significantly lower quality.

Agricultural output has increased nearly 70 percent since 1950, while total input use has increased only 2 percent.

For all food products, the farm share of the average food dollar is only 39 cents. In 1980, 1981, and 1982 the cost of labor in the production and distribution of food products exceeded the share of the return that went to farmers for growing the food in the first place. Despite rising production and increased foreign markets, the farmers' plight in recent years has reflected a growing price squeeze. This, in turn, has bankrupted many and placed others in severe financial straits. Net farm income, for example, dropped from $31 billion in 1979 to $22 billion in 1980, a decrease of about 29 percent.

For years this country's agricultural communities have sacrificed for the betterment of the entire country. Farmers were some of the first to call for a balanced Federal budget, to make an appeal for fewer Government regulations, and to be willing to participate in more Federal budget cuts. They were even among the first to allow their livelihood—in the form of agricultural commodities—to be used as a tool in national policy decisions.

At a time when we speak of the productivity, efficiency, and patriotism of our farmers, many of them are asking far more basic questions, for instance, "Can I afford to continue in my chosen livelihood?"

There is a rapidly growing number of farmers in Arkansas who live on the brink of economic collapse. Foreclosure has become a daily threat. Money that used to support families is now going to pay exorbitant interest rates. From 1973 to 1979, short-term interest expenses rose 300 percent and mortgage interest expenses rose about 250 percent. In 1979, interest charges per acre were 400 percent higher than in

1967. Interest expense now accounts for about 20 percent of all production expenses. And each percent of higher interest adds about $1.6 billion in interest costs to farmers.

I would hope, Mr. President, that on this Agriculture Day, the Congress and the administration would again look at the plight of today's agriculture. I, again, call for President Reagan to organize a White House conference to explore new solutions to the present farm crisis in order to bring back a profit to farming. Our Nation's economic recovery and future vitality depend upon it.

Mr. President, I again congratulate America's agriculture. It is a privilege for me to represent the Arkansas farmer, and I join with this entire country in saluting agriculture—America's heartbeat.●

NATIONAL AGRICULTURE DAY

● Mr. D'AMATO. Mr. President, National Agriculture Day provides us with the opportunity to recognize the great achievements of the Nation's farmers in making America the world's leader in food production.

Today also provides the opportunity to recognize the contribution of New York State to American agriculture, which too often goes unnoticed in the rest of the country. But let there be no mistake—New York State is a great agriculture State. There are over 40,000 family farms in New York, which provide a variety of quality food products throughout the Nation. Agriculture is New York's largest industry, producing food valued at over $2.5 billion in 1981. New York's food industries employ over half a million people.

New York's No. 1 agricultural industry remains dairy farming, which ranks third nationwide. New York is also very important in the production of fruits and vegetables; the State is a leader in the growing of beets, carrots, cabbage, potatoes, sweet corn, and onions. New York is second nationwide in the production of apples and cherries and is also a leader in the harvesting of pears and strawberries. I might add that New York is second only to California in the production of fine wines.

On this day, I am pleased to pay tribute to the farmers of New York and those throughout the country, and I invite my colleagues to visit the orchards, fields, and farms of New York State.●

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

● Mr. GRASSLEY. Mr. President, the Older Americans Act, in title V, provides programs in community service employment for older Americans which have proven to be valuable and deserve careful consideration in discussions about budgetary goals. The distinguished Senator from Illinois, Mr. PERCY, chaired hearings with me last fall in Iowa which showed clearly that there is great interest in a smooth transition from community service jobs to private employment of older citizens. Title V programs offer the needed foundation for such transitions. Older persons bring to the workplace the wealth of practical experience and thus their continuing, active involvement in our economy is essential.

In an effort to stress the significance of title V programs, I have written to Mr. Albert A. Angrisani, Assistant Secretary of Labor, to urge maintenance of those programs at fiscal year 1982 levels. I include my letter to Mr. Angrisani here and encourage all Members of the Senate and House to seriously consider maintaining title V programs, and all domestic programs, at fiscal year 1982 levels, which is one of the principle aims of my budget proposal.

The letter follows:

UNITED STATES SENATE,
Washington, D.C., March 18, 1982.

Mr. ALBERT A. ANGRISANI,
Assistant Secretary of Labor, Department of Labor, Washington, D.C.

DEAR MR. ANGRISANI, surely, one of the most useful provisions of the Older Americans Act is Title V—Community Service Employment for Older Americans. Yet as the only portion of the OAA administered and funded by the Department of Labor, it presents certain complications, and I want to give you and Secretary Donovan credit for your willingness to have taken on a Title V quick-study in the last few weeks.

In this connection, I would like to pass on to you the rationale for my support of extension of Title V at 1982 levels of funding as part of the Grassley-Smith budget proposal. For one thing, community service employment of older citizens is an aspect of Title V that has been overlooked by former administrations. Yet, in hearings held in the Quad-Cities last fall by Senator PERCY and myself, the capability and desire to "improve the transition to private employment" as it would be implemented by Title V was supported by a broad spectrum of witnesses (as it has been through my six years as a member of the House Select Committee on Aging). I am presently discussing these same issues with representatives of the AARP (American Association of Retired Persons).

It is very important not to consider Title V a training program, for Title V provides employment for already experienced older persons. It is up to the Administration to take the lead in assuring that Title V and its funding work as intended—by employing older persons in service jobs, sometimes part time, at lower wages and then moving them as needed into the private sector. Only with such high-level leadership will the national contractors and the unions support the movement of these older workers from the public to the private sector where this experience will be most welcome. Because this change of emphasis is in the use of Title V initiatives and funds is so important, I urge your support of it at 1982 levels.

Sincerely,

CHARLES E. GRASSLEY,
United States Senator.●

MR. BREZHNEV'S BOMB

● Mr. TOWER. Mr. President, I wish to call to the attention of my colleagues an editorial which appeared in the Washington Post on March 17, 1982, concerning proposals made by Soviet President Brezhnev for a freeze in a number of nuclear systems. I believe that the Post has addressed this proposal in precisely the blunt, forthright terms it deserves:

> The freeze that Mr. Brezhnev offers with an air of self-denial masks an unprovoked expansion of a formidable force of weapons meant to intimidate.

As this editorial indicates, the Brezhnev freeze proposal is a negotiating position for the intermediate range nuclear force talks now underway in Geneva. It is more than that, however. It is also a calculated propaganda ploy, designed to counter the plan for genuine arms control and reductions proposed by President Reagan in his "zero option." The Reagan plan is not simply a negotiating position, it is a desirable and, I believe, achievable outcome if these negotiations are to result in real theater nuclear force stability in Europe. More pernicious still is the fact that the Brezhnev offer seems to be timed and designed to exploit the honest hopes for reduced tension and arms limitation that are felt by all Americans which have led to the naive, if well-intentioned resolution offered by Senators HATFIELD and KENNEDY.

Mr. President, I ask that the full editorial be published in the RECORD.

The editorial follows:

MR. BREZHNEV'S BOMB

Had you forgotten that the Americans and Soviets have been over there in Geneva negotiating quietly on nuclear forces in Europe? Leonid Brezhnev forcefully reminded everyone yesterday by making one of those loud, bold interventions that the Kremlin is given to making when things get difficult at the table. It came pretty much on schedule, like the second stage of a rocket, just as the Geneva talks went into recess. It was a statement simple and dramatic in form, designed to appeal over the heads of the negotiators to an anxious and somewhat confused Western public.

The Sovit Union will unilaterally freeze its missile force west of the Urals aimed at Europe, Mr. Brezhnev declared, if NATO does not deploy new Pershing II and cruise missiles, or until agreement on mutual reductions is achieved. Moreover, he said, later this year his government will unilaterally remove "a certain number" of missiles, barring "a new aggravation of the international situation." That was the carrot. The stick: if the United States deploys the new missiles, creating "a real additional threat to our country and its allies," Moscow would "put the other side, including the United States itself and its own territory, in an analogous position. This should not be forgotten." He went on to nag President Reagan to start START, the full-scale strategic-arms talks meant to succeed SALT, and made the usual gallery play.

To one part of this statement, President Reagan yesterday had a prompt response. The Soviet freeze, he said, is not good enough. He's right. In November when the talks began, Moscow held what a unanimous NATO regarded as a dangerous imbalance—250 to 0—in the most menacing variety of European missiles, mobile triple-headed SS20s. In the four months since, Moscow has increased this margin to 300 to 0. The freeze that Mr. Brezhnev offers with an air of self-denial masks an unprovoked expansion of a formidable force of weapons meant to intimidate.

But, insist the Soviets, other European-nuclear categories, such as the bombs carried by NATO planes, and the independent deterrents of Britain and France, must also be counted. Must they? That is precisely what the Geneva talks are about. The United States argues that the Soviet SS20s are in a class by themselves and must be reduced to zero, or countered. The Soviets contend that other Western weapons, regardless of their different physical and political characteristics, threaten them, too.

From the start, the Reagan strategy has been to show that NATO is firm and united on the matter of the special menace of the SS20s. Mr. Brezhnev brought the Soviet strategy into full view yesterday. His position is properly outrageous; it is a negotiating position.●

RECORD OPEN UNTIL 6 P.M. TODAY

Mr. STEVENS. I ask unanimous consent that the Record remain open until the hour of 6 p.m. for the introduction of bills and resolutions and for the submission of statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE ON MONDAY NEXT ON S. 1207

Mr. STEVENS. Mr. President, I would like to state for the Record that on Monday, at approximately 12:30 or so, it is anticipated that the majority leader will attempt to reach a unanimous-consent agreement to bring up Calandar No. 141, S. 1207, the Nuclear Regulatory Commission bill, with the proviso that if the bill is not disposed of by close of business on Monday, that it be placed back on the calendar to be considered by the Senate at a later date.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Cohen). The Chair, on behalf of the Vice President and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 276, as amended by Public Law 95-45, appoints the Senator from Vermont (Mr. Stafford) to attend, and to act as chairman of the Senate delegation to, the Interparliamentary Union Conference to be held in Lagos, Nigeria, April 12-17, 1982.

Mr. STEVENS. Mr. President, I am constrained to note I think all of the Senate should be extremely grateful to the Senator from Vermont for his continued dedication to the International Parliamentary Union conferences where he has represented the Senate and the United States so well.

The PRESIDING OFFICER (Mr. Cohen). The Chair, on behalf of the Vice President, pursuant to Public Law 84-689, appoints the following Senators to attend the North Atlantic Assembly spring meeting, to be held in Madeira, Portugal, May 28-31, 1982, and the North Atlantic Assembly fall meeting, to be held in London, England, November 14-19, 1982: the Senator from Maryland (Mr. Mathias), chairman, and the Senator from Rhode Island (Mr. Pell), vice chairman.

RECESS UNTIL MONDAY, MARCH 22, 1982

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent, in accordance with the previous order, that the Senate stand in recess until the hour of 12 noon, Monday, March 22.

There being no objection, the Senate, at 5:05 p.m. recessed until Monday, March 22, 1982, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 18, 1982:

Commission on Civil Rights

Clarence M. Pendleton, Jr., of California, to be a member of the Commission on Civil Rights.

The Judiciary

John L. Coffey, of Wisconsin, to be U.S. circuit judge for the seventh circuit.

William W. Caldwell, of Pennsylvania, to be U.S. district judge for the middle district of Pennsylvania.

Glenn E. Mencer, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

Carol Los Mansmann, of Pennsylvania, to be U.S. district judge for the western district of Pennsylvania.

EXTENSIONS OF REMARKS

OUTSTANDING WOMEN IN THE HISTORY OF DELAWARE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 9, 1982

● Mr. EVANS of Delaware. Mr. Speaker, in recognition of Women's History Week, I would like to share with my colleagues an article recently brought to my attention that outlines outstanding women in Delaware history. I ask that the article be printed at this point in the RECORD.

The article follows:

FORWARD WOMEN FROM DELAWARE'S PAST

(By Barbara Herr, Executive Director of the Governor's Committee on Women)

In spite of its small size, Delaware is a diverse state, home to scientifically sophisticated corporations and to extensive agriculture; among its assets are historic towns and vibrant seashore resorts. The Delaware that we know today has been shaped by its people, both men and women working as individuals and as members of ethnic groups, businesses, associations, religious organizations, and government.

When we think of the past, we are inclined to assume that women played little role in public affairs, business, or science; that until quite recently their only roles were enacted in the home as wives and mothers. Important as domestic roles were and remain for women, they barely scratch the surface of the accomplishments of Delaware women in virtually every aspect of our state's development.

Let us begin by looking at domestic life in the past more closely. Today, we live in a very complex world in which each individual in the work force is a specialist of some kind. Specialization has permitted us to make remarkable advances in the production of goods and services for our economy. On the other hand, we have become highly dependent upon other people to grow our goods, make our clothes, and even to keep our drain pipes unclogged. Two hundred years ago, there were no factories and most of the goods and services that we buy in stores were produced at home. The vast majority of people then lived on farms where the labor of every member of the family was necessary for the survival of all. Farm wives and daughters were just as involved in the family economic enterprise as were husbands and sons.

The same family involvement characterized nonagricultural production as well. The craftsmen who made items from iron and other metals worked in shops that were adjacent to, or part of, their residences. Their wives and children were intimately involved in the trade as helpers, sales people and bookkeepers. Wives also had the important function of spinning, weaving, and sewing the family's clothing.

Sometimes when a husband died, his wife took over the business and ran it herself, or a woman who had learned a craft at home from her father or brothers might become a craftsperson on her own. There was an excellent example of such a woman who lived in Wilmington during the first half of the 19th Century. Her name was Hannah Robinson and she mastered the difficult art of silversmithing so well that she was able to compete successfully with the male silversmiths of the town.

Hannah learned her trade in her brother's shop on Market Street. After her apprenticeship, she opened her own shop and was the only female silversmith known to have worked in Delaware between 1700 and 1850. Like all silversmiths, she affixed an identifying mark like a signature to her work, and pieces known to have been made by Hannah Robinson are now very much prized.

Records show that Hannah Robinson was a successful businesswoman who knew the power of good advertising, using posters, then called broadsides, to bring in more customers. Her career demonstrates a variety of avenues open to women in the pre-industrial era of family enterprise.

Before the Civil war in the 1860's, the institution of slavery was widespread in the southern states of America including the border State of Delaware. Throughout the United States, but especially in the South, black people, even those who were free, had few if any rights. In Delaware, for example, the public school system begun by state law in 1829 did not include schools for black children.

After the Civil War, a group of reformers, calling themselves the Delaware Association for the Moral Improvement of the Colored People, organized in Wilmington to provide schools for the state's black residents. To assist with this project, the Association hired a young woman of mixed European and African parentage from Connecticut, Edwina B. Kruse. Under the direction of the Association, Edwina Kruse traveled through rural areas establishing schools and locating teachers to assist with the education of the newly freed slaves.

Though the Association's work would continue until 1875, in 1869, Edwina Kruse resigned to become the principal of Howard School at 12th and Orange Streets in Wilmington, the largest and most permanent of the schools for blacks in Delaware during the period following the Civil War.

During the 50 years she served as principal at Howard, Miss Kruse expanded the school from a simple 2-room building to an accredited college-preparatory high school. She also supplemented Howard's curriculum by bringing in nationally-known black leaders, such as Frederick Douglass and Booker T. Washington to expand the horizons for her students. Edwina Kruse built an outstanding faculty at Howard. In 1902, she hired Alice Dunbar, a Louisiana-born writer, to head the English Department. Alice Dunbar had published her first book in 1895 at the age of 20, and was also an accomplished poet and short story writer. While teaching at Howard, she continued to write and also edited two anthologies for students of oratory.

Alice Dunbar's concern for achieving equality for blacks led to her involvement in politics and civil rights activities. She eventually became, in 1920, the first black woman appointed to Delaware's Republican State Committee.

Her growing involvement in politics conflicted with the wishes of the Wilmington Board of Education. Forced to choose between her teaching career and the cause of black political equality, she resolved to leave teaching. Her later writings focused on political issues dealing with race. She joined her second husband, Robert John Nelson, in publishing the Wilmington Advocate, a weekly newspaper dedicated to the fight for equal rights for black citizens. She also became a nationally known lecturer, speaking on behalf of racial justice and world peace.

Edwina Kruse and Alice Dunbar Nelson did not limit themselves to the improvement of education and civil rights for black males; they were also involved in the struggle for political rights for women, black and white. Women could not vote in Delaware until 1920 when the 19th Amendment to the United States Constitution finally granted women suffrage. Passage of the 19th Amendment came only after a 70-year struggle by American women.

Two of Delaware's suffrage leaders, Florence Bayard Hilles and Mabel Vernon, became nationally known for their work in support of the amendment. Mabel Vernon was the daughter of the publisher of the Wilmington Daily Republican. She was educated at Swarthmore College where she met Alice Paul, another suffrage leader-to-be. After graduation, she taught briefly before Alice Paul, recalling Mabel's skills as a college debater, asked her to become a paid employee of Paul's new suffrage organization, the Congressional Union.

Mabel Vernon's first task was to organize open air meetings in Delaware, to help build public support for the suffrage amendment. Her involvement in the suffrage movement was not limited to Delaware, however. She traveled the country, especially the Far West, organizing suffragists for the Congressional Union's campaign. She was also the key figure in several acts of suffragist militancy. In 1916, Mabel Vernon attended the dedication ceremony at the Labor Temple in Washington, D.C., when President Woodrow Wilson, the principal speaker, gave an eloquent address in praise of American democracy. Each time the President used the word "democracy," Mabel Vernon rose and demanded in a loud voice, "Mr. President, what are you going to do about women's suffrage?" After two such outbursts, she was escorted away. A year later, she was one of several Congressional Union workers arrested and jailed for picketing the White House.

Often working with Mabel Vernon and the Congressional Union was Florence Bayard Hilles. Her involvement with the suffrage movement began in 1914 with the local Delaware Equal Suffrage Association. From then until 1920, she planned and led women's marches and rallies in Delaware. Florence Bayard Hilles was descended from one of Delaware's oldest and most respected political families. Her father, grandfather, and brother were were United States Senators and her father also served as Secretary of State and Ambassador to Great Britain.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Florence Bayard Hilles was never intimidated by the obstacles that all-male governmental bodies thrust in her way. In 1915, for instance, when she led a contingent of suffragists to appear before a committee of the State General Assembly, she boldly told the legislators "A mighty army of women, armed with education, is asking that it be allowed to take part in the government. What we come here to ask and demand is justice. This discrimination is purely of sex, not of intellect."

In 1918, she was one of a large group of suffragists arrested for picketing outside the White House. Given a pardon by President Wilson, she wrote on the envelope containing his letter, "My crime was holding a banner at the White House gate, inscribed, 'Mr. President, how long shall women wait for liberty?'" She was a major figure in the effort to secure Delaware's ratification of the suffrage amendment during the spring of 1920. Later, she worked for the International Women's League for Peace and served for several years as chairperson of the National Women's Party.

The early 20th century, when the suffrage movement was at its most intense, was a time of great social change throughout America. Industrialization and urbanization were altering the way Americans lived and immigration was bringing many newcomers to our country and state. Wilmington's factories, for instance, hired many immigrants from Poland, Russia, and Italy. Russian Jews, viciously persecuted by the Czarist regime, were one of the largest immigrant groups at the turn of the century. One of the first Russian Jewish families to come to Wilmington was that of Jacob and Rosa Topkis. A coppersmith, Jacob Topkis quickly found work, first in Pennsylvania, then in Delaware, but possibly due to antisemitic resentements, he lost these jobs, and Jacob and his sons became peddlers. By pooling their entire earnings, they were able to open a clothing store on Front Street in Wilmington.

Meanwhile, Jacob's energetic wife, Rosa Topkis, was busy organizing the city's growing Jewish community and making her home the center of Jewish life in Wilmington.

The beginnings of several Jewish organizations, including the present Kutz Home for the Aged and the YMHA, took place in the Topkis family living room.

Rosa's daughter, Sallie Topkis Ginns, imbibed civic involvement at her mother's knee. She was active in the women's suffrage movement and despite her husband's objections, picketed for voting rights in Wilmington and in Washington, D.C. Mrs. Ginns, like her mother, was a leader in the Jewish community where she organized the Wilmington Chapter of the Council of Jewish Women, serving as its first president. She supported the work of Edwina Kruse and Alice Dunbar Nelson in improving education for blacks and participated in the development of the Delaware Industrial School for Girls. She was also a major figure in the establishment of the Delaware Chapter of the American Red Cross.

Suffrage activity and civic improvement was not confined to the Wilmington area. In Dover, Mabel Lloyd Ridgely was a member of the suffrage movement, active in developing civic institutions in and around the state's capital, and she was one of the state's earliest most ardent historic preservationists.

Mabel Lloyd was born and reared in Washington, D.C., attended private schools, and studied art in Paris. After returning from Europe, she met and married Henry Ridgely, the son of an old and prominent family of Dover. The young Mrs. Ridgely was enchanted by the charm of the town's colonial buildings, and she is perhaps best known for her pioneer efforts to preserve them. As a founding member of the State Archives Commission in 1905, Mabel Ridgely helped to save thousands of public documents that might otherwise have been lost to historians. She founded the Friends of Dover and worked to establish Old Dover Day, now an annual tradition.

One of her most important projects was the restoration of the Old State House on Dover Green, opposite the Ridgely home.

Mabel Ridgely also demonstrated a strong commitment to women's suffrage. As a member of the Delaware Equal Suffrage Association, she participated in rallies and gave speeches on behalf of votes for women. In 1919, she was elected president of the Association and remained as president when it became the League of Women Voters following the passage of the 19th Amendment.

Another Dover resident was Annie Jump Cannon, a Delaware native who became a prominent astronomer. Born in 1863, Annie Jump Cannon was the only daughter of a prosperous Kent County shipbuilder and merchant. Encouraged by her school teachers and supported by family, Annie became one of the first girls in Kent County to attend college when she entered Wellesley in Massachusetts. She was one of the first girls in Dover to extend her education beyond high school. Annie's mother had inspired her interest in astronomy, and, with the guidance of a Wellesley professor, Sarah Whiting, she made great progress in her chosen field. Annie did her postgraduate work with Professor Whiting and, in 1896, she began her life's work at the Harvard College Observatory. When Annie Jump Cannon died in 1941, she had accomplished a staggering amount of work that continues to influence astonomers to this day. Stars are recognized by their spectra, the series of images formed when a beam of light passes through a prism and is separated into bands of varying color density and length. Using characteristics of their spectra, Dr. Cannon developed an improved system for recording and classifying knowledge about the stars.

Her classification system was so flexible and expandable that it was adopted by the International Astronomical Union. The number of starlight spectras she classified totals over 300,000, many for stars more than 100 times fainter than the naked eye can see. The catalogue of her work is still used by astronomers and is particularly valuable because its classifications are the studies of a single observer.

Another Delaware woman who was noted for her accomplishments in a scientific field was Margaret Handy, one of the Wilmington area's most beloved physicians. Dr. Handy began her long career in pediatrics when it was a brand-new specialty. During her residency at Johns Hopkins Hospital, she was placed in charge of the pediatrics ward.

When she came to Wilmington in 1981, she was well prepared to establish a private practice in pediatrics, but, as a young female physician, she met with opposition from most of the city's established doctors. However, she had supporters as well, especially Dr. Robert Ellegood, the man who put her to work on Wilmington's crowed east side during the influenza epidemic of 1918. Dr. Ellegood's confidence in her was well rewarded, for Dr. Handy created a children's ward in the People's Settlement that doubtless saved many lives. In November of that year, she opened Wilmington's first pediatric clinic at the Delaware Hospital. Thereafter, she was the baby doctor to hundreds of Wilmington area children for several generations. Margaret Handy's commitment to pediatrics went beyond the care of individual patients. She worked to find sources of cow's milk free from tuberculosis for babies and children and set up a system to make it easily available. Then she did the same for human milk when in 1946, the Mother's Milk Bank was established at the Delaware Hospital. Dr. Handy felt it was her finest achievement.

Women who played significant roles in Delaware history and opened doors for new occupations and activities for women can be found throughout the State. Sussex County has traditionally been noted for its agricultural bounty, and more recently for the development of its magnificent coast as a resort area. Though generally unrecognized, women have played key roles in creating both the modern poultry industry and the resort industry in the county. Mae Hall McCabe, who came to the small community of Rehoboth Beach in 1920, led the way in developing the town as a summer resort. From her first days in the community, she served as one of Rehoboth's most ardent boosters, contributing to her adopted hometown's growth and progress through her career as a businesswoman and active participant in civic affairs.

When she began a career as a real estate agent specializing in summer beach rentals, Mae Hall McCabe started the trend that made Rehoboth's name synonomous with summer fun. From an office in her home on Rehoboth Ave. she pioneered in the real estate profession and organized the Sussex County Real Estate Board in 1949. In recognition of her efforts, she was appointed to the Delaware Real Estate Commission and served as its chairperson. The energetic business woman continued work to improve the beach community. Following the Great Storm of March 1962, which destroyed the boardwalk and many beachfront buildings, Mae Hall McCabe led a drive to construct a bandstand and fountains on Rehoboth Beach's Memorial Green. She was also instrumental in the formation of the Rehoboth Beach Chamber of Commerce in 1966, served as its first female president, and got the city government to join with it in sponsoring a popular series of summer concerts at the bandstand. Though Mae Hall McCabe officially retired from her real estate business in 1970 she continued to be active in the life of Rehoboth Beach until her death in 1977.

Southern Delaware's development as an agricultural region was given a major boost by the contributions of another woman, Cecile Steele, who is credited with beginning the multi-million dollar Delmarva peninsula broiler industry. For several years Cecile Steele had managed a small flock of egg laying hens at her Ocean View farm, raising chicks to replace those hens that were slaughtered for sale as stewing hens. then, in the fall of 1923, she started raising a replacement brood of 500 chicks, but, instead of raising them to be egg layers, she sold the chicks to be broilers when they each weighed two pounds. The next year, she repeated the process with 1,000 chicks. Before Mrs. Steele's experiment, broilers, or young frying chickens, were considered to be a seasonal foodstuff intended for small, elite clientele. Mrs. Steele made them a staple of the American diet.

By spring 1926, Cecile Steele's plant had a capacity of about 10,000 chicks. Though at first the general practice in the broiler industry was to raise only one batch of birds a year, broiler production soon became a year-round industry. The impact that broiler production had on the state's economy was both rapid and tremendous; by 1943 broilers already generated two-thirds of Delaware's total agricultural income.

These brief biographies were selected to suggest the many ways in which women have helped shape the culture, economy, politics, and society of the First State. Development of the education system, civil rights reform, medicine, farming, science, the arts, real estate, and the long struggle for access to the voting booth for women were all furthered with singular success by these women of Delaware. Of course, these subjects are merely an introduction to this broad topic of women's roles. The list of past achievements could be endless, but a more important list will be the one generated by the activities of future generations of Delawareans, men and women together.●

COVERT ACTION IN NICARAGUA?

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BARNES. Mr. Speaker, last Monday I introduced a bill to prevent U.S. involvement in military or paramilitary actions against Nicaragua. I wish to include in the RECORD an editorial from the Christian Science Monitor which supports the idea that the United States has no business being involved in attempts to overthrow the Nicaraguan Government.

[From the Christian Science Monitor, Mar. 11, 1982]

COVERT ACTION IN NICARAGUA?

As Washington's new evidence of Nicaraguan military buildup is being evaluated, prudence must be exercised to protect surrounding countries from any Nicaraguan military threat. The United States's hemispheric dominance gives it a key role in keeping the peace. Yet this role can be undercut by reinforcing the image of interfering bully rather than wise leader. Having drawn attention to the potential problem, the US can address it more effectively with the advice and cooperation of other members of the Organization of American States. Notable candidates in this instance might be such sturdy democracies as Mexico and Venezuela. They can help Washington see itself as others see it and join to prevent armed encroachments in the region.

Thus when the existence of a danger is agreed upon it can be met with the open means characteristic of democratic societies, not the covert acts which are again in the news.

The gathering of intelligence is not the issue here. This is essential to any country's national security. Knowledge can help to preserve the peace. It can shape constructive policies; even as lack of knowledge, witness US intelligence failures in Iran, can cause problems.

In all the controversy over arms buildup in Nicaragua the most careful intelligence is important. The Reagan administration has recognized the need for establishing credibility by going public with some of the evidence behind its buildup allegations. If this is persuasive to other nations in the region they could be expected to share US concerns and support US initiatives.

Yet, according to recent reports, the CIA is going beyond intelligence gathering and proposing plans for covert actions against Nicaragua. This week the Washington Post cited administration officials as saying that President Reagan had authorized a plan to start forming a commando force of up to 500 Latin Americans for paramilitary operations across the Honduras-Nicaragua border.

The reported initial budget of $19 million was described by some as not very much. But part of the controversy over US covert action in Angola involved a mere $1.3 million for recruiting mercenaries. Congress prohibited US intervention there in the mid-1970s.

The amount is not so crucial as whether the US should be going in the direction of more covert activities after all the ethical questioning of them—and all their counterproductive effects—as brought out during the various investigations of the intelligence agencies in recent years. The Senate Select Committee on Intelligence Activities, for example, found that, of five paramilitary activities it studied, only one appeared to have achieved its objectives. Cyrus Vance told the committee that covert actions should be undertaken "only when absolutely essential to the national security." The committee concluded: "The cumulative effect of covert actions has been increasingly costly to America's interests and reputation. The committee believes covert action must be employed only in the most extraordinary circumstances."

Have such circumstances arrived in Central America? It is a serious question for Congress and the public to answer Congressional oversight committees cannot countermand a presidentially authorized covert action. But, as former CIA director William Colby has pointed out, there is usually time during the implementation for them to make any doubts known to the White House so that it can call off an operation if it decides to do so.

In other words, if there is a Nicaragua plan, it need not be carried out. Under a Reagan executive order, the authorizing of covert actions is less restrictive than during the previous administration. The challenge is to exercise the greatest responsibility and accountability to ensure that the problems found by the congressional investigations are not repeated.●

THE CAPITOL REEF GRAZING RELIEF ACT OF 1982

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. HANSEN of Utah. Mr. Speaker, my distinguished colleague from Utah, Mr. MARRIOTT, and I have introduced a bill to amend the grazing phaseout provision contained in the original statute establishing Capitol Reef National Park in Utah.

On December 18, 1971, Congress enacted Public Law 92-207 designating Capitol Reef National Monument as a national park. The monument has since been enlarged to 245,229 acres, about six times its original size.

In enacting Public Law 92-207, Congress provided for a phaseout of livestock grazing within the park following expiration of the then current permits and for one period of renewal thereafter. Implementation of this provision took the form of a schedule establishing one 10-year renewal for holders of 10-year grazing permits and ten 1-year renewals for holders of 1-year grazing permits. These permits would then be terminated, depending on the type of permit, within the time period of May 31, 1982, and May 31, 1992.

There currently are 45 permit holders that would be directly affected by the termination of the aforementioned grazing rights. The termination of these rights would come during a crucial period in these ranchers' productive ranching careers. As a result of a loss in grazing areas, a large percentage of these ranchers would be forced to sell their livestock; some ranchers would even be forced to liquidate their base operation lands and facilities under distressed conditions at a loss. In addition, the local economy would suffer severely due to the fact that this area of Utah is, to a great extent, economically dependent on income from the small livestock operations that graze on Capitol Reef National Park lands.

In regard to the lands which historically have been used for livestock grazing within current Capitol Reef National Park boundaries, there are three facts that merit careful consideration. First, continuation of current grazing practices represent no danger whatsoever of depletion of the forage condition. Several range scientists, including public land specialists, believe the forage conditions within the park have, in fact, improved significantly over the past 20 years and the improvement trend continues. Second, the areas involved are grazed only in winter and spring. Livestock are placed on the range November 1, after most of the park is closed to tourists, and removed by May 31, prior to major usage by tourists. Furthermore, tourists who do see the cattle being trailed out of the park seem delighted to see this historical part of the "Old West" in action. Third, and perhaps most important, those formations so unique to Capitol Reef National Park are the major reasons the park was established, in particular the "waterpocket fold," are not susceptible to damage by livestock grazing, owing to natural barriers and existing management programs.

I offer this amendment in order to avoid some serious inequities to those who currently hold grazing permits in Capitol Reef National Park. The grazing phaseout plan adopted for Capitol Reef is substantially more accelerated than the phaseout programs established for similar parks where grazing has historically occurred. Therefore, in offering this amendment, I seek neither extraordinary nor preferential treatment; rather, I seek that which has historically been done in similar situations in other national parks.

A case in point, the Grand Teton National Park has a similar situation to that of Capitol Reef National Park. Shortly after the Grand Teton National Monument became a national park, the Congress approved an amendment specifying that any person holding a permit when the park was established would be allowed, by law, to renew that permit for a period of 25 years from the date of establishment of the park, and "thereafter during the lifetime of such a person and the lifetime of his heirs, successors, or assigns, but only if they were members of his immediate family on such date, as determined by the Secretary of the Interior." Both national parks have a history of grazing and are similar in many ways. However, their phaseout timetables are quite dissimilar.

Therefore, Mr. Speaker, in order to address the inequities which face the 45 ranching families holding grazing permits, and the negative impact that such inequities would have on the local economy; and considering the compatibility of the current grazing activity within the management system and purposes of the park; I introduce this bill to delete the present grazing phaseout provision from the Capitol Reef National Park Act and substitute in its place with similar language to that found in the Grand Teton National Park Act. I ask that current grazing permits be continued through the lifetime of the present permit holder and the lifetime of his immediate family.

Mr. Speaker, I feel strongly that my bill will provide a fair and equitable means of addressing the full range of concerns at issue here. In view of the hardships and inequities I have described and the willingness of the ranchers and officials concerned to accept the policy decision set forth in this legislation that, ultimately, grazing will be eliminated from Capitol Reef National Park, I submit this bill and recommend its favorable consideration by the House of Representatives of the United States.●

IMMIGRATION LAWS SHOULD BE ENFORCED

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. HUBBARD. Mr. Speaker, many of my constituents have written to me with their thoughts on American immigration policies. Solon Peck, of Benton, Ky., believes the United States should strictly enforce its current immigration laws. I believe Mr. Peck's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

BENTON, KY.

DEAR MR. HUBBARD: The key House and Senate subcommittees have held hearings on immigration. The subcommittees have debated the status of refugees, illegal immigration and numbers of immigrants.

Immigration is at the highest level in our history. We have accepted twice the number of immigrants than the rest of the world combined, plus the millions of illegal immigrants, mostly from Mexico.

We know that illegal immigrants depress wages, lower working conditions and take the jobs of American workers. They also are utilizing hard-pressed social services at a time when we are tightening our belts.

Despite laws limiting the U.S. to accepting 50,000 refugees a year, the United States has resettled hundreds of thousands of refugees, far more than the rest of the world put together at a cost of $4 billion in the past two years.

Mr. Congressman, I recommend that the laws limiting the U.S. to accepting 50,000 refugees a year be enforced for that number. If this problem isn't halted at once, with the amount of unemployment we have in the U.S., crime will be rising at an alarming rate.

Please give this letter serious consideration.

Thank you,

SOLON PECK.●

ST. PATRICK'S DAY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. GARCIA. Mr. Speaker, St. Patrick's Day is a national day of celebration for Irish-Americans and Irish the world over. But it is also a day that all Americans celebrate. It is a festive, as well as a spiritual holiday. St. Patrick, the patron saint of Ireland, is credited with ridding Ireland of a plague of snakes. Whether or not Patrick rid Ireland of snakes forever is not as important as the spiritual legacy he left to the Irish people.

The Irish are a tenacious, warmhearted, witty, and sensitive people. They came to this country, an ethnic minority; scorned, laughed at, pushed into ghettos. In the first 125 years, since the first great wave of immigration from Ireland, the Irish have managed to move themselves to the head of industry, politics, and the arts. Although, in light of their success, it is sometimes hard to imagine the kind of religious and ethnic discrimination the Irish must have suffered in this country when they first arrived. Yet, they faced discrimination, and they fought it with success. As a member of an ethnic minority, I applaud their success. It is a tribute to the potential that America can offer.

There is another lesson to be taken from the celebration of St. Patrick's Day; it is a symbol of an American ethnic minority's pride in its culture. Of course, we are all, in a sense, ethnic minorities. We are also Americans, and there is no reason we should not have pride in the United States and still maintain a sense of our own ancestry. It is the right of each American to have pride in his or her heritage. In the words of the Irish poet Patrick Kavanagh, "Parochialism is universal: it deals with the fundamentals." That is what makes St. Patrick's Day universally popular.●

SALUTE TO RHODE ISLAND'S FIREFIGHTERS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. ST GERMAIN. Mr. Speaker, I rise to salute three dedicated firefighters from Cumberland, R.I.: Michael Pratt, age 21, Steve Garon, and Robert Coleman, who on March 8, 1982, saved 10-year-old James Perry of North Attleboro from drowning in freezing waters. Mr. Pratt was off duty but responding to his scanner he ran to the pond where he saw young James struggling in the water, and immediately plunged into the pond to rescue him. Ordered to return to the rescue boat nearby by his superior, Coleman who feared for Pratt's life, Pratt, Coleman, and Garon then rowed to the boy. Private Pratt then jumped in the frigid waters once again, broke the ice, and saved the boy. Both firefighters Pratt and the young boy required treatment at a local hospital.

Michael Pratt is a fine example of the selflessness and dedication of our firefighters, deserving of our utmost respect and trust. The three firefighters were steadfast in a time of crisis, and I commend them for their courage and competence in performing a speedy and successful rescue.

It is through their efforts, working long hours and long days, that our firefighters are able to protect us, and save our families from tragedy and pain. I take this opportunity to remind my colleagues of their hard work and unceasing dedication, and to salute them, once again.●

INTERNATIONAL COMPETITION IN TELECOMMUNICATIONS

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. WIRTH. Mr. Speaker, as we near completion of drafting telecommunications reform legislation in the House, I thought my colleagues would be interested in another perspective.

The nation of France has advanced very rapidly in its telecommunications service and technology. It is now a major international competitor which is beginning to enter the U.S. market.

The United States can no longer assume that we have the field of telecommunications to ourselves. Updated, competitive, and international policy is critical for this important industry.

Mr. Speaker, I would like to share with my colleagues an article on the French telecommunications advances which appeared in the Christian Science Monitor February 19.

The article follows:

THE FRENCH OVERCOME OLD HANGUPS IN THEIR TELEPHONE TECHNOLOGY

(By William Echikson)

Only 10 years ago, the French telephone system was archaic. Waiting lists were two to three years for a phone, and what phones existed were frequently out of service.

Just as galling to the nationalistic French was foreign domination of their telecommunications industries. International Telephone & Telegraph (ITT) and Sweden's Ericsson controlled 60 percent of the French market.

But under the leadership of Valéry Giscard d'Estaing, the government launched a major effort to alter the situation. From 1975 to 1980, the French Post, Telephone, and Telecommunications (PTT) department spent $30 billion, upgrading and doubling the number of subscriber lines. At the same time, the government pressured ITT and Ericsson to divest themselves of their French subsidiaries. In 1976, the two multinationals capitulated, and sold most of their assets to Thompson-CSF, an electronics giant.

Today, it takes only a day to have a telephone installed, and phones work here just as well as in the United States. Just as important, the French companies claim to have produced the major technological advance in the telecommunications field in the past decade—a computerized digital switching system for telephone lines. France is a leader in this field, termed telematics.

One of the main ingredients of this economic success has been government sponsorship of the telecommunications industry. The government has helped not only by directly investing in the industry, but also by providing technological advances and helping market its products abroad.

Following in this tradition, the new Socialist government has made the nation's major telecommunications producers, Thompson-CSF and Cit-Alcatel, now the sixth- and eighth-largest telecommunications companies in the world, two of their 11 major nationalization targets.

While American Telephone & Telegraph (AT&T) and most of the world's other telecommunications companies were developing and producing electronic analogue switching systems, Cit-Alcatel jumped technology generations with its digital switching.

"A lot of people thought we were crazy, that the technology wasn't ready and it would be too expensive," said Robert Debruin, Cit-Alcatel's spokesman.

But digital has proved to be the future of telecommunications. Today, various digital systems are leading in the world, with 30 percent of the market. And their percentage is growing rapidly, PTT statistics show. Digital turned out to be much cheaper than other switching systems, primarily because the price of its electronic components has been steadily decreasing and because it is cheap to maintain, Mr. Debruin said.

It is precisely in this fusing of computers and telephones—the telematic process—that the French are also undertaking a new technological adventure. Because the new digital systems move traffic in the computer's binary language, telephones lines can carry television pictures, computer data, personal mail, or even bank transfers to a terminal at the office or home.

Thompson-CSF is one of the world's leaders in telematics research and development. "We think telematics will be the wave of the future," Thompson's Marie-Helène Lafaye de Micheaux said.

In fact, though, telematics is already starting to pay off. Thompson has helped install computer terminals in three French suburbs, providing a full range of information services. Major sales to the US include desk terminals to GTE, digital disks to Xerox, and telecopiers to 3M, Mrs. Lafaye de Micheaux said.

The two French telecommunications giants are just beginning to edge into the American market. But exports elsewhere have produced much of their earnings. Cit-Alcatel has installed 7.5 million lines of its digital equipment in 24 countries; and Thompson, 2.5 million equivalent lines in 14 countries.

"We have no choice but to export, since France's telecommunications market is only 3 percent of the world market," Mrs. Lafaye de Micheaux explains.

Here, too, the French government has helped the two companies. It has provided favorable credit and financing arrangements, and proved especially astute in maintaining and developing its commercial lines with North Africa, the Middle East, and French-speaking Africa.

Because government intervention in Thompson and Cit-Alcatel has been so profound even under the previous conservative administration, neither company expects to see much change after they are nationalized. "The two groups were so dependent on the state anyhow that you could say they were basically almost already nationalized," explained Garard Dega of the PTT.●

PERSONAL EXPLANATION ON THURSDAY'S VOTES

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mrs. HECKLER. Mr. Speaker, this morning, as a result of a computer failure on the entire east coast, I was unavoidably detained at Boston Logan International Airport. This caused me to miss six recorded votes. I regret missing any vote, at any time, and am particularly distressed at missing 6, especially because there have only been 29 recorded votes this session.

At 7:30 a.m., I had boarded my flight, which was due to arrive in Washington at 8:45 a.m., far in advance of the House's 10 a.m. hour of meeting. Once I was aboard, the computer failure was announced. As a result of events beyond my control, I was unable to depart—and then on a manual departure schedule—until after 10:30 a.m., and hence to be present on the floor for today's recorded votes.

At this time, I would like to offer for the record my positions on the recorded votes of the morning: H.R. 3620, Hoboken Pier Sale Authorization—yea; H.R. 4468, Secret Service Zones of Protection—yea; H.R. 4688, Military Personnel and Civilian Employees' Claims Act—yea; H.R. 3345, technical amendments to the United States Code, title 35—yea; H.R. 2329, U.S. Courts' Jurisdiction for Cherokee Claims—nay; and House Resolution 290, to Reaffirm to the Public Their Deposit Insurance—yea.

Last session, I maintained a 93-percent voting record and have voted within the 90-percentile range during my 15-plus years in Congress. These bills today were on the Suspension Calendar—requiring a two-thirds majority vote—which means that they were noncontroversial. Nonetheless, it disturbs me greatly that a computer failure prevented me from voting—particularly on House Resolution 290, due to my concern about public confidence in financial institutions—and lowered my percentile rating, which I have exerted strenuous efforts to maintain.●

DREDGE DUMPING IN LONG ISLAND

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. McGRATH. Mr. Speaker, I am very disappointed with the decision made by the Army Corps of Engineers to proceed with the dumping of dredge spoil in the western part of the Long Island Sound. The corps has apparently ignored local concerns and the protests of the Long Island congressional delegation in making this decision.

Last year the Long Island congressional delegation went on record as being opposed to this dredge dumping, and we remain opposed to it. Dumping at this site runs the risk of affecting beaches and fishing on the north shore of Long Island. Past history shows that dredge spoils from river basins contain potentially hazardous waste and toxic materials, including arsenic, petrochemicals, mercury and other heavy metals. Use of this dredge site will have a detrimental effect on both the water quality and the fishing in the sound. It will most certainly have an adverse impact on Long Island's $2.5 billion tourism industry and our $40 million fishing industry.

Most of the dredge spoil originates in a State other than New York, and residents of Long Island should not suffer potential economic consequences for a problem they did not create.

I urge the Army Corps of Engineers to reconsider its decision.●

ON THE RIGHT PATH

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BEREUTER. Mr. Speaker, while I have no intention of underestimating the serious problems that continue to plague our economy, I believe that many in our country have become too preoccupied with all of the bad news that they seen and hear daily. Indeed, continuation of that frame of mind may well hinder our efforts to restore our economy to health and prosperity.

For that reason, I was especially pleased to read a recent editorial in the Norfolk Daily News. In this instance, the author focused on some of the positive signs that can be seen in our economy.

"There is reason to believe the Nation is on the right path." Those are words worthy of our thoughts.

Mr. Speaker, I wish to have the text of the editorial reprinted in full:

ON THE RIGHT PATH

A year ago there was general agreement in Washington, as in the rest of the nation, that inflation was the No. 1 problem. An inflation rate for all of 1980 of 12.4 percent, one of the worst in the nation's entire history, had been recorded.

Efforts to deal with the problem through restricting money supplies, by cutting back on federal spending rates and by promoting more savings on the part of individual Americans have apparently had some results. The rate for all of 1981 proved to be 8.9 percent. While still high, it represented a record low rate for the past four-year period. The wanning months of the year pointed to more significant progress.

The rate for this January indicated further improvement in the trend. The Consumer Price Index rose at a seasonally adjusted rate of three-tenths of 1 percent in the first month of the year. Not since July 1980 had there been as low a monthly figure. If that rate could be held for 12 straight months, it would represent a 3.5 percent annual rate of inflation, clearly in the tolerable range.

That January figure came despite the rise in the cost of food, which in turn was due almost exclusively to the 16.8 percent rise in the cost of fresh vegetables. Such a cost increase is one of the inevitable effects of a hard winter, one adversely affecting the southern portion of the nation which supplies those fresh vegetables to the rest of the country.

Of special note is the fact that prices for meat, poultry and eggs fell. That is not a desirable situation for this area where a good measure of the economy depends on adequate prices to livestock and poultry producers, as well as other farmers. They have been suffering far too long from depressed prices.

If costs of other items, including gasoline and transportation which did decline in January, can be stabilized or reduced, then there should be improvement in agriculture. It, too, needs relief from inflation; and it needs lower interest rates.

The drop in interest rates early this week is another welcome bit of economic news coming amidst the bold headlines about President Reagan's difficulties with the new budget and its protections of huge deficits.

The good news about inflation comes at a time when there is a need to restore confidence in the ability of Americans and their leaders to deal effectively with serious economic problems. The battle against inflation is not won, of course. In fact, it is never over. But progress has obviously been made. There is reason to believe the nation is on the right path.●

GRETCHEN LEE—FINALIST IN VETERANS OF FOREIGN WARS VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

HON. JOEL DECKARD

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DECKARD. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues the speech by Miss Gretchen Lee of Evansville, Ind., that was victorious statewide in the Annual Veterans of Foreign Wars Scholarship program.

The speech follows:

BUILDING AMERICA TOGETHER

A wagoner was once driving a heavy load along a very muddy way. His cargo consisted of bricks to be used in a fine building to be erected in the town square for all to see and admire. At last he came to a part of the road where the wheels sank halfway into the mud, and the more the horses pulled, the deeper the wheels sank into the mire. So the wagoner threw down his reins, and knelt down and prayed to the gods, "Assist me in this hour of distress!" he cried. But the gods appeared to him and said, "Tut, man, don't sprawl there. Get up and put your shoulder to the wheel!"

The moral to this fable, as Aesop would have told it is this: The gods help those who help themselves. Although the stories of Aesop were intended to provide guidance to the peoples of Greece many years ago, I believe his message is timeless.

It seems that as Americans, we have found ourselves stuck in a muddy part of the road. Like the wagoner, we're carrying a heavy but valuable load. Our cargo consists of the bricks of democracy, and our goal is to build our nation to be a model for all of the other nations of the world. But try as we might to pull ourselves out of the mud, we'll never escape unless we recognize exactly what it is that holds us back.

First, we must do our best to educate the people of our nation. It is ignorance that prevents people from seeing the light and following it and it's ignorance that prevents us from seeing a way for a better life.

We must also learn to trust our fellow man. Discrimination and prejudice serve only to destroy the power we might have together. It is in the unity of our people that we can amass the strength needed to push our nation forward.

But how can we meet this challenge of unity if we first identify a person by race or sex? It's only at the moment when we realize that mankind is one family and recognize all men as our brothers that we can begin to achieve our potential as a world society.

But perhaps apathy is the single most destructive force in our quest to advance our civilization. When will we ever realize that we all suffer if we don't care to become involved in the freeing of our society?

Perhaps the popular fable of the wagoner and the gods can accurately describe the frustration Americans feel about being stuck in the mires of ignorance, mistrust and apathy. But, as the wagoner in the fable discovered, when we all put our shoulders to the wheel, we can continue on our way to build America as a nation to lead the other nations in the development of a world society.

Mr. Speaker, I thank my colleagues for affording me the opportunity to share this achievement. Gretchen was one of more than 250,000 students nationwide to compete. I am proud of Gretchen not only because of her accomplishment as an Eighth District Constituent, but more largely because of her accomplishment as a young American.●

A TRIBUTE TO DAVID LEVINE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Ms. MIKULSKI. Mr. Speaker, the young people of this country are getting a bad rap; through the effects of the budget cuts their potential quality of life is jeopardized, and generally, they have been given a bad name being associated with drugs, alcohol abuse, and promiscuous sex. This is an unfair generalization.

David Levine is a fine example of what our young Americans are really like. He was a fine young man whose participation in Congress as a Democratic page indicates that they prefer to be a part of the solution rather than part of the problem; that they are really interested in the good of the country.

We all suffered a tragic loss when David died of cancer on March 5, 1982. He was only 18 years old. His untimely death will be mourned by many, and we will miss him very much.●

IN MEMORY OF DAVID A. LEVINE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. MATSUI. Mr. Speaker, I want to commend my colleague, the gentleman from Illinois, Mr. Dan Rostenkowski, for requesting time for a special order to memorialize the great strength and good will of David A. Levine, who succumbed to cancer on March 5, 1982. We pay tribute to David with mixed feelings of great sorrow at his untimely death and great joy for the opportunity of knowing this courageous young man.

During David's tenure as a Democratic cloakroom page, he served the Democratic Members well through his keen intelligence, hard work, and dedication to the House of Representatives. It is a great tragedy for our Nation that someone of David's caliber, who passed away just 4 days after his 18th birthday, was unable to expand his abilities and talents and continue his significant contribution toward making our country a more just and equitable society in which to live.

David's courage, in the face of his illness, was extraordinary, and in his battle against cancer he lived out the dictates of the Welsh poet Dylan Thomas' lines, "Do not go gentle into that good night. Rage, rage against the dying of the light." David did just that, and the valor he demonstrated in fighting his illness provides us with a great example of human dignity.

All the Members who knew David share a profound sense of loss over his death. Our sympathies, both as a body and as single Members, rest with David's parents, Roy and Sara Lynn, and his brother, Robie. We cannot assuage their grief, but we can pay our respects to the remarkable person who was their son, David A. Levine.●

RESOLUTION OF THE AMERICAN LITHUANIAN COUNCIL OF NEW YORK

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Ms. FERRARO. Mr. Speaker, the continuing heroic dedication of the American Lithuanian community to the cause of Lithuanian independence is a source of great inspiration and pride for all freedom-loving people. On February 21, 1982, the American Lithuanian Council of New York, meeting to celebrate the 64th anniversary of Lithuanian Independence Day, February 16, 1918, unanimously passed a resolution commemorating that historic day, and proclaiming their determination to assist their countrymen in Lithuania in every possible way to win freedom and independence from the Soviet Union.

I would like to share with my colleagues the text of the resolution, and I include it in the Record at this point:

Lithuanian American Council of New York

We, the Lithuanian Americans of the City of New York, assembled this 21st day of February, 1982 at the Lithuanian Cultural Center in Brooklyn, N.Y., to commemorate the 64th Anniversary of the Declaration of Independence of Lithuania, do hereby proclaim the following resolution.

We are descendents of the Lithuanian people who inhabited the river Nemunas basin on the south shore of the Baltic Sea since prehistoric times. The Lithuanians are of a different race and speak a different language from the surrounding Slavs and Germans. The Lithuanian state was established in 1251 and reached its peak of growth and expansion in the 15th century. Then gradually she lost ground and even had to endure a century of czarist Russian occupation until 1918. On the 16th of February, the Lithuanian Council, exercising the people's right of self-determination, declared Lithuania's independence again. The Secretary of State, Alexander Haig, in his letter to Dr. S. A. Backis, Charge d'Affairs of Lithuania, expressed the essence of the matter: "The founding of Lithuania's Republic on February 16th, 1918 gave form and meaning to Lithuania's commitment to freedom and self-determination. Lithuanians, as do Americans, remain devoted to these fundamental principles."

The young Republic was forced to defend her independence from invading Russian bolsheviks. There are here among us a few freedom fighters of those independence wars. They are: Captain Jurgis Kiaune, Captain Petras Jurgela, Alfonsas Konce, Col. Dr. Ingelevicius, Lieutenant Jonas Jankus, Sgt. Juozas Juozapavicius and Kazys Algenis. We salute them as living symbols of total commitment to the freedom of a nation and hope they live long enough to see Lithuania free again.

The Republic of Lithuania marched forward in giant steps, made daring decisions, such as the Land Reform Act, in a short time became a modern state, an equal partner among other European states, and a Member of the League of Nations. Unfortunately, during World War II, as a result of the infamous Molotow-Ribben-trop Act, Lithuania fell victim to the Soviet Union, an imperialistic, aggressive, rapidly expanding colonial empire, whose ultimate goal was and remains to conquer the world. Forty-two years have passed but Lithuania still remains in the fangs of the Soviet-Politbureau, oppressed, exploited and serving Moscow alone.

Having illegally annexed Lithuania in 1940, Moscow attempted to crush any resistance on the part of freedom-loving Lithuanian people. Ordered by Stalin and supervised by his henchman Suslow, the Russians killed thousands of Lithuanian patriots and guerrilla freedom fighters and dispersed others throughout the Gulag Archipelago labor camps and Siberia. Lithuania lost twenty-five percent of its population. Through a puppet communist party and government, they continue the destruction and colonization of Lithuania to this day.

All the Soviet might and efforts to subdue the Lithuanians have failed. The spirit of freedom and heritage of a glorious past runs in the very veins of Lithuanian people. It manifests itself in numerous protests, petitions, underground publications, courageous sacrifices, and so on. We express our admiration and gratitude to our suffering brothers and sisters in the Soviet prisons, especially recent prisoners of conscience: Viktoras Petkus, Balys Gajauskas, Vytautas Skuodis, Nijole Sadunaite, Petras Pliumpa, Lapienis, Terleckas, Iesmantas, Peceliunas, Statkevicius, Paulaitis, Sasnauskas, Janulis, Navickaite, Stanelyte . . . The list is endless. Let us renew our commitment to assist struggling Lithuanian people in every possible way to win freedom and independence.

We express our gratitude to President Ronald Reagan, to the Government, the U.S. Senate and Congress for their invaluable support. The Secretary of State Alexander Haig has summed up the stand of the United States in these words: "Therefore, our policy of not recognizing the forcible incorporation of Lithuania into the Soviet Union remains fixed and will not change." And we applaud.

We hopefully welcome the new spirit of straight talk with the Soviets and the confrontation with them at the Madrid conference and elsewhere. We urge the continuance of these efforts. May they lead to a better world to live in, one based on freedom, justice and respect for everyone's rights.

Copies of this resolution will be forwarded to the President of these United States, to the Secretary of State, to the Senators and Congressmen of New York, Senator Charles H. Percy, Congressman Dante B. Fascell, Governor Hugh Carey, Mayor Edward Koch and to the news media.●

PRIVATE SECTOR CHARITABLE CONTRIBUTIONS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. GARCIA. Mr. Speaker, today I am introducing legislation expressing the sense of Congress that each business receiving tax benefits under the President's economic recovery program should consider it consistent with the President's program to contribute at least 5 percent of its annual profit toward charities and other activities designed to assist the poor, the elderly, the underprivileged, and the handicapped of our society.

President Reagan, in announcing his budget last spring, called on Americans to usher in a new spirit of voluntarism—to take over from the Government the task of caring for the poor and indigent. In mid-January, in a speech before the New York Partnership, Mr. Reagan further elaborated on this theme calling for a "nationwide effort to encourage citizens to join with us in finding where need exists, and then to reorganize volunteer programs to meet those needs." Many of the cuts took effect October 1, 1981, and were supposed to be replaced by private citizens, local government and industry.

Unfortunately, this has yet to occur. There are many holes in the safety net for the poor which have not yet been mended by the private sector. This void in social care for the needy is not readily being closed by local governments or private businesses. Regrettably, many poor and near poor are being asked to bear the burden of this lapse in important services.

The resolution I am introducing along with several of my colleagues, suggests that businesses which have been to take advantage of the tax cuts contribute 5 percent of their annual profits to charitable organizations. Since the economic recovery program was conceived with just this kind of business participation in mind, it is only fitting that Congress reaffirm its intention now.

H. Con. Res. —

Concurrent resolution expressing the sense of the Congress that businesses receiving tax benefits under the President's economic recovery program should help to offset the reductions in domestic programs by increasing their charitable contributions

Whereas President Reagan's economic recovery program mandates withdrawal of Federal funds from various domestic programs;

Whereas many of these programs were designed, however imperfectly, to assist the poor, elderly, the underprivileged, and the handicapped of our society; and

Whereas the President has repeatedly called upon the private sector to contribute to the welfare of these groups in whatever way it feels appropriate, so that their "social safety net" is not jeopardized: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that each business receiving tax benefits under the President's economic recovery program should consider it consistent with the President's program to contribute at least — percent of its annual profit toward charities and other activities designed to assist the poor, the elderly, the underprivileged, and the handicapped of our society.●

WHO REALLY WORKS FOR PEACE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. MICHEL. Mr. Speaker, it is a sad truth that not all those who cry "peace, peace" do the work of peace. In fact, those now calling for unilateral disarmament or weakened national defense on the part of the United States—all in the name of "peace"—are contributing to the possibility of war. The only way we are going to have a nuclear war is if the Soviet Union is tempted by Western weakness to launch an attack. And these self-proclaimed "peace groups" are weakening the will of the West and tempting the Soviets with their misinformed, uninformed, and inadequate understanding of the relationship between United States and Soviet nuclear forces.

At this time I wish to insert into the Record an article that clearly puts into perspective the dangers of this misnamed "peace" movement: Patrick J. Buchanan's "Arms and the Foe Within," published in the New York Post, March 16, 1982.

The article follows:

[From the New York Post, Mar. 16, 1982]

Arms and the Foe Within

(By Patrick J. Buchanan)

With Mr. Conservative's 44-state landslide in 1980, the capture of the Senate and the collateral defeat of ancient foes George McGovern, John Culver, Frank Church and Birch Bayh, the new American right first tasted victory.

But in its exuberance, the right underestimated the tenacity of the grip McGovernism retains upon the nation's rejected elites.

After 16 years of labor in the provinces, the conservatives may have acquired the lock on the presidency of which we pundits write. But the by-passed citadels of liberalism remain unreconciled to Reaganism.

Much of the Roman Catholic Church now belongs to the resistance. A proposal for unilateral disarmament today would occasion no large or angry protest at the United States Catholic Conference.

Preaching from the pulpit of St. John the Divine at a conclave on world peace, Paul Warnke, Jimmy Carter's SALT II negotiator, urged the U.S. to adopt a "no-first-use" policy on nuclear weapons.

Sens. Edward Kennedy and Mark Hatfield have produced the signatures of 15 colleagues and almost a third of the House on a resolution calling for an immediate freeze on the U.S. and Soviet arsenals. Blessing the enterprise were Rev. Billy Graham and Rabbi Alexander Schindler, president of the Union of American Hebrew Congregations, who sees the arms race as the "central moral issue of our day."

Columnist Joe Kraft is on the mark: "The call for nuclear freeze provides a preview of things to come. It shows that, perhaps for the first time in our national experience, the politics of mass protest are being brought into play in the matter of national defense."

Kennedy-Hatfield amounts to U.S. acceptance of Soviet strategic superiority. If adopted, it would leave the Soviets with an absolute monopoly of 700 first-strike missiles (5000 warheads targeted on the U.S.) and 300 medium-range missiles targeted on Europe.

Jimmy Carter's proposed responses to this Soviet reach for superiority—the 200 land-based MX missiles and the 572 Europe-based cruise and Pershing missiles—would be canceled. The "window of vulnerability" that Mr. Reagan was elected to close, whatever the cost, would be nailed open.

The U.S. negotiating position at the forthcoming Strategic Arms Reduction Talks would become untenable, since Mr. Reagan would have nothing to trade the Soviets in exchange for reducing their vast arsenal. As for the U.S. negotiators at the nuclear weapons talks in Geneva, they could be called home.

Kennedy-Hatfield entails acceptance of the opening Soviet position, a freeze, and rejection of Mr. Reagan's "zero option"—not to deploy our cruise and Pershings missiles if the Russians will dismantle their SS-20s. Under Kennedy-Hatfield, they may retain them.

That Kennedy-Hatfield seems so unthinking and simplistic a response to that most agonizing and complex of modern dilemmas—maintaining peace and security in a nuclear age—does not diminish its appeal.

For the American governing class, present and future, seems weary with its role as, in JFK's phrase, "watchmen on the walls of freedom." It is tired of the economic burden, fearful of the military risk. It doesn't want its sons to die in a cause—the West—for which it no longer care or believes. Warnke has correctly diagnosed perhaps the most powerful strain of the virus: fear.

"People are very much more receptive than they were a few years ago. I think for one thing people are becoming more scared—as they ought to be."

If the response to the increasingly bold reach of the Soviet Empire is to be determined by a mass movement inspired by fear, the future should resemble the immediate past. Only more so. New cities, new datelines, closer, much closer to home will replace the list from the last decade: Da Nang, Saigon, Phnom Penh, Kabul, Tehran, Managua, San Salvador.●

CONGRESSMAN JIM FLORIO RECEIVES HEMOPHILIA AWARD

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. WAXMAN. Mr. Speaker, several weeks ago, our colleague Jim Florio was honored by the National Hemophilia Foundation with their L. Michael Kuhn Award for Distinguished Legislative Service for his work in protecting the Federal program of comprehensive care for hemophiliacs.

Congressman FLORIO is a valuable colleague on the Energy and Commerce Committee and an outstanding member of its Subcommittee on Health and the Environment. As chairman of that subcommittee, I know the contribution he has made to strengthening our health care programs and protecting the environment. He is a strong, dependable ally who is always willing to work hard and speak out for the programs he supports. I consider myself fortunate to count him as a friend.

His efforts on behalf of the hemophilia program are one example of the contributions he makes. I worked with Congressman FLORIO and other concerned Members to insure that the effectiveness of successful Federal health programs would continue in this time of budget cutbacks. Working together, we were able to provide that the unique interstate, regional hemophilia treatment centers are to continue as a Federal responsibility.

As the House considers funding for this program, situated within the maternal and child health block grant, I am hopeful that all Members will recognize its importance to those citizens afflicted with this disease.

In presenting the award, Donald S. Goldman, vice chairman of the National Hemophilia Foundation, and a long-time leader and voluntary worker on behalf of those who suffer from hemophilia, commended JIM FLORIO for his efforts and concern. I know many of my colleagues would echo the sentiments Mr. Goldman expressed. I am inserting his statement into the RECORD.

The statement follows:

The award we present today to Jim Florio is the L. Michael Kuhn Award for Distinguished Legislative Service. Who was L. Michael Kuhn and why was this award named after him?

Dr. L. Michael Kuhn was a doctor. He practiced in Plainfield, New Jersey, and maintained the largest private practice of Hemophiliacs in the country. Dr. Kuhn was also a visionary. He recognized that adequate supplies of expensive clotting factor and medical comprehensive care teams were essential if hemophiliacs were to lead more normal and productive lives with lessened pain, suffering and crippling. He recognized that only governmental support help could supply those essential ingredients and led the successful fight in the initial efforts for Hemophilia legislation. Unfortunately Dr. Kuhn, his wife and children were prematurely taken from us in a tragic plane crash in 1973.

Dr. Kuhn exhibited three important qualities which form part of the criteria for this prestigious award. Those qualities are compassion, competence and courage.

Compassion is the caring for others less fortunate than yourself, without having any expectation of any return. It is doing for others because you care. Jim Florio has compassion. He cares about the poor, the ill and the hemophiliac.

As many of us recall, during the late summer of 1981, considerable debate was taking place on how the health care programs of the nation were going to be carried out. For a long while, many of us feared that the Hemophilia Treatment Centers Program, which had been so painstakingly put together over the last five years, which has served so many thousands of hemophiliacs so well with a program of comprehensive care, and which had been supported both by congressional authorization and appropriate laws, was to be dismantled.

Jim Florio was a leader in developing an amendment to the legislation which protected the Hemophilia Treatment Centers Program by having it placed as an integral program in the Maternal and Child Health Administration, as part of a 15% set aside program to be administered nationally through the Department of Health and Human Services. He not only saw to it that the amendment was in the House of Representatives legislation, but he and his staff tracked the Senate version, and the Senate-House conference, to see that the Hemophilia Centers Program was protected so far as possible.

Congressman, I know that you will recall this language, but I do want to have it noted that the Senate-House conference language, in its bill report, commented: "The conferees intended that, in administering this section, the Secretary gives special consideration to the continuation of existing genetic diseases and Hemophilia Programs."

We also realize that although you are a member of the authorizing committee which developed the law under which our program is administered, you are also interested, as a Congressman, in assuring that the program is well administered and that the public funds are well spent. We would like you to hear the words of the Appropriations Committee of the U.S. House of Representatives this last year, as they provided funding for the program: "the Hemophilia Comprehensive Demonstration and Treatment Centers received program reauthorization in the Budget Reconciliation Act of 1981, and were placed organizationally in the Maternal and Child Health structure. This program, by any measure, has been very successful, and now has 23 core treatment centers and 50 satellite service programs serving approximately 6,000 hemophiliacs. Federal dollar use has been multiplied by research and care spin-offs in patterns of comprehensive care, financial and family counseling, genetic hepatitis studies, and others."

Jim Florio did this because he cared, not because of some perceived advantage to him. Even though our Nation's Hemophiliacs, their friends and families have demonstrated themselves to be a potent political force, it has always been on a non-partisan basis, not used for any specific candidate.

Competence is getting a job done. That is one thing Jim Florio knows how to do. I remember that I contacted Jim Florio on Wednesday. Thursday morning I got a call back from Peter Newbould, the Congressman's aide, and explained our legislative problem to him. On Friday he called Ann Walsh, the National Hemophilia Foundation's Legislation Committee Chairperson. On Monday they met. On Tuesday the Committee language was drafted. Soon thereafter it was approved by the Subcommittee. Eventually that language became part of the Dingell-Waxman Amendment and was passed into law. That is an example of competence.

Here, Congressman Florio, I think it is also appropriate to thank you for the quality of the staff people you have working for you. You know that Peter Newbould of your staff worked hard on this issue and, of course, as taxpayers it pleases us to see that not only you, as a Congressman, worked hard on this issue, but also that you have quality staff people working with you on these matters as well.

Courage is the ability to understand the long-term interests of your constituency. It takes courage to work for cost effective programs designed ultimately to have our citizenry self supporting and productive even when those programs cost tax dollars today. Jim Florio had the courage to recognize that the Federal Hemophilia Program was so cost effective, so efficient and led to such improvements in hemophiliacs' health care that it just had to be saved—and he helped save it.

Jim Florio, it is with great pleasure that I present this award to you for your compassion, your competence, and your courage. You deserve this award and the thanks of the thousands of hemophiliacs, their families, friends and the health care professionals who work in the Centers to provide the care.●

MARYLAND FARMER ROBERT TAYLOR NAMED TO THE AMERICAN CYANAMID CO. 65 CLUB BECAUSE OF HIS OUTSTANDING PRODUCTIVITY

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DYSON. Mr. Speaker, I am quite proud to inform my colleagues in the House that one of my constituents, Mr. Robert Taylor, of Preston, Md., has been chosen for membership in the 1982 American Cyanamid Co. 65 Club™.

The name of this important program—which is sponsored by one of the largest manufacturers of agricultural chemicals—was derived from the fact that when the club was formed, the average U.S. farmer produced enough food and fiber for 65 persons at home and abroad. Members of the 65 Club, however, now produce much more than this.

Mr. Taylor is 1 of 10 farmers in the United States who will be recognized this year for his record of achievement as an agricultural producer and his successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, Joyce, Mr. Taylor is in Washington this week to participate in official National Agriculture Day ceremonies on March 18 as a member of the 65 Club.

Mr. Taylor's 2,950-acre farming operation is impressive, and constitutes an important part of the overall productivity of the American farming community. The allocation of his land includes the use of 1,300 acres of soybeans with an average yield of 34 bushels per acre; 1,100 acres of corn with an average yield of 100 bushels of dry corn per acre; 300 acres of wheat with an average yield of 20 bushels per acre; and 250 acres of barley with an average yield of 60 bushels per acre.

Productivity had a lot to do with Mr. Taylor's selection to the 65 Club, but so did his proven leadership in his community. He is a member and past chairman of the Tri-County Field Advisory Council; active in the American Agriculture Movement; a member of the board of directors of the Grain Marketing Cooperative; member and past member of the board of directors of the Maryland Farm Bureau for Caroline County; and participates in the Maryland soybean program. In fact, Mr. Taylor has received six certificates of merit from that program.

Mr. Speaker, the proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally.

I am pleased and honored that one of my constituents has been chosen for membership in the 65 Club. I know that you and all other Members of the House join with me in extending our congratulations to Mr. Taylor for this important achievement.●

PRESIDENTIAL CONGRATULATIONS TO THE JEWISH NEWS OF SOUTHFIELD, MICH.

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BROOMFIELD. Mr. Speaker, I wish to draw the attention of my colleagues to a Presidential letter of congratulations to the Jewish News of Southfield, Mich., on the occasion of its 40th year in publication. The Jewish News is an outstanding example of responsible, informative journalism. It has faithfully served the community by providing accurate, timely, and hard-hitting reports of current events and historical analysis. The Jewish News is truly a source of pride in Michigan. President Reagan's letter follows:

THE WHITE HOUSE,
Washington, D.C., March 1, 1982.

DEAR MR. SLOMOVITZ: Warm congratulations to the staff of The Jewish News on celebrating 40 successful years of publication. This is, indeed, a proud, historic occasion reflecting the News' time-honored dedication to providing its readership with fine, responsible journalism.

The News throughout its 40-year history has also made an admirable contribution to the interests of our nation by responding to the concerns and the needs of one of America's richest cultural heritages. In serving American Jews, the News serves us all.

Let me add my congratulations to you, Mr. Slomovitz, on your 60th year in the field of journalism.

With all best wishes for continued success in publication,

Sincerely,

RONALD REAGAN.●

SPACE TECHNOLOGY AND IMPLICATIONS FOR NATIONAL DEFENSE

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. ROUSSELOT. Mr. Speaker, the United States entered the space-age two decades ago with the sole purpose of advancing mankind's knowledge of the universe. Our experiments in space, the Moon missions and Skylab were not just tributes to American ingenuity but to man's quest for knowledge. In recent years there have been attempts to formalize an understanding by the world's space-age powers that all activities be dedicated to the advancement of all nations, and not to the selfish promotion of military superiority. In fact, several weeks ago the Soviet Union proposed a new United Nations treaty that would ban weapons from space. But word has now reached the Western World that the Soviet Union, contrary to its own propaganda, has launched experimental orbital weapons systems in space. This unmanned system is reportedly equipped with clusters of small missiles that can home-in on sources of heat in orbit.

This evidence of hostile intentions represents a dramatic new war-fighting capability for the Soviet Union—the only country to test weapons in space. A capability to quickly destroy several of our tracking satellites would be all that is needed to launch a surprise attack. This course of events further proves the futility of attempts to demilitarize space. Historians will recall similar attempts to do the same thing with the oceans and airspace. Neither attempt was successful. If the United States is not to be caught off guard we must utilize our space systems—the most advanced in the world—for the possible defense of our country. A few months ago Gen. Daniel Graham (U.S. Army, retired) spoke before the Military Strategy Conference in Los Angeles. His comments are particularly timely after the disclosures of recent Soviet activities. I recommend General Graham's comments to my colleagues:

COMMENTS BY GEN. DANIEL GRAHAM

Today I bring you this message, strategy is far more important than money. When a lot of money is spent on a bad strategy it can lead to disaster. What this country needs is a new strategy and some bold strokes taken in the military field within that strategy.

Let me talk about the problem of throwing a lot of money at a bad strategy. One of the options that the Reagan Administration—or the Nation as a whole—has, having awakened to the problem that we really do have a threat militarily, is the incremental approach to the problem, which is to reach over into the Pentagon and turn on all the taps to the programs which have been stifled or cancelled in the past few years. That can get very expensive.

With regard to this situation we have some very good historical precedents. One of them is France between the two world wars. The French were not tightwads about giving money to their military. But they put a lot of money into the Maginot Line and they were whipped out in two weeks by the Germans in 1940. As I said, it was not because they were stingy with the money, but because they pursued a bad strategy. This same kind of pitfall lies, in my opinion, with the incremental approach of buying more planes, tanks etc. . . . today.

We have an alternative—bold strokes and a technological end run around the Soviet Union. There are a number of areas currently where a bold military stroke is possible. The first one that comes to mind was opened to us by the colossal success of the Space Shuttle. This opens up some enormous strategic opportunities for the United States. We can deploy in space a defensive capability against Soviet ballistic missiles, whether they are aimed at the U.S. or one of our allies—Japan or western Europe, and so threaten that force with attrition that the Soviets could no longer ever make plans for taking out the U.S. deterrent. Now that is a sufficient exchange. We can restore confidence in our own people and our allies if we do this.

Furthermore, we can at the same time solve or partially solve another problem that faces the U.S. That is our reliance on OPEC for oil. In other words, solving the strategic problems connected with the energy crunch. I really believe that this will reduce the urge both on our part and that of the Soviet Union to pile up more and more nuclear weapons. We can do all this if we just begin to pursue a space born defense. Why space? Because we are now at the historic juncture of time when we can and must do it! We will either do it or surrender strategic supremacy to the Soviet Union in no uncertain terms.

Three thousand years ago man fought on land because all people were there. Later on people moved out onto the edges of the continent. Those who moved into shallow waters and had the wit or luck to be able to extend their military capabilities to those shallow seas achieved great strategic victories. Most of the time these were very small peoples, the Vikings for instance, and yet by 900 AD they controlled most of the European coast, the British Isles and the Mediterranean—because they had mastered the new medium of human activity, commerce, trade and communications.

By the beginning of the sixteenth century, after Magellan and Columbus, man moved out onto the High Seas with comfort. Much of his commerce and military ability depended on control of the high seas. Nations which were able to project their power out there took charge. First it was Spain and Portugal. They were so successful that the Pope had to divide the world in half to keep them from fighting too much. Then the British came along, defeated the Spanish Armada and ruled the roost because they controlled the high seas. For centuries the world enjoyed a Pax Britannica. And this consisted not just of man-of-war ships, but also of the British merchant fleet. Together they gave an enormous advantage to the British.

In my own life time, man's activities have moved sharply into the coastal seas of space, that is, the atomsphere. Much of our communication and transportation has moved into the air and once again the nations which were able to master this medium are the nations which are now on top. Many tried, but the winner was the United States. We were able to gain the strategic advantage through most of the 1940s and 1950s—not just because we had the best military aircraft, but also the best commercial aircraft. We dominated the atmospheric envelope that is the coastal seas of space.

Now let me tell you something that you might find startling—the strategic advantage that we possessed from the end of World War II until very recently would have been there whether or not we had had the atomic bomb first. It is not the nuclear weapon that gave us our strategic position so much as it was control of the atmosphere. Granted, nuclear weapons enhanced this situation, but they were not fundamental.

Human activity is moving into space—commercial and military. There is already enormous investment in space with one country or another, either ours or our allies, or the Soviet Union and even now India. One of us will acquire dominance in space, and that one will rule the roost. So historical imperative drives us into space. At present, the United States enjoys a great technological advantage in space. This is one area where the Soviets have not yet caught up to us. As you may already know, over the last six years the Soviet Union has put 45 cosmonauts in space (we have not had any). Why are they there? To set records for the Guinness Book of Records? Absolutely not! They are up there for very defined purposes.

So where is our advantage? It is in the fact that we can miniaturize. And the applications in space are dependent on the ability to miniaturize because every pound of material you put in space for any reason is literally worth its weight in gold. Now that we have a shuttle we have an additional advantage because the U.S. has built a "railroad in space." That's what the space shuttle is. It is just like when we built the railroad across the country to Ogden, Utah. The Indians at the other end knew that they had better watch out because it meant military power. This is what our space shuttle means to the Soviets. This has made it possible for us to do a number of things.

Why defense? Because our country is not defended because we have pursued this doctrine of MAD. If we fire one of our modern missiles to destroy a Soviet attack, all they do is send up more, until one of us runs out. This encourages building more and more nuclear warheads. How can we change this? Add a new dimension to the situation. Not at the end where the warheads are coming from, but at the end where they are most vulnerable—when they are entering space. Each time a missile is hit we have destroyed ten warheads that might have hit. All you have to do is threaten to take out 10 or 20 percent of them and suddenly the problem that the Soviets have started has been given a complicated twist in our favor.

We have many technologies that could do this. It is not a problem technologically. As a matter of fact there is one space vehicle that has already been designed by the Stanford Research Institute—a space vehicle with high maneuverability, able to do many different military tasks in space, among them, assist in the strategic defense. That space vehicle, because it uses technology already on the shelf, costs less than a Lear Jet. Furthermore, they could produce the first one in a year and a half and in five years we could have a whole fleet of them. Compare that with the MX! In 10 years we get 200 more missiles.

That is only one of many technological options and you don't have to invent the laser to do it, although the laser could make it easier to do. You can shoot down Soviet ICBMs as they are coming up with ice cubes. Because the speed of an orbiting vehicle that would discharge anything at those Soviet missiles is so great that a hail stone striking them will put them out of commission. So you don't need a fancy ray gun—you can do it with ice cubes if you have to!

Another part of this package makes it even more exciting. The same kind of logistical system that we need to put a military capability in space which protects not only us but our allies is the same logistical system which can do one other thing that is very, very interesting and that is to put up solar power satellites. That is, large satellites which have a large array of photo electric cells that stay in the sunshine at all times because it is in geo-stationary orbit, the sun shines on these cells, then a large antenna beams that power down to the earth in a broad microwave beam so that you don't hurt the little butterflies or anything—they can fly through the beam without getting their little whiskers singed. It is perfectly benign. It can produce 5 gigawatts of power which is enough power to take care of the whole city of New York literally forever without extracting any of the resources of the world but putting resources back to the earth for once. We can build such satellites. All the technical plans are in a big stack of books at NASA. They designed it and they can do it. It is ready to go. If you go for the solar power satellite and go for your defensive satellite in space as well, instead of just have the military up there doing its own thing you have two things going together. You are headed for the same place the British were in merchant man and man of war. The merchant man is that solar power satellite and the man of war is that space cruiser.

Think of the strategic advantage if the U.S. or a consortium of the free world countries starts building these satellites and you have the third world countries lining up saying "When do I get my antenna so I can run a rural electrification program?" You already have some leverage on them and when you start beaming that power down to them so that electric light bulbs light up all over these backward countries and you do what we did back in agriculture with the rural electrical system all over the third world we are doing something great for them and great for ourselves and that's what America has been about all along. And we'll say, "We'll give you that power and you make sure you don't mess around with raw materials we need to run our industry and build these things." And then you can add "Incidentally, if you get too nasty we happen to be able to turn off the switch on your TV set." So there are tremendous strategic advantages to be had.

It is my contention that all the things I've told you—that we can get those solar power satellites and we can get that defensive capability—it all means you don't have to have the MX. We can do it all with far less money and with a great popular support, much quicker—yes, we can do it all. In half the time it takes us to get out an MX we can have a space born defense.

Money—the thing is, we will get both of them free. I was in Japan two weeks ago talking to a bunch of Japanese industrial people and I laid this thing out. They were very interested because they can contribute to space born defense and a source of power for a country that has to rely 95-96 percent on imported power of course was very interesting to them. The Japanese fellow who represents Phillips Oil Co. in Japan said, "You know, first of all how much does it cost to get the first power satellite up." The fact is, that as a stand-alone effort, with no military aspects—nothing helping, it would cost sixty-five billion dollars to get the first one. The next ones would come along at two billions a clip and you could build two or three a year.

But the Japanese said, "You know, if the free world—the advanced industrialized nations in the west, said that's the way we're going and there was no doubt in the minds of OPEC that that was what we were going to do, the OPEC urge to keep the oil in the ground for 20 or 30 years would be a lot less strong and they would begin to pump oil and then the price of crude would come down and at a minimum it would almost certainly keep oil prices level." And, he says, "if oil prices are kept level Japan alone could retrieve the 65 billion it takes to get the first satellite." Now take all the rest of the advanced countries into account and—if that satellite did in fact reduce the price of crude you would in fact be getting your satellite free. And you'd be getting your military system just as sort of an add-on.

These two things are very much connected together—the solar power and the military. Nobody is going to put 65 billion in a space vehicle—a very fragile thing—with no military to protect it. If all the Soviets have to do is fire something up there and knock out the power system of the whole free world no one will invest in it. It has to be protected and the same capability that helped to neutralize the Soviet ballistic missile capability is the same kind of capability that will protect those kind of satellites and everything else. Just the same as the merchant men had to have the British navy to protect them or else British commerce wouldn't have thrived.

I've talked about money and about time and now I will talk about popular support. I'll just give you an example. During the campaign I was in the State or Oregon talking for local candidates. In Eugene the students are kind of wild and somebody scheduled me to talk to them. I thought I better not give my usual pitch, so I started in "You know what this country needs is a Space Corps! We've got to have a Space Academy and Space cadets and we've got to have space vehicles up there and do our military job up there. Well, they were just goggled eyed for 45 minutes as I spun tales of space and the kids came up to me after and wanted to know what courses they should take to get in the Space Corps! If people in Eugene can get enthusiastic about this kind of an option I think the rest of the country would come along very well.

I am very optimistic this sort of thing can happen—but I am worried about the naysayers. There's several groups of them. One group is the old left and they're not going to like this at all if it does anything good for the military. They're just a bunch of people who are more frightened of the U.S. army than they are of the whole Soviet Union.

There is a certain bunch of people who are going to be dead set against this because it would give the U.S. a military advantage and restore U.S. strategic superiority over the Soviets and anybody else who would like to take us on.

This group will be in league with another group of naysayers called the Soviets and if you watch your paper remember what Brezhnev said about the shuttle, "You Americans better not use that for military purposes . . . and by the way let's have a SALT talk and see if we can't talk you out of the thing."

Now another bunch of people I call the legalists. These great thinkers will say, "Now, General, look here now—what you're proposing, doesn't that violate the ABM Treaty we have with the Soviet Union? And doesn't it violate our UN Treaty for Peaceful Uses of Space?" And I tell them, "No, it doesn't" because I've looked at those treaties and any guardhouse lawyer I've ever had in one of my outfits could tell you how to do it and not violate the treaty. At any rate, the Soviets are violating it now by having an antisatellite capability and anyway the ABM Treaty ran out in 1977 and was just sort of extended in the hope you'd get SALT II—well, you didn't get SALT II—so I think there's lots of ways around it. If I got up in front of a Judge and my lawyer lost the argument and the Judge said "Yes, it is right, these concepts that you are talking about violate the UN Agreement on Peaceful Uses of Space and the ABM Treaty with the Soviet Union," I would say "Well, I hate to lose that argument but I'm going to do it anyway."

One other group of naysayers which may be the toughest group to get around. That's our own professional friends in the military—or more particularly the civilian bureaucracy of the Pentagon. Because bureaucrats when they get going in some direction they don't like to change. Come up with something drastically different and there are literally battalions of program managers who are managing other programs than this who are going to be upset. You can imagine how happy the Air Force is when I go around saying I've got a system which means you don't have to employ the MX. The bureaucracy may turn out to be the biggest hurdle to getting what I propose done.

I think one of the greatest helps would be if ordinary men on the street can understand the strategic impact of doing it right. I think the pressures would begin to build to make the move—but we've got to make it quick. If we can't get the next defense budget to reflect these directions I am going to be scared to death that we would never get it done and that we will hand space supremacy to the Soviets which will mean a Pax Sovietica no matter what else is done to try to prevent us falling under the heel of that bunch of terrorists and totalitarians. It will be of no avail, because it will be the Soviets who have their men of war and their power satellites up dominating the rest of us—so WE'VE got to do it. And pretty quick.

If any of you are interested in these concepts even though you may wonder if the technology is really there—I can tell you it is but you may doubt it without a lot of figures etc., but the minimum that you can do is persuade anyone who might have influence to HEAR this point of view. You don't have to tell them to buy it. Just tell them please listen to what Graham and Singlaub and those guys are saying. We are talking about a whole new era—a century of a world in which the western free nations—the capitalists and their accompanying free democratic systems will be flourishing while that miserable Soviet system withers on the vine because of its innate injustices and ineptitude. Isn't that what we want?●

ADMINISTRATION'S BUDGET SPELLS TROUBLE FOR COMMUNITY COLLEGES

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BONKER. Mr. Speaker, the community college system of this Nation provides the kind of educational programs that have proven to be a vital link between industry and employment. President Reagan, in a recent letter to Mr. Ron Mears, president of the nationwide Association of Community College Trustees, made the following statement:

> The cooperation and support of our Nation's community and technical colleges are essential to this administration's goal of increasing productivity within American industry.

Mr. Reagan then went on to applaud the colleges for providing a much-needed bridge between education and business.

It would appear, from these statements, that the President recognizes that education and job training are inseparable if the positions advertised in page after page of the help wanted ads—which he points to as proof that jobs are going begging—are to be filled by some of the 9.5 million people who are currently unemployed in this Nation.

Unfortunately, the President's apparent recognition of the linkage between education and employability did not extend to the 1982 budget proposal submitted to the Congress a short time later. The administration's budget calls for merciless slashes to education programs across the board. No programs would escape the cuts, not even community college programs that, over the years, have prepared young—and many not so young—adults to become employable, self-supporting, and self-respecting members of our society.

At this point, let me speak specifically of the situation in my own State of Washington, recognizing that the problems there are mirrored in many other States across the country. The State of Washington has been long recognized as having one of the finest community college systems in the Nation, with an exemplary record of providing a wide variety of vocational programs. These programs have increased the job and technical skills of large numbers of individuals who might otherwise have had great difficulty in finding and holding down jobs.

Mr. Speaker, the recession that grips the rest of our Nation has reached the proportions of a depression in the Pacific Northwest, due in large part to the nationwide housing slump and our area's traditional dependence upon the timber and wood products industries. More than ever, the State of Washington needs industrial development and the job training to support it.

Instead, the administration has called for a 41-percent cut in vocational training funding. With State revenues plummeting as a result of the depressed local economy, the recession nationwide and, perhaps most importantly, Federal monetary and fiscal policies, Washington State cannot be expected to pick up the tab.

The timing of the administration's assault on vocational programs could not be worse. Industrial employers are complaining about the lack of sufficient numbers of trained personnel, such as machinists and electronics workers, both of which are essential to the Nation's security as well as its economy.

Let me turn now to a brief outline of some specific figures. The State of Washington has had to reduce its community college enrollments by 35,000 students. This reduction represents a 5-year step backward, in a program that has never before been subject to any kind of backstepping.

Even more devastating is the forced reversal of the community college "open door" policy which, until recently, had enabled the schools to admit all students, financially able or otherwise. It doesn't take much imagination to figure out who are the hardest hit, does it? It is, of course, minority students who already represent by far the highest unemployed group in the Nation. Coupled with the cutbacks in State and Federal funding has been a tremendous increase in tuition fees—up by 70 percent. This increase is the largest in the Nation, and adds yet another formidable obstacle to students most in need of job training.

All of these cutbacks and policy changes will be particularly serious in the State of Washington, where the unemployment rate is already running 3 percent above the national unemployment rate. Students who need supplemental funding in order to prepare themselves for the demands of the skilled job market are being cut off from the avenues of help which they need the most. The proposed reduction in the Pell grants are a case in point. In the current academic year, these grants provide a maximum of $908 for a State of Washington community college student. Under the administration's proposals for fiscal year 1983, 6,957 students would be eliminated from this program. In terms of dollars, this is a reduction of $4,949,029.

Still another example of the devastating impact of the Federal budget proposal is the reduction in work study funds. Many, many students will be denied the opportunity to work and receive the money that would help them to support their own education and training. Again, using the State of Washington as an example, the White House is calling for a cut from $550 million—in fiscal year 1982—to $4 million for 1983. More than 3,000 students will be adversely affected.

When one focuses on the individual colleges involved, the crippling impact of these cutbacks in Federal student aid becomes frighteningly clear. One of the colleges in my district, Centralia Community College, will suffer an estimated 50-percent loss of Federal student assistance in the form of grants, work-study funding, and student loans.

At Centralia, student aid in the form of BEOG or SEOG grants will drop from $269,000 for the 1980-81 academic year to only $67,000 for the 1982-83 academic year, under the administration's proposed budget. The number of students receiving aid under these programs will be cut by more than half over the same period, from more than 400 to less than 200.

The number of students receiving college work study assistance at Centralia will be cut in half over this 2-year period, from 132 students to only 66, and the total CWS assistance level will tumble from $131,000 for 1980-81 to $74,000 for 1982-83.

Overall, the school's financial aid office estimates that of 1,100 students currently receiving some form of assistance, 500 will be eliminated or see their assistance cut by half or more, as the result of funding cuts proposed in the administration's budget.

I urge all concerned citizens to let the White House know of their opposition to these unconscionable cutbacks to these critical programs.

These inroads on the basic funding assistance for community college students cannot be tolerated. It has been the unique purpose of the community college across the Nation to provide a means of access to higher training for those who might otherwise be denied the opportunity. We all know that for many individuals, the community college offers a second chance to make good in a school program. Community colleges also provide extended schooling for individuals who might not otherwise be able to obtain it because of job and family responsibilities, low income, or particular vocational interests. Community colleges, in contrast to traditional institutions of higher learning, enroll a much greater proportion of low-income students, students beyond normal college age, and other types of nontraditional students, such as women returning to the work force after their years of child rearing. In fact, more than 37 percent of the students in the State of Washington's community colleges are 30 years or older.

It is obvious that we, in the Congress, must take every possible step to prevent the erosion of these critically needed community college services. The administration's destructive attacks, if not prevented, will only fuel inflation and human misery in this country and swell the welfare rolls with individuals who otherwise would have received the training to enable them to be productive members of our communities.●

THE INSENSITIVITY OF SOUTH SUCCOTASH

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. STARK. Mr. Speaker, the morning papers quote the President as asking, and I quote:

> Is it news that some fellow out in South Succotash someplace has just been laid off that he should be interviewed nationwide?

I hope that the President did not say anything this insensitive and unfeeling. It implies that he is only familiar with Beverly Hills, Rodeo Drive, Washington, D.C., and the shopping counters at Bloomingdale's.

I think it is national news when the National Government contributes to the unemployment of its people, anywhere, anytime.

To help the President remember the names of some of the cities suffering in this bleak spring, let me give the correct name to a few.

How about Fremont and Hayward, Calif., where the big GM plant has just closed down, throwing thousands out of work.

How about Oakland, Calif., where World Airways is laying off hundreds of workers due to the recession?

In the future, I hope the President has the sensitivity to use the real names of these towns—since the pain and the demoralization and the agony of the families affected is very, very real.●

LEST WE BE SILENT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. PEPPER. Mr. Speaker, distinguished colleagues, once again it pains me to turn our focus on a brave and noble Soviet citizen, Anatoly Scharansky, who has been imprisoned now for 5 years simply because of his desire to emmigrate to Israel, where his wife is waiting to be reunited with him.

In my opinion, it is our obligation as Members of the 97th Congress to speak out for those oppressed in the Soviet Union who cannot speak out for themselves. We must continue to send signals on their behalf to Soviet officials as a reminder that we will not stand silently by nor retreat from these vocal calls for justice. Let us hope that Anatoly will soon be allowed to rejoin his wife in Israel and return to a normal way of life.●

MEXICO'S VIEWS OF EL SALVADOR CONFLICT

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LEACH of Iowa. Mr. Speaker, earlier this week I met in New York with Mexican Foreign Minister Jorge Castaneda and at his request would like to bring to the attention of my colleagues the attitudes of the Mexican Government toward the conflict in El Salvador.

Asked whether he shared the view expressed by Secretary Haig that the Salvadoran guerrillas were subject to external command and control, Foreign Minister Castaneda said the Mexican viewed the El Salvador problem as a fundamentally internal conflict of the kind that had occurred frequently over the past century throughout Latin America. It had acquired an international dimension only because others had made it into an East-West conflict. The basic problem in El Salvador was the familiar one of inequitable distribution of wealth. This brought the peasants into conflict with a landowning class allied with the military in a dictatorial regime. Mexicans, he said, understood this situation well because El Salvador, in 1980, was essentially the same as prerevolution Mexico in 1910.

Castaneda went on to say, however, that the major difference between Mexico in 1910 and El Salvador in 1980 was the existence of the Soviet Union and Cuba. This was a complicating factor, but the future shape of Salvadoran society would depend on the type of help the Salvadoran people received from friends like the United States and Mexico. If friends took a severe attitude and cut off aid as the United States did with Nicaragua, the Salvadorans would see no option but to turn to Cuba. They would not care about communism so long as they were not isolated from countries reflecting democratic values. It was important, Castaneda cautioned, to avoid the mistake made with Cuba, where America's harsh attitude toward Castro virtually forced him into the arms of the Soviets.

Asked about his recent meeting with Secretary Haig, Castaneda said he had found the Secretary to be sincere, honest, and reasonable. Not only was there general agreement on substance, but Secretary Haig himself had suggested a mechanism for accelerated negotiations. Secretary Haig seemed in Castaneda's judgment to recognize that it is in the U.S. interest to engage in negotiations, even though the outcome could not be guaranteed.

On the other hand, Castaneda said he simply could not understand why alongside news reports of this highly positive meeting there appeared long stories about the CIA mandate for covert operations in Nicaragua, the open objective of which would be to destabilize and otherthrow a diplomatically recognized regime with which the United States is not at war. He thought Secretary Haig was sincere, but the contrast between his attitude and reports about covert action suggested that the U.S. Government was contemplating two options.

Asked about the role of American military advisers in El Salvador, Castaneda responded that no one was sure what the advisers were doing. Were they really engaged just in training, or did they have an actural command or operational role? The analogy with Vietnam, where U.S. involvement began with a few advisers, made it difficult for him to accept American military advisers in El Salvador at fact value. They should in his judgment be removed.

Castaneda went on to say that he did not consider outside military assistance to be illegal but that it was no less legal to aid one side than the other. The Government of El Salvador was in place as the result of a coup and was no more legitimate than its opposition, which was only trying to do to the current junta what it had done to its predecessor. Castaneda stressed that the Mexican position was to prefer no outside military aid from either the Soviet Union or the United States.

Queried whether he thought Soviet aid to the opposition would stop if we stopped giving military assistance to the Government, Castaneda responded negatively but went on to opine that if U.S. military assistance were cut, appropriate security arrangements could be worked out through the OAS or the U.N. The important point was that if the Salvadorans were left alone, the solution to their problems would be far less difficult.

Regarding the Mexican peace initiative, Castaneda said he expected no serious negotiations to occur before the March 28 election. There was very little time remaining, and something would have to give way before negotiations could proceed. If the extreme right lost, there was some chance that a broadened junta could remain in power. On the other hand, some said the extreme right might win. In that case, a negotiated solution would become imperative after the election. One problem for the Mexican perspective was that the U.S. Government had engaged so much prestige in the election and now what was needed was a face-saving way for the United States to turn its attention to a negotiated settlement.

Asked if there were any change that the election would produce a legitimate government, Castaneda said that the best that could be expected was that it would be held. Legitimacy could not be conferred on any government by this election.

Regarding Soviet influence, Castaneda said the Soviets were not involved directly in El Salvador but that they had certain influence in Nicaragua. Asked if this amounted to command and control over operations in El Salvador, Castaneda said he was not privy to the evidence possessed by the United States but that this sounded highly illogical to him. He said the Mexicans knew the five or six top guerrilla commanders in El Salvador. They were not Communists but highly nationalistic Salvadoran patriots. The idea that they were under the command of Nicaraguans was in his judgment nothing short of silly.

Castaneda went on to say it was clear, however, that the various problems in Central America and the Caribbean were interlinked. The problems of Nicaragua, El Salvador, and Cuba were so closely linked that none could be resolved alone. The El Salvador situation was affected by arms shipments through Nicaragua, but that problem could not be resolved in isolation. A wider context involving Cuba was necessary.

Referring to the possibility of the United States normalizing relations with Cuba, Castaneda said normalization was important to Cuba but not urgent. It need not necessarily be achieved quickly. In the context of reducing tension in the region, the United States would be well advised, he said, to aim at normalization in a 2 to 5 year timeframe.

Secretary Haig was to a certain extent correct, Castaneda said, in talking of the global aspect of the problem. However, it was not necessarily in the Soviet interest for the left to win in El Salvador. The Cuban experience has shown how expensive such a venture could be for in the Soviets, and, politically, El Salvador would be even more difficult to manage since it was not an island. The important thing was to resolve all dimensions of the Central American problem together, and President Lopez Portillo's proposal aimed at such a package solution.

Castaneda concluded by stressing that Mexico was making a serious effort to be helpful, based on its unique position of close communication with all sides. Mexico's sole objective, he said, was to get all parties together in a search for an acceptable and comprehensive solution of the problems of the area.

The United States would be making a grave mistake to pass up this opportunity to bring peace in this troubled part of the world.●

SMITH STUDENT DEFENDS STUDENT FINANCIAL AID PROGRAM

HON. WALTER E. FAUNTROY

OF WASHINGTON, D.C.

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. FAUNTROY. Mr. Speaker, yesterday I received a letter from my constituent, Gigi Nash, a student at Smith College. Ms. Nash shared with me her thoughts concerning President Reagan's proposed reductions in student financial aid. She wrote not only for herself, but raised her concern for the hundreds of thousands of deserving students across our Nation who will be denied a postsecondary education if the proposed reductions are realized.

Ms. Nash put her pen to the paper with heartfelt thoughts. Her letter is a sobering one; and I am certain when my colleagues read it they will have no doubt as to the action this body must take concerning the future direction of the student financial aid program.

I enclose the letter of Gigi Nash for inclusion in the RECORD:

DEAR CONGRESSMAN FAUNTROY: My name is Gigi Nash, and I am a freshman at Smith College in Northampton, Mass. I have lived in the District of Columbia all my life. I went through the D.C. public school system and graduated from Duke Ellington School of the Arts in 1981. My parents both attended Howard University. I, as a voting young person, care a lot about D.C., and I respect it as a unique, politically active entity in this country.

The reason I have written this letter is because I am very concerned with what your office is doing about the reductions of Federal aid to college students. This is a very crucial issue to people of my age. Especially to those of us who are on a campus like Smith. As a black student at a predominantly white institution, I am very concerned with how this measure will effect others like myself. Things don't seem to be getting better either. Most of us just can't afford this type of education without some type of aid. Our predecessors fought for a place on a campus like Smith. But now it seems as if it has only taken Congress and Mr. Reagan a slight moment to relinquish all that has been done. Are we to be denied an education equivalent to that of our rich sisters just because someone on the Hill (and in the White House) does not place higher education as one of their major concerns?

D.C. public school students have the brain power and the will power to attend institutions like Smith. We just don't have the financial power. The reason that I chose to go to a predominantly white institution was to gain the knowledge of diversity. Hopefully, this will enable me to deal with people from cultures other than my own.

Congressman Fauntroy, I feel that people in my graduating class ('81) made it through the door just before it started to close. But what about people graduating in the next few years?

One of my biggest concerns is how can we, as a race, move further if we (the young generation) are denied the things that our parents, our relatives (and yourself) fought for? It seems as if this is what the present administration is trying to do by not allowing us to educate ourselves to the fullest extent.

I hope that you and your constituents are doing all that is possible in this matter.

Thank you for taking the time to read this letter.

Respectfully yours,

GIGI A. NASH.●

VOLUNTEER ACTION HELPS REFUGEES IN EAU CLAIRE, WIS.

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. GUNDERSON. Mr. Speaker, the spirit of volunteerism is alive and well across America. Tuesday, the President was inspired by the hundreds of residents of Fort Wayne, Ind., who joined together to help their neighbors combat the ravages of flooding. He told the volunteers there that their action "makes me realize that we haven't got anything to be afraid of in this country."

In Eau Claire, Wis., we have another poignant example of citizens pitching in to help solve community problems and alleviate human suffering.

The story is told by Dona Krienke, a 49-year-old mother of three and operator of a small decorating business in Osseo, Wis. Through the Lutheran Church women's organization, she became directly involved in helping a Laotian refugee family adjust to life in western Wisconsin.

Her words convey the real meaning of volunteer action, and I am pleased to share them with my colleagues:

THANKS FOR THE REFUGEES

The phone rang last December and I was asked by our ALCW president, Harriet Hong, if I would transport a group of H'mong Laotian refugees back to their homes in Eau Claire after our meeting the next week. I said I would; but, after I hung up, I thought now why did I say yes? After all, I had the idea that the word refugee was something I was tired of hearing about. Actually, when our community had a clothing drive for them a few months earlier, I had purposely avoided having anything to do with it.

The night arrived. When I got to ALCW I didn't see anyone who looked like a refugee to me and I was relieved. But soon the group arrived. I am not sure, but I believe that there were 17 people. I will never forget the feeling that came over me right then. I looked at the eyes of those beautiful children dressed in clothes several sizes too big for them, the proud smiles of their parents and the tired look of the older women. My heart went out to them like you wouldn't believe.

The H'mong are a mountain people who lived in Laos. An article in the October 1980 Reader's Digest tells us about the plight of these people whose only crime was to be friends of America. During the Vietnam War they was to be friends of America. During the Vietnam War they were a secret guerrilla army who aided out country. The army effectively prevented shipments down the Ho Chi Minh Trail into South Vietnam for 13 years, but 12,000 of the H'mong people were sacrificed. It has been said that for every H'mong that died, an American lived. Now the Communists are driving them out of their country, gassing, killing and torturing them. In the past 20 years the H'mong tribe members have dwindled from 500,000 to 70,000 in their homeland.

Those H'mong who have been able to escape and resettle in the United States have often been placed in our larger cities like Chicago, Los Angeles, Denver, etc. only to find themselves in a new kind of terror. Many have lived in neighborhoods where they did not dare to leave their homes even in the daytime. For these reasons they have left those cities and found smaller cities like Eau Claire, Wis. where they feel more secure.

The H'mong are such family oriented people. Their need to be together and to interact with each other is also easier met in a smaller city. All in all, they are very happy to be living in Eau Claire. At last count the report was that there are about 600 to 700 H'mong living in the Eau Claire area. While some of them have sponsors, many of them do not and it is for these families that we have an opportunity to do so much.

Since that night back in December, I have shared so many experiences with these people and have grown to love them so. Now all that I can say is thank you, God. Thank you, that through Harriet's invitation to serve I met You Xiong, the H'mong nurse who works in the Eau Claire City-County Health Department and her husband Sy Maua, the H'mong Christian pastor for the refugees in Eau Claire. They have been my main contact persons and have led me to meet more and more of their people.

Thank you for Yer Vang, the Indochinese refugee Coordinator for Wisconsin and Upper Michigan who is with Lutheran Social Services. He gave me information and has assisted me many times in helping his people.

Thank you for Tong and Doua and their children who our church sponsors and for their teacher Ginny who led us to them. Thank you that I met 9 year old Blia who has been such a joy to work with.

Thank you that a large company in Minneapolis sold me draperies at a ridiculously low price so that we could cover some cold windows in old houses. Thank you for 12 year old Bao who was able to help me instruct Tong to hang curtains rods. And thank you for the ladies who have sewn quilts to keep them warm in the winter.

Thank you for Bob and Sue, the young couple who gave me a washer and dryer for Tong and Doua. Thank you that we could meet 14 year old Teng, Doua's half-brother, who helped us move the washer and dryer. He was such a clever young boy and so happy and excited that day. We were so saddened to hear that he was hit by a car the very next day while riding his bicycle, but thankful that we could be with his family at the prayer service before he was buried. It nearly broke my heart to hear his brother who has lived in the U.S. since 1972 stand up and thank the American people who have been so good to his people and express how good it is to be free. He said, it was a sad day when they lost their country but Tengs death was even sadder. Thank you that Teng had been brought to you through the church and Jesus Christ.

Thank you for the way that people have responded so generously with clothing, furniture and bedding making it possible for us to deliver many loads of things to them.

Thank you for the success of their booth at the Arts and Craft Fair where they were able to show off and sell some of their very fine handwork. Thank you for Lois, the young lady who came over to the booth that day and offered to tutor a family in English.

Thank you that when we went shopping for blankets with money donated by the United Church of Christ that the store announced a special $2.00 off on blankets as we walked in the door. Great!

Thank you that when we took some of the H'mong ladies with us to a retreat that without our knowing it the Bible study was planned to touch on refugees and their needs. You just seem to work things out Lord.

Thank you that my family has been so patient with the time spent and that they have become a part of it also. Thank you that my little grand-children use the word refugee in their everyday language and know first hand what it means. I could go on and on God, but you know even better then I how I have been blessed by the opportunity to serve these people.

I share this prayer and my thoughts with the hope that more people will get personally involved and experience the great sense of satisfaction which I have felt.●

MORE DAY CARE NEEDED

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BINGHAM. Mr. Speaker, I want to bring to the attention of my colleagues an article by Judy Mann which appeared in the March 12, 1982, Washington Post concerning the problems caused by the lack of sufficient day care in this country. As the author points out:

For all the talk about workfare and getting America back to work, precious little has been said about child care as a necessity to working parents. Government, in fact, is taking the lead in social irresponsibility by driving mothers off welfare while reducing child-care assistance. This is the kind of policy that leads to neglected children. The tax break Congress passed last summer is a way for the private sector to address the child-care crisis it has so long ignored. It is a break that unions and employes need to become aware of and incorporate in flexible benefit programs. It is just as tax-deductible to employers as business lunches and "business" country club memberships, and it is ever so much more worthwhile.

The complete text of Judy Mann's article follows:

[From the Washington Post, Mar. 12, 1982]

WHO CARES?

(By Judy Mann)

Less than 1 percent of 329 firms surveyed by the Administrative Management Society support any kind of child-care assistance for their employees. At the same time, nearly half of all mothers with preschool children are working, and survey after survey shows that child care continues to be one of working mothers' greatest concerns. It is a concern that is only going to get worse as federal dollars for child care diminish, unless the private sector starts getting involved.

Until now, advocates of industry-assisted child care have had limited ammunition in the struggle to get employers to recognize the importance of the service. The arguments have had little effect on corporations run by older men whose wives did not work or who harbor the notion that mothers shoulds not work. The number of working mothers has increased tenfold since before World War II. Yet despite lip service about the importance of the American family, both the private sector and the public sector have failed it on child care.

Child care is the responsibility of individual employes not the employers, goes an argument advanced against corporate involvement. It is an argument of convenience, not of merit. Those same corporations that are doing virtually nothing to help their employes manage child care are only too happy to provide assistance in other areas.

The same AMS survey found that 48 percent of the firms support alcohol-abuse counseling services; 52.6 percent support company athletic teams. Some 42 percent said they offer some form of emotional counseling. More than 17 percent said they sponsor some kind of physical fitness programs and 17 percent say they pay for employes' membership in recreational clubs. Are country club memberships more important than child care? Or are they simply more relevant to people making decisions about corporate priorities?

"Day care is clearly a social service," says Faye E. Coleman, senior manager at Creative Associates, Inc., a Washington consulting firm that is trying to help corporations figure out different ways to assist employes with child care. "It's labor-intensive, it's extremely expensive, it's antithetical to what corporations are all about. You've got to answer the question, 'What's in it for us?' The standard answer is you can increase productivity, you can lower the absentee rate, you can reduce the impact of the 3 o'clock syndrome, particularly in assembly-line plants, where women start worrying about the kids coming home from school and start running to the phone. Productivity takes a dive."

Dana Friedman, a consultant to the Carnegie Corp. of New York, found in a recent survey that the recession has forced a number of companies to shelve on-site center plans. "The companies that are leaders in their community—General Mills, Levi-Strauss, Procter & Gamble—are trying to do it," she says. So are banks and hospitals, which are running into shortages of secretaries and nurses, and data processing and semiconductor firms.

"They have young managers who invariably have spouses in the work force and probably preschoolers, so the issue touches them personally. The younger managers are products of the Sixties and they have a much more humanitarian approach to management. They've already adopted the Japanese people-oriented management style and are dealing with family concerns."

Jan Yocum, executive director of the Day Care Council of America, points out that most day-care providers are lower-income mothers. By subsidizing day care, employers are providing jobs and increasing the community's tax base, as well as improving productivity of their own employes.

On-site day-care centers are tax-deductible expenses for corporations. The Economic Recovery Act of last summer included another method for corporations to assist their employes in financing day care. As of Jan. 1, employers may pay employes' child-care expenses and that will not be counted as part of the employes' taxable income.

For all the talk about workfare and getting America back to work, precious little has been said about child care as a necessity to working parents. Government, in fact, is taking the lead in social irresponsibility by driving mothers off welfare while reducing child-care assistance. This is the kind of policy that leads to neglected children. The tax break Congress passed last summer is a way for the private sector to address the child-care crisis it has so long ignored. It is a break that unions and employes need to become aware of and incorporate in flexible benefit programs. It is just as tax-deductible to employers as business lunches and "business" country club memberships, and it is ever so much more worthwhile.●

HUMAN RIGHTS

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BONKER. Mr. Speaker, last November the Blade of Toledo, Ohio, published a curious editorial about human rights. They then proceeded to send it to most Members of Congress.

That paper is in the district of our distinguished colleague TONY HALL who served for 2 years as the ranking member of the Foreign Affairs Subcommittee on Human Rights and International Organizations. Congressman HALL's thoughtful response was published on February 14, 1982. In that response he writes:

It is important to keep in mind that the stability of any repressive regime is illusory. As former Secretary of State Edmund S. Muskie said, "The heavy silence of repression is not stability; it is too often the ominous calm before the storm." The lesson is that we cannot afford to sacrifice our essential enduring relationships with the people of a nation for short-term security objectives.

The contention that U.S. concern over the internal affairs of other nations conflicts with our national security interests and other foreign goals is groundless. Though a superficial analysis may show a dichotomy, international human rights considerations cannot be separated from our ultimate goals.

I would like to commend to the attention of my distinguished colleagues TONY HALL's entire letter:

[From the Toledo (Ohio) Blade, Feb. 14, 1982]

HUMAN RIGHTS POLICY VITAL TO U.S. INTERESTS

To the Editor of the Blade:

The strongest defense of an active human rights policy for the United States is that it is in our long-term interest. The editorial in The Blade ("Human Rights Hypocrisy," Nov. 14) fails to dispute that argument. Rather, it attacks our human rights policy by mistakenly equating government-sanctioned violence in other nations with the immorality of individual American criminals.

The concept of a Human rights policy recognizes that international diplomacy is more than declarations and quiet discussions between heads of state. It is a long-term policy based on the idea that citizens of other nations know who is actively working for the protection of their welfare and civil liberties and that the memory will linger after their current leaders fade from the scene. All too often U.S. policy will lean toward the immediate needs of foreign leaders whose goals may be out of touch with or even contrary to the pressing concerns of their citizens.

The United States providing arms or economic assistance to an authoritarian regime cannot be confused with assisting the people under that regime. Therefore, there is no reason to believe that we can make friends with a nation by pacifying its leaders. On the contrary, helping dictatorships that do not enjoy popular support can have the opposite effect. While the press may portray beaming international leaders shaking hands over new agreements, the very people we are trying to befriend may be seething with hostility.

For example, the president of South Korea, Chun Doo Hwan, may be grateful to the United States for supplying him with arms and other military assistance. However, after his regime used American weapons and troops under U.S. command to quell a violent demonstration in Kwang Ju, anti-American feelings began to surface openly in Korea. An enlightened human rights policy toward Korea would require that we emphasize our ongoing relations with the people of Korea rather than seek the temporary benefits from a relationship with its current leader.

The potential disaster brewing in South Korea if we ignore human rights is only too obvious from recent lessons of history. Our uncritical support of the authoritarian regime of Iranian Shah Mohammed Reza Pahlavi alienated us from the Iranian people with devastating results when the shah was overthrown. Likewise, our close ties with Nicaragua's despised President Anastasio Somoza has crippled our ability to deal with the Sandinista Government which took over following President Somoza's resignation.

Though the dissidents in other countries may be only a small minority, we cannot overlook their ultimate potential. It is important to keep in mind that the stability of any repressive regime is illusory. As former Secretary of State Edmond S. Muskie said, "The heavy silence of repression is not stability; it is too often the ominous calm before the storm." The lesson is that we cannot afford to sacrifice our essential enduring relationships with the people of a nation for short-term security objectives.

The contention that U.S. concern over the internal affairs of other nations conflicts with our national security interests and other foreign goals is groundless. Though a superficial analysis may show a dichotomy, international human rights considerations cannot be separated from our ultimate goals.

We have no need to feel hypocritical in the pursuit of a strong human rights policy. The U.S. people have always held the very highest regard for human life and individual liberty. This is reflected in the safeguards of our criminal justice system and guarantees of free expression that are rooted in the founding documents of our country.

Moreover, our steady vigilance against human rights abuses has increased global sensitivity to the issue, aided in the release of political prisoners and the emigration of dissidents, eased repression, and even saved lives. Equally important yet harder to measure, the heightened U.S. attention to human rights has given renewed hope and encouragement to oppressed peoples the world over.

With so much at stake, the Blade's concern with the U.S. hypocrisy is misplaced. Our Government is not perfect, but it does not condone or orchestrate the systematic violation of the basic civil and human rights of its citizens. Contrary to the impression left by the editorial, we continue to have both the right and the duty to lead the global struggle for the international protection of human rights.

U.S. Representative TONY HALL,
Third District, Ohio,
Washington, D.C.

[From the Toledo (Ohio) Blade, Nov. 14, 1981]

HUMAN-RIGHTS HYPOCRISY

There is something crassly hypocritical about Americans standing on a soap box and preaching to other peoples of the world about human rights. One of the disasters that beset U.S. foreign policy in recent years was the sanctimonious human-rights activism initiated by former President Jimmy Carter.

It is unfortunate, therefore, that President Reagan has been pressured by congressional do-gooders to back away from his basic policy of putting human rights elsewhere in the world in reasonable perspective.

Congressional pressure has been evident ever since the Senate rejected the nomination of Ernest Lefever for the post of assistant secretary of state for human rights. He was the President's first choice for that job, but the nominee was perceived as only superficially committed to the concept of human rights.

The fundamental issue is not the official condoning of human-rights violations in other nations, whether Communist or non-Communist dictatorships or police states. The fact that in some parts of the world torture, imprisonment without cause, summary executions, and other forms of mistreatment and killing go on is naturally abhorrent to all decent people. But what is so apparent to the rest of the world—and so difficult for us to comprehend—is that Amerians have a long way to go before they can dictate moral behavior to the rest of mankind.

How effective a voice can Washington have in this matter when it speaks from a land where the citizenry owns more guns than any other people in the world, where the annual murder rate far surpasses that of any other nation, where the toll from crime in our city streets continues to shock, and where immorality in places both high and low flourishes with an abandon unmatched in most parts of the globe? We are a nation of lawbreakers and can hardly pretend to be a model practitioner of human rights.

President Reagan was on the right track when, upon entering the Oval Office, he toned down human rights as a central issue in the conduct of foreign policy. He recognized, correctly, that Americans have no divine right to set the moral, ethical, or spiritual standards for peoples everywhere, and that the United States could be more successful in influencing other leaders in the treatment of their own citizens through quiet persuasion than by pious or flashy rhetoric.

Mr. Reagan's new appointee to fill the human-rights post in the State Department is Elliott Abrams, now serving as the department's liaison with the U.S. delegation at the United Nations. He is regarded as a conservative Democrat turned Reagan Republican who subscribes to a more balanced application of a human-rights policy. That was spelled out by President Reagan in a statement that accompanied the Abrams' nomination: "The promotion of liberty has always been a central element of our nation's foreign policy. . . . We will encourage those who seek freedom, not the least by telling the simple truth about their efforts and the efforts of those who seek to oppress them."

No doubt some congressional critics of the Reagan approach to human rights will still not be molified. But that should not deter the President from conducting foreign policy on the basis of what is best for this country in terms of security and our geopolitical interests. If that means subordinating a human-rights policy in a particular situation, then so be it.●

GRAIN EXPORT INFORMATION

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. FINDLEY. Mr. Speaker, the economic damage caused by the Soviet grain embargo of 1980 can hardly be ignored. In recent days, I have placed before the Members information compiled by the National Corn Growers Association.

Today, I am offering for my colleagues' consideration chapter 2 of the NCGA report. I hope Members will find it useful in evaluating future trade policy options.

Chapter 2 of the report follows:

2. MOVING U.S. CORN, WHEAT AND SOYBEANS INTO EXPORT MARKETS

In this section, we will describe the industry sectors and government indicators that are most closely related to grain exports. Estimates of industry, government and general economic impacts are provided mainly in Section 3.

The amounts and percentages of U.S. corn, wheat and soybeans going into domestic and export markets for the two most recent years (1979-80 and 1980-81 marketing seasons) are shown below. Note that from 33 to 64 percent of production has been exported in recent years. Removing or substantially reducing such a large volume of exports to a major (sometime the largest) customer is a critical matter with far reaching effects.

U.S. SUPPLY-DEMAND BALANCES FOR CORN, WHEAT, AND SOYBEANS, AVERAGE 1979-80 AND 1980-81 MARKETING YEARS

	Corn	Wheat	Soybeans[1]
Million metric tons:			
Production	185.3	61.3	55.2
Domestic uses	127.9	21.3	21.1
Exports	60.8	39.3	29.3
Million bushels:			
Production	7,294	2,254	2,030
Domestic uses	5,036	781	777
Exports	2,394	1,442	1,076
Percent of production exported	32.8	64	53

[1] Includes products on a soybean equivalent basis.

The principal economic sectors involved in moving agricultural exports on to their final destination are:

(A) Inland Trasportation: Corn and soybeans move from production into export mainly from the Midwest, although some export corn originates in the Southeast and the Great Plains. Wheat moves to ports largely from the Southern and Northern Plains, the Midwest and Southeast, and the Northwest.

Roughly 55 percent of the grain and soybeans bound for export in 1980-81 moved to port by rail at a cost of about $.28/bu. from average locations to ports.

About 45 percent moved by barge at an average cost of $.20/bu., although a small amount moves by truck.

(B) Ocean Shipping: Less than 5 percent of U.S. grain and soybean exports are shipped on U.S. flag vessels. Therefore, the estimate of lost ocean shipping receipts resulting from the 1980 trade suspension is for the world shipping industry rather than for the U.S. Average ocean freight rates in 1980 were about $20/ton for bulk grain shipments from U.S. Gulf ports to the USSR.

(C) Fertilizer, Farm Machinery, Farm Supplies: Effects of reduced exports on these sectors would be caused by:

Accumulation of large carryovers, leading to government programs to reduce acreage planted or intensification of such programs already in effect to reduce plantings by more than had been intended before exports declined.

Reduced market prices, leading to lower net farm income an diminished farmer purchasing power.

(D) Labor: Reduced labor use in the transport, port loading industries and agricultural supply industries would provide the principal loss in this area from lower exports.

(E) Balance of Payments: Total U.S. farm exports were valued at $40.5 billion in 1980 and $43.8 billion in 1981, on a fiscal year basis.

Agricultural exports adjusted for agricultural imports are credited with contributing a net improvement in the U.S. balance of payments of about $25 billion as an average for 1980 and 1981, despite the reduced volume and the reduced value per unit of agricultural exports.

The year 1980, however, may have marked a turning point in U.S. agricultural trade results. For example, U.S. exports to the USSR grew rapidly and fairly steadily during the 1970's, but fell sharply in 1980. Meanwhile, trade with Eastern Europe which was not affected by the embargo, continued to increase in 1980 and especially in 1981, when exports to the USSR also recovered to about the 1976 level.

VALUE OF ALL U.S. EXPORTS TO U.S.S.R. AND EASTERN EUROPE

[Dollars in millions]

Calendar year	Total exports to U.S.S.R.	Agricultural exports to U.S.S.R.	Total exports to Eastern Europe	Percent agricultural exports to U.S.S.R.
1971	$161	$45	$220	28
1975	1,833	1,170	1,279	64
1976	2,306	1,605	1,543	70
1977	1,621	1,053	1,121	65
1978	2,249	1,765	1,454	78
1979	3,604	3,000	2,115	83
1980	1,510	1,208	2,421	80
1981	2,431	1,665	4,338	68

Source: Department of Commerce.

It is within the above framework of expanding trade with the USSR and Eastern Europe in the 1970's that losses in grain and other agricultural exports to those countries in 1980 and subsequent years, and arising from U.S. trade policy must be framed.

Another source of lost export earnings apart from the 18.3 mmt gross loss of shipments to the USSR or the net reduction in U.S. exports to the whole world, is the reduced value per unit of corn, wheat, or soybeans exported to other countries. In the next section we provide estimates of average price reductions per bushel or ton, resulting from the suspension or embargo action. These reductions affected the unit value of all agricultural exports subsequent to the embargo, not only in 1980, but as we shall show, in 1981 and 1982 as well.

(F) Federal Expenditures: Increased costs to the U.S government can never be fully accounted for since many thousands of man-hours, and much travel and communication were involved, taking time from other necessary government functions. The major tangible sources of increased costs arising from the suspension were:

Losses incurred in assuming most of the export contracts for grains, oilseeds, and other products that were cancelled by the suspension action. USDA estimates this direct cost at about $465 million in the 1980 and 1981 fiscal years.

Costs incurred in acquiring, owning, and storing grain through increased loan and reserve entries, and direct purchases from farmers. As a result of the reduced prices and larger stocks associated with the embargo, the Commodity Credit Corporation of USDA (CCC) purchased about 150 mil. bu. of wheat and 155 mil. bu. of corn directly. We estimate also that about 200 mil. bu. additional wheat and corn went into the USDA grain reserve as a result of the embargo. Treating these outlays as costs is controversial since CCC will recover all or a large part of them. However, additional government outlays were made and must be counted.

Costs incurred in storing and owning the above additional commodities acquired by the CCC in the present case, for an estimated 3-4 years in view of the overall grain situation. Virtually all the grain purchased is still owned in 1982, and there is little prospect that it can be disposed of until 1983 or 1984.

Costs incurred in meeting target price payment obligations in 1980 or 1981 which were attributable to lower market prices, resulting from the embargo. No target price payments were made on the 1980 corn crop since a poor U.S. corn harvest kept all grain prices above target price guarantee levels. None were made in 1981, when U.S. policymakers unaccountably set the target and loan prices at the same level. However, target price payments of 15 cents per bushel on approximately 2.5 bil. bu. of wheat in 1981 must be attributed to the embargo in full or substantial part. Also, we estimate that average prices received by farmers in 1980 for corn averaged at least 15-20 cents/bu. lower than would have been the case without the embargo. Our figures show that average farm prices for corn until August 1981 were about 30-40 cents/bu. lower than if the U.S. had exported the larger quantities expected to be shipped in 1980. Without a suspension of trade with the USSR, we would not have had as large a carryover of corn at the beginning of the 1980-81 marketing year (1.6 mil. bu.), overall supplies would have been far tighter with the small crop, and prices would have been substantially higher to the present time or at least until the late summer of 1981. Wheat prices were reduced by an average of 25 cents per bushel over the two years.●

SAFETY AND HEALTH OF QUARRYMEN CONTINUES UNDER MSHA-OSHA TRANSFER

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. ROUSSELOT. Mr. Speaker, last week, on Wednesday, March 10, I inserted into the CONGRESSIONAL RECORD remarks on the impact of the MSHA-OSHA transfer amendment on the sand and gravel industry. Today I would like to discuss this measure as it relates to the stone quarry operators throughout the United States.

Employees of the quarry limestone industry, granite industry, traprock industry, and other construction stone industries are stone quarrymen. These individuals have resoundingly conveyed their appreciation to Washington for the MSHA-OSHA transfer provision of House Joint Resolution 357, the continuing resolution. Yet, this provision will terminate with the expiration date of March 31 under the current public law providing for continuing appropriations for fiscal year 1982. It is, therefore, imperative that the new continuing appropriations measure which is to be debated next week contain the Rousselot amendment in order to provide for the MSHA-OSHA transfer.

For more than 3 years now, in both the 96th and the 97th Congresses, this industry has sought permanent relief from the coal-oriented Federal Mine Safety and Health Act of 1977. Yet, after 3 years of hearings, debates, and documentation of the inequities of the 1977 act, the House Subcommittee on Health and Safety still refuses to report any legislative proposal to amend the 1977 act. This inaction by one subcommittee has led Congress to limit MSHA authority through appropriations restraints.

Since December 15, 1981, and with the enactment of House Joint Resolution 357, regulatory relief has been obtained for small quarries and other affected companies. However, even with the regulatory relief, the safety and health programs of quarry operators have continued, safety and health of the quarrymen have not been compromised, and OSHA has not detected any increase in accidents as had been gloomily predicted by those who opposed the transfer from MSHA to OSHA. It is important to stress that under no circumstances has an operator been relieved of his responsibility for the occupational safety and health of his employees. Both MSHA and OSHA hold the employer liable for civil, and in extreme cases criminal penalties for failure to properly safeguard his workers.

Yet, despite these facts, the Congress has been deluged with misleading and sometimes completely false information concerning the effects of the MSHA-OSHA transfer. Since the continuation of the MSHA-OSHA provision will be part of the new continuing resolution to be voted on later this month by my colleagues, I would like to address the distortions which have been presented to date. A factsheet which addresses specific inaccurate statements and claims follows. I recommend that my colleagues study these facts, keep in mind the regulatory relief brought to the quarrymen by the MSHA-OSHA transfer—while maintaining the health and safety of the workers—and vote for passage of a continuing resolution that retains the transfer provision—Rousselot amendment—of House Joint Resolution 357.

The factsheet follows:

FACTSHEET ON SAFETY—STONE, SAND AND GRAVEL

STONE, SAND AND GRAVEL HAVE EXCELLENT SAFETY RECORDS

The Bureau of Labor statistics (BLS), in a news report released November 18, 1981, listed stone, sand and gravel as much safer than other U.S. Industry groups. The BLS report showed the stone, sand and gravel industry group (nonmetallic minerals, except fuels—Standard Industrial Code 14) to have occupational injury incidence rates one-third lower than the all U.S. Industry rate for 1979 and 1980.

Almost 50 other divisions of the private sector were also reported in the BLS release. Few of those reported showed incidence rates lower than stone, sand and gravel.

Here are some selected incidence rates per 200,000 reported man-hours from the official BLS report:

	1979	1980
U.S. industry average	9.2	8.5
Nonmetallic minerals (sand, gravel and stone)	6.3	5.3
Manufacturing	12.8	11.8
Retail food stores	11.7	10.5
Retail building materials and garden supplies	9.4	8.4
Eating and drinking places	7.4	6.8

THE 1977 MINE SAFETY AND HEALTH ACT WAS DESIGNED TO REGULATE COAL MINES

In reaction to tragic coal mine disasters, Congress in 1977 hastily amended the 1969 Coal Mine Safety and Health Act to cover all other mining operations and repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966. In many cases, the amendments simply took the words "coal mine" and changed them to coal or other mine".

All types of mines became subject to the provisions of the 1977 Act. While the Act does continue separate safety and health standards, in other provisions, it applies across the board to all commodities. Some examples of this are: citations and orders; procedures for enforcement; temporary relief; reporting procedures; civil and criminal liabilities; and mandatory training requirements.

From these legislated provisions, a long list of regulations have been promulgated by MSHA which are equally applied to all types of mining activity. The list includes: 30 CFR Part 40 Representative of Miners; 30 CFR Part 41 Notification of Legal Identity; 30 CFR Part 43 Procedures for Processing Hazardous Conditions Complaints; 30 CFR Part 44 Rules of Practice for Petitions for Modifications of Mandatory Safety Standards; 30 CFR Part 48 Training and Retraining of Miners; 30 CFR Part 50 Notifications, Investigations, Reports of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines; 29 CFR Part 2700 Federal Mine Safety and Health Review Commission—Rules of Procedure; April 24, 1978—Interpretative Bulletin; 30 CFR Part 100—Civil Penalties for Violations of the Federal Mine Safety and Health Act of 1977; 30 CFR Parts 85 and 85a—National Institute for Occupational Safety and Health—Implementation of Federal Mine Safety and Health Act of 1977; MSHA—OSHA Interagency Agreement, March 29, 1979; 30 CFR Part 11—Respiratory Protection Devices; 30 CFR Parts 15, 16, and 17—Explosives and Related Articles; 30 CFR Parts 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, and 29—Various Electrical Standards; 30 CFR Part 45—Independent Contractor; January 3, 1979—Official Interpretations; January 31, 1979—Official Interpretations; and May 22, 1979—Official Interpretations.

OSHA HAS LEGAL JURISDICTION OVER SURFACE STONE, SAND, GRAVEL, CLAY AND COLLOIDAL PHOSPHATE

OSHA has officially acknowledged its responsibility, authority and jurisdiction. In a joint MSHA and OSHA News Release on December 16, 1981, the shift in authority was announced. Subsequently, in memoranda of December 17, 1981 and January 28, 1982, OSHA detailed the commodity groups for which it has assumed enforcement authority under H.J. Res. 357.

Documental legal precedent exists in a letter to Congress dated September 12, 1980 prepared by the American Law Division, Congressional Research Service of the Library of Congress.

SAFETY AND HEALTH PROTECTION OF WORKERS

Stone, sand and gravel workers are fully and effectively protected under OSHA jurisdiction. The Occupational Safety and Health Act assigned the employer the undeniable responsibility for providing a workplace reasonably free from hazard. It reinforces this assignment with a system of civil or criminal penalties. It contains additional safeguards in that workers are granted the legal right to file complaints directly with federal or state OSHA authorities without fear of reprisal from their employer. Special inspections and investigations may be initiated by OSHA in certain circumstances.

Critics of the MSHA to OSHA transfer have raised the false specter of "uncovered workers" citing the Schweiker amendment (now the Byron amendment) to recent DOL appropriations measures. That amendment which is still in effect today and incorporated in the Continuing Resolution exempts certain employers from routine safety inspections if they meet two conditions. These two conditions are: 1) The employer has 10 or fewer employees, and 2) the Bureau of Labor Statistics certifies that the Standard Industrial Classification category applicable to that employer which has an occupational injury and illness rate less than 7 per 100 employees. The stone, sand and gravel rate is less than 7.●

C-SPAN: A UNIQUE APPROACH TO TELEVISION BROADCASTING

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, survey findings repeatedly show that most Americans receive the majority of their news and information from television. The quality of content of the news and information, however, is shaped by the format commonly used by television networks. Network journalists, anchormen, television critics, and the viewing public all acknowledge that this standard format is simply not capable of doing more than summarizing the national news in the half hour available each evening. The consequence is that many important issues cannot be explored or discussed to the depth that we would all like.

Fortunately, the technology and economics of cable television have made possible an alternative to truncated network news. The Cable Satellite Public Affairs Network (C-SPAN) is one such alternative that I am familiar with, as are many of my colleagues. C-SPAN provides millions of Americans a wide range of public affairs programing 16 hours a day, 7 days a week. Viewers can watch daily "live" debate of the House, as well as other congressional proceedings. Because C-SPAN is not constrained by the severe time limits imposed by networks to satisfy their advertising needs, it can televise the entire proceedings of public meetings and events. And it does.

All of our House sessions, for example, are televised by C-SPAN gavel to gavel. Whenever C-SPAN covers a congressional hearing, it is there from the chairman's opening remarks to the testimony of the last witness. When C-SPAN covers a formal speech by a policymaker, it also covers the question-and-answer period that often follows. Such complete coverage avoids the problems of statements taken out of context. And from the viewer's perspective, such coverage assures him that he will not be the victim of excessive editing or intrusive commentary.

The promise of cable television is that it provides the necessary foundation for a truly informed electorate. It provides a valuable and much needed alternative to the news reports broadcast by many other commercial networks. C-SPAN is one of many cable broadcasters fulfilling the cable industry's potential as a medium of choice by offering programs that are not available anywhere else.

Tomorrow, March 19, C-SPAN will be celebrating its third anniversary operating from the Nation's Capital. I invite my colleagues to join with me in offering congratulations to C-SPAN and to renew cable's challenge to the networks to air the most complete and thorough news broadcasts possible.●

SAUDI AMERICA?

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. WOLPE. Mr. Speaker, in the months that have passed since the Senate narrowly approved the sale of sophisticated AWACS aircraft to Saudi Arabia, there has been much speculation about the impact of lobbying by outside interests on the vote. In that regard, I would like to commend the following article from the Detroit Free Press to the attention of my colleagues. I believe the article, based on an investigation by a Washington foreign policy analyst and freelance journalist, sheds light on an aspect of the AWACS, controversy which has not been widely acknowledged—the self-serving activities of American corporate interests designed to pressure the Senate into approving the sale.

The article provides an unusual glimpse into the way that certain American businesses with direct or indirect interests in Saudi Arabia are able to influence vital foreign policy decisions. The implications of these revelations are indeed troubling.

The article follows:

SAUDI AMERICA? HOW U.S. BUSINESS WAS MANIPULATED AND THE AWACS DEAL WENT THROUGH

(By Steven Emerson)

The sale of AWACS reconnaissance planes to Saudi Arabia was saved from defeat in the Senate by a massive corporate lobbying campaign orchestrated by Saudi Arabia and its American agents and carried out by American business.

A three-month investigation found that the Saudi campaign resulted in one of the most successful manipulations of American business and American foreign policy ever attempted by a foreign power.

Saudi Arabia demanded and received the aggressive support of the most powerful American corporations. Scores of other business interests joined the campaign to protect existing petro-dollar contracts or to obtain new ones.

Others were indirectly induced to join by pressure from their own domestic suppliers, purchasers or business partners.

And many others with no commercial stake in the sale jumped into the lobbying fray because they were prevailed upon to believe that not upsetting the Saudis was vital to the U.S. economy.

The effort to obtain Senate approval of the sale produced the most extensive involvement by American business in any major foreign policy decision since World War II.

Not only energy and munitions companies, but farmers, toy manufacturers, airlines, trade associations, health care management firms, rice growers, banks, construction firms, and other commercial interests from nearly every state pressed hard for the sale.

Evidence also has been uncovered that points to possible violations of the Foreign Agents Registration Act by major American corporations and their officers.

PLANNING THE CAMPAIGN

The strategy to secure the sale of the Airborne Warning And Control System (AWACS) planes was devised in an elegant suite in Washington's Fairfax Hotel, where, beginning last September, a group of five men met every morning.

The group consisted of three registered agents for Saudi Arabia—Frederick Dutton, Stephen N. Connor, and J. Crawford Cook—and two Saudis—Prince Bandar bin Sultan, son of the Saudi defense minister, and Abdullah Dabbagh, a former commercial attache.

Senators considered politically vulnerable were targeted. Corporations were broken down state by state and matched up with individual senators. The White House and Senate majority leader Howard Baker provided the latest Senate head counts.

Lists of American firms doing business in Saudi Arabia were collected, and information on the progress of the lobbying was exchanged with the Business Roundtable, United Technologies Corp. and the Boeing Co.

Bandar took the initiative on Capitol Hill, setting up meetings and arranging briefings with senators. He was even provided an office off the Senate floor.

Hundreds of chief executive officers, corporate presidents and vice-presidents were strongly urged to write or call their senators.

In the six weeks preceding the Senate vote, scores of Washington representatives of American corporations were invited to attend "receptions" where the importance of the sale to Saudi Arabia was communicated.

Many American corporations were led to believe that much of America's trade with the Saudis—including their own—would disappear if the sale did not go through. Some were left with the impression that their lobbying efforts would be monitored. In other cases, the promises of contracts were dangled in front of corporations, one corporate official said, "like raw meat before a hungry dog."

But by early October—even though the sale had passed the House, 301-111—the AWACS deal still seemed unlikely to pass in the Senate, despite the intense lobbying. So Saudi Arabian officials made a formal decision to increase the pressure beyond the strong requests and implicit threats.

Sources close to the Saudis revealed that Saudi Arabia held up final contract negotiations with American firms. Contracts awaiting final signatures were frozen and discussions on new contracts postponed.

An examination of American, Middle Eastern and Saudi trade publications confirms that—with one exception—no American contracts in Saudi Arabia were awarded or renewed from Oct. 5 to Oct. 28, 1981.

The exception was the Whittaker Corp.

Last August, Whittaker's president, Joseph Alibrandi, published an article headlined "If I Were a Saudi Arabian" in Newsweek magazine's "My Turn" column. He extolled the pro-Western policies of Saudi Arabia—"the primary peacemaker and defender of American interests in the Middle East," he called—and attacked the West's ungrateful response.

Newsweek identified Alibrandi as a "corporation president (who) has done business in Saudi Arabia for nearby 20 years." During half that time, he was a Raytheon executive, and he had helped install ground-to-air Hawk missiles for the Saudis.

When he took over at Whittaker in 1970, it was a diversified manufacturing company with no experience in hospital management. But Alibrandi's contacts helped the company enter the health care field in a significant way.

In 1974 the Whittaker Corp. was awarded a $100 million contract to manage and operate three Saudi hospitals. The contract eventually grew to $500 million.

After the Newsweek article appeared, Alibrandi mailed a copy to every member of the Senate.

On Oct. 26, 1981, two days before the Senate vote, Whittaker announced that Saudi Arabia had awarded it a contract to expand the health care program to include five hospitals. The new fee was $834 million, a 67 percent increase and a sum equal to more than half the company's total revenue for 1981.

CORPORATE COORDINATION

As the lobbying effort gathered steam, there was greater coordination among the corporations. Representatives of 40 companies, primarily in defense, aerospace, and petroleum related areas, attended meetings held at the Washington offices of the Business Roundtable, the country's most powerful business lobby.

The White House sent a staff person from its business liaison office, who, like the organizers of the meetings at the Fairfax Hotel, suggested which senators were considered vulnerable to political pressure.

Two corporate giants that became heavily involved in the lobbying were Boeing, the main contractor for the AWACS, and United Techologies, which estimated it had $100 million at stake.

According to their spokesmen, Boeing president E. H. Boullion and United Technologies president Harry Gray together sent more than 6,500 telegrams to subsidiaries, vendors, subcontractors, suppliers and distributors.

Boullion's telegram asserted that unless the deal went through, the "AWACS production line would be ended," a view not shared by Defense Department officials.

Gray, in addition to mailing thousands of his own telegrams "requesting" support for the sale, pressured the chiefs of his subsidiaries—including Pratt & Whitney, Carrier Air Conditioning, Otis Elevator and Ideal Electric—to send the same telegram to hundreds of their vendors and distributors.

The result was a successful chain-letter operation.

One vendor said the head of a United Technologies subsidiary told him confidentially that more than 10,000—and possibly as many as 20,000— telegrams were sent to businesses across the country.

Ultimately, letters filtered down to valve companies, small businesses with fewer than 20 employes and even some mom-and-pop industrial distributorships.

In his telegram, Gray couched his support in these terms: "The Saudis are in the forefront of resistance to the spread of Soviet influence."

Gray's telegram ended on an ominous note: "Please wire your two U.S. senators today asking them to sustain the president's position. Would you also send me a copy of your communication to the senators?"

Corporate officials, many dependent on United Technologies' goodwill, responded overwhelmingly.

I reviewed more than 2,000 letters sent by corporate supporters of the AWACS. More than 1,400 of these telegrams and letters paraphrased or quoted the points made by the United Technologies and Boeing telegrams.

To many senators, who receive weekly mail counts, the number of corporate supporters of the AWACS seemed impressive. But two companies, Boeing and United Technologies, were likely responsible for generating 70 percent of the mail.

The pressure exerted on firms with ties to United Technologies was extraordinary. One vendor, with annual sales of under $15 million, said he was subjected to what he felt was "raw economic blackmail."

Even firms without substantial businesses interests in Saudi Arabia became active supporters and lobbyists for the AWACS sale.

The hundreds of companies included John Deere (farm equipment), Republic Steel, Alcoa (aluminum), Westvaco Corp. (pulp and paper), Barnes and Tucker (coal), PVI Industries, Inc. (commercial water heaters), Fisher Price Toys Inc., Cubic Corp. (automatic fare card machines), SmithKline Corp. (drugs), and even some Pepsi-Cola bottling companies.

AGRICULTURE GETS IN THE ACT

Nor was the petro-dollar connection limited to oil, manufacturing, and construction industries, Agriculture—including the rice lobby and some farm co-ops—became aggressively supportive of the sale.

Riceland Foods, a major Arkansas rice producer, lobbied the Arkansas delegation to Congress. Officials of American Rice Inc. and other rice growers based in Texas reportedly contacted members of the Texas delegation.

The Rice Millers' Association, a trade association, held a board of directors meeting and voted to support the AWACS deal. It then contacted senators from Florida, Mississippi, Missouri, Arkansas, Louisiana and Texas.

A spokesman for the Rice Miller's Association cited the need for "stability in the Middle East," then added that sale of

AWACS was "just a matter of economic sense."

He said American rice exports to Saudi Arabia from August 1980 to July 1981 totaled $150 million and represented a 50 percent increase over the previous 12 months. The sale of rice to Saudi Arabia was "strictly a cash market," and "the Saudis pay premium prices."

Farmer organizations also got involved.

Charles Fraser, Washington director of the National Farmers Organization, a collective bargaining group that seeks higher prices for farmers, sent letters to senators expressing support of the AWACS sale.

Even the Florist Insurance Companies sent letters in support of the AWACS sale to various senators and representatives.

"The AWACS sales will provide a general spur to the economy and it will also put some more people to work in this country," a spokesman said. "And the more people working in this country and the more they have in their pockets, the more they will spend on flowers."

A PUSH FROM ABROAD

In late October, with the Senate vote still hanging in the balance, a traveling contingent of American corporate officials provided an added push. The group was touring Eastern Europe and the Persian Gulf on a "fact-finding mission" sponsored by Time, Inc.

On the morning of Oct. 28—the day of the Senate vote—a confidential Telex was sent from Riyadh to a select group of wavering senators. The Telex, signed by 23 of the 24 touring executives, pleaded for approval of the sale and claimed that its defeat could "substantially impair U.S. ability to protect its legitimate interests in the Middle East."

Many corporations whose officials signed the Telex have done business in Saudi Arabia, some have offices there, and nearly all seek to expand their markets in that country.

It has been learned that Theodore Brophy, chief executive officer of General Telephone and Electronics, had the idea on the night of Oct. 27, and presented a draft of the Telex to his colleagues the next morning.

Significantly, until 1980 GTE was subjected to the Arab boycott. Some political observers believe Brophy may have been trying to demonstrate to the Saudis the correctness of the Arab decision to drop GTE from the boycott list.

One of the participants wondered about the possible embarrassment that could ensue if the Telex was disclosed publicly, especially since it has been sent from Riyadh. But this objection was dismissed, and, with the exception of one noncorporate leader—Vernon Jordan, then-president of the National Urban League—the Telex was signed by all the junketeers.

Among those signing the Telex were Philip Caldwell, chairman and chief executive officer, Ford Motor Co., and William LaMothe, chairman and chief executive officer, Kellogg Co.

(A Ford spokesman told the Free Press Friday: "Mr. Caldwell signed the Telex because he believed it was in the best interests of the United States for the sale to be approved."

(In a statement to the Free Press, LaMothe said: ". . . Saudi Arabia's basic relationship to the United States convinced me that it was in the best interest of the United States to provide the AWACS under the arrangements that had been recommended by the Reagan administration.

("Being in Saudia Arabia at the time of the vote, and fully focusing on the subject of the AWACS at the time the Congress was voting, we felt that an opinion of some businessmen on the scene would be helpful to those congressmen who had not yet decided which way to vote . . .")

THE LOBBYING WAS DECISIVE

The sale was approved by a 52-48 vote, although at least four other senators had promised to vote for the sale if their votes were needed. (Michigan Democrats Carl Levin and Donald Riegle voted against the sale.)

The corporate lobby was decisive, reversing the overwhelming opposition to the sale that had existed only a week earlier. Some examples:

Sen. Roger Jepsen, R-Iowa, had been a leader in the anti-AWACS coalition, but he was turned around at the last moment with the help of farm manufacturing companies, farm co-ops and defense contractors.

Sen. David Boren, D-Okla., who had been leaning against the sale but voted for it, was targeted by oil interests.

Sens. Edward Zorinsky and James Exon, both Nebraska Democrats, were exposed to fierce pressure from major corporate interests in their states. Both voted for the sale.

Government officals say the lobbying strongly suggests the Foreign Agents Registration Act has been violated.

The act requires a person to register with the Justice Department as a foreign agent if he or she acts at the request or under the direction or control of a foreign principal, or indirectly through an agent or a foreign principal, and does one of the following:

Engages in political activities for, or in the interest of, a foreign principal.

Acts as a public relations counsel, or publicly agent, or political consultant for a foreign principal.

Engages in the transaction of money on behalf of a foreign principal.

Represents the interest of a foreign principal before any official of the U.S. government.

Violations of the act may have been committed by persons in the following four categories:

Corporate officials who lobbied or contacted their senators or representatives at the request of Bandar and other Saudi officials.

Company officers who lobbied and contacted members of Congress under the threat or inducement, implicit or explicit, of losing or gaining Saudi contracts.

Company officials who lobbied or contacted members of Congress at the request of Saudi registered agents.

Companies that passed along Saudi propaganda or surreptitiously promoted the interests of Saudi Arabia as their own before U.S. government officials.

It would be misleading to suggest that all corporate lobbying originated from Saudi pressure. Some stemmed from economic self-interest abetted by administration pressure and Republican loyalty. But much of it was engineered, directly and indirectly, by Saudi Arabia.

One source close to the Saudis said that even if the sale had not gone through, the U.S. corporations could have gone back to the Saudis with evidence of their loyalty. He said, "It was a process of building up chits."

Many corporate officials denied taking an position on the sale, but when pressed with hard evidence of their involvement, they tried to dismiss it as a spontaneous expression of civic responsibility.

Upon further questioning, especially when asked if the Saudis communicated with them, they would drop the civics and maintain that their activities were spurred by economic self-interest.

Most tellingly, it has been discovered that a handful of the major corporations agonized over the issue of lobbying for AWACS and finally decided not to do so. Some attended meetings of the Business Roundtable and receptions at the Saudi Embassy to give the impression they backed the sale.

Spokesmen for these firms have pleaded that they not be identified. One corporate official said, "If our absence on lobbying becomes conspicuous, there will be hell to pay."

A GUARANTEE FOR THE SAUDIS?

Beyond the specific arms deal, the corporate lobbying effort raises the more general question of whether American corporations will now play a broader role in the formulation of American foreign policy, particularly in the Middle East.

Are the Saudis now guaranteed a powerful American lobby on future issues? Will the Saudis and their American surrogates now press for their interests extending beyond arms sales?

Some corporations have already begun to use financial pressure in a negative way. According to congressional and Republican Party sources, several major corporations refused to attend two fund-raisers held on behalf of two senators last fall, and others withdrew from participation in the fund-raisers out of anger at the senators' opposition to the AWACS sale.

Arab-backed corporate contributions could become increasingly important in elections. Oil-related interests alone in the 1980 election campaign are conservatively estimated as having accounted for over $5 million in contributions, and, according to a CBS News report on Oct. 19, "more than half a million dollars in contributions to Senate candidates last year (was) from companies within the American Businessmen's Group of Riyadh."

Eight years after Saudi Arabia invoked its oil embargo with the goal of forcing a change in American Middle East policy, that goal now seems within its reach. But oil is no longer the weapon of choice.

The Saudis are acutely aware of the military and political dangers of another embargo, and they also understand that such an emarbgo would be ineffective in a world of oil gluts.

The oil weapon has been transformed into a money weapon—one that can be wielded even in the absence of a cartel. The Saudis have discovered that quintessential American vulnerability, the love of money, and the petro-dollar connection have become diffused throughout American society.●

REPRESENTATIVE GREEN INTRODUCES A BILL FOR FOREIGN MISSION PROTECTION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. GREEN. Mr. Speaker, I am pleased to introduce a bill to raise the authorized level of reimbursements to

New York City for the costs of diplomatic protection.

This measure is a vital step in protecting the international diplomatic community in New York City, the largest diplomatic community in the world. Foreign mission protection is a national function which is a vital component of the United States international reputation, and which, on the principle of reciprocity, is necessary if we can continue to expect our own foreign missions to be protected from terrorism.

Let me explain the background of this legislation and precisely what the bill accomplishes. Prior to 1974, mission protection was primarily paid for by localities. Congress realized the inequity of local governments footing the bill for this Federal obligation, and passed the Foreign Mission Protection Act (Public Law 95-196). Public Law 94-196 authorized reimbursements up to $3.5 million for costs of "extraordinary" diplomatic protection. Reimbursement was chosen as the method of paying for these costs as local police personnel can provide the protection at half the cost of sending Secret Service personnel from Washington. Furthermore, local officers are more familiar with local security needs, and can provide superior protection.

In 1980, due to the pressure of legislation I had introduced and the urging of the New York City administration and me, the Department of Treasury (which administers this program) revised its regulations to expand its narrow reading of Public Law 94-196's provision concerning "extraordinary" protection. Formerly, the Department's interpretation of the law was so restrictive that New York City could not be reimbursed for the bulk of the mission protection that it had to provide. Treasury's revised regulations now allow reimbursement for fixed posts and unusual protective measures that must be taken during visits by foreign dignitaries.

The bill introduced today would make these understandings consistent with the law, by making the authorization level for reimbursements consistent with the range of protection for which New York City can be reimbursed under the Treasury Department's revised regulations. It would also authorize reimbursement for motorcade security, an understanding which has been included in appropriations bills in recent years and which should also be enacted into law.

The bill raises the current authorization level in Public Law 94-196 from $3.5 million to $15 million. For several years the $3.5 million level has been insufficient for coverage of New York's reimbursable claims. By the end of this fiscal year, in fact, New York City's uncollected expenses will total $18.4 million. The increased authorization will enable the Federal Government to repay the money to which New York City is entitled.

New York City's police department has been cut by about one-third since 1975. Providing protection the costs of which have not been reimbursed obviously hits hard the city's already strapped local police. This effect is compounded by the facts that the range of diplomatic protection the city must provide has expanded, and that there have been increased security needs due to an increase in the incidence of terrorism aimed at the diplomatic community. Danger to the diplomatic community is not peculiar to New York City, but rather is part of a trend of increasing terror around the world. Between December 1979 and December 1980, a member of the Cuban mission was shot to death, and 18 terrorist bombings occurred. The diplomatic community has undertaken a broad range of self-help measures for its protection, and the New York City police department has had its personnel hold classes for diplomats in bomb threat protection.

It should be clear how these dangers and the diplomatic community's fears affect the United States' international reputation. The way to allay the community's fears is through adequate protection. This bill will accomplish that vital function. I hope my colleagues will join me in supporting it, and ask that it be printed in the RECORD at this point.

H.R. —

A bill to amend title 3, United States Code, to provide improved protection for foreign diplomatic missions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 208(a) of title 3, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", including those utilized to provide protection for motorcades and at places associated with a visit qualifying under section 202(7).".

(b) Section 208(b) of title 3, United States Code, is amended by striking out "$3,500,000" and inserting in lieu thereof "$15,000,000".

SEC. 2. The amendments made by this Act shall take effect on October 1, 1982.●

PROGRAM FOR BLIND

HON. TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. MOFFETT. Mr. Speaker, I am very honored today to be the original cosponsor of the first piece of legislation introduced by the House's newest Member, the Honorable BARBARA KENNELLY. For the blind citizens of Connecticut, this legislation is particularly meaningful and Mrs. KENNELLY is to be commended for making it her first legislative order of business.

The initiative which we bring before you today bears much greater significance than its title suggests. We are proposing the authorization, on a permanent basis, for the individual States to set up vending machines in rest areas on the Interstate Highway System. The Surface Transportation Assistance Act of 1978 contained a demonstration project allowing vending machines in rest areas on interstate highways. Five States participated in the project. In Connecticut, the Board of Education and Services for the Blind operated the program. In 1 year, Services for the Blind reported net commissions of $40,523 on gross sales of $236,066 from the vending machine revenues. This modest project, therefore, has been of considerable significance to the blind in my State. Other States should have the opportunity to benefit as Connecticut has from the program.

My home State, as well as the four other States participating in the demonstration project, reported very high percentages of motorists stopping in interstate rest areas used the vending machines. Vandalism, litter, and length of stay at the rest areas were not problems. The Department of Transportation is in the process now of reviewing the program, prior to recommending its authorization. It is quite likely that DOT will seek to make the vending machine program a permanent fixture of title 23 of the United States Code. Congresswoman KENNELLY's legislation is therefore timely, as well as meaningful.

I am cosponsoring the vending machine authorization legislation because it has provided vitally important revenues, at no Federal expense, to the blind of Connecticut. When services for the handicapped are being threatened by both Federal and State budget cuts, this modest proposal takes on considerable importance. I hope you will join Mrs. KENNELLY and me in support of today's legislation.●

A TRIBUTE TO RAE A. GUBITOSI

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. McGRATH. Mr. Speaker, we have heard a great deal in recent months about the need for a renewed sense of voluntarism in our country—of a need for private citizens and organizations to work toward solving the problems of our society.

I would like to draw the attention of my colleagues to an individual who embodies this spirit of voluntarism. Mrs. Rae Gubitosi, who died last week at the age of 56, was one of the finest, most public-spirited citizens I have ever known.

For the past 29 years, Rae Gubitosi was a resident of the community of Valley Stream, N.Y., which I represent in Congress. She made many invaluable contributions to the citizens of our area. She served for 7 years as president of the Italian-American Civic Association; she was a trustee of the Woman's Auxiliary of the Sons of Italy, Per Sempre Lodge No. 2344, and of the Woman's Republican Club of Valley Stream.

Rae also served as a member of numerous other civic associations, including the Franklin General Hospital Woman's Auxiliary, the South Nassau Communities Hospital Woman's Auxiliary, the American Cancer Society, the Long Island Arthritis Foundation, and Elks Lodge No. 2164 Women's Auxiliary.

As a result of her many accomplishments, in October 1980, Rae Gubitosi was honored by the Valley Stream Chamber of Commerce as "Outstanding Woman of the Community."

However, Rae's energies were not devoted just to members of her local community. She organized two relief drives for earthquake victims in Italy, and as a result of her efforts, two fundraising feasts were held in Valley Stream by the Italian-American Civic Association.

The mere recitation of Rae Gubitosi's accomplishments does not do her justice. She was, to say the very least, the glue which helped hold her community and its many civic groups together. Moreover, she assisted in helping to feed, clothe, and house desperate people in a troubled country.

The spirit of voluntarism was never lacking in Rae Gubitosi. Her entire life was devoted to improving the lives of people in her neighborhood and in the world. She accomplished more in her too-short lifetime than anyone else I have ever known. We would do well to follow her example of dedication and selflessness.

Rae Gubitosi is survived by her husband of 31 years, Fred, and by her children, Fred, Jr. and Gloria Ann. To them, I extend my deepest sympathy. Rae will long be remembered by the citizens of Valley Stream who knew her and loved her. I am one of them.●

NUCLEAR ARMS RACE

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. WIRTH. Mr. Speaker, increasing numbers of respected Americans, including physicians, religious leaders, and many others, are raising their voices in opposition to the nuclear arms race. Last week in Congress, 122 of us asked for a bilateral United States-Soviet freeze on further nuclear weapons testing, production, or deployment. The subject of nuclear war, which has long been largely off limits, is now being openly discussed. At a time when the Department of Defense budget proposed by the administration includes a request for a major increase in our Nation's supply of nuclear weapons, I believe the following article points out clearly that there is much public anxiety about nuclear war. At the same time, it makes clear that the American people favor a strong defense and the majority favors mandatory national service to keep our Nation secure.

The author of this article, "Doomsday Logic and the Draft," is Daniel Yankelovich, a highly respected pollster. I strongly commend this article to all who believe we must have a strong national defense, but that nuclear arms are not the answer.

DOOMSDAY LOGIC AND THE DRAFT

(By Daniel Yankelovich)

Public anxiety about the threat of nuclear war is running high. Our surveys show that nearly two-thirds of all Americans (63 percent) fear that a nuclear war may start somewhere in the world in the next five years. And a Gallup Poll taken in June 1981 reported that 60 percent of the public—up from 43 percent in the early 1960s—now believes that our chances of surviving an all-out nuclear war are poor indeed.

In this mood of public apprehensiveness, the warnings about nuclear overkill by elder statesmen like George Kennan, a former ambassador to the Soviet Union, are getting more attention. In a December 1981 Gallup Poll, the public agreed by an overwhelming margin—76 percent to 19 percent—with Kennan's proposal (first offered last July) that both we and the Soviets simply cut our supply of atomic weapons in half as an immediate way of reversing the nuclear arms race.

As tension with the Soviet Union grows, political pressure for nuclear-disarmament negotiations is almost certain to build in the United States, as it already has in Europe. But whether this pressure will make a difference or will ineffectually play itself out depends largely on how the public responds to a difficult but crucial test: the future of the military draft.

Though the connection between the draft and the nuclear arms race is not self-evident, the two issues are inexorably linked in a set of assumptions rarely exposed to public debate and almost never examined by those who advance them—the country's leading defense professionals.

The top defense planners in the reagan Administration are convinced that the Soviet military threat is both real and urgent. Although differences exist within this group, most believe that the Russians have upgraded their strength in the last decade to the point where the United States may be vulnerable to a first strike with nuclear weapons. At the same time, they are acutely aware that the Russians have been able to maintain and deploy a formidable conventional army—far larger than ours—and contend that in part, this is possible because the Communist leaders are free from any need to answer to public opinion.

Most important as far as the draft is concerned, American military planners assume that our own leaders, and those of our allies, lack the political will to match the Soviet Union in conventional forces. Our kind of democratic politics, they are convinced, precludes a peacetime draft and the intensive training and systematic recruitment that would permit us to reach rough parity with the Russians in conventional armed forces.

The awesome corollary of this belief is that national security must therefore depend almost entirely on nuclear strength. Given the Administration's objective of achieving a "margin of safety" in the military balance, these strategists argue, the only way we can cancel Soviet superiority in conventional forces is with nuclear superiority.

So reasonable and straightforward is the logic of these arguments to those who offer them that it appears to blunt their horror of nuclear war. Considering the enormity of their conclusion—that the security of the West depends entirely on amassing a larger and larger nuclear arsenal—one would think that our defense analysts would subject each link of their chain of reasoning to brutal testing, searching for a weakness and an alternate path. But as one who has attended conferences and meetings where our officials discuss these matters, I can report that I have rarely heard these premises questioned. Indeed, defense analysts rarely make their political assumptions explicit. Rather, they take them for granted, and instead focus their intelligence, skill, and energy on elaborating logical variations within an artificially constrictive set of rules.

Upon close scrutiny, however, this logic of doom suffers from many weak premises. For example, Kennan faults our professional planners for treating nuclear weapons as if they were merely extensions of conventional weapons. He argues that less than 20 percent of the present stock of nuclear weapons on either side is sufficient to utterly destroy the other's civilization and population. "There can be no excuse on the part of these two governments," Kennan says, "for holding poised against one another quantities of these weapons so vastly in excess of any demonstrable requirement."

When it comes to nuclear weapons, Kennan argues, the concept of relative advantage is utterly illusory. He recalls that "every President of this country from Dwight Eisenhower to Jimmy Carter has tried to remind us that there can be no such thing as victory in a war fought with such weapons." And he quotes President Reagan approvingly to the effect that the President would "negotiate as long as necessary to reduce the number of nuclear weapons to a point where neither side threatens the survival of the other." But Kennan points out that under Reagan's stewardship we are moving in exactly the opposite direction and that at the end of the present course "lies . . . no hope at all."

To a social psychologist, no premise seems weaker than the one that assumes that resistance to a draft is so deep-seated as to rule out a strategy of strengthening the numbers and caliber of our conventional forces. To speak plainly, this is one hell of an assumption on which to hang the fate of the nation.

Any analysis of public attitudes toward national defense quickly reveals, first, that the American public holds a view of its own, one that is distinctly different from the views of either the professional defense community or the advocates of nuclear disarmament, though it overlaps with both positions in some ways.

In agreement with the defense community, the public concurs that the Soviet threat is real and that the Russians understand and respect only the language of force. The public almost universally supports the idea that our defenses must be strong and that achieving such strength is worth considerable sacrifice. Counter to those who not only oppose nuclear arms but armed force in general, a majority of citizens resist those strategies that are based on unilateral disarmament or on any other approach that appears to weaken the United States relative to the Soviets.

In opposition to the defense community, the public shares with such groups as Physicians for Social Responsibility and the Union of Concerned Scientists a sense of horror about the use of nuclear arms and the conviction that nothing but disaster can follow from their use. It rejects the concept of military victory through nuclear arms.

The second clear fact about public opinion is that it takes a positive view of the draft. Americans have mixed feelings about the desirability of reviving the traditional form of military draft, but a clear-cut majority supports some form of military service to replace the present voluntary system.

Survey findings help to clarify this important point. A recent Harris Poll found that by 60 percent to 37 percent, Americans favor substituting a two-year military draft of young men between the ages of 18 and 26 for the present system. It also found a growing concern with the quality of our voluntary armed forces. Between 1978 and 1981, there has been an increase from 56 percent to 66 percent in the number of Americans who agree that "since the draft was ended, the young people the military has recruited on a voluntary basis have mainly been those who couldn't get jobs elsewhere and have not made very good soldiers." In the same period, there has been an increase from 76 percent to 84 percent in the number of people who agree that the country would be "healthier" if it had "a draft under which all young people of military age are eligible to be called up for a two-year period so that we can have an army of trained civilians who can be called up in an emergency."

Gallup's findings on support for a draft show greater volatility than do Harris's. Nonetheless, Gallup's surveys over the last three decades have consistently shown that a large majority of the American people favor a proposal requiring every young man 18 and older to give one year of service to the country either in military or nonmilitary work. Moreover, Gallup reports a sharp rise in support for such a compulsory program of national service since 1979—in two years the figures have gone from 60 percent to 71 percent. "The current figure," Gallup writes, "is higher than at any time since 1969, when these measurements began."

The divisiveness that exists in public attitudes toward the draft comes from the split between younger and older Americans. A Harris survey shows that in striking contrast to the two-to-one overall pattern of support for the draft among the general public, younger Americans (18 to 29 years old) support the present volunteer system by a majority of 54 percent to 44 percent. Other Gallup findings show an even sharper pattern of differnece between young and old, with 18- to 24-year-olds opposing the draft by more than a two-to-one margin (67 percent to 27 percent).

It would be wrong, however, to conclude from these findings that most young people automatically oppose all forms of compulsory service. For example, Gallup finds that the group of 18- to 24-year-olds, who strongly oppose reviving the old military draft, support, by a 58 percent majority, the idea of one year of compulsory national service. (Among all citizens, 71 percent support it.) Moreover, given the choice between military and nonmilitary duties in this year of service, an impressive two out of five say that they would choose military service.

Harris has posed a somewhat similar question:

"It has been suggested that instead of military draft all young men between 18 and 26 must serve two years in service for their country, including work with the Peace Corps overseas, work with poverty groups and the handicapped at home, or on environmental cleanup as well as military service. Each young man would have to serve one year in the military and the other year either in another type of service or in the military. Would you favor or oppose such a plan of universal service?"

Here again, we find that a shift from the old-style draft to a new concept of national service that includes both military service and some choice for young people eliminates the sharp split between the younger citizens who must serve and the older citizens who do not have to make this sacrifice. Approximately 65 percent of those who are 30 and older favor this form of mixed universal service, but so does a 56 percent majority of younger people.

Overall, it is clear that the vast majority of Americans want the United States to be strong, at least as strong as the Soviets, if not more so, and that to a large majority of young and old, a newly fashioned draft involving military and nonmilitary service and a degree of choice is a serious option.

If ever an issue were meant to be settled through public debate and discussion, the question of how best to defend ourselves in this dangerous world is surely the leading candidate. In any such debate, of course, we cannot overlook the heritage of mistrust and bitterness left over form Vietnam. In that era, the Selective Service symbolized both a war that many young people in particular thought should not have been fought at all and a system of military recruitment that yielded to privilege and subterfuge.

Only a few years have intervened between the end of the Vietnam era and the 11th-hour climate of the 1980s. Many young people still view the prospect of a draft as a vehicle to protect special interests unrelated to the national defense (for example, oil companies' investments in the Middle East) rather than as an alternative to a nuclear arms race.

Even as close an observer of national defense matters as James Fallows, Washington editor of The Atlantic Monthly, who, though reared in the Vietnam era, concludes that a draft is needed, does not state the most compelling case for it. "The real argument," writes Fallows in his recent book, National Defense, "is that the military will not be respected and decisions about its use will not be democratically made unless every class in the nation feels it has a direct stake in its performance." This is a good argument, but it is not the real argument. The real argument, whose outcome may determine our future, is that a draft may be the only practical alternative to a nuclear arms race.●

FAMILY OPPORTUNITIES INCREASE BECAUSE OF NEW HOME COMPUTERS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. GINGRICH. Mr. Speaker, lately I have been learning of more and more families who are taking advantage of the new opportunities offered by home computers.

They enjoy the convenience of working at home and avoiding rush-hour traffic. They also enjoy being able to work with their children around them all day.

I want to share one news story with you and my colleagues that tells of home learning and working with computers. It appeared in the Chicago Tribune, January 11, 1982.

The article follows:

HOME IS WHERE THE HEARTIEST WORK IS, SOME FIRMS DISCOVER

(By Michael L. Millenson)

Like Dorothy in "The Wizard of Oz," a growing number of corporations are discovering there's no place like home—for work, that is.

Companies as diverse as Control Data Corp., Continental Illinois National Bank & Trust Co. and Blue Cross/Blue Shield of South Carolina are letting some employees do their jobs at home. The results have been pleasantly positive: increased productivity, reduced turnover and lowered costs for employee and employer.

Not every job can be done away from the office, and not every individual is suited to the special demands of at-home work for adults. But the advent of sophisticated and relatively inexpensive telecommunications equipment is making "telecommuting"—setting up an electronic connection between office and home—a real possibility.

"You're talking about potentially radical changes in the workplace," says Margrethe Olson, an assistant professor at New York University's Graduate School of Business Administration who has studied at-home work programs.

Radical though it may be, there are those who insist telecommuting is an idea whose time will surely come. Chief among the proponents is author Alvin Toffler, who predicted in his 1980 book, "The Third Wave," that one of the most significant developments of the 1980's would be the shift of a large number of jobs out of the factory and office and into the home.

The home was where most work was done before the Industrial Revolution, Toffler noted. But this time, he said, it will be home that is transformed into an "electric cottage," as the telecommunications revolution makes it cheaper to stay home than to commute.

Others are more skeptical, including Olson. "Organizations change very slowly," she points out.

One organization on the cutting edge of that change is computer giant Control Data of Minneapolis. The company has two work-at-home programs. The first is for handicapped employees and teaches them how to become computer programmers. The disabled employees use a computerized education program from Control Data's own Plato terminal.

The second program is a look at ways of structuring the workaday world. Sixty Control Data employees, ranging from secretaries to managers, have been working full- or part-time from their homes or from "satellite offices" as part of a pilot program called "the alternative worksite."

"We're looking at the program as the type that could be available to almost any type of worker except on an assembly line," a company spokesman said. "It has vast potential."

One convert is Tom Conroy, 51, a manager in Control Data's office technology operations. A year and a half ago, Conroy's bosses granted his request to work from home one or two days a week.

"I did it because I wanted large blocks of uninterrupted time," explains Conroy, who lives 26 miles from Control Data's headquarters. "You can get it at the office by closing your door, but you can't control it. The phone still rings, people knock at the door, they will schedule you for meetings—normal business interruptions."

At first, Conroy though he'd use the home time for important writing and planning. He brought along a portable computer terminal to keep in touch with the office through "electronic mail." [Ironically, the terminal isn't manufactured by Control Data. It's leased.]

But to Conroy's surprise, he began to find that, "with the exception of face-to-face type meetings, I can do most any of my work at home."

That includes supervising 6 to 12 employees under him, many of whom also work at home at least part-time. But he acknowledges that making the shift required a change in tactics from the way most managers do their jobs.

"Our normal mode of supervision might be to see people, and if they look busy, they are busy," he says. "Now, you have to become more task oriented. You give people a well-defined task to do with a deadline. After that, I don't really care."

Conroy says he's found his own productivity has increased considerably. For instance, with "electronic mail," he can check his computer terminal for messages or plug into office communications at any time of day.

But, he emphasizes, "you don't have to have expensive terminals. About 40 to 50 percent of the time, I don't use the terminal."

At the other extreme are companies whose at-home workers rely completely on computer terminals. Blue Cross/Blue Shield of South Carolina has a handful of employees in Columbia, S.C. who "key punch" insurance claims at home through a connection to a terminal at the office.

At Continental Illinois National Bank & Trust Co. of Chicago, four clerical workers are part of a pilot program to test the effectiveness of at-home work.

The program began in late 1978 when Continental decided it could "tap a new labor source of people who want to work for us but can't leave their homes," according to Mary McArthur, a bank operations officer.

"Every company is having trouble getting good secretaries, and there are a lot of women who would be willing to work if they didn't have to leave their homes."

The Continental program began with two secretaries from the typing pool. One came back to the bank after two years and the other took early retirement. A new crop of recruits soon was found. They type dictation and transcribe documents from dictaphone-type recorders, using video display terminals connected electronically to the bank.

"It's a wonderful program for working mothers who do not want to work outside the home," says Gladys Giraldo, 26, the mother of a 3½-year-old son. "I wouldn't be working if it wasn't for this."

Another of the four women in the program is equally pleased.

"The biggest advantage is probably saving the time and money I'd have to use to go out and find a baby-sitter and take the baby to the sitter all the time," says Donna Puccini of Arlington Heights, 27, with a 2-year-old daughter.

There's also the savings that comes from not needing an extensive wardrobe for work, she notes. "Sometimes I've even stayed in my robe typing until 10 in the morning until I feel like changing."

The bank requires that the women be at work from 9 a.m. to 11:30 a.m. and from 2 p.m. to 4:30 p.m. At the end of the day, the're given another three hours of work that they are expected to finish before the start of the next business day.

"Donna gets up at the crack of dawn to do it," McArthur says, "She prefers to spend her evenings with her family and says she's at her best at 4 a.m."

Continental plans to evaluate the pilot program and make a decision on whether to proceed in March. So far, the bank estimates it has spent an extra $30,000 on equipment for the program. It has no estimate of other costs.

Though McArthur says she's pleased with what she's seen, Continental's slow approach is typical of most companies. Olson says only a handful of companies have work-at-home pilot programs, although "there are a lot interested and starting to think about it." They include Aetna Life and Casualty Cos., Hartford, and the Manufacturers Hanover Bank, New York.

Some companies are using at-home workers for specialized situations, such as computer programming. FMC Corp. in Chicago has seven programmers with terminals in their homes, ready to provide 24-hour trouble-shooting service for customers of the manufacturing systems division. A programmer can talk to an FMC central computer with his terminal, diagnosing difficulties.

For now, companies are just beginning to cope with the social implications of a decentralized workplace, such as legal problems, how to promote individuals who are at home and the effect on corporate loyalty.

The idea of the electronic cottage is intriguing, Olson said, but at the moment, "There's a little less than meets the eye."●

CORPS MUST STOP DUMPING IN WESTERN LONG ISLAND SOUND

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DOWNEY. Mr. Speaker, the U.S. Army Corps of Engineers has made the regrettable decision to allow the dumping of dredge spoils in western Long Island Sound. Beginning tomorrow, disposers will be able to dump thousands of cubic yards of dredged material into an area which the corps itself calls the most productive lobster fishery in the entire sound.

I am concerned that the decision to allow the dumping was a hasty one and that the economic and environmental consequences of the action were not fully addressed. For example, there is no clear evidence that the heavy metals of the dredge spoils will not flow toward and contaminate the active fishery areas nearby. Furthermore, the corps asserts that "discharge of dredged material would bury and for the most part destroy organisms, fish and lobsters which are within the discharge area." We cannot simply ignore these effects for the convenience of disposers of dredge spoils.

It is, furthermore, imprudent for the corps to permit dumping like this on a piecemeal basis before examining the long-range disposal needs involving the entire Long Island Sound. Such a long-range plan would evaluate the costs and benefits of dumping at selected sites in the sound over 10 to 20 years and adopt a comprehensive management approach toward responsible use of this valuable water resource.

I, therefore, must request that the U.S. Army Corps of Engineers refuse to allow any dumping in western Long Island Sound until it has completed a long-range plan and a more thorough assessment of the effects of the dumping on Long Island's vital fishing industry. The economic interests of Long Island fishermen and the environmental concerns of all Long Islanders demand that Long Island Sound be considered much more than simply a convenient dumpsite.●

REINTRODUCTION OF SHORT-TIME COMPENSATION: ALTERNATIVE TO LAYOFFS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mrs. SCHROEDER. Mr. Speaker, last April I introduced H.R. 3005, the Short-Time Compensation Act of 1981. Since then bipartisan cosponsors climbed aboard, employer groups took interest and the AFL-CIO endorsed the idea during its executive meeting in August. They all made good suggestions to improve the original bill. I took their suggestions and included them in a new bill, which I introduce today.

For those still unfamiliar with the concept of short-time compensation (STC), let me review it. Say an employer faces a temporary slump in the market and must lay off 20 employees out of 100. Rather than completely lay off those 20, the employer could, by using an employer-designed, union-approved, work-sharing plan, reduce the workweek for all 100 employees by 20 percent. They would then be eligible to collect UI benefits for the hours per week they did not work. The total weekly earnings would approximate 90 percent of their regular weekly take-home pay. Health and most other benefits would remain intact. My bill encourages this idea by allowing States to permit this partial unemployment compensation, something States, by law, are unable to do.

The bill I introduce today makes three major improvements to the original H.R. 3005. First, the Department of Labor, which is called upon to conduct an evaluation of the program, must now consult with employer groups and unions to determine how the evaluation will be done and what will be looked at. Second, I eliminated a Federal demonstration project to allow maximum State freedom to develop their own short-time compensation programs. Because there is no demonstration project, I also withdrew the $10 million appropriation the original bill allowed for.

These improvements make the benefits of the bill more attractive. The benefit to workers is obvious. It preserves their jobs. It prevents the traumatic experience of being laid off and faced with domestic financial obligations. It also alleviates the "last-hired, first-fired" employment problem. This is good not only for the worker but for the local economy as well.

Employers, using short-time compensation, find a better way to survive slack periods in the market. Revised production schedules and bumping procedures often mean significant reductions in productivity. Rehiring and retraining costs when business picks up again provide further employer headaches, especially in high technology industries. Although the employer still pays fringe benefit costs for the entire work force, STC in the long run is less expensive and promotes higher productivity.

The legislation also benefits unions. A number of unions already have work-sharing provisions in their contracts but because of State law, cannot receive compensation for partial unemployment. STC also has potential for improving employer-employee relations. This has been shown in a California-run STC program. Under my legislation, no STC plan may be used by the employer unless the appropriate union agrees to the conditions. Such discussions promote cooperation, not confrontation, when layoffs threaten.

My bill is also designed to protect the solvency of the UI trust fund that each State keeps. To prevent fraud, employers will be required to certify that the use of STC is in lieu of an equivalent number of hours of full-time layoffs. Moreover, employers who use STC will be required to finance the STC benefits. Those who maintain a negative balance unemployment insurance account with the State employment office can be charged a surtax or be required to reimburse the trust fund for their utilization of STC.

Short-time compensation is not an untested, fly-by-night scheme thought up by mad social scientists. It has been used for decades in Western Europe as an important tool to combat layoffs. In the last recession, more than 770,000 German workers received partial compensation, thereby reducing the German unemployment rate 1 percent.

In this country, several States have become interested in the idea after 1978, when California began their version of short-time compensation. Their legislation was originally introduced by Senator William Greene, chairman of the Industrial Relations Committee, in the aftermath of proposition 13's passage. Two years ago the program was extended by the State legislature.

Other States have become interested in STC. Arizona and Oregon recently passed STC legislation. New York, New Jersey, Rhode Island, Pennsylvania, and Maine are also kicking around the idea. Since some States are interested in the idea independently, people may ask why Federal legislation is needed at all. Congress should be concerned about unemployment, which is a problem national in scope. It must not expect the States to solve weighty national economic problems. Ideally, the Federal Government should work with the States, to help them experiment with different ways to solve problems, and to evaluate these experiments for future national economic policymaking. The Short-Time Compensation Act of 1981 seeks to promote cooperative federalism in finding solutions to the problems of cyclical unemployment.●

OPPOSITION TO DUMPING OF DREDGED SPOIL IN LONG ISLAND SOUND

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, I wish to state my profound oppositon to the U.S. Army Corps of Engineers' recent decision to allow dumping of dredged spoil in Long Island Sound.

Long Island Sound is a precious resource, and its value to fishermen, recreation lovers and future generations must not be jeopardized by environmentally insensitive decree.

I urge the corps to give greater consideration to the environmental consequences of dumping, and to thoroughly reexamine the risks of said dumping as described in the environmental impact statement.●

PRIME MINISTER HAUGHEY'S SIGNIFICANT STATEMENT ON NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan 126 member Ad Hoc Congressional Committee for Irish Affairs I had the high privilege and distinct personal honor to attend a St. Patrick's Day luncheon at the White House. The luncheon was in honor of the new Prime Minister of the Republic of Ireland Charles Haughey.

In the course of the luncheon, the Prime Minister delivered a most significant speech which focused a great deal of attention on the ongoing trouble in Northern Ireland. I view his statement to be the most important made by a leader of the Irish Government in the 13 years that I have been involved with the issue.

Prime Minister Haughey clearly presented a challenge to President Reagan for our Nation to become more involved in the process which will lead to the end of the partition of the island of Ireland and the eventual unification of the two entities.

President Reagan in both his 1981 and 1982 St. Patrick's Day messages has shown great sensitivity about the Northern Ireland problem. I heartily endorse his recommendation for greater U.S. commercial involvement in the North. Ulster's economic problems are severe and must be a matter of concern not only to the United States but to all of Western Europe. While the President's record is noteworthy—I hope he will seriously consider the challenge presented by Prime Minister Haughey.

At this point in the RECORD, on behalf of myself and my colleague Mr. GILMAN, I wish to insert that portion of the Prime Minister's statement that focused on Northern Ireland.

> A greater part of the island of Ireland today has become a modern state where all are free and equal before the law, where bigotry and discrimination have faded away and sectarianism holds no place in our laws, our Constitution, or our daily lives.
>
> And in speaking of these things to Americans, I know the sympathy and understanding they will evoke. For no man can speak of freedom and equality to Americans without striking chords. Of the lamps burning in the belfries of New England, of those farmers that stood by the bridge at Concord, or

of the great document that the Founding Fathers composed in Philadelphia. But there's one thing the Irish have not yet achieved and of which we are constantly reminded everywhere we go in this great capital city where the memory of Abraham Lincoln and his struggle to save the American union and to avoid the partition of his country are so beautifully and so splendidly commemorated.

Whereas Lincoln sought to prevent the partition of his country, we are seeking to bring to an end the partition of ours. And the obstacles to that goal are in part the age old ones which so nearly sundered the young United States—misunderstanding, ignorance, prejudice, suspicion and fear.

We have pledged ourselves to overcoming these obstacles—to further the reconcilement of the two great traditions of our island, given to that end any pledge that may result, any guarantee that may be thought necessary and to making unassailable constitutional arrangements for those in the northern part of Ireland who may feel a special need for such provisions.

Irish people everywhere yearn for that day when their country will finally find peace and justice in unity and they, in their turn, in their land, will create a shining city on a hill.

With the good will of that worldwide Irish spiritual empire which is stronger here in the United States of America than anywhere else, the Irish government will do all we can through the Anglo-Irish process or any other forum to achieve that historic purpose.

In the noble words of Lincoln's second inaugural address, inscribed on the walls of his beautiful memorial in this city, that what we are engaged upon is to "bind up the nation's wounds." Countless millions of ordinary Irishmen and women have by their labor and their sacrifice contributed to the power and the stature of this great American republic and in their name I look confidently for support and encouragement for our endeavors in Ireland today.

Ireland holds a special place in the affections of millions of Americans. And it is my hope that that feeling will inform American policy and actions and insure that the encouragement of Irish unity ranks high among her international objectives. There is much to be done. And the first thing is that Britain be encouraged to seek, more positively and persuade more actively, a change in attitudes and outlooks which would pave the way for unity, and so enable her final withdrawal from Ireland to take place with honor and dignity.

We, in Ireland, know, Mr. President, that your regard for our country is no mere sentimental attachment to your Irish roots. But that you have a sympathetic and concerned interest in Ireland and in her problems. This is hardly surprising in one whose ancestors played their own part in Ireland's history. The Reagans were, and I quote from their motto, "The defenders of the hills." And for more than seven centuries, against all comers, they held the only pass through their territory of Y Regan in the Slieve Bloom Mts. They held it against friend and foe. And the English, at one stage in their long and unsuccessful efforts to conquer our country, paid the O'Reagans a great compliment. Their commanders, methodical men, prepared and sent to London, maps on which were marked the names of the most redoubtable Irish chieftans, those from whom the strongest resistance was to be expected. I have brought with me such a map, dating from the sixteenth century, and showing the Slieve Bloom Mts. and the unconquered territory of the O'Reagans. I present it to you, Ronald Reagan, defender of the hills, President of the United States of America, and friend of Ireland.●

TERRORISM AT HOME

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. STANGELAND. Mr. Speaker, during the past quarter of a century acts of terrorism have been prevalent throughout the world. For the most part, people of the United States were not involved and although our people did not condone these acts, neither did we spend a great deal of time worrying about them.

However, Mr. Speaker, these acts of terrorism, which threaten lives, property, and the general well-being of our Nation, are now creeping into our cities. I believe that it is imperative that we as Members of the House of Representatives recognize the serious threat that the United States faces from these acts of terrorism.

Mr. Speaker, it is also imperative that the people of this Nation understand that we are no longer immune from these acts. The facts, Mr. Speaker, speak for themselves. We are aware of the facts, now we must begin a concentrated drive to halt any more acts of terrorism before they start.

The Turkish Consul General, Kemal Arikan, was gunned down in cold blood on January 28 while driving to his office in Los Angeles. A terrorist group calling itself the Justice Commandos of the Armenian Genocide claimed responsibility for the assassination. Mr. Arikan is not the first Turkish diplomat to meet such a fate. Since 1973, when the Armenian terrorist campaign began, 20 Turkish diplomats or members of their immediate families have been slain, 3 on American soil.

In past months, Turkish diplomatic missions in New York City and Los Angeles have been bombed and innocent bystanders injured. Threats and violence have prompted last-minute cancellations of performances by the Turkish State Folk Dance Troupe on order of public officials in California after the troupe had traveled 8,000 miles to perform as official guests of the U.S. Government.

Two groups have been largely responsible for attacks against Turkish diplomats, the Justice Commandos and the Armenian Secret Army for the Liberation of Armenia (ASALA). The ASALA is one of the world's newer and more "efficient" terrorist movements. It operates in a dozen countries, and is believed to be headquartered in Beirut. This organization is Marxist led and has strong ties to the Popular Front for the Liberation of Palestine (PLEP), the Marxist group that has pioneered new forms of international terror.

Mr. Speaker, broad public indignation is an important factor for any attempt to bring this wave of terrorist violence to an end in our country. Our role, as Members of Congress, could well be in this case to act as educators—we can tell the public the dangers of terrorism and we can help bring about a new climate of aroused public opinion. It is imperative that Americans be made aware of the threat to their country posed by these terrorists.●

REAUTHORIZE DIPLOMATS PROTECTION IN THE UNITED STATES

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Ms. FERRARO. Mr. Speaker, today along with the distinguished gentlemen from New York (Mr. GREEN and Mr. MOLINARI) I am introducing H.R. 5888, a bill to reauthorize protection of diplomats in the United States. In 1975, Congress recognized the extraordinary costs borne by New York City in protecting the 35,000 members of the United Nations' diplomatic community. Recognition led to the passage of Public Law 94-196 which set forth strict and limited conditions under which the city could seek reimbursement for certain expenses. Only "extraordinary protective needs" associated with a visit by a foreign dignitary such as the Pope, or at a permanent U.N. mission, are covered by this law. Protection of the United Nations building, the city's many embassies, and the United States mission to the U.N. are not paid for under Public Law 94-196. The frequent and often tempestuous demonstrations in front of the U.N. building are kept within the bounds of peaceful and legitimate demonstrations by the efforts of New York City police. All of these daily efforts are paid for by the city.

To pay for extraordinary needs, Congress authorized an annual sum of $3.5 million. This was insufficient to reimburse New York City for allowable expenses almost from the beginning. By the end of fiscal year 1982, New York will have accumulated $18 million in uncollected, reimbursable expenses. Although New York's expenses under the law are estimated at $6 million for fiscal year 1983, the administration has requested only $1 million. This would leave the Federal Government $23.4 million behind in payments to the city with little hope of meeting its commitments in the future. H.R. 5888 would raise the $3.5 million authorization to $15 million. With one exception, no change would be made in the limitations of what items constitute reimbursable expenses. This bill merely removes the hypocrisy of Congress recognizing a legitimate and necessary Federal expense but not paying for it.

The single change in the definition of reimbursable expenses is a minor one. Since 1980, Congress has included in its annual appropriations the clarification that security for motorcades is an allowable expense. H.R. 5888 would make this clarification permanent.

Mr. Speaker, it is a sad fact that terrorism around the world is on the rise. New York City has not been spared from this tragedy. Since December 1979, there have been 18 bombings aimed at diplomats and diplomatic buildings in New York. In the fall of 1980, a Cuban diplomat became the first diplomat killed in New York since the U.N. headquarters was located in the city. The city police department had to maintain fixed sentinel posts at 54 diplomatic missions during all or part of 1981. Yet more now than ever before, peaceful means must be sought to solve international disputes. The continued personal visits of foreign diplomats and dignitaries is vital if peaceful discussions are to succeed. Just as we expect other nations to protect our Ambassadors, so must we be willing to provide their diplomats with freedom from terrorist acts.

On a cost-benefit basis this law will save the American taxpayer money. Public Law 94-196 requires Federal protection of diplomats. The use of New York City police instead of the Secret Service Uniformed Division is only done to lower costs. The Treasury Department estimated several years ago that dispatching a member of the Secret Service Uniformed Division from Washington to New York would cost twice as much as having a New York City police officer do the same job.

Mr. Speaker, I am inserting a copy of H.R. 5888 in the Record for my fellow Members to study. I hope they will recognize its merits and support this measure.

H.R. 5888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 208(a) of title 3, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof the following: ", including those utilized to provide protection for motorcades and at places associated with a visit qualifying under section 202(7).".

(b) Section 208(b) of title 3, United States Code, is amended by striking out "$3,500,000" and inserting in lieu thereof "$15,000,000".

Sec. 2. The amendments made by this Act shall take effect on October 1, 1982.●

LONG ISLAND SOUND DUMPING

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. CARMAN. Mr. Speaker, the Army Corps of Engineers has announced that it plans to dump potentially hazardous, toxic waste into the western portion of the Long Island Sound. Past dumpings have contained heavy metal pollution, petrochemical wastes, arsenic, and mercury. This decision by the engineers poses a direct threat to the well-being of the people of Long Island, Connecticut, and the surrounding area of New York. It threatens to pollute recreational waters and to damage or destroy the valuable offshore shellfishing industry in that area off the north shore of Long Island.

I have contacted President Reagan and protested to Secretary Watt and the Secretary of the Army for this irresponsible decision. The only reason that this offshore site is being used is to save money. But this is a false economy. The potential damage to the environment and the potential loss of jobs in the fishing industry offset any short-term gains. I urge those of my colleagues who care about the environment and who care about jobs for Americans to join me in a formal protest of this tragic mistake.●

EXPORT TRADING COMPANIES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LaFALCE. Mr. Speaker, congressional interest in export trading company legislation is growing daily as more Members recognize the potential benefits of permitting U.S. trading companies to compete on a more equal basis with the operations of foreign traders. Export trading companies will provide a broad range of services to both large and small businesses; they have the capability of operating throughout the world, using their far flung network to match American manufacturers with a wide variety of buyers; and they can facilitate financing for firms which cannot afford to extend credit to foreign customers.

Many of my colleagues have expressed an interest in learning more about the Export Trading Companies Act. They have asked for specific information on the potential contributions of export trading companies to U.S. exports and our economy as a whole. The Commerce Department recently completed a brief review of the legislation, including its background and status. I commend this study, which is reprinted below, to any of my colleagues who are concerned about trade issues. In particular, I would like to point out the estimates that passage of this legislation would create at least 280,000 to 340,000 jobs nationwide. For this alone, it is worthy of our prompt consideration.

Export Trading Companies

PURPOSE OF THE LEGISLATION

The purpose of this legislation is to increase U.S. exports through the formation of export trading companies which would serve as export intermediaries for U.S. companies. Presently, tens of thousands of small and medium-sized companies produce goods and services which are competitive overseas. These companies have not entered the foreign markets in large part because of their unfamiliarity with foreign customs, language, and laws, and the tremendous costs and risks involved in developing overseas markets.

Export trading companies can tap this potential export resource by providing the full range of export services and functions to these companies. By diversifying trade risks and achieving economies of scale in export trade services, export trading companies can serve as the ideal intermediaries to facilitate these exports.

Bank participation in export trading companies can provide the financial resources and expertise that will be essential ingredients to the success of export trading companies. Government regulation, however, presently excludes U.S. banks from offering most export services. In addition, antitrust uncertainties deter U.S. companies from cooperating in their export activities.

This legislation would allow bank participation in and ownership of export trading companies under strictly regulated conditions. It would also amend the Webb-Pomerene Act by extending its application to the export of services as well as goods, and by providing for a pre-clearance certification process to ensure that specified activities and methods of operation are not in violation of the antitrust laws.

In addition; the bill directs the Export-Import Bank to provide loan guarantees to export trading companies when the private credit market is inadequate, and requires the Secretary of Commerce to promote the formation and operation of export trading companies.

PROPOSED EXPORT TRADING COMPANIES ACT FACT SHEET

I. Summary

The Export Trading Company legislation supported by the Reagan Administration is the first legislation in over a decade aimed at giving American business major new tools to penetrate and expand export markets abroad. In addition to helping seasoned exporters to do even better, we expect that it will encourage many small and medium-sized firms to enter the export market for the first time.

Export trading companies will combine the products, skills and resources of several U.S. companies to enhance their own capabilities and those of their clients. The legislation is designed to attract producers of goods and services, banks, export management companies, freight forwarders and other export service businesses into an effective joint effort to exploit foreign markets. They may do this either to export their own products or to act as a "one-stop" service for unrelated clients.

The legislation would (1) permit banks to take limited ownership interests in an ETC and (2) allow ETCs to apply for an antitrust certification pre-clearance, giving greater assurance their activities would not make them liable to antitrust action. The Commerce Department would administer the certification process in consultation with the antitrust enforcement agencies. In addition, the Department would have a promotional and matchmaking role in fostering the formation of export trading companies.

II. Background

The concept of the export trading company legislation grew out of hearings on U.S export policy held in 1978 by a subcommittee of the Senate Committee on Banking, Housing and Urban Affairs. In 1980, hearings were held on several export trading company proposals. Japan and other major trading countries have fostered trading companies, while U.S. companies are thwarted by antitrust laws and financial intricacies. The Senate passed an export trading company bill in September 1980, but in the House, no bill reached the floor for consideration.

Early in the 97th Congress, Senator John Heinz (R-Pa.) introduced a new bill, S. 144, which was nearly identical to the Senate-passed bill from the previous Congress. After careful evaluation of the export trading company concept and legislative proposals, the Reagan Administration concluded that the legislation offered important potential for increasing U.S. exports, and by its strong support, gave new impetus for early enactment.

The principal bills the Administration supports are: (1) S. 734, the successor bill to S. 144, which the Senate passed April 8 by a unanimous vote, and (2) H.R. 1648, introduced by Representative John LaFalce (D-NY), which is identical to S. 144.

III. Trade reasons for export trading companies

Since 1970, the U.S. share of total world exports has declined from 15 percent to 12 percent. This represents a cumulative loss of $73 billion. Our competitors have maintained or increased their shares.

Our share of world industrial trade since 1970 has dropped from 21 percent to 17.4 percent, representing a loss of $26 billion.

Double-digit inflation in the past few years creates a deceptive impression of a large increase in U.S. trade. Real dollar increases are moderate, and we continue to run a deficit in our balance of payments.

Our cumulative trade deficit over the past five years is $100 billion. In 1980, our trade deficit was $24 billion.

Two-thirds of Japan's exports are handled by trading companies. Japan is not alone among our industrialized trading partners in making use of specialized export entities. West Germany, France, and Hong Kong do likewise.

The major share of U.S. exports comes from large firms. Only one percent of U.S. firms account for 80 percent of U.S. exports. We need a mechanism to stimulate and train our smaller firms in the export skills their foreign competitors have learned. The Administration strongly supports the export trading company legislation to help our small and medium-sized firms expand their markets by exporting.

IV. What is an export trading company?

Under the Act, an export trading company is a company organized and operated principally for the purpose of (1) exporting goods and services, and (2) providing export-related services to other companies unrelated to the export trading company. This simple definition is intended to allow U.S. companies great freedom to form export trading companies which will best serve their needs. In addition to exporting products and services of their member companies, it is expected that the ETCs will provide export-related services to companies which are not ETC members, and thereby help these unrelated or unaffiliated companies increase their exports.

The bill would also provide antitrust certification for export trading associations (ETAs). The major difference between an ETC and an ETA is that an ETA must be engaged solely in the export of goods and services, whereas ETCs are to be organized principally for exporting goods and services and to provide export facilitating services to unrelated clients.

V. Summary of legislative provisions

Export intermediaries, of which an export trading company is an example, already exist. Webb-Pomerene (Export Trade) Associations and export management companies are export intermediaries. The export trading company legislation is intended to open new possibilities for export intermediaries to expand and facilitate their success in export markets. The principal provisions of export trading company legislation (S. 734 and H.R. 1648) are:

1. Bank participation

Title I allows bank participation in export trading companies. If approved by the appropriate regulatory agencies, a bank may have a controlling interest. Bank participation and ownership is significant because it gives exporters new avenues for obtaining export capital and financing. Banks also have contacts, communication networks and expertise that will aid in processing export transactions and in finding foreign markets, credit facilities, and potential customers.

Title I permits a bank to invest only a small percentage of its capital in an export trading company. While the amount of bank investment can provide a significant contribution to the financial strength of export trading companies, the limitations are designed to assure that such investments are consistent with sound banking principles.

2. Antitrust exemption

Title II provides the critical assurance that the activities of an export trading company or export association and its members, when covered by a certification by the Secretary of Commerce, will be immune from antitrust liability for actions taken while the certification is in effect. This is important because businesses, particularly those of small or middle-size, need to combine to export, but are inhibited by the fear of antitrust liability. Thus they often refrain from taking the real or perceived risk.

The Title II eligibility provisions and the administration of the certification process are designed to protect against improper anticompetitive effects in the U.S. market or on U.S. export competitors. The provisions also protect export traders against an after-the-fact assertion that their previously-approved activities violated U.S. antitrust laws. The immunity extends to both government and private antitrust actions.

Title II, in contrast to the present Webb-Pomerene Act, covers the export of services and provides for certification of specific export activities.

3. Additional provisions

Export trading company legislation would authorize and direct the Export-Import Bank to establish a program of guaranteed loans from financial institutions to export trading companies. Such guaranteed loans must be secured either by export accounts receivable or inventories of exportable goods. Finally, the Commerce Department is given an important role in promoting and encouraging the formation and operation of export trading companies.

VI. How export trading companies will help U.S. exports

The primary function of an export trading company is to combine the products, skills and resources of several U.S. companies to enhance their export capabilities, or those of their clients. ETCs will attract producers of goods and services, banks, export management companies, and freight forwarders. The company would then be able to provide "one-stop" export service, including market research, marketing, financing, documentation, transportation, and after-sales service.

Who would make use of this "one-step" service? Two broad classes of users. The first, naturally, would be companies—manufacturers and service firms—which have invested in the export trading company. The second would be unaffiliated companies—which would benefit from an export trading company's "one-stop" and comprehensive export service. We expect most small and medium-sized companies will take the latter route.

VII. Fast track for small and medium-sized business

Part of the reason the Department of Commerce and the Reagan Administration are working strenuously to achieve an export trading company law soon, is because: (1) studies indicate that small and medium-sized businesses have considerable potential for contributing to increased U.S. exports, and (2) the Export Trading Company legislation will give small and medium-sized companies valuable assistance in realizing their export potential. Manifestly, export trading companies comprised solely of a few small and medium-sized companies will have such a minor impact on the domestic economy and their export competitors that they will pose no risk of anticompetitive harm. Therefore, the Commerce Department is convinced that the procedure for certifying an antitrust exemption for such export trading companies should be simple and swift, and, to the extent that eventual legislation permits, it intends to afford to export trading companies comprised of small and medium-sized firms a streamlined procedure for obtaining antitrust certification.

VIII. Strong support for export trading companies

In April 1981, the International Trade Administration requested each of its 47 district offices to interview banks and non-banking firms in its district to learn the possible effects of ETC legislation on U.S. exports and employment. The offices reported discussions with about 140 banks and about 220 companies.

An overwhelming majority of responses indicate banks and companies believe export trading companies will increase U.S. exports, although few banks and companies were willing to quantify the potential or likely increase in exports resulting from the legislation.

District offices in Boston, Philadelphia and Buffalo gave estimates of increased exports of 5 percent to 10 percent, achievable within one to three years. Let us take the lowest of the estimates—5 percent. In 1980, U.S. exports of manufactured goods and agricultural products were $185.7 billion. A five percent increase in this figure would add $9 billion to the U.S. exports total. If exports of services, management fees, and so forth, are added to manufactured and agricultural exports, the increase would be $11 billion.

The ETC legislation explicitly includes "services" among exports of an ETC and exports of services have become an important part of total U.S. exports. We should thus consider that total U.S. exports, not just exports of manufacturers, are likely to benefit from export trading companies.

By current estimates, every $1 billion increase in exports creates 31 thousand jobs. Using this figure the Export Trading Company legislation would create at least 280-340 thousand jobs nationwide. A private study conducted by Chase Econometrics estimated that by 1985, ETCs could increase GNP by $27-55 billion, increase employment by 320,000-640,000 workers, and reduce the Federal deficit by $11-22 billion.

IX. Current status

The Senate passed S. 734, the Export Trading Company Act of 1981, on April 8 by a vote of 93-0. In the House, the bill supported by the Administration, H.R. 1648, as well as alternative proposals, are being considered by three committees, the Judiciary, Banking and Foreign Affairs Committees. While no Committee has yet reported out a bill for floor action, the expectation is that this legislation will be enacted into law by Spring of 1982.

The Subcommittee on Monopolies and Commercial Law of the House Judiciary scheduled a markup on the bill's antitrust provisions for February 9 but due to the lack of a quorum, that action did not take place. Efforts are now underway to have that markup re-scheduled in the very near future.

The proposal the Subcommittee has under consideration is at some variance with the Administration-supported bill. One change the Subcommittee is likely to make is a requirement that the Department of Justice have concurrence over any certificate the Commerce Department would issue. Further, the Subcommittee is expected to stipulate that any concern which can demonstrate it has been injured by the formation of an ETC be permitted to recover actual damages, but not treble damages.

The House Banking Committee is expected to hold comprehensive hearings on this legislation this Spring and could report out a bill soon thereafter. The Subcommittee on International Economic Policy and Trade of the House Committee on Foreign Affairs, which held three hearings on the proposal in 1981, is likely to report out a bill similar to that which the Administration supports.

X. Commerce Department implementation

If the Export Trading Company legislation is enacted, the Department of Commerce will have the responsibility for promoting the formation of ETCs and the administration of the antitrust certification procedure. This latter function will require consultation with the Department of Justice and the Federal Trade Commission, and the immediate preparation of guidelines and regulations.●

PERSONAL EXPLANATION

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mrs. SCHNEIDER. Mr. Speaker, yesterday, I traveled to Tallahassee, Fla., to add my support to the effort to seek ratification of the equal rights amendment. Unfortunately, due to flight delays caused by severe weather, I was necessarily absent for the commencement of this morning's proceedings. Had I been present for the following votes, I would have cast my votes as follows:

On H.R. 3620, Hoboken Pier authorization, "no," as I would prefer to see greater safeguards against sale at less than market value. On H.R. 4688, Military Personnel and Civilian Employees' Claims Act, "yes." On H.R. 4468, Secret Service zones of protection, "yes," and on H.R. 3345, title 35 amendments, "yes." Finally, on rollcall No. 23, approval of the Journal, I would have voted "aye."

Thank you, Mr. Speaker.●

NEWSPAPERMAN BILL HOUPT

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DANIEL B. CRANE. Mr. Speaker, the Danville, Ill., community is sustaining quite a loss with the retirement of assistant editor Bill Houpt of the Commercial-News.

Bill has been gracing the Danville community with his journalistic professionalism for over 30 years, and he has earned the admiration of all of us who have had the pleasure of knowing him.

It is my privilege to offer the following tribute to Bill Houpt, printed in the February 21, 1982, issue of the Commercial-News.

[From the Danville, Ill., Commercial News, Feb. 21, 1982]

FASCINATION WITH LOWELL THOMAS LED TO 35-YEAR CAREER

(By Jean Byram)

He didn't want to be interviewed.

He wanted to retire quietly, maybe with a cake on the copy desk and a big brown mug of coffee to go with it, and people standing around doing remember whens.

"Newspapermen shouldn't be in the paper," he protested more than once, "not unless they're caught driving while drunk or making a nuisance of themselves on the public square."

But Bill Houpt, whose 35-plus years at The Commercial-News have taken him "through the chairs" as he would put it—from fledgling reporter to political reporter to city editor to managing editor and then associate editor—was voted down.

You have to have a story, we told him.

So this is it.

Bill Houpt, who was born in Danville, says his father and Lowell Thomas got him into the news business.

"My father was very much interested in current events. He listened to Lowell Thomas every night. I admired my father very much so I listened with him. That's where the whole thing started.

"I decided I wanted to be like Lowell Thomas."

But Houpt was not to make his mark in radio news.

"I tried out here in Danville at WDAN. I was trying to imitate Floyd Gibbons. Do you remember Floyd Gibbons? He had this rapid machine gun approach . . . he could outdo Walter Winchell. "Of course I didn't get the job. I was much too fast."

After graduation from Northwestern University, Houpt made what he calls "some forays" before settling down to Danville and The Commercial-News in 1946.

Among them: Washington, D.C.—"What I really wanted then was to be a Washington correspondent." Chicago, where he was a copy boy at what was then the Chicago Sun for $18 a week. And New York, the golden city, where he worked for a bookstore in Grand Central Station while he waited for the break by which he would "achieve fame and fortune among beautiful women and the whole thing."

The New York venture was inspired, he supposes now, by one of his most admired authors, Thomas Wolfe.

"Somerset Maugham, I think it was Maugham, said that the highest tribute you can pay to an author is to imitate one of his heroes (Thomas Wolfe heroes always went to New York) and of course that's what I was doing.

"It was very exciting to arrive in New York, to work in Grand Central Station. That was in the days when trains were still being ridden. There was lots of commuter traffic. Every once in a while you'd run into somebody with a big name, Jim Farley, someone like that.

"Doubleday Grand was the name of the store but some referred to it as a literary hot dog stand. The people I worked with were all young people out to conquer the city—writers, people trying to be writers, budding actors. I went the rounds, Time, Newsweek, even the New York Times and the New York Herald."

Two things helped bring about Houpt's return to Danville.

He was advised to come back to the Midwest to get more experience before assailing a city which in the years just after World War II had a glut of literary aspirants. Then his job ended, when, in a fit of compassion, "I yakked myself right out of it.

"I got mad at the bookstore people because they fired the woman who was my supervisor for something which I thought was a dirty trick. I went to the main Doubleday office to tell this woman who was in charge of the stores what a rotten deal that was and that I didn't want to have anything to do with an organization like that and when I got through, she said: 'Well, it's very interesting to hear what you have to say. You may be interested to know we were going to make you manager of that store.'

"I have no regrets . . . but one looks back at things like that and wonders what might have happened."

Houpt was hired as a reporter by the Commercial-News in 1946, for $25 a week, when George Burow was city editor. When

Burow retired in 1970 as managing editor, it was Houpt, already with 11 years as city editor behind him, who took his place. Houpt became associate editor of the paper in February 1979, a job he held until his retirement Friday.

Houpt, who describes retirement as "one of the last of the rituals," has never regretted his choice of a journalistic career.

"I would have starved to death if I'd done anything else. I wouldn't have been able to do anything else. If I'd had to sell insurance or go into business, I'd have been through right away. I'd have been in the poor house."

If the journalism was the piece of cake, politics was the icing on the cake.

"Some people are taken with movie stars, some follow sports figures but i'm just fascinated by politicians. As a result of being a reporter at the C-N, I've had a chance to talk to Eisenhower, Truman, Chuck Percy, former Illinois governor Adlai Stevenson—one of my heroes, such a fine intellect, such a sharp wit. And Ev Dirksen, one of the really great orators . . . he had the whole range of tones, he had the gestures.

"My fascination with these guys had nothing to do with the party. I didn't care what their politics were.

"The point that can probably be made was symbolized when I was covering Harry. There I was behind the ropes with him and there I was being paid for what I would do for nothing. I would almost have paid for being so close."

As a reporter Houpt wrote stories about other public figures. Astronaut John Glenn—"affable, kindly, self-effacing." Jimmy Roosevelt, son of FDR. And Bill Holden, sans Hollywood entourage, at the then-C&EI depot—"no airs, no self-importance, a really nice guy."

Houpt has what he calls the dubious honor of being city editor longer than anyone else at The Commercial-News. It gave him a deep and abiding respect for all city editors everywhere.

"It's probably the toughest job in the newsroom. The city editor, with the aid and companionship of his reportorial staff, is daily charged with all the local news that's fit to print, beautifully written, beautifully displayed and error-free. Now that, to name a favorite song, is the impossible dream. There's no way you're going to do it and they still look at the poor dude like he ought to be able to do it and he comes in every morning and says 'I'll give it another try.' "

Houpt came to journalism with zeal, compassion and wit. But there was one newspaper commandment he had to learn: "Honor thy deadline."

"Writing itself is a difficult thing. Deadlines are a curse and a blessing.

"You keep wanting to polish, to make it as good as you can. But you have to let it go.

"And I was a little shy. I had to overcome that. I had to develop a certain forwardness that I didn't have."

So what else is a newspaper person made of?

Houpt laughed.

"Newspaper people have a little gypsy in them. And it's best if they like seedy clothes and have a strong taste for spirits.

"Seriously, they have to like words. They have to be willing to agonize, to get exactly the right word or phrase. And almost all of them think maybe they can help save the world with this newspaper business.

"A reporter has to be prepared to be a pain, ask people things they don't want to be asked. And you have to persist. You can't be a shrinking violet.

"Bringing the truth . . . that's part of this reformer element. If that sounds pompous I don't intend it to be. When facts and truth are the object, that's what makes democracy work."

Houpt was born in 1920, son of W. R. Houpt, who operated Builders Supply Co. in Danville and the former Elsie Claypool. He was married on Oct. 22, 1949, a Saturday, after work—"It was my day to work. When it was your day you worked"—to Jane Monahan daughter of Danville dentist Dr. Matthew Monahan and his wife Madeline.

Eight of their nine children have made the name of Houpt legendary in Danville sports circles. It's an ability Houpt claims comes from Jane, not him—"I was always slow, awkward, couldn't even play tennis."

Both daughter Kathy, who teaches in Portage, Ind., and daughter Mary, assistant manager of a clothing store in Santa Monica, Calif., were city women's tennis champs. All the boys have played basketball at Danville High School with exception of firstborn Tim, a lawyer in Salt Lake City whose high school forte was debate, radio and drama.

Ted, the youngest Houpt, is a senior varsity player at DHS; Bill, the second oldest son, still lives in Danville, as does Andy, a District 118 teacher. Jim, who has been a substitute District 118 teacher, is in the process of making a move to Utah. Matt is in his fourth year playing basketball for the University of North Carolina. John is a junior on the basketball team at Millikin University, Decatur.

For Houpt, one of the things that's made the newspaper business a satisfying life's work is "the people I work with.

"Newspaper people are so witty, so sharp, have such a great sense of humor. They're fun to work with. Everybody knows how important it is to have people like that around you.

"I don't think newspaper people are better than other people. But they're different. Maybe they're eccentric. But if we impose conformity on them, we lose in the long run. We lose their creativity, their love of the business."

Bill Houpt's newsroom reputation is that of an appreciator—of art, music, literature—but most of all, of people. He had a habit of finding good in people but facades were useless around him. He saw behind the gloss as well as the drab, to the real person. His words, often delivered in Shakespearean intonations, boosted many a faltering ego. One staff writer compared it to a "nurturing," a bringing out of the best in a person as well as in the person's work. But, should the occasion require it, he could also, in plain terms, shed an errant reporter of misconceptions of the news business.

Not that he never made a mistake himself.

He recalls one during the days of his city editorship. "A guy identified himself as a Federal agent.

" 'I'm calling from a saloon we just raided,' he said.

"Well, there was no doubt about it being a saloon. There was saloon noise in the background.

"But I decided he was putting me on.

"It so happened he wasn't. We didn't get the story.

"I was so horror-struck at blithely assuming somebody was putting me on that I made up my mind I'd never, never again ignore somebody who told me something, no matter what it was."

Houpt was still in this regretful frame of mind the afternoon another call came to the newsroom.

"This dude calls up and says he's Muhammad Ali and he wants somebody to come down to the Grand Hotel and talk to him.

"Well this is the most unlikely thing in the world. There is no reason for Muhammad Ali to be in Danville. There is no reason at all to believe he'd be here. There is no reason to believe he'd be at the Grand Hotel.

"But I remembered my resolve: 'Widney,' I said (his name for Ron Dillman, a reporter who now is general manager of the Daily News in St. Thomas, Virgin Islands) 'go down and check this thing out.' "

No one ever figured out just who the man at the Grand Hotel was. Muhammad Ali, he was not. Drunk and boisterous, he was. Dillman always intimated he had barely escaped with his life.

The Houpts, who live at 1112 Sherman, enjoy traveling and already have a trip to Florida on their agenda. Houpt also plans to devote more time to his garden, always a spring and summer pleasure. And his wife, as a welcome-to-retirement gift, is giving him the William Faulkner appreciation course for which she had signed up at Danville Area Community College.●

VLADIMIR SICHKO

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● **Mr. LOWRY** of Washington. Mr. Speaker, one of my constituents, Mr. Michael Nowak, is working through Amnesty International's Seattle Group No. 4 to help Vladimir Sichko, a young Ukrainian. Vladimir's father and brother have been imprisoned for their membership in the Ukrainian Helsinki monitoring group. Vladimir and his brother, Vasyl, were both expelled from Shevchenko State University in Kiev.

To protest this and other acts of discrimination against his family, Vladimir Sichko renounced his Soviet citizenship in September 1980. He appealed for aid to the students of the world in October 1980. In January 1981, he was sentenced to 3 years imprisonment in a corrective labor colony. Although the official charge against him was evasion of military service, Vladimir Sichko has in reality been imprisoned for seeking to exercise his right to freedom of conscience.

I am honored to share with you Vladimir Sichko's appeal, and I applaud Amnesty International's work in support of human rights everywhere in the world.

VLADIMIR SICHKO'S APPEAL

I appeal to the students of the USA as well as to all students throughout the world to hear my plea and help my brother and me in our efforts to receive a higher education. . . . My brother Vasyl and I both did well in our studies, but because our parents had been political prisoners in Stalin's concentration camps, my brother was expelled from the university at the end of the second year and I was expelled in the middle of my third year. . . . There is no such thing as forgiveness in our country, and I expect to be arrested at any time. This means unending agony. . . . As you can see, no one in our country observes the constitution but acts according to secret regulations. Those who attempt to inform the authorities of violations of fundamental laws are regarded as enemies of the state and are put on trial. I am only twenty years old. I want to continue my studies. I hope that students throughout the world will respond to my appeal and help my brother and me become students again.●

NO PLACE FOR GLOOM

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. EMERSON. Mr. Speaker, over the past few months, I have become increasingly concerned by what I perceive to be a conscious effort among the national news media and, quite frankly, many of our colleagues here in the Congress to convince us that the American people have lost faith in our ability to realize a true economic recovery.

Virtually every evening, the major networks provide us with a public opinion poll, a new statistic, or a "news analysis" that offers yet another bit of "evidence" that a cloud of economic despair has fallen over our Nation. Whenever I return to Washington from an extended stay back home, I am beseiged with questions about the "mood of the people"—whether they are, in fact, losing hope in the face of our current recession. And when I say, "no, they have not lost hope," the reaction is invariably one of surprise or just plain skepticism.

Mr. Speaker, I am becoming more convinced every day that millions of hard-working American taxpayers are being sold short by political observers who spend too much time reporting about the mood of the people and far too little time listening to those people. Certainly, we in the 10th District of Missouri do not like interest rates, high unemployment, and the effects of the recession—our farmers, small business people, elderly, and wage-earners are suffering the consequences of our economic problems. However, our people have the resolve and the patience to endure these difficult times just as they have endured past economic crises.

I happen to believe that this resolve is one of the keys to economic recovery, and that it is one factor that is grossly neglected by those who I call "prophets of Gloom and Doom."

Lest we in the Nation's Capital lose touch with the real feelings of those we represent, I think we would be well-advised to pay more attention to the observations of real people who live and work in the real world, and depend less on those "enlightened" few who sit in network studios or Government offices and claim to have their fingers on the pulse of the Nation.

To that end, I would like to share with my colleagues in this House of Representatives an editorial that appeared a few days ago in the Daily Dunklin Democrat, a small daily newspaper of distinction that has served the people of southeast Missouri for almost 100 years. This outstanding newspaper, published in Kennett, Mo., is not merely a publication that reports about the area it serves—it is a newspaper that is a part of the community, a newspaper that gages the feelings of the people not with the Gallup polls, but by living and talking with farmers, small business people, taxpayers—in short, real people.

As we enter what will undoubtedly be a time of difficult decisions about our economic future, I would ask my colleagues to take note of this editorial, entitled, "No Place for Gloom," which appeared in the March 2 edition of the Daily Dunklin Democrat. I suspect that the sentiment it reflects is far closer to the real feelings of "Middle America" than many would have us believe.

The article follows:

[From the Daily Dunklin Democrat, March 2, 1982]

NO PLACE FOR GLOOM

The last time America gave a recession, the Bootheel decided not to attend. That was just after Richard Nixon's re-election and much of the nation found itself in economic hot water. Except, for the most part, Southeast Missouri and Northeast Arkansas didn't feel a thing. The agricultural economy, thanks to expanded world markets and the Russian grain purchases, escaped much of that serious economic downturn.

This time the Bootheel has felt at least some of the effects of the current "readjustment," although when we study unemployment figures in Michigan, business failures in New York and California, and shuttered factories in Illinois, Ohio, Massachusetts and elsewhere, we here in the Missouri Delta area have something to be thankful for. The readjustment has been felt here but it has not been felt in the degree experienced elsewhere in much of the rest of the country.

And, despite the winter cold and some unusually gloomy days, there are indications that conditions here in the Bootheel will soon improve.

For one thing, it would appear that the Federal Reserve's studied effort to break the back of inflation is working, despite the howls of both Republicans and Democrats. Thursday's welcome announcement that the inflation rate fell to an annual level of 3.5 percent is some of the best economic news both the poor and the rich could receive. It was just a few months ago, when supposedly the nation was experiencing normal if not above-normal times, that the inflation rate was running at levels that frightened all of us. More than one citizen was heard to ask, "Where will it all end?" Frankly, no one could answer that query with any degree of certainty. Today, the answer appears to be in each month's announcement that interest rates are getting lower and lower. A great many economists believe the back of inflation has been broken, that price stability enjoyed back in the 1960's and early 1970's will return once again. To the housewife, this is welcome news. To the farmer, this is doubly welcome news, for it means some degree of stability in an industry that has steadily seen its profits wither as a result of higher production costs. To business, this is also welcome news, for it would promote an economic stability in which the consumer will have some confidence.

Oil prices have stabilized, and there are instances in which certain petroleum rates have actually declined; real estate prices, after tremendous increases, have been coming down; there are indications that the nation's auto giants will be able to make needed accommodations with their overpriced workers and can reduce the prices of their products.

Because of new tax incentives for saving there should be an increased pool of savings available as business begins to borrow in the recovering economy. There is a downward movement of interest rates, and there are also indications that the Federal Reserve, having heard from every part of the economic sector, will take actions to bring them to a point where recovery is more than a hope. Even Congress appears willing to do its share; more and more members of the federal legislature are expressing concern about frivolous government spending that robs the private sector of too much in the way of money supply and taxes.

Unbridled fear is the worst way to fight an economic downturn; we believe the nation has less to fear from the recently expressed doubts of economists, so-called experts and all the politicians than most of us imagine.

We are convinced the economy will be stimulated with the strongest incentives in decades and the needs of consumers. Springtime is only around the corner, and it makes us think. How many truly successful pessimists do you know?

Come on, folks. Don't let the gloom bugs fool you.●

SETTING LIMITS ON IMMIGRATION

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. COELHO. Mr. Speaker, I have never considered myself an alarmist, but I do believe that unless Congress comes to grips with this Nation's growing immigration problems soon, there will be cause for alarm. It is imperative that we rise above regional, political, and special interests and develop a strong and fair immigration system which can be effectively enforced. If we cannot, or will not, bring immigration under control, I fear we will lose control of our future.

Strong measures to curtail illegal immigration must be combined with a cap on legal immigration which will include refugees and asylees.

I would like to share with my colleagues an article which appeared in the Fresno Bee recently in support of setting, in law, firm annual limits on all categories of immigrants. The writer, Loy Bilderback, is a professor of history at California State University, Fresno and a coauthor, with Paul and Anne Ehrlich, of "The Golden Door: International Migration, the United States and Mexico." As Prof. Bilderback states so eloquently:

> Throughout the world, there are millions of people in refugee camps and tens of millions who would flee their situations if they had half a chance. The United States cannot materially lessen this suffering by granting admissions to our country. They are too many and our resources are too limited.

The article follows:

[From the Fresno Bee, Feb. 16, 1982]

CAPPING IMMIGRATION

(By Loy Bilderback)

After years of hearings and studies by commissions, task forces, and the Congress, a new immigration program is finally being written. This legislation could lead to the most far-reaching immigration reforms in 60 years or it could lead to nothing. But even if this round of legislative effort dies, the issues compelling it will not, and the Congress will have to face them later when they will be even tougher.

Recently the United States has been admitting legally as many as 800,000 people annually, and when we add even a low reasonable figure for the illegal immigration we reach up over a million, numbers as large as those for the boom years of immigration just before World War I. Then we had a population of less than 100 million. Today we stand at 230 million.

The maintenance of our current population is being achieved by reduced levels of consumption—particularly in housing—and by the expenditure of precious resource capital. The more people there are in the United States, the faster this depletion will take place and the more difficult will be the inevitable adjustment to living within our resource income. Petroleum is the usual example of a non-renewable resource that Americans are wastefully depleting. The permanent loss of prime agricultural land to urban sprawl and the too-rapid depletion of groundwater are but two of many further examples.

Government policy in immigration, as in everything else, must be based on the world as it is, not as we wish it to be. Cornucopian optimists say that imminent wonders of science and technology will solve problems of resource depletion and crowding, but the record of technology is uneven and unreliable. We must plan our future responsibly and conservatively on the basis of what we have in hand.

The number of immigrants admitted annually to the United States should be set in law so that population growth will be halted as soon as possible and a slow decline initiated. If we hold our current vital rates, we could afford a net annual immigration of 250,000 and a gross number of admissions perhaps as large as 300,000 or 325,000. The annual number of immigrants admitted will have to be adjusted periodically in keeping with changing birth, death, and emigration rates.

All categories of immigrants must be contained within this figure—refugees, relatives of U.S. citizens, film directors, Haitian peasants, Russian dancers, Basque sheepherders, and everyone else.

Any flexibility in the total number of immigrant admissions will lead to abuse and the continuance of a destructive population growth in the United States. One need point only to the "parole power" of the attorney general which the Immigration and Nationality Act of 1952 provided for occasional, case-by-case exemptions. President Eisenhower used the parole power to admit tens of thousands of Hungarians; President Kennedy used it for hundreds of thousands of Cubans, and succeeding presidents have continued to use it with the compliance of a docile Congress, to get around the law. There is always admission by special act of Congress for those rare cases when the national interest or the cause of justice demands special treatment beyond existing law.

A problem of great interest here in the San Joaquin Valley is whether or not America benefits from temporary foreign labor. Agribusiness spokesmen insist that it does, but others—former Labor Secretary Ray Marshall, for example—disagree. The question has not been properly framed and the data have not been gathered.

However, should it be determined that temporary foreign labor is desirable we must make sure it is temporary. Given the experience of the European Common Market countries, this will be difficult. Any filtration out of the temporary foreign work force into the permanent populaton has to be counted in the 300,000. The same thing holds true for any other group, like students, who are granted temporary residency here.

The refugee question will remain the tough one. In 1952 it was so tough that Congress ignored it, and since then we have seen at least 10 different refugee admission acts, each one a stopgap. Throughout the world, there are millions of people in refugee camps and tens of millions who would flee their situations if they had half a chance. The United States cannot materially lessen this suffering by granting admissions to our country. They are too many and our resources are too limited.

The 150,000 or so *Marielitos* we got from Cuba in the summer of 1980 are nothing compared with what we would get if we opened our borders to the rest of Latin America. The work force in the Caribbean basin, which has grown by 1 million in the last 20 years, will add another 35 million in the next 20. If we were to admit only enough people to keep the population of the rest of the world from increasing, the U.S. population would reach 500 million by June 1985, and 10 years from now it would be over a billion.

In devising and enforcing any new immigration policy we must avoid the persistent American problem of racism. It is a shameful truth that historically racism has been the most potent single force in shaping U.S. immigration policy, and the dark shadow of that bigotry still obscures our true immigration problems. Does anyone believe we would greet an illegal flood of Poles with the same cavalier callousness we have shown the Haitians?

At 230 million the U.S. population is far over optimum, given the way we live. Current reproductive patterns put a manageable population within our grasp, so immigration is an increasingly important component of American growth. This growth must be stopped. Not to do so would be to continue the destruction of our national fabric and with it our capacity to take care of ourselves or anyone else.●

Immigration reform is not a Democratic issue. It is not a Republican issue. It is not a conservative issue. It is not a liberal issue. It must be a national issue—one in which all Americans concerned about the future of this great Nation must be involved. To underscore this point, on March 24, 1981, I joined the gentleman from Tennessee, Hon. ROBIN L. BEARD, in sponsoring H.R., 2782, The Immigration and National Security Act. The bill seeks not only to control illegal immigration through ultimate issuance of tamper-proof social security cards, but to control legal admissions by imposing an annual cap of 350,000, including refugees, and streamlining procedures for deportation, exclusion, and political asylum.

In the months ahead, we in Congress will have the opportunity to consider some far-reaching immigration reforms, and I intend to press for a cap on all immigration in those deliberations.

H.R. 621

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. SHUMWAY. Mr. Speaker, I am today introducing a bill that is intended to promote the conservation of water—one of this Nation's most vital natural resources. This legislation is made necessary by the impending water shortage crisis that we will be confronted with in the years ahead. If preventive action is not implemented now, water will soon be in critically short supply for a vast segment of this country's population.

The Water Resources Council has projected that by the year 2000, 17 subregions in the United States, located mainly in the Midwest and Southwest, will experience severe problems with inadequate surface water supplies. Groundwater supplies are also being depleted at an alarming rate. This groundwater overdraft results in declining water levels, reduced streamflows, salinity intrusion, and even land subsidence. In the State of California, for example, the Central Valley's land surface has subsided several feet over a fairly large area. In my own San Joaquin County, the water level in the pumping wells has dropped 30 feet over the last 20 years. Among other things, this requires significantly more energy to pump out this deeper water—an especially important consideration at a time when we are having to rethink our approach to today's energy problems.

One solution to the dual problems of inadequate surface water supplies and groundwater overdraft is to promote water-use conservation. The farming community is a good place to begin such a campaign. Irrigated agriculture alone accounts for 80 percent of all water consumed. Of this percentage, an average of only 53 percent of this water actually reaches the intended crop to be irrigated. In other words, almost half of the water used in agriculture is wasted. This fact stands as an embrarrassing example of inefficient resource management.

Mr. Speaker, my bill addresses this problem by providing a 10-percent tax credit for farmers who invest in irrigation equipment which will make at least a 10-percent net contribution to their onfarm water use efficiency rate—defined as water delivered to the farm divided by the water actually delivered to the crop's root base. As an example of how this credit provision would work, take the hypothetical example of a farmer in my home State of California. There, the average onfarm efficiency rate within a drainage basin is approximtely 65 percent. If a farmer who irrigated at this efficiency level were to install an orchard sprinkle system with an average efficiency rate of 75 percent, that farmer would be able to claim a 10-percent tax credit on that investment because he is operating at a 10-percent greater water use efficiency level.

The need to provide incentives for the installation of irrigation systems that are water-use efficient stems from their fairly high cost. For example, it costs approximately $600 to $700 per acre to install a new irrigation system in a fruit tree orchard. Without proper incentives to install this kind of equipment, the farmer will usually prefer to continue with the older and less efficient system.

The bill that I am introducing today is similar to earlier legislation, H.R. 621, that I have presented on the same subject. This new bill updates my earlier measure and takes into account changes in our tax law mandated by the Economic Recovery Tax Act of 1981.

Mr. Speaker, the conservation of water needs to be accorded a high priority in our resource management planning. With this in mind, I would urge my colleagues on the Ways and Means Committee to give this bill the serious consideration that it deserves.●

PROUD TO BE AN AMERICAN

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DAUB. Mr. Speaker, this month's edition of the New Age magazine includes an article titled "Proud To Be an American" by Verl Teeter. In this article Mr. Teeter has concisely identifed those principles and standards that make us proud to be Americans, and I am pleased to share his fine work with my colleagues:

[From the New Age, March 1982]

PROUD TO BE AN AMERICAN

(By Verl A. Teeter)

Our American Way of Life was founded upon the principles of human dignity, limited government, and personal freedom. America stands for everlasting ideals; for equality of opportunity; for dignity of the individual, for maximum individual freedom, for equal justice under the law with the powers of the judiciary reserved for the courts, while legislative powers remain in the hands of Congress; and for truly representative government by an informed and responsible electorate. We have a government by law, not by the whim of politicians.

The American Way of Life is great because it allows individuals to live according to their own conscience as long as they respect the equal rights of other citizens to do the same. Our political and judicial systems permit the orderly and peaceful resolution of differences by elections and court trials. It is the democratic way based upon the principles of the Constitution and a federalistic, republican form of government.

America was built on the virtues of hard work, thrift, and frugality. The United States became a great nation because the government did not hinder or stifle the initiative of its citizens nor restrict their ingenuity. There is nothing wrong with our American form of government. Any wrongs are due to people who transfer their weaknesses, inadequacies, and faults to society as a whole.

America is great because its Constitution, history, institutions, and people are dedicated to "Life, Liberty, and the pursuit of Happiness." American citizenship is a great privilege and a priceless treasure—priceless due to its many blessings made possible by years of struggle and sacrifice.

Until 20 years or so ago, America never sought an easy way. In the past, Americans never wavered in defense of our own liberties and the freedom of other nations. Our citizens have given their best in defense of freedom. This courage in the defense of freedom made us great, but we must be aware that today there are those who would weaken our Nation and pursue a policy of peace at any price. Some Americans are indeed beginning to waver in defense of liberty, but we can keep America the beacon of freedom if we will stand firm for the principles that made us great.

We should be proud of our heritage of liberty. In the United States we possess something that most of the world does not have—individual freedom. In our Country, one has the right to choose his vocation without government interference, the right to travel anywhere in the Nation without permission of any government authority, the right to speak up and speak out for what we think is right.

We have the right to privacy in our own homes and the right to assemble peacefully. We may choose to go into any business, compete, and make a profit. We have the precious right to worship God as our heart, soul, and mind dictate. The right to do these things is American liberty. We can be proud that we live in America, the home of the brave and the land of the free.

We have many symbols of freedom, such as the Bill of Rights—a document that guarantees individual rights and restricts government power. Another symbol that stands proud and vigorous is the American flag—a flag representing liberty, independence, and human liberty. Every day of the year Old Glory should be honored, respected and loved.

The road to freedom has been a long and difficult struggle. Only a few nations in the world have been able to travel it successfully. Our forefathers won the rewards of liberty by sacrificing their lives and their fortunes. Freedom, however, is simply a legacy inherited from all of the brave patriots of the past. It is an achievement which every generation and each individual must earn and preserve throughout time.

Our Founding Fathers—Washington, Jefferson, Franklin, Hamilton—made possible the creation of this Nation. They fought for individual dignity and freedom. These great leaders were endowed with strong hearts, keen minds, abundant faith, and high ideas. If we are to be worthy of this great heritage, we must be equally strong, courageous and faithful. Patriotism, loyalty, integrity, self-respect, decency, honor, and hard work built this Country. Such ideals are the only hope for the future.

This great source of America's economic strength is in the competitive free enterprise system, consistent with the philosophy of the Constitution. Our Constitution did not and should not subscribe to the belief that the government owes anyone a living. Instead, we should defend a way of life that provides freedom for everyone who is able and willing to work to make the most of his or her personal ability. It is our duty to cherish and preserve these concepts upon which our strength rests.

Competition has been the lifeblood of our productivity. It has stimulated our people to produce more and better goods and products at a lower price. When the profit motive is destroyed, the incentive to work and produce is destroyed. Only under the profit system has man attained true independence, private ownership, personal savings and the right to plan his own life as he so chooses.

We should be proud of our many accomplishments during the last 200 years. We have been the most energetic, humanitarian and the most productive nation in history—all because we have adhered to certain values and principles that will never die. We have many problems today, but we do not need new solutions to solve them. Instead we need to return to the basic principles upon which our Nation was founded. When we do that, we will do what is needed to keep America great as we look to God for guidance, determination and courage. May God grant us the strength, wisdom, and dedication to defend what we know to be true, just, and right in America.●

DISPOSAL OF DREDGED MATERIALS IN WESTERN LONG ISLAND SOUND

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LENT. Mr. Speaker, yesterday, March 17, 1982, the Army Corps of Engineers identified a site in western Long Island Sound that they have judged suitable for disposal of dredged materials, most of which emanate from rivers in Connecticut.

When this idea surfaced last October, I joined my colleague from Long Island, Representative GREG CARMAN, in contacting the corps to express opposition to any plan that would permit the dumping of hazardous wastes and toxic materials in Long Island Sound. Our concerns were incorporated in the formal hearing record which led up to yesterday's action.

The simple fact is that the dumping of dredged materials at this site could have an adverse impact on beaches and fishing areas off the north shore of Nassau County—areas which were reopened to shellfishing in 1978. Because of improving water quality in the area, other areas are under consideration for permanent recertification for shellfishing use. I believe this improvement in the water quality of the sound was, in large part, the result of suspending dredge spoil disposal in the western part of the sound in 1973.

Certainly before any determination on the use of this site is made, a detailed plan for the operation and control of this site should be developed. We need a procedure to make absolutely certain that only nontoxic dredge spoil is disposed of at this site. Criteria must be adopted and rigidly interpreted when evaluating the suitability of dredge spoil for disposal. Monitoring to determine environmental effects on water quality, benthic organisms and bioaccumulation of toxic substances in the food chain should also be conducted. In this effort to protect the sound from harmful dumping, I pledge my support. Thank you.●

IOWA FARMER VERLE HUNT NAMED TO THE AMERICAN CYANAMID 65 CLUB BECAUSE OF HIS OUTSTANDING PRODUCTIVITY

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. EVANS of Iowa. Mr. Speaker, I am quite proud to inform my colleagues in the House that one of my constituents, Mr. Verle Hunt of Marshalltown, Iowa, has been chosen for membership in 1982 in the American Cyanamid 65 Club.

The name of this important program—which is sponsored by one of the largest manufacturers of agricultural chemicals—was derived from the fact that when the club was formed, the average U.S. farmer produced enough food and fiber for 65 persons at home and abroad. Members of the 65 Club, however, now produce much more than this.

Mr. Hunt is 1 of 10 farmers in the United States who will be recognized this year for his record of achievement as an agricultural producer and his successful practice of sound farm management principles. This includes the safe, proper, and judicious use of chemicals and other modern production tools and techniques.

Accompanied by his wife, Ellen, Mr. Hunt is in Washington this week to participate in official National Agriculture Day ceremonies on March 18 as a member of the 65 Club.

Mr. Hunt's 893 acre farming operation is impressive, and constitutes an important part of the overall productivity of the American farming community.

The allocation of his land include the use of 467 acres of corn with an average yield of 130 to 150 bushels per acre; and 426 acres of soybeans with an average yield of 45 to 49 bushels per acre.

Mr. Hunt is a hard working and effective farmer. Not only is his productivity commendable, but so is the way he farms. He uses new chemicals for better weed control and leaves soybean stubble on the surface until late spring to help reduce erosion on rolling ground.

Productivity had a lot to do with Mr. Hunt's selection to join the 65 Club, but so did his interest and efforts in helping others. He is a member of the Twentieth Century Club a national educational organization.

Mr. Speaker, the proven productivity of American agriculture is a vital ingredient in our strength as a nation, both domestically and internationally.

I am pleased and honored that one of my constituents has been chosen for membership in the 65 Club. I know that you and all other Members of the House join with me in extending our congratulations to Mr. Hunt for this important achievement.●

COMMITMENT TO SHARE OURSELVES WITH OTHERS

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DERRICK. Mr. Speaker, it is with great pleasure that I share with you a speech which was written and presented by a young constituent of mine, Miss Leigh McGeary, a seventh grade student at St. Marys School in Aiken, S.C. Miss McGeary has some very wise thoughts for us to consider.

A COMMITMENT TO SHARE OURSELVES WITH OTHERS

Who is Committed to Share? We, as citizens of the United States of America, one of the most powerful nations in the world, must at all times be willing to share with those who are not as fortunate as we are. One of the principles this country was founded on was brotherhood. We must now and in the future be willing to treat all as brothers and in doing so, we will be obeying the Golden Rule of "Do unto others as you would have them do unto you."

What are we committed to share? We must share our love. John 3:16 tells us, "For God so loved the world that he gave his one and only son." If he loved us enough to give us his only Son, shouldn't we love one another just as much? Shouldn't we be willing to share our love with all people no matter where? We must share our financial assets. We must be willing to share with countries by importing their goods and in doing so, we agree to export and share with them our goods. If we don't share, we are a selfish nation. Our ideas must also be shared. When we keep our ideas to ourselves, we don't prosper. We should be willing to help those less fortunate than ourselves.

When are we commited to share? We must at all times be willing to share, but most of all in times when our fellow brothers need our help. Jesus told his disciples, "When I was hungry, ye fed me. When I was thirsty, ye gave me drink. When I was naked, ye clothed me." They asked of him, "How would we know it was you?" and he answered and said, "When ye have done this to the least of one of these, my brethren, ye have done it unto me." Our hearts tell us we must share and have a commitment to share.

Where are we committed to share? We share with people in all nations and countries. It is our commitment to share. We share our food with the starving children in Cambodia. We share our missionaries with people who have never heard the word of God. We have in the past and will in the future share our military ideas with nations not as advanced as we are.

How are we committed to share? We share by giving of ourselves and our prosperity to nations not as prosperous as we are. We share with them our love, money, and ideas, but most of all we share ourselves.

Last, but certainly, not least, why are we committed to share? We are committed to share because of the principals this Nation was founded on. We are committed to share with our fellowman all the good things that we have. We share because of our Christian heritage and our love for all mankind. John 15:17—Jesus commands us to "Love one another." If we love our fellowman as much as Jesus loved us, don't we want to commit ourselves to share all that we have? Don't we want to help those who are hungry, who are thirsty, who are naked, and who do not have as much as we do?

I would like to leave you with a question—suppose you live in Cambodia and had children who were starving, rather than getting three meals a day—wouldn't you want your fellow man to be committed to share so that your children would not die of malnutrition? No man is an island. He cannot stand alone. He must be committed and have a commitment to share with his fellowman. Ponder this question, and then ask yourself, am I committed as I should be to share?●

"NO" TO LONG ISLAND SOUND DUMPING

HON. WILLIAM CARNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. CARNEY. Mr. Speaker, I rise to protest a shortsighted and regrettable decision by the Army Corps of Engineers which will cost the people I represent on Long Island dearly.

Yesterday, the corps formally announced its decision to begin to allow dumping of contaminated material dredged out of polluted harbors close to New York City into a new area in the western part of Long Island Sound.

The final site chosen for this dumping is immediately adjacent to the most productive and prime lobster ground in the sound. The production of shellfish and finfish in this part of the sound, as well as the recreational aspects of this presently unpolluted area, also have been put at risk by this decision.

What is most deplorable about the corps' decision it that it puts the economic benefit of private interests, largely marina and recreational boatowners, ahead of the health of a far larger number of people in both New York and Connecticut who depend on the sound for food.

I joined with the five other members of the Long Island delegation in protesting this plan when it was put out for public comment last November. I deeply regret that the corps has seen fit to ignore the interests of the people of Long Island we represent.

This is a dangerous and potentially disastrous decision. I would join in any effort to reverse this decision if it is possible.●

JEC FOCUS ON TRADE

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LONG of Louisiana. Mr. Speaker, during the past decade, the United States has become much more involved with an international economy that itself has grown in size and complexity. In its latest annual report to the Congress, the Joint Economic Committee suggested three parallel aproaches to trade that will help limit the trade deficit, improve the competitiveness of many American industries, and build new markets for the future.

In part, Mr. Speaker, our current trade problems are one of the many painful side effects of the current high interest rate policies. Lured by high interest rates, foreign capital has moved into the American financial markets and kept the dollar well above the level that would limit our trade deficit. Not only have American goods been priced out of foreign markets but the strong dollar has also made imported goods much more attractive.

Mr. Speaker, we have heard a great deal about the inability of U.S. automobile producers to compete with their Japanese counterparts. The blame has been placed on high American wages, obsolete American equipment, poor American management, faulty quality control, a failure to anticipate the market and several other factors. Less well recognized, however, is the impact of an overvalued dollar and an undervalued yen. Some estimates suggest that if the yen rose to the range of 175 to 180 to the dollar—a level reached in the late seventies—the U.S. manufacturers would be able to match Japanese prices in the American market.

High prices are not our only problem. In many fields, the United States remains competitive despite the strong dollar but faces foreign barriers that penalize U.S. exports. The very fields in which the United States remains most competitive, high technology and agricultural exports, are just the fields most likely to face foreign discrimination of one kind or another. Existing U.S. strength in internationally provided services is also being challenged by overseas competitors who threaten to limit U.S. participation in their markets. In our latest report, the members of the Joint Economic Committee urged the administration to focus their efforts on reducing barriers to U.S. high technology exports and continue their emphasis on preserving the U.S. role in international services.

Over the course of the post-World War II era, the growth in international trade has outstripped the overall growth of the world economy. Trade has played an important role in restoring economic health in Western Europe and Japan and has been very important for the rapid growth in a number of developing countries. The expansion of international trade has helped raise incomes and lower prices throughout the world.

The growth in trade with the developing world has been linked to general economic development. Countries such as Brazil, Mexico, Korea, and others, have relied on the World Bank and the regional development banks to complement their own efforts at development. In general terms, the development banks helped create the conditions in which private capital—both domestic and foreign—could thrive. It was the view of the committee members that sharp cutbacks in funding for the development banks would, in effect, be limiting our own industrial future.

Over the next decade, the international economy will become even more important to the United States. In our annual report, we have suggested a series of steps to help keep U.S. industry competitive in international markets. I commend our report to my colleagues for their consideration.●

A TRIBUTE TO SAM AMSTER

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. SCHUMER. Mr. Speaker, I rise to pay tribute to an individual who has devoted himself to the betterment of his community: Sam Amster.

With a record of service that spans over 20 years, Sam is truly a remarkable individual. On March 6, 1982, Sam was honored at the Harry S. Truman Democratic Club annual dinner for his outstanding dedication to our Brooklyn community and for the many contributions he has made to our neighborhood.

Sam Amster has dedicated his life to the education of our children. He is personnel director for school board district No. 21, has served as an elected member of community school board No. 22 for the past 9 years, and has served as chairman of the board of Yeshiva Rahtazd. Sam is always working for the betterment of our future generations.

I am not the first and will surely not be the last to pay tribute to Sam. He has previously been honored by the Association of Jewish Orthodox Teachers, B'nai B'rith, and the Brooklyn College Student Association of Education Administrators.

Sam has been active in other areas of community work as well. He has served as a member of community planning board No. 18 for 10 years, has helped send local handicapped children to summer camp, and is currently on the board of directors for Congregation B'nai Israel of Midwood.

In spite of all the time he has spent working in the community, Sam has been a model father, dedicated to his children, Jeffrey, Elyse, and Seth.

Sam is a model man of great quality and we, in Brooklyn, are proud to call him one of our own.●

ESSENTIAL FAMILIES

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. SHUMWAY. Mr. Speaker, in their clean white laboratories, the social scientists of the world have long sought an alternative to the family. The family, they think, is a singularly messy way to go about the business of child-raising.

For one thing, the family breeds inequality. Not all parents are equally gifted, equally educated, equally dedicated to the task of character formation. The social scientists have noted that these inequalities are carried over from generation to generation, despite the best the schools and opinion-makers can do. Thus, if we are ever to reach true equality, reason these social engineers, the family has to go.

I am not talking, Mr. Speaker, just about the clinicians of our own day. The genealogy of those opposed to the family is long indeed, and very distinguished. Plato is the first recorded opponent of the family, and he certainly brings a certain prestige to this point of view. Others who shared his view of the harmful influence of family life were Jean-Jacques Rousseau, and Karl Marx. Their heirs abound today, on the campuses of our universities and the think-tank hothouses.

Unfortunately, for all their tinkering, none of these well-intentioned egalitarians has ever come up with a system to displace the family. The conclusion might be that the family is, in fact, indispensable to the maintenance of a stable social order. At least, no stable civilization has ever existed without it.

That is exactly the conclusion come to by Dr. Wesley Burr, president of the National Council on Family Relations, who makes some excellent points about the family and its role in socialization and social preservation in an article in the new newspaper the Washington Times. I ask unanimous consent that Dr. Burr's column be printed at this point in the RECORD.

[From the Washington Times, Mar. 8, 1982]

NUCLEAR FAMILY AS AN IRREPLACEABLE ORGAN

(By Wesley R. Burr)

As we try to manage our natural resources, we have gradually learned that different resources must be managed differently.

For example, we learned about a century ago that our forests were a limited resource, but that they are renewable in a generation or two, and we have developed rather effective strategies for this and many other renewable resources. We also have learned, in the last decade or two, that we have limited and nonrenewable resources in areas such as energy and ozone, and we need to deal with these in different ways.

We are only beginning to understand that social systems such as the family are a different kind of resource and require unique strategies.

Many have assumed, for example, that the family is a hand-me-down method of doing things that could probably be replaced with a better system—such as doing away with marriage and family life or replacing them with some agency funded by the government. I think the family is an essential part of our social fabric. It is one of the most basic foundation stones upon which organized and civilized society rests; and it cannot be eliminated.

It is a fairly adaptable institution, and it can and should be modified to accommodate itself to new technologies and social conditions, but its basic ingredients—marriage, parenthood, childhood, emotional bonding, domestic relationships, and intergenerational ties—are so essential that the welfare of our society and our survival as a civilization are dependent on them . . . and we would be well advised to give more attention to how we manage them.

CRAZY ABOUT THE CHILD

There are many psychological reasons that marriage and family life are the best way to organize humanity; and that the substitutes (such as orphanages, welfare and being single) are, at best, dismal and unsatisfying.

Urie Bronfenbrenner and his colleagues' ("Who Cares for America's Children?", 1976) long-term studies of how children develop in different nations have demonstrated that several things are essential if we are to raise healthy, well-adjusted children.

Some of these essentials are well understood, such as good nutrition and proper exercise and the opportunity to learn and grow.

One of the other essentials is not as universally understood. It is that children need people who care for them in "nonrational" ways. They need adults who are so wrapped up in the child, so attracted to it, so wild about it, that the child is deeply loved in a way that cannot be bought at any price.

In Bronfenbrenner's view, the key adults in the child's life need to be so "crazy" about the child that they are willing to nurture, tend, help, assist, nurse, guide, watch and invest themselves in ways they will pursue only if their relationship is centered around non-economic, non-rational, non-commercial non-business and non-paycheck matters. It has to be an emotional attachment that comes from committing one's self to values and goals and beliefs that connect the child to the adult in a type of bond that is unique to humans.

We call it parenthood. It happens when a man and woman come together as one in body, spirit, mind and life, and invest themselves in each other and their children.

It is only when we have these ingredients that we have the optimal conditions for creating healthy human beings. And, it is not just the children who need these processes. It is only when these conditions exist for the adults, too, that they can be truly fulfilled and experience the joy and development that life can offer.

It is important to realize that when marriages are terminated through divorce, abuse and other forms of instability, many of the complex and delicate conditions that are essential in the husband-wife and parent-child relationships are shattered.

While it is possible to make do with substitutes through remarriage, the ties with the parents are fragmented as the child tries to move from one to the other. And, attempts to create new and deeply meaningful relationships with the strangers their parents marry are difficult and frequently ineffective. It is second-best, and it leaves permanent scars on everyone involved.

CLEARLY, THE BEST WAY

These are some of the psychological reasons that marriage and family life are important and why they are clearly the best way to live life.

And, when the psychological and social reasons are combined, we have a conclusive argument for strong families. We have the reasoning that should help us understand that the family is an indispensable national resource that needs attention—considerably more attention than it has received in the past.

Several conclusions emerge from sociological analysis of marriage and family. One obvious conclusion is that societies cannot last without them. The societies would disintegrate by not having an orderly method of getting new people and not meeting the needs of the people or the societies.

Another conclusion is that people from Plato to Marx have tried to invent systems to replace the family, and they have tried to call their inventions something other than marriage and the family. It is impossible. Just like the creature that has webbed feet and a flat bill; they can call it something else if they like, but it is still a duck.

People can argue all they want that they can replace the family, or that the world is flat, or that ducks don't quack, but time, experience and scholarly analysis all argue that the real quackery is in not recognizing the central role of the family in society.●

JOHN CALDWELL CALHOUN

HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. DERRICK. Mr. Speaker, it is my privilege and honor today to commemorate the 200th anniversary of the birth of John Caldwell Calhoun. A native South Carolinian, this great statesman made his home at Fort Hill Plantation, on which now stands Clemson University.

Calhoun dedicated his life to the service of his State and country. After serving in the South Carolina Legislature, he was elected to the U.S. House of Representatives, where he acted as chairman of the Committee on Foreign Affairs.

Calhoun's distinguished career did not end in the legislature. He was appointed Secretary of War by President Monroe and elected Vice President under President Jackson. He returned to the legislature as a U.S. Senator where he was described as "constantly attentive to the public business and whatever were his views upon banking, public lands, or foreign relations, he voiced them in a manner which proved his concern with sound government for the whole country."

I hope you will join me in celebrating the contributions of John C. Calhoun. I have great pride in the knowledge that he once represented the area which has evolved into my congressional district. Certainly, we can learn much from this man about whom President Adams referred to as "of fair and candid mind, of honorable principles, of clear and quick understanding, of cool self-possession, of enlarged philosophical views, and of ardent patriotism."●

REV. CHARLES H. WILKERSON—100 YEARS OLD

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LELAND. Mr. Speaker, the history of any city is much more than the careful recording of an event, a time, a place. It is people. Ralph Waldo Emerson said it best: "There is properly no history; only biography." People shape the events. People choose the times and people name the places.

For that reason, it is with a special reverence and pleasure today that I congratulate Rev. Charles H. Wilkerson on his upcoming 100th birthday. Reverend Wilkerson is walking, living, breathing history. He is the history of a city, the history of Houston.

On March 26, 100 years ago, Charles Wilkerson was born in Houston's second ward neighborhood. The Houston known by Charles Wilkerson's parents, Annie and Peter, was a different place than the booming, metropolis we know today. It was 1882—the same year that Houston Electric Power Co. was granted its first franchise. Telephone service came to town only 1 year later when Houston was connected with Galveston.

Reverend Wilkerson's mother, a seamstress, saved enough money to send her son to the Lucinda Perry School. After fourth grade, young Wilkerson finished his education in Waller County. During those years, Reverend Wilkerson remembers, Main Street was constructed entirely of wood. He recalls the people who chopped the lumber to build the street, the Allen Brothers. In fact, there were no paved streets in the city until 1897 when Franklin Avenue was spread with asphalt.

By the time Wilkerson was seven, telephone service in Houston had expanded to 265 customers and 6 streetcar lines laid on 14 miles of track. Three years later, the population of the city had grown to all of 27,557—a mere fraction of its size today.

At the age of 19, following in his father's steps as a coachman, Reverend Wilkerson went to work for T. K. Dixon. For over 50 years, he was a friend and driver to the Dixon family. It was a tenure served well and faithfully, say his former employers.

Then Mr. Wilkerson turned to a new profession. Studying under Rev. U. S. Dickey of the Friendship Fellowship Baptist Church, Charles Wilkerson became Rev. Charles Wilkerson. For years to follow, his gravel-voiced sermons could be heard ringing out on Sundays in the church.

Now retired, Reverend Wilkerson resides in Houston with his stepdaughter, Mary McLemore. I have to thank him for staying, helping and watching the city continue to grow. He is the living testimonial to the history of a great city and it is an honor he bears admirably. He never rebuffs those who gather around him for stories of "the old days"; he has a veritable treasure chest of them. Reverend Wilkerson is a proud reminder of the Houston that was and a symbol of the Houston that is. Please join me in congratulating Rev. Charles Wilkerson in celebrating 100 productive years of life.●

HAPPY ANNIVERSARY HOUSE TV

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. LONG of Louisiana. Mr. Speaker, 3 years ago this week, the television-viewing public gained access to floor proceedings of the House of Representatives.

This birthday anniversary is an occasion that calls for celebration. It pleases me that the pluses of this endeavor have far outweighed any anticipated minuses.

A great deal of credit for the success of the system goes to Charlie Rose, who worked tirelessly to assure high quality transmission from the House floor.

Jack Brooks, whose Select Committee on Congressional Operations performed the initial broadcasting trials, paved the way for the venture.

C-Span deserves thanks for making House broadcasting widely available through its public affairs network.

And so it was that 3 years ago we joined the ranks of other democratic countries that televise the proceedings of their legislative chambers. This includes our good neighbor, Canada, as well as West Germany and Japan.

The Canadian Parliament, I understand, has cut back on its desk-thumping since the advent of televised coverage in 1977. This time-honored tradition began to wither away as Members grew self-conscious before the cameras.

I do not think we have lost anything comparable in the way of tradition in this House. What we have gained is a closer connection to our constituency, the ability to spend more time working in our offices, and more familiarity on the part of staff and Members with parliamentary procedure.

Most importantly, we have brought the proceedings of the House into American households. We have produced a visual and audio counterpart to the Congressional Record that is an open book.

This was our aim, the compelling reason for my subcommittee's report recommending adoption of the present House broadcasting system.

I am pleased that our recommendations resulted in television coverage that has not disrupted House floor proceedings and has become an accepted part of the legislative process.●

RETIREMENT OF TERRY MINSHULL, MAYOR PRO TEM OF PASO ROBLES, CALIF.

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. PANETTA. Mr. Speaker, after serving on the Paso Robles City Council since he was first elected in 1970, Terry Minshull has decided not to seek reelection. As mayor pro tem, Terry has played a key role in the tremendous progress that city has made in the past decade, and he can be proud of the work he has done.

Terry first came to Paso Robles with his parents when he was only 8 years old. He attended schools in Paso Robles and has been active in the city throughout his life. In 1962, he joined the fire department, and he has continued to serve with the department, where he is now captain.

As a city council member, Terry Minshull has been involved in key policy areas, and he has chaired the San Luis Obispo County Area Council of Governments and the San Luis Obispo Airport Land Use Committee. He has also been active in the Jaycees and served as president of the Rotary Club in 1976–77.

Mr. Speaker, the people of Paso Robles will miss Terry. His great contributions will long be remembered, and I know the entire city joins me in hoping that his decision not run for reelection does not mean that his years of service are over. There continues to be a great need for a man of Terry's experience and knowledge about the city's affairs, and I know he has a great deal more to contribute.●

FEDERAL AID TO TROUBLED THRIFTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. FRANK. Mr. Speaker, the cover of this week's edition of Newsweek magazine carries the boldface headline "How Safe Are Your Savings?" It is increasingly clear that the health of our Nation's thrift institutions has passed from the realm of speculation by financial analysts to a subject of interest and concern to the average citizen.

The distinguished chairman of the Committee on Banking, Finance and Urban Affairs, Congressman ST GERMAIN, has announced hearings on the state of the thrift industry and proposals to provide assistance. Members owe a debt of gratitude to Chairman ST GERMAIN for his efforts to address this problem which, so far, the Reagan administration has chosen to ignore.

As the debate on thrift assistance legislation begins, I would commend to my colleagues an article from the Savings Banker by Elliott G. Carr titled "Federal Aid to Troubled Thrifts".

Mr. Carr, the president of the Savings Bank Association of Massachusetts, holds his M.B.A. from the Harvard Business School and is a frequent lecturer at banking and financial services conferences. He has provided insightful testimony to the Congress and the Massachusetts Legislature over the last 10 years on subjects ranging from NOW accounts to the restructuring of the financial institutions industry.

Mr. Speaker, I insert the text of Mr. Carr's article in the RECORD at this point.

[From the Savings Banker, February 1982]

FEDERAL AID TO TROUBLED THRIFTS—WHEN IS NOTHING SOMETHING OR SOMETHING NOTHING?

(By Elliott G. Carr)

Each day the papers carry stories of thrifts merged by one of the Federal deposit insurers in order to prevent their demise. A review of the procedures used by the insurers thus seems warranted.

Bluntly, the illness that has stricken the thrift industry is of immense dimensions. Many institutions remain alive today only because of their hookup to the Federal "heart and lung" machine, public confidence in deposit insurance having proven to be of major importance. Almost all thrift institutions have developed the illness, albeit some far more severely than others.

According to data published in the November 5th issue of National Thrift News, during the first six months of 1981, only in Nevada (of the 50 states) was the savings and loan industry profitable. Furthermore, the rate of loss was such that if it continues the entire industry in the state of New York would run out of book surplus in approximately 19 months, in Illinois in less than four years, and in most other major states in approximately five years. In October, 1981 the S&L industry lost $766 million, ending the month with surplus of $28.5 billion. At that rate the entire industry has only 37 months of remaining surplus.

Although the focus of this article is on savings and loans, the illness has not been limited to that industry. The November 10th issue of the American Banker, in reporting earnings for New York City savings banks, reported that a considerable number of banks were losing money in the third quarter at a rate which would consume their book surplus within two years.

Furthermore, some would say that thus far this analysis, by concentrating on book surplus, has painted the most rosy possible image of the condition of thrifts. Practically no thrift could sell its assets anywhere near book value, the market value surplus of almost all thrifts already being negative. At a recent conference, Richard Kopcke, vice president of the Federal Reserve Bank of Boston, estimated the amount of federal assistance necessary to restore thrifts to adequate health at $100 billion.

Fortunately or unfortunately, and it probably is a little bit of both, no one in the Reagan Administration has yet acknowledged there is an acute problem. (At least that is what they say.) The full onus of administering an industry whose assets may be worth $100 billion less than its liabilities has thus fallen to Richard Pratt, chairman of the Federal Home Loan Bank Board. Fortunately, and it is that, he has proven to be a giant among midgets. He has provided a variety of medicines: some miracle drugs at great government expense, some placebos bottled under other names. Thus far all have worked.

Here are a few examples:

For a number of months, the "bell-weather" problem of the savings and loan industry was the West Side Federal Savings and Loan Association in New York City. In September it, along with the Washington Savings and Loan Association of Miami Beach, Florida was sold with assistance from the Federal Savings and Loan Insurance Corporation (FSLIC) to Citizens Savings and Loan Association of San Francisco, California, which itself is a subsidiary of National Steel Corporation.

According to reports in Forbes magazine, during the next three years National Steel will inject $75 million into the two failed savings and loans which were merged with Citizens. In return the FSLIC agreed to cover the spread of portfolio losses of the two institutions for a period of 10 years. Forbes estimated the current cost of the spread at $10 million a month.

Such estimates are, of course, only very rough because the spread is heavily dependent on future interest rate trends. Indeed, many such deals will make the future solvency of the FSLIC as dependent on favorable interest rate movements as is the future of most savings and loans

In addition, inasmuch as the aid from the FSLIC is not taxable, whereas the losses of the institutions are deductible, the parent corporations could realize considerable tax breaks over the same 10 year period.

Direct and indirect, the amount of federal aid in this one instance was thus immense compared to total book FSLIC assets of $6.9 billion (market value somewhat less). The "bellwether" is now out to pasture, but a precedent has been set which cannot possibly be lived up to in terms of potential fund expenditures.

The second method of assistance applied by the FSLIC in the case of troubled savings and loans was the income capital certificate (ICC) announced by the FSLIC on September 7, 1981 and utilized by the FSLIC four days later to assist in the merger of the Franklin Society Federal Savings and Loan and the First Federal Savings and Loan Association of Rochester, New York.

ICCs are certificates issued by the S&Ls to the FSLIC in exchange for cash. Annual redemption payments and annual dividend or interest payments thereon are both required based on percentages on the net income of the issuing assoication, if there are any.

From the standpoint of the FSLIC, the ICC did little to avoid the problems of the Citizens package in that the amount of FSLIC funds utilized remained at unsustainable levels, if assistance is required for a substantial number of institutions.

From the standpoint of the institutions receiving the aid, however, both the Citizens package and the ICC represented real assistance—actual cash payments to offset the capital or income deficits of the acquired institutions.

What the FSLIC clearly needed was a way of cutting problem savings and loans off at the pass before they required direct injections of cash. Towards this end, the Federal Home Loan Bank Board changed its procedures to permit savings and loans to sell assets at a loss, but for accounting purposes to defer the loss over the original life of the asset.

The logic is simple. As all savings and loans, whether they be "problem" or not, have asset portfolios worth far less at market than either the book value or the deposit liabilities, something has to be done to prevent the FSLIC from funding this gap for a growing number of S&Ls as the gap translates itself into negative earnings. The changed accounting procedures said, "Sell some or all of the assets, realize the loss, but spread the loss over the remaining life of the asset, rather than expecting the FSLIC to pay for it."

Some savings and loans went at the new authority with a vengeance. The November 16th issue of Barron's, for example, carried the story of the Guaranty Federal Savings and Loan Association of Galveston, Texas. Although the story is incomplete, we learn that a "$370 million" savings and loan sold "a slug of mortgages carrying face values totaling $300 million at discounts of 17% and up," thereby netting "more than $160 million in cash"—which it used primarily to buy a "new portfolio of home loans from 32 sellers in 40 states, plus Ginny Maes." In so doing, the Guaranty converted its annual operations from a loss to a profit basis.

Reading between the lines, what seemingly resulted was an association with assets equal to approximately two-thirds of its liabilities, deferred losses being the offsetting item, and carrying an annual charge to operations of at least several hundred basis points for quite a few years into the future in order to amortize the deferred loss.

Nevertheless, one can argue that accountants should support such procedures because they clarify the size of the real gap between assets and liabilities, a fact which remains hidden under conventional accounting procedures. (Regulations require that the deferred loss figure be reported clearly and separately). Furthermore, as long as the asset trading is prudent, the institution improves its real earnings as well as its book earnings through portfolio improvement, and thereby ends up the period of life of the original asset in better condition than it would have if the asset had not been sold. In this sense such procedures underscore the inadequacy of current accounting methods in inflationary periods of rising interest rates.

But deferred accounting of losses, now in widespread use, represents just what the name implies—deferral of a problem. It is a gamble. If things go well, by spreading out the problem a crisis is minimized or avoided. If, however, things get worse, the savings and loan of tomorrow could face a double whammy; tomorrow's problems accompanied by a postponed portion of today's problems.

Furthermore, use of this technique often involves further speculation in interest rate movements, the phenomenon which got thrifts sick in the first place. In theory such accounting procedures make the most sense if they enable the thrift to shorten its average asset life, which is not, however, required. But the institution which takes the loss and shortens the average asset life at a period of peak interest rates, when the pressure is greatest to do so, will further weaken itself vis-a-vis an institution which makes it through the peak period, then takes its loss when rates are down somewhat. (In the long run, if rates rise, both are better off having taken the loss in order to shorten assets.)

The problem is also being deferred, however, by required use of accounting procedures which preclude the sale of the asset, thereby also precluding portfolio shortening and improvement.

What is really noteworthy about the new FSLIC procedure, it should be stressed, is the implicit way in which it condones the deferral of problems, thereby removing the apparent need to provide direct financial assistance to an institution which probably really requires it.

Another method of putting today's problem off until tomorrow is "purchase money" accounting, utilized by the FSLIC in assisting the takeover of the troubled First Federal Savings and Loan Association of Broward County, Florida by the Glendale Federal Savings and Loan of California.

The takeover was assisted by the FSLIC in two ways:

First, the FSLIC agreed to assume a portion of the future rate risk on the acquisition in that if rates rise, the FSLIC will make specified payments to Glendale. If rates fall, Glendale will make payments to the FSLIC.

Second, as noted, Glendale was authorized to utilize "purchase money" accounting. In this technique the undervalued assets acquired are written down to market value. On the balance sheet this loss is offset by an equal asset labeled "goodwill." The loss on assets is recouped over their asset life, while the goodwill is written off over a much longer period, normally 40 years. Thus the initial impact on earnings is very favorable; yet once again the day of reckoning is being put off, as many years later the S&L will still be amortizing goodwill against earnings while no longer having any of the assets around.

When it comes to time span, "purchase money" accounting thus represents a further breakthrough. Deferred treatment of losses enables a spread of approximately 12 years in most cases, depending on the life of the original assets, while "purchase money" accounting increases the possible spread to 40 years.

It will take several years to evaluate the performance of the Federal Home Loan Bank Board and the FSLIC in bringing the savings and loan industry through a troubled period.

Nevertheless, they already deserve some credit. This is in comparison with an administration led by Secretary of the Treasury Regan whose approach might best be described as "ostrich" in that it perceives an industry almost all units of which have been operating in the red and with assets of far less market value than cover liabilities, as having few difficulties. These agencies have done wonders to keep the industry and the FSLIC afloat without aid.

But in so doing, they are making the FSLIC into the biggest thrift institution of all when it comes to what ails the industry.

Although it is increasingly recognized that the fundamental problem of thrift institutions is that they unwittingly speculated in interest rate movements and lost, the FSLIC is much more wittingly and with much more leverage transferring the risk of future rate movements to itself.

Furthermore, it is a recognized principle of loan administration that you take a loss rather than continually capitalizing it, thereby pyramiding the problem with the hope that things will get better. Yet the basic FSLIC strategy has been to postpone today's problems until tomorrow.

One could be far more supportive of the strategy of "buying time" if the time were being used more constructively. Thus far the federal superstructure, despite the commendable efforts of Chairman Pratt and the FHLBB to promote necessary changes, has done little to restructure the asset powers of thrifts in order to reduce vulnerability to future shocks.

If interest rates come down and stay down, the FSLIC will have dodged a whole machine gun's output of bullets. But if a 30-year history of rising interest rates continues, in order to preserve one administration's myth that there is nothing wrong with thrift institutions that requires real government help, this administration will have left the next with a problem which makes the current one look minor in comparison.

The present administration has thus forced the FSLIC into a position which risks making the S&L industry into a high stakes Ponzi scheme managed by the federal government. One almost wonders whether the next method of helping S&Ls won't be to get a corner on the market for Dutch tulip bulbs and give enough to each problem institution to bring its balance sheets back into balance.●

HOUSE OF REPRESENTATIVES—*Monday, March 22, 1982*

The House met at 12 o'clock noon.

The SPEAKER. Today we have with us an honored guest, the beloved former Chaplain of the House, the Reverend Dr. Edward G. Latch.

The Reverend Edward G. Latch, D.D., former Chaplain of the House of Representatives, offered the following prayer:

Wait on the Lord: be of good courage and He shall strengthen thine heart: Wait, I say, on the Lord.—Psalm 27: 14.

Eternal God, our Father, we turn aside from the noise and clamor of the world seeking wisdom for our minds, strength for our spirits and love for our hearts. To Thee, O God, we bring our sins to be forgiven, our wounds to be healed, our courage to be renewed and our faith to be strengthened. Fill us with love and truth that we may ever be noble in spirit, humble in heart, and considerate of others as we face the duties of this day.

May Thy wisdom guide our President, our Speaker, and all these representatives of our people. Touch their spirits with Thy Spirit and grant unto them such understanding that they may have courage and confidence as they seek to solve the problems of this age and to establish a better order of life for all people.

Send us out into this day strong in Thee and in the power of Thy love.

Bless the Space Shuttle, *Columbia*, as she sets out upon her journey. Grant unto her a useful journey and a safe return. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4. An act to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4) entitled "An act to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources," disagreed to by the House; requests a conference with the House on the disagreeing votes of the two Houses thereon; and appoints, Mr. THURMOND, Mr. DENTON, Mr. EAST, Mr. BIDEN, and Mr. LEAHY from the Committee on the Judiciary; and Mr. CHAFEE, Mr. LUGAR, Mr. JACKSON, and Mr. BENTSEN from the Select Committee on Intelligence be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 143. Joint resolution to authorize and request the President to designate the week of May 2 through May 8, 1982, as "National Physical Fitness and Sports for All Week."

The message also announced that the Vice President, pursuant to section 4355(a) of title 10, United States Code, appointed Mr. WEICKER, Mr. INOUYE, Mr. NUNN, and Mr. ROTH as members, on the part of the Senate, of the Board of Visitors to the U.S. Military Academy.

The message also announced that the Vice President, pursuant to Public Law 84-689, appointed Mr. MATHIAS (chairman) and Mr. PELL (vice chairman) to attend the North Atlantic Assembly Spring Meeting, to be held in Madeira, Spain, May 28-31, 1982, and the North Atlantic Assembly Fall Meeting, to be held in London, England, November 14-19, 1982.

The message also announced that the Vice President and upon the recommendation of the majority leader, pursuant to section 276 of title 22, United States Code, as amended by Public Law 95-45, appointed Mr. STAFFORD to attend and to act as chairman of the Senate delegation to the Interparliamentary Union Conference to be held in Lagos, Nigeria, April 12-17, 1982.

RECOMMITTAL OF HOUSE RESOLUTION 378 TO COMMITTEE ON HOUSE ADMINISTRATION

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that House Resolution 378, the 1982 primary expense resolution, be recommitted to the Committee on House Administration.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

NUCLEAR FREEZE MOVEMENT GROWS

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, the nuclear freeze movement grows day by day. Our ranks have been joined over the weekend in a most gratifying way from an unexpected source.

Mr. James J. Kilpatrick has a column entitled "Where Are Conservatives on the Nuclear Danger?" I commend his column to all Members of the House, and particularly those who consider themselves conservatives.

[From the Los Angeles Times, Mar. 3, 1982]

WHERE ARE CONSERVATIVES ON THE NUCLEAR DANGER?

(By James J. Kilpatrick)

John Stuart Mill once had an especially unkind thing to say about conservatives. It is the "law of their existence," he sniffed, that makes them "the stupidest party."

That was 120 years ago, but recent events at home and abroad prompt a melancholy reflection that Mill had a point.

Throughout Europe and in parts of the Far East, demonstrations against nuclear arms are increasing. Here at home, the burghers of Vermont are passing resolutions. A week or so ago, Sens. Edward M. Kennedy of Massachusetts and Mark O. Hatfield of Oregon won national attention for their resolution urging a bilateral freeze on nuclear weapons.

Where are my brother conservatives? What are they doing about the most awesomely important political issue in the world? Alas, the answer is, not much.

In politics, perception is everything. The perception grows that Kennedy and Hatfield and their liberal colleagues are deeply concerned about the perils that are posed to mankind by nuclear war. A corollary perception grows that conservatives don't give a damn.

Such perceptions, I would argue, are wholly unwarranted. In his Nov. 19 speech to the National Press Club, President Reagan clearly expressed his determination to seek an agreement with the Soviet Union concerning nuclear weapons. He spoke movingly of the hopes and dreams of all people to escape from the shadow of a mushroom cloud. He set in motion Project START, an acronym for strategic arms reduction talks.

But the clarity of Reagan's message was diminished by his use of charts and graphs and statistics. His speech was a one-day story. Three months have passed, and talk of START has just about stopped. Last week the State Department threw cold water on the Kennedy-Hatfield resolution. Their proposed freeze was called "impractical."

The analogy may seem frivolous in this context, but it is woefully familiar. While conservatives dribble along, the liberals have a way of stealing the ball. Kennedy and Hatfield and their 100 liberal cosponsors have seized on an issue of life-or-death meaning to the whole planet, and there is not a sentence in their resolution that thoughtful conservatives could not support.

"The greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design." What is wrong with that? "The nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war." Can anyone deny this? "A freeze followed by reductions in nuclear warheads, missiles and other delivery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war." Isn't this an idea worthy of exploration?

Of course such a moratorium merits discussion—and that is all the resolution asks. The resolution urges that the United States and the Soviet Union jointly "pursue" a complete halt to the arms race, that the two nations "decide" how such a mutual and verifiable freeze could be arranged, and that, proceeding from such a freeze, the two nations "should pursue major, mutual and verifiable reductions in nuclear warheads, missiles and other delivery systems."

The element of a "freeze" is a new element, though the device of a truce is as old as warfare itself. Otherwise, unless words have lost their meaning, the Kennedy-Hatfield liberals are proposing exactly what Reagan's START proposed in November. Why can't conservatives get behind an increasingly popular cause?

For, make no mistake, the prevention of nuclear warfare is on its way to becoming the most popular cause in the world. In nations large and small, East and West, people clearly comprehend the fearful destructive power of today's atomic weapons. They accurately perceive the danger to the continuation of civilized life, and they want that danger removed. If conservatives fail to recognize this swelling demand, and to identify with it, they will justify the charge that Mill leveled against them long ago.

MARCH IS HISTORIC MONTH FOR ERA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, March is a very historic month for American women seeking equality. In March 1776, Abigail Adams wrote her husband John in Philadelphia asking the Continental Congress to grant women equal rights. John and the Continental Congress disregarded her plea. Women kept working for equal rights during the past 206 years and, Mr. Speaker, 10 years ago, Congress showed its support for the principle of equality for women by passing the equal rights amendment. Out of 535 Members of the House and Senate, 438 Members voted for the amendment in 1972.

The need for the ERA is as great now as it ever was. The ERA is an economic issue. In these times of economic disarray, women's inequal status glares at them from their paychecks. Women earn in 1982, just as in 1972, only 59 cents for $1 a man makes.

Three States need to ratify the ERA before it becomes a part of our Constitution. Please join me and my other colleagues in the congressional caucus for women's issues in urging State legislators in unratified States to pass the ERA. We want to let them know that if the amendment is not ratified by its current deadline, Congress will introduce it again. The issue will not die.

We must let these State legislators know that the economic equity of women in your State and my State hinges on their vote.

NEED TO CONTROL AND REDUCE NUCLEAR ARMS

(Mr. GORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, in a few moments I will engage in a special order discussing the need, in our country and around the world, to do a more effective job in controlling and reducing nuclear arms. There is, of course, a growing awareness in our country of the urgency of this problem.

We have had the freeze proposal discussed, but thoughtful observers of this problem have concluded, with good reason, that there are significant problems associated with a freeze. It is a problem that has to be addressed very carefully. For the past 14 months, Mr. Speaker, I have been working as a member of the Intelligence Committee to try to develop a better understanding of this problem. I am introducing into the RECORD today a detailed proposal on how we could concentrate on the most destabilizing weapons and make a modified moratorium work.

ANNUAL REPORT ON U.S. GOVERNMENT'S INTERNATIONAL ACTIVITIES IN SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. RATCHFORD) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred jointly to the Committee on Foreign Affairs and the Committee on Science and Technology.

(For message, see proceedings of the Senate of today, Monday, March 22, 1982.)

BEYOND THE FREEZE: A NEW APPROACH TO MEANINGFUL ARMS CONTROL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. GORE) is recognized for 30 minutes.

Mr. GORE. Mr. Speaker, for many years, arms control has been the province of a handful of specialists in government and in the academic world. By and large this small group has decided what was to be considered feasible in arms control from a theoretical point of view, and it comprised judge and jury for the finished products; that is, arms control agreements worked out with the Soviet Union and brought forward to the Senate for advice and consent.

The failure of the SALT process has often been attributed to extraneous events. For example, many now say the Soviet Union's invasion of Afghanistan made it impossible for the Carter administration to submit the treaty to the Senate.

But in a larger sense, the SALT process may be said to have failed even without help from the outside. It was clear that the treaty, whatever its merits or demerits, had no broad constituency in our country. True, it had a number of lukewarm supporters, who were prepared to argue that it was better than nothing, but it had very few who were really willing to go to the mat for it. Certainly the people who have always distrusted arms control and who want to try to buy and deploy our way to safety did not like it, and even the arms controllers themselves were unenthusiastic.

The treaty we and the Soviets had devised certainly would have limited strategic arms, but only at enormously higher numbers of weapons. By the time we and the Soviets would have reached levels of deployed strategic warheads, as permitted by the treaty, the United States would have gone from about 8,946 in 1980, to approximately 13,438 in 1989, and the Soviets from about 7,273 in 1980, to approximately 15,560 in 1989.

Now we have a new administration which wishes to greatly accelerate the rate at which the United States deploys new strategic weapons, which is manifestly doubtful about the value of arms control for national security, and which appears to want to dangle prospects of arms control mainly for purposes of linkage and leverage against the Soviets.

As a result, people all across this country are becoming alarmed. They see on the one hand rhetoric about arms control, and on the other hand, massive real resources going into programs for new weapons. They are concerned that the direction in which we are headed is only too clear: an unlimited, ungovernable competition with the Soviet Union to build new strategic weapons; vast sums expended for what would in fact turn out to be diminished safety in the world.

This foreboding is the stuff of which grassroots movements are made. From the vantage point of the Congress, we can already see that arms control is in fact moving fast into the political arena. The conventions and concerns of "academic" or "professional" arms controllers—their appreciation for the niceties and nuances—are not likely to make much of an impression on the kind of debate we seem to be heading into.

There are calls for dramatic and allegedly simple solutions—total freezes, drastic reductions on fixed timetables, and the like—which have become the program of an emerging political coalition in this country. To an extent, this is a positive development: The people are telling their Government to get moving with meaningful arms control discussions. But there is also a danger that reasoned consideration of this country's real security needs will be impatiently overlooked and that important factors about how the real world operates will be blithely ignored.

Recently, numerous Members of the House and Senate sponsored a rather carefully worded resolution, which calls for a lot of changes in our approach to arms control. That resolution apparently means quite different things to different people: to Members who supported it, and to the public at large.

We have an obligation and a political need to go further than giving nominal support to resolutions such as these. We owe the people an effort on our part to think carefully and deeply about the implications of such proposals, to advance suggestions as to how, in detail and in practice, we might actually shape a new program for strategic arms control.

For the past 14 months, since being assigned to the Intelligence Committee, I have worked hard to develop an understanding of our dilemma and our options. In a long series of briefings with arms control experts and in a series of breakfast seminars on this issue which I have sponsored with the Library of Congress, I have developed the conviction that this problem is not a Gordian knot. It can be solved with patience and understanding and commitment. And of course, it must be solved.

What I am submitting today has been developed with the assistance of individuals at the Congressional Research Service and other experts in and out of government. I wanted to know whether it was possible to get at the single most important strategic problem we have—the vulnerability of land-based ICBM's—by means of a vigorous and innovative arms control concept. I wondered if we could somehow focus our efforts on this problem, and I stipulated the conditions to be respected in the detailed analysis:

The objective would not be reductions per se, although this was an important consideration—but reductions of those systems which contribute the most to strategic instability, and to the risk of nuclear war by reflex, rather than on purpose. This meant doing something drastic about one particular system: land-based, MIRV'd ICBM's. My suggestion was to explore what would happen if both sides agreed to get rid of such ICBM's, replacing them with new single warhead ICBM's on both sides. If this could be done, without at the same time disturbing the strategic balance at some other point, we might emerge with more stable and secure arrangements—but not at the cost of deploying enormously costly mobile systems, or an ABM system to defend them.

I am now convinced that we could indeed accomplish these objectives, and that we could do so with a modified "moratorium" in selected areas and actual reductions in other areas. Here is the outline of the proposal:

First, a moratorium for 4 to 5 years, during which each side would agree to do nothing that would add to the number of deployed, MIRV'd ICBM's, or to increase their accuracy. During this time, however, both sides would be able to continue research and development of certain new kinds of weapons: A step which we have to take as a hedge against the collapse of efforts to negotiate the vital second phase of reduction with the Soviets.

Second, an agreement which would begin a prolonged readjustment of strategic forces on both sides. At the end of this period; first, neither side would have MIRV'd ICBM's, though they would have deployed new single RV ICBM's in equal numbers; second, no other system—such as the SLBM—would have been deployed with hard target characteristics; third, overall numbers of deployed launchers and weapons would have declined substantially; fourth, the process of adjustment for both sides would be prolonged so as to be realistically in tune with replacement cycles for existing weapons—allowing each side time to amortize their expenses in deploying those weapons, and to make the necessary changes in the shape of their overall strategic deterrents.

As a direct consequence of this approach, the window of vulnerability would have been closed through arms control, and strategic stability enhanced. As an enormously important byproduct of this approach, the total destructiveness of weapons in the hands of either side would also have been cut to a fraction of the numbers that SALT II would have allowed.

Arms control goes beyond the technical questions of who shall reduce what. When we and the Soviets sit down to talk about strategic arms control, we are affirming a basic—even a transcendant—fact: That nuclear weapons are indeed "different." We and the Soviets must make clear to ourselves and to each other that we recognize what nuclear weapons really mean; that they could bring to an end both the values and the people that both sides are seeking to promote and protect.

The grassroots movement we are experiencing in this country is based on the fear that neither side truly appreciates the odds, that specialists and ideologists on both sides are thinking that a nuclear war would somehow be winnable. The people are demanding that their political leaders show that they understand what the specialists may not, and that these leaders will reach out and grasp their responsibilities.

We can do so, Mr. Speaker, and we must.

Proposed Guidelines for a Comprehensive Strategic Arms Reduction Talks (START) Between the Soviet Union and the United States

While engaging in START and through December 31, 1986, the Soviet Union and the United States will agree to a moratorium under the following terms:

Additional ICBM launchers to those currently existing will not be deployed.

ICBM launchers with single or multiple reentry vehicles will not be converted to launchers for MIRVs.

The number of MIRVs on currently deployed ICBM types will not be increased.

Further testing of currently deployed ICBM and SLBM types is not allowed.

Both the Soviet Union and the United States are allowed to develop, test (no more than 25 times), and deploy one new single-warhead ICBM type, provided this new ICBM does not have a "bus" to dispense MIRVs, replaces an existing ICBM, and has a throw-weight not greater than that of the Soviet Union's SS-19 ICBM.

Both the Soviet Union and the United States are allowed to develop and test, but not produce or deploy, a new MIRVed ICBM and a new MIRVed SLBM, as hedges against failure to achieve a strategic offensive arms reduction agreement.

Starting January 1, 1987, the Soviet Union and the United States will proceed to reduce the aggregate number of their strategic offensive weapons launchers (launchers for ICBMs and SLBMs, and heavy bombers) to an aggregated ceiling no larger than the lowest ceiling agreed to in the SALT II Treaty. By the end of 1987, neither nation may have more than 2,250 strategic offensive weapons launchers, of which no more than 1,080 may be ICBM launchers and 120 heavy bombers equipped with an aggregate total of not more than 2400 long-range (more than 600 kilometers range) air-launched cruise missiles (ALCMs).

To reduce the possibility and incentive of the Soviet and U.S. ICBM forces from engaging in a counterforce attack, starting January 1, 1987 the Soviet Union will begin to retire launchers for its MIRVed SS-18, SS-19, and SS-17 ICBMs (in that order), followed in the same order by launchers for the single-warhead versions of these ICBMs.

Concurrent to Soviet retirement of these ICBM launchers, the United States will retire some launchers for the Poseidon SLBM and launchers for the Minuteman III ICBM (in that order). Each nation will retire at least 80 launchers per annum until all the launchers for the SS-18, SS-19, SS-17, and Minuteman III ICBMs have been retired. However, the retirement of launchers for the Minuteman III will take place after the Soviet Union retires 250 launchers for the MIRVed version of the SS-18.

VERIFICATION OF COMPLIANCE WITH PROVISIONS CONTAINED IN THE PROPOSAL

Currently, the numbers and types of SLBMs being deployed is routinely verified by observing the SSBN in which the SLBM is being introduced. Overhead photography and other means of detection are used.

The accuracy improvements of ICBMs and SLBMs is verified from intercepted test telemetry, and by tracking the missiles during operational tests.

The performance and characteristics of new types of ICBMs and SLBMs is primarily determinable from data intercepted when the missiles are tested.

Verification that ICBM or SLBM launchers are being dismantled is made from overhead photography.

The deployment of silo-based ICBMs is verified from overhead photography.

Silos containing MIRVed ICBMs have characteristics (signatures) that are distinct from silos containing single-warhead ICBMs.

Bomber aircraft equipped with ALCMs have observable differences from bombers not equipped to carry these weapons.

The numbers and types of heavy bombers deployed is verified by photographic surveillance of the aircraft production facilities and bomber operational bases.

There is no indisputable method to verify that the number of reentry vehicles (RVs) is not being increased in a currently deployed MIRVed ICBM which has been tested to carry a higher number of RVs. The U.S. may not be able to detect the conversion of 8-MIRV SS-18 ICBMs to the 10-MIRV configuration. However, if the conversion continues, approximately 350 additional RVs would be added to the Soviet ICBM force. The gain to the Soviets in continuing the conversion of the MIRVed SS-18s would be of short duration, because under the terms of the proposed START the MIRVed SS-18s will be the first ICBMs to be retired.

Significant violations in the number of ICBM and SLBM launchers and bombers deployed would be readily detected. Also, the Soviets would not be able to attain a comfortable degree of confidence in the performance of additional accuracy improvements to their ICBMs and SLBMs without thorough testing of the whole missile system.

U.S. STRATEGIC PROGRAMS UNDER THIS PROPOSAL

Reductions

No hard-site ABM defense needed.

No procurement and deployment of the M-X ICBM, and no construction for basing the M-X.

No procurement, production, and deployment of the Trident II SLBM, but continue its development.

No implementation of ballistic missile accuracy improvements (such as stellar-inertial system for Trident I SLBMs).

No deployment of larger or more lethal reentry vehicle warheads.

Retirement of the Titan II and Minuteman III ICBM force.

Phased retirement of the B-52D, B-52H, and B-52G bombers.

Reduction in the number of B-52 aircraft that would be modified to carry ALCMs. Without START, more than 120 B-52 bombers would be converted to ALCM carriers.

Curtailment in the total number of tanker aircraft needed to support the strategic bomber force.

Phased retirement of the Lafayette-class (Poseidon and Trident I) SSBNs from the strategic forces, and their conversion to attack submarines.

Curtailment in the total number of Ohio-class (Trident) SSBNs that would probably be deployed without START.

Curtailment in the total number of ALCMs that would be deployed. Without START, more than 120 B-52 bombers would be converted to ALCM carriers.

Curtailment in the total number of SRAMs or other short-range attack missiles that would be deployed. Without START, more than 100 penetrating bombers, armed with SRAMs or other short-range missiles, would probably be deployed.

New deployments

630 single-warhead (without a "bus") ICBMs (denoted in tables as MX-2), with 28 new additional ICBM silos (to provide a total of 1,080 launchers), would need to be constructed.

100 B-1B bomber aircraft (initially tasked to be penetrating bombers, and later phased to ALCM carriers, replacing B-52G CMCs, as the more advanced STEALTH aircraft assume penetrating role), or alternatively 100 new CMCs.

100 STEALTH penetrating bombers or 100 advanced CMCs.

PROBABLE SOVIET STRATEGIC PROGRAMS UNDER THIS PROPOSAL

Reductions

No expansion of current ABM capabilities.

No deployment of a mobile ICBM with a hard-target capability.

No construction for basing of a mobile ICBM.

No deployment of larger or more lethal reentry vehicle warheads.

No deployment of a SLBM with hard-target capability.

No implementation of accuracy improvements to existing ICBMs and SLBMs.

Retirement of the SS-11 ICBM force.

Retirement of the SS-17, SS-18, and SS-19 ICBMs a few years earlier than anticipated.

Retirement of Yankee I SSBNs from the strategic forces, and their conversion to attack submarines.

Retirement of SS-N-6 SLBMs on Yankee I SSBNs.

Retirement of Golf III SSB and all Hotel II SSBNs.

Retirement of SS-N-5 SLBM on Hotel II SSBNs.

Retirement of the TU-95 Bear and Mya-4 Bison bombers.

Retirement of the Kangaroo air-launched missile.

New deployments

1,020 new single-warhead ICBMs (denoted in tables as SS-X), with throw-weight not to exceed that of the Soviet SS-19 ICBM.

120 new heavy bombers (denoted in tables as TU-X SWL).

Replacement of Yankee I SSBNs with a new 16-launcher SSBN (denoted in tables as SSBN-X).

Continued deployment of Typhoon SSBNs.

Continued deployment of SS-N-20 SLBMs on Typhoon SSBNs.

Deployment of SS-N-17 SLBMs (or other existing type) on new SSBN (denoted in tables as SSBN-X) replacing the Yankee I SSBNs.

PROJECTED SOVIET SSB/SSBN INVENTORY UNDER PROPOSED START

SSB/SSBN CLASS (SLBM type)	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Typhoon (SS-N-20)	1	3	5	7	7	8	8	8	8	8	8	8	8	8	8	8
Delta III (SS-N-18)	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15
Delta II (SS-N-8)	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Delta I (ISS-N-8)	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18	18
Yankee II (SS-N-17)	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
SSBN-X (SS-N-17)	1	3	5	7	9	11	13	15	17	19	21	22	22	22	22	22
Yankee I (SS-N-6)	22	20	18	16	13	11	9	7	5	3	1	0	0	0	0	0
Hotel III (SS-N-8)	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Hotel II (SS-N-5)	6	4	2	0	0	0	0	0	0	0	0	0	0	0	0	0
Golf III (SS-N-8)	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0
Golf IV (SS-N-6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	70	70	70	69	68	69	69	69	69	69	69	69	69	69	69	69

PROJECTED U.S. SSBN INVENTORY UNDER PROPOSED START

SSNB class (SLBM type)	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Lafayette	31	31	31	31	30	25	20	15	13	12	11	9	7	5	3	1
Poseidon	(19)	(19)	(19)	(19)	(18)	(13)	(8)	(3)	(1)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Trident I	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(11)	(9)	(7)	(5)	(3)	(1)
Ohio	2	3	5	6	7	9	11	13	15	16	18	18	19	20	21	22
Trident I	(2)	(3)	(5)	(6)	(7)	(9)	(11)	(13)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)
Trident II	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Total	33	34	36	37	37	34	31	28	28	28	28	27	26	25	24	23

ESTIMATED TYPE AND NUMBER OF SOVIET AND U.S. SLBM LAUNCHERS IN SSBS AND SBBNS

Soviet SSBs and SSBNs are believed to have the following type and number of SLBM launchers: Typhoon, 20 SS-N-20; Delta III, 16 SS-N-18; Delta II, 16 SS-N-8; Delta I, 12 SS-N-8; Yankee II, 12 SS-N-17; Yankee I, 16 SS-N-6; SSBN-X (projected), 16 SS-N-17 (or other existing SLBM); Hotel III, 6 SS-N-8; Hotel II, 3 SS-N-5; Golf III, 6 SS-N-8.

U.S. SSBNs have the following type and number of SLBM launchers: Lafayette-class, 16 Poseidon or 16 Trident I: Ohio-class, 24 Trident I.

PROJECTED SOVIET SLBM LAUNCHER INVENTORY UNDER PROPOSED START

SLBM designation (SSB/SSBN class)	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
SS-N-20 (Typhoon)	20	60	100	140	140	160	160	160	160	160	160	160	160	160	160	160
SS-N-18 (Delta III)	240	240	240	240	240	240	240	240	240	240	240	240	240	240	240	240
SS-N-17	28	60	92	124	156	188	220	252	284	316	348	364	364	364	364	364
Yankee II	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)	(12)
SSBN-X	(16)	(48)	(80)	(112)	(144)	(176)	(208)	(240)	(272)	(304)	(336)	(352)	(352)	(352)	(352)	(352)
SS-N-8	292	292	292	286	286	286	286	286	286	286	286	286	286	286	286	286
Delta II	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)	(64)
Delta I	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)	(216)
Hotel III	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)	(6)
Golf III	(6)	(6)	(6)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
SS-N-6	352	320	288	256	208	176	144	112	80	48	16	0	0	0	0	0
(Yankee I)	(352)	(320)	(288)	(256)	(208)	(176)	(144)	(112)	(80)	(48)	(16)	(0)	(0)	(0)	(0)	(0)
(Golf IV)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
SS-N-5 (Hotel II)	18	12	6	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	950	984	1,018	1,046	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050

PROJECTED U.S. SLBM LAUNCHER INVENTORY UNDER PROPOSED START

SLBM designation (SSBN class)	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Trident I	240	264	312	336	360	408	456	504	552	576	584	576	568	560	552	544
Ohio	(48)	(72)	(120)	(144)	(168)	(216)	(264)	(312)	(360)	(384)	(408)	(432)	(456)	(480)	(504)	(528)
(Lafayette)	(192)	(192)	(192)	(192)	(192)	(192)	(192)	(192)	(192)	(192)	(176)	(144)	(112)	(80)	(48)	(16)
Poseidon	304	304	304	304	288	208	128	48	16	0	0	0	0	0	0	
Lafayette	(304)	(304)	(304)	(304)	(288)	(208)	(128)	(48)	(16)	(0)	(0)	(0)	(0)	(0)	(0)	(0)
Total	544	568	616	640	648	616	584	552	568	576	584	576	568	560	552	544

PROJECTED SOVIET ICBM LAUNCHER INVENTORY UNDER PROPOSED START

ICBM designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
SS-18 (10 MIRV's)	75	75	75	75	75	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 MIRV's)	175	175	175	175	175	170	90	10	0	0	0	0	0	0	0	0
SS-19 (6 MIRV's)	300	300	300	300	300	300	300	300	230	150	70	0	0	0	0	0
SS-17 (4 MIRV's)	120	120	120	120	120	120	120	120	120	120	120	110	30	0	0	0
SS-18 (single)	58	58	58	58	58	58	58	58	58	58	58	58	58	8	0	0
SS-19 (single)	60	60	60	60	60	60	60	60	60	60	60	60	60	60	0	0
SS-17 (single)	32	32	32	32	32	32	32	32	32	32	32	32	32	32	20	0
SS-13	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60
SS-11	518	518	468	418	368	0	0	0	0	0	0	0	0	0	0	0
SS-X	0	0	50	100	150	280	360	440	520	600	680	760	840	920	1,000	1,020
Total	1,398	1,398	1,398	1,398	1,398	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080

PROJECTED U.S. ICBM LAUNCHER INVENTORY UNDER PROPOSED START

ICBM designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Minuteman III (MK-12A)	300	300	300	300	300	300	300	300	220	140	60	0	0	0	0	0
Minuteman III (MK-12)	250	250	250	250	250	250	250	250	250	250	250	230	150	70	0	0
Minuteman II	450	450	450	450	450	450	450	450	450	450	450	450	450	450	450	450
Titan II	52	52	52	52	52	45	18	0	0	0	0	0	0	0	0	0
MX-2	0	0	0	0	0	7	34	80	160	240	320	400	480	560	630	630
Total	1,052	1,052	1,052	1,052	1,052	1,052	1,052	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080

PROJECTED SOVIET STRATEGIC BOMBER INVENTORY UNDER PROPOSED START

Bomber designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
TU-95 Bear	113	113	100	90	60	30	0	0	0	0	0	0	0	0	0	0
Mya-4 Bison	43	43	43	0	0	0	0	0	0	0	0	0	0	0	0	0
TU-X SWL	0	0	5	30	60	90	120	120	120	120	120	120	120	120	120	120
Total	156	156	148	120	120	120	120	120	120	120	120	120	120	120	120	120

PROJECTED U.S. STRATEGIC BOMBER INVENTORY UNDER PROPOSED START

Bomber designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
B-52D	76	76	76	76	76	46	16	0	0	0	0	0	0	0	0	0
B-52G	157	122	87	53	53	53	53	39	0	0	0	0	0	0	0	0
B-52H	96	96	96	96	96	96	96	96	96	66	36	6	0	0	0	0
B-52G CMC	16	51	86	120	120	120	120	120	120	120	120	120	90	54	18	0
B-1B	0	0	0	0	0	30	60	90	100	100	100	100	76	46	16	0
B-1B CMC	0	0	0	0	0	0	0	0	0	0	0	0	25	55	85	100
Stealth	0	0	0	0	0	0	0	0	9	29	49	69	89	100	100	100
Total	345	345	345	345	345	345	345	345	325	315	305	295	290	255	219	200

PROJECTED SOVIET AGGREGATE STRATEGIC LAUNCHER INVENTORY UNDER PROPOSED START

Launcher type	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
ICBM's	1,398	1,398	1,398	1,398	1,398	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080
SLBM's	950	984	1,018	1,046	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050	1,050
Bombers	156	156	148	120	120	120	120	120	120	120	120	120	120	120	120	120
Total	2,504	2,538	2,564	2,564	2,568	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250	2,250
Of which the following are counted as MIRV'd ballistic missiles and cruise missile-launching bombers:																
ICBM's	820	820	820	820	820	740	660	580	500	420	340	260	180	100	20	0
SLBM's	260	300	340	380	380	400	400	400	400	400	400	400	400	400	400	400
Bombers	0	0	5	30	60	90	120	120	120	120	120	120	120	120	120	120
Subtotal	1,080	1,120	1,165	1,230	1,260	1,230	1,180	1,100	1,020	940	860	780	700	620	540	520

PROJECTED U.S. AGGREGATE STRATEGIC LAUNCHER INVENTORY UNDER PROPOSED START

Launcher type	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
ICBM's	1,052	1,052	1,052	1,052	1,052	1,052	1,052	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080	1,080
SLBM's	544	568	616	640	648	616	584	552	568	576	584	576	568	560	552	544
Bombers	345	345	345	345	345	345	345	345	345	345	345	345	345	345	219	200
Total	1,941	1,965	2,013	2,037	2,045	2,013	1,981	1,977	1,973	1,971	1,969	1,951	1,938	1,895	1,851	1,824
Of which the following are counted as MIRV'd ballistic missiles and cruise missile-launching bombers:																
ICBM's	550	550	550	550	550	550	550	550	470	390	310	230	150	70	0	0
SLBM's	544	568	616	640	648	616	584	552	568	576	584	576	568	560	552	544
Bombers	16	51	86	120	120	120	120	120	120	120	120	120	115	109	103	100
Subtotal	1,110	1,169	1,252	1,310	1,318	1,286	1,254	1,222	1,158	1,086	1,014	926	833	739	655	644

WARHEAD LOADINGS USED IN PROJECTIONS

Unless otherwise specified in the tables, all other ballistic missiles except the following are estimated or projected to carry a single independently-targetable reentry vehicle:

Soviet: SS-N-20, 10 MIRVs; SS-N-18, 7 MIRVs.

United States: Minuteman III, 3 MIRVs; Poseidon, 9 MIRVs (average); Trident I, 8 MIRVs (average).

Bombers weapon loadings are estimated and projected to be as follows:

Soviet: TU-95 Bear, 1 AS-3 Kangaroo missile or four bombs; Mya-4 Bison, 2 bombs; TU-X SWL, 12 ALCMs (average) + 4 bombs.

United States: B-52D, 2 SRAMs + 4 bombs; B-52G/H, 4 SRAMs + 4 bombs; B-52G CMC, 12 ALCMs + 4 SRAMs + 4 bombs through 1985. Thereafter, a total of 348 ALCMs added per year (replacing SRAMs and bombs) until all B-52G CMCs are equipped with 20 ALCMs; B-1B, 8 SRAMs + 4 bombs; B-1B CMC, 24 ALCMs; STEALTH, 8 SRAMs + 4 bombs.

PROJECTED SOVIET REENTRY VEHICLE INVENTORY UNDER PROPOSED START

ICBM/SLBM designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
ICBM's:																
SS-18 (10 RV)	750	750	750	750	750	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 RV)	1,400	1,400	1,400	1,400	1,400	1,360	720	80	0	0	0	0	0	0	0	0
SS-19 (6 RV)	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,380	900	420	0	0	0	0	0
SS-17 (4 RV)	480	480	480	480	480	480	480	480	480	480	480	440	120	0	0	0
SS-18 (1 RV)	58	58	58	58	58	58	58	58	58	58	58	58	58	8	0	0
SS-19 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	60	60	60	0	0
SS-17 (1 RV)	32	32	32	32	32	32	32	32	32	32	32	32	32	32	20	0
SS-13	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60	60
SS-11	518	518	468	418	368	0	0	0	0	0	0	0	0	0	0	0
SS-X	0	0	50	100	150	280	360	440	520	600	680	760	840	920	1,000	1,020
Subtotal	5,158	5,158	5,158	5,158	5,158	4,130	3,570	3,010	2,590	2,190	1,790	1,410	1,170	1,080	1,080	1,080
SLBM's:																
SS-N-20	200	600	1,000	1,400	1,400	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600	1,600
SS-N-18	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680
SS-N-17	20	60	92	124	156	188	220	252	284	316	348	364	364	364	364	364
SS-N-8	292	292	292	286	286	286	286	286	286	286	286	286	286	286	286	286
SS-N-6	352	320	288	256	208	176	144	112	80	48	16	0	0	0	0	0
SS-N-5	18	12	6	0	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal	2,562	2,964	3,358	3,746	3,730	3,930	3,930	3,930	3,930	3,930	3,930	3,930	3,930	3,930	3,930	3,930
Grand Total	7,720	8,122	8,516	8,904	8,888	8,060	7,500	6,940	6,520	6,120	5,720	5,340	5,100	5,010	5,010	5,010

PROJECTED U.S. DEPLOYED REENTRY VEHICLE INVENTORY UNDER PROPOSED START

ICBM/SLBM designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
ICBM's:																
Minuteman III (MK-12A)	900	900	900	900	900	900	900	900	660	420	180	0	0	0	0	0
Minuteman III (MK-12)	750	750	750	750	750	750	750	750	750	750	750	690	450	210	0	0
Minuteman II	450	450	450	450	450	450	450	450	450	450	450	450	450	450	450	450
Titan II	52	52	52	52	52	45	18	0	0	0	0	0	0	0	0	0
MX-2	0	0	0	0	0	7	34	80	160	240	320	400	480	560	630	630
Subtotal	2,152	2,152	2,152	2,152	2,152	2,152	2,152	2,180	2,020	1,860	1,700	1,540	1,380	1,220	1,080	1,080
SLBM's:																
Trident I	1,920	2,112	2,496	2,688	2,880	3,264	3,648	4,032	4,424	4,608	4,672	4,608	4,544	4,480	4,416	4,352
Poseidon	2,736	2,736	2,736	2,736	2,592	1,872	1,152	432	144	0	0	0	0	0	0	0
Subtotal	4,656	4,848	5,232	5,424	5,472	5,136	4,800	4,464	4,568	4,608	4,672	4,608	4,544	4,480	4,416	4,352
Grand total	6,808	7,000	7,384	7,576	7,624	7,288	6,952	6,644	6,588	6,468	6,372	6,148	5,924	5,700	5,496	5,432

PROJECTED SOVIET AND UNITED STATES COUNTERFORCE—CAPABLE RV INVENTORY UNDER PROPOSED START (CLOSING THE "WINDOW OF ICBM VULNERABILITY")

	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Soviet: [1]																
SS-18 (10 RV's)	750	750	750	750	750	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 RV's)	1,400	1,400	1,400	1,400	1,400	1,360	720	80	0	0	0	0	0	0	0	0
SS-19 (6 RV's)	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,800	1,380	900	420	0	0	0	0	0
Total	3,950	3,950	3,950	3,950	3,950	3,160	2,520	1,880	1,380	900	420	0	0	0	0	0
United States:																
Minuteman III (MK-12A)	900	900	900	900	900	900	900	900	660	420	180	0	0	0	0	0
Minuteman III (MK-12)	750	750	750	750	750	750	750	750	750	750	750	690	450	210	0	0
Total	1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,650	1,410	1,170	930	690	450	210	0	0
Strike Ratio [2] (RV's/ICBM's):																
Soviet	3.75	3.75	3.75	3.75	3.75	2.99	2.40	1.74	1.28	0.83	0.39	0	0	0	0	0
United States	1.18	1.18	1.18	1.18	1.18	1.53	1.53	1.53	1.31	1.08	0.91	0.64	0.42	0.19	0	0

[1] The RV's carried by the MIRV'd version of the SS-17 are not included. Currently, the MIRV'd SS-17 does not have sufficient accuracy to destroy U.S. ICBM silos with a high degree of probability.

[2] Assuming 100-percent availability and reliability of the missiles and warheads (an optimistic assumption), a strike ratio equal to or larger than 2 denotes a theoretical capability to target at least 2 reentry vehicles against each silo. Thus, if each of the reentry vehicles has a high single-shot-kill probability (SSKP) of destroying a silo, a strike ratio equal to or larger than 2 signifies a theoretical capability to destroy the opposing ICBM force at their silos.

PROJECTED SOVIET DEPLOYED BOMBER WEAPON INVENTORY UNDER PROPOSED START

Bomber and weapon designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
TU-95 Bear::																
Kangaroo	75	75	75	75	60	30	0	0	0	0	0	0	0	0	0	0
Bombs	152	152	100	60	0	0	0	0	0	0	0	0	0	0	0	0
Mya-4 Bison: Bombs	86	86	86	0	0	0	0	0	0	0	0	0	0	0	0	0
TU-X SWL:																
ALCM's	0	0	60	360	720	1,080	1,440	1,440	1,440	1,440	1,440	1,440	1,440	1,440	1,440	1,440
Bomb's	0	0	20	120	240	360	480	480	480	480	480	480	480	480	480	480
Totals	313	313	341	615	1,020	1,470	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920

PROJECTED U.S. DEPLOYED BOMBER WEAPON INVENTORY UNDER PROPOSED START

Bomber and weapon designation	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
B-52D:																
SRAM's	152	152	152	152	152	92	32	0	0	0	0	0	0	0	0	0
Bombs	304	304	304	304	304	184	64	0	0	0	0	0	0	0	0	0
B-52G:																
SRAM's	628	488	348	212	212	212	212	156	0	0	0	0	0	0	0	0
Bombs	628	488	348	212	212	212	212	156	0	0	0	0	0	0	0	0
B-52H:																
SRAM's	384	384	384	384	384	384	384	384	384	264	144	24	0	0	0	0
Bombs	384	384	384	384	384	384	384	384	384	264	144	24	0	0	0	0
B-52G CMC:																
SRAM's	64	204	344	480	306	132	0	0	0	0	0	0	0	0	0	0
Bombs	64	204	344	480	306	132	0	0	0	0	0	0	0	0	0	0
ALCM's	192	612	1,032	1,440	1,788	2,136	2,400	2,400	2,400	2,400	2,400	2,400	1,800	1,080	360	0
B-1B:																
SRAM's	0	0	0	0	0	240	480	720	800	800	800	800	608	368	128	0
Bombs	0	0	0	0	0	120	240	360	400	400	400	400	304	184	64	0
B-1B CMC:																
ALCM's	0	0	0	0	0	0	0	0	0	0	0	0	600	1,320	2,040	2,400
Stealth:																
SRAM's	0	0	0	0	0	0	0	0	72	232	392	552	712	800	800	800
Bombs	0	0	0	0	0	0	0	0	36	116	196	276	356	400	400	400
Total	2,800	3,210	3,640	4,048	4,048	4,228	4,408	4,560	4,776	4,476	4,476	4,476	4,380	4,152	3,792	3,600

PROJECTED AGGREGATE OF DEPLOYED SOVIET STRATEGIC WARHEADS UNDER PROPOSED START

Delivery system	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
ICBM's/SLBM's	7,720	8,122	8,516	8,904	8,888	8,060	7,500	6,940	6,520	6,120	5,720	5,340	5,100	5,010	5,010	5,010
Bombers	313	313	341	615	1,020	1,470	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920	1,920
Totals	8,033	8,435	8,857	9,519	9,908	9,530	9,420	8,860	8,440	8,040	7,640	7,260	7,020	6,930	6,930	6,930

PROJECTED AGGREGATE OF DEPLOYED U.S. STRATEGIC WARHEADS UNDER PROPOSED START

Delivery system	By end of calendar year—															
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
ICBM's/SLBM's	6,808	7,000	7,384	7,576	7,624	7,288	6,952	6,644	6,588	6,468	6,372	6,148	5,924	5,700	5,496	5,432
Bombers	2,800	3,210	3,640	4,048	4,048	4,228	4,408	4,560	4,776	4,476	4,476	4,476	4,380	4,152	3,792	3,600
Totals	9,608	10,210	11,024	11,624	11,672	11,516	11,360	11,204	11,364	10,944	10,848	10,624	10,304	9,852	9,288	9,032

PROJECTED SOVIET STRATEGIC LAUNCHER RETIREMENT UNDER PROPOSED START

Launcher	During calendar year—																Totals
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
ICBM's:																	
SS-11	0	0	50	50	50	368	0	0	0	0	0	0	0	0	0	0	518
SS-18 MIRV'd	0	0	0	0	0	80	80	80	10	0	0	0	0	0	0	0	250
SS-19 MIRV'd	0	0	0	0	0	0	0	0	70	80	80	70	0	0	0	0	300
SS-17 MIRV'd	0	0	0	0	0	0	0	0	0	0	0	10	80	30	0	0	120
SS-18 single	0	0	0	0	0	0	0	0	0	0	0	0	0	50	8	0	58
SS-19 single	0	0	0	0	0	0	0	0	0	0	0	0	0	0	60	0	60
SS-17 single	0	0	0	0	0	0	0	0	0	0	0	0	0	0	12	20	32
Subtotal	0	0	50	50	50	448	80	80	80	80	80	80	80	80	80	20	1,338
SLBM's:																	
SS-N-8 (Golf III)	0	0	0	6	0	0	0	0	0	0	0	0	0	0	0	0	6
SS-N-6 (Yankee I)	48	32	32	32	48	32	32	32	32	32	32	16	0	0	0	0	400
SS-N-5 (Hotel II)	0	6	6	6	0	0	0	0	0	0	0	0	0	0	0	0	18
Subtotal	48	38	38	44	48	32	32	32	32	32	32	16	0	0	0	0	424
Bombers:																	
TU-95 Bear	0	0	13	10	30	30	30	0	0	0	0	0	0	0	0	0	113
MYa-4 Bison	0	0	0	43	0	0	0	0	0	0	0	0	0	0	0	0	43
Subtotal	0	0	13	53	30	30	30	0	0	0	0	0	0	0	0	0	156
Grand total	48	38	101	147	128	510	142	112	112	112	112	96	80	80	80	20	1,918

PROJECTED SOVIET STRATEGIC LAUNCHER NEW DEPLOYMENT UNDER PROPOSED START

Launcher	During calendar year—																Totals
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
ICBM's: SS-X (subtotal)	0	0	50	50	130	80	80	80	80	80	80	80	80	80	80	20	1,020
SLBM's:																	
SS-N-20 (Typhoon)	20	40	40	40	0	0	20	0	0	0	0	0	0	0	0	0	160
SS-N-18 (Delta III)	16	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	16
SS-N-17 (SSBN-X)	16	32	32	32	32	32	32	32	32	32	32	16	0	0	0	0	352
Subtotal	52	72	72	72	32	32	52	32	32	32	32	16	0	0	0	0	528

PROJECTED SOVIET STRATEGIC LAUNCHER NEW DEPLOYMENT UNDER PROPOSED START—Continued

Launcher	During calendar year—																Totals
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
Bombers: TU-X SWL (subtotal)	0	0	5	25	30	30	30	0	0	0	0	0	0	0	0	0	120
Grand total	52	72	127	147	112	192	162	112	112	112	112	96	80	80	80	20	1,668

PROJECTED U.S. STRATEGIC LAUNCHER RETIREMENT UNDER PROPOSED START

Launcher	During calendar year—																Totals
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
ICBM'S:																	
Minuteman III (MK-12A)	0	0	0	0	0	0	0	0	80	80	80	60	0	0	0	0	300
Minuteman III (MK-12)	0	0	0	0	0	0	0	0	0	0	0	20	80	80	70	0	250
Titan II	0	0	0	0	0	7	27	18	0	0	0	0	0	0	0	0	52
Subtotal	0	0	0	0	0	7	27	18	80	80	80	80	80	80	70	0	602
SLBM's:																	
Poseidon (Lafayette)	0	0	0	0	16	80	80	80	32	16	0	0	0	0	0	0	304
Trident I (Lafayette)	0	0	0	0	0	0	0	0	0	0	16	32	32	32	32	32	176
Subtotal	0	0	0	0	16	80	80	80	32	16	16	32	32	32	32	32	480
Bombers:																	
B-52D	0	0	0	0	0	30	30	16	0	0	0	0	0	0	0	0	76
B-52G	0	0	0	0	0	0	0	20	33	0	0	0	30	36	36	18	173
B-52H	0	0	0	0	0	0	0	0	0	30	30	30	6	0	0	0	96
Subtotal	0	0	0	0	0	30	30	36	33	30	30	30	36	36	36	18	345
Grand total	0	0	0	0	16	117	137	134	145	126	126	142	148	148	138	50	1,427

PROJECTED U.S. STRATEGIC LAUNCHER NEW DEPLOYMENT UNDER PROPOSED START

Launcher	During calendar year—																Totals
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	
ICBM's: MX-2 (subtotal)	0	0	0	0	0	7	27	46	80	80	80	80	80	80	70	0	630
SLBM's: Trident I (Ohio class) (subtotal)	24	24	48	24	24	48	48	48	48	24	24	24	24	24	24	24	504
Bombers:																	
B-1B	0	0	0	0	0	30	30	30	10	0	0	0	0	0	0	0	100
Stealth	0	0	0	0	0	0	0	0	9	20	20	20	20	11	0	0	100
Subtotal	0	0	0	0	0	30	30	30	19	20	20	20	20	11	0	0	200
Grand total	24	24	48	24	24	85	105	124	147	124	124	124	124	115	94	24	1,334

□ 1215

GENERAL LEAVE

Mr. GORE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order, and that I be permitted to include additional material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

DEPARTMENT OF HEALTH AND HUMAN SERVICES SHOULD HAVE FRAUD HOTLINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

● Mr. STARK. Mr. Speaker, the President and his administration talk, talk, talk about waste, fraud, and abuse in Government programs, but the fact is that the biggest social program department, the Department of Health and Human Services, does not yet have a means for citizens to report wrongdoing. HHS spends about $250 billion a year on social service programs, but has overlooked a simple, inexpensive method of tracking down welfare cheaters; that is, installing an 800 number to receive tips by private citizens.

The General Accounting Office has a toll-free hotline, which has received more than 33,000 calls since it was created in 1979. GAO said that about 11 percent of the calls led to investigations, resulting in 500 convictions, firings or proven mismanagement. But many citizens wanting to file reports on welfare cheats, are either not aware of the GAO hotline or would not think to call up GAO on welfare matters.

If HHS had a toll-free hotline which was well advertised, I believe the number of persons calling with information identifying incidents of welfare cheating would at least double. The cost of an 800 number and hiring another person in the HHS hotline office is negligible in comparison to the prospective Government savings from taking people off the welfare roles.

People in the Ninth Congressional District in California have been writing to me about acquaintances who they believe are welfare cheats. Giving these people an opportunity to vent their frustration in a constructive manner by calling up an HHS toll-free number, would not only be beneficial to the Government, but would also help restore confidence in our system.

Citizen participation is an essential element in deterring welfare abuse and in maintaining a strong democracy. According to Edwin L. Harper, Chairman of the President's Council on Efficiency and Integrity in the Office of Management and Budget, 95 percent of those surveyed said they would report on Government activities if toll-free numbers were available.

I urge my colleagues to aid me in the effort of restoring confidence in the public assistance system by pressing for the installation of a toll-free hotline in HHS.●

A "DO-IT-YOURSELF" CONGRESSIONAL BUDGET RESOLUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

● Mr. REUSS. Mr. Speaker, there follows my testimony, as chairman of the Joint Economic Committee, given on March 18, 1982, before the House Budget Committee:

TESTIMONY OF HENRY S. REUSS

I appreciate this opportunity, as Chairman of the Joint Economic Committee, to testify pursuant to the Budget Act before the House Budget Committee. The unanimous views of the ten Democratic Members of the Joint Economic Committee are herewith presented, focused on the budgetary and debt ceiling crisis which confronts us.

With the First Budget Resolution and action on the debt ceiling due within a matter of weeks, it is vital to the Nation that we act promptly and responsibly.

There has been a sincere effort in recent weeks by legislators in both Houses, and of both parties, to attain a Summit Agreement with the President on economic policy, and an Accord with the Federal Reserve.

The efforts have come to nothing. The President remains as blithe as ever about his record-breaking deficits. There can be no tampering, he says, with his hyped-up military buildup, and with his failed tax program. The cutting must come entirely out of the hides of social programs for the needy and for the average American.

Equally, attempts to arrive at an accord with the Federal Reserve have been unavailing. The monetary authority is the Federal Open Market Committee, consisting of twelve members, five of them selected by private bankers. To their credit, the FOMC agrees with the pressing need to bring the deficit under control. But FOMC members would do this by further drastic cuts in social programs, and by finding additional revenues by some huge national consumption tax on the average citizen.

Meanwhile, time's awasting. We face a crisis in a matter of weeks. We can no longer afford the luxury of endless compromise chats with those who do not wish to compromise.

Congress, led by the House Budget Committee, must act, and promptly. Today is March 18. There looms ahead the mid-April scheduled recess. Budget resolution and debt ceiling/tax legislation must be enacted by mid-May. There is no time to waste.

To this end, I urge you to report out promptly to the Rules Committee and the Floor the President's budget—with a recommendation that it do not pass. When that is voted down by the House, as it surely will be, I urge you to have in place promptly a Congressional "do-it-yourself" budget—one in which we don't ask the President and the Federal Reserve, but in which we tell them where the course of fiscal and monetary responsibility lies.

That budget resolution should have four provisions:

First, restrict the increase in military spending to 5 percent a year in real terms—about half the President's request, but still substantial.

Second, hold nonmilitary spending to its 1982 level in real terms, or slightly below.

Third, repeal the July 1, 1983, 10 percent income tax cut—and the tax-leasing and indexing to boot if the Congress so votes. To forestall a budget-busting Presidential veto, this should be made part of the debt ceiling bill needed this May.

Fourth, direct the Federal Reserve to get out of the supertight 2.5 to 5.5 percent 1982 monetary growth target in which it has allowed the Administration to encase it, and instead take prudent action to bring about lower interest rates.

Let me spell out this last, monetary proposal.

The Reagan February 18, 1981, economic recovery program postulated a diminution of the growth rate of the monetary aggregates from 1980 to one-half of that rate by 1986. Given the 7.3 percent 1980 M1 growth rate, that would have meant an M1 growth rate of 6.7 percent for 1981, 6.1 percent for 1982, 5.5 percent for 1983, 4.9 percent for 1984, 4.3 percent for 1985, and 3.7 percent for 1986, and the outyears.

But instead of the 6.7-percent M1 growth which the President, the Federal Reserve, and the Congress all agreed was about right for 1981, the Federal Reserve in fact scrooged down the money supply to an inadequate 2.3-percent rate of increase, thus joining forces with the deficits-don't-matter crowd to bring about the recession which started last summer.

To make matters worse, instead of getting back to the 6.1-percent growth path envisaged for 1982, the Fed then proceeded early this year to lay down a target path for 1982 of 2.5 to 5.5 percent, greatly reduced over the 3.5- to 6-percent target path which it had held for itself in 1981, but which it failed to achieve in practice with its below-bottom 2.3 percent 1981 monetary growth rate. Within this low target, made worse because it proceeds from an artificially low base, the Federal Reserve has said that it would aim at slightly above the middle of the range, or about a 4¼ percent monetary increase for 1982.

This super-tightening of the money supply occurred despite the recommendations of the Joint Economic Committee Democrats, and of the House Banking Committee, that the 1981 targets not be further foreshortened.

The Federal Open Market Committee expressly rejected the Congressional Committee's recommendation at its February 4, 1982 meeting, by a vote of 11 to 1. The one—the wonderful one, I might say— was the lone vote of Governor Nancy Teeters. The minutes of that February 4, 1982 meeting, wherein one might discern Governor Teeters' rationale, are not yet available. But I secured the permission of the Federal Reserve to talk with Governor Teeters and ask her for her reasoning. She has this week told me that her reasoning—to me the soul of common sense—is that a 2.5 to 5.5 percent target path is simply too tight for an economy as wounded with unemployment and bankruptcies as our economy is today.

In order to permit the Fed to remove its unseemly 1982 monetary corset, it would be necessary for the budget resolution simply to state "the Federal Reserve shall adjust the monetary targets in effect for 1982, so as to permit interest rates to fall."

We need not mandate any particular rate of monetary growth; it is enough to direct the Fed to remove a growth rate corset which is plainly a prescription for disaster.

It is a prescription for disaster because, as I have already said, it is too tight. More than that, it is a prescription for disaster because the Federal Reserve is already grotesquely exceeding that unrealistically low 5.5 percent ceiling. With the first quarter of the year almost over, the Fed has created M1 at two or three times the rate of its 5.5 percent ceiling. The markets correctly preceive that, having been on a drunken spree for the first quarter, the Fed will have to become practically a monetary teetotaler for the remaining three quarters in order to hit its targets. Another murderous hold-down to around 2.1 percent would be required—the same inadequate increase which ruined us in 1981.

So the markets keep interest rates high, knowing that the Fed will either have to super-tighten money or admit that its targets are a hoax. Neither alternative is edifying.

But it will be said: How can Congress tell the independent Federal Reserve wherein it shall walk? The short answer is that the Federal Reserve, while independent of the Executive Branch, is not independent of the Congress. Congress has the duty under Article I, Section 8 of the Constitution to "create money, regulate the value thereof."

For a generation now, chairmen of the Federal Reserve have agreed with the position that the Federal Reserve System, while independent of the President and the Executive Branch, is the creature of Congress and must carry out Congressional directives.

Thus, Federal Reserve Board Chairman Thomas McCable in 1950:

"Senator DOUGLAS. Here you are, twins, Siamese twins, but with no central coordinating nervous structure to dictate a uniform policy.

"Do you see some possible dangers in that situation?

"Mr. MCCABE. Well, I could see very grave dangers if you had in the personnel of the Treasury and the Federal Reserve the type of people that just refuse to discuss these broad questions from the standpoint of the public interest. If we reached an impasse, Senator, I would think the first recourse would be to go to the President and have him arbitrate these differences in point of view.

"Certainly, the Federal Reserve being a creature of the Congress and reporting to the Congress, should then make its appeal to the Congress to arbitrate the points of view.

"As I see it, there are three steps: One is persuasion, the second is appeal to the President, the third is appeal to the Congress; that is, to meet this hypothetical situation that you advance.

"Senator DOUGLAS. Would it be helpful if Congress were to give a definite directive of policy which both the Treasury and the Federal Reserve would follow, not merely on money and credit policy, on the one hand, and debt policy, upon the other hand, but for the two as an integrated whole?

"Mr. MCCABE. I have thought a great deal about that, as to the type of directive, if you want to call it that, which the Congress might issue. It might be in the form of a resolution or the Congress might more definitely define the areas of responsibility, or the Congress might even go so far as to say which body would be the body of final decision." (Hearings, Joint Economic Committee, November 1950, p. 489)

Thus, Chairman William McChesney Martin, Jr. in 1956:

"Senator DOUGLAS. Let me turn to a general question. Do you regard the Federal Reserve Board as the agent of the Executive or the agent of Congress?

"Mr. MARTIN. I regard it as an independent agency of the Government.

"Senator Douglas. To whom is it responsible? To the Executive or the Congress?

"Mr. Martin. It is responsible to Congress. . . . The indenture of this trusteeship was written by the Congress in the Federal Reserve Act, and can be altered at any time by the Congress. . . ." (Hearings, Senate Committee on Banking and Currency, January 20, 1956)

Thus, Chairman Arthur Burns in 1968 and 1971:

"Senator Proxmire. You do acknowledge, do you not, only Congress has the constitutional authority to regulate the money supply, and the Federal Reserve is an agent of the Congress independent of the executive branch?

"Dr. Burns. I have no quarrel with that. I know the Constitution and I am a law-abiding citizen. (Hearings, Senate Committee on Banking and Currency, December, 1968, p. 54)

"Mr. Patman. Tell me the law that created that separate entity.

"Dr. Burns. The law which created that separate entity is the Federal Reserve Act.

"Mr. Patman. The Constitution says that the Congress shall make the laws and the executive shall enforce the law.

"Now, I am fairly well acquainted with the Federal Reserve Act. I wasn't here when it was passed, but I was here not so long after that, and I have kept up with it pretty well. And I have never been able to find a sentence in the Federal Reserve Act that indicated that the Federal Reserve should be independent of the Government.

"Would you tell me where it is?

"Dr. Burns. I have not claimed that the Federal Reserve is independent of the Government.

"Mr. Patman. You said separate entity, you know.

"Dr. Burns. I have recognized not only in the past, but again this very morning that the Federal Reserve is a creature of the Congress, and that it is a servant of the Congress." (Hearings, House Committee on Banking and Currency, September 27, 1971, p. 24)

Thus, Chairman William G. Miller in 1978:

"Mr. Grassley. I would detect that your relationship with the administration doesn't depart too much from what we have been told have been the patterns of previous administrations and previous chairmen.

"Mr. Miller. I know of no difference. I have really picked up the agenda that was established by Dr. Burns . . .

"Mr. Grassley. This final question would probably give you an opportunity to sum up what you have previously said. But is the independence of the Fed in any danger from either political pressure from this administration or from the Congress?

"Mr. Miller. I don't detect it at this time. The President has stated over and over again that he believes in the independence of the Fed. . . I know that it is only the Congress that has created the Fed, not the Constitution." (Hearings, House Committee on Banking, Finance, and Urban Affairs, April 10, 1978, pp 142-143)

At least once before, the Congress has issued a directive to the Fed. In House Concurrent Resolution 133 in 1975, we directed the Federal Reserve to "pursue policies in the first half of 1975 so as to encourage lower long-term interest rates and expansion in the monetary and credit aggregates appropriate to facilitating prompt economic recovery . . ." Just the other day Chairman Volcker commented that in "the mid-seventies, we seemed to be getting back on the (growth without inflation) path—you will recall both interest rates and the inflation rate declined well into that recovery before we got off track." Our Resolution 133 contributed constructively to the mid-seventies recovery.

I have submitted my four economic recommendations to the econometric consulting firm of Data Resources, Incorporated, and asked them to compare an economic policy based on these with the forecast which assumes enactment of the President's fiscal year 1983 budget.

The results are provided in the attached Table. They show that the alternative program would produce a rapid return of real GNP growth in 1983. It would create two million new private sector jobs next year. It would revive the housing and the automotive sectors. It would lower interest rates. It would not significantly increase inflation.

Most important, our program would cut the deficit by a third in fiscal year 1983, and by more than one-half in fiscal year 1984.

This is the bi-partisan initiative I recommend. Let the Congress assume the power that the Constitution and the laws have given us. Let us fashion a Congressional budget, with ancillary debt legislation, that meets the Nation's needs.

The Nation is looking for bold action. It is Congress historic opportunity. As Chairman of the Joint Economic Committee, I salute you of the House Budget Committee for the leadership you are showing. Let us pull the ox from the ditch into which it has sadly fallen.

COMPARISON OF FORECASTS OF RESULTS OF REAGAN PROGRAM AND JEC ALTERNATIVE PREPARED BY DATA RESOURCES, INC.

	1982	1983	1984
Real GNP growth (percent):			
Reagan [1]	−0.7	4.3	4.0
Alternative [2]	.5	7.4	3.9
Unemployment (percent):			
Reagan	9.4	8.7	7.8
Alternative	9.2	7.3	6.3
Deficit (fiscal year, billions of dollars):			
Reagan	109.1	100.1	93.7
Alternative	101.7	65.3	38.7
Housing starts (millions of units):			
Reagan	1.2	1.6	1.7
Alternative	2.1	2.2	2.1
Auto sales (millions of units):			
Reagan	8.9	10.0	10.6
Alternative	9.7	11.5	12.4
3-month Treasury bill rate (percent):			
Reagan	11.8	12.0	11.4
Alternative	8.8	9.9	7.7
Consumer Price Index (percent change):			
Reagan	7.4	7.3	7.1
Alternative	7.4	8.0	8.0
Prime interest rate (percent):			
Reagan	15.2	15.5	14.6
Alternative	12.9	12.9	11.1

[1] Data Resources, Inc., analysis of Reagan policies, Feb. 10, 1982.

[2] Data Resources, Inc., Feb. 22, 1982, simulation run of forecasting model.●

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise once again to kind of bring the House up to date with respect to the murder of Federal Judge John W. Wood, and the attempted murder of the then assistant Federal district attorney for the western district, two crimes that I have reported at great length since before the murder of Federal Judge John Wood. I do so advisedly because of two reasons: First, a news item, a very small news item, that came out in the San Antonio Press over the weekend in which it was reported that the Federal grand jury, the one lately working on this case, had adjourned, and I do not remember what time period or whether it was an adjourment of this particular grand jury. There had been a special grand jury convoked, but it labored and, as far as I know, never led to any kind of an indictment.

Also, because of the second item that appeared—I would say some 6 weeks ago—and had many people believing, because of malinterpretation of that news report, that an indictment had in fact been prepared by a grand jury. It was a New York Times article emanating down in Texas—from Houston, as a matter of fact—in which it was actually a release obviously based on a release from the Justice Department that has been very, very sensitive, and only because of the likes of myself, who have sworn not to let this case be thrown back into the dust of history and forgotten—like the Jimmy Hoffa case, which I think is the most glaring example, but also because of other cases, some not even yet resolved on the local level, or murders that have been perpetrated in this particular area dating back to 1972 and 1973.

The mysterious case of Sante Barrio, the drug enforcement official, head of the Mexican Bureau at the time, who was arrested for alleged bribery by the same DEA officials in San Antonio after an experience of this kind in New York, and also the case of Carrasco, which made national headlines when he holed himself up in the Huntsville State Prison and led a hold-out or rebellion which ended in the deaths of five people, all these cases have receded into the background. They have been forgotten. We live in a day and time in which the events of 1 year ago have been so telescoped that they are history, they are forgotten.

But I have said repeatedly, and I will repeat today, that the case of the murder, of the assassination of Federal District Judge John W. Wood is the most awesome and ominous case in the history, not only of the Federal judiciary, but of our Government. This is the first successful attempt on the part of the criminally intended individuals to actually cow and intimidate one branch of our Government. As a matter of fact, the special surveillance and the official expenses incurred by the Division of the Marshals' Office, and other law enforcement branches of the Government in the protective custody given the Federal judges and some of the officials, has been prohibitive. It has exceeded the amount that

I suggested in a resolution that I presented to this body almost 2 years ago that would have merely indicated that it would be the will of the House that the President of the United States would assure the proper officials in the Justice Department that they would have available to them as much as $3 million for the purposes of information leading to the arrest and the conviction of those responsible not only for the murder of Judge Wood, but also for the attempted murder of the assistant Federal district attorney.

These are two crimes that are unparalleled. This kind of crime simply has not happened in the history of the American judiciary, and it is unsolved today as much as it was at the time it happened, which will be 3 years the last week in May. In a couple of months, it will be 3 years, and all is fol-de-rol of these ambiguous releases that are calculated to try to impress people that there are lots of things being done on the case, yet the truth is that no more solution of these cases has been reached than the one in the case of Jimmy Hoffa, where even the body has not shown up, much less the culprits or the causes of this disappearance.

These are ominous, as I said before, because they reflect the tremendous power that what I call King Crime continues to exercise over our society. I have stated repeatedly from this well since 1970 that so-called organized crime, whatever you want to designate it, has infiltrated not only honest business on every level, from banking to shopping centers to huge insurance corporations, crime has come in and invaded these corporate structures.

I have stated, and I will repeat today, they have done the same thing with the National Government, with the State governments, with the local governments, the kind of crime that reflects some position in any society unless there is an intimidating tie-in between the political, the criminal, and the business cultures, particularly in this country in which the business element is the one that really rules.

We have had this, and it has been recorded. There have been other men who have written at great length, and there have been sporadic congressional look-into's in the situation, but there has been nothing—nothing on the national law enforcement level produced yet that would give us even the beginning of a handle to attack the basic elements of this problem.

The murder of Judge Wood is a constant reminder to America that we do not have real freedom, that we are not in control of our own societal forces; that unless and until every single individual contributing to the death, the murder of Judge Wood, and above all, also the attempted murder of the assistant Federal district attorney, is brought to the bar of justice, fully aired, the whole crime exposed to public view, examined by the sunlight of public examination.

□ 1230

Unless and until we do, I think that whatever else this Congress does in the way of lawmaking for the Nation, whatever it is we think we are doing to help the very people that we charge and ask to swear to the enforcement of law is in vain. It is futile, it is contradictory even, because we have this challenging, continuing menace.

I must remind those who would not otherwise know that in our area we have not been identified as a center for organized crime, but since 1970, first for 6 years, I worked strictly on the local level. I never came up to the national level to bother anybody or to importune this Chamber or my colleagues until the attempted murder of the assistant Federal district attorney. And I predicted then that there would be a followup and that I feared what might happen, and I specifically mentioned the district attorney himself and the judges—that judge in particular.

So it has been awesome to see what happened in 6 months, less than 6 months after that kind of talk, which nobody paid any attention to—not much anyway, and not where it counted. I even went so far as to try to reach the highest level in our executive branch of the Government, but it was not until after Judge Wood was murdered that I had some kind of reaction, and, of course, by then that crime had been committed and a valued member of the judiciary had been lost in a most atrocious manner.

No civilized society can keep its head high or proudfully say that it is really free if this kind of crime goes unchallenged, unsolved, and the culprits and perpetrators unpunished, not even identified.

Oh, yes, we see all these headlines saying that we are going to have an indictment. This was the big story in the New York Times. I had colleagues and others compliment me, saying, "Hey, we saw in the paper where at least something has happened."

I said, "Wait a while. Did you read that story carefully? It didn't say they had an indictment. It said they were hoping to prepare an indictment in the very near future. And then they went ahead of themselves and intimated that the men they felt were really behind the crime were already in jail for other related crimes in drug trafficking."

So I say and I repeat at this time that this is a continuing and a shadowing menace to the entire soundness of our societal structure in America. "King Crime" continues to reign supreme, unchallenged, unmitigated, unawed, while law enforcement officials cower and have to be protected. The criminals, the head people, and the powers behind the crimes walk the streets heads high, unafraid, unawed, and just completely free to roam at will and to continue the activities that are a blot on our society, the international drug traffic, the international trade in stolen automobiles and vehicles.

How long have I spoken on this podium and in this forum and to what effect? But I think that the duty is clear, and I am impelled to, at least on the record, make it clear that the terrible unprecedented assassination of a Federal judge and the attempted assassination of an assistant Federal district attorney should not go unresolved, and I would point out that nobody has been arrested, much less charged or much less indicted, for the specific crime of either attempting the murder or actually murdering.

Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GORE) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. REUSS, for 30 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. RICHMOND, for 30 minutes, on March 23.

Mr. STARK, for 5 minutes, on March 23.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SENSENBRENNER) and to include extraneous matter:)

Mr. GINGRICH.

Mr. NELLIGAN.

Mr. BROOMFIELD.

Mr. OXLEY.

Mr. MCGRATH.

Mr. LEACH of Iowa in two instances.

Mr. GILMAN.

Mrs. HECKLER.

(The following Members (at the request of Mr. GORE) and to include extraneous matter:)

Mr. GAYDOS in two instances.

Mr. FASCELL in four instances.

Mr. LONG of Louisiana.

Mr. PEASE in three instances.

Mr. FORD of Michigan.

Mr. MCHUGH.

Mr. GORE.

Mr. ANDERSON in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Kildee.

Mr. Mazzoli.

Mr. Garcia.

Mr. Moffett.

Mr. Phillip Burton.

Mr. Shamansky.

Mr. LaFalce.

Mr. Ratchford.

Mr. Stark in three instances.

Mr. Wyden.

Mr. Addabbo.

Mr. Walgren.

Mrs. Kennelly.

Mrs. Byron.

Mr. Fauntroy.

Ms. Oakar.

Mr. Santini.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 951. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1982, and for other purposes; to the Committee on the Judiciary.

S.J. Res. 143. Joint resolution to authorize and request the President to designate the week of May 2 through May 8, 1982, as "National Physical Fitness and Sports for All Week"; to the Committee on Post Office and Civil Service.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 34 minutes p.m.) the House adjourned until tomorrow, Tuesday, March 23, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3452. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests; to the Committee on Agriculture.

3453. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to clarify and extend the authority of the Secretary of Agriculture to collect fees to cover U.S. Government costs incident to the issuance of phytosanitary certificates with regard to plants and plant products intended for exportation and for the testing, certification, inspection, and quarantine of import and export animals and certain products and materials; to the Committee on Agriculture.

3454. A letter from the Administrator, Federal Insurance Administration, Federal Emergency Management Agency, transmitting a report on a plan for liquidation concerning the national insurance development program, pursuant to public law; to the Committee on Banking, Finance and Urban Affairs.

3455. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on loan, guarantee, and insurance transactions supported by Eximbank during December 1981 and January 1982 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

3456. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report on a transaction involving U.S. exports to the Republic of Indonesia, pursuant to public law; to the Committee on Banking, Finance and Urban Affairs.

3457. A letter from the Secretary of Education, transmitting a technical correction notice on final regulations for institutional grants for graduate and professional study, pursuant to public law; to the Committee on Education and Labor.

3458. A letter from the Secretary of Health and Human Services, transmitting a letter to Congress on the report of the National Health Service Corps requesting a delay in the submission of that report until June 30, 1982; to the Committee on Energy and Commerce.

3459. A letter from the Secretary, Interstate Commerce Commission, transmitting notice of the Commission's inability to render a final decision in Investigation and Suspension Docket No. 9255, "Cancellation of Participation in Single-Factor Joint Rates on Grains, Conrail, October 1981," within the initially specified 5-month period, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Energy and Commerce.

3460. A letter from the Assistant Attorney General (Office of Legislative Affairs) Department of Justice, transmitting a report on the rail carrier liability study, pursuant to section 211 of the Staggers Rail Act of 1980; to the Committee on Energy and Commerce.

3461. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of October 1981, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

3462. A letter from the vice president for Government Affairs, National Railroad Passenger Corporation, transmitting a report on the National Railroad Passenger Corporation's performance evaluation for 1981, pursuant to law; to the Committee on Energy and Commerce.

3463. A letter from the Director, International Communication Agency, transmitting a draft of proposed legislation to amend the "International Communication Agency Authorization Act, Fiscal Years 1982 and 1983" (Public Law 97- ; — Stat. —), to authorize additional appropriations for fiscal year 1983, and for other purposes; to the Committee on Foreign Affairs.

3464. A letter from the Deputy Assistant Secretary of Defense, transmitting notice of various proposed changes in existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3465. A letter from the Chairman, U.S. Merit Systems Protection Board, transmitting a report on the agency's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3466. A letter from the Secretary, Postal Rate Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act during calendar year 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3467. A letter from the Secretary, Mississippi River Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act during calendar year 1981, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3468. A letter from the Acting Secretary, Department of the Interior, transmitting a letter of notification of the intent to modify the original designs of the Brantley project, New Mexico, pursuant to public law; to the Committee on Interior and Insular Affairs.

3469. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize appropriations to carry out the Endangered Species Act of 1973, as amended, through fiscal year 1984; to the Committee on Merchant Marine and Fisheries.

3470. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the authorization of appropriations in section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and for other purposes; to the Committee on Merchant Marine and Fisheries.

3471. A letter from the Secretary of Transportation, transmitting a report on the effect on the shipyard mobilization base of applications for reconstruction of two dry bulk/oil carriers in foreign shipyards, pursuant to public law; to the Committee on Merchant Marine and Fisheries.

3472. A letter from the Comptroller General of the United States, transmitting a report of certification of the Secretary of Defense's estimate of the Panama Canal Commission's annual revenues to be deposited in the Panama Canal Commission fund for fiscal year 1983, pursuant to public law; to the Committee on Merchant Marine and Fisheries.

3473. A letter from the Director, Office of Management and Budget, transmitting a watershed plan and environmental impact statement for the Mozingo Creek watershed, Missouri, pursuant to public law; to the Committee on Public Works and Transportation.

3474. A letter from the Assistant Secretary of the Army for Civil Works, transmitting a report from the Chief of Engineers, Department of the Army, on Ventura County, Calif., beach erosion control, pursuant to public law; to the Committee on Public Works and Transportation.

3475. A letter from the Acting Administrator, U.S. Small Business Administration, transmitting a draft of proposed legislation to amend the Small Business Act; to the Committee on Small Business.

3476. A communication from the President of the United States, transmitting notice of his intention to proclaim, under the authority of section 502(a)(3) of the Trade Act of 1974, that all member countries of the Caribbean Common Market (Antigua, Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts-Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago) shall be treated, respectively, as one country for purposes of the generalized system of preferences (H. Doc. No. 97-156); to the Committee on Ways and Means and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STARK (for himself, Mr. Glickman, Mr. Pepper, Mr. Matsui, Mr. Smith of Pennsylvania, Mr. Rosenthal, Mr. Hansen of Idaho, Mr. Forsythe, Mr. Fazio, Mr. Horton, Mr. Edwards of California, Mr. Foglietta, Mr. Edgar, Mr. Lehman, Mr. Dougherty, Mr. Courter, Mr. Kildee, Mr. Hutto, Mr. Taylor, Mr. Fascell, Mr. Kindness, Mr. Mineta, Mr. Gejdenson, Mr. Dickinson, Mr. Blanchard, Mr. English, Mr. Hughes, and Mr. Coelho):

H.R. 5911. A bill to amend title XVI of the Social Security Act to exclude burial plots and niches and insurance policies and other burial plans and arrangements from the determination of an SSI applicant's resources; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 5912. A bill to amend title 10, United States Code, to provide that the Department of Defense may not construct new housing facilities in the United States if there are suitable housing facilities in the surrounding community available for acquisition; to the Committee on Armed Services.

By Mr. CHAPPIE:

H.R. 5913. A bill to establish the Trinity River Management Board, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. OBEY:

H.R. 5914. A bill to reduce ineffectiveness and duplication within the Department of Health and Human Services by directing the Secretary of Health and Human Services to make certain reorganizations within the Department relating to the health functions of the Department; to the Committee on Energy and Commerce.

By Mr. PRICE (for himself and Mr. Dickinson) (by request):

H.R. 5915. A bill to authorize appropriations for fiscal year 1983 for the conservation, exploration, development, production, sale, and use of the naval petroleum reserves and naval oil shale reserves; to the Committee on Armed Services.

By Mr. SKEEN:

H.R. 5916. A bill to declare certain Federal lands acquired for the benefit of Indians to be held in trust for the tribes of such Indians; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of Iowa:

H.R. 5917. A bill to amend the Commodity Exchange Act to require a producer referendum as a condition of designation of certain contract markets; to the Committee on Agriculture.

By Mr. SOLOMON:

H.R. 5918. A bill to amend title 10 of the United States Code to allow Reserve commissioned officers to be promoted to, or recognized in, a higher Reserve grade while serving on active duty; to the Committee on Armed Services.

By Mr. WAXMAN:

H.R. 5919. A bill to amend the Public Health Service Act to revise and extend the authorities under that act relating to national research institutes, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WEBER of Ohio (for himself, Mr. Daub, Mr. Sensenbrenner, Mr. Lent, Mr. Fields, Mr. Roberts of South Dakota, Mr. Bevill, Mr. Porter, Mr. Goodling, Mr. Nichols, Mr. Parris, Mr. Hansen of Idaho, Mr. Goldwater, Mr. Hiler, Mr. Oxley, Mr. Napier, Mr. Weaver, Mr. Lewis, Mr. Coats, Mr. McClory, Mr. Wolf, Mr. LeBoutillier, Mr. Gregg, Mr. Gingrich, Mr. Stangeland, Mr. Yatron, Mr. Gunderson, Mr. Craig, Mr. James K. Coyne, Mr. Roberts of Kansas, Mr. Dan Daniel, Mr. Dannemeyer, Mr. Forsythe, Mr. Walker, Mr. Mollohan, Mr. Evans of Georgia, Mr. Burgener, Mr. Solomon, Mr. Smith of Oregon, Mr. Staton of West Virginia, Mr. Siljander, Mr. Lagomarsino, Mrs. Martin of Illinois, Mr. Skeen, Mr. Tauke, Mr. Morrison, Mr. Evans of Indiana, Mr. Courter, Mr. Campbell, Mr. Glickman, Mr. Huckaby, Mr. Bedell, Mr. McDade, Mr. Wilson, Mr. Hughes, Mr. Horton, Mr. Benedict, Mr. Johnston, Mr. Jeffries, Mr. Young of Alaska, Mr. Hillis, Mrs. Smith of Nebraska, Mr. Jacobs, Mr. Rahall, Mr. Paul, Mr. McEwen, Mr. Bailey of Pennsylvania, Mr. Coughlin, Mr. Petri, Mr. Hansen of Utah, Mr. Ginn, Mr. Rudd, Mr. Hartnett, Mr. Sharp, Mr. Badham, Mr. Santini, and Mr. Smith of Alabama):

H.R. 5920. A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits; to the Committee on Ways and Means.

By Mr. GARCIA (for himself, Mr. Horton, Mr. Corrada, Mrs. Collins of Illinois, Mr. Bingham, Mr. Markey, Mr. Barnes, Mr. Dixon, and Mr. Mitchell of Maryland):

H. Con. Res. 294. Concurrent resolution expressing the sense of the Congress that businesses receiving tax benefits under the President's economic recovery program should help to offset the reductions in domestic programs by increasing their charitable contributions; to the Committee on Ways and Means.

By Ms. OAKAR (for herself and Mr. Pepper):

H. Res. 403. Resolution expressing the sense of the House of Representatives with respect to the rights of residents in certain health care facilities; jointly, to the Committees on Ways and Means and Energy and Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

302. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Federal beef grading standards; to the Committee on Agriculture.

303. Also, memorial of the House of Representatives, Legislature of the State of Kansas, relative to POW's and MIA's as a result of the Vietnam conflict; to the Committee on Foreign Affairs.

304. Also, memorial of the Legislature of the State of Maine, relative to nuclear weapons; to the Committee on Foreign Affairs.

305. Also, memorial of the Legislature of the State of California, relative to Vietnam veterans; to the Committee on Veterans' Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SANTINI introduced a bill (H.R. 5921) for the relief of Peter J. Montagnoli; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1200: Mr. Findley.

H.R. 1937: Mr. Oxley, Mr. Gibbons, Mr. Mitchell of New York, Mr. McGrath, Mr. Andrews, Mr. Lee, Mr. Bliley, Ms. Fiedler, and Mr. Jones of North Carolina.

H.R. 4158: Mr. Wolf.

H.R. 4376: Mr. McDade.

H.R. 4377: Mr. McDade.

H.R. 4562: Mr. Dwyer and Mr. James K. Coyne.

H.R. 5133: Mr. Yatron, Mr. Hillis, Mr. Boland, Mr. Dorgan of North Dakota, Mr. Clay, Mrs. Collins of Illinois, Mr. Downey, Mr. Rangel, Mr. Price, Mr. Fowler, Mr. Coughlin, Mr. Stark, Mr. Roe, and Mr. Williams of Montana.

H.R. 5168: Mr. Ginn, Mr. Rudd, Mr. Hartnett, Mr. Sharp, Mr. Badham, Mr. Santini, and Mr. Smith of Alabama.

H.R. 5192: Mr. Bonker, Mr. Ford of Tennessee, Mr. Mica, Mr. Stump, Mr. Gejdenson, and Mr. Whittaker.

H.R. 5358: Mrs. Boggs, Mr. Breaux, Mr. Livingston, Mr. Long of Louisiana, Mr. Roemer, Mr. Huckaby, and Mr. Moore.

H.R. 5465: Mr. Breaux, Mrs. Boggs, Mr. Clinger, Mr. Johnston, Mr. Roemer, and Mr. Livingston.

H.R. 5469: Mr. Barnard.

H.R. 5583: Mr. Dicks, Mr. Forsythe, and Mrs. Bouquard.

H.R. 5711: Mr. McEwen, Mr. Hughes, Mr. Udall, Mr. Hendon, Mr. Synar, Mr. Stangeland, and Mrs. Bouquard.

H.J. Res. 418: Mr. St Germain and Mr. Richmond.

H. Con. Res. 261: Mr. White, Mr. McKinney, Mr. English, Mr. James K. Coyne, and Mr. Miller of Ohio.

H. Res 375: Mr. Sabo, Mr. Patterson, Mr. Fish, Mr. Crockett, Mr. Dwyer, Ms. Ferraro, and Mr. Ford of Tennessee.

PETITIONS, ETC.

Under clause 1 of rule XXII,

376. The SPEAKER presented a petition of the Board of Kaskaskia Industrial Development Corp., New Athens, Ill., relative to the movement of commerce by water transportation; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

SENATE—*Monday, March 22, 1982*

(Legislative day of Monday, February 22, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable S. I. HAYAKAWA, a Senator from the State of California.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray:

Praise ye the Lord. Praise, O ye servants of the Lord, praise the name of the Lord.

Blessed be the name of the Lord from this time forth and for evermore.

From the rising of the Sun until the going down of the same, the Lord's name is to be praised.

The Lord's name is high above all nations, and his glory above the heavens.—Psalm 113: 1-4.

Lord God of Heaven and Earth, God of love and mercy, of truth and justice, of light and wisdom; our Nation is desperately in need of unity: Unity among Members of Congress, unity between Congress and the White House, unity between government and the people, unity between blacks and whites, unity between labor and management.

Help us to understand the wisdom of Jesus, "a house divided against itself cannot stand." Make us wise regarding the strategy of Satan to divide and destroy. Give us discernment to see that "we wrestle not against flesh and blood, but against principalities, against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places."—Ephesians 6: 12.

Gracious Lord, help us to see that the real battle is spiritual and that we need Thee. Give us grace and humility to look to Thee, to submit to Thee, to depend upon Thee. We implore Thee in the name of the King of Kings. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 22, 1982.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable S. I. Hayakawa, a Senator from the State of California, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. HAYAKAWA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

Mr. BAKER. I thank the Chair.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that, following the recognition of the two leaders under the standing order, there be a period for the transaction of routine morning business not to extend beyond 30 minutes in length in which Senators may speak for not more than 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order to suggest the absence of a quorum without it being charged against leader time as provided for under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there are certain matters that should be addressed and dealt with to the maximum satisfaction of Senators. While we try to arrange for that, Mr. President, I suggest the absence of a quorum on the same terms and conditions as prescribed heretofore.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STANDBY PETROLEUM ALLOCATION ACT OF 1981—VETO

Mr. BAKER. Mr. President, may I inquire, is there a message at the desk from the President of the United States in reference to S. 1503?

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate a communication from the Secretary of the Senate regarding that matter. The clerk will read the communication.

The assistant legislative clerk read as follows:

OFFICE OF THE SECRETARY,
Washington, D.C., March 22, 1982.

Hon. GEORGE H. W. BUSH,
President of the Senate,
Washington, D.C.

MY DEAR MR. PRESIDENT: On Saturday, March 20, 1982, the President of the United States sent by messenger a message addressed to the Senate, dated March 20, 1982, giving his reasons for not approving S. 1503, an Act to amend the Energy Policy and Conservation Act to authorize the President to allocate crude oil, residual oil, and other petroleum products in the event of a severe petroleum supply shortage, and for other purposes. The Senate not being in session on the last day which the President had for the return of this bill under the provisions of the Constitution of the United States, in order to protect the interests of the Senate so that it might have the opportunity to reconsider the bill, I accepted the message, and I now present to you the President's veto message, with the accompanying papers, for disposition by the Senate.

Respectfully,

WILLIAM F. HILDENBRAND,
Secretary of the Senate.

Mr. BAKER. Mr. President, may I inquire, is the veto message with the papers attached at the desk?

The ACTING PRESIDENT pro tempore. It is.

Mr. BAKER. I ask unanimous consent that the veto message with the papers attached be held at the desk and that it may be made pending any time the majority leader so decides, after consultation with the minority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. By way of explanation, may I say that after consultation with the distinguished minority leader, the chairman of the committee, and the distinguished ranking minority member of the committee, this procedure was arrived at in order to facilitate the orderly scheduling of this matter. Under the Constitution, the veto message would have been presented to the Senate during this day. It seemed best under all circumstances to provide for a time which suits the maximum convenience of Members.

I have personally assured the minority leader, and I represented as well to the chairman of the committee and the ranking minority member, that under this order I will bring up this message with the bill attached at any time that is convenient to them, and that if the chairman and ranking minority member cannot agree on a time to do that, on the request of the minority, with reasonable notice, and after consulting with the minority leader in particular, I will proceed to the consideration of that matter at a future date.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. JACKSON. Mr. President, that agreement is in accordance with the understanding that we had while we were in a quorum call. I commend and thank the distinguished majority leader. Obviously, there will be a need for reasonable notice so that neither side will try to spring it, so to speak, without that requirement of reasonable notice. That will not be difficult from my standpoint, to be able to work that out with the distinguished chariman of the Committee on Energy and Natural Resources.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. McCLURE. Mr. President, I thank the Senator from Tennessee. The majority leader has a facility for working these things out with a minimum amount of pain.

I thank the minority leader and the distinguished Senator from Washington also for this agreement.

My understanding is that this does not require either a motion or unanimous consent to bring it back before the body. It requires only the action of the majority leader after consultation with the minority leader.

Mr. BAKER. That is my understanding of the order.

Mr. McCLURE. It would be the intention that at any time we have agreed among ourselves that it should be the pending business, it will be, and if, as a matter of fact, there is disagreement, and the minority insists upon it being brought up, it would be brought up under those circumstances.

Mr. BAKER. That also accords with my understanding.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the majority leader for his characteristic courtesy and for his efforts to work out this matter. It is with our approval and satisfaction on the minority side, and we appreciate the opportunity of having participated in working out this arrangement.

Mr. BAKER. Mr. President, I wish to express my appreciation to the chairman and the ranking minority member of the committee for their help, assistance, and understanding in this matter.

I will, as the order provides, consult, as I consult daily, with the minority leader on scheduling this matter. Were it not for the good offices of the minority leader and his constant and unwavering cooperation, this would be a very difficult job indeed. But he has been cooperative in every matter I have ever addressed to him. While jealously guarding the prerogatives of the minority, he has also facilitated the operation of the Senate. I am grateful to him for that as I am in this case.

Mr. President, when the time comes that the parties can agree, when they can agree, when they indicate to me that they wish to schedule this matter, after consulting with them and particularly with the minority leader, it will be done as we have now described in this colloquy.

AN UPSET

Mr. BAKER. Mr. President, I ask unanimous consent that this week's poem, "An Upset," by James Merrill, be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

AN UPSET

Drowsing in bed alone, quite thoughtless of nights
When I didn't . . . An ominous crack, some loud, low snaps
Like river ice breaking up
From the next room (still lit—I hadn't retired)
Swept me out there in time to watch my
Grandfather's table,
One of the pedestal's three
Leonine hips
Disjointed under mounting stress,
Collapse.

It could have been
The old man felled anew,
Seen through a thaw
Of pain—struck broadside, banks whose failure
Sent slowly crashing full
Ashtray, lamp, magnifying glass, and—no!—
"Liszt;" "Les Dieux;" "The Japanese Tattoo;"
"Babel's Collected Stories;" "Last
Poems;" "Thinking and Willing" (boxed together);
"Animal Farm;" "A Little Boy Lost"—to name just a few.

Wow. A disaster zone
Facing therapy: sandpaper, clamps and glue,
Jetsam and overflow's diversion to shelves
Unbuilt, if not to plain
Oblivion . . .
Another "worst" behind us,
Now to relearn
Uprightness, lightness, poise:
First things—the lamp supposes, prone
Yet burning wildly on.

—JAMES MERRILL.

PRESIDENT REAGAN'S "FIRST FRIEND"

Mr. BAKER. Mr. President, yesterday, in the New York Times magazine, Steven Roberts wrote a revealing portrait of my good friend and colleague from Nevada, PAUL LAXALT.

It is a capsulized political biography of a distinguished political man, and I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times Magazine, March 21, 1982]

REAGAN'S FIRST FRIEND

(By Steven V. Roberts)

The scene was familiar: The White House driveway. Banks of cameras and microphones. Three Republican leaders, grim-faced, emerging from a meeting with the President. Shouted questions, careful answers. And the next day, big headlines: Congressional leaders tell the President they need "running room" to revise his budget.

But there was something unusual about this particular tableau. Two of the characters' positions entitled them to top billing: Senator Howard H. Baker, Jr. of Tennessee, Senate majority leader, and Representative Robert H. Michel of Illinois, House minority leader. But the third man in the front-page photographs held no official rank above that of junior Senator from Nevada. Yet there he was, joining the party's top chieftains for a critical meeting with the President. And he was the one who made the headlines with his comment about "running room."

The third man was Paul Laxalt, and that scene in front of the White House last month illustrates the important and unprecedented role this 59-year-old lawmaker has carved out for himself in Ronald Reagan's Washington. He is the truthteller, the man who whispers in the ear of the leader, "Hey, Ron, you've messed up, this one isn't working."

Later, when asked why he had been at that particular meeting, Laxalt replied: "I went along because I was asked to go by the President." What message had he delivered? "Interest rates are the name of the game. The deficit presents a huge problem. He has to give his whole budget a second look." That was not what President Reagan wanted to hear, but telling him was Laxalt's job.

This is only a most recent example of Laxalt's role as court truthteller. Last fall, for instance, he sensed that those of the President's additional $13 billion in budget cuts directed against cities and states would not win approval from officials at a National League of Cities meeting in Detroit. And he said so—to a group of reporters.

The next day, the President read Laxalt's statement and irritably told an aide, "Hey, I see that even Paul is critical of us. We've got to look at this again." Soon after, the President agreed to accept only $4 billion in additional trims.

Laxalt continues to be the man who delivers the bad news when other messengers might fear to do so. "Because of my relationship with the President," Laxalt explains, "I can say things in a manner that others can't."

Lyn Nofziger, Assistant to the President for Political Affairs until recently, when he left to return to private political consulting in Washington, admits that, "to a certain extent, people who are on the President's staff are always reluctant to bring him bad news. In addition, it's a little difficult to find out what's going on outside. So it's very helpful to the President to have someone he trusts, someone who's not grinding his own ax."

Laxalt has been called the President's "best friend" so many times that the phrase is now practically part of his name. The two men share a deep, trusting friendship that goes back 18 years to when they both campaigned for Barry Goldwater during his Presidential bid. The Senator recently told Martin Tolchin of the New York Times, "We're like brothers. . . . If it's one thing the President needs, it's a good brother." The Senator's real-life brother, John, a Washington public-relations consultant, describes the relationship more pungently: "Paul's been riding shotgun for him for quite a while."

If Ronald Reagan needs a "brother," Nancy Reagan needs a "brother-in-law," someone to help her coddle and care for her husband, and one of Laxalt's strongest links to the First Family comes through the President's wife. In the Senator's Capitol Hill office, a photgraph of him and the President is inscribed: "A favorite picture of my two favorite fellas. Fondly, Nancy."

"Nancy came to trust Paul like no one else outside the family," notes John Laxalt, who worked for the Citizens for the Republic, Mr. Reagan's political vehicle between his 1976 and 1980 campaigns. "She knew Paul would never turn Ron around. Paul was protective of him."

After the President's election, Laxalt probably could have had any job in the Administration, from White House aide to Cabinet secretary. But he sensed from the outset that he would be most valuable as an independent agent, outside the power structure and the power plays.

His personal relationship with the President became the basis for a political role that is both vital and unusual. Laxalt himself calls his function "rather unique and probably unprecedented" in Senate history, and it is hard to think of a good parallel. He holds no official position in the Senate leadership, not even a committee chairmanship. He has no power base in a large state or influential interest group. He avoids the Senate floor and the television studios. Yet the First Friend participates in most important strategy sessions on Capitol Hill, and few pictures of Ronald Reagan meeting with a delegation of lawmakers do not include the silvery head and crinkly smile of Nevada's junior Senator.

From the beginning, many Washington experts said that Laxalt's role could never work, that no one rides shotgun for the President without an official title or position. Laxalt was aware of the problem. "Maybe what haunts me," he said a little over a year ago, "is the admonition Richard Nixon gave me on this role. No one, he said, is more jealous of prerogatives than the Senate and House leadership."

But the widespread, and somewhat surprised, judgment on Capitol Hill is that Laxalt has pulled it off, and one reason is his personality, a warm mixture of soft words and quick smiles, pats on the back and looks in the eye.

Like the Roman god Janus, Laxalt looks in two directions at the same time, and the budget issue demonstrates that facility. As a man of the Senate, he tells the President that his colleagues are upset, that they have to worry about re-election, that the Administration's budget will be "very difficult for our candidates" to run on next November. As a man of the White House, he tells the lawmakers that the President believes in his budget, that he must stand firmly behind it or risk spreading an infection of doubt that would doom his program. If both sides understand each other, Laxalt hopes, compromise will become possible.

"He plays a very important off-stage role," says Senator William S. Cohen, a Maine Republican. "He helps modulate Administration policy and keeps them in tune with the Senate, so they understand when to push and when not to push."

Most lobbying in Washington actually has little to do with crude arm twisting. Usually it is a subtle process of answering questions, offering information, providing assurances. How Laxalt performs this function for the Administration was aptly demonstated by the Senate vote to sell Awacs airplanes to Saudi Arabia.

Cohen's was a key vote. A moderate Republican with a Jewish father and considerable expertise in military matters, Cohen believed that the Administration should guarantee the security of Israel if it sold weapons to its enemy. He expressed his concerns to James Baker, a top Reagan aide, but was disturbed by the meeting. So he sought out the President's friend.

"I said to Paul Laxalt, 'I'm not satisfied that they know what I'm talking about,'" Cohen recalls. "And Paul said, 'I'll see that you have access.'" Cohen saw the President three times, and he eventually voted for the arms deal.

By mutual effort, Laxalt and Howard Baker, the Senate majority leader, have developed a smooth working partnership. Instead of seeing the First Friend as a rival, Baker regards him as an ally who strengthens the leadership's hand. Many right-wing Republicans scorn Baker for following the "moderate heresy," and Laxalt serves as a bridge to the party's conservative wing.

Lately, though, he has come under fire from the far right. A typical broadside comes from John D. Lofton Jr., editor of The Conservative Digest, who says, "I don't think Paul Laxalt would ever go to Ronald Reagan and press him on conservative issues. And that's very, very sad, because he could be a very important person in helping to hold the President's feet to the fire."

Other archconservatives deride Laxalt for remaining friendly with moderate senators, like Lowell Weicker—a Connecticut Republican and old tennis-playing buddy—but, in fact, the Senator from Nevada is particularly valuable to the White House because his contacts cross ideological as well as party lines.

To his liberal adversaries, however, Laxalt remains in the grip of conservative orthodoxy. "I feel he displays a very dangerous kind of hypocrisy toward certain groups," says Mary Gojack, the Nevada Democrat whom Laxalt trounced in the 1980 Senate race. "The elderly is one. He meets with them, and he's very affable and charming. Then he votes against them with amazing regularity."

When Mr. Reagan came to town after the 1980 election, however, one of the first people he saw was Senator Edward M. Kennedy, who had set up the meeting through Laxalt. Later, according to an aide of the Massachusetts Senator, Kennedy used the Laxalt connection to send a warning to the White House that Raymond J. Donovan, its nominee for Secretary of Labor, might have embarrassing links to labor racketeers. (Despite Donovan's eventual confirmation, he is currently under investigation in connection with illegal payments to labor union officials.)

"Kennedy really likes Laxalt," says the Kennedy aide. "They don't agree on very much, but Kennedy thinks he is an honorable person."

Officially, Laxalt is just a Republican backbencher, but when the score is tied and the clock is running, his teammates often throw him the ball for the last shot. Often he makes it, but not always.

In December, for example, a House-Senate conference struggled to forge a compromise resolution that would set stopgap spending levels for the Federal Government. When an agreement was finally reached, Laxalt, who, as a senior member of the Appropriations Committee, was part of the conference, signed it. His signature was a "signal" to other Republicans, he says, that the White House approved, and even the most conservative lawmakers went along.

But the President ended up vetoing the bill, demonstrating that politics can divide even the closest of friends when their priorities differ. As a legislator, Laxalt is a man of compromise. As an executive, Ronald Reagan wanted to make a dramatic gesture, a symbolic statement against spending.

Early in the Reagan Administration, Laxalt's Senate office looked like an old-fashioned political clubhouse, with job seekers lined up in the hallways. But those job hunters who came off best were Laxalt's own family and friends. His daughter Michelle became head of Congressional relations for the Agency for International Development; his son John hooked on with the finance arm of the Republican National Committee; his adopted daughter Denise landed in the White House speech-writing office. At least seven aides and cronies also slid into top slots with the new Administration. When asked about this remarkable record, Laxalt responded bluntly, citing the devout politicians' creed: "If you don't take care of your own, who will?"

The Senator was equally frank about taking care of his own during the MX missile controversy. President Carter had proposed concealing the precise location of the new missiles by continually moving them around on giant racetracks embedded in the deserts of Nevada and Utah. Laxalt and his Republican Utah colleague, Senator Jake Garn, were fiercely opposed to the plan, and when Mr. Reagan took office, they mounted an intense lobbying campaign that included personal appeals to the President.

When Mr. Reagan finally scrapped the racetrack plan, Laxalt insisted that his side had won "because we came up with the facts." But when asked if their friendship had proved useful, he admitted, "The access was important, of course."

There are those who complain that Laxalt does not take sufficient advantage of his access and his acumen. Probably the most common criticism of Laxalt is that he does not quite live up to his potential. "I just wish he'd use all that positive energy and channel it into one area of activity," says a friend and tennis partner. "There's a lot of talent going wasted."

Laxalt has never been an active legislator. Though pressed by many conservatives to challenge Senator Baker for the majority leadership, he declined. The fact is that he hates fine details and long hours, the staples of a leadership job.

"His attitude is not to be involved," says a Senate aide who has observed Laxalt closely for years. "He's antsy. He comes in to vote and gets the hell off the floor." After seven years in the Senate, it is hard to find a bill of Laxalt's that ever became law.

His work for the President takes up most of Laxalt's time these days, but he is pursuing a few select items on his own agenda, most of them relating to streamlining the Federal bureaucracy. He is the co-author, for instance, of a comprehensive bill on regulatory reform whose main purpose is to make sure that new rules justify on a cost-effectiveness basis the burdens they impose. However, in typical fashion, Laxalt has taken the hard-edged dogma of Reaganism and beveled it down a bit. His bill represents a compromise with Senate liberals, and its main co-sponsor is Senator Patrick J. Leahy of Vermont, a progressive Democrat. The compromise has been so artfully drafted that 79 other Senators have signed up as co-sponsors.

Laxalt is also one of the Senate's experts on "New Federalism," the Reagan effort to return more programs and power to state and local officials. He heads a Presidential commission that is studying the issue and serves as an Administration emissary to various meetings and conferences on the subject. But, here again, he rejects rigid ideology. He sympathizes with governors who worry that they will be assuming more responsibilities without more resources.

Laxalt has long been concerned with freeing the Western states from the domination of the Federal Government, which owns great chunks of land throughout the region. As the son of a shepherd who lived off the land, Laxalt is a born-again devotee of the "sagebrush rebellion," the Western movement for expanding the development and exploitation of public lands. One of his more important contributions to the Reagan Administration was to find a little-known but like-minded Denver lawyer named James Watt and urge the President to make him Secretary of the Interior.

Laxalt's arrival in Washington seven years ago foreshadowed the rise to power of Western conservatives. In analyzing the impact of this new breed, he stresses their relations with the press. The older conservatives, he says,"had a terrible distrust of the press, a real paranoia, and felt it was best to stay away from them." The new Westerners are accessible to journalists. As Laxalt notes, "we're all here in great part because of the media. We're all comfortable with it and appreciate its importance."

Moreover, the Western conservatives emerged from a different culture from that of the crusty old Southerners and Middle Westerners who had carried the right-wing banner in the past. They, too, believe fervently in states' rights, but their battles with Washington center on land and water, not on the race issue that pervaded Southern politics.

While the Middle Westerners might not have had a race problem, they often shared with Southerners a moralistic view of the world, but outside the Mormon realm of Utah, the Western experience has been far different. The frontier made possible—and necessary—an individualism other regions only talked about. "If there is a live-and-let-live state in the country, it's probably here," says Laxalt of Nevada.

How rigidly conservative, after all, can a Senator who represents Las Vegas be? This helps explain Laxalt's views on the "social issues" simmering in the Senate. As a member of the Judiciary Committee, Laxalt consistently votes in favor of efforts to curb abortion and school busing, but he does not take a leading position.

Four of the Senator's seven children are adopted, and families facing the problem of unwanted pregnancy went to him for advice. In addition, one of the Senator's five daughters has, by her own admission, borne a child out of wedlock. "I learned firsthand," Laxalt says, "that abortion is an excruciatingly difficult question on a personal basis." As a result, he scorns lawmakers, such as Jesse Helms, who try to enshrine their own views in legislation that would ban virtually all abortions. "I'm not going to sit and moralize and tell other people what they should do," Laxalt says. "Jesse must have had very limited personal experience with abortion. I've had a lot."

Yet Laxalt enjoys the adulation and support of the organized right-wing movement, which cares deeply about abortion, and he refuses to make a clean break. Lately, he has come to favor a bill proposed by Republican Senator Orrin G. Hatch of Utah which would overturn the Supreme Court decision legalizing abortion and allow Congress and ths states to pass their own guidelines.

This same sort of waffling has marked Laxalt's uncertain sponsorship of the Family Protection Act, a hodgepodge of measures directed against birth control, unions, homosexuals and other bêtes noires of the right. Even his colleagues knew that the legislation was not his style, and as he began to speak on the subject one day, another Senator sidled up to him on the floor and said, "I want to see what this divorced Nevada gambler has to say about family protection."

Laxalt says that he agrees with the "basic thrust" of the bill—Government policy should promote, not erode, family life—but he now believes that proposals such as denying Federal funds to advocates of homosexuality are "above and beyond" the proper scope of legislation. And he notes that "there is a conflict" between conservative rhetoric calling for less government and suggestions that Washington police the nation's bedrooms and classrooms to enforce right-wing doctrine. Accordingly, he let the legislation "simmer" for two years, and then withdrew from its sponsorship.

There is nothing inconsistent, however, about Laxalt's devotion to his land and his upbringing. His parents, both natives of the French Basque country, met in Nevada and settled in Carson City, a village of 3,000 people and few paved streets when Paul was growing up. Dominique Laxalt roamed the hills with his flock most of the year, and that left Paul, the oldest of six children, with a special role.

"At a very tender age, he had a great deal of responsibility thrust on him," says John Laxalt. "He learned to be a peacemaker, and he was our conduit to Mom." "Conduit," "peacemaker"—the same words are used to describe him today.

Mama Laxalt, as she was widely known, ran a small boardinghouse and restaurant near the state capitol that became a favorite gathering spot for politicians. Paul would wait on tables and listen to the talk, a scene his brother Robert described in "Sweet Promised Land," a book about the Laxalt family: "Invariably, their attention would fix on Paul, quietly weighing them as equals even then, and one or the other would shake his maned head and waggle his jowls and say, 'That boy will be Governor someday.' "

The Laxalts lived a frontier life, scratching a living out from the mountains and their small business, and that experience shaped Paul's outlook. "I come from a self-help family," he says simply. "That's the essence of my conservatism."

As the child of immigrants, young Paul, who did not speak English until he went to school, was an outsider and an underdog. But Basques maintain a fierce pride in their heritage, a pride Robert Laxalt calls their "flaming shield." His brother Paul refers repeatedly to the family's ethnic heritage, always in a warm and loving way.

Although his brother Robert feels that Paul was "cheated of his youth" by all his responsibilities, the future Senator became a star athlete in high school: football, basketball, even a bit of Golden Gloves boxing. But his real love was always tennis, and even when the local cowboys called him a "sissy" for wearing shorts and swatting a little white ball, he stayed at it, and won the state junior championship.

Mama Laxalt packed Paul off to Santa Clara, a Jesuit college in California. Before he could get his degree, the military packed him off in 1943 to the South Pacific. "When he came back," Robert wrote, "he seemed to have lost the decisiveness and confidence that had always been part of his makeup. Like a wounded animal, he went to the mountains and lived with my father until he was healed again."

His decisiveness returned after he met Jackie Ross, the daughter of a Republican politician who later became a prominent judge. After marriage and law school at the University of Denver, the newly minted attorney joined his father-in-law's firm in Carson City, and served as Ormsby County District Attorney.

His first big break came in 1962, just as he was turning 40. Rex Bell, a former cowboy movie star, was a candidate for Governor and needed a running mate from northern Nevada in the Lieutenant Governor's slot. Bell looked up his old friend Judge Ross, and eventually decided on his son-in-law. Before the election, however, Bell died, and Laxalt was urged to run in his place. But the Democrats had a popular incumbent and Laxalt's well-tuned political antennae told him that running for Governor then might snuff out his career at the starting gate. So he stayed in the race for the second spot and won, handily.

Old Carson City friends say that the young Paul Laxalt could sometimes be prideful and thin-skinned. And several reporters recall the time when, as Lieutenant Governor, he strenuously objected to the construction of a Federal Job Corps camp because it might attract unruly blacks. In the view of a veteran Nevada State House reporter, Laxalt has "broadened considerably" since then. As Senator, he seldom shows the testy side of his nature.

Laxalt set out on the road to the Senate in 1964 but was waylaid by Nevada's incumbent Democratic Senator, Howard Cannon. One reason for his defeat was his decision to ignore his advisers' warnings and campaign with Barry Goldwater, then a doomed candidate for President. But Goldwater was a friend, and Laxalt takes friendship seriously. (When Richard Allen was under fire recently and on his way out as national security adviser, Laxalt appeared at a luncheon in his honor and shook Allen's hand in front of a battery of photographers.)

Laxalt finally won the Nevada governorship in 1966, but his political success led to personal disaster. The rugged campaign was a "complete grind" for the family, according to his daughter, Michelle, now 27.

Things got worse when the family moved into the Governor's mansion. Carson City was a tiny town, a goldfish bowl, and his teen-age children were rebellious and resentful. Meanwhile, the Governor's wife was becoming an alcoholic. (The family talks openly about her problem now, and Jackie Laxalt, after seven years of sobriety, has recently returned to Nevada to help counsel other alcoholics.) The town oozed with rumors, and Michelle remembers her mother's life in those years with considerable pain: "People would call in the middle of the night and ask her, 'Is it true that you and Paul are getting divorced? Is it true he's sleeping with his secretary?' It was so distasteful to her that she withdrew completely."

Most analysts in Carson City do not give Laxalt very high marks as Governor, and he now admits that he was not temperamentally suited to the pressures and details of the job. But he does take pride in one accomplishment: rescuing the gambling industry, the backbone of the state's economy. It was during Laxalt's tenure that Howard Hughes moved to Las Vegas and started buying up casinos, and the Governor became an ardent supporter of the secretive millionaire. He treated Hughes as a special case, never requiring him to appear publicly before the state agency that grants gaming licenses.

Laxalt does not apologize for bending the rules for Hughes. "I was acting in crisis circumstances," he explains. "The Las Vegas economy was crumbling, and Hughes confided in me that his physical condition was terrible. He looked like a damn cadaver."

Laxalt has accepted campaign contributions from Las Vegas interests, some of whom contribute to both candidates in an election. One contributor, Morris B. (Moe) Dalitz, has often been accused by various criminal investigators of racketeering connections. When asked why he has not returned Dalitz's money, Laxalt answers: "Moe Dalitz is a friend of mine. I'm not going to say to him now, 'Get lost, you're too hot.' I don't play it that way."

The same year that Paul Laxalt became Governor of Nevada, Ronald Reagan became Governor of California. The two men knew each other from the Goldwater campaign, and now they had to deal regularly on problems relating to Lake Tahoe, which spans their common border. They soon found they liked each other, and the Reagans visited Laxalt's retreat at Marlette Lake, a remote spot high in the Sierra Nevada where Laxalt's father used to run sheep. The wooden table at the old sheep camp bears a souvenir of one visit, a heart surrounding two sets of initials: "R.R." and "N.R."

"Our greatest bond is love of the outdoors," Laxalt says of Mr. Reagan. "We also come from comparable small-town backgrounds, and we're both jocks."

The Nevada Governor was almost 12 years younger than his California counterpart, but he was a more seasoned politician. A year ago, Laxalt recalled their times together at governors' conferences and other political meetings: "Ron was never quite comfortable with other political figures. He relied quite a bit on me to get a reading on the other guys, or what the situation was. He knew, for instance, that I got along well with Nelson Rockefeller, and I was a bridge there a few times."

That is the basic Laxalt: making contacts, reading moods, building bridges. Above all, he is a politican, not a legislator or an executive.

After two years in the Governor's mansion, Laxalt became "disillusioned" with the job, according to Bill Sinnott, his long-time aide, and started spending more time on the tennis court and less in the Capitol.

"I decided I'd be better off in private life," Laxalt later told a reporter. "My marriage was deteriorating and my family disintegrating. When my little ones called me 'Governor,' I decided I wanted out."

So, although a second term was virtually assured, Laxalt declined to run, but his departure from the public eye did not help his marriage, and in a year, the Laxalts were divorced. (He did not marry his secretary of many years, Carol Wilson, until 1976). The Roman Catholic faith in which he was brought up tottered a bit during the course of his divorce and remarriage, but it remains a strong element in his identity.

Professionally, his new private life gave Laxalt a chance to fulfill an old dream: building a hotel and casino in Carson City called the Ormsby House. Laxalt has always displayed an admiration for businessmen and a fascination with wealth. (During the first year of the Reagan Administration, one of his proudest accomplishments was bringing a group of high-powered money managers to the White House to brief the President. Later he boasted that the managers controlled about $400 billion in total assets.) But his high regard for the free-enterprise system did not make him a good businessman, and soon the project was in trouble.

Eventually, he and his chief partner, his brother Mickey, needed more cash, and they used connections in Las Vegas to obtain a loan from a Chicago bank while putting up very little collateral. Ever since, his opponents have tried to use this loan against Laxalt, but the tactic has never worked.

Still, the project faltered, and before long, the brothers sold out. And in 1974, when Senator Alan Bible announced his retiremint, Paul Laxalt jumped into the race. It was the year of Watergate, and the first Basque-American ever elected to the Senate squeaked in by only 600 votes, the only Republican in the country to capture a Senate seat held by a Democrat.

When Paul Laxalt first arrived in Washington a bit more than seven years ago, the Republicans were still reeling from Watergate. He became involved with a group of conservative Senators who called themselves the Steering Committee. The group offered a congenial base for the newcomer, who had never served in a legislative body before.

Laxalt's first opportunity to demonstrate his political skills before a national audience came about by accident. As the only member of the Labor and Public Welfare Committee to vote against a bill on common-situs picketing allowing labor unions to close down an entire job site over a single grievance, Senate custom called for him to become the floor leader of the opposition. During that battle, the freshman legislator developed what he now calls the "inside-outside strategy"—using conservative activists and paid advertisements to generate pressure from outside groups that could then be used to influence Washington insiders.

The Laxalt forces lost the battle on the Senate floor but won the war. Adroitly orchestrated public pressure led President Gerald R. Ford to veto the bill, and his veto was upheld. Since then, Laxalt's "inside-outside strategy" has been elevated to a high art, with thousands of conservative activists' and contributors' names stashed away on computer tapes, ready to be energized at the push of a button. Last year, President Reagan pushed that button to help generate support for his economic program.

The Reagan-Laxalt friendship, which has lapsed somewhat when the Nevadan left state office, revived when Laxalt came to Washington. Looking around the political landscape, the new Senator was not overly impressed with the field of Republican Presidential candidates. "I didn't find anyone in town who could communicate as well as Ron," he recalled soon after the election.

So the freshman Senator became Ronald Reagan's campaign manager in 1976 and traveled to 41 states, boosting the Californian's bid for the Republican nomination. It was a grueling and, ultimately, fruitless, mission, but the exposure he received marked the coming of age of Paul Laxalt as a national figure.

The morning after the 1976 election, Laxalt met with Ron and Nancy in Los Angeles. "We all assumed Carter would have eight years," Laxalt says. "But I suggested that Ron never close the door. Things were politically volatile." When Laxalt caught a whiff of what he later said was "a smell of death about the Carter Presidency," it was like a dose of smelling salts for Ronald Reagan's Presidential hopes.

The revived candidate moved around the country, making speeches and gathering chits. In Washington, the Senator served as Mr. Reagan's "John the Baptist," as John Laxalt puts it, spreading the good news of Ronald Reagan's message and guiding him through the strange world of the nation's capital.

Meanwhile, back in the Senate, Laxalt was thrust into the biggest fight of his career—leading the opposition to the Panama Canal treaties. He lost the treaty fight by one vote, but in the process gained the respect of his adversaries and the press.

In 1980, Laxalt had his own re-election campaign to worry about. Though he did not hit the trail for Mr. Reagan as often as he had in 1976, he remained in constant touch with the candidate. Often, on Sunday afternoons, they would talk for hours on the telephone, and during the campaign, the charmer from Nevada showed that he could play political hardball with the pros.

Take the case of John Sears, Mr. Reagan's campaign manager. Laxalt deeply disagreed with the Sears strategy of isolating Mr. Reagan from the public and the press; he also seemed to resent Sears' intimacy with the Reagans, one of the few relationships that rivaled his own. "From the outset," Laxalt recalls, "I raised warnings with Ron and Nancy about Sears. But until Iowa, they were entranced with him." After Mr. Reagan's defeat by George Bush in the Iowa caucuses, Laxalt saw his opening. He went to New Hampshire, the next stop on the primary circuit, and intensified his anti-Sears campaign. On primary day, Mr. Reagan announced that Sears was out.

Paul Laxalt's toughest moment in his relationship with Ronald Reagan came during the Republican nominating convention in Detroit. Both men knew that naming Laxalt as the Vice-Presidential candidate made no political sense; another conservative Westerner, from a small state, would add nothing to the ticket. Moreover, Laxalt did not want the job, at least at first. "I always felt," he says, "given my penchant for independence and privacy, that it would be a bad position for me and for Ron." But Mr. Reagan refused to take Laxalt's name off the list of candidates, and Laxalt agreed to keep his name on, though he kept himself out of the last-minute deliberations. When reporters told him on the convention floor that George Bush had been chosen, he was clearly rattled. Paul Laxalt takes pride in being an insider, but the Reagan forces had not given him the word on Bush and, as a result, he looked like an outsider. Also, he looked like a loser.

He was obviously upset, but he also knew that Bush would help the ticket in just those areas where Ronald Reagan was weak. Since the election, Laxalt and Bush have taken to socializing and to playing tennis together. For now, they are on the same side of the net politically. But that could change if Bush someday becomes the candidate of the moderate wing of the party to succeed President Reagan, and Laxalt is handed the standard for the conservative faction.

"Laxalt's real test," says one knowledgeable Senate aide, "will come when the Republicans start to fall apart. He's the one guy capable of holding the whole thing together." Laxalt tends to agree that "things are going to be much more difficult in the year ahead." And, he says, the President "can't be on bended knee all the time."

This conversation took place in a hotel in Reno, and Laxalt's suite provided a magnificent view of the snow-dusted mountains of the Sierra Nevada. The Senator's gaze kept straying to that view as he talked, and at one point he said, "It's a curious thing, when I first went back to Washington, I didn't realize, in terms of orientation, what those mountains do. You can look out and immediately know what is north, east, south and west. When I first arrived in Washington, if I would lose sight of the monuments, I would start to panic."

Laxalt's unconscious metaphor was telling. The man had found his bearings in Washington and had helped elect a President. Someday, he might have to face the choice of running for the Presidency himself, but these mountains will always remain the compass in his life.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time under the standing order. I am prepared to yield it back or yield it to the control of the minority leader if he has need for it.

Mr. ROBERT C. BYRD. Mr. President, I accept the gracious offer of the majority leader.

Mr. BAKER. Mr. President, I yield my remaining time to the distinguished minority leader.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may desire to the Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. I thank the distinguished minority leader.

THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, today I would like to discuss a tragic irony. The irony is that the United States, the leader of the free world, has not ratified the Genocide Convention, while the Soviet Union, one of the most repressive nations of the world, has signed and ratified this important human rights treaty.

Of course, the commitment to freedom can only be measured in actions. And for those who look at the record, our actions speak loudly of American concern for fundamental human rights. But for those who do not, our failure to ratify the Genocide Convention not only allows us to be embarrassed by the Soviet Union but hinders our efforts to protest their denial of fundamental human rights to their citizens.

Mr. President, when the Secretary of State, Alexander Haig, appeared before the Committee on Foreign Relations last year for confirmation, I sent a question to the chairman, who graciously asked it. He was asked his position on the Genocide Treaty. Mr. Haig said at that time that our failure to ratify the treaty represented a serious embarrassment. I concur with that wholeheartedly.

As I have pointed out in earlier statements, the Soviets have exploited our failure to act on this convention time and time again. When we point out how they violate the spirit of this treaty and the other human rights commitments they have made, how they harass their Ukrainians, Tartans, Baptists, and Jews, they glibly respond, "You hypocrites, you haven't even ratified the Genocide Convention."

Mr. President, it is time to deny them this opening. By ratifying the Genocide Convention, we would remove an American diplomatic humiliation, we would deny the Soviet Union the ability to call us hypocrites, and we would focus attention on their human rights abuses. I urge my colleagues to join with me in seeking ratification of the Genocide Convention before the end of the 97th Congress.

Mr. President, I thank the distinguished leader, and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may require to the distinguished Senator from North Carolina.

Mr. HELMS. I thank the distinguished minority leader.

AGRICULTURAL OPTIONS GAIN SUPPORT

Mr. HELMS. Mr. President, I am encouraged to note the growing support for agricultural options as a potential marketing tool for farmers.

I first raised the topic of agricultural options on February 8 of this year. Since that time, farm and industry representatives, as well as the U.S. Department of Agriculture, have expressed support for such options and suggested that we take the first legislative steps toward making them reality.

Whether or not such legislative changes should be adopted is certain to be debated as we consider reauthorizing the Commodity Futures Trading Commission. In the course of hearings on the CFTC, several witnesses presented excellent testimony on this topic and I hope all who have commentary on the testimony will provide me with the benefit of their thinking.

I especially commend Dr. Bill Lesher, Assistant Secretary for Economics at USDA, for his helpful and well-developed testimony. We also heard testimony from Harold Heinold, who has a wealth of knowledge about both agriculture and the futures industry. I am also pleased by the support which has developed from the American Farm Bureau Federation and the National Grange.

Senator LUGAR and Senator HUDDLESTON asked excellent questions during the hearings, and Dr. Lesher's responses as recorded in the transcript will help to explain this issue further. I provide here excerpts from the transcript so that Senators and others may have the benefit of that exchange.

Mr. President, I ask unanimous consent that the excerpts from the transcript and the statements of Dr. Lesher and the other witnesses be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY WILLIAM G. LESHER

Mr. Chairman and Members of the Committee, I am pleased to appear before this Committee today to discuss the importance of futures trading to agriculture, to support generally the reauthorization of the Commodity Futures Trading Commission (CFTC) and specifically to support lifting the ban on trading in options on farm commodities.

Futures markets provide forward pricing and hedging mechanisms that greatly facilitate the efficient marketing of farm products. The prices generated on futures markets are widely used as indicators of value and as guides for production and storage decisions by farmers and other businessmen. And the shifting of risk provided by active forward markets greatly aids the mobilization of capital in production and marketing.

But futures trading is subject to various abuses. Experience has shown that effective regulation at the Federal level is needed to protect producers and other traders. The Department of Agriculture strongly supports the reauthorization of the CFTC to provide this protection.

I would like now to explain why we feel that the prudent introduction of options trading for farm commodities could benefit farmers, others in agriculture and the general public. After a brief overview of options trading, popularly known as "puts" and "calls" trading, I shall identify some of the issues involved. The reasons options trading was banned in 1936 will be reviewed, and the differences between past options trading and what is envisioned will be described. The relation between options trading and price supports, the possible benefits to farmers from options trading by marketing firms, and the potential problems with options trading will also be discussed.

OVERVIEW

Farmers, especially small and medium size operators, might benefit substantially from well-functioning commodity options markets for crops and livestock. Options trading could increase efficiency in agriculture by facilitating more effective risk transfer. While it may take some time before viable agricultural options markets develop because certain issues will have to be addressed and resolved, no progress can take place until the ban is lifted.

The main reason for banning options trading in 1936 was to stop abusive practices. While abuses did occur in the past, it seems that the ability of both the commodity exchanges and the CFTC are adequate to ensure that similar abuses would not occur today. The potential problems of options trading do not appear to be insurmountable and only could be solved after the ban is lifted—but before trading is allowed. In view of the potential usefulness of options trading to agriculture, yet great uncertainty over how far this potential could be realized, the Department of Agriculture recommends the removal of the 1936 ban on agricultural options trading, subject to the understanding that such trading would not start until after the CFTC and the commodity exchanges have completed their pilot program with options trading of other commodities, evaluated its feasibility, and developed procedures that are essential for effective control of trading abuses.

THE ISSUE

In the face of fluctuating farm prices, farmers have a difficult time deciding what to produce and when to sell. Larger operators usually are better positioned to use futures (either directly or indirectly) to plan production and to price their products before harvest. Being larger, they can spread trading costs over greater volume. More importantly, they can better master the intricacies of futures trading such as avoiding undue losses attending crop failure, shifting hedges among delivery months, arranging adequate margin funds, borrowing against hedged positions, and so on. Smaller operators often feel confined to accept the price at the time the crops or livestock are ready for market, whatever the price happens to be.

Local dealers might offer smaller farmers cash contracts and, thus, avoid the need for the farmers to deal in futures. However, the dealer's margin may be too wide to be acceptable. Also, there is a risk that the dealer would not live up to his contract. More importantly, many farmers would like to profit from price increases. In this setting, a well-functioning agricultural commodity options market could improve the farmer's chances of getting better prices without, at the same time, binding the farmer to delivery of the commodity. The latter condition is particularly important when farm output is uncertain.

Thus, with options trading the farmer could buy the right to sell ("put") specified amounts of a given commodity to a second party at a stated price ("striking price") for which right he or she pays a sum of money ("premium"). But he or she need not exercise that right (all or in part) if the market price rises, or if yields are short, or both. When output risk is absent, or in its presence when combined with yield insurance, put options could protect farmers from much of the downside price risk in crop and livestock production.

The past year provides a dramatic example of the potential gains from options trading. For example, the price of corn to North Central Indiana farmers for harvest-time delivery declined from $3.39 per bushel in April to $2.36 per bushel in November—or about a dollar a bushel. Options trading would have allowed farmers to protect themselves from this decline. They would pay others some fraction of a dollar for the privilege of selling them the corn at harvest for a specified price—$3.25 per bushel, for example.

The purchase of a call option is similar but it would be used by farmers and others who wish to assure themselves of a maximum price they would have to pay for commodities they plan to use—for example, in feeding livestock, exporting grain, and so on.

Farmer protection from price declines through purchase of put options might have been accomplished by selling futures contracts instead. Certain strategies in using futures are available—like selling only part of the expected crop forward at planting time, or the use of "stop-loss" futures purchase orders—but none of these measures assures the same straight-forward results as the farmer's purchase of a put option for his entire crop. Moreover, the great majority of farmers are not of sufficient size, or sophistication in the ways of futures trading, to avoid pitfalls. With the purchase of an option, a farmer would know what the total cost of his risk protection would be ahead of time, and would not be subject to any margin calls.

In general, options might be traded in the underlying commodity or in futures contracts which call for delivery of the underlying commodity. There is little need to distinguish between the two in discussing the general economic role for agricultural producers. But it should be recognized that active options trading in the underlying commodity presupposes two conditions that are also required for futures trading, namely, low transaction costs and high contract integrity. Low transaction costs require trading in a competitive market and extreme standardization of contract terms, such as standard location, grade, quantity, exercise date and the striking price or the premium. High contract integrity requires an uncompromised system of performance guarantees. Thus, it appears reasonable either to base options trading on commodity futures contracts or on commodities similarly standardized, and place such trading on the commodity exchanges.

Whether many farmers would actually hedge their market risks in commodity options would depend on the premium that would be charged by options grantors for a given level of downside price protection—a matter that only experience would determine. But options trading in the major farm commodities—grains, oilseeds, livestock, cotton, potatoes, among others—has been prohibited by Federal law since 1936. Therefore, one cannot develop any realistic opportunities for farmers without lifting the 1936 ban.

THE 1936 BAN ON TRADING

In 1936, after many decades of controversy, trading in options was outlawed for commodities regulated under the Commodity Exchange Act—notably the grains and cotton, among others. This ban ended options trading that had flourished on commodity exchanges since 1926, at which time the Supreme Court invalidated a prohibitive tax of 20 cents that had been levied in 1921 on every bushel of grain involved in puts and calls trading.

The 1936 Act did not ban options trading in unregulated commodity futures, such as for coffee, sugar, cocoa, gold and silver. Nor did it ban trade in dealer options or foreign options. Subsequently, the 1974 Act gave the CFTC exclusive jurisdiction over all commodity options and authorized the CFTC to determine whether and how such trading should be permitted. The spread of unsound and fraudulent practices in selling London and dealer options, and the difficulty the CFTC experienced in controlling these practices, caused the agency to suspend such off-exchange trading in 1978. However, the CFTC has recently announced a pilot program in options trading in a few selected commodities, not specifically banned by legislation, to take place under the rules and regulations of the commodity exchanges.

There are three main reasons why a ban on trading in agricultural commodity options was placed into effect in 1936:

1. There was a residue of strong 19th century attitudes, carried over into the 20th century. Futures trading had been under attack for many years as a form of gambling, because most futures contracts were offset and physical delivery of the commodity was not required. The defense against the gambling charge is that all futures contracts require physical delivery if either party should wish it. But this defense could not be made for trading in puts and calls (which were periodically traded beginning in the 1860's) because the essence of such contracts is that delivery is optional with the buyer. Thus, the defense of options trading against gambling laws was always on weak legal grounds. For examples, in a 1922 decision in respect to the 1921 Futures Trading Act, the Supreme Court described puts and calls as transactions "which approximate gambling or offer full opportunity for it."

Since then, attitudes and legal interpretations have changed to the point that in December 1981 and February 1982 futures contracts were approved by the CFTC requiring cash settlements instead of physical delivery after trading has stopped. This is a complete reversal of the age-old concept of futures as a binding delivery instrument.

2. Trading puts and calls had been used by some traders for manipulative or fraudulent purposes—enticing people of limited means as option buyers, to their later regret. Characteristically, options trading (variously called privileges, indemnities, bids, offers, puts, calls, advance guarantees and decline guarantees) was listed in the 1936 Act immediately after wash sales, cross trades, and accommodation trades as prohibited prac-

tices. The question here is whether these problems would become unmanageable under modern regulatory procedures.

3. There was an expressed view that trading in options needlessly accentuated price movements in the commodity. For example, in 1933 trading in puts and calls was suspended by exchange action after the price collapse of July 19-20. Representatives of the grain exchanges stated that the elimination of such trading "removed one of the prime causes of excessive price movements." And they pledged to try to keep the elimination permanent.

Apart from manipulative influences alluded to above, there is no clear reason to believe that trading in commodity options would have more of an adverse rather than a beneficial effect on commodity prices. This is the same observation that can be made about the effect of futures trading on cash commodity prices. Most studies, to date, do not point to net adverse effects.

BASIC DIFFERENCE BETWEEN PAST OPTIONS TRADING AND WHAT IS ENVISIONED

The agricultural options that were traded before the 1936 ban were essentially short-term—mainly one-day, two-day or one-week options (then called "privileges"). These options mainly interested professional speculators, pit traders—not merchandising firms nor, least of all, farmers. The premium was fixed and the striking price varied by bargaining.

The options trading now envisioned would cover significant periods from the standpoint of farm production, for example, 2, 4, and 6 months. And the bargaining might well be focused on the premiums for a given striking price, which is similar to stock options.

Second, the agricultural options traded before 1936 were mainly confined to grains and cotton where futures trading was very active. Now options trading appears applicable to more products—in particular, it appears especially suited to cattle, hogs, and potatoes, among others.

Finally, the agricultural options trading before 1936 was, at various times, conducted on and off the exchanges. Even when conducted on the exchanges, there were not always clearing-house guarantees of performance, as now envisioned for an effective market in agricultural options.

RELATION OF OPTIONS TRADING TO PRICE SUPPORTS

For an individual farmer, the purchase of a put option has some similarities to entering into a price support agreement with the CCC, except that the farmer rather than the taxpayer would bear the cost of reducing the exposure to a significant price decline. Options trading would not be as attractive to most farmers as price supports, assuming other conditions were equal—the support price equals the striking price, no restrictions on plantings, or other factors.

Because price supports and commodity options generally serve the same purpose for an individual producer, the farmer's use of options would largely depend on how close support prices were relative to market prices. The same thing is true of the use of futures contracts, as the history of cotton and grain markets indicates. Thus, the rise of options trading depends on Government policies. Since price supports are normally below market-clearing levels to avoid interfering with our share of international trade, many farmers—especially those who are young or highly leveraged or both—may desire to reduce their risk at a price much higher than the price support level. This is especially true since agricultural markets have become much more variabe in recent years.

Unlike agricultural options, however, the price support program provides a floor, nationally, for certain farm commodities. In addition, an options market could function efficiently for farm products other than storables, such as livestock. The main requirement is fungibility and unmonopolized supplies—the same conditions required for successful futures trading.

INDIRECT BENEFITS TO FARMERS OF OPTION TRADING BY MERCHANTS AND PROCESSORS

Without options, the grain exporter who is searching to make deals abroad is exposed to an unanticipated rise or decline in domestic grain prices, while negotiating a price with importers. In view of such hazards, the preferred course of action is to acquire grain inventories, or commitments to buy grain, and hedge them in futures, followed by an offer to sell grain to importers on "basis on or off futures."

The success of this method depends on having a well-functioning futures market—sufficiently liquid for consummating large export deals without moving price appreciably against oneself. Some evidence suggests that grain futures markets have not always been adequate in this respect (see Heifner, et. al., "A Study of Relationships Between Large Export Sales and Futures Trading, 1979").

With current high interest rates, much of the speculative interest in grain futures has moved to other investments, and the situation may have worsened. Hence, an options market might offer a means of meeting the grain exporters' needs, assuming it can develop the necessary liquidity.

The exporter could estimate more accurately the costs of acquiring the grain for export without being firmly committed to an uncovered long position in grain (or in grain futures). Thus, for example, the exporter could buy a 30-day call on the quantity of grain that it thinks it can sell abroad at a stated price. For this right, it pays the opposite party a sum of money, whether or not it exercises the call. The cost of the grain to the exporter then would be the stated price of grain plus the cost of the option. Having established such a position, the exporter presumably would be better able to determine a minimum offer price to grain importers, taking into account estimated transportation costs and other factors.

Farmers would benefit indirectly if there were improved trading opportunities for exporters who then could (1) increase the volume of grain exports and (2) lower the margin that exporters now figure that they need to have to meet uncertain grain acquisition costs.

POTENTIAL PROBLEMS

Although we feel there is a potential for agricultural options, there are also some potential problems which can be briefly stated:

1. It is unclear whether options trading would compete with or complement futures trading. To the extent there is, at any one time, a limited speculative fund for agricultural products, the addition of another means to speculate could grow only at the expense of existing means. This might disadvantage existing futures trading and be of no service to farmers or middlemen on whom farmers depend for marketing their produce.

One possible disadvantage of options trading is that the number of contracts needed are several times the number of futures contracts required to serve the same market. This would occur because a separate option contract is required for each different striking price. It means either that more speculators are required to provide liquidity or some options would be very lightly traded. However, active trading could cluster around certain striking prices.

However, in the longer run, new financial instruments tend to broaden their own markets by developing classes of specialized intermediates who use the different instruments—each according to its own best employment—and may take spread positions between the two instruments. Indeed, the business of granting options would grow only as grantors found ways of limiting their loss exposure, which probably means covering net option positions in futures when commodity prices move against them. Thus, a healthy options market probably depends on a healthy futures market. To the extent futures trading and options trading serve different purposes, it would require prolonged market testing to judge the degree to which their growth is interdependent.

2. A possible disadvantage of put options would be a higher cost than most farmers are willing to pay. In the grain futures market, exporters and processors, through their long hedging, balance some of farmers' short hedging, thereby keeping risk premiums small. But in an options market, farmers would buy puts from speculators while exporters and processors would buy calls from other speculators. Substantial risk premiums might result. In effect, farmers might be paying too much for a price floor and, thus, not use options. However, to the extent option dealers cover their net positions in futures markets, the speculative positions in futures might shoulder much of the risk. In addition, commercial traders may also buy and sell options. Only experience would tell.

3. Option trading might cause some large traders to increase their open positions in a commodity via purchase of options and thus add to the problem of countering squeezes in futures contracts deliverable on options. This potential problem would be true whether the options called for delivery of futures or of the underlying commodity. However, squeeze potentials might not be increased significantly if the options were exercisable somewhat before futures contracts come due.

Another safeguard against increasing squeeze potentials through options trading is to place limits on the positions in futures and options combined (for example, combine the rights to "call" with long futures; combine the rights to "put" with short futures). In addition, speculative limits could be used.

RETROSPECT ON EVOLVING MARKET ARRANGEMENTS

History teaches that market arrangements are not perfected overnight. Rather, they evolve from pre-existing arrangements as fundamental conditions change, forcing the abandonment of some methods, and engendering the coming of others. Indeed, the history of the economic development of western civilization over many centuries is, in a real sense, a history of the rise of markets and their progressive adaptation to change. In essence, the rise of markets depends on discovering better ways to define rights in property; establish their negotiability through changes in attitudes, custom and law; and provide specialized services, and rules governing the exchange of claims, in line with needs and preference of more and more people.

The development of agricultural options trading should be judged in this context. For such trading to serve business needs efficiently and with integrity, experimentation is required. In a sense, organized futures trading itself has been going through a long experimental process to this day. We sometimes take for granted the current futures trading procedures as if they were always there—for example, the daily cancellation of offsetting contracts, use of delivery notices, substitute delivery, the modern clearing house corporation, and so on. But each of these arrangements was a long time in coming. The machinery for futures trading is still evolving, as we now see with the recent adoption of cash settlements in lieu of delivery for some contracts.

The time seems ripe to start the process of searching for suitable arrangements to promote agricultural options trading in view of the highly unstable market conditions that agriculture faces and must somehow adjust to.

TESTIMONY OF HAROLD J. HEINOLD

Heinold Commodities was started by me in 1967, and is now one of the largest commodity futures brokers in the country. Its customers include farm and commercial hedgers and speculators. It has net capital of about $90 million, and has more than 100 offices throughout the nation. Heinold Hog Markets, which I began in 1950, has over 100 hog and cattle markets in nine states, mostly in the midwest. Its business is to market hogs and cattle for farmers. Because farmers often do not want to get involved with futures contracts and margin calls, we provide the farmers with price protection by contracting to buy their livestock at a fixed price in the future. We in turn protect ourselves by hedging on the futures markets.

I feel very strongly that the current ban on agricultural options should be lifted. This ban was imposed before the CFTC was in existence, and was a reaction to numerous defaults which occurred when individuals granted options and then could not back them up. With the established commodity exchanges to control and regulate options, and with the CFTC to oversee the exchanges, there is no reason to continue the ban.

Futures markets have given the farmer price protection on his livestock and grains. However, because of past steep market movements requiring large margin calls, many farmers distrust the futures markets. Bankers hesitate to loan to farmers who are not protected in the futures markets, but bankers also are afraid of drastic market movements that would lead to huge margin calls. As a result, farmers often cannot get loans to finance hedging.

There is another problem farmers have with the futures markets. A farmer who hedges on the futures markets can avoid downward market movements in the value of his livestock and crops, but he will also give up the chance to benefit from upward movements.

Agricultural options would give farmers a much better way to protect themselves. With options, a farmer could insure against the effects of downward market movements, but at the same time he would benefit from upward movements.

Options would be like an insurance policy, and the premium paid for an option would be like an insurance premium. If the markets were to move in the farmer's favor, the option would not be needed and it would simply expire. If the market were to move against the farmer, he would exercise his option to sell his crop at the option price. Let me give you an example.

First the use of futures contracts.—If a farmer has cattle that will be ready for market in December, he can sell December futures and lock in a sale price—say 50 cents per pound. Then no matter which way the market goes, he will get the 50 cents per pound price.

Now the use of options.—If options to sell at 50 cents per pound in December were available, the farmer could buy this option at a premium—say 3 cents per pound. If the market were to go up to 60 cents per pound he would not exercise his option and he could benefit from the higher market price. If the market were to go below 50 cents per pound, he could exercise his option to sell at 50 cents. Taking into account the 3 cents he has paid for the option, he would get a net price of 47 cents per pound. In this way, an option would be like an insurance policy with a deductible feature.

Options could also be used to insure against higher feed costs. For example, if the farmer will need corn to feed his livestock in December, he could buy an option to purchase corn at a set price in December—say $2.95 per bushel, at a premium of—say 15 cents per bushel. If the corn market goes down, he can purchase his corn at the lower market price. If the market goes above $2.95, he can buy the corn at $2.95. Taking into account his 15 cent premium, his actual cost will be $3.10.

We all buy insurance to protect ourselves against disasters of one sort or another. The farmer should also be able to do this and the agricultural option would let him do it. By giving this price protection to the farmer, the option would also reduce the need for governmental price supports.

We understand that the CFTC does not oppose the lifting of the ban on options if there is enough interest in the agricultural community. We believe the interest does exist, and that options would give the farmers a way to protect and insure themselves that they do not have now.

On March 9, 1981, the Board of Directors of the American Farm Bureau Federation adopted the following recommendations pertaining to trading in agricultural options:

(1) That Farm Bureau seek to amend the Commodity Exchange Act by eliminating the specific prohibition against trading in domestic agriculture commodities.

(2) That options trading in domestic agriculture commodities be included in the CFTC three-year pilot program. That the CFTC include in the pilot program agricultural options on commodities traded on the Minneapolis Grain Exchange and New Orleans Commodity Exchange and, more importantly, on the Chicago Board of Trade and the Chicago Mercantile Exchange.

In order to carry out the first recommendation, the Commodity Exchange Act should be amended by deleting the words, "but not specifically set forth in Section 2(a) of this Act" in paragraphs (b) and (c) Section 4c, and by deleting in its entirety Subsection (B) of Section 4c. This will allow options trade in domestic agricultural commodities.

Trading in agricultural options may be an important marketing tool for farmers, particularly during periods of market volatility. Farmers will be allowed to benefit by price fluctuations while protecting themselves against potential losses.

Options, then, may be used as price insurance to assure a maximum or minimum price for an anticipated purchase or sale of a commodity in the future. The cost of this price insurance is an option premium which is determined when the option is purchased.

Options trading can be an effective risk management tool by limiting farmers' vulnerability to market fluctuations. The only liability a farmer faces is the option premium which is calculated and paid at the time the option is purchased. A producer makes a management decision as to whether the premium is reasonable in terms of the risk of price movement and the price protection provided.

From 1970 to 1981 the percent of agricultural contracts traded on the exchange declined sharply from 90 percent to about 50 percent. Excluding trade in domestic agricultural options may hasten this trend to the disadvantage of the producer. Allowing options trading in nonagricultural commodities may cause speculators to discontinue trade in agricultural commodities because options may offer better controlled gambles than futures. Options would allow speculators as well as producers an opportunity to minimize loss and maximize gain. A decrease in speculative trade could adversely affect market efficiency and market liquidity. Agriculture also needs to keep abreast of changes in the industry to keep our markets viable.

There is considerable hypothetical evidence about the pros and cons of options trading. We feel that a logical solution to the debate is to allow domestic agricultural commodities to be included in the CFTC's three year pilot program of testing the feasibility of trading commodity options on domestic boards of trade. This pilot program will give the empirical evidence which is necessary to better evaluate options trading.

STATEMENT OF EDWARD ANDERSON MASTER

Mr. Chairman and Members of the Committee: The National Grange is a strong supporter of the role played in agricultural marketing by the futures market. It is for that reason that we supported the legislation that established the Commodity Futures Trading Commission in 1974. We therefore, support the legislation pending before this Committee to extend and reauthorize the Commodity Futures Trading Commission.

Perhaps the most recent innovation in futures marketing is their concept of trading options on agricultural commodities. At the present time options on agricultural commodities are forbidden, but we believe they should be given intense study by this Committee, the industry and the Commission. Options might prove to be a very attractive risk management tool for farmers if offered in a properly regulated environment.

The National Grange while supporting the re-authorization of the CFTC for an additional four years does not have specific policy regarding options or agricultual commodities. However, we believe that options, with their ability to limit downside risk without foreclosing potential upside profits, might prove to be very beneficial to farmers and ranchers.

For instance, options may be used more economically than futures when the magnitude of risk is unclear. A producer will be uncertain about his crop yield, but still may wish to protect himself against possible adverse price changes and a possible decline in crop value.

If he chooses futures to hedge his crop and establishes a larger futures position than needed, the producer actually becomes a speculator in the excess contracts, and is at serious risk. But, using options instead of (or as a complement to) a short futures position taken on the minimum yield expected, the only risk taken is the additional premiums paid for the option.

Another advantage of owning options as a risk-management tool is the absence of margin calls. The option premium is paid when the option is purchased; no other payments need be made during the life of the option. In contrast, during their life, future positions may generate margin calls of large and uncertain magnitude which could cause cash-flow difficulties, particularly for producer-hedgers.

Therefore, Mr. Chairman, the National Grange would suggest that options on agricultural commodities be permitted on a pilot project basis to determine the regulatory environment needed to make them an additional risk management tool for farmers and ranchers.

We appreciate this opportunity to comment on the Commodity Futures market and the re-authorization of the Commodity Futures Trading Commission. We ask that this statement be made a part of the hearing record. Thank you.

Excerpt of Hearing Transcript of March 10, 1982

Senator Lugar. Dr. Lesher, has the USDA conducted any surveys of the various agricultural groups to determine their interests and views on this issue or do you have any informal indications of how agricultural groups might feel?

Dr. Lesher. Well, I don't want to be a major spokesman for each of the farm groups and misstate their position. It seems that some of the major farm organizations may be supporting it. I think there are some that may think it's a good idea, implicitly, but are not anxious to go out publicly at this time. And there may be some people—one or two organizations that would not support it. I think it's hard to say where you would walk across Indiana and start asking farmers down the road on each side whether they would support it or not. I think it would be an educational problem involved. I don't think that we could really answer that.

I think though that with an educational process, I think it would be favorable for agricultural producers. Because the one main advantage is that you provide protection on the downside by paying a premium. You know what your total costs are ahead of time, but you still don't have to exercise that right in case the price goes up. Farmers dearly love to wait for higher profits—and I don't blame them—and I think that's one of the advantages of trading in agricultural options.

Senator Lugar. Dr. Lesher, what factors would affect the price of the premium charged for agricultural options? Do you believe that there should be evidence of competitive pricing on non-agricultural options during the CFTC's pilot program process before the Commission should permit agricultural options?

Dr. Lesher. Yes. I think that you have got to go through the pilot program before you ever proceed with agricultural options. I just think it's essential to work out some of the bugs and get an evaluation from that.

The premium—the cost will depend on a number of things. First, if options are not competitively traded, you're not going to get the lowest transaction (costs). Then, there are just a number of other factors. You would have to have an extreme degree of standardization in the contracts and all of the other sort of criteria that you now have on futures contracts before you're ever going to have an effective trading of agricultural options at the lowest possible cost. You've really got to get things standardized all the way down the line.

Even with all that, the price—the premium paid for that—it depends on what kind of price protection you want, $3.25 a bushel versus $2.60 bushel. Obviously, the premium is going to be different. Even with all the competitive trading in the world—at least at the higher so-called striking prices, it may not be viable. But I think the market would just really sort that out.

Senator Lugar. Do you have any estimates of what percentage of farmers currently use the futures market as a risk management tool and do you anticipate similar participation in the trading of agricultural options if the 1936 ban was lifted?

Dr. Lesher. Mr. Chairman, it's hard to say for sure how many farmers do use futures. You can use them in a very direct way, going through a broker and hedging or you can, you know, go down to your local elevator and forward price and when you do that, then the elevator operator is using the futures.

Allen, do you have any——

Mr. Paul. That's precisely right.

One must think of this in terms of the system of sellers, buyers and intermediaries. I would suppose that with options trading it would work pretty much the same way. It is a simpler idea and probably more farmers could get to use it directly than futures, because it doesn't require margining of accounts and the complications that futures has. Still, the intermediaries probably would offer an option to the farmer, and he, in turn, would lay it off on someone else or in futures. Most likely it would be tied together and it would interdependent.

Senator Lugar. All right.

Now, Senator Huddleston, do you have questions?

Senator Huddleston. Thank you, Mr. Chairman.

The Department recommends lifting the ban on options trading in agricultural products. But you say not until the pilot projects have been completed, evaluated, feasibility determined and procedures developed.

Now, who should make that final decision, in your judgment? Should that come back then to the agricultural committees or to the Congress as a whole, or—

Dr. Lesher. Well, I'm not so sure it would have to come back to the Congress as a whole or the committees. I think that the ban could be lifted with a proviso stating that no active trading of agriculture options could take place, or some such language like that, until the pilot projects were tested and evaluated and the feasibility of moving into agricultural options could be assessed. Something like that. Until you lift the ban, though, you will not get a dialogue going on this issue, and you will not get people in the CFTC and the exchanges and the farm groups, the whole industry thinking along this line. And I think that is the important step.

You could put the caveats in that need to be there, but that is the only reason we say lift the ban now rather than do the reverse, and say well, let's leave it there until all this gets done and then you lift the ban. Well, I think it's important to get the dialogue going and people thinking in this direction and it would be helpful in the long run.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business.

TAXES

Mr. MATTINGLY. Mr. President, the 1981 individual tax rates where we cut back the marginal income tax rates plus the indexing feature that we included in that tax reform, which was the cornerstone for the hope and opportunity for all America, should be continued as scheduled. It will also insure the permanent scrutiny the Federal budget has for so long needed and the taxpayers have deserved. If this cornerstone of the fundamental reform of our economic recovery were omitted then several unfavorable things would happen.

First, Congress would proceed uninhibited to its former spending habits. There is a mandated discipline forced upon this Congress by the 1981 Tax Act.

In addition, the $100 billion deficit then would only be symbolic and not be a force for change. The $100 billion deficit now has instigated a creative search for fundamental reform in the Federal budget plus a real budget-writing process that can be bipartisan in this Congress.

The taxpayer, the individual, the free enterprise system, the private sector, the unemployed, will all be beneficiaries of this.

Many areas for restraint in the budget will come forth, but as a practical matter the debate and the challenge will center around tax increases, defense cuts, and the entitlement programs.

The survivability of the private sector which creates jobs, economic growth, and the free market ideology depends upon a basic decision, of answering no to changing the tax cornerstone that we passed in 1981.

No matter which portion of that cornerstone, whether it be the 3-year marginal tax rate reduction, or the indexing, that would be singled out for extinction if enacted, it would affect the inertia of the remaining incentives in force now and reduce their usages by creating more uncertainty which will only prolong the recovery.

It is a very basic fact that setting a course, then vacillating creates in the minds of those observing less faith and lowered expectations for the future.

The image of the Government in the past prior to 1981 was as it relates to economic policy that it could not control itself. This has been somewhat corrected by a positive and firm economic policy set in 1981.

All true economists and real economists and pragmatic people understand that incentives will create more economic recovery than will budget cuts.

But if there must be further budget restraints they must be obtained by long-range fundamental policy changes that are in themselves incentives.

The effort to rebuild our defense capabilities, an effort long awaited by Americans and feared by the Soviets, has now become a target. This restoration of our defenses should not be weighed against social programs. Our Nation's freedom is the best social program of all.

We are in a critical period for defense budgeting. We will either make the Defense Department better managed, reduce cost overruns, and end poor planning or we will see the defense budget butchered regardless of need. This decision rests with the President and Secretary of Defense making rapid and firm decisions so the public will respect defense expenditures and feel confident that they are receiving $1 in defense for $1 taxed.

Then Congress can proceed with the long-awaited duty of reforming the entitlement programs. The $100 billion deficit symbol and positive action on those two items and the uncertain economy that everyone can take credit for, both, in fact, have set in motion a bipartisan campaign to change the entitlement programs which, if tackled and solved in this fiscal year, would historically be referred to as the saving of the Republic, the perpetuation of a real free enterprise system, and as a time when statesmanship, duty, and honor replaced political fear, and guaranteed the future of America and its renewed prosperity and its ability to help people and other nations.

We, as a country and as elected officials, no longer have the luxury of making major errors as our margin of error has been reduced through the years by good intentions and bad economic policies to a very tragic narrow margin.

The $100 billion symbol can save us or sink us. It must be the catalyst to turn Congress away from business as usual, demogoguery, criticism, and negative thinking toward reality, with creativity and innovative thinking and action.

I am optimistic that this will happen.

Mr. President, I ask unanimous consent to have printed in the Record an editorial by Dick Williams from the Atlanta Journal, March 18, 1982. I completely agree with Mr. Williams that Congress should not take the easy way out of the deficit problem by raising taxes.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

[From the Atlanta Journal, March 18, 1982]

Voodoo, Hoodoo

(By Dick Williams)

They offer the course at the University of Georgia and it might be a reinforcement for President Reagan while all about him seem to be losing their heads.

It's jokingly called checkbook management, but it's a bit deeper offering from UGA's department of home economics. Presumably it gets back to the basics. Reagan needs to remind us of those same basics.

There are indications in the last few days that he intends to do just that in the coming weeks. Listen to his remarks in Alabama.

"But how about compassion for those Americans," he said, "who sit around the table at night trying to figure out how to pay their own bills, keep the kids in school and keep up with inflation and higher taxes year after year."

Forget deficits, defense spending and robbing the poor to fatten the rich. The scenario written by the President is the real American dilemma.

Paying the bills, that's the problem. Most of us are making salaries that we thought princely a decade ago. The average family income is now $22,000, which ought to be enough to send the kids to college, pay the gas bill and buy a car. But it isn't.

We have eroded American values. Congressional voodoo is the culprit, congressmen waving a magic wand over program after program until inflation buries us.

Only the President can remind us of what we are supposed to be and what we need to do. The Democrats have no program, no wand to wave but to raise taxes. There is only one simple solution—a period of retrenchment and stabilization. We're suffering that now, but are we planning properly for the time when the recession ends? And will government go back to business as usual, printing money where necessary for babies, lunches, loans and hangnails?

Inflation has slowed and the first real tax cut is coming. Individual Retirement Accounts provide a way for all of us to be self-sufficient. Stock prices are a bargain, showing us the way out of the craziness of investing in money-market instruments. That practice is like the marriage of two cancers. Capitalism must have capital formation.

While the Democrats matter about defense spending (still minuscle compared to 20 years ago), there are constructive signs in Congress. Somebody has finally gotten bipartisan attention to the need to control the deficit and rein in Social Security and other cost-of-living increases, and interest rate subsidies that destroy the private market.

The President, whom some accuse of fiddling while Treasury burns, may just be involved in another grand strategy. If he now takes his case to the wage-earners and bill-payers, the pressures of last year can again be translated into victory.

Remember, the tax cut of last year was nickle-dime. All of us are going to feel tax relief this summer. For the first time in decades, we will at least have a chance to stay even with our bills. This year's cut should have been effective in January.

Those monstrous deficit projections on the national table are forcing this rethinking of traditional formulas. We must not allow Congress to take the easy way out—delaying or canceling the tax cuts. They are the only hope for a resurgence in the American practices of savings and investment.

There probably is room for some stretching of defense spending over a longer period and perhaps even the scrubbing of one or another major defense program. But the rest of the President's budget should be left alone.

There are a couple of facts in this debate that transcend all the rest. President Reagan hasn't "cut" the budget or social programs at all. Spending on income security, for example, is $34 billion more in fiscal 1982 than it was in President Carter's last budget.

Despite the tax cut, federal tax, income in fiscal '82 will take a higher percentage of the gross national product than it did in the last year of Democratic power. Government spending is still the highest in peacetime history.

President Reagan must translate those Trojan horses for the folks at home at night trying to pay their bills.

Mr. MATTINGLY. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Rudman). Will the Senator withhold his request?

Mr. MATTINGLY. Yes.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. Rudman). The Chair, on behalf of the Vice President, pursuant to Public Law 86-420, appoints the following Senators to attend the Mexico-United States Interparliamentary Conference, to be held in Santa Barbara, Calif., May 27-31, 1982: the Senator from Illinois (Mr. Percy), chairman; the Senator from Nebraska (Mr. Zorinsky), vice chairman; and the Senator from Connecticut (Mr. Dodd).

Mr. MATTINGLY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I ask unanimous consent that I be allowed to proceed for 5 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE MX MISSILE PROGRAM

Mr. LEVIN. Mr. President, tomorrow the subcommittees of the Senate Armed Services Committee begin to markup the Senate version of the fiscal 1983 Defense Authorization Act.

I want to address one program in the defense budget which I believe has great military, fiscal, and arms control implications for our Nation—the MX missile and its interim basing mode.

After listening to hours of expert testimony during many hearings, I must conclude that the latest, MX interim basing mode proposal, partly contained in the fiscal 1983 defense budget request and costing a total of $3.3-$4.3 billion, makes little sense—militarily, fiscally, and from an arms control perspective.

Militarily, the interim basing mode makes no sense because it represents a step backward from strengthening our Nation's strategic capabilities.

To place 40 percent of our newest, proposed strategic nuclear asset—the MX missiles—in existing, nonsurvivable holes just repeats our present problem which MX was supposed to solve; that is land-based missile vulnerability.

In addition, Mr. President, the Air Force has testified that it is uncertain whether, when, and at what cost it would transfer MX missiles from the interim basing mode to a permanent deployment scheme. This raises the prospect that 40 percent of our most modernized ICBM capability would remain vulnerable, and in a militarily inferior and neutralized position.

Fiscally, the interim basing mode makes no sense because its cost to the taxpayers for each surviving MX is about $1.3-$1.45 billion. That is immensely greater than the cost per surviving submarine-launched ballistic missile, and per surviving bomber, in the other two legs of our strategic nuclear deterrent triad.

From an arms control perspective, MX in the interim basing mode makes no sense because it dangerously reduces "crisis stability" and the threshold to nuclear war.

It actually might invite a preemptive strike by the Soviets, who might well be tempted to eliminate our most capable and threatening missiles before we could use them, and it forces us to rely more heavily on a risky "launch on warning" policy to "use, not lose" these MX's.

Furthermore, Mr. President, the Air Force has acknowledged it is considering other, smaller missiles for deployment in a permanent basing mode. It also has said changes in the MX configuration, designed for the now-rejected multiple protective structure (MPS) basing, will be needed for permanent basing.

Thus, any MX missiles procured before the final basing mode is selected would require redesign at additional cost, or could be discarded outright as no longer deployable, at a large waste of Federal dollars.

Finally, expenditure of R. & D. and procurement funds for any work connected with the ineffective interim basing mode dilutes and delays efforts to develop a survivable permanent basing system.

For these reasons, Mr. President, I believe it is militarily and fiscally prudent that any funding included in the MX budget request in fiscal year 1983 for work connected to the interim basing mode, and for the proposed procurement of nine missiles, be rejected by the Armed Services Committee and the Senate. I shall work with our colleagues toward this goal.

I am mindful that those who might oppose my position would argue that the interim basing mode is needed to demonstrate to the Soviets that the United States is serious about modernizing its land-based missile force, and that without interim MX deployment, our strategic position will worsen.

I believe strongly, however, that deployment of MX missiles in a basing mode which will not work would only demonstrate a weak defense policy and a wasteful investment strategy.

Mr. President, I have articulated these views in a letter I have sent today, to the chairman of our committee's strategic subcommittee (Mr. Warner). I have urged him to support action in the strategic subcommittee to address these concerns.

I wish to share this letter with my colleagues, and ask unanimous consent that it be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Armed Services,
Washington, D.C., March 22, 1982

Hon. John W. Warner,
Chairman, Strategic Forces Subcommittee, Russell Senate Office Building, Washington, D.C.

Dear John: In the past three years, we all have observed with growing frustration the nation's struggle to develop a statisfactory solution to the theoretical vulnerability of our intercontinental ballistic missile (ICBM) force. Sadly, I must conclude that we are no closer to solving that problem today than we were three years ago.

The latest proposal for procuring and basing the MX missile, embodied in the Fiscal 1983 defense budget request, represents a backward step. I believe its enactment actually will make us weaker militarily and far less able financially to fund needed defense programs.

The Fiscal 1983 (FY 83) proposal to procure nine MX missiles for about $1.5 billion, and to devote much of the $2.76 billion in requested research and development funds for work related to their interim basing, has several serious and fundamental flaws:

First, there has been ample expert testimony during the past five months that the interim basing mode is a military failure because it in no way reduces the vulnerability of our land-based missiles. To place 40% of our newest, proposed strategic nuclear asset, the MX missiles, in existing, non-surviving silos just repeats our present problem which MX was supposed to solve—i.e. land based missile vulnerability.

In addition, the Air Force has testified that it is uncertain whether, when and at what cost, it would transfer MX missiles from the interim basing modes to a permanent deployment scheme. This raises the prospect that 40% of our most modernized ICBM capability would remain vulnerable, and in a militarily-inferior and neutralized position, even after MX deployment in a survivable system.

Thus, militarily, the interim basing mode makes no sense.

Second, fiscally, the interim basing mode makes no sense because its cost to the taxpayers for each surviving MX is about $1.3-$1.45 billion. This is immensely greater than the cost per surviving submarine-launched ballistic missile, and per surviving bomber, in the other two legs of our strategic deterrent TRIAD.

Third, from an arms control perspective, MX in the interim basing mode makes no sense because it dangerously reduces "crisis stability" and the threshold to nuclear war. It actually invites a preemptory strike by the Soviets, who might well feel tempted to eliminate our most threatening missiles before we could use them and it forces us to rely more heavily on a risky "launch on warning" policy, so as to "use, not lose" these MX.

Forth, the Air Force has acknowledged that it is considering other, smaller missiles for deployment in the permanent, survivable basing mode. It also has said some changes in the current MX configuration, designed for the now-rejected multiple protective structure (MPS) basing, will be needed for permanent basing. Thus, any MX missiles procured before the final basing mode is selected could require redesign, at additional cost, or could be discarded outright as no longer deployable, at a large waste of federal dollars.

Fifth, expenditure of R&D and procurement funds for any work connected with the ineffective, interim basing mode, dilutes and delays efforts to develop a survivable, permanent basing system.

For these reasons, I believe it would be militarily and fiscally prudent for the Strategic Subcommittee to restructure the MX program. This can best be accomplished by eliminating any missile and basing mode R&D funding connected with the interim basing mode and pacing R&D to support a 1989 IOC *for the* permanent mode; by rejecting the proposed procurement of nine MX missiles in FY 83; and by establishing a 1989 IOC for an entire militarily credible system. I urge you to support an amendment in the Strategic subcommittee to accomplish these objectives.

I am mindful that those who might oppose our position would argue that the interim basing mode is needed to demonstrate to the Soviet Union that the United States is serious about modernizing its land-based missile force, and that without interim MX deployment, our strategic position will worsen. I believe strongly, however, that deployment of MX missiles, which could be changed or discarded, in a basing mode which will not work, would only demonstrate a weak defense policy and a wasteful investment strategy.

Thanks in advance for your consideration.

Sincerely,

Carl Levin,
U.S. Senator.

Mr. LEVIN. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

REGULATORY REFORM

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1080, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS

TIME LIMITATION AGREEMENT

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of Calendar No. 141, S. 1207, authorization of appropriations for the Nuclear Regulatory Commission, under the following time agreement:

One hour on the bill, to be equally divided between the Senator from Wyoming (Mr. Simpson) and the Senator from Colorado (Mr. Hart) or their designees.

Mr. ROBERT C. BYRD. Mr. President, has the bill been called up?

Mr. STEVENS. It has not been.

Mr. ROBERT C. BYRD. Has the clerk stated the title?

Mr. STEVENS. We have before the Senate another measure as pending business, unless it is displaced by this agreement, I say to the Senator from West Virginia.

Mr. ROBERT C. BYRD. I thought the distinguished Senator asked that the Senate proceed to the consideration of another bill.

Mr. STEVENS. No; I said, "under the following time agreement," which I have not yet read. If we do not obtain that time agreement, it is my understanding that we will remain on the other bill.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. STEVENS. I will resume. I indicated that there would be 1 hour, equally divided between the managers of the bill.

One hour on an amendment by Senators Hart, Simpson, and Mitchell, to prohibit the use of commercial spent fuel for nuclear explosive purposes.

Thirty minutes on an amendment by Senators Ford, Simpson, and Hart on nuclear powerplant quality assurance.

Thirty minutes on a technical amendment by Senators Hart and Simpson.

Thirty minutes on an amendment by Senators Domenici and Simpson on uranium mill tailings regulation.

Thirty minutes on an amendment by Senator Simpson to require the development of a safety goal.

Thirty minutes on an amendment by Senators Simpson and Hart on resident inspectors.

Thirty minutes on an amendment by Senator McClure on the analysis of LOFT test results.

Thirty minutes on an amendment by Senator Hart on safeguards information.

Thirty minutes on an amendment by Senator Abdnor on uranium mill tailings at Edgemont, S. Dak.

Thirty minutes on an amendment by Senator Heinz regarding Three Mile Island waste storage.

One hour on an amendment by Senator McClure on powerplants licensing.

Thirty minutes on all other amendments in the first degree.

Twenty minutes on all amendments in the second degree.

Ten minutes on any debatable motion, appeals, or points of order, if submitted to the Senate.

Also, that the agreement be in the usual form, with the following proviso: That the Senate dispose of all amendments to S. 1207 with the exception of the Hart, Simpson, and Mitchell amendment to prohibit the use of commercial spent fuel for nuclear explosive purposes, limited to 1 hour, and the Domenici and Simpson amendment on uranium mill tailings regulation, limited to 30 minutes during today's session.

Provided, further, that the Senate not resume consideration of S. 1207 prior to Monday, March 29.

Provided, further, that no call for the regular order will displace S. 1207.

Mr. President, that is the proposed time agreement. If it is agreed to, it is my understanding that if any rollcall votes are ordered today, they will be dealt with by agreement, after consultation with the minority leader, with the intent that they will be put over until another time. The precise time would have to be determined later.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

Mr. STEVENS. Mr. President, I add to that an omission, and I apologize to the minority leader, because it was left out of my version.

Provided, further, that the Senate resume consideration of S. 1207 following disposition of S. 1080, the regulatory reform bill, and that the only amendments to be in order to S. 1207 are the amendments identified in this agreement above.

I did state that we would not resume consideration of S. 1207 prior to Monday, March 29, and that no call for the regular order would take S. 1207 down. That was part of my original request.

The PRESIDING OFFICER. The Senator is correct.

The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object.

Mr. STEVENS. Mr. President, I say again to the distinguished minority leader there is no intention to have rollcall votes on these amendments today if they are ordered. The precise time at which those rollcall votes would take place that may be ordered today has not yet been determined with the managers of the bill, and we are unable to state with specificity as to the exact time when we would like to hold any rollcall votes which would be ordered today on amendments that are listed in this agreement.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate resumes consideration of S. 1207, a bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes, the following amendments be the only amendments in order: (1) an amendment to be offered by the Senator from Colorado (Mr. Hart), for himself and the Senator from Wyoming (Mr. Simpson) and the Senator from Maine (Mr. Mitchell), to prohibit the use of commercial spent fuel for nuclear explosive purposes, to be limited to 1 hour, to be equally divided and controlled by the Senator from Colorado (Mr. Hart) and the manager of the bill; (2) an amendment to be offered by the Senator from New Mexico (Mr. Domenici), for himself and the Senator from Wyoming (Mr. Simpson), relative to uranium mill tailings regulation, to be limited to 30 minutes, to be equally divided and controlled by the Senator from New Mexico (Mr. Domenici) and the manager of the bill; and (3) an amendment to be offered by the Senator from Pennsylvania (Mr. Heinz), to be limited to 30 minutes, to be equally divided and controlled by the Senator from Pennsylvania (Mr. Heinz) and the manager of the bill: *Provided,* That the agreement on the Heinz amendment be subject to the approval of the minority leader and may be vitiated by the minority leader prior to the close of business on March 23, 1982.

Ordered further, That debate on the bill shall be limited to 1 hour, to be equally divided and controlled by the Senator from

Wyoming (Mr. SIMPSON) and the Senator from Colorado (Mr. HART), or their designees.

Ordered further, That debate on any debatable motion, appeal, or point of order if submitted to the Senate shall be limited to 10 minutes, to be equally divided and controlled in the usual form: *Provided,* That no call for the regular order shall serve to displace S. 1207.

MARCH 22, 1982.

Mr. STEVENS. Mr. President, is it correct that S. 1207 is now the pending business before the Senate?

The PRESIDING OFFICER. The Senator is correct.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1207) to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes.

The Senate proceeded to the consideration of the bill.

Mr. STEVENS. Mr. President, it would be the leadership's intention to notify and we hope that the cloakrooms on both sides will notify the membership that we are now on S. 1207. There is a series of amendments that will be argued before the Senate today. We do not anticipate rollcall votes on those amendments today, but once they are disposed of and the time is yielded back they will be voted on at a later time without debate.

It is encumbent upon those who wish to be heard and involved to keep up with the development of the consideration of the Nuclear Regulatory Commission bill today.

It is our hope that with the exception of those two amendments this bill will be disposed of today with the exception of the time on the bill itself. The amendments listed in the agreement just agreed to with the cooperation of my good friend, the distinguished minority leader, are most, most controversial amendments and very technical.

We are hopeful that Senators will heed our call and come to the floor if they intend to be involved in the debate on the Nuclear Regulatory Commission Authorization Act of 1982.

Mr. ROBERT C. BYRD. Mr. President, I share the views that have just been expressed by the distinguished acting Republican leader.

Will he put in a quorum call and not charge it against anyone on the bill until some of the participants can arrive?

Mr. STEVENS. Yes; I think that is proper.

Mr. President, until the arrival of the managers of the bill, at which time we will take the quorum call off, I ask unanimous consent that there be a quorum call and that time not be charged on the agreement just entered into.

The PRESIDING OFFICER (Mr. ANDREWS). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I am pleased to present for the consideration of the Senate S. 1207, a bill authorizing funds for the Nuclear Regulatory Commission for fiscal years 1982 and 1983.

As reported from the Committee on Environment and Public Works on May 8, this bill authorizes appropriations in the amount of $495.7 million for fiscal year 1982, and $530 million for fiscal year 1983.

I wish to note that this is the first year the committee has recommended a multiyear authorization for the NRC, and, based upon the detailed 2-year budget proposal submitted by the agency, it is the hope that this 2-year authorization will greatly enhance the agency's ability to plan for the future.

As for the particulars of the bill: The committee has recommended an authorization of $495.7 million for fiscal year 1982—a reduction of 1 percent in the agency's 1982 budget request. That amount, which represents a real increase in fiscal year 1982 dollars of $6.6 million, is to be divided among the four major program offices within the agency in the following manner: $75.6 million to "Nuclear reactor regulation," $67.4 million to "Inspection and enforcement," $46.3 million to "Nuclear material safety and safeguards," and $245.7 million to "Research," with the balance allocated for "Program technical support" and "Program direction and administration."

For fiscal year 1983, the committee has recommended an authorization of $530 million—an amount equivalent to the NRC's 1983 budget request. Similarly, this amount is to be divided among the 4 major program offices in the following manner: $78.3 million to nuclear reactor regulation, $70.3 million to inspection and enforcement, $48 million to nuclear material safety and safeguards, and $270 million to research, with the balance going to program technical support and program direction and administration.

In addition to the general funding level set forth in this bill, the committee has further recommended that certain funds be earmarked for expenditure by the agency in four specific areas: First, the bill sets aside $27 million for fast-breeder reactor safety research and licensing review work to be conducted in each fiscal year. These funds are to be used by the agency for the purpose of establishing a regulatory framework for the licensing of fast-breeder reactors.

Of the $27 million specifically set aside by the committee, $20.4 million has been earmarked for use by the Office of Research to expand its review of the safety aspects of fast-breeder technology. It is the intent of the committee that the NRC have the capability to license any breeder reactor intended to demonstrate the commercial workability of breeder technology. The funds set aside for this purpose would insure the NRC's licensing review process will not stand as a barrier in the critical path toward operation of such a facility.

Second, the bill earmarks a total of $10 million in fiscal years 1982-83 for the purposes of accelerating the agency's research activities in the area of high-temperature, gas-cooled reactors. Based upon testimony which was presented to the committee, Mr. President, it appears that high-temperature, gas-cooled reactors may have significant advantages over the current generation of light-water reactors, including greater safety margins, and reduced siting risks.

Accordingly, the committee recommended that $10 million be set aside for the purpose of enabling the agency's regulatory program in that area to keep pace with industry and Government programs for the development of a large-scale, high-temperature, gas-cooled reactor.

Third, the bill earmarks a total of $91 million to be used by the agency in fiscal years 1982-83 for the loss of fluid test facility research program, a program which focuses on the consequences of loss-of-coolant accidents in certain types of commercial reactors.

The committee concluded, based upon testimony presented by the agency, that this program should be continued through 1983 for the purpose of completing the testing program described in the LOFT special review group report, and valuable safety information can be obtained in this 2-year period as a result of such tests. Accordingly, the committee set aside $91 million for that purpose.

Fourth, and very importantly, the bill earmarks $11.3 million in fiscal years 1982-83 for the purpose of developing a nuclear data link system. Briefly, that system is designed to collect data at individual operating reactors, transmit the data to NRC's headquarters, and display the data in a uniform manner in order to enable the NRC to monitor the plant and independently assess plant conditions during an accident.

Several investigations of the Three Mile Island accident pointed out the lack of timely and accurate information available to NRC's headquarters personnel and, in particular, the serious shortcomings of an emergency communication system that relies upon people to determine and communicate critical technical plant data.

The committee has long supported efforts to improve NRC's ability to communicate with the licensee during an emergency, and has, accordingly, earmarked $11.3 million for the nuclear data link proposal. The bill specifically provides, however, that the Commission shall not have more than $1 million in fiscal years 1982-83 until the Commission has established a prototype data link system, and, upon assessing the results of the prototype, has submitted a report to Congress containing a Commission recommendation on implementing a specific system for all operating nuclear powerplants.

Upon submitting its report, the NRC may then proceed with a complete system—a long-needed item in nuclear regulation.

Mr. President, there have been a number of developments since the committee reported the bill many months ago. Among those is the continuing growing need for reductions in the Federal budget. The Commission should bear a share of that burden, and for this reason I intend to offer an amendment that would reduce the level of authorizations in the bill for fiscal year 1982 by an additional $10 million.

In addition, the amendment will provide adjustments in the allocation of funding among the major program categories in the agency's budget and for certain specified activities in the bill. I believe these changes are more in line with the Commission's spending plans and priorities, given our present budgetary constraints.

The bill also contains three amendments to the Atomic Energy Act set forth in title II. The first of those amendments, authorizing the NRC to grant interim operating licenses, addresses the problem of a backlog in licensing new nuclear powerplants. For the very first time it appears that the agency's hearing process for a number of nuclear powerplants has the potential for extending beyond the date when the plants will be ready to operate.

This backlog, which can be traced to NRC's diversion of resources from licensing activities to other safety concerns following the Three Mile Island accident, has the potential, if not addressed, to impose what the committee views as unacceptable financial costs upon utilities and their ratepayers.

Mr. President, there has been considerable study of these projected licensing delays for new nuclear powerplants. When NRC projected licensing delays in January 1981, the agency anticipated that 12 plants would be delayed a total of 90 months. A number of factors have changed those early projections of delay rather dramatically. First, I think it is very fair to say that some of the utility projections of plant construction completion were overly optimistic. Lengthening construction periods have, therefore, eliminated a portion of the expected delays.

Second, the Commission has done much to accelerate its licensing program, both by directing additional effort to licensing reviews and by adopting a number of administrative reforms to eliminate unnecessary delays in staff reviews and licensing hearings. I believe the Commission has been most responsive here, while preserving its paramount responsibility to protect the public health and safety. Third, several plants in the interim have now received their full operating licenses, thereby eliminating any further delay potential in those cases. As a result, Mr. President, the Commission's latest report to the Congress on potential reactor licensing delays anticipates that only one plant will experience any delay, and that delay is expected to be limited to 2 months.

Mr. President, the result of this latest report from the Commission are most personally gratifying to me. Some may, therefore, suggest—if I might anticipate a bit—that we might no longer need that authority in the bill to issue interim operating licenses. I do not believe that is so. I do not believe that is the case for several reasons.

First, the present Commission projections of very limited delays assumes a very ambitious licensing schedule by the Commission for the next 2 years. If the Commission meets its present projections, it will license in each of the next 2 years more than twice the number of new reactor operating licenses than have ever been issued by NRC in a single year. Mr. President, I believe it is wise and appropriate to have the interim operating authority available as a backup over the next 2 years in the event the Commission's projected schedule proves to be overly optimistic.

Second, the interim operating authority provides a useful safeguard to avoid pressures that might otherwise exist to accelerate the licensing process for these plants at the expense of safety. Should problems arise in a given case that require further study, the availability of the interim licensing authority should remove any inordinate pressures to hurry the review of those issues in the hearing process as soon as possible to avoid a licensing delay. The availability of this authority should help assure that the Commission will give all these applications a thorough review without imposing unnecessary economic costs on the ratepayers. I believe this concept of using this authority as a safeguard in those few cases where it may be needed is entirely consistent with the committee's intent. In fact, the provision itself directs the Commission to take all appropriate administrative steps to minimize the need for issuing interim operating licenses under this authority.

Mr. President, for the foregoing reasons, the committee has recommended that the Atomic Energy Act be amended to permit the NRC through 1983 to issue interim operating licenses, prior to the completion of any required hearing.

The amendment set forth in this bill establishes, however, a very detailed procedural framework for granting such licenses that is patterned after a similar provision in the Atomic Energy Act that authorized the Commission to issue such licenses up until October 30, 1973. Briefly, the amendment provides that an applicant may petition the NRC for an interim operating license after the filing of the Advisory Committee on Reactor Safeguards report, the NRC staff safety report, the NRC staff environmental statement, and a State, local, or utility emergency preparedness plan. The NRC is required to provide notice of the petition and a 30-day period for public comment. This is a very critical and important part of the procedure. Upon expiration of the 30-day comment period, the NRC may issue the interim operating license if it determines that: first, all requirements of law other than the conduct or completion of any required hearing are met; second, there is reasonable assurance that interim operation of the facility in accordance with the terms of the license will provide adequate protection to the public health and safety and the environment, which is the sole mission of the Nuclear Regulatory Commission; and third, denial of the interim license will result in delay between the time when the facility is sufficiently completed to permit interim operation and the time when a final operating license would otherwise be issued.

The amendment further provides that an applicant's initial petition for interim operating license authority shall be limited to 5 percent power. Upon approval by the NRC of the applicant's petition for interim operation at 5 percent power, the applicant may then petition for interim operation at increased power levels. Separate petitions from the utility, notice and public comment periods, and determinations by the NRC are required, however, before the Commission can allow operation at each succeeding power level.

The amendment also includes a number of procedural safeguards to insure that the issuance of the interim operating license does not prejudge the outcome of the licensing hearing for the final operating license or prejudice the rights of any party to the hearing to raise any issue in the hearing and to have that issue decided. In addition, the amendment requires that any party to the hearing or any Licensing Board member conducting the hearing promptly notify the Commission of any information indicating that the terms and conditions of the interim operating license are not being met.

Moreover, the amendment provides that, if the applicant is not prosecuting its application for the final operating license with due diligence, the interim operating license shall be suspended.

Finally, as I mentioned earlier, the Commission is directed under the amendment to adopt those administrative remedies deemed necessary to minimize the need for issuance of interim operating licenses.

The second amendment recommended by the committee in this bill authorizes the NRC to issue amendments to licenses without first holding a public hearing, where it determines that such amendments pose "no significant hazards consideration." Although the NRC has, for years, interpreted the Atomic Energy Act to authorize the issuance of such amendments without holding a prior hearing, a recent D.C. court of appeals decision, the Sholly decision, struck down the agency's interpretation of the act.

By including this amendment, the committee seeks to address the concern expressed by the Commission in its recent testimony that a requirement that the NRC grant a requested hearing prior to making effective a facility license amendment involving "no significant hazards consideration," could result in unnecessary disruption or delay in the operation of a nuclear powerplant and could impose unnecessary regulatory burdens upon the NRC that are not related to significant safety benefits.

It is for these reasons that the committee recommends that the Atomic Energy Act be amended to authorize the NRC to issue license amendments "posing no significant hazards consideration" without first holding a public hearing.

It should be noted that, in deciding whether a particular amendment poses "no significant hazards consideration," this amendment required that the NRC consult with the State in which the particular facility is located. The committee fully expects that consultation with the State will be the rule, rather than the exception, but in those instances where prior consultation is virtually impossible and the plant is threatened with shutdown unless the amendment is granted, the NRC has further options under this amendment.

In addition, it should be noted that the authority granted the NRC under this amendment will not take effect until the Commission has promulgated regulations establishing standards for determining whether an amendment to a license involves no significant hazards consideration.

Finally, the NRC is required, under title III of this bill, to promulgate regulations establishing criteria for providing or dispensing with prior notice and public comment on "no significant hazards consideration" determinations, and procedures for consultation on such determinations with the State in which the facility is located.

The third and final amendment to the Atomic Energy Act contained in this bill deals with the sabotage of nuclear facilities. Section 236 of the Atomic Energy Act now provides that any person who intentionally and willfully destroys or causes physical damage to, or attempts to destroy or cause physical damage to, a nuclear facility shall be fined up to $10,000, imprisoned for not more than 10 years, or both.

That provision does not cover the situation in which a person intentionally and willfully interrupts a powerplant's operation by merely tampering with or improperly using, rather than physically damaging or destroying, the machinery, components, or controls of the plant. Because such acts could result in substantial replacement power costs to a utility and its customers, and may endanger the public health and safety, the committee recommends amendment of the Atomic Energy Act to include this situation.

This provision is essentially the same as an amendment to the 1981 NRC authorization bill accepted by the Senate, but not enacted as law.

That, briefly, is a summary of the measure proposed to the Senate. It has been considered now for the many weeks that it has been before the body. There are two amendments under the time agreement that will come up later.

At this moment I want to signify how much I appreciate the work of my colleague, the ranking minority member of this subcommittee, Senator GARY HART, my neighbor from Colorado. He has been extraordinarily supportive and helpful, as have his staff, and the full committee. The steady counsel of Senator STAFFORD should also be recognized, the chairman of the full committee, and the ranking member of the full committee, the Senator from West Virginia (JENNINGS RANDOLPH).

The entire staff, the majority and minority staffs, has been more than helpful, as I say, in the drafting, in the presentation, and in the amending process.

Mr. President, at this time I yield to my colleague from Colorado, Senator HART.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. Mr. President, I join with the distinguished Senator from Wyoming, the chairman of the Senate Subcommittee on Nuclear Regulation, in urging the Senate to pass the NRC Authorization Act for fiscal years 1982 and 1983, as reported by the Environment and Public Works Committee. Needless to say, this bill represents many hours of negotiations among the members and staff of the committee to produce a bill the members could accept unanimously.

I think that is the important consideration as the full Senate undertakes to review this measure.

The Senator from Wyoming has very skillfully, fairly, and accurately described the provisions in the reported bill.

I will not repeat that effort. I would, however, like to discuss a provision in the bill that is of particular concern to me—the provision authorizing the NRC to grant interim operating licenses for new nuclear powerplants. The interim license authorized by this provision would allow a utility to operate its powerplant prior to the conduct or completion of an NRC hearing on granting a final operating license.

The provision contains several important restrictions on the NRC's authority to issue interim operating licenses. First, the initial interim operating license must be limited to power levels no greater than 5 percent of full-rated thermal power. Second, if a utility seeks an interim license to operate the reactor at power levels greater than 5 percent, it must formally petition the Commission to amend the interim operating license to allow the operation of the powerplant in staged increases at specific power levels set by the NRC.

Third, the NRC may issue an interim operating license at 5 percent power, or an amendment to the license for operation at greater power levels—but only if it finds three things: First, that in all respects other than the conduct or completion of any required hearing, the requirements of law are met. Second, that there is reasonable assurance that operation of the powerplant during the interim period will provide adequate protection to public health and safety and the environment. Third, that denial of the interim operating license will result in a delay between the date on which construction of the powerplant is completed, in the NRC's judgment, and the date the final operating license would otherwise issue.

In my view, this last requirement does not authorize the NRC to issue an interim license when the utility, by failing to make a reasonable effort to meet the requirements of the licensing process in a timely manner, substantially delays completion of that process. In other words, a utility should not be able to obtain an interim operating license by unreasonably delaying its application for a final operation license.

The final restriction in this provision is the automatic termination, on December 31, 1983, of the NRC's authority to grant interim operating licenses.

I recognize and strongly support the need for the public to have a meaningful opportunity to participate in NRC decisions on licensing nuclear powerplants for operation. Because of this, I have been extremely reluctant to accept legislative changes in the NRC's regulatory regime that could short circuit mechanisms for public participation. Because, however, this provision carefully circumscribes NRC's authority to grant an interim operating license to a utility prior to completion of a public hearing, I am willing to accept it.

Other committee members and I were persuaded the NRC needed limited authority to grant interim operating licenses to eliminate an estimated 79 months of licensing delay covering some 12 or 13 separate nuclear powerplants. This is the difference between the time when construction on a plant would be completed and the date on which the NRC would issue a final operating license. Indeed, representatives of the nuclear industry painted a grim picture of increases in licensing delays as time went on, imposing additional costs of several billion dollars on utility ratepayers.

That presentation was 10 months ago. However, the most recent NRC report on license delays, issued 2 weeks ago, shows a dramatic decrease in license delays to only 2 months.

Several factors undoubtedly have contributed to the reduction in licensing delays. The NRC has implemented administrative changes in its regulatory processes. In addition, the nuclear industry in several cases was too overly optimistic in estimating the dates for completion of construction on several nuclear powerplants. For example, last spring Diablo Canyon had an estimated license delay of 12 months. Subsequent events revealed serious deficiencies in construction of the Diablo Canyon plant which pushed farther into the future the date for completion of construction and removed Diablo Canyon from the licensing delay category altogether.

Mr. President, the fact nevertheless remains that last spring the nuclear industry cried wolf with its estimates of licensing delays and demanded relief from the Congress. That wolf, if it ever existed, apparently does not exist now. Fortunately, the Environment and Public Works Committee carefully deliberated on what type of legislative relief it would grant the nuclear industry. It developed a reasonable provision that did not overreact to the nuclear industry's extreme claims. Indeed, because a utility must demonstrate the need for an interim operationg license, and given the virtual elimination of licensing delays. It is very conceivable that the authority in this provision will never be invoked.

The experience with this provision should serve as a lesson for future decisions by the Congress on reform of the NRC's regulatory processes. While we should willingly consider reasonable proposals for regulatory reform, we should also avoid knee-jerk responses to cries of "wolf" similar to the one we heard from the nuclear industry last spring.

Mr. President, I again urge the Senate to pass this bill.

I return the perhaps excessive compliments to the Senator from Wyoming as to whatever efforts I have put into presenting this legislation on the floor of the Senate. The credit for what I think is a responsible and reasonable piece of legislation lies entirely with the Senator from Wyoming as the chairman of the subcommittee. He skillfully guided this measure through a very observant full committee of the Environment and Public Works Committee, and the able staff which has assisted him so well not only this year but in the past.

Once again I add my words of thanks to him and words of congratulations for his continuing fine effort.

Mr. SIMPSON. Mr. President, I thank the Senator from Colorado. I would certainly indicate that it was during his leadership as chairman, while I was ranking minority member, that I did learn about the observancy capabilities of our colleagues on not only the subcommittee but the full committee.

Mr. President, I ask unanimous consent that the following staff members be given floor privileges during debate on S. 1207: Jim Asselstine, Keith Glaser, Erich Bretthauer, Jim Curtiss, Heather Lancaster, Jim Davenport, and Barbara Magnuson.

I also ask unanimous consent that the following members of the Energy Committee staff be granted the privileges of the floor during consideration of S. 1207:

Chuck Trabandt and Paul Gilman.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERIM OPERATING LICENSING PROVISIONS

Mr. MITCHELL. Mr. President, I rise to voice my concerns with the interim operating licensing provisions included in this legislation. The NRC authorization bill provides that interim operating licenses for nuclear powerplants may be granted prior to hearings for NRC final operating licenses.

It is important to gain a perspective on these provisions, and to see, precisely, what they were in response to. The reasons originally given for the need for interim operating licenses are manifold. But I believe the reason which has been the most effective is the notion, put forth by administration and industry officials, of a dilatory NRC bottling up its own licensing process. For the past year, "delay" has become the most prominent catchword in the debate over the NRC's licensing process.

Catchwords, like this one, are often ideas which become prominent because they are assumed to contain a high level of truth. The more often they are repeated, the more true they become. Delays in the licensing process, as the primary or only obstacle facing the construction of new plants, have been so widely referred to that they are now widely assumed to be true. It has been my concern throughout this debate that the issue of delay has gained a certain currency and legitimacy which is unwarranted. Since the time this legislation was first reported by the Senate Environment Committee, my concern about interim licenses has been shown to be justified.

It has become evident that the level of truth in the catchword "delay" makes it undeserving of the degree to which it is now assumed by the public.

When this legislation was first introduced, interim license proponents who supported the notion of massive delays were clearly abetted by NRC data on the number of months of delay in the licensing schedule, and the cost of those delays to the ratepayer. In its January 1981 report to the Congress, the NRC predicted that, according to estimated construction completion dates provided by the utilities, 12 powerplants would face 90 cumulative months of delay during 1981 and 1982 due to the NRC licensing process. Although, as the NRC staff pointed out at the time, utility estimates on construction completion dates have been historically very optimistic, these figures were accepted as reliable at the time. Numerous sources stated that plants which stood idle also resulted in a cost to the Nation of upward of $3 billion in higher utility rates.

Much has changed since the publication of the NRC's January 1981 report. The latest NRC report on delays in the licensing schedule for all pending operating license applications shows a total of 2 months of delay. It is fair to say that the total number of 90 cumulative months of delay has been erased. Much has also changed since allegations were first made regarding the cost of plants which sit idle. The Department of Energy began estimating the potential cost in April 1981. Since that time, the DOE figures have demonstrated two facts:

First, the original cost estimates provided by the industry were inherently inflated by the cost of capital carrying costs; second, they were exaggerated by the overstated number of months of delay and other cost assertions which the DOE regularly rejected.

The figures which were the basis of the interim license argument have been proven to be unrealistic in the case of delay figures, and hypothetical and overstated in the case of cost figures. The interim license argument implied that these figures exposed a permanent dilemma which demanded a permanent solution. The rapid change in the cost and delay figures dramatically weakens this argument. Present figures clearly show that the delays represented a temporary, curable passage in the NRC's licensing process.

Nevertheless, it is a passage which demands that a number of tough questions be answered by the industry. Instead of blaming delays solely on the NRC's licensing process, it is essential that the industry realize that reasons for delays also exist elsewhere, primarily in two areas. First, the delays caused by the NRC's licensing process were mainly the result of a manpower reallocation within the agency designed to meet the demands placed on it by the Three Mile Island accident. The accident there holds a valuable perspective for utility representatives who believe NRC regulations alone cause delays which in turn cause the ratepayer excessive costs; the cost of cleaning up the accident at TMI, estimated at between $1 to $1.3 billion, is a cogent reminder of other potential costs to the ratepayer and makes a case for more, not fewer, safety regulations.

Second, there are other, essentially economic reasons for the slowdown in powerplant licenses: primary among them are financial problems and changing financial considerations, labor difficulties, and engineering complications. These are reasons which are in the hands of the utility owners, and are not attributable to the NRC.

It is important to note, too, that current efforts to "streamline" the NRC process, like interim licenses and other similar proposals, come at the expense of safety regulations. Such measures may ultimately harm, rather than help, the nuclear industry. Recent polls show that an increasing number of Americans are concerned about the health and safety implications of nuclear power, and it is imperative that we in Congress be responsive to these concerns. Present construction problems at the Diablo Canyon plant, along with similarly serious engineering complications at other plants across the country, make a strong argument for strenghtening the NRC licensing process. They also make a strong case, as NRC Chairman Nunzio Palladino noted, for nuclear utility management "to reorient its thinking." As Chairman Palladino stated in a recent speech before the Atomic Industrial Forum:

> Some utilities fall short of protecting their own best interests and meeting the high standards expected for nuclear power. Their deficiencies in quality assurance are inexcusable. There have been lapses of many kinds—in design analyses, resulting in built-in design errors; in poor construction practices; in falsified documents; in harassment of quality control personnel; and inadequate training of reactor operators. These practices must change if true regulatory reform is to take place . . .
>
> Industry has the key role in the construction and safe operation of nuclear power plants. That is the fact. Not only public health and safety considerations, but economic imperatives dictate the highest professional standards in building and operating a nuclear plant. When construction or operation falls below the highest standards, the entire industry is hurt.

The Senate Environment Committee made a number of changes in the interim license provisions of the bill as it was originally introduced. These provisions strenghten the bill itself, and provide more reassurance to persons like myself that interim licenses will be granted only in the most severe instances. The Environment Committee bill requires that, prior to the issuance of interim licenses, determinations be made by the NRC that:

First. All legal requirements, other than those relating to hearings, are met.

Second. There is reasonable assurance that interim operation of the facility in accordance with the terms and conditions of the license will adequately protect the public health and safety and the environment; and

Third. Denial of the interim license will result in delay between the time the facility is sufficiently completed to permit interim operation and the time when a final operating license would otherwise be issued before operation at each power level.

The bill also includes procedural safeguards to assure that the issuance of an interim license does not prejudice the outcome of the license hearing for the plant's final operating license or the rights of any party to the hearing. As well, the bill directs the NRC to adopt appropriate administrative remedies to minimize the need for the issuance of interim licenses.

I offered an amendment to the committee bill which further strengthens the interim licensing provisions. The bill, as introduced, allowed utilities to operate at full power under an interim license. My amendment provides for a step-by-step progression from initial fuel loading and low-power testing up to full-power levels.

To conclude, Mr. President, I find it distressing that the debate over interim licenses has focused almost entirely on nuclear development, and supposed obstacles to that development, rather than on nuclear safety. We do have an obligation to see that the process does not become bogged down needlessly while trivial items are discussed. This is not just an NRC or industry concern. It is a public concern.

But we have another obligation that must always take precedence. We have an obligation to insure that nuclear power does not endanger the public health and safety, and that those who may have legitimate questions and information about health and safety hazards are afforded an opportunity to participate in the licensing and license-amendment process. To meet this obligation, we must scrutinize more carefully the cost and delay figures provided to the Congress by the industry in the future. But we must also scrutinize more incisively the use of catchwords which, if they do not contain a high level of truth, have the ability to distort and mislead a national policy debate.

Mr. SIMPSON. Mr. President, I believe that the Senator from South Dakota has an amendment to propose. I yield to him for that purpose.

UP AMENDMENT NO. 834

Mr. ABDNOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from South Dakota (Mr. ABDNOR), for himself and Mr. PRESSLER, proposes an unprinted amendment numbered 834.

Mr. ABDNOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 15, after line 23, add a new section to read as follows:
>
> SEC. .(a) The Commission, in consultation with the Environmental Protection Agency, the Department of Housing and Urban Development, the Department of Energy, the Tennessee Valley Authority, and the State of South Dakota, is authorized and directed to establish and coordinate a monitoring, engineering assessment and remedial action program for the management of byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, at offsite locations in the vicinity of the Edgemont, South Dakota, uranium mill site. Such program shall provide for necessary monitoring and engineering assessments at such locations and the establishment and performance of requirements for the management, including remedial action, of such byproduct material.
>
> (b) In carrying out the monitoring, engineering assessment and remedial action program established by subsection (a), the

Commission shall have lead responsibility for coordinating the monitoring, engineering assessment and remedial action program established by subsection (a) and, in consultation with the State of South Dakota, shall—

(1) establish general objectives and priorities for the program;

(2) review and approve a monitoring, engineering assessment and remedial action program for the locations described in subsection (a);

(3) assure that an approved monitoring, engineering assessment and remedial action program complies with the requirements of section 84 of the Atomic Energy Act of 1954, as amended, and conforms to the standards of general application for the protection of the public health, safety and the environment from radiological and nonradiological hazards associated with residual radioactive materials located at inactive uranium mill tailings sites and depository sites promulgated by the Administrator of the Enviromental Protection Agency pursuant to section 275 a. of the Atomic Energy Act of 1954, as amended; and

(4) provide funding through contract for an approved monitoring and engineering assessment program at the locations described in subsection (a).

(c) Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 (92 Stat. 3025) is amended by adding a new paragraph (3) to read as follows:

"(3) Notwithstanding the one-year limitation contained in this section, the Secretary shall designate for remedial action any real property, or improvements thereon, in Edgemont, South Dakota that—

(A) is in the vicinity of the Tennessee Valley Authority uranium mill site in Edgemont, and

(B) is determined by the Commission to be contaminated with residual radioactive materials derived from that site.

In making the designations under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of Title I of this Act shall apply to the remedial action at property designated under this paragraph, except that notwithstanding any other provision of this Act, the Secretary shall pay the full cost of such remedial action.".

Mr. ABDNOR. Mr. President, on behalf of myself and Senator PRESSLER, I offer this amendment to give the Department of Energy (DOE) authority to take remedial action at designated property in the vicinity of the Tennessee Valley Authority (TVA) uranium mill site at Edgemont, S. Dak.

The Uranium Mill Tailings Act of 1978 was enacted to assist in the cleanup of contaminated property on, and in the vicinity of, abandoned uranium mill sites. However, since TVA holds a source material license on the inactive mill site, Edgemont is excluded from compensation under the act.

Let me emphasize, Mr. President, that in 1980, both Houses of Congress adopted amendments to remedy the off-site tailings problem at Edgemont. Unfortunately, the amendments were attached to different bills and the provision was not enacted.

In fiscal year 1981, Congress made available funds to enable DOE to begin off-site remedial work. Lacking the statutory authority, DOE was unable to expend those funds.

Mr. President, this situation has imposed severe hardships on the citizens of Edgemont. Uranium mill tailings, which have been located in the foundations of several homes and in the yards of dozens of homes in the area, pose a serious health threat. In 1980, due to the high radon levels detected in the residential community, the Environmental Protection Agency (EPA) prohibited the Department of Housing and Urban Development (HUD) from engaging in Federal Housing Authority (FHA) loan transactions in Edgemont. The negative press the uranium mill tailings issue has provoked has had a significant economic impact on the community. Having been surveyed and studied for some 10 years, area residents feel that appropriate remedial action is long past due.

The Nuclear Regulatory Commission (NRC), in cooperation with TVA, the State of South Dakota and EPA, has nearly completed the preparation necessary to begin the actual remedial work. If enacted, this amendment will enable DOE to begin work on the remedial project during the next construction season.

Mr. President, I understand that this amendment has the support of the distinguished subcommittee chairman and ranking minority member, Mr. SIMPSON and Mr. HART.

I do thank both of these gentlemen for the cooperation and the help they have given me on this particular problem.

● Mr. PRESSLER. Mr. President, I wish to express my support for the amendment, of which I am a cosponsor, offered by my colleague from South Dakota. I have been working on the problem of procuring assistance in dealing with the mill tailings in Edgemont for some time now. It is gratifying to see that we are coming close to a resolution of this matter.

The radiation problem in the Edgemont area came to a head in March 1980, after the Department of Housing and Urban Development (HUD) gave the town notice that it would no longer insure housing mortgages for homes that were found to exceed the Environmental Protection Agency's (EPA's) radiation levels. At that time, I personally visited Edgemont and spoke with area residents about the problem. I also offered several amendments during the 96th Congress to authorize this remedial action and appropriate funds, but, unfortunately, legal barriers have remained.

The source of the radiation in the town is a former uranium mill. Through EPA investigations, various houses in the Edgemont community were determined to have exceedingly high levels of radiation. It was found that some houses in the community had been built with mill tailings as backfill.

Throughout the Government's dealings with the community of Edgemont, there have been delays in securing remedial actions for the properties contaminated with uranium mill tailings. The Department of Energy has determined that it cannot proceed with the remedial actions necessary until Congress provides authorization. The Department also indicates that it is prepared to proceed soon after receiving statutory authority.

The purpose of this amendment is to grant the authority needed to begin this important task. I can assure my colleagues here that from my contacts with the people of Edgemont there is no question but that this amendment is very important to the well-being of the Edgemont community. I hope that this amendment will receive the support it merits, and urge my colleagues to readily adopt it.●

Mr. SIMPSON. Mr. President, I am pleased to support the amendment by the distinguished Senator from South Dakota. As the sponsor of the amendment pointed out, this amendment is similar to one adopted last year by the Senate on the NRC authorization bill for fiscal year 1981. That measure failed due to inaction by the House.

Mr. President, the Edgemont situation is a unique one. We recognize that. Although the Edgemont site is an inactive uranium mill site, it was included in the remedial action program established by the Uranium Mill Tailings Radiation Control Act of 1978 because TVA held a current license from NRC for the mill. Although TVA is obligated and has agreed—this is important—to clean up the mill tailings on the Edgemont site, it has no legal responsibility for cleanup of the tailings at the offsite locations. As I understand the Senator's amendment, it would incorporate into the remedial action program of the Mill Tailings Act these offsite mill tailings locations. Also, the amendment would confirm the monitoring and engineering assessment program now underway by NRC that would precede the cleanup itself at these offsite locations.

Indeed, Mr. President, we appreciate the work of the Senator from South Dakota and his thoughtful response to an extraordinarily unique situation in his State.

Mr. ABDNOR. I thank the Senator for that very thorough explanation. That is exactly the way it has occurred and we appreciate his explanation of the amendment.

The PRESIDING OFFICER. Does the Senator from South Dakota move his amendment?

Mr. ABDNOR. I shall do that after the expiration of the time, Mr. President.

Mr. HART. Mr. President, this amendment would provide authority for the Department of Energy to begin work on remedial action for mill tailings at the Edgemont site, as the distinguished Senator from South Dakota has outlined. Although DOE is ready, it needs the authority to go forward. I agree with the case that the Senator has made to cleanup offsite mill tailings of Edgemont. It will reduce the public health and safety hazards that sites of this sort present in his State and in my State and, unfortunately, in too many States.

I join the Senator from Wyoming in endorsing and supporting the amendment.

Mr. ABDNOR. I thank the Senator from Colorado.

Mr. President, I move adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (Mr. ABDNOR).

The amendment (UP No. 834) was agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the amendment was agreed to, Mr. President.

Mr. McCLURE. I move to lay that motion on the table.

UP AMENDMENT NO. 835

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I send to the desk an amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for himself and Mr. HART, proposes an unprinted amendment numbered 835.

Mr. SIMPSON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 2, line 9, change "$495,700,000" to "$485,200,000".

(2) On page 2, line 11, change "$75,610,000" to "$85,100,000"; on page 2, line 14, change "$6,500,000" to "an amount not to exceed $6,500,000"; and on page 2, line 16, insert "an amount not to exceed" before the figure "$1,000,000".

(3) On page 2, line 19, change "$67,424,000" to "$62,900,000"; on page 2, lines 22 and 23, insert the words "an amount not to exceed" before the figures "$5,013,000" and "$6,300,000".

(4) On page 3, line 18, change "$46,257,000" to "$38,500,000".

(5) On page 3, line 21, change "$245,670,000" to "$240,300,000"; on page 3, line 24, insert the words "an amount not to exceed" before the figure "$20,400,000"; on page 4, line 1, insert the words "an amount not to exceed" before the figures "$3,500,000" and "$4,500,000"; and on page 4, line 4, change "$45,500,000" to "an amount not to exceed $45,500,000".

(6) On page 4, line 7, change "$19,095,000" to "$21,900,000".

(7) On page 4, line 10, change "$41,644,000" to "$37,000,000".

(8) On page 7, line 15, strike "(2) the final safety evaluation report on the application by the Nuclear Regulatory Commission staff;" and insert in lieu thereof: "(2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the NRC staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility;".

(9) On page 9, line 7, strike "date on which a final operating license for such facility would otherwise issue under this Act.", and insert in lieu thereof: "date when such facility would otherwise begin full power operation.".

(10) On page 11, strike lines 5 and 6, and insert in lieu thereof:

"e. The authority to issue new interim operating licenses under this section shall expire on December 31, 1983.".

(11) On page 11, lines 11, 19 and 21, insert "facility" before the word "license".

(12) On page 13, line 9, insert "or an interim operating license" after the word "license".

(13) On page 13, beginning on line 16, strike section 303.

(14) On page 15, beginning on line 16, strike section 304.

Mr. SIMPSON. Mr. President, this amendment makes a number of changes to the bill that are of a technical and clarifying nature. In addition, the amendment modifies certain portions of the bill to reflect changes that have occurred since the committee reported the bill last May.

First, the amendment provides an overall reduction in the level of spending authorized for the agency for fiscal year 1982 of $10 million. This reduction reflects the present constraints on the Federal budget in general, and is more consistent with the amounts now appropriated to the NRC for fiscal year 1982.

Second, the amendment makes several adjustments in the allocation of the authorization of $485,200,000 among the Commission's major program categories. These adjustments take into account the Commission's most recent estimates of budgetary needs in several areas, including the increased reactor licensing effort and licensing requirements for the Clinch River breeder reactor.

Third, the amendment makes three clarifying changes to the provision in the bill, section 201, granting the Commission the authority to issue interim operating licenses for new nuclear powerplants. The first of these changes makes it clear that a petition for an interim operating license may be filed after the issuance of the NRC staff's safety evaluation report and the supplement to that report prepared by the NRC staff in response to the report of the Advisory Committee on Reactor Safeguards. There may well be supplements to the NRC staff's SER prepared after this point, and this change makes it clear that the interim operating license petition could precede these later supplements. The second of these clarifying changes more precisely defines the third test in the bill for the issuance of an interim operating license. Under that test, the Commission must find that there would be a licensing delay for the plant if the interim operating license were not issued. The revised test would permit issuance of the interim license if the Commission finds that there would otherwise be a delay between the expected date of plant completion and the expected date on which the plant would otherwise begin full-power operation. The third change makes it clear that the Commission's authority to issue new interim operating licenses expires on December 31, 1983, but that any interim licenses issued before that date may continue in effect beyond the end of 1983.

Fourth, the amendment makes a change to the provision in the bill, section 202, that authorizes the NRC to issue and to make immediately effective license amendments that involve no significant hazards consideration. This change makes it clear that this provision in section 189 of the Atomic Energy Act applies to facility licenses and not to materials licenses.

Fifth, the amendment deletes the requirement for the nuclear powerplant licensing study that is contained in section 303 of the bill.

After the committee adopted this provision, Mr. President, both the NRC and the Department of Energy began internal studies of the licensing process that are aimed at the development of nuclear powerplant licensing reform proposals early this year. The Commission has also agreed to establish an independent review group for the purpose of evaluating and reporting to the Commission on legislative and administrative proposals for reforming the licensing process. A focus of this review group's efforts will be the legislative and administrative reform proposals now being developed by the Commission's Internal Regulatory Reform Task Force, although the review group will be free to make other recommendations and comments to the Commission. The Commission is in the process of selecting individuals to serve on this review group who reflect a range of interests and perspectives and who have a detailed knowledge of, and direct experience with, the nuclear powerplant licensing process. We believe that the Commission's efforts to move forward with this independent review effort will achieve the purposes of section 303 of the bill and will avoid any unnecessary delay in the consideration of licensing reform issues by NRC or the administration.

Therefore, section 303 of the bill is no longer needed.

Finally, Mr. President, the amendment strikes the provision in the bill, section 304, that requires DOE and NRC to enter into a memorandum of understanding regarding radioactive wastes from the Three Mile Island accident cleanup.

My colleague from Colorado and I were both involved in seeing that that was placed in the provision, and I am pleased to report that after the committee adopted that provision, the agencies completed their work on that memorandum of understanding. It is finished, and that provision is therefore no longer required.

That concludes the summary of the changes made by this technical amendment, and I move the adoption of the amendment.

Mr. HART. Mr. President, I fully support the effort of the floor manager and chairman of the committee in this matter. He has stated the case adequately, and I support the adoption of the amendment and endorse the proposal by the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, will the Senator from Wyoming yield to the Senator from Idaho?

Mr. SIMPSON. Mr. President, I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, section 303 of the bill would establish an independent advisory panel to evaluate the effectiveness and efficiency of the current licensing process and to report its findings to the NRC and the Congress within 180 days of enactment. The section sets forth the specific procedures for establishment of the advisory panel by the NRC, including membership, expenses, the substantive focus of its efforts, and reporting requirements. The panel is exempted from certain requirements of the Federal Advisory Committee Act. The committee amendment would strike section 303 and remove the requirement for such an advisory panel.

Mr. President, at the time this provision was adopted, in early May of last year, the new administration was still in the formative stages in terms of both personnel and policies related to nuclear power. Since that time, however, the open positions at the NRC have been filled and the President has enunciated his nuclear power policy in a formal policy statement and in a series of related programmatic and policy actions at NRC and the Department of Energy. One essential element of the President's formal policy statement on nuclear power was the President's directive that the Secretary of Energy give immediate priority attention to recommending improvements in the nuclear regulatory and licensing process.

DOE has implemented that directive by forming a task force whose efforts are now well underway. That task force will also include representation from the Office of Science and Technology Policy, and other appropriate executive agencies. It plans to consult in a meaningful fashion with industry, environmental and public interest groups, and State and local organizations. NRC also has embarked upon its own licensing reform task force. DOE will endeavor to work closely with NRC to enable the administration to propose a coordinated set of appropriate improvements in the licensing process well in advance of the timetable for the advisory panel contemplated by section 303.

Mr. President, it now is late in March and it appears likely that this bill probably will require a conference because of certain significant differences from the House-passed bill. As a result, it will probably be at least April, if not later in 1982, before any conference report on this legislation could be enacted. Consequently, the requirement for this independent advisory panel could lead to NRC and advisory panel action which could consume the balance of calendar year 1982 and certainly extend well beyond the adjournment of the 2d session of the 97th Congress. In that event, the report required of the advisory panel might not be considered by the Congress until calendar year 1983.

Mr. President, I commend the committee for the action that it has taken not only in the total legislation before us but also in the technical amendment now pending, and particularly with respect to the removal of the requirement for the advisory panel.

I take this time only to say that at the time this was put into the bill, it seemed an advisable thing to do, and as a matter of fact the other body has done so in their pending legislation.

I seek the statement of the Senator from Wyoming and the managers of the bill, when it goes to conference, what their attitude would be if the House keeps the advisory panel in their proposed legislation, as to whether or not the Senate conferees would strongly urge our position of removing the advisory panel.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator from Idaho for those points of clarification.

He, indeed, in my time here has followed the issue of regulation of the nuclear industry in more adept fashion than many, and I appreciate his assistance.

Mr. McCLURE. I assume that the Senator from Wyoming would seek to prevail, in the event of a conference with the House. If, indeed, they do not remove the advisory panel, as set forth in their legislation, and you should arrive at conference with them with legislation from the House with such an advisory panel, this amendment stating your position would be strongly held in the conference, I assume.

Mr. SIMPSON. Mr. President, in all ways I shall try to preserve the Senate's position on that.

Mr. McCLURE. I thank the Senator from Wyoming.

The PRESIDING OFFICER. Does the Senator from Wyoming yield time?

Mr. SIMPSON. I yield now to the Senator from Colorado.

The PRESIDING OFFICER. Will the Senator from Wyoming dispose of the amendment now pending?

Mr. SIMPSON. Yes. We do have an amendment before the body.

The PRESIDING OFFICER. There is an amendment before the body. The question is on agreeing to the amendment.

The amendment (UP No. 835) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. Mr. President, I move to lay that motion on the table.

The motion to lay the amendment on the table was agreed to.

Mr. SIMPSON. Mr. President, I yield to the Senator from Idaho.

UP AMENDMENT NO. 836

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

[The Senator from Idaho (Mr. McClure) proposes unprinted amendment No. 836.]

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, after line 19, add a new section to read as follows:

Sec.—— (a). Chapter 10 of the Atomic Energy Act of 1954, as amended, is amended by adding the following new section at the end thereof:

"Sec. 112. Psychological Health and Well Being.—

"Notwithstanding any other provisions of law, the Commission shall not be required to consider the effects of any of its actions on psychological health or well being.".

"(b). The table of contents for such Chapter 10 is amended by adding the following new item at the end thereof:

"Sec. 112. Psychological Health and Well Being.".

Mr. McCLURE. Mr. President, this amendment would reverse a judgment issued on January 7, 1982, by the U.S. Court of Appeals in the case of Pane against the U.S. Nuclear Regulatory

Commission. In that judgment, the court ordered the NRC to prepare an environmental assessment of the effects of restart of Three Mile Island Unit One on "psychological health of neighboring residents and on the well-being of the surrounding communities." The court further ordered the NRC, if it finds such effects to be significant, to prepare a full environmental impact statement.

Finally, the court's order bars the NRC from making a decision on the restart of TMI-1 pending completion of the environmental assessment and, if necessary, an environmental impact statement.

Mr. President, I believe the court's judgment in the *Pane* case that psychological health and well-being must be considered by the NRC, pursuant to the National Environmental Policy Act, before the Commission may allow the restart of TMI-1 represents a totally incorrect reading of the requirements of NEPA.

In addition, I believe the court's judgment has potentially serious adverse consequences in the case of TMI-1 restart proceedings, in the Commission's other licensing actions, and in a variety of other actions by numerous Federal agencies. For these reasons, I believe the Congress should act promptly to reverse the court's judgment in this case by making it clear as a matter of law that the NRC is not required to consider the effects of any of its actions on psychological health or well-being.

Mr. President, the most immediate impact of the court's decision will be on the restart of TMI-1. The NRC staff has estimated that the preparation of an environmental assessment of psychological stress will require at least 6 months.

If, after preparing such an assessment, the NRC finds that psychological stress resulting from the restart of TMI-1 will be significant, the Commission must then prepare an environmental impact statement, which the NRC staff estimates will require an additional 6 months.

If the court imposes further procedural requirements on the NRC such as the requirement to conduct an adjudicatory hearing on the issue, as the court has done in at least one instance in the past, the hearing would likely require at least 6 more months.

Thus, it is entirely possible that 1½ years or more could be required to comply with the court's ruling. Such a delay in the restart of TMI-1 could very well jeopardize the commitments that have been made by the State public utility commissions in Pennsylvania and New Jersey to designate ratepayer funds for the cleanup of Three Mile Island unit two.

In any event, under present arrangements, such funds cannot actually be spent for cleanup until TMI/1 is restored to service.

Mr. President, this potential of the court's decision to delay further, or even to jeopardize, the clean-up of TMI-2 is only one of the possible consequences of this decision. The court's requirement that psychological stress be considered an environmental impact under NEPA may well extend to other NRC licensing actions, and to a wide range of actions by other Federal agencies.

In the case of NRC, at the time of the court's decision, the Commission had rejected similar psychological stress arguments in six other proceedings. Two of these are proceedings for the issuance of new powerplant operating licenses.

Requiring the consideration of psychological stress in these cases would almost certainly delay the issuance of these licenses, and would very likely lead to a flood of psychological stress contentions in other pending and future NRC proceedings.

If the court's decision extends to other agencies as well, virtually every major construction or development project requiring Federal approval—from airports, to bridges and roads, to military installations—would become targets for psychological stress contentions under NEPA.

Mr. President, I do not believe that the Congress ever intended NEPA to require the consideration of psychological stress as an environmental impact—in a case such as the restart of Three Mile Island Unit One, in NRC's other licensing actions, or in the actions of other Federal agencies. My amendment would make this clear. I urge the adoption of the amendment.

Mr. President, appended to my statement is a list of psychological, or at least so-called, stress situations involving environmental impact statements under the court order where Federal funds are involved. I refer to the possibility of interstate highways, airports, low-income housing projects, section 404 permits under the Federal Water Pollution Control Act, Forest Service programs, Bureau of Reclamation projects, Corps of Engineers projects, energy projects, urban renewal-development activities, actions affecting historic sites, actions involving toxic substances, including pesticides.

Mr. President, the list goes on and on where the possibility of claims made by various persons with respect to so-called psychological stress would open such a tremendous Pandora's box that I think it is well for us to address that question now and immediately.

Mr. SIMPSON. Mr. President, may I say to my good friend, and neighbor, the distinguished Senator from Idaho, that I certainly agree with all of his comments, and I fully support the reasons that he has presented for his amendment.

I would even add an additional point. I am very troubled by the extremely subjective nature of the phrase "psychological health of neighboring residents and the well-being of the surrounding communities," to use the words of the court. Unlike the kinds of environmental impacts that are now routinely considered pursuant to NEPA, psychological health and well-being are not objectively determinable or measurable. I feel that the court's decision in the *Pane* case will lead the Commission, and perhaps other Federal agencies as well, into a morass of speculation and subjective judgement.

This decision might well lead to protracted hearings in which competing panels of psychologists and psychiatrists argue about the state of mind of the community. Perhaps the decision may even require public referenda in cases where psychological stress is alleged.

Certainly, whatever means the Commission selects for assessing psychological health and well-being is likely to be challenged as inadequate, leading to further litigation and delay. I, for one, certainly share your view that this is something that was never intended by the Congress when it enacted the National Environmental Policy Act.

Mr. McCLURE. Mr. President, I appreciate the comments of the distinguished Senator from Wyoming, and I share the concerns that he has mentioned.

Mr. SIMPSON. Mr. President, there is one other comment that I should like to make about this amendment. As the Senator from Idaho knows, we are in a somewhat unusual situation with the Pane case. Although the court issued its two-page judgment on January 7, it has not yet seen fit to issue its opinions, which will explain the court's rationale and define the scope of the decision. We discussed this matter with the Commission in our budget hearing earlier this year.

Although several of the Commissioners expressed serious concerns about the Pane decision, particularly if it extends beyond the restart of TMI-1, the Commission was unable to provide us with an assessment of the precise scope and impacts of the decision.

Thus, as a consequence of the court's failure to complete its work in this case, the committee has not yet been able to assess the scope of the decision or its likely impact. Given the seriousness of legislating any changes to NEPA, some of our colleagues have urged postponing any legislative action until after the court's opinions become available and the committee is able to assess the scope and impact of the decision.

I therefore inquire of the sponsor of the amendment if he would be willing to withdraw the amendment at this time with the understanding that the committee would actively consider this matter—and in a very prompt manner—after the court issues its opinions in the Pane case.

Mr. McCLURE. Mr. President, I agree with my colleague that it is somewhat difficult to assess the impact of this case, and to arrive at an appropriate legislative solution, in the absence of the court's opinions.

I reluctantly agree to withdraw the amendment at this time if the distinguished chairman and ranking minority member of the Nuclear Regulation Subcommittee will assure me that the committee will hold hearings on this matter as soon as the court's opinions are available, and that the committee will act expeditiously to report out any necessary corrective legislation using whatever legislative vehicle is available at that time to assure prompt enactment.

Mr. SIMPSON. Mr. President, I am pleased to provide those assurances to the distinguished Senator from Idaho and pledge to do so. I certainly believe that some legislation will be needed to correct the court's erroneous interpretation of NEPA in sufficient time to avoid unwarranted impacts on the Commission's licensing actions.

This approach will allow us to closely tailor the legislative solution to the problem. I also add that this matter has been discussed with the distinguished Senator from Vermont, the chairman of the Environment and Public Works Committee, and he stands by these assurances as well.

Mr. HART. Mr. President, although I am not yet convinced of the need for legislation in this case, I would certainly support the assurances made by the distinguished Senator from Wyoming that the committee will actively consider this matter, including the need for legislation, as soon as the court issues its opinions.

Mr. McCLURE. Mr. President, I thank my distinguished colleagues, and with those assurances on behalf of the committee, I withdraw the amendment at this time.

The PRESIDING OFFICER (Mr. ARMSTRONG). Without objection, the amendment is withdrawn.

UP AMENDMENT NO. 837

(Purpose: To amend the Atomic Energy Act of 1954)

Mr. HART. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 837.

Mr. HART. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, after line 19, add the following new section:

SEC. —. (a) Section 148a. (1) of the Atomic Energy Act of 1954, as amended, is amended by inserting immediately after "'Secretary')" a comma and the following: "with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954, as amended, is amended by adding at the end thereof the following new subsections:

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to subsection (a)(4)(B) of section 552 of title 5 of the United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of every regulation or order prescribed or issued under this section. In particular, the report shall:

"(1) identify any information protected from disclosure pursuant to such regulation or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a. of this section; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.".

Mr. HART. Mr. President, I offer what I hope will be a noncontroversial amendment to section 148 of the Atomic Energy Act. Section 148, enacted last fall as part of the DOE National Security Programs Authorization Act of 1982 (Public Law 97-90), authorizes the Secretary of Energy to withhold from disclosure unclassified information pertaining to the design of production or utilization facilities, safeguards, and the design of atomic weapons.

As passed by the Senate, this provision included a subsection (c) that subjected to judicial review the Secretary's exercise of this authority, and a subsection (d) that directed the Secretary to publish quarterly a report detailing the application of every regulation or order prescribed or issued under the provision.

During conference with the House, these two subsections were dropped.

My amendment today would simply restore these two subsections to section 148. I urge Senate passage of this amendment for two reasons. First, without these two subsections, the Secretary of Energy can withhold information free from the public scrutiny necessary to guard against abuse of this authority. The withholding of information from the public is a serious business. We should at least insure an independent review of the Secretary's exercise of this authority. These subsections will do just that.

Second, restoring these two subsections to section 148 would carry out the stated intent of the Armed Services Committee, when it reported this section, to make this provision consistent with section 147 of the Atomic Energy Act. Section 147 grants the NRC similar authority to withhold information about safeguards for NRC-licensed facilities. The NRC provision, however, provides for judicial review of, and periodic public reports on, the NRC's exercise of its authority.

I urge the Senate to accept this amendment, and I hope my colleague from Wyoming will support this measure.

Mr. SIMPSON. Mr. President, I support the amendment offered by the distinguished Senator from Colorado.

In the 96th Congress, as part of the NRC fiscal year 1980 authorization, the NRC was given the authority to withhold certain narrowly-defined categories of safeguards information related to activities over which the NRC has jurisdiction. That authority is set forth in section 147 of the Atomic Energy Act.

In November 1981, section 148 was added to the Atomic Energy Act, extending to the Department of Energy authority similar to that granted the NRC in 1980. In accordance with the requirements of section 148, DOE now has the authority to withhold certain information related to atomic energy defense programs.

Mr. President, as I understand it, the intent of this technical amendment is simply the procedural requirements applicable to the withholding of unclassified information by the Department of Energy and the Nuclear Regulatory Commission pursuant to sections 147 and 148 of the Atomic Energy Act. As those provisions now stand, Congress has imposed certain reporting and judicial review requirements that differ based upon the Agency or Department withholding the information, rather than the type of information to be withheld. This amendment, if adopted—and I certainly support it—will cure this statutory inconsistency by establishing uniform requirements for the withholding of such information. As I also understand, this amendment would conform the language of section 148 to the language originally passed by the Senate.

Mr. President, I support the amendment and I am pleased to accept it.

I will yield to anyone else wishing to address the amendment.

Mr. HART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back on the amendment?

Mr. HART. I yield back the remainder of my time.

Mr. SIMPSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 837) was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 838

(Purpose: To review and analyze the Loss-of-Fluid Test research program results)

Mr. McCLURE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 838.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6 after line 13, add the following new section: Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with Section 101(a)(4) of this Act, for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The technical review and analysis shall be for the purpose of developing and recommending to the Commission appropriate revisions to Appendix K to Part 50 of the Commission's regulations in accordance with the Loss-of-Fluid Test research results. The contract shall provide funding for not less than twenty man-years in each of fiscal years 1982 and 1983 to conduct the technical review and analysis.

Mr. McCLURE. Mr. President, nuclear safety is made up of many factors. Among these are basic research, development, and testing. Basic research, development, and testing provide the underpinnings of the verification required for the computer codes NRC uses to license nuclear powerplants and for the computer codes that industry uses in their design. The loss-of-fluid test facility is the premier facility in the world for doing major testing of the effectiveness of light water reactor emergency core cooling systems. After the Three Mile Island accident, the LOFT facility activities were promptly redirected to examine several problems that could be faced by operating nuclear plants in the event of a small break accident similar to that which occurred at Three Mile Island. The results of that testing at LOFT were new procedures for the operation of the main cooling pumps at commercial nuclear powerplants in the event of a break similar to that which occurred at Three Mile Island. The LOFT facility has proven to be invaluable in assisting in the post-TMI analysis that was done for small breaks and for the work necessary to establish correct responses for commercially licensed plants to similar types of events.

I am concerned, however, that the results of the testing at LOFT have not found their way into the licensing process.

The tests performed at LOFT thus far have confirmed that appendix K to 10 CFR 50, the criteria that NRC uses and has been using for the last 8 years to license the emergeny core cooling systems at nuclear powerplants, is highly conservative.

Appendix K to 10 CFR 50 is the interim criteria that NRC specified for the licensing of emergency core cooling systems pending the availability of the data from the loft facility. This criteria is highly prescriptive and in the absence of a scientific basis was the mortgage that was undertaken by the Federal Government to continue the licensing of nuclear powerplants. The mortgage has been virtually paid through the successful operation and testing at loft.

The intent of my amendment is to require that NRC incorporate the data that it has obtained as well as the lessons it has learned from the operation of LOFT into a revision of the existing appendix K to 10 CFR 50. I think this is necessary to establish the true safety margins that exist in the event that an emergency core cooling system would be required in the event of an accident. In this way the credibility of the licensing process will be enhanced through the proper quantifications of the margins of safety truly available from the safety systems and this should be a first attempt to move NRC to consider the way in which they incorporate their research and development results into licensing criteria.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I am pleased to accept this amendment by my colleague from Idaho. I know how carefully he has followed this issue. Of course, there is excellent research work being done at the loss of fluid test facility (LOFT). Thus far, this research work has established confidence, based upon actual test results, that the Commission's emergency core cooling requirements in appendix K to part 50 of the NRC regulations are in fact very conservative models for plant behavior. The Senator's amendment would carry this important research work one step further by actually applying the LOFT test results to the development of appropriate revisions to the Commission's regulations.

Mr. President, I believe that this is a worthwhile effort and that it will lead to an improved and more accurate set of regulatory requirements. I commend the Senator from Idaho for this amendment, and I am pleased to accept it on behalf of the majority.

I yield to the Senator from Colorado for any comments.

Mr. HART. Mr. President, I support the arguments of the Senator from Wyoming and aline myself with his position on this matter and urge the adoption of the amendment.

Mr. McCLURE. Mr. President, I yield back our time.

The PRESIDING OFFICER. Does the minority also yield back his time?

Mr. HART. I yield back my time.

Mr. McCLURE. I call for the question.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 838) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 839

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Kentucky (Mr. FORD) for himself, Mr. SIMPSON, Mr. HART, Mr. MITCHELL, Mr. CRANSTON, and Mr. LEVIN, proposes an unprinted amendment numbered 839.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, after line 23, add a new section to read as follows:

SEC. —. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete.

(b) The Commission shall conduct a study of alternate concepts and existing programs for improving quality assurance and quality control performance in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees holding construction permits and operating licensees for nuclear powerplants, and the Advisory Committee on Reactor Safeguards. The study shall include, but not be limited to, the following alternative concepts for improving quality assurance and quality control:

(1) adopting a more prescriptive approach to defining principal architectural and engineering criteria for the construction of commercial nuclear powerplants that would serve as a basis for quality assurance and quality control, inspection, and enforcement actions;

(2) requiring, as a condition of the issuance of construction permits for commercial nuclear powerplants, that the licensee demonstrate the capability of independently managing the effective performance of all quality assurance and quality control responsibilities for the plant;

(3) encouraging and obtaining more effective evaluations, inspections or audits of commercial nuclear powerplant construction by independent industry or institutional organizations, based upon best experience and practices;

(4) reexamining the Commission's organization and method for quality assurance development, review and inspection, with the objective of deriving improvements in the agency's program; and

(5) requiring, as a condition of the issuance of construction permits for commercial nuclear powerplants, that the licensee contract or make other arrangements with an independent inspector for auditing quality assurance responsibilities for the purpose of verifying quality assurance performance. An independent inspector is a third party who has no responsibilities for the design or construction of the plant.

The study shall also include a survey of representative sites at which quality assurance and quality control programs are operating satisfactorily, and an assessment of the reasons therefor.

(c) The Commission shall undertake a pilot program to review and evaluate programs underway that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation: *Provided,* That the pilot program shall include programs underway that use independent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragaph (5) of subsection (2). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which construction, quality assurance and quality control deficiencies have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement this pilot program.

(d) Not later than eighteen months after the date of enactment of this Act, the Commission shall submit a report to the Senate and the House of Representatives on the results of the study and the pilot program required by this section. The report shall include the recommendations of the Commission, including any necessary legislative changes, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control performance in the construction of nuclear powerplants.

Mr. FORD. Mr. President, the amendment I am offering is directed toward the growing problem of inadequate construction of nuclear facilities in the United States today, a problem caused by poor quality assurance/quality control programs on the part of the licensees and their contractors, and by poor safety inspection on the part of the Nuclear Regulatory Commission. The amendment attempts to establish for the first time procedures and mechanisms to correct this intolerable state of affairs.

At this moment, it is very possible that nuclear plants are being built in such a way that they present a danger to the public health and safety. Of utmost concern to me is that fact that two of them border on the Commonwealth of Kentucky and will impact heavily on my State if an accident should occur.

Perhaps the most recognized example is Diablo Canyon in California. At this reactor, sited near an earthquake faultline, blueprints for units one and two designating where supports should be built to withstand stress from earthquakes were switched. Consequently, if you can imagine such a thing, unit one supports have been put in the wrong place. The NRC voted in November to suspend Pacific Gas & Electric's fuel-loading and low-power operating license for unit one until the utility satisfactorily completes an extensive seismic design verification program. The NRC also wants the company to reexamine its quality assurance program.

At the Zimmer facility in Moscow, Ohio, the NRC's Chicago regional office failed to act on reports raised over 1 year ago, of faulty construction practices, including charges of improper pipe welding. Fortunately, the allegations were pursued by a concerned public interest group and last November both the Chairman of the NRC and the head of the Office of Inspector and Auditor admitted that the NRC had indeed been derelict in its duties, relying too heavily on the utilities to check the work of their contractors. Cincinnati Gas & Electric has been fined $200,000 for a widespread breakdown in its quality assurance program. Among the rules violated were falsification of records supposed to supply evidence that quality work was done, and harassment and intimidation of quality control inspectors by construction workers.

Although significant construction deficiencies have not been identified, the fact that the lack of sufficient quality assurance could result in serious problems has prompted the NRC to require the establishment of a comprehensive quality confirmation program to determine the quality of plant systems important to nuclear safety. Deficiencies identified by these programs will require resolution prior to issuance of an operating license.

Zimmer, I might add, is just on the other side of the Ohio River from Kentucky.

Then, Mr. President, there is the matter of Marble Hill at Madison, Ind., 100 miles away from Zimmer and only 30 miles from Louisville, the largest city in Kentucky. For years I have been trying to make sure that construction work there was being done properly so that the facility would be the safest possible. Briefly, allegations were made at Marble Hill in early 1979 that concrete used in the reactor-containment building and in an auxiliary building was improperly patched and therefore substandard. After these claims were verified, the licensee attempted to improve its construction practices, but eventually had to shut down its safety-related work. Only after the insistence of myself and others did the NRC finally issue a stop-work injunction and initiate an investigation. Work was resumed earlier this year after about 1½-years' delay, but not until substantial improvements were required in the licensee's quality assurance and quality control programs.

In every one of these cases there is a clearly established pattern of fault. The utilities of this country simply must accept the serious responsibility of building safe nuclear facilities and must recognize the significant difference between building a coal-fired plant and a nuclear powered generator. Neither they nor their contractors can ignore the unique problem involved. Shortcuts cannot be taken; mistakes must be thoroughly corrected, not covered up. Management and workers on the site must realize that quality assurance/quality control programs are not established to harass them and impede their work. Finally, the NRC must inspect more closely the construction of nuclear plants. They must, in fact, be relentless in their oversight duties.

The amendment I offer today takes a stride toward the goal of safe commercial nuclear powerplant construction. First, it authorizes and directs the Nuclear Regulatory Commission to accelerate its resident inspector program so as to assure by the end of 1982 the assignment of at least one resident inspector at each site at which a plant is under construction and more than 15 percent complete.

Second, it directs the Commission to conduct a study of ways to improve quality assurance and quality control programs. In doing so, the NRC shall solicit the comments of the public, industry and the Advisory Committee on

Reactor Safeguards. The study is to include, but not be limited to, the concepts of, first, adopting narrower definitions of principal architectural and engineering criteria that would serve as a basis for QA/QC, inspection and enforcement actions; second, requiring as a condition for the issuance of construction permits that the licensee demonstrate its capability to independently perform all QA/QC responsibilities; third, encouraging more effective inspections or audits of commercial nuclear facilities by independent industry and institutional organizations; fourth, reexaming the NRC's own organization and method for quality assurance development, review and inspection, with the objective of deriving improvements in the agency's programs; and fifth, requiring as a condition of the issuance of a construction permit, that the licensee contract or make other arrangements with an independent inspector for auditing quality assurance responsibilities for the purpose of verifying quality assurance performance.

Third, and finally, the Commission is directed to undertake a pilot program for assessing the feasibility and benefits of implementing one or more of the above-mentioned concepts, providing that the pilot program shall include the use of independent, third party inspectors for auditing quality assurance responsibilities of the licensee. The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. One must be a site at which QA/QC programs have operated satisfactorily and two must be sites at which significant construction and QA/QC deficiencies have been identified in the past.

No later than 18 months after this legislation is enacted, the Commission is to submit a report to the Congress on the results of the study and the pilot program. The report shall include the recommendations of the Commission, including any necessary legislative changes, and a description of any administrative changes that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control performance in the construction of nuclear powerplants.

In addition to tightening QA/QC programs and upgrading the safety oversight role of the NRC, a direction in which, I am pleased to note, the agency is already moving, this amendment emphasizes a dimension I have long advocated—the participation of third parties. As I mentioned earlier, my efforts were successful in having independent engineers placed at Marble Hill to insure that previously unnoticed flawed concrete was properly repaired.

Increased inspections by independent industry and institutional organizations, and the use of independent inspectors for auditing all QA/QC verification responsibilities not only offer a system of checks and balances by providing a third layer of safety monitoring, they also perform another function—that of bolstering the public's confidence in nuclear energy. Problems such as those that have occurred at Diablo Canyon, Zimmer, and Marble Hill have further eroded whatever trust in nuclear industry and its regulators the public had left after Three Mile Island. If we are going to have nuclear energy in this country it must be safe—safely constructed, safely operated, and its waste must be safely disposed. Nothing less is acceptable. It is not too much to ask that the public health and welfare be protected to the maximum extent possible.

I believe my amendment is acceptable to the managers of the bill. It has been drafted in consultation with the Nuclear Regulatory Commission. Since the House has already held hearings on the problem of inadequate safety procedures at nuclear powerplant construction sites, I hope that the amendment will be retained in conference. I urge the adoption of my amendment.

Mr. President, I ask unanimous consent to have printed in the Record an article from the Lexington Herald-Leader of February 28, 1982.

There being no objection, the article was ordered to be printed in the Record, as follows:

Nuclear Plants Radiate Concern Around State

(By Carol Marie Cropper)

Mentor.—An Ohio utility begins on Monday what could be the final step before it activates a long-delayed, $1.25 billion nuclear plant on Kentucky's northern border.

But the probable completion this year of the first of five nuclear plants near Kentucky coincides with the virtual halt to the once-rapid expansion of America's nuclear power industry.

Members of the Nuclear Regulatory Commission will be in Cincinnati on Monday to begin the final public hearings on whether the William H. Zimmer nuclear power station should be granted a license to begin operation.

If the NRC's answer is "yes," the Zimmer station, which looms across the Ohio River from this Campbell County town, could begin turning steam heated by a nuclear reaction into electricity as early as this summer. And thousands of Kentuckians will for the first time be close enough to a nuclear power plant that they may have to be evacuated in case of a nuclear accident. Utility spokesmen, however, say such an accident is highly unlikely.

Residents of parts of three Northern Kentucky counties—Campbell, Pendleton, and Bracken—will be within 10 miles of Zimmer, the area that would face evacuation in case of a serious nuclear accident.

Part of northern Fayette County and most of the counties northeast of Lexington are within a 50-mile radius of the plant, a zone where officials say food could be contaminated during a leak at Zimmer.

NRC estimates Zimmer could be licensed to begin low-level operations this summer, when it would become one of the few recent additions to the nation's list of operating nuclear generating plants.

Fifty-six nuclear power plant projects were canceled between fiscal 1975 and the end of 1981, according to the NRC. Soaring building costs combined with lower-than-expected electricity demands caused many utilities to reconsider plans to join the nuclear power boom of the 1960s, an NRC spokesman said.

Nevertheless, it is possible that Zimmer could be joined by as many as four other plants within 50 miles of Kentucky in the next few years.

Although Kentucky won't have any nuclear power plants, state Disaster and Emergency Services has made plans for dealing with potential problems at the five nearby plants:

Zimmer, near Moscow, Ohio, which will be operated by Cincinnati Gas & Electric Co.

Marble Hill, near Madison, Ind., and across the Ohio River from Trimble County, a $4.3 billion two-unit electricity producer. The first unit is expected to open in 1986, with the second unit arriving in 1987.

Parts of Trimble and Oldham counties will be in the plant's 10-mile evacuation area. Almost 1 million Kentuckians, including Louisville and Frankfort residents, will be in the 50-mile zone.

Phipps Bend, north of Knoxville on the Tennessee-Virginia border. The Tennessee Valley Authority said it spent $981 million on the planned two units before deciding last August to halt construction because of lower-than-expected growth in customer demand for electricity. If the plant is ever completed, parts of seven southeastern Kentucky counties—Harlan, Letcher, Knott, Pike, Perry, Leslie and Bell—will be in the 50-mile zone.

Hartsville, about 50 miles northeast of Nashville, near Hartsville, Tenn. In 1979, TVA deferred two of the four units, and the utility's directors are expected to decide at their March 4 meeting whether to defer the other two units. Part or all of nine Bowling Green-area counties—Warren, Logan, Simpson, Allen, Barren, Edmonson, Metcalfe, Monroe, and Cumberland—would be in the plant's 50-mile zone.

Clinch River, a government-industry experiment planned near Oak Ridge, Tenn. This new kind of nuclear power generator—a breeder reactor—was put on hold under the Carter administration, but President Reagan supports the $3.2 billion venture. If built, the plan would produce electricity at the same time it makes plutonium 239, which would be fuel to produce more electricity. The target opening date is September 1988. Parts of five Kentucky counties—Wayne, McCreary, Bell, Whitley and Knox—would be in the 50-mile radius.

Kentucky officially said "no" to nuclear power during former Gov. Julian Carroll's administration. Thomas E. Little, DES director of operations, said Carroll made it clear that nuclear plants were not wanted in Kentucky.

The no-nukes policy has continued under the Brown administration, he said, but the state has been powerless to stop construction of the two plants on its border and the other three plants nearby.

Kentucky tried unsuccessfully to prevent the NRC from issuing a construction permit at Marble Hill, but the state's position seemed related more to the plight of Kentucky coal than to concerns about the safety of Kentuckians.

John U. Bott Jr., nuclear regulation and affairs manager for Public Service Indiana, which is building the plant, said, "Their (Kentucky officials') contention was that we should use low-cost Kentucky coal."

Little added, "Let's face it. Nuclear plants don't burn coal."

The most visible evidence of the arrival of the nuclear age in the Ohio Valley is the Zimmer station's 479-foot water tower, which can be seen for miles along the Kentucky banks of the Ohio.

Reed Shaw, 70, of Mentor, whose hometown is in the plant's shadow, said he thinks he and his neighbors could not escape fast enough if there was a radiation leak.

Even if a leak never comes, Shaw said, Mentor residents already have lost. His 64-acre farm used to be worth $100,000, he said. "Now, I can't get $50,000 for it."

About 70 miles to the west in Trimble County—Bedford, the county seat and home to 800 people—is just eight miles from Marble Hill.

Jack Greenwood, editor of the Trimble Banner Democrat, said narrow roads would make evacuation impossible.

"I don't see any reason for the people of Trimble County or Kentucky to safeguard themselves from something that's bad that's going to benefit some other state," he said.

Not everyone in Bedford complains. L. E. Smith, who works at the local Chevron station, said the plant is providing jobs for local citizens and there's "nothing you can do about it no way."

Gen. Wilbur Buntin Jr., executive director of the state DES, said his staff has prepared evacuation plans for Kentuckians living near Zimmer and will develop similar plans for any other nuclear plant built within 50 miles of the state line.

Thick books describe the state's plans to evacuate the 29,000 people living in Zimmer's 10-mile zone to nearby Mason, Harrison, Grant and Boone counties.

Four rooms at the DES office building in Frankfort are equipped with phones to Zimmer, maps and a computer terminal printing out information such as the wind directions at Zimmer and the rate of radiation release. (If a dangerous radiation leak occurred, it probably would be a release into the air, DES officials say.)

But DES officials said the public's perception of the dangers of nuclear energy are exaggerated.

"I think a misconception that really causes the public a lot of problems is that a nuclear power plant is going to blow up and you're going to have to run for your life," Little said. "That is almost inconceivable."

Even if radiation leaked into the atmosphere, DES officials said, there would almost certainly be time to evacuate people before they were contaminated by radioactive material.

"Radiation is just not as scary as a lot of people would have you believe," Little said.

The officials at Marble Hill and at Zimmer agreed.

Jeff Godsey, a 28-year-old staff engineer at Zimmer, pointed to yard after yard of buttons and warning lights in the control room and explained how the system is designed to detect and automatically begin correcting anything from a change in water pressure in the nuclear reactor to an increase in radiation levels leaving the plant's vents.

There is a provision for manual override and there are numerous combinations of buttons to push.

But the most interesting buttons are four red ones, two sitting on either side of the main reactor panel. Those buttons are a kind of emergency provision. If pushed, they shut down the reactor.

Godsey described how the pellets of radioactive uranium would be housed in metal rods, bundled inside a steel reactor vessel, how all that would be contained in one concrete enclosure that is housed inside the reinforced concrete reactor building.

At Marble Hill, the reactor building sits on 10 to 12 feet of concrete that was poured on top of a solid rock foundation, said Brad Bishop, media services supervisor for Public Service Indiana. The silo-shaped building that sits on that foundation and will house the nuclear reactor is built of steel with a 4-foot-thick concrete wall outside and two interior walls that add another 10-12 feet of reinforced concrete around the reactor, he said.

These buildings are designed to withstand earthquakes and tornadoes, plant officials said. They must be strong enough to survive the crash of a commercial jetliner, according to the NRC.

The safety features built into the two plants are obviously massive, expensive and intricate.

But nuclear power opponents and some of the Kentucky residents who will live near the plants point to problems at Three Mile Island and other, nuclear-power plants as proof that the safeguards can fail.

"They got a nasty surprise at Three Mile Island," said Henry W. Kendall, a physics professor at the Massachusetts Institute of Technology and one of the founders of the Union of Concerned Scientist, a group opposed to nuclear power. "Things that they thought were impossible were happening."

Past nuclear power plant accidents have not been caused by such dramatic events as earthquakes or bomb explosions but by breakdowns inside the plant that allowed radioactive steam or water to escape from the maze of pipes that circulate in the reactor building.

Nuclear power advocates argue that after 25 years of nuclear power plant operations, there has yet to be an accident that resulted in a single death.

Robert Gray, chairman of the board of directors of Save the Valley, Inc., a group made up primarily of Kentucky and Indiana residents that has opposed Marble Hill, argued that it was just a matter of time.

"There is a major nuclear accident out there. It's statistically very likely. . . . We will see dead bodies."

Kendall argues against the assertion that radiation from a nuclear power plant is not that dangerous. If the ultimate nuclear power disaster—a meltdown—occurred, Kentucky's 10-mile evacuation zone will not be enough, he said.

"In a major nuclear accident, every child that was within 50 miles downwind would be likely to develop thyroid cancer. . . . The radiation effects extend downwind 300 to 400 miles from the plant . . . to the extent where it would raise the incidence of cancer and birth defects."

Opponents also say Marble Hill and Zimmer may be especially accident-prone.

Both plants have been heavily criticized during their construction.

Construction of safety-related areas of the Marble Hill plant halted from August 1979 until April 1981 while the NRC investigated complaints of defective concrete construction at the plant. The NRC eventually decided there were no significant defects, but Marble Hill had to upgrade its quality control.

"We didn't have enough properly qualified people with sufficient nuclear construction experience to make sure the project was going along properly," Bott said.

Construction problems at Zimmer also have made headlines. The NRC admitted last year that an earlier investigation into such charges by its own agency was faulty. The NRC fined CG&E $200,000 in November 1981 for failures in the quality assurance program at the plant. Last Wednesday, CG&E agreed to pay rather than appeal.

"We do agree that deficiencies existed in implementing our quality assurance program, and in exercising sufficient surveillance over our construction contractor, the Henry J. Kaiser Co., but we believe that we have fully corrected these deficiencies," CG&E President William Dickhoner said.

An NRC report released in 1981 rated both Zimmer and Marble Hill construction below average, but officials at both plants argued that those ratings were based on problems that have since been corrected.

Mary and Don Reder are two former schoolteachers who now spend their time representing Mentor in its fight against Zimmer. They will resume their battle Monday, when the hearings start again.

They will argue, as they have argued before, that the proposed evacuation plans to get Kentucky schoolchildren and farmers out of the Zimmer area will not work.

For people like the Reders, Buntin of the DES said, there is a solution.

"If I lived in that area and I was as much afraid of what's going on as, for instance, the Reders appear to be, then I'd simply move."

Mr. SIMPSON. Mr. President, I am pleased to accept and support this amendment and to join as a cosponsor. Indeed, over the past several months, the Commission has identified a number of quality assurance and quality control problems at several nuclear powerplant construction sites. I believe that this amendment provides an important step toward addressing these problems by strengthening NRC's resident inspector program and by exploring a number of alternatives to improve quality assurance performance.

First, the amendment requires that NRC have a least one resident inspector at each nuclear powerplant construction site by the end of fiscal year 1982.

Second, the amendment requires a study of existing programs and alternate concepts for improving quality assurance and quality control performance in the construction of nuclear powerplants. Five such alternate concepts are specified in the amendment.

Third, the amendment calls for a pilot program consisting of programs now underway to gain actual experience with one or more of these concepts at at least three construction sites.

The concepts that are required to be studied under the amendment include the development of a more precise approach to defining criteria for plant construction, similar to the technical specifications that are now developed for plant operation; and the requirement that a licensee demonstrate the ability to independently perform quality assurance and quality control responsibilities for the plant. Under the latter concept, the Commission would determine the point at which a licensee would be required to demonstrate this capability, and the means by which this capability would be demonstrated. One such means, for example, that would fit this concept is owner certification by the American Society of Mechanical Engineers, which can now be granted after the plant is 15 percent completed.

A third concept to be studied is the more effective use of inspections and audits by independent industry and institutional organizations. Such organizations might include the Institute of Electrical and Electronic Engineers, the American Society of Mechanical Engineers, and the Institute for Nuclear Power Operations. In fact, Mr. President, the Institute for Nuclear Power Operations has recently begun a program that provides for the establishment of criteria for evaluating nuclear powerplant construction quality assurance and quality control, and for audits to verify compliance with these criteria.

This industrywide program is a promising step toward improving quality control and quality assurance in the construction of nuclear powerplants, and may well be the best option for bringing much needed improvement to this area. I believe the industry is to be commended for this initiative, and I believe the Commission should pay particular attention to this concept in developing its requirements and recommendations in the area of quality assurance and quality control.

Finally, the amendment would require the study of the concepts of improving the Commission's organization for quality assurance review, development, and inspection, and of requiring the use of independent, third-party inspectors for auditing and verifying quality assurance performance. Programs now underway at several sites that involve the use of third-party inspectors for auditing quality assurance performance would be included as part of the pilot program.

Mr. President, I would like to provide one clarification on the selection of sites to be used for the pilot program. The amendment requires that at least one must be a site at which quality assurance and quality control programs have operated satisfactorily, and at least two must be sites at which construction, quality assurance, and quality control deficiencies have been identified in the past. As I understand it, this requirement is intended to provide information on a range of sites, for the purpose of assessing past quality assurance performance, corrective measures that have been undertaken where deficiencies have been found, and the effectiveness and appropriateness of ongoing programs for third-party auditing, and other alternate concepts, at these sites.

This requirement is not intended to characterize sites as good or bad in terms of their present quality assurance programs. Thus, mere selection for the pilot program in either category should not be interpreted as an indication that a site has an acceptable or unacceptable quality assurance program. In addition, I believe it is the intent of the sponsors of the amendment that the amendment be implemented so as to avoid delays or disruptions in plant construction, particularly with respect to the pilot program.

Mr. President, I believe the amendment is an appropriate step toward correcting the types of quality assurance problems that we have seen in recent months, and I am pleased to cosponsor the amendment.

I thank the distinguished Senator from Kentucky for his fine work on this amendment. I believe that he has made a most valuable and thoughtful contribution with the amendment, and he has been most cooperative and helpful on the issue as has his staff.

I have no further comments with regard to the amendment. I certainly endorse its approval.

Mr. MITCHELL. Mr. President, I rise as a cosponsor of the amendment introduced by Senator FORD which would strengthen the quality assurance and quality control programs at nuclear powerplants under construction.

The Ford amendment mandates that, by the end of fiscal year 1982, at least one resident inspector be assigned to each site at which a commercial nuclear powerplant is under construction and where construction is more than 15 percent complete.

The amendment also requires the NRC to conduct a comprehensive study of alternate concepts and existing programs for improving quality assurance and quality control performance in the construction of commercial powerplants.

Two of the alternate concepts which the NRC would be required to study are, one, obtaining more effective evaluations, inspections, or audits of powerplant construction by independent organizations; and two, requiring, as a condition of the issuance of construction permits, that the licensee contract or make other arrangements with an independent inspector to verify quality assurance performance.

The amendment would also provide for the establishment by the NRC of a quality assurance pilot program for at least three sites. The pilot program must include the alternate concepts under study. It must also include projects underway that use independent inspectors for auditing the quality assurance responsibilities of the utility.

The amendment is a forceful response to the continuing disclosures of design errors and construction mishaps at plant construction sites around the country. As NRC Chairman Palladino stated in a speech before the Atomic Industrial Forum:

> Some utilities fall short of protecting their own best interests and meeting the high standards expected for nuclear power. Their deficiences in quality assurance are inexcusable. There have been lapses of many kinds—in design analyses, resulting in built-in design errors; in poor construction practices; in falsified documents; in harrassment of quality control personnel; and inadequate training of reactor operators.

The example of a lapse in quality assurance and quality control most often referred to is the discovery in November 1981 of numerous errors in the design and calculations for the Diablo Canyon project. But there have been others, as well, less publicized but equally important.

In late November 1981, the NRC proposed a fine of $200,000 against the Cincinnati Gas & Electric Co., for sloppy quality assurance during construction of its $1.25 billion Zimmer plant. In announcing the fine, James Keppler, NRC regional administrator, stated, "I can't tell you there aren't other Zimmers out there."

In January 1982, the NRC proposed a fine of $500,000 against Boston Edison for alleged safety violations at its Pilgrim nuclear powerplant. The NRC staff reported the alleged violations reflected "a lack of management review and attention that is manifested by such problems in design, maintenance, and operating practices." Boston Edison was accused of failing for 2½ years to meet Federal standards on a system which is designed to remove explosive hydrogen gas from the reactor building in the case of an accident.

It is in the best interests of utilities, as Chairman Palladino stated, to meet the high quality assurance standards required of them. It pays to meet these standards because it costs if they are not met. But there is an inherent conflict of interest in this area that one cannot ignore. That is the conflict caused by the fact that the utility building the plant is also responsible for the plant's quality assurance. Cutting corners to save money on construction can often mean cutting corners on safety regulations.

The Ford amendment attempts to minimize this conflict of interest by upgrading and increasing NRC efforts in this critical area. The amendment provides a meaningful alternative to the string of disclosures and the string of fines.

The amendment also provides quality assurance before the fact, in effect before the utility has spent a prodigious amount to build the plant. In the process, it may save the utilities a lot of headaches, expensive delays in construction time, and costly fines. More importantly, it will place safety before development, and thereby better protect the public health and safety.

● Mr. LEVIN. Mr. President, I would like to congratulate my colleague from Kentucky for proposing such a constructive amendment to the Nuclear Regulatory Commission authorization bill. As a cosponsor of this amendment, I would urge my colleagues to accept this prudent step.

One of the major problems facing the nuclear power industry is the increasing lack of public confidence in the safety of nuclear power. For years we were told that no accidents were possible—until accidents started occurring. Regulators told us their guidelines were foolproof—until it was discovered that major errors had occurred. I believe the amendment offered by Senator Ford could help both prevent mistakes and assure the public that quality control will be required. Under such a program, the utility building a nuclear plant, the NRC, which must license and regulate nuclear powerplants, and the public paying for and living next door to the plant can see if it meets all quality requirements.

In my State of Michigan there has been a certain amount of mistrust concerning the quality control of a nuclear plants. Those building plants have assured us that they will be safe. What better way to verify quality control than to have such a plant participate in a new system of independent inspectors?●

The PRESIDING OFFICER. Do the mover and manager of the bill yield back their time?

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Colorado?

Mr. HART. Mr. President, I have time I think under the time agreement of my own on the bill or on this amendment.

The PRESIDING OFFICER. Does the Senator wish to use time on the bill?

Mr. SIMPSON. Mr. President, we are on the Ford amendment. There is a time agreement on the Ford amendment which is now being used.

The PRESIDING OFFICER. The Parliamentarian advises me that under the terms of the time agreement, the time for the Ford amendment is actually controlled by the Senator from Kentucky.

Mr. FORD. Mr. President, I yield such time as the distinguished Senator from Colorado might need of my 30 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. HART. I thank the Senator.

Mr. President, I am a cosponsor and strongly support this amendment offered by the distinguished Senator from Kentucky.

The amendment will begin the much-needed task of upgrading the quality control and quality assurance programs at nuclear powerplants under construction. I agree with him on the importance of this effort. I congratulate him for offering this amendment.

I aline myself very strongly with it and urge its adoption.

Construction deficiencies, and inadequacies in licensees' quality assurance/quality control programs, have long plagued the U.S. commercial nuclear power program. The recent disclosure of serious construction errors at the Diablo Canyon powerplant, and the $200,000 fine levied by NRC against Cincinnati Gas & Electric for having an inadequate QA/QC program at its Zimmer powerplant, indicate these problems have not disappeared and, in fact, may have gotten worse.

NRC Chairman Palladino strongly criticized the nuclear industry for construction deficiencies and inadequacies in its QA/QC programs. He said:

> Public health and safety considerations as well as economic imperatives dictate use of the highest professional standards in building and operating a nuclear plant. When construction or operation falls below the highest standards, the entire industry is hurt * * * A number of deficiencies at some plants have come to my attention which show a surprising lack of professionalism in the construction and preparation for operation of nuclear facilities. The responsibility for such deficiencies rests squarely on the shoulders of management * * * If the nuclear industry does not do its part, no amount of regulatory reform will save it from the consequences of its own failures to achieve the quality of construction and plant operations it must have for its own well-being and for the safety of the public it serves. Based on quality assurance failures that have recently come to light, I am not convinced that all of the industry has been doing its part.

In addition to the lack of professionalism in some cases, noted by Chairman Palladino, the quality control efforts by utilities also will suffer from a flawed regulatory philosophy: An inherent conflict of interest arises because the utility constructing the powerplant, which naturally seeks to minimize construction costs, also has the responsibility for assuring and controlling the quality of construction—efforts that could increase the total cost of the project.

I support the Ford amendment because it seeks to minimize the inherent conflict of interest that results when the utility building the powerplant bears responsibility for assuring the quality of construction. In particular, the amendment directs the NRC to study alternate concepts for improving quality assurance and quality control in the construction of powerplants. The study must specifically consider requiring, as a condition for construction permits, that the utility contract with an independent, third-party inspector for quality control verification.

Perhaps more important, the Ford amendment would establish a pilot program for at least three sites where powerplants are under construction to assess the benefits of using independent third-party inspectors to perform the utility's quality assurance and quality control verification responsibilities. The assessment under this pilot program is one that the Congress should have required the NRC to make long ago. I appreciate the work of the distinguished Senator from Kentucky in encouraging the Senate to address this weakness in the U.S. commercial nuclear power program. I urge the acceptance of this amendment.

Mr. FORD. Mr. President, I thank the distinguished Senator from Wyoming (Mr. Simpson) and the distinguished Senator from Colorado (Mr. Hart) for their support of this amendment.

No two Senators and their staff could work any closer with us and our staff. I think we have an outstanding amendment here that heads us in the right direction as it relates to the safety of our nuclear generating facilities.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Wyoming yield back his time as well?

Mr. SIMPSON. Mr. President, yes, I do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 839) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, will the Senator yield me some time on the bill?

Mr. SIMPSON. Mr. President, I believe I have very limited time remaining on the bill.

May I have a review of that, please?

The PRESIDING OFFICER. The manager of the bill has 5 minutes and 42 seconds remaining on the bill itself.

Mr. SIMPSON. How much time does my colleague from Colorado have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 30 minutes remaining.

Mr. HART. Mr. President, there apparently is some desire on the part of a number of Senators to speak under time on the bill. The Senator from Pennsylvania first requested time, and I am prepared to yield time to him. I wonder if the Senator from Idaho could tell me how much time he is requesting?

Mr. SYMMS. About 5 minutes, I would say; 3 minutes might do it.

Mr. HART. I yield not to exceed 5 minutes to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I wish to thank my good friend from Colorado for yielding me the 5 minutes.

I thank him and the distinguished chairman of the committee, the Senator from Wyoming, for their efforts to bring this bill to the full Senate.

Mr. President, I am in support of this bill.

There are a number of significant provisions in the bill, as reported by the Environment and Public Works Committee that I would like to mention briefly. I believe that these provisions will have a positive impact in terms of enhancing safety, and at the same time should result in real improvement, in regulatory efficiency in the nuclear powerplant licensing process.

First, the bill designates funding for several NRC safety programs. These include reactor safety research work on fast breeder reactors, including support for the licensing of the Clinch River Breeder Reactor; safety research and licensing review work on high-temperature, gas-cooled reactors; and research work related to the loss-of-fluid test facility. This facility, in particular, Mr. President, has provided extremely useful information to the Commission, the nuclear industry, and the public on the validity of the NRC's requirements for nuclear reactor emergency core cooling systems, and the bill would permit this valuable work to go forward over the next 2 years.

Second, the bill grants to the Commission the authority to issue interim operating licenses for new nuclear powerplants through 1983. I believe this provision is particularly essential to insure that there will not be unnecessary delays in the operation of new plants that are unrelated to significant safety issues. Even though there has been considerable fluctuation in the projected delays for these plants, the potential for costly and unnecessary delays remains a possibility until the present licensing backlog is removed. The bill, as reported by the committee, eliminates this potential in a responsible manner that assures the continued protection of the public health and safety.

Third, the bill would remove a requirement for advance hearings on certain power reactor license amendments that could serve as a source of costly delay and disruption of plant operation. This provision allows those license amendments that the Commission determines do not involve significant safety issues to be put into effect before any requested hearing is held. Again, this provision, while preserving the opportunity for a hearing, assures that plant operations will not be disrupted in those cases where there is no serious safety question involved.

I believe that these budgetary and reform measures serve as an important first step in improving the efficiency and effectiveness of the nuclear regulatory process in this country, and I strongly support passage of the bill.

Mr. President, I yield back the remainder of my time.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

THREE MILE ISLAND

Mr. SPECTER. I thank the distinguished Senator from Colorado for yielding me this time.

Mr. President, in the consideration of this bill I believe that a substantial analysis is required of the pending problems of Three Mile Island in the Commonwealth of Pennsylvania as they relate to the broader national aspects of the development of nuclear energy.

The incident at TMI on March 29, 1979, has adversely affected Pennsylvania in at least two ways: First, higher electric rates for both home and industry; and, second, an uneasiness about the safety of citizens living near nuclear-generating plants.

This has resulted in a depressed economy for the TMI area and stimulated an active concern about safety by groups of citizens.

Beyond the immediate impact of Three Mile Island on the Commonwealth of Pennsylvania, the Three Mile Island incident has had, I suggest, a serious effect on the development of nuclear energy around the Nation.

I believe it is imperative that an immediate answer be found for the problems at TMI if there is to be any realistic possibility of developing nuclear energy in this Nation.

An accident such as that at TMI could have happened anywhere, and it is only a matter of happenstance that it occurred in Pennsylvania. Had the nuclear industry anticipated such a problem I think there would have been a widespread movement to create an insurance fund with companies owning nuclear plants, contributing a small amount of money based on an insurance principle so that in the event of such an accident there would have been a fund to pay for cleanup.

That, unfortunately, was not done in advance. Once the accident occurred it is obviously difficult to get the industry to do retroactively what would have been much easier to do prospectively.

Senator HEINZ and I and others have introduced legislation in Congress, and Governor Thornburgh of Pennsylvania has move ahead with an innovative plan. But any successful effort is going to require substantial participation by the Federal Government, and is going to require substantial participation and assistance by the Nuclear Regulatory Commission.

As we consider this bill, I think Congress should attend to the problem at TMI and work in a unified way to provide a national solution to that problem because it is realistically a national problem and one which has to be solved if there is to be further development of nuclear energy in the United States.

There must be appropriate assurances of safety, there must be appropriate assurances that in the event of accident there will be a proper response to see to it that those in the area are properly cared for and properly taken care of.

I thank the Senator from Colorado for yielding the time. Mr. President, I yield the floor.

UP AMENDMENT NO. 840

Mr. SIMPSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes an unprinted amendment numbered 840.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, after line 13, add a new section 105 to read as follows:

"Sec. 105. Funds authorized to be appropriated under this Act shall be used by the Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of safety goals and accompanying methodologies for their application should be expedited to the maximum extent practicable and shall precede, unless the Commission decides otherwise, the issuance of other regulations contemplated by the Commission that could affect engineered safety features, siting requirements, or emergency planning.".

Mr. SIMPSON. Mr. President, I am offering this amendment which, if adopted, will require the NRC to move forward expeditiously with the establishment of a safety goal for nuclear reactor regulation. Last year, this body adopted a similar provision as part of the NRC authorization bill for fiscal year 1981. Unfortunately, that provision was not enacted due to the failure of the House to act on that legislation.

As you know, Mr. President, an unprecedented number of new regulatory requirements for nuclear powerplants has resulted from the accident at Three Mile Island. Included among the major regulatory initiatives that the Commission has undertaken are rules to alter siting requirements, expand the current design bases for nuclear reactors, and change emergency planning requirements. While I strongly support the NRC's efforts to upgrade these and other safety requirements, I am concerned that there is a persistent lack of criteria and objectives to provide a coherency and direction to the definition of new regulatory requirements and of their application to existing and future nuclear powerplants.

To assure reasonable protection of the health and safety of the public, the quality of the structures, systems, and components of nuclear powerplants must be designed, engineered, built, and operated in order to achieve the desired degree of performance.

We have this absence of a safety goal, and I think that inhibits and may preclude addressing the threshold question of whether a particular new requirement is necessary to achieve the desired level of safety and such determinations must be made on a case-by-case basis without clear and consistent guidance from the Commission on the standards that should be applied and we need to correct that.

Succinctly then, Mr. President, the best approach toward identifying the desired level of safety for nuclear power reactors is the establishment of a "safety goal." Indeed, the NRC's Lessons Learned Task Force, in its report following the accident at Three Mile Island, emphasized the importance of a safety goal in achieving a balanced regulatory perspective, a view echoed by the Kemeny and Rogovin reports as well. As recently as September of last year, the Commission's Advisory Committee on Reactor Safeguards, in commenting on the staff's proposed rule on reactor site criteria, reiterated its support for establishment of a safety goal when it stated that:

> The decision on reactor site criteria should not be made in the absence of either some guiding safety philosophy or sufficiently specific design requirements for nuclear powerplants.

It is in light of these recommendations, Mr. President, that I am proposing that NRC move forward swiftly with the establishment of a safety goal. The amendment I offer today provides that, unless the Commission should decide otherwise, the development and promulgation of a safety goal should precede other major rulemaking activities related to engineered safety features, siting requirements, or emergency planning. By placing high priority on the establishment of a safety goal and methods for its application, the NRC will then have laid the essential groundwork for the adoption of requirements related to engineered safety features, siting, and emergency planning.

I urge the support of the amendment.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, along with Senator SIMPSON, in the past I have supported the idea of a safety goal which this amendment is directed toward.

To some extent that goal will provide a benchmark for NRC safety regulations and lead to a consistent regulatory scheme.

At the same time, perhaps I am not as sanguine as the Senator from Wyoming about how useful such a goal will be for two reasons: First, it is extremely difficut to quantify subjective assessments of comparative risks, and to determine how much risk we consider acceptable; and, second, even if the NRC can develop a quantified safety goal, it is equally difficult to apply that goal in specific regulatory decisions. How will some general assessment of acceptable risk, even in numerical terms, help the NRC to decide whether to require, for example, additional warning sirens for an emergency plan, additional training for a powerplant operator of an additional few inches of concrete in a containment wall? The simple answer to that question, Mr. President, is I just do not know.

I do think a safety goal will serve as a useful vehicle for debating "how safe is safe enough," the chronic nuclear power issue. Moreover, it will at least provide a general objective that we hope NRC's safety regulations will achieve.

In spite of those reservations, Mr. President, I endorse and support the amendment of the Senator from Wyoming and I urge its passage.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. I thank the Senator and yield back the remainder of my time on the amendment.

The PRESIDING OFFICER. Does the Senator from Colorado also yield back his time?

Mr. HART. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 840) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 841

Mr. SIMPSON. Mr. President, I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) for himself and Mr. HART, proposes an unprinted amendment numbered 841.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, after line 19, insert a new section to read as follows:

SEC.—. (a) The Atomic Energy Act of 1954, as amended, is amended by adding a new section 237 to read as follows:

"SEC. 237. Resident Inspectors.—

a. Notwithstanding any regulations promulgated by the President pursuant to Section 5724(a) of Title 5, U.S.C., appropriations or other funds available to the Nuclear Regulatory Commission for administrative expenses are available, under such regulations as the Commission may prescribe and to the extent considered necessary and appropriate, for reimbursement of all or part of the following expenses of a resident inspector of the Commission, relocating between two NRC duty stations, for whom the Government pays expenses of travel and transportation under Section 5724(a) of Title 5, U.S.C.—(1) Points or morgtage loan origination fees charged by mortgage lender to resident inspector on sale or purchase of a residence, not to exceed the lessor of $8000 or 8 percent of the sale price of the residence (8 points); (2) Interest on, and other expenses of, a "bridge" or "swing" loan, limited to 180 days of interest, taken by the resident inspector on currently owned property to provide an equity advance to purchase a second property prior to the sale of the first property; (3) The cost of an owner's title insurance policy paid for by the resident inspector on a residence purchased by him.

b. The Commission is authorized to enter into contracts for the provision of relocation services to assist employee resident inspectors for whom the Government pays expenses of travel and transportation under Section 5724(a) of Title 5, of the United States Code, in relocating between duty stations, including assisting in the sale of employees' residences.

c. Notwithstanding the provisions of Section 638a of Title 31, the Nuclear Regulatory Commission may authorize the Executive Director for Operations to approve the use of Government-owned or leased vehicles located at resident inspection offices for transportation of resident inspectors between their domiciles and official duty stations, when public transportation is unavailable or impractical.".

(b) Of the amounts authorized to be appropriated by this Act, the Commission may use up to $1,162,000 in fiscal year 1982 and up to $1,129,000 in fiscal year 1983 pursuant to the authority contained in subsection (a) of this section.

Mr. SIMPSON. Mr. President, one of the principal recommendations that each of the major investigations into the accident at Three Mile Island was that the Nuclear Regulatory Commission should expand its resident inspector program. That was a consistently threaded-through observation. The Congress responded by authorizing and appropriating funds for expanding this vital link in the Commission's improved safety program. The resident inspector provides a continuing Commission presence onsite at nuclear power reactors. These inspectors are well versed in their sites' characteristics, nuclear technology, and the licensee's procedures and personnel. They monitor day-to-day activities and licensee performance and they are available to respond quickly to events which could affect public health and safety, both onsite and in the local area. The Commission's goal is to have a resident inspector at each operating power reactor and each reactor under construction by the end of fiscal year 1982.

The Commission insures impartiality of these inspectors; first, by relocating each inspector every 3 to 5 years and, second, by restricting certain activities of the inspector and the inspector's family to avoid even the appearance of a conflict of interest. These restrictive measures include the prohibition of family members from working for the licensee or the licensee's contractors, which are often the principal employers in the area, and the prohibition of other forms of contact with licensee or licensee contractor employees.

As a result of these requirements, as well as of NRC's difficulty in competing with private industry to provide salary, incentives, and other benefits, the Commission is experiencing difficulty in recruiting and retaining the highly trained and competent individuals needed to make the resident inspector program effective. Thus, the Commission may not be able to meet its goal of having an inspector at each operating power reactor and at each reactor under construction by the end of fiscal year 1982.

One major obstacle in meeting this objective is the financial cost involved in relocating, especially in light of very tight housing and financial markets. While some of these costs are reimbursable under current government statutes and regulations, a significant share must still be borne by the relocating inspector. A second problem area involves the costs of commuting between the resident inspector's residence and the nuclear reactor site. The resident inspector's commuting costs present a unique problem converse to those of other Federal employees because of several factors: First, the remoteness of many nuclear sites; second, the frequent unavailability of public transportation; and third, one of the restrictions placed on the inspector, which prohibit carpooling with licensee employees or using licensee-subsidized transportation.

It is to these two areas of concern—relocation costs and commuting costs—that the amendment is directed. The amendment, if adopted, would authorize the Commission to first, reimburse resident inspectors for mortgage loan origination fees, owner's title insurance, and "Bridge" loan expenses incurred in relocating between duty stations; second, contract with a "relocating service" to assist resident inspectors in relocating between duty stations; and third, provide resident inspectors with government transportation for commuting purposes between their homes and duty stations. The amendment also places a cap on these reimbursements to assure they will not exceed $1,162,000 in fiscal year 1982, and $1,129,000 in fiscal year 1983.

So that is the purpose of the amendment. Throughout our entire deliberations, since I have been on this committee and subcommittee, both as ranking minority member and as chairman, the resident inspector became the single most important inspector at recreating and creating confidence in nuclear power generation.

I urge support of this amendment that would insure that the Commission will fully implement this vital safety and health program.

Mr. HART. Mr. President, I support and cosponsor the amendment by the Senator from Wyoming. The resident inspector's program is necessary to improve the protection of public health and safety, as outlined by the Senator from Wyoming. This provision removes some of the difficulty in attracting resident inspectors.

The NRC can meet its goal of having a resident inspector at every operating plant by the end of the fiscal year.

This is a worthwhile and important amendment. I urge its adoption. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Wyoming also yield back his time?

Mr. SIMPSON. I do yield back my time on that amendment, Mr. President.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 841) was agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. How does the Senator wish the time for this quorum call to be charged?

Mr. HART. Mr. President, I ask unanimous consent that the time for the quorum call not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

Mr. SIMPSON. At this point, Mr. President, I ask unanimous consent that an amendment by the Senator from Pennsylvania (Mr. HEINZ) be in order to be offered when the Senate resumes consideration of the pending business, which is S. 1207, but not prior to Monday, March 29.

I further ask unanimous consent that this agreement be subject to the minority leader's approval and may be vitiated by the minority leader at any time prior to the close of business tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I have no further amendments to this bill today. We shall return to its consideration as I have just suggested, when we shall take up two other amendments under the previous time agreement, also.

I appreciate the patience and cooperation of the ranking minority member of the subcommittee (Mr. HART).

Mr. President, at this time I believe we are able to return to the consideration of other business.

The PRESIDING OFFICER. Without objection, S. 1207 will be set aside.

REGULATORY REFORM

The PRESIDING OFFICER. The clerk will state the pending business.

The legislative clerk read as follows:

A bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

The Senate resumed consideration of the bill.

Mr. TOWER. Mr. President, the economic recovery program as originally proposed by President Reagan consisted of four major goals: tax reduction; control of Government spending; a consistent monetary policy; and reduction in the burden of Government regulation. We have made and continue to make great strides in all of these areas. The Economic Recovery Tax Act of 1981, reductions in the growth rate of Federal spending, and more stabilized growth in the money supply through the annual monetary targets set by the Federal Reserve Board all are steps toward the goals mandated by the American people.

Today we continue our progress with consideration of the Regulatory Reform Act, S. 1080. While this legislation is not intended to be a comprehensive reform of the entire regulatory process. It focuses in depth on the procedures for rulemaking and for judicial review of agency actions. The provisions of S. 1080 are a positive step in alleviating one of the greatest concerns of American citizens in all walks of life—unnecessary and costly Government regulations. Too often these regulations have been propounded without appropriate consultation with those affected and without responsible analysis by the agencies involved. The regulatory analysis procedures of the bill establish a framework for rulemaking that should produce regulations more in tune with the goals they are intended to accomplish.

I commend the distinguished chairman of the Judiciary Committee, Mr. THURMOND, and the distinguished chairman of the Governmental Affairs Committee, Mr. ROTH for their expeditious action in reporting S. 1080. In addition, I congratulate the chairman of the Judiciary Subcommittee on Regulatory Reform, Mr. LAXALT, and the ranking member of that subcommittee, Mr. LEAHY, the primary sponsors of this bill, for the great efforts that they and their staffs have made in order to put together the comprehensive consensus version of this very fine bill. The fact that 81 Senators have sponsored or cosponsored S. 1080 attests to the success of their labors. I make these statements not intending to overlook any of my colleagues who have helped assemble this long-awaited bipartisan regulatory reform package.

Mr. President, no one will deny that we must remain committed to important national goals such as integrity in our securities markets, consumer and worker protection, and safety, and clean environment. On the other hand, the American people have been unequivocal in their indictment of regulatory excesses. Unnecessary Government regulation and paperwork is curtailing our productivity and increasing the inflationary burden for all Americans. The estimates of the cost of regulation vary from economist to economist, but the overall conclusion is the same: Compliance with Federal regulations is expensive for American businessmen and consumers. And in the end, it is the consumer that foots the regulatory bill.

The initial aim of Government involvement was the achievement of certain social, health, safety, and business goals to be accomplished from the prudent investment of the taxpayers' dollars in an effective regulatory scheme. Unfortunately, performance fell short of the promise. Ill-conceived regulations have become excessive. Now the public focus has shifted to hard realities: There is an exorbitant cost to the American taxpayers in terms of reduction in efficiency, increased paperwork, delays, and inflation in a period of economic stagnation. The choice is clear: We must make the regulatory process an aid rather than an impediment to the achievement of appropriate Federal goals.

There already has been much progress made in the area of getting Government "off the backs" of Americans. President Reagan has made the Office of Management and Budget a watchdog for regulations promulgated by executive branch agencies through issuance of Executive Order 12291. Under this new order, executive agencies are prohibited from issuing major regulations unless the potential benefits to society outweigh the estimated costs. In addition, all regulations must be sent to OMB for review, evaluation, and clearance prior to being published. The administration's regulatory policymaking has been centralized under the Task Force on Regulatory Relief headed by Vice President Bush. The task force was established soon after the President took office, and has been instrumental in soliciting citizen input and help in highlighting areas for improvement and change in the regulatory scheme. In summary, the Reagan administration established its program of regulatory relief as a top priority, and indicated its willingness to work with the private sector on potential solutions.

S. 1080 can serve as the legislative cornerstone upon which future consideration of the entire spectrum of regulatory reform issues can be constructed. The bill will codify the area of regulatory analysis and centralize the procedures for rulemaking by executive and independent agencies.

The heart of S. 1080, regulatory analysis of major rules, is a process by which agencies must publicly evaluate the tradeoffs of their regulatory proposals to improve their effectiveness and reduce their costs. It is important to distinguish the regulatory analysis of S. 1080 and the cost-benefit analysis that critics of regulatory reform often attribute to the Regulatory Reform Act. Cost benefit analysis would make provision for only a strict dollars and cents comparison of the benefits and burdens of major rules. Regulatory analysis is a much broader concept, and allows agencies to take account of societal benefits that many times are the most important goals of regulation but that may have no tangible economic measurement. "Benefit" and "cost" are defined in the act to mean significant benefits and costs, including direct and indirect social and economic benefits and costs.

This bill addresses one of the central challenges of administrative law—how to insure that Federal agencies comply with the law and execute their missions fairly and effectively. Through a balance of limited judicial and Presidential oversight, it will serve to increase agency accountability. By updating our administrative procedures to meet the regulatory challenges of today, we can improve the effectiveness of Federal regulation while eliminating its unnecessary burdens. This legislation is long overdue, and I look forward to its prompt enacement.

Mr. DOLE. Mr. President, I rise today to express my strongest support for S. 1080 the Regulatory Reform Act of 1981. At the heart of this bill is a requirement that agencies evaluate, on a nonmathematical basis, the tradeoffs of major rules to determine that such rules are worth their costs. This "regulatory analysis" requirement grew out of a bill I introduced in February of last year, S. 405, which was cosponsored by Senators SIMPSON, DECONCINI, and HEFLIN. I introduced S. 405, and a similar proposal in the 96th Congress because I felt it merely commonsense that agencies promulgate only those rules which are cost effective. More importantly, I knew that with the imperiled shape of our economy, we could no longer afford to expend money and resources on administering and complying with rules and regulations which would not prove to be ultimately beneficial. Through the diligent efforts of the members and staffs of the Judiciary Committee and the Governmental Affairs Committee, this commonsense notion of regulatory analysis was incorporated into S. 1080 and the bill now stands ready for passage. By passing S. 1080, we will at last signal to the American people that we are attempting to bring under control the regulatory monster we have created. I urge my colleagues to make every effort to insure its prompt approval by the Senate.

THE ECONOMIC IMPACT OF FEDERAL REGULATION: WE MUST HAVE REFORM

We must recognize that the problems of Government regulation are related to other national problems. By imposing costs on the private sector, Federal regulation can raise prices without a corresponding increase in productivity. Further, many regulations impair the ability of industries to compete, reduce worker's real income, and destroy jobs. The result: Government regulation has and continues to contribute to two major problems of our day—that of inflation and stagnated economic growth.

Over the past several years, regulations attempting to prescribe our behavior in an incredible range of areas have poured out of Washington. And this growing body of Federal regulations has been accompanied by a corresponding ignorance of the complete range of effects produced by the regulations. This ignorance has often resulted in unexpected costs and other adverse effects which threaten to undermine the salutary goals of appropriate regulation.

Over the past decade, billions of dollars of private and public spending have been required to administer and comply with literally thousands of detailed regulations. In 1970, the Federal Register, through which these regulations are published, contained a total of 20,036 pages: By 1979, the number had increased to 77,497 pages. Expenditures by major regulatory agencies rose from $1.6 billion in 1970 to $8.2 billion in 1979, and the number of full-time agency personnel employed by the Federal Government during the same time period jumped from 28,000 to 87,000.

Moreover, the money and resources spend on administering these regulations have paled in comparison to the costs of compliance. A study done by the Tax Foundation concluded that the cost to the consumer of complying with Federal regulations in 1976 was $62.9 billion, amounting to more than $300 for every man, woman, and child living in the United States. By 1979, that estimate rose to $102.7 billion, amounting to more than $400 for every man, woman, and child. Further, a study conducted by the Center for Study of American Business in the late 1970's indicated that the annual cost of filling out Federal paperwork alone came to between $26 and $32 billion.

Federal regulation has aggravated our already extreme rate of inflation. It has also interfered with the competitive initiatives of the free marketplace, and contributed to economic stagnation, by impairing the profit-making incentives upon which our economy is based. Of course much of this regulation has resulted in social and economic benefits, but we have become increasingly aware that these benefits are not being achieved without cost. We must finally recognize that we cannot embark upon a program of regulation unconcerned by its possible adverse ramifications. Too often, regulations have been promulgated to achieve only an incremental social or economic benefit and at the same time have yielded a plethora of unforeseen, and many times, unconsidered economic, and social costs.

To be sure, regulatory reform has become a hallmark of the new administration's economic recovery program, and through the diligent efforts of our President and Vice President, the tides have changed. However, even with these efforts, Federal expenditures for regulatory activities alone in fiscal year 1982 are estimated to be nearly $7.4 billion. Clearly, we in the Congress are in large part responsible, and we cannot expect the executive branch to battle the growth of unwarranted Federal regulation alone.

WE HAVE CAUSED THE PROBLEM AND THEREFORE MUST BE COMMITTED TO REFORM

Beginning in the 1960's, we in the Congress worked to give all Americans a clean environment, safe consumer products, a safe working place, protection from deceptive merchandizing, and many other protections which in previous years were the responsibility of either the private sector or government at the local level—in the cities, counties, and States. We pursued these goals by identifying a particular problem in legislation, stating in often general and ambiguous statutory terms the policy of Congress toward that problem, and then creating a Federal agency and authorizing it, again often in the broadest terms, to regulate the area in question.

But by creating agencies with such broad statutory authority, we passed on to them the authority and responsibility to make, in the form of administrative regulations, the kinds of policy and value judgments which properly we should have made. We delegated authority to the agencies to achieve multiple, and often inconsistent, objectives. We wanted them to reduce certain risks to health, safety, or environmental quality while avoiding, or at least minimizing, the adverse impact on the subjects of agency regulations, be they industry, consumers, or the Nation, at large.

As a result of this broad delegation of authority, agencies have been forced to make a range of conflicting, yet extremely significant value choices about various aspects of our national life, without meaningful guidance from the elected representatives of the people. As Judge Bazelon wrote in 1977:

> Traditionally, in democratic societies, it is elected legislatures that make the hard value choices . . . increasingly, however, our legislatures have been delegating their value choices to administrative agencies—institutions which cannot resolve value conflicts through the relatively simple expedient of a show of hands.

In light of the complexities of today's society, we cannot, of course, remove rulemaking authority from our Federal agencies. We can, however, pass legislation such as S. 1080, to shape the discretion of Federal agencies and to provide the legal guidelines to channel agency action along the sound policy course we set. Such action would be welcome relief, not only for our frustrated citizens, but also for the agencies themselves, which suffer from the absence of clear congressional guidance in their daily work.

S. 1080 AND REGULATORY ANALYSIS: A BASIC AND NEEDED REFORM

The Senator from Kansas believes that regulatory analysis is one technique we must adapt for administrative rulemaking. By shaping agency decisionmaking through a requirement that rulemaking include a cost-benefit analysis, Congress can reestablish its dominant role as overall policymaker for our regulatory system and help to bring the detrimental economic effects of Federal regulation under control.

The regulatory analysis requirement contained in the bills which I introduced in this and the last Congress, and now contained in S. 1080, is based on several obvious conclusions about what must be the reasonable policy for Federal regulation. First, it is undeniable that a rational regulation must have an ultimately beneficial impact. To plot a course for this goal, an agency just like any private enterprise, must evaluate and compare the anticipated benefits, costs, and other adverse effects of a proposed rule.

Further, it is critical that the public participate in any cost-benefit analysis. Obviously, the people who will be affected by a rule often have the best appreciation of its impact. Efficient and fair regulation requires that these people be heard and that an agency be able to take advantage of their expertise.

Finally, it is crucial that judicial review and executive oversight play a vital role in the rulemaking process, acting as a reasonable check on the necessary discretion of agency officials. Cost-benefit analysis must, therefore, be subject to judicial scrutiny and executive oversight to insure that statutory guidelines are followed and that public comment is not ignored.

Mr. President, it does not require any arcane sophistication to appreciate that the regulatory analysis requirement of S. 1080 is simply commonsense. When deciding what we do in our daily lives, we all consider the tradeoffs of the alternatives with which we are presented. It may not be a formal process, but our minds certainly weigh what may be called the benefits and costs of how we choose to spend our time. Similarly, Federal agencies must consider the ramifications of alternative courses of action. This bill simply requires Federal agencies to go through this process of identifying the advantages and disadvantages of their proposed regulations under public scrutiny and with public participation.

Though S. 1080 is certainly not a cure-all, it is well-considered regulatory reform in its most basic sense. It addresses one specific regulatory problem which has been universally recognized—the excessive costs of Federal regulation. It proposes a streamlined remedy—a procedure for agencies to identify and avoid those excessive costs. In essence, it is an effort to improve our regulatory system by avoiding the often inadvertent but excessive adverse effects of regulations.

S. 1080 is an obvious and practical step forward and I call for its expeditious enactment into law.

Mr. LAXALT. Mr. President, I yield to the distinguished senior Senator from Vermont.

Mr. STAFFORD. Mr. President, my understanding is that my colleague (Mr. Leahy) for me, Senator Laxalt, and several others, is about to offer an amendment to the pending legislation.

UP AMENDMENT NO. 842

Mr. LEAHY. Mr. President, I send to the desk the amendment on behalf of myself, Mr. Roth, Mr. Laxalt, Mr. Randolph, Mr. Eagleton, and Mr. Stafford, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. Leahy), for himself, Mr. Roth, Mr. Laxalt, Mr. Randolph, Mr. Eagleton, and Mr. Stafford, proposes an unprinted amendment numbered 842.

On page 21, after line 24, insert the following new subsection:

"(g) The requirements of this section do not alter the criteria for rulemaking otherwise applicable under other statutes.

Mr. LEAHY. Mr. President, I am introducing this amendment on behalf of Senators Laxalt, Roth, Eagleton, Stafford, Randolph, and myself. The amendment provides that the requirements of section 622 "Do not alter the criteria for rulemaking otherwise applicable under other statutes." I make this statement for myself, Senators Laxalt, Eagleton, and Roth. I understand Senators Stafford and Randolph will also be making statements on this amendment.

Mr. President, the purpose of this amendment is to clarify the relationship of the regulatory analysis determinations required in section 622 of S. 1080 to rulemaking standards established in other statutes. Though the committee reports on S. 1080 and the explanation of the consensus substitute for S. 1080 accurately express the intent of this legislation, this amendment attempts to make this intent explicit on the face of the statute itself.

S. 1080 is a procedural reform bill. Enabling statutes are the source of substantive standards for rulemaking decisions, and nothing in this legislation alters the standards for rulemaking under those substantive statutes. It is those statutes, not this legislation or even the Administrative Procedure Act which are the sources of agency authority to initiate, complete, or terminate a rulemaking, or to promulgate, amend, or rescind a rule. This bill does not change that authority. S. 1080 does, however, impose certain additional requirements upon the regulatory decisionmaking process toward the goal of improving decisions made pursuant to these other statutes. Yet this procedural regulatory reform will not disturb current agency rulemaking authority or standards mandated by Congress in other substantive regulatory legislation.

The regulatory analysis of S. 1080 creates a framework for agency implementation of its enabling statute. This framework does not change the continuing requirement that agencies must abide by their statutory standards. The regulatory analysis determinations of S. 1080 do not require agencies to base their decisions on factors which are inconsistent with or precluded by those other standards. The regulatory analysis framework will require the agency to lay out the regulatory questions it confronts clearly, describe the assumptions made in various approaches to analyzing the particular problem, isolate factors of importance under particular enabling statutes, and justify the proposed action in terms of its anticipated effects.

To borrow a concept used by Justice Cardozo nearly 50 years ago, the regulatory analysis framework of S. 1080 "canalizes" the rulemaking discretion given to an agency by the parameters of congressional delegation of rulemaking authority to an agency. This framework shapes and directs this discretion, but it cannot enlarge rulemaking discretion, giving an agency the power to do that which the substantive standards in an enabling statute prevent it from doing.

The boundaries of the agency's discretion are set up by the underlying substantive statute. To use a more modern analogy to Justice Cardozo's reference to a canal, the regulatory analysis of S. 1080 keeps the agency in the center lane, rather than allowing it to veer off onto the shoulder. S. 1080, as made clear by this amendment, will not permit an agency to enter territory uncharted by Congress in its enabling statute.

S. 1080 already addressed the question of when the regulatory analysis determinations of section 622 (c)(2)(E) and (d)(2)(B) are to apply, that is, "where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting." Outside of establishing this general principle, it has never been our intent that this language should suggest particular statutes that would be by necessary implication inconsistent with or preclude the regulatory analysis determinations of S. 1080. Our explanation of the consensus substitute for S. 1080 fully and accurately explains this provision.

Mr. President, this amendment clarifies the different point that, when these determinations do apply they do not change the continuing requirements of other legislation.

Mr. President, as I mentioned earlier, this amendment is to clarify that we are not in any way, through S. 1080, trying to make a back-door or front-door effort to alter environmental laws or other laws we depend on so much in this country.

Mr. President, I yield to my distinguished senior colleague.

Mr. STAFFORD. Mr. President, I am pleased to be one of the cosponsors of this amendment. Senators Laxalt, Leahy, Roth, and Eagleton are the coauthors of the text of S. 1080 that we are considering today. This amendment responds to concerns that Senator Randolph, the distinguished ranking minority member of the Committee on Environment and Public Works, and I expressed over some of the provisions in S. 1080. I am grateful to the coauthors of the bill for their cooperation and for the conscientious efforts of their staffs in working out this amendment and helping us clarify the underlying issues.

The purpose of this amendment is to clarify the relationship of the procedural regulatory analysis described in subsections 622 (c) and (d) of S. 1080 to rulemaking standards established in other, substantive statutes. The amendment is especially important in that it will clarify and reinforce the intent of the language in 622(c)(2)(E) and 622(d)(2)(B) regarding express or necessarily implied requirements of other statutes.

S. 1080 is a procedural reform bill, Mr. President. It is clear, however, that it has the potential to influence the outcome of rulemakings. This amendment is intended to insure that agency officials and the courts understand that the provisions of S. 1080 do not change the criteria that other statutes have set forth as the basis for establishing standards and regulations.

Nowhere is the possibility of S. 1080 being read to alter criteria in other laws more dangerous than in its requirement that proposed major regulations be subjected to an analysis of costs and benefits. The limitations of formal cost-benefit analyses are well known, and are well articulated in the committee reports accompanying S. 1080. They include the difficulty of predicting costs and quantifying benefits. The legislative history makes clear that the bill is not intended to require a strict cost-benefit analysis. If the qualifications and caveats described in the committee reports are taken into account in those cases where costs and benefit reviews are required to be performed, the reviews could be helpful policymaking tools.

There are several instances, however, in which Congress did not expect comparisons of costs and benefits to be made in setting standards. Many of these instances occur in the environmental legislation falling under the jurisdiction of the Committee on Environment and Public Works; other such standards are present in health, safety, and civil rights legislation.

In these cases, the Congress has identified policy objectives to be elaborated and defined more fully in agency regulations and has signaled its intent, often by refusing to include costs as a factor to be weighed, that no calculation of costs, or comparisons of costs and benefits are to be considered in promulgating those regulations.

Some of these statutes, in addition to standards, contain provisions calling for regulations designed to help the Nation achieve the absolute environmental, health, or other objectives contained in the statute. In establishing these regulations, costs and benefits may often be appropriately considered.

Yet, in some of these operational regulatory regimes, Congress also intended that cost-benefit calculations play only a limited role, if any. For example, at times Congress has required an agency to promote the use of the best technological means to fight a national problem, understanding that the costs and benefits of the technologies available to prevent or cure the problem cannot be accurately compared. In these cases, Congress has again excluded costs from its list of criteria to be taken into account and has entrusted to the agency a primarily technical determination of the best means available.

Some operational provisions do instruct the rulemaking agency to take costs into account. Even here, however, the Congress has not intended in every instance that costs be taken into account in the manner suggested by the provisions of the consensus substitute of S. 1080. In some cases Congress intended no more than—in the words of a court reviewing one such standard—that the cost of the standards not be grossly disproportionate to the health and environmental degradation they are designated to prevent; and not that the benefits justify the costs, or that the standards adopted be more cost-effective than alternatives.

In these instances the analysis required under section 622(c)(2)(E) and the determination under 622(d)(2)(B) would alter the criteria applicable to rulemaking under the enabling statutes because these requirements of S. 1080 would be inconsistent with the express or necessarily implied terms of the other statutes.

Mr. President, the authors of S. 1080 have repeatedly stated that it is their intent that the bill not alter the substantive bases prescribed by other statutes for determining standards. This amendment will help insure that their intent is carried out.

Mr. RANDOLPH. Mr. President, I am pleased to cosponsor this amendment, along with the able chairman of the Committee on Environment and Public Works, and my other colleagues, Senators LAXALT, LEAHY, ROTH, and EAGLETON. Senator STAFFORD has accurately and cogently described both the concerns that prompted the amendment's introduction and its ameliorating effects.

In brief, the amendment will help assure that the procedural reforms made by S. 1080 do not interfere or intermingle with the substantive standards of other statutes and that those substantive standards are neither restricted nor enlarged through procedural means. I know this is what the authors of S. 1080 originally intended and I am encouraged by and appreciative of their willingness to cosponsor this clarifying amendment.

Mr. STAFFORD. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I yield back my time on the amendment and move its passage.

Mr. LAXALT. Mr. President, in amplification of what my colleague, Mr. LEAHY, had to say and also, Senator STAFFORD, let us make abundantly clear that the thrust of S. 1080 is procedural. What it does is reach the process; there is no intent here to reach the substance of organic statutes like clean air. In our discussions with Senator STAFFORD and Senator RANDOLPH and many others, to allay any concerns that they may have at this time, the thrust of this amendment is to record, once and for all, the fact that S. 1080 does not intrude substantively in any organic area.

Mr. LEAHY. I agree completely with the distinguished chairman of the subcommittee, Mr. President. That is the purpose of the amendment.

Mr. LAXALT. Mr. President, I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 842) was agreed to.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the amendment was agree to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I ask unanimous consent that Leonard Spector and Leonard Weiss, of Senator GLENN's staff, be granted the privilege of the floor during consideration of S. 1080.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Katherine Cudlipp of the Environment and Public Works Committee be granted the privilege of the floor during consideration of S. 1080.

The PRESIDING OFFICER. Without obection, it is so ordered.

UP AMENDMENT NO. 843

(Purpose: To require an agency to include in a preliminary regulatory analysis a statement identifying any source of funds available from the Federal Government to pay certain costs incurred by State and local governments)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Mr. SASSER, for himself, Mr. SPECTER, and Mr. DURENBERGER, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) on behalf of the Senator from Tennessee (Mr. SASSER), Mr. SPECTER, and Mr. DURENBERGER, proposes an unprinted amendment numbered 843.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, between lines 19 and 20, insert the following:

"(D) a statement—

"(i) identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the proposed rule; or

"(ii) specifying that the agency does not know of any such source;".

On page 18, line 20, strike out "(D)" and insert "(E)".

On Page 19, line 1, strike out "(E)" and insert "(F)".

Mr. LEAHY. Mr. President, this amendment adds to the preliminary regulatory analysis a statement identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the rule, or specifying that the agency does not know of any such source.

● Mr. SASSER. Mr. President, I am pleased that the Regulatory Reform Act is under consideration this early in the session. As an original cosponsor of S. 1080, I commend Senators ROTH, EAGLETON, LAXALT, and LEAHY for their leadership in bringing this legislation to the floor.

I also thank them for agreeing to accept my amendment to S. 1080 which will improve consideration of the intergovernmental regulatory costs impacts in the course of an agency rulemaking.

Regulatory impact for State and local governments should, in my opinion, be calculated whenever an agency contemplates issuance of a major rule. These costs should certainly be taken into consideration with the potential benefits of a proposed rulemaking.

Compromise language requiring that a Federal agency's preliminary regulatory analysis describe the benefits and cost of a proposed rule for "particular levels of government" is found in section 622, on page 18, lines 2 and 9 of amendment 640, the consensus amendment. I also draw your attention to section 553, page 3, line 14, which has language requiring that proposals from State and local governments be sought by the agencies for alternative rules to accomplish the objectives of a rulemaking more effectively than the proposed rule, or in a less burdensome way.

This language is helpful as far as it goes, but my amendment does improve on the consensus amendment, My amendment restores language requiring that Federal agencies identify any known sources from funding from the Federal Government that could be used to defray the costs of proposed Federal regulations that might be imposed on State and local governments.

I am pleased to note that my distinguished colleagues, Senator SPECTER and Senator DURENBERGER, are joining me in sponsoring this amendment to strengthen the State-local regulatory cost estimate requirement in the Regulatory Reform Act.

Senator SPECTER is, of course, sponsor of S. 1225, the State and local Regulatory Cost Estimates Act. His bill, though similar in effect to the provisions that we would like to add to the Regulatory Reform Act, covers agency regulatory activities which are beyond the scope of S. 1080.

In summary, our amendment adds much needed language to S. 1080 which will assist State and local governments in determining how their budgets will be affected by Federal regulations and it will permit the Congress to determine possible Federal assistance that can help State and local agencies meet these regulatory costs when and if they should occur.

Mr. President, intergovernmental relations between Federal, State, and local government will be improved by this amendment to the regulatory reform bill. I am pleased to move passage of this amendment.●

● Mr. SPECTER. Mr. President, I am very pleased by the progress that has been made both in the Judiciary Committee and the Governmental Affairs Committee toward instituting regulatory procedures designed to improve Federal agency awareness of the cost impacts of intergovernmental regulation. Creating such a realization was one of my primary goals in introducing S. 1225, the State and Local Regulatory Cost Estimates Act.

This awareness is very important. Especially now, when State and local governments are feeling the pinch of the Federal aid slowdown and the unstable national economy. We just cannot continue to impose expensive intergovernmental regulations with no thought given to their price tag or just how other levels of government are expected to foot the bill.

In city after city, county after county, and State after State, we continue to receive reports of major cost impacts in annual budgets as a result of Federal mandates.

In most of these cases, there is absolutely no argument about the commendable objectives of the rules, and the laws they interpret, but the spotlight must be turned on the unrealistic expectation and unreasonable costs routinely shifted by agencies onto other levels of government.

For example, I turn to the testimony of Bernie Hillenbrand, the executive director of the National Association of Counties, which was made part of the hearing record on the Regulatory Reform Act. In his testimony, he noted:

> The Urban Institute published the results of a study it completed on the impact of federal rulemaking in six major program areas: Clean Water Act Amendments . . . ; amendments to the unemployment insurance compensation act; bilingual education requirements, education of the handicapped (children); transit accessibility requirements for the handicapped; and Davis-Bacon.
>
> Seven jurisdictions were used to compile the information. Excluding administrative or overhead costs, operating costs under five of the six programs totaled $51.9 million in 1978, or $19 for every resident of the participating jurisdictions, the capital costs incurred totaled $113.5 million.
>
> When capital outlays were amortized over a twenty year period at 8 percent interest and then added to the operating costs, the per capita costs jump to $25.
>
> On the average, this figure represents the same amount, per capita, received by the jurisdiction from the general revenue sharing program. In this sense, GRS simply reimburses local costs in meeting compliance with 5 of 59 crosscutting federal mandates.

What we are asking the agencies to do, then, in the amendment that we are presenting today, is to consider the cost implications of new regulations, and the question of how these costs are to be met, before the rules are handed down to be implemented by State and local governments. We think that more realistic, hence more effective, rules will result.●

Mr. LAXALT. Mr. President, the amendment speaks for itself. As indicated, the thrust of it is to support State and local governments. We support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 843) was agreed to.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay the amendment on the table was agreed to.

UP AMENDMENT NO. 844

(Purpose: To require the Vice President to assure that he will make reasonable efforts to respond to congressional inquiries)

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of Mr. CHILES.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Vermont (Mr. Leahy) for Mr. Chiles, proposes an unprinted amendment numbered 844.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 23, line 19, after the period insert the following: "Any such notice with respect to a delegaton to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this subsection.".

Mr. LEAHY. Mr. President, as will be noted in a statement to be made by Senator CHILES, the purpose of this amendment is to make clear that when the Vice President receives a delegation of executive oversight authority, he shall make every reasonable effort to respond to congressional inquiries concerning the exercise of that authority.

● Mr. CHILES. Mr. President, the purpose of this amendment to section 624 is to make clear that if the Vice President receives a delegation of executive oversight authority, he shall make every reasonable effort to respond to congressional inquiries concerning its use.

That means if a duly constituted committee of Congress asks a Vice President, who has been delegated authority under this section to testify on the use of the executive oversight authority, that person will make every reasonable effort to appear and respond.

Mr. President, I believe the Congress is acting constructively by choosing to explicitly state in this legislation what the President's oversight authority over the major rulemaking process is.

It is important to recognize that in speaking clearly to what the executive authority is and pinpointing where Government-wide responsibility lies, we have strengthened the Congress hand to provide oversight. Congressional oversight is both an ultimate check against executive abuses and an essential force to encourage the climination of unnecessary public burdens and waste in the Government's regulations.

The importance of Congressional oversight is why I believe we should specifically address the Vice President's potential responsibility in this legislation. There is not much of a tradition for Vice Presidential appearances before congressional committees. The Congressional Research Service could find only three such occasions in our national history.

The first instance was in the 66th Congress, on January 17, 1921. Vice President Thomas Marshall appeared before the Senate Committee on the District of Columbia. He testified in favor of the creation in the District of Columbia of a public welfare department to coordinate work of a charitable character.

The second instance was on June 27, 1935, when Vice President John Nance Garner testified before a subcommittee of the Senate Committee on Appropriations considering the Second Deficiency Appropriation Act for 1935. He testified in favor of a $3 million appropriation for the Texas Centennial.

The third occasion was on April 27, 1955, when Vice President Richard Nixon appeared before a subcommittee of the Senate Committee on Appropriations which was considering the appropriation bill for the Departments of State, Justice, and the Judiciary. He testified in favor of restoring $10 million in funds cut from the international educational exchange program and in favor of giving priority to funds for bringing foreign leaders and students to the United States.

As can be surmised, the Congress has not expected the Vice President to participate very often in its committee hearings, much less its oversight activities. The purpose of my amendment is to make clear Vice Presidents who assume a delegation of authority in section 624 of this bill will be expected to participate in congressional oversight proceedings.

Potential delegates other than the Vice President must be subject to Senate confirmation. In their case, the Congress has established a clear tradition for their participation in both oversight hearings and other forms of congressional inquiry.●

Mr. LAXALT. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the engrossment of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (UP No. 844) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. Mr. President, I move to lay that motion on the table.

The motion to lay the amendment on the table was agreed to.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Are there further amendments?

UP AMENDMENT NO. 845

(Purpose: To give the district courts jurisdiction over conflicts in the jurisdiction of regulatory agencies)

Mr. LEAHY. Mr. President, if the Senator from Nevada will withhold, I have an amendment that I should like to offer on behalf of the distinguished Senator from Alabama (Mr. HEFLIN), and I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) on behalf of the Senator from Alabama (Mr. HEFLIN) proposes an unprinted amendment numbered 845.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, between lines 6 and 7, insert the following:

RESOLUTION OF AGENCY JURISDICTIONAL CONFLICT

SEC. 8. (a) Section 2201 of title 28, of the United States Code is amended by inserting "(a)" before "In" and by adding at the end thereof the following new subsections:

"(b) (1) Except as provided in paragraph (3), upon the filing of an appropriate pleading by a regulatory agency or a public utility, the district courts shall have original jurisdiction of any civil action or proceeding to resolve a controversy between two or more regulatory agencies, with respect to jurisdiction to regulate any of the rates, services, or records relating thereto, of a public utility unless all of such agencies are agencies of the same State.

"(2) If any party shall apply to the court before whom the pleading is filed for leave to adduce additional evidence relevant to a finding of jursidiction, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such additional evidence in proceedings before one or more of the regulatory agency parties to the action brought hereunder, the court may order such additional evidence to be taken before any of such regulatory agencies and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper.

"(3) If the courts of appeals have exclusive original jurisdiction to review agency action of a regulatory agency, then an action or proceeding under this subsection with respect to a controversy to which such regulatory agency is a party shall be brought in such court of appeals rather than in the district court.

"(c) The court may declare the rights and other legal relations of the parties to an action or proceeding brought under subsection (b) to the extent necessary to resolve the controversy with respect to jurisdiction and may take any action necessary to maintain the status quo pending such declaration, or pending appeal of such declaration, including staying any civil action or proceeding that might be affected by such declaration. Such action or declaration shall not be withheld—

"(1) on the ground that a controversy with respect to matters other than jurisdiction to regulate may exist between or among the parties,

"(2) due to failure to pursue or exhaust any administrative remedies, or

"(3) due to inconsistent provisions of other statutes providing for judicial review of such agency action, including the regulatory statutes under which the controversy has arisen.

Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

"(d) For purposes of this subsection—

"(1) the term 'State' includes the District of Columbia and any territory or possession of the United States;

"(2) the term 'public utility' is any entity which offers its services to the public or any segment thereof, and whose rates are subject to regulation on a cost of service or rate of return basis by one or more regulatory agencies;

"(3) the term 'regulatory agency' includes any agency having or exercising any regulatory function with respect to any public utility; and

"(4) the term 'agency' means the United States, a State or political subdivision of a State, or any agency or instrumentality of the United States or any such State subdivision or agency.".

(b)(1) Chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2203. Process and procedure

"In any civil action or proceeding under section 2201(b) of this title, (1) the United States or any agency of the United States may join or be joined as a party, (2) any State or State subdivision or agency thereof may join or, with its consent where necessary, be joined as a party, and a district court may issue its process for such purposes without regard to territorial limitations.".

(2) The table of sections for chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"2203. Process and procedure.".

(c)(1) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1409. Public utility jurisdictional controversies

"Any civil action or proceeding for a declaratory judgment under section 2201(b) of this title may be brought in any judicial district in which the public utility resides or has its principal office, or in the United

States District Court for the District of Columbia, except that whenever one or more States or subdivisions thereof or the agencies of a State or a subdivision thereof are parties, the civil action or proceeding must be brought in a judical district within one of such States.".

(2) The table of sections for chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1409. Public utility jurisdictional controversies.".

On page 40, line 8, strike out "Sec. 8." and insert "Sec. 9.".

On page 40, line 17, strike out "Sec. 9." and insert "Sec. 10.".

On page 44, line 14, strike out "Sec. 10." and insert "Sec. 11.".

On page 44 line 14, strike out "9" and insert "10".

On page 45, line 7, strike out "8" and insert "9".

On page 45, after line 8, insert the following:

(e) The amendments made by section 8 shall take effect on the date of enactment of this Act, and shall not apply to any civil action commenced prior to such date.

● Mr. HEFLIN. Mr. President, I applaud the efforts Congress has made in developing a comprehensive reform of the process by which Federal agencies carry out their functions. The need for this legislation is long overdue.

The urgent need for reform manifests itself in many different ways; one of which has been the explosion of civil litigation pertaining to regulated industries. The purpose of the amendment which I now offer is none other than to eliminate the enormous waste of time and money resulting from haphazard and duplicative litigation which occurs when two or more regulatory agencies assert conflicting jurisdictional claims.

Specifically, this amendment would confer upon the Federal district courts authority to resolve expeditiously, at the outset of litigation, controversies arising where two or more regulatory agencies assert conflicting claims of jurisdiction over a particular public utility. Presently there is no judicial mechanism which allows a court to determine at the early stages of litigation which of two agencies has proper jurisdiction over a regulated industry. Often this results in competing and conflicting claims of jurisdiction which cause protracted and unnecessary litigation on multiple fronts. Not only do competing regulatory agencies cause unnecessary litigation to the utilities, but the jurisdictional controversies are also a waste of tax moneys. By amending the Federal Declaratory Judgment Act, this amendment would provide a mechanism for resolution of conflicts which arise when different regulatory agencies assert jurisdiction over regulated utilities.

Mr. President, the impelling demand for this amendment is even greater today than in 1966 when the American Bar Association originated this proposal. And, it is no less urgent now than when Senator Tydings introduced similar legislation in the 91st Congress to eliminate the obstacles to effective utility regulation. Quite simply, our judicial system should not and need not remain overburdened by hundreds of instances of wasted litigation resulting from jurisdictional overlap. Undoubtedly, this amendment is necessary to effectuate improvements in regulatory efficiency.

Mr. President, I wish to thank my distinguished colleague from Nevada, Mr. LAXALT, and also my distinguished colleague from Vermont, Mr. LEAHY, for their guidance and assistance in preparing this amendment. I am also grateful to their competent staffs and especially to John Nash and Bob Cynkar of the Subcommittee on Regulatory Reform and John Podesta of the Subcommittee on Regulatory Reform, Minority, for their hard work.●

Mr. LEAHY. Mr. President, this amendment grants the Federal courts jurisdiction to decide jurisdictional disputes between Federal and State agencies in the public utility area.

The amendment has the strong support of the American Bar Association.

In developing his amendment, Senator HEFLIN met several of my concerns. I believe he has done an admirable job in putting the amendment together. In particular, he has narrowed the scope of the amendment to those agencies which actually do public utility ratemakings and licensings. Therefore, the amendment applies to agencies like FERC and State public utility commissions. The amendment does not apply to general health, safety, and environmental regulations such as EPA decisions, where no special circumstances involving public utilities exist.

I believe in this case the Senator from Alabama has helped considerably. I also want to especially thank Mr. Robert Nordhaus for his guidance and expert help.

Mr. LAXALT. Mr. President, we support the amendment.

Mr. LEAHY. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 845) was agreed to.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there other amendments?

Mr. LAXALT. Mr. President, we are awaiting Senator GLENN, and I suggest the absence of a quorum pending his arrival.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DODD. Mr. President, I commend Senator LEAHY and Senator LAXALT for both their patience and their perseverance in bringing the Regulatory Reform Act to the Senate floor. "Regulatory Reform" has long been advocated by both Democrats and Republicans, but the actual work of rewriting the rulemaking procedures of the Federal Government is an extremely complex and unglamorous undertaking. The Senate owes a debt to both the ranking minority member and the chairman of the Regulatory Reform Subcommittee for addressing this task. Likewise, Senators EAGLETON and ROTH, as the ranking Democrat and chairman of the Government Affairs Committee, are to be thanked and commended for their dedicated contributions to this effort.

I have received a number of inquiries in recent weeks concerning a potential amendment to S. 1080, the Regulatory Reform Act, which I have, for some time, been considering. My proposed amendment would make clear that the Regulatory Flexibility Act is intended to apply to all rules published for public notice and comment that may have a substantial impact on small business.

The Regulatory Flexibility Act requires that agencies, in developing rules that would have a significant impact on a substantial number of small businesses, undertake a regulatory flexibility analysis to determine what that impact might be under alternative ways of implementing the rule. The act imposes, in certain rulemaking procedures, this additional step aimed at increasing the sensitivity among Federal rulemakers to the problems and special characteristics of small business. Unfortunately we have found during the first year of experience under this landmark legislation that a number of Federal agencies consider themselves exempt from these procedures and are refusing to comply with the act. The Department of Defense and the Internal Revenue Service appear to have claimed the broadest exemption and, ironically, through their procurement rules and revenue rules, these two agencies have potentially the largest impact on small business of any Federal agencies.

I believe it is crucial that these claimed exemptions be examined by the Congress and that the legislative intent be clarified. In an effort to stimulate this clarification, I introduced, on March 4, 1982, S. 2170, which would remove from the Regulatory Flexibility Act the technical grounds upon which the DOD and the IRS have based their claims of exemption. Upon introducing this proposal, I wrote Senators LAXALT and LEAHY urging that they hold hearings on this issue and general oversight hearings on implementation of the Regulatory Flexibility Act to date. On March 15 Senators LAXALT and LEAHY responded favorably to my request, pledging to hold such hearings no later than early summer.

I thank the Senators at this time for their sensitivity to the need to conduct this early oversight of the Regulatory Flexibility Act. I believe the need for prompt reconsideration of a number of the act's provisions is heightened by last week's court ruling in Thompson against Watt, which appears to severely restrict small business' ability to obtain judicial relief under the act when an agency refuses to comply with its provisions.

In light of the Senators' commitment to pursue oversight hearings on the Regulatory Flexibility Act in the near future, I intend to withhold my amendment at this time. I am confident that the hearings this summer, or earlier, will reveal a number of refinements needed in the act so that it will effectively meet its objective of enhancing the role of small business in the American economy.

I ask unanimous consent that copies of the correspondence between me and Senators LAXALT and LEAHY concerning S. 2170 and the Regulatory Flexibility Act be entered in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 4, 1982.

Hon. PAUL LAXALT,
Chairman, Subcommittee on Regulatory Reform, Committee on the Judiciary, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to bring to your attention legislation I am proposing today to amend the Regulatory Flexibility Act and to ask that you schedule hearings on this proposal at your subcommittee's earliest convenience.

As I state in my floor remarks on this proposal, I believe it is vitally important that the Congress conduct early and extensive oversight of the implementation of legislation such as the Regulatory Flexibility Act. This Act, which affects rulemaking in all federal agencies and departments, is a landmark both in federal self discipline and in the recognition of the unique character and role of small business in this nation's economy.

The Regulatory Flexibility Act is an attempt to increase the sensitivity of federal rulemakers to the potential impact on small business and other small institutions of government regulations. It attempts to stimulate greater equity between small and large business from the impact of government actions affecting the economy.

My amendment is designed to close a technical loophole being used by several agencies and departments of government to avoid adhering to the act. Hearings in the House of Representatives and the records of the Small Business Administration have revealed a near complete refusal by the Department of Defense and the Internal Revenue Service to conduct the small business analyses required by the Regulatory Flexibility Act on significant rules published for public notice and comment. My proposal would remove the technical grounds upon which the DOD and IRS base their claims of exemption from the Act without altering other, substantive provisions of the Administrative Procedure Act.

I am hopeful that this technical deficiency in the Regulatory Flexibility Act can be considered and corrected promptly by the Congress. The DOD and the IRS have multi-billion dollar effects on our economy annually through their procurement and tax policy activities. Few federal activities have a greater effect on the small business sector than the activities of these two agencies. Their refusal to comply with the Regulatory Flexibility Act reflects an insensitivity, if not a hostility, to the small business community that should not be tolerated by this Congress.

In addition to addressing the specific concern raised by my proposed amendment, I believe that an extensive series of oversight hearings on the Regulatory Flexibility Act would be timely. The Act has been in effect for more than a year. While all of its strengths and weaknesses have not yet been tested, the record should be adequate to provide a substantive basis for the Congress to determine needed corrections. Hearings already held in the House of Representatives have revealed a number of additional issues that merit more extensive examination.

Thank you for your serious consideration of this proposal. I look forward to working with you in bringing about needed changes in the Regulatory Flexibility Act and in insuring effective implementation of the Act by all agencies of the federal government.

Sincerely,

CHRISTOPHER J. DODD,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., March 15, 1982.

Hon. CHRISTOPHER DODD,
Russell Senate Office Building
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: Thank you for your letter of March 4. As the Chairman and Ranking Minority Member of the Subcommittee on Regulatory Reform, we plan to hold a hearing concerning the operation of the Regulatory Flexibility Act during its first year of existence. As part of that hearing, we feel that it would be worthwhile for the Subcommittee to receive testimony concerning your proposal raises important issues concerning the operation of the Regulatory Flexibility Act which merit serious consideration. Perhaps most importantly, your bill is based on a concern we share, a concern for the impact of federal regulation on small business and other small entities. We intend to hold this hearing at the Subcommittee's earliest convenience, probably no later than early summer.

We appreciate the time and effort you have devoted to developing your proposal. On behalf of the Subcommittee, we look forward to working with you in this area.

Sincerely,

PATRICK LEAHY,
Ranking Minority Member, Subcommittee on Regulatory Reform, Committee on the Judiciary.

PAUL LAXALT,
Chairman, Subcommittee on Regulatory Reform, Committee on the Judiciary.●

Mr. LEAHY. Mr. President, I would like to commend Senator DODD for bringing this important issue to the attention of the Senate. His concerns will be addressed during the Subcommittee's upcoming hearing on the Regulatory Flexibility Act.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 846

(Purpose: To modify the provisions of section 624)

Mr. GLENN. Mr. President, I send an unprinted amendment to the desk, and I ask unanimous consent that it be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 846.

Mr. GLENN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 4, strike the period and insert a semicolon and "or".

On page 14, between lines 4 and 5, insert the following:

"(C) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 315 and 312(a)(7) of the Communications Act of 1934.

On page 23, line 7, beginning with "Such", strike out through the period in line 10.

On page 23, between lines 14 and 15, insert the following new subsection:

"(b) Any procedures established pursuant to the authority granted under subsection (a) of this section shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rulemaking proceedings. If such procedures include review of preliminary or final regulatory analyses to ensure that they comply with the procedures established pursuant to subsection (a), the time for any such review of a preliminary regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or by an officer to whom the authority granted under subsection (a) of this section has been delegated pursuant to subsection (c) of this section, and the time for such review of a final regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or such officer. The times for each such review may be extended for good cause by the President or such officer for an additional thirty days. Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

On page 23, line 15, strike out "b" and insert in lieu therof "c".

On page 23, beginning at line 22, strike out all through line 2, page 24, and insert in lieu thereof the following:

"(d) The authority granted under subsection (a) of this section shall not apply to rules issued by the Nuclear Regulatory Commission.

"(e) Any exercise of the authority granted under this section, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated under subsection (c) of this section, shall not be subject to judicial review in any manner under this Act.

Mr. GLENN. Mr. President, my unprinted amendment concerns the Executive oversight mechanisms contained in this bill. The basic purpose of my amendment is to insure that these mechanisms do not improperly intrude on the substantive rulemaking authority of the Federal agencies and departments to whom Congress has delegated quasi-legislative powers for administering the numerous Federal regulatory statutes. I have been particularly concerned over the impact of these Executive oversight mechanisms on the autonomy of the independent regulatory agencies and this has been a prime factor in my efforts to amend S. 1080 so as to circumscribe and clarify the authority this bill confers on the President.

I have detailed these concerns regarding the independent agencies elsewhere and will not reiterate them at length here. My principal fear has been that under the procedures for overseeing agency implementation of the procedures established under section 624(a) the President might order the independent agencies to submit for review of indefinite duration preliminary and final regulatory analyses in draft form along with drafts of the rules they covered. Since S. 1080 set no time limits for any such reviews, I was gravely concerned that the President might extend his review of whether a particular regulatory analysis complies with the procedures established under section 624(a) for a prolonged period in order to pressure the agency in question to accept substantive changes in the pending regulation. Although S. 1080 does not permit the President to intervene directly in the substance of regulation development, I was concerned that by improperly using these procedures, the President might nevertheless achieve this result.

Beyond this, I have been troubled that even without bottling up independent agency regulations, Presidential oversight of draft independent agency regulatory analyses prior to publication violated the principle of autonomy which Congress has declared should govern these agencies' regulatory activities. Here, again, my concern was that under the guise of procedural review, the President might interject himself into the substance of these agencies' rulemaking actions. In some highly sensitive cases, moreover, even purely procedural oversight by the President seemed totally inappropriate, for example, in the case of the Federal Reserve Board's monetary policy activities, the rules of the Federal Election Commission, the FCC's rules concerning candidates' access to the electronic media, and the Nuclear Regulatory Commission's nuclear safety safeguards, and export regulations. In these areas, even the appearance of partisan or political interference through Presidential supervision could cause serious damage to the legitimacy of these agencies' regulatory activities in the eyes of the public.

I might add, that many of the concerns that I expressed with respect to the independent agencies were shared by others who feared Presidential intrusion into the substance of rulemaking by the "dependent" agencies of the executive branch, such as EPA and OSHA. In these cases, too, there was a definite risk that the President might improperly extend procedural reviews to obtain changes in the substance of pending rules.

When S. 1080 was considered in the Governmental Affairs Committee, I was successful in gaining adoption of an amendment which addressed most of my concerns insofar as the independent agencies were concerned. This, however, was dropped from the consensus bill we are now considering. In essence, that amendment placed a fixed deadline on the time for Presidential reviews under section 624 of 120 days each for the consideration of independent agencies' proposed and final rules, respectively, a total of 240 days of review. In addition, my amendment provided explicitly that any comments by the President resulting from his reviews would not be binding on these agencies. No special provisions were made for the highly sensitive activities of the independent agencies I referred to a moment ago, nor was the question of deadlines for Presidential reviews involving regulations of the "dependent" agencies covered.

The amendment I am proposing today goes significantly beyond that accepted by the Governmental Affairs Committee. First, it provides considerably tighter deadlines for Presidential reviews under section 624. Second, it applies those deadlines to all agencies, not only the independents. Third, it specially exempts the Federal Election Commission, the Nuclear Regulatory Commission, and the regulations of the Federal Communications Commission pertaining to political broadcasting from all Presidential oversight. The Federal Reserve Board's monetary policy functions have already been exempted from such oversight pursuant to a separate amendment developed partly in response to my efforts to maintain the autonomy of these Fed activities. Finally, and of particular importance, the floor managers of the bill have provided a number of understandings as to the scope of the President's authority under section 624 which, when read together with the reports of the committees that considered S. 1080 (issued after the Governmental Affairs Committee markup) confirm explicitly that the independent agencies will continue to have the substantive decisionmaking authority over their rules that they have today, with the President granted no authority to alter this practice or to impose his substantive judgment on these agencies. These same understandings, I would add, will also apply to the "dependent" agencies in the executive branch.

The clarifications provided by the floor manages of the bill substantially remove any risk of the President's misusing his procedural oversight tools to achieve substantive changes in agency regulations. Thus while the President will obtain authority to review preliminary and final regulatory analyses of independent agencies, his power to involve himself in the substance of the associated rules has been so carefully circumscribed that I believe the impact of these Presidential reviews on independent agency autonomy will now be marginal.

DEADLINES

The deadlines provided in my amendment for Presidential reviews of preliminary and final regulatory analyses, respectively, will normally limit these actions to a maximum of 30 days. For good cause, however, these 30-day reviews can be extended for an additional 30 days. The President would have to include a statement of his reasons for this extension in the agency's rulemaking file. Significantly, the President could not add on additional review periods by requiring agencies to resubmit regulatory analyses that had been revised in light of his initial comments. There would only be the opportunity for a single review period of 30 or, if extended, 60 days at the preliminary regulatory analysis stage and a similar one-shot 30- or 60-day review period at the time the final regulatory analysis is submitted. The 30- or 60-day period would commence with the agency's submission.

I add that it is certainly my hope and expectation that reviews will normally be kept to less than 30 days and that the good cause extension will be rarely used. I stress in this regard the requirement in section 624 that the procedures for review of regulatory analyses be consistent with prompt completion of rulemaking proceedings. My amendment assumes that the

President will exercise his authority to monitor, review, and insure agency implementation of the section 624 procedures principally through the mechanism of examining and commenting on individual preliminary and final regulatory analyses. Accordingly, my amendment has been framed in terms of time limits applicable to that activity. The time limits contained in my amendment govern the totality of individual reviews under section 624. Such a broad understanding of the application of the deadline requirements is essential to insure that the basic purpose of my amendment, prevention of Presidential delay of agency rulemaking through his reviews under section 624, will not be frustrated.

It should also be emphasized that since agencies would retain their existing authority to issue, modify, or rescind rules or to complete rulemaking proceedings, an agency could proceed to issue any pending proposed or final rule in the event the President improperly delayed concluding his review of the associated regulatory analyses beyond the time permitted.

Taken together with the deadlines on Presidential reviews in my amendment, this residual agency authority will insure that the President will not be able to indefinitely delay a proposed or final rule under the guise of exercising authority pursuant to section 624.

SPECIAL EXEMPTIONS FROM EXECUTIVE OVERSIGHT

As I noted earlier, the Federal Election Commission (FEC), the political broadcasting regulatory activities of the Federal Communications Commission (FCC), and the Nuclear Regulatory Commission (NRC) will be exempted from all Executive oversight through my amendment. In the case of the first two agencies, the reasons for specially insulating their politically related regulations from all Executive interference is obvious; no matter which party occupies the White House the risk of misuse of the oversight mechanisms in S. 1080 for partisan purposes would inevitably arise and even the appearance of an attempt to influence these agencies' political regulations improperly could severely damage their credibility and quite possibly that of the electoral process, itself. The easiest mechanism for completely avoiding this possibility is to eliminate Executive oversight altogether in these instances. A further problem in the case of these agencies is the risk that the President, under section 622(b), might determine a rule of theirs to be a major rule, necessitating the preparation of a regulatory analysis before the rule could be issued. This process would undoubtedly require considerable time and could delay promulgation of a rule at a critical stage of a political campaign. To avoid all of these potential difficulties, my amendment would amend the definition of "rule" in section 621 of the bill to exclude all rules of the FEC and those of the FCC promulgated under sections 312(a)(7) and 315 of the Communications Act of 1934. This means that none of these regulations could fall within the definition of "major rule" under S. 1080 so that the regulatory analysis and associated Executive oversight provisions of the bill would similarly not apply to them.

The Nuclear Regulatory Commission raises somewhat different considerations, that nevertheless make essential its total insulation from Executive oversight under the bill. These considerations stem from the unique combination of the agency's history, its unusual authority to regulate highly sensitive executive branch activities, and its critical role in the national debate over the future of nuclear power.

Congress established the NRC in 1974 for the express purpose of separating Federal regulation of nuclear energy from Federal activities aimed at promoting this energy source. Since the late 1940's, both activities, and the Nation's nuclear weapons development program, had been combined in a single agency, the Atomic Energy Commission. By the time of the 1974 Energy Reorganization Act, however, the widespread perception had emerged that the AEC's promotional and regulatory roles were inherently in conflict and, perhaps more important, that the independence and forcefulness of those responsible for nuclear safety had been gravely weakened by the dominance of promotional interests in the agency. Creation of an independent nuclear regulatory commission was seen as an essential first step toward addressing these concerns.

The development-oriented half of the AEC was lodged within the executive branch, first in the Energy Research and Development Administration (ERDA) and now in the Department of Energy. Despite NRC's independent status, those with nuclear responsibilities in the executive branch have repeatedly sought to exercise influence over the Commission. For a number of years, for example, NRC's advanced reactor licensing programs and R. & D. budgets were largely dictated by ERDA and DOE program needs, a pattern particularly pronounced in the nuclear waste disposal field. Similarly, under Presidents Ford and Carter, ERDA and DOE took the lead in developing legislation to modify NRC's nuclear power reactor licensing process. Only in recent years has NRC gradually gained a measure of practical autonomy from these executive banch influences and begun to fulfill its role as a tough, dispasssionate regulator.

Because of this unique history of stormy relations with its executive branch nuclear counterparts, and because Congress' basic purpose in creating the NRC in 1974 was to insulate its regulatory program from precisely these influences, any increase at this juncture in executive branch oversight of this agency such as that contained in S. 1080, is cause for particular concern. In view of this highly unusual background, it is essential NRC be exempted from section 624 of the bill to insure against any possible setback in that agency's gradual, but still uncertain, progress toward realization of its independent mandate.

A second reason for exempting NRC from executive branch oversight under the bill is that the NRC has the apparently unique mandate of serving as an independent check on certain executive branch nuclear activities affecting public health and safety and national security. Under the Energy Reorganization Act, NRC has responsibility for licensing certain advanced reactors that are constructed and operated by DOE and must also license DOE-operated nuclear waste disposal facilities. NRC's role in this latter area, I might point out, has been a highly important factor in gaining support for now pending nuclear waste disposal legislation and is of particular concern to States that may potentially host nuclear waste repositories. Under the Nuclear Nonproliferation Act, similarly, NRC licenses all U.S. nuclear exports and was given this role specifically as a means for independently verifying executive branch compliance with various provisions of that statute.

In all these areas the conflict of interest inherent in granting the executive branch—the party being "regulated"—any kind of oversight with respect to the regulations to which it will be subject is obvious. Moreover, any apparent loss of NRC autonomy in such publicly sensitive areas as nuclear waste management would inevitably spill over and affect the agency's credibility in other fields.

Finally, the highly inflamed public debate in this Nation over the safety of nuclear powerplants, the core area of NRC's regulatory activities, must be considered. It is fair to say that no other regulated industry faces public opposition comparable to that confronting the nuclear industry today, opposition which is so strong as to threaten this industry's continued viability. An essential element in addressing public concerns over nuclear safety has been the slow emergence of a Nuclear Regulatory Commission that is perceived to be totally independent. While other industries certainly benefit from independent regulation, the intensity of the nuclear debate and the current vulnerability of the nuclear industry set NRC's regulation of nuclear power apart: in no other sphere of regulation could a perceived erosion in regulatory agency independence have an impact on the regulated industry approaching the grave harm that could occur in the nuclear field.

This unique combination of reasons necessitates removing NRC from Presidential oversight under section 624. My amendment would accomplish this by adding a new subsection to section 624 expressly exempting this agency. Unlike the special provisions made for the FEC and the political broadcasting regulations of the FCC, however, this exemption would not excuse NRC from compling with the regulatory analysis and regulatory review requirements of S. 1080.

I should now like to address a number of questions concerning the executive oversight provisions of S. 1080 to the distinguished Senator from Nevada.

I wish to ask the distinguished floor manager of the bill to confirm my understanding of how the executive oversight provisions of S. 1080 will affect the ultimate authority of an agency to determine the substantive content of rules, and, of course, I am particularyly concerned about the independent agencies in this regard.

New section 624 limits the new authority of the President given by S. 1080, as I understand it, first to establishing procedures for agency compliance with the regulatory analysis and review of major rules provisions of S. 1080. Second, under section 624, the President may only monitor, review, and insure agency implementation of such procedures. Section 624 must also be read in conjunction with section 8 of the bill. That provision states that nothing in S. 1080 "alters in any manner rulemaking authority vested by law in an agency to initiate or complete a rulemaking proceeding or to issue, modify or rescind a rule." Am I correct in understanding this to mean that the executive oversight provisions of the bill are not intended to authorize the President to divest the agency of its role as the substantive decisionmaker in a rulemaking?

Mr. LAXALT. That is entirely correct. The President may currently possess, as a matter of other statutory law or under the Constitution, certain authority to influence some agency decisions, but what ever that authority may be, it is in no way augmented by this bill, nor is it diminished. The status quo would prevail in terms of this authority in this regard.

Let me underscore the point by stressing that section 624 permits the President or his designee to oversee agency implementation of procedures for performing regulatory analysis and for reviewing existing rules under S. 1080. This oversight authority, to reiterate, is strictly procedural. If the President were at any point to attempt to supplant the agency's responsibility to decide the substance of a rule, he would have to rely on authority outside the scope of S. 1080; he is not provided such authority under this bill.

Mr. GLENN. The Senator has indicated that certain statutes give the President a specific role in the formulation of some agencies' rules. Without examining the situation at each and every agency, is it reasonable to assume that the passage of S. 1080 will not alter the situation for agencies which today are making substantive rulemaking decisions under the statutes controlling in their respective cases. This is certainly the situation at virtually every independent agency.

Mr. LAXALT. Again, the Senator has accurately stated how the bill would operate. Where any agency has been making substantive rulemaking decisions pursuant to existing statutes, this would continue after enactment of S. 1080, and I include the independent agencies in this statement. If an agency has had substantive decisionmaking authority over its rules pursuant to its statute, nothing in this bill would grant the President authority to alter this practice.

Mr. GLENN. Am I also correct that the bill is not intended to provide the President with any ground, beyond that which may or may not be available to him at this time, for asserting a constitutional claim of authority to affect the substance of agency rulemaking?

Mr. LAXALT. Again the Senator from Ohio who correctly stated the intent of this legislation. It would neither enhance nor diminish the President's constitutional authority in this regard.

Mr. GLENN. To sum up, then, am I therefore correct in concluding that agencies that today have or are exercising decisionmaking authority over the substance of their rules would not lose that authority as a result of this bill?

Mr. LAXALT. Yes. As we stressed in the Judiciary Committee's report on the bill, section 624 allows the President to take steps to insure that agencies have followed the procedures established by him for compliance with subchapters II and III of chapter 6. The President could require an agency to complete a mandated procedure, but section 624 does not permit the President to require an agency to make a change other than one necessary to achieve compliance with the procedural requirements of subchapters II and III.

Mr. GLENN. I am pleased we have a common understanding of these matters. But let me ask, would the President or his designee be able to get an agency to modify the substance of a rule pursuant to the authority of section 624?

Mr. LAXALT. Section 624 does not give the President authority to impose his substantive judgment regarding the contents of a rule on an agency: that authority is retained by the agency as section 8 makes clear. Although the bill does not in any way seek to limit the President's ability to talk to his appointees, it does make it clear that an agency retains the substantive decisionmaking authority concerning its rules that other statutes afford it. Moreover, this is particularly important since the rule in question must ultimately be sustained upon review by the courts under other statutes on the basis of the record developed by the agency. The rule will not be sustained if it is not supported by such record. Let me point out that independent agencies would be particularly well insulated, because the members of these boards and commissions do not serve at the pleasure of the President.

Mr. GLENN. Now let me ask what would happen if the President tried to influence the substance of a rule indirectly by seeking a change in a regulatory analysis which necessitated modification of the accompanying rule. Could the President, for example, order an agency to take into account or give special weight to a particular cost or benefit as the agency was making a decision to issue, modify, or rescind a rule?

Mr. LAXALT. Again, the bill does not attempt to tell the President what he can or cannot say to his appointees. The issue is whether the authority conferred by section 624 divests the agency head of his substantive rulemaking authority—and the answer is that it does not. In the example that you give, the President or his designee can tell an agency that he believes the cost or benefit analysis that the agency has performed is poorly done or wrong, for example, but the bill does not alter the substantive authority of the agency to proceed with the rulemaking and it does not alter the substantive standards set forth by law which guide the regulatory actions of agency heads.

In other words, although the President could insure that an agency analyzed an excluded cost or benefit, the agency retains the ultimate authority for making the cost-justification and the cost-effectiveness determinations under section 622 of the bill. As we stated in the report of the Judiciary Committee on this bill, the President is not authorized by section 624 to substitute his judgment for that of an agency in making these determinations, insofar as he has not been delegated the power to do so by law apart from S. 1080.

Mr. GLENN. Section 624, finally, states that the President will have the authority to "monitor, review, and insure" agency implementation of the procedures promulgated under that section regarding the regulatory analysis and review requirements of S.

1080, but I am correct, am I not, that any such authority must be exercised consistent with the agency's rulemaking authority?

Mr. LAXALT. This is quite correct.

Mr. ROTH. Let me also add my concurrence with the remarks of the Senators from Ohio and Nevada.

Mr. LEAHY. I also wish to concur in these remarks.

Mr. EAGLETON. These views, I would add, also reflect my understanding of the bill.

Mr. GLENN. I also wish the distinguished Senator from Delaware to clarify a matter for me concerning the portion of the report on S. 1080 of the Governmental Affairs Committee which addresses section 624 of the bill as reported by that committee. Am I correct that the Senator agrees with me that the language in the Governmental Affairs report discussing this section should be read to be consistent with the understandings in my exchange of remarks with Senator Laxalt?

Mr. ROTH. Yes, that is entirely correct.

Mr. GLENN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 846) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I yield the floor.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. HATCH. Mr. President, as a cosponsor of S. 1080, the Regulatory Reform Act, I am pleased to express my support for its expeditious passage. I would also like to praise the primary sponsor of this legislation, my distinguished colleague from Nevada. Senator Laxalt, in his work on the Regulatory Reform Act over the past several years, has done a signal service to this body and to this country. He and his staff are to be highly commended, as are Senators Leahy, Roth, and Eagleton and the many other Senators who have contributed to this compromise legislation which we are considering.

Mr. President, Thomas Jefferson stated in the bill of particulars against the King of England, found in the Declaration of Independence, that,

> He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

As one of the reasons for the American Revolution, this statement seems highly ironic today in light of the size of the Federal Government and in light of the excessive regulation which has been strangling our economy.

Since the time Mr. Jefferson was President, the population of the United States has multiplied 55 times while the number of Federal employees has increased 500 times. In 1824 the first regulatory agency was established, and since that time 56 major regulatory agencies have been created, 35 percent of those coming between 1970 and 1979.

There has been an unprecedented growth of Government regulation and intervention into the private sector over the past two decades. In 1970 the expenditures by the major economic and social regulatory agencies totaled $1.62 billion; in 1979 the expenditures by these regulatory agencies multiplied 5 times to $8.19 billion. Between 1970 and 1979 the number of pages in the Federal Register, where new regulations are published, increased 287 percent. In 1977 the Office of Management and Budget estimated the cost of Federal regulation to be $130 billion.

This is not to imply that there is no place for Government involvement in the private sector. In fact, there is a need for regulation in appropriate circumstances, and careful regulation can achieve real benefits. But the tremendous price we have paid for the regulatory maze which has been created has resulted in little or no improvement in such important objectives as improving the quality of working conditions, product safety, or the environment.

While the benefits of our regulatory system have often been negligible, the costs have been high. Government regulation has reduced productivity, lessened innovation, and diverted capital investment. Government regulation has increasingly controlled, restrained, and limited the productive elements of our society at a time when productivity needs to be increased to meet our country's needs and the challenge of foreign competition. Management must not only deal with competition from foreign and domestic companies, but must also defend itself against the numerous regulatory agencies which can put a company out of business. As Dr. Weidenbaum has observed, the costs to society of excessive and unnecessary government regulation are the factories and plants not built, the goods and services not available for consumption, and the jobs and incomes not generated. Ultimately, it is the consumer who is harmed by excessive and unnecessary government regulation.

For these reasons, I have been an original cosponsor of S. 1080 and I am in strong support of the compromise bill which is the focus of this floor debate. This legislation, however, is not a regulatory panacea; it is simply a first step toward restoring some greater reasonableness to our regulatory system. This legislation would require a review of new and existing regulations to insure that the benefits of the regulation are not outweighed by its costs and to insure that regulations have not outlived their usefulness. I urge my colleagues not to adopt amendments which would weaken this legislation which is of vital importance to the country.

Mr. President, I would briefly also like to express my support for two amendments which I understand will be offered to S. 1080. I have been a cosponsor of Senator Schmitt's and Senator Grassley's legislative veto legislation for many of the same reasons that I support the Regulatory Reform Act—namely, the reduction of costly and excessive regulation.

Congress has found it necessary to delegate the task of lawmaking to administrative agencies through statutes which give such agencies rulemaking authority. The legislative veto would permit an opportunity for Congress to more actively participate in the rulemaking process which it has established and authorized. The legislative veto would simply insure that the elected representatives of the people can examine costly new rules and regulations and determine whether or not they are warranted. In my opinion, it is an appropriate exercise of the power the Constitution gives to the Congress to enact legislation. I urge my colleagues to support this amendment.

Mr. President, I am also a cosponsor of Senator DeConcini's and Senator Simpson's venue legislation which would require that suits of a purely local or regional nature be filed in the Federal district court in the State or region which is most greatly affected, rather than, as at present in the Federal court in the District of Columbia.

Environmental groups admittedly file suit in the District of Columbia because their causes will receive more attention and because judges in the District of Columbia circuit have traditionally been more sympathetic to their claims than judges familiar with the region, and its unique problems. Cases tried in the District of Columbia are far from the people who will be vitally affected by the outcome of the litigation. The current situation has contributed to the perception of the people of Utah, and the people of many other States, that the Federal Government and the Federal courts are often their adversaries, not allies.

I urge my colleagues to support this amendment which would prevent this "forum shopping" from continuing. I applaud my colleague from Arizona and my colleague from Wyoming, Senator Simpson, for their efforts on behalf of this important legislation.

S. 2254—TEMPORARY EXTENSION OF FLEXITIME SCHEDULE EXPERIMENTS

Mr. STEVENS. Mr. President, I have a bill at the desk. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, and I do not expect to object. I will not object if I can be told that there will be no amendments on the bill and that the bill will be simply as it appears at the desk.

Mr. STEVENS. I yield to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, as I understand the proposal which the Senator from Alaska has sent to the desk, it relates to the flexitime issue which we discussed here on the floor a few days ago.

Basically, the proposed bill which he has laid before the Senate, or which he has asked to be laid before the Senate, will extend for a period of 4 months the current flexitime experiment.

Mr. President, I have a couple of observations I wish to make. First of all, I am very much for flexitime. I want to congratulate the Senator from Alaska for finding a way out of the dilemma in which we found ourselves when last this issue was before the Senate, because it has been like the "Perils of Pauline." There are those who really are not so sold on flexitime and who do not appreciate how necessary and desirable it is for Federal employees. The Senator from Alaska really deserves not only the compliments of Senators but a great deal of credit for finding a formula by which the flexitime can continue for a 4-month period while we work out a permanent solution to this matter.

I represent a large number of Federal employees in Colorado who are interested in flexitime and so my first observation is to thank him and congratulate him for finding this way to resolve the problem.

The second issue is the question of whether or not this bill is a suitable vehicle for amendment. It was my intention, as the Senator full well knows, to offer an amendment which would simply expand the flexitime concept to permit those workers in the private sector who do not presently have the opportunity to either work on a flexitime schedule or to negotiate through their collective bargaining agent for the right to work on a 4-day, 10-hour-per-day schedule, or in some other way adopt the flexitime concept, to permit them to do so. It just seems to me if it is good for Federal workers—which I believe it to be, in some cases—then that same option should be available within the private sector.

However, there are those who would find this a very controversial subject of amendment. So the proposal of the Senator from Alaska is to take sort of a cooling off period for the next 4 months to continue the flexitime experiment, leaving the existing flexitime agreements in place, giving us time to work out the details to permit Federal employees flexitime and also preserving the right of Senators who may have amendments to offer, including the one which I have just described, an opportunity to do so at a later time.

So it is my understanding that if the bill is approved, as I hope and expect it will be, that I am expected not to offer any amendments. I will be happy to withhold doing so on the understanding that when next the bill is called up for the permanent flexitime extension, that it will come up in the regular course of events. It will be a calendared item and I and any other Senators who wish to do so will retain their full right to offer amendments.

At that time I will bring to the attention of the Senate, when time is not so critical, an amendment which I think is meritorious and which I think will then be adopted.

I thank the Senator for bringing this to our attention at this time.

Mr. LEAHY. Mr. President, still reserving the right to object, I will reserve it only to add my commendation and praise to the work of the senior Senator from Alaska in bringing this matter to the floor. I know he has spent an enormous amount of time in trying to work this out with the various parties.

I think the flexitime experiment is well worth continuing. I think it is an excellent idea. I will not object.

The PRESIDING OFFICER. Without objection, the bill will be considered to have been read the first time by title and the second time at length, and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, time is running out on this flexitime program. During the negotiations which attempted to get agreement on reauthorizing it, many agencies have changed their schedules already, starting today. This bill merely extends the authority for the current experiment until the beginning of the second pay period following July 4.

I want to state for the record why we picked that date.

Many of us are involved in the considerations of the debt ceiling bill, the continuing resolution, the third budget resolution for 1982, the budget resolution for 1983, the supplementals that are coming before us, and the hearings in connection with the appropriations bills. I am involved in the Department of Defense hearings, a very exhausting series of hearings which have been scheduled.

This is the earliest time that I think we can get an open period to consider flexitime. That would be immediately after the July 4 recess. I have not cleared that date with the majority leader, but it is my hope that we will have the bill on the floor in that period immediately following the July 4 recess.

We will deal with the amendment mentioned by the Senator from Colorado and the amendment of the Senator from Massachusetts.

I am grateful for the Senator allowing me to handle it in this manner.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2254) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 et seq.) is amended—

(1) by striking out "over a 3-year period" in the first sentence of section 2;

(2) by striking out "the end of the 3-year period which begins on the effective date of this title" in section 102(c) and inserting in lieu thereof "the first day of the second pay period beginning after July 4, 1982"; and

(3) by striking out "the end of the 3-year period which begins on the effective date of this title" in section 202(d) and inserting in lieu thereof "the first day of the second pay period beginning after July 4, 1982".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ARCHITECTURE WEEK

Mr. HOLLINGS. Mr. President, last week I introduced Senate Joint Resolution 169, calling for the designation of the week of April 18, 1982, as "National Architecture Week."

This year marks the 125th anniversary of an organized architectural profession in the United States. Since 1857, when the American Institute of Architects was established in New York City, our country's architects have helped to give expression to our national goals.

Most recently, architects have led the Nation toward a renewed awareness of the limited resources of our planet. Today's architecture reflects a concern for growing needs and dwindling supplies of land, energy, and economic resources. At the same time, it affirms our Nation's belief in the heritage of our past, the promise of our future, and the basic integrity of our traditional values.

Mr. President, the American Institute of Architects has been honored by U.S. Presidents since its founding. In 1908, Theodore Roosevelt symbolically commended the White House itself into the AIA's hands for safekeeping. In 1923, President Warren G. Harding personally conferred the AIA's gold medal on Henry Bacon, designer of the Lincoln Memorial. And in 1957, President Dwight Eisenhower congratulated the institute on its centennial.

Believing that a nation's architecture provides vital clues to that nation's history, politics, aspirations, ethics, and priorities, I urge the speedy approval of Senate Joint Resolution 169 and the designation of the week of April 18, 1982, as "National Architecture Week" to note the AIA's 125 years of service to the Nation and its membership.

Mr. President, in May 1974 the AIA conferred upon me the title of honorary architect. Two other Members of the Senate, the senior Senator from Massachusetts (Mr. Kennedy) and the senior Senator from Maryland (Mr. Mathias) have been similarly honored by the AIA and have asked to be cosponsors of Senate Joint Resolution 169.

Mr. President, I ask that the senior Senators from Massachusetts and Maryland, as well as the senior Senator from New York (Mr. Moynihan) be added as cosponsors of Senate Joint Resolution 169.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEATH OF WALTER YONKER

Mr. GORTON. Mr. President, I wish to bring to the attention of the Senate the recent sudden passing of Walter (Walt) Yonker, executive vice president and staff head of the Pacific Seafood Processors Association, and ask that the Members of the Senate extend their sympathy to Walt's family and friends.

Walt Yonker was considered by all who knew him to be one of those rare individuals in the fisheries field who was respected and liked by all who knew him, even when they disagreed with him on substantive issues. He was, for nearly two decades, not only executive vice president of the Pacific Seafood Processors Association but a cohesive force for the commercial fishing industry as a whole. Walt's contribution did not stop at his work in the processing field; he also served as an industry adviser on the U.S. delegation to the United Nations Law of the Sea Conference, for which he was honored by being named "Man of the Year" in 1974 by the National Fisheries Institute.

Mr. President, the Northwest fishing community has lost a tireless advocate and truly knowledgeable leader, and we have all lost an outstanding citizen. Walt will certainly be missed by the fishing industry and by all those who knew him.

WALTER V. YONKER

Mr. MURKOWSKI. Mr. President, I should like to call to the attention of my Senate colleagues a tragedy that occurred on Sunday, March 14, 1982. On that day, the seafood processing industry suffered a great loss because Mr. Walter V. Yonker, the chairman of the Pacific Seafood Processors Association, passed away in Seattle, Wash., at the age of 65.

Although Walt resided in Washington State, he was a a great friend to Alaska and his role in developing Alaska's seafood industry will not be forgotten. Walt's influence on Alaska came at the most crucial time as Alaska found itself rich in fishery resources, but without an infrastructure to develop them. Through diligence and hard work, Walt helped to create the necessary infrastructure to allow the Alaska seafood industry to progress from its embryonic stages.

Walt Yonker was born on October 5, 1917, in Williston, N. Dak., and was educated at the University of Washington, in Seattle. He received degrees in education and food technology. In 1947, he joined the National Canners Association, which is currently entitled the National Food Processors Association. In 1952, he became the head of the inspection division of that association. From the years 1957 to 1981 he held the office of director and vice president of the National Canners Association Northwest Research Laboratory. He became executive vice president of the Pacific Seafood Processors Association in 1967, where he served until his untimely death.

Mr. President, Walt Yonker's participation in advisory committees, both in and out of government, is quite impressive. The list is extensive and I will only touch on a few of his many accomplishments. Walt was an adviser to the U.S. delegation to the Law of the Sea Conference and an adviser to the U.S. Delegation for Codex Almentarious in Bergen, Norway. He was a member of the U.S. State Department's Ocean Affairs Advisory Committee. He has also received numerous awards and honors for outstanding leadership and dedication to the seafood industry in the oceans community.

Mr. Yonker was a frontiersman in every sense of the word. He, like so many other pioneering Americans, had the foresight and strength to see that the seafood industry was viable and had the potential to be one of this Nation's predominant sources of food. Mr. President, as this country turns increasingly toward the oceans as the need for domestic food increases, it is my hope that the tireless efforts of Mr. Walter V. Yonker will be remembered.

Mr. Yonker is survived by his wife, Pat, and three children, James, Ann, and Kirk.

ARTHRITIS INSTITUTE IS NEEDED

Mr. SYMMS. Mr. President, I am proud to join my distinguished colleague from Arizona, Senator Barry Goldwater, as cosponsor of his bill, S. 1939, to establish a National Institute on Arthritis and Musculoskeletal Diseases. I will do all I can to press for its enactment.

Nearly 32 million Americans—1 in 7—suffer from some form of arthritis. It strikes people of all ages, all races, both sexes, and its victims include some 250,000 children.

The economic impact is staggering: Current estimates suggest that arthritis now costs the Nation as much as $25 billion every year. The high cost and human suffering make it essential to devote more attention and research on rheumatic diseases and bone disorders. This can be done through the establishment of a National Institute on Arthritis and Musculoskeletal Diseases.

On March 15, 1982, Senator Goldwater addressed the problem and the challenge in a speech at the Arthritis Foundation Government Affairs Conference in Washington.

Senator Goldwater's remarks clearly indicate his dedicated interest in the success of arthritis research, treatment, and services. I commend the Senator's fine remarks to my colleagues and ask unanimous consent that the text of this speech be inserted in the Record at this point.

There being no objection, the address was ordered to be printed in the Record, as follows:

Address of Senator Barry Goldwater

President Clarke, Dr. Smith, and ladies and gentlemen of the Arthritis Foundation, it is a pleasure for me to share these moments with you.

I understand that you represent nearly all the 71 chapters and divisions of the Foundation, and are here to visit Congressional offices and hear of the latest advances in arthritis programs and research.

You are some of 400,000 men and women who work on behalf of the Arthritis Foundation and who have made your organization of the most important voluntary health agencies in the country. I congratulate you for what you are doing and achieving. You will be interested to know that my wife is an officer of the Margaret Goldwater Arthritic Foundation of Arizona.

You probably know that much of my time and effort in the Senate is directed toward fields much different from those you deal with daily. The Committees I sit on work with issues of national security, defense, telecommunications and Indian affairs.

But I want to tell you today that I am personally interested and concerned about the success of arthritis research, treatment and services. I know—firsthand—the pain and frustration that characterizes arthritis. I couldn't agree more with the new theme of your Foundation: "It's time we took arthritis seriously."

With the elderly population, the group commonly afflicted with arthritis, expected to increase in numbers from 10 to 20 percent of the total population by the year 2030, I should say it will be serious if we have not cured arthritis by then.

Now I know you need no convincing of the great need for a national focus on arthritis, our number one crippler. You are the believers. Rather it is my hope today to put firmly on the record, and to underscore for the media, my colleagues in the Congress and the Administration, just what arthritic-rheumatic diseases mean to America, what their impact is on the economy and on the lives of so many millions of people and their families.

Let me tell you what I've learned about arthritis, and why I have recently introduced legislation together with six other Senators, to create a new National Institute on Arthritis and Musculoskeletal Diseases within the National Institutes of Health.

You may have heard some of these facts earlier today, but I believe they require repeating: 32 million Americans suffer from arthritis and related diseases, one out of every seven people. This total includes 250,000 children under 17 who have chronic arthritic conditions. In fact, the rate of arthritis among children today is higher than that of polio during the worst epidemics of the past.

No, arthritis does not affect the elderly alone. This is a popular misconception that has contributed to the notion that it's a part of growing old, that it is something only Grandpa or Grandma has, but it's not all that serious, and it's something they just have to live with.

You and I know that is simply not the case: it *is* serious, and maybe none has to live with it if researchers are given the tools to unlock its mysteries.

Let me tell you what I mean by serious. Arthritis is not a single disease. There are more than 100 distinct forms of arthritis and rheumatic diseases. Some of these are well known by the public and some are not.

One of the lesser known forms of arthritis attacks young males. It leads to fusion of the spine. Another is a life-threatening, progressive illness which can affect major organs and cause hardening of the skin. And there is lupus, another life-threatening form of arthritis that mostly strikes females of childbearing age and may invade the central nervous system, lungs, kidneys and heart.

Every year 6,000 people in the United States die because of rheumatic disease. A million new cases of arthritis are diagnosed each year. Can we even comprehend the magnitude of the human suffering that these numbers represent? Or, can we put feelings into the raw economic data? Some estimates now place the total annual cost of arthritis at $25 billion to the nation, and growing. This includes medical costs and earnings.

Think of it! How much biomedical research could we undertake with a tenth, or even a hundredth, of that amount? How much do we now spend on arthritis research? Less than $2.00 a year per patient, about $1.74 for each arthritis patient in the United States.

One State found in a study that fully half of all workers' compensation claims were to arthritis or included arthritis as a major cause of the disability. If we could find cures and greatly improve treatment and therapy, many of these claims could be eliminated.

And I wish David Stockman and other budgetary theorists would just focus for a moment on the hard reality that the rapidly growing costs of the Medicare and Medicaid programs—costs that President Reagan has proposed the Federal Government take responsibility for in his New Federalism plan—are greatly the result of arthritis. Many other entitlement recipients are on the Social Security disability rolls because of arthritis.

Is this not a terrible waste of resources, both human and economic, that could in large part be avoided or reduced by only a modest increase of attention and funds for arthritis research? Speaking in terms of OMB jargon, there is probably not a single item in the government budget that would be more cost effective than money paid for arthritis research.

And how do we put a dollar value on the effect of arthritis on the quality of life? How can you price pain or immobility?

People with arthritis become so frustrated and discouraged with their condition that they often turn to anyone who holds out the promise of a cure or some relief from constant pain. It is reported that Americans spend nearly one billion dollars every year on quack remedies. At the National Institutes of Health, barely 1/20th of that amount is spent on all arthritis research!

What of research? Even with the relatively small amounts expended at the NIH, major advances in scientific knowledge have taken place during the past ten years—and encouraging recent developments suggest that we are on the verge of making profound, significant discoveries that can lead to prevention, improved treatment and even cures for some forms of rheumatic disease.

For example, last year I was one of 70,000 persons who had hip replacements. Two million people could benefit form this procedure, which is one of the most significant breakthroughs of the last 15 years.

Think what other great advances could be made if research efforts were increased or better focused. You have heard at this morning's sessions that there is no effective medical treatment to cure or prevent arthritis. With few exceptions, the cause of arthritis is unknown.

Yet the potential for a breakthrough is great if the funds and resources and trained people are available to do research. For example, some evidence suggests there may be a genetic predisposition to develop rhumatoid arthritis. Research along this line is essential. Other evidence indicates the possibility that infectious viruses may induce this crippling disease. Better drugs and therapy could be developed to relieve symptoms.

We need many different kinds of researchers all working together to understand what the basic causes and treatments are. The solution lies in basic research and focusing that research to attack this group of diseases.

Arthritis research has become lost in the existing Institute that covers 10 different subjects, such as skin, kidney, diabetes, digestive and other programs. Arthritis receives less than two percent of total NIH funds, $45 million to support research on a disease that involves 32 million Americans.

Yet over twice the number of arthritis research grant applications were approved for funding, as have actually been funded by the present Institute. Medical researchers tell me that the increase in the numbers of scientific papers presented at society meetings was greater in recent years for arthritic diseases than for any other field of internal medicine.

We must capitalize on this interest. The answer is in the recommendation made by the National Arthritis Commission in 1976:

"A National Institute of Arthritis should be created . . . to lead the national effort against this and allied diseases."

I am here today to endorse that recommendation, and to pledge my efforts to see that it is implemented. The bill I have introduced, S. 1939, will carry out the goal of the Commission and the hope we all placed on the National Arthritis Act of 1974. S. 1939 is coauthored by Senators Cranston, Pryor, Melcher, DeConcini, Sarbanes and Thurmond.

[Senators Symms, Matsunaga, Cannon, Abdnor, Nunn, Grassley and Warner have joined as co-sponsors of S. 1939 since Senator Goldwater delivered this speech.]

Our bill is a companion to H.R. 5006, which was introduced by Congressman Pepper following hearings held by his Select Committee on Aging last June 10.

I am convinced the new Institute formed under this legislation will lead to major advances in the prevention, treatment and cure of our nation's most prevalent disease group.

You who are associated with the Arthritis Foundation are engaged in an excellent cause. I seek your help in raising the level of America's awareness of arthritic diseases, and I urge each one of you to visit your Senators and Congressmen and keep working in your home chapters for the kind of broad-based support across the nation that is necessary to winning the war against arthritis. I look forward to joining with you in this effort.

RESEARCH AND DEVELOPMENT

Mr. GLENN. Mr. President, in response to Senate Joint Resolution 84, President Reagan has, by proclamation, designated last Friday, March 19, 1982, as National Energy Education Day. In his proclamation statement the President said:

> It is critical that our Nation continue to take advantage of the ingenuity and talent

of the American people to produce and consume energy efficiently.

I could not agree more with the President in term of the goal that he has thus articulated. I question, however, whether the President has, by virtue of the policies of his administration, provided the appropriate milieu in which gains in production and conservation will continue to be made on a long-term basis. In particular, the industrial energy conservation R. & D. program within the Department of Energy has been slated for zero funding for fiscal year 1983 by the Reagan administration.

The significance of this action is emphasized by relating the fact that the industrial sector consumes about 37 percent of the total energy used in the United States, with most of this energy provided by oil and natural gas. The sunset review of DOE programs—a review which is mandated by the DOE Organization Act, and a review which has been carried out by DOE under the auspices of the Reagan administration—has this to say about the industrial energy conservation program:

> Many projects have succeeded, and are now or will shortly be contributing to significant improvements in energy productivity. Careful assessment of the relative merits of the Industrial Conservation effort conducted by IP to date indicates that this program is of significant benefit to the Nation and should be continued. The major reasons underlying this conclusion are:
>
> The overall energy strategy of the country is dependent on reduced demand as well as increased supply.
>
> Long-term, high-risk RD&D is not likely to be effectively stimulated by increasing fuel prices, particularly in the near term.
>
> Increased energy prices will reduce discretionary capital for advanced process technology development, especially in the low-growth energy-intensive industries.
>
> The federal program in RD&D has been carefully constructed so that it does not duplicate efforts funded privately.
>
> The technologies developed to date are being adopted by industry.
>
> The program is extremely cost-effective from a federal standpoint, rapidly returning to the Treasury all monies invested in the program.
>
> It is recommended that this program be continued at a budget level consistent with the current level of austerity mandated by the Administration but sufficient to carry on a meaningful program.

The sunset review points out that industry has achieved significant energy savings on its own, with energy consumption decreasing an average of almost 3 percent per unit of output per year between 1975 and 1980. However, the review also points out that there is a reluctance on the part of private industry to pursue high-risk energy conservation technologies for various reasons, including high technical and financial risk, availability and higher priority demands for available capital, relatively low-ratio of energy to product costs, and lack of proven technology options and technical expertise. Under these circumstances, it is pollyannaish of the President to assume that the marketplace, through only the price mechanism, will be sufficient to induce the level of conservation that the United States should be aiming at in order to move significantly closer to energy independence.

The folly of the President's assumption that the private sector will take over that share of R. & D. in energy conservation or, indeed, in other areas being abandoned by the Federal Government is indicated most clearly by the following statistic regarding R. & D. outlays. Over the period 1960-69 total R. & D. outlays averaged 2.8 percent of the gross national product, but declined to 2.4 percent of GNP over the period 1979-80. The portion of this cost borne by private industry has risen however, from 35.1 percent in 1965 to 51.3 percent in 1980. In 1980 private industry invested 1.23 percent of GNP in R. & D. This expenditure amounted to about 1.9 percent of sales by all of industry.

If one were to look at those industries most directly affected by the industrial energy conservation program—which is the energy-intensive, low-growth mature industries such as pulp and paper, steel, and textiles, it becomes evident that these industries have devoted significantly smaller percentages of sales to R. & D. For example, as a percent of sales, R. & D. expenditures by the pulp and paper industry are only 0.8 percent, R. & D. expenditures by steel are 0.6 percent, and R. & D. expenditures by textiles only 0.5 percent. Total Federal R. & D. expenditures in 1977 related to the paper, steel, and textile industries was 2, 5, and 2 percent respectively, of total sales. In contrast, the Federal share of R. & D. directly applicable to aircraft and missiles, electrical equipment, and petroleum refining was 43, 18, and 10 percent, respectively. It is, therefore, apparent that the Federal R. & D. role in the case of the energy-intensive industries is relatively modest compared to other industries.

It has been claimed by some that larger tax credits and accelerated depreciation on energy related R. & D. would be an effective approach in trying to increase the amount to R. & D. done by the private sector. A recent study by Hagler Bailly & Co., entitled "Energy R. & D. Expenditures in Industry," has this to say about this claim:

> The Administration's heavy emphasis on supply-side economics is likely to have minimal influence on the level and allocation of R&D funds. No major change is anticipated in the percentage of energy related R&D funding to total R&D. R&D funding in general is expected to continue to increase approximately 1-2% above inflation each year. Four of the companies (of five surveyed) with low levels of energy R&D will not be influenced by federal financing of R&D. The fifth company was uncertain of the Administration's plans or the effects on R&D expenditures. One manufacturer stated that its budget will not be affected by the 10-5-3 tax depreciation system or by cuts in the federal budget.

It is instructive to examine the Reagan administration's policy in this area with efforts in industrial energy conservation R. & D. in Western Europe, particularly in France, Germany, United Kingdom, and Sweden. The United States spends less than each of these countries for R. & D. per dollar of industrial output. For example, Germany spends 65 percent more, and Sweden 22 times more than the United States for R. & D. per unit of industrial output. France will be doubling its R. & D. budget in 1982, and Germany is increasing the funding of its information and commercialization programs. It is therefore, apparent that the Reagan administration has chosen to put the United States in the position of being a follower rather than a leader in this important area of energy R. & D.

The inadequacies of the administration's program in the industrial conservation area are matched by similar inadequacies in other aspects of energy R. & D. Cutting the fossil energy budget from a fiscal year 1981 level of close to $1 billion to a fiscal year 1983 level of $107 million guarantees that we will make slower progress on substituting coal for oil and gas in the utility and industrial sector. It will also lengthen the time in which synthetic fuels technology will become available for commercialization.

Even in the nuclear area, which has been most generously treated by the administration, the strategy appears to be inconsistent and backward. The Clinch River breeder reactor, which, if it had been a synthetic fuels project, would have been denied funding by DOE on the grounds that it was a demonstration project that private industry should take up, is slated to receive $252 million for fiscal year 1983, while the nuclear fuel extended burnup program, which promises to make significant, real savings in the costs of operating present generation nuclear reactors, is slated for enormous cuts. In addition, the magnetic fusion program, which may have more promising long-term potential as an energy provider than the breeder program, is also slated for reduction.

Mr. President, it is difficult to talk about energy R. & D. and the Reagan administration's program without looking at the larger picture of the administration's philosophy toward the Government role in R. & D. in general. This includes space, basic science, science education, the national laboratories, health, and support for the universities. The administration's program for fiscal year 1983 is deficient in all these areas, as I pointed out in an extended statement made on the floor of the Senate on March 4 (see page 3380).

On March 1, 1982, the Joint Economic Committee presented its 1982 Joint Economic Report on the February 1982 Economic Report of the President. On pages 123-129 of that report the committee makes recommendations regarding science and technology and the Reagan program. I want to congratulate the committee and Chairman HENRY REUSS for an excellent overview of this important subject which parallels my own views in many ways.

I ask unanimous consent that this excerpt from the report of the Joint Economic Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RECOMMENDATION NO. 22: SCIENCE AND TECHNOLOGY

Administration proposals to curtail sharply government support for civilian research and development, and to impose new requirements on scientists to submit to government censorship because of possible national security concerns, threaten to force sharp reductions or shutdowns of government laboratories and reductions in the supply of trained manpower for industry and universities, to diminish the level and quality of university-based research, and to lessen the contributions of science and technology to improvements in the growth of productivity. Congress should reject such proposals.

Among the many casualties of the Administration's approach to the budget, research and development (R&D) causes us some of our greatest concern. The reason is that R&D is an indispensable link in the chain of activities that leads to technological progress. The Administration has already weakened this link with respect to the national economy and threatens to further weaken it and the quality of science and technology.

In discussing R&D it is important to keep in mind the differences between defense and civilian research. Both are important, but for different reasons. The uniqueness of the defense mission and the increasing specialization of defense technology reduces the likelihood of civilian benefits from defense R&D. It is therefore distressing to witness the Administration's emphasis of defense R&D at the expense of civilian R&D.

Total spending for R&D in the United States will be about $80 billion in fiscal year 1982. Half of this amount is spent by the Federal Government. Federal R&D spending, adjusted for inflation, will rise modestly from fiscal years 1980 to 1982 only because of the rise in defense R&D. Civilian R&D declines in real terms during this period. As shown in Table II-14, Federal spending for R&D, in current dollars, rises from $33.1 billion in fiscal year 1980 to $40 billion in fiscal year 1982. Defense R&D rises from $15.4 billion to $22.4 billion, while nondefense R&D falls slightly from $17.62 billion to $17.56 billion in the same period. However, in constant dollars, defense R&D rises 22.1 percent from 1980 to 1982, while nondefense R&D declines 16.2 percent in the same period.

TABLE II-14.—TRENDS IN FEDERAL RESEARCH AND DEVELOPMENT FUNDING, INCLUDING PLANT AND FACILITIES, TOTAL AND SELECTED MAJOR AGENCIES, SELECTED YEARS, CURRENT AND CONSTANT 1972 DOLLARS [1]

[Expressed in millions]

	Obligations by fiscal year		Budget authority data by fiscal year			
	1972 actual	1975 actual	1980 actual	1981 est [2]	1982 request March 1981 estimates [3]	1982 Congressional action estimate date
Total Federal research and development		$19,860	$33,054	$86,960	$42,215	$39,955
	[4] $17,098	[4] 16,133	[4] 18,706	[4] 19,101	[4] 20,093	[4] 19,017
Defense			15,430	18,988	23,999	22,393
	[4] NA	[4] NA	[4] 8,732	[4] 9,813	[4] 11,420	[4] 10,658
Nondefense	NA	NA	17,624	17,973	18,222	17,562
			[4] 9,974	[4] 9,288	[4] 8,673	[4] 8,359
Total Federal basic research		2,600	4,716	5,013	5,542	5,320
	[4] 2,223	[4] 2,112	[4] 2,669	[4] 2,591	[4] 2,638	[4] 2,532
Total Federal basic defense research (DOD and military DOE)	NA	NA	552	616	723	699
Federal R. & D., selected major agencies:			[4] 312	[4] 318	[4] 344	[4] 333
Department of Defense		9,180	14,021	17,322	22,104	20,597
	[4] 8,493	[4] 7,457	[4] 7,935	[4] 8,952	[4] 10,521	[4] 9,803
Department of Energy	NA	NA	5,768	5,867	5,524	5,503
			[4] 3,264	[4] 3,032	[4] 2,629	[4] 2,619
Department of Health and Human Services (previously HEW)		2,437	3,806	3,971	4,173	3,987
	[4] 1,806	[4] 1,980	[4] 2,154	[4] 2,052	[4] 1,986	[4] 1,898
(National Institutes of Health)		1,918	3,188	3,325	3,585	3,476
	[4] 1,321	[4] 1,558	[4] 1,804	[4] 1,718	[4] 1,706	[4] 1,654
National Aeronautics and Space Administration		3,207	5,243	5,523	6,122	5,938
	[4] 3,202	[4] 2,605	[4] 2,967	[4] 2,854	[4] 2,914	[4] 2,826
National Science Foundation		618	912	934	1,018	970
	[4] 473	[4] 502	[4] 516	[4] 483	[4] 485	[4] 462
Environmental Protection Agency		258	342	363	304	277
	[4] 123	[4] 210	[4] 194	[4] 188	[4] 145	[4] 132

[1] All current dollars data for fiscal year 1972 and fiscal year 1975 are from: U.S. National Science Foundation, Federal Funds for Research and Development. Detailed Historical Tables: Fiscal years 1980-82. Prepared by Moshman Associates, Inc., 1981. Current dollars data for fiscal year 1980 and later are from Shapley, Willis H. Albert, H. Tech, and Jill P. Weinberg. Congressional Action on Research and Development in the fiscal year 1982 Budget, Washington, American Association for the Advancement of Science. January 1982. CRS computed constant 1972 dollars, using NSF-supplied defactors.

[2] As expressed in March 1981 budget request for fiscal year 1982.

[3] Includes June budget amendment for defense of +$45.7 million.

[4] Constant 1972 dollars.

These trends would have been more exaggerated had not Congress moderated the Administration's budget proposals last year by trimming the defense R&D increases and the civilian research cutbacks.

But the Administration's proposal for Fiscal Year 1983 demonstrates an intent to continue cutting back on civilian R&D including basic research. As Table II-15 shows, the Administration again proposes that defense R&D be increased while civilian R&D is reduced in real terms. Table II-16 shows the trend in Federal funding for basic research. Under the Administration's proposal, defense basic research would increased by 11.6 percent between Fiscal Year 1981 and Fiscal Year 1983, while civilian basic research declines by 4.5 percent during the same period.

The Administration's retreat from support of civilian basic research is especially troubling. Because of the role basic, research plays as a long-range investment for the entire Nation, it is properly a Federal responsibility. The case can be made that support for basic research should be increased rather than cut back.

Coupled with the budget initiatives are efforts by Administration spokesmen to urge university scientists to submit their work to government censorship because of possible national security concerns and to restrict the free flow of scientific information at universities.

In an industrial economy such as ours, one of the most important factors influencing the growth of productivity is the technological progress that springs from advances in knowledge made possible by R&D. Although there is considerable controversy about the precise contribution of technological change to the rate of growth of productivity and GNP, it is agreed that the contribution is important. It is also agreed that the rate of technological change has not been rapid enough to achieve adequate productivity growth and that skilled manpower shortages are hampering the ability of high technology industries to expand.

The Administration recognizes the importance of new technology to economic vitality and international competitiveness, and it acknowledges the decline in innovation in industry and the shortages of skilled workers, especially in computer sciences and engineering. The Administration believes that its decision to increase spending for defense R&D while cutting back on civilian R&D is justified by the needs for a defense buildup and for reducing nondefense spending.

TABLE II-15.—TRENDS IN CONDUCT OF [FEDERAL] R. & D., SELECTED YEARS, CURRENT AND CONSTANT DOLLARS

[Obligations in billions of dollars] [1]

Year	Defense [2]	All other	Total
1972	8.9	7.6	16.5
1975:			
Current dollars	9.7	9.3	19.0
Constant 1972 dollars	7.88	7.55	15.43
1979:			
Current dollars	13.6	15.4	29.0
Constant 1972 dollars	8.35	9.46	17.81
1980:			
Current dollars	15.1	16.6	31.7
Constant 1972 dollars	8.5	9.39	17.94
1981:			
Current dollars	17.8	17.2	35.0
Constant dollars	9.19	8.88	18.08
1982, estimate:			
Current dollars	22.1	16.8	38.8
Constant 1972 dollars	10.56	8.03	18.5
1983, estimate:			
Current dollars	26.2	16.8	43.0
Constant 1972 dollars	11.75	7.53	19.29

[1] Deflators supplied by NSF are 1975, 1.231; 1979, 1.628; 1980, 1.767; 1981, 1.935; 1982, 2.093; 1983, 2.229. Current dollars data are taken from table K-9 "Trends in Conduct of R. & D." in U.S. Office of Management and Budget special analysis K research and development, budget, 1983, February 1982, p. 29.

[2] According to source, this includes military-related R. & D. programs of the Departments of Defense and Commerce (energy).

Source: Congressional Research Service.

TABLE II-16.—TRENDS IN FEDERAL FUNDING FOR BASIC RESEARCH, FISCAL YEAR 1981 TO FISCAL YEAR 1983, CURRENT AND CONSTANT DOLLARS, DEFENSE AND CIVILIAN, OUTLAYS

[In million of dollars] [1]

	Fiscal year 1981, estimate		Fiscal year 1982, estimate		Fiscal year 1983, estimate		Percent change in constant 1972 dollars between fiscal year 1981 and fiscal year 1983
	Constant 1972 dollars	Current dollars	Constant 1972 dollars	Current dollars	Constant 1972 dollars	Current dollars	
Defense	286.3	712	294.3	616	319.4	712	+11.56
Civilian	2,284.75	4,975	255.61	4,721	2,181.24	4,862	4.53

[1] Deflators supplied by NSF are 1981, 1.935; 1982, 2.093; 1983, 2.229. Current dollars data taken from table K-3. "Conduct Base Research by Major Departments and Agencies," in U.S. Office of Management and Budget special analysis K, research and development, budget, 1983, February 1982, p. 7.

Source: Congressional Research Service.

According to the Administration, the incentives contained in the Economic Recovery Tax Act of 1981 will stimulate an additional $3 billion in industrial R&D over the next five years. The removal of unnecessary regulatory barriers to industrial innovation will reduce private-sector costs of compliance and promote the use of research funds more productively. The problem of shortages of scientists and engineers, the President's science advisor has stated, should be left to the marketplace.

The Administration's approach is flawed and likely to impede technological progress for several reasons:

The Administration's civilian R&D cuts have been deep and disruptive and are not likely to be offset by increased private spending.

The budget reductions will reduce the number of trained scientists and worsen the shortages of skilled workers for civilian high technology firms.

The proposed cutbacks in civilian basic research and other civilian research activities will severely affect future funding of university-based research, and government research in such areas as energy, biomedicine, and environmental pollution.

The cutbacks in funding for the national laboratories have disrupted ongoing research projects.

The Administration's initiatives have created great uncertainty in the science community and doubts about the Federal Government's commitments to advances in science and technology.

Elsewhere in this Report, we have criticized the sole reliance upon tax incentives to induce greater private spending for investment. The same criticism applies in the area of tax incentives to increase industrial spending for R&D. The disappointing results so far in the area of overall business investment strongly suggest that the Administration's expectations concerning industrial research spending are likely to be unfulfilled.

The effects of continuing the reductions over the next several years could be crippling to the national laboratories and university-based research. The Administration's desire to increase the level of industrial research is commendable. However, increases in industrial research, even if they occur, would not justify the damage being done to the nonprofit research institutions where much of the Nation's basic and longer term research is conducted. Although the new tax Act allows businesses to use research grants to universities for R&D tax credits, there are not special incentives for such grants in the Act. As a result, it is possible that only a small amount of the tax credits will be used for university research.

These matters were the subject of discussion at a conference convened on October 26-27, 1981, by the National Academy of Sciences between a group of about 100 university officials, scientists and engineers, and members of the Administration. There the scientists registered in the strongest terms their objections to the Administration's proposals. They warned that "Irreversible damage" could occur in longer term research, that "instability and abrupt" changes in funding cause research teams to be broken up and expensive laboratory equipment such as accelerators to be poorly used, and that the continued supply of scientists and engineers could be jeopardized.

It is apparent from the Administration's handling of the R&D program that it has not adequately taken into account the needs of the research community and the role it plays in long-term as well as short-term technological progress. The research proposals appear to have been merely a by-product of the decision to reduce overall government spending. While government R&D activities should not be exempt from the needs to eliminate waste and achieve economies, the long-term damage to the economy from a poorly planned meat-axe approach in this area will exceed the budgetary savings.

UNITED STATES PARTICIPATION IN SINAI MULTINATIONAL PEACEKEEPING FORCE

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from President Reagan to me as President pro tempore of the Senate relating to U.S. participation in the Sinai Multinational Force and Observers (MFO).

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 19, 1982.

Hon. STROM THURMOND,
President pro tempore of the Senate, Washington, D.C.

DEAR MR. PRESIDENT: On December 29, 1981 I signed into law Public Law 97-132, a Joint Resolution authorizing the participation of the United States in the Multinational Force and Observers (MFO) which will assist in the implementation of the 1979 Treaty of Peace between Egypt and Israel. The U.S. military personnel and equipment which the United States will contribute to the MFO are now in the process of deployment to the Sinai. In accordance with my desire that the Congress be fully informed on this matter, and consistent with Section 4(a)(2) of the War Powers Resolution, I am hereby providing a report on the deployment and mission of these members of the U.S. Armed Forces.

As you know, the 1979 Treaty of Peace between Egypt and Israel terminated the existing state of war between those countries, provided for the complete withdrawal from the Sinai of Israeli armed forces and civilians within three years after the date of the Treaty's entry into force (that is, by April 25, 1982), and provided for the establishment of normal friendly relations. To assist in assuring compliance with the terms of Annex I to the Treaty, so as to enhance the mutual confidence of the parties in the security of the Sinai border area, the Treaty calls for the establishment of a peacekeeping force and observers to be deployed prior to the final Israeli withdrawal. Although the Treaty called on the parties to request the United Nations to provide the peacekeeping force and observers, it was also recognized during the negotiations that it might not be possible to reach agreement in the United Nations for this purpose. For this reason, President Carter assured Israel and Egypt in separate letters that "if the Security Council fails to establish and maintain the arrangements called for in the Treaty, the President will be prepared to take those steps necessary to ensure the establishment and maintenance of an acceptable alternative multinational force."

In fact, it proved impossible to secure U.N. action. As a result, Egypt and Israel, with the participation of the United States, entered into negotiations for the creation of an alternative multinational force and observers. These negotiations resulted in the signing on August 3, 1981 by Egypt and Israel of a Protocol for that purpose. The Protocol established the MFO and provided in effect that the MFO would have the same functions and responsibilities as those provided in the 1979 Treaty for the planned U.N. force. Included are: the operation of checkpoints, reconnaissance patrols, and observation posts; verification of the implementation of Annex I of the Peace Treaty; and ensuring freedom of navigation through the Strait of Tiran in accordance with Article V of the Peace Treaty. By means of an exchange of letters with Egypt and Israel dated August 3, 1981, the United States agreed, subject to Congressional authorization and appropriations, to contribute an infantry battalion, a logistics support unit and civilian observers to the MFO, as well as a specified portion of the annual costs of the MFO. The U.S. military personnel to be contributed comprise less than half of the anticipated total MFO military complement of approximately 2,500 personnel.

In Public Law 97-132, the Multinational Force and Observers Participation Resolution, Congress affirmed that it considered the establishment of the MFO to be an essential stage in the development of a comprehensive settlement in the Middle East. The President was authorized to assign, under such terms and conditions as he might determine, members of the United States Armed Forces to participate in the MFO, provided that these personnel perform only the functions and responsibilities specified in the 1979 Treaty and the 1981 Protocol, and that their number not exceed 1,200 at any one time.

In accordance with the 1981 Egypt-Israel Protocol, the MFO must be in place by 1300 hours on March 20, 1982, and will assume its functions at 1300 hours on April 25, 1982. Accordingly, the movement of U.S. personnel and equipment for deployment to the Sinai is currently under way. On February 26 five unarmed UH-1H helicopters (which will provide air transportation in the Sinai for MFO personnel), together with their crews and support personnel, arrived at Tel Aviv; on March 2 approximately 88 logistics personnel arrived at Tel Aviv; on March 17, the first infantry troops of the First Battalion, 505th Infantry, 82nd Airborne Division arrived in the Southern Sinai; and by March 18 a total of 808 infantry troops, together with their equipment, will have arrived. These troops will be equipped with standard light infantry weapons, including M-16 automatic rifles, M-60 machine guns, M203 grenade launchers and Dragon anti-tank missiles.

The duration of this involvement of U.S. forces in the Sinai will depend, of course, on the strengthening of mutual confidence between Egypt and Israel. The U.S. contribution to the MFO is not limited to any specific period; however, each country which contributes military forces to the MFO retains a right of withdrawal upon adequate prior notification to the MFO Director-General. U.S. participation in future years will, of course, be subject to the Congressional authorization and appropriations process.

I want to emphasize that there is no intention or expectation that these members of the U.S. Armed Forces will become involved in hostilities. Egypt and Israel are at peace, and we expect them to remain at peace. No hostilities are occurring in the area and we have no expectation of hostilities. MFO forces will carry combat equipment appropriate for their peacekeeping missions, to meet the expectations of the parties as reflected in the 1981 Protocol and related documents, and as a prudent precaution for the safety of MFO personnel.

The deployment of U.S. forces to the Sinai for this purpose is being undertaken pursuant to Public Law 97-132 of December 29, 1981, and pursuant to the President's constitutional authority with respect to the conduct of foreign relations and as Commander-in-Chief of U.S. Armed Forces.

Sincerely,

RONALD REAGAN.

RECEIPT OF PRESIDENT'S MESSAGE DURING THE RECESS

The **PRESIDING OFFICER** laid before the Senate the following communication from the Secretary of the Senate (EC-3039); which was read, and ordered to lie on the table:

U.S. SENATE,
Washington, D.C., March 22, 1982.

Hon. GEORGE H. W. BUSH,
President of the Senate,
Washington, D.C.

MY DEAR MR. PRESIDENT: On Saturday, March 20, 1982, the President of the United States sent by messenger a message addressed to the Senate, dated March 20, 1982, giving his reasons for not approving S. 1503, an Act to amend the Energy Policy and Conservation Act to authorize the President to allocate crude oil, residual oil, and other petroleum products in the event of a severe petroleum supply shortage, and for other purposes. The Senate not being in session on the last day which the President had for the return of this bill under the provisions of the Constitution of the United States, in order to protect the interests of the Senate so that it might have the opportunity to reconsider the bill, I accepted the message, and I now present to you the President's veto message, with the accompanying papers, for disposition by the Senate.

Respectfully,

WILLIAM F. HILDENBRAND,
Secretary of the Senate.

VETO MESSAGE ON S. 1503—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE RECESS—PM 121

The following message from the President of the United States was received by the Secretary of the Senate on March 20, 1982, laid before the Senate on March 22, 1982, and ordered held at the desk to be laid before the Senate for consideration at the request of the majority leader, after consultation with the minority leader:

To the Senate of the United States:

Although I appreciate the good faith efforts of the sponsors of this legislation, I am returning without my approval S. 1503, the "Standby Petroleum Allocation Act of 1982."

While I am sympathetic to the assertion that this bill responds to an understandable concern that our nation must prepare against the possible disruption of energy supplies, this legislation grew from an assumption, which has been demonstrated to be invalid, that giving the Federal Government the power to allocate and set prices will result in an equitable and orderly response to a supply interruption. We can all still recall that sincere efforts to allow bureaucratic allocation of fuel supplies actually harmed our citizens and economy, adding to inequity and turmoil. Further, the threat of such controls will discourage the very steps that are needed to provide real protection against such emergencies.

The Act would require the promulgation of standby petroleum allocation and price controls, including a specific program for the sharing of crude oil among refiners at controlled prices. Those controls could be imposed in the event of future petroleum supply shortages, subject to Congressional approval. The Act would also require the Federal Government to continue extensive and burdensome data collection even when the regulations were not in effect.

Today I have ample powers to take the steps necessary to protect national security, meet our treaty obligations and assure essential public health and safety functions. The supplies in the Strategic Petroleum Reserve and significant production in the National Petroleum Reserve also insure that petroleum for truly essential needs will be available. What I do not have, do not want and do not need is general power to reimpose on all Americans another web of price controls and mandatory allocations.

We must recognize that an interruption of a significant portion of foreign energy supplies, whether because of armed strife, human choice or natural disaster, will involve real costs to the United States and the world. Proper preparation beforehand, and free trade among our citizens afterward, can mitigate these costs, but no magic federal plan can simply make them go away. Controls can only shift losses from one set of Americans to others, with vast dislocation and loss of efficiency along the way. This was very amply demonstrated during the supply interruptions of 1973-74 and 1978-79. Those interruptions precipitated much higher oil prices, but they did not cause gas lines and shortages. It took government to do that.

The bill could be counterproductive to our preparedness efforts. In the event of a supply interruption, the best protection will be stockpiling and plans for switching to less costly ways to achieve our goals. This bill would discourage self-protective measures, because it tells the public that those measures will be nullified by government allocations and controls or that such measures are unnecessary because the government will guarantee them low-priced energy in the event of any disruption.

The current world oil situation, with declining prices and ample supplies, provides the best opportunity for future preparedness. This is why the Administration continues to add to the Strategic Petroleum Reserve as fast as permanent storage becomes available. By the end of this year we will have nearly tripled the size of the Reserve in two years. All citizens who are concerned about the possibility of shortages and higher prices in the future should use the current opportunity to prepare in ways that are appropriate to their situation.

This legislation does contain one important feature, which should be adopted immediately as a separate Act. Since 1974 the United States has participated with other countries in the International Energy Agency, in an effort to improve our effectiveness in combating international energy problems. A coordinated response to any international oil supply disruption through the IEA requires cooperation by private American oil companies in ways that are not possible absent statutory authorization. This authorization, contained in Section 252 of the Energy Policy and Conservation Act, has been extended routinely since its enactment in 1975. The most recent extension expires on April 1st of this year. This authority should again be extended, and H.R. 5789 and S. 1937 are now pending in Congress for this purpose.

RONALD REAGAN.

THE WHITE HOUSE, *March 20, 1982.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL ACTIVITIES IN SCIENCE AND TECHNOLOGY—MESSAGE FROM THE PRESIDENT—PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

This report responds to the requirement, embodied in Title V of the Foreign Relations Authorization Act, Fiscal Year 1979 (Public Law 95-426), that I report annually on the United States Government's international activities in the field of science and technology. As a supplement to this report, the Department of State, in collaboration with interested departments and agencies, has prepared the attached study which contains a more detailed description and analysis of the Government's international non-military scientific and technological activities.

Since this is my first report under the Statute, I would like to discuss the general approach of my Administration to our bilateral and multilateral activities in science and technology.

INTERNATIONAL COOPERATION IN SCIENCE AND TECHNOLOGY TO SERVE NATIONAL NEEDS

The United States remains the world's leader in science and technology. We invest more in research and development than any other country. Our total national investment in research and development (R&D) exceeds those of Japan, West Germany, and France combined. We employ more scientists and engineers than any other free world country, and they contribute almost 40% of the world's scientific literature. Over the past decade, American scientists have garnered 57 Nobel prizes compared to 28 from all other countries combined. The magnitude, quality, and diversity of our R&D resources will continue to make cooperation with the United States in science and technology at individual, institutional, and governmental levels highly attractive to other nations.

Yet, we also recognize that, while the United States retains international preeminence in many areas of science and technology, we are no longer in a position to dominate each and every field. Nor do we hold a monopoly on the world's supply of scientific talent. The industrialized democracies of Western Europe, Canada, and Japan have established strong national programs in science and technology. Several other countries, such as Mexico, Brazil, South Korea, the People's Republic of China, and Israel, have built their own capabilities for carrying out scientific and technological activities in selected areas of special concern to them. Thus, just as the United States can profit from and be stimulated by vigorous international competition in science and technology, we can also profit through international cooperation, which extends and complements our own efforts and helps us achieve our national objectives.

International cooperation is not simply synonymous with Federally-sponsored cooperation. American scientists and engineers engage in a great many cooperative international ventures. Often, they work through the universities or the industrial firms which employ them, with the Federal Government acting, at most, as a catalyst. An important aspect of this Administration's science policy is to encourage such private sector cooperation. American universities have made tremendous contributions to the development of science abroad. International collaboration among industrial firms in areas such as transportation, industrial utilization of space, communications, and energy production can serve important national interests as well as the interests of the firms involved.

Almost every technical agency in the United States Government carries out programs with important international components. Many of the problems with which these agencies deal—such as health, environmental protection, and agricultural production—do not recognize international boundaries. They are world-wide in scope and impact. Governments everywhere invest precious resources in basic and applied research to tackle these problems. Our agencies constantly seek out and are sought out by the best foreign scientists and institutions for collaborative work in areas of common interest. In doing so we build stronger relationships with our partners abroad and help develop common approaches to common problems.

I will illustrate these points by briefly focusing on the National Aeronautics and Space Administration's (NASA) programs. Last year the spectacular voyages of the Space Shuttle Columbia were among our Nation's proudest achievements. But let us remember that many of our friends abroad made substantial contributions to the Shuttle program. Canada provided the remote manipulator system, the "Canadarm," first used on Columbia's second flight, at the cost of $100 million. In December our European Space Agency (ESA) partners presented the first Spacelab module to the United States. This billion dollar facility is scheduled to fly aboard the Shuttle in 1983. It will enable American and European scientists to carry out astronomical investigations of the sun and distant parts of the universe, and to perform the most ambitious experiments ever attempted in space's zero-gravity environment.

Thus, the scope and significance of international cooperation in space science are clear and visible. Since NASA's inception, this country's civilian space programs have been open to foreign participation. Almost all of NASA's programs have an international element, and many of them, like Shuttle, have a very large foreign component. The Federal Republic of Germany's contribution to the Galileo mission to Jupiter will total approximately $100 million, and ESA's contribution to the development of the Space Telescope will total almost $130 million. Both we and our foreign partners clearly benefit from such collaboration on large-scale, high-cost programs. What each of us may find difficult to do alone, we can accomplish together.

The same is true in many other fields. It is especially true today when fiscal restraint in our agencies' programs is required if we are to restore our Nation's economic health. Since many other nations face similar economic difficulties, it is becoming increasingly important that we all reach beyond our borders to form partnerships in research enterprises. There are areas of science, such as high energy physics and fusion research, where the cost of the next generation of facilities will be so high that international collaboration among the western industrialized nations may become a necessity. We welcome opportunities to explore with other nations the sharing of the high costs of modern scientific facilities.

We must also work with our partners for less duplication of scientific facilities. Our scientists will travel abroad to make use of unique facilities there just as foreign scientists will come to the United States to work in our laboratories.

I have focused thus far on collaboration with the industrialized democracies of Western Europe, Canada, and Japan. It is to these countries that our Government agencies most frequently turn for partners for the simple reason that their capabilities are generally closest to our own. But several other countries, such as Mexico, China, South Korea, Brazil, and Israel, have made impressive strides in developing their own capabilities in science and technology, and they have in selected areas become attractive partners for our Government agencies.

In this past year, special emphasis has been placed on the development of our scientific and technological relations with Mexico and the People's Republic of China. Our programs with both of these countries are models of the positive contribution which mutually beneficial scientific cooperation can make to our overall relations with other countries. Both Mexico and China have recognized the importance of building their own scientific institutions. These countries deal with us as equals in areas such as arid lands management and earthquake prediction. I look for cooperation between the United States and these and other rapidly developing countries to expand as their capabilities grow.

THE SOVIET UNION

There is one possible partner for scientific collaboration with whom I have not yet dealt: the Soviet Union. Potentially, American scientific collaboration with the Soviet Union could be highly beneficial to the entire world. It is easy to imagine the problems which might be solved by the cooperative efforts of the two largest scientific establishments in the world, and indeed, it was that vision which prompted President Nixon to launch the cooperative scientific and technological program with the Soviet Union a decade ago.

But that vision never materialized. Unfortunately, both our Government agencies and the American scientific community were quickly faced with the stark realities of the Soviet system:

—Many of the best Soviet scientists and institutions are off-limits to foreigners; they work in the vast Soviet military sector, where the Soviet Union has chosen to expend a disproportionate and growing share of its national resources.

—Free exchange of ideas in non-sensitive areas, the norm in the West, is impeded because Soviet scientists face imprisonment for disclosure of unpublished research results.

—Similarly, Soviet scientists are not allowed to travel freely to scientific conferences abroad, and many of the Soviet Union's national scientific conferences are closed to Westerners.

—Jewish scientists, even when they can obtain an education in the Soviet Union, face limited careers.

—The Soviet government has chosen to imprison, exile, or deny work to some of its most distinguished scientists for the "crimes" of thinking independently or wishing to emigrate. Others are sent to psychiatric hospitals in a flagrant misuse of science in service to the Soviet state.

As a result of all this, many American scientists began independently and personally to boycott the bilateral exchanges with the Soviet Union, and the potential for scientific cooperation with the Soviet Union was diminished even before the Soviet invasion of Afghanistan. That event led to an official curtailment of the level of cooperative activity under the eleven bilateral technical agreements to a small fraction of the pre-invasion level. Following the Soviet involvement in the tragic repression in Poland, I announced on December 29, 1981, that three of our bilateral scientific and technical agreements which come up for renewal in the next 6 months would not be renewed. Furthermore, I requested a complete review of all other exchanges with the Soviet Union. That review is currently under way. Future cooperation with the Soviet Union depends on the steps they take to comply with recognized norms of peaceful intercourse among nations.

SCIENCE AND TECHNOLOGY FOR DEVELOPMENT

I have dealt so far with those international scientific and technological activities which we undertake as a means of extending our own resources for solving the problems we share with others. We also recognize that science and technology should play a central role in our assistance to developing nations.

Last October I brought to the Cancun summit a program for action inspired by an old proverb: "Give a hungry man a fish and he'll be hungry tomorrow; teach him how to fish, and he'll never be hungry again." I stressed at Cancun the need for the developing countries to strengthen their own productive capacities and the vital role of the private sector—industry, universities and volunteer organizations—in international development.

This Administration intends to emphasize the role of science and technology in our bilateral development assistance programs, particularly in the areas of food and energy. Increasing food production in developing countries is critically important. We have always made food and agriculture an important emphasis of our aid programs. In addition to direct food aid we have underwritten successful agricultural research abroad, welcomed thousands of foreign students to our finest institutions, and helped make available throughout the world discoveries of the high-yielding seed varieties of the Green Revolution.

At Cancun I proposed that task forces be sent to developing countries to assist them in finding new agricultural techniques and transmitting to farmers techniques now in existence. It is expected that such task forces, whose expertise has been tailored to address the specific areas identified by the host governments, will visit several countries in 1982. Peru has already been selected as the first country to receive a task force.

The United States will also emphasize energy-related development activities in the years ahead. Our energy bilateral aid program will stress technical assistance rather than resource transfer. We will support intensified energy training programs for technicians from developing countries, and efforts to help developing countries more efficiently utilize their resources.

It is clear that America's greatest resources for assisting developing countries lie in our private sector. Our contributions to development through trade dwarf our direct assistance contributions. The United States absorbs about one-half of all manufactured goods exported by the non-OPEC developing countries to the industrialized world. Our companies have been at the forefront in establishing manufacturing capabilities in the developing countries. Thus, we will work with developing countries to improve the climate for private investment and for the transfer of technology that comes with such investment.

We are also looking to build a stronger, long-term relationship between our universities and the developing countries. The Agency for International Development (AID) is experimenting with several new mechanisms for assuring greater continuity in the involvement of American universities and their scientific talent in development assistance programs. Additionally, more than 150,000 foreign students are enrolled at present in science, mathematics, and engineering programs in American universities. When these foreign students return to their native lands they maintain ties with American institutions, and this becomes a continuing channel for the development of the indigenous scientific and technological capacities of the developing countries.

FUNDING AND PERSONNEL

My fiscal year 1983 budget has been sent to the Congress. In it I have requested funds adequate to meet our priority research and development and foreign policy needs.

The Department of State plays a central role in insuring that international scientific activities are consistent with our foreign policy objectives. Over the past year, the Department of State has continued its efforts to upgrade the scientific and technical skills of its officers.

To carry out the commitment to greater emphasis on science and technology in our development assistance program, AID has, over the past year, reorganized and strengthened its science and technology capabilities, and placed a high priority on the effective use of these in planning and implementing its programs. AID established a new Bureau for Science and Technology charged with providing leadership in this area. A new Science Advisor to the Administrator of AID was appointed and a competitive research grants program was started by his office.

THE FUTURE

I believe that the health of the American science and technology enterprise is essential to meeting our principal objectives: sustained economic recovery, enhanced national security, and improved quality of life for our people. The same is true for our friends abroad. International scientific and technical cooperation can help both us and our friends to reach our respective national goals. We intend to continue our participation in international research and development programs on the basis of mutual benefit and mutual interest, and to identify the most fruitful areas for cooperation. And through trade, investment and development assistance we will share the harvest of our scientific enterprise with our friends in need.

RONALD REAGAN.

THE WHITE HOUSE, *March 22, 1982.*

PRESIDENTIAL APPROVALS

A message from the President of the United States, announced that he had approved and signed the following joint resolutions:

On March 16, 1982:

S.J. Res. 91. Joint resolution to designate July 1982 as "National Peach Month."

S.J. Res. 105. Joint resolution to designate October 1982 as "National P.T.A. Membership Month."

On March 18, 1982:

S.J. Res. 148. Joint resolution to proclaim March 18, 1982, as "National Agriculture Day."

MESSAGE FROM THE HOUSE

At 3:49 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act;

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.; and

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that act.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3345. An act to make technical and conforming changes in the patent and trademark laws and in the Civil Rights of Institutionalized Persons Act; to the Committee on the Judiciary.

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.; to the Committee on Governmental Affairs.

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that act; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2998. A communication from the Administrator of General Services and the Secretary of Commerce, transmitting a draft bill to transfer the functions of the Secretary of Commerce set forth in section 111(f) and (g) of the Federal Property and Administrative Services Act of 1949 (79 Stat. 1128-29; 40 U.S.C. 759(f) and (g)) to the Administrator of General Services; to the Committee on Governmental Affairs.

EC-2999. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on February 23, 1982; to the Committee on Governmental Affairs.

EC-3000. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on February 23, 1982; to the Committee on Governmental Affairs.

EC-3001. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on February 23, 1982; to the Committee on Govenmental Affairs.

EC-3002. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on February 23, 1982; to the Committee on Governmental Affairs.

EC-3003. A communication from the Executive Director of the Board for International Broadcasting, transmitting, pursuant to law, the report on the number of meetings held by the Board during calendar year 1982; to the Committee on Governmental Affairs.

EC-3004. A communication from the Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, the annual report on activities of the Agency under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-3005. A communication from the Assistant Secretary of Commerce for Administration, transmitting, pursuant to law, the annual report of the Department on activities under the Freedom of Information Act for calendar year 1981; to the Committee on the Judiciary.

EC-3006. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the Department's Freedom of Information activities; to the Committee on the Judiciary.

EC-3007. A communication from the General Counsel of the Administrative Conference of the United States, transmitting, pursuant to law, a report on the Freedom of Information Act for calendar year of 1981; to the Committee on the Judiciary.

EC-3008. A communication from the Director of the National Science Foundation, transmitting a draft authorization bill for the National Science Foundation for fiscal years 1983 and 1984; to the Committee on Labor and Human Resources.

EC-3009. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the National Cancer Advisory Board for fiscal year 1981; to the Committee on Labor and Human Resources.

EC-3010. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on community health centers receiving grants under section 329 (migrant health) of the Public Health Service Act; to the Committee on Labor and Human Resources.

EC-3011. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a plan for the South Zumbro Watershed, Minnesota; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3012. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a plan for the Soil Conservation Service Upper Mud River Watershed, West Virginia; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3013. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3014. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 10, United States Code, to authorize the training of personnel of the armed forces of NATO member countries, Japan, Australia, and New Zealand, and for other purposes; to the Committee on Armed Services.

EC-3015. A communication from the Under Secretary of Defense (Research and Engineering), transmitting, pursuant to law, a summary of the report on independent research and development and bid and proposal costs incurred by major defense contractors in 1980 and 1981; to the Committee on Armed Services.

EC-3016. A communication from the Under Secretary of Defense (Research and Engineering), transmitting, pursuant to law, the report on independent research and development and bid and proposal costs incurred by major defense contractors for 1980 and 1981; to the Committee on Armed Services.

EC-3017. A communication from the Assistant Secretary of the Air Force (Research, Development, and Logistics), transmitting, pursuant to law, a report with respect to converting the grounds maintenance function at McClellan Air Force Base, California, and the decision that performance under contract is the most cost-effective method of accomplishment; to the Committee on Armed Services.

EC-3018. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend title V of the Housing Act of 1949; to the Committee on Banking, Housing, and Urban Affairs.

EC-3019. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on an application for a operating-differential subsidy for the reconstruction and repair of certain ships in foreign ports; to the Committee on Commerce, Science, and Transportation.

EC-3020. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970 and other rail safety statutes; to the Committee on Commerce, Science, and Transportation.

EC-3021. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of an extension in Investigation and Suspension Docket No. 9255, Cancellation of Participation in Single-Factor Joint Rates on Grains, Conrail, October 1981; to the Committee on Commerce, Science, and Transportation.

EC-3022. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report entitled "Loading and Unloading Practices in the Motor Carrier of Property Industry"; to the Committee on Commerce, Science, and Transportation.

EC-3023. A communication from the State Cochairman and the Federal Cochairman of the Alaska Land Use Council, transmitting, pursuant to law, a report on activities of the Alaska Land Use Council for 1981; to the Committee on Energy and Natural Resources.

EC-3024. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, the tentative final 5-year Outer Continental Shelf oil and leasing program; to the Committee on Energy and Natural Resources.

EC-3025. A communication from the Secretary of Energy, transmitting, pursuant to law, the sixth Quarterly report to the President and the Congress on Biomass Energy and Alcohol Fuels; to the Committee on Energy and Natural Resources.

EC-3026. A communication from the Chairman of the Federal Energy Regulatory Commission transmitting, pursuant to law, the Commission's Annual Report for the fiscal year ending September 30, 1980; to the Committee on Energy and Natural Resources.

EC-3027. A communication from the Acting Secretary of the Interior transmitting, pursuant to law, a report on the deferral of a repayment installment due the United States from the H. & R.W. Irrigation District, Pick-Sloan Missouri Basin Program, Nebraska; to the Committee on Energy and Natural Resources.

EC-3028. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on the status of the Great Plains Coal Gasification Project Loan Guarantee; to the Committee on Energy and Natural Resources.

EC-3029. A communication from the Deputy Administrator of the General Services Administration transmitting, pursuant to law, 13 prospectuses for public buildings alterations; to the Committee on Environment and Public Works.

EC-3030. A communication from the Attorney-Adviser, Department of State, transmitting, pursuant to law, copies of international agreements other than treaties entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-3031. A communication from the Inspector General of the Department of Labor transmitting, pursuant to law, a report on a proposed computer match of Federal Employees' Compensation Act beneficiaries against the Veterans Administration Compensation Pension Payment recipients; to the Committee on Governmental Affairs.

EC-3032. A communication from the Inspector General of the Department of Health and Human Services transmitting, pursuant to law, the quarterly report for October 1, 1981 through December 31, 1981; to the Committee on Governmental Affairs.

EC-3033. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on receipts and expenditures from the fund "Funds Contributed for the Advancement of the Indian Race, Bureau of Indian Affairs"; to the Select Committee on Indian Affairs.

EC-3034. A communication from the Assistant Secretary of the Interior for Indian affairs transmitting a draft of proposed legislation to repeal certain provisions of law relating to Indians which contain sex-discriminatory terminology; to the Select Committee on Indian Affairs.

EC-3035. A communication from the Assistant Attorney General of the United States, Antitrust Division, transmitting, pursuant to law, a report on Competition in the Coal Industry; to the Committee on the Judiciary.

EC-3036. A communication from the Secretary of Education transmitting, pursuant to law, the annual report on the National Technical Institute for the Deaf; to the Committee on Labor and Human Resources.

EC-3037. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to extend the authority for the program of grants to States for State home facilities; to the committee on Veterans Affairs.

EC-3038. A communication from the Administrator of the Veterans Administration transmitting a draft of proposed legislation to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots; to the Committee on Veterans Affairs.

EC-3039. A communication from the Secretary of the Senate, transmitting, notice that he received a message from the President of the United States, transmitting his veto of the bill S. 1503 on March 20, 1982, during the recess of the Senate; ordered to lie on the table.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-724. A resolution adopted by the Legislature of the State of Arizona; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE CONCURRENT MEMORIAL 2002

"Whereas, article I, section 8, Constitution of the United States, provides that only the Congress of the United States shall have the power 'to borrow Money on the credit of the United States;' and

"Whereas, article I, section 8, Constitution of the United States, directs that only the Congress of the United States is permitted 'to coin Money and regulate the Value thereof;' and

"Whereas, the Federal Reserve Act of 1913 transferred the power to borrow money on the credit of the United States to a consortium of private bankers in violation of the prohibitions of article I, section 8, Constitution of the United States; and

"Whereas, the Congress of the United States is without authority to delegate any powers which it has received under the Constitution of the United States established by the People of the United States; and

"Whereas, article I, section 1, Constitution of the United States, provides that 'all legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives;' and

"Whereas, the Federal Reserve Act of 1913 was imposed upon the People of the State of Arizona in violation of the provisions of article I, section 1, Constitution of the United States; and

"Whereas, the Federal Reserve Banking System, has threatened the integrity of our government through the arbitrary and capricious control and management of the nation's money supply; and

"Whereas, the United States is facing, in the current decade, an economic debacle of massive proportions due in large measure to a continued erosion of our national currency and the resultant high interest rates caused by the policies of the Federal Reserve Board; and

"Wherefore, your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Congress of the United States immediately enact such legislation as is necessary to repeal the Federal Reserve Act.

"2. That the Secretary of State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

POM-725. A resolution adopted by the Senate of the State of Arizona; to the Committee on Commerce, Science, and Transportation:

"SENATE MEMORIAL 1001

"Whereas, most Americans feel that a government that operates in close contact with the people is most efficient; and

"Whereas, the new federalism espouses a movement toward increased local control and responsibility; and

"Whereas, the state believes that it is most qualified to determine and set the most appropriate speeds to be driven on the highways; and

"Whereas, the highways are designed to safely accommodate speeds up to approximately seventy-five miles per hour; and

"Whereas, numerous members of the Congress of the United States have openly expressed opposition to the fifty-five mile per hour maximum speed limit and feel that the establishment of proper speed limits should be left to the discretion of the states.

Wherefore your memorialist, the Senate of the State of Arizona, prays:

"1. That the President and Congress give their most earnest consideration to the prompt enactment of legislation which would grant the states the option to reject or adopt the fifty-five mile per hour maximum speed limit without being subject to the imposition of federal sanctions.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional delegation."

POM-726. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION NO. 53"

"Whereas, The free movement of aircraft in providing vital air transportation services is absolutely necessary for the full utilization of this mode of transportation; and

"Whereas, The Federal Aviation Administration is being forced to monitor and ration the use of twenty-eight major airports in the United States; and

"Whereas, Current plans call for no discernible increase in capacities of either the airports or the use of air space, now, therefore, be it

"*Resolved by the House of Representatives* (the Senate concurring), That the Congress of the United States, the Secretary of the U.S. Department of Transportation, and the Director of the Federal Aviation Administration be urged to provide sufficient funds and policy objectives which would enable sufficient services to meet growing demand and to provide for more freedom of flight to encourage the largest benefit to the users of air travel; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Michigan Congressional delegation, the Secretary of the United States Department of Transportation, and the Director of the Federal Aviation Administration."

POM-727. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Commerce, Science, and Transportation:

"HOUSE CONCURRENT RESOLUTION NO. 55

"Whereas, The Airline Deregulation Act of 1978 has resulted in a turbulent and oftentimes chaotic state in the airline industry; and

"Whereas, The United States Congress had intended that there be a smooth transition to a free market environment; and

"Whereas, A measured transition is desired; and

"Whereas, Insufficient notice attends airline suspensions of service; and

"Whereas, The Civil Aeronautics Board (C.A.B.) has greatly limited any transition periods and terminations; and

"Whereas, Federal preemption is overly pervasive; and

"Whereas, The C.A.B. recommends air service maximums as the only criterion for federal support; and

"Whereas, Moreover, new communities are excluded from eligibility; now, therefore, be it

"*Resolved by the House of Representatives* (the Senate concurring), That the Congress of the United States be urged to enact an amendment to the Airline Deregulation Act of 1978 to correct these deficiencies; and be it further

"*Resolved,* That the United States Congress also provide for continuing assistance of a Civil Aeronautics Board charged with serving the public interest, and not only special interests; and be it further

"*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and the Michigan Congressional delegation."

POM-728. A resolution adopted by the Thirteenth Biennial Convention of the Alabama Labor Council opposing immediate decontrol of natural gas prices; to the Committee on Energy and Natural Resources.

POM-729. A resolution adopted by the Senate of the State of Washington; to the Committee on Energy and Natural Resources.

"SENATE RESOLUTION 1981-45

"Whereas, The Pacific Northwest Trail is one of several interstate wilderness trails in the United States; and

"Whereas, The Pacific Northwest region is abundantly blessed with natural beauty, especially in its mountains and forests; and

"Whereas, The enjoyment of the region's natural environment through involvement in outdoor recreational activities is an important part of the lives of many of the residents of the State of Washington; and

"Whereas, The establishment and maintenance of trails is essential to provide access to wilderness areas; and

"Whereas, The Pacific Northwest Trail offers a unique opportunity to experience the variety of nature in the Pacific Northwest region by linking this state's natural areas with those of neighboring states; Now, therefore, be it

"*Resolved,* By the Senate of the State of Washington, That the administration and Congress are urged to recognize the valuable contribution to outdoor recreational activity made by the Pacific Northwest Trail by including it within the national trail system; and be it further

"*Resolved,* That copies of this resolution be immediately transmitted to the Honorable Ronald Reagan, President of the United States, the Secretary of the Interior, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of Congress from the State of Washington.".

POM-730. A resolution adopted by the House of Representatives of the State of Missouri; to the Committee on Energy and Natural Resources:

"RESOLUTION

"Whereas, natural gas is one of the major methods of heating residential homes in this country; and

"Whereas, more than half of the homes in this country, forty-two million, who use natural gas, have decreased their consumption of this limited natural resource by almost fourteen percent of the amount used a decade ago, while at the same time their average heating bill has increased one hundred ninety-four percent; and

"Whereas, the Natural Gas Policy Act of 1978 was designed to deregulate the price of "new" natural gas which comprises approximately sixty percent of all natural gas; and

"Whereas, by eliminating classes of use and price differentials based upon these classes, deregulation will significantly affect residential customers; and

"Whereas, further decontrol will make it impossible for many Missourians to maintain adequate heat in their homes; and

"Whereas, the present timetable for natural gas pricing decisions will be turned over to private companies in 1985, which may produce an immediate price increase of from one hundred to three hundred percent or more; and

"Whereas, the record-breaking-low temperatures of the winter of 1981-1982 only serve to illustrate the extreme importance of a reasonably priced supply of natural gas to the citizens of this state; now, therefore, be it

"*Resolved*, That the members of the Missouri House of Representatives, Eighty-first General Assembly, hereby petition and implore the Honorable President of the United States, Ronald Reagan; the Congress of the United States; the Federal Energy Regulatory Commission; the Honorable Governor of the State of Missouri, Christopher Bond; and the Missouri Public Service Commission to use every means within reason to offset the financial hardships caused our citizens by the cruelly high prices for natural gas and to stop further deregulation of natural gas and/or to repeal or modify the Natural Gas Policy Act of 1978; and be it further

"*Resolved*, That a copy of this resolution be transmitted to President Ronald Reagan, to the presiding officers of both Houses of Congress, to members of the Missouri Congressional Delegation, to members of the Federal Energy Regulatory Commission, to Governor Christopher Bond and to the Chairman of the Missouri Public Service Commission."

POM-731. A concurrent resolution adopted by the Legislature of the State of South Dakota; the the Committee on Energy and Natural Resources:

"HOUSE CONCURRENT RESOLUTION NO. 1020

"Whereas, hydroelectric power has shown a capability for being a nonpolluting source of electricity; and

"Whereas, hydroelectric power has the capability of providing power for peaking times where other sources of power do not have this potential; and

"Whereas, the Gregory County Pumped Storage Multi-purpose Project has the capability of providing peaking power in addition to water for irrigation, rural water systems, and municipal and industrial water supplies; and

"Whereas, U.S. Senator James Abdnor had introduced S. 1437 to authorize the construction of a pumped-storage hydroelectric facility (Gregory County Pumped Storage Mult-purpose Project) as part of the Pick-Sloan Missouri River Basin Program, authorized by the Flood Control Act of 1944 which includes provisions for irrigation, municipal and industrial water supplies and allied purposes; and

"Whereas, the federal government has adopted a policy of nonfederal cost sharing and has indicated that nonfederal participation will be a prerequisite for federal involvement in the Gregory County Pumped Storage Multi-purpose Project; and

"Whereas, the state of South Dakota has studied and planned to cooperate in the development and construction of the Gregory County Pumped Storage Multi-purpose Project: Now, therefore, be it

"*Resolved, by the House of Representatives of the Fifty-seventh Legislature of the state of South Dakota, the Senate concurring therein*, That the South Dakota Legislature supports the concept of the Gregory County Pumped Storage Project as a cooperative project between the state of South Dakota and the United States government; and be it further

"*Resolved*, That the South Dakota Legislature encourages full support of S. 1437 by the South Dakota congressional Delegation, the elected officials of all levels of government in South Dakota and the citizens of South Dakota."

POM-732. A petition from a citizen of Glen Rock, N.J., notifying Congress not to expel Senator Harrison A. Williams, Jr., and prohibiting Senator Williams from resigning his office without 9 months notice; to the Select Committee on Ethics.

POM-733. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 16

"Whereas, owners and operators of public water systems are compelled by § 1414 of the Safe Drinking Water Act to notify consumers any time a system fails to comply with certain standards with respect to contaminant levels, monitoring requirements, and treatment techniques; and

"Whereas, this notification must be included in the water bills of a system's customers and published in a newspaper of general circulation in the same area which the system serves; and

"Whereas, these notification requirements are the same for all public water systems, whether large or small; and

"Whereas, customers served by local public water systems in small towns and other rural areas often do not need such formal means of notification; and

"Whereas, such notification for many of these rural systems is costly and otherwise burdensome; and

"Whereas, federal laws requiring such notification should allow for other means of notification, such as the posting of a public notice at a town, county, or other government office building; now, therefore, be it

"*Resolved by the Senate of Virginia, the House of Delegates concurring*, That the General Assembly of Virginia urges the Congress of the United States to amend the Safe Drinking Water Act to allow public water systems to use means other than newspaper publication, when appropriate, to comply with public notification requirements; and, be it

"*Resolved Further*, That this body memorializes the United States Congress to pass legislation necessary to enact such amendments; and, be it

"*Resolved finally*, That the Clerk of the Senate is directed to send copies of this resolution to the members of the Virginia Delegation to the United States Congress, the President of the United States Senate, the Speaker of the House of Representatives, and the President of the United States."

POM-734. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION NO. 24

"Whereas, The Auburn Dam, authorized by Congress in 1965 and under construction on the American River since 1966, is vital to the economy of the State of California; and

"Whereas, The Auburn Dam is a federal project designed to provide (1) high quality water for municipal, agricultural, and industrial uses, (2) flood protection in the American River drainage area, (3) pollution-free hydroelectric power, up to 800 megawatts, which annually would save millions of dollars in fuel oil consumption, and (4) significant recreation facilities; and

"Whereas, The Auburn Dam would supply the Central Valley region with surface water which will reduce reliance on groundwater and its related pumping costs; and

"Whereas, The one-half million residents of the Sacramento area are dependent upon adequate flows in the Lower American River for recreation activities and for fisheries; and

"Whereas, The Sacramento County Parks and Recreation Department registered at least four million visitor-days of use in 1980 along the Lower American River; and

"Whereas, The longer the Auburn Dam is delayed, the more apparent is the need for its myriad benefits; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to expedite funding for the Auburn Dam and conclude its construction as soon as possible, provided that the new design is shown to be safe, and provided that it is shown that the dam's power and water users pay their fair share of the cost of the power and water; and be it further

"*Resolved*, That the Legislature of the State of California encourages the Congress to provide adequate and unimpaired recreation and fishery flows for the Lower American River in legislation reauthorizing the Auburn Dam; and be it further

"*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, to the Chairman of the Senate Appropriations Committee, to the Chairman of the House Appropriations Committee, and to each Senator and Representative from California in the Congress of the United States."

POM-735. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 12

"Whereas, Agriculture is the number one industry in California, representing $15 billion in gross production, accounting for over 10 percent of the nation's agricultural exports, and continuing to grow in importance to the state, the nation and the world; and

"Whereas, During the past 20 years world population has doubled and it is expected to double again in the next 20 years; and

"Whereas, World food production has increased by only 40 percent in the past 20 years; and

"Whereas, The San Joaquin Valley is one of the richest agricultural areas in the world, accounting for over 50 percent of the $15 billion that agriculture contributes to the economy of California and the United States; and

"Whereas, It is estimated that a major portion of the valley's fertile agricultural land will go out of production by the year 2000 A.D., amounting to hundreds of millions of dollars in annual income lost due to the buildup of salts naturally deposited in the soil and salts occurring in irrigation water; and

"Whereas, Other damaging effects directly attributable to uncorrected agricultural drainage problems will further degrade local groundwater supplies and will cause additional deterioration of the water quality in the San Joaquin River; and

"Whereas, Migratory wildlife is an important resource which contributes many environmental and economic benefits to the citizens of this state; and

"Whereas, California's natural wetlands provide a critically important habitat for a wide variety of wildlife and thereby provide an important benefit to the people of the state and the nation; and

"Whereas, Over 90 percent of California's natural wetlands have been lost by conversion to other land uses and there is a need to restore some of those wetlands; and

"Whereas, State and federal agencies have determined that the loss of waterfowl habitat has had a severe adverse effect on the number of waterfowl on the Pacific Flyway; and

"Whereas, Resolution Chapter 92, Statutes of 1979, directs the Department of Fish and Game to prepare a plan which will identify means by which existing wetlands can be protected from conversion to other land uses and be managed in such a manner as to optimize their value as waterfowl habitats; and

"Whereas, Former wetlands may be restored to wetland status and new wetlands created, and additional recreational benefits can be provided on existing, restored, or newly developed wetlands; and

"Whereas, The San Joaquin Valley Interagency Drainage Program, sponsored jointly by the U.S. Bureau of Reclamation, State Water Resources Control Board and the Department of Water Resources, has recommended in its final report that a central salt disposal facility for the San Joaquin Valley be constructed to the western San Francisco Bay-Delta and, additionally, that a series of new or restored wetland wildlife habitat areas in the San Joaquin Valley and the Suisun Bay be constructed in conjunction with the salt disposal facility; and

"Whereas, The federal service area water users appear to be willing to pay for drainage service now, but few state service area water users are at this time interested in agreeing to financially support a valley drainage facility; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That it is the Legislature's interest to protect California's valuable agricultural land, water, and wildlife resources located in the San Joaquin Valley, regardless of whether those resources are located in federal, state, or private water service areas; and be it further

"Resolved, That the Legislature respectfully memorializes the President of the United States to recommend to the Congress and that the Congress authorize the construction of a drainage facility to serve all San Luis and Delta-Mendota water users with the provision to contract with both federal and nonfederal water users; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the Department of the Interior to provide drainage services for San Luis, Delta-Mendota, and all other water users who desire to use a federally constructed agricultural drainage facility to the western delta; and be it further

"Resolved, That the drainage facilities should only be constructed and maintained if they are environmentally safe and in full compliance with the discharge requirements established and administered by the State Water Resources Control Board and the regional water quality control board; and be it further

"Resolved, That the potential use of drainage water for aquaculture, municipal, industrial, and agricultural uses be fully explored by the U.S. Bureau of Reclamation and the Department of Water Resources because, if feasible, those uses could provide an effective water conservation tool in minimizing drain discharge; and be it further

"Resolved, That the drainage facility should include appropriate wetland habitat as needed within the service area of the drainage facility constructed; and be it further

"Resolved, That the costs attributable to the wildlife habitat enhancement areas be nonreimbursable; and be it further

"Resolved, That California's contribution to make this a federal and state joint use facility would be a share of the costs associated with the drainage facility and the wildlife habitat enhancement areas; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-736. A resolution adopted by the Senate of the State of South Carolina; to the Committee on Finance:

"A SENATE RESOLUTION

"Whereas, the Industrial Revenue Bond Act of 1960 was enacted by Congress to encourage local economic development and job creation; and

"Whereas, industrial revenue bonds provide an alternative source of financing for industry that is an incentive for new and expanding industrial development; and

"Whereas, industrial revenue bonds influence an investment decision which would not be made otherwise and encourage investment in depressed areas; and

"Whereas, in times of inflation and high interest rates, industry's ability to grow and expand is increasingly dependent upon attractive financing; and

"Whereas, the members of the Senate of the State of South Carolina believe that the Congress of the United States should continue to provide this type of industrial revenue bond financing and should not restrict or otherwise limit the use of these funds by industrial users. Now, therefore,

"*Be it resolved* by the Senate of the State of South Carolina:

"That the members of the Senate hereby memorialize the Congress of the United States to continue to provide for industrial development through the Industrial Revenue Bond Act of 1960.

"*Be if further resolved* that copies of this resolution be forwarded to the President of the United States, to each member of Congress from South Carolina, to the President of the United States Senate and to the Speaker of the United States House of Representatives."

POM-737. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Finance;

"SENATE JOINT RESOLUTION NO. 71

"Whereas, presently anyone with earned income may have an Individual Retirement Account (IRA); and

"Whereas, each year up to $2,000 of a person's earned income may be sheltered from taxes in an IRA ($2,250 if a married person has a non-working spouse); and

"Whereas, the IRA is an attractive investment option to many persons, both because of the tax advantages and because of the fairly high interest rate paid on such accounts; and

"Whereas, the residential construction industry in this county has been in a prolonged slump and needs revitalization; and

"Whereas, the present high mortgage rates have discouraged many individuals and couples from investing in residential property; and

"Whereas, it would be financially advantageous to the citizens of this country, and stimulate the residential construction industry, if persons could receive the same tax advantages from investing in residential property as they can receive from investing in an IRA: now, therefore, be it

"*Resolved* by the Senate, the House of Delegates concurring, That the Congress of the United States is hereby memorialized to consider legislation providing the same tax advantages for persons who invest in residential real property as exists for those persons participating in an Individual Retirement Account; and, be it

"*Resolved further,* That the Clerk of the Senate transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia delegation to the Congress of the United States in order that they may be apprised of the sense of this body."

POM-738. A resolution adopted by the Aerospace Industrial District Lodge 751 of the State of Washington urging a freeze on the development of nuclear weapons; to the Committee on Foreign Relations.

POM-739. A resolution adopted by the Union No. 81 of Scranton, Pennsylvania, International Brotherhood of Electrical Workers urging a settlement of the dispute concerning the rights of the people of Ireland; to the Committee on Foreign Relations.

POM-740. A resolution adopted by the House of Representatives of the State of Kansas; to the Committee on Foreign Relations.

"HOUSE RESOLUTION NO. 6127

A resolution memorializing the President and the Congress of the United States to initiate a mutual nuclear weapons moratorium with Soviet Union and to transfer funds appropriated for the testing, production and deployment of nuclear weapons to uses in our civilian economy

"Whereas, The United States and the Soviet Union are engaged in a nuclear weapons race and are testing, producing and deploying nuclear warheads, missiles and delivery systems; and

"Whereas, A strong economy is the foundation of national security; and both nations should be freed from the economic and psychological burdens of the nuclear arms race; and

"Whereas, Both the Congress of the United States and the Government of the Soviet Union are expending huge sums of money for such testing, producing and deploying of nuclear weapons at a great cost to the economies and the peoples of both countries; and

Whereas, Representatives of the governments of the United States and the Soviet Union are preparing to resume arms control talks: Now, therefore,

"*Be it resolved by the House of Representatives of the State of Kansas:* That we urge the President and the Congress of the United States to take advantage of the opportunity presented by the arms control talks to initiate a mutual nuclear weapons moratorium with the Soviet Union; and

"*Be it further resolved:* That should the two nations mutually agree upon such a moratorium, we further urge the Congress to transfer funds appropriated for the testing, production and deployment of nuclear warheads, missiles and delivery systems to uses in our civilian economy and other programs to achieve international stability; and

"*Be it further resolved:* That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the President of the United States, each member of the Kansas Congressional Delegation, the President of the United States Senate and the Speaker of the House of Representatives of the United States House of Representatives."

POM-741. A resolution adopted by the Estonian Society of Los Angeles, California commemorating the 64th anniversary of the Declaration of Independence of the Estonian Republic; to the Committee on Foreign Relations.

POM-742. A resolution adopted by the House of Representatives of the Commonwealth of Puerto Rico urging a postal commemorative stamp in honor of the illustrious statesman, Don Luis Munoz Marin; to the Committee on Governmental Affairs.

POM-743. A petition from a citizen of Rio Piedras, Puerto Rico, urging a redress of grievances concerning individual Electoral Rights; to the Committee on the Judiciary.

POM-744. A petition from the Economic Opportunity Council of Warren, Pennsylvania, transmitting its annual report for fiscal year 1981; to the Committee on Labor and Human Resources.

POM-745. A petition from a citizen of San Francisco, California, urging a Senate investigation of an individual medical practice; to the Committee on Labor and Human Resources.

POM-746. A petition from a citizen of San Francisco, California, urging a Senate investigation of an individual medical practice; to the Committee on Labor and Human Resources.

POM-747. A petition from a citizen of Bluefield, West Virginia, relative to Senator Robert C. Byrd of West Virginia; to the Committee on Rules and Administration.

POM-748. A series of resolutions adopted by the State Council of Virginia, Junior Order of United American Mechanics relative to various legislative matters; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2244. An original bill to give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington, March 29, 1979 (Rept. No. 97-323).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1233. A bill to establish a program in the Department of Commerce to promote U.S. service industries, enhance their competitiveness, and for other purposes (Rept. No. 97-324).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 347. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1233; referred to the Committee on the Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

S. 2244. An original bill to give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington, March 29, 1979; placed on the calendar.

By Mr. HELMS (by request):

S. 2245. A bill to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for 2 years; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER:

S. 2246. A bill to amend the Internal Revenue Code of 1954 and the Fish and Wildlife Conservation Act of 1980 to establish the Nongame Fish and Wildlife Trust Fund, and to provide for voluntary contributions to such fund through a tax checkoff system, and for other purposes; to the Committee on Finance.

By Mr. PACKWOOD (for himself and Mr. Hatfield):

S. 2247. A bill to amend the Tariff Schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program; to the Committee on Finance.

By Mr. TOWER (for himself and Mr. Stennis) (by request):

S. 2248. A bill to authorize appropriations for fiscal year 1983 for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes; to the Committee on Armed Services.

S. 2249. A bill to authorize supplemental appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, and for other purposes; to the Committee on Armed Services.

By Mr. MURKOWSKI (for himself, Mr. Stafford, Mr. Randolph and Mr. Burdick):

S. 2250. A bill to amend the Disaster Relief Act of 1974, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PRESSLER:

S. 2251. A bill to amend the Trade Act of 1974 to restore the authority of the President with respect to reciprocal nondiscriminatory treatment; to the Committee on Finance.

By Mr. STEVENS (for Mr. Packwood) (for himself, Mr. Stevens, Mr. Gorton and Mr. Cannon)):

S. 2252. A bill to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984 and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN:

S. 2253. A bill for the relief of Fernando Chau Kiok, M.D., his wife Soledad Chute, and their child Richard Kiok; to the Committee on the Judiciary.

By Mr. STEVENS:

S. 2254. A bill to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978; considered and passed.

By Mr. HUMPHREY:

S. 2255. A bill to amend title 18, United States Code, to establish criminal procedures for providing services or information under certain circumstances to the Government of Libya or its agents and certain terrorist groups and foreign governments to be named by the President, and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

Senate Joint Resolution 172. A Joint resolution designating Baltic Freedom Day; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PACKWOOD from the Committee on Commerce, Science, and Transportation:

S. Res. 347. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1233; to the Committee on the Budget.

By Mr. BENTSEN (for himself, Mr. Stennis, Mr. Boren, Mr. Zorinsky, Mr. Huddleston, Mr. Durenberger, Mr. Tower, Mr. Thurmond, Mr. Hollings, Mr. Levin, Mr. Sarbanes, Mr. Bumpers, Mr. Pryor, Mr. Johnston, Mr. Exon, Mr. Ford, Mr. Sasser, Mr. Baucus, and Mr. Melcher):

S. Res. 348. Resolution to request the Secretary of Agriculture to make loans available to farmers under the economic emergency loan programs; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRESSLER:

S. Con. Res. 75. Concurrent resolution to preserve fiscal year 1980 impact funding levels, with adjustments for inflation; to the Committee on Labor and Human Resources.

By Mr. LEVIN (for himself, Mr. Boren, Mr. Hatfield, Mr. Tsongas, Mr. Jepsen, Mr. Sasser, Mr. Boschwitz, Mr. Hayakawa, Mr. Riegle, Mr. Dixon, Mr. East, Mr. Sarbanes, Mr. Proxmire, Mr. Moynihan, Mr. Heinz, Mr. Roth, Mr. Cohen, Mr. Exon, Mr. Grassley, Mr. D'Amato, Mr. Pryor, and Mr. McClure):

S. Con. Res. 76. Concurrent resolution expressing the sense of the Congress with respect to the situation of two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal "faith by the Government of the Soviet Union; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HELMS (by request):

S. 2245. A bill to amend and extend the Federal Insecticide, Fungicide, and Rodenticide act, as amended, for 2 years; to the Committee on Agriculture, Nutrition, and Forestry:

EXTENSION OF FEDERAL INSECTICIDE FUNGICIDE, AND RODENTICIDE ACT

● Mr. HELMS. Mr. President, at the request of the Administrator of the

Environmental Protection Agency, Anne M. Gorsuch, I am introducing a bill to amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act.

This bill would reauthorize the activities of the Scientific Advisory Panel through September 30, 1984. Since it was established in 1976 the advisory Panel has been active in providing EPA with scientific review in connection with a number of regulation proposals and cancellations, and on several public health issues. The extension of authority for the panel, which expired at the end of fiscal year 1981, is particularly important at this time in order to assure that this valuable scientific review process will continue.

This bill would also provide authorizations for appropriations to fund the nonresearch programs carried out under FIFRA through fiscal year 1984, at a level consistent with the President's budget for fiscal year 1983 and at such level as may be necessary for fiscal year 1984.

Mr. President, as you may recall the Committee on Agriculture, Nutrition, and Forestry reported a similar measures, last session, to extend and amend FIFRA through fiscal year 1982 (S. 1036). That bill, however, has not yet been taken up by the full Senate primarily because a number of other very significant issues, requiring legislative change, have been under review since last spring and still have not been adequately resolved. The House Agriculture Committee has held extensive hearings on these issues and now the EPA, industry, and other interested groups are working with each other and with the Agriculture Committee staffs, in both the Senate and House, in order to put the necessary amending language in proper form for introduction. It is my expectation that the Senate Agriculture Committee will pursue these additional amendments as a part of the reauthorization process as soon as the details of them are fully resolved.

I ask unanimous consent that the bill and the transmittal letter from the Administrator of EPA be printed in the Record at the conclusion of my remarks.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136w), is amended by striking "September 30, 1981" and inserting in lieu thereof the words "September 30, 1984".

Sec. 2. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by adding at the end thereof the following new sentence:

"There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1982, and ending September 30, 1983, $44,208,000, and for the period beginning October 1, 1983, and ending September 30, 1984, such sums as may be necessary.".

U.S. Environmental Protection Agency,
Washington, D.C., February 23, 1982.

Hon. George Bush,
President of the Senate,
Washington, D.C.

Dear Mr. President: Enclosed is the Environmental Protection Agency's proposed bill "To amend and extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for two years."

This bill would amend section 25(d) of the Act to extend the activities of the Scientific Advisory Panel and section 31 of the Act to extend the Environmental Protection Agency's appropriation authorities through fiscal year 1984. These authorities expired on September 30, 1981.

Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) established the Scientific Advisory Panel (SAP) to advise the Environmental Protection Agency (EPA). The SAP is comprised of seven members chosen from among twelve nominees—six nominated by the National Institutes of Health and six nominated by the National Science Foundation. The Act requires that all proposed and final regulations issued under section 25(a) and proposed cancellations or changes in the classification of pesticides be submitted to the SAP for comment as to their impact on health and the environment. Further, the SAP is empowered to advise the Administrator on improving the Agency's scientific studies conducted pursuant to FIFRA. The present language of the statute required the panel to terminate its activities at the end of fiscal year 1981.

Since its establishment in 1976, the SAP has been active on several matters. In 1979 twelve meetings were held to deal with five regulation proposals and four cancellations. During 1980 thirteen meetings were held covering six regulations and four cancellation classification actions. In addition, the panel assisted EPA with a scientific review of six issues of concern to public health. The SAP has been regarded by the scientific community, the agricultural community, the chemical industry, and the Congress as an important checkpoint for EPA actions under the FIFRA. Under the Act, EPA's charge is to insure that pesticides do not cause "unreasonable adverse effects on the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticides." The SAP serves the vital function of providing information on health and environmental effects of proposed EPA actions and of providing disinterested and scientifically rigorous review. The various interested parties to pesticide regulatory actions are inclined to view a SAP opinion as disinterested and therefore to accept it, which is crucial if our pesticide regulatory program is to progress.

The Agency has determined that the SAP's continuing review of Agency actions is an essential element of the difficult decisionmaking processes under the FIFRA. The panel's past record has been exemplary. Section 1 of the enclosed draft bill, therefore, would amend the Act to extend the life of the SAP for another two years.

The estimated annual operating cost of the SAP is $200,000, which includes an allowance for 3.0 workyears of staff support provided by the Office of Pesticide Programs. This amount has been included in the President's Budget for fiscal year 1983.

Enactment of section 2 of the enclosed bill would enable the environmental Protection Agency to continue the non-research programs envisioned by the Federal Insecticide, Fungicide and Rodenticide Act. We have requested extension of related research and development appropriation authorities in another draft bill, "The Environmental Research, Development and Demonstration Authorization Act of 1983." The enclosed draft bill provides appropriation authorization for our non-research activities under the Act, including developing and processing registration standards for pesticide ingredients; reviewing and registering new pesticide products; classifying pesticide products for general or restricted use; establishing a minimum level of pesticide residue tolerances for food and feed commodities; assistance to State pesticide regulatory agencies for enforcement and for training and certification of pesticide applicators, and funds for basic operating expenses and salaries. In 1983, the enforcement program reflects a shift of more responsibility to the States.

We recommend that this proposal be referred to the appropriate Committee and that it be enacted.

Our request for appropriation authorizations in the enclosed draft bill for fiscal year 1983 for these nonresearch activities under the Federal Insecticide, Fungicide, and Rodenticide Act is $44,208,000. This is the amount requested in the President's 1983 Budget for these activities.

The Office of Management and Budget advises that enactment of this legislative proposal would be in accord with the program of the President.

Sincerely yours,

Anne M. Gorsuch,
Administrator.●

By Mr. DURENBERGER:

S. 2246. A bill to amend the Internal Revenue Code of 1954 and the Fish and Wildlife Conservation Act of 1980 to establish the nongame fish and wildlife trust fund, to provide for voluntary contributions to such fund through a tax checkoff system, and for other purposes, to the Committee on Finance.

NONGAME FISH AND WILDLIFE TRUST FUND

● Mr. DURENBERGER. Mr. President, this morning I am introducing legislation to amend the Internal Revenue Code of 1954 and the Fish and Wildlife Conservation Act of 1980 to establish a voluntarily funded nongame fish and wildlife trust fund.

This country's long history of concern for wildlife was reflected in part by the enactment of the Wildlife Restoration Act (Pittman-Robertson Act) on September 2, 1937. The act established a Federal/State partnership for the conservation and restoration of wildlife. A Federal aid to wildlife restoration fund was established and funds provided from an excise tax on pistols, rifles, revolvers, and bows and arrows. Up to 75 percent of a State program can be financed by the fund, provided the State meets the act's requirements, including dedication of all hunting license fees to the State game and fish department or State agency equivalent.

The Migratory Bird Conservation Act was passed at the same time. It required the sale of migratory bird hunting and conservation stamps which provided funding for the Federal migratory bird program.

The focus of both acts was on game species—habitat and preservation. The Nation's hunters underwrote the programs which provided continued sport hunting in this country.

On August 9, 1950, the Federal Aid in Sport Fish Restoration Act (Dingell-Johnson Act) was signed into law. The act specifically provided for:

> Fish restoration and management projects—which have material value in connection with sport or recreation in the marine and/or fresh waters of the United States.

Again, the sport fishermen funded the State/Federal programs through license fees and tax imposed on fishing rods, reels, and artificial lures, baits, and flies.

The sport hunting and fishing programs were effective in providing sound management programs and stable funding. Although nongame conservation was not an integral part of the program, efforts by sportsmen saved wetlands for ducks and also benefited yellow-headed blackbirds, marsh wrens, wild swans and grebes, and many other nongame species. These benefits were incidental but real.

However, as conservationist and philosopher Aldo Leopold recognized over 30 years ago:

> Our basic weakness in a conservation system based wholly on economic motives is that most members of the land community have no economic value. Wildflowers and songbirds are examples. Of the 22,000 higher plants and animals native to Wisconsin, it is doubtful whether more than 5 percent can be sold, fed, eaten or otherwise put to economic use. Yet these creatures are members of the biotic community, and if its stability depends on their integrity, they are entitled to continuance.

Over the years, the programs that worked so well for game species did not provide enough "incidental" benefits for nongame fish, wildlife, and plant species. We came to realize that some species were in danger of extinction as the onslaught of technology and development destroyed habitat and introduced destructive elements such as DDT into the environment.

In 1973, Congress passed the Endangered Species Act, which provided authority for the Secretary of the Interior to prevent the extinction of fish, wildlife, and plant species. The goal of the program is to maintain a healthy diversity of species and to preserve in their natural ecosystems species of animals and plants that are endangered or threatened with extinction. The Endangered Species Act seeks to restore such species to the point at which they are once again healthy, vital, and capable of survival in their natural habitats. Listed under the Endangered Species Act is the American bald eagle, the peregrine falcon, the condor, and 189 other species. Forty-five species are considered threatened in the United States.

An important means to accomplishing the goal of the Endangered Species Act is the Federal/State cooperative program established by section 6 of the act. Congress recognized the essential nature of the State role at the time the 1973 act was approved, when the conference committee stated:

> It should be noted that the successful development of an endangered species program will ultimately depend upon a good working agreement between the Federal agencies, which have broad policy perspective and authority, and the personnel to see that the State and Federal endangered species policy is properly executed.

The purpose of section 6 is to provide the States with a funding base to assist in initiating and maintaining endangered species conservation programs on a two-thirds to one-third Federal/State cost-sharing basis. The Federal share is increased to 75 percent when two or more States cooperate to work on a species.

Twenty-six million dollars was authorized under the 1973 act and the 1977-78 amendments. Funds were first appropriated in 1976. A total of $23.6 million was allocated in the 5 years from 1977 to 1981.

However, in fiscal year 1982, the State grant funds under the Endangered Species Act were eliminated. No further funding is provided in the administration's budget request for fiscal year 1983. This leaves State programs without Federal funds, and without Federal funding it is doubtful that States lacking nongame checkoff will be able to continue their commitment to nongame wildlife programs.

It became clear from working with endangered species that although the act was critical to the preservation of threatened species, it is far better conservation strategy to begin managing nongame species before they become threatened or endangered. This preventive medicine approach is far less expensive. And by being low key it helps avoid the emotional controversies that occur in helping species once they become endangered. In this spirit, the 96th Congress enacted the Fish and Wildlife Conservation Act of 1980.

Included in the act's declaration of findings and purpose were the following:

> The improved conservation and management of fish and wildlife, particularly nongame fish and wildlife, will assist in restoring and maintaining fish and wildlife and in assuring a productive and more esthetically pleasing environment for all citizens.
>
> Many citizens, particularly those residing in urban areas, have insufficient opportunity to participate in recreational and other programs designed to foster human interaction with fish and wildlife and thereby are unable to have a greater appreciation and awareness of the environment.
>
> Historically, fish and wildlife conservation programs have been focused on the more recreationally and commercially important species within any particular ecosystem. As a consequence, such programs have been largely financed by hunting and fishing license revenues or excise taxes on certain hunting and fishing equipment. These traditional financing mechanisms are neither adequate nor fully appropriate to meet the conservation needs of nongame fish and wildlife.

The first stated purpose of the National Fish and Wildlife Conservation Act was "To provide financial and technical assistance to the States for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife."

For this purpose $5 million annually was authorized for fiscal year 1982 through 1985—a total of $20 million. However, no appropriation was made for fiscal year 1982 nor was the program included in the fiscal year 1983 budget request.

As the Congress moved forward on the nongame fish and wildlife program through the Endangered Species Act and passage of the Fish and Wildlife Conservation Act of 1980, an innovative fundraising device, originated by Colorado's Fish and Game Department, demonstrated the public's support to the nongame program in the most dramatic way possible—through a checkoff on income tax forms which provided an opportunity for citizens to donate money to the program.

John Torres, The Colorado, nongame manager provided the spark—the idea for the checkoff—and it was first placed on the Colorado tax forms in 1978. Oregon passed legislation in 1979. In 1980, my State of Minnesota became the third in the Nation to pass nongame checkoff legislation, or the "chickadee checkoff" as it is popularly known. Between 1977 and 1982, 16 states have established a checkoff fund to support nongame programs.

However, with the elimination of title 6 funds for the States under the Endangered Species Act and no appropriations for the Fish and Wildlife Conservation Act for fiscal years 1982 and 1983, the two-thirds of the States without voluntary checkoffs are left with no funds for the nongame program. That program was just getting under way through the title 6 grants provided under the Endangered Species Act. That program had also dramatized the need to assist other than endangered/threatened nongame species.

We all know that competition for Federal dollars is intense. And the experience of the States with checkoffs in place has demonstrated strong support for the program.

In the first year of the Minnesota program, $525,000 was donated by 177,000 taxpayers—about 10 percent of the total returns filed. This year so far, the checkoff is averaging 12 percent. Colorado over a 4-year period has raised the percentage of returns using the checkoff from 9 percent to almost 13 percent for a total of $740,000 in 1981.

The Federal nongame checkoff does not compete for funds with other necessary Federal programs. Instead, it would allow taxpayers to donate $1 or more by designating the amount in a proposed "nongame checkoff" located on their Federal tax returns. If the person is due a refund, the donation is deducted from the refund, thus reducing the amount of the refund due to the taxpayer.

If the person owes money, the donation is added to the amount owed the Government. Donations are tax deductible on the following year's return.

The argument that the nongame checkoff sets an undesirable precedent has not proven true in the 16 States that now have the checkoff in place. No other checkoff proposals have been accepted by the State legislatures.

Clearly, a national nongame program cannot be handled by foundation funding, by individual States or by private organizations. The fish and wildlife heritage and habitat of this country is as basic as the air we breathe and the water we use. It is part of the national "commons" and must be preserved and managed on a national basis.

Establishment of the "nongame checkoff" is not meant to replace Federal responsibility for funding section 6 of the State cooperative grant program under the Endangered Species Act or the National Fish and Wildlife Act of 1980. It is meant to provide supplemental funding for State programs with proven value and strong public support during a period of Federal budget reevaluation. It is a voluntary program which I believe has a wide base of public support. My bill would provide citizens the opportunity to express their values and demonstrate their regard for the natural environment.

The public response in States like Minnesota and Colorado is a strong affirmation that the public cares about wildlife and is willing to contribute additional money to pay for programs that help wildlife. Let me share some examples of what Minnesota has been able to accomplish through its program.

On this year's tax returns, the percent of taxpayers donating has risen from an average of 10 to 12 percent of those whose forms are filed. Carrol Hendersen, Minnesota's nongame manager, noted that not a single letter or call has been made to his department in opposition to the checkoff.

Most of the work in Minnesota involves censuses and surveys and includes coordinating or initiating habitat management for selected nongame species. Special emphasis has been placed on the bald eagle and osprey nests, pastures used by burrowing owls, great gray owl habitat, hernories, bat caves, prairie chicken booming grounds, elk habitat, elk-blue bird projects, and management of piping plover and common tern nesting areas. The State is also involved with restoring river otters and prairie chickens.

Checkoff funds for the outstanding Raptor Recovery Clinic at the University of Minnesota have helped in the work of Dr. Duke and Dr. Redig to restore wounded or damaged birds such as the eagle and peregrine falcon to their natural habitat. Birds are now sent to the clinic from all parts of the country.

Animals don't regard political boundaries. When Minnesota entered into an agreement regarding a needed peregrine falcon management program with five neighboring States, Minnesota found it was the only State with funds for the program.

No single State can insure the abundance and diversity of these species. Although we are seeing signs of returning vitality in Minnesota's natural environment, such as the return of the white pelican, missing since 1879, to traditional nesting areas and the increase in nesting pairs of the bald eagle, these and other species migrate to other areas of the country.

The need for nongame management programs in each of the States is clear. The experience of Minnesota, Colorado, and the other States that have enacted the nongame checkoff have proven the programs value and demonstrated its public support. The States I have contacted with the checkoff in place strongly support a Federal bill.

The nongame wildlife checkoff represents a second chance for certain wildlife species that have suffered from a century of neglect. Considering the lack of funds from other sources, it may be their only chance. I urge you to join with me to pass the Federal nongame checkoff during the 97th Congress. This is a fitting action for the Congress as we commemorate the bicentennial year of the American bald eagle and will serve to renew our national commitment and dedication to the conservation of our natural heritage.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter A of chapter 61 of the Internal Revenue Code of 1954 (relating to information and returns) is amended by adding at the end thereof the following new part:

"PART IX—VOLUNTARY CONTRIBUTIONS TO NONGAME FISH AND WILDLIFE TRUST FUND

"Sec. 6097. Contribution by taxpayer.

"SEC. 6097. CONTRIBUTION BY TAXPAYER.

"(a) IN GENERAL.—Any taxpayer filing a return for the tax imposed under chapter 1 may designate on such return a contribution in any amount of $1 or more to be made by such taxpayer to the Nongame Fish and Wildlife Trust Fund (hereafter in this section referred to as the 'Trust Fund') established under section 12 of the Fish and Wildlife Conservation Act of 1980. The taxpayer wishing to make such a contribution shall include payment of the contribution with payment of taxes owed under chapter 1, or may direct on the return that the Secretary deduct the contribution from any refund owed to the taxpayer under such chapter. The Secretary shall provide that the tax return forms for the tax imposed under chapter 1 will fully inform each taxpayer of the taxpayer's opportunity to make such a contribution and the purposes for which such contribution will be used. Space shall be made available for making the designation of such a contribution on the first page of the return.

"(b) TRANSFER TO TRUST FUND.—Notwithstanding any other provision of law, the Secretary shall transfer any amounts contributed under subsection (a) into the Nongame Fish and Wildlife Trust Fund established under section 12 of the Fish and Wildlife Conservation Act of 1980 at the time such contribution is received from the taxpayer. Any amounts transferred into such Trust Fund under this subsection are hereby appropriated into such Trust Fund for use only as provided in the Fish and Wildlife Conservation Act of 1980. Amounts transferred into the Trust Fund shall have no effect upon the amount appropriated under any other provision of law for purposes of carrying out the Fish and Wildlife Conservation Act of 1980, the Endangered Species Act of 1973, or the Marine Mammal Protection Act of 1972.".

(b) The table of contents of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following item:

"PART IX. VOLUNTARY CONTRIBUTIONS TO NONGAME FISH AND WILDLIFE TRUST FUND.".

(c) The amendments made by this section shall be effective with respect to taxable years beginning on or after January 1, 1982.

SEC. 2. (a) The Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901 et seq.) is amended by redesignating section 12 thereof (16 U.S.C. 2911) as section 13 and inserting after section 11 the following new section:

"SEC. 12. NONGAME FISH AND WILDLIFE TRUST FUND.

"(a) IN GENERAL.—There is established on the books of the Treasury of the United States a trust fund to be known as the 'Nongame Fish and Wildlife Trust Fund' (hereafter in this section referred to as the 'Trust Fund'). The Secretary of the Treasury shall transfer to the Trust Fund all contributions from taxpayers received under the provisions of section 6097 of the Internal Revenue Code of 1954 in accordance with the provisions of section 6097(b) of such Code. Such amounts shall remain in the Trust Fund without regard to fiscal year limitation and may be expended from the Trust Fund only as provided in subsection (b).

"(b) RESTRICTED USE OF TRUST FUND.—Amounts transferred into the Trust Fund during any fiscal year shall be made available for reimbursement to States under section 6 and shall be allocated to the States in accordance with the allocation formula set forth in section 8(b).

"(c) INVESTMENT.—The Secretary of the Treasury shall be the trustee of the Trust Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of such Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Trust Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of such Trust Fund.

"(d) REPORT.—The Secretary of the Interior, in consultation with the Secretary of the Treasury, shall submit an annual report to the Congress with respect to the amounts contributed to the Trust Fund, the payments made from the Trust Fund, interest earned by the Trust Fund, and the uses of the payments made to the States.".

(b) Subparagraphs (B) and (C) of section 3(6) of such Act are repealed.

(c) Section 3 of such Act is amended by adding at the end thereof the following new paragraph:

"(9) The term 'Trust Fund' means the Nongame Fish and Wildlife Trust Fund established under section 12.".

(d) Section 6(d) of such Act is amended by inserting "or available from the Trust Fund under section 12" after "funds appropriated under section 11".

(e) Section 6(e) of such Act is amended—

(1) in paragraph (2)(A), by striking out "after September 30, 1991" and inserting in lieu thereof "after the first ten fiscal years for which any States receive payment under this Act";

(2) in paragraph (2)(B), by striking out "after September 30, 1986" and inserting in lieu thereof "after the first five fiscal years for which any States receive payment under this Act";

(3) in paragraph (3)(A), by striking out "fiscal years 1982, 1983, and 1984" and inserting in lieu thereof "the first three fiscal years for which any States receive payment under this Act"; and

(4) In paragraph (3)(D), by striking out "after September 30, 1991" and inserting in lieu thereof "after the first ten fiscal years for which any States receive payment under this Act".

(f) Section 8(a) of such Act is amended by inserting ", and the amount available in the Trust Fund," after "amount appropriated pursuant to section 11".

(g) Section 8(b) of such Act is amended—

(1) in the matter preceding paragraph (1), by striking out "amount appropriated for any fiscal year pursuant to section 11" and inserting in lieu thereof "amount appropriated pursuant to section 11, and the amount available in the Trust Fund, for any fiscal year"; and

(2) in paragraph (1), by striking out "but not to exceed 8 percent thereof" and inserting in lieu thereof "but not to exceed an amount equal to 8 percent of the amount appropriated pursuant to section 11 and an amount equal to 8 percent of the amount available in the Trust Fund for such fiscal year".●

By Mr. PACKWOOD (for himself and Mr. HATFIELD):

S. 2247. A bill to amend the Tariff Schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program; to the Committee on Finance.

DUTY-FREE ENTRY OF CERTAIN FOOTWEAR

● Mr. PACKWOOD. Mr. President, today Senator HATFIELD and I are introducing legislation to help encourage contribution of shoes to the Special Olympics.

The Special Olympics is an international program of physical fitness and athletic competition for mentally retarded children and adults. Almost 1 million retarded individuals participate in Special Olympics activities. Special Olympics sponsors more than 10,000 local meets and games each year. National games are held annually, and international games are held every 4 years.

Over 300,000 volunteers provide the manpower to conduct Special Olympics activities.

Special Olympics offers basketball, soccer, track and field, swimming, diving, gymnastics, ice skating, volleyball, softball, floor hockey, poly hockey, bowling, frisbee disk, Alpine and Nordic skiing, and wheelchair events.

Special Olympics offers assistance to needy participants in the United States and throughout the world. Special Olympics has arranged with the Nike Shoe Co., of Beaverton, Oreg., for the donation of shoes each year for distribution free of charge to needy participants in the Special Olympics program.

The legislation that Senator HATFIELD and I are introducing today waives imposition of the tariff for shoes contributed to the Special Olympics. We believe the Federal Government should not collect a tariff on imported shoes which will be donated to the Special Olympics. Senator HATFIELD and I hope the Congress can act expeditiously on this bill which is so important to America's retarded citizens.

Mr. President, I request unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the headnotes to part 4 of schedule 8 of the Tariff Schedules of the United States (19 U.S.C. 1202) are amended by adding at the end thereof the following new headnote:

"7. The term 'footwear' (item 854.30) includes only footwear provided for in items 700.35, 700.45, 700.56, 700.61, 700.62, 700.63, 700.64, 700.67, 700.69, 700.71, and 700.80 of schedule 7.".

(b) Part 4 of Schedule 8 of such Tariff Schedules is amended by adding at the end thereof the following new item:

	"Articles imported for use by Special Olympics, Inc., a non-profit corporation.		
854.30	Footwear	Free	Free "

(c) The amendments made by subsections (a) and (b) shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of enactment of this Act.●

By Mr. TOWER (for himself and Mr. STENNIS) (by request):

S. 2248. A bill to authorize appropriations for fiscal year 1983 for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

● Mr. TOWER. Mr. President, by request, for myself and the senior Senator from Mississippi (Mr. STENNIS), I introduce for appropriate reference a bill to authorize appropriations for fiscal year 1983, for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Authorization Act, 1983."

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces of the United States for procurement in amounts as follows:

ARMY

For the Army: Aircraft: $2,745,914,000; Missiles: $2,846,600,000; Weapons and tracked combat vehicles: $5,030,685,000; Ammunition: $2,633,384,000; Other procurement: $4,567,491,000.

NAVY

For the Navy: Aircraft (including aircraft for the Marine Corps): $11,582,300,000; Weapons (including missiles and torpedoes): $3,901,600,000; Naval vessels: $18,648,300,000; Other procurement, $3,970,156,000.

MARINE CORPS

For the Marine Corps: Procurement (including missiles, tracked combat vehicles, and other weapons): $2,300,700,000.

AIR FORCE

For the Air Force: Aircraft: $17,756,700,000 of which $186,100,000 is for the United States contribution of its fiscal year 1983 share of the cost of the acquisition by the North Atlantic Treaty Organization of the Airborne Early Warning and Control System; Missiles: $6,827,900,000; Other procurement: $5,845,200,000.

DEFENSE AGENCIES

For the Defense Agencies: For procurement: $890,284,000.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 103. Section 104 of the Department of Defense Authorization Act, 1980 (Public Law 96-107, 93 Stat. 804) is amended by inserting "and thereafter" after "fiscal year 1980" in subsection 104(a) and by striking out "for fiscal year 1980" in subsection (a)(3).

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces of the United States for research, development, test, and evaluation, as authorized by law, in amounts as follows:

For the Army, $4,484,000,000.

For the Navy (including the Marine Corps), $6,235,316,000.

For the Air Force, $11,220,400,000.

For the Defense Agencies, $2,320,684,000, of which $60,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983, such additional sums as may be necessary for increases in salary, pay, retirement and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces of the United States (other than the Coast Guard) and other activities and agencies of the Department of Defense for operation and maintenance, in the amount of $69,391,700,000.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary (1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a), and (2) for unbudgeted increases in fuel costs and for increases as a result of inflation in the cost of activities authorized by subsection (a).

TITLE IV—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1983, as follows:

(1) The Army, 783,800.

(2) The Navy, 569,200.

(3) The Marine Corps, 194,600.

(4) The Air Force, 600,000.

SEC. 402 (a) Section 138(c)(1) of title 10, United States Code, is amended by inserting the following new sentence after the first sentence: "Such authorized end strength of any component of the armed forces may be increased by not more than 1.5 percent in any fiscal year if the Secretary of Defense determines that such increase is needed to maintain a stable personnel force.".

(b) The amendment made by this section shall apply with respect to end strengths of active duty personnel authorized for fiscal years beginning on or after October 1, 1981.

TITLE V—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS

SEC. 501. (a) For fiscal year 1983 the Selected Reserve of the Reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 407, 400.

(2) The Army Reserve, 258,700.

(3) The Naval Reserve, 105,500.

(4) The Marine Corps Reserve, 38,300.

(5) The Air National Guard of the United States, 101,100.

(6) The Air Force Reserve, 66,000.

(7) The Coast Guard Reserve, 10,700.

(b) The average strength prescribed by subsection (a) for the selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units of such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

SEC. 502. Within the average strengths prescribed in section 501, the reserve components of the Armed Forces are authorized, as of September 30, 1983, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve components:

(1) The Army National Guard of the United States, 14,419.

(2) The Army Reserve, 8,251.

(3) The Naval Reserve, 12,038.

(4) The Marine Corps Reserve, 678.

(5) The Air National Guard of the United States, 5,158.

(6) The Air Force Reserve, 479.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 503. Section 517 of title 10, United States Code, is amended—

(1) by striking out the table in subsection (b) and inserting in lieu thereof the following:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	265	156	132	6
E-8	1,244	329	441	56".

(b) The columns under the headings "Army", "Air Force", and "Marine Corps" in the table contained in section 524(a) of such title are amended to read as follows:

	"Army	Air Force	Marine Corps
	1,351	281	95
	671	267	40
	234	170	21

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 601. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1983, of 1,035,500.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial- and industrial-type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during the fiscal year 1983 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

TITLE VII—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

Sec. 701. (a) For fiscal year 1983, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 78,311.
(2) The Navy, 66,930.
(3) The Marine Corps, 20,435.
(4) The Air Force, 48,769.
(5) The Army National Guard of the United States, 18,052.
(6) The Army Reserve, 14,579.
(7) The Naval Reserve, 1,000.
(8) The Marine Corps Reserve, 2,971.
(9) The Air National Guard of the United States, 2,328.
(10) The Air Force Reserve, 1,351.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) for fiscal year 1983 shall be adjusted consistent with the manpower strengths authorized in titles IV, V, and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE VIII—GENERAL PROVISIONS

ADMINISTRATION OF SCHOOLS ON MILITARY INSTALLATIONS BY SECRETARY OF DEFENSE

Sec. 801. Notwithstanding the provisions of section 505(c) of the Omnibus Budget Reconciliation Act of 1981, funds authorized to be appropriated by this Act that may be available for payments and arrangements authorized by section 505(c) shall be administered by the Secretary of Defense who shall be responsible for the conduct of programs with such funds and who shall not delegate such responsibility outside of the Department of Defense.

REPEAL OF REQUIREMENT FOR REDUCTION IN NUMBER OF SENIOR MILITARY PERSONNEL OF THE DEPARTMENT OF DEFENSE

Sec. 802. Section 811 of the Department of Defense Appropriation Authorization Act, 1978, as amended (10 U.S.C. 131 note), is amended by repealing subsection (a).

INCREASE IN DOLLAR AMOUNT FOR REPORTS TO CONGRESS ON SALE OR TRANSFER OF DEFENSE ARTICLES

Sec. 803. Section 813 of the Department of Defense Appropriation Authorization Act, 1976, (10 U.S.C. 133 note), is amended by striking out "$25,000,000" and inserting "$50,000,000" in lieu thereof.

MODIFICATION OF REPORTS ON CONVERSION OF PERFORMANCE OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS FROM DEPARTMENT OF DEFENSE PERSONNEL TO PRIVATE CONTRACTORS

Sec. 804. (a) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note) is amended—

(1) by striking out "Department of Defense personnel" each time it appears and inserting in place thereof "Department of Defense civilian personnel";

(2) by inserting the following new subsections in such section:

"(d) Except for the provisions of subsection (a)(1), the preceding subsections shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by less tha 50 Department of Defense civilian personnel.

"(e) The provisions of this section shall not apply during war or a period of national emergency declared by the President or the Congress"; and

(3) by redesignating subsection (d) as subsection (f).

(b) The amendments made by this section become effective on October 1, 1982.

Sec. 805. Section 138(g) of title 10, United States Code, is amended by inserting after "fiscal year 1983" the words "and may not exceed $900,000,000 in fiscal year 1984".

General Counsel of the
Department of Defense,
Washington, D.C., March 12, 1982.

Hon. George Bush,
President of the Senate,
Washington, D.C.

Dear Mr. President: There is forwarded herewith legislation, "To authorize appropriations for fiscal year 1983, for procurement, for research, development, test, and evaluation, and for operation and maintenance for the Armed Forces, to prescribe personnel strengths for the Armed Forces and for civilian personnel of the Department of Defense, and for other purposes."

In accordance with the Congressional Budget Act of 1974, we are also submitting herewith, as separate legislation, a similar request for authorization of appropriations for fiscal year 1984.

These proposals are part of the Department of Defense legislative program for the 97th Congress and the Office of Management and Budget has advised that enactment of the proposals would be in accordance with the program of the President.

Title I provides procurement authorization for the military departments and the Defense agencies and for the United States share of the cost of the acquisition of the Airborne Early Warning and Control System by the North Atlantic Treaty Organization in amounts equal to the budget authority included in the President's budget for fiscal year 1983. It also contains a provision that makes permanent the authority to waive certain costs and assume certain liability in connection with the NATO AWACS program.

Title II provides for the authorization of each of the research, development, test, and evaluation appropriations for the military departments and the Defense Agencies in amounts equal to the budget authority included in the President's budget for fiscal year 1983. The authorization contains a provision that authorizes the appropriation of funds that are necessary to cover increased pay costs and other employee benefits to preclude the necessity of submitting a request for a supplemental authorization for such non-discretionary personnel costs.

Title III provides for lump-sum authorization for the operation and maintenance appropriations of the military departments and the Defense Agencies in an amount equal to the budget authority included in the President's budget for fiscal year 1983. The authorization contains a provision which authorizes the appropriation of funds to cover increased pay costs, unbudgeted increases in fuel costs, and inflation in the costs of activities covered by title III.

Title IV prescribes the end strengths for active duty personnel in each component of the Armed Forces as required by section 138(c)(1) of title 10, United States Code in the numbers provided for by the budget authority and appropriations requested for these components in the President's budget for fiscal year 1983. It also amends the provisions of section 138(c)(1) to permit the Secretary of a military department to increase authorized personnel end strengths by not more than 1.5% if the Secretary concerned determines that such as increase is necessary to maintain a stable personnel force.

Title V provides for average strengths of the Selected Reserve of each Reserve component of the Armed Forces as required by section 138(b) of title 10, United States Code, in the numbers provided for by the budget authority in appropriations requested for the Department of Defense in the President's budget for fiscal year 1983. Title V also prescribes the end strengths for Reserve component members on full-time active duty for the purpose of administering the Reserve forces and provides for an increase in the number of certain commissioned officers and enlisted personnel who may be serving on active duty in support of the Reserve components.

Title VI provides for civilian personnel end strengths for each component of the Department of Defense as required by section 138(c)(2) of title 10, United States Code, in the numbers provided for by the budget authority in appropriations requested for the Department of Defense in the President's budget for fiscal year 1983.

Title VII provides for the average military training student loads as required by section 138(d)(1), of title 10, United States Code, in the numbers provided for this purpose in the President's budget for fiscal year 1983.

Title VIII consists of five General Provisions. Section 801 would make the Secretary of Defense responsible for the administration of "section 6" schools rather than the Secretary of Education as required by the Reconciliation Act. Section 802 repeals the requirements contained in the 1978 authorization act for a reduction in the number of senior military personnel in the Department. A similar requirement for civilian personnel was repealed in the fiscal year 1982 act. Section 803 increases the dollar threshold for making reports to Congress in the sale of defense articles from $25 million to $50 million. This corresponds to a change that was made to the Arms Export Control Act by the International Security and Development Cooperation Act, 1981. Section 804 changes the requirement to report on conversions of commercial and industrial functions so that the requirement (1) applies only to conversion of functions being performed by civilian personnel; (2) applies only to conversions of functions being performed by 50 or more personnel and (3) may be suspended during a time of war or national emergency. Section 805 amends section 138(g) of title 10 relating to the amount of the Special Defense Acquisition fund by increasing the amount from $600 million to $900 million for fiscal year 1984 and for subsequent years.

Sincerely,

WILLIAM H. TAFT IV.●

● Mr. STENNIS. Mr. President, I am very pleased to join with Senator TOWER, chairman of the Armed Services Committee, in introducing, by request, the Department of Defense Supplemental Authorization Act for fiscal year 1982 and the fiscal year 1983 Department of Defense authorization bill. This is an uncertain year and we must provide for our military strength. These bills will be the first steps in doing that. The committee is just now having its hearings on these bills and gathering the facts. I want to reserve any judgments as to these bills, or any items in them, until the committee has had a chance to do its work.●

By Mr. TOWER (for himself and Mr. STENNIS) (by request):

S. 2249. A bill to authorize supplemental appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE SUPPLEMENTAL AUTHORIZATION ACT, 1982

● Mr. TOWER. Mr. President, by request, for myself and the senior Senator from Mississippi (Mr. STENNIS), I introduce for appropriate reference, a bill to authorize supplemental appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the listing of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Defense Supplemental Authorization Act, 1982".

TITLE I—PROCUREMENT

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 101. In addition to the funds authorized to be appropriated under title I of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1099) funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States for procurement, in amounts as follows:

AIRCRAFT

For Aircraft: for the Air Force, $219,100,000.

NAVAL VESSELS

For naval vessels: for the Navy, $263,400,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $126,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 201. In addition to the funds authorized to be appropriated under title II of the Department of Defense Authorization Act, 1982 (95 Stat. 1101) funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States for research, development, test, and evaluation in amounts as follows:

For the Air Force: $57,000,000.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS

SEC. 301. In addition to the funds authorized to be appropriated under title III of the Department of Defense Authorization Act, 1982 (95 Stat. 1103) funds are hereby authorized to be appropriated for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for operation and maintenance in amounts as follows:

For the Army, $365,200,000.
For the Navy, $229,300,000.
For the Air Force, $105,300,000.
For the Marine Corps, $25,300,000.
For Defense-wide activities, $61,200,000.

TITLE IV—ACTIVE FORCES

INCREASE IN FISCAL YEAR 1982 ARMY ACTIVE DUTY END STRENGTH

SEC. 401. Section 401 of the Department of Defense Authorization Act, 1982 (95 Stat. 1104), is amended by striking out "780,300" and inserting in lieu thereof "784,400".

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., February 25, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The President's budget for fiscal year 1983 includes supplemental budget requests for the Department of Defense for fiscal year 1982. The request for supplemental appropriations recognizes cost growth and program changes arising in fiscal year 1982 for which adjustments must be made in order to maintain and achieve the national defense objectives initiated last year. It will provide for significant readiness improvements, reduction of real property maintenance backlogs, development funds for the MX missile, mobility force airlift requirements and production of M-1 tank components which will ensure an adequate surge capability for the future. Some of these requests will require fund authorization pursuant to section 138(a) of title 10, United States Code. The amount requested for authorization is equal to the amounts requested by the President for supplemental appropriations for those appropriations that require authorization. $1,451,800,000.00 is the total being requested for supplemental authorization for the Department for fiscal year 1982.

Accordingly, there is forwarded herewith legislation, "To authorize supplemental appropriations for fiscal year 1982 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, and for other purposes."

This proposal is a part of the Department of Defense legislative program for the 97th Congress and the Office of Management and Budget has advised that enactment of this proposal would be in accord with the program of the President.

Sincerely,

WILLIAM H. TAFT IV.●

By Mr. MURKOWSKI (for himself, Mr. STAFFORD, Mr. RANDOLPH, and Mr. BURDICK):

S. 2250. A bill to amend the Disaster Relief Act of 1974, and for other purposes; to the Committee on Environment and Public Works.

DISASTER RELIEF ACT AMENDMENTS OF 1982

Mr. MURKOWSKI. Mr. President, last July the Subcommittee on Regional and Community Development of the Committee on Environment and Public Works conducted oversight hearings to examine and assess various aspects of the disaster relief program and to evaluate suggestions that have been made to amend the Disaster Relief Act of 1974. Attention was given to issues related to the core assistance programs of housing and replacement or restoration of destroyed or damaged public facilities. However, great concern—and the particular focus of the hearing—centered on the question whether the act may be used for civil disturbances and other manmade catastrophes as distinct from natural disasters.

The committee has been considering for some time the question of what should be included or excluded from the phrase "other catastrophe" which is a basic part of the legislation. The committee has been disturbed by an interpretation that the act can be used for social and economic problems. To the contrary, there is no documentary evidence that I have found that would indicate that—in enacting the Disaster Relief Acts of 1970 and 1974 and the various other amendments—Congress contemplated broadening disaster assistance coverage beyond the causes clearly and specifically listed in the law.

Nonetheless, in testimony before the committee, the agency stated that the act is not limited to "natural" occurrences and urged that a broad application be adopted. Such an expansion could have major budgetary implications and should not be undertaken without full consideration by both the Congress and administration. I fear that unless this sweeping interpretation is contested, it will become the "norm".

Based upon the experience of the committee and the hearings conducted by the subcommittee, I am today introducing a bill which addresses these issues. I do so in order that it can be available to the administration, the Federal Emergency Management Agency, other departments, and interested groups or individuals. It should serve as a focal point for further hearings and discussion with the administration and the agency.

The bill would amend the Disaster Relief Act to restrict the long-range response and recovery provisions of the act essentially to natural catastrophes. The definition of disasters would not include social disruptions like riots or refugee problems. This does not deny the importance of a Federal response to such cases, but the recovery provisions of this act are not geared to the appropriate responses to such problems. The bill would also amend the definition of "emergency" to permit responses necessary for protection of life, safety, health and property without triggering the long-range recovery provisions of the Disaster Relief Act.

The bill also includes program changes, some of which have been requested by the administration. Earlier last year, at the request of the administration, two bills were introduced which amended the Disaster Relief Act, S. 1216 and S. 1217. These measures are important to the administration and I believe they should not be ignored. The bill incorporates these measures.

Based on additional hearings and discussions, I expect the committee will develop legislation prior to the statutorily mandated deadline for reporting authorization bills. I would emphasize that the bill is intended as a starting point for this process and that I am not necessarily committed to all of its provisions but hope that it will serve as a focus for discussion or a point of departure in working with the administration and others.

Mr. President, I ask unanimous consent that at the end of my statement there be printed a copy of the bill and a copy of the present act showing the changes that would be made by the bill.

I am pleased to be joined in sponsoring this legislation by Senator STAFFORD, chairman of the committee, Senator RANDOLPH, ranking member, and Senator BURDICK, my counterpart on the subcommittee. The cosponsorship by my colleagues speaks well of its chances of being carefully considered by the subcommittee and action by the full committee. I look forward to moving quickly on this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Relief Act Amendments of 1982".

SEC. 2. The short title of the Disaster Relief Act of 1974 (P.L. 93-288) is hereby amended by deleting the words "Disaster Relief" and inserting in lieu thereof "Major Disaster Relief and Emergency Assistance".

SEC. 3. (a) Section 102(1) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5122(1)), is amended to read as follows:

"(1) 'Emergency' means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe in any part of the United States.".

(b) Section 102 is further amended by adding to the end thereof:

"(8) 'Director' means the Director of the Federal Emergency Management Agency.".

SEC. 4. Title VIII of the Public Works and Economic Development Act of 1965, as amended (P.L. 89-136; 42 U.S.C. 3231-3236) is hereby repealed, and Title V of the Disaster Relief Act of 1974, as amended (P.L. 93-288), is hereby amended to read as follows:

"TITLE V—FEDERAL EMERGENCY ASSISTANCE PROGRAMS

"PROCEDURES

"SEC. 501. All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. As a part of this request, and as a prerequisite to emergency assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the emergency, and shall certify that for the current emergency, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such emergency. Based upon such Governor's request, the President may declare that an emergency exists.

"FEDERAL ASSISTANCE

"SEC. 502. In any emergency, the President may—

"(a) direct any Federal agency without reimbursement to utilize its authorities and the resources granted to it under other Acts, including but not limited to personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local emergency assistance efforts to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe;

"(b) coordinate all Federal agencies and voluntary relief of disaster assistance organization providing emergency assistance, and coordinate emergency assistance with State and local officials; and

"(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks of hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

"EMERGENCY ASSISTANCE

"SEC. 503. (a) In an emergency, when the Federal assistance provided pursuant to section 502 of this Title is inadequate, the President may provide assistance to save lives and protect property, public health and safety, or to lessen or avert the threat of a catastrophe. Where debris removal assistance is appropriate under this section, it shall be provided in accordance with the terms and conditions of section 406 of this Act.

"(b) The President, in an emergency, shall not obligate funds appropriated to carry out this Act, other than for purposes of coordination and direction or the provision of technical and advisory assistance, where Federal assistance is available and adequate under other Federal authorities.

"(c) In any emergency and except as provided by subsection (d) of this section, the costs of providing emergency assistance shall not exceed $5,000,000 of funds appropriated to carry out this Act.

"(d) The limitation of subsection (c) of this section may be exceeded when the President determines that continued emergency assistance is immediately required; that there is a continuing and immediate risk to lives, property, public health or safety; and that necessary assistance will not otherwise be provided on a timely basis. In the event that the limitations of subsection (c) are exceeded, the President shall report to Congress on the nature and extent of the emergency assistance requirements and propose additional legislation if necessary.".

SEC. 5. Section 102(2) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5122(2), is amended by:

(1) adding the word "natural" between the words "other" and "catastrophe"; and

(2) striking the words "above and beyond emergency services by the Federal Government,".

SEC. 6. Title II of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5131-5132), is amended by:

(1) striking the words "(including the Defense Civil Preparedness Agency)" in section 201(a);

(2) adding the words "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards," between the works "plans," and "except" in section 201(d);

(3) striking out "$25,000" in section 201(d) and inserting in lieu thereof "$50,000"; and

(4) adding a new section 203 as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 203. There is authorized to be appropriated to the Federal Emergency Management Agency such sums as may be necessary to carry out the purposes of this title through the close of September 30, 1985.".

SEC. 7. Title III of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5141-5158), is amended by:

(1) deleting sections 301, 305 and 306 and renumbering subsequent sections appropriately;

(2) deleting the caption "FEDERAL ASSISTANCE" of section 302 and inserting in lieu thereof "RULES AND REGULATIONS";

(3) deleting the first and second sentences of subsection (a) of section 302; and

(4) deleting ", or economic status" in the second sentence of section 311(a).

Sec. 8. Section 303(a) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5143(a)), is amended as follows:

"(a) Unless otherwise directed by the President, following the declaration of an emergency or a major disaster, the Director or his designee shall become the Federal coordinating officer to operate in the affected area. The Federal coordinating officer shall represent the President in coordinating the emergency or the major disaster response and recovery effort.

Sec. 9. Section 307 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5147), is amended by adding "(a)" after "307." and by inserting a new subsection "(b)" as follows:

"(b) Any funds received as reimbursement for advances, overpayments, or payments for property and services pursuant to this Act shall be deposited to the credit of the appropriation or appropriations currently available for the purposes of this Act."

Sec. 10. Section 315 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5155), is amended by adding a new subsection "(d)" as follows:

"(d) Federal disaster assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations to individuals and families shall not be considered as income or a resource when determining eligibility or benefit levels for Federally funded income assistance or resource tested benefit programs.".

Sec. 11. Section 316 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5156), is amended by adding "(a)" after "316" and a new subsection "(b)" as follows:

"(b) The President shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House on each major disaster or emergency that he has declared.

SEC. 12. (a) Title III of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5141-5188), is amended by adding at the end thereof four new sections as follows:

"PROTECTION OF ENVIRONMENT

"SEC. 315. No action taken or assistance provided pursuant to sections 403, 406, 502 or 503 of this Act, or any assistance provided pursuant to section 405 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing is this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provision of law.

"RECOVERY OF FUNDS

"SEC. 316. The Attorney General of the United States is authorized to institute actions in the United States District Court for the district in which an emergency or major disaster occurred, or in such district as otherwise provided by law, against any party whose acts or omissions may in any way have caused or contributed to the damage or hardship resulting in a Presidential declaration pursuant to this Act. Upon the showing that an emergency or major disaster or the associated damage or hardship was caused in whole or in part by an act or omission of such party, then such party shall be liable to the United States for the full amount of Federal expenditures made to alleviate the suffering or damage attributable to such act or omission. The authority of this section shall also apply to the recovery of Federal funds expended under the authority of section 419 of this Act for fire suppression.

"AUDITS AND INVESTIGATIONS

"SEC. 317. (a) The Director, when deemed necessary to assure compliance with any provision of this Act or related regulations, shall conduct audits and investigations and in connection therewith may enter such places and inspect such records and accounts and question such persons as deemed necessary to determine the facts relative thereto.

"(b) The Director, when deemed necessary to assure compliance with any provision of this Act or related regulations, may require audits by State and local governments in connection with assistance provided under the Act.

"(c) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of investigation, audit and examination to any books, documents, papers, and records of any person or entity relating to any activity or program undertaken pursuant to this Act.

"CRIMINAL AND CIVIL PENALTIES

"SEC. 318. (a) Any person, organization, or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any application or other document in connection with a request for assistance under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such request for assistance is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

"(b) Any person, organization, or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any bill, invoice, claim, or other document requesting reimbursement for work or services performed in connection with assistance provided under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports, or statements upon which such request for reimbursement is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

"(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

"(d) Whoever knowingly violates any order, rule, or regulation issued under this Act shall be subject to a civil penalty of not more than $10,000 for each violation.

"(e) Civil penalties provided under this section shall be imposed in accordance with rules and regulations promulgated by the Director pursuant to the authority in section 601 of this Act.

"(f) Whenever it shall appear that any person has violated or is about to violate any provision of this Act, including rules and regulations issued and civil penalties imposed, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in the district court of the United States having jurisdiction where the violation occurred or, at the option of the parties, in the United States District Court for the District of Columbia.

"(g) The Director, or duly authorized representative of the Director, shall expeditiously refer to the Attorney General of the United States for appropriate action such evidence developed in the performance of functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law."

(b) Title III of the Disaster Relief Act of 1974, is amended by deleting section 317 (42 U.S.C. 5157) and by renumbering subsequent sections appropriately;

(c) Title IV of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5171), is amended by deleting section 405 and renumbering subsequent sections appropriately.

SEC. 13. Title IV of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5171-5189), is amended by adding three new sections as follows and by renumbering subsequent sections appropriately:

"PROCEDURES

"SEC. 401(a) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster, including, but not limited to, the cost-sharing provisions pursuant to sections 405, 406, and 410 of this Act. Based upon such Governor's request, the President may declare that a major disaster exists.

"(b) In any case where an eligible applicant (or the State) is unable to assume its financial responsibility under this Act, the President is authorized to lend or advance to the State such 25 per centum share. For purposes of section 405, such loan or advance shall be based upon the occurrence of concurrent, multiple disasters in a given jurisdiction or the extraordinary cost of a major disaster. Any such loan or advance is to be repaid to the United States but shall be interest free for two years from the date of the declaration; thereafter such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States.

"FEDERAL ASSISTANCE

"SEC. 402. In any major disaster, the President may—

"(a) direct any Federal agency without reimbursement to utilize its authorities and the resources granted to it under other Acts including, but not limited to, personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local assistance efforts;

"(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing disaster assistance, and coordinate disaster assistance with State and local officials; and

"(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks and hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

"COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

"SEC. 403. (a) In any major disaster, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

"(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

"(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

"(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

"(4) Performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and publc health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph. Such contributions shall not exceed 100 percentum of the net eligible cost, or for small projects the Federal estimate of the net eligible cost, of such emergency work or services performed by State and local governments.

"(b) Where debris removal assistance is appropriate under this section it shall be provided in accordance with the terms and conditions of section 406 of this Act.".

SEC. 14. (a) Section 402 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5172), is amended to read as follows:

"(a) The President is authorized to make contributions to State or local governments, to help repair, restore, reconstruct, or replace public facilities belonging to such State or local government which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be limited to 75 per centum of the net eligible cost, or for small projects the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster. For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

"(b) The President is authorized to make contributions to help repair, restore, reconstruct, or replace eligible private nonprofit facilities which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be limited to 75 per centum of the net eligible cost, or for small projects the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster. For the purposes of this section, "eligible private nonprofit facility" means private nonprofit educational, utility, emergency, medical, and custodian care facilities, including those for the aged and disabled, and facilities on Indian reservations as defined by the President which were damaged or destroyed by a major disaster.

"(c) No authority under this section shall be exercised unless the affected State, local government, or eligible private nonprofit organization first agrees that such facility shall be repaired, restored, reconstructed, or replaced in compliance with environmental protection, floodplain management, and hazard mitigation criteria required by the Director, and in conformity with other applicable codes, specifications, and standards.

"(d) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the contribution shall be based on 75 per centum of the net eligible costs of restoring such facilities substantially to their predisaster condition, provided that the term 'net eligible costs' shall not include costs which, under a contract, are the responsibility of a contractor.

"(e) In those cases where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection (a) of this section, a contribution based on 67 per centum of the Federal estimate of the total net eligible cost of repairing, restoring, reconstructing, or replacing all damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.".

(b) The Disaster Relief Act of 1974, as amended, is amended by deleting section 419 (42 U.S.C. 5189) and by striking "or 419" each place that this phrase appears in section 314 (42 U.S.C. 5154).

(c) Section 403 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5173), is amended by adding at the end thereof the following:

"(c) Notwithstanding any other provision of law, whether carried out directly through Federal departments, agencies or instrumentalities or through grants to state or local governments, Federal assistance provided under authority of this section shall not exceed 75 per centum of the net eligible costs, or for small projects the Federal estimate of the net eligible costs of debris removal.".

SEC. 15. Section 404(a) of the Disaster Relief Act of 1974, is amended to read as follows:

"(a)(1) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. Temporary housing assistance shall be provided only when adequate alternate housing is unavailable, unless there is a compelling need to do so because of severe hardship. The assistance to be provided shall be determined by the President based on the fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or other readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.

"(2) The President is authorized to make contributions not to exceed 100 per centum of the costs to State or local governments for the purpose of providing temporary housing assistance to those who require it as a result of a major disaster. Whenever he determines it to be in the public interest, the President is authorized to provide temporary housing assistance by using Federal departments, agencies, or instrumentalities. The Federal financial and operational responsibilities for temporary housing assistance shall not exceed 18 months from the date of a major disaster declaration by the President unless he determines that due to extraordinary circumstances it would be in the public interest to extend the 18-month period.".

SEC. 16. Section 407(a) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5177), is amended by striking the first and second sentences thereof and inserting in lieu thereof the following: "The President is authorized to provide unemployment assistance to individuals who are unemployed as a result of a major disaster and who are not otherwise eligible for payment of benefits or waiting week credit under authority of any other Federal or State Act. The duration of such benefit assistance shall not exceed twenty-six weeks."

Sec. 17. Section 408(b) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5178), is amended by striking the second sentence thereof.

Sec. 18. Section 408(d) of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5178) is amended by adding at the end thereof the following new sentence: "Whenever a State demonstrates efficiency by promptly completing all grants to eligible individuals and families within the period prescribed by the President, the State may be reimbursed for 50 per centum of those administrative expenses which exceed 3 per centum of the Federal grant made under subsection (a) of this section.".

Sec. 19. Section 413 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5183), is amended by striking "(through the National Institute of Mental Health)".

Sec. 20. Section 418(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5188), is deleted.

Sec. 21. Section 606 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5202), is amended to read as follows: "Except as provided pursuant to section 203 of this Act, there are authorized to be appropriated to the President to carry out this act $325,000,000 for fiscal year 1983 and such sums as may be necessary in fiscal years 1984 and 1985, and to the Federal Emergency Management Agency for administrative expenses $6,108,000 for fiscal year 1983 and such sums as may be necessary in fiscal years 1984 and 1985.".

Sec. 22. The Disaster Relief Act of 1974 (P.L. 93-288) as amended, is amended by:

(1) striking paragraph (7) of section 101(b) (42 U.S.C. 5121);

(2) striking "the Canal Zone," in paragraphs (3) and (4) of section 102 (42 U.S.C. 5122);

(3) striking "DISASTER" in the caption of Title III (42 U.S.C. 5141-5158) and inserting in lieu thereof "MAJOR DISASTER RELIEF AND EMERGENCY";

(4) striking "section 402 or 404 of" in section 311(b) (42 U.S.C. 5151);

(5) adding "emergency or" before the word "major" each of two places that word appears in section 310 (42 U.S.C. 5150);

(6) striking in section 313(b) (42 U.S.C. 1281) all after the word "areas" and inserting in lieu thereof a period;

(7) striking "or section 803 of the Public Works and Economic Development Act of 1965" each place the phrase appears in section 314 (42 U.S.C. 5154);

(8) striking "402" each place that number appears in section 314 (42 U.S.C. 5154) and inserting in lieu thereof "405";

(9) adding "emergency and major" before the word "disaster" in section 316 (42 U.S.C. 5156);

(10) adding the word "MAJOR" between the words "FEDERAL" and "DISASTER" in the caption to Title IV (42 U.S.C. 5171-5189);

(11) striking "in emergencies or" in the third sentence of paragraph (2) of section 404(d) (42 U.S.C. 5174);

(12) striking "311" in section 404(d)(2) (42 U.S.C. 5174) and inserting in lieu thereof "308";

(13) striking "an emergency or" in section 415 (42 U.S.C. 5185) and inserting in lieu thereof "a";

(14) striking "408" in section 605 (42 U.S.C. 5121) and inserting in lieu thereof "410";

(15) striking "301" in Subtitle C of Title I of the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512; 86 Stat. 919) and inserting in lieu thereof "401"; and

(16) striking "President" and substituting in lieu thereof "Director" in each of the places that word appears in Title II and in section 316;

(17) striking "President" each place that word appears in section 312(a) and inserting in lieu thereof "Federal coordinating officer".

Changes in Existing Law

Changes in existing law made by the bill as introduced are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman.

[Public Law 93-288, 93d Congress, S. 3062, May 22, 1974]

An act entitled the "Disaster Relief Act Amendments of 1974".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the [“Disaster Relief] *"Major Disaster Relief and Emergency Assistance* Act of 1974".

TITLE I—FINDINGS, DECLARATIONS, AND DEFINITIONS

FINDINGS AND DECLARATIONS

Sec. 101. (a) The Congress hereby finds and declares that—

(1) because disasters often cause loss of life, human suffering, loss of income, and property loss and damage; and

(2) because disasters often disrupt the normal functioning of governments and communities, and adversely affect individuals and families with great severity;

special measures, designed to assist the efforts of the affected States in expediting the rendering of aid, assistance, and emergency services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing disaster relief programs;

(2) encouraging the development of comprehensive disaster preparedness and assistance plans, programs, capabilities, and organizations by the States and by local governments;

(3) achieving greater coordination and responsiveness of disaster preparedness and relief programs;

(4) encouraging individuals, States, and local governments to protect themselves by obtaining insurance coverage to supplement or replace governmental assistance;

(5) encouraging hazard mitigation measures to reduce losses from disasters, including development of land use and construction regulations;

(6) providing Federal assistance programs for both public and private losses sustained in disasters; and

[(7) providing a long-range economic recovery program for major disaster areas.]

DEFINITIONS

Sec. 102. As used in this Act—

[(1) "Emergency" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the United States which requires Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety or to avert or lessen the threat of a disaster.]

(1) "Emergency" means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) "Major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other *natural* catastrophe in any part of the United States which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act, [above and beyond emergency services by the Federal Government,] to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

(3) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, [the Canal Zone,] and the Trust Territory of the Pacific Islands.

(4) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, [the Canal Zone,] or the Trust Territory of the Pacific Islands.

(5) "Governor" means the chief executive of any State.

(6) "Local government" means (A) any county, city, village, town, district, or other political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, and (B) includes any rural community or unincorporated town or village or any other public entity for which an application for assistance in made by a State or political subdivision thereof.

(7) "Federal agency" means any department, independent establishment, Government corporation, or other agency of the executive branch of the Federal Government, including the United States Postal Service, but shall not include the American National Red Cross.

(8) "Director" means the Director of the Federal Emergency Management Agency.

TITLE II—DISASTER PREPAREDNESS ASSISTANCE

FEDERAL AND STATE DISASTER PREPAREDNESS PROGRAMS

Sec. 201. (a) The [President] *Director* is authorized to establish a program of disaster preparedness that utilizes services of all appropriate agencies [(including the Defense Civil Preparedness Agency)] and includes—

(1) preparation of disaster preparedness plans for mitigation, warning, emergency operations, rehabilitation, and recovery;

(2) training and exercises;

(3) postdisaster critiques and evaluations;

(4) annual review of programs;

(5) coordination of Federal, State, and local preparedness programs;

(6) application of science and technology;

(7) research.

(b) The [President] *Director* shall provide technical assistance to the States in developing comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation; for assistance to individuals, businesses, and State and local governments following such disasters; and for recovery of damaged or destroyed public and private facilities.

(c) Upon application by a State, the [President] *Director* is authorized to make grants, not to exceed in the aggregate to such State $250,000, for the development of plans, programs, and capabilities for disaster preparedness and prevention. Such grants shall be applied for within one year from the date of enactment of this Act. Any State desiring financial assistance under this section shall designate or create an agency to plan and administer such a disaster preparedness program, and shall, through such agency, submit a State plan to the [President] *Director*, which shall—

(1) set forth a comprehensive and detailed State program for preparation against and assistance following, emergencies and major disasters, including provisions for assistance to individuals, businesses, and local governments; and

(2) include provisions for appointment and training of appropriate staffs, formulation of necessary regulations and procedures and conduct of required exercises.

(d) The [President] *Director* is authorized to make grants not to exceed 50 per centum of the cost of improving, maintaining and updating State disaster assistance plans, *including evaluations of natural hazards and development of the programs to mitigate such hazards,* except that no such grant shall exceed [$25,000] *$50,000* per annum to any State.

DISASTER WARNINGS

SEC. 202. (a). The [President] *Director* shall insure that all appropriate Federal agencies are prepared to issue warnings of disasters to State and local officials.

(b) The [President] *Director* shall direct appropriate Federal agencies to provide technical assistance to State and local governments to insure that timely and effective disaster warning is provided.

(c) The [President] *Director* is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2281(c)), or any other Federal communications system for the purpose of providing warning to governmental authorities and the civilian population in areas endangered by disasters.

(d) The [President] *Director* is authorized to enter into agreements with the officers or agents of any private or commercial communications systems who volunteer the use of their systems on a reimbursable or nonreimbursable basis for the purpose of providing warning to governmental authorities and the civilian population endangered by disasters.

AUTHORIZATION OF APPROPRIATIONS

SEC. 203. There is authorized to be appropriated to the Federal Emergency Management Agency such sums as may be necessary to carry out the purposes of this title through the close of September 30, 1985.

TITLE III—[DISASTER] *MAJOR DISASTER RELIEF AND EMERGENCY* ASSISTANCE ADMINISTRATION

[PROCEDURES

[SEC. 301. (a) All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may determine that an emergency exists which warrants Federal assistance.

[(b) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster. Based upon such Governor's request, the President may declare that a major disaster exists, or that an emergency exists.]

FEDERAL ASSISTANCE *RULES AND REGULATIONS*

SEC. [302] *301.* (a) [In the interest of providing maximum mobilization of Federal assistance under this Act, the President shall coordinate, in such manner as he may determine, the activities of all Federal agencies providing disaster assistance. The President may direct any Federal agency, with or without reimbursement, to utilize its available personnel, equipment, supplies, facilities, and other resources including managerial and technical services in support of State and local disaster assistance efforts.] The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(b) Any Federal agency charged with the administration of a Federal assistance program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.

(c) Notwithstanding any other provision of law, any repair, restoration, reconstruction, or replacement of farm fencing damaged or destroyed as a result of any major disaster shall be considered an emergency conservation measure eligible for payments under chapter I of the Third Supplemental Appropriation Act, 1957, or any other provision of law.

COORDINATING OFFICERS

SEC. [303.] *302.* [(a) Immediately upon his declaration of a major disaster, the President shall appoint a Federal coordinating officer to operate in the affected area.] *(a) Unless otherwise directed by the President, following the declaration of an emergency or a major disaster, the Director or his designee shall become the Federal coordinating officer to operate in the affected area. The Federal coordinating officer shall represent the President in coordinating the emergency or the major diaster response and recovery effort.*

(b) In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall—

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the President;

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advice or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); and

(4) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

(c) When the President determines assistance under this Act is necessary, he shall request that the Governor of the affected State designate a State coordinating officer for the purpose of coordinating State and local disaster assistance efforts with those of the Federal Government.

EMERGENCY SUPPORT TEAMS

SEC. [304.] *303.* The President shall form emergency support teams of Federal personnel to be deployed in an area affected by a major disaster or emergency. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to this Act. Upon request of the President, the head of any Federal agency is directed to detail to temporary duty with the emergency support teams on either a reimbursable or nonreimbursable basis, as is determined necessary by the President, such personnel within the administrative jurisdiction of the head of the Federal agency as the President may need or believe to be useful for carrying out the functions of the emergency support teams, each such detail to be without loss of seniority, pay, or other employee status.

[EMERGENCY ASSISTANCE

[SEC. 305. (a) In any emergency, the President may provide assistance to save lives and protect property and public health and safety.

[(b) The President may provide such emergency assistance by directing Federal agencies to provide technical assistance and advisory personnel to the affected State to assist the State and local governments in—

[(1) the performance of essential community services; warning of further risks and hazards; public information and assistance in health and safety measures; technical advice on management and control; and reduction of immediate threats to public health and safety; and

[(2) the distribution of medicine, food, and other consumable supplies, or emergency assistance.

[(c) In addition, in any emergency, the President is authorized to provide such other assistance under this Act as the President deems appropriate.

[COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

[SEC. 306. (a) In any major disaster or emergency, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by—

[(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

[(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

[(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

[(4) Performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; demolition of unsafe structures that endanger the public; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph.

[(b) Work performed under this section shall not preclude additional Federal assistance under any other section of this Act.]

REIMBURSEMENT

SEC. [307.] *304. (a).* Federal agencies may be reimbursed for expenditures under this Act from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this Act shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(b) Any funds received as reimbursement for advances, overpayments, or payments for property and services pursuant to this Act shall be deposited to the credit of the appropriation or appropriations currently available for the purposes of this Act.

NONLIABILITY

SEC. [308] *305.* The Federal Government shall not be liable for any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this Act.

PERFORMANCE OF SERVICES

SEC. [309.] *306.* (a) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government.

(b) In performing any services under this Act, any Federal agency is authorized—

(1) to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United states Code, governing appointments in competitive service;

(2) to employ experts and consultants in accordance with the provisions of section 3109 of such title, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

(3) to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communications, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. [310.] *307.* In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other *emergency or* major disaster assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such *emergency or* major disaster.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. [311.] *308.* (a) The President shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out Federal assistance functions at the site of a major disaster or emergency. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age [,or economic status].

(b) As a condition of participation in the distribution of assistance or supplies under this Act or of receiving assistance under [section 402 or 404 of] this Act, governmental bodies and other organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the President and such other regulations applicable to activities within an area affected by a major disaster or emergency as he deems necessary for the effective coordination of relief efforts.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. [312.] *309.* (a) In providing relief and assistance under this Act, the [President] *Federal Coordinating Officer* may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services housing and essential facilities, whenever the [President] *Federal Coordinating Officer* finds that such utilization is necessary.

(b) The President is authorized to enter into agreements with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. [313.] *310.* (a) In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities;

(5) section 306 of the Consolidated Farmers Home Administration Act;

(6) the Public Works and Economic Development Act of 1965, as amended;

(7) the Appalachian Regional Development Act of 1965, as amended; or

(8) title II of the Federal Water Pollution Control Act, as amended.

(b) In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects in major disaster areas. [in which a Recovery Planning Council has been designated pursuant to title VIII of the Public Works and Economic Development Act of 1965.]

INSURANCE

SEC. [314.] *311.* (a)(1)An applicant for assistance under section [402 or 419] *405* of this Act [or section 803 of the Public Works and Economic Development Act of 1965], shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary to protect against future loss to such property.

(2) In making his determination with respect to such availability, adequacy and necessity, the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) No applicant for assistance under section [402 or 419] *405* of this Act [or section 803 of the Public Works and Economic Development Act of 1965.] shall receive such assistance for any property or part thereof for which he has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

(c) A State may elect to act as a self-insurer with respect to any or all of the facilities belonging to it. Such an election, if declared in writing at the time of accepting assistance under section [402 or 419] *405* of this Act [or section 803 of the Public Works and Economic Development Act of 1965], subsequently, and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a) of this section. No such self-insurer shall receive assistance under such sections for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.

DUPLICATION OF BENEFITS

SEC. [315.] *312.* (a) The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The President shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the President determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

(d) Federal disaster assistance and comparable disaster assistance provided by States, local governments, and disaster assistance organizations to individuals and families shall not be considered as income or a resource when determining eligibility or benefit levels for federally funded income assistance or resource tested benefit programs.

REVIEWS AND REPORTS

SEC. [316.] *313. (a)* The [President] *Director* shall conduct annual reviews of the activities of Federal agencies and State and local governments providing *emergency and major* disaster preparedness and assistance, in order to assure maximum coordination and effectiveness of such programs, and shall from time to time report thereon to the Congress.

(b) The President shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House on each major disaster or emergency that he has declared.

[CRIMINAL AND CIVIL PENALTIES

[SEC. 317. (a) Any individual who fraudulently or willfully misstates any fact in connection with a request for assistance under this Act shall be fined not more than $10,000 or imprisoned for not more than one year or both for each violation.

[(b) Any individual who knowingly violates any order or regulation under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.

[(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.]

AVAILABILITY OF MATERIALS

SEC. [318.] *314.* The President is authorized, at the request of the Governor of an affected State, to provide for a survey of construction materials needed in the area affected by a major disaster on an emergency basis for housing repairs, replacement housing, public facilities repairs and replacement, farming operations, and business enterprises and to take appropriate action to assure the availability and fair distribution of needed materials, including, where possible, the allocation of such materials for a period of not more than one hundred and eighty days after such major disaster. Any allocation program shall be implemented by the President to the extent possible, by working with and through those companies which traditionally supply construction materials in the affected area. For the purposes of this section "construction materials" shall include building materials and materials required for repairing housing, replacement housing, public facilities repairs and replacement, and for normal farm and business operations.

PROTECTION OF ENVIRONMENT

SEC. 315. No action taken or assistance provided pursuant to sections 403, 406, 502 or 503 of this Act, or any assistance provided pursuant to section 405 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act or under any other provision of law.

RECOVERY OF FUNDS

SEC. 316. The Attorney General of the United States is authorized to institute actions in the United States District Court for the district in which an emergency or major disaster occurred, or in such district as otherwise provided by law, against any party whose acts or omissions may in any way have caused or contributed to the damage or hardship resulting in a Presidential declaration pursuant to this Act. Upon the showing that an emergency or major disaster or the associated damage or hardship was caused in whole or in part by an act or omission of such party, then such party shall be liable to the United States for the full amount of Federal expenditures made to alleviate the suffering or damage attributable to such act or omission. The authority of this section shall also apply to the recovery of Federal funds expended under the authority of section 419 of this Act for fire suppression.

AUDITS AND INVESTIGATIONS

SEC. 317. (a) The Director, when deemed necessary to assure compliance with any provision of this Act or related regulations, shall conduct audits and investigations and in connection therewith may enter such places and inspect such records and accounts and question such persons as deemed necessary to determine the facts relative thereto.

(b) The Director, when deemed necessary to assure compliance with any provision of this Act or related regulations may require audits by State and local governments in connection with assistance provided under the Act.

(c) The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of investigation, audit and examination to any books, documents, papers, and records of any person or entity relating to any activity or program undertaken pursuant to this Act.

CRIMINAL AND CIVIL PENALTIES

SEC. 318. (a) Any person, organization or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any application or other document in connection with a request for assistance under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports or statements upon which such request for assistance is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

(b) Any person, organization or other entity who knowingly makes a false statement or representation of a material fact, or who knowingly fails to disclose a material fact, in any bill, invoice, claim or other document requesting reimbursement for work or services performed in connection with assistance provided under this Act, or who knowingly falsifies or withholds, conceals, or destroys any documents, books, records, reports or statements upon which such request for reimbursement is based, shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each violation.

(c) Whoever knowingly misapplies the proceeds of a loan or other cash benefit obtained under any section of this Act shall be

subject to a fine in an amount equal to one and one-half times the original principal amount of the loan or cash benefit.

(d) Whoever knowingly violates any order, rule of regulation issued under this Act shall be subject to a civil penalty of not more than $10,000 for each violation.

(e) Civil penalties provided under this section shall be imposed in accordance with rules and regulations promulgated by the Director pursuant to the authority in section 601 of this Act.

(f) Whenever it shall appear that any person has violated or is about to violate any provision of this Act, including rules and regulations issued and civil penalties imposed, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in the district court of the United States having jurisdiction where the violation occurred or, at the option of the parties, in the United States District Court for the District of Columbia.

(g) The Director, or duly authorized representative of the Director, shall expeditiously refer to the Attorney General of the United States for appropriate action such evidence developed in the performance of functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

TITLE IV—FEDERAL *MAJOR* DISASTER ASSISTANCE PROGRAMS

PROCEDURES

Sec. 401(a) All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such Governor's request shall be based upon a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of this request, and as a prerequisite to major disaster assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the disaster, and shall certify that for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such disaster, including, but not limited to, the cost-sharing provisions pursuant to sections 405, 406, and 410, and debris removal under 403 of this Act. Based upon such Governor's request, the President may declare that a major disaster exists.

(b) In any case where an eligible applicant (or the State) is unable to assume its financial responsibility under this Act, the President is authorized to lend or advance to the State such 25 per centum share. For purposes of section 405, such loan or advance shall be based upon the occurrence of concurrent, multiple disasters in a given jurisdiction or the extraordinary cost of a major disaster. Any such loan or advance is to be repaid to the United States but shall be interest free for two years from the date of the declaration; thereafter such obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States.

FEDERAL ASSISTANCE

Sec. 402. In any major disaster, the President may—

(a) direct any Federal agency without reimbursement to utilize its authorities and the resources granted to it under other Acts including, but not limited to, personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local assistance efforts;

(b) coordinate all Federal agencies and voluntary relief or disaster assistance, organizations providing disaster assistance, and coordinate disaster assistance with State and local officials; and

(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks and hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

COOPERATION OF FEDERAL AGENCIES IN RENDERING DISASTER ASSISTANCE

Sec. 403. (a) In any major disaster, Federal agencies are hereby authorized, on the direction of the President, to provide assistance by——

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations, or otherwise, medicine, food and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies, including that determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government, to State and local governments for use or distribution by them for the purposes of this Act; and

(4) Performing on public or private lands or waters any emergency work or services essential to save lives and to protect and preserve property, public health and safety, including but not limited to: search and rescue, emergency medical care, emergency mass care, emergency shelter, and provisions of food, water, medicine, and other essential needs, including movement of supplies or persons; construction of temporary bridges necessary to the performance of emergency tasks and essential community services; provision of temporary facilities for schools and other essential community services; warning of further risks and hazards; public information and assistance on health and safety measures; technical advice to State and local governments on disaster management and control; reduction of immediate threats to life, property, and public health and safety; and making contributions to State or local governments for the purpose of carrying out the provisions of this paragraph. Such contributions shall not exceed 100 per centum of the net eligible cost, or for small projects the Federal estimate of the net eligible cost, of such emergency work or services performed by State and local governments.

(b) Where debris removal assistance is appropriate under this section it shall be provided in accordance with the terms and conditions of section 406 of this Act.

FEDERAL FACILITIES

Sec. **[**401.**]** *404.* (a) The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes, or the obtaining of congressional committee approval.

(b) In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated to that agency for another purpose.

(c) In implementing this section, Federal agencies shall evaluate the natural hazards to which these facilities are exposed and shall take appropriate action to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed by the President.

REPAIR AND RESTORATION OF DAMAGED FACILITIES

Sec. **[**402.**]** *405.* **[**(a) The President is authorized to make contributions to State or local governments to help repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster.

[(b) The President is also authorized to make grants to help repair, restore, reconstruct, or replace private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged or disabled, and facilities on Indian reservations as defined by the President, which were damaged or destroyed by a major disaster.

[(c) For these facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net costs of restoring such facilities substantially to their predisaster condition.

[(d) For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

[(e) The Federal contribution for grants made under this section shall not exceed 100 percentum of the net cost of repairing, restoring, reconstructing, or replacing any such facility on the basis of the design of such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications, and standards.**]**

(a) The President is authorized to make contributions to State or local governments, to help repair, restore, reconstruct, or replace public facilities belonging to such State or local government which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be limited to 75 per centum of the net eligible cost, or for small

projects the Federal estimate of the net eligible cost, of repairing, restoring, reconstructing, or replacing such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster. For the purposes of this section, "public facility" includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, any other public building, structure, or system including those used for educational or recreational purposes, and any park.

(b) The President is authorized to make contributions to help repair, restore, reconstruct, or replace eligible private nonprofit facilities which were damaged or destroyed by a major disaster. Notwithstanding any other provision of law, such contributions shall be limited to 75 per centum of the net eligible cost, or for small projects the Federal estimate of the net eligible cost of repairing, restoring, reconstructing, or replacing such facility estimated on the basis of the design of such facility as it existed immediately prior to such major disaster. For the purposes of this section, "eligible private nonprofit facility" means private nonprofit educational, utility, emergency, medical, and custodial care facilities, including those for the aged and disabled, and facilities, on Indian reservations as defined by the President which were damaged or destroyed by a major disaster.

(c) No authority under this section shall be exercised unless the affected State, local government, or eligible private nonprofit organization first agrees that such facility shall be repaired, restored, reconstructed, or replaced in compliance with environmental protection, flood plain management and hazard mitigation criteria required by the Director, and in conformity with applicable codes, specifications and standards.

(d) For those facilities eligible under this section which were in the process of construction when damaged or destroyed by a major disaster, the grant shall be based on the net eligible costs of restoring such facilities substantially to their predisaster condition, provided that the term "net eligible costs" shall not include costs which, under a contract, are the responsibility of a contractor.

[(f)] *(e)* In those cases where a State or local government determines that public welfare would not be best served by repairing, restoring, reconstructing, or replacing particular public facilities owned or controlled by that State or that local government which have been damaged or destroyed in a major disaster, it may elect to receive, in lieu of the contribution described in subsection [(e)] *(a)* of this section, a contribution based on [90] *67* per centum of the Federal estimate of the total *net eligible* cost of repairing, restoring, reconstructing, or replacing all damaged facilities owned by it within its jurisdiction. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster [and in conformity with current applicable codes, specifications and standards]. Funds contributed under this subsection may be expended either to repair or restore certain selected damaged public facilities or to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area.

DEBRIS REMOVAL

Sec. [403.] *406.* (a) The President, whenever he determines it to be in the public interest, is authorized—

(1) through the use of Federal departments, agencies, and instrumentalities, to clear debris and wreckage resulting from a major disaster from publicly and privately owned lands and waters; and

(2) to make grants to any State or local government for the purpose of removing debris or wreckage resulting from a major disaster from publicly or privately owned lands and waters.

(b) No authority under this section shall be exercised unless the affected State or local government shall first arrange an unconditional authorization for removal of such debris or wreckage from public and private property, and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the Federal Government against any claim arising from such removal.

(c) Notwithstanding any other provision of law, whether carried out directly through Federal departments, agencies or instrumentalities or through grants to state or local governments, Federal assistance provided under authority of this section shall not exceed 75 per centum of the net eligible costs, or for small projects the Federal estimate of the net eligible costs, of debris removal.

TEMPORARY HOUSING ASSISTANCE

Sec. [404.] *407.* [(a) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. During the first twelve months of occupancy no rentals shall be established for any such accommodations, and thereafter rentals shall be established, based upon fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.] *(a)(1) The President is authorized to provide, either by purchase or lease, temporary housing, including, but not limited to, unoccupied habitable dwellings, suitable rental housing, mobile homes, or other readily fabricated dwellings for those who, as a result of a major disaster, require temporary housing. Temporary housing assistance shall be provided only when adequate alternate housing is unavailable, unless there is a compelling need to do so because of severe hardship. The assistance to be provided shall be determined by the President based on the fair market value of the accommodations being furnished, adjusted to take into consideration the financial ability of the occupant. Any mobile home or other readily fabricated dwelling shall be placed on a site complete with utilities provided either by the State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. The President may authorize installation of essential utilities at Federal expense and he may elect to provide other more economical or accessible sites when he determines such action to be in the public interest.*

(2) The President is authorized to make contributions not to exceed 100 per centum of the costs to State or local governments for the purpose of providing temporary housing assistance to those who require it as a result of a major disaster. Whenever he determines it to be in the public interest, the President is authorized to provide temporary housing assistance by using Federal departments, agencies, or instrumentalities. The Federal financial and operational responsibilities for temporary housing assistance shall not exceed 18 months from the date of a major disaster declaration by the President unless he determines that due to extraordinary circumstances it would be in the public interest to extend the 18-month period.

(b) The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser.

(c) In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition with minimal repairs. No assistance provided under this section may be used for major reconstruction or rehabilitation of damaged property.

(d)(1) Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

(2) The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section [311] *308* of this Act requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) of this section and to the purposes of providing temporary housing for disaster victims [in emergencies or] in major disasters.

[PROTECTION OF ENVIRONMENT

[Sec. 405. No action taken or assistance provided pursuant to sections 305, 306, or 403 of this Act, or any assistance provided pursuant to section 402 or 419 of this Act that has the effect of restoring facilities substantially as they existed prior to the disaster, shall be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 (83 Stat. 852) to other Federal actions taken under this Act of under any other provision of law.]

MINIMUM STANDARDS FOR PUBLIC AND PRIVATE STRUCTURES

SEC. [406] *408.* As a condition of any disaster loan or grant made under the provisions of this Act, the recipient shall agree that any repair or construction to be financed therewith shall be in accordance with applicable standards of safety, decency, and sanitation and in conformity with applicable codes, specifications, and standards, and shall furnish such evidence of compliance with this section as may be required by regulation. As a further condition of any loan or grant made under the provisions of this Act, the State or local government shall agree that the natural hazards in the areas in which the proceeds of the grants or loans are to be used shall be evaluated and appropriate action shall be taken to mitigate such hazards, including safe land-use and construction practices, in accordance with standards prescribed or approved by the President after adequate consultation with the appropriate elected officials of general purpose local governments, and the State shall furnish such evidence of compliance with this section as may be required by regulation.

UNEMPLOYMENT ASSISTANCE

SEC. [407] *409.* (a) [The President is authorized to provide to any individual unemployed as a result of a major disaster such benefit assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall be available to an individual as long as the individual's unemployment caused by the major disaster continues or until the individual is reemployed in a suitable position, but no longer than one year after the major disaster is declared.] *The President is authorized to provide unemployment assistance to individuals who are unemployed as a result of a major disaster and who are not otherwise eligible for payment of benefits or waiting week credit under authority of any other Federal or State Act. The duration of such benefit assistance shall not exceed twenty-six weeks.* Such assistance for a week of unemployment shall not exceed the maximum weekly amount authorized under the unemployment compensation law of the State in which the disaster occurred, and the amount of assistance under this section to any such individual for a week of unemployment shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such week of unemployment. The President is directed to provide such assistance through agreements with States which, in his judgment, have an adequate system for administering such assistance through existing State agencies.

(b) The President is further authorized for the purposes of this Act to provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster.

INDIVIDUAL AND FAMILY GRANT PROGRAMS

SEC. [408] *410.* (a) The President is authorized to make a grant to a State for the purpose of such State making grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act, or from other means. The Governor of a State shall administer the grant program authorized by this section.

(b) The Federal share of a grant to an individual or a family under this section shall be equal to 75 per centum of the actual cost of meeting such an expense or need and shall be made only on condition that the remaining 25 per centum of such cost is paid to such individual or family from funds made available by a State. [Where a State is unable immediately to pay its share, the President is authorized to advance to such State such 25 per centum share, and any such advance is to be repaid to the United States when such State is able to do so.] No individual and no family shall receive any grant or grants under this section aggregating more than $5,000 with respect to any one major disaster.

(c) The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants made under this section.

(d) A State may expend not to exceed 3 per centum of any grant made by the President to it under subsection (a) of this section for expenses of administering grants to individuals and families under this section. *Whenever a State demonstrates efficiency by promptly completing all grants to eligible individuals and families within the period prescribed by the President, the State may be reimbursed for 50 per centum of those administrative expenses which exceed 3 per centum of the Federal grant made under subsection (a) of this section.*

(e) This section shall take effect as of April 20, 1973.

FOOD COUPONS AND DISTRIBUTION

SEC. [409] *411.* (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture or other appropriate agencies coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 (P.L. 91-671; 84 Stat. 2048) and to make surplus commodities available pursuant to the provisions of this Act.

(b) The President, through the Secretary of Agriculture or other appropriate agencies, is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households, to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in an area affected by a major disaster.

FOOD COMMODITIES

SEC. [410] *412.* (a) The President is authorized and directed to assure that adequate stocks of food will be ready and conveniently available for emergency mass feeding or distribution in any area of the United States which suffers a major disaster or emergency.

(b) The Secretary of Agriculture shall utilize funds appropriated under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to purchase food commodities necessary to provide adequate supplies for use in any area of the United States in the event of a major disaster or emergency in such area.

RELOCATION ASSISTANCE

SEC. [411] *413.* Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act.

LEGAL SERVICES

SEC. [412] *414.* Whenever the President determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, consistent with the goal of the programs authorized by this Act, the President shall assure that such programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

CRISIS COUNSELING ASSISTANCE AND TRAINING

SEC. [413] *415.* The President is authorized [(through the National Institute of Mental Health)] to provide professional counseling services, including financial assistance to State or local agencies or private mental health organizations to provide such services or training of disaster workers, to victims of major disasters in order to relieve mental health problems caused or aggravated by such major disaster or its aftermath.

COMMUNITY DISASTER LOANS

SEC. [414] *416.* The President is authorized to make loans to any local government which may suffer a substantial loss of tax and other revenues as a result of a major disaster, and has demonstrated a need for financial assistance in order to perform its governmental functions. The amount of any such loan shall be based on need, and shall not exceed 25 per centum of the annual operating budget of that local government for the fiscal year in which the major disaster occurs. Repayment of all or any part of such loan to the extent that revenues of the local government during the three full fiscal year period following the major disaster are insufficient to meet the operating budget of the local government, including additional disaster-related expenses of a municipal operation character shall be cancelled.

(b) Any loans made under this section shall not reduce or otherwise affect any grants or other assistance under this Act.

(c)(1) Subtitle C of title I of the State and Local Fiscal Assistance Act of 1972 (P.L. 92-512; 86 Stat. 919) is amended by adding at the end thereof the following new section:

"SEC. 145. ENTITLEMENT FACTORS AFFECTED BY MAJOR DISASTERS.

"In the administration of this title the Secretary shall disregard any change in data used in determining the entitlement of a State government or a unit of local government for a period of 60 months if that change—

"(1) results from a major disaster determined by the President under section [301] *401* of the Disaster Relief Act of 1974, and

"(2) reduces the amount of the entitlement of that State government or unit of local government.".

(2) The amendment made by this section takes effect on April 1, 1974.

EMERGENCY COMMUNICATIONS

SEC. [415] *417.* The President is authorized during, or in anticipation of, [an emergency or] *a* major disaster to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. [416] *418.* The President is authorized to provide temporary public transportation service in an area affected by a major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

FIRE SUPPRESSION GRANTS

SEC. [417] *419.* The President is authorized to provide assistance, including grants, equipment, supplies, and personnel, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TIMBER SALE CONTRACTS

SEC. [418] *420.* (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the appropriate Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, he may allow cancellation of a contract entered into by his Department notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

[(d) The President, when he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.]

[IN-LIEU CONTRIBUTION

[SEC. 419. In any case in which the Federal estimate of the total cost of (1) repairing, restoring, reconstructing, or replacing, under section 402, all damaged or destroyed public facilities owned by a State or local government within its jurisdiction, and (2) emergency assistance under section 306 and debris removed under section 403, is less than $25,000, then on application of a State or local government, the President is authorized to make a contribution to such State or local government under the provisions of this section in lieu of any contribution to such State or local government under section 306, 402, or 403. Such contribution shall be based on 100 per centum of such total estimated cost, which may be expended either to repair, restore, reconstruct, or replace all such damaged or destroyed public facilities, to repair, restore, reconstruct, or replace certain selected damaged or destroyed public facilities, to construct new public facilities which the State or local government determines to be necessary to meet its needs for governmental services and functions in the disaster-affected area, or to undertake disaster work as authorized in section 306 or 403. The cost of repairing, restoring, reconstructing, or replacing damaged or destroyed public facilities shall be estimated on the basis of the design of each such facility as it existed immediately prior to such disaster and in conformity with current applicable codes, specifications and standards.]

[TITLE V—ECONOMIC RECOVERY FOR DISASTER AREAS

[AMENDMENT TO PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965

[SEC. 501. The Public Works and Economic Development Act of 1965, as amended, is amended by adding at the end thereof the following new title:

["TITLE VIII—ECONOMIC RECOVERY FOR DISASTER AREAS

["PURPOSE OF TITLE

["SEC. 801. (a) It is the purpose of this title to provide assistance for the economic recovery, after the period of emergency aid and replacement of essential facilities and services, of any major disaster area which has suffered a dislocation of its economy of sufficient severity to require (1) assistance in planning for development to replace that lost in the major disaster; (2) continued coordination of assistance available under Federal-aid programs; and (3) continued assistance toward the restoration of the employment base.

["(b) As used in this title, the term 'major disaster' means a major disaster declared by the President in accordance with the Disaster Relief Act of 1974.

"DISASTER RECOVERY PLANNING

["SEC. 802. (a)(1) In the case of any area affected by a major disaster the Governor may request the President for assistance under this title. The Governor, within thirty days after authorization of such assistance by the President, shall designate a Recovery Planning Council for such area or for each part thereof.

["(2) Such Recovery Planning Council shall be composed of not less than five members, a majority of whom shall be local elected officials of political subdivisions within the affected areas, at least one representative of the State, and a representative of the Federal Government appointed by the President in accordance with paragraph (3) of this subsection. During the major disaster, the Federal coordinating officer shall also serve on the Recovery Planning Council.

["(3) The Federal representative on such Recovery Planning Council may be the Chairman of the federal Regional Council for the affected area, or a member of the Federal Regional Council designated by the Chairman of such Regional Council. The Federal representative on such Recovery Planning Council may be the Federal Cochairman of the Regional Commission established pursuant to title V of this Act, or the Appalachian Regional Development Act of 1965, or his designee, where all of the area affected by a major disaster is within the boundaries of such Commission.

["(4) The Governor may designate an existing multijurisdictional organization as the Recovery Planning Council where such organization complies with paragraph (2) of this subsection with the addition of State and Federal representatives except that if all or part of an area affected by a major disaster is within the jurisdiction of an existing multijurisdictional organization established under title IV of this Act or title III of the Appalachian Regional Development Act of 1965, such organization, with the addition of State and Federal representatives in accordance with paragraph (2) of this subsection, shall be designated by the Governor as the Recovery Planning Council. In any case in which such title III or IV organization is designated as the Recovery Planning Council under this paragraph, some local elected officials of political subdivisions within the affected areas must be appointed to serve on such Recovery Planning Council. Where possible, the organization designated as the Recovery Planning Council shall be or shall be subsequently designated as the appropriate agency required by section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3334) and by the Intergovernmental Cooperation Act of 1968 (P.L. 90-577; 82 Stat. 1098).

["(5) The Recovery Planning Council shall include private citizens as members to the extent feasible, and shall provide for and encourage public participation in its deliberations and decisions.

["(b) The Recovery Planning Council (1) shall review existing plans for the affected area; and (2) may recommend to the Governor and responsible local governments such revisions as it determines necessary for the economic recovery of the area, including the development of new plans and the preparation of a recovery investment plan for the 5-year period following the declaration of the major disaster. The Recovery Planning Council shall accept as one element of the recovery investment plans determinations made under section 402(f) of the Disaster Relief Act of 1974.

["(c)(1) A recovery investment plan prepared by a Recovery Planning Council may recommend the revision, deletion, reprograming, or additional approval of Federal-aid projects and programs within the area—

["(A) for which application has been made but approval not yet granted;

["(B) for which funds have been obligated or approval granted but construction not yet begun;

["(C) for which funds have been or are scheduled to be apportioned within the five years after the declaration of the disaster;

["(D) which may otherwise be available to the area under any State schedule or revised State schedule of priorities; or

["(E) which may reasonably be anticipated as becoming available under existing programs.

["(2) Upon the recommendation of the Recovery Planning Council and the request of the Governor, any funds for projects or programs identified pursuant to paragraph (1) of this subsection may, to any extent consistent with appropriation Acts, be placed in reserve by the responsible Federal agency for use in accordance with such recommendations. Upon the request of the Governor and with the concurrence of affected local governments, such funds may be transferred to the Recovery Planning Council to be expended in the implementation of the recovery investment plan, except that no such transfer may be made unless such expenditure is for a project or program for which such funds originally were made available by an appropriation Act.

["PUBLIC WORKS AND DEVELOPMENT FACILITIES GRANTS AND LOANS

["SEC. 803. (a) The President is authorized to provide funds to any Recovery Planning Council for the implementation of a recovery investment plan by public bodies. Such funds may be used—

["(1) to make loans for the acquisition or development of land and improvements for public works, public service, or development facility usage, including the acquisition or development of parks or open spaces, and the acquisition, construction, rehabilitation, alteration, expansion, or improvement of such facilities, including related machinery and equipment, and

["(2) to make supplementary grants to increase the Federal share for projects for which funds are reserved pursuant to subsection (c)(2) of section 802 of this Act, or other Federal-aid projects in the affected area.

["(b) Grants and loans under this section may be made to any State, local government, or private or public nonprofit organization representing any area or part thereof affected by a major disaster.

["(c) No supplementary grant shall increase the Federal share of the cost of any project to greater than 90 per centum, except in the case of a grant for the benefit of Indians or Alaska Natives, or in the case of any State or local government which the President determines has exhausted its effective taxing and borrowing capacity.

["(d) Loans under this section shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, less 1 per centum per annum.

["(e) Financial assistance under this title shall not be extended to assist establishments relocating from one area to another or to assist subcontractors whose purpose is to divest, or whose economic success is dependent upon divesting, other contractors or subcontractors of contracts therefore customarily performed by them. Such limitations shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Commerce finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the Secretary has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

["LOAN GUARANTEES

["SEC. 804. The President is authorized to provide funds to Recovery Planning Councils to guarantee loans made to private borrowers by private lending institutions (1) to aid in financing any project within an area affected by a major disaster for the purchase or development of land and facilities (including machinery and equipment) for industrial or commercial usage including the construction of new buildings, and rehabilitation of abandoned or unoccupied buildings, and the alteration, conversion, or enlargement of existing buildings; and (2) for working capital in connection with projects in areas assisted under paragraph (1), upon application of such institution and upon such terms and conditions as the President may prescribe. No such guarantee shall at any time exceed 90 per centum of the amount of the outstanding unpaid balance of such loan.

["TECHNICAL ASSISTANCE

["SEC. 805. (a) In carrying out the purposes of this title the President is authorized to provide technical assistance which would be useful in facilitating economic recovery in areas affected by major disasters. Such assistance shall include project planning and feasibility studies, management, and operational assistance, and studies evaluating the needs of, and developing potentialities for, economic recovery of such areas. Such assistance may be provided by the President directly, through the payment of funds authorized for this title to other departments or agencies of the Federal Government, through the employment of private individuals, partnerships, firms, corporations, or suitable institutions, under contracts entered into for such purposes or through grants-in-aid to appropriate public or private nonprofit State, area, district, or local organizations.

["(b) The President is authorized to make grants to defray not to exceed 75 per centum of the administrative expenses of Recovery Planning Councils designated pursuant to section 802 of this Act. In determining the amount of the non-Federal share of such costs or expenses, the President shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. Where practicable, grants-in-aid authorized under this subsection shall be used in conjunction with other available planning grants, to assure adequate and effective planning and economical use of funds.

["AUTHORIZATION OF APPROPRIATIONS

["SEC. 806. There is authorized to be appropriated not to exceed $250,000,000 to carry out this title.".]

TITLE V—FEDERAL EMERGENCY ASSISTANCE PROGRAMS PROCEDURES

SEC. 501. All requests for a determination by the President that an emergency exists shall be made by the Governor of the affected State. Such request shall be based upon the Governor's finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. The Governor's request will furnish information describing State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. As a part of this request, and as a prerequisite to emergency assistance under the Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. He shall furnish information on the extent and nature of State resources which have been or will be used to alleviate the conditions of the emergency, and shall certify that for the current emergency, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will constitute the expenditure of a reasonable amount of the funds of such State and local governments for alleviating the damage, loss, hardship, or suffering resulting from such emergency. Based upon such Governor's request, the President may declare that an emergency exists.

FEDERAL ASSISTANCE

SEC. 502. In any emergency, the President may—

(a) direct any Federal agency without reimbursement to utilize its authorities and the resources granted to it under other Acts, including but not limited to personnel, equipment, supplies, facilities, and managerial, technical and advisory services in support of State and local emergency assistance efforts to save lives and to protect property, public health and safety or to lessen or avert the threat of a catastrophe;

(b) coordinate all Federal agencies and voluntary relief or disaster assistance organizations providing emergency assistance, and coordinate emergency assistance with State and local officials; and

(c) provide technical and advisory assistance to affected State and local governments in the performance of essential community services, warning of risks of hazards, public information and assistance in health and safety measures, management and control, and reduction of immediate threats to public health and safety.

EMERGENCY ASSISTANCE

SEC. 503. (a) In an emergency, when the Federal assistance provided pursuant to section 502 of this Title is inadequate, the President may provide assistance to save lives and protect property, public health and safety, or to lessen or avert the threat of a catastrophe. Where debris removal assistance is appropriate under this section, it shall be provided in accordance with the terms and conditions of section 406 of this Act.

(b) The President, in an emergency, shall not obligate funds appropriated to carry out this Act, other than for purposes of coordination and direction or the provision of technical and advisory assistance, where Federal assistance is available and adequate under other Federal authorities.

(c) In any emergency and except as provided by subsection (d) of this section, the costs of providing emergency assistance shall not exceed $5,000,000 of funds appropriated to carry out this Act.

(d) The limitation of subsection (c) of this section may be exceeded when the President determines that continued emergency assist-

ance is immediately required; that there is a continuing and immediate risk to lives, property, public health or safety; and that necessary assistance will not otherwise be provided on a timely basis. In the event that the limitations of subsection (c) are exceeded, the President shall report to Congress on the nature and extent of the emergency assistance requirements and propose additional legislation if necessary.

TITLE VI—MISCELLANEOUS

AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS

SEC. 601. (a) The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency or agencies as he may designate.

(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

TECHNICAL AMENDMENTS

SEC. 602. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461 (a)(3)(B)(ii) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as declared by the President pursuant to the Disaster Relief Act of 1974;".

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709 (h)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended by striking out of the last paragraph "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241-1(a)(1)(A)), is amended by striking out "pursuant to section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "pursuant to sections 102(2) and 301 of the Disaster Relief Act of 1974".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 7589(a)) is amended by striking out "section 102(1) of the Disaster Relief act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(h) Section 165(h) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)) is amended by striking out "1970" and inserting in lieu thereof "1974".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Disaster Relief Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330, as amended by 82 Stat. 1213; 48 U.S.C. 1681 nt.), is amended by striking out of the last sentence "section 102(1) of the Disaster Relief Act of 1970" and inserting in lieu thereof "sections 102(2) and 301 of the Disaster Relief Act of 1974".

(l) Section 1820(f) of title 38, United States Code, is amended by striking "the Disaster Assistance Act of 1970" and inserting in lieu thereof "the Disaster Relief Act of 1974".

(m) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to provisions of the Disaster Relief Act of 1970 (84 Stat. 1744), repealed by this Act such reference shall be deemed to be a reference to the appropriate provision of this Act.

REPEAL OF EXISTING LAW

SEC. 603. The Disaster Relief Act of 1970, as amended (84 Stat. 1744), is hereby repealed, except sections 231, 233, 234, 235, 236, 237, 301, 302, 303, and 304. Notwithstanding such repeal the provisions of the Disaster Relief Act of 1970 shall continue in effect with respect to any major disaster declared prior to the enactment of this Act.

PRIOR ALLOCATION OF FUNDS

SEC. 604. Funds heretofore appropriated and available under Public Laws 91-606, as amended, and 92-385 shall continue to be available for the purpose of providing assistance under those Acts as well as for the purposes of this Act.

EFFECTIVE DATE

SEC. 605. Except for section **[**408**]** *410*, this Act shall take effect as of April 1, 1974.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. **[**Except as provided by the amendment made by section 501, there are authorized to be appropriated to the President such sums as may be necessary to carry out this Act through the close of June 30, 1977.**]** *Except as provided pursuant to section 203 of this Act, there are authorized to be appropriated to the President to carry out this Act $325,000,000 for fiscal year 1983 and such sums as may be necessary in fiscal years 1984 and 1985, and to the Federal Emergency Management Agency for administrative expenses $6,108,000 for fiscal year 1983 and such sums as may be necessary in fiscal years 1984 and 1985.*

By Mr. PRESSLER:

S. 2251. A bill to amend the Trade Act of 1974 to restore the authority of the President with respect to reciprocal nondiscriminatory treatment; to the Committee on Finance.

INTERNATIONAL TRADE FAIRNESS ACT

Mr. PRESSLER. Mr. President, today I am introducing legislation which addresses the issue of unfairness in international trade. As a strong supporter of trade liberalization, I do not enjoy taking this step which could be misinterpreted by some as a blow to free trade. But it is precisely because the producers and exporters of the United States must still confront an excessive degree of protectionism or unfair trade restraints in foreign markets that remedial action should be taken this year.

The bill I am introducing has already been introduced in the House of Representatives as H.R. 5727, where it has been entitled the "Primary Trade Readjustment Act of 1982." I have been in contact with its principal sponsors in the House and appreciate having their cooperation and encouragement in introducing it here in the Senate.

The only change I would make in this fine piece of legislation is to amend the title to read the "International Trade Fairness Act of 1982." This title seems to capture the full meaning and intent of the legislation.

Very simply, this legislation would require the President to recommend the following remedial actions to Congress whenever the President determines that another major industrial country has failed to provide competitive opportunities for the commerce of the United States equivalent to the competitive opportunities provided by the United States for the commerce of that country:

First, legislation to deny or terminate tariff or nontariff concessions to that country;

Second, denial of the applicability of U.S. trade agreements implementation legislation to that country.

Additionally, this bill would permit the President to proclaim increased import duties or other import restrictions in order to restore equivalence of competitive opportunities for U.S. commerce.

Coming from an agricultural State like South Dakota, I am keenly aware that the economic health and prosperity of rural America depends increasingly on an expanding farm export market. However, the evidence clearly indicates that the European Economic Community and Japan are continuing to engage in unfair trade practices which pose major barriers to U.S. farm exports. The U.S. industrial economy also needs protection from unfair international trade practices of other nations. We cannot afford the luxury of existing trade policies if the result is the destruction of our foreign marketing opportunities coupled with a flood of foreign imports. Therefore, I commend the administration, and particularly our trade representative, Bill Brock, and Agriculture Secretary John Block for their vigorous efforts in recent months to achieve a fair deal for U.S. overseas commerce. The legislation I am introducing here in the Senate, and that introduced by Congressman GAYDOS in the House, should be seen as a signal to our trading partners that we in Congress stand fully behind the negotiating principles of Ambassador Brock and Secretary Block.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 126 of the Trade Act of 1974 (19 U.S.C. 2136) is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) If the President determines that a major industrial country has failed to provide competitive opportunities for the commerce of the United States in such country equivalent to the competitive opportunities provided by the United States under its trade agreements for the commerce of that country in the United States, or has consistently violated the trade laws of the United States, then the President—

"(1) shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities and enforcement of the United States trade laws, recommend to the Congress—

"(A) legislation providing for the termination or denial of concessions of trade agreements entered into under the trade laws of the United States with respect to rates of duty or other import restrictions by the United States; and

"(B) that any legislation necessary to carry out any trade agreements under the trade laws of the United States shall not apply to such country; and

"(2) may proclaim such increased duties or other import restrictions as are appropriate.".

(b) Such section is further amended by redesignating subsection (d) as subsection (c).

By Mr. STEVENS (for Mr. PACKWOOD) (for himself, Mr. STEVENS, Mr. GORTON, and Mr. CANNON):

S. 2252. A bill to authorize appropriations for the Coast Guard for fiscal years 1983 and 1984 and for other purposes; to the Committee on Commerce, Science, and Transportation.

COAST GUARD AUTHORIZATION ACT FOR 1983 AND 1984

● Mr. PACKWOOD. Mr. President, I am pleased to introduce today the Coast Guard Authorization Act for 1983 and 1984. Joining me in sponsoring this legislation are Senators STEVENS, GORTON, and CANNON.

We recognize the vital role played by the Coast Guard in protecting U.S. national interests—especially the safety and welfare of the citizens and commerce of our coastal States. We are equally aware of the role played by Congress in insuring that these needs are met. It is in that spirit that we place this bill before you today. This Friday morning, March 26, the Commerce Committee will hold authorization hearings to consider this legislation and Coast Guard programs for the next 2 years.

The Coast Guard has a critical statutory military obligation to provide coastal defense—yet it possesses what is perhaps the oldest fleet of any naval service in the world. The years have seen a drastic increase in the responsibilities and breadth of jurisdiction of the Coast Guard. Its duties have expanded to include fisheries enforcement, protection from drug smugglers, icebreaking, commercial vessel safety, pollution certification and control, environmental protection, illegal immigration patrols, and rescue duties to match our growing recreational and fishing fleets. What the Coast Guard has not seen is a commensurate increase in its funding sufficient to meet these new demands. A precarious balance now exists between these ever-expanding programs and the resources available to meet them. It is our intention to address these issues in this session of Congress. Hopefully, with a higher level of funding we can guarantee sufficient manpower and the steady modernization of ships, planes, and additional equipment and rest easy in the knowledge that a modern, cost-effective naval force is protecting and regulating our maritime community.

While we agree with the administration proposal which calls for the implementation of many cost savings measures, this bill differs in that it provides even greater levels of funding required to assure that the Coast Guard retains its status as a quality branch of Government service. In the authorization bill, we propose a spending level for the operation and maintenance of the Coast Guard in fiscal year 1983 of $1.7 billion and $2 billion for fiscal year 1984. These levels of funding should keep the Coast Guard close to current levels of services, assuming that no new responsibilities are delegated to the Coast Guard. Capital expenditure of the Coast Guard, a most vital area of funding, is authorized in the bill at $550 million for fiscal year 1983 and $650 million for fiscal year 1984. Our goal here is to replace the old and outmoded equipment with better and more efficient new equipment. These prudent investments should produce a future reduction in operation and maintenance costs by decreasing the amount spent on fuel, manpower, and repair, while increasing the actual mission efficiency.

As is prudent with any branch of government, we strongly favor continued expenditure in research and development areas as a means of attaining and maintaining the highest possible level of proficiency and technology for the Coast Guard in its multimission role.

It is our contention that the Coast Guard can put many of its resources to an even more efficient use. We feel that the numerous flight training missions should be actual patrol flights. We are directing the Coast Guard to consider the delegation of its aids-to-navigation responsibilities to civilian personnel or private contracts. The American Bureau of Shipping, to which certain inspection authority has already been delegated, will henceforth be required to keep records in such a manner as to provide free access to the public. In keeping with the desire to rid the service of excess burdens, the annual expense and effort of compiling and submitting certain reports to Congress will be discontinued.

The Coast Guard authorization bill of 1983 and 1984 which I have placed before you today does, I feel, address many of the issues vital to a healthy Coast Guard. More importantly it does something about them. We feel that with firm action and foresight on the part of this body, and our colleagues in the House, the Coast Guard and all of the coastal communities of America can look forward to the future with confidence and pride.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Coast Guard Authorization Act for 1983 and 1984".

SEC. 2. AUTHORIZED APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal years 1983 and 1984 as follows:

(a) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction, $1,700,000,000 for fiscal year 1983 and $2,000,000,000 for fiscal year 1984.

(b) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto $550,000,000 for fiscal year 1983 and $650,000,000 for fiscal year 1984.

(c) For research, development, test, and evaluation $29,000,000 in fiscal year 1983 and $32,000,000 in fiscal year 1984 of which sufficient funds shall be made available to continue in operation a Coast Guard research and development center through the end of the 1984 fiscal year.

(d) For retired pay including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payment for medical care of retired personnel and their dependents under the Dependents Medical Care Act, $336,000,000 is authorized for fiscal year 1983 and $396,000,000 is authorized for fiscal year 1984.

SEC. 3. PERSONNEL.

(a) MILITARY.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 41,500 in fiscal years 1983 and 1984. This end-of-year strength shall not include members of the Ready Reserve called to active duty under the authority of 14 U.S.C. 712.

(b) CIVILIAN.—Notwithstanding any other provision of law, the fiscal 1983 and 1984 end-of-year civilian personnel strength of the Coast Guard shall be at least 5,484.

SEC. 4. MILITARY STUDENT TRAINING.

For fiscal years 1983 and 1984, the Coast Guard is authorized average military student training loads as follows:

(a) For recruit and special training, 3,660 student years.

(b) For flight training, 118 student years, a proviso being that more in-flight training hours be used on actual patrols, thus increasing the total Coast Guard patrol capacity.

(c) For professional training in military and civilian institutions, 655 student years.

(d) For officer acquisition, 1,038 student years.

SEC. 5. DELEGATION OF AIDS TO NAVIGATION RESPONSIBILITIES.

(a) 14 U.S.C. 81 is amended by adding at the end thereof the following: "The Coast Guard may establish, maintain, and operate aids to maritime navigation under paragraph (1) of this section by contract with any person, public body, or instrumentality.".

(b) 14 U.S.C. 84 is amended by inserting after the first sentence the following: "The preceding sentence shall not apply to any person, public body, or instrumentality acting pursuant to a contract under section 81 of this title or pursuant to authority obtained under section 83 of this title.".

(c) Not later than one year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating—

(1) the exercise by contract of the authority of the Coast Guard under 14 U.S.C. 81 to establish, maintain, and operate aids to navigation, including a discussion of any problems involved in exercising such authority by contract, the reasons for exercising or failing to exercise such authority by contract in particular areas, and the feasibility of expanding the exercise of such authority by contract; and

(2) the advantages and disadvantages of increasing the ratio of civilian to military employees assigned to the establishment, maintenance, and operation of aids to navigation on the inland waterways of the United States.

SEC. 6. AVAILABILITY OF INSPECTION RECORDS.

The Act entitled "An Act to constitute a Bureau of Navigation in the Treasury Department", enacted July 5, 1884 (23 Stat. 118), is amended by adding at the end of section 8 (as added by section 9 of Public Law 97-136) the following new subsection:

"(d) In any case in which an inspection or examination is delegated under subsection (a) to the American Bureau of Shipping, or similar American classification society, or agent thereof, such Bureau, society, or agent, as the case may be, shall maintain within the United States complete files of all information derived from or necessarily connected with such inspection or examination and shall permit access to such files at all reasonable times to the Coast Guard or any agent designated in writing by the Coast Guard.".

SEC. 7. MILITARY PERSONNEL MANAGEMENT.

Title 14, United States Code, is amended as follows:

(a) Chapter 3 is amended by adding the following new section after section 51:

"§ 52. Vice admirals, continuity of grade.

"The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral."

(b) Section 368 is repealed.

(c) Section 93 is amended by:

(1) Deleting the final word "and" from subsection (p).

(2) Deleting the period at the end of subsection (q) and substituting "; and".

(3) Adding the following new subsection:

"(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities."

SEC. 8. ELIMINATION OF REPORTS.

(a) Subsections (e) and (f) of 14 U.S.C. 475 are repealed.

(b) 46 U.S.C. 391(a)(19) is repealed.●

FISCAL YEAR 1983 COAST GUARD AUTHORIZATION BILL

Mr. STEVENS. Mr. President, I join my distinguished colleague from Oregon in sponsoring his bill that authorizes the Coast Guard budget for 1983 and 1984. We have had a difficult time in the Coast Guard over the last 12 months as the impact of our budget cutting has hit the Coast Guard in a very severe manner.

When the administration budget for this year was released, I must tell you that I was shocked to see how few dollars were designated for the U.S. Coast Guard. As many Members here are aware, we have placed unprecedented demands on Coast Guard service and expertise during the last 10 years. Funding for equipment and manpower has been minimal to meet the severalfold increase in demand for Coast Guard services.

For those reasons I was unhappy to see the size of cuts that were suggested by the administration this year, and I join my distinguished colleague from Oregon to support a substantial increase over the administration recommendation.

Money for the Coast Guard is hardly a discretionary measure. In a fundamental sense, Coast Guard funding means the difference between life or death for those who engage in waterborne activities. In addition, the Coast Guard is substantially responsible for defense of our coast and has a critical role in protecting many billions of dollars in property. Cost-benefit analyses show that funds spent on the Coast Guard is money saved severalfold.

Mr. President, I hope that when the Senate reviews our budget commitments for the U.S. Coast Guard this year, we will take serious note of the conditions of the equipment that provides these vital services to us. The Coast Guard, like the Navy, is in a serious condition of disrepair. The majority of the fleet is well over 30 years old, and response capability, both in wartime preparedness and in everyday duties, is becoming more and more difficult. Those of us who are involved in defense matters in the Senate can well appreciate the dire needs now facing the Coast Guard as it tries to modernize what is essentially a World War II fleet. We face a similar problem in the U.S. Navy, and the distinguished chairman of the Armed Services Committee, Senator TOWER and I have endeavored along with our colleagues in the House to see that we meet that need in the Navy.

However, we must note that the need is just as great if not more so in the U.S. Coast Guard. The defense readiness provided by the Coast Guard is something of serious importance, and the ability of the Coast Guard to respond quickly, and with less international attention, should not be lost. The Coast Guard can provide a strong presence in the Caribbean in intercepting drug trade and also monitoring the activities that are of great concern to us in the Caribbean Basin. Second, in the Pacific and North Pacific where there is a tremendous amount of traffic among Asian and Soviet vessels, the Coast Guard in its normal enforcement and monitoring activities can provide the direct military presence that is needed without triggering the international reaction that U.S. Navy vessels would provoke.

I think the ability of the Coast Guard to provide multimission support in the search and rescue, law enforcement, and military preparedness is a unique one, and the policy options that result from having such a diverse branch of service available to us is an advantage that we cannot let slip by.

Thus, I commend the very fine work that has been done by the Senate Commerce Committee in preparing a budget authorization bill that is, in my opinion, a barebone budget for the Coast Guard this year. Many of us feel that the Coast Guard should receive more funding than we have allotted for this year; however, given the present budget problems that we face throughout Government, we feel that this is the bare minimum by which the Coast Guard can go on and maintain its existing capabilities. We do though caution that it will be necessary in succeeding years to increase this level substantially if we are to have the equipment that is capable of providing the level of service that we so desperately need.

To any who would doubt the level of need required by the Coast Guard, I only would refer them to the very fine report that was prepared by the House Merchant Marine and Fisheries Committee last year entitled "Semi-Paratus," which truly reflects the present condition of the Coast Guard.

● Mr. CANNON. Mr. President, I am happy to be a cosponsor of Senator PACKWOOD'S fiscal year 1983 reauthorization bill for the U.S. Coast Guard.

The Commerce Committee has been concerned for several years about the inadequate level of funding for this well-regarded organization. This has been a bipartisan concern, shared by many other Members of Congress. Over one-third of the Senate and one-fourth of the House, for example, is cosponsoring legislation for fiscal year 1982 emergency supplemental appropriations for the Coast Guard.

The legislation I am cosponsoring today would authorize $1,700 million in operating expenses and $550 million in capital improvements. Based on preliminary information we have developed, it appears that more funding will be needed for fiscal year 1983. I will therefore be examining the justifications for these funding levels to determine whether they should be increased so that essential services can be maintained.●

By Mr. HUMPHREY:

S. 2255. A bill to amend title 18, United States Code, to establish criminal penalties for providing services or information under certain circumstances to the Government of Libya or its agents and certain terrorist groups and foreign governments to be named by the President, and for other purposes; to the Committee on the Judiciary.

ANTITERRORISM AND FOREIGN MERCENARY ACT

● Mr. HUMPHREY. Mr. President, I am today introducing a bill which would amend our criminal code to provide criminal penalties for persons under the jurisdiction of the United States who provide certain military related services to the Government of Libya or other entities to be named by the President. Over recent years, a need for a comprehensive and effective criminal statute limiting the availability of American services to terrorists and their supporters has increased dramatically. I believe my bill is a reasonable step toward the advancement of this very interest.

The use of American personnel by foreign entities in particular the Government of Libya, for other than legitimate peacetime purposes is no secret. The press has revealed, and the State Department confirmed, the involvement of American citizens in Libyan enterprises of aggression, subversion, and terrorism. I ask unanimous consent that relevant excerpts from a March 22, 1981, article appearing in the Washington Post be printed in the RECORD at this point, along with another Washington Post article dated November 3, 1981.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 3, 1981]

STATE DEPARTMENT ADMITS AMERICANS HELP QADDAFI'S AIR FORCE IN AFRICA

Libya has succeeded in recruiting Americans to help maintain its air force, and U.S. citizens have flown on Libyan planes to Chad, the State Department said yesterday.

Spokesman Dean Fischer said he did not know how many Americans are involved or whether they are continuing their activities.

"We regard it as reprehensible and against the interests of peace and security in the region for anyone, including American citizens, to contribute to Col. [Muammar] Qaddafi's ability to carry out his policies of aggression, subversion and terrorism," Fischer said.

"Libya has been successful in recruiting expatriates, including Americans, to service various types of aircraft, including Libyan Air Force C130s and Chinook helicopters," he said.

"We are further authorized to confirm that American citizens have been crew members on flights from Libya to Chad on United African Airways. Our information is that they have not been pilots."

At the Justice Department, spokesman John Russell said, "On its face, this activity is not illegal. The Neutrality Act has a lot of loopholes and basically requires that the individual take an oath of allegiance to a foreign government before a violation occurs."

The Neutrality Act prohibits U.S. citizens from serving in the armed forces of another country.

"These people were paid out of a Swiss bank account rather than a Libyan one," Russell said, noting that involvement of Americans in Libya is under investigation by the Justice Department.

Justice Department sources who declined to be identified said the Swiss accounts were controlled by former U.S. intelligence agents Edwin P. Wilson or Francis Terpil.

Wilson and Terpil are fugitives from an indictment charging them with selling explosives illegally to Libya, setting up a terrorist training school for Libya and arranging an unsuccessful assassination attempt on a Libyan defector in Egypt.

The New York Times said Sunday that Libya's military intervention in Chad, which the Reagan administration has condemned, might not have been possible without the support of Americans and other foreigners, who maintained Libyan aircraft.

"I don't know what would be the truth of that allegation," Fischer said.

But Fischer acknowledged the Americans were recruited by Libya.

The Libyan air force reportedly has about 20 Ch47 Chinook helicopters, a cargo chopper designed in the United States and manufactured in Italy.

Yesterday's disclosure was the first official confirmation that Americans have been involved with Libyan military activities.

The State Department said previously it had unconfirmed reports that Americans were flying "resupply flights into Chad" for United African Airways, which it said is a civilian Libyan aviation company which does charter work.

The United States has sought to bring international pressure on Qaddafi to withdraw his forces from Chad. Some estimates place the number of Libyan troops in Chad at 8,000. They originally were invited there last year by President Goukouni Queddei to help put down a revolt by the former defense minister, Hissene Habre.

Fischer said the United States might be willing to provide financial support to a peace-keeping force from the Organization of African Unity that could supplant Libyan forces in Chad.

[From the Washington Post, Mar. 22, 1981]

THE AMERICANS WHO ARE TRAINING AND SUPPLYING LIBYAN TERRORISTS

(By Stephen Kurkjian and Ben Bradlee, Jr.)

As a Green Beret, he was accustomed to clandestine assignments in exotic places. But this was different.

Before, whether in Southeast Asia or the Dominican Republic, he'd always known that he was working for the United States. But now he was in Libya, an avowed enemy of the United States, working for its terrorist-prone military.

He had been in Tripoli less than a week when he was first taken to see the base of operations for the group he had joined. With another American at the wheel, they drove about 20 miles south of their luxury seaside hotel until the sandy stretches of North African desert gave way to a lush orange grove. The car stopped at the end of the grove in front of the palace of the former king of Libya, who had been ousted in 1969 by Muammar Qaddafi, the Libyan leader.

Behind a set of locked doors in the basement of the servants' quarters was located, in effect, a small American munitions factory, stocked with explosives shipped from the United States. There a group of Americans was busy camouflaging small bombs as lamps, candles, briefcases and ashtrays.

The Green Beret, who less than 10 days earlier had been going through routine Army drills at Fort Bragg, N.C., was now part of an ongoing operation which, from 1976 through at least 1979, is alleged to have provided terrorist training and explosives for the Libyan government.

At its simplest, this story tells how a growing band of mercenaries, many of them Americans, sold their daring and special knowledge to the highest bidder—in this instance, the forces of international terrorism. But some of the Americans involved in the Libyan project—including the Green Beret who was given a leave of absence by his superiors to take part in the operation—are convinced that the U.S. government knew full well what they were doing, and may have let it continue longer than it should have, in hopes of infiltrating the international terrorist movement. Qadhafi, after all, has openly financed such groups as the Palestine Liberation Organization, Italy's Red Brigades, the Irish Republican Army, the Japanese Red Army, Germany's Baader-Meinhoff gang, and others.

Even more troubling to the State Department is what Americans may still be doing in Libya today.

At present, according to State Department intelligence, there are more than a dozen, and perhaps as many as 50, Americans—not necessarily connected to the Americans in the following report—in Libya providing military support to the government.

State Department sources fear that some Americans may have had a hand in training the Libyan commandos believed responsible for last year's execution of 11 Libyan exiles living in Europe.

Potentially more damaging is the indication from State Department sources that the Libyans have suddenly shown a "certain sophisticated awareness of U.S. intelligence capabilities and the nature of U.S. operations worldwide." It is another indication that U.S.-trained mercenaries are selling their skills and knowledge abroad.

The problem of the involvement of Americans in supporting international terrorists "is much greater than recognized," according to other federal investigators. On the first page of one confidential report, the officials wrote:

"The United States, in effect, has become a major supplier of [military] hardware and technology in support of worldwide terrorism. Former Central Intelligence Agency personnel, military Special Forces personnel, and U.S. corporations combine to supply products and expertise to whomever can pay the price." . . .

Mr. HUMPHREY. Mr. President, The role of the Government of Libya in the use of these services is without question. The Central Intelligence Agency National Foreign Assessment Center, as recently as June of 1981, has stated that:

> The Government of Colonel Qadhafi is the most prominent state sponsor of and participant in international terrorism. Despite Qadhafi's repeated public announcements that he does not support terrorist groups, there has been a clear and consistent pattern of Libyan aid to almost every major international terrorist group. . . .

My bill is aimed directly at curbing American assistance to entities, including the Libyan Government, which foster these activities.

This measure, which is similar in scope to H.R. 5211, introduced by Congressman Rinaldo, would place substantial constraints on U.S. citizens and business entities regarding their ability to provide military-related assistance to the Government of Libya. In addition, the bill would give the President the authority to formulate a list of entities to which civilian military services would be restricted. The bill provides stiff criminal penalties, including fines, forfeiture and imprisonment, for each violation of the act. To insure due process and facilitate international cooperation, a generous 60-day "grace period" extends from the effective date of the controlling sections of the act if the defendant is outside of the United States on said effective date, and does not violate the act subsequent to returning to the United States. Last, the act exempts the provision of medical services or training for humanitarian purposes, or the recruitment or solicitation thereof.

The limitation of services pursuant to this bill is directed not at legitimate commercial non-defense-related commerce, but rather at the provision of services to military or intelligence interests within the affected entities. The thrust of the bill is intended to prevent aviation, combat, and defense personnel and technicians, whose training is often paid for or subsidized by Department of Defense dollars, from using their expertise for the benefit of those who foster terrorism, while obviously to the detriment of our national security. I believe the need for this legislation is blatantly apparent and I urge my colleagues to join me as a cosponsor of this important measure. I ask unanimous consent that the text of the bill be printed in its entirety at the conclusion of these remarks.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Anti-terrorism and Foreign Mercenary Act".

Sec. 2. The Congress finds that—

(1) the growth and the size of armed forces and proliferation of advanced weaponry around the world has empowered certain foreign governments, factions, and terrorist groups to pose new threats to the national security, foreign relations, and commerce interests of the United States;

(2) many of these foreign governments, factions, and terrorist groups lack the resources and capabilities to make efficient use of their armed forces and weaponry without the services and skills provided by more technologically advanced entities, including the United States;

(3) the Government of Libya is one such government;

(4) citizens of the United States have provided such services and are likely to do so in the future; and

(5) the provision of services on the part of United States citizens is in certain instances, detrimental to the national security, foreign relations, or foreign commerce interests of the United States.

Sec. 3. (a) Chapter 45 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 971. Military and intelligence assistance to certain foreign governments, factions, and terrorist groups

"(a) (1) Subject to subsection (j), it shall be unlawful for any citizen of the United States, any alien lawfully admitted to the United States for permanent residence (as defined in section 101(a)(2) of the Immigration and Nationality Act), any sole proprietorship, partnership, corporation, or association organized under the laws of the United States, its territories, or possessions to knowingly and willfully perform or attempt to perform any of the following acts:

"(A) serve in, or in concert with, the armed forces of any intelligence agency of the Libyan Government or of any other foreign government, faction, or terrorist group which is named in a proclamation in effect under subsection (c);

"(B) provide training in any capacity to the armed forces, any intelligence agency, or their agents; of—

"(i) the Government of Libya, or

"(ii) of any other foreign government, faction, or terrorist group named in a proclamation in effect under subsection (c);

"(C) provide any logistical, mechanical, maintenance, or similar support services to the armed forces, any intelligence agency, or their agents; of—

"(i) the Government of Libya or

"(ii) of any other foreign government, faction, or terrorist group named in a proclamation in effect under subsection (c);

"(D) conduct any research, manufacturing, or construction project which is primarily supportive of the military or intelligence functions of the Government of Libya or of any other foreign government, faction, or terrorist group named in a proclamation in effect under subsection (c); or

"(E) recruit or solicit any person to engage in any activity described in subparagraphs (A) through (D) of this paragraph.

"(2) It shall be unlawful for any person or entity within the boundaries of the United States, its territories or possessions, to knowingly and willfully perform or attempt to perform any of the following acts:

"(A) provide training in any capacity to the armed forces, any intelligence agency, or their agents; of—

"(i) the Government of Libya or

"(ii) of any other foreign government, faction, or terrorist group named in a proclamation in effect under subsection (c);

"(B) provide any logistical, mechanical, maintenance, or similar support services to the armed forces, any intelligence agency, or their agents; of—

"(i) the Government of Libya or

"(ii) of any other foreign government, faction or terrorist group named in a proclamation in effect under subsection (c);

"(C) conduct any research, manufacturing, or construction project which is primarily supportive of the military or intelligence functions of the Government of Libya or of any other foreign government, faction or terrorist group named in a proclamation in effect under subsection (c); or

"(D) recruit or solicit any person to engage in any activity described in subparagraphs (A) through (C) of this paragraph.

"(b) Whoever violates this section shall be fined not more than five times the total compensation received for such violation, or $25,000, whichever is greater, or imprisoned for not more than ten years, or both, for each such offense.

"(c)(1) Whenever the President finds that the national security, foreign relations, or commerce interests of the United States warrant a ban on the availability of the services, resources, and other forms of assistance described in subsection (a), to any foreign government, faction, or terrorist group, the President may issue a proclamation naming such foreign government, faction or terrorist group for which such finding has been made.

"(2) Any proclamation issued pursuant to this section shall—

"(A) be published in the Federal Register; and

"(B) become effective immediately upon publication.

"(d) (1) If the President determines that the conditions which were the basis for any proclamation issued under this section have ceased to exist with respect to any foreign government, faction or terrorist group named in such proclamation, he may revoke such proclamation, in whole or in part. Such revocation shall be effective immediately upon publication in the Federal Register. Any such revocation shall not affect any action or proceeding based on any act committed prior to the effective date of such proclamation.

"(2) If the President determines at any time that national security, foreign relations, or commerce interests of the United States no longer warrant the application of subsection (a) in respect to the Government of Libya, he may issue a declaration stating his findings and publish such declaration in the Federal Register.

"(e) for the purposes of this section—

"(1) the term 'foreign government' has the meaning given it in section 1116 (b)(2) of this title;

"(2) the term 'armed forces' includes any regular, irregular, paramilitary, guerrilla, or police force;

"(3) the term 'faction' includes any political party, terrorist groups, body of insurgents, or other group which seeks to overthrow the government of, become the government of, or otherwise assert control over or otherwise influence any country or territory, possession, department, district, province, or other political division of any such country through the threat or use of force of arms.

"(4) the term 'terrorist group' means a group which engages in one or more violent acts committed for political or religious purposes, and which would have or did constitute a criminal felony on the date of commission, if it had been or was in fact committed within the jurisdiction of the United States.

"(5) the term 'intelligence agency' means any entity which engages in collection, analyzation, and dissemination of information by, including but not limited to, covert means.

"(f) For the purposes of this section, any finding of fact made in any proclamation issued pursuant to subsection (c) shall be presumed as conclusive. No question concerning the validity of the issuance of such proclamation may be raised by a defendant as a defense in or as an objection to any trial or hearing if such proclamation was issued and published in the Federal Register in accordance with subsection (c).

"(g) Except as provided in subsection (a)(2), there is extraterritorial jurisdiction over any violation of this section which is committed wholly or partially outside of the United States, its territories, or possessions.

"(h) An affirmative defense shall exist for any person who—

"(1) violates this Act within sixty days of the effective date of this Act or of any proclamation affecting such person, if—

"(A) such person is outside of the United States, its territories, and possessions on said effective date;

"(B) such person does not violate this Act subsequent to return to the United States, its territories, or possessions if said return is made within sixty days of said effective date; and

"(C) the violation occurred within sixty days of said effective date; or

"(2) commits an act or acts which violate subsection (a), only with respect to the armed forces, any intelligence agency, or their agents of the Government of Libya, if—

"(A) the President issues a declaration pursuant to subsection (d)(2) of this Act;

"(B) such declaration becomes effective prior to the act or acts against which said defense is offered; and

"(C) no subsequent Presidential proclamation, directed at the Government of Libya, and issued pursuant to subsection (c)(1), is in effect at the time of such violation.

"(i)(1) Whoever has been convicted of any offense under section 971, in addition to any penalties prescribed by this chapter, shall forfeit to the United States—

"(A) the profits obtained by him in such activity;

"(B) any of his interest in, claim against, or property or contractual rights of any kind, held by him or derived by him through such activity;

"(C) any of the capital assets, fixed or liquid, held by him and used in such activity; and

"(D) all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished in exchange for an action or actions proscribed by this Act, and all proceeds traceable to such exchange and all moneys, negotiable instruments, and securities used or intended to be used to facilitate a violation under this Act.

"(2) The Attorney General, or any entity duly authorized by him, is authorized and empowered to seize from anyone accused, by indictment or information, of a violation of this Act, any of the assets referred to in subsection (i) and to hold such assets for benefit of the accused, unless a conviction is obtained, in which case such assets shall be held for the benefit of the United States. In the case of assets held for the benefit of the United States, the Attorney General, or his duly authorized representative, is empowered to deposit the same in the General Fund of the Federal Treasury, or to dispose of them at fair market value, or at public auction; the value of all emoluments received, exclusive of reasonable costs, to be deposited in the General Fund of the Federal Treasury.

"(j) This Act shall not be construed to prohibit the provision of medical services or training for humanitarian purposes, or the recruitment or solicitation thereof.".

"(b) The analysis of chapter 45 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"971. Military and intelligence assistance to certain foreign governments, factions, and terrorist groups."

SEC. 4. Section 3238 of title 18, United States Code, is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) Subject to subsection (b), the"; and

(2) adding at the end the following new subsection:

"(b) The trial of any offense under section 971 of this title which is committed out of the jurisdiction of any particular State or district may be in any district. Nothing contained in this subsection may be construed to restrict any right of a defendant under any rule in effect under section 3771 of this title.".

SEC. 5. Section 11 of title 18 is amended by inserting "971", after "sections 112, 878, 970,".●

By Mr. HELMS:

S.J. Res. 172. Joint resolution designating Baltic Freedom Day; to the Committee on the Judiciary.

BALTIC FREEDOM DAY

● Mr. HELMS. Mr. President, we live in an era when there is a great deal of rhetoric about freedom, but somewhat less willingness to make the necessary sacrifice to preserve it. Yet, those of us who were born to freedom and believe in freedom must not forget that for much of the world, the word "freedom" has ceased to have meaning.

Examples abound, but at the moment I would point to Eastern Europe, the Baltic nations, and in particular Estonia, Lithuania, and Latvia. Many of the people of these nations were born to freedom and yearn for freedom, but freedom is denied them. Today they live under the oppression of the Soviet Union which some four decades ago declared that these nations were "in the sphere of influence" and, therefore, would be brought forcibly into the Union of Soviet Socialist Republics.

Mr. President, the United States rejects the Soviet claim that the Baltic nations are a part of the U.S.S.R.; our State Department continues to recognize them as independent nations. To illustrate, the Lithuanian Legation in Washington recently celebrated its national day, along with other nations with diplomatic representatives in Washington. The U.S. State Department was well represented at the ceremony. Assistant Secretary of State Elliot Abrams was present for that occasion, using it to pledge our continuing commitment to Lithuanian independence. Secretary of State Alexander Haig sent his personal greetings in which he stated clearly that this Nation's policy will continue to deny the Soviet claim to political economic, and social control.

But, Mr. President, let us not be deceived, and let us not deceive others. For many, the names "Lithuania," "Estonia," and "Latvia" have little meaning. An entire generation of Americans has come along since the Soviets violated every rule of international law by invading Lithuania, Estonia, and Latvia, and placing their citizens under Russian rule.

No speech on the Senate floor and no resolution will force the Soviets to let freedom be restored to Lithuania, Estonia, and Latvia. History is clear on that point. The Soviets are tyrants—as the people of Afghanistan, Hungary, Czechoslovakia, and Poland will testify. Once the Soviets have subjugated a people, the Soviets are unrelenting in imposing tyranny.

Still, Mr. President, the people of Estonia, Latvia, and Lithuania have not forgotten what freedom means; they continue to yearn for a time when they can again enjoy it. They suffer, but not in silence. The news is filled with accounts of worker resistance. It is to be hoped that the enslaved people of the Baltic States are aware of the heroic efforts of the Polish people to regain their independence. Like the Poles, the church is part of their national fiber, and we know that their intense and continuing faith in God allows them to believe that somehow right will prevail, and gives them courage to resist oppression even in the face of sure, swift, and cruel reprisal.

President Eisenhower understood the meaning of the quest for freedom; he often spoke of the sacrifices necessary to achieve it. On one occasion he said:

> I call upon all who love freedom to stand with us now. Together we shall achieve victory.

President Eisenhower's words are even more important today than when he spoke them. Therefore, I invite my colleagues to join in cosponsoring a resolution which I offer today to establish an annual observance of Baltic Freedom Day on June 14. Not only should we focus our attention on the enslavement of the Baltic people by the Soviet Union; we should do everything possible to offer hope to the enslaved people behind the Iron Curtain. We must keep the plight of the Baltic people before the eyes of the world.

Mr. President, June 14 has been selected as a day to observe Baltic Freedom Day—the anniversary of the mass deportation of untold thousands of innocent Baltic people to Siberia.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the joint resolution ordered to be printed in the RECORD, as follows:

S.J. RES. 172

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence; and

Whereas the Baltic Republics have existed as independent, sovereign nations, belonging to and fully recognized by the League of Nations; and

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions, and languages, distinctively foreign to those of Russia; and

Whereas the Union of Soviet Socialist Republics (U.S.S.R.) in 1940 did illegally seize and occupy the Baltic Republics and by force incorporate them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.; and

Whereas the U.S.S.R. since 1940 has systematically removed native Baltic peoples from their homelands by deporting them to Siberia and caused great masses of Russians to relocate in the Republics, thus threatening the Baltic cultures with extinction; and

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom; and

Whereas the people of Lithuania, Latvia, and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights and persecuted for daring to protest; and

Whereas the United States stands as a champion of liberty, dedicated to the principles of national self-determination, human rights, and religious freedom, and opposed to oppression and imperialism; and

Whereas the United States, as a member of the United Nations, has repeatedly voted with a majority of that international body to uphold the right of other countries of the world, including those in Africa and Asia, to determine their fates and be free of foreign domination; and

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States the right to exist as independent republic separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedoms: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Congress of the United States recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independent from the domination of the U.S.S.R. and deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republic and to yield to their rightful demands for independence from foreign domination and oppression and that the fourteenth day of June, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people and that the President of the United States be authorized and requested to issue a proclamation for the annual observance of Baltic Freedom Day with appropriate ceremonies and activities.●

ADDITIONAL COSPONSORS

S. 1215

At the request of Mr. PROXMIRE, the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1688

At the request of Mr. SPECTER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1688, a bill to combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

S. 1782

At the request of Mr. WEICKER, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 1852

At the request of Mr. JEPSEN, the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 1852, a bill to amend the Export-Import Bank Act of 1945 to provide for the extension of credit for agricultural commodities.

S. 1880

At the request of Mr. THURMOND, the Senator from Tennessee (Mr. SASSER), the Senator from Missouri (Mr. DANFORTH), the Senator from Missouri (Mr. EAGLETON), the Senator from North Dakota (Mr. BURDICK), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 1880, a bill to amend the manufacturing clause of the copyright law.

S. 1889

At the request of Mr. MATSUNAGA, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 1889, a bill to establish the U.S. Academy of Peace, and for other purposes.

S. 1947

At the request of Mr. WEICKER, the Senator from Georgia (Mr. MATTINGLY) and the Senator from New Hampshire (Mr. HUMPHREY) were added as cosponsors of S. 1947, a bill to improve small business access to Federal procurement information.

S. 1958

At the request of Mr. DOLE, the Senator from California (Mr. HAYAKAWA), the Senator from New Hampshire (Mr. RUDMAN), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 2022

At the request of Mr. HOLLINGS, the Senator from Maryland (Mr. MATHIAS), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of S. 2022, a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

S. 2061

At the request of Mr. MOYNIHAN, the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2107

At the request of Mr. LEVIN, the Senator from Montana (Mr. MELCHER), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 2107, a bill to extend from May 1982 to October 1982 the month before which children not otherwise entitled to child's insurance benefits under title II of the Social Security Act by reason of the amendments made by section 2210 of the Omnibus Budget Reconciliation Act of 1981 must attend postsecondary schools in order to qualify under subsection (c) of such section for entitlement to such benefits, to extend from August 1985 to August 1986 the month before which any such entitlement terminates, and to require the Secretary of Health and Human Services to notify all individuals who are entitled to childs benefits under title II of the Social Security Act for the month in which this act in enacted of the changes made in the eligibility for, and the amount of, such benefits by reason of the provisions of section 2210 of the Omnibus Budget Reconciliation Act of 1981 and the provisions of this act.

S. 2142

At the request of Mr. DURENBERGER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2142, a bill to amend the Social Security Act to provide for a new system of utilization and quality control peer review under the medicare program.

S. 2150

At the request of Mr. LEVIN, the Senator from California (Mr. CRANSTON), the Senator from Alabama (Mr. HEFLIN), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2158

At the request of Mr. DANFORTH, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2158, a bill to amend title 23, United States Code, to authorize and direct the payment of an incentive grant for highway safety programs to any State in any fiscal year during which the statutes of the State include certain provisions relating to driving while intoxicated; to establish a national driver register, and for other purposes.

S. 2159

At the request of Mr. DANFORTH, the Senator for New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2159, a bill to amend the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged.

S. 2183

At the request of Mr. MCCLURE, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 2183, a bill to make certain amendments to Public Law 92-195 relating to the protection of wild free-roaming horses and burros.

S. 2207

At the request of Mr. DIXON, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2207, a bill relating to the financing of the activities of the St. Lawrence Seaway Development Corporation.

S. 2215

At the request of Mr. THURMOND, the Senator from Arizona (Mr. GOLDWATER), the Senator from Tennessee (Mr. SASSER), the Senator from Vermont (Mr. LEAHY), the Senator from Kentucky (Mr. FORD), the Senator from Arizona (Mr. DECONCINI), the Senator from Vermont (Mr. STAFFORD), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. MATTINGLY), and the Senator from Tennessee (Mr. BAKER) were added as cosponsors of S. 2215, a bill to recognize the organization known as the National Association of State Directors of Veterans Affairs, Inc.

S. 2219

At the request of Mr. DURENBERGER, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2219, a bill to cancel all bonds issued by the St. Lawrence Seaway Development Corporation.

SENATE JOINT RESOLUTION 138

At the request of Mr. ROBERT C. BYRD, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Joint Resolution 138, a joint resolution to authorize and request the President to designate the week of April 18, 1982, through April 24, 1982, as "National Coin Week."

SENATE JOINT RESOLUTION 156

At the request of Mr. KASTEN, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of Senate Joint Resolution 156, a joint resolution to designate April 9, 1982, as "POW-MIA Commemoration Day."

SENATE JOINT RESOLUTION 161

At the request of Mr. THURMOND, the Senator from Washington (Mr. GORTON), the Senator from Maine (Mr. COHEN), the Senator from Mississippi (Mr. STENNIS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Utah (Mr. GARN), the Senator from Mississippi (Mr. COCHRAN), the Senator from Maryland (Mr. SARBANES), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of Senate Joint Resolution 161, a joint resolution to designate the week commencing with the fourth Monday in June of 1982 as "National NCO/Petty Officer Week."

SENATE JOINT RESOLUTION 165

At the request of Mr. ARMSTRONG, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of Senate Joint Resolution 165, a joint resolution authorizing and requesting the President to proclaim 1983 as the "Year of the Bible."

SENATE JOINT RESOLUTION 167

At the request of Mr. DURENBERGER, the Senator from Texas (Mr. TOWER) and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Joint Resolution 167, a joint resolution to commemorate the 100th anniversary of the Knights of Columbus.

SENATE JOINT RESOLUTION 169

At the request of Mr. HOLLINGS, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maryland (Mr. MATHIAS), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of Senate Joint Resolution 169, a joint resolution to designate the week of April 18, 1982, as "National Architecture Week."

SENATE RESOLUTION 69

At the request of Mr. TSONGAS, the Senator from Michigan (Mr. RIEGLE), the Senator from Delaware (Mr. ROTH), the Senator from Florida (Mr. CHILES), the Senator from Nebraska (Mr. EXON), the Senator from Wisconsin (Mr. PROXMIRE), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of Senate Resolution 69, a resolution approving the pay recommendations of the President with respect to certain personnel in the judicial branch.

SENATE RESOLUTION 299

At the request of Mr. WEICKER, the Senator from Georgia (Mr. MATTINGLY), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of Senate Resolution 299, a resolution to designate May 4, 1982, as "International Franchise Day."

SENATE RESOLUTION 325

At the request of Mr. DIXON, the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. WEICKER), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that a supplemental appropriation should be enacted to restore full funding of the WIN program.

SENATE RESOLUTION 331

At the request of Mr. CHAFEE, the Senator from New Jersey (Mr. BRADLEY), the Senator from Missouri (Mr. EAGLETON), the Senator from Missouri (Mr. DANFORTH), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), the Senator from Washington (Mr. GORTON), the Senator from Maryland (Mr. SARBANES), the Senator from Michigan (Mr. RIEGLE), the Senator from Michigan (Mr. LEVIN), the Senator from Delaware (Mr. BIDEN), the Senator from Delaware (Mr. ROTH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Nevada (Mr. CANNON), the Senator from Ohio (Mr. GLENN), the Senator from Ohio (Mr. METZENBAUM), the Senator from Nebraska (Mr. ZORINSKY), the Senator from Nebraska (Mr. EXON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Tennessee (Mr. SASSER), the Senator from South Dakota (Mr. ABDNOR), the Senator from Iowa (Mr. GRASSLEY), the Senator from North Dakota (Mr. ANDREWS), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Wisconsin (Mr. PROXMIRE) were added as cosponsors of Senate Resolution 331, a resolution expressing the sense of the Senate that the Federal Energy Regulatory Commission should take no action to accelerate the decontrol of wellhead natural gas prices.

REQUEST FOR PRINTING OF SENATE JOINT RESOLUTION 171 IN THE RECORD

Mr. PERCY. Mr. President, on Thursday, March 18, I introduced Senate Joint Resolution 171, on nuclear arms reductions. I now ask unanimous consent that it be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 171

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the increasing stockpiles of nuclear weapons and nuclear delivery systems threaten peace and security and divert resources needed for the betterment of mankind;

Whereas President Reagan, on November 18, 1981, stated that the United States "will seek to negotiate substantial reductions in nuclear arms", and Congress has also urged the President to seek reductions in strategic arms;

Whereas mutual reductions in nuclear weapons and nuclear delivery systems are essential to reducing the risk of nuclear war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States and the Soviet Union should immediately begin the strategic arms reduction talks (START) and that those talks should have the following objectives:

(1) Preserving present limitations and controls on current nuclear weapons and nuclear delivery systems.

(2) Achieving substantial, equitable, and verifiable reductions on nuclear weapons through numerical ceilings, annual percentage cuts, or any other equally effective and verifiable means of strengthening strategic stability.

(3) Seeking negotiated limitations on the testing and deployment of new and destabilizing nuclear weapons which complicate further progress in preserving deterrence and encouraging strategic arms reduction.

(4) Eventually linking ongoing negotiations in Geneva on land-based intermediate-range nuclear missiles with the START negotiations.

SENATE CONCURRENT RESOLUTION 75—CONCURRENT RESOLUTION RELATING TO IMPACT AID FUNDING LEVELS

Mr. PRESSLER submitted the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. Con. Res. 75

Whereas the Federal Government has an undisputed responsibility toward impacted school districts; and

Whereas these districts have no authority to levy taxes on their own behalf: Now therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that 1983 fiscal year funding for impact aid will be at the levels equal to those authorized for fiscal year 1980, as adjusted for inflation.

IMPACT AID TO SCHOOLS

Mr. PRESSLER. Mr. President, I rise today to speak, once again, on the subject of impact aid. Last year I testified before the Labor-HHS-Education Appropriations Subcommittee on this subject, and I have written and spoken to many of the Members of this body and the administration on this same issue. Very little has changed. Impact aid remains a crucial part of the budget for the 49 South Dakota school districts that receive this type of funding, as well as the districts that receive this funding in the other 49 States. Those local districts still have no authority to levy taxes on their own behalf, and the Federal Government still has an undisputable obligation to those schools. Therefore, I am today submitting a concurrent resolution calling for a return to the level of aid funded in fiscal year 1980, with adjustment for inflation.

There are some 8,000 category "A" students, and over 5,000 category "B" students in South Dakota schools alone. For many of these districts, impact aid makes up 50 percent or more of their budgets. A large number of these schools are located on or near Indian reservations with large Indian populations. In addition, the Douglas school system, which is located on Ellsworth Air Force Base near Rapid City, was identified by the President's Commission on Impact Aid as an illustration of a district in which the Federal Government's economic burden exceeded its support. Many other districts, such as the Todd County School District, located on the Rosebud Indian Reservation, to cite but one example, are comprised of nontaxable Indian land.

Last year, in the Omnibus Reconciliation Act, this Congress voted to cap impact aid funding at the fiscal year 1981 level, through fiscal year 1984. The administration's budget request has proposed a 38-percent cutback from this level for fiscal year 1983, with additional decreases in following years. The funding levels set by the Omnibus Reconciliation Act did not account for increased costs caused by inflation, and these are significant. Reductions as severe as the ones the administration has proposed will force these schools to close their doors. I, for one, simply cannot stand by and watch this happen. The concurrent resolution which I am submitting today is meant to serve as an indication of the seriousness of this matter, and of my intention to fight for these schools until their funding is restored.

SENATE CONCURRENT RESOLUTION 76—CONCURRENT RESOLUTION RELATING TO THE TWO RUSSIAN FAMILIES WHO SOUGHT REFUGE IN THE U.S. EMBASSY

Mr. LEVIN (for himself, Mr. Boren, Mr. Hatfield, Mr. Tsongas, Mr. Jepsen, Mr. Sasser, Mr. Boschwitz, Mr. Hayakawa, Mr. Riegle, Mr. Dixon, Mr. East, Mr. Sarbanes, Mr. Proxmire, Mr. Moynihan, Mr. Heinz, Mr. Roth, Mr. Cohen, Mr. Exon, Mr. Grassley, Mr. D'Amato, Mr. Pryor, and Mr. McClure) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. Con. Res. 76

Whereas since 1962, thirteen members of the Vashchenko family and eleven members of the Chmykhalov family have been denied permission to emigrate from the Soviet Union;

Whereas the Soviet Union has consistently denied the right of such individuals to practice their Penecostal faith;

Whereas the Soviet Union has subjected such individuals to physical and psychological harassment, including imprisonment, beatings, confinement in mental institutions, and separation of family members;

Whereas such actions violate the commitments to freedom of thought, conscience, religion, and emigration made by the Soviet Union through its adoption of, or participation as a signatory to, the United Nations International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe, the Charter of the United Nations, the Universal Declaration of Human Rights, and the Constitution of the Union of Soviet Socialist Republics; and

Whereas on June 7, 1978, Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko sought refuge in the United States Embassy in Moscow, in the Soviet Union, because of the suppression of their religious beliefs by the Soviet Union, and have lived in the Embassy since such time: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President of the United States should—

(1) express to the Government of the Soviet Union the deep concern of the United States with respect to the deprivation by such Government of the religious freedom of the members of the Vashchenko and Chmykhalov families, and the refusal of such Government to permit the emigration of the members of such families;

(2) take such actions as may be necessary to ensure that Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko will be permitted to reside in the United States Embassy in Moscow, in the Soviet Union, until such time as the Government of the Soviet Union authorizes their emigration; and

(3) take such actions as may be necessary to ensure that Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko will be provided every possible assistance and courtesy during their residence in the United States Embassy in Moscow.

SIBERIAN SEVEN

Mr. LEVIN. Mr. President, most of my colleagues are familiar with the "Siberian Seven" and have cosponsored S. 312, a bill to grant them permanent resident status in the American Embassy in Moscow. While continuing to press forward with the bill, I am today submitting another measure, a concurrent resolution calling on the Soviet Government to allow the Siberian Seven and their families—the Chmykhalovs and Vashchenkos—to emigrate. Recent developments in the families' emigration efforts make prompt consideration of the resolution particularly important and timely. By the end of this month, it is expected that Soviet emigration officials will rule on the families' petition to revoke Soviet citizenship—often the first step toward emigration. The House of Representatives is scheduled to act on companion legislation tomorrow. Expeditious action in both Houses will insure that the Soviets are aware of our deep and abiding concern for the Vashchenkos and Chmykhalovs.

Mr. President, the story of these families is one of disappointments and frustrations; but it is also one of hope, determination, and courage. Their efforts to emigrate were triggered in 1962 by the absolute realization that in order to freely practice their Pentecostal faith, they must leave the Soviet Union. Now, 20 years later, although Soviet emigration officials continue to fabricate excuses and delays, they steadfastly persevere. Although their years of struggle have been punctuated by harassment, deprivation, and confinement in psychiatric hospitals, labor camps, and state "reeducation" schools, they continue to wage their war for religious freedom.

The Congress and millions of Americans first became acquainted with them in June of 1978 when seven of them rushed past Soviet guards into the American Embassy seeking emigration advice. It was never their intention to ask for refuge, but because they feared another round of retribution, they have resided in a modest basement room in the Embassy ever since. When my colleague, Senator BOREN, and I visited the families in 1979, we were struck by their unflagging spirit in the face of such a grim situation. They told me then, and have told me many times since the visit, that they are counting on world pressure to help advance their case. Many individuals and organizations devoted time and energy to help them, but their case remained in limbo.

Then, in late December last year, 3½ years after entering the Embassy, Lidiya Vashchenko and her mother, Augustina, went on a hunger strike protesting Soviet refusal to allow them to emigrate. But the Soviets were not moved. They held fast to their position that the Seven must return to their native town, Chernogorsk and apply in order to emigrate.

Lidiya's condition deteriorated so drastically that she was removed to Moscow's Botkin Hospital. While she was recuperating, I contacted the American Embassy and requested that Lidiya be asked to write a letter to me indicating what she intended to do upon her release. Lidiya wrote:

> Now I would like to inform you that I have decided to return to Chernogorsk only because of the children. The three and a half years for them were difficult and they will need my help. I will try to apply to emigrate, but I do not know how long my patience will last.

Lidiya's hunger strike focused world attention on her and millions watched and waited as she returned home and joined the others in filing another application. Lidiya met the Soviet demand that she file for emigration in her home town. Now it is incumbent on the Soviets to fulfill their commitment. Many of us grew guardedly optimistic, hoping the news at the end of the month might be favorable.

But now it seems their hopes may be dashed again. In a cruel turn of events, the Soviets may be setting the stage to thwart their latest effort. Only a few days ago, Lidiya was informed that she must reestablish residency in order to have her application even considered. Vindictive malevolence appears to be robbing them of their cherished dream again. The new demand is but another ruse in a long history of ploys contrived to obstruct their path to religious freedom. The Soviets would sentence the Vashchenkos and Chmykhalovs to a life of misery, a life absent of fundamental human freedoms rather than observe their internationally recognized human rights to worship freely and to emigrate.

Mr. President, our support has always been important to the families. At this critical juncture it is particularly important that we take additional action to help bolster their spirits and to let the Soviets know that our interest and concern in this case has not abated, but has intensified.

SENATE RESOLUTION 347—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 347

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1233. Such waiver is necessary because S. 1233 authorizes the enactment of new budget authority which would first become available in fiscal year 1982, and such bill was not reported on or before May 15, 1981 as required for such authorizations by section 402(a) of the Congressional Budget Act of 1974.

It is anticipated that the program outlined in S. 1233 will be implemented through a reallocation of existing resources. No new appropriations should be required for fiscal year 1982.

SENATE RESOLUTION 348—RESOLUTION RELATING TO LOANS FOR FARMERS

Mr. BENTSEN (for himself, Mr. STENNIS, Mr. BOREN, Mr. ZORINSKY, Mr. HUDDLESTON, Mr. DURENBERGER, Mr. TOWER, Mr. THURMOND, Mr. HOLLINGS, Mr. LEVIN, Mr. SARBANES, Mr. BUMPERS, Mr. PRYOR, Mr. JOHNSTON, Mr. EXON, Mr. FORD, Mr. SASSER, Mr. BAUCUS, and Mr. MELCHER) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 348

Whereas, extremely adverse economic circumstances have drastically reduced the commercial borrowing capabilities of many farmers, while increasing their need for credit in order to survive;

Whereas, planting has already begun and many farmers require immediate financing if they are to be able to prepare their land and plant crops this year;

Whereas, these adverse economic circumstances are forcing growing numbers of farmers who can no longer obtain commercial credit to rely on the Farmers Home Administration in its role as the "lender of last resort";

Whereas, the Congress has provided the Secretary of Agriculture with ample authority to help alleviate the adverse situation facing many present and prospective Farmers Home Administration borrowers: Now, therefore be it

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should immediately exercise his authority under Section 1605 of Public Law 97-98 to make loans available to farmers under the Economic Emergency loan program under terms and conditions which will adequately meet the needs of farm borrowers.

LOANS FOR FARMERS

● Mr. BENTSEN. Mr. President, today I am submitting a sense of the Senate resolution urging the Secretary of Agriculture to immediately implement the Farmers Home Administration economic emergency loan program.

I am joined in this bipartisan effort to assist out Nation's farmers by 18 other Senators.

The situation facing our Nation's farmers is critical. Real net farm income has dropped sharply and has been at depths unreached since the Depression for the last years. Forecasts for this coming year place real net farm income at a level of about $5 billion—lower even than that of 1932, the worst year of the Great Depression.

This year many farmers have not even been able to pay off last year's loans. Many farmers have already given up and sold out—so many that used farm equipment is a drag on the market in hard-hit areas such as the Texas Panhandle. Many more farmers are hanging on by their fingernails, hoping desperately that things will improve before they, too, go under.

Some farmers that have been borrowing from commercial lenders for years are being turned away this year because their equity position is so badly eroded by years of losses that they are no longer bankable. These farmers are going to the Farmers Home Administration, the lender of last resort, for financing that will hopefully see them through this tough time until they can go back to the bank or the Production Credit Association.

But in their hour of need the Farmers Home Administration is not there. FmHA in Texas is not even considering new applicants until they have processed all of their old customers. By that time it will be too late to plant for many if not most farmers in the State.

The Secretary of Agriculture has a tremendous amount of discretionary authority under the 1981 farm bill. That legislation gave him the authority to implement the economic emergency loan program of FmHA. I have urged him to implement that program. A number of other Senators on both sides of the aisle have urged him to implement that program, including the chairman and the ranking members of both the Senate Agriculture Committee and the Agricultural Appropriations Subcommittee.

But so far he has not done so.

On Monday of last week I received a letter from the Secretary of Agriculture which was sent to many Members of the Senate. The letter was sent in response to our requests for aid for our farmers. Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C., March 15, 1982.

DEAR SENATOR: The 1981 Farm Bill extended authority for the Economic Emergency Program through Fiscal Year 1982 while giving me broad discretion as to its implementation.

Shortly I will be issuing proposed regulations which will set forth the conditions under which the program will be implemented. The following guidelines will serve as the basis for those regulations:

The Secretary may make available FmHA economic emergency loans when, in his judgment, an agricultural economic emergency exists in a State as reflected by various economic factors, including: current loan to deposit ratios of rural banks in that State, declines in the State's net farm income, variations in the crop yields of the major crops within that State, and a significant upward change in the number of classified loans held by conventional or farm credit system's agricultural lenders in the State.

In eligible States, before an applicant can be considered eligible for an economic emergency loan under FmHA regulations that applicant must first be determined ineligible for an FmHA operating loan (OL) or an FmHA emergency loan (EM).

I wanted you to have a copy of these guidelines in advance of their public release. If you have any questions or need further information, please feel free to contact me or my Office of Congressional Affairs at 447-7095.

Sincerely,

JOHN R. BLOCK,
Secretary.

Mr. BENTSEN. Mr. President, the only thing that this letter says is that at some unspecified time, hopefully soon, the Secretary will issue proposed regulations for the EE loan program.

Mr. President, this is totally inadequate. Texas farmers have already started planting. All over the State they should be well along on land preparation already. They do not have time to wait around for the bureacracy to propose new regulations. They need financing now—not next week, next month, or next year. For many farmers there is no next year.

Mr. President, I urge the Senate to go on record on this important issue. We must make it crystal clear to the Department of Agriculture the severity of this problem and the need to make every effort to assist our Nation's struggling farmers through this farm depression.

I do this with great reluctance. I think that farm debt is much too high. I grew up on a farm myself. I know that more debt is not the final answer. Farmers, like the Federal Government, cannot borrow their way to prosperity. The real solution to our farm problems lies in higher prices. If a farmer cannot get a fair price for his product in the marketplace then more debt just digs him a deeper hole.

But the farm finance situation right now is truly an economic emergency. Any action that is taken to raise prices in the future, and this Senator has been and will be pushing hard for such actions, will do many farmers no good at all if they are bankrupted this spring by the refusal of the Secretary of Agriculture to use the tools at his disposal to help them through this time of distress.

In reauthorizing the economic emergency loan program the conference report on the farm bill stated:

> Of course, the conferees intend that the Secretary use the authority in the Act to cope with economic emergencies.

If the current farm economic situation is not an economic emergency, then I would like to know what is. The delinquency rate on FmHA farm loans in Texas is now a staggering 69 percent, up from 35 percent last September.

In especially hard-hit areas such as west Texas the delinquency rates are up to 90 percent. Real net farm income has been the lowest since the Depression, and if nothing is done it is forecast to be the lowest in history this year if nothing is done.

This Senator has been working to improve the farm income situation. I have spent many hours on the floor and in committee working to put some needed backbone into our agricultural trade policy, to open up more markets, such as Japan, to U.S. agricultural exports. I hope these efforts will pay off in more markets and especially in higher market prices for our farm products.

But these efforts will take time, and many farmers do not have time. Planting time is here. Nature waits for no one, not even the Secretary of Agriculture, and action on opening up the economic emergency loan program will either be immediate or totally inadequate.

Mr. President, I once again urge the Secretary of Agriculture to immediately implement the economic emergency loan program, and I urge the adoption of this bipartisan resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

CRIMINAL CODE REFORM ACT

AMENDMENT NOS. 1340 AND 1341

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted two amendments intended to be proposed by him to the bill (S. 1630) to codify, revise, and reform title 18 of the United States Code; and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 2118, the Wyoming Wilderness Act of 1982. The hearing will be held on Friday, April 30, beginning at 7 a.m. in Durham Hall of Casper College, 125 College Drive, Casper, Wyo.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Tony Bevinetto, Committee on Energy and Natural Resources, Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510 (202-224-5161) or Ms. Carol Poe, in care of Senator WALLOP, 2201 Federal

Building, Casper, Wyo. 82601 (307-266-3240).

Witnesses should supply the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee. The copies should be delivered to Senator WALLOP's Casper Office. Witnesses are encouraged to limit their testimony to subject matters contained in the legislation.

Because of the number of witnesses expected to testify, time will be limited. Witnesses will be arranged in panels and are requested to summarize their written statements during their oral testimony.

For further information regarding this hearing you may wish to contact Mr. Bevinetto at 202-224-5161.

Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 1138 and S. 1633, dealing with prohibiting the issuance of phosphate leases on the Osceola National Forest in Florida; and H.R. 9 and S. 1873, which would designate wilderness and national forest lands in Florida. The hearing will be held on Thursday, April 1, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Tony Bevinetto, Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

Witnesses should supply the subcommittee with 75 copies of their written statement 24 hours in advance of the hearing, as required by the rules of the committee. Witnesses are requested to summarize their written statements during their oral testimony.

For further information regarding this hearing, you may wish to contact Mr. Bevinetto at 202-224-5161.

Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled for April 7 in Kelso, Wash., to consider S. 2133, the Mount St. Helens National Volcanic Area Act of 1982, will begin at 9 a.m. instead of 8 a.m.

Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Public Lands and Reserved Water.

On Wednesday, April 14, beginning at 9 a.m. in room 3110, the subcommittee will receive testimony on S. 1777, to establish a permanent boundary for that portion of the Acadia National Park as lies within the town of Isle au Haut, Maine; S. 1872, to amend the act establishing the Capitol Reef National Park in the State of Utah to provide for a grazing phaseout schedule, and for other purposes; and S. 2218, to provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue landfill site by the city of New York.

On Thursday, April 15, beginning at 10 a.m. in room 3110, the subcommittee will receive testimony on S. 1999, to amend the act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Va., and for other purposes; and S. 1540, to revise the boundaries of the Saratoga National Historical Park in the State of New York, and for other purposes.

Those wishing to testify or who wish to submit written statements for the hearing record should contact Mr. Tony Bevinetto, Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

Witnesses should supply the subcommittee with 75 copies of their written statement 24 hours in advance of the hearing, as required by the rules of the committee. Witnesses are requested to summarize their written statements during their oral testimony.

For further information regarding this hearing, you may wish to contact Mr. Bevinetto at 202-224-5161.

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, on Thursday, April 1, the Subcommittee on Federal Expenditures, Research, and Rules, of the Committee on Governmental Affairs, will hold a hearing concerning the Paperwork Reduction Act. The hearing will be held in room 3302 of the Dirksen Senate Office Building, beginning at 2 p.m. April 1 marks the first anniversary of the act, and the purpose of the hearing will be to consider the progress made during this first year. At that hearing, the subcommittee will receive the administration's report to the Congress on implementation of the act. Testifying on behalf of the administration will be Christopher DeMuth, Administrator of the Office of Information and Regulatory Affairs. Also testifying will be the General Accounting Office and the Business Advisory Council on Federal Reports. Interested persons should contact Christopher Brewster, chief counsel, or Patricia Otto, chief clerk, at (202) 224-0211. Persons wishing to submit statements for the record should address them to the subcommittee at room 44, Capitol Hill Annex, 128 C Street NE., Washington, D.C. 20510.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the Intelligence Committee be authorized to meet during the session of the Senate at 2 p.m. on Monday, March 22, to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, March 22, at 10 a.m., to hold a hearing to consider natural gas policy and regulatory issues, including related proposals for modifications to existing law.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, March 23, at 9 a.m., to hold a hearing to consider natural gas policy and regulatory issues, including related proposals for modifications to existing law.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, March 25, at 10 a.m., to hold an oversight hearing to review the capacity, distribution, and status of the strategic petroleum reserve.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, March 24, at 3 p.m., to hold a hearing on the nomination of Paul Nitze to be Ambassador while serving as head of the U.S. delegation to the Intermediate Range Nuclear Forces negotiation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE CONTINUED SOVIET OCCUPATION OF AFGHANISTAN

● Mr. DOLE. Mr. President, on Sunday, March 21, all across the United States, Americans celebrated "Afghanistan Day" as a way of commemorating the resistance of the

Afghan people to intolerable aggression. As cochairman of the Commission on Security and Cooperation in Europe, which monitors and encourages compliance with the 1975 Helsinki accords, I must emphasize that the invasion and continued occupation of Afghanistan is a blatant violation of all 10 of the principles guiding relations between states of the Helsinki Final Act. Most vividly violated are principles dealing with respect for sovereign equality of frontiers, the territorial integrity of states, nonintervention in internal affairs, and the equal rights and self-determination of peoples. This invasion and occupation of a formerly independent and nonaligned state has severely damaged the international climate, has done great harm to East-West relations, and has severely reduced the level of trust and security among all states. In addition, the Soviet Union's continued rejection of recent efforts to bring about a peaceful solution to the problems engendered by their continued occupation shows a callous disregard for the spirit as well as the letter of the final act.

I am sad to report that more than 2 years after that invasion and after nearly a year and a half of negotiations in the Madrid followup meeting, the unlawful Soviet occupation of Afghanistan continues and, in fact, has become even more repressive. As Secretary of State Haig said in an address on September 13, 1981:

> The Soviet Union has occupied Afghanistan since 1979. The Afghans' religion, culture, and national life are in danger of destruction. One-fifth of the entire nation has been exiled. . . ."

Repeated efforts by the Soviet Union and others to justify this invasion and continued occupation have been rejected by virtually all objective observers. No one can seriously believe that a small, neutral, nonaligned country in any way threatened the security of the Soviet Union. The oft-used argument that the Soviet Union invaded Afghanistan as a response to efforts at intervention of other countries has been shown to be false. The only external interference in Afghanistan has come from the Soviet Union itself. The Soviet claim that its forces were invited into Afghanistan by the Afghan Government pursuant to the Soviet-Afghan Treaty of 1978 has also been shown to be a fiction, highlighted by the murder of the Afghan Chief of State shortly thereafter.

THIRD WORLD JOINS IN CONDEMNATION OF U.S.S.R.

Efforts to defend the Soviet invasion and occupation are just as hollow and unconvincing today as they were in January and November 1980, and November 1981, when the United Nations General Assembly approved three resolutions calling for the immediate withdrawal of foreign—that is to say, Soviet—troops from Afghanistan, the restoration of Afghanistan's nonalined status, and respect for Afghanistan's right to self-determination.

Last year, an imaginative effort on the part of the members of the European Community to end the Soviet occupation peacefully was rejected out of hand by the Soviets and their Afghan puppets. In June 1981, the leader of the European Community launched an initiative intended to gain Soviet troop withdrawal from Afghanistan and to guarantee that nation's independence and neutrality. Their plan, which had the support of the United States, proposed a nine-nation Conference on Afghanistan to be held in two stages to begin as early as October 1981. The first stage would negotiate a cessation of external intervention in the country and guarantees of noninterference in its internal affairs. The second would work toward an independent, nonalined Government for Afghanistan.

Unfortunately, when formally presented with those proposals, the Soviets immediately dismissed them as "unrealistic." Attempts by the United States to convince Soviet officials to enter into serious negotiations on Afghanistan along the lines of the European Community's proposals have been similarly rebuffed.

In view of such Soviet intransigence, there does not seem to be much hope that the situation in Afghanistan will improve. The level of Soviet troops, which have occupied Afghanistan for more than 2 years now, has been increased to number at least 100,000. The weaponry and force of arms being used to keep that country in its subjugated state continues to increase and to become even more horrific. Yet widespread and spontaneous resistance by the Afghan people continues, pointing vividly to the hatred and defiance which the Soviet presence and the Babrak Karmal regime have evoked. Mass defections from the Afghan Army, the persistent inability of the Babrak regime to develop viable political support, and the continued activity of Muslim freedom fighter units leave the unmistakable impression of the disintegration of political and social stability.

GAS WARFARE ON CIVILIANS

Attempting to counter this instability, the Soviet occupation forces have resorted to increasing violence. Tactics including the bombing of villages, the destruction of crops, and helicopter gunship attacks on innocent civilians have been used from the start of the invasion and are well documented. There are recent reports that such tactics have escalated and there is increasing evidence of other forms of warfare being used—forms of warfare banned for years by international law.

This new expanded Soviet policy of repression has caused widespread misery among the Afghan people. Villages and mountain valleys have been denuded of their populations through increased bombings and intimidation. Whole areas of major cities have been destroyed in heavy bombardment. Whole villages have been reduced to rubble and their populations subjected to reprisals for allegedly aiding or harboring freedom fighter units.

The world has been shocked by reports of the use of chemical and biological warfare in Afghanistan. On March 8, the Reagan administration announced that it had firm evidence that at least 3,000 people in Afghanistan had been killed with poison gas and other chemical weapons in 47 separate incidents between the summer of 1979 and the summer of 1981. The possession and use of toxins is a violation of both the 1925 Geneva protocol and the 1972 biological weapons convention, as well as the Rules of Customary International Law of Armed Conflict—and the Soviet occupation of Afghanistan can be characterized as nothing but armed conflict.

From the Afghan freedom fighters themselves comes evidence that weaponry utilized by Soviet occupation forces has been devastating. Reports of the use of immobilizing gas bombs, incendiary bombs and camouflaged bombs in the form of toys and pens are proliferating. These weapons are being employed by the Soviet Union in direct contravention of agreed provisions of a convention, now awaiting ratification, which prohibts the use of land mines, booby traps and incendiary bombs against civilians. Also, from Afghanistan come reliable reports of the use of a variety of gas bombs and napalm-like substances which have had a lethal effect on the civilian population. The gases have caused continual crying, nausea, temporary paralysis, loss of consciousness, and death.

Conclusions to be drawn from the accumulating evidence of Soviet barbarity in Afghanistan are obvious. In the more than 2 years since the invasion, the Soviet Union has not taken even the first step toward a disengagement and, in fact, has increased its presence and the level of violence it has employed in total disregard for its obligations under international law and the Helsinki Final Act. Thousands of political prisoners have apparently died while in the custody of the Babrak regime and many thousands more have simply "disappeared." Torture and arbitrary arrests and imprisonment continue unabated, while about 3 million Afghans, nearly one-fifth of the preinvasion population, have fled the country.

The United States still favors a political settlement which would lead to restoration of a genuinely independent, neutral, nonalined Afghanistan with a government acceptable and responsible to its people. I emphasize that this can only be accomplished by putting an end to the massive violence and terrorism now being employed against the Afghan people and by the prompt, total withdrawal of all Soviet troops. Otherwise, the Soviet Government makes a mockery of its international obligations and indeed of the Helsinki process itself.

Mr. President, I urge my colleagues and fellow citizens to remember the brave resistance of the Afghan people, whose struggle against their Russian invaders is now well into the third year.

Sunday was set aside as a day to mark and honor their struggle by President Reagan and the Congress, and was observed by other nations all over the world. Let the day serve as a reminder to those who cherish liberty of its fragility, and as a warning to those who have tried to crush it.●

TRIBUTE TO DR. BENJAMIN E. MAYS

● **Mr. HOLLINGS.** Mr. President, in November of this past year a historical marker was placed at the birthplace of one of South Carolina's most extraordinary natives, Dr. Benjamin E. Mays. His achievements, his ideas, and his principles are so profound, I wish to share his story with my colleagues today.

Born in Epworth, S.C., of slave parents, Benjamin Mays became one of the great forces and spokesmen for freedom and human dignity in our country. A graduate of South Carolina State College and Bates College, with a Ph. D. from the University of Chicago, Dr. Mays began his career as a teacher at Morehouse College and South Carolina State College. During the late twenties and the early thirties Benjamin Mays served with the Tampa Urban League, as national student secretary of the YMCA and conducted a study of Negro churches in the United States.

From 1934 to 1940, Dr. Mays served as the dean of the School of Religion at Howard University here in the District of Columbia. In 1940 Benjamin Mays began his distinguished career as president of Morehouse College in Atlanta. While at Morehouse, he served as the spiritual and intellectual fountain for Dr. Martin Luther King, Jr., and other major figures in the civil rights movement. In fact, Dr. King often times proclaimed Dr. Mays his "spiritual mentor."

Dr. Mays retired from Morehouse College in 1967 and was given the title of president emeritus. Subsequently he served as president of the Atlanta Board of Education for 12 years. Benjamin Mays has received many honors including scores of honorary degrees. A street and high school bear his name in Atlanta. South Carolina Gov. Dick Riley awarded him the Order of the Palmetto in 1980 during ceremonies unveiling Dr. Mays portrait in the South Carolina State Capitol. But these awards and honors can never meet the measure of the man. For, more than a man with fine credentials, he was the spiritual and intellectual leader for a movement dedicated to human progress.

The great journalist and author Samuel Dubois Cooke once said:

> Benjamin Mays has strength of character, gifts of mind, vision, and ability, a zest for life, a stubborn moral courage, a prophetic imagination, a deep commitment to social justice, a single minded commitment to the most precious and enduring values of human enterprise, and a lifelong romance with the world of higher possibilities.

High praise from a very noble source.

But perhaps Dr. Mays described himself best when he said in his autobiography, "Born To Rebel."

> Foremost in my life has been my honest endeavors to find the truth and proclaim it.

And he not only found the truth and proclaimed for himself. He found the truth and proclaimed it for all men and women, of all races, of all religions and from all walks of life for decades to come.

Mr. President, on November 7, 1981, at the dedication of the historic marker placed at Dr. Benjamin E. Mays' birthplace, Dr. Larry A. Jackson, president of Lander College, gave an eloquent address about this great man's life. His remarks truly capture the spirit of the man. I ask that Dr. Jackson's address be printed in the RECORD.

The address follows:

ADDRESS AT THE CEREMONY OF DEDICATION OF THE HISTORIC MARKER AT THE BIRTHPLACE OF BENJAMIN ELIJAH MAYS, NOVEMBER 7, 1981

(By Larry A. Jackson)

"History is the essence of innumerable biographies"—Thomas Carlyle.

It is an honor to speak on a day when we reflect on the life of one of America's great teachers and moral leaders. I would like to use my time to explore two questions with you. The first question is this: What is the most important reason for the people of this State to place this monument in this place on this November day? To honor Dr. Mays? I answer "no." That is not the most important reason. The honor which the home county of Dr. Mays owes him by the right of his accomplishments has been far too slow in coming, but it has come. We now, thank God, live in a time when most school children in this county know his name. And a man with schools and college buildings named for him, and with 49 honorary degrees, from institutions as varied in purpose as Harvard University and Lander College, does not need another honor.

The most important reason for placing this monument here is not to honor Benjamin Elijah Mays but to remind us, the citizens who pass here, of the quality and message of his life.

This leads me to my second question. What was it that caused Benjamin Elijah Mays to be different from the crowd and to serve as a teacher and as an example to a whole generation of people who have dedicated their lives to make American democracy work better and to cure it of the illness of racial prejudices?

The historian who traces the movement towards the renewal of American democracy which has characterized this century will find intertwined in this history the life of the teacher and schoolmaster whom we gather to honor today. It was Benjamin Elijah Mays who was the mentor of Dr. Martin Luther King, Jr. and his fellow patriots. (I call them patriots because they were fighting to make reality of the dream of the earlier patriots.)

In a time when we desperately need similar examples of integrity and courage, I ask you to think about this question: "How did his life emerge in our midst." What were the forces which nurtured and generated it?"

Think back with me to the turn of the century. Which of us, had we been walking along this unpaved country road in the year 1894 would have thought that a few feet from us was being born a child who would become a force for justice, truth, and light in his generation. And if we had been told that the child was Black, our incredulity would have been multiplied.

How did this child, born in this simple house, in rural South Carolina, and in a time when the whole area knew little save poverty, overcome the many obstacles which any sane man would have predicted would have prevented him from becoming any kind of a leader, much less a gentle, unbitter leader who advocated dynamic evolution rather than revolution, non-violent love rather than armed hate? How did he come to be? That is the question which gnaws at us as we approach this celebration. Benjamin Mays could have so easily become bitter and resigned. He did not. Why not?

Although there is a great deal of mystery in any life which we human beings cannot explain, and there are providential movements through history that only the most arrogant would try to explain, I am, on the basis of having heard Dr. Mays speak on several occasions and on the basis of having read his autobiography, "Born To Rebel," going to point to at least three influences which nurtured him in a special way and which set him apart from other men from an early age.

These three influences, added to a sound mind and a very good brain given by God, were his family, his church, and his religion.

You are probably surprised that I have listed "his church" and "his religion" separately. In thinking of the church, I am thinking of a social institution of people who took a special interest in, and gave strong nurturing encouragement to Benjamin Mays. In thinking of his religion, I am thinking of prophetic faith which taught Benjamin Mays about justice at an early age and taught him that "love" is the law of life and anything that contradicts love contradicts life in its essence."

Let's look for a moment at the early life of Benjamin Elijah Mays. The simple home in which he was born was characterized by dignity and love. His parents, Hezekiah Mays and Louvenia Carter Mays, had been born into slavery and knew the importance of freedom.

You can sense something of the quality of the home if you picture Benjamin's oldest sister tutoring him in reading and writing prior to the time that the family was able to send him to school. She was an excellent teacher and the quality of her own concern that her brother become educated no doubt accounted in some measure for the success that always characterized him in school.

Picture him at the age of 5. Although he lived in a home characterized by warmth and support, he lived in a county where Blacks were considered not to be the equal of Whites in intelligence or humanity. One of his earliest memories was a night in 1898 when a group of white men rode into his yard on horses and held his father at gunpoint and forced him to humiliate himself by bowing down before them over and over again. It was a night in which seven Blacks were lynched in this county, and we can imagine the fear that ran through the Mays family that night, and we can understand why that scene has never disappeared from the memory of Benjamin Elijah Mays. We marvel that the memory of the Phoenix riots did not embitter Benjamin Elijah Mays forever.

Now picture him at the age of 8, still living in this same simple farm house. It was Children's Day at his church and Benjamin Mays had committed to memory the fifth chapter of the Gospel according to Matthew. When he finished his speech, it is reported that the women stood up and waved their handkerchieves and men stumped their feet in praise. After the applause died down, the minister said, "This boy is going to be a preacher."

In his autobiography, "Born to Rebel," Benjamin Mays reports that he was a marked boy from then on. I ask you today to contemplate on how much the encouragement of that family and that congregation meant to Benjamin Mays. And how much that one incident had to do with the burning ambition that was born in him to become an educated man. Even at eight, Benjamin Mays knew that the only way for him to be truly free and to lead his people out of degradation was by obtaining an excellent education. But it was not a goal easily attained. His father, although supportive in many ways, did not believe that an education was needed. As he told his son, "If you want to preach, the Lord will open your mouth and tell you what to say." "And if you want to farm, you can learn it from me." His father was convinced that these were the only two possible occupations for a Black boy.

In his autobiography, Benjamin Mays recalls many times when he tethered his horse between plowing chores and went into the woods to pray that he might become an educated man. At one point he said to a reporter, "I prayed myself into an education." After overcoming many obstacles, Benjamin Mays was graduated from the high school at South Carolina State College at the age of 21.

At this point, Benjamin Mays decided to pursue his college education outside of the South. This decision was based upon a very rational analysis of two contradictory influences in his life. (1) He lived in an environment which said to him that he was an inferior person, and (2) he worshipped a God who said that all men were equal. He decided to compete at a very excellent liberal arts college where the majority of the students were white so that he could prove that he was not an inferior person. Benjamin Mays soon proved it. He was not only an honor student at Bates College with the highest academic honor awarded in American higher education, a Phi Beta Kappa Key. The picture of Benjamin Mays in the Bates College annual shows a very determined-looking young man.

He continued his education at the University of Chicago where he was eventually awarded a Master's degree and a Ph. D. degree. These degrees were earned by doing odd jobs and working as a pullman porter, the route to a new life for so many ambitious Black males in those days.

After serving as a pastor, as an urban league representative, and a Dean of the School of Religion at Howard University, Benjamin Elijah Mays reached his most important life's work. At the age of 46, he became President of Morehouse College in Atlanta. Dr. Mays turned a struggling institution into one of the strongest colleges in this country and it was here that he became the mentor for many of the leaders who have renewed American democracy in our generation, leaders such as Martin Luther King, Jr.

For 27 years, Benjamin Mays preached a weekly sermon in the chapel of Morehouse College and students such as Martin Luther King, Jr. looked back upon those sermons as turning points in their lives. Someone said of him during this time, "Mays wanted to invent souls. He wanted to root out the weaknesses and the evasions which were the heritage of 300 years of spiritual and material oppression." "If you are ignorant," he told his students "the world is going to cheat you. If you are weak, the world is going to kick you. If you are a coward, the world is going to keep you running."

And he said other things to those students in those days, and I want to quote a few of them now.

"No person deserves to be congratulated unless he has done the best he could with the mental equipment he has under the existing circumstances."

"It will not be sufficient for Morehouse College, for any college, for that matter, to produce clever graduates, men fluent in speech and able to argue their way through; but honest men, men who can be trusted in public and in private—men who are sensitive to the wrongs, the sufferings, and the injustices of society and who are willing to accept responsibility for correcting these ills."

"It must be borne in mind that the tragedy in life doesn't lie in not reaching your goal. The tragedy lies in having no goal to reach. It isn't a calamity to die with dreams unfulfilled, but it is a calamity not to dream. It is not a disaster to be unable to capture your ideal, but it is a disaster to have no ideal to capture. It is not a disgrace not to reach the stars, but it is a disgrace to have no stars to reach for. Not failure, but low aim is sin."

Now let me close by quoting a few things which others have said of Benjamin Elijah Mays. Samuel Du Bois Cook, a former student who is now President of Dillard University, says "Mays' genius was as an inspirer and motivator as well as a transformer of young men. With the possible exception of Robert Hutchins at the University of Chicago, he had no peer among his contemporaries as a school master. I rank him with America's great educators, with William Rainey Harper of the University of Chicago, Nichols Murray Butler of Columbia, and Charles W. Elliot of Harvard."

When Benjamin Elijah Mays was awarded an honorary Doctorate in Law from Harvard University in 1967, this is what was said of him.

"Creative president of one of our nation's strong colleges; unremitting champion of rigor and high purpose in education."

And finally, when the college in Benjamin Mays' county of birth, Lander College, became the 34th college to give him an honorary doctorate these words were included in the citation.

"We know of no life more characterized by concern for the needs and distresses of others than the life of Benjamin E. Mays. Against many odds, you disciplined yourself and prepared yourself morally and intellectually to walk among your contemporaries as befits a man whose life is informed by and dedicated to the Judeo-Christian ethic."

Let me close with this word of thanks to Benjamin Mays: If mankind has learned anything about teaching in our long years on earth, we have learned that no words, no gesture, can be more persuasive than an authenic life, a life dedicated to a quest for truth and justice. The monument will serve to remind us of such a life. Dr. Mays, you have given us a better vision of what human life is supposed to be like, and we will always remain in your debt.●

GRAFTON, N.Y., CELEBRATES 175TH ANNIVERSARY

● Mr. D'AMATO. Mr. President, for the people of the small upstate New York community of Grafton, March 20, 1982, marked a very special occasion. On that day, the community celebrated its 175th anniversary. As a Senator representing the State of New York, it is an honor for me to lend recognition to this event by wishing residents of Grafton my hearty congratulations.

Grafton is a quiet community situated near Albany. Many of its citizens leave their beloved town early in the morning to work in the surrounding cities but always return home each evening to enjoy the peace and tranquility of Grafton. For those citizens who remain in Grafton to earn a living, logging is, and always has been, the chief industry of the town.

Rich in tradition and American heritage, Grafton has a place in Revolutionary War history. Soon after its incorporation, General Van Rensselaer donated 200 acres of land to Grafton as a home for war veterans who had lost their land and possessions in the war.

I hope that you are in agreement with me that this is an event of note that deserves our attention. Thus, I ask you my fellow Senators to join me in honoring the town of Grafton, N.Y., on the occasion of its 175th anniversary.●

NEW BATTLE OF BUNKER HILL

● Mr. McCLURE. Mr. President, in January of this year, a tragedy occurred in Kellogg, Idaho. The Bunker Hill Mine & Smelter Co. closed its doors after several months of negotiations between Gulf Resources Corp., and prospective buyers, because the International Steelworkers Union refused to sign a labor agreement with an investor group seeking to buy the Bunker Hill Co. The events that took place during this time were only the beginning of the troubles of the people of the Silver Valley. The article which appeared on the front page of the March 16, issue of the Washington Post, and the article in the March 15, issue of the Wall Street Journal, briefly describe the pain and suffering these people are going through.

It is unbelievable to me that an international union could discuss an agreement with investors, that they could demand strict secrecy for the discussion, that they could lead all parties to believe that an agreement had been reached, and that they could pull the plug on the entire agreement at the very last minute. Unfortunately, the real losers are not the leadership of the International Steelworkers Union in Pittsburgh, but the men and women whom they claim to represent in northern Idaho.

I ask that the articles be printed in the RECORD.

The articles follow:

[From the Washington Post, Mar. 16, 1982]

NEW BATTLE OF BUNKER HILL: UNION SURRENDERS ALL JOBS

(By Jay Mathews)

KELLOGG, IDAHO.—Francis Heck sits slumped in the small living room of his tidy, two-story yellow house near Rose Lake. He is resting from a 3,000-mile, five-state trek in which he slept in his car, filled out countless job applications and found openings nowhere.

Fatigue and resignation have dampened some of his anger. But mention the events of Jan. 17, 18 and 19 and it all pours back into his voice—the frustration and astonishment when he discovered that his union was going to keep him and 1,500 of his coworkers from returning to their jobs at the Bunker Hill Co., and turn Kellogg into a ghost town.

As the nationwide recession deepens, workers and unions in the automobile and other industries are staving off unemployment by accepting pay freezes or cuts, but when workers tried that in this town that once produced a quarter of the nation's refined lead, zinc and silver, their union wouldn't let them.

The bitterness of the remarkable clash between the men of Bunker Hill and the United Steelworkers union poisons the atmosphere here now as severely as the fumes that poured for years out of Bunker Hill's 715-foot-high lead mill smokestack.

"It should never have happened. It was stupid, It was dumb," Heck said.

On Jan. 17, Heck and his fellow workers at the mine and refining plant thought they had saved the troubled company by voting to accept 25 percent pay cuts and go to work for a group of local investors who promised to reopen the plant that had closed just two weeks before.

On Jan. 18, they learned that the steelworkers union leadership had refused to honor the workers' vote. The union's leaders insist they saved their workers from a bad contract, and they still hope Bunker Hill will reopen with the help of a new buyer.

But that is no longer the prevailing opinion in Kellogg. Gary Beck, manager of the Idaho department of employment office here, said, "This town almost went up in an explosion" of worker violence the day the vote was overruled. An avalance of antiunion feeling erupted in what had been a heavily union town, but is now one more casualty of the economic blight that low demand for minerals and lumber have brought to the lovely hills of the northwestern United States.

Kellogg, a one-industry town with a population of 3,600, could vanish. Beck said his office normally processes 300 or 400 unemplyment claims this time of year. Instead, he has 1,600, and with the price of silver at its lowest point in two years, he expects many more.

Dixie Lee Laehn, wife of a 10-year veteran of the Bunker Hill plant, paces around her living room a few blocks from the unused company rail trestles, still furious over what she feels the steelworkers union has done to the town that has been her home.

"When a majority rule no longer counts in America, we're in deep trouble. We may as well pack it up and head for the Soviet Union," Laehn said. "We're fighting our guts out here just to survive. And big shots clear back in Pittsburgh are using us as an example that unions are Big Brother."

Laehn, 37, a former Army nurse, finds money so tight she has had to cut off her telephone and put to sleep five pet dogs, many left by friends who have already moved out of the area. She and her husband, Clifford, took a bus to Spokane about 70 miles away to look for jobs. They were amazed to find the bus full.

"I wondered, were people doing so well they could take vacations? But when you get to talking to them, you find out they are people who are just crawling from one town to the next, looking for work . . . and just think that my husband and all those others could have still had jobs here."

Clifford Laehn is a small, energetic man with a few teeth missing and a tendency to let his wife do the talking. He is restless. Each morning he rises at 3:30 to help deliver the local paper, getting in return only a free subscription and a sense of having accomplished something that day.

When the Laehns' daughter, Melanie, 11, finishes the spring term at the Silver Valley Baptist School, the family plans to head for the Sun Belt—"Denver, Phoenix, whatever places have the lowest unemployment rates," Dixie Lee Laehn said. Francis Heck is heading that way also in a new job search through Nevada, Arizona, New Mexico and Texas. Clifford Laehn made $30,000 last year. Heck made about $26,000. Both must now live on $145 a week in unemployment benefits, the equivalent of $7,500 a year.

Kellogg businessmen like Dale Farlee, owner of the Silverhorn Motor Inn, meet regularly now to think of ways to save the town. Farlee said his own business has declined about 33 percent, but his group, the Greater Kellogg Development Corp., has a nibble for a "major aircraft stamping plant" to be established here. Another group of small merchants, Silver Valley Forever, has suggested improving the local ski run, once called "Jackass" but rechristened "Silverhorn," or building some sort of theme park to attract tourists.

The town sits on Interstate 90, the most direct road from Seattle to Chicago, seemingly a natural spot for a thriving business. But the almost abandoned Bunker Hill plant in the center of town is an eyesore of rusting metal and black slag heaps. Fire and pollution have denuded hills on either side of the narrow valley. A first-time visitor wonders if the raw look is natural for a mountain town in winter, but Beck explains: "The smelter has so polluted the ground that hardly any thing will grow."

Bunker Hill had been known for the loyalty of its employes, who stayed with the work there longer than at most mine and smelter operations. When the bulk of the workers was dismissed Dec. 31, Beck said, "I had more than 60 or 70 people in here with an average of 30 years with the company. It was something to see."

It was Aug. 25 that Clifford Laehn came out of the plant and heard that Gulf Resources and Chemical Corp., shaken by the plant's losses, could not find a buyer and was going to close it. "I just sat in my car and everything just left me," he said. "It was the loneliest, emptiest feeling I've ever felt in my life."

By November, a group of local investors led by Duane Hagadone, a publisher and real estate investor based in nearby Coeur d'Alene, was trying to buy Gulf's interest in the plant. Bunker Hill would cost about $65 million, but losses for 1982 were projected at about $40 million. The investors could not control the volatile prices on the metal markets. They could only finance the deal if they negotiated a substantial cut in labor costs.

They presented the workers with a five-year plan that would have meant an initial 25 percent cut in wages and benefits for many, weaken seniority rules and provide jobs for only about 1,500 of the plant's 2,100 workers.

The leaders of United Steelworkers of America Local 7854 recommended against it. But at a climactic vote the night of Jan. 17, members of the nine plant craft unions, including the steelworkers, voted 695 to 506 to accept the local investors' proposal. Many went home to celebrate, thinking they had saved their jobs. They were stunned the next day when they turned on their radios to hear that the local's newly appointed administrator, Lavern Melton, had refused to sign the agreement. The investors had no legal labor agreement which they could show to banks planning to finance the purchase, and the deal was dead.

"When I heard that my vote didn't count, it took me half an hour to get to the union hall to find out why," Heck said. An angry crowd had gathered outside and was berating Melton as sheriff's deputies watched nervously for any outbreak of violence. "Get it signed and get it over there," someone shouted at Melton. He replied: "We're not signing a blank check."

"Go back to Pittsburgh!" someone said. Melton pointed out that he was from Wallace, not far away. "Your soul is in Pittsburgh, not this valley. They own you. They own your soul," a member of the crowd shouted.

Finally the workers were allowed into the union hall for an informal meeting and a flamboyant official from the Pittsburgh headquarters, Andrew Coban, addressed the throng. "I don't care if you starve me, kill me, castrate me, rape me. It just doesn't matter," Heck said Coban told them. "I'm not initialing those contracts."

Heck recalls he kept "yelling and screaming at union officials. I got really, really involved, which I seldom do." But nothing changed. The unhappy workers voted in a new slate of local officers, and the new officers signed the five-year wage proposal. But attorneys for the Hagadone group concluded that would not be enough. The existing labor agreement at the plant was with the steelworkers, and the hasty election of new officers could easily be overturned in court.

Robert Petris, the western district director for the Steelworkers Union, said any suggestion the union leadership caused the workers to lose their jobs "is a bunch of bull." He said the union leadership made it clear from the start that the Jan. 17 vote was only advisory. The union leadership, he said, had to have a chance to negotiate a contract with the Hagadone group before they could sign anything. Instead, the union was presented with a take-it-or-leave-it offer that weakened health and pension benefits under the contract with Gulf, Petris said.

Hagadone and many of the displaced Bunker Hill workers argue the union leadership felt accepting a 25 percent pay cut in Kellogg would hurt in negotiations elsewhere. "The only conclusion we have drawn is that the language we had proposed would set a precedent that they could not live with for the balance of their membership," Hagadone said.

Petris and Melton say they have saved their members from a bad contract and hold out the hope that new investors with better proposals will materialize. Martin Baral, an Australian who serves as managing director of Expo Oil Co., said his firm is considering reopening Bunker Hill and finds the Steelworkers' representatives "most helpful and businesslike."

But Robert Bowman, a vice president for Gulf in Houston, Tex., said initial contacts with Expo Oil have not developed into formal negotiations.

Meanwhile, other mines in the area continue to lay off workers and even those job-seekers who travel far beyond Idaho come back empty-handed.

Heck's two-week trip took him to an aluminum plant in Goldendale, Wash., an aluminum plant in Dalles, Ore., a pumice-crushing plant in Bend, Ore., a shale mine in southern Idaho, two mining companies in Salt Lake City, oil fields in Evanston and Rock Spring, Wyo., a mining company in Green River, Wyo., and an oil field in Casper, Wyo.

"They all said no," Heck said. A private employment officer in Denver said they would have charged $2,500 to $3,000 to find a job for someone with Heck's experience as an operator of overhead cranes and other equipment. "I told them to stuff it," he said.

Lillian Heck sells cosmetics door to door, and with some part-time teaching and weight watcher class instruction can make as much as $9,000 in a good year. But she said she is as eager to move on as her husband is.

"A lot of people are moving back with their parents," Heck said. "But I have a lot of pride. I think I'll tax all my resources before I do that . . . and I'll try to make sure I'm never in a place where a union can do this to me again."

[From the Wall Street Journal]

STEELWORKERS IN IDAHO BITTER AT UNION STAND

(By Erik Larson)

KELLOGG, IDAHO.—An investor group's plan to restore Bunker Hill Co. to operation finally failed last month—and many here in the Silver Valley say the United Steelworkers of America sacrificed their own local to make the plan fail and avoid setting a damaging labor precedent.

The clash between the union and the investors, and between the rank-and-file and their leaders, received little national attention. But it turned this mining town inside out. The leader of a dissident "peoples" local received several death threats. A group of workers filed a suit against the Steelworkers that just won certification as a class action suit in Boise federal court. Angry politicians very nearly made right-to-work legislation the law in Idaho. The bitterness continues to drift through this scarred and gray valley. "Bunker Hill is dead and buried," says Eva Sullivan, a former official of Steelworkers Local 7854, "and it's a shame, because it didn't have to be that way."

The incidents that polarized this town occurred in mid-January, about a week after the investors proposed their labor agreement to the Steelworkers and six smaller AFL-CIO craft unions that also represented Bunker workers. The investment consortium consisted of J. William Pfeiffer, a La Jolla, Calif., publisher, two north Idaho mining companies, and three prominent Idaho businessmen: Harry Magnuson, of Wallace, Idaho; Duane Hagadone, Coeur d'Alene, Idaho, newspaper publisher, and Jack Simplot, head of a potato-processing empire. They had an option to acquire the Bunker Hill mining and smelting operations here from Gulf Resources & Chemical Corp., which had earlier closed them because of high losses and a shortage of raw materials to process.

MAJOR CONTRACT CHANGES

Their labor proposal, part of their plan to rescue Bunker Hill and save about 1,500 of its 2,100 jobs, wasn't designed to warm the heart of a union man. It called, in part, for a 25% cut in wages and a major overhaul of seniority practices. From the start, the investors said they wouldn't bargain on the contract and didn't have time to talk anyway—the deadline for expiration of their option was then only a week off. Union leaders called the proposal an ultimatum. "It was just a big step backward after 40 years of collective bargaining," says a Steelworkers spokesman in Pittsburgh, Pa. "I mean, no can do."

The steelworkers and craft unions reviewed the proposal at two meetings on Saturday, Jan. 16, and their leaders came away convinced that their members would soundly defeat the proposal in a vote the next day. Kenneth Flatt, president of the local, says he was certain that 85% of the union members were opposed to the plan. He was wrong. The workers voted 695 to 506 in favor of the agreement; immediately afterward, Mr. Flatt and the other local officers resigned.

Many here in the Silver Valley, including the investors, say the officers were pressured to resign so that the international could, in accord with its constitution, appoint an administrator and bring the local under direct control from Pittsburgh. "No way in hell," says Mr. Flatt; another officer, Lawrence Hansen, agrees. But another, Mrs. Sullivan, says the officers were advised to resign by the international. "The vote wasn't counted 15 minutes before they (international representatives) made sure our names were on that paper (a letter of resignation)," she says.

A BAD PRECEDENT?

The Steelworkers would have had reason for taking such a dramatic step, according to the investment group. Acceptance of the labor proposal could have set a precedent capable of undermining other giveback talks, such as those then under way with Kaiser Aluminum & Chemical Corp. at its nearby Trentwood, Wash., aluminum rolling mill. "From their standpoint, I think they were fearful that if they did something here with Bunker Hill, they'd set a precedent for somewhere down the road," says Mr. Magnuson, one of the investors. The Steelworkers spokesman counters that the union views "each of these situations on its own merits."

The day after the vote—Monday, Jan. 18—the deadline for signing the labor agreement passed without a single union signing it. An administrator, Lavern Melton, was appointed to take control of the union that morning; he immediately reappointed the officers who had resigned. "I just thought that I needed the assistance of qualified people," he says. He retained control.

That night, workers, angered by the seeming disregard for their vote, descended on the union hall and elected a dissident board of officers. Later that week, Arthur Aamodt, a Steelworkers member, filed suit in state court asking $750,000 in damages for each worker because of the union's refusal to heed the vote. The suit was later transferred to federal court in Boise, where a judge last week certified all the members of Local 7854 as being eligible to file to become plaintiffs in the case.

SOME TAKERS

The investors extended their deadline to Tuesday. This time they got some takers. The leaders of the six craft unions, and international representatives of two of them, signed the agreement. The rebel officers did too, although the investors' labor attorney concluded they weren't legally empowered to sign for the local. The following day, Wednesday, even Mr. Flatt came in to sign, but the investors still needed the blessings of the Steelworkers international. They called off their rescue plan.

Hopes for the plan were renewed briefly in February, but these were dashed. Now workers here are slowly beginning to drift off in search of work in Nevada, Wyoming, Utah and elsewhere. Consumer-loan delinquencies are increasing, according to one bank. And some civic leaders look ahead to June for the harshest impact of the closure. By then, savings accounts will have dwindled, and the school year will have ended. More residents may then decide to pull out, says Dale Lavigne, chairman of the defunct Silver Valley task force, which had been commissioned by the state's governor to help find buyers for Bunker Hill. "That's my feeling of when the real crunch is going to begin," Mr. Lavigne says.

But still there is optimism here. Rumors that other major companies are interested in Bunker Hill are common. And there is a fundamental doubt that Bunker Hill, here for so long, will ever actually disappear. Says Mr. Melton, the administrator for Local 7854: "I have a feeling that when that wrecking ball finally hits the heart of that place, the ball is going to crack and the building is going to stay standing."●

DEATH OF DR. RAYMOND M. WHEELER

● Mr. HOLLINGS. Mr. President, recently our country suffered the loss, through death, of a champion in the war against hunger and malnutrition in the United States. Dr. Raymond M. Wheeler was a courageous and knowledgeable pioneer in America's efforts to eradicate these scourges from our land.

Beginning in the late 1950's, Dr. Wheeler—even then a well-known North Carolina physician—put his influence and his credibility on the line in pointing out the reality of hunger and malnutrition to his fellow citizens. That was back in the period when there was nothing fashionable about a cause like that. A person got involved in it against all sorts of opposition and obstacles—and got involved through the spur of conscience. Dr. Wheeler was very active in the Southern Regional Council and in the Field Foundation, under whose auspices he accomplished so much good. With Dr. Wheeler leading the way, Americans began to wake up to the sad reality in their midst and at long last we made inroads against the evil of hunger in our midst.

Raymond Wheeler was a great American. He served his country in war and was awarded the Silver Star and the Purple Heart for his outstanding service. He tackled some of our greatest problems at home and he won the esteem and admiration of millions of Americans for his work in the causes of eradicating hunger and advancing human rights.

Mr. President, I ask that a February 19 column from the New York Times and a March 5 column from the Chattanooga Times be printed in the RECORD. Not only do these articles document his life, but they manifest the inspiration which Raymond Wheeler gave to so many of us.

The material follows:

[From the New York Times, Feb. 19, 1982]

DR. RAYMOND M. WHEELER, 62; DESCRIBED PLIGHT OF THE POOR

(By Edward A. Gargan)

Dr. Raymond M. Wheeler, a North Carolina physician who championed the rights of blacks and the poor in the South for more than three decades and, in the 1960's, almost alone documented the extent of hunger and malnutrition among poor children in the United States, died Wednesday in Charlotte, N.C. He was 62 years old.

Through Congressional hearings and in books and documentary films, Dr. Williams brought to the nation's consciousness the damage wreaked on the poor by disease, neglect and hunger. Reaction to his findings in many sectors of government was often vitriolic. The film "Hunger in America," which was based on his studies, was denounced by Vice President Agnew.

At a Senate hearing in July 1970, Dr. Williams described a visit to a migrant labor camp in Hidalgo County in Texas: "We saw rickets, a disorder thought to be nearly abolished in this country, and every form of vitamin deficiency known to us that could be identified by clinical examination was reported. The children we saw that day have no future in our society. Malnutrition since birth has already impaired them physically, mentally and emotionally."

Dr. Williams was born in Farmville, N.C., in 1919. He was graduated from the University of North Carolina and received his medical degree from the University of Washington in St. Louis.

HEADED SOUTHERN REGIONAL COUNCIL

After serving as a Marine Corps officer in World War II, in which he was awarded the Silver Star and the Purple Heart, he returned to Charlotte and went into private practice.

In 1956, Dr. Wheeler joined the Southern Regional Council, the oldest biracial civil rights organization in the South. He served as its president from 1969 to 1974.

"He was one of the greatest figures in the civil rights struggle that we don't know about because of his shyness and modesty," said Dr. Robert Coles, the Harvard psychiatrist and author of "Children of Crisis," a five-volume series about the people who took part in the struggle over desegregation in the South in the 1960's.

Dr. Coles, who worked closely with Dr. Wheeler in the rights movement, called him "the very best of what the South has to offer," and added, "Here is a North Carolinian physician who put himself out on the line in the late 1950's and 1960's, when there was nothing fashionable about this behavior—a stand not only controversial but also brave."

EXPOSED FEDERAL FOOD PROGRAMS

Working through the Southern Regional Council and the Field Foundation, Dr. Wheeler exposed the inadequacy of Federal food programs in the Deep South, which he said were run by administrators with a "flagrant political or religious bias."

A group of doctors headed by Dr. Wheeler studied the living conditions of blacks in the Mississippi Delta in 1969. In their report, they concluded: "It is unbelievable to us that a nation as rich as ours, with all its technological and scientific resources, has to permit thousands and thousands of children to go hungry, to go sick, and die grim and premature deaths."

His work spurred the first food stamp legislation in the late 1960's.

Although he shunned public recognition for his work, Dr. Wheeler was regarded as a pillar of the struggle for civil rights in the South. Federal District Judge James C. McMillan of Charlotte termed him "a totally unselfish man with a tremendous conscience."

Dr. Wheeler is survived by his wife, Julie; a son, David Stewart Wheeler, and two daughters, Margaret Browning and Linda Lou Wheeler.

[From the Chattanooga Times, Mar. 5, 1982]

RAYMOND WHEELER'S DEATH

(By John Popham)

He was gallant at all times and in all places. He was cast in the mold of the Knights of the Roundtable. He was a Southern personification of the Robert E. Lee mystique.

Yet at his death a few days ago there was not one major public voice in the nation or in the South that asked for a teardrop in memory. There was a very fine obituary in The New York Times, but overridingly virtually no print journalism in the rest of the country even accepted his life of service as news.

Raymond Wheeler was a North Carolina physician who pleaded the debasements of the poor, white and black, in the South, and by mirror image, those same debasements throughout the nation, whether on farm, in town, or in some big city ghetto.

For 30 years he documented the shocking extent of hunger and malnutrition among poor children in the United States. He brought to the nation's consciousness the damage imposed on the poor by disease, neglect and hunger. It was this Southerner whose work spurred the first food stamp legislation in the late 1960s. The film, "Hunger in America," was based on his studies. It was denounced by Vice President Agnew.

He was born and reared in the little town of Farmville, N.C. He attended the University of North Carolina and later earned his medical degree at the University of Washington in St. Louis. Along the way he served as a Marine Corps officer in World War II, winning the Silver Star for heroism, along with a Purple Heart.

He came home at war's end and began medical practice in Charlotte. He was in the South's beloved image of Robert E. Lee—the gallant soldier who returns and spends his skills in compassionate structure of a better society. In the Middle Ages, Ray Wheeler would have been a saint.

His performance in those years was devastating. He pointed to the poor, stomach-swollen children along the coastal plains of the South, in the Mississippi delta, in the farm shanties and with the accredited certitude of the physician he pointed out the sources and ravages of hunger.

This was no Hollywood star seeking publicity. This was no leftwing provocateur distorting someone else's findings. This was the South's own version of the all-American smalltown boy who becomes soldier hero and disciplined master of a profession, speaking out with unassailable authority. It was breathtaking.

Moreover, he sought no office of any kind. He backed no candidates for office. He peddled no commercial product. He asked not a thing for himself. His only message was: Is it not a measure of moral cowardice to permit thousands of poor children to suffer like this in a land so wealthy and technologically powerful? He had never been a coward himself.

He served as president of the Southern Regional Council, the South's oldest biracial civil rights organization. Working closely with him in those days was Dr. Robert Coles, the Harvard phychiatrist whose five-volume report entitled, "Children of Crisis," has been acclaimed worldwide as a masterpiece of social literature.

Dr. Coles, an international figure these days, summed up Wheeler's death in these words that hold so much meaning for the region so many of us cherish: "He was the very best of what the South has to offer." These words will be carried to far corners of the world.

For it is most important to keep in mind that Wheeler's accusatory finger was pointed at the nation, not just the South. In both civil rights and poverty areas he knew that the sin is national, that a whipping-boy South has little to do with the search for national justice.

I don't question that the banality of modern life is eased by magnified reports of this region's superstar athletes and political mountebanks. But when are we going to honor the truly best of the South? The thousands of home economics teachers who struggle to help the poor to create viable homes in stark rural and ghetto settings, the thousands of visiting nurses who travel by horse and by bus to Appalachia's hills and coves to bring basic health knowledge to the landlocked poor.

What of the tens of thousands of today's young people from farms and small towns who, often at great family sacrifice, seek technical proficiency at our expanding university campuses so they can take knowledge of good farming practices to areas where inadequacies of the past wrought poverty and despair?

How long will the media hide this side of the South? It should be noted that the Silver Star is awarded specifically for "gallantry in action." There are so many gallant Ray Wheelers in this land if only we look for them.●

DRUG ENFORCEMENT REGULATORY COMPLIANCE PROGRAMS

● Mr. DOLE. Mr. President, I wish to take this opportunity to make a few brief remarks upon the subject of the regulatory compliance programs of the Drug Enforcement Administration. The purpose of my remarks today is to focus attention upon an innovative and successful enforcement tool in regulatory compliance which has been implemented by the D.E.A. on a nationwide basis and which has had particular impact in the State of Kansas. The enforcement tool I speak of is the pharmacy theft prevention program initiated by the D.E.A. more than 6 years ago.

"Pharmacy theft prevention" has become one of the central pillars of D.E.A. efforts to stem the diversion of drugs from the professional community—doctors and pharmacists—to the addict in the streets. Public attention to the problem of drug abuse is usually turned toward the hard drugs, such as heroin and cocaine. But the abuse of pharmaceutical drugs, in terms of the number of addicts and the crime spawned by those addicts, is a far greater threat to the stability of our society. In response to this threat, and in an effort to stem a rising number of pharmacy burglaries and robberies, the Drug Enforcement Administration decided to initiate an effort with three major objectives. Those objectives were: First, to determine, insofar as possible, the nature of pharmacy burglaries and robberies; second, to develop a program that would have a measurable impact on the problem; and third, to deploy the program in as many areas of the country as possible. The result of that effort was the development of the St. Louis County pharmacy theft prevention program, which commenced in January of 1975. The program constituted a comprehensive approach to the various facets of pharmacy crime detection and prevention. It included the establishment of a pharmacy theft prevention executive committee, greater police involvement and increased security within the pharmacies themselves. A pharmacy theft prevention executive committee was formed, composed of St. Louis area pharmacy company officials, the St. Louis Metropolitan Police Department, drug wholesalers, and representatives of the drug enforcement administration. Through the committee, lines of communication were developed between pharmacy companies and other segments of the community such as the media and the courts. Police presence at pharmacies was increased. A representative of the St. Louis Police Department burglary prevention squad provided crime prevention tips to pharmacists involved in the program. Security seminars were conducted, and drug enforcement administration personnel made onsite security surveys of every pharmacy in the metropolitan area with pharmacists' consent. Pharmacies were each assigned a code number which was placed on all containers of controlled substances within the pharmacy, so that stolen drugs which turned up in the illicit market could be traced to specific pharmacy theft offenders.

The results of this effort were stunning. During the first 6 months of the program, St. Louis metropolitan area pharmacy robberies were reduced by 46 percent; burglaries were cut by 55 percent; and overall pharmacy thefts declined from 88 during the first 6 months of 1974 to 43 during the first 6 months of 1975.

Soon after the success of this pilot program, a similar program was established in the Kansas City, Mo., metropolitan area. In April of 1977, officials of the drug enforcement administration office in that community initiated discussions with pharmacists directed toward establishing a similar program in western Missouri and eastern Kansas. A drug enforcement team consisting of compliance agents and local enforcement officers began implementing the pharmacy theft prevention techniques in Johnson County, Kans. Under the leadership of regional director, Charles D. Sherman, of the Kansas City regional office of the Drug Enforcement Administration, compliance agents Dennis Nelson, Terrence Woodworth, and Everett Barger began an intensive education and detection program designed to alert pharmacists to the need for enhanced pharmacy security and fraud detection programs. Local officers of the city-county investigative squad, under the direction of Richard Darnell, coordinated with the D.E.A. in the investigation of pharmacy crimes. After initiation of this program, the quantity of pharmaceutical drugs as a percentage of illicit drugs on the streets of Johnson County communities declined from 35 to 5 percent; fraudulent prescription arrests increased sevenfold over the previous year; and local officials were unanimous in their assessment that the program had had a major impact upon the incidence of pharmacy crimes.

The details of this success story are set forth concisely and persuasively in a monograph prepared by agent Everett F. Barger III pursuant to studies in the administration of justice through the auspices of Wichita State University in 1981. Agent Barger chronicles the history of drug enforcement efforts in this country and other nations during the past century, and relates this history to the effort against the diversion of pharmaceutical drugs. His study—which I would commend to any student of drug abuse control efforts in this society—demonstrates the absolute necessity for the preservation of abuse control programs within the law enforcement community. In this respect, it is a stinging indictment of those who pretend that drug abuse is a problem the effects of which are confined to the disruption of the addict's life and the addict's life alone. I am directing my staff to forward a copy of agent Barger's work to the higher levels of the Justice Department, as I believe that it may prove instructive to that agency as it evaluates the efficiency of ongoing programs and makes difficult decisions with regard to the allocation of program resources.

Mr. President, this concludes my remarks save for one final caveat. I would like to express my appreciation, and the appreciation of all the people of the State of Kansas, for the dedicated efforts of the compliance agents of the Kansas City, Mo., office of the Drug Enforcement Administration to control the scourge of drug-related crime in the communities of our State.●

PRIME MINISTER HAUGHEY'S VISIT TO THE UNITED STATES

● Mr. KENNEDY. Mr. President, on St. Patrick's Day last week, the United States was honored by a visit from the newly elected Prime Minister of Ireland, Mr. Charles J. Haughey.

During Mr. Haughey's brief stay in the United States, President Reagan graciously hosted a luncheon in the Prime Minister's honor at the White House. Later that afternoon, Prime Minister Haughey met with the Friends of Ireland, the bipartisan organization we founded last year in the Congress to promote cooperation and understanding between the Irish people and the American people and to work for a peaceful settlement of the conflict in Northern Ireland.

Prime Minister Haughey's visit to the United States was an important step toward the goals we share, and we look forward to working closely with him in the future. I ask that the following four items may be printed in the RECORD: The prepared text of President Reagan's statement on St. Patrick's Day; the prepared texts of Prime Minister Haughey's address at the White House and his remarks to the Friends of Ireland; and the St. Patrick's Day statement by members of the Friends of Ireland.

The material follows:

Statement by President Reagan on St. Patrick's Day, March 17, 1982

St. Patrick's Day reminds us of the power of joy. It is a day when spirits are lifted, when millions join together in friendship; when strangers greet each other with affection.

The spell cast on us by a small island 3,000 miles away began more than a century ago when Irish immigrants first came to this land—immigrants whose sweat and labor built our economy, whose hearts and minds shaped our literary and intellectual history, whose smiles and mirth gave us the gift of laughter, whose conscience and spirituality reminded us of the importance of religious faith in our lives.

Today all Americans—of Irish descent and honorary Irish descent—celebrate one of the happiest days of the year in our country—a day marked by peace, friendship and harmony.

Yet today our thoughts cannot be entirely joyful—we who owe so much to the "land across the Irish sea" cannot help but reflect on a tragic irony: Northern Ireland is troubled by conflict and violence. We in America who owe so much to our kinsmen of both Irish and British heritage, Protestant and Catholic alike, can never be indifferent to the problem of violence in Northern Ireland. That is why we seek to contribute in any way we can to a lasting, peaceful solution that will bring to an end years of conflict and violence.

The twelve months since last St. Patrick's Day have brought both hope and sorrow in Northern Ireland. There have been grounds for optimism for the future. The level of violence continued its generally downward trend. In this country, U.S. law enforcement authorities confiscated a large number of weapons intended for terrorist hands in Ireland. perhaps most important despite the sorrows of the past year, there are signs that the climate has improved for moderate political solutions.

We will continue to stand by our policy—to urge the parties in Northern Ireland to come together for a just solution and to condemn all acts of terrorism and violence. We believe a lasting solution can be found only through a process of reconciliation between the two traditions in Northern Ireland and between Britain and Ireland. We encourage and applaud such efforts. We particularly welcome the British and Irish governments' widening of the framework of their cooperation to this end.

But as much as we wish for a just and peaceful settlement, we in the United States cannot chart a course for the people of Northern Ireland. If solutions are to endure, they must come from the people themselves.

We stand unalterably opposed to the forces of violence and discord in Northern Ireland, which obstruct the process of reconciliation so necessary to peace. Those who advocate violence or engage in terrorism will have no welcome in the United States.

Last year, I called on all Americans to question closely any appeal for financial or other aid from groups involved in the Northern Ireland conflict to ensure that contributions do not end up in the hands of those who perpetuate violence, either directly or indirectly. Today, I renew that request. Continued violence, even by a misguided few, can only frustrate the desire for peace of the overwhelming majority of the entire community of Northern Ireland.

As we look to the future, we can be proud that the United States already is making an important contribution toward economic and social progress in Ireland. We are proud of our role in strengthening the Irish economy. There are over 300 American companies with manufacturing plants in Ireland. This investment by American industry shows a clear commitment to a future based on peace and well-being for the people who live in Ireland, North and South.

This Administration will maintain the U.S. commitment to facilitate growth of additional job-creating investment—investment that will benefit all the people of Ireland. In the meantime, we encourage the American private sector to continue to assist in creating more job opportunities in Ireland.

In affirming these principles of our policy toward Northern Ireland, I wish to add my appreciation and support for the many true friends of Ireland in this country, in the Congress and among the public, who continue to speak out against violence and in support of peace and reconciliation. Their efforts are among the most important contributions to the cause of peace in Northern Ireland, and I join them in the prayer that our hopes will soon be realized. It is by assisting in commerical development, combating terrorism and encouraging the process of peaceful reconciliation that we in America can do our part to bring peace to Northern Ireland.

Prepared Text of Mr. Charles J. Haughey, Prime Minister of the Republic of Ireland, at the White House on St. Patrick's Day, March 17, 1982

Mr. President, I would like to thank you for your kind words of welcome and for the warmth and splendour of your hospitality. My wife and I and the members of our party are overwhelmed by the friendliness and cordiality shown to us on this short visit to your great country.

For any Irishman it is an exceptional honour to be received in this House, which was designed by an Irishman and is in itself a symbol of the manner in which the history of our two countries are woven together. To be received in the White House by a President who bears an Irish name and cherishes his Irish heritage is a unique and special experience.

The United States was the first nation in the world's history to be founded on a dream.

It was a dream which, over the years, has commingled with the reality; sometimes, as dreams will, outshining it and at other times again fading away from it. But in those valleys which all nations experience, when the reality has seemed to fail the dream, there have not been wanting great statesmen and men of courage to re-shape the destinies of this land and to recall their countrymen to the brightness of the original vision.

And if the United States has been, for its citizens, ideal and fact, dream and reality, so it has been for millions of Irish men and women also.

I need hardly remind a St. Partick's day gathering of that deep wish for a new life across the sea which for so long sustained so many of our countrymen, or of the countless thousands who came to these shores, in sorrow and bewilderment, and found what they had scarcely dared to hope for; found that their own personal individual dream had at last come true.

But though they made their own of this great new land, they rarely severed their ties with home and the letter from America has entered deep, as folklore and as fact, into the Irish consciousness, into our literature, our tales of the past, our family memories.

And because those who came here wrote home so faithfully, more than any other people in Europe, we have dreamed the American dream and shared the American reality along with you.

The ancient nation of Ireland emerging in this century into a modern state has been founded on those same ideals which you were the first to set forth. Wolfe Tone, the first Irish political thinker to conceive the dream of an Irish Republic where all whom God had created equal should be recognized as equal; all whom God had created free should really be free; was deeply influenced by the fact that there was already in existence beyond the sea a great new nation, conceived in liberty and dedicated to equality.

From that day to this, as we dreamed our dream and fought to establish a Republic dedicated to equality we have always turned to you as a source of vision and help.

The greater part of the island of Ireland today has become a modern state where all are free and equal before the law; where bigotry and discrimination have faded away and sectarianism holds no place in our laws, our Constitution or our daily lives.

And in speaking of these things to Americans I know the sympathy and understanding they will evoke; for no man can speak of freedom and equality to Americans without striking chords; of the lamps burning in the belfries of New England; of the farmers that stood by the rude bridge at Concord; and of the great document that the founding fathers composed at Philadelphia.

But there is one thing we Irish have not achieved; and of which we are constantly reminded everywhere we go this great capital city where the memory of Abraham Lincoln and his struggle to save the American Union and to avoid the partition of his country are so beautifully and splendidly commemorated.

Whereas Lincoln sought to prevent the partition of his country, we are seeking to bring an end to the partition of ours.

The obstacles to that goal are in part the age-old ones which also nearly sundered the young United States; misunderstanding, ignorance, prejudice, suspicion and fear.

We have pledged ourselves to overcoming those obstacles, to further the reconcilement of the two great traditions of our island; to giving, to that end, any pledge that may be sought, any guarantee that may be thought necessary and to making unassailable constitutional arrangements for those in the northern part of Ireland and who may feel a special need for such provisions.

Irish people everywhere yearn for that day when their country will finally find peace and justice in unity and they in their turn in their land will create "a shining city on a hill". With the goodwill of that worldwide Irish spiritual empire which is stronger here in the United States of America than anywhere else, the Irish Government will do all we can through the Anglo-Irish process or any other forum to achieve that historic purpose.

In the noble words of Lincoln's Second Inaugural Address, inscribed on the walls of his beautiful memorial in this city the work we are engaged upon is: "To bind up the nation's wounds."

Countless millions of ordinary Irish men and women have by their labour and their sacrifice contributed to the power and stature of this great American republic and in their name I look confidently for support and encouragement for our endeavours in Ireland today.

Ireland holds a special place in the affections of millions of Americans and it is my hope that that feeling will inform American policy and actions and ensure that the encouragement of Irish unity ranks high among her international objectives.

There is much to be done; and the first thing is that Britain be encouraged to seek more positively and persuade more actively a change in attitude, and outlooks which would pave the way for unity and so enable her final withdrawal from Ireland to take place with honour and dignity.

We in Ireland know, Mr. President, that your regard for our country is no mere sentimental attachment to your Irish roots, but that you have a sympathetic and concerned interest in Ireland, her people and their problems.

This is hardly surprising in one whose ancestors played their own part in Ireland's history. The Reagans were "The defenders of the hills" and for more than seven centuries against all comers they held the only pass through their territory of Y Regan in the Slieve Bloom Mountains. They held it against friend and foe and the English at one stage of their long and unsuccessful efforts to conquer our country, paid the O'Regan's a great compliment.

Their commanders, methodical men, prepared and sent to London maps on which were marked the names of the most redoubtable Irish chieftains—those from whom the strongest resistance was to be expected. I have brought with me such a map, dating from the sixteenth century and showing the Slieve Bloom Mountains and the unconquered territory of the O'Regans.

I present it to you, Ronald Reagan, "defender of the hills", President of the United States of America and friend of Ireland.

Prepared Text of the Remarks by the Prime Minister of Ireland at a Meeting with the "Friends of Ireland", March 17, 1982

Mr. Speaker, thank you for your kind words and for your hospitality in welcoming me to Capitol Hill.

Friends of Ireland. I feel especially privileged, on this St. Patrick's Day, to be able to convey here in Washington in person my warmest congratulations to you all on this happy occasion for our two countries—your first anniversary.

When I welcomed the formation of your group last year, I expressed the confidence of the Irish Government that it would lead to a further strengthening of the longstanding links between the Irish and American peoples. In your statement yesterday, you recalled the tragic events in Northern Ireland during the past year. I am well aware that the pressures on political leaders which inevitably arose from those events were not confined to the two sovereign states immediately concerned, Ireland and Britain.

Here, in the United States, there was an understandable reaction among large segments of Irish-American opinion and, indeed, among your people in general. The past year has not been an easy time for those political leaders in the United States who have chosen to be true friends of Ireland. Even in the face of the tensions to which I have referred, you have already accomplished much. The contacts which you, as a body of American legislators, have initiated with those directly involved in the problem of Northern Ireland and, especially, with Irish legislators will, I feel certain, prove invaluable as we work towards our common objective of peace in Ireland.

Your continued commitment to the basic principles which you have adopted in the face of many pressures is, in itself, one of the most encouraging features of the past year. It is gratifying to realize that we have so many courageous friends of our country in Congress.

On my election last week as Taoiseach, I declared in Dáil Eireann that the first political priority of my Government would be the quest for a solution to the tragedy of Northern Ireland. Our objective is to secure self-determination for all the people of Ireland in a unity based on peace and harmony.

In the Anglo-Irish framework which has developed following the political initiative taken by Prime Minister Thatcher and myself at our meeting in December 1980, we will seek the active encouragement of the British Government for this objective.

In this, we are greatly encouraged by the continued support of our friends in this country. I thank you especially for your renewed commitment yesterday to Irish unity as the most effective road to peace.

In speaking of the various traditions in our country, one is reminded of the dramatic events of 200 years ago, events which affected alike Ireland and Revoluntary America and which reflected the close interaction between developments in our two countries at that time. On St. Patrick's Day, 1782, London was buzzing with rumors of the imminent fall of the ministry of Lord North, under the pressure of events flowing from the surrender of Yorktown, so splendidly portrayed in the picture by Trumbull in the Great Rotunda of this Capital building. For America, this opened the way for the negotiations leading to the Treaty which confirmed you independence. For Ireland too, it heralded the opening of a period of material and artistic achievement and of intellectual ferment, that of Grattan's Parliament. That period, while all too short, saw the gradual crystallisation of the true Republic and inclusive concept of Ireland, where the people of whom Grattan was such a distinguished representative, would, as he put it, identify themselves not with a Protestant settlement but with an Irish nation.

A month before that St. Patrick's Day, on February 15th, 1782, a representative gathering of Northern Irishmen who, as one historian has said, represented "the spirit of the Protestant nation" assembled in Dungannon and, asserting the legislative independence of Ireland, rejoiced in the relaxation of laws which had penalised their Catholic fellow countrymen, a development which they say as "fraught with the happiest consequences to the unity and prosperity of the inhabitants of Ireland". A month after that St. Patrick's Day, on April 16th, 1782, Henry Grattan secured the adoption of a declaration of independence in the Irish parliament in Dublin. Against this background, it is appropriate that in this anniversary year of Gratan's Parliament we, Parliamentarians of the United States and Ireland, should be about to embark on a closer and more intense collaboration in strengthening the historic ties between our peoples. And what more potent symbol of the unity in Ireland to which we are all committed than that spirit of the Protestant Irishmen of Dungannon in 1782?

During my talks with President Reagan this morning we both agreed that the formation of the Friends has been an extremely encouraging development. For over a hundred years now, the leaders of the Irish nation have been strengthened by the support of those of Irish descent and their friends in this country.

I believe that our people's goal of an Ireland united by peaceful means is fully supported by the great majority of the Irish-American community and that they share our total rejection of violence. However, a small number of people in this country have subscribed to activities which can only delay the achievement of that unity. Many of these are simply misguided. I, therefore, commend your stated intention of helping to inform the American people about the real causes of the conflict in Northern Ireland. President Reagan has emphasized that this conflict, and the instability which it represents, is a problem which should concern all of us in the democracies of the Western community of nations.

During my all too brief visit to the United States, I have welcomed the opportunity of meeting some of your fellow countrymen who have invested in our economy. My Government will continue to actively encourage such investment which is another aspect of the close relationship between our two countries. American investment in Ireland is an important factor in the creation of a permanent and leasting peace, throughout the whole island and in our world.

Friends, as you already know, there was unanimous and enthusiastic support among Irish parliamentarians for your proposal to establish an ongoing relationship which would strengthen the ties between the Congress and the Oireachtas. I am very happy that you have been able to accept an invitation from the Speaker of Dáil Éireann to visit Ireland. I personally look forward to welcoming your delegation to Dublin in this year which is so rich in symbolism for Ireland and America. Let us make it an expecially significant one in the development of the links between our two countries.

Friends of Ireland, you have my full support and grateful thanks for the constructive role you have determined to play in the cause of peace and the unity of the Irish people. Thank you.

Joint St. Patrick's Day Statement—Friends of Ireland, March 16, 1982

St. Patrick's Day 1982 marks the first anniversary of the founding of the Friends of Ireland—a bipartisan enterprise in the Congress of the United States dedicated to the promotion of cooperation and understanding between the Irish people and the American people. Our special goal has been to work together in the Congress for an end to the violence in Northern Ireland and for peace and reconciliation between the two parts of the community that has suffered so much from a decade of killing and destruction.

For all of us committed to the cause of peace in Ireland, 1981 was often a year of anguish. The extended hunger strike, the continuing bombings and random sectarian murders, the assassination of elected representatives, the relentless appeals to religious hatred, the rise of sectarian demagogery to new levels of virulence—these and other events bore violent witness to the worsening tragedy in Northern Ireland in the past year.

Other events in 1981 gave cause for hope. In particular, we were heartened by the summit conference last November between the Prime Ministers of Ireland and Great Britain, their creation of an Anglo-Irish Inter-Governmental Council, and their significant agreement on "the need for efforts to diminish the divisions between the two sections of the community in Northern Ireland and to reconcile the two major traditions that exist in the two parts of Ireland." And we note with interest the growing debate in both the Republic of Ireland and Northern Ireland on the role of Northern Protestants in Ireland's future. We regard all of these developments as signs of the good will and commitment to cooperation by both governments in the common search for peace.

We are also encouraged by the support expressed for the Friends of Ireland by both the Irish and the British Governments. We have met in the past year with representatives of those governments and with leaders of the political parties in Northern Ireland. We have tried to be a forum in the Congress to inform the American people about the causes of the conflict and the most hopeful means to end it.

In the coming year, we intend to pursue the path of peace in every way we can. Toward this goal, the Friends of Ireland is honored to accept the invitation from the Speaker of Dail Eireann for a delegation from the Friends of Ireland to visit the Irish Parliament at a suitable time this spring.

We also commend President Reagan for his commitment to peace in Ireland, his concern for an end to the violence, and his support for the Friends of Ireland. We welcome the President's meeting with Prime Minister Haughey tomorrow at the White House. And we urge the President to take the occasion of his forthcoming trip to Europe in June to make a substantial visit to Ireland.

As Friends of Ireland, we are also united in our condemnation of the violence on both sides in Northern Ireland. More than 2,100 men and women and children have died since the conflict began, and more than 23,000 have been injured. We therefore renew our earnest appeal to our fellow Americans to support positive policies for peace, to reject the path of violence, and to refuse to participate by word or deed or dollar in any effort that supports or condones the violence. No action in the daily life of any American should contribute in any way to the daily toll of death in Northern Ireland.

Finally, as Friend of Ireland, we renew our commitment to the goal of Irish unity as the most effective means to achieve a lasting peace. The unity we favor is an Ireland united on the basis of reconciliation between the Irish Protestant tradition and the Irish Catholic tradition. It is a unity to be achieved, not by the bomb or by the bullet, nor by the official coercion of any section of the community, but by the consent, freely given, of a majority of all the people of Northern Ireland.

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EDMUND S. MUSKIE ON "KEEPING THE NUCLEAR PEACE"

● Mr. KENNEDY. Mr. President, last Thursday, Edmund S. Muskie, our former colleague in the Senate and Secretary of State, delivered an eloquent address to the Council on Foreign Relations on "Diplomacy's First Priority: Keeping the Nuclear Peace."

In the address, Senator Muskie spoke compellingly of the paramount need of our time to organize a "discipline for the deterrence of war and the control of arms," and to find "a diplomatic middleway that will enable us to keep the nuclear peace and at lower levels of risk and expenditure."

As a sponsor of the bipartisan, congressional resolution for a nuclear weapons freeze and reductions, I welcome Senator Muskie's comments on our initiative. As he stated:

> Common sense also tells me that our technological achievements and political compromises are bringing us, not greater security on balance, but greater certainty that—without direction and leadership—sooner or later the peace will become unraveled and nuclear war will occur.
>
> So I make, once again, the case for arms control—with full knowledge that the process has to develop a popular base. It is for this reason that I am inclined to favor the recent, carefully worded, resolution dealing with a nuclear freeze and reductions, introduced by Senators Kennedy and Hatfield. As a policy proposal, their initiative raises some questions. But, politically, it should help to build alliances in the country for arms control while sending a message that Americans do not think the continued development of more and more nuclear weapons adds to U.S. security. We know that, if the Russians match or counter what we do—and we know they will—there will be less security.

Mr. President, I believe Senator Muskie's wise words on the need to prevent nuclear war, to halt and reverse the arms race, and to secure and keep the nuclear peace should be carefully considered by all Members of the U.S. Congress. I request that the full text of his address be printed in the RECORD.

The text of the remarks follows:

DIPLOMACY'S FIRST PRIORITY: KEEPING THE NUCLEAR PEACE

(By Edmund S. Muskie)

Last December we remembered Pearl Harbor. It was a transforming event. Five years after Pearl Harbor, Senator Vandenberg said the attack "drove most of us to the irresistible conclusion that world peace is indivisible. We learned that the oceans are no longer moats around our ramparts. We learned that mass destruction is a progressive science which defies both time and space. . . ." Pearl Harbor destroyed our belief that somehow we were exceptional and could stay above and apart from it all. Geography did not guarantee us easy security.

Twenty years later we enjoyed a position of strategic superiority in nuclear weapons. But, even then, in 1962, President Kennedy warned us: "Every man, woman, and child lives under a nuclear sword of Damocles hanging by the slenderest of threads, capable of being cut at any moment by accident or miscalculation, or by madness. The weapons of war must be abolished before they abolish us."

Yet, we continued to build, while the main adversary built more and eventually caught us. So that today, 40 years after Pearl Harbor, we coexist under the umbrella of a balance of terror. Strategic parity in nuclear weapons—with thousands of warheads on both sides and all of them much more destructive than the Hiroshima bomb—has brought home to us our vulnerability and the threat of nuclear suicide. We measure military time in terms of minutes and hours, and maybe days, but not in weeks and months and years—as in the days of mobilization.

At this point in our history, I believe that the public senses we are about to enter into a period of greater instability in the superpower relationship, one in which the arms race—for the first time in a dozen years—is not accompanied by the restraining influence of serious arms control talks; in which confidence in terms like "deterrence" and "parity" is being shaken; and in which nuclear war appears more likely to happen.

My real concern is that the arms control process—as we knew it—is practically dead and a world propaganda battle has taken its place with almost "total linkage" at work. If something is not done soon to break this degenerative trend, we and the Soviets may have a serious confrontation not unlike the Cuban missile crisis—but in which the Soviets will vow "not another humiliation" and our leaders will vow "no confirmation of a changed balance of power"—with no ongoing high-level negotiations, no communication process to fall back on, and no political basis for any compromise.

Of course, a variety of influences are important in maintaining the peace. There are many players and several instruments. So "keeping the nuclear peace," in a real sense, is the ultimate mission of our foreign policy in all its aspects.

My remarks tonight, however, are directed at what we try to do in strengthening deterrence and in limiting the arms race. I am keenly aware that the way we conduct ourselves across the world bears upon keeping the peace. But, to a considerable degree, the way we manage our one-on-one relationship with the Soviets in preventing a thermonuclear catastrophe—or the appearance of how we do it—is a heavy influence upon the peace and security of all other areas of the world.

II

The search for arms control is the necessary companion of military deterrence. For the fear of an unchecked arms race is real in all societies, and it will not be dismissed merely by pointing out that the other side is moving ahead in the race. A credible search for answers to the dangers of uncontrollable competition is thus an essential corollary of deterrence. Or else "deterrence" and "balance" will come to be seen as an impediment to, rather than a condition for, peace. Then the most persuasive military arguments will become mute.

We in the "Washington world" must constantly wrestle with pragmatic possibilities in governing. We are not allowed the freedom enjoyed by others in rhetoric or in policy recommendations. We have to ground our ideas in the political realities.

My purpose is to help find a steady course through dangerous times. You will not find my approach new, but perhaps you will join me in reaffirmation. We have only so much time allotted to us and we must work with what we have. I am less interested in giving you a checklist of criteria for controlling the arms race—such as do not deploy highly vulnerable counterforce weapons or do not deploy weapons that cannot be detected for verification purposes—than I am in making the case for a diplomatic "middle way" that will enable us to keep the nuclear peace and at lower levels of risk and expenditure.

I believe that neither doctrine nor weaponry can rid us of the "MAD" (Mutual Assured Destruction) relationship with the Russians in this age of rough strategic parity. There is an almost inevitable link between any use of strategic nuclear weapons and mutual annihilation. In the words of Messrs. Keeny and Panofsky: "The two forces generating this link are the collateral damage associated with the use of nuclear weapons against selected targets and the pressures for escalation of the level of nuclear force once it is used in conflict."

Thus I have no confidence in the elaborate scenarios for limited or protracted nuclear war. Theories about these things are not only highly doubtful in a military sense, and in terms of how humans respond in a crisis, they are also ignorant of the need—in democracies—to find and maintain support for national security policies.

While nuclear weapons must continue to serve as a credible deterrent, there is a cross-over point (to use Ambassador Gerard Smith's phrase) where the potential of nuclear forces may provoke nuclear war rather than discourage it. We should try to avoid a force posture and a strategic doctrine that makes resort to nuclear weapons more, rather than less likely.

III

It is not yet sufficiently evident that the Reagan Administration takes these matters as seriously as did its predecessors over the last two decades.

Before and during the 1980 presidential campiagn, Mr. Reagan and several individuals who now hold high national security office as his advisers took the position that the Soviets either had achieved, or were in the act of achieving, strategic nuclear superiority; and that SALT II was a "fatally flawed" strategic arms agreement.

The suggested American response, reflected in the early actions and policy statements of the Reagan Administration in 1981, was to advocate a large and sustained increase in the defense budget—to regain a "margin of safety" (a phrase sometimes used to connote superiority)—and to express disinterest in arms control talks until the United States had shored up its defenses around the world and a chastened Soviet Union had decided it could not compete in an arms race and therefore would come to the table to accept arms reductions on a massive scale.

Very often these early moves were accompanied by rhetoric describing the Soviets in terms such as to rule out credible negotiations. To call them "liars and cheats" was to set a tone for our governmental establishment in adopting what George Kennan calls "the almost exclusive militarization of thinking and discourse about Soviet-American relations that now commands the Washington atmosphere."

Statements by high officials demonstrated surprising ignorance, not only of the basis for continuing European anxiety over the possibility of nuclear war being fought on their lands, but also of the contribution of their own rhetoric to uneasiness at home. Altogether, there has been too much loose talk and posturing by the Administration on the subject of nuclear weapons. It makes it more difficult to take them seriously when they try to talk sense on the subject.

(One does not have to suffer from "protestant angst"—or Catholic, or Jewish, for that matter—to believe that controlling nuclear arms has to be the pre-eminent concern of our time.)

So we have had an extreme reaction to the problem of keeping the nuclear peace in the "arm up, stand firm, wait for them to collapse" approach. It, by the way, imputes the worst motives to the Soviet leadership. I know of no historical evidence that this approach can lead to fruitful negotiations.

IV

There is another reaction elsewhere on the political spectrum that is troubling, also. I refer to the proposals for "deep cuts" or "major reductions," sometimes ranging from a 50 percent reduction in the arsenals to the complete elimination of nuclear weapons. These have come to be considered as alternatives to the incrementalism of the SALT I and SALT II agreements.

The idea of major reductions in the nuclear arsenals may be better propaganda than policy. Are deep cuts either negotiable or stabilizing? Those opposed to any agreement find it all too easy to embrace proposals for deep cuts now in the hope of eliciting a Soviet rejection—thus allowing them to blame Moscow while the arms race continues.

I am prepared to acknowledge that one cause of the danger of nuclear war lies in the "weapons race itself." We have become increasingly obsessed with the contingencies of nuclear conflict.

But I must acknowledge also that the spectral presence of nuclear weapons which can be delivered intercontinentally probably has had a deterrent effect and helped to prevent a major war between the United States and the Soviet Union in the post-war world. Churchill's "balance of terror" has been, in a crude way, a factor in keeping the peace—not because nuclear weapons were seen as just another weapon, but precisely because they were seen as uniquely destructive and threatening to civilization. Deterrence has been served, until now at least, and that is a useful purpose. It is in the failure to do more in bringing the nuclear arms race under control, in limiting its cost and uncertainties, in checking its dynamics, that the greater danger lies.

It follows that I am not convinced the safest route to peace and security lies in getting rid of all nuclear weapons—even if it were politically possible and there were no other nuclear powers—while the conventional arms race goes on. I must dissent, therefore, from easy dismissals of the SALT agreements thus far as halfway measures. I think those wrong who conclude that the danger is not in "the number or quality of the weapons or in the intentions of those who hold them but in the very existence of weapons of this nature."

V

Common sense also tells me that our technological achievements and political compromises are bringing us, not greater security on balance, but greater certainty that—without direction and leadership—sooner or later the peace will become unraveled and nuclear war will occur.

So I make, once again, the case for arms control—with full knowledge that the process has to develop a popular base. It is for this reason that I am inclined to favor the recent, carefully worded, resolution dealing with a nuclear freeze and reductions, introduced by Senators Kennedy and Hatfield. As a policy proposed, their initiative raises some questions. But, politically, it should help to build alliances in the country for arms control while sending a message that Americans do not think the continued development of more and more nuclear weapons adds to U.S. security. We know that, if the Russians match or counter what we do—and we know they will—there will be less security.

Both conservatives and liberals are correct in the perception that proposals for real arms reductions enhance the popular appeal of arms control. Real reductions in nuclear forces are both possible and desirable—and, indeed, they were part of SALT II (the Soviets would have had to reduce) and "significant and substantial reductions" were envisaged in the "joint statement of principles" as part of SALT III.

Note the warning of Robert Osgood (in Foreign Affairs), however: "[C]onsidering the difficulty of achieving agreement on arms reductions that would scrap programs and change the ratio of power, as compared to agreement on ceilings to existing programs that would ratify an existing balance, START might dash unrealistic expectations once again."

Nevertheless, a step-by-step approach to reduction, over a period of time, should raise fewer uncertainties and build confidence with adversaries and friends alike. Demonstrated success in negotiating some reductions could lead to more reductions, general public support for subsequent steps, and sustain a sane movement to interrupt the arms race. Political momentum has to build between and within sovereign states.

We should understand, of course, that proposals for superpower reductions have to deal with the forces that most endanger stability, such as improvements in ASW capability; lasers; ballistic missile defenses; and weapons like sub-launched cruise missiles that are easy to hide.

Thus I am in accord with Senator Hart's purpose in introducing the STOP (Strategic Talks on Prevention) resolution, which calls for United States-Soviet negotiations on preventing the use of nuclear weapons with special attention given to reducing the danger of war by accident or miscalculation; to agreeing on steps to prevent third parties from using nuclear weapons; and to reducing the vulnerability of the two sides' retaliatory forces to pre-emptive attack.

We have to be concerned about the "calculus of desperation." We cannot accept "Dr. Strangelove" as our education in crisis management.

It is not easy to explain why our overall security may best be served by reaching compromises on mutual restraint in strategic nuclear weapons. It is far easier to mouth the slogans of the "arm to the teeth" school or the "unilateral disarmament" fraternity, than to devise workable agreements that contribute to the deterrence of war. We here tonight have to insist on rational debate in our society, where it often seems that those who talk loudly while fashioning a bigger nuclear stick serve to revive the movement to disarm now regardless of what the Soviets are doing.

VI

We are now over one year into the Reagan Administration and a reassessment of old rhetoric and the posture of the first nine months of 1981 is in order. Last Fall the President decided on a package of strategic weapons and soon thereafter offered some ideas for arms control negotiations with the Soviets.

The weapons decisions, announced in October, seemed to rule out a "run them into the ground" arms race with the Soviets. And the November 18 arms control proposals at least open the way for this Administration to pursue serious negotiations.

But we know that the Administration does not speak with one voice on these matters. For example, the Secretary of Defense maintained that it was an accident that the President's strategic programs did not violate the SALT II limits—at the same time he and others were stating the current policy of the Administration of live within the constraints of SALT II. Would he have been prepared to scrap continued observance of those limits by the United States and the Soviet Union? Some important connections apparently were not thought through at the highest levels.

Further, to complicate the picture, the October decisions were represented as doing something about the much-heralded "window of vulnerability" in the 1980's when Soviet strategic forces—especially ICBM's—would place this country at a serious disadvantage.

I cannot resist quoting Charles Dickens as a commentary on the Secretary of Defense's window of vulnerability statements: "The apparition walked backward from him; and at every step it took the window raised itself a little, so that when the spectre reached it, it was wide open."

Is not the Reagan strategic package an admission that the "gap" (a la 1960-61) or the "window" is not as wide for a sitting President—with the military facts and political realities before him—as it is for a presidential candidate? It may also be an acknowledgment that there is no definitive answer to ICBM vulnerability.

On balance, I think that President Reagan's strategic decisions do not yet threaten stable deterrence vis-a-vis the Soviets. But there is no coherent strategy informing these decisions. Some of the elements in the package will increase the survivability of the TRIAD, such as the improvements in command and control. Reducing the number of MX missiles (from 200 to 100) and deferring a permanent basing decision—the Senate has imposed a deadline of July 1983—may leave the forty MX's in fixed silos to serve as a "bargaining chip" in trying to negotiate reductions in the Soviet heavy missiles which pose the greatest threat to us. As to the option of defending ICMB's with anti-ballistic missiles—and several Administration officials have threatened a breakaway from the ABM Treaty of 1972—I am somewhat encouraged by this statement in the Secretary of Defense's annual report: "We are not yet sure how well ballistic missile defenses will work. . . whether they would require changes to the ABM Treaty; and how additional Soviet ballistic missile defenses—which would almost certainly be deployed in response to any U.S. BMD system—would affect U.S. and allied offensive capabilities."

A word of caution is necessary with regard to the planned deployment of nuclear-tipped cruise missiles on submarines beginning in 1984. Given the much longer coastlines the United States has to defend, do we want to get into the deployment of strategic cruise missiles at sea? And are we to open up a new "window" of verifiability that will vitiate one of the four principles that are at the heart of the Reagan Administration's approach to arms control? As reiterated by the White House on Tuesday, we seek agreements that "are verifiable, because when our national security is at stake, agreements cannot be based simply upon trust." There are no free rides in weapons innovation.

VII

Now I turn to the President's arms control proposals of last November. As his first major foreign policy address to the country, I thought it was moderate in tone and not unreasonable in substance. It demonstrated that it is possible to criticize the massive Soviet arms build-up of the past decade and still advocate arms control. This is the way, I believe, to separate common sense Americans and middle-ground Europeans from extremes I described earlier.

More importantly, I drew the conclusion that the President was finally taking seriously the overwhelming preference of Americans and Europeans for the negotiating route to national security. He cited dialogue with the Soviets on arms control, as well as military deterrence, as vital elements in "preserving the peace in Europe for more than a third of a century," and expressed faith that they could preserve it for generations to come. He said "nothing" will have a higher priority for him in the future.

Rejecting rhetoric suggesting fatal flaws in past SALT agreements, the President stated on November 18:

"While we can hope to benefit from work done over the past decade in strategic arms negotiations, let us agree to do more. . . . We can and should attempt major qualitative and quantitative progress.

* * * * *

And let us see how far we can go in achieving truly substantial reductions in our strategic arsenals."

(The President's words stand in contrast to those of the Secretary of Defense contained in his recent FY 1983 "posture statement." Mr. Weinberger describes the arms control process as a "melancholy chapter" in the history of the last decade leading to failure.)

It seems to me that the President has left the way open for pinning down the old limits as a starting place for future reductions, consistent with our announced policy of not taking any irretrievable steps inconsistent with SALT II's constraints. This should be accepted as an olive branch by those who labored for the SALT process in the Nixon, Ford and Carter Administrations.

And, as recently as two months ago, Secretary Haig assured us and our allies that arms control negotiations are in a "special category" in the United States-Soviet relationship—even though he would not set a date with Foreign Minister Gromyko for START negotiations to begin. Further, he and the President are committed to the idea of keeping the lines of communication and dialogue open—especially in times of crisis. It seems clear that Secretary Haig is determined to limit the damage of "linkage" that is the natural fallout from serious public differences with the Soviets, as over Poland (yet, Undersecretary Eagleburger said last week that new strategic arms negotiations would depend on the "overall East-West climate.").

Leading Kremlinologists like Seweryn Bialer tell us that in the next decade the Soviets internally will go through the worst period since the death of Stalin and that "The very stability of the social system may be in question." But he also warns us that: "One should not doubt that a military build-up regardless of cost and sacrifice will meet any perceived danger to the basic security interests of the Soviet Union or to the hard-won parity with the West. This is why those American politicians ... who promote regained military superiority over the Soviet Union cannot hope to see their goal realized."

The recent pamphlet by General Ogarkov would seem to confirm this analysis. And I quote Secretary Brezhnev's statement of Tuesday, which cannot be dismissed as idle propaganda, even though it was in the context of the debate over the deployment of intermediate-range weapons in Europe: "There would arise a real additional threat to our country ... from the United States. This would compel us to take retaliatory steps that would put the other side, including the United States itself, its own territory, in an analogous position." There are things the Soviets can do, from the sea or from Cuban land, or by breaking out of SALT II constraints on ICBM's.

The old Soviet leadership, under Brezhnev, are continuing to demonstrate genuine interest in arms control. They say they are prepared to move forward to new SALT negotiations provided we build on "positive features" from past agreements. But, if they really want new agreements, they must understand that a foreign policy of constraint is a very important part of the political picture. Arms control treaties can never be negotiated in a political vacuum.

Realism compels me to agree with a commentator in Foreign Affairs who recently spoke of "the long road back" to a negotiating relationship with the Soviet Union. Even assuming that the political climate changes, we are guaranteed prolonged negotiations full of political and technical obstacles. For example, if the Reagan Administration insists upon altering the counting and measuring rules of SALT—worked out over a period of ten years—it will add to the complexity of getting acceptance on both sides of a balance that is accepted in terms of parity and security.

Four years (or now less than three years) may not be enough time for the Reagan Administration to cut a deal. Those in this country who helped to destroy confidence in the arms control process, while ridiculing the details of SALT II itself, may come to regret it. What do we expect to happen in 1985, if there is no SALT regime left? The Soviets can move before we can.

The battle for the soul of the Reagan Administration on arms control is not over. There are some hard choices ahead for the Reagan team—both in defense and arms control. We can expect a more out-front struggle between the pragmatists and the ideologues with philosophical mindsets to the effect that the Soviets must either change their system or go to war with us. Will we have serious negotiation—that is, with some real interest in obtaining equitable agreements—or will negotiations be a "cosmetic" cover for an attempt at a massive arms build-up?

I do not know what to make of the frequent statements by the Director of the Arms Control and Disarmament Agency. His newspaper interviews make one think he is bent upon reimposing military "containment" of the Soviet Union while promising to deliver within months—the exact time frame keeps slipping—a plan for START negotiations with the Russians. Within the last few days, he is reported as saying that a half-dozen START options are undergoing "computer analysis" as part of an effort to come up with a new approach to be submitted to President Reagan.

The President will have to put his foreign policy house in order, or else his new course will fail in implementation. It is clear from the statements of several second-level officials in the Administration that they do not believe in the constructive possibilities of arms control negotiations in this historical period. The Arms Control Agency is only half-facetiously referred to as "the present danger," while the Joint Chiefs' Chairman continues to point to SALT II's contribution to national security. One gets the impression that some civilian officials, who speak of thermonuclear weapons as if they were artillery pieces, are in real intellectual conflict with the military men who would have to use these weapons.

VIII

Further, we cannot hope to bolster across-the-board deterrence in Europe and other parts of the world if when the defense budget squeeze comes—and it has arrived—military operations and maintenance accounts are reduced. This will likely happen despite the fact that the return in national security on the investment in "big ticket" TRIAD modernization programs has been radically reduced over the years. Our goals may never be adjusted to our means.

The recent testimony of the Administration on the defense budget for fiscal year 1983 and beyond causes me to make an additional point. Bringing our power into balance with vital security interests and commitments is one thing. Can we deter the Soviet Union where it counts most? But matching military power to support a new strategy "to fight anywhere in the world at any time and have high degrees of success" (Secretary Weinberger's words) is quite another. There would appear to be at least a $750 billion difference—in terms of resources—on top of the build-up already charted by the Administration over the next five years.

We are slipping into a dangerous "deterrence by rhetoric" policy, which is not what Theodore Roosevelt had in mind. With blurred goals and a lack of priorities, our military leaders could end up making contingency plans for which they lack forces, and this could lead to war that we cannot win. Defense Department witnesses, in responding to questions from Senator Nunn, have conceded that—even after five years—the United States will not have "reasonable assurance forces" able to carry out the strategy laid down by the civilian leadership.

We had better get our feet on the ground. It is obvious that defense expenditures will not be disciplined by strategic guidance from the civilians. In the words of a former Secretary for Defense: "They screwed up defense with the destruction of the revenue base." It will take budgetary and other constraints to force choices among priorities. Here Congress has constructive opportunities under its established procedures.

I put these blunt questions to the current Administration: Just how long do you think you can sustain a huge military build-up if you cannot assure us we will be better off at the end of the cycle, if in fact you foresee us still holding "the short end of the stick"? Have you got a better way to check and reduce the Soviet arsenal than through strategic arms limitations talks?

Security policy will remain incoherent without a pragmatic approach to arms control. Just what is the meaning of our policy statement that we will not take actions inconsistent with the provisions of SALT II, so long as the Soviets do likewise? The Administration has testified that the Soviets are living within the restrictions of the unratified treaty, under this policy of informal observance or passive adherence. But the Soviets are not reducing the number of their strategic systems. And, because our government does not want to give the Soviets the impression that it intends to seek Senate passage of the SALT II document, we do not raise questions about compliance in the Standing Consultative Commission (SCC) in Geneva. How do we resolve concerns we might have about possible Soviet denial of missile test information that impedes verification?

Is it too much to hope that our NATO partners—in combination with the Joint Chiefs—can influence the neoisolationists (or unilateral globalists) in our midst to embrace the fundamentals for keeping the nuclear peace?

IX

Despite these questions, I hope the actions of President Reagan last Fall—and his statements in recent days—hold out the possibility of a successful negotiating course. He can lead the country away from the naive notion that we can frighten the Soviets into submission, and thereby rid us of the fatal faith that nuclear arms are the answer to what ails us in the world. With little effort, he can also push aside the movement for unilateral disarmament.

The President has the makings of a team that can succeed on the arms control front, as the personnel mix changes after a year in office. Paul Nitze is a serious man who knows the arms negotiations field, and he would not be part of a charade in Geneva. There is the moderate influence of Secretary Haig relative to other forces in the Administration. And the appointment of Judge Clark places an "accommodator" at a key White House post who can serve as a trustworthy broker between the Senate and the White House on these matters as well as between the State and Defense Departments.

Having initiated his strategic weapons program, the President is in a position to carry out one of two courses of action. He could call upon the Senate to take up a modified (or enhanced) SALT II treaty. Additional features could include a provision for further annual reductions after the SALT II ceiling of 2,250 strategic nuclear delivery vehicles is reached. Calling it START I would be appropriate as it would be the starting point for reductions to come. To avoid fears of a "breakout," the treaty could be given an indefinite duration.

There is another course of action that I mention for consideration. It is possible to look at some intermediate range nuclear forces (land-based missiles, for example) as part of a common pool with those strategic forces covered by SALT. When combined in a negotiation, there would be more to reduce—just as an increased budget leaves more room for trimming. The SALT II ceilings could be extended to cover some theater nuclear forces, with a freedom to mix provision. I offer this concept of "consolidation," realizing that the INF talks in Geneva probably will remain deadlocked and that no date for START talks has been set.

This President can succeed where the previous two failed on SALT II. Fiscal responsibility is a bipartisan concern. Nuclear arms control also is a bipartisan issue, not just an issue for liberals and Democrats, as Republican Presidents of recent years and numerous Republican Senators testify. In the words of Senators Jake Garn and Paul Laxalt: "The U.S. should make every effort to negotiate an equitable and verifiable strategic nuclear offensive arms reduction agreement with the Soviet Union at the earliest possible date." My long-time colleague, Senator Goldwater, recently argued that it is time to sit down with the Russians and say: "We're both in trouble. We're spending too damn much on things we don't need. Let's talk."

Where there is leadership on this issue, there will be enough followers.

X

Recently, I read an essay on bombing in World War II. The author argues that illusions about modern technology made air war unthinkable before it occurred, and bureaucratic responsibility for it diffuse and unclear once war began: "It was sin of a modern kind because it seemed to involve no choice. It was the product of a slow accretion of large fears, thoughtless assumptions, and at best, discrete decisions."

This should be pondered now by those who entertain the fantasy that there will be a moment of supreme decision at the brink of some future world war when our leaders consider the options before pressing the nuclear button. We set our course by the ways in which we think—or don't think—about war in the time given to us now prior to the moment of supreme crisis, and by the little decisions made in preparation for it. Harold MacMillan once recalled how "we thought of air warfare in 1938 rather as people think of nuclear war today." The parallel offers no comfort. One generation learned to accept bombing as the terror that could not happen. Have we come today to accept "the bomb" itself?

I am 67 years old. I was there then, and I am here now. I want my country to know that today we don't have the luxury of seeing war (or the preparations for war) as a useful catharsis—as some did in the coming of World War II.

William James wrote decades ago: "So far war has been the only force that can discipline a whole community, and until an equivalent discipline is organized, I believe that war must have its way." It is up to us in our time to organize the equivalent discipline for the deterrence of war and the control of arms.●

THE BATTLE OF FORT WAYNE—A TRIUMPH OVER THREE RIVERS

● Mr. QUAYLE. Mr. President, over the weekend I had the opportunity to return to Fort Wayne, my home area which captured so much of the Nation's attention last week as residents battled to contain the raging floodwaters from three rivers that threatened thousands of lives, homes, and property. The people won. The waters came within inches of overcoming the 1 million sandbags that were filled and piled to buttress the city's aging and inadequate system of dikes.

The aftermath is disastrous, at the very least. Thousands are suddenly without possessions and without homes, but spirits are unbelievably high. Instead of complaints, I heard only praise in Fort Wayne—praise especially for the 30,000 schoolchildren who worked so tirelessly and feverishly alongside adults to avert a far greater catastrophe.

Every person I spoke to as I walked the dikes and visited the evacuation sites expressed their gratitude and admiration for the spirit and initiative of the thousands of children who had demonstrated a willingness to fight the ravages of flood.

As President Reagan appropriately stated upon his stop in Fort Wayne:

> I want you to know that those young people, those volunteers out on those dikes passing those sandbags really made an impression on me. If this wouldn't make any American confident in the future of our country . . . I went away inspired.

Mr. President, Governor Robert Orr of Indiana inspected the flood areas on March 16 and declared a state of disaster emergency. Congressman COATS also made an unscheduled tour on Thursday, March 18. On Saturday, the President acted with dispatch and declared Allen County a Federal disaster area. Other counties may be designated disaster areas after completion of ongoing surveys.

While the emergency is not completely over and officials continue to keep a wary eye on the rivers and the skies, the cleanup has begun.

Local, State and Federal agencies—along with a host of voluntary organizations—stand ready to assist the people and the affected communities to rebuild and restore their lives to normal.

All 30,000 volunteers, the city and county administrations in Fort Wayne and Allen County are to be commended for their effective action in this disaster.

Mr. President, I ask to have printed in the RECORD, two editorials from the Fort Wayne, Ind., Journal-Gazette and the Fort Wayne, Ind., News-Sentinel. They help underscore the heroism and leadership that left such a strong impression on those of us who visited the disaster areas in the past week.

The editorials follow:

[From the Journal-Gazette, Mar. 21, 1982]

AT LAST, FORT WAYNE'S IMAGE AND IT IS A GREAT ONE, TOO

Fort Wayne at last has an image. It's an image of a fighting spirit. It's an image of pulling together. It's an image of caring about people in trouble. It's an image of a community responding with incredible resourcefulness and faith to an incredible crisis. And the thing about this image is that it fits the reality.

We're now in the unusual position of getting to see how others see us—that is, by the national news coverage of the flood. ABC's "Nightline," which many of us in these newspaper offices watch anyway for an in-depth view of the world, broadcast from Fort Wayne live Thursday. What the rest of the country saw, as those of us here eavesdropped, was an upbeat, on-top-of-things Mayor Win Moses Jr. who couldn't stop bragging about the tremendous volunteers. The rest of the country saw the tremendous odds these volunteers were up against. It saw the floodwaters covering cars, and lakes surrounding our island homes.

But there they were too, the ubiquitous high school and middle school kids loading sandbags and plugging dikes with them. The experts on the scene were dead serious, competent, in charge. And back to the mayor—this Moses couldn't part waters; 20,000 volunteers just might hold the waters back.

Day after day, all this has been recounted and disseminated throughout the country, and even in other parts of the world. The word about Fort Wayne has gone out over the wire services in Chicago, San Francisco, New York, London, Paris to the news desks in the centers of commerce and culture, over radio and network television; we watch enchanted as others watch us. We see the local officials, who at home appear so inconsequential, come more to resemble leaders of the major cities, before our very eyes.

Have we been missing something? Have we neglected to see the truth about ourselves during all these months of economic bad news? Have we all been too busy counting the jobs lost and the factories that have laid off workers and the businesses on the verge of closing to recognize the vitality and the character and the ingenuity and the selflessness of the people of Fort Wayne?

It's all there, rolled up in a magnificent human response to a major natural disaster. We have the rest of the country in awe with that response. The Chamber of Commerce could never produce such an image-creating television commercial. The city's economic development department could never concoct a brochure to illustrate it adequately.

You could sit committees down for weeks to think up schemes for the selling of Fort Wayne, and not one of those schemes could possibly capture the character of Fort Wayne, which now projects itself on the consciousness of America.

Yet here we were the past couple of years. We tried to identify Fort Wayne's image. We tried to manufacture one that will play in other states where we want to entice business away. We debated the issue until we were all blue in the face. We called in consultants and study groups and great thinkers to help us save our economic soul.

Now, amid the disaster, all of that looks so futile, even a bit silly. For the flood has forced us to stop the handwringing and the rationalizing. It has let us be our own neighborly, compassionate, infinitely resourceful selves.

So we never needed an image after all; we just needed to be ourselves. The occasion for this lesson, to be sure, has been a terrible one. But as radio commentator Paul Harvey put it Friday, "Fort Wayne has become a symbol of the worst in weather and the best in human nature." A community still facing all manner of peril could want no better image.

[From the Fort Wayne News-Sentinel, Mar. 20, 1982]

GOOD SHOW!

As the river waters recede and Fort Wayne takes stock of what happened and is still happening, the courage and decency of large numbers of people will be the residue that is remembered longest.

There is really no way to properly distribute credit for the very reason of the breadth of the response in time of need and the fact some of the greatest efforts and sacrifices may well have been made by persons unnamed and unnoticed. To them, we can all say: "Good show." Perhaps if there is to be a monument or symbol of Fort Wayne's and Allen County's days of peril in 1982, it could be in honor of the Unknown Volunteer.

When the emergency went into full scale about a week ago, thousands of volunteers of all ages responded to help their threatened neighbors and man the dikes. Whole families, men, women and children, arrived at the scene. As the week wore on, teenagers and other young people increasingly carried the heavy loads during the long hours of night and day. The fact the battle was won at so many locations, and the dikes did hold for the most part, is undoubtedly due to these unceasing efforts.

Another aspect was the grace under pressure which was shown by public officials and agencies. That, together with evidence that practically no looting or other unpleasantness occurred does credit to both the people of the community and the organizers of the flood-defense effort.

Mayor Winfield Moses drew both local and national notice, and deserves credit for the manner in which he handled the job. The police, street crews, department staffs, numerous service, charitable and religious agencies, the national guard and uncounted truckers and firms responded in truly great fashion.

Much of the job is still to be done. The problems of many people, still homeless, continue. The cleanup and reestablishing of vital services will continue for weeks and months. Potential health problems will remain critical for some time. The eventual cost cannot now be measured.

But, the community displayed a magnificent resolve and response at the critical time of need. It seems almost strange, but a lot of people today may see Fort Wayne as a better place to live than they thought before the flood.●

DECONTROL OF NATURAL GAS

● Mr. DANFORTH. Mr. President, I was alarmed to read recently that the Federal Energy Regulatory Commission may soon consider a proposal to unilaterally raise the ceiling price on so-called old natural gas. I believe the Commission would be grossly out of line to do so.

Four years ago I voted for the Natural Gas Policy Act of 1978, as part of the Carter administration's energy package. That bill struck a compromise between those who sought total decontrol of natural gas prices and those who sought continued regulation.

Generally, I am a believer in the free market. I think it is both wrong and futile for the Government to try to restrain permanently the market price of any commodity. But I did not then and I do not now think that we can simply erase 30 years of price controls on natural gas overnight. We must seek to make the transition as smooth as possible, and I think the existing law does so in a reasonable way.

The compromise that was struck in 1978 essentially provided for the total decontrol in 1985 of gas committed to interstate pipelines after April 1977. Gas that was previously committed would remain regulated indefinitely.

The compromise makes sense. The primary purpose of the 1978 act was to encourage development of new supplies without providing a windfall to producers of existing supplies. However, the sudden increase in the price of oil after passage of the 1978 act has adversely affected the effectiveness of the staged price increases in encouraging exploration for natural gas, and it now appears that we must wait until 1985 for price incentives to become large enough to spur a real boom.

In the meantime, prices are rising, both at the wellhead and on consumers' bills. The fact that natural gas remains cheaper than oil or electricity is no consolation to the consumer facing increases of 40 percent and more in natural gas rates. Hardships have been real and in many cases severe. In my judgment, consumers are responding with as much conservation as can be expected, and accelerating the process will only intensify their pain.

I was pleased to see that the administration has decided not to propose accelerated decontrol of natural gas prices this year. But that pleasure quickly dissipated when I learned that the Federal Energy Regulatory Commission might consider a suggestion by its chairman, C. M. Butler, to take matters into its own hands.

Butler proposes to seize on language in the 1978 act allowing the Commission to increase prices on old gas, so long as those prices are just and reasonable. Traditionally, the Commission has found prices to be just and reasonable if they are based on historic production costs and a reasonable rate of return—a standard I commend. But Butler would give the phrase "just and reasonable" a new interpretation in order to boost old gas prices by two-thirds or more.

He makes this suggestion not to increase supplies, but to resolve a perceived problem within the natural gas market. He argues that pipelines with a large supply of old gas are able to use that cushion to bid up prices of new gas above true market value. I do not propose to argue this point in detail, but suffice it to say that the facts of the matter are unconvincing. It may be that it is the pipelines without an old gas cushion who are bidding up prices, simply because their need for new supplies is greater.

More importantly, Butler proposes to undo through administrative action the deal that was struck in Congress 4 years ago. This he must not do. We reached a compromise, after long, hard negotiation, and unless we decide to change it, that is the way it should stay.

Mr. President, I oppose acceleration of the decontrol process, whether through legislation or administrative fiat. For that reason, I am joining as a cosponsor of Senate Resolution 331, introduced by Senator CHAFEE on March 3, expressing the Senate's opposition to any such action by the Commission. I hope that the resolution will serve as a shot across the Commission's bow—as a warning not to take action on this matter, which properly lies in the congressional domain.●

ERA ANNIVERSARY

● Mr. PACKWOOD. Mr. President, today marks the anniversary of the day Congress first approved the equal rights amendment. On March 22, 1972, the Senate passed House Joint Resolution 208, the equal rights amendment, and sent it to the States for ratification. Thirty-five States to date have ratified ERA.

Today also marks the beginning of the final 100 days that States can ratify the equal rights amendment. Valiant efforts continue to achieve ratification in those States where the legislatures are still in session. Though we are close, the prospects are uncertain.

Efforts to guarantee equal rights for women began in 1923 when the first equal rights amendment was introduced in Congress. This first ERA came before Congress only 3 years after women had been granted the right to vote under the 19th amendment. And after being introduced in almost every Congress since then, the ERA was approved by Congress 10 years ago today.

The efforts which began 59 years ago reinforce the need for the equal rights amendment today. Today, employed women earn only 59 cents for every dollar earned by men. This gap exists primarily because women are concentrated at the bottom of the occupational ladder in low-paying, dead-end jobs. Progress has been made, but not enough. Without ERA, women of the next generation will continue to face the same discrimination and sex bias which has hampered their progress for decades.

More than 44 million American women are active in our Nation's labor force and 1 out of 7 families is headed by a woman. Whether a woman chooses to stay at home or decides to enter the work force, she should have the same opportunity to succeed in her choice of occupation, in her education and in her contribution to society.

The equal rights amendment is needed to achieve permanent economic equality for women. Equality for women should not depend on the whims of lawmakers. Equality under the law must be a basic right for all Americans. Women cannot be made to fight for their rights with the change of every political tide.

I support ERA. This amendment will conclusively guarantee both women and men equal rights, treatment, and opportunity in America. I have given this issue a great deal of study and sincerely believe the ERA will not adversely affect women, but will guarantee every woman the freedom to choose her own role in society—be it wife and homemaker, career person, or some combination of the two. The equal rights amendment, as a companion to the 14th amendment, will provide equal rights for all Americans.

The deadline for passage of the ERA—June 30, 1982—is fast approaching, and we are still three States short of the 38 needed for ratification. No one can predict the outcome. But, on this anniversary day, it is important for Members of Congress to reiterate their support for equality. I urge my colleagues to join me in this show of support.●

STATEMENT OF SENATOR CHAFEE OPPOSING ACCELERATED DECONTROL OF NATURAL GAS PRICES

● Mr. CHAFEE. Mr. President, I ask that a copy of my testimony before the Senate Energy and Natural Resources Committee opposing accelerated decontrol of natural gas prices be inserted in the RECORD and that the following Senators be added as cosponsors to Senate Joint Resolution 331:

Mr. PROXMIRE of Wisconsin.

Mr. BRADLEY of New Jersey.

Mr. EAGLETON and Mr. DANFORTH of Missouri.

Mr. BUMPERS of Arkansas.

Mr. CRANSTON of California.

Mr. JACKSON and Mr. GORTON of Washington.

Mr. SARBANES of Maryland.

Mr. RIEGLE and Mr. LEVIN of Michigan.

Mr. BIDEN and Mr. ROTH of Delaware.

Mr. KENNEDY and Mr. TSONGAS of Massachusetts.

Mr. CANNON of Nevada.

Mr. GLENN and Mr. METZENBAUM of Ohio.

Mr. ZORINSKY and Mr. EXON of Nebraska.

Mr. HOLLINGS of South Carolina.

Mr. SASSER of Tennessee.

Mr. ABDNOR of South Dakota.

Mr. GRASSLEY of Iowa.

Mr. ANDREWS of North Dakota.

Mr. SPECTER of Pennsylvania.

Mrs. KASSEBAUM of Kansas.

Mr. DURENBERGER of Minnesota.

The PRESIDING OFFICER. Without objection it is so ordered.

The statement follows:

SENATOR JOHN H. CHAFEE'S STATEMENT BEFORE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE OPPOSING ADMINISTRATIVE DECONTROL OF NATURAL GAS PRICES

I asked to appear as a witness today for three reasons. The first is to announce that a bipartisan group of 29 members of the Senate has agreed to cosponsor a resolution I introduced March 3 opposing the use of the Federal Energy Regulatory Commission's Administrative rule-making authority to achieve accelerated and total decontrol of natural gas prices.

I introduced the resolution because of my concern about the possibility that the Federal Energy Regulatory Commission may attempt to accelerate the decontrol of new gas prices in advance of the timetable set out in the Natural Gas Policy Act. I am also concerned that the Commission may attempt to increase old gas prices as well. The resolution was first introduced in the House by Congressman Dingell, Chairman of the Energy and Commerce Committee. The House resolution has 125 cosponsors.

I oppose accelerated decontrol of natural gas prices and was pleased when the President announced he would not push decontrol legislation. However, I am equally opposed to accelerated decontrol through administrative rule-making.

The second purpose for my appearance is to bring this issue to the attention of the members of this Committee, Congress, and the American public. We in Congress should be particularly concerned because Congress decided the issue of natural gas price decontrol when it enacted the Natural Gas Policy Act of 1977, and any change in that price control policy should be made by Congress, not an administrative agency.

The public should be concerned because the negative economic effects of accelerated decontrol are just as great whether price increases are accomplished through legislation or administrative rule-making. We simply cannot afford the additional pressures total decontrol would bring on our economy.

It has been estimated that total decontrol of natural gas prices could add up to 2 to 3 percentage points to the rate of inflation. It has also been estimated that total decontrol could mean a one-half to 1 percent increase in unemployment. Needless to say, senior citizens and low and fixed income individuals would also be affected.

In my home state of Rhode Island, the cost of total decontrol is staggering. Overall, Rhode Island's gas consumers would pay an additional $132 million in fuel bills over the next three years. This would mean for the 96,000 residential gas users in the state that their fuel bills would increase by over $1,000 over the next three years. Industry and Commercial gas users in the state would pay an additional $64 million more in fuel bills over the next three years.

The third purpose of my appearance is to explain how accelerated total decontrol could be accomplished through administrative rule-making. There are three broad categories of gas under the Natural Gas Policy Act of 1977:

(1) New gas discovered after 1977

(2) Old gas discovered before 1977 and

(3) High risk gas

The Act provides for incremental wellhead price increases for new gas through 1985 when new gas prices will no longer be subject to controls. The Act maintains permanent controls on old gas prices and decontrols prices of certain categories of high risk gas on the theory that higher prices are necessary to meet exploration and extraction costs.

The Chairman of the Federal Energy Regulatory Commission, Mr. Charles M. Butler, III, who will be appearing before this Committee later today, has indicated in public statements that he is a strong advocate for total decontrol of natural gas prices. Chairman Butler has also stated publicly that he believes total decontrol can be accomplished administratively.

There are three means by which total decontrol could be accomplished. The first is, of course, the incremental price increases and eventual decontrol of new gas prices under the Natural Gas Policy Act. This is clearly within FERC's statutory authority, and I have no objection to it.

The second method would be to create new categories of high risk gas to speed up the decontrol of new gas prices. For example, the Commission has proposed a rule which would make new gas at depths between 10,000 and 15,000 feet high risk gas, and therefore prices for this category of gas would be decontrolled. I oppose this rule-making because I am not convinced of the need to provide price incentives, for this type of new gas outweighs the negative impact of cost increases to consumers. If the rule is adopted, it could result in an increase of anywhere from $6 billion to $18 billion in gas prices to consumers. Again, the procedure itself is within its statutory authority; however, I oppose the use of this procedure for the purpose of circumventing the spirit of the NGPA to achieve total decontrol.

The third method to achieve total decontrol through administrative means would be to raise the price of old gas by raising the price of all old gas to the current highest price charged for old gas, and then to raise the ceiling price for old gas to the ceiling price for new gas. I believe this method is likely to be beyond the Commission's statutory authority. We will therefore need to keep a close watch on any proposed rule-making on old gas.

To summarize, I do not oppose actions that are authorized under the Natural Gas Policy Act, such as the scheduled decontrol of new gas by January 1, 1985, the incremental adjustments to allow for inflation, and classification of new gas as high risk gas where it is necessary to provide cost incentives for exploration. However, I am opposed to the reclassification of new gas as high risk gas for the purpose of accelerating decontrol of new gas prices. I am also opposed to decontrol of old gas prices.●

AFGHANISTAN DAY

● Mr. KENNEDY. Mr. President, the President of the United States pursuant, to a joint resolution of the Congress, designated yesterday, March 21, as "Afghanistan Day." In doing so, the United States joined the countries of Western Europe in setting aside this day to remember the Afghan people who have been fighting for over 2 years against the Soviet Union for their national independence and their individual freedoms—the most fundamental of which is the right to choose who will govern them.

In 1979, more than 100,000 Soviet troops invaded Afghanistan without provocation. These Soviet troops overthrew one Marxist government which had lost support of the people and established a new puppet regime under Babrak Karmal. This new regime had almost no support then and it has even less today.

Since the Soviet invasion, the Afghan military has steadily dwindled as Afghanis, sometimes in units and sometimes as individuals, joined the freedom fighters. As a result the Soviet military has had to assume the primary role in the fighting. Many prominent and educated Afghanis have fled the country or refused to participate in the Karmal regime. The Soviets have had to take over major functions of government previously handled by Afghanis. In spite of this intervention, involvement and control, the Soviets have been unable to defeat the Afghani freedom fighters.

The Afghan people have become an example to the rest of the free world that it takes more than brute force and savage reprisals to extinguish a peoples' determination to control their own destiny. Almost to a man, the Afghanis continue to resist the Soviets. Though they are poor and ill-equipped compared to the Soviet occupation forces, the Afghanis continue to fight for their country against the oppressors.

We know that the Afghan people have paid a high price for their continued resistance. Whole villages have been destroyed. Thousands of people have been slain. I am concerned over reports that many have have died from chemical and biological weapons used in clear violation of international law. Hundreds more have been maimed and crippled by explosive devices dropped by the Soviets over the countryside and picked up by innocent children. Afghanis who make their livelihood from the land have had their crops destroyed and their livestock slaughtered.

As a result of Soviet attacks and overwhelming hardships, there are now almost 2.5 million Afghan refugees in Pakistan. This is almost one Afghan in five. It is one of the largest concentration of refugees anywhere in the world. In Pakistan, either in camps or scattered throughout towns and villages, these proud and independent people have been forced into poverty and a situation in which they are totally dependent on others.

The Afghan people may have lost their homes and crops and livestock and even their freedoms. But the more they suffer, the brighter burns their determination to resist Soviet occupation, to fight the forces that seek to control them, and to make whatever sacrifice is necessary for their country and their freedom.

On this Afghanistan Day 1982, we remember the plight of the Afghan people. The Soviet Union should understand clearly that freedom-loving people will not succumb to force and repression. The world has repeatedly condemned the Soviet occupation of Afghanistan and called for the withdrawal of all Soviet forces. Today, I urge the Soviets to heed these calls and restore Afghanistan to the Afghan people. There can be no other acceptable end to this tragic affair.●

ORDER FOR RECESS UNTIL TOMORROW AT 10 A.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR PROXMIRE ON THURSDAY, MARCH 25, 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on Thursday, March 25, 1982, that the Senator from Wisconsin (Mr. PROXMIRE) be recognized for not to exceed 15 minutes under a special order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND TO RESUME CONSIDERATION OF S. 1080 ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, there be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m. with statements limited therein to 10 minutes each.

Following the conclusion of routine morning business, I ask unanimous consent that the Senate resume consideration of the pending business, which the Senator from Alaska is informed is S. 1080. Is that correct?

The PRESIDING OFFICER. The Senator is correct. Without objection, it is so ordered.

FEDERAL COURTS IMPROVEMENT ACT OF 1982

Mr. STEVENS. Mr President, I ask the chair to lay before the Senate a message from the House of Representatives on H.R. 4482.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 4482) to establish a U.S. Court of Appeals for the Federal Circuit, to establish a U.S. Claims Court, and for other purposes.

(The amendment of the House is printed in the RECORD of March 9, 1982, beginning at page H737.)

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. STEVENS. Mr. President, is there further business to come before the Senate?

Mr. LEAHY. Mr. President, we have no further business on this side.

Mr. STEVENS. Mr. President, if there be no further business, I move that, under the order previously entered, the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and at 6:06 p.m., the Senate recessed until Tuesday, March 23, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, March 22, 1982:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Manfred Eimer, of Maryland, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency, vice George William Ashworth, resigned.

INTERSTATE COMMERCE COMMISSION

Heather J. Gradison, of Ohio, to be a Member of the Interstate Commerce Commission for the term of 7 years from January 1, 1982, vice Robert Coleman Gresham, term expired.

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Robert W. Barrow, xxx-xx-xxxx
Maj. Gene H. Bixler, xxx-xx-xxxx
Maj. Douglas A. Brown, xxx-xx-xxxx
Maj. Dale L. Ebben, xxx-xx-xxxx
Maj. James P. Eisenmenger, xxx-xx-xxxx
Maj. Bert R. Evans, xxx-xx-xxxx
Maj. Lawrence C. Denson, xxx-xx-xxxx
Maj. Donald R. Durbin, Jr., xxx-xx-xxxx
Maj. Albert D. Jennings, Jr., xxx-xx-xxxx
Maj. Elmer S. Keppler, xxx-xx-xxxx
Maj. Frank C. Khare, Jr., xxx-xx-xxxx
Maj. Irvin B. Kyzer, xxx-xx-xxxx
Maj. Joy L. Leonhardt, xxx-xx-xxxx
Maj. Joe C. Oliphant, xxx-xx-xxxx
Maj. Vernon V. Pate, Jr., xxx-xx-xxxx
Maj. William D. Povey, xxx-xx-xxxx
Maj. Philip B. Robbins, xxx-xx-xxxx
Maj. Wilbur E. Rose, xxx-xx-xxxx
Maj. Paul W. Smith, Jr., xxx-xx-xxxx
Maj. James D. Speer, xxx-xx-xxxx
Maj. Bruce F. Tuxill, xxx-xx-xxxx
Maj. Dennis W. Vanidestine, xxx-xx-xxxx
Maj. Bruce L. Whittig, xxx-xx-xxxx

IN THE NAVY

The following-named temporary commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of commander in the various staff corps, as indicated, subject to qualifications therefor as provided by law:

MEDICAL CORPS

Arellano, Enrique V.
Iyquierdo, Albert G.

SUPPLY CORPS

Giffen, Donald H.

The following-named temporary lieutenant commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of lieutenant commander in the line and various staff corps, as indicated, subject to qualifications therefor as provided by law:

LINE

Bagaglio, Mario J.

MEDICAL CORPS

Cooper, John R., Jr.
Hart, Steven E.
Xanthopoulos, John T.

DENTAL CORPS

Lamb, John P.

MEDICAL SERVICE CORPS

Foxx, Stanley A.
Mullen, Michael J.
Sessions, Nathan M.

The following-named temporary lieutenants of the U.S. Navy for permanent promotion to the grade of lieutenant in the Medical Service Corp, subject to qualifications therefor as provided by law:

Bacon, Neil D.
Betsworth, Richard D.
Carroll, Ronald J.
Cline, Clarence R.
Cormier, Tyrone P.
Driscoll, Millard J.
Fish, Stanley L.
George, Charles L.
George, James A.
Harrahill, Jesse D.
Hodges, Ellis E.
Hofflinger, David H.
Hudson, Jonathan S.
Hunnicutt, Gary F.
Kilgore, Larry L.
Kroutil, Michael L.
Libby, James W.
Moran, Raymond L.
Niec, Edmund A.
Oxford, Lawrence L.
Pierce, Roderick J.
Robson, Joseph R., Sr.
Ruby, Perry M., Jr.
Shannon, Patrick A.
Silva, William A.
Smith, Eric M.
Sullivan, Hugh C.
Swafford, James J., Jr.
Thibodeau, Ronald E.
Tyson, Gary D.
Williams, Arthur D., Jr.
Zuber, Ronald J.

The following-named temporary ensigns of the U.S. Navy for permanent promotion to the grade of ensign in the Medical Service Corps, subject to qualifications therefor as provided by law:

Adams, Michael L.
Bierrum, Henry T.
Callahan, Wayne T.
Carpenter, Coleman R.
Curran, Michael J.
Dailey, George A., Jr.

IN THE NAVY

The following-named temporary lieutenants (junior grade) of the U.S. Navy for permanent promotion to the grade of lieutenant (junior grade) in the Medical Service Corps, subject to qualifications therefor as provided by law:

Abeya, Edwin B.
Alford, Samuel P.
Barrett, Paul G.
Biggs, Michael W.
Brown, Ricky
Coffield, Craig R.
Dheron, Ronald W.
Fahler, Danny J.
Faulls, John D.
Ford, Robert F.
Foster, Richard C.
Fowler, Lawrence E.
Giewont, Vincent A.
Halley, Dennis P.
Hoffner, Robert C.
Hutchings, Richard P.
Kephart Elwood L.
King, Charles L.
Lowe, William B., Jr.
McInnis, Steven R.
Neefe, Charles W., Jr.
Newsom, Paul E.
Owen, Robert P.
Pagan, Herman J.
Ritz, Robert E.
Roberts, Richard G.
Ross, Michael W.
Sacash, Christopher W.
Setzer, Richard C.,
Turner, Donald R.

The following-named temporary ensigns of the U.S. Navy for permanent promotion to the grade of ensign in the Medical Service Corps, subject to qualifications therefor as provided by law:

Espie, John C., IV
Fordice, Phillip S.
Golgart, Dale A.
Isley, Donald R.
Oswald, John P.
Phillips, Larry J.
Schreiber, Robert L., Sr.
Schwalm, Michael A.
Suphancheck, Gregory E.
Updegrove, Charles D.
Walters, James M.
Watkins, Donald A., Jr.
Wellen, David P.
Willis, James H.

IN THE MARINE CORPS

The following-named officers of the Marine Corps for permanent appointment to the grade of colonel under provisions of title 10, United Stated Code, section 624, subject to qualification therefor as provided by law:

Angle, Peter F., [redacted]
Ariola, Carl R., [redacted]
Bergstrom, Alfred R., Jr., [redacted]
Bland, Richard P. L., [redacted]
Bowers, Wilburn R., [redacted]
Brandtner, Martin L., [redacted]
Brickley, John P., [redacted]
Calta, Ronald F., [redacted]
Caputa, John A., [redacted]
Casey, Conwill R., [redacted]
Cassady, David J., [redacted]
Chance, James M., [redacted]
Chapman, Jack A., [redacted]
Clapp, Robert G., [redacted]
Condra, Edward M., III, [redacted]
Coolican, James J., [redacted]
Corbertt, David C., [redacted]
Cox, Donald C., [redacted]
Damon, Dennis E., [redacted]
Davenport, Paul G., [redacted]
Davis, James M., [redacted]
DeForest, Roy E., [redacted]
Denton, David V., [redacted]
Downs, Michael P., [redacted]
Durham, Thomas R., [redacted]
Entriken, Barbara W., [redacted]
Gardner, Dayne G., [redacted]
Gardner, Donald R., [redacted]
Gatchel, Theodore L., [redacted]
Gaumont, George E., Jr., [redacted]
Hackert, Paul E., [redacted]
Harrington, Myron C., Jr., [redacted]
Harrington, Phillip L., [redacted]
Hart, William R., [redacted]
Hiltbrunner, Donnal E., [redacted]
Holland, Kenneth D., [redacted]
Hopkins, Harvard V., Jr., [redacted]
Horn, Carl J., [redacted]
Hoyle, Walter R., [redacted]
Huckelbery, Charles T., [redacted]
Huml, Gerald F., [redacted]
James, Douglas B., [redacted]
Jarvis, Earnest [redacted]
Jenkins, Harry W., Jr., [redacted]
Johnson, Richard F., [redacted]
Johnston, Robert B., [redacted]
Kehn, Alan B., [redacted]
King, Blaine D., [redacted]
Kirkpatrick, Joe J., [redacted]
Landes, Burrell H., Jr., [redacted]
Larriva, Rene F., [redacted]
Lenzini, Martin J., [redacted]
Lilley, Melton G., [redacted]
Linden, Otto G., [redacted]
Mahady, Frederick J., Jr., [redacted]
Marshall, John T., [redacted]
McClain, Billy L., [redacted]
McGowan, James D., Jr., [redacted]
McHenry, James P., [redacted]
McKeown, Thomas K., [redacted]
Meadows, Charles L., [redacted]
Meydag, Richard H., [redacted]
Miller, Justus K., [redacted]
Mitchell, Charles H., Jr., [redacted]
Molyneux, Robert W., Jr., [redacted]
Moore, Raymond R., [redacted]
Morgan, Harmon S., Jr., [redacted]
Mulqueen, Michael P., [redacted]
Myers, Donald J., [redacted]
Nance, Herbert T., Jr., [redacted]
Neely, Ives W., Jr., [redacted]
Odonnell, Thomas R., [redacted]
Ogle, Larry R., [redacted]
Oneill, Raymond A., [redacted]
Osgood, William H., [redacted]
Patrick, Rabun N., Jr., [redacted]
Phillips, Richard L., [redacted]
Pierpan, Herbert E., [redacted]
Pipta, John, [redacted]
Radcliffe, Henry J. M., [redacted]
Rakow, William M., Jr., [redacted]
Raymond, John W., [redacted]
Redgate, John H., [redacted]
Rich, Richard C., [redacted]
Richardson, Tom V., [redacted]
Rothwell, Richard B., [redacted]
Rowe, Peter J., [redacted]
Scanlon, Michael F., [redacted]
Schmid, Ronald W., [redacted]
Shaver, Carl A., [redacted]
Shaw, Louis E., [redacted]
Shelton, Charles H., [redacted]
Smith, Charles R., Jr., [redacted]
Smith, Paul J., Jr., [redacted]
Speicher, John A., [redacted]
Speights, Billy J., [redacted]
Stacy, Richard M., [redacted]
Stone, Marion F., [redacted]
Stroup, William C., [redacted]
Sweeney, William T., [redacted]
Taylor, Kenneth T., [redacted]
Throckmorton, Jack L., [redacted]
Updyke, James M., [redacted]
Valluzzi, Rocco F., [redacted]
Vanfleet, James E., [redacted]
Vazquez, Amilcar, [redacted]
Warren, William R., [redacted]
Waters, Michael F., [redacted]
Way, James B., [redacted]
Weede, Richard D., [redacted]
Westhoff, William H., [redacted]
White, William H., [redacted]
Whitfield, Howard M., [redacted]
Wickens, Justin H., [redacted]
Wiegand, Robert W., [redacted]
Williams, James L., [redacted]
Wills, Duane A., [redacted]
Wold, Thomas H., [redacted]
Zalles, Rafael, [redacted]

EXTENSIONS OF REMARKS

SAFE HARBOR LEASING

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 18, 1982

● Mr. BONIOR of Michigan. Mr. Speaker, on December 10, 1981, Prof. Paul McDaniel of Boston College testified before the Rules Committee in support of my bill H.R. 4882. That bill would require the establishment of yearly ceilings for tax expenditures in the budget resolutions and reconciliation process.

During his testimony, Professor McDaniel offered an explanation of the workings of what has become the most controversial tax expenditure of the 1981 Tax Act, the safe harbor or sale-leaseback provisions. He also included some examples of the types of participants in, and the order of magnitude of, sale-leaseback arrangements.

I offer his testimony for the perusal of my colleagues with the reminder that there is currently no direct means of control in the budget process for this or other tax expenditures which account for some $266 billion in foregone revenues in fiscal year 1982.

APPENDIX A

NUMERICAL EXAMPLE OF SALE-LEASEBACK UNDER PRESENT LAW

Parties: Corporation X, the nominal lessee, which expects to have no income tax liability in future years. Corporation Y, the nominal lessor, which expects to have income taxable at a 46-percent rate.

Agreement

1. X purchases new equipment having a 10-year ADR life for $1 million.

2. X sells the assets to Y for $1 million. Y pays X $200,000 cash and an $800,000 note. The note is for 15 years (150 percent of ADR life) at 15 percent annual interest and is paid in equal annual installments of $136,300 (that is, a level payment loan).

3. Y leases the equipment to X for 15 years and charges an annual rental of $136,300, which exactly offsets the debt service. Thus, the only money which changes hands between X and Y is $200,000 from Y to X.

4. At the end of the lease, Y sells the equipment to X for $1.

Results

1. X purchases a $1 million asset for $800,000.—(X's rental payment and receipt of loan payments do not affect cash flow—because they are offsetting—or tax liability—because X is not in a taxable position.)

2. Y purchases for $200,000 tax savings worth more than $200,000.—Y's tax savings year by year are shown below. Y has deductions for depreciation (column 2) and interest paid (column 3), and it has rental income (column 4). Y's net deduction and tax change are shown in columns 5 and 6, respectively. The present value of this stream (discounted at the after-tax rate of 8.1 percent, which corresponds to a pre-tax rate of 15 percent) is $321,000. Thus, by paying $200,000 to X, Y pays $321,100 less in tax, a gain of $121,000 in constant (present) dollars.

Another way to express Y's gain is as follows. If Y had purchased at par a 15-year, 15-percent bond for $200,000, then Y would have (net of tax on interest income) $643,300 after 15 years. On the other hand, if Y invests the tax savings of column 6 at 15 percent, then Y would have (net of tax in interest income) $1,032,700 after 15 years, a gain of $389,400 in comparable (future) dollars.

BENEFITS AND COSTS OF LEASING TO Y

[In thousands of dollars]

End of year	Deductions				
	Depreciation	Interest paid	Rental income	Net	Change in tax
0	150	0.0	0.0	150.0	[1] −169.0
1	220	120.0	136.8	203.2	−93.5
2	210	117.5	136.8	190.7	−87.7
3	210	114.6	136.8	187.8	−86.4
4	210	111.2	136.8	184.4	−84.8
5		107.4	136.8	−29.4	13.5
6		103.0	136.8	−33.8	15.6
7		97.9	136.8	−38.9	17.9
8		92.1	136.8	−44.7	20.6
9		85.4	136.8	−51.4	23.7
10		77.7	136.8	−59.1	27.2
11		68.8	136.8	−68.0	31.3
12		58.6	136.8	−78.2	36.0
13		46.9	136.8	−90.0	41.4
14		33.4	136.8	−103.6	47.6
15		17.9	136.8	−119.0	54.7

[1] Includes regular investment tax credit of $100,000. Lease is executed at end of taxable year.

APPENDIX B

[From the Wall Street Journal, Nov. 13, 1981]

In recent weeks, General Electric Credit Corp., a unit of General Electric Co., has committed about $250 million for tax breaks on more than $1 billion of equipment that it will lease back to a number of companies. That equals the value of equipment GECC, one of the nation's largest leasing companies, put under lease for all of 1980. "We are kind of staggered," says Gary C. Wendt, vice president and general manager of GECC's commercial and industrial financing division.

In the biggest transaction disclosed so far, International Business Machines Corp. bought as much as $200 million in tax benefits from loss-ridden Ford Motor Co., and nearly $100 million from CSX Corp., a profitable railroad that has more tax credits than it can use this year. IBM also is buying $60 million of credits from B.F. Goodrich Co., and earlier had arranged to buy some from Pacific Southwest Airlines, a unit of PSA Inc. PSA had indicated that its gain would be about $9 million.

IC INDUSTRIES

IC Industries Inc. said it sold the tax benefits on equipment valued at $93 million from its Illinois Central Gulf Railroad Unit for about $28 million. The buyer wasn't disclosed.

PACIFIC SOUTHWEST AIRLINES

Pacific Southwest Airlines, a unit of PSA Inc., said IBM bought investment tax credits and tax depreciation associated with 10 DC9 Super 80 aircraft and related equipment. The planes, acquired by PSA, are valued at about $200 million. PSA previously had anounced the sale and indicated that the total gain would be about $9 million; PSA had included a $2.3 million gain from the sale in third quarter earnings.

ASARCO

Asarco Inc., a mining concern hurt by low metal prices, said it will receive about $32 million in cash relating to about $100 million in mining, smelting and refining equipment. The concern said it received about $26 million in cash relating to about $82 million in equipment under the first closing yesterday. The rest of the transaction will be completed in late December, Asarco said. The buyer wasn't disclosed.

WHEELING-PITTSBURGH STEEL

Wheeling-Pittsburgh Steel Corp., said it transferred tax benefits on certain equipment to Batus Inc. in return for a cash payment of $25 million to $35 million. The transaction relates to equipment valued at $100 million to $150 million.

Batus is a Louisville-based holding company with interests in tobacco, retail and paper companies.

PHELPS DODGE

Phelps Dodge Corp. said it has received $18.7 million in cash from the sale of tax benefits to General Electric Co. The transaction, through General Electric Credit Corp., is associated with $66 million in equipment.

MILWAUKEE ROAD

The bankruptcy trustee of the Chicago, Milwaukee, St. Paul & Pacific Railroad, commonly called the Milwaukee Road, said he completed a sale-leaseback agreement that should be valued at $15 million to the carrier over three years. The buyer wasn't identified.

CIT UNIT OF RCA OFFERS LEASE TAX-BREAK PACKAGE

NEW YORK.—C.I.T. Corp., a unit of RCA Corp., is offering smaller companies a chance to get in on the new sale-and-leaseback tax breaks of the new tax code.

If a company borrows money through C.I.T. to buy $100,000 or more of new equipment eligible for tax breaks it doesn't need, C.I.T. will find that company a purchaser for those benefits.

The purchaser of the tax benefits will pay the real buyer 16.1 percent of the equipment's purchase price. The real buyer keeps the equipment.

In exchange, the tax-break purchaser can deduct depreciation on the equipment from its taxes, in addition to reaping any investment tax credits on equipment eligibile for them.

C.I.T. said capital goods purchased must qualify for depreciation over five years under the August Economic Recovery Tax Act's accelerated cost recovery system.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

That five-year category includes most industrial equipment and machinery, C.I.T. said.

The 16.1 percent payment is good for purchases made until Dec. 31, C.I.T. said. It hasn't announced the cash percentage for transactions after Jan. 1.

[From the Wall Street Journal, Nov. 16, 1981]

LEASING ACCORDS INVOLVE BILLIONS IN GEAR AS INITIAL ROUND OF TAX CREDIT SALES ENDS

Companies continued their rush to set up leasing arrangements under the new tax law before last Friday's deadline.

The transactions are the result of a provision of the Economic Recovery Tax Act of 1981 that allows companies to sell unusable depreciation deductions and investment tax credits to highly profitable companies seeking to reduce their own taxes.

The sellers, for the most part, either have had losses and don't owe any taxes at all, or have a surplus of deductions and credits because of large capital-spending programs.

The law makes it easier for companies to sell their equipment and then lease back the items. The purchasing company gets the tax advantages and the seller gets cash and use of the equipment.

The law applied retroactively to equipment bought between last Jan. 1 and Aug. 13 but only if leasing arrangements were made by last Friday.

The extent of the leasing activity isn't known. "I don't think anyone has any statistics yet and there probably won't be any for a while," said Tom Healey, managing director and head of the project finance group at Dean Witter Reynolds, Inc. Mr. Healy said estimates of the value of the equipment involved of $10 billion to $15 billion "seem right to my instinct."

Among companies disclosing last-minute agreements are:

DUN AND BRADSTREET

Dun & Bradstreet Corp. said it paid about $170 million for the tax benefits on equipment valued at about $600 million. The company said it has entered into transactions with "several companies" but wouldn't identify them.

CHRYSLER

Chrysler Corp. said it sold investment tax credits and depreciation on almost $150 million of machinery and tooling to General Electric Co. The auto maker said it received about $26 million from the transaction.

Chrysler agreed to the basic arrangement with General Electric before the Treasury Department announced its preliminary rules for the lease arrangements. The transaction almost fell through because the rules didn't seem to offer sufficient protections to buyers of the tax benefits in the event of a bankruptcy by the seller.

The Treasury, under pressure from Chrysler and other financially troubled companies wanting to sell tax credits, agreed to modify the rules last Tuesday. That led to a mad scramble by Chrysler and GE to put their transaction back together by the Friday deadline.

R. S. Miller Jr., Chrysler's executive vice president of finance, said the company plans to consider bids on about $40 million in equipment and tooling it will acquire in the fourth quarter. Sources said GE already has offered to buy Chrysler credits.

ARIZONA PUBLIC SERVICE

Arizona Public Service Co. said it completed the previously reported sale of tax benefits to General Electric Co. The investment tax credits and accelerated depreciation involve $250 million of equipment at the Cholla power plant. Arizona Public Service said the sale would result in a net benefit of $50.6 million for the utility and enable it to avoid seeking financing this year in the domestic debt market.

GLOBAL MARINE

Global Marine Inc., an offshore-drilling contractor, said Hilton Hotels Corp. bought depreciation tax credits associated with four offshore-drilling rigs valued at $135 million. Global Marine said the transaction doesn't include the sale of investment tax credits. The companies wouldn's say how much benefit each would receive from the transaction.

LONE STAR

Lone Star Industries Inc. said it sold tax benefits to a company it wouldn't identify for more than $60 million in cash. The cement maker said it expects to complete another transfer by year-end that would net another "several million" dollars.

Long Star said the transaction primarily was related to tax benefits from the expansion and modernization of its Santa Cruz, Calif., cement plant and similar projects at other plants. The company won't disclose the value of the capital expenditures involved, or the effect on earnings.

REPUBLIC AIR

Republic Airlines said it transferred tax benefits on "certain aircraft and spare engines" that had been placed in service in 1981. Republic didn't disclose the value of the property, but said the transaction produced about $19 million, which the airline used to reduce floating-rate bank debt.

MITCHELL ENERGY

Mitchell Energy & Development Corp. said it sold $18.5 million of investment and accelerated depreciation tax credits. Mitchell wouldn't identify the buyer. Mitchell, an oil and natural gas company and real-estate developer, said the credits were available for sale because of a surplus of tax credits generated from its energy capital program. Cash from the sale will be used to reduce company debt, Mitchell said.

ALASKA AIR

Alaska Airlines said it sold a Boeing 727 for $14 million to a buyer it wouldn't identify and leased it back for 11 years with a new purchase option at the end of that lease. Under this transaction, Alaska Airlines keeps the investment tax credit and the buyer gets accelerated depreciation.

CHICAGO AND NORTH WESTERN

Chicago & North Western Transportation Co. said it completed a sale-leaseback trade action involving sale of tax benefits on property, including locomotives and freight cars valued at about $53 million. The cash value of the transaction to Chicago & North Western is about $13 million, the railroad said it wouldn't identify the buyer.

MARSH AND M'LENNAN

Marsh & McLennan Co. said it bought tax benefits related to $35 million capital equipment owned by Boston Edison Co. Boston Edison said it received $6 million cash as part of the transaction. Neither company would estimate the effect of the transaction on earnings.

Marsh & McLennan, an insurance broker, also purchased tax benefits last week from Occidental Petroleum Corp. related to about $95 million of capital equipment. It reported, Marsh &McLennan told analysis that the company's per-share earnings would be increased by three to five cents in 1981 because of the Occidental transaction and by about 50 cents over the 15-year total of the lease.

[From the Wall Street Journal, Nov. 17, 1981]

N&W BUYS $40 MILLION IN TAX BENEFITS, MOVING AGAINST TREND OF RAIL INDUSTRY

In contrast to several other railroads that recently arranged to sell tax benefits, Norfolk & Western Railway said it bought tax benefits for more than $40 million.

The benefits apply to more than $200 million of equipment from two companies that aren't engaged in railroading, N&W said yesterday.

N&W, a profitable railroad based in Roanoke, Va., declined to identify the two companies involved in the transactions, which were arranged under a provision of the Economic Recovery Act of 1981. An N&W spokesman responded with "no comment" when asked if one of the concerns was Flexi-Van Corp., a New York-based lessor vansized containers and trailers.

On Friday, Flexi-Van had announced the sale of $120 million of tax credits and tax deductions of equipment.

NATIONAL STEEL

National Steel Corp. said it sold tax credits on various asserts valued at about $60 million. National Steel disclosed neither the price nor the buyer. However, E&G Inc., a high-technology company based in Wellesley, Mass., said it bought $20 million in tax benefits from National Steel on equipment for processing steel and aluminum.

SCOTT PAPER

Scott Paper Co. said it received about $42 million in cash from the sale of tax benefits on equipment. The buyer wasn't disclosed. The company said proceeds will be used for plant modernization and expansion.

CLEVELAND ELECTRIC

Cleveland Electric Illuminating Co. said it received $23.2 million for tax credits and depreciation deductions on about $116 million of electric utility equipment. The benefits were bought by a unit of Standard Oil Co. (Indiana). Cleveland Electric said the transaction with Amoco Tax Leasing Corp. will improve its cash position by reducing its current need to borrow money at high interest rates and by deferring the need to raise long-term capital.

THERMO ELECTRON

Thermo Electron Corp. said it paid $13.8 million for tax benefits on equipment valued at $65 million. The Waltham, Mass., maker of process equipment and environmental monitoring instruments wouldn't identify the seller.

CONTINENTAL AIRLINES

Continental Airlines said it received $24 million on the sale of tax benefits on $94 million in assets to Metromedia Inc.

Los Angeles-based Continental said the benefits consist mainly of investment tax credits that it couldn't have used for several years because of recent losses.

UNITED CABLE

United Cable Television Corp., Englewood, Colo. said it sold tax benefits from $30 million of installed cable television networks to Consolidated Freightways Inc. for $5.8 million.

WATSCO

Watsco Inc., a Hialeah, Fla-based maker of cooling, heating and solar-energy parts, said it paid a unit of Pantry Pride Inc. $750,000 for tax benefits on assets valued at about $6 million.

GREAT AMERICAN

Great American Industries Inc. said it bought tax benefits on $25 million of equipment from Oxford Resources Corp., a unit of Trexar Corp. Great American, based in Binghamton, N.Y., didn't disclose the price.

PAN AM

Pan American World Airways said it sold for $47 million tax benefits on four Lockheed aircraft. Pan Am wouldn't identify the buyer.

The airline said the terms of the agreement called for the buyer to pay $15.6 million in cash. The $31.4 million balance will be invested by the buyer according to Pan Am's directions and paid over 18 years with the interest earned, a spokeswoman said.

[From the Wall Street Journal, Nov. 18, 1981]

METROMEDIA PURCHASES CREDITS, DEDUCTIONS ON $350 MILLION IN GEAR

Metromedia Inc. said it paid about $80 million for investment tax credits and depreciation deductions on about $350 million in equipment.

The company didn't identify the sellers but said they include several public and closely held concerns.

The purchase was made under the liberalized leasing provisions of the 1981 tax law that allow companies to sell unusable tax breaks to profitable concerns seeking to reduce their federal taxes. The broadcasting company previously reported a transaction with New York's Metromedia Transportation Authority, in which Metromedia bought buses and railroad cars to gain a $102 million tax break over the next five years. Metromedia agreed to pay $15.5 million and the MTA retained use of the equipment by leasing it back from Metromedia.

Metromedia's announcement follows a flurry of agreements reached before a deadline last Friday for taking advantage of a retroactive provision in the new law. The provision allowed companies to arrange sale-leaseback agreements on equipment purchase between Jan. 1 and Aug. 13, when the law took effect.

Among the companies announcing agreements yesterday were:

LTV

LTV Corp., Dallas, said its Jones & Laughlin Steel Inc. unit sold for about $33 million tax benefits of $100 million relating to steelmaking equipment. The buyer wasn't identified.

MOORE M'CORMACK

Moore McCormack Resources Inc., a Stamford, Conn., steamship operating and mine managing concern, sold its investment tax credits on a ship to an oil company for $19 million. Moore McCormack didn't disclose the buyer.

FOOTE, CONE & BELDING

Foote, Cone & Belding Communications Inc. said it bought about $10 million in tax benefits from three companies. The Chicago-based international communications and advertising concern wouldn't identify the sellers.

WORLDWIDE ENERGY

Worldwide Energy Corp. said it sold for about $700,000 tax benefits on $3 million of equipment under a sale-leaseback agreement. The Denver-based concern said that under proposed financial accounting standards, the sale will contribute about $300,000 to fourth quarter earnings. The buyer wasn't disclosed.

[From the Wall Street Journal, Nov. 19, 1981]

AMAX

Amax Inc. said it will receive about $23.5 million in cash from the sale of tax benefits related to about $85 million of equipment. The Greenwich, Conn., natural resources concern said it already has received $19.8 million cash under the first closing last Thursday, and the rest of the transaction will be completed next month.

Amax, which didn't identify the buyer, said it will use the proceeds to reduce borrowings and related interest costs.

DYNALECTRON

Dynalectron Corp. said it bought about $670,000 in tax credits, related to about $3.5 million in equipment, from three companies. The McLean, Va.-based technological services concern, said that the transactions were completed last Friday and that it will lease back the equipment over 10 years. The sellers weren't identified.

OHIO EDISON

Ohio Edison Co. said it sold tax benefits for about $36 million. The Akron-based utility said the first part of the transaction, for $29 million, was completed last week, and the second part is expected to be completed in December.●

TENTH ANNIVERSARY OF THE EQUAL RIGHTS AMENDMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. FASCELL. Mr. Speaker, part of the proud history of our country has been the repeated progress toward insuring freedom and liberty for all individuals. These efforts have not been made without opposition or without difficulty. It is indisputably arduous to overcome the habits of years and the prejudices of centuries.

However, our enduring respect for the rights and liberties of the individual has led us down a path where the barriers to these principles must be met and surmounted.

Our history is rich with examples—the abolition of slavery, the extension of the franchise to all citizens, and the protection of civil rights regardless of race, creed, or color—all of which have helped this Nation to rid itself of many of the manifestations of racism.

In 1971, I had the opportunity to cast a vote for a bill that I felt would continue this proud tradition and further our efforts to erase the inequalities under the law. This was a proposed amendment to the Constitution providing that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex—the equal rights amendment.

The reasons for favorable action on this proposed amendment were convincing in 1971 and they are even stronger today. Women are heading households and businesses, pursuing professions, and entering public service to a degree never envisioned by the Founding Fathers who lived in a period when women were not legally considered to be persons under common law.

On this 10th anniversary of the passage of the equal rights amendment by the Congress, I am still hopeful that this important measure will become a part of our Constitution, serving as an affirmative declaration of our continuing commitment to egalitarian principles and to the ideals of democracy.●

ONEONTA, N.Y., DAILY STAR, ON CONTINUING ENERGY CRISIS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. McHUGH. Mr. Speaker, the Daily Star, published in Oneonta, N.Y., with Bill Gates as editor, on March 11, 1982, carried an eloquent editorial on a matter that poses a grave danger to our Nation's security—our continuing reliance on foreign oil.

The editorial is a cogent reminder to us that we must not be lulled into a false sense of security just because people are not currently waiting in long gas lines. I commend this timely editorial to all my colleagues, and am pleased to include it in the RECORD.

ENERGY CRISIS ISN'T OVER YET

Let's not be lulled into false security over recent stories that gasoline prices will decline in the coming months, perhaps to the $1-a-gallon level.

The energy crisis is not over. There is reason for optimism but it wouldn't take much to have us all back in the gasoline lines of 1973-4 and 1979.

Americans have cut consumption by three million barrels a day but we still consume 16 million barrels of oil a day. We have cut oil imports by about a third since 1979 but we still import four million barrels per day, and that is more than we imported at the start of the 1973 oil embargo.

We gloat as OPEC members scramble to deal with the oil glut. However, industrialized nations remain uncomfortably vulnerable to events in the Mideast, one of the most volatile parts of the world.

Despite a slow start, Americans have done a good job conserving energy. We've switched to fuel-efficient cars, insulated our homes, and explored energy alternatives (most notably wood in our region). The danger is a price decline may take the edge off conservation efforts, allowing us to fall back into consumption patterns that increase our oil vulnerability.

We need also to continue stockpiling oil to protect us against the kinds of disruptions that occurred in 1973 and 1979 but we've got problems on that front too. Stockpiling by oil companies saved us from more serious trouble when the Iran-Iraq war cut the flow of oil. Since then the companies have allowed stocks to be reduced. Meanwhile, the federal stockpiling program has been slow in starting and haphazard in execution. Some oil experts now believe our total petroleum reserves are below a prudent level at the very time we should be capitalizing on the glut.

Finally, its important to remember that the worldwide recession has contributed to the surplus of oil and softening of prices. When the United States and Western European nations recover economically, there will be a surge in demand for energy.

No, the energy crisis is not over. We're just in a break between battles. If we let our vigil down, we still could lose it all.●

A LITTLE BOY CAN LIVE A FULL LIFE BECAUSE OF A COMPUTER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. GINGRICH. Mr. Speaker, an 11-year-old boy in Carrollton, Ga. is now able to communicate through a small computer and will face a more hopeful life because of it.

James Hearn has cerebral palsy, keeping him from speaking naturally. He will have cerebral palsy all his life, but he won't have to live his whole life without communicating now that he's got his small computer.

But the kind of computers that can make little boys like James look forward to a productive life can be expensive. I want to share with you and my colleagues James' story as it was told in my hometown newspaper, the Carrollton Times-Georgian.

The article follows:

Special Speaking Machine Almost Within Handicapped Boy's Reach

(By Stephanie Lee)

"My name is James Hearn. I am 11 years old."

Saying simple sentences like these wasn't possible for James Hearn two months ago, but today he is overcoming his cerebral palsy handicap by speaking through a calculator.

James, the son of the Rev. and Mrs. James Hearn of Temple, is a student at Central Middle School, and with the help of modern technology and concerned speech pathologists he has received the gift of speech.

The computer is called a "HandiVoice" and by punching in specific numbers, the portable computer will say what James would like to say.

For example, the computer has the numbers 0-9 on it, similar to a calculator, and several commands. James can punch in "415" which is the number code for the phrase, "I want," and then "316" for "ice cream." He hits the "Talk" command and a deep voice from the computer says "I want ice cream."

Speech therapist Debbie Williams explained that James has had cerebral palsy from birth, and has very little speech. The handicap is only a physical one, however. "James is a normal, intelligent student who learns the same as other students his age. He is just physically handicapped," Williams said Friday.

Working the computer takes a good memory, and in one month, James has learned about 150 numbered commands.

The computer has codes for 16 common phrases, 888 words, the 26 letters of the alphabet, 45 phonemes—speech sounds for creating words, and 13 morphemes—word prefixes or suffices. All selections must be called out by a three-digit code that appears on a screen. The calculator has a memory and can repeat a command.

To say "My name is James Hearn," it takes several codes. "My name is" takes one number code. "James" however takes six codes because it must be said phonetically by voicing a sound for each letter in the name. Then "Hearn" is formed by using a code for the word "her" and a code for the sound of "n."

Together with his teacher at Central Primary, Cathy Gambrell, James has learned to say many things he has always wanted to say, but couldn't. For example, James can now tell his three-year-old brother, "Please leave me alone."

Gambrell and Central speech pathologist Debbie Still have taught James the codes for "I need help," so he can call from one room to another by turning up the volume when he is at home, and "Fire" so he can use the telephone in an emergency.

Before getting the HandiVoice, he had to use a spelling board and a communication board with words written on it. He would point to the words to communicate, but there was no sound.

The calculator will mean a lot to James both in school, socially and in case of an emergency.

However, the HandiVoice costs between $3,000 and $3,500. The HandiVoice has been rented for the past month to see if James is able to use it. Since James has learned so quickly with it, Still is trying to raise the money to buy it for him. Contributions can be made by calling her at Central Primary, 832-6466. The Temple Lions Club is also assisting in the fundraising effort.

The HandiVoice is a new machine, and is gaining popularity throughout the country as an excellent communications tool for people who have cerebral palsy, or who can't speak because of a stroke, paralysis or any other reason.

Williams said James has the only one in Carroll County, although adults are using them in Douglasville and Newnan.●

ECONOMICS OF UNEMPLOYMENT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. FORD of Michigan. Mr. Speaker, last year Ronald Reagan and the Republican Party made a deliberate decision to throw millions of Americans out of work. They decided to fight inflation in the traditional Republican way, by adopting policies that would increase unemployment, thereby reducing consumer demand and eventually leading—after much hardship for the most vulnerable Americans—to somewhat lower price increases.

Well, Mr. Reagan has had his way. There are now over 16 million Americans unemployed or partially unemployed.

Mr. Reagan and David Stockman knew—and Congress was told by a number of well-known economists and forecasting firms—that the so-called economic recovery program would, in fact, cause the layoff of almost 2 million people in less than 2 years. By wiping out CETA jobs, reducing Federal employment, cutting back other sources of public employment such as Amtrak and Conrail, and eliminating economic development programs, the Republican budget was guaranteed to leave hundreds of thousands of families without gainful employment.

And now, after less than 15 months in his Presidency, Mr. Reagan can proudly say that his program is right on track: There are 1,800,000 more Americans unemployed today than there were in July of last year when Congress adopted the Reagan budget.

This Congress must come to its senses and abandon the Republican economics of unemployment. We are not on the road to recovery. We are on the road to ruin.●

TRIBUTE TO ALLARD LOWENSTEIN AT ARLINGTON CEMETERY

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. WALGREN. Mr. Speaker, on the weekend of March 12 through March 14 a remarkable symposium took place at the Capitol where over 200 people from across the Nation gathered to remember Allard Lowenstein and discuss the responsibility we face as citizens and as a Nation.

Almost like "point-counterpoint," Al's life represented a fulfilling response to the inspiration and call to values we associate with Robert and John Kennedy. In his life, he demonstrated the truth that:

> If a single man plant himself on his convictions, and there abide, the world will come round to him.

On Sunday, at a graveside gathering, Douglass Hunt, assistant to the chancellor of the University of North Carolina, gave the following remarks on the principles and concerns which both guided Allard and must move our Nation if mankind is to be well served.

> With what we have heard and seen this weekend—and especially that moving film—I should like to revive an old-fashioned form of public address:

Fellow Citizens: We family and friends of Allard Lowenstein are met on this long slope in the low green hills of Arlington on this day in late Winter because we are forever bound together by Al and marked by the wrenching shock of this day just two years ago. We have come because, in our loss, we must—but more, because we thus assure each other that it is the lot of humankind to suffer loss, to be left behind by those we love, and still to have the world's work to do until the day when, if we have lived well, our deaths become the occasion for loss to those who live after us. We have met here also because, in the cycle of life, Spring will follow this Winter, too. We have come because we must take up the tasks that the burgeoning season demands.

We cannot yet make an end to sadness. Perhaps, we never shall. In this beautiful place, marked with the symbols of violence in our national history—every cross and star and monument a memory of human suffering and a life lost (but symbol also of our people's bravery and our Nation's honor), every marker a symbol of sacrifice by those lost to us who have bestowed the bounty of their lives upon us—in this place honest grief is appropriate, and with it, in response, all the nobility of which, at our best, we are capable.

Since Friday evening, when we gathered on Capitol Hill, we have joined in a series of discussions and talked with each other in a multitude of encounters. Our time together was like what Al would have planned—his topics, his deep concerns, preoccupied us as the late twentieth century world rushes at us, not waiting, whether or not we are ready to cope.

The call to this Symposium reminded us that we were coming "together to discuss future directions". As a result, we who knew Al are about to try to change the legacy of an individual into an institution.

Why should we try to do that with a man who, among all those most of us have known, was least charmed by institutions and most ready to combat them when right needed doing?

In the long reach of history will he not be overshadowed by the accounts of other heroes? Whatever the promise we saw in him, he cannot earn the space in the historical accounts or displace the weight in our national life that a Lincoln or a Jefferson or a Franklin Roosevelt can. That is part of the pain of being here, for we know his chance to join them was torn from him. But we are here because he set a standard for political life by the way he lived it that we know few to match. Yet we also know that our national government and our life as a Nation would be better if that standard were kept to the forefront and if those who aspired to it were chosen for office. We are unwilling to lose what he stood for. Without him, then, our only other choice is a suitable institution.

The goal of such an institution is to keep alive—to keep itself lively and thus to keep alive—the standard which he gave us. Because Al's chance was torn from him in the moment he was torn from us, because he uniquely represented a good we must not lose, we must understand him now as progenitor of others who will see the tired world's wounds as he would have seen them and work to bind them up as they work also to build a better world in which humankind learns to avoid gratuitous wounds.

The danger of such an institution is that it may look for guidance too narrowly to particular programs and actions and miss the underlying springs of action that are the surer guide. To guard against that danger what will be needed is what our forefathers might have called a "frequent recurrence to fundamental principles".

The subjects on which Al called for action, though probably not often the particular actions he would have taken when he was in the Congress a decade ago, are subjects for action still. Tax reform, for instance, would start from a very different position in 1982 from that at which it would have begun in 1969. But the electoral and legislative processes need work. And so do the problems of hunger and malnutrition, environmental pollution, adequate housing, the tasks of building good neighborly relationships with other nations and of moving forward on the task of building world order. All of these and more that he ticked off in a speech on the floor of the House in March, 1969, need thoughtful attention now. But none of us who knew Al would suppose that he had not developed further his thinking on all these topics, or that he would not have been at work on new ways of dealing with them, or that he would not have added many a new subject by now.

We remember, too, much about the qualities of personality and motivation that impelled him. Eleanor Roosevelt wrote of him: "I think he will always fight crusades because injustice fills him with a sense of rebellion. He wants to be of help in some way. . . ." He himself said: "Now lawfulness and patience are fine qualities, but they are not the only fine qualities. Indignation at unfairness and determination to make things better are fine qualities as well." We can glean some things he valued from his tribute to Frank Graham as a man "always so far ahead of his time and always so much a part of it; always transcending the ordinary limits of geography and custom to adventure on toward new horizons and new opportunities for all his fellow men." And Al said a lot about himself when he wrote of his late department chairman at North Carolina State University that he ". . . was the ecumenical American, diverse and compassionate, at home in the libraries, the living rooms, and the out of doors of New England, the Middle West, and the South. He was a dedicated man but free of the little meannesses that mar so many dedicated men, and, perhaps even more remarkable, a complex and profoundly literate man incapable of guile. He bridged generations as he bridged races and regions. He pioneered in education and stood for high principle in trying circumstances, and he managed to live serene through the storms that pioneers and men of principle must weather. He loved his fellow men, his country, his profession, and his university; and he did more for each than most of us could have done for any."

It is, alas, probably unlikely that our new institution could identify and support the qualities of personality and the values these words set out. Nor could it find us, necessarily, a lover of Gilbert and Sullivan (what would Al have said of the demise of the D'Oyly Carte?), a transporter of aged newspapers, a diner on popsicles and hot dogs, an effervescent cheerful wit, an earnest and thunderous pianist, a wrestler, an engaging companion, and all the unmentioned rest that we miss.

What an institution can do is to espouse his principles and give them forward impetus by the persons and programs it supports. The task would be made easier if he had articulated his principles in a systematic way. It was no matter of principle with him not to do this, but most of the record we have of him is of his utterances tailored to occasions and events. Even "Brutal Mandate," his book, is in that category. Still, we can cull his principles from these occasional utterances. When he prepared his statement, "1776: The Challenge to 1969", I wonder whether he had in mind the words of Woodrow Wilson's first Inaugural address:

"We have made up our minds to square every process of our national life again with the standards we so proudly set up at the beginning and have always carried in our hearts."

For Al wrote:

". . . [W]e face a question as critical to our future as any in our history: the question of whether the promises of the Constitution, the rhetoric of our heritage, can finally be squared with the realities of American life for all our people."

And he wrote in that statement of the need "to forge a society with liberty and justice for all." Further, in July, 1970, he inserted in the Congressional Record a statement that: "We must make democracy work for our people and strengthen the Constitution, not gut it."

In the summer of 1969 he took a stand on America's "Dilemma" (to use Gunnar Myrdal's word) that stands the test of time:

". . . [T]he fact is that the United States has reached a critical turn in its handling of what we have come to call the race question. We must move toward one society now, firmly, clearly, quickly, honestly; or the drift toward two societies will accelerate. . . . [W]e must integrate or we shall surely disintegrate."

We can easily know what he thought of the importance of civil liberties from such comments as that he made on a preventive detention provision of a proposed District of Columbia Criminal Code revision:

". . . [T]he totality of the bill reeks of the strange notion that the best way to promote individual security is to undercut or evade those constitutional guarantees that have done so much to protect individual security during the history of the Republic—as if somehow the average citizen will be safer if violations of his person by criminals are balanced by invasions of his privacy by officials."

And we can know more from his part in a discussion of violence in society in the House in June, 1970, when he said:

"Fairness means not merely fairness to those accused of a crime, but fairness to those not accused of a crime, fairness to them in their quarters, fairness to them in their political activities—fairness, in short, to everyone under the Constitution, whether we like them or not, whether we agree with them or not. Fairness does not, of course, mean tolerating violence or other violations of the Constitution by Panthers or anyone else.

"[O]pposition to disruption and violence has to be across the board. When the disruption and violence occur on the part of those charged with upholding the law, it is a very much more serious offense, because if the people who are supposed to uphold the law in fact become agents violating it, then who shall uphold the law?"

I do not mean to exhaust the list but, rather, to suggest where to look and what to look for.

Al came to school at Chapel Hill thirty-seven years ago, a sixteen-year-old lad of extraordinary intelligence and perception. Six weeks later, at Hiroshima, the United States dropped the first atomic bomb in combat. Al belonged, therefore, to that generation that crossed the historic watershed into the nuclear age, and he understood the optimism that preceded it and the pervasive sense of dread that followed its coming. In the full light of that knowledge, haunted by the legacy of America's 1860's, seared by the tragic violence of America's 1960's, he, nevertheless, could tell the graduates of Oceanside High in 1970, in Tennyson's words:

"'Come my friends, 'tis not too late to seek a newer world.'"

And later that year he could exhibit the full depth of his understanding in his address at Harvard, when he said:

"Hate multiplies hate, adding deeper darkness to a night already devoid of stars. Darkness cannot drive out darkness, only light can do that. Hate cannot drive out hate, only love can do that."

And, using Robert Kennedy's words he summed up what was surely his ultimate vision:

"'[L]et us dedicate ourselves to what the Greeks wrote so many years ago: to tame the savageness of man and to make gentle the life of this world.'"

A Scottish writer has called existence an experiment whose issue remains in doubt. We cannot gainsay him, and Al did not. But Al, like Abraham Lincoln, believed that men could act in accordance with the "better angels of our nature." And, like Woodrow Wilson, he wagered his existence upon the conviction that.

"The shadows that now lie dark upon our path will soon be dispelled and we shall walk with the light all about us if we be but true to ourselves—to ourselves as we have wished to be known in the counsels of the world and in the thought of all who love liberty and justice and the right exalted."●

THE PERSONAL SIDE OF GSL CUTS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. GARCIA. Mr. Speaker, today I am introducing for the record a letter from a student in my district expressing the personal effects of cuts in the graduate student loan program. Too often, we as representatives of the people fail to understand the personal significance of the decisions we make regarding cuts in social programs.

Here, elegantly expressed by Cristino Orengo, Jr., a student from the South Bronx, are the questions and concerns many of my colleagues never hear or address themselves to. I urge my colleagues to read the following letter and consider the personal consequences students all over this country face as a result of further reducing educational programs.

Bronx, N.Y., February 1, 1982.

Hon. ROBERT GARCIA,

House Office Building, Washington, D.C.

DEAR MR. GARCIA: I am writing this letter to your offices in response to the New York Times article on Sunday, January 31 of this year in which it outlines President Reagan's proposal to discontinue financing of the Graduate Student Loan Program as part of his budget cutting proposals for the next fiscal year.

Having lived in the South Bronx for the better part of eighteen years I have become impervious to many of the fears endemic to this region yet upon reading of this proposal I am truly afraid. I am afraid because I am one of the fortunate few who was accepted to law school, one step in my aspirations to become an attorney. To understand my fear you must also understand the responsibility I bear in being a source of pride for parents who have a son who as a recent Oberlin College graduate, is the first college graduate in their respective families and is now an accepted member of Boston University's School of Law. This represents a spectacular achievement for people who never went beyond the fourth grade in Puerto Rico. My parents do not understand budget cutting proposals or supply side econometrics but they do understand that if I do not get sufficient financial assistance such as a GSL loan I will not be able to attend law school, a situation they will only perceive to be a failure on their parts for not being able to provide the funds themselves. Mr. Garcia, how do I explain to my parents that it is not their fault that I cannot attend law school if this proposal goes through the House? Mr. Garcia, tell me how to explain to my parents that I intend to study the mechanisms of serving justice when the Executive branch of our government will effectively deny that very same justice to thousands of law, medical, and business students by cutting their main source of financial aid? And finally Mr. Garcia, will you tell me how I can tell my parents that this country's graduate schools are not the exclusive bastions of the very rich, and not for the likes of us, when even I will not believe it if this legislation is passed?

I appeal to you Mr. Garcia on behalf of myself and the many other student constituents of your District to vote against this proposal as well as rally your influential support on our behalf.

Thanking you in advance, I remain,

Sincerely yours,

CRISTINO ORENGO, Jr.●

STUDENT FINANCIAL AID—A NATIONAL PRIORITY

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. RATCHFORD. Mr. Speaker, a recent editorial in the Cheshire Herald provided a clear, convincing case against the cuts in student financial assistance proposed by the current administration. Many of us in this Chamber share the point of view put forth by this Connecticut newspaper, and I sincerely hope its message is not lost on us as we continue our deliberations over the fiscal year 1983 budget.

Since educational improvement was declared a national priority over 20 years ago, the goal of providing educational opportunities to men and women based on their ability to perform rather than their ability to pay has been held in high esteem. Now we see this goal being jeopardized, Mr. Speaker, and the hopes of literally millions of middle and lower income families are being dashed by proposals to cut the student aid budget. I hope my colleagues will heed the words of the Cheshire Herald, which follow:

[From the Cheshire Herald, Mar. 11, 1982]

LOAN CUTBACKS ARE ILL-ADVISED

Probably the least popular proposed reductions in the federal budget by the current administration in Washington are the cutbacks in the guaranteed student loan program. The proposals are unpopular for a number of reasons, not the least of these being the lack of a basic sense of fairness in what is being proposed. As if keeping strictly to the book in pursuing its questionable plot of robbing the poor to provide for the rich, the current administration in Washington proposes to make higher education accessible only to the wealthiest despite the public outcry and evidence that the deserving and the able, the best and the brightest of this nation's youth, will be effectively shut out of the chance to go to college when the need for trained skills in today's world are greater than ever.

At best, the proposal to reduce availability of guaranteed student loans for undergraduates while eliminating them entirely for graduate students—in medical schools, law schools, professional schools—is a doubtful attempt to reduce spending at a time when as staunch a supporter of President Reagan as Illinois Governor James Thompson is decrying the massive increases in defense spending ($30 billion additional proposed over the current year) and is asking for more attention to problems "down home."

In a report published this week, Gov. Thompson suggested that three or four percent of the huge buildup of arms be used instead for domestic problems. He questioned the need to "defend" at all costs when a greater threat to stability might be growing internally. He appropriately cited the economic self-defense practices of some of our nation's allies, which, after our assistance in establishing a sound economic base, continued to compete to the point where longstanding American industries may have become permanently disabled. Gov. Thompson says, "Our 'down home defenses,' our internal defenses against unequal economic opportunity, must not be ignored in calculations of total 'defense' spending. For some of our citizens, it is not a question of 'guns and butter' but a question of 'guns and bread'."

Surely the proposed decline of higher education cannot contribute to the improvement of the internal national defense, nor can it improve military capability. A nation that prides itself, and more importantly, depends upon its institutions of higher education is faced with the prospect of returning—at least in spirit—to a bygone era when only the very rich attended private colleges and universities, whether or not they were able students. It has been estimated that at Columbia University alone, half of the students in graduate and professional schools will have to leave if federal loans are eliminated. The outlook is grim.

It is particularly grim for a society that needs its best and its brightest enrolled in medical and other professional schools. It is grim for those undergraduate students who find themselves unable to obtain loans for the first four years under the proposed guidelines. The shift from private schools to public schools for those at the upper end of the spectrum will make overcrowded conditions even worse. And those students planning to attend public schools will have to compete more intensely than before. Toward what end has this purposeful crowding and possible destruction of some of the finest institutions the nation has built been aimed? The answers are not at all clear.

What is clear is that the proposed cutbacks and eliminations in the federal student loan programs are ill-advised. No less than the future of a free, mobile—and for a long time now—fair society is at stake.●

PENNSYLVANIA GIRL SCOUT RECEIVES GOLD AWARD

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. NELLIGAN. Mr. Speaker, it is my pleasure today to recognize the outstanding accomplishments of Miss Donna Louise Walck of Drums, Pa. Donna is the recipient of the coveted Girl Scout Gold Award.

The Gold Award is the highest achievement in Girl Scouting. It symbolizes outstanding attainment in such areas as leadership and community service. The award is granted only after a 1- or 2-year program of endeavor.

Donna is a member of Senior Troop No. 268 of the Penn's Woods Girl Scout Council in Hazleton, Pa. Mrs. Joan M. Baran is the troop's adviser. Donna is a student at Hazleton High School where, besides her active participation in drama, she has demonstrated an abiding interest in foreign language study.

Donna is the daughter of Mr. and Mrs. George C. Walck of Drums, Pa. I join with members of her family, friends, and citizens of the community in congratulating Donna on her outstanding achievement and in wishing her equal success in her future endeavors.●

MR. CARL MOORE RETIRES

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. JONES of Tennessee. Mr. Speaker, I rise today to make note of the retirement of a Mr. Carl Moore of Memphis, Tenn., a man who has been very intimately involved in the United Auto Workers Union for most of his life. Mr. Moore came to Memphis, Tenn., in 1953 as a UAW employee for what was supposed to be a short stint. Now, almost 30 years later, he is retiring.

Mr. Moore is a close personal friend and one who has been actively involved in working for the betterment of his union but also on behalf of all working people of this country. His presence at the UAW will be sorely missed. However, I am glad to hear that he has decided to spend his retirement in Memphis so that there will be an opportunity to call upon his experience and judgment when it is needed.

I would like to take this opportunity to insert into the Record a story that recently appeared in the Memphis Commercial Appeal newspaper which reviews Mr. Moore's many years of contributions to the UAW and his community:

UAW's Moore Winds Up Long and Active Career

(By Carolyn Gause)

Carl T. Moore of Memphis has decided to end his labor career after 35 years ("and one month") of service with the United Auto Workers Union.

Moore, former Memphis area UAW director, headed the seniority list of the international union's staff before his retirement two weeks ago.

The 65-year-old union man, son of an Iowa coal miner, came to Memphis in 1953 to work with UAW Local 988 which represent most of the workers at IH's Memphis plant.

"I was only supposed to be here no more than a year," Moore said with a smile, almost 30 years later.

He said he retired because he was tired and wanted to keep another staffer from being laid off. Gene Keenum, 50, has been named to replace Moore, while William 'Gino' Marchetti of South Carolina will replace Keenum as international representative.

Moore said his position as UAW director here was as high as he wanted to go. "I never desired to move up because I liked to be where the action was," he said.

And action is what he found.

Moore remembers a Mississippi sheriff holding a gun on him in Kosciusko in 1949 when the UAW was trying to gain representation at Superior Coach. The union organizer was told to get out of the state. "I made a new road down through there," Moore said with a chuckle.

He also recalls problems during an organizing effort at IH's Louisville, Ky., foundry, when a pistol was pulled on him and he was rescued by a man with a knife.

"If you were an organizer back in them days," Moore said, "you might get your butt whipped.

"But you had to go back. Basically you had to tell them to go to hell."

Probably an even more dramatic moment came in "1949 or 1950" in Charles City, Iowa. "We went up there to try to win the (Oliver farm equipment) plant," Moore explained.

After the election ("We got beat"), Moore went through three roadblocks set up by antiunion persons. He drove to the police station only to leave after deciding he was not safe there.

So he headed to the hotel to be with other union workers. There, the antiunion individuals would not let them out. "Pat Greathouse, (then) Region 4 director, finally called the governor of Iowa. So the governor sent the highway patrol to escort us out of the state."

Interestingly enough, Moore says his early experience in Memphis probably stacks up as his worst, mostly because of threats on his family. Moore and the former Mardell Richardson of Bowling Green, Ky., have two children.

It was right after high school that Moore went to work at a coal mine in his family town of Plano, Iowa. "I went down (in the mine) one day and left the next.

"I just knew it (a life as a miner) wasn't for me."

Moore headed for Davenport, Iowa, where he got a construction job making 30 cents an hour.

He left that job after more than a year and joined IH at its Rock Island, Ill., plant in 1937 where he joined his first union.

Moore was a member of a company union, the United Motors Power Association. It took only a brief while for him to realize that he did not belong with that group. So he switched his allegiance to the Steel Workers Organizing Committee, one of several unions that he was involved with before the UAW evolved.

In 1942 he joined the Army, returning to IH in January, 1946. A few months later, he went to IH's Evansville, Ind., plant, where refrigerators and milk coolers were made.

One year later, Moore left his $75-a-week plant job to become a UAW international representative at $80 a week. Moore helped organize the UAW's agricultural implement department.

With his retirement, Moore plans to become more involved with Democratic politics. He is in his third term on the Shelby County Election Commission. On the leisure side, he plans to "get a boat and go fishing."

Meanwhile, Moore expects UAW labor leaders will have to "modify our contracts to fit the economy because we're down about 250,000 members."

He said unions here are going to sponsor membership drives. "Everybody's lost membership here. You'd be surprised how many plants have closed."●

THE NEW FEDERALISM AND BUSINESS: CAVEAT EMPTOR

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. LONG of Louisiana. Mr. Speaker, the New Federalism is getting mixed reviews. Some State and local governments appreciate the increased responsibility but do not like the prospect of diminished resources, especially if they already have budget deficits.

Some of the effects of the New Federalism are not immediately apparent. The ripple effects could be considerable, as the respected economic and political analyst John Evan Bremner points out in his February 26, 1982, newsletter.

Business, for example, is to be the beneficiary of many of the administration's programs. But some drawbacks business may face under the New Federalism are: First, the prospect of major new business taxes imposed by cities and States to make up for lost

Federal revenues; second, the possibility that State and local governments may regulate business even more stringently than the Federal Government did; and third, the need for companies to expend more money and effort to include State and local governments, as well as Washington, D.C., in their public affairs and lobbying efforts.

I commend Mr. Bremner's sober assessment of some of the pitfalls for business under the New Federalism.

The newsletter follows:

THE NEW FEDERALISM—NOT A PROGRAM BUT A FACT

DEAR READER: Double Issue for February.

The President recently proposed the most comprehensive restructuring of government in several generations. Its resolution matters greatly to states and cities, but not much to business.

The need for the private sector to face in multiple directions at once is already at hand—without benefit of any legislation at all. States, counties and cities present two serious problems for business even as things stand now. They are going broke, and they are also beginning to regulate with a vengeance.

All but 4 of the largest 29 cities project deficits this year; most nearly had them last. A smaller but significant number of states are in the same position. Federal gifts to states have been declining since 1976, and state revenues themselves have fallen since 1978. State aid to cities has been shrinking since 1974.

But state and local needs—even excluding their share of health and income maintenance programs—continue to increase. Inflation has beggared public units purchasing goods and services. Worse, their physical infrastructure has been decaying for nearly fifteen years. It now requires massive renewal nearly everywhere.

Over $100 billion is needed to maintain the water systems of some 700 cities within the decade. Most state roads and 20% of existing bridges require repair or replacement by 1990 at a cost of more than $50 billion. Waste treatment, school buildings, and transit systems also require enormous sums hardly calculable with precision.

The task resembles in scope America's proposed military rearmament. But investment in the problem by government at all levels has been declining for some time—by more than 20% on the federal level since 1965.

Existing revenue sources at state and local levels are inadequate to meet the need, and are increasingly restricted by the public. Property taxes have been widely reduced in response to vigorous citizen protest. State income taxes are under similar pressure, and excise taxes yield amounts ludicrously below the rate of inflation.

Washington's proposed program rearrangement is supposed to save only between 10% and 25% for state and local government. User fees will not produce enough money, and severance taxes are available only to a few. Even the lucky states in the sunbelt cannot avoid revenue shortfall. Rapid development has created major service demands by those arriving in industry's wake.

Thus major new business taxes are in prospect. The first target is the so-called deep pocket, the oil industry. It cannot easily pack up and leave a state. There is greater reluctance to tax other business for fear of scaring it away and so destroying employment and the existing tax base.

But this is not likely to continue for long. Money is in too short supply to sustain such restraint, and no state will be alone in reaching for a share of corporate earnings.

We have reached the point where U.S. society has simply become impoverished—not in a general but in a quite specific sense. Physical and social needs have outrun our capacity to pay for them. The definition of relative national poverty: a mismatch between the politically unavoidable and the potentially taxable.

Cutting government spending cannot resolve the dilemma; most of the needs in question are politically—in some cases practically—almost impossible to deny. For the imperative to spend comes not primarily from the minority who are poor, but from the great majority who are middle class.

Their desire for services from schools to transit to pensions to nursing homes are the true undeniables government must face—not welfare or food stamps. There are also, now, the bridges, roads and sewer systems that must be replaced. Even an economic recovery will not cover all these costs.

Money is just the first problem business faces at the local level. Regulation is the other and perhaps more serious concern. The states now issue far more rules and regulations than the federal executive approaches in a single year—over 20,000 in 1980. And fully 32 states have created miniature EPA's within the last decade alone.

The prime impulse behind this activity has been the enduring liberal spirit of the risk free society which even inflation and conservative instincts have not killed. Everyone wants toxic and nuclear waste stored elsewhere. When the federal government will not hold people harmless from a variety of misfortunes, they want the city or state to do so.

As state and local governments become more active, business must broaden its focus to include them. Concentration primarily on Washington is no longer safe. Public affairs departments are the tool, but are presently inadequate to the task.

It will soon be insufficient to merely purchase legislative tracking services to follow state developments, or hire a local lobbyist. Even placing corporate representatives in a few states where company exposure is great will not suffice.

Almost no company has placed enough professionals in enough states to produce the close contacts and high grade political intelligence essential to significantly address the rising tide of activity which will affect it deeply.

The need to gear up to deal with multiple concerns in a variety of geographical locations presents an acute dilemma for hard pressed chief executives. At a time when they wish to reduce staff, a changing political environment calls for expansion instead—and in the softest and generally least popular department of the company.

The worst of the challenge is the nature of the local political environment. We may worship responsiveness, but it has its unfortunate side. Local politicians, particularly in the legislature, are enslaved by the instinct of the aroused middle class taxpayer not to spend his or her money.

But these public officials cannot hide the costs of the programs the taxpayer simultaneously demands. There is no huge and distant budget—and deficit—in which to bury the costs. There will be increasingly little choice but to make business pay.

To be sure, if cities and states could continue to borrow heavily in the bond market their problems might be partly alleviated. But a combination of inflation and high interest rates, a cut in the tax rate on investment income and the rise of the universal IRA have seriously eroded the attractiveness of the tax free instrument.

The bond market may revive, but its role as a bountiful and cheap source of local government finance is probably over. The structure of capital markets is changing fundamentally. Its most prominent effects may not be on the home owner or businessman, but on city and state governments.

So Ronald Reagan's new federalism proposal was timely; it raised an important subject. But it diverts us from the true nature of the immediate problem. Federal programs may or may not ultimately shift to the states; the problems already have.

Sincerely,

JOHN EVAN BREMNER.●

KIM DAE-JUNG'S SENTENCE REDUCED

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. LEACH of Iowa. Mr. Speaker, over the past several decades, the United States and the Republic of Korea have established strong government-to-government ties based on mutual strategic, political and economic interests. The people of our two nations have also cultivated during this period strong bonds of friendship and respect. In that context, it is unfortunate that our relationship with Korea has at times been seriously threatened by events in that country which suggest a wavering commitment to democratic values.

Recent domestic political developments in South Korea under Chun Doo-hwan's leadership appeared bent on the virtual elimination of his most significant democratic opposition. However, that ominous trend shows tentative signs of reversing itself in light of the news, on the occasion of the anniversary of President Chun's inauguration, that the Korean Government has reduced the life sentence of prominent opposition leader, Kim Dae-jung, to 20 years and has released or reduced the sentences of certain others of his codefendants.

Such signs of leniency on the part of the Korean Government appear to suggest a cautious but hopefully genuine interest in moving toward a more open, democratic system of government in Korea and holds forth the promise—in the near future we hope—of the full release of Kim Dae-jung and his colleagues who remain incarcerated. Such an action would be welcomed by the people of the United States and would serve to strengthen official and unofficial United States-Korean ties.●

SUPPORT FOR AFGHANISTAN

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. FASCELL. Mr. Speaker, March 21 was Afghanistan Day. It is so by joint resolution of both Houses of Congress, legislation I joined in sponsoring. It is also so by resolution of the European Parliament. We must now follow through to do what we can to make it Afghanistan Day throughout the world, not just on March 21 but every day that the inexcusable and unacceptable Soviet occupation of that country continues.

The facts, Mr. Speaker, at this point reveal a record of over 4 years of Soviet intervention, manipulation, aggression, looting, killing, torture, and other gross violations of human rights. It is the more remarkable because the Soviet invasion of Afghanistan—and that is what it was, invasion pure and simple—was the first time Soviet forces invaded an independent country which was not a member of the Warsaw Pact.

What made it even worse was that Afghanistan had been following a policy of nonalinement—not that brand of so-called nonalinement which masks slavish adherence to Soviet foreign policy, but real nonalinement which should have been no less acceptable to the Soviet Union than to us, and which should have been respected as the legitimate choice of a sovereign nation.

The lesson—that nonalinement is not sure protection against Soviet aggression—should not be lost on anyone. And surely one of the purposes of proclaiming Afghanistan Day should be to keep the people of the world reminded of the shocking facts of the inexcusable Soviet action there.

The Afghan people have certainly made their position clear. Despite the disruptions and hardships that exile inevitably brings, some 3 million Afghanis voted with their feet and fled their homeland. This was almost 20 percent of the entire population of the country, and it is today the largest group of refugees in the world.

Their situation is lamentable, just as their determination not to live under the Soviet yoke is both understandable and admirable. These refugees are paying a high price for freedom, and they fully deserve the solidarity and assistance we are extending to them.

We must reserve a special measure of admiration for those Afghan people who made an even more courageous decision: to stay at home and fight the Soviet invader against huge numerical and technological odds. It is a struggle as uneven as it is heroic, and here again the Afghan people are paying a high, a terrible price. Not only combatants but innocent civilians as well have lost their lives, often to callous, cruel, ruthless military tactics pursued by the Soviets.

The people of the world have not been indifferent to these facts. Successive General Assemblies of the United Nations have passed resolutions by large majorities calling for withdrawal of the foreign forces, restoration of Afghanistan's nonalinement, respect for that country's right to self-determination, and return of the refugees with honor. The 43-member Islamic Conference has passed similar resolutions on four separate occasions. India and other countries of the region have called on the Soviet Union to withdraw its troops, and the 99 members of the nonalined movement have made a similar plea.

These resolutions and appeals have evidently failed to move the Soviets. We must acknowledge that our own resolutions may have no greater success. But however dim the prospects, we must not fail to honor our principles, just as we must honor also the Afghan people, whose brave and unyielding refusal to accept foreign domination deserves our admiration and our support.

By recognizing Afghanistan Day, and by taking this and other occassions to spread the message throughout the world, we can help to make sure that it is heard by people everywhere and especially by the Afghan people and by the Soviet Government. That message must be that we are with the Afghan people in their heroic effort to restore freedom to their homeland, that the Soviet occupation is flatly unacceptable, and that as long as it continues it will draw our unswerving and unremitting condemnation.●

FARM INCOME IS DOWN

HON. BOB SHAMANSKY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. SHAMANSKY. Mr. Speaker, the agricultural sector of America is currently in a depression. Net farm income is down for the fifth year in a row. In 1981 the index of prices received by farmers did not rise for a full 12 months—this has not happened since 1933. Agricultural parity is at 56 percent, the lowest since 1933. Initial projections by the U.S. Department of Agriculture for 1982 indicate that net farm income may drop an estimated $4.4 billion to $14.5 billion this year.

The economic emergency loan program was established to help farmers cope with just such a situation. Created by the Emergency Agricultural Adjustment Act of 1978, the economic emergency aid program provides temporary credit assistance to farmers unable to obtain sufficient credit from normal credit sources.

With the Agriculture and Food Act of 1981, Congress extended the economic emergency loan program through September 1982. The bill did not provide additional funding, but simply extends the authority to make emergency loans to a limit of $600 million.

Although funds are currently available for economic emergency loans, the Secretary of Agriculture has not released them. Meanwhile, small family farmers, implement dealers, bankers, and small businessmen are facing financial pressure and ruin due to the deteriorating farm and national economy.

The funds are available. Congress clearly expressed its desire in the 1981 farm bill that economic emergency loans continue. The Secretary of Agriculture's refusal to release these funds is a violation of the intent of Congress and a threat to our farm and national economy.

At this time I am inserting a copy of a letter I have written to the Secretary of Agriculture into the RECORD:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., March 18, 1982.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: I urge you to implement the Economic Emergency Loan Program for the 1982 crop year as soon as possible. Six hundred million dollars are available and awaiting to be released by you.

The Agriculture and Food Act of 1981 extended the Economic Emergency Loan Program through September 1982. The program is one of several in the 1981 Act designed to assist farmers through difficult economic times and to assure consumers needed food and fiber.

The Economic Emergency Loan Program helps farmers maintain their farming operations. The program authorizes you to make and guarantee loans to farmers who are unable to obtain sufficient credit elsewhere due to general economic difficulties, such as a tightening of agricultural credit or an unfavorable relationship between promotion costs and prices received for agricultural commodities.

Our current recession combines high interest rates with depressed prices and places the Nation's farmers in serious financial difficulty. Many of them are unable to obtain sufficient credit to finance the production of their 1982 crops.

I believe it imperative that you implement the Economic Emergency Loan Program and all other programs at your disposal to help our farmers.

Sincerely,

BOB SHAMANSKY.●

CUTBACKS THREATEN SOUTHWESTERN PENNSYLVANIA

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. GAYDOS. Mr. Speaker, on many occasions in the past I have taken the floor to urge Congress to act in rehabilitating and replacing a series of old and deteriorating locks and dams that are called upon to serve ever increasing commercial river traffic to the Nation's largest inland port at Pittsburgh, Pa.

Although the need for modernization is critical, progress, I regret to say, has been agonizingly slow. The upgrading of these navigational structures has been delayed further by recent policies emanating from the White House. The ominous threat to the economy of southwestern Pennsylvania created by past delays has been intensified by announcements the administration seeks to cutback the money and the manpower the Army Corps of Engineers requires to operate and maintain the locks and dams in their present deplorable condition.

Should the administration's proposals be implemented as presented, the economic effect on the area will be devastating in terms of plant closings and relocations, job losses, and increases in the cost of products.

The Southwestern Pennsylvania Regional Planning Commission (SPRPC), chaired by Mr. John M. Allen, Jr., has recognized the inherent dangers of the administration's proposals and has adopted a formal resolution expressing concern and opposition to any action resulting in the curtailment of normal operations at locks and dams along the Allegheny and Monongahela Rivers.

Needless to say, I concur wholeheartedly in the position of the SPRPC and I am inserting a copy of Mr. Allen's letter and the commission's resolution into the CONGRESSIONAL RECORD for the attention and consideration of my colleagues in the Congress of the United States.

SPRPC,
Pittsburgh, Pa., March 2, 1982.

Hon. JOSEPH M. GAYDOS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN GAYDOS: The recent determination by the United States Army Corps of Engineers District Office to curtail the hours of operation of four locks on the Allegheny River and three locks on the Monongahela River is more "economic bad news" for southwestern Pennsylvania. Over 400 elected officials, government representatives, business and industrial leaders attended a recent public hearing sponsored by the Army Corps of Engineers on the proposed lock curtailment to express concern over this action. Many were concerned that this was just the first step in a series of steps to curtail the operation of the locks on the rivers of this region.

Recently, we learned that this concern was justified when the President of the United States released his proposed fiscal year 1983 budget. It proposes further budget reductions which will result in the elimination of the navigation on the Allegheny River and significantly curtail the operation of the locks and dams on the Monongahela River.

The enclosed Resolution adopted by the Southwestern Pennsylvania Regional Planning Commission is our statement of opposition to the lock curtailments proposed by the Army Corps of Engineers for 1982 and the President in his fiscal year 1983 budget. As a Representative for our region we hope that you would share our concern for the continued full operation of the locks and dams on the Allegheny and Monongahela Rivers. We encourage you to take whatever action you deem appropriate to assure that these locks and dams remain in full operation.

We stand ready to support you in this endeavor by providing you with additional information that we may have which you believe would be helpful to this undertaking.

Sincerely,

JOHN M. ALLEN, JR.,
Chairman.

Enclosure.

RESOLUTION

Whereas the United States Government, through its United States Army Corps of Engineers, began to establish a navigable waterway on the Allegheny River in 1903 and on the Monongahela River in 1897; and

Whereas the United States Army Corps of Engineers has continued to make additional improvements in the locks and dams on the Allegheny and Monongahela Rivers for 85 years; and

Whereas these improvements have increased the extent of the slackwater line on these rivers and encouraged navigation and development along these rivers; and

Whereas the business and industrial community of this region has accepted the United States Government's established commitment to navigation and flood control along these rivers and have developed the land adjacent to the rivers; and

Whereas this investment on the part of the business and industrial community has made the port of Pittsburgh the largest (tons shipped) inland port in the United States; and

Whereas the operation of this system of locks and dams is vitally important to the continued economic and social well being of this region (the counties of Allegheny, Armstrong, Beaver, Butler, Washington and Westmoreland) and to the entire tri-state area; and

Whereas the Office of Management and Budget has directed that for fiscal year 1982 the Corps of Engineers reduce its personnel and this personnel reduction has been translated into the curtailment of the operation of certain locks on the Allegheny and Monongahela Rivers; and

Whereas the President of the United States has proposed in his fiscal year 1983 budget that the budget for the operation of the locks and dams on the Allegheny and Monongahela Rivers be drastically reduced to where it will close the navigation on the entire length of the Allegheny River and severely curtail navigation on the Monongahela River; and

Whereas such reductions in the navigation on the Allegheny and Monongahela Rivers will deliver a severe economic blow to the business and industrial community of this region in terms of plant location, jobs, and cost of products.

Now, therefore, be it resolved by the members of the Southwestern Pennsylvania Regional Planning Commission as follows:

(1) The Commission opposes any action which would result in the curtailment of the normal operation of the locks and dams or the closing of the locks and dams on the Allegheny and Monongahela Rivers.

(2) The Commission requests that the Congress of the United States reaffirm its responsibility and commitment to the operation of the locks and dams in this region by taking specific action through appropriate congressional committees to assure that the locks and dams of our region's waterways continue to fully serve the business, industrial and social well-being of our region's population.

Resolved and enacted this 22d day of February, 1982.●

HUMAN RIGHTS IN POLAND

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. LEACH of Iowa. Mr. Speaker, under the leadership of this administration's delegation to the 38th session of the U.N. Human Rights Commission, that organization for the first time in its history passed a resolution raising public concern over the violation of human rights in Eastern Europe.

On March 10, 1982, the U.N. Human Rights Commission adopted a resolution regarding human rights and fundamental freedoms in Poland. The vote on this historic resolution was 19 ayes, 13 nayes and 10 abstensions. In a statement delivered at the Human Rights Commission meeting on March 8, alternate U.S. delegate Richard Shifter commented on the situation in Poland:

> What happened there was that a genuine people's organization formed itself not stimulated by political leaders, by writers or poets or persons in the academic professions. It was an organization which came straight out of the factories, the mines, as well as from the farms of the country. They came in peace, with an outstretched hand of friendship, and asked, in peace, for freedom for the right to help shape their own destiny. . . . They carried no arms. They planted no bombs. To put it in terms of our basic document, they exercised their rights under Articles 19 and 20 of the Universal Declaration.

Mr. Speaker, our delegation to the 38th session of the U.N. Human Rights Commission, headed by Michael Novak, deserves special recognition for its success and hard work in assuring adoption of this important, historic resolution. For the benefit of my colleagues, the entire text of the resolution on human rights in Poland follows:

SITUATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN POLAND

The Commission on Human Rights.

Recalling the principles enshrined in the chapter of the United Nations and in the Universal Declaration of Human Rights.

Conscious of its responsibility to promote and guarantee the maintenance of those principles and to ensure respect for human rights and fundamental freedoms for all.

Reiterating that all member states have an obligation to protect human rights and fundamental freedom and to carry out the obligations they have undertaken under the various international instruments in the field of human rights.

Determined to remain vigilant with regard to violations of human rights wherever they occur.

Aware of the fact that recent events in Poland have given rise to considerable humanitarian problems.

1. Expresses deep concern at the continued reports of widespread violations of human rights and fundamental freedoms in Poland, including the arbitrary arrest and detention of thousands of persons. Denial of the right to feedom of expression and the right of peaceful assembly. Suspension of the right to form and join independent trade unions, and at the imposition of severe punishment on persons accused of violating martial law;

2. Affirms the right of the Polish people to pursue its political, economic, social and cultural development free from outside interference;

3. Notes that the Polish authorities have stated their intention to terminate the restrictive measures imposed on the exercise of human rights and fundamental freedoms;

4. Expresses the hope that this stated intention will be realized in the very near future, particularly in relation to the release of all persons detained without charge, the review of severe prison sentences imposed in the context of the state of martial law in Poland, and the lifting of restrictions on the free flow of information;

5. Emphasizes the importance of the activities of the international and national humanitarian organizations operating in Poland;

6. Decides to request the Secretary-General or a person designated by him to undertake a thorough study of the human rights situation in Poland, based on such information as he may deem relevant, including comments and materials the Government of Poland may wish to provide, and to present a comprehensive report to the 39th session of the Commission;

7. Requests the Government of Poland to extend its cooperation to the secretary-General or the person designated by him;

8. Decides further to maintain the situation of human rights and fundamental freedoms in Poland under review as a matter of priority at its 39th session on the basis of the report of the Secretary-General or the person designated by him.●

"THE ROBOT REVOLUTION"

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. LAFALCE. Mr. Speaker, we often hear the advent of new trends described as "invasions" or "revolutions" because they become so rapidly adapted to the American scene. These terms certainly apply to the increasing implementation of robots in the workplace. A few years ago most people would not have even heard the word "robotics." Today it is on the tongue of nearly everyone in the manufacturing sector who knows what a vital role robots will play in the reindustrialization of our Nation.

Robots are gaining acceptance in this country from both management and labor representatives and that is a positive sign. Naturally both management and labor have expressed some real reservations about robots, but that will be the case when anything new—with such widespread implications—is tried. The greater acceptance of robots is encouraging. But compared to the actions of Japanese industry, our implementation of robots in the workplace is woefully inadequate.

Last summer I joined a few administration officials, business leaders, members of academia and colleagues in Congress on a tour of Japanese industry sponsored by the American Productivity Center. One of the most fascinating stops on our visit was to the facilities of Yamazaki, the leading Japanese manufacturer of machine tools. Yamazaki is improving its factory by making plans to run the plant on three shifts. There will be five people each on the first and second shifts, with robots "manning" the third shift. These 10 people and their robot coworkers are doing the work that formerly required 210 people.

What American management and labor must realize is that robots are here to stay and will be growing in numbers. The alternative will be an ever-increasing gap between our own level of productivity and that achieved in places like Japan which obviously understands the usefulness of robots and plant modernization. The crucial issue, then, has become not whether we should allow robots to replace workers in some jobs, but rather, how to let the increased productivity and cost savings achieved through robotics help us in putting displaced workers into jobs which are created by the growth of the industries which effectively use robots. It is important that we make the distinction between unemployment and job displacement caused by robots. Displacement means that workers who are removed from their jobs by the increased use of robots may be put into other occupations which are created or expanded, because of the extra output caused by the robots.

Mr. Speaker, I would like to share with our colleagues an excellent article which appeared in the winter 1982 edition of "Mid-American Outlook." The article by Michael Edgerton does a good job of describing the many different applications of robots and what the future portends for productivity gains which robots can help us achieve.

Robots will be particularly important if we are going to regain our competitive edge in large manufacturing industries such as the auto and steel industries which are facing such troubled times. Robots will also play a vital role in helping small businesses obtain greater product quality and cost effectiveness.

I sincerely hope that our colleagues will take the time needed to become familiar with robotics phenonenon. If robotics is misunderstood and viewed with skepticism and anachronistic fears, the results will inevitably be more unemployment and diminished productivity rates. If, on the other hand, robotics is understood in what I believe is its proper light, I think that we will find that the American industrial sector will have a wide vista of opportunities for growth.

At this time I would like to insert for the RECORD the article from "mid-American Outlook."

ROBOT INVASION COMING TO MID-AMERICA

(By Michael Edgerton)

The robot revolution is gaining momentum in Mid-American industry as management acts to boost productivity. Slow to catch on, robots are now being viewed as the ultimate answer to overseas competition.

In 1980, U.S. industry, principally in the industrial heartland, spent about $90 million on robots, up 50 percent from 1979. Last year, new robot expenditures rose to an estimated $130 million. By 1990, experts are predicting that $2 billion will be spent annually in the U.S. for robots and $5 billion worldwide.

The automotive industry was the first to install robots in quantity—General Motors actually installed the first robot in 1962. Today, an estimated 40 percent of robots made go to the automakers.

Economic arguments for assembly line robots are compelling. While new machines average $50,000 to $60,000, the per-hour expense is only about $6, compared to the average $20 hourly rate for production workers.

According to Walter K. Weisel, vice president of Prab Robots, Inc., of Kalamazoo, Mich., the third largest domestic robotmaker, robots have the potential to dramatically upgrade "virtually every manufacturing process. Envision the results if we were to properly apply thousands of robots in our existing processes, each adding 15 to 20 percent increases in production."

Last year, General Motors Corp. unveiled plans to spend $200 million on 800 new robots to weld car bodies at seven plants. Although GM has about 150 welding robots now, it's expected to invest nearly $1 billion by 1990 in 13,000 more robots to do everything from assembling components to painting cars.

General Electric Co. has over 200 robots in its plants right now, and aims at having well over 1,000 by the end of 1984. And GE is talking about "smart" microprocessor-driven machines that weld, grit blast engine parts and load and unload lathes, not just simple mechanical manipulators.

Despite the rising fascination with robots, relatively few have yet to be deployed. Paul Aron, president of Diawa Securities Co.'s U.S. arm, estimates that 4,370 were in use in the U.S. at the end of 1980. Meanwhile, the Japanese had installed 11,250, or about half of the world's total.

But that's about to change. The explosive growth predicted for the robotics field has attracted the attention of many new manufacturers.

"There's going to be a proliferation of manufacturers and there's going to be a whole lot of product out there," says Mitchell I. Quain, a securities analyst at New York's Wertheim & Co., Inc. "The next two or three years are going to be a zoo, but any robot manufacturer that needs it is going to get capital." Currently, about 20 U.S. companies manufacture robots.

Not all robots are the same, and many companies will undoubtedly earn a living by satisfying the needs of their market niche. For example, Robotics Inc. and Seiko Instruments U.S.A. Inc., both make relatively small and inexpensive robots, sometimes known as "pick and place" robots, which perform rather simple tasks. Both firms see strong demand for this kind of device.

At the other end of the spectrum are the computerized, programmable machines that can be "taught" new jobs by taking them through the motions, or be sending instructions electronically. These robots, popular among heavy industrial users, are available now from Unimation and Cincinnati Milacron, the two largest robotmakers.

It's commonplace these days to assert that while the Japanese have pressed more robots into factory-floor use, the Americans are well ahead in technology. But there are signs aplenty that that observation is now only partly true. While robot-assisted manufacture is catching on rapidly in this country, the Japanese industries have far outstripped American companies, and they're likely to widen their lead. What's more, the Japanese, encouraged by their government, are pouring huge resources into robot research.

Daiwa's Aron forecasts that Japan's robotmakers will produce 31,900 robots worth $2.15 billion by 1985. That's four times what American robot manufacturers are likely to produce, Aron says. Other nations produce and utilize robots, with Germany the USSR, Italy, and Norway notable examples. But nowhere are the stakes so demonstrably high as the head-to-head economic competition between the United States and Japan, as the condition of the American electronics and automobile industries so eloquently testifies.

Japan's 150 robot firms manufacture 45 percent of the world's robots, and the Japanese government has earmarked $140 million for development of the new intelligent robots. And Japanese companies are clearly eager to export their robots, though they are just as eager to put them to work in their own factories.

What accounts for the love affair between Japanese industry and the robot? "The cheapest robots for assembling or material handling functions cost about $20,000 to $30,000," says Toshio Sata, professor of engineering at the University of Tokyo. "If you compare the average yearly wage of operators at present—$15,000 to $20,000—with that of robots, you can understand how the use of robots has become economical."

Professor Sata mentioned other benefits, including product quality improvements, a decrease in industrial accidents, freeing workers from dangerous or unpleasant jobs and increasing the flexibility of manufacturing facilities. Robots work around the clock, are never ill and don't strike for higher wages.

The Japanese calculate that robots increase productivity 10 to 35 percent and reduce product defects to 0.1 percent from 5 percent.

Robots are greeted with open arms by Japanese workers, and, far from causing alarm by raising the specter of lost jobs, fulfill a deep-seated desire to possess more efficient means of production. This is encouraged by the policies of giant corporations and the promise of lifetime employment, but the successful introduction of robots is also credited to shop-floor Japanese management techniques.

Extensive groundwork is laid before robots are introduced. Workers are sold on the need for progress and thorough training programs are instituted to familiarize them with their robotic cohorts.

A small business might be expected to reject the use of robots because of the expense or because of a lack of technical expertise within the company. But the Japanese government has instituted a novel robot leasing program—Japan Robot Lease—aimed at small businesses. A small factory can lease a robot for $90 a month, and that robot will replace three welders. What's more, the factory can exchange the robot for a new, improved model when it comes along.

Winning acceptance of robots among the American labor force will be difficult, early experiences suggest. "Every time the cost of labor goes up $1 an hour, 1,000 more robots become economical," Roger B. Smith, GM's chairman, has said. Such statements send tremors of fear through working people already strapped by inflation and the vicissitudes of a weak economy.

While robots heretofore have been pressed into jobs considered undesirable, they're now becoming capable of rudimentary parts assembly. Assembly tasks have historically been the special province of the nation's 21.6 million unionized manufacturing workers.

Certainly job security will be an issue. Union lore abounds with stories of 22 welding robots replacing 450 union welders in Chrysler plants or performing inspections in a Ford Motor Co. plant in minutes that used to take a team of inspectors hours to do.

Carnegie-Mellon University recently completed a study showing that today's commercially available robots could do 16 percent of the jobs now done by 185,000 production painters, 713,000 welders and flamecutters, 2,385,000 machine tool operators, 1,289,000 assemblers and 746,000 inspectors.

Carnegie-Mellon said more advanced robots could do up to 40 percent of those jobs. And those robots won't be long in arriving.

As long as robots take jobs that are deemed less desirable, the job loss issue can be muted, especially if not many jobs are automated. As more complex kinds of tasks come into the robot's ken, however, organized labor can be expected to resist.

There is a school of thought that maintains that, in the long run, more highly mechanized factories will create more jobs. But the transition to that level of development will be a bumpy one. The Wall Street Journal recently quoted Harley Shaiken, a labor consultant to the United Auto Workers as saying, "New technology based on computers, as symbolized by robots will be one of the—if not the—collective bargaining issues of the coming decade."

The productivity issue is the most important one posed by robots, however.

The present American productivity problem—which is very real—is at least in part the result of management failure to employ technology that has been right in front of our noses for quite some time," says James A. Baker, executive vice president of General Electric. "Those noses are going to be even bloodier in the Eighties unless we get moving on the productivity problem.●

FLORIDA COALITION TO HALT HANDGUN CRIME, INC., IS ESTABLISHED IN DADE COUNTY, FLA.

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. FASCELL. Mr. Speaker, the escalating wave of handgun violence in our country and in south Florida is of grave concern to me. As a cosponsor of the Kennedy-Rodino bill, I believe that uniform Federal legislation, reasonable in its approach and effective in its implementation, is the best way to attack the problem of handgun violence in the United States.

While awaiting the day when the Congress acts on this serious problem, groups across the country have begun organizing and pushing for the enactment of State and local laws that will curb handgun violence.

In Dade County, Fla., a group of concerned citizens has recently formed the Florida Coalition To Halt Handgun Crime, Inc., that will seek the enactment of a countywide ordinance to deal with handguns. This effort was spearheaded by a former staff member of the House, Charles A. Intriago, who served for several years as counsel of the Legal and Monetary Affairs Subcommittee of the House Government Operations Committee. He also served as special counsel (on organized crime) to Florida Gov. Reubin Askew and as an Assistant U.S. Attorney in Miami.

Because I believe that the proposals of the Florida coalition are reasonable and constructive, I ask that they be placed in the RECORD at this point so our colleagues may have an opportunity to see what my community is doing to attack this problem.

PROPOSALS OF THE FLORIDA COALITION TO HALT HANDGUN CRIME, INC.

Today we announce the formation and legislative proposals of the Florida Coalition To Halt Handgun Crime, Inc. Our purpose is to save lives, to make our streets safe and to, at least, alleviate the conditions that have caused so many of our citizens to live in jails that they call home.

What is this Coalition?

It is Linda Baumel, a housewife with an infant child, who has had no prior political experience but who is fed up with living in handgun fear and is the co-founder of the Coalition.

It is a young college student at FIU who was robbed while a handgun was placed in his mouth and who is fed up with living in handgun fear.

It is a young attorney who with her date was held up at the point of a handgun and who is fed up with living in handgun fear.

It is Carl and Jean Alden Smith, direct descendants of John Alden, who love this country and community and whose only son, a college student studying architecture, was killed by a handgun several months ago and who are fed up with living in handgun fear.

It is Police Officer Linda Mertes, a widow with three children whose husband, also a police officer, was killed in the line of duty by a handgun and who is fed up with living in handgun fear.

Our Coalition is composed of these and other everyday people, in every walk of life who are deeply concerned about the lack of effective handgun management laws and intent on doing something about it.

We have gone about our business in a practical and methodical way. We have worked for five months on our legislative proposals and have consulted our public safety director, our state attorney, our police chiefs, experts throughout the country, as well as the everyday people in our Coalition whose common sense is as valuable as that of any expert.

Our proposals are practical, workable, and necessary. We want to strip the criminal of his handgun while preserving the right of the good and decent citizen to acquire his handgun under conditions that no reasonable person could view as extreme.

Throughout our history, hundreds of thousands of American citizens have been killed by handguns, including three of our Presidents. In 1981 alone, more than 400 Dade and Broward Countians were killed by handguns and hundreds more were raped, robbed, and assaulted at the point of a handgun leaving scars that never heal.

The cost of handgun violence is measured in more than lives and trauma. Millions of dollars in health care costs, in lost economic growth and in fleeing tourist dollars are also consequences of the Great Florida Handgun War.

We applaud the efforts of dedicated community organizations, such as Miami Citizens Against Crime and the Greater Miami Citizens Crime Commission, who are attacking the serious crime problem in South Florida.

Our Coalition fully supports those efforts but will focus strictly on one very important element of the overall problem—the handgun.

In 1981, Dade County had more handgun homicides than Great Britain, Switzerland, Japan, Canada, Israel, Sweden, and West Germany had in 1979 combined.

Dade County is the production source of one out of every eight handguns produced in the United States and Miami ranks as the nation's Number One port of entry of foreign-made handgun parts.

In our County and State, more than 50 percent of all homicides are committed with handguns. Many of the victims are children and some are police officers. In 1980, 345 law enforcement officers in Florida were assaulted by firearms, an increase of more than 37 percent from 1979. Seven police officers were killed in 1980, five of them by handguns.

The handgun tragedies go beyond the criminal acts. Hundreds of accidental deaths and woundings occur in our communities each year. Many of those victims are small children whose easy access to handguns in the home is a by-product of the fortress mentality that pervades South Florida today.

It is true that until uniform federal legislation is enacted the efforts of one community such as ours will be dissipated by the inadequate response of surrounding communities.

However, Dade County has a population larger than many states. It is our moral responsibility to do what is right here at home, to work for the enactment of similar laws in neighboring counties and, ultimately, to pass an effective state law. A Coalition affiliate has already been formed in Broward County.

The legislation that we will propose initially to the Dade County Commission is aimed at creating a legislative framework that will give to the business of owning, dealing and trading in handguns the deadly seriousness that it deserves. Our legislation is designed to develop a system of accountability for the ownership of handguns and to assure, as much as possible, that persons who are ineligible to own handguns do not get them.

The enactment of these proposals will not eliminate handgun violence entirely; nor will it prevent all criminals and other ineligible persons from obtaining handguns. But what we expect it will do is reduce the incidence of handgun violence in Dade County while preserving the rights of the law-abiding citizen.

PROPOSED DADE COUNTY ORDINANCE

We propose this 7-point program:

(1) Require that all persons obtaining a handgun, by any method of transfer, have his or her eligibility for owning a handgun be verified by the Metro Dade Police Department (MDPD) prior to obtaining it. Federal law already requires that a transferee of a handgun fill out, under oath, a Firearms Transaction form that asks the prospective transferee certain questions aimed at weeding out those who cannot lawfully own a handgun.

Presently, there is no verification made by any law enforcement agency in South Florida of the information placed on those forms. The Firearms form should be required in all handgun transfers and the MDPD should have up to 21 days to verify the form's information before a handgun passes hands.

This proposal is similar to that made recently by President Reagan's Task Force on Violent Crime which conducted hearings in Miami and throughout the nation. In its final report four months ago, the Task Force recommended that:

"A waiting period be required for the purchase of a handgun to allow for a mandatory records check to insure that the purchaser is not in one of the categories of persons who are proscribed by existing federal law from possessing a handgun."

We have been advised by the MDPD that it is equipped to undertake this task.

We also propose that if the verification process cannot be completed within 21 days upon receipt by the MDPD of the Firearms Transaction form, the transferee may receive his handgun.

(2) Require that all handguns in Dade County be registered with the Metro-Dade Police Department (MDPD). There already exists a voluntary registration program administered by MDPD under which handgun owners may register their handguns. Also, all gun dealers in Dade County already register and submit to MDPD the registration forms on all handguns they sell. Our proposal is that registration be universal and required so that the criminal use of a handgun can be more easily traced by the police.

Too often while the motive of a handgun crime must be investigated and the perpetrator apprehended, the tool of violence is easily identifiable—a handgun.

The multitude of differing handgun laws and the lack of handgun management programs has led to the indiscriminate ownership of handguns throughout the country. Indiscriminate ownership has led to indiscriminate use.

Handgun registration will enhance accountability of ownership and the apprehension of law-breakers. Registration will also provide our police agencies with a greater ability to trace handguns confiscated after arrests. This information will assist in determining the origin and flow of handguns into the criminal subculture and in identifying individuals who are responsible for the escalation of our handgun crime.

(3) Any person who has knowledge of the loss, theft or disappearance of a handgun should be required to report it to the MDPD within 24 hours of its discovered loss. The report should contain the serial number, model, caliber, manufacturer, date and place of theft, loss or disappearance and a complete statement of facts and circumstances surrounding the theft or disappearance.

The same information should be obtained by all law enforcement agencies in Dade County and placed on all incident reports where there is a confiscation or seizure of a handgun or a lost or stolen one reported to them. Presently there is no law requiring individuals to report a lost or stolen handgun.

What this provision will do is permit our police departments to better allocate their resources in areas where handguns are a target of thiefs; it will permit the tracing of handguns stolen from law abiding citizens and subsequently used in violent crime; and, it will provide documentation that a legitimate owner of a handgun who loses it had no connection with a subsequent, illegal use by another person.

In the United States it is estimated that approximately 250,000 handguns are stolen from private homes annually; ninety percent (90 percent) of residential burglaries are committed when the residents are not home and one of the most desirable items of the burglar is a handgun.

In Dade County in 1980 more than $1.6 million in firearms was stolen and only 3 percent of the stolen firearms were recovered, the lowest recovery percentage of any populous county in the state. A requirement that stolen and lost handguns be reported will facilitate the solution of residential burglaries and help recover for rightful, law-abiding citizens their handguns.

(4) Require that all weapons taken in possession by a police officer upon making any arrest be destroyed in a manner to be prescribed by the MDPD if the person charged at the time of arrest is found guilty. If innocent of charges he shall have 60 days after the date of his acquittal to reposses his weapon. After that period if the weapon is not requested it shall be disposed of as in the case of a conviction.

There is no justification for the sale of confiscated weapons by any governmental agency even if such sales generate some money. Experience has shown that the sale of confiscated weapons by certain jurisdictions has led to the return of some of those weapons to those jurisdictions and later used in violent crimes.

We believe that an excellent use of confiscated handguns would be to melt down the metal and create a sculpture designed by a renowned artist in honor of police officers and children slain by handguns.

We believe that if confiscated weapons can be used by police agencies in the performance of their duties the weapons should be exempt from this provision requiring destruction.

(5) Make it unlawful for any person to sell or transfer more than five handguns to the same person during a one year period.

Florida and Dade County are a source of thousands of handguns used in violent crimes thoughout the State and Nation. A person wishing to buy handguns in bulk should justify his purchases. We should be assured that handgun bootleggers and smugglers go elsewhere to obtain their stock in trade.

(6) Establish within the Miami Dade Police Department an element, to be determined by the Director, to enforce these and other handgun laws already on the books and to provide our citizens with an identifiable agency that can assist with compliance.

(7) Prohibit the possession, distribution, sale, transfer and manufacturer of what are commonly known as cop-killer handgun bullets which are capable of piercing armor and exploding after impact. There can be no justification for such handgun bullets. Nothing can be said for them except that they place the lives of police officers at ultimate risk.

Our legislative proposals to the county Commission also contain penalty provisions for the violation of these handgun ordinances. We propose that a first willful violation result in a six-month jail sentence and a $500.00 fine and a second violation a one year sentence and a $1,000.00 fine. We propose that sentences lighter than these can be imposed by the judge only if he makes written findings that the circumstances of the violation and the violator justify a lighter sentence.

The effectiveness of any laws hinges on its credibility. Credibility in turn depends on enforcement and the imposition of the specified penalities. To give these laws the credibility they deserve the penalties we propose should be enacted.

In terms of the cost of implementation, we have put these proposals through intense scrutiny and have consulted with the Public Safety Director and his staff on the fiscal impact of this legislation. We have been advised that there will be little or no additional cost involved in implementation of these proposals assuming a very nominal fee structure of handgun registration and verification of handgun transfers. In essence, this program will pay for it self. But even beyond that, the benefits to our community from this legislation transcend all other considerations.

In closing, we say to the people of our County and State: join us, help us achieve the achievable, help us end the deaths, the tears, the bloodshed and the fear. Help us halt handgun crime.

I hope that other communities throughout the country will follow the example of the Florida Coalition to Halt Handgun Crime, Inc., and that we, in this body, will soon consider and enact the Kennedy-Rodino bill.●

BIAGGI COMMENDS SECRETARY SCHWEIKER'S STATEMENT ON NURSING HOME SAFETY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. BIAGGI. Mr. Speaker, as an original member of the House Select Committee on Aging and one deeply concerned about the safety and welfare of more than 1.3 million elderly in nursing homes, I was greatly encouraged to learn of Secretary Richard Schweiker's position against any weakening of existing Federal regulations aimed at maintaining these standards of care.

In an article published on the front page of the Sunday, March 21, New York Times it said:

> Rejecting the recommendations of top officials in the Department of Health and Human Services, the Secretary said, "The existing health and safety requirements will remain untouched. I will not turn back the clock."

At issue were some draft regulations developed by a special regulatory task force of the Health Care Financing Administration. These were to revise existing conditions of participation for nursing homes who received reimbursements under medicare and medicaid. Two different versions of the draft proposals were circulated, once in December and again in February. Each of these drafts if converted into final rules would have seriously compromised safety standards which must be adhered to to receive Federal funds. To compromise these standards could lead to the kinds of abuses which were spotlighted in the last decade and which led to the development of new stricter rules.

I am hopeful that the Secretary's statement will put an end to this most misguided attempt at regulatory reform.

I have opposed this particular effort from the outset. I joined as a cosponsor of the Wyden resolution reaffirming congressional support for a strict enforcement of all existing safety rules in nursing homes. I have written to Secretary Schweiker urging him not to accept any regulations which would weaken existing standards.

In addition I have been working closely with a number of concerned groups in my home city of New York including the umbrella group, the Ad Hoc Coalition for a Single Standard Nursing Home Code. On March 14 I had the honor of delivering the keynote address at a special Post-White House Conference on Aging sponsored by the Bronx-North Manhattan Coalition for Health and Long Term Care. At that conference the more than 200 participants went on record as strongly opposing proposed rule changes in nursing home care.

At this point in the RECORD I wish to insert two items. The first is a position statement developed by a coalition of some 40 national organizations dealing with nursing homes. The second is the aforementioned New York Times article.

I commend Secretary Schweiker for his statement and hope it signals a renewed commitment on the part of the administration to insure the basic human rights of our institutionalized elderly. I call upon my colleagues to support a restoration of funds under both medicare and medicaid for inspections of facilities to further guarantee that the highest standards of care are followed by all nursing homes in this Nation.

The articles follow:

POSITION STATEMENT ON NURSING HOME REGULATIONS

We, the undersigned, urge the Department of Health and Human Services to maintain its leadership role in working to assure a high quality of care and life for America's 1.3 million nursing home residents.

We contend that changes should not be made in the existing Conditions of Participation for skilled nursing or intermediate care facilities, nor in existing regulations for survey and certification procedures, unless such changes represent progress in assuring a safe, sanitary, healthy, supportive environment for residents and workers.

To this end, we can only support retention and upgrading of existing federal nursing home regulations.

We will support regulations which require the regular presence of trained, qualified professionals such as nurses, physicians, social workers, psychologists, activities directors, dietitians, rehabilitative therapists, sanitarians, and record keepers. These professionals are essential. Without their services, the care in nursing homes will deteriorate significantly, jeopardizing the safety and well-being of residents. Even the best, well-trained and caring nursing home administrator must have professional, ongoing assistance in order to provide even a minimal level of adequate care. Further, we urge the Department to recognize the need for well trained nurses aides and to require initial and on-going training and supervision for nurses aides who provide 80-90 percent of residents' physical care.

We affirm the importance of residents' rights and urge the Department not to take a step backward but rather to continue the progress made in 1981 toward making residents' rights a Condition of Participation.

Finally, we maintain that the federal government should continue to operate, through financial support and regulatory guidance to state agencies, an effective enforcement system that ensures minimum standards of care and decency. Therefore, we oppose any federal proposal to weaken the enforcement system through withdrawal of federal funds used to survey nursing homes or any reduction of state survey requirements. Additionally, we oppose authorization of deemed status for certification by a private, voluntary, non-governmental, non-regulatory body, unless such body is governed by a significant number of nursing home residents or their family members, and other representatives of consumer organizations.

We call upon the Department to cease any regulatory initiatives which do not accomplish these specific objectives and goals.

NATIONAL ORGANIZATIONS

American Association of Retired Persons.
American Association of University Women.
American Federation of State, County, and Municipal Employees.
American Foundation for the Blind.
American Jewish Congress.
American Occupational Therapy Association.
American Psychiatric Association.
American Psychological Association.
American Public Health Association.
Association for the Advancement of Psychology.
Coalition of Labor Union Women.
Committee on Aging, Unitarian Universalist Association of Churches.
Consumer Coalition for Health.
Consumer Federation of America.
International Association of Fire Chiefs.
National Alliance for the Mentally Ill.
National Association of Activity Professionals.
National Association of Area Agencies on Aging.
National Association of Health Facility Licensure and Certification Directors.
National Association of Retarded Citizens.
National Association of Social Workers.
National Caucus and Center on Black Aged.
National Citizens' Coalition for Nursing Home Reform.
National Coalition of Resident Councils.
National Conference on Catholic Charities.
National Conference on Social Welfare
National Council of Senior Citizens.
National Council of Jewish Women.
National Council on Aging.
National Farmers Union.
National Gray Panthers.
National Mental Health Association.
National Women's Health Network.
National Women's League.
Older Women's League.
Service Employees International Union.
United Auto Workers of America.
United Cerebral Palsy Associations.
United Church of Christ, Office for Church in Society.
Urban Elderly Coalition.

SCHWEIKER DECLARES NURSING HOME RULES WILL NOT BE RELAXED

(By Robert Pear)

WASHINGTON, March 20.—Richard S. Schweiker, the Secretary of Health and Human Services, said today that the current health, safety and staffing requirements for nursing homes would not be relaxed.

Rejecting the recommendations of top officials in the Department of Health and Human Services, the Secretary said, "The existing health and safety requirements will remain untouched. I will not turn back the clock."

"STRONG FEDERAL ROLE" URGED

The Secretary's announcement followed protests by members of Congress, consumer groups and professional organizations concerned that proposals under study would have severely curtailed the protection of nursing home patients.

At a time when the Reagan Administration is emphasizing the need to rescind or modify Federal regulation on many other industries, Mr. Schweiker affirmed his support for a "strong Federal role" in guaranteeing the safety and rights of nursing home patients.

"Contrary to recent reports in the press, I will not imperil senior citizens in nursing homes, our most vulnerable population, by removing essential federal protections," he said in a prepared statement. "I will not eliminate any staffing requirements for nursing homes such as medical directors, dietitians, social workers and other necessary health and safety consultants."

More than 1.3 million older Americans live in nursing homes that participate in Medicaid or Medicare, the Federal programs for the poor and the elderly. The homes must meet Federal standards as a condition of receiving Federal funds.

Mr. Schweiker said that standards for infection control, the prevention of communicable disease and the administration of drugs in nursing homes would not be altered. "The current rules have brought about significant improvements in the long-term care of nursing home residents," he added.

RULES TERMED UNNECESSARY

Carolyne K. Davis, head of the Health Care Financing Administration, and her deputy, Paul R. Willging, had recommended changes in health, safety, staffing and other requirements. They said that many of the rules were unnecessary, duplicated state regulations or exceeded statutory authority, and agreed with the contentions of nursing home administrators who said they needed more flexibility.

President Reagan's Task Force on Regulatory Relief, headed by Vice President Bush, had also identified the nursing home rules as burdensome because of their administrative and paperwork requirements. Christopher C. DeMuth, executive director of the task force, said today that he was unaware of Mr. Schweiker's decision.

The Secretary said he would soon propose changes in the regulations governing inspection of nursing homes so that inspectors could focus on homes with a history of violations.

The news rules, he said, would permit less frequent inspection of homes with a "record of sustained good performance." Such homes, he added, would be subject to "random inspections" based on sampling techniques similar to those used by the Internal Revenue Service for taxpayer audits.

Health officials in many states report that Federal budget cuts have already forced them to curtail the surveillance of nursing homes. The Federal budget for inspecting Medicare facilities is $13.6 million this year, compared to $27.6 million in 1980. The inspection budget for Medicaid facilities declined from $42 million in 1980 to $31.8 million this year.

Spokesmen for a substantial part of the nursing home industry said they were disappointed by today's decision, but consumer groups praised it, saying the proposed rules had proved to be a more volatile issue than the Administration expected.

Pamela J. Parker, a spokesman for the National Citizens' Coalition for Nursing Home Reform, which lobbied against changes in the existing rules, said Mr. Schweiker's decision "shows that government can be responsive to its citizenry." She expressed concern, however, about proposals to change the inspection rules, saying she needed to see the revisions before judging them.

Julie A. Trocchio and William M. Hermelin of the American Health Care Association, the largest trade association of nursing homes, said they were disappointed with the decision.

Mr. Hermelin said the Secretary was "responding to the political pressures of a group of social welfare organizations," none of which had supported the Administration.

He also said Mr. Schweiker was "responding to the media coverage and a letter-writing campaign" and was "subverting the regulatory process by not issuing the proposals for public comment by all interested parties."

Mrs. Davis acknowledged that there had been a "difference of opinion between people in the department" over the health and safety rules, known as "conditions of participation" in Medicaid and Medicare. But she said she now supported Mr. Schweiker's decision.●

ANATOLY SHCHARANSKY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. KEMP. Mr. Speaker, it is an outrage that Anatoly Shcharansky should still be imprisoned for his "crime" of being Jewish in the Soviet Union and wishing to emigrate to Israel to join his wife, Avital, from whom he has been separated since their wedding in July 1977.

Shcharansky has been imprisoned for the past 5 years for no legitimate reason. His health has been failing; he is being held under hardship conditions; and in more than 1 year he has been allowed only one brief visit from members of his immediate family.

Yet Anatoly Shcharansky continues to believe that he has a right to maintain his own faith, in spite of the punishment that has been levied on him for clinging to this belief. His unwavering certainty in the face of such hardship should serve as an inspiration to all of us.

We must continue to show our support of Anatoly Shcharansky by letting the Soviet Union know that we will not stand by and allow him, and all others in the Soviet Union who dare to be open about their personal convictions, to be forgotten. We must continue to write and to speak out on their behalf and on behalf of lovers of freedom everywhere. And we must believe that word of our support will reach Anatoly in his cell and give him heart, just as he has shown us the meaning of true courage, and at such great personal cost.●

TRIBUTE TO REPRESENTATIVE NORMAN F. LENT

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. McGRATH. Mr. Speaker, I wish to call the attention of my colleagues to a most impressive tribute paid to my good friend, neighbor, and colleague from the Fourth District of New York, Representative NORMAN F. LENT. On Sunday, March 14, 1982, the Long Island Committee for Soviet Jewry held its annual freedom dinner. The committee, under the dedicated leadership of its executive director, Lynn Singer, has been a tremendous force in working to ease the plight of thousands of Soviet Jews and other dissidents who are being persecuted brutally for their attempts to achieve freedom.

We in the Long Island congressional delegation have been privileged to work with Lynn Singer and the committee in efforts to assist these unfortunate victims of Soviet intolerance.

Our delegation leader in this important effort has been our distinguished colleague, NORM LENT. Throughout his 12-year career in the U.S. Congress, NORM LENT has played a major role in fighting for the cause of human rights. On Sunday, March 14, the Long Island Committee for Soviet Jewry recognized his leadership by presenting him with its first annual Anatoly Shcharansky Freedom Award. Presenting the award was a long-time friend of the Lent family, Rabbi Morris Friedman of Temple Hillel in my home town of Valley Stream, N.Y. Rabbi Friedman is vice president of the New York Board of Rabbis. As one who attended the dinner, I was so moved by the words of the Rabbi and the response of Representative LENT, that I want to share them with my colleagues.

Mr. Speaker, I know that all of us join in offering congratulations to our colleague, NORMAN LENT, for achieving this significant honor, and wish him well in his continued efforts on behalf of Soviet Jewry and other oppressed peoples.

REMARKS OF RABBI MORRIS S. FRIEDMAN

Thank you very much, Senator Levy. Distinguished members of the dais, ladies and gentlemen:

I returned after a lengthy stay in Israel about three days ago, as I pledged to Lynn Singer and others at the committee meeting several months ago in Garden City, that I would come back to participate with this group—this special group—which is really *sui generis* in terms of its help for the people of the Soviet Union.

Ten days ago, on a Thursday, I found myself, together with my wife and the President of France, Francois Mitterand, in the Hall of Records of Yad V'shen in Jerusalem. At that time, the President of France was called upon to lay a wreath at the memorial to the 6 million Holocaust victims. And when the group of us left the Hall of Records we walked down the Path of the Righteous, dedicated to those men and women of the non-Jewish faith who assisted in ameliorating the plight of our people during the pre- and post Holocaust period.

I was reminded of that magnificent Rabbinic expression: "If one has the ability and the opportunity to save one soul, it's as though he saved the entire world."

I visited absorption centers with Russian Jews—the new one for example in the town of Gilo on the way from Jerusalem to Tel Aviv. I spoke to poor, indigent, elderly Russian immigrants who now reside in the State of Israel. I can't begin to tell you how grateful, how appreciate they were for the friendship and the warmth of American Jews, of Americans of all religious persuasions. And at that point I said to an elderly women (she was close to 80 years of age) that upon my return I will be attending the Freedom Dinner on behalf of Soviet Jewry. And at that time we will pay tribute to one of the "righteous people" of our generation, the kind of people who will always be remembered by the Jewish people for perpetuity, Congressman Norman Lent.

Norman Lent is a distinguished son of a very distinguished father. I came here to Nassau County in 1950. I recall having worked at that time as a Rabbi in Lynbrook, together with his late father who was a Judge in the courts of Nassau County. I saw the meteoric rise of Norman Lent from the Senate of New York in Albany to the halls of the Congress of the United States. I was privileged to witness his great concern, not merely for the amelioration of the plight of Soviet Jews, but as a humanist and humanitarian for all people who suffer inner turmoil, who seek to be free, who want to emigrate from lands of oppression.

And so, Congressman Lent, one of the highest tributes that we, the Jewish people can bestow upon anyone is to refer to that individual as "one of the righteous people of this generation," the name given to those of the non-Jewish faith who helped to ameliorate the plight of humanity, who are concerned with people of all religions and of all faiths.

It, therefore, behooves me at this time to represent, perhaps the Jewish community, and of course to represent myself, as one who has just returned from the State of Israel, to tell you how grateful the people there are for your efforts in behalf of Soviet Jewry. To tell you how concerned they are that in the year 1981 immigration from the Soviet Union has dropped by 90 percent! 90 percent in 1981. And how we look foward to your continued active participation in the work of your colleagues in the Congress of the United States.

I want to offer you a very simple blessing that is contained in the Talmud. One Rabbi was asked by a disciple for a blessing, and he said to him in simple Hebrew words numbering only three, very succinctly, he said to him: "Olamekaha tireh be-hayekha," which means: May you see the kind of world you are striving for. The kind of world that you are laboring for, the world where every man shall be privileged to live under his own vine and under his own fig tree and where none shall make him afraid.

May you become witness to that world, Norman, during your lifetime. Congratulations to you this evening.

[Applause at presentation of plaque.]

Congressman Lent, the Hebrew on the magnificent plaque presented to you contains one word, the word for freedom. And so it affords me great pleasure to present this plaque to you on behalf of all assembled.

May God grant you and your dear family continued good health and happiness. May we together be privy to that world which we are laboring for. Congratulations to you.

REMARKS OF REPRESENTATIVE NORMAN F. LENT, FOURTH DISTRICT, N.Y., LONG ISLAND COMMITTEE FOR SOVIET JEWRY FREEDOM DINNER, ATLANTIC BEACH, N.Y., MARCH 14, 1982

Rabbi Friedman; Rabbi Gordon; my fellow honoree Jerry Krevans; County Executive Frank Purcell, Senator Al D'Amato and my colleagues in Congress; Adam Malinsky; my good friend and colleague Senator Norm Levy, our magnificient leader, Lynn Singer, Mrs. Dorothy Margiotta, other distinguished guests on the dais, members and friends of the Long Island Committee for Soviet Jewry:

Your applause is wonderful. We politicians—and the room is full of them, to their credit—eat, sleep and thrive on it. But this is special. This evening will always live in my memory. You have accorded me a singular honor.

There is nothing more important, to my mind, in what I do in Washington than to support the cause for which we all are working together. To receive this award, in the name of Anatoly Shcharansky, one of the most courageous fighters for freedom in the Soviet Union, and to receive it from you, my fellow workers, makes it doubly impressive.

It comes as a cruel shock to realize that tonight is the eve of the fifth anniversary of Anatoly Shcharansky's arrest by the KGB. Knowing of this man's courage in the face of a bleak and uncertain future; recognizing the great principles for which he stood so proudly against brutal tyranny, I hope you will understand my feelings of humility and inadequacy which are coupled with my deep appreciation and gratitude with which I accept this award.

I want to express my thanks especially to Rabbi Morris Friedman for his kind words tonight, and to him and his lovely wife, Addi, for cutting short their Sabbatical abroad to make this presentation so memorable.

Along with other feelings and emotions that fill me tonight, I must add that there is also deep concern over our cause. Concern over the fact that in the past year the heartless leaders of the Soviet Union have severely clamped down on the number of Soviet Jews they permit to emigrate to Israel. Concern over the menacing increase in anti-Semitism throughout the Soviet Union. Concern over a fiercer persecution and harassment of those activitists who seek their freedom.

There is an ominous pattern to all of this. It gives one a sense of a door closing. Just last Wednesday, at a reception in Washington for Viktor Korchnoi, the noted chess player who is trying to get his family out of Russia, Lynn Singer expressed it well. She said: "I have a terrible feeling that if the door closes, it will be a decade before it opens again."

Ladies and Gentlemen, the task before us tonight is clear. We must keep that door to freedom open! Our task is to fight with everything we have to free those thousands of Soviet Jews who desire nothing more than the freedom to practice their religion in the country of their choice. Our task is to devote every possiblity to opening wider the door to freedom!

Working together we have accomplished much. Your financial support of this event is deeply appreciated and it helps to carry on our mission. But the need is greater now than ever. We have an incomparable leader, Lynn Singer. Her selfless devotion, total dedication and unceasing effort for Soviet Jews are an inspiration to each one of us to work harder than ever!

You and I believe in our cause. You and I have worked for our cause. But tonight, we must pledge to redouble our efforts on behalf of those thousands of Soviet Jews seeking freedom.

Ladies and Gentleman, we must keep that door to freedom from closing! The greater our combined effort, the greater our chances for success!

I know we will succeed!

Thank you so very much!●

FOOD FOR THOUGHT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following article by Eunice Kennedy Shriver, which appeared in the March 12, 1982, Washington Post.

No matter what one's initial reaction to Secretary of Health and Human Services Schweiker's proposed parental notification regulations, covering situations where contraceptives are provided to teenagers by federally funded agencies, Mrs. Shriver adds a sensible dimension to the debate.

YES, PARENTS SHOULD KNOW

(By Eunice Kennedy Shriver)

Health and Human Services Secretary Richard Schweiker is embroiled in controversy over the comparative rights of parents and children. The controversy concerns changes in regulations requiring notification of parents whose minor children 17 and under are given prescription contraceptives by federally funded agencies.

As a mother of five children and a worker with pregnant teen-agers, I support Secretary Schweiker. I believe that while minor children have rights, parents have rights too. These rights include the right at least to know when their children are embarking on any course that is hazardous to their health and well-being; the right to know when secrets are being encouraged that can destroy family communication and family trust.

What are the facts about these regulations?

First, the regulations require parental notification within 10 days of the provision of contraceptive materials to the minor child.

Second, they apply only to prescription methods of contraception; that is, pills, diaphragms and IUDs. They do not apply to non-prescription methods such as condoms or spermicides. They do not apply to family planning information, counseling or testing for pregnancy.

Third, they specifically protect the child by withholding parental notification that could result in physical abuse, ejection from the home or similar harm.

There are two strong reasons for the proposed regulations.

The first is to alert parents to the possible hazards to the health of their children through the use of contraceptive pills or IUDs.

These hazards range from a significant increase in pelvic infections, uterine inflammations and ectopic pregnancies among adolescents to a variety of long-term hazards to health associated with the pill, including hypertension, blood clotting problems, pulmonary embolisms, tumors and strokes, to name just a few.

No parent should be kept in the dark about their children's exposure to such dangers. No physician should be asked to treat a child without knowing she is on the pill. No child should be encouraged to bear such risks, including always the risks of pregnancy, alone and in secret.

But the argument concerning hazards to health is only one reason why these regulations should be approved. The second and more compelling reason is that notification can expand and strengthen the support system of the family. It rejects the notion that there is a natural antagonism between the generations.

A leading family therapist, Dr. Salvadore Minuchin, has said, "I have found that the great majority of parents are concerned with their children's well-being. Intervening within the family network is a support of adolescents. For what we are addressing is their growth and development into maturity."

When children are on drugs or alcohol, when they are driving recklessly or perform acts of vandalism, it is the parents who are held accountable. Will anyone say that they are less accountable for actions that can harm the emotional and physical health of a 13-, 14- or 15-year-old girl, perhaps for life, or expose her to the risk of pregnancy, injury or disease?

Some say that counseling the adolescent is the answer. I have found that counseling the child without the parents is empty and futile. It perpetuates misunderstandings and widens the gulf between generations. What is more, it does not work.

There are, however, some significant examples where mobilizing the family support system has made a difference. Families have intervened to reduce significantly the use of marijuana among high school students because they were concerned about the health of their children. This same mobilization of the family support network is also possible in the area of sexual activity among children. Moral discourse should be fostered between generations which affirms that good sexual relationships are built on the human values of love, commitment and family—and yes, even marriage, though this idea may seem remote and old-fashioned.

In the adolescent pregnancy programs I have worked with such as the one at the Johns Hopkins Hospital in Baltimore, research has shown that when the family is involved, the young women are more likely to stay and finish school, have a better chance of getting a job, are less likely to have an early repeat pregnancy, are more likely to take better care of their babies and have more respect for themselves. If this type of family support works with adolescents already pregnant, why shouldn't it work for the non-pregnant teen-ager?

The new regulations will encourage this kind of family network and support system for families, and will give parents the chance to decide the course of action they will take when they are aware of their children's sexual lives. They can choose to do nothing, but I believe the vast majority will deal with the situation responsibly and with love. I believe also that most children will be relieved that an intense and troubling part of their lives does not have to be lived in secret.

At the very least, our nation's laws and regulations should give parents the chance to communications with and support their children. This is what the new regulations seek to accomplish. Then, it is up to us as parents to provide the kind of understanding, moral guidance and protective love that will make us a community of caring, not a society of coldness, secrecy and misunderstanding. This is the least we can do for our children and for ourselves.●

TRADE MUGGERS INDICTED BUT DAMAGE GOES ON

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. GAYDOS. Mr. Speaker, the U.S. International Trade Commission (ITC) recently found preliminary injury in 38 dumping and subsidy cases that cover about 90 percent of the steel that drew complaints in last year's historic flood of imports—steel worth about $1.3 billion.

But the deepest injury touches the future of American industry.

The preliminary finding is akin to a grand jury returning a true bill in answer to a citizen's complaint about a gang of muggers, and it is welcome.

However, it will do nothing to stop the muggers, who are free on recognizance and free to go on mugging for the time being.

While apparently dumped and subsidized steel took about 20 percent of the U.S. market in 1981, imports for January 1982 were 26 percent.

And last Monday one of the largest steelmakers in the United States announced a 22-percent cutback in capital investment plans for 1982.

This $1.3 billion represents respectable profit lost to a basic and very necessary U.S. industry that is strapped now for investment to modernize, an industry certain to be more pressed at a critical time if imports continue as they have been.

American Iron & Steel Institute (AISI) President William DeLancey has warned that the existing $6 billion industry modernization program can be fulfilled only if those amendments to the tax law we struggled with last year can be coupled with profits from sales.

And United States Steel Chairman David Roderick noted a few weeks ago that steel will require annual capital expenditures of $7 billion by 1988 if the industry is to be reinvigorated and competitive enough to survive in the world.

But these are spoken warnings, and warnings are only words until events begin to substantiate them.

And just Monday the Nation's fourth largest steelmaker, National Steel of Pittsburgh, announced a $50 million reduction in planned capital spending for 1982 as well as temporary pay cuts of up to 25 percent for management and salaried employees.

Why?

National President Howard M. Love said it was to offset larger than expected losses in the first quarter due to a softer than anticipated market.

The apparent binge of dumping and subsidized importation is an important cause of the softness for National Steel, and for the industry overall it accounted for about 26 percent of the softness in January.

If all the firms in this industry were to reduce their capital expansion plans by 22 percent as National had to, the result would be stunning to the industry and the economy.

Yet that is what an unchecked frenzy of apparently dumped and subsidized importation would lead to because current U.S. trade policy pits American companies and workers against the resources of foreign governments.

National makes a lot of hot-rolled sheet, cold-rolled sheet, and galvanized sheet.

Imports in 1981 accounted for 18.4 percent of the galvanized sheet market, 10.6 percent of the hot-rolled sheet market, and 9.9 percent of the cold-rolled sheet market.

By the way, Mr. Speaker, the ITC terminated 54 proceedings involving about 10 percent of the offending imports, including galvanized sheet. This does not mean the steel was not dumped or subsidized but only that U.S. producers were not significantly harmed by it; that the damage is so insignificant as to not merit further action.

And this seems akin to the same grand jury setting an arbitrary $50 threshold on muggings—if the victim lost $49.99 or less, he was not robbed; he simply made and unanticipated charitable contribution to the mugger.

We might poll workers on layoff and on short workweeks to get a more accurate definition of insignificant.

An AISI report indicates that the remaining cases break down as follows as to product and country of origin:

Belgium—Carbon steel plate, hot steel and strip, structural shapes;

Brazil—Carbon steel plate;

West Germany—Carbon steel plate, hot sheet and strip, cold sheet and strip, structural shapes;

France—Hot sheet and strip, cold sheet and strip, structural shapes;

Italy—Hot sheet and strip, cold sheet and strip;

Luxembourg—Structural shapes;

Netherlands—Hot sheet and strip, cold sheet and strip;

Romania—Carbon steel plate;

South Africa—Carbon steel plate, hot sheet and strip, cold sheet and strip;

Spain—Carbon steel plate, hot sheet and strip, cold sheet and strip, structural shapes;

United Kingdom—Carbon steel plate, structural shapes, hot carbow bar and cold carbow bar.

Note that most of the steel came from Europe, Mr. Speaker, because I will mention the Europeans again.

The AISI also complied a list of product and typical end uses for all categories involved to provide a rough idea of where the steel is going, and the breakdown is as follows:

Structurals—30.6 percent to imports for construction, railroad use and machinery;

Sheet piling—26.5 percent to imports for construction;

Plate—25.4 percent to imports for construction, ship-building and rail machinery;

Wire rod—23.5 percent to imports for machinery and wire products;

Cold finished alloy bars—21.1 percent to imports for automotive uses and machinery;

Galvanized sheet—18.4 percent to imports for construction, automotive uses and appliances;

Hot-rolled sheet—10.6 percent to imports for automotive uses and construction machinery;

Cold-rolled sheet—9.9 percent to imports for appliances, electrical equipment and automotive uses;

Cold-finished carbon bars—9.3 percent to imports for automotive uses and machinery;

Hot-rolled carbon bars—9.2 percent to imports for automotive machinery and forging;

Hot-rolled alloy bars—7.1 percent to imports for automotive uses, forging and oil and gas drilling.

The toll is even grimmer in stainless steel.

American producers are the world's most efficient in specialty steel yet apparently dumped or subsidized imports there are taking more than half the market in some categories.

The losses, according to the report, are as follows:

Pressure tubing—53.9 percent to imports for the year for use in machinery and gas cylinders;

Tool steel—51.6 percent to imports for uses in machinery;

Rod—44.9 percent to imports for uses in industrial fasteners and machinery;

Pipe and tube—44.1 percent for uses in machinery;

Bar—22.2 percent to imports for uses in machinery and electrical equipment;

Sheet—11.7 percent to imports for automotive uses, machinery and appliances;

Stainless plate—6.4 percent to imports for use in machinery.

Meanwhile, the European Parliament has formally commented on the initiation of the ITC cases against the European producers.

It passed a resolution that—and here I quote from their news release, Mr. Speaker—"calls on the Community to uphold . . . the interests of the European steel industry and its workers."

Meanwhile, more than 77,000 American steelworkers are out of work and another 17,000 are on short workweeks as a result of 1981 when the import rate was 1 ton of every 5 sold here; and the rate for January was 1 ton in 4.

Twenty-three percent of the employees have been laid off at one big mill in Pittsburgh.

And meanwhile, the No. 4 steelmaker in the United States has reduced its capital investment plans by about 22 percent for 1982 as a result of a softer than expected market, an important cause of which is imports.

Who will stand up to the muggers of the world to uphold the interests of American steelworkers and the industry?

Or for the 8.5 percent of Americans who are unemployed, many as a direct effect of unfair trade and more in the ripple effect that flows from our basic industries?

Or, who will stand to further the much-desired reindustrialization whose abortion could be sealed by dumping and subsidy?

Economists can debate the recession, but only Congress and a determined administration can erect trade law and policy that puts American workers on an equal footing with dumped and subsidized foreign goods. And it is time we got on with doing it.●

LT. COM. NICHOLAS BROOKS—NO LONGER AMONG THE MISSING

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. GILMAN. Mr. Speaker, I have had the honor for the past 10 years of working with, and having as my close friends, two very special people from Newburgh, N.Y.—Mr. and Mrs. George Brooks. Throughout the 10 years of our association and friendship, I have sensed in them a deep dedication and warmth which I have not found in many other people. George and Gladys Brooks have worked so hard over the past decade, not just for themselves, but for thousands of other people in a situation comparable to theirs: the families of the 2,500 Americans still unaccounted for—our missing in action in Southeast Asia.

The Brooks' son, Lt. Nicholas Brooks, who was shot down over Laos on January 2, 1970 became a symbol for us of the courageous, special young man who fought for our Nation in a most difficult war. Nick was a Navy pilot whose A6-A aircraft was downed in Khammouane Province in Laos. After Nick and his crewmate ejected from their aircraft, two separate beeper sounds were heard by rescue personnel called to the scene. Lt. Bruce Fryar, the other crewmember, was almost rescued before our pararescue team had to leave the area because of heavy ground fire. Nick was not heard from again, and when the U.S. team returned to the area the next day, the body of Lieutenant Fryar was missing, and Nick was not located either.

We can all perceive the severity of the pain and uncertainty that George and Gladys carried with them for years after learning that Nick was missing, and after subsequent reports were filled indicating that Nick may have been captured and held as a prisoner of war. We can understand how difficult a period it must have been for the Brooks family as the POW's returned to the United States in 1973; there was still no information on Nick Brooks.

George and Gladys Brooks shared the anguish of the many families whose loved ones did not return from Southeast Asia. For many of these families, George and Gladys were a bulwark of strength: While seeking information on their own son, they willingly and unselfishly gave time and solace to the other families and to the National League of Families, with whom they worked over the years.

To see George and Gladys at the annual meetings of the National League in Washington was encouraging to all of us. Their strength and hopefulness, their faith and kindness gave the families a reason to continue pursuing the information and the knowledge that someday answers may be found to the puzzling questions facing the family members.

Our Government declared Nick Brooks "Killed in Action" (KIA) in 1980 after a lapse of 10 years with no additional information forthcoming on his case. Despite his classification as KIA, George and Gladys continued to press our Government, and the governments in Southeast Asia for answers. George pored over the documents and maps that led to a conclusion that Americans may still be held in Southeast Asia. Night after night, after returning home from work George studied the live sighting reports which Asian refugees coming to our Nation had passed on in an effort to reveal the truth about American POW's.

In late January and early February of this year, Laotians turned over the remains of an American serviceman to our Embassy in Bangkok, Thailand. After careful study and testing, the remains were positively identified by our central identification laboratory in Hawaii as those of Lt. Comdr. Nicholas Brooks.

After 12 years, we have learned the answer about the fate of Nick Brooks. We now know that Nick died defending our Nation, and that his sacrifice is finally recognized and appreciated. We are now able to give Nick a final resting place and the deep admiration and final tribute that he has so courageously earned.

Nick's career began at the Naval Academy in Annapolis and ended in Southeast Asia, defending our Nation, and maintaining the highest of standards of our brave fighting servicemen.

The families of the other 2,500 Americans still missing share our sense of relief that the agonizing waiting period has come to an end for one of the families. And I am certain, that even though the waiting has ended for George and Gladys, they will still be there, giving support and encouragement to the other families who still do not have the answers. George and Gladys has done so much for our Nation, and for the families of our servicemen and civilians that it would be extremely difficult to continue this work without them.

To Gladys and George, we say thank you for continuing your painful struggle through these 12 years, through the long nights and the many years of frustration and discouragement. The vigil has ended for one family; but for others it goes on. I hope that in concluding this long story there is finally peace; and I know that in the commemoration of Nick's passing, there is a renewal of life. As this spring comes, casting its brilliance and its hope on our land, we know that Nick's sacrifice, and his parents' sacrifice has taken root and blossomed. I know that my colleagues join with me in offering our prayers for Nick and the Brooks family, and in asking God to keep them safe and peaceful in the years ahead.●

HELSINKI COMMISSION TO HOLD HEARING ON MADRID MEETING

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. FASCELL. Mr. Speaker, the Madrid meeting of the Conference on Security and Cooperation in Europe recently recessed after a stormy 5-week-long session. During this phase of the meeting, the United States and its Western allies forcefully condemned the imposition of martial law and subsequent repression in Poland and Soviet complicity in those events. The circumstances in Poland, combined with other Soviet abuses of the Helsinki Final Act, made continued negotiations in Madrid impossible. Thus, the Madrid meeting recessed on March 12 with agreement to reconvene on November 9, 1982, nearly 2 years after its original opening.

The Helsinki Commission will hold a hearing on Tuesday, March 23, 1982 at 9 a.m. to assess developments at this last phase of the Madrid meeting and to discuss prospects for the future of the meeting and for the CSCE process. Testifying before the Commission will be Lawrence S. Eagleburger, Under Secretary of State for Political Affairs and Ambassador Max M. Kampelman, Chairman of the U.S. delegation to the Madrid meeting. The hearing which will be held in room 2221, of the Dirksen Senate Office Building, is open to the press and public.●

YURIY SHUKHEVYCH DEFENSE WEEK

HON. JOSPEH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. ADDABBO. Mr. Speaker, during this week, March 22-27, the Ukranian Student Association will be observing "Yuriy Shukhevych Defense Week." Because of the magnitude of this case, I would like to share Mr. Shukhevych's story with those not familiar with it.

Yuriy Shukhevych has been a free man for only 4 years of his life since the age of 15. He is now 48 years old. Shukhevych's sole crime is that he was born the son of Roman Shukhevych, a leading member of the Organization of Ukranian Nationalists, dedicated to the establishment of an independent Ukranian state. Since 1948, the Soviet Union has been attempting to have Yuriy Shukhevych denounce, on general principal, his father and all his activities. For his continued refusal to submit to these demands, Shukhevych has been subjected to torture, harassment, and more than 30 years of incarceration. His entire adult life has been spent in Soviet prisons and labor camps, all due to his "guilt by association." Shukhevych is a tragic example of the Soviet persecution of minors who have refused to denounce their parents, and are therefore held responsible for their parents' political beliefs and activities.

In August 1948, Soviet authorities arrested Shukhevych, after deporting his mother and executing his uncle. When he refused to disassociate himself from his father and his politics, Yuriy was sentenced to 10 years imprisonment by a special three-man council of the Ministry of Internal Affairs. These "troikas" were empowered to arrest, investigate, try, convict, and sentence persons suspected of political opposition. Then years later, after serving that sentence, Shukhevych was again convicted of anti-Soviet agitation and propaganda, and sentenced to 10 more years of imprisonment and 5 years of exile. The Soviet officials at the time blatantly admitted that the evidence against Shukhevych had been fabricated, but pointed out that "with his views and convictions, we cannot set him free." Shukhevych was promised a review of his sentence and possible release from prison in return for a press conference or statement condemning his father's activities, but refused.

Upon his release in 1968, Shukhevych began his term of exile: He married, fathered two children, and began writing his memoirs. In 1972, he was again arrested, charged with "nationalist activities"—which consisted of his personal writing—and tried again behind closed doors. The sentence this time: 5 years in prison, 5 years in a labor camp, and 5 years in exile. Today, he is still a prisoner after more than 30 years; he suffers from heart ailments, a chronic ulcer due to dietary deficiencies, and is in dire need of dental care and eyeglasses.

Yuriy Shukhevych's crime lies not in anything he has done, but in who he is. He has been designated a political symbol, and has been punished as a lesson for the edification of other Soviet dissidents and activists.

It is most important at this time that we help bring the case of Yuriy Shukhevych to the attention of the administration and the American public. What is imperative, however, is that we impress upon the Soviet authorities the fact that we are both informed and deeply concerned about his case. As Americans who enjoy our constitutional freedoms daily, we cannot in good conscience remain silent in the face of such blatant violations of basic human rights.●

ERA COUNTDOWN

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. WIRTH. Mr. Speaker, despite the tremendous gains women have made in the past decade, the fundamental rights of equal opportunity and equal treatment under the law are not yet guaranteed. Women continue to be discriminated against because of their sex, and are becoming the fastest growing poverty group in the country. Although American women are working outside the home in unprecedented numbers and currently make up close to half the work force, they are still clustered at the lowest end of the economic scale. As of March of this year, women were earning only 63 cents for every dollar earned by a man—1 cent less than the amount earned in 1956. Only a constitutional amendment can provide the impetus for the changes needed to rectify such discrimination. At present, the rights that women have thus far managed to secure through various State and Federal laws depend upon the ever-changing political climate of the day. The equal rights amendment, once written into the Constitution, would put women's rights beyond the reach of politics and changing policy. No impartial statewide poll anywhere in the country shows a majority opposed to the equal rights Amendment.

My own State of Colorado is one of the 17 States that adopted its own ERA by amending its constitution in 1972, and subsequently rejected an attempt to repeal that amendment in 1976. Colorado experienced none of the negative effects those opposed to the ERA warn us about. Indeed, the State's ERA has been a resounding success. The legislature, which referred the State amendment to the voters, is also one of the first to have ratified the national ERA. Thirty-four other States have followed suit—only 3 additional States are needed to constitute a three-quarter majority. It is my hope that on this day—the 10th anniversary of the passage of the equal rights amendment by the Congress, and less than 4 months prior to the deadline for ratification—that the 15 remaining States and my fellow colleagues in the House will make a commitment to equality and vote to insure basic fundamental rights for all Americans, including the 51 percent who are female.●

THE IMAGINARY DEFENSE GAP

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. STARK. Mr. Speaker, the Reagan administration has remained steadfastly opposed to any kind of cuts to the sacrosanct defense budget. They tell us we must close the window of vulnerability, lessen the huge defense gap, and beef up the sagging and, from the administration's statements, severely inadequate military force. All this must be done to counter an increased Soviet threat and potential Communist domination.

As usual, there are two sides to every story, and the truth lies somewhere in the murky middle. We are not about to be run over by Communists, nor is our military in total disrepair, as the Reagan administration would have us believe. As a matter of fact, many people think we are fairing just about as well, perhaps a little better, than the Soviets in this day of high technology weapons, expensive equipment, and time consuming personnel training. Richard Stubbing, former deputy chief of OMB's national security division, recently wrote an article in the Washington Post, which I have reprinted here, explaining just that.

THE IMAGINARY DEFENSE GAP: WE ALREADY OUTSPEND THEM

(By Richard A. Stubbing)

If White House tenants have long painted rosy economic pictures that rarely square with reality, those numbers have nothing on the doomsday reports we are treated to nowadays contending that the Soviet Union is overpowering us on defense.

We are told, for example, that we spend about 5 percent of our gross national product on defense, while the Soviets spend 12 to 14 percent on theirs. We are not reminded, of course, that our GNP is twice that of the Soviet Union's.

We are told that in 1980, the Soviets spent $175 billion, or 50 percent more than we did on defense, or that over the past decade their military outlays outpaced ours by more than $300 billion. We are not reminded that defense spending comparisons in the real world include outlays of American and Soviet allies—those many other nations out there—and that the publicly available evidence in this area, as in others, tells a very different tale.

Studies by the prestigious International Institute for Strategic Studies (IISS), for example, show that the Soviets' Warsaw Pact allies spend roughly $20 billion to $30 billion annual on defense forces. Our NATO allies, by contrast, allocate three to four times that amount—more than $100 billion annually.

In other words, while this margin has no doubt been narrowing, the United States and its NATO allies outspent the Soviet Union and its Warsaw Pact allies on defense by more than $300 billion in the past decade.

In Asia, for example, the Soviets' principal allies are North Korea and Vietnam. North Korea spends about $3 billion annually for defense, and Vietnam probably spends something close to that. The principal U.S. allies—Japan, South Korea, Australia and New Zealand—spend nearly $20 billion.

This does not mean that Japan or others among our friends should not shoulder a large share of allied defense spending, as some have argued, or that our own Pentagon outlays might not be increased to some extent as well. The issue is one of magnitude, of the immensity of defense spending increases proposed at the expense of all else, of the fears generated unnecessarily by incomplete information.

Consider what is behind a good deal of Kremlin spending. A significant portion of it in recent years has been aimed squarely at the People's Republic of China. Century-old border disputes between the two countries broke into open fighting in 1969, and in recent years China has improved long-dormant relations with the United States, Japan and other Western nations.

Americans can understand China's threat to Russia by considering the long-undefended border we share with Canada; a hostile nation with a 4 million-man military force on our northern border would change our defense emphasis quite rapidly. Published CIA estimates state that 10 to 15 percent of Soviet defense spending ($18 to $27 billion) is for units with a primary mission against China.

In short, recognizing the impact of NATO, Warsaw Pact, Asian allies and Soviet spending directed toward China and other factors transforms an alleged 50 percent Soviet spending advantage into a 15 to 37 percent edge for the United States. No cause for fright there.

Another critical element in dollar comparisons is the quality of our estimates of Soviet spending. Because Soviet defense data obviously are not available to us, the CIA develops its calculations by attempting to determine the cost to equip, man and operate the Russian military here in the United States—using U.S. market prices and wages. While this approach certainly provides a good indicator of trends in Soviet spending over time, its reliability on specific spending figures is questionable.

The CIA estimates, for instance, ignore the relative efficiency with which the U.S. and Soviet economies turn materials and labor into finished products. A Soviet factory producing artillery rounds may operate at 20 percent, 50 percent or 80 percent of the efficiency of a comparable U.S. plant, but this is not considered.

An even greater deficiency is the absence of an attempt to compare the net military value of Soviet products and services with those in the United States. For example, the relative value of Soviet vs. U.S. tanks or Soviet tanks vs. U.S. mines and anti-tank missiles to stop these tanks is not addressed.

In an unclassified report, the CIA asserts that its estimate of Soviet defense spending is accurate within 15 percent for each year of the 1970s. Perhaps—but a look at the problems in all four elements of the CIA estimate quickly calls that claim into question.

1. Soviet Manpower. Soviet troop strength is known with accuracy, and the CIA prices this force of low-wage conscripts at U.S. pay rates. One major error in applying this method is that every pay raise for U.S. military personnel widens the U.S.-U.S.S.R. spending gap simply because the Russians have more troops in uniform than we do. Eliminating this misleading way of assessing manpower costs would, by itself, eliminate a quarter of the 1980 spending "gap."

2. Soviet Weapons and Facilities. Significant uncertainties about the quantity and quality of Russian equipment undermine our ability to determine Soviet inventories and to assess the capabilities of Soviet weaponry. For instance, we at first overstated the capabilities of several generations of Russians fighter aircraft.

The Mig 25 Foxbat is a classic case. When initially observed, our analysts credited this aircraft with major technology advances. But after a Russian pilot flew a Mig 25 to Japan, U.S. experts found the aircraft's performance greatly overrated. Its range was far more restricted than we had estimated, its acceleration and turning capability were poor, and it was equipped with 20-year-old, tube type electronics.

Estimating what each type of Soviet equipment would cost if produced in the United States is extremely difficult. Final price tags on our own weapons systems often vary wildly from contractor estimates; attaching costs to Soviet weapons we know little about is fiendishly difficult. Among other things, self-interest argues for U.S. contractors (who provide the initial estimates used by the CIA) to attribute high unit costs to Soviet systems, thereby widening the supposed spending gap and enhancing their prospects for more defense business. About 50 percent of the CIA-estimated U.S.-U.S.S.R. "gap" is in this area.

3. Soviet Operating Costs. Large unknowns dominate this area. We do not know with any reliability the operating techniques or the activity rates of Soviet combat and support units. Measurement yardsticks are essentially lacking, and confidence in these estimates cannot be high. After correcting for the military manpower pay raise distortion, total Soviet operating costs for their larger forces are estimated at about U.S. levels.

4. Soviet Research and Development Costs. The CIA states it has the least confidence in the accuracy of this spending category. Differences in Soviet and U.S. approaches to R&D are major. For example, the Soviets historically have had two or three weapons design bureaus competing on new systems development—a more costly R&D approach than the U.S. method. Reliable data is simply not available. Nonetheless, the CIA concludes that Soviet R&D efforts in recent years were twice as much as the U.S. About 25 percent of the identified U.S.-Soviet "spending gap" is identified here.

None of this is intended to suggest that Soviet forces haven't continued to improve in size and capability; they have. The Soviets also continue to outproduce the West in armored vehicles, submarines, fighter bombers and strategic missiles. But the picture is far from glum.

A close look, for example, at the Pentagon's allegations in "Soviet Military Power," the special brochure issued several months ago, should swiftly dispel that report's suggestion that Russian forces are practically ten feet tall:

"The Soviet Union now exceeds the United States in the number of strategic nuclear vehicles." True, but the United States now has more strategic warheads in its inventory. In the 1980s, defense posture statements state that we will possess some 10,000 strategic nuclear warheads to provide the strategic punch needed in any contingency. Only 5 percent of this total—500 delivered warheads—could destroy the Soviet Union as a viable society.

"Over the past 10 years the Soviets have expanded their ground forces to more than 180 divisions."True again, but almost all this Soviet expansion since the mid 1960s reflects the increased divisions deployed against China. As "Soviet Military Power" itself shows, the Russians today assign 45 divisions, or 25 percent of their ground forces, against China.

The report also concludes that only 46 of the 180 divisions are highly combat ready. As additional 98 divisions are classed as cadre units with less than half strength; they would require months to reach full combat status. MIT defense analyst William Kaufmann, who helped prepare the Pentagon posture statements for more than 15 years, observed that the Red Army seems to take about three months to set up a major attack force, whether against Czechoslovakia in 1968, Afghanistan in 1979, or Poland in 1981:

"The Soviets today in Europe have a substantial advantage both in numbers of troops and quantities of armored assault vehicles." Not true, when NATO and Warsaw Pact forces are considered. The 1981 IISS report concludes that NATO actually has a slight edge in total military manpower over the Warsaw Pact.

The NATO allies, in fact, have a surprisingly large (27 percent) advantage in the number of ground forces actually in place in Central Europe (excluding forces in the western regions of the Soviet Union and in the United States). The Russians do have a large edge in tanks and armored vehicles, but NATO forces have a clear lead in antitank missiles, mines, and tactical aircraft with tank-killing capability. NATO also will have an initial advantage in fighting from defensive positions against a Soviet attack.

Another key concern here must be the reliability of the U.S. and Soviet allies. There has been a reduced cohesion among the NATO nations in recent years, but in a Soviet attack against Western Europe, the full support of the entire NATO bloc can reasonably be expected.

With the recent unrest in Poland and other nations, on the other hand, the Soviets surely pause in assessing the steadfast support of their Warsaw Pact members other than East Germany. Soviet allies comprise almost half the Warsaw Pact ground forces in Europe, fully 30 percemt of the main battle tanks, and a surprising two-thirds of antitank missile launchers.

"High Soviet priority is being devoted to antisubmarine sensor technology applicable against ballistic missile submarines." American capability far outstrips the rudimentary U.S.S.R. antisubmarine technology. Our submarines will remian essentially invulnerable for the foreseeable future. Soviet submarines, by contrast, have a high noise level which makes them vulnerable to attack, and they face great resupply difficulties in wartime.

"The widely publicized KIEV-Class aircraft carriers are the largest warships ever completed by the Soviet Union." The Soviets have two KIEV-Class carriers, each displacing about 38,000 tons, but they can only accommodate helicopters and vertical take off and landing (VTOL) aircraft with limited capability. The U.S., by contrast, has 18 ships of greater or equal capability—including 13 carriers of between 60,000 and 90,000 tons, each equipped with the world's most capable aircraft, and five assault transports of 38,000 tons which support helicopters and VTOL aircraft.

Finally, one must remember that dollars alone are not a serious basis for judging the strength of our enemies or of ourselves. There is scarcely any reason to believe that a defense budget twice the current size, for example, would have prevented the Soviet invasion of Afghanistan or the Iranian seizure of American hostages, the two events which triggered a major shift in U.S. public opinion for greatly increased defense outlays.

Consider the case of the B1 bomber. The Defense Department projects costs of about $28 billion for 100 aircraft, but estimates by the Congressional Budget Office and the General Accounting Office suggest costs of up to $40 billion. If the higher estimate is more accurate, then—using the CIA pricing methodology—the United States would close the "spending gap" faster by laying out the higher amount—even though the same 100 aircraft are delivered. The ludicrous nature of this conclusion is obvious.

Conversely, greater efficiency in the use of U.S. resources (substantial opportunities exist within the massive defense budget) could increase real Pentagon output each year by large percentages without one additional dollar spent. Again, this would not be reflected in CIA spending comparisons, which is further reason to question those comparisons.

The case for massive escalation in U.S. defense spending has yet to be made convincingly. The real opportunities to improve U.S. military capability require a fundamental reexamination of basic policies and structures in sizing and equipping forces—a task which, unfortunately, is not currently under way.

Maybe, just maybe, both sides can recognize their mutual interest in beginning talks to slow the apparently never-ending upward spiral in defense spending, thereby freeing resources to attack other longstanding problems at home in both nations.●

GUATEMALAN ELECTIONS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. PEASE. Mr. Speaker, as the chairman of the Human Rights Committee of Members of Congress for Peace through Law, I would like to call the attention of my colleagues to two articles on the March 6 Presidential elections in Guatemala in the New York Times of March 15 and the Washington Post of March 16. Raymond Bonner's article in the Times, "Guatemalan Vote Ends Hope for a Civilian Leader and Brings Charges of Fraud," points out that the elections were marred by widespread reports of fraud from numerous local poll watchers.

According to the official results, Gen. Angel Anibal Guevara, the former Minister of Defense and the army's candidate, was the winner with 35 percent of the vote. Because he did not receive a majority of the popular vote, the outgoing Congress had to choose between him and the three other candidates including Mario Sandoval Alarcon, Alejandro Maldonando, and Gustavo Anzueto. There was never any doubt about the 39 to 13 outcome as General Guevara's three-party coalition controlled the Congress.

Mr. Bonner notes that foreign diplomats and numerous Guatemalans acknowledge widespread fraud in the elections, but they are unsure if an accurate tabulation of the votes would have given the Presidency to any of the other three candidates.

In the 1974 elections in Guatemala, many observers believed that the Christian Democratic candidate, Gen. Rios Montt, received the most votes, but the army's candidate, General Laugerud, was imposed as President. In the 1978 elections, Gen. Lucas Garcia, the current President, was proclaimed the winner, although many observers insisted that he received fewer votes than the National Liberation Movement candidate, Col. Peralta Azurdia.

In his article in the Washington Post, "Election of General Upsets Many in Guatemalan Elite," Loren Jenkins also notes that General Guevara was widely perceived as the representative of "continuismo," the continuation of the government of retiring President Lucas Garcia. Mr. Jenkins makes the point that the recent elections revealed the political isolation of the army and its front parties in the Congress: Even by the Government's count, Guevara had only won 16 percent of the total possible vote of the country's 2.3 million voters.

On the basis of these and other articles on the recent election in Guatemala, I believe that the army has clearly demonstrated that it refuses to give up power and intends to continue the same policies which have led to that country's abysmal international reputation.

Following is the text of the two articles:

[From the New York Times, Mar. 15, 1982]

GUATEMALAN VOTE ENDS HOPE FOR A CIVILIAN LEADER AND BRINGS CHARGES OF FRAUD

(By Raymond Bonner)

GUATEMALA, March 14.—In this country plagued by a deepening civil war and a crumbling economy, those who hoped that a civilian would win the March 6 presidential election and end years of military rule have had their hopes dashed.

Guatemala's next president will be Gen. Angel Anibal Guevara. According to the official results, the former Defense Minister and candidate of the army received 377,792 votes, 35 percent of those cast. In second place was Mario Sandoval Alarcon, an extreme conservative, with 274,217 votes, or 26 percent. He was followed by Alejandro Maldonado Aguirre, the most moderate of the four candidates, who polled 220,244 votes, or 20 percent. Finishing last, with 98,747 votes, or 9 percent, was Gustavo Annueto Vielman, the candidate who was the personal favorite of most at the United States Embassy here, primarily because of his economic policies.

Voting is obligatory in Guatemala, but only about 45 percent of those registered actually voted.

What is significant, suggested one diplomat, was not that General Guevara won, but that nearly two-thirds of the voters cast ballots against the military candidate.

Leftists boycotted the elections and asked their supporters either not to vote or to cast blank ballots—10 percent of the ballots were invalid or blank.

Because General Guevara did not receive a majority of the popular vote, the outgoing Congress had to meet and choose the president. With the three-party coalition that backed him controlling the Congress, General Guevara was named president by a vote of 39 to 13. He will be sworn to a four-year term on July 1.

The elections—like those in 1974 and 1978—were swiftly followed by charges of fraud from the losing candidates and by demands, backed by respected sectors of the business community, for new elections.

The charges were denied by the winner, who said, "In Latin America, the losers always speak of fraud."

There is some evidence to support the charges.

For example, religious leaders in one moderate-sized city said they were told by poll watchers that Mr. Maldonado won by a substantial margin, but that the results sent to the capital gave victory to General Guevara.

In Santa Rosa de Lima, eight of the nine ballot boxes were burned, according to one diplomat. And in nearby Nueva Santa Rosa, according to the evidence presented by those charging fraud, some 4,500 people voted at one table. Assuming that the polling station was open the maximum period, which was from 7 A.M. until midnight, the 4,500 would have been voting at the rate of about 260 per hour.

While acknowledging that there was considerable fraud, foreign diplomats and many Guatemalans said they did not know if it was substantial enough to have affected the ultimate outcome.

But fraud or not, most Guatemalans apparently did not want another military president. There have been only three civilian heads of state since 1871.

"What we've got to do, come hell or high water," is have clean elections and a civilian president, said a wealthy, conservative landowner and business executive some weeks before the voting.

"We didn't do very well, did we?" the same businessman said on Wednesday. "We didn't get either."

"I expected Guevara to make a bad showing because people are fed up with the army," said the businessman.

"A priest and a nun said they knew of many voters who marked their ballots, "We don't want the army."

Guatemalans and foreign diplomats familiar with the thinking of Guatemalan military officers said that many of them, especially the younger ones, were angry with the results of the elections.

The anger, they said, was motivated by a practical consideration: They want military aid from the United States, and they know the United States wanted a civilian government here.

While the leftist-led revolution in Guatemala has been overshadowed by the civil war in neighboring El Salvador, it has increased to the point that most diplomats said the Government can avoid defeat only with outside military aid.

American officials here said they knew little about the leaders of the insurgency. They said many have been trained in Cuba, but there are few, if any, charges of Nicaraguan or Soviet involvement. In part, this is because the Guatemalan war began before Fidel Castro's victory in Cuba.

The officials said the country's Indians, who make up slightly more than half of the nation's population of 7.2 million, constitute a significant portion of the rebel forces. According to one diplomat, 8 of every 10 insurgents are Indians.

What the Guatemalan Army most wants are more helicopters and spare parts for the ones they have. Only two of the air force's nine military helicopters are flyable.

WEAPONS FROM ISRAEL

Because of the United States ban on military sales, which was imposed in 1977 because of the country's poor human rights performance, the Guatemalan Government went through the United States Department of Commerce to purchase civilian helicopters from the Bell Corporation. The air force is reported to have 15 of these. When they arrived, the army mounted them with machine guns and used them to combat the insurgents.

When the Guatemalan treasury was rich—in 1979 international reserves were about $850 million—the Government was able to buy weapons from other countries, primarily Israel, despite the American aid ban.

But Guatemalan economy is now limping, crippled by low prices for the country's major exports, coffee and cotton, and by guerrilla attacks around some of the country's tourist sites. That has reduced tourism, once Guatemala's third-largest earner of foreign currency, "to a trickle," as one businessman put it. As a result, the Guatemalans would like to buy weapons from the United States, which offers better terms and lower prices.

The Reagan Administration has proposed military aid for Guatemala and it had hoped the elections would bring a more moderate leader to the country, making it easier to convince Congress to lift the ban on aid. But it is faced with convincing Congress that the elections were not intolerably fraudulent, and that General Guevara will be a president who deserves United States backing.

[From the Washington Post, Mar. 16, 1982]

ELECTION OF GENERAL UPSETS MANY IN GUATEMALAN ELITE

(By Loren Jenkins)

GUATEMALA CITY, March 15.—For those who had hoped this year's presidential election would open the door to national unity and international respectability, the announcement last weekend that Gen. Angel Anibal Guevara will be Guatemala's new head of state brought only gloom and a sense that little had changed here.

Among the disappointed were the three losing candidates, conservatives of varying stripes of respectability who bitterly charged that this election, like so many others in the past, was a fraud orchestrated by the military.

Although the U.S. Embassy remained diplomatically circumspect as the National Congress officially declared Guevara the winner Saturday, officials there clearly had been hoping the election would bring a marked change in Guatemala's long and increasingly disastrous history of military-dictated governments.

More significantly, disappointment has swept through a wide range of the nation's business and landowning elites, and appears to have shattered the mutually reinforcing alliance between them and the nationalistic military men with whom they have ruled for nearly three decades.

Despite campaign promises of a "new era," Guevara, the official candidate, was widely perceived as the representative of *continuismo*, the continuation of the government of retiring President Romeo Lucas Garcia. A political clone of Lucas, Guevara, too, is a former defense minister tapped for the presidency by the armed forces high command.

The triumph of the government's candidate for president was, in retrospect, hardly surprising in a nation with a sad history of electoral fraud, rigged votes, results vetoed by the military and coups d'etat. The real surprise was the uncharacteristic political isolation of the army and its coalition of front parties after Guevara emerged from the balloting March 7 with a commanding, if hotly disputed, lead over his rivals—Mario Sandoval Alarcon, Alejandro Maldonado and Gustavo Anzueto.

Although there has been no conclusive determination of whether the election was rigged, the losers who charged fraud noted that even by the government's count, Guevara had only won 16 percent of the total possible vote of Guatemala's 2.3 million voters. The losers said that collectively they represented the true will of the electorate.

More surprising still was the spectacle of the losers and their supporters, all persons of varying positions within the right, taking to the streets like leftists to protest the victory of the lone military candidate in the election.

"We are in danger here of having a situation like in Nicaragua under Somoza where not only the left was alienated from the government but the right too," a coffee planter fresh from a demonstration told a visitor whom he joined to watch police teargas and beat other demonstrators in front of the National Palace.

"The danger is the left will take advantage of the situation and we will end up losers twice over."

That possibility exists in the long term given the growing strength of the four leftist guerrilla movements fighting the government in the highlands. But political analyst here say that in the short term the political power of the armed forces, under the forceful leadership of the president's brother Brig. Gen. Benedicto Lucas Garcia—who was educated at the French military academy St. Cyr—will prevail.

Although some of today's angry politicians may eventually appear in Guevara's government when it takes office July 1, the disenchantment of a large segment of the Guatemalan oligarchy has already become an important new factor in the tangled political situation.

Suspicions that the vote, which President Lucas repeatedly promised would be free and open, was manipulated once again in favor of the Army's candidate, have angered man businessmen and landowners.

Redemption of Guatemala's abysmal international reputation—and presumably redemption of the nation's negative credit rating—were to have flown from truly democratic elections which, it had been hoped by U.S. officials as well as concerned Guatemalans, would have brought forth a popularly based government, able and willing to distance itself from President Lucas' heavyhanded, often inept and corrupt, policies.

This was the "self-help publicly urged on the eve of the elections by U.S. Ambassador Frederic Chapin as a condition for the United States to resume much-needed economic and military aid suspended in the late 1970s following Carter administration criticism of repeated and blatant human rights violations here.

A large group of Guatemalan businessmen and cotton and coffee plantation owners, banded together in their professional associations and a civic group named *Amigos del Pais* (Friends of the Country), campaigned tirelessly in the United States and here to convince themselves and foreign critics that free elections could and would be held.

Long allied with the military, which had acted as guarantors of the privileges of their class, these so-called oligarchs have sought to distance themselves from President Lucas in direct proportion to the threats of national bankruptcy that are an offshoot of his hard-line policies of curbing all dissent, or suspected dissent.

Between the cost of fighting a growing guerrilla war without any serious foreign military aid, with banking credits dried up because of international repugnance over the tens of thousands of civilians who have died during his four-year rule at the hands of "death squads," and the investment climate chilled by the Sandinista revolution in Nicaragua and the increasingly hot guerrilla war in neighboring El Salvador, Guatemala's economy today is verging on collapse.

The 6 percent growth rate Guatemala enjoyed for years until 1977, the year before Lucas was elected to the presidency, has plummeted to almost zero. The country's $830 million foreign exchange reserves that Lucas inherited were virtually exhausted in February when a bank consortium refused to roll over a $75 million debt forcing the Guatemalan treasury to kick up their last reserves to avoid international bankruptcy.

It is this state of affairs, more than concern for the human rights violations, that has suddenly frayed the traditional alliance between the Army and Guatemala's oligarchy.

It is this same state of affairs that last week led the very representatives of Amigos del Pais who had lobbied so hard all week to convince visiting journalists that Guatemala did not deserve its ugly reputation abroad, to finally throw up their hands in despair when the tabulation of electoral votes suddenly broke down and the election returns room they had set up to demonstrate Guatemalan democracy in action had to be closed for lack of returns to chalk up on its embarrassingly empty blackboards.

"This is the way the Guatemalans make elections," a suddenly embittered manufacturer in a group burst out to visitors, insisting later that he not be quoted by name lest he be targeted by government security agents. "Those in power, the military, always refuse to give up their power."●

IN DEFENSE OF FULL FUNDING FOR TITLE V

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. BIAGGI. Mr. Speaker, on Friday, March 19, I participated in a special rally in New York City sponsored by the New York City Department for the Aging. At the rally were several hundred senior citizens including many who are currently employed by the senior community service employment program—or title V of the Older Americans Act.

The rally was held in conjunction with last week's observance of National Employ the Older Worker Week. The reason for the rally was to protest the administration's fiscal year 1983 budget which calls for the elimination of the separate funding which title V has enjoyed over the past several years.

Presently some 54,200 low-income workers aged 55 and over are provided with part-time employment opportunities under title V. The overwhelming majority of these older workers provide vital community services in facilities such as hospitals, day care centers, libraries, and parks. A sizable number of title V employees provide services to their fellow older Americans in senior centers and nursing homes.

The proposed elimination of title V came as a major shock to many of us in Congress because it came less than 2 months after Congress overwhelmingly passed and the President signed into law S. 1086—a bill to reauthorize all titles of the Older Americans Act for 3 years. In the case of title V—the 3-year reauthorization was accompanied by a 14-percent increase in authorizations. Nowhere in the debate in committee or on the House and Senate floors was anything negative said about the title V program. When the President submitted his budget on February 8, it called for the elimination of categorical funding for title V and proposed as its replacement a new special targeted assistance training block grant. Here older workers were among nine other disadvantaged groups who would be eligible for some $200 million for training opportunities. Contrast this with the $277 million provided separately for older workers under title V.

I serve as a member of the House Education and Labor Committee and in that capacity have been proud to be an original cosponsor of the 1978 and 1981 Older Americans Act amendments. I therefore strongly support the retention of title V of the act as a categorical program. I reject its inclusion in a training block grant—because the fact is that title V is not a training program—it is a community service employment program targeted for the low-income older worker. I also reject the proposal that older workers must compete with groups such as ex-offenders for training and or employment opportunities.

There are some signs that the administration may be reconsidering its position. Recently the Education and Labor Committee received testimony from Labor Secretary Raymond Donovan where in response to a question I asked he stated that he would do all that he could to maintain a program for older workers with funding as close to possible to the existing $277 million provided in fiscal year 1982.

In addition, I have joined more than 120 of my colleagues in cosponsoring House Concurrent Resolution 278 which expresses the sense of Congress that funding appropriated for title V of the Older Americans Act in 1983 and future years should be maintained at a level sufficient to insure that the 54,200 jobs it currently provides are maintained or increased.

I was proud to have voted with the majority of the House Education and Labor Committee in favor of a $296 million appropriation for title V in fiscal year 1983 as part of our recommendations to the House Budget Committee. I contend this is indicative of the feelings of many of my colleagues on both sides of the aisle with respect to this program.

As we approach our substantive deliberations on the fiscal year 1983 budget I urge my colleagues to stand up and be counted for full funding for title V. This would be a position which makes not only good economic sense but shows genuine compassion for our older workers. In my home State of New York it is estimated that the 4,200 older workers employed by title V in turn provide some 4.2 million man-hours of service in the community.

As a further illustration of the value of title V, I wish to insert into the RECORD a fact sheet on the program prepared by the New York City Department for the Aging which discusses what title V means for New City. It is a success story which is being told all across this Nation and which should be rewarded with your affirmative vote in favor of retaining the existing program.

THE TITLE V SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

WHAT IS TITLE V

The Senior Community Service Employment Program is a training and employment program for low-income older people. Congress reauthorized the program at a $277 million funding level as Title V of the Older Americans Act on December 12, 1981, and the President signed it into law.

WHAT IS PROPOSED FOR THIS YEAR

The President's 1983 budget proposes to totally eliminate the Title V Program—the last remaining employment program for low-income elderly—by October 1, 1982. In its place, the Administration proposes the Special Targeted Jobs Program that would include American Indians, migrant and other seasonal workers, displaced homemakers, ex-offenders, persons with limited English speaking ability, older persons and others. The total funding for all these groups would be $200 million. There is no provision for employment or on-the-job training.

WHO IS ELIGIBLE FOR TITLE V

To qualify for Title V, a person must be 55 years or older; have an income not exceeding $5,388, or for a couple $7,113; and be unemployed, underemployed or someone who would have difficulty securing employment.

TITLE V WORKERS

54,000 are enrolled in the Title V Program nationally.

900 are employed in the program in New York City under the auspices of the New York City Department for the Aging, the National Urban League and the National Council of Senior Citizens.

Nationally 6,000 Title V workers were placed in unsubsidized jobs last year as a result of this employment and training program.

Of the 700 Title V workers, employed under the auspices of the Department for the Aging: 84 percent have incomes at or below the poverty level; 80 percent are women; 55 percent are members of minorities; 25 percent are over 70 years of age, with some over 80.

Title V workers are employed in 250 voluntary and public agencies throughout the city—senior centers, hospitals, schools, home care agencies, employment centers and other social service facilities.

75 percent of the Title V workers are performing services for other older people.

EXAMPLES OF SERVICES TITLE V WORKERS HAVE PROVIDED THIS YEAR

172,000 hours of outreach and referral to help older people obtain services and benefits.

143,000 hours of meals preparation, serving and delivery for both congregate and home delivered meals for the elderly.

106,000 hours developing and organizing educational and cultural activities in senior centers.

40,000 hours of social service assistance for the general community.

37,000 hours of light housekeeping, shopping and escort services for frail elderly.

30,000 hours of assistance in hospitals and other health care facilities.

27,000 hours of assistance in schools and other education programs.●

SUPPORT OF EQUAL RIGHTS AMENDMENT

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mrs. KENNELLY. Mr. Speaker, as a new Member, I am honored to join with my distinguished colleagues to voice my support of the Equal Rights Amendment.

I have been a supporter of the amendment since its introduction in 1972 and know that it is as needed today as it was 10 years ago.

The battle to ratify the Equal Rights Amendment has been very difficult, but this should not lead us to back off from our commitment to see it ratified.

We have fought for many years to insure equal rights for women. Each hard-won gain has brought us closer to full equality with men. The ERA is needed as a national acknowledgement of the implications of each of these attainments, and a guarantee that they will remain with us.

One of the many things we have learned in the long struggle for women's rights has been the value of perseverance. And so, we know that if the ERA is not passed by June of this year, the struggle must continue. The amendment will be reintroduced and we will fight for its passage with every bit of dedication we have devoted to it during the past 7 years. To do anything else would be to turn our backs on the sacrifices of our mothers and grandmothers and the futures of our daughters and granddaughters.●

ENERGY IN A FINITE WORLD: A CASE FOR ENERGY R. & D.

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mrs. BOUQUARD. Mr. Speaker, a majority of the oil consumed in the world by the year 2030 may well have to come from unconventional sources, that is, synthetic fuels.

To ameliorate the carbon dioxide and acid rain problems, synthetic fuel production techniques may well have to draw from nonfossil energy sources.

These are but two of the observations made in a recently released study conducted over the last 7 years at the prestigious International Institute for Applied Systems Analysis (IIASA). This study, entitled "Energy in a Finite World" presents the conclusions of a major effort undertaken by over 140 scientists from 22 countries, working at this well respected international, nongovernmental institute. Details of their work can be found in the volumes; "Energy in a Finite World: Paths to a Sustainable Future," and "Energy in a Finite World: A Global Systems Analysis," both written by the Energy Systems Program Group of IIASA, Wolf, Hafele, program leader.

This study looks at the global and long-range picture of energy development from 1980 through the year 2030. The purpose of the study is to provide a framework for gaining a perspective on how one might deal with two very formidable realities. Namely:

The difficulties associated with supplying and using energy are not temporary; they will continue and we must learn to deal with them; and

The energy problem is inherently global; no nation is untouched, nor can any act in isolation.

It now seems clear to almost everyone that energy and raw material supplies, problems of population growth, and the realities of economic needs have irreversibly tied the nations of the world together.

Nationalism may be fine political rhetoric, but we had all better wake up and face the real necessity for international agreement and cooperation on many fronts, not just energy, or else be prepared for consequences far harsher than any we have faced before—worldwide decrease in standards of living, fierce price wars on increasingly scarce fuel resources, and the relegating of Third World countries to eternal poverty—any of these issues could lead to unrest and no doubt physical confrontation between countries.

The alternative to confrontation and chaos is to address the real international energy supply problem. This is what IIASA has tried to do. This study has attempted to look at the ramifications of possible scenarios—not forecasts—for world energy use and supply. What makes this report stand somewhat apart from other previous studies by equally credible groups is that the modeling techniques used by IIASA to perform the analyses were internally self-consistent; for example, the models would not permit two countries to have the same barrel of oil. The reasonableness of imposing such a requirement is obvious. But once imposed, this global self-consistency requirement leads to the situation where demand is limited by supply.

Interestingly enough, the scenarios which IIASA developed were done from a demand point of view but the demand was constrained by assumed rates of commercialization of new technologies and rates of reduction of use of conventional energy sources.

Thus time, not resources, is the primary constraint on energy and economic growth. It simply takes a great deal of time to transition into the more inexhaustible resources; that is, fission fast breeder reactors, solar, and fusion.

Mr. Speaker, I would like to share an excerpt from these IIASA reports and hope that it will whet the appetitites of my colleagues here in Congress, and cause them to view very positively the continued need for energy research and development and the importance of maintaining the visibility of energy policy at the highest levels of Government. It is also particular timely to analyze these IIASA results in the sense they provide us such a useful global perspective, since the U.S. involvment in the organization is now in danger of being terminated.

The following section is from the summary volume entitled "Energy in a Finite World, Paths to a Sustainable Future"; Wolf Häfele, program leader, written by Jeanne Anderer with Alan McDonald and Nebojsa Nakicenovie (Ballinger Publishing Co., Cambridge, Mass., copyright 1981).

1: The Energy Problem: No Easy Fix

[Figures or graphs mentioned in text, not reproduced in the Record.]

Energy specialists no longer have to acquaint the public with the existence of an energy problem. The symptoms of our increasing dependence on dwindling fuel resources have emerged sometimes slowly and gently, sometimes suddenly and painfully. We are all aware of the forms in which we have experienced them in our own lives, and we are becoming increasingly aware of the ways in which they affect others. Our appreciation of the connections between energy problems and difficulties falling under other headings—social, political, environmental, economic, institutional—has also grown. With this understanding it has become clear that the label applied in 1973, "The Energy Crisis," is inaccurate, or at least misleading. The difficulties associated with supplying and using energy spread throughout society and are not temporary; they will continue, and we must learn to deal with them.

Yet most people, whether in their day-to-day living or in their professional lives, have been obliged to deal with their energy difficulties within a limited perspective. They have not had a broad picture of the energy situation, one that encompasses the likely future patterns of global demand and supply, the actual magnitude of fossil resources, the possible efficacy of energy-saving measures, the likelihood of the global trading of energy, or the prospect of ameliorative instructional changes.

To be sure, until the oil shock of 1973 there had been no urgency to think in such long-range and global terms. Institutional and national planning for future activities, some of which might even be strongly energy dependent, simply went on in the absence of such facts and foresight. But subsequent events have pushed to the fore the recognition that sharp oil price increases were merely the trigger and that the world faces not a temporary "crisis," but a pervasive, chronic "energy problem."

The change in perception goes further: It recognizes that the world is tightly interconnected and explains why the development of appropriate energy policies is such a difficult process. While the energy problem transcends national borders, policy analyses have tended to follow suit only selectively. Other nations are scrutinized only when they might prove to be suppliers of energy; as for their problems, those are their own business. But such provincialism can only lead to dangerously misguided national policies. To underestimate the difficulties of others, to fail to appreciate the differences between developing and developed countries, and to neglect the repercussions that one nations' actions can have on another, only inspire policies that increasingly will strain the world's resources and institutions. And the more these are strained, the more painful and difficult will prove any attempts to overcome the energy problem.

Is finding a solution to the oil problem a way of solving the energy problem, or does it go deeper than that? To answer this question, it is imperative first to understand the many sided character of energy, described in the accompanying boxed material and in Figure 1-1, and to appreciate the factors that have shaped today's energy problems.

Today's high gear economies run largely on fossil fuels—coal, natural gas, and especially oil. In 1975, roughly 70 percent of the world's primary energy came from oil and natural gas, and roughly 20 percent of this oil was crude from the Persian Gulf. There are many reasons why energy infrastructures are built around oil. Oil is a clean, versatile, and relatively easy to use fuel that until recently was in constant supply at relatively low prices. And because of its liquid properties, oil can be easily transported over long distances and stored conveniently. Oil not only serves the purposes of industrialization, but, even in developing rural areas, a barrel of oil can fairly easily be brought in, stored, and used for cooking and heating.

If the energy problem had arisen in a fairly static world, it might have been possible to solve it, in time, by reducing the amount of energy used and by gradually substituting new energy sources for oil. But we live in a dynamic world—a world in which populations are growing rapidly, in which the work force is increasing, and in which aspirations for amenities are growing. If the living standards of the industrialized world are at the very least to be maintained, and if the peoples of the developing world are to achieve reasonable standards of living in time, there will have to be economic development and, in the case of the least developed countries, rapid economic growth. But development requires energy—lots of it. Specifically, the need for liquid fuels is high in nations at early stages of industrialization. So, to meet the needs of a rapidly expanding world population undergoing economic development is likely to require a considerable increase in the amount of energy used, especially liquid fuels, as well

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OLDER AMERICANS ACT

Title III of the Older Americans Act is targeted for reduction: social services by 10 percent, congregate meals by 10 percent, commodities by 10 percent, and an 8-percent reduction in title III funds for administration. In Connecticut, the cuts in congregate meals, coupled with a cap on commodities, will result in a reduction of almost 210,000 meals served, or 838 meals per day in fiscal year 1983. In fiscal year 1981, Commissioner Shealy notes, the nutrition program served approximately 10,000 meals per day. Further, it is noted, this estimate does not include any additional cuts that would be caused by inflation or the loss of jobs under title V of the Older Americans Act at nutrition sites.

I have received a veritable avalanche of mail condemning the proposed elimination of the title V senior community service employment program. It is more than evident that the elderly who are working under this program find it essential to their livelihood. I have joined with many of my colleagues in writing to the President to save the program; more recently, I have cosponsored House Concurrent Resolution 278 which expresses the sense of Congress that title V should be maintained at a level sufficient to insure that the 54,200 jobs it currently provides are maintained or increased. I beseach you all to join in protecting this important employment program for the elderly. If it is indeed eliminated, as the administration proposes, the number of title V jobs available in Connecticut will drop from 649 to 169.

ENERGY ASSISTANCE

The President plans to put the low-income fuel assistance program into the hopper with weatherization and emergency assistance. The total proposed authorization for this block grant would be $1.3 billion, or 28 percent less than the individual programs currently receive. A new formula by which the funds are distributed is to be proposed by the administration, as well. Notwithstanding the new formula, Connecticut will lose $11 million in energy assistance funds. My figures show that as many as 11,000 households in Connecticut with elderly members received fuel assistance in Connecticut this past year. The State would have a considerably smaller amount with which to keep them warm under the President's fiscal year 1983 budget. Those of us from the Northeast have had to stage a battle over the formula for fuel assistance distribution to the States, so that our area would receive its fair share. Let us hope that we will not have to fight the fuel assistance cutbacks on two fronts, both budget and formula, this time around.

FOOD STAMPS

The State Department on Aging reports the following: As part of an effort to reduce food stamp outlays by $2.3 billion, the administration proposes to: Eliminate monthly benefits of less than $10; count energy assistance payments in determining eligibility and benefit levels; eliminate the current 18 percent earned income disregard; and increase the recipient's share of food costs from 30 percent to 35 percent of income after deductions and credits are calculated. These changes are specifically aimed at recipients like the elderly who have some income from such sources as social security, SSI, or part-time employment. OMB has estimated that 92 percent of the elderly who receive food stamps could have their benefits reduced or eliminated. An estimated 28,784 elderly in Connecticut received food stamps in 1981.

Participation in the food stamp program by the elderly nationwide has increased 45 percent since 1978. I can only respond that the proposed cutbacks in food stamps are extraordinary and will have a very cruel effect on our country's senior citizens, who have found these benefits of increasing importance in the last few years.

MEDICARE

The President proposes a number of statutory changes in the medicare program, including: Raising the payments that must be made by beneficiaries; reducing the Federal reimbursement for medical services; requiring Federal employees to pay medicare hospital insurance payroll contributions; making Federal employees eligible for medicare benefits; and requiring employers to provide the same coverage for their aged workers as they do for other workers, thus making medicare the secondary source of coverage for these workers. The medicare changes are to reduce Federal outlays by $2.47 billion in 1983, or 4 percent, and $16.09 billion in fiscal year 1982, or 16 percent. Overall growth of the medicare program over the next 5 years would be reduced from 99.8 percent to 67.6 percent. According to the State Department on Aging, medicare reimbursements for Connecticut beneficiaries would be reduced by an estimated $36.8 million in 1983 and $239.8 million in 1987.

Commissioner Shealy makes this comment on one of the administration proposals to alter the medicare program: The administration has also proposed to require that employers provide the same insurance coverage for employees over 65 as for other employees, and limit medicare payments to the balance of reasonable charges after the employer's plan has paid its share of the costs. As a result of this change the cost of insuring elderly workers, who currently get medicare supplemental coverage at substantially reduced rates, is expected to increase to the same level as the cost of insurance for other workers. The differential under one common insurance policy is over 350 percent. Since the elderly tend to be heavy users of medical care, this proposal is likely to discourage employers from hiring or retaining older workers.

MEDICAID

Medicaid outlays would be reduced, under the President's budget, by $2 billion through a number of legislative changes. One such change would be to reduce reimbursements for optional services and services provided to medically needy clients; Connecticut stands to lose $25 million by virtue of this proposal alone. Federal matching rates for nursing home inspections would be lowered from 90 percent to 50 percent. This particular proposed change is of grave concern to me. My figures show that nearly 10,000 elderly Connecticut residents are medicaid recipients; most are in nursing homes. It has not yet been determined how many nursing home inspectors would lose their jobs under this proposal, but it is clear that jobs will indeed be lost and inspections will suffer for it. And, when inspections suffer, the victims are the elderly persons being cared for in the nursing home—yet another safeguard for their health and well-being would be torn down.

It is a well-known fact that hospital costs have far outstripped the rate of inflation—they have risen twice as rapidly as the Consumer Price Index since 1974. The average medical care bill for aged persons, as reported last year by the Select Committee On Aging, reached $2,026, compared to $764 for persons aged 19 to 64, and $286 for the young. The average out-of-pocket health bill for the elderly was over $1,000 in 1979. You can imagine, given the extraordinary way hospital costs have risen, what the out-of-pocket costs must be today.

I have not mentioned social security benefits, the fate of which is still up in the air. Nor have I mentioned the Legal Services Corporation, or the community services block grant. The President is proposing a whole new direction, or no direction at all (so to speak), for these initiatives. The elderly, who comprise a sizeable segment of those programs' recipients, will surely suffer.

The budget for the coming fiscal year is not yet cast in stone, fortunately. The Budget Committee is now formulating a first budget resolution, from the recommendations it has received from the various authorizing committees. Given the impact of the President's spending proposals on the elderly in Connecticut, I cannot support a budget plan that so eviscerates basic health, nutrition, housing, and employment services for older needy Americans.●

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ENERGY ASSISTANCE

The President plans to put the low-income fuel assistance program into the hopper with weatherization and emergency assistance. The total proposed authorization for this block grant would be $1.3 billion, or 28 percent less than the individual programs currently receive. A new formula by which the funds are distributed is to be proposed by the administration, as well. Notwithstanding the new formula, Connecticut will lose $11 million in energy assistance funds. My figures show that as many as 11,000 households in Connecticut with elderly members received fuel assistance in Connecticut this past year. The State would have a considerably smaller amount with which to keep them warm under the President's fiscal year 1983 budget. Those of us from the Northeast have had to stage a battle over the formula for fuel assistance distribution to the States, so that our area would receive its fair share. Let us hope that we will not have to fight the fuel assistance cutbacks on two fronts, both budget and formula, this time around.

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We often don't like what we see in the mirror and the Journal's Wednesday story accurately showed a city struggling with economic hard times. But the presentation, to be accurate, should have explained Lima's geography. "The one department store in town" leaves the reader in Chicago with the impression of a prairie village. Not written was that Lima, on its fringes, boasts shopping malls with well over 100 department and specialty stores.

The owner of that one department store in Lima's central business district deserves credit. "I can guarantee you we're not going to close," owner Thomas Gregg was quoted as saying.

Neither is Lima.

CITY OF LIMA, OHIO,
March 5, 1982.

Mr. FREDERICK TAYLOR,
Executive Editor, the Wall Street Journal,
New York, N.Y.

DEAR MR. TAYLOR: Thank you for the opportunity to discuss by telephone the limited perspective of Lima afforded by the article appearing in the Wall Street Journal on Wednesday, March 3, 1982.

As you suggested, I have enclosed a statement for publication in the "Letters to the Editor" column so your readers may better understand Lima's real situation.

The community's response to your article is captured in the enclosed editorial. Thank you again for your assurance the Wall Street Journal will present both sides of the issue.

Sincerely,

HARRY J. MOYER,
Mayor.

Enclosure.

While I do not object to using Lima as an example of an older city in the industrial Midwest, I believe the positive actions of our community in responding to change are more newsworthy, and would be a better description of our community, than the image presented in your Wall Street Journal article, "World's Apart," March 3.

While the 1980 Census indicates a reduction in the City's population, it also reflects the construction of new housing units adjacent to a fully developed city and a slight increase in population in the urban area.

We agree the "sunbelt" cities are able competitors in our efforts to sustain, and expand, our industrial base in an increasingly competitive business world. However, what must not be overlooked in a community, like Lima, are the resources and cooperative spirit which ensure continuing success in meeting change.

We have established a "partnership" between the public and private sectors because we recognize the benefits of combining our resources and expertise for growth and prosperity. Examples of our cooperative ventures downtown are three new office buildings and three major renovation projects—reversing a 25-year decline.

These investments were prompted by a $1.8 million downtown street lighting, sidewalk and landscaping improvement program principally financed by voluntary property owner assessments. And, the City is responding to an $8 million fund drive to finance a civic/convention center, initiated by private donations which already exceed $5 million.

Lima is a leader among Ohio cities in development of water resources, essential for economic growth, and has constructed a $25 million wastewater treatment system acknowledged as the most modern of any city in the United States. Without these exceptional public services, two regional hospitals, several universities, and extensive cultural opportunities, corporate citizens like Proctor and Gamble, Continental Can, Dana, Monsanto, Ex-Cell-O, Teledyne, Ford Motor Company, Westinghouse, Standard Oil, and many others would not have plants in Lima.

Our aggressive economic development program has expanded our tax base, thereby reducing property tax rates. These efforts are largely responsible for securing the Abrams tank production facility which has provided 2300 new jobs. The foresight to provide new opportunities for the employees of declining industries has helped Lima to weather the current recession.

When the voters increase the city income tax this June, it will be the first increase in sixteen years. We suggest this record demonstrates sound fiscal management and good government stewardship.

In the context of your article, the business community's confidence in Lima's future is perhaps best evidenced by the purchase and reopening of three auto dealerships by local dealers. While the transition from transportation related heavy industry to newer technologies is arduous, it is happening in Lima. Two industrial plants which closed are being redeveloped into industrial parks and utilized by spin-off industries.

While we deplore individual economic misfortunes, don't confuse this with the death of a city. Look closer, as we have in Lima, and you will find our economic base is strong, increasingly diversified, and poised for a resurgence when our country recovers from the recession.

HARRY J. MOYER,
Mayor.

CHAMBER OF COMMERCE,
Lima, Ohio, March 5, 1982.

Mr. FREDERICK TAYLOR,
Executive Editor, the Wall Street Journal,
New York, N.Y.

DEAR MR. TAYLOR: Your article on March 3rd depicting Lima is unfair. Unfortunately it tells only part of the story—the negative part. It zeros in on the worst of our economy, but does not mention what the community is doing to help itself in these times. It describes a disease that is terminal and leads the reader to believe that Lima has the worst case.

I do not accept the death tag that the article has pinned on Lima. Sure, we're going through a down economy, but most parts of the country are down. The important thing is that we are doing something about it. We are not sitting on our hands waiting for it to change, but rather, we are working to make it change.

The Chamber of Commerce, the City and the County Governments are united in working to preserve our existing industries and are aggressively seeking new industry. We are promoting Lima and we are getting interest. As I write, deliberations are progressing with a number of prospects. Lima's population is somewhat down because of a shift to suburbia. The county population is actually up in the measured period. The closed store fronts are a result of shopping malls and some have been closed ten years. Several were actually filled this past year, and Lima has three new office buildings.

The downtown business-paid streetscape revitalization and the immediate prospect of a Civic Center support the fact that Lima's downtown is improving—not decaying. Employment has increased in the past 60 days from 82% to 85% currently. The point is—Lima is alive! Good forces are in motion. Lima's future will be as good as its past because it's working at it!

That's what The Wall Street Journal should have reported.

ARTHUR T. IRWIN,
President.●

CENTENNIAL YEAR OF THE KNIGHTS OF COLUMBUS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. MOORHEAD. Mr. Speaker, on March 27, 1982, district 49 of the Knights of Columbus which comprises four councils in Glendale, Burbank, Montrose, and Sun Valley areas are sponsoring a major celebration honoring this centennial year of the Knights of Columbus with the Reverend Monsignor Arthur J. Lirette representing the archdiocese of Los Angeles and the St. Cecilia Singers, singing the Mass at Holy Family Church in Glendale. The ceremony will be followed by a banquet and dance at the Castaway Restaurant in Burbank. The following information tells something about the Knights of Columbus and its outstanding history:

CENTENNIAL YEAR—KNIGHTS OF COLUMBUS

SUPREME NATIONAL

It was in the year 1882, in the small city of New Haven, Connecticut, in the shadow of Yale University, and in the basement of St. Mary's Church, that the Order of the Knights of Columbus was organized by Reverend Michael McGivney. That date, March 29, 1882, was an epoch making one in the history of the Catholic Church in the United States. At the present time there are 1,300,000 members and $5 billion covering the insurance members.

Did you know? On the National Level, as a Knight of Columbus you present substantial and timely contributions to the Holy Father's personal charities and bring the Pope to the world three times a year to 800 million people—one-fourth of the world's population. Also, donate millions of dollars to the church in various programs too numerous to list herein.

STATE OF CALIFORNIA

The Order reached the Far West in 1902 when within a week of each other San Francisco Council No. 615 and Los Angeles Council No. 621 were instituted in their respective cities on January 19 and January 26. On May 12, 1902, the California State Council was organized.

Did you know? On the State Level, five $500.00 scholarships are awarded to students of Knights' families. Two of these are for religious vocations and one each to attend the Universities of Loyola, San Francisco, and Santa Clara.

LOS ANGELES AREA

The Southern California Chapter was authorized officially on April 29, 1926. It is the largest in the United States with some 20,000 Knights as members. The area encompasses north to Ridgecrest, south to Long Beach, west to Santa Monica and east to San Gabriel and there are 64 Councils in this area.

Did you know? Upward to $60,000 is raised each year for Rancho San Antonio Boys Town of the West.

GLENDALE LOCAL

In a public ceremony on the portico of Glendale High School and witnessed by 3,000 persons, Glendale Council No. 1920 was instituted on September 29, 1918, by Past State Deputy Joseph Scott. The first officers were: Grand Knight Peter J. Ferry, Deputy Grand Knight Henry M. Doll, Chancellor M. J. Brennan, Warden Leo McMahon, Recorder Randolph M. Doll, Financial Secretary Fred H. Huseman, Treasure J. W. Andree, Inside Guard, J. N. Thomas, Outside Guard J. F. Quinn, Lecturer J. H. Melliah, Advocate J. W. Blackman, Chaplain Reverend James S. O'Neil the first pastor of Holy Family Catholic Church.

Did you know? Glendale Council No. 1920 serves five parishes in its vicinity: Cristo Rey, Los Angeles; Holy Family, Glendale; Holy Trinity, Los Angeles; Incarnation, Glendale; St. Dominic's, Eagle Rock. An endowment fund is set up to provide five $500.00 scholarships, one for each parish each year. Thousands of dollars are donated to local charities each year.●

ERA

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mrs. HECKLER. Mr. Speaker, 10 years ago, after working to get the ERA passed by the Congress, I celebrated its birth. Today, I would prefer hailing its ratification to commemorating its birthday. But I recognize the significance of this day.

Susan B. Anthony said 101 years ago, "There shall never be another season of silence on this green Earth until women have the same rights as men." I would like to amend that to "there shall never be another decade of silence * * *"

The ERA has grassroots support. More than three-fourths of the population of the United States supports equality of rights under the law for women. More than 450 organizations representing more than 50 million Americans have endorsed the ERA.

It is clear that people are turned on, not turned off, by the ERA. That even extends to their television sets. People magazine, in an article last year on talented actor, director, and writer Alan Alda—who also happens to be an energetic worker for the ERA—stated that Alda's support for such causes as the ERA, "which shows through in some of the episodes of MASH he has written and directed," has not hurt the series' Top Five Nielsen ratings." That is even in States that have not ratified the ERA.

Nonetheless, a minority—using dilatory tactics and parliamentary maneuvers—has prevented the amendment from getting the three additional States that it needs. Their highhandedness thwarts the will of the majority.

But, as the success of the American Revolution shows, as the winning of women's right to vote demonstrates, the majority eventually gets its way.

I have stood on the floor of the House to get the ERA approved and to gain extension of its ratification deadline. I will stand again to get it accepted once more, if the deadline expires without full approval.

Emmeline Parkhurst said: "Those men and women are fortunate who are not born at a time when a great struggle for human freedom is in progress." I am proud to be part of such a struggle and will be prouder still to be part of the victory to which it leads.●

EQUAL RIGHTS AMENDMENT COMMEMORATION

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. FAUNTROY. Mr. Speaker, I am very pleased to join with the Congresswomen's Caucus in commemorating final congressional passage of the equal rights amendment 10 years ago today.

Ratification of this amendment is essential if we as a nation are to put into practice what we espouse rhetorically namely, that all of our citizens are entitled to the freedom of opportunity. We all know that for many women in our Nation today this freedom does not exist: Discrimination continues in the work force, in education, and in financial markets.

I know that many say that an amendment to the Constitution is not necessary to achieve this equality, that it can be brought about by statute. I can tell you this is not the case. Attempts to circumvent the Civil Rights Act of 1964 are made every day; indeed, there are moves afoot this very moment to erode our Nation's affirmative action programs. Similarly, black women in this Nation are the victims of discrimination on two counts: racism and sexism. No, a statute is not the answer. It is too easily altered, deviated from, or even repealed. A constitutional amendment is necessary.

Dr. Martin Luther King, Jr. made a statement about injustice which lends itself to the need for passage of the equal rights amendment. He said:

> We are all caught up in a network of mutuality, wrapped in a single garment of destiny, and what effects one of us directly affects all of us indirectly.
>
> I can't be what I ought to be until you are what you ought to be. You can't be what you ought to be until I am what I ought to be. This is the inter-related structure of reality.

To those of you across our Nation working to see the amendment ratified in these final hours, I say "keep up the good fight." The road to justice is a long and winding one, but truth will prevail.

In closing let me say that this amendment has the full support of the government of the District of Columbia. Regrettably, our local government will not have an opportunity to ratify this amendment as we are a disenfranchised people without full participation in the political processes of this Nation.

I have two hopes this afternoon: First, that the equal rights amendment will be ratified by the necessary number of States by June of this year; and second, that the District of Columbia full voting rights amendment will enjoy ratification by August 1985.

Only when these two amendments of justice become a reality we will be affording our citizens the equality envisaged by the Founding Fathers.●

ANATOLY SHCHARANSKY

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 15, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, Anatoly Shcharansky has now spent 5 years in Soviet prisons since being arrested and convicted of false charges of treason. This anniversary is a sad reminder of the Soviet Union's continued denial of the most basic human rights and liberties to its Jewish citizens.

Mr. Shcharansky's condition had deteriorated considerably over the last year. He has been hospitalized for an extended period, has had virtually no contact with his family and friends, and he continues to suffer brutal treatment at the hands of the Soviet Government.

Mr. Shcharansky's long imprisonment has robbed him of his health, but not his spirit. His religious beliefs remain strong, as does his commitment to defending the basic human rights of all Soviet citizens. We cannot let the world forget the plight of Anatoly Shcharansky and other Soviet Jews. We must contiune to do every thing in our power to end the Soviet mistreatment of its Jewish population. It is our obligation to speak out and call attention to these violations of basic justice.●

APRIL 22—CYPRUS DAY

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. BROOMFIELD. Mr. Speaker, Congressman Gus Yatron and I will be calling a special order on April 22 advocating a peaceful settlement to the conflict in Cyprus. It is one of the tragedies of our time that the people of Cyprus have had to endure an 8-year occupation of 40 percent of their country by Turkish troops. This illegal occupation is not only a tremendous burden of the Cypriot population, but it has created a significant refugee problem in Cyprus, with approximately 200,000 native Cypriots being forced from their homes and villages.

Since 1974, the United Nations Special Representative has sought to resolve the overall problem in Cyprus, but to no avail. I believe that it is important for the U.S. Congress to again express its strong desire for a peaceful resolution of the situation. We cannot allow a major dispute between two of our Western partners to continue indefinitely. Every year that the problem exists, the participants grow more firm in their negotiating positions, the people of Cyprus are further denied self-determination, and the foundation of our most vital alliance crumbles a bit more.

By endorsing this special order, the Members of Congress will be sending an unmistakable signal to Turkey that strong dissatisfaction is still present in our country concerning Turkish intransigence in resolving the Cyprus dispute. We will be again declaring our support for the removal of Turkish troops from Cypriot soil, and the obtainment of a political settlement acceptable to all sides. Turkey must understand that as long as this problem continues to fester, Turkey's security interests are not furthered over the long haul, Soviet interests are enhanced, and that our entire posture in the Mediterranean and Middle East is jeopardized. Let us be clear, the southern flank of NATO is in danger.

I am sure my colleagues recognize that Congressman Yatron has long been a powerful advocate of reaching a just settlement in Cyprus. We appeal for a bipartisan effort in support of this special order. The issue is vitally important for the people of Cyprus. It is no less significant for the United States.●

WORLD FOOD DAY, 1982

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. GILMAN. Mr. Speaker, on March 9, 1982, my distinguished colleague, the gentleman from Illinois (Mr. Simon), and I introduced House Joint Resolution 430, legislation authorizing and requesting the President to issue a proclamation designating October 16, 1982, as World Food Day.

As my colleagues will recall, during the 1st session of the 97th Congress, the gentleman from Illinois and I introduced similar legislation. We were pleased that the Congress passed that measure and welcomed the President's proclamation officially designating October 16, 1981, as World Food Day.

While the critical problem of hunger and chronic malnutrition has not abated since the initial World Food Day, thousands of observances and activities throughout the United States on that day helped to increase markedly public recognition of the hunger issue. Moreover, Governors of all 50 States and the island of Guam issued their own proclamations to commemorate October 16, 1981. At the United Nations, I was pleased to join representatives of many other nations in addressing the General Assembly during ceremonies calling for an intensified and more coordinated effort against global hunger.

Accordingly, to build upon the successes of World Food Day 1981, so that we can increase public awareness about hunger and develop the necessary commitment to resolve that problem, I urge my colleagues to support House Joint Resolution 430.

Mr. Speaker, I request that the report entitled "The First World Food Day—An Evaluation" and the full text of House Joint Resolution 430 be printed at this point in the Record:

The First World Food Day—An Evaluation

Thousands of observances across the United States on the first World Food Day proved that an enormous groundswell of compassion and concern exists for the world's hungry. Support for this untried idea came from all regions of the country and from all sectors of the community. We believe, further, that this first year was part of a learning process and that next year's observance, on October 16, 1982, can and should be much larger. Briefly summarized, here is what was accomplished in the first year:

At the national level, World Food Day won the support of the Congress, which passed a joint resolution of support, of the President, who issued a special World Food Day proclamation on October 14, and of key government departments and agencies such as the U.S. Department of Agriculture and the Agency for International Development. Important "flagship" observances were held at the United Nations, the Organization of American States and the Department of Agriculture headquarters in Washington.

At the state level, the Day was supported by special proclamations from the governors of all 50 states and the island of Guam. More than 250 colleges and universities, public and private, held special seminars and other activities. In many states, media attention was given to meetings of governors and World Food Day organizers. In many observances, state and federal legislators participated as guest speakers.

At the local community level, thousands of small and large observances were organized, with the main thrust coming from the churches and from local hunger activist groups, but also with a very large number of schools participating either as a whole or in separate class activities organized by individual teachers. Hospitals, libraries, clubs, civic organizations and youth groups of all kinds were also active.

Of the greatest importance was the support of private voluntary organizations, especially those which endorsed the Day through their membership on the National Committee. The Committee, with 178 member organizations in this first year, was the main instrument for achieving national recognition and for informing people at the community level of our plans and purpose.

Through these efforts, we have achieved some important goals:

First, we have established World Food Day officially, through the recognition of the Congress and White House, state legislatures and governors' offices, and city, county and state authorities.

Second, we have established World Food Day among many voluntary organizations, proving its usefulness in heightening public awareness to issues which are of common concern, in creating a new community of shared interest between farm, food, nutrition labor, industry, religious, academic, anti-hunger activist, world development and relief interests, and in demonstrating there is a broad constituency for food issues.

Third, we have brought together thousands of people in towns and cities throughout the country, showing them that others share their concerns and providing an opportunity to work together.

Fourth, we have established the link between national and international hunger concerns, building new bridges between those working on each side of these problems and between Americans and people in other countries who share our goals. It is important to remember that World Food Day is a global observance, and activities of all kinds were organized in 145 countries around the world.

An evaluation of the first year's experience reveals the following:

Each time that a co-sponsoring organization included a World Food Day appeal in its publications or mailings—even a small announcement of the Day and date—this resulted in a flood of inquiries to the National Committee. Local chapters and individuals responded positively when approached through a trusted organization. We think this is further proof of the value of getting voluntary organizations involved at local and state as well as national level.

The most successful community observances were those which involved the widest networking, bringing together different sectors of the community in the planning. The many activities in San Diego, Calif., for example, reflected the creation of a citywide committee of 52 member organizations. But networking doesn't require a big city. An equally impressive effort was made in Ansted, W. Va., a town of 1,800 with participation by the women's club, churches, local businesses, the town library and the mayor's office.

Many community groups, based on their experience this year, are looking for ways to keep new allies and coalitions together, both to plan for World Food Day in 1982 and for consideration of year around farm, food, nutrition and anti-hunger planning and programs. The National Committee will try to support these efforts throughout the coming year. The struggle to eliminate hunger—and the relevance of World Food Day—will require this kind of year around and long range planning and activities. (See enclosed paper on planning aids.)

Hundreds of letters from teachers (kindergarten through high school) asked the National Committee for classroom materials. We were stunned to find how little suitable material on world hunger is available especially for younger children. Several of our sponsoring organizations as well as other educational groups have promised to help prepare special study kits for young people and their teachers for the next year.

The above evaluation may make it appear that the National Committee achieved these goals by itself, which of course is not the case. World Food Day was established by consensus among the 147 member governments of the UN Food and Agriculture Organization. The official promoter of the observance in the United States was the U.S. Department of Agriculture. The National Committee staff worked closely with FAO and USDA in what has actually been an unusual joint effort by a multinational UN agency, a U.S. government department and all the private voluntary organizations on our Committee. And, of course, those deserving the most credit are all the community organizers around the country. World Food Day was planned as a grass-roots effort, counting on the initiative, energy and imagination of community leaders. Your response to this call was the heart of our success.

Sometimes we are asked, "How many people did you feed?" We answer that there is, first, importance in a symbolic act, particularly one shared around the world, and second, that action can only come from an informed and caring people.

World Food Day will be held each year on October 16. We hope that we will all be working together again on that day in 1982.

H.J. Res. 430

Joint resolution designating October 16, 1982, as "World Food Day"

Whereas, hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world are those who are suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States insure care for the national patrimony we bequeath to future generations;

Whereas national policies concerning food, farm land, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished;

Whereas efforts to resolve the world hunger problem are critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the first World Food Day on October 16, 1981, was supported by proclamations of the Governors of all 50 States, a resolution of Congress, a Presidential proclamation, efforts of the United States Department of Agriculture, and by more than one hundred and seventy-five national private and voluntary organizations; and

Whereas the one hundred and fifty-two nations of the Food and Agriculture Organization of the United Nations designated October 16, 1982, as "World Food Day" because of the need to alert the public to the increasingly dangerous world food situation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 16, 1982, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.●

PUBLIC POLICY GRADUATE STUDENTS AND FACULTY ADDRESS CONGRESS ON EL SALVADOR

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. PEASE. Mr. Speaker, a letter on the administration's El Salvador policy has been addressed to Members of Congress and the President by over 600 graduate students and faculty members at the Nation's leading graduate schools of public policy and international affairs.

The letter thoughtfully challenges the Reagan administration's emphasis on a military solution for El Salvador and calls instead for internationally supervised negotiations between the Duarte regime and opposition parties. The intense concern about the current U.S. policy demonstrated by the 600 signatories is shared not only by these scholars of public policy but also, as I am sure many of my colleagues have found, by a broad spectrum of constituencies in our districts.

The students and faculty members who signed the letter are affiliated with the following public policy schools:

Woodrow Wilson School of Public and International Affairs, Princeton University.

John F. Kennedy School of Government, Harvard University.

Graduate School of International Studies, University of Denver.

School of Advanced International Studies, Johns Hopkins University.

School of Public Policy, University of California at Berkeley.

Lyndon B. Johnson School of Public Policy, University of Texas.

Fletcher School of International Law and Diplomacy, Tufts University.

School of International and Public Affairs, Columbia University.

Edward A. Walsh School of Foreign Service, Georgetown University.

I commend this letter and its sentiments to my colleagues' attention.

March 18, 1982.

To President Reagan, Secretary of State Haig, and Members of Congress:

Present United States policy toward El Salvador will neither end the war in that nation nor serve American interests.

Increased military aid may contain but cannot crush the insurgency, which draws its strength from long-standing economic inequities and from resentment generated by the repressive tactics of the military and security forces. Ironically, expanded military operations may lead to a stronger opposition.

Furthermore, the forthcoming elections of March 28 are unlikely to bring the conflict closer to a solution. Although fair and open elections would be desirable, such elections are not presently possible. The ruling regime cannot or will not guarantee the safety of opposition candidates and supporters, and without their participation the election will be widely regarded as illegitimate.

Current U.S. policy does as little to promote American interests as it does to improve conditions in El Salvador. The Reagan Administration's emphasis on a military solution has dismayed our European allies and has undermined U.S. efforts to focus attention on Soviet aggression in Afghanistan and Soviet support for repression in Poland. Washington's support for a regime that has been unable to control the brutal and often indiscriminate violence of its armed forces has eroded U.S. credibility as a proponent of human rights and democracy.

The U.S. has placed itself in a no-win situation. At best, current levels of support will be required to sustain the junta throughout a long and bloody civil war. More likely, the junta will require ever increasing quantities of military assistance and perhaps American combat troops in order to survive. We may be able to keep the present regime in power, but it will rule over a devastated nation.

The tremendous human costs for El Salvador and the damage to U.S. prestige and effectiveness should cause us to reconsider our present policy. Negotiation between the Duarte government and the opposition groups is the most promising way to reduce the violence and to avoid a cycle of repression and growing opposition. At a minimum, negotiations should seek a cease-fire, but the larger objective should be to establish a framework in which peaceful political competiton would replace political violence in El Salvador.

Such negotiations will be difficult. Distrust and enmity are deeply rooted, and the parties' objectives are widely disparate. Given the level of animosity and violence, international cooperation will probably be necessary for successful negotiations. The U.S., together with other nations that have shown interest in El Salvador (e.g., France, Mexico, Venezuela), can contribute to designing a system of incentives and constraints that will promote an agreement between the parties. Those nations may also be needed to help guarantee the provisions of the agreement. Without international assistance and guarantees, mistrust and misconduct will probably make reconstruction of the society impossible.

A policy designed to encourage negotiations involves significantly fewer risks than our present course. If successful, negotiations will end the bloodshed and set El Salvador on a path to social and economic recovery. And even if negotiations fail to produce an agreement, U.S. support for a negotiated settlement will sharpen the distinction between American and Soviet conduct and improve U.S., relations with both our European allies and our Latin American neighbors.

As gradutate students and faculty members at schools of public policy and international affairs, we call upon the Reagan Administration and Congress to reconsider the present U.S. position. Massive military aid to El Salvador will only exacerbate existing problems and thus should not be the foundation of our policy. Instead, we urge the Reagan Aministration to press for negotiations, and we urge Congress to make aid contingent upon the commencement of good-faith negotiations by the Durarte regime. Dialogue and negotiation are, after all, in greater harmony with American ideals than is rule through military might.●

INTRODUCTION OF RESOLUTION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Ms. OAKAR. Mr. Speaker, I am introducing today with Congressman PEPPER a resolution to express the sense of the House that the Secretary of Health and Human Services continue to promulgate existing regulations to insure the rights of our elderly residents in long-term care facilities. Although the current regulations afford minimal protections for residents and do not go as far as we personally would like, they have brought about changes in nursing home care and have afforded patients humane and decent treatment—a way of life which is rightfully theirs. These regulations must be maintained and these rights must not be weakened.

In 1974, the Department of Health, Education, and Welfare—now Health and Human Services—saw a need to develop a national standard of residents' rights and subsequently included these as part of its revision of the medicare and medicaid standards for nursing home provisions that year. The Department of Health and Human Services is now reviewing and updating its nursing home regulations. It is critical that the rights of these patients remain unaltered in the regulations about to be proposed.

The concern expressed in this resolution is the upholding of basic human rights for our elderly citizens in long-term care facilities at no additional Federal expense and without conferring added authority to the Secretary of Health and Human Services.

The resolution would establish three things:

First, it would require that Federal standards and regulations with respect to the rights of residents in nursing homes be maintained.

Second, it would reaffirm the responsibility of the Secretary of Health and Human Services to insure the rights of residents in long-term care facilities; and

Third, it would stipulate that the Secretary continue to insure that each skilled nursing facility establish policies which are consistent with the standards for the rights of patients.

As members of the select committee, we have heard testimony and seen firsthand the horrors which can occur if patients are denied their basic rights. More often than not the atmosphere of apathy and despair which many of us associate with the institutionalization of our elderly could be alleviated by an improvement of these basic rights. Such an atmosphere can defeat and frustrate the efforts of the most understanding and qualified staff of these homes and, thereby, stifle the maintenance and improvement of both physical and mental well-being for residents of these facilities—which, in the long run, should be our ultimate concern.

The elderly of our country have suffered long enough—we need not ask our seniors to give up what dignity they have left by allowing their environments to be deteriorated. As the older segment of our population becomes the largest segment of our population, it is our responsibility to help meet the needs of those residents in care facilities whose quality of living should be at a level equal to ours.

For these reasons, we ask that the passage of this resolution be the first step in assuring dignity to our elderly.●

SMALL BUSINESS LEADERS: THE LARSENS OF SAN LEANDRO, CALIF.

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. STARK. Mr. Speaker, I would like to call to the attention of my colleagues, the 100th birthday of Larsen Bros. Lumber Co. in San Leandro. Larsen Lumber Co., which celebrated its centennial year on March 1, 1982, is the city's oldest continually operating business.

Harry Larsen, the present owner and operator, inherited the family business from his father, Harry Larsen, Sr., who in turn inherited Larsen Lumber Co. from his father, Jens Larsen, the founder. The company was founded in 1882 when Jens Larsen, an immigrant from Denmark, bought an already existing lumber yard from T. N. Willis. The business, named J. Larsen Lumber by Jens, did more than just sell lumber. Jens hauled sand for the construction of the Lake Chabot Dam and sold coal, hay, and feed.

Jen's wife, Christina, and two sons and two daughters worked at the business, which was located on the site of the present San Leandro Bay Area Rapid Transit Station. The sons, Harry and James took over the business in 1915 after Jen's death. Before James died in 1920, the brothers changed the company name to Larsen Bros. Lumber.

Harry ran the business by himself until 1925, when he married Olga Christensen. She worked at the lumber yard with her husband until her sons, Leland and Harry, Jr., took over the business. During the Depression, the couple went into the moving business as a sideline.

Leland and Harry, Jr., worked with their parents throughout their childhood. Things went smoothly for Larsen Bros. Lumber Co. until 1956 when the yard burned to the ground. The business was rebuilt and in 1965, the company was forced to move to its present 3 acre location at 14200 Washington Avenue in San Leandro to make way for the Bay Area Rapid Transit Station.

Harry, Sr., and his wife, Olga, worked at the lumber yard; Harry until his death in 1967 and Olga was active in the business until 1973.

Last year, the company moved into a new, larger office and showroom. The new building was designed in part by Harry Larsen, Jr. In the future, Larsen plans to grow by offering a more varied selection of specialty items and hardwoods. In addition, the company will continue its custom mill-work services, one of the few such services offered in our area.

Harry, Jr., his wife Pat, and their children, Sam, Mary Lynn, and Jenny, are all active in Larsen Lumber Co. I join the many individuals who are paying tribute to Larsen Lumber Co. as it celebrates 100 years of exemplary family-owned business in San Leandro. The Larsen family is to admired for carrying this vital business through the generations. Larsen Bro. Lumber Co. is truly a part of American business history.●

EQUAL RIGHTS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. WYDEN. Mr. Speaker, I stand here today with mixed feelings of pride and sadness.

I am proud because 10 years ago today, Congress took a long-overdue step: it went on record in support of equal rights for women.

But I am sad because, 10 years after that historic vote, the equal rights amendment is still not a reality.

Ten years after Congress declared it was time to call a halt to economic and social discrimination that denies women the opportunity to get ahead, we are still short of the number of States needed to ratify the amendment.

And now we are running out of time. Unless three more States ratify the amendment by June 30, the ERA will become just one more good idea that never came to pass.

We simply cannot allow this to happen. Women continue to be discriminated against in education, in athletics, in the workplace—virtually across society. In fact, although 48 percent of all married women now work, women still only earn 59 cents for every dollar earned by men.

Denying women equal rights is not only unfair, it is stupid. By denying women full access to the benefits of our society, we deny ourselves the full benefits of their skills and talents. We can ill afford to squander such a resource—particularly at a time when our Nation is reeling under economic woes.

I urge my colleagues to join me in pushing for ratification of the ERA. Let us make ourselves proud, not sorry.

NATIONAL DIFFUSION NETWORK ACT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. KILDEE. Mr. Speaker, on March 11, 1982, I introduced H.R. 5818, a bill to provide for the continuation of the national diffusion network (NDN).

As many of my colleagues are aware, the NDN is a program created in 1974 by the Department of Health, Education, and Welfare as a means to carry out this congressional mandate to improve educational quality through the dissemination of exemplary education programs to school districts throughout the United States. It is now administered by the National Diffusion Network Division of the U.S. Department of Education.

Though a relatively small program, in the 8 years since its inception NDN has amassed an impressive record of success in meeting its objective of improving the quality of education in the United States. Several recent evaluations of NDN, including studies by the General Accounting Office and the surveys and investigations staff of the House Appropriations Committee, have documented NDN's effectiveness.

NDN's accomplishments rest in part on its system of State facilitators—persons located in each State who provide information about exemplary education programs available to school districts seeking to improve their educational practices. The facilitators operate on the premise that no education problem exists in one location that has not already been solved in another. They bring educators seeking to solve problems or address weaknesses in their own schools together with others who have the information and technical assistance they may need.

NDN also operates a system of developer/demonstrator sites which serve as bases from which the 84 active exemplary programs can be shown to potential adopters. NDN exemplary programs now being disseminated range from preschool to adult education, and they include innovative programs in career and vocational education, basic skills, gifted and talented, language arts, and special education, among others. Before being designated exemplary and approved for dissemination through NDN, education programs are subjected to a thorough review by the Joint Dissemination Review Panel, a group of Federal evaluation experts from the Department of Education and the National Institute of Education.

The importance of continuing NDN's operations on the Federal level was recognized in the Education Consolidation and Improvement Act of 1981 (ECIA). ECIA provided for NDN's funding out of the 6 percent of its moneys reserved for the Secretary of Education's discretionary fund. This placed NDN in the unusual position of being named in the law, but not defined or described.

H.R. 5818 would address this discrepancy by providing a complete statutory definition of the national diffusion network. In addition, H.R. 5818 would allow the funding for NDN to continue from the discretionary fund while creating the option for Congress to fund NDN with an appropriations line item. While it would not mandate changes in NDN's current structure or funding mechanism, the bill would give Congress the authority, if it should so choose, to allow NDN to receive additional funding for expansion and growth.

Since 1974, NDN has been fostering the improvement of educational practices in school districts in all 50 States, the District of Columbia, the Virgin Islands, and Puerto Rico. I encourage my colleagues to seek information about the work of NDN with schools in their congressional districts. I am certain they will discover and come to recognize, as I have, the valuable and lasting contributions to educational quality made by NDN. I invite my colleagues to support and cosponsor the National Diffusion Network Act. The text of the bill follows:

H.R. 5818

A bill to provide for the continuation of the National Diffusion Network

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Diffusion Network Act".

SEC. 2. (2) The Secretary of Education (hereinafter referred to as the "Secretary") shall carry out a program to promote the spread of exemplary educational programs, products, and practices to interested elementary and secondary schools throughout the Nation and, in so doing, improve the quality of education through the adoption of validated innovations and improvements in such programs, products, and practices.

(b) In carrying out the program described in subsection (a), the Secretary shall—

(1) acquaint persons responsible for the operation of elementary and secondary schools with information about exemplary educational programs, products, and practices;

(2) assist them in adopting programs, products, and practices, which those persons determine to hold promise for improving the quality of education in the schools for which they are responsible by providing materials, training, and technical assistance; and

(3) ensure that all such programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for adoption.

(c) For the purpose of carrying out the program decribed in subsection (a), the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and nonprofit private educational institutions and organizations.

(d) The program described in subsection (a) shall be deemed to be a continuation of the National Diffusion Network for which provision is made in section 583(a)(1) of the Education Consolidation and Improvement Act of 1981. The Secretary shall allocate to the program established by this Act funds available to the Secretary under section 583 of such Act. In addition to the funds available for any such fiscal year for the purposes of this section, there are authorized, for the purpose of carrying out this section, such sums as may be necessary for each of the fiscal years 1983 through 1986.●

REMEMBER ESTONIA

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. DYSON. Mr. Speaker, February 24 marked the 64th anniversary of the Estonian Declaration of Independence. Yet today, due to an armed invasion, Estonia lies in the grips of the Soviet Union. I would not only like to rise in tribute to this valiant nation, but also call the attention of my distinguished colleagues to the plight of the Estonian people.

Their story must be recalled often and spoken loudly lest the struggle against oppression have been in vain. Their misfortune must rekindle in us the moral determination that such a tragic fate will not befall other peace-loving people. Their courage must strengthen America's resolve to assist those people who do not presently enjoy basic human freedoms.

Mr. Speaker, following a war of independence against Russia in 1918, Estonia became an independent democratic republic in 1920. With the signing of the treaty of peace, Russia renounced forever any claim to Estonia. In the following decades, a number of agreements were concluded between these two nations reinforcing Estonia's independence. Estonia also was admitted to the League of Nations and strived in every way to maintain normal relations with the Soviet Union.

What transpired next is best described in the words of Mr. Ernst Jaakson, the Consul General of Estonia in the United States:

> Good Estonian-Soviet relations came to a sudden halt with the signing of the Hitler-Stalin agreement of August 23, 1939, known as the Ribbentrop-Molotov Pact with its secret protocol about the territorial division of Eastern Europe.
>
> Under Soviet pressure and direct military threats Estonia was forced to sign the so-called Pact of Mutual Assistance with the Soviet Union on September 28, 1939, although Estonia had officially proclaimed her strict neutrality in the European war on September 1, 1939.

Soviet Premier Molotov stated before the fifth session of the Surpeme Soviet, as made public by the official Soviet new agency TASS:

> The special character of these mutual assistance pacts in no way implies any interference by the Soviet Union in the affairs of Estonia, Latvia or Lithuantia, as some foreign newspapers are trying to make out. On the contrary, all these pacts of mutual assistance strictly stipulate the inviolability of the sovereignty of the signatory States and the principle of non-interference in each other's affairs. The relations of the Soviet Union with Estonia, Latvia and Lithuania are based on peace treaties concluded with the respective counties in 1920. We declare that all nonsense about sovietizing the Baltic countries is only to the interest our common enemies and of all anti-Soviet provocateurs.

Soon thereafter, however, on June 16, 1940, the Soviet Government delivered an ultimatum to the Estonian Minister in Moscow demanding the establishment of a pro-Soviet government in Estonia and also admission of an unlimited number of Soviet troops into Estonia. On June 17, 1940, Estonia was invaded and occupied by Soviet armed forces, and on August 6, 1940, forcefully incorporated.

The acts of the Soviet Union must be judged in light of the frightful cruelties and human sufferings that the Soviet occupying forces have caused in Estonia. The President of Estonia, Konstantin Pats, member of the Government, the Commander in Chief of the Armed Forces together with tens of thousands of Estonians from all walks of life were arrested and deported to remote regions in the Soviet Union or liquidated on the spot.

President Pats died in the notorious Kazan psychiatric prison in Russia in 1956. And in an attempt to gradually eradicate the independent Estonian language and culture, there have been several waves of mass deportations of Estonia's people to the far corners of the Soviet Union.

Even today, those who dare to protest openly against Russification pressures are arrested by the KGB and sentenced to long prison terms. A protest demonstration in 1980 by thousands of schoolchildren in Tallinn was dealt with in a most brutal way. Scores of dissidents have been jailed for anti-Soviet activities. One of the latest victims was a young professor at the University of Tartu, Jurj Kukk, who went on a hunger strike in a Soviet prison camp and died of unknown causes shortly thereafter.

Unquestionably, the people of Estonia share the feelings of the people of Poland in the present struggle for basic freedoms and justice.

Being an occupied country and ruled by a ruthless alien power which denies them the basic human rights, the people of Estonia have no voice in their domestic or foreign affairs. They have been deprived of their right to appeal for justice to any international organization dealing with relations between nations.

The recent events in Poland have refocused attention on the neighboring area which includes Estonia, and also Lithuania and Latvia. It is important that the facts about the Soviet Russian invasion of these formerly free and independent countries be taken into account whenever there is public discussion about the problems of Eastern Europe.

The people of Estonia, as well as Latvia and Lithuania, have never accepted Moscow's overlordship over them and they are continuously struggling to regain their freedom and independence.

The U.S. Government continues to recognize not only the independence of Estonia, but also the independence of its Baltic neighbors, Lithuania and Latvia. We in America sometimes forget how privileged we are to have our freedom and the strength to protect it. We also sometimes forget that with these privileges come responsibilities.

As we recall today the valiant struggle of the Estonian people to regain their independence, I hope we will not only appreciate our pivileges, but also remember our moral responsibilities to assist those people who struggle in the name of freedom.

I salute the Estonian people, their fortitude, and their continuing quest for national self-determination. We shall not forget them—or their courage.●

GOD AND COUNTRY SPEECH

HON. JIM D. SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. SANTINI. Mr. Speaker, not long ago I had the privilege to participate in the fourth annual God and country service held by the American Legion and Auxiliary in Las Vegas, Nev. During the service, the auxiliary district chaplain gave what I consider to be a stirring speech on the heroics of our military men. I would like to share that speech with you today:

> GOD AND COUNTRY
>
> (By Walter J. Wadlington)
>
> Early on the morning of February 3, 1943, the U.S. troop transport *Dorchester* was wallowing through the icy seas off Greenland. Most of the 900 troops on board were alseep in their bunks. Suddenly a torpedo slammed into the *Dorchesters* flank. Frantically pounding up the ladders, the troops milled in confusion on the decks.
>
> In those dark moments of panic the coolest men aboard were four U.S. Army chaplains first lieutenants, Clark V. Poling (Reformed Church of America), Alexander D. Goode (Jewish Rabbi), John P. Washington (Catholic Priest), and George L. Fox (Meth-

odist). These four chaplains led the men to the boxes of life jackets, passed them out with boat-drill precision. When the boxes were empty, these four men quietly slipped off their own life preservers, put them on four young GI's and told them to jump.

The *Dorchester* went down 25 minutes later in a rumble of steam. Some 600 men were lost, but the heroic action of those four chaplains had helped to save over 200. The last anyone saw of them, they were standing on the slanting deck of that doomed ship, their arms linked and heads bowed in prayer to the one God they all served.

Theirs was a living message of the brotherhood of man, from no matter which part of the world he comes, or how he expresses his devotion, he still addresses a Father common to us all.

In Isaiah 63:13 the Word says, doubtless Thou art our Father, Abraham be ignorant of us, and Israel acknowldge us not, Thou art our Father, our Redeemer, Thy name is from everlasting.

Again in Isaiah 64:8. But now O Lord Thou art our Father: we are the clay, and Thou are the potter, and we all are the work of Thy hand.

Man is the product of God, made by God, and it makes no difference from where on Earth he comes, he is still the child of God.

In the book of Genesis we find in 1:26 and 27 "And God said, let us make man in our own image, after our likeness, and let them have dominion over the fish of the sea, the fowl of the air, and over the cattle, and over the Earth, and every creeping thing that creepeth upon the Earth. . . . so God created man in his own image, in the image of God created He him, male and female created He them.

In the new testament, with Paul preaching Corenth as recorded in Acts 27 and 28 "For in Him we live, and move, and have our being, as certain also of you own poets have said, for we are also His offspring."

Also in the scripture according to St. Mark chapter 3 verses 34 and 35. "And He looked around about on them which sat about Him, and said, behold My Mother and My brethren, for whosoever shall do the will of God, the same is My brother, My sister, and mother."

The equality of believers is expressed in Mathew 23 verses 9 and 11: "And call no man your Father upon the earth, for one is your Father which is in Heaven," And in 11 He said, "But He that is greatest among you shall be your servant."

These four men, though they were widely separated in their formative years, shared three very strong bonds that made as one when called upon, on that last day of their earthly lives.

No. 1, they shared alike their love of country. They adhered to the premise that, my country may she always be right, but right or wrong my country.

No. 2, their lives were dedicated to service to their fellow man, and

No. 3, each ministered to the fullest degree, the facts and truths of God, as their several religious backgrounds had predetermined they would serve.

Therefore when the time came that the fullest measure of sacrifice, was demanded of each of them in the name of man's love for his fellow man, they each through their faith in the love of our Heavenly Father, showed themselves equal to the task.●

MARCH 21—AFGHANISTAN DAY

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 22, 1982

● Mr. PEASE. Mr. Speaker, as the chairman of the Human Rights Committee of Members of Congress for Peace Through Law, I would like to join with my colleagues in this Congress and in the European Parliament in commemorating March 21, 1982, as Afghanistan Day.

The European Parliament, representing 270 million people of the European Community, was the first parliament to publicly condemn the Soviet invasion of Afghanistan in December of 1979. It has also taken the initiative in calling for the worldwide observance of March 21, as Afghanistan Day—a date celebrated by the Afghan people as their national day.

Afghanistan today is occupied by 100,000 Soviet troops whose presence in that traditionally neutral and nonalined nation poses a continuing threat to world peace and stability.

Thousands of combatants and civilians have been killed in the brutal conflict between the Soviet troops and Afghan guerrillas. There are numerous allegations that the Russians have employed lethal chemical agents against the guerrilla forces. According to the State Department, 2,000 to 3,000 people have died as a result of these chemical attacks.

Three million Afghan refugees, mostly women and children, now live under very harsh conditions in Pakistan, and there appears to be little chance they will soon return home.

On four separate occasions, the 43-member Islamic conference has passed resolutions calling on the U.S.S.R. to withdraw its military forces and to restore Afghanistan to its traditional non-alined role.

Last fall in the United Nations General Assembly 116 countries endorsed a resolution also calling for the withdrawal of Soviet troops.

In light of the massive human rights violations and the increasing dangers of a regional conflict, I would urge the Reagan administration, in concert with our European allies, to continue its efforts to convene an international conference on the Afghanistan crisis.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, March 23, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 24

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
Business meeting, to mark up proposed legislation authorizing funds for the Commodity Futures Trading Commission.
324 Russell Building

*Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Helsinki Commission, Board for International Broadcasting, Japan-United States Friendship Commission, and the Arms Control and Disarmament Agency.
S-146, Capitol

Finance
International Trade Subcommittee
To hold hearings on S. 2094, proposed Reciprocal Trade and Investment Act, and other related measures.
2221 Dirksen Building

Governmental Affairs
Oversight of Government Management Subcommittee
To hold oversight hearings on the Internal Revenue Service's taxpayer assistance programs.
6226 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To resume hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.
2228 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1785, increasing the penalties for violations of the Taft-Hartley Act, requiring immediate removal of certain individuals convicted of crimes relating to his official position, broadening the definition of the types of positions an individual is barred from upon conviction, increasing the time of disbarment from 5 to 10 years, escrowing a convicted official's salary for the duration of his appeal, and clarifying the jurisdiction of the Department of Labor relating

to detection and investigating criminal violations relating to ERISA.
4232 Dirksen Building

10:00 a.m.

Armed Services
Manpower and Personnel Subcommittee
To resume hearings on proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense.
224 Russell Building

Banking, Housing, and Urban Affairs
To hold hearings on the nomination of Preston Martin, of California, to be a member and Vice Chairman of the Board of Governors of the Federal Reserve System.
5302 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Governmental Affairs
To resume hearings to review the President's proposals on New Federalism.
3302 Dirksen Building

Judiciary
Criminal Law Subcommittee
To hold hearings on S. 1446, proposed act for the Implementation of the Convention on the Physical Protection of Nuclear Material.
5110 Dirksen Building

2:00 p.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue markup of proposed legislation authorizing funds for the Commodity Futures Trading Commission.
324 Russell Building

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed buget estimates for fiscal year 1983 for the Nuclear Regulatory Commission, and the Federal Energy Regulatory Commission of the Department of Energy.
1114 Dirksen Building

*Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Highway Traffic Safety Administration, and the Interstate Commerce Commission.
1318 Dirksen Building

Armed Services
Sea Power and Force Projection Subcommittee
Closed business meeting, to mark up those provisions which fall within the jurisdiction of the Subcommittee of proposed legislation authorizing funds for fiscal year 1983 for the Department of Defense.
212 Russell Building

Foreign Relations
Closed briefing to discuss the recent progress in the intermediate range nuclear force negotiations.
4219 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

3:00 p.m.

Foreign Relations
To hold hearings on the nomination of Paul H. Nitze, of Maryland, to be Ambassador while serving as head of the U.S. delegation to the intermediate range nuclear force negotiations.
4221 Dirksen Building

3:30 p.m.

Judiciary
Constitution Subcommittee
Business meeting, to mark up S. 53, S. 1761, S. 1975, and S. 1992, bills extending the effects of certain provisions of the Voting Rights Act of 1965.
2228 Dirksen Building

MARCH 25

9:00 a.m.

Appropriations
Defense Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1983 for the Department of Defense, focusing on Navy programs.
1224 Dirksen Building

Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of Indian Education, Navajo and Hopi Indian Relocation Commission, and the Pennsylvania Avenue Development Corporation.
1114 Dirksen Building

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue markup of proposed legislation authorizing funds for the Commodity Futures Trading Commission.
324 Russell Building

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Farmers Home Administration, Rural Electrification Administration, and the Office of Rural Development Policy, Department of Agriculture.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on propose budget estimates for fiscal year 1983 for international organizations, International Communication Agency, and the Chrysler Loan Board.
S-146, Capitol

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on proposed legislation authorizing funds for the National Science Foundation.
235 Russell Building

Foreign Relations
To hold hearings on the Caribbean Basin initiative.
4221 Dirksen Building

Judiciary
To hold hearings on the proposed divestiture of American Telephone & Telegraph, focusing on its effect on local rates.
412 Russell Building

Judiciary
Security and Terrorism Subcommittee
To continue hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.
2228 Dirksen Building

Labor and Human Resources
Employment and Productivity Subcommittee
Business meeting, to mark up S. 2036, providing for State and local employment and training assistance programs.
4232 Dirksen Building

10:00 a.m.

*Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of the Secretary of Transportation, and the Federal Highway Administration, Department of Transportation.
1223 Dirksen Building

Armed Services
Manpower and Personnel Subcommittee
Closed business meeting, to mark up those provisions which fall within the jurisdiction of the Subcommittee of S. 2248, authorizing funds for fiscal year 1983 for the Department of Defense.
224 Russell Building

Armed Services
Preparedness Subcommittee
Closed business meeting, to mark up those provisions which fall within the jurisdiction of the Subcommittee of S. 2248, authorizing funds for fiscal year 1983 for the Department of Defense.
212 Russell Building

Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings to review the capacity, distribution and status of the strategic petroleum reserve.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

Governmental Affairs
To hold hearings on S. 1932 and H.R. 2098, bills establishing an Office of Inspector General in each of the Departments of Defense, Justice, and Treasury and in the Agency for International Development, and on other related measures.
3302 Dirksen Building

2:00 p.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue markup of proposed legislation authorizing funds for the Commodity Futures Trading Commission.
324 Russell Building

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings to review the general agricultural outlook, and the overall budget for the Department of Agriculture.
1114 Dirksen Building

Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1318 Dirksen Building

Judiciary
Criminal Law Subcommittee
To resume hearings on S. 101, S. 751, and S. 1995, bills providing for an al-

ternative to the exclusionary rule in Federal criminal proceedings.
2228 Dirksen Building

Labor and Human Resources
To hold hearings on the nominations of Tony E. Gallegos, of California, to be a member of the Equal Employment Opportunity Commission, and William L. Earl, of Florida, Harold R. DeMoss, Jr., of Texas, Clarence V. McKee of the District of Columbia, Marc Sandstrom, of California, Howard H. Dana, Jr., of Maine, William F. Harvey, of Indiana, William J. Olson, of Virginia, George E. Paras, of California, and Robert S. Stubbs II, of Georgia, each to be a member of the Board of Directors of the Legal Services Corporation.
4232 Dirksen Building

Select on Intelligence
Budget Subcommittee
Business meeting, to mark up proposed legislation authorizing funds for fiscal year 1983 for the intelligence activities of the United States.
S-407, Capitol

MARCH 26

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the U.S. Coast Guard, Department of Transportation.
235 Russell Building

Judiciary
To hold oversight hearings to review the effects of merger policy on the national railroad system, focusing on the Burlington Northern Railroad.
2228 Dirksen Building

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on productivity in the American economy.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the public buildings program of the General Services Administration.
4200 Dirksen Building

MARCH 29

9:30 a.m.
Finance
Savings, Pensions, and Investment Policy Subcommittee
To hold hearings on S. 2105 and S. 2106, bills providing for pension reform for State and local public employee retirement systems.
2221 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation authorizing funds for the food stamp program.
324 Russell Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Civil Aeronautics Board.
1318 Dirksen Building

Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings to review proposed authorizations for the safe drinking water program.
4200 Dirksen Building

1:00 p.m.
Environment and Public Works
Regional and Community Development Subcommittee
To hold hearings on S. 2144, authorizing funds through fiscal year 1990 for the Appalachian highway development program, and authorizing funds through fiscal year 1987 for other area development activities and operating expenses of the Appalachian Regional Commission, and other related matters.
4200 Dirksen Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

MARCH 30

9:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings to review budget proposals for fiscal year 1983 for energy conservation programs of the Department of Energy, focusing on State grant, research and development, and solar energy programs.
3110 Dirksen Building

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Foreign Agricultural Service, Food for Peace program (Public Law 480), Office of International Cooperation and Development, Agricultural Marketing Service, and the Federal Grain Inspection Service, Department of Agriculture.
1318 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
235 Russell Building

Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1819, granting tax-exempt status to certain crude oil purchasing cooperatives on the same basis as such status is applied to farm cooperatives.
2221 Dirksen Building

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the U.S. Coast Guard of the Department of Transportation.
1224 Dirksen Building

Budget
Business meeting, to begin markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Environment and Public Works
Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

10:30 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation Subcommittee
To hold oversight hearings on the implementation of the Resource Conservation Act (Public Law 95-192).
324 Russell Building

Veterans' Affairs
To hold hearings to receive Veterans of Foreign Wars legislative recommendations for fiscal year 1983.
318 Russell Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

MARCH 31

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for strategic petroleum reserve and naval petroleum reserves of the Department of Energy.
1114 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on activities of the National Highway Traffic Safety Administration, Department of Transportation.
235 Russell Building

Judiciary
Agency Administration Subcommittee
To resume hearings on S. 1775, making the Federal Government liable for constitutional torts and generally the exclusive defendant in all tort suits involving Government employees acting within the scope of their employment.
5110 Dirksen Building

Labor and Human Resources
To hold hearings on proposed authorizations for certain health programs of the Department of Health and Human Services.
4232 Dirksen Building

10:00 a.m.
Budget
Business meeting, to continue markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings to review proposed authorizations for the safe drinking water program.
4200 Dirksen Building

Governmental Affairs
To hold hearings on the substance of S. 1724, proposed Federal Employees' Compensation Act Antifraud Amendments of 1981.
3302 Dirksen Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1318 Dirksen Building

APRIL 1

9:00 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on expanding employment opportunities for older workers in the private sector.
4232 Dirksen Building

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Commodity Futures Trading Commission, to review budget proposals for the Department of Agriculture's Inspector General, and agricultural aspects of the General Accounting Office.
1318 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
235 Russell Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Federal Emergency Management Agency and the Selective Service System.
1224 Dirksen Building

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the United States Railway Association, and Conrail.
S-128, Capitol

Budget
Business meeting, to continue markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the implementation of indirect costs and contract provisions of the Indian Self-Determination and Education Assistance Act (Public Law 93-638).
6226 Dirksen Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To hold oversight hearings on the implementation of the Paperwork Reduction Act (Public Law 96-511).
3302 Dirksen Building

APRIL 2

9:30 a.m.
Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on productivity in the American economy.
4232 Dirksen Building

10:00 a.m.
Budget
Business meeting, to continue markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Foreign Relations
To resume hearings on the Caribbean Basin initiative.
4221 Dirksen Building

APRIL 13

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for the railroad safety program, Department of Transportation.
235 Russell Building

10:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 810, prescribing a system of user fees to be levied on commercial transportation on inland waterway projects, amendment No. 32 thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the cost of such works, amendment No. 637, clarifying the intent of the bill, and related measures.
4200 Dirksen Building

APRIL 14

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Supreme Court, Securities and Exchange Commission, Federal Maritime Commission, and the Federal Trade Commission.
S-146, Capitol

Labor and Human Resources
To hold oversight hearings on the Office of Federal Contract Compliance Programs, Department of Labor.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.
1114 Dirksen Building

Environment and Public Works
Environment Pollution Subcommittee
To hold hearings on proposed legislation authorizing funds for the endangered species program.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.
1114 Dirksen Building

APRIL 15

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Land and Water Conservation Fund, and to receive testimony from congressional witnesses.
1318 Dirksen Building

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Judiciary, International Trade Commission, and the Marine Mammal Commission.
S-146, Capitol

Labor and Human Resources
To hold hearings on proposed authorizations for the National Science Foundation.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of Science and Technology

Policy and the Council on Environmental Quality.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the tribally controlled community college program.

6226 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

APRIL 16

9:30 a.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

APRIL 19

9:30 a.m.

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold oversight hearings on title X of the Public Health Service Act relating to health aspects of teenage sexual activity.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To hold hearings on S. 1885, to place electric utilities, including members of registered holding company systems, on the same basis as nonutilities to encourage their investment in cogeneration and small power production facilities.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To resume hearings on proposed legislation authorizing funds for the endangered species program.

4200 Dirksen Building

APRIL 20

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Indian Health Service, Department of Health and Human Services, and the Geological Survey, Department of the Interior.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of State, focusing on the Office of the Secretary and administration of foreign affairs.

S-146, Capitol

Labor and Human Resources

Business meeting, to consider proposed legislation authorizing funds for health programs and the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Environmental Protection Agency.

1224 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to consider pending calendar business.

4200 Dirksen Building

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for foreign assistance activities of the Department of the Treasury.

1318 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Labor.

1114 Dirksen Building

APRIL 21

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Small Business Administration, Federal Communications Commission, Equal Employment Opportunity Commission, and the Maritime Administration.

S-146, Capitol

Environment and Public Works

Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for the Federal aid highway program.

4200 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Employment and Training Administration, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Railroad Administration of the Department of Transportation, and Amtrak.

1318 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 1889, authorizing funds for fiscal year 1983 and 1984 for the establishment of a national institution to promote international peace and resolution of international conflict.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

Transportation Subcommittee

To continue hearings on proposed legislation authorizing funds for the Federal aid highway program.

4200 Dirksen Building

APRIL 22

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Forest Service, Department of Agriculture.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain related programs.

S-146, Capitol

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold hearings on promoting voluntarism in America.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, and the Employment Standards Administration, Department of Labor.

1114 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Occupational Safety and Health Administration (OSHA), and for the Mine Safety and Health Administration, Department of Labor.

1114 Dirksen Building

APRIL 23

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for Bureau

of Labor Statistics, departmental management services, and the President's Committee on Employment of the Handicapped, Department of Labor.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Urban Mass Transportation Administration, Department of Transportation.
1318 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.
4232 Dirksen Building

APRIL 26

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Aviation Administration of the Department of Transportation.
1318 Dirksen Building

Energy and Natural Resources
Energy Regulation Subcommittee
To hold oversight hearings to review programs administered by the Office of Federal Inspector, Alaska Natural Gas Transportation System, and the Economic Regulatory Administration and Federal Energy Regulatory Commission, Department of Energy.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on proposed authorizations for programs of the Resource Conservation and Recovery Act.
4200 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To resume hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.
4232 Dirksen Building

APRIL 27

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of the Federal Inspector, Alaska Natural Gas Transportation System, Bureau of Mines of the Department of the Interior, and the National Endowment for the Arts.
1318 Dirksen Building

9:30 a.m.
Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on S. 1869, S. 1870, S. 1871, and S. 1977, bills revising or repealing certain provisions of the Public Utility Holding Company Act of 1935.
5302 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Science Foundation.
1224 Dirksen Building

Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to consider proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

APRIL 28

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for certain transportation programs.
1318 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the implementation of guidance and counseling programs of the Department of Education.
4232 Dirksen Building

1:30 p.m.
Conferees
On S. 1193, authorizing funds for fiscal years 1982 and 1983 for the Department of State, authorizing funds for fiscal year 1982 for the Arms Control and Disarmament Agency, authorizing funds for fiscal years 1982 and 1983 for the International Communications Agency, and authorizing funds for fiscal years 1982 and 1983 for the Board for International Broadcasting.
S-116, Capitol

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

APRIL 29

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for fossil research and development and fossil construction programs of the Department of Energy.
1318 Dirksen Building

9:30 a.m.
Judiciary
Criminal Law Subcommittee
To resume hearings on proposals providing for a ban on the manufacture or sale of nonsporting handguns, mandatory sentences for the use of a firearm in committing a felony, and a preclearance procedure for the sale or transfer of any handgun.
Room to be announced

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, on certain transportation programs.
1224 Dirksen Building

Environment and Public Works
Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.
4200 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive AMVETS legislative recommendations for fiscal year 1983.
Room to be announced

1:30 p.m.
Conferees
On S. 1193, authorizing funds for fiscal years 1982 and 1983 for the Department of State, authorizing funds for fiscal year 1982 for the Arms Control and Disarmament Agency, authorizing funds for fiscal years 1982 and 1983 for the International Communication Agency, and authorizing funds for fiscal years 1982 and 1983 for the Board for International Broadcasting.
S-116, Capitol

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

APRIL 30

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for certain transportation programs.
1318 Dirksen Building

MAY 3

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 4

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed Budget estimates for fiscal year 1983 for the Smithsonian Institution, Woodrow Wilson International Center for Scholars, and the Advisory Council on Historic Preservation.
1318 Dirksen Building

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 5

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Aeronautics and Space Administration.
1224 Dirksen Building

Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 6

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the U.S. Fish and Wildlife Service, Department of the Interior, and the National Capital Planning Commission.
1318 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 604, requiring all new telephone receivers to be equipped with hearing aids for the handicapped.
235 Russell Building

9:30 a.m.
Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 7

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 11

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Endowment for the Humanities, Institute of Museum Services, and the Office of Surface Mining, Department of the Interior.
1114 Dirksen Building

9:30 a.m.
Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on the extended family.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Institute of Building Sciences, Federal Home Loan Bank Board, and National Credit Union Administration.
1224 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

MAY 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

MAY 13

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.
1114 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.
1114 Dirksen Building

MAY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development.
1224 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the implementation of Indian education programs.
6226 Dirksen Building

MAY 19

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation.
1224 Dirksen Building

Select on Indian Affairs
To continue oversight hearings on the implementation of Indian education programs.
6226 Dirksen Building

MAY 24

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

MAY 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

JUNE 9

9:30 a.m.
Select on Indian Affairs
To hold hearings on law enforcement problems on Indian reservations including the authority and effectiveness of the Bureau of Indian Affairs police, tribal police, and the Federal Bureau of Investigation, and the quality of U.S. prosecution of criminal offenses.
6226 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATIONS

MARCH 23

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for weather programs of the National Oceanic and Atmospheric Administration, Department of Commerce.
235 Russell Building

Select on Indian Affairs
To hold oversight hearings on the statute of limitations relating to Indian Affairs.
6226 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, March 23, 1982*

The House met at 12 o'clock noon.

The Reverend Dr. William C. Cox, First Baptist Church, Nevada, Mo., offered the following prayer:

O God of all nations, we praise You for the adventures that have carved out our Nation. We affirm that our many blessings come through mystery and grace.

We embrace one another as recipients of novel gifts. We are a part of all that we have met, and so help us make unique contributions to humankind as we meet. Yet deliver us from the burden of trying to solve all our problems.

In the midst of confusing times we ask for wisdom not of our own. Give us open hands and warm hearts that we may receive unexpected moments of insight. Would You help us be quiet enough to hear one another? Can You still our hearts sufficiently that we might tap our inner resources?

Above all, make us humble—humble enough to have faith in our potential for bringing about good; humble enough to trust the motivations of others; humble enough to believe in You as the ultimate source of peace and justice.

God, bless us with a contagious hope for our time. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **GREGG**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **GREGG**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 345, nays 17, answered "present" 1, not voting 70, as follows:

[Roll No. 30]

YEAS—345

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Bailey (PA)
Barnard
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Green
Gregg
Grisham
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hartnett
Hatcher
Hawkins
Heckler
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (TN)
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leath
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mavroules
Mazzoli
McClory
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Mineta
Minish
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nichols
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Patman
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Rogers
Rose
Roth
Rousselot
Roybal
Rudd
Santini
Sawyer
Scheuer
Schneider
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—17

Barnes
Butler
Coughlin
Edwards (OK)
Emerson
Evans (IA)
Goodling
Holt
Jacobs
Johnston
Miller (OH)
Mitchell (MD)
Roemer
Sabo
Schroeder
Walker
Weber (MN)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—70

Atkinson
Badham
Bailey (MO)
Biaggi
Boggs
Brown (OH)
Burton, John
Chisholm
Clay
Courter
Crockett
D'Amours
Derrick
Dickinson
Dornan
Dougherty
Downey
Eckart
Edwards (CA)
Emery
Ertel
Evans (IN)
Fary
Fascell
Foglietta
Ford (MI)
Forsythe
Gejdenson
Ginn
Gray
Guarini
Hansen (UT)
Harkin
Hefner
Heftel
Hendon
Hyde
Jones (OK)
Kastenmeier
Kindness
Leach
LeBoutillier
Leland
Marks
Mattox
McCloskey
McCollum
McCurdy
McDade
Miller (CA)
Neal
Nelson
Nowak
O'Brien
Pashayan
Patterson
Pursell
Rhodes
Richmond
Rodino
Rosenthal
Rostenkowski
Roukema
Russo
Savage
Stangeland
Swift
Williams (MT)
Wylie
Young (AK)

☐ 1215

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agreed to the amendment of the House to the amendment

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

of the Senate to the bill (H.R. 4482) entitled "An act to establish a U.S. Court of Appeals for the Federal circuit, to establish a U.S. Claims Court, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2254. An act to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

The message also announced that the Vice President, pursuant to Public Law 86-420, appointed Mr. PERCY (chairman), Mr. ZORINSKY (vice chairman), and Mr. DODD to attend, on the part of the Senate, the Mexico-United States Interparliamentary Conference, to be held in Santa Barbara, Calif., May 27-31, 1982.

DR. WILLIAM CHARLES COX

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, today we are honored to welcome Dr. William Charles Cox, pastor of the First Baptist Church of Nevada, Mo., as our guest chaplain in the House of Representatives.

In addition to his most impressive educational background, Dr. Cox has received several honors and several awards, including being named an Outstanding Young Man of America in both 1978 and 1981.

Mr. Speaker, Dr. Cox has spent the last 13 years in various pastorates, both in Missouri and the State of Kentucky, offering spiritual guidance to those in need. Dr. Cox is an asset to his ministry and his home State of Missouri.

We are indeed honored to have him here as a guest chaplain in the U.S. House of Representatives. I wish to welcome, along with Dr. Cox, his charming wife, Marie, who is also with us today.

PLANT CLOSINGS UP IN UNITED STATES

(Mr. WRIGHT asked and was given permission to address the House and to include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, the President recently complained that the national news media were interviewing every person out of a job—even in remote areas like "South Succatash"—in an attempt to make the plight of the jobless in this country appear worse than it is.

In fact, there are between 9 and 10 millions of Americans out of work, and manufacturing plants and commercial firms continue to go out of business on a weekly, even daily basis.

For this past week ending March 22, I can identify eight manufacturing enterprises which either shut down or served notice that they would shut down. These announced closures occurred in Wisconsin, Illinois, Virginia, Arizona, New Mexico, Texas, Pennsylvania, and California.

During the first 3 weeks of March, 29 plants have closed and 156 other businesses, such as grocery stores and department stores, served notice they would cease operating.

For the year to date, 86 industrial plants have closed and 533 other types of businesses have quit operating. Approximately 150,000 people lost their jobs due to these identifiable business failures so far this year.

If the business failure rate for the first 2½ months of 1982 is allowed to continue at the same rate for the rest of this year, then the business failure rate will be the highest since the depression years of the 1930's.

Mr. Speaker, later today I will include in the RECORD a partial list of plant closings, culled from national newsstories.

SUPPORT FOR STUDENT LOAN PROGRAMS URGED

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, on Wednesday or Thursday of this week we are going to have the first opportunity this year to vote on an issue that now many Members on both sides of the aisle feel very firm on; namely, there is going to be a supplemental appropriation for the guaranteed student loan program.

Mr. Speaker, we are going to be requesting in that legislation to exceed by nearly $400 million what this administration, the Reagan administration, wants. I know that the Members, Republican and Democrats, are going to go along with this program that the committee is going to recommend. Both the minority and the majority sides are in agreement that we are not going to eliminate the graduate student loan program, and we are going to continue on with the guaranteed student loan program for undergraduates.

So, Mr. Speaker, we are going to have our chance this week to show students and colleges throughout the country that we in the Congress really believe that an educated American is a strong American.

PACIFIC BASIN SHOULD HAVE SAME ATTENTION FROM ADMINISTRATION AS CARIBBEAN BASIN

(Mr. WON PAT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WON PAT. Mr. Speaker, in an editorial authored by its perceptive editor, Joseph C. Murphy, the Pacific Daily News recently pointed out that—

> While the Reagan administration worries about the Caribbean, the truth is that the Pacific islands, with the same resources and the same problems, are suffering just as much.

I was pleased to read the paper's suggestion that the United States should develop a Pacific policy. It is a step that I urged the President to take when his administration began work on the Caribbean Basin Initiative. And, although that proposal would extend to the Pacific territories some of the tax and customs provisions designed to assist our Caribbean territories, this administration still has articulated no comprehensive Pacific basin initiative.

In its absence, the administration has proposed budgetary and tax policies which would impede progress toward economic development and undermine the fiscal health of our Pacific insular areas.

So, again today, I call upon the President to take a serious look at the Pacific basin—both the American islands and our neighbors—and construct policies which will advance our domestic and foreign policy goals in the region.

ENTERPRISE ZONE PROPOSALS

(Mr. GARCIA asked and was given permission to address the House.)

Mr. GARCIA. Mr. Speaker, this morning the President submitted his enterprise zone proposal to Congress. After several weeks of negotiations with my colleague, JACK KEMP, I am delighted to report that the minimum wage is to be left alone and that those areas in the enterprise zone bill that affect the health, safety, welfare, and civil rights of workers will remain protected.

□ 1230

I am also happy to say here today, Mr. Speaker, that this bill will be presented to the Members, and I would hope we would get as many colleagues as possible to join in the sponsorship from both sides of the aisle. However, I just want to make it very clear that this enterprise zone bill should not be thought of as the cure-all for America's urban problems.

This is but a small component, Mr. Speaker, and I am hopeful that this component will get off the ground and that in those areas of America where people want to work we will be able to get the enterprise zones to create the incentives, to get industry to move into the distressed areas.

A TRIBUTE TO THE LATE FRANK GILL, NEW ZEALAND DIPLOMAT

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, we mourn the loss of a brilliant man, a professional in the area of diplomacy, a friend of the United States, Frank Gill of New Zealand.

Ambassador Gill became that nation's ambassador to the United States and Mexico in 1980. He served his country with impressive distinction. Interested in furthering trade he focused on the importance of agricultural commodities as a trade feature.

He and I had many delightful visits when with eloquent persuasion he expounded the virtues of his country and sought an avenue of trade with ours.

Ambassador Gill was stricken with cancer suddenly and mercifully passed away on March 1, 1982, after going home to Auckland a few days before.

A native of New Zealand, he joined his country's Air Force in 1937 and served in the Air Force in various capacities, the most notable being 1957 to 1959, when he was the armed forces attaché to the United States.

He knew the problems of a Member of Congress, having served as a Member of Parliament. Service to his nation included the minister of health, of immigration, of defense, of police, in charge of war pensions, and in charge of rehabilitation in his country.

He was a giant of a man whose presence will be missed. To his lovely wife Barbara and three daughters, I ask my colleagues to extend the condolences of this House.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4523

Mr. JONES of Tennessee. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 4523.

The SPEAKER pro tempore. (Mr. BONIOR of Michigan). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

URGING A CANCELLATION OF THE EASTER RECESS

(Mr. HARTNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARTNETT. Mr. Speaker, it has fallen to my lot to try to explain to the Chair and to my colleagues on the other side of the aisle and on my side of the aisle exactly what this 97th Republican class is attempting to do here. In our own minds, we feel that we were sent here, along with the Reagan administration, to do things differently in this Congress, and we have not been permitted to do so because important issues have not been brought to the floor of this House for us to debate and to try to bring changes in.

So what we are doing now is calling to your attention and to the attention of the American people who may have viewed these goings on via their television sets that if you will not work and if you will not give us the important issues to vote and to work on on the floor of this House, if you will not give us an alternative budget to this administration's proposal, then we are going to ask you to vote on the not-so-important issues that have been brought to the floor of this House in what are efforts to bring about votes and a cancellation of the Easter recess. We think that people earn a recess and earn a vacation by diligently working.

Mr. Speaker, we have not done that on the floor of this House, and we are urging this Congress to cancel the Easter recess and stay here and vote on the things that are important to the people of our country and not to the foreign countries of this world.

MANUFACTURERS HANOVER OFFICER REITERATES SUPPORT OF REAGAN POLICIES

(Mr. LUNGREN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, we have heard from many Members who take the well and discuss the economic circumstances we find ourselves in. We find Members taking quotes from different sources around the country, sometimes critical of the Administration.

I would like to bring to the attention of my colleagues a statement by the chairman and president of Manufacturers Hanover Corp., John McGillicuddy, who in speaking before the Los Angeles World Affairs Council this month said, and I quote:

> The President has given us a new beginning, and has already accomplished much. Our Number 1 problem of just a year ago, inflation, has improved dramatically far beyond the expectations of most. And I believe that if we were to meet again a year from now, we would be able to say the same about the Federal deficit.

In other words, he is saying that the President is leading us in the right direction. We may differ over some of the details, but at least let us continue to move in the President's direction.

I would say, in reference to the statement made a little earlier by the distinguished majority leader, that if we are concerned about the creation of jobs in this country, the one way of getting something done in that regard is to accelerate the tax cut that is to go into effect on July 1. I would ask the distinguished majority leader, who is so sincerely concerned, about creating jobs in this country, to work with us and try to bring that about. Let us not just bring a lot of rhetoric to this floor. Let us do something to create jobs in this country.

Mr. Speaker, the sure-fire way to do that is to accelerate the tax cut or to make it retroactive to January 1 of this year.

APPLICATION OF NEWTON'S LAW OF PHYSICS NEEDED TO MOVE CONGRESS

(Mr. SKEEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. SKEEN. Mr. Speaker, one of the basic laws of Sir Isaac Newton, the father of modern physics, is that a body at rest will remain at rest until some outside force moves it.

Mr. Speaker, I think it is time that some inside force in this body begins to move this body to the consideration of the important issues of this day. I have been contacted by many, many constituents who want to know, when are we going to start grappling with the problems of agriculture, unemployment, high crime rate, rational use of water supply, and nuclear power generation?

We have rested for a long time. The Speaker himself has said that we will remain at rest because the President seems to have drawn his saber, the political saber, to attack us. I think what he is trying to do is prod us with it.

Mr. Speaker, it is time that we got up off our swords, lest they rust in their scabbards, and let us get to the business of discussing the real important issues that should come before this body, and come quickly.

GOODYEAR'S ADVERTISING BELITTLES SMALL BUSINESS OPERATIONS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, there are few Americans who do not strongly support the concept of competition in free markets as the cornerstone of our economic system. While we have our problems from time to time, there is no question of the success of our system and the relative failure of others based on central planning and control.

But a part of our system is the opportunity for the little guy to compete with the big companies, and, in fact, our laws protect the fairness of that competition and prevent the large corporations from unfairly using their immense leverage.

But beyond the law, Mr. Speaker, we Americans also support the underdog, the little Davids challenging the great Goliaths—and winning.

It is particularly disturbing, then, to see on network television, large corporations like Goodyear, finding it necessary in their advertising to belittle the corner service station, the kind of mom and pop operations that throughout our economy prove again and again the wisdom of placing personal opportunity and incentive at the center of our system, and which, apparently, compete so well with the Goodyears.

They have the right to do it, but, Mr. Speaker, I hope everyone watching has the same reaction as I do: Goodyear, and other big companies like it, are really belittling themselves.

IDITAROD RACE ACROSS ALASKA COMPLETED YESTERDAY

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I am happy to announce today that the greatest race left in the United States was finished yesterday. The Iditarod race of 1,180 miles from Anchorage to Nome was completed yesterday in 16 days, 4 hours, and 40 minutes and was won by Rick Swenson.

Alaska is the great State where men are men and women are women because in second place was Susan Butcher, who ran the race in 16 days, 4 hours, 43 minutes, and 53 seconds.

Mr. Speaker, I can say for those who are unaware of this race that it is a classic. I wonder if any of you can imagine going across the great State of Alaska, a distance of 1,180 miles, through snow and icy conditions and crossing rivers and into winds of 60 miles an hour by yourself with just your dog team.

It is an attribute to the State of Alaska and to the people of Alaska that we still have the spirit to meet the greatest challenge of all, the challenges of nature that God has given us.

Mr. Speaker, the following racers also arrived at the finish line and all are winners: Jerry Austin, Emmett Peters, Dave Monson, Ernie Baumgarter, Bob Klupatch, Don Hony, Stan Zuray, Bruce Denton, Rick Mackey, Herb Nayokpuk, Dean Osmar, Dr. Terry Atkins, Joe May, and Mark Boyli.

URGING SUPPORT FOR RESOLUTION TO KEEP CONGRESS IN SESSION UNTIL BUDGET RESOLUTION IS PASSED

(Mr. HILER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, we are beginning another legislative week and we do not appear to be any closer to passing the budget resolution.

The distinguished majority leader mentioned business failures earlier today. What he neglected to mention is that this body is preparing to adjourn for a 2-week recess without having addressed the budget issues that are contributing to high interest rates, the cause of business failures.

If the distinguished majority leader is truly interested in solving the economic problems, I urge my colleague, the gentleman from Texas, to support the resolution cosponsored by 40 Republican freshmen that would keep this Congress from adjourning until we pass a budget resolution. The Members of our class will continue to call for votes until such time as a recess has been earned by passing a budget resolution. Our goals are not to disrupt this House but, rather, to accent to the American people that this body is not addressing the critical issues of the day.

□ 1245

CONGRATULATIONS TO "COLUMBIA III"

(Mr. WINN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WINN. Mr. Speaker, I want to take this opportunity to congratulate the crew of *Columbia III* who at the present time are enjoying great success in orbit, going through their tests and requirements to help further the space program and the leadership of the United States.

I want to commend Jack Lousma and Gordon Fullerton who have stayed with the program for such a long time, looking forward to getting this ride, as they call it among the astronauts.

I also want to congratulate Chairman DON FUQUA of the Science and Technology Committee, and the gentleman from Alabama, Mr. RONNIE FLIPPO, for his work in the Space Science and Applications Subcommittee. Most of all, certainly some we do not want to forget is the tremendous team put together by the United States that makes us the leader in space and that is the NASA team.

CONGRESSMAN LATTA CLARIFIES HIS VIEWS ON COST-OF-LIVING ADJUSTMENTS FOR SOCIAL SECURITY

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, I was more than a little surprised to pick up the newspaper this morning and discover that I am proposing a freeze on the cost-of-living adjustments for social security. I am afraid this is another case of the press failing to get its facts straight.

It appears that a reporter for the Associated Press obtained a copy of a working paper that I had asked the Republican staff on the Budget Committee to prepare exploring the various options available to the Congress in reducing the projected deficits for fiscal years 1983, 1984, and 1985.

One of those options was to freeze all entitlement programs for 1 year. However, if the reporter had bothered to study the document carefully, he would have discovered that such a freeze is but one of several options involving entitlement programs which were discussed in the paper.

I have made no decision on any of the options. Other Republican members of the Budget Committee have made no decisions. The document in question is nothing but a working paper which I asked for because I believe it is essential that we get moving on the budget.

I believe every Member in this Chamber believes that we must reduce the projected deficits. To do that we need a starting point and we must look at the total budget.

To solve this problem we are going to need the cooperation of all Members of Congress, Republicans and Democrats alike as well as the full support of the White House.

CONGRESSMAN DeNARDIS INTRODUCES LEGISLATION TO DENY TAX DEDUCTIONS AS BUSINESS EXPENSES FOR DRUG PUSHERS

(Mr. DeNARDIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeNARDIS. Mr. Speaker, today I am introducing legislation that will deny drug pushers tax deductions for business expenses.

At the present time drug pushers can legally take tax deductions for rent, travel, entertainment, and other so-called business expenses. The Internal Revenue Service makes no distinction between legal and illegal income when allowing deductions for business purposes and the U.S. Tax Court recently ruled that an individual who was "self-employed in the trade or business of selling amphetamines, cocaine, and marihuana" was entitled to the same deductions as an honest businessman takes.

I strongly believe persons convicted of a felony should be prohibited from taking deductions for "ordinary and necessary" expenses on illegally earned income. As far as I am concerned, there is no "ordinary and necessary expenses" for an activity which threatens to undermine our society in general and our youth in particular. Thus, my proposal would deny tax breaks to individuals who are convicted of a felony in connection with the distribution, sale, or trafficking of illegal drugs.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

EXTENDING THE LIFE OF THE GATEWAY NATIONAL RECREATION AREA ADVISORY COMMISSION

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5014) to extend the life of the Gateway National Recreation Area Advisory Commission, which is presently due to expire October 27, 1982.

The Clerk read as follows:

H.R. 5014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 4(a) of the Act of October 27, 1972 (86 Stat. 1308) is amended by changing "ten years" in the second sentence to "twenty years".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5014 would extend the life of the 15-member Gateway National Recreation Area Advisory Commission for an additional 10 years.

The Gateway National Recreation Area Advisory Commission was established in the authorizing act—86 Stat. 1308, approved October 27, 1972—and is composed of 15 members appointed by the Secretary of the Interior for 2-year terms. The Commission was originally authorized for a 10-year period and would be terminated October 27, 1982, under current law. The CBO estimates the cost to be about $6,000 per year.

H.R. 5014 was introduced by my friend and colleague JONATHAN BINGHAM on November 18, 1981, to extend the life of the Gateway NRA Advisory Commission—by amending Public Law 92-592.

The Gateway Advisory Commission is a valuable and ongoing source of advice and counsel in the management and development of Gateway as the pilot national recreation area within a major metropolitan area. Its members represent the largest cities in New York and New Jersey as well as smaller communities and their professional, business, ethnic and civic interests and backgrounds provide a divergence of ideas, many of which have been and continue to be invaluable in management of Gateway.

Commission meetings are held a minimum of six times a year at different locations within Metropolitan New York, including Brooklyn, Manhattan, Staten Island, and Newark. They attract public participation from individuals and organized groups. Because participation from community spokesmen and individuals is welcome, these public forums have helped cement community relations with visitors and area residents.

Gateway's membership is representative of the population of Metropolitan New York, thus providing insights in planning of programs and development of the park.

I would like to thank Congressman BINGHAM for his attention to the details of the operation of the Gateway National Recreation Area and his efforts to assure this important Commission continues to function.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in strong support of H.R. 5014, which extends the life of the Gateway Advisory Commission for another 10 years. I want to thank Chairman SEIBERLING for his support of this legislation and for his management of today's floor action.

The Gateway National Recreation Area is a unique park. Located in the heart of the New York-New Jersey metropolitan area it provides residents of the area with a unique opportunity to visit and explore natural beaches, forests, and a wildlife refuge. I have visited the wetlands of the Jamaica Wildlife Refuge, located in Queens, just a few miles from Kennedy Airport. In that preserve, you will find native and migrating birds of a hundred varieties. You will see an ecosystem that is especially precious because just 8 miles away are the towering spires of Manhattan. In fact you can stand on the wetlands of the wildlife refuge and see the Empire State Building in the distance.

A unique park—a park unlike any other park administered by the National Park Service—has unique problems and unique possibilities. The Gateway Advisory Commission, which holds public meetings six times a year throughout New York and New Jersey, allows the citizens of the area to become involved in the management of the park. It provides an official link between the public and the Department of Interior. The membership of the Commission is representative of Metropolitan New York and New Jersey. I like to think of Gateway as among the most democratic of our national park areas. It is democratic because it is free, because it is located in a major urban area and because it can be reached by public transportation. It is truly a park for all the people. The Advisory Commission allows all the people to contribute to its management and its betterment.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the simple bill now before us, H.R. 5014, which would extend the life of the Gateway National Recreation Area in New York and New Jersey, for another 10 years.

Gateway was the first solidly urban-located and urban-oriented national recreation area brought into our national park system. This occurred almost 10 years ago. Because of the newness of this concept at that time, it was recognized to be particularly important that the management of the new area be sensitive to community and regional needs and interests. An advisory commission, intended to represent those interests, was made a part of that original legislation establishing the area, and has worked well for the 9 or more years of its existence. However, its authority for continuation will expire on October 27 of this year.

This bill merely extends the life of that Commission by another 10 years. I believe this is an important action for us to take, and I urge my colleagues to support this bill.

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5014.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

AUTHORIZING STUDY FOR ESTABLISHMENT OF FRANKLIN D. ROOSEVELT WARM SPRINGS LIVING MEMORIAL

Mr. SEIBERLING. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4750) to authorize a study for the establishment of the Franklin D. Roosevelt Warm Springs Living Memorial in Warm Springs, Ga., as amended.

The Clerk read as follows:

H.R. 4750

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and interpret for the benefit and education of the people certain properties in Warm Springs, Georgia, historically associated with the life of Franklin Delano Roosevelt, thirty-second President of the United States, in a manner which will commemorate, on a continuing basis, President Roosevelt's life and his commitment to the eradication of physically disabling diseases, the Secretary of the Interior shall, not later than the end of the one-year period beginning on the date of the enactment of this Act, develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing alternative plans for the preservation, use, and management of the property known as the Little White House, built by Franklin Roosevelt in 1931, the associated pools and springs, the Roosevelt Warm Springs Institute for Rehabilitation, and the Franklin Delano Roosevelt State Park, consisting of approximately ten thousand acres (all the preceding hereinafter in this Act referred to as the "historical area"). The plan shall identify—

(1) any sites, structures, and objects within the historical area which are deemed to require restoration and rehabilitation in order to preserve their historical significance, and the estimated costs thereof;

(2) the privately owned lands and interests therein adjacent or related to the historical area which are deemed necessary or desirable for incorporation into the historical area for the purposes of resource protection, retention of scenic and historic integrity, or management and administration of the historical area in furtherance of the purposes of this Act, and the estimated costs thereof;

(3) the number of visitors and types of public use which can be accommodated within the historical area in accordance with the protection of its resources;

(4) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(5) any other factors or information deemed necessary for further consideration by the Congress.

Sec. 2. As a component of the report to be developed and transmitted pursuant to the provisions of section 1, the Secretary of the Interior, in consultation and cooperation with the Secretary of Education and the Governor of the State of Georgia, shall prepare an analysis of the feasibility and desirability of further developing facilities and establishing programs for the rehabilitation of the physically disabled within the historical area and adjoining State-owned lands and facilities, with particular emphasis on programs to foster, enhance, and encourage the participation of persons who are physically disabled in recreational pursuits and in the identification of ways in which the historical area and adjoining State-owned lands and facilities may serve as a model of rehabilitation techniques for all people who are physically disabled.

Sec. 3. Effective October 1, 1982, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. SEIBERLING) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4750 authorizes and directs the Secretary of the Interior to study the lands and structures historically associated with Franklin Delano Roosevelt at Warm Springs, Ga. The study is to include assessment of alternatives for preservation, use, and management of the properties known as the Little White House with associated pools and springs, the Roosevelt Warm Springs Institute for Rehabilitation property and the Franklin D. Roosevelt State Park.

The bill also requires an analysis, in cooperation with the Secretary of Education and the Governor of Georgia, of the feasibility of further developing facilities and programs for the rehabilitation of the physically disabled in conjunction with the historic area and the adjoining State owned lands. CBO estimates the total cost for the study to be between $100,000 and $150,000.

Mr. Speaker, we all know of the leadership of Franklin D. Roosevelt as a President who took this Nation out of a depression and sheperded us through World War II. What many of us forget is that the through his illness, he developed a great compassion for the disabled and worked tirelessly to help his unfortunate fellow Americans from his base at the Little White House in Warm Springs, Ga.

Franklin Delano Roosevelt was struck by polio on August 12, 1921. He learned of Warm Springs, Ga., in 1924 and visited the now famous pools in October of that year. In 1925, he purchased land and enlarged the pools. In 1927 he founded the Warm Springs Foundation and subsequently built the Little White House. As President, he focused attention on the disease of polio and in 1937, the National Foundation for Infantile Paralysis was founded at Warm Springs.

From the time he was in Warm Springs, stricken until his death on April 12, 1945, Franklin D. Roosevelt spent what time he could at the pools in Warm Springs.

The Warm Springs Foundation was treating nearly 700 patients a year by 1945. Many medical professionals came to Warm Springs to treat patients and to study polio, including Dr. Jonas Salk who was at one time, a staff member of the foundation.

I wish to commend our colleague JACK BRINKLEY for his dedicated efforts in bringing this proposal to our attention.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Speaker, as author of H.R. 4750, I wish to thank my good friend and distinguished colleague, JOHN SEIBERLING, for his leadership role in guiding the progress of the Franklin D. Roosevelt/Warm Springs Living Memorial bill through committee and to the House floor.

Today, as we consider this important legislative initiative during the year which marks the 100th anniversary of F. D. R.'s birth, I ask my colleagues: "What better place than Warm Springs, Ga., to establish an enduring testimony of the fact not only that F. D. R. died, but that he lived; and that his life evidenced a special spirit of America nowhere else to be found, reflected in his battle with polio and his dream for a nation?"

At last month's hearing before the House Interior Subcommittee on Public Lands and National Parks, I emphasized that we seek the maximum, not the minimum at Warm Springs. To do less would not be in keeping with the memory of this great man or the vast potential for rehabilitation at Warm Springs. By authorizing a feasibility study of the Living Memorial, H.R. 4750 would provide that essential first step toward making the memorial a reality.

The F. D. R. Warm Springs Living Memorial proposal enjoys strong, bipartisan support. All the congressional alumni of Warm Springs—Congressmen GINN, SKELTON, and SCHEUER and Senator EAST—favor it. So does the State of Georgia and the entire Georgia delegation, Democrat and Republican alike. Jimmy Roosevelt favors it. And, happily, Mr. Speaker, you favor it also.

It is important to note that language authorizing a feasibility study of the F. D. R./Warm Springs Living Memorial passed both the House and the Senate in 1980. Unfortunately, the Senate bill to which the language was attached was held up in conference over unrelated items and was never cleared for final action.

In conclusion, Mr. Speaker, let me emphasize that the F. D. R./Warm Springs Living Memorial is not exclusive of other memorials; it is not competitive in any way. It is a partnership concept for enhancement and preservation by the Federal Government, and of functional management by the State government, both working in tandem together—to remember F. D. R., to inspire, and to improve the human condition.

Mr. SEIBERLING. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. McDonald).

Mr. McDONALD. Mr. Speaker, "de mortuis nil nisi bonum." Of the dead, say nothing but good. I for one must dissent from that sentiment.

The legislation that we are now considering would authorize a study, costing between $100,000 and $150,000, to create and dedicate a memorial to a man, Franklin Delano Roosevelt. For my colleagues who argue that this legislation commemorates a "commitment to the eradication of physically disabling diseases," I suggest that this bill is another in a growing number of bills before this body to commemorate the myth that F. D. R. saved our free enterprise system from going socialist and saved the world from a totalitarian dictatorship. Nothing could be further from the truth.

To separate the myth from the reality and to understand the effects of F. D. R.'s Presidency, one must first consider the cause of the conditions which existed when he appeared on the Washington scene and the results that have flowed from the policies by which he altered the direction of our economy and the shape of the world.

During the first century of our Nation's exsistence we retained our system of free enterprise with only a few exceptions. Perhaps the greatest breach was the monopoly granted to the railroads, but by and large, we entered the 20th century with a system of free enterprise which, with a sound gold standard, enabled our people to enjoy higher living standards, prosperity, and longer life spans than the world had ever known. Then in 1913, a most far-reaching change was imposed on our economy and the financial structure of our Nation.

That change was the creation of the Federal Reserve System with limited powers to manipulate the Nation's quantity of money and thus the value of the U.S. dollar and every contract expressed in dollars. With the advent of World War I, the originally limited powers were expanded and the system became a facility for financing the Government's war debts. It did this by roughly doubling the quantity of money in the economy. In short, by inflation, with all the undesirable results that accompany inflation.

At the end of the war, the inflation was temporarily reversed and the ensuing deflation resulted in the readjustment recession of 1920-21. However, the Federal Reserve System soon resumed its inflation of the quantity of money. All such political expansions of money and credit always derange the economy. The introduction of the new dollars into the economy leads to a boom in those businesses that sell to the recipients of the new money, leaving less for those who have only their earnings and savings to spend. We were then on a form of the gold standard that placed a limit on the expansion of money and credit.

All such inflations must end sooner or later. This inflation ended in 1928. When the quantity of money and bank credit stopped expanding, the former spenders of the newly created dollars were forced to reduce their spending. The stock market collapsed in 1929 and many bank loans were called. In a short period of time the Nation's outstanding quantity of money was contracted by one-third.

The situation called for a drop in wage rates and prices and a readjustment of the economy. This could have been accomplished with the least pain and in the shortest period of time with the help of freely fluctuating market prices, wage rates, and interest rates. Such market barometers and thermometers direct businessmen to use all available capital, labor, and material goods to produce that mixture of goods and services which best meet the demands of consumers. Unfortunately, there was a large-scale attempt to maintain 1929 prices and wage rates with only about two-thirds the quantity of money that had supported the prices and wage rates of 1928 and 1929. Consequently, many businesses failed and millions lost their jobs.

This was the situation when F. D. R. assumed the Presidency after campaigning against a profligate government. His very first act was to confiscate the gold of our citizens and unleash the inflation we are now having much difficulty in bringing to an end. In a very short period of time he persuaded Congress to create a series of Government agencies and programs. These not only blocked a market correction of the chaotic results of the inflation follies of the twenties, but it made matters infinitely worse with a resumption of inflation in an attempt to achieve the quantity of money that F. D. R. hoped would maintain the prices and wage rates that preceded the depression.

The Supreme Court threw out two of F. D. R.'s basic antifree market measures, the National Recovery Act (NRA) and the Agricultural Adjustment Act (AAA) in 1935. It also held that neither F. D. R. nor Congress had the power to annul the "Gold Clause" promise, then a part of all U.S. Government securities, while letting F. D. R. off the hook by holding that the bondholders had not at that time, 1935, proven that they had suffered any loss.

Undaunted, F. D. R. had Congress reenact key provisions of the unconstitutional NRA and AAA, while also withdrawing the right of holders of Government securities to sue the Government and prove their losses as the purchasing power of the dollar started to fall. He then attempted to pack the Supreme Court. Congress refused to go along, but by 1937 he had a subservient Court which from that date on, in case after case, overturned the original and traditional constitutional limitations on an all-powerful central government.

Rarely did a piece of New Deal legislation achieve its advertised goal, but all involved a still greater concentration of power in the hands of the Federal Government. By 1939, his expanded powers and programs were in full effect. F. D. R. had also inflated the nation's quantity of money by some 50 percent, surpassing the figures of 1928 and 1929. However, he failed to achieve the prosperity he sought even with the Federal Reserve discount rate at only 1 percent.

After the Wagner Act—section 7a of the NRA—was held to be Constitutional by a 5 to 4 vote, unemployment soared, automobile production was cut almost in half, the iron and steel production index dropped drastically, and railroad freight loadings fell by almost one-fourth. The Treasury's tax collection had almost tripled, while the public debt had been doubled and the newly imposed social security taxes were all spent before $1 in benefits had been paid. This was not a free market society and neither was it prosperity.

Hitler soon brought temporary relief. When he attacked Poland, England and France went to the rescue. With many of their men in uniform, they had great needs in a hurry. They turned to the United States. Our Neutrality Act then specified that all trade with nations at war must be on a cash-and-carry basis. So the gold of France and Great Britain put our people back to work and the wheels of industry hummed. It was too good to last. France fell in June 1940 and Britain's money ran out.

F. D. R. met this dilemma by breaking tradition and running for a third term. While promising the electorate again and again that our boys were not going to fight in any foreign wars, he secretly assured the British he would help them, but they would have to wait until after the election. In his first press conference after the election, he announced what later became known as lend-lease. This aid to the warring nations and an expanded armament program kept the wheels of industry spinning, with taxes, deficits and the public debt reaching new highs, while the Federal Reserve

System speeded up its creation of dollars, that is inflation.

F. D. R. while publicly proclaiming neutrality before the 1940 election, had ordered our Navy to report and follow German submarines until the British arrived, sent our servicemen to assist the British, secretly established the first hotline telephone with the British Prime Minister, Winston Churchill, and maintained a secret liaison with the British agent set up in New York City to help bring us into the war. Early in 1941, top British and American staff officers met and approved joint war plans. With F. D. R.'s approval, these plans were distributed to our fleet commanders early in the summer of 1941. Returning from a meeting with Churchill off Argentina in late summer, F. D. R. summoned the Japanese Ambassadors and handed them a secret ultimatum, after which he wired the British Prime Minister on August 18, 1941, "The statement I made to him was substantially similar to the statement we discussed."

Having broken the top Japanese diplomatic code in August 1940, F. D. R. knew on November 22, 1941, that if a satisfactory conclusion to the long drawn out negotiations with the Japanese was not reached by November 29 that "the deadline absolutely cannot be changed. After that things are automatically going to happen." According to Secretary of War Stimson's diary, F. D. R. told his war cabinet on November 25 that "We were likely to be attacked perhaps as soon as next Monday." So, on the next day, November 26, F. D. R. had his Secretary of State hand the Japanese Ambassadors a second ultimatum; one he knew they could not accept.

He knew war was imminent. After reading another intercepted Japanese message on December 6, he told Harry Hopkins, "This means war." War came the next day and the failure of the New Deal's Government dominated economy was successfully hidden from a shocked American public. Thus, F. D. R. was able to fool many unsuspecting people, with little or no understanding of sound economics, into thinking that his massive political interferences with our market society has saved the system so badly deranged by the Federal Reserve System's monetary manipulations of the previous decade.

After World War II, the New Deal interferences with a free market in jobs, wage rates, and interest rates were still in place. We have been experiencing the inevitable consequences. Labor union privileges have prevented competition for many of the higher paying jobs, thus limiting such employment as well as a higher production of the things Americans wanted most. Those shut out from union controlled jobs competed for and drove down wage rates in nonunion jobs, while an ever rising minimum wage rate prevented a growing number from getting on the bottom of the ladder. The result has been increasing mass unemployment, necessitating increasing welfare expenditures, higher taxes and ever larger budget deficits financed in large part by the political creation and distribution of more dollars which have not only raised the cost of living for everyone but have further deranged the economy.

It might be said that two of F. D. R.'s economic programs were great successes. His attempt to inflate the Nation's quantity of money reached his goal before World War II and is still going full blast. In 1981, the Federal Reserve System increased the M_2 quantity of money by roughly 10 percent. F. D. R.'s other success was his program for unemployment insurance. His programs have certainly insured unemployment. At the beginning of 1982, the American taxpayers were paying more than 4 million people not to work or contribute to our society. These were not exactly the results F. D. R. sought.

In his 1848 Communist manifesto, Karl Marx stated the way to socialism is "to centralize all instruments of production in the hands of the State. This cannot be effected except by means of despotic inroads on the rights of property by means of measures; therefore, which appear economically insufficnent and untenable, but which, in the course of the movement, outstrip themselves, necessitate further inroads upon the old social order, and are unavoidable as a means of entirely revolutionizing the mode of production." Marx then listed 10 measures that "will be pretty generally applicable." F. D. R. endorsed and took steps toward advancing 8 of those 10 measures.

It is interesting to note that on the 100th anniversary of his birth, the magazine Soviet Life, which is published by the Soviet Embassy, took the occasion to acknowledge that it was F. D. R. who almost singlehandedly saved the Soviet Union from collapse in 1933 by establishing relations with that country and thus "produced positive results for the cause of peace." One such result for which F. D. R. is praised is the Yalta agreement, in which, among other conditions, the Soviet Union was guaranteed domination of Eastern Europe, including Poland.

In addition, the article praises F. D. R. for his "important socioeconomic reforms that greatly changed life in America." The article concludes with: "President Roosevelt was an example of the other side's generally correct position in Soviet-American relations. He understood, better than anyone else in U.S. ruling circles, the best way to deal with the U.S.S.R. He proved to be much more astute than all the experts on Russia and the Russia soul."

With friends like Soviet Life, the memory of F. D. R. needs no enemies.

In conclusion, F. D. R.'s basic interference with free market procedures and his international treachery have led to the further disintegration of the ways of Western civilization. They thus must bear a major responsibility for our present distressing economic situation with soaring inflation, interest rates, mass unemployment, and current world crises.

Contrary to the claims of some that F. D. R. saved capitalism, it must be realized that present economic problems are the result of political interferences, many initiated by F. D. R., which have hampered the free flow of capital, labor, and new savings into those employments which best reflect the wishes of consumers. Only a return to free market prices, wages, and interest rates operating with a sound unmanipulated monetary system can revive the prosperity of a free society.

In view of the record and a hard look not at the myth but at the reality, I submit that we do not need another memorial to Franklin Delano Roosevelt. We already have a lasting memorial: the U.S.S. *Arizona*, lying at the bottom of Pearl Harbor.

Mr. SEIBERLING. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to respond to the remarks of the gentleman from Georgia by pointing out that this legislation does not deal with any of the subjects that the gentleman just discussed. This deals solely with Franklin Roosevelt's role as a champion of the handicapped and the disabled, and his Warm Springs Foundation and the park, the Georgia State Park, is a memorial to him in that humanitarian effort. I do not think there is any controversy whatsoever about that.

I would only add one other thing: Ronald Reagan says that Franklin D. Roosevelt is one of his personal heroes, so he cannot be all bad.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Speaker, I rise in support of H.R. 4750, and I urge my colleagues to strongly support as well this important measure authorizing a review of the proposal to establish a "living memorial" to Franklin Delano Roosevelt at the Roosevelt-Warm Springs Institute for Rehabilitation at Warm Springs, Ga.

My interest in this proposal is due simply to the fact that as a former patient at Warm Springs, I can visualize a no more fitting memorial to the late former President. Three of us in the Congress—JIM SCHEUER, IKE SKELTON, and myself—have been treated at Warm Springs, and we can attest to the accomplishments of this famous

Institute. I firmly believe if it were not for the treatment I received at Warm Springs I would not be walking today, and I am very sensitive to the comfort which the late President indicated he received from the healing waters which flowed from those warm springs.

Let me emphasize that the purpose of this initiative is not to compete against any other memorial which anyone wishes to erect in honor of F. D. R., but it is an unprecedented effort undertaken by my friend, Jack Brinkley, to combine a memorial to one of this Nation's greatest leaders with an operating rehabilitative center which will continue to administer to the needs of disabled people.

It is a traditional memorial, for it focuses on the Little White House, the pool, and the springs which brought so much peace and comfort to F. D. R. Yet, it is a unique memorial, for it incorporates a facility which can provide to Americans now and in the future the opportunities for rehabilitation which were a mark of the F. D. R. Presidency.

It is difficult for me, Mr. Speaker, to imagine a more appropriate remembrance of one whose concern for the tremendous problems of his day did not detract from his compassion and understanding for the disabled. The emphasis he placed on polio—and from which I, too, suffered—has led us to rid this dreaded disease from our society, and I hope my colleagues will support this significant legislation, which will lead hopefully, to the establishment of the first true "living" memorial to an American President.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I lend my support to the bill now under consideration, H.R. 4750, which directs that a study be undertaken by the Secretary of the Interior as to alternative mechanisms for the protection of certain lands and features at Warm Springs, Ga., which were historically associated with the life of President Franklin D. Roosevelt.

Mr. Speaker, as a result of President Roosevelt's affliction with polio, he had spent a fair amount of time during his life seeking aid and relief from the properties of the springs and pools at Warm Springs, Ga.

The bill now under consideration provides that the lands and facilities historically associated with Roosevelt's times and activities here be studied for the purpose of determing various alternatives for their preservation. The bill enumerates certain elements to be considered, and the study is to be completed within 1 year.

Mr. Speaker, the study is to include the consideration of involvement in the management and protection of all or some of this area, or its resources, by the National Park Service. To the extent that National Park Service involvement may represent a possible alternative in the outcome of the study, I want to stress that any such alternative should be based on a finding of the national significance which such an approach would represent. I do not believe we should be adding additional resource management burdens onto the national park system which are of less than national significance in importance.

Mr. Speaker, I urge my colleagues to join me in the support of this bill.

● Mr. SCHEUER. Mr. Speaker, I rise today in support of the commendable efforts of my esteemed colleague from Georgia, Jack T. Brinkley, to establish a living memorial to Franklin Delano Roosevelt in Warm Springs, Ga. Noting the recent observation of the 100th anniversary of Franklin Delano Roosevelt's birth, I find it highly appropriate that this matter now comes before the House.

Along with its unique historical association with Franklin Delano Roosevelt, the importance of Warm Springs for thousands of Americans is well known. Countless numbers of polio victims have sought relief from their affliction at the Roosevelt Warm Springs Institute for Rehabilitation. As one who has visited Warm Springs on numerous occasions, I can personally attest to the immense therapeutic value of the Institute. Founded under the guidance of Franklin Delano Roosevelt in 1927, Warm Springs is also the site of the National Foundation for Infantile Paralysis.

H.R. 4750 would authorize and direct the Secretary of the Interior to study the lands and structures historically associated with the life of Franklin Delano Roosevelt at Warm Springs. The study is to include assessments of alternatives for preservation, use, and management of the properties known as the Little White House with associated pools and springs, the Roosevelt Warm Springs Institute for Rehabilitation property, and the Franklin D. Roosevelt State Park.

Support for this legislation has found favor from many quarters, public and private alike. In addition to the Georgia congressional delegation, enthusiasm has been voiced by the State of Georgia, and James Roosevelt, son of the late President and member of the Georgia Warm Springs Foundation.

Truly, I can think of no finer tribute to a man who has symbolized hope and courage for so many Americans. Throughout his life, Franklin Delano Roosevelt clearly demonstrated that not only is it possible to live with a handicap, but it is entirely probable that one may overcome any setback and make a significant contribution to the betterment of society. Therefore, I strongly encourage my colleagues to join in support of H.R. 4750 and thereby insure that the legacy of Franklin Delano Roosevelt shall be preserved through the establishment of a living memorial to him in Warm Springs.●

● Mr. DERWINSKI. Mr. Speaker, I urge my colleagues to support H.R. 4750, which directs the Interior Department to conduct a study of the feasibility of and develop plans for preserving and using the Little White House in Warm Springs, Ga., and the related facilities developed by President Franklin Delano Roosevelt.

Regardless of whether we consider the Presidency of Franklin Delano Roosevelt a great one or otherwise, he presided over our country during a long and important era. He now belongs to our history and the living memorial envisioned by this bill would be a proper recognition of his Presidency.

Therefore, I urge approval of this legislation, which has the added purpose of analyzing the feasibility of developing the facilities in Warm Springs to serve as a model of rehabilitation techniques for the physically disabled.●

● Mr. REUSS. Mr. Speaker, for Warm Springs to become a "living memorial" to Franklin Delano Roosevelt is most appropriate. Warm Springs was the crucible in which F. D. R.'s remarkable Presidency was formed. It is where, following his polio, he achieved a physical and spiritual renewal—a renewal not dissimilar to that which he later inspired in a crippled and disheartened Nation. As a GI at Fort Benning years ago, I visited Warm Springs to see the shrine.

It is fitting that F. D. R.'s memorial be a living one. Better than any sterile marble edifice, Warm Springs will accurately symbolize F. D. R.'s continuing contributions to humanity, and his philosophy of helping others to help themselves.

In supporting this worthwhile legislation, I should also like to pay tribute to my friend and colleague, Jack Brinkley, who has been the guiding congressional force behind a Warm Springs F. D. R. memorial. Jack has announced his intention to retire from Congress, and I know that all of his colleagues join me in wishing him well. These Halls will be poorer for the absence of his great warmth and graciousness.●

Mr. SEIBERLING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Matsui). The question is on the motion offered by the gentleman from Ohio (Mr. Seiberling) that the House suspend the rules and pass the bill, H.R. 4750, as amended.

The question was taken.

Mr. McDONALD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HISTORIC PRESERVATION FOR CAMDEN, S.C.

Mr. SIEBERLING. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 146) to authorize the Secretary of the Interior to assist in the preservation of historic Camden in the State of South Carolina, and for other purposes.

The Clerk read as follows:

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to assist in the preservation of the nationally significant historic resources associated with the town of Camden, South Carolina, a key location in the development of South Carolina and in military operations in the South during the American Revolution, the Secretary of the Interior is authorized, in accordance with subsection 2(e) of the Act of August 21, 1935 (49 Stat. 666), to enter into a cooperative agreement or agreements with the Camden Historical Commission, the Camden District Heritage Foundation, or other appropriate public, governmental, or private nonprofit entities pursuant to which the Secretary may assist in the protection, restoration, and interpretation of such resources for the benefit of the public.

(b) Beginning October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not to exceed $250,000.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Ohio (Mr. Seiberling) will be recognized for 20 minutes, and the gentleman from Alaska (Mr. Young) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 146 would authorize the Secretary of the Interior to enter into cooperative agreements to assist in the preservation of historic resources associated with the town of Camden, S.C. The Secretary may assist in the protection, restoration, and interpretation of such resources in the area described.

The bill would authorize not more than $250,000 to carry out the purpose of the act.

The British occupied the town of Camden, S.C., from June 1780 to May of 1781 during the American Revolution. They constructed redoubts (small earthen forts), a fortified powder magazine and jail, and palisaded the community and the Kershaw House (Cornwallis house). Andrew Jackson, later to become president of the United States, was imprisoned at Camden from April of 1781 to the end of the British occupation. The most intense military activity included the nearby battles of Camden and Hobkirk's Hill and the related battles at Ninety Six, Cowpens, and Kings Mountain.

Few vestiges of the town remained after the British departure. The town was rebuilt to the north after the Revolution. Today the main features of the historic Camden area include the site of the 1780-81 Revolutionary War Community and several reconstructions on the original foundations—two redoubts, a powder magazine, wooden palisades, and the Kershaw House.

Mr. Speaker, I wish to draw attention to the fact that, although this is a Senate measure, our colleague, Ken Holland, introduced a similar bill (H.R. 1716) and worked tirelessly to gain acceptance of the legislation. The people of Camden, S.C. should be proud of the fine work Ken has done for them on this issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. Holland).

Mr. HOLLAND. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise simply to pay tribute to the Chairman, the gentleman from Ohio (Mr. Seiberling), and his committee for bringing this legislation to the floor today.

Mr. Speaker, this legislation was introduced in the 96th Congress; however, because it was attached to more controversial legislation, it did not achieve final passage. Both the House and the other body passed separate measures containing identical provisions pertaining to historic Camden but there was insufficient time for a conference to resolve differences in other parts of the legislation. The other body passed this measure on October 21, 1981.

This bill would authorize the Secretary of the Interior to enter into a cooperative agreement with the Camden Historic Commission, the Camden District Heritage Foundation, and other appropriate organizations to aid in the protection and restoration of historic areas. Thus, this bill will insure the continued preservation of Camden's historical assets without the greater expenditures which would be necessary had Federal acquisition been required.

Historic Camden is listed on the National Register of Historic Places and has received funding from the Department of the Interior, the Department of Housing and Urban Development, the Coastal Plains Regional Commission, the National Endowment for the Arts and the South Carolina General Assembly.

In addition, city, county, and extensive private moneys have been received. The total cost of investment is approximately $1.6 million. The Camden Historical Commission has done an outstanding job of locating and rebuilding the revolutionary fortifications and restoring the Cornwallis headquarters, the Kershaw House. In 1979 the National Trust for Historic Preservation presented the David E. Findley Award to historic Camden and the Camden District Heritage Foundation in recognition of outstanding achievement in historic preservation. The site has been open 6 days a week since November of 1970 and has an annual visitation in excess of 25,000.

Mr. Speaker, let me say a few words about preserving the historic nature of Camden. The 18th century town of Camden occupies an important place in the development of South Carolina and the military operations in the South during the American Revolution. Historic Camden's location along major transportation routes and its relation to other settlements made it a trade center of considerable economic and commercial importance in the 18th century southern colonial development. The townsite was laid out by 1774 on a rectangular grid pattern by Joseph Kershaw, the major contributor to the founding and the growth of Camden. The settlement consisted of small frame structures, with the notable exception of the Kershaw House, which was apparently patterned after a large Charleston home.

The British occupied Camden from June of 1780 to May of 1781 during the Revolution. They constructed five redoubts, fortified the powder magazine and jail, and palisaded the community and the Kershaw House. Andrew Jackson, later to become President of the United States, was imprisoned at Camden from April of 1781 to the end of the British occupation. The most intense military activity included the nearby battles of Camden and Hobkirk's Hill, and the related battles at Ninety Six, Cowpens, and Kings Mountain. The Colonial Generals Horatio Gates, Nathaniel Green, Baron Johann DeKalb, and the British Lord Charles Cornwallis are among the primary military leaders associated with the town. The British retreated in May of 1781 burning the palisaded town in an effort to minimize the site's strategic value. The fall of Camden as a British stronghold was pivotal to the eventual defeat of the British.

Few vestiges of the once active town remain after the British departure, and the town rebuilt to the north after the Revolution. Today, the main features of the historic Camden area include the site of the 1780-81 Revolutionary War community and several reconstructions—two redoubts, a powder magazine, a wooden palisades, and the Cornwallis House. The combination of palisades and redoubts is notable as a unique defense system surrounding the frontier community during the Revolution.

It is my hope that my colleagues will support this legislation and it will be enacted.

□ 1315

Mr. SEIBERLING. Mr. Speaker, I yield myself such time as I may consume.

I would say in my opinion this bill as well as the two preceding ones are essentially noncontroversial bills. It is very difficult to conceive of anybody having any strong feelings against them. They are "motherhood and virtue" bills, and I would hope that they all will be dealt with in that manner.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 146 authorizes the Secretary of the Interior to provide assistance to various entities for the purpose of preserving historic resources associated with the town of Camden, S.C.

This bill does not authorize anything beyond that which is already available under existing law, but it does limit any appropriations to not exceed $250,000, a limitation heretofore not in existence for such activities in Camden.

Mr. Speaker, I think that with that type of funding limitation, it is essential to assure that any such financial assistance be directed exclusively to those resources which are deemed by professional authorities within the National Park Service to be clearly of national significance, and which retain historical integrity. There are thousands of historical resource components throughout the United States which can, under existing law, benefit in like manner from Federal technical and financial assistance identical to that provided for specifically for this area by this bill. Moreover, there are some of the historical resource components of the Camden area which are of less than, or of questionable, national significance, or are lacking in historical integrity. My point here is that it is essential that Federal financial assistance, being in such critically diminished supply in relation to the demand, must be carefully directed to the most deserving of resources nationwide—those which are of unquestioned national significance and which retain authentic historical integrity.

Mr. Speaker, I believe that people of Camden which have pursued this legislation are to be highly commended for the great work they have accomplished in Camden to date in the rehabilitation and protection of their historic resources. It constitutes a real success story of grass roots initiative, and sets a beautiful example for others to follow in their own communities.

I urge my colleagues to support the passage of this bill.

The SPEAKER pro tempore (Mr. LEVITAS). The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 146.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO RUSSIAN FAMILIES SEEKING REFUGE IN U.S. EMBASSY IN MOSCOW

Mr. BONKER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 100) expressing the sense of the Congress with respect to the situation of two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union.

The Clerk read as follows:

H. CON. RES. 100

Whereas since 1962, thirteen members of the Vashchenko family and eleven members of the Chmykhalov family have been denied permission to emigrate from the Soviet Union;

Whereas the Soviet Union has consistenly denied the right of such individuals to practice their Pentecostal faith;

Whereas the Soviet Union has subjected such individuals to physical and psychological harassment, including imprisonment, beatings, confinenment in mental institutions, and separation of family members;

Whereas such actions violate the commitments to freedom of thought, conscience, religion, and emigration made by the Soviet Union through its adoption of, or participation as a signatory to, the United Nations International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe, the Charter of the United Nations, the Universal Declaration of Human Rights, and the Constitution of the Union of Soviet Socialist Republics;

Whereas on June 27, 1978, Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko sought refuge in the United States Embassy in Moscow, in the Soviet Union, because of the suppression of their religious beliefs by the Soviet Union, and have lived in the Embassy since such time;

Whereas Augustina and Lidia Vashchenko began a hunger strike on December 27, 1981, to protest their treatment by the Soviet Government;

Whereas Lidia Vashchenko was removed from the United States Embassy compound in Moscow, away from her family and American protection, to Botkin Hospital where she is undergoing treatment for ailments resulting from her hunger strike; and

Whereas the Soviet authorities have not indicated their intentions regarding Lidia Vashchenko once she has recovered and is physically able to leave Botkin Hospital: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President of the United States should—

(1) express to the Government of the Soviet Union the deep concern of the United States with respect to the deprivation by such Government of the religious freedom of the members of the Vashchenko and Chmykhalov families, and the refusal of such Government to permit the emigration of the members of such families;

(2) take such actions as may be necessary to ensure that Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko will be permitted to reside in the United States Embassy in Moscow, in the Soviet Union, until such time as the Government of the Soviet Union authorizes their emigration; and

(3) take such actions as may be necessary to ensure that Maria and Timofei Chmykhalov, and Lilia, Peter, Liubov, Lidia, and Augustina Vashchenko will be provided every possible assistance and courtesy during their residence in the United States Embassy in Moscow.

The SPEAKER pro tempore. Before putting the question, the Chair would like to inquire of the gentleman from Washington, is an amendment included in the motion of the gentleman?

Mr. BONKER. Mr. Speaker, there was a technical amendment that had been incorporated into the text of the bill, the resolution that is before the House.

The SPEAKER pro tempore. Is a second demanded?

Mr. LEACH of Iowa. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. GREGG. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman objects to a second being ordered?

Mr. GREGG. I do, Mr. Speaker.

Mr. Speaker, I object to the ordering of the second and on that I demand tellers.

The SPEAKER pro tempore. The question is, Will a second be ordered?

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. BONKER and Mr. GREGG.

The House divided, and the tellers reported that there were—yeas 15, nays 6.

Mr. GREGG. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 373, nays 1, not voting 59, as follows:

[Roll No. 31]

YEAS—373

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Moore
Moorhead
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
O'Brien
Oberstar
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Roth
Rousselot
Roybal
Rudd
Sabo
Santini
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—1

Crockett

NOT VOTING—59

Atkinson
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Chisholm
Clay
Coleman
D'Amours
Daniel, Dan
Derrick
Dickinson
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Fary
Florio
Foglietta
Gejdenson
Ginn
Green
Guarini
Hall (OH)
Hendon
Hillis
Kindness
LaFalce
LeBoutillier
Lent
Madigan
Marks
McCloskey
McCollum
McCurdy
McDade
McKinney
Molinari
Mollohan
Montgomery
Morrison
Murtha
Neal
Nowak
Oakar
Obey
Pashayan
Rhodes
Rostenkowski
Roukema
Russo
Savage
Sawyer
Stangeland
Walker
Young (AK)

□ 1330

Mr. TRAXLER changed his vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Washington (Mr. BONKER) will be recognized for 20 minutes, and the gentleman from Iowa (Mr. LEACH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington (Mr. BONKER).

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I would be happy to yield to the gentlewoman from New Jersey.

(By unanimous consent, Mrs. FENWICK was allowed to speak out of order.)

PERSONAL EXPLANATION

Mrs. FENWICK. Mr. Speaker, due to commitments in my district last week, I was unable to be present last Thursday, March 18. Had I been here I would have voted for H.R. 4468, the Secret Service Zones of Protection Act; I would have voted for H.R. 4688, dealing with military personnel and civilian employees claims; I would have voted for H.R. 3345, the technical amendments to the patent and trademark laws; and I would have voted for House Concurrent Resolution 290, reaffirming that federally insured deposits are backed by full faith and credit of the U.S. Government. I would have voted against H.R. 2329, dealing with the Cherokee Nation of Oklahoma.

Mr. BONKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the chairman of the Foreign Affairs Committee (Mr. ZABLOCKI), for his support of House Concurrent Resolution 100 and his expeditious consideration of this important bill in the committee. I would also like to thank my colleague from Massachusetts (Mr. FRANK), the sponsor of this resolution, for his leadership on this issue, as well as the ranking minority member of the Subcommittee on Human Rights and International Organizations (Mr. LEACH), for his support.

The resolution we have before us today is an expression of congressional concern on behalf of the Vashchenko and Chmykhalov families, who have been denied permission to emigrate by the Soviet authorities and are now living in the U.S. Embassy in Moscow to protest their plight. The resolution calls upon our President to express the concern of our Government to the U.S.S.R. and to allow the family members to remain in the U.S. Embassy in Moscow so long as they may desire. The resolution was amended during consideration by the Subcommittee on Human Rights and International Organizations to reflect new developments in their case, including the recent hunger strike and hospitalization of two family members.

These developments involving the Pentecostal families in the U.S.S.R. have made this expression of congressional concern in their behalf particularly important. It is my understanding that the Soviet authorities have not made much progress in processing the visa application of Lidia Vashchenko, who left the embassy and returned to her home to again attempt to initiate emigration proceedings. I believe that our action in Congress today will provide a needed signal that we have not forgotten the Pentecostal families, and continue to have the greatest interest in their case.

House Concurrent Resolution 100 has 123 cosponsors from both political parties, and has been the object of great interest in church groups and human rights organizations across the country. The executive branch has expressed no objections to this bill. Therefore, Mr. Speaker, I strongly urge that Members support the measure.

□ 1345

Mr. LEACH of Iowa. Mr. Speaker, I yield myself such time as I may consume.

I would certainly reciprocate the feelings expressed by the gentleman.

Mr. Speaker, members of the Vashchenko family and the Chmykhalov family have been denied permission by the Soviet authorities to freely emigrate and have lived, since 1978, in the U.S. Embassy in Moscow. As Pentecostals, they have been denied their right to practice their faith and have been subjected to imprisonment, beatings, confinement in mental institutions, and separation from family members.

The Members of this House are not unfamiliar with the denial of religious freedom in the Soviet Union and know well the same problems faced by the Jewish community in that country. The fact that the Soviets deny religious freedom to these Pentecostals comes as no surprise but stands in stark contrast to their commitments to religious freedom and the right to emigrate under the International Covenant on Civil and Political Rights, the Helsinki Final Act, the Charter of the U.N., the Universal Declaration of Human Rights, and their own Constitution.

The administration has assured us it has no objections to House Concurrent Resolution 100 which calls on the President to express to the Soviets our deep concern over freedom of religion and emigration for these two families and to permit them to stay at the U.S. embassy in Moscow until their emigration has been authorized.

I want to commend our Foreign Service officers in Moscow for their efforts on behalf of these two families in spite of the very difficult circumstances within which they must work. We are deeply concerned at this point over the prospect that Soviet authorities may stall on the granting of a visa to Lidia Vashchenko who after her hunger strike returned to her hometown to apply for a visa. While I understand no final decision has yet been made by the Soviet authorities, I would urge my colleagues to give this resolution their unanimous support as an unmistakable signal to the Soviet Union of our hope and expectation of Soviet respect for their right to emigrate. Thank you.

Mr. Speaker, at this point I yield such time as he may consume to the gentleman from Michigan (Mr. BROOMFIELD).

Mr. BROOMFIELD. Mr. Speaker, I strongly support House Concurrent Resolution 100 which expresses the sense of Congress with respect to the situation of two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union.

We must vehemently express our concern to the Soviet Union on such matters as these. The Soviet Union has time and again blatantly violated its responsibilities and obligations under international law. The Soviet Government has failed to adhere to its commitments on religion, emigration, and basic freedom in this particular situation. The persecution of the Pentecostal families callously disregards these commitments, and flies in the face of the Soviet Union's duties under its own Constitution, the Helsinki Final Act, the U.N. Charter, the Universal Declaration of Human Rights, and various other international understandings.

We must continue to hold the Soviet Government accountable for its disreputable behavior. Its illegal treatment of the Pentecostals is only a part of the total panoply of heinous actions that the Soviet Union takes against its own citizenry. There are over 2,000 special prisons, psychiatric institutions, and concentration camps set up to handle political prisoners. Details of these facilities are well documented in the 1980 publication, "The First Guidebook to Prisons and Concentration Camps of the Soviet Union." It was written by Avraham Shifrin. This book chronicles how innocent people living in the Soviet Union are arrested and imprisoned for such offenses as belief in God or possession of anti-Soviet literature. The last crime often involves possession of a Bible. Humiliation, physical abuse, and psychological harassment are standard Soviet tactics when in confinement.

I urge my colleagues to support this resolution. We must never lessen our attention on the outrageous actions of the Soviet Union. It is only through international pressure that the Soviets make even the smallest of concessions to humanity. Without such pressure, barbarism would truly reign supreme in the Soviet Union.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. KEMP).

Mr. KEMP. I thank my colleague from Iowa for yielding.

Mr. Speaker, I rise in very strong support of this humanitarian resolution. I am a cosponsor and I appreciate the leadership of the gentleman from Iowa (Mr. LEACH) and that of the gentleman from Washington (Mr. BONKER).

As the gentleman from Iowa pointed out, this resolution not only applies to Pentecostals; but to all oppressed Christians and Jews in the Soviet Union denied freedom of emigration.

Alexandr Solzhenitsyn has held out many warnings to the West—and one great hope. He wrote in Time magazine last year:

> All oppressed people are on the side of the West. Only by relying on this alliance can the West's strategy succeed. Only together with the oppressed will the West constitute the decisive force on Earth.

We have not always been willing to recognize this common bond with the oppressed. A particularly discouraging example of our failure in this regard is the long struggle the Vashchenko and Chmykhalov families have had not only with the Soviet authorities, but with the American authorities as well. During the Pentecostal families' first 2 months in the American Embassy they were not allowed to leave the waiting room, or to bathe or shower, and Embassy personnel were discouraged from offering them help. When that did not succeed in forcing the "Siberian Seven" from the Embassy, they were restricted to two small basement rooms, and even fewer visitors. It is only recently that these conditions have been significantly improved.

Again, I commend my colleagues for both parts of this resolution. We must stand united in condemnation of Soviet religious persecution of Christians and Jews. We must also stand behind our own principles of freedom and solidarity with the oppressed, by supporting the Pentecostal struggle to gain, and keep, religious liberty.

Mr. BONKER. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the gentleman from Washington and the gentleman from Iowa for their leadership.

Mr. Speaker, this is not merely a perfunctory, ceremonial, or symbolic act that we are engaged in in adopting this resolution concerning the plight of Pentacostal families trapped in the American Embassy in Moscow. Earlier this year, in January, I had occasion to be in the Soviet Union. While in Moscow, I visited, on three occasions, with these two families in crammed quarters in the basement of the American Embassy. They are frustrated. They are concerned. They are anxious. They are at the end of their rope. All they want to do is to be able to leave the Soviet Union to follow their conscience and practice their religion.

But the price they have had to pay for that in the Soviet Union has been years and years and years of harassment. They are now confined in a very small space in the American Embassy. They cannot leave because they know if they go outside they will be arrested and put in prison.

All they are seeking to do is exercise their freedom of conscience and their rights to practice their religion, a right which we take for granted in this country.

Another reason that this is such an important resolution is that until very recently these people, these Pentacostals, have been suspicious of the American Government's intentions in their regard. They have questioned the sincerity of the support of our Government to get them out of Russia. Therefore, it is extremely important that this resolution, coming from the Congress, will demonstrate to them, to the Soviet leaders, and to the rest of the world our commitment to human rights and the rights of all people—Jews, Christians, or whatever persuasion—to have the right to exercise and practice their religion wherever they want to.

At this point, I would like to insert in the Record a copy of an article about these brave people which appeared in Parade magazine in January of this year as follows:

[From Parade, Jan. 10, 1982]

They Need Your Help

(By Michael Satchell)

The U.S. Embassy in Moscow occupies an old, 10-story building on Chaikovskogo Street, about two miles from Red Square. It is guarded around the clock by Soviet militiamen in heavy greatcoats and black leather boots. Their job, often performed with considerable zeal, is to keep out unauthorized Russian visitors—anyone having the temerity to try to slip by the guards without an official invitation from the U.S. government or permission from the Soviets.

Two of these intimidators blocked the way early on a Saturday morning as I and my companion, an American woman, approached the single open entrance. After scrutinizing photocopies of our passports and eyeing us up and down, they flipped sarcastic salutes and waved us in. We walked beneath an archway into a small courtyard, stepped down into a dark, greasy basement corridor, found the door we were looking for and tapped lightly.

Within seconds, there was pandemonium—a joyous outburst of laughter, tears, hugs and expressions of disbelief at the unexpected arrival of the woman visitor. Inside the small basement room—their home for more than 3½ years—were the seven Soviet Christians who on June 27, 1978, had burst by the Soviet guards seeking U.S. help to emigrate to America in order to pursue their religious beliefs. Known as the Siberian Seven, they have been trapped in our embassy since that day, aware that to leave may mean torture, the labor camps, or worse.

The woman causing the excitement was Jane Drake, 35, a homemaker from suburban Montgomery, Ala., who has been the Seven's principal emotional lifeline to the U.S. since their mission for help turned into a nightmare. For more than three years, operating with meager funds, Drake has worked on their behalf, organizing mail and card campaigns to boost their morale and fighting to keep the issue alive before Congress and the public.

Parade brought Drake to Moscow to stage the first meeting between her and the Siberian Seven, to tell their story and to enlist the help of Parade's millions of readers (see box) in sending a message to the Kremlin that Americans care about the human rights, safety and freedom of the Seven. They are: Peter and Augustina Vashchenko; their daughters Lida, 30, Lyuba, 29, and Lila, 24; and Maria Chmykhalov and her son Timothy, 19.

Telling the story of the Siberian Seven presented problems from the outset. It appeared that neither of us stood much chance of being granted Soviet travel visas. As the founder of SAVE—the Society of Americans for Vashchenko Emigration—Drake is well known to the Soviet government and twice has visited its Washington, D.C., embassy to plead the Seven's case and present protest petitions. And in recent months, Parade has carried major articles obviously annoying to Moscow, including an essay written by prominent dissident Andrei Sakharov, smuggled to the U.S. from his exile in Gorky, and an article on the GRU, the Soviet military intelligence service, detailing in part how the Soviets have been stealing or obtaining our science and technology secrets.

Considering these factors and the Soviets' desire to avoid publicity about the Seven, it seemed out of the question to apply to visit Russia as journalists. So we sought to join a tour group. Sketchy information on our visa applications, coupled with Soviet bureaucratic inefficiency, helped us secure our travel visas for a 10-day tour, and we were on our way to the rendezvous at the embassy in Moscow.

For three days, from early morning until well into the night, we sat crammed in the basement room, whispering or talking with a radio turned loud to foil the Soviet eavesdropping devices that riddle the embassy compound.

Although they have found a temporary haven in the embassy, the Seven are very much prisoners in their room. Some 200 Soviets are employed in the compound as janitors, domestics, drivers, mechanics, clerks, translators, receptionists and telephone operators—and all either work for or report to the KGB, the Soviet security police.

For the U.S. government, employing Soviets is an economy move, albeit of dubious value. Some of the workers delight in taunting and harassing the Seven, who often are afraid to leave the relative safety of their room without an American escort. Embassy officials shrug at their paranoia, but the situation astonishes—the fox virtually having the run of the chicken coop.

The Siberian Seven are from Chernogorsk, a mining town 2,000 miles east of Moscow. They are members of the Russian Pentecostal faith, a fundamentalist group that Soviet authorities have tried unsuccessfully to stamp out since the Stalin era. Members of the extended Vashchenko and Chmykhalov families have suffered job discrimination, firings, beatings, forced abduction of their children for reeducation in state orphanages, terms in labor camps and psychiatric hospitals, and mysterious deaths in their stubborn campaign to practice their religion.

Peter and Augustina Vashchenko have tried since 1963 to bring their family here, but visits to the U.S. Embassy to solicit emigration help only earned them each three-year terms in Soviet labor camps on vague charges.

Then, in 1978, they received in Chernogorsk official invitations to emigrate to the U.S., sponsored by a Selma, Ala., Presbyterian church. When Soviet regional authorities again denied them exit visas, the Vashchenkos—with their three daughters, 17-year-old son John, and friends Maria and Timothy Chmykhalov—returned again to Moscow to petition the embassy for help. This time, Peter carried a U.S. State Department letter inviting them to come to the embassy.

But the militiamen wouldn't let them pass. The group rushed for the entrance and young John Vashchenko was wrestled to the ground and taken away. Confused and frightened, the others ran into the consular waiting room and said they would not leave until they knew of John's fate.

Nine days later, the news came. John had been beaten close to death and returned to Chernogorsk. "Stay in the embassy where you are safe," their children begged them by telephone. They needed little persuasion, and there they have remained, as unwelcome guests, since June 27, 1978.

The State Department spent the first two months doing its best to force them out and into the waiting arms of the KGB. The embassy refused to allow them to shower or bathe, while sympathetic staffers provided them with food, clothing, books and games during their miserable and uncertain existence inside the consular waiting room.

When their resolve didn't weaken, the embassy shunted them into the tiny basement room they now occupy, imposing severely restrictive living and visiting conditions that have eased only in recent months following pressure from groups such as SAVE.

SAVE's main focus is the passage of a bill sponsored by Sen. Carl Levin (D., Mich.) that would give the Seven permanent resident status in the embassy, a first step toward the possible granting of U.S. citizenship, should the issue drag on more than five years.

After hearing of Drake's work on behalf of people she had never met, PARADE decided to take her to meet with the families she'd come to know intimately by letter and telephone.

As tourists in the Soviet Union, we were supposed to stay with the organized tour, but after arriving in Moscow, we ignored the itinerary and went straight to the U.S. Embassy. By the second day, when we hadn't shown up for trips to Red Square, the Kremlin, GUM department store, a Bolshoi ballet performance or any of the scheduled meals, our Soviet Intourist guide—a 40-ish woman named Svetlana—realized there was mischief afoot and reported us to the KGB.

From then on, it was hide-and-seek in the Moscow subway system with men in dark blue raincoats who tried to follow us from our hotel. For good measure, they also went through our luggage daily in our rooms. After three days of playing cat and mouse, we finally showed up to join the tour group for a bus and train trip to the Russian countryside and Leningrad. Svetlana, who had clapped eyes on us only once or twice since we arrived in Moscow, was not amused.

But the possible consequences of our actions were far from our thoughts during the three days and nights we spent with the Seven—all quite different individuals existing in an unlocked prison and culturally alien environment.

Their room, which measures 15 x 20 feet, contains two single beds, a refrigerator, stove, sink, makeshift table (plywood lashed to a chair), radio, black-and-white television set, boxes of books and papers, and some maps and posters on the walls.

Peter and Augustina share one bed; Maria sleeps on the other. Lida, Lila and Timothy share the floor space, and Lyuba curls up on the concrete outside in the corridor, where there are a washer, dryer and tiny bathroom.

The room is clean, but the paint is peeling, the plaster flaking, the furniture and appliances old and tired. By Siberian standards, it is more than adequate—which the embassy quickly points out when asked why better accommodations aren't provided.

The bugging devices and the constant presence of unfriendly Soviets foster an intense mood of paranoia, and the view into the street adds to the discomfort. Their window opens out at sidewalk level onto Chaikovskogo Street. Says Lyuba, who has learned to speak and write excellent English: "We sometimes watch the guards beating people when they try to get in. Once, we shouted for them to stop—they were killing a poor man. That night when we were asleep, the guards took a big ball of cotton, soaked it in oil, set it on fire and stuffed it in the window, filling the room with choking smoke. We were terrified. Down here, we are far away from the other Americans in the embassy."

Having been treated like unwelcome guests, the families continually worry that the Americans will kick them out or curtail their privileges, and no amount of assurances seem to stem that fear. They are suspicious of every move the State Department makes—even those on their behalf. It is the inevitable legacy of a lifetime fighting Soviet authority and then all but being kicked to the wolves when they thought they had found safe refuge at the embassy.

They make no demands, ask for nothing and offer profuse thanks for everything that comes their way, from the embassy-supplied food to the hand-me-down clothing and occasional treats from friendly embassy staffers.

"We're very upset when people think we're squatters," Lyuba says. "We didn't come here to occupy this room or stay this time. We are very grateful to Americans. No one has ever shown us such hospitality. We don't complain about the living conditions, and we don't ask for anything. Our only concern is freedom for our families."

That's the bottom line now for the Seven—the future safety of their families remaining in Chernogorsk. They are resolved not to leave the embassy until the other 10 Vaschenkos and five Chmykhalovs are allowed to emigrate—a move some embassy optimists feel is possible if U.S.-Soviet relations improve. But the prevailing view seems to be that emigration from Chernogorsk at this time is unlikely.

"At first, the Soviets regarded this as a trivial matter," a consular official told us. "Their message to us was: 'Throw them out.' For the first 2½ years, they enjoyed seeing us squirm. Now it's no longer a simple emigration problem but a major political question to be dealt with at higher levels."

The Kremlin's stated position is that the Seven must leave the embassy, return to Chernogorsk and reapply for emigration. Low-level Soviet officials have said the Seven will not be harmed or punished, but they refuse to put that in writing. American officials regard such assurances as worthless.

All of the Seven say they are not about to sell their lives cheaply. "We won't leave this room willingly until our families are overseas," Lyuba insists. "If we do leave, we're convinced the KGB will take us and kill our parents. But we aren't afraid."

I asked Lyuba, a bright and articulate woman, her impressions of how the two superpowers have handled their case. "They've been like two big cats fighting over a piece of meat," she said, shrugging, as we sipped tea.

Her answer conveyed what had become obvious to us: The strains of the ordeal are beginning to take a toll physically, and emotionally. Maria Chmykhalov sits silently for hours on the edge of her bed, knitting sweaters, gazing at the floor, occasionally struggling to control bouts of silent weeping.

Timothy, her youngest son—a shy, gangling youth with a broad smile—was 16 when he entered the room. The 3½ years of unnatural confinement with his mother and five members of another family have blunted many of the strong emotions that all teenagers struggle with. He used to exhibit a lively curiosity—he had begun to learn English—and liked to shoot baskets in the courtyard. Now he mostly sits in the room.

Things are no less difficult for the Vashchenkos. Peter had been an important lay leader in Chernogorsk, a rallying point for the Pentecostals in their fight with the authorities. He is also the proud patriarch of his large family. Now he finds his formerly unquestioned authority undercut by the conditions in which he's forced to live.

His wife, Augustina, desperately misses her other children—as does Maria. Lyuba translated her reply to my question of what troubles her most:

"I'd like to speak to all mothers around the world and ask them to imagine the heartache that comes from being separated from a child. It's difficult to think that my youngest son, Abraham, who was 4 when I last saw him, is now a 7-year-old of school age. In 33 years of marriage, our family has been together for only 10 years. There have been the prisons, camps, mental hospital . . . the state took the girls away for six years for reeducation . . ."

The three younger Vashchenko women seem to draw strength from each other. They try to keep busy. Lyuba works hard on her English—the other women and Timothy also are learning—and spends much time writing and translating correspondence.

Even though the Seven are relatively insulated inside the embassy, the Soviets manage to squeeze them emotionally by pressuring their families in Chernogorsk. Through monthly telephone calls, they have learned of a campaign in the local newspapers to depict them as traitors leeching off the Americans. The three Vashchenko sons also face imprisonment in labor camps for refusing military induction.

There was little that Jane Drake or I could tell the families in the way of encouraging developments except that President Reagan is known to be aware of and interested in their situation. It is crumbs of information like this that provide encouragement to the families and help fortify their resolve.

During the final moments of our visit, I asked every family member if he or she had any final thought or message to be passed on to Parade's readers. Each thought for a long time, then said basically the same thing:

"Thank you for giving us refuge. Please do not forget us."

It seemed right to give Peter Vashchenko the final comment. I asked him, through Lyuba, whether—after 20 years of trying to emigrate to America and considering his present plight—he was losing hope.

We didn't need the English translation. "Nyet," he roared. "Nyet! Nyet!"

The farewell was tough as any goodbye can be, and Peter Vashchenko's voice rang in our ears as we walked out of the courtyard for the last time, past the Soviet militiamen and into a cold Moscow night.

The last part of our tour took us to Leningrad, and our stay there—apart from searches of our luggage in the hotel rooms—was uneventful. But at the passport check at Leningrad airport, we knew we were in trouble when we saw Svetlana waiting for us.

I was near the front of the line, Jane Drake almost at the end, but it didn't matter. While our 28 fellow tour members were whisked through formalities in minutes, we were taken away. Every piece of our luggage was meticulously searched beneath the gaze of the militiamen. When nothing incriminating was found, we were taken separately into tiny windowless rooms. I was strip-searched and questioned. The two customs men grew progressively angrier at not finding whatever they thought I might have, and my assertions that we were simply independent-minded tourists didn't help. Mrs. Drake was allowed to keep her clothes on but was given a bad scare.

After nearly an hour, they gave up, and we were allowed to board the plane to Helsinki. Our film of the Siberian Seven and my notebook had sailed through customs in the purses of two young women travelers from our tour who had courageously agreed to help. The Soviets did confiscate film Jane Drake and I carried, but it was either blank or contained some rather boring shots of Leningrad's main street.

WHAT YOU CAN DO TO HELP THE SIBERIAN SEVEN

The Soviet government is known to be responsive to American public opinion, and the U.S. State Department believes that a ground swell of protest may help shift the stalemate that keeps the families prisoner in our embassy. Parade will forward your letters, which should be addressed to: *Ambassador Anatoly Dobrynin, Embassy of the USSR, c/o Parade magazine, 750 Third Ave., New York, N.Y. 10017.*

The seven family members draw encouragement from letters and cards. They should be sent airmail (40 cents each half ounce) to any of the seven to whom you wish to write: The address is: Peter Vashchenko (or other name), Embassy of the United States, 19 Ulitsa Chaikovskogo, Moscow, USSR 117234.

To receive more information and a regular newsletter on the campaign to free the Siberian Seven, write to: SAVE, Route 1, Box 49-A, Pike Road, Ala. 36064.

Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. BONKER. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 100. I take this time to commend our colleague, the Honorable BARNEY FRANK, the sponsor of this measure, for his diligence and concern in this humanitarian issue.

I also desire to commend the chairman of the Subcommittee on Human Rights and International Organizations, the gentleman from Washington (Mr. BONKER) and the ranking Republican member of the subcommittee, the gentleman from Iowa (Mr. LEACH).

Mr. Speaker, I rise in support of House Concurrent Resolution 100, expressing the sense of the Congress with respect to the situation to two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union, as amended.

House Concurrent Resolution 100 deals with the denial of fundamental rights of two Soviet families—the freedom to practice one's religious beliefs, and the freedom to emigrate. Both of these basic human rights continue to be denied to the Vashchenko and Chymkhalov families. In a measure of religious conviction and hope, seven members of these two families sought refuge in the U.S. Embassy in Moscow 3½ years ago; they still reside there today. On December 27, in a further act of desperation, two of these individuals began a hunger strike in protest of their continued plight. Most unfortunately, one of the two, Lidia Vashchenko, suffered dire consequences as a result, and was compelled to seek treatment in a Soviet hospital, where she remains today, away from her family and the aegis of the U.S. Embassy.

The resolution urges the President to convey to the Soviets the U.S. consternation over the circumstances of these Pentecostalist families and the Soviet Union's persecution of them and refusal to enable their emigration. Further, it requests that efforts be made to extend whatever courtesies and comfort possible to the families, and to insure that they may remain at the U.S. Embassy as long as may be necessary.

Mr. Speaker, I strongly urge the adoption of House Concurrent Resolution 100.

Mr. BONKER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Speaker, I also would like to join in congratulating my colleague, the gentleman from Washington (Mr. BONKER) and my colleague, the gentleman from the State of Iowa (Mr. LEACH) and of the sponsor, the gentleman from Massachusetts (Mr. FRANK).

About 1 month ago, Mr. Speaker, I sent a letter to President Brezhnev in the Soviet Union with the signatures of approximately 80 Members of this House, asking for the release of those persons who are presently forced to live in the basement of the American Embassy.

Mr. Speaker, my dad was a minister of a church, a Pentecostal church, in the South Bronx. My sister presently is also a Pentecostal reverend in Brooklyn. The fact is that all these people are seeking, they are not looking to get involved in the Government of the Soviet Union, they are not looking to commit espionage; all they are looking for, Mr. Speaker, is religious freedom.

During that period of time in which you were speaking, Mr. Speaker, the fact is that here we take religious freedom for granted. I would just say to the American people and to my colleagues here that as a person who understands the thinking and the mentality of the Pentecostals in general as well as the Assemblies of God here in the United States, these people deserve their religious freedom.

Mr. LEACH of Iowa. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. WEBER).

Mr. WEBER of Ohio. I thank the gentleman from Iowa for yielding to me.

Mr. Speaker, I want to congratulate the gentleman from Massachusetts (Mr. FRANK) for drafting this very outstanding bill. I share the gentleman's concern from the plight of those people in the Soviet Union who are denied the privileges of religious freedom. I, therefore, add my voice to the chorus that is being heard here today.

Mr. Speaker, today the gentleman's bill calls attention to the hypocrisy of the Soviet Union. They say one thing in their constitution about religious freedom, but they do something quite different. They make promises in international agreements of one sort or another, but in actual practice the reality is much different.

In the constitution of the U.S.S.R. and various international agreements to which the Soviet Union is a signatory, Soviet citizens such as the Vashchenko family and the Chmykhalov family are promised freedom of thought, religion, and emigration. Pentecostal Christians within the Soviet Union, however, are denied the right to practice their religion. Those who insist on doing so face physical and psychological harassment, imprisonment, and confinement in mental institutions, as we know.

Both of these families today are presently awaiting their freedom in the U.S. Embassy in Moscow. They need our help, Mr. Speaker.

Mr. Speaker, I want to thank the gentleman for yielding, and I applaud the leadership on this bill today.

Mr. BONKER. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. SHELBY).

Mr. SHELBY. I thank the gentleman for yielding to me.

Mr. Speaker, ladies and gentleman of the House, I had the opportunity to visit in the American Embassy in Moscow with both of these families in 1979. I spent an hour or two with them, in April 1979, after requesting the American Ambassador, Mr. Toon, if I could visit these families. These families were residing in that basement apartment that was so small and so cramped. They are still there, except for one daughter who was carried away to a Russian hospital because of health conditions caused by a fast several weeks ago.

But there are people in my district in Alabama that offer to sponsor this family if they are allowed to emigrate. There are also people in Montgomery, Ala., notably one Jane Drake, who has spearheaded a force to bring these people out of the Soviet Union.

I believe this resolution is in order. I urge all my colleagues to support it. It shows that we do express our sense of religious freedom as something they do not have in the Soviet Union.

Mr. LEACH of Iowa. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. SMITH), who has worked so hard on this resolution.

Mr. SMITH of New Jersey. I thank the gentleman for yielding to me.

Mr. Speaker, I, too, recently returned home from the Soviet Union after meeting with the Vashchenko family in the U.S. Embassy in Moscow.

I just want to say this resolution which I successfully amended in committee really does put into focus, into the limelight, the plight of the Siberian Seven.

As many of us know, for over 20 years the Vashchenkos have been trying to leave the Soviet Union, a right that the Soviet is purport to guarantee to all their people by their signing of international documents like the Helsinki Final Act. I think it is significant, Mr. Speaker, that even their own constitution, which was ratified in 1977, guarantees the right of Soviet citizens to emigrate. Resolutions like this one today, then, and a similar resolution I introduced simply ask the Soviets to live up to their word.

Mr. Speaker, the meeting with the Vashchenkos last January was a moving one. It was the kind of experience that I think each and every Member of this body should have, to know what it is like, to see people who are trying as best they can to secure fundamental freedoms, to hopefully leave a country that oppresses them. They simply want to leave to practice their Christian Pentecostal faith freely.

Mr. Speaker, during a rather long meeting with them in our Embassy I received a letter from them. I would like to read that letter because I think it will give all here an idea of the kind of plight that they find themselves in. It is an appeal from the Vashchenko family. It was to Leonid Brezhnev and Andrei Gromyko.

MOSCOW, EMBASSY OF THE U.S.
January 6, 1982.

To the Soviet Presidents, LEONID BREZHNEV and, ANDREI GROMYKO.

APPEAL FROM THE VASHCHENKO FAMILY

We have been written to you many times for permission to leave the USSR during the past 20 years. The total number of these letters is over 500.

We never received any reply to these letters. It has been just a vicious circle of the question of our emigration. Moscow authorities refer to the local, the Chernogorsk, and the local refer to Moscow's.

You already know that we are a Christian family and our Christian ideas cannot be combined with Communism. On the Christian basis we have been asking permission to leave this country.

Because all our attempts to get emigration have not been successful during these 20 years we felt forced to undertake this hunger strike that is lasting for 13 days already.

We consider the hunger strike not a suicide of ourselves but the last attempt to achieve the emigration of our whole family.

You can, if you wish, resolve the problem before our death but if you will not want to pay attention to this people of the whole World will consider this case as a murder committed by you.

If these two great countries cannot find positive solution of this small question how then they can solve big ones?

Mr. Speaker, at one point in our discussions, Peter Vashchenko led us in a prayer for freedom. Significantly, Peter did not just pray for his family's welfare but emphasized the need for the Lord's devine intervention on behalf of all those who are persecuted for the practice of their religion. He prayed with deep conviction and tears. Peter Vashchenko's faith was moving and inspiring to me, Mr. Speaker, a true example of a persevering Christian. I believe in the power of prayer. I believe the Lord Jesus Christ heard the prayer of his suffering servant. And I believe, in God's time, he will answer.

□ 1400

Nevertheless, the point is very clear from the letter and hunger strike, Mr. Speaker, these good people are desperate. Furthermore they are hurting. They are courageous. They are persistent. They are right. I think we in this country, through the administration and our diplomatic corps must bring pressure on the Soviet Union to let these suffering martyrs go. Through resolutions like this one, Mr. Speaker, we have the opportunity to make this a priority issue. I am sure nobody in this Chamber is against this, but the real question is whether or not it is a priority issue. I think this resolution helps to make a point. And that is that we mean business, this is a priority issue and that we are going to stand up for the basic human right to emigrate. Mr. Speaker, let the Soviets be advised—this Congress, this Member, is not going to quit until these oppressed families are given their God-given freedom.

Mr. BONKER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I rise in support of the resolution.

Mr. Speaker, I rise in support of House Concurrent Resolution 100 and to express my admiration and support for the heroic Chmykhalov and Vashchenko families as they struggle to escape religious persecution.

The story of these families' efforts to win religious freedom, and of the Soviet authorities' efforts to deny that freedom, is now 20 years old. It was 1962 when Peter Vashchenko, on behalf of his family and the Chmykhalovs, became convinced that the Soviets would never allow the free exercise of his Pentecostal faith and traveled to Moscow from his home in Siberia to look into proper emigration procedures. He was rewarded for his effort with a 2-year prison sentence, followed by repeated harassments including a second imprisonment, several months in a psychiatric hospital, 2 years in a labor camp, and similar treatment for his family.

It was June 1978 when the two families finally, and against the opposition of the KGB, gained entrance to the U.S. Embassy in Moscow. For almost 4 years since then, denied permission to emigrate to the United States and denied freedom to practice their religion in the Soviet Union, the Chmykhalovs and the Vashchenkos have stayed in the basement of the American Embassy.

I want to commend the gentleman from Massachusetts (Mr. FRANK) for his leadership in introducing this resolution. There is nothing more basic to the American experience than the issue of religious freedom and religious pluralism. Indeed, the brave men and women aboard the *Mayflower* left their land to escape religious persecution and to seek a new home where they would be free to worship as they pleased.

We can all be proud that America's tradition of welcoming those who have been denied religious freedom in their own land is alive, even as we deplore and work to eliminate that lack of freedom in foreign countries. The Chmykhalovs and Vashchenkos, through their courageous struggle, remind us that America has never been, and must never become, a land of religious intolerance.

I want to urge the President to express this country's concern over the Soviets' denial of basic religious freedom for the Pentecostals, and to instruct the U.S. Embassy to make every effort to accommodate the needs of the two families until the Soviet Government consents to allow them to emigrate. Our efforts in calling attention to their plight can play an important role in achieving their dream.

Mr. BONKER. Mr. Speaker, I yield such time as he may consume to the principal sponsor of House Concurrent Resolution 100, the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I want to acknowledge my deep gratitude to the gentleman from Washington, the gentleman from Iowa, and the chairman of the full committee for the very expeditious way in which this resolution was brought forward.

This is not simply a symbolic gesture. We are trying by this resolution to use a legitimate consitutional process to influence a decision which is now pending in the Soviet Union. It is unfortunate that the effort should have to be made. It is unworthy of a nation that thinks of itself as a great power to engage in the harassment, the persecution, the suppression that the Soviet Union has reflected on these innocent, decent, religious people.

As the gentleman from New York earlier suggested, these are not people who are political. They are not people seeking any change in the form of Government of the Soviet Union. They simply want to be allowed to do what is most important to them, which is to practice their religion. They are people of a deep and abiding religiosity to the point where they are prepared to martyr themselves on behalf of their right to practice their religion. The Soviet Union, in total violation of its obligation as a signatory of the Helsinki accords, in total violation of the concept of human rights, continues to oppress these people. It is simply, as I said, unworthy.

We are asking here that the leaders of the Soviet Union show a modicum of humanity and decency. We read great pronouncements from the leadership of the Soviet Union about their desire for peace, their desire for a better world. They must understand that their credibility, when they talk on these great issues, is seriously called into question by their refusal on this very small human matter, to show respect for human rights.

It is obviously not small to the people involved. It ought to be small from the standpoint of the leaders of a great nation, and that is why we are here, to say as the U.S. Congress, with the support of the administration, "With all the talk about great issues, why not take a little step? Why not show a little recognition of the deep religious craving of these people and allow them, not to transform the Soviet Union, but allow them to leave in peace, allow them to seek another place to live where they can do what they want to do?"

They mean the Russian Government no harm. They want only to practice their religion. It is scandalous that they should be denied it.

As I said, Mr. Speaker and Members, we are here because an important decision is pending and we recently got unfortunate news, and I hope that the action of this House today may persuade the Soviet leadership to alter a decision which appears just to have been taken. Lidia Vashchenko, one of these people, went on a hunger strike, risking her health and her life, to try and get across to the leadership of the Soviet Union the depth of her commitment. She went to a hospital, and at first we were a little encouraged because she was allowed to leave the hospital in the Soviet Union, return to Siberia and apply for exit visas for herself and her six coreligionists, her family and one other family.

At first we thought that would be helpful, and we all in a spirit of responsibility refrained from polemics. There were on our side no efforts from the U.S. Government or representatives to embarrass or make political capital out of this issue. Despite that spirit of conciliation, Lidia Vashchenko has tragically just been told—and we have had this confirmed by the State Department—that she will have to wait 1 year before they will decide. She has to wait a year to reestablish residence in Siberia before she will have her request to leave considered. That is unfortunately a resumption of the tactics of harassment and oppression that we hoped we had seen the end of in this case.

So, by, I hope, unanimous passage of this resolution, and by similar action in the Senate, by a continuation of the support the families have gotten from the executive branch, we can persuade the Soviet Union that their honor as a superpower, that their image in the world, will be enhanced, not undercut, if they will show some humanity to seven deeply religious people who want only to be allowed to go in peace and practice their religion. If the Soviet Union's leadership finds itself unable to respond in this manner, then its professions on larger issues will ring very hollow to many of us.

● Mr. DERWINSKI. Mr. Speaker, I rise in strong support of House Concurrent Resolution 100, which calls on the President to continue to press the Soviet Union to permit the emigration of the Christian Pentecostal families who wish to leave the U.S.S.R. and to make sure that those members of the Vashchenko and Chmykhalov families who took refuge in the American Embassy in Moscow will receive our continued protection until such time as they are permitted to emigrate.

This is an especially dramatic example of the extreme insensitivity of the Soviet Government toward human beings who merely want to practice their religion. The Pentecostals have been denied the right to do and have faced harassment and imprisonment for pursuing their religion.

In addition, their pleas to emigrate to another country where they would be free to practice their faith have been denied in complete contradiction to the Soviet constitution as well as various international agreements which the Soviet Union has signed, guaranteeing both freedom of religion and emigration.

If the Soviet Union had any sense of decency, the Pentecostal Christian families and other religious groups who wish to emigrate from the Soviet Union would be permitted to do so.

I urge my colleagues to express the full support of the Congress for this resolution.●

● Mr. MOFFETT. Mr. Speaker, I am pleased that Congress is today considering House Conference Resolution 100, affirming the concern of this Congress about the plight of two Pentecostal families which have sought refuge in the American Embassy.

The Chmykhalov and Vashchenko families, who have lived in an apartment in the U.S. Embassy in Moscow since June 1978, have sought only the right to emigrate from the Soviet Union. Lidiya and Augustina Vashchenko dramatized their plight earlier this year by entering into a hunger strike, which eventually resulted in Lidiya's hospitalization. Nevertheless, the Soviet Government remains firm in its refusal to allow these two brave families to emigrate.

By passing House Concurrent Resolution 100, the Congress can send a clear signal to the Soviets that we are deeply concerned about their refusal to respect the emigration provisions of the Helsinki accords, evidenced by their refusal to respect the Chmykhalov and Vashchenko families' right to emigrate.●

● Mr. PORTER. Mr. Speaker, I want to express in the RECORD my support of House Concurrent Resolution 100, legislation adopted today expressing concern for the "Siberian Seven," the seven members of the Chmykhalov and Vashchenko families, who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union.

Since 1962, 13 members of the Vashchenko family and 11 members of the Chmykhalov family have been denied permission to emigrate from the Soviet Union to practice their Pentecostal faith. Living in the town of Chernogorsk, Siberia, the Pentecostals were subjected to physical and psychological harassment, including imprisonment, beatings, separation of family members, confinement in mental institutions, kidnaping of children, and unexplained deaths.

On June 27, 1978, Maria and Timofe Chmykhalov, and Lilia, Peter, Liubov, Lidia and Augustina Vashchenko rushed past the Soviet guards at the U.S. Embassy in Moscow to seek refuge. John Vashchenko, Augustina's son, was wrestled to the ground by the Soviet guards, taken away and nearly beaten to death, and returned to his home 2,000 miles away.

Since that time, the "Siberian Seven," as they are called, have resided in one small basement room of the U.S. Embassy and have waited patiently for the Soviets to grant their requested exist visas.

On Christmas day, two of the seven, Lidiya and her mother Augustina, began a hunger strike to dramatize their plight. On January 30, Embassy officials were forced to place Lidiya in a Soviet hospital in Moscow to prevent irreversible damage to her health from a continued hunger strike.

Since her hospitalization, Lidiya has recovered completely and on February 11 was discharged. On February 12, after being permitted by Soviet authorities to reenter the American Embassy to say farewell to her parents and sisters remaining there, Lidiya returned to Siberia to reapply for emigration in accordance with Soviet law.

As of last week, Lidiya learned that she would hear at the end of the month whether her preliminary request to denounce her Soviet citizenship has been accepted before she could receive her exit visa. The 20-year period of harassment because of her family's religious beliefs has not yet been resolved.

As we look around the world we see that the dreams of those who wrote and passed the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, have not been fulfilled. There is strong reason for alarm in the acts of violence, persecution, and bigotry prevalent in the Soviet Union.

The freedom from religious persecution has the deepest roots of all human rights. All others flow from the ultimate dignity of our own thoughts and conscience.

We in the United States, who are so fortunate to have religious freedom guaranteed, must speak out and fight against religious persecution throughout the world. The American people have long cherished and represented the value of human liberty for all people and we must work to prevent persecution and discrimination wherever it exists.

I commend my distinguished colleagues for having adopted the resolution before us today. In addition, I urge them to support House Concurrent Resolution 249, a resolution I introduced on January 26, 1982, condemning religious persecution in the Soviet Union and elsewhere and asking the President to take every possible opportunity to oppose these reprehensible acts in the strongest possible terms.●

Mr. GILMAN, Mr. Speaker, I rise to take this opportunity to voice my strong support for House Concurrent Resolution 100, a resolution expressing the sense of Congress that religius persecution in the soviet Union must, at last, be brought to an end.

Despite the promise of free thought, religion, and emigration that has been included in the Soviet constitution, and in several of the U.S.S.R.'s international agreements, the Soviet Union has denied members of the Christian Pentecostal faith the right to practice their religion freely. Further, the Soviet authorities have failed to allow citizens to emigrate to countries where they would be allowed religious freedom.

Since 1962, 13 members of the Vashchenko family and 11 members of the Chmykhalov family have been denied permission to emigrate from the Soviet Union. In 1978, eight members of these families rushed Soviet guards, requesting refuge in the American Embassy. One was captured, nearly beaten to death, and returned to his village. The others, since 1978, have lived in a room in the basemant of the American Embassy, and, since that time, the United States has maintained pressure on the Soviets to allow these families to emigrate. Until now, the United States has been unsuccessful in that effort.

House Concurrent Resolution 100 expresses our continuing concern about these families, and about the soviet Government's continuing refusal to let them, and others like them, emigrate; and it calls upon our President to voice this concern to the Soviets, and to take all actions necessary to insure that the families may continue to live in the American Embassy, are acorde every possible courtesy, and receive all necessary asistance until they obtain permission to emigrate.

The Pentecostals are but one of the many persecuted religious groups in the Soviet Union. Our plea for the Vashchenko and Chmykhalov families does not end there, but includes all of the citizens of th eSoviet Union who desire nothing more than to freely practie their faiths, and to live where and as they may choose.

Once again, we join together to express our strong commitment to the issue of human rights throughout the world. Accordingly, I urge my colleagues to fully support House Concurrent Resolution 100.●

Mr. LEACH of Iowa. Mr. Speaker, I have no further requests for time, and would simply like to close by acknowledging the leadership of the gentleman from Washington (Mr. BONKER) and the gentleman from Massachusetts (Mr. FRANK) on this issue.

Mr. Speaker, I yield back the balance of my time.

Mr. BONKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LEVITAS). The question is on the motion offered by the gentleman from Washington (Mr. BONKER) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 100.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

REPORT ON JOINT RESOLUTION MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1982

Mr. WHITTEN, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-465) on the joint resolution (H.J. Res. 409) making further continuing appropriations for the fiscal year 1982, which was referred to the Union Calendar and ordered to be printed.

REQUEST TO MAKE IN ORDER ON WEDNESDAY OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 409, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider in the House the joint resolution (H.J. Res. 409) making further continuing appropriations for the fiscal year 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, could I ask of our distinguished chairman, is this the continuing resolution to go beyond the deadline of March 31?

Mr. WHITTEN. It does. It is a simple resolution in that we just change the date from March 31 to September 30.

Mr. ROUSSELOT. Further reserving the right to object, the gentleman is extending the date only, and he can assure us there is no other change from present law in this continuing resolution?

Mr. WHITTEN. I can assure the gentleman that what I told him is true. It makes only the changes of the date.

Mr. ROUSSELOT. I understood that there might have been some attention to EMSHA and OSHA.

Mr. WHITTEN. Is that the supplemental, which is a different bill?

Mr. ROUSSELOT. The gentleman did not change the EMSHA/OSHA jurisidictional dispute?

Mr. WHITTEN. No; when we just change the date, we have not changed that.

Mr. ROUSSELOT. I just wanted to be sure because there are plenty of discussions going on about what happened or did not happen today down in the gentleman's distinguished committee.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I will be delighted to yield to my informed colleague from Massachusetts.

Mr. CONTE. As the gentleman knows, he and I have worked closely on his amendment.

Mr. ROUSSELOT. So has the chairman.

Mr. CONTE. There are a lot of gravel pits down there.

Mr. ROUSSELOT. A lot of gravel pits down in Mississippi?

Mr. CONTE. Yes. The joint resolution says:

> *Resolved by the Senate and House of Representatives* . . . That section 102(c) of the joint resolution of December 15, 1981 . . . is hereby amended by striking out "March 31, 1982" and inserting in lieu thereof "September 30, 1982".

Period.

Mr. ROUSSELOT. Period?

Mr. CONTE. Period.

Mr. ROUSSELOT. No other changes?

Mr. CONTE. Not a one.

Mr. ROUSSELOT. That is so enlightening that I will just give up the microphone.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. JOHNSTON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON A BILL MAKING URGENT SUPPLEMENTAL APPROPRIATIONS FOR 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. GREGG. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution, House Concurrent Resolution 100, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMITTING ICA TO PROVIDE DISTRIBUTION OF THE SLIDE SHOW "MONTANA"

Mr. ZABLOCKI. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2166) to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak."

The Clerk read as follows:

S. 2166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the International Communication Agency shall make available to the Administrator of General Services a master copy of the slide show entitled "Montana: The People Speak"; and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that slide show within the United States, shall deposit that slide show in the National Archives of the United States, and shall make copies of that slide show available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the International Communication Agency.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Wisconsin (Mr. ZABLOCKI) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. BROOMFIELD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2166, to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak."

The purpose of the bill, quite simply, is to enable an ICA-produced slide show, "Montana: The People Speak," to be shown here in this country. Such congressional authorization is required by law whenever ICA materials are made available within the United States. S. 2166 was passed by the Senate last week, on March 15, by a voice vote.

As I understand, the presentation of the slide show is to coincide with two events occurring in Montana—the State's "Montana Day" celebration on March 25, and the 10th anniversary of the rewriting of that State's constitution. This is a noncontroversial bill and I urge the adoption of S. 2166.

Mr. Speaker, I now yield such time as he may require to the gentleman from Montana, the Honorable PAT WILLIAMS, for a further explanation of the purposes of the bill and the audiences to which the show is to be presented.

Mr. WILLIAMS of Montana. Mr. Speaker, I thank the chairman.

Mr. Speaker, 10 years ago, the State of Montana held a constitutional convention to revise our State's constitution. On this decentennial anniversary of the convention, Montanans are gathering in the State capital this weekend to discuss and assess the effects of their constitutional craftsmanship.

In 1972, the International Communications Agency produced a film presentation about Montana's efforts. The State has asked that this film be released to provide the convention celebrants an important historical perspective.

Montanans have taken the writing of their constitution with the greatest of diligence. Hopefully, the film presentation which was produced by the ICA to help show other countries how one of America's States rewrote its constitution will now be used to give the participants of this weekend's seminar in Montana the same historical perspective of their accomplishment.

Congressman ZABLOCKI and the Foreign Affairs Committee have been extremely helpful and efficient. We are under a severe time deadline, and without the diligence and helpfulness of the chairman and his committee, Montanans might never be given the benefit of this film presentation.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, "Montana: The People Speak" is a film strip of special interest to our colleagues from our sister State of Montana. It is a documentary work which, when this measure—S. 2166—is passed, can be released for use by the people of Montana in the celebration scheduled for March 25. March 25, 1982, is "Montana Day." This slide show will play a role on that occasion in helping the people of Montana to understand their State's history.

Ten years ago, the people of Montana, through their State legislature, rewrote their State constitution, changing their 100-year-old territorial constitution into a new State charter.

"Montana: The People Speak," a historical piece, is a noncontroversial work; S. 2166 is also noncontroversial. I hope you will join me in voting for this measure and give the people at home in Montana the opportunity to see history in the making. This documentary tells a story of Americans—Montanans—and their role in the living democratic experiment that is America.

Mr. Speaker, I wish to compliment the gentleman from Montana (Mr. WILLIAMS), and I urge the adoption of the Senate bill.

Mr. ZABLOCKI. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I thank the gentleman.

I have asked for this 1 minute, and I am going to speak out of order during this time because I am deeply disturbed over what has happened on this floor in the last few minutes, and I am asking unanimous consent at this time to speak out of order.

The SPEAKER pro tempore. Without objection, the gentleman is recognized.

Mr. GREGG. Regular order, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GREGG. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. ZABLOCKI. Mr. Speaker, I have no further requests for time.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

□ 1415

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the Senate bill, S. 2166.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

LEGISLATIVE PRIORITIES NEED STRAIGHTENING OUT

Mr. PEYSER. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER pro tempore. Without objection, the gentleman is recognized.

There was no objection.

Mr. PEYSER. Mr. Speaker, I simply feel that it is most important for all of us to recognize at this time that for the past several weeks, consistently on the Republican side of the aisle, it has been brought forth that this House is not bringing up major legislation, important legislation, on which we can act.

We have nothing more important than the legislation that we were trying to have brought to this floor and which has been objected to by the Republican side of the aisle as purely an action of stopping something that is going to happen anyway and is most necessary.

I think, Mr. Speaker, we had better get ourselves straightened out on what are the priorities for us around here. We want to bring legislation on the Democratic side to the floor. When we are dealing with a continuing resolution, when we are dealing with money for the guaranteed student loan programs and they are objected to by the Republican side and not allowed to get to the floor, I think it is disgraceful, Mr. Speaker. The next time the Republicans want to know why legislation is not being acted on, let us remember what has happened today.

AGENCY APPROPRIATIONS UNDER PROPOSED CONTINUING RESOLUTION

The SPEAKER pro tempore. For what purpose does the gentleman from New Hampshire (Mr. GREGG) rise?

Mr. GREGG. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. The gentleman asks permission to address the House for 1 minute.

Is there objection to the request of the gentleman from New Hampshire?

Mr. PEYSER. Mr. Speaker, reserving the right to object, I had just requested the same thing just one moment ago to speak out of order, and the gentleman on the other side of the aisle saw fit to object to that request.

Mr. GREGG. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I do not quite understand this. Why would the gentleman now want to speak out of order?

Mr. GREGG. Mr. Speaker, if the gentleman will yield, let me point out that he just spoke. There was no objection to his speaking, and the objection was made before because it was coming right before a vote and there was some confusion on this side as to what the gentleman was going to proceed on. But after the vote was taken, after the request for the vote was made, there was no objection to his proceeding to speak, and he just spoke, if he will recall.

Mr. PEYSER. Well, Mr. Speaker, I certainly did, and I will not stand in the way of the gentleman's speaking at this time. But I think the point has been clearly made as to the objection and the stopping of legislation that has just happened. I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Hampshire is recognized for 1 minute.

Mr. GREGG. Mr. Speaker, I would like to point out that we have been asked here to pass by unanimous consent a joint resolution on the continuing resolution which would create for the rest of the year funding for these various agencies which are still under the continuing resolution.

The point of our exercise is to make clear to the people of this country that this Congress is not doing anything and the fact that we are going to pass a continuing resolution, which reflects once again our failing to take up the substantive questions of the appropriations for the various agencies which would come under this continuing resolution, recognizes this fact.

Mr. TRAXLER. Mr. Speaker, will the distinguished gentleman yield?

Mr. GREGG. I believe, Mr. Speaker, that my 1 minute may have expired.

The SPEAKER pro tempore. The time of the gentleman from New Hampshire (Mr. GREGG) has expired.

THE HOUSE NOT DILATORY IN ITS ACTIONS

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, as the Members know, it is a difficult job to try to bring out these bills responsibly. We are working on a timetable with the administration. There are several bills, the health and education and labor bill and the Post Office and Treasury bill, that have not been passed by the Congress.

But it is not the fault of this House. They passed this House early last year. They have been sitting over there in the Senate. If you have a gripe, go over there and tell them to pass those bills.

The SPEAKER pro tempore. The gentleman will observe regular order. The gentleman will be advised that such characterizations of the proceedings in the other body are inappropriate on this floor.

ACTIONS OF HOUSE ON LEGISLATION CHARACTERIZED AS TIMELY

(Mr. TRAXLER asked and was given permission to address the House for 1 minute.)

Mr. TRAXLER. Mr. Speaker, I just want to commend my distinguished colleague, the gentleman from Massachusetts (Mr. CONTE), the ranking Republican member of the House Appropriations Committee. As a member of that committee, I can verify what the distinguished gentleman has just said. He is absolutely correct.

As he said, this body has acted properly. It did move in a timely fashion the 1982 appropriation bills to the Senate. In some cases they put those bills out; in other cases the other body did not act upon then. This was done at the behest of the administration who wanted us to pass the 1982 budget of the United States in a continuing resolution so that it would give the White House greater authority and power over the actions and appropriations of the Congress.

I think the responsibility for no 1982 budget ought to be placed where it belongs, and that is in the other body—the Senate—and on the President of the United States.

Mr. Speaker, I yield back the balance of my time, and again I congratulate the distinguished gentleman from Massachusetts (Mr. CONTE).

PROMPT PAYMENT ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4709) to require the Federal Government to pay interest on overdue payments, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act".

INTEREST PENALTIES ON LATE PAYMENTS

SEC. 2. (a)(1) In accordance with regulations prescribed by the Director of the Office of Management and Budget, each Federal agency which acquires property or services from a business concern but which does not make payment for each such complete delivered item of property or service by the required payment date shall pay an interest penalty to such business concern in accordance with this section on the amount of the payment which is due.

(2) Such regulations—

(A) shall specify that the required payment date shall be—

(i) the date on which payment is due under the terms of the contract for the provision of such property or service; or

(ii) thirty days after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract;

(B)(i) in the case of any acquisition of meat or of a meat food product, as defined in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3)), shall specify a required payment date which is not later than seven days after the date of delivery of such meat or meat food product; and

(ii) in the case of any acquisition of a perishable agricultural commodity, as defined in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4)), shall specify a required payment date consistent with requirements imposed pursuant to such Act;

(C) Shall specify separate required payment dates for contracts under which property or services are provided in a series of partial executions or deliveries, to the extent that such contract provides for separate payment for such partial execution or delivery; and

(D) shall require that, within fifteen days after the date on which any invoice is received, Federal agencies notify the business concern of any defect or impropriety in such invoice which would prevent the running of the time period specified in subparagraph (A)(ii).

(b)(1) Interest penalties on amounts due to a business concern under this Act shall be paid to the business concern for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made, except that no interest penalty shall be paid if payment for the complete delivered item of property or service concerned is made on or before (A) the third day after the required payment date, in the case of meat or a meat food product described in subsection (a)(2)(B)(i); (B) the fifth day after the required payment date, in the case of an agricultural commodity described in subsection (a)(2)(B)(ii); or (C) the fifteenth day after the required payment date, in the case of any other item. Interest shall be computed at the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary of the Treasury shall publish each such rate in the Federal Register.

(2) Any amount of an interest penalty which remains unpaid at the end of any thirty-day period shall be added to the principle amount of the debt and thereafter interest penalties shall accrue on such added amount.

(c) This section does not authorize the appropriation of additional funds for the payment of interest penalties required by this section. A Federal agency shall pay any interest penalties required by this section out of funds made available for the administration or operation of the program for which the penalty was incurred.

(d)(1) Any recipient of a grant from a Federal agency may provide in a contract for acquisition of property or services from a business concern for the payment of interest penalties on amounts overdue under such contract, except that—

(A) in no case shall an obligation to pay such interest penalties be construed to be an obligation of the United States, and

(B) any payment of such interest penalties shall not be made from funds provided to the grant recipient by a Federal agency, nor shall any non-Federal funds expended for such interest penalties be counted toward any matching requirement applicable to that grant.

(2) Such interest penalty payments shall be made under such terms and conditions as agreed to by the grant recipient and the business concern, consistent with the grant recipient's usual business practices and applicable State and local law.

LIMITATION ON DISCOUNT PAYMENTS

SEC 3. (a) If a business concern offers a Federal agency a discount from the amount otherwise due under a contract for property or services in exchange for payment within a specified period of time, the Federal agency may make payment in an amount equal to the discounted price only if payment is made within such specified period of time.

(b) Each agency which violates subsection (a) shall pay an interest penalty on any amount which remains unpaid in violation of such subsection. Such interest penalty shall accrue on such unpaid amount in accordance with the regulations prescribed pursuant to section 2, except that the required payment date with respect to such unpaid amount shall be the last day of the specified period of time described in subsection (a).

CLAIMS; RELATION TO OTHER LAW

SEC. 4. (a)(1) Claims for interest penalties which a Federal agency has failed to pay in accordance with the requirements of section 2 or 3 of this Act may be filed under section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605).

(2) Interest penalties under this Act shall not continue to accrue (A) after the filing of a claim for such penalties under the Contract Disputes Act of 1978, or (B) for more than one year.

(3) Paragraph (2) shall not be construed to preclude the accrual of interest pursuant to section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) after interest penalties have ceased accruing under this Act, and interest pursuant to such section may accrue on both any unpaid contract payment and on the unpaid interest penalty required by this Act.

(b) Except as provided in section 3 with respect to disputes concerning discounts, this Act shall not be construed to require interest penalties on payments which are not made by the required payment date by reason of a dispute between a Federal agency and a business concern over the amount of that payment or other allegations concerning compliance with a contract. Claims concerning any such dispute, and any interest which may be payable with respect to the period while the dispute is being resolved, shall be subject to the Contract Disputes Act of 1978.

CONGRESSIONAL OVERSIGHT

SEC. 5. (a) Each Federal agency shall file with the Director of the Office of Management and Budget a detailed report on any interest penalty payments made under this Act during the preceding fiscal year.

(b) Such report shall include the number, amounts, and frequency of interest penalty payments, and the reasons such payments were not avoided by prompt payment, and shall be delivered to the Director within sixty days after the conclusion of each fiscal year.

(c) The Director shall submit to the Committee on Governmental Affairs, the Committee on Appropriations, and the Committee on Small Business of the Senate and to the Committee on Government Operations, the Committee on Appropriations, and the Committee on Small Business of the House of Representatives within one hundred and twenty days after the conclusion of each fiscal year a report on Federal agency compliance with the requirements of this Act. Such report shall include a summary of the report submitted by each Federal agency under subsection (b) and an analysis of the progress made in reducing interest penalty payments by that agency from previous years.

DEFINITIONS

SEC. 6. For the purposes of this Act—

(1) the term "Federal agency" has the same meaning as the term "agency" in section 551(1) of title 5, United States Code, but also includes any entity (A) which is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (B) which is so identified for this purpose by the head of such agency;

(2) the term "business concern" means any person engaged in a trade or business and nonprofit entities operating as contractors;

(3) an invoice shall be considered a "proper invoice" when it contains or is accompanied by such substantiating documentation (A) as the Director of the Office of Management and Budget may require by regulation, and (B) as the Federal agency involved may require by regulation or contract;

(4) an invoice shall be deemed to have been received by an agency on the later of—

(A) the date on which the agency's designated payment office or finance center actually receives a proper invoice; or

(B) the date on which such agency accepts the property or service concerned;

(5) a payment shall be considered made on the date on which a check for such payment is dated; and

(6) a contract for the rental of real or personal property is a contract for the acquisition of that property.

EFFECTIVE DATE

SEC. 7. (a) This Act applies to the acquisition of property or services on or after the beginning of the first calendar quarter which begins more than ninety days after the date of enactment of this Act.

(b) The provisions of this Act requiring the promulgation of regulations shall be effective upon enactment, and such regulations shall be promulgated not later than ninety days after the date of enactment of this Act.

(c) The provisions of this Act shall apply to the Tennessee Valley Authority, but any regulations promulgated under the authority of this Act shall not be applicable to the

Tennessee Valley Authority, which shall be solely responsible for implementing the provisions of this Act with respect to its contracts.

The SPEAKER pro tempore (Mr. Barnard). Is a second demanded?

Mr. HORTON. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. Brooks) will be recognized for 20 minutes, and the gentleman from New York (Mr. Horton) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, H.R. 4709 is a long overdue effort to force the Federal Government to pay its bills on time. Under this bill, agencies which fail to make payment for property or services by the required payment date will pay an interest penalty to the contracting business. No new appropriations are authorized. The agency will be required to pay interest penalties out of funds already available for agency programs.

Far too many businesses in this country—and particularly small businesses—have been hurt by the Federal Government's failure to pay on time for the goods and services it buys. Many firms have suffered severe cash flow problems and are being forced to borrow operating capital at rates of 20 percent or more, because money which is owed to them by the Federal Government is not available in a timely manner for their use in running their businesses. Information received by the Government Operations Committee reveals that some companies have chosen not to sell to the Federal Government. It is just too much trouble to try to collect the money owed them. Ultimately, the Federal Government and the Nation's taxpayers are the losers.

If the Government would pay its bills on time—which is the goal of this bill—we can expect significant benefits for the American taxpayer: The cost of doing business with the Government will go down, encouraging more companies to compete for the Government's business. This increased competition will result in lower prices to the Government.

H.R. 4709 calls for the charging of interest penalties on bills outstanding after the required payment date. Unless another date is stipulated in the contract, this will mean paying within 30 days of receipt of a proper invoice, or acceptance of the goods or services, whichever is later. In the case of meat and produce, it will mean paying within 7 days after delivery of meat and 10 days after delivery of produce. In all cases, grace periods—3 days for meat, 5 days for produce, and 15 days for all other property and services—are provided before interest penalties must be paid.

Additional provisions of H.R. 4709: First, provide for interest penalties on improperly taken discounts; second, limit the accrual of interest under this act to 1 year; and third, authorize claims for disputed interest penalties to be made under provisions of the Contract Disputes Act. The bill also authorizes recipients of Federal grants to include in their contracts for goods and services a provision requiring interest penalties for late payments by the grantee. Such penalties, however, may not be made from Federal funds.

Mr. Speaker, the Government Operations Committee received testimony and statements from many interested parties. The Office of Management and Budget and others made suggestions to amend the original bill. Suggestions which the committee deemed constructive were accepted and the bill was amended accordingly. H.R. 4709, as amended, has strong bipartisan support, as evidenced by its 133 cosponsors. The administration supports this bill and business groups support it. I urge the Members to approve H.R. 4709 today.

Mr. HORTON. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in strong support of this legislation.

The Federal Government expects people to pay their bills on time. When they do not, they are charged interest on the unpaid amount. Unfortunately, when business concerns send bills to the Government, only about 70 percent are paid before the due date, yet the Government is not required to pay interest.

This situation is not right. Federal agencies should pay their debts, as well as collect them, on time. Administrative directives have not persuaded the agencies to meet this objective. I am hopeful that enactment of H.R. 4709, which would impose an interest penalty on overdue bills, will encourage the meeting of that timely payment standard.

Virtually every small business group in America thinks it will. The U.S. Chamber of Commerce, the National Association of Manufacturers, the National Federation of Independent Business, and many small businessmen and associations testified before the Government Operations Committee in favor of the bill. I should add that since we adopted an amendment in committee, the administration supports the bill, too.

But I do not think we should enact this legislation only because it promotes fairness between Federal agencies and their contractors. I urge my colleagues to support H.R. 4709 also because it would provide three important benefits to all taxpayers:

Because business concerns would know that the Government would pay bills on time, or pay interest if late, more companies would be willing to compete for Government business. Increased competition would drive down bids;

Also because of that knowledge, firms bidding for Government contracts would stop building into their estimates an extra amount to compensate for borrowings needed because of late payments; and finally

Because agency budgets would suffer penalties if bills were paid late, agencies would have an incentive to make their billing practices more efficient.

To benefit the taxpayers as well as treat Government contractors more fairly, I urge all Members to vote in favor of H.R. 4709.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Lagomarsino).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of H.R. 4709, the Prompt Payment Act, and in so doing I want to compliment the committee chairman, Mr. Brooks, and ranking member, Mr. Horton, for the outstanding job they have done in bringing this bill to the floor and a hoped-for resolution of the problem of delinquent payments.

This bill is a direct successor to my own bill, H.R. 2036, and represents the culmination of over 4 years of effort by myself and others to resolve the problem of late payments by the Federal Government. Since I first introduced this legislation following the 1978 GAO report, support for the bill has grown to the point where by early this year, there were 117 cosponsors for H.R. 2036. Mr. Brooks, whose work on behalf of governmental efficiency is well known, graciously agreed to hold hearings on the topic, and H.R. 4709 is the result of those hearings. I commend the chairman and the committee staff for the excellent job they have done in putting together this bill, which I support wholeheartedly.

As stated in the committee report, the purpose of H.R. 4709 is to accomplish what administrative rules and regulations have failed to do—provide incentives for the Federal Government to pay its bills on time. Those suppliers of goods and services who do business with the Government, in particular small businesses, are being treated unfairly by the Government when it fails to pay its bills on time. In effect, the Government is borrowing money, interest free, from those firms, at a cost to those firms estimated by the GAO at $150 million to $375 million annually. This is an outrageous abuse of Government power and directly injures those companies, many of whom are forced to borrow funds at today's high interest rates just to carry the Government's overdue accounts. There have actually been cases where companies were forced into bankruptcy as a result. This weakens the economy, throws people and other suppliers out of work, and ultimately, damages the Government itself because its reputation as a slow payer discourages firms from bidding for Government contracts. The taxpayer is consequently deprived of the benefit of innovation and lower prices that result from vigorous competitive bidding for contracts.

The concept behind the bill, Mr. Speaker, is a simple one: equity. Just as the Federal Government requires taxpayers to pay their taxes on time, or face penalties, so we require the Federal Government to pay its bills on time, or face penalties. Under this bill, the Government would have 30 days after acceptance of a valid invoice in which to make payment—slightly less for perishable commodities such as meat and produce—after that, interest starts accruing, at a rate set either by contract or by the Treasury Department under the Contract Disputes Act. There is a 15-day grace period after the 30th day, but if the bill is still unpaid at that time, interest accrues from the 30th day. Interest subsequently continues to accrue until either the bill is paid, or a year has passed, after which time the matter comes under the Contract Disputes Act, with the interest penalties it provides.

There is one other important provision in the bill, which prohibits the Government from taking early payment discounts in cases where the payment in fact is late. This somewhat insidious practice of demanding unearned discounts is becoming unfortunately common among some Federal agencies.

Finally, the bill requires the interest payments to be made from the offending agency's own budget, rather than the General Treasury, and requires annual reports to OMB of interest paid on overdue accounts. These two provisions should provide a strong incentive to agency managers to pay their bills on time and keep penalties to a minimum.

I feel, Mr. Speaker, as does the committee and others who have studied the problem, that this bill will do what two GAO reports and several administration directives have failed to do: Put the Government on the same business-like footing as everyone else. In fact, the committee feels these requirements will not cost the taxpayers a nickel, but in fact will actually save money—first, by increasing the number and quality of the companies who bid for Government business; and second, by ending inflated bids by contractors attempting to compensate for anticipated late bill payments.

It is significant that the administration itself has written a letter supporting this measure, and that the Senate has already acted on a similar bill, S. 1131, which is awaiting action in this House. I understand the Senate will accept the House amendments, which should facilitate passage.

Finally, Mr. Speaker, I would like to make note of the support which we have had in all this effort from the slow pay coalition, which has done a yeoman's job in developing testimony and casework on this bill and in educating Members of the House and the public on the problem.

Small business, Mr. Speaker, provides 90 percent of the everyday commercial products brought by the Federal Government, and provides more than half the jobs in America. It is small business which will benefit the most from this bill, along with the taxpayer. I urge immediate passage.

□ 1430

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, as Chairman of the Small Business Committee I am concerned about the continuing problem of the U.S. Government running up overdue accounts with small businesses from which it buys goods and services. As a recent GAO report documented, on approximately 40 percent of its purchases from small concerns, the Government fails to comply with standard business practice and, in effect, borrows billions each year from small businesses without paying any interest on the loan.

The past 2 years have been hard economic times for small businesses. High interest rates and inflation have added substantially to the costs of doing business and have forced many small business concerns to cutback their operations to remain profitable or to survive. Thousands of others have been forced out of business.

Congress is concerned with how small and minority business will be affected by the Reagan administration's economic program. There has been increasing concern that the economic program the administration is pursuing may not alleviate the twin problems of inflation and lagging productivity. Quite the opposite, it may exacerbate them as it pushes interest rates to higher and higher levels. This makes it more and more difficult for small- and medium-sized firms to survive let alone to compete and expand.

The small business sector of our economy is often overlooked by policymakers who concentrate on the industrial giants and forget about the small business foundation on which our economy is built.

We must remember that small and minority business accounts for almost half of the Nation's private gross national product. Small business provides virtually all new private sector employment, and accounts for at least 50 percent of all major innovations. Small business is the most competitive sector of the economy at a time when the free market is more highly regarded in theory than in practice.

We must continually monitor the state of the small business sector today to see how Government policies and actions affect small and minority firms and what types of Government assistance they require if they are to develop or survive.

Small businesses are very sensitive to interest rates because they are so reliant on short-term bank borrowing. Today's high interest rates are absolutely disastrous for small businesses. Banks have been giving loans to their biggest customers at interest rates below the publicly announced prime. Small businesses, on the other hand, are being charged well above prime. How can Congress allow the Federal Government to continue to force businesses to borrow money because of slow pay on Federal accounts?

The combination of high interest rates and a weakened economy has threatened the stability of the small business community across the nation.

If conditions do not improve this year, we will find a record number of small businesses going bankrupt.

Already business bankruptcy filings in 1981 were the highest since World War II and business failures as recorded by Dun & Bradstreet were the highest in 20 years. More than 47,000 businesses filed for bankruptcy last year and over 17,000 firms closed their doors. This shows a substantial decline in the economic well-being of the small business community.

We cannot allow a national economic policy which will bankrupt small and minority business, or continue Government policies we know are threatening their ability to survive.

Unfortunately, not all Government procuring activities have established methods of contract monitoring and receipt and inspection procedures necessary for prompt payment. The consequences is that contractors are often required to wait excessive periods for payment. During periods of high interest rates, these delays, disrupt normal cash flow and seriously impact contractors' costs and financial stability, particularly those of small businesses. Furthermore, this poor payment record discourages contractors from doing business with the Government and, in some cases, severely restricts competition.

In addition, Federal grants-in-aid buy $4.4 billion in goods, services and outside contracts of which over $1 billion dollars is paid late—90 percent of this is owed to small businesses.

Efforts to solve the problem administratively should have been successful. The 1978 report of the General Accounting Office set out the needed reform in Government bill paying. However, nothing has happened.

In 1980, following a meeting with then Vice President Mondale on the emergency plan of action for minority business, I proposed 13 points to help small firms, one of which had to do with slow pay (payment to be made in 30 days or less). On July 7, 1980, the White House agreed to 9 of the 13 recommendations, including the one dealing with slow pay. Agencies have acted very slowly in implementing this recommendation, so slowly in fact that an October 8, 1981, GAO report states that no progress has been made in the 3 years since GAO's 1978 report.

Congress and GAO tried to get changes with no results. Due to the administration's continuing opposition to reform of its payment procedures, I believe there is no other choice but a legislative solution to this continuing problem.

Many of us have recognized the seriousness of this problem before. Five slow-pay bills sponsored by 42 Members of the House and Senate were pending at the end of the 96th Congress. I believe even greater support now exists for payment procedures reform due to the increasing hardships that current Government policy is causing thousands of small businesses.

Support of H.R. 4709 is a positive step indicating to the small business community a determination to put the U.S. Government on a businesslike basis. Paying bills on time, and paying penalties on overdue accounts, are common business practices which the Federal Government should adopt. The executive branch should not be reluctant to endorse this principle.

In the small business community there has been support for slow pay initiatives for many years. The late payment problem was on the conference issue agenda placed before the delegates to the White House Conference on Small Business.

That agenda reflected the ideas that originated with over 30,000 business owners from every State, and recommendations that were suggested by Conference delegates who participated in 10 regional caucuses held during the fall of 1979. The delegates believed that procurement agencies should pay interest in instances of late payments to small business contractors.

They found that small business owners have long complained that late payments by Federal agencies are extremely harmful to their cash-flow positions. They stated that a requirement to pay interest would greatly reduce the number of late payments.

The White House Conference on Small Business began a new national awareness of the importance of small business in the economy. It identified the many special problems facing small business and set out a course of action to address these problems in a constructive way.

The conference proposals chart a course of Federal policies impacting small business for the decade of the 1980's.

While slow pay legislation such as H.R. 4709 was not a specific final recommendation of the White House Conference on Small Business, its paperwork reduction and simplification procedures are certainly related to the conference objectives.

The administration's OFPP proposal for a uniform procurement system endorses prompt payment but does not specifically provide for interest on overdue accounts. Congressional action is the solution.

I would like to recognize and commend the work done by the slow pay coalition and the small business trade associations representing thousands of small businesses throughout the United States which are determined to get the Government to pay its bills on time.

As the coalition sees it, the goal of the Prompt Payment Act is to put the buying agencies on an equal footing with small businesses. If a small business is late in paying Federal taxes, it pays an interest penalty (recently raised to 20 percent) but if a Government agency is late in paying that small business, the Government pays no penalty. You can imagine why this inequity makes business people so unhappy.

Of course, non-Government customers pay interest penalties. And, certainly, every American citizen faces a monthly gauntlet of interest penalties—credit cards, utility bills, car loans. It has become the American way.

Without any interest penalty, a business selling to the Government carries the Government on an interest-free basis for an indefinite period. According to the GAO, the average overdue bill is paid 74 days late. Based on GAO statistics, the Federal Government borrows over $11 billion each year from small businesses without paying any interest. This is a billion-dollar burden companies are sick of bearing.

I urge favorable action by the House on H.R. 4709 upon which Chairman Brooks and the members of the Government Operations Committee have worked so diligently. Prompt enactment will also recognize the work of sponsors of similar legislation this year before the Small Business Committee, Mr. Lagomarsino, Mr. Savage, Mr. LaFalce and Mr. McDade, and that legislation's many cosponsors.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida (Mr. Ireland).

Mr. IRELAND. Mr. Speaker, I rise in support of H.R. 4709, the Prompt Payment Act. I am pleased to say I was one of the original cosponsors of this much needed legislation.

As chairman of the Small Business Subcommittee on Export Opportunities and Special Small Business Problems, one of the most frequent complaints I have heard from small business men and women in my district and around the country is that the Federal Government does not pay its bills on time. Small firms are often forced to wait 90 to 120 days or more for payment of goods and services delivered to Federal agencies. This causes severe cash flow problems for firms already struggling in our current economic climate. It is for this reason that I support H.R. 4709.

The basic goal of this bill is to require the Federal Government to pay its bills within 30 days after receipt of invoice. Provision is made for interest-free grace periods following the required payment date. The grace period is 3 days for meat and meat food products, 5 days for perishable agricultural products, and 15 days for all other property and services.

It is important to note that these firms are not looking for additional revenue through the payment of interest. They want their invoices paid on time and the threat of interest charges is what will hopefully force Federal managers to do this.

Mr. Speaker, stories abound of small business men and women forced to borrow money to pay their bills to meet their payrolls while owed thousands of dollars by the Federal Government. It is little wonder that many of these firms ultimately conclude that it is just not worth it to sell to the Federal Government. In the end, it is the Government and the taxpayers who will end up the losers through reduced competition.

The need for this legislation has been clearly established. A 1978 report by the General Accounting Office found that the Government paid 30 percent of its bills late. The average delay ran 74 days. While large business firms may be able to carry the Government for this length of time, most small firms cannot. It is a shame to think a law must be passed to force our Government to do what the rest of us have been doing all along; but if that is what it takes, so be it.

I must point out here that the original version of this bill required the Federal Government to pay its bills within 30 days of receipt of invoice—without the added 15-day grace period. This would have merely required the Federal Government to do what is standard practice in the private sector.

I obviously would have preferred the original version of the bill, but in order to assure support from the administration we conceded to the extra 15 days. In our American system of politics one must be willing to make compromises, and in order to secure passage of this bill compromises were made. This is a good bill and I strongly believe H.R. 4709 will send a loud and clear message to small business men and women across the Nation that this Congress is responsive to their concerns. The time has come to reverse this trend in irresponsible payment practices on the part of the Federal agencies. I urge my colleagues to support this bill.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, whether it is for guaranteed business loans, student loans, or income taxes, the Federal Government is very persistent with individuals and businesses in assuring that they fulfill their obligations to make their payments to the Treasury in a timely manner. If payments are late, the Government adds a penalty, as well as an interest fee. With the importance the Government attaches to prompt payments, it was distressing to learn in committee hearings that the Government is late in paying thousands of its bills.

By not paying its bills on time, the Government, in effect, ends up borrowing from its contractors and paying no interest. With at least 30 percent of all Federal payments being made late, complaints about the Government's delinquency have increased, causing many businesses to refuse to enter into contract with the Government or to charge higher rates to the Government to offset problems in obtaining timely payments.

The Prompt Payment Act, H.R. 4709, which Government Operations Committee Chairman JACK BROOKS has skillfully guided to the floor, provides a long overdue solution to this problem for thousands of individuals and businesses. As a member of the committee, I am pleased that we have taken this stern but fair approach to assuring that Federal agencies pay their bills on time.

As an example of the far-reaching enterprises which suffer when the Government fails to pay its bills on time, I would like to point to an activity which would not normally come to mind when one thinks of Government contracts. To assist in the production of Government audiovisual shows, the Government frequently hires talented performers. But all too often the freelance actors, or producers or small film companies, are left waiting for the Government to pay for their services. The problem is repeated whether in New York, California, or the Washington, D.C., metropolitan area.

Mr. Speaker, I would like to submit for the record a statement of support for the Prompt Payment Act by a local chapter of the American Federation of Television and Radio Artists. Upon reading the experiences of this group of actors, I am sure you will agree with me that when it comes to paying its bills on time, it is about time the Federal Government got its act together.

STATEMENT IN SUPPORT OF H.R. 4709 BY THE AMERICAN FEDERATION OF TELEVISION AND RADIO ARTISTS

One of our Local producers on government work is usually not paid in less than 90 days. They recall one instance in which payment was late up to a year and a half.

We are running into situations where individual talent, good performers always anxious to work, are becoming unwilling to sign on for some federal audio-visual because of the extreme slow-pay problem. They prefer to pay their rent on time. Where conflicting dates occur, they will invariably go the private route rather than sweat out the interminable wait for compensation from Uncle Sam.

All producers will, like many employers, face the government appropriation problem. Bad timing for the submission of billing—that is, when federal funds have not been released or appropriated—is not infrequent. Services are often performed by narrators and actors when the producing government agency doesn't have the funds but are anticipating receiving their budget. We find that out later as the reason for the holdup on payment.

A local producer found on one occasion, his best bet was to literally "walk-through" the papers. It may take a day of his time but it saves, he estimates, 5 weeks of waiting at least. Needless to say, members trying to make a living and producers operating a small business in talent can ill afford the time to be "walking-through" very many contracts.

A problem which is frequently confronted and is at the root of the delay is inability of those handling paper work to move without proper forms. Although this is understandable, too frequently the processor has simply pigeon-holed the paper work without advising the vendor that a certain form is necessary. It is only when the producer inquires that he first learns that the matter is being held for lack of paper.

One performer produced a narration in March of last year and wasn't paid till December. The accounting section had been confused as to whether the individual was a narrator or lecturer and simply sat on the paper. Why it mattered whether the person was a narrator or lecturer, was never explained. Meanwhile, had he not inquired, requisition for payment may still be sitting there.

Then there was the time it took Naval Photographic about 6 months to pay. The agency had requested bids under a wrong authorization and the talent had to sweat it out even though the gum-up was internal. The whole contracting process was in someone's basket before the agency reprocessed the procurement starting all over again from square one. But a dozen talent had to wait 6 months till that error was corrected. It wasn't till after 90 days that it was determined at the prodding of the producer, that there had been a foul-up. The excessive time abuse on this one required us to turn to our Local Congressman since most of the talent were Maryland residents.

Mr. BROOKS. Mr. Speaker, I have no further requests for time.

Mr. HORTON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I rise in strong support of H.R. 4709, the Prompt Payment Act, and commend Chairman BROOKS and the Committee on Government Operations for bringing this important legislation to the floor.

It is ironic, Mr. Speaker, that at a time when great attention is being devoted to improving the general condition of our small business sector, the Federal Government itself remains persistently slow in paying its bills. As a series of GAO reports has shown, 90 percent of routine Government purchases come from small businesses who, in turn, are in effect asked to subsidize the Government through what are actually interest-free loans. Given the cost to such small businesses of this situation—as much as $11 billion annually—it can come as no surprise that many contractors and suppliers have determined that they can no longer afford to do business with their own Government.

The Prompt Payment Act, by requiring Federal agencies to pay an interest penalty on overdue accounts, is an important step in the direction of Federal accountability. In addition, by requiring that each agency report annually to OMB on accounting of overdue debts, this legislation provides essential oversight and assures compliance. For these reasons, Mr. Speaker, I urge that H.R. 4709 be supported.

Mr. HORTON. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois (Mrs. MARTIN).

Mrs. MARTIN of Illinois. Mr. Speaker, today I rise in support of H.R. 4709, the Prompt Payment Act, and urge my colleagues to do the same. Requiring the Federal Government to pay its bills on time is only good business practice, especially since the Government expects people to pay their bills on time. The Prompt Payment Act is simply the flip side of the bill-paying coin.

Given this year's record number of small business failures, stifling interest rates and tight credit, H.R. 4709 is a necessary and prudent piece of legislation. Small businesses cannot afford to carry the Federal Government, even in healthy economic times, on an interest-free basis. Failure of the Government to pay its bills on time is a form of involuntary credit with no interest.

You and I face interest penalties if we pay late on credit cards, utility bills, and car loans; the Federal Government does not. Yet the Federal Government's average overdue bill is 74 days late, costing small businesses between $150 and $375 million each year.

It is unfortunate that this frustrating and persistent problem must be remedied by legislative action, but all other administrative avenues have failed. No longer can the Congress idly sit by and, in effect, condone this several million dollar burden, which falls heaviest on small businesses since 90 percent of everyday Government purchases come from small dealers, distributors, and manufacturers. This legislation gives Government agencies a disincentive to continue late paying habits—interest penalties on bills more than 45 days late must be paid from the late paying department's own operating budget.

Like the Federal Government's bill paying, this act is long overdue. This legislation merits the support of all who believe the Federal Government, should not conduct its business according to a double standard—a double standard that financially burdens small businesses.

It is really quite simple—individuals must pay bills on time, and so must the Federal Government.

● Mr. ROUSSELOT. Mr. Speaker, I rise in support of passage of the Prompt Payment Act, H.R. 4709. It is a measure that will not only improve the Government's bill-paying performance, but will correct the present burden on small businessmen who supply 90 percent of the everyday Government purchases but must carry the Federal debts without interest payment.

This bill before us today illustrates the administration's and this Congress commitment to providing relief to the private sector from costs incurred due to inefficient Government procedures. H.R. 4709 requires the Federal Government to pay interest penalties on overdue payments to businesses which supply goods and services to the Government. Further, this bill prohibits the various Federal agencies from seeking appropriations from Congress to pay interest charges on overdue accounts. Rather, the bill requires agencies to pay interest out of funds made available for the administration of agency programs.

While there will be an initial cost incurred with this bill—a Congressional Budget Office estimates $70 to $100 million—with an absence of improvements in agency bill paying—would be realized. If timely payments are made, CBO has predicted additional costs of $100 to $125 million per year, unless they are made in the grace period, in which case the added annual cost would be between $35 and $50 million. This is the CBO estimate. The committee, I understand, after holdings on this proposal has indicated that rather than a drain on the Treasury, enactment of H.R. 4709, with benefits stemming from improved payment, will create a net savings for the Federal Government. How about that—the bill we have before us here today will not only assist the small businessman, make the Government responsible for its contractual debts, but will result in a savings to the American taxpayer.

Mr. Speaker, interest rates have skyrocketed. The last thing in the world the Federal Government should be doing in making the situation worse for businesses. Yet, in the case of small businesses selling goods and services to the Federal Government, this is exactly what is happening—by failing to pay its bills to these businesses, the Government is adding to many businesses' painful cash flow problems. H.R. 4709 would correct this situation.

H.R. 4709 additionally provides an incentive for agencies to meet their obligations—at no additional cost to the taxpayer. Thus, this measure puts the pressure on the element of the bill-paying process where pressure is most likely to get results—in the payment operations of the individual agencies.

Mr. Speaker, it is obvious that the measure before us here today must be enacted. The Senate has already passed a measure similar to H.R. 4709 which deals with the deficiencies in the Federal bill-paying procedures. Uncle Sam ought to pay its bills on time. The General Accounting Office, back in 1978, issued a report which indicated that action had to be taken to correct the hardship on small businesses—that was before the crushing interest rates experienced by small businessmen today—the same crushing interest rates which are causing more and more young businesses to close their doors.

By passage of H.R. 4709 Congress will: First, make Government a more desirable business partner; second, help agencies attract better prices; third, help encourage more companies to compete for Government sales; fourth, renew interest in Government sales among companies that dropped out due to sloppy Government payment practices; fifth, restore some integrity to the way the Government conducts its business; and sixth, help earn this Government some needed respect.

Let us adopt more productive work allocations, less Federal paperwork.

Let us eliminate the ballooning of contractor prices to compensate for anticipated late Federal payments.

Let us increase the number of small businessmen able and willing to work with the Federal Government.

Mr. Speaker, let us pass H.R. 4709—the Prompt Payment Act.

In casting our vote we will not only be performing our job—but our responsibility.●

● Mr. BENNETT. Mr. Speaker, I rise today to express my strong support for the provisions of H.R. 4709, the Prompt Payment Act. The bill would require the Federal Government to pay interest on its bills if the bills are not paid on time. I have received many letters from constituents outlining their problems with the failure of branches and agencies of the Federal Government to pay bills on time. The costs of carrying accounts for periods of 60 to 90 days or more is prohibitive for any normal business, and especially in this time of high interest rates. Some constituents of mine have even indicated to me that they have begun refusing to bid on Government work because of this problem.

Mr. Speaker, I think H.R. 4709 adequately addresses this problem and proposes an acceptable solution. Let us pass this bill and get the late-paying branches and agencies of our Government to operate in a more responsible manner.●

● Mr. McGRATH. Mr. Speaker, I strongly support H.R. 4709, and I commend the gentleman from Texas (Mr. BROOKS) for his continued effort to bring about meaningful reform and greater efficiency in the Federal contracting and procurement processes.

The failure of Federal agencies to make timely payment on debts owed to contractors and suppliers has caused serious problems for firms doing business with the Federal Government and ultimately results in higher costs for the Federal Treasury and the already beleaguered taxpayer. In many cases, normal business practices are completely disregarded by the U.S. Government.

One is not left to wonder why the Federal Government always seems to pay more for goods and services when the cost of doing business with Uncle Sam is taken into consideration. Since the Federal Government often orders large quantities of supplies or contracts for complex and specialized services, large outlays are required by firms providing goods or services. If businesses know they will not be paid for several months, they are left with rather simple decisions. They can either turn down Federal contracts, or they can include the higher costs in bids on those contracts.

This situation has virtually eliminated competition for Federal contracts in many fields and in many regions of the country. Smaller firms are unable to contend with the cash-flow problems created by late payment of Federal debts. Even larger businesses cannot afford to give agencies discounts for large purchases. This loss of competition encourages inflated prices. I was told that a certain military facility actually had to call a Washington-based lobbying group for assistance in locating a supplier of meat and produce because local concerns refused to bid on the Federal contract. This type of situation not only results in higher costs, but also interferes with vital Government programs. If we cannot feed our military personnel without more money, and complications, it is not surprising that we encounter seemingly endless difficulties in accomplishing other goals.

I urge my colleagues to join me in supporting this long overdue legislation.●

● Mr. DERWINSKI. Mr. Speaker, I am an enthusiastic cosponsor of H.R. 4709, which I believe will go a long way toward solving the serious problem of overdue payments by the Federal Government to the businesses which have supplied it with goods or services.

There has been no significant improvement in these late payments since the General Accounting Office reported on the problem in 1978. There are two adverse effects of the late payments: one is that many contractors will no longer do business with the Government, thus reducing competition; and the other is that many businesses now inflate their costs to compensate for the expected delay in payment.

This legislation, which requires interest to be paid from the day after the required payment date, is long overdue. The bill also provides that if a Federal agency fails to make payment of an interest penalty, it may be sued by the affected business under the Contract Disputes Act. A provision which is of special interest is the one prohibiting agencies from seeking any additional appropriations to cover the cost of interest payments. I believe this will stimulate prompt payment by the Federal Government.

Mr. Speaker, I urge House approval of H.R. 4709.●

● Mr. FOUNTAIN. Mr. Speaker, when the average American gets his Visa or MasterCard bill in the mail, that cardholder has one of two choices. The bill may be paid in full, or the cardholder may pay later in installments at a fixed rate of interest. Likewise, when our taxes come due next month, we can either pay them promptly or pay interest and a penalty for our tardiness.

The Government often has another method—not available to you and me—of settling its accounts. Too often, the Government says, "We will not pay our bills on time, and we will not pay a penalty and interest for our late payment either."

While the Government is usually a reliable customer, there are still too many late payments which can be attributed to governmental inefficiency, according to the General Accounting Office. Oftentimes, these late payments place no major hardships upon larger companies which can afford to carry tardy payments; but, the small business community—a cornerstone of our free enterprise system—does not always fare so well.

Many a businessman's largest customer is some agency or branch of the Government, but the Government—at all levels—is often slow and sometimes unreasonably so in paying its debts. And small business is very vulnerable to this interruption in its cash flow. Frequently, it does not have the working capital to carry delinquent accounts, so it must borrow money—and borrow at a high rate of interest.

When the Government is extremely late in paying what it owes for goods received, the businessman may really find himself between a rock and a hard place, as one business writer recently pointed out. The businessman in this position may be forced to choose between paying his employees or remitting to the Government the taxes he withheld from his employees' paychecks. And if he chooses to pay his employees—which he must do to keep his business going—the same Government which caused the trouble in the first place by not paying its bills on time, turns around and fines and penalizes the businessman for not remitting the taxes. This presents an untenable situation, coming from abuse of power by someone or downright negligence.

In this time of economic crisis, we just must improve Government bill-paying procedures. One estimate finds that the Federal Government is, in effect, borrowing $11 billion per year from local businesses by not paying its bills on time, and also paying no interest. This is wasteful and clearly unfair to the productive citizens of this Nation.

In an effort to help curb this problem, I have joined many of my colleagues and cosponsored this Prompt Payment Act. This legislation is designed to install a uniform and responsible procedure for the Federal Government to follow when it comes to paying its bills. The Federal Government has been found to be tardy in paying up to 39 percent of its bills, and this is an abuse which must be corrected. It is a form of financial slavery or bondage which must be eliminated.

Mr. Speaker, inefficiency in government at whatever level—like waste and thievery—just cannot and should not be tolerated, particularly when it has such a devastating impact not just upon private citizens and small business, but upon taxpayers in general.●

● Mr. MOFFETT. Mr. Speaker, I would like to strongly endorse H.R. 4709, the Prompt Payment Act. This is a very reasonable bill which would require that Government agencies pay their bills within 30 days. Prompt payment is especially important to small businesses, which face constant cash-flow problems. It is also most appropriate that the Government be required to meet its obligations in a rapid and conscientious manner. Currently nearly 30 percent of all Federal Government payments to private contractors are late.

The Prompt Payment Act requires that all Federal agencies pay bills for purchases or rental within 30 days after the acceptance of the goods, unless a different time is specified in the contract. There are two exceptions to the 30-day rule: payments for meat must be made within 7 days of delivery and payment for vegetable within 10 days.

If payment is not made within 30 days, a Government agency would have a 15-day grace period during which no interest would be charged. However, if a bill remains unpaid after 45 days, the agency would be liable for compound interest payments, going back to the 31st day. There is a 1-year time limit on the amount of interest that can accrue. After 1 year, if a bill remains unpaid, a contractor may sue under the Contract Disputes Act. Interest rates would be based on those being paid on Treasury Department notes.

The Prompt Payment Act also requires that any interest payments by an agency come from its operating budget. No additional funds would be appropriated for such payments. Thus, there is a built-in incentive for an agency to pay its bills on time. All agencies would be required to report any interest payments to OMB, as an additional method of keeping track of late-paying agencies.

This bill is a well-thought-out approach to a serious problem. As a cosponsor, I support it enthusiastically.●

● Mr. RATCHFORD. Mr. Speaker, I rise in support of H.R. 4709, the Prompt Payment Act, now before us. We have all been asked from time to time to intervene on behalf of a constituent small business unable to secure timely payment of outstanding bills with Federal agencies. For the smaller firm caught in the grasp of a sagging economy, the Federal Government should be a reliable partner, yet increasingly agencies have failed to meet the terms of vendor contracts which assume payment of invoices on time.

Let me illustrate the magnitude of this problem by describing the experience of a small producer of ultrasonic cleaning systems in my congressional district. For 16 years, this firm has maintained an outstanding record of production in high quality, durable, ultrasonic equipment. In addition to an impressive list of longstanding contracts with major industrial concerns, the firm has enjoyed a large number of contracts with the Federal Government—the Department of the Navy, in particular. These contracts are the lifeblood of the business, and especially in a period of economic decline that forces many private sector concerns to pull back in their level of commitment to such firms, the continued availability of Federal contracts is comforting indeed. However, when contracts have been negotiated and the work complete, that firm has every right to expect prompt payment of invoices. As is the case in the private sector, Federal agencies in this instance should provide payment within 30 days of the billing date. Yet this is not the case.

As seems to be the pattern elsewhere, this particular firm to which I refer has attempted unsuccessfully for 2 years to secure payment of outstanding bills. For instance, after countless telephone calls and an endless stream of written pleadings, the Department of the Navy has offered no assurance that payment of four individual bills totaling nearly $3,000 would be forthcoming. Aside from the needless time and expense associated with the continued prodding required, the firm is faced with serious cash-flow problems. This experience is not an isolated one, Mr. Speaker, and we must enact some tough payment procedures to force the prompt payment of outstanding agency obligations.

Recent estimates of the Congressional Budget Office indicate that the Federal Government fails to pay 30 percent of its invoices on time, and that the average bill was paid 74 days after the established due date. The consequences of such behavior are clear—vendors are either forced to the brink of bankruptcy, or must borrow operating capital at high interest rates to maintain sufficient cash flow. There is also evidence that many firms are increasingly reluctant to do business with the Federal Government, and may in fact inflate contract bids to compensate for expected late payments.

We are asked today, Mr. Speaker, to do no more than to make the Federal Government more responsible in its own contractual relationships. If an agency fails to pay its bills by the required payment date, under the provisions of this bill it would be liable for interest on the amount overdue to be assessed against program funds. It is not unreasonable to ask the Federal Government to conduct itself more professionally, for if we do not, many Government suppliers—particularly small businesses—will be forced to reconsider their commitment to sustaining the healthy expansion of our economy. This we can ill afford.●

● Mr. McDADE. Mr. Speaker, I rise in support of H.R. 4709, the Prompt Payments Act. My own efforts in trying to get Government agencies to pay bills that are months overdue have convinced me that some legislative remedy is necessary. Therefore, more than a year ago I introduced slow pay legislation similar to the bill before this House today. Let me cite a few examples of the problems which prompted me to act.

A Tidewater vendor who supplied coleslaw to Norfolk-area military installations sought congressional help after waiting 90 days to be paid. An Indiana lamp manufacturer and an ocean research products firm in Diggs, Va., have contacted my office and told of similar difficulties.

But these are only a few examples of the scandalous realities of chronic late payment by agencies of the Federal Government. Government-wide statistics make the point with equal force. The General Accounting Office found that the Federal Government is late in paying 39 percent of its bills and is on the average 74 days late in paying them.

These figures have special meaning for the small businessman who does business with the Federal Government. Operating without huge cash reserves and without ready access to credit, the small vendor depends on his customer to pay promptly after the goods and services are delivered. In brief, these delinquent payments deprive small businesses of the funds that are vital to their day-to-day operations. By failing to pay its bills on time, the Government is borrowing an estimated $1 billion without paying a penny in interest.

Now, that may seem like a sweet deal for the Federal Government in this time of huge deficits, but that is not really the way it is. When the Government is slow in paying its bills, it hurts itself because it discourages small firms from competing for contracts with the Government. Businesses are increasingly less willing to see their earnings hung up for months. Vendors are no longer willing to spend needless time and money chasing down payment checks that are lost somewhere deep in the bureaucracy. It just does not pay. Consequently, many are saying "no more" to providing goods and services to unreliable Uncle Sam. In the end, we all suffer. The businessman foregoes a chance to do business. The Federal Government loses the competition so necessary in keeping its costs as low as possible.

H.R. 4709 is a sound, wisely and meticulously crafted solution to this problem. It creates the necessary incentives to make Federal agencies pay their bills on time. At the same time, it creates the necessary safeguards so that Federal agencies will not be forced to pay bills of questionable merit. H.R. 4709 will force the Federal Government to do its business according to accepted business practices—practices it expects its citizens to abide by when they owe the Government taxes. The small business community supports the Prompt Payment Act, and I urge my colleagues to do likewise.●

● Mr. GOLDWATER. Mr. Speaker, I rise in wholehearted support of H.R. 4709, the Prompt Payment Act of 1981. I want to congratulate Chairman BROOKS, Mr. HORTON, and Mr. ENGLISH for an excellent bill which will solve the problem of Government slow pay once and for all.

By now, I think most Members of Congress have heard from businessmen in their districts about overdue Federal accounts. I know I have. These are businessmen and women who sell their goods and services to the Government in good faith. They hold up their end of the bargain, unfortunately the Government does not hold up its end. Months sometimes go by before payment is rendered. They can do nothing to force payment—they just have to accept excuse after excuse with no recourse. With enactment of H.R. 4709, the Federal Government will be forced into paying on time. Businesses who sell to the Government will finally get a fair shake.

Government slow pay is a problem not merely confined to large businesses. In fact, small firms are hurt most. It is small businesses who cannot afford to carry long overdue accounts, particularly in today's economic climate when many small firms are fighting to stay solvent and in business. Hurt, too, are individuals who contract to the Government. From my district in California, for example, I have heard from independent artists—writers, producers, directors, and actors—who contract with the Government and then wait months for payment. Mr. Chairman, the problem is now out of hand and Congress must put an end to it.

An important benefit of H.R. 4709, in my opinion, will be to increase the number of businesses and independent contractors willing to sell to the Government. Government procurement is a $100 billion per year business. Unfortunately, many firms have concluded that the headaches of Government sales outweigh the advantages. With the assurance that payment will be prompt, more firms will take the Government on as a customer. The result will be greater competition, and ultimately a cost saving to the Government.

As a cosponsor of Mr. LAGOMARSINO's slow pay bill, H.R. 2036, I have a personal commitment to the issue. Again, I support passage of H.R. 4709 and urge my colleagues to do the same.●

● Mr. BROOMFIELD. Mr. Speaker, while the problem of late payments on Government contracts has been well documented for many years through congressional hearings and General Accounting Office reports, the Federal bureaucracy has failed to come to grips with this problem.

Perhaps in earlier times the Government's lackadaisical attitude toward paying its bills on time was only an irritant to business. In recent years with high-interest rates, however, this slow-pay problem has become far more than an irritant; it has become an extremely heavy burden and a reason to stop doing business with the Government.

Since 90 percent of everyday Government purchases come from small dealers, distributors, and manufacturers, it is upon this sector of the economy that the burden falls heaviest. Late payments constitute a form of involuntary credit that small companies extend to the Government at no interest, and that they can ill afford.

In the worst cases where large amounts are involved, the Government's slowness in paying its bills has forced otherwise successful small concerns into bankruptcy.

In every case where a small business is concerned, however, the Government's slowness places an extreme hardship on the business. Small business counts on payments from its contracts to meet its obligations. Due to a generally tight cash flow and narrow profit margins, there is little flexibility to meet the problems engendered when the Government fails to meet its obligations in a timely manner. Companies have had to borrow money at high interest rates in order to meet operating expenses.

There is certainly little sense of fairness in this type of situation.

The Prompt Payment Act before us today addresses this very serious problem.

Since the Federal bureaucracy failed to make the necessary changes when this problem was brought to light several years ago, this bill provides a strong incentive for Federal agencies to meet their obligations on time.

By applying reasonable time requirements for the payment of bills, it is a fair balance between the interests of business and the interests of the Government.

In the long run, implementation of this bill will work to the benefit of all involved. Companies can reasonably expect to be paid on time. The Government can expect to gain because once small businesses are assured that they will be paid promptly, competition for Government contracts will increase and small contractors will stop writing the anticipated costs of slow payments into their contracts.

Mr. Speaker, in all likelihood there will still be cases when the Government does not pay its bills on time. However, the Prompt Payment Act would provide a much-needed incentive for the Government to cure its payments procedures, and it would bring a measure of fairness into the business relationship between the Government and the private sector.

Mr. Speaker, as a cosponsor of this bill, I encourage my colleagues to give it their support.●

● Mr. MARLENEE. Mr. Speaker, I rise in support of H.R. 4709, the Prompt Payment Act. Such legislation is long overdue. Let me describe to you a problem that was recently brought to my attention. In 1980, the Department of Energy Office of Alcohol Fuels conducted a program of research and development assistance for high-potential, small-scale alcohol fuel projects. After proposals were solicited from around the country, a group of independent experts was asked to come to Washington, D.C., and conduct a detailed review and rating of these proposals. The DOE told these experts that they would receive travel and living expenses plus $250 per day for time spent in review. An initial group was paid according to this agreement. However, a similar second review group, which accomplished its task in November 1980, is still awaiting payment. This second review group contains members who, in addition to their time, had to make substantial payments for travel and living expenses.

The reason the 10 individuals, 2 from the State of Montana, have yet to be paid has not been fully explained to either the independent reviewers, or myself. The application for payment remains in the bowels of the DOE. When work is complete in November 1980, the Government should be able to pay by March 1982. Unfortunately, this is not the case. Legislation, such as H.R. 4709, is needed to force the Government to get its budgetary act straight.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of H.R. 4709, the Prompt Payment Act. This legislation will require the Federal Government to pay interest penalties on overdue payments to businesses which supply goods and services to the Government. H.R. 4709 will ease the burden on so many small businesses in Delaware and across the Nation that are penalized by the slow bill paying practices of the Federal Government.

By refusing to pay its bills on time, our Government is borrowing up to $11 billion per year from U.S. businesses. As the Chamber of Commerce of the United States pointed out in testimony supporting H.R. 4709—

> Since 90 percent of the everyday commercial products bought by the Federal Government come from small dealers, distributors and manufacturers, the heaviest burden of the slow pay problem falls on small business.

With today's volatile interest rates that make borrowing funds such an expensive proposition, the Government's failure to pay on time is making a tough situation even tougher.

The Government Accounting Office estimated that back in 1978, assuming a 12-percent interest rate, late payments cost Federal contractors from $150 to $350 million annually. Not only has this cost them money, it has caused many companies that could offer good services to simply refuse to do Federal work.

Adoption of the procedures in this legislation will help us achieve two important goals. First, it will increase the number of businesses competing for Government work; and second, it will help end the practice some companies follow of inflating estimates to compensate for anticipated late payments. H.R. 4709 will not cost taxpayers a dime, in fact, it may save the Government money and help narrow our large budget deficits.

I urge my colleagues to join me in support of this much-needed legislation.●

● Mr. TRIBLE. Mr. Speaker, I rise in support of H.R. 4709, the Prompt Payment Act.

Hundreds of Virginia companies, most of them small businesses, and thousands more companies around the country share the problem of collecting bills from the Federal Government. In these difficult economic times, the Federal Government's late payment practice must end.

In effect, the Federal Government is borrowing up to $11 billion per year by not paying its bills on time. Businesses are being forced to secure loans at devastatingly high interest rates in order to meet their operating expenses because the Government is slow in paying its bills. For small businesses it is a difficult, sometimes impossible, and costly task to track down invoices and then steer them through the proper channels for payment.

H.R. 4709 would require that the Federal Government pay its bills in a timely fashion, like every family and every business, or pay interest penalties on overdue payments to businesses which supply goods and services to the Government. The Prompt Payment Act will provide relief to the private sector from the heavy costs they are having to bear because of inefficient Government procedures.

This legislation will serve as an incentive for improvement of Government management practices. It will force the Federal Government to adopt more productive work allocations, eliminate the contractor practice of inflating estimates to compensate for anticipated late bill payments, and increase the number of companies willing to compete for Government business.

The Prompt Payment Act is overdue. The failure of the Federal Government to pay its bills on time has been a persistent problem which must be solved. H.R. 4709 will make the

Federal Government a better business partner and will assist in seeing that small businesses, and those that serve as suppliers of goods and services to the Government, are treated fairly.●

● Mr. WALGREN. Mr. Speaker, as a cosponsor of this bill, I am pleased to support H.R. 4709, the Prompt Payment Act which would require all Federal agencies to pay bills for purchases or rentals within 30 days after the acceptance of the goods.

This bill addresses a serious problem faced by many businesses—waiting for the Government to pay its bills on time. The General Accounting Office has found that 30 percent of the Government's bills, covering 18 percent of the dollar total, are paid late. This represents approximately 9 million invoices paid late each year or $23.4 billion in late payments. I believe these figures clearly show that the Government just does not have its act together when it comes to paying bills.

Not only do these delays create a bad reputation for the Federal Government as a laggard customer; slowness in paying bills has serious consequences for the businesses providing goods and services. Companies sometimes have to borrow money at high interest rates to make up for the money they are waiting for from the Government. Additionally, the Government's reputation as a slow payer discourages many businesses from competing for Government contracts, and this undermines the whole notion of vigorous competitive bidding, depriving the Government of innovations and lower prices that could result from stiff competition among vendors. Furthermore, taking time to hound the Government to pay its bills costs business. One witness testified that in order to collect delinquent invoices, he had to place six to eight different calls before locating a Government employee who was able to discuss why the invoice had not been paid.

The chamber of commerce explained how slow payment affects small businesses:

> In effect, the Federal Government is borrowing up to $11 billion per year from business firms by not paying its bills on time * * * And, since 90 percent of the everyday commercial products bought by the Federal Government come from small dealers, distributors and manufacturers, the heaviest burden of the slow pay problem falls on small business. In times of high interest rates, this can place a severe strain on a small concern.

Under H.R. 4709, if the Government fails to make timely payments, it would have a 15-day grace period during which no interest would be charged. But if a bill remained unpaid after 45 days, the Government would be liable for compound interest payments, effective on the 31st day. If a contractor had not been paid at the end of a year, he could file suit.

I think this is a reasonable and fair bill. It requires of the Government what we require of everyone else. By making the Government operate more efficiently, it should save the taxpayer some money—and save the business community a lot of hassle and headaches.●

● Mr. BEARD. Mr. Speaker, on January 15 of this year I wrote President Reagan asking that his administration endorse and support the bill H.R. 4709, the Prompt Payment Act.

As you know, this bill is supported by a host of organizations representing small businesses all across America. As a regular recipient of the "Guardian of Small Business" award given by the National Federation of Independent Business, I am always ready to do anything to help small business.

Today, this bill comes before the House for consideration. I urge all my colleagues to vote for it, and I am glad to report that the administration has responded positively to my request and has now endorsed this bill.

I enclose the response.

The White House,
Washington, March 23, 1982.

Hon. Robin Beard,
House of Representatives,
Washington, D.C.

Dear Robin: This is in further response to your letter of January 15 regarding H.R. 4709, the Prompt Payment Act, and to let you know that this Administration supports enactment of H.R. 4709.

The Administration is very sympathetic to the plight of small businesses and others who sometimes have to wait inordinate periods of time for payment of goods delivered. We believe that small businesses, and those that serve as suppliers of goods and services to their Government, have a right to be treated fairly and equitably.

The version of H.R. 4709 that passed the House Government Operations Committee was a substantial improvement over the original version and will make its implementation more effective and less costly.

Again, I would like to thank you for your interest in writing on this important matter.

With best wishes,
Sincerely,
Kenneth M. Duberstein,
Assistant to the President.●

Mr. HORTON. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. Brooks) that the House suspend the rules and pass the bill, H.R. 4709, as amended.

The question was taken.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings, on this motion will be postponed.

ECONOMY ACT AMENDMENTS

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2528) to amend the Economy Act to provide that all departments and agencies may obtain materials or services from other agencies by contract, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(a) of the Act of May 21, 1920, entitled "An Act making appropriations for fortifications and other works of defense, for the armament thereof, and for the procurement of heavy ordnance for trial and service, for the fiscal year ending June 30, 1921, and for other purposes" (31 U.S.C. 686(a)), as amended by the Act of June 30, 1932, commonly referred to as the Economy Act of 1932, is amended—

(1) by striking out "in a position to supply or equipped to render" and inserting in lieu thereof "in a position or equipped to supply, render, or obtain by contract";

(2) by striking out the first proviso in such section, and by striking out "further" in the second proviso;

(3) by striking out "competitive bids" in such second proviso and inserting in lieu thereof "contract"; and

(4) by adding at the end thereof the following new sentence: "Any condition or limitation applicable to the procurement funds of any executive department, independent establishment, bureau, or office which places an order or lets a contract under the provisions of this section shall be applied in placing such order or letting such contract.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. Brooks) will be recognized for 20 minutes, and the gentleman from New York (Mr. Horton) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Brooks).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, H.R. 2528 is a technical amendment to the Economy Act. It has the effect of authorizing all Federal agencies to obtain goods and services by contract in order to fulfill requisitions placed with them by any other agency of the Federal Government. This authority exists at present for the benefit of only five agencies—the Departments of the Army, Navy, and Treasury, the Federal Maritime Commission, and the Federal Aviation Administration.

Passage of this bill will improve the operating efficiency of Government agencies by allowing maximum utilization of valuable expertise which has developed in the various Federal agencies over the years. An agency having only an occasional requirement in a specific area will be able to turn for assistance to an agency with substantial experience in that area. This will eliminate the need to duplicate the requisite expertise. In addition, such generally available authority will create the potential for wider use by the Government of quantity discounts or other benefits which may not have been available in the past.

Mr. Speaker, this bill requires no new authorizations or tax expenditures. It should, in fact, result in some savings to the Government, through greater efficiency of operations. Mr. Speaker, I urge the passage of H.R. 2528.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am always pleased when Congress takes legislative action to improve the economy and efficiency of Government operations. Such is the case with H.R. 2528, which seeks to constructively amend the Economy Act of 1932.

The current statute permits only five named agencies to place orders with other departments or agencies for materials, goods, or services which the requisitioned agency "may be in a position to supply or equipped to render." H.R. 2528 seeks to remove that restriction and allow any agency to contract with any other agency when it is necessary and feasible to do so.

Witnesses from OMB and GAO told the subcommittee last fall that the limited application of the present statute does not allow the flexibility that is needed to permit one agency to utilize the expertise of another agency to maximize efficiencies in operations. It should go without saying that economy and efficiency in Government will be furthered by allowing Federal agencies with greater capabilities in given areas to provide related services or procure specialized materials for other agencies with less experience.

Both GAO and OMB suggested improvements in the language of H.R. 2528. The committee's substitute language includes those suggested improvements. As a result, the bill has the approval of both the General Accounting Office, the Office of Management and Budget, as well as the unanimous approval of the Government Operations Committee.

Mr. Speaker, I support the bill and I urge its approval.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 2528, as amended.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT AMENDMENT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3943) to amend the Federal Grant and Cooperative Agreement Act.

The Clerk read as follows:

H.R. 3943

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(d) of the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 41 U.S.C. 501 note) is amended by striking out "This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. BROOKS) will be recognized for 20 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the authority for the Director of the Office of Management and Budget to waive provisions of the Federal Grant and Cooperative Agreement Act for individual programs or transactions, expired in February of 1981. H.R. 3943 would delete that expiration date. While the authority was in force, the Director exempted only general revenue-sharing and countercyclical funds and nonmonetary grants from the provisions of the act. These exemptions resulted in significant cost savings to the Federal Government and to State and local governments, since Federal revenue-sharing funds alone would have required the unnecessary completion of 39,000 useless forms. The Director of the Office of Management and Budget has indicated that if this expiration date is deleted, he would continue to use the authority judiciously and sparingly.

Mr. Speaker, I urge passage of H.R. 3943.

Mr. HORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member several years ago of the Commission on Government Procurement which produced a number of recommendations implemented by the Federal Grant and Cooperative Agreement Act of 1977, I have taken more than a passing interest in the effectiveness of that law.

I support the bill before us, H.R. 3943, which seeks to extend without time limit the authority of the Director of OMB to declare exceptions to the act. The subcommittee heard testimony that the act has been useful in sorting out Federal activities and in defining which assistance instrument should be used in various situations. Witnesses from OMB and from GAO told the subcommittee that flexibility is the key to continued effectiveness. By restoring the Director's authority to declare exceptions to the act, H.R. 3943 will provide that flexibility.

The GAO testimony in the hearing indicated that OMB has used its authority judiciously. Exceptions have been granted only for the general revenue-sharing and countercyclical aid programs and for nonmonetary grants. I should point out that the exception authority was meant to serve as an escape valve to avoid unintended consequences in implementing the act, and that apparently has been the way OMB has used the authority.

Finally, this is a bill requested by the administration and endorsed by the General Accounting Office. It was approved without dissent by the subcommittee and was unanimously approved by the full committee.

Mr. Speaker, I support H.R. 3943 and urge its approval.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 3943. The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 892) to amend the Federal Grant and Cooperative Agreement Act, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10(d) of the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 41 U.S.C. 501 note) is amended by deleting the sentence: "This authority shall expire one year after receipt by the Congress of the study provided for in section 8 of this Act.".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3943) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4709, H.R. 2528, and H.R. 3943.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

IVY LEAGUE NEWSPAPERS DEMAND A HALT TO U.S. MILITARY INVOLVEMENT IN EL SALVADOR

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEISS. Mr. Speaker, seven ivy league college student newspapers released a joint statement today demanding an immediate end to U.S. military involvement in El Salvador. I want to express my support for the statement and commend the newspapers for speaking our against a policy which their statement describes as, "Based on the notion that military might makes political right, an assumption which will never lead to constructive solutions in El Salvador."

Our Nation's students often can be our Nation's conscience. Not since Vietnam has an American policy merited the strong public opposition that President Reagan's militaristic approach to El Salvador has brought on. I am proud that the Brown Daily Herald, the Columbia Daily Spectator, the Cornell Daily Sun, the Harvard Crimson, the Daily Pennsylvanian, the Daily Princetonian, and the Yale Daily News have added their voices opposing this policy.

I want to especially commend the staff of the Columbia Daily Spectator, in my district, for their leadership in organizing this statement.

The full text of the statement follows:

JOINT STATEMENT OF IVY LEAGUE NEWSPAPERS

The U.S. government proposes to send at least $81 million in military aid to an oppressive regime in El Salvador that clearly lacks a broad base of support.

President Reagan's view of the struggle in El Salvador is built on his misconception that every complex foreign policy issue is part of a larger U.S.-Soviet power struggle. It is a policy based on the notion that military might makes political right, an assumption which will never lead to constructive solutions in El Salvador.

The United States should withdraw its support from a government which kills and tortures. We urge all Americans to join us in calling for an immediate end to U.S. military intervention in El Salvador.

Current American policies will only prop up a right-wing military that has prevented the Salvadoran people from determining their own future. Though the tragic situation in El Salvador will not necessarily be resolved solely by American action, we urge Americans to support the following steps:

1. Eliminate all U.S. military aid to the Duarte regime and secure a pledge from the Reagan Administration to keep troops and advisors out of El Salvador.

2. Support current Congressional resolutions which point the way toward American withdrawal of aid:

The Dodd-Tsongas-Barnes-Solarz joint resolution calling for an internationally supervised cease-fire and negotiated settlement in El Salvador, where we believe conflict will never be resolved unless other nations cooperate.

The Studds bill in the House that would annul the Reagan Administration's claim that progress has been made in honoring human right in El Salvador.

3. Recognize Sunday's elections for what they are: a facade of legitimacy for a government whose future is in the hands of a right-wing army bent on eliminating its opposition at any cost.

4. Participate in grassroots demonstrations against U.S. policy in El Salvador. Americans should support local initiatives and attend Saturday's march on Washington to protest their government's intervention in El Salvador.

□ 1445

REAL WASTE OF TAX DOLLARS

(Mr. WALKER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I have heard it discussed on the House floor for several weeks now about how deeply we have cut to the bone an awful lot of programs in the social program area, and we have heard time and time again that what we have done is that we have cut the substance out of these programs, no more cuts can be made.

I want to inform the House, Mr. Speaker, that I have just discovered and confirmed as of today that some of the money used under a title X program just last month, one of the sources of funds that have been cut down so drastically, or at least so we are told, was used to sponsor something here in Washington, D.C., called National Condom Week.

National Condom Week was promoted, believe it or not, under the theme of "Help Make Washington Safe for Loving."

I have talked to the Washington, D.C., Planned Parenthood people, who sponsored this program, and they assure me that indeed Federal money was used for this project.

Let me tell you what the project consisted of. The project, for instance, included something they called a Rubber Disco—a dance described in most questionable terms.

Mr. Speaker, I cannot defend and I cannot imagine anyone else can defend this kind of use of taxpayer funds. Yet, this spending took place. It shows clearly that additional cuts can be made that slash out waste and abuse.

THE ENTERPRISE ZONE TAX ACT OF 1982—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-157)

The SPEAKER pro tempore (Mr. BARNARD) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and the Committee on the Judiciary and ordered to be printed:

(For message, see proceedings of the Senate of today, Tuesday, March 23, 1982.)

NATIONAL HOUSING ACT EXTENSION

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5708) to amend section 235 of the National Housing Act.

The Clerk read as follows:

H.R. 5708

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 235(h)(1) of the National Housing Act is amended by striking out the fourth sentence.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. GONZALEZ) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pending bill is a simple extension of the expiration date for the section 235 homeownership program. Without action from the Congress, this particular program will expire on March 31; this bill extends the life of the program until the end of fiscal year 1982.

The section 235 program is a housing subsidy that enables lower income families to buy homes. It is important to keep this program alive for these reasons:

First, there is the fact that the program addresses the needs of families that cannot otherwise afford to buy decent housing;

Second, because the homebuilding industry is in a state of clear depression and needs the stimulus that this program provides; and

Third, the extension will simply insure that funding authority approved last year will remain available.

Let me explain the section 235 program: It is a program that subsidizes the interest payments on home mortgages for families that do not have sufficient income to make payments on loans at current market rates. This subsidy is recaptured at the time the home is sold. This program is the only hope that a vast number of families with modest income have of ever being able to afford a home. It is also, in today's markets, one of the very few ways that builders have to make homes affordable and therefore sellable.

The building industry right now is at the depths of its longest and most severe crisis since the Great Depression. Housing starts at the present time are at less than a 1 million unit per year level—and this level is at least 1 million units less than the total demand. Put very simply, the demand is there, but the housing cannot be built because interest rates are too high for anyone—builder or buyer—to afford. Less than 10 percent of the people of this country today can afford to qualify for an average priced home. In my own hometown of San Antonio, for example, where housing costs are less than the national average, the typical home is priced at $50,000 or so, but monthly payments are about $820. To cover a mortgage, the buyer has to have an income of about $45,000 a year—which is twice what the average income of residents in my city earn.

With the housing industry in a state of depression, programs like section 235 represent a lifeline. What this bill does is simply to keep presently authorized housing units available for construction.

There are about 8,000 housing units that can be built if this bill is passed. Without the bill, those homes will simply not get built.

There is no additional cost to the Government to pass this bill; the funds have been authorized, and appropriations provided, for this program. The only purpose of the bill is to extend the deadline by which builders must complete their processing.

I do not believe this is a matter that should involve any controversy; it is a simple measure to enable the housing industry to maintain a little thread of help, a simple action to insure that the housing units that Congress intended to be built in this fiscal year actually do get built.

This bill has support on both sides of the aisle, and I urge its passage.

Mr. Speaker, in order to emphasize the critical need for this extension, I think the best thing I can do is to read into the RECORD at this point a letter which I received from the president of the National Association of Home Builders, Mr. Fred Napolitano, dated March 22, 1982:

NATIONAL ASSOCIATION
OF HOME BUILDERS,
Washington, D.C., March 22, 1982.

Hon. HENRY B. GONZALEZ,
Chairman, Subcommittee on Housing and Community Development, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN GONZALEZ: On behalf of the more than 114,000 members of the National Association of Home Builders I would like to urge immediate action on H.R. 5708, your bill to extend the Section 235 program through the end of Fiscal Year 1982.

As you know, the current authorization expires on March 31, thereby creating the need for an immediate extension. The bill you have introduced will accomplish this goal without providing any additional funding. Rather, it will assure that thousands of lower-income homebuyers will not lose the opportunity for homeownership provided under this program.

Current delays in construction can be attributed to a variety of uncontrollable factors, including harsh winter weather, delay in processing and buyer cancellations due to economic hardship. At a time when many builders are barely hanging on and depending upon commitments under this program to remain in business, immediate action on this bill is essential.

Mr. Chairman, I applaud your efforts to assure a rapid solution to this problem. I am hopeful that the full House will adopt this noncontroversial bill without delay.

Sincerely,

FRED NAPOLITANO,
President.

Mr. STANTON of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the passage of H.R. 5708. This legislation would extend until the end of the fiscal year the basic section 235 program.

The Reconciliation Act prohibits the Secretary from entering into new contracts for assistance payments under section 235 after March 31. There are a few exceptions to this, but basically it was our intention to let the program lapse as of that date.

There are two reasons to support a 6-month extension. As everyone in this Chamber knows, this has been an extremely harsh winter. In many sections of the country it was impossible for builders to move forward under the program. It would have been necessary to have reached the firm commitment stage which means a construction start.

The second reason is that there is no new money involved in extending the program. These funds have already been authorized and appropriated.

Therefore, Mr. Speaker, I urge the adoption of H.R. 5708.

Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 5708, the National Housing Act extension. Without this bill, the authority for HUD to enter into new contracts for the section 235 program—which provides homeownership assistance to low- and moderate-income families—is scheduled to expire at the end of this month. With the bill, this authority would extend through September 30, 1982.

Mr. Speaker, the administration's comprehensive economic program is fundamentally sound. However, in order to be successful, it must be perceived as fair. Equity must exist in the program if it is to be allowed the opportunity to work, and our decision on programs such as the one before us today will determine how a large number of Americans view this plan. The Federal deficit must be narrowed, but not in a way that is counterproductive to the goals of the program itself. No one segment of our population should be singled out to bear a disproportionate share of the burden of fighting high interest rates, unemployment, and inflation.

The extraordinarily bad weather that has been experienced this winter in my own home State of Delaware, as well as in most other States across the Nation, is undoubtedly a factor in the inability of homebuilders to meet the March 31 deadline. Surely, this is the worst possible time to withhold assistance—the mechanism for which is already in place and the funds for which have already been authorized and appropriated—from that portion of our population among the hardest hit by this recession.

Without this bill, the already limited opportunity for homeownership by low- and middle-income Americans will be further reduced. That is why I support this legislation. There are far better places to exercise restraint to achieve the much-needed reduction in our Federal deficit. We must focus attention on curbing and eliminating programs that provide assistance to those who do not legitimately need help, rather than on programs such as this.

In the interest of fairness, we should extend the time limit for HUD to enter into contracts under the section 235 program. I urge my colleagues to join me in support of this legislation.

□ 1500

Mr. STANTON of Ohio. Mr. Speaker, I yield 2 minutes to our friend, the distinguished gentleman from South Carolina, (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I rise in support of the passage of this extension. As my colleagues know, the housing industry, which has suffered tremendously in this time of economic recovery, I think, deserves to have whatever little shot in the arm we as Members of Congress can give to it.

One of the largest indicators of how the economy of this country is going is housing starts. We are talking about an extension for which, as our good friend from Delaware has said, funds have been authorized and they have already been approved and appropriated.

We are talking about a program that is due to expire now when the weather is starting to turn good across this country, when people are looking with some type of hope to the new type of economy which we have promised them and the hope with which this weather brings to young couples who would like to perhaps own their first home. I think if we do anything to help boost the housing industry, which provides so many jobs and provides so much of this economy, we would be doing a great thing ultimately for the architect of this economic recovery plan, and I urge this Congress to pass this bill and extend this expiration date so that we can now have new housing starts across this country and give hope to those who one day, long to be homeowners.

● Mrs. HECKLER. Mr. Speaker, the severity of this past winter which fortunately ended on March 20—is the best argument I can make to my fellow Members to vote for this greatly needed extension of the National Housing Act. The winter was harsh, even for Massachusetts, which requires hardiness in every year.

But familiarity does not mean we in Massachusetts or New England were—or are—prepared to deal with some of the adverse economic consequences. The housing industry in Massachusetts was particularly hard hit, as was the housing industry across the country.

Moreover, the delay in getting new housing construction underway will fall even more heavily on low-income people who had qualified for interest subsidies under section 235.

A "yea" on this measure is the only responsible way to respond to these weather and market conditions, which could not have been foreseen when the reconciliation vote was taken last summer. A "yea" vote on this measure means that work will go forward on upward of 9,000 homes this coming June—the anniversary of the original reconciliation vote—providing work for builders, carpenters, plumbers, masons, and, of course, needed homes for families.

With the homebuilding industry in a crippled state, due to high interest rates and other factors, this bill is needed as a boost, not a crutch.●

● Mr. ST GERMAIN. Mr. Speaker, I am pleased to add my support to that of the distinguished chairman of the Subcommittee on Housing and Community Development, my colleague from Texas (Mr. GONZALEZ) in urging the House to move expeditiously to approve H.R. 5708. This bill would extend the section 235 homeownership assistance program which is due to expire March 31 of this year to September 30 of this year.

Until 2 years ago, the section 235 homeownership program, which provides interest subsidies to people up to 95 percent of area median income to assist them in achieving homeownership, was a little used program. Enacted as part of the landmark Housing and Urban Development Act of 1968, the use of this program has been quite extensive in the last 2 years because of the poor conditions in the homebuilding industry. In many parts of the country, the section 235 program is the only program that is enabling homebuilders to keep their heads above the waters of financial bankruptcy. Because of provisions enacted as part of the Gramm-Latta substitute to the Reconciliation Act of last year, the Congress was forced to accept an early termination of this program. Now, Mr. Speaker, we are seeing the demonstrated need for Federal programs such as this one that sustains the homebuilding industry.

H.R. 5008 has widespread support from the housing industry and from Members on both sides of the aisle. I am pleased that we have the cooperation of the distinguished ranking minority member, my colleague from Ohio, BILL STANTON's, support for the prompt enactment of this bill.●

● Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 5708, legislation to extend the Federal Government's section 235 homeownership assistance program through the end of the current fiscal year of 1982.

The passage of the legislation before us under suspension of the rules is a relatively simple one, but one exceedingly important at a time when soaring interest rates and inflation is placing the American dream of homeownership in serious trouble.

By extending the section 235 homeownership assistance program beyond the March 31, 1982, expiration date through September 30, 1982, the House of Representatives can send a signal out to the homebuilding and construction industry that we want to keep alive a valuable Federal program that can assist them in selling houses.

On the national level, there are 8,000 reservations pending under section 235 at this point and, if the program is not extended, all of these units will be lost.

As Resident Commissioner from Puerto Rico, during the past several years, I have witnessed the dramatic slowdown in the homebuilding and construction industry on the national level and in our own island.

Fortunately, the Housing Subcommittee chaired by Congressman GONZALEZ has given every indication that it is working hard to resolve this situation, and to restore subsidized housing programs of the Federal Government so important to our local economy.

In Puerto Rico, I am informed that we have 239 housing units still being processed which could conceivably be lost if this legislation is not passed and, for that reason, this bill has my strong support.

Of this total, 150 units belong to an impressive development in the financial center of urban San Juan and the San Juan New Center, a core area in need of new housing units to solve relocation problems and to stimulate the economy in that sector of Puerto Rico.

Although no applications are pending due to the fact that no funds are available for new starts at the present time, these projects are still considered in the pipeline, being slowed down somewhat by high interest rates and the need to come up with additional financing even though the federally subsidized low interest rates are exceedingly helpful in a time of national slowdown in new housing starts.

I urge the passage of this legislation and support H.R. 5708.●

Mr. STANTON of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GONZALEZ) that the House suspend the rules and pass the bill, H.R. 5708.

The question was taken.

Mr. GREGG. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5708.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

EMERGENCY ALTERNATIVE WORK SCHEDULE EXTENSION

Ms. FERRARO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2254) to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

The Clerk read as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 et seq.) is amended—

(1) by striking out "over a 3-year period" in the first sentence of section 2;

(2) by striking out "the end of the 3-year period which begins on the effective date of this title" in section 102(c) and inserting in lieu thereof "the first day of the second pay period beginning after July 4, 1982"; and

(3) by striking out "the end of the 3-year period which begins on the effective date of this title" in section 202(d) and inserting in lieu thereof "the first day of the second pay period beginning after July 4, 1982."

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **DERWINSKI.** Mr. Speaker, I demand a second.

The **SPEAKER** pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The **SPEAKER** pro tempore. The gentlewoman from New York (Ms. Ferraro) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. Derwinski) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from New York (Ms. Ferraro).

Ms. **FERRARO.** Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1978, the Congress authorized Public Law 95-390 a 3-year experiment for Federal agencies on the use of alternatives to the traditional fixed schedule 8-hour workday. Since then, more than 325,000 Federal employees in 1,500 organizations have taken part in this successful experiment. If we do not act today and pass legislation to extend this program, alternative work schedules in the Federal Government will expire in less than one week.

The legislation we are considering, S. 2254, merely extends the authority for the current experiment until the beginning of the second pay period following July 4. This emergency legislation was considered by unanimous consent yesterday in the Senate and passed without objection. I regret having to ask the House to enact legislation on an emergency basis, but not only will it cost taxpayers millions of dollars if we do not enact this legislation today, but the Federal work force will be disrupted. Allowing termination of this program, which the Office of Personnel Management found to be "successful in most situations from the perspective of experimenting organizations and individuals" would truly be a disaster.

I will not recount all the benefits of this program except to say that it is a no cost, morale boosting, productivity increasing, service improving program. I do, however, feel compelled to recount the actions of the administration in dealing with this matter which have placed us in this position today. The law establishing the 3-year experiment required the administration to submit an interim report and legislative proposals by September 30 of last year. I had scheduled hearings last October so that Congress could consider AWS in a rational and timely manner. Unfortunately, those hearings had to be canceled because the administration did not submit the report or the legislative proposals mandated by law. Finally, in November OPM submitted an interim report which found the program to be successful. However, the administration did not submit the required legislative recommendations.

After becoming convinced that the administration was not going to act, I introduced legislation in January which would continue the provisions of the current successful program. At hearings before my subcommittee, the administration was not able to present a single incidence of problems in the program which could not be corrected under the existing program or the legislation which I had introduced. Despite that fact, the administration consistently refused to support my legislation although they had not sent up an alternative plan. On the day after my bill, H.R. 5366, was reported from the Post Office and Civil Service Committee without a single negative vote, the administration finally sent up their legislative proposal.

The administration proposal would have effectively ended alternative work schedules in the Federal Government. The administration would require a determination prior to the implementation of an alternative work schedule that it would, first, improve productivity or provide greater service to the public, and second, not add to the cost of agency operations. This is clearly an impossible task. In addition, the administration proposal would make AWS a unilateral management right and would take away rights of Federal employees and their representatives granted by this Congress in the Civil Service Reform Act of 1978. To this day, no member of this body has introduced that legislation.

On March 2 this House voted 255 to 142 in favor of H.R. 5366, the legislation which I introduced to permanently authorize the program. Unfortunately, that was not a sufficient vote to suspend the rules and pass the legislation. Since that time I and others have been attempting to negotiate with all interested parties so that this important program would be able to continue. When it became clear that a compromise was not likely to be reached the chairman of the authorizing committee in the other body introduced this legislation to give all parties more time to work out a compromise.

The legislation which we are now considering is the same legislation which was passed by the other body yesterday. I am sorry to have to tell this House that the administration will not support this simple extension. I must say that I do not understand their opposition.

The intent of this bill is simple. It would continue the current program for approximately 4 months. Any experimental flexible or compressed work schedule program established under the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (5 U.S.C. 6101 note) in effect on March 28, 1982, will not terminate by reason of: First, section 102(c) or section 292(d) of the 1978 act, as those sections were in effect prior to the amendments made by S. 2254; or second, the provisions of any collective bargaining agreement or experiment under the 1978 act which are based on section 102(c) or section 202(d). It is important that these programs continue so that the cost of irresponsible termination not be borne by the American public.

The termination date of this extension was selected by the Senator from Alaska, the chairman of the authorizing committee in the other body. I do not intend to wait until July to ask this House to again consider permanent legislation. At a time when Federal employee morale is at an all time low level, when we are asking Federal workers to work harder for less pay, to do more with fewer people, I urge this House not to permit this no cost program which is so important to Federal employee morale to lapse.

Mr. Speaker, I yield to the gentleman from Mississippi (Mr. Whitten), chairman of the Appropriations Committee for a unanimous-consent request.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON A BILL MAKING URGENT SUPPLEMENTAL APPROPRIATIONS FOR 1982

Mr. **WHITTEN.** Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. **CONTE** reserved all points of order on the bill.

MAKING IN ORDER ON TOMORROW OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE JOINT RESOLUTION 409

Mr. **WHITTEN.** Mr. Speaker, I ask unanimous consent that it may be in order on tomorrow or any day thereafter to consider in the House the joint resolution (H.J. Res. 409) making further continuing appropriations for the fiscal year 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. DERWINSKI. Mr. Speaker, now that we have seen the latest edition of the Whitten-Conte show, to bring us back to reality, I yield 3 minutes to the champion of Federal employees, the gentleman from Virginia (Mr. PARRIS).

Mr. PARRIS. Mr. Speaker, I rise in support of the adoption of this legislation S. 2254 which would extend the Federal employees flexible and compressed work week for 120 days. A few short weeks ago, the House failed to pass H.R. 5366, under suspension of the rules although 255 Members, a clear majority, voted for it. As a result, the flexitime program will expire next Monday unless we take action immediately.

I have been working with Senator TED STEVENS on this matter and requested him to offer an amendment in the other body that would extend the flexitime program until we could work out a more permanent agreement. Yesterday afternoon, Senator STEVENS offered an amendment which would extend flexitime for 120 days. That amendment was unanimously approved by the Senate. We now have the opportunity to show the support of the House for flexitime by approving this extension.

I have talked with the Office of Personnel Management on several occasions the past few days urging their support for this legislation. All we are asking for is a simple extension of a very important program. The extension is not permanent and it does not cost any money. There is absolutely no rational reason why OPM should oppose this extension and it is my hope that they will not do so.

Everyone benefits from flexible work schedules. The Federal Government benefits from the program because the increased morale has led to an increase in productivity. The general public benefits because flexible work schedules have increased operational hours and has meant greater accessibility to services being offered by the various agencies.

We are not asking that the Congress take action to make flexitime permanent, we are just asking that Congress allow this program to continue for 120 days so that we can work on a permanent program. When the House considered H.R. 5366, 255 Members voted in favor of the flexitime bill. I am requesting that these Members again show their support by voting for this extension.

☐ 1510

Mr. DERWINSKI. Mr. Speaker, I thank the gentleman for his inspiring remarks.

I yield 2 minutes to the gentleman from Virginia (Mr. WOLF), another great spokesman for Federal employees.

Mr. WOLF. Mr. Speaker, I represent a large number of Federal employees in Virginia's 10th District who have participated in the highly successful experimental work schedule program. I agree with the recent Office of Personnel Management report on the flexitime experiment which recommended that this worthwhile program be continued permanently. Because flexitime works, I have cosponsored legislation which would make permanent the Federal program which allows agencies to use alternative work schedules for employees. However, we are not here today to debate the merits of the permanent legislation. We are acting—and rightly so—to provide a temporary extension of flexitime while we work out a permanent solution to this matter.

I believe the flexitime experiment is worth continuing. I think it is an excellent idea—it shows vision and creativity in Federal management—and it is people who make it work.

I know a number of people, one in my own office, whose wife works at a particular agency, and could not work if flexitime were not available.

There are many people where one or the other will leave early and the other will go late, so that there is somebody home with the children. Nowhere is there any evaluation of the impact on that 2-year-old child or 5-year-old child or the impact on what it is to be 8 years old and know that your mother or father is there to see you off to school, or that there is somebody there to meet you at the bus.

We have to get away from the nuts and bolts type of thinking and consider the human approach. This does not cost the Government any money and provides high returns in the way of employee productivity and morale.

For the immediate, time is running out on the flexitime program. I urge my colleagues to extend the authority for the current experiment until the administration and Congress can resolve this matter. I am committed to the flexitime way of life. It deserves a new lease on life.

Ms. FERRARO. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in support of the legislation to extend the flexible and compressed work schedule for another 120 days. Instead of merely passing a stopgap measure to keep a good program from dying, we should be enacting permanent legislation to provide for the continued use of alternative work schedules. Time, however, has run out and the bill before us is the best we can do for the moment.

Let me take a moment to commend the persistence and commitment of the gentlewoman from New York (Ms. FERRARO). She has fought to pass legislation continuing the flexitime program, while it was being attacked from all sides. The administration has nitpicked every proposal, while belatedly producing its own suggestions which were quickly dismissed as unhelpful by those who know most about Federal flexitime. Some in the business community have unsuccessfully attempted to load an unrelated provision on the bill. There were even those in the labor community who expressed concern about various drafts. Through it all, Ms. FERRARO has pushed to keep flexitime going. Hundreds of thousands of Federal employees and millions of taxpayers are in her debt.

When permanent legislation was brought to the floor 3 weeks ago, I discussed the improvement in Government productivity, the increased service to the public, and the heightened morale of Federal employees which has come from the alternative work schedule program. Denver, Colo., which I have the honor of representing, has been the primary testing ground for Federal alternative work schedules. I can tell you the program has reduced absenteeism, reduced traffic congestion, and favorably impressed those who deal with the Federal Government.

Since that time, I have learned of the intensity which Federal employees and their families feel about the flexibility provided by alternative work schedule program. My office has been deluged with phone calls and letters asking why there is trouble extending the program. I wish I could explain to them what the administration finds wrong about keeping offices open longer hours and providing greater service to the public. I cannot.

Passage of this bill will keep the program going. We still need permanent legislation to assure continuity and predictability to those who use flexitime. Permanent legislation can also guarantee that alternative work schedule programs result in benefits to the Government and the taxpayer. For reasons that have already been explained, it is impossible right now to get permanent legislation enacted. The most prudent course for the moment is to avoid the large costs of closing down flexitime, by continuing the program, and then working to develop a consensus for the program's permanent continuation.

Mr. Speaker, let us not kill a valuable, no-cost, productivity-improving program. Let us pass this extension.

Mr. DERWINSKI. Mr. Speaker, first of all, I yield myself such time as I may consume.

Next Monday, the experimental Federal Employees Flexible and Compressed Work Schedules Act of 1978 expires. I supported the experiment, and, on the basis of the evidence, support continuation of the program, providing the admininstration and the Office of Personnel Management have the means to effectively manage and direct the efforts of the Federal work force.

That is a basic management requirement for this administration or any administration in giving priority consideration to the public interest.

I want to emphasize that President Reagan and OPM Director Donald Devine support permanent alternate work schedules in the Federal Government, but only with the proper management safeguards. While the flexitime experiment has been well received by Federal employees, that fact remains that it should not be viewed as an employee convenience. Federal managers should not be precluded from discontinuing work schedules that are not in the public interest.

As I mentioned at the outset, we are in a time bind in dealing with a complicated problem. What we are doing here today is buying some time with a simple 4-month extension of the existing flexitime program. That will give us time to work out an agreement that will give the administration the tools it needs and requires to manage what is a promising and innovative program.

While I am in complete accord with the administration's position, I am supporting the simple extension of the existing program.

Mr. Speaker, I apologize to the gentlewoman from Colorado and the gentlewoman from New York. I know they have been getting ready for weeks for this fierce battle. I now have to advise them that the OPM has withdrawn all their objections to this bill. They are perfectly pleased to take the 4 months extension.

I would like to think it was because of the pressure applied on this side of the aisle from people like the gentleman from Virginia (Mr. Wolf) and the gentleman from Virginia (Mr. Parris).

The point is that they have decided that wisdom and logic are clearly on the side of the extension. The gentlewomen have made a very proper case. Flexitime has worked. It is a good management tool.

In the 4 months left, Senator Stevens will work with us on the House side to see that we get a proper bill. I commend the gentlewoman from New York for not only her leadership, but her perseverance.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I rise in support of the motion to suspend the rules and pass S. 2254, legislation extending the experimental alternative work schedules program through the first day of the second pay period beginning after July 4, 1982.

Mr. Speaker, S. 2254, which the Senate passed yesterday, is a simple extension of the current AWS program. If the House does not pass S. 2254, the result is predictable: The alternative work schedule program will terminate on March 29, 1982.

As a long-time supporter of the AWS program and as a member of the Subcommittee on Human Resources, which has jurisdiction over this issue, I have come to recognize that this program significantly boosts employee morale and contributes to increasing Government efficiency. Indeed, the Office of Personnel Management found that a vast majority of participating supervisors and employees strongly endorse this program.

As you will recall, an effort earlier this month to pass under suspension a permanent authorization of the AWS program was defeated in the House.

While I recognize the concerns the administration previously had with the effort to permanently authorize the AWS programs, I wish to point out to my colleagues, that the measure before us today, is merely a temporary extension of the AWS program. It is my hope that during this extension period the administration and supporters of this program can reconcile any differences so that what has proved to be a productive program, beneficial to both the Government and to its employees, can continue uninterrupted.

Accordingly, I urge my colleagues to suspend the rules, and pass S. 2254.

Ms. FERRARO. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. Hoyer).

Mr. HOYER. Mr. Speaker, I thank the gentlewoman for yielding.

I want to join my many colleagues who have already stood on the floor congratulating the chairwoman for her perserverance and for her effective representation with respect to this issue.

I think it has been universally said on this floor today that flexitime in the main has proved to be a very positive benefit in terms of productivity, but also from my perspective another very important aspect and that is morale. Probably at no time in the long history of the Federal Government has the morale of the Federal employee been at any lower ebb than it is today.

It is therefore, it seems to me, appropriate that we take this action to recognize the program's effectiveness.

I think the ranking minority member of the Post Office Committee was there at the hearing and there was really nobody, including the representatives of OPM, who said that the program was not in the best interests of the Government. It is true that they have some concerns about it.

I am now very pleased to hear the ranking minority member say that OPM has now decided to not oppose this extention, which will give us time to continue to look at this very positive program. It think it is a program which has proven itself in the trial period and ought to be permanently continued. I was one of those who strongly supported it when it was last on the floor of this House.

I am very hopeful that we will now see the unanimous approval of this extension and that we will be able to work out the permanent authorization for flexitime in the very near future.

Ms. FERRARO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Patterson).

Mr. PATTERSON. Mr. Speaker, I thank the chairwoman for yielding to me on this occasion to speak for this important legislation. I also commend her leadership in preparing and bringing this bill before us today.

I want to indicate to my colleagues that on the last occasion that we voted on the flexitime issue, I cast a no vote. On the bill today I fully intend to cast an aye vote and I urge all those who did vote no previously to reevaluate their position.

I think the bill has been handled very well. I think that flexitime plans should be made available to employees. This will certainly be of great assistance to working families where both partners work and most particularly in cases where a single parent works and has young children to care for.

I urge each and every person who voted aye last time to vote aye again and those who voted no to change their vote with me, reassessing their point of view and to vote aye today.

I thank the gentlewoman for yielding to me.

Mr. DERWINSKI. Mr. Speaker, I yield 14 minutes to the gentleman from North Carolina (Mr. Johnston).

□ 1520

Mr. JOHNSTON. I thank the gentleman for yielding to me.

Mr. Speaker, this might well be called the Bureaucrats Are Better Than Real People Act; Extension of 1982, because I just do not understand why those employed in air-conditioned offices on the banks of the Potomac should be allowed the flexibility of their working hours when that same right is denied my millworkers down working in unair-conditioned mills under the Walsh-Healy Act who are making the clothes that these bureaucrats, especially in the armed services, are wearing.

It seems to me that what is sauce for the goose should be sauce for the gander. Why should our mills and our factories be required to pay overtime after 8 hours? Why should our workers in industry supplying the U.S. Government be forced to work 5 days a week under the Walsh-Healy Act, or their employer forced to assess against the American taxpayer a premium for overtime work when the bureaucrats up here are allowed the privilege of only coming to work 4 days a week, or maybe 3 days under flexitime.

My distinguished colleagues have pointed out what it does for the families of the bureaucrats. Well, I would think the same thing would be true for the families of my millworkers and my factory workers down in North Carolina, and the other factory workers throughout the country, a privilege which is denied their families under Walsh-Healy Act.

My distinguished colleagues have pointed out how it enhances productivity. Well, should the taxpayers of America not be entitled to the same enhanced productivity in the defense contracts which are now restricted under Walsh-Healy and the Contract Work Hours Act?

Morale. Do you not think workers in the private sector now on 3-day weeks and 3-week months are suffering from lack of moral? Should not they, too, enjoy the wonderful world of flexitime? But all of this is denied them under Walsh-Healy.

I wonder if my distinguished colleagues would be willing to provide the private sector the same flexibility that they are so interested in providing the bureaucratic sector by repealing the Walsh-Healy Act and letting the private sector simply comply with the Wage and Hour Act.

Mr. Speaker, I yield to my distinguished colleague from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. I appreciate the gentleman yielding to me.

Mr. Speaker, unlike my colleague, I think this probably ought to be termed the Work As You Wish, Work When You Wish Act of 1982.

You know, it has been said here that the Federal employee is suffering from a tremendous loss of morale. I cannot understand why, Mr. Speaker. He is one of the most highly paid employees in the country. He has more benefits than any employee in any industry located anywhere in this world.

Can you imagine the autoworkers union, which is now negotiating contracts with General Motors and other automobile manufacturers, wanting the same thing? The gentleman who puts the headlights on would have to wait 3 hours for the gentleman who puts the bumper on to finish building the automobile.

And it has got to be said the same of our Federal employees, Mr. Speaker. There must be jobs that are linked to each other where one worker has to withhold what he or she would be doing in order to wait for his or her fellow employee to report to work under the flexitime system.

What about the employee who tells his supervisor that he reported to work at 7, but the supervisor chose not to come in until 10 and has no idea whatsoever whether the employee was there at 7 or not.

Maybe it is working well for the employee, but that employee is supposed to be working well for his employer, which is the taxpayers of this country. I think we are entitled to restore some discipline among our workers for the Federal Government, and some productivity. It is time that we exercised some self-control and let the American taxpayer know that his employees, the Federal Government's employees, were on the job every morning at a specified hour and did not retire in the evening until a specified hour.

If it would create some traffic jams, I would say to the gentlewoman from New York, perhaps she would want to decentralize some of this Federal Government and send some of it to South Carolina, where we have no problems with traffic jams whatsoever.

Mr. Speaker, I think we are doing a terrific injustice to our employers, the people who employ us, the taxpayers of this country, to let them permit their employees to come to work when they wish and work as long as they wish.

Mr. JOHNSTON. Mr. Speaker, I yield such time as he may require to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Speaker, listening to the last gentleman speak, I was reminded some of the cars I have seen in the past come out of Detroit looking as though the person with the bumper had to wait 3 hours for the person with the headlight. Hopefully we are addressing those problems in those negotiations going on now.

I rise to come down in between what I have been hearing from both sides today. I happen to think the concept of flexitime does make sense. I think that it can improve productivity. But to suggest there have not been problems is to close your eyes to the reality of what has occurred in the Federal Government in some specific instances.

I cited when I spoke against the permanent extension that came before us some weeks ago the problem that we have seen with the Department of Labor, I referred to the article that appeared in the Washington Post on the subject, the allegations of which have not been contradicted, at least to my satisfaction.

Just yesterday I had an opportunity to speak with an employee of the Labor Department, a long-time member of the other party, who uses flexitime and feels that it does help him with time with his family. But he also told me that, in his opinion, the taxpayer is being ripped off at the present time with the abuses of flexitime that have crept up in certain parts of the Department of Labor.

I would suggest that what the administration has spoken about is the ability to give management those tools necessary to make sure that those abuses do not continue to occur and are not more widespread than those in the experimental program. That is all they are asking. I am sorry that we do not have a bill here that takes care of those problems.

When we were here 3 weeks ago, we were told that flexitime was emergency legislation and had to be passed on the suspension calendar with no opportunity for amendment. But we have had 3 weeks now. We have been here on the floor. We have had time to work on it. But, no, we have not used that chance to have this bill come before us because we have been dealing with such weighty things as the Hoboken Pier bill.

It seems to me we have got to get involved with these issues, and we have got to quit pushing them off.

We have reached a compromise between the administration and those that support a simple extension on a permanent basis of flexitime; hopefully in the next 4 months we can achieve what many of us seek, the concept of flexitime with the recognition that there are some severe problems and the recognition that when an administration comes into power, they deal on the management side. They have been elected by the American people to manage this Government from the executive branch. The Federal workers have not been given that mandate. They are to cooperate with management. And to the extent that we take out of the hands of the elected representatives of the people, the President of the United States and his administration, the ability to make those decisions that they must make in order to have a fully functioning, efficient Government, we make a mistake.

I would hope that we would keep that in mind. I think it would be very difficult for us to go home to our districts having a simple permanent extension of this bill, as was suggested a few years ago, without dealing with some of the real problems that do exist in the experimental programs of flexitime.

This bill is a good compromise at this time, but let us not fool the American people and say that flexitime is a panacea and that it does not have some problems. It does have some problems. These are real problems. The fact that in 3 weeks we have not been able to reach an adequate compromise on a permanent basis suggests that those problems are difficult and they must be addressed.

Mr. JOHNSTON. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. Hillis).

Mr. HILLIS. I thank my colleague for yielding to me.

Mr. Speaker, I had not really intended to take part in this debate, but yesterday, as a member of the Investigations Subcommittee of the Veterans' Affairs Committee, we held hearings in Memphis, Tenn., concerning the veterans' hospitals in that area and throughout the State of Tennessee, and the top people from those installations appeared before us.

Among other things, I do recall late in the morning a question was asked about this type of proceeding. To my surprise, the responses were negative. Basically, what we were told, at least so far as our group was concerned, it did not improve their productivity and it presented a great number of problems for the managers in managing the facilities, and particularly when it was necessary to bring groups of employees together. I suppose that would be comparable to the time the gentleman talked about the operation of an assembly procedure. But when it was necessary to have conferences and meetings, sometimes Joe Doe or Jane Smith just wasn't there because they were on the flexitime program and it was extremely difficult for managers to program work schedules and to make them work as they had been working before.

So on the basis of what I heard yesterday, I do not believe I can support the bill.

Mr. JOHNSTON. I thank the gentleman from Indiana.

Mr. Speaker, people who support this bill are voting for a two-tier system of employment rules and regulations for this country, one in favor of the bureaucrats and the other against the American worker under Walsh-Healy.

Mr. Speaker, I yield the balance of my time to the gentleman from Illinois (Mr. Derwinski).

Mr. DERWINSKI. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman has 5 minutes remaining.

□ 1530

Mr. DERWINSKI. May I take just a minute, and this will close up debate on this side, but I would like to clear a few misconceptions.

First, the OPM, speaking for the administration, is in support of this bill. As far as I am concerned, there should be no controversy left unless people want to go beyond the administration position.

Second, let us understand that all we are passing is a simple 4-month extension, nothing else, and in that 4 months, the House and Senate will continue to work to see if we can get a package together that will in turn be acceptable to Dr. Devine, the OMB, and other spokesmen in the administration.

If a solution is reached, we will have no real controversy, a bill in proper form will be passed sometime later in July. If we do not reach an agreement, this act will die at the end of July. So, I would strongly recommend that for the purposes of ongoing negotiation, for the goal that the President, the Director, Mr. Devine, has in administrative reform and administrative responsibility, that we now support this measure.

Mr. Speaker, I yield back the balance of my time.

Ms. FERRARO. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Solarz).

Mr. SOLARZ. Mr. Speaker, I thank the gentlewoman for yielding. I want to compliment her on her efforts to resuscitate flexitime from the imminent death that confronts it if this legislation is not adopted.

I think it is probably fair to say that, if one can use a medical analogy, flexitime is now in the intensive care unit and hope is rapidly fading for its survival. If, however, this legislation is adopted extending the experiment for 4 months, there is at least the possibility that a formula can be found which is acceptable to the administration and to the Federal employee unions, which would enable the Congress to continue flexitime on a permanent basis.

I think that, given the fact that this legislation went through the Senate unanimously, I gather, yesterday, that hopefully the House will approve it by a comparably significant margin today. Flexitime may not be perfect—nothing in our world is these days—but I submit that it is the best thing to have hit the Federal Government, at least in terms of its personnel policies, since they started to serve apple pie in the Federal cafeterias.

This is a program from which virtually everyone who participates benefits, and no one suffers. Over 300,000 Federal employees participated in the flexitime experiment. Ninety percent of those who did participate pronounced themselves satisfied with it. Eighty-five percent of the Federal managers who were responsible for administering the flexitime programs said that it was a productive experiment and that it in no way created any problems for them in terms of their ability to carry out the mission for which they were responsible.

The administration has told us that we could only continue flexitime if it actually results in an improvement or an increase in productivity, and it seems to me that this reverses what ought to be the burden of proof. I think that as long as flexitime can make the job a little bit more attractive for the Federal employees who participate in it, we ought to permit it, so long as it does not result in a decrease in productivity.

Hopefully, if this bill passes today, we will be able to find a way to address the legitimate concerns of the administration, but enable the flexitime program to continue. There is significant and substantial evidence on the record that flexitime has in fact resulted in improvements in productivity; that it has made the lives of a few hundred thousand Federal employees and their families a little bit easier by giving them some flexibility in terms of the hours in which they work, but at the same time it has enabled the taxpayers to make sure that they get a full day's work for a full day's pay. It has also contributed marginally to reducing traffic congestion in cities where there are substantial numbers of Federal employees. In some instances, flexitime has actually extended the number of hours in which Federal agencies are open to the public, without any additional personnel costs.

This is an experiment which has proved itself in a dozen different ways, and it really would be unfortunate if we let it die because of some quintessentially bureaucratic objections which have no relationship to reality.

So, I want to thank the gentlewoman from New York for giving me the opportunity to speak and to congratulate her for her efforts to keep Federal employees on flexitime. As the father of this program, who introduced the legislation which authorized it a few years ago, I have more than a passing interest in the survival of this little baby, and I appeal to my colleagues to let the program continue so that it does not die on March 29.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. SOLARZ. I yield to my very good friend, the senior statesman from Illinois.

Mr. DERWINSKI. I wonder if the gentleman would put on his other hat as a statesman and tell us, in all his travels around the world, if any other countries use flexitime.

Mr. SOLARZ. I have to confess to my very good friend from Illinois that on my various and intermittent trips around the world that I have worked so hard concentrating so hard on the foreign policy problems that I go there to find out about, that I have not had the time to inquire about flexitime. So, I wish I could claim that this was a universal experiment, but the truth is, all I know about is what we have managed to do with it here in the United States.

Mr. DERWINSKI. It is my impression the gentleman really does not travel enough.

Mr. SOLARZ. Well, I would say that coming from my distinguished friend, in light of his recent experiences, I am not sure that is an admonition I want to take to heart.

Ms. FERRARO. Mr. Speaker, I thank the gentleman for his statement. I, too, like my colleague from Illinois, would like to correct a few misconceptions that occurred during the final moments of the debate. My colleagues from North Carolina and South Carolina seem to be under the impression that this program is not used in the private sector. As a matter of fact, since the early 1970's an increasing number of private businesses have adopted a variety of flexible work schedules for employees. Today, it is estimated that nearly 10 million full-time workers enjoy flexible work schedules and compressed workweeks. Those variations from the standard fixed schedule, 8-hour workday, evolved as a means of coping with social change, particularly the dramatic increase of women in the work force and a desire on the part of all employees for a better accommodation between their working and personal lives.

The second point made is that Walsh-Healey is not covered in this legislation, for a very good reason. This subcommittee has no jurisdiction over that legislation. We have only jurisdiction over the Federal work force.

On the comment made by my colleague from California that we several weeks ago did bring the bill up, and had hoped to have something by this time, and he indicated his disappointment that we do not, let me also indicate that I am disappointed that we do not have a permanent authorization for this program at this time, but it is not for want or for lack of trying. As a matter of fact, for the past 3½ weeks we have been negotiating with OPM, and the administration has been absolutely intransigent on moving any sort of legislation.

Finally, let me say that I am delighted that OPM has decided at this last minute not to oppose the extension of this legislation for 4 months. I would hope that the two gentlemen mentioned by my colleague from Illinois, the gentlemen from Virginia (Mr. PARRIS and Mr. WOLF), will work with their colleagues and the administration so that we do move for permanent authorization of this program in the very near future.

● Mrs. HECKLER. Mr. Speaker, the bill we are now considering, S. 2254, extends until July 29, 1982, the Federal Government's experiment in flexitime. During debate in this Chamber on H.R. 5366, it was brought out that this experimental program has produced successful results that have exceeded most expectations. A total of 300,000 Federal employees have participated in the program, of whom 90 percent report that they are pleased with the opportunities it provides. In addition, a great majority of the Federal managers responsible for supervising these flexitime experiments express satisfaction with the results.

Flexitime represents an opportunity to make the conditions of employment easier for Federal employees that have families—who are trying to balance the demands of bringing up children with those of fulfilling job responsibilities. In circumstances in which both parents are working, flexitime offers an opportunity to meet both demands, thereby increasing the enjoyment not only of family life but also job satisfaction, with corresponding productivity.

The Federal experience closely parallels private sector activity, where employers have found that they benefit from flexitime and that their employees have more control over their working lives. In particular, flexitime reduces the conflicts between work and personal needs of working women. In the private sector, over 10 million workers in thousands of different firms enjoy flexible schedules and compressed workweeks.

We need to enact this legislation today, to insure that the authority to continue the flexitime experiment will not expire, thus ending one of the most promising personnel innovations in the history of the Federal Government. I appeal to my colleagues on both sides of the aisle to support this legislation so that we can continue to provide Federal employees with the opportunities that this legislation would make possible.●

● Mr. FORD of Michigan. Mr. Speaker, I rise in support of S. 2254.

Several weeks ago, when the committee bill on flexible and compressed work schedules (H.R. 5366) was considered by this body, I pointed out that if we failed to enact legislation continuing these popular programs, that failure would be due to first, the opposition of the administration which wants to remove initiation or termination of flexible schedules from the bargaining table, and second, to attempts in the other body to use the Federal employees' program as a vehicle for enacting nongermane amendments affecting the working hours of some private sector employees. Sadly, permanent legislation is not before us today for those very reasons.

Although the parties involved have made good faith efforts to resolve their differences, the administration remains adamant that agency heads must have unilateral authority to terminate existing programs. The administration further insists that this authority be totally nonreviewable. The labor organizations, whose programs and collective bargaining agreements would be threatened by such broad authority, understandably object to the administration position. Existing programs were entered into as a result of collective bargaining and are covered by applicable collective bargaining agreements. The law in effect when these agreements were negotiated (as interpreted by the Federal Labor Relations Authority) provides that any termination of these programs is subject to negotiation. The administration now wants Congress to pass a law permitting agency heads to break these negotiated agreements presumably to bail the administration out of some contracts it feels are not in its interest. The administration wants Congress to permit it to abrogate collective bargaining agreements which are signed and sealed.

So, what we have before us today is a bill which would simply extend the existing program for approximately 4 months. If the bill is enacted, these programs will continue.

This morning, we learned the administration is opposed not just to the legislation reported earlier by the Committee on Post Office and Civil Service, but also to S. 2254, a simple 4-month extension, which could provide a cooling-off period during which the parties at odds perhaps could resolve their differences. Now we hear they support S. 2254. I am at a loss to understand the administration's earlier opposition, unless, it really is not serious about continuing this program. We on our side have done everything we can to keep these programs going. If a permanent program is not eventually enacted, Federal employees will understand it is the administration which is to blame for the loss of this popular program.●

The **SPEAKER** pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. FERRARO) that the House suspend the rules and pass the Senate bill, S. 2254.

The question was taken.

Mr. JOHNSTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Ms. FERRARO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous material, on the Senate bill, S. 2254.

The **SPEAKER** pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

□ 1540

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to the provisions of clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 5014, H.R. 4750, S. 146, S. 2166, H.R. 4709, H.R. 2528, H.R. 5708, and S. 2254, all by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

EXTENDING THE LIFE OF THE GATEWAY NATIONAL RECREATION ADVISORY COMMISSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5014.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 5014, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 30, not voting 35, as follows:

[Roll No. 32]

YEAS—368

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
English
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McEwen
McGrath
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Roth
Roybal
Rudd
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—30

Archer
Brodhead
Brown (CO)
Coats
Collins (TX)
Crane, Daniel
Crane, Philip
Dannemeyer
Dreier
Edwards (OK)
Emerson
Evans (GA)
Fields
Gramm
Hance
Hansen (ID)
Jeffries
Johnston
Leath
Loeffler
Martin (IL)
McDonald
Paul
Roberts (SD)
Rousselot
Smith (OR)
Stenholm
Stump
Walker
Weber (MN)

NOT VOTING—35

Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Foglietta
Gejdenson
Green
Hansen (UT)
Hendon
Kindness
LeBoutillier
Lent
Marks
McCloskey
McCollum
McCurdy
McDade
McHugh
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo

□ 1550

Messrs. JOHNSTON, DREIER, ROUSSELOT, EMERSON, and HANCE changed their votes from "yea" to "nay."

Mr. GLICKMAN changed his vote from "nay" to "yea."

So—two-thirds having voted in favor thereof—the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

AUTHORIZING STUDY FOR ESTABLISHMENT OF FRANKLIN D. ROOSEVELT WARM SPRINGS LIVING MEMORIAL

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4750, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 4750, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 288, nays 107, not voting 38, as follows:

[Roll No. 33]

YEAS—288

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beilenson
Benedict
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Burton, Phillip
Chappell
Chisholm
Clausen
Clay
Coelho
Collins (IL)
Conte
Conyers
Coyne, William

Crockett
D'Amours
Daniel, Dan
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Early
Edgar
Edwards (AL)
Edwards (CA)
English
Erdahl
Evans (DE)
Evans (GA)
Fary
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gramm
Gray
Guarini
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hance
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hillis
Holland
Howard
Hoyer
Hubbard
Huckaby
Hughes

Hutto
Hyde
Ireland
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Levitas
Lewis
Long (LA)
Long (MD)
Lott
Lowry (WA)
Luken
Lundine
Markey
Marlenee
Martin (IL)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McEwen
McGrath
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter

Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rodino
Roe
Rogers
Rose
Rosenthal
Roth
Rousselot
Roybal
Sabo
Santini
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Simon
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
St Germain
Stanton
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—107

Archer
Beard
Bedell
Bereuter
Bliley
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney

Chappie
Cheney
Clinger
Coats
Coleman
Collins (TX)
Conable
Corcoran
Coughlin
Courter
Coyne, James
Craig
Crane, Daniel

Crane, Philip
Daniel, R. W.
Dannemeyer
Daub
Dreier
Duncan
Dunn
Dyson
Edwards (OK)
Emerson
Erlenborn
Evans (IA)
Fields

Forsythe
Frenzel
Glickman
Gradison
Gregg
Grisham
Gunderson
Hagedorn
Hammerschmidt
Hansen (ID)
Hansen (UT)
Hartnett
Hiler
Hollenbeck
Holt
Hopkins
Hunter
Jacobs
Jeffords
Jeffries
Johnston
Livingston
Loeffler

Lowery (CA)
Lujan
Lungren
Madigan
Marriott
Martin (NC)
McDonald
Michel
Miller (OH)
Moore
Moorhead
Oxley
Paul
Quillen
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rudd
Sawyer
Schulze

Sensenbrenner
Shumway
Shuster
Siljander
Skeen
Smith (AL)
Smith (NE)
Smith (OR)
Solomon
Spence
Stangeland
Staton
Stump
Taylor
Thomas
Walker
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Winn
Young (AK)

NOT VOTING—38

Ashbrook
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)

Fascell
Foglietta
Gejdenson
Green
Hendon
Horton
Kindness
LeBoutillier
Lent
Marks
McCloskey
McCollum
McCurdy

McDade
McHugh
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo
Trible

□ 1600

Mr. DUNCAN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize a study of the area of Warm Springs, Ga., historically associated with the life of Franklin D. Roosevelt, as a living memorial, and for other purposes."

A motion to reconsider was laid on the table.

HISTORIC PRESERVATION FOR CAMDEN, S.C.

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 146.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the Senate bill, S. 146, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 243, nays 152, not voting 38, as follows:

[Roll No. 34]

YEAS—243

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony

Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beilenson

Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boland
Bolling

Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Burton, Phillip
Butler
Byron
Campbell
Chappell
Chisholm
Clay
Clinger
Coelho
Collins (IL)
Conyers
Coyne, James
Coyne, William
Crockett
Daniel, Dan
Davis
de la Garza
Dellums
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
English
Erdahl
Evans (DE)
Evans (GA)
Fary
Fascell
Fazio
Ferraro
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Ginn
Gonzalez
Gore
Gray
Guarini
Hall (OH)
Hammerschmidt
Hance

Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hertel
Hightower
Holland
Holt
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Latta
Leach
Leath
Lehman
Leland
Levitas
Long (LA)
Lott
Lowry (WA)
Lujan
Luken
Lundine
Markey
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Moffett
Mollohan
Montgomery
Murphy
Napier
Natcher
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patman
Patterson

Pease
Pepper
Perkins
Peyser
Pickle
Porter
Price
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Roybal
Sabo
Savage
Scheuer
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shelby
Simon
Smith (IA)
Smith (NJ)
Smith (PA)
Solarz
Spence
Stark
Staton
Stenholm
Stokes
Studds
Stump
Swift
Synar
Traxler
Udall
Vander Jagt
Vento
Volkmer
Wampler
Washington
Watkins
Waxman
Weaver
Weiss
White
Whitley
Whitten
Williams (MT)
Williams (OH)
Wilson
Wirth
Wolf
Wolpe
Wright
Wyden
Yates
Yatron
Young (AK)
Young (MO)
Zablocki
Zeferetti

NAYS—152

Applegate
Archer
Beard
Bedell
Benedict
Bereuter
Bethune
Bliley
Boner
Brown (CO)
Broyhill
Burgener
Carman
Carney
Chappie
Cheney
Clausen
Coats
Coleman
Collins (TX)

Conable
Conte
Corcoran
Coughlin
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Deckard
DeNardis
Dorgan
Dreier
Dunn
Edwards (OK)
Emerson

Erlenborn
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fithian
Forsythe
Frenzel
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gradison
Gramm
Gregg
Grisham
Gunderson
Hagedorn

Hall, Ralph
Hall, Sam
Hamilton
Hansen (ID)
Hansen (UT)
Harkin
Heckler
Hiler
Hillis
Hollenbeck
Hopkins
Horton
Hunter
Jacobs
Jeffords
Jeffries
Kramer
Lagomarsino
Lee
Lewis
Livingston
Loeffler
Long (MD)
Lowery (CA)
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
McClory
McDonald
McEwen
McGrath
McKinney
Michel
Miller (OH)
Mitchell (NY)
Moore
Moorhead
Morrison
Mottl
Myers
Nelligan
Oxley
Parris
Paul
Petri
Pritchard
Regula
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roth
Rousselot
Rudd
Santini
Sawyer
Schneider
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (OR)
Snowe
Snyder
Solomon
St Germain
Stangeland
Stanton
Stratton
Tauke
Tauzin
Taylor
Thomas
Trible
Walgren
Walker
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Winn
Wylie
Young (FL)

NOT VOTING—38

Ashbrook
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Derwinski
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Foglietta
Fountain
Gejdenson
Green
Hendon
Kemp
Kindness
LeBoutillier
Lent
Marks
McCloskey
McCollum
McCurdy
McDade
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo
Wortley

□ 1610

The Clerk announced the following pairs:

On this vote:

Mr. Derrick and Mrs. Boggs for, with Mr. Bailey of Missouri against.

Mr. Fountain and Mr. Neal for, with Mr. McCollum against.

Mr. DAN DANIEL and Mr. HYDE changed their votes from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERMITTING ICA TO PROVIDE DISTRIBUTION OF THE SLIDE SHOW "MONTANA"

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2166.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI) that the House suspend the rules and pass the Senate bill, S. 2166, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 11, not voting 34, as follows:

[Roll No. 35]

YEAS—388

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCurdy
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Roth
Rousselot
Roybal
Rudd
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—11

Brown (CO)
Conable
Jeffries
Lee
Lundine
McDonald
Obey
Paul
Petri
Stump
Weber (MN)

NOT VOTING—34

Ashbrook
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Foglietta
Gejdenson
Green
Hendon
Kindness
LeBoutillier
Lent
Marks
McCloskey
McCollum
McDade
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo
Smith (IA)

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1620

PROMPT PAYMENT ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 4709, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, H.R. 4709, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 0, not voting 37, as follows:

[Roll No. 36]

YEAS—396

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Roth
Rousselot
Roybal
Rudd
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—37

Ashbrook
Badham
Bailey (MO)
Bethune
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Fascell
Foglietta
Forsythe
Gejdenson
Green
Hendon
Kindness
LeBoutillier
Lent
Livingston
Marks
McCloskey
McCollum
McDade
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be discharged from further consideration of the Senate bill (S. 1131) to require the Federal Government to pay interest on overdue payments and to take early payment discounts only when payment is timely made, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

□ 1630

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Delinquent Payments Act of 1981".

INTEREST ON DELINQUENT PAYMENTS

SEC. 2. (a) The Administrator of the Office of Federal Procurement Policy (hereafter in this Act referred to as the "Administrator") shall promulgate regulations requiring each agency to include in any contract provisions specifying—

(1) due dates for payment; and

(2) that the United States will pay interest on any amount which is not paid by the due date for payment under the contract.

(b)(1) Except as provided in paragraphs (2) and (3), the Administrator shall promulgate regulations requiring each agency which enters into a contract to pay interest to the contractor on any amount which is not paid by the due date for payment under the contract or, in any case in which the contract does not specify a due date for payment, on any amount which is not paid within thirty days after the agency receives a proper invoice for such property or services.

(2) In the case of any contract for the procurement of meat or meat food products, the Administrator shall promulgate regulations requiring each agency to—

(A) specify in any such contract a due date for payment which is not later than seven days after delivery of each item under the contract;

(B) make payment by such due date, or, in the case of a contract in which a due date is not specified, within seven days after delivery of each item under the contract; and

(C) pay interest on any amount which is not paid in accordance with subparagraph (B).

(3) In the case of any contract for the procurement of any perishable agricultural commodity, the Administrator shall promulgate regulations requiring each agency to—

(A) specify in any such contract a due date for payment in accordance with the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499 et seq.);

(B) make payment by such due date and in accordance with such Act; and

(C) pay interest on any amount which is not paid by the due date for payment specified under the contract or, in any case in which the contract does not specify a due date for payment, to pay interest on any amount which is not paid in accordance with such Act.

(c) In the case of any contract which provides for separate payment for partial delivery or execution of property or services, the Administrator shall promulgate regulations requiring each agency—

(1) to include in such contract a due date for each such separate payment; and

(2) to pay interest on any amount of each such separate payment which is not paid by the due date specified for such payment under the contract.

(d)(1) Interest payable under rules and regulations promulgated under this Act shall be computed for the period beginning on the day after payment is due and ending on the day on which payment is paid. Interest shall be computed at the rate determined by the Secretary of the Treasury for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611). The Secretary of the Treasury shall publish such rate in the Federal Register.

(2) Any amount of interest which is not paid at the end of any thirty-day period beginning on the day after payment is due shall be added to the principal amount of

the amount due and interest shall accrue on each such additional amount.

(e) An agency shall pay any interest charges required by this Act out of funds made available for the administration of agency programs. This Act does not authorize the appropriation of additional funds to any agency for the payment of interest required by this Act.

(f) This Act does not require an agency to pay interest with respect to a contract if performance is not in accordance with the terms of the contract.

(g) Regulations required under this section shall be promulgated not later than ninety days after the date of enactment of this Act. The Administrator may not delegate to any other person or office the responsibility for promulgating regulations under this Act.

LIMITATION ON DISCOUNT PAYMENTS

SEC. 3. If a contractor offers an agency a discount from the amount due under a contract for property or services in exchange for payment within a specified period of time, the agency may make payment in an amount equal to the discounted price only if payment is made within the specified time.

CONGRESSIONAL OVERSIGHT

SEC. 4. (a) Within sixty days after the end of each fiscal year, each agency shall submit to the Director of the Office of Management and Budget a report concerning the performance of the agency in making payments under contracts during the preceding fiscal year. The report shall include a description of any actions that the agency has taken or will take to assure timely payment under contracts and an accounting of delinquent payments and interest payments during the preceding fiscal year.

(b) Within one hundred and twenty days after the end of each fiscal year, the Director of the Office of Management and Budget shall submit to the Committee on Governmental Affairs of the Senate and to the Committee on Government Operations of the House of Representatives a report concerning the performance of the agencies in paying contractors during the preceding fiscal year. Such report shall include, by agency, the information set forth in subsection (a).

(c) The provisions of this section shall terminate one hundred and twenty-one days after the end of fiscal year 1987.

DEFINITIONS

SEC. 5. (a) For the purposes of this Act—

(1) the term "agency" means—

(A) an executive department as defined in section 101 of title 5, United States Code;

(B) a military department as defined in section 102 of such title;

(C) a Government corporation as defined in section 103 of such title; and

(D) an independent establishment as defined in section 104 of such title, except that the term "agency" includes the United States Postal Service and the Postal Rate Commission;

(2) the term "contractor" means any person who has entered into a contract with an agency;

(3) the term "contract" means a written agreement, including amendments and modifications thereto, between an agency and a contractor for the procurement of property or services;

(4) the term "meat food products" has the same meaning as in section 2(a)(3) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(3));

(5) the term "perishable agricultural commodity" has the meaning as in section 1(4) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(4));

(6) the term "person" has the same meaning as in section 551(2) of title 5, United States Code; and

(7) the term "property" means real or personal property, and includes intellectual property and leasehold interests.

(b) In accordance with regulations to be promulgated by the Administrator—

(1) an invoice shall be considered a proper invoice—

(A) if it contains or is accompanied by such substantiation of the contractor's performance of the contractual obligations as the Administrator may require by regulation, or

(B) if the agency which received the invoice fails to notify the contractor promptly of deficiencies in the invoice,

(2) an invoice shall be considered received by an agency on the later of—

(A) the date on which the agency's designated payment office or finance center actually receives a proper invoice, or

(B) the date on which the agency accepts the property or service concerned, and

(3) a payment shall be considered paid on the date the Government's check is dated for payment.

CLAIMS SUBJECT TO CONTRACT DISPUTES ACT

SEC. 6. Claims arising under this Act shall be subject to the provisions of the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

EFFECTIVE DATES; APPLICABILITY

SEC. 7. (a) The provisions of this Act requiring the promulgation of regulations shall be effective upon enactment.

(b) Except as provided in subsection (c), the provisions of this Act shall apply to payments made or due on or after the date which is one hundred and eighty days after the date of enactment of this Act.

(c) Each agency which, prior to the effective date specified in subsection (b), failed to make a payment under a contract by the due date of such payment shall make such payment by such effective date. Beginning on such effective date, interest shall accrue in accordance with this Act on any payment which is referred to in the preceding sentence and which is not paid prior to such effective date.

(d) The provisions of this Act shall apply to the Tennessee Valley Authority: *Provided, however,* That any regulations promulgated under the authority of this Act shall not be applicable to the Tennessee Valley Authority, which shall be solely responsible for implementing the provisions of this Act with respect to its contracts.

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike all after the enacting clause of the Senate bill, S. 1131, and to insert in lieu thereof the provisions of the bill, H.R. 4709, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to require the Federal Government to pay interest on overdue payments, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4709) was laid on the table.

ECONOMY ACT AMENDMENTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2528, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS) that the House suspend the rules and pass the bill, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were: yeas 356, nays 43, not voting 34, as follows:

[Roll No. 37]

YEAS—356

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Beard
Bedell
Benedict
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derwinski
Dickinson
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Early
Edgar
Edwards (AL)
Edwards (OK)
Emerson
English
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fascell
Fenwick
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hatcher
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Luken
Lundine

Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mattox
Mavroules
Mazzoli
McClory
McCurdy
McDonald
McEwen
McGrath
McKinney
Mica
Michel
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moffett
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oberstar
Obey
Oxley
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rosenthal
Roth
Rousselot
Roybal
Rudd
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Sensenbrenner
Shamansky
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Whitehurst
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wortley
Wright
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—43

Barnes
Beilenson
Bennett
Burton, Phillip
Clay
Daniel, Dan
Dellums
Dicks
Dymally
Dyson
Edwards (CA)
Fazio
Ferraro
Ford (MI)
Gray
Hartnett
Hawkins
Hoyer
Jones (NC)
Kastenmeier
Lowry (WA)
Markey
Matsui
McHugh
Mikulski
Miller (CA)
Mitchell (MD)
Mottl
Oakar
Ottinger
Paul
Schumer
Shannon
Stark
Stratton
Studds
Vento
Washington
Weiss
White
Whitley
Wolpe
Yates

NOT VOTING—34

Ashbrook
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Foglietta
Gejdenson
Green
Hendon
Kindness
LeBoutillier
Lent
Marks
McCloskey
McCollum
McDade
Moakley
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo

Messrs. DAN DANIEL, OTTINGER, McHUGH, EDWARDS of California, HAWKINS, and WOLPE, Ms. FERRARO, and Mr. DYMALLY changed their votes from "yea" to "nay."

Mrs. BOUQUARD changed her vote from "nay" to "yea."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1640

NATIONAL HOUSING ACT EXTENSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5708.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. GONZALEZ) that the House suspend the rules and pass the bill, H.R. 5708, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 341, nays 54, not voting 38, as follows:

[Roll No. 38]

YEAS—341

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Burton, Phillip
Butler
Byron
Campbell
Carney
Chappell
Chappie
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Coughlin
Courter
Coyne, James
Coyne, William
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Emerson
English
Erdahl
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Sam
Hamilton
Hammerschmidt
Hance
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Lee
Lehman
Leland
Levitas
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marlenee
Marriott
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McCurdy
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moffett
Mollohan
Moore
Morrison
Murphy
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Roth
Roybal
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—54

Archer
Broyhill
Burgener
Carman
Cheney
Collins (TX)
Corcoran
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Derwinski
Dreier
Edwards (OK)
Erlenborn
Fields
Gramm
Gregg
Hansen (ID)
Hansen (UT)
Hillis
Hyde
Jeffries
Johnston
Latta
Leath
Lewis
Lungren
Martin (IL)
McClory
McDonald
McEwen
Michel
Miller (OH)
Montgomery
Moorhead
Mottl
Myers
Oxley
Paul
Rangel
Roemer
Rousselot
Rudd
Shumway
Shuster
Smith (OR)
Snyder
Stangeland
Stenholm
Stump
Taylor
Thomas
Walker

NOT VOTING—38

Ashbrook
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Eckart
Emery
Ertel
Evans (IN)
Foglietta
Frenzel
Gejdenson
Green
Hall, Ralph
Hendon
Kindness
LeBoutillier
Lent
Long (MD)
Marks
McCloskey
McCollum
McDade
Moakley
Molinari
Murtha
Neal
Pashayan
Pursell
Rhodes
Rostenkowski
Roukema
Russo
Schulze

Mr. CARMAN changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EMERGENCY ALTERNATIVE WORK SCHEDULE EXTENSION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2254.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. FERRARO) that the House suspend the rules and pass the Senate bill, S. 2254, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 361, nays 33, not voting 39, as follows:

[Roll No. 39]

YEAS—361

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
AuCoin
Bafalis
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Conte
Conyers
Corcoran
Courter
Coyne, William
Craig
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Erdahl
Erlenborn
Evans (DE)
Evans (GA)
Evans (IA)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Holland
Hollenbeck
Holt
Horton
Howard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Leach
Lee
Lehman
Leland
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCurdy
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moffett
Mollohan
Moore
Moorhead
Morrison
Mottl
Murphy
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rose
Rosenthal
Rousselot
Roybal
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—33

Broyhill
Chappell
Collins (TX)
Coughlin
Coyne, James
Crane, Daniel
English
Fields
Forsythe
Gibbons
Gregg
Hall, Sam
Hartnett
Hillis
Hopkins
Hubbard
Johnston
Latta
Leath
Miller (OH)
Montgomery
Myers
Paul
Roemer
Rogers
Roth
Rudd
Sensenbrenner
Smith (OR)
Snyder
Staton
Stump
Walker

NOT VOTING—39

Ashbrook
Badham
Bailey (MO)
Boggs
Brown (OH)
Burton, John
Derrick
Dornan
Dougherty
Early
Eckart
Emery
Ertel
Evans (IN)
Foglietta
Frenzel
Gejdenson
Green
Hendon
Hoyer
Kindness
LeBoutillier
Lent
Marks
McCloskey
McCollum
McDade
Moakley
Molinari
Murtha
Neal
Pashayan
Pursell
Rangel
Rhodes
Rostenkowski
Roukema
Russo
Schulze

□ 1650

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 4, INTELLIGENCE IDENTITIES PROTECTION ACT

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Mr. Speaker, reserving the right to object, I did not understand precisely what the bill is that is being brought up here. Could the gentleman just give me a general idea of what his unanimous consent request is?

Mr. BOLAND. If the gentleman will yield, the bill is H.R. 4, the agents identities bill that passed the Senate. They have asked for a conference. It is a little different from the House bill, and we have asked unanimous consent to take the bill from the Speaker's table and agree to the conference asked by the Senate.

Mr. WALKER. I thank the gentleman for his explanation, Mr. Speaker, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. BOLAND, MAZZOLI, FOWLER, HAMILTON, MINETA, RODINO, EDWARDS of California, ROBINSON, ASHBROOK, MCCLORY, and HYDE.

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COAUTHOR OF H.R. 4057

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that my name be withdrawn as coauthor of H.R. 4057.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MARSHALL COUNTY HIGH SCHOOL GIRLS BASKETBALL SQUAD IS 1982 KENTUCKY GIRLS STATE CHAMPION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it gives me great pride today to say that a team from my district, the Marshall County High School girls basketball squad, is the reigning 1982 Kentucky girls State champion.

A runnerup in the State championship last year, the Marshall County Lady Marshals team captured this year's title in style with a 48 to 44 victory over Louisville Mercy Academy in Richmond, Ky., last weekend.

The Lady Marshals used excellent shooting and tenacious defense, which characterized the team throughout the season, in route to the championship.

The victory last weekend was even more meaningful because the Lady Marshals team was the first far western Kentucky team to claim a Kentucky State high school basketball title since the North Marshall High boys team won the State championship in 1959.

My congratulations go out to the members of the Lady Marshals team for their hard work throughout the season and their fine performance in the tournament. My congratulations to the coach of the Lady Marshals, Howard Beth, for his outstanding abilities. I also want to offer my special congratulations to the people of Marshall County for their loyal and avid support for this fine team.

BUILDING AMERICA TOGETHER

(Mr. ANTHONY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANTHONY. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct a Voice of Democracy contest. This year more than 250,000 secondary school students participated in the contest.

I would like to include in the Record a copy of the winning speech from Arkansas, which was delivered by William E. Maloney of Texarkana. Mr. Maloney is a senior at Arkansas High School. He is the son of Thomas and Betty Maloney.

Building America Together

Building America together, three very strong words, three words that convey an even stronger meaning when they are combined.

Building—We can't let our country stand still. We must not let it become stagnant. Complacency with what we possess in this glorious country can only lead to decline. Each and every one of us must work to build and improve upon what our forefathers have created for us. There are many ways we can build upon what we have. We must strive for improvement within our families, our church, our schools, and our communities. These are grass roots foundations of our country. We must instill within our fellowman that we are striving to improve ourselves, and perhaps the message will carry to everyone. There are always going to be negative influences, but nothing that can't be overcome if we maintain constant effort to reform them.

The second word—America—What does this word mean to you? To me it carries more significance than any word in the English language. America, when people around the world hear it, thoughts of freedom, prosperity and happiness come to their minds. That is what America is all about. America is all of these things and more. It holds different meanings for all of us. For me, the word America says I am free to express myself. It says I may worship as I please, and try to make of my life what I want from it, instead of what someone says I am best suited for. The word reminds me I have rights and privileges unique to citizens of this country, alone. It speaks to me about democracy and justice and helping my fellowman.

The last word—together—That is the key word. All of us have to contribute. This nation of 220 million people has to set a common goal and strive for it. That goal must be to let this country never take a step backward, but instead move ever farther toward fulfilling the true potential of what lies in its citizens. If the rich and the poor, the blacks and the whites, and the young and the old all work together there is absolutely nothing this nation can't overcome. Everyone can contribute if he has the desire to do so. For the strength of this country isn't possessed by our government, our mass producing industries, or our system of laws. No, the true strenght of America lies in the heart and soul of each and every citizen. Together we can do it, but first we must form a sound base, and that involves solving some of the problems of this nation and serious problems they are—unemployment, poverty, crime, decline in our moral values, and the ever present possibility of a confrontation with the Soviet Union must not discourage us from trying to move forward. If we are going to build America together, we must not remove ourselves from these problems. They must become our problems because they won't just go away. We all have to keep ourselves informed of what is occurring in this fast paced world, and seize every opportunity we have to make improvements upon it. As Americans, we can do this by exercising our right to vote, by voting for the candidate who truly wants to make this country an even greater place than it already is, and by keeping our representatives informed of how we feel on the important issues, and they are all important. Become involved, and you will make a difference.

To close, I want to leave you with this thought. There was a song not long ago with this line, "Even when times get rough, and you've had enough, you've still got to try".

Adversity can be a source of strength because overcoming obstacles is the first step in building America together. Don't give up on this country because she hasn't given up on you.

COMMUNICATION FROM THE HONORABLE WILLIAM F. CLINGER, JR.

The SPEAKER pro tempore laid before the House the following communication from the Honorable William F. Clinger, Jr.:

Hon. Thomas P. O'Neill, Jr.,
Speaker of the House of Representatives,
H-202, U.S. Capitol,
Washington, D.C.

Dear Mr. Speaker: This is to notify you pursuant to the provisions of Rule L (50), that I have received a subpoena in *United States of America* vs. *Robert J. Burns, et al.,* calling for the production of certain documents in my possession.

This subpoena relates to an employee of mine and his knowledge of this particular case.

With kindest regards,

Sincerely,

William F. Clinger, Jr.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Office of the Clerk,
U.S. House of Representatives,
Washington, D.C., March 22, 1982.

Hon. Thomas P. O'Neill, Jr.,
Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: This is to formally notify you, pursuant to Rule L (50), that I have been served with a subpoena duces tecum, issued by the United States District Court for the District of Columbia.

I will make the requisite determinations under Rule L (50), paragraph 3, in consultation with my General Counsel and advise you accordingly.

Sincerely,

Edmund L. Henshaw, Jr.,
Clerk, House of Representatives.

REINTRODUCTION OF BILL TO RESTRICT PAYMENT OF SOCIAL SECURITY BENEFITS TO NONRESIDENT ALIENS

(Mr. WEBER of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WEBER of Ohio. Mr. Speaker, on December 14, at the close of the 1st session of the 97th Congress, my colleague, the gentleman from Nebraska. Hal Daub and I introduced H.R. 5168, a bill to restrict the payment of social security benefits to nonresident aliens.

We knew we had a good bill, but we did not know just how good until we received letters of support from all over the country, editorial endorsements, and letters to the editors by the dozens, endorsements of local organizations such as the chamber of comerce in Highland, Ind., and most gratifying of all, the near unanimous endorsement of our constituents.

Beyond the endorsement of the public that has contacted us, we have received strong support of our colleagues. Yesterday Congressman Daub and I reintroduced H.R. 5168 as H.R. 5920 with the cosponsorship of 76 of our colleagues. Senator Lugar of Indiana has introduced this bill in the other body and is reintroducing the updated version today as S. 2270 with over a dozen Members of that body cosponsoring.

The purpose of reintroduction is to add provisions to make it clear that all existing treaty obligations involving social security coverage will be honored.

I am pleased with the progress of H.R. 5920. It is a beginning in our battle to protect the social security program by eliminating payments that are beyond the essential purposes of the system.

Mr. Speaker, I include the text of H.R. 5920 at this point in the Record as follow:

H.R. 5920

A bill to amend title II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfull admitted to the United States for permanent residence, and to impose further restrictions on the right of any alien in a foreign country to receive such benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 202 (t)(1) of the Social Security Act is amended to read as follows:

"(1)(A) Notwithstanding any other provision of this title (but subject to subparagraphs (B) through (F) of this paragraph), no monthly benefit shall be paid under this section or section 223 for any month to any individual who is not a citizen or national of the United States, if such individual—

"(i) has not been lawfully admitted to the United States for permanent residence, or

"(ii) is outside the United States;

and no monthly benefits shall be paid to any person for any month under this section or section 223 on the basis of the wages and self-employment income of an individual who (without regard to subparagraph (E)) is himself prevented by the preceding provisions of this subparagraph from receiving a benefit for that month.

"(B) Subparagraph (A)(i) shall not apply with respect to any individual within the United States if the benefit involved is payable to such individual as the dependent or survivor of a citizen or national of the United States, or as the dependent or survivor of an alien lawfully admitted to the United States for permanent residence.

"(C) Subparagraph (A)(ii) shall not apply with respect to any individual if (i) the benefit involved is payable to such individual as the dependent or survivor of a citizen or national of the United States who resides outside the United States and has attained age 50 (or who died outside the United States after attaining that age), and (ii) at the time such citizen or national attained age 50 the spousal, filial, parental, or other relationship which is required for such individual's entitlement to the benefit involved already existed.

"(D) For purposes of this paragraph, an individual shall be considered to be outside the United States in any month only if such month occurs—

"(i) after the sixth consecutive calendar month during all of which (determined by the Secretary on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention) such individual is outside the United States, and

"(ii) prior to the first month thereafter during all of which such individual has been in the United States;

but in applying the preceding provisions of this subparagraph an individual who has been outside the United States for any period of 30 consecutive days shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"(E) An individual who is otherwise prevented by subparagraph (A) from receiving benfits under this title may nevertheless be paid such benefits, as though such subparagraph were inapplicable, until the total amount of such benefits equals the total amount of the taxes paid under sections 3101 and 1401 of the Internal Revenue Code of 1954 (or the corresponding provisions of prior law) with respect to the wages and self-employment income on which such benefits are based (or, in any case where one or more other persons are also being paid benefits by reason of this subparagraph on the basis of such wages and self-employment income, until the total amount of the benefits paid to such individual equals the portion of such taxes which is attributable under regulations of the Secretary to such individual's entitlement). After such benefits have been paid, such individual shall have no further entitlement to benefits based in whole or in part on the same wages and self-employment income.

"(F) For purposes of this paragraph, the term 'United States' (when used in either a geographical or political sense) means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and any other territory of possession of the United States.".

(b) Section 202(t)(2) of such Act is repealed.

(c) Section 202(t)(3) of such Act is amended to read as follows:

"(3) Paragraph (1), as modified by the amendments made to this subsection in 1982, shall not apply in any case where its application would be contrary to any treaty obligation of the United States in effect on the date of the enactment of such amendments.".

(d) Section 202(t)(4) of such Act is amended—

(1) by striking out subparagraphs (A) and (B);

(2) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C); and

(3) by striking out the semicolon at the end of subparagraph (C) (as so redesignated) and all that follows and inserting in lieu thereof a period.

(e) The heading of section 202(t) of such Act is amended by adding at the end thereof the following: "; Prohibition Against Payment of Benefits to Aliens Not Permanent Residents".

Sec. 2. (a) Except as provided in subsections (b) and (c), the amendments made by the first section of this Act shall apply with respect to months after the month in which this Act is enacted.

(b) If any individual is (or upon application would be) entitled to a monthly benefit under section 202 or 223 of the Social Security Act for the month in which this Act is enacted on the basis of any person's wages and self-employment income, none of the amendments made by the first section of this Act shall apply with respect to such benefit or with respect to any other benefit which is or may become payable on the basis of such wages and self-employment income.

(c) Nothing in the amendments made by the first section of this Act shall be viewed as limiting or preventing the continued application of section 202(t)(3) of the Social Security Act, as it was in effect immediately prior to the date of the enactment of this Act, in any case to which it applied immediately prior to such date.

PRESIDENT REAGAN ADDRESSES FARM PROBLEMS

(Mr. ROBERTS of Kansas asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. ROBERTS of Kansas. Mr. Speaker, yesterday President Reagan made a major policy address regarding U.S. trade and farm export policy. The policy declaration was certainly good news for farmers who are experiencing very, very difficult times.

This policy statement comes at a time when several of my colleagues in the Congress are proposing a package of assistance to the hard-pressed farmers to address the price cash flow and the credit crisis in farm country. I share their concern, I share their frustration, and I share their fears.

However, I suggest that what with these very severe budget restrictions and the obvious need to make certain spending cuts, they are looking for relief in all the wrong places. What we need in farm country is price and lower interest rates, and one of the problems on the price side has been using agriculture as a foreign policy whipping boy.

The President has spoken to that. He made a very fine policy statement yesterday. I hasten to add that the real test of this policy will be reflected only in export sales and market prices at the country elevator, not only in farm country but all throughout the Nation as well.

Mr. Speaker, I commend to the attention of my colleagues the following excerpts from the President's speech:

Excerpt of Remarks by the President to the Agriculture Editors and Representatives, March 22, 1982

In the past eight years, our stop-and-go export actions have weakened our reputation as a reliable supplier. If we are to take full advantage of our agricultural resources, we must establish a clear policy for the benefit of our farmers, those who market our crops and those who buy our commodities at home and abroad.

For this reason, I am presenting today our long-term policy on farm exports. The agriculture export policy of the United States will insure three essential priorities:

First, no restrictions will be imposed on the exportation of farm products because of rising domestic prices. Farm prices go up and farm prices go down. High prices signal market-oriented farmers to produce more, and they will, if we allow them to compete freely in export markets. This is best for everyone, from farmer to consumer.

Second, farm exports, as I have already indicated, will not be used as an instrument of foreign policy except in extreme situations and as part of a broader embargo. Agricultural commodities are fungible; that is, they are easily interchanged for the same commodity from other nations. For this reason the embargo of 1980 was almost totally ineffective, yet it caused great economic hardship to U.S. agriculture. We will not repeat such action.

Third, world markets must be freed of trade barriers and unfair trade practices. We must continue to pursue this objective aggressively. World economic health will be improved and strengthened by freer agricultural trade. Our great agricultural system must be turned loose to benefit not only Americans but people throughout the entire world.

I announce this policy with a great sense of pride—pride in the accomplishments of U.S. farm families. Adherence to this policy will bring them deserved benefits, add to the prosperity of all Americans and enhance the cause of peace throughout the world.

CONGRESSMAN STRATTON ADVISES HOUSE BUDGET COMMITTEE THAT DEEP CUTS IN THE FISCAL YEAR 1983 DEFENSE BUDGET COULD ENDANGER THE NATION'S SECURITY AND INCREASE THE RISK OF WAR

(Mr. STRATTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. STRATTON. Mr. Speaker, in the light of the 23 years that I have spent as a member of the House Armed Services Committee, I volunteered the other day to provide my expertise to the House Budget Committee free of charge because I had read that they were planning to make massive cuts in the defense budget. I told them that I thought that would be as foolish as the refusal of Congress back in the 1930's to fortify Guam or the refusal of the British Parliament to do anything to respond to the rearmament of Germany under Hitler.

Unfortunately, when I spoke before the committee yesterday, only one member of that distinguished committee was present. Needless to say, I was deeply grieved and hurt, and I am taking this opportunity to insert those remarks of mine in the RECORD so that my colleagues may have the benefit of this expertise because I think if we do undertake some of the cuts that have been mentioned, something like $64 billion, we are going to be doing a real damage to this country and its future.

Mr. Speaker, the testimony I gave before the committee is as follows:

TESTIMONY OF CONGRESSMAN SAMUEL S. STRATTON BEFORE THE HOUSE BUDGET COMMITTEE, MARCH 22, 1982

Mr. Chairman, members of the Committee, I am grateful for your courtesy in permitting me a few minutes this afternoon to express to the Budget Committee my deep concern over what I gather to be your virtually unanimous intention of inflicting deep cuts on the defense budget, not only for FY '83 but for several of the out years as well. I have heard the figure of $64 billion mentioned, which is far and away more disturbing than any other figure I have heard. What disturbs me even more is that I have heard this figure mentioned in the context that we could inflict such cuts on the Reagan defense budget and still preserve a defense posture "second to none."

As one who has spent most of my adult life in dealing with defense matters—including some 23 years as a member of the House Armed Services Committee—let me just observe that any such assertion betrays a total misunderstanding of the current status of America's armed forces as well as the threat we face from the Soviet Union.

Anybody who thinks we can cut $64 billion from the defense budget, either in '83 alone or over the next three years, is living in a dream world. And any action based on that conviction could place this country in very grave peril. I haven't heard that kind of talk since the days of the Baldwin and Chamberlin governments in England, and the Blum government in France in the years just prior to World War II.

Of course I am well aware of the fiscal problem this committee faces. We are indeed in a parlous economic situation because of the huge deficits contained in the Reagan fiscal year 1983 budget. And I am in full agreement that those deficits must be reduced if we are to have any hope of economic recovery. But I introduced legislation last fall to rescind a major portion of the disastrous Reagan tax cuts, and I believe we could recover perhaps as much as $150 billion in needed revenues with judicious corrections in that legislation this spring. Whether we are prepared to do that, however, and whether the President will permit such recissions to be enacted into law, is, of course, another matter.

But the point I want to make to this committee is that we simply cannot make any defense cuts that would help in any substantial way with the deficit without doing substantial damage to our national security and without making ourselves, and our national interests, more directly vulnerable to the Soviet military threat.

Of course, I realize that, regardless of what I say to you this afternoon, there are going to be very substantial defense cuts made by the Congress anyway. All I am trying to do is to convince this committee that, if you really think that we can make such cuts and still be ahead of the Soviets in military power, you are dangerously deceiving yourselves. Don't say we didn't warn you.

Mr. Chairman, I was one of those who supported the Congressional budget and impoundment Act in the early 70's as a positive step forward. But, like many of our colleagues, I have since then become profoundly disillusioned. What has actually happened is that the budget process has repeatedly and consistently been used as a little more than a device for taking money away from defense and putting it into social and domestic programs. "Reordering our priorities," was the slogan. And that damaging process has gone on now for some 10 years without a single interruption.

As a result, Mr. Chairman, over these past 10 years the Soviet Union has outspent us in defense by some $350 billion. And by virtue of the spending imbalance the Soviets have become superior to us in virtually every category of military capability with the exception of aircraft carriers.

This is the story that our top military commanders gave to the Armed Services Committee in very blunt terms in the early fall of 1980, that we had a "hollow" army, a one-and-a-half ocean Navy for a nation with heavy commitments in three oceans, and a land-based nuclear deterrent missile force that was vulnerable to a devastating Soviet first strike.

The truth of the matter is that, as of today, we are still essentially in the same dangerous posture. Not only are we not "second to none" in military power, we are dangerously and shockingly behind the Soviet Union. This is not idle talk. I wish the members of this committee could see some of the intelligence that our committee sees—could see the fantastic Soviet production rates for new types of missiles, submarines, tanks, and ships.

The only thing that has changed since 1980 is that at long last we have an administration that is committed to catching up with the Russians, closing this dangerous window of military vulnerability, and reestablishing the nuclear and conventional military balance we once had with the Soviets. The FY 1982 budget made a good start in that direction, and it had the overwhelming support of both Houses of Congress. But the job is far from done. You don't make up for 10 years of neglect overnight, or even in just two or three years.

The FY 1983 budget request is the second installment on the drive to catch up and restore the balance. If now, because of our budgetary problems, we call a halt to the catch-up program, we run two extremely grave risks.

First of all, to cut $30 or $20 or even $10 billion from this second installment will almost certainly put an end to the momentum that was generated since last year. As Navy Secretary Lehman has said recently with regard to the Navy improvement program in the 1983 budget: "If not now, when?"

Almost certainly, if we stop now, we will never recapture as favorable a climate for restoring America's eroded defenses.

The other risk we run is that the Soviets will quickly realize we don't really mean it when we talk about catching up with them. If because of budget problems, we quickly abandon our loudly touted efforts to modernize our defenses, the Soviets aren't very likely to be deterred at all, either from attacking us or trying to blackmail us and our allies with nuclear superiority.

The one theme I see running through every assertion of these armchair military strategists who now propose to render mayhem on the 1983 defense budget, is that time is on our side. It doesn't really matter whether we catch up by 1984 or wait until 1994. Somehow the Russians will give us all the time we need.

Well, that's what the Congress of the 1930's thought when they postponed fortifying Guam. That's what England and France gambled on while Hitler was carrying out his frantic rearming of Nazi Germany. They thought they had time. How wrong they were!

Let me conclude with one final thought. The cliche that one hears so often around here is that we have to cut defense because of no program is "sacrosanct." If we cut the social programs, we are told (and let me remind you, I voted against those social cuts in 1981) then we also have to cut defense. Every program bears its fair share.

But, Mr. Chairman, defense is not just another social program. Defense is in fact the first and highest priority of any nation. Unless we can defend our soil, and our worldwide national interests, we cannot survive as a free country. In that case every other valuable social program goes down the drain. To shortchange defense, to do less than the threat requires, can only lead to national suicide.

Consider Norway in 1940. She had one of the most highly developed social programs in Europe. Her environment, and her air were the finest of any country in Europe. But when the Nazi paratroopers landed on Norwegian soil, that was the end of Norway as a free nation, because she possessed no significant defense capability.

Let it not be said of this 97th Congress, that we were so blind to the realities around us in this dangerous and unpredictable contemporary world that we encouraged a similar fate for what President Lincoln so rightly referred to many years ago, as "the last best hope of Earth."

ENERGY INFORMATION ADMINISTRATION AMENDMENTS OF 1981

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, I am today introducing legislation that will increase the efficiency of the Energy Information Administration by simplifying the data reporting burden borne by the public and eliminating duplication in the Federal energy data collection system. This legislation, the Energy Information Administration Amendments of 1981, reflects what the Reagan administration is attempting to accomplish in all areas of government, not only energy—the reduction of paperwork, the elimination of needless data collection requirements, and the encouragement of greater cooperation among Federal agencies so that every regulatory body will not have to collect its own discreet data when a number of other agencies are doing the same thing. Before describing the EIA amendments, we should pause to reflect what effect bureaucratic redundancy and centralized regulation of the kind my bill is meant to lessen has had over the last 10 years.

At a time when business is desperate for capital, American firms will spend in excess of $102 billion in regulatory compliance costs this year. The Federal Government will spend approximately $7.4 billion this year in administrative regulatory costs. This is in spite of the deregulatory bent of the Reagan administration, without which the regulatory budget would have been about $400 million higher.

Although there will be some reduction in Federal regulatory staff this year, the number of regulators has grown from about 28,000 in 1970 to almost 90,000 this year. Fiscal year 1982 is the first year in the last 13 when we actually have achieved a reduction in regulatory staff. Bureaucrats that are handling paper in Washington are not producing the goods, services, and energy so critically needed to reinvigorate the economy.

This growth in regulatory budgets and staff can be significantly stemmed if the Congress will carefully examine statutes that provide for redundant data collection and reporting requirements and ferret them out one by one. The legislation I am introducing today would, if enacted, save an estimated $40 million annually and reduce by a significant amount the data reporting burden on private firms. By correlating the need for efficiency in data collection and the principles of sound information policy, the requisite statutory adjustments to achieve the goals of efficiency and information policy can be made.

The overriding barrier to efficient data collection and sharing is the absence of guarantees that information which is shared by other agencies with the EIA will not be used by other divisions of the Department of Energy or the Federal Energy Regulatory Commission for regulatory purposes. This disclosure possibility has meant that EIA must procure on its own data which the Commerce Department may already collect. A modification of several statutes is required to establish in the law a structure which permits the institution of sound information policy. A fundamental of good information policy is that information provided for statistical needs not be used for other ends, such as for regulatory purposes. Consequently, the Federal Energy Administration Act and the Department of Energy Organization Act are modified to allow EIA to obtain statistical data on a confidential basis from other Federal agencies. An assurance is provided that such data cannot be disclosed for nonstatistical purposes. Present law requires the Administrator of the EIA to make available to other parts of DOE or the FERC any data in his possession. Changes in the DOE Act and the FEA Act allow EIA to withhold data that may be used for regulatory purposes or which may be in individually identifiable form. The codification of these assurances will result in a budget savings of about $1.7 million annually as duplicative data collection is eliminated.

Another important part of the bill would terminate a number of currently mandatory reports because of their irrelevance, redundancy, or excessive frequency. For instance, the Energy Supply and Environmental Coordination Act of 1974 is amended to eliminate the need for quarterly reports to Congress on domestic reserves and production, imports, and inventories of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal. A currently mandatory quarterly financial reporting system is replaced with a discretionary annual report. The amendment will cut down the reporting burden on the private sector as well as the data collection burden on EIA. This one amendment will achieve a $2.6 million annual savings.

The FEA Act is also amended to eliminate the continued reporting system on exports of coal and oil because sufficient data is collected by the Commerce Department. If fully implemented, the report would cost $5 million and is essentially duplicative.

An amendment is made to the Fuel Use Act which requires an annual report on coal reserves. If this report were fully carried out, data would have to be collected at the individual mine level and would cost about $50,000 annually. The irony in this requirement is that we have about 300 years of coal reserves in the ground.

Finally, an extensive requirement that would provide for the development of a State-level Middle-distillate monitoring system is eliminated. Aside from the fact that this system would cost $8.6 million in fully implemented, it conflicts with the administration's policy that the EIA not be involved with State-level data collection.

In recent hearings before the House Fossil and Synthetic Fuels Subcommittee, we heard testimony from the Professional Audit Review Team (PART) about the performance of the EIA. In his testimony, Mr. F. Kevin Boland explained that "the quality and extent of the information needed is largely dependent on the intended use of the information and the seriousness of the problem to be resolved." Although the concerns of energy policy are of a long-term nature, we no longer face a crisis situation. The crisis we faced during the 1970's was largely a case of a temporary shortfall of crude oil being turned into a long-term shortage, thanks to Federal price and allocation controls. Today, impacts are down, OPEC has not been in such disunity in memory, gasoline prices and consumption are down, and domestic production is up. I believe it is appropriate to review the continuing necessity of extensive energy data collection in light of a much less serious energy supply situation which should continue to improve with a lessening of Government intervention in energy markets.

Another reason for our energy data collection efforts to be closely scrutinized emerged from these Fossil and Synthetic Fuels Subcommittee hearings. The Professional Audit Review Team witness stated that "the ultimate success of failure of EIA's work is determined by the usefulness of its products." Unfortunately, it appears that EIA has developed many of its data system without identifying user's needs in a systematic fashion. After all, data should first and foremost be useful to its consumers. If such is not the case, even data efficiently collected will represent a questionable expenditure of public funds. I strongly urge the EIA to pay careful attention to the report of the audit team.

The importance of a reliable energy data collection function by the Federal Government is widely recognized for use in planning, policymaking, and emergency preparedness. However, this function should not unnecessarily duplicate private efforts and create redundant reporting burdens on business. EIA will remain the focal point for energy data gathering; but with the enactment of these amendments, its operation will be more efficient, focused, and effective. At this point, I include the following:

BILL REDUCING ENERGY REGULATIONS—SECTION ANALYSIS

Section 1 of the bill provides a short title.

Section 2 of the bill would amend section 58 of the FEA Act to authorize the EIA Administrator to provide an agency head with a binding assurance that information provided to DOE will not be disclosed in individually identifiable form to other components of the DOE.

Sections 3 and 4(a) of the bill would amend sections 205(f) and 407 of the DOE Act to permit the EIA Administrator to withhold from other DOE components information obtained under the revised section 58.

Section 4(b) would amend section 205 of the DOE Act by adding a new subsection (i), to require the EIA Administrator to determine, prior to implementing a data collection effort, whether or not the data are to be gathered for statistical purposes. The purpose of this new subsection is to preserve the integrity of statistical data while also providing for the intra-agency and interagency sharing of this information under the conditions and terms that will assure that statistical data will be used solely for statistical purposes. The amendment also provides for a freer inter-agency exchange of information gathered for other than statistical purposes by providing for the sharing of such non-statistical information in accordance with section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA) (15 U.S.C. section 796(d)).

Section 5 of the bill would amend section 11 of ESECA by eliminating the requirement to gather information quarterly and produce reports quarterly to the Congress on domestic reserves and production, imports, and inventories of crude oil, residual fuel oil, refined petroleum products, natural gas, and coal and by changing a mandatory quarterly financial report to a discretionary annual report.

Section 6 would repeal section 25 of the FEA Act, thus eliminating the requirement for a system that tracks and reports every transaction, sale, exchange or shipment involving exports of coal and oil.

Section 7(a) would repeal section 205(h) of the DOE Act, thereby eliminating the mandatory requirement to establish and maintain a Financial Reporting System (FRS) containing detailed information on the structure of the energy industry.

Section 7(b) would permit analysis and reporting of calendar 1980 data from the Financial Reporting System that will have been collected by the time the bill is passed. The moneys spent on the collection will thus not be wasted.

Section 8 would repeal section 801 of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. section 8481), in order to eliminate the requirement for an annual report on coal reserves disclosure.

Section 9 would repeal section 242 of the Emergency Energy Conservation Act of 1979 (EECA) (42 U.S.C. section 8532). Section 242 requires the development of a middle distillate monitoring system at the State level.

Section 10 provides that the bill would take effect 30 days after enactment.

INSIGHTS OF NEIL ESKELIN ON THE NATION'S ENERGY CRISIS

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McEWEN. Mr. Speaker, recently Mr. Neil Eskelin, nationally known author and convention lecturer, shared with the readers of the winter issue of On Magazine his thoughtful insights concerning our Nation's energy crisis. I commend his observations to the attention of my colleagues.

This Congress can receive direction from Mr. Eskelin's final statement that "The energy crisis is not a shortage of oil," but, rather, "a shortage of toil!"

Mr. Speaker, I am including his comments immediately following my remarks, as follows:

THE NATION'S ENERGY CRISIS

(By Neil Eskelin)

A summit meeting was called to solve the world's energy crisis. If something weren't done soon, all of civilization would come to a standstill.

What a gathering! Sheiks. Statesmen. Scientists. They were all there. And one by one they offered their solution.

"There is plenty of oil," said the smiling representative from OPEC, "just as long as there is plenty of money."

A professor from Amsterdam spoke next. "Why, if we would build some giant windmills, we'd have abundant energy with just a breeze."

The senator from Arizona said, "We haven't begun to tap the incredible power of the sun. In fact, a 2000-megawatt solar power plant would provide enough electricity for Washington, D.C."

"We've got enough coal in our hills to last a thousand years," said a mining executive from West Virginia.

Canada's official representative chimed in, "Now that the value of a barrel of oil has increased nine times in the past decade, we've got the incentive to extract more petroleum than ever before."

It seems there were as many solutions as there were people in the room.

"If we'd just collect our urban trash, we could light an entire city."

"Let's gather all the manure from our feedlots and make methane gas."

"Why, if you'd harness the power of our hot springs and geysers, we would have tremendous power."

"Can't we let the waves of the ocean turn huge generators?"

On and on it went.

For several hours they heard the benefits of nuclear fission, oil shale, tar sands, coal gasification, and much more.

Finally, a little man in the back of the room stood to his feet and said, "Gentlemen, I have been listening to your presentations all day, but the greatest source of energy has yet to be discussed."

He walked slowly to the center of the room as he continued to speak.

"Would you like me to tell you about an unlimited supply of power that can solve our crisis in an instant?"

The summit hall grew silent as he continued.

"Would you like to see our cities rebuilt? Would you like to see our factories humming with unbelievable productivity?"

The participants began to nod in agreement as he slowly turned to look each one of them in the eye. His voice grew stronger as he said, "Gentlemen! The energy I am talking about is practically unused. And there are more than 4 billion units of it ready to be utilized. You have overlooked the most unbelievable power imaginable. *The power of man!*"

A few participants began to laugh. But their smiles faded as he pointed his finger directly at them and said, "Work! That's the forgotten ingredient! We've traded our perspiration for petroleum!

"God gave you two legs for more than touching the pedals of a powerful car! He gave you muscles for more than admiration in a mirror!

"Work! You've been granted 86,400 seconds each day for more than resting on your backbone. Work as though your life depended on it, because it really does.

"Work!" he shouted. "There is no greater investment you can make. Every ounce of energy you expend will return to you a hundred fold.

"Have you adopted an energy policy of laziness? Have you become too tired to solve your basic problem? Have you bartered your power for a pillow?

"Work! What would happen if we really tried it?

"Our assembly lines would double their output. Our deserts would become green with newly planted trees. Our tables would be filled with a harvest of food."

The little man stood tall as he concluded: "Work! That is our only hope! Please, listen! We must reclaim our manpower or there will be no power. None!"

He turned and walked back to his seat.

There was no applause. There was no comment.

The chairman stood and said, "That concludes our session. We will continue our conference at eight o'clock tonight. Some of you may want to go to your room to get a little rest."

The energy crisis is not a shortage of oil. It is a shortage of toil.

□ 1700

LOST JOBS: THE EMPLOYMENT COSTS OF TRADING WITH JAPAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. RICHMOND) is recognized for 30 minutes.

Mr. RICHMOND. Mr. Speaker, recently, we received the latest official statement of how many millions of Americans are looking for jobs and cannot find them. The figure is still in excess of 10 million. It is likely that very shortly we will see 10 percent unemployment and the situation will get worse before it gets better. In my own district, the young, the unskilled, and the experienced workers are all struggling with the weakest economy since the Great Depression.

The United States is caught between the administration's tight money policy and the ballooning Federal deficit. Behind the serious recession, however, is the even more fundamental problem of America's growing inability to compete in a world economy.

The problem of international competition is particularly acute with regard to Japan. While the United States leaves its economy free and open to foreign goods and capital and shoulders a large part of the cost of defending the free world, Japan has built an economic colossus behind largley closed borders.

Since the late 1960's, the United States has suffered a trade deficit with Japan and a deterioration of our merchandise trade account with the rest of the world. In recent years, our trade deficit with Japan amounts to billions of dollars—$12 billion in 1980 and now approaching $20 billion. Among the many reasons for this deficit is the fact that we ship to Japan some $20 billion worth of nonrenewable natural resources and unprocessed agricultural commodities with a low labor content, while the Japanese ship us some $40 billion worth of heavily manufactured luxury goods with a high labor content.

What does this huge trade deficit with Japan mean in terms of U.S. employment? If we could close that gap, how many more Americans could be put back to work? I posed those questions to experts at the Congressional Research Service and the Labor Department. Taking somewhat different approaches to the question, Dick Nanto of CRS, and Tom Bayard of the Office of Foreign Economic Research, U.S. Department of Labor, arrived at roughly the same conclusion: Bringing balance to United States-Japan trade would put more than 500,000 Americans back to work.

By adopting an aggressive policy of free trade—by forcing Japan to give us what we give them, full and free trade with no hidden barriers—we could reduce the trade deficit with Japan, cut half a percentage point off the unemployment rate and trim an additional $12.5 billion in Federal expenditures that now go for welfare, unemployment compensation, food stamps, and so forth.

Mr. Speaker, I will include copies of both the Nanto and Bayard studies into the RECORD at the conclusion of my remarks.

The imbalance with Japan is no longer a matter of losing a few jobs or closing an occasional factory. At least half a million jobs and billions upon billions of dollars are at stake. The answer to our problem lies in a full application of the principles of free trade to both economies—opening the Japanese economy to the efficiency of U.S agriculture, especially processed agricultural products, and our high technology goods. The results would be of immediate benefit to Japanese consumers who now pay an additional $16 billion annually in unnecessarily high food prices and to Japanese taxpayers who lose $19 billion in tax levy subsidies and direct subsidies to Japanese farmers every year.

Moreover, bringing United States-Japan trade into balance would bring relief to the millions of Americans who are casualties of the Reagan revolution.

The texts of the two studies follow:

[Congressional Research Service, Nov. 13, 1981]

THE JOBS BALANCE IN TRADE WITH JAPAN

(By Dick K. Nanto)

An asymmetry exists in U.S.-Japan trade that places considerable economic and political strain on the relationship. This asymmetry is the chronic bilateral U.S. trade deficit that reached a peak of $11.6 billion in 1978 and, after a slight dip in 1979 and 1980, appears to be heading toward the $15 billion level in 1981.[1] The adverse political repercussions from this deficit, moreover, have been exacerbated by rapid incursions by Japanese exports into sensitive U.S. markets (such as automobiles and steel), which have caused a surge of protectionist pressure by affected industries.

One effect of this bilateral trade deficit, it is commonly asserted, is that it costs the U.S. economy jobs. During times of high unemployment, in particular, the bilateral trade deficit appears to add to the slack in demand for labor.

This paper attempts to draw rough estimates of the magnitude of the employment impact of trade with Japan. It takes two approaches. First it estimates the maximum adverse impact on U.S. employment in 1980 given the actual imbalance in bilateral trade. Second, it estimates the maximum impact on U.S. employment if trade between the two countries were balanced. These two estimates are followed by a discussion of some weaknesses inherent in this type of analysis. In particular, it discusses problems of exchange rate adjustment, bilateral as compared to multilateral balance, and balance in trade as compared to the balance on current account or the balance of payments.

SUMMARY

The chronic U.S. merchandise trade deficit with Japan, which reached $11.6 billion in 1978 and could rise to $15 billion in 1981, has an analogue in production, workers, and jobs.

In 1980, U.S. merchandise exports to Japan consisted of products of agriculture (29 percent), mining (11 percent), and the manufacturing sector (60 percent). U.S. imports from Japan, however, consisted almost entirely of manufactured goods (99.6 percent). Each billion dollars worth of exports in agricultural products is estimated to have generated 28,800 U.S. jobs (man-years), in mining products 17,100 jobs, and in manufactured goods 24,000 jobs.

By applying these coefficients to actual U.S.-Japan trade in 1980, it is estimated that U.S. exports to Japan supported about 513,400 U.S. jobs, while U.S. imports from Japan displaced a maximum of about 749,500 jobs for a maximum deficit of approximately 236,100 jobs (given certain highly restrictive assumptions). By sector, the U.S. had a surplus of 173,100 jobs in agriculture, 37,500 in mining, but a deficit of 446,800 jobs in manufacturing.

The bulk of the bilateral job deficit can be attributed to the bilateral trade deficit and not to the structure of the trade. If trade between the two countries were balanced (without any change in its structure), the United States would enjoy a job surplus.

The existence of the 236,100 job deficit in trade with Japan does not imply that either balancing the trade or eliminating it altogether would result in an increase in employment of 236,100 in the United States. One problem is that with floating exchange rates, a reduction in imports from Japan could result in a strengthening of the dollar, which would cause imports to be more competitive in the U.S. economy, and U.S. exports less competitive worldwide. Reducing imports from Japan, moreover, would not necessarily translate into reduced total imports. Consumers unable to purchase Japanese products could very well purchase similar items from Europe or other countries of Asia. Merchandise trade, furthermore, does not include trade in services or capital flows, both of which generate some employment. The United States in 1980 recorded a $1.4 billion surplus in trade in services with Japan. Capital flows, moreover, can offset trade flows to some extent, since Japanese investment in the United States generates employment here, and vice versa.

A U.S. job deficit in its trade with Japan does not necessarily imply a corresponding Japanese job surplus. With differing employment coefficients in each country, both countries actually could incur a job deficit (as estimated by this method) at the same time. Japan's agriculture, for instance, is only about a third as efficient as the American. A billion dollars of U.S. agricultural exports to Japan, therefore, will displace roughly 2.7 times as many jobs in Japan as are supported in the United States. In actuality, in 1980, however, Japan probably experienced a small job surplus in its trade with the United States.

BACKGROUND

U.S. merchandise trade deficits with Japan first appeared in 1965 and grew to an annual level of $3.2 billion by 1971. With the introduction of more flexible exchange rates in 1971 and the 1973-75 recession, the bilateral deficit dropped to less than $2 billion per year. In 1976, however, a strong U.S. economic recovery pulled in imports from Japan at a record rate and ballooned the bilateral deficit to $5.4 billion. The deficit continued to grow in 1977 and peaked at $11.6 billion in 1978. The deficit dropped slightly during 1979 and 1980, but in 1981 surged again and is expected to reach a new high of about $15 billion.[2]

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[1] Cullison, A. E. Japan-United States Trade Gap of $15 Billion Seen. Journal of Commerce, v. 350, Oct. 30, 1981. p. 1, 19C.

This bilateral deficit in trade has an analogue in a bilateral deficit in industrial production, workers, and jobs. In terms of final demand in the economy, exports add to demand, while imports subtract from it. Unless offset elsewhere, therefore, a trade deficit tends to reduce total demand and weaken a country's economic performance.

The assertion is also heard that the structure of U.S.-Japan trade does not favor U.S. job creation. U.S. merchandise exports to Japan consist of agricultural products (29 percent), mining products (11 percent), and manufactured goods (60 percent). U.S. imports from Japan, however, consists almost entirely of manufactured goods (99.6 percent), although limited amounts of agricultural products (0.3 percent) and mining products (0.1 percent) are bought from Japan.

With 29 percent of U.S. exports to Japan in 1980 consisting of agricultural goods and virtually all Japanese exports to the United States consisting of manufacturing goods, one might conclude that the United States is "Japan's plantation: haulers of wood and growers of crops, in exchange for high technology, value-added products."[3] Such a "colonial" relationship, one might argue, is unfavorable to the United States, because Japan is exporting manufactured goods which create many jobs and importing agricultural products which do not seem to generate many jobs. This assertion will be examined in this paper.

The effect of U.S.-Japan trade on U.S. employment is examined as follows. The employment impact of U.S.-Japan trade is estimated by first determining the number of jobs that each billion dollars in exports generates by major sector of the economy. These same coefficients are then used to estimate the number of jobs that each billion dollars in imports displaces for each major economic sector.

This approach relies on two critical and highly restrictive assumptions. The first is that the import and export markets work symmetrically. In other words, a billion dollars in exports will generate the same number of jobs that a billion dollars in imports will displace. The second and perhaps even more tenuous assumption is that no adjustments occur to offset any hypothesized changes in United States-Japan trade. In economic terminology, this is partial, not general, equilibrium analysis.

EMPLOYMENT COEFFICIENTS

The number of jobs (man-years) generated by merchandise exports are estimated from input-output data. Using Bureau of Labor Statistics calculations, the Department of Commerce has estimated that in 1980, each billion dollars in exports of manufactured products supported 24,000 jobs; in mining products, 17,100 jobs; and in agricultural, products 28,800 jobs (See table 1). These include both direct and indirect employment. Direct jobs are those in the industry of the product being exported; indirect jobs are those in industries which supply intermediate inputs to the final producer.[4]

TABLE 1.—JOBS PER BILLION CURRENT DOLLARS OF MERCHANDISE EXPORTS

[Thousands of jobs]

Year	Total export related jobs	Jobs related to manufactures exports	Jobs related to mining exports	Jobs related to agricultural exports
1970	68.7	69.2	45.7	88.4
1971	64.2	64.1	45.6	79.5
1972	58.2	57.6	41.9	74.0
1973	50.6	52.4	31.2	51.5
1974	45.5	47.0	28.4	48.3
1975	39.3	39.9	29.3	44.3
1976	35.6	35.5	26.8	43.0
1977	32.6	32.2	24.9	41.0
1978	29.8	29.3	21.5	37.8
1979	26.2	26.5	19.1	30.8
1980	23.7	24.0	17.1	28.8
Direct jobs in 1980		11.8	10.6	19.2
Percent of total		49.1	61.7	66.5
Indirect jobs in 1980		12.2	6.5	9.6
Percent of total		50.9	38.3	33.5

Note: The value of merchandise exports used to calculate this table is obtained from the Bureau of the Census' compilation of U.S. exports by SIC category (EA675). The export figures do not include reexports or exports from the U.S. Virgin Islands. Manufactures under the SIC system include many of the processed or semi-processed foods or minerals falling under SITC codes for foods, feeds and beverages, crude materials, minerals fuels and lubricants.

Source: Compiled from official statistics of the Department of Commerce and the Department of Labor, and analysis done by the staff of the Division of Economic Growth in the Bureau of Labor Statistics by Roger T. Pomeroy in Employment Related to Merchandise Exports. U.S. Department of Commerce, International Trade Administration, Staff Economic Research Report ER-34, August 1981 (mimeographed), p. 5.

Table 2 shows U.S.-Japan trade in merchandise and services for 1980. Applying the Department of Commerce's employment coefficients, it is estimated that in 1980 (under the given assumptions), U.S. exports to Japan supported about 513,400 jobs in the United States. Japanese imports, however, displaced a maximum of about 749,500 jobs for a maximum deficit of approximately 236,100 jobs.

By sector, the estimated job balance breaks down into a U.S. surplus of 173,100 jobs in agricultural products, a surplus of 37,500 in mining, but a deficit of 446,800 jobs in manufactured goods. (No employment coefficients were available for services.)

The bulk of the bilateral job deficient can be attributed to the deficit in trade and not to the structure of the trade. If trade between the two nations were balanced at the level of either U.S. exports of U.S. imports, the United States would be in surplus in the job balance. In 1980, for example, if U.S. imports from Japan were equal to U.S. exports there (assuming a proportional reduction in each category of imports), the United States would have enjoyed a job surplus of 13,800 in the exchange. If trade were balanced at the level of U.S. imports from Japan (assuming a proportional increase in each category of U.S. exports), the U.S. job surplus would have been 20,700.

The reason the structure of the bilateral trade favors the United States is that agriculture supports more jobs per billion dollars worth of exports than either mining or manufacturing and agricultural products account for a much larger share of U.S. exports to Japan than of U.S. imports from there. This makes some intuitive sense, since agricultural wages tend to be lower than those in the other sectors, although with increasing mechanization, the employment creation of agriculture is diminishing and rapidly approaching the level of manufacturing.[5]

TABLE 2.—UNITED STATES-JAPAN TRADE BY SECTOR, 1980

[In millions of dollars]

Sector	U.S. exports	U.S. imports
Agricultural	6,111	100
Mining	2,219	25
Manufacturing	12,476	31,092
Total goods	20,806	31,217
Services	8,124	6,759
Total goods and services	28,930	37,976

Note: Total exports, imports, merchandise and services from Bach. Agricultural commodities and mining from Highlights. Trade in manufactures estimated by subtracting agricultural and mining trade from the total for merchandise.

Source: Bach, Christopher L. U.S. International Transactions, 4th quarter and year 1980. Survey of Current Business, vol 61, March 1981. P. 65. U.S. Department of Commerce. Highlights of U.S. Export and Import Trade. December 1980. P. 46–7, 102–3

Some Caveats. The estimated job deficit in bilateral trade with Japan does not necessarily imply that either balancing or eliminting trade with Japan would increase U.S. employment by 236,100 persons. The problem is that bilateral merchandise trade with Japan is just one of several external factors for the U.S. economy. Specifically, the above estimates are not adjusted for the effects of floating exchange rates, increased consumer purchases of imports from countries other than Japan, some losses in efficiency from less specialization and exchange, trade in services, and capital flows.

With floating exchange rates, a bilateral deficit with one country is usually offset by a surplus somewhere else in a country's trades accounts. The balance of payments for any country is always balanced, although individual accounts generally are not. Reducing imports from Japan, for example, could cause a strengthening of the dollar which would tend to make imports even more price competitive in the U.S. market, and U.S. exports less competitive abroad.

Bilateral trade with Japan is only part of U.S. trade with all countries—some of which have bilateral deficits and some surpluses. In 1980, for sample, while the United States incurred a $10.4 billion deficit in its merchandise trade with Japan, it generated a $17.4 billion surplus with the European Economic Community.[6] A reduced deficit with Japan could result in a smaller surplus with the European Community or other countries.

If Americans did not purchase some products (such as cameras, watches, automobiles, and steel) from Japan, they might decide to purchase them from Europe or other exporting nations. Reducing imports from

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[2] During the first 8 months of 1981, the bilateral deficit reached $10.4 billion. Data from U.S. Department of Commerce. Bureau of the Census. Highlights of U.S. Export and Import Trade (monthly). Various issues.

[3] U.S. Congress. House. Committee on Ways and Means. Subcommittee on Trade. United States-Japan Trade Report. Washington, D.C., U.S. Gov. Print. Off., 1980. p. 5.

[4] Pomeroy, Roger T. Employment Related to Merchandise Exports. Staff Economic Research Report ER-34. Office of Planning and Research, International Trade Administration, U.S. Department of Commerce, August 1981. p. 5.

[5] In 1980, the average hourly wage for all hired farm workers was $3.66 as compared with $9.17 in mining and $7.02 in manufacturing. U.S. Department of Agriculture. Farm Labor, February 23, 1981, p. 3. U.S. Department of Labor. Employment and Earnings, September 1981. p. 71.

[6] Krueger, Russell. U.S. International Transactions, First Quarter, 1981. Survey of Current Business, v. 61, June 1981. p. 50. (Data are on a balance-of-payments basis.)

Japan would not necessarily reduce total U.S. imports by an equal amount.

Increased trade with Japan also allows for more specialization and exchange which brings greater efficiencies in U.S. production. An America without any international trade, for example, would certainly face a standard of living considerably lower than currently exists, even though the overall U.S. job balance might be in balance. This would arise partly because certain imports are not available in sufficient quantities domestically (chromium, bananas, and coffee, for example) and partly because U.S. industries generate considerable economies of large scale production by specializing in those products in which the United States holds a comparative advantage. One estimate, for instance, indicates that over the 1948-73 period, economies of large scale production accounted for 15 percent of the actual growth in national income in the United States.[7] Some of these economies could be lost with less trade with Japan.

Bilateral merchandise trade with Japan, moreover, does not include trade in services in which the United States enjoys a large overall surplus. In 1980, for example, while the United States reported a merchandise trade deficit of $27.3 billion, it ran an overall trade surplus in services, which brought the balance on both merchandise and services to a surplus of $7 billion. In 1980, U.S. trade in services with Japan generated a surplus of $1.4 billion.[8] Altering the merchandise trade account also could change the services account.

A nation's international accounts, moreover, included more than just trade in goods and services. Capital flows, both short- and long-term, comprise important and highly volatile components of a country's balance of payment accounts. By 1980, for example, Americans had $6.2 billion in direct investments in Japan, while Japanese had direct investments of $4.2 billion in the United States. During 1980, Japanese directly invested a net of $726 in the United States, while Americans invested $66 million in Japan.[9] These flows affect the demand for and supply of yen or dollars and can either offset or exacerbate deficits in trade accounts.

Another caveat is that the employment coefficients will not necessarily hold for bilateral trade, because the product mix of exports to or imports from Japan within each category will not necessarily be the same as that for total exports or imports.

The assumption of symmetry also is questionable. Since products imported from Japan, even within the same category, are different from products exported to Japan, the impact of a thousand dollars worth of imports will not necessarily be the same that of a thousand dollars worth of exports. Ideally, the calculations should be performed with the actual products imported and exported.

The estimate of a maximum 236,100 job deficit in trade with Japan, therefore, does not imply that either bringing the bilateral trade into balance or eliminating it altogether will cause U.S. employment to rise by that amount. It does show, however, that bilateral trade deficits with Japan have potentially serious implications for U.S. employment.

The deficit in jobs from the American point of view also does not imply that the Japanese view that deficit as a surplus for them. Bilateral trade could actually result in job deficits on both sides, if those deficits are calculated in the above manner. The reason is that Japan's agricultural sector is highly inefficient by American standards. In 1978, average gross national product generated in the agricultural sector per production worker was $7,600 in Japan as compared with $20,680 in the United States.[10] A billion dollars worth of U.S. agricultural exports to Japan, therefore, displaced nearly three times as many jobs in Japan as were generated in the United States. Even if Japan had a bilateral surplus, its job balance could be in deficit if its agricultural imports from the United States were large. (They were 29 percent of total imports in 1980). A bilateral deficit in jobs as viewed from the United States, therefore, does not necessarily translate into a comparable surplus of jobs in the Japanese economy.[11]

As a final note, one might ask why the calculation was not done in terms of the balance of jobs created in the United States by U.S. exports to Japan compared with the jobs created in Japan by Japanese exports to the United States. Would such a calculation not have more meaning in terms of a job balance between the two countries?

The first problem in attempting such a calculation is the difficulty of obtaining Japanese data that would be consistent with the employment coefficients for the U.S. economy. Although the Japanese government does publish input-output studies, no estimates consistent with the coefficients used in this paper could be found.

The second problem is that comparing the number of jobs created in two countries by exports to each other is largely a reflection of the relative labor- or capital-intensity of each country's industries or the relative level of wages. An industry that is relatively labor-intensive in Japan would generate more employment per billion dollars worth of exports than a comparable exporting industry in the United States. The comparison, however, would not be very meaningful, because it merely reflects labor intensity and lower wages abroad.

As an extreme example, suppose the United States exported a billion dollars worth of coal to Japan in exchange for $1 billion worth of Japanese agricultural products. The coal exports would generate about 17,000 jobs in the United States, while the Japanese agricultural exports would generate aout 60,000 jobs in Japan. To assert that the United States, thereby, incurred a deficit of 43,000 jobs in its trade with Japan would be highly misleading.

Preliminary Estimates of the Labor Content of U.S. Merchandise Trade with Japan: 1970-80

(By Thomas O. Bayard, Office of Economic Research, Department of Labor, December 1981)

I. INTRODUCTION

Persistent United States trade deficits with Japan over the last decade have prompted domestic concern about their potential impact on U.S. production and employment. While there may be a basis for concern about the United States trade imbalance with Japan, attempts to quantify the employment implications of levels of bilateral trade or changes in bilateral trade balances are fraught with methodological and data problems. The problems implicit in attempts to measure the impact of trade on employment are considered in Section II. Section III then discusses the industrial composition of United States trade with Japan over the period 1970-80 and presents preliminary estimates of jobs opportunities associated with United States trade with Japan. Given the problems inherent in attempts to measure trade-related employment opportunities, the discussion in Section II emphasizes the need to interpret the estimates in Section III with great care.

These estimates are made as part of ongoing Department of Labor research on Japan. As the concluding section notes, much more work needs to be done to refine and analyze these estimates. They should therefore be taken as preliminary, and subject to future revision. This particular study of the labor content of United States-Japanese trade was initiated at the request of Congressman Fred Richmond.

II. METHODOLOGY

The Department of Labor has several ongoing studies of the structure of United States-Japanese trade and its determinants, as well as comparative studies of the process of labor market adjustment to changes in trade in the two countries. This report presents preliminary estimates of the labor content of United States-Japanese trade. These estimates will eventually provide the basis for a more detailed and rigorous analysis of the implications of trade for labor market adjustment.

As this section will emphasize, there are a number of methodological and data problems associated with attempts to quantify the labor market implications of bilateral trade flows. Great care must be used in interpreting these estimates for policy purposes.

The approach taken here in attempting to measure the labor content of United States-Japanese merchandise trade flows can be interpreted as asking hypothetically: "how many job opportunities would be generated if United States imports from Japan were replaced by domestic production; and how many job opportunities would cease to exist if United States exports to Japan were to cease?" Of course, while this hypothetical question is legitimate for research purposes, the basic question posed is meaningless in any realistic policy context. It is inconceivable under any realistic circumstances that bilateral trade would cease.

An alternative interpretation of the approach taken here is to ask, again hypothetically: "how many job opportunities would be affected if bilateral United States-

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[7] Denison, Edward F. Accounting for Slower Economic Growth, The United States in the 1970s. Washington, D.C., Brookings Institution, 1979. p. 108.

[8] See table 2.

[9] Whichard, Obie G. U.S. Direct Investment Abroad in 1980. Survey of Current Business, v. 61, August 1981. p. 31-32. Chung, William K. and Gregory G. Fouch. Foreign Direct Investment in the United States in 1980. Survey of Current Business, v. 61, August 1981. p. 41.

[10] Based on data in U.S. Department of Commerce. Survey of Current Business, Special Supplement, July 1981, p. 49, 53. Office of the Prime Minister. Japan Statistical Yearbook, 1980. Tokyo, Printing Bureau, Ministry of Finance, 1981. p. 51, 503.

[11] Suppose, for example, that each billion dollars in agricultural exports from Japan supported 61,400 jobs (2.7x19,200=51,800 direct plus 9,600 indirect jobs) and that the manufacturing job coefficient was the same as in the United States. If the U.S. exported $2 billion each in agricultural and manufacturing goods as compared with imports of $6 billion in manufactured goods from Japan, then the U.S. job deficit would be 38,400, while Japan's deficit would be 26,800—despite the Japanese trade surplus of $2 billion.

Japanese merchandise trade were balanced?" However, this hypothetical question is probably also irrelevant for policy purposes, since the very notion of bilateral balance is economically meaningless. There is certainly no economic basis to expect that commodity trade should exactly balance at any given point in time. While trade balances may (but need not) give rise to exchange rate changes, which over time may tend to reduce any trade imbalance, there are many other factors which affect trade flows between two countries. (Indeed, there is considerable theoretical debate on the theory of exchange rate determination and on the impact of exchange rate changes on the trade balance.) Asset preferences and capital flows commercial policy, different rates of economic growth, wage and price behavior, and the underlying and changing structure of comparative advantage all have important effects on bilateral trade flows

Moreover, persistent bilateral trade imbalances are not necessarily even a matter for concern by policymakers. Whether trade surpluses or deficits are or should be a policy issue must depend on an analysis of their underlying causes. On the one hand, for example, a persistent trade deficit which reflects underlying differences in comparative advantage is probably not a concern for trade policy makers. On the other hand, a trade deficit may reflect commercial policy (eg. trade barriers or exchange rate management), which may be a legitimate concern for policy makers. This paper makes no attempt to analyze the underlying causes of United States-Japanese trade. As a result, the estimates presented here cannot be interpreted as supporting any specific policy initiative.

Probably the most meaningful interpretation of these estimates is that they provide a very imperfect measure of pressures to reallocate labor and other resources out of certain import-competing industries (and their suppliers) and into other export-oriented and non-traded goods (eg. services) sectors of the economy. Even this interpretation may be too broad, because most of the required adjustment probably comes at the product, rather than the industry level. A major limitation of this analysis is that the data only permit us to make the estimates at the 4-digit input-output level (which is roughly the 4-digit SIC level).

There are a number of other reasons why these estimates are very imperfect measures of the pressure to adjust employment. Probably the most important limitation of the analysis is that it can only measure changes in the potential demand for labor, holding wages and prices constant. The model does not measure or attempt to predict changes in actual employment, which depends on both the supply and demand for labor, on the aggregate trade balance (not just bilateral balances), and on how wages, prices, and aggregate income adjust.[1] Since all of these factors are beyond the scope of the present model, it is best to interpret the estimates as referring to the impact of trade of employment opportunities, rather than on actual jobs.

An example may help to illustrate the extreme difficulty involved in translating changes in job opportunities into changes in actual employment. Consider a one million dollar increase in imports of, for example, automobiles. The model used here would translate that one million dollar increase in imports (which includes C.I.F. margins and duties) into a one million dollar decline in domestic production of autos.[2] Based on average labor/output ratios, the model would estimate a decline in the demand for labor in the auto industry of roughly ten job opportunities in 1976, for example. In addition, output in all of the industries which sell supplies and services to the auto industry (eg. steel, aluminum, tires, components, business services, etc.) would also decline. These inter-industry linkages would give rise to a decline of roughly 30 other job opportunities in sectors which supply the automobile industry.

Does total employment in the economy immediately decline by 40 jobs because of the direct impact of a one million dollar increase in automobile imports on domestic automobile production (10 job opportunities) and the indirect impact on supplying industries (30 job opportunities)? We do not know.

If the increase in automobile imports coincided with an upswing in the business cycle and reflected an increase in demand for both foreign and domestic autos, actual employment in the automobile industry and its supplying industries could increase, while our model would predict a decline in auto-related job opportunities. In this particular case, all that could be said is that the potential increase in total employment would have been higher in the absence of increased imports. The example illustrates the importance of macroeconomic considerations in translating job opportunities into jobs. The model used here does not incorporate this factor.

The model also fails to incorporate the role of firm behavior on actual employment. Returning to the auto example, suppose that the domestic automobile industry determines that the increase in imports does require them to permanently decrease their output and employment. How do they accomplish this? In some (but certainly not all) cases, it may be possible to reduce employment through normal labor turnover. Even when output is declining, industries experience quits, retirements etc. which require them to hire (or rehire) workers. It may be possible to partially reduce employment by attrition rather than by layoffs. Of course this simplistic example begs the question of whether the attrition will reduce employment of workers in the required skill categories etc. Still, it serves to highlight the importance of labor turnover in translating job opportunities into jobs. The present model does not incorporate this factor.

Consider one last example. In contrast to the previous example, suppose that the automobile industry determines that the decline in domestic sales will be temporary. Given the cost of hiring and training workers, firms may decide to "hoard" temporarily redundant labor, rather than lay off workers for a relatively short period of time. This example is particularly appropriate for highly skilled workers and those with firm-specific skills. Again, this factor is not included in this model.

Many of the technical details of the model and the estimates have not been discussed in this section. However, they have been explored in great detail in the technical literature, and the interested reader may consult that literature.[3] Instead, the focus in this section has been on the appropriate interpretation of the estimates to be presented in Section III. To summarize: the estimates are of the employment opportunities associated with United States-Japanese trade. Given the difficulties of translating changes in employment opportunities into changes in actual jobs, the estimates presented in Section III should be used for policy analysis with all of the caveats discussed here firmly in mind.

III. TRENDS IN UNITED STATES-JAPANESE TRADE AND TRADE-RELATED EMPLOYMENT OPPORTUNITIES

This section contains a brief discussion of trends in the industry composition of United States trade with Japan from 1970 to 1980. We then present preliminary estimates of the impact of United States-Japanese trade on trade-related opportunities in the United States.

United States merchandise trade with Japan has been characterized by persistent U.S. deficits over the period 1970-1980.[4] However, there is no consistent trend to the deficit, which has fluctuated widely in response to exchange rate changes and changes in the rates of GNP growth in the two countries. Measured relative to United States exports to Japan, the deficit (on an f.a.s. basis) has also fluctuated widely, ranging from under 20 percent of U.S. exports in 1970, 1973 and 1974 to about 90 percent in 1978. (See Table 1).

TABLE 1.—UNITED STATES TRADE WITH JAPAN 1970–80

[In millions of dollars]

Year	Export (f.a.s.)	Imports (f.a.s.)	Imports (c.i.f.)	Balance (f.a.s imports)	Balance (c.i.f imports)
1970...	4,652	5,875	NA	−1,223	NA
1971...	4,055	7,259	NA	−3,204	NA
1972...	4,963	9,064	NA	−4,101	NA
1973...	8,313	9,677	NA	−1,364	NA
1974...	10,682	12,339	13,473	−1,657	−2,796
1975...	9,570	11,278	12,336	−1,708	−2,773
1976...	10,152	15,516	16,992	−5,364	−6,777
1977...	10,529	18,550	20,196	−8,021	−9,667
1978...	12,885	24,458	26,461	−11,573	−13,576
1979...	17,581	26,248	28,169	−8,667	−10,588
1980...	20,790	30,701	32,961	−9,911	−12,171

Note: Exports are valued free alongside ship (f.a.s.). Beginning in 1974, imports are transaction values f.a.s.; prior to 1974, imports are Customs values.

Source: Overseas Business Reports (several issues).

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[1] If wages and prices were perfectly flexible in the short run, no involuntary unemployment would result from decreased demand for domestic goods. More realistically, the more flexible are wages and prices, the smaller the required adjustment of employment and output for any change in demand. This model holds wages and prices constant and hence assumes a larger potential impact on output and employment than would occur with some wage and price flexibility.

[2] This so called "dollar-for-dollar" assumption is itself very controversial. There is evidence from a number of sources that the assumption may over- or under-estimate the impact on domestic output. Lazare Teper, research director of the ILGWU, has conducted research on the substitutability of imported for domestic apparel which casts doubts on the appropriateness of the "dollar-for-dollar" assumption for that industry. The Office of Foreign Economic Research has several ongoing studies of this important issue.

[3] See "The Impact of Changes in Manufacturing Trade on Sectoral Employment Patterns," in Trade and Employment a Special Report of the National Commission for Manpower Policy (No. 30), Nov. 1978; Walter S. Salant, "The Effects of Increases in Imports on Domestic Employment," National Commission for Manpower Policy, Special Report No. 18, January 1978; and T. Bayard, et.al. "MFN Tariff Treatment of Imports from China: Effects on U.S. Employment," J. of Policy Modeling 3, (1981).

[4] See "Trends in U.S. Trade: 1960-1979," Discussion Paper No. 7, Office of Foreign Economic Research, U.S. Department of Labor, October 1980.

The stark differences in the two countries' underlying endowments of agricultural land and natural resources are clearly reflected in the composition of bilateral trade. The United States is a net exporter of agricultural goods (especially grains, soy beans, cotton, fruits and vegetables, and meat) and natural resources (especially coal and forest products) to Japan. Japan, in turn, is a net exporter of manufactured goods to the United States. (See Table 2).

Decomposing merchandise trade into one-digit "end-use" categories gives a slightly more detailed indication of trends in the composition of trade. (See Table 3). The United States has been a fairly consistent net exporter of industrial supplies to Japan. Major U.S. exports in this category include coal, cotton, aluminum, lumber and chemicals. The most significant U.S. imports of industrial supplies from Japan are iron and steel products, building materials, and unfinished textile supplies and materials.

In the early 1970's, the United States had a small net export surplus in capital goods trade with Japan. By 1975 the situation reversed and the United States became a net importer of capital goods. This trend in capital goods trade may reflect differential rates of investment in the two countries. As the world's largest industrial economy, the United States has an enormous capital stock and cumulative experience in producing capital equipment. As a result, the United States has been a net exporter of capital goods to the world in the postwar period. However, a number of industrial countries, including Japan, have accumulated capital more rapidly than the United States in the last 10-15 years. Thus, in relative terms, the United States advantage in producing these goods has narrowed over time. The decline and reversal of the U.S. surplus in capital goods may indicate a gradual shift in our comparative advantage in capital-intensive goods vis-a-vis Japan.

TABLE 2.—UNITED STATES TRADE WITH JAPAN IN AGRICULTURE AND MANUFACTURED GOODS, 1970–80

[In millions of dollars, f.a.s. values]

Year	Agriculture			Manufactured goods			Other			Total		
	Exports	Imports	Balance	Exports	Imports	Balance	Exports	Imports	Balance	Exports	Imports	Balance
1970	1,214	37	+1,177	1,951	5,591	−3,640	1,460	246	+1,214	4,652	5,875	−1,223
1971	1,073	47	+1,026	1,904	6,943	−5,039	1,078	269	+809	4,055	7,259	−3,204
1972	1,427	53	+1,374	2,213	8,659	−6,446	1,321	352	+969	4,963	9,064	−4,101
1973	2,998	57	+2,941	3,132	9,209	−6,077	2,183	409	+1,774	8,313	9,676	−1,363
1974	3,479	70	+3,409	3,980	11,781	−7,801	3,221	488	+2,733	10,678	12,338	−1,660
1975	3,082	64	+3,018	3,211	10,868	−7,655	3,275	346	+2,929	9,563	11,268	−1,705
1976	3,563	76	+3,487	3,652	15,042	−11,390	2,937	398	+2,539	10,145	15,504	−5,359
1977	3,724	79	+3,645	3,724	18,141	−14,418	2,949	330	+2,619	10,529	18,550	−8,021
1978	4,435	92	+4,343	4,771	23,927	−19,156	3,679	428	+3,251	12,885	24,458	−11,573
1979	5,255	89	+5,166	7,002	25,657	−18,655	5,322	497	+4,825	17,368	26,243	−8,875
1980	6,111	99	+6,012	8,573	29,899	−21,326	6,106	703	+5,403	20,790	30,701	−9,911

Source: Overseas Business Reports (several issues).

TABLE 3.—UNITED STATES TRADE WITH JAPAN IN END-USE CATEGORIES, 1970–80

	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980
(0) Foods, Feeds, Beverages:											
Exports	971	849	1,067	2,554	2,827	2,658	2,908	3,215	4,013	4,686	5,393
Imports	170	174	253	284	323	182	269	255	283	240	297
(1) Industrial supplies, materials:											
Exports	2,119	1,665	2,092	3,482	4,847	4,296	4,620	4,697	5,238	7,706	9,501
Imports	1,809	2,127	2,324	2,381	3,802	3,672	3,872	4,325	4,836	5,320	5,926
(2) Capital goods (excluding automotive):											
Exports	1,201	1,175	1,299	1,523	2,147	1,707	1,749	1,720	2,379	3,526	4,148
Imports	658	813	1,235	1,677	2,114	1,918	2,821	3,718	6,202	5,663	6,555
(3) Automotive vehicles parts, engines:											
Exports	38	35	38	79	104	117	131	139	182	220	192
Imports	647	1,216	1,652	1,883	2,676	2,637	4,795	5,439	8,186	9,309	11,436
(4) Consumer goods nonfood (excluding automotive):											
Exports	213	246	356	465	534	509	556	591	802	1,077	1,154
Imports	2,552	2,942	3,755	3,650	3,773	3,050	4,272	5,479	6,161	5,558	6,198
(5) Special category military and other exports:											
Exports	109	86	112	203	224	276	181	170	278	364	403
Imports	78	92	95	100	137	156	144	162	132	153	289

Source: Overseas Business Reports (several issues).

Automotive vehicles and parts are the largest single category of Japanese exports to the United States. Imports from Japan have grown rapidly over the decade, but the trend accelerated after 1975, when American tastes shifted in favor of small, fuel-efficient automobiles. It is possible that the growth in Japanese automotive exports will level off as the combined impact of temporary voluntary export restraints and increased domestic output of small cars induces Americans to shift their expenditures to domestic automobiles.

Japan has been a net exporter of consumer goods over the entire period between 1970-80. Major Japanese exports in this category include consumer electronics, especially radios and TV's. Although these Japanese exports have grown rapidly in recent years, it is possible that the rate of increase will slacken in the future, in large part because of the emergence of other Asian exporters of these goods, especially consumer electronics.

This brief discussion of trends in the industrial composition of U.S.-Japanese trade cannot do justice to the subject. However, the Office of Foreign Economic Research is conducting a comprehensive study of the commodity composition of U.S.-Japanese trade at the 3- and 4-digit SITC level of disaggregation. This forthcoming analysis will examine the basis for comparative advantage underlying bilateral trade flows, and will provide a much richer discussion of detailed trends in the composition of trade than is presented here.

We turn now to a discussion of the labor content of U.S.-Japanese trade. As is noted in section II, great care must be used in interpreting the results of this exercise. In particular, it must be reemphasized that these calculations are estimates of the potential impact of exports and imports on employment opportunities in the United States. For reasons discussed earlier, employment opportunities cannot readily be translated into actual jobs. To say that a million job opportunities would be generated if domestic production replaced imports from Japan is not to say that a million layoffs have occurred as a result of our imports from Japan, or that a million jobs would be generated if imports ceased.

The results of this exercise are more meaningful if they are interpreted as indications, however imperfect, of pressures to adjust production and employment away from specific import-competing and toward other specific export-oriented and nontraded goods sectors of the economy. Even this interpretation is not without problems since, in spite of the fact that the analysis is made at a very detailed industry level, much of the labor market adjustment is likely to occur at the even more disaggregated product level, rather than at the 4-digit industry level. Moreover, the analysis is quite limited in scope and does not consider the occupational and demographic characteristics of the potentially affected workers, although it is these characteristics which are most important in analyzing the welfare implications of adjustment to changes in trade.

Both the levels of exports and imports and their commodity composition are important determinants of the employment implications of bilateral U.S.-Japanese trade flows. Table 4 presents summary estimates of job opportunities related to U.S. exports to Japan and imports from Japan over the last decade. The growth in trade-related job opportunities reflects the rapid growth in trade itself. (See Table 1). However there is not a one-to-one increase in trade and employment opportunities related to trade for a number of reasons—the most important of which are the fact that part of the growth in the dollar value to trade is due to inflation, and also because productivity growth (and hence labor/output ratios) differs greatly across industries over time.

Analysis of the impact of changes in the volume and composition of trade on employment opportunities is more interesting and meaningful at a detailed sectorial level than in the aggregate. Table 5 presents estimates of the employment impact for ten 4-digit input-output industries which experienced the largest net increases and decreases in trade-related employment opportunities in 1980. Similar tables for earlier years are presented in an appendix.

TABLE 4.—JOB OPPORTUNITIES RELATED TO UNITED STATES–JAPANESE TRADE, 1970–80

Year	U.S. export-related job opportunities	U.S. import-related job opportunities	Net U.S. trade-related job opportunities	Average labor/output ratio (man/years per million dollars)	
				U.S. exports	U.S. imports
1980	579,800	1,100,200	−520,400	30	32
1979	506,800	1,022,200	−515,400	31	35
1978	415,500	1,062,100	−646,600	35	38
1977	372,100	875,500	−503,400	39	42
1976	382,800	787,100	−495,300	42	45
1975	373,700	609,400	−235,700	44	48
1974	451,200	719,300	−268,100	48	52
1973	403,400	662,700	−259,300	54	62
1972	286,200	673,900	−387,700	63	67
1971	264,900	601,400	−336,500	69	73
1970	306,100	546,500	−240,400	73	82

TABLE 5.—INDUSTRIES MOST AFFECTED BY UNITED STATES–JAPANESE TRADE IN 1980

Input-output industry	Net change in job opportunities
10 largest gainers:	
202: Food and feed grains	57,800
2001: Logging camps	15,200
6501: Railroads and related services [1]	9,400
201: Cotton	9,000
6001: Aircraft	8,500
2002: Sawmills and planing mills	7,900
400: Agriculture, forestry, and fishery services [1]	7,200
103: Miscellaneous livestock	6,800
300: Forestry and fishery products	5,300
700: Coal mining	4,100
10 largest losers:	
5903: Motor vehicles	92,900
3701: Blast furnaces and steel mills	59,700
5601: Radio and TV receivers	49,500
5703: Electronic components, n.e.c.	22,200
6105: Motorcycles, bicycles, and parts	21,200
4102: Automotive stampings	16,600
3702: Iron and steel foundries	15,100
7301: Miscellaneous business services [1]	14,400

Table 5.—INDUSTRIES MOST AFFECTED BY UNITED STATES–JAPANESE TRADE IN 1980—Continued

Input-output industry	Net charge in job opportunities
4101: Screw machine products	12,900
5701: Electron tubes	11,800

[1] Nontraded goods sector. The employment effects shown are due to indirect interindustry linkages.

Many of the industries in which net job opportunities have increased produce agricultural goods (feed grains, cotton, tobacco) or natural resource products (coal, logging). However, certain high-technology industries like aircraft have also been net gainers. The industries experiencing large net declines in trade-related employment opportunities are automotive vehicles and motorcycles, iron and steel, and electronics-oriented industries (radios and T.V.s, tubes, and electronic components).

One of the more important issues involved here is the impact of changes in trade over time on changes in trade-related employment opportunities. Table 6 presents estimates of the largest changes in employment opportunites between 1970 and 1980. These results also must be interpreted with great caution. Beginning in 1978, there have been a number of changes in the SIC-based trade classifications for exports and imports. As a result, trade after 1977 may have been reallocated out of certain input-output categories and into others. Some of the purported shifts shown in Table 6 may be more a result of changes in industry classifications than of actual changes in trade. We hope to correct this serious data problem and to revise Table 6 accordingly when the trade data are classified on a consistent industry basis for the entire period 1970–80. For now, not too much significance should be attached to this table.

TABLE 6.—CHANGES IN TRADE-RELATED JOB OPPORTUNITIES BETWEEN 1970 AND 1980

Input-output industry	Change in trade-related job opportunities between 1970 and 1980
10 largest gainers:	
202: Food and feed grains	27,000
1804: Apparal made from purchased materials	20,000
1601: Broadwoven fabric mills	12,000
2002: Logging camps	5,000
300: Forestry and fishery products	5,000
400: Agriculture, forestry, and fishery services	5,000
201: Cotton	5,000
2002: Sawmills and planing mills	5,000
4907: General industrial machinery, n.e.c	4,000
103: Miscellaneous livestock	4,000
10 largest losers:	
5903: Motor vehicles	−80,000
3701: Blast furnaces and steel mills	−21,000
4102: Automotives stamping	−13,000
3702: Iron and steel foundries	−13,000
5703: Electronic components, n.e.c	−12,000
5601: Radio and TV receivers	−11,000
5702: Semiconductors and related devices	−10,000
7301: Miscellaneous business services	−10,000
4701: Machine tools, metal cutting types	−10,000
5101: Electronic computers	−9,000

IV. DIRECTIONS FOR FUTURE RESEARCH

The estimates presented in this paper are only a first tentative step in a larger and more policy-relevant program of Labor Department research on Japan. Instead of attempting to summarize or draw conclusions from these preliminary results, it is more appropriate to discuss directions for further research.

Labor Department research on trade and employment is proceeding on three roughly parallel tracks. One project, of which these estimates are a small part, is to develop and refine methodologies to measure the impact of changes in trade on production and employment. As explained in section II, a number of factors which are not yet incorporated into our model prevent a simple translation of changes in trade-related job opportunities into changes in employment. Research is under way to include important macroeconomic phenomena such as exchange rate and terms of trade changes and the business cycle in the model. Other studies are in progress on the elasticity of substitution between imports and domestic goods and on firm behavior in the face of import competition. In addition, the Office of Foreign Economic Research has a long standing research program on the impact of changes in trade on the process of labor market adjustment and on the economic costs and benefits of adjustment. These studies emphasize the importance of industry, occupational and demographic characteristics in impeding or facilitating worker adjustment.

A second major area of research is a comparative study of the process of labor market adjustment in the United States and in Japan. The study compares the manner in which firms and industries in the United States and Japan adjust their work forces to major changes in production. The emphasis here is on the role of the firm in retraining their workers for new occupations. The study also compares the employment adjustment policies which the United States and Japan have instituted to assist in the process of labor market adjustment. Preliminary results of this research will be available by the spring of 1982.

A third topic in the preliminary stages of research is on the underlying resource determinants of bilateral trade. This research will focus on the importance of relative factor (e.g. land, capital, labor, technology, natural resources, etc.) endowments of the two countries in influencing the volume and industrial composition of trade flows between the two countries. This study will provide policy-makers with valuable information on the underlying causes of the U.S.-Japanese merchandise trade imbalance.

TABLE A-1.—INDUSTRIES EXPERIENCING NET GAINS IN EMPLOYMENT OPPORTUNITIES DUE TO UNITED STATES-JAPANESE TRADE, 1970–80

[10 largest "gainers" in each year]

Input-output industry	Net gain in job opportunities									
	1979	1978	1977	1976	1975	1974	1973	1972	1971	1970
202: Food and feed grains	45,000	46,000	51,000	53,000	53,000	64,000	59,000	28,000	24,000	31,000
2001: Logging camps	13,000	8,000	9,000	12,000	11,000	12,000	14,000	9,000	7,000	10,000

TABLE A-1.—INDUSTRIES EXPERIENCING NET GAINS IN EMPLOYMENT OPPORTUNITIES DUE TO UNITED STATES-JAPANESE TRADE, 1970-80—Continued

[10 largest "gainers" in each year]

Input-output industry	Net gain in job opportunities									
	1979	1978	1977	1976	1975	1974	1973	1972	1971	1970
6001: Aircraft	8,000	5,000		4,000	6,000	10,000		9,000	7,000	6,000
103: Miscellaneous livestock	8,000	7,000	6,000	7,000	5,000	5,000	6,000	4,000	2,000	3,000
201: Cotton	7,000	6,000	7,000	6,000	6,000	13,000	6,000	5,000	6,000	4,000
400: Agriculture, forestry and fishery services [1]	6,000	6,000	6,000	6,000	5,000	7,000	5,000	3,000	2,000	
300: Forestry and fishery products	6,000	4,000								
2002: Sawmills and planing mills	5,000		3,000	4,000	5,000	5,000	4,000			2,000
1401: Meat products	4,000		3,000	3,000						
1412: Fresh or frozen fish	4,000	4,000								
204: Fruits and nuts		4,000	3,000							
203: Tobacco [1]		4,000								
6503: Motor freight transportation					4,000					
5101: Electronic computers						5,000	4,000	3,000	4,000	5,000
6901: Wholesale trade [1]							4,000			3,000
6004: Aircraft and missile equipment, n.e.c.								3,000	3,000	
6501: Railroads [1]			3,000	5,000	8,000	8,000	5,000	3,000	4,000	8,000
700: Coal mining			3,000	4,000	8,000	8,000	3,000	3,000	4,000	6,000

[1] Nontraded goods sector. The employment effects shown are due to indirect interindustry linkages. For example, the effect on sector 6501, railroads, is in large part due to exports of coal (sector 700).

TABLE A-2.—INDUSTRIES EXPERIENCING NET LOSSES OF EMPLOYMENT OPPORTUNITIES DUE TO UNITED STATES-JAPANESE TRADE, 1970-79

[10 largest "losers" in each year]

Input-output industry	Net decline in job opportunities									
	1979	1978	1977	1976	1975	1974	1973	1972	1971	1970
5903: Motor vehicles	85,000	75,000	47,000	41,000	31,000	35,000	27,000	27,000	22,000	13,000
3701: Blast furnaces and steel mills	56,000	57,000	60,000	53,000	52,000	46,000	36,000	44,000	44,000	38,000
5601: Radio and TV receivers	49,000	55,000	48,000	49,000	30,000	42,000	49,000	44,000	37,000	38,000
5703: Electronic components n.e.c	21,000	24,000	19,000	17,000	10,000	12,000	12,000	12,000	11,000	10,000
6105: Motorcycles, bicycles, parts	17,000	22,000	17,000	15,000	17,000	25,000	23,000	27,000	20,000	13,000
4102: Automotive stampings	16,000	16,000				7,000				
7301: Miscellaneous business services [1]	15,000	18,000	14,000	11,000			6,000	9,000	7,000	
4101: Screw machine products	13,000				7,000	12,000	7,000			
3702: Iron and steel foundries	12,000									
6303: Photo equipment and supplies	12,000									
6901: Wholesale trade [1]		16,000						7,000		
5701: Electron tubes		14,000	12,000	11,000	7,000	9,000	10,000	9,000	9,000	8,000
1804: Apparel made from purchased material		14,000	12,000	12,000	10,000	12,000	18,000	23,000	23,000	25,000
5604: Radio and TV communication equipment			18,000	23,000	9,000					
1601: Broadwoven fabric mills			12,000	12,000	11,000	10,000	13,000	17,000	17,000	20,000
3204: Miscellaneous plastic products									6,300	6,000
3607: Food utensils, pottery										6,000

[1] Nontraded goods sector. The employment effects shown are due to indirect, interindustry linkages.

OUR ALLIES MUST SHARE A LARGER PART OF THE DEFENSE BURDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, by almost any quantitative measure, the United States spends more on defense than any of its allies—in fact, 220 million Americans spend more on defense than our 382 million European allies and Japan combined. It is time to rectify this inequality. The NATO countries and Japan need to meet their respective commitments and increase their defense spending to relieve the United States of the excessive burden it carries. During the earlier post-World War II period such discrepancies in defense spending were tolerable; our allies were economically weak with fragile political structures. The United States provided them with a security umbrella so that they could strengthen and stabilize themselves politically and economically. Because of this help from the United States, Japan, and the NATO nations have made phenomenal economical progress. However, they are still relying on the United States for military protection, while reaping the rewards of the booming economies. It is past time they should play a more responsible role in their own defense.

Our allies have not lived up to the commitment they made with the United States at the London Summit Conference in 1977. Each country pledged to increase their previous defense spending by 3 percent, but Japan refuses to devote more than 1 percent of their GNP to defense, while our European allies have not brought their defense spending levels up to the 3 percent commitment. We should be able to expect a more equitable commitment to the defense of NATO, Japan, and the United States than we are receiving now. This year alone, almost half of America's Pentagon budget—$109 billion—went not to defend our country directly, but our NATO allies. We must insist that the allies pay more.

Due to help from the United States, Japan ranks as the third greatest economic power in the world. Though the per capita economic gap between the United States and Japan has almost vanished, the United States spent eight times more per person on defense than Japan in 1980. Somehow, I cannot find justification for this inequality. Many U.S. taxpayers feel that the Japanese are free riding on their money. We are dealing with strong progressive economies, and we should not be expected to carry the burden of their defense on our shoulders alone.

The manner in which the Japanese spend their defense budget is of increasing concern to Americans. The Japanese are known to purchase an individual piece of military equipment from the United States, take it back to Japan, and reproduce the rest in Japan. This actually costs the Japanese more than it would cost them if they were to purchase all of their equipment—such as fighter planes—in the United States. Further, this "made in Japan" policy contributes to the $25 billion trade deficit we are running with the Japanese, by denying U.S. major equipment sales in an area in which the United States specializes and is highly competitive.

The heavy military burden that the United States carries, contributes to its economic problems. According to the council on economic priorities (CEP):

> Those countries that spent a smaller share of economic output on the military generally experienced faster growth, greater

investment, and higher productivity increases.

An increase in military research and production distorts technological progress, contributing to poor economic advancement. As our colleague, Congressman LES ASPIN (Wisconsin) points out, though the United States, Germany, and Japan each outlay roughly the same percentage of their GNP to research and development, the U.S. military spends about 5 times the share it takes in Germany, and about 14 times the share it takes in Japan. The United States employs more scientists and engineers per worker than either Japan or Germany, however, eight times more of our engineers are engaged in defense related work. While our scientists and engineers are working on military tasks, presumably vital to western European and Japanese national interests, the scientists of those countries are free to work in their consumer industries. The consequence, of course, is that the American factories close down, and Americans lose their jobs in the civil sector.

It often seems that Japan and the NATO nations do not view the Soviet Union as seriously as the United States does. The Soviet aggression in Afghanistan and the Soviet threat of intervention in Poland underscore the importance of military preparedness in the NATO nations and Japan. More often than not (as in these cases) the European response is half-hearted, with expectations of U.S. leadership.

It is time that the President calls on Japan and the NATO countries to increase defense commitments in the 1980's. Only in this way can we continue to insure security for ourselves, our allies, and free nations everywhere.●

CREATING A BALANCED BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANNEMEYER) is recognized for 30 minutes.

Mr. DANNEMEYER. Mr. Speaker, all of us are interested in how we can restore economic growth in our economy, and my topic this afternoon will deal with how we can cut down the deficit for 1983, and indeed, create a balanced budget for fiscal year 1983 beginning on October 1.

Primarily, let me observe that today 928,000 workers in the construction industry are out of work. That is 18.1 percent of the total in that industry.

Two hundred and fifty thousand of the workers in the automobile industry are out of work. That is 20.8 percent of the workers in that industry.

These two industries together total 1,178,000 workers who are out of work because of a decline in their industries. The principal question is why?

In the opinion of this Member from California, the reason or the answer to that question is high-interest rates. Currently the prime in this country is about 16 percent.

How do we get that prime rate down? The answer is that we must reduce the quantity of borrowing which the Federal Government contemplates taking from the credit markets over the course of the next year. How do we do that? We have got to reduce the size of the deficit.

Now, when you serve in this House, in this institution, it almost exudes from the walls that you really cannot cut spending of the Federal Government, that it is part and parcel of the premises and it is impossible to really do it.

Well, this Member from California yesterday made a presentation to the Budget Committee whereby a plan was presented that we could balance the budget in 1983.

I would like to talk about that this afternoon.

□ 1710

As we prepare to do battle over the budget this year, as we have done in the past, I am sure that all of us are not just a little more uneasy this time about the budgetary, socio-economic, financial, and political ramifications of being confronted with the largest deficit in our Nation's history. We are simply not following the script very well, which, if we recall why our constituents sent us here 16 months ago, calls for movement in the opposite direction: We are supposed to be balancing the budget, not busting it.

It becomes imperative, therefore, for us to find an alternative to the administration's fiscal year 1983 budget. A chief obstacle which has thus far prevented us from coalescing around an acceptable substitute is the continuing debate over economic assumptions. In February, the Office of Management and Budget indicated that the fiscal year 1983 deficit would be $107.2 billion—including off-budget items—the Congressional Budget Office estimates the on-budget deficit alone will be closer to $157 billion. The variation in just the on-budget deficit exceeds 70 percent, due to acceptance of differing assumptions as to GNP growth, inflation, interest rates, unemployment, and changes in law. With fluctuations of as little as 1 percent accounting for billions of dollars in changes to the budget, it becomes nearly impossible for us to correctly predict what the final figures will be.

Because of this uncertainty, it becomes even more important for the Congress to take decisive action on the budget and reduce the projected deficit—whether $100 billion or $200 billion—by an amount large enough and meaningful enough to make a critical difference: Large enough to relieve much of the constrictive pressure on the credit markets, and meaningful enough so that the message to both taxpayers and the business community would be clear as to our intention to finally do something about out-of-control Federal spending.

I submit, therefore, that, despite protestations to the contrary, not only must the budget be balanced, it can be. Or, to be more exact—because of continued volatility of economic assumptions—as closely balanced as possible under existing circumstances. This can be accomplished by cutting $110 billion from the projected fiscal year 1983 deficit, whatever that figure may ultimately be. A cut of this magnitude would certainly be large enough to materially affect financial markets, and meaningful enough to send a clear message that we are finally serious about putting the Nation's fiscal house in order.

My program for reducing the deficit by $110 billion can be divided into two underlying premises, seven direct components, and two indirect additives, as follows.

PREMISES

First, measures undertaken to reduce the fiscal year 1983 budget should encompass the final 6 months of fiscal year 1982 as well. Such measures as freezing current benefit levels, scaled-back increases, selective cuts, rescissions, deferrals, or eliminations ought to be implemented as soon as possible inasmuch as fiscal year 1982 spending is not only excessive to begin with, but also—because of its exaggerated deficit—has contributed significantly to the fluctuating and undermining economic indicators. After all, the more pessimistic analyses, including the Congressional Budget Office's, result from the higher deficits, interest rates, and unemployment, and lower productivity and revenues, caused by the fiscal year 1982 budget.

I believe that by attacking the fiscal year 1982 deficit, at least partially, we will affect the economic indicators in such a way as to make the administration's original forecasts and assumptions more feasible and acceptable. And even though it may be too late to reduce actual spending for this year—fiscal year 1982—in many programs, budget cuts based upon fiscal year 1982 levels of spending ought to be possible in most cases. This is especially important for two reasons: Fiscal year 1983 spending is largely an extension of fiscal year 1982—as well as previous—spending, and larger cuts are possible in the more egregiously-inflated fiscal year 1982 budget than in its fiscal year 1983 successor. Witness the increase from fiscal year 1981 to fiscal year 1982 of $67 billion—OMB estimates—in total outlays, as opposed to "only" a $28 billion increase from fiscal year 1982 to fiscal year 1983.

Second, budget cuts would be made in every department and affect every

Government function. These cuts would vary in size and scope.

Does the gentleman from California desire recognition? I yield to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague yielding. I just wish to state that many of us are terribly appreciative of what the gentleman has done in the way of research and bringing better understanding to this House of how we can arrive at a balanced budget in the Federal establishment at an early date, say 1983 even.

Many of us are aware of the tremendous amount of time and effort that the gentleman has spent to make the House aware of the places that we can save money on the spending side of the ledger and that we can do it in the near future, 1983, if we just put our minds to it.

Mr. DANNEMEYER. Precisely.

Mr. ROUSSELOT. I wish to compliment my colleague for giving us that formula in some detail today. Many of us will, indeed, pay attention to this and I hope our Budget Committee in both the House and the Senate follows the reasoning and the rationale and the statistics that the gentleman has offered here today as to how we could, in fact, achieve a balanced budget in 1983.

Mr. DANNEMEYER. The only thing preventing us from doing it, I might add to that, is the will to do it. Once we develop the will in this institution to balance the budget, we can do it within 60 days.

Mr. ROUSSELOT. Well, the gentleman is absolutely correct, and as an individual myself who has served on the Budget Committee in just one area alone, if we only restrain increases in spending in many, many areas across our functional categories in the budget, we could achieve a balanced budget very quickly; so the gentleman is absolutely correct, and again I wish to compliment him for taking the time to bring this important information to the House.

Mr. DANNEMEYER. I thank the gentleman.

These are the elements that I think should be considered under the second premise:

First, widespread or notorious examples of fraud, waste, or mismangement still unaddressed;

Second, budget increases considered excessive in light of triple-digit deficits;

Third, programs considered worthwhile but which can be deferred until a better fiscal climate prevails;

Fourth, nonessential although well-intentioned programs which, quite frankly, are neither needed nor fiscally warranted;

Fifth, one-time measures—such as freezing benefits—which are designed solely to offset the fiscal year 1983 deficit;

Sixth, program changes—such as index revisions—which will realize future savings as well; and

Seventh, logical deletions—silly, superflous, or redundant programs.

It will be argued that all of these criteria are to some degree subjective. Of course they are. But that does not make them any less realistic or legitimate. Subjectivity of this sort leads inevitably to dispute over what merits being cut. Knowing full well that no proposal to balance the budget, or simply to reduce the deficit, which incorporates a multitude of various cuts will meet with everyone's approval. I maintain that the need for such cuts remains undiminished.

A poll published in Newsweek on March 15 reveals that 85 percent of the American public wants Congress to reduce the deficit by cutting the budget—both in defense and nondefense areas. This represents a 12-percent increase from the 73 percent which favored such cuts in January. Conversely, only 10 percent advocated tax increases to offset the deficit, a decrease from 16 percent 2 months ago. The call is clearly there. What is less certain is whether or not Congress will see fit to heed that call. Or will we continue to flinch at the headlines of despair and disillusionment which we continue to be bombarded with?

Certainly there are many who find themselves in desperate straits, and I am not casually dismissing the plight of those who have been adversely affected by decisions made in the past year. But we do nobody any justice by overlooking the chief cause of many of these circumstances and failing to take corrective action.

Most of the problems—unemployment, high interest rates, continued though diminished inflation—have been with us for far longer than just the past year. Some problems which have gotten worse are actually the result of mitigating factors: the auto industry is the victim of outmoded technology and attitudes, and until managerial direction, technical advances, and labor costs are made more compatible with a competitive industry, no purely budgetary measures are going to insure any long-term relief.

Problems that exist in the social spectrum—of inner cities and disadvantaged citizens—are likewise neither caused by nor exacerbated by budget cuts. In 1950, 50 percent of black youths—ages 16 to 19—were employed; by 1978 that figure had fallen to 25 percent. Today it is probably lower still, not because of budget cuts but rather because of major economic conditions—such as the decline in low-skilled agricultural employment without a comparable surge in the industrial labor market.

Likewise, urban decay has been eating away at our cities for decades, not just in the past year. All the Federal housing projects in the world would not halt the flight from inner cities. Nor will other forms of assistance provide anything but temporary and inadequate subsistence. For the past 9 years, from 1973 to 1981, over one-half trillion dollars have been spent in trying to redress economic grievances and disadvantages, $32 billion for housing alone, and an additional $83 billion for food programs.

If throwing money at our problems had been successful, why are conditions allegedly worse today than before? The answer, I submit, is that the facts have proven otherwise, that throwing good money after bad has not been the correct solution. Nor is it likely to be. What is needed is a forward propulsion of our economy, with incentives providing employment, investment, and business growth. Cutting the budget will help, not hinder, this effort.

Furthermore, in proceeding upon a fiscally sound course of action, we ought not to be dissuaded by the wailings and charges of disaster looming over the horizon. Those who lament the present administration's direction by comparing it unfavorably to the great humanitarianism of Franklin D. Roosevelt's term of office neglect to point out that there were 10,390,000 unemployed in 1938—19 percent of the civilian labor force, a rate twice that of the present. And after 6 years of all those wonderful Federal make-work programs. Those programs did not erase more than a fraction of unemployment; rather, it was the artificially induced industrial growth prompted by the advent of the Second World War. Similarly, what we do not need today is another artificially created system of economic band-aids which will unravel in time and leave the wounds unhealed.

COMPONENTS

First, major programs of payments for individuals—mostly entitlements—cut $26.2 billion.

These programs include social security and railroad retirement, civil service retirement, veterans' compensation and pensions, unemployment compensation, medicare, medicaid, housing assistance, food stamps, public assistance—AFDC—and supplementary security income—SSI.

Since 1974, these programs have increased 207 percent while the CPI has gone up 103 percent—a rate twice as fast as inflation. This increase has been caused primarily because of greater-than-called-for cost-of-living additions and inclusion over the years of new recipients not originally intended for the programs.

There exists about $6.2 billion which can be saved from the fiscal year 1982 budget, to which is added an additional $7.2 billion which the administration has targeted for fiscal year 1983. I propose freezing these programs at the new reduced level except for allowing $2.7 billion to cover increased numbers of recipients in certain of the programs. Even with proposed cuts, the new fiscal year 1983 level would represent an 8.6-percent increase from last year's—fiscal year 1981—spending.

At this point, it should be noted that the $6.2 billion cut from the fiscal year 1982 budget listed above represents 50 percent of itemized savings which can be found. Since we are halfway through the fiscal year, a full 100 percent of these itemized savings cannot be realized. But 50 percent is a reasonable attainment since the rationale for the cuts as well as the programs they pertain to remain the same.

Second, national defense—cut $18.5 billion.

Although I am in complete agreement with the need to shore up our deteriorating defense posture, I do not feel that enough has been done to combat waste and inefficiency in this area. Defense Secretary Caspar Weinberger has certainly embarked upon the right course in addressing the problem and curtailing this waste, but much, however, remains to be done.

Without eliminating any of our new initiatives in weapons systems or upgrading the military, I am proposing that $11.3 billion—representing 50 percent of potential savings—be cut from fiscal year 1982 spending levels. A 15-percent increase for fiscal year 1983 would then be added, resulting in an additional savings of $7.2 billion from fiscal year 1983 levels. This reduced level still represents a 26.8-percent jump from fiscal year 1981 spending.

Third, other Federal spending—zero net savings.

Cut $11.3 billion from fiscal year 1982 levels; another $5.4 billion can be cut from fiscal year 1983, but since the administration's fiscal year 1983 level is already below that of fiscal year 1983, actual amounts which can be saved may not match potential cuts. This is due in part to major changes which have been proposed, such as dismantling the Energy and Education Departments. Since many programs contained in these departments would be transferred elsewhere in the budget, net savings may be less than what would seem apparent.

The full amount of savings in this category—$16.7 billion, could be realized only if none of the administration's proposals are enacted. However, as my proposal impacts upon the administration's figures, program changes, and assumptions, the amount cut must reflect net, not gross, savings.

Fourth, off-budget outlays—zero net savings.

Cut $0.6 billion from fiscal year 1982 and an additional $3.4 billion from fiscal year 1983 to match the new lower level of spending which the administration has proposed. As in the preceding category, proposed changes result in a lower level of spending in fiscal year 1983, resulting in net savings of zero.

Fifth, CBO recommended budget reductions—$4.3 billion.

To offset zero net savings resulting from proposed program changes, an additional $4.5 billion in cuts can be achieved by implementing 17 options compiled by the Congressional Budget Office in the volume, "Reducing the Federal Deficit: Strategies and Options"—February 1982. These are cuts which meet one or more of the criteria established under the second premise of this study and which essentially augment my own proposed list of cuts.

Sixth, eliminate tax loopholes—$6.3 billion.

The March 22, 1982, issue of U.S. News & World Report listed 60 so-called tax breaks—credits or deductions which result in an estimated $273.5 billion loss of revenue to the Federal Government in fiscal year 1983.

Of this amount, $173.4 billion—63.4 percent—go to people. Now, quite obviously, most of these deductions serve a legitimate purpose: Without being able to deduct mortgage interest, many homeowners would not be; without tax-free contributions, many charitable institutions could not function; not to mention the blind, the elderly, the disabled—all of whom benefit from one or more of these credits or deductions.

Sixty-four billion dollars of this total—23.4 percent—go to corporations. But these depreciation allowances, conservation, and new technology credits, and other stimuli were designed to allow these corporations to invest, improve, and expand, all of which materially affect higher productivity, employment, and wages. This, in turn, contributes to a stronger, healthier economy.

The remaining $36.1 billion—13.2 percent—go to farmers, small businessmen, and investors. Here again, as with corporations, the breaks were allowed to generate growth and profitability.

In light of the intended purposes of these tax breaks, because of the importance in these critical days of enhancing productivity, not stifling it, and because to gut the major provisions of the Economic Recovery Tax Act passed just last year would be disastrous, I recommend that only two of these tax loopholes be closed.

First, the safe harbor leasing provision, which has come under considerable fire lately, can be eliminated. This will not cause undue hardship since relatively few companies would be affected.

Second, defer the research and development deductions and credits. Though inherently worthwhile, the tax law stipulates that existing businesses are granted these credits, in effect preventing new firms from developing new technology. In addition, several points of confusion in the tax law need to be cleared up. Until these problems can be corrected, simply defer this provision until after fiscal year 1983.

Seventh, CBO recommended tax revenue increases—$3.1 billion.

For the same reasons as above, major elements of the ERTA and most tax breaks should not be changed. Rather, 10 options recommended by the Congressional Budget Office could be implemented with minimal disruption.

ADDITIVES

First, total savings thus far would amount to $58.3 billion. The effect of cutting the fiscal year 1983 budget by that amount, and reducing the deficit by nearly one-half, would be profound in its implications on other economic indicators. For one, between July 1981 and February 1982, when OMB revised its estimated fiscal year 1983 deficit from $33.2 billion to $107.2 billion—including off-budget items—the resultant $74 billion increase in the deficit saw a simultaneous drop in estimated revenues of $35.7 billion. This loss in receipts was due primarily to higher interest rates and a more sluggish economy.

Cutting $58.3 billion from the deficit would cause interest rates to decline since the Federal Government would have to borrow less. It would also result in tremendous savings in interest paid on the public debt.

Federal Reserve Board Chairman Paul Volcker has stated that cutting the deficit by $20 billion would cause interest rates to fall by 2 to 3 percent. Martin Feldstein, of the National Bureau of Economic Research has written that a 1-percent drop in interest rates could realize a reduction of $8 billion in interest on the debt. Other sources have indicated gains—reduction of interest outlays—of from $4 billion—CBO—to $10 billion—Malcolm Forbes, Jr.

Consequently, decreasing the deficit by nearly $60 billion ought to result in being able to assume a 2½-percent drop in rates at $7 billion—average—per each percent—for a total of $17.5 billion. Less $1.25 billion already accounted for in my list of itemized cuts, net savings would be $16.25 billion. Thus, to the $58.3 billion already mentioned, this additional sum can be added, totaling $74.5 billion in reductions to the deficit.

Second, the cumulative positive effect on the economy from savings of this magnitude would result in increased revenues to the Federal Government. It is not unreasonable to suggest that an amount equivalent to the $35.7 billion which was lost when the deficit was increased can be regained by reducing the deficit by $74 billion.

The aggregate sum of all these actions is a potential reduction of $110.3 billion from the originally-projected deficit of $107.2 billion. Of course, faulty economic assumptions and erroneous forecasting can wreak havoc with any numbers game. The actual amounts, were this proposal adhered to, might conceivably vary by several billions of dollars.

However, the direction is clear. There would be a determined effort to reduce the deficit, downward pressure on interest rates, and a visible, meaningful slice in the budget. We may end up not necessarily balancing the budget. We may end up $20 billion in the red. But the imprint is unmistakable. The psychological as well as material effects on Wall Street would not be lost. And we will have kept faith with the American people.

☐ 1730

FEDERAL DOLLARS PAY FOR NATIONAL CONDOM WEEK

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WALKER) is recognized for 15 minutes.

Mr. WALKER. Mr. Speaker, I am going to discuss something here this evening that disturbs me highly because I think it indicates that indeed, even though the Federal budget is often talked about as a budget that has been cut substantially, yet we still find that there are monumental cases of waste within this budget.

The gentleman who has just been in this well discussing a balanced budget has made an excellent point, that indeed we can as a government begin to cut back, and I think we need to begin to focus on some of the things that are being done even under a budget that supposedly last year was cut, and cut so deeply that we cannot possibly find any more waste in social programs.

Well, I submit, Mr. Speaker, that there are still considerable areas of waste in that Federal budget process, and I think that we can find one in just looking at what took place last month in this city, using Federal funding.

Federal funding was used in this city last month to fund something called "National Condom Week." That is almost unbelievable. It is almost unbelievable, and when you look at the literature that was put out in support of this, you find out that National Condom Week was advertised to the public, again using Federal money—and this is something I confirmed, Federal money was used for this—under the slogan of "Help Make Washington Safe for Loving."

Unbelievable—unbelievable that Federal money should be used in this way, that taxpayers have worked hard and sent their money to Washington to pay for something of this type.

What was done in the course of the scheduled events here was that they included in that schedule of events something, and I am quoting from the literature that they sent out, something called "Rubber Disco."

I quote from the literature—I quote from the literature about this event sponsored with Federal money:

> This fabulous dance will be held at the Beret Discotech decorated with a rainbow of different colored, blown up condoms. The height of festivities will culminate with a condom blowing contest, the winner of which is to receive a prize of $35.

Unbelievable, Mr. Speaker. This is Federal money. This is yours and my Federal tax dollars that are being used in this kind of enterprise. If ever there was a case of waste—if ever there was a case of waste, this is it.

Now, we checked with the Planned Parenthood of Metropolitan Washington to make absolutely certain——

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate our colleague bringing to the attention of the House this obviously strange method of spending Federal money. Now, did I hear him say that there was some kind of an event that was advertised to celebrate "National Condom Week"?

Mr. WALKER. That is absolutely right. There were publications put out advertising this. I might say to the gentleman, this is not some half-baked notion that came up in the back room of some Washington agency. The Mayor of Washington, D.C., issued a proclamation on this thing.

Mr. ROUSSELOT. The Mayor of Washington, D.C., issued a proclamation for National Condom Week?

Mr. WALKER. I would say to the gentleman that Mayor Marion Barry of this city issued a proclamation endorsing National Condom Week, using Federal tax dollars.

Mr. ROUSSELOT. Well, the gentleman is right. This is certainly an outstanding example of the misuse of Federal money, but did I understand the gentleman to say this was done in the name of Planned Parenthood?

Mr. WALKER. Well, the Planned Parenthood of Washington, D.C., were the ones who sponsored this whole event. It is their name that appears on all the flyers. I checked with the financial director of Planned Parenthood to ask whether Federal dollars were used in this. I was assured by that financial director, yes, title X funding was used in this enterprise, and I was told that it was some portion of $161,000.

Mr. ROUSSELOT. How much?

Mr. WALKER. $161,000, something less than that amount.

Mr. ROUSSELOT. For National Condom Week?

Mr. WALKER. I am not certain that we can say that that was used for this, but something less than that was. That was the amount of title X funding that they got, so we know some portion of that money was used for the enterprise.

I would say to the gentleman, and I think that he would agree with me, that if one dime was used of Federal money for this particular kind of thing, that is, money no one in this House could justify and no one in the Congress, and in fact, no one out across the country could justify spending for this kind of point.

Mr. ROUSSELOT. Well, I say that I appreciate the gentleman calling this to the attention of the House, and he is correct, it is obviously a misuse of Federal funding.

Mr. WALKER. I thank the gentleman for that, and I think what needs to be done is, I would hope that there would be a full investigation by the congressional committees concerned about this to find out just how much money was used. When we checked with Planned Parenthood, they refused to give us the exact amount of money that was expended. I would hope that we would have a congressional investigation. I also hope that the Department of Health and Human Services would look into this matter, because no doubt this is the kind of waste that continues to go on which indicates why there should be continued cuts in the Federal budget without really getting at the muscle of the Federal programs. This is fat of the worst kind.

I yield back the balance of my time.

☐ 1740

PRESIDENT REAGAN'S ENTERPRISE ZONES LEGISLATION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

Mr. KEMP. Mr. Speaker, when presidential candidate Ronald Reagan visited the South Bronx in August 1980 he outlined a new idea his administration would pursue for creating jobs and economic opportunity in America's inner cities: Enterprise zones.

In a Rose Garden ceremony today the President fulfilled that promise by formally sending an enterprise zone proposal to Congress. This bill will be introduced in the House of Representatives within the next few days by my good friend and very able colleague, BARBER CONABLE, along with BOB GARCIA, myself, and a bipartisan coalition of Members of Congress.

What we need now is a sense of urgency about passing this legislation, both in the administration and in the House, and Senate. Not only is unemployment at its highest level since the Second World War in the Nation as a whole, it is twice as high in our inner cities, and three times as high for minorities. As a nation—and as a congress—we cannot and must not tolerate this tragic waste of human potential.

I would like to urge my colleagues, particularly those who sit on the tax-writing committees of the House of Representatives and the Senate, to move forward quickly to consider and pass this legislation. We need to send a strong signal to the people of our inner cities that they are not the chosen victims of recession, that their jobs are not the price we are trying to pay for reducing inflation.

Let me also take this opportunity to repeat some points that BOB GARCIA, BILL GRAY, and I have raised over and over during the 2 years we have been sponsoring enterprise zones legislation in this Congress.

First of all, let me repeat once more that enterprise zones do not have some hidden agenda of eliminating Government programs within enterprise zones. In fact, both the Kemp-Garcia-Gray bill and the new bill make it very explicit that Federal money can be used for projects included in a State and local enterprise zone program.

Neither are enterprise zones an attempt to return to the days when the Government took no responsibility for protecting people against dirty air and water, unsafe living and working conditions, or racial discrimination. While the enterprise zone proposal establishes a procedure for reducing the paperwork burden on workers and entrepreneurs within enterprise zones, it expressly prohibits any regulatory changes that would threaten health, safety, or the environment, or relax civil rights protections.

Enterprise zones don't kick Government out of enterprise zones. They can, however, accomplish some things that Government by its very nature cannot.

We now know that a large majority of new jobs—virtually all new jobs in our central cities—are created by small, entrepreneurial businesses. Yet, as Dr. David Birch of MIT has pointed out:

> The firms that can and do generate the most jobs are the ones most difficult to reach through conventional policy initiatives . . . The very spirit that gives them their vitality and job-creating powers is the same spirit that makes them unpromising partners for the development administrator.

In order to reach these entrepreneurial firms as well as larger and more established firms, we need to develop a program which can adapt to the rapidly changing, uncertain environment of the entrepreneur. This is hard to do with direct Federal money, especially because 75 percent of all new businesses start without using any outside capital at all, either from Government or from formal financial institutions like banks. Instead they start businesses with personal savings, or with money borrowed from family and friends.

The challenge, then, becomes encouraging these entrepreneurs to take a chance in the riskier environment of the inner city by providing more general incentives—incentives that an entrepreneur can use without being directly identified by the Government. I believe the easiest and most direct way to accomplish this is to use tax incentives to offset the inner city's greater risks with greater after-tax rewards.

But that and entrepreneurial decisions are not limited to people who start up businesses. Everyone, rich or poor, makes economic calculations. And we cannot escape the fact that far too many people in the inner-city have calculated that between the loss of welfare benefits, the onset of taxes, and the lack of tangible, long-term opportunities in their own communities, it just is not worth taking the chance on a job.

Enterprise zones seek to change that that an entrepreneurial calculation as well, by providing a tax incentive for employees who take a job in an enterprise zone, and for employers who offer jobs to disadvantaged workers.

Finally, and with all due respect to President Reagan, I do not agree with the notion that enterprise zones are an experiment. If we are going to effect the entrepreneurial calculations of thousands of workers and employers we cannot be talking about experiments, as if we are offering incentives one day and will take them away the next.

In fact enterprise zones stand out from other Federal urban programs in offering a long-term policy, not a short-term "experiment" that will be changed every few years before it really gets a chance to work. People make their decisions in the long run. If they did not, no one would ever start up a small business, as small businesses do not make money for their first 4 or 5 years. Neither would an employer or worker ever take a chance on job training, or education. Because enterprise zones offer tax incentives over the 25-year life of the zone, they give individuals a real incentive to make the kind of long-term capital investment—in human capital as well as equipment or property—that will make a real difference in America's poorest communities.

A brief description of the President's proposal follows:

THE ENTERPRISE ZONE TAX ACT—BRIEF DESCRIPTION

Local and State governments will designate enterprise zones, subject to Federal approval. Within these zones the Federal government will offer major tax incentives for job creation and small business growth.

The incentives are designed to meet two crucial goals:

1. *First, they will create a new sense of economic buoyancy within the zones, by dramatically expanding entrepreneurial activity.* The bill does this by:

Eliminating capital gains taxes on investment within zones.

Providing an additional investment tax credit for investment within zones: 3% for 3-year property, 5% for 5-year property, and 10% for the construction or rehabilitation of residential, commercial, or industrial property.

Extending the loss carryforward to up to 25 years—the life of the enterprise zone.

Insuring that industrial development bonds will continue to be available within zones.

2. *Second, the bill recognizes that the poor on welfare may face the highest marginal tax rates of all. This creates a poverty trap for millions of Americans. To entice the poor when able to seek tax-paying jobs, and to encourage job creation within enterprise zones,* the bill provides the following incentives:

An employee personal income tax credit for wages earned in the zone: 5%, up to a cap of $450.

An employer credit for hiring disadvantaged workers equal to 50% of the worker's wage for 3 years, phasing out to 40%, 30%, 20%, and 10% over the following four years. This credit has no cap, which gives the employer a major incentive to train disadvantaged workers for higher-wage jobs.

An employer credit for 10% of total enterprise zone payroll (for existing businesses, this is 10% of the increase in payroll after the zone is designated.)

DESIGNATION

A local and state government may together apply for enterprise zone designation if the area meets certain qualifications. To insure that the local and state governments are committed to making enterprise zones work, they must submit a zone "contract" which outlines steps they will take to improve the climate for job creation, economic growth, and community development within the zone. This contract may include tax reduction, regulatory reform, improved local services, and/or commitments from private groups to provide assistance to zone entrepreneurs and residents. The Secretary of HUD, in consultation with other Federal departments, would designate up to 25 zones a year for 3 years, giving preference to zones with the worst conditions, the best contracts, and the broadest community support.

OTHER PROVISIONS

State and local governments may together apply for the modification of Federal regulations *if* such modification is in the public interest, would not overturn a statutory requirement, and would not present a risk to health, safety, or the environment. The bill does *not* propose a change in the minimum wage.

Whenever possible and desired, foreign trade zones should be established within enterprise zones.

It is a pleasure to have the leading expert on tax policy in the Congress, my colleague from western New York, BARBER CONABLE, as the main sponsor of this bill. I am sure that with his leadership, and that of Senators CHAFEE, BOSCHWITZ, HEINZ, and others, we are going to have moving through this Congress in very short time the President's enterprise zone bill.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I will be glad to yield to my colleague from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, this is creative federalism at its best. The gentlemen from New York (Mr. KEMP and Mr. GARCIA) pioneered this legislation in its early stages and it was necessary to have people of their creative turn of mind bringing forth the legislation that would address a serious area of neglect in our society.

The initial stages were represented by the Kemp/Garcia bill. Happily the President, during this campaign, adopted this idea in principle and has had many of the people in the executive branch trying to develop the idea to fit it into the overall fiscal picture of the country and to give it the administrative twist that could make it a monument to the creative work that Mr. KEMP and Mr. GARCIA have done. It is now ready and I hope not just the people now addressing this issue but all my colleagues of all political persuasions and ideological concern will see it as a necessary step in trying to deal with some of the special problems of our cities and our underprivileged people who are so concentrated in a few urban areas.

Let me just briefly for a moment express my view of what—as this legislation has emerged—all people can support. It puts the initiative in the hands of those who must have the initiative; namely, the communities themselves. The roughly 25,000 communities that will qualify under the law to compete for designation as urban enterprise zones, these communities will have to put together a creative package, will have to enlist the support and advice and technical help of their States in trying to present to the Federal Government a proposal sufficiently creative so that the Federal Government will see fit to designate that community's efforts as an urban enterprise zone.

This is awfully important because in the past our approach to such problems has been to send Federal manna down from heaven and not really to care whether it was spent creatively or not. It is obvious that the fiscal constraints on the Federal Government are going to prevent the creation of a lot of enterprise zones because the tax incentives which are given to the successful enterprise zone are considerable and will have a considerable economic incentive to the job creators, the creative people in the private sector in that particular part of the country or that particular part of the community involved. So, if there were going to be lots of urban enterprise zones it perhaps would be more appropriate to have the Federal Government do some of the initiating.

What they have done in this proposal, as it has generally emerged, is they have given the initiating force and the competitive impulse to the community itself.

In many cases, Mr. Speaker, I would like to predict that even those communities which are not finally successful in being designated as one of the urban enterprise zones and, therefore, never qualify for the Federal tax incentives that are given, will nonetheless go ahead with the proposals they have had to think out and submit as a part of the competition because it will be apparent to them that there are advantages to be derived from that.

In short, there will be a multiplier effect, quite apart from the Federal money involved in the creative community partnerships that will emerge inevitably out of the competition.

Mr. KEMP. May I just make a comment along those lines?

I appreciate what the gentleman is saying because one of the most exciting things about this whole idea is how it has triggered the competitive process, as the gentleman points out, to where mayors all over the country, large city mayors and small city mayors, Democratic mayors and Republican mayors, are talking about taking initiatives and taking progressive and positive steps to break down barriers, either regulatory or tax, which have been raised against the entrepreneur in the inner cities of our country.

So the gentleman is making, I think, one of the most significant points that can be made about the President's legislation and about this whole effort. It is this whole idea of creating a competitive and yet at the same time cooperative process whereby cities and States will look at their zoning laws, their regulations, their tax laws, with an eye to trying to encourage the entrepreneur.

So I appreciate the gentleman's point. It is a magnificent point.

□ 1750

Mr. CONABLE. The gentleman is absolutely correct. And in my view, it is creative federalism at its best because it insures that the impulse will come up from the community, up from the grassroots, up from the areas, the institutions, the local institutions, that must support any proposal of this sort if it is going to be successful.

We all know that many of the faults of past federalism have been that the Federal Government has initiated it and financed it totally and has tried to regulate it from Washington. This, because of the manner in which it is put together, insures that the very considerable Federal benefits involved will be adequate incentive for the community itself to initiate the package, to coordinate it, to work it out with the State and, in all probability, once they have done that, these local institutions will be quite inclined to want to do what they can, because their attention has become focused on the process of trying to deal with urban blight.

Mr. KEMP. Absolutely.

Mr. CONABLE. They will do what they can, irrespective of whether they are successful in the competition in being designated.

Mr. KEMP. There is one more point that I wanted to make.

My colleague, the gentleman from New York, has mentioned several times cities and urban areas. Actually, to reassure Members of the rural caucus and other Members who do not represent large populated centers of our country, the designation for the zones is predicated not upon large population. It is basically aimed at areas of the country in which there are several criteria—high unemployment, a shrinking tax base, a loss of population, and that cyclical pattern of poverty which is such a blight on rural, suburban, or urban areas.

So actually I do not want to concern anybody. This is available to any area ultimately which takes, as the gentleman pointed out, competitive steps to reduce those barriers to enterprising job creation.

Mr. CONABLE. My impression is that the only obstacle to anybody participating fully in this program and seeking the designation is the creativity and the initiative and the responsibility of the local people, their acknowledgement of the problem, and their definition of the way of dealing with it. The Federal role, except for the ultimate tax credits that will be proffered to the successful communities, the Federal role is going to be limited to judging which of the patterns are the most creative, which are the most likely to be successful, which will be the role models for the future course of dealing with this special type of problem.

In my view, Mr. Speaker, the gentlemen from New York (Mr. KEMP and Mr. GARCIA) have started a very significant course and may have redefined federalism in much more relevant terms than it has previously been defined.

I think it will serve this country well to have widespread competition for designation as urban enterprise zones. It will not be terribly expensive for the Federal Government because of the limited number of zones that ultimately will be so designated, but it will be of tremendous and growing significance to the communities themselves to go through the process of trying to decide what types of tax credits, what types of regulatory reform, what types of local incentives and State incentives are best designed to solve the special problems they may have.

I want to call again, Mr. Speaker, on our colleagues to join us in cosponsorship of this measure. This is indeed a new watershed type of legislation that represents the best in bipartisanship cooperation, and it would be indeed unfortunate if we did not have widespread support generating in this body for anything as soundly based as the enterprise zone concept as initiated by Kemp and Garcia and as further defined by the administration.

Mr. KEMP. I thank my colleague, and I would just make one final point. I think something he said really triggered in my mind the essence of what we are trying to do. We are trying to recognize that, in the inner city, people respond to rewards and incentives, just as they do anywhere else; that, really, the poor respond to incentives and rewards just as do other people in our society. And when the reward and the incentive is there, you are going to get the type of economic response that will not only be good in the individual life of that person, but also collectively in the whole economy.

Congressman Bill Gray has had a significant role in shaping this legislation. Congressman Gus Hawkins of California, and people who have dedicated themselves to a full employment policy who might be called liberal or sit on the Democratic side of the aisle. For those of us on the right side of the aisle who call ourselves Republican or more conservative, very frankly I am excited by this tremendous possibility of pulling together a transcendent coalition of liberals, conservatives, black Members of the Congress as well as white, suburban, urban and rural. It has really been a thrill to work with people from all shades of political opinion and economic philosophy.

Talking about economic philosophy, one of the champions of free enterprise and one of the champions of conservatism is John Rousselot of California, another friend who has been very interested in enterprise zones, and I will be glad to yield to the gentleman.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague, Mr. Kemp, for yielding. I just wanted to respond, as a followup to what my colleague, the gentleman from New York, has already said—and that is that this legislation has widespread bipartisan support.

Our Joint Economic Committee held hearings in Inglewood, Calif., last year on the subject of urban enterprise zones. On October 23, 1981, our committee received extensive testimony on a very bipartisan basis from people from all walks of life. Many witnesses from the private sector, many from city and county governments of all sizes and shapes in the Los Angeles area provided enthusiastic and positive testimony on how the urban enterprise zones legislation was needed and wanted. Our colleague, Julian Dixon, a member of the Appropriations Committee, participated in these hearings along with our new colleague, Marvin Dymally, from the State of California—and incidentally, California's former Lieutenant Governor—also participated, and of course Senator Sam Hayakawa, not only was a member of the congressional panel, but also added important testimony on his own.

As already mentioned, we took testimony all day long from people, from all walks of life, who expressed warm enthusiasm for just how this new mechanism of "urban enterprise zones" could work in their given areas. I personally was very enthused about chairing this hearing, and finding that the idea of urban enterprise zones was so well received, but came away even more enthused that there was so much grassroots support for the Kemp-Garcia program. You Mr. Kemp, expressed it well when you explained how we can gain the interest of people when you offer them a program of rewards, incentives, et cetera, to provide jobs, to provide new enterprises, that will work for them. That fact came out so clearly in our hearings.

Let me review a few comments from those Joint Economic Committee hearings on October 23:

First, the Honorable Julian Dixon of California:

> I am particularly interested in any concept that will produce more jobs rather than replace one body with another, and that will bring stability to declining communities and support it and create existing new small businesses.

Then Senator S. I. "Sam" Hayakawa:

> The concept of Urban Enterprise Zones is the first urban policy initiative to bring some hope to reversing the trend of abandonment in our cities. It is a novel approach, which encourages those living in a disadvantaged area to utilize incentives, and create businesses out of rubble and decent housing out of boarded-up buildings. Enterprise Zones are new, and will work, because they are not giveaways; they demand the cooperation and involvement of residents. Instead of a hand-out, government will give depressed areas a hand in making prosperity out of devastation. I firmly believe that federal welfare policies have reduced hard working people to apathy and idleness, because they can get more for free from the government than they can by working for it. Furthermore, those things that come for free are far less likely to be treated with care and pride than those things which are the result of honest toil. I am convinced that, if we provide the tools for reconstruction, residents of economically disadvantaged areas will come together to rebuild their neighborhoods and live with pride, knowing that the success of the Zone will be directly associated with their labors. The concept of Urban Enterprise Zones is, in my opinion, the direction which we must follow, if we desire productive, clean, and safe cities.

Finally a statement from Hon. Joan Milke Flores, councilwoman, 15th District, City of Los Angeles, Calif.:

> We probably will never really come close to achieving the goals that we have unless we have jobs for all the people who need and want work. And we need jobs that pay a decent wage and that permit personal growth and that are meaningful to the individual.
>
> It is the intent of the Enterprise Zone legislation of course to entice new businesses to create jobs in the inner city by providing tax incentives and other advantages.
>
> I am convinced that these areas of our inner cities can be made as economically viable as the more prosperous areas given the tools proposed in the Enterprise Zone legislation. That area of my district commonly referred to as Watts is the ideal test bed for a demonstration project to show that this theory will work.

Let me also add at this point as a followup on the item that the gentleman just mentioned. There is tremendous bipartisan support out there. There is an eagerness and willingness on the part of local government officials and local entrepreneurs to initiate action as our colleague, the gentleman from New York, Mr. Conable, has just said, from the "grassroots level." There is great eagerness to get this program going. I am delighted that our good President has followed up on his campaign commitment to make sure that we put this program in place. Now it is up to Congress to follow through and enact the legislation.

□ 1800

Mr. KEMP. I appreciate the comments of the gentleman from California, and Mr. Speaker, I yield back the balance of my time.

THE SOVIET GRAIN EMBARGO—IV

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Findley) is recognized for 10 minutes.

● Mr. FINDLEY. Mr. Speaker, in recent days, I have placed portions of the National Corn Growers Association report on the costs of the Soviet grain embargo before Members for their consideration. The last chapter dealt with direct costs associated with the embargo.

Today, I would like to direct the Members' attention to chapter IV of the NCGA report. This chapter deals with the indirect costs of the embargo.

4. Indirect Costs and Other Damage to U.S. Agriculture and the Economy

Prior to the January 4, 1980 suspension of grain sales and shipments and the accompanying political strains between the U.S. and

USSR, American farmers had been and were expected to remain the principal suppliers of grain and soybean meal to the USSR. This is evidenced by the record of grain shipments from the 1971-72 through the 1978-79 season, as shown below. While our exports to the Soviets did not maintain the spectacular level of 1972-73, they did increase in the seasons indicated. This is especially true if we consider the low level shipped in 1971-72 of 2.9 mmt of U.S. grain. U.S. shipments were far greater than shipments by all other suppliers combined in most years after 1971, until the year of the embargo.

(A) *The U.S. Has Now Become the Residual Supplier to the USSR.* The commercial relationship in grains developed with the USSR during the 1970's represented a sharp change in the U.S. role in the world's grain trade, compared with our position vis a vis other importing nations. For a number of reasons arising out of the nature of grain marketing procedures and government policies in other countries and from some past U.S. farm policies, the U.S. has often been the residual supplier of wheat and coarse grains to the world. This is more true in the case of wheat than of corn, but it is true of both sectors. All other suppliers would sell whatever they had available in most years, and the U.S. would supply the remainder to a waiting world.

With the USSR the U.S. was the favored supplier and other countries got the residual trade—until 1980. This situation developed both from the large quantities of grain Russia needed in some years; their experience in getting such quantities readily from the U.S.; and their lack of confidence in getting large quantities from other suppliers.

The predominance of U.S. shipments is seen in the fact that we supplied between 55 and 75 percent of USSR grain imports between 1972-73 and 1979-80, after having only a 37 percent share in 1971-72.

U.S.S.R. WHEAT AND COARSE GRAIN IMPORTS, BY SOURCE (JULY TO JUNE YEAR)

[In million metric tons]

	1971-72	1972-73	1973-74	1975-76	1977-78	1978-79
United States	2.9	13.7	7.9	13.9	12.5	11.2
Argentina	.1	.1	.3	1.4	2.7	1.4
Canada	3.0	5.1	1.8	4.5	1.9	2.1
Australia	.5	.9	.1	2.0	.3	.1
EC	.1	1.9	.5	.5	.2	.2
Other	1.2	.8	.3	3.4	.8	.1
Total	7.8	22.5	10.9	25.7	18.4	15.1

That favored relationship no longer exists and is not likely to be re-established. The U.S. is now the residual supplier to the USSR.

The contrast of the previous record with the export record since the 1980 suspension action and expectations for the 1982-83 season is dramatic and discouraging. This is illustrated in the following table, showing that the USSR imported 26.5 mmt from non-U.S. sources in the 1980-81 season and will import 29 mmt of grain from those sources in the 1981-82 season. At a minimum, the Soviets can probably buy 26-30 mmt from the rest of the world year-year-year in the early 1980's (as shown in the Table for 1982-83).

U.S.S.R. GRAIN IMPORTS, BY SOURCE (JULY TO JUNE YEAR)

[In million metric tons]

	1979-80	1980-81	1981-82	Projected 1982-83
United States	15.2	8.0	11.0	0-6
Argentina	5.1	11.2	12.0	11-12
Canada	3.4	6.9	8.5	8-9
Australia	4.0	2.9	2.5	2-3
EC	.9	1.1	2.5	2-3
Others	1.8	3.9	3.0	2-3
Miscellaneous grains (all sources)	.6	.5	.5	.5
Total	31.0	34.5	40.0	25.5-36.5

(B) *The U.S. May Lose All Exports to the USSR in Some Years.* Optimists may say that the USSR has imported 31-40 mmt in each recent season and will inevitably need to come to the U.S. for large tonnages each year. In fact, recent years have been unusual years, in comparison with the 1970's. The 1979, 1980, and 1981 Soviet harvests fell short of their official targets which averaged 233 mmt by 25 percent, or some 59 mmt per year. A shortfall as large as 59 mmt per year was unusual, even for the USSR, where farm production is notoriously unstable.

Such seasons will happen again, possibly soon. However, there will also be fair to good seasons when USSR grain production is 200-215 mmt and fine seasons when production may exceed the 1978 record. When such seasons occur during the early 1980's, there is little reason to expect the U.S. to sell much or any grain to the USSR. As shown in the tabulation below, the Soviets could harvest as little as 190 mmt in 1982 or 1983, maintain feeding at or near their recent high levels or probably well above their 1981-82 level (if the 1981 harvest was well below 175 mmt), and import only the 26-30 mmt available from the rest of the world.

CURRENT AND PROSPECTIVE U.S.S.R. GRAIN BALANCE

[In million metric tons]

	Total production	Imports	Total use	Feed	Stocks
1980-81	189	34.5	225	119	+2
1981-82:					
(a) USDA	175	42.0	216	120	0
(b) Low	155	40.0	194	97	0
1982-83 or 1983-84:					
(a) High	215	26.0	229	122	+10
(b) Medium	200	29.0	226	120	+5
(c) Low	190	30.0	220	115	0

This possibility shows how misleading it is to argue that U.S. grains alone, or grains plus our limited exports of other products, can exert material and sustained political leverage on the USSR. Only when Russia's needs are extraordinary (greater than 26-30 mmt per year) and/or when supplies from other grain exporters are unusually low could the U.S. alone exercise great leverage by cutting off agricultural exports and that would probably be only temporary. This is not to say that a U.S. or a joint U.S.-allied trade embargo would not damage the USSR. Rather, it suggests that damage would be sporadic and limited most of the time.

With the support of all the other major grain exporters or in years following very poor USSR crops and high import requirements, the U.S. would have some political leverage on the USSR. However, it should be remembered that USSR meat consumption at half the U.S. level, is not so low as to generate serious problems if meat suppliers were reduced or could not be increased. The option of reducing meat consumption targets in the USSR, cutting off or reducing the need for large and constant grain exports, is also an option for the USSR. In fact, some argue that this is how and why a grain embargo should be used to force a reduction in diet quality, leading possibly to internal discontent and political disruption.

(C) *A Doubtful Future for the U.S.-USSR Grain Agreement.* The 1975 Agreement under which the USSR agreed to buy at least 6 mmt U.S. grain and the U.S. agreed to sell and deliver at least 8 mmt per year through September 1981 was in part a logical successor to the "stop and go" U.S. trade actions of 1973-74-75. The U.S. stopped or stalled exports of grains and/or oilseeds on three occasions in those years, once to the world and twice to the USSR or Eastern Europe.

The U.S.-USSR Agreement grew out of these actions since it both reassured the USSR that we would ship certain minimum amounts and reassured the U.S. that our farmers could count on a certain level of export sales. The U.S. initiated and pressed the 1975 talks that led to the Agreement, even though the popular wisdom was that "Russia needs us more than we need them." It was a diplomatic event, negotiated largely by the Undersecretary of State, not an agricultural event. The U.S. has offered the USSR large quantities of grain above the 8 mmt level each year, at our initiative and without ever having a formal request from the USSR for more grain.

This result was partly a matter of form; the U.S. is more open than the USSR, and our grain supply levels are well known. Our officials would wait for the Soviets to ask, during a consultative meeting, for the grain we were sure they needed. Eventually we offered it unilaterally in most cases.

Even though the Soviets have now learned that they can buy 25-30 mmt of grain per year from non-U.S. sources, some advantages remain for them to buy as much U.S. grain as possible, however. We are more certain than any other country to have large exportable supplies in a bad year; we carry most of the world's reserves; and we can perform better than most other exporters on shipping schedules.

In 1982, however, there are very few reasons for the USSR to want a new agreement with the U.S. The USSR:

Has agreements with most other grain suppliers.

Can get all the grain and oilseeds it needs in many years without buying in the U.S. market, as shown above.

Can buy in the U.S. market at any time (barring a general export embargo) without an agreement.

Is unlikely to want a grain agreement with the U.S. as a political action. The U.S. will have to beg to get into a new negotiation, although one or more annual extensions of the existing agreement might not be so difficult to arrange at our initiative.

(D) *Increased Export Capacity in Other Countries.* Spurred partly by the strong demand for grains and oilseeds in the 1970's and by their own increasing grain output, Canada, Australia, and Argentina have increased their export loading capacity in recent years and are continuing to do so. This is illustrated by the total volume of grain shipped, as listed below. Note that Canada will export 7 mmt, or 41 percent more grain in the 1981-82 season than six years earlier. Australia will export 23 percent and Argentina 70 percent more than the 1975-76 season. These developments cannot be attributed solely or even principally to U.S. trade policies. But U.S. actions on agricultural exports have surely accentuated private and public actions and decisions leading to greater grain production and exports in other countries.

WHEAT AND COARSE GRAIN PRODUCTION AND EXPORTS FROM COMPETING EXPORTING COUNTRIES

[In million metric tons]

	Canada	Australia	Argentina
1975–76:			
Production	37.1	17.6	21.0
Exports	17.2	12.3	10.2
1980–81:			
Production	41.0	16.0	28.9
Exports	21.6	12.8	13.7
1981–82 estimated:			
Production	50.2	23.0	25.3
Exports	24.3	15.1	17.4

Competing grain exporting countries have made major efforts to increase their production and export capacity, as follows:

Canada

Built a new export elevator on its west coast at Prince Rupert;

Invested heavily in hopper rail cars; and

Is attempting to modify its rail rate structure to improve its capacity to move grain by rail.

Argentina

Altered its grain policies to allow producers to receive world prices for grain and oilseeds in an attempt to spur production; and

Encouraged private firms to invest in inland grain origination and export elevator facilities and in soybean processing, much of which has been completed and more is underway.

Australia

Improved their export capability; and

Encouraged grain production through providing producers with higher advanced payments at the start of each crop year.

Even after adjusting for fluctuations in production and exports due to weather, competing exporting countries are already increasing their grain exports as the above table shows. These developments mean that the U.S. faces growing competition from other exporters, especially in years when the USSR is able to reduce its grain imports sharply from recent levels.

The U.S. role of a residual supplier may be further reinforced because the U.S. is the only major exporter that has explicit programs to support commodity prices and to reduce production through idling acreage in times of large supplies and weak demand. There is a real risk that U.S. price support levels will impair our price competitiveness in relation to other exporters.

The U.S. has also added substantial exporting capacity since 1975, much of which is idle in 1981 and 1982 because of the slowdown in exports, arising from limited shipments to the USSR, the general slowdown associated with economic recession abroad, and the strength of the dollar against world currencies.●

OLYMPIC COIN ACT

Mr. SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PATTERSON) is recognized for 15 minutes.

Mr. PATTERSON. Mr. Speaker, last year, on June 18, 1981, I introduced the Olympic Coin Act, a bill which authorizes the Department of Treasury to mint a series of commemorative coins to support the 1984 Los Angeles Olympics.

This bill, H.R. 3958, enjoyed the bipartisan support of 96 Members of this House.

It was supported by both the Los Angeles Olympic Organizing Committee and the U.S. Olympic Committee and was accompanied by identical legislation introduced by Senator ALAN CRANSTON of California which passed the Senate in December of last year.

Today, Mr. Speaker, I am introducing an amended version of the Olympic Coin Act in an effort to move the passage of this bill, because I believe it is important that we move now when the Olympic athletes need the funding for their training. For the most part, the changes in the bill in this amended version amount to four items.

First of all, and the most significant change in the amended act is to reduce the number of coin designs from 29 to 17. Second, it would authorize the General Accounting Office to perform an audit of the coin program to make sure that it is properly handled; and third, it provides for an increased consultation and control by the Department of Treasury.

It also provides for a public bidding for the contract in marketing the Olympic coins. These modifications were worked out with the subcommittee staff on Consumer Affairs and Coinage, the Secretary of the Treasury and both the Olympic Committees I previously indicated. It illustrates a sincere effort to develop compromise legislation which will be expeditiously approved by the full House.

I am pleased to report that this amended version of the act has the full support of the Reagan administration, and for the first time since 1932, the summer Olympic games to be held and hosted in the United States.

These 1984 games are particularly significant to America and America's athletes because of the boycott in the 1980 Moscow games. It is in every American's interest that the games be staged in a manner which reflects favorably upon the United States of America and that our athletes be offered the support necessary to permit them to train and to reach their full potential of ability.

The minting of commemorative coins by the host Olympic games nations has been an Olympian tradition only since 1952. The proposed Olympic coin program has been carefully conceived and has been drafted in a manner that is consistent with the commemorative coin programs of the recent past.

The program not only provides an important source of financial support to the Olympic games and our athletes who are not subsidized by the Government, but this is done at absolutely no cost to the taxpayer. It will cover all of the costs of minting in advance and will produce a profit for the Treasury. No appropriations are required. The proceeds will be shared equally by the Los Angeles Olympic Organizing Committee and the U.S. Olympic Committee. These modifications to the Olympic Coin Act were made to insure that the program is carried out in a manner that is free from any alleged impropriety. I am confident that a careful review of the amended legislation will reveal that it will achieve both its purposes of commemoration of that event and also of financial support of our athletes.

The coin program will be carried out in a manner which will reflect favorably upon the United States, its people, and its athletes.

Mr. Speaker, I would like to indicate that this legislation has been passed by the Senate in a different version slightly. The version in the House is more restrictive, if you will, that the President has indicated his support, that the Treasury has a letter of support of this bill, that every Californian, all 43 members of the California delegation, 22 Democrats, 21 Republicans are cosponsors of the old Olympic Coin bill and the new Olympic Coin bill which I have introduced today.

All of the Banking Committee members on the other side of the aisle, on the Republican side of the aisle, support the Olympic Coin amended version. A majority of the Democrats on my side of the aisle support the Olympic Coin version. It is a bipartisan bill. In fact, it is an American bill and should not be characterized in any fashion as partisan.

Mr. Speaker, I have introduced the bill on today's date. I have only had today to seek cosponsors. At this moment I have 43 original cosponsors. I urge all my colleagues who have not had an opportunity to read the bill to do so at the earliest opportunity and to please cosponsor the bill.

The chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO) has indicated to me just today that he will hold hearings on this bill on April 6. I urge the Members' support prior to that date to show our support for the Olympic Coin Act of 1982.

The bill follows:

H.R. 5933

A bill to provide for the minting of commemorative coins to help support the 1984 Los Angeles Olympic Games and to amend the American Arts Gold Medallion Act to provide for certain sales of gold medallions struck under such Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Olympic Coin Act of 1982".

TITLE I—OLYMPIC COINS

PURPOSES

SEC. 101. The purposes of this title are—

(1) to provide for the minting of commemorative coins to honor and commemorate the 1984 Los Angeles Olympic Games; and

(2) to help finance those games and amateur athletics without the use of tax revenues, in recognition of the importance and national significance of the Olympics and of amateur athletics.

MINTING

SEC. 102. (a) Notwithstanding any other provision of law, the Secretary of the Treasury shall mint—

(1) not more than 25,000,000 coins with a face value of one dollar, each coin—

(A) weighing 22.68 grams;

(B) having a diameter of 38.1 millimeters; and

(C) comprised of two identical outer layers, weighing together at least 30 percent of the total weight of the coin and consisting of an alloy made up of 75 percent copper and 25 percent nickel, which are metallurgically bonded to an inner layer made up of copper;

(2) not more than 15,000,000 coins with a face value of ten dollars, each coin—

(A) weighing 33.625 grams;

(B) having a diameter of 38.1 millimeters; and

(C) consisting of an alloy made up of 92.5 percent silver and 7.5 percent copper;

(3) not more than 1,000,000 coins with a face value of fifty dollars, each coin—

(A) weighing 4.937 grams;

(B) having a diameter of 19.0 millimeters; and

(C) consisting of an alloy made up of 90 percent gold and of 10 percent silver or copper in such proportions as determined by the Secretary of the Treasury; and

(4) not more than 1,000,000 coins with a face value of one hundred dollars, each coin—

(A) weighing 9.874 grams;

(B) having a diameter of 23.0 millimeters; and

(C) consisting of an alloy made up of 90 percent gold and of 10 percent silver or copper in such proportions as determined by the Secretary of the Treasury.

(b) All coins minted pursuant to subsection (a) shall have an aggregate face value which is not more than $325,000,000.

(c) The coins minted pursuant to subsection (a) shall bear—

(1) a designation of the value of the coin;

(2) an inscription of the year the coin was minted or issued; and

(3) an inscription of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) The designs of all coins minted under subsection (a) shall be determined by the Secretary of the Treasury, in consultation with the Los Angeles Olympic Organizing Committee (hereafter in this title referred to as the "Committee"), and shall be emblematic of the Olympics, United States participation in the Olympics, United States athletes, and other symbols consistent with the purposes of this title. All coins minted pursuant to subsection (a) shall have a common reverse design.

(e) All coins minted under subsection (a) shall be legal tender pursuant to section 102 of the Coinage Act of 1965 (31 U.S.C. 392).

(f) No coins shall be minted pursuant to subsection (a) after December 31, 1984.

MINTING SPECIFICATIONS

SEC. 103. (a)(1) The coins with a face value of one dollar minted pursuant to section 102(a)(1) shall be issued in a single design and shall be of brilliant-uncirculated quality.

(2) The coins with a face value of ten dollars minted pursuant to section 102(a)(2) shall be issued in three series with four designs for each series and shall be of brilliant-uncirculated and proof qualities.

(3) The coins with a face value of fifty dollars minted pursuant to section 102(a)(3) shall be issued in two series with a different design for each series and shall be of brilliant-uncirculated and proof qualities.

(4) The coins with a face value of one hundred dollars minted pursuant to section 102(a)(4) shall be issued in two series with a different design for each series and shall be of brilliant-uncirculated and proof qualities.

(b)(1) The Secretary of the Treasury may reduce the number of designs for each series of coins specified in subsection (a) if the Secretary of the Treasury determines that such reduction will not reduce—

(A) the estimated net proceeds to the Committee of the sale of such coins; and

(B) below $30,000,000 the net proceeds of such sale guaranteed to the Committee.

(2) Paragraph (1) shall not apply if the coins are marketed pursuant to the existing marketing agreement, as defined in section 107(a)(4) and the existing marketing agreement has not been modified under section 107(e).

(c) The Secretary of the Treasury shall obtain gold and silver for the coins minted pursuant to section 102(a) pursuant to the authority of the Secretary of the Treasury under existing law.

SALE AND DELIVERY

SEC. 104. (a) All coins minted pursuant to section 102(a) shall be delivered by the Secretary of the Treasury as requested by the Committee for distribution and sale to the public in accordance with the terms of the agreement entered into pursuant to section 108.

(b) The Secretary of the Treasury shall begin delivery of the coins with a face value of one dollar minted pursuant to section 102(a)(1) not later than January 1, 1984. The Secretary of the Treasury shall begin delivery of the three series of coins with a face value of ten dollars minted pursuant to section 102(a)(2) not later than January 1, 1983, for the first series; not later than July 1, 1983, for the second series; and not later than January 1, 1984, for the third series. The Secretary of the Treasury shall begin delivery of the two series of coins with a face value of fifty dollars minted pursuant to section 102(a)(3) and the two series of coins with a face value of one hundred dollars minted pursuant to section 102(a)(4) not later than January 1, 1983, for the first series of each such coin and not later than January 1, 1984, for the second series of each such coin.

PRICE

SEC. 105. (a) The Secretary of the Treasury shall furnish the coins minted pursuant to section 102(a) to the Committee at a price agreed to pursuant to the agreement negotiated pursuant to section 108(a), which price shall be equal to the greater of—

(1) the sum of the total face value of the coins and the costs of manufacturing and engraving; or

(2) the sum of the market price of the metal used in minting the coins, the charges for strip and blank fabrication, the costs of manufacturing and engraving, and a 15 percent surcharge on the amount of the costs of manufacturing and engraving.

(b) Any amount received by the Secretary of the Treasury pursuant to subsection (a) shall be used to reimburse the costs of minting the coins pursuant to section 102(a). Any amounts received pursuant to subsection (a) and not used to reimburse the costs of minting such coins shall be deposited by the Secretary of the Treasury into the Los Angeles Olympic Coin Fund established pursuant to section 109(a).

PROCEEDS

SEC. 106. All of the proceeds received by the Committee from the commercial sale of the coins minted pursuant to section 102(a) shall be used for the purpose of staging and promoting the 1984 Los Angeles Olympic Games and assisting the United States Olympic Committee and amateur athletics.

MARKETING AGREEMENT

SEC. 107. (a) As used in this section—

(1) the term "coins" means all the coins minted pursuant to section 103(a);

(2) the term "marketing organization" means a firm or joint venture which proposes to purchase coins from the Committee and resell such coins to the public;

(3) the term "marketing agreement" means a contract for the marketing of coins;

(4) the term "existing marketing agreement" means the marketing agreement between the Committee and a marketing organization which is in existence on the date of the enactment of this title; and

(5) the term "existing marketing organization" means the marketing organization which is a party to the existing marketing agreement.

(b) In accordance with procedures specified by the Secretary of the Treasury, and as soon as practicable after the date of the enactment of this Act, the Committee shall invite proposals from marketing organizations for an exclusive, worldwide marketing agreement.

(c) Not later than 45 days after the date of the enactment of this title, the Committee shall—

(1) consider all proposals received from marketing organizations in response to the invitation made pursuant to subsection (b);

(2) compare such proposals to the existing marketing agreement; and

(3) initially select a marketing organization (which may be the existing marketing organization under the existing marketing agreement) for the marketing of the coins.

(d)(1) In consultation with the Secretary of the Treasury, the Committee shall initially select under subsection (c)(3) the marketing organization which offers the most favorable terms for the marketing of the coins and shall consider all factors including—

(A) the financial resources and coin marketing experience of the marketing organization;

(B) the estimated proceeds to the Committee from the sale of the coins;

(C) the commitment of the marketing organization to guarantee to the Committee an amount not less than $30,000,000 from the proceeds from the sale of the coins;

(D) the terms and conditions for the marketing of the coins, including (i) a proper and equitable distribution of the coins, (ii) accurate and otherwise appropriate advertising materials to be used in promoting the coins, and (iii) wholesale and retail price ranges for the coins; and

(E) the commitment of the marketing organization to provide to the Committee upon execution and delivery of a marketing agreement a sum equal to the amount of the advance royalty fee paid to the Committee by the existing marketing organization.

(2) The Committee shall certify to the Secretary of the Treasury the amount of any sum provided to the Committee under paragraph (1)(E).

(e) If the marketing organization initially selected by the Committee under subsection (c)(3) is not the existing marketing organization, the existing marketing organization shall have a period of not more than 10 days after the existing marketing organization is notified of such initial selection to agree to modify the existing marketing agreement. If the Committee, in consultation with the Secretary of the Treasury, concludes that the existing marketing agreement as modified under this subsection offers terms to the Committee more favorable than the terms offered by the marketing organization initially selected under subsection (c)(3) the Committee may finally select the existing marketing organization to market the coins.

(f) No law of the United States governing procurement or public contracts is applicable to the selection of a marketing organization under this section.

IMPLEMENTATION AGREEMENT

SEC. 108. (a) The Secretary of the Treasury shall negotiate an agreement with the Committee which shall provide for the implementation of the purposes of this title and which shall include an agreement on—

(1) the sums to be paid by the Committee to the Secretary of the Treasury for deposit in the Los Angeles Olympic Coin Fund established pursuant to section 109(a) and the use of such sums;

(2) the price and schedule of payments for the coins to be minted pursuant to section 102(a);

(3) the number of each type of coin to be minted pursuant to section 102(a), and the schedules and other provisions for the delivery of such coins;

(4) the quality and tolerance of the coins to be minted pursuant to section 102(a);

(5) the designs of the coins minted pursuant to section 102(a), as determined pursuant to section 102(d); and

(6) the numbers of proof and brilliant-uncirculated coins of each face value to be minted pursuant to section 102(a).

(b) The agreement negotiated pursuant to subsection (a) shall insure that the minting of coins pursuant to section 102(a) shall result in no cost to the United States.

(c) The agreement negotiated pursuant to subsection (a) shall be concluded and signed not later than ninety days after the date of the enactment of this title.

(d) The Secretary of the Treasury may not sign an agreement with the Committee under subsection (c) unless the selection of a marketing organization has been made under section 107.

(e) The Secretary of the Treasury may terminate the agreement signed under subsection (c) and cease the minting and delivery of any coins minted pursuant to section 102(a) if the Secretary of the Treasury determines that:

(1) the Committee has materially breached the terms of the agreement negotiated pursuant to subsection (a); or

(2) any individual, firm, joint venture, or organization which entered into a contract or agreement with the Committee providing for the marketing or distribution of any coin minted pursuant to section 102(a) materially breached the terms of such contract or agreement.

FUNDING

SEC. 109. (a) There is established in the Treasury of the United States the Los Angeles Olympic Fund (hereafter in this section referred to as the "Fund") which is subject to section 20 of the Permanent Appropriation Repeal Act of 1934 (31 U.S.C. 725s).

(b) The Secretary of the Treasury shall deposit into the Fund any sums received from the Committee for deposit into the Fund. Any sums in the Fund may be used solely by the Secretary of the Treasury to carry out this title and may be used by the Secretary of the Treasury to pay any costs of the United States for minting any coins minted pursuant to section 102(a).

REPORTS

SEC. 110. (a) The Secretary of the Treasury shall submit to the Congress a report on the sale of the coins minted pursuant to section 102(a) not later than 45 days after the first day of the first calendar month beginning not less than 90 days after the date of the enactment of this title, and not later than 45 days after the first day of each calendar month which—

(1) begins three months after the beginning of the previous calendar month not later than 45 days after the beginning of which a report is submitted under this subsection; and

(2) begins before June 30, 1985.

(b) The Committee and the marketing organization shall furnish to the Secretary of the Treasury any information requested by the Secretary of the Treasury for the preparation of any report to be submitted pursuant to subsection (a).

AUDITS

SEC. 111. The Comptroller General of the United States shall have access to any book, record, document, or other data relating to the use of any coins minted pursuant to section 102(a), or any funds made available under this title, of the Committee, of the United States Olympic Committee, or of any person, firm, joint venture, or organization with which the Committee enters into a contract for the marketing or distribution of coins minted under section 102(a).

RELATION TO OTHER LAWS

SEC. 112. In carrying out this title, the Secretary of the Treasury is not subject to any law of the United States governing procurement or public contracts.

TECHNICAL AMENDMENT

SEC. 113. Section 20(a) of the Permanent Appropriation Repeal Act of 1934 (31 U.S.C. 725s) is amended by adding after paragraph (84) the following new paragraph:

"(85) Los Angeles Olympic Coin Fund.".

TITLE II—GOLD MEDALLIONS

GOLD MEDALLION ACT AMENDMENT

SEC. 201. Section 406 of the American Arts Gold Medallion Act (92 Stat. 3680) is amended by adding after subsection (c) the following new subsection:

"(d) Not later than 60 days after the date of enactment of this subsection, the Secretary shall provide for sales of gold medallions struck under the authority of this title to be made to the general public through dealers, and if appropriate, through the Department of the Treasury. The Secretary shall make bulk sales of such gold medallions at a reasonable discount to reflect the lower handling costs of such sales and at a price to be determined by the Secretary.".

UNHEALTHY TO BE OLD: THE REAGAN BUDGET ON MEDICARE AND MEDICAID

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. CROCKETT) is recognized for 10 minutes.

● Mr. CROCKETT. Mr. Speaker, thousands of older citizens in my district, and millions of others around the country, have been devastated by the callous disregard being shown by the Reagan administration concerning funding for programs affecting the elderly—from social security and pension cost-of-living cuts to proposals to slash the medicare and medicaid programs.

On Friday, March 19, former Secretary of Health, Education, and Welfare Joseph Califano presented extremely enlightening testimony before the House Select Committee on Aging with regard to the medicare and medicaid programs, and the proposed cuts. Mr. Califano was the Special Assistant on Domestic Affairs to President Johnson from 1965 to 1969, when the Great Society programs were structured and passed. He was instrumental in formulating the policies of concern that characterize the Federal Government's commitment to older Americans, including medicare and medicaid. In his statement, he gives substantial evidence for retaining funding for these programs, and strongly challenges the administration to retain the Federal commitment to the elderly and keep these programs effective.

Mr. Speaker, I would like at this point in the RECORD to include Mr. Califano's remarks before the Aging Committee, and to commend that to my colleagues:

STATEMENT OF JOSEPH A. CALIFANO, JR.

Mr. Chairman and members of the committee; it is a privilege to be invited to testify before your distinguished Committee on the significance of medicare and medicaid to our nation's senior citizens, and the threat to those programs presented by the proposals of the Reagan administration.

As you know, Medicare was the Great Society's program to provide medical care for all Americans over 65 years of age and those receiving social security disability benefits. Medicaid was the Great Society's program to help provide health care for the poor. It is in reality 54 different health plans, one for each State, the District of Columbia, and the territories. Medicare covers 95 percent of Americans over 65, and more than 40 cents of every medicaid dollar goes to long term care for the elderly.

The promise of those programs in their original conception was to provide health care for all our senior citizens and for all Americans who could not afford it. As originally proposed, and if amendments suggested by President Johnson in 1968 had been adopted, the programs would have reformed some of the health care payment systems to make them more efficient, and ease the burden on our taxpayers.

As those programs worked their way through the labyrinth of special interest groups and providers whose initial resistance gave way to their quest for a piece of the pie, the reimbursement reforms were stripped away. The need for access to health care for our elderly and poor was so great that the Congress and the Johnson administration accepted the customary fee-for-service system for paying doctors and the cost-plus system for paying hospitals. We compromised as well by acceding to certain gaps in care and in the original concept of comprehensive coverage. As a result, medicare and medicaid together cover only 57 percent of the total health care costs of the elderly in America, with medicare covering 44 percent and medicaid 13 percent.

These programs have worked. They have dramatically improved the health of our senior citizens and poor Americans. Since medicare began, life expectancy for the elderly has increased by almost two years; days lost from work by the elderly have decreased by 50 percent, and millions of senior citizens have access to health care only because of the program. During the first ten years of medicaid, death rates from diseases historically prevalent among the poor declined sharply: Infant mortality rates were down by 33 percent and maternal mortality rates by 66 percent; death rates from influenza and pneumonia dropped by 28 percent, and from strokes by 30 percent. The use of preventive services by the poor has increased since medicaid: the proportion of poor women who receive early pregnancy care from a physician rose from 17 percent in 1963 to 65 percent in 1976; the number of physician visits per year by poor children climbed by 26 percent from 1964 to 1979.

Recent data from the Department of Health and Human Services underscores the impact of medicare in reducing mortality among our elderly. From 1955 to 1967, with no medicare, mortality rates of elderly males increased slightly, while death rates for elderly females declined at an annual rate of 1 percent. But over the 10-year period of 1968 through 1977 with medicare in full operation, death rates for both elderly men and women dropped sharply: for elderly males the annual rate of decline was 1.5 percent; for women, the annual rate of decline was 2.3 percent. That medicare is the reason for this tremendous increase in life expectancy is clear when we compare the experience of the elderly in Canada and European countries over the same period: there for elderly males, the annual decline in death rates was a mere 0.6 percent; for elderly women, only 1.7 percent.

If any further evidence is needed of the significance of medicare, consider this: one-third of the total increase in life expectancy for a 65 year old person in the first 75 years of this century occurred in the first 10 years of medicare's existence. Moreover, there has been no increase in disability among those over 65 surviving and almost 70 percent of the elderly in America rate their health as good to excellent.

Medicare is an efficient program. The error rate is as low as it is for any entitlement program, less than one percent.

Medicare is not expensive to operate: The administrative expenses total only 3 percent of the benefits distributed. Compare private insurance plans, where the administrative expenses, including sales commission, run at 35 to 40 percent, sometimes even more. Put another way, $97 of every $100 spent by medicare goes for health care; only $60 to $65 of the money spent on private health insurance goes to health care.

Medicare is a single program, operated by the Federal Government through insurance and computer companies which process claims for payment. Individual eligibility is easy to determine: All those over sixty-five years of age and all receiving social security disability payments. The kinds of treatment covered are uniform nationally.

By contrast, medicaid is fifty-four different health plans. Each sets its own income level for determining eligible individuals or families. Each has wide discretion to establish which health care service will be covered, and the portion of the charge that will be reimbursed. The millions of medicaid transactions that occur in this complex administrative environment are prone to error and some abuse. But most of the waste in medicaid is a result of its inherent complexity. Determinations of eligibility turn on such fine points that it is not possible to train thousands of individuals to administer the program with accuracy. As a result, the proportion of funds paid for individuals or medical procedures not entitled to reimbursement is much higher, perhaps averaging almost 10 percent. But the potential of computers to improve payment efficiency and accuracy is enormous, and states and cities should be pressed to established sophisticated computer systems.

While, with effective computer policing and management, the medicare program can be run at a high level of efficiency, Medicaid is more complicated. The most sophisticated electronic and management techniques will significantly reduce the payments to ineligible patients or for ineligible procedures, but they are not likely to achieve a program with error rates as low as medicare. Only with major legislative surgery, such as federalization or at least uniform eligibility standards for individuals and medical procedures, will medicaid operate efficiently. A federal takeover of the financing and operation of medicaid makes sense, if adequate benefit levels are established, gaps in coverage of poor people and senior citizens are closed, and major reforms of the health care delviery and financing system are effected.

What this administration appears to be proposing as part of its "New Federalism" program in the 1983 budget seems less a true Federal assumption of medicaid than the wolf of budget cutting in the sheep's clothing of federalization.

First, the principal keys to the door to medicaid benefits are eligibility for Aid to Families with Dependent Children (about 8 million mothers, 3 million children and perhaps 500,000 fathers) and Supplemental Security Income (poor aged, disabled, and blind). The gaps in coverage of poor people are significant. Several million poor people who are not eligible for these welfare programs should be covered as part of any serious federalization of medicaid.

The poor, and particularly minorities, pay a frightful price for lack of access to health care, as well as poverty. The life expectancy of a black man in the United States is only age sixty-four, below the Social Security retirement age and eight years below life expectancy for a white man. And a black woman is two times more likely than a white woman to lose her infant or her own life in childbirth.

Second, benefits covered by states vary enormously. Serious federalization should bring all benefits closer to the comprehensive coverage of states like California and New York, rather than low benefit states like Mississippi and Tennessee. Medicaid is particularly tilted toward acute care rather than health promotion and disease prevention. Federalization should encourage health promotion and disease prevention.

Third, and in many ways most important, federalization of medicaid should encourge major system reforms in reimbursement and delivery of health care. In the inerests of simplified administration, federalization should have the ultimate objective of making medicare and medicaid a single program. This relates not only to forms and other administrative paraphernalia, but also to the level of payment and the procedures covered.

The Reagan plan seems unlikely to correct any of these deficiencies. As projected in its budget, medicaid benefits would be cut by $2 billion (from $19 to $17 billion) in 1983, and more than $17 billion over the next five years. Those cuts don't take inflation into account; health care programs can easily go up at twice the rate of the consumer price index. In 1980, health care costs rose at an annual rate of 15 percent, the steepest hike since we began keeping these costs in 1929. So Reagan's 1983 federalization proposal may in reality cut as much as $4 billion from medicaid in 1983.

As for medicare, the Reagan administration proposes a series of cuts that smack less of coherent health care policy than of David Stockman cutting and running, leaving dedicated representatives of the Department of Health and Human Services to defend this hit and run attack on the elderly. There should be no mistake about what Mr. Stockman and the Office of Management and Budget are about: If they have their way with the Congress this year, in 5 years the medicare program will be cut at least 20 percent.

One example of the administration's policy to cut rather than care is their proposal to save $145 million by changing the medicare eligibility date from the first day of the month in which your 65th birthday occurs, to the first day of the following month. That's David Stockman's birthday present for a person who has worked all his or her life. This gift from the Office of Management and Budget gives new meaning to those Hallmark cards that tell us to have a happy, healthy 65th birthday.

For Federal employees, the administration proposal that they pay the medical payroll tax represents a reduction in wages, without any commensurate benefit of improved health insurance coverage in old age. If Federal employee wages are felt to be too high, they should be cut. If they are felt to be at the right level, but that folding them into medicare is a more rational way to provide for their health insurance coverage in retirement, they should receive a wage hike to compensate for the added tax burden.

In the long run, cuts in medicare and medicaid, and other health programs, guarantee a far more costly health care bill, in addition to the human suffering such cuts visit on our citizens. In the short run, reducing Federal funds available to provide health care for the poor will increase the burden on public hospitals and private health insurers. Public hospitals are already overburdened, in some cases to the point of near bankruptcy. Their emergency rooms in large urban areas receive more than twice the vistis of large university hospitals and four times those of large urban private hospitals. In our large cities, though public hospitals represent only 1.6 percent of the hospital beds, they provide one-fourth of our-patient clinic services. Grady Memorial in Atlanta, for example, accounts for 53 percent of all clinic visits in the entire state of

Georgia, and 12.5 percent of all emergency room visits there. These public hospitals have 50 fewer full-time equivalent staff per 100 patient days than the average of all private hospitals.

To the extent public hospitals cannot pick up the added patient load, private hospitals will have to increase the share of indigent patients they care for. The reluctance of these hospitals to do so (with the exception of some university facilities) is notorious. But to the extent they do so, those paying insurance premiums will have to ante up more money to cover the cost. In this sense, the Reagan administration proposal is a less thoughtful health plan than a politically adept transfer or the tax burden to states, cities, and insured patients.

Is there room for improvement in medicare and medicaid? Of course. Can we save some money? Of course. But the single most effective way to save money is to eliminate the waste in our hospital system. A temporary, modest hospital cost containment program can, either at the Federal or State level, save billions while we work toward more fundamental reform of the health care system. Permitting hospitals charges to rise by the cost of the market basket of goods and services they buy, plus a fair allowance for new services, will save medicare alone billions over the next five years. Indeed, as many segments of the hospital industry confront the Stockman proposal for an arbitrary 2 percent cut, they may be increasingly willing to revisit some temporary cost containment proposal as a more rational and equitable alternative. By the fifth year, the savings to the medicare trust fund could reach $10 billion annually. Think of what that means to the viability of the social security system and our health care system for the elderly. Every American should wonder why this administration chooses to cut programs for the elderly and the poor, for child and maternal health, for childhood immunization, for health promotion and prevention, including educating our citizens about the dangers of cigarette smoking, for alcoholism and drug abuse—why it chooses to slash these programs and to continue to encourage waste in our cost-plus reimbursement hospital system.

Several years ago when hospital cost containment was just an idea, the for profit hospital industry argued that such a plan would not work. But we know better today. Six States have had mandatory cost containment commissions since 1975. The increase in hospital expenditures in those States from 1975 to 1980 was 40 percent less than in States without cost containment programs. As the supply-siders see something work in practice, they have gone back to their offices to prove that it doesn't work in theory.

Mr. Chairman, this is a time in our Nation when it is fashionable to debunk what a democratic government can and should do for its people. It's become a time for lashing out at the programs of the New Deal and the Great Society of which you have been such a major part. But most of those programs work and have helped our people. We cannot let the currently fashionable supply-side economics, budget-cutting mania obscure the reality of what the Great Society programs achieved. In 1960, 22 percent of the American people lived below the official poverty level. When Lyndon Johnson left office in 1969, that had dropped to 13 percent. Despite the flat economy of the 1970's, the official poverty level did not rise. Indeed, by 1979, it had gone down to 12 percent. But—and this is a but we must repeat again and again—if we count the income effects of the Great Society service programs, such as those for health care, job training, aid to education and rehabilitation for the handicapped, by the mid-1970's the poverty rate had been reduced to six percent, according to a non-partisan Congressional Budget Office survey at that time.

Mr. Chairman, the immediate challenge to our people and the Congress is to save this country from a depression. There are difficult choices and sacrifices to be made by our people. But we must distribute those sacrifices fairly. It's nonsense to talk about safety nets for the elderly when they are being asked to carry so much of the burden of bolstering our economy, holding our deficits down, and strengthening our defense establishment, while the rich get richer and wealth gets more concentrated in our society.

This Committee is right to be concerned about the needs of our elderly—and those needs go far beyond financing Social Security and other retirement systems. In 1980, some 25 million Americans were senior citizens, about 11 percent of our population. By the end of the first quarter of the next century, our senior citizen population will more than double, to more than 50 million and approach 20 percent of our total population.

Our health care, housing, transportation, and social service systems will also be under enormous tension and will call for imaginative restructuring to accommodate the graying of our Nation. Solutions will not come easily—or cheaply. The long-term care problems of the elderly short of hospitalization requires enormous inevestments. We must confront these problems squarely. A key test of the moral fiber of a society is how it treats its elderly.

The time to come to terms with the first four-generation society in history is now. This requires careful planning rather than conservative political rhetoric. To confront the graying of America may demand more political courage than any other domestic issue of the 1980's.●

BIELARUSIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, March 25 marks a special day in man's historic struggle for freedom and self-determination, for it was on this day 64 years ago that the Bielarusian people established their own government and proclaimed their independence. The Bielarusians are an industrious and proud people and at long last they began enjoying the rewards of their own efforts and the feeling of security that comes from having the right of self-determination and having a voice in their own government.

The Bielarusian Coordinating Committee of Chicago, Ill., is dedicated to the restoration of human liberty in Bielarus and I commend its members and friends for their outstanding efforts to awaken the consciousness of free people everywhere and to lighten the burden suffered by the people of Bielarus. The names of the officers of this fine organization follow: William Puntus, president; Anthony Bielenis, vice president; Vera Romuk, secretary; Leonidas Sidorewicz, treasurer; Nick Zyznieuski, chairman of cultural affairs; and Dr. Witold Romuk, member.

The Bielarusian Coordinating Committee is sponsoring a luncheon in commemoration of the independence of Bielarus on March 28, at the Regency Inn, 5319 West Diversey Avenue, in Chicago, beginning at 12:30 p.m., and I look forward to being with the membership at that time.

As stated by the committee, Bielarusian independence is a sad occasion and one seldom hears about Bielarus in our press reports because Bielarus has been completely cut off from the world by heavy presence of the Soviet troops there and because Moscow is on the verge of destroying the Bielarusian Nation by assimilation. The Russians want the Bielarusian people to forget their past, their history, their culture, and their language. They want them to forget who they are and who they were. They, the Russians, write new books, manufacture a new culture, and invent a new history for the Bielarusian people thus poisoning their minds and liquidating the Bielarusian people.

A statement follows by the Bielarusian Coordinating Committee of Chicago, Ill., entitled, "Bielarus and the Bielarusians—Their Name and Their Origin," along with suggested reading materials:

BIELARUS AND THE BIELARUSIANS—THEIR NAME AND THEIR ORIGIN

Bielarus is the original name of the country and as such should be known in the entire world instead of the Moscow-imposed name of Byelorussia. The term Bielarus should never be changed to anything (like White Russia, the former Russian-imposed name for Bielarus, because the original name is one word), translated (only as Whiteruthenia), or made into an "ersatz" (like Byelorussia) but remain in its original form as is the case with El Salvador, Honduras, Luxembourg, Lichtenstein, Bengladesh and many other countries. The word Bielarus consists of an adjective—biela, meaning white and a noun—Rus, meaning Ruthenia, and altogether they mean Whiteruthenia. The word for Russia is Rossiya (Ro pronounced like ra in rather) and the Russian word for Bielarus is Belorussiya (ru pronounced as roo in rooster) which in the transliterated form comes out as Byelorussia. Bielarus, according to the Bielarusian orthography using the Latin alphabet, with a slant on the L and a mark on top of the S. Bielarus was known in the past as Litva and the Grand Duchy of Litva (Litvania) and the people as Licviny (Litvanians).

The Bielarusians are Slav people, not Russians. Their ancestors had settled the area, which is in the western part of the Soviet Union today, around the 6th century A.D. Bielarus is a republic of the Soviet Union and Communist controlled from Moscow. Miensk (Minsk) is their capital. They border with Poland on the west, Russia on the north and the east, the Baltic States on the northwest, and the Ukraine on the south.

Their language, culture, and the traditions are different from those of the Russian people. The Soviet Bielarusian Republic is a founding member of the United Nations Organization. Major Bielarusian cities besides Miensk are Hrodna (Grodno), Viciebsk (Vitebsk), Polack (Polotsk), Pinsk, Bierascie (Brest), Homiel (Gomel), Mahikou (Mogilev), and Babrujsk (Bobruysk). Their three other cities—Bielastok (Bialystok), Smalensk (Smolensk), and Vilnia (Vilnius)—and their provinces, with predominantly Bielarusian inhabitants, have found their way within the boundaries of their immediate neighbors. It is hoped that someday the Bielarusian people will regain their complete freedom and independence from Moscow's domination.

SUGGESTED HEARING MATERIALS

Katez, Zev and Rosemarie Rogers and Frederic Harned. Handbook cf Major Soviet Nationalities, pp. 49-71. The Free Press A Division of Macmillan Publishing Co., Inc., 1975.

Lubachko, Ivan S. Belorussia under Soviet Rule 1917-1957. The University Press of Kentucky, 1972.

Vakar, Nicholas P. Belorussia A Making of a Nation. Harvard University Press, 1956.

Tragically, the freedom-loving people now living in Bielarus are unable to join in celebrating this auspicious independence day occassion, as they are forced to live in bondage under the ruthless tyranny of the Soviet Union. Despite their long suffering under the harsh yoke of communism, no amount of repression has succeeded in stifling the Bielarusians yearning and constant hope for sovereignty and individual freedom.

An excerpt from a statement on the occupation and oppression of Bielarus by Soviet Russia issued by the Byelorussian Congress Committee of America follows as well as editorial from the Byelorussian-American Association's publication "Bielarus" entitled, "On the Day of Solidarity:"

At the end of February, 1917 the Tsarist Russian Empire collapsed and the captive nations of this empire started a new historic period of national revival. On December 17, 1917 the First Byelorussian National Congress adopted the resolution proclaiming the independence of Byelorussia. The Soviet Russian Red Army dispersed this Congress, interrupting the formation of an independent Byelorussian State. But on March 25, 1918 the independence of Byelorussia was proclaimed by the Council of the Byelorussian Democratic Republic. The Byelorussian National Government organized the administration of the country, the schools, the armed forces and the diplomatic activities abroad.

The Soviet Russian Government in Moscow wanted to keep intact all the previous Russian Empire in the borders of the Soviet State. For the non-Russian nations Lenin recognized the right for the free self-determination up to secession and creation of the independent national state. However, this right remained on the paper only. Officially Lenin was recognizing the right for secession, but in reality he was against the secession as such. He waged the military aggression against all those non-Russian states which restored their independence.

In opposition to the proclaimed independent National (Ethnic) Byelorussian Democratic Republic, the Russian Government created its own puppet state the Byelorussian Soviet Socialist Republic.

On February 2, 1919 the first assembly of Soviets of the B.S.S.R. convened in Minsk. It was composed of 230 delegates, of which 213 were communists and 17 were sympathizers. The representative of the Soviet Russian Government, Sverdlov had announced the decision of the All-Russian Central Executive Committee which recognized the Byelorussian S.S.R.. Replying to this recognition, the assembly decided to maintain close federal ties between the Byelorussian S.S.R. and the Russian S.F.S.R..

On February 3, 1919 this assembly adopted the constitution, the national emblem, and the flag of the B.S.S.R., modeled after those of the Russian S.F.S.R..

Subsequently, the Soviet Russian Army attacked the rest of Byelorussia, by advancing westward. The Byelorussian military forces and diplomatic activities abroad were not able to defend independence of Byelorussia against powerful Russian enemy. In 1921 Byelorussia was conquered and divided between Russia and Poland. It is noteworthy that the Soviet Russian Government has not invited the government of the B.S.S.R. to the peace conference in Riga, where the fate of the Byelorussian people and of their country was decided by the representatives of Russia and Poland. Russia kept under its control about 300,000 sq. km. of Byelorussian territory with the population of some 10 million. The Kremlin Government established the B.S.S.R. but within the boundaries of only 6 districts of the Minsk province with 1,200,000 inhabitants. Most of the Byelorussian territory was annexed to the Russian S.F.S.R..

ON THE DAY OF SOLIDARITY

President Reagan proclaimed January 30th, 1982, as the Day of Solidarity, with the Polish Nation in its strivings for Freedom.

We express our solidarity with the Polish people in their courageous, protracted and difficult struggle against the Communist tyranny of both Moscow and Warsaw. We applaud President Reagan for exposing to the world Moscow's destructive role in the Polish crisis. We support the United States Government in its determination to resist the Kremlin's pressure on Poland and counteract General Jaruzelski's tactics designed to push the citizens of the Polish Republic back into submissiveness. We join the Free World's condemnation of the military regime in Poland and align ourselves with the Solidarity labor movement in its search for democratic alternatives.

The Byelorussian people have been suffering from and resisting the Russian Communist onslaught on their material wealth and spiritual values for an even longer period of time than the Poles. We therefore deeply sympathize with neighboring Poland's predicament. We have learned how heavy Moscow's "helping hand" can be and how essential solidarity is in fighting Russian domination.

But solidarity in relations between neighboring peoples is a two-directional process. We hope our Polish brothers from Solidarity recognize that. This recognition is particularly important for there are about a quarter of a million Byelorussians in Poland who have been experiencing hardships at the hands of the Polish authorities not only as citizens of the Republic, but as Byelorussians as well. Byelorussian cultural institutions in Poland have been either closed down or abridged in their activities and expression. We hope the Polish Solidarity movement and its Western supporters will take the injustices done to the Byelorussian minority in Poland into consideration in their further fostering of solidarity.

Resistance to Russia's expansionist drive and overlordship mandates solidarity along the widest possible front.

Mr. Speaker, the United States has benefited enormously from the courage and vitality of Bielarusian Americans. These gifted citizens are a living reminder to the world of what an atmosphere of freedom can do for the spiritual, economic, and intellectual lifeblood of a nation. It is with pride that I participate in the 64th anniversary commemoration of the declaration of independence of Bielarus, and I extend my warmest greetings to those Americans of Bielarusian descent in my own 11th District I am honored to represent, in Chicago, and all over this Nation who are commemorating this stirring event in the history of freedom.●

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. COELHO) is recognized for 5 minutes.

RAINBOW BRIDGE IMPROVEMENT CRITICAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, among the many problems facing the Texas State Department of Highways and Public Transportation are bridges that are insufficient and need further consideration. One of these bridges is the Rainbow Bridge, which is one of the two principal bridges in Jefferson County and is located between Port Arthur and Orange on Highway 87. One of the other significant bridges in the county is the main Interstate 10 bridge between Houston, Beaumont, Orange, and New Orleans.

For many years the State department of highways and public transportation and local governments have worked together to the end that a new bridge would be added to the existing Neches River Bridge—Rainbow Bridge—between Port Arthur and Orange. Right-of-way is clear and they are authorized to let an embarkment project for the approaches to the proposed new bridge.

In an effort to obtain financing for the proposed new bridge, the State highway department in Austin has contracted the Federal Highway Administration about the possibility of obtaining discretionary HBRR funds, the use of which would also require upgrading the existing Rainbow Bridge sufficiency rating of 45.5 to at least 50 or higher. We understand this minimum sufficiency rating can be obtained by widening the bridge roadway width to 24 feet and adding new railing.

The Federal Highway Administration is responsible for the selection of projects for discretionary funds and their highway bridge replacement and rehabilitation program implementation plan calls for the bridges to be selected using sufficiency ratings and legislative history.

A critical need exists for rehabilitating the existing bridge and providing a new parallel bridge as evidenced by the 1980 average daily traffic of 16,400 vehicles per day. During 1980, there were 40 vehicle accidents, 43 injuries, and 1 fatality within the approximate limits of this project. This route is the only Neches River crossing south of IH-10 and closure would require at least a 34-mile detour.

It is an imperative necessity that the Federal Highway Administration in projecting the need for funding of the new Neches River Bridge include discretionary HBRR funds for the continued growth and development of the most concentrated oil and chemical complex in the United States, as well as the economic growth of Orange and Jefferson Counties.●

VETO OF STANDBY PETROLEUM ALLOCATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DINGELL) is recognized for 5 minutes.

● Mr. DINGELL. Mr. Speaker, the President's veto of legislation to provide him powers to act in the event of an oil supply emergency is, in a word, absurd. The legislation worked out and embodied in S. 1503 did not mandate that the President utilize oil price and allocation controls, but merely gave him the power to do so if he chose.

Clearly, those in this administration who so strongly advocated the veto are operating in an historic vacuum; they have allowed their philosophy to overcome the commonsense which should have arisen out of a memory of the terrible shock this Nation underwent during the 1973-74 OPEC embargo and again during the 1979 Iranian shutoff. I do not think it asks too much to expect that someone in the administration should be capable of remembering events over a mere 8 years.

Underlying all of this philosophy in the administration, there is a very fundamental disregard for the American people. My own message to the American people is very simple. There will be another oil emergency, and the only question is when and how it will occur. And there will have to be action by the Federal Government to help our citizens deal with that crisis when it comes. The present oil glut is nothing more than a temporary oversupply, so optimism about the future is wholly uncalled for. This administration's failure to recognize these basic facts is most distressing, for when the inevitable crunch comes, Congress will be forced to try to outline a Government program to deal with that crisis, and it will be most unfortunate that our action will have to come in the very context of the crisis itself.

I deeply regret the President's decision to veto the Standby Petroleum Allocation Act.●

WILDERNESS PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, now pending before the Subcommittee on Public Lands and National Parks are two different bills, each entitled the Wilderness Protection Act of 1982. One of these bills, H.R. 5282, which I introduced on December 16, 1981, would protect wilderness areas from leasing and mining threats.

The other bill, H.R. 5603, subsequently was introduced on February 24, 1982, on behalf of Secretary Watt and was labeled with the identical title. Before even reading the two bills, my colleagues would surmise that they would differ from one another somewhat. I want to clarify for the record, however, that the similarity between the two bills ends with their titles.

Mr. Speaker, when Secretary Watt ceremoniously announced his apparent change of direction on wilderness leasing on "Meet the Press," I was willing to give his wilderness legislation a chance. But when copies of the bill became available, a reading of the fine print confirmed my worst fears. H.R. 5603 is a complete fraud and deception.

It is a devastating antiwilderness measure masquerading as a wilderness protection bill. Its apparent prohibition on new mineral development in wilderness before the year 2000 is merely a smokescreen. In actuality the Wilderness Act would close those areas permanently to such development beginning in 1984, whereas H.R. 5603 would open them after the year 2000 and in the interim gut protections already available under current law so that they could be developed before them.

H.R. 5603 is in fact a blueprint for destroying the central purpose of the national wilderness system by opening the door to mining, leasing, clearcutting, and other development on millions of acres of wild areas in California and nationwide.

Mr. Speaker, I would like to insert into the RECORD an outline of the provisions of H.R. 5282 and a list of the deficiencies in H.R. 5603 so that my colleagues can judge the legislation for themselves:

THE WILDERNESS PROTECTION ACT OF 1982

I. BURTON BILL (H.R. 5282 INTRODUCED DECEMBER 16, 1981)

Withdraws existing and potential wilderness areas from new mineral development—including oil and gas leasing, other mineral and geothermal leasing, and hardrock mining. Valid existing rights are honored.

National forest lands withdrawn include those designated by Congress as wilderness or wilderness study areas as well as lands recommended for wilderness designation or classified as "further planning" areas by the Forest Service in the RARE II process as revised by the President in April 1979.

Bureau of Land Management lands withdrawn are those identified as wilderness study areas by the Bureau of Land Management consistent with section 603 of the Federal Land Policy and Management Act of 1976.

Thereby provides a vehicle to move up the ban on new mineral development in wilderness already called for in the Wilderness Act of 1964. Under the Wilderness Act, new leasing and mineral prospecting and development are allowed (but not required) until December 31, 1983, if compatible with wilderness preservation. Previous Administrations traditionally have refrained from issuing leases in wilderness. H.R. 5282 would make the ban begin immediately (instead of in 1984) because Administration actions and policy statements have threatened to reverse this bipartisan tradition and spurred new lease applications. (See Section III.) It protects areas under consideration for wilderness.

II. WATT BILL (H.R. 5603 INTRODUCED ON MR. WATT'S BEHALF FEBRUARY 24, 1982)

Undermines the Wilderness Act of 1964, under which new mineral development will be banned permanently in the National Wilderness Preservation System after December 31, 1983. H.R. 5603 is a "sunset" bill opening wilderness lands to development after 2000 and facilitating development before then with a series of exceptions and language tailor-made for industry. The bill is drafted so that the wilderness areas affected could include not only BLM and Forest Service wilderness but also national park and refuge wilderness areas that currently are protected.

Allows the President, for example, to open any wilderness area to development at any time and by only his own authority whenever he determines an "urgent national need" undefined in the bill. When discussing his proposal on "Meet the Press," Secretary Watt said that such action would be undertaken with "the concurrence of Congress," but the bill contains no provision for congressional approval. Instead, Congress would have to pass a specific bill to stop development in such a situation, facing the possibility of a Presidential veto.

Potential forest wilderness

Resurrects the discredited Helms-Hayakawa RARE II wilderness bill by setting unreasonable deadlines for Congress to add potential forest wilderness areas to the system. After the deadlines, the lands would be permanently released to logging or other development without an opportunity for Forest Service professionals to ever again review their wilderness potential or protect them. Wilderness opponents could block action before the deadlines:

Congress would have only until January 1, 1985, to protect lands recommended for wilderness in the RARE II final environmental statement.

RARE II "further planning" areas not recommended for wilderness by September 30, 1985, would be released. For further planning areas recommended for wilderness by that date, the deadline for congressional action designating them as wilderness would be January 1, 1988. Further planning lands are not withdrawn from mineral development under the bill.

The Helms-Hayakawa bill (S. 842), with its similar release language, has not come out of the first Senate subcommittee considering it. Instead of such national release, Congress has been dealing with RARE II on a state-by-state basis.

Undoes the careful compromise on release language worked out in the 96th Congress in laws creating forest wilderness in Colorado and New Mexico. Rather than calling for permanent release, these bills insulate areas from wilderness study for more than a decade but preserve the professional forester's options in future planning.

Ignores the balanced approach to protection of California wilderness areas adopted by the House, which has passed legislation for California containing release language like that used for Colorado and New Mexico. This bill, H.R. 4083 introduced by Rep. Phillip Burton, passed the House in 1981 and has been introduced in nearly identical form in the Senate by Sen. Cranston. The Watt bill repeals a court-imposed injunction on logging and development on forest roadless areas in California. It does this without designating any wilderness even though the court imposed the injunction because it ruled wilderness designation had been insufficiently considered. H.R. 4083, by contrast, would designate suitable areas as wilderness while lifting the injunction for other areas to free them for development.

Potential Bureau of Land Management wilderness

Goes beyond the Helms-Hayakawa forest release language in its treatment of potential BLM wilderness. Allows the President, rather than Congress, to decide the fate of BLM wilderness study areas such as those in the California Desert. H.R. 5603 thus would repeal the present provision of the Federal Land Policy and Management Act (FLPMA) that only Congress can release these wilderness study areas. It would enable the President to open them to development right away before Congress had a real opportunity to consider whether to preserve them.

Gives Congress only two years to act after a BLM study area is recommended for wilderness designation. After that time, the areas are permanently released.

Other provisions

Allows leasing and mining activity so long as there is no actual surface occupancy of lands within wilderness boundaries.

Contains unnecessary provisions requiring inventories and reports to Congress on the mineral potential in wilderness areas. The Wilderness Act of 1964 already requires the Secretary of Interior to inventory and report to Congress on the mineral potential of these areas and already allows prospecting if environmentally compatible.

III. THE THREAT TO WILDERNESS

On May 7, 1981, Secretary Watt assigned to the Interior Department Solicitor a goal of "opening wilderness areas."

On May 14, 1981, the Forest Service issued regulations to the effect that mineral lease applications in wilderness areas cannot be denied solely on the basis of a desire to protect the wilderness character of an area—despite the fact that Forest Service policy, dating back to the establishment of wilderness areas in the 1920s and 1930s, has consistently been to allow leasing only under exceptional circumstances. On October 19, 1981, the Interior Solicitor issued a formal opinion confirming these regulations.

On September 1, 1981, the Bureau of Land Management issued two oil leases for the Capitan Wilderness in New Mexico.

During the fall of 1981, Forest Service officials recommended issuance of oil and gas leases in a number of other wilderness areas—the Caney Creek Wilderness in the Ouachita National Forest in Arkansas, several wildernesses in the Los Padres National Forest in California, and 90,000 acres within Washakie Wilderness in Wyoming—next to Yellowstone. The Los Padres areas involved include the Ventana Wilderness along the Big Sur coast, the Santa Lucia Wilderness, and the proposed Dick Smith Wilderness.

Because of these actions, on November 20, 1981, the Interior Committee imposed a six-month moratorium on leasing in wilderness. Secretary Watt subsequently announced he was extending the moratorium until the end of the year. The moratorium covers existing wilderness areas only and the actual issuance of leases. Preparatory work could be underway in the meantime and many leases readied for issuance.

The Forest Service reported in December that there are approximately a thousand pending lease applications totally or partially in statutory wilderness. The application acres total 3 million.

In relation to BLM wilderness study areas, Secretary Watt announced in September 1981 his mistaken belief that Section 603 of FLPMA allows the President unilateral authority to release the areas that he considers unsuitable for wilderness. Watt's recent legislative proposal (H.R. 5603) would amend FLPMA to give the President such authority.

In a new policy published in the Federal Register on February 3, 1982, BLM took administrative action to speed the release of potential wilderness areas.

IV. HEARINGS; RELEVANT STATISTICS

The Subcommittee on Public Lands & National Parks has held hearings on leasing in wilderness in Washington as well as field hearings in Wyoming and Colorado. Testimony was overwhelmingly in favor of H.R. 5282. Members of Congress whose districts include affected wilderness areas and state representatives were among those calling for protective legislation. Based on USGS data, Economic Associates, Inc., estimated that designated wilderness areas contain about 1 percent of the nation's potentially producible onshore oil and gas. Potential wilderness areas contain about 3½ percent of the oil and 2½ percent of the gas. Voelker and Oakes of Oak Ridge Laboratory, who have studied the energy potential of wilderness study areas for the Department of Energy, testified that there is little justification for allowing mineral activities in existing wilderness and that the current review process for potential wilderness adequately protects areas with important mineral values from being included in wilderness. Other testimony revealed the unlikelihood that import dependence could be appreciably alleviated by mining in wilderness and the need to protect wilderness from geothermal leasing threats.●

OUR NATIONAL ECONOMIC PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HIGHTOWER) is recognized for 5 minutes.

Mr. HIGHTOWER. Mr. Speaker, we have heard a great deal today—I hear a great deal from my constituents who say they think there is too much partisanship involved today in discussing—and solving—our national economic problems. I agree with that analysis.

Everyone knows that partisanship and politics are inseparable. Partisanship provides the vitality of politics. Today, however, the Nation is ill-served by it. Unbending partisanship could prevent the Nation from stopping the economic erosion we are now seeing.

Congressional consideration of the 1983 budget is presently stalemated. At a recent meeting of the Democratic Caucus, the chairman of the House Budget Committee floated the idea of presenting the President's proposed 1983 Federal budget—with its tremendous deficits—to the House for its consideration and in exactly the form the President has proposed it.

If that were to be done, we would see a strong bipartisan vote of response—against the President's version and its tremendous deficit.

The suggestion to put the President's budget up for a vote was born from a legitimate sense of frustration. House and Senate leaders, Democrats and Republicans, want a signal from the President that he acknowledges the problem of the deficit and will work with the Congress to reduce it for the fiscal 1983 budget year.

Republican Senate and House leaders have paraded to the White House to present what they feel are reasonable alternatives to the President's problem budget. Democratic Members responsible for formulating the House version of the budget want a constructive dialog with their Republican counterparts, not political manuevering. They, too, are awaiting a signal from the White House that the President and his staff will work with them.

I clearly sense that both sides in the Congress are willing to deal responsibly with the deficit and budget problems and they want to get on with it before unemployment gets worse.

There is a disturbing, but growing, sentiment that I hear from some Members of Congress, that the President's budget was submitted knowing full well that it was unrealistic, that the deficits were going to be unacceptable, and that it stood no chance of passage. That theory proposes that the administration knows the economic recession will not end by the November elections and that the administration wants to be able to say as elections near, that everything would be on the upswing if Congress had just gone along and approved their budget for 1983.

I do not subscribe to that theory of our current budget politics.

I met personnally with President Reagan last year several times; I supported his economic proposals, I believe he is sincere, I know he is commited to economic recovery, But I also know he can break the stalemate.

I believe the President must call the elected congressional leaders together, Republicans and Democrats, and tell them he is not interested in a Republican budget of a Democratic budget. I believe he should tell them that he only wants a budget that will work, that will restore economic vitality, that will provide equity for all Americans. He must act, and ask the Congress to act, to stop the erosion of the economy.

I believe that only with the President taking the lead can we quickly stop the erosion of the American people's faith in their Government and the erosion of their hopes and dreams.

I hope to be an integral part of this effort as a member of the House Appropriations Committee, and will do what I can to work to break this current stalemate. We are all in this together and with the proper leadership, I believe we can do what must be done to turn the economy around.

Thank you, Mr. Speaker.

□ 1810

THE GOLD BUGS' COIN: SPECULATOR'S DREAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 10 minutes.

● Mr. REUSS. Mr. Speaker, some time in the next few days the deplorable U.S. Gold Commission will formally submit its report to the Congress. The report will recommend that the United States issue a speculator's dream of a capital gains and sales tax exempt gold coin. I am confident that the House will treat this idea with the contempt that it deserves. I enclose an article in the Philadelphia Inquirer of Wednesday, March 17, 1982, by J. A. Livingston, entitled "Gold Fanatics Do Something—Something Rather Silly":

George Santayana's definition of fanaticism—"the redoubling of effort when you have forgotten your aim"—impels me to offer a supplement: Fanaticism consists of being so determined to do something that you do what you really don't want. And that applies to President Reagan's Gold Commission.

Its purpose was admirable. The commission was appointed to examine whether a return to the gold standard would reduce inflation and regain respect for the dollar throughout the world.

On that, the commission wisely voted no. Indeed, it had to. Three influential members were committed that way by the President's Economic Report. They were Secretary of the Treasury Donald T. Regan, chairman of the Gold Commission; Murray L. Weidenbaum, chairman of the President's Council of Economic Advisers, and Weidenbaum's colleague on the council, Jerry L. Jordan.

The Economic Report of the President, on which Weidenbaum and Jordan collaborated, and with which Regan must have been familiar, said:

"Some economists and elected officials have recently been advocating a return to a gold standard as a lasting way to restore confidence in the U.S. monetary system. . . . It is useful to review how gold standards actually performed in the past. The evidence does not suggest that [they] achieved greater stability in price levels or [economic] growth."

Stymied on going back to gold, the commission, nevertheless felt impelled to do something, Reagan, Weidenbaum, and Jordan included. On an 8-6 vote, the commission recommended that Congress consider authorizing the production and sale of gold coins that would be exempt from capital gains and sales taxes.

Would the issuance of tax-exempt gold coins impart stability to the dollar? Hardly. It would do the opposite. It might encourage speculation in gold—and speculation in gold is tantamount to betting against the dollar, betting that it will go down in price vis-a-vis other currencies and depreciate in purchasing power.

An experienced economist, Jacques J. Polak, executive director of the International Monetary Fund for the Netherlands, offered this comment: "If gold needs that kind of help, it can't be considered much of an asset."

And Rep. Henry S. Reuss (D., Wis.), a member of the commission who voted against the recommendation, criticizes the proposal as "a gold-bug scheme to put gold on a pedestal."

In a telephone conversation, Weidenbaum justified the proposal as a tax-saver for the Treasury. He says that persons who speculate in gold are able to deduct losses in their tax returns. In contrast, successful speculators often "forget" to report profits. Holders of these coins, not being subject to capital gains taxes, would not be privileged to take capital losses. But, if speculators can't take losses, would they buy the coins? Wouldn't Krugerrands, which these gold discs are supposed to supplant, be preferable on that account?

The Gold Commission opens a Pandora's box. If gold coins are to escape capital gains taxes, why not antiques, works of art, rare books, coins in general, and stocks and bonds?

Paul W. McCracken, a member of the Gold Commission, regards the tax issue as extraneous. To him, the main question is: Would the production and sale of such coins improve the monetary system? He says no, and would have voted that way had he been present when the vote was taken. McCracken is a former chairman of the Council of Economic Advisers and a member of President Reagan's Economic Policy Advisory Board.

Fortunately, the proposal isn't likely to get beyond the House of Representatives Committee on Banking, Finance, and Urban Affairs, which has to pass on the legislation. Two-thirds of the members of the committee have signed a statement saying: "We oppose the Gold Commission's recommendation."

The Gold Commission knew of this. Rep. Reuss emphasized it during discussion. However, the knowledge did not deter the gold-coin enthusiasts from their fanaticism. They were determined to do something. And they did—something "goldarn" silly!●

PLANT CLOSINGS IN 1982

(Mr. WRIGHT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WRIGHT. Mr. Speaker, in line with my statement earlier today, I am submitting a partial list of plant closings culled from national newsstories, as follows:

PLANT CLOSINGS

Snap-On Tools Corp. closed plants in Kenosha, Wis. and Mount Carmel, Ill, leaving 1,140 jobless.

Iroquois Brands Ltd. of Greenwich, Conn., will close down a brewery in Norfolk, Va. and discontinue its imported beverage unit. The number of jobs affected is not known.

Kennecott Corp. will close down operations at Ray mine in Arizona and the Chino mine in New Mexico but job losses are not known.

General Telephone and Electronic Corp., Stamford, Conn., will shut down its southern regional telephone headquarters in Irving, Tex., but jobs lost were not known.

Cities Service Co. will close its contract plastic-molding business in McKees Rocks, Pa., leaving 400 jobless.

Stauffer Chemical Co. will shut down its Long Beach, Calif. plant that makes vinyl chloride monomer and polyvinyl chloride resin, leaving 96 jobless.

LAYOFFS AND CUTBACKS

The Copper Range Co., has eliminated 3 of 19 shifts at the White Pine, Mich. operation, reducing the 1,200 workers to a 4-day work week.

Chicago Title Insurance Co., has laid off indefinitely 130 persons.

Newmont Mining Co. has cut the work week to 36 hours for its 1,411 workers at the Superior mine in Arizona.

National Steel Corp. Pittsburgh, ordered a six month pay freeze for its 7,000 salaried workers, effective April 1, and cut the pay of senior management level executives by 10 to 25 percent.

Illinois Bell Telephone Co. will offer early retirement to middle managers and other workers to achieve a cutback of "several hundred" workers.

American Safety Razor Co., of Verona, Va., laid off 76 workers indefinitely and temporarily idled another 200 workers.

Windfarms Ltd. has laid off indefinitely 11 persons and postponed a $700 million windmill project in Solano County, California.

Cessna Aircraft Co. will close its Winfield, Kan., plant for 6 weeks starting March 29, idling 700 workers.

Texas Instruments, Inc., has layed off indefinitely 2,700 workers at its plants in Dallas, Houston and Sherman, Texas.

LTV Corp. said its Jones & Laughlin Steel Corp unit will lay off 1,600 workers in Aliquippa, Pa. and Youngstown, Ohio.

Westinghouse Electric Corp. will close its Beaver, Pa., plant on 5 alternate Fridays between April 2 and May 28, reducing work days for 3,000

McLouth Steel Corp union workers voted to take a 10 percent pay cut.

Geosource Inc., layed off indefinitely 185 workers at its Houston plant.

General Motors Corp. will close down 4 of its car and truck assembly plants for one week this week idling 12,700 workers. The closings will be in Arlington, Tex.; Framingham, Mass.; Baltimore; and Leeds, Mo.

Ford Motor Co. will close 3 assembly plants this week, temporarily idling 7,750 in Lorain, Ohio; Kansas City, Mo.; and Dearborn, Mich.

Volkswagen of America Corp. will temporarily close its New Stanton, Pa., assembly plant this week, idling 4,000 workers.

Totals for first 3 weeks of March: Plant closings, 29; other business closings (department, grocery store, et cetera) 156; permanent layoffs, 25,104; and temporary layoffs, 58,072.

Totals for Month of January: Plant closings, 23; other business closings, 137; permanent layoffs, 37,964; and temporary layoffs, 162,100.

Totals for Month of February: Plant closings, 34; other business closings, 91; permanent layoffs, 51,145; and temporary layoffs, 130,040.

Cumulative totals from January 1 to date (except for temporary layoffs): Plant closings, 86; other business closings, 533; and permanent layoffs, 149,047.

SECRETARY MUSKIE STRESSES NEED FOR ARMS CONTROL

(Mr. ZABLOCKI asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. ZABLOCKI. Mr. Speaker, in the midst of growing controversy and concern about the future of arms control and the specter of a new round in the nuclear arms race, voices of reason, calm, and commonsense are needed more than ever before.

It is most fortunate we have such voices. Our former congressional colleague and Secretary of State, Ed Muskie, recently delivered a speech to the Council of Foreign Relations in Washington on the subject of arms control and its importance to U.S. foreign policy and national security interests.

Secretary Muskie emphasizes in his remarks the lack of alternatives to the SALT II treaty, as well as the need to build on that treaty as the basis for further reductions. It is an insightful plan of action that is in tune with House Joint Resolution 443, the joint resolution I have recently introduced on nuclear arms reductions.

I insert Secretary Muskie's speech and House Joint Resolution 443 for the consideration of my colleagues:

Diplomacy's First Priority: Keeping the Nuclear Peace

(By Edmund S. Muskie)

Last December we remembered Pearl Harbor. It was a transforming event. Five years after Pearl Harbor Senator Vandenberg said the attack "drove most of us to the irresistable conclusion that world peace is indivisible. We learned that the oceans are no longer moats around our ramparts. We learned that mass destruction is a progressive science which defies both time and space. . . ." Pearl destroyed our belief that somehow we were exceptional and could stay above and apart from it all. Geography did not guarantee us easy security.

Twenty years later we enjoyed a position of strategic superiority in nuclear weapons. But, even then, in 1962, President Kennedy warned us: "Every man, woman, and child lives under a nuclear sword of Damocles hanging by the slenderest of threads, capable of being cut at any moment by accident or miscalculation, or by madness. The weapons of war must be abolished before they abolish us."

Yet, we continued to build, while the main adversary built more and eventually caught us. So that today, 40 years after Pearl Harbor, we coexist under the umbrella of a balance of terror. Strategic parity in nuclear weapons—with thousands of warheads on both sides and all of them much more destructive than the Hiroshima bomb—has brought home to us our vulnerability and the threat of nuclear suicide. We measure military time in terms of minutes and hours, and maybe days, but not in weeks and months and years—as in the days of mobilization.

At this point in our history, I believe that the public senses we are about to enter into a period of greater instability in the superpower relationship, one in which the arms race—for the first time in a dozen years—is not accompanied by the restraining influence of serious arms control talks; in which confidence in terms like "deterrence and parity" is being shaken; and in which nuclear war appears more likely to happen.

My real concern is that the arms control process—as we knew it—is practically dead and a world propaganda battle has taken its place with almost "total linkage" at work. If something is not done *soon* to break this degenerative trend, we and the Soviets may have a serious confrontation not unlike the Cuban missile crisis—but in which the Soviets will vow "not another humiliation" and our leaders will vow "no confirmation of a changed balance of power"—with no ongoing high-level negotiations, no communication process to fall back on, and no political basis for any compromise.

Of course, a variety of influences are important in maintaining the peace. There are many players and several instruments. So "keeping the nuclear peace," in a real sense, is the ultimate mission of our foreign policy in all its aspects.

My remarks tonight, however, are directed at what we try to do in strengthening deterrence and in limiting the arms race. I am keenly aware that the way we conduct ourselves across the world bears upon keeping the peace. But, to a considerable degree, the way we manage our one-on-one relationship with the Soviets in preventing a thermonuclear catastrophe—or the appearance of how we do it—is a heavy influence upon the peace and security of all other areas of the world.

II.

The search for arms control is the necessary companion of military deterrence. For the fear of an unchecked arms race is real in all societies, and it will not be dismissed merely by pointing out that the other side is moving ahead in the race. A credible search for answers to the dangers of uncontrollable competition is thus an essential corollary of deterrence. Or else "deterrence" and "balance" will come to be seen as an impediment to, rather than a condition for, peace. Then the most persuasive military arguments will become mute.

We in the "Washington world" must constantly wrestle with pragmatic possibilities in governing. We are not allowed the freedom enjoyed by others in rhetoric or in policy recommendations. We have to ground our ideas in the political realities.

My purpose is to help find a steady course through dangerous times. You will not find my approach new, but perhaps you will join me in reaffirmation. We have only so much time allotted to us and we must work with what we have. I am less interested in giving you a checklist of criteria for controlling the arms race—such as do not deploy highly vulnerable counterforce weapons or do not deploy weapons that cannot be detected for verification purposes—than I am in making the case for a diplomatic "middle way" that will enable us to keep the nuclear peace and at lower levels of risk and expenditure.

I believe that neither doctrine nor weaponry can rid us of the "MAD" (Mutual Assured Destruction) relationship with the Russians in this age of rough strategic parity. There is an almost inevitable link between any use of strategic nuclear weapons and mutual annihilation. In the words of Messrs. Keeny and Panofsky: "The two forces generating this link are the collateral damage associated with the use of nuclear weapons against selected targets and the pressures for escalation of the level of nuclear force once it is used in conflict."

Thus I have no confidence in the elaborate scenarios for limited or protracted nuclear war. Theories about these things are not only highly doubtful in a military sense, and in terms of how humans respond in a crisis, they are also ignorant of the need—in democracies—to find and maintain support for national security policies.

While nuclear weapons must continue to serve as a credible deterrent, there is a cross-over point (to use Ambassador Gerard Smith's phrase) where the potential of nuclear forces may provoke nuclear war rather than discourage it. We should try to avoid a force posture and a strategic doctrine that makes resort to nuclear weapons more, rather than less likely.

III.

It is not yet sufficiently evident that the Reagan Administration takes these matters as seriously as did its predecessors over the last two decades.

Before and during the 1980 presidential campaign, Mr. Reagan and several individuals who now hold high national security office as his advisers took the position that the Soviets either had achieved, or were in the act of achieving, strategic nuclear superiority; and that SALT II was a "fatally flawed" strategic arms agreement.

The suggested American response, reflected in the early actions and policy statements of the Reagan Administration in 1981, was to advocate a large and sustained increase in the defense budget—to regain a "margin of safety" (a phrase sometimes used to connote superiority)—and to express disinterest in arms control talks until the United States had shored up its defenses around the world and a chastened Soviet Union had decided it could not compete in an arms race and therefore would come to the table to accept arms reductions on a massive scale.

Very often these early moves were accompanied by rhetoric describing the Soviets in terms such as to rule out credible negotiations. To call them "liars and cheats" was to set a tone for our governmental establishment in adopting what George Kennan calls "the almost exclusive militarization of thinking and discourage about Soviet-American relations that now commands the Washington atmosphere."

Statements by high officials demonstrated surprising ignorance, not only of the basis for continuing European anxiety over the possibility of nuclear war being fought on their lands, but also of the contribution of their own rhetoric to uneasiness at home. Altogether, there has been too much loose talk and posturing by the Administration on the subject of nuclear weapons. It makes it more difficult to take them seriously when they try to talk sense on the subject.

(One does not have to suffer from "Protestant angst"—or Catholic, or Jewish, for that matter—to believe that controlling nuclear arms has to be the pre-eminent concern of our time.)

So we have had an extreme reaction to the problem of keeping the nuclear peace in the "arm up, stand firm, wait for them to collapse" approach. It, by the way, imputes the worst motives to the Soviet leadership. I know of no historical evidence that this approach can lead to fruitful negotiations.

IV.

There is another reaction elsewhere on the political spectrum that is troubling, also. I prefer to the proposals for "deep cuts" or "major reductions," sometimes ranging from a 50 percent reduction in the arsenals to the complete elimination of nuclear weapons. These have come to be considered as alternatives to the incrementalism of the SALT I and SALT II agreements.

The idea of major reductions in the nuclear arsenals may be better propaganda than policy. Are deep cuts either negotiable or stabilizing? Those opposed to any agreement find it all too easy to embrace proposals for deep cuts now in the hope of eliciting a Soviet rejection—thus allowing them to blame Moscow while the arms race continues.

I am prepared to acknowledge that one cause of the danger of nuclear war lies in the "weapons race itself." We have become increasingly obsessed with the contingencies of nuclear conflict.

But I must acknowledge also that the spectral presence of nuclear weapons which can be delivered intercontinentally probably has had a deterrent effect and helped to prevent a major war between the United States and the Soviet Union in the post-war world. Churchill's "balance of terror" has been, in a crude way, a factor in keeping the peace—not because nuclear weapons were seen as just another weapon, but precisely because they were seen as uniquely destructive and threatening to civilization. Deterrence has been served, until now at least, and that is a useful purpose. It is in the failure to do more in bringing the nuclear arms race under control, in limiting its costs and uncertainties, in checking its dynamics, that the greater danger lies.

It follows that I am not convinced the safest route to peace and security lies in getting rid of all nuclear weapons—even if it were politically possible and there were no other nuclear powers—while the conventional arms race goes on. I must dissent, therefore, from easy dismissals of the SALT agreements thus far as halfway measures. I think those wrong who conclude that the danger is not in "the number or quality of the weapons or in the intentions of those who hold them but in the very existence of weapons of this nature."

V.

Common sense also tells me that our technological achievements and political compromises are bringing us, not greater security on balance, but greater certainty that—without direction and leadership—sooner or later the peace will become unraveled and nuclear war will occur.

So I make, once again, the case for arms control—with full knowledge that the process has to develop a popular base. It is for this reason that I am inclined to favor the recent, carefully-worded, resolution dealing with a nuclear freeze and reductions, introduced by Senators Kennedy and Hatfield. As a policy proposal, their initiative raises some questions. But, politically, it should help to build alliances in the country for arms control while sending a message that Americans do not think the continued development of more and more nuclear weapons adds to U.S. security. We know that, if the Russians match or counter what we do—and we know they will—there will be less security.

Both conservatives and liberals are correct in the perception that proposals for real arms reductions enhance the popular appeal of arms control. Real reductions in nuclear forces are both possible and desirable—and, indeed, they were part of SALT II (the Soviets would have had to reduce) and "significant and substantial reductions" were envisaged in the "joint statement of principles" as part of SALT III.

Note the warning of Robert Osgood (in "Foreign Affairs"), however: "[C]onsidering the difficulty of achieving agreement on arms reductions that would scrap programs and change the ratio of power, as compared to agreement on ceilings to existing programs that would ratify an existing balance, START might dash unrealistic expectations once again."

Nevertheless, a step-by-step approach to reduction, over a period of time, should raise fewer uncertainties and build confidence with adversaries and friends alike. Demonstrated success in negotiating some reductions could lead to more reduction, general public support for subsequent steps, and sustain a sane movement to interrupt the arms race. Political momentum has to build between and within sovereign states.

We should understand, of course, that proposals for superpower reductions have to deal with the forces that most endanger stability, such as improvements in ASW capability; lasers; ballistic missile defenses; and weapons like sublaunched cruise missiles that are easy to hide.

Thus I am in accord with Senator Hart's purpose in introducing the STOP (Strategic Talks on Prevention) resolution, which calls for U.S.-Soviet negotiations on preventing the use of nuclear weapons with special attention given to reducing the danger of war by accident or miscalculation; to agreeing on steps to prevent third parties from using nuclear weapons; and to reducing the vulnerability of the two sides' retaliatory forces to pre-emptive attack.

We have to be concerned about the "calculus of desperation." We cannot accept "Dr. Strangelove" as our education in crisis management.

It is not easy to explain why our overall security may best be served by reaching compromises on mutual restraint in strategic nuclear weapons. It is far easier to mouth the slogans of the "arm to the teeth" school or the "unilateral disarmament" fraternity, than to devise workable agreements that contribute to the deterrence or war. We here tonight have to insist on rational debate in our society, where it often seems that those who talk loudly while fashioning a bigger nuclear stick serve to revive the movement to disarm now regardless of what the Soviets are doing.

VI.

We are now over one year into the Reagan Administation and a reassessment of old rhetoric and the posture of the first nine months of 1981 is in order. Last Fall the President decided on a package of strategic weapons and soon thereafter offered some ideas for arms control negotiations with the Soviets.

The weapons decisions, announced in October, seemed to rule out a "run them into the ground" arms race with the Soviets. And the November 18 arms control proposals at least open the way for this Administration to pursue serious negotiations.

But we know that the Administration does not speak with one voice on these matters. For example, the Secretary of Defense maintained that it was an accident that the President's strategic programs did not violate the SALT II Limits—at the same time he and others were stating the current policy of the Administration to live within the constraints of SALT II. Would he have been prepared to scrap continued observance of those limits by the United States and the Soviet Union? Some important connections apparently were not thought through at the highest levels.

Further, to complicate the picture, the October decisions were represented as doing something about the much-heralded "window of vulnerability" in the 1980's when Soviet strategic forces—especially ICBM's—would place this country at a serious disadvantage.

I cannot resist quoting Charles Dickens as a commentary on the Secretary of Defense's window of vulnerability statements: "The apparition walked backward from him; and at every step it took the window raised itself a little, so that when the spectre reached it, it was wide open."

Is not the Reagan strategic package an admission that the "gap" (a la 1960-61) or the "window" is not as wide for a sitting President—with the military facts and political realities before him—as it is for a presidential candidate? It may also be an acknowledgement that there is no definitive answer to ICBM vulnerability.

On balance, I think that President Reagan's strategic decisions do not yet threaten stable deterrence vis-a-vis the Soviets. But there is no coherent strategy informing these decisions. Some of the elements in the package will increase the survivability of the TRIAD, such as the improvements in command and control. Reducing the number of MX missiles (from 200 to 100) and deferring a permanent basing decision—the Senate has imposed a deadline of July 1983—may leave the forty MX's in fixed silos to serve as a "bargaining chip" in trying to negotiate reductions in the Soviet heavy missiles which pose the greatest threat to us. As to the option of defending ICBM's with anti-ballistic missiles—and several Administration officials have threatened a breakaway from the ABM Treaty of 1972—I am somewhat encouraged by this statement in the Secretary of Defense's annual report: "We are not yet sure how well ballistic missile defenses will work . . . whether they would require changes to the

ABM Treaty; and how additional Soviet ballistic missile defenses—which would almost certainly be deployed in response to any U.S. BMD system—would affect U.S. and allied offensive capabilities."

A word of caution is necessary with regard to the planned deployment of nuclear-tipped cruise missiles on submarines beginning in 1984. Given the much longer coastlines the United States has to defend, do we want to get into the deployment of strategic cruise missiles at sea? And are we to open up a new "window" of verifiability that will vitiate one of the four principles that are at the heart of the Reagan Administration's approach to arms control? As reiterated by the White House on Tuesday, we seek agreements that "are verifiable, because when our national security is at stake, agreements cannot be based simply upon trust." There are no free rides in weapons innovation.

VII.

Now I turn to the President's arms control proposals of last November. As his first major foreign policy address to the country, I thought it was moderate in tone and not unreasonable in substance. It demonstrated that it is possible to criticize the massive Soviet arms build-up of the past decade and still advocate arms control. This is the way, I believe, to separate common sense Americans and middle-ground Europeans from extremes I described earlier.

More importantly, I drew the conclusion that the President was finally taking seriously the overwhelming preference of Americans and Europeans for the negotiating route to national security. He cited dialogue with the Soviets on arms control, as well as military deterrence, as vital elements in "preserving the peace of Europe for more than a third of a century," and expressed faith that they could preserve it for generations to come. He said "nothing" will have a higher priority for him in the future.

Rejecting rhetoric suggesting fatal flaws in past SALT agreements, the President stated on November 18:

"While we can hope to benefit from work done over the past decade in strategic arms negotiations, let us agree to do more. . . . We can and should attempt major qualitative and quantitative progress.

* * * * *

And let us see how far we can go in achieving truly substantial reductions in our strategic arsenals."

(The President's words stand in contrast to those of the Secretary of Defense contained in his recent FY 1983 "posture statement." Mr. Weinberger describes the arms control process as a "melancholy chapter" in the history of the last decade leading to failure.)

It seems to me that the President has left the way open for pinning down the old limits as a starting place for future reductions, consistent with our announced policy of not taking any irretrievable steps inconsistent with SALT II's constraints. This should be accepted as an olive branch by those who labored for the SALT process in the Nixon, Ford and Carter Administrations.

And, as recently as two months ago, Secretary Haig assured us and our allies that arms control negotiations are in a "special category" in the U.S.-Soviet relationship—even though he would not set a date with Foreign Minister Gromyko for START negotiations to begin. Further, he and the President are committed to the idea of keeping the lines of communication and dialogue open—especially in times of crisis. It seems clear that Secretary Haig is determined to limit the damage of "linkage" that is the natural fallout from serious public differences with the Soviets, as over Poland (yet, Undersecretary Eagleburger said last week that new strategic arms negotiations would depend on the "overall East-West climate").

Leading Kremlinologists like Seweryn Bialer tell us that in the next decade the Soviets internally will go through the worst period since the death of Stalin and that "the very stability of the social system may be in question." But he also warns us that: "One should not doubt that a military build-up regardless of cost and sacrifice will meet any perceived danger to the basic security interests of the Soviet Union or to the hard-won parity with the West. This is why those American politicians . . . who promote regained military superiority over the Soviet Union cannot hope to see their goal realized."

The recent pamphlet by General Ogarkov would seem to confirm this analysis. And I quote Secretary Brezhnev's statement of Tuesday, which cannot be dismissed as idle propaganda, even though it was in the context of the debate over the deployment of intermediate-range weapons in Europe: "There would arise a real additional threat to our country . . . from the United States. This would compel us to take retaliatory steps that would put the other side, including the United States itself, its own territory, in an analogous position." There are things the Soviets can do, from the sea or from Cuban land, or by breaking out of SALT II constraints on ICBM's.

The old Soviet leadership, under Brezhnev, are continuing to demonstrate genuine interest in arms control. They say they are prepared to move forward to new SALT negotiations provided we build on "positive features" from past agreements. But, if they really want new agreements, they must understand that a foreign policy of constraint is a very important part of the political picture. Arms control treaties can never be negotiated in a political vacuum.

Realism compels me to agree with a commentator in Foreign Affairs who recently spoke of the "the long road back" to a negotiating relationship with the Soviet Union. Even assuming that the political climate changes, we are guaranteed prolonged negotiations full of political and technical obstacles. For example, if the Reagan Administration insists upon altering the counting and measuring rules of SALT—worked out over a period of ten years—it will add to the complexity of getting acceptance on both sides of a balance that is accepted in terms of parity and security.

Four years (or now less than three years) may not be enough time for the Reagan Administration to cut a deal. Those in this country who helped to destroy confidence in the arms control process, while ridiculing the details of SALT II itself, may come to regret it. What do we expect to happen in 1985, if there is no SALT regime left? The Soviets can move before we can.

The battle for the soul of the Reagan Administration on arms control is not over. There are some hard choices ahead for the Reagan team—both in defense and arms control. We can expect a more out-front struggle between the pragmatists and the ideologues with philosophical mindsets to the effect that the Soviets must either change their system or go to war with us. Will we have serious negotiation—that is, with some real interest in obtaining equitable agreements—or will negotiations be a "cosmetic" cover for an attempt at a massive arms build-up?

I do not know what to make of the frequent statements by the Director of the Arms Control and Disarmament Agency. His newspaper interviews make one think he is bent upon reimposing military "containment" of the Soviet Union while promising to deliver within months—the exact time frame keeps slipping—a plan for START negotiations with the Russians. Within the last few days, he is reported as saying that a half-dozen START options are undergoing "computer analysis" as part of an effort to come up with a new approach to be submitted to President Reagan.

The President will have to put his foreign policy house in order, or else his new course will fail in implementation. It is clear from the statements of several second-level officials in the Administration that they do not believe in the constructive possibilities of arms control negotiations in this historical period. The Arms Control Agency is only half-facetiously referred to as "the present danger," while the Joint Chiefs' Chairman continues to point to SALT II's contribution to national security. One gets the impression that some civilian officials, who speak of thermonuclear weapons as if they were artillery pieces, are in real intellectual conflict with the military men who would have to use these weapons.

VIII.

Further, we cannot hope to bolster across-the-board deterrence in Europe and other parts of the world if when the defense budget squeeze comes—and it has arrived—military operations and maintenance accounts are reduced. This will likely happen despite the fact that the return in national security on the investment in "big ticket" TRIAD modernization programs has been radically reduced over the years. Our goals may never be adjusted to our means.

The recent testimony of the Administration on the defense budget for fiscal year 1983 and beyond causes me to make an additional point. Bringing our power into balance with vital security interests and commitments is one thing. Can we deter the Soviet Union where it counts most? But matching military power to support a new strategy "to fight anywhere in the world at any time and have high degrees of success" (Secretary Weinberger's words) is quite another. There would appear to be at least a $750 billion difference—in terms of resources—on top of the build-up already charted by the Administration over the next five years.

We are slipping into a dangerous "deterrence by rhetoric" policy, which is not what Theodore Roosevelt had in mind. With blurred goals and a lack of priorities, our military leaders could end up making contingency plans for which they lack forces, and this could lead to war that we cannot win. Defense Department witnesses, in responding to questions from Senator Nunn, have conceded that—even after five years—the United States will not have "reasonable assurance forces" able to carry out the strategy laid down by the civilian leadership.

We had better get our feet on the ground. It is obvious that defense expenditures will not be disciplined by strategic guidance from the civilians. In the words of a former Secretary of Defense: "They screwed up defense with the destruction of the revenue base." It will take budgetary and other constraints to force choices among priorities. Here Congress has constructive opportunities under its established procedures.

I put these blunt questions to the current Administration: Just how long do you think you can sustain a huge military build-up if you cannot assure us we will be better off at the end of the cycle, if in fact you foresee us still holding "the short end of the stick"? Have you got a better way to check and reduce the Soviet arsenal than through strategic arms limitation talks?

Security policy will remain incoherent without a pragmatic approach to arms control. Just what is the meaning of our policy statement that we will not take actions inconsistent with the provisions of SALT II, so long as the Soviets do likewise? The Administration has testified that the Soviets are living within the restrictions of the unratified treaty, under this policy of informal observance or passive adherence. But the Soviets are not reducing the number of their strategic systems. And, because our government does not want to give the Soviets the impression that it intends to seek Senate passage of the SALT II document, we do not raise questions about compliance in the Standing Consultative Commission (SCC) in Geneva. How do we resolve concerns we might have about possible Soviet denial of missile test information that impedes verification?

Is it too much to hope that our NATO partners—in combination with the Joint Chiefs—can influence the neoisolationists (or unilateral globalists) in our midst to embrace the fundamentals for keeping the nuclear peace?

IX.

Despite these questions, I hope the actions of President Reagan last fall—and his statements in recent days—hold out the possibility of a successful negotiating course. He can lead the country away from the naive notion that we can frighten the Soviets into submission, and thereby rid us of the fatal faith that nuclear arms are the answer to what ails us in the world. With little effort, he can also push aside the movement for unilateral disarmament.

The President has the makings of a team that can succeed on the arms control front, as the personnel mix changes after a year in office. Paul Nitze is a serious man who knows the arms negotiations field, and he would not be part of a charade in Geneva. There is the moderate influence of Secretary Haig relative to other forces in the Administration. And the appointment of Judge Clark places an "accommodator"at a key White House post who can serve as a trustworthy broker between the Senate and the White House on these matters as well as between the State and Defense Departments.

Having initiated his strategic weapons program, the President is in a position to carry out one of two courses of action. He could call upon the Senate to take up a modified (or enhanced) SALT II treaty. Additional features could include a provision for further annual reductions after the SALT II ceiling of 2250 strategic nuclear delivery vehicles is reached. Calling it START I would be appropriate as it would be the starting point for reductions to come. To avoid fears of a "breakout," the treaty could be given an indefinite duration.

There is another course of action that I mention for consideraton. It is possible to look at some intermediate range nuclear forces (land-based missiles, for example) as part of a common pool with those strategic forces covered by SALT. When combined in a negotiation, there would be more to reduce—just as an increased budget leaves more room for trimming. The SALT II ceilings could be extended to cover some theater nuclear forces, with a freedom to mix provision. I offer this concept of "consolidation," realizing that the INF in Geneva probably will remain deadlocked and that no date for START talks has been set.

This President can succeed where the previous two failed on SALT II. Fiscal responsibility is a bipartisan concern. Nuclear arms control is also a bipartisan issue not just an issue for liberals and Democrats, as Republican Presidents of recent years and numerous Republican Senators testify. In the words of Senators Jake Garn and Paul Laxalt: "The U.S. should make every effort to negotiate an equitable and verifiable strategic nuclear offensive arms reduction agreement with the Soviet Union at the earliest possible date." My long-time colleague, Senator Goldwater, recently argued that it is time to sit down with the Russians and say: "We're both in trouble. We're spending too damn much on things we don't need. Let's talk."

Where there is leadership on this issue, there will be enough followers.

X.

Recently, I read an essay on bombing in World War II. The author argues that illusions about modern technology made air war unthinkable before it occurred, and bureaucratic responsibility for it diffuse and unclear once war began: "It was sin of a modern kind because it seemed to involve no choice. It was the product of a slow accretion of large fears, thoughtless assumptions, and at best, discrete decisions."

This should be pondered now by those who entertain the fantasy that there will be a moment of supreme decision at the brink of some future world war when our leaders consider the options before pressing the nuclear button. We set our course by the ways in which we think—or don't think—about war in the time given to us now prior to the moment of supreme crisis, and by the little decisions made in preparation for it. Harold MacMillan once recalled how "we thought of air warfare in 1938 rather as people think of nuclear war today." The parallel offers no comfort. One generation learned to accept bombing as the terror that could not happen. Have we come today to accept "the bomb" itself?

I am 67 years old. I was there then, and I am here now. I want my country to know that today we don't have the luxury of seeing war (or the preparations for war) as a useful catharsis—as some did in the coming of World War II.

William James wrote decades ago: "So far war has been the only force that can discipline a whole community, and until an equivalent discipline is organized, I believe that war must have its way." It is up to us in our time to organize the equivalent discipline for the deterrence of war and the control of arms.

H.J. RES. 443

Joint resolution with respect to nuclear arms reductions

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the increasing stockpiles of nuclear weapons and nuclear delivery systems by both the United States and the Soviet Union have not strengthened international peace and security but in fact enhance the prospect for mutual destruction;

Whereas President Reagan, on November 18, 1981, stated that the United States "will seek to negotiate substantial reductions in nuclear arms", and Congress has also urged the President to seek reductions in strategic arms;

Whereas the United States has already proposed to the Soviet Union in Geneva a treaty embodying dramatic reductions in nuclear forces; and

Whereas reductions in nuclear weapons and nuclear delivery systems are essential to reducing the risk of nuclear war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States and the Soviet Union should immediately begin the Strategic Arms Reduction Talks (START) and that those talks should have the following objectives:

(1) Preserving present limitations and controls on current nuclear weapons and nuclear delivery systems while pursuing substantial, equitable, and verifiable reductions through numerical ceilings, annual percentages, or any other equally effective and verifiable means of strengthening strategic stability.

(2) Seeking every possible means to avoid the testing and deployment of new and destabilizing nuclear weapons which complicate further progress in preserving deterrence and encouraging strategic arms reduction.

(3) Incorporating ongoing negotiations in Geneva on land-based intermediate-range nuclear missiles into the START negotiations.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 30 minutes, today.

Mr. WALKER, for 15 minutes, today.

Mr. KEMP, for 30 minutes, today.

Mr. CONABLE, for 30 minutes, today.

Mr. PARRIS, for 60 minutes, March 31.

Mr. FINDLEY, for 10 minutes, today.

Mrs. SCHNEIDER, for 60 minutes, March 30.

(The following Members (at the request of Mr. PATTERSON) to revise and extend their remarks and include extraneous material:)

Mr. PATTERSON, for 15 minutes, today.

Mr. CROCKETT, for 10 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. DINGELL, for 5 minutes, today.

Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. HIGHTOWER, for 5 minutes, today.

Mr. AUCOIN, for 5 minutes, today.

Mr. REUSS, for 10 minutes, today.

Mr. William J. Coyne, for 5 minutes, today.

Mr. Zablocki, for 60 minutes, March 25.

Mr. Bingham, for 60 minutes, March 30.

(The following Member (at the request of Mr. Walker) to revise and extend his remarks and include extraneous material:)

Mr. Pritchard, for March 30, for 60 minutes.

(The following Members (at the request of Mr. Hightower) to revise and extend their remarks and include extraneous material:)

Mr. Bingham, for 60 minutes, March 30.

Mr. Simon, for 60 minutes, March 30.

Mr. Lowry of Washington, for 60 minutes, March 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Zablocki, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the Record and is estimated by the Public Printer to cost $1,547.

Mr. Richmond, and to include extraneous material, notwithstanding the fact that it exceeds two pages of the Congressional Record and is estimated by the Public Printer to cost $2,975.

(The following Members (at the request of Mr. Paul) and to include extraneous matter:)

Mr. Coats in two instances.
Mrs. Fiedler.
Mr. Williams of Ohio.
Mr. Young of Alaska.
Mr. Rousselot.
Mr. Corcoran.
Mr. Kemp in two instances.
Mr. Findley.
Mrs. Holt.
Mr. McGrath in three instances.
Mr. Livingston.
Mr. Marlenee.
Mr. DeNardis in two instances.
Mr. LeBoutillier.
Mr. Walker.
Mr. McKinney.
Mr. Paul.
Mr. Whitehurst in two instances.
Mrs. Fenwick.
Mr. Gilman in two instances.
Mr. Shuster.
Mr. Rudd.
Mr. Wampler.
Mr. Porter.
Mr. Daniel B. Crane.
Mr. Gradison.
Mr. Hansen of Idaho in two instances.
Mr. Stanton of Ohio.
Mr. Evans of Delaware in two instances.
Mr. Clinger.

(The following Members (at the request of Mr. Patterson) and to include extraneous matter:)

Mr. Rangel.
Mr. Solarz in two instances.
Mr. Schumer in five instances.
Mr. Fascell in three instances.
Mr. Pease.
Mr. Leland in two instances.
Mr. Yatron in four instances.
Mr. Matsui.
Mr. Obey in six instances.
Mr. Gaydos in two instances.
Mr. Barnes.
Mr. Pepper in two instances.
Mr. Scheuer.
Mr. Bailey of Pennsylvania.
Mr. Simon in five instances.
Mr. Shelby in two instances.
Mr. Studds in two instances.
Mr. Ratchford in two instances.
Ms. Mikulski in five instances.
Mr. Stark.
Mr. McDonald in five instances.
Mr. Moffett in three instances.
Mr. LaFalce.
Mr. Zablocki.
Mr. Dixon.
Mr. Aspin in two instances.
Mr. Phillip Burton in two instances.
Mr. Edwards of California.
Mr. Markey.
Mr. Won Pat.
Mr. Ford of Michigan.
Mr. Peyser.
Mr. Chappell.
Mr. Guarini.
Mr. Hamilton.
Mr. Holland.
Mr. Dyson.
Mr. Weiss in five instances.
Mr. Murtha.
Mr. Downey.
Mr. Hubbard.
Mr. Edgar.
Mr. Oberstar.
Mr. Walgren.
Mr. Mineta.
Mr. Ottinger.
Mr. Reuss.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2166. An act to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak."

ADJOURNMENT

Mr. HIGHTOWER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 13 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 24, 1982, at 3 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3477. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Egypt (Transmittal No. 82-50), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3478. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense articles to Korea (Transmittal No. 82-49), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3479. A letter from the Acting Director, Defense Security Assistance Agency, a report on the impact on U.S. readiness of the Air Force's proposed sale of certain defense articles to Turkey (Transmittal No. 82-29), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

3480. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to provide for authorization of appropriations for the National Telecommunications and Information Administration; to the Committee on Energy and Commerce.

3481. A letter from the Secretary of Commerce, transmitting the annual report of the U.S. Travel Service for fiscal year 1980, pursuant to section 5 of the International Travel Act of 1961, as amended; to the Committee on Energy and Commerce.

3482. A letter from the President and Chief Executive Officer, Communications Satellite Corporation, transmitting the 18th annual report of the Corporation, pursuant to section 404(b) of the Communications Satellite Act of 1962, as amended; to the Committee on Energy and Commerce.

3483. A communication from the President of the United States, transmitting a report to Congress on the participation of the United States in the Multinational Force and Observers (MFO) which will assist in the implementation of the 1979 Treaty of Peace between Egypt and Israel, pursuant to Public Law 97-132 (H. Doc. No. 97-158); to the Committee on Foreign Affairs and order to be printed.

3484. A letter from the Attorney-Adviser, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

3485. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to sell certain defense articles and services to Egypt (Transmittal No. 82-50), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3486. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to sell certain defense articles and services to Korea (Transmittal No. 82-49), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3487. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to sell certain defense articles and services to Turkey (Transmittal No. 82-29), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3488. A letter from the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3489. A letter from the Acting Chairman, National Labor Relations Board, transmitting a report of the Board's activities under the Government in the Sunshine Act during calendar year 1980, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3490. A letter from the Secretary of Energy, transmitting recommendations on utilization of wind energy systems, pursuant to section 9(a)(3) of Public Law 96-345; to the Committee on Science and Technology.

3491. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations to carry out the provisions of such act for fiscal years 1983, 1984, and 1985, and for other purposes; jointly, to the Committees on Foreign Affairs, Interior and Insular Affairs, and Merchant Marine and Fisheries.

3492. A letter from the Assistant Secretary of Indian Affairs, Department of the Interior, transmitting a draft of proposed legislation to repeal certain obsolete provisions of law relating to Indian affairs that contain sex-discriminatory terminology; jointly, to the Committees on Interior and Insular Affairs and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. WHITTEN: Committee on Appropriations. H.J. Res. 409. Joint resolution making further continuing appropriations for the fiscal year 1982 (Rept. No. 97-465). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. Report on activity of the Committee on Energy and Commerce, 97th Congress, 1st session (Rept. No. 97-466). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. H.R. 5922. A bill making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes (Rept. No. 97-469). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. H.R. 828. A bill for the relief of George G. Barrios, doctor of medicine, his wife Olga T. Cruz, and their children Kurt F. Barrios and Karl S. Barrios, and Katrina Adelaida Theresa; with an amendment (Rept. No. 97-467). Referred to the Committee of the Whole House.

Mr. LUNGREN: Committee on the Judiciary. H.R. 1344. A bill for the relief of Mr. and Mrs. Joseph S. Flok; with an amendment (Rept. No. 97-468). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 5922. A bill making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

By Mr. COLLINS of Texas:

H.R. 5923. A bill to reduce costs and the public reporting burden and increase the efficiency of the Energy Information Administration; to the Committee on Energy and Commerce.

By Mr. DENARDIS (for himself and Mr. Weber of Ohio):

H.R. 5924. A bill to amend the Internal Revenue Code of 1954 to deny all deductions and credits in connection with carrying on illegal drug or other business activity if the taxpayer is convicted of a Federal felony for engaging in such activity; to the Committee on Ways and Means.

By Mr. GRADISON:

H.R. 5925. A bill to amend the Federal Financing Bank Act of 1973 to require the receipts and disbursements of the Federal Financing Bank to be included in the totals of the budget of the U.S. Government, to assign the impact of such inclusion to certain Federal agencies, and to limit certain financing of Federal agencies; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Mr. GRISHAM:

H.R. 5926. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. JOHNSTON:

H.R. 5927. A bill to provide duty-free treatment with respect to certain industrial safety equipment; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 5928. A bill to amend the Public Works and Economic Development Act of 1965 to target economic development assistance to areas which are suffering the most chronic conditions of unemployment, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McGRATH (for himself and Mr. Molinari):

H.R. 5929. A bill to extend by 5 months, through September 1982, the period prior to which an individual must have been in full-time attendance at a postsecondary school, college, or university in order to continue to receive child's insurance benefits, as a student, under the old-age, survivors, and disability insurance program; to the Committee on Ways and Means.

By Mr. MINETA (for himself, Mr. Howard, Mr. Clausen, and Mr. Snyder) (by request):

H.R. 5930. A bill to extend the aviation insurance program for 5 years; to the Committee on Public Works and Transportation.

By Mr. O'BRIEN:

H.R. 5931. A bill to require prenotification when Federal shipments of hazardous material are to be made; jointly to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. OTTINGER:

H.R. 5932. A bill to amend the war powers resolution to require specific authorization before the introduction of any U.S. Armed Forces into hostilities in El Salvador, and for other purposes; to the Committee on Foreign Affairs.

By Mr. PATTERSON (for himself, Mr. Lowery of California, Mr. Coelho, Mr. Dixon, Mr. Chappie, Mr. Anderson, Mr. Rousselot, Mr. Phillip Burton, Mr. Lantos, Mr. Shumway, Mr. Dannemeyer, Mr. Hawkins, Mr. Edwards of California, Mr. Dornan of California, Mr. Clausen, Mr. Goldwater, Mr. Lundine, Mr. Coughlin, Mr. Dicks, Mr. Gray, Mr. Stump, Mr. Kemp, Mr. Brown of Ohio, Mr. Corrada, Mr. Bowen, Mr. Forsythe, Mr. Foley, Mr. Hansen of Idaho, Mr. Dwyer, Mr. Weber of Ohio, Mr. Mattox, Mr. Garcia, Mr. Lungren, Mr. Marriott, Mr. Dreier, Mr. Lagomarsino, Mr. McKinney, Mr. Parris, Mr. Wortley, Mr. McCollum, Mr. Bereuter, Mr. Stanton of Ohio, and Mr. Lewis):

H.R. 5933. A bill to provide for the minting of commemorative coins to help support the 1984 Los Angeles Olympic games and to amend the American Arts Gold Medallion Act to provide for certain sales of gold medallions struck under such act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WAMPLER:

H.R. 5934. A bill to delay for 2 months, until October 1, 1982, the effective date of the recently enacted amendments to title II of the Social Security Act which generally eliminate child's insurance benefits in the case of children over age 18 who are in college; and to extend, through September 1982, the period within which a child must have been already enrolled at the college level in order to fall within the special exception permitting continued payment of such benefits; to the Committee on Ways and Means.

By Mr. WAMPLER (by request):

H.R. 5935. A bill to amend the Consolidated Farm and Rural Development Act; to the Committee on Agriculture.

By Mr. WEAVER:

H.R. 5936. A bill to provide that certain Federal land in the Black Hills National Forest be withdrawn for a period of 10 years for use as an Indian cultural and religious resource area, to direct the Secretary of Agriculture to establish special management guidelines for units of the national forest system which include municipal or agricultural watersheds and to carry out integrated pest management in all units of such system, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. OTTINGER:

H.J. Res. 445. Joint resolution posthumously proclaiming Christopher Columbus to be an honorary citizen of the United States; to the Committee on the Judiciary.

By Mr. FOWLER:

H. Res. 404. Resolution expressing the sense of the House of Representatives with respect to the "Great Friendship Run"; to the Committee on Foreign Affairs.

By Mr. HANSEN of Idaho:

H. Res. 405. Resolution to create the Select Committee to Investigate Abusive Law Enforcement Practices by the Federal Government; to the Committee on Rules.

By Mr. MOAKLEY:

H. Res. 406. Resolution to assure Israel's security and to oppose advanced arms sales to Jordan; to the Committee on Foreign Affairs.

By Mr. DeNARDIS:

H. Res. 407. Resolution expressing the sense of the Members of the House of Representatives that such Members do not endorse the administration's fiscal year 1983 budget as it affects student assistance programs; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

306. By the SPEAKER: Memorial of the Legislature of the State of Arizona, relative to certain amendments to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973; to the Committee on Banking, Finance and Urban Affairs.

307. Also, memorial of the Senate of the State of Kansas, relative to American servicemen and civilians missing or otherwise unaccounted for as a result of the Vietnam conflict; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. GRISHAM:

H.R. 5937. A bill for the relief of Presbyterian Intercommunity Hospital, Inc.; to the Committee on the Judiciary.

By Mr. SKEEN:

H.R. 5938. A bill to provide that C. J. Dugan and Otero Mills, Inc., may file a claim against the United States in the Court of Claims, and for other purposes; to the Committee on the Judiciary.

By Mr. WAMPLER:

H.R. 5939. A bill for the relief of Arturo Beverly; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 27: Mr. Hendon.

H.R. 231: Mr. Bafalis.

H.R. 316: Mr. Fields and Mr. Siljander.

H.R. 317: Mr. Hansen of Utah.

H.R. 429: Mr. Ashbrook.

H.R. 443: Mr. Foglietta.

H.R. 459: Mr. Dorgan of North Dakota and Mr. James K. Coyne.

H.R. 704: Mr. Weber of Minnesota.

H.R. 705: Mr. Weber of Minnesota.

H.R. 769: Mr. Ratchford, Mr. Addabbo, Mr. Bingham, Mrs. Chisholm, Mr. Davis, Mr. Downey, Mr. Dymally, Mr. Ford of Tennessee, Mr. de la Garza, Mr. Gonzalez, Mr. Guarini, Mr. Hawkins, Mr. Horton, Mr. Hughes, Mr. Lantos, Mr. Lehman, Mr. Moakley, Mr. Mattox, Mr. McDade, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moffett, Mr. Mottl, Mr. Murphy, Mr. Neal, Mr. Rahall, Mr. Richmond, Mr. Scheuer, Mr. Schumer, Mr. Shannon, Mr. Solarz, Mr. Solomon, Mr. Vento, and Mr. Wolpe.

H.R. 808: Mr. Courter, Mr. Russo, Mr. Schumer, Mr. Shamansky, Mr. Addabbo, Mr. Young of Alaska, Mr. Gunderson, and Mr. Corcoran.

H.R. 1193: Mr. Dellums.

H.R. 1508: Mr. Butler and Mr. Whitehurst.

H.R. 1648: Mr. Clinger, Mr. Wilson, and Mr. Hyde.

H.R. 1918: Mr. Hightower, Mr. Marriott, Mr. Minish, Mr. Gore, Mr. Ottinger, Mr. DeNardis, and Mr. Crockett.

H.R. 1919: Mr. Daschle.

H.R. 1937: Mr. Ireland, Mr. Deckard, Mr. Frost, Mr. Gilman, Mr. Collins of Texas, and Mr. McHugh.

H.R. 1960: Mrs. Heckler.

H.R. 1974: Mr. McCloskey.

H.R. 2090: Mr. Mollohan.

H.R. 2234: Mr. Bedell, Mr. Wirth, Mr. Hagedorn, Mr. Miller of Ohio, Mr. Gregg, Mr. Hughes, Mr. Foglietta, and Mr. LeBoutillier.

H.R. 2235: Mr. Hagedorn, Mr. Gregg, Mr. Miller of Ohio, Mr. Hughes, Mr. Foglietta, and Mr. LeBoutillier.

H.R. 2300: Mr. Winn, Mr. Rousselot, Mr. Bafalis, Mr. Stump, Mr. Martin of North Carolina, Mr. Forsythe, Mr. Butler, Mr. Archer, Mr. Gingrich, Mr. Whitehurst, Mr. Bliley, Mr. Kramer, Mr. Loeffler, Mr. Shumway, Mr. Johnston, Mr. Montgomery, Mr. McDonald, Mrs. Bouquard, Mr. Spence, Mr. Marriott, Mr. McCollum, Mr. Jeffries, and Mr. Leath of Texas.

H.R. 2301: Mr. Winn, Mr. Rousselot, Mr. Bafalis, Mr. Stump, Mr. Bethune, Mr. Martin of North Carolina, Mr. Forsythe, Mr. Hammerschmidt, Mr. Trible, Mr. Whitehurst, Mr. Bliley, Mr. Kramer, Mr. Loeffler, Mr. Shumway, Mr. Johnston, Mr. McDonald, Mrs. Bouquard, Mr. Spence, Mr. Robinson, Mr. Marriott, Mr. Jeffries, and Mr. Leath of Texas.

H.R. 2794: Mr. Hagedorn, Mr. Miller of Ohio, Mr. Gregg, Mr. Hughes, Mr. Foglietta, and Mr. LeBoutillier.

H.R. 3039: Mr. Mazzoli.

H.R. 3269: Mr. Heftel, Mr. James K. Coyne, Mr. Taylor, Mr. Vander Jagt, Mr. Shumway, Mr. Hiler, Mr. Evans of Delaware, and Mr. Skelton.

H.R. 4070: Mr. Rosenthal, Mr. Dorgan of North Dakota, Mr. Roemer, Mr. Shamansky, Mr. Reuss, Mr. Schumer, Mr. Walgren, Mr. Sunia, and Mr. Mitchell of New York.

H.R. 4086: Mr. Frenzel, Mr. Foglietta, Mr. Bedell, Mr. Edgar, Mr. Mitchell of Maryland, Mr. Hyde, Mr. Markey, Mrs. Chisholm, Mr. Daniel B. Crane, Mr. Dwyer, Mr. Dymally, Ms. Mikulski, Mr. Deckard, Mr. Schumer, Mr. Gray, Mr. Hansen of Idaho, Mr. Lowry of Washington, Mr. Sunia, Mr. Moakley, Mr. Hertel, Mr. Andrews, Mr. Tauke, Mr. Stangeland, Mr. Siljander, and Mr. Wilson.

H.R. 4438: Mr. Dunn, Mr. Staton of West Virginia, Mr. Traxler, Mr. Stump, Mr. Ashbrook, Mr. Smith of Alabama, Mr. Simon, Mr. Hammerschmidt, Mr. Chappell, Mr. Dreier, Mr. Nelligan, Mr. McEwen, Mr. Hunter, Mr. Beard, Mr. Solomon, and Mr. Won Pat.

H.R. 4467: Mr. Shuster.

H.R. 4554: Mr. Whittaker.

H.R. 4657: Mr. Fauntroy, Mr. Stokes, Mr. Hyde, Mrs. Chisholm, Mr. Florio, Mr. Foglietta, Mr. Mitchell of Maryland, Mr. Rangel and Mr. Edgar.

H.R. 4751: Mr. Hughes, Mr. Carney, Mr. Ginn, Mr. Roberts of South Dakota, Mr. Badham, Mr. Mineta, Mr. Smith of Alabama, Mr. Winn, Mr. Hendon, Mr. Wilson, Mr. Huckaby, and Mr. Marlenee.

H.R. 4789: Mr. Mavroules.

H.R. 4808: Mr. Whitley, Mr. Fountain, Mrs. Martin of Illinois, Mr. Ginn, Mr. McKinney, Mr. Daub, Mr. Hammerschmidt, Mrs. Roukema, Mr. Howard, Mr. Hatcher, Mr. Rogers, Mr. Hopkins, Mr. Robert W. Daniel, Jr., Mrs. Schneider, Mr. Morrison, Mr. Roberts of Kansas, Mr. Craig, and Mr. Smith of Alabama.

H.R. 4861: Mr. Udall, Mr. Mineta, Mr. Pease, Mr. Hughes, Ms. Mikulski, Mr. Minish, Mr. Dymally, Mr. Stark, Mr. Gejdenson, Mr. McCloskey, Mr. Eckart, Mr. Addabbo, Mr. Kastenmeier, Mr. Pepper, Mr. Schumer, Mr. Ratchford, Mr. Coelho, Mr. Corrada, Mr. Rosenthal, Mr. Perkins, Mrs. Chisholm, Mr. Matsui, Mr. Howard, Mr. Gore, Mr. Scheuer, Mr. Roe, Mr. Miller of California, Mr. Traxler, Mr. Bevill, Mr. Frost, Mr. Smith of Iowa, Mr. Mitchell of Maryland, Mr. Rahall, Mr. Dellums, Mr. Corcoran, Mrs. Byron, Mr. de Lugo, Mr. Gray, Mr. Clay, Mr. Peyser, Mr. Weiss, Mr. Jeffords, Mr. de la Garza, Mr. Mottl, Mr. Sunia, Mr. Ottinger, Mr. Frank, Mr. Lantos, Mr. Williams of Montana, Mr. Ford of Michigan, Mr. Ford of Tennessee, Mr. Biaggi, Ms. Ferraro, Mr. Kogovsek, and Mrs. Kennelly.

H.R. 4868: Mr. Leland.

H.R. 4912: Mr. Corcoran, Mr. James K. Coyne, Mr. Barnes, Mr. Mavroules, Mr. Jeffords, and Mr. Matsui.

H.R. 4953: Mr. Williams of Montana.

H.R. 4999: Mr. Jeffries.

H.R. 5082: Mr. Courter, Mr. Gingrich, Mr. Horton, Mr. Mitchell of New York, Mr. Dwyer, Mr. James K. Coyne, Mr. Murphy, Mr. Young of Alaska, and Mr. Stokes.

H.R. 5088: Mr. Minish, Mrs. Snowe, Mr. Brodhead, Mr. Lee, Mr. Dymally, Mr. Bingham, Ms. Ferraro, Mr. Albosta, and Mr. Studds.

H.R. 5150: Mr. Lagomarsino.

H.R. 5154: Mr. Chappie, Mr. Hartnett, and Mr. Hammerschmidt.

H.R. 5193: Mr. Roe.

H.R. 5211: Mr. Ritter.

H.R. 5338: Mr. Lee, Mr. Ralph M. Hall, and Mr. James K. Coyne.

H.R. 5341: Mr. Dunn.

H.R. 5380: Mr. Bailey of Pennsylvania, Mr. James K. Coyne, Mr. Dyson, Mr. Fary, Mr. Kramer, Mr. Railsback, Mr. Roe, Mr. Weaver, and Mr. White.

H.R. 5421: Mrs. Chisholm.

H.R. 5432: Mr. Kemp, Mr. Panetta, Mr. Robert W. Daniel, Jr., Mr. Huckaby, Mr. Lowry of Washington, and Mr. Bethune.

H.R. 5441: Mr. James K. Coyne, Mr. Tauke, and Mr. Gingrich.

H.R. 5443: Mr. Hawkins.

H.R. 5469: Mr. Bowen.

H.R. 5472: Mr. Burgener.

H.R. 5497: Mr. Benedict.

H.R. 5514: Mr. Crockett, Mr. Traxler, Mr. Wolpe, Ms. Mikulski, Mr. Goodling, Mr. Weber of Ohio, and Mr. Davis.

H.R. 5535: Mr. Weaver, Mr. Roe, Mr. Bingham, and Mr. Simon.

H.R. 5556: Mr. Dicks.

H.R. 5559: Mr. Walgren

H.R. 5583: Mr. Hughes.

H.R. 5596: Mr. Erdahl, Mr. Regula, Mr. Tauke, and Mrs. Bouquard.

H.R. 5666: Mr. Sam B. Hall, Jr.

H.R. 5682: Mr. Petri.

H.R. 5697: Mr. Roth, Mr. O'Brien, Mr. Traxler, Mr. Weaver, Mr. Frank, Mr. Daniel B. Crane, Mr. Mitchell of New York, Mrs. Collins of Illinois, Mr. Jacobs, Mrs. Schneider, Mr. Petri, Mr. Dougherty, Mr. Edwards of California, Mr. Edgar, Mr. Dwyer, Mr. Erdahl, Mr. Long of Maryland, Mr. St Germain, Mr. Bethune, Mr. DeNardis, Mr. Stark, Mr. Weber of Ohio, Mr. Bedell, and Mr. Kildee.

H.R. 5708: Mr. Gejdenson.

H.R. 5712: Mr. Bailey of Pennsylvania and Mr. Staton of West Virginia.

H.R. 5719: Mr. Seiberling and Mr. Williams of Montana.

H.R. 5729: Mrs. Bouquard.

H.R. 5755: Mr. Smith of Iowa, Mr. Crockett, Mr. Dwyer, Mr. Edwards of California, Mr. Ertel, Mr. Findley, Mr. Jones of North Carolina, and Mr. Kildee.

H.R. 5769: Mr. Winn, Mr. Dan Daniel, Mr. Emerson, and Mr. Roth.

H.R. 5783: Mr. Robert W. Daniel, Jr., Mr. Whitehurst, Mr. Roth, Mr. Pritchard, Mr. Horton, Mr. Yatron, Mr. Forsythe, Mr. Mitchell of Maryland, Mr. Dyson, Mr. Gingrich, Mr. Dicks, Mr. Corrada, Mr. Brinkley, and Mr. Bonior of Michigan.

H.R. 5873: Mr. Weiss.

H.R. 5895: Mr. Brown of Colorado, Mr. Young of Alaska, Mr. Marlenee, Mr. Skeen, and Mr. Craig.

H.J. Res. 172: Mr. Roe and Mr. Hughes.

H.J. Res. 176: Mrs. Heckler and Mr. Livingston.

H.J. Res. 316: Mr. Mattox, Mr. Alexander, Mr. Bailey, of Pennsylvania, Mr. Harkin, Mr. Albosta, Mr. Bliley, Mr. Smith of Pennsylvania, Mr. Skeen, Mr. Winn, Mr. Traxler, Mr. Evans of Georgia, Mr. Shumway, Mr. Rangel, Mr. Skelton, Mr. Ratchford, Mr. Murphy, Mr. Snyder, Mr. Porter, Mr. Phillip Burton, Mr. Brodhead, Mr. Kildee, Mrs. Kennelly, Mrs. Snowe, Mr. Hansen of Idaho, Mr. Stokes, Mr. O'Brien, Mr. Lee, Mr. Boland, Mr. Beilenson, Mr. Heftel, Mr. Oxley, and Mr. Ireland.

H.J. Res. 350: Mr. Roemer, Mr. Collins of Texas, Mr. Hammerschmidt, Mr. Leach of Iowa, Mr. Whitley, Mr. Lott, Mr. Deckard, Mr. Michel, and Mr. English.

H.J. Res. 375: Mr. Price, Mr. Ratchford, Mr. Conyers, Mr. Markey, Mr. Schumer, Mr. Hatcher, Mr. Gaydos, Mr. Howard, Mr. Dyson, Mr. Traxler, Mr. Sawyer, Mr. Gilman, Mr. Luken, Mr. Zeferetti, Mr. Ford of Michigan, Mr. Smith of Alabama, Mr. Davis, Mr. Albosta, Mr. Moffett, Mr. Blanchard, Mr. Clay, and Mr. Vander Jagt.

H.J. Res. 410: Mr. Murphy, Mr. Addabbo, Mr. Oxley, Mr. Oberstar, Mr. Fascell, Mr. Matsui, Mr. Petri, Mr. de la Garza, Mr. Dymally, Mr. Kindness, and Mr. Hollenbeck.

H.J. Res. 420: Mr. Andrews, Mr. Barnes, Mr. Clinger, Mr. Derwinski, Mr. Fish, Mr. Forsythe, Mr. Frenzel, Mr. Horton, Mr. Hoyer, Mr. Hutto, Mr. Hyde, Mr. Jones of North Carolina, Mr. Marriott, Mrs. Martin of Illinois, Mr. Mineta, Mr. Panetta, and Mr. Roe.

H.J. Res. 428: Mr. Bevill, Mr. Hendon, and Mr. Gore.

H. Con. Res. 100: Mr. Sawyer.

H. Con. Res. 151: Mr. LeBoutillier.

H. Con. Res. 173: Mr. Rhodes.

H. Con. Res. 236: Mr. Robert W. Daniel, Jr. and Mr. Stark.

H. Con. Res. 280: Mr. Edwards of California, Mr. John L. Burton, Mr. Sunia, Mr. Moakley, Mr. Barnes, Mr. Mitchell of Maryland, Mr. Weiss, Mr. Lowry of Washington, Mr. Edgar, Mr. Forsythe, Mr. DeNardis, Mr. Dwyer, Mr. Weaver, Mr. Stokes, and Mr. Dellums.

H. Con. Res. 289: Mr. Leath of Texas, Mr. Fish, Mr. Pritchard, Mr. DeNardis, Mr. Napier, Mr. Campbell, Mr. Gilman, Mr. Levitas, Mr. Bafalis, and Mr. Roe.

H. Res. 93: Mr. Porter, Mr. Bedell, Mr. Hagedorn, Mr. Miller of Ohio, Mr. Gregg, Mr. Hughes, Mr. Foglietta, and Mr. LeBoutillier.

H. Res. 309: Mr. Udall, Mr. Bonior of Michigan, Mr. Schumer, Mr. Moffett, Mr. Bingham, Mr. Stark, Mrs. Chisholm, Mr. Frank, Mr. Downey, Mr. Rosenthal, Mr. Mitchell of Maryland, Mr. Frost, Mr. Kildee, Mr. Murphy, Mr. Ottinger, Mr. Seiberling, and Mr. Weiss.

H. Res. 321: Mr. Dunn.

H. Res. 362: Mrs. Holt, Mr. Miller of Ohio, Mr. Courter, Mr. Jeffries, and Mr. Hendon.

H. Res. 373: Mr. Evans of Iowa, Mr. Scheuer, Mr. Brown of Ohio, Mr. de Lugo, Mr. Barnard, and Mr. Foglietta.

H. Res. 377: Mr. Weaver, Mr. Crockett, and Mr. Dellums.

H. Res. 394: Mr. Boner of Tennessee, Mr. Williams of Ohio, Mr. Applegate, Mr. Santini, Mr. Horton, , Mr. Young of Missouri, Mr. Mollohan, Mr. Snyder, Mr. Lee, Mr. Stark, Mr. Hertel, Mr. Stanton of Ohio, Mr. Forsythe, Mr. Hubbard, Mr. Rogers, Mr. Rahall, Mr. Petri, Mr. Savage, Mr. Fountain, Mr. Dorgan of North Dakota, Mr. Lundine, Mr. Pepper, Mr. Duncan, Mr. Sam B. Hall, Jr., Mr. Barnard, Mr. Albosta, Mr. Frost, Mr. Smith of Pennsylvania, Mr. Volkmer, Mr. Clinger, Mr. Hightower, Mr. Fithian, Mr. Quillen, Mr. Mitchell of Maryland, and Mr. Bevill.

H. Res. 402: Mr. Smith of Alabama.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4057: Mr. Dymally.

H.R. 4523: Mr. Jones of Tennessee.

PETITIONS, ETC.

Under clause 1 of rule XXII,

377. The SPEAKER presented a petition of the City Council, North Adams, Mass., relative to the decontrol schedule of natural gas prices; to the Committee on Energy and Commerce.

Senate—*Tuesday, March 23, 1982*

(Legislative day of Monday, February 22, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Our Heavenly Father, Thou who art the God of the macrocosm and the microcosm, of the infinite and the infinitesimal, we commend to Thy care and safekeeping astronauts Lousma and Fullerton as they orbit the Earth. We pray for the comfort and reassurance of their families. Be with those who are involved in ground control, that the flight of the *Columbia* will fulfill all the purposes for which it was launched and return to Earth on schedule, mission accomplished.

As the people of America follow the space journey and are united in their concern for its success, help us to be united in dedicated concern for peace on Earth, for the relief of the poor, the oppressed and the persecuted, and the welfare of all peoples. We pray this in the name of The One whose mission is to "gather in one all that are in heaven and on earth." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

COMMENDATION OF THE SENATE CHAPLAIN

Mr. BAKER. Mr. President, I observe the Biblical phrase of "alpha to omega" is changed to macrocosm and microcosm, which is surely a sign of the times. I commend the Chaplain for his prayer this morning and especially his thoughts for the astronauts circling the globe at this moment in the Space Shuttle *Columbia*. I am sure all of us share those sentiments and join him in wishing their safe return.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM FOR TODAY

Mr. BAKER. Mr. President, I believe there is an order. Is there not, for a period for the transaction of routine morning business to extend not past 10:30 a.m., this morning, in which Senators may speak for not more than 10 minutes each?

The PRESIDENT pro tempore. The leader is correct.

S. 1080

Mr. BAKER. I thank the Chair. At 10:30 a.m., Mr. President, the Senate will resume consideration of S. 1080, the regulatory reform bill. It is expected that a number of votes will occur on that measure in the course of this day. I continue to entertain the hope that we can finish that bill today, but I must confess to all of those who may be listening that it is more likely that we shall finish it tomorrow. I expect the Senate to be in session until approximately 6 p.m.

In view of the requirement that Senators on both sides of the aisle must attend caucuses off the floor between roughly the hours of 12 noon and 2 o'clock, I shall, later today, ask that the Senate stand in recess from approximately 12 noon until the hour of 2 p.m. I shall not ask the Senate to agree to such an order at this time so that there may be some flexibility in dealing with the pending question or other matters that may require the attention of the Senate before that caucus recess is initiated.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I observe on the Executive Calendar of today, beginning on page 2, that there are certain nominations which appear to be cleared. May I inquire of the minority leader if he is in a position to consider the two nominations appearing under Mississippi River Commission and Environmental Protection Agency on page 2 of the calendar?

Mr. ROBERT C. BYRD. Mr. President, those two nominations have been cleared.

Mr. BAKER. I thank the Senator from West Virginia (Mr. ROBERT C. BYRD), the minority leader.

EXECUTIVE SESSION

Mr. BAKER. I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations under the two headings just identified.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nominations will be stated.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations referred to be considered en bloc.

The PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were considered and confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The nominations considered and confirmed en bloc are as follows:

MISSISSIPPI RIVER COMMISSION

Rear Adm. Herbert R. Lippold, Jr., National Oceanic and Atmospheric Administration, to be a member of the Mississippi River Commission, vice Rear Adm. Allen L. Powell, retired.

ENVIRONMENTAL PROTECTION AGENCY

Frederic Arnold Eidsness, Jr., of Colorado, to be an Assistant Administrator of the Environmental Protection Agency, vice Eckardt C. Beck, resigned.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent in these matters.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. on Wednesday, March 24.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION TOMORROW OF SENATORS PROXMIRE, LUGAR, AND SPECTER

Mr. BAKER. Mr. President, may I inquire, is there a special order for the recognition of the distinguished Senator from Wisconsin (Mr. PROXMIRE), the distinguished Senator from Indi-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ana (Mr. LUGAR) and the distinguished Senator from Pennsylvania (Mr. SPECTER) on tomorrow?

The PRESIDENT pro tempore. There is no order.

Mr. BAKER. Mr. President, I ask unanimous consent that these three Senators be recognized in that order on a special order, to follow immediately after the recognition of the two leaders under the standing order tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand that on Thursday, there is already an order for the recognition of the Senator from Wisconsin, is that correct?

The PRESIDENT pro tempore. The leader is correct.

Mr. BAKER. I delete that request from the request previously stated. The request then will be for the recognition of the Senator from Indiana (Mr. LUGAR) and the Senator from Pennsylvania (Mr. SPECTER) on special orders for Thursday.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order tomorrow, there be a period for the transaction of routine morning business not to extend past 10:30 a.m., with statements therein limited to not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE ON TOMORROW—S. 1080

Mr. BAKER. Mr. President, I ask unanimous consent that following the conclusion of morning business on tomorrow, the Senate resume consideration of the pending business, S. 1080, if that measure has not previously been disposed of by the Senate.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I thank the distinguished President pro tempore, the occupant of the chair, and I apologize to him for the necessity of revising that request at this time.

I have no further need for my time under the standing order, if any remains, and I am prepared to yield the remainder to the distinguished minority leader if he wishes it.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I have no need for his time.

Mr. BAKER. Mr. President, I yield back my time remaining, if any, under the standing order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. I yield back my time.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 10:30 a.m., with statements therein limited to 10 minutes each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

GENOCIDE MUST BE CONDEMNED BY ALL NATIONS

Mr. PROXMIRE. Mr. President, 1 month ago the Reagan administration issued its first worldwide review of human rights entitled "Country Reports on Human Rights Practices for 1981." The introduction described an important U.S. accomplishment concerning the human rights debate in international institutions.

During the 37th session of the United Nations Human Rights Commission the U.S. delegation continually stressed the need to deal with human rights problems in an even-handed way. They pointed out that while pro-West Latin American countries were being singled out for condemnation, equal or greater violations of human rights in the Soviet Union, Eastern Europe, and Cuba, went almost unnoticed. The U.S. delegation was pleased with a step the Human Rights Commission took toward evaluation by a single standard when it condemned foreign intervention in Afghanistan and in Kampuchea, and the rampant violation of the human rights of the Khmer people.

The report states:

> The United States insisted that international bodies entrusted with protecting human rights judge human rights performance by a single standard * * *. U.S. efforts in the coming year in international and regional bodies will focus on heightened international consciouness of human rights concerns in which there is implicit recognition of equity and consistency as underlying themes.

Mr. President, we are all aware that the criticism of using a double standard in denouncing human rights violations has also been leveled at the United States in reverse of the way described in the Reagan administration report. We have been accused of readily pointing to abuses by Communist totalitarian systems while closing our eyes to human rights violations of friendly authoritarian regimes. It is to this report's credit that a Washington Post editorial found this double standard was not in evidence in the worldwide human rights review. Contrary to skeptic's expectations, the State Department "called them as they saw them."

Mr. President, critics of the Genocide Convention have often raised a similar line of argument regarding the Genocide Convention—that the Genocide Convention would be used against authoritarian regimes friendly to the United States and that Communist regimes would somehow be immune to any liability for their actions.

Nothing could be further from the truth.

In May 1979 Senator GOLDWATER and I began an exchange on the Senate floor which set the record straight on this point.

Senator GOLDWATER presented a thoughtful analysis of the Genocide Convention against a background of the unjustifiable actions of the People's Republic of China in seizing Tibet and the ruthless persecution of religious groups in the Ukraine by the Soviet Union. He raised an important issue concerning the application of the Genocide Convention by his question: Would our State Department apply the same standards in defining and condemning genocide under the Convention to Communist and non-Communist countries alike?

Prompted by his concern I contacted the State Department and received a straightforward and unambiguous response. Mr. President, not only is there no basis for applying the Convention differently with respect to Communist or non-Communist countries, in fact we are obligated not to make such distinctions.

It is clear that under the provisions of this treaty there is no question of accusing individuals in one country of committing genocide while ignoring, for some reason, the crimes in another country. This is because the treaty clearly defines genocide as certain specified acts committed with the intent to destroy, in whole or in part, any national, ethnic, racial, or religious group. If these deplorable acts should occur in any country, the United States should be in the forefront of efforts to stop it.

Mr. President, I urge my colleagues to immediately ratify the Genocide Convention.

TEENAGE SEX

Mr. HAYAKAWA. Mr. President, there is a growing concern in America about the rise in teenage sexuality. Let me call my colleagues' attention to an editorial that appeared in the March 19, 1982, edition of the Washington Post, written by Judy Mann, regarding this subject

We, as legislators have debated this issue and what to do about it from many different perspectives. One of our resolves came about in 1970 when Congress provided for family planning services to be funded under title X of the Public Health Services Act. The purpose was and remains to make "comprehensive voluntary family planning services readily available to all persons desiring such services." It is clear from language in committee reports as far back as 1975 that Congress believes that services to adolescents through title X are a priority. Last year Congress continued to prove this is a priority by adding language to title X:

> It is the intent of the conferees that grantees will encourage participants in title X programs to include their families in counseling and involve them in decisions about services. (House Report No. 97-209.)

The administration has proposed new regulations which would require that parents of teenagers who receive prescription contraceptives from title X funding family planning clinics receive notification of that fact within 10 days after service is provided to the teenager.

It is not necessarily the right of the parents to be informed of their child's actions in this case. It would be ideal if the child-parent relationship were such that a calm, mature, and rational dialog prefaced any course of action the child might pursue in obtaining facts and/or contraceptive material before engaging in a sexual relationship. This was the intent of the congressional language passed last year. It is fact that well over half of the teenage patients in family planning clinics have told their parents about their visits to the clinic, and the younger the patient, the more likely the parents are to know.

Legislators, whether conservative or liberal, should place the prime responsibility for teenage sexuality on the parents; not by forcing parents to stand up and take notice as the new title X regulations would require, but by encouraging the parents to become more attuned to the curiosities and desire of the children. If this means sex education, then it is up to the parents and local school board to determine the necessity. The Federal Government should not be involved in such a personal area.

One of the main reasons family planning was created was to insure that the health and well-being of millions of young Americans not be endangered. For those teenagers who really cannot communicate with their parents or are afraid of the consequences if they do, the family planning centers are the only alternative they have to receive advice and safe help.

If teenagers become afraid to use family planning services then the potential of teenage pregnancy, infection by social diseases, and abortion is bound to rise. This we cannot afford to let happen. A reality of today is the increase in teenage sexual activity. Notifying parents will not curb this increase. Education and an open ear might.

I ask unanimous consent that this commentary by Judy Mann be printed in the RECORD.

There being no objection, the commentary was ordered to be printed in the RECORD, as follows:

TEEN-AGE SEX

(By Judy Mann)

Marjorie Mecklenburg, the Reagan administration's chief enforcer for adolescent pregnancy prevention, went into the liberals' den last Friday and delivered an object lesson on how effectively conservatives have co-opted social issues.

Mecklenburg, a former leader in the anti-abortion movement, drafted the administration's proposal requiring federally funded clinics to notify parents when minor children got prescription contraceptives. Despite a conciliatory attitude, she had no chance of winning over her audience—the National Family Planning and Reproductive Health Association—to the administration's position.

Mecklenburg told her audience that she is committed to involving parents in teen-age family planning. "Sexuality is one of the most difficult things for parents to get involved with," she said, and stressed that the department wants to develop ways of helping them. And, she said, "we would like to see more teen-agers not sexually active. I'm not ashamed to say that." If they insist on being active, "we want them contracepted safely and contracepted effectively." It was her only applause line.

But in the end, she hit a home run right out of the East Ballroom of the Washington Hilton by speaking to fundamental values that hold societies together while her questioner spoke to values that let them fall apart.

What, said a family planning provider, about parents who don't wish to know when their children seek contraception. "What," she asked, "about their desire not to be informed?"

The audience applauded.

Mecklenburg responded: "Parents cannot shift responsibility for children onto professionals or some other group in the community on something as basic as sexuality . . . We believe parents do have a responsibility to be part of the team."

The argument against notification is that some children, afraid of parental reaction, will not go to the clinics for contraception and will get pregnant. In fact that may be true, as at least one study has suggested. But by focusing on this aspect of the teen-age sex question, liberals are left in the position of going to bat for parents who want to ignore what their children are doing, and of defending a public policy that allows the federal government to provide, without notifying parents, contraceptive prescriptions to children who are considered under age by state statutory rape laws.

Mecklenburg struck a note far more in tune with American beliefs about parental obligations. Liberals, concerned with issues of privacy and leery of anything that appears to impose moral and religious values, have failed to develop a sensible, politically appealing alternative to solving the problem of teen-age pregnancy.

Dr. Sol Gordon, director of Syracuse University's Institute for Family Research and Education, receiving the American Society of Sex Educators, Counselors and Therapists' annual award in New York City last weekend, called the epidemic of teen-age veneral disease and pregnancy a "national social disaster."

Notification of the parents, however, is not the answer, he says. The answer lies in part in encouraging parents to be the prime sex educators of their children, in teaching teen-agers that premature sex is a health hazard, and in greatly expanded and improved sex education programs that address such questions as love and decision-making and that promote self-esteem.

"The women in college now are not available for exploitation," says Gordon. "We are seeing more and more egalitarian relationships. Our best hope is if the message of the women's movement gets down to teen-age girls."

There is, as Gordon has outlined, a responsible liberal program for reducing teen-age pregnancies. Notification requirements involve families but may also increase pregnancies by discouraging contraception use. There is a need in this debate for liberals to develop and articulate a program that puts prime responsibility for teen-age sexuality back on the parents, that will educate teen-agers about the hazards of premature sex, and that will give teen-age girls the self-esteem necessary to withstand the peer pressure of their boyfriends.

By failing to focus the debate on the need for sex education that has values and on the necessity for parents to assume their responsiblities toward their teen-agers, the liberals are simply dropping the ball and letting the conservatives run with it.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

REGULATORY REFORM

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 1080, which the clerk will state.

The assistant legislative clerk read as follows:

> A bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

The Senate resumed consideration of the bill.

Mr. LAXALT. Mr. President, I ask unanimous consent that Ralph Oman and Charles W. Borden be accorded the privilege of the floor during consideration of S. 1080, the regulatory reform bill.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **LAXALT.** Mr. President, I now yield to the Senator from New Mexico for the purpose of proposing an amendment.

Mr. **SCHMITT.** I thank the distinguished Senator from Nevada.

Mr. President, let me begin the discussion of the issue of congressional review and legislative veto with a quote:

> By the Constitution the executive may recommend measures which he thinks proper and he may veto those he thinks improper. And it is supposed that he may add to these certain indirect influences to affect the actions of Congress.
>
> My political education strongly inclines me against the very free use of any of these means by the executive to control the legislation of the country. As a rule I think it better that Congress should originate as well as protect its measures without external bias.

Mr. President, this quote is from a speech made by President Abraham Lincoln in Pittsburgh, February 15, 1861. It, I think, clearly sets the broad general environment in which the discussion of congressional review and legislative veto must take place.

UP AMENDMENT NO. 847

(Purpose: To provide for congressional review of agency rules)

Mr. **SCHMITT.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico, Mr. SCHMITT (for himself, Mr. Levin, Mr. Grassley, Mr. Boren, Mr. Abdnor, Mr. Andrews, Mr. Armstrong, Mr. Baucus, Mr. Boschwitz, Mr. Burdick, Mr. Harry F. Byrd, Jr., Mr. Chiles, Mr. Cochran, Mr. D'Amato, Mr. DeConcini, Mr. Denton, Mr. Dixon, Mr. Domenici, Mr. East, Mr. Exon, Mr. Garn, Mr. Goldwater, Mr. Hatch, Mrs. Hawkins, Mr. Hayakawa, Mr. Helms, Mr. Huddleston, Mr. Humphrey, Mr. Jepsen, Mr. Johnston, Mr. Kasten, Mr. Mattingly, Mr. McClure, Mr. Melcher, Mr. Nickles, Mr. Nunn, Mr. Packwood, Mr. Pressler, Mr. Pryor, Mr. Quayle, Mr. Rudman, Mr. Sasser, Mr. Simpson, Mr. Specter, Mr. Stennis, Mr. Stevens, Mr. Symms, Mr. Tower, Mr. Wallop, Mr. Warner, and Mr. Zorinsky proposes an unprinted amendment numbered 847.

Mr. **SCHMITT.** Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

CONGRESSIONAL REVIEW

Sec. . (a) Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"801. Definitions.
"802. Congressional review of agency rules.
"803. Procedures for consideration of resolutions of disapproval.

"§ 801. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'rule' means any rule which is subject to section 553 of this title;

"(3) the term 'resolution of disapproval' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the recommended final rule issued by   dealing with the matter of   , which rule was transmitted to the Congress on   .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress; and

"(4) the term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"§ 802. Congressional review of agency rules

"(a)(1) The provisions of this section do not apply to—

"(A) any rule for which an agency makes a finding under section 553 (b)(3) of this title;

"(B) any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) any rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(2) of this title; or

"(ii) the head of the agency determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public and interest; and

"(iii) on the date on which the agency issues the rule, the head of the agency submits to the chairman and ranking minority member of the appropriate committees a written notice specifying the reasons for the determination of the agency under clause (i) or (ii) of this subparagraph.

"(3) Notwithstanding any other provision of law, unless earlier withdrawn by the agency or earlier set aside by judicial action, a rule to which paragraph (1) (C) of this subsection applies shall terminate 120 days after the date on which it is issued.

"(b)(1) Notwithstanding any other provision of law, any final rule subject to this section shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(2)(A) Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of 45 days of continuous session of Congress after the date on which the rule is received by the Congress under paragraph (4) of this subsection. If before the expiration of such 45-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval with respect to such rule, such rule may not become effective if within 30 days of continuous session of Congress after the date on which such committee orders reported or is discharged from further consideration of such resolution, one House of Congress agrees to such resolution of disapproval of the rule and within 30 additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, such other House agrees to such resolution of disapproval.

"(B) Whenever an appropriate committee reports a resolution of disapproval pursuant to this paragraph, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) Notwithstanding subparagraph (A) of this paragraph, a recommended final rule may become effective at any time after the day on which either House of Congress defeats a resolution of disapproval, and, in the case of the Senate, a motion to reconsider such resolution is disposed of.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, if Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with paragraph (4) of this subsection, and the periods specified in paragraph (2)(A) of this subsection with respect to any such rule shall begin on the date such rule is transmitted to the Congress.

"(B) If—

"(i) Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule;

"(ii) an agency transmits such recommended final rule to the Congress at least forty-five days of continuous session of Congress prior to the day on which Congress adjourns sine die at the end of a Congress; and

"(iii) either House of Congress does not adopt a resolution of disapproval with respect to such recommended final rule prior to the day on which Congress adjourns sine die at the end of a Congress,

such rule may become effective at any time after the day on which Congress adjourns sine die at the end of a Congress.

"(4)(A) On the day on which a recommended final rule is transmitted for publication to the Federal Register, an agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of the complete text of such recommended final rule and a copy of any other materials transmitted to the Federal Register with such rule.

"(B)(i) If either House of Congress is not in session on the day on which a recommended final rule is transmitted for publication to the Federal Register, the periods specified in paragraph (2)(A) of this subsection with respect to such rule shall begin on the first day thereafter when both Houses of Congress are in session.

"(ii) The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive recommended final rules and materials transmitted under this paragraph on days when the Senate or the House of Representatives, as the case may be, is not in session.

"(C) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule and the materials transmitted with such rule the Secretary and the Clerk shall transmit a copy of such rule and such materials to the appropriate committees.

"(c)(1) If a recommended final rule of an agency is disapproved under this section, the agency may issue a recommended final rule which relates to the same acts or practices as the disapproved rule. Such recommended final rule—

"(A) shall be based upon—

"(i) the rule making record of the recommended final rule disapproved by the Congress; or

"(ii) such rule making record and the record established in supplemental rule making proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rule making record; and

(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and consideration of the resolution of disapproval with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (b) of this section, and such rule shall only become effective in accordance with such subsection.

"(d) Congressional inaction on or rejection of a resolution of disapproval with respect to a recommended final rule shall not be deemed an expression of approval of such rule.

"§ 803. Procedures for consideration of resolutions of disapproval

"(a) The provisions of this section, paragraphs (3) and (4) of section 801, and paragraphs (2)(B) and (4)(C) of section 802(b) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e) of this section, resolutions of disapproval shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a resolution of disapproval has been referred does not report such resolution within 30 days of continuous session of Congress after the date of transmittal to the Congress of the recommended final rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution of disapproval transmitted from the other House has been referred does not report such resolution within 20 days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in writing by one-fifth of the Members, duly chosen and sworn, of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, it shall be in order, notwithstanding the provisions of Rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of the resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a resolution of disapproval shall be limited to not more than two hours, which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order. A motion to reconsider shall be in order only on the day on which occurs the vote on adoption of the resolution of disapproval, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If a resolution of disapproval has been ordered reported or discharged from the committee of the House to which it was referred and that House receives a resolution of disapproval with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calender of the first House.

"(f) The provisions of this chapter supercede any other provision of law requiring action by both Houses of Congress for Congressional review or disapproval of agency rules to the extent such other provisions are inconsistent with this chapter. The provisions of this chapter do not supercede any other provisions of law requiring action by only one House of Congress for Congressional review or disapproval of agency rules."

"(9) For the purpose of this chapter—

"(1) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(2) the days on which either House is not in session because of an adjournment or recess of more than 15 days are excluded in the computation of days of continuous session.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following: Congressional Review of Agency Rule Making.

(b) This section and the amendments made by this section shall take effect on the first day of the Ninety-eighth Congress.

Mr. SCHMITT. Mr. President, I inform my colleagues that this amendment is essentially the same as amendment No. 1337 with minor technical changes.

Mr. President, the amendment I have sent to the desk would permit Congress to overturn the proposed regulations of the Federal departments and agencies proposed under the Administrative Procedures Act by the use of a legislative veto; in other words, through the passage of a concurrent resolution of disapproval, a proposed rule would be disapproved and not become law.

The legislative veto contained in this amendment has been worked out with extraordinary care and we believe it will provide Congress with a workable tool for insuring that agency regulations are consistent with congressional intent and changing circumstances.

Before turning to the amendment itself, I shall briefly comment on the recent decision of the District Court of Appeals in a Federal Energy Regulatory Commission's case claiming that the legislative veto is unconstitutional. The Washington Post devoted a front page story to this decision but unfortunately failed to mention that in previous cases, the courts have taken the exact opposite point of view, ruling that the legislative veto is constitutional. Let me quote from the decision of the Court of Claims in Atkins against United States, a ruling which concluded that the legislative veto is constitutional.

> . . . the one-House veto present in the Salary Act is a device authorized by article I, section 1, coupled with the necessary and proper clause. . . . (and that) it contravenes neither the broad principle of the separation of powers nor any specific provision of the Constitution. In particular, we note that the necessary and proper clause, which has sanctioned the massive delegation of legislative functions over the past century, provides a firm grounding for this legislative veto. Congress plainly felt the need for this veto device, instead of relying solely on the power to override presidential recommendations by a full-fledged statute. In McCulloch's phrases, Congress exercised "its best judgment" in the selection of this measure and sought to "accommodate its legislative to circumstances." In the world of reality, the mechanism, as we have underscored, was a fair substitute for full bicameral con-

> currence, did not materially invade the Executive's own sphere, and took due account of the limited presidential participation. It was a permissible accommodation of competing interests reflecting both an appropriate check by Congress upon the Executive and some check by the Executive upon the action which could be taken by one House alone. To borrow the Supreme Court's language, some 50 years ago, in upholding congressional delegation, this particular one-House veto seems to us to pass the test of "common sense and the inherent necessities of the governmental coordination." (*Hampton & Co.* v. *United States*, supra, 276 U.S. at 406.)

The conflicting views of the constitutionality of the legislative veto contained in these court decisions indicate that it will take an explicit Supreme Court decision to resolve this matter. I remain confident that the Supreme Court will uphold the continued use of this device. It is very important to note that both the House and Senate have intervened as parties in support of the legislative veto before the Court.

Mr. President, the concept of returning to the elected representatives of the people the control over governmental decisionmaking has become a familiar one in recent years. Several years ago, the Congress passed the Congressional Budget and Impoundment Control Act to reassert its control over the Federal budget process, which I might mention contains a provision for congressional veto of Presidential impoundment decisions. The amendment which I am offering today would likewise employ a set of procedures to reestablish congressional control in the area of regulatory rulemaking by executive branch agencies as well as so-called independent agencies.

Recently, the Congress enacted the largest tax cut in history. This unprecedented action was made even more meaningful by the fact that not only did the Congress reduce the tax burden but we made that reduction permanent by indexing tax brackets to inflation. Never again will we see the sorry spectacle of the tax burden of the American people being raised without a direct vote by the Congress.

Mr. President, I wish we could say the same thing with regard to regulation. But while the public will be spared several years of activist regulatory policies under the present administration, policies that would be unnecessary in public health and safety, there is no guarantee that a future administration will not once again seize on its regulatory authority as a means of imposing nonlegislated policies on the American public. The existence of a congressional veto procedure would insure that this usurpation of congressional authority cannot ever again occur. Like the indexing provision of the tax bill, the legislative veto will help to make our reforms permanent.

I am deeply concerned about the absence of any congressional involvement in the rulemaking reforms embodied in S. 1080. Many of the supporters of this legislation would agree, I believe, that the so-called fourth branch of Government—the bureaucracy—must be restrained from exercising the powers of the other three branches of Government. Rulemaking, after all, frequently represents a ceding of executive power by the President, of judicial authority by the courts, and of legislative power by the Congress. It is the combination of all or parts of these three ceded constitutional authorities which make a powerful bureaucracy possible beyond even the fears expressed by the Founding Fathers.

The bill before us attempts to reform only two parts of a three-pronged problem, leaving open a broad boulevard for future regulatory excess. The bill contains vastly strengthened procedures for the executive branch to oversee the activities of the independent agencies and of its own departments. Also within the bill is a revised version of the Bumpers amendment which would substantially increase the role of the judiciary in the rulemaking process. But if the Senate fails to adopt the amendment before it now, this legislation will do nothing to increase congressional authority over the bureaucratic exercise of the legislative powers vested in the Congress by the Constitution. Without such an amendment, the bill represents an even greater abandonment of legislative authority to the executive and the judiciary branches than is the case now.

Let us make no mistake about it: the power to regulate is a legislative power that the Congress has delegated to the executive branch and the independent agencies. They have no inherent legislative or regulatory powers under the Constitution—these are vested solely in the Congress. In fact, the only powers explicitly given to the Executive by the Constitution which have not been provided by legislation subject to congressional approval by one or both Houses are:

First. His role as Commander in Chief.

Second. The power to receive Ambassadors.

Third. The authority to grant reprieves and pardons.

Therefore, any legislation which purports to be regulatory reform, but which fails to increase the responsibility of the Congress cannot possibly hope to achieve its goals.

It has been contended that with an administration in power that is committed to less regulation, the Congress has little need for increased control over the regulatory apparatus. This is a shortsighted view, for it overlooks the fundamental conflict between the bureaucracy and the legislative branch concerning the exercise of regulatory authority. The crucial question facing the Congress is which branch of Government will retain ultimate control over the use of legislative authority granted to the Congress by the Constitution; and subsequently, delegated by the Congress to an assortment of Federal agencies and departments, a delegation fully recognized in numerous Supreme Court decisions.

The concept of shared legislative power, shared between the legislative branch and the executive branch, is one that has full support in previous Supreme Court decisions. The regulatory policies of this administration or any other have little bearing on this underlying and fundamental question. The amendment before you now, however, answers this question emphatically. This amendment states that it is the Congress that will hold the final responsibility for the exercise of delegated lawmaking authority.

Mr. President, as we enter our third century of national existence, we must recognize that, however we may feel, whether we are conservative or liberal in our political ideology, the need for a large administrative apparatus in the executive branch will increase rather than decrease.

Congress must enact protections not only for itself but for the American people against the unbridled use of the delegated legislative power that will of necessity accrue to that administrative bureaucracy.

Mr. President, this amendment contains three major provisions. First, the amendment establishes procedures for congressional review of proposed rules put forth under the Administrative Procedures Act, which is amended by S. 1080.

Proposed rules would become effective only after laying before the Congress for 45 days of continuous session following the date of publication unless the appropriate committee has reported, or has been discharged from the consideration of, a resolution of disapproval. If a committee reports, or is discharged from considering such a resolution within that 45-day period then the rule shall not become effective for an additional 30 days to provide time for floor action. Should the resolution of disapproval be approved by one House, then the rule is suspended for an additional 30 days in order to provide time for the other House to act. If the other House agrees to the resolution within that 30-day period, then the rule is overturned. It is a two-House legislative veto. Both Houses must act within the specified time periods or the rule will become the law of the land.

A proposed rule may become effective upon adjournment of the Congress if at least 30 days of continuous session have expired since the rule was published.

Second, the amendment provides for resolutions of disapproval to be considered under expedited procedures, including limitations on debate, motions, and amendments in order to avoid delay and lengthy debate on motions to discharge a committee or on resolutions of disapproval.

The amendment provides for 20 percent of the membership of either House to make a motion to discharge a committee from the consideration of a resolution of disapproval if the resolution is not reported within 30 days after the date of transmittal of the rule to the Congress. Debate on a motion to discharge a committee is limited to 1 hour. A motion to discharge must be approved by a majority of the respective body.

If a motion to discharge has been agreed to, a motion to move to consideration of the resolution itself is highly privileged. Debate on the resolution of disapproval is limited to 2 hours.

Thus, Mr. President, the amendment, after years of consideration and close study, now provides a very strong balance between the needs for Congress to consider, properly consider, changes in law brought about by regulation and the needs of Congress not to be tied up in lengthy consideration on the floor or in committee of an action to disapprove a rule.

Finally, Mr. President, the amendment provides for agencies to issue emergency rules not subject to the legislative veto procedure. Such emergency rules would lapse after 120 days if not proposed under normal congressional review procedures specified above.

This is an extremely important provision that further adds strength to the congressional role of oversight as well as to the administration's role, the executive branch's role, in administering the laws of the land.

Mr. President, this amendment has been worked out with great care by Senators Levin, Grassley, Boren, and myself. Senators Levin, Grassley, and Boren are original cosponsors of the amendment and, I must say, have been extraordinarily helpful in providing insight, as well as assistance, in the crafting of this historic piece of legislation. We worked through many days of hearings in both the Judiciary and Governmental Affairs Committees to finally come to the point where we are today. Dozens of expert witnesses have been heard on this subject and we have learned a great deal from them. Further, we have studied in detail the congressional experience with the dozens of congressional vetos which have already been enacted into law. In addition, we have also had the benefit of studying the crucible of experience of the approximately 35 State legislatures which use some form of congressional review of veto procedures over the rules of State agencies and departments.

Among the many hearings on the legislative veto have been those chaired by the distinguished Senator from Nevada, Senator Laxalt, in the Subcommittee on Administrative Practice and Procedure on September 12, 13, and 20 of 1978. These hearings were the first in the U.S. Senate to fully explore the legislative veto, and I am indebted to Senator Laxalt for his leadership in recognizing the importance of this issue and for his long personal support for the legislative veto. Additional hearings were conducted by Senator Grassley, chairman of the Subcommittee on Agency Administration. These hearings, on April 23, 1981, advanced our knowledge and understanding of many aspects of the legislative veto device and led to some important changes in this legislation.

Finally, the Committee on Governmental Affairs, with the great assistance of Senator Levin, has also held lengthy hearings on legislative veto, which has contributed to our understanding of congressional review and legislative procedures and has led to this compromise amendment that we have before us that has brought together the excellent ideas and concepts that were contained in the so-called Levin-Boren amendment of some time past, as well as the amendment for a pure legislative veto which I have also offered in the past.

Finally, Mr. President, I want to refer to the hearings conducted in the other body by the Committee on Rules. These hearings, in which I was privileged to testify, were extraordinarily thorough and comprise a vast body of information on the many procedural and constitutional questions raised by the legislative veto. I believe it is in part due to the extent of all these hearings in both Houses of the Congress that we have reached a point where a majority of each body is cosponsoring legislation to establish a legislative veto procedure over proposed regulations.

Mr. President, not only do we have a vast body of information in our hearing records on this subject, the Congress also has had many long years of experience in the actual day-to-day use of the legislative veto. Starting in 1932 and continuing to the present, the Congress has passed a wide range of legislative review or veto procedures applying to numerous Federal agencies and departments. The Congressional Research Service estimates that approximately 200 such statutes are currently on the books. Among these are nearly 50 that have been enacted since 1970 which apply to Executive rules.

Mr. President, I ask unanimous consent that a list of a few of the more important of these statutes be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

TABLE 1.—CONGRESSIONAL VETO LAWS ENACTED BY THE 96TH CONGRESS

Act No.	Bill No.	Title	Date of approval	Page in report
1. Public Law 96–22	S. 7	Veterans' Health Care Amendments of 1979	June 13, 1979	25, 41.
2. Public Law 96–60	H.R. 3363	Department of State Authorization for 1980 and 1981	Aug. 15, 1979	64.
3. Public Law 96–69	H.R. 4388	Energy and Water Development Appropriations for Fiscal Year 1980	Sept. 25, 1979	102.
4. Public Law 96–72	S. 737	Export Administration Act Amendments of 1979	Sept. 29, 1979	60, 93.
5. Public Law 96–74	H.R. 4393	Treasury, Postal Service and General Government Appropriations for Fiscal Year 1980	do	103.
6. Public Law 96–79	S. 544	Health Planning Amendments of 1979	Oct. 4, 1979	54.
7. Public Law 96–88	H.R. 2444	Department of Education Organization Act	Oct. 17, 1979	49.
8. Public Law 96–102	S. 1030	Emergency Energy Conservation Act of 1979	Nov. 5, 1979	80.
9. Public Law 96–122	S. 1037	District of Columbia Retirement Reform Act	Nov. 17, 1979	83, 91.
10. Public Law 96–126	H.R. 4930	Department of Interior and Related Appropriations Fiscal Year 1980	Nov. 27, 1979	112.
11. Public Law 96–132	S. 1157	Department of Justice Authorization for Fiscal Year 1980	Nov. 30, 1979	96.
12. Public Law 96–151	H.R. 3892	Veterans' Administration Health Resources and Program Extension Act of 1979	Dec. 20, 1979	84.
13. Public Law 96–187	H.R. 5010	Federal Election Campaign Act Amendments of 1979	Jan. 8, 1980	116.
14. Public Law 96–205	H.R. 3756	United States Insular Areas Appropriations Authorization	Mar. 12, 1980	82.
15. Public Law 96–223	H.R. 3919	Crude Oil Windfall Profit Tax Act of 1980	Apr. 2, 1980	86.
16. Public Law 96–230	H.R. 6585	Extension of the Reorganization Authority of the President	Apr. 18, 1980	139.
17. Public Law 96–247	H.R. 10	Civil Rights of Institutionalized Persons Act	May 23, 1980	25.
18. Public Law 96–252	H.R. 2313	Federal Trade Commission Improvements Act of 1980	May 28, 1980	45, 79, 127.
19. Public Law 96–294	S. 932	Energy Security Act	June 30, 1980	69, 90.
20. Public Law 96–332	S. 1140	Marine Protection Research and Sanctuaries Act Authorization	Aug. 29, 1980	94, 139.
21. Public Law 96–364	H.R. 3904	Multiemployer Pension Plan Amendments Act of 1980	Sept. 26, 1980	85.
22. Public Law 96–367	H.R. 7590	Energy and Water Development Appropriations Act of 1981	Oct. 1, 1980	160.
23. Public Law 96–374	H.R. 5192	Education Amendments of 1980	Oct. 3, 1980	118, 123.
24. Public Law 96–464	S. 2622	Coastal Zone Management Improvement Act of 1980	Oct. 17, 1980	145, 151.
25. Public Law 96–482	S. 1156	Solid Waste Disposal Act Amendments of 1980	Oct. 21, 1980	96.
26. Public Law 96–487	H.R. 39	Alaska National Interest Conservation Act	Dec. 2, 1980	26.

TABLE 1.—CONGRESSIONAL VETO LAWS ENACTED BY THE 96TH CONGRESS—Continued

Act No.	Bill No.	Title	Date of approval	Page in report
27. Public Law 96-510	H.R. 7020	Comprehensive Environmental Response and Liability Act of 1980	Dec. 11, 1980	109, 148.
28. Public Law 96-514	H.R. 7724	Department of Interior and Related Agencies Appropriations, 1981	Dec. 12, 1980	162.
29. Public Law 96-515	H.R. 5496	National Historic Preservation Act Amendments of 1980	do	122.
30. Public Law 96-526	H.R. 7631	Housing and Urban Development Appropriations, 1981	Dec. 15, 1980	160.
31. Public Law 96-533	H.R. 6942	International Security and Development Cooperation Act	Dec. 16, 1980	142, 157.
32. Public Law 96-539	H.R. 7018	Federal Insecticide, Fungicide and Rodenticide Act	Dec. 17, 1980	146.
33. Public Law 96-592	S. 1465	Farm Credit Act Amendments of 1980	Dec. 24, 1980	108, 158.

Mr. SCHMITT. By and large, these procedures have worked effectively to insure that the Congress retains control over the executive of delegated rulemaking authority. I might mention in passing that there were nine legislative vetoes in the reconciliation bill passed by the Congress and signed into law by the President last year.

With this substantial record of success behind us, the time has now come to extend this procedure to encompass rulemaking generally. Our Government has evolved in a manner unforseen by the Founding Fathers. Their vision was one of three branches of government, each balancing and checking the excesses of the others. Nowhere in that vision was there room for a fourth branch of government with powers loaned or given it by the original three branches. As we enter our third century of national existence, the need for some form of delegation will in all probability increase because the Congress simply does not have the time to act knowledgably on all of the matters brought before it. But this process must be brought under control.

The authors of S. 1080 also recognize the need to restrain the independence of the regulation writers in our Government. I support their effort with one caveat; we must guarantee a stronger role for the Congress, to complement the strengthened executive and judicial powers over the rulemaking process. The legislative veto will fulfill this need as it gives to the Congress—and ultimately to the American people—control over the creation of regulatory law.

I believe that in the long run this is what regulatory reform is all about. Surely we need to have an executive branch which has the necessary power to review the rules of its own agencies. Many also agree that a new view of the role of the courts in the rulemaking process is also in order. But most important is the voice of the American people. The public does not express itself through the courts, nor does it speak through the executive branch on the multiplicity of rulemaking issues and legislative issues that the Congress must oversee. It is the Congress that fills this role and is the Congress that must have the power to overturn proposed rules if we are to have permanent regulatory reform.

If we do not move in this direction, or if the courts should overturn the use of the legislative veto, our only choice will be vastly greater specificity in the standards and policy contained in legislation delegating rulemaking power to the independent agencies or the executive agencies. Not only will this increased specificity further hamstring the freedom of administrative action by the executive, but it will clearly increase the workload of the Congress immeasurably during the period of time when we will have many other far more critical issues to deal with.

Mr. President, I ask unanimous consent that a section-by-section analysis of the amendment be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF DRAFT AMENDMENT TO S. 1080, PROVIDING FOR CONGRESSIONAL REVIEW OF AGENCY RULES

This amendment would amend S. 1080, a bill to amend the Administrative Procedure Act, to require federal agencies to analyze the effects of rules to improve their effectiveness and improve their compliance costs, and to provide for periodic and possible disapproval by both Houses of applicable rules.

SECTION 801. DEFINITIONS

This section defines the following terms:

"agency" as defined in section 551(1) of title 5;

"rule" as defined in section 553;

"resolution of disapproval" as a concurrent resolution which indicates congressional disapproval of a recommended final rule issued by an agency;

"appropriate committee" as the House or Senate committee with primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

SECTION 802. CONGRESSIONAL REVIEW OF AGENCY RULES

Subsection (a) makes the congressional review provisions inapplicable to the following kinds of rules:

Any rule for which an agency makes a finding under section 553(b)(3), when an agency for good cause finds that notice and public procedure thereon are unnecessary because of the insignificant impact of the rule and publishes an explanation of the reason therefor;

Any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefore, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

Any rule if an agency for good cause finds that providing notice and public procedure prior to effectiveness is impracticable or contrary to an important public interest and publishes an explanation of the reason for this finding; or

The head of an agency determines that the rule is being issued in response to an emergency situation and has submitted a reason for this determination to the chairman and ranking minority member of the appropriate committees.

Notwithstanding any other provision of law, emergency rules shall terminate 120 days after the date of issuance unless earlier withdrawn or earlier set aside by judicial action.

Subsection (b) provides that notwithstanding any other provision of law, any final rule subject to section 802 shall be considered a recommendation of the agency and shall have no force and effect as a rule unless it has become effective in accordance with the section.

Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of 45 days of continuous session after the date Congress receives the recommended rule. If before the expiration of the 45-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval, the rule may not become effective if within 30 days of continuous session after the reporting or discharge, one House agrees to a resolution of disapproval and within 30 additional days of continuous session after transmittal of the resolution of disapproval to the other House, that other House agrees to the resolution of disapproval.

A resolution of disapproval shall be accompanied by a committee report specifying the reasons whenever a committee reports a resolution of disapproval.

Notwithstanding the 45-day requirement, a recommended final rule may become effective at any time after the day on which either House defeats a resolution of disapproval and, in the case of the Senate, disposal of a motion to reconsider such resolution.

Except as provided below, if Congress adjourns sine die at the end of a Congress prior to the expiration of periods specified with respect to recommended final rules, the rule shall not become effective during that Congress. The agency may resubmit the rule in the next Congress and time periods begin on the date of resubmission.

If Congress adjourns sine die at the end of a Congress prior to expiration of periods specified for review, an agency transmits a recommended final rule at least 45 days of continuous session prior to the date of adjournment sine die, and either House does not adopt a resolution of disapproval, the rule may become effective at any time after the date of adjournment sine die at the end of a Congress.

An agency shall submit to the Secretary of the Senate and Clerk of the House a copy of the complete text of a recommended final rule and copy of other materials on the day on which a recommended final rule is submitted for publication in the Federal Register.

The periods of congressional review begin on the first day when both Houses are in session if either House is not in session on the day of transmittal to Congress.

The Secretary of the Senate and Clerk of the House are authorized to receive recommended final rules on days when their respective bodies are not in session.

The Secretary or Clerk shall transmit a copy of a recommended final rule and accompanying materials to appropriate committees on the day either officer receives them or, if received when either House is not in session, on the first day thereafter on which both Houses are in session.

Subsection (c) states that if a recommended final rule is disapproved, the agency may issue a new recommended final rule that relates to the same acts or practices as the disapproved rule. The new rule shall be based upon the rule making record of the disapproved recommended final rule, or that rule making record and the record established in supplemental rule making proceedings, and may reflect such changes as the agency considers necessary or appropriate in light of the congressional debate on the resolution of disapproval. The new recommended final rule shall be submitted to the Secretary of the Senate and Clerk of the House and shall become effective in accordance with the congressional review process.

Subsection (d) provides that congressional inaction or rejection of a resolution of disapproval shall not be deemed an expression of approval of the rule.

SECTION 803. PROCEDURES FOR CONSIDERATION OF RESOLUTIONS OF DISAPPROVAL

Subsection (a) provides that certain provisions are enacted as an exercise of the rulemaking power of the Senate and House and are deemed a part of the rules of each House and are enacted with full recognition of the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as in the case of any other rule of either House.

Subsection (b) indicates that resolutions of disapproval shall be immediately referred to the appropriate committee.

Subsection (c) relates to discharge of committees. A motion to discharge is in order if the committee to which a resolution of disapproval has been referred does not report it within 30 days of continuous session after the date of transmittal or if the committee to which a resolution transmitted from the other House does not report it within 20 days after transmittal from the other House. Any motion to discharge must be supported in writing by one-fifth of the Members of the House involved and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule). Debate is limited to not more than one hour, the time to be divided in the House equally between those favoring and those opposing the motion and in the Senate equally between and controlled by the majority leader and minority leader or their designees. An amendment to the motion to discharge is not in order.

Subsection (d) provides that consideration of a resolution of disapproval shall be in accord with the rules of the Senate and House. When a committee has reported or been discharged from further consideration of a resolution of disapproval, it shall be in order anytime thereafter to proceed to immediate consideration of a resolution. Debate on a resolution disapproval is limited to not more than two hours, to be equally divided in the House between proponents and opponents and in the Senate by the majority leader and minority leader or their designees. No motion to limit debate, amend, or recommit the resolution is in order. A motion to reconsider the vote is in order only on the day on which the vote occurs and is not debatable. Other motions are decided without debate.

Subsection (e) states that if, prior to adoption of a resolution of disapproval, either House receives a resolution adopted by the other House, the resolution from the other House shall be placed on the appropriate calendar of the first House.

Subsection (f) indicates that continuity of session is broken only by an adjournment sine die at the end of a Congress, and the days on which either House is not in session because of an adjournment of more than 15 days are excluded in the computation of days of continuous session. It amends the table of chapters for part I of title 5 of the United States Code by inserting after chapter 7 "8. Congressional Review of Agency Rule Making". The effective date of this section is the first day of the Ninety-eighth Congress.

CURRENT ISSUES BEFORE SUPREME COURT

Mr. SCHMITT. Mr. President, the amendment to S. 1080 which I offer today, to provide for congressional review of agency rulemaking, serves two major purposes. First, it strengthens and supports the objective of S. 1080 in seeking to bring the administrative lawmaking process under control through rational, orderly, and coordinated procedures by insuring that the end products of the new process conform to the legislative will that authorized their exercise in the first place. Second, it reaffirms the essential principle that ultimate constitutional responsibility and accountability for lawmaking remains with the Congress.

My proposal would amend the Administrative Procedure Act by adding a new chapter entitled "Congressional Review of Agency Rulemaking" which would allow the Congress the opportunity to examine and disapprove administrative rules by concurrent resolution. That is, recommended final agency rules would have to be submitted to Congress and would become effective unless within 75 days one House passes a resolution of disapproval and within 30 days thereafter the other House agrees to the resolution of disapproval.

Thus my amendment deals exclusively with the administrative rulemaking process. It does not involve or intrude in any way upon agency decisional processes in furtherance of the execution of laws enacted by Congress nor does it interfere with quasi-judicial decisionmaking. Further, the veto provision in my proposal does not enforce any law or appoint any agents to enforce any law; and does not adversely affect judicial review. Since the veto is only applicable to recommended rules and not to rules which are already effective, no existing law is changed, the rights, duties, and obligations of the members of the public remain unchanged, and the scope of executive discretion under the law is undiminished. In short, the veto mechanism embodied in my amendment neither intrudes into the Executive's power to administer the law or the judiciary's right to review or interpret it. Rather, it is a proper extension of congressional control over the constitutional lawmaking process which has received judicial approval in both this and closely related contexts. It is no more than another aspect of the historic practice of cooperative interaction of the legislative and executive branches from the time our Nation began the business of governing in 1789.

Although one must resist simplistic distinctions between executive, judicial, and legislative functions, there is an undeniably strong connection between legislative power and informal rulemaking. Rulemaking power is, of course, a preeminent feature of the modern administrative agency, and the promulgation of rules has been a normal feature of American Government since its inception. It is only during the present century, however, that rulemaking authority has brought about a shift in the center of gravity of lawmaking. Due to the increasing complexity of modern society, Congress now lacks the capacity to enact all of the legislation that it regards as desirable. The number and size of the problems requiring regulatory attention, together with the constraints on congressional decisionmaking, increasingly demand that legislative tasks be delegated to administrative agencies. It was originally thought that the agencies would merely work out the technical details of broad policies established by Congress. Yet today, administrative legislation dwarfs the primary legislation of Congress, and the vastness of the delegations now required have blurred the line between principle and detail. The legislative mandate of the agencies is often a skeleton; consequently, they must author the broad regulatory policies characteristic of statutory law. Not surprisingly, therefore, the Supreme Court has treated rulemaking as a legislative process for purposes of both the President's removal power and due process. In view of the essentially legislative character of administrative rules, strong reasons exist for the Congress to maintain, as far as practicable, as much control over agency rulemaking as is possible.

I cannot deny the validity of the concerns expressed by advocates of increased Presidential supervision of agency policymaking. Administrative policymaking is now largely unaccountable to either the Congress or the President. Due to the broad delegations of lawmaking power unpheld by the courts and the oftentimes sporadic quality of congressional oversight, Congress had failed to perform its constitutionally assigned task of legislating basic policy. Those concerns and institutional failings are well reflected in the provisions of S. 1080 and its authors are to be commended for their insight and proposed solution.

But the very real and very serious question raised by S. 1080's solution—Presidential control over agency rulemaking—is whether it is the most proper or appropriate response to this problem: Does Presidential policymaking control distort rather than insure adherence to constitutional values? Let me briefly outline my concerns. To the extent that the President can control rulemaking, he has the unilateral ability to enact fundamental domestic policy, a power that the Constitution entrusts to the legislature. Presidential direction of rulemaking thus undermines the values that the framers sought to protect by resting lawmaking power in congress. First, placing lawmaking authority in the President's hand deprives lawmaking of much of its participatory character. Congress can act only after legislation has been publicly proposed and debated. During the often lengthy period of consideration, interested groups can and do voice their views. In contrast, the Presidential decisionmaking process, by institutional design, is often hidden from the public's view, and the sense of participation is correspondingly diminished.

Second, Presidential control, in effect, makes it considerably easier to enact or repeal legislation. Due to the slowness and political fragmentation of the legislature, the framers expected that regulatory policies could be implemented only with great difficulty. Conferring legislative powers on the President frustrates the framers' expectation. Unrestrained by the procedural complications and political vicissitudes of the legislature, the President can rather easily implement regulatory policy through Executive order, as is presently occurring under Executive Order 12291, or through informal directive to his agent designated pursuant to section 624 of S. 1080 as might occur under the similarly centralized oversight process to be established under the bill now under consideration. The difficulties accompanying congressional action facilitate this type of legislative action: Congress can prevent the implementation of the President's domestic policies only by enacting a statute to block the action. And the President can render his action even more secure by using his veto power. Ironically, a two-thirds majority vote would be needed to overturn rather than undertake such legislative action. As a result, the continuity of domestic policy that the framers must have desired is disturbed. Using his power to control rulemaking, each successive President could discard disagreeable policies or implement new ones. Perhaps more importantly, the ease of legislative action through Presidential control of rulemaking would thwart the Framers' desire to limit governmental power.

Third, there is no assurance that policies enacted via executive action will be accompanied by a sufficiently broad popular consensus. It is a matter of political reality that an elected candidate does not represent the views of his constituency on every issue. Voters often elect a candidate because they support his position on issues that they consider fundamental, and they may disagree with many of his other stances. If permitted to legislate by Executive order or other less formal directives, the President can enact his less popular policies with a simple stroke of his pen. In contrast, a Congressman encounters greater difficulty because, unlike the President, he must persuade a majority of Congress to accept his views. There is thus a much greater guarantee that legislation passed by Congress has the wide popular support that the Framers desired. Ironically, Presidential control of the substantive products of the administrative process, a measure sometimes urged to improve the accountability of the administrative process, actually reduces the voters' control over domestic policy. One commentator has described the dilemma we now face as follows:

> [Presidential legislation] provides policy quickly and decisively. [But by] evading Congress, * * * it sacrifices accountability and consent. In short, it replaces government by law with rule by orders. (Fleishman and Aufses, Law and Orders: The Problem of Presidential Legislation, 40 Law & Contemp, Prob. 1, 40 (1976).)

Are we then faced with a Hobson's choice between an efficient control mechanism and one that insures accountability? I think not, for I believe that choice has been made for us by the Framers of the Constitution. In the words of Mr. Justice Brandeis:

> The doctrine of separation of powers was adopted by the Convention of 1787, not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction but, by means of the inevitable friction incident to the distribution of the governmental powers among the three departments, to save the people from autocracy. (*Meyers* v. *United States,* 272 U.S. 55 293 (1926) (Brandeis, J. dissenting).)

Speed and efficiency are not, therefore, the sole proper ends of government. If they were, the framers would have created a dictatorship. The main theme of the Constitution is, of course, the desire to temper the decisiveness of a president with the prudence inherent in a large body which acts through deliberation, compromise, and consensus. And it is that prudence, coupled with the fact that Congress is closer to the people and reflects the diversity of their views, that gives rise to its special competence, a unique legitimacy to commit the resources and will of the Nation.

I submit that the amendment establishes a balance between the governmental needs of efficiency and responsibility that is both effective and constitutional. The proposal would not alter any aspect of the new procedural process created by S. 1080. Indeed, I applaud the statutory recognition of the President's constitutional duty "to take care that the laws be faithfully executed" and the authority it vests in him to supervise and guide executive officers in carrying out the statutes under which they act so that there can be some measure of uniformity in the interpretation and execution of the diverse laws enacted by Congress. The uncertainty of the lawfulness of such guidance from the President, or of the mechanism to effectively provide such direction, has in great measure contributed to the confusion and inconsistency among Government agencies that brings us here today.

The amendment would add elements of deliberation, compromise, and consensus that are the hallmark of a representative policymaking body that is directly accountable to the people they serve and on whom the subject rules will directly impact. Moreover, congressional review under the proposal would extend beyond simply the major rules covered by the S. 1080 process, which involve only a minute portion of the total volume of rules annually spewed out of the agencies, and encompass virtually all such rules with public effect. Thus the legislative veto provides for a measure of control and accountability over administrative lawmaking that is totally absent from S. 1080. I would quickly add that this will not add an insuperable burden to our functioning. The vast majority of the rules that will come before us are either technical amendments or are so demonstrably trivial that there will be little valuable time expended. For the remainder, our staff oversight processes currently monitor most if not all significant agency undertakings and thus will require no increase in staff to accomplish the new review task. If anything, such formal oversight will sharpen jurisdictional committee vigilance and will prevent an errant rule from slipping through the cracks. Those critics that disparage legislative oversight sorely underestimate the efficacy of current practices and depreciate the beneficial effects that potential close scrutiny and rejection will have on agencies. I am confident that it will foster a degree of forthcomingness and cooperation that will not only facilitate the administrative process but will invest it with a public sense of legitimacy that has long been absent.

I cannot, and will not, ignore the decision of the Court of Appeals for the District of Columbia in Consumer Energy Council of America (CECA) against FERC holding the one-House veto provision in the Natural Gas Policy Act of 1978 unconstitutional. I believe that case was wrongly decided. The court's opinion presents a distorted and erroneous view of the nature and origins of the separation of powers doctrine and evidences a naive, simplistic, and thoroughly misleading understanding of the way in which modern government works. I am confident that it will be reversed by the Supreme Court. A brief review of the decision and its faulty premises will demonstrate the source of my confidence.

The CECA court essentially accepted the two arguments traditionally presented by legislative veto opponents. First, it held the device to violate article I, section 7 of the Constitution in two respects: It prevented the President from exercising his veto power and permitted legislative action without the concurrence of both Houses of Congress. In addition, the court held that the legislative veto violated the doctrine of separation of powers through which the powers of Government are allocated to different branches. The veto device was an attempt by Congress, said the court, to intrude into the administration and execution of the laws that it had enacted. Moreover, to the extent that the veto was used to police compliance with a statutory mandate, it intruded into the exclusive province of the Judiciary as well.

The CECA court's opinion reflects an idealized conception of the separation of powers that is neither historically accurate nor has, until now, been actually applied to overturn an act of Congress. Moreover, its compartmentalist view has been emphatically rejected by all modern Supreme Court decisions.

There can be little question that the theory of separation of powers—born from a psychological understanding of the nature of man and adopted by the Framers as part of the Nation's experiment in fashioning institutional defenses against tyranny—retains an enduring hold on the public imagination. It has come to function as something of an idealized archtype, bequeathed to present generations by farsighted realists of past generations.

But it is also unquestionable that our modern administrative process does not, of course, strictly conform to the Framer's idealized theory of the separation of powers. Administrative agencies were deliberately created as instruments of blended powers. In many instances they were expressly created to combine legislative, executive, and judicial powers. the protection of the people's liberties that was to come, in Brandeis' phrase, from the "inevitable friction" among those exercising the separated powers was compromised for the notable strengths—particularly versatility in the development of enforcement of policy—that a combination of powers would permit.

The anomalous position of administrative agencies in a system of government so deeply commited to the theory of separation of powers has naturally been the subject of intense consideration. That consideration has often turned to criticism of a fundamental nature. The Brownlow Commission, for example, reporting to President Roosevelt in 1937, wrote that administrative agencies—

> Constitute a headless "fourth branch" of Government, a haphazard deposit of irresponsible agencies and uncoordinated powers. They do violence to the basic theory of the American Constitution that there should be three major branches of the Government and only three.

The committee recommended that—

> [a]ny program to restore our constitutional ideal of a fully coordinated Executive Branch responsible to the President must bring within the reach of that responsible control all work done by these independent commissions which is not wholly judicial in nature.

That the legitimacy of the administrative process has so often been called into question because of its inconsistency with the separation of powers theory is indeed ironic. James Madison, the American father of the separation doctrine, wrote two of his most important essays on the theory of the separation of powers as defenses of the proposed Constitution against criticism that the powers it assigns to the legislative, the executive, and the judicial departments are not kept sufficiently separate and distinct to satisfy the theory. The Federalist Nos. 47 and 48. Madison replied that the criticism would be serious if it were valid—"no further arguments would be necessary to inspire a universal reprobation of the system," he wrote—but argued that a rigid and formalistic conception of the separation of powers was "warranted by neither the real meaning annexed to that maxim by its author, nor by the sense in which it has hitherto been understood in America." Neither the British Constitution, upon which Montesquieu built his theory, nor the constitutions of the several states, kept the departments of power separate and distinct, "notwithstanding the emphatical and, in some instances, the unqualified terms in which this maxim has been laid down." The Federalist No. 47. For Madison, the theory was most responsibly stated in the requirement of the New Hampshire constitution that—

> "The legislative, executive, and judiciary powers ought to be kept as separate from, and independent of, each other *as the nature of free government will admit; or as is consistent with that chain of connection that binds the whole fabric of the Constitution in one indissoluble bond of unity and amity.*" The Federalist No. 47 (emphasis in original text).

Madison thus regarded the theory of separation of powers as a political maxim that cautioned against excessive and unwise concentration of power but did not preclude another branch of Government from participating in functions assigned primarily to another. His view was shared by his contemporaries. Two distingushed scholars of the formative stages of American administrative law have observed, "The latitude with which the doctrine [of the separation of powers] must be observed in a work-a-day world was steadily insisted upon by those shrewd men of the world who framed the Constitution and the statesman who became the great Chief Justice." Frankfurter & Landis, Powers of Congress Over Procedure in Criminal Contempts in "Inferior" Federal Courts—A Study in Separation of Powers, 37 Harv. L. Rev. 1010, 1013 (1924).

The Supreme Court, in turn, has recognized that the Constitution does not prescribe a rigid separation of powers among the essential branches of Government. In Buckley against Valeo the Court recognized that the Framers "saw that a hermetic sealing off of the three branches of Government from one another would preclude the establishment of a nation capable of governing itself effectively." In United States against Nixon the Court emphasized that the Framers intended to establish "a workable government": In designing the structure of our Government and dividing and allocating the sovereign power among the coequal branches, the Framers [sought] to provide a comprehensive system, but the separate powers were not intended to operate with absolute independence. Again in Nixon against General Services Administration the Court conceded the necessity for interbranch overlap when it constructed a test for violation of the separation principle which requires the showing of a substantial degree of intrusion:

> [I]n determining whether the Act disrupts the proper balance between the coordinate branches, the proper inquiry focuses on the extent to which it prevents the Executive Branch from accomplishing its constitutionally assigned functions * * *. Only where the potential for disruption is present must we then determine whether the impact is justified by an overriding need to promote objectives within the constitutional authority of Congress.

The Court, in fact, has never regarded the theory of separation of powers as merely an abstract and inflexible legal doctrine. Instead, it consistently has considered as paramount the policies that the theory is designed to serve. The Court has given content to the theory by estimating the relationship of these policies to the particular question before it, and by fashioning safeguards to secure the essential constitutional balance that the principle of separation of powers was designed to preserve. Nothing better illustrates this process of accommodating the goals of the theory with the needs of effective government than the long series of decision by which the rules governing the delegation of legislative power have been created. The Court has always shaped its reading of the theory by reference both to its fundamental purposes and to the perception, lucidly stated by Woodrow Wilson, that government is "not a machine, but a living thing" and "[n]o living thing can have its organs offset against each other as checks, and live."

Thus, the conventional understanding of the separation of powers can be seen as an apotheosized version of the theory that the Framers actually understood and choose to incorporate into the new Nation's Constitution. The lines of this popular version of the theory have a conceptual purity and immutability that Madison, the quintessential pluralist, and his contemporaries would have seen only as naive and unwise. But it is this simplistic version of the theory of separation of powers that permeates and informs the opinion of the CECA court. There is no apparent appreciation of the subtleties of the theory that would allow experimentation with novel devices that seek to promote more effective government short of permitting the intrusion of the evils of tyranny by allowing the accumulation of too much power in one branch.

This rigidity of conception is carried over into the Court's treatment of the bicameralism and presentment clauses. The court chose to ignore that the delegation of agency rulemaking authority at issue was achieved through the vehicle of a validly enacted statute concurred in by the President. It closed its eyes to the inextricable relation between legislative and administrative lawmaking. Instead, it imposed its compartmental view of government: Once a delegation of lawmaking authority is complete, ipso facto it becomes part of the executive process, even though its essential nature is legislative and even though the clear intent of the Congress was to condition that delegation to insure its appropriate use.

A proper constitutional inquiry will avoid stereotype arguments and refer to the nature of the particular power involved and the intended relationship of that power to the structure of our constitutional scheme. Such an inquiry reveals the intimate relation between congressional policymaking and legislative origination ("all legislative powers * * * shall be vested in Congress.* * *"). The Framers' decision to vest in Congress the exclusive authority to make domestic policy was governed significantly by considerations of institutional competence. Institutional competence refers to the comparative advantages inherent in the operation of each branch. Because the President possesses final authority over his actions, he can make decisions and take action more quickly than can Congress. Congress, on the other hand, by design acts more slowly as issues are debated, compromises made, consensus built, and differences between the two Houses reconciled. Another crucial difference concerns the relative openness of the two branches to public scrutiny. While legislation is subject to an on-the-record public debate, only the final outcome of executive decisionmaking need be publicly disclosed. Indeed, the Supreme Court has told that the President has a constitutionally protected interest in the confidentiality of communications with his chief advisers. These differences suggest that the President is best suited to act in emergency situations, where speed is at a premium, and in foreign affairs, where an open decisionmaking process might damage the national interest or hinder a thorough consideration of the relevant issues. It also strongly suggests that the prudence inherent in a large body which acts through deliberation, compromise, and consensus, coupled with the fact it is a representative body that is more directly reflective than the Executive of the diversity of views of the people, gives rise to the legislature's special competence: Its unique legitimacy to make policy, to allocate the resources of the Nation, and to commit the will of the people.

A necessary corollary of this assignment of exclusive control of the legislative process is that Congress, in the act of delegating legislative power, may not abdicate its constitutional responsibility for making the Nation's basic decisions of policy. Thus the constitutional obligation of Congress to control the legislative process does not end until that process is complete.

In our complex modern society, where shifting necessities or novel problems demand timely national solutions, there will be occasions when Congress cannot itself make wise decisions because experience with the substantive areas under consideration is too limited and the policy questions that must be answered are still too indistinct to permit precise lawmaking. In such instances Congress has been, and will be, compelled to act by delegating lawmaking authority to the Executive. But sharing the legislative process with the Executive does not transform its nature and invest it with an executive hue. Execution of the law, and therefore exclusive executive responsibility, begins when there is law to execute. A substantive agency rule becomes a law only when the procedures prescribed by Congress for its promulgation are fulfilled.

I would conclude by emphasizing the following points. This amendment would subject only agency rulemaking to congressional review and possible veto—and only recommended rules would be subject to such scrutiny. It does not in any way effect agency decisional processes in furtherance of the execution of laws enacted be Congress nor does it interfere with quasi-judicial agency decisionmaking.

Further, since the proposal implicates both Houses of Congress in the decision to reject recommended agency rulemaking, whatever force the bicameralism argument might have had, loses its vitality entirely.

Also, there would be no nullification of the Presidential veto since the executive would have had his opportunity to veto the proposal when it is initially presented to him for his approval or disapproval.

Finally, and most importantly, the thrust of the amendment impacts exclusively on the essence of the legislative function: The setting of policy for the Nation. Indeed, there is no way to divorce congressional policymaking and legislative origination from the authority delegated agencies to promulgate administrative legislation consonant with the congressionally determined policy decision.

I will finish by reiterating my fundamental perception of the issue. Substantive rulemaking by administrative agencies is a delegated legislative function that remains part of the legislative process and is subject to such procedural requirements, limitations and conditions as Congress sees fit to impose in order to preserve the integrity of that process as well as to fulfill its constitutional responsibility as the ultimate Federal lawmaker. As there is no irrevocable commitment of rulemaking power, agencies exercising delegated lawmaking authority are acting as agents of the Congress.

The veto provision in my proposal does not enforce any law or appoint any agents to enforce any law and does not adversely affect judicial review. The amendment does not intrude into the executive's power to administer the law or the judiciary's right to review and interpret it. Accordingly, the veto embodied in my proposal is a permissible device in aid of legislation in a legislative context. Finally, it is consistent with and supportive of the principles and philosophy of S. 1080. I urge the adoption of the amendment and the passage of S. 1080.

CONGRESS AS A CONSTITUTIONAL DECISIONMAKER

Some objection has been raised that consideration of my amendment to S. 1080 is precluded by the District of Columbia Circuit Court's recent ruling in Consumer Energy Council against FERC that the one-House legislative veto provision in section 202(c) of the Natural Gas Policy Act of 1978 is unconstitutional; that this body may no longer consider a matter of great legislative concern and constitutional significance simply because one panel of one court of appeals has rendered an opinion, a highly controversial and, in my view, suspect one at that, in an area which has yet to receive full review by the Supreme Court of the United States. I submit that such deference is not only uncharacteristic of this body but would be a damaging abdication of its constitutional duties and prerogatives.

As Senators, we all have responsibility to consider the constitutional aspects of the actions we take in the performance of our senatorial duties. We cannot be fully responsive to the high calling of our office by simply saying, "We cannot act thus and so because the Supreme Court might have constitutional objections." I would remind my colleagues again that the Supreme Court has not spoken at all on this important issue; and in fact one court has upheld the validity of another one-House veto.

Moreover, I would note that the rulings of this particular court of appeals have not achieved an especially inspiring record of approval before the High Court of late, particularly when it has dealt with issues concerning disputes over the constitutional prerogatives between the Congress and the executive.

In *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the District of Columbia appeals court was overruled in its view of the separation of powers doctrine and the appointments clause of the Constitution and in *Goldwater* v. *Carter*, 101 S. Ct. 2766 (1981), its holding that the President had power to terminate a treaty with Taiwan without congressional approval was summarily reversed. The High Court reversed the appeals court in its attempt to limit the FCC's authority to impose sanctions on the broadcasting of "patently offensive" and "indecent" language in *FCC* v. *Pacifica Foundation*, 438 U.S. 726 (1978). And most recently the lower court's judgment again was found wanting when the Supreme Court held that the Secretary of State had the statutory authority to revoke the passport of an individual who exposed the identities of American intelligence agents because he was causing serious damage to the national security and foreign policy of the United States. These examples of overrulings, among many more that could be cited, are not meant to denigrate the quality of that court. But they underline the potential evanescence of lower court decisions in areas of serious constitutional adjudication or special political sensitivity. The final word on the meaning of the Constitution is concededly that of the Supreme Court but until that tribunal has spoken in a definitive manner, we cannot deem ourselves shackled and mute. Ours is a higher duty. It is a duty that requires us—especially when great constitutional questions confront us in the first instance—to examine, and determine, by calling on our collective wisdom, the constitutionality of actions we are called upon to take and laws we are called upon to pass.

Congress, no less than the judiciary, is bound by the Constitution and is obligated to assess the constitutionality of its actions. The notion that the judiciary has a monopoly on constitutional decisionmaking has never held sway in our history. For example, during the first Congress debate over its consitutional authority to restrict the President's power to remove his Secretary of Foreign Affairs, James Madison asserted:

> I acknowledge, in the ordinary course of government, that the exposition of the laws and Constitution desolves upon the Judiciary. But I beg to know, upon what principle it can be contended, that any one department draws from the Constitution greater powers than another, in marking out the limits of the powers of the several departments? The Constitution is the charter of the people to the Government; it specifies certain great powers as absolutely granted and marks out the departments to exercise them. If the Constitutional boundary of either be brought into question, I do not see that any one of these independent departments has more right than another to declare their sentiments on that point.

The language of the Constitution itself provides support for this position. Some provisions are explicitly addressed to legislatures: Article 1, section 9 provides: "No Bill of Attainder or export facto law shall be passed;" the first amendment says, "Congress shall make no law * * *;" the 14th amendment provides, "No State shall make or enforce any law. * * *" Many other provisions are addressed to legislatures by clear implication; for example, it would seem odd if Congress were to legislate without inquiring whether article I gave it the authority to do so. Moreover, article VI requires all legislators and officials to "be bound by Oath or Affirmation, to Support this Constitution * * *" although this does not mean that all constitutional questions are open to all institutions at all times, the most obvious way for a legislator to support the Constitution is to consider and then enact legislation he believes is constitutional.

In 1789 the nature and legitimacy of judicial review was far from settled. But the ascendancy of the judiciary as the most visible and systematic constitutional decisionmaker does not undercut the legislature's obligation. Chief Justice Marshall's classic justification for judicial review in *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137 (1803), was not premised on any special, let alone exclusive, constitutional function of the Court, but simply on its duty to decide the case before it conformably to the superior law of the Constitution.

Other arguments for judicial review have accorded the judiciary a special function, but none implies that its role as constitutional interpreter is exclusive of other institutions. There may, indeed, exist constitutional issues committed to the so-called political branches to the exclusion of the judiciary as a long line of Supreme Court decisions have recognized. See, e.g., *Powell* v. *McCormack*, 395 U.S. 486 (1969); *Baker* v. *Carr*, 369 U.S. 186 (1962).

Moreover, courts often accord a challenged law a "presumption of constitutionality" based upon the assumption that the legislature has previously passed upon the constitutional questions presented. Even where judicial deference is attenuated, the courts may lack the institutional capacity to review all aspects of legislative decisions, such as the subjective motivations of the lawmakers. Here, if the Constitution is to be applied at all, it must be applied by ourselves as lawmakers.

Finally, it cannot be said we are not adequately equipped to assess the constitutionality of the laws we pass. Our bills are more often than not drafted by lawyers with expertise in the substantive area addressed and reviewed later by more lawyers. This is of course the case with administration drafted legislation which is scrutinized by the Department of Justice. Once a bill reaches our jurisdictional committees it is subject to testimony and written memoranda from interested persons and organizations. Views may be solicited from legal experts in the field. The committee's own staff can research constitutional questions and can call upon the American Law Division of the Library of Congress, which is staffed with attorneys. If the committee reports out the bill favorably, its report may discuss both sides of a constitutional issue, and dissenting views may be presented in a minority report.

Before or during debate on the floor, individual legislators can seek legal advice from their own staff, from outside experts, and from the American Law Division. Debates on the floor of the House and Senate may focus on constitutional questions. We are all well aware that a majority of the membership of the Congress are trained as lawyers.

In sum, then, there can be no substantial argument that the Senate is precluded from considering and passing a measure containing a provision for legislative veto. Where, as here, the Supreme Court has not rendered a definitive constitutional interpretation in an area, it is emphatically our duty under the Constitution to perform that task.

Mr. President, I now yield to the distinguished Senator from Michigan, Senator Levin.

The PRESIDING OFFICER (Mr. Warner.) The Senator from Michigan.

Mr. LEVIN. I thank the Chair and I thank my friend from New Mexico.

Mr. President, I am delighted to join with Senators Schmitt, Boren and Grassley in offering this amendment. The very fact that the four of us are joining together ought to tell our colleagues that this is not a partisan issue and that it is not even an issue which can be subjected to the stereotypic philosophic litmus tests.

Rather, I believe this is an issue which gets to the core of a fundamental constitutional issue: An issue which addresses the basic question of whether any effective control over regulations issued by the bureaucracy ought to rest in the legislative branch of Government.

I will address that constitutional question in a few moments. But in order to establish the perspective from which I view that issue, I want to take just a few moments to address the rationale behind this legislative veto movement.

I became an advocate of legislative veto long before I came to the Senate. Actually, my interest in this issue began when I served on the city council in Detroit. From the point of view of a local elected official, I saw the Congress establish programs designed to aid my community; and then I saw the bureaucracy issue regulations which prevented those programs from working. For example, I recall that the Congress passed an emergency program designed to deal with mortgage foreclosures—and I also remember that HUD issued regulations which prevented that program from taking effect. Those regulations said that the program could kick into effect only when a totally unrealistic national rate of default was reached. Those regulations ignored local conditions—conditions which, in Detroit's case, greatly exceeded even the artificially high national standards—and those regulations made a mockery of the efforts of the Congress by making it impossible for a mandated program to become operational.

When all that happened, I remember calling my elected representatives and complaining. And I remember them returning the complaint and telling me that they were powerless to change the decision of the agency—an agency which, in theory, was implementing a policy the Congress had approved but which, in reality, was precluding that policy from going into effect.

I wondered then about the nature of our system of Government. I wondered how people who were never elected—who were often never even really identified, or easily identified, got the power to thwart the will and wishes of the elected representatives of the people.

The answer to that question can be found in the way we have decided to structure this Government. We long ago realized that no legislation can ever address all the possible situations which may arise. So we created regulatory agencies and charged them with the responsibility of developing rules designed to translate our policy statements into more specific guidelines for behavior. But in that process, we gave more than we bargained for—we gave away the power to effectively review those guidelines so as to assure that they were reasonable, intelligent, flexible enough to meet different local conditions, and consistent with plain old commonsense.

The net result of all that was to set loose on the American body politic a host of faceless decisionmakers; decisionmakers who owe no allegiance to constituents, decisionmakers whose responsibilities are too often defined by procedures rather than people, decisionmakers whose concerns are too often focused on their rules rather than their results. We created a class of people who were insulated from the political process and then we turned over to them the most important and sensitive of political issues involving the implementation of our laws.

It was not wrong to seek the assistance and help of a class of independent professionals—but it was wrong to surrender our responsibilities to them; it was wrong to give such vast powers to an essentially unaccountable fourth branch of government.

The legislative veto simply seeks to reclaim part of what we gave away: the ultimate poser and the ultimate responsibility to guarantee that the laws we pass are properly translated into the rules and regulations which determine how benefits or burdens are passed on to people.

This is a modest but a necessary step. It is, however, a step which some claim is unconstitutional. In broad terms I would suggest that the congressional assertion of its responsibility is surpremely constitutional; it was our surrender of those responsibilities which may be constitutionally suspect.

But let me be more specific and turn to a number of critical arguments advanced by those who question the constitutionality of this proposal.

Initially, of course, many turn to the preliminary opinions rendered by the courts. They point, for example, to the opinion of the D.C. Court of Appeals in the recent case involving the Consumer Energy Council of America against the Federal Energy Regulatory Commission, FERC. There, the court issued a sweeping indictment of the constitutionality of any legislative veto even though the case itself dealt specifically with a one House veto over FERC rules issued pursuant to the Natural Gas Policy Act which the Congress passed in 1978. Opponents of legislative veto also point to the decision of the Ninth Circuit Court of Appeals holding, in Chadha against the United States, that a one-House veto over deportation orders was unconstitutional. Even though the ninth circuit specifically indicated that it was not reaching a decision about the constitutionality of agency rulemaking, some suggest that the Supreme Court—which heard arguments on appeal in February—may issue a broader ruling in this case.

Opponents of legislative veto point to these cases and suggest that the preponderance of current lower court opinion holds that the legislative veto is unconstitutional and that we certainly ought to wait for the Supreme Court to clarify this issue—as it can when it rules on Chadha or if it accepts the FERC decision—before acting. I disagree with this line of argument.

First, if we wait we will be waivering on a position we are currently taking before the Supreme Court, and undercutting our own position. If we hesitate, we would also be undercutting our own powers, powers we have exercised hundreds of times. How can we ever consider jeopardizing our own position? More on that later.

In practical terms, it is also important to note that Chadha—the only case before the Supreme Court—presents us with a unique set of facts which are not germane to the kind of legislative veto before us today. In that case, the House of Representatives overturned a quasi-judicial decision by an administrative law judge. The administrative law judge issued his ruling only after a full hearing and applied it only to one individual rather than prospectively to an entire class. Contrast that with what we are talking about here: A veto of a rule of general applicability which rule is prospective in nature and which rule is the result of a process in which informal notice is given to the public and comments on the case by the public are informal as well.

But even granting the uniqueness of Chadha, some will point to the potential for a ruling in the FERC case and suggest that the Supreme Court's decision there will clearly spell doom for the legislative veto. That, of course, is possible but it is neither probable nor certain.

The judicial and legal community does not have a uniform position on legislative veto.

Looking at court rulings, a powerful case favoring legislative veto was decided in 1977 by the Court of Claims in Atkins against United States. There, a majority of the seven-member panel concluded that a one-House veto over the President's proposed salary schedule for judges was constitutional. More than the reasoning of the court was powerful in that case. The strength of their convictions was compelling since their decision had the impact of denying themselves and their judicial brethren an increase in pay. Clearly here were jurists who believed in the constitutionality of the legislative veto.

Also, Justice Byron White, in his opinion in Buckley against Valeo in 1976 indicated that he believed that a one-House legislative veto over regulations issued by the Federal Elections Commission was constitutionally proper. The other justices did not address this issue and the decision itself did not hinge on it. But at least one member of the Supreme Court is on record as viewing the legislative veto process as constitutional.

Nor is this judicial view held only on the Federal level. A variety of States have legislative veto mechanisms established in their own procedures. The State Supreme Courts in New York and Colorado, for example, have reviewed those mechanisms and found them constitutional as well as an advisory opinion from Tennessee's attorney general.

In addition, legal scholars have also added their support to this approach. Authorities like Prof. Edward Corwin, Prof. Bernard Schwartz of NYU, Prof. Nathaniel Nathanson of Northwestern, Prof. Arthur Miller of George Washington University, and others have written on this issue.

My point in stacking these authorities is not to use them in an attempt to persuade you to reach a judicial decision that the legislative veto is constitutional. Rather my purpose is to demonstrate that there is intellectual validity to the position we are taking here and that there is no presumption—based on some existing preliminary court decisions—supporting the view that legislative veto is unconstitutional. Other court decisions and respectable legal authority find it to be very constitutional indeed.

Those who oppose the legislative veto on constitutional grounds usually do so for one of two reasons. First, they suggest that the legislative veto violates the presentment clause of the Constitution.

That clause, found in article I, section 7, requires that "every order, resolution of vote in which the concurrence of the Senate and House of Representatives may be necessary * * * shall be presented to the President of the United States" for his approval.

Simple words, words designed to protect a fundamental constitutional principle: that the President shall have the right to reject the legislative acts of Congress. It is that principle which underpins the Presidential right to veto legislation. And it is the fear that the legislative veto precludes that constitutionality mandated right of Presidents to be involved in the legislative acts of Congress which inspires many of our opponents.

But let us take a look at those words more closely. They give the President the right to veto the legislative acts of the Congress, they give him the right to be involved in those legislative acts. But they do not give the President a role in all issues which come before the Congress or all the legislative activities of the Congress. No one questions the constitutionality of concurrent resolutions—resolutions which require the assent of both Houses of Congress but never go to the President and never afford him an opportunity to exercise his veto. Why this anomaly, why this exclusion?

I suggest that the answer rests in the fact that legislative activity, as illustrated by a concurrent resolution, is a broad term—A genus—of which legislative acts congressional behavior which changes law and requires Presidential involvement, is just a subclass.

The legislative veto is an example of a legislative activity but it is not a legislative act any more than many other of our activities are legislative acts subject to Presidential veto. Legislative veto is accomplished in our amendment by concurrent resolution. It does not change the law. It is not subject to the constitutional mandate of Presidential presentment. It is, in this sense, no more necessary to present legislative veto, as we have designed it, to the President than it is necessary to present other concurrent resolutions to the President.

Under a legislative veto, as a concurrent resolution, no law is changed—no alteration in the legal status quo takes place. If vetoed, a rule does not take effect, the law is not implemented in the way the agency proposes. There is, therefore, no constitutional mandate to present the product of congressional activity to the executive.

Let me, if I may, explain this view more fully. Opponents of legislative veto often argue that it is a redundant power—if we do not like a regulation, we are perfectly free to amend the underlying law which authorized or allowed the regulation to be issued. But we may like that underlying law and think it's just fine. Our problem is not with the law, it is with the way the agency proposes to implement it. Accordingly, we want to make it clear that the agency's behavior—their proposed regulation—is what needs to be changed and we do not want or need to change the underlying statute in the process. All we need do is make it clear that the agency action is not an acceptable method of implementing the law, that it is too costly, or too burdensome, or duplicative of other requirements. That is precisely what the legislative veto does.

The veto does not alter the law, it preserves the legal status quo. No legislative act need reaffirm existing law. We do not pass laws saying, in effect, we like the law we passed last year. Such an act would be absurd. But we do engage in legislative activity designed to make sure that the law we passed last year is being effectively and properly administered. We hold oversight hearings. We write letters. We make statements. We adopt concurrent resolutions. And, if this amendment is adopted, we can pass some additional legislative vetoes by concurrent resolution—additional, I emphasize, to hundreds of legislative vetoes already written into specific laws.

Thus, I suggest to those who see the legislative veto as a violation of the presentment clause that they are reading that clause too broadly. They are reading its language to apply to all legislative activity when it should apply only to legislative acts—congressional behavior designed to alter the legal status quo. Legislative vetoes simply stop a proposed way of implementing the law. They are examples of legislative activity which are not subject to the requirements of the presentment clause.

For those who still believe, however, that some level of Presidential involvement is required by the presentment clause, I suggest that the adoption of this amendment constitutes just such an involvement. The President clearly is involved in the process of legislative veto; he has the right to veto the bill which contains the amendment as he had the opportunity to veto the bills containing the existing legislative vetoes. Should he elect not to exercise that veto on this legislation, he has had presented to him a process, and that process has secured his consent. If the President fails to veto this process, he has been involved in the decision to give Congress this power. To that further extent, any requirement of the presentment clause has been fulfilled.

If he vetoes the process, and we override the veto, certainly then, the requirements of the presentment clause would have been met if, indeed, they need be met.

Finally, for those who are still unsatisfied on this point, let me add one other argument to this stockpile. I suggest that the President is involved in the legislative activity represented by a legislative veto because he is involved in the very process which sends the regulation to the Congress in the first place. In this sense, he has what I might call a "prior presentment." But the key point is that this involvement meets the spirit of any test established by the presentment clause even if one believes there were such a test. The President is not isolated from the regulatory activity—he is an integral part of it from its very inception. Thus, I do not believe we infringe on his constitutional prerogatives.

Opponents of the legislative veto often suggest another constitutional impediment: They argue that it violates the separation of powers clause. Obviously, the presentment argument and the separation of powers argument are linked to some degree, but let me deal briefly with the separation of powers issue independently.

First, I suggest that, theoretically, no one ever envisioned the doctrine of separation of powers to be used to justify an absolute division of authority. As the Supreme Court in Buckley against Valeo observed, the framers "saw that a hermetic sealing off of the three branches of government from one another would preclude the establishment of a nation capable of governing itself effectively." And as Justice Felix Frankfurter wrote:

> On the whole "separation of powers" has been treated by the Supreme Court not as a technical legal doctrine . . . functions have been allowed to courts as to which Congress itself might have legislated; matters have been withdrawn from courts and vested in the Executive; laws have been sustained which are congruent upon executive judgment on highly complicated facts . . . Enforcement of a rigid concept of separation of powers would make modern government impossible.

There is, then, a recognized opportunity for give and take—a flow of power—among the branches.

This theoretical permeability has been developed through the concept of delegated authority. It is a long-established principle of our Government that Congress can delegate its legislative authority to the executive branch. Agency rulemaking is one example of that kind of delegated legislative function.

But, as a corollary, it has also been recognized that if Congress elects to delegate authority, it can also set conditions on the exercise of that authority. In the Atkins case, for example, the Court argued that "it is beyond cavil that Congress can delegate power conditionally." In seeking to define the nature of those conditions, the Court turned to a 1939 Supreme Court decision in Currin against Wallace. There, the Supreme Court upheld a system which allowed, to quote the Court, "Congress [to] delegate to the Department of Agriculture the power to inspect tobacco, subject to the condition that the farmers in the relevant area voted to subject their tobacco to such inspection." If the Congress can delegate authority conditioned on the approval of the people, it can clearly delegate authority conditioned on its own approval. Do we really want to say that it is constitutional for farmers in the Wallace case, or another group of citizens, to be able to say they do not approve of the way an agency is exercising its authority and, at the same time say that Congress itself is unable to effectively reach the same judgment?

Constitutionally, however, the basic point is that even when authority over a rulemaking is delegated to the executive, that does not give the executive a separate and independent power to make rules. Quite to the contrary, the executive is acting as an agent of the Congress since its authority comes from the Congress. As the Court of Claims reasoned in Atkins:

> When Congress delegates authority . . . to a member of the Executive Branch, the delegation does not convert the authority granted into an irrevocable power, because in exercising the delegated function, the Executive officer merely acts as an agent of the legislative branch of government.

Thus, legislative veto does not violate any constitutional principle of separation of power. The power exists within the Congress and has simply been lent to the executive. Any reasonable attempt to condition their use of that power is certainly proper and consistent with the Constitution.

In fact, several Supreme Court cases have held that the Congress would be acting unconstitutionally if it delegated its authority in an unchecked manner. The Congress can delegate legislative authority—but it must not delegate its responsibility for how that power is used. The legislative veto may be the best way to retain our responsibility. That seems to have been the position of one of the giants of constitutional interpretation, Edward Corwin, when he wrote in 1957 that:

> As we have seen, moreover, it is generally agreed that the maxim that the legislature may not delegate its powers (too broadly) signifies at the very least that the legislature may not abdicate its powers. Yet how, in view of the scope that legislative delegations take nowadays is the line between delegation and abdications to be maintained? Only, I urge, by rendering the delegated powers recoverable without the consent of the delegatee; and for this purpose, the concurrent resolution seems to be an available mechanism and the only one. To argue otherwise would be an affront to common sense.

So far, I have tried to talk about the legalistic arguments which confound any student of the legislative veto. I have looked at the traditional objections raised against legislative veto in terms of the constitutional standards of presentment and separation of powers. But I want to look briefly at one last area—an area which deals with the Constitution not as a legal document but, rather, as a living force which infuses and shapes the nature of American Government.

In that context, I point out that since 1932, we have passed 193 statutes containing 272 provisions allowing for some form of congressional review of executive branch actions. On last year's reconciliation bill alone, we authorized nine specific vetoes of executive branch decisions.

It would be folly for us to now hesitate or falter on this fundamental issue. If we reject this amendment on constitutional grounds, we cast into doubt all of our past actions. We also cast into doubt our ability to take future actions designed to exert our authority.

If we accept the constitutional arguments advanced against this amendment, will any of our legislative vetoes be beyond judicial scrutiny?

Are we willing to surrender Congress's right to act on an arms sale like last year's sale of AWACS? We acted on that under the legislative veto authority, which was part of the Department of Defense Authorization Act.

Are we willing to surrender our right to act on the sale of nuclear fuel to India as we did when we approved the Tarapur sale in 1980? We acted then under the legislative veto authority we had made a part of the Nuclear Nonproliferation Act.

Are we willing to give up the possibility of preventing or sanctioning the introduction of American troops into El Salvador? If we are ever forced to confront that choice, it will be because of the legislative veto power contained in the War Powers Act.

Or consider the proposal to abolish the Department of Energy or the Department of Education. Do we want the Executive to have unilateral power to reorganize the Government? The only thing that stops the Executive from having that power is the legislative veto which requires that it secure our concurrence for such action.

If we reject this amendment, we reject our rights as a coequal institution. But even more important, we reject the right of the people to petition their elected representatives for a redress of grievances. For that is precisely what the legislative veto allows. It allows the people to turn to us and say, "we do not like this regulation—we like the law just fine—but this regulation does not make any sense—please do not let it come into effect." Right now, we can take those pleas and file them. But when we can effectively veto regulations, we can take those pleas and we can act on them.

Mr. President, let me summarize my discussion of legislative veto by quoting one of our former colleagues, James Abourezk. He put it this way:

The Congressional veto is a constitutionally sound tool needed to control the exercise of powers which are delegated to the Executive Branch in necessarily broad terms. Moreover, it plays a vital role in protecting Congress's constitutional role as legislator from an Executive Branch which has increasingly come to view law-making as an activity better performed by itself. The intention here is to demonstrate that use of the Congressional veto is consistent with the distribution of powers enumerated in the Constitution. Rather than interfering with the President's duty to faithfully execute the laws, the Congressional veto preserves the separation of powers by protecting the legislative prerogative from Executive encroachment. Nor is the Congressional veto an attempt to circumvent the President's veto power in violation of the presentation clause. The Congressional veto is not a legislative act which is subject to Presidential approval. It operates as a condition precedent to the effectiveness of proposed Executive action. As a matter of policy, the Congressional veto serves as a vital check when the exercise of Executive powers intrudes upon Congress's role as lawmaker.

Mr. President, I yield, to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I thank the Senator from Michigan.

Before I make my remarks, Mr. President, I should like to recognize the patience of the Senator from Nevada (Mr. Laxalt). He has been a true gentleman in working with us on this proposal. He has exercised extreme patience as we have tried to work things out.

Also, I want to compliment Senator Schmitt, the lead sponsor of this amendment. I have noted him to be a Senator who has set his eye on a legislative goal, and he has kept his eye on that goal. His leadership in this area and his ability to keep his eye tirelessly on that goal is part of the reason why we are where we are today on this issue.

I also want to compliment Senator Levin and Senator Boren for the cooperation that they have shown Senator Schmitt and I on this legislation.

Today is a historic day. The passage of this amendment will mark a great advancement in the development of the regulatory history of America.

But as historic as I say this day is, it cannot be considered dramatic. After hearing what Senator Schmitt has had to say in his review of the long history of the development of the legislative veto, it is clear that our action today is only the natural culmination of decades of development. We are reaching a point of maturity in the development of a system of government which can allow for the delegation of traditional legislative authority but only a limited and conditional delegation with the maintenance of meaningful oversight.

With as many separate veto provisions on the books as we now have, it seems only appropriate that we apply a standardized procedure in one comprehensive statute to apply to all such delegations of regulations. Clearly, with the extensive history of the use of the legislative veto by this body, the burden is upon the opponents of the proposal to prove that we should not adopt a unified comprehensive veto statute.

As chairman of the Subcommittee on Agency Administration, I chaired for the Senate a hearing on this subject last spring. The arguments in opposition that day, I am certain, will prove to be the same that we will hear today. I doubt that they will prove to be any more persuasive.

Despite the extensive approval and use of the veto mechanism by this body in the past, the No. 1 argument we hear in opposition to veto is the question of constitutionality. Senator Levin has given an excellent presentation on the merits of constitutionality, and I hope that we leave the discussion there.

While I recognize that we must uphold our oath of office by not knowingly enacting legislation which would violate the Constitution, it is time to admit that collectively we, long ago, determined that the question of constitutionality associated with the congressional veto was not so serious as to prevent virtually every Member of Congress from participating in congressional veto activities by, first, either voting for bills containing ad hoc veto provisions already on the book or, second, participating in votes on resolutions of disapproval under those provisions.

Who among us raises the question of constitutionality when we go to the floor to vote the approval of a foreign arms sale under the Arms Export Control Act or to voice our will on rescissions or deferrals under the Budget Impoundment Act of 1970?

Indeed, no Member of the Senate refused to veto the President's recommendations to increase our own salaries last year because of concern over the constitutionality of such action. So let us move on to other concerns.

When the constitutionality question is passed, we turn to the issue of workability. For some reason, the successful history of legislative veto is lost upon its detractors.

We hear that legislative veto would be too great a burden for the bureaucracy to bear, that it would somehow disrupt the normal flow of work in our Federal governmental agencies. Yet, we are given no example of how this has been proven to be the case in the agencies that are currently covered by veto provisions.

Regulations of the Federal Elections Commission are covered by legislative veto. Has that prevented the FEC from completing its work?

What about HUD? Veto provisions over HUD regulations have hardly brought that Department's operations to a standstill.

The same can be said for the Federal Trade Commission and all of the other agencies mentioned by Senator Schmitt who have all or part of their regulations covered by legislative veto.

Very simply, the record of legislative veto over Federal Government agencies is clear. Legislative veto works. Experience proves that it does not disrupt the smooth functioning of the executive branch or independent agencies.

Setting that argument aside, if legislative veto does not disrupt the smooth functioning of agencies, does it disrupt the smooth functioning of Congress? Once again, experience proves quite clearly that it does not and will not in the future.

I have personally held great concern over the skyrocketing figures in our legislative appropriations bills over the past few years—a trend which we in the Senate are finally doing something about and getting under control. Believe me, I would not support this proposal if I believed that it would result in a dramatic increase in the workload of this body which would require additional staffing.

For that reason, during the hearings I repeatedly asked what effect upon staffing needs would we experience if this were enacted. Again the record was clear. Our authorizing committees already review the regulations which are drafted by the agencies they oversee. Veto coverage which has been extended in the past has not brought about a significant increase in the need for additional staff.

If our ad hoc approach to the enactment of legislative vetos has not proven to cause difficulties, why are we to assume that a comprehensive approach, which we are considering at this time, will work any less well? We have no Federal experience to prove that it would not, and the State experience certainly answers this argument.

More than 30 States currently have legislative review or veto provisions over their State agency regulations. The results have been very positive. I can speak to this point from personal experience.

My home State of Iowa has such a review mechanism, and it was my pleasure during 6 of my 16 years of service in the Iowa House of Representatives to chair the Iowa Rules Review Committee. My personal experience in Iowa was mirrored by the testimony of a Kansas State legislator who testified before my subcommittee.

The comprehensive requirement for the submission of regulations for prior review worked exceedingly well in both Iowa and Kansas; and, from the advice we have been given by the National Conference of State Legislatures, virtually everywhere else it has been tried, it has worked. Clearly, we should take the lead from the States and adopt the comprehensive coverage approach embodied in this amendment.

The sole remaining argument that we should not take this step comes from some of those who share my support for the deregulatory policies of the current administration. We have heard that legislative veto is not really necessary in a period of deregulation, and we are going through such a period of deregulation now. Thank God we are, but I cannot agree with this argument.

This legislation is necessary to restore the balance of authority and responsibility between the branches of Government. That balance needs restoration regardless of who is in the White House.

Furthermore, that argument assumes that the President has full control over the regulatory actions of all the agencies in the administrative branch of Government. This simply is not the case and is clearly illustrated by a tale Jim Miller related to a group of Senate staff members during a meeting held on the regulatory reform bill. It seems that a regulation requiring resuscitation of a green turtle before returning it to the water got by the regulatory reform task force. It was not clear from that regulation whether or not mouth-to-mouth resuscitation was required. In addition, a substantial number of rules which the task force has turned back to agencies for revision have since been published as originally drafted.

But perhaps the best response is that we must legislate with an eye to the next generation, not the last election. During my 8 years in Congress, three different men have occupied the Oval Office. Eight years from now, Ronald Reagan will not be the President, because our Constitution prohibits terms longer than 8 years. I hope that his replacement will share his deregulatory philosophy, but that question is not really relevant to the current debate. That fact has been recognized by the numerous small business groups who have benefited from the Reagan deregulatory policies, but have not waned in their strong support of legislative veto in general, or this amendment in specific. Organizations such as the National Federation of Independent Business, the National Association of Homebuilders, the Associated Builders and Contractors, the National Association of Realtors, and others equally important, are no less supportive of legislative veto in this atmosphere of regulatory reform than they were in periods of increased regulatory burdens.

The real question here is not the identity of the President or who is in the White House, but the willingness of Congress to accept the responsibility for its actions in the delegation of its legislative authority in the first instance.

We not only should but also must recapture that responsibility in a comprehensive way, especially in light of my review of the ad hoc agency approach. When we have taken this responsibility on an ad hoc basis, it has worked. The burden of proof has been upon the detractors of legislative veto to prove that the ad hoc success would not work in a comprehensive manner. That burden has not been met.

I urge the minority of my colleagues who have not joined Senators SCHMITT, LEVIN, BOREN, and the majority of this body in cosponsoring this amendment to join us today in voting for its adoption.

I yield to the Senator from Michigan, who previously had yielded to me.

Mr. LEAHY. Mr. President, will the Senator yield to me?

Mr. LEVIN. I am happy to yield. I have a technical modifying amendment, which I wish to send to the desk. Will the Senator permit me to proceed with that?

Mr. LEAHY. Yes.

UP AMENDMENT NO. 848

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an unprinted amendment numbered 848 to unprinted amendment numbered 847.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 15, after the word "disapproved," insert the following: "or when the companion resolution from the other House has been placed on the Calendar of the first House,".

On page 8, line 20, strike the word "the" at the end of that line and insert after the word "of": "either such".

On page 8, line 25, after the word "hours," insert the following: "(except that when one House has debated its resolution of disapproval the companion resolution shall not be debatable)".

On page 9, after line 8, insert the following: "If prior to the disposition of a resolution of disapproval of one House that House receives the companion resolution of disapproval from the other House, the vote in the first House shall occur on the resolution of disapproval of the other House.".

Mr. LEVIN. Mr. President, this is a technical amendment, the purpose of which is simply to provide in the event that a resolution of disapproval is on the Senate Calendar, under the process established by this legislative veto amendment, when a resolution of disapproval on the same matter comes over from the House of Representatives it will be held at the desk so we do not have resolutions from the House of Representatives and the Senated crossing each other. It insures that we act only on one resolution, that being the resolution that came over from the House of Representatives. It is a part of the process which should be clarified. This amendment is a technical amendment to clarify that part of the process.

I am wondering whether the Senator from New Mexico will accept that amendment.

Mr. SCHMITT. Mr. President, if the Senator will yield, I studied the amendment and I think it makes excellent sense.

We have continuously made attempts to clarify, simplify, and streamline this process so neither House will get itself into a technical bind in consideration of these resolutions of disapproval.

I think this is a very constructive addition and am happy to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (UP No. 848) was agreed to.

Mr. LEVIN. Mr. President, I thank my friend from New Mexico and my friend from Vermont.

UP AMENDMENT NO. 847

Mr. LEAHY. Mr. President, I will oppose the amendment not because I do not share the frustration expressed by the proponents. I oppose it because it is on this particular bill.

I cannot think of any piece of legislation that I have worked harder on in the 7 years that I have been in the Senate. I worked on this bill in the previous Congress when it was drafted after a great deal of work and discussion. It was drafted by the Senator from Nevada, former Senator Culver, Senator KENNEDY, Senator ORRIN HATCH, and myself.

Because there was no action in the last Congress, we came up with it again this year.

Senator LAXALT and I had discussed it at great length in 1980 and again immediately after the election in 1980, and we said we would try once more.

Our two staffs have worked harder on this, I think, than on any other piece of legislation in the Senate. Certainly, as I have said, I spent more individual time on this piece of legislation than anything else since I have been in the Senate, and that means going over it day by day by day, meeting with Senators from both parties on various parts of it, and lining up cosponsors.

I should also point out that the Senators who are proposing this amendment, Senators SCHMITT, LEVIN, GRASSLEY, and BOREN not only worked with us, but their staffs have been very, very good in working back and forth as we have tried—Senator LAXALT, his staff, my staff, and the individual Senators—to put together something that we might all accept.

Mr. President, I should point out that even 1 month ago we still had a half dozen major issues that probably were going to require days of debate and extensive rollcall votes. Just during the past month alone Senator LAXALT and I have been able, with the cooperation of our colleagues on both sides of the aisle, to resolve most of those issues to the point where we have been able to have consensus amendments. This is one of the few issues on which we have not.

I say that because I share the frustrations of Senator LEVIN, Senator SCHMITT, Senator GRASSLEY, and Senator BOREN in this regard.

The Regulatory Reform Act should prove to all of us that we can make major changes in the way the Government does business, despite the complexity of the effort and the divergence of views at the start about how administrative agencies should function.

But we have been successful only because we have built on reliable expertise in current administrative law and practice. We have worked from what we know and what we are sure of. The proposals for legislative veto, however, would depart from this useful formula.

I think these proposals place regulatory reform in an arena of constitutional doubt.

As I said, this proposal speaks volumes about the frustration that virtually every one of us in Congress has felt when executive agencies have failed to follow our legislative mandates. But I think the two-House veto, especially as presented, without a Presidential veto, raises substantial questions about the maintenance of separation of powers under the Constitution.

As we mentioned earlier today, the Supreme Court has on its docket an appeal raising this very issue, Chadha against Immigration and Naturalization Service.

Just 2 months ago, the Court of Appeals for the District of Columbia rejected a statute prescribing a one-and-one-half House veto, and almost every reason given by the court for its decision would apply to the proposal before us now. It is clear that the Supreme Court will pass on some or all of the intricate arguments over legislative veto in the near future, and it is quite possible that additional litigation will follow.

So it strikes me as unwise to threaten a bill that has been put together with such painstaking care over years and years of hard work, by adding to it a provision that may not be valid and which may delay the practical effectiveness of the entire regulatory reform effort of this and past Congresses.

All of us agree on the need for such regulatory reform.

The administration has said it does not favor this proposal. Obviously, we followed our own convictions in putting together S. 1080, but we cannot ignore the views of the President when one of the major effects of this proposal is to permit Congress to reject an administrative rule by a resolution not presented to the President for veto.

The proponents of the legislative veto argue that the review of a proposed rule is not essentially legislative in nature because it does not involve the reconsideration of legislative policy. I think that the question is a close one, and that the courts should speak before we act.

And there are other troublesome constitutional issues raised involving the separation of powers. To the extent that Congress seeks to oversee the execution of its laws by sharing in their administration, it may be encroaching on the authority of the executive branch. To the extent that Congress is involved in judging whether a rule complies with its legislative direction, it may be duplicating the job the courts are supposed to perform in a judicial challenge to a rule.

Government has become enormously complex since the forging of the separation of powers principles in our Constitution. There are few easy answers to the question of which branch should perform what functions in our democracy. Frequently, the functions overlap. And it is not the courts alone that may help shape the dimensions of separation. Much of our everyday business will necessarily affect the relative roles of the three branches.

But the legislative veto proposal before us could saddle a solid and long overdue regulatory reform bill with issues of uncertain outcome. Let us stick with the known and bypass the unknown for the moment. We are at the threshold of the greatest improvement in our administrative process in a generation. Let us cross that threshold safely and securely.

Anyone who has amendments to propose to the Laxalt-Leahy bill before the Senate is free to do so. That is the legislative process. And both of us, as the prime cosponsors of this bill, and everyone else, should feel free to mention their positions on it.

But I should say to my good friends who proposed this amendment that I share their frustration. I know they share my commitment to regulatory reform.

They have all worked extremely hard on the other parts of the bill and in helping us reach a consensus on it. I do not think that it would have been possible to reach the consensus that we have without the cooperation of Senators SCHMITT, LEVIN, GRASSLEY, and BOREN, as well as Senators EAGLETON, ROTH, and others who have worked with us.

This is, throughout, a consensus bill. This amendment is one of the very few places that, while we share certain frustration, we do not have a consensus on the legislative remedy for it.

Mr. President, I understand that the Senator from Missouri wishes to speak.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. LEAHY. I will yield to the Senator from New Mexico.

Mr. SCHMITT. Only to make a brief comment. I would think the proponents of the bill would look at the addition of this amendment as an advantage to its ultimate passage and signature by the President.

We have worked with the committee and we appreciate very much the cooperation the committee has given us in the consideration and, in fact, suggestions, very helpful suggestions, from members of the committee, particularly the sponsors of the bill, particularly the principal sponsor, Senator LAXALT, in improving the technical aspects of the amendment before the Senate.

But we have a comparable amendment in the House with 250 sponsors, an excellent opportunity to strengthen the bill in the House overall.

The President in his past utterances has been a very strong supporter of this.

We recognize the difficulty within the administration in reconciling the President's previous dealings with those traditional positions of the Justice Department and others who believe that this is somehow an intrusion on executive branch power.

I also believe, however, that we can expect a much stronger regulatory reform bill not only within the Congress and executive branch but certainly within the American people if we include this amendment. Otherwise I would not have joined with my colleagues in proposing it.

I would ask those who rise in opposition to the amendment we have offered for a legislative veto to seriously consider their arguments that in many instances suggest that all legislative veto provisions currently in law are unconstitutional. If that turns out to be the case, Mr. President, Congress is in a very serious position. It goes well beyond the issue being raised by this amendment.

If the Supreme Court determines that the appeals court decision was, in fact, the correct one, that decision of the appeals court has called into question all legislative vetoes currently on the books.

I ask unanimous consent that a very scholarly and important article on this question by Louis Fisher published in the Washington Post of February 21, 1982, be printed in the RECORD just to illustrate to my colleagues some, and only some, of the consequences of a Supreme Court decision that would be so comprehensive, as the lower court has ruled, as to call into question and rule unconstitutional all forms or essentially all forms of legislative veto.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 21, 1982]

CONGRESS CAN'T LOSE ON ITS VETO POWER

(By Louis Fisher)

We are witnessing an ironic turn in the historic struggle between the executive branch and Congress: a court decision which seemingly promises much greater power for the executive but which, if upheld, would likely lead to the opposite effect.

The Jan. 29 ruling, by a three-judge panel of the U.S. Court of Appeals here, gave a rude jolt to the "legislative veto," a device Congress has relied on for at least a half century to control executive actions.

Specifically, the panel struck down a one-house veto used to disapprove a gas-pricing regulation by the Federal Energy Regulatory Commission (FERC). But its language was so broad as to question the constitutionality of legislative vetoes in hundreds of other laws governing arms sales, immigration, war powers, impoundment, endless agency regulations and much else.

The D.C. panel recognized that its finding—that all legislative acts constitutionly require "presentation to the president and passage by both houses of Congress"—"may have far-reaching effects on the operation of the national government." But it may have misunderstood those effects.

Many assume the ruling portends a gain for the executive branch, a victory for orderly government, a blow to congressional interference. Think again. If the Supreme Court upholds the overly broad opinions, the net result will more likely be less power for executive officials, a more convoluted legislative process, and continued congressional involvement in administrative decisions.

Bizarre consequences? Not if you understand why the legislative veto was originally adopted. Presidents accepted (indeed, often invited) legislative vetoes because they provided a way to get more power. The bargain was clearly understood by both branches. The president essentially told Congress: "Give me more authority than you normally would, and I'll give you a chance to veto my initiatives." If presidents disliked the legislative veto, Congress would withhold authority.

Courts are familar with this quid pro quo. In 1977 the Fourth Circuit dismissed a suit by a federal employee who protested that the Senate acted unconstitutionally when it disapproved a pay raise recommended by the president. But the legislative history convinced the court that Congress delegated the salary authority only on the condition that it could, by a one-house veto, disapprove presidential recommendations. The authority and the condition were inseparable.

The FERC case was different. Here the court decided that the grant of rulemaking authority was not tied explicity to the one-house veto. But that is the exception, not the rule.

The record shows, for example, that the president could not tell Congress: "Thanks very much for the authority to reorganize the executive branch, but I have no intention of recognizing your right to veto my plans." Executive reorganization power and the legislative veto could not be severed.

Other examples abound. Under the Impoundment Control Act of 1974, the president may defer spending unless one house of Congress disapproves. The president is not at liberty to take the authority and ignore the condition. If the legislative veto is unconstitutional, the president will forfeit the statutory authority to defer spending.

He might claim other authorities (statutory or implied powers under the Constitution), but this would merely trigger the kind of fractious litigation we had in the early 1970s under President Nixon.

The Federal Trade Commission Act of 1980 raises a similar issue. Congress, angered by some FTC regulations, enacted legislation requiring future rules to run the gauntlet of the legislative veto. If the D.C. panel's opinion is upheld, the FTC may lose its authority under the statute to issue regulations.

Uncertainties in this area, as in others, would probably force more issues into the courts, with the preponderance of evidence often on the side of the Congress. In the laws covering arms sales, foreign trade, the sale of nuclear fuel, federal salaries, immigration, impoundment and presidential papers, for some notable examples, the delegated power and the legislative veto seem inseparable.

Congress, of course, could rewrite many of its broad delegations of power, and the executive branch also could well lose some procedural benefits. Where there is a legislative veto, presidential proposals are put on a fast-track system. Other privileges include special procedures to bypass committees, limit debate and prohibit floor amendments. Without the legislative veto, Congress would eliminate these advantages or require the president to gain approval of both houses in a bill or joint resolution. Either approach would undercut the president.

The legislative veto is criticized as a backdoor way of accomplishing what should be done directly through the regular legislative process. But if Congress is denied the legislative veto, no one should underestimate its ingenuity in inventing other devices that will be more cumbersome for the president and just as satisfactory to Congress.

President Eisenhower discovered this unpleasant fact in the 1950s when he objected to "committee vetoes" compelling agencies to obtain advance clearance from congressional panels. Attorney General Herbert Brownell called this an unconstitutional infringement on executive responsibility.

Undaunted, Congress created another procedure that yielded the same control. A bill was drafted to prohibit appropriations for certain real estate transactions unless the Public Works committees first approved the contracts. Eisenhower signed the bill after Brownell concluded that this procedure—based on the authorization-appropriation process—was within Congress' power. The form had changed; the committee veto remained.

If the one-house veto over impoundment deferrals is invalid, Congress will have no trouble devising more burdensome procedures for the president. A harbinger of what might be in the works appears in the Transportation Appropriation Act for fiscal 1982, passed last December. Whenever the president proposes to defer appropriations for various rail programs, the funds must be released unless Congress within 45 days completes action on a bill approving all or part of the proposed deferral.

There is no constitutional problem here, since Congress will act through the regular legislative process. Yet in this case, in effect, the president not only ends up with a one-house veto but a more onerous version. Under the Impoundment Control Act, one house must take the initiative to disapprove a deferral. Under the transportation statute one house can succeed through inaction.

There are other anomalies. Opponents of the legislative veto warn about the workload imposed on Congress by having to review administrative actions. But the workload is likely to be far heavier if Congress has to act positively through the regular process. The temptation will be strong for Congress to grant powers for shorter periods, forcing the president to return to Congress for extensions. Of course either house, by inaction, could deny him the authority.

Other mechanisms are also available to protect congressional prerogatives. Under the Trade Act of 1958, the president could implement certain actions for import relief only by obtaining from Congress a concurrent resolution passed by a two-thirds majority in both houses. Courts would likely find this type of concurrent resolution constitutional, since it contains a built-in override of a presidential veto. This would come as little consolation to a president forced to locate an extraordinary majority in each house before acting.

The D.C. court, in its FERC ruling, warned that the legislative veto enables Congress "to expand its role from one of oversight, with an eye to legislative revision, to one of shared administration." This increase in congressional power, according to the court, violates the separation-of-powers doctrine.

But with or without the legislative veto, Congress will remain knee-deep in administrative decisions, and it is inconceivable that any court or any president can prevent this. Call it supervision, intervention, interference or plain meddling, Congress will find a way.

If an agency adopts a regulation that offends Congress, legislators can attach language to an appropriation bill preventing the use of funds to implement the regulation. There is no constitutional question about Congress' right to do this, although riders to appropriations bills are far from ideal ways to make laws. They are added without the hearings, careful consideration and substantive knowledge that more likely accompany a legislative veto.

Congress also exercises an extraordinary array of nonstatutory controls. The clearest examples are the understandings between Congress and the agencies for "reprogramming": the shifting of funds from one program to another within the same appropriation account. Major reprogramming must be approved by the committees (or subcommittees) with jurisdiction over the program.

This is simply one more quid pro quo between the branches. In return for the flexibility of lump-sum appropriations, agencies agree to abide by reprogramming guidelines and committee clearance. No one wants to return to line-item funding. Since this type of control is informal and nonstatutory, it is difficult to conceive of a legal issue that might reach the courts. But the involvement of Congress in "shared administration" is just as real and binding.

Judicial warnings about shared administration seem unrealistic in view of the extensive overlay of statutory and nonstatutory controls. Certainly it is extravagant and hyperbolic for the D.C. Circuit to suggest that legislative vetoes put us on the road to congressional tyranny. If the courts are serious about "untangling" the rights and powers of the three branches, they have their work cut out.

Shall they prohibit the president from making substantive legislation through executive orders and proclamations? Will courts resurrect the 1935 rule requiring Congress to delegate legislative power with clear standards? This would be a revolution in itself. Should we consider placing all independent commissions under the executive departments, thereby tidying up the system of three branches? This has been tried more than once, without success, and for good reason. Can we no longer tolerate adjudication and "quasi-legislation" by the agencies? Should we eliminate "legislative courts" (established under Congress' Article I powers)? For that matter, is it time to ask the courts to pull back from their own involvement in legislation and administration?

It is too glib for courts to tell Congress that if it disagrees with what the president and the agencies are doing, it should act through the regular legislative process. The regular process is subject to a president's veto, creating the need for a two-thirds majority in each house to override the president. Without the legislative veto, Congress is placed in the dilemma of delegating authority by a majority vote and then needing a two-thirds majority to recapture control. That is why both branches agreed on the legislative veto for reorganization authority.

The legislative veto in the War Powers Resolution of 1973 was meant to extricate Congress from the situation it found itself in under President Nixon: able to attract a majority vote in each house to deny funding for the Vietnam war, but unable to secure a two-thirds vote when Nixon vetoed these restrictions. Critics of the legislative veto have not addressed this problem.

Nor is it enough to advise Congress that legislative votes would be unnecessary if it would only delegate with precise standards and clear policy.

Congress has no doubt used the legislative veto to sidestep difficult questions of national policy; it can be a convenient and irresponsible substitute for making legislative decisions. But the veto allows Congress to review specific proposals under circumstances that no one could foresee when the authority was first delegated.

For many issues facing government today, the legislative veto is practical, appropriate and constitutional. Striking it down is not a step to be taken lightly.

Mr. SCHMITT. The burden that such an event would place on the Congress and would place on the administration I believe would be untenable and would result only in increasing restrictive legislation coming out of Congress and increased conflict between these two branches of Government.

Mr. LEAHY. Mr. President, I would note once again that I share most of the concerns of the Senator from New Mexico. We have discussed them. We have discussed this issue, virtually every time the two sponsors of the bill, Senator LAXALT and I, have met on this. From these meetings—whether they were meetings in Washington or in my farmhouse in Vermont or wherever we have had meetings discussing this issue—I think the Senator from New Mexico raised a very good point on what might happen if the Court comes down with a decision which strikes down any legislative vetoes presently in the law. I think he raises a very valid concern.

I suggest, if we were to have such a decision, whether it is in the Chadha case or whenever it might be, that that is the time for us to sit down. When we have the Supreme Court decision in hand, that will be the time to write a piece of legislative veto legislation.

I would join with any group in putting together comprehensive legislative veto legislation based on the decision of the Supreme Court. That decision is anticipated and with that decision in hand, I would be happy to do so.

I yield to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, it is my intention at the appropriate time and, hopefully, in the very near future to offer a tabling motion to the pending amendment.

However, it is my understanding that Senator DOLE wishes to offer an amendment to the amendment of the Senator from New Mexico. I do not know what the understanding is with respect to Senator DOLE's amendment. It would seem to me that the most appropriate fashion in which to proceed would be to wait for Senator DOLE, let him offer his amendment, and then I will simply speak for, I think, a fairly short time and then if nobody else wishes to speak, offer a tabling motion at that time.

Mr. SCHMITT. For the information of the distinguished Senator from Missouri, we have informed Senator DOLE and are informing him through the staff that this would be an appropriate time to clear up the measure. The proponents of the amendment will agree to his amendment and then we would obviously enjoy hearing the distinguished Senator's scholarly remarks on this issue.

Mr. DANFORTH. Mr. President, I would then think it would be appropriate to withhold my scholarly remarks for at least a few minutes until Senator DOLE reaches the floor.

Mr. LEVIN. Mr. President, will the Senator yield, while he is withholding his scholarly remarks?

Mr. DANFORTH. Anything the Senator from Michigan wishes to interject is welcome. I was simply going to suggest the absence of a quorum pending Senator DOLE's arrival.

Mr. LEVIN. I just want to take this opportunity while we have a pause to thank Senators LAXALT, LEAHY, EAGLETON, and ROTH and their staffs for the work they have done and the effort they have put forth to make passage of this bill a pleasant task.

We do not agree on the strategy here to achieve a legislative veto but we have found their staffs to have worked with us extremely well.

I commend them for the spirit in which they entered into the discussions, the negotiations, and the work which have gone into this amendment.

I might also just comment briefly, while we are waiting here, on the comments of the Senator from Vermont that after the Supreme Court decides the Chadha case would be the time to write a legislative veto law.

I would suggest to him that indeed that would be true if the Supreme Court found the legislative veto to be unconsitutional, at which time something indeed would have to be done. But this is the time to move with a position which this Congress, it seems to me, and every Congress, must insist on, and that is that we have the power to do what we have done in literally hundreds of statutes, and that is to assert the right to review the regulations and rules of the bureaucracy before they take effect.

We have done this literally hundreds of times. To jeopardize our own power, to fall on our own sword, to wait on this question, it seems to me, is to do exactly the wrong thing at this time.

On the question of arms sales, on the question of tariffs, on the rules of the Department of Education, literally dozens of issues which have brought this Congress to critical decisions, we have asserted this power. So I agree with the Senator from Vermont that in the event the Supreme Court rendered a decision in Chadha that we do not have legislative veto power, we would have to sit down and refashion these statutes. That would be the time for that. Let me just say that now is the time to assert the power or to reassert the power which this Congress has exercised on so many hundreds of occasions.

It is a critical question whether or not we have the right to review these regulations before they take effect, before they do damage, before they gain momentum on their own, and that is the question which we are deciding today.

I could not agree more with Senator SCHMITT more when he says that by adding a legislative veto to this bill would strengthen this bill because of the strong support it has in the House and because of the President's stated support for legislative veto at least prior to the time that he became President.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER (Mr. EAST). The Senator from New Mexico.

Mr. SCHMITT. I associate myself with the remarks of the Senator from Michigan. I would add only that some of the confusion surrounding this measure that has been added in recent weeks includes not only the contradiction of the President's previously expressed positions, positions now in circulation from the administration in support of the anticipated motion to table by the distinguished Senator from Missouri, but also the fact that the U.S. House of Representatives and the U.S. Senate are both intervenors as parties in the suits now before the Supreme Court.

What we are talking about here is not just the very, very important issue of legislative veto and how does the Congress assume greater control over the lawmaking powers delegated to the executive branch, but it is also how does the Senate best support its general position before the Supreme Court on this issue that includes not only this style of legislative veto but a variety of measures, some of which were enumerated by the distinguished Senator from Michigan, which provide very needed and necessary and, I think, universally agreed to congressional restraint on the unbridled use of delegated power by the administration.

Mr. President, as you may recall, in my opening remarks I listed only three powers that the Constitution explicitly gives to the Executive. Beyond that, any other powers have either been delegated or assumed by that branch of Government. We must be very careful as we approach and continue to move into our third century of national existence that this delegation and assumption of power by the other two branches of Government do not overwhelm the elected representatives of the American people.

Mr. LEVIN. Mr. President, I note that the Senator from Kansas is in the Chamber. I am wondering whether or not he is here for the purpose of offering an amendment.

Mr. DOLE. I would be happy to offer the amendment. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

UP AMENDMENT NO. 849

(Purpose: To add a severability clause)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. SCHMITT, Mr. LEVIN, Mr. GRASSLEY, and Mr. BOREN, proposes an unprinted amendment numbered 849 to unprinted amendment numbered 847.

At the end of the amendment, insert the following:

"SEVERABILITY

"Sec. 10. If the provisions of any part of this Act or the amendments made by this Act, or the application thereof, to any person or circumstances is held invalid, the provisons of the other parts of this Act or the amendments made by this Act and their application to other persons or circumstances shall not be affected."

Mr. DOLE. Mr. President, this amendment is being offered by myself and the distinguished Senator from New Mexico (Mr. SCHMITT), the distinguished Senator from Iowa (Mr. GRASSLEY), the distinguished Senator from Michigan (Mr. LEVIN), the distinguished Senator from Oklahoma (Mr. BOREN), and others.

I will explain briefly what the amendment does. I think it is self-explanatory.

Mr. President, the amendment which I am introducing today to this legislative veto proposal simply provides that if any portion of the Regulatory Reform Act of 1981 is held to be invalid, it shall be severed from the rest of the act, and the remaining portions shall be unaffected.

I am introducing this amendment because I support S. 1080. I want the bill to become law, and to enjoy a long and healthy future. We in the Congress have been working on a proposal like S. 1080 off and on for the past 17 years. And believe me, I know what kind of work we have put into it because I have fequently been in the forefront of these efforts. The heart of S. 1080, its regulatory analysis requirement, grew out of a bill I introduced in this Congress, S. 405, which was cosponsored by Senators DECONCINI, SIMPSON, and HEFLIN. I introduced S. 405, because I thought it was plain commonsense for an agency to promulgate only those rules which would produce benefits exceeding their costs, and which represented the least costly method of achieving those benefits. I introduced a virtually identical bill in the 96th Congress, but unfortunately we did not then have the commonsense to pass it.

When I first introduced my bill I knew that with the imperiled shape of our economy, we could no longer afford to spend money and precious resources on rules and regulations which did not, with all trade-offs considered, produce a net benefit. Today, our problems with the economy have not yet subsided. And we have become increasingly aware of just how badly governmental redtape has contributed to these problems. To be sure, Federal regulaton has aggravated our rate of inflation and has interfered with the competitive initiatives of the free market. Now, more than ever, we need a law like S. 1080. We need it to help us get out of our current economic woes and we will continue to need it so that we will not go back.

By necessity, however, S. 1080 must address some very sensitive issues concerning the separation of powers of our three branches of Government. We have debated, and will continue to debate, the extent to which Congress can interject itself into the rulemaking of the executive branch and the review of that process by the judiciary. And, of course, we may soon be adopting the amendment now under consideration which gives us broad authority to veto agency rules. As we all know, the D.C. Court of Appeals recently told us that it does not like this idea, and the Supreme Court could very well uphold that ruling.

It is my hope, of course, that the Supreme Court upholds the constitutionality of the legislative veto, and similarly, that no other portion of S. 1080 will ever fail to pass constitutional muster. However, if this should occur, my amendment will guarantee that the remaining portions of this much needed legislation will remain intact. This amendment will insure the continued vitality of S. 1080 and regulatory analysis. I urge my colleagues to support it.

There is no opposition to the amendment that I know of. I am one of those who have been slow to come around to the use of the legislative veto. I am still not certain that it is the way we should go. It would seem to me the better way to go would be to go back and demand some of the basic legislation. If we think FTC, for example, has too much authority, maybe we ought to be looking at the basic legislation and try to address it directly rather than indirectly through a legislative veto.

But I am persuaded by my colleagues, such as Senator SCHMITT, who has worked on this issue, I think, from the very first day he arrived, that it is a responsible course to follow.

I believe, with this minor amendment, the severability amendment, that it insures us that if, in fact, any portion is held unconstitutional, it will not affect the rest of the legislation.

Mr. SCHMITT. Will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I appreciate the Senator's innate concern in this. I think this is a very useful amendment, not at all inconsistent with my confidence that the Supreme Court will not uphold the position articulated by the court of appeals in the FERC case, and also not inconsistent with other questions that have been raised on certain provisions of S. 1080, not just the amendment currently under consideration dealing with legislative veto.

There is, for example, some questions about the provisions of the bill that give the executive branch vastly enhanced power over the independent agencies which, in fact, have been held by the Supreme Court as being the creatures of Congress, agencies created by Congress and not, in some cases, directly under the auspices or even indirectly under the auspices of the executive branch, other than the appointment of their agency heads.

As I recall, a Supreme Court case dealing with the FTC several years ago—and we will supply for the record a statement dealing with that case—did, in fact, put the Court on record as distinguishing the FTC as an independent agency from the executive branch agencies very clearly as a creature of Congress getting its authority as a function of delegation of legislative authority by the Congress. In fact, the shared powers doctrine, which has been articulated on other occasions, stems from that Supreme Court case.

The sponsors of the amendment on the legislative veto have agreed that we would not only accept the amendment, but accept it enthusiastically. It is consistent with our belief that the Supreme Court will overturn the appeals court decision, and also consistent with the fact that the Senate and the House have both intervened as parties in behalf of the legislative veto in both the Chadha case and in the FTC case.

Mr. DOLE. I thank my colleague from New Mexico. Having had some close contact with the Federal Trade Commission for a number of years, maybe I am getting another side of the story. But be that as it may, I think the legislative veto as presently presented makes a great deal of sense.

As I understand, there is no objection to the amendment offered by the Senator from Kansas.

Mr. LEAHY. I have no objection.

Mr. SCHMITT. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 849) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I would not like to relinquish the floor without noting the good news today on inflation. The annualized rate of 3 percent is certainly a strong indication that we are on the way to breaking the back of inflation. I am not sure that is because this bill is on the floor or what we attribute that to. But if S. 1080 brought that about, Members should certainly take pride in what they have accomplished in these 2 days. It is certainly an indication that the Reagan program is working to help end the recession. Now we have one enemy down and one enemy to go, high interest. We hope to be able to attack that with a strong bipartisan budget package which I am certain we can put together. I am just not certain when.

Mr. LEAHY. If the Senator will yield for an observation, Mr. President, the Senator from Kansas mentioned the good news on inflation. It is good news. Maybe it is because of S. 1080. As one of the two prime authors of S. 1080, I will be happy to accept its being on the floor as the reason for that. I would think our distinguished chairman of the committee and others would probably look more deeply into it and find other reasons. But for the moment I would just as soon bask in S. 1080 being the reason, for a minute or two.

Mr. LEVIN. Will the Senator from Kansas yield for one moment?

Mr. DOLE. I yield.

Mr. LEVIN. I thank the Senator for his contribution to this debate. It is a significant contribution and it is constructive, as his contributions always are. I know that we have talked about casual relationship and the decline in the inflation rate, and I wonder if the presence of this legislature veto amendment on the floor is also part of the cause.

Mr. DOLE. Primarily, it is the fact that we have President Reagan in the White House. I think it is a stride forward, a giant stride. I do not want to get off on some tangent, but with the inflation dropping now some 10 points in 14 months, it should be an indication of what this program will do when it operates fully. I just hope it will start operating fully very soon because I enjoy being chairman of the Finance Committee.

Mr. LEVIN. I am glad I ended my comments about the Senator's constructive contribution when I did.

Mr. DOLE. I thank the Senator from Michigan for his kind remarks.

I yield the floor.

Mr. LEAHY. Mr. President, I know the distinguished Senator from Missouri has said that he, at the appropriate time, will offer a motion to table. That was held back so that the distinguished Senator from Michigan could add a clarifying amendment, and the distinguished Senator from Kansas could offer a clarifying amendment. Those actions have been completed.

I understand from informal discussion with the distinguished Senator from New Mexico there may be others who wish to speak. I wonder if, on behalf of myself and Senator LAXALT, we might get some idea, though we know there will be a motion to table, of a time certain so that we can let our colleagues know. For those who might be busy with other things—committee meetings, or something else—could we get some idea when that vote might be?

Mr. SCHMITT. If the Senator will yield, there are three Senators that I know of who would like to speak in behalf of the amendment: Senator BOREN, Senator KASTEN, and Senator QUAYLE. If others desire to speak, they should get in touch with us, if they are within the sound of our voices.

Having consulted with the Senator from Michigan, and I believe this meets with the approval of the Senator from Iowa, a time certain vote no later than 3 o'clock would probably be acceptable, having heard of no other indication.

Mr. LEAHY. Is that acceptable to the Senator from Missouri?

Mr. DANFORTH. I am afraid that would not be acceptable to the Senator from Missouri. I would like perhaps 20 minutes, or not much longer, to be able to speak on this subject. It is my understanding that the majority leader would like to recess at 12:30 until 2 o'clock. If we had a time certain at 3 o'clock, with three people speaking in favor of the amendment, I would be without any time to speak.

Mr. LEAHY. Could I propose that we enter an order to have a vote no later than 3 o'clock, but also that the distinguished Senator from Missouri would have 20 minutes?

Mr. DANFORTH. I am afraid that would not be satisfactory to me because I do not know who would like to speak for or against the amendment, or what points would be made. It would be my hope to wrap this amendment up as quickly as possible. I think most points in favor of the amendment have been pretty well made, and quite frequently made, in the last 2 hours.

Mr. LEAHY. If the Senator will yield further, might I suggest that while we not try to enter an order, that maybe the two cloakrooms could get out the word that we are on this matter. I do not know whether the distinguished majority leader wants to recess precisely at 12:30 or before. Both conferences, Republican and Democrat, are meeting presently. We might urge at those conferences, I will at mine, that those who want to speak come over here and speak. Hopefully we can get to a vote on this issue soon because there are a number of others backed up waiting for this to be disposed of.

We may very well end up by 3 o'clock. I understand the Senator from Missouri, and I will not make a request for a specific time.

Mr. SCHMITT. If the Senator will yield, it was not my intention in any way to foreclose arguments in opposition to the amendment. I was merely trying to total up in a general way my knowledge of the time that we might need. I do not think the proponents will need a half hour, certainly not a full hour. But I cannot speak for the three Senators whose names I have mentioned.

In formulating a final agreement, if in fact we do that, I hope it will be possible to get agreement that should the tabling motion fail, we will have a time certain for a vote on the amendment itself, either immediately after the tabling motion or at some reasonable time after that.

Mr. LEAHY. I believe we probably have enough questions about who wants to speak. Why do we not try to get everybody back here as close to 2:00 as possible. I will have a few minutes between 2:00 and 2:30 when I am going to have to be off the floor for a brief meeting on another matter.

It appears to me as though we will be having a vote perhaps somewhere in the 3 o'clock area. Then we can make a decision on the other point that the Senator from New Mexico raises.

I will not, Mr. President, propose a time agreement at this time. I believe there are enough people out, but we all are going to be back here at 2:00 after our conferences. So long as everybody knows that and we try to get everybody here, I believe, in all likelihood, we will clear it up in about an hour.

Mr. SCHMITT. If the Senator will yield, I apologize to my other distinguished colleague; I should have mentioned that Senator BYRD of Virginia has a brief colloquy which we will enter into at the appropriate time also.

● Mr. SASSER. Mr. President, I support the Schmitt-Levin-Grassley-Boren legislative veto amendment to the regulatory reform bill.

I support this amendment for several reasons.

First, it makes Congress fully accountable for the laws that it passes. It permits the Congress to take action to veto regulations that are in contravention of the laws that it enacts. This amendment does not put Congress in charge of writing regulations; it simply gives the Congress the power to say to the executive that its regulations do not properly implement the laws that it has duly enacted.

The American people know full well that rules and regulations are designed to properly execute the laws that Congress enacts. They are tired of being told that Congress has no way to easily remedy regulations which have the ultimate basis in the statutes we enact.

The legislative veto amendment that is now pending expresses the proper reassertion of congressional authority that the rulemaking authority of the executive branch is subject to review by the Congress due to the delegation of legislative powers contained in the many statutes that Congress enacts.

I will not go into detail about the constitutional arguments about the legislative veto. These have been covered ably and well by my distinguished colleagues, Senators LEVIN, BOREN, SCHMITT, and GRASSLEY. I would simply reiterate my judgment that the legislative veto is not an improper exercise of congressional power.

Let me also say that there are sound political reasons for this legislative amendment. It is an amendment that may help in our economic recovery. It can do so because it will help us identify regulations that hamper the smooth operation of our small business community.

Mr. President, we have already passed the Regulatory Flexibility and Equal Access to Justice Act which has been especially helpful to our small business community.

A 1979 SBA study indicates that the paperwork burdens on small business may cost small business $12.7 billion a year, on top of the interest rate burdens that small businesses are now bearing, this regulatory burden is simply unacceptable.

And believe me, the small business community is solidly behind the legislative veto amendment which I am now cosponsoring with Senators BOREN, LEVIN, GRASSLEY, and SCHMITT. In a recent poll by the National Federation of Independent Business, it was found that 76 percent of their membership favored this amendment to the Regulatory Reform Act.

In the words of correspondence recently directed to me by Mike McKevitt of the National Federation of Independent Business, "small business people expect their elected representatives to make our laws—not faceless untraceable bureaucrats."

Therefore, let us do our duty and pass this amendment and further lift regulatory burdens from our economy.

Mr. President, I submit for the RECORD recent correspondence to me about the legislative veto from the National Federation of Independent Business about the legislative veto amendment we are now considering.

The correspondence follows:

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
January 25, 1982.

Hon. JAMES R. SASSER,
U.S. Senate,
Washington, D.C.

DEAR JIM: When the Regulatory Reform Act, S. 1080, is considered on the Senate floor, Senators Schmitt, Grassley, Boren, and Levin will offer an amendment providing for Congressional review of agency rulemaking. The National Federation of Independent Business (NFIB) and its 500,000 small business owner-members strongly support their amendment. In a recent poll of our entire membership on this issue, 76 percent supported it, 21 percent opposed it, and 3 percent were undecided.

NFIB shares the goals of those advocating enactment of S. 1080; however, we firmly believe that without the Congressional review procedures of the Schmitt-Grassley-Boren-Levin amendment the reform of rulemaking procedures would be incomplete, particularly from small business' point of view. Typical small firms do not have the resources to participate in the rule-making process, let alone to litigate against rules already in effect. Consequently, small businesses are most often presented with regulatory fait accompli, which cause too many to close their doors forever.

Regulatory Flexibility and Equal Access to Justice were enacted during the last Congress to help address these problems. Congressional review of agency regulations is the missing element that would make reform of the regulatory process complete and meaningful for small firms. Furthermore, bringing lawmakers procedurally into the process of implementing the laws they pass gives new meaning and real teeth to Congressional oversight.

Small business people expect their elected representatives to make our laws—not faceless, untraceable bureaucrats. Our members believe this role belongs uniquely to Congress not the Executive branch. The members of NFIB hold the vote on this amendment to be one of the "Key Small Business Votes" of the 97th Congress and, therefore, urge you to support it.

With best wishes.

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director Federal Legislation.●

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 12:24 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

Mr. HARRY F. BYRD, JR. Will the Senator from New Mexico yield?

Mr. SCHMITT. I am happy to yield to the Senator from Virginia.

LEGISLATIVE VETO: THE "WORKLOAD" QUESTION

Mr. HARRY F. BYRD, JR. Mr. President, I wish to congratulate the distinguished Senator from New Mexico, and Senators GRASSLEY, LEVIN, and BOREN, for their diligence in establishing a workable, constitutional procedure for legislative veto of agency regulations.

This debate has been a long time in coming. While the need for legislative vetoes has been long recognized by the Congress, and we have passed numerous acts with limited veto provisions, only now have we reached the stage where Congress seems willing to establish a broad and consistent policy with regard to agency rulemaking and the powers of the Congress to review such actions.

In light of this administration's backpedaling on the issue of legislative veto, and in spite of the recent decision of the U.S. court of appeals, I am convinced that the Congress needs to press forward with a broad-based policy. In time, the U.S. Supreme Court presumably will have to consider fully the constitutional issues inherent in the pending amendment and in acts previously passed of a similar nature.

I am pleased to have been a cosponsor of the original bill, S. 890, from which the pending amendment evolved. I am pleased to be a cosponsor of the amendment offered by the distinguished Senator from New Mexico, which reaches us as a result of patient negotiations, careful scholarship, and painstaking labor. It is a carefully crafted compromise.

In the spirit of compromise, I wish to question the distinguished Senator from New Mexico, and others who may wish to respond, regarding one problem which has long been on my mind pertaining to legislative veto—that is, the "workload problem."

As the Senator recalls, when I introduced my bill on this subject, S. 684, I said:

> In establishing a mechanism for congressional review, if we are not careful, we can easily swamp the committees of the Congress with an impossible workload and thereby create the demand for a new staff. We must insure that in curbing the existing bureaucracy we do not create a new one.

In S. 684, my proposal to guard against the possibility of overwhelming the committees of Congress with review work was to require that a certain number of Senators and Representatives sign a petition requesting a rule review before initiation of any congressional consideration of a veto of that rule.

After considering that suggestion, the committee decided such a process would add a procedural impediment.

I am willing to accept that determination if I am convinced that the procedure outlined in the pending amendment protects the committees of Congress from the assumption of such additional duties as would require a substantial increase in staff personnel.

Thus, I have a few questions for the distinguished Senator regarding the impact of the proposed legislative veto mechanism in this amendment and the workload of the Congress.

I ask the distinguished Senator from New Mexico if I am correct in my understanding that in 1980, the Congressional Budget Office conducted a study of the question of committee workload in relation to congressional veto power. Could the Senator give me a summary of the CBO's findings?

Mr. SCHMITT. I thank the Senator for his question. In 1979, at the request of the Commerce Committee, the Congressional Budget Office conducted a brief analysis of the costs that would be involved in reviewing all proposed Federal agency and department rules. This study was based on a CBO assumption that approximately 4,000 rules per year would be submitted to the Congress. CBO further estimated that each rule would require from 1 to 2 staff days to review the initiative. This latter assumption is drastically out of line with the experience of State legislatures that already provide for the review of all proposed rules, where the time required for a review is generally measured in hours or minutes. For example, the Florda State Legislature has a committee which reviews all 5,000 rules proposed each year by the various departments and agencies in the Florida State government. The staff of the committee is comprised of six people. On an annual basis then this works out to roughly 2 hours per rule far below the CBO estimate. I believe this experience based estimate is far more accurate than what appears to be mere guesswork at the Congressional Budget Office. Nevertheless, if we use CBO's estimate of $2 million per year cost, our estimated cost of the legislation based on the experience of State legislatures is approximately $500,000.

Having said this, however, let me point out most emphatically that it is a current practice of all congressional committees to briefly review all the proposed rules of agencies under their jurisdiction. Whether or not a legislative veto is enacted this practice will continue. Therefore, I foresee no change in staff workload with the passage of legislative veto. It will only mean that once a rule is found to be defective in some way, the Congress will be able to do something about it. The Congress will have the tools to address the problem.

Mr. HARRY F. BYRD, JR. Has the Senator or the staff of the Subcommittee on Agency Administration conducted a survey or investigation among the various committees of the Senate to determine the possible personnel impact of the acquisition of the rule review power as proposed in the amendment?

Mr. SCHMITT. Members of my staff and members of the subcommittee staff have made a study of this matter and have discovered that committees do, in fact, review proposed rules at the present time. Therefore, we do not foresee any personnel impact from the adoption of the amendment.

Mr. HARRY F. BYRD, JR. Will the Senator indicate the committees which he believes will be most inpacted by the adoption of this amendment?

Mr. SCHMITT. Committees which fail to excerise proper oversight over the agencies in their jurisdiction are likely to find proportionately more rules which become the subject of resolutions of disapproval. As a result, I believe, they will be forced to exercise better oversight in the future. In my view the presence of a legislative veto will force committees to write clearer and more concise legislation at the outset so that there are fewer problems with rules later on. As a result, in the long run, I believe that the legislative veto will save the time of the Congress rather than add an additional workload.

If I may add at this point, I think the same will apply to the agencies subjected to legislative veto because they will be more careful in their pursuit of various rules and regulations, knowing that there is an oversight of the veto at the end of the pipeline.

Mr. HARRY F. BYRD, JR. I think that is a very logical and appropriate assumption.

As the amendment is drafted, in section XXX, a single Member of Congress may introduce a "Resolution of Disapproval." Such a resolution would then be automatically referred to the committee of jurisdiction.

I am wondering precisely what the obligation of the committee is at that point. Specifically, is the committee obligated to undertake a review of the rule proposed for disapproval or does it retain the same discretion to act or not to act which it has with regard to other matters referred to it?

Mr. SCHMITT. Once a resolution of disapproval has been introduced and referred to committee, the committee is under no more obligation to act on such a resolution than it is with regard to any other legislation. The committee retains the same discretion to act or not to act which it has when dealing with any other legislative matter. There is no requirement that the committee hold hearings or report the resolution of disapproval. The threat of a discharge motion which, I should add, must be signed by one-fifth of the membership under the amendment, will insure that serious initiatives will be given an appropirate amount of attention.

But, again, I should add that the amendment has been carefully crafted to protect not only the rights of the committees, but the rights of individual Members and the rights of the body not to be tied up by frivolous or unnecessary resolutions of disapproval.

Mr. HARRY F. BYRD, JR. If the committee refuses to act, then, a resolution signed by 20 Senators can discharge the committee and immediately bring the matter to the floor.

Mr. SCHMITT. Bring it to the floor as a privileged motion, but, again, still subject to a majority vote of the Senate before the discharge petition would be approved.

Mr. HARRY F. BYRD, JR. Would it then be the view of the Senator from

New Mexico that under this amendment the committee would be able to protect itself from excessive workload—possibly necessitating a request for a staff expansion—by exercise of its own due discretion in proceeding on resolutions of disapproval?

Mr. SCHMITT. The Senator is correct.

Finally, I would add what I said briefly before, that there is, I believe, a great danger in not having legislative veto as a constitutional device for the Congress. If it does not exist, then, as others have said, Congress must become much more specific in its standards and guidelines in the generic legislation and, therefore, in fact, the workload will increase in every committee in every Congress where otherwise the legislative veto might be an appropriate mechanism to join with the executive branch in the shared legislative powers that we have.

Mr. HARRY F. BYRD, JR. As the Senator pointed out earlier, it should have a significant impact on the way the agencies and bureaucracies of Government promulgate their rules and should cause them to be more careful, more concise, and more thorough in their handling of rulemaking, I would think.

Mr. SCHMITT. I think the Senator is completely correct. In fact, we do not have to depend on presumption on that matter. In State experience, where there is a legislative veto provision for State agency rulemaking similar to the one that is under consideration here today, we have, in fact, seen that happen. The State legislators have testified to that effect, that there is that very beneficial effect of just the existence of the legislative veto, whether it is enacted, used, or not.

Mr. HARRY F. BYRD, JR. I thank the Senator from New Mexico. I will support the amendment.

SEVERAL SENATORS addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank the Chair.

I want to become involved in the discussion on the legislative veto. I assure my colleagues I will not take too long.

Mr. President, I support Senator DANFORTH's motion to table this amendment. As my colleagues know, I have long been an opponent of the legislative veto. I was opposed 2 years ago to the legislative veto amendment Senator SCHMITT offered to the FTC reauthorization bill. At that time, the legislative veto concept was very popular. In fact, I felt rather lonesome in opposing such an amendment on the Senate floor.

Let me just say that I sense some of my colleagues have now come around to seeing my side of the argument. Moreover, the courts have ruled in two cases now before the Supreme Court that the legislative veto provision is unconstitutional. The courts ruled that the veto constituted an invalid effort by Congress to expand its role from the legitimate one of overseeing administrative activity to the illegitimate one of sharing in administrative authority. The Court also found that the legislative veto diminished the judiciary's role in review of agency action and concluded that the veto violated the principle of separation of powers.

I would also like to point out to my colleagues that the Reagan administration is now opposing the legislative veto amendment. It is my understanding that the administration is in favor of tabling this amendment. Apparently, the administration has given this issue careful and thoughtful study and reached the same conclusion that has been mine all along.

There is no doubt that every member is concerned about "runaway" regulation, as the number of cosponsors of S. 1080 shows. But the answer to this is procedural reform and, more importantly, substantive reform of Agency's organic statutes. We have given regulatory agencies broad powers which they have been all too happy to utilize.

In 1979, I chaired 9 days of oversight hearings on the Federal Trade Commission. Together with Senators CANNON and DANFORTH, I worked for legislation to trim the overly broad authority granted to that Agency. The powers that had been delegated to the FTC by Congress were being expansively interpreted by the Commission, and the FTC Act of 1980 was an attempt to bring the Commission's actions back within the intent of Congress.

I remain convinced that the legislative veto is a mere stopgap measure that treats only symptoms and not the disease itself. The Congress, as it has done procedurally in S. 1080, must substantively reform agencies that need reforming.

Here we have had something that has been growing and growing as an idea out there that some of us think is an indictment of Congress because we are delegating power to agencies and then forgetting them.

Today we find in FTC legislation a provision that requires the Commerce Committee to have two oversight sessions of the FTC annually. To find out what the FTC is doing, and to where their money is going. Then 6 months later the committee may come back and find out what they have been doing based on what they said they would do.

That is in the statute. Why was that put into the legislation? Because Congress was not exercising its oversight ability. When you do not exercise the responsibility that you have, then agencies that you give birth to grow helter-skelter. Therefore, we are condemning ourselves by saying we ought to have the legislative veto. That is absolutely foolish, in my opinion. We are saying to the general public we have no control of agencies in the Federal Government. We are saying we are not looking at the agencies, how much money they are spending, how much authority they are using, and we are not doing the job we ought to do.

I say today we are not only flying in the face of the courts, but we are saying to the general public, We want this legislative veto, and that legislative veto will restrain the agencies.

What in the world are we restraining? Nothing. Those bureaucrats downtown, or wherever they are, are developing these regulations. They spend their time, they spend their money, and then they send them up here and then we override them, we veto them.

Why do we not go the other end and regulate the agencies by law so that they will know where they are going, what bounds they have to operate in? Then we will not have to worry about a legislative veto that will create havoc.

It is unconstitutional and yet we sit here and say we are going to have a legislative veto, we are going to look over their shoulders.

We have the right now to look over their shoulders through legislation.

That is the reason the distinguished Senator from Nevada has this piece of legislation before the Senate. He has been an advocate of regulatory reform. We all have. Yet we lean on the legislative veto on regulatory reform. That, in my opinion, flies in the face of what we are trying to do. I would hope my colleagues would look at what this means and the impact it has on us as Members of this august body. Are we saying we will not have oversight and we will not do our jobs?

Mr. President, I hope my colleagues will stand up to this one, face it, and say it is our fault, that we are going to stop some of these regulatory agencies, we are going to haul them in, talk to them, and cut them down to the point where we can say that Government is operating efficiently. Then we will not have to worry about a legislative veto.

Mr. President, I have taken more time than I thought I would take. I just hope that now that we are on the verge of doing what we should have been doing a long time ago.

● Mr. CANNON. Mr. President, I support Senator DANFORTH's motion to table the legislative veto amendment. I stress that the Reagan administration supports this motion to table.

My opposition to the legislative veto as a substitute for effective congressional oversight has been vigorous and longstanding.

Two years ago, I argued against imposing a legislative veto on rules of the Federal Trade Commission. At that time, I stated that the veto appeared to violate the Constitution. Two U.S. circuit courts, the ninth circuit and the D.C. Circuit Courts of Appeal, recently decided that the veto is indeed unconstitutional. It is likely that the Supreme Court will rule on this issue early this summer. Vice President Bush, on behalf of the administration, has urged that the Senate defer action on this matter until the Court had decided. I agree with the administration.

In addition to constitutional problems, I am opposed to an across-the-board legislative veto for a very practical reason. The Congress would be swamped with proposed regulations and would not be able to give them the deliberation they require. Congress does not have the time nor the manpower to scrutinize each and every proposed regulation.

What is needed is stricter oversight and reform of the underlying enabling statutes of Federal agencies. For example, in 1979, while I was chairman, the Senate Commerce Committee held 9 days of oversight hearings on the Federal Trade Commission. The committee found that the FTC had exceeded its statutory authority. The result of these hearings was the FTC Act of 1980. This act limited the FTC's authority in the areas where it had deviated from congressional intent.

I share Senator SCHMITT's concern about regulatory excesses, and I, too, believe Congress must get Federal agencies under control. The way to do this is not through an elaborate process of vetoing each and every Federal regulation, but through changing specific statutory mandates.●

Mr. LEVIN. Mr. President, I will be very brief. For one monent, while the Senator from Virginia is on the floor, I want to say something about his role. This has been a long and historic battle to try to achieve some accountability over the regulations of the agencies, to try to give Congress some practical way of stopping regulations before they take effect. The Senator from Virginia has played an important role in this process. He proposed a two-house veto long ago, and that is where we are ending up today in this amendment. I simply want to take my hat off to the Senator from Virginia, Senator HARRY F. BYRD, JR. while he happens to be on the floor and to thank him for the role that he has played in the history of bringing this to the floor today.

Mr. KASTEN. Mr. President, I am in strong support of the concept of legislative veto and the Schmitt amendment, of which I am a cosponsor.

Excessive Government regulation is consistently near the top of almost everyone's list of concerns. The costs of regulation fall on large business, small business, consumers, and labor alike.

With respect to the burden on small business, the President's March 1982 Annual Report on Small Business and Competition is instructive:

> During the 1960's and 1970's a large number of Federal regulatory agencies were established. The resultant regulatory activity, which is in many instances uncoordinated, unintegrated and sometimes unnecessary, causes a heavy and accumulating cost burden on small business. A 1979 SBA study revealed that paperwork burdens alone cost small business $12.7 billion per year. A research study funded by the SBA and conducted by Battelle Human Affairs Research Center demonstrated that regulatory costs are exponentially higher per unit of sale for firms with fewer than 50 employees than for larger firms.

I fear that Government regulation has done much to contribute to the static structure of American industry. It is essential that this rapidly proliferating regulatory structure be rationalized and pruned.

S. 1080, the regulatory reform bill, that Senators LAXALT, LEAHY, ROTH, and EAGLETON have worked so hard and so successfully to put together, goes a long way toward the goal or rationalizing the regulatory process. I support and applaud their efforts. I have cosponsored their legislation.

However, in my judgment, without legislative review and possible veto of regulations, regulatory reform will be incomplete. That is why I am a cosponsor of this legislative veto amendment.

I believe the legislative veto is an essential element in our arsenal of weapons for regulatory reform. Along with congressional and executive branch oversight, and requirements for regulatory impact analysis, legislative veto authority provides Congress an important opportunity, if all else fails, to insure that an agency's exercise of its delegated legislative power is consistent with congressional intent. Establishment of a legislative veto mechanism would be a significant shift in the real power of Government away from the bureaucracy and back to the elected Congress.

While I am aware of the constitutional questions raised about the veto, I believe that until the Supreme Court addresses the issue definitively, it is appropriate, indeed necessary, for Congress to proceed in the exercise of what we believe to be its constitutional legislative mandate.

Mr. President, I am most impressed by the support of the small business community for legislative veto. When the national Federation of Independent Business polled its entire 500,000 membership, it found that 76 percent favored legislative veto. The veto was the No. 5 recommendation of the 1980 White House Conference on Small Business, and legislative veto was recommended by a 30 association task force on small business issues as recently as January 1982.

Last year's reconciliation bill contained nine legislative veto provisions. One of those nine was veto authority over rules of the Consumer Product Safety Commission, new authority that I heartily supported. I will favor renewal of the expiring veto over rules of the Federal Trade Commission, discussed in last week's hearings before the Senate Commerce Committee.

I will support the governmentwide legislative veto authority. I urge my colleagues to support this important amendment as well.

● Mr. QUAYLE. Mr. President, the issue here today boils down to one very central question: Who should make the laws in this country? Should laws be made by elected Members of Congress or by unelected bureaucrats.

I agree with the Senator from New Mexico that Congress should make the laws because it is the Congress that is ultimately responsible to the people.

Today, hundreds of Federal governmental agencies promulgate rules and regulations which have the effect of law. Citizens must obey these laws in the same fashion as laws passed by Congress or face penalties, such as fines, imprisonment or both.

The Senate can rectify this problem by adopting the amendment offered by the Senator from New Mexico, providing for a legislative veto, and I am pleased to cosponsor this amendment.

Congress has adopted over 180 different acts that have over 250 separate legislative veto provisions. The first use of the legislative veto was to disapprove a Government reorganization plan by President Hoover.

One of the most recent uses of legislative veto provisions was the congressional review of the AWACS sale to Saudi Arabia.

Critics charge that the legislative veto is unconstitutional. Let me refute this criticism.

First, an act of Congress has delegated authority to the regulating agencies. If Congress has delegated this authority, it follows that Congress can place conditions and limitations to its exercise by making it subject to a congressional veto. If anything, the numerous rules promulgated by agencies invades on the legislative powers of Congress.

Regarding the presentation clause, which requires that every order, resolution, or vote to which the concurrence of the House and Senate may be necessary shall be presented to the President for his signature. The President has already played a role by signing into law legislation passed by Congress which contains a legislative veto.

I quote now from Justice White in Buckley against Valeo:

In light of history and modern reality, the provision for Congressional disapproval of agency regulations does not appear to transgress the Constitutional design, at least where the President has agreed to legislation establishing the disapproval procedure or the legislation has been passed over his veto.

Finally, the Constitution authorizes Congress to make all laws necessary and proper for carrying into effect not only congressional powers but also all other powers vested by the Constitution in the Government of the United States or in any department or office thereof.

Surely, the legislative veto is a necessary tool for Congress to carry out its legislative and oversight responsibilities.

Arguments have been raised here that we should wait for the Supreme Court to consider the constitutionality of the legislative veto before continuing with the mechanism. This argument is nothing more than a smokescreen. Congress is an equal branch of Government and it would be unwise for Congress to wait demurely for the Court to act. By adopting the legislative veto amendment, here, today, the Senate would be sending a strong signal to the Court that we mean to carry out our responsibilities to make the laws and see that they are being carried out to our intent. We mean business in bringing the bureaucracy under control.

Mr. President, I have one final concern to bring before the Senate on the issue of legislative veto. I know that representatives of the administration are here today and that they object to the legislative veto. But, I want to know what Ronald Reagan thinks on the legislative veto.

One month before the 1980 election, Ronald Reagan stated in a speech in Youngstown, Ohio:

> To better control the growth of federal regulations we should . . . grant both Congress and the President greater authority to veto regulations approved by executive agencies.

With that statement, he became the "first major Presidential candidate dating back to Franklin Roosevelt to endorse the legislative veto." (Post, October 12, 1980.)

The Republican Party platform, endorsed by the President, supports the use of the congressional veto "as a means of eliminating unnecessary spending and regulations."

Finally, Mr. President, I submit for the RECORD two items. The first is a letter addressed to Senator SCHMITT from Stanton D. Anderson of the transition team, answering Senator SCHMITT's question as to President-elect Ronald Reagan's view on legislative veto. The letter states:

> After some delay I am advised that in light of the Republican Party Platform support of the congressional veto to control unnecessary spending and regulations, Governor Reagan's position also favors such initiatives.

The second item is an article written by Ronald Reagan in August 1979, which reads:

> The regulators will have to be more sensitive to the mood of the people, just as Members of Congress are. Since bureaucrats are not elected, holding them more accountable than they have been sounds like a pretty good idea in this constitutional republic of ours.

I think a legislative veto is a pretty good idea, too. If the President of the United States, Ronald Reagan, is presented with regulatory reform legislation which contains a legislative veto, based on these statements, I believe he will sign it.

I commend Senators SCHMITT, GRASSLEY, LEVIN, and BOREN for proposing this amendment and for sticking with it. A delay in its adoption will only mean a continuation of the present situation of unchecked bureaucrats. Congress must have a permanent voice in the issuance of regulations and the most effective means to have that voice is the legislative veto.

Mr. President, I urge the adoption of the amendment and defeat of the motion to table.

The material follows:

OFFICE OF THE PRESIDENT-ELECT,
Washington, D.C., December 9, 1980.

Hon. HARRISON SCHMITT,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: Last week when we talked on the telephone you indicated your desire to push the concept of the legislative veto in the coming session. You asked whether I could determine the President-Elect's position thereon.

After some delay I am advised that in light of the Republican Party Platform support of the Congressional veto to control unnecessary spending and regulations, Governor Reagan's position also favors such initiatives.

I trust this is helpful. Again, it was a pleasure to speak with you on the phone.

Sincerely,
STANTON D. ANDERSON,
Director,
Economic Affairs Group.

[From the Jewish Press Magazine Section, Aug. 10, 1979]

NAILING THE REGULATOR

(By Ronald Reagan)

The Federal Trade Commission, one of Washington's most aggressive regulatory agencies (some have dubbed it the "national nanny"), may get its ears pinned back by the Senate in the next few days.

It hasn't attracted much press attention, but an amendment to the budget authorization bill for the FTC would give Congress a "legislative veto" over rulings by the regulators.

Specifically, the amendment, sponsored by Senator Harrison Schmitt, R-N.M., would give Congress the authority to intervene in FTC rulings within 60 days after they are announced. If it didn't act within that time, the ruling (on, say, such things as children's television advertising—subject now being debated by the FTC) would stand.

The idea isn't a new one. It began in 1932 when Herbert Hoover was president. In the Legislative Appropriation act that year, Congress gave Hoover the green light to reorganize the executive branch of the federal government, but with the specifics subject to disapproval by either house.

In the 47 years since, Congress has passed 159 acts containing 214 separate, specific provisions giving itself "legislative veto" review power. More than half of these have been enacted since 1970, so the popularity of the idea is growing.

"Frustration" and the "anti-Big Government" mood of the nation are often given by both advocates and opponents of the legislative veto as major reasons for its popularity. "There is an increasing frustration over the lack of control of these agencies. Everybody has a regulatory horror story to tell," Sen. Schmitt says.

Bureaucrats and their allies among the Ralph Nader network and other self-styled "public interest" groups are in a tizzy over the possibility that the Senate may pass the measure tightening control over the FTC. Having gotten used to having a hand in deciding what's best for us all, they are—well—uncomfortable about losing their clout.

Ironically, opponents of the legislative veto complain that it would "politicize the regulatory process. One bureaucrat recently said, "The total dynamic of rule-making will suffer . . . Our process will become a political one as we attempt to build a political record to bring before the Hill.

Funny, but that sounds as if he means the regulators will have to be more sensitive to the mood of the people, just as members of Congress are. Since bureaucrats aren't elected, holding them more accountable than they have been sounds like a pretty good idea in this constitutional republic of ours.

Even if the Senate should defeat the Schmitt amendment (and predictions are that the vote will be close, either way), the legislative veto seems to be an idea which is gathering the momentum of a snowball rolling downhill.

An FTC official has conceded that his agency has written off the House, where Rep. Elliott H. Levitas, D-Ga., has made the subject his "Number 1 priority." He says, "It has finally dawned on most people that government has gone beyond their control. These agency people are actually making laws and they're not accountable to anyone."

Rep. Levitas' ire stems from a 1974 incident when an arrogant FTC bureaucrat informed some Levitas constituents that he wasn't interested in their views, he had already made up his mind.●

Mr. DANFORTH. Mr. President, let me begin by expressing my compliments to the Senator from New Mexico for offering an amendment as important as the one that is now before us.

Regardless of one's position on the merits, there is no doubt at all that what we are doing today is, in the words of Senator GRASSLEY, historic.

This amendment that has been offered by Senator SCHMITT is, to say the least, a sweeping amendment. That is to say, we are not today debating the question of legislative veto with respect to some specific agency of the Government. We are, instead, debating the concept of legislative veto with respect to all the Government; every single agency of the Federal Government would be covered by the legislative veto if this amendment were to become law. Nor are we distinguishing between major rules and minor rules. There is no distinction in this amendment on the basis of the importance of the rule or regulation that would be reviewed and subject to legislative veto.

The only exceptions, as I read the amendment, are for rules of very particular applicability, such as rules relating to rates in the ICC, but all other rules of all other agencies—major rules and minor rules—would be covered by this amendment and would henceforth be subject to the legislative veto.

Over the course of years the legislative veto has been debated with respect to specific regulatory agencies over and over again, and there have been a variety of forms of legislative veto that have been suggested—one House vetoes, the so-called one-half House vetoes, two House vetoes.

What this amendment would do, Mr. President, would be to suggest a specific type of legislative veto, the so-called two House veto, and render that veto applicable to all agencies for all rules and regulations, with the exception of those of very particular applicability.

Mr. President, there could not conceivably be a worse time for the Congress of the United States to put in place a Governmentwide legislative veto than is the case today.

The timing is so bad for this amendment that it is as though a computer had been asked what is the worst conceivable time to proceed full-speed ahead with a Governmentwide legislative veto. Surely, any computer that was asked that question would come up with the answer, "Right now, in early 1982. This is the worst conceivable time for a legislative veto."

Why so? Because, Mr. President, I believe it is fair to say that never in the history of the country has the concept of the legislative veto been more in flux than it is today.

We have heard many Senators today talk about the question of the constitutionality of the legislative veto. When the Senator from New Mexico called up this amendment, at the very outset he discussed the question of constitutionality. Why did he discuss the constitutionality of the legislative veto?

The answer to that question is that this is a live matter right now before the Supreme Court of the United States. The District of Columbia Court of Appeals has held the legislative veto unconstitutional. That case is on appeal to the U.S. Supreme Court. The Ninth Circuit Court of Appeals has held the legislative veto unconstitutional. That case is on appeal to the U.S. Supreme Court, and in fact has been argued before the Supreme Court. Two cases are before the Supreme Court of the United States. In one case the argument has been held. Despite the fact that constitutionality is now a real case in controversy before the Supreme Court of the United States, the Senate of the United States today considers whether this precise time is the time to barge full speed ahead by putting in place a specific form of the legislative veto, Governmentwide, for all rules and regulations, whether they were major rules or minor rules.

Mr. President, the question of constitutionality of the legislative veto has been debated back and forth in the Senate today. I do not intend to debate that issue. This is not the forum for debating the issue of constitutionality of the legislative veto. The fact of the matter is that it is irrelevant whether we debate it in the Senate; the issue is going to be decided one way or another by the Supreme Court of the United States.

My view is that while the case is before the Supreme Court, pending a determination by the Supreme Court of the issue that is before it, let us wait for the Supreme Court to speak. Then, if we want to have a legislative veto, let us fashion a form of legislative veto which complies with the decision of the Supreme Court of the United States.

However, not only is this matter in a state of flux before the Supreme Court, it is also in a state of flux before the Congress of the United States.

The Senator from New Mexico pointed out that there have been instances over a great many decades where a legislative veto of one sort or another has been utilized by the Congress for one purpose or another.

That is true. But it is also true that the legislative veto pointed toward the regulatory agencies of the Government is a device which was not widely used until the 1970's.

We are now going through the first phases in Congress of utilizing the legislative veto with respect to rules and regulations promulgated by regulatory agencies.

In the 1970's, the Congress of the United States wrote a legislative veto for the Federal Trade Commission. We now have the first case of the legislative veto being used with respect to the Federal Trade Commission. It is coming to us in the form of the so-called used-car rule. That will be before us. We already dealt with it once in the Commerce Committee. I understand that we will be dealing with it again in the Commerce Committee.

However, would it not make sense to have a trial run or two in Congress to see how it works, to use a legislative veto in a test case, as the used-car rule is, before we determine to put in place—agencywide, governmentwide—a form of legislative veto which would cover all rules, be they major rules or minor rules?

Therefore, Mr. President, I say to even those Senators who are ardent supporters of the concept of legislative veto, and there are many: not now, not today. The timing is not right.

It is a live issue in Congress. It is a live issue before the courts. It is a matter that is in a state of flux right now. The timing could not be worse to set in motion a full-scale implementation of the legislative veto. For even the most ardent advocates of the veto, the timing could not be worse. There is no rush.

Mr. President, that is the reason why I will shortly make a motion to table the amendment offered by the Senator from New Mexico. I will make a motion to table not because I particularly enjoy moving to table an amendment offered by my good friend from New Mexico but, instead, because, in a tabling motion, I want to give those Senators who favor the concept of a legislative veto an opportunity to vote to table, on the theory that the timing is not right today.

However, I also say that, in the view of this Senator, it is not simply a matter of timing that is before us. It is a matter of the whole concept of the legislative veto, because I believe that the arguments to be made on the merits of the veto are at least as compelling as the arguments to be made on the question of timing for the bringing up of this issue.

Mr. President, moving to the question of the merits of the legislative veto, first it should be said that Congress today has the power to exercise a legislative veto against regulatory agencies. Congress today can exercise a legislative veto. How does it do so? It does so by an act of Congress. That is how Congress can overturn any act by a regulatory agency—pass a law. In fact, from time to time Congress has been called upon to pass laws going to regulatory decisions, to overturn them.

We did so in the case of seatbelt interlocks. We did so in the case of the contents of diet sodas. Congress, by act, by law, as provided in the Constitution of the United States, in effect, overturned the actions of regulatory agencies.

It is not as though regulatory agencies are beyond our reach. They are not beyond our reach. There is nothing to prevent Congress from acting as our Founding Fathers determined we should act—namely, by law. The legislative veto is an effort to shortcut the procedures for passing the law. It is a bobtail fashion of legislating. As such, it raises questions which are not only constitutional in their nature but questions which have adverse side effects as well.

For example, it is my contention that the concept of the legislative veto is one which invites delegation of congressional power from Congress to administrative agencies. I believe this is a point worth making, because many of the people who advocate the legislative veto feel that here is an opportunity for Congress to rein in the regulatory agencies, to gather some power back for ourselves.

We talk about a fourth branch of Government in these agencies—the bureaucrats, as we call them—and we rant and rave about the power of the bureaucracy. We say that we want to do something to rein in the bureaucracy, and we conceive of the fact that the legislative veto might be some way to control the bureaucracy. I do not think it is. I believe it would have the opposite effect; that instead of providing a way of controlling the bureaucracy, the legislative veto would be an opportunity for us to say: "Yes, we will give power to the executive branch. We will turn over to the executive branch power which we otherwise might have. We will write our statutes as loosely as possible, vesting the executive branch with power, on the theory that we will have a second bite of the apple, we will have a failsafe, we will have a backstop approach to dealing with the executive branch. We will be able to second-guess them through the process of the legislative veto."

Mr. President, it is interesting that in an article circulated to Members of the Senate by Senator SCHMITT, supporting the idea of the legislative veto, the author of the article makes exactly this point. The article appeared in the Outlook section of the Washington Post on February 21 of this year, written by a man named Louis Fisher. The kernel of his argument is as follows: Presidents accepted—indeed, often invited—legislative vetoes because they provided a way to get more power. The bargain was clearly understood by both branches. The President essentially told Congress, "Give me more authority than you normally would, and I will give you a chance to veto issues."

Mr. President, any of us who have been here for any time at all have heard this argument made in committee: "Oh, let's go ahead and pass the law. Let's go ahead and agree to this amendment or that amendment. Let's go ahead and turn this power over to administrative agencies. Why? Because we will always be able to veto what they do."

The legislative veto is not a way to control the executive branch. It is not a way to control regulatory agencies. The legislative veto, instead, is an excuse we use to tell ourselves that it does not really matter very much whether we turn authority over to the executive branch. Let us just go ahead and do it. After all, we can second-guess it.

So, the first argument on the merits against the legislative veto is that, far from containing and controlling the executive branch of Government, it invites the delegation of authority from Congress to the regulatory agencies.

Mr. President, the legislative veto also invites the trivialization of the Congress of the United States. It invites us to address inordinate amounts of time to very trivial matters.

I listened with great interest to the colloquy between the Senator from Virginia and the Senator from New Mexico on how much staff time the legislative veto will take. It was my understanding of the point that was made by the Senator from New Mexico that it will not take any more time at all; it will not take any staff time at all to have the legislative veto.

Does anybody in the Senate accept that?

Any member of the Commerce Committee who addressed himself or herself to the question of the legislative veto of the used-car rule knows that it has taken staff time and the time of Senators to pore over the used-car rule promulgated by the Federal Trade Commission.

Mr. SCHMITT. Mr. President, will the Senator yield on that point just to clarify something?

Mr. DANFORTH. Would the Senator wait until my remarks are concluded?

Mr. SCHMITT. I think that point should be clarified now.

Mr. DANFORTH. All right.

Mr. SCHMITT. The Senator from Virginia raised the point of the staff time required to review rules, and the thrust of my remarks was on the review process. Obviously, when the resolution of disapproval is introduced the burden on committee is as it is because of any other piece of legislation.

Mr. DANFORTH. Mr. President, clearly there is a very great number of important matters that are before Congress, matters of the future of our economy, the budget, defense spending, and controlling the possibility of nuclear disaster. There are all kinds of important matters that are before Congress and that should be consuming our time.

Yet the members of the Commerce Committee spent considerable amounts of time last fall looking at a form, a sticker to be placed on the window of used cars. We sat there in the Commerce Committee combing through regulations, listening to arguments pro and con on exactly what disclosures should be made or should not be made with respect to used cars.

I contend that if Congress is to spend its time looking through rules and regulations, looking at stickers to be affixed to car windshields, then this is a trivialization of the role of Congress.

The legislative veto would require either a greater workload for Congress itself or more likely it would require a much greater workload for congressional staff. And this is the most likely thing, in my opinion. I think that it would not be a shift of responsibility from the bureaucracy of the executive branch to Congress but instead it would be a shift of responsibility from the bureaucracy of the executive branch to the bureaucracy of Congress. It would necessitate an expansion of congressional staff which some argue has already expanded beyond all reason.

It would also serve as an indication from Congress to all of the special interest groups to increase the special pleading that goes on around this place because the role of the lobbyists henceforth would not be devoted simply to lobbying Congress with respect to legislation; the lobbyists would now be lobbying Congress as well with respect to regulation.

Witness, Mr. President, what happened with respect to the FTC used car warranty rule. After that rule was introduced, before a hearing was ever held in the Commerce Committee, 36 Members of the Senate were cosponsors of the legislative veto of the FTC used car warranty rule.

The special pleading that went on with respect to that rule has already been commented on in the press over and over again, and I do not intend to rehash that.

But if the used car lobby has such power that it can garner 36 cosponsors for a legislative veto with respect to warranties affixed to used cars, just think of the power and activity that would be generated by all kinds of other interests as they clamor to have the actions of regulatory agencies overturned.

Mr. President, the legislative veto is a perversion of the relationship between the executive branch and Congress. It is an abomination. The legislative veto will magnify the role of the lobbyist. It will multiply the size of congressional staff. It will lead to more delegation of responsibility from Congress to the executive branch.

And those are the reasons why so many oppose the legislative veto and oppose the amendment offered by the Senator from New Mexico. That is why the American Bar Association, the AFL-CIO, and the Business Roundtable oppose it. That is also why the administration opposes it.

Even for the advocates of the concept of the legislative veto, this is not the time to do it.

Mr. President, at this point I shall read into the RECORD two letters that I have received from the administration on the legislative veto.

The first letter is dated March 10, 1982, and it reads as follows:

> DEAR JACK: The Laxalt-Leahy Regulatory Reform bill, S. 1080, is scheduled to be considered by the Senate in the very near future. As you know, we strongly support Senate passage of this legislation, and we have worked with Senators LAXALT, LEAHY and ROTH on additional amendments to this legislation which we also support.
>
> We are, however, concerned about an amendment which may be offered to the bill to provide for some form of a legislative veto for agency rulemaking. As the President has recently said to one of the veto's sponsors, the Administration believes that the Senate should not consider the legislative veto at this time because of the Constitutional issues raised by the veto that are currently near resolution in the courts. In view of the recent Court of Appeals decision in the FERC case (which is now on appeal to the Supreme Court), the Court may well provide definitive answers by June to these Constitutional questions in the *Chada* case now pending before it. The Administration therefore believes that further Congressional consideration of the issue should occur only after the Supreme Court has provided more guidance in these cases to Congress and the Executive.
>
> Accordingly, the Administration strongly supports your efforts to defer consideration of any legislative veto provisions.
>
> Sincerely,
>
> GEORGE BUSH.

Mr. President, the Vice President as we all know is the lead person in the administration on the whole issue of regulatory reform. The lead person in the administration's efforts on regulatory reform stated as recently as noontime today in our Republican policy luncheon the opposition of the administration to the amendment offered by the Senator from New Mexico.

Second, Mr. President, I have a letter which I received today, dated today, March 23, 1982, which reads as follows:

> THE WHITE HOUSE,
> *Washington, March 23, 1982.*
>
> Hon. JOHN C. DANFORTH,
> *U.S. Senate,*
> *Washington, D.C.*
>
> DEAR JACK: In recent days some confusion has been generated in the Senate as to the Administration's position on legislative veto. I want to assure you that we strongly support your tabling motion and will continue to work with you in an effort to see that your motion prevails.
>
> For a number of reasons, including the imminence of a Supreme Court ruling on related constitutional issues and our difficulties with the applicability of such a provision to those agencies which report directly to the President, the Administration supports your motion to table the legislative veto amendment to S. 1080.
>
> Please do not hesitate to call on me or Ken Duberstein if you have any further questions.
>
> Sincerely,
>
> EDWIN MEESE, III,
> *Counselor to the President.*

Now, Mr. President, that concludes the remarks that I intend to make. It is my hope in the near future to move to table the amendment.

Mr. LEAHY. Mr. President, if the Senator will yield, I am not going to add to what I have already said this morning. I certainly know of nobody on this side who wishes to make a statement.

Mr. LEVIN. Mr. President, I would like just a few minutes. I think the Senator from New Mexico——

Mr. LEAHY. I apologize to the Senator from Michigan.

Mr. LEVIN. Mr. President, I cannot think of a worse time to hesitate on the question of legislative veto, to falter on the question of legislative veto, based on arguments of its constitutionality when we were arguing that very question before the Supreme Court.

The position of this Senate as argued before that Court is that the legislative veto is constitutional in the particular case before the Court. To hesitate at this time on that issue, it seems to me, would be to court disaster both with that judicial body and with the historic position this Senate has taken.

We should not willingly surrender our right to act on arms sales, we should not willingly surrender our right to act on the sale of nuclear fuel, we should not willingly surrender our right to act under the War Powers Act relative to the introduction of American troops into foreign lands, we should not willingly surrender our right to review the President's decisions on reorganization of the Department of Energy or the Department of Education, every one of those and hundreds more legislative vetoes.

We should not, we cannot, in any way consistent with our own traditions, our own position in the Supreme Court, hesitate or falter on the question of legislative veto at this time.

This is a tested mechanism. I would like to quote just for a moment from the testimony of Representative MILLICENT FENWICK before the Governmental Affairs Committee relative to the legislative veto mechanism in the HUD authorization bill. She told us as follows:

> The legislative review process was enacted into law last year but it applied only to the Department of Housing and Urban Development. My experience with HUD has convinced me that it is a necessary and valuable tool that should be applied to all departments of the Government and could well be even strengthened further.

This legislative veto mechanism is a practical way of stopping regulations before they take effect. It is the only practical way that we know of. It is a tested way.

We are taking the position in the Supreme Court, as we have historically in other courts, that it is eminently constitutional; that it, in fact, is the only practical way of checking the growing, burgeoning regulatory process which is the real intervention in the lives of our people.

Writing general laws, which we do around here regularly, has not been encouraged because of the legislative veto. That has been happening for decades. We cannot blame the legislative veto for the fact that we write general laws.

What happens is that our people come to us when regulations are badly drafted and say:

> It is not the general law we object to. It is the regulations. It is the regulations that are written pursuant to the general law.

Without a legislative veto mechanism there is no way of responding to the demand, the need, the public has for having some way to check the interventions in their lives.

It is not the general laws that burden the people; it is the regulations. It is not the general grant of authority to the FTC, which was made long before the legislative veto, which is the cause of the problem; it is the specific rule of the FTC which causes a problem, and it is that rule on which we must have a handle. It is that regulation and hundreds like it which the legislative veto would give us the opportunity to stop before they take effect.

Mr. DANFORTH. Mr. President, it is my understanding that Senator BOREN is coming to the floor, and he would like to speak on this amendment. I will withhold a tabling motion so that he can reach the floor.

I would only say in just the few seconds remaining, and in a very short response to the Senator from Michigan, that clearly tabling the Schmitt amendment would not undo any form of legislative veto that is now on the books. It would not undo the War Powers Act or anything else. It would simply say that this is not the time in March of 1982 to expand the legislative veto wholesale to all agencies of the Government and to all rules, major and minor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. Mr. President, it has been my pleasure over the last 3 years to have been associated with the effort to pass a legislative veto through the Congress. For the years that I served as a State legislator and as Governor in the State of Oklahoma, I was constantly aware of the burdens placed upon the State and its citizens, both corporate and individual, by the ever increasing sea of regulations which spewed forth from a seemingly endless number of Government agencies.

I will always remember reading a piece in "Industry Week" entitled "Lord Deliver Us", wherein it pointed out that the Lord's Prayer contains 56 words, Lincoln's Gettysburg Address 258 words, and the Declaration of Independence 1,322 words. The article went on, Mr. President, to point out that a Government regulation on the sale of cabbage requires 26,911 words.

As Governor of the State of Oklahoma, I vowed that if I were ever in a position to do so, I would bend every effort to see that unnecessary regulations being considered were eliminated, and those already in existence would be weeded out so as to lessen the burden on my State and its citizens.

Therefore, I was most receptive when my good friend, Senator LEVIN, first approached me about joining him in the effort to pass a legislative veto provision which would apply Government-wide. We have worked long and hard on that effort and have found a good many allies along the way. It was a giant step forward when we were able to join forces with the distinguished Senator from New Mexico, Senator SCHMITT, and the distinguished Senator from Iowa, Senator GRASSLEY. That combined effort has produced a legislative veto amendment which I think is eminently fair, workable, and constitutional.

Previous speakers have discussed the amendment in some detail, so I will not attempt to duplicate their efforts here. Senator LEVIN has spoken eloquently on the question of the constitutionality of this proposal. Senator SCHMITT has traced its history and Senator GRASSLEY has spoken of the history of this concept in the various States of our country.

I would, in the next few minutes, like to discuss the oversight responsibility of the Congress in relation to this proposal.

Oversight naturally flows from and is a part of the purpose of the legislative branch—to create the laws which guide and shape the lives of our citizens and the direction of our Nation.

Congress can and does delegate its authority in this area to the extent that the executive branch agencies can promulgate rules and regulations designed to implement the laws Congress has passed. These rules and regulations often carry the force and effect of law and are so designed as to accurately reflect the legislative intent of the Congress. Neither the act of legislating nor the delegation of that authority relieves the Congress of the burden of seeing to it that the laws it creates are properly applied.

No one in this debate denies our responsibility of oversight, nor do they fail to recognize the complexity that responsibility entails. In 1979, there were 18 regulations promulgated for every statute enacted into law. It is this vast morass that the American public faces each day—law that is administrative in nature rather than statutory and law that is being imposed by unelected persons through authority granted to them by the Congress.

Since we agree that delegation is not abandonment, the question becomes how to best discharge our oversight responsibility legally and effectively. Senator LEVIN has addressed the legality question—I would deal with the issue of effectiveness.

Mr. President, half a century ago, the Congress of the United States decided that legislative veto was a legal and effective means of employing its oversight responsibilities—not yesterday—but 50 years ago.

The 1932 Appropriations Act authorized then President Herbert Hoover to consolidate existing administrative agencies and activities, but each of his reorganization plans had to be laid before the Congress where it could be blocked in whole or in part by the disapproval of each Chamber. Since that time, the number of legislative vetoes have multiplied and touched very nearly every phase of the Federal Government. I am not certain that anyone knows the exact number of legislative veto provisions that have been enacted into law. An editorial in the Washington Post fixes the number at more than 200 and our staff research indicates that there are nearly 300 such provisions.

Such provisions are found in the Impoundment Control Act of 1974, the Federal Trade Commission Act of 1980, the War Powers Act, the Transportation Appropriations Act of 1982, and hundreds of others. In the 96th Congress alone, 33 legislative veto provisions were enacted into law.

In light of today's circumstances, it is with some irony that I point out the original purpose of the legislative veto concept was to put more power in the hands of the President.

It was neither desirable nor practical then or now for Congress to draw legislation with such specificity as to result in implementation without intervening action.

In an excellent article which appeared in the February 21 edition of the Washington Post, Lewis Fisher said that over the years Presidents accepted legislative vetoes as a part of a bargain clearly understood by both branches of the Government. The President's end of the bargain was to tell the Congress that if they would give him more authority than they were normally prone to do, that he would allow them the chance to veto his initiatives.

Fisher went on to point out that the courts were familiar with this arrangement to the extent that the fourth circuit in 1977 dismissed a suit by a Federal employee who protested that the Senate had acted unconstitutionally when it disapproved a pay raise recommended by the President. Fisher noted that the legislative history convinced the court that Congress delegated the salary authority only on the condition that it could, by a one-House veto, disapprove Presidential recommendations.

It is extremely important in this debate to understand the reasoning of the court and the conclusion of the court in that case—that the authority and conditions were inseparable. In other words, that the congressional delegation of authority to the President was inseparably linked to the condition of the veto.

Is this arrangement effective? Most certainly. We have already heard other speakers relate the history of the veto and the manner in which it has been used.

A good deal of the effectiveness and appeal of the legislative veto process rests in its expedited procedures.

Under the provisions of this amendment, consideration of a resolution of disapproval is a privileged matter and no debate may occur on a motion to consider it—nor may the motion be amended. The debate on the resolution of disapproval is set at 2 hours and the resolution may not be amended. There are other provisions, but the point is made that little time will be wasted if and when such a resolution should come before the Senate.

It is important to note that unlike the regular legislative process, this resolution would not be subjected to the attachment of riders that are often nongermane and long-delay or even defeat-desired legislation.

To those who are concerned about the workload of the Senate, I submit that in the absence of legislative veto and with the regular legislative process being the only method by which Congress could exercise its oversight responsibility, our workload could and would increase as each of us sought in the only way open to us to satisfy the cries from our constitutents for relief from a particularly onerous rule put forth by an uncaring or dogmatic agency in direct violation of legislative intent.

We could well see other legislation mired even further by additional riders—on appropriations bills, for example—because that is the only avenue open. I can see a situation where a bill disapproving an agency action such as I have just described would be stopped in its tracks or defeated by an amendment dealing with abortion, for example.

While we are explaining that procedure to a constituent who is being hurt or whose business is being shut down, we might also tell them that things came to this state because the Senate failed to pass an expedited procedure that could have provided speedy, timely relief.

In that world, legislative veto will be a device whose design saves the Senate time and work and a large political headache.

Mr. President, this question of workload and time is closely linked to effectiveness. I believe other speakers have dwelled on the folly of the argument that the Senate will be faced with 5,000 or 6,000 or 7,000 new rules and regulations each year. I will not cover that ground again.

However, I think it is very much to the point to ask what happens in the absence of a legislative veto. I submit one of two things—either Congress will be forced to write far more detailed laws to insure intent is carried out, or we will find another way to do the same thing a veto would have done.

In either case, the power of the executive would be undoubtedly reduced, which is exactly the opposite of this administration's desire at the moment.

As to the first option—greater specificity—I frankly believe the majority in Congress would pass in favor of the second. Although if they did not the results in time and workload for the Congress would be obvious, to say nothing of the court battles which would erupt as everyone tried to unravel the uncertainties inherent in law written by committee. We have that problem now—but not nearly to the extent we would have if Congress decided to get more detailed in their work—assuming we could pass anything.

No, Mr. President, the ingenuity of Congress and staff would find another way. And, as Mr. Fisher points out in his article, the devices will be more cumbersome for the President and just as satisfactory to Congress.

If I may quote from Mr. Fisher's research:

> President Eisenhower discovered this unpleasant fact in the 1950s when he objected to "committee vetoes" compelling agencies to obtain advance clearance from congressional panels. Attorney General Herbert Brownell called this an unconstitutional infringement on executive responsibility.
>
> Undaunted, Congress created another procedure that yielded the same control. A bill was drafted to prohibit appropriations for certain real estate transactions unless the Public Works Committees first approved the contracts. Eisenhower signed the bill after Brownell concluded that this procedure—based on the authorization-appropriation process—was within Congress' power. That form had changed; the committee veto remained.
>
> If the one-house veto over impoundment deferrals is invalid, Congress will have no trouble devising more burdensome procedures for the president. A harbinger of what might be in the works appears in the Transportation Appropriation Act for fiscal 1982, passed last December. Whenever the president proposes to defer appropriations for various rail programs, the funds must be released unless Congress within 45 days completes action on a bill approving all or part of the proposed deferral.
>
> There is no constitutional problem here, since Congress will act through the regular legislative process. Yet in this case, in effect, the president not only ends up with a one-house veto, but a more onerous version. Under the Impoundment Control Act, one house must take the initiative to disapprove a deferral. Under the transportation statute one house can succeed through inaction.

Mr. President, I digress at this point only long enough to say that I am not entirely pleased by this sort of idea. Legislation or the denial of legislation by inaction is, in my judgment, bad public policy—unless, of course, that is the only way to deal with an even worse policy.

Fisher goes on:

> Other mechanisms are also available to protect congressional prerogatives. Under the Trade Act of 1958, the president could implement certain actions for import relief only by obtaining from Congress a concurrent resolution passed by a two-thirds majority in both houses. Courts would likely find this type of concurrent resolution constitutional, since it contains a built-in override of a presidential veto. This would come as little consolation to a president forced to locate an extraordinary majority in each house before acting.

So there we have it, Mr. President—a Congress denied legislative veto, curbing the powers of the executive by granting authority for shorter periods of time, forcing the President to return more often for extension with the resulting decrease in time and increase in workload for us and them. It is hard to believe the administration has thought this through. We should save them from themselves.

Others we should be attempting to save from themselves, Mr. President, are those like the membership of the Business Roundtable.

At the beginning of my statement, Mr. President, I mentioned an Industry Week article that dealt with the number of words in the Lord's Prayer, the Gettysburg Address, the Declaration of Independence, and a Government regulation on the sale of cabbage.

That comparison came from a study done for the Business Roundtable by Arthur Andersen & Co. The study was of the regulatory impact of just 6 Federal agencies on 48 "Roundtable" companies. It found that the regulations from those six agencies cost the companies $2.6 billion in 1977—43 percent of what those firms spent on research and development that year and 16 percent of their combined net income. It is hard to believe that the Business Roundtable would turn their back on anything that would help with that kind of problem. I am not sure they are doing so with great enthusiasm.

Certainly not as great as the enthusiasm being displayed by the National Federation of Independent Businessmen in support of legislative veto. Wilson S. Johnson, then president of NFIB said this about the veto concept:

> Since 1974, the National Federation of Independent Business (NFIB) has been surveying members quarterly to determine the main economic problems they face. Government regulation has consistently ranked among the top four.
>
> Some regulation is necessary, but too often those writing the regulations do not understand the impact of their work on those they regulate. In many cases, regulations go beyond the intent of the Congress.
>
> As part of an effort to reform regulatory procedures, Congress will soon consider a concept called "legislative veto." The idea is to give Congress the power to reject any rule or regulation that goes beyond the original intent of the law. Some say Congress already has "oversight" responsibility for the laws it passes, but oversight as it exists cannot remedy the excesses of the federal bureaucracy because Congress does not have the power to keep regulations from taking effect.
>
> For small business, legislative veto would provide an avenue for appeal which does not now exist. Large corporations, with their teams of lawyers, statisticians and computers, can work directly with regulatory agencies or even go to court to challenge unfair or inequitable regulations. The small-business person cannot afford to do so.

Mr. President, I want to repeat one sentence of Mr. Johnson's statement:

> Some say Congress already has "oversight" responsibility for the laws it passes, but oversight as it exists cannot remedy the excesses of the federal bureaucracy because Congress does not have the power to keep regulations from taking effect.

Congress does not have the power to keep regulations from going into effect. The legislative process is reactionary in this instance—someone has to be hurt before Congress can help. We have already dealt with the delay and dangers built into the system. What then happens to this small businessman being economically bludgeoned by an agency with a rule already in place?

What help is there for him while the Congress struggles for months or years to push a bill through the process? The answer is none—in the absence of legislative veto with its expedited procedure. It makes no sense to me to delegate authority, as we do in the rulemaking procedure, and allow ourselves to remain powerless when that delegated authority is abused—powerless to prevent—to prevent, Mr. President, the undue and unnecessary injury of our constituents. Only after they have been hurt can we act—unless we have legislative veto.

Oh, there are those who will say "Well, a Congressman or a Senator can pressure an agency about to indulge in injurious rulemaking—we can call the Chairman of the FTC and tell him 'Mr. Chairman—better not do that, better not issue that rule—remember your authorization or appropriation is coming up.'"

What a picture that presents, Mr. President, a Senator begging or threatening or pleading or cajoling the head of an agency we created not to abuse the power we delegated to him.

Of course, that also assumes you can get the chairman on the phone. I am sure all my colleagues have had the same experience I have had in that regard.

No, Mr. President, that is no way for an elected representative of the people to act; it is no way for a system to function; it is no way to treat the boss—and the people who sent us here and pay the bills are the boss.

Legislative veto is a reasonable, effective, fair, legal means of seeing the public's work is done in a manner which suits the public.

Its very existence may well serve to dampen the need for its use—I hope that happens. But in the meantime, Mr. President, my charge is to serve my people to the best of my ability and concepts like legislative veto help me help them.

Mr. President, in conclusion, I just say to my friend from Missouri—and I was listening to him earlier with interest—that I cannot fully agree that we already have in place a remedy for what we face. The regular legislative process is often too late. Once a regulation takes effect, pending a reversal later by the Congress, the private sector very often has to go ahead and expend the funds in order to comply with those regulations. To undo them by passing a bill to repeal those regulations after the fact is often a remedy which does not really help.

This mechanism will give us a way to prevent the abuse before it takes place. I think, essentially, Mr. President, that is why it is one which will work, is one which will avoid this waste of resources and is one which, as has been explained by others, is fully within the constitutional powers and prerogatives of Congress.

I urge my colleagues to support the veto mechanism.

WORKLOAD RELATED TO LEGISLATIVE VETO

Mr. SCHMITT. Mr. President, the legislative veto will not add a substantial new workload to the Congress. I do not believe that the congressional experience with legislative veto of administrative rules and regulations will be that much different from the States. Only those regulations which are far reaching, oppressive or clearly exceeding the intent of Congress will receive consideration. Congressional veto of administrative rules and regulations will not overwhelm Congress or create unreasonable administrative burdens and delay. This line of argument is begging the question. These rules and regulations can be as far reaching in effect as laws, and we cannot let them go by without scrutiny because they are not called such. I would say, and suspect that many of you would agree, that some of the bills we consider are not as significant in effect as the regulations we ignore simply because they are called regulations.

Let me point out that in the 95th Congress, over 18,000 bills were introduced for consideration. This amount was almost two and a half times the number of rules and regulations promulgated. Only those bills and resolutions which were important and necessary were considered in committee and eventually received attention by Congress. It is a process of selectivity. Such would be the case with congressional review of administrative regulations.

In addition, committees already have review and investigations subcommittees with the responsibility of monitoring a particular function of the bureacracy. The staffs of these subcommittees review the activities of the Federal agencies every day, as well as review the regulations promulgated by the agencies. I would be amazed if any subcommittee chairman would appear before you to say that once his legislation has gotten through Congress, his staff does not check to see how the legislation is being implemented by regulation. The problem is they cannot do anything effectively about the bad regulations, except perhaps to write a letter to the agency in the chairman's name. As you know, that does not necessarily guarantee that the regulations will be changed. Congressional veto will be an asset to oversight activities in that it will help the committee staffs to focus on problem areas without allowing the administrative excess or abuse to continue while long-range oversight activities get underway. It will not add to staff size, but will make them function more effectively.

Let me point out that many of the States, such as Tennessee, Montana, Vermont, and Connecticut, do not have legislatures which meet year round and certainly do not have staff resources that are even vaguely comparable to Congress. For example, the State legislature in Montana meets for 3 months a year. In the 1977 session, approximately 600 administrative rules and regulations were promulgated and reviewed. Five vetoes were introduced in the legislature, that is less than 1 percent of the total, and two were enacted. Two vetoes out of 600 rules: that is three-tenths of 1 percent of all rules which were actually vetoed.

In a study my staff did on 10 State legislatures which had legislative veto laws, the experience of Montana with only two vetoes enacted after the review of approximately 600 regulations was not unique. All of the States reported that the veto was used sparingly. Connecticut reported the highest usage of the legislative veto back in 1974 when 23 regulations were vetoed in their entirety of 159 regulations reviewed. In 1976, the Connecticut Legislature considered 129 regulations and vetoed 3.

Michigan has the oldest legislative veto law in the country, originally enacted in 1947. The regulatory review is performed by a joint committee on administrative rules which recommends suspension of a regulation that must be upheld by concurrent resolution of the legislature. In 1976, one regulation was vetoed by the legislature; in 1975, none were. The counsel for the committee maintained that just the existence of the review committee was a major element of power over the agencies.

The Florida State Legislature has a committee which reviews all 5,000 rules proposed by the various departments and agencies in the Florida State government each year. The staff of the committee is comprised of six people. To repeat: six people to review 5,000 rules per year. Yet we are told that if we adopt this amendment the Senate will need a new building to house all the new staff. Now I know, people in Washington are said to be less efficient that in other parts of the country—but this is going too far. In fact, the Senate will not have to have one additional staff person if this amendment is agreed to. The staff already reviews the rules of each agency under a committee's jurisdiction.

Congressional experience with the legislature veto is very similar to that of the States. Taking one agency as an example, the rules of the Department of Education have been subject to a legislative veto since the Department's establishment in 1979.

From the period between January 1, 1979 and October 6, 1981 a total of 133 regulations were published in the Federal Register. Of these 133 regulations then, only 8 or 6 percent of the total were even the subject of resolutions of disapproval. Of the eight resolutions of disapproval introduced, only four were passed, all within 1 week—with little debate or controversy. This means that only 3 percent of the total number of rules of the Department of Education were actually vetoed. All of the resolutions in question were reported unanimously by the Labor, Health and Human Services Committee. In the Senate rollcall votes were not even required. I might add that the reason for the absence of controversy was that all four of these rules were clearly in conflict with the underlying statute.

There were no claims that the legislative veto was unconstitutional when these resolutions of disapproval were considered. There were no claims that the procedure created a "burdensome workload." The record shows that the Senate quickly and efficiently passed these resolutions.

Although these were small victories, they insured that in this area at least, bureaucratic rulemaking is an expression of congressional intent. What we seek to do today is simply to insure that all agencies are held to the same high standard of accountability.

PRESIDENT'S AND REPUBLICAN PARTY POSITION ON LEGISLATIVE VETO

Regrettably, it appears that the administration may be about to turn its back on the commitment made in the campaign, and in the Republican Party platform: To support the legislative veto of executive department and independent agency rules. We believe the President should continue the support he expressed during the campaign in a syndicated column devoted entirely to the legislative veto:

> The regulators will have to be more sensitive to the mood of the people, just as members of the Congress are. Since bureaucrats aren't elected, holding them more accountable than they have been sounds like a pretty good idea in this constitutional republic of ours . . . the legislative veto seems to be an idea which is gathering the momentum of a snowball rolling downhill.

In a speech on October 11, 1980, in Youngstown, Ohio, the President stated his position unequivocally. He said he would support granting both the Congress and the President "greater authority to veto regulations approved by executive agencies."

Such a change in position would be a departure from the clear expression of support for the legislative veto contained in the Republican Party platform. The platform states:

> The unremitting delegation of authority to the rule-makers by successive Democratic Congresses and the abuse of that authority has led to our current crisis of overregulation. For that reason, we support use of the Congressional veto, sunset laws, and strict budgetary control of the bureaucracies as a means of eliminating unnecessary spending and regulations.

Finally the transition team also recommended the legislative veto to the President. In a letter dated December 9, 1980, Stanton Anderson, director of the economic affairs group wrote:

> . . . I am advised that in light of the Republican Party Platform support of the Congressional veto to control unnecessary spending and regulations, Governor Reagan's position also favors such initiatives.

With this long and repeated record of support for the legislative veto, I am deeply concerned and very hopeful that the President will not now oppose passage of this legislation. The President pledged to bring change to Washington, and to avoid being captured by the bureaucracy; yet on this issue we are fearful that this may be just what is occurring.

The legislative veto is an issue that is of paramount concern to the small business community. A nationwide survey of small business by the National Federation of Independent Business indicated that 76 percent favored congressional enactment of a legislative veto over proposed agency rules. The White House Conference on Small Business strongly supported the legislative veto over the objections of the Carter administration. Aside from tax issues, the legislative veto received more votes than any other single initiative.

Finally, the light of the overwhelming support this issue has in both the House and the Senate, where a majority of the Republicans, and a majority of each House is cosponsoring legislative veto legislation, I am puzzled and amazed to see indications that the administration may needlessly oppose legislation that will almost certainly be passed by Congress.

I must point out that while we strongly support and applaud the efforts of the administration to deregulate our economy, it must be recognized that a future administration will be able to move just as rapidly to reimpose regulatory burdens. The existence of a legislative veto procedure will insure that the Congress has an opportunity to block or impede such an effort. If permanent reform and protection of small business and the public from bureaucratic excess are the objectives, then surely the legislative veto must be enacted into law.

Mr. THURMOND. Mr. President, it is a pleasure for me to rise in support of a proposal which allows for a two-House legislative veto of agency rules and regulations. I would like to take this opportunity to thank Senator SCHMITT, Senator LEVIN, Senator GRASSLEY, and Senator BOREN for bringing this important issue to the attention of the Senate. I would further like to recognize and commend the staffs of the Senators introducing this amendment for their tireless efforts toward reaching an agreement on this crucial issue.

The need for passage of this amendment is clear. In 1981, there were 63,554 pages of rules and regulations printed in the Federal Register. While that is a reduction from the previous year, it clearly indicates that unelected public officials continue to churn out an unending stream of Federal rules and regulations that are not subject to congressional scrutiny. The American people are being endlessly bombarded by these rules, which have the force of law, but which are promulgated not by their elected Representatives, but by unknown, unseen, and largely unaccountable bureaucrats.

The legislative veto process proposed by this amendment supports the public policy that fundamental decisions in our society should be made not by appointed officials, but rather, by Government officials who are immediately responsible to the people through the elective process. This concept is clearly favored by the vast majority of the American people who want the Congress to take control over the runaway bureaucracy. The mail that I have received is overwhelmingly in favor of this amendment.

The Regulatory Reform Act, of which I am proud to be cosponsor, already provides for judicial review of major agency rules and allows for executive oversight of agency performance. But, it is we, the Congress, who have been responsible for creating this regulatory monster by delegating authority to administrative agencies. Therefore, it is our duty to take on the further responsibility of reviewing agency action. As agency rulemaking is a legislative function, it is most appropriate for the legislature to be the first level of review, before the rule acquires the force of law.

At the heart of this issue of congressional veto of administrative rules and regulations is accountability. The American public feels that Federal agencies have run amuck. Small business has been particularly affected by this ceaseless overregulation. We cannot continue to hand over what is essentially legislative authority to administrative agencies without being answerable to the American people whose lives and property are being affected by the thousands of rules promulgated by those agencies.

The Schmitt, Grassley, Levin, Boren amendment will make us all accountable for the delegation of authority we make to administrative agencies. The legislative veto would serve to maintain the equilibrium of power established by the Constitution and help to preserve and strengthen the system of checks and balances essential to our democratic form of government. Therefore, ladies and gentlemen of the Senate, I urge you to join with me in supporting Senators SCHMITT, GRASSLEY, LEVIN, and BOREN and vote favorably on this amendment.

Mr. DECONCINI. Mr. President, the legislative veto amendment being offered to S. 1080, the Regulatory Reform Act, on behalf of 50 Senators, will restore the Congress to its proper constitutional role in the lawmaking process. The legislative veto amendment will insure that delegation does not become abandonment to legislative authority. The legislative veto amendment will reestablish the system of checks and balances between the executive branch and the Congress, and set down the procedure by which we can govern effectively in the coming decades.

Opponents of the amendment may argue that now is not the time to consider the legislative veto, that the Congress should wait for a definitive Supreme Court ruling on this issue before moving ahead. Unfortunately, it may be a number of years before the constitutional questions surrounding the legislative veto are fully resolved. The Chadha case, currently before the Supreme Court, is not likely to provide a definitive ruling on this issue. It involves a congressional veto over a formal adjudicative decision pertaining to the deportation of one individual, as opposed to a legislative veto over agency rulemaking.

The other major case in this area, Consumer Energy Council of America against FERC, which does apply to rulemaking, is presently on appeal to the Supreme Court. In light of the fact that nearly 300 legislative veto provisions have been enacted into law, I believe the chances are remote that the Court will make a sweeping ruling on this case. In any event, it will likely be the first of many decisions that will ultimately define the constitutional limits of the legislative veto. Thus the argument that the Congress should defer a vote on the legislative veto until the Court has provided a definitive ruling would mean a wait of not months, but years. We should note that it is the official position of both the House and the Senate, as intervenors in the Chadha and FERC cases, that the legislative veto is indeed constitutional.

Legislative veto has been carefully considered by the Congress for many years, in fact for a substantially longer period than have most of the provisions of S. 1080. Both the Judiciary and the Governmental Affairs Committees have held extensive hearings on congressional review and veto legislation, and the issues involved have been debated in practically every committee in the Congress.

In the 96th Congress, 33 legislative vetoes were enacted into law. In the first session of the 97th Congress, 10 statutes were passed which contained legislative vetoes. The Budget Reconciliation Act alone contained nine such provisions. With the growing number of legislative vetoes on the books, there is a pressing need to insure uniformity among these various statutes.

The time has come for the Senate to act on this issue. I urge my colleagues to support this critical amendment.

Mr. LEVIN. Mr. President, adoption of this amendment represents a significant step toward a goal I committed myself to during my campaign for this office in 1978. Like most legislative acts, this one was accomplished only as a result of the dedicated efforts of staff. Linda Gustitus has spent 3 years working on this issue, or more. She has devoted herself to this effort. With the exception of her pregnancy—and the birth of her son Robert—this was a full-time effort on her part. Her husband and her son are delighted that this is done—and I am sure they will be disappointed to learn that I intend to continue with this effort until this amendment is signed into law.

Mr. EAGLETON. Mr. President, I believe it is important at this time to reiterate the strong warnings I sounded in my opening statement about the amendment we are considering at this moment. I believe that there are a number of compelling reasons for opposing this amendment as a matter of substance. Further, even Senators who might support the legislative veto on its merits would do well to consider how much they support the passage of the regulatory reform bill. If they believe that passage of S. 1080 is an important goal, they would do well to recognize the strong danger which inclusion of a legislative veto in the regulatory reform package would pose. And they would do well to support the motion to table the Schmitt-Grassley-Levin-Boren proposal.

As I indicated, I have substantial doubts about legislative veto from a policy and legal point to view. I have supported limited veto provisions only reluctantly, and only where substantial safeguards were built in to insure that the evils of full-blown legislative veto would be avoided. The proposal now before us is not such a legislative veto. It sweeps generally across a wide universe of potential rules, failing to distinguish between major and nonmajor rules. It runs a substantial risk of injecting Congress and congressional staff into the day-to-day decisionmaking we have delegated to administrative agencies. Moreover, recent court cases raise substantial questions in my mind about the constitutionality of any legislative veto proposal—like the proposal before us—which does not include the President in the veto process.

I know many Senators disagree with my reasoning on this question. However, assuming that the strong bipartisan support for S. 1080 indicates broad agreement that its passage is necessary and desirable, I urge those who would otherwise support this legislative veto to think twice about attaching it to this vehicle. In my opening statement, I expressed very grave concern about what I called the cumulative impact of the various provisions of this bill. As I mentioned, we begin by imposing substantial new requirements on administrative agencies.

We then go on to grant novel, albeit limited, authority to the President and OMB to engage in oversight of the agency's compliance with regulatory analysis procedures. The Bumpers amendment, although modified, aims to insure a uniform degree of appropriately close judicial scrutiny. I seriously question whether we can add to this process yet another review layer.

As I said in my opening statement, I believe this legislative veto proposal poses "the substantial danger that we could complete a circle" of new, and possibly excessive, grants of authority. Unbalancing S. 1080 through adoption of a legislative veto proposal would be unwise as a matter of substance. Politically, it could mean nothing less than insuring that this bill collapses of its own weight. Even if we give S. 1080 an enthusiastic sendoff in the Senate, it would face tough sledding in the House.

All in all, I believe those who are really committed to the cause of regulatory reform ought to reject this amendment and support the motion to table.

● Mr. ROTH. Mr. President, I support the Senator's amendment and urge the Senate to adopt this provision to the regulatory reform legislation. Indeed, this legislation would be incomplete without providing a mechanism for Congress to control the actions of administrative agencies. Regulatory agencies have escaped political accountability for too long, it is essential that Congress be given the opportunity to review and where appropriate, overturn proposed agency rules. This amendment would do that by allowing both House of Congress, acting together, to pass a resolution of disapproval invalidating any agency proposal.

Many statutes provide agencies with sweeping powers to regulate the public, without any check on the nature of that action short of a costly and lengthy court challenge. Where Congress has delegated broad powers to administrative agencies, it is only appropriate that it retain power through a veto mechanism, to reverse proposed agency action. Frustration with the runaway powers of big govenment demands that some action be taken to control the unelected bureaucrats who have too often issued regulations without regard to the intent of Congress.

The concept of a legislative veto is not revolutionary, on the contrary, it has been used by Congress, and accepted by the President, in hundreds of statutes. One recent count shows that since 1932, Congress has passed 159 acts containing 214 separate, specific veto provisions. Many of these veto provisions apply to rulemaking by executive branch agencies, precisely the issue presented to Congress today. The President's use of the reorganization authority has always been subject to a legislative veto, and I see no distinction between the presentation of a reorganization plan to Congress and the proposal of a regulation for Congress to review.

Finally, I would like to stress that the legislative veto will provide protection for small businesses who often lack the resources to hire the lawyers, scientists, and economists necessary to challenge a regulation in court. Under the legislative veto provision, any person with a legitimate complaint about a regulation can take his case to his Senator or Representative and be assured that it will be given careful consideration. Not surprisingly, legislative veto was one of the top priorities of the 1980 White House Conference on Small Business. President Reagan has favored the idea and it has been endorsed by the Republican Party platform. I urge the Senate to vote for the bipartisan Schmitt-Grassley-Levin-Boren legislative veto amendment.

Before closing, I would like to commend the Senator from New Mexico, Mr. SCHMITT, for his important work in bringing this issue to the consideration of the Senate and in working so diligently for its passage. Along with the Senator from Iowa and our colleagues in the minority, Mr. LEVIN and Mr. BOREN, the Senator from New Mexico is to be commended for his leadership on this issue. Indeed, his leadership has been instrumental in insuring that this issue has not been ignored as we have worked to enact the Regulatory Reform Act. I compliment him for his persistence in pushing for the legislative veto and for his efforts in highlighting the need for a carefully crafted veto mechanism. On an issue as difficult and complex as this, he exhibited the true qualities of a leader by laying out the facts in a clear and convincing manner. Once again, I commend his for his dedication and concern on this issue.●

● Mr. JEPSEN. Mr. President, as a cosponsor of the Schmitt-Grassley-Levin-Boren legislative veto amendment, I am pleased to have this opportunity to vote on this important issue. Those of us who are strong supporters of the legislative veto are confident that this amendment will be approved. In fact, I think many of my colleagues would agree that no regulatory reform package would be complete without a measure of this type.

Enactment of a legislative veto mechanism is long overdue. Congress can no longer ignore its responsibility in the regulatory area. Too many important decisions have been left in the hands of unelected bureaucrats. The Schmitt-Grassley amendment will reverse this trend.

What we are arguing for, Mr. President, is accountability. In order for rules and regulations to be fair and equitable, those making the decisions must be accountable for their actions. Because these rules and regulations are very often the direct result of laws passed by Congress, Congress must add this to the list of other ways in which it can control regulatory excess.

The second reason why the legislative veto mechanism is a necessary part of any regulatory reform package is the lack of responsiveness within the bureaucracy. Ask yourself this question: How many times have you been contacted by a constituent because a proposed rule or regulation was going to have a devastating impact on his or her livelihood? Then, upon investigating the situation, found that a better, more reasonable solution could have been adopted to the satisfaction of all concerned. The problem was, the agency trying to promulgate the regulation, did not bother to consult with the individuals who were going to be affected.

Finally, there are those who have argued that under the Reagan administration the legislative veto is unnecessary. In general, I would agree with this statement. However, all of my colleagues know this administration will not be around forever. If we wait until after the Reagan administration leaves office to enact this type of legislation, it will be too late. Only then will Congress realize the excellent opportunity it missed.

Passage of the Schmitt-Grassley amendment will not necessarily mean less regulation, but it will mean more reasonable regulations. I am confident that the regulations promulgated under the type of system adopted in this proposal will prove far less burdensome, yet effective.

I cannot urge my colleagues enough to join me in support of this excellent proposal.●

Mr. STEVENS. Mr. President, I support the amendment of the Senator from New Mexico. Legislative veto is a necessary and proper adjunct to congressional authority to make the law. This amendment will insure that congressional delegation of authority to the executive branch does not become abandonment of that authority. The amendment will maintain the checks and balances between the executive and legislative branches necessary to the efficient operation of Government.

Alaskans, as well as other Americans, have seen the clear intent of Congress changed to suit the needs of agencies vested with power to interpret the law. One way to stop this wrongful use of delegated power is to make agencies continually responsible to Congress for the regulations they make; and Congress should be responsible to the American people for overseeing the results of powers that it delegates. Legislative veto is the way to accomplish these goals.

I oppose any motion to table the legislative veto amendment as "untimely." It may take years to finally resolve all of the constitutional issues involved in the many forms of legislative veto on the books. Meanwhile, agency rulemaking will continue, and Congress has the duty of overseeing that rulemaking.

I commend Senator SCHMITT for his continuing effort to make agencies of the executive branch accountable for their legislative actions.

Mr. DANFORTH. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. MATTINGLY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Missouri (Mr. DANFORTH) to table the amendment of the Senator from New Mexico (Mr. SCHMITT). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS (after having voted in the affirmative). Mr. President, I have a live pair with the distinguished Senator from Michigan (Mr. RIEGLE). I voted "aye." If Mr. RIEGLE was present, he would vote "no." Therefore, I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PELL), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Rhode Island (Mr. PELL) would each vote "Yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 23, nays 70, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—23

Biden
Chafee
Danforth
Eagleton
Ford
Gorton
Hart
Hatfield
Heinz
Hollings
Jackson
Kassebaum
Kennedy
Leahy
Mathias
Metzenbaum
Percy
Proxmire
Randolph
Sarbanes
Stennis
Tsongas
Weicker

NAYS—70

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Cohen
Cranston
D'Amato
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
East
Exon
Garn
Glenn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kasten

Laxalt
Levin
Lugar
Matsunaga
Mattingly
McClure
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Rudman
Sasser
Schmitt
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bumpers, for.

NOT VOTING—5

Cannon
Long
Pell
Riegle
Roth

So the motion to lay on the table UP amendment No. 847, as amended, was rejected.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BUMPERS (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Michigan (Mr. Riegle).

If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. Cannon), the Senator from Louisiana (Mr. Long), the Senator from Rhode Island (Mr. Pell), the Senator from Michigan (Mr. Riegle) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. Cannon) and the Senator from Rhode Island (Mr. Pell) would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 25, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—69

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Boren
Boschwitz
Bradley
Burdick
Byrd,
 Harry F., Jr.
Byrd, Robert C.
Chiles
Cochran
Cohen
Cranston
D'Amato
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
East
Exon
Garn
Glenn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Helms
Huddleston
Humphrey
Inouye
Jepsen
Johnston
Kasten
Laxalt
Levin
Lugar
Matsunaga
Mattingly
McClure
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Zorinsky

NAYS—25

Biden
Chafee
Danforth
Eagleton
Ford
Gorton
Hart
Hatfield
Heinz
Hollings
Jackson
Kassebaum
Kennedy
Leahy
Mathias
Metzenbaum
Packwood
Percy
Proxmire
Randolph
Sarbanes
Stafford
Stennis
Tsongas
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Bumpers, against.

NOT VOTING—4

Cannon
Long
Pell
Riegle

So Mr. Schmitt's amendment (UP No. 847) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 1253

(Purpose: To prohibit the use of appropriated funds for the payment of the expenses of persons intervening in agency proceedings, except as expressly provided by statute)

Mr. DANFORTH. Mr. President, I call up amendment No. 1253 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. Danforth) for himself and others proposes an amendment numbered 1253.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, between lines 6 and 7, insert the following:

"PROHIBITION AGAINST INTERVENOR FUNDING

"Sec. 8. (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

" '§ 560. Prohibition against intervenor funding

" 'Except as provided in section 504 of this title, section 2412 of title 28, section 319 of the Federal Power Act, section 18(h) of the Federal Trade Commission Act, section 7(c) of the Consumer Product Safety Act, section 22 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956, and paragraphs (4) and (5) of section 6(c) of the Toxic Substances Control Act, and except as otherwise as expressly authorized by statute, no appropriated funds available to any agency may be used to pay the expenses of persons participating or intervening in agency proceedings.'

"(b) The table of sections for such chapter is amended by adding at the end thereof the following:

" '560. Prohibition against intervenor funding.' ".

On page 40, line 8, strike out "Sec. 8." and insert "Sec. 9.".

On page 40, line 17, strike out "Sec. 9." and insert "Sec. 10.".

On page 44, line 14, strike out "Sec. 10." and insert "Sec. 11.".

On page 44, line 14, strike "9" and insert "10".

On page 45, line 7, strike out "7 and 8" and insert "8 and 9".

On page 45, after line 8, add the following:

"(e) The amendments made by section 8 of this Act shall take effect on the date of enactment of this Act.".

Mr. DANFORTH. Mr. President, I ask unanimous consent that the amendment be modified to correct a printing error on page 2, line 9 where the word "as" appears twice, and I ask unanimous consent that the second time the word "as" appears that the word be stricken.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, this amendment is offered by myself, Senators Chiles, Nunn, Roth, Percy, Stevens, Rudman, Mattingly, Cohen, Simpson, and East. It is also supported by the administration.

The purpose of this amendment, simply stated, is to prohibit the use of appropriated funds to pay the expenses of persons intervening or participating in agency proceedings—except as expressly authorized by statute. This amendment was agreed to by the Governmental Affairs Committee by a vote of 10-2, and is discussed in the committee report. For purposes of legislative history, I ask unanimous consent that that part of the report discussing the amendment be printed at this point in the Record:

There being no objection, the material was ordered to be printed in the Record, as follows:

SECTION 7—INTERVENOR FUNDING

Section 7 of the bill, adopted as an amendment offered by Senator Danforth, prohibits the use of appropriated funds to pay the expenses of persons participating or intervening in agency proceedings, except where expressly authorized by statute. Several members of the Committee had serious doubts about the wisdom of providing federal funds to private parties to permit them to intervene in agency regulatory proceedings, particularly given the serious potential for abuse in disseminating public funds to private parties. The Committee felt that given the controversial nature of such programs, the decision to make such payments should not be made by administrative agencies on the basis of implied authority. The focus of the amendment however is not to ban all such payments, but rather to assert the prerogative of Congress to exercise its control over such payments. Several agencies have, in the past, funded such activities without Congressional approval on the basis of implied grants of authority. Section 7 requires that such payments be made on the basis of clear, unequivocal statutory authority or not at all.

The terms "participating" and "intervening" are used advisedly, because the terms are often used interchangeably, and because funds are sometimes provided to persons to "participate," though not necessarily to "intervene," in agency proceedings. It is the intent of this amendment to avoid such nice questions of law as when "participation" becomes "intervention."

Under this amendment, if any funds are to be provided to private persons to participate in agency proceedings, there must be express statutory authority to do so. Section (7) specifically lists certain statutes which are exceptions to the general prohibition. Excepted are payments under the Equal Access to Justice Act, the public participation program established under the Magnuson-Moss amendments to the Federal Trade Commission Act, the "offeror" program under section 7 of the Consumer Product Safety Act, a program to provide funding to public participants in State Department proceedings under the Department of State's authorizing legislation, and payments authorized for proceedings under the Toxic Substances Control Act. (In the past, efforts were made to extend the authority granted under the Toxic Substances Control Act to proceedings under any act administered by the Environmental Protection Agency. This amendment is intended to prohibit such an expansive reading of the Toxic Substances Control Act.)

Finally, the amendment excepts payments "otherwise . . . expressly authorized by statute." This provision is intended to be narrowly construed. It is intended to permit, for example, the reimbursement of per diem expenses and travel to witnesses where expressly authorized, or the payment of expenses to members of advisory committees where authorized by statute. No other provision of this legislation is intended to provide such authorization.

Mr. DANFORTH. The amendment which I offer today is, for all intents and purposes, identical to the amendment which was approved by the Government Affairs Committee, with one minor change. Following committee consideration of the amendment, the Congress approved reauthorization of cost reimbursement for persons participating in proceedings before the Consumer Product Safety Commission. At the same time, the Congress eliminated the offeror program whereby the CPSC reimbursed private groups for the cost of development standards. The amendment has been modified to reflect this change in the law.

Mr. President, it may be advisable for me to begin by explaining what intervenor funding is—and why I am offering this amendment.

Intervenor funding programs—or as they are sometimes called, "public participation" funding programs—are programs which provide public funds to private parties who appear as advocates before regulatory agencies. Ostensibly, these funds go to groups which could otherwise not afford to participate in agency proceedings, or to groups which represent important interests or important viewpoints which might not otherwise be presented to the agencies. Several agencies have received express statutory authority to make such expenditures, most notably the Federal Trade Commission.

In my view, the concept of intervenor funding is fundamentally flawed. I simply do not believe that the Government should be in the business of giving money to people to appear as advocates before regulatory agencies. Since there is never enough money to go around, the agency cannot help but stack the deck when it provides money to some groups but not others. However worthy the presentations may be, the regulatory processes is skewed when the Government starts paying people to appear before regulatory agencies as advocates of one point of view or another.

The history of intervenor funding, however, has not been without other problems—problems of implementation—some of them quite serious. At the Federal Trade Commission, for example, funds went to groups with little or no membership—organizations which could hardly purport to represent the views of anyone. At the same time, funds were also given to large organizations with substantial resources—putting to question their need for funding from the Federal Government. Finally, the overwhelming majority of funds went to groups from San Francisco or Washington, D.C.—groups such as the Washington Chapter of Americans for Democratic Action, an organization not likely to speak for the people of Sarcoxie, Mo. In reauthorizing the FTC, the Congress allowed the program to continue, but added significant restraints on expenditures.

Meanwhile, the Carter administration sought to expand the intervenor funding program. Armed with a GAO opinion which held that no authority was necessary to pay intervenors if needed, the Carter administration encouraged agencies to pay the expenses of public interest intervenors even in those cases where they lacked any statutory authority for the programs. During consideration of the HUD-independent agencies appropriations bill in 1980, the Senate passed an amendment prohibiting such expenditures—but the matter was dropped in conference following the defeat of President Carter.

Since that time, there has been a successful court challenge to an unauthorized intervenor funding program—and the Reagan administration has discontinued efforts to establish programs without statutory authority. Even where programs are authorized by statute, budget cutbacks have resulted in an end to expenditures for public participation. Nonetheless, it is time for Congress to make clear—once and for all—that no funds may be spent for public participation funding without clear congressional authority. That is the purpose of this amendment.

Mr. President, this amendment would not end authorized intervenor funding programs. It is important that everyone understand that this amendment does nothing to alter in any way, shape, or form any intervenor funding program which has been duly authorized by the Congress. All this amendment does is prohibit the use of tax dollars to fund unauthorized intervenor funding programs. Whatever the merits may be of providing Federal funds to private advocacy groups in agency proceedings—and, make no mistake about it, I think the merits are hard to find—there surely is no merit in allowing agencies to spend tax dollars without congressional authority and guidance. The potential for abuse is too great to allow agencies to decide, on their own, which advocates deserve funding and which do not.

Two circuit courts have held that agencies have no authority to provide funds to private litigants without express congressional approval—the second circuit in 1976 in a case concerning the Federal Power Commission, and the fourth circuit in 1981 in a case concerning the Food and Drug Administration. But this is not a question we should leave to the courts—to resolve on a case-by-case basis. This is a question which fundamentally concerns the power of Congress. If agencies are going to spend tax dollars, they must do so as authorized by Congress—and only as authorized by Congress. That is what this amendment says. It is, in my view, an unassailable principle—and it should be supported by every Member of the Senate.

There are some who argue that this amendment is superfluous because no funds are currently being spent for intervenor funding programs. It is true that no funds are now being spent for these programs—but this does not change in any way the importance of the principle which underlies this amendment—or the need to make clear not only to this administration, but to future administrations, that dollars cannot and should not be spent in this fashion without congressional authority to do so.

This principle should be recognized by every Member of the Senate. I urge the adoption of the amendment.

Mr. LAXALT. Mr. President, I commend the Senator from Missouri for offering this amendment. It happens to be a subject in which the Senator from Nevada has long been interested, and while I quite agree that existing policies within this administration militate strongly against intervenor funding, we definitely should offer some legislative protection.

I had occasion a couple of years ago to participate in extensive hearings on how the novel concept of intervenor funding was functioning within the FTC. I found a lot of problems.

Then we thought we had a general understanding with the administration to avoid intervenor funding. Then it was hands off in intervenor funding. But the plain fact is that these agencies, through the handling of their appropriated funds, can quickly fashion a vehicle to provide for intervenor funding unless they are legislatively prohibited from doing so.

As far as this Senator is concerned, I approve of the amendment and I will vote for it.

I yield to the Senator from Vermont.

The **PRESIDING OFFICER.** The Senator from Vermont.

Mr. **LEAHY.** Mr. President, one key way this legislation will promote more cost effective less burdensome regulation is by directing the agencies to solicit and consider carefully the views of interested members of the public. The Regulatory Reform Act expands notice and comment procedures in informal rulemaking because full and diverse public participation is essential to sound and informed agency decisionmaking. It will enable the agencies to tap the practical experience and ideas of those affected by their rules.

In expanding notice and comment and particularly in adopting hybrid rulemaking procedures, we have to remember that very few small businesses or individuals can absorb the expense of hiring lawyers, scientists, economists, and consultants to prepare specific evidence and expert testimony, present oral arguments, cross-examine witnesses and offer rational rebuttals at hearings that last several months.

We have to recognize and deal with the inherent imbalances in the level of participation by the parties affected by agency rulemakings. Powerful economic interests, eager to promote their specific concerns with almost unlimited financial resources and the ability to pass costs on to their customers, easily can overwhelm small businesses, individuals, public interest groups, and consumer representatives, with complex legal arguments and statistical studies. One congressional study found that regulated interests generally outspend consumers and small businesses by a wide margin, sometimes as much as 50 to 1. Even in proceedings with public participation funding, consumer groups are outspent 3 to 1.

We all agree that many in Washington have lost touch with reality. We know from talking to our constituents that the family farmer in Vermont, the senior citizens in St. Louis, the poor in San Antonio and the schoolchildren in Niagara, N.Y., or Woburn, Mass., can all provide as good a perspective on inflation, funerals, the costs of a home, heating and electric bills, or the dangers of hazardous waste dumps, as people in Washington. One of the most important goals of this regulatory reform legislation is to open up the rulemaking process to their views because they, the people, are the reason why we enact regulatory laws and because they have to deal with the consequences of Federal regulation on a daily basis.

But traveling to participate in a rulemaking costs money. Research requires money. Perhaps most importantly, representation of the under represented—a fundamental principle of democratic government—requires money.

An unbalanced public record based on narrowly represented interests renders Government decisions elitist, naive, costly and very often impractical. Contrary to the basic tenets of S. 1080, Senator DANFORTH's amendment will move informal rulemaking in that direction by cutting the people—our constituents—out of the Government decisionmaking process.

I do not want to spend a lot of time on this amendment. Since implied authority public participation programs already have been cut to the point of nonexistence, it is strictly a symbolic issue. Nonetheless, the Danforth amendment is an important symbol.

During subcommittee hearings in the last Congress, Anthony Roisman so eloquently described what we are doing if we pass this amendment that I would like to quote him:

> I think "process" is getting a bad name in this country. I think it's important for us to recognize that it is embodied in two important Amendments to the Constitution, the Fifth and the Fourteenth, and that the process by which we make decisions is sometimes ever more crucial than the decisions that we actually make. . . .
>
> The purpose of process and the underlying purpose in making sure that all the views are adequately represented in the decision-making process is to make sure that the people are satisfied that the result that was reached was fair—not necessarily that it was right, but that the people are willing to accept it.
>
> When 25,000 people go to the site of a nuclear plant and say "I will break the law because I don't believe in the process," when farmers want to tear down power towers in Minnesota because they don't think the power line was in the right place, when governors of States are ready to veto a Federal Government decision to put nuclear wastes within their borders, you are beginning to see people losing faith in the process.
>
> When the Congress of the United States is asked to eliminate more process . . . or to make the process less meaningful by cutting out of it all those people who don't have an economic interest in it, you are beginning to take important steps toward eroding what makes it possible for a civilized nation to remain civilized.
>
> We do not want a nation of people in the streets complaining that Washington decision-makers are ignoring them. The underlying premise of citizen funding is to allow the citizens to make sure that they are satisfied that all the relevant points of view were heard and weighed.

In agreeing to the Danforth amendment, we are telling the American people that we do not take their views seriously and Government can govern without them. The consequences of that statement are much more than symbolic.

Mr. **KENNEDY.** Mr. President, I am disappointed that the Senate today approved an amendment to the regulatory reform bill which prevents agencies from establishing programs for reimbursement for public participation in rulemaking proceedings, unless specifically authorized by Congress.

I think it is most unfortunate that, as part of our efforts to improve the rulemaking process, we are cutting off assistance to those citizens who desire to make contributions to the process, but cannot afford to do so. There has never been an explosion of such so-called intervenor funding programs, so that the cost to the Federal Government has been very small. However, where such programs existed, they have made the critical difference between participation and nonparticipation by interested citizens.

The cornerstone of our regulatory reform efforts is the objective evaluation of the costs and benefits of regulations. While few would dispute the value of striving to maximize cost-effectiveness in regulation, the lynchpin in cost/benefit analysis is adequate and accurate assessment of the costs and benefits involved. Cost/benefit analysis cannot be effective where the sole source of cost estimates is the regulated industry. Public participation funding programs are an important means to assure that agencies have the benefit of data on the impact of regulation from both low-income members of the public and well-heeled members of industry. There is simply no justification for barring Federal agencies from encouraging public participation in rulemaking proceedings through voluntary intervenor funding programs, and I regret the Senate's action to remove agencies' discretion to do so.

The **PRESIDING OFFICER.** Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1253), as modified, was agreed to.

Mr. **DANFORTH.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GORTON). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 850

(Purpose: To amend the S. 1080 "consensus amendment" (Amendment No. 640) to provide that the determination of a rule as "major" shall not be subject to judicial review)

Mr. EAGLETON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself, Mr. DANFORTH, Mr. MATHIAS, Mr. COHEN, Mr. LEVIN, and Mr. RUDMAN, proposes an unprinted amendement numbered 850.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, strike line 12 through line 20 and insert in lieu thereof:

"(c) neither the determination of an agency of whether a rule is or is not a major rule within the meaning of section 621 (4)(A) of this title nor any designation by an agency that a rule is a major rule under section 621 (4)(B) of this title shall be subject to judicial review in any manner."

Mr. EAGLETON. Mr. President, I rise to offer an amendment which I offered in the Senate Governmental Affairs Committee and which the committee adopted by an 11 to 3 margin. The amendment—which I am pleased to say has been cosponsored by Senators MATHIAS, DANFORTH, COHEN, LEVIN and RUDMAN—would insure that the determination of whether a rule is "major," in the sense that it is likely to impose $100 million in annual costs on the economy, not be subject to vexatious and potentially counterproductive judicial review.

I am aware, Mr. President, that questions relating to standards of judicial review and standards of court proof can seem complicated and technical—and even arcane. However, I believe that my amendment raises a simple question: In deciding whether the major rule determination should be subject to judicial review, should we follow the consistent disposition of previous reform proposals and, indeed, the general approach of the very bill we are considering today, or should we undertake an untested and unjustified departure?

As Members of the Senate know, this is by no means the first Congress in which Senate committees have devoted extensive time and energy to regulatory reform legislation. After lengthy hearings and deliberations, in the 96th Congress, both the Senate Judiciary and Governmental Affairs Committees reported versions of the comprehensive regulatory reform legislation, S. 262, from which this year's bill draws inspiration. While the committees differed in the last Congress on important particulars, they approached identically the question of whether the new regulatory analysis procedures which S. 262 would have put in place should be subject to judicial review. Both committees decided that, while the fruits of the regulatory analysis procedures should be considered during ultimate review of the adequacy of the rule itself, judicial review of agency compliance with the regulatory analysis procedures should be clearly and deliberately foreclosed.

The strong general preference for review of the new reform procedures by the political branches of government—and not the courts—led both the Judiciary and Governmental Affairs Committee to specifically disclaim any court role for review of the major rule determination. As the Judiciary Committee's report explained:

> This decision [about whether a rule is "major"] is regarded as a management decision for determining when the agency shall conduct a regulatory analysis. It should remain in the sole discretion of the agency subject only to [the Presidential oversight provided in the bill]. This review mechanism is designed to assure effective oversight of the major rule designations without unduly delaying these actions by review in the federal courts.

Similar reasoning underlay the Governmental Affairs Committee's decision not to load its version of S. 262 down with an unwise, delay-prone form of judicial review. Further, that thinking has guided the House Judiciary Committee's work on regulatory reform legislation it reported both in the previous Congress and in the present one.

Perhaps most significantly: In all but the one troubling exception that prompts my amendments, this year's Judiciary Committee firmly closed the door to judicial review of the new procedures required by this year's regulatory reform bill. The committee wisely, in my judgment, concluded that the methodology used for the regulatory analysis procedures—such as the way the agency has chosen to define and evaluate costs, benefits, and alternatives—should not be subject to independent, procedural evaluation by the courts. Similarly, with respect to two out of three of the criteria by which a rule could be considered "major," the committee avoided judicial second-guessing of agency judgments. Yet, the Judiciary Committee departed from this approach in providing for judicial review of one procedural question relating to the regulatory analysis provisions: Whether a rule is "major" under the "$100 million impact" test.

Mr. President, I would not have offered my amendment in the Governmental Affairs Committee—and I would not be offering it today—if I saw this departure as a mere curiosity. Not only do I find it strange, and unjustified by any evidence adduced at the appropriate hearings and deliberations; I also believe that any provision permitting judicial review of the major rule determination raises important and troubling questions for the reform process we have labored so long and hard to establish.

Before explaining more fully why the five Senators who are cosponsors of my amendment and I find judicial review of the major rule determination unwise and unwarranted, I want to make clear what the consensus amendment language now provides. Mirroring the Judiciary Committee's disposition, the language permits a reviewing court to set aside a rule "upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination." Let me be the first to indicate that this provision is preferable in several ways to other potential formulations for review. It avoids the absurdity of reversing an agency on the basis of information it did not have. It also indicates that showings of inadequacy must rise to the "clear and convincing level," a level which, while far from precise, connotes a relatively strict test. The drafters of the provision can take pride in producing a standard that is better than it might have been, just as I can take satisfaction in the implied admission in the effort—namely, that judicial review of procedural questions must be limited because it poses substantial evils.

The amendment I discuss today assumes we must go further than the present consensus amendment in eliminating the harm of procedural judicial review. Like almost all of those who have studied this question before, the sponsors of my amendment, and the others who voted for it in the Governmental Affairs Committee, clearly believe that the only real way to eliminate the evils of judicial review is to eliminate it entirely. As we see it, there are four basic problems inherent in judicial review of the major rule determination.

First, any provision for judicial review—however limited—could become a new, routinely used tool for vexatious and harassing litigation. As the Judiciary Committee recognized in its report on S. 1080, judicial review "can be used as a weapon to attack agency activity with which a challenger merely disagrees, rather than to remedy arguably unlawful agency acts."

To be sure, most important rules are now subject to court challenge. However, providing for judicial review of an important procedural trigger in the regulatory analysis process will create a significant new handle for court challenge that many private litigants, whether they represent "public" or "private" interests, will find too tempting to pass up. And the litigation track record to date makes it naive to assume that every challenge will be based on a goodfaith belief that the major rule determination is erroneous.

If we depart from the consensus about judicial review of regulatory analysis procedures, and help to make this a "Lawyers' Relief Act," we will benefit some, to be sure. But I dare say that the taxpaying public will not be among them. The costs in lawyer and court time alone could be substantial. Further, substantial delay and uncertainty in the implementation of regulatory standards could ensue. This delay and uncertainty not only imposes substantial "costs" on those whom the regulations intend to protect; it also has a negative and disproportionate effect on those regulated parties—primarily small businesses—for whom the consistency and certainty of regulatory mandates is as important—if not more so—than the niceties of whether they were called "major" or not.

A second major concern justifying the amendment which I and Senators MATHIAS, DANFORTH, COHEN, LEVIN and RUDMAN are offering is our doubt that the major rule determination can be subjected to appropriate, manageable, and expeditious judicial scrutiny.

Review of the "$100 million impact test" would be an inherently imprecise, value-laden endeavor. Perhaps this is best seen by contrasting judicial review of it with review of the kinds of truly procedural questions which the courts are called upon top police under the Administrative Procedure Act. Thus, for example, in deciding whether an adequate comment opportunity was provided or whether cross-examination should have been used, the courts are dealing with the kind of procedural fairness questions they address daily in the courtroom context.

Reviewing an agency's judgment about the economic impact of a proposed regulation would take the courts into an entirely different, and less familiar, domain. Under the judicial review standard of the consensus amendment, courts would inevitably be faced with competing arguments about the conclusions to be drawn from the information that was before the agency when it made its major rule determination. Resolution of competing expert claims will pose matters or economics and regulatory policy that are highly technical, value-laden and the province of administrative judgment. Senators have a right to ask whether the burden is one that can be fulfilled manageably and expeditiously, with rules set aside only where violation of the major rule standard is "crystal clear."

In particular, Senators have a right to ask why judicial review of the major rule procedure is being pressed upon them even though the courts and the attorneys who practice before them have expressed strong and consistent doubts about the wisdom of doing so. In a July 1981, letter to the House Judiciary Committee, the Judicial Conference of the U.S. Courts, the official advisory body of the Federal judiciary, took a strong and forthright stand against any provision which would "put article III courts in the position of redetermining an agency's factual decision whether the $100 million impact level has been reached." As the Judicial Conference went on to explain:

> Not only will the number of cases increase by creating such judicial review, but the time and expertise to make the review required will increase dramatically. The Conference questions the ability of the federal courts to perform such a task effectively * * *

So, too, the American Bar Association. It has gone on record as strongly opposed to procedural review of the major rule determination. The ABA has said that it "strongly supports" my amendment and went on to state:

> Since the major rule determination triggers the requirement for a regulatory analysis, and since the analysis is an economic and planning tool, the judicial review of such a determination would only increase the amount of unnecessary litigation and further entangle the administrative process.

I find it laudable that the bench and bar have not claimed a false omnipotence, but have been forthright in their doubts. I believe that we Senators would be foolish to ignore these frank and expert cautions.

There is a third major problem. This flows from the two that I have previously mentioned: There would be frequent court challenges based on an inherently imprecise, judgmental standard. These raise two rather negative possibilities. Rules could be reversed even where the case that the agency erred in making the major rule determination is far from clear. Further, even if the case that the agency erred was crystal clear, the reversals would come—and I think absurdly—on a basis wholly unrelated to the substantive merits of the rule itself. By that I mean that a rule could be set aside because of a procedural issue, even if the court otherwise finds it a completely reasonable, appropriate, and necessary approach to a problem warranting regulation.

I think it is worth noting that any unjustified reversals, whether they come in ambiguous cases or on an issue unrelated to the substantive merits, would not necessarily be limited to rules that are unnecessary or relatively trivial. In fact, very, very important rules could be set aside in the process. For example, rules setting forth appropriate policies for nuclear safety, toxic waste, cleanup or other environmental hazards—these and other rules could be set aside, not because they are substantively defective or because they are inadequate to protect public health and safety, but merely because they were not correctly labeled as "major." And, in somewhat of an ironic twist, this "regulatory reform" bill could result in the invalidation of important and valid deregulatory rules, if a court found that they should have been considered "major" when then they were promulgated. Even where an "invalid" rule is "cured" through subsequent procedures, the disruptive impact and injection of uncertainty could be significant.

There is a fourth problem. This would arise if agencies, in order to avoid the other evils, erred on the side of overinclusion when determining whether rules are "major." We should be concerned that some agency officials would take the "path of least resistance" and declare a rule to be major even when the evidence suggests the contrary. Even though the regulatory analysis process involves a substantial commitment of agency resources, savvy officials could well decide it is more pragmatic to avoid wasting other resources in a court fight, where a bona fide rule developed after much effort could be placed in jeopardy of ultimate reversal.

There would be no legitimate winners in a process which defines a "major rule" as a rule likely to step on the toes of an interest with a large litigation fund. Certainly the taxpayers of this Nation would not be beneficiaries. A General Accounting Office study presented to the Governmental Affairs Committee last year estimates the cost of regulatory analyses at between $27,000 on the low side, and $1.2 million per analysis on the high side. Clearly, every unjustified regulatory analysis done to avoid an unwise judicial review provision is a waste of valuable resources.

Further, ballooning the number of major rules through unjustified analyses would undercut the quality and timeliness of analyses completed. This would undercut the professed intent of all of S. 1080's supporters: That the regulatory analysis provisions apply to a manageable number of the most important rules.

Therefore, in sum and substance, Mr. President, the cosponsors of this amendment believe it is necessary to avoid four potential evils: The use of the judicial review provision for routine, vexatious litigation; the possibility that bona fide rules would be reversed on less than compelling showings and on grounds other than their merits in protecting the public from harm; and the danger that the risk of litigation and reversal will result in more regulatory analyses than we can afford or which the agencies can competently produce.

I find it particularly fortunate that Senators can vote for my amendment, and avoid these disadvantages of judicial review while at the same time providing meaningful oversight of the agency major rule determination. Under the provisions of S. 1080, the President of the United States or his designees can determine that any rule should be treated as major whenever he determines that the agency determination is erroneous. Moreover, the performance of both the agencies and the President in determining that rules are or are not major will be subject to close congressional scrutiny.

Some will undoubtedly argue that this two-step oversight at the highest levels of the executive and legislative branches may not be enough to insure that the major rule provisions will be implemented in good faith. They posit a quiescent President and a supine and inattentive Congress, neither of which cares enough to enforce the law on the subject. I reject—and I hope other Senators will reject as well—this unproven, somewhat self-deprecating argument. I believe it is unrealistic, with all of the emphasis which has been justifiably placed on reforming regulation to think that a future President will tolerate clear any substantial flaunting of the regulatory analysis requirements. Moreover, as one Senator who has worked long and hard for years to produce a responsible regulatory reform bill, I resent the implication that the Congress, and particularly its Judiciary and Governmental Affairs Committees, will devote a herculean effort to the reform cause and then fail to follow up on the results.

I particularly resent the fact that we are asked to depart from the previous bipartisan consensus that executive and congressional oversight will be sufficient—and we are being asked to do so despite the absence of any basis in the record for doubting the consensus.

Mr. President, I urge adoption of the amendment sponsored by myself and Senators MATHIAS, DANFORTH, COHEN, LEVIN and RUDMAN.

Mr. LAXALT. Mr. President, I oppose this amendment. Regulatory analysis of major rules is at the heart of the reforms proposed by S. 1080. This is a process which has won broad support in this body. Removing the limited judicial review of the agency's determination of what is a major rule removes a bedrock safeguard designed to insure agency compliance with this new analytical requirement.

The dramatic loophole that this amendment would produce in the requirements of S. 1080 becomes quite clear when we review our experience with agency compliance with the regulatory analysis imposed by President Carter. The agency record is not a good one.

For example, a 1979 OMB report observed,

> [A]gencies are at times reluctant to do regulatory analyses and make them available to the public because they are "too hard." Agencies try to avoid the requirement afraid that if they do an analysis, it will be the subject of public "sniping" or peer criticism. . . .

Likewise, in a hearing before the Subcommittee on Oversight of Government Management of the Governmental Affairs Committee during the last Congress, Senator LEVIN, a cosponsor of the amendment now before us, noted:

> There have been a number of agencies that have understated the compliance costs of proposed regulations to avoid the threshold requirement of having to do a regulatory analysis.

Finally, in a letter to me dated March 18, S. John Byington, former Chairman of the Consumer Products Safety Commission under President Ford, pointed out,

> I can attest from personal experience that the "major rule" provision has been and will continue to be a significant loophole for agencies to avoid certain requirements. If there is no limited judicial review of such an agency determination, there will be no accountability—and agencies will continue to avoid certain regulatory reform requirements almost at will.

Mr. President, I ask unanimous consent that Mr. Byington's letter of March 18 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. PAUL LAXALT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LAXALT: As a former chairman of an independent regulatory agency (Consumer Product Safety Commission under President Ford), I am writing to you in support of your opposition to Senator Eagleton's amendment to S. 1080, which would eliminate the limited judicial review provisions relevant to the agency definition of whether a rule is a "major" rule under the $100 million economic test.

I can attest from personal experience that the "major" rule provision has been and will continue to be a significant loophole for agencies to avoid certain requirements. If there is no limited judicial review of such an agency determination, there will be no accountability—and agencies will continue to avoid certain regulatory reform requirements almost at will.

Your opposition to the Eagleton amendment is deeply appreciated. If you or any member of your staff wishes to further discuss this matter with me, please let me know.

Kindest personal regards.

Sincerely,

S. JOHN BYINGTON.

Mr. LAXALT. So, Mr. President, we have a clear record of agency efforts to avoid doing regulatory analyses by mischaracterizing rules as not major. Certainly, the agencies' motives are understandable. Regulatory analysis can be a complex, challenging process which exposes an agency's decisionmaking to public scrutiny. A good, thorough regulatory analysis is a difficult enterprise. But how can we logically expect effective, balanced regulation if we do not require agencies to go through this process for their most significant regulations?

S. 1080 establishes two safeguards to prevent agencies from circumventing the new analytical requirements: First, the bill gives the President the authority to determine that a rule is major, when the agency has not done so. Second, the courts are allowed to review an agency's determination of whether a rule is major under the $100 million impact standard. The other more subjective grounds for designating a rule as major, generally for its adverse economic or social effects, are not subject to this judicial review provision.

For basically the reasons Senator EAGLETON pointed out, judicial review of the second test for a major rule would be too complex and too difficult and, I suspect, too cumbersome and expensive.

The circumscribed judicial role set out in S. 1080 is intended to provide a bare minimum of protection to persons who would be adversely affected by major rules for which an agency is reluctant to perform a regulatory analysis. To be sure, Presidential authority to make major rule determinations offers some protection. If the agency does not do it, under the provisions of this bill, the President can move in and designate a rule as major. But we must not forget that the President has no obligation even to consider whether a particular rule would be major. And, more important, we must recognize that the President is not a completely objective third party to a rulemaking. As the U.S. Court of Appeals here in the District of Columbia noted, rulemaking is an executive function. Thus, the President has a certain institutional self-interest with regulatory agencies. In addition, one can easily envision circumstances, in an administration of either party, in which the President has a certain ideological bias which moves him to determine that a rule is major, or to ignore what should be a major rule, on grounds totally unrelated to the rule's actual impact. In my view, without such a limited judicial oversight, agencies could frustrate the intent of Congress in establishing the analytical requirements of S. 1080.

The judicial review provisions of the major rule determination have been carefully crafted so that the cure is not worse than the illness. A court may set aside an agency's determination of whether a rule is major under the $100 million standard only if there is a "clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination." As the Judiciary Committee report points out, this is an exceptionally strict standard. This standard of review is hardly a prescription for the routine reversal of major rules.

Furthermore, this limited judicial review provision of major rule determinations will not produce new court challenges to agency rules in our view. Currently, a rule that is significant enough to be considered "major" under S. 1080 generally involves a range of competing interests and is usually controversial. Persons who are adversely affected by such a rule now routinely seek judicial review. Such challenges can be expected in the future whether or not S. 1080 is enacted. Someone's decision whether or not to bring a lawsuit will hardly turn on the issue of whether the agency correctly determined the rule to be major or not to be major.

But perhaps more importantly the actual operation of this limited judicial review of the major rule determination will not be disruptive. S. 1080 would allow courts to set aside a rule because of an erroneous major rule determination only in the most extreme cases where an agency has blatantly abused its discretion. But this does not mean that an agency is somehow automatically going to have to go back to square one, even after years after development and work on a rule. First of all, under the traditional harmless error standard, even if an agency erroneously concluded that a rule was not major, the rule might not be overturned where the agency essentially had developed and analyzed the rule's effects and had made the determinations at the core of regulatory analysis.

But let us say, for the purpose of argument, that the rule was remanded. What would happen then? In many cases, the data already compiled will be a sufficient record for regulatory analysis. An agency would only have to evaluate that record and make the determinations required by regulatory analysis. No further rulemaking proceedings would be required. Even where the administrative record as it stands is not satisfactory, the agency would in most cases merely supplement that record in order to fulfill its regulatory analysis obligations. Only the very rare case—where a rulemaking was particularly arbitrary—would an agency have to start essentially from the beginning.

And in all these instances—whether an agency must evaluate an existing record, supplement the existing record, or completely reopen the record—do we not really want the agency to do what is necessary to perform a full regulatory analysis? That is what this bill is all about. Do we not want to insure meaningful regulatory reform?

We cannot have meaningful regulatory reform without regulatory analysis. I do not think anyone would seriously argue that. It is the core of this bill.

If a rule is major, this legislation provides that the burdens of doing regulatory analysis are more than worth the resulting improvements in those rules, whether in their increased effectiveness or lowered costs.

Some have suggested that judicial review of the major rule determination, even in this limited form, will provide an incentive for an agency to designate a rule as major where that issue is a close question, where it is not certain whether the rule is or is not major. I suggest that is exactly the kind of incentive we want to build into our regulatory reform legislation.

If a rule is marginal, if it is not absolutely certain whether a rule is or is not major, do we not want to create an incentive for the agency to perform a regulatory analysis? Is not the regulatory analysis of major rules so important—whether from the perspective of insuring that the rule really does help to achieve our national policies, or from the perspective of reducing the unnecessary costs of the rule—that we want to encourage agencies to perform regulatory analysis in those close cases? Genuine reform of our regulatory process demands an unhesitating "yes" to that question.

In short, Mr. President, I believe the limited judicial review provision of the major rule determinations embodied in S. 1080 is not only a moderate, carefully crafted oversight provision, but it is vitally necessary to insure the effectiveness of the this legislation.

I urge all my colleagues to vote with me to defeat this amendment.

Mr. LEAHY. Mr. President, given the problems with judicial review but the need for some oversight mechanism, Senator LAXALT and I addressed this problem after we introduced S. 1080. We put together a package of checks to make sure that major rules are properly analyzed. That package is in this consensus bill, amendment No. 640, that we offered initially. It contains certain checks. Let me just mention a couple of them:

The agency still retains most of the discretion to determine or to designate rules as major rules. The President or his designee can oversee this process and determine a rule is a major one under the $100 million test contained in the bill.

Further, the President can designate up to 75 additional rules as major each fiscal year.

Finally, a court could review an agency's determination that a rule did or did not meet the more objective $100 million criteria of the major rule definition.

Now this is a limited form of judicial review since the court can only reverse an agency judgment if it finds that there is a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination.

As the report makes clear, even this limited judicial review will be subject to the harmless error rule.

Some of the problems with allowing full judicial review will naturally flow from this provision, but I believe that the compromise struck in the Judiciary Committee meets the goals of limiting regulatory analysis to only major rules, insuring that the agencies are properly analyzing proposed major rules, and avoiding needless litigation.

This is a carefully crafted compromise taking into consideration the feelings and needs of a number of Senators who have worked on this bill. So it is with great regret that I will not be able to vote with the Senator from Missouri and I say that because he has carried this banner and this torch since before the two managers of this bill were even in the Senate, but I think that we have crafted a careful compromise within the bill and I hope that the Senate in its wisdom will stay with the Laxalt-Leahy form we now have.

Mr. EAGLETON. Mr. President, I shall be brief because I think the issue has been very well joined. I will make two concluding points.

The Laxalt-Leahy argument is premised on the notion that the President, Congress, and every regulatory agency covered by this bill will act either in blind faith, bad faith, or, indeed, malevolence because if their argument is to carry water, it must suggest that one of those three failings will be committed by all three entities, that is, the President, Congress, and the regulatory agencies.

Second and succinctly, the Laxalt-Leahy provision could be a litigator's delight.

Mr. President, if you want to make this bill truly litigious, if you want to open lots of additional doors to litigation, create lots of challenges as to whether a rule is or is not major, then buy the Laxalt-Leahy argument.

It is a litigator's delight. Interestingly enough, the ABA and the Judicial

Conference have both recognized it for being just that.

If you want to slow down the process, obfuscate the process, impede the process, if you want to clog the Federal courts and their dockets even more than they are already clogged, then go along with Senators LAXALT and LEAHY, because if you read the statement of the American Bar Association and the Judicial Conference, in more refined and dignified language that is exactly what they are telling you.

So, although it is an arcane subject matter and we are debating this "fine point of law" before an exuberant gallery that is now totally sound asleep, it is not all that fine a point in the final analysis. This little, itty-bitty loophole—and I will henceforth ordain it to live in perpetuity as the Laxalt-Leahy loophole—this little, itty-bitty loophole will be used to drive Mack trucks through in the weeks, months, and years ahead.

Senators LAXALT and LEAHY will be welcomed downtown at the Covington and Burling Christmas party this year for giving them an opportunity to pile more Federal litigation into the local Federal courts.

So, arcane, technical, obscure, yes; it is all of that. But it has a real life result. It is going to make more litigious the regulatory process.

I am prepared to vote on my amendment and I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. DOLE. Mr. President, I urge my colleagues to vote against the amendment offered by my distinguished colleague from Missouri.

I appreciate my colleague's concerns over the extent to which agency's decisions in such matters should be subject to judicial challenge. The use of judicial oversight to insure that agency actions conform to congressional intent and statutory guidelines is not without its weaknesses. Judicial review can be a formal, inflexible process. It can be used as a mere strategic device to delay or thwart agency actions with which the challenger simply disagrees. Moreover, if its parameters are not clearly defined, it can place the judiciary in the position of having to second-guess policy judgments which should remain solely within the province of an agency's particular expertise.

However, I believe that the carefully drafted judicial review provisions of S. 1080 amply avoid these problems. At the outset, it should be emphasized that S. 1080 generally precludes any judicial review of major rule determinations. The provision of S. 1080 which would be deleted by this amendment constitutes the only exception to the general rule. The President's, or his designate's, determination of whether a rule is major is not subject to judicial review. Similarly, an agency's determination of whether a rule is major under paragraph 621(3)(A) is not subject to judicial review. Only an agency's determination of whether a rule is major under the "$100 million impact test" is subject to judicial review, and even this one exception is carefuly limited.

Specifically, in order for a court to invalidate such a determination, the challenging party would have to show, by clear and convincing evidence, that the determination was erroneous on the basis of information available to the agency at the time the determination was made. This is obviously not an easy burden. Moreover, in passing on the adequacy of such evidence, the court would not have to second-guess policy judgments made by the agency. Rather, the court's inquiry would be focused solely on the cost impact of the rule. Finally, such challenges could be brought only after the rule became final. Thus interlocutory challenges could not be brought to simply delay the rulemaking process.

Supporters of this amendment have argued that these judicial review provisions would provide an avenue for expensive and vexatious lawsuits. They have also asserted that agencies might take the path of least resistance and designate most rules as major just to avoid this potential litigation. But clearly these fears are unfounded. I find it hard to believe that private parties would initiate vexatious legal challenges to major rule determinations in light of the expense of such suits and the heavy legal burden they would have to meet to succeed. Similarly, I do not believe that agencies would designate all rules as "major" simply to avoid this unlikely threat of litigation. Further, the apparent tendency of agencies is to do just the opposite. Indeed, evidence that agencies are reluctant to designate a rule as major—because they may wish to avoid conducting a regulatory analysis—is one of the primary reasons why this limited judicial review provision is now in the bill.

Supporters of this amendment have also argued that essential rules could be set aside years after they have become effective "simply" because they had not been designated as major. I find this criticism, in particular, confusing.

If the agency's failure to designate the rule as "major" was simply a matter of form—that is, if the agency had, in fact, effectively explored the cost and benefits of the proposed rule—a court would not invalidate it. The court would only set aside the rule if the agency's erroneous designation constituted prejudicial error. This is a longstanding principle of administrative law.

On the other hand, if the agency's erroneous designation of the rule was not simply a matter of form, then I, for one, would want the court to invalidate it. If the rule truly has an impact of at least $100 million, then an agency's failure to conduct a regulatory analysis—the agency's failure to insure that the rule will be worth its costs—is not a trivial matter. With our current economic problems, we can no longer afford to expend money and resources on administering and complying with rules and regulations which are not ultimately beneficial. This is the public interest and need which lies at the heart of S. 1080. If agencies ignore this public interest and need, then the rule should be set aside until its potential costs and benefits can be fully explored.

In concluding, I would like to add that the regulatory analysis requirements of S. 1080 grew out of a bill I introduced, S. 405, which was cosponsored by Senators DECONCINI, SIMPSON, and HEFLIN. My bill contained no limitations on the availability of judicial review. Thus, for me this limited judicial review provision represents somewhat of a compromise. I urge my colleagues to maintain this compromise by voting against the amendment, and leaving the limited judicial review provisions intact.●

Mr. THURMOND. Mr. President, I urge my colleagues to oppose the amendment offered by the Senator from Missouri (Mr. EAGLETON). His amendment would totally preclude judicial review of the determination by an agency of whether a particular rule is "major." By providing that this determination is not judicially reviewable, the Eagleton amendment would upset the very careful balance of various oversight mechanisms currently found in S. 1080.

The determination and/or designation of a rule as major is crucially important to the effectiveness of this regulatory reform legislation because it triggers application of the regulatory analysis requirements. Judicial review is necessary to assure that the agency involved makes this very important determination as accurately as possible early on in the rulemaking process. Judicial review is a practical oversight mechanism because the determination that a rule is major—as opposed to the designation of a rule as major—is based on relatively objective economic criteria.

Mr. President, judicial review of major rule determinations by agencies will not result in the difficulties which the Senator from Missouri has described. It will not result in vexatious and unnecessary litigation for several reasons. First of all, the standard which a party challenging an agency's determination must meet is a strict one. That party must make a clear and convincing showing that the determination was erroneous in light of the information available to the agency at the time the determination was made. Under this standard, a reviewing court will think very carefully before substituting its judgment for that of an agency with substantive expertise in the area. At the same time, however, an agency is encouraged to be as accurate as it can be in its major rule determination because of the possibility of a subsequent court challenge.

Second, the major rule determination may not be reviewed on an interlocutory basis, but only in the context of review of the final rule. Third, even if a court concludes that an agency erroneously determined a rule not to be major, the rule may not necessarily have to be remanded to the agency. Section 706 of the APA specifically provides for application of the rule of prejudicial error to review of administrative actions. Applications of this rule may prevent remand of a rule where an agency, even though it did not view the rule as major, sufficiently collected and analyzed relevant information that it complied with the substance of the regulatory analysis provisions.

Finally, Senator EAGLETON's concern that judicial review of the major rule determination may cause agencies, out of an abundance of caution, to determine too many rules to be major is not a realistic concern. As I explained, the standard which a challenging party must meet will prevent a court from lightly overturning an agency's original determination. Second, experience under past Executive orders with the major rule determinations indicates just the opposite. Agencies have demonstrated a tendency not to treat certain rules as major because of the extra work and expense which preparing regulatory analyses entails.

Mr. President, this amendment, which totally eliminates judicial oversight of an important and integral part of this legislation, should be defeated.

● Mr. GARN. Mr. President, I should like to thank Senators LAXALT, ROTH, EAGLETON, and LEAHY for the cooperation that they and their staffs have shown in addressing these matters.

The first provison in the amendment would exclude monetary policy actions of the Federal Reserve from the major rule requirements of the act. The effective conduct of monetary policy, and the related ability to fulfill the role of lender of last resort, requires a high degree of discretion and a minimum amount of rigidity in the form of procedural rules. Exempting monetary policy from the major rule provisions of the act is necessary to preserve the Federal Reserve's ability to render independent judgment on the appropriate course of monetary policy and is consistent with the flexibility that is needed for the effective conduct of monetary policy. The term "monetary policy" means actions of the Federal Reserve that are intended to affect the availability and cost of money and credit. In the context of the Federal Reserve's activities, monetary policy functions through various means, including changes in the terms of the discount window, reserve requirements, margin credit, deposit instruments, deposit rate regulations, and open market activities.

Congress made the decision at the inception of the Federal Reserve to insulate the money-creation and credit-regulation processes from the financing of government. Subsequent experience confirms that the separation of these two functions makes a vital contribution to a more stable and effective domestic monetary system. Applying the major rule provisions of the act to monetary policy actions could hamper the ability of the Federal Reserve to adjust its actions to deal effectively with rapidly changing economic developments and is unnecessary. Congress already has established procedures to regulate economic policy formulation, including, in the case of monetary policy, procedures for review and oversight and the exemption described is consistent with congressional intent in these areas.

The second provision would temporarily exempt certain types of rules made by any of the various regulators of depository institutions from the otherwise mandatory $100 million impact test for what is a major rule. Thus at least until June 30, 1985, rules promulgated by any of the depository institutions regulators which relate to the viability, stability, asset powers, categories of accounts, or permissible-interest rate ceilings applicable to depository institutions and holding companies would be exempt from major rule status under S. 1080 under the $100 million impact test. These types of rules could only be classified as major rule by the agency or the President under the provisions of section 621(4)(B) of S. 1080. Under that section there is no requirement that any determination be made by either the agency or the President, and an agency's designation, or failure to make a designation, is not judicially reviewable. This exemption could be extended or reinstituted for another year by a Presidential certification of necessity based on the economic conditions of that time.

This limited exemption is justified by the uniqueness of the Federal Government's status with regard to Federal deposit insurance coupled with the state of transition the depository institutions find themselves in today. The Federal Government's role with regard to deposit insurance is unique since it is contractually liable for the safety of depositors' money and thus has a fiduciary responsibility to depositors. The preservation of public confidence in the financial system involves not only a financial responsibility of the Federal Government but a role in insuring the safety and soundness of the system itself. In the financial sector the failure of a major bank can adversely affect the public's confidence in the entire financial industry. This unique role of the Federal Government is particularly sensitive in this period of transition for traditional depository institutions. In 1980, Congress passed the Depository Institutions Deregulation and Monetary Control Act in order to eliminate all governmentally imposed interest rate ceilings by 1986 but on a gradual basis and consistent with the economic environment. Because market conditions could not be predicted, Congress chose not to establish a specific schedule to phase out interest rate ceilings, but instead created the Depository Institutions Deregulation Committee and charged it with that task. DIDC's task, and the duty of all of the regulators, has been made more difficult by the general economic conditions. This transition must be permitted to move forward without burdening further those charged with that role. In this extremely fluid and rapidly evolving marketplace, financial institutions regulators' flexibility to act quickly and firmly to preserve the safety, soundness, and future viability of depository institutions must be maintained. The limited exemption recognizes the uniqueness of the financial regulators during this period of transition.●

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Mr. President, I would simply note—and I have listened carefully to the arguments of the distinguished Senator from Missouri (Mr. EAGLETON)—if one looks back through the record of what the evolution of this whole bill is, it has, if anything, moved away from being a lawyer's delight to a bill that brings a great deal of clarity into the whole regulatory process, especially as this is a process that has not been looked at thoroughly or comprehensively, for decades.

Finally we have something that is bringing a comprehensive and appropriate view to it. Each one of us can look at the various amendments and have our own views of them. But if you look at the evolution of this bill, you will see it has moved away from promoting litigation and steered toward clarity.

The PRESIDING OFFICER. Is there further debate?

Mr. LAXALT. We are prepared to vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from North Dakota (Mr. ANDREWS), the Senator from New York (Mr. D'AMATO), and the Senator from Pennsylvania (Mr. HEINZ) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PELL), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 27, nays 65, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—27

Bradley
Burdick
Cohen
Cranston
Danforth
Dodd
Durenberger
Eagleton
Ford
Glenn
Gorton
Hollings
Huddleston
Inouye
Jackson
Kennedy
Levin
Mathias
Matsunaga
Metzenbaum
Moynihan
Proxmire
Pryor
Randolph
Rudman
Sarbanes
Tsongas

NAYS—65

Abdnor
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bumpers
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cochran
DeConcini
Denton
Dixon
Dole
Domenici
East
Exon
Garn
Goldwater
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Kasten
Laxalt
Leahy
Lugar
Mattingly
McClure
Melcher
Mitchell
Murkowski
Nickles
Nunn
Packwood
Percy
Pressler
Quayle
Roth
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—7

Andrews
Cannon
D'Amato
Heinz
Long
Pell
Riegle

So Mr. EAGLETON'S amendment (UP No. 850) was rejected.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 851

(Purpose: To permit Federal agencies to use State or local requirements in administering Federal statutes)

Mr. EAGLETON. Mr. President, I have an amendment which I believe will be accepted by the Senate. I am offering this on behalf of Senator CHILES and myself.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON), for himself and Mr. CHILES, proposes an unprinted amendment numbered 851.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, between lines 6 and 7, insert the following:

USE OF STATE AND LOCAL REQUIREMENTS

SEC. 8. (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 560. Use of duplicative State or local requirements.

"(a) Except as otherwise provided by law, the head of each Federal agency is authorized, in the administration of a Federal statute with respect to any State or locality, to adopt as a federal rule a regulation of that state or local government or use as a federal recordkeeping or reporting requirement or implementation procedure a recordkeeping or reporting requirement or implementation procedure of that state or locality if the head of the agency determines

"(1) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement duplicates a Federal regulation, procedure, recordkeeping requirement, or reporting requirement; and

"(2) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement is substantively equivalent to or more stringent than the Federal regulation, procedure, recordkeeping requirement, or reporting requirement.

"(b) When the head of an agency determines to use a state or local recordkeeping or reporting requirement, or implementation procedure, as a federal recordkeeping or reporting requirement or implementation procedure in that state or locality, the head of the agency shall prepare at a minimum, a written statement of the reasons for any determination made under subsection (a), and shall make such statement available to the public.

"(c) This section does not limit the authority or responsibility of the head of any agency to enforce Federal law.".

(b) Section 551 of title 5, United States Code is amended by inserting the following between "rule" and the semicolon: ", or the adoption of a rule pursuant to section 560 of this title".

(c) The table of sections for chapter 5 of such title is amended by inserting after the item relating to section 559 the following new item:

"§ 560. Use of duplicative State or local requirements.".

On page 40, line 8, strike out "Sec. 8." and insert "Sec. 9."

On page 40, line 17, strike out "Sec. 9." and insert "Sec. 10.".

On page 44, line 14, strike out "Sec. 10." and insert "Sec. 11.".

On page 44, line 14, strike out "9" and insert "10".

On page 45, line 7, strike out "7 and 8" and insert "7, 8, and 9".

Mr. EAGLETON. Mr. President, when the Governmental Affairs Committee considered Senator CHILES' State and local certification amendment during its markup on S. 1080, I made abundantly clear my strong concerns about the authority the amendment granted. I indicated in no uncertain terms my fear that, although Senator CHILES certainly did not intend this, the authority could be abused to achieve, in essence, a "quick and dirty" substitution of lax regulations or procedures for more adequate Federal ones. Because the amendment was discussed late in the last day of markup, when the committee was under severe time constraints and an obligation to report the bill for Senate consideration, my concerns were not addressed or satisfied.

Fortunately, since that time Senator CHILES' staff has worked closely with my staff and others in addressing the various concerns expressed about the version of the amendment passed by the Governmental Affairs Committee. Senator CHILES is to be highly commended for today proposing an amendment with several important changes—and, I believe, improvements.

One very important change is new language making it clear that use of a State regulation, recordkeeping or reporting requirement or implementation procedure can only occur upon a determination that such regulation, recordkeeping or reporting requirement, or procedure "is substantively equivalent to or more stringent than" the Federal analog. This language precludes good-faith use of a State or local regulation, requirement or procedure which provides inferior regulatory protection in contrast to Federal law. Another important change will present bad-faith use of the authority granted by insuring that use of it will be subject to the judicial review standards of section 706 of the Administrative Procedure Act.

A third major change is addition of language included in a previous version of this amendment considered in the 96th Congress, but omitted in the version Senator CHILES offered in the Governmental Affairs Committee markup on S. 1080. The language is intended to make clear that use of a State and local regulation or requirement in no way eliminates or reduces "the authority or responsibility of the head of any agency to enforce Federal law." This provision is important to make clear that use of State and local regulations, requirements or procedures is to be done in furtherance of—and not to replace—the regulatory obligations imposed by Federal statute. Among other important things, this verifies that, if in the future the certified State and local procedure ceased being equivalent to the Federal obligation, the Federal obligation would again be binding on the State or locality, and the agency head would be obligated to recommence use of the Federal regulation, recordkeeping or reporting requirement, or implementation procedure. Otherwise, the effectiveness and unity of Federal enforcement could be undercut by action over which Federal officials have no control.

Along the way, the amendment also clarifies something which I have always understood to be inherent in it: That the State or local regulation or requirement would be used to administer a Federal statute only in that State or locality. One cannot, for example, determine that California's Clean Air Act recordkeeping procedures will apply to other States.

Finally, Mr. President, Senator CHILES is to be commended for correcting one additional ambiguity in his previous amendment. It was simply not clear from the previous Chiles amendment whether a determination to use a State or local rule in the administration of a Federal statute was itself a "rule" subject to notice and comment rulemaking procedures. I was not the only person who believed that such a result was essential, in order to insure that the merits of a case for use of State or local rules would be fully discussed. Failure to require use of notice and comment procedures in this context would have been an open invitation to engage in "State-by-State deregulation" through processes less probative than those required for a single deregulatory rule applying to the Nation as a whole.

The current Chiles amendment takes care of this concern by making it clear that the decision to use a State or local rule is tantamount to "adopt[ing] a Federal rule." It therefore requires use of appropriate rulemaking procedures. For situations in which the agency head proposes to use a State or local recordkeeping or reporting requirement or implementation procedure as a Federal requirement or procedure not itself part of a Federal rule, the amendment would not require notice and comment procedures. What it would require would be that a written statement of reasons be made available to the public. Among other things, this written statement should facilitate congressional oversight of agency actions pursuant to the new section 560 authority.

I will be honest, Mr. President. It would not have broken my heart if this amendment had simply gone away. I still have some doubts about the basic theory behind it.

However, based on the changes he has made, Senator CHILES, I believe, has given us one of the best, if not the best, "State and local certification" provisions that can be drafted. In light of his good faith efforts to meet responsible criticisms, I believe that we should accept this amendment.

Mr. CHILES. Mr. President, this amendment makes clear that agency heads may use State and local regulations, implementation procedures, recordkeeping or reporting requirements instead of Federal regulatory requirements if they are duplicative.

The purpose of this amendment is to provide a means for Federal agencies to tackle the problem of duplicative regulatory burdens in our intergovernmental system of government. The amendment is also intended to serve as a signal to Federal agency heads that the Congress wants to encourage them to seek out instances of duplication and take steps to eliminate them. State and local governments will be able to point to this language when they conclude a Federal requirement is duplicative and ask Federal agencies to accept their practices. Unless a Federal statute proscribes Federal acceptance, agencies will no longer be able to ignore instances of duplication in intergovernmental relations with the excuse they do not have authority to accept State and local requirements.

I am sure every Member of this body has the same repeated experience I have had with constituents back home going through example after example of particular cases of duplicative Federal and State or local requirements. Whether it is crop or food inspections, construction, transportation, education, or environmental requirements, it makes sense to enable and encourage Federal agencies to accept State or local requirements when they meet Federal standards and successfully do the same job.

An important example is the housing industry. When I conducted field hearings for the Budget Committee last Congress regarding problems in the housing industry, I found that duplicative regulations and reviews by both Federal and State authorities added considerable costs to the price of a house.

Mr. President, I first introduced this amendment in the Committee on Governmental Affairs last Congress during its consideration of regulatory reform legislation. It was accepted then as it was this Congress by the Committee on Governmental Affairs during its consideration of S. 1080.

There were concerns expressed by some and that is why this amendment did not find its way to the consensus language first proposed by Senators LAXALT, LEAHY, ROTH, and EAGLETON. I want to thank the floor leaders of this legislation for coming forth with language that accomplishes the amendment's purpose and satisfies the concerns raised. I want to particularly thank my distinguished colleague from Missouri, Senator EAGLETON, who sits with me on the Committee on Governmental Affairs. His forbearance and constructive comments are greatly appreciated.

I thank the staffs of the Senators LAXALT, LEAHY, ROTH, and EAGLETON. The bipartisan spirit of cooperation in developing this legislation has been remarkable.

This amendment states that a determination of duplication must meet a standard of substantively equivalent to or more stringent than the respective Federal requirement.

The authority on the part of agency heads is discretionary, and does not limit either the agency head's authority or responsibility to enforce Federal law.

Public notice and comment will be sought on all determinations regarding duplicative aspects of Federal regulations and a written explanation of all determinations is required.

Actions undertaken by Federal agency heads under the authority of this amendment are judicially reviewable.

Mr. LEAHY. Mr. President, what is the parliamentary situation? Is there an amendment at the desk?

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Missouri.

The amendment (UP No. 851) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATTINGLY. Mr. President, I rise in support of S. 1080, the Regulatory Reform Act. This bill is just the sort of medicine our ailing regulatory process needs. It will put some sense into the regulatory process, and be especially helpful to the consumer. Everyone will benefit from this legislation which has been thoroughly reviewed and which will be carefully implemented.

One of the major reforms on my personal agenda when I came to Congress was in the area of regulatory reform. We have all heard the horror stories that were in abundance around here until a few months ago. One agency having over 27 regulations regarding stepladders, for example, clearly our zeal for public protection had gotten out of control. In fact, what existed really was not public protection—it was merely paper generation.

But the administration has moved positively in this area. Our Government is more dedicated to the rights of the consumer than ever before. Now, more than ever, the agencies are concerning themselves with fulfilling their proper jurisdiction, and implementing the policy directives they have been assigned from Congress.

Congress must write clear laws and give firm directives for the agencies to know what their goals are. Too often many of the problems of regulation that have been pinned on the agencies are actually the result of muddied thinking up here on Capitol Hill.

There have been many who said that this bill will not be of great benefit to the consumer. In fact, many have suggested that this legislation is in some way aimed at helping business to the detriment of the common good. The section of the bill that they find particularly worrisome is the mandating of a "cost-benefit analysis" for these major regulations. It is this issue I would like to address.

The concept of cost-benefit analyses for public policy is little more than 20 years old, but it has its roots in good consumer sense. We all perform a kind of simple cost-benefit analysis everytime we make a purchase or decide to allocate our resources in a certain way. We determine that whatever we buy is worth its cost, and forgo spending those funds on another item.

Many critics of this bill contend that the "costs" of any regulation will by definition be much easier to calculate than "benefits." Therefore, all else being equal, the agencies will have a bias to determine that proposed regulations, which are assumed to be for the public interest, are too costly and do not pay out a fair return of benefits. As long as the agencies demonstrate the same commonsense that we are demanding for regulations, there will be no problem. Some regulations will cost consumers, yet protect those same consumers from injury. Consider the regulations on toys: What price can we place on the safety of our children? All we are attempting to do is to put commonsense back in the process.

We must decide how far to regulate to protect our society. We want to purchase the greatest amount of protection at the lowest cost to everybody. Some would have you believe that every time a regulation is altered, delayed, or repealed, it is the consumer that suffers. This is nonsense. There exists obviously a fine relationship between the business and the consumer. And you must realize that in finding the most efficient method to regulate business, you are often passing on savings to the consumer. Now, I don't pretend that automatically "what's good for business is good for the consumer." But a reverse corollary is also untrue—"what's bad for business is good for the consumer." This, I think, is often lost. It simply is not true on the matter of regulation that the Federal Government must choose to either help the consumer or help business.

No one has suggested that a simple cost-benefit analysis will be the panacea for our regulatory problems. No one has suggested that cost-benefit analyses are the final words on all topics.

These calculations are subject to error. Of course, they will be. They will be determined by humans, many of whom will have a certain amount of bias about the decision.

And, is not that precisely the reason that this bill contains so much precaution for review?

S. 1080 has been widely accepted by Members of Congress because it is a good bill. Its basic intent is to see that the agencies implement regulations that are for the society's good, and that have withstood a thorough scrutiny to prove that they are good. I am encouraged by the support this bill has received from all those who are truly acquainted with it; they realize that the intent of this bill is just what Americans want to see in agency regulating.

Mr. President, we will also be asked to vote upon many amendments that could drastically change the complexion of this bill. I call upon all of my colleagues to carefully assess the impact these numerous amendments can have upon S. 1080. The basic tenet of the Regulatory Act must be upheld: That not only must the decision to regulate be carefully made; but we must allow ourselves to review any changes that greatly affect that regulation. Protection of the individual cannot end with the passage of a bill directing an agency to move in one area; we must keep a close watch throughout the entire process to guard the public interest.

I will protect the intent of this bill by voting for measures which will insure that the major decisions regarding the regulatory process are subject to review. This is only to insure that all sides have a fair hearing. The art of cost-benefit analysis, as well as determination of cost-efficiency, is still new. We must allow for new developments, new costs and benefits to come to light. And we must allow for the biases of everyone involved to be scrutinized by the public, and at every step in the regulatory process.

S. 1080 is a fine bill that has been long in the making. It is one that the American people want to see passed. I am confident that its passage will result in better regulations, ones that are broad in scope. We cannot afford to go into the regulatory process wearing blinders. Let us open our eyes to the many factors that must be considered to regulate properly.

Mr. PERCY. Mr. President, I commend Senator LAXALT for his devotion to regulatory reform.

This has been a subject of tremendous interest to the Senator from Illinois, who introduced legislation some years ago in the Governmental Affairs Committee. We followed it closely and worked with the Judiciary Committee.

I feel that there is no greater step we can take to unshackle American industry.

I have just left the distinguished Foreign Minister of Japan. I have had some 30 years of experience in dealing with Japan, and I know how the Japanese Government works with Japanese industry. We have seen the results. The Japanese are dominating growth all over the world because they have a government that cooperates with rather than shackles industry. It does not handcuff industry. The government works with industry to help it. That is the strength of Japan and is one reason the Japanese economy has the kind of strength it does.

We have done just the reverse in many ways. The Government has been the adversary, not the advocate, of American industry. Regulatory reform is essential to unleash the dynamism and the power of the American economy.

I commend Senator LAXALT and his colleagues, who have worked hard on this issue, and I am proud to be a cosponsor of the measure.

Mr. FORD. Mr. President, I am pleased to support the consensus amendment to S. 1080. Two years ago, I was on this same floor advocating adoption of a Federal Trade Commission bill which contained many of the provisions I now see reflected in S. 1080.

The FTC Act of 1980, as it is now called, required the FTC to do a regulatory analysis on every proposed rule. The main thrust of S. 1080 is to require regulatory analysis for major rules. I remain convinced that a close examination of the costs and benefits of a proposed regulation is essential to good decisionmaking. I am pleased to see that the drafters of the bill have limited the judicial review of regulatory analyses. I feel this is sound policy.

The bill further provides for review of existing rules and also contains a provision for additional procedures to increase participation in rulemaking.

I believe there is a role for the executive to play in regulatory reform, in reviewing the performance of executive agencies, but I have had some concerns, which I would like to discuss, about the effect of this provision on independent agencies.

Mr. President, in September of 1981, Senator CANNON and I sent a letter to Senator ROTH, chairman of the Senate Governmental Affairs Committee, outlining our concerns about the executive oversight provision—now section 624 of the consensus bill.

I was disturbed about the effect such a provision would have on the rulemaking processes of independent Federal agencies. I feared that if the exective branch was given the authority to review and monitor regulatory analyses, this could undermine the independence of these agencies, that the authority might lead to major adjustments in cost-benefit analysis to reflect executive branch judgments.

S. 1080 establishes specific procedures to allow increased comment from the public and this includes Government officials. I realize that members of independent agencies can benefit greatly from the views of other policymakers in the Government, including, of course, those in the executive branch. Senator GLENN's amendment and the statements of the managers of the bill have made clear that this section does not transfer congressional authority to the executive and does not erode the supervisory role of Congress over these agencies.

I support Senator GLENN's move to limit the amount of time that OMB will have to review analyses. This alleviates my concern that the power under section 624 might be used to delay interminably the rulemaking process.

I note that Senator LAXALT, the manager of the bill, has indicated that OMB's authority is purely procedural. He indicated yesterday in response to questions from the Senator from Ohio, Senator GLENN, that section 624 does not give the executive the authority to get an agency to modify the substance of a rule. Senator LAXALT further clarified that section 624 did not authorize the President to substitute his judgment for that of an agency's in making the determinations required by S. 1080. Senators ROTH, LEAHY, and EAGLETON all concurred in these statements. The adoption of Senator GLENN's amendment, as well as the remarks of the floor managers have assuaged my fears about the effect of section 624.

I support Senator BUMPERS in his effort to encourage the Federal courts to take a hard look at agency actions. Also, I believe that provisions for regulatory agendas and regulatory calendars will help the Congress in its carrying out its oversight responsibilities.

I commend Senators LAXALT and ROTH and Senators EAGLETON and LEAHY for their work on S. 1080. It is a step toward the goal of curbing regulatory excesses.

(By request of Mr. FORD, the following statement was ordered to be printed in the RECORD:)

● Mr. CANNON. Mr. President, I am pleased to support S. 1080, the Regulatory Reform Act. I have long been committed to regulatory reform. As chairman of the Senate Commerce Committee starting with deregulation of the airlines, continuing with the trucking industry and the railroads, as well as reform of the Federal Trade Commission and Consumer Product Safety Commission, I have sought ways to ease the regulatory burdens imposed on consumers and industry by the Federal Government.

Last year, the Senate Commerce Committee undertook some major changes in the Consumer Product Safety Commission. I see many of those changes reflected in S. 1080. For example, S. 1080 contains a requirement that agencies do regulatory analyses of the costs and benefits of regulatory proposals. Both the CPSC and the FTC are already required to do these analyses, due to reform of their enabling statutes by the Commerce Committee.

Other provisions which I consider to be important measures to curb regulatory excesses are included: review of existing rules, random assignment and consolidation of multiple cases, and the opportunity for oral presentations in some rulemakings.

I would like to discuss briefly one amendment to the bill which was accepted yesterday that answers some concern I had about the effect of S. 1080. S. 1080 imposes certain additional procedural requirements upon the regulatory decisionmaking process to improve those decisions. The bill requires agencies to do an analysis of the costs and benefits of regulation. In that analysis, S. 1080 requires agencies to make a determination that the benefits of a rule justify its costs and that the rule will substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives.

Senator LEAHY's amendment insures that this requirement does not create a new substantive standard for agency rulemaking. Standards for rulemaking, of course, derive from the substantive law the agency is implementing, and agency action is to be measured against the substantive standard in its enabling statute.

Mr. President, I share the Senator's concerns about the effect of S. 1080 on the enabling statutes under which agencies operate. I believe the amendment is a mere clarification of the intent of the sponsors of S. 1080. The amendment would simply clarify that an agency's enabling statute remains the source for subtantive standards for rulemaking decisions. It is those enabling statutes, not S. 1080, which are the sources of agency authority.

I know that was the intent of the drafters of S. 1080, I was troubled by the possible misinterpretation by others. For example, I was concerned that S. 1080 might lead the Interstate Commerce Commission in a direction contrary to the intent of the regulatory reform embodied in the Staggers Rail Act of 1980. I was further concerned that S. 1080 frustrates ongoing efforts at the ICC to reduce regulatory lag by mandating additional standards beyond those contained in the rail deregulation statutes written by the authorizing committees, the House and Senate Commerce Committees.

I know that the drafters of S. 1080 would not wish to slow deregulation at those agencies where deregulation has already been mandated by the Congress. I am pleased that the Senate has adopted Senator LEAHY's amendment.

In conclusion, I support the consensus bill, amendment 640 to S. 1080. I see this bill as a continuation of the progress the Commerce Committee has made in the last 5 years with the agencies under our jurisdiction. And I am pleased to join in this effort to reduce unnecessary, burdensome, and wasteful Federal action.●

The PRESIDING OFFICER. Who seeks recognition?

Mr. LEAHY. Mr. President, we have gone through quite a few amendments today, not only those on rollcall votes but a number of others, as well as the amendments yesterday.

I think, with the exception of one major amendment and possibly a couple of housekeeping amendments, we are nearing an end to this. I ask the distinguished chairman of the subcommittee if we are at a point where we might reach some kind of a unanimous-consent agreement for final action on the bill.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WEICKER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, we are in the process of attempting to work out a unanimous-consent agreement on the remainder of the bill. I do not think we will be able to do it this evening, so I think it will be well, if Senator LEAHY will agree, that we simply lay over consideration of the bill until 10:30 a.m. tomorrow at which time we will take up consideration of the Levin amendment.

Mr. LEAHY. Mr. President, I think it is a good suggestion. It is interesting that we have discussed throughout the consideration of this bill various time agreements, but we have not entered into any of them. Most of the amendments and the progress on the bill have gone on track within a few minutes of what we would have agreed to had we had a time agreement.

I think it is a good suggestion that we go over until tomorrow morning. I hope that we might work out the matters remaining. We will have the Levin amendment.

I hope, if anyone has any amendment that he let either Senator

Laxalt or myself know early tomorrow morning.

I hope we might be able to finish this bill by the first part of the afternoon.

Mr. LAXALT. We have at the present time other than a couple of technical amendments, so the colleagues will know in their offices, the Levin amendment which we can take up at 10:30 a.m. We assume that that will take perhaps 2 hours. We will take a vote on it, and we have some technical amendments. We have the possibility of a Pressler amendment on which he has requested 40 minutes. We have still unsettled the possibility of a DeConcini amendment on venue.

I would rather think that by the time that we have completed the proceedings tomorrow we can look to process that work and final passage by midafternoon, so our colleagues will be advised accordingly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GARN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Pressler). Without objection, it is so ordered.

REAFFIRMATION OF U.S. BACKING OF CERTAIN DEPOSITS

Mr. GARN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 461, House Concurrent Resolution 290, a concurrent resolution reaffirming that deposits up to the statutorily prescribed amount in federally insured depository institutions are backed by the full faith and credit of the United States.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 290) reaffirming that deposits in federally insured depository institutions are backed by the full faith and credit of the United States.

The Senate proceeded to consider the concurrent resolution.

Mr. GARN. Mr. President, the purpose of the resolution is to reaffirm that federally insured deposits are backed by the full faith and credit of the Government.

NEED FOR THE RESOLUTION

For approximately 50 years, insurance deposits have been backed by the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. In addition, the share insurance fund of the National Credit Union Administration has insured deposits in credit unions.

This Federal insurance system has promoted a stable and strong financial system and provided depositors with the assurance that their funds are secure.

During the past 10 years, many changes have come to our economy and our financial system. The Senate Banking Committee is actively involved in developing and reviewing various proposals designed to deal with many of the significant issues affecting our financial system. These include the bill I introduced last year, S. 1720, which itself includes several bills introduced by other Banking Committee members during the first session of this Congress, and Senator Lugar's recently introduced proposal to promote homeownership opportunities.

Because many people have expressed concern about the safety and soundness of depository institutions, congressional action is necessary to reaffirm the Federal commitment to safeguard insured deposits.

With so many changes taking place in the financial markets, I strongly believe that it is appropriate to pass this concurrent resolution, not only to reassure depositors, but as a necessary part of broader congressional action to clarify existing banking statutes.

Mr. CRANSTON. Mr. President, I am delighted to cosponsor this concurrent resolution affirming that the full faith and credit of the United States stands behind deposits in federally insured institutions up to the statutory amount, and I applaud the leadership of Senator Garn.

The present problems besetting the savings and loan industry have been the subject of front page stories in several national magazines and newspapers over the last several months. A professor in an editorial in the Los Angeles Times recently suggested that Congress would have to bail out the troubled savings and loan industry or risk a 1930's style panic. A week later there was a brief deposit run on a Hartford, Conn., savings and loan. This run was precipitated by a newspaper report on losses of the savings and loan that coincided with the airing of a television movie "The Day the Bubble Burst" about the 1920's failure of the U.S. financial system.

High interest rates, inflation, and the President's economic policies are at the heart of the thrift industry crisis. The auto, airline, and other interest rate sensitive industries are experiencing similar problems. Reducing the large deficits in the budget will, over the long run, produce lower interest rates that will diminish the earnings pressures on these industries.

While the Congress is working toward solving these problems, there is the danger that the recent rash of publicity about the thrift problems may cause public depositors with funds in thrift institutions to feel uneasy about keeping their funds in these institutions, even though they are insured up to $100,000 by the Federal Savings and Loan Insurance Corporation. I cannot emphasize too strongly to public depositors that the Government stands behind their deposits and that there are sufficient resources in the FSLIC and FDIC to handle immediate problems of the thrift industry. Until recently, the public has not shown any evidence of doubting the assurances of adequacy of these insurance funds. In an effort to make sure that a sudden wave of disbelief does not swell into a crisis, I am cosponsoring this concurrent resolution affirming that the full faith and credit of the United States stands behind deposits in federally insured institutions up to the statutory amounts.

Mr. HELMS. Mr. President, I congratulate the distinguished Senator from Utah, the chairman of the Banking Committee, for bringing this resolution before the Senate, and I want him to know that I intend to support the resolution.

However, Mr. President, I have just one question for the chairman of the Banking Committee which I am confident will clarify a matter of great importance to some of my constituents. While the resolution we are considering today addresses the status of Federal deposit insurance facilities, we must recognize that in many States—Ohio, Massachusetts, Maryland, North Carolina, Pennsylvania, and Rhode Island, among others—substantial deposits in financial institutions are insured by deposit insurance and guarantee funds established under State legislation. As I understand the purpose of the resolution before the Senate today, it is to give assurance to depositors that they need not fear for the safety of their deposits. While the resolution before us speaks only to deposits insured by the Federal deposit insurance agencies, I feel it should be understood that the Federal Government is interested in the welfare of all depositors.

Mr. GARN. That is true.

Mr. GLENN. Under the Federal Reserve Act, as I understand it, the Federal Reserve Board can open the discount window to depository institutions and deposit insurance and guarantee facilities created by State law. Is that not so, Senator Garn?

Mr. GARN. That is correct.

Mr. GLENN. Does the floor manager for the minority, the Senator from California, concur with Chairman Garn's view on this matter.

Mr. CRANSTON. It is my understanding that under section 13(3) of the Federal Reserve Act, by an affirmative vote of five Members of the

Board and pursuant to rules and regulations promulgated by the Board, individuals, partnerships, and corporations can request advances from the Federal Reserve System in unusual and exigent circumstances.

Mr. HELMS. I thank the floor managers for their comments in clarifying the intent of the Senate.

Mr. GARN. I understand the Senator from Wisconsin has a statement.

Mr. PROXMIRE. Mr. President, I rise in support of this resolution.

Public confidence in our financial system is based largely upon Federal insurance of deposits by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

By statute, deposits in financial institutions are insured up to $100,000 per account.

There should be no question that the Treasury Department guarantees every last nickel of every insured deposit. Every depositor will be paid 100 cents on the dollar on every insured deposit because the U.S. Government stands behind these insurance agencies completely.

Lest there be any doubt on that score, this resolution makes it clear that the full faith and credit of the Federal Government stands behind every insured deposit at every insured financial institution.

We are dealing here solely with the full faith and credit of the United States to back up federally insured deposits. This resolution does not seek to disadvantage State insured systems.

I understand the view of other Senators on the use of the Federal Reserve's discount facilities to advance funds to State-chartered, State-insured institutions or to State-insuring corporations.

The Federal Reserve does have wide latitude to make short-term loans to State-chartered institutions under the Monetary Control Act on the same basis as short-term lending to member banks for liquidity purposes.

The Federal Reserve also has the authority to lend to individuals, partnerships, and corporations under section 13. This authority has not been used for some 45 years and, in my judgment, would be inappropriate for the purpose of providing funds for the insurance of deposits.

Mr. President, I yield the floor.

Mr. GARN. Mr. President, I would simply say to the Senator from Wisconsin that I agree with him. My response in the colloquy was simply that it was correct that this authority did exist.

I would also agree with him that even though the authority is there it would probably be bad judgment if it were used. But it certainly is correct that the authority does exist.

Mr. PROXMIRE. Mr. President, I thank the distinguished chairman of the Banking Committee. I agree, of course, with him wholeheartedly.

Mr. GARN. Mr. President, I ask for the passage of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The resolution (H. Con. Res. 290) was agreed to.

The preamble was agreed to.

Mr. GARN. Mr. President, I ask unanimous consent to indefinitely postpone calendar No. 460 (S. Con. Res. 72), the Senate companion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 1080

Mr. BAKER. Mr. President, I have a unanimous-consent request which involves the balance of the measures to be dealt with on S. 1080, the regulatory reform bill. This proposal has been submitted and worked extensively through both cloakrooms by the leadership on both sides. I believe it is cleared now, and I would like to state it for the consideration of the minority leader and all Senators.

Mr. President, I ask unanimous consent that, when the Senate resumes consideration of S. 1080, the regulatory reform bill, on tomorrow, Wednesday, March 24, the following amendments be the only amendments in order and be considered under the following time agreements:

Thirty minutes on the bill to be equally divided between the Senator from Nevada (Mr. LAXALT) and the Senator from Vermont (Mr. LEAHY), or their designees; 2 hours, equally divided, on a Levin amendment dealing with executive communications; 20 minutes, equally divided, on a Laxalt amendment dealing with executive communications; 40 minutes, equally divided, on a Durenberger or Roth amendment dealing with a modification of clause (iii) of section (3)(2)(c) on the Federal Advisory Committee Act in section 7 of the bill; 1 hour, equally divided, on a Riegle amendment to require OMB to collect data for fiscal year 1981 and submit to Congress; 40 minutes, equally divided, on a Pressler amendment dealing with prohibiting contracting out of security services for Federal courthouses by the GSA; 20 minutes, equally divided, on a Pryor amendment dealing with the use of consultants to do the regulatory analysis.

Further, I ask that debate on any debatable motion, appeal, or point of order, if submitted to the Senate, shall be limited to 5 minutes, to be equally divided.

Mr. President, also that paragraph 4 of rule XII be waived.

That is the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to take this opportunity to thank all Senators for their consideration in connection with this matter. The distinguished Senator from Nevada (Mr. LAXALT) was not present at the time of final consummation of this agreement. I believe I am aware of the reasons why he was not prepared when he left to give his final approval to this request. I am taking the responsibility of making this request and acknowledging that he will find it acceptable in his absence. While I do not ordinarily do that, I feel that it is so important to finish this measure at this time, and that the Senator from Nevada is so anxious that it be completed, that the arrangements that have been concluded, all included in this agreement, will be entirely satisfactory to the Senator from Nevada.

Mr. President, with that understanding, I wish to again thank all Senators for their consideration of this matter which I am sure will expedite the work of the Senate.

THE MEDIA

Mr. SYMMS. Mr. President, my friends in Idaho often ask me why the media—especially the TV networks, the big eastern newspapers and magazines—seem to be biased in their coverage of the news. "Their reporters just don't think the way we do; they're out of touch with the mood and the values of ordinary people," are common complaints I hear.

Recently I came across a very revealing and significant survey which goes a long way toward answering such questions about bias in the media and confirming some of the suspicions my constituents and I share.

The survey, conducted by a research institute at Columbia University, was based on personal interviews with several hundred members of the "media elite"—journalists and broadcasters who work for the networks, the weekly news magazines, and such papers as the New York Times and the Washington Post.

Who are these people? Where do they come from? What are their personal political or philosophical leanings?

According to the survey, a majority—54 percent—identified themselves as liberals; only 19 percent said they are conservatives. In four of the last five Presidential elections, their support for the more liberal Democratic candidate never dropped below 81 percent—while the rest of the American people were more evenly divided or going in the opposite direction.

Half of them have no religious affiliation and 86 percent say they seldom if ever attend religious services of any kind.

Even on issues that sharply divide the liberal community, the "media elite" is amazingly one-sided. For example, they support affirmative action by a lop-sided margin of 4 to 1, abortion by 9 to 1, and a majority of them disagree with the view that adultery and homosexuality are wrong. The survey also found that most of them think the United States exploits the Third World, causes poverty in other lands, and that the CIA should never try to undermine hostile governments that threaten U.S. interests.

This extraordinary survey clearly demonstrates just how far out of step many members of the media elite are with mainstream America. Most of them, in fact, grew up at some distance from the Main Streets—and the social, economic, or cultural traditions and values—of middle America. They were drawn mainly from the big cities of the Northeast—fully 40 percent from three States, New York, Pennsylvania, and New Jersey, and another 10 percent from New England. Only 3 percent came from the west coast, including California, the Nation's most populous State. Barely one-fifth had parents who were blue-collar or white-collar workers.

This revealing picture of the media elite leaves little doubt that bias does in fact exist. I want to stress, however, that this is not a picture of all journalists. It is a self-portrait of a relatively small number who happen to exercise a great deal of influence because they are employed by the largest and most powerful media outlets.

As someone very astutely remarked not long ago: "The mass media may not be successful in telling us what to think, but they are stunningly successful in telling us what to think about."

Mr. President, I ask unanimous consent to insert in the RECORD an article by S. Robert Lichter and Stanley Rothman published in the October/November 1981 issue of Public Opinion magazine. Lichter and Rothman were codirectors of the Columbia University survey, and their article explains its astonishing findings in greater detail.

I also ask to insert a fine article on the same subject by syndicated columnist James Kilpatrick published in the Idaho Statesman on March 16.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEDIA AND BUSINESS ELITES

(By S. Robert Lichter and Stanley Rothman)

[Graphs and charts mentioned in article not reproduced in RECORD.]

Yesteryear's ragtag muckrakers, who tirelessly championed the little guy against powerful insiders, have become insiders themselves. Newsmen have long cherished the vantage point of the outsiders who keep the insiders straight. But now, leading journalists are courted by politicians, studied by scholars and known to millions through their bylines and televised images. In short, the needs of a society increasingly hungry for information have contributed to the rise of a national news network—the new media elite. Leading figures within this network are anything but the low-lifes and ambulance chasers mythologized in *The Front Page.* Instead they constitute a new leadership group that competes for influence alongside more traditional elites representing business, labor, government, and other sectors of society.

As columnist Joseph Kraft writes "in the past two decades, those of us in the press have undergone a startling transformation. We are among the principal beneficiaries of American life. We have enjoyed a huge rise in income, in status, and in power. . . . We have moved from the sidelines to the center of the action."[1]

Eric Sevareid, in his final CBS commentary, put it even more succinctly: "We are no longer starvelings and we sit above the salt. We have affected our times."[2]

The influence of the press is based not on money or political power but on the information and ideas they transmit to other social leaders, as well as to the general public. Even those who question the media's power to persuade grant their ability to help set the agenda for discussions about social policy. Bernard Cohen notes, "the mass media may not be successful in telling us what to think, but they are stunningly successful in telling us what to think *about.*"[3]

As part of a larger study on elites, we surveyed members of the national media elite during 1979 and 1980. We wanted to discover their backgrounds, attitudes, and outlooks toward American society and their own profession. We conducted hour-long interviews with 240 journalists and broadcasters at the most influential media outlets, including the *New York Times,* the *Washington Post, the Wall Street Journal, Time* magazine, Newsweek, U.S. News and World Report, and the news departments at CBS, NBC, ABC and PBS, along with major public broadcasting stations.[4]

Footnotes appear at end of article.

Within each organization, we selected individuals randomly from among those responsible for news content. In the print medium we interviewed reporters, columnists, department heads, bureau chiefs, editors and executives responsible for news content. In the broadcast medium we selected correspondents, anchormen, producers, film editors, and news executives. A very high proportion of those contacted, 76 percent, completed the interview. The response rate was high enough to insure that our findings provide insight into the composition and perspective of this new elite.

To provide comparisons with a more traditional leadership group, we also surveyed executives at several major corporations. We interviewed at seven *Fortune 500* companies, ranging from a multinational oil company and a major bank to a public utility and a nationwide retail chain. We chose randomly from upper and middle management at each company and completed 216 interviews, or 96 percent of those contacted. The focus of this article is, of course, the media elite. At appropriate points, however, we will compare their attitudes to those of the successful and influential leaders in the business world.

WHO ARE THE MEDIA ELITE?

The social and personal backgrounds of the media elite are summarized in table 1. In some respects, the journalists we interviewed appear typical of leadership groups throughout society. The media elite is composed mainly of white males in their thirties and forties. Only one in twenty is nonwhite; one in five is female. They are highly educated, well-paid professionals. Ninety-three percent have college degrees, and a majority (55 percent) attended graduate school as well. These figures reveal them as one of the best educated groups in America. They are also one of the better paid groups, despite journalism's reputation as a low paying profession. In 1978, 78 percent earned at least $30,000, and one in three had salaries that exceeded $50,000. Moreover, nearly half (46 percent) reported family incomes above $50,000.

TABLE 1—*Backgrounds of the Media Elite*

	Percent
White	95
Male	79
From Northeast or North Central States	68
From metropolitan area	42
Father graduated college	40
Father occupation "professional"	40
College graduate	93
Postgraduate study	55
Income $30,000 plus	78
Family income $50,000 plus	46
Political liberal	54
Religion "none"	50

Geographically, they are drawn primarily from northern industrial states, especially from the northeast corridor. Two-fifths come from three states: New York, New Jersey, and Pennsylvania. Another 10 percent hail from New England, and almost one in five was raised in the big industrial states just to the west—Illinois, Indiana, Michigan and Ohio. Thus, over two-thirds of the media elite come from these three clusters of states. By contrast, only 3 percent are drawn from the entire Pacific coast, including California, the nation's most populous state.

Journalism is a profession associated with rapid upward mobility, yet we found few Horatio Alger stories in the newsroom. On the contrary, many among the media elite enjoyed socially privileged upbringings. Most were raised in upper-middle-class homes. Almost half their fathers were college graduates, and one in four held a graduate degree. Two in five are the children of professionals—doctors, lawyers, teachers, and so on. In fact, one in twelve is following in his father's footsteps as a second generation journalist. Another 40 percent describe their fathers as businessmen. That leaves only one in five whose father was employed in a low status blue or white collar job. Given these upper status positions, it is not surprising that their families were relatively well off. Forty-five percent rate their family's income while they were growing up as

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Footnotes at end of article.

above average, compared to 26 percent who view their early economic status as below average.

In sum, substantial numbers of the media elite grew up at some distance from the social and cultural traditions of small town "middle America." Instead, they were drawn from big cities in the northeast and north central states. Their parents tended to be well off, highly educated members of the upper middle class, especially the educated professions.

SOCIAL AND POLITICAL ATTITUDES

All these characteristics might be expected to predispose people toward the social liberalism of the cosmopolitan outsider. And indeed, much of the media elite upholds the cosmopolitan or anti-bourgeois social perspective that Everett Ladd has termed the "new liberalism." [5]

A predominant characteristic of the media elite is its secular outlook. Exactly 50 percent eshcew any religious affiliation. Another 14 percent are Jewish, and almost one in four (23 percent) was raised in a Jewish household.[6] Only one in five identifies himself as Protestant, and one in eight as Catholic. Very few are regular churchgoers. Only 8 percent go to church or synagogue weekly, and 86 percent seldom or never attend religious services.

Ideologically, a majority of leading journalists describe themselves as liberals. Fifty-four percent place themselves to the left of center, compared to only 19 percent who choose the right side of the spectrum. When they rate their fellow workers, even greater differences emerge. Fifty-six percent say the people they work with are mostly on the left, and only 8 percent on the right—a margin of seven-to-one.

TABLE 2.—PRESIDENTIAL VOTING RECORD OF MEDIA ELITE 1964–76 [1]

	Percent	Percent voting
1964		
Goldwater	6	(62)
Johnson	94	
1968		
Nixon	13	(67)
Humphrey	87	
1972		
Nixon	19	(74)
McGovern	81	
1976		
Ford	19	(82)
Carter	81	

[1] Percentages based on those who voted for major party candidates. Third party vote never exceeded 2 percent.

These subjective ratings are borne out by their voting records in presidential elections since 1964, summarized in table 2. (The interviews were conducted before the 1980 elections, so our most recent data are for 1976.) Of those who say they voted, the proportion of leading journalists who supported the Democratic presidential candidate never dropped below 80 percent. In 1972, when 62 percent of the electorate chose Nixon, 81 percent of the media elite voted for McGovern. This does not appear to reflect any particular personal aversion to Nixon, despite the well-publicized tensions between the press and his administration. Four years later, leading journalists preferred Carter over Ford by exactly the same margin. In fact, in the Democratic landslide of 1964, media leaders picked Johnson over Goldwater by the staggering margin of sixteen-to-one, or 94 to 6 percent.

Most significant, though, is the long-term trend. Over the entire sixteen-year period, less than one-fifth of the media elite supported any Republican presidential candidate. In an era when presidential elections are often settled by a swing vote of 5 to 10 percent, the Democratic margin among elite journalists has been 30 to 50 percent greater than among the entire electorate.

These presidential choices are consistent with the media elite's liberal views on a wide range of social and political issues, as table 3 reveals. They show a strong preference for welfare capitalism, pressing for assistance to the poor in the form of income redistribution and guaranteed employment. Few are outright socialists. For example, they overwhelmingly reject the proposition that major corporations should be publicly owned. Only one in eight would agree to public ownership of corporations, and two-thirds declare themselves strongly opposed. Moreover, very few sympathize with Marx's doctrine, "from each according to his ability, to each according to his needs." Instead, they overwhelmingly support the idea that people with greater ability should earn higher wages than those with less ability. Eighty-six percent agree with this fundamental tenet of capitalism. Most also believe that free enterprise gives workers a fair shake, and that deregulation of business would be good for the country. Seventy percent agree that private enterprise is fair to working people, and almost as many, 63 percent, say that less regulation of business would serve the national interest.

TABLE 3.—MEDIA ELITE ATTITUDES ON SOCIAL ISSUES

[In percent]

	Strongly agree	Agree	Disagree	Strongly disagree
Economics:				
Big corporations should be publicly owned	4	9	23	65
People with more ability should earn more	48	38	10	4
Private enterprise is fair to workers	17	53	20	10
Less regulation of business is good for USA	16	47	24	13
Government should reduce income gap	23	45	20	13
Government should guarantee jobs	13	35	33	19
Political alienation:				
Structure of society causes alienation	12	37	32	20
Institutions need overhaul	10	18	31	42
All political systems are repressive	4	24	26	46
Social-cultural:				
Environmental problems are not serious	1	18	27	54
Strong affirmative action for blacks	33	47	16	4
Government should not regulate sex	84	13	3	1
Woman has right to decide on abortion	79	11	5	5
Homosexuality is wrong	9	16	31	45
Homosexuals shouldn't teach in public schools	3	12	31	54
Adultery is wrong	15	32	34	20
Foreign policy:				
U.S. exploits Third World, causes poverty	16	40	25	20
U.S. use of resources immoral	19	38	27	16
West has helped Third World	6	19	50	25
Goal of foreign policy is to protect U.S. businesses	12	39	28	22
CIA should sometimes undermine hostile governments	26	19	36	19

To what countries should we sell arms?

	Percent
None	19
Democracies	29
Friends	48
Anyone	4

Despite this basic support for private enterprise, we should not expect the media elite to lead the cheering section for Reagan's economic policies. Leading journalists may subscribe to a captialist economic framework, but they are equally committed to the welfare state. Sixty-eight percent, about the same proportion that praise the fairness of private enterprise, also agree that the government should substantially reduce the income gap between the rich and the poor. They are almost evenly divided over the issue of guaranteed employment. Forty-eight percent believe the government should guarantee a job to anyone who wants one, while a slight majority of 52 percent oppose this principle of entitlement.

Of course, there is no necessary contradiction between praise for private enterprise and calls for government action to aid the poor and jobless. These attitudes mirror the traditional perspective of American liberals who—unlike many European social democrats—accept an essentially capitalistic economic framework, even as they press for expansion of the welfare state.

Despite their acceptance of the economic order, many leading journalists voice a general discontent with the social system. Virtually half, 49 percent, agree with the statement, "the very structure of our society causes people to feel alienated." A substantial minority would like to overhaul the entire system. Twenty-eight percent agree that America needs a "complete restructuring of its basic institutions." The same proportion generalize their criticism to include all modern states. They hold that *all* political systems are repressive, because they concentrate power and authority in a few hands.

It seems that a substantial portion of the media elite accept the current economic order, yet remain dissatisfied with the social system. Indeed, it is today's divisive "social issues" that bring their liberalism to the fore. Leading journalists emerge from our survey as strong supporters of environmental protection, affirmative action, women's rights, homosexual rights, and sexual freedom in general.

Fewer than one in five assents to the statement, "our environmental problems are not as serious as people have been led to believe." Only one percent strongly agree that environmental problems are overrated, while a majority of 54 percent strongly disagree. They are nearly as vehement in their support for affirmative action, an issue that has split the traditional liberal constituency which favored civil rights measures. Despite both the heated controversy over this issue and their own predominantly white racial composition, four out of five media leaders endorse the use of strong affirmative action measures to ensure black representation in the workplace.

In their attitudes toward sex and sex roles, members of the media elite are virtually unanimous in opposing the constraints of both government and tradition. Large majorities oppose government regulation of sexual activities, uphold a pro-choice position on abortion, and reject the notion that homosexuality is wrong. In fact, a majority would not characterize even adultery as wrong.

When asked whether the government should regulate sexual practices, only 4 percent agree, and 84 percent strongly oppose state control over sexual activities. Ninety percent agree that a woman has the right to decide for herself whether to have an abortion; 79 percent agree strongly with this pro-choice position. Three-quarters disagree that homosexuality is wrong, and an even larger proportion, 85 percent, uphold the right of homosexuals to teach in public schools. (A mere 9 percent feels strongly that homosexuality is wrong.) Finally, 54 percent do not regard adultery as wrong, and only 15 percent strongly agree that extramarital affairs are immoral. Thus, members of the media elite emerge as strong supporters of sexual freedom or permissiveness, and as natural opponents of groups like the Moral Majority, who seek to enlist the state in restricting sexual freedom.

In addition to these social and cultural issues, we inquired about international affairs, focusing on America's relations with Third World countries. Third World representatives to UNESCO Have argued that the American press serves the interests of capitalism by "presenting developing countries in a bad light and suppressing their authentic voices,"[7] as a recent *New York Times* article put it. Such charges are supported by media critics like Herbert Gans, who claims that "conservative dictators . . . are apt to be treated more kindly (by the press) than socialist ones." We cannot address these questions of media coverage. But we can assess the sympathies of the elite press on several of the controversial issues raised by these critics. Among these are U.S. arms sales, C.I.A. activity, and alleged American exploitation of developing countries.

In most instances, majorities of the media elite voice the same criticisms that are raised in the Third World. Fifty-six percent agree that American economic exploitation has contributed to Third World poverty. About the same proportion, 57 percent, also find America's heavy use of natural resources to be "immoral." By a three-to-one margin, leading journalists soundly reject the counterargument that Third World nations would be even worse off without the assistance they've received from Western nations. Indeed, precisely half agree with the claim that the main goal of our foreign policy has been to protect American business interests.

Two issues dealing more directly with American foreign policy elicit a similar division of opinions. A majority of 55 percent would prohibit the C.I.A. from ever undermining hostile governments to protect U.S. interests. The question of arms shipments produces an even split of opinion. Forty-eight percent would ban foreign arms sales altogether or restrict them to democratic countries. Forty-seven percent would supply arms to any "friendly" country, regardless of the regime. Only 4 percent would be willing to sell arms to all comers.

Thus, in several controversial areas of U.S.-Third World relations, the media elite is deeply divided, with slight majorities endorsing some key Third World criticisms of America. We noted earlier that many leading journalists criticize the American system from within, as "alienating" and in need of an overhaul. It appears that even larger numbers extend their criticisms to the international arena. About half charge America with economic exploitation and seek to limit C.I.A. activity and arms sales as instruments of our foreign policy.

TOWARD THE GOOD SOCIETY

Thus far we have examined elite journalists' opinions on the great and small issues of the day. By charting their responses to numerous social issues, we try to gain an intuitive feel for their general perspectives on society and politics. The results can be deceptive. They create the impression of a broad ideological portrait of the media elite without ever asking journalists to deal with the "big picture." Their attitudes toward issues like abortion, affirmative action and arms sales provide us with benchmarks for understanding their outlook, since most of us have opinions on such pressing and hotly debated questions. But they do not address some of the most basic underlying issues of political life: What direction should American society take? What groups exert the most influence over social goals and political processes? How much influence *should* be wielded by such forces as business, labor, minorities, and the media?

These issues are as old as political philosophy. But it is not only philosophers who grapple with questions like "who should rule?" and "what is the good society?" Most people have answers to these questions, even if they haven't consciously arrived at them. Their answers express basic attitudes that underlie their transient opinions on current social issues.

In the interviews, we tried to tap these fundamental predispositions of political thought. First, we asked journalists about the goals America should pursue during the next decade. From a list of eight choices, we asked them to select the most important, second most important, and least important goal. The list, created by political scientist Ronald Inglehart, includes:

Maintaining a high rate of economic growth;

Making sure that this country has strong defense forces;

Seeing that the people have more say in how things get decided at work and in their communities

Trying to make our cities and countryside more beautiful

Maintaining a stable economy

Progressing toward a less impersonal, more humane society

The fight against crime

Progressing toward a society where ideas are more important than money

He classifies these choices as either "instrumental" and "acquisitive" values, on one hand, or "expressive" and "post-bourgeois" values, on the other.[10] In this list, the "post-bourgeois" choices are those dealing with participation, a humane society, beautiful cities, and placing ideas above money. On the basis of their other opinions, we would expect the media elite to be relatively supportive of these types of social goals. But relative to whom? Unlike standard polling items, these choices are not presented periodically to cross-sections of the American public. This is where our sample of business leaders come in. As archetypal representatives of a bourgeois society, they should be oriented toward more conservative "acquisitive" values like a strong economy and national defense. Thus, they provide an appropriate comparison group for the media elite.

We found that substantial segments of the media elite endorse the "post-bourgeois" value orientation that Inglehart calls a "silent revolution" transforming the political culture of advanced industrial society. The results are shown in table 4. Only one in eight business leaders picks any of the "expressive" values as American's most pressing concern. By contrast, one in three journalists deems citizen participation, a humane society, or a society less oriented toward money as our most important goal—more important than either economic well-being or national defense.

Even among the journalists, a slight majority favor economic stability as the most important value. However, almost half of the media elite (49 percent) pick post-bourgeois values as their second choice, compared to 30 percent of the business elite. Forty percent of these leading journalists select a humane society as either their first or second priority, more than double the proportion among business leaders. Conversely, the businessmen list national defense more than twice as often as do the newsmen. Finally, the journalists are almost twice as likely as the executives to choose acquisitive values as the *least* important for America to pursue.

TABLE 4.—MEDIA AND BUSINESS ELITES' CHOICES OF MOST IMPORTANT GOAL FOR AMERICA IN THE NEXT DECADE

[In percent]

	Acquisitive				Post-bourgeois				Totals	
	Economic growth	Stable economy	National defense	Fight crime	Humane Society	Ideas, not money	Community participation	Beautiful cities	Acquisitive	Post-bourgeois
Most important:										
Media	10	52	6	0	17	5	11	0	67	33
Business	14	60	13	1	6	3	3	0	88	12
Second most important:										
Media	9	18	14	8	23	15	8	3	51	49
Business	18	15	30	8	13	11	3	3	70	30
Least important:										
Media	15	2	12	10	10	9	22	17	39	61
Business	8	1	7	5	12	13	32	23	21	79

Overall, the media elite shows a clear preference for post-bourgeois goals, relative to the business elite. For many leading journalists, liberal views on contemporary political issues apparently reflect a commitment to substantial social change in pursuit of the good society, as they visualize it. Such a commitment would align them with emerging forces of social liberalism which are pitted against more established leadership groups. Therefore, as the final focus of our inquiry, we shall examine the media elite's evaluation of its competitors for social influence.

WHO SHOULD RULE?

Beyond inquiring about the direction our society should take, we asked a more pointed question: Who should direct it? Specifically, we asked the journalists to rate seven leadership groups in terms of the influence each wields over American life. Then we asked them to rate the same groups according to the amount of influence they *should* have. Each group was assigned a ration from "1," meaning very little influence, to "7," representing a great deal of influence.

The seven groups rated represent a cross-section of the major competitors for social power in contemporary America. They include black leaders, feminists, consumer groups, labor unions, business leaders, and the news media. The journalists' perceptions of these groups' influences are pictured in figure 1. They see four of the groups as relatively disadvantaged in the competition for social power. Feminists are least powerful, followed closely by black leaders, intellectuals and consumer groups. All four are clustered tightly together, however, well below the big three labor, business, and the media. The unions rank third, leaving the media close on the heels of business leaders, who are perceived as the most powerful social group in America.

Thus, the media elite recognizes its own position of power, viewing itself as more influential than any other leadership group except the business community. It places itself between business and labor, traditionally the leading contenders for influence, and pictures the emergent forces of consumers, intellectuals, blacks, and feminists as playing a decidedly subordinate role.

When members of this elite are asked their preferences, this picture changes drastically, as figure 2 illustrates. They would strip both business and labor of their current perceived power, while raising the status of all the other groups. In the media elite's preferred social hierarchy, business leaders fall from first to fifth position, and unions drop to the very bottom of the ladder. Feminists move up only slightly, but blacks, intellectuals and consumer groups would all have more influence than either business or labor. Emerging at the top of the heap, as the group most favored to direct American society, are the media.

There is a certain irony in the media elite's choice of itself as preeminent in the race for influence. The press is traditionally ambivalent about its power, and journalists often either deny or decry the growing reality of a powerful media elite. In a 1976 study of elites conducted by the *Washington Post* and Harvard University, the media leaders were the only group to claim they want less influence then they already have.[11] In fact, one could say the same of our subjects, but it would be a deceptive interpretation of our findings. In absolute terms, these journalists would assign themselves a lower influence rating than they now have. On the other hand, they would assign even *lower* ratings to all the other groups, thereby leapfrogging themselves from the second position, as they perceive it, to the top spot they would prefer.

The business leaders, by the way, return the compliment. They perceive the media as far and away the most powerful influence on American society, with labor a distant second and business only third, followed by the four emergent groups. Not surprisingly, they, too, would prefer to sit atop the influence hierarchy, while burying the media well back in the pack in fifth position, precisely where the media elite would place them. Indeed, the hostility these two elites seem to feel toward each other is rather striking. Business leaders regard the media as the most powerful group of those listed and would reduce the power of journalists more than any other group. Media leaders perceive business leaders as the most powerful group and would likewise strip away most of their influence. One might speculate that these elites view each other with such mistrust precisely because each attributes great power to the other. In the ongoing struggle over the direction of our society, each appears wary of the other as its strongest competitor.

The pointed views of the national media elite are not mere wishes and opinions of those aspiring to power, but the voice of a new leadership group that has arrived as a major force in American society. Cosmopolitan in their origins, liberal in their outlooks, they are aware and protective of their collective influence. The rise of this elite has hardly gone unnoticed. Some hail them as the public's tribunes against the powerful—indispensable champions of the underdog and the oppressed. Others decry them for allegiance to an adversary culture that is chiseling away at traditional values.

While we advocate exploring the attitudes of the national media elite, we side with neither their extollers nor critics in declaring what kind of role the media do or should play. The crucial task that remains is to discover what relationship, if any, exists between how these individuals view the world and how they present that world to the public. This is the next key step to understanding how the evolution of the media elite has transformed American society.

FOOTNOTES

[1] Joseph Kraft, "The Imperial Media," *Commentary*, May 1981, p. 36.

[2] Quoted in Gary Paul Gates, *Air Time* (New York: Harper and Row, 1978), p. 424.

[3] Bernard Cohen, *The Press and Foreign Policy* (Princeton, N.J.: Princeton University Press, 1963).

[4] Several studies have shown these media outlets to be the most influential in influencing other social leadership groups. See, for example, William Rivers, *The Opinion Makers* (Boston: Little, Brown and Co., 1965); Carol Weiss, "What America's Leaders Read," *Public Opinion Quarterly*, Spring 1974, pp. 1-22; J. W. Johnstone, Edward Slawski, and William Bowman, *The News People* (Bloomington, Ind.: University of Indiana Press, 1976). For an extensive discussion of the news media elite, see Stanley Rothman, "The Mass Media in Post-Industrial America," in S. M. Lipset, ed., *The Third Century* (Stanford, Cal.: Hoover Institution Press, 1979), pp. 346-388.

[5] Everett Ladd, "The New Lines are Drawn," *Public Opinion*, July/August 1978, pp. 48-53.

[6] For a discussion of the effect of Jewish ethnicity on elite journalists' attitudes toward Israel, see S. R. Lichter, "Media Support for Israel: A Survey of Leading Journalists," in William C. Adams, ed., *Television Coverage of the Middle East* (Norwood, N.J.: Ablex, 1981), pp. 40-53.

[7] Paul Lewis, "Gloves Come Off in Struggle with UNESCO," *The New York Times*, May 24, 1981.

[8] Herbert Gans, *Deciding What's News* (New York: Pantheon, 1979), p. 37.

[9] For a more extensive discussion, see S. R. Lichter, "American and the Third World: A Survey of Media and Business Leaders," in William C. Adams, ed., *Television Coverage of International Affairs* (Norwood, N.J.: Ablex, 1982).

[10] Ronald Inglehart, *The Silent Revolution* (Princeton, N.J.: Princeton University Press, 1977).

[11] Barry Sussman, "Media Leaders Want Less Influence," *Washington Post*, September 29, 1976.

MEDIA BIAS BORNE OUT BY SURVEY

(By James Kilpatrick)

WASHINGTON.—It was back in November 1969, if memory serves, that Spiro Agnew took on the media elite. In two stinging speeches he charged that television network news is shaped and controlled by a small group of men whose liberal bias dominates their presentation.

The vice president's sneeze set off a terrible fluttering in the brooder house. For months thereafter, media moguls were busy denying the charge and denouncing their critic. But Agnew was right on target. Now we have the findings of a survey undertaken in 1979 and 1980. It is just as the proverb tells us: The more things change, the more they stay the same.

The survey was taken by S. Robert Lichter and Stanley Rothman under the auspices of the Research Institute on International Change at Columbia University. They published their findings in Public Opinion magazine a few months ago. Their methodology appears to be statistically valid. They concentrated on three major newspapers, three news magazine, and the four private and public TV networks. Within each organization they randomly selected reporters, editors, columnists and executives responsible for news content. They talked with 240 journalists and broadcasters, of whom 76 percent completed the interviews and questionnaires.

The media elite, the researchers found, is composed mainly of white males in their 30s and 40s. Five percent are non-white; 20 percent are female. Almost all of them have college degrees. A third of them are paid more than $50,000 a year. Two-fifths of them come from New York, New Jersey and Pennsylvania. Their parents tended to be well-off, highly educated members of the upper middle class. Religion plays a small role in their lives: 86 percent of these leading journalists "seldom or never attend religious services."

What of their political coloration? By their own description, 54 percent of the respondents "place themselves to the left of center." Only 19 percent identify themselves on the right. The disparity appeared to be even larger when the journalists were asked to describe their fellow workers: Only 8 percent were classed as conservatives.

The researchers asked about political participation. These were the answers: 94 percent voted for Johnson in 1964, 87 percent for Humphrey in 1968, 81 percent for McGovern in 1972 and 81 percent for Carter in 1976. More than half the respondents agreed that "the U.S. exploits the Third World and causes poverty." More than half agreed that the use of natural resources by the U.S. is "immoral." As a group they overwhelmingly approve abortion, affirmative action, women's rights, sexual freedom and environmental protection.

As a working newsman in Washington, I am sure I know many of the persons interviewed for the study. I know them to be men and women of professional integrity. For the most part, I believe they make a conscientious effort in their news coverage to be fair. But there is not the slightest question that their personal liberalism shapes their professional judgments.

It could not be otherwise. I once remarked, back in the days of Huntley, Brinkley and Cronkite, that if I were made anchorman for a night, with editorial control over content, nine out of 10 times my choice of stories on the evening news would coincide with theirs. On the marginal 10th item my conservative values would lead me to say, "This is news" or "This isn't news." No matter how hard I tried to be objective and neutral in introducing stories, something in my inflection, in my eyebrows, in the ca-dence of my voice would indicate a suppressed opinion. Listen to the TV anchors introduce the evening news from El Salvador. Read the *Washington Post's* news stories on the Equal Rights Amendment. You will catch those subtle bumps that make a pinball machine go tilt.

If you think the news is slanted, you're right. It ought not to be so, but we may recall what Polonius said about the madness of Hamlet: "That he is mad, 'tis true 'tis pity; and pity 'tis, 'tis true."

EXTEND THE VOTING RIGHTS ACT

Mr. HOLLINGS. Mr. President, Henry Ward Beecher once wrote: "A man without a vote is a man without a hand." I tend to believe a man without a vote is a prisoner of those who seek to keep him disenfranchised. And that is why I am 100 percent behind the extension of the Voting Rights Act as put forward in S. 1992 without weakening amendments.

Seventeen years ago from three Sundays past, Dr. Martin Luther King, Jr., and thousands of voting rights demonstrators marched across Selma's Edmund Pettus Bridge to call attention to the fact that only 350 of Selma's 15,000 voting-age blacks were registered to vote. Though marching in a peaceful way, they were greeted on the other side of the bridge by a thunder of State troopers, sheriff's possemen, tear gas, clubbings and mass arrests. The confrontation of violence and nonviolence on that historic day not only called attention to a small Southern city, it induced a Nation to confront its conscience and protect the most fundamental right in a free society, the right to vote.

Since that time, a lot of things have changed; the violence has subsided, the tensions have eased, and men and women of different races and religions enjoy greater freedom and equality in the South and indeed throughout the country. Much of this gain in greater human understanding is due to the Voting Rights Act itself. For that reason, the Voting Rights Act of 1965 has been heralded as our Nation's most effective civil rights law. Called by Dr. King the "promissory note of the Constitution" and hailed by President Johnson as a "triumph for freedom as huge as any ever won on a battlefield," this act, as well as its 1970 and 1975 extensions, allows millions of Americans to register and to vote without fear of retribution or fear of ridicule.

Yes, we have come a long way from that Sunday in Selma and from the blatant inequities which, in many people's minds, were the trademarks of my part of the country. This is because the vote is a great equalizer. In my State of South Carolina, the numbers certainly tell a part of that story. In 1960, only 58,000 of black South Carolinians were registered to vote; today over 319,000 are registered. That meant that, in 1960, only 15.6 percent of voting age black South Carolinians were able to go to the voting booth. Today, that number approaches 60 percent.

Indeed, the story is much the same in other places where the act has been applied, whether in the South or in northeastern cities, to protect black enfranchisement or in the West to protect the enfranchisement of a growing Hispanic population. It not only meant that minorities became a part of the process; they increasingly became part of the system. It is hard to imagine growth in the concerns of minority constituencies or growth in the number of minorities elected to public office or the greater understanding and respect for minority opinions without the protections offered by the Voting Rights Act. Whether one agrees or disagrees with specific concerns, with specific officials or with specific opinions, the fundamental is the same: A democracy which abridges participation is not merely a contradiction, it is wrong.

Sure, intellectual honesty tells us that technical improvements could be made, as we consider the extension of the Voting Rights Act. Unfortunately, the words "technical improvements" have become almost code words for dilution of the act. Some call for national application of the preclearance clause, and, on its face, it may seem equitable that all State election laws, not those simply of a few States and jurisdictions, should be cleared through the Justice Department. But, if preclearance were to be applied on a national basis without consideration of past discrimination, more resources and more man-hours would be required in order for the Justice Department to do its job effectively. If more resources were not provided, it is hard to imagine how the weakening of the act could be prevented.

The major debate which remains is whether intent or actual results should be the basis for claiming State election laws in violation of section 2 of the act. The Supreme Court decision in Mobile against Bolden cast a heavy cloud over a plaintiff's ability to prove discrimination under the act. As a lawyer, I know how difficult it is to prove intent or purpose. As a politician, I know that results speak louder than words of intent or purpose. Thus, a statutory amendment is needed to return the law to the original understanding of Congress; that the act reaches voting schemes that have discriminatory results, whether or not plaintiffs prove discriminatory intent.

Rules of evidence require tangible proof to prove intent. Those who discriminate do not commonly advertise their motives, particularly when there are laws on the books prohibiting such. Many discriminatory practices go back decades and records of their enactment are unavailable. In fact, despite the immortality of many voting schemes, often their authors are long since deceased. It is for these reasons that the House of Representatives wisely incorporated language in its extension of the Voting Rights Act which establishes results as the basis for findings, and that is why this Senator concurs with the House's wisdom in this matter.

Mr. President, with the gains we have made in our participatory government, it seems inappropriate and strange that we should even have to argue in this body the merits of extending this act. This act has not merely protected the enfranchisement of all of our citizens, it has opened the lines of communication for greater human understanding. Now is no time to turn back the clocks. Now is the time to reaffirm our belief that, in free society, the vote is not merely a privilege, it is a right. The vote is each person's special claim to life, liberty and the pursuit of happiness. In a democratic republic like our own, we should do everything in our power to protect this most fundamental right. We can do that by extending a strong and fair extension of the Voting Rights Act.

PAUL HIBBARD, HANDICAPPED AMERICAN OF THE YEAR

Mr. HOLLINGS. Mr. President, recently the South Carolina General Assembly passed a resolution concerning one of our State's most distinguished sons. He is Paul Hibbard and he has been nominated for the President's Trophy as Handicapped American of the Year. This resolution tells the inspiring story of a young man stricken in youth with polio, leaving him almost completely paralyzed. Mr. Hibbard overcame this awful adversity in a way which has inspired thousands of handicapped people. And his is a story which can inspire tens of thousands more. It is for that reason that I ask unanimous consent that the text of the South Carolina General Assembly resolution be incorporated in today's edition of the CONGRESSIONAL RECORD. I do so with pride in the example that this great South Carolinian is providing and in recognition of the outstanding professional and civic accomplishments which have brought credit to him and credit to our State.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

A CONCURRENT RESOLUTION ENDORSING THE NOMINATION OF PAUL HIBBARD FOR THE PRESIDENTIAL TROPHY AS THE HANDICAPPED AMERICAN OF THE YEAR

Whereas, Paul Hibbard has been nominated for the Presidential Trophy as the Handicapped American of the Year by the Governor's Committee on the Employment of the Handicapped; and

Whereas, Paul Hibbard is an extraordinary person, one of the great Americans of our time; and

Whereas, Paul Hibbard was stricken with polio when he was fourteen-years-old in 1955 which left him paralyzed in both legs, both arms, and partially paralyzed in the lungs; and

Whereas, while in high school in 1957 Paul Hibbard painted a Happy New Year's card for the people of Spartanburg County holding the paint brush in his teeth and was honored by the March of Dimes for his work; and

Whereas, with great courage and ability Paul Hibbard has continued to accept the challenges of life, graduating first in his class at Inman High School, first at Wofford College and first at the University of South Carolina Law School; and

Whereas, As An Assistant Attorney General of South Carolina and a partner in the law firm of Johnson, Smith, and Hibbard, Paul Hibbard has established a record as a successful and brilliant trial lawyer, an amazing achievement particularly so when one considers his paralysis in both arms and legs and every breath Paul Hibbard takes is a conscious breath and without the use of a rocking bed each night he would not survive the night; and

Whereas, Paul Hibbard is an active leader in his church, serving on the Vestry of the Church of the Advent, and in the March of Dimes, the Alston Wilkes Society and in programs on the state and local level in behalf of the handicapped; and

Whereas, Paul Hibbard is an inspiration to all who know him; and

Whereas, Paul Hibbard is married to a loving and understanding wife and they are blessed with a child; and

Whereas, in 1967, Paul Hibbard received the Distinguished Service Award from the Spartanburg Jaycees and was recognized as "Spartanburg Young Man of the Year" for his community work and his inspirational example to others; and

Whereas, in 1981, Paul Hibbard was recognized by the Governor's Committee on Hiring the Handicapped as the Handicapped South Carolinian of the Year; and

Whereas, the one overwhelming thing about Paul Hibbard which transcends his profound physical handicap is the brilliancy of his mind, the tenacity of his purpose, his interest in people and his inspiring faith; and

Whereas, Paul Hibbard through his life of courage, success, and service has inspired thousands who know him in South Carolina; and

Whereas, the story of Paul Hibbard would inspire millions of Americans if it were presented to the nation and because of his great strength of character, ability, and love of others, because we believe he deserves it, and because he would bring new honor to a great award. Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That they go on record as endorsing the nomination of Paul Hibbard for the Presidential Trophy as the Handicapped American of the Year; be it further

Resolved, That a copy of this resolution be sent to the President of the United States, the President's Committee on Hiring the Handicapped and to the Members of South Carolina's Congressional Delegation; be it further

Resolved, That a duplicate original of this resolution be presented to Mr. and Mrs. Paul Hibbard by the Spartanburg County Legislative Delegation as an expression of the admiration and respect with which they are held by the General Assembly of South Carolina.

NATURAL GAS DECONTROL

Mr. EXON. Mr. President, we are all aware of the high price of energy these days, especially with regard to any changes that are suggested in the Natural Gas Policy Act of 1978.

Yesterday, I testified before the Senate Committee on Energy and Natural Resources. I ask unanimous consent that my remarks be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY U.S. SENATOR J. JAMES EXON

Mr. Chairman, and Members of the Energy Committee, I am pleased to come before you today to participate in this hearing in an effort to focus some attention on issues facing the Congress on the matter of natural gas decontrol.

I was encouraged at President Reagan's announcement earlier this month not to pursue legislation to accelerate the decontrol schedule of natural gas prices. The President's retreat from that proposal, I believe, was the result of the hard labors of many of the Members of this Committee who had expressed their deep concerns over accelerating the decontrol of natural gas in these difficult economic times.

It is unfortunate, however, that the President has only shifted the forum of this issue from the Congress, to the Federal Energy Regulatory Commission. The Chairman of that Commission, Mr. Charles M. Butler III, appointed by President Reagan to that post, has publicly announced his intention to pursue accelerated decontrol of several different categories of gas, including so-called "old gas", through administrative rulemaking. Chairman Butler has indicated that, in light of Congressional inaction and apparent opposition to decontrol legislation beyond the 1978 Natural Gas Policy Act, he will pursue an end-run around the legislative branch of the Federal government on this matter.

President Reagan has not objected, publically at least, to this strategy by his Chairman. I must express to the Committee that this concerns me.

I would hope that this Committee, several of the Members of which were instrumental draftsmen of the Natural Gas Policy Act of 1978, will consider two major concerns of this Senator from the State of Nebraska, in reviewing the 1978 law over the next few days, weeks, and months.

First of all, the Committee must consider the impact of accelerating the decontrol schedule on our economy in general, and upon agriculture in particular.

Second, I believe that a major question of policy must be considered by the Committee. What we have here is an executive agency, composed of—in the President's own words—"unelected bureaucrats", taking a national policy initiative that properly belongs to the United States Congress.

As a farm belt Senator, I am deeply concerned about the impact of accelerated decontrol on agriculture. The farming sector of our nation would be hit with a double-barreled blow if natural gas prices are permitted to jump even faster than under the current law.

As you all know, this past week, we recognized "National Agriculture Day", however, there was nothing to celebrate. American agriculture has already been thrust into a severe economic slump. Farmers, the backbone of our nation's economy, are staring into the face of some of the lowest ever farm prices, rising production costs and high interest rates. Net farm income adjusted for inflation, is nearing 1938 levels. Feedgrain exports are predicted to be down by 6 percent, and corn prices, now about $2.63 per bushel, are down 23 percent from last year.

Higher natural gas prices will force up the costs of production for the agriculture sector as the costs of fertilizer and other operating expenses increase to reflect accelerated decontrol. Some studies have shown that overall production costs for the farm economy would increase over and above current levels by $8.2 billion in the next three years. Nebraska farmers alone could shoulder as much as $417 million of those increased costs. Such increases will be reflected, for example, in the price of nitrogen fertilizer. Costs could soar from the current $250 a ton, to upwards of $620 a ton, adding as much as 26 cents to the cost of producing a bushel of corn. In addition, irrigation which utilizes natural gas, would jump 50 percent beyond current increases under an accelerated decontrol scheme.

Of course, it is highly likely that the farmer will be unable to pass such costs along in the price of his product. Food prices would be indirectly affected nontheless. Also, goods and services dependent upon natural gas would cost more, and only add to inflation and upward pressure on interest rates.

I certainly believe that the scope of this Committee's examination of the impact of accelerated decontrol, must go beyond the higher costs which will be paid by millions of American homeowners whose gas bills could double under an accelerated decontrol plan. Residential customers will also be paying more for both heating and eating. Residential customers will also be picking up price hikes passed on by industrial and commercial users in the costs of goods and services.

Speaking briefly for my own State of Nebraska, I would point out as an example of a typical grain-belt economy, that the impact of accelerating the decontrol schedule would be devastating. Nearly 70% of the residential homes in my state are heated with natural gas. This accounts for nearly 40% of the total gas use in Nebraska. Commercial and industrial use of natural gas accounts for about 50% of total gas use, and agriculture about 8% of total gas use. Over 30% of the irrigation units in the state utilize natural gas or propane to power their engines. In addition, many small municipal power plants use natural gas at peak load generation.

On the question of policy, I believe that it is incumbent upon this Committee to examine the actions proposed by the Chairman of the Federal Energy Regulatory Commission to determine whether such action is appropriate within the intent of the language of the NGPA. Chairman Butler has admitted that some of his proposals which he seeks to implement "would be testing the frontiers of the Commission's authority." I would suggest to the Members of the Committee that, at stake in such an experiment is nothing less than the basic health of the American economy and the fundamental authority of the Congress.

A basic inquiry which the Committee must ask is, what is to be gained by accelerating the decontrol of natural gas prices?

Already, the average wellhead price for natural gas has been rising, according to some Wall Street analysts, at an approximate rate of 30 percent for the last two years. Producers have been aggressive in seeking the maximum ceiling price, prices of deep gas and tight formations have been rising rapidly, and old gas is being depleted and replaced with high-priced new gas. New gas currently receives a price rise each year at the rate of inflation, plus a real growth factor of 4 percent under the NGPA. Producers, however, are hollering for more, and not tomorrow, but now.

Drilling activity has soared since the passage of the NGPA. For 1981, the American Gas Association has reported that rig-counts are at an all time high. Well completions for gas have been reported up 7.3 percent over last year. Our drilling capacity however, has been reported to be at maximum capacity. Our production potential is reported to be steadily declining, and despite the increase in drilling activity, reserve additions are expected to remain constant due to the realities of our resource base.

I believe the Committee must ask the industry, how much will accelerated decontrol add to our overall gas supplies that the current NGPA will not or has not?

On another matter, much concern has been raised about the so-called price spike which may occur in 1985 under current law. I believe that the Committee must examine this issue to determine whether or not this is a valid concern. A recent, January 1982 study by Merrill Lynch has concluded that this price spike will not occur. Although much will depend upon the uncertainties of the oil market, if Merrill Lynch is correct, a major reason for accelerated decontrol has become a red-herring.

Furthermore, I believe that this Committee must ask the industry itself what it is doing to prepare for the advent of decontrol under the NGPA in 1985. Is the industry, particularly the pipeline companies, waiting for the government to tell them what to do next, or is the industry taking the initiative to negotiate and to resolve among themselves the multitude of contractual difficulties and supply problems?

In closing, let me say to the Members of the Committee that I believe a very detailed record must be made before we tamper with the delicate balance of interests embodied in the Natural Gas Policy Act of 1978. Are we seeking to increase our nation's supply of natural gas by accelerating price decontrol? Or are we merely adding to the coffers of the major oil companies who produce nearly all of our gas supplies? Are we seeking the appropriate balance for a national policy? Or are we shuning our responsibilities to the American public?

I thank you for the opportunity to address the Committee regarding my concerns about this matter.

Gas Price Spike View of Decontrol Challenged

Natural gas decontrol will not produce a big price spike after 1985, but it will spur a definite change in U.S. gas drilling patterns, according to Merrill Lynch Pierce Fenner & Smith Inc., New York.

In and outlook paper, Donald D. Dufresne, vice-president of the investment banker's Securities Research Division, contends that the natural gas industry need not be concerned about a substantial price fly-up after decontrol.

"At the end of 1984, based on an annual inflation rate of 8%, we estimate that the average price of natural gas will be $3.75/MMBTU. Consequently, if the average wellhead price after decontrol is in line with our estimate of $4-$4.25/MMBTU, a dramatic price spike will not occur," the paper says.

"In fact, our estimates indicate that if the Natural Gas Policy Act (NGPA) were to remain in effect beyond Jan. 1, 1985, the average price of gas in that year would approximate $4-$4.25/MMBTU, which is also our decontrolled price estimate."

Noting that the average wellhead price of natural gas in a decontrolled environment is still being "deciphered," Dufresne outlined Merrill Lynch's 1982 price estimates based on the current NGPA decontrol schedule.

PRICE OUTLOOK

The average wellhead price could rise to about $2.40-$2.50/MMBTU in 1982, up from $1.85/MMBTU in 1981. The average price calculations assumed that so-called Section 102 gas, now priced at about $3/MMBTU, will rise to about $3.15/MMBTU late in 1982, while Section 103 gas, now $2.57/MMBTU will cost about $2.65/MMBTU later this year. Together the two categories of gas would comprise about 45% of total 1982 production, the report says.

Tight gas, near deep gas, and deep water gas prices will average $5.15-$5.30/MMBTU, and combined account for 10% of 1982 production. Alone, deep gas is expected to receive prices averaging $7-$7.50/MMBTU and account for as much as 4% of total production.

About 40% of the remaining gas production in 1982 is expected to be in the older categories established under the NGPA, with prices averaging $1.25-$1.50/MMBTU.

One thing decontrol will produce is drilling activity in the deeper zones, while kicking off accelerated drilling at depths of about 10,000 ft. Such a development would hurt deep drillers and producers.

"If our projections are correct, the excessive cost of drilling the majority of deep wells may render those wells uneconomical to drill. That could put an end to exploration in the deep Tuscaloosa Trend of southern Louisiana as well as some portions of the Anadarko basin," according to report.

Also after decontrol, reserve additions will catch up with production, it added.

DEMAND, SALES

Demand for natural gas is expected to rise modestly this year.

But, because of a listless economy, the current surplus of 1-1.5 trillion cu ft will grow to 1.5-2 trillion cu ft by yearend.

The surplus will continue until industrial gas use increases.

Gas sales in 1982 are projected to be 20.7 trillion cu ft, compared to about 20.4 trillion cu ft in 1981. The sales growth rate of the past few years will slow as gas prices rise in the remainder of the decade.

Intrastate pipelines and natural gas processing companies, however, will experience increased sales in 1982, due mainly to the fact that major oil companies are expected to have trouble meeting their gas customers' needs.

Another casualty of the gradual price hike for natural gas will be processing plant construction, which boomed in January 1980 when natural gas liquids prices were decontrolled.

Building plants will be less attractive as prices rise and the industry's profit margin erodes steadily during the next few years.

Slack demand for gas from the petrochemicals industry also will hold down building and keep the price of gas liquids at about 45-47¢/gal this year.

THE 1980'S

Overall, the natural gas industry will face bigger obstacles during the rest of the decade than it did during the gas short 1970s.

Uncertainty over natural gas prices after decontrol will tend to make producers cautious, according to Merrill Lynch.

While accelerated decontrol legislations is not expected to win congressional approval this year, the battle will heat up.

Dufresne sees passage possible in 1963, "but not without a bitter struggle."

More likely, he adds, decontrol will occur as scheduled in NGPA, which doesn't call for decontrol of all natural gas.

And, the faster decontrol occurs the more difficult it will be to market supplemental gas supplies. Pipelines will have less low price gas with which to average higher priced supplemental supplies.

Among the projects that stand the greatest chance of losing their competitive edge are the proposed Alaskan pipeline, synthetic fuels industry projects, and Canadian and Argentinian gas exports.

Import of Algerian LNG by the U.S. is more financially promising, the report says.

DIFFICULTIES FACING FARMERS AND RANCHERS

Mr. EXON. Mr. President, we are all well aware of the grave difficulties that our farmers and ranchers face today in the rather difficult economic circumstances in which they find themselves.

I ask unanimous consent that two articles from the Farm Journal under date of February 1982 and March 1982 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Farm Journal, February 1982]

Which Way Out of Our Troubles?

Farmers are in trouble—bigger trouble than anyone thought possible even six months ago.

Commodity prices are not only on the floor—they're in the basement if your correct for inflation. Our grain exports, while still growing, have not kept up with recent production. Western Europe is locked in a recession; much of Eastern Europe is near bankruptcy; and we are almost completely alienated from Russia.

Here at home, recession has sliced deeply into food budgets; we have the huge 1981 crop in storage; recharged water tables and amply snow cover promise a big 1982 crop. Faced by a possible $100 billion deficit, the Reagan Administration is calling for still more budget cuts just when farmers need that safety net they've long talked about.

If the government does not somehow succeed in getting enough acres out of production this crop year, we could be in still deeper trouble a year from now. In short, the 1980s could turn into a repeat of the surpluses and farm sales of the 1960s.

We believe there is a way out of our difficulties. But once more our farm organizations and commodity groups are divided over what to do.

On one side are the high support groups—the peanut and sugar growers, many dairymen, tobacco growers and many, though not all, wheat growers. Their goals are still 100 percent, 90 percent of 80 percent of parity, $5 wheat, etc. And they seem to think that these goals are still politically possible. Even after the 1981 Farm Bill had dragged along to the closing bell last December, they pressured their representatives into voting against it and risked having no protection.

On the other side are groups that want no farm program at all. In an age of potential government price controls, embargoes and a zillion regulations, they go on talking of producing for a free market.

Obviously, we must compromise—on supports that are high enough to prevent a disaster, yet low enough not to be an incentive toward greater production.

Many farmers still hold the view that the government would leave us alone if we just quit badgering Congress for price supports.

But not after the experiences of the 1970s. President Nixon, an avowed enemy of price controls, didn't hesitate to slap them on food the minute consumers began to grumble. President Ford embargoed soybean exports for the same purpose. Then in 1980, Jimmy Carter reached for the embargo to "punish" Russia. Candidate Reagan promised no embargoes, but the effect on grain markets is the same right now, as his top officials continue to talk about a possible embargo.

So it's obvious that the government won't permit a free market when prices climb. It's going to deny you the market peaks—the money you need to carry you through the valleys. Having stolen the peaks, the government has an obligation to prevent the valleys. We'd like to believe that within a few years, we will have left the valleys behind. But we cannot; there is just too much land in this country that can still be brought into production, as the wheat growers proved last year. And there's still too much new technology coming on-stream, as corn growers and dairymen prove almost every year.

We must get crop acres out of production this year if we are to avoid lower commodity prices and a much bigger budget drain next year.

Two former USDA officials, one a Republican and the other a Democrat, agree that the set-aside programs being offered simply won't get enough land out. "To get wheat growers to participate, they'll have to raise target prices by 5 cents to 10 cents a bushel as well as the reserve loan rate to $4," says John Schnittker, undersecretary in the Johnson Administration. "And a 10 percent set-aside for corn won't do it. They need 15 percent."

Dick Bell, assistant secretary in the Ford Administration, urges a less costly route, one that the Administration has already said it won't adopt. "They can get the most acres out for the money with a paid diversion," says Bell.

If the budget cutters object to the cost of these sweeteners, Secretary Block should tell them: "Well, you can pay farmers something now, or you'll have to pay them a whole lot more later."

A WASTED CROP REPORT

At this writing, the long-promised feed grain set-aside still had not been announced. Yet the USDA's only 1982 planting intentions study was still scheduled for Feb. 1—less than a week away.

If they had announced the set-aside at once, farmers could not possibly have learned the details in time to change their cropping plans accordingly. So that Feb. 1 study has been a waste of money.

Studies like this are critical in farming, where millions of producers make the decisions. It's crucial that you not plant too much this spring, yet how can you know what you should do if you have no idea of what other farmers are going to do?

The USDA should have (1) made the set-aside announcement at least two weeks sooner; (2) postponed the planting intentions study; or (3) scheduled an additional study later. Now they're down to Option 3.

[From the Farm Journal, March 1982]

A SELF-DEFEATING FARM PROGRAM

The new wheat and feed grain programs, which we reviewed in this space last issue, now appears even weaker than we reported. A number of economists and ex-USDA officials confirm our fears that the programs simply won't pull enough acres out of production to prevent an ominous build-up of surpluses.

But even worse, a number of them fear it could be a disaster because of its built-in contradictions:

The farmer-held reserve of corn will grow so big it will interfere with market prices.

The "trigger prices" for reserve corn and wheat are set so low they will become ceilings at times.

In the long-run, the cost to the government in interest, defaulted loans, etc., will be as high, probably higher than a paid diversion or deficiency of payments.

Many of the criticisms voiced are alarming: "The basic legislation is a highly complex machine with a half-dozen levers that must be set carefully," says one economist. "The Administration has grabbed just one, and the whole thing will veer out of control." Says another: "They're going to muck up the free market that they profess to love." Adds a third: "It's going to cost the country $2 billion while they're learning to manage farm programs."

Primary blame probably will go to Budget Director David Stockman, himself a Michigan farm boy. Agriculture Secretary John Block reportedly arm-wrestled with Stockman for weeks over the choice and level of prominent incentives. Stockman wants no part of cash diversion payments or target prices because both represent cash drains on the 1982 budget.

Stockman wanted to hang the entire program on the reserve loan level because that budget drain would be off in the future. Knowing that the loan by itself would have to be high enough to entice farmers into the program, Block held out for $4 on wheat and $2.90 on corn. So both won, and now farmers are stuck with a program that resembles nothing so much as that of the 1960s. Remember how the loan rate put both floor and ceiling on prices and piled the grain up in storage?

"It's a program designed with the 1982 elections in mind," says John Marten, FARM JOURNAL staff economist. "Consumers are protected by the big stocks of wheat and corn in the reserve and by trigger prices that will dump them whenever the market shows much strength. And farmers are protected temporarily by a favorable loan rate. But with no lid on the long-term reserve, there will be a day of reckoning."

"The corn incentive won't get participation in the heart of the Corn Belt." Says Royce Hinton, University of Illinois economist. "You pay interest the first year on that reserve loan, so it will take a big gain in the market to pay it." Only 24 percent of Illinois farmers participated in the last set-aside in 1978. Hinton believes the sign-up will be well below that level this year.

In Minnesota, on the other hand, the program looks better. "Corn is down to $2.30 on the farm, so $2.90 will look good to our farmers." says Mark Christianson, University of Minnesota. "But storage is a problem because most of their 1981 crop is still in the bin."

Abner Womack, University of Missouri economist and a former USDA program analyst, expects less than 20 percent participation in the feed grain program. "With only a 10 percent set-aside, we'll get only about two million acres out, and we need five or six," he says. he sees all kinds of problems and explains them this way:

"Look at the program as a blueprint for a price band. The bottom of the band is the regular CCC loan level of $2.55. The top of the band is the reserve trigger price of $3.25. The object of the set-asise should be to keep market prices moving in the middle of that band at around $2.70 (the target price) to $3. If participation is low and we get good weather, count on it that the market will remain near the CCC loan." But Womack sees a big risk in the opposite direction.

"The farmer-held reserve will be too big," says Womack. "Past experience shows that our aim should be a corn reserve not much above 1.4 to 1.5 billion bushels. We could easily have 2 billion bushels in the corn reserve by 1983."

Marten agrees: "A 2-billion-bushel reserve would force prices to trigger level by artificial means. Once those stocks are built up, it would take one poor crop or two mediocre ones to work them off. Yet Block has promised to keep the 1982 reserve open. That practically guarantees trouble."

The situation isn't as serious yet with wheat because exports have held up so well. But wheat growers face similar risks down the road. The wheat reserve loan rate also will pull market prices above market-clearing levels so that wheat, at times, will be priced out of the feeding and export markets we need to work off what could be enormous stocks.

What to do about it? Though FARM JOURNAL abhors "planting-time politics," there's still time to correct the situation. We urge Secretary Block to once more go to the President and David Stockman with the warning that they are compounding the costs by deferring them to the future. Every knowledgeable economist we've talked with says that a paid set-aside is the least-cost method of reducing production.

So Block needs to do two things:

Announce a paid diversion for corn and wheat, then

Put a cap on the '81 corn reserve immediately.

UNITED STATES-JAPAN RELATIONS

Mr. PERCY. Mr. President, I have just come from having coffee with the Senate Foreign Relations Committee and our distinguished guest, the Foreign Minister of Japan, Yoshio Sakurauchi.

Minister Sakurauchi was first elected to the Japanese Diet in 1947. He has had a long and distinguished legislative career—including service as the chairman of the Foreign Affairs Committee of the House of Representatives. With those kinds of credentials, he was a welcome guest indeed. He is a colleague as well as a friend.

Minister Sakurauchi has come to Washington on his first visit as Foreign Minister at a time when strains are evident in the United States-Japan relationship. I hope that his visit will be an important turning point in the easing of those strains.

Both the United States and Japan know that this is a time for us to be drawing together. The challenges we face demand a united front of like-minded nations bound together by democratic principles and a love of freedom. As friends and allies, we must look to ourselves to preserve our mutual security and promote our common prosperity. We must nurture a strong relationship. A relationship dominated by dissension and disarray benefits only our adversaries.

Japan's contributions to meeting common challenges have been heartening. Japan has been a responsible oil consumer, managing to cut back total oil consumption and launch vigorous conservation efforts, despite severe economic constraints.

In the wake of the Soviet invasion of Afghanistan, Japan supported U.S. sanctions. Among the most important measures from a symbolic point of view, Japan sent no team to the Moscow Olympics. Japan has spoken out strongly against the imposition of martial law in Poland and has pledged not to undermine U.S. sanctions. Japan has provided a significant amount of aid to such nations as Egypt, Turkey, Pakistan, Thailand, Sudan, and Jamaica where the United States has major strategic interests.

Japan is now considering increasing its purchases of U.S. agricultural goods for use in aid programs to developing nations, a measure I have been urging for years. We are working together to launch a pilot joint aid project, an area open wide for future cooperation.

The position aspects of the United States-Japan relationship cannot be overemphasized. We do, nonetheless, have problems. The United States is now urging Japan to take further steps to open its markets to U.S. goods. There are many Americans who would like to see Japan make a greater contribution to Western defense.

Both these topics were raised in our meeting today with Foreign Minister Sakurauchi. On the issue of trade, Foreign Minister Sakurauchi said that the benefit Japan receives from a free and open international common system is enormous, and thus, it is only obvious that Japan must assume a larger responsibility in maintaining such a free and open system. He said that Japan has been taking various steps since last December under the strong leadership of Prime Minister Suzuki, such as 2 years' advance reduction of tariffs, improvement of import testing procedures, and the establishment of the Office of Trade Ombudsman. He also said Japan is considering further measures. And committee members encouraged him to push for further measures when he returns to Tokyo.

Mr. President, I am confident that Japan understands the need to take measures to expand significantly access to its markets. There also appears to be appreciation in Tokyo of the need to improve Japan's self-defense capabilities.

Though I do not expect to see these sources of strain in our relationship disappear tomorrow, I do think we can look forward to greater understanding on both as a result of the Foreign Minister's visit. In the meantime, I hope that we can keep these problems in perspective. Our overall relationship is strong enough to stand the strains and our friendship is great enough to resolve them.

Mr. President, I ask unanimous consent to have printed in the Record an article published in the Wall Street Journal of today, entitled "U.S. and Japan Call Off Talks Over Aviation."

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Mar. 23, 1982]

U.S. and Japan Call Off Talks Over Aviation—Negotiations Fail as Tokyo Refuses To Allow U.S. Carriers To Expand Service

(By Albert R. Karr)

Washington.—The U.S. and Japan broke off talks that American officials had billed as the last chance to resolve a long-running aviation dispute between the two nations.

Negotiators tried to reach an understanding on four issues assembled into what members of the U.S. team call a "minipackage." The package was designed to facilitate agreement on some matters while stickier issues were put off. U.S. negotiators said that during the eight days of discussions in Palo Alto, Calif., the sides were "close" to agreement on three of the issues. But apparently the negotiators couldn't narrow their differences over Japan's refusal to let U.S. airlines expand their rights to fly to points beyond Japan.

Japanese officials had agreed with the U.S. that the Palo Alto round, the seventh session in the past 15 months, would be the last with or without an agreement. But as the talks broke off, U.S. negotiators said, Japanese representatives were asked to reconsider the last U.S. proposal.

"We told them that our package is on the table, and we'd appreciate it if they'd take a look at it," a U.S. bargainer said.

Yesterday, Yoshio Sakurauchi, Japanese foreign minister, kept alive the hope that the talks will be revived. After meeting with President Reagan in Washington to discuss general trade issues, Mr. Sakurauchi told reporters that both he and Mr. Reagan "regret" that the talks had broken off and expressed his hope they could resume soon.

The U.S. hasn't decided what steps to take in the meantime. Darrell Trent, Deputy Transportation Secretary and the leader of the U.S. team, noted in an interview that the Civil Aeronautics Board last December recommended various sanctions that could be imposed upon Japan Airlines to put pressure on the Japanese negotiators. However, whether to carry out those sanctions or take other steps will be a matter for the Reagan administration to review, he said.

Mr. Trent said he will recommend that the subject be taken up by a Cabinet council. There's been a "hint" at the CAB that the sanctions, which would include limiting JAL's service to the U.S., aren't expected to be imposed, one source at the board said.

Last December, the CAB deferred action on JAL bids for more flexibility in carrying passengers along a route linking Tokyo with Los Angeles, Miami and Sao Paulo, Brazil, and on JAL bids to expand U.S.-Japan air cargo services. The CAB also said it wouldn't grant future JAL applications for passenger charter service unless the Japanese government allowed similar rights for U.S. carriers.

These CAB moves prompted Japan to retaliate that same month by imposing sanctions against U.S. airlines, including the prevention of any expansion of rights to fly to points beyond Japan. U.S. negotiators continue to insist that "beyond rights" in the existing 30-year-old accord between the two nations be retained.

Negotiators appeared ready to resolve the three remaining issues, however. Japanese bargainers were willing to liberalize U.S. carriers' passenger charter rights and to let a Continental Airlines affiliate in Micronesia expand its service to Japan to include flights to Nagoya, U.S. negotiators said. Continental is a unit of Texas Air Corp.

Japanese officials also were willing to allow United Airlines and one other U.S. airline to begin flying U.S.-Japan routes and to let the U.S. designate one more Japanese city that would be served by an American carrier. A major issue in the aviation dispute has been Japan's unwillingness to permit United to start flying Seattle-Tokyo and Portland-Tokyo routes. The CAB granted those routes to the UAL Inc. unit in 1978.

In return for the route concession, U.S. negotiators said they were ready to expand JAL's service to include flights to Seattle, Chicago and one other city, to be named by Japan.

The "mini agreement" was to be a "first step" toward a later, fuller pact, Mr. Trent said. Issues that were deferred for later bargaining included Japan's demand that JAL be able to fly beyond the U.S. to more points in third countries, and the U.S. insistence on lower fares for U.S.-Japan markets.

Also put off were a U.S. demand that cuts in the total number of flights to Japan and beyond be avoided despite environmental problems at Osaka and Narita and that a broader charter-flight agreement than the one involved in the "mini package" be reached.

Mr. PERCY. Mr. President, after 8 days of discussion, aviation negotiations with Japan have broken down. Agreement was reached on virtually every issue, except for permitting U.S. carriers the ability to fly from Tokyo to other points in Asia and the Japanese to fly to Brazil from Los Angeles.

I told the Foreign Minister that I was pleased that the negotiators agreed to permit Japan Air Lines (JAL) to land in Chicago and for United Airlines to serve Tokyo.

I understood that the negotiations broke down over the issue of the rights of United States and Japanese airlines to fly to third countries.

I urged that the Foreign Minister authorize the Japanese Ambassador to the United States, Mr. Okawara, who chaired the Japanese delegation to the aviation negotiations, to resume, at a minimum, technical discussions on the outstanding issue of beyond rights. While these technical discussions are being held, both sides should initial the so-called mini agreement which would allow JAL to serve Chicago—O'Hare International Airport—and United to serve Tokyo from the U.S. mainland.

The Foreign Minister said that he will return to Tokyo tomorrow and will immediately tell the Prime Minister of the high level concern of the President, the Secretary of Transportation, and the Foreign Relations Committee. We hope to reach an early accord on these very important negotiations.

ILLINOIS FEDERATION OF REPUBLICAN WOMEN

Mr. PERCY. Mr. President, every year sees more and more women involved in the political process, be it as public servants, grass roots volunteers, or elected leaders. This trend has strengthened the political process and our country as more and more women have become involved in the important national and local issues facing us.

One of the avenues through which women have come to play increasingly important public policy roles is through organizations such as the Illinois Federation of Republican Women.

The IFRW, organized in 1940, is an autonomous affiliate of the Illinois Republican Party with local clubs organized in wards, townships, cities, and counties throughout the State. The strength of the IFRW lies in the autonomy of the local club.

The State organization is financed solely through the dues payments of its local clubs and the contributions of individual members and supporters who become sustaining members of the Illinois Federation of Republican Women.

Members of the IFRW are campaigners, State Legislators, telephoners, precinct committeemen, door-to-door canvassers, campaign managers, and leaders in their communities, in government, and in the Republican Party.

The Illinois Federation of Republican Women publishes an issue oriented monthly legislative newsletter, News, Views, and Issues, and encourages its members to be informed and express their positions on legislative matters.

They distribute political education materials to their clubs on campaigning, raising funds, building membership, and planning programs.

They maintain a current talent bank of Republican women qualified to serve in elective or appointive positions.

They encourage the recruitment and support of qualified Republican candidates, both men and women.

They sponsor campaign management schools and promote political awareness and political action by their members.

The IFRW is a constant resource for political education, legislative information, candidate development, recruitment, and training in both on and off election years.

The Illinois Federation of Republican Women is devoted to building political leadership among the women in Illinois and is determined to achieve an expanded rule for its members as policy planners and decision makers. Mrs. Mary Jo Arndt, immediate past president of the IFRW, has just been elected State central committeeman from the Sixth Congressional District.

In 1981, their activities have included regional meetings in all of the Illinois congressional districts, and they have sponsored seven regional campaign technique seminars to sharpen their skills. These seminars were attended by over 600 people.

They have established a pilot political action task force seminar to launch their own candidate recruitment program. That was another giant step in recognizing that women ought to be candidates as well as campaigners.

At the Illinois GOP Convention, they elected the Illinois State president as a delegate-at-large to the Republican National Convention.

Their legislative seminars include some of the key Republican leaders in Illinois, speaking on issues that have traditionally been considered of little interest to women, like the Illinois business climate and problems in the criminal justice system.

In their monthly newsletter, News, Views, and Issues, they regularly inform their members of important legislation that affects everyone in the community. As a particularly pertinent example, I ask unanimous consent that one of their mid-year Legislative Updates be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

NEWS, VIEWS AND ISSUES LEGISLATIVE UPDATE

Whether you agree or disagree with these issues, now is the time to lobby your legislators.

HB 366—The Illinois Domestic Violence Act—passed the House overwhelmingly and is in its first reading in the Senate. It is a comprehensive bill to remedy abuse directed at any family member by another member.

HB 619 passed the House overwhelmingly and is now in the Senate. It provides a mechanism for funding domestic violence shelters.

HB 535 is in the House and defines age for the purpose of apprenticeship programs . . . the intention is to benefit women who wish to enter a field of employment.

HB 608—Creates the Child Passenger Restraint Act which provides that parents or custodians of children under 5 are responsible for providing and securing such children in approved restraint systems. Violation is a petty offense with a $25 fine.

HB 143—Called the "Drunk Driving Law"—a key aspect of the bill is elimination of a second breath test for suspected offenders and an increased penalty (from a 3 month to a 6 month license suspension) for refusing to take the test. Currently, if a suspect refuses the second test, the first cannot be used in court.

HB 274—Amends the Vehicle Code and raises the age for drivers licenses from 16 to 17. It raises the age for drivers' education from 15 to 16.

HB 89—Amends the Illinois Vehicle Code. It permits the Illinois State Toll Highway Authority to establish a 65 MPH speed limit on toll highways in the State, amended to read "on an interstate highway."

HB 985—Amends the Juvenile Court Act to provide that a finding of unfitness of a parent must be based upon a preponderance of evidence, and that the child, if over 14, may be consulted in the course of making such a finding. One of the criteria is vital: the number of parents visits of contacts during the child's stay in foster homes. The bill also provides a preference for foster parents wishing to adopt a foster child in their care.

As of May, 13, 1981—The Governor's Executive Order #1, which reorganizes and consolidates youth services into DCFS, has not been acted on in House Committee. Those of you who were in Springfield last week will recall Greg Coler's plea for support of the bill. DCFS feels that this consolidation of services will do a much better job of serving the youth of Illinois by reducing service duplication, assuring access to Mental Health Services for children and youth, increase accessibility of Services and promote efficiency.

The proposal sets in law a standard of "preponderance of the evidence" for any of 14 grounds for terminating parental rights. Illinois case law currently requires that unfitness be proven by "clear and convincing proof." The mere fact that a parent fails to visit his or her child placed in foster care for a year, that a child is repeatedly battered, or that a child is abandoned or deserted should be sufficient to free children for adoption.

Some people are worried that these revisions may threaten the traditional family. Others feel that it would help build families instead, finding happier and permanent homes for thousands of abandoned and/or abused children, many of whom currently spend the majority of their dependent years being shifted from one foster home to another.

If the order is passed out of House Committee, it goes its usual route through House to Senate Committee to Senate to Governor. If the legislature fails to act within the 60 day period, the Executive Order goes into effect.

Mr. PERCY. Mr. President, to illustrate some of the national and statewide issues that the federation has addressed, I ask unanimous consent that pertinent resolutions adopted by the 20th Biennial Convention of the IFRW in November 1981, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Resolution

Whereas, the national debt of the United States is rapidly approaching the trillion dollar mark, and;

Whereas, the national budget has been judged to be "out of control" and the people of this country suffer under a crushing burden of taxes brought about by a multiplicity of social programs administered by a geometrically expanding bureaucracy which have not only been ineffective but have actually compounded the problems they set out to solve, and;

Whereas, this has caused a rapidly escalating inflation which hurts most, those least able to bear it, the poor and the old, and;

Whereas, our intelligence services are in demoralized condition due to inept administrative direction and our military are uncertain of their capacity to defend this country from menace abroad, and;

Whereas, the overwhelming mandate given to President Ronald Reagan by his election and the election of a Republican majority in the Senate and the large expansion in numbers of Republican members of the House entitles the voters to expect that President Reagan's programs will be given a chance to succeed, and;

Whereas, President Reagan has embarked on a praiseworthy and much needed program of budget cuts and tax cuts which includes a strengthening of our military posture, encouragement of the productive segment of our economy, the reduction of unnecessary and harassing regulations, the loosening of the Federal hold on the individual and the states, and;

Whereas, this is necessary in order to keep the country from becoming fiscally bankrupt and to give the country a renaissance of hope and faith so that we can, once again, confidently move toward the realization of the American Dream of a land where all men are created equal, endowed by their Creator with certain inalienable rights, among which are Life, Liberty and the Pursuit of Happiness: Now, therefore, be it

Resolved, by the Illinois Federation of Republican Women as follows: That we call on all Illinois legislators in the Congress to support the President's program of budget cuts coupled with tax deductions and to work with him to further implement his mandate.

Enacted, and approved, by the Illinois Federation of Republican Women, this Seventh day of May, 1981 in Springfield, Illinois.

Resolution: Reaffirm Resolution 79—Changing the Primary Date

Whereas, our present Primary date coincides with much inclement weather in Illinois, thus preventing full campaign activities for candidates and campaign workers; and, this decreased campaign activity results in lower voter interest and lower voter turnout as evidenced by the Primary in the winter of 1978, and;

Whereas, the present Primary date extends the campaign period over a long period of time, thus resulting in higher costs for campaigns, and;

Whereas, prohibitive costs for campaigning make running for public office beyond the reach of many interested and qualified people; Now, therefore, be it

Resolved, That the Illinois Federation of Republican Women urge the members of the Illinois Legislature to support changing the Illinois Primary Election date from the third Tuesday in March to a date in late May, or early June.

Approved, by the Illinois Federation of Republican Women, this Seventh day of May, 1981 in Springfield, Illinois.

Resolution: State and National Appointments for Republican Women

Whereas, the Illinois Federation of Republican Women has enthusiastically supported the election of President Ronald Reagan and Governor James R. Thompson, and;

Whereas, Republican leaders have consistently and emphatically acknowledged the importance of women volunteers in the successful elections of Republican candidates in grass roots mechanics and in lobbying for passage of bills supported by the Party, and;

Whereas, these volunteer hours have saved the State and National Party millions of dollars, and;

Whereas, we have many qualified and deserving Republican women, and;

Whereas, recognition of these women would be tangible evidence of State and National Republican leaders true support for women: Now, therefore, be it

Resolved, That the Illinois Federation of Republican Women respectfully urges that Republican women be given a fair share of strong equal consideration for federal and state appointments and for federal and state board and commissions.

Approved, by the Illinois Federation of Republican Women, this Seventh day of May, 1981 in Springfield, Illinois.

Resolution: Drug and Alcohol Abuse

Whereas, The Illinois Federation of Republican Women believes that the national epidemic of drug and alcohol abuse is a serious problem today, creating heartache and misery among Americans in all socio-economic groups, and;

Whereas, the IFRW believes that the children of our nation are particularly vulnerable during their formative years: Now, therefore, be it

Resolved, That the Illinois Federation of Republican Women supports Ronald Reagan in his efforts to alert Americans to the extent of the drug and alcohol problems and his efforts to deal with the devastating effects of drug and alcohol abuse.

Approved, by the Illinois Federation of Republican Women, this Seventh day of May, 1981 in Springfield, Illinois.

Mr. PERCY. Mr. President, it is evident that Illinois women are becoming more effectively organized and actively involved. To pay tribute to the leaders of the IFRW, I ask unanimous consent to have printed in the Record the names of the members of their executive committee for 1982 through 1984.

There being no objection, the names were ordered to be printed in the Record, as follows:

OFFICERS

President—Frances B. Killey of Monmouth.

First Vice President—Regina Benson of Sparta.

Second Vice President—Milly Murray of Moline.

Third Vice President—Margaret Davis of Decatur.

Fourth Vice President—Helen Heath of Chrisman.

Secretary—Dian R. Perkins of Arlington Heights.

Treasurer—Margaret Reynolds of Vienna.

STANDING COMMITTEE CHAIRMEN

Americanism—Bernelle Weiler of Savanna.

Budget and Finance—Karna Foster of Monmouth.

Bylaws—Elsie Renfro of Springfield.

Campaign and Candidate Recruitment—Jan Weber of Geneseo.

Club Development—Helen Heath.

Community Relations—Regina Benson.

Honor Roll—Rosemary Carratt of Rockford.

Legislation—Letitia L. Schactner of Galesburg.

Membership—Milly Murray.

Program—Margaret Davis.

Public Relations—Chloanne Greathouse of Hindsboro.

Publications—Aileen Bryand of Kirkwood.

Resolutions—Janet Wilson of Granite City.

Senior Americans—Eileen Albertsen of Lombard.

Sustaining Membership—Norma Hubbard of Sterling.

Ways and Means—Beverly Adams of Kankakee.

EX OFFICIO

Immediate Past President IFRW—Mary Jo Arndt of Lombard.

Past President NFRW—Pat Hutar of Glenview.

National Committee Woman—Crete Harvey of Sterling.

State Chairwoman—Teddi Inman of Batchtown.

Cook County Chairwoman—Sharon Sharp of Arlington Heights.

APPOINTIVE OFFICERS

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HUMAN RIGHTS POLICY

Mr. PERCY. Mr. President, one subject of great attention since the early days of the Reagan administration has been the development and execution of its human rights policy. Indeed, some critics argued, often with great intensity and conviction, that we no longer had a broadbased human rights policy. Others asserted that this administration's policy was onesided—attack the human rights violations of our enemies and ignore those of our friends.

Given the discussion, debate, and, at times confusion associated with U.S.

human rights policy, I invite the attention of Senators to the human rights policy speech delivered last month by the Assistant Secretary of State for Human Rights and Humanitarian Affairs, Elliott Abrams.

In his address to the Council on Foreign Relations in New York City, Mr. Abrams has articulated a well-defined policy that strives to give human rights a very high priority in our daily foreign affairs performance. Of course, I am not suggesting that his speech offers simple and easy answers. Indeed, the Assistant Secretary emphasizes the difficulties involved in attempting to apply an effective human rights policy. But his speech does provide a clear formulation of policy, one which can be debated, tested, and used as a firm point of reference on this crucial issue. With that in mind, I ask unanimous consent that Mr. Abrams' speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BEFORE THE COUNCIL ON FOREIGN RELATIONS

(By Elliott Abrams)

It is now twelve months since the President took office and two since I took over the Human Rights Bureau. Much to the surprise of many observers, we do indeed have a human rights policy, complete with the annual volume of country reports. Tonight I want to outline some thoughts on that policy.

In my view U.S. human rights policy has two specific goals: To improve human rights conditions in a large number of places around the world, so as to benefit the people who live in those places; and to make clear the continuing commitment of the United States to the cause of liberty throughout the world. These goals are, of course, not only not inconsistent, but inseparable; yet in practice, formulating a policy which achieves both is extraordinarily difficult.

I would like to suggest that it is extraordinarily difficult for two very different reasons and then to discuss both. The first reason I will call complexity; and the second I will call communism.

With respect to complexity, I refer to the great difficulty in determining what U.S. Government actions will in fact help achieve human rights in a large number of specific cases. In a sense, the easiest aspect of this problem is the choice between public pressure and quiet diplomacy. One must gauge which, in the specific country in question, is for example more likely to get more people released from jail next week or more likely to prevent the torture of political prisoners. This is a tactical question, but one which quite obviously can be very difficult.

I think our general views on this are by now clear. We believe that where there are good relations between a foreign government and the U.S. Government, and our influence is considerable, we should use it first through diplomatic channels. Among the advantages of this route are the careful control over it we can exercise; the fact that issues of American arrogance or neocolonialism, or a foreign government's sensitivity to public pressure and to its own sovereignty, are minimize; and the fact that we avoid adding inadvertently to any campaign aimed at delegitimizing or destabilizing the government in question.

I do not suggest that a campaign of silence will produce very much, but those who urge that the State Department engage often in public denunciations mistake, I think, its proper role. I do not suggest limits on public discussion by Congress or by human rights organizations—merely by the Executive. Clearly pressure from the public, the "movement," the press, and most of all the Congress are useful if diplomatic pressure is to be fully effective. But I would caution against a confusion of roles here.

The question of what U.S. Government actions are helpful becomes even more difficult if one is asking, not how to get a few prisoners out of jail, but rather how to evolve a system in which no political prisoners are taken. What should the United States actually do to help Argentina return from military rule to civilian rule? Is there an American role in the negotiations between the multipartidara and the military? Precisely how should we use our influence in South Africa so that that country evolves in the direction of racial peace and democracy rather than in the direction of bloodshed and repression? What should be our rule with respect to national party politics? Should we attempt to help a reform coalition in South Africa—or are their reforms too pale to lead to any real recognition of the human rights of South African blacks? Considering conditions in Zaire, how can the United States best encourage the development of democratic institutions there?

What influence should tribal divisions, as in Nigeria or Namibia, have over the transition to democracy? To address these issues, we need (to borrow cavalierly from Samuel Huntington) an analysis of the evils of the society, a sense of the goals of reform and of the character of the future society, and a sense of strategy for getting from here to there. Only thus do we know what we are for, beyond saying we are for liberty. Only thus can we fairly form an opinion, I would suggest, of how to react to events now in Turkey—again, beyond seeking to end torture and physical abuse immediately—or to the Shah's Iran, for that matter.

If these questions seems hopelessly complicated that is because they are. They cannot be answered without the closest study of each of the societies in question—and in addition concentrated attention on successful examples of political development elsewhere in the world—from Turkey to Brazil to Meiji Japan to Mexico to DeGaulle's Fifth Republic.

I would suggest that a policy seriously dedicated to helping expand freedom throughout the world must address all of these complexities.

Returning to the original duo of real world effectiveness for human rights policy and sympathetic association of the United States with the cause of liberty, it becomes apparent what some of our problems are. It may be that to achieve some of our goals it is essential to work very closely with the regime in power and that public denunciation of it will achieve little or nothing. In this case we may have a policy that is effective, but that will make us appear to be coddling oppressors. It is inconceivable to me that a serious human rights policy with respect to South Africa can exclude a good working relationship betweeen the Government of the United States and the South African Government, but that is precisely the sort of relationship that will give us the most trouble when we need to defend it in, for example, Europe, or for that matter, Congress. Conversely, we can answer a lot of questions about our integrity by a steady stream of denunciations, but I believe it is questionable that this is an effective way of influencing political developments over an extended period of time.

Let me turn now for a moment to the other problem I mentioned before—the problem of communism. Or perhaps more accurately, of Soviet power. For when confronting the human rights situation in Somoza's Nicaragua or today's El Salavador, we need to think not simply about the internal situation but about how the country in question fits into the framework of East-West relations. Let me acknowledge right now that I take the comment that this administration puts human rights policy in an East-West framework to be descriptive rather than critical.

The fact is that because of the Soviet support of "armed struggle" in various parts of the world, the human rights situation is transformed. In some cases, a local problem becomes one of much larger proportions, as in the case of a Nicaragua which is becoming part of Soviet plans to destabilize all of Central America. Moreover, as we see in Nicaragua, a crucial question which we need to ask about every government which abuses human rights is what the alternatives are. Surely this is one lesson we can learn from Vietnam. Just as the opposition in Vietnam consisted of a number of noncommunist elements, so it does in El Salvador; yet we are persuaded that should the left come to power there can be no doubt that the armed elements tied closely to the Soviet Union—and hawking the Soviet propaganda line on all international issues—would in fact take over. We think that Soviet power and communism are relevant for two reasons: first, because even a highly imperfect regime may well give a much better prospect of democratization than would the Communist regime that might follow it. It is therefore no contribution to the cause of human rights to replace a regime we can work with and improve, with a communist regime. And secondly, we know from the cases of Cuba, Nicaragua and Vietnam that communist regimes tied to the Soviet Union will not only oppress their own people but will try to export oppression to their neighbors.

What this means, of course, is that the United States will at times support regimes which abuse human rights because we think that their replacements would be much worse for the cause of human rights, and because we think that American (and other) pressure can greatly improve these regimes over time.

It is clear that this policy of resisting Soviet expansion and the expansion of communist systems throughout the world has subjected us to great criticism because in pursuit of this policy we sometimes work closely with regimes which abuse human rights. How does this fit, we are asked, with our stated goals of seeking real human rights improvements, and seeking to make clear the continuing American commitment to liberty. I should think my answers to this are obvious. In the real world the choice is frequently not between good and bad but between bad and worse or, perhaps more accurately, bad but improvable, or worse and permanent. To prevent virtually any country from being taken over by a Communist regime tied to the Soviet Union is in our view a very real victory for the cause of human rights. Of course, it is very difficult to demonstrate to a large number of people that we are committed to the cause of liberty when we have good relations with a repressive regime which we seldom criticize publicly. I don't deny the seriousness of this problem, but I want to make clear why I think it exists. I think it exists so many people in the West will no longer grant the moral imperative of resisting the advance of communism. In Europe, for example, this produces a particular anomaly: one meets many people who will grant that the political distinction between West and East, the distinction between the Western political systems and the Soviet political system, is that between freedom and its absence, and is therefore a moral distinction. Yet many of the same people refuse to grant the same moral dimension to the struggle to resist the expansion of that very same Soviet system throughout the world. It is here where we disagree. In my view, resistance to the expansion of communism is essential to a human rights policy.

It is easy to caricature the views I have just expressed, but I hope that the seriousness with which this administration addresses the question of human rights is clear. In our view, we have only begun to address the problem when we agree that, yes, we will intervene and get people out of jail, and, yes, we will vote against human rights abusers on World Bank loans and, yes, we will on appropriate occasions denounce regimes publicly even if they are friendly to the United States. It is our view that a truly serious human rights policy must address the fundamental questions of how the United States can help in the exceedingly complex business of the development of democratic institutions, and the imperative of preventing the expansion of communism from the Soviet Union to other countries around the world. We believe that it is only when these questions are taken into account that one can say he is truly attempting to formulate a human rights policy that can be effective, that can meet the demands of America's long term commitment to the survival of liberty, and that makes a serious effort to integrate human rights concerns into the fabric of American foreign policy.

UNITED STATES-CANADIAN RELATIONS

Mr. PERCY. Mr. President, as we all know, Canadian-American relations have long been marked by an extraordinary degree of intimacy and cooperation—unusual, if not unique, in the world community. Our nations have developed a network of contacts and communications which far exceeds that of any other two countries. On both sides of our borders, there is a pride in the fact that the friendship Canada and the United States share is a lesson in peace and cooperation for all countries.

Yet, to say that Canada and the United States are linked with one another as lifelong friends is not to deny that our special relationship has undergone periodic stresses and strains. Given the wide range of our associations, the complexity of our economic partnership, and the diversity of our political systems, it is a wonder that our problems are so few.

In this regard, I am concerned about recent editorials which imply that our bilateral relationship with Canada is sliding dangerously toward a crisis. Despite five unprecedented summit meetings between Prime Minister Trudeau and President Reagan during the last year, the deterioration of United States-Canadian relations continues. Many feel that through its policy excesses, Canada risks jeopardizing access to its most important external market and investment source. From a Canadian perspective, the continued American inattention to Canada's concerns or an overreaction to the Canadian national energy program could poison prospects for achieving the administration's goal of closer North American cooperation, or cause the Canadian Government to adopt more nationalistic measures to insulate itself from the effects of U.S. policies.

It is essential that both of our countries demonstrate a new concerted will to find a solution to our bilateral problems. The ability of our nations to resolve our mutual problems marks the strength of our friendship.

In this regard, I ask unanimous consent that a two-part editorial from the Chicago Tribune and a discussion paper by Prof. Donald Barry of the University of Calgary be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A COLD WIND FROM CANADA—I

The only time most Americans regularly see a map of Canada is during the weather portion of the evening news, when a fat blue arrow jutting down from the vicinity of Saskatchewan tells us we're in for another bitterly cold blast of Canadian air. But it might be just as appropriate to show the same map during the news portion of the broadcast, with the same blue arrow—only in that case the arrow would indicate a chilly political wind blowing from Ottawa.

Relations between the two North American nations have been on a cooling trend in recent years, and the forecast is for still lower temperatures before there is any prospect of a political spring. After a half century of unusual warmth in mutual attitudes and policies, the old rules of relations are crumbling. In their absence there has developed an atmosphere of truculence, annoyance and misunderstanding on both sides of the border.

New rules are urgently needed, and it is not too soon to start deciding what they should be. The first step in that process should be an understanding of the nature of the old rules—what they were, how they worked and why they have failed us now.

Rule one was that problems should be quietly resolved at as low and as informal a level as possible. A common language, a nearly common culture and an extensive web of personal and business relationships made that rule easy to follow. Most differences were worked out with a chat and a handshake between businessmen, bankers or fairly low-level government officials. More difficult matters were settled quietly in official joint commissions, and only rarely did there arise a dispute large enough or divisive enough to require the attention of the President or the prime minister or a cabinet officer. With few politicians making blustering speeches and few issues rising above the level of the humdrum, the media—which thrives on controversy—found little to report. The news of Canadian-American relations, what little of it there was, was good news.

Rule two was that the two countries' economies should be fully accessible to each other. Capital, raw materials, manufactured goods, people and information flowed freely back and forth across one of the longest and certainly the most open border in the world. The economies merged into an almost seamless whole, as if there were not two countries involved but a single one with 60 federated provinces. Cultures, too, merged. Movies, television, sports, books, architecture and language (except for French Quebec) flowed into a common cultural pool. Defined economically and culturally, we have been one country extending from the Rio Grande to the Arctic.

Rule three was that many of the usual techniques of international wheeling and dealing were not to be practiced in Canadian-U.S. relations. Linkage—the swapping of a concession in one area for an advantage in another—was to be avoided. For example, the United States would not offer Canada an advantage in Atlantic fisheries in exchange for Canadian acquiescence to a dam on the Columbia River. Each issue was to be negotiated and settled on its own merits. Nor would the two countries practice "reciprocity"—the granting of rewards (or punishments) on a strictly equal and reciprocal basis. Canada would not make U.S. involvement in its natural resources contingent upon an equal Canadian involvement in U.S. resources, for example, or if Canada imposed stringent anti-pollution rules on U.S.-owned companies the U.S. would not retaliate with arbitrary rules against Canadian-owned firms south of the border. This very special relationship was based not only on friendship but on fairness: The use of linkage and retaliation would have given the larger power, the U.S., an overwhelming advantage.

Rule four was that the United States would use and shape its great power for the prosperity and defense of both countries, and at the same time act with the utmost restraint in using that power in ways that would work to the detriment of Canada. In return, Canada would be uniquely supportive of the United States in international relations, creating a single North American voice in confrontations with the rest of the world.

These rules were informal, unwritten and unenforceable, yet were mutually understood and respected. For most of this century they worked with remarkable effectiveness. But they have eroded badly since the 1960s.

Issues are being thrashed out acrimoniously and publicly and at a higher and higher level, in violation of rule one. Energy, pollution, fisheries, advertising and investment disputes are no longer of a nature to be quietly settled over cigars and brandy following a good dinner. They are now the subject of lawsuits and political speeches in which hard words are spoken and rigid positions are staked out. The rising level of controversy attracts the attention of the media, magnifying the dispute and adding impetus to the rhetorical spiral. The fact that President Reagan has more meetings with Canadian leaders than his predecessors is not a sign of improved relations—it is a sign that relations are so troubled that the top leaders themselves have to step in repeatedly to deal with problems that formerly were settled at a much lower level.

Rule one was partly a victim of the breakdown of rule two. Canada became alarmed at the extent of U.S. control over its economy and over the pervasive U.S. domination of its culture. In attempting to regain control over itself Canada began imposing barriers and controls—such as its Foreign Investment Review Agency and its new "Canadianization" policy in energy—that nettled Americans accustomed to free access to Canadian markets and resources. The U.S., too, was guilty of such limitations although they have tended to be more subtle and more unconscious. State-by-state restrictions—such as "by American" policies in more than 30 states—hindered Canadian sales of such important products as public transportation equipment. As increasingly wealthy Canadian companies attempted to buy into the U.S. economy, they found official and unofficial resistance; an example was the attempt by Seagrams to take over Conoco.

From the collapse of rule two, it is but a short step to the collapse of rule three. In fact, the language of linkage and reciprocity already is creeping into political discussions of Canadian-U.S. relations. In a direct retaliation against Ottawa's National Energy Program, an attempt was made to bar Canadians from investing in U.S. energy industries. American businesses have been surveyed to discover areas of chronic unhappiness with Candian policies. Retaliatory laws and the routine use of linkage in negotiations may not be far away.

Rule four has been in trouble for years. For one thing, it is no easy matter to restrain U.S. power—while there has never in this century been the slightest question of a military threat to Canada, it is virtually impossible to restrain the political and especially the economic power of the U.S. because it is so great. Canada has been overwhelmed to the point where Canadians feel that they are being swallowed in an all-encompassing U.S. cultural and economic blob. In struggling to break free, they are inclined to withhold some of the tacitly-pledged political support in the world arena. Canada broke with the U.S. on early recognition of China and on the attempted quarantine of Cuba; lately, the Canadians have been more openly critical of the way the United States handles its affairs in Central America and of unilateral U.S. decisions to impose sanctions on Poland and the Soviet Union.

As it happens, Canada proved right about China, as the U.S. has long since conceded. It's possible that Canada is right on other matters as well; in any event Canada can no longer be depended upon to give unstinting support to the United States in many areas of foreign policy. Rule four is finished.

With the old rules becoming obsolete or unworkable, it is inevitable that a new set of rules will be devised. If statesmanship, good sense and especially good neighborliness prevail, the new rules will be as good as the old. But if the present acrimony gets out of hand, if it becomes impossible to unsay the angry words and undo the angry deeds; if the U.S. and Canada let their justifiable differences turn into unnecessary division—if these things happen, one of the finest, most fruitful and most promising national associations in history will be destroyed. Both of us will have lost something of ourselves. We will be far less than we were, and far less than we could have become.

A COLD WIND FROM CANADA—II

The longstanding "special relationship" between Canada and the United States is in danger of collapse, yesterday's editorial pointed out, because the old rules governing that relationship no longer apply. The time is past when problems can be settled quietly and informally; each side is beginning to shut off portions of its economy to the other; linkage and retaliation are creeping into laws and negotiations; the former unity of action in foreign affairs is gone.

New rules are needed, but what are they to be? It would be possible, of course, for Canada and the U.S. to deal with each other exactly as they deal with more distant countries. They can drive the hardest bargain in their power, using strength in one area to gain advantage in another. They can make everything from trade to television the subject of formal negotiation, replacing informal arrangements with written contracts. In international relations they can form *ad hoc* combinations with other countries to bring pressure on each other.

This is already beginning to happen. Canada's growing energy wealth—coupled with the energy demands in the U.S.—is giving Ottawa a new leverage in dealing with Washington; it is being used with ever greater confidence. More matters are being governed by formal treaties or regulated by bureaucratic government agencies on both sides of the border. Canada is distancing itself from U.S. foreign policy, and joining informal coalitions with other countries to contest U.S. positions.

To some extent, these changes are unavoidable. Canada's economic power is growing steadily in relation to that of the United States; often it seems that it is no longer necessary or even desirable to protect the weak partner from the strong one. As a rich treasure house of natural resources in a resource-hungry world, Canada has the strength and the need to protect its economy from raiding buccaneers. Its National Energy Program, which has angered Americans more than any Canadian policy in memory, is aimed at reducing foreign (mostly U.S.) ownership of its oil and gas from the astonishingly high figure of 74 percent to a more reasonable 50 percent. Americans, who cry out in alarm when foreigners buy only small shares of U.S. companies, should be able to understand Canadian concern over such huge foreign involvement in a strategically critical part of its economy.

As a major trading nation—30 percent of its GNP derives from foreign trade compared with only five percent in the U.S.—Canada faces foreign policy imperatives that the U.S. does not. When the U.S. applies trade sanctions against adversaries it has far less at stake than Canada. Canadians can't afford to be as blunt as the U.S. in dealing with other countries because they must keep important trade channels open.

So Canada is stronger than it was; its world perspective differs from ours; there must be changes in the relationship. But if it deteriorates to the level of an economic slugfest there will be a lot of suffering, most of it by Canada. As strong as Canada has become, it still is no match for the U.S. In linkage battles and reciprocity wars Canada will lose nearly every time. As great as is Canada's foreign trade, most of that trade is with the United States. If sufficiently provoked, the U.S. could conceivably slap sanctions on Canada as it has done elsewhere.

And hateful as it may be even to suggest it, military power would have a role to play if relations descended to the donnybrook level. Canada's military forces have been neglected to the point where officials in Ottawa are able to joke wryly that the Israeli army could easily land in Halifax and march right to Vancouver without serious interference. Its entire armed forces number but 80,000, and although Canada is a maritime power its navy has run down to something considerably less than a coastal defense force. It has no ship larger than a frigate, and it has only 30 of those—most of which are old and nearly obsolete.

So in a particularly angry dispute—over rights of transit through certain Canadian territorial waters, for example—Canadians would have to consider something that had never before entered their minds: the possible use of U.S. military force.

That kind of confrontation is almost unimaginable, but severe antagonisms surely would result if Canada and the U.S. allowed the usual rules of international competition to govern their relations. It would be genuinely tragic if two such old friends should take to fighting, even in the figurative sense. The special relationship, though facing a serious test, still exists and it is worth preserving. And if it is worth preserving, then it is worth some concessions on both sides in the formulation of new rules to govern it.

One rule must be that the United States should consciously restrain itself from taking unfair advantage of its greater power. That means, first of all, that the use of force must be strictly and rigorously banned no matter how acrimonious the differences may become. And secondly, it means restraint in the use of economic power. It was clearly unfair for U.S. oil companies to exert so great a degree of control over Canada's oil and gas. The U.S. government should have, and could have, tried to restrain the companies before the Canadians had to do it themselves. The U.S. now should be cooperating cheerfully in getting oil giants under control in Canada.

In return, Canada should be scrupulously fair to the U.S. companies in extricating itself from their grasp. It has not been up to now. In buying up shares of producing U.S. wells the Canadians are refusing to pay a fair share of the development costs that led to them, such as the drilling of dry holes. And, further, Canada must promise not to attempt to force out U.S. investment in other areas where U.S. control has not reached the proportions it did in oil and gas. That doesn't mean Canada should not prevent the U.S. share in an industry from increasing to unacceptable levels; it does mean, however, that present investments should be declared safe from future arbitrary tampering. Without that confidence, economic relations will suffer needlessly.

Restrictions in either country on investment by the other should be considered on a case by case basis and imposed only to prevent clear and direct harm to the host country. Pollution would be a good reason; protectionism a bad one. Canada's Foreign Investment Review Agency has become a bureaucratic bottleneck at best, and a protectionist instrument at worst; it should be scaled back in size and power. On the other hand, "buy American" policies in U.S. states and cities ought to include Canada in the definition of "American."

The fact that so much air and water passes back and forth between the two countries imposes another rule: Economic considerations must be secondary to the control of pollution, especially when it fouls a neighbor. The United States bears the heaviest responsibility in this area because the prevailing winds east of the great plains tend to move polluted air from the industrial U.S. midwest into cleaner Canadian territory. The Reagan administration—in the persons of Interior Secretary James Watt and EPA Administrator Anne Gorsuch—has behaved stupidly in the "acid rain" controversy by putting off action on the pretext of studying the problem further. The problem has been studied to death—and the death of hundreds of Canadian lakes is the result. The job now is to get to work on solutions.

In international relations, the rule should be for the two sides to capitalize on their real and unavoidable differences, not fight over them. For example, Canada's aid and trade policies have made Canadians much more attractive than Americans in the Third World, where the U.S. is often regarded with fear and suspicion. Canadians can (and often do) act as intermediaries between the U.S. and certain Third World countries—to the benefit of both countries.

The United States no longer has the right or the need to demand that Canada march in lockstep with us on foreign policy. For one thing U.S. foreign policy of late has caromed about from detente to confrontation, from a preoccupation with human rights to a cold-eyed pragmatism. If we're not sure what our own foreign policy is, we can't ask others to conform to it.

While U.S. policy has zig-zagged, Canada's has followed a straight and cautious course that often has proved more farsighted than our own. Another value to Canadian independence in foreign policy is that it stands as proof to the world that being close to the U.S., as opposed to the U.S.S.R. * * *.

In NATO, Canada has regularly supported the U.S., but it has failed miserably to meet the costly but vital needs of the alliance's military strength. Its minuscule armed forces must be restored at least to the point where the joke about Israeli invasion would not apply. Better to have a militarily strong Canada differ with the U.S. over NATO policies than to have a puny one agree with us. It is galling to Americans to spend themselves into debt defending Canada when Canadians themselves seem unwilling to do it.

Those are some of the rules and principles that can be applied to a new and different but badly needed special relationship between the United States and Canada. Others will evolve as the new relationship develops. The new rules, like the old ones, cannot be written down, codified and enforced: They will depend on good will. Fortunately, there is plenty of that in reserve. The great warmth that Canadians and Americans feel for each other on a personal basis has not been diminished by the disputes at institutional levels. That warmth is the real basis for a special relationship between two great and proud peoples; it is the one overwhelming reason that citizens of both countries can have confidence that the present wintry chill in our relations will soon give way to a new and special spring.

CANADA-UNITED STATES RELATIONS: CONSENSUS OR CONFRONTATION?

(By Donald Barry)

Canadians and Americans have long hailed the relationship between the two countries as a model for the enlightened conduct of interstate relations. The essence of the formula lies in a mutual commitment to resolve differences cooperatively in a spirit of consultation and accommodation. Whether or not the model reliably captured the management of Canada-U.S. relations in the past it is hardly an accurate account of the current state of affairs. Indeed, we have seen a distressing deterioration in the relationship over the past several months. A Canadian official has warned that the two countries have entered "a dangerous period of creeping confrontation" in their relations. An American spokesman has observed ominously that their relations are "sliding dangerously toward crisis." More alarming still, while Prime Minister Trudeau and President Reagan have agreed to make the resolution of bilateral issues a mutual priority, an unprecedented five summit meetings between them in the last nine months have failed to halt the slide.

The existence of irritants in Canada-U.S. relations is hardly surprising given the unparalleled interdependence between the two countries and the enormous disparity in power between them. What is disturbing about the present situation, however, is the unwillingness of the two governments to manage their differences cooperatively and the risk that they will react in ways that will damage both their interests.

Many commentators trace the deterioration to the sharp differences in the policy directions of the two countries—between the Trudeau government's interventionism and the Reagan administration's emphasis on deregulation. Yet, contrasting policy approaches are not new to the relationship. Canadian governments have generally played an active national policy role while American administrations have usually adopted a more laissez faire approach. Moreover, in the last dozen years both countries have become more aggressive in pursuing their respective national interests. This is not alarming in itself provided that it is balanced by a corresponding concern for the health of the relationship on which so many of their interests depend. Unhappily this has not always been the case. Indeed, the past several years have seen the frequent failure of both sides to clarify their bilateral intentions and a disturbing unilateralism in their policy approaches.

The current atmosphere of the relationship is very reminiscent of the way relations between the two countries developed some twelve years ago. The period began auspiciously when the newly elected leaders, Pierre Trudeau and Richard Nixon, met in Washington in March 1969. The meeting heralded a "new era of consultation" between the two governments. But the formula was soon ignored. Both sides, increasingly preoccupied with their own national concerns, set out on divergent policy courses that strained relations between them. This was shown in the frequent adoption of protectionist policies and resort to unilateral methods of achieving them. This culminated in the Nixon administration's surprise "New Economic Policy" measures of August 1971, which included a temporary 10 per cent surcharge on imports. Canada was not given its traditional exemption from the move even though it was severely affected by it. This in turn created Canadian anxiety about U.S. policy intentions toward Canada. Consequently, Mr. Trudeau made a special trip to Washington in December 1971 to seek reassurance from President Nixon. Mr. Nixon provided assurances privately then and publicly during his April 1972 visit to Canada, while indicating that the U.S. would no longer deal with Canada on special terms. Canada responded by launching its "Third Option" policy aimed at reducing its vulnerability to the U.S. (The policy consisted of internal measures to consolidate and strengthen Canada's economy and cultural life and diversification of external economic relations to counterbalance ties with the U.S.)

Any hope that these developments would put the relationship on a sounder footing were negated by heavy handed American attempts to redress its temporary trade deficit with Canada in 1972 and 1973, and by increasing Canadian unilateralism on trade and energy. By the time President Ford replaced the resigned Richard Nixon in 1974 the relationship was badly in need of repair. When Messrs Trudeau and Ford met in Washington in December 1974 they made some progress toward restoring stability by reiterating the importance of bilateral consultation. But the formula seemed more honored in the breach. Unilateral decisions on both sides, including Canadian restrictions on business advertising on American border television stations reaching the Canadian viewing audience, U.S. restrictions on foreign convention travel and such issues as the Garrison Dam created further problems.

By the beginning of 1977, however, relations between the two countries had undergone a sharp turn around. Declining economic prospects on both sides, the gathering energy shortage and the election of the PQ government in Quebec refocused Canadian and U.S. attention on the benefits of closer relations. The shift was confirmed when Mr. Trudeau visited Washington in February 1977 to meet the new American president, Jimmy Carter. Mr. Trudeau said, and President Carter agreed, that the two countries in managing their complex relationship had set "the standard for enlightened international relations." Canada-U.S. reapprochement was exemplified in the conclusion of a number of cooperative ventures including the Alaska highway gas pipeline agreement in September 1977.

But it was not long before new strains began to appear in the relationship. Competition between Ontario and Ohio for new auto plant investment aggravated existing problems of bilateral sharing under the Canada-U.S. auto pact. New Canadian concerns were prompted by the increasing number of Buy America laws, acid rain, the Senate's refusal to ratify the East Coast fisheries agreement and American delays in approving a financial waiver package to ease construction of the Alaska pipeline. By last October the Canadian ambassador in Washington warned that relations had "begun to swing in the wrong direction" coupling this with a call for more serious U.S. attention to the relationship. But less than a month later the Trudeau government suddenly introduced its National Energy Program (NEP), aimed at achieving 50% Canadian ownership of the country's American dominated oil industry by 1990. The NEP, which is based on a structure of Canadian preferences, has provoked strong criticism within U.S. business and government circles.

The Trudeau government's nationalistic policy emphasis coincided with the election of the Reagan administration last November. The contrasting policy approaches of the two governments and the nature of the issues before them should have strengthened their commitment to effective bilateral management. But there is not much evidence to show that it has. The Trudeau government has apparently shelved plans to extend its Canadianization policy by toughening its foreign investment review process. But it has refused to modify the NEP, despite growing administration and congressional complaints that it discriminates against American oil interests in Canada. And the Reagan administration, despite its stated desire to improve relations with Canada, has not been noticeably responsive to Canadian complaints about such issues as acid rain, the auto pact and its high interest rate policy.

The Trudeau government's emphasis on Canadianization, including the NEP, is understandable given the high level of foreign ownership of the country's economy and the need to develop a coherent industrial strategy responsive to Canadian requirements. The unilateral implementation of such measures is not. There is a danger that the government's policy moves will affect American investor confidence in Canada and prompt U.S. retaliation. Equally worrisome is the possibility that the administration and Congress especially will become less responsive on measures of direct concern to Canada or link the passage of such measures to modification of Canadian policies. On the other hand, the lack of U.S. responsiveness to Canadian complaints has created doubts in Canada about the seriousness of the Reagan administration's commitment to improve their bilateral relations. U.S. actions on the Alaska pipeline waiver package and the new bilateral tax treaty will be seen as important indications of the administration's policy intentions (and those of Congress) in this regard.

The dangers inherent in the developments I have described are obvious. Through its policy excesses Canada risks jeopardizing access to its most important external market and investment source. And continued American inattention to Canada's concerns, or overreaction to the NEP, could poison prospects for achieving the administration's professed goal of closer North American cooperation, or prompt the Canadian government to adopt more nationalistic measures to insulate itself from the effects of U.S. policies. (It was, for example, the 1971 Nixon economic shocks that catalysed the Canadian government's "Third Option" policy which included the creation of the Foreign Investment Review Agency and restrictions on foreign—mainly U.S.—cultural imports.)

My point is not that the two governments should—nor could one realistically expect them to—abandon their respective policy approaches, but that they should pursue them with greater sensitivity to their impact on each other's interests. They have recently taken a first step in this direction by softening their harsh rhetoric of previous months. But this will mean little if it is not accompanied by progress on the issues that divide them. And, for the moment at least, there are few grounds for optimism. (A senior U.S. trade official, for example, has commented that the present diplomatic silence between the two governments masks "a confrontational mode that almost defies solution.") Nor is the answer to be found in the creation of new consultative mechanisms as proposed by some observers. Current Canada-U.S. problems are not rooted in a shortage of opportunities for consultation, but in a lack of political will to exploit them.

The climate of the relationship will improve only when both sides are seriously willing to commit themselves to the effective management of their relations. For the relationship can hardly operate to the benefit of the two countries if it is based on mutual neglect.

WORLD BANK SUPPORT

Mr. INOUYE. Mr. President, the Treasury Department recently completed a yearlong assessment of the United States role in the World Bank and other multilateral development banks. The study, entitled "United States Participation in the Multilateral Development Banks in the 1980's," has been the subject of extensive commentary.

While I expect to speak at greater length on this subject at a later date, I ask that an editorial, which appeared in the Honolulu Star-Bulletin on March 9, 1982, be printed in the Record.

The editorial follows:

[From the Honolulu Star-Bulletin—Mar. 9, 1982]

World Bank Support

The World Bank and its associated development banks have just won support from a rather unexpected quarter—a task force within President's Reagan's Treasury Department.

Nineteen criticisms of the bank, many of them originating in Congress, were examined by the task force. It broadly supported only two of them.

What makes this of especial interest, *Congressional Quarterly* magazine reports, is that the World Bank examination was conducted by conservative Republicans, including several officials who in the past had supplied congressional critics with ammunition against the bank.

Thomas C. Dawson, deputy assistant secretary for developing nations, commented: "Many of us came in skeptical of the banks because many of the criticisms came from people we knew and respected. We learned that the facts did not always support the criticisms."

One criticism was of a $60 million loan to Vietnam in 1978 for an agricultural irrigation project. Critics said this showed the United States had no control over the bank even though it was the biggest contributor. The task force replied that the incident actually demonstrated U.S. control. Congressional reaction was so negative that Vietnam has not received a World Bank loan since then. Robert McNamara, then World Bank president, even signed an unusual letter to Congress promising there wouldn't be any more.

The report found that the United States is without question the major influence in the bank. Also that "on the whole, the policies and programs of the World Bank group have been consistent with U.S. interests."

Charges that so-called "soft loans" which are very close to welfare handouts are often spent foolishly were rebutted by the World Bank's current president, A. W. Clausen, former president of BankAmerica, and the Treasury task force.

They concluded the soft loans go for basic human needs, like schooling and food production, in countries that are too poor to borrow in commercial money markets.

The only major criticisms supported by the Treasury task force are that the banks seem to emphasize numbers of loans over quality and don't do enough to get developing countries off the dole.

One congressional critic already has challenged the report. Rep. Mickey Edwards, R-Okla., suggests the Treasury team was brainwashed by the State Department.

Congressional committees will be sure to hold hearings on it, and probe it harder.

Given the basic desirability of what the World Bank hopes to do in helping the underdeveloped world, we are glad to see it supported by a supposedly hard-headed crew of conservatives who started as skeptics.

SWAMP FOX FESTIVAL

Mr. HOLLINGS. Mr. President, recently the General Assembly of South Carolina went on record in support of the Swamp Fox Festival ceremonies planned in honor of the great Gen. Francis Marion—the Swamp Fox of the Revolution.

The South in general and South Carolina in particular were battlegrounds of the Revolution. Indeed, more battles were fought in South Carolina than in any other State and I need only recite the names of Camden, Cowpens, and Eutaw Springs to document the record.

The name Francis Marion is of course known throughout the land and wherever it is mentioned, the image of gallantry, dashing military mien, and perseverence in the pursuit of victory come immediately to mind.

I am happy to inform the Senate that the Francis Marion Commemorative Committee is planning a Swamp Fox Festival on April 3, 1982, at Marion and Florence, S.C. The U.S. Postal Service and the South Carolina Bicentennial Commission will be cooperating in this ceremony. It will be part and parcel of the many observations America is having during this Revolutionary Bicentennial. I hope that citizens from across the land will participate.

Mr. President, I ask unanimous consent that the resolution of the South Carolina General Assembly be printed in today's edition of the Congressional Record.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

A Concurrent Resolution Expressing Support for the Ceremonies Planned in Honor of Francis Marion, Swamp Fox of the Revolution, on April Third in Marion and Florence and Expressing Appreciation to the Postmaster General of the United States and to Certain Others

Whereas, in the American Revolution, South Carolina was the battleground of freedom—more battles were fought on her soil than any other state, her daughters are among the heroines of the land, her sons among the heroes of the nation; and

Whereas, the United States Postal Service has issued millions of commemorative postcards in honor of the epic battles of Kings Mountain, Cowpens, and Eutaw Springs and is issuing over twenty million commemorative postcards in honor of Francis Marion, the Swamp Fox of the Revolution, at Francis Marion College on April 3, 1982; and

Whereas, more cities and counties are named for General Francis Marion than any other military hero of the American Revolution except George Washington; and

Whereas, the Francis Marion Commemorative Committee is planning a "Swamp Fox Festival" on April 3, 1982, at Marion and Florence, South Carolina, in cooperation with the South Carolina Bicentennial Commission and the United States Postal Service; and

Whereas, the events planned include a service at Marion at 10:00 a.m., a parade at Florence at 12:30 p.m., which will be planned as a combination of a homecoming and armed forces parade including military and school bands, tanks, and planes and VIP's, a celebration in honor of our heritage, a military encampment at 3:00 p.m. of soldiers dressed like soldiers of the Revolution, and the Postal Service First Day Ceremony at 5:00 p.m. at Francis Marion College, and a reception and dinner that evening; and

Whereas, during South Carolina's celebration of the founding of the nation the Governor, the State's Congressional Delegation, the United States Army, Navy, Air Force, and Marine Corps, the South Carolina National Guard, the Citadel, the Department of Parks, Recreation and Tourism, the Department of Archives and History, and the Educational Television Network have been constant in their support, are deserving of the highest praise, and their support is again needed in the celebration of our national heritage; now, therefore, be it

Resolved, by the House of Representatives (the Senate concurring), That the General Assembly expresses its support in behalf of the Swamp Fox Festival, the ceremonies planned in honor of General Francis Marion, the Swamp Fox of the Revolution, on April 3, 1982, at Marion and Florence, South Carolina, and commends such ceremonies to the Governor, the Congressional Delegation, the various agencies of the federal and state governments, and to the citizens of the nation; be it further

Resolved, That copies of this resolution be forwarded to the Governor, the members of the South Carolina Congressional Delegation, the Commanding Officers of Fort Jackson, the Sixth Naval District, Shaw Air Force Base, and the Parris Island Marine Base, to the Adjutant General of the South Carolina National Guard, and to the Directors of the Department of Parks, Recreation and Tourism, the Department of Archives and History, and the Educational Television Network, and to such others as may be deemed appropriate.

BARGE COMPANIES LOAN GUARANTEES

Mr. DOMENICI. Mr. President, our Nation this year confronts the very difficult problem of rationalizing taxpayer support for private, profitmaking companies operating in various transportation modes. The administration, to its great credit, seeks to reduce or eliminate as many of the subsidies as it can weed out—subsidies to railroads, to barge companies, to trucking companies, and to aircraft operators. This is a laudable objective, one that I am convinced is very important.

One issue that has received much attention has been the subsidies that are provided to the barge industry as a result of the Army Corps of Engineers program for inland waterway construction and operation. There are, however, a variety of other subsidies available to the barge operators. One of these is the loan guarantee program operated under title XI of the Merchant Marine Act. Obviously, a loan guarantee provides a subsidy by allowing the borrower to obtain lower interest loans.

To give my colleagues a perspective on the size of this very important program to the barge industry, a program assuring these low-cost equipment loans, I ask unanimous consent that a list of the loans guaranteed be printed at this point in the RECORD, prepared and provided at my request by the Department of Transportation.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, D.C.

DEAR PETE: This is in response to your recent letter requesting information on companies in the inland commercial barge industry that have received assistance from the Federal Ship Financing Program under Title XI of the Merchant Marine Act.

The enclosed listing shows, on a company-by-company basis, inland vessels financed under the Title XI program from the inception of the program through the end of fiscal year 1981. Loan guarantees, which have been fully repaid, have been marked accordingly.

I trust you will find this information helpful.

Sincerely,

DREW.

Enclosure.

TITLE XI.—COMMITMENTS FOR RIVER TOWBOATS AND BARGES SINCE INCEPTION, BY FISCAL YEAR

Company name	Number	Type	Mortgage amount
1957			
College Point Dry Dock & Supply Co.[1]	1	Barge	$106,500.00
1964			
Triangle Shipping Corp.[1]	1	Barge	778,000.00
1970			
NMS Chemical Corp	3	Barge	596,000.00
Intercity Barge Co	2	Barge	358,000.00
Asphalt Barge Co	2	Towboat	649,000.00
	1	Barge	197,000.00
1971			
Mid-South Towing Co	1	Towboat	1,739,000.00
	71	Barge	4,691,000.00
Wisconsin Barge Line[1]	1	Towboat	1,267,000.00
1972			
National Marine Service, Inc	1	Towboat	700,000.00
	4	Barge	700,000.00
Wisconsin Barge Line	25	Barge	2,200,000.00
1973			
National Marine Service, Inc	5	Towboat	2,199,000.00
	11	Barge	2,918,000.00
Central Marine Corp	2	Towboat	1,950,000.00
	6	Barge	1,137,499.00
1974			
Richards Towing Co.[1]	2	Barge	900,000.00
Port City Barge Line	20	Barge	2,239,000.00
General Intermodal Logistics	19	Barge	$2,158,303.00
Port Arthur Towing Co	2	Towboat	1,723,000.00
	8	Barge	2,231,000.00
Alter Co	3	Towboat	1,728,000.00
	75	Barge	10,299,697.00
Wisconsin Barge Line	2	Towboat	3,685,000.00
	50	Barge	4,890,000.00
General Intermodal Logistics	10	Barge	1,086,611.00
Twin City Barge & Towing	2	Towboat	802,906.00
	27	Barge	4,218,236.00
1975			
M/G Transport Service	45	Barge	3,637,324.00
Wisconsin Barge Line	75	Barge	8,540,000.00
Modern Boats, Inc	3	Towboat	1,128,750.00
Canal Barge Co., Inc	8	Barge	3,025,000.00
Ingram River Equipment, Inc	5	Towboat	6,484,000.00
	25	Barge	8,683,000.00
Upper Mississippi Towing	3	Towboat	6,271,000.00
	30	Barge	3,921,000.00
1976			
Magnolia Marine Transport Co	2	Towboat	559,828.00
	15	Barge	7,502,172.00
National Marine Service, Inc	16	Barge	6,200,000.00
Ingram Transportation Inc	6	Towboat	13,498,000.00
	48	Barge	38,544,000.00
Foss Launch & Tug Co	1	Barge	1,410,000.00
Umpqua Navigation Equipment Co	3	Barge	4,420,000.00
LeBeouf Bros. Towing Co	4	Towboat	3,237,000.00
	1	Barge	224,000.00
Canal Barge Co	1	Towboat	1,496,000.00
Flowers Transportation, Inc	4	Towboat	6,313,300.00
	77	Barge	12,298,700.00
Marine Leasing Co	1	Towboat	3,520,647.00
	30	Barge	4,279,353.00
Bultema Dock & Dredge Co	10	Barge	2,453,307.00
American Commercial Lines	22	Towboat	17,678,373.00
	205	Barge	22,975,088.00
Ohio Power Co	16	Towboat	33,046,000.00
	260	Barge	42,035,000.00
Transition Quarter			
Wisconsin Barge Line	7	Towboat	9,429,237.00
	25	Barge	3,086,916.00
Liberty Bell Towing, Inc.[1]	1	Towboat	480,370.00
1977			
National Marine Service, Inc	15	Barge	4,639,350.00
Foss Launch & Tug Co	2	Towboat	2,513,442.60
American Commercial Lines, Inc	2	Towboat	4,339,000.00
	210	Barge	32,788,000.00
1978			
Union Mechling Corp	58	Barge	11,150,000.00
Port City Barge Line	40	Barge	7,481,000.00
Canal Barge Co.[2]	112	Barge	19,018,000.00
Foss Launch & Tug Co	1	Towboat	1,292,955.90
K.A. Steel Chemicals, Inc	2	Barge	1,015,000.00
1979			
Canal Barge Co	1	Towboat	1,541,689.00
	3	Barge	806,311.00
National Marine Service, Inc	22	Barge	7,500,000.00
Tenn-Tom Towing, Inc	2	Towboat	534,000.00
	2	Barge	929,000.00
American Commercial Lines	4	Towboat	7,288,500.00
	109	Barge	21,361,500.00
Coastal Towing, Inc., Houston	2	Towboat	1,362,580.85
	8	Barge	6,013,833.05
Parker Towing Co	3	Towboat	1,409,817.66
	33	Barge	5,306,971.11
1980			
Brown Marine Service	3	Barge	1,750,000.00
Manatee Towing Co.[2]	1	Towboat	733,500.00
	1	Barge	737,500.00
Ingram River Equipment, Inc	85	Barge	15,111,000.00
Canal Barge Co	1	Towboat	1,782,000.00
SCNO Barge Lines, Inc	90	Barge	18,484,000.00
Barge Operating Co., Ltd	15	Barge	3,000,000.00
Pawg Marine, Inc	2	Barge	602,000.00
Ole Man River Barge Co	1	Towboat	1,113,500.00
	2	Barge	1,686,500.00
1981			
Parker Towing Co	3	Towboat	1,366,758.83
	39	Barge	8,992,241.17
Riverway Co	1	Towboat	$577,000.00
	50	Barge	11,838,000.00
O. L. Schmidt Barge Lines, Inc	1	Barge	1,426,000.00
National Marine Service, Inc	5	Towboat	4,605,500.00
	46	Barge	28,119,500.00
Waterways Barge Partnership	50	Barge	12,116,000.00
K. A. Steel Chemicals, Inc	2	Barge	1,473,000.00
Shearson River Barge Associates III	15	Barge	3,611,000.00
Ingram Towing Co	2	Barge	5,738,000.00
Shearson River Barge Associates IV	15	Barge	3,637,000.00
Shearson River Barge Associates V	15	Barge	3,627,000.00
Beker Transportation Co	3	Barge	2,500,000.00
Rio Marine, Inc	7	Barge	7,721,000.00
I. S. Joseph Barge Co	25	Barge	5,473,000.00
Shearson River Barge Associates VII	15	Barge	3,551,000.00

TITLE XI.—COMMITMENTS FOR RIVER TOWBOATS AND BARGES SINCE INCEPTION, BY FISCAL YEAR—Continued

Company name	Number	Type	Mortgage amount
ML Barge Pool II Partners	60	Barge	$12,000,000.00
Grasso Barge & Transport, Inc.	6	Barge	5,400,000.00
Marquette Co., Inc.	4	Barge	10,277,000.00
Parker Towing Co.	2	Towboat	2,272,000.00
Wisconsin Barge Line	1	Towboat	3,800,500.00
	68	Barge	18,318,500.00
Shearson River Barge Associates I	20	Barge	4,141,000.00
Weber Marine, Inc.	5	Barge	1,342,000.00

[1] Bonds have been paid off.

[2] Commitment has been cancelled.

S. 2222—IMMIGRATION POLICY REFORM

Mr. MATTINGLY. Mr. President, I am pleased to join as a cosponsor of Senate bill 2222 because it provides the needed reform of our Nation's immigration policy. I adamantly believe that any U.S. immigration policy must have as its primary consideration the national interest and the well-being of the American people. The bill introduced by my colleague from Wyoming, Senator Simpson, is aimed at just that—the well-being of our Nation and people.

The time has come for the United States to initiate a full-fledged effort to control our own borders. The 425,000 people per year ceiling on immigrants proposed by Senator Simpson is fair and reasonable. Coupled with this proposal is another key element essential to controlling the border—stiff penalties on employers who hire illegal aliens.

There are some who argue against sanctions on employers. We must admit that the primary cause of illegal immigration into our country is the easy availability of jobs. By making employment less likely, immigration would be less attractive for those wanting to enter illegally. The legislation that I have cosponsored would provide the needed protection of employers from wrongful prosecution while minimizing the unwritten incentives for employment of illegal aliens.

A responsible immigration policy is the issue here. History has proven that our country is strong because of the diverse backgrounds of our people. Legal immigrant residents have contributed greatly to the strength of the Nation. As Alistair Cooke expressed so well in his book, "America":

> But in the wake of the immigrant flood that we have been talking about, paupers became shopkeepers, and sons and daughters of peasants bound for centuries to slivers of poor soil turned into clerks and nurses and accountants and schoolteachers and druggists and cab drivers and lawyers and doctors. Looking back on those sheepish legions, we should not pretend that they were ever rollicking characters in a musical comedy. But we should not forget, either, the millions who struggled for a decent and tidy life, and made it, and still do.

We must stop the illegal flow of people across our borders so that our natural-born citizens and others who have come here within the boundaries of our laws will be protected. We must work for the well-being of our Nation and our citizens. Senator Simpson's bill, S. 2222, is fair and does not fatigue the compassion of America. By the enactment of S. 2222 into law, those who currently reside in America and those new Americans that will come to our shores in the future will be protected.

Mr. President, I ask unanimous consent that a copy of a March 18, 1982, New York Times article entitled "Not Nativist, Not Racist, Not Mean" be included in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 18, 1982]

NOT NATIVIST, NOT RACIST, NOT MEAN

A Republican Senator and a Democratic Congressman joined yesterday to introduce a rare piece of legislation: a responsible immigration bill.

To understand just how rare, look back into history to, say, the Johnson Act of 1924. Its national-origins quota system reverberated with nativism and racism. Or the McCarran-Walter Act of 1952. Though partly reformed in 1965, it remains the basic immigration law; the very name still connotes mean-spirited red-baiting.

Consider, by comparison, the new proposal by Senator Alan Simpson, a Wyoming Republican, and Representative Romano Mazzoli, a Kentucky Democrat. We don't agree with all of it. We wish they were willing, separately and swiftly, to correct the shamefully long detention of Haitian migrants. But there will be time later for objection. As a general proposition, the Simpson-Mazzoli bill is at once tough, fair and humane.

First, tough. The United States cannot conceivably let in all the worldwide millions who want in. That means controlling our own borders and that, in turn, means something called employer sanctions. Federal law must forbid hiring illegal immigrants and also provide employers with a way to identify who they are. The Simpson-Mazzoli bill would do both. Without being specific, it calls for the gradual development of a limited, reasonable process of identification.

Second, fair. There is growing sentiment in Congress for a harsh ceiling on immigration. The Simpson-Mazzoli proposal accepts the principle, calling for a limit of 425,000 people a year (apart from refugees, whose entry is regulated by a 1980 act). The 425,000 figure is low and subject to bargaining. But it is neither arbitrary nor regressive: it approximates present immigration, which the country knows it can handle comfortably.

Third, humane. A large number of foreign migrants—maybe half a million, maybe two and a half million—have lived in this country for years, but under a cloud: they entered illegally. Fearful of detection, they are vulnerable to exploitation. Previous proposals for amnesty have failed as too harsh or too soft-headed. The new bill strikes a reasonable compromise, providing legal status to aliens if they have lived here since 1978.

Reasonable compromise may, indeed, be the key to the whole bill. Immigration involves an array of competing interests that conform to no party or ideological lines. Senator Simpson and Representative Mazzoli have balanced the ideas of the Administration and a blue-ribbon immigration commission; of labor, employers and minority groups; of different regions; of other countries.

The resulting bill is a genuine political achievement, aligning Congress with the best, instead of the worst, in the American immigration tradition.

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Saunders, one of his secretaries.

THE ENTERPRISE ZONE TAX ACT OF 1982—MESSAGE FROM THE PRESIDENT—PM 123

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Finance:

To the Congress of the United States:

I am transmitting to the Congress today legislation entitled, "The Enterprise Zone Tax Act of 1982." This legislation authorizes the establishment of an Enterprise Zone program, which is an experimental, free market-oriented program for dealing with the severe problems of our Nation's economically-depressed areas.

In my January 26 State of the Union message, I indicated that we would propose legislation for a new effort to review the decaying areas of America's inner cities and rural towns. We have now completed work on this new effort and it is embodied in the proposed "Enterprise Zone Tax Act." Therefore, I am requesting today that the bill be referred to the apropriate committees and I urge its early enactment.

THE CONCEPT OF ENTERPRISE ZONES

The Enterprise Zone concept is based on utilizing the market to solve urban problems, relying primarily on private sector institutions. The idea is to create a productive, free market environment in economically-depressed areas by reducing taxes, regulations and other government burdens on economic activity. The removal of these burdens will create and expand economic opportunity within the zone areas, allowing private sector firms and entrepreneurs to create jobs—particularly for disadvantaged workers—and expand economic activity.

Enterprise Zones are based on an entirely fresh approach for promoting economic growth in the inner cities. The old approach relied on heavy government subsidies and central planning. A prime example was the Model Cities Program of the 1960's, which concentrated government programs, subsidies and regulations in specific, depressed urban areas. The Enterprise Zone approach would remove government barriers freeing individuals to create, produce and earn their own wages and profits. In its basic thrust, Enterprise Zones are the direct opposite of the Model Cities Program of the 1960's.

Enterprise Zones will not require appropriations at the Federal level, except for necessary administrative expenses. States and cities will still have the option of allocating discretionary Federal funds for their Enterprise Zones if they desire, or to appropriate additional funds of their own for such zones.

Enterprise Zones must be more than just a Federal initiative. State and local contributions to these zones will be critically important in the selection of the zones, and probably determine whether individual zones succeed or fail. In the spirit of our new policy of Federalism, State and local governments will have broad flexibility to develop the contributions to their zones most suitable to local conditions and preferences.

THE ELEMENTS OF ENTERPRISE ZONES

The Enterprise Zone program includes four basic elements:

First, tax reduction at the Federal, State and local levels to lessen this obvious burden on economic activity.

Second, regulatory relief at the Federal, State and local levels to reduce burdens which can be equally costly.

Third, new efforts to improve local services, including experimentation with private alternatives to provide those services. Eliminating inefficiencies of monopolized government services and increasing reliance on the private sector are key parts of the overall Enterprise Zone theme. Experience has shown that these efforts can save taxpayers substantial sums while significantly improving services at the same time.

Finally, involvement in the program by neighborhood organizations. These organizations can contribute much to the improvement of Enterprise Zone neighborhoods. They can also help to ensure that local residents participate in the economic success of the zones.

By combining all these elements we will create the right environment to help revive our Nation's economically-depressed areas.

THE STRUCTURE OF THE ENTERPRISE ZONE PROGRAM

Title I of the Act describes the program structure and how the zones will be established.

The initial designation and establishment of each zone will depend on local leadership and initiative. To obtain the Federal incentives for Enterprise Zones, State and local governments must first nominate the zones within the eligible areas as defined by the Federal legislation.

These areas will include all areas in UDAG-eligible jurisdictions which have recently experienced significant unemployment, poverty or population loss. Based on these criteria, there will be more than 2,000 cities, rural areas and Indian reservations with Enterprise Zone eligible areas.

The Secretary of HUD will be authorized to designate up to 25 zones in each of three years for the application of the Federal incentives. The actual numbers designated will depend on the number and quality of the applications.

The Enterprise Zone program is, thus, a potential source of economic assistance to distressed areas of all types, shapes and sizes, all across the country. Rural areas as well as large urban areas will be eligible to become Enterprise Zones.

After State and local nomination, these governments will apply to the Secretary of HUD for Federal designation to allow the Federal incentives to apply to their zones.

Federal designation of nominated zones will not be automatic or routine. Rather, the Secretary will evaluate the various applications on a competitive basis, choosing the best applications for the limited number of Federal designations available each year. A key criterion in this competitive process will be the nature and strength of the State and local incentives to be contributed to the zones, consistent with the overall Enterprise Zone theme of creating an open market environment by removing government burdens. Other important factors will also be considered.

In evaluating State and local contribution packages, the Federal Government will be highly flexible. For example, the Secretary of HUD will not insist upon any particular item of tax or regulatory relief. A weakness of incentives in one area, such as tax relief, could be offset by greater strength in another area, such as regulatory relief. It should be remembered, however, that the incentive packages will be competitively evaluated against each other.

Each Enterprise Zone will last for the period chosen by the nominating State and local governments. The Federal incentives will apply to an approved zone for this entire period, up to a maximum of 20 years plus a 4-year, phase-out period.

THE FEDERAL INCENTIVES OF THE ENTERPRISE ZONE PROGRAM

The Federal Tax Incentives of the Enterprise Zone Program—

Title II of the Act describes the Federal tax incentives to apply within Enterprise Zones, which include:

—a 3- or 5-percent investment tax credit for capital investments in personal property in an Enterprise Zone;

—a 10-percent tax credit for the construction or rehabilitation of commercial, industrial or rental housing structures within a zone;

—a 10-percent tax credit to employers for payroll paid to qualified zone employees in excess of payroll paid to such employees in the year prior to zone designation, with a maximum credit of $1,500 per worker;

—a special, strengthened tax credit to employers for wages paid to qualified zone employees who were disadvantaged individuals when hired, with the credit equal to 50 percent of wages in each of the first 3 years of employment, and declining by 10 percentage points in each year after that;

—a 5-percent tax credit, up to $450 per worker to qualified zone employees for wages earned in zone employment;

—the elimination of capital gains taxes for qualified property within Enterprise Zones;

—the designation of suitable Enterprise Zone areas as Foreign Trade Zones, providing relief from tariffs and import duties for goods subsequently exported to other countries;

—the continued availability of Industrial Development Bonds to small business in Enterprise Zones, even if the availability of such bonds is terminated elsewhere; and,

—the extension of the operating loss carry-over period for Enterprise Zone businesses, and permission for Enterprise Zone tax credits to be carried over for this period as well.

The Federal tax reductions applying to Enterprise Zones will be substantial. They will include reductions for employers, employees, entrepreneurs and investors. They will include incentives for capital investment, for hiring workers, particularly disadvantaged workers, for increasing work effort, and for starting and building up new businesses. They will include reductions in corporate income taxes, individual income taxes and capital gains taxes.

The Treasury Department estimates that with this tax package the designation of 10 to 25 zones in the first year of the program will result in $124-$310 million in lost Federal tax revenues for that year. The cost of the program will increase in future years as additional zones are designated and as zone activity increases.

FEDERAL REGULATORY RELIEF

Title III of the Act describes the Federal regulatory relief to apply within Enterprise Zones. Under these provisions, State and local governments will be authorized to request relief for their approved zones from any Federal regulation, unless it would directly violate a requirement imposed by statute. Federal regulatory bodies will be authorized to weigh these requests under Congressionally-mandated standards, and to relax these regulations when it is in the public interest to do so, given the goals of the Enterprise Zone program.

This special authority would expressly not apply, however, to any regulations to carry out a statute or Executive Order designed to protect any person against discrimination because of race, color, religion, sex, marital status, national origin, age or handicap. It would also expressly not cover any regulation whose relaxation would likely present a significant risk to the public safety, including environmental pollution. The minimum wage law would not be covered by this authority because it is specifically imposed and spelled out by statute.

It should be emphasized that there will be no authority for any Federal regulatory relief within an Enterprise Zone without a request for such relief from both the State and local governments governing the zone.

THE ROLE OF STATE AND LOCAL GOVERNMENTS

While these Federal incentives are substantial, strong State and local contributions to the zones will be necessary for the program to succeed.

These contributions can be from each of the four basic categories noted earlier: tax relief; regulatory relief; improved local services; and neighborhood organizations. More traditional urban efforts, such as job training, minority business assistance or infrastructure grants, can also be contributed to the zone.

Consistent with the Administration's policy of Federalism, the Federal Government will not dictate to State and local governments what they must contribute to the zones. The program is designed for creative and innovative experiments by State and local governments within the zone areas. The program retains the flexibility for these governments to tailor their contributions to suit local needs and preferences.

The State and local contributions to the zones need not be costly. Regulatory relief, service improvements through privatization, and private sector involvement all entail no budgetary cost.

Even the cost of State and local tax relief should be modest because of the weak economic activity currently existing in potential Enterprise Zone areas. If the program is successful in stimulating new economic activity, these losses will be substantially offset by increased revenues from the new activity. State and local expenditures would be reduced as individuals who formerly received government aid are employed in the zone.

The legislation we advance today is based on the path-breaking work of many Members from both sides of the aisle who offered Enterprise Zone bills in prior sessions of Congress. We commend these efforts and anticipate that these innovative individuals will work for early, bipartisan passage of this legislation.

More than government expenditures and subsidies, residents of economically-depressed areas need opportunities. This is the focus of the Enterprise Zone program. The program will identify and remove government barriers to entrepreneurs who can create jobs and economic growth. It will spark the latent talents and abilities already in existence in our Nation's most depressed areas. This bold, new concept deserves to be given a chance to work. As I said in my State of the Union Address, some will say our mission is to save free enterprise, but, I say that with your help, we must free enterprise so that together we can save America.

RONALD REAGAN.

THE WHITE HOUSE, *March 23, 1982.*

MESSAGES FROM THE HOUSE

At 5:30 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills; without amendment:

S. 892. An act to amend the Federal Grant and Cooperative Agreement Act;

S. 2166. An act to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak"; and

S. 2254. An act to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

ENROLLED BILL SIGNED

At 6:03 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 2166. An act to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak".

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3040. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on a transaction involving U.S. exports to the Republic of Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC-3041. A communication from the Administrator of the Federal Insurance Administration transmitting, pursuant to law, a liquidation report on the Federal Riot Reinsurance Program and the Federal Crime Insurance Program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3042. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to amend the Deep Seabed Hard Mineral Resources Act to authorize appropriations for fiscal years 1983, 1984, and 1985; to the Committee on Commerce, Science, and Transportation.

EC-3043. A communication from the Vice President of Amtrak transmitting, pursuant to law, reports for October 1981 on total revenues and expenses of the National Railroad Passenger Corporation; to the Committee on Commerce, Science, and Transportation.

EC-3044. A communication from the Secretary of Energy transmitting, pursuant to law, a report recommending no additional incentives for wind energy technologies at this time; to the Committee on Energy and Natural Resources.

EC-3045. A communication from the President of the United States transmitting, pursuant to law, notification of his designation of the Caribbean Common Market countries as one country for purposes of the Generalized System of Preferences; to the Committee on Finance.

EC-3046. A communication from the Secretary of Labor transmitting a draft of proposed legislation to eliminate trade readjustment allowances for workers not enrolled in approved training on July 1, 1982; to the Committee on Finance.

EC-3047. A communication from the Secretary of Labor transmitting a draft of proposed legislation to limit the amount of unemployment compensation payable for a week of unemployment; to the Committee on Finance.

EC-3048. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on the program of review of decisions of administrative law judges relative to Social Security disability; to the Committee on Finance.

EC-3049. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3050. A communication from the Comptroller General of the United States transmitting, pursuant to law, a list of reports of the General Accounting Office for the month of February 1982; to the Committee on Governmental Affairs.

EC-3051. A communication from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3052. A communication from the Secretary of Agriculture transmitting a draft bill "to clarify and extend the authority of the Secretary of Agriculture to collect fees to cover United States Government costs incident to the issuance of phytosanitary certificates with regard to plants and plant products intended for exportation; and for the testing, certification, inspection and quarantine of import and export animals and certain products and materials"; to the

Committee on Agriculture, Nutrition, and Forestry.

EC-3053. A communication from the President of the Export-Import Bank of the United States, transmitting, pursuant to law, a report on loan, guarantee and insurance transactions supported by Eximbank during December 1981 and January 1982 to Communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-3054. A communication from the Secretary of Commerce transmitting copies of a draft bill "to amend the National Ocean Pollution Planning Act to carry out the provisions of the Act for fiscal years 1983, 1984 and 1985"; to the Committee on Commerce, Science, and Transportation.

EC-3055. A communication from the Acting Secretary of the Interior transmitting, pursuant to law, the Naval Arctic Research Laboratory study; to the Committee on Energy and Natural Resources.

EC-3056. A communication from the Secretary of Commerce transmitting copies of a draft bill "to authorize appropriations to carry out the Endangered Species Act of 1973, as amended, through fiscal year 1984"; to the Committee on Environment and Public Works.

EC-3057. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a plan for the Mozingo Creek Watershed, Missouri; to the Committee on Environment and Public Works.

EC-3058. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a plan for the Soil Conservation Service Upper Mud River Watershed, West Virginia; to the Committee on Environment and Public Works.

EC-3059. A communication from the Director of the International Communication Agency transmitting a draft of proposed legislation for appropriations for the International Communication Agency to carry out International Communication and Education and cultural exchange programs in fiscal year 1983; to the Committee on Foreign Relations.

EC-3060. A communication from the Attorney-Adviser of the Department of State, transmitting, pursuant to law, "An Act to require that international agreements other than treaties"; to the Committee on Foreign Relations.

EC-3061. A communication from the Secretary of the Postal Rate Commission transmitting, pursuant to law, a report on its implementation of the Sunshine Act during the calendar year 1981; to the Committee on Governmental Affairs.

EC-3062. A communication from the Secretary of the Mississippi River Commission transmitting the annual report for the Mississippi River Commission covering calendar year 1981; to the Committee on Governmental Affairs.

EC-3063. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, notification of a delay in delivery of its annual National Health Service Corps Report for 1981; to the Committee on Labor and Human Resources.

EC-3064. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for Institutional Grants for Graduate and Professional Study—Correction Notice; to the Committee on Labor and Human Resources.

EC-3065. A communication from the Acting Administrator for the Small Business Administration transmitting a draft bill which would amend subsections 20 (k), (n) and (q) of the Small Business Act to reflect changes in authorization levels for certain Small Business Administration programs proposed in the 1983 Presidential Budget; to the Committee on Small Business.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 76. Concurrent resolution expressing the sense of the Congress with respect to the situation of two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Report to accompany the bill (S. 234) to amend the Public Health Service Act to encourage the establishment of home health programs and to amend the Social Security Act to provide expanded coverage of home health services under the medicare and medicaid programs (Rept. No. 97-325).

REPORT TO ACCOMPANY COMMUNITY HOME HEALTH SERVICES ACT

Mr. HATCH. Mr. President, I am today filing the completed committee report on the bill, S. 234, the Community Home Health Services Act of 1981. This legislation was reported out of the full Committee on Labor and Human Resources on December 15, 1981. This vote came in the wake of legislative hearings the committee conducted on S. 234 on March 4, and also on November 10 of last year. It is legislation I originally introduced on January 22, 1981, presently cosponsored by 24 of my colleagues, which is 76 Senators fewer than ought to be the case.

I say this because of the sense of urgency I and a growing number of other Americans share, all of us recognizing the social justice and economic necessity on which this legislation is based. It is no better today for those who are old and sick and in need than it was when I first began beating the drum for home health care earlier in this Congress. This is not the fault of Democrats or Republicans. it is not the handiwork of any special interest moving with less than a fully wholesome purpose, and it certainly should not be blamed on Congress or the administration. In fact, the earliest and most ably stated expression of support for home health care came from the President of the United States whose longtime support for alternatives to institutionalization not only helped the cause of young Miss Katie Beckett, but focused attention on the important professional work of respiratory therapists.

Yet even with the formidable support of President Reagan, without substantive legislative action by this Congress, the administrative actions taken to date for cases like that of Katie Beckett are little more than the proverbial fingers in a bursting dike. We are facing a demographic explosion in our country. Over the past two decades, the number of citizens 65 years and older has grown twice as fast as our population as a whole. Today, more than 25 million Americans are over 65, 11 percent of our population. Of these, the number of Americans in the most rapidly growing age group of all, those citizens over 75 years of age, will have grown by another 28 percent. All of this adds up to 32 million Americans who will be over 65 before the beginning of the next century.

Increasing age brings with it increasing the chances of sickness and infirmity. Elderly Americans are already the greatest users of medical care, and nursing home expenditures have doubled in only the last 5 years. Unless Congress acts sooner rather than later, and unless the home health care alternative is taken more seriously, these nursing home costs are projected to triple or quadruple during this next decade. As HHS Assistant Secretary for Health, Dr. Edward Brandt, reported late last year, U.S. health care expenditures rose during the previous fiscal year to $247 billion, which averages out to $1,067 for every living American. That also works out to be a 15-percent increase in U.S. health costs over the previous year's record high. Unless the near certain geometric growth in nursing home building and maintenance costs begins to be thoughtfully addressed while we are still in the position to do so, not all the calculators and adding machines on the desks and in the vestpockets of our friends at OMB will be prepared for the deluge of big numbers threatening to smother all of us in the fiscal avalanche of this next half decade.

The cosponsors of S. 234 believe we can stem these health care cost increases without having to jeopardize the quality of or access to care. In fact, our legislation proposes to increase this access in a manner conducive to long-term cost savings. Our approach is understandably novel. Our hurdle, that legislative marsh slowing down our march toward enactment, is the distasteful fact that to save a lot of money often means having to spend a little. And as was very thoughtfully expressed in testimony delivered in my committee earlier this month by the director of health policy for the American Enterprise Institute, Mr. Jack Meyer, "* * * Structural reforms in social programs often fall victim to short-term budgetary concerns. Thus, long-term budgetary relief is sacrificed to the reluctance of any current policy regime to forgo short-term savings or to incur a temporary upturn in outlays." AEI's health director likened current Federal health and benefit-retiree programs to "ticking time bombs." This failure to make the needed structural alterations could lead to an explosion of costs several years down the line. Victimized in the ensuing fallout are the elderly, as a stationary number of increasingly crowded nursing homes are forced to reject the rising number of senior citizens needing chronic or acute health care but having no practical alternative.

This is why the cosponsors of S. 234 give the expansion of home health care services in our bill such a high legislative priority. It is why my friend from New York, Congressman Guy Molinari, introduced H.R. 5531, the House version of our Senate bill, which is now actively pending in the Committee on Commerce and Ways and Means.

The committee report which I have filed today on S. 234 includes the views and reflects the diligent work of all the members and their respective health legislative staff of the Committee on Labor and Human Resources. While it is comprehensive, as well as good weekend reading for everyone interested in long-term care for the elderly—and all of us here ought to be—I ask that it be read and digested in conjunction with what I am now adding in these extended remarks. In part, I am obviously doing so to draw more attention to a bill I believe is very important and to a cause I know is crucial. I also do so to summarize and highlight several principal portions of the report on S. 234, and to update our chronicle of legislative progress on the bill.

Before doing so, I ask that a short series of items not included in the bill's report yet germaine to its study and consideration, be added to the Record following this extension of my remarks. The first is a comprehensive—and incidentally, favorable—study of S. 234 completed by the Heritage Foundation (enclosed). I ask that it be followed by a partial list of the many organizations and eminent long-term health care specialists who have endorsed "The Community Home Health Services Act" (enclosed). I also request that a representative sampling of the editorials and news articles about S. 234 and the economics of home health care be included in the Record (enclosed). Finally, I request that the testimony delivered before my committee on behalf of S. 234 during our final legislative hearing, by Miss Helen Hayes be included in the Record (enclosed). We all tend to think of Miss Hayes as the first lady of the American stage, because she is the first lady of the American stage. Her Academy Awards, her books and artistic brilliance aside, in recent years Miss Hayes has also become the first lady of long-term care for the aging. She is an articulate and energetic health care leader whose incomparable plea for home health care policy reform was certainly the highlight of the legislative hearings conducted by the Committee on Labor and Human Resources during this Congress.

THE COSTS OF S. 234

Every knowledgeable and even passably objective observer agrees that accurately projecting the costs of S. 234 is at best very difficult, as is the more general problem of predicting the future costs of home health care programs. This is so for these reasons:

First. It is always hard to hit a moving target. It is difficult to predict the costs of a program for a prospective population. That is, while professional demographers use their statistical wares to predict the size of our population 10 and 20 years hence—and are able to do so accurately, we apparently cannot be as certain about a population's demographic attributes. For example, we cannot pinpoint prospective rates of chronic or acute illness. The dependent variables of future environmental factors, whether or not preventative health care programs are successful, the aggregate personal health habits of people 10 to 20 years from now are both determinative and unpredictable.

Second. While there are national studies by the Bureau of Labor Statistics cost-factoring structural unemployment training programs like CETA, and so forth, there is no such national or universally accepted statistical information base on long term home health care programs. Onsite, regional and case studies abound, but the data they collect and the conclusions they draw often conflict. This is in part why cost estimates of S. 234 by experts within the GAO, the CBO and equally respectable organizations using these variant data bases often conflict.

Third. In an imperfect world, the Congressional Budget Office [CBO] is one of our deservingly respected but equally imperfect institutions. When Congress set up the CBO in the wake of passing the Budget Reform Act of 1974, it was intended to serve as our counterpart to the President's Office of Management and Budget. It performs faithfully, and the information it dispenses is always useful. Yet we must always resist the temptation to accept everything the staff economists and auditors of the CBO say as Holy Grail. Even agencies of our Government painted in the most neutral colors can be wrong. For example, the Treasury Department and the administration as a whole are challenging CBO's total fiscal year 1983 budget projection of $129 billion. My own bias drawn from my allegiance to the Reagan administration aside, I share the President's opinion that in this matter, the CBO is all wet. I certainly hope it is, but I also acknowledge the respectability and integrity of those standing on either side in this debate.

As members of the Senate Labor and Human Resources Committee commented in the report I have today filed on S. 234, the assumptions employed and CBO's conclusions for a cost estimate of this legislation are also subject to a lively and serious debate. This is why along with reprinting the CBO suggested cost analysis of S. 234 in our report, we were also compelled to include our own comments based on additional information, comments predicated on our informed view that CBO's cost estimate of S. 234 is high.

While the details and additional annual projections of CBO's projected cost of S. 234 are fully contained in the report, I can summarize by highlighting CBO's suggested total net budget impact of S. 234 for fiscal year 1983 as $2.4 billion, rising in fiscal year 1987 to $4.7 billion. Based on the information gathered by at least equally formidable budgetary and program analysts, the committee report concludes a total projected cost of S. 234 for fiscal year 1983 of $1.9 billion, with relatively marginal budgetary line increases for the fiscal years to follow.

However, the one most important fact to be recognized in the debate over S. 234's future costs is recognizing the budgetary "offsets" which bring the true cost-effectiveness of S. 234 into focus. That is, whether one accepts the higher CBO cost estimates of S. 234 as somewhere just above $2 billion or the more modest cost projections of many others which range just above $1 billion, these must be offset against the $6.676 billion the Federal Government is already committed to spend under medicare/medicaid for nursing home institutional expenses for fiscal year 1983.

The Congressional Budget Office and several other conventionally tabulated estimates printed in several long-term care trade publications failed to take these "offset" factors into account. Medicaid and medicare currently make up approximately 90 percent of the Federal costs for nursing home construction and maintenance. Medicaid for fiscal year 1983 is projected to spend $6.163 billion, and medicare will spend $513 million, as reported by the Health Care Finance Administration (HCFA). This total Federal nursing home maintenance cost for fiscal year 1983 of $6.676 when added to the matching public funds to be provided by State governments comes to a grand total of $11.8 billion. And when added to the private share of national nursing home institutional costs for fiscal year 1983 of $9 billion, the combined public and private national annual cost of nursing home maintenance for fiscal year 1983 comes to $20.8 billion. In light of these statistical highlights of what nursing home institutionalization will cost us next year, a cost already reflecting the administration's proposed medicare and medicaid cuts, the relatively more modest cost projections of S. 234—even accepting CBO's higher estimate of somewhere over $2 billion—become more accurately understood. And when the total cost of implementing the home health care provisions of S. 234, whether we are talking about $1 billion or $2 billion, is factored against the large number of Federal dollars saved because of less being spent on the more expensive program of Federal nursing home institutionalization, a more vivid picture of how much S. 234 can save us in long-term Federal dollars is more clearly visible.

WHY IT IS NOT JUST ANOTHER ENTITLEMENT

S. 234 has the potential strength of dramatically reducing the prevailing highly inflated costs associated with hospital recovery and long-term care services. In large part, this is because of the savings which are generated by early discharge, as every available study comparing the costs between home care and nursing home care make abundantly clear. As several studies specifically conclude as highlighted in our S. 234 report, the use of less expensive and less steadily utilized services in the home health care environment versus the full-time, skilled nursing care and support services in institutions gives the argument for home health care's cost effectiveness additional support.

In the meantime, our Nation is already beginning a little publicized yet major crisis in planning for long-term care because of the anticipated shortage of nursing home and intermediate care beds. Certificate of need regulations supported by State health plans have already retarded the building of new nursing home beds. In today's world, most skilled nursing facilities are seeking ways to avoid admitting medicaid patients. Cost of care in a skilled nursing facility often exceed medicaid reimbursement rates by $10 and $12 a day. The future forecast is for even worse weather. Our Nation's total available supply of institutional beds is declining at a time when our elderly population and their most serious demands for health care are increasing. Unless we are prepared to see many of the cities in the freest and relatively wealthiest country in the world begin to resemble the sidewalks of Calcutta several years hence, the federally funded status quo currently weighted in favor of nursing home institutionalization will need the kind of structural overhaul S. 234 makes possible.

It has been contended, I regret to say, by those who act as if they would rather ridicule than read S. 234 and our report, that the cost of training homemaker-home health aides would make any home health care program as ambitious as the one we are promoting prohibitively expensive. This contention violates everything we have learned about the cost of such training. This contention is absolute nonsense, and I hope I am not being too subtle.

True, S. 234 will necessitate recruiting, training and supervising a larger corps of home health aides. There are in fact several training programs already available to bring untrained men and women up to the acceptable standards of performance. These programs require between 8 to 10 weeks of training. Under these programs, we would be able to train approximately 10,000 home health aides per year. Labor turnover in this skilled area usually runs to between 30 to 40 percent annually. As home health aide utilization increases, however, previously trained home health aides will be able to move back and forth between home care services and other semiskilled job opportunities. And as this reservoir of trained people grows, the need for training new populations of them will taper off. This is already proving to be the case.

In short, institutional nursing home needs are not expanding fast enough to meet the needs of our growing population. Every economic indicator reveals that the home health care alternative is the only solution in sight. It is the only way we can meet this rising health care need and demand cycle headon and keep costs from rising the least, short of turning ourselves into a society which becomes cold, nasty, brutish, and short. It is our only means of controlling these avalanching costs while containing their future expansion.

S. 234'S PROVISION OF NEW SERVICES

As our legislation and the report on the Community Home Health Services Act describes in more detail, S. 234 also provides for three new reimburseable services, each of which are tied to eligibility restrictions and cost-sharing incentives preventing future fraud or abuse of their availability: First, homemaker/home health aide services; second, respiratory therapy; and third, occupational therapy.

First. If home health care is to become a genuine alternative to nursing home institutionalization, program benefits must include the homemaker and chore services which have become an essential part of home care, particularly for chronically ill patients. Provision for skilled-type care alone will not maintain an elderly patient at home or prevent premature institutionalization. As was thoughtfully expressed by the National Retired Teachers Association and the American Association of Retired Persons on behalf of S. 234 during our earlier committee hearing:

> It has been our experience that the exclusion of non-medical, personal care services as well as transportation costs, has often made it impractical to maintain certain patients in the home, thereby leaving no choice but institutionalization. Under proper supervision and management, we believe these services can prove to be cost-effective when compared with the costs of providing institutional care for many patients.

Second. Providing respiratory therapy in home care settings after acute exacerbations to patients suffering from chronic obstructive pulmonary disease [COPD] is intended to reduce the length of and frequency of hospitalization. The elderly citizens suffering from COPD are on the average hospitalized twice a year. Providing respiratory therapy in the home has proven effective in sharply decreasing these lengthy hospital stays, while allowing patients to remain in their own homes where they would prefer to stay.

Like young Katie Beckett, there are millions of medicare beneficiaries who suffer from chronic obstructive disease. Their recurring hospital stays cost taxpayers millions annually. Studies like one recently completed in Loma Linda, Calif., all conclude that home health care utilization of respiratory therapy services reduces the number of days in the hospital from 18 days a year to less that 3.4 days annually. The average cost of providing a patient suffering from COPD is $650 per year, which includes the cost of any necessary hospitalization. This compares to $6,000 per petient per year for the alternative of hospital care needed without COPD respiratory therapy care at home.

Third. Occupational therapy professionally manages the physical, psychological and developmentally disabled needs of developmentally disabled patients. It develops their maximum level of independent living by treating those pathological and impaired functions which preclude independence and productivity. A home care occupational therapist using knowledge of motor and sensory limitations can instruct the patient in the essentials of daily living. They form a clinical bridge, making possible a transition from the hospital setting to the home and to the demands of daily living.

The Congressional Budget Office estimates the cost of adding occupational therapy as a "qualifying criteria," that is as a new service under S. 234 to be $27 million for fiscal year 1983. Once again, CBO's estimate is much too high. Their figure is based on a 1981 estimate of projected savings for fiscal year 1983 when occupational therapy was removed as a qualifying criteria. Using it as a qualifying criteria, the Senate Finance Committee and the House Ways and Means Committee estimate the cost to come closer to $10 million, which is the maximum projected cost for establishing occupational therapy as a qualifying criteria in fiscal year 1983. Finally, this estimate can be reduced once again to reflect the provision we have added in S. 234, further limiting one's eligibility for occupational therapy services to individuals who must be proven to have been institutionalized but for this particular service. This so-called but for provision; that is, but for the provision of these services a patient would have been institutionalized, is a requirement for every clause, affecting every new service provided in S. 234. It is yet another assurance that what we are proposing in expanding home health care, is cost effective. We are not seeking to mushroom the already inflated cloud of Federal entitlement money. Instead, S. 234 is the most genuine legislative preventative cure for the inflationary influenza in health care services which everyone has come to diagnose, and which must be treated before it is too late.

THE LEGISLATIVE HOMESTRETCH

As I said earlier, S. 234 was reported from the Committee on Labor and Human Resources on December 15 of last year. As legislation reauthorizing sections of the Public Health Service Act, the Parliamentarian singly referred this bill to our committee where during two sets of hearings it was thoroughly reviewed, modified and reported. As I said during our committee markup of S. 234, however, the addition of a tax credit provision and augmented sections on medicare policy are the proper legislative province of the Finance Committee whose distinguished chairman and members have a natural interest in long-term care policy, particularly those serving on the Subcommittee on Health. Our friends and colleagues on the Finance Committee, especially Chairman Dole, Senators Durenberger, Packwood, and Heinz along with their superb health legislative staffs are especially known to all of us as active and innovative legislative leaders in our mutual clause of improving and extending long-term care health coverage without jeopardizing our efforts to stem health cost inflation. This is why I and my own committee colleagues depend on the wisdom and energies of our Finance Committee counterparts to expedite review of the pertinent sections of S. 234 which bear on tax or medicare long-term health care policy, in the wake of which we seek the earliest Senate floor consideration of our legislation. The House counterpart to S. 234, H.R. 5531 which was introduced on February 10 of this year by the honorable gentleman from New York, Representative Molinari, is being actively considered in both the House Commerce and Ways and Means committees.

The total sum of this House and Senate legislative action on the Community Home Health Services Act equates with the last leg of a race, one hopefully nearing its completion. As was observed last summer during a hearing my committee held on preventative health, the witness in this case referring to the benefits of jogging. "No runner is ever the same person after a race than he or she may have been before a marathon. The change is inevitable." I never dreamed that I would one day be speaking on the floor of the U.S. Senate, exhorting my colleagues with the advice that, "change is inevitable." Legislatively speaking, at least, if in this legislative home stretch for S. 234 further changes must be made in spite of what I believe to be the near-perfect bill produced by the members of our committee, few of us will be surprised. I am one of many, however, who only ask the special consideration implicit in requesting that our legislative race be carried to its completion, and that Congress not once again put off until another session doing what a growing number of us know must be done. I am talking about making the changes in Federal law required to aid those thousands of Americans who are annually swept into nursing homes when they could more properly and happily be cared for in their own homes or apartments. Unless these changes are made, and unless home health care is allowed to become the real and ready alternative so desperately needed, the impending health care cost inflation multiplied by the demographic explosion I described earlier will bring fiscal catastrophy for nursing homes unable to cope with the unnatural increase in demands for services.

I spent most of this time I have been allotted discussing why S. 234 and the home health care approach is cost effective. I encourage my colleagues to read the legislative report I have today filed on S. 234 for additional proof of this. Cost effectiveness, of course, is only the second of two principle legislative objectives by those of us supporting S. 234. The first is to nourish liberty, instill dignity, and make possible the pursuit of happiness for all too many elderly and disabled Americans who have long forgotten what these words really mean.

Mr. President, I ask unanimous consent that the material mentioned earlier in my statement be printed in the Record at this point.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Community Home Health Services Act of 1981—(S. 234)

INTRODUCTION

The number of elderly Americans has been growing rapidly and this expansion is expected to continue for many years. Each day there is a net increase of 1,600 persons over the age of 65. By the year 2030, the elderly are expected to comprise 18.3 percent of the total population, up from the current figure of 11.3 percent.[1] Even more dramatic are the projected increases in the over-75 and over-85 age groups. These changes in the population of the elderly portend a corresponding future need for expanded long-term health services.

Today, some 1.3 million Americans, including 5 percent of those over the age of 65, are confined to nursing homes or similar institutions.[2] Because elderly persons typically have poorer health than other groups in society, their use of health services, particularly nursing homes, is expected to grow swiftly in the future. By the year 2000, some 2 million people may be living in nursing homes unless the present policy toward long-term care is changed and the trend toward over-institutionalization is reversed.[3]

The cost of nursing home care services is high. In 1979 alone, these expenditures amounted to $17.8 billion, with 56.7 percent paid by the federal government.[4] While the need for long-term care is rapidly escalating, the government's ability to raise the revenues necessary to provide such care is limited. To avoid the prospect of a costly build-up of nursing home facilities, a thorough re-evaluation of federal programs that finance long-term care must be a top priority.

One alternative to institutionalization is increased use of home health care services. However, movement in this direction has been retarded, largely by Medicaid and Medicare policies that create financial incentives which favor care for the chronically ill elderly in nursing homes. Senator Kennedy commented in recent hearings that: "The lack of adequate alternatives to institutionalized care for our Nation's disabled and elderly is a serious gap in our health delivery system."[5] One reason for this void is the problem of verification of home care services under Medicare or other insurance programs. With the proper incentives, however, greater reliance on home care can help to meet the growing health needs of the American people at a reasonable cost.

BACKGROUND

Medicare, Medicaid, Title XX of the Social Security Act, and the Older Americans Act are the four principal government programs that provide home care services to the elderly. Medicare is the largest and fastest growing of these government programs, with a projected spending level of $1.146 billion in fiscal year 1982—an increase of about 300 percent over the 1976 level.[6] Medicare funds for home health servces are used to provide skilled nursing; physical or speech therapy; home health aide assistance; and medical supplies and appliances. To qualify for home health coverage under Medicare, a person must be homebound, under a physician's care, and in need of skilled nursing care and/or physical or speech therapy on a part-time or intermittent basis. The care must be prescribed by a physician and the services furnished by a certified home health agency.

The home health services offered by Medicaid are similar, although they may vary from state to state. States may impose restrictions such as visit and reimbursement limits, and prior authorization of services. However, a patient need not be homebound or in need of skilled care to receive benefits.

Despite the growth in home health care expenditures, there still appears to be an unmet demand for home care services. In a 1977 report, the Congressional Budget

Office (CBO) compared the potential need and the available supply of home health care and found that 1.7 to 2.7 million people were in potential need of expanded home services, but only 300,000 to 500,000 were receiving them. In addition, between 20 and 40 percent of all institutionalized persons were inappropriately placed and could be cared for in less intensive settings if adequate community care were available.[7]

CBO further estimates that in 1976, 90 percent of all public long-term care expenditures went to provide nursing home services, with less than 10 percent for home health services.[8] The lack of adequate financial assistance for community-based health care services has forced many elderly to enter a nursing home even if they prefer to remain at home.

THE PROBLEM

The main reason for the relatively low level of long-term care in the home seems to be because Medicare, Medicaid, and other federal programs offer little or no financial coverage for such care. In fact, Medicaid actually discourages long-term care in the home by providing full or partial coverage of the patient in a nursing home.

Medicare's home health care coverage is aimed primarily at serving the elderly with acute care needs and, as a result, it largely excludes those who require extended care. Requirements that the recipient be homebound and that the services be performed by skilled professionals are particularly restrictive. Clarifying the definition of homebound and eliminating skilled care provisions would enable those who are not confined to their homes but require care to be treated in the home.

Medicaid's home health coverage, like Medicare's, is oriented toward the delivery of acute care services. This is apparent from comparing the fiscal year 1979 total state and federal Medicaid expenditures of $346 million on home care with the $8.8 million spent on skilled and intermediate care facilities.[9] There are two reasons for this inherent bais. First, the elderly poor who are not eligible for Medicaid coverage in the home, but cannot afford long-term care, may qualify if they enter a nursing home because of different income standards for nursing home residents in many states. Second, family members are held financially responsible for Medicaid patients only while they are all residing in the same household. If the Medicaid patient is placed in an institution, no financial liability is imposed on others members of the family. Thus, the elderly not eligible for Medicaid outside a nursing home may transfer their assets to relatives and become eligible for Medicaid coverage of nursing home care, or, as is increasingly the case, they may enter a nursing home, deplete all of their financial resources, and then become eligible for Medicaid's nursing home benefit.

THE COMMUNITY HOME HEALTH SERVICES ACT OF 1981

Medical advances have extended the human lifespan dramatically. With advancing age, however, people are more likely to suffer from chronic conditions that require treatment over an extended period of time. As the elderly population grows relative to the total population, there will be a smaller proportion of young people in the labor force to pay the taxes which finance programs aiding our older citizens. As public funds become scarce and the need for long-term care grows, every effort possible should be made to encourage alternative arrangements, such as among family and friends, church groups and community-based organizations. The idea of shifting the provision of health care to families and other groups also fits in with the Administration's approach to meeting the nation's health care needs. Until recently, however, policies designed to help the elderly not only failed to utilize these human resources, but often supplanted them, leaving many persons no reasonable choice other than nursing home care.

There is finally some support for an effective alternative to institutional care. Legislation has been introduced in Congress to encourage establishment of home health programs, to provide expanded coverage of home health services under Medicare and Medicaid, and to encourage individuals to provide for the care of elderly dependents in the home. The Senate bill (S. 234) is sponsored by Senator Orrin Hatch (R-Utah), and the House bill (H.R. 2414) by Representative Guy Molinari (R-NY).[10] The proposed legislation opens the door for alternatives to premature and unnecessary institutionalization. It emphasizes the need for treatment, not the setting, and stresses that the home may often be the most appropriate and cost-effective setting for needed health care.

The measure has considerable bipartisan support in the Congress. Although the Administration has not taken a position, Robert Rubin, Assistant Secretary for Planning and Evaluation at the Department of Health and Human Services, notes home health agencies and other innovative approaches to health care have "much long-run potential for cost-savings."

PROVISIONS OF THE BILL

Grant authority

The bill would amend the Public Health Service Act to provide grants to public and non-profit private entities and loans to proprietary home health entities for the specific purpose of meeting the initial costs of establishing and operating home health programs. Further, the grants could be used to provide training to professional and paraprofessional home health personnel. Priority in awarding grants and loans would be given to areas that do not have home health services and/or those without adequate transportation to serve the elderly.

Medicare and medicaid amendments

The bill would broaden eligibility standards for those needing home health care under Medicare to include skilled nursing care, the services of a homemaker/home health aid on a part-time or intermittent basis, or physical, speech, occupational, or respiratory therapy. The decision to provide a homemaker/home health aid would be contingent upon an evaluation of all available alternative resources in the community in an effort to maintain and not displace current support if already received.

Home health care services such as skilled nursing care and physical and speech therapy would be reimbursed at the current level of 100 percent, as would occupational and respiratory therapy and the homemaker/home health aide services needed in connection with these services. To discourage the participation of individuals who are not in absolute need, those homemaker/home health aide services received alone or without additional services would only be reimbursed at 50 percent.

Both chronic and acute care would come within the purview of home health benefits. In addition, the definitions and terms used to describe home health services under Medicare would also be the same under Medicaid.

The bill would request the Department of Health and Human Services to assemble and study all available information on alternative reimbursement mechanisms for home health agencies in order to determine the most cost-effective and efficient ways of providing home health services.

In an effort to provide Medicare/Medicaid reimbursement to established, responsible, and cost-effective programs, the Secretary would have waiver authority over the certification requirement of the home health agency, if the provider of the home health program can prove he is worthy of the waiver.

Income tax credit

Finally, a $500 tax credit would be available to individuals who support a dependent person in their home.

ARGUMENTS IN SUPPORT OF THE BILL

Supporters of the bill point out that home health care is a more humane way of treating individuals who do not need to be institutionalized. One patient at the Chelsea Village home health care program expressed the sentiments of many when she said, "Thank God you are here, if only you will help me stay out of a nursing home."[11] Her fear of institutionalization appears to be common among the elderly. Older people placed in hospitals or nursing homes when they do not need to be there suffer from the regimentation and lack of independence that is all too common in institutionalized settings. Furthermore, persons in institutions tend to acquire a sense of dependence, and their chances of returning to the community are reduced.

A number of studies report that patients who received home health care services experienced reduced mortality rates and slightly higher contentment levels.[12] For example, reports from the Triage program and the On Lok Day Health Services program reveal that participants were significantly more satisfied with their condition than nursing home residents with theirs. This bill makes these benefits more readily available to those persons that need care. Because rural areas, in particular, have lacked comprehensive health services, patients from these areas have been forced either to travel long distances for health care or to do without it. The bill addresses the present void in coverage by encouraging providers of home health care to extend their services to these areas as well. Moreoever, it would reduce the need for extended hospital and nursing home stays because it would provide more services for homebound patients.

Because home health care can often be provided at a lower cost per day than nursing home care, supporters of the bill claim that expanded home health services can reduce public expenditures on health care. Dr. Philip Brickner, director of the Chelsea Village program, reported considerable savings in the use of home care compared to nursing home care. In recent testimony before the Senate, he contrasted the $833 per month home care costs for an 83)year-old woman with Medicaid's local payments of $2,122 a month for skilled nursing home care. Dr. Brickner found that the cost of long-term care at home average about 40 percent less, even when including the value of rent, food, clothing, telephone, medications, professional health services, and the help of community agencies.[13] According to Congressman Molinari, "It [the bill] will help to allow more of the aged to stay in their own homes while receiving quality care on a regular basis at a fraction of the cost of full-time institutionalized care."[14]

The expanded coverage of home health services under Medicare and Medicaid provided by this legislation would be a big step in countering the present bias toward institutionalization. In addition, the $500 tax credit would promote greater family participation in support of their elderly by providing a financial incentive to care for older relatives in the home rather than sending them to an institution. This credit may not offset all of the costs associated with the care of a dependent in the home, but it may make a sufficient difference to enough families to result in a real reduction in spending on health care. Families are the most valuable support system for our nation's older people. It is families, not the government, that provide the most care for the elderly. For every senior citizen in a nursing home or similar institution, there are at least two equally impaired elderly people receiving care at home.[15] This legislation strongly emphasizes the continuation of such family responsibility.

Encouraging family cooperation in the support of the elderly may also reduce the rate of growth of overall health care costs by addressing the problem of moral hazard. One of the principal causes of escalating health care costs has been the increasing tendency for third parties to pay medical expenses. Third-party payments artificially inflate the demand for health care because covered patients perceive such services as being free. This misconception not only drives up the price of medical care, but also creates vast inefficiencies by encouraging people to use health care services beyond a level commensurate with costs. Moreover, providers of health care have every incentive to over-provide care, because they know it often appears to be costless to the consumer and the provider will be rewarded with greater revenues. As a result, excessive costs will be imposed upon taxpayers and consumers of insurance. Present Medicare and Medicaid policies artificially lower the price of institutionalized care relative to other forms of care, thereby encouraging excessive use and driving prices upward. Family members caring for their elderly at home are likely to be more cost-conscious if they have increased out-of-pocket costs. Similarly, the providers of health care will have to take costs into account if they want to keep their patients.

Finally, the bill would allow for the experimentation of alternative reimbursement systems for Medicare and Medicaid. The current retroactive cost reimbursement system is unsatisfactory. In testimony before the Senate, Donald W. Wortley of the Council of Home Health Agencies and Community Health Services of the National League for Nursing, described the problem with the present system:

"Currently, Medicare payments to home health agencies are based on the lesser of reasonable cost or customary charges. Home health agencies are paid during the year based on estimated costs, but final settlements are limited to those costs found by intermediaries to be proper, reasonable, and related to patient care. Final cost settlements often take two or more years.

* * * * *

"Now I ask you, Mr. Chairman, don't you think that there would be a problem in providing a service when you had no idea what you would be paid for it until two years later?"[16]

Among the alternatives being looked at are fee schedules, prospective reimbursement, and capitation payments.

ARGUMENTS AGAINST THE BILL

Some Administration officials have expressed uncertainty regarding the potential savings, arguing that a national home health care program would create new demands by many people now cared for in their communities by family or friends. According to one official, "A daughter or son obliged to take care of their elderly mother would have no such obligation if the Government took care of them."[17] Critics of the bill point out that the cost comparisons made by Dr. Brickner and others are somewhat misleading because they are based solely on physician estimates of "probable" institutionalization. Federal expenditures on health care actually may increase if the expanded availability of home health services is used as an add-on to existing care, rather than substituting for nursing home care. If the substitution effects are minimal, as some studies seem to point out, problems relating to moral hazard are exacerbated.[18] In other words, if the increased coverage induces an increased demand for scarce resources, costs may rise. The tax credit may have similar problems. It makes it easier for families to shift the cost of care to the federal government and may be used for purposes other than long-term care purchases, thereby defeating the objective of the bill.

This is not to say that home health care cannot be used as an effective cost control measure. However, if savings are to be realized, the services must be targeted to those who would otherwise be unstitutionalized. The bill emphasizes just that point.

CONCLUSION

Studies by the General Accounting Office and others have concluded that a significant proportion of the nursing home population could be cared for in a less intensive and less expensive setting. One report noted that "until an older person becomes greatly impaired, the cost of nursing home care, both financial and personal, often exceeds that of home health care."[19] Because resources are limited and the demand for long-term care is expected to grow, it is important to find other ways of providing care at lower cost. This bill recognizes that quality care can be provided in a cost-efficient manner in a continuum of settings ranging from one's own home to a hospital or nursing home. By offering older people who need long-term care a choice, this bill minimizes both the monetary and social costs that will accompany the inevitable expansion of long-term care services in the coming years.

PETER G. GERMANIS,
Policy Analyst.

FOOTNOTES

[1] Statement of the National Retired Teachers Association and the American Association of Retired Persons in Hearings before the Committee on Labor and Human Resources, U.S. Senate, on S. 234—The Community Home Health Services Act of 1981, March 4, 1981, p. 113 (hereafter Hearings).

[2] U.S. Department of Health and Human Services, Long Term Care: Background and Future Directions (HCFA 81-20047, January 1981), p. 15.

[3] Hearings, p. 114.

[4] U.S. Department of Health and Human Services, *op. cit.*, p. 15.

[5] Hearings, p. 2.

[6] Statement of Eleanor Chelimsky, Director, Institute of Program Evaluation, United States General Accounting Office, before the Committee on Labor and Human Resources, United States Senate, on Expanded Home Health Care, November 10, 1981, p. 6.

[7] Congressional Budget Office, Long-Term Care for the Elderly and Disabled, February 1977, p. x.

[8] Ibid.

[9] Hearings, p. 14.

[10] The bills were identical when introduced, but the Senate has modified its version somewhat. The discussion in this paper will be restricted to the Senate bill.

[11] Bernard Weinraub, "Taking the Hospital to Homes of Aged," the New York Times, June 18, 1981, p. B14.

[12] In one such study, Dr. William Weissert noted a caveat with regard to the finding of higher contentment levels and increased longevity: "[T]his may have been due directly to eagerness on the part of homemakers to call in health care professionals who hospitalized the patient in time of crisis. When patients who were not hospitalized were compared, homemaker services showed no beneficial effects. Thus, it may have been hospitalization, not homemaker care, that kept alive and thereby sustained their contentment levels. If so, there are probably less expensive ways than providing homemaker services to do case findings and surveillance that gets old people into hospitals in a timely fashion." See William G. Weissert, "Toward a Continuum of Care for the Elderly: A Note of Caution," Public Policy, Volume 29, No. 3 (Summer 1981), p. 33.

[13] Weinraub, op. cit., p. B14.

[14] Ibid., p. B1.

[15] Michael A. Smyer and Margret C. Plantz, "Caring for the Elderly," the New York Times, November 14, 1981, p. A23.

[16] Statement by Donald W. Wortley, Chairman of the Executive Committee of the Council of Home Health Agencies and Community Health Services of the National League for Nursing, before the Committee on Labor and Human Resources, U.S. Senate, on S. 234—The Community Home Health Services Act of 1981, November 10, 1981, p. 12.

[17] Bernard Weinraub, "Home Care is Pushed in Senate as Alternative to Institutions for the Aged," the New York Times, April 16, 1981, p. A20.

[18] See U.S. Department of Health and Human Services, op. cit. pp. 43-45.

[19] See Statement of the National Retired Teachers Association and the American Association of Retired Persons in Hearings, p. 117.

INCREASING SUPPORT AND ENDORSEMENTS FOR HATCH HOME HEALTH CARE BILL

Organizations and individual supporters for bill to expand home health services, S. 234, "The Community Home Health Services Act" include:

The Catholic Health Association.
National Multiple Sclerosis Society.
American Cancer Society.
San Francisco Home Health Services.
American Dietetic Association.
Members of the Central Minnesota Dietetic Association.
American Hospital Association.
National Association of Home Health Agencies.
National Home Caring Council.
Council of Home Health Agencies and Community Health Services of the National League for Nursing.
Home Health Services and Staffing Association.
American Federation of Home Health Agencies.
American Association of Respiratory Therapy.
National Association of Counties.
American Medical Internation, Inc.
Mayor Edward Koch of New York City.
American Occupational Therapy Association, Inc.
American Associations of Physical Therapy.
Ms. Helen Hayes.
Amyopthrophic Lateral Sclerosis Society of America.
(Partial list)

Editorial endorsement: The Sacramento Bee; WCBS, New York; WOR Radio, New York.

[From the New York Daily News, Feb. 21, 1982]

THE ECONOMICS OF OLD AGE AND GOOD HEALTH

(By William F. Buckley, Jr.)

They teach you in college English courses to "generalize by particularization." Helen Hays did that admirably when testifying in favor of Sen. Orrin Hatch's bill with the ungainly title of the Community Home Health Service Act, more readily referred to as S. 234. What she said to the committee was: "You know, we have lengthened life through science. We are living longer. My grandmother lived to be 70. My mother lived to be 74. I am 81, and here I am, seated in the Senate Hearing Room, making a lot of noise." Miss Hayes' noise has always been welcome, and besides, her point is profound.

Add to it two particulars. Try, the next time you are seated in the company of a half-dozen friends, asking around the circle the following question: "Except for medical developments of the past 50 years, would you be living today?" A ghoulish kind of thing, but a nice introduction to reality. I tried it once, and only two of the six of us would have survived, having been born a half-century earlier.

Now to the two data above, add this—that by the turn of the year 2000, Sen. Hatch's staff has projected, the number of Americans 65 years and older will have increased by 35%. This is an overpowering development. One has only, for instance, to add 35% to the present cost of maintaining the elderly, then add longevity, and then subtract from the number of 65-year-olds who must pay the bills in order to get some idea of the economic corollaries of advanced good health.

What S. 234 seeks to do is look at nursing homes and hospitals and ask the question: "Does Mrs. Jones, or Mr. Smith, really need to be there?" The idea is to de-institutionalize the nursing home, to cause it to be not the first thing the family thinks of when the elderly parent develops problems—for instance, in climbing a staircase to the bedroom or getting in and out of bed—but the last.

Helen Hayes, who has devoted much of her time recently to exploring the problems of the aged, came across one man who had been 13 years in a nursing home, and what he missed most "was taking a snack out of his own refrigerator." "This may not be much," said Miss Hayes, "until all the small decisions are taken out of your hands, and you find that your great age has reduced you to a child."

So there are two objectives to be pursued. The first is to render old age more pleasant than it is for so many people. This, to be sure, requires a stimulation and an ethos biblical in its authority ("Honor thy father and mother"). The newspapers are currently reporting the dissipation of this ethos where it once was so strong, in the orient. Any society, like mainland China's, that can subscribe to a doctine, that holds that human beings are merely stochastic concatenations of chemcial particles, governed by historical dialectic, cannot be expected to hold sacred the rights and pleasures of elderly parasites. So that caring about the elderly comes first.

The second objective of S. 234 is to diminish the burden of those who do the caring. The bill envisages a number of innovations, among them a tax credit of up to $500 to families that look after elderly dependents. If daily care is needed, say in the form of an injection, isn't it cheaper to have the housewife go and be taught how to inject? Or to bring a nurse in once a day to perform the injection? When the alternative is taking the grandmother and placing her permanently in a home?

In 1979, the cost of nursing-home care reached almost $18 billion, over one half of it furnished by the federal government. It is time to experiment with other means of caring for the elderly. Even if the dollar figure isn't reduced, the quality of life can be greatly affected. It is good news that the committee voted in favor of S. 234 by a margin of 15 to 1, and congressmen should reflect that in showing a concern for the elderly, they are showing also a concern for themselves, down the road a bit.

[From the Columbus Dispatch (Ohio), Jan. 25, 1982]

HOME HEALTH CARE

Proper health care for the elderly and the disabled is something every politician is for, especially in an election year. Coming up with a practical health plan, one that does the job and that the nation and the taxpayers can afford, is more difficult.

Legislation that appears to have some of the correct answers will be considered in the coming second session of the 97th Congress. The Senate version is sponsored by Sen. Orrin Hatch, R-Utah, and the House of Representatives version is sponsored by Rep. Guy Molinari, R-N.Y.

"The proposed legislation opens the door for alternatives to premature and unnecessary institutionalization," writes Peter Germanis, economic analyst for the Heritage Foundation, a conservative think tank based in Washington, D.C. "It emphasizes the need for treatment, not the setting, and stresses that the home may often be the most appropriate and cost-effective setting for needed health care."

Existing programs, it is argued, force many elderly persons to choose between entering a nursing home or going without the care they should have.

The proposed bill would amend the Public Health Service Act to provide grants to public and non-profit private entities and loans to proprietary home health entities to meet the initial costs of establishing and operating home health programs.

The bill would broaden eligibility standards for those needing home health care under Medicare to include skilled nursing care, the services of a homemaker/home health aide on a part-time or intermittent basis, or physical, speech, occupational or respiratory therapy. Similar provisions would apply to Medicaid.

The bill would also allow a $500 tax credit for individuals who support a dependent person in their home.

Proponents believe the bill would reduce health care costs while making it more convenient and, in many cases, more desirable. One proponent claims $833 per month in home care costs for an 83-year-old woman compares with Medicaid's local payments of $2,122 a month for skilled nursing home care. The same proponent said long-term care at home costs 40 percent less than nursing home care, and that includes rent, food, clothing, telephone, medications, professional health services and the help of community agencies.

Opponents fear the bill would open up federal health care assistance to huge new demands and that overall costs would skyrocket even faster than costs are under the present system.

We believe the proposed legislation has considerable merit. It certainly has appeal to the many elderly who actually fear the thought of going into a nursing home, especially if the nursing home is far from the homestead.

There must, however, be safeguards to ensure the home services will be for those who really need them and who would otherwise have to enter a hospital or other care facility. The program cannot be for all aches and pains.

Like so many other programs, it will work only if administered with care, common sense and honesty.

[From the Dallas Times Herald, Jan. 18, 1982]

HOME HEALTH CARE

Many elderly and disabled Americans could remain at home and avoid unnecessary and costly institutionalization if Congress approves a bill that is now under consideration in the Senate. It is not often that humane health care and budget savings can be combined in one piece of legislation, but the proposed Community Home Health Services Act aims straight at both problems, and we urge favorable action by both houses of Congress.

By the year 2000, some 2 million people may be living in nursing homes unless the present policy toward long-term care is changed and the trend toward overinstitutionalization is reversed, according to a recent study. The cost of nursing-home services is high, totaling some $17 billion in 1979, with 56.7 percent paid by the federal government.

Under the present system, Medicaid, Medicare and other federal programs offer little or no financial coverage for home care, the author of the study, economic analyst Peter Germanis, points out. "The lack of adequate financial assistance for community-based health care services has forced many elderly to enter a nursing home even if they prefer to remain at home," he added.

The proposed legislation would significantly expand medicare and medicaid coverage of home health services and would be a big step in countering the present bias toward institutionalization, Mr. Germanis said. The bill also would make a $500 tax credit available to individuals who support a dependent person in their home.

Many elderly and disabled individuals must have care in nursing homes or hospitals, but it is insensitive and expensive to force people into institutions if they can be cared for at home. Older people placed in hospitals or nursing homes when they do not need to be there suffer from the regimentation and lack of independence that is all too common in institutionalized settings, Germanis said. In addition, people in institutions tend to acquire a sense of dependence, and their chances of returning to the community are reduced.

The extent of the savings in health-care costs that would result cannot be determined exactly, since any economies of home care would depend on whether the program resulted in increased total coverage or simply prevented unnecessary institutionalizations. But one Senate witness contrasted the $833 per month that it costs to care for an 83-year-old woman at home with Medicaid's local payments of $2,122 a month for skilled nursing home care.

Some home health care is provided under current laws, but a study by the Congressional Budget Office found that 1.7 million to 2.7 million people were in potential need of expanded home services and that only 300,000 to 500,000 were receiving them. The CBO said that between 20 and 40 percent of all institutionalized persons were "inappropriately placed" and could be cared for in less intensive settings if adequate community care were available.

We believe greater reliance on home care can help this nation meet the growing health needs of the American people at reasonable costs.

[From the Spectrum-Cedar City and St. George, Utah, Dec. 4, 1981]

IN OUR OPINION HOME HEALTH CARE PLAN COULD CUT COSTS

Sometimes rigid federal rules can cost taxpayers many millions of dollars. President Reagan made this point as he gave his support to a proposed change in Medicaid which would allow the government to pay for home health care costs in certain cases.

In the case cited by the president, 3½-year-old Katie Beckett of Cedar Rapids, Iowa, has recovered substantially from viral encephalitis which damaged her nervious system and caused paralysis. Doctors say she can be cared for just as well at home, but federal Medicaid regulations allow the government to pay the girl's treatment only if she stays in a hospital. Federal money can't be used to pay the cost of her care at home.

The family involved says it costs $12,000 a month for the girl's care in a hospital but if she were allowed to go home the cost would be only $2,000.

After President Reagan spotlighted Katie Beckett's case, the government waived its rules and allowed the family to be compensated for her treatment at home. Thousand of other patients in a position similar to Katie are still being forced to stay in hospitals due to the regulation which is still on the books.

A bill sponsored by Sen. Orrin G. Hatch, R-Utah, in addition to expanding coverage of home health care services under Medicaid and Medicare, also would give tax breaks to families who care for elderly relatives at homes. Hatch said that more than 25 million Americans over 65 are being forced to enter nursing homes instead of staying with their families.

These two proposals in the Hatch bill illustrate how sensible changes could greatly reduce the heavy load on hospitals and nursing homes thereby saving huge sums of money. At the same time people of all ages can be made happier by being at home rather than having to be confined in a hospital or nursing home.

[From the Washington Post, Dec. 16, 1981]

STUDY SUGGESTS OVERUSE OF INTENSIVE CARE UNITS

(By Cristine Russell)

A "substantial portion" of the patients in costly hospital intensive care units may not need to be there, a new George Washington University study suggests.

An eight-month survey of 624 patients in the general surgical-medical intensive care unit (ICU) at the GW medical center found that nearly half of those admitted were in stable condition and "received only observation or minimal amounts of active treatment."

This finding contrasts sharply with the traditional image of the ICU as a "treatment area for critically ill patients" who "require a costly level of therapeutic intervention and have a high in-hospital mortality," noted the report, published in the latest edition of the Journal of the American Medical Association.

Instead, concluded study director Dr. William A. Knaus and his colleagues, "it is appropriate to ask whether some of these patients needed to be admitted to a special care unit," particularly in light of current concerns about the costs of medical care and the continued demand for more ICU beds.

Although 49 percent of the patients in GW's unit were not found to need intensive treatment, Knaus said in an interview last week that "this does not mean they all don't need intensive care." Because many were surgical patients at added risk, they would still need close nursing attention not available in the rest of the hospital, he said.

However, since the JAMA study was completed, Knaus said, his ICU research has better defined those patients at "low risk of needing treatment" who are "too healthy" to be admitted to intensive care units. The new, as yet unpublished, criteria suggest that perhaps 5 to 10 percent of those now admitted to ICUs could instead be admitted to regular hospital units.

"The effects of this nationwide are potentially large," said Knaus, who serves as codirector of GW's intensive care unit. He said that preliminary evidence from a study of about 10 hospitals around the country suggests that GW is fairly representative of teaching hospitals. He said that it is also likely that smaller, community hospitals, which generally have fewer critically ill patients, could safely move more of them out of ICUs.

Although the GW study is considered the first of its kind involving general surgical ICUs, it confirms an earlier study of a coronary care intensive unit that found that more than 75 percent of the patients were admitted for monitoring only and only 10 percent of them later needed additional treatment.

While the growth in the number of hospitals has slowed, the number of ICU beds continues to increase at 4 percent per year. Only 10 percent of U.S. hospitals with more than 200 beds had these units in 1960, but 99 percent do today, the authors noted.

Knaus said that an ICU bed costs three times as much as a regular hospital bed and that 20 percent of total hospital costs are estimated to be from intensive care units. In addition, many hospitals have recently experienced problems in intensive care units because of the shortage of nurses to staff them.

Beyond the economic costs of extensive ICU care, Knaus is also concerned about the "psychological" problems for patients in the tense environment. There is also a slightly increased risk of infection in such units.

He agreed that it may be difficult to discourage use of ICUs since they have become a "security blanket" for both patients and doctors. He said he hopes to implement a patient selection system for the ICU unit at GW.

HATCH HOME HEALTH CARE BILL

Orrin Hatch (R-UT) is the new chairman of the Senate Labor and Human Resources Committee. He is a self-described conservative and budget-cutter. Although one of the first steps he took in restructuring his committee was to abolish the old "Kennedy" health subcommittee, Hatch, who now handles all health issues at the full Committee level, certainly is demonstrating a deep interest in health care and its delivery.

The Hatch Committee will consider 41 health programs that expire in the near future. Other proposals, including HMO's, national health insurance, competitive health insurance, migrant health, National Health Service Corps and medical services for alcoholism and drug abuse, are also slated for review.

The first health-related bill that the Utah Senator introduced was the *Community Home Health Services Act of 1981* (S. 234). In fact, the first legislative hearing of the Senate Committee on Labor and Human Resources in the 97th Congress was on this bill and on seeking ways to foster and expand home health care services.

The importance placed on home health care, especially in the Congress, is apparent from Senator Hatch's statement opening the hearing, where he said in part:

"The latest U.S. Census shows that from 5 to 10 percent of the population in our country, 65 and over, is homebound or bedbound. In round numbers, we are talking about a million people. Over the next 30 years, these numbers will vastly increase as our population grows older. For many of these senior citizens, unable to help themselves and having no friends or family on whom to depend, nursing homes will then, as they are now, continue to be a principal means of dispensing care to the chronically afflicted. But this is not always the case.

We are meeting here today because the need for treatment should take precedence over the setting in which it is provided. There is a growing number of us who believe that many of those now being sent to nursing homes ought not to be there; that they don't want to be there; but are effectively denied the choice to do otherwise.

In our country, it has always been the family which has provided most of the home health care services which the elderly receive. Today, it is the family which is finding it increasingly difficult either to pay for or to locate quality home health care when it is needed. Archaic provisions in our tax code sustain this difficulty. They place the heaviest burdens on couples and other family members to whom the federal government encourages the institutionalization of their elderly family members—senior citizens who would rather be with their loved ones or be independent and in their own homes or apartments.

Non-profit, for-profit, free-standing, community or hospital-based home health care systems offer different kinds of assistance and share a variety of policy differences. But they have at least one great thing in common. They continue to be the object of discrimination by the letter and spirit of past and prevailing federal policies.

This is why the first legislative hearing of the Senate Committee on Labor and Human Resources in this 97th Congress is devoted to exploring the ways in which we can foster home health care services. It is why I have made "The Community Home Health Services Act of 1981" my principal legislative priority.

Home health care is the most humane, most economical, and most natural form of therapeutic tribute we can pay the generations before us. No elderly citizen should be denied nursing home care who needs it. But neither should this citizen be forced to enter a nursing home institution when he or she does not want it.

A dozen witnesses appearing in panels before the Hatch committee enthusiastically supported S. 234, a bill which would expand Medicare and Medicaid coverage for home health care services. Under the measure, public, private and proprietary hospitals and home health care agencies would be eligible for grants and loans, with special emphasis on localities currently without such services.

Some witnesses did wonder aloud whether the current budget crisis might make it very difficult to obtain new and expanded Medicare and Medicaid services. On the other hand, most stressed that home health care reimbursement would provide an incentive to move towards lower-cost home care services and away from costly in-patient facilities.

Senator Paula Hawkins (R-FL), chair of the Committee's Subcommittee on Investigations, expressed concern that such programs be carefully structured to prevent fraud and abuse. Her chief health aide, however, informed NARD that Mrs. Hawkins would very likely co-sponsor the Hatch bill.

[From the St. Louis Post Dispatch (Mo.), Jan. 11, 1982]

. . . ALTERNATIVES FOR THE ELDERLY

The Senate is expected to consider soon a bill that would ease eligibility for some government-supported programs and, at the same time, should save money. This extraordinary proposal is the Community Home Health Services Act. Under the bill's provisions, Medicaid and Medicare restrictions on home health care would be greatly reduced, enabling many of those who are now forced to enter nursing homes—if they are to receive financial assistance in meeting their health care needs—to remain at home.

In a 1977 report, the Congressional Budget Office found that between 20 and 40 percent of persons in nursing homes could have been cared for in their homes if adequate community care were available. And other studies have indicated that such inborne care is substantially cheaper than the intensive, full-time services offered in nursing homes. Even if the costs were close, however, there is another important element of home health care, and that is the finding that those who can remain in their homes and neighborhoods with some outside assistance live longer and more contented lives than those who are confined in nursing homes.

In addition to liberalizing eligibility standards of Medicaid and Medicare coverage of home health, the bill provides for grants and loans to help get programs started in areas where they are needed. And it provides a tax credit to the individual who cares for a dependent person in his or her home. With a rapidly aging population, the U.S. needs to develop alternatives to nursing homes for the elderly who need care. The Communtiy Home Health Services Act is a good attempt to help form and support some of those alternatives.

[From the Denver Post (Colo.), Jan. 12, 1982]

HOME HEALTH CARE AND SAVINGS

The continued escalation of medical care costs could be slowed measureably by utilizing medically effective home health care.

It is estimated that effective use of such care would result in a net saving in hospitalization costs of 15 to 30 percent. In the Denver metropolitan area alone, this amounts to a saving of more than $100 million per year.

The advent of the third-party payor (health insurance and government) has removed the patient from the immediate concern of the cost of health care. The saving resulting from home health care could easily be effected by the concerned third-party payor with a mandatory assessment and home evaluation of each hospitalized patient early in the game.

Assessment and home evaluation would let each patient and his physician know the applicability of home health care. Almost all patients will feel more comfortable (hence recuperate more rapidly) in the home rather than in a sterile institutional setting, and, consequently, would choose such care if they knew it was available.

The concept of home health care is not new. Historically, it has been treated in a passive manner where a more aggressive posture would produce the savings that have always been present . . . but dormant. The aggressive posture of the third-party payors could come from the position of meeting the patient's needs in the home rather than only in a hospital.

With the resulting saving, maybe we could all get a reduction in our medical insurance costs.

[From the Salt Lake Tribune-Utah, Dec. 20, 1981]

TRY HOME CARE

If a person on Medicare or Medicaid could be cared for just as well and at less cost at home instead of in an institution, why wouldn't Congress jump at the opportunity to let Medicare and Medicaid finance such treatment?

There are several reasons and they are based largely on speculation rather than hard facts because until the idea is given a try, the facts don't exist.

Reluctance to implement the change is fueled mostly by fear that permitting Medicare and Medicaid to substantially increase their financing of home care for the elderly and disabled would invite wholesale abuse of the new generosity. Even without gross abuse, the vast numbers of people who might be encouraged to qualify for home care aid could result in costs far exceeding present outlays for care in nursing homes and other facilities.

The legislation sponsored by Sen. Orrin Hatch, R-Utah, to permit Medicare and Medicaid payment for home care reportedly takes these threats into consideration. For example, only those persons who can show they would have to be institutionalized if funds for home care were not provided by Medicare and Medicaid will be eligible for home care subsidies. It is unknown, however, how many applicants this would disqualify. Ways of getting around inhibiting regulations can usually be found when human suffering is concerned.

The possibilities for swamping the system cannot be taken lightly. But neither can the many benefits of making home care available to eligible recipients. Home care payments should be tried.

FAILING TO PREPARE FOR AN OLDER AMERICA

(By Robert J. Samuelson)

At the Census Bureau these days, the statisticians are busily preparing new population projections, and though the details aren't yet settled, one central conclusion is already clear: America is getting older even faster than previously estimated. People are living longer, and birth rates have remained low.

Government has yet to come to grips with this. Officials everywhere tiptoe around the change as if it could be made to go away. It can't. As much as almost anything else, the country's condition in coming decades will reflect this inexorable aging. Consider some figures:

By the current and outdated census projections, the country's median age will rise from 30 in 1980 (already up from a recent low of 27.9 in 1967) to 33 in 1990, to 36 in 2000 and to 37 in 2010. These projections assumed that life expectancy for men would rise only to 72 by the year 2050, up from 69 in 1976, but it already has increased to about 70. Some specialists now think life expectancy ultimately could exceed 80. The 65-and-over population, now about one-eighth of the total, could approach one-fifth in the first decades of the next century.

Health costs, which have doubled as a proportion of the nation's output in the past three decades, are almost certain to go higher—how much no one knows, though the possibilities are staggering. Those over 65 account for nearly one-third of the nation's health bill, and those over 75 (a group that is increasing rapidly) have especially large costs. In 1981, health care represented 9.7 percent of the gross national product, up from 4.4 percent in 1950, and the figure may well exceed 10 percent in 1982.

The country's basic foundation of public investment—its roads, sewers and transit systems—is getting older, and much of it is in need of replacement or substantial repair. To take but one example; the 42,500-mile interstate highway system is deteriorating at a rate that requires reconstruction of about 2,000 miles annually.

The United States (Western Europe and Japan, too) increasingly deals with a much younger developing world. Take Mexico. In 1980, slightly more than 45 percent of its population was less than 15 years old compared with about 22 percent here. In Mexico, today's children soon will have their own children, which means that the existing population of 68 million will exceed 100 million by the year 2000, according to World Bank projections.

Local governments also feel the pressures. George E. Peterson, an economist at the Urban Institute, reports that localities increasingly resort to special taxes and authorities to assure adequate local investment. In Boston the city created a new water authority, in Cleveland the citizenry dedicated half of a recent tax increase to capital improvements and debt retirement, and in Florida the legislature is considering a special one percent sales tax devoted to improvements.

Nonetheless, politics and popular attitudes have yet to catch up to or accept the emerging social and economic realities of age.

The federal government still treats the entire 65-and-over population as a single group, ignoring vast differences in economic, health and social conditions. All Social Security income is tax-exempt (1982 cost: $11.3 billion). Likewise, all the elderly receive a double income tax exemption (1982 cost: $2.5 billion). Why should a 67-year-old couple with $25,000 of income (or $15,000, for that matter) pay less tax than a similar 55-year-old couple?

Private business practices have lagged similarly. Employers long have used pensions as a way of keeping their workers; that is, a worker who leaves before the prescribed retirement age typically suffers a huge loss in benefits. As the work force ages, this may tie people to jobs they dislike and, therefore, do poorly.

The deeper question, though involves the national spirit. Does a nation that is progressively aging begin to lose its creativity and vitality? Does it become more security conscious and stand-pat?

No one has good answers to these questions.

Robert M. Zager, head of policy studies for the Work in America Institute, denies a loss of ambition among older workers. "That may happen when aging is accompanied by illness. Otherwise, it's a failure of employers to subject older workers to the challenges you'd expect of younger workers. By assuming older workers haven't got the zip, you may make them that way."

Maybe. But a more dispiriting view comes from economist Mancur Olson of the University of Maryland. Olson believes that older societies—by which he means those that long have had a common set of political institutions—tend to develop inhibitions to growth. Well developed interest groups struggle to advance their own welfare, and their protective measures (subsidies, tariffs, monopolies of various sorts) impair overall growth.

Some of the needed adjustments to progressive aging are clear: a more disciplined health system (which probably means individuals, both young and old, paying more of their own medical bills); a revised and less rigid definition of who's old and dependent; labor markets freer of private and government limitations—not only pension restrictions but also the Social Security earnings test—that prevent people from mixing work and retirement.

All these involve immense practical difficulties, but the greatest obstacle is outdated attitudes. The idea that America is getting older is somehow un-American.

[From the Washington Post, Feb. 26, 1982]

LEGACY

(By Judy Mann)

ANNAPOLIS.—One of Carol Jenkins' last wishes was fulfilled here Wednesday afternoon. Exactly one month after she died, her husband Russell, a messenger at the Census Bureau, took his seat before the House Ways and Means Committee of the Maryland legislature and told the extraordinary story of his struggle to care for his wife in their home during the last 18 months of her life.

Carol Jenkins was a victim of muscular dystrophy who had worked for years at the Census Bureau. The disease gradually devastated her body to the point that she could not breathe. Eighteen months ago, she went into a coma. Russell Jenkins authorized an emergency tracheotomy that was her only chance. He was told she would probably die within six months and that she would never talk again. He was told also that he would have to put her in a nursing home.

She lived three times longer than expected. She learned to talk with a device that had to be changed, painfully, once a month. She breathed with the aid of a machine that took the place of her lungs. And Russell Jenkins, refusing to place her in a nursing home, brought her back to her own home, not knowing, he told the committee, "what a nightmare it would turn into."

What turned those last months into a nightmare was Jenkins' struggle to pay for his wife's nursing costs—which ran around $112 a day—on his $12,000-a-year salary. It was an impossible struggle that he described to the committee in an effort to win backing for a bill to help other disabled persons who are not covered by catastrophic insurance or who have too much income to be eligible for public heath programs.

The bill, introduced by Del. Lorraine Sheehan, (D-Prince Georges) after she became aware of the Jenkins' plight, would establish a pilot program in which the state of Maryland would subsidize the cost of an attendant to care for a disabled person at home. Half of the people who would be eligible would be disabled people who are employed or seeking employment—people who could live outside of institutions if they had help dressing, bathing, cooking, or getting in and out of bed. The other half would be more severely disabled people who are in nursing homes or on a waiting list for a nursing home and who could be cared for at home less expensively.

Jack Priahl, a librarian at the Maryland Rehabilitation Center, broke his neck in an auto accident in 1963. He spent nine years in Montbello nursing home and went through a difficult three-year struggle before he was able to earn enough to pay for an attendant and live independently. He provided compelling testimony as to the fiscal good sense of subsidizing attendant care for disabled persons. Instead of living in an institution, where his care would have cost $64,000 a year, Priahl worked last year and paid $6,000 in state, federal and Social Security taxes. He also provided a paycheck to the attendant.

Catherine A. Raggio, associate director of Maryland's Developmental Disabilities Council, estimates that the cost of attendant care for 30 persons would cost the state $219,000 a year, as compared to $749,220 in a chronic nursing care facility or $1,925,229 a year in a treatment and rehabilitation facility such as Montbello.

The attendant care approach Maryland is considering is cheaper than institutional care. It also would relieve some of the dependence and stress on families of disabled persons. It would create a dignified relationship between the disabled person and his employe. It would allow a person to contribute to society rather than be a drain on it.

And it would enable severely disabled people such as Carol Jenkins to live out their days in the peace of their home without the awful financial anxiety that pervaded the last 18 months of her life. The only thing that kept the couple from ruin was the generosity of their Census Bureau colleagues, neighbors and church, and others who donated $36,000 for her care.

"What my wife did every night," said Jenkins, "was she read her Bible and prayed this bill would come about not only to help her but others in the same situation."

After the hearing, he stood in the hallway of the House office building, reflecting on what he had just done. "I felt strongly the Lord was helping me speak," he said, softly. "There was no way I'd ever dreamed I'd be helping to pass a bill

"She lived a good 18 months she wasn't supposed to have," he said of his wife. "She would have been here. She felt that strongly about it. It was one of her last wishes to testify about the bill."

Del. Sheehan gently touched his arm. "She was here."

ONE WAY TO CUT HEALTH CARE COSTS

Congress has a rare opportunity to please both liberals and conservatives in legislation it's considering this month.

It can increase social benefits to a large segment of society while reducing the financial burden on taxpayers by approving the Community Home Health Services Act.

The act, sponsored by Sen. Orrin Hatch, R-Utah, and Rep. Guy Molinari, R-New York, would encourage home health care for the elderly.

Each day, more than 1,500 Americans reach age 65. The elderly comprise more than 11 percent of our total population, and the figure is expected to approach 20 percent within 50 years.

NURSING HOME COSTS

Because senior citizens in general have poorer health than other elements of society, their use of health services—particularly nursing homes—is growing swiftly. Congressional studies reveal that 1.3 million Americans are confined to nursing homes today.

The cost of nursing home services is high—nearly $18 billion in 1979 alone—and the bulk of that cost is borne by taxpayers. As the number of persons institutionalized rises, the costs will also climb.

Yet the problem can be resolved by changing the Medicaid and Medicare policies that create financial incentives to put the elderly ill in nursing homes. The government now discourages long-term care in an individual's home in two ways.

QUALIFYING FOR CARE

First, a person who can't afford long-term health care but who is ineligible for Medicaid coverage in the home can qualify for care if he enters a nursing home. Second, family members are financially responsible for a Medicaid patient living in their home, if the patient is placed in a nursing home, the cost of care is picked up by the taxpayer.

Because of these limitations, those who require health care but can't afford it and families supporting them are encouraged to use nursing homes because "someone else" covers the costs.

This tendency to use third parties to pay medical expenses inflates the demand for health care because patients perceive such services as free.

WE ALL PAY FOR IT

They aren't; we all pay. And we pay more than we should because nursing home operators are encouraged to "over-provide" to the elderly so their profits can climb.

Home health care can be provided at a lower cost than nursing home care. One doctor recently told the Senate about an 83-year-old woman whose monthly home care costs were $833, compared with $2,122 a month for skilled nursing home care. On average, the doctor said, home health care costs run about 40 percent below those of nursing home care.

The act would also make a $500 tax credit available to individuals supporting a dependent person in their homes. This credit might not offset all costs associated with the care of a dependent, but should result in an overall reduction in health care costs.

OBVIOUS SAVINGS

Aside from the obvious cost benefits, the act would provide a more humane method of treating individuals who don't need to be institutionalized but are now because that's the only way they qualify for medical help.

Several studies indicate that older persons placed in hospitals or nursing homes simply because "someone else" is paying the bills suffer from the regimentation and lack of independence that typify institutional settings. In fact, the studies report patients who receive home health care experience reduced death rates and are generally happier than those in nursing homes.

CARING FOR OUR OWN

And the tax credit would promote greater family participation in care of the elderly by providing a financial incentive for home care as opposed to nursing home care.

We believe Congress should pass the Community Home Health Services Act.

By offering the elderly and their families a choice, it would minimize the financial and social cost increases that will accompany the rising need for long-term health care in the future.

STATEMENT OF MISS HELEN HAYES

Growing old is a slow and personal process that affects each of us differently. Yet it is a terribly demanding time, because it forces changes we are not always ready to make.

Sometimes the changes are sudden and enormous. I remember how difficult it was when my doctor told me my health would not permit continued appearances on the stage. I had spent my whole life in the theater and wanted to go on, but I could not.

I thank God for the ten years I have had since then. I have been healthy and able to find joy in other places.

But I've never forgotten the shock I felt when my doctor told me that the life I'd led for 70 years had to change.

This was the same shock I saw in many of the people I met while working on the public television documentary NO PLACE LIKE HOME. They too had been forced to slow down and they were wondering how to manage their changed lives.

I'm not a gerontologist or a geriatrician, but I am 81 years old, and at least an interested observer of the aging process.

And my best observation is this: the changes demanded by old age are tough enough to accept. Maintaining as much independence as you can, makes it easier to yield gracefully to those changes.

But this is not an insight that seems to have shaped much of our government policy on caring for the elderly.

In Los Angeles, I spent a day with Verna Rogers, an 82-year-old woman who checked out of nursing homes six times so she could live on her own. Verna suffered from just about every disease you could imagine. But she also had courage and the will to live as independently as she could.

Verna received little help in the single room she called home. But she went on, and realized her last wish: to die at home.

We found other individuals who not only had Verna's independent spirit, but who had the help they needed to stay at home. There was 82-year-old Sally Humason in New Britain, Connecticut. She had spent more than a year in what she considered a good nursing home. For part of that time she needed to be there for intensive therapy. But there was also a period—a much too long period, according to Sally—when she languished in that home, just getting up in the morning and going to bed at night. Sally needed more. To this day, she writes stories for magazines, most recently for Good Housekeeping. And if you write, you need privacy and quiet and plenty of books around you. But nobody in her nursing home understood that the regulations allowed Sally just one book at a time in her room.

Sally thought she would end like that, but a group called TRIAGE arranged enough services to put Sally back in the rambling, old house she had lived in since she was a year old. TRIAGE took a good look at Sally's situation and ordered a nurse, a therapist, some wheelchairs, and someone to help Sally up the stairs at night. On average, TRIAGE found that it could provide its 1,040 clients with all necessary services at one-third the cost of a nursing home stay. But on December 31st of this year, TRIAGE will lose its federal funding and the program's director estimates that 425 clients will be immediately institutionalized. The 3.4 million dollars that the government will spend in 6 months on these 425 people alone, could have funded TRIAGE for an entire year.

I also met Caroline McCaull in Minneapolis, Minnesota. After years of dialysis and lengthy hospitalizations, Caroline McCaull had had enough. She came home to die in the place she had always lived.

Practically bed-ridden, Mrs. McCaull needed someone who would care for her. Her daughter, Mary, decided to share her mother's last days at home. So Mary left work to care for her mother. She needed to learn some basic nursing skills, she needed some income to keep the house going, and she needed someone to tell her that her pain and guilt and anger were feelings that were a natural part of watching her mother die.

She got all this from the Ebenezer Society, a church affiliated group which teaches people how to care at home for family members who are sick and old. It didn't cost much money to teach Mary Baker what she needed to know, because it was a labor of love. But it was worth a fortune to Caroline McCaull to be in her own bed in the home she's owned since 1945.

Mrs. McCaull was looking forward to our broadcast, but she died last month. Her daughter told us how grateful she was to have been a part of the Ebenezer program and to help spread the word about the importance of helping families keep loved ones at home.

In California, Minnesota, Kentucky, and Connecticut where I travelled with the WNET crew, I was heartened by the variety of alternative programs that were keeping the elderly out of institutions. But in for too many cases, the people I met had no alternative to nursing homes when they could no longer manage on their own.

I remember talking with Helen Riali. Her husband, Emil, had suffered a stroke in 1970, but Helen had kept him at home for 11 years, though she got no help. Then Helen got sick and Emil went into a nursing home. He may never get out, because his wife is no longer strong enough to help him in and out of bed.

Helen Riali asked me a question I couldn't answer: Why was there so much money to put Emil into a nursing home, but nothing to help him out of bed in the morning?

It seems like a small thing, until you can't do it anymore. But that is how things hit you. And when government policy forces restrictions even greater than those imposed by age, it seems almost deliberately cruel.

I met Joseph Farley in a public nursing home in New York City. After 13 years in the home, the thing he missed most was taking a snack out of his own refrigerator. It may not be much, until all the small decisions are taken out of your hands and you find that your great age has reduced you to a child.

I don't attack nursing homes, because they are necessary for tens of thousands of Americans who have been overwhelmed by age and can't care for themselves anymore.

But we found thousands of elderly Americans who were swept into nursing homes because they needed some small help that wasn't available at home.

These are the people I spoke to for No Place Like Home. They are people very much like you and me.

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Tower:									
United Kingdom	Pound	29.86	55.24	(1)				29.86	55.24
Senator William Cohen:									
United Kingdom	Pound	112.43	208.00	(1)				112.43	208.00
Senator Gary Hart:									
United Kingdom	Pound	112.43	208.00	(1)				112.43	208.00
Rhett Dawson:									
United Kingdom	Pound	49.59	91.75	(1)				49.59	91.75
Jim Locher:									
United Kingdom	Pound	21.77	40.27	(1)				21.77	40.27
Mike Donley:									
Egypt	Egyptian pound	258.54	310.87		2,064.00	12.60	15.14	271.14	2,390.01
Italy	U.S. dollar	(2)			2,270.00				2,270.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Carl Smith:									
Egypt	Egyptian pound	157.05	188.83		2,064.00	12.60	15.14	169.65	2,267.97
United Kingdom	Pound	112.43	208.00	[1]				112.43	208.00
Drew Harker:									
Egypt	Egyptian pound	258.54	310.87		2,064.00	12.60	15.14	271.14	2,390.01
Senator Gordon Humphrey:									
Italy	U.S. dollar	[2]			1,190.80				1,190.80
Delegation expenses in the United Kingdom, other than those paid for by counterpart funds, paid under the authority of section 502(b) of the Mutual Security Act of 1954, as amended by section 22 of Public Law 95-384. Senator Kasten accompanied delegation but was not funded by this committee.									6,600.34
Expenses paid under the authority of S. Res. 179, agreed to May 25, 1977, and not covered by counterpart funds for delegation expenses in the United Kingdom.									1,447.27
Total			1,621.83		9,652.80		45.42		19,367.66

[1] Transportation provided by the Department of the Navy.

[2] Expenses other than transportation provided by the Department of the Army.

JOHN TOWER,
Chairman, Committee on Armed Services, Feb. 9, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY AN EMPLOYEE OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, EXPENDED BETWEEN SEPT. 18 AND SEPT. 23, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Paul Freedenberg:									
Federal Republic of Germany	Deutsche mark	904.00	300.00					904.00	300.00
Total			300.00						300.00

JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, Nov. 4, 1981.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Renn M. Patch:									
Saudi Arabia	Riyal	3236.01	956	1816.00	614.75			3,254.17	1,570.75
Yemen	Riyal	1883.70	414	1325.87	291.40			3,209.57	705.40
Bahrain	Dinar	57.760	152	74.200	195.26			131.960	347.26
Oman	Riyal	190.440	552	149.900	434.49		232.82	340.340	1,219.31
Egypt	Pound	123.750	150	258.500	310.80			383.250	460.80
Israel	U.S. dollar		282		1,370.00				1,652.00
United States	U.S. dollar				1,120.00				1,120.00
Michael P. Pillsbury:									
Saudi Arabia	Riyal	2128.92	628	1,816	614.75			3,944.92	1,242.75
Yemen	Riyal	1883.70	414	2,161	475.00			4,044.70	889.00
Bahrain	Dinar	57.760	152	74.200	195.26			131.960	347.26
United Arab Emirates	Dirham	1825.95	497	572.00	155.73			239.795	652.73
Oman	Riyal	285.660	728	149.900	434.49		232.82	435.560	1,395.31
Egypt	Pound	124.750	150	258.500	310.80			383.250	460.80
Israel	U.S. dollar		282		205.20				487.20
Jordan	Dinar	83.915	252					83.915	252.00
Syria	Pound	885.00	150					885.00	150.00
Iraq	Dinar	110.250	375	288.200	980.27			398.450	1,355.27
United States	U.S. dollar				1,120.00				1,120.00
Total			6,134		8,828.20		465.64		15,427.84

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Jan. 19, 1982.

AMENDMENT

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON LABOR AND HUMAN RESOURCES, EXPENDED BETWEEN JUNE 19 AND JULY 1, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Brought forward for Messrs. Patch and Pillsbury			1,348.00		3,661.10				5,009.10
Additional expense for Patch/Pillsbury:									
Geneva, Switzerland	Franc			520.80	247.67				247.67
Michael Pillsbury:									
Switzerland	Franc	131.95	80.00						80.00
Total			1,428.00		3,908.77				5,336.77

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, Nov. 5, 1981.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL COCHRAN, EXPENDED BETWEEN JAN. 3 AND JAN. 19, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Thad Cochran:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Senator Steve Symms:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Senator Arlen Specter:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Howard O. Greene:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Vivian Dubreuil:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Joanne Novins:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Wayne Boutwell:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Mary Locke:									
New Zealand	New Zealand dollar	465.28	390.00					465.28	390.00
Australia	Australia dollar	359.04	408.00					359.04	408.00
Hong Kong	Hong Kong dollar	1,169.00	200.00					1,169.00	200.00
Japan	Yen	49,050	218.00					49,050	218.00
Delegation expenses:									
New Zealand	New Zealand dollar						4,349.46		4,349.46
Australia	Australia dollar						5,541.08		5,541.08
Hong Kong	Hong Kong dollar						2,417.56		2,417.56
Japan	Yen						2,669.20		2,669.20
Total			9,728.00				14,977.30		24,705.30

Note.—Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of section 502(B) of the Mutual Security Act of 1954, as amended by section 22 of Public Law 95-384, and S. Res. 179, agreed to May 25, 1977.

THAD COCHRAN,
Chairman, Feb. 19, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, U.S. SENATE DELEGATION/CANADA-UNITED STATES INTERPARLIAMENTARY GROUP, EXPENDED BETWEEN MAY 22 AND MAY 26, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ted Stevens:									
Nova Scotia	Canadian dollar	493.84	433.19					430.74	433.19
Senator Edward Zorinsky:									
Nova Scotia	Canadian dollar	382.27	335.70					382.27	335.70

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, U.S. SENATE DELEGATION/CANADA-UNITED STATES INTERPARLIAMENTARY GROUP, EXPENDED BETWEEN MAY 22 AND MAY 26, 1981—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator James McClure:									
Nova Scotia	Canadian dollar	392.16	343.96					392.16	343.96
Senator Mark Andrews:									
Nova Scotia	Canadian dollar	463.98	407.00					399.49	407.00
Melissa Bristow:									
Nova Scotia	Canadian dollar	349.10	308.00					349.10	308.00
Mary Ann Bond:									
Nova Scotia	Canadian dollar	336.22	297.25					336.22	297.25
Rebecca Gernhardt:									
Nova Scotia	Canadian dollar	343.60	303.41					343.60	303.41
David Keaney:									
Nova Scotia	Canadian dollar	339.08	299.64					339.08	299.64
Gail Macaulay:									
Nova Scotia	Canadian dollar	363.28	319.84					363.28	319.84
Sandra Mason:									
Nova Scotia	Canadian dollar	351.55	310.05					351.55	310.05
United States	U.S. dollar		167.60		440.08				607.68
Delegation expenses (including in-flight expenses, reciprocal entertainment, stationary supplies, telephone charges).	U.S. dollar						3,175.21		3,175.21
Total			3,525.64		440.08		3,175.21		$7,140.93

TED STEVENS,
Chairman, Mar. 4, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, U.S. SENATE DELEGATION/MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP, EXPENDED BETWEEN JUNE 11 AND JUNE 14, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles H. Percy:									
Mexico	Peso	13,190	599.55			187	8.50	13,377	608.05
Senator Strom Thurmond:									
Mexico	Peso	11,178	508.04					11,178	508.04
Senator Christopher Dodd:									
Mexico	Peso	10,648	484.00					10,648	484.00
Edward G. Sanders:									
Mexico	Peso	11,922	541.90			931	42.31	12,853	584.21
Robert Dockery:									
Mexico	Peso	11,067	503.05					11,067	503.05
Margaret Daly Hayes:									
Mexico	Peso	11,045	502.05			1,409	64.05	12,454	566.10
Joanne P. Novins:									
Mexico	Peso	11,529	524.04					11,529	524.04
United States (Santa Barbara, Calif.)	U.S. Dollar		369.19		842.00				1,211.19
Delegation expenses (including inflight expenses, reciprocal entertainment, stationery supplies, telephone calls).	U.S. Dollar						2,554.17		2,554.17
Total			4,031.77		842.00		2,669.03		7,542.85

CHARLES H. PERCY,
Chairman, Dec. 14, 1981.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, U.S. SENATE DELEGATION TO THE NORTH ATLANTIC ASSEMBLY, EXPENDED BETWEEN MAY 22-31 AND OCT. 11-16, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles Mathias, Jr.:									
Italy	Lira	1,039,446	905.52	176,202.65	153.50			1,215,649.00	1,059.02
France	Franc	572.4	106.00	8,395.0	1,523.60			8,967.4	1,629.60
Senator Gary Hart:									
Italy	Lira	689,948	601.00						601.00
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Senator Ernest Hollings:									
Italy	Lira	750,451	653.76					750,451	653.76
Senator Patrick Leahy:									
Italy	Lira	696,285	606.52						606.52
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00	1,073.5	1,685.40				1,923.40
Senator Claiborne Pell:									
Italy	Lira	815,209	797.22						797.22
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	124.25	198.80						198.80
United Kingdom	Pound	123.44	258.00						258.00
Senator Larry Pressler:									
Italy	Lira	896,255	780.71			408.42	35.58	896,255	816.29
France	Franc	572.4	106.00					572.4	106.00
United Kingdom	Pound	61.72	129.00					61.72	129.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, U.S. SENATE DELEGATION TO THE NORTH ATLANTIC ASSEMBLY, EXPENDED BETWEEN MAY 22-31 AND OCT. 11-16, 1981—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	U.S. dollar				1,760.00				1,760.00
Senator Arlen Specter:									
Italy	Lira	855,294	745.03						745.03
France	Franc	1,144.8	212.00		414.90				626.90
Federal Republic of Germany	Mark		736.00		593.00				1,329.00
Patrick D. Balestrieri:									
Italy	Lira	968,934	844.02	76,916	67.00				911.02
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Federal Republic of Germany	Mark	1,184.70	560.96	92.50	45.75	173.50	85.50	1,450.70	692.21
United States	U.S. dollar	76.60	151.67	10.00	19.80	22.00	43.56	108.60	215.03
Geryld B. Christianson:									
Italy	Lira	565,998	493.03						493.03
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Janice Demers:									
Italy	Lira	527,896	459.84						459.84
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Vivian Dubreuil:									
Italy	Lira	491,884	428.47						428.47
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Amelia Graves:									
Italy	Lira	483,285	420.98					483,285	420.98
France	Franc	1,144.8	212.00					1,144.8	212.00
Ireland	Punt	148.75	238.00					148.75	238.00
United Kingdom	Pound	123.44	258.00					123.44	258.00
Ester Kurz:									
Federal Republic of Germany	Mark		660.00						660.00
United Kingdom	Pound		220.00						220.00
Joanne Novins:									
Italy	Lira	503,995	439.02						439.02
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
John B. Ritch:									
Italy	Lira	704,516	613.69						613.69
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Federal Republic of Germany	Mark		660.00						660.00
United Kingdom	Pound		220.00						220.00
United States	U.S. dollar				1,976.00				1,976.00
Robert W. Russell:									
Italy	Lira	700,900	610.54		20.00				630.54
France	Franc	572.4	106.00						106.00
United States	U.S. dollar				423.00				423.00
Terrence Sauvain:									
Italy	Lira	726,386	632.74						632.74
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Walter J. Stewart:									
Italy	Lira	728,050	634.19	30,000	26.13			758,050	660.32
France	Franc	1,144.8	212.00						212.00
Ireland	Punt	148.75	238.00						238.00
United Kingdom	Pound	123.44	258.00						258.00
Casimir A. Yost:									
Italy	Lira	169,100	147.30		279.13				426.43
Dan Zaccagnini:									
Italy	Lira	573,325	586.52					573,325	586.52
Delegation expenses:									
Italy							7,102.22		7,102.22
France							2,825.59		2,825.59
Ireland							2,978.36		2,978.36
United Kingdom							3,955.60		3,955.60
Federal Republic of Germany							2,131.90		2,131.90
United States	U.S. dollar						1,175.08		1,175.08
Total			23,465.73		8,987.21		20,333.39		52,786.33

Note.—Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of section 502(B) of the Mutual Security Act of 1954, as amended by section 22 of Public Law 95-384, and Public Law 84-689, approved July 11, 1956.

CHARLES McC. MATHIAS, JR.,
Chairman, Feb. 24, 1982

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alfonse D'Amato:									
Italy	Lire	507,875	425.00	376,303	318.09			884,178	743.09
United States	U.S. dollar			1,578,444	1,311.00			1,578,444	1,311.00
John Zagame:									
Italy	Lire	502,350	425.00	476,303	318.09			8/8,653	743.09

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
United States	U.S. dollar			1,578,444	1,311.00			1,578,444	1,311.00
Total			850.00		3,258.18				4,108.18

MARK O. HATFIELD,
Chairman, Committee on Appropriations, Dec. 31, 1981.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON ENERGY AND NATURAL RESOURCES,* EXPENDED BETWEEN APR. 26 AND MAY 17, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Robert L. Terrell:									
South Africa							600		600
Total							600		600

*Addendum to report published in Congressional Record dated Oct. 22, 1981, Pg. S11984 (Energy and Natural Resources Committee).

JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, Oct. 2, 1981.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WALLOP (for himself, Mr. DANFORTH, Mr. D'AMATO, Mr. GLENN, and Mr. BRADLEY):

S. 2256. A bill to amend the Internal Revenue Code of 1954 to make the credit for increasing research activities permanent, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2257. A bill to amend section 1235 of the Internal Revenue Code (relating to the sale or exchange of patents) to provide that such section applies to certificates of plant variety protection and to patents acquired from certain qualified institutions; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. ROTH, Mr. CHILES, and Mr. EAGLETON):

S. 2258. A bill to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Governmental Affairs.

By Mrs. HAWKINS:

S. 2259. A bill to amend the Perishable Agricultural Commodities Act, 1930, to improve the administration of such act with respect to the disposition of certain violations under such act; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. D'AMATO (for himself and Mr. LUGAR):

S. 2260. A bill to clarify the jurisdictional boundaries between the Securities and Exchange Commission and the Commodity Futures Trading Commission; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PRESSLER (for himself, Mr. CANNON, Mr. LONG, Mr. INOUYE, and Mr. LEAHY):

S. 2261. A bill to authorize funds for the U.S. Travel and Tourism Administration for fiscal year 1983; to the Committee on Commerce, Science, and Transportation.

By Mr. PERCY (for himself and Mr. SCHMITT):

S. 2262. A bill entitled "The Police Officers' Protection Act of 1982"; to the Committee on the Judiciary.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. DECONCINI, and Mr. SCHMITT):

S. 2263. A bill to amend the Controlled Substances Act to provide increased penalties for illegal distribution of controlled substances in or adjacent to elementary or secondary schools; to the Committee on the Judiciary.

By Mr. McCLURE (by request):

S. 2264. A bill to amend section 1(a)(I) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $3,165,000 for capital improvement projects on Guam for fiscal year 1983; to the Committee on Energy and Natural Resources.

By Mr. TSONGAS:

S.J. Res. 173. Joint resolution to authorize and request the President to issue a proclamation designating the calendar month of June 1982, as "National Rivers Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. Res. 349. Resolution to commemorate the 100th anniversary of the inauguration of ocean shipping service between the west coast and Hawaii by Capt. William Matson and to commend the Matson Navigation Co. for a century of service and leadership, during both war and peace, in the West and Pacific trade; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP (for himself, Mr. DANFORTH, Mr. D'AMATO, Mr. GLENN, and Mr. BRADLEY):

S. 2256. A bill to amend the Internal Revenue Code of 1954 to make the credit for increasing research activities permanent, and for other purposes; to the Committee on Finance.

RESEARCH AND DEVELOPMENT TAX PLANNING ACT OF 1982

● Mr. WALLOP. Mr. President, I am joined today by my distinguished colleagues, Senator DANFORTH, Senator D'AMATO, Senator GLENN, and Senator BRADLEY, in the introduction of a bill to make the 25-percent research and experimentation credit and the suspension of allocation of research and development expenses under Internal Revenue Code section 861, passed just last year as a part of the Economic Recovery Tax Act (ERTA), permanent. This legislation will follow up those important steps we took last year, by bringing some degree of certainty to tax planning and allow businesses to make the kind of decisions that are necessary for long-range capital investment planning.

The research and experimentation credit which was a part of the Economic Recovery Tax Act of 1981, addressed a recognized problem: The need to stimulate new domestic research and development. As important was the 2-year moratorium imposed on IRC 861 and its attendant regulations, which required the apportionment of research and development expenditures between U.S.-source and foreign-source income. The Congress rightly recognized that if we are to encourage the business community to increase its R. & D. activities, it is equally important that we do not, through the operation of the Tax Code, discourage businesses from conducting those activities in the United States.

These two provisions compliment each other well, but capital investment decisions of any kind are planned well in advance and are based on a mix of market and financial data which must indicate that an acceptable rate of return will be achieved. My purpose in introducing this legislation is to begin the dialog and process of consideration that will lead to the elimination of uncertainty with regard to the treatment of R. & D. activities in the Tax Code, and how we most efficiently provide the necessary incentives to encourage the R. & D. activity which is key to our competitiveness in the world market.

As Senators will remember, when we passed ERTA last year, we directed the Treasury to study the impact of the allocation of research expenses, as required by IRC 861, on U.S.-based research activities. Though that report is now overdue, the Treasury Department has asked the patience of the Congress, while they take the time to do the kind of job a full examination of those 861 regulations requires. I would hope that once that report is completed and released, we could schedule hearings designed to not only explore the findings of Treasury's study, but to examine this proposal and other creative alternatives to encourage research and development activities to be done right here at home.●

● Mr. D'AMATO. Mr. President, I wish to commend my friend and colleague, Senator WALLOP, for again taking the lead in the campaign to promote private sector research and development (R. & D.). We cannot continue to ignore the important contributions research intensive industries have made to our economy and way of life in terms of better products, increased exports, and new jobs. Technological innovation is essential to a productive and competitive American economy.

In the Economic Recovery Tax Act of 1981 Congress included two provisions encouraging an increased private sector commitment to domestic R. & D., but both of these measures were given unacceptably short sunset dates. The 25-percent tax credit for increases in R. & D. spending over current expenditures, so long as these expenses are incurred in carrying on a trade or business, will expire at the end of 1985. This unacceptably short timeframe discourages companies from making the type of long-range research and experimentation investments that have led to our most innovative discoveries. As such, the provision is an inadequate incentive for the increased R. & D. we so desperately need if we are to reverse years of economic stagnation and decline.

Suspension of section 1-861.8 of the Internal Revenue Code for a mere 2 years is a similarly inefficient R. & D. incentive. Major research efforts require long-range planning. A firm fearing reimposition of section 861.8, with respect to the allocation of domestic R. & D. expenditures to U.S.- and foreign-source income, as early as the fall of 1983 will be extremely hesitant about concentrating its R. & D. efforts in the United States. Section 861.8, for no good reason, provided too great an incentive for multinational corporations to conduct their R. & D. overseas to be left in place. We cannot afford to export either our technology or our highly skilled jobs.

Thus, I am pleased to be an initial cosponsor of this important legislation. It is my sincere hope that Treasury will soon release its now past due congressionally mandated report on section 861.8 repeal. We can wait no longer, for every day we wait our research base erodes, jobs are lost and more and more American technology flows overseas.●

By Mr. MOYNIHAN:

S. 2257. A bill to amend section 1235 of the Internal Revenue Code (relating to the sale or exchange of patents) to provide that such section applies to certificates of plant variety protection and to patents acquired from certain qualified institutions; to the Committee on Finance.

TAX BENEFITS FOR INVENTORS

● Mr. MOYNIHAN. Mr. President, the Federal Government encourages inventiveness in two ways: First, by giving the inventor the exclusive right to market his invention for 17 years—a patent—and, second, by taxing the inventor at long-term capital gains rates on his profits from selling the patent, even if the patent has not been held for more than 1 year.

The tax benefit is in section 1235 of the code. Section 1235 says the profits from the sale or exchange of a patent will be long-term capital gain—no matter how long the patent has been held—provided the taxpayer is the inventor or an individual who purchased the patent rights from the inventor before the invention was fully developed.

Patents are issued for new designs, chemicals, mechanical and electrical devices, and plants that reproduce by budding or grafting—for example, roses.

When a scientist discovers a new plant that can be grown from seeds, he obtains a certificate of plant variety protection, which is similar to a patent, but which is issued by the Agriculture Department rather than the Patent Office at Commerce.

The bill I am introducing today has two provisions. One provision would give discoverers of new seed plants the same tax benefit—long-term capital gain—that is available to inventors of patentable plants and machines.

A plant certificate is virtually identical in legal effect to a patent. The only differences are that a plant certificate lasts 1 year longer—18 instead of 17 years—and a plant certificate does not prevent the plant from being used freely for farming and for experiments to develop new hybrids. The patent laws do not contain these exemptions.

Asexual plants—plants that reproduce from buds or cuttings—can be patented and are already covered by section 1235. I cannot think of any reason why a tax benefit should be given to individuals who develop new asexual plants, but not to individuals who discover new plants that can be grown from seeds.

An aside: I looked into why some plants are patentable and others are covered by certificates. The Plant Patent Act of 1930 gave the Commerce Department the authority to issue patents for asexual plants. Congressman Cannon explained in the House that the act did not apply to seed plants. Said Cannon:

> Seeds have been exempted for the reason that seeds resulting from hybridizing or crossbreeding usually produce plants varying in many respects from the parent plants. When you plant the seed of an experimental plant, it does not always reproduce the hybrid from which it comes.

This problem was overcome. During the next 40 years, scientists noticed that there are some seed plants that reproduce nearly as uniformly as asexual plants. Scientists also became more adept at distinguishing different varieties of plants. They gained from experience.

In 1970, Congress passed the Plant Variety Protection Act, setting up a special office in the Agriculture Department to issue certificates, similar to patents, to protect new seed plants. Congressman Poage, who was chairman of the House Agriculture Committee, explained:

> We have laws at the present time authorizing [patents for] asexually developed plants; that is, those produced by grafting, budding or the use of the tissue of the plant. But for plants produced from seed, there has been no such protection.
>
> This will place the protection machinery in the Department of Agriculture under a form similar to patent papers, but which will be handled by the Department of Agriculture because it involves plant seeds over which the Department of Agriculture has s special interest.

The tax law, section 1235, simply needs updating.

My bill has another provision that would encourage wealthy individuals to give money to universities for research. At present, an individual who purchases patent rights direct from the inventor gets the same special tax benefit—long-term capital gain—that the inventor would have gotten, as long as the patent rights were purchased before the invention was fully developed. The aim was to encourage investors to put up money for inventions when the inventions are still at a very risky and tentative stage. The bill would allow an investor to purchase the patent rights from a university or tax-exempt research institute and still get the tax benefit.

It makes some sense to deny the tax benefit—as section 1235 does—when the investor purchases the patent rights from another investor. There, the research has already been financed, and what is involved is speculation about the value of the invention. It also makes sense as a general rule to deny the tax benefit when the patent rights are purchased from the inventor's employer because, again, the fact that the inventor has an employer who has assumed the patent rights is probably a sign that the inventor has financial backing to carry on his research.

Universities are a special case. At many institutions, faculty members sign contracts giving the university the right to any inventions developed using university facilities. However, the university doesn't provide money for its professors' research. Rather, it expects them to apply for Federal grants or to obtain other backing. The university professor is in the same position as the lonely inventor with respect to money for his work.

Certainly, section 1235 should not act as a disincentive for private funding for university research. Unfortunately, it is just that today since an individual who finances the research of a particular scientist or inventor can more easily obtain the benefits of section 1235 if the scientist is not affiliated with a university than if he is.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SALE OR EXCHANGE OF PATENTS ACQUIRED FROM QUALIFIED INSTITUTIONAL EMPLOYERS.

Section 1235(b) of the Internal Revenue Code of 1954 (relating to the sale or exchange of patents) is amended to read as follows:

"(b) "HOLDER" DEFINED.—

"(1) For purposes of this section, the term "holder" means—

"(A) any individual whose efforts created such property, or

"(B) any other individual who has acquired his interest in such property in exchange for consideration in money or money's worth paid to such creator or to a qualified institutional employer of such creator prior to actual reduction to practice of the invention convered by the patent, if such individual is neither—

"(i) the employer of such creator, nor

"(ii) related to such creator (within the meaning of subsection (d)).

"(2) For purposes of paragraph (1), the term "qualified institutional employer" means any organization—

"(A) which is a qualified organization as defined in section 44F(e) (2); and

"(B) which, by virtue of the creator's employment by, or other affiliation with, such organization, claims rights to the property created."

SEC. 2. "PATENT" DEFINED TO INCLUDE CERTIFICATE OF PLANT VARIETY PROTECTION.

Section 1235 of the Internal Revenue Code of 1954 (relating to sale or exchange of patents) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) "PATENT" DEFINED.—For purposes of this section, the term "patent" means—

"(1) a patent granted under the provisions of the Patent Act (35 U.S.C.),

"(2) a certificate of plant variety protection granted under the provisions of the Plant Variety Protection Act (7 U.S.C. 2321-2581), or

"(3) any foreign patent or certificate granting rights generally similar to those granted by the United States under a patent or a certificate of plant variety protection."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to transfers occuring after the date of enactment.●

By Mr. DANFORTH (for himself, Mr. ROTH, Mr. CHILES, and Mr. EAGLETON):

S. 2258. A bill to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Governmental Affairs.

AGENCY REPORTS

● Mr. DANFORTH. Mr. President, today on behalf of myself, Senator ROTH, Senator CHILES, and Senator EAGLETON, I am introducing a bill to eliminate or modify over 201 reports to the Congress which the Office of Management and Budget has identified as costly and unneeded. It is estimated that passage of this bill will save the Government over $10 million each year.

Currently, there are no less than 2,922 requirements in Federal law which require agencies to make recurring reports to Congress.

In addition, there are 24 reporting requirements which go to several agencies at once and require an additional 790 reports.

Periodically, the OMB reviews these requirements to determine if they make sense. If a report no longer serves its original purpose—if no congressional use is evident—if the information is available to congress from other sources—or if the cost and time involved in preparing the report outweigh the benefit of the report to the public—it is recommended for repeal or modification.

In this case, OMB has recommended repeal of 155 requirements and modification of 46 others.

Although the reports slated for repeal represent only a small fraction of the reporting requirements now in Federal law, I am well aware that not everyone in the Senate may agree with OMB's assessment of what is necessary and what is not.

Therefore, I intend to distribute copies of the bill to each of the affected committees for their review. If a committee feels a report is necessary—we want to know about it. Every effort will be made to respect committee interests. I hope and trust, however, that the committees will be conservative in their demands. At the same time, if the committees feel that there are additional reporting requirements which we should add to this list, we will be more than happy to consider those recommendations.

Mr. President, I hope that we will be able to move quickly on this matter.

Since the bill will soon be printed, I will not ask that a copy of the bill be printed in the RECORD. However, I do ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF PROPOSED BILL TO DISCONTINUE OR AMEND CERTAIN REPORTING REQUIREMENTS

TITLE I

Section 101. (a) Deletes the requirement for reports to the Congress by Federal agencies setting forth the number of scientific or professional positions established to carry out the research and development functions in their respective agencies during the calendar year and the name, rate of pay, and description of the qualifications of each incumbent, together with a statement of the functions performed by each.

(b) Deletes the requirement for the annual report by the Secretary of the Interior or by the Secretary of Commerce, as appropriate, to the Congress of expenditures made under all appropriations for propagation of food fishes.

(c) Deletes the requirement for the Inspector General, or comparable official, or if there is no Inspector General or comparable official, the agency head or the agency head's designee, to submit to the Congress along with the budget justification, an evaluation of the agency's progress to institute effective management controls and improve the accuracy and completeness of the data provided to the Federal Procurement Data System regarding consultant service contractual arrangements. This deletion will remove the reporting burden and related costs of preparing a meaningful annual evaluation. Subsections (2), (3), (4), and (5) delete the same reporting requirement as subsection (1) but required by different acts of Congress.

(d) Repeals the requirement, contained in several appropriations acts, that Federal agencies annually submit to the House and Senate Appropriations Committees, as part of their budget justifications, the estimated amount of funds requested for consulting services, the appropriations accounts in which those funds are located, and a brief description of the need for those services.

(e) Deletes the requirement that each Federal agency publish annually in the Federal Register a notice of the existence and character of the systems of records it has established. The revision would leave in effect the requirement that agencies publish initial notices describing their systems, and while permitting agencies to use discretion in publishing additional notices would eliminate the annual compilation requirement. The information contained in these agency reports duplicates information which the Office of the Federal Register compiles and publishes annually. This deletion will remove the reporting burden on each agency, and will result in an annual cost savings to the Federal government of approximately $2 million. To date, the Federal Register has not been an effective means for obtaining public comment on agency Privacy Act issuances since it is not widely known outside of government circles. Furthermore, agencies have consistently reported that rules and notices published in the Federal Register generated little or no public comment.

Section 102. (a) Deletes the requirement that the President submit a report to Congress on all agencies' implementation of the Privacy Act of 1974. The information contained in this report duplicates information which will be reported by the Office of Management and Budget in compliance with the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35), particularly subsections 3504(f) and 3513(b).

(b) Deletes the requirement that the Administrator for Federal Procurement Policy submit annual reports to the Congress on the major activities of the office. The information contained in such reports duplicates annual budget justifications and advance notices of proposed procurement policies which are submitted to the Congress.

(c) Deletes the requirement that the Administrator for Federal Procurement Policy submit annual reports to the Congress on actions taken by Federal agencies to procure items composed of the highest percentage of recovered materials consistent with maintaining satisfactory level of competition, and the progress made in the implementation of such policy. The reports provided to the Administrator for Federal Procurement Policy by the executive agencies for compilation into an annual report have been inconsequential in nature and have been ineffective for use by the Congress and the Executive Branch. The costs of maintaining and compiling data of this kind do not warrant continuation of this report.

(d) Deletes the requirement that the Director of the Office of Management and Budget and the Secretary of the Treasury report annually on their plans to meet the information needs of the Congress.

(e) Deletes the requirement that the Director of the Office of Management and Budget provide an annual listing of every account containing unvouchered expenditures that are potentially subject to audit by the Comptroller General.

(f) Deletes the requirement that the President submit an annual report to Congress on drug abuse policy coordination. The report duplicates information included in the Federal Strategy.

Section 103. (a) Repeals the requirement that the Secretary of Agriculture submit a quarterly report to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture on the expenditures, by state, the number of participants, and the cost of administration under the Food Stamp Program.

(b) Deletes the requirement that the Secretary of Agriculture furnish the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture a statement at the end of each fiscal year on the amount of rentals paid for property of Forest Service employees.

(c) Deletes the requirement for an annual report to the Congress by the Secretary of Agriculture on the expenditures made and obligations incurred, by classes and amounts, for the Agricultural Conservation Program (ACP). Each Congressional Office receives an annual statistical report on the ACP.

Section 104. Deletes the requirement of the Fair Packaging and Labeling Act (FPLA) which includes the Secretary of Commerce among those required to transmit annual reports to the Congress on their activities for administration and enforcement of FPLA, 15 U.S.C. 1457. This amendment would not diminish the consumer protection afforded by the FPLA, since the Secretary would still be required under sections 5(d) and (e) of FPLA to identify and report promptly to Congress whenever the Secretary determines that an undue proliferation of commodities packaged in amounts difficult for consumers to compare has occurred. Repeal of the requirement for a routine annual report would result in an estimated savings of significant proportion in administrative costs.

Section 105.(a) Eliminates the requirement that the Secretary of Defense report annually to the Committees on Armed Services of the Senate and the House of Representatives amounts paid and adjustments made under each plan. (The Civilian Health and Medical Program of the Uniformed Services is not administered in the manner conceived when the reporting requirement was established.)

(b) Repeals Chapter 161 of Title 10, which consists of one Section, 2701. This repeal deletes the requirements that the Secretary of Defense maintain, so far as practicable, the records of the fixed property, installations, major equipment items, and stored supplies of the military departments on both a quantitative and monetary basis and report on these property records once a year to Congress and the President.

(c) Deletes the requirement that reports annually be made to the President and to Congress on the condition and operation of Defense Department working capital funds established under 10 U.S.C. 2208.

(d) Deletes the requirement that the Secretary of Defense submit to Congress, on or before March 15 of each year, the latest available Defense Contract Audit Agency statistics, estimated to the extent necessary, on the independent research and development or bid and proposal payments made to major defense contractors during the preceding calendar year.

(e) Deletes the requirement that the Department of Defense submit annually an annex to the Defense Manpower Requirements Report which identifies, defines and groups by mission the types of military bases, installation and facilities in the base structure. The report also provides an explanation and justification of the relationship between the base structure and the proposed military force structure together with an identification of base operating support costs.

(f) Deletes the requirement for the Department of Defense to inform the Committees on Armed Services of the Senate and House of Representatives with regard to certain base closure and realignment proposals.

(g) Deletes the requirement that the Secretary of a Military Department, or his designee, submit a report to the Committees on Armed Services of the Senate and House of Representatives before entering into certain Real Property transactions exceeding more than $100,000. In the case of leases, the annual fair market rental must exceed $100,000.

(h) Deletes the requirement that the Secretary of a Military Department report to the Committees on Armed Services of the Senate and the House of Representatives leases in foreign countries if the average estimated annual rental during the term of the lease is more than $250,000.

(i) Deletes the requirement that the Secretary of a Military Department provide written notice to the Armed Services Committees of the Senate and House of Representatives at least 30 days in advance of acquiring an interest in land that is urgently needed in the interest of National Defense when the estimated fair market value is in excess of $100,000 and the urgency is such that the acquisition cannot be included in an annual Military Construction Authorization Act.

(j) Deletes the requirement that a retired officer or former officer in pay grade O-4 or above submit an annual individual report on employment if employed by or performs services for a defense prime contractor (receiving $10 million or more in negotiated contracts) at a salary of $15,000 or more per year. Also, the section deletes a similar employment reporting requirement for any former Department of Defense civilian officer or employee who, at any time during the 3-year period immediately preceding the termination of last employment with the Department, was paid at a rate equal to or greater than the minimum rate payable for grade GS-13 and employed by a prime defense contractor at a salary of $15,000 or more.

Additionally, the annual reporting requirement will be deleted for a civilian officer or employee of the Department who during a fiscal year was paid a salary equal to or greater than the grade GS-13 rate, and who was previously employed by a defense prime contractor at a salary of $15,000 or more.

The Secretary of Defense is relieved of the requirement to submit a consolidated report to the House and Senate and to hold such reports for public review. Repeal of this statute will in no way change existing conflict-of-interest statutes and regulations governing the contracting process.

(k) Deletes the requirement contained in section 612 of the Military Construction Authorization Act, 1975, for annual reports to the Congress by the Secretaries of the Military Departments on the operation of their recycling programs in support of environmental protection and energy conservation.

(l) Deletes the requirement for semiannual reports to the Committees on Armed Services of the Senate and House of Representatives by the Secretary of Defense of options on parcels of real property acquired during each preceding six-month period ending on September 30 or March 31 (10 U.S.C. 2677(c)).

(m) Section 2110(b) allows the Secretary to provide a flight instruction program for members of the Senior Reserve Officers Training Corps (ROTC). Striking the sentence deletes the requirement for a report on the flight instruction program.

(n) Section 502 of the Fiscal Year 1981 Defense Authorization Act made permanent law a provision in the Fiscal Year 1980 Act which prohibited conversion to performance by private contractors of commercial or industrial type activity functions currently performed by Department of Defense personnel solely to circumvent personnel ceilings. The section also imposed various reporting and certification requirements. This amendment will eliminate the requirement to perform detailed cost studies and reports for small activities prior to converting to contract.

Section 106. (a) Deletes the requirement that in the Secretary's annual report to the Congress concerning the institutions which become eligible for Developing Institution designation under the waiver authority granted to the Secretary, the decision making process for each institution be reported. A list of the institutions, as required by section 342(a)(2)(B), is sufficient. The eliminated requirement created an excessive burden on the program office. The abuses that necessitated this part of the report have been corrected.

(b) Deletes the requirement that the Secretary make an annual report on activities of Centers on Educational Media and Materials for the Handicapped. This report provides no useful information that is not reported elsewhere, e.g. in the budget justification.

(c) Deletes the requirement that the Secretary report biennially to the Congress on the findings and recommendations of the Office of Education Professional Development. The consolidation of the Teacher Corps and Teacher Center programs has eliminated any need for this report.

(d) Deletes the requirement that studies evaluating the impact and effectiveness of programs authorized by the Rehabilitation Act be reported annually to Congress and the public. This part of the Act has no appropriation to carry out the study.

(e) Deletes the requirement that the annual report on client assistance projects be reported to Congress. This report can be subsumed by the Annual Report on Federal Activities related to the Administration of the Rehabilitation Act.

(f) This provision deletes the requirement that an annual report on the findings and recommendations of the National Advisory Council on Continuing Education be reported to the President, the Congress, and the Secretary. This reporting requirement is redundant with the requirement that all statutory advisory councils make such a report (Section 443(a)(2) of the General Education Provisions Act (20 U.S.C. 1233b). The Federal budget contains no funding for Continuing Education in FY 1982. The proposed budget for FY 1983 also contains no funding.

Section 107. (a) Deletes the requirement that the Secretary of Energy, under P.L. 93-275, submit to the Congress semiannually a report on the impact of energy shortages and the Secretary's actions on employment and the economy. This reporting requirement can be met adequately by E.O. 12291, of February 17, 1981, subsection 3(h), which requires impact analyses for any new and currently effective Federal regulation.

(b) Deletes the requirement that the Secretary of Energy, under P.L. 93-577, submit a report prior to the establishment of any joint Federal-industry experimental, demonstration, or commercial corporation.

(c) Deletes the requirement under Section 314 of P.L. 94-187 that the Secretary of Energy make a determination on proposed fossil energy major construction projects exceeding $250,000 to the Congress.

(d) Deletes the requirement under subsection 908(d) of P.L. 95-87 that the Secretary of Energy submit annually a report on the research studies, surveys, experiments or demonstration of alternate coal mining technologies.

(e)(1) Deletes the requirement under section 106 of the Energy Security Act that the President submit an annual report to Congress on actions taken with regard to synthetic fuel development, contracts, loan guarantees, bids, and liability, and with regard to the Synthetic Fuels Corporation.

(e)(2) Deletes the requirement that the President transmit to Congress energy targets and reports thereon in alternate years, for net imports, domestic production and end-use consumption for calendar years 1985, 1990, 1995 and 2000.

(f) Deletes the requirement under the Department of Interior and Related Agencies Appropriations for Fiscal Year 1980 Act, P.L. 96-126, that the Secretary of Energy submit a written report to Congress every six months detailing the activities carved out under the appropriation for the Special Energy Security Reserve Fund.

(g) Deletes the requirement that the Secretary of Energy produce quarterly reports to the President and the Congress on domestic reserves and production, imports, and inventories of crude oil, residual fuel oil, refined petroleum products, natural gas, coal, and financial matters. Most of the information will continue to be available in monthly publications or secondary sources.

(h) Deletes the requirement for an annual report on coal reserves disclosure. The United States coal reserves are estimated to last in excess of 300 years.

(i)(1) Deletes the requirement for the establishment of a Financial Reporting System (FRS) containing detailed information on the structure of the energy industry that is submitted to Congress and that often can be obtained from other sources.

(i)(2) Deletes the requirement under title VIII of the DOE Organization Act that the President transmit, biannually, a National Energy Plan.

(j) Deletes the requirement for the Secretary of Transportation and the Secretary of Energy to each submit separate reports to Congress concerning the motor vehicle fuel consumption associated with the Environmental Protection Agency's emission standards for each model year. Such a report would still be submitted to Congress by the Administrator of the Environmental Protection Agency.

(k) Deletes the requirement of the Department of Energy to submit evaluation reports upon request of Congress on the application of solar energy to residential housing demonstration projects. Congress never requested such reports and the demonstration program expired in fiscal year 1979.

(l) Paragraph (1) deletes the requirement for the Secretary of Energy to transmit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce of the Senate any determination, together with all relevant information in support thereof, whether the Secretary's purchase or lease of electric or hybrid vehicles under the Act, would, with high probability, displace the normal levels of private procurement of such vehicles for use in the United States.

Paragraph (2) deletes the requirement for the Secretary of Energy, in consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, to include a full discussion of the evaluation program concerning the inclusion of electric vehicles in the corporate average fuel economy program in the annual report to Congress on the electric and hybrid vehicle research, demonstration and development program and to issue a final report to Congress on the evaluation program and any recommendations on January 1, 1987.

(m) Deletes the requirement that the Department of Energy submit to Congress an annual summary of combined Department of Energy-industry efforts to develop and demonstrate technologies for synthetic fuels from coal; improved recovery methods for natural gas, petroleum, and oil from shale, and development of advanced methods of utilizing fossil fuels.

(n) Paragraphs (1) and (2) remove the requirement that the Secretary of Energy ascertain and report to Congress on any changes in fuel supply patterns, tax policies, and standards governing the manufacture of vehicles which are needed to facilitate the manufacture and use of methane-fueled vehicles.

Paragraph (3) repeals the requirement for an annual report on activities being undertaken under the provisions of the Methane Transportation Research, Development and Demonstration Act.

(o) Deletes the requirement under section 57(a) of the Federal Energy Administration Act of 1974 that the Energy Information Agency (EIA) prepare an annual report to Congress which contains a description of EIA activities and reports, a summary of statistical information, and forecasts of future energy trends. Short term analysis and projections of energy trends and historical statistical information may be provided in other existing EIA publications.

(p) Deletes the requirement under section 242 of the Emergency Energy Conservation Act of 1979 that the Secretary of Energy submit periodic reports to Congress on the supply and demand of middle distillates at the refining, wholesale, and retail levels on a State-by-State basis. Appropriately detailed information that describes trends in middle distillate markets may be contained in other existing EIA reports.

(q) Deletes the requirement of P.L. 95-620, Sec. 742 that the Department of Energy submit an interagency study on competition in the coal industry. Since the Department of Justice has an on-going requirement to report on competition in the coal industry (Section 8B of the Federal Coal Leasing Amendments Act of 1975, P.L. 94-377, 90 Stat. 1083, 1089, 30 U.S.C. 208-2), the P.L. 95-620 requirement is redundant and unnecessary. In addition, Section 742 imposes a burden upon fourteen agencies, with the greatest burden upon the Department of Energy. The resources used for this report could be used more advantageously in other government efforts. Furthermore, Section 742 also imposes a burden upon the industry. The industry must submit data to DOE in order to accomplish the study, as well as devote time to commenting on the draft and final result of the study.

Section 108. (a) Eliminates the requirement that the Secretary of Defense and the Secretary of Health and Human Services each submit an annual report on the continuation pay program for dentists in the uniformed services.

(b) Eliminates the requirement that the Secretaries of Health and Human Services, Education, and Interior report annually to the Senate and the House of Representatives on certain costs associated with the surplus property disposal program.

(c) Eliminates the requirement that the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency report annually to the Congress on conflicts of interest involving HHS or EPA employees who perform functions under the Toxic Substances Control Act.

(d) Eliminates the requirement that the Secretary of Health and Human Services compile data and periodically publish findings based on reports received from States on family planning services which the States are required to provide to individuals receiving aid to families with dependent children (AFDC). This subsection would also eliminate the requirement for an annual report to the Congress on these State programs. The Omnibus Budget Reconciliation Act of 1981, in converting the social services program under title XX of the Social Security Act to a block grant program, repealed the requirement that the States submit to the Secretary the reports on their family planning services programs upon which the Secretary's reports are based.

(e) Eliminates the requirement that the Secretary of Health and Human Services report annually on the numbers and activities of advisory committees that he appoints to carry out Social Security Act functions.

(f) Repeals the requirement that the Secretary of Health and Human Services report to Congress immediately upon the approval under the Social Security Act of any research, demonstration, or similar project with full Federal financing.

(g) Eliminates the requirement that the Secretary of Health and Human Services submit an annual report on the Professional Standards Review Program.

(h) Eliminates the requirement that the Secretary of Health and Human Services periodically submit legislative recommendations to further the use of home dialysis and transplantation by individuals suffering from end stage renal disease.

(i) Eliminates the requirement that the Secretary of Health and Human Services periodically report to the Congress on the progress of experiments and demonstration projects related to work by disability beneficiaries. It would also eliminate the requirement that the Secretary report to the Congress each time he waives compliance with the benefit requirements of titles II and XVIII of the Social Security Act in the case of such an experiment or project.

(j) Eliminates the requirement that the Secretary of Health and Human Services report annually on health services research, health statistics, health care technology, and international cooperation in those fields and in biomedical research. Much of this information duplicates information provided in the reports required by sections 306(k)(4)(G) and 308(a)(2) of the Public Health Service Act.

(k) Eliminates the requirement that the Secretary of Health and Human Services submit an annual report to the President for submission to the Congress on disease control activities.

(l) Eliminates the requirement that the Secretary of Health and Human Services annually notify the appropriate committees of Congress as to improvements to private property under the migrant health program. No funds have been expended for such improvements.

(m) Eliminates the requirement that the Secretary of Health and Human Services submit an annual report on the National Health Service Corps Scholarship Program.

(n) Repeals the requirement that the Secretary of Health and Human Services periodically study and report to the Congress on State and Federal control of health hazards from electronic product radiation, standards for the use of nonmedical electronic products, and procedures for the detection and measurement of electronic product radiation. This information would continue to be supplied to the Congress upon request and, as appropriate, in the FDA annual report.

(o) Repeals the requirement that the Secretary of Health and Human Services annually submit to the President for submission to the Congress a report on the administration of the electronic product radiation control program. This information could continue to be supplied to the Congress upon specific request and, as appropriate, in the FDA annual report.

(p) Eliminates the requirement that the Secretary of Health and Human Services report annually on the administration of the functions of the Public Health Service.

(q) Eliminates the requirement that the Secretary of Health and Human Services report to the House Committee on Interstate and Foreign Commerce and the Senate Committee on Labor and Human Resources (formerly the Committee on Labor and Public Welfare) on the number of filled first year positions in direct or affiliated medical residency programs at medical schools eligible to receive capitation grants.

(r) Eliminates the requirement that the Secretary of Health and Human Services set forth annually a five-year plan for population research and family planning.

(s) Eliminates requirements that the Secretary of Health and Human Services transmit an annual report on sudden infant death syndrome research and an annual estimate of funding for sudden infant death syndrome research.

(t) Eliminates the requirement that the Secretary of Health and Human Services submit an annual report on health maintenance organizations.

(u) Eliminates the requirement that the Secretary of Health and Human Services report annually on health maintenance organization financial information, including insider transactions.

(v) Eliminates the requirement that the President submit an annual report on international health research activities.

(w) Eliminates the requirement that the Secretary of Health and Human Services submit an annual report on Federal activities in the area of alcohol abuse and alcoholism.

(x) Eliminates requirements that the Secretary of Health and Human Services periodically prepare reports on the number, progress, and results of contracts and grants for developing and evaluating methods to measure the effects of toxic substances.

(y) Eliminates the requirement that the Secretary of Health and Human Services transmit biennially a report on research into the effects of changes in atmospheric ozone on human health.

(z) Repeals the requirement that the Secretary of Health and Human Services report annually to the Senate Committee on Labor and Human Resources and the House Committee on Interstate and Foreign Commerce on the activities of advisory councils established pursuant to the Public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963.

(aa) Eliminates the requirement that the Secretary of Health and Human Services report annually to the Congress on the status of handicapped children in Head Start programs.

(bb) Eliminates the requirement that the Secretary of Health and Human Services report annually to the Congress on the status and accomplishments of centers funded under the Runaway and Homeless Youth Act.

Section 109. (a) Strikes Section 311 of the Energy Conservation and Production Act, which requires the HUD Secretary to monitor the progress made by States and localities in adopting and enforcing Building Energy Performance Standards (BEPS), to identify procedural obstacles or technical constraints inhibiting implementation of these standards, to evaluate the effectiveness of the standards; and to report to Congress semiannually on these issues. When this provision was enacted, BEPS were mandatory requirements, and the report was intended to provide information for Congress to monitor BEPS' implementation and to make a final decision on the appropriate sanctions to force States and localities to adopt energy conservation codes which met or exceeded the BEPS requirements. However, the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) has made BEPS voluntary rather than mandatory. Therefore, the information contained in the report on implementation of mandatory requirements is no longer needed, and the question of sanctions is moot.

(b) Deletes the requirement that the HUD Secretary report annually to Congress with respect to the status of HUD-assisted housing abandonment demonstration projects. The Department has not sponsored any demonstrations on housing abandonment under this authority. Thus, the reporting requirement is unnecessary.

(c) Repeals Section 904 of the Housing and Community Development Act of 1977, which requires HUD to prepare and publish annually prototype housing costs for one-to-four family dwelling units for each housing market area of the United States. The provision was originally enacted because of Congressional concern that nationally uniform maximum mortgage amounts did not reflect market area price differences. The information was to be used as the basis for legislation to make mortgage limits more reflective of area-by-area housing costs. However, the information is no longer necessary. Section 336 of the Housing and Community Development Act of 1980 authorized the Secretary to increase maximum mortgage interest rates on an area-by-area basis, based upon median housing prices in a given area. The Department, to implement Section 336, has developed areawide housing prices for the entire country. Therefore, there is no further need for the prototype report.

Section 110(a) Deletes the Congressional reporting requirement mandating that the Secretary of the Interior investigate and monitor continually areas which have potential for inclusion in a list of at least twelve such areas annually. Each of the areas must have been the subject of a comprehensive report outlining its potential for inclusion in the National Park System.

(b) Deletes the requirement that the Secretary of the Interior through the Fish and Wildlife Service and the Bureau of Mines report to Congress, investigations as he deems necessary to determine the effects of domestic sewage, mine, petroleum and industrial wastes, erosion silt and other polluting substances on wildlife.

(c) and (d) Deletes reports to Congress pertaining to the restoration and conservation of Tule elk in California.

(e) Deletes the requirement that the Secretary of the Interior shall report to the Congress on June 1 of each calendar. This section requires that the Secretary of the Interior shall report to the Congress on June 1 of each calendar year the status of the financial disclosure statements filed by Interior employees who performed duties or functions under the Federal Land Policy and Management Act of 1976 during the preceding calendar year. This report contains a summary of general findings, problems encountered, and any actions taken on employees required to file financial disclosure statements under this act.

(f) Deletes the requirement that the Secretary of the Interior shall report to the Congress on June 1 of each calendar. This section requires that the Secretary of the Interior shall report to the Congress on June 1 of each calendar year the status of the financial disclosure statements filed by Interior employees who performed duties or functions under the National Park System—Mining Activity Act during the preceding calendar year. This report contains a summary of general findings, problems encountered, and any actions taken on employees required to file financial disclosure statements under this act.

(g) Deletes the requirement that the Secretary of the Interior shall report to the Congress on June 1 of each calendar. This section requires that the Secretary of the Interior shall report to the Congress on June 1 of each calendar year the status of the financial disclosure statements filed by Interior employees who performed duties or functions under the Energy Policy and Conservation Act during the preceding calendar year. This report contains a summary of general findings, problems encountered, and any actions taken on employees required to file financial disclosure statements under this act.

(h) Deletes the requirement that the Secretary of the Interior shall report to the Congress on June 1 of each calendar. This section requires that the Secretary of the Interior shall report to the Congress on June 1 of each calendar year the status of the financial disclosure statements filed by Interior employees who performed duties or functions under the Outer Continental Shelf Lands Act Amendments of 1978 during the preceding calendar year. This report contains a summary of general findings, problems encountered, and any actions taken on employees required to file financial disclosure statements under this act.

(i) Repeals section 2 of the Act of September 22, 1961 (75 Stat. 584; 25 U.S.C. 165) thus eliminating reports to Congress on any proposed disposition of a per capita share of any fund which has remained unpaid and unclaimed for more than six years.

(j) Amends the Act of September 22, 1961 (75 Stat. 577; 25 U.S.C. 15), to repeal the requirement of reporting to Congress any proposed contract for the sale, operation, maintenance, repair or relocation of facilities administered by the Bureau of Indian Affairs.

(k) Repeals section 3 of the Act of August 21, 1951 (65 Stat. 195; 25 U.S.C. 673) to eliminate the annual report to Congress of activities and expenditures under this Act relating to the Ute Indian Tribe of Uintah and Ouray Reservation.

Section 111. (a) Deletes the requirement that the National Institute of Corrections submit on or before the 31st day of December each year an annual report for the preceding fiscal year to the President and to the Congress. The deleted report "includes a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishment and may include such recommendations related to corrections as the Institute deems appropriate."

(b) Deletes the requirement that the Attorney General make annual reports to the Congress on the activities of the Department of Justice in the enforcement of Chapter 42 of the United States Code, concerning extortionate credit transactions (82 Stat. 162, Note under 18 USCA 891).

(c) Repeals Section 114 of Title I of the Consumer Credit Protection Act (15 U.S.C. 1613; 82 Stat. 151) which requires that the Board of Governors of the Federal Reserve Board and the Attorney General make annual reports to the Congress concerning the administration of their functions under the Act.

Section 112. (a) Deletes the requirement for an annual report to the Congress with quarterly updates on the amount of money needed to be appropriated for the following fiscal year in order to provide jobs under certain circumstances as part of Public Service Employment. PSE is being phased out and the report is no longer needed.

(b) Deletes the requirement for an annual report on Exemplary Rehabilitation Certificates. This report is of little use to the Congress.

(c) Deletes the requirement for an annual report to DOE, HUD, OMB and Committees of Congress, based on the best available data on energy development and conservation employment impact by type and scale of energy technologies used. The last (and only) report was transmitted to the Congress in August 1980. No action has been taken to prepare subsequent reports because collection of the requested data would be too expensive and little changed from that transmitted in the August 1980 report.

(d) Deletes an annual joint report to the Congress from the Secretaries of Labor and Education on the status of bilingual vocational training describing efforts by both departments to support bilingual vocational training and other programs for persons whose English-speaking ability is limited. This report is to be submitted annually with no submission date specified. Experience with the preparation and use of the report has shown that the effort involved does not warrant its continuation as a separate report.

(e) Deletes the requirement for a report on the safety provisions and the causes and prevention of injuries in employment areas covered by the Longshore and Harbor Workers Compensation Act "when necessary." Only one report has ever been produced (9/78).

(f) Deletes the requirement for a report "when necessary" on unemployment due to foreign competition. No report has been done on this project for a number of years.

(g) Deletes the requirement for an Annual Employment and Training Report of the President. Necessary information on the operation of the Department of Labor's program can be included in the annual report of the Secretary of Labor required by 29 U.S.C. 560.

(h) Deletes the requirement that the President transmit annually to the Senate and the House of Representatives a report of the activities of Federal agencies under the section of the Occupational Safety and Health Act of 1970 giving the head of each agency the responsibility to maintain an occupational safety and health program.

(i) Deletes the requirement for an annual report by the Secretary of Labor on the Work Incentive Program under Part C of Title IV of the Social Security Act. Any needed information on activities under this program can be included in the annual report of the Secretary.

Section 113. (a) through (h). Repeal and eliminate requirements that the Secretary of Transportation report to the Congress on obligations, on the highway bridge replacement and rehabilitation program, on the pavement marking demonstration program, on the hazard elimination program, on the railroad-highway crossings demonstration program, on the rail-highway crossings program, on the enforcement of vehicle weight limitations program, and on highway safety education and information requirements. In addition subsection (g) eliminates certain State reporting requirements and subsection (h) repeals a section concerned with highway safety education and information pilot projects and publicity campaigns for which no funds have been appropriated.

The reports eliminated by this section are unnecessary as the Congress and the Secretary can obtain the needed information in other ways. The pilot projects and publicity campaigns eliminated are also unnecessary. Needed information is available without the pilot projects and information can be given to the public without the publicity campaigns.

(i) Deletes section 107(b) of the Federal Aviation Act of 1958, as amended, which requires that the Secretary of Transportation submit annual reports to the Congress and the Civil Aeronautics Board on the extent to which the implementation of the Airline Deregulation Act of 1978 has affected, during the preceding calendar year, or will affect in the succeeding calendar year, the level of air safety. Reports for calendar years 1979 and 1980 show that the Airline Deregulation Act has not had an adverse effect on safety.

(j) Deletes section 107(c) of the Federal Aviation Act of 1958, as amended, which requires the Secretary of Transportation to submit to the Congress and the Civil Aeronautics Board recommendations with respect to the level of surveillance necessary to enforce air safety regulations and the level of staffing neecessary to carry out such surveillance. Any legislative proposals necessary to ensure adequate surveillance levels will be submitted by the Secretary of Transportation through the appropriations process or by the submission of the President's legislative program.

(k) Repeals the requirement that, as part of his annual report each year, the Secretary shall transmit to Congress a comprehensive report on the effectiveness of the United States Railway Association (USRA) and of the Consolidated Rail Corporation (Conrail).

(l) The Mineral Leasing Act of 1920, as amended, (30 U.S.C. 185) is amended by striking out sections 28(w)(3) and 28(w)(4). Sections 28(w) (3) and (4) read as follows:

"(3) Periodically, but at least once a year, the Secretary of the Department of Transportation shall cause the examination of all pipelines and associated facilities on Federal lands and shall cause the prompt reporting of any potential leaks or safety problems. (4) The Secretary of the Department of Transportation shall report annually to the President, the Congress, the Secretary of the Interior, and the Interstate Commerce Commission any potential dangers of or actual explosions, or potential or actual spillage on Federal lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage."

"Under these provisions, the responsibility of the Secretary runs to all pipelines on Federal lands whether they be owned or operated by private operators or by Federal agencies. With regard to privately owned or operated pipeline facilities on Federal land, the information provided to Congress under Sections 28(w)(3) and 28(w)(4) is substantially the same info provided in the annual report to Congress called for by the NPSA of 1968. The info on that report is derived from inspection and reporting regs issued under that act.

"With regard to federally owned or operated pipeline facilities on Federal land, the absence of any showing of significant safety problems on these facilities after 4 years of carrying out the mandates of Sections 28(w)(3) and 28(w)(4) leads DOT to conclude that the considerable commitment of Federal resources necessary to carry out these mandates is not justified by the safety benefits derived from that exercise. There are approximately 5,500 miles of federally controlled pipeline on Federal land. The DOD controls 90% of that mileage and, in 1975, estimated it would cost them approximately $400,000 annually to gather and report the info in support of DOT's obligation under Sections 28(w)(3) and 28(w)(4)."

(m) Recent legislation as contained in "The 1980 Federal Reports Elimination Act" established precedent by eliminating the report required for Subsection (c). The programs being monitored are well established programs which are thoroughly evaluated each year in the course of authorization and appropriation bill hearings. If Subsection (e) is deleted, then Subsection (f) is no longer valid and should be deleted.

(n) Deletes the requirement for the Secretary of the department in which the Coast Guard and the Secretary of Commerce, is operating to submit an annual report to Congress of estimated compliance with the Magnuson Fisheries Conservation and Management Act of 1976 (16 U.S.C. 1861(a)).

(o) Repeals the requirements that the Secretary of Transportation submit an annual report to Congress on vessels carrying certain cargoes in bulk.

Section 114. (a) Deletes the requirement that the Secretary of the Treasury report to the Congress each year on the financial condition and the results of operations of the Airport and Airway Trust Fund during the preceding year and on its expected condition and operations during the next five fiscal years. Information in this report is now included in the Secretary's Annual Report and in part in the Combined Statement. It can also be obtained from internal Treasury records.

(b) Deletes the requirement that the Secretary of the Treasury shall on the first day of each regular session of Congress, submit to the Senate and House of Representatives a report setting forth as of the close of the preceding September 30, the aggregate and individual amounts of the contingent liabilities and the unfunded liabilties of the Government, and of each department, agency and instrumentality thereof. Information in this report is included in part in the Combined Statement, and the Treasury Bulletin. Information can also be obtained from internal records of the Treasury and other Government agencies.

(c) Deletes the requirement that the Secretary of the Treasury report to the Congress not later than the first day of June of each year on the financial condition and the results of the operations of the Highway Trust Fund during the preceding fiscal year and on its expected condition and operations during each fiscal year thereafter up to and including the fiscal year ending September 30, 1985. Information in this report is now included in part in the Secretary's Annual Report and in the Combined Statement. It can also be obtained from internal Treasury Records.

(d) Deletes the requirements that the Secretary of the Treasury report to Congress, no later than the last day of March of 1979 and of each succeeding year, on the financial conditions and the results of the operations of the Black Lung Disability Trust Fund during the preceding fiscal year and on the projected condition and operation of the Fund during that current fiscal year. Information in this report is now included in the Secretary's Annual Report and in part in the Combined Statement. It can also be obtained from internal Treasury records.

(e) Deletes the requirement that the Secretary shall report to the Congress for each fiscal year ending on or after September 30, 1981 on the financial condition and the results of the operations of the Hazardous Substance Response Trust Fund during the next 5 fiscal years. Information in this report will be included in the Combined Statement. It will also be available from internal Treasury records.

(f) Deletes the requirement that the Secretary report to the Congress each year ending on or after September 30, 1981, on the financial condition and the results of the operations of the Inland Waterways Trust Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Information in this report will be included in part in the Combined Statement. It will also be available from internal Treasury records.

(g) This section deletes the requirement that the Secretary of the Treasury report to Congress each year on the financial condition and the results of the operations of the Reforestation Trust Fund during the preceding fiscal year, and on the expected condition and operations during the next fiscal year. Information in this report will be included in part in the Combined Statement. It will also be available from internal Treasury records.

(h) Chapter 3 of Public Law 91-599 requires the National Advisory Council on International Monetary and Financial Policies include in its annual report to Congress a statement on steps taken jointly and individually by member countries of the Inter-American Development Bank to restrain their military expenditures and to preserve and strengthen free and democratic institutions. This reporting requirement is essentially duplicative of that presently contained in Section 620(s) of the Foreign Assistance Act of 1961, as amended. The data are also contained in a report prepared by the Arms Control and Disarmament Agency, which is published periodically, along with far more extensive data in a report entitled "World Military Expenditures and Arms Transfers."

(i) This provision repeals Section 30(b) of the Bretton Woods Agreements Act, as amended, which requires the U.S. Governor of the Fund to prepare annual reports evaluating, to the maximum feasible extent, the effect of policies adopted under standby-arrangements on basic human needs in each country concerned. Pursuant to this provision, the Secretary of the Treasury has transmitted extensive reports to the Congress in 1980 and 1981 on countries receiving financing under standby arrangements in the Fund during each of the two years. The amendment would delete this country-by-country reporting requirement, in recognition of the fact that adequate, timely data are often not available and meaningful analysis is not feasible. The amended provision instead would require an annual general assessment (with such detail as may be useful and available) of the likely impact of policies adopted pursuant to Fund programs on basic human needs. This assessment would be included in the section of the annual NAC report dealing with basic human needs considerations and the Fund.

(j) This amendment repeals the requirement that the Secretary of the Treasury, in consultation with the Director of the United States International Development Cooperation Agency, report annually to the Congress on the progress made towards encouraging the multilateral development banks to promote the decentralized production of renewable energy, to identify renewable resources to produce energy in rural development projects, and determine the feasibility of substituting such resources for systems using fossil fuel. This reporting requirement is not necessary since the comprehensive report that was submitted pursuant to this provision demonstrated the importance attached by the Executive branch and the banks with regard to the use of renewable resources for energy production. Accordingly, further reports by the Executive branch are no longer necessary.

Section 115. (a) Deletes the requirement that the President submit annual reports on the amount of foreign exchange resources and other funds aid recipients spend to acquire weapons (22 U.S.C. 2370(s)(2); 83 Stat. 820). This requirement is particularly onerous due to the specific terms of the provision. In addition, information of this nature would be required to be submitted by Section 25 of the Arms Export Control Act (22 U.S.C. 2765; 93 Stat. 706) as it is proposed to be amended by S. 1196 presently pending before Congress.

(b) Deletes the requirement that the Chairman of the Development Coordination Committee submit a report on the dollar value of all U.S. foreign assistance and guarantees by category and by country as presented to Congress for the immediately preceding fiscal year. (22 U.S.C. 2394(a)(2)(B); 92 Stat. 957). This data is already available to Congress in the Congressional Presentation for the preceding year, making the requirement in this section of the FAA repetitive. Repealing this requirement would eliminate the need to laboriously enter the requested data by hand, since it is not maintained in the computer data base once the operating year budget is established.

(c) Deletes the requirement that the Chairman of the Development Coordination Committee submit a report on the dollar value of all official development assistance and all other types of assistance provided by OECD countries and OPEC countries (22 U.S.C. 2394(a)(6); 92 Stat. 957), and that such data also be shown as percentage breakdown (22 U.S.C. 2394(a)(7); 92 Stat. 957). These data are almost impossible to derive, since other donors do not disaggregate and report official development assistance into categories comparable to those used in categorizing United States assistance. In addition, data on assistance by OPEC countries are particularly sparse and available, if at all, only in gross aggregated terms. Finally, such data as are available for both categories of donors are already contained in the annual report by the DAC Chairman, as well as in other OECD and World Bank publications.

Section 116. Deletes the requirement that the Board shall make an annual report to Congress of work performed under the Federal Aviation Act, together with recommendations as to additional legislation relating thereto as the Board may deem necessary.

Section 117. (a) Amends the requirement that the Commission automatically be required to assemble and distribute relative information concerning the compact. Since the States involved would have to propose the compact to Congress, thus providing information directly to Congress, the Commission could become involved as a third party unnecessarily. This revised regulation would give Congress the option of utilizing the Commission's resources, if necessary.

(b) Deletes the requirement that the Federal Energy Regulatory Commission submit as part of its annual report to Congress on Permits and Licenses Issued a list of all employees of the Commission including their salaries. This information is freely available upon request. It is also appended to an unrelated report, and serves no purpose to the report.

(c) Deletes the requirement that the Federal Energy Regulatory Commission submit a classified annual report to Congress showing permits and licenses issued under the Act, the parties thereto, the terms prescribed, and the moneys received. This report is redundant because Congress is advised directly by copies of license and preliminary permit or other orders being mailed to Congressmen and Senators within whose districts the projects are located.

Section 118. (a) Deletes the requirement that the Administrator of General Services shall transmit to the Congress a report which covers the 2-year period from such date and contains (1) a full and independent evaluation of the operation of this Act, (2) the extent to which the objectives of this Act have been fulfilled, (3) how the needs served by prior Federal personal property distribution programs have been met, (4) an assessment of the degree to which the distribution of surplus property has met the relative needs of the various public agencies and other eligible institutions, (5) such recommendations as the Administrator determines to be necessary or desirable.

(b) Deletes the requirement that each executive agency submit an annual report to the Administrator showing, with respect to personal property—(1) obtained as excess property or as personal property determined to be no longer required for the purposes of the appropriation from which it was purchased, and (2) furnished in any manner whatsoever within the United States to any recipient other than a Federal agency—the acquisition cost, categories of equipment, recipient of all such property, and such other information as the Administrator may require. The amendment also deletes the requirement for the Administrator to submit a report to the Senate and to the House of Representatives summarizing and analyzing the reports of the executive agencies.

Section 119. Deletes requirement that the Commission submit an annual report on extensions granted for completing rail complaint proceedings. The information in the report is duplicated in the Annual Report of the Interstate Commerce Commission.

Section 120. (a) Deletes the requirement in 10 U.S.C. 2304(e) that the National Aeronautics and Space Administration report semiannually to Congress certain information on purchases or contracts negotiated pursuant to 10 U.S.C. 2304(a)(11), authority to negotiate for experimental, development and research work, and 10 U.S.C. 2304(a)(16), authority to negotiate purchases in situations involving the interest of national defense or industrial mobilization in times of national emergency. NASA is not aware of any current interest on the part of Congress regarding the information in the subject report and additionally is not aware of the usefulness of the report to Congress. NASA does not use the report internally.

(b) Deletes the requirement in 42 U.S.C. 2476 that the President transmit to Congress in January of each year a report containing a comprehensive description of the programmed activities and accomplishments of all Federal agencies in the field of aeronautics and space activities during the preceding year, an evaluation of these activities, and recommendations for additional legislation. The information in this report duplicates information disseminated in a more timely manner in other ways such as in agency testimony at Congressional hearings.

Section 121. (a) Deletes the requirement that the Nuclear Regulatory Commission report to the Congress annually on January 1 on the use of contractors, consultants and the national laboratories by the Commission. Through a variety of actions, these concerns have been addressed and corrected.

(b) Deletes the requirement that the Nuclear Regulatory Commission prepare and submit to the Congress a quarterly report which documents, for grades GS 11 or above:

(1) The number of minority and women candidates hired, by grade level;

(2) The number of minority and women employees promoted, by grade level;

(3) The procedures followed by the Commission in preparing job descriptions, informing potential applicants, and selecting from candidates the persons to be employed in positions at grade GS 11 or above; and

(4) The other steps taken to meet the provisions of the Equal Employment Act. The information in the subject report duplicates some information sent annually to the EEOC. The EEOC reports summary information annually to Congress.

(c) Deletes the requirements of P.L. 85-256, Sec. 4 (71 Stat. 579) that the Nuclear Regulatory Commission report to the Congress a survey of the causes and the extent of damage of a nuclear accident which will probably result in public liability claims in excess of $560 million. This requirement is identical to that for the "Report of Public Liability Claims Resulting from Nuclear Incident" (P.L. 94-197, Sec. 9; 89 Stat. 1114; 42 U.S.C. 2210(i)).

Section 122. Deletes the requirement that the Office of Personnel Management submit a report by February 1 each year to the House Committee on Post Office and Civil Service and the Senate Committee on Governmental Affairs. This report lists the positions in GS-16, GS-17, and GS-18 for the preceding calendar year including the total number of positions placed or allocated to all these grades, in each grade, and the total number of such positions in existence. The name, rate of pay, and description of the qualifications of the incumbent in each of these positions is provided, together with the position title and a statement of duties and responsibilities. Also included are the position or positions in or outside the Government held by each incumbent and the rates of pay for the 5 year period preceding the appointment to the present position. Only approximately 700 positions remain at the GS-16, GS-17, and GS-18 levels. The majority of those are Administrative Law Judges and those in agencies excluded from the Senior Executive Service—e.g., Government corporations and intelligence agencies. This report is largely outmoded by the Civil Service Reform Act of 1978, (CSRA), P.L. 95-454 and the requirement to publish Senior Executive Service Information in the Federal Register.

Section 123. (a) Deletes the requirement of the Small Business Act, as amended, that the Small Business Administration transmit, no later than December 31, of each year, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives a sealed report of complaints alleging illegal conduct by employees of the Administration which were received or acted upon by the Administration during the preceding fiscal year (88 Stat. 746; 15 U.S.C. 639).

(b) Deletes the requirement of the Small Business Economic Policy Act of 1980, that the President shall report, as an appendix to the Annual Report on Small Business and Competition, a report by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses (94 Stat. 849; 15 U.S.C. 631(b)).

Section 124. (a) Deletes the requirement that the Chief Medical Director report through the Administrator to the appropriate committees of the Congress justifying the need to exceed the cap of 45.1 million dollars and an explanation as to the need to exceed the cap relative to priorities of patient care. The report requires periodic sweeps through VA reporting systems to determine when the cap will be reached since the information required is not aligned with normal reporting systems. Cost and statistical data are available through automated reporting systems at the end of each quarter and for the fiscal year. The VA has no control over whether eligible veterans make claim for dental care benefits authorized by Congress. These benefits, constituting personal health measures, are not benefits conducive to long periods of delay before they are provided. There are virtually no options for geographically inaccessible veterans except to be authorized to fee. The report does not appear to serve a useful purpose since it does not prevent the VA from exceeding the cap and does not result in any constructive or remedial action after the fact.

(b) Deletes the requirement that the Chief Medical Director submit to Congress through the Administrator of Veterans Affairs a full report on the implementation of section 601(4)(C)(v) of Title 38, U.S.C., and on the numbers of veterans provided contract and fee basis care, the average cost per visit or day, the duration of care, and summaries for each of fifteen separate categories of entitlement by State including the possessions and territories, the District of Columbia, and the Commonwealth of Puerto Rico). This detailed information is not available in current VA computer-assisted statistical systems. It must be collected manually at each VA medical facility. Using this manual collection method and computer tabulation support, the cost of complying with the reporting requirement is conservatively estimated at $1,104,000 per year. Resources allocated to this data collection effort can be directed more appropriately toward direct support of the VA health care delivery system.

(c) Deletes the requirement that the Advisory Committee on Cemeteries and Memorials appointed by the Administrator of Veterans' Affairs pursuant to section 1001 of Title 38, United States Code, make periodic reports and recommendations to Congress. The Committee will continue to make periodic reports and recommendations to the Administrator.

TITLE II

Section 201. (a) Changes the requirement under Section 305 of the Drug Abuse Office and Treatment Act from an annual to a biennial promulgation by the President of a national drug abuse strategy.

(b) Exempts temporary withholdings of budget authority established for routine financial management purposes from (a) the definition of "reserves" in the Antideficiency Act and (b) the definition of "deferrals" in the Impoundment Control Act.

(c) Amends Sec. 11a of Title 31 U.S.C. to delete the requirement for the submission of current services estimates by the President to the Congress on or before November 10 of each year and substitutes a requirement for the submission of the estimates concurrent with the transmittal of the President's Budget.

Section 202. Amends the requirement that the General Sales Manager submit quarterly reports to the Chairman, House Appropriations Committee on Agriculture and Related Agencies; Chairman, House Committee on Agriculture; Chairman, Senate Committee on Agriculture, Nutrition and Forestry; and Chairman, Senate Subcommittee on Agriculture and Related Agencies. An annual report would be submitted in lieu of the quarterly report.

Section 203. (a) Modifies the requirement that the Secretary of Commerce submit an annual report to the Congress on or before November 1 of each year on his actions under Title III of the Marine Protection, Research and Sanctuaries Act. It changes the reporting frequency to once every two years and provides an additional four months to prepare the report.

(b) Modifies the requirement that the Secretary of Commerce revise the National Climate Plan every two years to enable the Secretary to prepare and submit revisions as appropriate. This modification will save the Secretary some significant printing and publication costs each year the Plan does not have to be revised, and enables the Department to allocate personnel resources more productively, to plan implementation instead of plan preparation.

(c) Enables the Secretary of Commerce to prepare this report on the National Climate Program and Plan after the President has determined the multiagency budget request for the Program, one of the elements of this report. In all other respects, the report remains the same.

(d) Modifies the requirement that the Secretary of Commerce revise the comprehensive Federal plan relating to ocean pollution every two years by authorizing the Secretary to revise the plan every three years. The additional time and resources saved can be devoted more productively to implementation of the Plan.

Section 204. (a) Deletes the requirement to submit an annual report which provides a full accounting of all experiments and studies conducted by the Department of Defense within the preceding year, whether directly or under contract, which involved the use of human subjects for testing of chemical or biological agents. Amends 50 U.S.C. 1511(a) to include the information deleted by subsection (a) in the annual report on chemical warfare and biological research programs which is provided to the Congress on a routine basis.

(b) Reduces the frequency of the formal reports to the President and the Congress on the administration of the Federal Voting Assistance Program from one every two years to one every four years. This reduction would limit reports to the period when the greatest national interest is focused on Federal elections.

(c) Section 2455(b) is amended to change the period covered by the Annual Defense Standardization and Specification Program Report from a calender year to fiscal year basis.

Section 205. Modifies the requirement that the Annual Report of Books and Materials produced with Assistance under International Education Research studies grant or contracts include an index and analysis. A simple listing of the publications is sufficient. Requiring an index and analysis places an excessive burden on the compilers of this report.

Section 206. Changes the statutorily mandated deadline for submission of the first quarterly report required on activities under the Strategic Petroleum Reserve Amendments Act of 1981.

Section 207. (a) Requires the Secretary of the Interior and the Secretary of Health and Human Services each to submit biennially rather than annually a report on actions taken to recruit and train Indians for Indian preference positions.

(b) Requires the Secretary of the Interior and the Secretary of Health and Human Services each to submit biennially rather than annually a report on actions taken to transfer to other positions non-Indian employees in the Bureau of Indian Affairs and the Indian Health Service, respectively.

(c) Requires the Secretary of Labor and the Secretary of Health and Human Services each to submit biennially rather than annually a report on occupational safety and health. The amendment would also eliminate the specific date by which the reports are due.

(d) Eliminates the requirement that a validation of the accreditation of the Joint Commission on the Accreditation of Hospitals be included in the continuing study of Medicare by the Secretary of Health and Human Services.

(e) Eliminates July 1 as the specific date by which the Secretary of Health and Human Services is required to submit his annual report on the end stage renal disease program.

(f) Requires the Secretary of Health and Human Services to transmit a report on drug abuse biennially rather than annually, and would eliminate January 15 as the specific date by which the report is due.

(g) Requires the Secretary of Health and Human Services to publish a report on carcinogens biennially rather than annually.

(h) Eliminates May 1 as the specific date by which the Secretary of Health and Human Services is required to submit an annual report on the National Health Service Corps.

(i) Requires the Director of the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases to submit a report on the institute's activities biennially rather than annually, and would eliminate sixty days after the end of the fiscal year as the specific date by which the report is due.

(j) Requires the Secretary of Health and Human Services to report on the activities of diabetes research and training centers biennially rather than annually, and would eliminate November 30 as the specific date by which the report is due.

(k) Requires the Secretary of Health and Human Services to report on multi-purpose arthritis centers biennially rather than annually, and would eliminate November 30 as the specific date by which the report is due.

(l) Requires the Secretary of Health and Human Services to report on progress made in effecting the purposes of the Indian Health Care Improvement Act biennially rather than annually.

(m) Requires the Director of the National Institute of Occupational Safety and Health to submit a report on the operations of that institute biennially rather than annually.

(n) Eliminates the requirement that the Department of Health and Human Services and Federal Trade Commission reports required under the Fair Packaging and Labeling Act be submitted to the Congress in January of each year, in order to permit them to be included in other annual reports.

(o) Amends the statute providing for an Inspector General of the Department of Health and Human Services to make the requirements for reports to the Congress under that statute identical to the requirements for reports to the Congress by other Inspectors General.

(p) Amends the requirements under the Age Discrimination Act of 1975 for reports by Federal departments and agencies to the Secretary of Health and Human Services, and by the Secretary to the Congress. The present requirement for annual reports would be amended to provide for such reports after 1983 only as the Secretary deems necessary.

Section 208. (a) Amends a provision in the Department of Housing and Urban Development Act requiring the Secretary to report annually to Congress on activities undertaken with respect to Indian and Alaskan Natives programs, estimates of costs of projected activities, a statistical report on the conditions of Indian and Alaska Native housing, and recommendations for legislative or other action. The Department has found that the statistics developed for the report vary little from year to year. Therefore, the report's purpose could be accomplished in a more useful manner and at less expense by requiring the report to be provided every two years instead of annually. If this amendment is enacted, the next report under this provision would be issued not later than December 1, 1983.

(b) Amends Section 408(b)(2) of the Housing and Community Development Amendments of 1978 ("Congregate Housing Services Act of 1978"). This provision requires the Secretary to publish and submit an annual report to Congress on the impact and effectiveness of assisted congregate services programs. The report is to be based, in part, on evaluations of the performance of nonprofit corporations and public housing agencies receiving congregate housing assistance. The proposed amendment would make the report requirement biennial instead of annual. A biennial report would allow the Department to make a more comprehensive study of program experiences. If this amendment is enacted, the next report under this provision would be issued not later than September 30, 1983.

(c) Amends the annual report requirement contained in Section 817 of the Housing Act of 1954. The reporting provision requires, among other things, that the Department provide pertinent information with respect to all builders' cost certifications required by Section 227 of the National Housing Act. This requirement is unnecessary because all builders' cost certification information is maintained within the Department and is easily accessible.

Section 209. (a)(1) would amend section 6 of the Act of June 22, 1936 (49 Stat. 1804; 25 U.S.C. 389e) as amended by section 206(b) of the Act of October 19, 1980 (94 Stat. 2237) relating to the reporting of adjustments of irrigation charges due from non-Indian landowners served by irrigation projects administered by the Bureau of Indian Affairs. The amendment made by said section 206(b) contains an erroneous citation to section 2 of the Act of June 22, 1936 (49 Stat. 1804; 25 U.S.C. 389a). Section 2 of the 1936 Act does not include reference to a report to Congress. Instead, the phrase "section 2 of this Act" should have been "the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a)".

The amendment made by said section 206(b) leaves intact the second sentence of section 6 of the 1936 Act which requires Congressional approval before "proceedings" under the 1936 Act become effective, which is not consistent with the 1932 Act. We do not believe that we should continue differing statutory provisions relating to the reporting of adjustments of irrigation charges of Indian and non-Indian landowners served by the same Bureau of Indian Affairs projects. The legislative history of the Act of October 19, 1980, indicates that the amendment (like section 2(a)) was intended to combine the annual report required by the 1936 Act with the annual report required by the 1932 Act.

In addition, section 2(a)(2) would modernize the 1932 Act which still includes a reference to a reporting date that was the day following the opening date for sessions of Congress prior to adoption of the 20th Amendment of the U.S. Constitution in 1933 and refers to Legislative Days which have no current relevance to the provision. This amendment would permit one or more reports of debt adjustments or cancellations to be submitted with respect to each fiscal year but would require them to be submitted no later than 60 calendar days following the end of the fiscal year. In addition, section 2(a)(3) would amend the 1932 Act to provide that the Congressional review period would be 90 calendar days rather than the current 60 legislative days.

The above-mentioned reporting requirement of the 1932 Act is also applicable to the Indian Financing Act provisions in 25 U.S.C. 1465 and 1491.

(b) Provides for consolidation of several reports to Congress concerning Indian education.

Section 210. (a) Deletes the requirement that the Attorney General report annually to the Congress under the Electronic Fund Transfer Act of 1978 (15 U.S.C. 1693p(a); 92 Stat. 3740).

(b) Amends Section 252(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(i); 89 Stat. 898) by changing from semiannual to annual the frequency with which the Attorney General and the Federal Trade Commission must submit reports to the Congress and the President on the impact on competition and on small business of actions authorized by the International Voluntary Agreements section of the Act.

(c) Amends Section 8B of the Federal Coal Leasing Act of 1976 (30 U.S.C. 208-2; 90 Stat. 1089) by eliminating the requirement that an annual report to the Congress by the Secretary of the Interior on the leasing and production of coal lands contain a report by the Attorney General on competition in the coal and energy industries, including an analysis of whether the antitrust provisions of that Act and the antitrust laws are effective in preserving or promoting competition in the coal or energy industry.

Section 211. (a) Deletes the requirement that the Secretary of Transportation issue a separate report to the Congress on the past and anticipated financial condition and operation of the Railroad Rehabilitation and Improvement Fund established under section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976, P.L. 94-210, and of the Obligation Guarantee Fund established under section 511(b) of that Act. It is the intent that the reporting of this information be consolidated with other related requirements under section 409 of the Staggers Rail Act of 1980, P.L. 96-448.

(b) Deletes the requirement that the Secretary of Transportation submit annual reports to the President and the Congress on the financial condition of each railroad having a loan guaranteed under the Emergency Rail Services Act of 1970, P.L. 91-663, 90 days after the making of such guarantee and annually thereafter throughout the existence of such loan. It is the intent that the information on financial condition be consolidated with other requirements under section 509 of the Staggers Rail Act of 1980, P.L. 96-448, and reported to the Congress annually.

(c) Consolidates in a comprehensive annual report for greater usefulness and convenience the information on Federal financial assistance to the railroad industry required under section 409 of the Staggers Rail Act of 1980, P.L. 96-448; section 515 of the Railroad Revitalization and Regulatory Reform Act of 1976, P.L. 94-210; and section 10 of the Emergency Rail Services Act of 1970, P.L. 91-663. It further is the intent that the reporting of information on applications received called for quarterly in Fiscal Year 1981 Senate Report No. 96-932 be replaced by the annual reporting of such information in the consolidated report under section 409 of the Staggers Rail Act of 1980.

Section 212. (a) This provision would delete the country-by-country reporting requirement of the Bretton Woods Agreement Act in recognition of the fact that adequate, timely data are often not available and meaningful analysis is not feasible. The amended provision instead would require an annual general assessment (with such detail as may be useful and available) of the likely impact of policies adopted pursuant to Fund programs on basic human needs. This assessment would be included in the section of the annual NAC report dealing with basic human needs considerations and the Fund.

(b) Section 701(c)(1) requires an annual report to the Congress by the secretaries of State and Treasury on the progress toward achieving the goals of Title VII (Human Rights) of the International Financial Institutions Act. The amendment would delete the requirement that this human rights report addresses the objective of maintaining salaries and benefits of employees of the multilateral development banks at levels comparable to salaries and benefits of employees of private businesses and the United States Government in comparable positions. This subject matter is unrelated to human rights and it is, therefore, inappropriate to include it in a human rights report.

Section 213. Deletes the requirement that the National Labor Relations Board submit a report to Congress and to the President at the close of each fiscal year which listed cases heard, decisions rendered, and an account of all moneys it has disbursed. The subsection is amended to require an annual summary report from the Board. (This reporting requirement was earlier amended pursuant to P.L. 93-608 to delete submission of a listing of all employees, their salaries, and duties.)

Section 214. (a) Subsection 4(j) of the National Science Foundation Act of 1950, as amended, requires that the National Science Board (NSB) prepare annual reports to the President for submission to the Congress by March 31 of each year. This requirement has been fulfilled by submission in alternative years of Science Indicators and "topical" NSB reports.

Subsection (a) amends subsection 4(j) to require that the Board periodically render to the President a report on "indicators of the state of science and engineering in the United States." This would make Science Indicators, a well-used and popular report since its initial publication in 1973, legislatively mandated. It would not, however, write the current two-year cycle into law. Although the law would thus leave that decision to the Board, the Foundation would expect to alter the issuance schedule only after consultation with others in the Executive Branch and with the appropriate Congressional committees.

Subsection 4(j) is further changed to require that reports on policy matters related to research and education in science and engineering be prepared by the National Science Board when it, the President, or the Congress determines the need for such reports.

The requirement that such "topical" reports be issued on a fixed cycle has proved artificial. The Foundation believes that the cost of reports would be reduced and their effectiveness increased if they were made when there are pressing matters on which the Board, the President, or the Congress believes the Board should report. That might be more often or less often than annually. "Topical" NSB reports now cost approximately $200,000-$250,000 per year. It is expected that costs will decrease significantly if the reports are made shorter and more concise, as is planned.

Subsection (b) amends the National Science and Technology Policy, Organization and Priorities Act of 1976 to consolidate the Science and Technology Report and the Five-Year Outlook Report. Current law requires two separate reports (the Science and Technology Report on an annual basis and the Five-Year Outlook to be updated annually). Under Reorganization Plan 1 of 1977, responsibility for these reports was transferred to the Director of the National Science Foundation.

These two reports often contain overlapping and redundant information with annual turn-around times too short to provide for any meaningful and reflective changes. The proposed merger of the two reports, to be issued not less frequently than biennially, would eliminate duplication and provide for a single report on Federal and national matters related to science and technology.

Costs for the two reports currently total approximately $400,000 per year. Consolidation of the reports will save approximately $150,000 per year.

Section 215. Modifies the Report on VA Health Professional Scholarship Program by deleting the requirement to provide a summary of the reasons scholarships are not accepted. The information is difficult to obtain, involves valuable staff time and the validity of the results are doubtful.●

By Mrs. HAWKINS:

S. 2259. A bill to amend the Perishable Agricultural Commodities Act, 1930, to improve the administration of such act with respect to the disposition of certain violations under such act; to the Committee on Agriculture, Nutrition, and Forestry.

PERISHABLE AGRICULTURAL COMMODITIES ACT

● Mrs. HAWKINS. Mr. President, I rise today introducing legislation clarifying the administration of the Perishable Agricultural Commodities Act.

The Perishable Agricultural Commodities Act (PACA) was enacted in 1930 to punish unscrupulous buyers and sellers of fruits and vegetables. Its purpose is to establish the parties' rights and responsibilities under uniform trading contracts. Under the act, agreements are negotiated individually with the Department of Agriculture mediating contract disputes on request and taking corrective action when it uncovers evidence of unfair trading.

The fruit and vegetable industry has benefited throughout the years from the PACA; however, certain clarifications are needed in this 50-year-old act. The first change I propose is to codify procedures now used by USDA when it considers levying penalties for infractions under the PACA. Currently, the first seven mismarking or packing violations considered "serious" by USDA carry penalties of up to $2,000. The eighth or succeeding violation can trigger the revocation of a trader's license. Alternative schedules cover "very serious" or "flagrant" violations and penalties. The problem is that large firms quickly accumulate minor "serious" violations, all of them unwittingly due to the sheer volume of their shipments. This legislation would not penalize firms for accidental, unintended, or unwillful misbranding violations. However, any violation, if flagrant or repeated, could lead to the suspension or revocation of a traders' license.

I believe current penalties appropriately encourage proper marketing and packing practices, thereby assuring that consumers receive the produce which qualifies for the mark, label, or stencil its shipping container indicates. Therefore, under this bill, consumer protection will not be reduced because the penalty provisions will remain in effect.

The second change I propose is to close a loophole which allows a foreign claimant to assign his rights to an American and thereby circumvent the purpose of the act. Presently, a nonresident claimant under the PACA is required to furnish a bond double the amount in question before any formal action is taken on his complaint. However, if his American attorney files the claim, then no bond is usually required. My bill requires foreign traders, regardless of their decision to act through agents or assignees, to post a double bond. In so doing, it guarantees that American traders will receive all damage awards to which they are entitled.

In conclusion, the purpose of this legislation is twofold. First, it insures that misrepresentation violations are considered, and penalties provided, on a case-by-case basis. Second, my legislation eliminates a loophole enabling foreign claimants to forgo the posting of a bond when filing a claim under the PACA. Passage of these changes, I believe, will make the PACA a stronger, more effective law, providing better protection to consumers and producers of perishable agricultural commodities.●

By Mr. D'AMATO (for himself and Mr. LUGAR):

S. 2260. A bill to clarify the jurisdictional boundaries between the Securities and Exchange Commission and the Commodity Futures Trading Commission; to the Committee on Banking, Housing, and Urban Affairs.

SECURITIES/COMMODITIES ACCORD AMENDMENTS OF 1982

● Mr. D'AMATO. Mr. President, I am pleased to be joined today by my distinguished colleague from Indiana, Senator LUGAR, in introducing amendments to the Federal securities laws to clarify the jurisdictional boundaries between the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC). These provisions are a necessary complement to amendments to the Commodity Exchange Act which were included in S. 2109, the CFTC's reauthorization bill.

These amendments to securities laws and to the Commodity Exchange Act embody a carefully drawn accord reached between the SEC and the CFTC. Together, they reflect the expert and considered judgment of these two agencies as to the intended relationship between their respective functions and the proper resolution of ambiguities which presently exist regarding the scope of their respective authority.

In recent years, the growing demand for new types of financial future and financial option instruments has raised certain jurisdictional questions. In some cases, disputes over which agency is the appropriate regulator for such instruments have resulted in protracted litigation and have had the effect of impeding the healthy evolution of our financial markets. I commend Chairman Shad of the SEC and Chairman Johnson of the CFTC for their initiative and diligence in helping to resolve these important issues.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD, along with a joint explanatory statement of the SEC-CFTC jurisdictional agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Securities—Commodities Accord Amendments of 1982".

SEC. 2. Section 2(1) of the Securities Act of 1933 (15 U.S.C. 77b(1)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security or certificate of deposit or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 3. Section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)) is amended by inserting after "for a security," the following: "any put, call, straddle, option, or privilege on any security or certificate of deposit or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 4. Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended—

(1) by striking out "this section" in subsection (f) and inserting in lieu thereof "subsection (a)"; and

(2) by inserting after subsection (f) the following new subsection:

"(g) Notwithstanding any other provision of law, the Commission shall have the authority to regulate the trading of any option on a security or on a certificate of deposit (but not an option on a contract for future delivery).".

SEC. 5. Section 2(a)(36) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(36)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security or certificate of deposit or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

SEC. 6. Section 202(a)(18) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(18)) is amended by inserting after "mineral rights," the following: "any put, call, straddle, option, or privilege on any security or certificate of deposit or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,".

JOINT EXPLANATORY STATEMENT

As announced on December 7, 1981, the Commodity Futures Trading Commission ("CFTC") and the Securities and Exchange Commission ("SEC") have come to an agreement on a range of issues regarding their respective jurisdictions. In connection with this effort, the agencies have prepared draft legislation which, among other things, would clarify the statutes administered by the two agencies. The CFTC and the SEC are transmitting the draft legislative proposals to their respective Congressional committees, with this Statement, which explains a number of issues relating to the agreement. The two agencies urge that these statutory changes be enacted as promptly as possible.

The desirability of a resolution by the two agencies of the issues between them has become increasingly clear. The growing demand for new products related to securities or financial instruments, either as investments or as price hedging tools, has magnified the importance of removing the jurisdictional confusion that has hampered the development of the markets for such instruments. The confusion is a result essentially of amendments in 1974 to the Commodity Exchange Act (the "CEA") that (1) expanded the definition of "commodity" to embrace not only tangible goods but to reach intangible rights and interests, (2) gave the CFTC "exclusive jurisdiction" over agreements and transactions "involving" futures trading in commodities, and (3) inserted in the CEA a qualified provisio to preserve the SEC's preexisting authority over securities trading and the securities markets.

SUMMARY

The two agencies have agreed that the SEC will regulate options on securities and on certificates of deposit (and on all groups or indices of securities or certificates of deposit) and the CFTC will regulate futures contracts on exempted securities (other than municipal securities) and on broad-based groups or indices of any securities, as well as options on any such futures contracts. No futures contracts (or options on futures contracts) on individual corporate and municipal securities will be permitted to trade. The SEC may also allow options on foreign currency to trade on national securities exchanges, while the CFTC will have jurisdiction to regulate the trading of options on foreign currency in the commodities markets. The attached legislative proposals would specifically codify the agreement of the two agencies by clarifying current law in certain areas.

OPTIONS ON SECURITIES

Since 1973, national securities exchanges have traded options on securities under the regulatory structure administered by the SEC. The proposals to amend the federal securities laws would relate to the SEC's authority to regulate trading in options on securities. The SEC's authority over such trading on exempted securities has been challenged in the United States Court of Appeals for the Seventh Circuit.[1] Thus, one proposal would clarify the definition of "security" in the federal securities laws to include explicitly any option on a security.[2] In addition, options on foreign currency traded on a national securities exchange and options on certificates of deposit[3] would be included within that definition. Under the proposals, the SEC's authority over the trading of securities options also would be clarified by an amendment to Section 9(f) to establish specifically that the SEC's plenary options authority in Section 9(b) of the Exchange Act extends to options on exempted securities and by the addition of Section 9(g) which confirms the SEC's authority to regulate the trading of options on all securities and on certificates of deposit. The same legislative proposal would provide that only the SEC, and not the CFTC, has authority with respect to options directly on underlying securities and securities groups or indices.

Under a series of proposed amendments to the federal commodity laws, the CEA would not apply to options on securities or securities aggregates, and the CFTC would not be permitted to designate a board of trade as a contract market for the trading of such instruments. Nevertheless, the CFTC would have exclusive jurisdiction over all permissible futures contracts as well as options on those futures contracts, and would regulate options directly on foreign currencies traded in the commodity markets (but not on a national securities exchange).

FUTURES ON INDIVIDUAL CORPORATE OR MUNICIPAL SECURITIES

Pending further review of appropriate regulatory systems for trading in such futures, the legislative proposal would foreclose the trading of futures (and options on futures) on individual corporate or municipal securities, or contracts based on the value of such a security. Nevertheless, the two agencies intend to study further the issues raised by such trading with a view toward a future recommendation to lift this restriction. This temporary foreclosure of trading does not apply to futures (or options on futures) on exempted securities, except municipal securities.

FUTURES ON SECURITIES INDICES

The CFTC would be permitted under proposed amendments to the CEA to designate a board of trade as a contract market for contracts (or options on such contracts) of sale for future delivery of a securities group or index, but only if the contract (or option on such contract) meets certain specific minimum requirements set forth in the draft legislation as well as other requirements currently in the CEA.

With respect to a futures contract on a securities group or index (or option on such contract), settlement must be effected in cash or by means other than a security on which a futures contract could not be authorized. That is, such a contract could be settled by delivery of an exempted security, such as a security issued or guaranteed by the United States government, but could not be settled by the transfer or receipt of a corporate or municipal security.

Separate and apart from the present statutory requirement that any contract market have rules to prevent manipulation, the CFTC also would be required to find that trading in the contract under consideration would not be likely to produce manipulation in the futures markets or in related markets, i.e., those for any underlying security, option on such security, or option on a group or index including such securities.[4]

A securities group or index underlying a futures contract must be predominantly composed of the securities of unaffiliated issuers and, in addition, would be required to be a widely published measure of, and to reflect, the market for all publicly-traded equity or debt securities or a substantial segment of such market, or be comparable to such a measure. This standard is intended to provide adequate flexibility for the market to respond to the needs of participants, while assuring that only broad-based securities index futures contracts that are not conducive to manipulation could be authorized.[5]

In view of the SEC's strong regulatory concern with respect to the trading of futures on securities groups and indices, that agency would be provided a specific role in the process of CFTC designation of a contract market for the trading of such instruments.[6] The CFTC would be required to consult with the SEC with respect to designation of any board of trade as a contract market for any futures contract involving a securities group or index. Following a mandatory public comment period, the SEC would be provided with a specific time period during which it could object to the designation on the ground that any minimum requirement was not met. If the SEC objected, the CFTC would, if the SEC requested, afford it an opportunity, after the public comment period, for an oral hearing prior to action upon the designation. After the oral hearing, if the SEC continued to maintain its objections, the CFTC would be required to give appropriate weight to the SEC's views in deciding whether to authorize the contract. If, nonetheless, the CFTC designated a board of trade as a contract market for such a futures contract,[7] the SEC would have the right to judicial review of such order, at which time the court would consider the CFTC's action and the SEC's views. In reviewing the CFTC action, the court would be required to determine, in accordance with the standards of Section 6(b) of the CEA, whether the agency action was supported by the weight of the evidence.

COMMODITY POOLS

While the CFTC has adopted extensive regulations governing the activities of commodity pool operators and has exclusive jurisdiction with respect to "accounts * * * involving" futures, the SEC has taken the position that the activities of a commodity pool as a company, *i.e.*, its formation, capital-raising, and continued corporate existence, are subject to the federal securities laws. The draft legislative language would make this result explicit by stating that nothing in the CEA affects the applicability of the Securities Act and the Exchange Act with respect to securities issued by commodity pools and transactions therein. Of course, the proposed language would not affect the exclusive jurisdiction granted by the CEA with respect to state regulation. Moreover, in appropriate circumstances, commodity pools and persons managing them may be subject to the Investment Advisers Act of 1940 and, if a pool conducts not only a commodities business but also acts as an investment company, the Investment Company Act of 1940.

FOOTNOTES

[1] *Board of Trade of the City of Chicago* v. *Securities and Exchange Commission, et al.*, No. 81-1660 (7th Cir., petition for review filed April 24, 1981), No. 81-2587 (7th Cir., petition for review filed October 5, 1981); and No. 82-1097 (7th Cir., petition for review filed January 21, 1982).

[2] As a result, an option on an exempted security would expressly be a separate, non-exempted security. Accordingly, a person in the business of effecting transactions in such instruments would, absent an applicable exemption, be required, pursuant to Section 15 of the Securities Exchange Act of 1934 (the "Exchange Act"), to register with the SEC as a broker or dealer. To the extent, however, that such

a requirement would impose an unnecessary burden on government securities dealers effecting transactions in options on government securities, the SEC has the authority administratively to provide an exemption from that requirement and currently intends to do so.

[3] Although the status of certificates of deposit as securities under the Securities Act of 1933 (the "Securities Act") and the Exchange Act is not free from doubt, certificates of deposit have consistently been considered "securities" for the purposes of the Investment Company Act of 1940. In order to emphasize that no change in current law is contemplated, the legislative language used in the two circumstances differs. Thus, for investment company purposes, the relevant portion of the definition of security would read "* * * option * * * on any security including a certificate of deposit," while the corresponding language proposed in the Securities and Exchange Act would read "* * * option * * * on any security, or certificate of deposit * * *."

[4] In order to address concerns relating to the general possibility of inter-market manipulation, the agencies have recommended the CEA be amended to authorize the CFTC to provide trade information to securities self-regulatory organizations and to registered futures associations, as well as to contract markets.

[5] In practice, the two agencies believe that these standards will raise few substantial questions with respect to trading futures on established, widely-used indices containing a number of securities sufficient so that the indices will not be subject to manipulation. As one example, an index of most of the securities traded on a major national securities exchange would appear unlikely to present difficulties. Such indices also would seem more likely to be useful to the marketplace, since they would permit persons such as underwriters or portfolio managers to hedge the risk of overall market movements. However, it appears unlikely that indices not now in existence, based on bonds issued by a group of affiliated companies or on small industry groups, would meet such standards.

[6] Section 2(a)(8) of the CEA provides a procedure for CFTC solicitation of comments from the U.S. Department of the Treasury and the Board of Governors of the Federal Reserve System ("FRB") with respect to futures contracts involving securities issued or guaranteed by the U.S. government. As agencies concerned with the issuance of such securities and with monetary policy and debt management, the Treasury Department and the FRB clearly have an interest in the CFTC's designation of a market for futures on such instruments. Nevertheless, the SEC, as the regulator of trading markets in municipal and corporate securities, has an even more direct interest in the authorization of a related futures market. Thus, the involvement of the SEC in the designation process is intended to go beyond the relatively informal communications procedure established for the Treasury Department and the FRB.

[7] If the CFTC refused to grant the application for designation and, pursuant to the CEA, afforded the board of trade an opportunity for a hearing on the record, the SEC would have the right to participate in that hearing as an interested party. Thus, the SEC would be permitted to present evidence and its views and to challenge the arguments advanced by the board of trade in support of its application.

AMENDMENTS TO COMMODITY EXCHANGE ACT

(Submitted by CFTC in connection with its reauthorization)

COMMODITY EXCHANGE ACT

[New language in italic]

SECTION 2(a)(1)(A)

* * * The word "commodity" shall mean * * * all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: Provided, That the Commission shall have exclusive jurisdiction, *except to the extent otherwise provided in subparagraph (a)(1)(B) of this section,* with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option," "privilege," "indemnity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to Section 5 of this Act or any other board of trade, exchange, or market, and transactions subject to regulation by the Commission pursuant to section 19 of this Act: And provided further, That, except as hereinabove provided, nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory authorities under the laws of the United States or of any State, or (ii) restrict the Securities and Exchange Commission and such other authorities from carrying out their duties and responsibilities in accordance with such laws. Nothing in this section shall supersede or limit the jurisdiction conferred on courts of the United States or any State. Nothing in this Act shall be deemed to govern or in any way be applicable to transactions in foreign currency, security warrants, security rights, resales of installment loan contracts, repurchase options, government securities, or mortgages and mortgage purchase commitments, unless such transactions involve the sale thereof for future delivery conducted on a board of trade.

* * * * *

SEC. 2(a)(1)(B)

Notwithstanding any other provision of law—

(i) *This Act shall not apply to and the Commission shall have no jurisdiction to designate a board of trade as a contract market for any transaction whereby any party to such transaction acquires any put, call or other option on one or more securities (as defined in Section 2(1) of the Securities Act of 1933 or Section 3(a)(10) of the Securities Exchange Act of 1934 on the effective date of Public Law No.), including any group or index of such securities, or any interest therein or based on the value thereof.*

(ii) *This Act shall apply to and the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option," "privilege," "indemity," "bid," "offer," "put," "call," "advance guaranty," or "decline guaranty") and transactions involving, and may designate a board of trade as a contract market in, contracts of sale (or options on such contracts) for future delivery of a group or index of securities (or any interest therein or based upon the value thereof), provided, however, that no board of trade shall be designated as a contract market with respect to any such contracts of sale (or options on such contracts) for future delivery unless the board of trade making such application demonstrates and the Commission expressly finds that the specific contract (or option on such contract) with respect to which the application has been made meets the following minimum requirements:*

(a) *Settlement of or delivery on such contract (or option on such contract) shall be effected in cash or by means other than the transfer or receipt of any security, except an exempted security under Section 3 of the Securities Act of 1933 as in effect on the effective date of Public Law No. (other than any municipal security, as defined in Section 3(a)(29) of the Securities Exchange Act of 1934 on the effective date of Public Law No.);*

(b) *Trading in such contract (or option on such contract) shall not be readily susceptible to manipulation of the price of such contract (or option on such contract), nor to causing or being used in the manipulation of the price of any underlying security, option on such security or option on a group or index including such securities;*

(c) *Such group or index of securities shall be predominately composed of the securities of unaffiliated issuers and shall be a widely published measure of, and shall reflect, the market for all publicly traded equity or debt securities or a substantial segment thereof, or shall be comparable to such measure.*

(iii) *Upon application by a board of trade for designation as a contract market with respect to any contract of sale (or option on such contract) for future delivery involving a group or index of securities, the Commission shall provide an opportunity for public comment on whether such contracts (or options on such contracts) meet the minimum requirements set forth in subparagraph (ii) hereof, and shall consult with the Securities and Exchange Commission with respect to such designation. If, within 15 days following the close of the public comment period, the Securities and Exchange Commission shall object to the designation of a board of trade as a contract market in such contract (or option on such contract) on the ground that any minimum requirement of subparagraph (ii) hereof is not met, the Commission shall afford the Securities and Exchange Commission an opportunity for an oral hearing, to be transcribed, before the Commission, and shall give appropriate weight to the views of the Securities and Exchange Commission. Such oral hearing shall be held after the public comment period, prior to Commission action upon such designation, and not less than 30 nor more than 45 days after the close of the public comment period, unless both the Commission and the Securities and Exchange Commission otherwise agree. In the event that such an oral hearing is held and the Securities and Exchange Commission fails to withdraw its objections, and the Commission issues an order designating a board of trade as a contract market with respect to any such contract (or option on such contract), the Securities and Exchange Commission shall have the right of judicial review of such order in accordance with the standards of Section 6(b) of this Act. In the event that, pursuant to Section 6 of the Act, there is a hearing on the record with respect to such application for designation, the Securities and Exchange Commission shall have the right to participate in that hearing as an interested party.*

(iv) *No person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under Section 3 of the Securities Act of 1933 or Section 3(a)(12) of the Securities Exchange Act of 1934 as in effect on the effective date of Public Law No. (other than any municipal security as defined in Section 3(a)(29) of the Securities Exchange Act of 1934 on the effective date of Public Law No.); or except as provided in subparagraph (ii) hereof, any group or index of such securities or any interest therein or based on the value thereof.*

Section 4c.

Section 4c(f) *Nothing in this Act shall be deemed to govern or in any way be applicable to any transaction in an option on foreign currency traded on a national securities exchange.*

[Current section 4m renumbered 4m(1)]

Section 4m(2) *Nothing in this Act shall relieve any person of any obligation or duty, or affect the availability of any right or remedy available to the Securities and Exchange Commission or any private party arising under the Securities Act of 1933 or the Securities Exchange Act of 1934 governing the issuance, offer, purchase or sale of securities of a commodity pool, or persons engaged in transactions with respect to such securities, or reporting by a commodity pool.*

Section 8a. The Commission is authorized—

(6) to communicate to the proper committee or officer of any contract market, *registered futures association, or self-regulatory organization as defined in Section 3(a)(26) of the Securities Exchange Act of 1934,* notwithstanding the provisions of Section 8 of this Act, the full facts concerning any transaction or market operation, including the names of parties thereto, which in the judgment of the Commission disrupts or tends to disrupt any market or is otherwise harmful or against the best interests of producers, [and] consumers *or investors or which is necessary or appropriate to effectuate the purposes of this Act: Provided however, any information furnished by the Commission under this subsection shall not be disclosed by such contract market, registered futures association or self-regulatory organization except in any self-regulatory action or proceeding;* and

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AMENDMENTS TO THE SECURITIES LAWS

SECURITIES ACT OF 1933

Section 2

(1) The term "security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, *any put, call, straddle, option, or privilege on any security or certificate of deposit or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,* or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing.

SECURITIES EXCHANGE ACT OF 1934

Section 3(a)

(10) The term "security" means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit, for a security, *any put, call, straddle, option, or privilege on any security, or certificate of deposit, or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,* or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant or right to subscribe to or purchase any of the foregoing; but shall not include currency or any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding nine months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

Section 9

(f) The provisions of [this section] *subsection (a)* shall not apply to an exempted security.

(g) *Notwithstanding any other provision of law the Commission shall have the authority to regulate the trading of any option on a security or on a certificate of deposit (but not an option on a contract for future delivery).*

INVESTMENT COMPANY ACT OF 1940

Section 2(a)

(36) "Security" means any note, stock treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, *any put, call, straddle, option, or privilege on any security including a certificate of deposit, or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency,* or, in general, any interest or instrument commonly known as a "security", certificate or interest or participation in, temporary or interim certificate for, receipt for, guarantee of, warrant or right to subscribe to or purchase any of the foregoing.

INVESTMENT ADVISERS ACT OF 1940

Section 202(a)

(19) "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, *any put, call, straddle, option, or privilege on any security including a certificate of deposit or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to a foreign currency,* or, in general, any interest or instrument commonly known as a "security", certificate or interest or participation in, temporary or interim certificate for, receipt for, guarantee of, warrant or right to subscribe to or purchase any of the foregoing.●

● Mr. LUGAR. Mr. President, I rise today in support of the legislation offered by my colleague from New York, Mr. D'AMATO. The legislation amends securities law to implement the securities portion of the SEC-CFTC jurisdictional accord.

On December 7, 1981, Chairman Phillip Johnson of the Commodity Futures Trading Commission and Chairman John Shad of the Securities and Exchange Commission reached agreement to end jurisdictional disputes that had hindered the development of new and innovative markets in areas where jurisidiction between the agencies was uncertain or contested.

The commodity and securities markets play an important role in the Nation's economy by providing both a general price discovery function and a means of hedging against the price risks accompanying commercial activities relating to agricultural and other activities, as well as financial instruments. If this Nation's commodity and securities markets are to remain competitive in a constantly changing world economy, and to perform these important economic functions efficiently, jurisdictional doubts and disputes must be removed.

I commend Chairman Johnson and Chairman Shad for recognizing the need for an immediate solution to this jurisdictional problem and urge my colleagues to support the CFTC-SEC accord.●

By Mr. PRESSLER:

S. 2261. A bill to authorize funds for the U.S. Travel and Tourism Administration for fiscal year 1983; to the Committee on Commerce, Science, and Transportation.

TRAVEL AND TOURISM ADMINISTRATION

Mr. PRESSLER. Mr. President, I am pleased to introduce reauthorization legislation for the U.S. Travel and Tourism Administration within the Department of Commerce.

This agency, which was created last year by the National Tourism Policy Act (Public Law 97-63), is at the beginning of a second genesis. It succeeds the U.S. Travel Service which was created by the International Travel Act of 1961. The USTS had come under severe criticism during the latter half of the 1970's, and the Senate Commerce Committee undertook a natonal tourism policy study to find a new direction for the Federal tourism promotion effort. As a result of this study and rigorous congressional consideration during 1980 and 1981, a decision was made to reorganize the USTS into a new agency, the U.S. Travel and Tourism Administration.

In conjunction with this decision, the Congress and the President committed themselves to a national tourism policy. This policy consists of a set of assumptions and goals which dedicates the Federal Government to a renewed effort to assist the American travel and tourism industry. I have included the findings and purposes of the National Tourism Policy Act in my statement. In addition, I have included some selected statistical data which reflects the importance of travel and tourism to the U.S. economy. This data was received by the Senate Commerce Committee during hearings which I chaired recently. These hearings reviewed the growing importance of travel and tourism to both the domestic and world economies, as well as a review of the funding needs of the U.S. Travel and Tourism Administration for fiscal year 1983.

Regarding this latter point, I would like to make several comments about the level of funds which should be appropriated for the USTTA for 1983. I am enclosing for the record a sheet which details the recent funding history of the USTTA. As you will see from this, the funding trend for the last 3 years has been sharply downward. This pattern corresponds with the period during which the Congress was conducting its critical review of the U.S Travel Service. It was the Congress which was dissatisfied with the operations of the USTTA; it was the Congress which cut the budget from $13.5 million in 1979 to $7.6 million in 1982; and it was the Congress and the administration which joined in support of last year's National Tourism Policy Act. We have been maintaining strict oversight of this governmental function, and now that we have chosen a new course I feel that we should provide the agency we have created with the resources to carry out the duties we have specified.

Among these duties is the production of a marketing plan. I am pleased to announce that this plan was received on March 19. It outlines the proposed activities of the USTTA and explains exactly what the funds we appropriate will be used for as we compete with the other nations of the world for the international tourism dollar. Our share of the world market can, and must, be expanded. Billions of dollars in trade revenue are at stake.

The home States of all the Members in this body depend on travel and tourism in some degree for their economic health. In my State of South Dakota travel and tourism is the second leading industry. It is in the top three in almost all States. The Federal Government has a legitimate role in promoting foreign travel to the United States. We are the world's leading destination, and with only a small investment we could greatly increase our share of the world market. As I said earlier, this means billions of dollars to the Nation as a whole, and millions to each of our States. It is an investment we should not pass up.

Mr. President, I ask unanimous consent that a list of statistics on the tourism and travel industry and a copy of the National Tourism Policy Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SIGNIFICANT STATISTICS ON THE TRAVEL AND TOURISM INDUSTRY

The industry generated $180 billion in spending in the United States in 1981 (7% of the Gross National Product).

Spending on travel and tourism generated $15 billion in federal, state and local taxes in 1981.

Approximately 5% of all American workers are employed directly by the travel and tourism industry (4.6 million).

99% of travel and tourism related businesses fall into the small business category.

Foreign tourists spent $12 billion in the United States in 1981.

The travel and tourism industry is one of the top three employers in 38 of the 50 States.

Travel and tourism is expected to be the world's largest industry by the year 2000 (it is currently second).

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION BUDGET

ACTUAL SPENDING

Fiscal year:	*Million*
1979	$13.5
1980	8.0
1981	8.0
1982	7.6
1983 (proposed)	5.0

The Commerce Committee makes the assumption that after the drastic budget cut made in 1980 the agency should have at least received increases to cover inflation during subsequent years. The committee is using those calculations in determining the authorization level for fiscal year 1983.

INCREASES IN THE 1980 BUDGET TO COVER INFLATION

Fiscal year:	*Million*
1980	$8.000
1981	8.992
(1980 CPI = +12.4%)	
1982	9.792
(1981 CPI = +8.9%)	
1983	10.527
(1982 CPI est. = +7.5%)	

$8.0 million × 12.4% = $992,000 = $8.992 for 1981.

$8.992 million × 8.9% = 800,288 = $9.792 for 1982.

$9,792 million × 7.5% = 734,400 = $10.527 for 1983.

A level of $10.527 million would only bring the USTTA back in line with inflation since 1980. This total would still be $3 million below the 1979 funding level.

Public Law 97-63—97th Congress

An Act to amend the International Travel Act of 1961 to establish a national tourism policy, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Tourism Policy Act".

NATIONAL TOURISM POLICY

SEC. 2. (a) The International Travel Act of 1961 (hereinafter in this Act referred to as the "Act") is amended by striking out the first section and inserting in lieu thereof the following: "That this Act may be cited as the 'International Travel Act of 1961'.

"TITLE I—NATIONAL TOURISM POLICY

"SEC. 101. (a) The Congress finds that—

"(1) the tourism and recreation industries are important to the United States, not only because of the numbers of people they serve and the vast human, financial, and physical resources they employ, but because of the great benefits tourism, recreation, and related activities confer on individuals and on society as a whole;

"(2) the Federal Government for many years has encouraged tourism and recreation implicitly in its statutory commitments to the shorter workyear and to the national passenger transportation system, and explicitly in a number of legislative enactments to promote tourism and support development of outdoor recreation, cultural attractions, and historic and natural heritage resources;

"(3) as incomes and leisure time continue to increase, and as our economic and political systems develop more complex global relationships, tourism and recreation will become even more important aspects of our daily lives; and

"(4) the existing extensive Federal Government involvement in tourism, recreation, and other related activities needs to be better coordinated to effectively respond to the national interest in tourism and recreation and, where appropriate, to meet the needs of State and local governments and the private sector.

"(b) There is established a national tourism policy to—

"(1) optimize the contribution of the tourism and recreation industries to economic prosperity, full employment, and the international balance of payments of the United States;

"(2) make the opportunity for and benefits of tourism and recreation in the United States universally accessible to residents of the United States and foreign countries and insure that present and future generations are afforded adequate tourism and recreation resources;

"(3) contribute to personal growth, health, education, and intercultural appreciation of the geography, history, and ethnicity of the United States;

"(4) encourage the free and welcome entry of individuals traveling to the United States, in order to enhance international understanding and good will, consistent with immigration laws, the laws protecting the public health, and laws governing the importation of goods into the United States;

"(5) eliminate unnecessary trade barriers to the United States tourism industry operating throughout the world;

"(6) encourage competition in the tourism industry and maximum consumer choice through the continued viability of the retail travel agent industry and the independent tour operator industry;

"(7) promote the continued development and availability of alternative personal payment mechanisms which facilitate national and international travel;

"(8) promote quality, integrity, and reliability in all tourism and tourism-related services offered to visitors to the United States;

"(9) preserve the historical and cultural foundations of the Nation as a living part of community life and development, and insure future generations an opportunity to appreciate and enjoy the rich heritage of the Nation;

"(10) insure the compatibility of tourism and recreation with other national interests in energy development and conservation, environmental protection, and the judicious use of natural resources;

"(11) assist in the collection, analysis, and dissemination of data which accurately measure the economic and social impact of tourism to and within the United States, in order to facilitate planning in the public and private sectors; and

"(12) harmonize, to the maximum extent possible, all Federal activities in support of tourism and recreation with the needs of the general public and the States, territories, local governments, and the tourism and recreation industry, and to give leadership to all concerned with tourism, recreation, and national heritage preservation in the United States.".

By Mr. PERCY (for himself and Mr. SCHMITT):

S. 2262. A bill entitled the "Police Officers Protection Act of 1982"; to the Committee on the Judiciary.

POLICE OFFICERS PROTECTION ACT OF 1982

Mr. PERCY. Mr. President, today the Senator from New Mexico (Mr. SCHMITT) and I are introducing legislation that responds to a threat that has recently emerged to the life and well-being of Federal, State, and local law enforcement officers. Early this year, I learned with real dismay that a small company had developed handgun ammunition capable of penetrating doors, walls, even the engine blocks of automobiles. Coated with teflon, these specially shaped bullets do not deform upon impact the way conventional bullets do, but instead slip through even the toughest materials. Most threatening of all, they easily penetrate the lifesaving body armor worn by more and more police officers. Made of a tightly woven synthetic fabric called Kevlar, this body armor stops conventional bullets—even at close range—and gives the policeman needed protection from the dangers they encounter as they carry out their duties. When I investigated further, I found that the danger was not confined to this one kind of teflon bullet: Other brands of ammunition produced abroad have many of the same characteristics and are equally capable of defeating soft body armor. For example, an article in the November/December 1981 issue of the American Handgunner describes an armor-piercing bullet manufactured in France with penetration characteristics comparable to the teflon round. The author of this article says that while "discretion forbids" him from mentioning how many layers of Kevlar these bullets will penetrate, that they should be "just the thing" for law officers "likely to encounter felons with body armor." Unfortunately, Mr. President, it is far more likely that criminals will find them "just the thing" to administer death-dealing wounds to law officers wearing body armor. I decided then that the Federal Government should outlaw the manufacture, importation, sale and possession of this dangerous ammunition.

The legislation I am introducing today, the Police Officers' Protection Act of 1982, requires the Attorney General to identify and restrict armor-piercing handgun ammunition which can penetrate soft body armor when fired from a handgun with a barrel 5 inches or less in length. Once he has identified which bullets are to be restricted, the Attorney General must then notify persons licensed to import, manufacture or sell firearms or ammunition under chapter 44 of title 18 of the United States Code. Under this provision, manufacturers, importers and dealers will quickly be alerted of the restrictions and of the penalties provided for violation of those restrictions. The legislation also provides authority for the Attorney General and the Secretary of the Treasury to seize restricted ammunition now in circulation. It is of the utmost importance to remove the bullets which are on the market from circulation, as swiftly as possible. This is an important part of the overall strategy to deal with the threat.

Tough penalties are provided for violations. For example, a person who uses or carries restricted handgun ammunition during the commission of any felony which can be prosecuted in Federal courts would face a mandatory sentence of from 1 to 10 years in prison, in addition to the penalties provided for that felony. Second offenders would face stiffer sentences, of from 2 to 25 years. A court could not suspend sentence for such a conviction, or allow probation, and the prison term could not run concurrently with other prison terms imposed for the felony, but would have to be consecutive. Manufacturers, importers or dealers who violate the Attorney General's restrictions would also face punishment—fines of up to $10,000 and prison terms of up to 10 years—and licenses for importing, manufacturing, or dealing in firearms and ammunition would be subject to revocation.

Mr. President, I want to take this opportunity to emphasize that this legislation does not allow the Attorney General to restrict rifle ammunition used by hunters and other sportsmen. Instead, this measure is intended to prevent criminals from obtaining this deadly ammunition to defeat the important protection that body armor provides for police.

Since I have begun work on this issue, Mr. President, I have been hightly gratified by the interest and support shown by prominent members of the law enforcement community in Illinois. Chicago Police Superintendent Richard Brzeczek, Cook County Sheriff Richard Elrod, the Illinois Association of Chiefs of Police, and the Patrolmen's Benevolent and Protective Association of Illinois have all written me to express their support for strong legislation. Howard Rogers, chief of police in Springfield, and Ross Randolph, the former Illinois director of public safety, a man with more than 50 years' experience in law enforcement, have both expressed their strong personal support for such action. Furthermore, I am pleased to report that the Republican leadership in the Illinois State Legislature plans an early initiative in this area.

Federal legislation is needed to support the efforts of these State and local officials. This menace can and should be removed from our streets. The police of our country risk their lives every day to safeguard the security of our citizens; we owe it to them to take this needed step and eliminate this threat to their safety and well-being.

By Mrs. HAWKINS (for herself, Mr. THURMOND, Mr. DECONCINI, and Mr. SCHMITT):

S. 2263. A bill to amend the Controlled Substances Act to provide increased penalties for illegal distribution of controlled substances in or adjacent to elementary and secondary schools; to the Committee on the Judiciary.

DRUG DISTRIBUTION DETERRENCE

● Mrs. HAWKINS. Mr. President, today I am introducing legislation cosponsored by Senators THURMOND, DECONCINI, and SCHMITT to deter drug distribution in and around schools. Our legislation contains two provisions: The first makes it a Federal criminal offense to distribute controlled substances within 1,000 feet of a school; the second establishes stiff penalties for this offense.

Last January 27, the Subcommittee on Investigations and General Oversight, which I chair, of the Senate Labor and Human Resources Committee, held hearings on the problem of drugs in the American school system. The hearing was the result of an extensive investigation by the subcommittee staff. It was learned during our investigation that an alarming number of schoolchildren, often as young as 11 or 12, are smoking marihuana and drinking alcohol. Even more disturbing is that many of these children are using hard drugs such as PCP, quaaludes, and LSD.

Sometimes, these drugs are obtained from other students. However, during the hearing five young reformed drug and alcohol abusers and an undercover policeman testified that these drugs are often sold directly to the juveniles on or near school grounds by adult dealers. These transactions take place in remote outdoor areas, at local "hangouts," or at nearby homes or apartments.

One insidious example cited at the hearing involved a 53-year-old mother of three sons who lived across the street from a high school. Often the mother sent one of her children to the school to distribute the drugs. Drugs also could be purchased directly at their home. In the words of one witness:

> You could pull up to the house and buy drugs at the house. It was not uncommon to see the 12-year-old kid come out and sell them to you if mama did not feel like it.

All the witnesses interviewed—including school counselors, juvenile justice judges, and other experts—believe that threatening pushers who approach our children near schools with stiff penalties will help reduce drug use in schools.

This bill reflects their recommendations. The legislation establishes a Federal crime for distributing a controlled substance within 1,000 feet of an elementary or secondary school. No such provision is now in the United States Code.

Our bill also establishes penalties for illegal distribution of drugs near schools. First-time offenders will receive up to twice the current punishment for commission of this crime in areas not adjacent to a school. When a person is convicted of this crime a second time, a mandatory minimum sentence of not less than 3 years, and not more than 20 years, will be imposed.

Young people suffering from drug abuse need our help. While we cannot legislate discipline in the family, or in the schools, we can assist in their establishment by helping to eliminate outside negative influences. I, therefore, urge my colleagues to support us by sending a signal to drug dealers that we will not tolerate their presence near our schools.●

By McCLURE (by request):

S. 2264. A bill to amend section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $3,165,000 for capital improvement projects on Guam for fiscal year 1983; to the Committee on Energy and Natural Resources.

CAPITAL IMPROVEMENT PROJECTS ON GUAM

● Mr. McCLURE: Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $3,165,000 for capital improvement projects on Guam for fiscal year 1983.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

There being no object, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 8, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To amend section 1(a)(1) of Public Law 95-348 (92 Stat. 487) to authorize the appropriation of $3,165,000 for capital improvement projects on Guam for fiscal year 1983."

We recommend that the bill be referred to the appropriate committee for consideration, and that it be enacted.

The proposed bill would authorize funds for Fiscal Year 1983 for needed capital improvement projects on Guam in the amount contained in the President's 1983 budget. The current authorization will expire at the end of fiscal year 1982. The specific projects involved include water transmission lines in Dededo/Mangilao, Windward Hills and Yona/Chalan Pago and dry dock facilities on Cabras Island.

The Office of Management and Budget has advised that there is no objection to the submission of this legislative proposal to the Congress and that its enactment would be in accord with the program of the President.

Sincerely,

PEDRO A. SANJUAN,
Assistant Secretary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(a)(1) of Public Law 95-348 (92 Stat. 487) is amended by deleting "$13,868,000 for fiscal year 1979, and $20,000,000 thereafter, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs from October 1978 price levels as indicated by engineering cost indexes applicable to the types of construction involved" and inserting in lieu thereof "$3,165,000 for fiscal year 1983".●

ADDITIONAL COSPONSORSf

S. 38

At the request of Mr. BURDICK, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 38, a bill to amend title XVIII of the Social Security Act to authorize payment under the medicare program for certain services performed by chiropractors.

S. 888

At the request of Mr. DURENBERGER, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 888, a bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 1698

At the request of Mr. DENTON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 1881

At the request of Mr. SASSER, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1881, a bill to provide for the issuance of a commemorative stamp to honor the dedication of the Vietnam Veterans Memorial.

S. 1931

At the request of Mr. SCHMITT, the Senator from Ohio (Mr. GLENN) and the Senator from Utah (Mr. GARN) were added as cosponsors of S. 1931, a bill to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in event of disability or death, and to increase the level of compensation available to both.

S. 1939

At the request of Mr. GOLDWATER, the Senator from Georgia (Mr. MATTINGLY), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Alaska (Mr. MURKOWSKI) were added as cosponsors of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 1943

At the request of Mr. SCHMITT, the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 1943, to increase the penalties for smuggling quantities of marihuana exceeding 1,000 pounds.

S. 1998

At the request of Mr. MATHIAS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1998, a bill to provide preferential treatment under the Immigration and Nationality Act to certain aliens who are retired officers or employees of certain international organizations, members of their families, or surviving relatives of deceased officers or employees of such organizations.

S. 2123

At the request of Mr. SYMMS, the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 2123, a bill to amend title 18, chapter 44, United States Code, to provide clarification of limitations on controls of the interstate moverment of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances.

S. 2155

At the request of Mr. KASTEN, the Senator from Florida (Mrs. HAWKINS), and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 2155, a bill to require a foreign country be declared to be in default before payments are made by the U.S. Government for loans owed by such country or credits which have been extended to such country which have been guaranteed or assured by agencies of the U.S. Government.

S. 2174

At the request of Mr. THURMOND, the Senator from Michigan (Mr. LEVIN), the Senator from Tennessee (Mr. SASSER), the Senator from Delaware (Mr. ROTH), the Senator from North Carolina (Mr. EAST), the Senator from Maryland (Mr. SARBANES), the Senator from Maine (Mr. COHEN), the Senator from Mississippi (Mr. STENNIS), the Senator from Kentucky (Mr. FORD), the Senator from California (Mr. HAYAKAWA), the Senator from Mississippi (Mr. COCHRAN), the Senator from New Mexico (Mr. DOMINICI), the Senator from Nebraska (Mr. EXON), the Senator from Indiana (Mr. LUGAR), the Senator from Alaska (Mr. STEVENS), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2225

At the request of Mr. BAUCUS, the Senator from Idaho (Mr. SYMMS), and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 2225, a bill to amend the Internal Revenue Code of 1954 to remove certain limitations on charitable contributions of certain items.

S. 2226

At the request of Mr. LUGAR, the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. HATCH), the Senator from Alabama (Mr. HEFLIN), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of S. 2226, a bill to amend the National Housing Act to provide for emergency interest reduction payments and for other purposes.

S. 2238

At the request of Mr. METZENBAUM, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2238, a bill to amend title XVIII of the Social Security Act to provide coverage for dental care, eyeglasses, and hearing aids under the part B supplementary medical insurance program.

SENATE JOINT RESOLUTION 160

At the request of Mr. HAYAKAWA, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) was added as a cosponsor of Senate Joint Resolution 160, a joint resolution to designate July 9, 1982, as "National POW-MIA Recognition Day."

SENATE JOINT RESOLUTION 167

At the request of Mr. DURENBERGER, the Senator from Kentucky (Mr. FORD), the Senator from Maryland (Mr. MATHIAS), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Joint Resolution 167, a joint resolution to commemorate the 100th anniversary of the Knights of Columbus.

SENATE JOINT RESOLUTION 172

At the request of Mr. HELMS, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of Senate Joint Resolution 172, a joint resolution designating Baltic Freedom Day.

SENATE CONCURRENT RESOLUTION 68

At the request of Mr. MOYNIHAN, the Senator from Nebraska (Mr. EXON), the Senator from Louisiana (Mr. LONG), the Senator from Indiana (Mr. LUGAR), the Senator from Georgia (Mr. MATTINGLY), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New York (Mr. D'AMATO), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. METZENBAUM), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of Senate Concurrent Resolution 68, a concurrent resolution regarding membership in the United Nations General Assembly.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. TSONGAS, the Senator from Delaware (Mr. ROTH), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Michigan (Mr. LEVIN), the Senator from Florida (Mr. CHILES), and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes.

SENATE CONCURRENT RESOLUTION 72

At the request of Mr. GARN, the Senator from Florida (Mr. CHILES) and the Senator from Illinois (Mr. PERCY) were added as cosponsors of Senate Concurrent Resolution 72, a concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

SENATE CONCURRENT RESOLUTION 76

At the request of Mr. PERCY, his name was added as a cosponsor of Senate Concurrent Resolution 76, a concurrent resolution expressing the sense of the Congress with respect to the situation of two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union.

SENATE RESOLUTION 334

At the request of Mr. METZENBAUM, the Senator from Illinois (Mr. DIXON), the Senator from Alabama (Mr. HEFLIN), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of Senate Resolution 334, a resolution to express the sense of the Senate disapproving the policy of the administration with respect to railroad retirement for fiscal year 1983.

SENATE RESOLUTION 340

At the request of Mr. ROBERT C. BYRD, the Senator from Arkansas (Mr. PRYOR) and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Resolution 340, a resolution to express the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

AMENDMENT NO 1333

At the request of Mr. MATHIAS, the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. COCHRAN), the Senator from Michigan (Mr. RIEGLE), the Senator from Wisconsin (Mr. KASTEN), the Senator from North Dakota (Mr. BURDICK), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of amendment No. 1333 intended to be proposed to S. 1758, a bill to amend title 17 of the United States Code to exempt the private noncommercial recording of copyrighted works on video recorders from copyright infringement.

SENATE RESOLUTION 349—COMMENDING THE MATSON NAVIGATION CO. FOR A CENTURY OF SERVICE

Mr. INOUYE (for himself and Mr. MATSUNAGA) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 349

Whereas, April 10, 1982, marks the 100th anniversary of the first sailing of Captain William Matson's little sailing vessel Emma Claudina from San Francisco to inaugurate ocean shipping service to Hawaii; and

Whereas, Matson ships have linked the United States mainland and the State of Hawaii through the century of peace and war, economic well-being, recessions and depressions, and the great development of the West and Pacific trade; and

Whereas, Matson Navigation Company in its century of service established a record of notable "firsts" in the Pacific, particularly the early development of Hawaii tourism with passenger liners and Waikiki hotels, the introduction of ocean freight containerization in the 1950s and modern cargo-handling technology in the 1980s; and

Whereas, Matson ships have served the Nation through two World Wars with fleet units assigned to the carriage of troops and military cargoes; and

Whereas, the Company for 100 years has contributed to the development of the domestic commerce of the United States and particularly the 50th State: Now, therefore, be it

Resolved, That the Senate of the United States extends to Matson Navigation Company heartfelt congratulations on its Centennial year and appreciation for dedicated service between the West Coast and Hawaii since Captain Matson's first voyage from San Francisco to Hilo; a period aptly described as "Matson's first century in the Pacific".

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will begin the markup of the First Concurrent Budget Resolution for fiscal year 1983 on Tuesday, March 30, at 11 a.m. in 6202 Dirksen Senate Office Building, and will continue daily meetings at 10 a.m., each day until Friday, April 2.

For futher information, contact Nancy Moore of the Senate Budget Committee at 224-4129.

SUBCOMMITTEE ON SECURITIES

Mr. D'AMATO. Mr. President, the Subcommittee on Securities will hold a hearing on March 31, 1982, to hear testimony on the Securities/Commodities Accord Amendments of 1982, which Senator Lugar and I have introduced today.

The hearing will be held in room 5302 of the Dirksen Senate Office Building, beginning at 9:30 a.m. Persons or organizations desiring to testify should submit a written request to me as soon as possible.

For futher information, interested persons should contact Diane Sanger of my staff at (202) 224-5642 or John Daniels of the Banking Committee staff at (202) 224-1561.

SUBCOMMITTEE ON CONSUMER AFFAIRS

Mr. CHAFEE. Mr. President, I would like to announce for the information of the Senate and the public a change in the date of a hearing to be held by the Consumer Affairs Subcommittee of the Committee on Banking, Housing, and Urban Affairs.

The hearing on Automated Clearinghouse Services, originally scheduled for March 26, 1982, will be held on April 23, 1982, in room 5302, Dirksen Senate Office Building, at 9:30 a.m.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, March 23, at 2:30 p.m., to hold a hearing on the nomination of Rita M. Lavelle to be Assistant Administrator for Solid Waste and Emergency Response of the Environmental Protection Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate at 9:30 a.m., on Wednesday, March 24, to hold an oversight hearing to discuss the IRS taxpayer assistance programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATOR SARBANES SALUTES THE "MAYOR OF TOWSON"

● Mr. SARBANES. Mr. President, for the past 30 years the Baltimore metropolitan area has benefited immeasurably from the compassion, dedicated public service and philanthropy of R. Richard Rudolph. A successful businessman, dedicated community leader and humanitarian, Dick Rudolph has been a moving force in promoting good causes, contributing his great energies not only to the growing business community, but also to a wide variety of charitable, civic and religious organizations.

As the unofficial "Mayor of Towson" he is a founder of both the Towson Business Association and the Save-A-Heart Foundation. Dick currently serves as chairman of the Baltimore County Community Relations Commission and president of the Towson Town Optimist Club, in addition to remaining active in the business he founded 35 years ago.

Mr. President, one of the most astute observers of the community, Joseph Weinstein, recently commented on Dick Rudolph's responsibility, resourcefulness, and regard for all humanity in his column in the Baltimore Jewish Times. I ask that this column on Dick Rudolph be printed in the Record.

The column follows:

[From the Baltimore (Md.) Jewish Times, Mar. 19, 1982]

On Tour Through Baltimore

(By Joseph Weinstein)

Toast and roast to a colorful leader. The friends of R. Richard "Dick" Rudolph will honor him at a tribute Toast & Roast Dinner, at the downtown Hilton Hotel, on Wednesday evening, March 24. To write about this unique personality would probably take much more than a short story in a short column. For "Dick" Rudolph has dedicated himself, through the years, to the community, in all its phases and all its facets, and there isn't a cause or a project or an organization, or an institution, on which Dick Rudolph has not left a mark. He has done much to help the needy, the poor, the hungry and the destitute. He has been the unofficial "Mayor of Towson" for the past 30 years, and endeared himself to all with whom he came in contact.

Born, raised and educated in East Baltimore, Dick started working as a newsboy at the age of 10, and as he grew up, he held all kinds of jobs, and 35 years ago, he opened his shoe shop in Towson on York Road. He still plays an active role in the store, now managed by his son, as Dick is now semi-retired. Dick, known for his wise-cracking exterior, really has a heart of gold. He loves people, loves to work with them and help them, and in his shoe business, he provided shoes through the years, to many who couldn't afford to buy them . . . He was a founder and first President of the Towson Business Association, one of the founders of the Save-A-Heart Foundation, and the Liberty Jewish Center, and he is currently Chairman of the Baltimore County Community Relations Commission, and President of the Towson Town Optimist Club . . . He is a member of the Boards of many organizations, and associations, in the City and State . . . He has been for many years a great humanitarian, a good friend, and a benefactor to many . . . His wife Doris, his children, and his little grand daughter, Stacey Ann, will all be by his side on March 24, when he will be Toasted & Roasted by his friends.

The proceeds of this event will go to the Save-A-Heart Foundation, and the Towson State University's Tiger Club Scholarship Fund . . . Chairing the affair are Don Diffenderffer & Bernard Sapperstein, with Walter D. Hyle, Jr., as Master of Ceremonies . . . The arrangements Committee includes a large number of Baltimore and Maryland VIP's, too numerous to mention . . . We must, however, list the names of the three gals of the Public Relations Committee, Sylvia F. Dantziac, Beverly Serpick, and Doris Gary . . . We wish to salute this dedicated worker and leader R. Richard Rudolph, with our best Wishes for his continued fruitful Activities and good deeds . . . The initials of R. Richard Rudolph are the three R's Denoting: Responsibility, Resourcefulness, and Regard for all humanity.●

SUPPLIES OF MINERALS AND FUELS

● Mr. McCLURE. Mr. President, perhaps it is a symptom of civilization, but more and more often, we see a faulty perception of the actual manner in which the necessities of life are obtained. We have become like children, who imagine that food materializes magically in the grocery store, and have no notion of the chain of events that leads from wheatfield or dairy to their breakfast cereal bowl.

In this same way, a very vocal portion of our society cannot grasp that the minerals and fuels we need must come from somewhere, and that we must develop and protect these sources. Our world has limited amounts of these resources, and the United States is not the only country that needs scarce minerals and fuels for its very survival. Our relationship with the other nations of the world must take into consideration this inevitable competition. As essential mineral bearing areas of the world fall into the grasp of unfriendly and competing nations, we will be hobbled in the race to survive. We cannot exist as an industrial nation if we do not take pains to see that the sealanes in the South Atlantic and Indian Oceans are open, and not locked in the Soviet's grasp. Our unfortunate dependence on foreign sources has made isolationism an unworkable relic from the past.

We must recognize the link between our foreign policy, strategic and critical minerals, and our ability to provide for the maintenance and security of this Nation. To cling to a provincial geopolitical view will lead to the inevitable erosion of security, not only for us, but for the free world. John Chamberlain, in a column in the Detroit News, brings to our attention the Shavano Institute, which has, in its first meeting, comprised of some of our country's foremost intellectual and business leaders, pointed out the grave necessity of preserving free access to the raw materials we need. I am pleased to share this column with my colleagues for the insight it provides into the serious matter of strategic and critical minerals, and their availability to this Nation.

I ask that the column be printed in the Record.

The article follows:

[From the Detroit News, Feb. 3, 1982]

Looking to the Year 2000

(By John Chamberlain)

Colorado Springs.—In kicking off the creation here of an organization that will be know as the Shavano Institute (named for a nearby Colorado mountain), President George Roche of Hillsdale College in Michigan outlined a proposal for something that has its paradoxical aspects.

On the one hand, he wants an institute that will be concerned with providing leadership for the America of the year 2000. More immediately, he is preoccupied with the here and now. He has plans for a "counterpoint series" program (public-question debates between lively adversaries) that is scheduled for a debut on Ted Turner's "superstation" cable-TV empire, whose satellite transmission takes programs to 17 million television households, an "outreach" that is scaring old-line broadcasters in CBS and NBC half to death.

The relevance of "here and now" was succinctly underscored by the speakers brought here for Shavano's first seminar. They included two Reagan advisers, Lyn Nofziger and Richard Allen, now departed from the White House; Bob Bleiberg, the editor of Barron's Financial Weekly; Frank Barnett of the National Strategy Information Center: Tom Wolfe, the social critic whose sarcastic phrase, "radical chic," is discomfiting to liberals; Frank Shakespeare, former head of the United States Information Agency; and Roche.

It was clear from the outset that the assembled 100 guests, mainly drawn from a group of intellectual and business leaders who are already on the scene, were not waiting for the year 2000. The guests could have benefited from a less guarded approach on the part of Nofziger and Allen toward the practical workings of the official Reagan White House entourage, but they were nonetheless heartened that President Reagan can count on loyalty from good men who have been temporarily displaced. The marvel is that Reaganism goes on even without Reaganites, as was demonstrated when the president, despite all his "close" financial advisers, reversed himself at the 11th hour on the subject of raising taxes to balance future budgets.

The really incisive stuff at this opening Shavano meeting came from Bleiberg, who feels that the age of inflation has reached its crest and is now on the downslide; from Tom Wolfe, who laughs contagiously at intellectual fashions; and from Frank Barnett, who thinks a lot of constructive things can be done to counter the Soviets on the world stage while we are waiting for superweapons to close the much advertised "window of vulnerability."

Barnett brought into focus the predicament of a NATO that is so incurably provincial. NATO tunnel-vision concentration on the European scene and the Mediterranean, while the Soviets are busy taking over the world's seven seas, is incomprehensible when one considers that Western Europe draws most of its raw material resources from the Persian Gulf. Africa, and Latin America. "In a sense," said Barnett of NATO, "the pursuit of present policies is like saying you'll defend the fort but not the waterhole." The Rudyard Kipling who wrote "what do they know of England who only England know?" should be around to ask some impertinent questions of the new isolationists who are "little Europeans."

To counter the Soviet drive to win an "undeclared" resource war in the South Atlantic and Indian Oceans, Barnett suggests an alliance of American, British, and Southern Hemisphere navies. A good idea, but it needs a lot of preliminary work to prepare the ground. The Argentinians and the Brazilians would hardly enter such an alliance as long as the Soviets are setting up a base for a South Atlantic fleet in Angola's Luanda. If the Reagan administration would only repeal the Clark amendment that keeps us from helping Jonas Savimbi's anti-Cuban, anti-Soviet UNITA movement to win in an Angola that is now a Russian colony, the Argentinians, the Brazilians, the Chileans, the South Africans, the Australians, and the New Zealanders might believe that we were ready to win the battle for the southern oceans, including the Indian Ocean sea lanes leading to Saudi Arabian oil.

Barnett's point about the "resource war" would make a good subject for a "counterpoint" program on Ted Turner's prime time. The difficulty would be to find a worthy opponent of the Barnett view. Our "liberals" don't want to fight the Soviets on the seven seas for access to raw materials. But for "environmental" reasons they are equally adamant against developing Idaho cobalt, Colorado molybdenum and shale oil, and deep-level gulf-state natural gas, to say nothing of atomic energy plants. The liberal, in effect, it too shortsighted to look at relevant alternatives.

If the Shavano Institute can bring this point home to 17 million Ted Turner TV-viewing families, it will have justified George Roche's fondest desires.

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Bob Lighthizer, chief counsel of the Senate Finance Committee and Mr. Philip A. Kent of the Committee on the Judiciary, to participate in a program sponsored by a foreign educational organization, Soochow University, in Taipei, Taiwan, April 2-10, 1982.

The committee has determined that participation by Messrs. Lighthizer and Kent in the program in Taiwan, at the expense of Soochow University, to discuss Taiwanese culture and institutions, is in the interest of the Senate and the United States.●

ADM. JAMES D. WATKINS, CHIEF OF NAVAL OPERATIONS

● Mr. HAYAKAWA. Mr. President, I was pleased to hear of President Reagan's announcement of Adm. James D. Watkins, USN, as Chief of Naval Operations.

Admiral Watkins, a fellow Californian, has an excellent background for this position. He graduated from the U.S. Naval Academy in 1949 and received a masters degree in mechanical engineering from the Naval Academy in 1958. From 1960 to 1962 he served as executive officer of the U.S.S. *Snook* and from 1964 to 1966 served as commanding officer. Admiral Watkins served as commander of a nuclear attack submarine and executive officer of the nuclear powered guided missile cruiser U.S.S. *Long Beach* during tours off Vietnam. In July 1978 he received the Distinguished Service Medal for his duty as Deputy Chief of Naval Operations for Manpower and Chief of Naval Personnel. He was commander of the U.S. 6th Fleet and NATO commander for naval striking and support forces in southern Europe. In April 1979 he was nominated by the President for appointment to the grade of admiral and as Vice Chief of Naval Operations. Admiral Watkins is presently serving as Commander in Chief, U.S. Pacific Fleet.

Based on his impressive background and extensive experience, it is clear that Admiral Watkins is well suited for this new position. In these times of increased concern over our national security and defense capabilities, it is imperative that America's Armed Forces be led by the best and most qualified individuals which our Armed Forces has to offer. We are indeed fortunate to have Admiral Watkins' experience and capabilities in this crucial position.

VOTING RIGHTS AND WRONGS

● Mr. EAST. Mr. President, I would like to share with my colleagues an article on the current controversy over section 2 of the Voting Rights Act which recently appeared in the March 1982 issue of Commentary. The author of this insightful analysis is the eminent constitutional scholar, Dr. Walter Berns. As my colleagues are aware, Dr. Berns is a resident scholar at the American Enterprise Institute here in the Nation's Capital. His previous publications include such highly regarded books as "The First Amendment and the Future of American Democracy."

Writing from the perspective of a political scientist who knows and appreciates the principles of American government and the intricacies of our electoral system, Dr. Berns notes in his article that S. 1992, the so-called Kennedy-Mathias bill—the alter ego of H.R. 3112 which passed the House in October of 1981—would radically alter the whole character of American democracy by establishing a system of proportional representation throughout the country, a system that has proved to be unworkable and generally hostile to stability and good government in Western parliamentary democracies. Indeed, it is only because West Germany and France abandoned wholesale proportional representation in the post-World War II period that they have been able to overcome the chaos and alternating periods of governmental paralysis and authoritarian rule that plagued their governments under Weimar and the Third and Fourth Republics.

As any student of government knows, Mr. President, proportional representation is a recipe for political disaster. It is based on the erroneous notion that each and every minority must be directly represented in government. Such a system may be ostensibly more democratic because it gives every faction a personal representative in government, but it is also completely at odds with the genius of American democracy. Since the adoption of our Constitution in 1789, we have adhered to a winner-take-all electoral system, which encourages moderation by requiring all successful politicians to appeal to a broad cross section of the electorate, and to build a consensus among all Americans for the development of public policy. Carving out separate offices of government for racial minorities, which in my mind is nothing more than an extension of the discredited separate-but-equal doctrine, makes about as much sense as carving out a certain percentage of all elective offices on the basis of sex or religion. Why confine it to racial minorities? The principle is utterly fallacious and ultimately dangerous. That so many Members of Congress seem to be supporting this principle is indeed an alarming state of affairs in a body sworn to uphold the Constitution.

As Dr. Berns notes in his timely article, the House of Representatives has subverted the original language of section 2 of the Voting Rights Act by creating a new effects test:

> The words "to deny or abridge" the right to vote were deleted; in their place were put the words "in a manner which results in a denial or abridgment" of the right to vote. This new language will make Section 2 the key section of the Act, one that will affect the electoral laws and practices of every state and political subdivision in the nation. There is reason to doubt that this was understood by all the Congressmen and Senators who lined up quickly in support of the bill.

It does not require the predictive skills of a soothsayer to understand what this change means. Take, for example, all of the cities and towns in America that elect their local officials in an at-large system, whereby all of the candidates run throughout the district for the city or county commission. At present, more than two-thirds of approximately 18,000 municipalities elect their local officials under the at-large system. Many of these communities established this system long ago in response to corruption within political wards run by political bosses. But every local election in these communities will be subject to challenge under the proposed change of section 2 where the proportion of racial minorities elected to office is less than the proportion of racial minorities living in the community. Thus if a particular community has a population that is, let us say, 20 percent Hispanic, then 20 percent of its local officials must be Hispanic. Needless to say every one of these 18,000 communities operating under the at-large system, where racial minorities comprise a part of the population, will have to be changed to single-member-district systems in order to meet the requirements of the new language in section 2.

Mr. President, I frankly fail to understand why this extreme restructuring of our political system is being heralded as an extension of voting rights. It has nothing to do with access to the ballot box or the right to vote as such, because when the effects or results test is applied one looks to the racial makeup of government after the votes have been counted. What is more, the effects test is no guarantee that racial minorities will have any greater influence than they presently enjoy under the present standard. Instead of consensus building and government by coalitions of minorities, we may well end up with political ghettoes for racial minorities. It is reasonable to suppose that because whites would no longer have any reason or incentive to campaign in these ghettoes, and racial minorities would have no reason or incentive for campaigning outside of them, all candidates would be appealing only to their own racial bloc. The moderating influence of the at-large system, which forces all candidates to appeal to members of all races and interest, would be gone, and we might well be opening the door to a new wave of political fanaticism. The influence of racial minorities under the new district system might well be undermined further by the fact that the white majority in control of the local unit of government would now be free to ignore the wishes of the minority community and would be able simply to out vote the minority officeholders. Thus coalition politics would also break down after the election as well as before.

Mr. President, Dr. Berns has rightly insisted that the proposed alteration of section 2 of the voting rights to establish a new effect or results test deserves to be defeated. So that Members of the Senate may better understand why Dr. Berns reaches this conclusion, I ask that his article on "Voting Rights and Wrongs" be printed in the Record.

The article follows:

[From Commentary, March 1982]

VOTING RIGHTS AND WRONGS

(By Walter Berns)

The Voting Rights Act of 1965 is surely the most successful civil-rights measure ever enacted by the national government. Everybody—or, at least, everybody who has publicly offered an opinion on the subject—agrees with this judgment, and there is good reason why they should. Among civil rights, that of voting is fundamental because the enjoyment of other rights is likely to depend on it; prior to 1965, however, and despite the Civil Rights Act of 1957, 1960, and 1964, it was a right denied to most Southern blacks. In Mississippi, for an egregious example, only 6.8 percent of voting-age blacks were then registered to vote; thanks to the Act, that proportion is now almost 70 percent, and in 1980 almost 60 percent of them actually voted. What is more, not only do white candidates for public office throughout the South now actively and publicly solicit black support at the polls, and Southern Senators and Congressmen legislate with a view to the interests of their black constituents, but major Southern cities have black mayors (Atlanta being the most conspicuous of these). Indeed, there are now almost 2,000 black elected public officials in the six states of the Deep South.

So successful has the Act been in achieving its objective (which, as then Attorney General Katzenbach put it, was the removal of barriers to black voter registration), that even some of its devoted supporters began to question whether its "Draconian" pre-clearance provision in Section 5 was needed any longer. Under this provision, some nine states (mostly Southern) and political subdivisions of thirteen others are required to submit all proposed changes in their voting laws and procedures to the U.S. Attorney General for his approval. For states accustomed to referring to themselves as sovereign commonwealths, this is an ignominious position to be in, especially since, in practice, their appeals are made not to exalted political officials, such as Griffin Bell or William French Smith, but to anonymous persons—who knows their names? and who can bring them to account?—in the Civil Rights Division of the Department of Justice. That great civil libertarian, Justice Hugo L. Black, protested that Section 5 treated the states as "conquered provinces" and was unconstitutional. (More recently, the usually soft-spoken Thad Cochran, Republican Senator from Mississippi, put it this way: "Local officials have to go to Washington, get on their knees, kiss the ring and tug their forelocks to all these third-rate bureaucrats.") What, these states ask, are they now doing to deserve this treatment? And why single them out? Is there no voting fraud up north, in Chicago, for example? It may have been in response to this question that Henry Hyde of Illinois, the ranking Republican on the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, asked, "Shall we extend the mandatory pre-clearance for these 'selected areas' another ten years . . . or is seventeen years in the political penalty box enough?"

Hyde's question was asked last summer when the House was debating proposals to renew or extend the Voting Rights Act. Unless Congress acts before August 6, 1982, some of these states and political subdivisions will be eligible to petition the U.S. District Court for the District of Columbia to be removed from this Section 5 pre-clearance coverage; in the words of the phrase coined to describe this procedure, they will be able to "bail out." Rather than permit this, some members of the House proposed that the pre-clearance provision be extended to cover all 50 states and all their political subdivisions; this, at least, would meet the complaint of unequal treatment. At this, Henry Hyde, for one, balked. What is significant, however, is that he ended up voting for the extension. He did so, he explained, because of what he learned during committee hearings on the proposals: "Witness after witness testified to continuing and prevasive denials of ready access to the electoral process for blacks."

Any fair-minded person would have to agree with this assessment. Despite the progress made since 1965, there are still more or less remote areas where state and local officials continue to resist according voting rights to minorities. Without federal supervision, there is no assurance that these practices would not continue or be resumed in other voting districts in some of the states. The price of liberty, as Tom Paine said, is eternal vigilance, and it is unfortunate, but the time has not yet come when we can rely on every local official to provide it.

The House agreed. It passed a bill extending the Act by the overwhelming margin of 365 votes (389-24); and when, on December 16, an identical bill was introduced in the Senate, 61 members of that body, including 8 Republican committee chairmen and several Southern Democrats, immediately indicated their intention to support it. Its easy passage would seem to be assured when it reaches the floor of the Senate, probably in April; as its sponsors, Senators Kennedy and Mathias, were quick to point out, a majority of this size is sufficient to defeat any attempt to filibuster on the bill. It is almost sufficient to overturn a presidential veto, not that there is much likelihood that the President would dare to cast one. Opposition to this bill, even White House opposition, has been conspicuous by its absence, so much so that some Senate staff members have complained of difficulties in finding witnesses willing to testify against it.

This is unfortunate because the bill in its present form is much more than an extension of the current law. Unless it is amended it deserves to be defeated.

II

What is new in this bill is not to be found in Section 5's pre-clearance provision, on which most of the debate has been focused; that section is unchanged. What is mostly objectionable in this bill is not to be found in the new bail-out section, even though its effect will be to make it almost impossible for any jurisdiction to take advantage of the bail-out privilege. What is new and profoundly objectionable is the seemingly innocuous amendment to the text of Section 2 which, by general agreement, was not one of the Act's "key sections." (In one compendium of significant civil-rights laws, this section was omitted from the text of the 1965 Act precisely because, in the editor's view, it was not one of the "key sections.")

In its original form, Section 2 was a mere declaration, or a restatement in statutory form, of the Fifteenth Amendment to the Constitution. Where the Amendment says the "right of citizens of the United States to vote shall not be denied or abridged" on account of race or color, Section 2 says, more explicitly, that no "voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied [so as to] deny or abridge" the right to vote. Not surprisingly, unlike other sections of the Act, this one has given rise to very little litigation, and in the current debate over extending the Act very little attention has been paid to it. Yet its language was altered in a significant way. The words "to deny or abridge" the right to vote were deleted; in their place were put the words "in a manner which *results* in a denial or abridgment" (emphasis added) of the right to vote. This new language will make Section 2 the key section of the Act, one that will affect the electoral laws and practices of every state and political subdivision in the nation. There is reason to doubt that this was understood by all the Congressmen and Senators who lined up quickly in support of the bill.

The new language is intended to express the difference between the right to vote and what the federal courts, in voting-rights cases, have made of the right to vote. (It was placed in Section 2 of the bill because that section, unlike Section 5, applies to the entire country, and applies to existing voting laws and practices as opposed to voting changes.) Voting, Chief Justice Warren pronounced in a 1969 case, includes "all activities necessary to make a vote effective," and the effectiveness of a vote is now measured by its results. Thus, a vote can be "diluted"—that is, made less effective—if a city annexes its surrounding territory with the consequence that the proportion of black voters declines from 56 percent to 47 percent of the population; or if, as a result of reapportioning its voting population, a state reduces the percentage of black voters in a district below 65 percent, the proportion calculated by the Justice Department and certain federal District Courts to make it relatively certain that a black will be elected; or if, when changing from a system of plurality to one of majority voting, a city cannot prove that the change will not "dilute the effectiveness of the Negro vote." This last reference is to a 1980 case, *City of Rome* v. *United States*, and a consideration of it and *City of Mobile* v. *Bolden*, decided the same day, will help to explain what Congress is up to.

Rome, Georgia, had a commission form of government, the commissioners being elected on an at-large basis and by a plurality of the vote. (As the Supreme Court noted, "literally thousands of municipalities and other local government units throughout the nation" have such a system.) In 1966, the state of Georgia enacted new laws affecting municipal governance, among them one providing for election of commissioners by majority vote. Since Georgia was covered by Section 5 of the Voting Rights Act, it had to "pre-clear" this electoral change with the Attorney General. He refused his approval and Rome went to court. The trial court found no discriminatory purpose in the new law, but it ruled against the city because the law was discriminatory in effect. As the Supreme Court repeated in its affirmance of the lower court's decision, the law would deprive "Negro voters of the opportunity to elect a candidate of their choice," by which it meant, a candidate of their own race. More precisely, the city had *not* proved that the new law would *not* have the effect of depriving Negro voters of the opportunity to elect a Negro candidate.

On the same day, the Supreme Court reached the opposite conclusion in a case presenting starkly similar facts. Mobile, Alabama also had a commission form of government, the three commissions being elected every four years by majority vote in at-large elections. *City of Mobile* v. *Bolden* began when black citizens of the city challenged the legality and constitutionality of the at-large election procedure, alleging that their vote had been "diluted" because, while blacks comprised more than 35 percent of the population, no black had ever been elected a city commissioner. Although the trial court found that Mobile blacks registered and were able to vote without hindrance, it nevertheless held this "dilution" of voting power to be an abridgment of the right to vote in violation of the Fifteenth Amendment, and ordered the replacement of the commission system by a mayor-council system, with council members to be elected from nine single-member districts. A sharply divided Supreme Court reversed, holding that an election law that is racially neutral on its face can be said to violate the Fifteenth Amendment only if it can be shown to have been motivated by a discriminatory purpose and that there was no such showing in this case. A plurality of the *Mobile* Court held that Section 2 of the Act is coextensive with the Fifteenth Amendment, and, therefore, does require proof of discriminatory purpose.

What accounts for the discrepancy in these judgments? The Mobile case was tried not under the Voting Rights Act but, rather, under the Fifteenth—and, to some extent, the Fourteenth Amendment, like Georgia, was covered by Section 5 of the Act, but Mobile, Alabama, unlike Rome, Georgia, had not changed its election law—it had been in effect since 1911—and, therefore, was not required to "pre-clear" it with the Attorney General under Section 5.

Thus, as the situation stands after these two 1980 cases, anyone challenging old election laws, or new laws in jurisdictions not covered by Section 5 of the Voting Rights Act, must sue under Section 2 of the current Act or under the Fifteenth (or Fourteenth) Amendment, and to prevail he must show discriminatory purpose; to prevail under Section 5, it is the city or state that bears the burden of proof and it must show no discriminatory effect.

The amended Section 2 is intended to reverse the Supreme Court's decision in *City of Mobile*. By making it clear that, in its judgment at least, proof of discriminatory purpose or intent is not required in cases brought under the Fifteenth Amendment (by way of Section 2), the House Judiciary Committee, as it frankly admitted in its report on the bill, intended to do away with the discrepancy between the law of *Mobile* and the law of *Rome*.

If enacted, it would permit voting-rights suits to be filed by the Attorney General or any private litigant against every state, city, county, or other electoral jurisdiction in the country. It would put every jurisdiction on notice that it might have to appear in a federal court to defend its election laws—any law affecting elections—against the charge that they "dilute" the votes of blacks and a few other minority groups. And it would, of course, make these federal courts the country's electoral lawgiver.

III

At the end of his dissenting opinion in *City of Mobile*, Justice Thurgood Marshall said that if the Court "refuses to honor our long-recognized principle that the Constitution 'nullifies sophisticated as well as simple-minded modes of discrimination' . . . it cannot expect the victims of discrimination to respect political channels of seeking redress." Such minatory statements are singularly out of place in judicial reports—after all, judges are not supposed to provoke or even to excuse lawlessness—but, except in the context in which it appears, Marshall's point concerning sophisticated modes of discrimination has considerable merit. There are ways of abridging the right to vote without apparently denying it.

The paradigm case of this occurred some twenty years ago when Alabama, without removing a single white voter, managed to exclude all but a fraction of Tuskegee's black voters from the city (all but 4 of a total of 400) by redrawing the city's boundaries, transforming its shape from that of a simple square to "an uncouth twenty-eight sided figure," as Justice Felix Frankfurter put it. The Supreme Court was unanimous in its judgment that this was a violation of the Constitution, with all but one member agreeing that it was an abridgment, if not a denial, of the Fifteenth Amendment's right to vote.

But in City of Mobile the Court was not retreating from its position in the Tuskegee case; it was refusing to join Marshall in his insistence that the Constitution requires that "the votes of citizens of all races shall be of substantially equal weight." To the Court—or, actually, to the plurality of Justices who joined in Justice Potter Stewart's opinion—this was a call for proportional representation. "The theory of this dissenting opinion . . . appears to be that every 'political group,' or at least every such group that is in the minority, has a federal constitutional right to elect candidates in proportion to its numbers." This, said Justice Stewart, is not the law of the Constitution.

Marshall angrily denied that he was calling for proportional representation; this charge was, he said, a "mischaracterization" of his position. There is, he went on, a clear distinction between a requirement of proportional representation and the discriminatory effect or vote-dilution test. "The vote-dilution doctrine can logically apply only to groups whose electoral discreteness and insularity allow dominant political factions to ignore them." In like manner, the amended Section 2 of the Voting Rights Act contains this disclaimer: "The fact that members of a minority group have not been elected in numbers equal to the group's proportion of the population shall not, in and of itself, constitute a violation of this section."

Despite these assurances, however, one from Marshall and the other from Congress, the distinction between the vote-dilution test and the proportional representation of at least some minority groups is likely to be no clearer than that between racial goals and racial quotas.

Those words in the amended Section 2—"in a manner which results in a denial or abridgment"—will derive their meaning in part from the Supreme Court's decision in *United Jewish Organizations* v. *Carey*, and according to Justice William Brennan, "the one starkly clear fact of this case is that an overt racial number was employed to effect petitioners' assignment to voting districts." In equally stark fact, race was the only criterion employed in the redrawing of district lines. Yet the Court, with Brennan concurring, approved it by a vote of 7 to 1.

At issue in this case was the New York reapportionment statute enacted after the 1970 census, and more precisely, the district lines drawn in three metropolitan counties, Kings, New York (Manhattan), and Bronx. In one of the newly-drawn districts, the nonwhite majority was *only* 61 percent, and the Justice Department, from whom Section 5 pre-clearance was required,[1] concluded from this and other facts that the state had *not* shown that the district, lines had *not* been drawn with the purpose or effect of diluting the voting strength of nonwhites (blacks and Puerto Ricans). Faced with the necessity to have its reaportionment plan in place in time for the 1974 primary and general elections, the state revised the plan as it affected the districts in these counties, increasing the size of the nonwhite majority from 61 percent to 65 percent. This satisfied the Justice Department in Washington but not everyone in the local district, for, in order to find the number of nonwhites needed to achieve the required 65-percent proportion, the state had to reassign to other districts some members of what had been a consolidated Hasidic community. The Hasidim went to court and, as one might expect, lost. They lost because, as Brennan put it in his separate opinion, they had "not been deprived of their right to vote" (which, of course, could also have been said of the nonwhites in the county), and because while their vote may have been diluted as a result of their being divided into separate districts, they do not constitute a group explicitly protected under the Voting Rights Act. Congress at its pleasure has reserved this status for blacks and so-called language minorities: American Indians, Asian Americans, Alaska Natives, and persons of Spanish heritage. The Hasidim were expected to take their chances along with the rest of the whites, and in this case at least there was no evidence of "cognizable dicrimination against whites." Whites could elect their representatives—that is, they could elect whites—in those districts where they were in the majority. *UJO v. Carey*, like some cases before it, stands for proportional representation, not, admittedly, for every group—the Court did not join Marshall by saying that "the votes of citizens of all races shall be os substantially equal weight"—but proportional for some groups.

One of Chief Justice Earl Warren's legacies to American politics was the aphorism, "Legislators represent people, not trees or acres," and, that being so, states were forbidden by the Constitution to apportion seats in either house of their legislatures on any basis other than population. Now it turns out that legislators represent not undifferentiated people—people defined only as individuals living in districts of approximately equal size—but groups of people defined by their race, and they can be said to represent them only if they are of that race. As the Court said, the votes of blacks will be diluted when the number of blacks in a district is not sufficient "to insure the opportunity for the election of a black representative." How many black representatives? That depends on the number of blacks in the county. How many are required in a district to insure the election of a black representative? If one takes it for granted that blacks vote as a bloc, at least 50 percent, and beyond that the number would seem to depend on voter turnout. In Kings County, turnout tends to be low, so 61 percent was deemed insufficient. Why 65 percent? "A staff member of the legislative reapportionment committee testified that in the course of meetings and telephone conversations with Justice Department officials, He 'got the feeling . . . that 65 percent would be probably an approved figure' for the nonwhite population in the assembly district in which the Hasidic community was located. . . ."

Of course, as any well-informed student of voting behavior could have told these anonymous Justice Department Solons (and told them over the phone), 65 percent may not be sufficient to insure the election of nonwhite representatives. In the first place, voters can (and sometimes do) look to factors other than race when casting their ballots, and it is an insult to assume this to be untue or even uncharacteristic of "nonwhite" voters. In the second place, in some areas (and Kings County is one of them) nonwhite voter turnout is so low that, even if nonwhites voted as a solid bloc, districts on the order of 80 or even 90 percent would be required to insure the election of their candidate. Voter turnout is related to education—the more education, the higher the turnout—and not at all to race, a fact that ought to be pondered by the ideologues in the Justice Department and federal judiciary. Since the nonwhites in these Kings County (which is to say, Brooklyn) districts tend to be very poorly educated, it is not surprising that, judging from the returns in the 1980 congressional elections, their turnout may be as low as 10 percent and surely is as low as 20 percent. Whatever the reasons, four of the five districts the Justice Department presumed to be safely nonwhite after the 1974 reapportionment proceeded to elect white representatives in the ensuing local elections.

What, then, can we make of Congress's assurance that Section 2 does not require a group's representation to be equal to its proportion of the population—or that disproportionality does not "in and of itself" constitute a violation of the section? If we assume, surely correctly, that this language is not intended to be a repudiation of *UJO* v. *Carey* and the other vote-dilution cases, Congress means that some factor in addition to disproportionality must be present before it can be said that a group's vote has been abridged by being diluted. What factors? Well, for example, the fact that a group's "discreteness and insularity [has allowed the] dominant political factions to ignore [it]"; or the fact that, after a city annexed additional territory, the number of black seats on the council declined; or the fact that there is evidence of racial bloc voting. Where there is "underrepresentation," the presence of any one of these additional factors, or any one of what Justice Stewart in the *City of Mobile* case referred to as "gauzy sociological considerations," will continue to trigger a violation. So much for the "not-in-and-of-itself" disclaimer.

Besides, whatever Congress's intention in making this disclaimer, the courts are likely to treat it the way they treated a similar disclaimer in the Civil Rights Act of 1964. There Congress said specifically that nothing in Title VII of that Act should be interpreted to require employers "to grant preferential treatment" to any person or group because of race, color, sex, or national origin, not even to correct "an imbalance which may exist with respect to the total number or percentage of persons of any race [etc.] employed by any employer."

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[1] These counties were subject to the pre-clearance provision of the Voting Rights Act because New York then had a literacy test for voting and, given a choice between Richard Nixon and the candidate of a badly dicredited Democratic party, fewer than 50 percent of the state's voting-age population had gone to the polls in the 1968 presidential election. In combination, these factors were presumed to be evidence of disfranchisement of some sort.

Clear enough, one would think, but the Supreme Court paid it no heed. To read this as written, said Justice Brennan in the *Weber* case, would bring about an end completely at variance with the purpose of the statute, by which he meant, the purpose of the Court.[2] Congress's disclaimer should be taken with a grain of salt, If the amended Section 2 is adopted, minorities whose voting power has been "diluted" will be able to file suits against jurisdictions throughout the country, and the remedy for vote dilution will prove to be minority representation in proportion to the size of the minority group.

In trying to achieve this, however, the federal courts will encounter a few problems. Where nonwhite voter turnout is as low as it is in Kings County, New York, will the amended Voting Rights Act require districts with populations 80 or 90 percent nonwhite? Some Republicans hope so; they know that the more blacks they can pack into a district, the more Democratic the vote of that district, and, consequently, the better will be their chances, to win in surrounding districts. From their partisan point of view, as many districts as possible should be 100 percent nonwhite.

Then, is it not a violation of the Voting Rights Act to combine Puerto Ricans and blacks in the single category, nonwhite? Both are explicitly protected groups and, accoring to the principle of UJO v. Carey, each is entitled to representation in proportion to its numbers. (Interestingly, enough, the Puerto Ricans of Kings County objected to the 1974 redistricting plan precisely because it did not establish a Puerto Rican district.) Perhaps in future cases the nonwhite group will have to be split into its component parts and each part given a district it can call its own. If so, the redefined Tuskegee (that "uncouth twenty-eight sided figure") will, by comparison, look like a perfect ellipse. And for one more example, it will be interesting to witness the situation where a city is ordered by the U.S. District Court for the District of Columbia to concentrate blacks in voting districts in order to "undilute" their voting power at a time when the local U.S. District Court has ordered the city to annex surrounding territory in order to integrate the schools.

IV

A genuine system of proportional representation, of the sort sometimes employed in Western Europe, is one where each political group—*Union socialiste et rėpublicaine, Gauche idėpendante, Jeune Rėpublique, Rassemblement du peuple français*, etc.—is guaranteed a share of seats in the legislature equal to its share of the popular vote. Since these groups are defined by their interests or the opinions they hold, and the popularity of these opinions cannot be known until they are elicited, there have to be elections. But one can learn how many blacks there are in the country simply by consulting the census reports. Why, then, bother to hold elections? Why construct these elaborate election districts to insure that black voters will elect, say, a Charles Diggs rather than, say, a Peter Rodino (chairman of the House Judiciary Committee)?

And indeed, one of the unintended consequences of this enactment of the amended Section 2 would be that the other sections of the Voting Rights Act would, in effect, be made superfluous. Who needs statutes providing Attorney General pre-clearance, or bail-outs, or federal election examiners and observers, when, with a few seemingly innocuous words, the judiciary can be authorized to do everywhere what the Justice Department has been doing only in the few "covered" jurisdictions, such as Houston, where it called off a general election, or New York City, where, merely because it thought it had not been given sufficient information, it prevented the holding of a primary election, or Kern County, California, where it ordered the printing of Spanish-language ballots—67,430 of them, of which number only 174 were actually used—in a 1978 primary election? Government by judiciary can be more efficient—think of school busing, abortion, prison reform—than government by administrative agency, to say nothing of government by local election officials.●

OLYMPIC COIN ACT

● Mr. GARN. Mr. President, after comprehensive hearings and deliberations the Senate Banking Committee reported to the floor S. 1230, and an amended version of that legislation passed the Senate on December 9, 1981.

Last week, we heard reports of a General Accounting Office assessment of the Olympic Coin Act indicting it as a "sham." In fact, the General Accounting Office has not officially released any opinion regarding the Olympic Coin Act, has never stated that the bill was a "sham," and in a letter to me last week, specifically stated that:

> It is not our position that S. 1230 (the Olympic Coin Act) is a sham.

I would like to quickly set the record straight on this matter, and offer for the record the official response of the General Accounting Office.

I ask that their letter of March 18, 1982, be printed in the RECORD.

The letter follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., March 18, 1982.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of March 15, 1982, asked several questions concerning ongoing GAO work on the Olympic Coin Act of 1981, Senate bill S. 1230, and requested a response by March 18, 1982.

We are currently conducting an evaluation of S. 1230 and other legislative proposals relating to an Olympic coinage program at the January 29, 1982, request of the Chairman of the Subcommittee on Consumer Affairs and Coinage, House Committee on Banking, Finance, and Urban Affairs. He specifically asked that we address such issues as (1) protecting the integrity of the U.S. Mint and avoiding interference with its normal operations, (2) the adequacy of accounting for funds and maximizing fundraising for athletes, (3) the proposals' potential impact on U.S. precious metal supplies and on the numismatic market, (4) adherence to proper procurement procedures, and (5) protecting the financial interests of the United States and the functioning of the Federal Government.

We expect to complete our evaluation by the end of March 1982. As such, we have only tentative observations at this time and no firm conclusions or recommendations. We anticipate concluding our work with testimony before the Subcommittee. In the testimony we expect to raise issues that should be considered before the Congress completes action on S. 1230 or any of the other related Olympic coinage legislative proposals.

In response to your other questions, it is not our opinion that S. 1230 is a "sham." We question whether one section requiring resolicitation of proposals from private marketing organizations for the exclusive, worldwide marketing agreement will result in increased competition given the very low probability of potential competitors to the existing marketer either resubmitting proposals or being selected. Apparently our staff used the word sham in discussing this section with the House Subcommittee staff.

We regret any misunderstandings that may have arisen. As soon as our work is complete, we will contact your staff and arrange a briefing on our findings and conclusions.

Sincerely yours,
J. DEXTER PEACH, *Director.*●

REDUCING NUCLEAR ARMS

● Mr. DANFORTH. Mr. President, Mr. Eugene V. Rostow, Director of the Arms Control and Disarmament Agency, is one of the Nation's most respected students of strategic nuclear policy.

Last Thursday, I proposed that the United States and the Soviet Union seek a negotiated reduction in the most threatening and destabilizing weapons in their nuclear arsenals: land-based intercontinental ballistic missiles fitted with multiple warheads.

Mr. Rostow is one of the people with whom I discussed measures the superpowers can take to reduce the risk that we will destroy the Earth in a nuclear holocaust.

Mr. Rostow shared with me his opinion on a starting point for reductions in nuclear weaponry. His thought is that land-based missiles are where we should look for reductions because, in his words, "nuclear weapons are not created equal."

Mr. Rostow's comments represent neither a statement of the administration's policy nor an endorsement of my proposal. They are the line of thought pursued by one of America's foremost authorities on arms control. I ask that Mr. Rostow's letter to me summarizing his thoughts be printed in the RECORD.

On the day that I presented my suggestion for immediate pursuit of reduction in the most threatening nuclear weapons systems held by the superpowers, two distinguished columnists commented on strategic nuclear policy in articles appearing in the Washington Post of March 18, 1982.

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[2] See my article, "Let Me Call You Quota, Sweetheart," Commentary, May 1981.

The attention given to the nuclear imperative by Mr. Joseph Kraft and Mr. George Will tells me that a very healthy process is well underway. Both inside and outside of Government, people of good faith and serious purpose are giving hard thought to the most important moral issue in the history of humanity.

I ask that these perceptive articles be included in the Record.

The material follows:

U.S. Arms Control
and Disarmament Agency,
Washington, March 17, 1982.
Hon. John C. Danforth,
U.S. Senate.

Dear Jack: What I recall saying yesterday at the luncheon of the German-American Roundtable at the Madison Hotel is that in the field of strategic weapons the United States could well support an agreement for a freeze pending the negotiation of reductions if it were preceded by a sharp cut in the most destabilizing categories of the Soviet arsenal. After all, nuclear weapons are not created equal. The political and military threat of the huge Soviet ICBMs is quite different from that of bombers, cruise missiles, and SLBMs. If the equation were changed in some such way, we could go forward with the negotiations pretty comfortably.

I appreciated our conversation today, and will keep in touch.

Yours, as always,

Gene.

[From the Washington Post, Mar. 18, 1982]

FORGET THE FREEZE

(By George F. Will)

I note with regret, but not amazement, that those who are advocating a mutual U.S.-Soviet "freeze" of nuclear arsenals are not like Albert Einstein, who said: "Everything should be made as simple as possible, but not simpler." Simplicity makes the freeze proposal politically attractive, and irresponsible.

In the 1970s, while the Soviets raced ahead, America unilaterally practiced a semi-freeze. It deployed multiple warheads (MIRVs) on some existing missiles, but deployed not a single new ICBM. America deployed not a single new submarine-launched ballistic missile (SLBM) in the 1970s.

Applied to intermediate-range missiles in Europe, the freeze proposal is the Soviet negotiating position: accept the Soviet's 300 SS20s, and permit no comparable U.S. missiles. Furthermore, if their general superiority in offensive systems were secured by a freeze, the Soviets could further refine their destabilizing counter-force capabilities.

For example, a freeze would prohibit new SLBMs but not new attack submarines that hunt SLBM submarines. These could eventually give the Soviets a destabilizing capability for destroying the U.S. sea-based deterrent.

A freeze would kill the B1 bomber, but would not inhibit the air defenses by which the Soviets degrade the effectiveness of America's ancient B52s. To try to preserve even a shadow of this leg of the strategic triad, America would have to spend heavily. The B52's "escape time" (the time it takes to get out of range of nuclear effects from incoming missiles) is inferior to the B1's and inadequate to the threat of Soviet SLBMs off the U.S. coast. Therefore, B52s would have to be rebuilt for better escape capability and would have to be more dispersed (B52s can use fewer airfields than B1s, so airfield modernizations would be necessary) at prohibitive cost.

The budgetary impact of a freeze would be modest. Strategic programs—weapons, command, control, communications—account for just 15 percent of the defense budget. The freeze would prevent some procurements, but would make other spending necessary to ameliorate the freeze's destabilizing effects.

(The freeze proposal makes it timely to note that some aspects of existing arms-control agreements are destabilizing. The ban on missile defenses (ABMs) is one example. Another is the ban on new silos. This prevents, for example, deploying any of our permitted number of ICBMs on the south sides of mesas. Given the inherent limits on ballistic missile trajectories, such basing would make America's land-based deterrent more survivable, and the world safer.)

The proposed freeze would extend to "testing, production and further deployment of nuclear warheads, missiles and other delivery systems." But proponents cannot explain how they will provide for verification of, say, a freeze prohibiting improved yields of warheads, or improved throw-weights of missiles, or even new missiles. How, for example will they verify whether new Soviet cruise missiles are nuclear-armed? Such verification is beyond the capability of our national technical means, and the Soviets will not permit the necessary on-site inspection.

The freeze proposal illustrates the dangerous asymmetry inherent in U.S.-Soviet arms negotiations. Such seductively simple panaceas pander to the widespread desire to believe that there can be an easy, cheap escape from the dangers posed by modern physics and the modern Soviet state. In the only superpower where public opinion matters, the freeze proposal will undermine support for modernization of strategic weapons. The argument will be: any new U.S. program will "provoke" the Soviets to reject a freeze.

But the Soviets are serious about arms limitations only when America's ongoing programs compel Soviet seriousness. The Soviets rejected the idea of limits on defensive systems—until the Nixon administration won congressional approval for ABMs. Then the Soviets reversed themselves. However, the fact that congressional support for the ABM was so fragile (a one-vote margin in the Senate) encouraged the Nixon administration to accept a destabilizing result in SALT I: a temporary (five-year) and ineffective restraint on offensive systems, but, effectively, a ban in perpetuity on ABMs.

Proponents of a freeze advertise it as a first step toward President Reagan's more ambitious goal of reductions in force levels. But were the Soviets to agree to a freeze, it would remove the only incentive—ongoing U.S. programs—for the Soviets to negotiate reductions.

The freeze proposal is popular with many who supported, and served in, the previous administration. That administration wasted four precious years killing and retarding U.S. strategic programs, and—not coincidentally—negotiating arms control agreements so imbalanced and porous that a Democratic-controlled Senate would not ratify them. The freeze proposal is another example of posturing and wasted motion that the world can ill afford.

[From the Washington Post, Mar. 18, 1982]

BREZHNEV OFFERS US A RARE OPPORTUNITY

(By Joseph Kraft)

A sudden turn of events has handed the Reagan administration a golden opportunity to cut a good deal with the Soviet Union on arms control. For Leonid Brezhnev has coupled an offer that can be topped with a threat that has to be challenged.

Washington is thus in a rare position to combine negotiations with a show of strength. The requirement is a specific, early offer for mutual reductions of intercontinental weapons—that is, a follow-up to the SALT II treaty.

Until Brezhnev's latest statement, the Reagan administration was on the defensive in dealing with Russia. It had repeatedly demanded that Moscow show signs of moderation in areas of tension. Moscow did not comply. The Reagan administration began to look to everybody like a paper tiger.

At the same time there was pressure, first from the European allies and increasingly from dovish opinion in the United States, for a more flexible American position on arms control. President Reagan eased the pressure somewhat when he outlined, in a speech on Nov. 18, the American position for negotiations with Russia on intermediate-range nuclear weapons based in Europe. He said the United States would cancel plans to deploy 572 Pershing and cruise missiles on the European Continent if the Russians agreed to scrap the 900 or so SS20s they have targeted on Western Europe.

But the yearnings for arms control were satisfied for only a brief period by that so-called zero-based proposal. Recently there has been more pressure from Europe for an American position that included intercontinental weapons. To that there was added last week a congressional resolution put forward by Sens. Edward Kennedy and Mark Hatfield. The resolution called for negotiation of an immediate halt to the nuclear arms race in all its dimensions—"a freeze on production and further deployment of nuclear warheads, missiles, and other delivery systems. . ."

These demands on the Reagan administration for more concessions provided the backdrop for the Brezhnev statement. The Soviet leader first reiterated, in somewhat more formal fashion, a freeze proposal that dovetailed perfectly with the Kennedy-Hatfield resolution. He said that "the Soviet leadership has taken a decision to introduce unilaterally a moratorium on the deployment of medium-range nuclear armaments in the European part of the U.S.S.R." He called on the United States and its allies to follow suit—but, as President Reagan observed, that would "lock in" Russia's enormous present advantage in nuclear weapons on the Continent.

To that offer, Brezhnev added—for the first time at his level—a distinct threat as to what Russia would do if the United States and its allies went ahead with the deployment of the cruise and Pershing missiles. In that case, Brezhnev said:

"There would arise a real additional threat to our country and its allies from the United States. This would compel us to take retaliatory steps that would put the other side, including the United States itself, its own territory, in an analogous position."

The general nature of that threat admits no doubt. Brezhnev is saying that if the United States and its allies go ahead with nuclear modernization in Europe, Russia will retaliate by increasing the nuclear weapons it has targeted on the Continent and the United States. The use of the word "analogous," moreover, suggests that the Soviet leader has in mind subjecting this country to the menace of intermediate-range nuclear weapons. Such weapons could reach U.S. territory only if they were based in Cuba.

But three times—under the Kennedy administration during the missile crisis of 1962; and under the Nixon and Carter administrations in lesser episodes—the United States has exacted from Moscow a pledge not to place nuclear weapons in Cuba. The Reagan administration cannot allow even an implicit threat to that understanding to go by. So there will simply have to be a test of Brezhnev's meaning.

The heavy odds are that Moscow will once more climb down on using Cuba for nuclear weapons. But that, of course, is only half the battle. The great opportunity is to use the occasion to advance the arms control negotiations from the domain of intermediate missiles in Europe to the area of intercontinental weapons.

Partially because of campaign rhetoric about the SALT II accord negotiated by the Carter administration, and partially because of internal confusion and bickering, the Reagan administration has so far refrained from stating its position on intercontinental missiles. But the elements of a deal are obvious. The United States can ask the Russians to scrap their massive nuclear blockbusters—the SS18s especially. In return this country would cancel projects to build such new weapons as the B1 bomber or the MX missile.

The riposte to Brezhnev would at that point be complete. The United States would be out front on arms control proposals. Russia would be on the defensive. It is possible—even likely—that there would be achieved true progress in reducing the level of armaments, and making the world a safer place.●

THE CENSOR OF GOVERNMENT

● Mr. COCHRAN. Mr. President, last weekend I came across an editorial in the New Haven Register which presents another viewpoint in the continuing discussion of the relationship between the Government and the media. I found it refreshing to read this assessment of one journalist which does not reflect the usual self righteous reaction that has characterized most of the media responses to the President's recent observations about the extremely negative nature of television news reporting. Even though we all know of the competitive spirit that exists between television and newspaper journalists, there is a feeling of fraternity too, but apparently it is not strong enough to prevent one editorial writer from saying what many Americans, in and out of government, must be thinking about the way some television reporters are presenting the news. These are the comments of Robert J. Leeney, editor emeritus, from the March 20, 1982, edition of the New Haven Register. I ask that the editorial be printed in the RECORD.

The editorial follows:

EDITOR'S NOTE: THE "CENSOR" OF GOVERNMENT

Presidential complaints about the press started with George Washington—and have been heard in every administration since. So Ronald Reagan's concerns of the week are neither new nor novel—nor are they necessarily wrong.

I would like to see the press—which means all disseminators of news—show a more even hand and a more neutral position in reporting, particularly on significant public issues—even though it's "pop" psychology today to claim that we are all so burdened with convictions and biases that objectivity is a myth.

The Constitution, of course, establishes no requirement for accuracy or fairness in the press. And when James Madison described the press as "the censor of government," he long ago defined a kind of head-to-head relationship which has been experienced by every president.

Not everybody loves a censor—least of all the victim. And critical inspection of any purpose or process inevitably pushes people to see flat-out right or flat-out wrong in the criticism. When the press begins to examine and report issues that government is attempting to solve—or to avoid—disagreement comes easily.

So the Reagan complaints expose no new problems.

But they remind us that old problems persist and that each succeeding presidency, and its accompanying press, is challenged to make responsible choices in the way information is passed on to the people who base their own free government on a free flow of relatively sound information.

Reagan's discomfort was prompted by negative reports on the state of the economy and negative reports about the official Washington viewpoint on the civil war in El Salvador.

He said that economic recovery could be hurt by the "constant downbeat" of television interviews with jobless people. At another time he said there was an "editorial slant" to some newspaper and television reports about the guerrilla fighting in Central America.

His gripes aren't totally unfounded.

But economic statistics have been down, down, down—and people are the ultimate way of gauging and understanding the effect of hard times and the results of government action.

So "some fellow out in South Succotash someplace," to use the Reagan phrase, is going to continue to get news attention if he's out of work. He is as understandable a news participant and a national symbol as two-and-20 contradictory economists belaboring their theories.

As to the El Salvador news, once again Reagan isn't all wrong.

There is strong opinion reflected in the major coverages of the war by the New York Times, the Washington Post, and the television network news agencies. The big newspapers have chosen to orchestrate a news approach in El Salvador which seems as much designed to impede White House policies and approaches there as to produce a clear flow of fact about the situation. Their news from the field frequently reads as if expressly written to challenge Washington statements.

The networks, reaching for the old Vietnam impact—and its audience ratings, have embraced guerilla exploitation and "bang-bang" as an alternative to dealing with the unadmired Salvadoran government leaders or with the claims of Secretary of State Haig. The unfortunate deaths of four Dutch camera-crewmen in mid-week, however they were entrapped, had as much to do with the pursuit of highly marketable film as with the pursuit of truth.

These realities are not going to change much now. The Times, the Post, and the liberal Democrats are likely to seek ways to contradict the administration until the El Salvador muddle is eventually solved or subordinated by other events. Television, with its urge for action photos in two-minute sequences will try to cope with diplomacy's dullness on the tube by expressing doubt about it.

And the White House can't be expected to cheer such approaches.

Part of the problem today is, in my view, semantic. All news gathering is lumped together and condemned with the same complaints. Yet the printed word is strikingly different from the spoken word. The formality, the balance, the considered choice and weight which can be put into even a badly written sentence or paragraph are usually neglected in the grin-and-gesticulate presentation affected by television news people. The folksy idiom of broadcast news language is loaded with prejudice.

"What will you do about the budget, senator?" is a legitimate news question.

"What in the world will you do about the budget . . ." as heard the other day on CBS, begins to express opinion even before the question is completed.

"The president argued (about economic news reports)" is a news statement. "The president damaged his own arguments . . ." as heard on an evening television broadcast, is unobjective.

"Vice President Bush criticized the reporting . . ." is a news approach.

"Vice President Bush, like Spiro Agnew, criticized . . ." is a broadcast example of an editorialized zinger that may not reflect Bush's claim at all.

These are from newscasts of the week, not from editorial commentaries. They are symptomatic of the way that bias and opinion are constantly and casually interjected into the idiomatic compressions of spoken news. And they are part of the reason why all official and unofficial impressions of fairness in the news are on the downgrade. In most cases the moderation and precision more natural to the printed word goes uncredited when there's a blanket complaint about the sins of the press or the "media."

We increasingly substitute the "hot," emotional medium of voice and picture, so much of it measured by sensory impression, for the "cool" medium of the printed word which we translate more by thought processes than by eye and instinct. Words and phrases perform differently in these differing contexts. And we need some better understanding in television news-casting of ways to make the language of reporters, and interviewers, and dispatch readers more precise then personal, more productive than prejudicial in terms of public information.●

BPA SAGA CONTINUES

● Mr. BAUCUS. Mr. President, today I submit for the RECORD my most recent correspondence with the Bonneville Power Administration (BPA) concerning siting problems of transmission lines it seeks to construct in my State.

To refresh the record, I also submit some of the earlier correspondence that deals with these problems.

I do this, as I have done in the past, in order to help a number of people remote from the Senate's floor—people in communities like St. Regis, Plains, Maxville, Phillipsburg, Drummond, Hall, and Boulder, Mont., as well as in places called Rattlesnake, Miller Creek, Nine Mile, Houle Creek, and others.

These people are far from Washington, D.C., but they are all too near the reach of their Federal Government. In these places, and, as I said, in many more, people are eyeball to eyeball with the Bonneville Power Administration. And, with the help of an active State government, a Federal court, several hard-working citizen action groups, their Congressman—Representative Pat Williams—and their Senators, they may achieve some success in their dealings with BPA.

A year ago on the Senate floor, I reported that BPA's Acting Administrator had given me strong assurances that BPA would mend its ways and seek to respond to Montana's needs. I then quoted George Santayana who said:

> Skepticism, like chastity, should not be relinquished too quickly.

A year has passed. I am still skeptical.

But if perseverance is what got the snail to the Ark, then perseverance is likely what will get changes in BPA.

Over the past year, BPA has improved its siting procedures. It has held more and better public meetings, and it has been more forthcoming with information. It has opened an office in Missoula, Mont.—much closer to several of the problem areas along the proposed lines.

BPA has still been far from perfect. Indeed, the best I can say to many people who are living in areas that have just recently been reached by BPA is that, as bad as BPA looks to them, it looked even worse to people whose areas had been reached a year ago.

On March 4, the U.S. District Court of the District of Montana Butte Division ordered BPA to meet the State of Montana's substantive line-sitting standards. It is too early to tell how cooperative BPA will be in working with the State government. I have expressed my strong concern to BPA that it live up to the spirit of this court order and cooperate fully with the State government. I intend to do all that I can to make sure that the hard work of the State's Governor in pursuing this lawsuit successfully is not lost in bureaucratic obfuscation at BPA.

Meanwhile, BPA continues to move forward with siting its lines. I hope that the information contained in the correspondence I submit today is useful for the many people who have brought up the questions that I have in turn asked of Bonneville.

Bonneville has just released its draft environmental impact statement for the portion of the line going from Garrison, Mont., west, and is about to start a series of public meetings as part of its comment process. Bonneville has given me its schedule for meetings in Montana, and while this listing of nine meetings in Montana is a good start, it is inadequate and I have asked Bonneville to conduct more. Indeed, in several areas where there are hotly disputed problems, Bonneville should conduct at least two meetings, one to explain its draft-EIS and a second some weeks later to receive informed comments. It is too much to expect busy citizens to read a lengthy EIS, and come to one meeting to have it both explained and give their comments.

If Bonneville sincerely seeks to be responsive to local residents, it must first take the time to explain its draft-EIS thoroughly and then, after an adequate time for review, come back a second time to hear what the people have to say.

Before concluding my remarks and submitting the correspondence, I would point out that one of these letters, my January 22 letter to the Comptroller General, is not addressed to the Bonneville Power Administration. In it, I ask the Comptroller General to review Bonneville's figures on the cost of burying transmission lines. I am informed by staff at the General Accounting Office that a review should be complete within the next few weeks, and at that time I will make the results of their study publicly available.

Mr. President, I submit for the Record the material to which I made reference.

The material follows:

U.S. Senate,
Washington, D.C., January 22, 1982.

Mr. Peter Johnson, *Administrator,*
Bonneville Power Administration,
Portland, Oreg.

Dear Mr. Johnson: At the end of December, a member of my staff conducted three public meetings in Missoula and St. Regis, Mont., concerning Bonneville's proposed twin 500 kv power lines. Thank you for making available several Bonneville personnel for these meetings. While, as you know, I strongly disagree with Bonneville's interpretation of its authority to construct these lines east of the Flathead Reservation and with Bonneville's decision not to comply with Montana's Major Facilities Siting Act, nevertheless, I appreciate any efforts Bonneville makes to respond to the needs of residents along the proposed routes.

Several questions were raised at these meetings, and I would appreciate your review and response.

Residents at St. Regis suggested the possibility of routing the line along what is known as the "CC Divide"—an alternative that I understand may place the lines over primarily federal land. I would appreciate your directing that this alternative be thoroughly re-reviewed. From comments at the meeting, I am concerned that engineering and cost factors may have led to the premature abandonment of this possible route even though it may have the least impact on area residents.

1. How much private land could be avoided by using something closer to the CC Divide route instead of the proposed possible southern routing near St. Regis?

2. How many people would have the lines running through their lands or within sight of their residences on these different routes?

3. What are the specific engineering differences of the two routes that might suggest one over the other?

4. What are the expected cost differences of the two routes?

5. What are the environmental impact differences of these two routes?

6. What would be the benefits and costs of routing the lines close to the existing Milwaukee Railroad right-of-way—another possibility raised at this meeting?

Concerning the Miller Creek portion of the possible southern route, I understand that Bonneville believes that four to six landowners would be able to see the power lines from their homes. Please forward to me the details.

7. Specifically, what residents in the Miller Creek area would be able to see the power lines from their homes should this route be chosen?

8. What economic impacts on each of these people and others in the Miller Creek area are foreseen? I am particularly interested in BPA's assessment of land valuation changes. People living in this area do so to a great extent because of its scenic and recreational value in relative proximity to Missoula.

9. How does Bonneville intend to compensate people who are economically damaged by land devaluations or in other ways even though the lines do not cross their particular lands? Please explain Bonneville's mandatory and discretionary authority as well as Bonneville's past practices in implementing these authorities and any relevant court decisions.

10. What specific economic impacts has Bonneville identified to date on local governments, residents, and others in Missoula and Mineral Counties? Please explain your work to date in identifying these impacts—particularly impacts on residents and landowners affected by the lines, but who do not own the lands through which the lines would pass. As part of this response, please explain for me the effects the lines might have on Mineral County's law enforcement radio communications.

11. What issues and impacts have been identified at this time in the Maxville area? Please explain for me the various routes being considered in this area. I'm particularly concerned about a suggestion that has been made to me by local residents that Bonneville should more closely study a possible route approximately mid-way between Maxville and Phillipsburg that would be most entirely on public lands.

12. What is the projected timetable at this point for Bonneville's publishing the draft environmental impact statement?

Thank you for your assistance.

With best personal regards, I am

Sincerely,

Max Baucus.

DEPARTMENT OF ENERGY,
BONNEVILLE POWER ADMINISTRATION,
Portland, Oreg., March 8, 1982.
Hon. MAX BAUCUS,
U.S. Senate
Washington, D.C.

DEAR SENATOR BAUCUS: This letter responds to the 12 questions you asked us to answer in your letter of January 22, 1982. We appreciate the concern of the Montana residents who attended the meetings at St. Regis and Missoula, and we welcome the opportunity to address their questions.

Our first response covers three inquiries—Questions 1, 3, and 4—because they are closely related. The remaining questions are dealt with individually and in numerical order.

Question 1. How much private land could be avoided by using something closer to the CC Divide route instead of the proposed possible southern routing near St. Regis? Question 3. What are the specific engineering differences of the two routes that might suggest one over the other? Question 4. What are the expected cost differences of the two routes?

Response. A location of a transmission line along the C-C Divide is not feasible because of engineering and reliability problems. It would be extremely difficult to design and build, and it would cost much more than any of the alternatives now being considered.

The Divide, as it is called locally, is a very crooked ridge ranging in elevation from 5,000 to 6,000 feet. A transmission line along the ridge would be exposed to strong winds, deep snows, and severe icing. These conditions would markedly impair the line's reliability and threaten electrical service to cities and communities throughout the region.

Such a line would be more expensive to build than the original alternative because of the ridgeline's sinuous character. Angle towers with heavier members and more extensive foundations would be required each time the line made so much as a slight bend. The cost, as compared to the alternatives, would be prohibitive. Also, inasmuch as few roads penetrate the area of the Divide, an extensive road system would have to be built, further escalating costs and impacting a sensitive environment.

Our opinions in this regard are based on preliminary study of the Divide in the early 1970's, specifically in the vicinity of Swamp and Cherry Creeks where a possible crossing of the Divide was being considered. As a result of the study, the crossing was judged to be unfeasible for the same reasons described above.

Indeed, there is no suitable place in which to cross the Clark Fork and approach the Divide between Quinn's Hot Springs and Tamarack Hill. The most northern route judged feasible crosses the Clark Fork on the east side of Tamarack Hill, goes up the south side of Tamarack Creek to a point near Buzzard Gulch, and then rejoins the original and more southerly route near the confluence of Flat Rock and Twelvemile Creeks. We call this the Tamarack Creek route. Until recently, it was not considered because of the Forest Service's RARE II designation for lands it would have to cross.

The Forest Service, however, has recently dropped this designation for these lands and the route is presently under active consideration as an alternative. We began studying it more closely about 3 months ago. It avoids the wintry conditions posed by the CC Divide. The area is either well served by roads or is in line for future road development by the Forest Service.

This alternative will require more study, but it is already clear that it possesses potential. Here is a comparison based on the facts as we now know them.

APPROXIMATE LANDS CROSSED

Alternative	Length (miles)	Federal (miles)	State (miles)	Private (miles)	Estimated line cost (in millions)
Original	16.8	13.0	2.1	1.7	$13.4
Tamarack Creek	17.1	13.7	2.3	1.1	13.6

We believe it would be helpful to make the point here that this general route—with or without the Tamarack Creek alternative—crosses comparatively little private land between the Missoula-Mineral County line and the proposed site of Taft Substation. As originally located, this segment crosses 57.2 miles of Federal land, 5.9 miles of private land, and 3.8 miles of State land.

Question 2. How many people would have the lines running through their lands or within sight of their residences on these different routes?

Response. Unfortunately, we do not yet know how many people own land that would be crossed or the number of homes from which the line could be seen. This information will be developed after a final proposed route is selected and tower sites located. The alternative nearest to St. Regis would be visible to the greatest number of persons. Most views would be midground views (as opposed to foreground or background). The visibility of the line would be mitigated by clearing selectively, darkening towers, or adjusting tower locations.

Question 5. What are the environmental impact differences of these two routes?

Response. the environmental impact of a route along the CC Divide, if such a route were feasible, would be greater because of the need for roads and the higher sensitivity of the environment as the elevation increases. The soils, hydrology, and vegetation at higher elevations are all more vulnerable to impacts. As altitude increases, the vegetation becomes more fragile and recovers more slowly when disturbed.

Studies made thus far indicate the environment along Tamarack Creek is slightly more sensitive to impacts than the original route.

Question 6. What would be the benefits and costs of routing the lines close to the existing Milwaukee Railroad right-of-way—another possibility raised at the meeting? Concerning the Miller Creek portion of the possible southern route, I understand that Bonneville believes that four to six landowners would be able to see the power lines from their homes. Please foward to me the details.

Response. The advantage of using the existing, abandoned railroad corridor would be more than offset by a number of major disadvantages. The disadvantages include:

1. The railroad is confined in this mountainous country to gradual grades. It encompasses long sweeping curves. A transmission line built on the route would be much longer and more costly than any of the alternatives. Part of the increased cost would result from the increased length of the line and part from the need for more angle towers.

2. The rail route passes through more populated areas, such as bottomlands, which the alternatives seek to avoid.

3. A transmission line on the rail route could be seen by more people.

4. One-track cuts and steep side slopes on the rail route would not allow adequate space for tower foundations, and the uphill slopes in some places would be too close to the conductors to allow adequate electrical clearances. Tunnels would also pose problems.

Question 7. Specifically, what residents in the Miller Creek area would be able to see the power lines from their homes should this route be chosen?

Response. Residents of some 15 to 20 homes along Miller Creek would be able to see the line. The exact number will be known after tower sites are located.

We have looked at alternatives to a line along Miller Creek and found that these alternatives would be visible to a larger group of persons and could still be seen by residents along the creek.

Question 8. What economic impacts on each of these people and others in the Miller Creek area are foreseen? I am particularly interested in BPA's assessment of land valuation changes. People living in this area do so to a great extent because of its scenic and recreational value in relative proximity to Missoula.

Response. Federal procedure requires us to use the before and after appraisal concept. Under this concept, the value of the land is estimated before the line is built by examining sales of comparable property. The value of the land after a line is built is then estimated.

After the final route is selected, an appraisal will be made for each parcel of land crossed by the proposed right-of-way. The difference between the before and after estimates will then be offered to the owners as just compensation. During the appraisal process, we always offer owners the right to accompany our appraisers. This gives an owner the opportunity to identify special features which in his opinion add value to his property.

Question 9. How does Bonneville intend to compensate people who are economically damaged by land devaluations or in other ways even though the lines do not cross their particular lands? Please explain Bonneville's mandatory and discretionary authority as well as Bonneville's past practices in implementing these authorities and any relevant court decisions.

Response. To our knowledge, there is no authority, court decision, or agency practice that permits compensation for ownerships not specifically crossed by the project. We are unaware of any approved appraisal technique that could be used to perform such an evaluation. In fact, our market research has shown just the opposite: there is no decrease in selling price for property adjacent to a transmission line. When expensive subdivisions have been constructed adjacent to our existing lines, the lots abutting the transmission right-of-way sell for as much or more than lots farther away from the line. Frequently, lots nearest the line sell first because of the attractive greenbelt provided by the right-of-way. Thus, we have no plans to compensate owners of land off the right-of-way.

Question 10. What specific economic impacts has Bonneville identified to date on local governments, residents, and others in Missoula and Mineral Counties? Please explain you work to date in identifying these impacts—particularly impacts on residents and land-owners affected by the lines, but who do not own the lands through which the lines would pass. As part of this response, please explain for me the effects the lines might have on Mineral County's law enforcement radio communications.

Response. Our studies, which are as yet incomplete, are identifying a number of economic impacts. Missoula and Mineral Counties would forego first-year property tax revenues of $1,280,000 and $2,637,000, respectively, if the transmission line in the Taft plan of service were constructed by the Federal government. This loss of potential revenue would be only partially offset by an estimated increase in personal income tax revenues of $551,000 during construction and by the payment of "impact aid." These payments are designed to offset increased costs that accrue to local entities as a result of such facilities.

Such impact payments are authorized by the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (Regional Act). Under the Regional Act, impact payments could not be made until the first fiscal year following adoption of the plan of service. Adoption is expected in April 1983. Thus, no payments could be made prior to fiscal 1984, which begins on October 1, 1983. BPA currently is developing guidelines for impact aid payments. These guidelines would be followed when it becomes legal for BPA to do so.

A number of positive economic impacts to the various communities near the project will be brought about by the purchase of goods and services, such as food, shelter, recreation, etc. Each payroll dollar spent in local communities will generate additional income within the area because of a multiplier effect that boosts this income above the amount actually spent for construction.

Based on research conducted by Mountain West Research, Inc., of Billings, Montana, the direct and indirect effect on income of construction worker expenditures related to the Taft alternative amount to $3,914,000 in Missoula County and $4,319,000 in Mineral County.

An analysis of economic impacts on counties, residents, landowners, and others resulting from the construction of a transmission line is difficult to assess. However, Mountain West Research is preparing an appendix to the EIS for the project. The appendix is titled "Social and Economic Considerations." This socioeconomic study will more adequately identify economic and social impacts of the project.

We do not expect the project to result in any interference with law enforcement radio communications on AM and FM wavelengths. It is possible, however, that some minor interference to AM signals may occur in the immediate proximity of the line.

Question 11. What issues and impacts have been identified at this time in the Maxville area? Please explain for me the various routes being considered in this area. I'm particularly concerned about a suggestion that has been made to me by local residents that Bonneville should more closely study a possible route approximately midway between Maxville and Phillipsburg that would be almost entirely on public lands.

Response. The principal issue in the Maxville area is the location of the proposed centerline. This issue has been emphasized by a group of citizens from the Maxville, Phillipsburg, Hall, and Drummond areas. They have formed an organization called the Granite County Alliance. This group has written collective and individual letters and sent them to BPA's Missoula office.

The Alliance takes the position that the project alinement should: be no closer than one-half mile to any residence, avoid visual impacts on residential property, avoid concentrations of domestic livestock on private property, avoid productive farm and range lands that are private property, and if possible stay entirely on public lands.

The Alliance has also sent us a map suggesting an alternative corridor south of Maxville. We are analyzing this corridor and considering all of the other suggestions and comments that have been made. We have personally contacted a number of individuals who have raised concerns.

Representatives of the Forest Service and BPA collected comments at a public meeting February 3, 1982, organized and conducted by the Alliance. At the meeting, a suggested criteria for impact weighting was directed at a study the Deerlodge National Forest has made of the Maxville area.

Question 12. What is the projected timetable at this point for Bonneville's publishing the draft environment impact statement?

Response. We expect the Draft EIS to be released in mid-March 1982 for review by the public and by government agencies. The draft, which was sent to the printer during the first week of February 1982, is now being printed.

We trust that the above is fully reponsive to your inquiry. Should you or your constituents desire additional information, please let us know.

Sincerely,

PETER T. JOHNSON, *Administrator*.

U.S. SENATE,
January 22, 1982.

Hon. CHARLES A. BOWSHER,
Comptroller General of the United States, Washington, D.C.

DEAR MR. BOWSHER: The Bonneville Power Administration is currently in the process of siting a proposed "twin" 500 kv transmission line across Western Montana. There are several areas where these lines may heavily impact local residents. Accordingly, I have been asking Bonneville to explore the possibility to burying these transmission lines in some especially sensitive areas.

Bonneville spokesmen have responded that burying such large transmission lines is fraught with engineering, safety, reliability and especially cost problems. I would appreciate your assistance in evaluating the validity of the cost figures suggested by Bonneville, as well as any information you may have from a prior study about the general engineering, reliability and safety considerations of burying such lines.

Bonneville spokesmen have said that the construction of twin 500 kv transmission lines through Western Montana should cost approximately $700,000 per mile if they are constructed as overhead lines and that burying the lines would raise construction to between $8 and $12 million per mile. I would particularly like your evaluation of these figures based on past construction and the best cost estimates that the General Accounting Office is able to make.

Thank you for your assistance. I do not require a formal, "Blue cover" report concerning this; a letter response will be sufficient. However, I would appreciate your help in expediting this review, as siting decisions may be made in the very near future.

With best personal regards, I am,

Sincerely,

MAX BAUCUS.

DEPARTMENT OF ENERGY,
BONNEVILLE POWER ADMINISTRATION,
Portland, Oreg., June 22, 1981.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: This is to respond to your letter of May 5, 1981, addressed to Earl Gjelde. We appreciate your comments concerning Bonneville Power Administration (BPA) community relations activities in western Montana and we want to assure you that we intend to be fully responsive to the concerns of Montana citizens in our planning of the Garrison-Spokane segment of the 500-kilovolt transmission facilities.

Following is our response to the specific questions and concerns posed in your letter, which we are addressing in the same numerical order.

1. The alternate corridor in the Boulder area passes along the edge of the Forest Service boundary northeast of the Boulder Valley. Centerline locations within this corridor are being routed outside the Forest Service land, which is under consideration for wilderness designation. The Forest Service has informed us that it cannot consider the location of a transmission line within this area until the wilderness area designation question has been resolved. We understand that this information was communicated to you in writing by the Forest Service following Mr. Frick's meeting with the Forest Service.

2. As you point out, residents in the Gold Creek and Drummond areas have suggested an alternative substation site on State land to the east of Gold Creek. While the suggested site is inadequate due to terrain limitations, our engineers are investigating an alternate substation site nearby. This latter site lies partially on private land, and we met with the landowner on May 20, 1981. If the site appears to be feasible, it will be fully addressed in the Final Environmental Impact Statement Supplement under the designation of Site 3A. The advantages of this site are that there are no nearby residences; it is close to the existing BPA and Montana Power Company (MPC) 230-kV lines; and it keeps all of the 500-kV routing options open to the west. The maps which we have sent to you point up these advantages.

3. We are well aware of your opposition to routing the transmission line through farm valleys and residential areas, and that you favor the use of Federal lands. We are also fully cognizant of your concern that the line not be routed through the Flint Creek Valley.

A route north of Drummond and a route to the south passing near Maxville, as well as a route paralleling the existing BPA 230-kV line, will each be fully evaluated and compared in the Garrison-Spokane EIS supplemental. Property owners and other concerned individuals and groups will be contacted for their input on each of these routes and any alternatives as part of the EIS process. The routes to the north and to the south each have the potential of bypassing farmland and residential areas to the maximum degree possible.

4. The process of identifying feasible alternate routes will continue for 2 to 3 more months. In this process, centerline locations will also be refined. Property owners and interested individuals (including those named in your letter) will be contacted for their input into this process. A series of six scoping meetings were recently held as reflected in the enclosed letter-and-response sheet

which was sent to some 2,000 landowners and concerned parties along the various routes.

5. The Magruder Corridor is no longer considered to be feasible for transmission line construction. The area has been designated as wilderness up to 300 feet on each side of the road, which traverses extremely rugged terrain and has many sharp curves. In order for a transmission line to be routed within the 600-foot-wide strip, nearly every tower would have to be an angle structure with extremely high associated costs.

6. Studies are being pursued to determine future electrical needs in the Missoula area. Preliminary findings indicate that, with the addition of the proposed Garrison substation, the existing 230-kV system would be adequate for several years with the addition of 230-kV-161-kV transformation in the Missoula areas. An additional source of electricity might be needed in the 1990's if the Missoula population and load continue to grow. This potential need could be satisfied by building an additional 230-kV line either from Hot Springs or the proposed Garrison substation to Missoula, or by tapping the proposed 500-kV double-circuit line. The tapping of the 500-kV line would provide substantial economic, transmission-loss saving and environmental advantages as compared to building a new 230-kV line. These options are discussed in the enclosed letter to BPA from Montana Power Company.

7. We fully share your concern as to the desirability of anticipating the need for future transmission in western Montana and undertaking such planning in a comprehensive manner. However, as you can understand, future transmission corridor requirements will depend upon various unknown factors and criteria. To a considerable extent, the future pattern and location of generating resources and associated energy transportation systems will evolve from the comprehensive planning now being undertaken by the newly formed Pacific Northwest Electric Power and Conservation Planning Council. Current load forecasts and projected growth rates indicate that there will be no need for additional transmission lines over the next 10 years. An additional factor to consider, however, is the advancement of transmission technology and how it might impact upon the design of future lines.

Since we cannot now identify future generation sites nor the direction, length, or capacity of future lines, it is difficult to assess their impacts on communities, landowners, and the environment. The ability of future lines to parallel the proposed 500-kV lines will be addressed to the maximum extent possible in the Garrison-Spokane EIS supplement.

We have prepared a draft of a proposed memorandum of understanding between the State of Montana and BPA which addresses cooperative efforts by the State and BPA in siting transmission facilities. This draft was provided to the Governor's office on June 16, 1981.

We appreciate your counsel and thoughtful observations regarding our current transmission planning effort and the long-term considerations which need to be addressed in pursuing power planning in a manner which would be most compatible to the citizens of Montana and the electric energy system of the region as a whole.

Should you desire additional information in these respects, please let us know.

Sincerely,

——— ———,
Acting Administrator.

U.S. SENATE,
May 5, 1981.

Mr. EARL GJELDE,
Acting Administrator, Bonneville Power Administration,
Portland, Oreg.,

DEAR MR. GJELDE: As you know, during the week of April 20 I met with a number of Montanans along the proposed routes of BPA's twin 500 kv power line. I also met with BPA Administrator-Designate, Peter Johnson on May 1 to discuss the problems we are having with these lines. This letter is to summarize my understanding of the situation at this point.

First, however, I want to thank you for your assistance to date: I informed Mr. Johnson of the increased responsiveness BPA seems to be showing over the past several months and was encouraged to learn from him of your continued role at BPA. Also, I would appreciate your thanking Gerald Frick and Lou Drieson of your staff who accompanied me during my Montana trip.

1. Concerning the Boulder area: During my meeting with a number of Boulder area residents, the possibility was raised of a further routing change that would put more of the line on Forest Service land, removing more of it from private lands. I would like this alternative pursued as thoroughly and quickly as possible. It is my understanding that Mr. Frick will assess the potential for this routing change with the Forest Service and get back to me in the very near future. Specifically, I would like to know the details of the proposal involved, the details of any problems the Forest Service has with the proposal, and BPA's assessment of the merits of the proposal.

It is my strong inclination to move a federally built line to federal lands wherever possible. Accordingly, as soon as I receive this further information from you, I intend to communicate my strong concerns to the Forest Service. In the meantime, at a staff level I am pressing this concern with Forest Service personnel and would appreciate you doing so as well.

2. Concerning siting of Substation 3: The Environmental Impact Statement (EIS) time frame here is extremely short. I understand that following my meeting in Drummond, BPA personnel and residents from the Gold Creek and Drummond areas discussed in detail alternatives to the currently proposed substation site. Further, I understand that area residents have now developed an alternative site proposal. I would appreciate your informing me of BPA's timetable and progress to date of assessing this proposal and making the proposal a part of the Townsend-to-Garrison EIS process.

I understand that BPA is re-drawing its maps to reflect this proposal. Any delay with these new maps will make it very difficult for area residents to make comments in a timely manner. My staff and yours are working to get these maps out as quickly as possible; I can only emphasize the need to make these maps available immediately.

3. Concerning the line siting west of the Substation: Once again, I want to indicate my strongest concern that the lines not be routed through farm valleys and residential areas to the maximum extent possible. Further, wherever possible, federal land should be used for line siting. Specifically, I reemphasize my deep concern that the lines are not put through the Flint Creek Valley. It is too early to know which of the potential north-of-highway or south-of-Valley routes would make the most sense—especially as the lines approach the Missoula area. I would like to be kept closely informed of the progress on this siting, and I am concerned that the southern route possibilities be fully explored.

4. Concerning the line siting in the Missoula area: I understand that Lou Drieson is about to start the preliminary work of defining potential sites north and south of Missoula. Rather than wait for alternatives to be developed before starting the public review process, I would like to have him meet with people who have expressed interest to date so that he can have the benefit of knowledge of their concerns while he is still developing alternatives. Following is the list of people who met with George Eskridge of your Missoula office, Gerald Frick and my staff while I was in Missoula.

These people indicated a desire to meet with Mr. Drieson as soon as possible, and I would appreciate your making sure that this happens. Also, if any of these people are not already on your correspondence list, they should be added: Mrs. Jeanie Kay Ferguson, P.O. Box 296, Frenchtown, MT 59834; Mr. Dick Carter, 17071 Touchette Lance, Frenchtown, MT 59834; Mr. Jan Rappe, Valleys Preservation Council, Huson, MT 59846; Mr. Ed Cauffman, Clark Fork Basin Protection Association, 4504 Fox Farm Rd., Missoula, MT 59801; Ms. Margery Harper, 3000 Marshall Canyon, Missoula, MT 59801; Mr. Fred Rappe, Huson, MT 59846.

5. During the Missoula meeting, one landowner suggested the possibility of looking into what is known as the "MacGruder Corridor" for portions of the line's siting. I understand the considerable controversy that portions of this proposed corridor have engendered in the past; nevertheless, I would appreciate a thorough explanation of how parts of this corridor might possibly be used in routing the BPA lines with your evaluation of the benefits and drawbacks.

6. BPA staff during my trip suggested to me that the Missoula area presents a special dilemma for BPA: On the one hand, in order to avoid unnecessary impacts, BPA would prefer to site the lines as far from Missoula as possible; on the other hand, BPA feels that because of expected Missoula area growth, the line should be placed close to Missoula. As it was explained to me, Missoula, in effect, acts as a "magnet" for the lines because the new lines would serve Missoula area needs.

Yet during the meeting with Missoula landowners, my staff and your staff, I understand that one discussion centered around the possibility that existing BPA lines could meet Missoula's future needs. This is the result of these existing lines no longer having to be used to wheel power east since the twin 500 kv lines would meet the needs of the areas now being served by the Missoula lines. If the existing lines are not to be used to transmit power east, they would be free to supply Missoula by connecting with the 500 kv lines. Thus, it would appear that Missoula need not be a "magnet" for the 500 kv lines, that instead there is only a need to tie the existing lines into the 500 kv lines at some point in order to meet potential future Missoula needs.

Please review this possibility for me in detail. Specifically, what options exist for supplying Missoula needs through existing lines that would connect with the twin 500 kv lines?

7. I am concerned that the Hot Springs-Bell EIS will only address the potential impacts of the twin 500 kv lines while any corridor for these lines may prove to e a corridor for potential future energy development. Accordingly, please inform me of your assessment of the possibility and need for expanding the scope of this EIS. As you know, had the possibility of future energy corridor needs been considered in both the Drummond and Missoula areas when the existing 230 kv lines were sited, much of the present controversy may have been avoided. I would like BPA to do everything possible as it develops siting for the new lines to ensure that this sad history does not repeat itself in the future, and I would appreciate a detailed account of your planning. Needless to say, were BPA to submit its line siting to the authority of the Montana Major Facilities Siting Act, these problems could be avoided.

I appreciated your detailed responses to my last written request, and the activity BPA is undertaking to improve responsiveness to Montana concerns is heartening. The opening of a Missoula office, the toll free line, monthly progress bulletins and improved handling of public meetings as well as individual requests for information should all be helpful.

I understand that your responses to the several pending local inquiries I pointed out in our last meeting have now been received.

I met with Governor Schwinden during my trip to Montana, and I believe that Montana officials had presented BPA with a draft memorandum of understanding shortly after you last wrote to me. Please keep me advised of the progress on this. I am encouraged that this work is continuing regardless of the lawsuit now pending between Montana and BPA. I am particularly concerned that BPA impact aid authority be utilized to the extent possible to assist the State of Montana in meeting the cost of siting review necessitated by the proposed lines.

Once again, thank you for your assistance.

With best personal regards, I am

Sincerely,

MAX BAUCUS.●

PRESIDENT REAGAN'S CARIBBEAN INITIATIVE

● Mr. GARN. Mr. President, so much attention has been focused by the media on the current situation in El Salvador, that this administration's initiative with respect to the Caribbean Basin has often been overlooked. We hear that one needs to address the real cause of discontent and unrest in the developing countries, rather than deal only with its symptoms. I believe the Reagan proposals for economic rejuvenation in the Caribbean are an effort to do just that. In addition, I am pleased to see the emphasis on private investment and initiative.

Two of Utah's principal newspapers, the Salt Lake Tribune and the Deseret News, assessed the President's proposal on their editorial page. I would like to call these editorials to the attention of my colleagues, and ask that they be printed in the RECORD.

The editorials follow:

[From the Deseret News, Feb. 25, 1982]

THIS NEW AID PROGRAM CAN SERVE U.S. INTERESTS, TOO

This is not the most propitious time to launch a new program of foreign aid to much of Latin America, what with the long string of increasingly huge deficits the U.S. has been running.

Nor are the economic and political problems of Latin America particularly new. Many previous U.S. efforts have been made to resolve them without great success, including President Kennedy's Alliance for Progress and President Roosevelt's Good Neighbor Policy.

But the proposed new aid program that President Reagan proposed Wednesday is different, since it is based largely on private investment and free trade in contrast to the usual aid programs that often swell the bureaucracies of Latin American governments.

Moreover, the proposal that Mr. Reagan outlined to the Organization of American States reflects a large element of U.S. self-interest as well as humanitarianism. Without some such effort, the U.S. can expect to be flooded with more refugees as well as see more Soviet allies in our back yard and more exporters of revolution.

The Reagan aid plan is aimed at the poor nations of the Caribbean basin, including Jamaica, Guatemala, Honduras, Haiti, the Dominican Republic, Nicaragua, El Salvador, Costa Rica, Surinam, and Guyana. It is a region of immense poverty but also considerable potential for development, an area of violent revolutions but also pockets of political stability. Among its major assets is a large force of relatively cheap labor.

Moreover, the new aid plan is aimed at showing there is more peaceful and effective alternative to the revolutionary excesses offered by leftist guerrillas. The idea is that even the possibility of a thriving economy can enhance political stability and personal happiness.

The main points of the program for which President Reagan is seeking congressional authorization are:

One-way free trade and the elimination of duties on all imports from the Caribbean nations except for textiles and apparel. A "safeguard mechanism" would be created to protect any U.S. industry seriously hurt by such imports.

Tax breaks for American investors who plow money into the Caribbean basin.

An extra $350 million appropriation for 1982 to provide emergency assistance for several countries said to face "particularly critical" situations. The money would be deposited in U.S. banks and never leave the country. Rather, it would be used to extend credit to Caribbean businessmen, not government agencies.

Favorable treatment for textile and apparel exports from the Caribbean basin while efforts are continued to tighten import growth from other major suppliers.

This proposal grows out of the meeting in Nassau last August that included the foreign ministers of the U.S., Canada, Mexico, and Venezuela. These four industrial powers agreed to pool their resources to assist the Caribbean basin nations. With their increasing oil wealth, both Mexico and Venezuela are expected to be major contributors not only in development funds, but also in concessionary petroleum prices.

The Reagan program cannot succeed without the active cooperation of private business in both the U.S. and the Caribbean. Once adopted, it can provide a major test of how much America cares about its neighbors and how much business and government can cooperate to spur growth in the poorer nations.

[From the Salt Lake Tribune, Feb. 26, 1982]

REAGAN CARIBBEAN AID PACKAGE WILL BENEFIT U.S. AS WELL

In concept, though perhaps not in every detail, President Reagan's Caribbean Basin Initiative stands out as one of this young administration's most timely and well considered proposals.

Although emphasis is on aid for the struggling peoples of the Caribbean and Central America, the program's equally important thrust is toward eventually relieving immigration pressures on the United States from that area.

Mr. Reagan made much of the Communist threat to nations struggling to survive today's economic storms and promised U.S. military aid to resist Marxist advances. But to his credit, Mr. Reagan put his main hope for social and economic redemption on improving the lot of the Caribbean people through peaceful means which would blunt leftist appeal.

Critical reaction to the initiative reminds us of the reflex response to a proposal to build a prison half-way house in a predominantly residential neighborhood. Everybody seems to have kind words for the overall plan but many insist that certain aspects of it are unacceptable because of real or imagined hardship they might bring to domestic interests. It was the old "we think halfway houses are fine, but build them somewhere else" response.

Admittedly, the president's request for several hundred million dollars more spending for the Caribbean region during this fiscal year and the next, will be difficult to justify in the face of his stern policies and proposals aimed at drastic domestic spending cutbacks.

The additional money for the Caribbean should be seen in the nature of a trade-off. Spending could begin drying up the immigrant stream at its source and maybe prevent spread of Soviet and Cuban influence in this sensitive region. In that case greatly reduced investments would be expected in refugee facilities, border guards and even military expeditions to places like El Salvador.

A constantly depressed, hope-starved region on the United States' southern doorstep is an irresistable invitation to trouble both foreign and domestic. Migration from this region to the United States looms as a problem of ever-growing proportions unless the nations of the Caribbean Basin can be made politically and economically attractive to millions tempted to head north in desperation.

The Reagan initiative may not be the ultimate answer even if it is somehow implemented with dispatch. But it is far and away better than the poorly coordinated and under-funded effort not being made.

For the good of the United States, for the pure self interest of the American people, the Reagan effort to shore up the disheartened and economically deprived Caribbean must go forward and even be improved upon.●

JAMES J. KILPATRICK SUPPORTS THE KENNEDY-HATFIELD NUCLEAR FREEZE RESOLUTION

● Mr. KENNEDY. Mr. President, yesterday's Los Angeles Times contained an eloquent column by the distinguished conservative commentator, James J. Kilpatrick, reviewing the Kennedy-Hatfield resolution, which calls for a nuclear freeze by the United States and the Soviet Union, followed by major reductions in the current levels of nuclear weapons.

As Mr. Kilpatrick states, the resolution has "seized on an issue of life-or-death meaning to the whole planet, and there is not a sentence in the resolution that thoughtful conservatives could not support."

Mr. President, I hope that all the Members of the Senate will take the time to read Mr. Kilpatrick's column and to support our resolution. As Mr. Kilpatrick's views demonstrate, support for the nuclear freeze and reductions resolution crosses all partisan and philosophical lines. I ask that Mr. Kilpatrick's column and the text of the Kennedy-Hatfield resolution may be printed in the RECORD.

[From the Los Angeles Times, Mar. 22, 1982]

WHERE ARE CONSERVATIVES ON THE NUCLEAR DANGER?

(By James J. Kilpatrick)

John Stuart Mill once had an especially unkind thing to say about conservatives. It is the "law of their existence," he sniffed, that makes them "the stupidest party."

That was 120 years ago, but recent events at home and abroad prompt a melancholy reflection that Mill had a point.

Throughout Europe and in parts of the Far East, demonstrations against nuclear arms are increasing. Here at home, the burghers of Vermont are passing resolutions. A week or so ago, Sens. Edward M. Kennedy of Massachusetts and Mark O. Hatfield of Oregon won national attention for their resolution urging a bilateral freeze on nuclear weapons.

Where are my brother conservatives? What are they doing about the most awesomely important political issue in the world? Alas, the answer is, not much.

In politics, perception is everything. The perception grows that Kennedy and Hatfield and their liberal colleagues are deeply concerned about the perils that are posed to mankind by nuclear war. A corollary perception grows that conservatives don't give a damn.

Such perceptions, I would argue, are wholly unwarranted. In his Nov. 19 speech to the National Press Club, President Reagan clearly expressed his determination to seek an agreement with the Soviet Union concerning nuclear weapons. He spoke movingly of the hopes and dreams of all people to escape from the shadow of a mushroom cloud. He set in motion Project START, an acronym for strategic arms reduction talks.

But the clarity of Reagan's message was diminished by his use of charts and graphs and statistics. His speech was a one-day story. Three months have passed, and talk of START has just about stopped. Last week the State Department threw cold water on the Kennedy-Hatfield resolution. Their proposed freeze was called "impractical."

The analogy may seem frivolous in this context, but it is woefully familiar. While conservatives dribble along, the liberals have a way of stealing the ball. Kennedy and Hatfield and their 100 liberal cosponsors have seized on an issue of life-or-death meaning to the whole planet, and there is not a sentence in their resolution that thoughtful conservatives could not support.

"The greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design." What is wrong with that? "The nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war." Can anyone deny this? "A freeze followed by reductions in nuclear warheads, missiles and other delivery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war." Isn't this an idea worthy of exploration?

Of course such a moratorium merits discussion—and that is all the resolution asks. The resolution urges that the United States and the Soviet Union jointly "pursue" a complete halt to the arms race, that the two nations "decide" how such a mutual and verifiable freeze could be arranged, and that, proceeding from such a freeze, the two nations "should pursue major, mutual and verifiable reductions in nuclear warheads, missiles and other delivery systems."

The element of a "freeze" is a new element, though the device of a truce is as old as warfare itself. Otherwise, unless words have lost their meaning, the Kennedy-Hatfield liberals are proposing exactly what Reagan's START proposed in November. Why can't conservatives get behind an increasingly popular cause?

For, make no mistake, the prevention of nuclear warfare is on its way to becoming the most popular cause in the world. In nations large and small, East and West, people clearly comprehend the fearful destructive power of today's atomic weapons. They accurately perceive the danger to the continuation of civilized life, and they want that danger removed. If conservatives fail to recognize this swelling demand, and to identify with it, they will justify the charge that Mill leveled against them long ago.

TEXT OF S.J. RES. 163—JOINT RESOLUTION

On nuclear weapons freeze and reductions.

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war; and

Whereas a freeze followed by reductions in nuclear warheads, missiles, and other delivery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) as an immediate strategic arms control objective, the United States and the Soviet Union should—

(a) pursue a complete halt to the nuclear arms race;

(b) decide when and how to achieve a mutual and verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems; and

(c) give special attention to destabilizing weapons whose deployment would make such a freeze more difficult to achieve.

(2) Proceeding from this freeze, the United States and the Soviet Union should pursue major, mutual, and verifiable reductions in nuclear warheads, missiles, and other delivery systems, through annual percentages or equally effective means, in a manner that enhances stability.●

RESOLUTIONS OF THE COUNCIL OF THE COUNTY OF HAWAII

● Mr. INOUYE. Mr. President, I wish to insert in the RECORD two resolutions which were recently adopted by the Council of the County of Hawaii pertaining to the importation of sugar and the duty on macadamia imports.

I have pointed out to my colleagues in the past that Hawaii's economy is uniquely vulnerable to agricultural imports from developing countries. Because Hawaii is a semitropical area, products such as sugar, pineapple, papayas, macadamia nuts, and ornamental flowers face competiton which other States do not. Thus, the Caribbean Basin Initiative and GSP can have a severe local impact without affecting the rest of the country.

The State of Hawaii is aware of the vulnerability of its economic base and is encouraging diversification. Nevertheless this effort will take time, and its success is not guaranteed.

I ask that the resolutions be printed in the RECORD.

The resolutions follow:

COUNTY OF HAWAII—STATE OF HAWAII RESOLUTION 303-82

Whereas, the Macadamia Nut industry is of basic importance to the State of Hawaii; and

Whereas, reducing of tariffs on foreign imports of Macadamia Nuts as proposed in Washington would be highly detrimental to Hawaii; and

Whereas, the Hawaii Macadamia Nut Producers' Association has taken a firm stand against the tariff lowering proposal;

Now, therefore, be it resolved by the Council of the County of Hawaii That it go on record as opposing the lowering of the tariff on Macadamia Nuts;

Be it further resolved That copies of this resolution be forwarded to President Ronald Reagan, Governor George R. Ariyoshi, Members of the Hawaii Congressional delegation and the Hawaii Macadamia Nut Producers Association.

COUNTY OF HAWAII-STATE OF HAWAII RESOLUTION

Whereas, the U.S. Senate Finance Committee's Subcommittee on International Trade recently opened hearings in Washington on U.S. agricultural trade policies of which the "one-way free trade policy" is a part and will be within the realm of evaluation by these hearings; and

Whereas, this U.S. trade policy which is being pursued by the United States is hurting domestic sugar growers who comprise a major portion of the State of Hawaii's economy; and

Whereas, this policy has directly contributed to the $100 million in losses by the Hawaiian sugar industry in 1981 by encouraging foreign, government subsidized, sugar producers to dump sugar onto the world market at prices below the cost of production; and

Whereas, this policy can then be termed a contributing factor to the late demise of Hawaiian sugar plantations and the recent announcement by Amfac, Inc. of the forthcoming closing of Puna Sugar Company.

Now, therefore, be it resolved by the council of the County of Hawaii That all efforts be made to support a change in this U.S. trade policy which has proven to be detrimental to Hawaii.

Be it further resolved, That Senator Spark M. Matsunaga be commended for his endeavors to influence this change and that other members of Hawaii's congressional delegation be encouraged to support this effort.

Be it further resolved, That the Clerk of the County of Hawaii be instructed to transmit copies of this Resolution to the Governor and all members of the Hawaii Congressional Delegation.●

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, it is 6 o'clock plus a minute or so. In a moment, I intend to ask the Senate to recess over until tomorrow.

Before I ask the Senate to recess over, Mr. President, I wish to confer with the distinguished minority leader and the distinguished Senator from Idaho, the chairman of the Republican Conference, on another matter of scheduling. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR TSONGAS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that tomorrow, after recognition of the two leaders under the standing order, the distinguished Senator from Massachusetts (Mr. TSONGAS) be recognized for not to exceed 15 minutes on special order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, is there an order for the Senate to convene at 10 o'clock tomorrow?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. And morning business to follow on after the expiration of the time or the yielding back of time allocated to the two leaders under the standing order?

The PRESIDING OFFICER. And the special order.

Mr. BAKER. Yes. So the time for morning business will be very brief, assuming that the two leaders use the time allocated to them, and Senators should be on notice of that.

It may be possible to provide another period during the course of the day for the transaction of routine morning business.

CONSIDERATION OF VETO MESSAGE ON S. 1503—STANDBY PETROLEUM ALLOCATION ACT OF 1981

Mr. BAKER. Mr. President, under the order previously entered, the veto message on S. 1503 is at the desk to be called up by the majority leader after consultation with the minority leader.

I have consulted with the minority leader and other principal parties involved. I wish to announce that on the completion of the regulatory reform bill, it is my intention to call up this message for action by the Senate.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I see no Senators seeking recognition, and I move, in accordance with the order previously entered, that the Senate now stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 6:28 p.m., the Senate recessed until Wednesday, March 24, 1982, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 23, 1982:

MISSISSIPPI RIVER COMMISSION

Rear Adm. Herbert R. Lippold, Jr., National Oceanic and Atmospheric Administration, to be a member of the Mississippi River Commission.

ENVIRONMENTAL PROTECTION AGENCY

Frederic Arnold Eidsness, Jr., of Colorado, to be an assistant administrator of the Environmental Protection Agency.

EXTENSIONS OF REMARKS

REORGANIZATION OF THE PUBLIC HEALTH SERVICE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. OBEY. Mr. Speaker, yesterday I introduced H.R. 5914, a bill to reorganize the Public Health Service and improve its efficiency. While a few of the programs of the Public Health Service have aroused controversy, 98 percent of the things that are done by the Public Health Service are things that virtually every Member of this Chamber would like to see expanded. We have programs to increase the number of children immunized against dreaded diseases. We have research on cancer, diabetes, heart disease, prevention of birth defects and virtually all of the major disease problems that plague man. We have efforts to track down the origins of infectious disease outbreaks and keep them from spreading. We enrich the quality of our health care professionals and insure that adequate numbers of physicians, nurses and other trained health specialists are available to the country generally and to the underserved areas of the country. We seek to improve the quality of care and treatment of the mentally ill and reduce for States the cost of providing that care.

Because all of us would like to do more in these areas than we have money at the present time to do, it is of critical importance that we use the funds that are available with great efficiency. That is why I am proposing a streamlining of the administration of the Public Health Service. And I think even the most cursory review of the current organization will indicate that it is time for such a reorganization.

While most Americans and indeed, most Members of Congress may think the primary responsibility for international health is at the State Department and the Agency for International Development. We also have an Office of International Health in the Public Health Service. Actually we have two offices—the Office of International Health and The Office of International Health Programs. One office is in Washington under the direction of the Assistant Secretary for Health and the other is in Atlanta under the direction of the Center for Disease Control. Both deal with roughly the same seven continents and there is little evidence that one could not do the job just as well as two.

Two agencies of the Public Health Service, the Health Services and Health Resources Administrations, have been particularly hard hit by budget cuts and program eliminations. They no longer manage sufficient program funding to justify two units at the agency level and in many ways the programs managed by both agencies would be better off with one centralized administration.

I suspect that one of the more controversial aspects of the legislation I am introducing will be the transfer of the National Institution for Occupational Safety and Health from the administrative jurisdiction of the Center for Disease Control to the National Institutes of Health. When NIOSH was established under the Occupational Safety and Health Act in 1971 there was no clarification in that law as to where in the bureaucracy the institute would be located.

The Nixon administration decided to place it under the Center for Disease Control for three basic reasons: One, the Center for Disease Control, which had been upgraded from the Communicable Disease Center, was trying to move more into chronic and chemically induced disease prevention as a part of its overall mission. Two, both the Center for Disease Control and NIOSH were agencies that would be deeply involved in epidemiological studies as to the orgins of various diseases. Finally, CDC was a front line, in the field health agency that was in confrontation with real health programs on a daily basis rather than primarily a research agency dealing with more abstract and longer term health programs. While all of these arguments seem quite logical and reasonable on paper, they simply did not pan out in reality.

Deciding that you want to move an agency from a purely infectious disease orientation to an orientation which emphasizes infectious as well as chemically induced disease is one thing. Changing the focus of a large group of professionals in midcareer is an entirely different matter, particularly when those professionals are highly trained physicians whose formal training and career experiences run contrary to the new focus. While CDC has remained strong in infectious disease matters, the non-NIOSH portion of the agency has flatly failed to develop expertise in matters involving chemical and environmental programs. This is perhaps most clearly demonstrated by the size and support provided for the non-NIOSH efforts in environmental health which are today found at CDC. This years justification to the Appropriations Committee shows only 23 positions including clerical and professional. It is also interesting to note that a major focus of this environmental health program has been rat control and trash collection, important health problems but ones relating again, primarily to infectious disease.

The hope that the two efforts in epidemiology might become mutually reinforcing proved to be equally far off target. The bottom line appears to be that occupational epidemiology and infectious epidemiology have little in common other than a name and tracking down the spread of a virus of bacteria from animal to human or from human to human does not give one very much preparation for understanding various industrial processes involving the use of thousands of chemicals, measuring chemical concentrations, tracking down the death certificates of people who worked in a particular factory 30 or 50 years ago, or linking a particular chemical with a rare form of cancer or a new and puzzling nervous disorder.

One does not need to denigrate the work done by those who track down the spread of measles or the plague of encephalitis to note that the two jobs involve different skills and types of expertise.

Perhaps the notion that CDC and NIOSH have a more similar role in terms of active involvement in every day health problems is the most valid. But it is very important to remember that NIOSH is not a regulatory agency. It is not supposed to be the Health and Human Services Department version of OSHA. It is a scientific agency that is supposed to give the U.S. Department of Labor sound and reliable information on which to make regulatory decisions.

As Secretary Schweiker pointed out in a recent letter to the Appropriations Committee, there have been questions about the quality of NIOSH scientific research. I do not think that in the end the Center for Disease Control has very much to offer in improving that quality. I do think however, that the toxicology and epidemiology programs at the National Institutes of Health are the finest in the world and are in fact today serving as the primary source of new information about hazardous substances on which regulatory decisions are made at OSHA as well as other regulatory agencies.

NIOSH needs new standards of excellence in its scientific endeavors. It also needs the interaction with the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Cancer Institute, the Heart, Lung and Blood Institute, the National Institute for Environmental Health Sciences and the National Center for Health Statistics, which this bill would also transfer to NIH.

The Center for Health Statistics is a critical national resource now located in the Office of the Assistant Secretary. It may offer many of the important answers to questions such as why the incidence of cancer continues to rise, is there in fact a rapid increase in cirrohsis of the liver among nondrinkers and what is the role of diet in heart disease. The National Center for Health Statistics will be of greatest value to the research community and properly belongs in NIH.

Altogether this legislation will reduce the number of agencies in the Public Health Service from 6 to 4. It will allow for a more reasonable structure in which similar types of activities will be administered together and in a way which will facilitate interaction and decrease the likelihood of duplication. Because of some confusion which may have resulted from speculation about the contents of this bill prior to its introduction, I would like to clarify that the bill does not call for any substantial relocation of Public Health Service personnel or the abandonment of any facility. I do not know the exact savings that will come about as a result of this and, to be honest, that in the end will depend in large part on how well the new agencies are run. But I do think this legislation would provide a structure that could be run well and could save significant dollars to be used on services rather than bureaucracy.

The following is the text of H.R. 5914:

H.R. 5914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to reduce ineffectiveness and duplication within the Department of Health and Human Services the Secretary of Health and Human Services (hereinafter in this Act referred to as the "Secretary") shall make the following administrative reorganizations within the Department:

(1) The Secretary shall establish within the Department of Health and Human Services (hereinafter in this Act referred to as the "Department") a Health Care Delivery Systems Administration to be headed by an Administrator appointed by the Secretary. The Secretary shall delegate to the Administrator the following functions:

(A) The functions exercised on the date of the enactment of this Act by the following units of the Health Services Administration:

(i) The Bureau of Health Personnel Development and Services.

(ii) The Bureau of Community Health Service.

(iii) The Bureau of Medical Service.

(iv) The Indian Health Service.

(B) The functions exercised on the date of the enactment of this Act by the following bureaus of the Health Resources Administration:

(i) The Bureau of Health Professions.

(ii) The Bureau of Health Facilities.

(iii) The Bureau of Health Planning.

The Secretary shall establish within the Administration a Bureau for Health Promotion, Disease Prevention, and Health Education which will have the functions exercised on the date of enactment of this Act by the Office of Disease Prevention and Health Promotion in the Office of the Assistant Secretary for Health, the Center for Health Promotion and Education of the Center for Disease Control, the Office on Smoking and Health in the Office of the Assistant Secretary for Health, and the Center for Environmental Health of the Center for Disease Control.

(2)(A) The Secretary shall, in accordance with part D of title IV of the Public Health Service Act, establish within the National Institutes of Health a National Institute of Health Statistics and Systems Research which will have the functions exercised on the date of the enactment of this Act by the National Center for Health Statistics and the National Center for Health Services Research under sections 305 and 306 of the Public Health Service Act.

(B) The Secretary shall transfer the National Institute for Occupational Safety and Health to the National Institutes of Health.

(3) The Secretary shall establish within the Office of the Assistant Secretary for Health a Center for State Services to be headed by a Deputy Assistant Secretary for State Services. The Secretary shall delegate to the Deputy Assistant Secretary for State Services the functions exercised on the date of the enactment of this Act by the following units of the Center for Disease Control:

(A) The Center for Infectious Diseases.

(B) The Epidemiology Program Office.

(C) The Center for Prevention Services.

(D) The Center for Professional Development and Training.

(4) The Secretary shall transfer to the Food and Drug Administration the functions exercised on the date of the enactment of this Act by the Laboratory Improvement Program of the Center for Disease Control.

(5) The Secretary shall delegate to the Deputy Assistant Secretary for International Health the functions of the following entities exercised on the date of enactment of this Act:

(A) The Office of International Health of the Office of the Assistant Secretary for Health.

(B) The International Health Program Office of the Center for Disease Control.

SEC. 2. The Secretary shall take such administrative action as may be necessary to carry out the first section of this Act not later than 180 days after the date of the enactment of this Act and shall report to the Congress upon completion of such action.●

EDUCATION REGULATIONS

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. PERKINS. Mr. Speaker, during the past 3 years, the Committee on Education and Labor has been reviewing regularly all of the final and proposed regulations relating to education as they appear in the Federal Register. This review is conducted under the authority of section 431 of the General Education Provisions Act. To the best of our knowledge, this committee is the only congressional committee which is reviewing regulations in such a consistent and detailed fashion to insure that the congressional intent is being followed. The procedure is a difficult one involving careful research and analysis of all congressional action in all phases of the process leading to the enactment of the authorizing education legislation.

The response of the Department of Education to our review has been generally positive, with the Department, particularly in instances of proposed regulations, changing the regulations in accordance with the observations of the committee. The involvement of the minority staff in this project has been encouraged so that this can be an objective and bipartisan effort.

The General Education Provisions Act provides for disapproval by concurrent resolution of regulations proposed by the Department of Education when those regulations are found to be inconsistent with the legislation from which they derive their authority. As a result of the committee's review of these education regulations, four regulations were disapproved by the Congress in 1980 in the specific areas of arts in education, law-related education, assistance for library and learning resources, and regulations for the operation of the Education Appeal Board. These regulations were subsequently modified by the administration.

Below are some statistics which indicate the scope of the work which has been done in the Committee on Education and Labor in this regard:

Approximately 2,500 pages of final and proposed regulations published in the Federal Register were reviewed by the committee from 1979-82.

This review covered programs which receive a total of approximately $14 billion in Federal funding.

Of the 172 regulations reviewed, 102 were final regulations and 70 were proposed regulations.

One hundred letters have been written outlining concerns about education regulations to the Department of Education, 35 of which have been about final regulations and 65 about proposed regulations.

Sixty-nine responses have been received from the Department in reference to these letters. In a number of instances our comments relating to proposed regulations were incorporated into the final regulations without direct notification to the committee.

This has been a very difficult and time-consuming task for the Committee on Education and Labor, but I believe that through it we have assisted in removing many pages of regulations and many unnecessary requirements; and I pledge my efforts as chairman to continue this essential oversight.●

ANTHONY P. "ANDY" STOPPER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. YATRON. Mr. Speaker, I would like to bring to the attention of my colleagues in Congress an important event in Reading, Pa., which will take place on March 30, 1982. On that date, Mr. Anthony P. "Andy" Stopper, will be honored at a testimonial banquet on the occasion of his retirement after 43½ years of dedicated service to Reading High School.

As a teacher at Reading High School, Mr. Stopper served 11½ years as chairman of the social studies department. he also served as the head football coach at Reading High School for 16 years and was an assistant coach for 8 years. As head coach his record was a .533 average in the win column. During that time, he was also instrumental in securing college placement for 83 of his Reading High School football players. Mr. Stopper was head coach of the Reading High School track team for 30 years. His teams have won the district III championships, 4 Penn relays, 10 East Penn championships, and 8 East Penn all-league championships. Further, in the Venzke relays, Mr. Stopper fielded the best team in 1979, 1980, and 1981. Mr. Stopper also served for 8 years as president of the Reading Football Officials and also played championship baseball and basketball. He has been honored in the Hall of Fame of Williamsport, Berks County, Villanova, and the State of Pennsylvania.

It is of particular note that during the more than four decades of service to Reading High School, Mr. Stopper never took a single day of sick leave or used any personal days. Whenever his students needed him, he was there. A resolution by the Reading School Board gave well-deserved praise to this outstanding educator. A key phrase in the resolution underlines this man's dedication to his students. It states:

> Since 1938, Anthony P. Stopper has been more than a teacher—he has been a builder of young men and women, many of whom have gone on to success and to varied fields of endeavor.

It is because of dedicated individuals like Mr. Stopper, that our educational system is so rewarding for our children.

I am proud to honor Mr. Stopper, whose outstanding service in the field of education makes him a valued member of my community. His years of service are an achievement which certainly warrants high recognition and heart-felt commendation. I know my colleagues will join me in wishing Mr. Stopper, continued success in all his future endeavors.●

U.S. TERRITORIES ASSESS IMPACT OF CARIBBEAN BASIN INITIATIVE

HON. KEN HOLLAND

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HOLLAND. Mr. Speaker, our colleague, the Delegate from the U.S. Virgin Islands, RON DE LUGO, appeared earlier today before the Ways and Means Subcommittee on Trade to testify on the impact of the President's proposed Caribbean Basin Initiative on our territories. Delegate DE LUGO, who also serves as the chairman of the Territorial Caucus in this body, stressed in this testimony the importance of protecting the economies of the Virgin Islands and Puerto Rico while extending benefits to the rest of the Caribbean. I am including the text of RON's testimony here for the benefit of our colleagues and I urge them to review it carefully.

TESTIMONY OF DELEGATE RON DE LUGO OF THE VIRGIN ISLANDS

Mr. Chairman, Members of the Subcommittee, Governor Luis of the Virgin Islands and myself are here today to testify regarding our concerns and the President's proposed Caribbean Basin Initiative.

I recognize that the Committee has placed the Caribbean Basin Economic Recovery Act on a fast track in order to accommodate the President's desire to aid the region in as short an order as possible. I agree that it is important for us to focus attention on assisting our economically depressed, and subsequently politically volatile, neighbors. There are, however, some real concerns as to the effect this Act will have on the U.S. flag territories in the Caribbean.

In his message to Congress last Wednesday, the President, stated, and I quote: "Puerto Rico and the U.S. Virgin Islands have a longstanding special relationship with the United States. Their development must be enhanced by our policy toward the rest of the region. We have consulted closely with Puerto Rico and the Virgin Islands about the Caribbean Basin Initiative and the legislation I am requesting today will reflect Puerto Rican and Virgin Island interest in many important ways."

I think it is great that the President has said the U.S. Virgin Islands and Puerto Rico must be "enhanced" by the policy toward the Caribbean Basin.

Let's be realistic. No one looking at this legislation can say that the position of the flag territories is enhanced. Yet, the fact is we are not that far from a compromise position which would allow us in the U.S. territories to survive a Caribbean Initiative.

For the flag territories to survive this initiative, certain safeguards and additional incentives are imperative. Some of these safeguards and incentives have been incorporated in the Act. Extension of the Accelerated Cost Recovery System (A.C.R.S.) and Investment Tax Credit (I.T.C.) to companies operating in the flag territories, along with the direct investment and pass through provisions will help offset the impact of extending the ITC benefits to Caribbean Basin countries.

One safeguard which we stressed as a priority from the beginning of our negotiations with the Administration is completion of the St. Thomas, Virgin Islands airport. This airport has repeatedly been at the top of the black star airport list, one of the most dangerous airports in the world. This, coupled with the fact that there are only two airports in the Caribbean region smaller than St. Thomas', places us at a clear disadvantage in an area where access by air determines the success of tourism as well as other business development.

In the fact sheet on the President's OAS speech, announcing his Caribbean Policy, it was clearly stated that, ". . . legislation under the Caribbean Basin Initiative will reflect Puerto Rican and Virgin Islands interests in the following ways: Expansion of airports in the Virgin Islands and other measures to encourage the development of Puerto Rico and the Virgin Islands as a transportation hub for the Caribbean region."

Once the ADAP bill moves out of the Ways and Means Committee, we will expect the Secretary of Transportation to honor his commitment to us to support the earmarkings of ADAP funds or to support other means to insure the completion of the St. Thomas airport project.

Of paramount concern to us in this entire intiative is the survival of our rum industry. In an attempt to offset the obvious threat to both the Puerto Rico and Virgin Islands industries, the legislation proposes to transfer the excise taxes on rum imported from beneficiary Caribbean countries to the Virgin Islands and Puerto Rico. While the Virgin Islands accepts the excise tax transfer as compensatory, we do not want to lose our rum industry. The industry means jobs and it means revenues which are tied to a concrete local produce. We do not want to trade these for a compensatory revenue transfer, the basis for which will be increasingly abstract once our industry disappears.

Ideally I would like to see rum, like textiles, excluded from the Act. I believe, however, that a compromise is more realistic. Thus, in addition to the excise transfer provisions, I urge the Subcommittee to amend the Act to provide the following: (1) require negotiations of agreements permitting Virgin Island rums to gain access to European markets along with other Caribbean states which presently enjoy such tariff preferences; and (2) have a progressive quota system to allow for orderly growth in duty free imports.

The immediate and complete elimination of the present tariff on Caribbean Basin rum from its present level of $1.62 per proof gallon represents a double-barreled threat to the Virgin Islands: it threatens the economic viability of the rum industry as well as the fiscal stability of the territorial government. Allow me to cite some statistics highlighting the importance of the rum industry to the Virgin Islands and to explain how the provisions of the proposed legislation fail to adequately protect such a vital sector of our economy.

Excise taxes collected on Virgin Island rum sold on the mainland and rebated to the territory's treasury amounted to $36.2 million in 1980, or approximately 18 percent of all government revenues that year. It is our largest single source of government revenue. In addition, the rum industry employs approximately 3 percent of our total manufacturing workforce. In recognition of the importance of this industry and because molasses are not presently produced on the island, the government of the Virgin Islands annually contributes $2 million to assist in the purchase of molasses on terms similar to foreign Caribbean rum producers. I simply cannot over emphasize the critical significance of the rum industry to the economic well-being of the Virgin Islands.

Why will the elimination of the tariff endanger the rum industry? 85 percent of all Virgin Island rum consumed on the mainland is unaged rum shipped in bulk. This rum, which is purchased, bottled and sold under private labels, is priced at the lower end of the price scale thereby making it extremely price sensitive.

Once the $1.62 per proof gallon tariff is reduced, foreign rum imports, of which 85 percent presently originate from Caribbean Basin countries, will become cheaper than our own rum and will therefore replace it. The purchasers of bulk unaged rum, conscious of their bottom line will use the least expensive rum for their private labels—and you can be sure that it will not be Virgin Island rum.

Foreign rum producers in the Caribbean already enjoy considerable economic advantages which are not available to our own rum producers. They are not subject to our minimum wage standards, to our occupational safety and health standards, to our environmental standards; they have access to low cost molasses and can ship on lower cost foreign flag bottoms. Of even greater importance is the fact that pursuant to Protocol No. 7 of the Lome Convention of 1975, those Caribbean rum producers can export their product into the European Economic Community and Canada duty-free, subject to certain quotas, while Virgin Island rum is effectively prevented from competing in those markets because of the high tariff. Allowing foreign Caribbean rums to have duty-free access into European and Canadian markets without similar access for Virgin Islands rum producers is not a fair exchange and would limit our industry's ability to compete on the world markets. In fact, such a situation, coupled with the lower production costs of foreign rum producers resulting from the reasons already set forth, will certainly assure foreign rum producers with a competitive advantage which will most probably destroy our own industry. Furthermore, most of the rum producers operating on the Virgin Islands and Puerto Rico are multinational companies which also own and operate underutilized distilleries elsewhere in the Caribbean. All they have to do is transfer production from the Virgin Islands and Puerto Rico to their foreign facilities so that no new distilleries may even be built. Clearly the minimal regulatory burden together with the duty free access to foreign and United States markets would give foreign rum producers an unsurmountable competitive advantage over our own rum producers.

I believe that there are ways to further the expressed intent of the Caribbean Basin Initiative without placing in jeopardy the rum industry which is so vital to the Virgin Islands. One such way would be to provide for an orderly growth in the importation of duty free rums through the use of progressively higher quotas. As has been proposed in the case of sugar imports, the President, in furtherance of this nation's foreign policy interests, should establish an annual duty free quota for particular Caribbean Basin countries. These individual quotas, which could begin with an amount equal to last year's imports into the United States, could be increased by 10 percent annual increments. Amounts imported into the United States which exceed the quota would be subject to the applicable tariff on foreign rum for that year. The quotas would remain available and would continue to expand annually only if the following two conditions were satisfied each year:

(1) Total exports of Virgin Islands' rum to the United States exceeded 95 percent of their 1981 base year levels; and

(2) Virgin Islands' rum exports had access to markets in Canada, the European Economic Community, and other Caribbean Basin Initiative partners on terms and conditions at least equal to those available to the rum exported from the particular country seeking a duty-free quota from the United States.

I believe that this proposal represents a fair compromise. It assures that our Caribbean neighbors will be able to share on a duty-free basis any expansion in the over-all rum market while insuring that the Virgin Islands' rum industry will not be destroyed.

I further believe that as an integral part of the Caribbean Basin Initiative, the Congress should reduce the competitive disadvantages of industry located in the Virgin Islands and Puerto Rico by removing unnecessary regulatory burdens which should not be applicable because of the particular geographic or environmental condition of these islands. This is particularly true with the Virgin Islands rum industry. The Environmental Protection Agency has required the construction of a $4 million waste treatment plant to treat effluents which are presently discharged and dissipated into the Caribbean Sea, although there is no clear proof that such effluents are harmful to marine life. The cost of such a plant could exceed the book value of the present rum distillery's facilities. Clearly, such regulatory burden contributes to the cost of Virgin Islands' rum at the expense of its competitive position, because foreign producers do not have to bear such a burden.

I am concerned that Title II of the Trade Act does not provide sufficient safeguards for Virgin Islands industries, particularly its rum industry. Title II provides an ex post facto remedy to harm which our industries could not absorb. I, therefore, request that the law be liberalized to trigger action under Title II more effectively.

Let me briefly address some other issues relating to our rum industry which arise out of provisions of the proposed legislation. Subsection 104(b) of the bill does not provide for mandatory "snapback" of tariffs in the event of a reduction in excise taxes covered into the Virgin Island treasury. Because of the essential nature of these revenues to our Government, any reduction in such revenues should automatically trigger the reinstitution of the tariff on foreign rums. Therefore, I strongly recommend that the "snapback" provisions be made mandatory upon the reduction in rum excise taxes being covered into the Virgin Islands treasury.

Similarly, Section 302 does not provide that the Virgin Islands shall receive a share of all excise taxes collected on foreign imported rums. It provides that all such excise taxes shall be covered into the Virgin Islands and Puerto Rico treasuries only if the amount per proof gallon on foreign rums paid over does not exceed the amount per proof gallon on Virgin Island or Puerto Rican rum paid over to the treasuries of those territories. Clearly, if the excise tax on foreign rums were to be raised, or if the excise tax on Virgin Island and Puerto Rican rums were to be lowered so that a differential would result in a higher excise tax on foreign rums, then the amount of excise taxes collected pursuant to such a differential would not have to be covered into the treasuries of the possessions. I believe that there is no basis for such a distinction.

Finally, I should like to point out that Section 302 does not provide the Secretary of the Treasury with any guidelines for establishing the formula for allocating between the Virgin Islands and Puerto Rico any excise taxes collected on foreign rums. Given the precarious economic situation of our rum industry relative to that of Puerto Rico which presently controls 87 percent of the domestic rum market, I should like to offer the following formula for allocating such excise taxes:

(1) In distributing any excise taxes collected on foreign rums imported into the United States the amount of such taxes shall first be made available to the Virgin Islands to make up the difference, if any, between the amount of excise taxes collected on sales of Virgin Island rums in the United States and the amount of such excise taxes covered into the treasury of the Virgin Islands in fiscal year 1981; and

(2) Any amount remaining shall then be distributed between the Virgin Islands and Puerto Rico in proportion to their sales of rum on the United States market; provided, however, that the Virgin Islands shall in no event receive less than 25 percent of any remaining funds.

This formula will enable the Virgin Islands to provide our rum industry with additional resources with which to assist in competing with their stronger rivals throughout the Caribbean.

In summary, the Virgin Islands is willing to share with its neighbors an expanding domestic rum market as part of our contribution to the goals of the Caribbean Basin Initiative; but we are willing to do so in an orderly manner which will not jeopardize one of our few viable industries, and one which is so important to the fiscal and employment situation of the territory.

With these provisions, we believe our rum industry could survive duty-free rum import from other Caribbean countries.

Part of our negotiations with the Administration, not reflected in the legislation, is support for a bill I have introduced, H.R. 5113, which is currently in the Ways and Means Committee. The bill is designed to make the Virgin Islands more competitive with its Caribbean neighbors by reducing the 30 percent tax withheld on passive income, such as interest and dividends, to 10 percent. This 30 percent tax has inhibited business investment in the Virgin Islands, since the tax is viewed as punitive. I would ask this Committee and the Administration to support this legislation, particularly in view of the CBI.

Another area of concern to the Virgin Islands is the demise of our watch industry. The industry has gone from employing 1,300 persons and over $100 million in wages and taxes to the Virgin Islands economy, to employment of less than 300 persons in the last two years.

To save our watch industry, I introduced H.R. 5738. The bill eliminates the present requirement that at least 30 percent of the value be added in the Virgin Islands, which precludes our industry from competing with the low tariff schedules for watch parts. My bill also adds production incentives designed to reward labor intensive watch companies.

I consider support of this fairly innocuous bill to save one of our existing industries a small concession in light of the Caribbean Basin plan which threatens to inhibit new industry in the territory.

Furthermore, in view of the 25-percent local content rules of origin test proposed for beneficiary countries, I question whether my bill sufficiently protects our watch industry. Possibly, given the difficulties of the past, a limited exclusion may be necessary for products of beneficiary countries which utilize materials from Column II nations.

I have some additional concerns with regard to the 72/25 rules of origin test. First of all let me say that I appreciate inclusion of the Virgin Islands and Puerto Rico as beneficiary countries for purposes of the 25-percent local content rule. In addition, I urge a minor amendment to the provision requiring goods from beneficiary countries to go directly to the United States in order to be eligible for duty-free treatment. The amendment would allow these goods to go through the Virgin Islands without losing their duty-free status. This would be consistent with the twin plant concept which would allow the Virgin Islands and Puerto Rico to provide the skilled labor add-ons to Caribbean Basin products.

In this context, I do not want to say that I appreciate the endorsement of my legislation, currently before the Subcommittee, which would raise the foreign content permitted from 50 percent to 70 percent. I also appreciate the language in the Act allowing the Virgin Islands and Puerto Rico to receive treatment equal to that of beneficiary countries under the 75/25 test, if preferable. Again, I point out that, given our position as offshore areas subject to U.S. laws, this could still leave us at a competitive disadvantage.

In closing I want to make clear that the Virgin Islands stands ready to play its role, along with Puerto Rico, as the part of this country most able, through our cultural affinity, to link U.S. interests in the Caribbean with the needs of our neighbors. We are pleased to see that the Administration supports development of the Eastern Caribbean Center at the College of the Virgin Islands, and note its plans to use the Virgin Islands and Puerto Rico for agricultural training and assistance programs.

My hope is that a program by the United States to help our Caribbean neighbors will contain sufficient safeguards to assure the protection of U.S. citizens living in its territories. The amendments I have proposed today will make the Caribbean Basin legislation do that.●

THE SOVIET GRAIN EMBARGO—IV

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. FINDLEY. Mr. Speaker, in recent days, I have shared with my colleagues portions of the National Corn Growers Association report entitled "Effects of the 1980 and 1981 Limitations on Grain Exports to the U.S.S.R. on Business Activity, Jobs, Government Costs, and Farmers."

Today, I would like to give my colleagues the opportunity to examine the third chapter of the report. This chapter contains estimates of the direct losses and costs of this ill-advised action.

EFFECTS OF THE 1980 AND 1981 LIMITATIONS ON GRAIN EXPORTS TO THE U.S.S.R. ON BUSINESS ACTIVITY, JOBS, GOVERNMENT COSTS, AND FARMERS

3. ESTIMATES OF DIRECT LOSSES AND COSTS

In Section 2 we described the linkages of farm produced grain to various economic sectors in and outside agriculture. In this section, we provide specific estimates of losses and/or costs incurred by the private sector and by government as a direct result of the 1980 suspension (later embargo) of certain exports to the USSR.

(A) Reduced Value of Inland Transportation. Losses to providers of rail, barge, and other transport for grains and oilseeds are estimated, based on composite freight rates provided in Section Two, and on two levels of reduced exports:

18.3 mmt of lost exports, the gross amount by which U.S. shipments to the USSR in the period January-October 1980 were reduced. Using this approach, the estimated loss in freight receipts mostly to rail and barge operators was $175 million; or

12 mmt, a rough estimate of the net amount by which U.S. exports of grain and soybeans to the world were reduced in 1980. This takes into account our increased exports to other countries that were the direct result of a rerouting of 3rd country exports to the USSR and increased U.S. exports to their usual markets. The estimated loss in freight receipts in this case, where the loss in USSR exports was partly offset, would be about $145 million. Judgments and claims on this matter will vary. Just after January 4, USDA and other official spokesmen made representations that large amounts of grain no longer bound for the USSR would be bought by Mexico. It is possible that Mexico bought some of the grain, but it is most unlikely that Mexico bought more than she would have needed from the U.S.

(B) Ocean Shipping (world). Net losses in revenues in 1980 were either:

$365 mil. based on the gross loss of export sales to the USSR; or

$240 mil. based on the net loss of export sales to the world.

As indicated earlier, less than 5 percent of this loss can be allocated directly to U.S. flag vessels, although much more might be attributed to U.S. ownership and/or manning of foreign flag vessels.

(C) Labor Lost in Transport and Shipping. We have not estimated this directly, but include it with an aggregate estimate later in this section of the overall impact on labor and goods. The total loss in jobs throughout the economy was in the area of 310,000.

(D) Balance of Payments. The loss in export earnings from reduced shipments to the USSR in 1980 was:

Approximately $2.5 billion, based on actual export prices and the gross amount of reduced exports; or

About $1.5 billion, if only 60 percent of the gross loss in exports is considered, in view of increased exports to other countries.

There is, however, another balance of payments cost that must be assessed—the reduced per unit value of U.S. grain export sales after January 4, 1980: (1) to all other countries in 1980; and (2) to all other countries in 1981. We estimate that the lower prices averaging 15-20 cents/bu. of corn and wheat in 1980 and 30-40 cents/bu. in the first nine months of 1981 affected roughly 3,600 million bushels of the two export grains in 1980 and 2,900 million bushels in 1981. Losses in exports from this secondary impact on the value of all exports were in the area of $540-$720 million in 1980 and $870-$1,160 million in 1981.

(E) Government Costs. In the previous section we identified about 505 million bushels of increased acquisitions of grain by CCC because of the trade suspension. The cost of these acquisitions is conservatively estimated at $1.5 billion.

Interest on $1.5 billion for the three years that these extra stocks are expected to be in CCC hands, at 12 percent amounts to $540 million. Storage and handling at 30 cents/bu./year comes to $454 million. Extra costs for wheat target price payments made in 1981 were as much as $375 million.

(F) The U.S. Economy. The lost exports to the USSR as a result of the January 4, 1980 embargo had a major impact on the total U.S. economy. Agricultural production and exports generate jobs and incomes far beyond farming itself—in the agricultural input industries, in transportation and storage, in food processing, etc. For example, USDA estimates that every $1 million of production or exports of wheat, corn, or soybeans results in $5.2-$5.4 million in gross output of goods and services in the whole economy, including the farming sector.

The aggregate effects on the U.S. economy of the USSR grain embargo are summarized in the following table. In making these calculations we used the season average prices of corn, wheat and soybeans that actually prevailed in the 1979-80 marketing year, prices well below what they would have been without the embargo, as indicated previously. Using these prices tends to underestimate the losses involved, but the magnitude of the loss in income to the U.S. economy is so great that one can treat it conservatively without loss of effect.

On the other hand, we assume that the full 18.3 mmt of grain and soybeans affected by the embargo represents lost exports over two seasons. As discussed earlier, this probably overestimates the loss in actual exports in 1980, but is a reasonable representation or an underestimate of the two year loss in exports.

The effects of the 1980 embargo on the U.S. economy are estimated as follows, based on the Commerce Department's input-output model of the U.S. economy and the gross reduction in exports:

A loss of $11.4 billion in output of goods and services—0.5 percent of national output;

Reduced employment equivalent to 310 thousand workers, or 0.3 percent of total employment; and

A reduction in personal income of $3.1 billion, or 0.1 percent of total.

Note in the table below that the impacts are listed separately for corn, wheat, and soybeans.

IMPACT OF LOST EXPORTS TO U.S.S.R. IN 1979–80 ON U.S. ECONOMY

[Dollars in millions]

	Season average farm price [1]	Lost export volume [2]	Lost export revenue	Nationwide losses in—[3]		
				Output	Employment	Personal income
Corn	$2.52	512	$1,500	$6,863	189,630	$1,806
Wheat	3.78	147	646	3,014	79,508	856
Soybeans	6.28	48	301	1,568	40,635	445
Total			2,447	11,445	309,773	3,107

[1] Dollars per bushel.

[2] In millions of bushels.

[3] Based on Gerald Schluter and Kenneth C. Clayton, "Expanding the Processed Product Phase of U.S. Agricultural Exports;" NED, ERS, USDA, July 1981.●

POLAND—NOT THEIR FIRST FIGHT FOR FREEDOM FROM COMMUNISM

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. McDONALD. Mr. Speaker, Poland is an inspiration today for what she is going through to return her people to freedom. The atheistic Communist oppressors will not even allow the leader of Solidarity to attend the Baptism of the seventh child of the Walesa family to be born. This is not surprising. What is surprising is that the Congress of the United States will not halt aid and trade with the leadership of this murderous cult that refuses freedom to the Polish people.

America, but more important, Western Europe has much to be thankful for, for an earlier victory by Poland over the Soviet Union. It was in August of 1920 that Poland fought against the Communist forces of Russia, and thanks to that victory of the Poles in the year 1920, Central Europe, and their freedom, would not be threatened again until the closing days of World War II.

In the March 1982 issue of Officer Review, the monthly magazine of the Military Order of the World Wars, John M. Pafford, of the Seattle Chapter of that order, renders a brief, fascinating, and meaningful account of that earlier battle for Polish freedom against communism. We have much to be thankful for in the example that Poland gave us back in August of 1920, and still gives us today. Would that the conscience of America be awakened by such examples, and halt permanently the genocide of Communist aggression, by stopping U.S. dollars from financing the furtherance of Communist expansion. For that conscience to be awakened, I submit for the benefit of my colleagues, the article of John Pafford:

CIVILIZATION DEFENDED—THE BATTLE OF WARSAW, AUGUST 1920

(By John M. Pafford)

In August 1920, Polish military forces commanded by Marshall Joseph Pilsudski routed the invading Soviets led by Marshall Mikail Tukhachevski in a climatic battle fought near Warsaw.

With the breakup of the Russian, Austro-Hungarian, and German Empires, Poland had regained its freedom. In a series of three partitions in the eighteenth century, it had been carved up and divided among those three expanding empires. In 1918, after the end of World War I, Poland had reemerged as a totally free country for the first time since 1795. With Pilsudski as both head of state and commander of the army, the national goal was to restore the frontiers that had existed prior to the first partition in 1772.

By 1920, the Communists were close to victory in the Russian Civil War. The Soviet government was committed to imperialistic expansion leading to world domination. War was inevitable between the two countries.

On April 25, 1920, the Poles launched an offensive against the Soviets. They advanced rapidly, capturing Kiev on May 7. The Polish army, however, found itself in the same predicament as had such previous attackers as Charles XII of Sweden, Napoleon, and Hitler: striking deep into the vast space of Russian territory, they overextended themselves and were counterattacked by their numerically superior opponents. On May 15, Tukhachevski opened his counteroffensive. By the middle of August, Pilsudski's forces had been forced back to a line covering Warsaw, Lublin, and Lvov.

The Soviets viewed the situation in Europe as being ripe for revolution, that a victorious Red army on the banks of the Rhine River would have the effect of rallying to the Communist banner the countries of central and eastern Europe. The defeat and dismemberment of the German and Austro-Hungarian Empires had removed any military power east of France which could check the Soviets were they to break through the Poles.

In addition, there were powerful Communist and other leftist revolutionary forces in these countries which either owed allegiance to the Soviets or would join an alliance with them against the West. For varying periods of time during 1919 and 1920, Marxists controlled Hungary and parts of Germany such as Bavaria and Berlin. Both the Poles and the Soviets clearly understood that the outcome of their war would have a decisive impact on European history.

The British and French governments were convinced that a Soviet triumph was certain. In July, Lord Curzon, British Foreign Minister, sent a message to Moscow proposing a truce and suggesting a border between the two warring countries roughly on the line of the Bug River. Had the Polish government accepted this as their eastern boundary, the country would have been about one half size that it was to be. In August, Prime Minister Lloyd George added to the pressure brought by Curzon with his advice to Poland to accept the Soviet peace terms, a move which would have limited drastically Polish independence and which most probably would have led to the communization of the country.

In July, a British-French delegation headed by Lord D'Abernon, British Ambassador to Germany, and the French General Weygand arrived to advise the Poles.

The military situation was critical for Poland. The Warsaw bridgehead was well fortified and strongly held. Furthermore there were nearby strongholds at Modlin to the north. Plock to the northwest, and Deblin to the south. A weak center linked the Warsaw area with the other concentration of Polish forces in the vicinity of Lvov to the south. The Soviet offensive was moving around the Polish left and was threatening to take the Poles in flank and rear. Also, the Soviet advance south of Warsaw had resulted in the bending back of the Polish line covering the city to a concave shape.

Since the bulk of the opposing forces was concentrated around Warsaw, it was the opinion of General Weygand and most of the Polish generals that this sector should be defended firmly while a counteroffensive was prepared behind the Vistula which would crush the Soviet right and then move south rolling up the Soviet line.

Pilsudski listened, then on the night of August 5-6 he retired to his study in the Belvedere Palace in Warsaw to decide on a course of action. He recognized that the orthodox counsel he had received would not lead to success. An attack mounted from the Warsaw area would be a frontal move against the largest concentration of Soviet forces. Furthermore, it was based on the Poles halting the Soviets and building up the requisite forces for their counterattack. In view of the Soviet momentum, this could prove to be risky. It was necessary to strike at the enemy while their supply lines were badly stretched and before they had consolidated their strength.

The weak Soviet center attracted the attention of Pilsudski. The main enemy concentrations were aimed at Warsaw in the north and Lublin in the south, corresponding to the Polish centers of strength. The immediate problem for Pilsudski was where to find the men for his assault on the Soviet center. The Polish Fourth Army (3 divisions), which was retreating to a position between Warsaw and Deblin (about 50 miles south of Warsaw), was ordered to fall back on Deblin. Two more divisions were withdrawn from the southern front. The gamble was to be taken that the Poles could break through the Soviet center, strike north, and roll up their main forces while Polish defenses held in the north and in the south.

Meanwhile, Tukhachevski's northern wing was beginning to outflank the Polish left north of Warsaw and Pilsudski was in danger of having his line rolled up. There was to be no Soviet victory, however.

On August 16, the Day of the Virgin, the Polish counterattack struck. Pilsudski moved continually by car from wing to wing of his assault force, thrusting them forward into the virtual void in front of them, then swinging them north to rout the Soviet troops outside Warsaw. By August 21, the defeat of the Soviet right was total.

In the south, the Poles held, then on September 12 went over to the offensive and, led by General Sikorski, swept forward rapidly.

In the north, Pilsudski launched a new offensive against Tukhachevski on September 20 which led to victories in the Battle of the Niemen and the Battle of the Shara.

On October 10, both sides now being exhausted, an armistice was agreed to and on March 18, 1921, the Treaty of Riga established the eastern frontier of Poland, a line which would be erased by the joint aggression of Hitler and Stalin in September 1939.

In August 1920 the Poles manned the ramparts of Western Civilization and threw back the Communist hordes. That a later generation of Western leaders would fail to prevent the Soviet's gaining control of eastern and part of Central Europe in no way diminishes the significance of the Polish triumph. In 1930, Lord D'Abernon wrote that:

"The history of contemporary civilization knows no event of greater importance than the Battle of Warsaw, 1920, and none of which the significance is less appreciated. The danger menacing Europe at that moment was parried, and the whole episode forgotten. Had the battle been a Bolshevik victory, it would have been a turning point in European history, for there is no doubt at all that the whole of Central Europe would at that moment have been opened to the influence of Communist propaganda and a Soviet invasion, which it could with difficulty have resisted . . . The events of 1920 also deserve attention for another reason: victory was attained, above all, thanks to the strategical genius of one man and thanks to the carrying through of a maneuver so dangerous as to necessitate not only genius, but heroism . . ."

The Soviets now abandoned their direct aggression against other countries until the late 1930s by which time they had strengthened their base of operations in the U.S.S.R. The Poles had disrupted their program for world domination.

Marshal Joseph Pilsudski and the Polish fighting men deserve the respect and gratitude of all who worship God, treasure freedom, and value human dignity.●

THE 100TH ANNIVERSARY OF THE KNIGHTS OF COLUMBUS

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. MURTHA. Mr. Speaker, one of the greatest strengths of America comes from the unselfish devotion of our service clubs to the communities and citizens of the United States. Certainly, one of the outstanding organizations in this regard is the Knights of Columbus which is about to commemorate its centennial celebration.

Nationally, the record of the Knights of Columbus is known to virtually everyone. The outstanding record includes its work in having "Under God" added to the "Pledge of Allegiance," building the Knights' Tower and purchasing the 56 bells for the National Shrine of the Immaculate Conception in Washington, D.C., and the bond and blood drives carried on during World War II.

While these national successes are known to everyone, I am also proud of many of the accomplishments by the Johnstown Area Knights of Columbus. This has included annual collections for the Pennsylvania Associations for Retarded Children, work with youth in the State free throw contest, efforts for religious freedom, and support for the Red Cross with the blood donor program.

As the Johnstown Knights of Columbus gather on Sunday, April 18, to observe the centennial we will be pleased to include the diocese of Altoona-Johnstown and the Greek Catholic Archdiocese of Pittsburgh in the commemoration and to welcome Bishop James J. Hogan and Archbishop Stephen Kocisko.

I certainly extend my congratulations on this centennial, and on behalf of the citizens of the 12th Congressional District express our pride in the community work done by the Knights of Columbus.●

COVERT ACTION AGAINST NICARAGUA

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. BARNES. Mr. Speaker, last week I introduced H.R. 5828, a bill to prohibit U.S. support for military or paramilitary operations against Nicaragua. I am gratified by the number of people who seem to agree with me that this is not the sort of thing the United States should be doing.

On Friday, March 19, Stephen S. Rosenfeld of the Washington Post published a column whose main point was, "It is completely wrongheaded for the President to toy with the option of covert action against Nicaragua." Because Rosenfeld's recent reporting from Central America was, I think, conceded by all sides to be temperate and balanced, the conclusions that he sets forth in this column have a special credibility. I wish to share Rosenfeld's thoughtful remarks, not only on Nicaragua but also on related issues, with my colleagues at this point:

EDGING ALONG A NARROW RAIL

(By Stephen S. Rosenfeld)

Returning from Central America, I find people are interested not so much in how things go down there as how they go up here. Specifically, does the Reagan administration have a policy to achieve its goals of supporting friendly reformist governments and resisting communism? Can it get there from here?

To me it still seems possible, but the administration is edging along a narrow rail and it could fall off at any of four points—El Salvador, Nicaragua, Cuba and the Soviet Union.

(1) *El Salvador.* President Reagan appears deaf to the interest of the good civilians in exploring talks with the other side after the March 28 elections. (This assumes President José Napoleon Duarte comes out well; if Roberto D'Aubuisson of the hard-core right prevails, Congress may be forced to conclude we lack the worthy local partner we need to pursue our interests.) Currently Duarte serves at the pleasure of the generals and, at their nod, dismisses "negotiations." With a popular base of his own, he could move toward the "dialogue" he long has sought.

Will the administration give him the requisite support—by laying down the law to the armed forces? Informed Salvadorans pick up signals that, for some in Washington, Duarte is too much of the left. There is a grim hint that the military way, and that "our" Salvadorans, or the American public, would wilt in a negotiation. This means fighting to the last Salvadoran.

(2) *Nicaragua.* The choice is whether to accept the Sandinista revolution and work to sustain its pluralistic element, or to try to bring down that regime. It is conceivable—to Sandinistas it is a certainty—that a quiet decision has already been taken to follow the latter course. This would indicate a policy of destabilization and intervening, behind a facade of negotiations, and it will almost certainly crash.

For the Sandinistas are not the isolated leftist apparatchiks and street fighters who were swept out in Chile's anti-Allende coup of 1973. They are tough cookies, holding all their country's guns, capable of mobilizing Nicaraguan nationalism, with useful kinds of foreign support close by. It is dreaming to think their rule will be altered by any but political means, unless the United States itself directly intervenes—I cannot believe that will happen.

It is completely wrongheaded for the president to toy with a covert option. That lets the Sandinistas wave the national flag, invites them to tighten their repression and to become more dependent on Cuba, and denies the United States the essential tactic of going to the Organization of American States (and the American public) to demand that Nicaragua leave Salvador alone.

The idea that we can trade the fact or hint of our covert action in Nicaragua against theirs in El Salvador is grade-school politics. Against their subversion we have a better card: accepting Nicaragua's internal disposition as Harvard's Jorge Dominguez reminds us, we accepted Mexico's earlier in the century on the basis of its tacit forswearing of alignment with an outside power.

(3) Cuba. With Mexico's help, the United States has begun "going to the source" diplomatically—opening an exchange with Cuba. As in the exchange begun with Nicaragua last year, it may not yet rate the label of negotiation. Not only is it hard to tell whether the administration is doing more than trying to calm its domestic and international critics. The administration may not have decided whether negotiations can help it or hurt it in a substantive sense.

It seems unlikely that the administration will get far soon by putting its whole relationship with Cuba on the table, if that's what it's up to. That relationship is awfully dense, and it is drenched in a heavy history. But it would surely be of value to start work with Cuba on a hemispheric agenda. The trick is not to bite off two much with Havana, or too little.

(4) Soviet Union. It strains the imagination to see why we would want to put much emphasis on the Soviet contribution to our Central American frustration. To inscribe El Salvador on the Soviet-American agenda is to get into an area of sticky great-power tradeoffs and to diminish even further the central attention due to the conflict's local origins. Moscow is a party, but it is a party of the fourth part—after El Salvador, Nicaragua and Cuba.

As for making Moscow pay for its indirect encouragement of Salvadoran revolution, we have our hands full now trying to make Moscow pay for its direct depredations in

Afghanistan and Poland. Let's just cool this one.●

BBW RESOLUTIONS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. EDWARDS of California. Mr. Speaker, at the recent biennial convention the B'nai B'rith Women, representing over 100,000 women from all over the country, passed resolutions reflecting their growing concern that pending legislation will not only erode some of our individual civil rights but in addition overstep the boundaries between legislative and judicial areas set forth in the Constitution.

The thoughtful resolutions follow:

BBW RESOLUTION ON FREEDOM OF CHOICE ON ABORTION

Whereas our basic personal freedom and Constitutional rights are threatened by pending legislation that would restrict a woman's right to choose in matters of reproduction; and

Whereas in a pluralistic society, where there can be no consensus on this issue, government should not involve itself in giving credence to one group's philosophy over another's;

Therefore be it resolved that B'nai B'rith Women calls upon the Senate to reject all attempts to regulate this most personal of human issues; and

Be it further resolved that B'nai B'rith Women continues its adamant opposition to moves at all levels of government to interfere with the basic freedom for women to choose for themselves whether, when, or if to have children; and

Be it further resolved that B'nai B'rith Women will monitor state legislation and work at the state level to ensure that no regression occurs in state laws on reproductive freedom.

BBW RESOLUTION ON PRAYER IN THE SCHOOL

Whereas measures pending before the Congress would allow states to enact laws to permit voluntary prayer in the schools; and

Whereas such measures threaten to erode the clear distinction between church and state guaranteed in our Constitution; and

Whereas the Supreme Court has struck down time and time again laws that blur that distinction; and

Whereas there are ample opportunities in our society for children to learn about religion at home or in religious schools,

Therefore be it resolved that B'nai B'rith Women urges its legislators to resist pressures of those who would damage our right to religious freedom that is constitutionally protected by the separation of church and state; and

Be it further resolved that B'nai B'rith Women uses all means at its disposal to work toward defeat of all legislation that would negate the neutral role of government and that would put it in the position of prescribing religious practices or prayers that favor one religion over another or that favor religion over non-religion.

BBW RESOLUTION ON THE VOTING RIGHTS ACT OF 1965

Whereas the right to vote is one of the pillars of a free society; and

Whereas the Voting Rights Act of 1965 has enabled thousands of formerly disenfranchised members of minority groups to vote and resulted in more minority office holders; and

Whereas persistent discrimination in our society still may thwart the guarantees of the 15th amendment;

Therefore be it resolved that B'nai B'rith Women commends the House of Representatives for its enactment of the Voting Rights Act of 1981; and

Be it further resolved that B'nai B'rith Women urges the Senate to pass S. 1992 and to resist pressures to weaken any of its provisions.

BBW RESOLUTION ON A CONSTITUTIONAL CONVENTION

Whereas thirty-one states have ratified bills calling for a Constitutional Convention to consider mandating a balanced federal budget; and

Whereas such a Convention, once in session, could move to appeal or amend substantial sections of the Constitution; and

Whereas the procedure by which all our amendments have been enacted allows flexibility without dangers posed by convening a Constitutional Convention;

Therefore be it resolved that B'nai B'rith Women rejects any move by states to call for such a Constitutional Convention; and

Be it further resolved that B'nai B'rith Women urge its members to communicate this message to their individual state representatives.

BBW RESOLUTION ON ISRAEL

Whereas the Administration has sold AWACs to Saudi Arabia; and

Whereas some officials in the Administration now propose to sell I-Hawks to Jordan, which has never recognized Israel nor the Camp David peace process, and which is negotiating with the Soviet Union; and

Whereas the deeds of the Administration seem not to match its words that promise to maintain the military edge of Israel in the Middle East, both in terms of quality and quantity of arms;

Therefore be it resolved that B'nai B'rith Women communicates to the Administration and to Congress its profound concern with the Administration's Middle East policy of selling arms; and

Be it further resolved that B'nai B'rith Women expresses to the Administration and Congress its belief that the interests of the United States require maintaining a strong and secure Israel.●

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. PERKINS. Mr. Speaker, I would like to thank the members of the Subcommittee on Elementary, Secondary, and Vocational Education, which I chair, for their attendance and participation in the 51 days of hearings that the subcommittee held during the first session of the 97th Congress. I believe that these 51 days of hearings represent the most hearings conducted by any committee or subcommittee in the first session of the 97th Congress.

The members of the subcommittee are to be congratulated for contributing so much to our preparation for the reauthorization of the Vocational Education Act. Also, through their strong dedicated efforts the subcommittee members were able to protect the child nutrition program even though we were still forced to cut back $1.5 billion from the program. The administration was seeking a $2.4 billion cut. We also conducted oversight hearings on a broad range of educational topics.

This year the subcommittee will continue its thorough look at education programs in order to give us the solid base of information that we will need for our legislative endeavors this session. Not only will we be looking at the effects of last year's budget cuts on our programs but we will also be examining the President's fiscal year 1983 proposed budget cuts. In order to have a good understanding of these cuts we will have to bring in as many witnesses as possible in order to get their opinions on the effects that further reductions will bring to their programs.

For the information of the members, I would like to list the members of the Subcommittee on Elementary, Secondary, and Vocational Education and to list the general topics we held hearings on in 1981, the first session of the 97th Congress.

MEMBERS OF THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

Carl D. Perkins, Chairman, William D. Ford, Ike Andrews, George Miller, Dale E. Kildee, Pat Williams, Augustus F. Hawkins, Mario Biaggi, William R. Ratchford, Harold Washington, William F. Goodling, James M. Jeffords, E. Thomas Coleman, Arlen Erdahl, Thomas E. Petri, Marge Roukema, Lawrence J. DeNardis, and Larry E. Craig.

TOPICS OF HEARINGS CONDUCTED BY SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

Vocational education, financing of private schools, impact aid, reading and writing achievement, bilingual education, Department of Defense overseas schools, educational testing, child nutrition, library programs, elementary guidance, refugee programs, consolidation, and urban schools.●

TRIBUTE TO THE LATE DAVID A. LEVINE

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. YATES. Mr. Speaker, I regret that I was unable to be here on March 16 when time was set aside to honor the memory of David Levine. David represented the very best in ability and character that this country can produce, and I share the sadness that his death brings to his family in Chicago and his many friends here in the House.

The death of this remarkably able and decent young man is hard to accept or understand, but we need to remember the kind of splendid person he was. David Levine made a contribution to the operation of this House, he had many good friends, and he enjoyed his work and his studies. We will miss him.●

ERA

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. MOFFETT. Mr. Speaker, this very simple, very straightforward, declaration of principle should be a part of our basic law of the land: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." This is the language of the equal rights amendment, the proposed 27th amendment to the Constitution.

It has been almost 60 years since that proposal was first introduced in Congress; it has been exactly 10 years since Congress itself endorsed that historic language. Three States are still needed to ratify the amendment.

We have all heard the expression, "An idea whose time has come." Mr. Speaker, this particular principle is an idea whose time is long overdue. We must have an equal rights amendment, and we must have it now.

The current administration argues that the ERA is not necessary. Our President insists that what is needed is merely to change existing discriminatory statutes. That, Mr. Speaker, represents not simply the so-called New Federalism. It means, rather, a return to the old State rights doctrine, a conscious attempt to turn back the clock. And we all know what that means.

Supreme Court Justice John Marshall Harlan enunciated the guiding doctrine in an 1896 decision: "All citizens are equal before the law." In more recent times, Associate Justice Potter Stewart put the equation in its simplest terms: "Fairness is what justice really is."

For those who want to take a hard look at the fairness issue, I submit the following article from the New York Times, March 7, 1982, detailing the Labor Department's own statistics on the average earnings of women performing the same work as their male counterparts.

Just last month, Mr. Speaker, I joined hundreds of others at an ERA rally in Greenwich, Conn. Similar rallies are taking place across the Nation. I am confident that, in the final analysis, our Government will listen to these obvious cries for reason and sanity—and they will prevail.

[From the New York Times, Mar. 7, 1982]

DATA SHOW WOMEN'S PAY STILL LAGS BEHIND MEN'S

WASHINGTON, March 6 (AP)—The median weekly earnings of women were much lower than those of men doing essentially the same work in many occupations last year, the Labor Department reported today.

Although women held 90.6 percent of the bookkeeping jobs, for instance, they earned an average of $98 a week less than men holding the same job, according to a study by the department's Bureau of Labor Statistics.

The study, which focused on 100 occupations employing at least 50,000 people, did not ascribe the disparities to any factor. It said only that the "earnings of women were generally much lower than those of men."

Karen Nussbaum, executive director of Working Women, an organization of 2,000 women office workers, said the figures supplies new evidence of discrimination in the workplace.

Nancy Rytina, a bureau employment analyst said, "These ratios are pretty consistent with what has been reported over a long period of time."

Among the earnings comparisons listed in the survey were these:

Male administrators of elementary and secondary schools earned an average of $520 a week as against $363 for women.

Male computer systems analysts received an average weekly salary of $546 while their female counterparts earned an average weekly salary of $420.

Although women held 68.5 percent of the health technician jobs in hospitals and clinics, they earned an average weekly wage of $273 against $324 for men.

Female elementary school teachers earned an average $68 a week less than males, even though women held 82.2 percent of those jobs.

In a survey of which jobs paid best for men and women, the bureau said seven of the 20 top-paying occupations for males were in the engineering field, where median weekly earnings ranged from $507 for civil engineers to $619 for aerospace engineers. Occupations in the educational field offered the most money for women, with median weekly earnings averaging $363 for female school administrators and $336 for vocational and educational counselors.

The National Research Council, in a three-year study submitted last September to the Equal Employment Opportunity Commission, said women are paid less than 60 cents for every dollar paid to men. But that study said a host of traditional work force patterns, and not necessarily sex discrimination, accounted for the wide disparities.●

MOUNT CARMEL AREA RESCUE SQUAD

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. YATRON. Mr. Speaker, I rise today to honor the members of the Mount Carmel Area Rescue Squad, who on April 4, 1982, will dedicate their new building, which has been under construction for almost 2 years. This is a most impressive accomplishment, particularly because most of the work on the building was done by the members and because the squad has only been in existence 6 years. The new building will be capable of housing two rescue vehicles and will provide sleeping quarters for members who remain on call at the station overnight. The facility also includes a squad meeting room, kitchenette and office and storage space.

The Mount Carmel Area Rescue Squad was organized on March 11, 1976, in order to provide effective rescue services at fires, vehicle accidents, and other emergency situations. Their duties also include the administering of medical care whenever it is required. The organization is maintained solely through fundraising activities conducted by its members.

Many of the 40 members of the squad are emergency medical technicians. Other members have completed emergency first aid courses. Members have also completed State rescue and firefighting courses. They are also required to attend in-house training sessions in order to maintain the most effective rescue and medical techniques possible.

The Mount Carmel Rescue Squad has received well-deserved recognition for its services during its 6 years in operation. In addition to winning several first place trophies in local firemen's parades, an article about the rescue squad appeared in the April 1979 issue of "Firehouse" magazine.

The squad enjoys the enthusiastic support of the community it serves and not only works to protect the lives of the citizens of the Mount Carmel area, but has tirelessly contributed time and effort on several public service projects to benefit their neighbors and friends.

I know that my colleagues will join me in paying tribute to Mr. James Boylan, Jr., president of the Mount Carmel Area Rescue Squad and the members of this outstanding organization. These men and women demonstrate each day, the community spirit of helping one another, which is the very foundation of our Nation. I think that it is indeed fitting that their accomplishments should be recognized in the U.S. Congress. It is my fervent hope that they have many more years of continued success and that their excellent example of what can be accomplished continues to underline the importance of aiding those in need.

The people of the Mount Carmel community owe a debt of gratitude to Mr. James Boylan, Jr., president, Mr. Robert Lindemuth, vice president, Ms. Margaret Zigray, secretary, Mr. Charles Hodrick, treasurer, Mr. Francis Daya, Jr., captain, Mr. Richard Schaffner, first lieutenant, Reverend William Thompson, second lieutenant and all the members of the rescue squad.●

CIVIL DEFENSE IS A VITAL FACET

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DYSON. Mr. Speaker, America's preparedness is the very marrow of our ability to preserve our freedom. I would like to bring to the attention of my distinguished colleagues an article by Mr. William Postles which appeared in the Daily Times on February 27, 1982.

Mr. Postles is the executive director of the Salisbury Chamber of Commerce, and from this position he has provided us with a unique perspective on our country's preparedness. This article points to some of the discrepancies and inadequacies which have occured in our national civil defense program:

Most of us do not think about civil defense. Those of us who do think about it are usually recalling the hectic days of the 1950's when the Cold War was in full swing. Regardless of our personal interest, civil defense is acquiring some definite proponents in Washington.

The proposed federal budget will almost double the current spending for civil defense to $252 million. These budget figures suggest the seriousness with which our leaders are considering this particular subject.

In September 1978, President Carter issued Presidential Directive 41, a policy decision which defined civil defense as a vital part of the United States-Russia strategic balance. It stressed the need for increased protection of military and civilian leaders and members of the general public against the effects of the nuclear attack.

The exact cost of assuring continuity of Government at such a terrible time is carefully scattered throughout the Federal budget in the same manner as much of the funding of the CIA. These measures would prevent nuclear decapitation of the leadership of this country.

On the other hand, the civil defense protection program for the general public is more detailed and generally available. Plans are being made to evacuate, in case of nuclear attack, 360 "high risk areas." This procedure is referred to, in typical governmentese, as "crisis relocation." These areas include 61 "counterforce" targets, which would be found in the vicinity of missile sites, strategic bomber bases, and ports for submarines armed with ballistic missiles. In addition, 319 "noncounterforce" targets would be evacuated. They would include communications, industrial, and financial centers.

Plattsburg, N.Y., a city of 23,000 and similar in size to the city of Salisbury, has been designated a "counterforce" high-risk area because it is located near an air force base which maintains nuclear weapons in its arsenal. "Crisis relocation" plans have developed to the point in Plattsburg that several pages of civil defense instructions are to be found in the local telephone book.

Depending on his exact home location within Plattsburg, a resident will find separate evacuation routes designated for his use. The telephone book also lists various items to be taken with him (ax, credit cards, deeds, his will) and a list of things to leave home (all pets, in the basement, with a two-week supply of food).

Not everyone takes civil defense seriously and many peace groups oppose all efforts to step up civil defense preparations. Nevertheless, preparations go forward. A civilian-military contingency hospital system is being assembled with certain hospitals being asked to set aside beds for possible use.

Assuming at least a week of rising international tension before "crisis relocation" becomes necessary, the Federal Emergency Management Agency has already distributed newspaper columns to 3,300 local civil defense directors to be turned over to local newspapers for publication at the proper time.

These columns would provide information and advice on what procedure should be taken by the populace. The ability to insure the survivability of our Nation and the continuity of our Government may be the most effective means of insuring that "crisis relocation" will never be needed.

One last observation: Salisbury is 80 miles from the Pentagon, 50 miles from the largest air force base on the east coast, and 100 miles from the headquarters and main anchorage for the Atlantic Fleet.●

COAL SAFETY DANGERS SHOULD CAUSE CONCERN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SIMON. Mr. Speaker, State Senator Bob Wise of West Virginia wrote an article which appeared in the Houston Chronicle which bluntly talks about safety in the coal mines and the problems we face.

Both labor and management in the coal industry have a vested interest in safety and I hope this administration and this Congress do not take any further actions which increase the hazards of coal mining.

I do not believe it is an accident that fatalities in the coal mines were higher last year than any other year since 1975. I believe it is related to the 123 vacancies in the ranks of Federal mine inspectors. I believe it is related to the fact that we are not living up to the mandate of the law right now for inspections in many of the mines.

I urge my colleagues to read the article.

The article follows:

[From the Houston Chronicle, Dec. 29, 1981]

WHO SPEAKS FOR THE COAL MINER?

(By Bob Wise)

The first week of December was virtually unprecedented even by grim Appalachian standards. Tons of falling coal buried three coal miners on Dec. 3 in Bergoo, W. Va. An explosion ripped through a Topmast, Ky., mine Dec. 7, leaving eight dead. Incredibly, 13 more died the next day from another explosion in a Tennessee deep mine.

The nation clucked sympathetically at the newspaper photographs of gray, wintry mine-site vigils and weeping miners' widows. Background articles recounted dates and casualties of previous disasters. Large-scale tragedy again thrust the national spotlight on the dangers of coal mining, which has taken more than 100,000 lives in this country since 1900.

Yet most carnage in the coal fields passes largely unnoticed. These are the single deaths—a young man crushed by a falling section of mine roof; another electrocuted; a third fatally pinned against mine ribs by heavy machinery. Since Dec. 3, eight miners have quietly died in individual accidents. Last year in West Virginia, 33 miners died in coal-mining accidents. Hundreds more suffered totally disabling injuries. Despite a contract strike idling much mining for almost three months, the state's toll for 1981 is 28 dead. One miner is killed every 11 days in the state, while nationally one miner died every two working days during 1980.

To those of us who live in coal-mining areas, it seems that only the major disasters provoke action. It was not until after the November 1968 explosion in a Farmington, W. Va., mine entombed 78 men that Congress enacted the Comprehensive Coal Mine Health and Safety Act. The mine-fatalities toll was halved by these rigorous new regulations and federal presence. Memories, however, grow short, and recently the federal budget for safety regulation has been subjected to the Reagan administration's ax, under the predictable rationale that existing rules amount to "overregulation." It is argued that federal and state regulations overlap, leading to needless duplication. Overlooked, of course, is the sad situation that resulted in the Farmington disaster and made federal involvement necessary: The control of Appalachian legislatures by the coal operators.

The coal industry raises the duplication banner wherever it suits its purpose. Arguing that the federal Mine Safety and Health Administration already inspects mines and issues citations, industry lobbyists have pressed my state Legislature to take away such authority from state mining personnel, relegating these officials to an instructing role. What they don't tell state legislators is that they are pressing for a similar reduced role for federal inspectors.

The Reagan administration's attempts to cut the mine safety agency's budget already is having an effect. United Mine Workers of

America safety officials say that many federal mine inspectors are leaving the agency to find jobs with more financial security. There are now 123 vacant positions, and no sign that these will be filled; union officials estimate that each represents a loss of 200 days of on-site mine visits. Sen. Orrin G. Hatch, R-Utah, has even suggested reducing the required number of federal deep-mine inspections from four to two per year, a move that would legislate more disability and death.

Coal miners had better not rely on their state government for increased protection. While serving on the West Virginia Senate Mining Committee, I have watched the determined industry struggle against enactment of any additional safety legislation. By day, the well dressed lobbyists, whose number included former gubernatorial assistants, ex-legislators and even former chairman of the State House Judiciary Committee, jammed into our committee meeting room to persuade my colleagues to oppose safety bills. By night, they persuaded with their expense accounts, lavishly entertaining legislators at the state capital's night spots.

Last year, even though five miners recently had died in a nearby accident, almost no significant mining legislation passed in West Virginia. When the session ended union lobbyists counted themselves fortunate for having prevented the erosion of the previous years' gains.

Who will protect the coal miner working a mile underground in a dark, 4-foot-high passage? Most of the nation knows little about him. A Congress filled with members who have never seen a coal tipple is insensitive to the need for safeguarding him. State legislators more responsive to distant corporate board rooms than nearby coal camps ignore him.

It may be that the disasters ultimately will be his salvation. The Monogahs, the Centralias, the Farmingtons. And now this latest wave of December deaths. As this nation relies more on coal to reduce its dependence of foreign oil, it cannot ignore the escalation of industrial bloodshed.●

STOCKMAN NOT FIRST TO MISS DEFICIT TARGETS

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WALKER. Mr. Speaker, some Members from the other side of the aisle have been quick to criticize the administration for its alleged failure to predict with 100 percent accuracy the 1983 budget figures.

Well, my memory was jogged this week by the "Voice of Business" column distributed by the U.S. Chamber of Commerce.

Chamber President Richard Lesher points out that 2 years ago, on May 12, 1980, we were debating the same issue of trying to balance the budget. At the time, some of us doubted that the Carter administration really wanted to balance the budget.

Lesher points out that one of our colleagues, Mr. SOLOMON from New York disputed the budget figures, calling them a "hoax." He said:

> I cannot believe there is a single member of this chamber today who honestly believes that the budget will stay balanced by the time we consider the second budget resolution this fall.

Mr. Speaker, this made the leader of the majority, Mr. WRIGHT, so angry that he took the floor and declared:

> I am shocked, surprised and deeply disappointed in the remarks just uttered on this floor. . . It is not only balanced, it has a $2 billion surplus. It not only has a $2 billion surplus, it has a $10.5 billion cushion against contingencies.

The budget, we all recall, checked in with a $58 billion deficit.

At this point in the RECORD, I include the following:

> STOCKMAN NOT THE FIRST TO MISS DEFICIT TARGETS
>
> Budget Director David Stockman and other administration figures are being worked over on Capitol Hill these days for having issued deficit projections last year that, due to the recession, proved to be overly optimistic. Judging by the expressions of shock and outrage from the folks on the Hill, you would think that Stockman's "transgression" represented the first bite from the apple of this particular sin.
>
> Hardly. During the spring of 1980, as Jimmy Carter was polishing off Teddy Kennedy and gearing up for his fall battle with the Republicans, he joined with congressional Democrats to concoct a first budget resolution for fiscal 1981 that, on paper, was actually balanced. Such an achievement would have been a powerful political coup for the President and his party.
>
> It was in this context that a heated exchange occurred on the floor of the House of Representatives on May 12, 1980. A freshman Republican, Rep. Jerry Solomon of New York, called the supposedly balanced budget a "Hoax" and said, "I cannot believe there is a single member in this chamber today who honestly believes that the budget we passed will stay balanced by the time we consider the second budget resolution this fall."
>
> This charge made Democratic Majority Leader Jim Wright so angry that he took the floor and declared: "I am shocked, surprised and deeply disappointed in the remarks just uttered on this floor . . . It is not only balanced, it has a $2 billion surplus. It not only has a $2 billion surplus, it has a $10.5 billion cushion against contingencies."
>
> The budget checked in with a $58 billion deficit.●

CRITICAL OBSERVATIONS ON THE ENTERPRISE ZONE PROPOSAL

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WEISS. Mr. Speaker, this critical analysis of the enterprise zone proposal was undertaken in conjunction with Ms. Gini Nelson, who serves as an intern on my staff.

There has been much debate during the past 2 years on the enterprise zone concept. Several versions have been circulated in Congress, and the administration has today introduced its own bill. In reviewing these proposals, we must keep several critical considerations in mind.

It is my view that the Federal Government has an absolute responsibility to assist the economically distressed areas of our cities. The people living in these areas are subjected to massive unemployment rates, surrounding physical deterioration and a high incidence of crime. Their human predicament is one without a helping hand, without a future and without hope. Yet, the poverty which overwhelms them is not the fault of these individuals nor of the cities in which they live. It is a national problem and requires a national solution. In approaching that solution, however, I believe we cannot depend solely on untried proposals like enterprise zones while existing Federal programs which have proven effective are senselessly cut or eliminated.

The main idea in the administration's enterprise zone proposal is to reduce regulatory and tax burdens in these distressed areas, thereby establishing a favorable investment climate to stimulate economic growth and community revitalization. But the urban problems we face in these areas are much greater than a mere regulatory and tax burden. Several academic studies have concluded that the regulatory and tax relief proposed will not be a significant incentive in the private sector's decisions where to locate. Availability of capital, access to markets and skilled labor, an improved infrastructure and better local services have all been cited as more important to business than relative burdens. All these factors must be addressed if we want to stimulate economic development in distressed areas. But the enterprise zone proposal only focuses on one very small aspect of the problem. Clearly, we cannot expect it to work on its own.

Proponents of the concept believe that the enterprise zones will be highly successful in revitalizing these depressed neighborhoods and creating jobs. But the experience in Puerto Rico has already taught us a significant lesson about the limitations of using tax incentives to stimulate economic growth. Operation Bootstrap, America's first enterprise zone experiment, was begun in 1950. Major tax and regulatory relief was provided and the island's cheap and largely unskilled labor force was promoted to induce business to locate there. It did, and economic growth resulted for some time, but economic development did not. To quote Edward Humberger, president of the Community Development Collaborative, of Washington, D.C.:

Operation Bootstrap's first enterprises were large sugar plantations which displaced the small farm economy. Prior to their development, fully 93 percent of the land was arable and the agricultural economy was moderately diversified. By 1977, however, only 40 percent was still arable and Puerto Rico had become a net importer of $800 million in foodstuffs annually. The second industrial transfusion brought the textile and shoe industries to the island—but they began leaving when labor in Taiwan and Central America became cheaper. Next came the petrochemical industry, which created few jobs, and the pharmaceutical industry, which did not need much unskilled labor. Like an addict, the economy's next transfusion of investment rests on the recent discovery of nickel and copper deposits which will be extracted by the large oil companies.

The hard lesson we learn from Puerto Rico's enterprise zone experiment is that communities and regions need balanced economic growth and development. Operation Bootstrap's tax incentive program did not develop a self-reliant and diversified economy. Long-term viability requires a measure of community involvement, local ownership, and a skilled mature labor force, not a colonial dependence on outside capital. Economic development, not just growth, must be the goal of every revitalization effort.

Some of the sponsors consider the enterprise zone idea a "no-lose" situation. But no one in Washington these days can forget that inappropriate allocation of scarce resources is a waste of scarce resources. Are we confident that some neighborhoods designated as an enterprise zone might not be worsened by the delay in administering the correct solution? And the impact may not be just on those neighborhoods designated as zones—adjacent neighborhoods may be threatened as well, especially if this proposal simply encourages firms to move across town to take advantage of tax breaks.

Community revitalization in depressed areas will require public as well as private funds. The cities will need money to plan what appropriate development would be, will need money to improve the infrastructure to make areas viable for business' needs, will need job training funds to provide skills for unemployed residents, will need money to provide housing for the displaced, and will need money to provide effective monitoring and evaluation of any program implemented. Where are the municipalities to come up with the resources to do these things? And where will small businesses get sufficient seed capital to begin new enterprises in these areas?

The Federal Government has provided such assistance and should continue to do so. Yet these are the very same programs that the administration is seeking to eliminate or drastically reduce. The Economic Development Administration, HUD's urban development action grants and CETA have all been cited as effective ways in which the Federal system can aid States and localities. Urban revitalization needs positive efforts such as these. Tax incentives alone simply do not foster diversified economic development. Indeed, what type business would be attracted by lower taxes to come into a zone without improvement of the infrastructure? Would these businesses contribute to community revitalization? What kind of jobs would be provided by these businesses? Roger Vaughan, of the New York State office of development planning, predicts that such companies would be "low-profit, low-paying, sweatshop operations that are footloose, which is not any way of resolving the problem of supporting neighborhoods for the long term."

Even though congressional sponsors of the enterprise zone concept stress that it is not proposed as a substitute for current programs, the administration's actions belie that as its intent. The proposed elimination of the Economic Development Administration and the reduction of funds for UDAG's, for example, force us to be cynical of the administration's motives. Contrasting the 1981 budget appropriations to the administration's proposed 1983 budget shows the following national reductions in real terms in programs crucial to urban economic development, according to the New York State Office of Federal Affairs: 97 percent in community-service block grants; 36 percent in community health block grants; 20 percent in community development block grants; 49 percent in urban development action grants; 100 percent of the Economic Development Administration; and 29 percent in mass transit funds.

We should not support any proposal, especially an experimental one, as a substitute for proven urban aid programs. The Puerto Rican experiment shows the failure of a revitalization plan that emphasizes tax incentives while ignoring infrastructure, education, job training, local capital and community involvement.

I think urban officials would be more supportive of this concept if they were sure it was to supplement, not supplant, current Federal programs. The concept has a distinct potential, but only as part of a larger plan. It alone is not the solution to the problems of poverty.

What then, is really needed for revitalization? The literature says it again and again: Careful planning to determine what kind of enterprise is needed in the area; improvement of the infrastructure; the attraction of an anchor enterprise or sufficient concentrated private investment; availability of seed money for new business startup; adequate provisions to minimize displacement of the poor; and monitoring for compliance with existing regulations.

With these factors in mind, let us now consider what a good enterprise zone proposal ought to entail.

Our first response to any enterprise zone proposal must be to insist that current Federal assistance programs effectively addressing urban development must be maintained, if not expanded. Cities need additional Federal assistance to repair and improve aging infrastructure, especially in declining neighborhoods. This aid is needed now to offset the impact of past Federal policies that subsidized scattered expansion into the suburbs at the expense of urban rehabilitation and development, such as Federal highway expenditures and tax breaks that favor new construction over rehabilitation.

Our second response must be in setting stricter criteria for enterprise zone site selection. We should give priority to those individual proposals manifesting the best planning, with the most community participation in all stages of planning and the best design for carrying through those plans. Neighborhood residents have deep commitments to the health of their community. Their insight and cooperation are needed to make any proposal work.

Third, regulatory relief must be limited to paperwork and bureaucratic relief only. This is what will help a new business, not the deterioration of safety and wage requirements. City assistance could take the form of expedited processing of permits and licenses and counseling as to appropriate planning and program implementation. Advising the small entrepreneur, such as an individual or neighborhood group, of existent aid programs and of how to apply for and manager them has been shown to be an effective stimulant to small business development.

Under no circumstances should we go back on fundamental safety, health, and wage reforms. These reflect hard-won rights: Rights of workers to safe working conditions, rights of consumers to safe products, and rights of people to live in healthy and harmonious neighborhoods. We must not allow the private sector to relinquish its duties to act responsibly toward the workers it employs and these communities. The enterprise zone proposal must not be a Trojan horse promising jobs but eroding the integrity of the workplace.

Similarly, it must be recognized that some of our tax programs also reflect hard won workers' rights. Social security taxes, for example, reflect a public decision that those who employ others have additional social welfare responsibilities. Waiving these responsibilities, as some suggest, is a dangerous precedent.

Fourth, we should explore ways of targeting any tax cuts to enable more community participation, employment, and ownership. Employee stock ownership plans (ESOP's) should be used to encourage more employee ownership, so as to directly increase worker benefits and participation. The establishment of a general stock ownership corporation (GSOC) within each enterprise zone should also be encouraged. This would enable the residents of the zones to both better control investment in the zone and spread the profits from increased property valuation among the resident stockholders to minimize displacement.

Fifth, we should insist on business expansion, not relocation. These proposed regulatory and tax incentives ought not to accrue to firms that have simply left another declining neighborhood. Just as there must be monitoring for compliance with all requirements set for these incentives, there must be a harsh penalty for any firm that takes short-term advantage of the program and then pulls out before permanent community benefits accrue.

Further, we must be especially careful to minimize displacement of residents not simply to shift the poor over to another neighborhood, perhaps hastening that neighborhood's decline. We should, for example, expand funds available for section 8 housing subsidies for low-income renters. Obviously, we do not want an enterprise zone proposal that merely shifts business into the zone from adjacent neighborhoods while pushing the poor out of the zone to go somewhere else. This would not be the solution to any problem.

Finally, we must admit that this enterprise zone idea would be an experiment. National conditions are bad and may get worse. We need our resources to be used as wisely as possible. We need to keep the number of sites small, much lower than current proposals suggest. We need criteria for evaluating the effectiveness of the program, and we need to evaluate whether the program works after passage of a certain period of time. We need to have a clear idea of what to expect and we need to be able to stop the program if it is not working.

In summary, we must not allow the debate over the enterprise zone proposal to blind us to the fact that it addresses only a very small part of the problem. If it becomes the sole program for urban development, many people will suffer. Failure of such a program would weaken the tax base of the city while further adding to its welfare burden. While no one can provide guarantees of success of any efforts to revitalize distressed areas, we should demand that the odds not be against the possibility of success.●

NATIONAL WOMEN'S HISTORY WEEK

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Ms. MIKULSKI. Mr. Speaker, once again, I have the great pleasure and honor to introduce a joint resolution designating Women's History Week, this one to be celebrated the week of March 6, 1983.

Last week we celebrated our country's first Women's History Week. It was a week of activities at schools and libraries, in Girl Scout troops, and other organizations, and included an evening of celebration and commemoration at the Smithsonian Institute. It brought women out of the dusty corners of American history and gave them the public acknowledgment they deserve.

A tradition has begun. Women's contributions to the life, thought, and institutions of this great Nation will receive the recognition they so richly deserve during Women's History Week. Soon, we hope, they will receive it all year long. No longer will a child study American history in our schools for 12 years without learning about the intelligent, courageous women who have contributed to the development of this great democracy. American women have been pioneer settlers, wives, mothers, community, and national leaders. They have spoken, written, birthed, and bled for this country. They are an integral part of its history.

It is time for all of us, men and women, to join history as one people, a people who have worked long and hard to create one of the most open and free societies in history.

Mr. Speaker, I insert the resolution in the Record:

Joint Resolution designating the week beginning March 6, 1983, as "Women's History Week".

Whereas American women of every race, class, and ethnic background helped found the Nation in countless recorded and unrecorded ways as servants, slaves, nurses, nuns, homemakers, industrial workers, teachers, reformers, soldiers, and pioneers;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in the country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor union movement, and the modern civil rights movement;

Whereas despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning March 6, 1983, is designated as "Women's History Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.●

PRIDE OF ACCOKEEK

HON. MAJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mrs. HOLT. Mr. Speaker, today when we hear so much of youth crime and destruction, it makes me very proud to commend the Eugene Burroughs Junior High School concert choir of Accokeek, Md., for its musical achievements and sense of community awareness. Designated as the official representative of the State of Maryland to the World's Fair international competition at the University of Tennessee, this choir continues its fine tradition of outstanding performance as in the National-International Music Festival, first place; and with the Southern Maryland Choral Society. Expenses for the 110-member choir are raised through fund raising events and the support of county and State citizens.●

REPRESENTATIVE JIM LEACH'S COLUMN MAKES SENSE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SIMON. Mr. Speaker, one of the refreshing breezes to blow out of Iowa is Jim Leach. He has shown a sensitivity in the international arena that is all too rare.

His column, which he writes for the newspapers in his district, is as sensible a commentary on the Polish situation as what we ought to do as anything I have seen.

He basically suggests that a grain embargo does not make sense and he suggests that we should act with a little prudence.

Theodore Roosevelt told us to "speak softly and carry a big stick." We seem to enjoy speaking loudly often before we reflect on the impact our words have around the world. We are not in a world where we can say everything that comes to our mind that we believe will please a domestic political audience.

I urge my colleagues to read the JIM LEACH column.

CONGRESSMAN JIM LEACH, WASHINGTON REPORT

The tragic suffering of the Polish people under the ongoing edit of martial law cast a pall over the Holiday Season for all Americans, and, as President Reagan has made clear, the Soviet Union bears a heavy and direct responsibility for the reprehensible repression in Poland.

While events in Poland will have an immense impact on future U.S.-Soviet relations, a function of leadership is to determine what is practical and what is not in crisis circumstances.

When independence movements surfaced in Hungary, Czechoslovakia and Poland in 1956 and 1968, there were sentiments in Eastern Europe that the U.S. should intervene militarily. Both Presidents Eisenhower and Johnson determined that U.S. ground forces in Europe were massively out-manned by Russian troops and that a ground war in Eastern Europe against the Soviets was unwinnable.

Clearly this remains the case today. No viable military option is available to the West and no Pole expects or desires an East-West confrontation in Poland. Recognizing this limit on our options, there is a tendency among American policymakers to vent their anti-Soviet "macho" by threatening to cut off grain sales to Russia.

At first blush, such an option appears reasonable and restrained. But before the Reagan Administration rushes to judgment, an appraisal of the implications of food embargoes in general and of the Carter embargo in particular should be undertaken.

Almost exactly two years ago the Carter Administration imposed a grain embargo in the wake of the Soviet invasion of Afghanistan and it is hard not to have a feeling of "déjà vu" when reading the news coming out of the State Department the past several weeks. Accordingly, in preparing this column I decided to reread the one I wrote the week after President Carter's January 1980 announcement. In it I predicted that instituting a grain embargo would be "like cutting off our nose to spite our face. . . . The Russians will get their grain somewhere else or simply cut back on their livestock."

It is the American, not the Soviet, economy which was penalized by the Carter grain embargo. Soviet leaders prefer to let their people eat more turnips and less meat than acknowledge the inadequacies of their socialized system of agriculture.

If the Carter embargo had been successful in deterring the Soviet Union's invasion of Afghanistan, a good case could be made for instituting a new embargo today. But it was not. In the wake of its announcement, the Soviets promptly doubled their forces in Afghanistan and escalated their repression to the point of using chemical warfare. Instead of slowing the Russian military machine, the U.S. only shot itself in the American farmer's foot.

The problems the Soviet Union is experiencing in Afghanistan and Poland, as well as in several other of its East European satellites and provinces including the Baltic States and the Ukraine, is a reflection of the enormous weakness of the staying power of Communist orthodoxy. In political terms, the Soviets face a no-win situation in Poland. If they invade, the liabilities for the Soviet economy and the Soviet military will be enormous. If they do not invade, the prospects for an even further weakening of their philosophic and militaristic grip over their Eastern Bloc satellites will in turn be that much greater.

The goal of American policy should be to avoid making the Soviet Union's no-win situation a no-win situation for ourselves. And to cut off grain sales again would be to create just such a no-win situation.

On the one hand, in a strategic sense grain is the one American export to the Soviet Union which is entirely to our advantage. Every ruble that the Russians spend on corn and wheat is one less ruble available for building tanks and missiles. On the other hand, it won't just be the grain producers who will be confronted with lower prices. Cattle and hog prices respond quickly to changes in feed grain costs, and the downward pressure on these markets could force already hard-pressed livestock feeders into an ever greater deficit position.

There will also be immediate repercussions in industries serving the agricultural community. The rail and barge industries will be particularly affected. And what about the feed and seed and fertilizer dealers so important to the economy of small towns? Already depressed implement sales will be dramatically impacted because no farmer is likely to make a long-term investment when confidence is further eroded in the marketplace. Not only will the farmer and the small town businessman take it on the chin but so will the U.A.W. assembly worker at Deere, and International Harvester.

If a grain embargo is reimposed, clearly the Government will become responsible to the U.S. farmer for cutting off agricultural markets. This will almost certainly entail the necessity of developing a set-aside program which, to be fair, will in turn necessitate—much against current Administration policy—providing costly incentives for farmers to idle land.

In reviewing the results of the Carter embargo on the American as well as Soviet economies, it would appear that the large grain companies were bailed out by emergency Administration programs while family farmers and the small businessmen and women who serve them were left holding the bag. The Soviets got their grain elsewhere and the American farmer lost an important market.

The Carter embargo proved ineffectual as a political tool. In practical terms, it cost the taxpayer dollars, the farmer income and, because agricultural trade helps pay for so much of our oil imports, it weakened the value of the dollar.

In the final analysis, a grain embargo is a step toward isolationism in a world that demands international responsibility. Trade implies mutual self-interest and, broadly speaking, a free flow of trade reduces the likelihood of war. When international trade breaks down, the prospect of international aggression increases. A powerful country like the Soviet Union which consistently lacks the ability to feed its people will be more inclined to seek military control over agriculturally rich parts of the world. Cutting off grain to Russia simply whets its appetite for more land.

The Reagan Administration properly recognizes that the Soviet challenge, militarily and philosophically, is our gravest security concern. But just as reality dicates a clear-headed recognition of the need for preparedness, so prudence dictates a thoughtful understanding of the Russian psyche. Soviet society can change, but it is unlikely to move in more responsible directions if American policy at every turn appears unnecessarily spiteful.

As a student of Soviet history, I have often been struck by the warmth of the Russian people, as contrasted with their Government, toward Americans and by the searing impact of World War II on Russian life. It is hard to believe that a strategy of taming the Soviet bear should include embargoes of grain and foodstuffs. It is far better to trade butter than bullets.

While the travail of the Polish people makes clear that U.S. military preparedness must be based on the assumption that the Soviet leadership remains antagonistic, U.S. diplomacy must recognize that the future of mankind may rest upon the kinds of incentives the West provides Soviet society as a whole to change in a progressive direction. Despite profound differences, responsible initiatives must be undertaken to expand rather than contract areas, such as trade, where the U.S. and the Soviet Union have a mutual self-interest.

The moral question of using food as a weapon aside, food is simply not an effective political instrument. Embargoing grain sales is counterproductive for the results we want to achieve in the Soviet Union and for the damage it will inflict on our own economy. Absent war, it is a geo-political tool policymakers should abandon.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. CORCORAN. Mr. Speaker, I was not present and voting on two items of business during the session, Thursday, March 18. Had I been present, I would have voted in the following way:

On a motion to agree to the Speaker's approval of the House Journal of Wednesday, March 17, "yea."

On a motion to suspend the rules and pass H.R. 3620, Hoboken Pier Terminals, "yea."●

THE NEED TO REVITALIZE AMERICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. McDONALD. Mr. Speaker, the time has come to pay the piper in our United States. Economic problems such as inflation, deficit spending, high taxes, high unemployment, and low productivity have been with us for some time. Now, we in the Congress have to face and solve these problems. In many respects they are the same problems that have plagued Great

Britain. Great Britain, it appears, may now be starting to pull out of her deep abyss. We, on the other hand, may just be reaching the bottom. But our problems are similar and the solutions are similar. Mr. Langdon S. Flowers discussed our economy at the Kiwanis Club of Atlanta, Ga., on March 2, 1982. His speech contained many interesting facts concerning our economic plight. I commend his speech to the attention of my colleagues.

THE NEED TO REVITALIZE AMERICA

(By Langdon S. Flowers)

How many of you remember from your school days that poem by Henry Wadsworth Longfellow—"The Ride of Paul Revere." That was a favorite of mine.

Remember the purpose of that ride . . . it was to warn the Americans the British were coming.

206 years later, I'd like to warn the Americans that the "British Disease" is coming. What is this British Disease?

It's an economy that is plagued with high inflation, high unemployment, low productivity, decreasing standard of living, and increasing frustrations with government. Does this sound familiar? It should, because this is certainly our problem, too.

I had the pleasure of hearing Dr. Arthur Shenfield, a noted British Economist and Barrister, speak at a meeting in Washington about 3 months ago. It was most interesting to hear this man who is so knowledgeable and close to what is happening in Britain. Here is the key statement that he made, "In my opinion, there is no doubt whatsoever that the decay and the decline of the British political competence is the result of and the association with the rise of union political power. It's like the insertion of a wrench into the whole political mechanism and it just cannot work successfully with it."

What has been the result in England of this domination?

Britain has gone from the 4th most prosperous Nation in the World to the 17th with the trend continuing down. For the first time in 300 years, Britain's standard of living is below that of France—all within the last 25 years.

As a contrast, let us look at Japan over this same 25 years—

I was in Japan right after World War II ended, compliments of Uncle Sam's Navy. Japan was devastated! The economy was practically nonexistent.

Under General McArthur's leadership, Japan gained a constitutional form of government and the opportunity to make the free enterprise system work—and did they make it work—they took over our systems and technology and made them work better than we have. Government set taxes and policies to aid in the creation of jobs and to increase productivity and exports.

The Japanese are encouraged to save and are doing so at a rate in excess of 25%—while the rate in the United States is less than 3% now. The first $65,000 worth of dividends and $65,000 of interest income to the Japanese individual is tax free. They are encouraged to save and to invest to the extent that Japan now has the most productive, efficient physical plant facilities of any Nation in the World.

The business community is encouraged to invest too, through their depreciation policies . . . as an example, there is a new $4 billion super steel mill in Tokyo. This mill will be written off for tax purposes in 5 years. In the United States, it has taken as much as 40 years.

There are 23 of these super steel mills worldwide. 14 of them are in Japan—none in the United States or England.

These mills in Japan can get iron ore from Australia—coal from the United States, convert it into steel and sell it cheaper in this country than we can make it and still make a profit.

What has this "job creating climate" meant to Japan? The best way to judge is to look at the per capita income gain. Thirty years ago, the income in Japan was $132 per person . . . per year. Today, Japan has a per capita income slightly in excess of $8,000. This is close to that of the United States.

Japan's gross National Product has climbed from practically nothing until now they are #3 behind the United States and Russia and might be #2 this year.

How has Japan been able to achieve such a record? It has been through a mutual program of understanding and helpfulness between government and business to promote the welfare of all. England and America are the only two nations in the world that have had an adversary relationship between their business community and government

The key word to Japan's success is "productivity." That entire country is dedicated to increasing the productivity because it is only out of productivity increases that you have real increases in the standard of living.

In Japan, labor costs per hour are comparable to those in the United States except in the auto and steel industry where the U.A.W. Union and the Steel Workers' Union have forced rates that are much higher than Japan and are in the range of $20.00 per hour, including fringes.

We have a serious problem in our country and in England of productivity decline.

Productivity is dependent on tools and the purchase of necessary tools is dependent on having the right climate and government tax policy for savings and investment.

What has caused this decline in Britain over the past 25 years and the beginning of the same trend in the United States?

It has been brought about because the responsible leaders in education, in business, in labor and in the government were involved in their own self interest as opposed to "what's best for the country."

Edmund Burke said, "The only thing necessary for the triumph of evil, is for good men to do nothing."

The America of our first century-and-a half was a responsible America, comprised of responsible people with an absolute dedication to the principles of individual and national integrity. . . an integrity that was epitomized by such phrases as "My word is my bond." "An honest day's work for an honest day's pay." and, "Sound as a dollar."

Is this the America today? I'm afraid we would all agree that it is not.

There have been fundamental changes taking place over the last 50 years that have decreased personal responsibility for more government responsibility.

Through the insatiable appetite of big government to spend and spend, we have mortaged the futures of our children and grandchildren.

What are some of the developments that are mortgaging our children's future. Inflation is our #1 domestic enemy—as long as "we the people" permit our representatives to allow federal spending to balloon through "so called uncontrolable entitlement programs—spending is going to exceed income and the resulting deficits "crowd out" private borrowers and will continue upward pressure on interest rates. Those who retired on a fixed income in 1970 have lost half of their purchasing power due to this vicious inflation.

I don't know whether you are a supply sider or a keynesian, but I do know that for too many years, the keynesian followers have tried to convince us that rules of ordinary common sense don't apply and that excessive debt every year may be bad for an individual, but is good for a nation.

I think you will agree that everything in life must be paid for somehow. Deficit spending does not eliminate the costs of government. It only conceals them.

Think of it! A debt of over $1 trillion that is budgeted to cost us over $100 billion in interest—more than the entire federal budget in 1961.

The politicians have put us in this situation—but we the public have permitted it—even demanded it.

Those who demand perpetual handouts and regulatory coddling inevitably make big government bigger. Only if we can break this increasing cycle of dependence on government can our nation survive in freedom.

Let us not forget that Lenin said, the surest way to destroy a capitalist economy was to debauch its currency.

Another burden being carried by all of us, is government regulation. Government today is telling us, our families, and business or institutions for which we work or own, what we can and cannot do.

In the last 15 years almost 250 agencies, departments, bureaus and commissions have been created to help our federal government function. Before President Reagan took office there were more than 1,000 different federal programs and 87 government agencies who's job it is to intrude and/or regulate business operations.

Here's how Thomas Jefferson put it!

"Government big enough to supply everything you need is big enough to take everything you have."

In one form or another, federal bureaucracy touches every thing in our lives. The office of Management and Budget has estimated that government regulations of business cost the public, that's you and me, $130 billion. You and I can be proud that President Reagan understands that so many of these regulations have a counterproductive impact from what they were designed to do. We all know that to have a civilized society, you must have some basic laws and regulations. Our worry and President Reagan's worry is the tremendous over-regulation.

It's certainly apparent to all of us that Congress can not control all of the many diverse agencies and bureaus that they have set up. These are run by the unelected bureaucracy who become the de-facto law making power. As an example of how this power has proliferated, let's look at the Federal Registary which publishes all government regulations. Back in 1936, when President Roosevelt first used it to record all the regulations that government passed, it contained 2,411 pages. In 1980, President Carter's last year, it contained 70,000 plus pages. This last year, if my figures are correct and I believe they are, it has dropped back to 50,000. Think how long it would take you just to read this.

President Reagan is known for his sharp, politically edged, pithy one-liners. Here is one on cutting government programs, "A government program is the nearest thing to eternal life we'll see on the Earth", Back in

1848, Henry David Thoreau wrote "That government is best which governs least."

Over the past century, each American generation has enjoyed a standard of living twice as high as its parents, and we have come to accept this steady improvement. However, since 1973, it will take, not one generation, but 300 years to double the average living standards. At the rate we have achieved over this past year, we'll be lucky to maintain 1979 standards.

Our problem is that we have been increasing rewards for not working at a much more rapid pace than increase in compensation for productive labor. The result is that what little gain there's been in productivity in recent years has gone to recipients of transfer payments rather than to the working tax payer.

The National Taxpayers Union recently put out a statement listing the transactions that our Congress has obligated each American to pay, such as, national debt, social security, other fiscal liabilities, insurance commitments, annuity programs, international commitments, and the like.

I don't want to burden you with the amounts due on each item, the total, based on official U.S. Treasury's figures is frightening enough, more than $11 trillion.

If that is an inconceivable figure, here is approximately how much the average American family owes—$138,000.

You've heard about the man applying for a loan who was asked by his banker, "Do you usually live within your income?" Of course not, he replied, "It's all I can do to live within my credit".

That's the way it has been in America for 50 years now. We, as a nation, can scarcely live within our credit limits.

The only blessing I can see out of all this excessive government spending is this quote from Will Rogers, who years ago said, "Thank God we don't get all the government we pay for."

What can you and I do to change this direction to help revitalize America?

In my opinion, the next nine months of this year, 1982, are going to be critical months for our country and our future. We are indeed fortunate to have a leader in the White House who has the moral courage and determination that Ronald Reagan has. He has expressed it this way, and I quote, "A basic question facing us in this, our third century as a nation, is will we become a society ruled by elitists, or will we recapture the spirit of the individual responsibility and initiative that brought us greatness and world wide leadership"?

That's our challenge and he has set the direction and there are two things that we can do.

First, get involved politically, all of us need to become advocates of and not just believers in the Free Enterprise System. We, in business and education and professions must drop our traditional low profile before we literally become invisible. We must speak up aggressively without embarrassment or the reluctance that has been so characteristic of our performance in the past.

We have a Political Action Committee at Flowers Industries and it's getting more effective every year. Not only do our people support it financially but they have become informed and active in supporting candidates that are in favor of revitalizing America. We support candidates who are supporters of sound fiscal policy regardless of party or geography.

We contribute to these candidates directly by a personal visit from several of our PAC members from the plant in that candidates district so they get to know each other personally. If any of you wish to start a PAC, I will be glad to furnish you the necessary information.

Second, and probably the most important thing we can do is to work to elect those to Congress this Fall who will support a constitutional amendment to restrict government spending and balance the budget.

As you and I know, there are always more worthwhile projects that need funding than there is money to pay for it. Nevertheless, our Congressmen get to Washington and they trade their votes and here we go with another budget-busting deficit.

I want to tell you about a constitutional amendment that will force Congress to set priorities on spending in order to balance the budget. This has a good chance of passing in Congress this year. There are two organizations that have been working on this particular amendment for the last year and a half. One of them is the National Taxpayers Union which has been working for a balance budget amendment for several years. The other is the National Tax Limitation Committee, which has been working on limiting the total amount of spending the government can make. These two organizations have joined together to sponsor Senate Joint Resolution 58 and House Joint Resolution 350.

This amendment will come up in the Senate sometime in late Spring or early Summer. It has a real good possibility of getting the necessary two-thirds vote in the Senate. Both of our Senators are among the 51 who have already signed as sponsoring this resolution. The House vote is going to be a little harder—this Resolution 350 is bottled up in a Democratically Controlled Committee and will not be brought out. However, by a majority vote of the House, it can be brought to the Floor for debate and a vote. If the Senate passes this amendment, this should provide the momentum for passage in the House. Eight of ten of our representatives are sponsoring this amendment.

If it should fail in the House, those representatives who voted against this amendment will go to the polls in November with 2 strikes against them. All National polls show that the general public, by a 65 to 75 percent margin want the government to have a balanced budget and to limit spending.

Another factor that will help force this amendment through Congress is the effort by the National Taxpayers Union to get ⅔'s of the State Legislatures to pass a resolution calling for a Constitutional Convention. The state of Alaska just recently joined this group making it the 31st state. There are only 3 more states needed. Before this happens, Congress will pass their own amendment to send to the states for ratification. Will you help pass Senate Joint Resolution 58 and House Joint Resolution 350 by contacting your Senators and Representatives?

In closing, I would like to quote from Bill Simon's newest book, "A Time For Action". I highly recommend that each of you obtain a copy of this book and read it. The time to revitalize America is now.

Here's Bill Simon's quote, "In all our affairs, domestic as well as foreign, it is a time for action—a time for renewal of the American spirit. Enterprise, thrift and self-reliance can be reborn in the United States if we adopt a plan of action based on common sense rather than on Utopian theories or childlike evasion or our duties. The long run is here, and the bills are rapidly falling due. We must face the economic facts of life. We must make the hard decisions that they require of us.

We must take the lead—with determination and with the knowledge and belief that our leadership is essential. Freedom—free people—free enterprise—a dynamic economy—is not our right, it is our privilege, if we are willing to participate and protect it.

And, with God's help, we will be free."●

THE GREATEST SHOW ON EARTH

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. PEPPER. Mr. Speaker, the Greatest Show on Earth, has had a long and colorful evolution and March 19 marked a milestone for Ringling Bros. and Barnum & Bailey Circus. After more than a decade as a corporate owned business, the ownership of that great circus reverted back to family ownership, purchased by a father and son team, Irving and Kenneth Feld. In an age when corporations are becoming multinational and developing into conglomerates, it seems right that the circus should leave the corporate fold. It is too traditional, too family-oriented to lose its warm, personal touch in the impersonal world of the corporation. Irving Feld, who has been associated with the circus for more than 25 years is known as "The Greatest Showman on Earth." He first rescued the circus from a creeping oblivion more than 25 years ago. In 1956 Mr. Feld took over booking and promotion of the circus from John Ringling North and then in 1967 he persuaded Mr. North to sell the circus to him. Even though Mr. Feld sold the circus to Mattel, Inc., a few years later, he continued to manage the properties.

Why did Irving and Kenneth Feld repurchase the circus? Because to the Felds the circus is more than a business. Irving Feld explains that the circus has been part of the fabric of American life for 112 years and has spanned generations. He says, "The good Lord never meant for a circus to be owned by a big corporation."

The Greatest Show on Earth is the kind of great American tradition which it would be unthinkable not to continue. The live feats of derring-do, brilliant clowns, trained animals, beautiful girls, and glittering flashes of daring aerialists have thrilled the hearts of the young and old alike for generations and will continue to do so in the years to come.

I ask, Mr. Speaker, that a press release which gives the history of the Ringling Bros. and Barnum & Bailey

Circus appear in the RECORD at this point.

RINGLING BROS. AND BARNUM & BAILEY CIRCUS RETURNING TO FELD FAMILY OWNERSHIP

WASHINGTON.—The nation's oldest family entertainment institution left the corporate fold Thursday to return to its previous family ownership.

Irvin Feld and Kenneth Feld, the famous father-and-son producer team, announced they have repurchased the total ownership of Ringling Bros. and Barnum & Bailey Circus from Mattel, Inc., its parent company for the past 10 years.

The Felds paid $22.8 million for the two Ringling Bros. and Barnum & Bailey Circus units, two ice shows—Ice Follies and Holiday On Ice—and the sensationally new Walt Disney's World On Ice. The transaction also includes the new Las Vegas hit spectacle, "Beyond Belief," starring illusionists Siegfried & Roy. Financing was arranged through Wells Fargo Bank, N.A., San Francisco.

The acquisition involves more than 1200 performers and employees, 500 Circus animals and 98 railroad cars. The Feld-produced attractions play to more than 11 million people in the United States annually, making them the largest all-family entertainment producers in the world.

Irvin Feld said the family reacquired the Circus to assure the historic tradition is preserved for future generations.

"There's no other tradition like it," he points out. "I want to be sure it's perpetuated for my grandchildren's kids."

Kenneth Feld shares his father's concern about the future of the Circus.

"It's more than a business, " he said. "It has been part of the fabric of American life for 112 years. It has spanned generations—linked parent to child and grandparent to grandchild. We couldn't bear the thought of a big company ever deciding that Ringling Bros. and Barnum & Bailey Circus didn't fit into its future corporate plan."

Another motivation for the reacquisition was a desire to regain the flexibility and innovative freedom the Felds believe is so important in show business.

"The good Lord never meant for a Circus to be owned by a big corporation," Irvin Feld declared.

The repurchase of the Circus empire marks another milestone in a long, sentimental journey for the Felds. It was more than a quarter century ago that Irvin Feld had his first contact with the legendary but ailing institution. After the show business whiz recommended that the old-time Big Top tents be discarded in favor of clean, comfortable indoor arenas throughout the country, John Ringling North turned over booking and promotion of the show to Feld. In 1967, Irvin and his late brother Israel bought the Circus for $8 million. Two years later, Feld took a revitalized attraction to public stock ownership, and in 1971 sold the company to Mattel, Inc.

The Felds plan to enhance all existing entertainment properties as well as pursue development of new attractions.

The re-created family business has its world headquarters in Washington, D.C.●

VOICE OF DEMOCRACY CONTEST

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. LIVINGSTON. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a Voice of Democracy contest. This year more than 250,000 secondary school students participated in the contest competing for the five national scholarships which are awarded as top prizes. The contest theme this year was "Building America Together." I am proud to inform this body that the winner from Louisiana resides in the First Congressional District which I am pleased to represent. Miss Mary E. Geraci will soon come to Washington for the final judging. Miss Geraci's winning speech is a message which all Members of the House should read and remember as we go about our daily duties in serving our constituents and our country.

Miss Geraci's speech follows:

VOICE OF DEMOCRACY CONTEST

Building America Together. The United States of America is a land with many attributes that make it unique among the nations of the world. We are blessed with an abundance of natural resources, a prosperous economy, and a high standard of living. Something that is unique to America is the vast differences in the peoples who came here from all over the earth. These past immigrations brought and new immigrations bring special expertise in many areas that help to make America better.

A movement that united countries in the past was nationalism. The pride that Americans have in their rich heritage, both as immigrants and in the more than two century history of our country, is an extremely positive and unifying force. For as with laughter, pride is contagious. A person who feels he has worth instills this pride in another. Jobs are done better, more products are made, and this pride is passed along.

This positive force, or nationalism, is important in many ways. It can be used to build our respect as individuals, both at home and abroad. It may incite us to spread this movement ourselves. But the main application of nationalism is the building of our America.

The building of America means the advancing of our country in as many fields as possible. Expansion of trade, increased production in our factories, greater yields on our farms, and improvement of our governmental processes are all tangible results of the building of America. However, the most important thing in America is that which builds. That which builds in America is her people. The people of the United States are the keys to her success as a world power. It takes people to produce those physical signs of progress. Those people must have an exceptional amount of skill and understanding in order to manufacture and work efficiently. This skill comes from education. People grow and mature through education. If our children cannot grasp even the most elementary fundamentals of knowledge, how are they to cope with the fast-paced technology of the future? The world demands excellence. It is our responsibility to work for it.

Another aspect which goes hand in hand with that of knowledge and skill is that of communication. What good is any skill if you cannot share it with others through some work or instruction? Great knowledge is a critical resource that should never be diligently, and with some purpose in mind. They put their knowledge to use in some kind of job. Every American worker advances the progress of his own country when he does that work with pride with a sense of nationalism. When a true American knows that he can do something for the good of his country, he does it.

Some say that our position as leader among the nations of the world is in danger. Our great land, whose people who have come from all over the earth, prove that this is not so. Each American realizes the worth of his own contribution and strives to build America in his own way. In our democracy, vibrant with hope and good will among our neighbors, we strive to unite and stand tall before the rest of our brothers on earth.

The United States of America is a land profuse with opportunity. There are many factors which have caused this. This opportunity has caused America to grow into the greatest nation on the earth. America grew because of the people who built her. America grew because of the people who built her—together.●

EQUAL RIGHTS AMENDMENT

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. RATCHFORD. Mr. Speaker, this afternoon, I would like to send a clear message from this Chamber to the legislatures of 15 States: The equal rights amendment is 10 years old today, and its ratification is long overdue. It is time to complete the work of setting forth the legitimate civil rights of women in the most appropriate fashion I know of—an amendment to the Constitution.

Mr. Speaker, we are not often called upon to amend the Constitution for good reason, but the rights embodied in the equal rights amendment are so fundamental to a society based on equality that no one can afford to ignore them. It is time for the last few States to take steps to ratify the amendment so that the rights of more than one-half of our population can be secured.

I was proud to preside over the Connecticut House when our State ratified the equal rights amendment 10 years ago, Mr. Speaker. In the decade that has ensued we all have heard the arguments against the ERA, and the claims of its opponents sound just as hollow today as ever. The equal rights amendment would not radically alter our society and traditions. Rather, it would reinforce them by affirming the basic rights of women to be full participants in our society. The amendment is not complicated; in fact, all three sections of the ERA total 52 words.

Some States have created provisions on their own to guarantee the rights of women, Mr. Speaker, but many have not. An argument against the ERA is an argument against a society in which all people are treated equally. In the interest of promoting this very basic principle, I would urge public officials in the 15 States which have not yet ratified the amendment to make a concerted effort to do so. We cannot and should not turn our backs on the rights of women.●

IGOR GUBERMAN

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SOLARZ. Mr. Speaker, once again I would like to bring to my colleagues' attention the case of a Jewish prisoner of conscience in the Soviet Union, Igor Guberman. Mr. Guberman is one of the many brave men and women who have been honored with the title, "refusniks." These are the people who are imprisoned on false charges, suffer harsh internment, and still refuse to surrender their faith, their nationality, and their convictions.

Mr. Guberman has been active in the Soviet Jewish cultural movement and an editor of the underground journal, "Jews in the U.S.S.R." He is also an author of popular books and science articles for young people. This talented and dedicated man has been given a 5-year strict labor sentence for attempting to exercise his right under the Helsinki accords—the right to emigrate.

In December 1978, Mr. Guberman applied for an exit visa for himself, his wife, son, and daughter. The KGB informed Mr. Guberman that his visa would be granted if he would write character sketches of contributors to "Jews in the U.S.S.R." When he refused, one of the KGB agents made threats about his icon collection. Throughout August 1979, Mr. Guberman's home was subject to several unannounced searches by Soviet officials. Notebooks, manuscripts, letters from Israel, a copy of "Jews in the U.S.S.R.," and Mr. Guberman's icon collection were taken from his home. In September, the Gubermans learned that Mr. Guberman was charged with systematically buying stolen icons; he was arrested at the end of the month. Mr. Guberman had been collecting such antique objects for several years in a perfectly legal manner. When interrogated by officials, his wife, Tatyana, was not asked about the icons, but about Jewish epigrams published in Israel.

Under Soviet law, the Government claims to have given Guberman a fair trial, yet I ask, how can a trial be fair if the charge is manufactured and the evidence is supplied by two well-known thieves? Mr. Guberman was sentenced to 5-years imprisonment. Five other men standing trial with him were also accused of stealing and selling icons but were given shorter sentences. It seems to me that the Soviet Union has succeeded not in securing the safety of its citizens by jailing a dangerous thief but in making a mockery of its judicial system and its commitment to the Helsinki accords.

To date, his wife, Tatyana, and his son, Emil, are in Dmitrov near Mr. Guberman. His teenage daughter is staying in Moscow with her grandparents. The family's personal property has been confiscated. No mail has been received from Guberman for approximately the last 2 years.

Mr. Speaker, this is another sad and tragic refusal of the Soviet Government to abide by their treaty obligations. The Kremlin has again denied human rights to a Soviet Jew. These human rights are concepts inherent in every American's way of thinking. We are raised with the freedoms to write, to move, to think, and to be. We have experienced the challenge, interest, and creativity which open human thought and action can provoke. We believe that to develop potential, to be part of a nation, to be an individual are integral parts of being a person—yet these are denied by the Soviet Union.

The Soviet Union must realize that the imprisonment of Igor Guberman and other refuseniks will not, indeed, does not go unnoticed. American men and women who treasure their freedoms cannot stop trying to obtain the release of prisoners of conscience like an Igor Guberman so that they one day can be free to live their lives and follow their religions. I join with my colleagues in urging the release of Igor Guberman and his family so that next year they may live in the freedom of Jerusalem.●

WOMEN'S HISTORY WEEK IN GEORGIA

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Ms. MIKULSKI. Mr. Speaker, I wish to bring to my colleagues attention, an activity that bears review and imitation.

Visitors to the Georgia State Capitol this month, March, will see an exhibition on women in Georgia history. The program is sponsored and organized by Georgia's Secretary of State David Poythress with the help of Emory University, the Atlanta Historical Society, and the State Department of Archives and History in connection with Women's History Week. The secretary of state's office is already planning to expand next year's observance by providing material to the school systems for classroom discussions on women's history. Organizations throughout the country are sponsoring activities this year in recognition of this special week, and it is gratifying to see State governments like Georgia joining in.●

AN IMPORTANT STUDY OF THE PLANNED NUCLEAR ARMS BUILDUP

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. MARKEY. Mr. Speaker, the feeling is growing in this country that the nuclear arms race has gotten out of control. Ever greater numbers of citizens are expressing the view that we need a serious reevaluation of our future commitment to a nuclear buildup. A nuclear arms race is one competition that no one can win. Mr. Speaker, I urge all of my colleagues to read a recent study by the Center for Defense Information about the planned buildup in nuclear weapons. We cannot afford to remain uninformed on the enormity of the threat of nuclear war which hangs over our world. I am including a copy of the introductory pages of the CDI study for inclusion in the RECORD:

[From the Defense Monitor]

PREPARING FOR NUCLEAR WAR: PRESIDENT REAGAN'S PROGRAM

DEFENSE MONITOR IN BRIEF

President Reagan and his advisors appear to be preparing the United States for nuclear war with the Soviet Union.

President Reagan plants to spend $222 Billion in the next six years in an effort to achieve the capacity to fight and win a nuclear war.

The U.S. has about 30,000 nuclear weapons today. The U.S. plans to build 17,000 new nuclear weapons in the next decade.

Technological advances in the U.S. and U.S.S.R. and changes in nuclear war planning are major factors in the weapons buildup and make nuclear war more likely.

Development of new U.S. nuclear weapons like the MX missile create the impression in the U.S., Europe, and the Soviet Union that the U.S. is building a nuclear force to destroy the Soviet nuclear arsenal in a preemptive attack.

Some of the U.S. weapons being developed may require the abrogation of existing arms control treaties such as the ABM Treaty and Outer Space Treaty, and make any future agreements to restrain the growth of nuclear weapons more difficult to achieve.

Nuclear "superiority" loses its meaning when the U.S. and the U.S.S.R. both possess far more nuclear weapons than the number required to destroy one another in all circumstances.

This *Monitor* features a status report on all U.S. nuclear weapons programs, an invetory of the U.S. nuclear stockpile, and information on locations of nuclear weapons in the U.S.

President Reagan has announced his hopes for reaching agreements with the Soviet Union on limiting nuclear weapons in Europe and in newly revived negotiations on strategic weapons (START talks). Both the United States and the Soviet Union have recently stepped up their propaganda campaigns to sway public opinion. Whether any practical achievements will flow from the war of words remains to be seen. What is already clear is that President Reagan has approved the most ambitious build-up of nuclear weaponry in U.S. history. The danger of nuclear war is increasing, despite attempts to revive confidence in negotiations.

President Reagan and his advisors appear to have psychologically declared war on the Soviet Union. Some officials believe the U.S. is in a "pre-war" situation and that there is a good chance of nuclear war with the Soviets. They want to prepare our country to fight and win this approaching nuclear war.

This dramatic, if not apocalyptic, presumption is what underlies the new nuclear weapons program of the Reagan Administration. It is an attempt to acquire a full-fledged nuclear war-fighting capability. As Frank Carlucci, Deputy Secretary of Defense, has admitted, "that is a very large order." It is a very expensive and very dangerous order as well.

The Reagan Administration is planning a major expansion of U.S. nuclear forces over the next six years. The programs involve land, sea and air-based missiles, new bombers, space weaponry and missile defense systems, among others. The implied purpose of this $222 Billion effort is to gain nuclear "superiority" over the Soviet Union. The new nuclear weapons program, coupled with programs already funded and under development, will result in 17,000 new nuclear weapons over the next decade.

Contributing to the dangers of deploying thousands of new nuclear weapons is an unsettling change of emphasis in U.S. strategic doctrine that may make nuclear war more probable in the coming decades. These changes in doctrine gained much public attention when an outline of Presidential Directive 59 was first leaked to the press in August 1980. PD-59 codified the strategic doctrine known as "countervailing strategy" which evolved during the 1970's. In effect, it expands the capabilities required or demanded of U.S. nuclear forces in a nuclear war and attempts to give the President a wider range of choices.

Emphasis has shifted from conceiving of nuclear weapons as deterrents to how they can be used as war-fighting weapons.

The Reagan Administration appears to be carrying the countervailing strategy one step further. It plans to incorporate both the "limited nuclear options" of the Carter strategy and its own ill-conceived notions of nuclear superiority into the nuclear weapons build-up.

No one in the Administration has bothered to produce a realistic definition of nuclear superiority in an age when both the U.S. and the U.S.S.R. have thousands of nuclear weapons and the ability to effectively destroy one another. However, it appears that a major component of such a drive for superiority will be the ability to wage "limited" nuclear war. Through tremendous expenditures for both new nuclear weapons and the systems to deliver them, the administration intends to build the capacity to fight nuclear wars that range from limited use through a protracted conflict to an all-out attack.

These recent developments in strategy and doctrine also have serious implications for attempts at arms control. So long as our leaders emphasized concepts such as assured destruction or sufficiency, fixed criteria could be arrived at for determining the size and characteristics of U.S. nuclear forces. But war-fighting concepts remove all constraints on the number, variety and complexity of new nuclear weapons and their delivery systems.

This new phase of the arms race is being pushed along by technological advances, which when added to war-fighting doctrine and vast numbers of new nuclear weapons, make their use more plausible. Advances in the technical sophistication of this new generation of weapons support war-fighting concepts that are becoming part of the strategies of the U.S. and the U.S.S.R.

For example, through advances in propulsion, guidance, and engineering, our intercontinental ballistic missiles (ICBMs) and other nuclear delivery systems are developing the accuracy to destroy small hardened targets such as missile silos and command bunkers. This accuracy, when incorporated into all our delivery systems (cruise missiles, SLBMs, ICBMs, etc.) will give the U.S. a counterforce capability that could soon threaten Soviet nuclear forces.

Our leadership, both civilian and military, have consistently emphasized that we seek only a nuclear force capable of deterring our opponents. Yet, when first strike capabilities and threats are weighed what really matters is how the other side views our intentions.

U.S. nuclear forces long ago surpassed the criteria of "minimum deterrence" or "assured destruction." The U.S. public is being mistakenly led to believe that the continued expansion of our nuclear forces enhances deterrence. In fact, if it contributes to Soviet insecurities about the safety of their own nuclear retaliatory forces it may be doing just the opposite.

Several other features of the Reagan nuclear weapons programs are particularly troubling. The exemption of strategic programs from budgetary restraint will cause an imbalance in our armed forces, depriving much needed funds from conventional forces. Second, there is no evidence that the Reagan Administration has seriously incorporated a role for arms control into its national security plans.

In October 1980, candidate Ronald Reagan stated that there was, indeed, an ongoing nuclear arms race, but that only the Soviet Union was participating. This is simply not true. The U.S. is not now nor ever has been "strategically inferior" to the Soviet Union. As the survey below of U.S. nuclear weapons programs demonstrates, the enhancement and enlargement of U.S. nuclear forces has continued unabated throughout the 1970's and will be accelerated in the 1980's.

The Reagan Administration's effort to prepare to fight a nuclear war is a dangerous and futile objective that must be reconsidered. The record of the arms race shows that each advance will be met by the other side, probably sooner than later, and that neither nation can gain a significant advantage.

Nuclear weapons should serve only one purpose, to deter war. The only true test for the sufficiency of our nuclear forces is that they be able to meet any Soviet attack in a way that denies the Soviets an advantage for having made the attack. Our present capability to deliver over 12,000 nuclear weapons on the Soviet Union more than meets this test of sufficiency.●

DAVID LEVINE

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mr. FORD of Michigan. Mr. Speaker, cancer is an unmerciful disease and on March 5, it struck again. This time it claimed the life of a marvelous young man who was a page in the House of Representatives, David Levine.

I had the opportunity of meeting David many times because he was a close friend of Jeff Przygocki, a page from Taylor, Mich., who worked under my patronage. David was a delight to be around and if there was a question that needed answering or a document that needed finding, he would track it down.

I am proud that I and my staff had the opportunity of knowing and working with David. At this time we extend our deepest sympathies to his family on his untimely death.●

WITHOUT FOOD—THERE IS NO COMMUNIST EMPIRE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. McDONALD. Mr. Speaker, back in February, The North Side News of Fulton County, Ga., ran a John Birch Society editorial from The Birch Log, titled, "Feeding Tyranny." The date of release of the column was February 18, and The North Side News ran the column with a disclaimer due to the fact of the John Birch Society being sometime categorized as controversial.

For the benefit of my colleagues, I would like to cite this disclaimer for the reason that I know even some here in the House think the John Birch Society controversial. The disclaimer is as follows: "Neither the editor nor any of the staff at The North Side News is a member of the John Birch Society. The editor feels however that the features produced by the society often expose inequities in government which go otherwise unreported."

With that disclaimer I would now like for my colleagues to take a hard long look at Mr. John McManus' Birch Log of February 18. It is indeed sickening as Mr. McManus points out that Russia prior to the Communist takeover with only 80,000 Bolsheviks, was known as the breadbasket of Europe. And Mr. McManus subsequently notes, as there has been an increase in Government controls, there has been a corresponding reduction in productivity of food—as is the case with everything in the Soviet Union.

Now as Government controls increase here in the United States, so too is the same corresponding reduction in productivity in all areas. Mr. McManus points to Communist indebtedness as some estimate in the vicinity of some 100 billion to the Western World, and asks why the American taxpayer is continually asked to bail out our enemies. And always first in line to take advantage of helping the Soviets is none other than Armand Hammer of Occidental Petroleum, who has been standing in line to bail out Soviet communism since the days of Lenin.

I ask my colleagues: How in good conscience can this House continue to put unborn generations yet to come, in debt to pay for the bailout of communism? Mr. McManus' column follows:

[From the North Side News, Feb. 18, 1982]

FEEDING TYRANNY

(By John F. McManus)

BELMONT, MASS.—Poland's $26 billion in red ink may lead the parade where Communist indebtedness to the West is concerned.

But the Soviet Union's approximately $15 billion is not far behind.

It ought to prompt the same kinds of fears that Warsaw's creditors have been experiencing.

The Soviet Union is a consistent economic failure just like Poland, and for the same reason: Socialism. In the vital area of food production, reports come from Moscow every year telling of poor harvests. (Remember this nation was known in pre-Bolshevik times as the "bread-basket of Europe")

One year, it's a drought' the next year, a flood; then back to drought again. The real problem, of course, is the absence of personal freedom and the corresponding destruction of incentive, the twin legacies of socialism.

When a nation cannot even feed itself, there is something terribly wrong.

MAKE A DEAL IN MOSCOW?

If you were a businessman, say, a food processor, would you rush into a deal with the Kremlin? Sure the Reds have a need. But they are up to their elbows in debt and they have no intention of relaxing the socialist system which keeps them there.

If they and their satellites are already having trouble paying debts, how could you expect to be paid?

It's very simple. For one thing, the U.S. government could guarantee payment, as it has for the giant corporations profitably dealing with Red tyrannies. For another, the Soviet economy is subsidized with American tax dollars that find their way to Moscow through the maze of foreign-aid programs our government has created.

But how can our government dispense foreign aid while itself facing annual deficits of $100 billion?

Isn't something terribly fishy when an obvious bad risk like the U.S.S.R. is inundated by Western "capitalists" looking for orders?

These are considerations that ought to cross the mind of an ordinary American businessman.

HAMMER SUPPLIES BEEF

But Dr. Armand Hammer, the 83-year-old Chairman of Occidential Petroleum is far from ordinary. He has spent a lifetime traveling in and out of Russia while amassing a fortune through deals and favors bestowed upon him by a succession of Soviet dictators.

Last year, Occidental purchased Iowa Beef Processors, Inc., the nation's largest beef packer. As to why an oil company would acquire a food processor, Oxy president, A. Robert Abboud offered: "We're going to be running into a food scarcity situation in the 1990s in the same way we have an energy shortage in the 1980s." He said that his company wanted to be in position to capitalize on the developing problem.

Unfortunately the Occidental forecast seems to be an accurate one. Looming food scarcity here threatens us and does so for the same reason that it already plagues the Soviet Union—too much government. Similar ominous projections have been given by several highly respected students of American agriculture.

But Armand Hammer had no sooner taken over Iowa Beef Processors than he was off to Moscow seeking a deal with his red-inked tyrant friends in the Kremlin.

If history is any guide, he'll get some huge orders, have no trouble getting paid, and the slave-masters who run the Soviet Union—and who ordered the crackdown in Poland—will have plenty of food with which to control their captives.

Where they will get the money to pay Dr. Hammer will remain a mystery.

It would be marvelous if some Congressional committee were empowered to look into the business of financing Communism.

Even if it were confined just to investigations of government largesse and guarantees.

Such a full accounting would undoubtedly be shocking. If Americans were not paying many of Communist's bills, the Armand Hammers might not be so anxious to do business with bloody dictators.

(Neither the editor nor any of the staff at The North Side News is a member of The John Birch Society. The editor feels however that the features produced by the society often expose inequities in government which go otherwise unreported).●

NUCLEAR FREEZE DISCUSSED IN LOS ANGELES TIMES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SIMON. Mr. Speaker, over the weekend I read the Sunday Los Angeles Times with an exchange of viewpoints between Senator EDWARD KENNEDY, of Massachusetts, and Leon Wieseltier on the question of a freeze in the nuclear arms race.

As a cosponsor of the House resolution, I read the two articles with interest. As one who has yet to hear any rational argument against a freeze, I expected to find some substance in Mr. Wieseltier's article. He is associated with Harvard University and is a contributing editor to the New Republic. He is a person of some ability, I must assume. But the article, which I am inserting in the RECORD along with Senator KENNEDY's is a rehash of all the old arguments. There may be a case against a freeze. If there is, I have not heard it yet, and certainly the Wieseltier article does not provide it. He talks about "the intellectual inadequacy of the freeze idea" after having given us intellectual soup so thin it is indistinguishable from water. He calls the idea "rash" and says that "nobody . . . is ready to go to zero." I am.

His next argument is that the Soviets would not consider it, because it is not in their best interest. He may be correct that they will not consider it, but I believe it is in their best interest as it is in ours. And is the function of U.S. policymakers always to look out for what is in the best interest of the Soviets, not producing a new idea if it might not be?

Finally he echoes the Reagan-Weinberger-Haig line, that we "would only be frozen in an attitude of weakness."

I would argue that that is not factually correct, first of all. We do have more nuclear warheads than the Soviets, greater deliverability, and greater accuracy. But this author accepts the notion that somehow if we decide to build up our strength more, the Soviets will sit by idly and twiddle their thumbs. If we build up more, so will the Soviets. The time will never be right in the minds of many military leaders for a nuclear freeze or any other kind of arms control. But I hope and trust and pray that more rational minds will prevail. "The freeze is a moral idea without merit," Mr. Wieseltier writes. If preserving life on this planet is either meritorious or moral, then Mr. Wieseltier is wrong. Dead wrong.

[From the Los Angeles Times, Mar. 21, 1982]

CAN A FREEZE HALT THE NUCLEAR ARMS RACE?

(BY EDWARD M. KENNEDY)

WASHINGTON.—The issue of arms control—perhaps the most critical issue of our time, or of all time—has now reached the point of stalemate. Soviet President Leonid I. Breznhev is offering a self-serving and unacceptable proposal to freeze nuclear weapons in Europe alone. The Reagan Administration properly rejects that, but refuses to respond with any comprehensive counteroffer. At the talks on intermediate weapons in Europe, the Administration has put forward a plan as unacceptable to the Soviets as theirs is to ours; as a result, the talks are stalled. The Reagan Strategic Arms-Reduction Talks (START) on strategic weapons have not begun, and no date for the discussion has been set.

Both sides are engaging in a dialogue of the deaf, making propaganda instead of talking peace. In the meantime, a grassroots movement across the country, reaching from a ballot initiative in California to town meetings in New England, has called for a third alternative that can break the deadlock. That alternative, a global freeze on the nuclear arsenals of both sides, has been incorporated into a congressional resolution, which already has the support of 165 members of the Senate and the House. The resolution calls both for a global freeze and for the negotiation of reductions in American and Soviet weaponry.

The Administration and a number of other critics have reacted intensely and often inaccurately to the congessional proposal, which I am co-sponoring with Republican Sen. Mark O. Hatfield of Oregon. it is important to make clear what the resolution does—and does not—mean.

First, we are not suggesting a continental freeze in Europe alone. That is the Brezhnev proposal—and we categorically reject it. We favor a comprehensive freeze. Administration officials have sought to blur the difference—and then have cited a range of conflicting statistics to attack our resolution. Secretary of State Alexander M. Haig Jr. first said it would leave the United States with a 6 to 1 inferiority in Europe; later, the President said it might be 3 to 1. It is baffling that on this basic question, the Administration cannot even keep its numbers straight. In fact, the Soviets have 2,004 available warheads in Europe, and we have 1,168. This does not count other American nuclear forces outside of Europe and at sea, which could be used to defend the NATO nations. Is the Administration suggesting that it would not call on these forces in the event of a crisis? Any such suggestion would represent a fundamental and destabilizing change in American policy.

Second, the global freeze in the congressional resolution would not consign the United States to a position of global inferiority with the Soviet Union. The Administration asserts that it would, but advances no proof. Presidential Counselor Edwin Meese III has likened the U.S.-Soviet nuclear balance to a football game where one side is ahead 50-0. But the analogy, which is wrong even as it applies to Europe, is very far from the worldwide reality. The more relevant numbers are the count of strategic nuclear warheads: this country has 9,000 and the Soviets have 7,000. They are ahead in some areas, such as throw-weight; we are ahead in others, such as sea-based missiles. There is, perhaps for the first time in the atomic age, an overall nuclear balance.

Instead of worrying about a theoretical and exaggerated "window of vulnerability," we should focus on this window of opportunity for arms control. But the opportunity could shatter with a further escalation in weaponry, including a new round of the MX missile and the B-1 bomber on our side, and new generations of missiles already on the Soviet drawing board. Thus a freeze makes not only common sense, but strategic sense. For example, a freeze can ensure that nuclear reductions negotiated in the future will not be made meaningless by the development and deployment of new and destabilizing weapons. Together a freeze and reductions will move the United States and the Soviet Union to run the arms race in reverse. By combining these two policies, the freeze resolution goes beyond a codification of the existing nuclear balance, and could move us quickly toward more stable deterrence and a safer world.

Third, despite Administration rhetoric claiming that our proposal does not go far enough, the wording of the resolution plainly and explicitly calls for "mutual and major reductions" in existing nuclear stockpiles. Perhaps the President has not read the resolution itself. His Administration pays lip-service to reductions, but its arms-control policy is now going absolutely nowhere. Our government has a weapons policy, a massive and expensive buildup, but no effective peace policy. Today the two superpowers have in their possession the equivalent of 1 million Hiroshima bombs—nearly four tons of TNT for every man, woman and child presently living on this planet. A freeze would be a first, far-reaching step in the thousand-mile journey to reductions. Instead of piling overkill on overkill, why not start with a freeze?

Fourth, our proposal is not based on trust for the Soviet Union or tolerance of Soviet misdeeds in other areas. We do not accept the concept of reverse linkage—that we must accept Soviet repression in Poland and elsewhere in order to coax them into arms control. We should not enter upon a nuclear freeze or reductions because we like the Soviets or they like us, but because both of us prefer existence to extinction. Every measure we would take depends on strict verification. And our resolution does not call for unilateral action but for mutual agreement. It will not weaken, but strengthen our defenses. Some of the resources that are freed can be reallocated to our conventional military forces, which is where we do need to do more.

Finally, some critics have suggested that our resolution involves a dangerous excess of democracy—that it invites the public into a debate where only experts dare to tread. We do not share the notion that a professional elite deserves a monopoly on what could become the ultimate issue of personal survival for hundreds of millions of people. While the negotiators have been debating the nuclear version of the question of how many angels can dance on the head of a pin—which is, precisely how high can each side make the rubble bounce?—concerned citizens have developed and lobbied for a sane alternative. We regard it as a strength of our system that free men and women can stand up and speak out. They have offered a proposal in the American free marketplace of ideas; and every citizen of the world, including the people of the Soviet Union, who do not have the right to speak, will be in their debt if this initiative helps to postpone the moment of humanity's final conflict.

In reality, the nuclear-freeze resolution commands support not only in Congress and among religious and business leaders, but among many past officals of the Defense and State departments. They have seen the nuclear danger up close, and they know that a freeze followed by reductions may be our last great chance to avert the last great war. They know that we are rapidly nearing the point of no return in the nuclear arms race. Soon both sides will fear that the other has a first-strike capability that could destroy its deterrent. Once this point is passed, arms control may become little more than rule-making for the rearrangement of the deck chairs on the Titanic. People in communities across America have seen the looming iceberg and they hope the captain will see it too. We cannot afford to live in a world of hair-trigger nuclear missiles, where human beings will have only minutes to decide whether to fire them, and where human error could launch an accidental nuclear exchange. This is not a way of life at all; it is a way to nuclear death.

In the second year of the Reagan Administration, apprehension about the nuclear danger has stirred our own nation and strained relations with our NATO allies. Both the Administration and the Soviet leadership deliver speeches about nuclear disarmament, while each relentlessly pursues the phantom of nuclear advantage. In the words of my colleague, Sen. Hatfield, "The result is upward arms management rather than downward arms control." There is broad agreement that the latest Soviet proposal for a limited freeze in Europe is unequal and unacceptable. But there is also an urgent need to challenge the Soviets to go further, to freeze more, to take a bigger step back from the brink. With the world trapped between the seemingly irreconcilable positions of the Administration and the Kremlin, only the emerging initiative for a nuclear freeze and reductions can break the deadlock that consistently defeats the chance for a stable peace.

NO: IT WOULD REDUCE RATHER THAN ENHANCE UNITED STATES SECURITY

(By Leon Wieseltier)

CAMBRIDGE—The proposal to freeze the production of nuclear weapons is the first serious communication from the American people to the American government on the subject of disarmament. It is also a bad idea.

Something was happening to the campaign for nuclear disarmament in recent months: It was being placed under the sign of the '60s. Activists spoke as if the long dark night of the left was finally over. There was a peace movement again. Like its predecessor, two decades ago, this peace movement was based on an instance of moral intelligence, but quickly began to expand ideologically. The argument against nuclear weapons was in such a state of expansion; neutralism, pacificism and unilateralism were all said to follow from it.

The freeze proposal, however, is something different. It is not inspired by a philosophy of history. It has no quarrel with the political system in which it is put. It is single-minded about its subject, which is to say it will not allow itself to be lost in politics as usual. The freeze cuts across conventional political lines. It is, instead, an eruption of ethics into politics.

The eruption, moreover, is from below. The freeze proposal, unlike other proposals that have been advanced in the debates on disarmament, has about it an aspect of the popular will. It represents the stirring of whole populations against what is being prepared for them. These populations may not understand how the weapons work, but they understand what they can do. The freeze represents the inevitable confrontation between citizens and experts—the testing of technocracy by democracy. Scientists and planners are being advised by farmers and grocers that their authority is not complete, that they must seek approval in the society for their designs and their devices, that physics is not policy.

It is not even imprecise to say that the freeze is being proposed by the common man, because the common man in the atomic age has a rather precise definition. He is defined by the commonality of catastrophe. The common man is the man who will die when the missiles fall. The hundreds of thousands of signatures that have been collected for the freeze represent a realization on the part of individuals with otherwise divergent political ideas and interests, in the city and the country, that the bomb has transformed the citizenry of the United States into a single community of fate.

As the freeze goes from strength to strength it may have a permanent effect upon the political climate. It may no longer be possible for American politicians to ignore anti-nuclear sentiment. The nuclear Establishment, that complex of institutes and corporations that battens upon the arms race, will no longer be able to prosecute its interests without protest. A growing segment of the American people has been provoked. Disarmament may have been permanently placed on the agenda for action. That will be the proposal's greatest achievement.

That, and not the freeze itself. There are problems about the proposal.

The sudden suspension of all nuclear weapons production would be rash. There are weapons that this nation needs to develop and produce, even in the event of disarmament; nobody, after all, is ready to go to zero. As long as there is no agreement to abolish nuclear weapons, the decision to limit them must take into account the requirements of defense as well as disarmament. The requirements of defense include keeping pace with the military technology of America's atomic adversary. There are weapons, no doubt, whose production could be frozen without weakening the American position, either on the battlefield or at the bargaining table, but this is not the case with the entire arsenal. The freeze fails to introduce such considerations into its scheme for disarming. It would rather just shut the whole thing down.

How, furthermore, can we freeze the Russians, or verify in any satisfactory manner that they have frozen themselves? Verification has been a primary impediment to arms control agreements since their inception; but it would be virtually impossible to monitor successfully anything as gross as a complete halt in all the production plants of the Soviet Union. Nor is there any reason to believe that the Soviets would consider such a halt. They would be putting on ice their most important industry, and the thing they do best. Cornelius Castoriadis has recently demonstrated, in his important (and as yet untranslated) book "Devant la Guerre," that Soviet society has to a large extent been organized for the purpose of its military. The Russians may be prepared to prevent a nuclear holocaust, but they are surely not prepared to redo their entire social and economic structure.

There is, moreover, the matter of timing. At the present moment the United States would only be frozen in an attitude of weakness. A responsible scheme for nuclear disarmament must do the numbers, and the numbers now show that this country is behind in some critical areas. Proponents of the freeze forget that the condition for a genuine reduction in arms has always been a parity in arms. Such a parity does not now exist. After a decade of desuetude in American spending for defense, a freeze is hardly the most appropriate way to deal with the nuclear danger.

The freeze, then, is a moral idea without merit. It is well meant, but it is not well thought out. As many writers have observed, people would prefer not to think about the horrors that are held out by nuclear weapons. The freeze is a call to such thought. But if there is anything as dangerous as not thinking about the bomb, it is not thinking about it enough. A proposal such as the freeze is a premature end to the right kind of thinking. It recommends that the mind dwell on the deaths and on not much more. It encourages the belief that simple problems have simple solutions.

The intellectual inadequacy of the freeze idea does not mean that we must put ourselves back in the hands of experts. The citizens of this country have the competence to judge more complex proposals for their survival, nor should opponents of disarmament take heart from the failures of the freeze idea. There will be others. A mandate has been established. A popular struggle against irrationality has begun.•

FEDERAL CUTBACKS HEALTHY

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

• Mr. WHITEHURST. Mr. Speaker, with the hue and cry that has arisen since the President announced his "New Federalism" plans, I suspect that many of my colleagues have come to believe that there is universal resistance to what the President hopes to accomplish.

For this reason, I am particularly pleased to insert at this point in the RECORD a guest editorial which appeared in the Norfolk, Va., Ledger-Star on Thursday, March 4, 1982. It was written by Mr. Sam T. Barfield, who is commissioner of the revenue for the city of Norfolk, and I found it to be a rational, courageous commentary on what needs to be done.

I hope that all of my colleagues will give it the careful consideration it deserves, and I commend Commissioner Barfield for his willingness to speak out on this vital issue.

Thank you, Mr. Speaker.

FEDERAL CUTBACKS HEALTHY

(By Sam T. Barfield)

Some time ago, Frank Callahan wrote an opinion in which he pointed out just how deeply the federal bureaucracy has infiltrated our society through grants and doles. Since then, it must have become apparent to everyone that the federal government has actually been propping up our entire economy for decades and what we have referred to as the vibrant American economy is really not so vibrant when the federal dollar is removed.

It seems that with every announced cutback we hear from some segment of our society of how they will collapse without the money—welfare, child care, the arts, education and even business and banking.

Even local and state governments have joined the chorus and recently members of the Conference of Mayors, through a spokesman, made complete asses of themselves on television with their objections to the proposed cuts in federal grants.

Of course, there are many areas where we must have federal assistance. I think this is exactly what the president is attempting to find out, and he realizes that before the wagon can be fixed, we must first stop it.

His idea is to return the responsibility for local governing back to the local government, along with some federal funds to help localities carry out those responsibilities. Someone has estimated it costs $3 for every $1 returned to the locality by the federal government. Therefore, his idea makes sense.

Now, state and local governments will never again receive as much as they did before, and I think this is healthy. It will compel those governments to do what they should have done before—cut out so many of the frills and unnecessary programs they have permitted over the years and become more self-sufficient.

Americans, and I mean all of us, have become fat, spoiled and over indulged, and we have confused our wants with our needs. Our standard of living, which we like to boast is the highest in the world, is a myth built on a bubble and maintained by borrowed money.

I am a Democrat and as such I would advise all Democrats to remember that they are, first and foremost, Americans. The Democratic majority in Congress must stop playing little political games with the welfare of our nation and help the president make his program work. Obviously, further spending and taxing is not the answer; it is the reason for the mess we are in. Castor oil is never pleasant, but America needs a dose of it.•

HOUSTON HEIGHTS ON THE RISE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

• Mr. LELAND. Mr. Speaker, the story of the Houston Heights community is the story of an urban renaissance spurred by community interest and involvement. Real estate upgrading and restoration has transformed this historic district into a thriving business and residential community. The business sector initiated these improvements through joining together to form the Houston Heights Association.

The Houston Heights Association was organized to upgrade the image and help improve the Heights. Within the association, homeowners formed a restoration committee to provide a forum for airing residents' concerns, largely regarding remodeling. Aside from fundraising and beautification, the restoration committee has sponsored seminars on home improvement which have played to overflow crowds. People have demonstrated that they really do care about the neighborhood. Newcomers want to stay because they say that they like the feeling of the neighborhood.

The esprit de corps among the residents and the business sector has established the Heights as a community with a unique identity worthy of preservation. In light of the current nationwide interest in urban renewal and planning, I have furnished the following articles for my colleagues to read:

[From the Houston Chronicle, Texas Magazine, Aug. 16, 1981]

THE HOUSTON HEIGHTS

(By Karen Kane)

The streets are narrow, tree-lined, designed long before automobiles would rumble down them. The small frame houses that sit upon the tiny lots impart the feeling of a small town of years ago. A once-white cottage, forlornly tilted on its foundation, needs a paint job. The torn screens are but another symptom of neglect, as is the tall grass that seems about to envelop the sidewalk. Next door stands a house of the same vintage. Its freshly painted yellow siding, crisp white trim and manicured lawn proclaim a new energy. The houses seem to tell a family secret, as if one child came into money and the other didn't. The Houston Heights is a community that stands in the shadow of Houston's downtown, just four miles north of the sprawling concrete and skyscraping metropolis. It was the city's first subdivision, its houses built in the early 1900s. It remained a separate town until 1918 when it was annexed by Houston. People who live there today, like their predecessors 80 years ago, perceive themselves as part of a neighborhood, a community. Houston has exploded around the little town. Many of Houston's prominent citizens trace their roots to this singular place.

The Heights is many things to many people: a discovery, or more precisely, a hot real estate market—a place to buy a house, remodel it and make a killing when you sell. To others, it's a neighborhood in transition, uneven. Next to a beautifully restored Victorian home is likely to be one in disrepair. There are other eyesores as well—run-down businesses, a garish convenience storefront. In more than one yard, the carcass of an old car sits rusting. There's the accumulation of trash that someone perhaps intended to haul away but didn't.

The heights is historic, an old neighborhood, unlike much of southwest Houston which seemed to spring up overnight. For that reason alone the Heights has more variety in its architecture and its people. It's a neighborhood with a cachet, made chic by its new residents, the media, architects, artists and craftsmen.

The original Heights is bounded by 27th Street inside the North Loop, 4th Street inside the Katy Freeway, Michaux and T. C. Jester Boulevard. It is an area of 8,000-plus structures, residential and commercial, some restored, others dilapidated, housing the upwardly mobile, the artistic, the elderly, the middle class and even undocumented workers.

The history of the Houston Heights has all the ingredients of an epic saga: O. M. Carter, founder of the Heights and worthy protagonist for a novel, came here from Nebraska in 1887, his fortune made in silver and gold mining and banking. He was a 19th century man with 20th century visions, a developer of the ilk of Gerald Hines.

Carter wasn't only interested in building a city but in creating a dream. And he wasn't selling it just to the rich but to the working man as well. The Heights was going to be Utopia, a garden city.

Carter was a persuasive man. His enthusiasm for the project was infectious. His fellow directors of the South Texas Land Company were men of means and may have had homes elsewhere, but they all built homes in the Heights, mostly along the boulevard. Some of them even stayed.

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The garden city envisioned by Carter was to have a grand boulevard, patterned after Commonwealth Avenue in Back Bay Boston or an Italian piazza. If it seemed a lofty pursuit for the backwoods locale, consider that Carter counted among his investors certified blue-blood Yankees like Oliver Ames, ex-governor of Massachusetts.

Thus suburban life came to Houston. At a time when yellow fever was common, the Heights boasted a more hospitable climate, being 75 feet above sea level, a full 25 feet above downtown Houston.

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The Heights had its handful of wealthy citizens who built elegant homes on the boulevard. But for the most part it was a community of church-going, hard-working people who paid their bills and took pride in their modest cottages. Sundays were days for family picnics, rides down the boulevard on the streetcar. The Heights was, according to residents, a lovely place to live.

And it prospered. Families lived the good life. The Heights claims more than a few famous sons and daughters. "Isn't he a Heights boy?" is heard within the inner sanctums of wealth and power. But as its early residents grew older, their places started to look run-down. The middle class began migrating to ranch-style homes in other suburbs. The Heights' future was eroding.

"It's a myth you can simply maintain the status quo in a neighborhood," says Janet Wagner, a specialist on the subject. "If you do nothing, the neighborhood decays. There has to be an injection of new energy, life." Neighborhoods, like people, have life cycles.

Then came the Dean Corll chapter, when the Heights made headlines for its association with the mass murderer. That might be the finishing blow for the Heights, it seemed at the time.

Corll was murdered in 1973, and his killer, Elmer Wayne Henley Jr., unraveled the gruesome story of Corll's torture and murder of 27 young boys. Almost all of the victims were Heights boys or had some Heights connection. Corll himself had managed a family candy factory opposite Helms Elementary School in the Heights. The case dominated headlines for months. As Henley pointed out graves and bodies were unearthed, the Heights, too, emerged as a victim. It would be associated for years with the horror of the crimes.

There was no mass exodus, but what with the lure of the suburbs and the Corll case, the Heights lost a fourth of its population from 1950 to 1975. The Houston-Galveston Area Council Population and Land Use Projections noted that the trend leveled off in 1975.

Ironically, the Corll case sparked a civic reaction that would turn the tide for the Heights.

"The Houston Heights Association was formed at Marcella Perry's insistence," says Paul Carr, a Houston fireman who is the associations president. Perry, president of Heights Savings, called together a consortium of businessmen and residents in 1973. She concedes it was a direct response to the publicity surrounding the Corll case.

"The name of the Heights was blackened," Perry remembers. "They were saying our schools were poor, that the people here didn't care about their children. Something needed to be done. I grew up in the Heights. I no longer lived there, but I made my living in the Heights. I called together a half-dozen people like me who had an investment there. And we organized, dedicating ourselves to upgrading the image and helping the Heights."

The Heights Association was meant to be a joint effort of the business and residential community, that is, its initial membership included business people who were also Heights residents. Homeowners felt excluded or, at best, like minor participants.

"There was a definite 'them' and 'us' feeling at the beginning," says architect Glen Dickerson, who now lives in a restored house on Heights Blvd. Residents doubted that commercial interests could accommodate residential concerns. And the older residents feared what they perceived as another Montrose developing in the Heights. (Houston's Montrose area had undergone meteoric commercial—sometimes tawdry—development.)

Homeowners formed a restoration committee within the association. "We proved ourselves to the older residents and to the business people with a track record of getting things done," said Dickerson. Members of the committee tended to be younger, newer residents. Gradually, they won over the older ones. Cooperation evolved.

The restoration committee continues to serve an important function. It's a social group that provides a forum for residents' concerns, largely help on remodeling. "We have 100 people turn out for our meetings, regularly," said Patty Walker, owner of Boulevard Gallery and current committee chairman.

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It was the homeowners who initiated the efforts to get federal recognition of the Heights as an historic area. "Five families came to me wanting protection for their neighborhood," recalls Janet Wagner, now director of community development at the Houston Chamber of Commerce. At the time she was a consultant, having just helped the Sixth Ward secure historic district status. The Heights group wondered if it might be a route for them.

"Like many of the older neighborhoods, their deed restrictions had expired," she says. Reinstituting them is a complicated business. Still, the historic district seemed the only answer for residential protection from the inevitable encroachments of development. They were looking for muscle to enforce the housing code.

The Heights never went slum. But had some action not been taken, it would have. A dramatic increase in rent property, a general decline in property appearance and an absence of new construction painted a grim picture. "I can remember when I couldn't get anyone to turn a spade or spend a dollar in the Heights," says Jack Fields, president of Texas Commerce Reagan Bank whose involvement in the bank and the Heights goes back to the bank's beginning in 1949. He recognized the desperation of the business and residential situation in 1968, the year he became president of the bank. "There hadn't been a new building in the Heights in so long it was terrible," he says.

The bank, however, was faring far better than the community, growing with business from the developing northwest area of Houston. "Young couples wanting to build new homes went to the new suburbs north of here," Fields says. "The lots in the Heights were filled, mostly with small cottages." Some customers were transplants who had migrated to Houston from the Frostbelt, but many were the same group of former Heights residents who continued to do their banking and see their doctors in the Heights.

Still, Fields believed the area needed an injection of positive development. He asked the medical community to join together in building a multistory office building. He was not successful. His efforts to enlist independent developers also failed.

Fields believes that the building of the Heights Tower, a home for the aged, undertaken by four Heights churches and spearheaded by the Rev. Haskins Little of the Presbyterian Church, "marked the beginning of the comeback for the Heights." The undertaking inspired confidence in others. The Medical Tower, Weingarten's remodeling of its shopping center, Harold's and Kaplan's new stores followed.

The Heights Tower was important for another reason. It created housing for the older residents, allowing them to remain part of the community. "We didn't put a grocery store or a hairdresser in the building," says Rev. Little, now retired but still involved in civic and church business. "We wanted these people to continue to be involved in the Heights." And, he says, offering housing to meet the needs of the community as it grows up and ages is crucial for keeping a neighborhood vital.

In the meantime, the preliminary work for the historic district had begun. Before they could make any proposal, Wagner advised, they had to know their neighborhood. The five families themselves went door-to-door surveying residents on their views and expectations about the Heights. And while the survey produced valuable information for the historic district proposal, more importantly it put neighbors in touch with one another.

Some residents responded with alarm over the effort at creating a historic district in the Heights. But five years, $30,000, three preservationist consultants and untold volunteer hours later, the original Heights township is about to be named a National Historic Multi-Resource Area.

"We're not trying to be a little Williamsburg," insists Paul Carr. Neither is it an elitist move. "We don't want to exclude anyone," adds Carr. "We do ask that you care about the neighborhood."

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The Arab oil embargo also came in 1973, creating a gasoline shortage that made people look seriously at living areas close to town. The new people, the gas shortage and work of the association combined to provide a fresh crop of kindred souls willing to dig into the job of re-establishing the Heights as a residential neighborhood.

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Some association projects were mundane: cleaning up the boulevard, building gazebos, bus stops. It's a hands-on organization, uniquely responsive. Still it's all volunteer. The association has an unusual broad-base support from residents willing to work. Consider that this year the Mother's Day Heights Home Tour grossed $22,000 and netted $19,700 from the efforts of 300 people.

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As a non-profit organization, the association seeks contributions. People from all over Houston respond. "People use such donations as a way of remembering someone," says Carr. "So many people have roots in the Heights—they were born here or their parents were, a wonderful aunt or a grandmother lived here, and they visited as children. Such gifts, whether designated for a flower bed, a park bench or merely to aid our work in general, are seen as living memorials."

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"All of our money is earmarked for projects, like the design and building of two new parks," said Carr.

The approval of the Heights as a National Historic Multi-Resource Area is imminent. Carr insists that here is nothing highfalutin in establishing such an area. "Historic is not meant to translate elitist and separate," adds Wagner. "Every community has to find what's unique about it and then preserve it. That's the only way a community has an identity."

From the start, the Heights has wanted recognition for being historically special. With that, the association believed, it could get city help in enforcing the housing code. The association is now drafting a municipal district ordinance for city council approval.

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Soon after the association became a visible force, Heights property was revaluated by the city tax department. "People accused us of making the tax rates go up," says Carr. "In fact, it had been ages since the property was revaluated."

Some who were in the thick of remodeling were accused of doing the neighborhood a disservice. "You're just going to raise our taxes," neighbors complained. The association met charges of driving the poor, the elderly and minorities out of the Heights.

"I know of no elderly person forced out of the Heights by increased taxes," says Little. To the contrary, his work on the Heights Tower and Heights House provided the means for many to stay. (To live in either, one must be handicapped or over 62. Rent is based on ability to pay.) "Instead, the elderly have profited by the boom. Their home values have increased."

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The brouhaha over the taxes was during the 1976 revaluation for the 1977 tax year. "People in the Heights did see dramatic increases," says Tax Assessor Earl Martin. "The Heights hadn't been revalued since 1968. It meant most of them were paying taxes on property that was worth four times as much." Typically, someone paying $100 in city and school taxes annually was met with a tax bill of $400, a seemingly staggering increase. But Martin counters: "From our point of view they had a tax bargain for years. Primarily because we were understaffed and hadn't revalued out there." The criteria for market and tax value, says Martin, is recent resale value of nearby homes and the condition of the home itself.

George Swilley, a real estate agent in the Heights, says he saw the area's potential six years ago. "It's similar to the Montrose and West University areas in terms of its proximity to downtown. And it's a much larger area than either of them. There are thousands of homes here." And for that reason, he believes, it's farther from playing out its real value. The two-bedroom, one-bath bungalows he was selling in the Heights back then for $32-35,000 are now bringing $60,000 and more. Those who are looking at real estate in the Heights don't need to be sold. They are already convinced of its value. His office sells 20 to 25 homes per month, mainly in the Heights.

"It's like a country town," says Joan Boote, now Mrs. David Collins. She opened a real estate office in the Heights two years ago. "Because of the tree cover and the altitude it's cooler here and more confortable. With its boulevard and old houses, it's utterly charming," she says with unabashed enthusiasm.

While many young people coming to her to find a house in the Heights are looking in the $50,000 range, quite a few want to spend $100,000. And for that they get an updated house, in better shape with more square footage. Boote tells them that "if existing conditions continue, you can double your money in five years."

The influx of people and the move to make the Heights a stable residential community have improved the business climate. Businesses that were founded in the Heights and chose to stay there, enlarging their stores, are reaping the rewards. The boom has attracted new businesses as well.

Harold's Men's Wear draws clients from all over the city "and the world," says co-owner Harold Wiesenthal. It was unthinkable to move out, though he admits there were lean times.

"The Heights is convenient to every part of town," he says. "Since we own the property it seemed to us we could give our clients better service if they could park right behind the store than getting into all that congestion at the malls around town." In its 32-year history, Harold's has expanded five-fold. Wiesenthal has never regretted the decision to stay in the Heights. "It's just great what's going on here now. The neighborhood has been cleaned up and the business community is more dynamic than ever with the Heights Hospital, the banks, and businesses like ours and Kaplan's Ben Hur."

Clayton Lee's Plumbing is a vintage Heights business. Clayton Lee Sr. has turned most of the operation over to his son. "Things never slowed down for us," says Lee. "Seems like someone always has a stopped-up pipe or sewer." Their business was never restricted to the Heights, but the revitalization of the area is evident to him. "There's a great bunch of young people moving in here. The Heights is really looking great." He believes it's only the beginning.

"The Heights is dry," Lee says, as if to sum up what's different about it. "There are no beer joints or strip joints here. There are more churches in the Heights. It's a place where people want to live."

No liquor or beer is sold within Heights boundaries. Saloons were driven out by a 1912 vote. Prohibition came and went; the Heights remained dry, tested all the way to the Texas Supreme Court in 1932. The decision held that only a vote by Heights citizens could change the law. Most residents see that as contributing to the residential nature of the Heights.

Carr sees recognition as a National Historic Multi-Resource Area as a vehicle for helping the Heights maintain its residential quality. "We're not against new business or commercial interests," says Carr. "What we're trying to do is maintain a balance. We know we can't go back 50 years. But we can preserve what we have now and encourage others to recognize the area's historic value."

The Heights Association feels a certain urgency in its effort at preservation. The reason, during the Heights decline, that blocks weren't levels to accommodate an office building or high-rise was due largely to the sewer moratorium, imposed on inner-city areas in 1974. The increased capacity of the northside sewage treatment plant, scheduled for completion next year, is expected to send a flurry of development to the Heights.

"Because of the increased property values, I believe any commercial development—and by that I mean light commercial, office buildings and the like—will be on the fringes of the Heights," says Fields. "Any residential development will take the form of high-rise, but I believe that, too, will be expensive and well done because of escalating property value."

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The association has balanced its service to the business and residential communities. If renters seem to be excluded, Dickerson says it's their choice, not the association's. "We've organized about 30 blocks for the Houstonians on Watch program. It's a neighborhood effort to reduce crime, sponsored by the Houston Police Department, built on the premise that neighbors look out for each other and their properties. We've had no luck in organizing those in apartments or rent houses. It seems that they believe they're here for a short time. And I think that's the way they feel about the neighborhood in general. They have no investment here. They're passing through."

The investment is crucial. Five years ago Fields saw a way of applauding the efforts of those who were making investments in the Heights in the form of the Mylie Durham and T. C. Jester awards. The Durham award recognizes the efforts of businesses whose remodeling or building enhances the areas and inspires similar efforts by others.

"We made a special point of having two awards in the residential category," says Fields. "One goes to the individual whose efforts at improving a multistory home 'contributes to the spirit of revitalization in the Heights community.' The other is for single-story homes, for improvement not restoration, and encouraging similar achievement by others. This is very important. The big homes are beautiful, but if the area is to be transformed, it's the cottages that need the work because there are simply more of them."

Reagan Bank itself committed its investment in the Heights when it built its new and enlarged offices on West 19th at a cost of $2.5 million. Heights Savings built a similar impressive building at Yale and 19th. The Heights Hospital is a $11 million project, along with the $5 million Heights Medical Tower. Jim Holland has undertaken the restoration of the old Heights Theater on West 19th, destroyed by a fire in 1969. He says it will be an evening entertainment center including a theater with a stage large enough for live theater and musical performances as well as a deli, a private club and a roof garden, all at a cost of some $500,000. The four-block, $2.5 million restoration program on Washington Avenue and Heights Boulevard is another example of dynamic business investment.

"Businesses have to invest in their neighborhood," says Fields. "We all are looking to make a profit. But we have to be concerned about the quality of life. I deplore the business that drains off the assets of the community and never puts it back. We've always seen our role very clearly in that way."

The Heights is not yet transformed or returned to its former glory. "But that's not going to happen overnight," says Brendan Duffy, executive vice president of Reagan Bank. "There's a lot of property in the Heights. It will take time. But I think it's clear they've come a long way in 10 years."

The association can point to a number of physical improvements in the Heights. "The most important impact it's had, though, is the sense of community we've engendered," says Carr. "I've lived in my house for almost 20 years. For 10 years I didn't know my neighbors, nor did they know me. Today, there's a sense of community in the Heights."●

REALITIES OF OUR TRADE POLICY

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, following the able leadership of Chairman SAM GIBBONS, the Trade Subcommittee is holding expansive hearings into the gamut of American trade policy. There is an awakening realization in the Congress of the impact of our trade, regulatory, and tax policies on the conduct of American business, both here and abroad.

We must take a close and realistic look at the plight of American businesses as they try to compete with foreign producers importing products to the United States, as well as our producers trying to sell their goods and services in other countries. This is crucial for jobs now, and our economic and defense base in the future.

I am only calling for plain fair dealings between countries, and fair treatment for our own producers from their own government. If we do not act now, the call for action will grow stronger. As the situation gets worse, the pressure will indeed cause a protectionist environment many of us want to avoid.

Alfred Roach, president of TII Industries in Puerto Rico, recently ran a full page ad in two major newspapers pointing out the urgency of the situation. I believe his statements make clear the feelings of many in the business and working communities who have not taken the trouble to speak up as he has.

For the benefit of my colleagues, I ask that his statement appear in the RECORD.

DEAR MR. PRESIDENT:

FEAR!

Not since Franklin D. Roosevelt told our nation, "The only thing we have to fear is fear itself", has fear gripped so many of our people. We Americans responded to President Roosevelt's remarks with deep faith and great determination. We built the mightiest industrial and military complex known to man. And we went on to victory.

WAR WITH JAPAN—THEN AND NOW

Four decades ago we went to war with Japan, following "the day of infamy" at Pearl Harbor. Today we are again at war with Japan—this time an undeclared economic war—and the outlook is grim. I am not against Japan's prosperity. But I am out-raged that it is they who are prospering at our expense; especially when we consider Japan's broad economic programs; organizing government, industry, labor, education and banking with the objective of full employment for the Japanese people. At the same time, our Government appears bent on destroying our economy. We have nine million, four hundred thousand unemployed people. Japan has virtually none.

JAPAN'S STRATEGY

Japan does not hide its strategy for winning the economic war. It is reported to us in newspapers, magazines and on the air waves. Thank God for our free press. Without it, most of us would be unaware of the catastrophe upon us. The Japanese interviewed by *Business Week* (December 14, 1981) have revealed their plan for a take-over of Western markets in the 1980's. If you have not already done so, Mr. President, we urge you and the members of Congress to read the *Business Week* article, "Japan's Strategy For The '80's".

THE AMERICAN WAY

The American economy today does not have a chance in head-on competition with the Japanese. Why? Because the Japanese society—government, banking, labor, education—supports business, in every way. In the United States, business and labor have become the target of society—a target of our government through archaic and repressive legislation, of a monetary policy which imposes impossible rates of interest. Some of the very policies—designed to protect American industry and consumers from unfair practices—destroy us when we deal internationally. These laws enable other countries to take our technology with impunity. This situation, coupled with the Japanese Government's subsidies and business support, puts American industry on the road to bankruptcy.

JAPAN, AT&T, IBM, AND THE AUTO INDUSTRY

Never would the Japanese government have permitted the dismemberment of AT&T, the best communication system in the world; a company which took 100 years to build. A company, which, with its dedicated management and employees, and its technological contributions has contributed so much to the growth and greatness of America. Our government harassed IBM in court for thirteen years, causing incalculable damage, and has now found the case to be without merit. Japan would never try to cut the heart out of a successful business. If this anti-business trend continues, our auto industry will be gone to Japan within three to five years, with 20% of the American work force directly affected . . . their strategy also calls for the takeover of the computer and communications industries in the '80s.

JAPANESE EDUCATION V. AMERICAN EDUCATION

I understand, Mr. President, that for every 1,000 engineers graduated from Japan's universities, there are 100 law school graduates. In the U.S.A., for every 1,000 engineers, there are 10,000 lawyers graduated. I also understand there are 40,000 lawyers in all of Japan. In the U.S.A., a recent tally indicates we have 480,000 lawyers. How do they exist? The answer—corporations, government regulations, audits, reports, taxes, legislation, litigation and bankruptcy. This adds great costs to our economy, eventually to products and services mounting to billions a year.

Public accounting firms (Congress legislated them into prominence by enactment of the Securities and Exchange Act in 1933-34) provide the mandated audits of corporate financial reports. In 1980, fees of only eight major accounting firms added $6 billion to the corporate cost of doing business.

The public accounting firm that audits General Motors reportedly assigns a team of 1,400 accountants, spread through offices around the world, for the field work. This team alone, according to Mark Stevens in his book, *The Big Eight*, is larger than 99 percent of all of the accounting firms in the world. This cost is reflected in the cost of GM cars. Japan has no such legislation.

Every government regulation adds to every product cost. Interstate Commerce Commission rulings for one year alone, required 57,027 pages of fine print in the Federal Register. Currently, U.S. business spends over $120 billion annually to complete paper work required by the government. It is not that I am against lawyers and accountants. I believe that their talents can be redirected toward constructive work to help us to rebuild this nation.

ON THE OTHER SIDE OF THE COIN

Mr. President, if anyone had told me a decade ago that my small company, TII, (with annual sales of $21 million) would have more pre-tax income than four of the largest automobile companies combined, I would have laughed them out of my office. Our good fortune is due in part to the government of Puerto Rico and to our high technology, "quality award" winning, highly productive and creative labor force. The government there has developed an enlightened tax policy—a tax moratorium to companies locating there—to strengthen the Puerto Rican economy. As you so eloquently told us in 1980, "These loyal Americans have proved themselves in every war since 1898", and, Mr. President, they know how to fight this one.

You may know, Mr. President, the little town of Toa Alta in Puerto Rico. In 1974, 30 percent of the population of that town was out of work. The Commonwealth Government gave us every encouragement to locate a factory there. We began with 20 people and now, seven years later, over 450 people are working in that factory. They pay taxes, have savings accounts, buy homes and cars, and send their well-fed, happy children to school. This economic success story can be repeated throughout the United States.

MEETING THE CHALLENGE

Many of our fellow Americans express a growing feeling that nothing can be done to reverse this tide and that we will become a colonial dependency of Japan. I do not agree. Something can be done, Mr. President. Let us put partisanship aside. We must move boldly and quickly to remove from business and agriculture the restrictions and regulations that are bankrupting them. Help us to get back to where we were with free enterprise—the enterprise that built this nation in 175 years from a backwoods frontier to the wealthiest and most charitable nation in the history of mankind. Trust the people. Bring us together. There are 226,504,825 Americans, rich in bright intellect from every race and culture in the world, who have one thing in common, the love of freedom. It is freedom which inspires creativity and productivity. Send out the call for the dollar-a-year men and women. We are still here—ready, willing and able. We have the know-how and the patriotism and I believe, we have some of the answers. We look forward to the day when government, labor, banking, industry, agriculture and education will again work together for the full employment of our people.

May I express admiration and gratitude, Mr. President, for your leadership and the cooperation you have received from our Congressmen. We need their understanding and their help in this fight for survival and the right to be free. Talk to us, Mr. President. Give us the needed inspiration and leadership. Then, God willing, the people of this once most powerful nation will waken Uncle Sam to flex his economic muscles and rise again to greatness.

With many good wishes for your health and success, I am

Respectfully yours,
Alfred J. Roach,
Chairman of the Board,
TII Industries, Inc.●

HOW TO TIE LOOSE ENDS FOR FUN AND PROFIT

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. GAYDOS. Mr. Speaker, even the naturally optimistic among us worry today that the United States is "going down the tubes," but in a less tense age someone might have taken the floor to note, "we are at loose ends."

If we could tie together all the loose ends, we could make a rope long enough and strong enough to climb back up the tube.

Because my district is involved with steel, I am in the trade tube, put there by dumping and subsidies. The light is not good this far down in the tube, Mr. Speaker, but I have looked at all the loose ends I can see and I believe they are susceptible to tying in ways that will allow us to enhance our revenues and address the deficit, whatever it may be and regardless of whose figure is right; to stiffen our defense posture and someday actually deploy the rapid deployment force in a way that permits charging off the cost to all beneficiaries; to refocus our trade picture; and to warm up the economy without superheating it, thus forestalling the mad scramble in which too many dollars chase too few goods with the intensity of sailors in a singles bar.

Now I realize this is a lot to ask of any concept, Mr. Speaker, but all of this, and maybe more, can be done without the aid of blue smoke, mirrors, sleight of hand, voodoo incantations, astrology, augury, or public opinion polls.

All it requires is the proper state of mind toward loose ends and a melding of history, and old concepts, with current events, and new concepts.

I was not in the proper state of mind myself until I read recently that Senator Baker, the majority leader, has announced that a personal income tax surcharge—on the heels of the tax cut—is the way to deal with the deficit.

This, while not boggling my mind, did jog it.

It triggered a string of associations that sent me to the record of the past and to the reference books and on an intellectual shopping trip to the supply side.

By the way, Mr. Speaker, I went to the supply side only as a tourist and I have no plans to move my permanent residence.

Nevertheless, I found a couple of tidy loose ends over there that they might let us borrow, or rent, for the common good, if we promise to give them back when we are finished.

First there was the much discussed user fee, emitting a new light, a light with a beam that had truly enhancing qualities when it rested on certain previously undiscussed tax expenditures.

A "user," according to the Webster's in my bookcase, is defined in only three words; "one that uses."

A user fee is money paid by a user for the using, and, according to the political definition being pushed domestically, it is not a hidden tax that will show up on higher prices for goods transported on the inland waterways, for example.

Then there was Senator Baker's idea of a surcharge; like the user fee, it is a revenue enhancer. President Nixon imposed a 10-percent surcharge on the value of most imports in the economic crisis of 1971 and it temporarily refocused the trade picture; it restored balance to several unbalanced situations, and there was no escalation in the trade war.

Furthermore, standard and respected reference works draw a distinction between customs duty taxes levied on imports to raise revenue and those used to close markets to outsiders. The former are explained in terms that make them grudgingly acceptable while the latter are held to be repugnantly tainted by protectionism.

In the early days of the Republic, customs were an important source of revenue, if I recall my history correctly.

The Republic these days is in sore need of revenue, either $90 billion or $200 billion, or almost any billion in between, depending on whose figures you accept and the year you choose.

Hardly any nation is in greater need.

Moreover, no nation is more used—or used worse—in international trade today than is the United States, former home of the formerly sharp Yankee Trader.

Today's traders worry a lot about holding the United States to the letter and spirit of the general agreement on tariffs and trade no matter how blatantly our partners violate them.

And, believe me, there are subsidies and barriers our trading partners use against us that are not addressed by

GATT, and are not prohibited, and are not even subject to discussion thus far.

No nation is more used by its trading partners.

So why not a user surcharge on those who use?

It is a fee and an enhancer and not a tax, by the administration's political definition.

Therefore, it cannot be seen as a tariff or a barrier.

And, since we need revenue, it is clearly eligible for acceptance by the world.

So Congress ought to be perfectly free to consider a user surcharge on imports. It does not carry the protectionist stigma and GATT does not condemn it, as far as I know.

The General Accounting Office might not be able to work up a quick full estimate of what an importers' user surcharge could bring into the Treasury because we import so much, more than any nation in the world.

But simple arithmetic tells me the resulting enhancement would be enough to be useful.

Let us consider applying an importers' user surcharge to automobiles coming in from Japan where they slap a nontariff 22.5 percent on most American-made cars entering their market, 22.5 percent on the cost of the car plus transportation and insurance.

If we took their rate of 22.5 percent and applied it in a user surcharge, the resulting revenue enhancement would be very useful. It also would be a clear demonstration of the new principle of reciprocity.

About $13 billion of last year's $18 billion trade deficit with Japan was in automobiles, cars sent here with an estimated $1.6 billion in export subsidy or tax forgiveness, by the way.

Nevertheless, my American-made calculator says that 22.5 percent of $13 billion is $2.9 billion.

Imagine, Mr. Speaker, $2.9 billion in new enhancements on just one item.

Alone, this $2.9 billion would cover 25 percent of the estimated $11.6 billion social security shortfall expected in 1984; coincidentally, Japanese cars and their export subsidy have about 22 percent of this market.

Closer to the point, this $2.9 billion would more than pay for the $2.3 billion we had to add to the unemployment compensation appropriation last month with enough left over to provide loans for thousands of college students who might otherwise have to drop out.

Directly to the point, the Department of Labor recently announced a $25 million retraining and relocation program for steelworkers and automakers effected by what the Government calls the adverse impact of foreign trade.

This $2.9 billion would allow us 117 such programs with the cost charged to the real user.

If we applied a user surcharge to dumped and subsidized steel as well as automobiles, we might even be able to settle $20,000 to $30,000 on workers made jobless by unfair trade, which is what the Government means when it says adverse impact.

A user surcharge also would be helpful in providing for the defense of the free world, with which we trade.

One reason for establishing a rapid deployment force is to defend the oil and trade routes in the Mideast for our benefit and for the benefit of Europe and of Japan, which gets most of its oil from that part of the world.

The $2.9 billion application of a user surcharge would pay for the necessary bases and the prepositioning of RDF supplies, and a little more, I am told.

We still would have to foot the bill for aircraft, ships, and troops, but a start is a start; so far the Japanese have refused to have much to do with any defense, including their own at home.

Furthermore, there are refinements we could consider.

In addition to the 22.5-percent tax on entry, the Japanese place another tax on U.S.-made automobiles; most face a yearly road tax of over $200. This is not a barrier or a disincentive, I have been told by those who know the Japanese, because it is meant to do something else, just as a user surcharge would be.

Nevertheless, a nonbarrier road surcharge of an equal amount would get us another $400 million based on 2 million cars a year. If we were not to grandfather cars imported before the surcharge, there is no telling how many billions it would raise. It might even raise enough to rebuild a few bridges and some roads among the ruins of the infrastructure.

And even if $400 million is not significant when measured against the cost of a new infrastructure or the total deficit, it would hire an infinite number of coal mine safety inspectors to try to stem the rising death rate in underground mines; it could support some waning medical programs for the chronically ill; it could help the handicapped.

By the way, increasing portions of our coal are going to export.

Maybe we should consider a specific export user fee—to be passed on to Japanese and European consumers—on things like coal to pay for increased deaths and disabilities that will accompany increased production with more miners underground; or we could rebuild the ancient, crumbling inland waterway that carries coal to port.

Again, I am not able even to guess what full application of the user surcharge concept would yield across the board if applied to imports and susceptible exports.

But in these few words—working on basically one item with two borrowed tools—we have raised a solid $3 billion, and then some.

Furthermore, we have used the tools to tie together some loose ends in ways that do not offend GATT; we have not laid tariffs or levied taxes but only enhanced revenue.

Surely the thoroughness of the committee system and the imagination of 435 Members can bring forth tenfold and twentyfold enhancement of this first exploratory effort.

The deficit is awesome and the economy is awful, and the challenge is squarely to Congress.

Applied with skill, an importers' user surcharge will certainly increase revenue, either through the historic source of customs or through increased domestic manufacturing activity and employment.

Furthermore, if we are going to place an income tax surcharge on those who are used—badly used—it would be a good idea also to put one on those who are getting for free the primary use and benefit of the largest economy in the world, the users; it would be a good idea to treat them like they treat us, to reciprocate.

Our Japanese trading partners have a saying about awesome challenges: "If you would climb to the top of peaks that seem to pierce the sky, there is a way."

I think we can climb out of the tubes and to the peaks on a sturdy rope made of loose ends.

You see, Mr. Speaker, the supply side can be fun if you are in the proper state of mind, and getting there only requires the determination not to be dumped on.●

ONE RESERVATION ABOUT NEW FEDERALISM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. BIAGGI. Mr. Speaker, as Congress gets deeper into its discussions about the President's New Federalism proposal—I wish to share with my colleagues one fundamental concern which I have about the plan.

The first phase of New Federalism would find the Federal Government assuming full control of the medicaid program in exchange for the States assuming control of AFDC and food stamps. My reservation about this Federal takeover is twofold:

One, when all the cuts proposed by the administration are implemented, what in fact they are taking over might not be such a bargain for the States.

Two, what guarantees are there that the Federal takeover will include medicaid coverage for optional services?

As an original member of the House Select Committee on Aging both of these concerns trouble me a great deal because of the importance of the medicaid program on the lives of our senior citizens. With respect to the optional services—unless a commitment is made to provide funding for these services which embody home health care and other alternatives to institutionalization—then the traditional bias of medicaid in favor of institutionalization will continue.

On March 15, the New York Daily News featured an editorial entitled, "Taking the Knife to Medicaid." I commend this to the attention of my colleagues as something to consider during the upcoming debate on New Federalism.

TAKING THE KNIFE TO MEDICAID

It's tough for a big-hearted people to shed a rep for being big and wasteful spenders. Sometimes the image lingers long after the reality has disappeared, and nowhere is that more evident than in New York's quietly persistent drive to cut medical-care costs.

Now that the Reagan administration is getting into the cost-cutting act on the national level, one target is the so-called "optional" services provided under Medicaid. Washington proposes a 3 percent cut in this area in the 1983 budget. Modest, yes. But dumb, too.

The knife in this instance slices precisely into those services that hold the greatest hope of curbing Medicaid's truly monstrous costs for hospitals and nursing homes.

In New York City, for example, these optional services that would be cut include homemaker, housekeeper and helper programs that permit the ailing and infirm to be treated at home and not institutionalized. These services also include intermediate-care facilities where physically and mentally impaired persons can be treated in small group homes, rather than large public hospitals. And these optional services also include primary treatment at economical neighborhood clinics for poor persons who would otherwise turn local hospital emergency rooms into their doctors' offices.

These three program areas absorb the bulk of the "optional" Medicaid money spent in New York City. Sure, there are some piddling monies laid out for services that might be junked, but let's not be fooled by the term "optional" into thinking they are all frills or unnecessary.

Indeed, it can easily be argued that the city, with a great deal of help and prodding by Gov. Carey, has been able to eliminate thousands of hospital beds because it was able to offer these less costly alternative services. The governor is justifiably proud of the way the state has kept health-care cost increases well below the national average. Just for the record, the city's often maligned Health and Hospitals Corp. has been no cost-shaving slouch either. National hospital costs have jumped 68 percent in the past five years. HHC has held the rise to 27 percent.

If the Reagan administration really intends to take over all Medicaid costs as part of its New Federalism, it had better bring something more than a paring knife to the expense side of the ledger. It ought to bring an open mind and a healthy skepticism—and it might well begin by going to school on the New York experience in dealing with waste, fraud and abuse and in delivering service.●

NFL ANTITRUST LEGISLATION MUST BE RESISTED

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DIXON. Mr. Speaker, it has recently come to my attention that the National Football League is engaged in an intense yet highly secretive lobbying effort to surreptitiously push through Congress legislation which would effectively exempt professional football from the Nation's antitrust laws. I rise to condemn in no uncertain terms this effort, and to urge my colleagues to earnestly resist this blatant attempt at special-interest legislation.

During the House Judiciary Monopolies and Commercial Law Subcommittee's oversight hearings on antitrust laws and professional sports last December, NFL commissioner Pete Rozelle urged the enactment of legislation to classify the league and its 28 teams as a "single economic entity." This proposal came on the heels of an adverse decision in the Second Circuit Court of Appeals, which invalidated the NFL's prohibition against cross-ownership of their professional sports franchises, and the prospective loss of the Los Angeles Coliseum Commission's lawsuit against the league for its refusal to permit a replacement football franchise to come to Los Angeles.

The NFL's proposed legislation would free the league from the consequences of these and other antitrust actions by effectively exempting the league from section 1 of the Sherman Antitrust Act, which prohibits combinations in restraint of trade. Such a move would have the direst of implications for those who believe that professional sports leagues should demonstrate a measure of public accountability in its actions. Worse, it would signal the willingness on the part of Congress to carve out a special niche for a single, particular business, regardless of the fact that that niche is justified neither by economic unprofitability nor the interests of the Nation's sports fans or the public as a whole. In short, this is the worst imaginable type of special-interest legislation, whose only supporters are 27 wealthy individuals who refuse to conduct their business in accordance with the laws of our land, and instead cynically request to be freed from such compliance.

Even more distressing is the strategy the NFL is using to obtain their special-interest relief. Not content with the deliberations of the House Judiciary Subcommittee, which has held an exhaustive series of hearings on sports antitrust law during which all sides of the issue, including myself, testified, the NFL is seeking to circumvent the normal legislative process by attaching their measure as a "rider" to legislation pending before the other body. It should be pointed out that a similar strategy was successful in obtaining congressional approval of the NFL–AFL merger in 1966.

That the NFL should now seek to muscle through Congress what it has been unable to achieve in the courts should come as no surprise, given the league's conduct during the present litigation in Los Angeles, a pattern which has given arrogance a bad name. The league has repeatedly attempted to have the trial moved out of Los Angeles, on the seemingly attractive yet ludicrous grounds that out of 7 million county residents there might not be 10 potential jurors willing to control their thirst for pro football in order to impartially dispense justice. This contention is nothing more than a public-relations smokescreen and an attempt to price the already financially strapped plaintiffs—a publicly owned entity which has already incurred more than $1 million in legal fees surrounding the case—out of court. Faced with the continued refusal of the trail judge to order a change of venue, the NFL moved to drastically restrict press coverage of the retrial, conveniently ignoring such minor irritants as the first amendment. This latest attempt to shroud these proceedings in secrecy is typical of the NFL, which has always guarded its internal business practices with a paranoia usually reserved for State secrets.

Mr. Speaker, my irritation and indignation at the NFL derives primarily from the interest of my own community in the present litigation. But the league's effort to obtain special relief legislation is, or should be, an affront to all Members of Congress. At stake is more than the question of where the Raiders will play their home games this year. At stake is whether cities, organizations, and individuals will continue to be able to hold professional sports leagues accountable for their business practices, and, most importantly, whether the Congress of the United States can be pressured or cajoled into enacting a piece of blatant special-interest legislation, benefiting only 27 wealthy individuals at the literal expense of millions of taxpayers and sports fans.

For the benefit of my colleagues, I would like to include in the RECORD two articles from the Los Angeles Times as well as a letter from the director of legislation for the AFL–CIO which I understand has gone to each Member of Congress. The letter and news account accurately summarize the situation, while the column by award-winning sports columnist Jim

Murray satirically yet vividly illustrates the duplicity of the NFL during the Raiders' litigation:

[From the Los Angeles Times, March 19, 1982]

NFL ACCUSED OF TRYING TO USE CONGRESS

(By Charles Maher)

The National Football League was accused Thursday of having "given even arrogance a bad name" by trying to influence Congress to keep the Oakland Raiders from moving to Los Angeles.

The accusation was made by Raiders attorney Josephy L. Alioto, who said the league hopes "to sneak through" legislation that would nullify an antitrust suit brought against the NFL by the Raiders and the Los Angeles Coliseum Commission.

Alioto said at a Los Angeles news conference that a Professional Sports Act submitted to Congress by the league would in effect overturn two "well-reasoned court decisions" and would be "the worst kind of special-interest legislation."

As described by Alioto, the proposed law would declare that the NFL is a single business entity, rather than a group of 28 separate enterprises. The effect would be to insulate the league from antitrust suits alleging conspiracy to restrain trade, because a single enterprise cannot conspire with itself.

COURT DECISION

The Coliseum and Raiders allege such a conspiracy in a suit on trial for the second time in Los Angeles federal court. They contend the league unreasonably restrained trade in violation of the Sherman Antitrust Act by preventing the Raiders from moving to Los Angeles in 1980.

The proposed legislation also would nullify a court decision won by the North American Soccer League in an antitrust case against the NFL. The soccer league challenged an NFL rule prohibiting football club owners from acquiring single-entity argument in that case, but the U.S. and 2nd Circuit Court of Appeals recently ruled in favor of the soccer league, holding that the NFL is not a single entity.

Judge Harry Pregerson made the same ruling in the first trial of the Coliseum-Raiders case in Los Angeles. (The first trial ended last August in a hung jury.)

Alioto and coliseum Commissioner William R. Robertson told reporters Thursday that the NFL hopes to have its bill attached as a rider to other legislation and to get it through the Senate without committee hearings.

If it passes the Senate, Alioto said, an attempt will be made to "present it directly to the House, rather than through the House Judiciary Committee."

Alioto said Senate Majority Leader Howard H. Baker Jr. (R-Tenn,) is backing the bill, with the expectation that Memphis will be awarded an NFL expansion franchise.

Alioto produced a Memphis newspaper report in which Baker was quoted as saying he had a conversation with NFL Commissioner Pete Rozelle and left "with a good, strong, positive feeling."

Support for the bill also is expected, Alioto said, from Sen. Dennis DeConcini (D-Ariz.), whose Phoenix constituency would like to get an NFL franchise. However, Alioto said he know of no meetings between Rozelle and DeConcini.

Any deals between the senators and the league would amount to "a sale of votes for football franchises," Alioto said, and would be "infinitely more reprehensible" than the Abscam scandals.

"Don't ever underestimate the power of the NFL," Alioto said, "particularly when they're out there dangling franchises that are worth $250 million."

Alioto said he heard an effort would be made to get the legislation through the Senate today.

In Washington, a spokesman for Baker described the allegations against the senator as "totally unfounded." He said Baker has not been asked and has not offered "to sponsor or introduce any kind of legislation affecting the National Football League."

The spokesman said Baker did meet with Rozelle, but was told the league would not be in a position to consider expansion until the antitrust litigation in Los Angeles was settled.

Further, the spokesman said, no legislation could be passed today because the Senate will not be in session.

Robertson, executive director of the Los Angeles County Federation of Labor, said the national AFL-CIO will try to stop "a brazen attempt" by the NFL to immunize itself from antitrust prosecution. Robertson also said Sen. Bill Bradley (D-N.J.), a former professional basketball star, "will do everything he can" to keep the legislation from going through.

NFL officials could not be reached for comment.

[From the Los Angeles Times, Mar. 22, 1982]

THE NFL SIDESHOW GOES BACK TO COURT

(By Jim Murray)

There's an old circuit skit known as the "Pay the man the $2!" shtick. In it, the baggy-pants comedian gets a traffic ticket which his partner, the wise guy, says he "will take to the highest court in the land."

As the litigation and the costs soar, the poor fellow keeps moaning "Please pay the man the $2!" but his friend, standing on principle, that is, the comic's principle, keeps leading him to new appeals to escalating fees until the guy finally has to sell his car and even his house to satisfy the bills.

There's a real-life version of this in the courtroom case of the National Football League versus the Oakland Raiders and the Los Angeles Coliseum.

I noticed in the public prints the other day that the National Football League wants the press barred, or at least limited, from attending, and I'm not surprised. If I were they, I would want the proceedings kept secret too. Destroy all records. Keep it in the family.

You know, old-time sports entrepreneurs avoided litigation like a worm avoids sun. They knew better then to let a judge or a jury have a peek at what they were doing.

You see, sports operates well outside the Constitution of the United States and always has. It's the last stand of indentured slavery in this century and the wise old hands like Tim Mara and Col. Ruppert—to say nothing of Walter O'Malley, George Halas and Branch Rickey—knew it. Baseball, in a stroke of genius, once hired the federal judge most likely to bust it up into little pieces to run it. They feared Judge Landis the way a convict fears the executioner. Putting the fox in charge of the chicken coop was an inspired piece of work, and the judge kept the sport a sanctuary from the prying eyes of the Justice Department ever after.

If Pete Rozelle were as smart as the late masters of baseball, he would have made Al Davis commissioner long ago and retired to his yacht off Montauk Point.

The scenario is as turgid and tedious as a Russian novel. The National Football League permitted the "Los Angeles" Rams to decamp not only to another city but another county, just as they had permitted "Detroit" to move to Pontiac, "Boston" to move to Foxboro, and so on. They even permitted "New York" to move to another state.

Al Davis didn't want to move to another state. Like the Rams, he just wanted to move south and east a little. He couldn't bear to see a market like Los Angeles gaping open. Neiman-Marcus couldn't either.

Al Davis, like Judge Landis, had a well-deserved reputation as a curmudgeon. The judge, you will remember, once busted up Standard Oil into small parts at a time when going against the Rockefellers was a little like defying the Mafia.

When Al Davis took his case to court, Commissioner Rozelle should have done the statesmanlike thing—tried to bribe his way out of it. You can't "win" a sports suit any more than you can win a divorce suit. The lawyers win it. Everybody else loses—as has been amply proven.

The joining of the Los Angeles Coliseum in this suit introduced a really aggrieved partner. Here was a business operated by the citizens and voters of Los Angeles City and Los Angeles County, which has seen its principal tenant abscond to a competitive shore while the league not only refused to raise a hand to stop it but actually encouraged it. And, now, the same league was raising a hand to prevent the city and county from attracting a new rent-payer.

The burden of the intelligence leaking out from the law offices and the league offices is that the league now wants to settle by offering the Coliseum an expansion franchise, with or without Al Davis. No wonder they don't want any press coverage. Now, they want to pay the $2! They should have done that $8 million ago. As the baggy-pants buffoon might have said to Pete, "Please pay the man the $2 million!"

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, D.C., March 16, 1982.

DEAR REPRESENTATIVE: The National Football League is leading a sports industry effort to gain an across the board sports league exemption from the Federal antitrust laws. The National Football Players Association opposes any such legislation. On behalf of the AFL-CIO, I ask you to oppose the NFL's attempt to rewrite Section 1 of the Sherman Act to the club owners' benefit.

The Sherman Act states the general principle that it is in the public interest to subject entrepreneurs who seek to make their way—and potentially their fortune—in our product and service markets to the rigors of competition. Observance of that principle is particularly appropriate today in light of the various steps the Administration has taken to limit the Federal Government's ability to regulate business directly.

Thus, requests for new exemptions of the kind the NFL seeks should be granted only where a strong case of necessity has been made. The NFL has made no such showing. The sports leagues are thriving under the present rules of law. Indeed, the NFL has reportedly agreed with the television networks to a five-year $2,000,000,000 contract—that is $14.2 million per team per year.

Only the club owners are calling for a Sherman Act exemption. Their purpose is to make even more profits at the expense of the consumer and the athlete, and, in our view, to gain the freedom to take such steps as putting all athletic events on pay television. Not one fan, not one stadium manager, not one taxpayer has called for the NFL's legislative proposal. The AFL-CIO believes that not one member of Congress should support that proposal.

Sincerely,

Ray Denison,
Director, Department of Legislation.●

STUDENT FINANCIAL ASSISTANCE CANNOT BE CUT AGAIN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. FORD of Michigan. Mr. Speaker, the educational difficulties that face our Nation today are grave. President Reagan has pushed for enormous budget cuts that are affecting every student in this country in one way or another. One of the areas hardest hit is student financial assistance. Further reductions simply cannot be absorbed and must be opposed by Congress.

Since the mid-sixties, education policy at the national, State, and local levels generally has been directed toward assuring students access to some form of postsecondary education regardless of their financial or socioeconomic status, their racial-ethnic origin, or their geographic location. These activities have helped millions of students surmount the major barriers of access to college. On into the late seventies, our Nation has experienced an era of broadened access to postsecondary education which is unrivaled in history.

In my home State of Michigan the guaranteed student loan program, which was established by the Michigan Legislature in 1975, has been successful in lending $155.5 million to nearly 85,000 Michigan college students.

The administration is requesting, for 1983, an approximate 50-percent reduction in Federal student assistance programs. In the State of Michigan, this would represent a 40-percent decrease in PELL grants, 28-percent decrease in college work-study, and a complete elimination of the supplemental educational opportunity grant, State student incentive grant, and the Federal capital contribution of the national direct student loan program.

During the academic year of 1981-82, the State of Michigan received a total of $131.8 million in combined Federal student assistance programs. In the administration's proposed 1983 budget, this figure is drastically reduced to $67.4 million.

These figures represent not only a drastic reduction in Federal student assistance loan and grant programs, but also a fundamental policy shift of what the Federal role in higher education is in the future. At a time when our Nation is in such economic despair, it is in our best interest to insure that access to postsecondary education for future young Americans is not curtailed but enhanced.

Therefore, Mr. Speaker, I would urge my colleagues to seriously consider and examine the proposals of this administration in the area of student assistance. I have made such an examination, and I feel the consequences of supporting the administration's proposals would be detrimental to the Nation.●

A BILL TO CHANGE PENALTIES FOR FAILURE TO REGISTER FOR DRAFT

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. ASPIN. Mr. Speaker, I am today introducing a bill to change the penalties for failure to register for the draft. This is my second bill on this subject. It differs from the first by providing for an "enforceable" civil penalty rather than a "nonenforceable" criminal penalty. The current law is both unduly harsh in principle and virtually unenforceable in reality.

The bill I am introducing today contains three key points:

Failure to register in a time without a draft would be punishable by a maximum fine of $200, rather than the current jail term of up to 5 years and fine of up to $10,000.

The $200 fine could be imposed through an administrative proceeding, rather than having to go through the already burdened criminal courts as required in current law.

Nonregistrants would automatically be registered when uncovered.

Two weeks ago I introduced a bill, H.R. 5744, that would lower the criminal penalty to a $200 maximum fine. This new version addresses the concern that any criminal penalty is unrealistic because the last thing Federal prosecutors want to do is deal with swarms of cases of nonregistration.

With hundreds of thousands of men unregistered, enforcement through all but token cases is unrealistic. The criminal courts would be choked if we really tried to prosecute even 5 percent of the nonregistrants. Mafia kingpins would get off scot-free while U.S. attorneys shoved 18-year-old kids into the courts.

Furthermore, it is nothing short of idiotic to threaten in the law to impose the same penalty on any nonregistrant as we impose on people who try to rob banks or incite riots.

The lower, noncriminal penalty at a time when there is no draft is more reasonable, and the provision for an administrative proceeding would keep registration cases from clogging the courts.

Let me note that both of my bills provide that the stiffer, current penalties in the law would be restored 21 days after any restoration of inductions into the military.

An estimated 927,000 young males have failed to register for the draft. Some are consciously refusing to register, but there is every indication that the overwhelming majority either do not know about the requirement, which was not very well publicized last year, or are just lazy and need a bit of a nudge.

The failure of 18-year-olds to register when there is not even a draft should not be treated as a major criminal act. The penalty should have some relation to the crime, which requires a better perspective on the whys of nonregistration. I will bet that thousands of men volunteering for the military today are unregistered. And I know of one particular high school class of 25 years ago where all the young men registered except for one who was just ornery—and that man is now a lieutenant colonel in the Marine Corps.

H.R. —

A bill to amend the Military Selective Service Act to reduce to $200 the maximum penalty applicable to persons who fail to register under that Act during any period when there is no authority to induct persons into the Armed Forces and provide that such penalty shall be imposed through an administrative proceeding.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12(a) of the Military Selective Service Act (50 U.S.C. App. 462(a)) is amended—

(1) by striking out "registration or" the first place it appears;

(2) by inserting "(other than registration)" after "requirements of this title" the first place it appears;

(3) by inserting "(other than a duty to register under this title)" after "made pursuant to this title"; and

(4) by inserting after the first sentence the following new sentence: "Any person who is determined by the Director, on the record after opportunity for an agency hearing, to have evaded or refused registration under this title shall be registered by the Director and shall be assessed a civil penalty of not more than $200 by the Director, except that if authority to induct persons for training and service in the Armed Forces is provided by law, then after the end of the 21-day period beginning on the date of the enactment of the law providing such authority (and while such authority continues in effect), any person who evades or refuses registration under this title shall be subject to the same penalties as a person evading or refusing induction.".

Sec. 2. (a) The amendments made by the first section shall apply with respect to—

(1) any evasion or refusal of registration under the Military Selective Service Act occurring on or after the date of the enactment of this Act; and

(2) any evasion or refusal of registration under the Military Selective Service Act occurring before the date of the enactment of this Act if a criminal trial with respect to such evasion or refusal has not begun on or before that date.

(b) In the case of an evasion or refusal of registration under the Military Selective Service Act occurring before the date of the enactment of this Act with respect to which a criminal trial has begun on or before such date, the penalty for such evasion or refusal under any sentence—

(1) imposed on or after the date of the enactment of this Act; or

(2) imposed before the date of the enactment of this Act if, on that date, the period provided under law for reduction of sentence by the district court has not expired;

is a fine of an amount not to exceed $200.●

ROUNDBALL

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. CHAPPELL. Mr. Speaker, there is much nationwide interest in "Roundball"—the great game of basketball which was invented in 1891 by James A. Naismith. As the NCAA and NIT tournaments come down to the finals, literally millions of American sports fans will be watching the most talented college teams battle for the national title through the magic of television.

Mr. Speaker, we have just completed our State high school basketball tournament in Florida and Vanguard High School from Ocala, Fla., in the Fourth Congressional District, has really "brought home the bacon" in AAA competition. For the first time, the same high school has won the male and female State basketball championship. While the Vanguard Knights have established a winning tradition, having won the AAA State championship in 1979 and 1980 and finishing as one of the top four in 1981, this is the first title for the Vanguard Lady Knights. These young people played their hearts out even in the face of superior individual talent. Their teamwork, hustle, determination, and desire allowed them to turn defeat into victory. This is the nature of all outstanding teams—they have that extra effort in reserve when the chips are down. Certainly, the Vanguard Knights and Lady Knights have earned the respect and admiration of their fellow students, parents, coaches, and the community at large.

As the Ocala community gathers to honor the teams and coaching staff today, I wanted to share with my colleagues in the House what a fantastic acomplishment this dual championship is for Vanguard High School. A successful athletic program means there has to be a forceful, dynamic leader at the helm. Vanguard has such a leader in the person of head coach, Jim Haley. Coach Haley came to Vanguard in 1973, and since that time, there has been a winning spirit evident in the basketball program.

The culmination of this winning attitude was the Knights' victory over Miami Edison High School, and the Lady Knights' victory over Fort Lauderdale Stranshan High School. A single State championship is a notable achievement. A dual State basketball championship is nothing short of remarkable. I know my colleagues will want to join with me in extending congratulations to a super coach, Jim Haley, and two magnificient basketball teams—the Vanguard Knights and the Lady Knights.●

TRIBUTE TO MICHAEL POTOCHNEY

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SHUSTER. Mr. Speaker, I note that on March 31, 1982, one of the trucking industry's most knowledgeable and well-respected safety directors will be retiring. Mr. Michael Potochney, director of safety for Hall's Motor Transit with home offices in Mechanicsburg, Pa., will leave his position after more than 40 years of service to the trucking industry and highway safety.

Mr. Potochney began his career in the trucking industry in the late 1930's and has served in several capacities. He has been the safety director for Hall's for the past 15 years. He has made significant contributions to his company, his industry, and to the highway safety effort. Mr. Potochney is a leader in the motor carrier industry safety program, having served in numerous local, State, and national safety positions including national chairman of the industry's safety organization, the American Trucking Association Council of Safety Supervisors. He was also named the most outstanding motor carrier safety director in the country in 1975.

Mr. Speaker, Mr. Potochney is a credit to the trucking industry's commitment to highway safety. I believe this Congress, the highway safety community, and indeed all highway users owe a debt of gratitude to Mr. Potochney for his outstanding contributions.●

EL SALVADOR IN PERSPECTIVE

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. McGRATH. Mr. Speaker, clearly the most troubling foreign policy issue we face today is in Central America.

The administration is rightly concerned about the establishment of Marxist governments in Central America, while those on the other side of the issue have a right to be concerned that the United States may become so deeply involved in the affairs of El Salvador and Nicaragua that it will not be able to gracefully extricate itself at some point in the future.

In his commentary last week on the PBS series "The Lawmakers," columnist Charles McDowell placed the El Salvador debate in a sensible perspective which is worthy of consideration by the Members of this body. His argument for taking the Mexican Government up on its offer to serve as a mediator in negotiations is a sound one which the administration should consider.

I include the text of Mr. McDowell's commentary in the RECORD at this point.

COMMENTARY BY CHARLES MCDOWELL, RICHMOND TIMES-DISPATCH

Until recently most Americans, including a good many in Congress, had not thought seriously about Central America since the seventh grade. I remember a serious geography teacher who insisted that we learn to identify El Salvador, Nicaragua and other unlikely places on a blank map.

Now, while we are trying to work ourselves up to the same level of knowledge again, we are told that we must make a fast national decision to confront the Soviet Union and Cuba in Central America at the risk of war. Our adversaries are shipping arms through Nicaragua to the lethal rebels who are fighting the lethal government we support in El Salvador. The Reagan administration says we must react forcefully.

Well, I remember enough about Vietnam to be wary of all this urgent talk about military advisers, covert action and blockades to try to resolve another culture's nightmare of repression, revolution and subversion.

Precisely! say opponents of the Reagan policy. El Salvador would be another Vietnam . . . so we should know not to get involved. But it isn't that simple, is it? I remember enough about Vietnam to know it was in Asia, beyond the Pacific Ocean. And I remember enough from the seventh grade to know El Salvador is in this hemisphere, just south of Mexico. I remember something else . . . Cuba, which is in the neighborhood, did become a base for Soviet missiles. It really did.

The dangers of our not asserting our prudent self-interest in Central America might well be as great as blustering and blundering into another Vietnam. So far, both sides in our debate make it sound too simple and sell-righteous to be much help to the confused rest of us. Maybe the prospect of negotiating with our adversaries through the government of Mexico will at least give us a chance to learn a little more about what we're talking about.●

ANATOLY SHCHARANSKY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. RANGEL. Mr. Speaker, March 15 was the fifth anniversary of continuing illegal and inhuman imprisonment of Anatoly Shcharansky by the Soviet authorities. Today I rise to express my outrage. The only "crime" of which Mr. Shcharansky is guilty is of championing the cause of human rights, an unwritten, yet severely punishable, crime in the Soviet Union.

I need not explore the well-known events of his 1978 trial, when Mr. Shcharansky was convicted on a trumped-up charge of treason. This charge has never been substantiated, and is, in the last analysis, only a sinister attempt to silence the voice of a courageous man who wishes nothing more than to exercise the rights of freedom of expression, emigration, and immigration.

Mr. Shcharansky has demonstrated a rare form of valor in seeking these rights, not only for himself, but for all Jewish people who are denied them in the Soviet Union. During 1981, Mr. Shcharansky was kept on a 1,300- to 1,400-calorie meatless diet every 2 days. This past year, Soviet authorities have singled him out for persecution in a manner which conjures up visions of Nazi tactics of the Second World War, that of slow starvation. It is obvious for the world to see that if this inhuman treatment continues, Anatoly Shcharansky will die, adding still more innocent blood on the hands and consciences of Soviet officials.

Mr. Speaker, evidence of further crackdowns on the part of Soviet authorities toward Soviet Jews is found by examining emigration figures in the beginning of this year. In 1981, 9,500 Soviet Jews were permitted to emigrate to Israel. During the past 2 months of 1982, only 573 have been permitted to emigrate. At this rate, a total number of only 3,000 emigrations to Israel can be projected for this year, a drop of over two-thirds from 1981. It is clear that the Soviet Union has chosen to embark on a new, crueler path of denying basic human liberties to Soviet Jews. This is an outrage which the United States must condemn in no uncertain terms.

Mr. Speaker, it is indeed ironic that our own Nation, founded on the human rights and liberties which the Soviet Union seeks to repress so brutally for Mr. Shcharansky and others, should watch as its administration is beginning a tilt toward the Arab States. The AWACS sale, Secretary Weinberger's trip to Jordan and, most recently, the removal of Iraq from the list of nations which support acts of international terrorism, are all signals of this tilt. Is it any wonder that these acts make Israel uneasy?

Mr. Speaker, I strongly urge every Member of this Congress to call upon President Reagan, Secretary of State Haig, and Secretary of Defense Weinberger to turn away from their dangerous Mideast policy and return to a policy which pursues peace and human rights. Let these officials make clear in the most concise, forthright manner possible the revulsion this Nation feels at the inhuman, barbaric conditions under which Anatoly Shcharansky is being held, and to demand that the Soviets immediately release Anatoly Shcharansky and allow him to emigrate to Israel.●

JEWISH LEADERS OPPOSE ARMS SALES TO JORDAN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. STUDDS. Mr. Speaker, at the request of the Jewish Federation of Greater New Bedford, I would like to include in the Record a copy of a recent letter to President Reagan from the National Jewish Community Relations Advisory Council.

I call the attention of my colleagues to this important argument against the possible arms sales to Jordan.

National Jewish Community
Relations Advisory Board,
New York, N.Y., February 23, 1982.

President Ronald Reagan,
The White House,
Washington, D.C.

Dear President Reagan: We have been gratified by your own deep personal commitment to the security of Israel and, therefore, we were pleased that you reaffirmed America's unique bond with Israel in your letter of February 16, 1982 to Prime Minister Begin, assuring him of your intention to maintain Israel's qualitative technological military edge in the region.

Nevertheless, as the presidents of 12 national American Jewish organizations and 108 local Jewish community relations councils, member agencies of the National Jewish Community Relations Advisory Council, we are as one in our alarm that the United States, rather than acting to stem the massive arms build-up in the Arab world, continues to be a major purveyor of weaponry. Such a policy endangers peace in the region, threatens the security of Israel, and undermines the long-term interests of the United States.

Nor have the 8.5 billion dollar arms sale to Saudi Arabia and the recent approach to Jordan yielded concessions that advance peace in the Middle East. Jordan remains adamant in its rejection of the Camp David framework as does Saudi Arabia. Indeed, Saudi Arabia just rejected assurances you gave to the Senate pertaining to the use of the F-15s and AWACS as well as U.S. proposals seeking to strengthen U.S. strategic capabilities in the region.

Mr. President, it is, indeed, time to "redirect" our policy in the Middle East away from the sale of arms to unstable and uncooperative regimes. Rather, what is called for is a reassertion of unambiguous support for those reliable allies, like Israel, which have demonstrated the sincerity of their desire for peace by negotiating and signing treaties that have entailed great national risk and sacrifice, and which clearly recognize the Soviet-inspired threat to their own and United States national interests in the region.

Sincerely,

NATIONAL AGENCIES

Maynard I. Wishner, President, American Jewish Committee; Maxwell E. Greenberg, National Chairman, Anti-Defamation League of B'nai B'rith; Donald S. Slaiman, President, Jewish Labor Committee; Shirley I. Leviton, President, National Council of Jewish Women; Julius Berman, President, Union of Orthodox Jewish Congregations of America; Goldie Kweller, President Women's League for Conservative Judaism.

Howard M. Squadron, President, American Jewish Congress; Jack J. Spitzer, President, B'nai B'rith; Robert Zweiman, National Commander, Jewish War Veterans of the U.S.A.; Rabbi Alexander M. Schindler, President, Union of American Hebrew Congregations; Marshall Wolke, President, United Synagogue of America; Beverly Minkoff, National President, Women's American ORT; Bennett Yanowitz, Chairman, National Jewish Community Relations Advisory Council.

COMMUNITY AGENCIES

Herman Rogovy, President, Akron Jewish Community Federation; Joan Rosenstein, President, Greater Albany Jewish Federation; Paula Karmiol, Chair, Community Relations Council of the Jewish Community Council of Albuquerque; Ned Shulman, Chair, Community Relations Council of the Jewish Federation of Allentown; Ted Fisher, Chair, CRC, Atlanta Jewish Federation; Paul Gardner, President, Irwin Salmanson, Chair, CRC, Jewish Community Council of Austin.

Rabbi Seymour Essrog, President, Baltimore Jewish Council; Martin Strelzer, Chair, Jewish Community Relations Committee of the United Jewish Community of Bergen County (N.J.); Stanley Bard, Executive Director Jewish Federation of Broome County (N.Y.); Warren B. Kohn, President, Jewish Community Council of Metropolitan Boston; Phyllis Weinstein, Chair, CRC, Jewish Community Council of Birmingham.

Helen Wasserman, Chair, CRC, Jewish Federation of Greater Bridgeport; Gail C. Kaplan, President, Jewish Federation of Greater Buffalo; Harriet B. Narens, President, Jewish Community Federation of Canton; Marilyn Flanzbaum, Chair, CRC, Jewish Federation of Central New Jersey; Samuel Steinberg, Chairman, Jewish Community Relations Committee of Charleston; Robert Schrayer, Chairman, Public Affairs Committee of the Jewish United Fund of Metropolitan Chicago; Dr. Malcolm Bernstein, President, Jewish Community Relations of Council of Cincinnati.

Lawrence M. Bell, Chairman, CRC, Jewish Community Federation of Cleveland; Dr. Hilel Salomon, Chair, Community Relations Council of the Columia Jewish Welfare Federation; Ira Owen Kane, Chairman, Community Relations Committee of the Columbus Jewish Federation; Martin Gant, President, Connecticut Jewish Community Relations Council; Arnold Sweet, Chair, Jewish Community Relations Council of the Jewish Federation of Greater Dallas; Dr. Peter Romanow, Chair, CRC, Jewish Federation of Greater Danbury; Lawrence W. Burick, Chair, Community Relations Council of the Jewish Federation of Greater Dayton; Michael D. Goodman, Chair, CRC, Jewish Federation of Delaware.

Fred Lorber, Chair, Jewish Federation of Greater Des Moines; Marian Shifman, President, Jewish Community Council of Metropolitan Detroit; Jule Zimet, Chair, Jewish Community Relations Committee of El Paso; Richard A. Levick, Chair, Jewish Community Council of Erie (Pa); Mrs. Robert Mitchell, Chair, CRC, Flint Jewish Federation; Irving R. Friedman, Chair, CRC, Jewish Federation of Greater Ft. Lauderdale; Hortense Deifik, Chair, Jewish Federation of Ft. Worth and Tarrant County.

Jeffrey Mines, Chair, Community Relations Committee of the Jewish Federation of Greater Hartford; Elaine Pittell, Chair, CRC, Jewish Federation of South Broward (Fla.); Harold Goldstein, Chair, CRC, Jewish Federation of Greater Houston; Alan Goldstein, President, Indianapolis Jewish Community Relations Council and Indiana Jewish Community Relations Council; Dr. Ronald Elinoff, President, Jacksonville Jewish Federation; Dr. Charles Fliegler, Vice President, Community Relations Committee of the Jewish Federation of Greater Kingston (N.Y.); Stanley V. Goldin, Chair, Jewish Community Federation of Greater Long Beach and West Orange County; Rabbi Jacob M. Ott, Chairman, Community Relations Committee of the Jewish Federation Council of Los Angeles.

Toni Goldman, President, Jewish Community Federation of Louisville; Fred Gants, Chair, Madison Jewish Community Council; Pat Chafetz, President, Memphis Jewish Community Relations Council; Jacqueline K. Levine, Chair, Jewish Community Federation of Metropolitan New Jersey; David Fleeman, Chair, Greater Miami Jewish Federation; Jerome Sarer, President, Milwaukee Jewish Council; Robert Latz, President, Jewish Community Relations Council—Anti-Defamation League (JCRC-ADL) of Minnesota and the Dakotas; Morris Werthan II, President, Jewish Federation of Nashville and Middle Tennessee.

Lillian Schwartz, Chair, Jewish Federation of Greater New Bedford; Martin Gant, Co-Chair, CRC, Dr. Gustave Sirot, Co-Chair, CRC, New Haven Jewish Federation; Lawrence Tisch, President, Jewish Community Relations Council of New York; Gary Motin, Chair, CRC, Jewish Federation of Eastern Connecticut; Michael Berenson, Chair, Jewish Federation of Greater New Orleans; Sheldon Tenenbaum, Chair, Savannah Jewish Council; E. D. David, Chair, CRC, Jewish Federation of Newport News-Hampton; Dr. Barry Einhorn, Chair, United Jewish Federation of Tidewater, Va., CRC.

Marge Bornstein, President, Jewish Federation of North Jersey; Gerald S. Ogan, President, Jewish Federation of North Shore (Mass.); Howard and Joan Cohen, Chair, CRC, Jewish Federation of Northern Middlesex County; Marilyn Kurtz, Chair, CRC, Jewish Federation of Greater Norwalk; Madeline Cornblum, Chair, Jewish Community Relations Council of the Greater East Bay (Oakland); Sydney Osten, Chair, ADL/CRC of the Jewish Federation of Omaha; Audrey Kagel, Chair, CRC, Jewish Federation of Orange County; Rabbi Larry Halpern, Vice President, Jewish Federation of Greater Orlando.

Elsie Leviton, Chair, CRC, Jewish Federation of Palm Beach; Larry Griminger, Chair, CRC, Jewish Federation of Peoria; Joseph Smuckler, President, Jewish Community Relations Council of Greater Philadelphia; Irwin Harris, Chair, CRC, Greater Phoenix Jewish Federation; Dr. Gordon Saskin, Chair, CRC Jewish Federation of Pinellas County; Frederick Frank, Chair, Community Relations Committee of the United Jewish Federation of Pittsburgh; Arden Shenker, Chair, CRC, Jewish Federation of Portland, Oreg.; Harvey Klee, Chair, CRC, Jewish Federation of Raritan Valley; Robert A. Riesman, Chair, CRC Jewish Federation of Rhode Island.

Irving Blank, Chair, CRC, Jewish Community Federation of Richmond; Carolyn Zaroff, Chair, CRC, Jewish Community Federation of Rochester; Rabbi Amram Prero, Chair, Sarasota Jewish Federation; Steve Fishbein, President, Sacramento Jewish Community Relations Council; Isadore Rosenfeld, Chair, CRC, Jewish Federation of St. Joseph Valley; Harvey Schneider, President, Jewish Commuity Relations Council of St. Louis; Malcolm Steinberg, Chair, Jewish Community Relations Council of the Jewish Federation of San Antonio; Dr. Warren Kessler, Chair, Jewish Community Relations Council of the United Jewish Federation of San Diego.

Neil Golub, President, Jewish Federation of Greater Schenectady; Jack Plotkin, President, Scranton-Lackawanna Jewish Council; Dr. Michael Schufler, Chair, CRC, Jewish Federation of Greater Seattle; Arnold Lincove, President, Shreveport Jewish Federation; Richard D. Aronson, President, Jewish Federation-Community Council of Southern Maine; Dr. Jacob Farber, President, Jewish Community Relations Council of the Jewish Federation of Southern New Jersey; Gloria Schwartz, President, Springfield Jewish Federation (Ill.); David Schneider, Chair, Jewish Community Council, Oklahoma City; Alan Curtis, President, Springfield Jewish Federation (Mass.).

Joanne Weisman, Chair, CRC, United Jewish Federation of Stamford; Henry Leahmann, Vice President, Syracuse Jewish Federation; John Bloomfield, President, Community Relations Committee of the Jewish Welfare Federation of Toledo; Joan Keats, Co-Chair, CRC, Rose Levenson, Co-Chair, CRC, Jewish Federation of Greater Trenton; Carol Karsch, Chair, Anti-defamation League—Community Relations Committee of the Tucson Jewish Community Council; Phyllis Fist, Chair, Tulsa Jewish Community Council; Bert Silver, President, Jewish Community Council of Greater Washington; William Slumowitz, Chair, CRC, Jewish Federation of Greater Wilkes-Barre.

Harold Cotton, President, Worcester Jewish Federation; John P. Moyer, Chair, Jewish Community Relations Council of the Youngstown Area Jewish Federation; Jesse Feldman, Chair, Jewish Community Relations Council of San Fancisco; Alvin Frank, Chairman, Jewish Community Relations Council of Greater San Jose; William G. Levi, Chair, Jewish Community Relations Bureau of Greater Kansas City; Michael Barker, Chair, CRC, Federation of Jewish Agencies of Atlantic County (N.J.); Cecily Eidelhoch, President, Jewish Community Council of Utica.●

THE FEDERAL RESERVE MUST COOPERATE

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. COATS. Mr. Speaker, we are all aware of the severe effects of high interest rates on our economy. The high cost of borrowing has had a particularly sharp impact on the people of northeastern Indiana.

I recently sent a letter to Mr. Paul Volcker, Chairman of the Federal Reserve Board, expressing the concerns of many of my constituents on this issue. Mr. Volcker has since responded and I would like to request that our correspondence be entered into the Record for the benefit of our colleagues.

House of Representatives,
Washington, D.C., February 25, 1982.

Mr. Paul A. Volcker,
Chairman, Federal Reserve Board
Washington, D.C.

Dear Mr. Chairman: It is becoming clear that if the present high interest rates are not lowered, this year's promised economic recovery will not materialize.

Although there was some downward movement this week, the current level of interest rates still defies all economic reason. Both the current inflation rate (5.3 percent over the past four months) and the current recession call for much lower interest rates than 16 percent, the current prime lending rate.

The cost of money is extraordinarily high in relation to inflation and to the state of the business cycle. I cannot understand why the Federal Reserve Board would adopt policies that result in increased interest rates at the same time the Federal Reserve Board publishes statistics showing a 3 percent decrease in industrial output and a new seven year low in factory capacity utilization.

It is becoming increasingly clear just by examining the results that the policies of the Federal Reserve are in direct conflict with those of the Administration. It is important to prevent excessive monetary growth so that unacceptably high inflation does not accompany economic expansion. However, interest rates will not fall unless the monetary supply is large enough to provide the private sector with sufficient funds. In my opinion, such action can be undertaken with little risk of re-kindled inflation given our current economic recession. It is far preferable to the current tight money-supply policy that costs the nation lost output and high unemployment.

Congress also must assist in the effort to lower interest rates by controlling the size of the federal deficit. There is no question that the current projected budget deficits for the next several fiscal years are too high. I am working with my colleagues in Congress to try to control these deficits by identifying federal programs that can be further reduced or eliminated.

I trust that Congress and the Federal Reserve Board can work together to promote those policies that will result in lower interest rates and the revived economy that is so important to the people of Indiana and of the nation.

Sincerely,

DAN COATS,
Member of Congress.

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., March 8, 1982.

Hon. DAN COATS,
House of Representatives,
Washington, D.C.

DEAR MR. COATS: Thank you for your recent letter expressing your concerns that high interest rates may prevent a healthy economic recovery.

I think it is important to stress that the Federal Reserve is not conducting monetary policy with the objective of maintaining high interest rates. We are attempting to steer what is admittedly a difficult course between excessive monetary expansion that would rekindle now subsiding inflationary pressures, on the one hand, and insufficient monetary growth that would starve the economy of the financial wherewithal to grow, on the other. We believe that our present targets for the monetary aggregates are appropriate, but we stand prepared to adjust them if events should indicate that we have misjudged the implications of the numbers we've set—a possibility to which we obviously must stay alert in the rapidly changing financial environment we have today.

The consensus of the Federal Open Market Committee members when we met last month to set our targets for 1982 was that the economy was likely to turn upward by midyear responding to the combination of rising defense spending and the July tax cut. The unusually severe winter weather has made incoming data rather difficult to interpret, but on balance such a forecast still seems like the best bet.

But this is not to say that the outlook is entirely satisfactory; that would be far from the truth, as I perceive it. While the near-term fiscal stimulus can be viewed as buttressing aggregate demand in the economy as a whole, the large current and prospective budget deficits have rather disturbing implications for credit market pressures and interest rates. Unless strong action is taken to cut those deficits, there is the clear danger of a continuing squeeze on potential private borrowers and of a crowding out of the capital formation we desperately need to enhance productivity and raise living standards. Unfortunately, accelerated monetary expansion cannot solve this problem, for any perception that the Federal Reserve is backing away from its commitment to anti-inflationary restraint would reduce the confidence of savers and encourage the unproductive and speculative bahaviors that have only recently begun to disappear; "inflation premia" in interest rates would be increased by borrowers and lenders, and the credit-sensitive sectors of the economy will suffer more.

I applaud your efforts to cut federal spending. I believe that decisive action by the Congress and the Administration to reduce the budgetary imbalance would do much to reassure investors and could have dramatic impacts on credit market conditions. I can assure you that my colleagues and I on the Board want to do everything we can to lay the base for solid economic growth and renewed prosperity—and we shall work with the Congress toward that end.

Sincerely,

PAUL A. VOLCKER.●

OMNIBUS RECONCILIATION ACT

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WAMPLER. Mr. Speaker, I am introducing today legislation which is both necessary and urgent to amend certain provisions of the Omnibus Budget Reconciliation Act of 1981 concerning social security child's insurance benefits. These particular benefits are generally referred to as students' benefits.

I have discussed the May 1982 cutoff date for student enrollment at the college level with a number of my constituents, and I am convinced of the unfairness of this provision in particular. My bill would delay, until October 1, 1982, the effective date of the recently enacted amendments to title II of the Social Security Act which basically eliminate benefits to children over age 18 who are in college. This date coincides with the fiscal year, and I feel it is both a logical and a necessary change.

Another provision of the bill would establish October 1982, instead of May 1982, as the date by which a child must have been already enrolled at the college level in order to fall within the special exception permitting continued payment of benefits. This date would generally coincide with the basic academic year. Students would normally enroll at the college level in August or September, thereby meeting the October 1982 requirement. As the law now stands, these students are forced to leave their senior year in secondary schools early in order to enroll in college, thereby missing an important and meaningful time in their lives and related activities.

Finally, the bill would move the effective date for the cutoff of summer month benefits to May 1983. I strongly feel that students beginning their college education in the fall of 1982 should not lose these benefits during the prepatory months prior to first entering college.

With the number of bills that have been offered on this subject, it is clear that quite a few Members share this concern. I do hope that the committee of jurisdiction will act in a timely manner to consider this bill and other proposals on the same subject.●

SOCIAL SECURITY PAYMENTS TO ADULT STUDENTS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. McGRATH. Mr. Speaker, today I have introduced to this House legislation which would extend through September 1982 the period prior to which a student must have been in full-time attendance at a postsecondary institution in order to continue receiving social security payments under the phaseout provisions included in the Omnibus Budget Reconciliation Act of 1981.

As many of my colleagues are aware, there has been a great deal of confusion surrounding the changes made last year with regard to social security payments to students age 18 to 22.

Last fall, when contacted by an increasing number of constituents on this matter, I took it upon myself to contact all of the high schools in my district to clarify the details of the new law and requested that this information be passed on to those students who would be affected by the change. At the time, I felt certain that the Social Security Administration would soon contact their beneficiaries with regard to the new law.

The months passed and many high school seniors advanced their educations to be considered full-time college students prior to May 1982 in order to be eligible for continued payments under the provided phaseout requirements. Though these students were able to exercise their prerogative in choosing this available option, many were still unaware that the law had been changed at all.

My intention in introducing this legislation is not to simply allow a further influx of beneficiaries in the 18 to 22 age bracket but, rather, to apply equity and fairness to the implementation of the new law. I would like to call to the attention of the House the fact that the Social Security Administration sent out its first notice to beneficiaries just last week detailing the loss in benefits that many will experience in only 2 months. The chief source of information prior to this time has been my office and the press. Unfortunately, we did not reach everyone, as evidenced in the continued calls which my office is still receiving from individuals expressing shock and disbelief at the recent news from the Social Security Administration.

To further complicate matters, the information that has been released by the press is unclear and even misleading. I have in my office articles from the Wall Street Journal and the Daily News which would lead readers to believe that they merely have to enroll in college prior to May, rather than be in full-time attendence, in order to be eligible for continued benefits under the phaseout provisions. Indeed, the Social Security Administration should have clarified the details of this law (which was signed on August 13, 1981) long before this time.

We all know that it takes more effort than ever to maintain a household budget. Consider the limited income in the homes of deceased or disabled workers. The failure of the Social Security Administration to notify beneficiaries prior to this late date of their soon to be realized loss in benefits has placed many families in very difficult financial positions. With these considerations in mind I call on the House to support this bill since it is the only fair response to the families of disabled and deceased Amercans.●

REALIZING A COMMUNITY DREAM

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. RATCHFORD. Mr. Speaker, it is an honor and a pleasure for me to rise today to relate to you the story of a dream—a dream that came true.

The Portuguese and Brazilian communities in my hometown of Danbury, Conn., have been without a church building since 1975. On March 5, these people through dedicated efforts, were able to purchase a building that will house their own Roman Catholic parish.

For 7 long years, the parishioners rented space from another church for worship services, and met in area schools for educational functions. But now, thanks to their own hard work, the church members will be able to celebrate Mass and hold classes and other functions in their own church, the Immaculate Heart of Mary parish.

The dedication and perseverance of the Portuguese and Brazilian people in Danbury can serve as a worthy example for all of us. Because they saw a need for their community, they worked together to fulfill that need. They should be congratulated for their fine work.

Church members like Manual Cipriano, president of the Portuguese Catholic Social Organization, worked long and hard in pursuit of their dream. As Mr. Cipriano was quoted in an article which appeared in the News-Times of Danbury, the community never lost its desire to have its own building, where members can worship together, learn bilingual skills and help newcomers find jobs, housing, and medical facilities. The new home for the Danbury Portuguese community will also provide space for some 90 children to continue their study of the Portuguese language and culture, a commendable effort to keep the community's tradition alive.

In addition to religion and education, the church people want to continue their service as a social organization, designed to assist newcomers to their community. Having their own building from which to operate will aid them in that worthy task.

Again, I would like to commend the people of the Immaculate Heart of Mary parish, and their priest, the Reverend Jose Alves Cachadinna, on their contribution to the community of Danbury, and their realization of a dream that did not die.

Mr. Speaker, I request permission to append to my remarks the text of the article on the Portuguese community's new church that appeared in the News-Times on March 5, 1982. The article follows:

BUYING BUILDING FOR NEW CHURCH FULFILLS DREAM OF PORTUGUESE

(By Lynne Royce)

DANBURY.—Members of the Portuguese and Brazilian communities today fulfilled a dream when they bought a building that will house their own Roman Catholic parish.

Years of hard work ended when the Immaculate Heart of Mary Parish purchased a church and social center on Deer Hill Avenue for $750,000 from The First Assembly of God.

The Rev. Jose Alves Cachadinna of Immaculate Heart of Mary Parish, the Rev. Manzer Wright of First Assembly of God, and Bernard Reidy, in behalf of Bishop Walter Curtis of the Diocese of Bridgeport, attended the noon closing in the Danbury law office of Americo Ventura.

The Portuguese-Brazilian community received permission from the Diocese of Bridgeport to form its own parish in 1979. The Immaculate Heart of Mary Parish was created a year later.

Last spring Bishop Curtis lent the parish $100,000 to sign a contract and put a binder on the property.

Immaculate Heart of Mary Church will move into its new building July 1, when the First Assembly of God moves into its new church in Brookfield.

Church members, under the direction of Manuel Cipriano, president of the Portuguese Catholic Social Organization, have spent a year raising the $750,000 needed to purchase the church.

"We are really excited," Cipriano said in describing the purchase of the property. "Nobody believes it."

In 1975 the Diocese assigned the Portuguese-Brazilian community its first priest, the Rev. Antonio Moura. Members rented space from St. Peter's Church on Main Street for worship services and used area schools for educational activities.

Cipriano said the community never lost its desire to have its own building where members could worship together, learn bilingual skills, teach Portuguese to their children, and help newcomers find jobs, housing and medical facilities.

"The community has always stayed together and thought all the time about our goal to have our own church and socio-culture center," Cipriano said.

The community formed the Portuguese Catholic Social Organization in 1975. Since then, the group's members have been scouring the Danbury area for facilities which would serve their needs.

Immaculate Heart of Mary's new church complex will consist of a home for Cachadinna, a church that seats 500, office space, six rooms to be used as a nursery school and for Portuguese speaking classes, kitchen facilities, conference rooms and a hall for weddings and parties.

Since 1975 Portuguese community members have conducted classes at South Street School to teach Portuguese to members children ranging in age from 6 to 15. Currently the school has 90 students, who after July 1, can take classes in the new church building.

Cipriano said Portuguese classes are given to the children to keep them in touch with their culture. He said in many Portuguese families both parents work and there often is not enough time to teach children to speak Portuguese.

New facilities will house these classes and adult classes for teaching bilingual skills.

Cipriano said the Danbury Portuguese community, which he estimates at 2,000, has operated an informal network during the past 15 years to provide social assistance to newcomers.

"We needed something more substantial than this grapevine method of passing on information to newcomers. We needed our own building, so that when someone from Portugal or Brazil settles in the area, they know where they can go for help," Cipriano said.●

COSTS TO THE UNITED STATES OF PARTICIPATION IN THE SINAI PEACEKEEPING FORCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HAMILTON. Mr. Speaker, last week a battalion of the U.S. Armed Forces arrived in the Sinai to take up position there as part of an international peacekeeping force called the Multinational Force and Observers (MFO).

The MFO was created as part of the implementation of the Israeli-Egyptian Peace Treaty of 1979. Israel is to complete its withdrawals from the Sinai on April 25, 1982, and this peacekeeping force is to be in place at that time.

During the course of hearings before the Committee on Foreign Affairs on the creation of the MFO, questions were asked regarding the total costs to the American taxpayer of U.S. involvement in this peacekeeping venture. The State Department estimates that through fiscal year 1983 U.S. participation will cost a total of $180 million.

The letter from the State Department dated March 15, 1982, follows:

Department of State,
Washington, D.C., March 15, 1982.
Hon. Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives.

Dear Mr. Chairman: In a hearing during the deliberations leading up to Congressional approval of funding for the Multinational Force and Observers (MFO) in the Sinai, you asked then-Deputy Assistant Secretary Mike Sterner what would be the total cost to the U.S. taxpayer of the MFO. I sincerely regret the delay in responding to your query.

Mike Sterner has since retired but our inquiries with the MFO and the Department of Defense indicate that the total cost to the U.S. taxpayer for the years FY 1982 and FY 1983 and $10 million reprogrammed from FY 1981 is approximately $180 million. Of course this does not include the cost of such items as the maintenance of the 1,164-man military contingent had it remained in the United States instead of going to the Sinai nor does it include the 32 advisors on the MFO staff whose salaries would have been paid in any case by DoD. The figure, which is an estimate, includes only those costs which are specifically attributable to the MFO which would not have been incurred had that organization not been created.

It is of course impossible to predict what the total cost of the entire MFO exercise will be to the United States or to any of the other national participants. At this point we do not know for example how long the MFO will exist, what the impact of inflation will be on the annual cost to the United States and others, or what the final phase-down costs will be when the MFO completes its work and is shut down.

Whatever the cost of the MFO it remains an absolutely vital element in the Camp David process which has brought about and maintains peace between Egypt and Israel and which continues to offer the only hope at present for a complete solution to the vexing problems of the Arab-Israel dispute.

With cordial regards,

Sincerely,

Powell A. Moore,
Assistant Secretary for Congressional Relations.●

ONE REFORM OUR MILITARY BADLY NEEDS

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WHITEHURST. Mr. Speaker, as one of the cofounders, along with my colleague in the Senate, the Honorable Gary Hart, of the new Military Reform Caucus, I have long been concerned about the direction in which our Defense Establishment has been moving, and in recent months, the caucus has been seeking effective ways to remedy the matter. We believe that there are three main areas in which reforms must be made. In order of importance, they are: personnel, strategy and tactics, and equipment.

Thus, those of us who are members of the caucus were particularly heartened when Gen. David C. Jones, USAF, the retiring Chairman of the Joint Chiefs of Staff, proposed that the Joint Chiefs be reformed. In the March 29, 1982, issue of Forbes, M. S. Forbes, Jr., has given a brief summary of the proposal, and the need for it, and I am delighted to share Mr. Forbes' commentary with my colleagues at this point in the Record.

Thank you, Mr. Speaker.

One Reform Our Military Badly Needs

(By M. S. Forbes, Jr.)

At long last, we are going to get a debate about the structure of the Joint Chiefs of Staff. The outgoing Chairman has proposed a handful of reforms, and so have a growing number of military observers. With a mammoth military buildup in the offing, such an examination is badly needed.

The present system encourages the parochialism of each service. Naturally, the Army, the Marines, the Air Force and Navy all think that what's best for them is best for U.S. defense. The Joint Chiefs of Staff is supposed to take the overview of our defense needs.

Instead, the institution acts like a group of politicos at their logrolling best, spending its time placating and allocating resources to each branch on the basis of compromise and bargaining rather than with any sense of a strategic overview.

The Rapid Deployment Force, which draws on all the services and which has a multiservice command structure, is a prime example. A more sensible approach would simply be to leave it to the Marines, which was created for that sort of undertaking anyway.

The Joint Chiefs has failed because officers who do a tour of duty there owe their primary allegiance to their old services, which still determine their future billetings, their promotions.

The solution lies along the lines of a general staff whose officers' careers would depend upon that institution, rather than their former services. They would thereby be above interservice rivalries. Obviously, considerable thought would have to be given to such questions as how the staff would avoid taking on an isolated, ivory-tower mentality. But a number of experts, such as highly respected Edward Luttwak of the Center for Strategic and International Studies, believe that these obstacles are not insurmountable.

Reform in the Joint Chiefs cannot come too soon. Our current Defense Secretary seems to have no strategic sense, no overview of how we can most effectively respond to the Russians' awesome military buildup without spending trillions.

Just the other day, Secretary Weinberger boasted how his sharp eye for cutting waste will save a billion or two in fiscal 1983. The incident is an uneasy reminder of Detroit's auto chiefs, who once thought they were doing their job by finding a way to shave a few cents off the cost of procuring each new windshield wiper, instead of figuring out where their market would be ten years hence and what they should do about it.●

ADMIRERS PAY TRIBUTE TO OSTERWEIS

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DeNARDIS. Mr. Speaker, Rollin G. Osterweis, a noted Yale history and oratory professor, and the author of many books, most notable "Three Centuries of New Haven: 1638-1938", died on Sunday, February 29, 1982.

A Yale graduate, he received both his masters and Ph. D. also from his alma mater and joined the faculty in 1943. He remained with the Yale History Department for 33 years.

On Wednesday, March 3, a memorial service was held at Congregation Mishkan Israel, Hamden, Conn. A report of that service was in the New Haven Register on the following day. It reads as follows:

Admirers Pay Tribute to Osterweis

(By Randall Beach)

Hamden.—Rollin G. Osterweis, retired Yale history and oratory professor, was eulogized Wednesday as "the historian par excellence of New Haven."

"He distinguished himself as a scholar, teacher, historian and author," said Rabbi Robert E. Goldburg during a eulogy at Congregation Mishkan Israel. "But even these qualities did not exhaust his many other talents and concerns."

Osterweis, 74, died Sunday after a long illness. A large crowd attended the memorial service, including Yale President A. Bartlett Giamatti, who delivered a tribute.

Goldburg recalled meeting Osterweis in 1945. "I was a student rabbi with no credentials, but he was already very distinguished. I trembled at the thought of meeting him.

"But he treated me as a young friend. His warmth and his humor melted my fears."

Goldburg said although he was considered a liberal or "radical" and Osterweis was a conservative, this never hurt their friendship. "Through the years our differences seemed to bring us closer together. I learned from him a respect for differences, an insight into the importance of pluralism in a free and open society.

"He left behind him a good name, a name of honor, which will bring inspiration to all of us."

Giamatti remembered Osterweis as "a remarkable man" possessing "a restless, generous intellectual curiosity."

Giamatti traced Osterweis' heritage ("He was the son of a Yale man") and his life. Osterweis received his Yale bachelor's degree in 1930, returning to that campus for a master's degree in 1943 and a Ph.D. in 1946. He joined Yale's history department in 1943, remaining there for 33 years.

Osterweis also worked for his family firm, Lewis Osterweis & Sons, from 1932 to 1942. Giamatti recalled "the extraordinary cigar which was his faithful companion."

Giamatti also hailed Osterweis' nine books, especially "Three Centuries of New Haven: 1638-1938."

Despite this prodigious output, Giamatti said, "His students were his joy. His now-legendary courses included 'History of the

South,' affectionately called by his students, 'Moonlight and Magnolias.'

"Civilization and its transmission was Rollin Osterweis' chosen work in all he did. He was a man who saw with clarity, humor and honesty the various worlds we all live in."

The congregation then rose and sang "Bright College Years."

Rollin Osterweis would have enjoyed the service * * * especially the congregation's rendition of the Yale song "Bright College Years" as the closing hymn. A man of great charm, humor, and extraordinary intellect, he has left many friends, many good memories, and a legacy to Yale and future New Haveners in his writings.●

IN SEARCH OF THE 1981 PERSONAL TAX CUT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. KEMP. Mr. Speaker, the Book of Ecclesiastes tells us that "what is not there cannot be counted." This may seem like an obvious point, but it seems to have eluded metaphysicians all over the country. These "metaphysicians" are those who denounce personal tax cuts as a failure; they seem to ignore the fact that taxes have gone up and are higher now, in 1982, than they were in 1981.

As I recollect, the President originally aimed to cut taxes 20 percent by January 1, 1982. But many in the administration mistakenly believed that postponing reductions would "save" revenue and so the only tax cut made in 1981 was 5 percent, beginning in October, or a 1.25 percent cut for the year. As a consequence of built-in increases and the postponement of deeper cuts, the Treasury estimates that taxes rose $15 billion in 1981, more than $150 for the average worker. But as for revenue "saved," the postponement of tax-rate reductions allowed the economy to slide into a recession that has caused much deeper revenue losses that would otherwise have been the case.

In the meantime, anyone who thought that their 5-percent tax cut would last was quickly disabused of that notion when, on January 1, 1982, social security taxes went up, by as much as 8 percent for many. Not surprisingly, the man on the street is muttering to himself, "More taxes are being withheld from my paycheck now than in 1981. What happened?"

In a column in the Wall Street Journal, Vermont Royster explains what happened. The administration and the Congress did not commit themselves wholeheartedly to an agenda of economic growth through lower taxes. Says Royster:

> Here the politicians forgot a lesson known to all successful generals. Never commit forces by drips and drabs. Whatever you're planning to do, do it. Otherwise the effect is muted, if indeed not wholly undone by being swallowed up in the tide of battle.

The Book of Ecclesiastes gives the same advice. "Whatever task lies to your hand, do it with all your might." In 1981, we flinched and postponed real tax cuts until 1982 and 1983. The present economic stagnation is the price we pay for this timidity. I urge my colleagues to read Vermont Royster's column. It shows us why we cannot afford to flinch again.

[From the Wall Street Journal, Mar. 17, 1982]

THINKING THINGS OVER

(By Vermont Royster)

AH, YES, THE TAX CUT

"The individual income tax reduction raises people's cash flow on their existing income levels and also allows them to retain a larger part of their income gains."

I know this must be true because I read it in The Wall Street Journal in an article by Paul Craig Roberts. Mr. Roberts was lately Assistant Secretary of the Treasury for economic policy and was formerly an editorial writer himself for the Journal.

But the statement has made it harder to answer a flood of letters (three) from readers wanting to know where the tax cut went. One, in a burst of candor, sent me a photocopy of his 1980 and 1981 tax returns, which made depressing reading. Another wrote of his 80-year-old aunt who has a $10,000 taxable income (no Social Security, no welfare) and who owed more tax in '81 than '80.

They led me to seize my handy-dandy calculator and compare my own '80-'81 statutory income reports. There I found if not cause for weeping at least a puzzlement.

I did have a slight increase (1.8%) in gross income between the two years, although with one thing and another a decrease (2.28%) in my taxable income, which should have pleased me. But somehow in spite of aid from my wife, a lawyer and a certified public accountant the total due the federal government increased by 1.3%

One cause of this was the increase in the taxes I pay for the privilege of employing myself. I'm charged this in lieu of Social Security even though I've long since been a "retired" Senior Citizen, have paid Social Security taxes since its inception and have never received a nickel from it. In my case this boost amounted to 78% from one year to the next.

To continue this melancholy tale I also owe income taxes to a city (New York, where I neither live nor work) and to a state; also school, county and town property taxes which increased. Moreover, I live where, unhappily, I have to pay taxes on cash-in-the-bank and my paltry stock portfolio. It all adds up.

The point of this otherwise futile figuring is that when it is added up, then what economists call my "net disposable income"—i.e., what's left after various tax-gatherers take their slice—shrank between 1980 and 1981.

Others, I'm sure, managed more astutely than I or my plaintive correspondents. But there must be enough of us similarly affected by the vaunted tax cut bill to offer a clue to why its promises of economic stimulation haven't been fulfilled, at least not yet.

For one thing, as Mr. Roberts noted, President Reagan and the Congress between them opted for the piecemeal approach. Taxes were nibbled at, not assaulted boldly. Not only was the cut spread over three years, but the first segment didn't take effect until last October, which meant that for 1981 it was so small its was hardly noticeable.

Here the politicians forgot a lesson known to all successful generals. Never commit forces by dribs and drabs. What ever you're planning to do, do it. Otherwise the effect is muted, if indeed not wholly undone by being swallowed up in the tide of battle.

Also the politicans, whether from obfuseness or want to courage, looked at only one part of the tax battlefield.

While they made a stab at attacking direct federal income taxes, they did nothing about for what to many is the heaviest tax bite of all, those Social Security taxes. For millions of wage earners these payroll deductions from the wage envelope cut as deep or deeper into their take-home pay (disposable income) as the income tax withholding. Those to whom wages represent their whole income may have heard about the tax cut. They hardly felt it; it was swallowed up by the Social Security increase.

Between 1980 and 1981 the Social Security tax rate rose from 6.13% to 6.65%, or an increase of 8.5%. Meanwhile the amount of wages subject to this tax rose from $25,900 to $29,700, an increase of 14.7%. The effect was to raise the maximum Social Security tax from $1,587 to $1,975—or a tidy increase of more than 24%. All this on top of the regular income taxes.

Obviously, for thousands of wage and salary employes it would take a heftier cut in federal income tax rates than they got in 1981 to offset this rise in Social Security deductions which come out of the paycheck before the employe ever sees it. It should be pointed out that the employer, too, matches this Social Security tax, raising his total payroll cost.

Take it all in all, then, I find it not surprising that the stimulating effect on the economy—through increased savings or more consumer spending—has turned out to lag the promises. Only those lucky enough to get a large boost in wages or salaries found themselves with any increase in "disposable" income at all. Others stood still and some, as my letter writers told me, went backward.

What the result would have been if, instead of nibbling at people's tax bill, the whole 25% cut had been made at once, I can't measure. But it would certainly have had a greater effect in improving everyone's cash flow and retained earnings and hence a more stimulating effect through people's ability to save or put more into the spending stream.

That's what may well happen, in fact, by the time we complete the three-year cycle of tax cuts, assuming fickle politicians let the program run its cycle. By 1984 the promises of supply-side economics could be realized.

So I've no quarrel with Mr. Robert's view that tax reductions will happily increase people's tax flow and leave them more money for their own use. It's just that the timidity of politicians makes the promise premature. And 1984 is a long time to wait.●

WELCOME TO FOURTH DISTRICT STUDENTS

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. COATS. Mr. Speaker, it is my privilege to welcome the following members of the Fourth District congressional student program from Indian to Washington, D.C., this week: Ellen Arnold, South Side High School; Kathy Baker, Fremont High School; Tim Brown, Snider High School; Linda Buescher, Carrol High School; Anastasia Combs, Woodlan High School; Walter Curry, Howe Military Academy; Michael Davidson, Grace Christian School; Laura Fager, Blackhawk Christian School; Sally Francis, Northfield High School; Michelle Frazier, Prairie Heights High School.

Caroline Gernand, Huntington North High School; Bradley Gnagy, Hamilton High School; Todd Guthrie, North Side High School; Betsy Gustein, Angola High School; Laura Hass, Central Noble High School; Robin Hodges, Churubusco High School; Curt Hunter, New Haven High School; Dennis Ineman, Bishop Luers High School; Jay Johnson, Garrett High School; Mark Jones, Wabash High School; Tracy Kain, Southwood High School; Matt Kelty, East Noble High School; Kathlene Kucher, Elmhurst High School; Brent Lantz, Northrop High School.

Peter Lennington, Homestead High School; Tracy McKown, Eastside High School; Randy Mishler, Leo High School; Jeffrey Patrick, West Noble High School; Scott Pattison, Whitko High School; Tami Riggers, Christian Center High School; Bradd Schneider, Wayne High School; Michelle Slattery, Lakeland High School; Cynthia Sorg, Heritage High School;

Terry Spots, Huntington Catholic High School; Michael Sulek, Fort Wayne Christian School, Clara VanHorne, DeKalb High School; John Wall, Columbia City Joint High School; Emily Waters, Paul Harding High School; Deborah Cameron, Bishop Dwenger High School; Jonathan Wilson, Westview High School; Paul Zilz, Concordia High School; and sponsors Larry and Becky Lance of Fort Wayne.

These students have been selected to take part in the program by a nonpartisan board of directors on a highly competitive basis and I wish to congratulate them on their enthusiasm and spirit. During this week they will have the opportunity to see Government in action by observing many aspects of the democratic process.

My special thanks to Senators Richard Lugar and Dan Quayle for taking time to meet with these students. I also wish to extend my gratitude to my fellow colleagues in the House, minority whip Trent Lott, Representatives Marjorie Holt, Jack Kemp, Andrew Jacobs, Pat Roberts, and Albert Gore, who have graciously taken time from their busy schedules to meet and speak to these students.

Mr. Speaker, I believe that this unique program enables these aspiring young men and women the opportunity to discover Washington at both the inner and outer levels. They will be able to see the attractive sites in and around this great city as well as observe the governmental functions of those men and women who serve this country. Hopefully, they will be encouraged to actively participate in the Government themselves in the future.

Again, Mr. Speaker, it is my pleasure to welcome these students.●

USER TAXES ON WATERWAYS AND PORTS

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. BEVILL. Mr. Speaker, last week I appeared before the Public Works Subcommittee on Energy and Water Development to express my serious concerns regarding the administration's proposals to impose additional user taxes on our Nation's waterways and ports, and to implement up-front local funding requirements for new water construction projects.

These proposals would have dramatic effects on waterways across the Nation and ports serving all of this great country. Perhaps the most ironic part of these proposals is that they would bring irreparable harm to some of our most promising water projects, which are now reaching the point when they are ready to yield the huge benefits for which they were designed and constructed.

For example, in my own State of Alabama, the Alabama River, from Montgomery to Mobile, would be closed under the criteria contained in the administration's budget request presented to my Appropriations Subcommittee on Energy and Water Development. This closing would come at a time when this waterway is experiencing its greatest growth, and when it would begin bringing the benefits for which it was built.

In my opinion, the administration's proposals threaten to halt progress on our inland waterway system and ports, when they are becoming increasingly important to our economy.

The inland water system directly contributes to our ability to export American products, bringing more income to our country and more jobs to our people. When our unemployment rate is near record levels, we do not need to bring further injury to our economy by taking actions which would stifle our export industry. And by reducing the hours of operation on many waterways and closing others, completely, we would be eliminating a large portion of the cheapest form of transportation for many industrial goods, farm products, and coal.

More expensive alternative transportation would add to the costs consumers pay for these goods, injuring our domestic consumers, and reducing U.S. ability to compete on the world market.

I am not opposed to the idea of user taxes for waterways. In fact, I supported the 1978 fuel tax legislation which imposed a series of increased taxes on waterway users. I felt it only right that they should pay their fair share for the privilege of operating on our inland water routes. However, this legislation has not yet been fully put into effect, and already we are being asked to pile an additional tax load on these barges. I think this would be counterproductive, yielding diminishing returns and, eventually, suffocating this energy-efficient transportation system.

I am particularly concerned that these higher user taxes would place an unfair burden on America's farmers, already hard hit by low market and high interest rates. If our farmers do not remain competitive in world markets, we will lose essential export revenues and jobs. As you know, 43 percent of all U.S. exports are farm products, which depend heavily on waterways for economical transportation. Estimates show these higher user taxes would add about 10 percent to transportation costs for farm goods. Now is hardly the time to add more pressures on our farmers.

Less exports would mean fewer jobs. The American ports industry employs more than 1 million U.S. workers. It brings nearly $100 billion a year in personal income to our people and contributes $15 billion to the U.S. gross national product. The administration's proposal requiring up-front local financing for any port improvements would greatly reduce our chances to expand this important area when we need it most.

Even the threat of this Government pullout of construction funding has caused some west coast banks to withdraw support for local financing of portions of port projects in Oregon.

If anything, in today's tight capital markets, this new proposal to put the burden entirely on the local communities and States will bring port expansion to a dead end.

On the Mississippi River, at lock and dam 26, a new lock is being built and studies are being done to determine whether an additional lock will be needed. Preliminary indications show a second lock will, indeed, be needed.

I recently visited Gallipolis lock and dam, on the Ohio River, and personally saw the congestion created by the inadequacy of this 45-year-old structure.

These are only two examples of the widespread need for new facilities on our country's waterways. However, if our States are forced to carry this entire load of rebuilding and new construction on our inland waterway system and ports, the work will not be done. They simply cannot afford to do this work, which, historically, has benefited the entire Nation. And these projects continue to hold the promise of yielding rich dividends to our country, as a whole.

If this important and essential work is not completed, the waterways of America will remain jammed and will soon become unusable and we will lose billions in an attempt to save millions. We must look to the long term. We must look to America's future.●

FREEDOM OF THE PRESS IS VITAL

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. PAUL. Mr. Speaker, a retired Army general made a statement last week that is not only dangerous, but truly frightening in its scope.

Gen. William Westmoreland was quoted by the UPI as saying that in all future wars, the U.S. Government will need to impose strict censorship on the press in order to sustain public support for the war effort.

General Westmoreland, who himself commanded troops in Vietnam, pointed to the disastrous outcome of the undeclared war as the result of freedom of the press during wartime. Perhaps the general has forgotten that it was the press, and not the Pentagon propaganda, that was much closer to the truth about Vietnam. We can only hope that Vietnam is not a forerunner of the kind of war the general wants America to fight in the future.

The idea that the American people must be kept in the dark about such a vital national concern as war is shocking and extremely dangerous. Any war worth fighting—a war to protect our freedom, for example—would have the full support of the American people. And any war that could not bear the light of day should not be fought by American armies. Yet General Westmoreland stated that future wars would not have the American people's support, unless the truth about the wars were hidden from us. I wonder what kind of wars the general has in mind?

"Without censorship," General Westmoreland stated, "things can get terribly confused in the public mind." I suggest that it is the general himself who is confused, if he seriously expects the American people to go along with this terrible proposal.

The very idea that parents cannot be allowed to know the truth about a war their sons are fighting is repellent and thoroughly un-American. Freedom and honesty, not suppression of the truth, is the American way of life.

Any war that requires suppression of the press and deception to gain Americans' support is a war we should not be involved in. By his very statement, General Westmoreland illustrated the need for a strong and free press—not except during, but especially during, times of war.●

HELP FOR HOUSING

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DOWNEY. Mr. Speaker, with no net increase in the deficit, legislation I am introducing today could conceivably make 500,000 additional homes available to American families and help restore some of the 2 million housing-related jobs which have been lost since 1980.

By making a few legislative changes in the mortgage bond program—again at no net increase in the deficit—bond issues throughout the Nation can go forward. To date, only $6.5 billion of an authorized $15 to $20 billion in bonds have been issued because the present limitations in sales price, first-time homebuyer and arbitrage do not work in today's market. As the author of many of these rules I am ready to admit that changes are warranted if the programs are going to work at all.

At a time when only 5 percent of nonhomeowners can qualify for an 80-percent mortgage on a modest home, this bill certainly merits our attention.

Specifically, the bill would:

First, raise the qualifying limit, until January 1, 1983, from 90 to 110 percent of the average sales price in nontargeted areas, thus qualifying more homes for financing with revenue bonds and increasing the number of moderate income families who can acquire such financing.

Second, increase the arbitrage limit to at least 1.25 percent from 1 percent. The current limit is simply too low to allow issuers to recoup the costs of issuing the bonds and administering the program.

Third, change the first-time homebuyers requirement from 100 percent of the available mortgages to 80 percent.

I invite my colleagues' cosponsorship and hope to see this bill considered very soon in the Ways and Means Committee.

H.R.—

A bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REQUIREMENTS FOR MORTGAGE SUBSIDY BONDS.

(a) INCREASE IN AMOUNT OF MORTGAGE INTEREST LIMITATION.—

(1) IN GENERAL.—Paragraph (2) of section 103A(i) of such code (relating to effective rate of mortgage interest) is amended by striking out "1 percentage point" and inserting in lieu thereof "1¼ percentage points."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 103A(i)(4) of such code (relating to arbitrage and investment gains) is amended—

(i) by striking out "1 percentage point" in clause (ii), and

(ii) by striking out the caption and inserting in lieu thereof the following:

"(C) REDUCTION BY UNUSED PARAGRAPH (2) AMOUNT.—".

(B) Paragraph (2) of section 103A(i) of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(2) LIMITATION ON EFFECTIVE RATE OF MORTGAGE INTEREST.—".

(b) INCREASE IN PURCHASE PRICE REQUIREMENTS.—

(1) NON-TARGETED AREAS.—Paragraph (2) of section 103A(f) of such Code (relating to purchase price requirements) is amended by striking out "90 percent" and inserting "110 percent".

(2) TARGETED AREAS.—Paragraph (5) of section 103A(f) of such Code (relating to a special rule for targeted area residences) is amended by striking out "110 percent" and inserting in lieu thereof "120 percent".

(c) OWNERSHIP INTERESTS.—Paragraph (1) of section 103A(e) of such Code (relating to prior residency requirements for mortgagors) is amended to read as follows:

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if at least 80 percent of the mortgagors to whom financing is provided under the issue certify as to the fact that such mortgagor either (A) had an ownership interest in a prior residence which an appropriate State or local official has certified does not meet the minimum property standards established for the areas by the State or local government with respect to sanitation, heating, major structural deficiencies or overcrowding, (B) had an ownership interest in a prior residence which can no longer continue to be occupied on a permanent basis due to natural disaster or governmental action, or (C) has a present ownership interest in a principal residence of such mortgagor at no time during the 3-year period ending on the date the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account."

SEC. 2. EFFECTIVE DATE.

The amendments made by this Act shall apply to obligations issued after the date of enactment of this Act.●

HOUSE ETHICS

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mrs. FENWICK. Mr. Speaker, today I stand before you to offer two measures providing comprehensive reform of the procedure governing financial benefits for Members of Congress. I believe that it is time that we bring full accountability and open procedure to any salary and benefit raise for Congress. Our present system consistently strengthens the public's worst suspicions about the ethical standards of the House.

Last December, this Congress passed two measures that created special financial prerequisites that only Members of Congress can enjoy. The first measure, doubling the amount of money Members can earn outside their official duties, took less than 30 seconds to pass. There was neither time for debate nor a recorded vote. This resolution undercut a 1979 ethics reform and was effective retroactively. A similar proposal to increase the limit on honoraria was rejected by the House in a recorded vote earlier in the year.

Congress has lost considerable esteem on account of such low standards. The flaws in our present system are painfully apparent to the public. In fact, the methods we use here would be illegal in the New Jersey legislative chambers.

I am offering two measures that would raise the standards that the public so deeply deplores. The first bill would prohibit all automatic salary adjustments for Members of Congress. The second bill would ensure that all Members will be accountable for any increase in financial benefits. Both bills provide for an open, recorded vote and delay the effective date of any increase in salary or financial benefit to the next Congress, requiring Members to face reelection before receiving additional compensation.

I feel that these comprehensive measures are necessary and long overdue. I hope that my colleagues will support these changes.●

NATIONAL ARCHITECTURE WEEK

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. STARK. Mr. Speaker, today I invite my colleagues to join me in honoring the architectural profession by declaring the week of April 18, 1982, as "National Architecture Week." In cosponsoring House Joint Resolution 436, you will be increasing the awareness of the general public as to the enormous contributions made to our Nation by these design professionals and also be recognizing the American Institute of Architects (AIA) as it celebrates its 125th year of service to its membership and the Nation.

Architects and engineers have the serious responsibility to provide leadership in anticipating and planning new development. The past creations of the Nation's architects meet us at every turn. Wherever mankind travels, be it here or in outer space, it requires a built environment. Our fast-changing society needs imaginative and strong guidance in design construction. Among our heroes of the future will be the realistic dreamers who will bring an old building back to life, against all the odds.

Rapid technological advances have created an explosion of major innovations in materials, building methods, and design. It is expected that great shifts in demographic patterns will be experienced in the future. How will these factors combine to affect our lives?

The Nation's over-65 population continues to increase. It is projected that in the next 20 years, the over-65 population will grow about 20 percent, and the over-80 population will increase 70 percent. Recent projects for the elderly show greater concern for humanizing housing, health care facilities, and other environments for the elderly. We must find better ways of retrofitting what is already built and providing new construction to meet the needs of the aging population and to help the independent elderly remain in their homes.

Changes in the workplace of the future can be expected. Some cities will remain vital centers of industry; others will largely contribute to cultural, recreational, and retail facilities.

As energy costs continue to increase, the need will be for self-sufficient, self-contained communities. The centralized workplace may become obsolete, with most of us working in our homes, or in smaller groups closer to home. Changes in our work patterns will affect architectural and engineering services.

Energy-conscious design and energy-efficient building and mechanical strategies allowing low operating costs will be needed to enhance the quality of life without sacrificing design or the natural environment. New resources and new methods of obtaining resources need to be encouraged while considering environmental restrictions on development.

These challenging issues fall squarely in the architect's and engineer's court. They can and will be a potent creative force for the future. I hope you will join me in this opportunity to declare our appreciation and encouragement to these professionals. We count on them to help us affirm our Nation's belief in the heritage of our past, the promise of our future, and basic integrity of our traditional values.●

AID TO AMERICA'S COLLEGES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SIMON. Mr. Speaker, the President of Columbia University, Michael I. Sovern had an article recently in the New York Times on "Aid to America's Colleges" which is of more then passing importance. It touches on a subject that this Congress must act upon and I trust that we will act advisedly and not be "pennywise and pound foolish."

Among the things that he points out is that while we brag about the Nobel prizes being won by people at America's universities today, he points out accurately, "Nobel prizes celebrate the accomplishments of yesterday, not tomorrow."

He also mentions the fact that "over the past 15 years, Japan and West Germany have doubled their output of scientists and engineers."

And he notes with accuracy: "Our foreign trade pattern resembles that of an underdeveloped country: we export raw materials in an abundance and import more manufactured goods than we sell abroad."

And those who are the superior students are decreasingly continuing their graduate studies and if the Reagan program is enacted that trend will be accelerated and the Nation will be the loser.

"Between 1970 and 1980 the number of Ph. D.'s in physics graduating from American universities dropped by almost half—from 1,740 to 985," President Sovern points out.

The article also quotes Dr. Edward E. David, Jr., president of Exxon Research and Engineering of the Exxon Research & Engineering Co., in a significant statement: "The level of industrial support for university research may triple in the 1980's but that would not equal the proposed cuts in the Federal budget in only 1 year." Basic research continues to decline and in the midst of all this the administration asks that we massively cut basic research in this country.

I urge my colleagues to read the article written by Dr. Sovern which appeared in the New York Times.

THE CASE FOR KEEPING U.S. AID TO COLLEGES

(By Michael I. Sovern)

"If you think education is expensive," goes an old college fund-raising maxim, "try ignorance." The warning is timely.

At a time when Government should be making major new investments in campus research, vital to raising national productivity, the Reagan Administration has embarked on a program of "economies" that will drastically curtail research efforts in the nation's universities, turn many of the best minds of a generation away from careers in education and research, and close the door to first-rate young people who cannot pay today's tuitions.

Obviously, those assigning us the loser's role in the international technology competition have not intended these consequences. Commenting on the entire Federal budget, David Stockman himself conceded that "we didn't think it all the way through."

It is, however, not too late to think it all the way through and reverse the damaging cuts in student aid as well as cuts in the funding of new scientific equipment and in university research budgets—measures that would actually result in "savings" of only a fraction of 1 percent of the Federal budget.

The issue is not whether the Federal Government as a whole is spending too much or too little, nor whether the supply-siders, Keynesians or monetarists, have the best of the argument. Whatever the economic faith of our elected officials, increased support for education and research must be given a high priority.

The predominance of American professors among Nobel Prize winners dramatically demonstrates the importance of our campuses in producing men and women who gave this nation the lead it once enjoyed in science and technology. But Nobel Prizes celebrate the accomplishments of yesterday, not tomorrow.

Today, at independent universities that trained most of the country's scientists and produced the lion's share of major research advances, world-renowned pioneers are working in physical facilities that are woefully out of date. Although China's scientific development fell far behind us during the Cultural Revolution, a recent group of Chinese visitors were astonished at the antiquated scientific equipment they saw on a tour of a leading Middle Western university.

Had they traveled more widely, they would have realized that this was the norm and not the exception. Not only has laboratory equipment been refined at a dizzying pace, but costs have skyrocketed as well. A recent study by the Association of American Universities found that a $750 million investment in scientific equipment and facilities is needed over the next three years simply to sustain current activities at only 15 of the nation's research universities.

It would be hyperbolic to say that we are embarking on our own Cultural Revolution. But one can imagine, without exaggeration, a news story of Jan. 20, 1989, datelined Washington, that reads: "In her inaugural address, the President called for a multibillion-dollar crash program of Federal and private investment in America's university research base. She asserted that radical action is critical to meet the problems posed by the greatest shortage of scientists and scholars in our history. Without it, she said, we have no hope of regaining our position as tenth most productive nation in the world."

Such a news story would not be farfetched because the per capita gross national product of the United States has slipped to tenth place in the world. Our foreign trade pattern resembles that of an underdeveloped country: We export raw materials in abundance and import more manufactured goods than we sell abroad. All this cannot be isolated from the fact that over the past 15 years, Japan and West Germany have doubled their output of scientists and engineers.

Tolerance of this erosion of our ability to compete in the world runs counter both to the Reagan agenda and to a long and wise tradition. Since World War II, the Government has pursued a bipartisan policy rooted in the recognition that the nation's well-being depends on a national commitment to the quality of its universities. Federal support produced the rapid growth of graduate schools and the consequent surge to international pre-eminence of American university research. The Federal Government has recognized that scientific and technological competitions with other nations are won or lost on American campuses.

Major research universities cannot but applaud the Reagan administration's goals of controlling inflation and promoting a sound and stable economy, but these goals are not served by cutbacks in Federal assistance to higher education. When a high-technology company is in danger of losing out to the competition, it invests more in research and development, not less. In the world economy the United States competes for scientific leadership not only with Japan but with much of Western Europe. If this country is to meet that competition, have a sound economy and bring inflation under control, it must invest more in research and development. Past investment in American universities has been repaid many times over by massive contributions to the national strength. If there is a time to increase that investment, this is it.

When Ronald Reagan took office, there was no Federal program to deal with the decaying physical plant of the nation's universities. There was the beginning of a response to the problem of outdated equipment, but this was killed by the Office of Management and Budget. What all universities had was a respectable program for making the most of their "human capital." "Human capital," the economist Eli Ginzberg pointed out, "defined as the 'skill, dexterity and knowledge' of the population, has become the critical input that determines the rate of growth of the economy. . . ." This perspective underlies the Federal Government's provision since 1965 of nearly $20 billion in loan guarantees and interest subsidies for college and unversity students plus billions more in direct financial aid to students most in need. Session after session of Congress concluded that these funds would be a fruitful investment in the nation's future.

The Reagan Administration, however, is pressing a massive assault on virtually every aspect of the Federal student aid program. It did put an end to such questionable programs as subsidized loans to families that did not need them. But by proposing huge additional cuts in student aid, the Administration has shown little understanding of the critical importance of such aid to the national interest. Without a strong Federal role in assisting promising students to further their studies, the supply of students will diminish in quantity and quality. In fact, many graduate schools are facing a diminishing pool of qualified applicants.

Ironically, success in the drive against student aid would mean not only a dismantling of much of the nation's research base, but a large *increase* in costs to the taxpayer as well.

To understand that paradox, one must understand the financing of a college education. It actually costs about $8,000 per student for a college to run a high-quality undergraduate program. That does not include books, room, board and other living costs.

Suppose a promising Cincinnati high school senior—call him Alex Hamilton—wants to attend an Ivy League university. The Hamilton family's income is about the national median of $21,000. Alex's younger sister is also a good student.

Many students like Alex are enrolled in independent colleges and universities today. How? First, they are often not charged what it actually costs to educate them. Endowment income and contributions meet some expenses that would otherwise be passed along as part of the tuition fee. Second, needy students can receive an additional subsidy in the form of a scholarship, for which Alex Hamilton would qualify at many schools. Third, Alex may borrow $2,500 from a bank at 9 percent interest under the Guaranteed Student Loan Program. Fourth, he would be eligible for a Federal Pell Grant of about $800. He and his parents would make up the rest—from any savings they might have and from his summer and afterschool jobs.

Thus, we have a package of support provided by the college, Alex, his parents, and the Federal Government. Like millions of Americans before him—including Ronald Reagan and me—Alex is working his way through college. But times have changed: No student can earn what it costs to attend an independent college today. To ask that every student contribute something before receiving help is fair. To withhold help from those who have done all that can be expected of them is cruel and ultimately wasteful.

How much is the Federal Government actually contributing to the cost of Alex's higher education? Since he pays no interest on his loan until after graduation, the Federal share includes the interest on that $2,500 loan—say $375 per year (at 15 percent interest). That plus his Pell Grant of $800 totals $1,175 for his freshman year. The taxpayer's dollar is matched about 6 to 1 by private resources, and Alex is free to choose a college based on his ability. (As he moves to his senior year and borrows more, the Federal interest cost will rise accordingly, but it will never be more than a small fraction of his total costs.)

What has the Reagan Administration proposed? First, shrink the Pell Grant program. This would eliminate Alex Hamilton's eligibility. Subtract $800. Second, abolish the in-school interest subsidy. Subtract the remaining $375. There would be an apparent saving to the taxpayer of $1,175.

But there is no such saving. It still costs $8,000 to educate Alex Hamilton. Without the option of going to a private college or university—where the cost of that education is largely absorbed by private resources—students like Alex will most likely go to a public institution close to home. The tuition at a publicly supported institution is about $1,500; the remaining $6,500 comes from public funds. Thus, by increasing the number of students at public universities, the Reagan Administration will actually be saddling state taxpayers with an increased cost of $6,500 in order to save $1,175.

Furthermore, the Reagan Administration's policy toward higher education will affect a staggeringly large number of students: Most of this country's 12 million college and university students come from families with incomes of less than $30,000; the families of many earn less than $20,000.

A fundamental strength of the American system of higher education is diversity. It would be folly to upset the balance of public and private education, to limit individual choice, to segregate rich students in private universities and the poor and middle class in public ones. Yet these are the effects of the Reagan Administration's financial aid policy.

What of the effect of the Administration's proposals on graduate schools—the source of tomorrow's researchers, scholars and teachers?

If Alex Hamilton were to spend four years at an independent college, by the time he graduated he would owe $10,000—plus, under the Administration's plan, annual interest costs. Lending institutions have indicated they will not take on the burden of collecting interest from students on a periodic basis. In response, the Administration has recommended compounding the interest so Alex will owe not $10,000 on graduation, but $12,000 or more.

At that point he must decide whether to go on for a Ph.D. or try a professional school. As a graduate student he is now entitled to borrow $5,000 a year. If Alex chooses the Ph.D. route, the Administration's proposal would bring his cumulative debt after his first year to approximately $19,000. After his second year, that debt will be approaching $26,000. And he still has at least three more years before he can reasonably hope to get an assistant professorship—at a salary of less than $20,000 a year. The prospect is forbidding even with the inschool interest subsidy.

The nation's universities are producing lawyers and business-school graduates at an unprecedented rate and scientists and scholars in diminishing numbers. Traditionally, a large proportion of graduate students in the humanities have set their sights on college teaching. But with little hope of immediate employment during the current tenure bulge, many of the best scholars are switching to professional schools. In an exhaustive and disturbing study of the perils facing American graduate schools, William G. Bowen, president of Princeton University, found that in 1980 only 34 percent of all summa graduates at Harvard-Radcliff planned immediate graduate study in the arts and sciences—compared with more than 75 percent in the mid-1960's. And who will be there to teach the next generation of scientists? Between 1970 and 1980, the number of Ph. D.'s in physics graduating from American universities dropped by almost half—from 1,740 to 985.

If the budget cutters have their way, tomorrow's little band of Ph. D.'s will consist of the scions of the wealthy, another handful that the best-endowed universities can afford to support, and a larger number supported by taxpayers at public colleges and universities. Though our graduate schools have had a glorious past—leading the nation in a century of unparalleled advances in research—whether they have a future depends upon the continued resistance of Congress to an unbelievably shortsighted proposal.

I believe deeply in the unquantifiable values of a university. Great universities aspire to transmit to their students the heritage of civilization; to unlock the treasures of the past; to bring fresh vision and new discipline to the growing fund of human knowledge; to enliven curiosity; to cherish the freedom to explore and express; to encourage joy in the presence of beauty and appreciation in the presence of wisdom; to discover, in the words of William Saroyan, "that which shines and is beyond corruption." It is not simply for technology that we need to know more, Lewis Thomas observes, "but for the hope of wisdom which our kind of culture must acquire for its survival."

A society that undervalues such aspirations does so at its peril. But even if one believes that a democratic society has no stake transcending economics and defense in the education of its citizens, one has to conclude that the Administration's policy toward higher education runs counter to the goals it has set for itself.

Anyone who balances the cost of fundamental laboratory research—which provides the base for such practical discoveries as antibiotics—against the soaring cost of medical care will find that, dollar for dollar, biomedical research is far and away the best buy in town. The sad irony is that today, with the explosive productivity of the "new biology," the opportunities for helping patients in the nation's hospitals are greater than ever before. Yet in 1981 the Reagan Administration insisted on cutting funding of basic biomedical research in our universities.

As to the Administration's commitment to enhance our national security, I would have thought it obvious that today's defense rests fundamentally on yesterday's basic science. The laser, for example, though happily of great use to medicine, communications, chemistry and physics, among others, is also at the heart of a number of weapons systems. Every Administration for the past 40 years has recognized the fundamental importance of basic science to the defense effort.

And what of the humanists and social scientists studying the cultures, politics and economics of our allies and adversaries? How can this country conduct an informed foreign policy without a flow of experts on the various areas of the world? We have only a dribble and it is in danger of evaporating further still.

The Department of Defense (D.O.D.) is trying to help. In a memo to Pentagon officials, Secretary of Defense Caspar W. Weinberger has warned: "The national base of basic research is inadequate to meet future D.O.D. needs and substantial sustained real growth in defense research is needed to restore this base." Although the Pentagon estimates that it will increase spending for basic research at universities by some $60 million during the current fiscal year, this comes nowhere near compensating for the hundreds of millions of basic research dollars cut from other programs. And, unlike the beleaguered National Science Foundation and National Institutes of Health, which have funded broad areas of fundamental research, the Pentagon's concept of "basic" research, in line with legal, fiscal and political constraints, must be directed toward projects of identifiable value to the military.

If the American university research base is not to be saved by the Pentagon, what about corporate philanthropy? "The level of industrial support for university research may triple in the 1980's," said Dr. Edward E. David Jr., president of the Exxon Research and Engineering Company, "but that would not equal the proposed cuts in the Federal budget in only one year." Last fall, the Exxon Education Foundation, aware that in recent years doctoral candidacies in engineering have declined by one-third, announced a program sensitive to the impending shortage of faculty members (between 10 and 15 percent of engineering faculty positions across the nation are currently unfilled). The foundation divided $15 million for graduate fellowships and junior faculty salary support among 66 engineering schools, a boost for which all 66 of us are grateful. Neither Exxon nor its beneficiaries claim these new, thinly spread grants are more than a small step in the long journey toward an answer to the question: Who will be left to teach the next generation of engineers?

Increases in corporate contributions to higher education in recent years are heartening. "Total corporate aid to higher education has risen to the billion-dollar-per-year range," observed Edward G. Jefferson, chairman of Du Pont and one of the leaders in corporate support for higher education. Yet, he added, "it is unlikely that corporate aid can be expected to offset reductions in Government funding."

The proposition that Federal cuts create incentives for private gifts is dangerously deceptive. In fact, Federal dollars on campus are frequently necessary to generate private dollars—both from increased numbers of students and from private philanthropy. When Federal aid was climbing, so was the quality of graduate students attracted to well-financed research projects and prominent professors whose distinction in teaching was matched by excellence in grant-supported research. As Federal assistance declines, the quality of research deteriorates, new funds dry up, old sources of support wither.

President Reagan's science adviser, George Keyworth, agrees that "the heaviest responsibility for basic research naturally falls on the Government. This is especially true where long-term, high-risk research is involved. . . ." Those are reassuring words, but the numbers are less cheering. The President's latest budget requests call for substantial cuts in the research and development funds of most Federal agencies and departments.

Overall, according to Frank Press, president of the National Academy of Sciences, the latest cuts proposed by the President would take away another $600 million from the $5.5 billion Federal budget for basic research. The resistance of Congress has so far spared the National Science Foundation's budget for the physical sciences, mathematics and engineering—at least for the moment they are scheduled to receive nominal increases—but funding for science education was cut by more than two-thirds.

Programs for basic research have always been easy to cut. They do not pack the political punch of urgency and quick results. From 1968 to 1980, according to Richard Atkinson, Chancellor of the University of California at San Diego and former director of the National Science Foundation, basic research as a fraction of the Federal budget declined by 27 percent and as a fraction of the gross national product by 16 percent.

The abruptness of many Federal cuts aggravates the problem. Following a meeting in October with Administration officials in Washington, nearly 100 distinguished scientists issued this statement: "Instability and abrupt changes in funding have severe effects: Research teams are broken up; investments in experiments involving large facilities . . . are poorly used. The continued flow of new researchers into our industrial and university laboratories is best maintained by their stable and continued participation in university-based graduate research."

"Basic science is a long-term investment, and depends on government support," stated the scientists. "Support of scientific research is a public expenditure from which all sectors of society benefit. There are no significant sources of support for such a collective benefit which can replace the Federal Government."

Without a major increase in Federal support for research projects and assistance to students, there will almost certainly be a further weakening of this nation, as countries with the sense to anticipate the future assume the lead. "The strength of the nation's research and development comes back to the strength of our top universities," acknowledged Dr. Keyworth. "We must restore strength to them."

As the President's science adviser, Dr. Keyworth reflects the Administration's views on the importance of the nation's leading universities. At the same time, the President has a profound commitment to preserving the vitality of the private sector. In his commencement address at Notre Dame last year, he said: "If ever the great independent colleges and universities are replaced by tax-supported institutions, the struggle to preserve academic freedom will have been lost."

But if these convictions are not impressed on the budget makers who have been hacking away at higher education, this Administration is in danger of going down in history as the great ravager of our independent colleges and universities.

The President can still lead us away from that destructive fate. Congress, in resisting major student aid and research cuts, has shown that it will follow if the Administration will lead in building on what we have.

Not only should the Administration renew the research capability of the nation's universities by restoring the cuts in basic research support, it should upgrade scientific equipment in our deteriorating university laboratories and establish a national construction fund to help rebuild university research facilities.

In addition to preserving the in-school interest subsidy, the Reagan Administration should:

Continue to make loans available to every student who shows genuine need. After all, these loans are made by private institutions, not the Government, and repayment is the obligation of the student. Besides, declining interest rates will cut much more of this program's costs than any of the pending proposals for change.

Restore the cuts in the Pell Grant and related Supplemental Educational Opportunity Grant programs. During the past academic year, Pell Grants closed the gap for 2.7 million students. This year the gap is wider, with $300 million already slashed from the program.

Increase support for Work-Study, the program that makes it possible for students to find jobs in a tight economy so that they can work their way through college.

Carry out the program of merit graduate fellowships that became law as the Education Amendments of 1980 but that has yet to receive an appropriation.

These measures can be funded through savings from cuts that should not be reversed—$2 billion through the elimination of Social Security's financial aid feature and billions more from changes in the Guaranteed Student Loan Program already enacted.

Should more than those savings be invested in higher education and research? All I ask is that our elected representatives look at the way our money has been used, and with what results, from the G.I. Bill of Rights to the National Science Foundation and National Institutes of Health to the Pell Grant. Is there a more productive and broadly beneficial investment in human resources and the nation's future than a strong Federal commitment to the American university?

RUSSIA DENIES RELIGIOUS FREEDOM

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. FLIPPO. Mr. Speaker, current reports of the Soviets using chemical warfare in Afghanistan only reinforce an argument that I have been making for years: We should not even bother to try to reach agreements and work out treaties and other accords with the Soviets because history has shown that they have violated practically every one.

There is another situation that points out what a sorry record the Soviets have in civil and human rights.

For 13 years, members of the Vashchenko family have been trying to leave Russia because they were denied their right to practice their Pentecostal faith there.

This family has been subjected to practically every kind of abuse imaginable—physical and psychological harassment, imprisonment, actual beatings, confinement in mental institutions and separation of family members. The Soviets have surpassed even their sorry records in their treatment of this fine family.

Some 3½ years ago, this family moved into the basement of the U.S. Embassy in Moscow in order to escape the brutal treatment of the Soviets and to be able to practice their religious rights. They are still asking that they merely be allowed to leave Russia.

The courageous actions of this dedicated family has held the Russians up to the world for what they are: Barbarians.

An Alabamiam, Mrs. Jane Drake of Selma, brought the plight of this family to our attention and has been leading efforts and calling for prayer vigils to get this family released. Her efforts should also be commended and congratulated.

I urged this country and this Congress not to forget the painful lesson the Vashchenko family has taught us so dramatically.

The Soviets simply cannot be trusted, and we should keep that in mind when we start talking about any agreement with the U.S.S.R.

I hope the action of this House today in adopting this resolution will, along with the prayers of millions of Americans, help bring an end to the plight of the Vashchenko family. I hope and pray that this brave family will soon be released from their captivity and allowed to move to the land of liberty and freedom where freedom to practice their religion is a basic right.●

A KEY ROLE FOR THE VIRGIN ISLANDS AND PUERTO RICO IN THE CARIBBEAN BASIN INITIATIVE

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WON PAT. Mr. Speaker, over the past few years, the Caribbean has been transformed into a volatile and fragmented region with unmet economic and human needs that make it ripe for social turmoil and political upheaval.

Recognizing the uncertain future of this area of extreme strategic importance, President Carter proposed in 1980 that the United States play a leading, cooperative role in channeling the assistance needed for the Caribbean's stable growth. President Reagan has expressed similar concerns and has proposed a six-point Caribbean Basin Initiative to address these concerns. He is to be commended for doing so.

As the President recognized in point 6 of that proposal, our Nation is uniquely a part of the Caribbean through the territories of the Virgin Islands and Puerto Rico. At once American and West Indian, or Latin, there are close cultural and economic ties between these territories and their neighbors.

These links offer an unparalled opportunity to assist in the development of the Caribbean on a basis that the people of the region will not consider suspect and that will be as unthreatening as possible. The College of the Virgin Islands, respected throughout the region, and the Tropical Agricultural Research Center in Mayaguez, P.R., can serve as the vehicles for sharing and promotion of resources.

A land grant institution, CVI is noted for its academic quality; the work of the Caribbean Research Institute; the efforts of the Cooperative Extension Service and the Agricultural Experiment Station; and the area's preeminent performing arts complex, the Reichhold Center for the Arts. Caribbean ministates have already requested that its resources be used to help their development.

The College of Agriculture at the University of Puerto Rico has attained similar stature. It has done commendable work in identifying agricultural problems in the region and is the focal point of work by experts from throughout the area.

What better mechanism can there be for providing developmental assistance to struggling Caribbean peoples than through trusted and respected institutions in islands that are American and West Indian or Latin at the same time?

The College of the Virgin Islands proposes to develop the Eastern Caribbean Center to:

Establish educational, cultural, and ethnic learning institutes which would conduct research and develop professional talent;

Coordinate forums for the sharing of technological, educational, scientific, and cultural resources;

Seek solutions to problems which are potential or actual sources to misunderstanding between cultures and nations; and

Bring together area leaders to discuss regional policy and goals.

Planning to detail the mission, programs, organization, development and operation of the Eastern Caribbean Center would be conducted over a 12-month period at a cost of $150,000, an amount which would be authorized by H.R. 5139, the omnibus territories legislation which passed this House last December. The President has indicated that he will support funding for this institution.

Developing the University of Puerto Rico's role as the tropical agriculture research center can take advantage of linkages with the entire U.S. agricultural research and education system.

Because these centers have such potential for providing needed assistance to our neighbors in the Caribbean Basin my Subcommittee on Insular Affairs will be encouraging the implementation of these proposals and apprising the House as progress is made.●

A TRIBUTE TO HARRY D. HYDE

HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WILLIAMS of Ohio. Mr. Speaker, I would like to take this opportunity to pay tribute to a fine American, a veteran who was very active in community affairs in Warren, Ohio. That man was Harry D. Hyde.

Mr. Hyde recently passed on at age 61 and his passing was a loss to all of us. Mr. Hyde was a veteran of World War II. After the war, he was active in the Clarence Hyde American Legion Post 278 of which he was commander in 1974 and 1980. He was also past commander of the Trumbull County Council American Legion. He was also Department of Ohio 19th District chairman of the Gift to Yanks Who Gave Committee. He also served as a member of the board of directors of the Trumbull County Soldiers Relief Commission.

In 1975, Mr. Hyde was named "Past Legionnaire of the Year" by post No. 278. He was Buckeye Boys State co-chairman for post No. 278 and Americanism chairman for the Trumbull County Council.

In addition to his activities with the American Legion, Mr. Hyde was also a member of the Veterans of Foreign Wars, Disabled American Veterans, the Tod Avenue Methodist Church, and other civic and community organizations. His contributions to all of them will be missed by us all.●

TONGAN DISASTER RELIEF PROJECT

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DYMALLY. Mr. Speaker, earlier this month, much heartbreak and destruction were visited upon the Island Kingdom of Tonga by a tidal wave and winds of nearly 200 miles an hour. As a result of this disaster, hundreds of residents have died, and tens of thousands have been left homeless.

The 31st Congressional District, which I represent, includes some 12,000 Tongans, many of whom have relatives and friends affected by this tragedy.

In an effort to alleviate the suffering, my office has been involved in the organizing of a Tongan disaster relief project for the collection of clothing, nonperishable food, tents and blankets, medical supplies, bottled water, and funds.

An ad hoc executive committee, made up of representatives of Tongan, Somoan, and business communities, and chaired by Dr. Walter Cathey is coordinating local, State, and National relief efforts. The committee is urging area residents, businesses, organizations, and industries to contribute to the relief project.

The temporary collection center is located at 322 West Compton Boulevard, suite 100, Compton, Calif. 90220. Concerned individuals who wish to volunteer or contribute may call (213) 603-9966.

Mr. Speaker, I wish to bring to the attention of my colleagues this tragic misfortune that has befallen both my own constituents and our friends in the Island of Tonga, located in the South Pacific, north of Australia. And I wish to commend those who have responded so generously to people in need, and to solicit your prayerful thoughts that the disruptions and sorrows in the lives of our brothers and sisters across the sea may soon be healed.●

BUSINESS FAILURES

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. MITCHELL. Mr. Speaker, the impact of the current economic situation on small businesses is devastating. High-interest rates combined with the recession are pushing thousands of businesses into precarious financial straits; in fact, many are being pushed out of business. There is a possibility of a tidal wave of business failures as the liabilities of failing firms become the bad debts of financially weakened firms. This scenario becomes particularly plausible if economic recovery is slow or delayed until next year.

According to the latest weekly failure statistics released by Dun & Bradstreet, business failures in the first 8 weeks of 1982 are running 55 percent above a comparable period in 1981 and at a level 2½ times above a comparable period in 1980. About 98 percent of firms listed with Dun & Bradstreet have 100 or fewer employees.

Wholesalers and manufacturers are being hit particularly hard. Failures of wholesalers are up 73 percent, while failures of manufacturers are up 69.4 percent in the first 8 weeks of 1982 as compared to 1981.

It is time for the administration to reconsider its "riverboat gamble" before thousands more small businesses are destroyed.

Following is the full text of a recent Wall Street Journal article of March 22, 1982, on the increasing seriousness of business failures.

BUSINESS FAILURES SPURT FOR WHOLESALERS, MANUFACTURERS AND IN THE WEST AND SOUTH

(By R. Foster Winans)

NEW YORK—The pattern of U.S. business failures is changing.

Wholesalers and manufacturers are failing at a faster rate than other businesses, the size of businesses that fail is increasing and the number of failures in the West and the South is surging.

By contrast, the rate of business failures has eased in the auto-dependent states of Ohio, Indiana, Illinois, Michigan and Wisconsin, indicating they may have experienced the worst of the recession.

According to preliminary figures compiled by Dun & Bradstreet Corp., business failures among wholesalers rose 73% in the first eight weeks of this year from the year-earlier period. The rate of manufacturing business failures rose 69.4% during the same period. By comparison, the overall rate of business failure in the first eight weeks of 1982 was 55.3% ahead of a year earlier.

HEART OF INDUSTRY

"Most of the earlier jump in business failures during 1981 was among retailers," said Irwin Kellner, chief economist at Manufacturers Hanover Trust Co. "Those failures now appear to be feeding back to the wholesaler and back as far as the manufacturer."

The recession, says Brian J. Fabbri, vice president and economist at Salomon Brothers, "is seeping into the real heart of American industry."

The Dun & Bradstreet figures also show failures more frequently occurring among larger businesses, which the credit reporting agency defines as companies with liabilities of $100,000 or more. All statistics exclude activity in finance, insurance and real estate industries.

Dun & Bradstreet compiles weekly figures on business failures. It said the statistics for the first eight weeks are the first cumulative totals it has prepared for 1982.

Economists say that overall failure rate is the highest in 20 years, and that in absolute numbers, unweighted by size of casualty and liability, the failure rate is the highest since the trough of the Depression in 1932.

The Dun & Bradstreet statistics also show particular weakness in Western states and in the Mid-South states of Kentucky, Tennessee, Alabama and Mississippi, where twice as many businesses failed this year as in 1981's first eight weeks.

Analysts and economists said they didn't know of companies that might be candidates for bankruptcy that haven't been mentioned before. "We don't see a major unexpected bankruptcy looming out there," said an economist for one large bank.

CAPITAL GOODS NEXT?

If there isn't an upturn in the economy this year, the next industry sector that probably will be hurt is capital goods, said Michael Sherman, managing director of research at Lehman Brothers Kuhn Loeb Inc.

"There are companies that would become shaky if you assume no economic recovery for another year," Mr. Sherman said.

The capital goods industry has been propped up for several years by rising oil prices, Mr. Sherman said. The high cost of energy stimulated the making of oil field exploration and service equipment, new furnaces to burn alternative fuels and especially new fuel-saving automotive equipment.

But energy prices are beginning to fall, "causing this major sector of the economy to weaken," Mr. Sherman said. "Unless there's an upturn in consumer demand by the end of the year, the combination of falling energy prices and the recession could hurt many corporations."

Some economists and analysts find the business failure rate especially disturbing because they think the marketplace isn't paying close enough attention to it.

"It's remarkable to me that more people aren't talking about it," said Robert S. Salomon Jr., stock research director at Salomon Brothers. "I think there is this naive belief among corporations that if you're big enough and get into trouble Uncle Sam will bail you out."

Mr. Salomon said investors ought to be focusing more on the creditworthiness of the companies behind the stocks they buy. "This is an environment in which financial strength is something worth considering," he said.●

THE COLONEL KOVATS DE FABRICZY HISTORICAL SOCIETY

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, this year of 1982 marks the golden anniversary of a patriotic Hungarian-American organization, the Colonel Kovats de Fabriczy Historical Society. This organization, located in Elmhurst, N.Y., and chaired by Dr. Andrew T. Udvardy, was founded for the historical research of the many Hungarian soldiers who voluntarily left their homeland to shed their blood on American soil for the cause of freedom. These valiant heroes of our Nation's War of Independence have made a significant impact on the turn of events that is now American history. Long denied an honorable place in the written pages of history, the Kovats Society made a strong commitment in 1981 to foster public recognition for these Hungarian fighters of oppression.

Such a fighter was Michael Kovats de Fabriczy, for whom the society was named. He was born in Hungary in 1724 and was decorated with the highest award for bravery, the Pour Le Merit, while serving under Frederick the Great. In 1777 Kovats, a dedicated believer in freedom, volunteered his military expertise to the American War of Independence through Benjamin Franklin, the American Envoy to the Court of Versailles in France. When Kovats came to the colonies, he was appointed to serve under another great American patriot, Polish Gen. Casimir Pulaski. He served with distinction in the Pulaski legion, rising to the high rank of second in command.

Afterward, Kovats organized the first U.S. cavalry and was assigned as master of exercise by Gen. George Washington. In 1788 he was commissioned by the Continental Congress as a colonel and later became commandant of the cavalry. The August 4, 1778, issue of the Maryland Journal praised the cavalry's—

> good training and exemplary discipline. And in this work, the lion's share belongs to Kovats, who had by far the most peacetime and battle experience in organizing independent units, as well as training and commanding them.

It was during the battle at Charleston on May 11, 1779, that Colonel Kovats' distinguished career ended. Through his leadership, initiative, and courage this vital port city of South Carolina was saved from British occupation—but at the cost of his life. His commitment to the universal cause of liberty, even at the supreme sacrifice of his life, was embodied in his motto: "Faith unto death," Even his English opponent, Brigade Major Skelly, had to admit at the requiem at his grave that Kovats was responsible for "the best cavalry the Rebels ever had."

Another great Hungarian was Count Laszlo Bercsenyi, the founder of the Hungarian hussar regiments. He organized 14 regiments in France, 4 of which were owned by Hungarians and named after the proprietor. They were:

The 1st regiment—the Bercsenyi hussars;
The 5th regiment—the Count Valentine Esyterhazy hussars;
The 8th regiment—the Andrea Polereczky hussars;
The 14th regiment—the Duke de Lauzon hussars.

In the latter years of Count Bercsenyi's life he was nominated as a Marshal of France and, as such, was a member of the Military Grand Council. In this post he had the authority to either support or reject projects. Hence, when 400 experienced, first-class Hungarian hussars from the above four regiments volunteered to come to the Colonies to join the freedom fight, he was able to send them. These brave hussars formed the Duke de Lauzon Legion.

The commander of this Hungarian legion in the colonies was Count Janos Laszlo Polereczky, who was born in Hungary in 1748 and was a member of one of the oldest families in his country. Like Kovats, Polereczky voluntarily came to the Colonies to offer his services in the War of Independence. He came in the French expedition army with the Count of Rochambeau. When he became the commander of the legion, he was able to protect the French-American army from a surprise attack by the British through his leadership. The French-American army, together with the Duke de Lauzon legion, marched from Newport, R.I., through seven States and arrived in Yorktown, Va., where they surrounded the British troops of Gen. Earl Cornwallis on October 19, 1781. The general surrendered that day, virtually ending the war.

After 1781, the young count moved to Dresden, Maine. He married a French settler's daughter, raised eight children, and in 1788 his pending application for citizenship was accepted and signed by John Hancock. In 1830 he died in Maine at the age of 83, and in 1981 his grave was decorated with the insignia of the soldier of the American Revolution.

To commemorate the 200th anniversary of the victory at Yorktown, Va., a celebration was held by the Kovats Society on October 16-19, 1981. The festivities were attended by President Reagan, Vice President Bush, and President Mitterand of France. The relatives of historical families, such as the Polereczky and de Lauzon families, attended and were honored. During the year of 1981 special proclamations were issued by various cities and

States designating a Count Polereczky Day to honor his memory. In addition, six memorial plaques honoring Polereczky, Bercsenyi, and the Hungarian hussars were presented by Dr. Udvardy and Mr. Zsolt Vigh, chairman of the society's New Jersey chapter, in various cities during the Bicentennial year.

Ironically, 1981 also marked the 25th anniversary of the unsuccessful Hungarian revolution against Communist takeover in 1956. James A. Michener, an American writer, describes what happened when freedom was extinguished on that ill-fated day.

> At dawn, on November 4, 1956, Russian communism showed its true character to the world. With a ferocity and barbarism unmatched in recent history, it moved its brutal tanks against a defenseless population seeking escape from the terrors of communism, and destroyed it.
>
> A city whose only defense was that it sought a decent life was shot to pieces. Dedicated Hungarian communists who had deviated slightly from the true Russian line were shot down ruthlessly and hunted from house to house. Even workers, on whom communism is supposed to be built, were rounded up like animals and shipped in sealed boxcars to the USSR. A satellite country which had dared to question Russion domination was annihilated.
>
> After what the Russians did to Hungary, after their destruction of a magnificent city, and after their treatment of fellow communists, the world need no longer have even the slimmest doubt as to what Russia's intentions are.

At a ceremony in Gloucester, Va., Chairman Udvardy compared the American War of Independence with Hungary's struggle for freedom in an eloquent speech:

> We are a small nation today, but every time we vote, we vote for the freedom which God did give us as he did to you 200 years ago. 40 years after World War II our land is still occupied by Russia, even after so many years of struggle like yours 200 years ago. Hence, we don't want you to forget that we Hungarians were in your army in 1777, 1778, 1779, and 1781. We don't want you to forget that we were here in Gloucester, as well as in many previous battles when you fought for your freedom.
>
> We fought with you for your liberty and your freedom, and we saved your great port city Charleston in South Carolina. Later, our Hungarian hussars helped to win the battle in Yorktown, Virginia. You won your freedom, and we are proud of the role of our hussars in helping to win your freedom 200 years ago. We lost our first in 1956, 25 years ago today, and we hope you will remember us through our fallen heroes here in the USA. When the time comes, you will help us to redraw our 1000 year old nation's original boundary.

Mr. Speaker, it is my sincere hope that the Kovats Society will continue in 1982 to foster the national recognition these brave hussars deserve. In an age where freedom is taken for granted, while its very existence is simultaneously being threatened, it is comforting to know that an organization such as this one cherishes this fundamental right. As Dr. Udvardy stated, we must never forget the unselfish sacrifices these Hungarians made in order to help establish the freedoms we now enjoy. Likewise, let us never ignore the cries of those nations whose freedoms have been trampled upon by oppressive regimes. At this very moment, the Soviet regime is engaged in a military onslaught against the people of Afghanistan and Poland with the ultimate goal of enslaving them, as they did to the people of Hungary 25 years ago. Let us resolve not to tolerate the Soviet Union's blatant encroachment into the internal affairs of nations who choose to be free, lest we suffer the consequences of indifference and one day find ourselves under the same inexpugnable force that conquered Hungary.●

INNOVATION BILL COSPONSORS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. LAFALCE. Mr. Speaker, I am pleased to announce that Representative WYCHE FOWLER of Georgia has asked to be listed as the 201st cosponsor of H.R. 4326, the Small Business Innovation Development Act. Unfortunately, Mr. FOWLER could not be formally listed as a cosponsor because all committees have completed action on the bill. I want to thank him for his support and add his name to the list the bill's supporters are keeping.●

UNITED STATES-CANADIAN RELATIONS

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. FASCELL. Mr. Speaker, having just returned from the annual meeting of the Canada-United States Interparliamentary Group, I was struck by the perception of a March 19 Washington Post column by the new Canadian Ambassador, Allan E. Gotlieb.

This brief article, which presents the gist of his remarks before the Baltimore World Affairs Council, places the current United States-Canadian controversies in their proper context and in doing so makes them appear much less ominous than recent rhetorical flourishes from both sides would have us believe.

CANADIAN PERSPECTIVE

(By Allan E. Gotlieb)

Canada's relations with the United States represent our biggest single foreign policy challenge.

This is not to make you catch your breath and think: "What has happened? Are we, Americans, now the biggest problem in the lives of our traditionally closest friends?"

No—but the relationship between the two countries, which is the most complex, and richest, of any bilateral relationship in world affairs, *necessarily* has a lot of problems, and some of these affect our vital interests, as well as some central interests of your own.

We should not be *alarmed* there are differences:

Over trans-border pollution;

Over the diversion of rivers and the building of dams which affect the other side;

Over the risks posed by oil tanker traffic in dangerous waters;

Over Canadian economic development policy and our decision to promote the Canadianization of our oil and gas industry, now 67 percent in foreign hands;

Over the effect this has on U.S. investment, as well as over Canadian approaches to U.S. investment *per se*;

Over numerous bills before the U.S. Congress on trade reciprocity;

Over buy-America provisions;

Over a host of other issues devolving from the sharing of a great continent, over $100 billion in trade, the vacation and business habits of two mobile and friendly populations.

What I am saying is that such differences are par for the course for two great and complex countries with some differing specific interests. What we should keep in mind is our mutual overriding interest in keeping the bilateral relationship productive.

It's too complex and dangerous a world to allow relations with neighbors to deteriorate.

Relations with Canada may not be the biggest foreign policy challenge of the United States, as the United States is a challenge to Canada.

Indeed, the apparent asymmetry of dependence and respective importance is, in an indirect way, a bilateral problem in itself, as I've tried to indicate—but the world view of the United States would be significantly different if, instead of a good and secure ally to the North with whom the United States had a deep and productive relationship, there were there a country with whom you were considerably less secure.

Indeed, the Canadian nation-building process going on now, in meaning to secure Canada's future, is an enterprise which is in this country's distinct interest.

There is in Canada heightened sensitivity to what is seen there to be some signs of insensitivity here to Canada's aspirations, and this is undoubtedly exacerbated by the disproportinately large place of America in our view.

Perhaps this is one of the major differences in our respective views of the world: Ours is dominated by the presence of our neighbor; yours by your own global interests.●

ASSASSINATION OF ARMENIAN CONSUL GENERAL

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. ASPIN. Mr. Speaker, in the 2 months since the Turkish Consul General in Los Angeles, Kemal Arikan, was tragically murdered in his car, I have noticed some manifestations of hostility toward the Armenian community in this country.

Many of those who well know and understand the tragedy of the 1915-23 genocide of 1½ million Armenians in Turkey have been incensed by this murder and spoken out against the Armenian American community.

I think it is very important that all Americans understand that the murder was committed by an individul and not by the American Armenian community. Armenians, too, have been incensed by the murder. These people, the survivors and the descendents of survivors of the World War I massacres are not about to endorse more bloodshed.

Ross Vartian, the director of the Armenian Assembly of America, has written, "The grievances of the Armenian community cannot and should not be remedied through violence." There is no doubt in my mind that Mr. Vartian speaks for the overwhelming majority of American Armenians while the assassin in Los Angeles represents only a handful of misguided extremists.

The Armenian community has a legitimate grievance against the Turkish Government. For more than half a century Armenians have borne not only the scars of the genocide unleashed upon their community but also the frustration that stems from the refusal of Turkey even to acknowledge the horrors of 1915-23.

It is most important that all Americans—indeed, the world—recognize and remember the vile and bloody policy of extermination that was visited upon the Armenians. Nothing can repair the damage that was done to untold families by the Turkish vendetta against the Armenian people. But I would point out to the Government of Turkey that even so seemingly small an act as an official apology—the mere recognition of the facts of history—would be a giant step forward and would narrow the chasm that divides the Armenian and Turkish people.

All Americans—as well as all Turks—should join hands in condemning the brutal murder January 28 of Consul General Arikan.

All Americans—as well as all Turks—should also join hands in condemning the brutal assassinations of 1½ million innocents six decades ago.

It is little to ask.●

DAVID LEVINE

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DONNELLY. Mr. Speaker, I would like to take a few moments to reflect on last week's passing of David Levine, a superlative young man. I came to know David while he served as a congressional page in the Democratic cloakroom. He was a mature and dedicated worker who I grew quite fond of in the too-brief time he was with us.

David, in addition to earning the respect and friendship of all who came in contact with him, was a remarkably intelligent young man. I note that he stood out as an outstanding student.

David's bereaved family can be most proud of their son's accomplishments. I offer my heartfelt condolences to David's father Roy, his mother Saralyn, and his brother Robby. I know I can speak for all my colleagues in expressing our deep sense of loss on hearing of David Levine's untimely death. He was indeed a credit to his family, his community, and this House.

It is most difficult to understand the death of a young person. I can only add that I feel extremely privileged to have known this fine young man. We will miss David.●

THE WASHINGTON EDUCATION PROJECT

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. McKINNEY. Mr. Speaker, I am taking this opportunity to enter into the RECORD my endorsement of the Washington education project. This is a tutoring program designed to supplement the existing curriculum in the District of Columbia's public school system. As proposed, it would be staffed by student participants from area universities, who pay for and receive credit for tutoring in the program. It is designed to improve the basic educational skills of the functionally illiterate, and thereby enable them to exist in today's complex society. After a minimal outlay of seed money, the program is sustained entirely by the tuition payments made to the universities, by students wishing to take part in the project. Since a more detailed description of the Washington education project may be found in Senator HATFIELD's remarks on page 4777 of the March 18 RECORD, I will not labor to repeat it at this time.

The Washington education project is not the pie-in-the-sky fantasy of a naive educational planner. It is a program based on a similar project—the summon program—which operated for 4 years in the Miami area. During this period the summon project was directly credited with raising the reading and mathematical skills of hundreds of students whom it served. The architect of the summon program is also the proponent of the Washington education project, Mr. Norman Manasa.

Surely, we are all aware of the need for such supplemental programs in inner city schools, such as we have here in the District of Columbia. This is not to criticize the District school system, but only to cite the reality of the situation that exists in many of our schools today. People are graduating from schools all over this Nation while unable to read and write at levels which are reasonably expected of them. Add to this group the vast number of students who leave school before graduating, and it is easy to imagine the seriousness of the problem.

It is becoming increasingly difficult to employ or train those individuals who do not possess the basic educational skills. We must address this problem before these people are relegated to a life of unemployment and despair. The future holds no place for a vast number of people who are without even those basic tools which are necessary to exist productively in this increasingly mechanized world. The education of our Nation's citizens is paramount if they are to become worthwhile members of society.

The House Committee on the District of Columbia will hold additional hearings on both vocational and basic educational problems here in the District. For these hearings, I have invited Mr. Norman Manasa to testify on the feasibility and potential for implementing the Washington education project. I hope that in the near future I can come before this body and report that the program is a reality. Given the full commitment necessary, I feel this project may prove to serve as a useful model for similar programs throughout the country. It has vast potential to provide a much needed boost to this country's troubled educational systems. Considering the past success and the fact that the Washington educational project can virtually run itself without the need for costly Federal subsidy, this seems to be a bargain we cannot pass up.●

IN TRIBUTE TO PERCY AND GLADYS MASAKI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. MATSUI. Mr. Speaker, it is with great pleasure that I pay tribute today to the abilities and achievements of one of Sacramento's finest citizens, Mr. Percy Masaki. Percy Masaki, after 30 years of service with the Sacramento chapter of the Japanese American Citizen's League, will be retiring from his role as membership chairman of the JACL.

Percy Masaki, aided by his devoted wife Gladys, has shown energetic leadership and talent in all facets of his career. Besides building a thriving real estate and insurance business, Percy has donated a great portion of his time to numerous community causes. The great variety of his accomplishments attest to his concern for all aspects of Sacramento's civic needs.

Percy has served with distinction as the local chapter commissioner of the Blue Shield health plan, a Junior Olympic organizer for the annual Junior Olympic games held in San Francisco, a junior JACL adviser and chairman of the 1974 Camellia Festival International Division. Moreover, he had been an active champion of JACL activities. Aside from his duties as membership chairman, Percy published the Sacramento JACL chapter newletters in his office for 30 years. One of his greatest contributions, however, was the establishment of the JACL scholarship in 1957. To date, because of Percy's foresight, over 18 scholarships have been awarded to deserving students for their education with moneys donated by numerous banks, clubs, and friends.

Given this outstanding record of public service, I am sure that all Members of this House, and particularly our California delegation, will join me in extending best wishes to Percy Masaki and his wife Gladys on their retirement. As a Representative of the Third District of California in the Congress of the United States, it is a great honor to recognize officially the Masakis' tremendous gift of time and talent to the Sacramento area, to the entire State of California, and to this Nation.●

C-SPAN

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Ms. MIKULSKI. Mr. Speaker, this is an appropriate time to make some observations about C-SPAN, the Cable Satellite Public Affairs Network. C-SPAN is the cooperative of the cable television industry that has been beaming the House floor debates into millions of homes across the country by satellite and cable TV for 3 years now. As a matter of fact, C-SPAN celebrated its third birthday last week, on March 19.

I would like to take this time to clarify to my colleagues and others the exact functions of C-SPAN. C-SPAN offers its subscribers much more than just our proceedings here in this Chamber. It offers public affairs programing 16 hours a day, 7 days a week. C-SPAN has become a full-service television network in only 3 years, by expanding its coverage well beyond merely the House floor debate to public meetings, House and Senate committee hearings, executive agency hearings, press conferences, panel discussions, formal policy speeches, and so on. The list is a comprehensive one of nearly all the policy forums located here in the Nation's Capital. In fact, our House debates comprised only one-fourth of C-SPAN's programing in 1981.

The advantage to our constituents is clear. They now, via cable television and C-SPAN, can see for themselves the broad public debate that takes place throughout official Washington. And they do not have to suffer through heavily edited summaries of events, or extensive commentaries telling them what they are watching or what to think. C-SPAN treats all the events it covers the same way it treats the House floor debate. There is no editing. There is no commentary. Everything is presented gavel to gavel, without interruption. It seems to me to be an approach to public affairs programing that respects the intelligence of the audience. I hope that C-SPAN is around for a long time and keeps up the good work.●

PROMISING INAUGURAL AT UNIVERSITY OF MIAMI

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. PEPPER. Mr. Speaker, distinguished colleagues of the House, I welcome this opportunity to bring to your attention an address by an eminent and knowledgeable citizen of the Miami area in southern Florida: Edward Thaddeus Foote II, fourth president of the University of Miami. Dr. Foote was inaugurated on December 4 of last year, at a beautiful ceremony which I attended with great pleasure, as Dr. Foote's able leadership bodes great things for our own world-renowned University of Miami.

In Dr. Foote's address, delivered on that occasion, he clearly identified the nature of southern Florida's present transition into a metropolitan area of diverse cultural heritage combined to form a vibrant, new, beautiful tapestry of commerce, culture, environment, and learning. This unique new place will make its effect felt throughout the region and, indeed, throughout the whole United States and the Caribbean Basin, immeasureably contributing to the lasting enrichment of all surrounding nations.

Furthermore, Dr. Foote, in superb and skillful fashion delineated for us the already tremendous-seeming accomplishments of our young university and the opportunities yet awaiting it. He, with daring vision, told us of the immediate measures, intermediate aims, and more distant goals he has conceived to assure for our university a place at center stage in the unfolding historic development of south Florida and the area. As an outblossoming center of free inquiry, research, invention, practical study, regional involvement, and intercultural bridge, according to this grand outline, I, too, see our University of Miami becoming an even greater institution, benefiting the young, the old, and all of us privileged to hear the call, which follows:

DR. FOOTE'S INAUGURAL ADDRESS

Mr. McLamore, Chancellor Danforth, other generous platform presenters, colleagues on the faculty, students, friends of the University of Miami, old friends and new, thank you.

Rocketing through the last two decades of the most brilliant but catastrophic century in man's recorded sojourn, we pause today to celebrate an exceptional American university. Yet today is also a big day in my life, so I will presume to tell you why I am here.

I am here as an educator because I believe that the University of Miami is well on its way to becoming one of the truly great universities of the world.

I am here, honored profoundly to be part of so exciting a quest, because I believe in my colleagues on the Board, in the faculty and administration, and in our students, our alumni and our friends.

I am here as a citizen because I believe that an historic confluence of American and international destinies is soon to bring forth in South Florida a uniquely hospitable climate for human achievement.

Recently, our sons and I were boating on Biscayne Bay. I was driving the boat pulling Willy on a hydroslide. Thaddeus yelled that Willy had fallen off, and as we turned the boat to pick him up we saw, to our absolute terror, a great brown sea creature the size of a small bull heave up out of the water next to a mangrove swamp and swim rapidly toward Willy.

It turned out that the creature was a manatee, a gentle giant of some 1200 pounds, a Ferdinand of the Sea, who was there not to make lunch of my son, but of the grasses that abound in the warm waters off the shores of South Florida. One learns a lot in a new home. For example, I learned just how fast a 13-year-old boy can get out of the water. Reflecting later on this event, I inquired further of manatees, which led to the theme for these thoughts.

Commonly called the "edge effect", the borders between different environments—forest and grassland, brook and meadow, ocean and land—are for living things arenas of the highest potential energy, competition and creativity. These are nature's liveliest places, teeming with food and life.

That fundamental principle of ecology, so important to the South Florida physical environment, is relevant also to human history in the making here now. In the fertile intersections of destinies in this extraordinary American city are to be found the nutrients of uncommon progress, including those that will nourish an uncommon university located here.

For in this part of the world, not only do oceans and continents touch, so too do cultures. Through the streets around us pulse almost unbelievable human energies in commerce and finance, travel and culture, ideas and languages and in people yearning for a better life. The Port of Miami and the Miami International Airport are among the busiest in the country. Greater Miami, still so young a city, is already second only to New York as a center for international branch banks.

Suffice it to summarize that less engaged observers have marvelled at the transformation of a tropical tourist town into a pivot of international activity. An author in the Harvard Business Review predicted four years ago that Coral Gables, the home of our University, along with Paris and Honolulu, would become "global cities," centers of immense influence and power because of their strategic locations on this shrinking planet.

Where in its passage is this strong young university and where is its home, Greater Miami, troubled now by so much? One must look briefly backwards to frame what is still becoming.

In retrospect, 1926 was not an auspicious year to begin much of anything in Florida. Staggered in the year of its founding by the most devastating hurricane of this century and the collapse of the Florida land boom of that glittering decade, the University struggled into the depression years. As with so many American institutions during the 1930s, the question here was often primarily one of survival.

But the University's first president, Bowman Foster Ashe, was not a man lightly to abandon dreams. He persisted, and the University persisted.

Following the Second World War, the pace quickened in South Florida and at its fledgling university. Swollen during the late 1940s with veterans as students, the University, gathering substance and momentum, moved from the "Cardboard College" to this campus. It was still led by President Ashe.

In the presidency of Jay F. W. Pearson during the 1950s, the University began to consolidate its rapid growth, fleshing out that skeleton with such new divisions as the first medical school in Florida. It matured into the comprehensive university structure we have today. And from 1962 to June 20 of this year, Henry King Stanford guided the University along a remarkable, steep trajectory upward to its present position in American higher education.

My predecessors' brimming years of leadership will be an inspiration to me always.

The University which we celebrate today, one of only a handful of comprehensive, independent, research universities formed in the 20th Century, is a place of almost miraculous achievement. Imagine, just 55 years after 52 teachers and 560 students gathered for the first time in an unfinished hotel, there now stands on several campuses a major institution where 1,300 faculty members, supported by 4,000 other employees, offer to 15,000 students from 50 states and 88 foreign countries 112 undergraduate degree programs and 221 graduate and professional programs, where in competition for Federal funding for research our faculty last year attracted $51-mllion to study countless things from cancer, yes, to manatees.

Last year, the National Science Foundation reported that the University ranked 36th in competitive federal funding for research projects among the 2,600 colleges and universities in the United States, the School of Medicine 26th of 126 medical schools.

And so we gather at a University of astonishing accomplishment in a city of boundless opportunity astride a fulcrum of continents and peoples, perhaps of eras.

But, as in the "edge effect," the high energy from such intersections of ecosystems is not an unmixed blessing. We see around us the suffering of some of our neighbors, including many recent refugees, and also the tragic excesses of human greed unleashed. We read of our beleaguered city on the cover of a national magazine under the headline, "Paradise Lost?"

The international drug trade and other violence have threatened to foster among us the acceptance of the unacceptable: that lawlessness will prevail among people governed by law; that fear will drive out pride in a free society; that the most technologically advanced nation in the history of the world cannot reach down to protect its own Achilles heel even as it reaches up past the stars themselves.

What kind of University should there be in such a place at such at time? As knowledge explodes exponentially in a waning century, how shall a University so situated, so young, yet already so accomplished, continue approaching what my predecessor, President Stanford, called its rendezvous with greatness?

I see this University in many dimensions, some timeless and in need only of constant nurturing and reaffirmation, some quite new. Join me in looking ahead.

I see first a private, independent University: a place self-governed; a place dedicated to a state of mind characterized by absolute freedom of thought; a place of overwhelming respect for the intellectual heritage of human beings; a place of fine teaching, of learned people and learning people who respect the separate needs of each seeker; a place where there are always more questions than answers; a place of abundant good fun and continuing creation.

An independent, comprehensive university requires of its faculty more than teaching, although in teaching the university regenerates its institutional soul. It requires research and creativity. The role of the faculty must remain absolutely central, because individually and collectively, the faculty—the teachers, the scholars, the creators—is the essence of a university.

I see a University where people must be devoted to outstanding performance. There is simply no justification for the existence of a private University unless it does all its work very well and some of it uniquely well. A prime example of that kind of excellence is our School of Music, as we have just heard.

No two universities are the same. Applying these general observations to our special opportunities, I see several specific develoments, and I will venture to propose some steps to get from here to there.

I see a University, now mature, but as yet not fully defined. I plan, therefore, to initiate an institutional re-examination of all that we do.

We will form visiting committees for each of the schools and major divisions of the university. These committees, each chaired by a Trustee, will comprise alumni, leaders of our community, nationally recognized experts, members of facilities at other universities and others. They will be charged with assisting us in a thorough, objective evaluation of our work its quality and place, national and international trends and related subjects.

There will be a special task force, chaired also by a Trustee, charged with examining the University's contribution to its own community of South Florida and how it might do more.

The first assignment of this Community Task Force is to offer all assistance to those working to solve our immediate community problems. Our University has special resources that could be helpful in a community effort to return this home of ours to a balanced society.

The climate, diverse culture and strategic location of south Florida provide rare opportunities for research, teaching and service. I see a University in which its tropical location nurtures emphasis on the physical world in our backyard, even as we try to comprehend all the rest of it. Thus, we should strive to become preeminent in the tropical branches of such sciences as botany, zoology, medicine, and oceanography.

I see a University in which the ocean is of central importance. The oceans, the last frontier on this planet, flood the imagination with promise of new sources of food and energy in a time of food scarcity and exhaustion of traditional sources of energy. At such a point in human history, research institutions devoted to an understanding of the oceans and the atmosphere assume a special importance. The Rosenstiel School of Marine and Atmospheric Science, already among the leaders in the United States, should become world renowned.

High among my priorities is enhancing the beauty of this Coral Gables Campus and the importance of the University as a center of research in botany and related disciplines. Specifically, I announce now plans for a comprehensive campus-wide landscape plan. The campus of the University of Miami should be of unrivaled beauty—a magnificent botanical garden, a living laboratory where people like to be. We are already exploring an international competition to engage outstanding landscape designers.

Our School of Business should strive to be second to none in the teaching and study of international business, especially that concerning Latin America and the Caribbean; our School of Law, already well respected in international law and the law of the sea, can be an international leader in such fields; our School of Nursing is already pioneering trans-cultural programs attracting wide attention; all of our divisions devoted to Latin America and Caribbean subjects should be models, and there should be here a critical mass of related disciplines in languages, the humanities, the arts, the social sciences, the professions that becomes a magnet for scholars and students.

I see a University whose youth and flexibility are advantages during the coming years of unpredictability.

Thus, among the growing chorus of concern about failures in elementary and secondary education, our School of Education and Allied Professions might more easily challenge existing, bankrupt practices than might another school more committed to the past.

Thus, as the United States population ages, the University will soom have in downtown Miami an outstanding educational facility, the City of Miami/University of Miami/James L. Knight International Conference Center, a joint venture by a city, a private developer and a private university in which space is reserved for each to capitalize on mutual interests while preserving its separate identity. The University of Miami should be a nationwide center for continuing studies of the highest quality.

Scholars recently have focused attention in medicine, psychiatry, and the biological and social sciences on the unique problems generated by the process of aging. Already the University of Miami has strengths in that emerging new discipline.

Courting excellence, as we will do, is expensive. I see a University, already successful in raising competitive federal dollars to support research, reaching out into its community and translating a growing pride in the University of Miami to financial support, large and small. It is timely, therefore, that I announce today a magnificent, anonymous gift of $1 million to endow a chair in the School of Medicine. This kind of tangible, happy association between generous people and an institution performing critical tasks in American society is also a hallmark of a great university.

The future of funding for higher education in America is murky: there will be fewer students of traditional college age, thus less potential tuition money, and there may be less commitment by the Federal Government to supporting research and other responsibilities of higher education.

I regret and deeply question this emerging policy that reverses a generation of public commitment to investing in the education of human beings and basic research. Industry can take up part, but only part of the threatened slack. The monies necessary for combatting cancer or understanding the nature of space or life itself, or of the heart of the atom, are beyond the capacity of any one element of American society to provide. Such monies are modest indeed compared with the cost of not understanding.

I see for our University a cautious but warm welcome of the overtures from industry for joint ventures in research, especially that research which must or should be done in this part of the world. Many areas of research are of mutual interest to higher education and industry. Applied research concerning DNA and its possible commercial development, can generate monies that can be used to support essential teaching, basic research and other endeavors.

The University of Miami was plain lucky recently, and the timing was auspicious. I announce today the acquisition by the University from the Federal Government of 106 acres of valuable property in South Dade County, adjacent to the Metrozoo. That land, previously loaned to the University for research and known as the South Campus, now has been approved for permanent transfer to the University, subject only to final written confirmation. We may now plan for the appropriate long-term use of that property.

Beginning with the Rosenstiel School on Virginia Key, continuing west a bit to downtown Miami and the Knight Center for Continuing Studies presently under construction, and beyond to the vast Medical Center, then south to the Koubek Center in the heart of the Hispanic community, then south again to this campus, then further south to those precious, newly acquired 106 acres, there exists a crescent of segments of the University, each dedicated to different areas of teaching and research. Building on a recent report of a distinguished committee of our scholars, I plan creation of a major new applied research center linking all elements of the University in that crescent. The newly-acquired 106 acres will be used for this purpose, permitting physical consolidation of now-scattered projects and the growth of many more.

With such a reorganized capacity to deliver, the University of Miami should be in a strong position to establish new relationships with industry, especially the kind of high technology and scientifically oriented companies which have already expressed great interest in research performed at the School of Engineering and Architecture, the School of Medicine and the Rosenstiel School.

I see increasing cooperation among institutions of higher education everywhere and I will encourage that, especially in our own state, where we are privileged to share a high responsibility with our sister institutions in the State University System and other independent institutions. I announce today an exciting example of such cooperation. After months of study, a distinguished consultant to the State System has confirmed earlier recommendations by other experts that a new School of Public Health should be established at the University of Miami with strong connections to programs in public health located in the State System. The University of Miami and the State System are actively developing plans for the School which would be only the 23rd accredited School of Public Health in the United States. The School, following the model at Cornell University in the State of New York, would be public and State funded, but governed and operated by the University of Miami.

For years there has been talk of creating a new Florida institution devoted to exchanging ideas, technology, research, and generally providing a disciplined, intellectual focus for improved relations, commerce and understanding between North America and our friends to the South. Such an institution often has been called a North-South Center, perhaps modeled roughly on the existing East-West Center in Honolulu. Along with many at the University of Miami in recent years, our colleagues at Florida International University have devoted time and effort to exploring creation of such a center.

I propose today that the University of Miami and the State University System join in cooperation with civic leaders and public officials at the local, state and national levels to acquire and convert to a North-South Center the Biltmore Hotel, located one mile north of our Coral Gables Campus. As many of you know, the Biltmore, also constructed in 1926 as one of the truly gracious and magnificent hotels in the world, has stood vacant for 13 years seeking a new cause, a rejuvenation. A North-South Center seems a natural.

Creation of any one of these three new institutions—The University of Miami Research Crescent, a new, cooperative School of Public Health or a North-South Center in the Biltmore Hotel—could be beneficial, not only to our University, but to the entire area. Creation of all three could have immense impact.

Learning that Oxford University, founded in 1167, would be so ably represented here, I recalled the story of the groundskeeper at one of the ancient colleges there. Those of you who have been to that hallowed place of learning will recall that the grass in the courtyards is magnificent, lush, deep, thick, an almost unworldly green.

Asked how he kept the grass so well, the groundskeeper explained that it was necessary to seed properly, water, fertilize and otherwise tend frequently—and keep doing that for eight hundred years. It was that simple.

Imagine, for a moment, Oxford in 1222 or, for that matter, Harvard, the second oldest institution represented here, in 1691, 55 years after each of those universities was formed. Each was still a tiny band of scholars and students, only the slightest shadow of what was to come in time.

Institutions now can vault to the prominence of true distinction more quickly, as many things in the world now happen more quickly. Achieving distinction in any world has never been easy, nor will it be for the University of Miami, but the grass grows tough around here, and beautiful, and in this climate at the edges of so much, it grows very quickly.●

DR. THOMAS A. BARTLETT

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SHELBY. Mr. Speaker, I would like to offer my congratulations to Dr. Thomas A. Bartlett on his selection as the new chancellor of the three-campus University of Alabama system.

Dr. Bartlett, a 51-year-old native of Salem, Oreg., brings such outstanding qualifications with him in his new position. He received his bachelor's and Ph. D. degrees from Stanford University, where he was named to Phi Beta Kappa, and his M.A. degree from Oxford University, where he was a Rhodes Scholar. His doctorate is in international relations. He also attended Willamette University as an undergraduate.

Dr. Bartlett is a former president of the American University in Cairo, Egypt, and served as U.S. political and security affairs adviser to both Henry Cabot Lodge and Adlai Stevenson when they were U.S. Ambassadors to the United Nations.

He will be leaving his post as president of the Association of American Universities, a Washington, D.C.-based group of 50 leading U.S. research universities, which he has held since 1977.

He is active in a number of higher education and international relations organizations serving on the Advisory Commission to the Education Commission of the States and the American Council on Education's National Commission on Higher Education issues. He is also a trustee of the American University in Cairo and the General Theological Seminary in New York, and is active on the national board of the Episcopal Church.

Trustee John Oliver of Jasper, Ala., chairman of the Trustee Chancellor Search Committee, said the advisory committee of faculty members, students, and administrators from the three campuses, and citizens around the State unanimously endorsed Bartlett for chancellor.

Said Oliver,

As president of the Association of American Universities, composed of 50 leading universities in this country, Dr. Bartlett has demonstrated a thorough understanding of all the factors that must come together to foster excellence in a university. He is intimately acquainted with the major issues facing higher education today and is at the forefront of current thinking regarding the role it can play in shaping Alabama's future.

Mr. Speaker, I am honored to have a man of this caliber involved in the State's educational system. I feel that the progress to be made under Dr. Bartlett's leadership will not only benefit the three-campus University of Alabama system, but the national educational level as well.

It is an extreme pleasure for me to take this opportunity to welcome Dr. Bartlett to the great State of Alabama, and to offer him my warmest congratulations as he takes the new position of the chancellorship.●

DEATH TOLL IN GUATEMALA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. PEASE. Mr. Speaker, as the chairman of the Human Rights Committee of Members of Congress for Peace Through Law, I would like to bring to the attention of my colleagues some information on the killings and the "disappearances" of politicians in Guatemala.

Amnesty International has compiled a list of 70 extrajudicial killings and "disappearances" of Guatemalan politicians between January 1980 and January 1982. Drawn primarily from the Guatemalan press, it includes 20 Christian Democrats, 17 members of the Frente Unido de la Revolucion and four members of the government party Partido Revolucionario. As most deaths go unreported, the list is far from complete.

Since General Lucas Garcia became President in July of 1978, nearly 5,000 people in Guatemala have been seized without warrant and killed by the security forces. At least 615 other people reported to have been detained by the security forces still remain unaccounted for. In spite of these murders and "disappearances," Amnesty International points out that the Guatemalan Government has denied making a single political arrest or holding any political prisoners.

Confronted with the mounting death toll in Guatemala, it is inconceivable to me that the Congress would approve the administration's fiscal year 1983 request for $250,000 in military training funds for the Guatemalan military.●

TRIBUTE TO DR. THOMAS J. WHITE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. GUARINI. Mr. Speaker, on March 26, 1982, the St. Peter's College Alumni Association will honor Thomas J. White, M.D., a great physician who has retired after 55 years of medical service.

I am reporting just some of the accomplishments in Dr. White's lifetime.

Thomas J. White, M.D., was born on November 5, 1897, and grew up in Jersey City where he graduated from St. Peter's High School in 1916. He received an A.B. degree from Fordham University in 1920, studied at Johns Hopkins University and received his M.D. degree from Cornell University in 1926. He interned at the Jersey City Medical Center and became licensed to practice medicine in November 1926. He has been active on the medical staff of St. Francis Hospital from 1926 to October 1, 1981, when he retired.

He has also been active on the medical staffs of Jersey City Medical Center, B. S. Pollak Hospital, Margaret Hague Hospital, St. Mary Hospital (Hoboken), and North Hudson Hospital—now Palisades General in North Bergen. He served in the U.S. Armed Forces during World War II. He was formerly a professor of medicine at Seton Hall University College of Medicine—now the University of Medicine and Dentistry of New Jersey.

He is a member of the Hudson County Medical Society, American Medical Association. He is a fellow of the American College of Physicians, the New Jersey Academy of Medicine—of which he is also a past president—and the New York Academy of Medicine. He has been certified by the Board of Internal Medicine.

A distinguished cardiologist, he has authored several significant articles on internal medicine. Throughout his career he has continually taken postgraduate courses in medicine and sat for qualifying examinations in medical specialties. As recently as 1979 he was commended by the American College of Physicians for continuing education achievements.

He received an honorary L.H.D. degree, the doctorate of human letters, from St. Peter's College in 1976.

In addition to being respected by his peers, he is loved by his patients and esteemed by all his colleagues in the health care professions.

He has indeed lived up to the following advice to physicians given by Hippocrates (460-377 B.C.):

> Sometimes give your services for nothing, calling to mind a previous benefaction or present satisfaction. And if there be an opportunity of serving one who is a stranger in financial straits, give full assistance to all such. For where there is love of man, there is also love of the art. For some patients, though conscious that their condition is perilous, recover their health simply through their contentment with the goodness of the physician. And it is well to superintend the sick to make them well, to care for the healthy to keep them well, also to care for one's own self, so as to observe what is seemly.

I am asking my colleagues to join me today in this tribute to Dr. White, who indeed has used his God-given talents to help mankind.●

STOP WIDER U.S. MILITARY INVOLVEMENT IN EL SALVADOR BEFORE IT HAPPENS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. OTTINGER. Mr. Speaker, today I am introducing legislation to amend the War Powers Act to require the President to obtain specific congressional authorization to introduce military forces in El Salvador. This is a companion bill to S. 2179, which was introduced in the other body by the distinguished Senate minority leader.

Under the War Powers Act, the President must officially report to Congress whenever he introduces U.S. military personnel into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances. He must justify his actions to Congress, and if Congress does not act to approve the military intervention within 60 days, the troops must be withdrawn.

My bill would require prior congressional authorization for the dispatch of military personnel to El Salvador. It would, however, retain the President's flexibility by allowing military personnel to be sent to El Salvador when they are needed to protect and assist in the evacuation of American citizens, or to protect the United States from a hostile attack.

I am shocked by the Reagan administration's escalation of rhetoric and military involvement in El Salvador, and by the complete absence of effective congressional involvement in this matter. I am greatly concerned that the Reagan administration will make a major military commitment to El Salvador, ignoring the judgment of Congress and the American people, and that as a result we will soon find ourselves in the quagmire of another Vietnam.

Consider the escalation of rhetoric and actual military involvement in El Salvador up to this point:

The New York Times of February 20, 1982, quoted Secretary of State

Haig as saying that M-16's, a basic combat weapon, would be far more reassuring for U.S. forces in El Salvador. He stated that U.S. forces in El Salvador need M-16's because they are operating in an unpredictable guerrilla environment.

These remarks followed the airing of a Cable News Network film clip showing U.S. military advisers equipped with M-16's walking through an area recently recaptured from guerrilla control.

Gen. Wallace Nutting, the head of the U.S. Southern Command in Panama, recently in El Salvador, was quoted as saying that the United States would have to rethink its policy of not allowing U.S. advisers to accompany Salvadoran soldiers on combat missions.

Congress must apply its judgment to this growing military commitment in El Salvador, and stand ready to act if the President expands our role into an open-ended military commitment. We cannot stand idly by as the administration leads our country down the path to a full-scale military involvement.

The Reagan administration already has sought to evade the War Powers Act's requirements by asserting that the military advisers that have been sent to El Salvador are not to be personally involved in the hostilities and that their activities are restricted to advice and training in noncombat areas. Clearly this semantic smokescreen has been dissipated by the filmed news reports I mentioned above. I believe that the War Powers Act as it now stands has already been violated by this administration, and together with over 25 of my colleagues, I am currently seeking judicial remedy to this violation of the law. At the same time, however, I consider it imperative that Congress be able to debate and block an even wider military commitment by the administration before that commitment is made; because of the administration's military threats it simply is not enough to rely on congressional action after a commitment of troops as provided generally in the War Powers Act.

I urge my colleagues to cosponsor this important measure before it is too late and to thus join me in protecting our constitutional obligation to become involved in such critical and far-reaching matters of foreign policy.

A copy of this legislation is attached:

A bill to amend the War Powers Resolution to require specific authorization before the introduction of any United States Armed Forces into hostilities in El Salvador, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "War Powers Resolution Amendments of 1982".

(b) The War Powers Resolution (Public Law 93-148) is amended—

(1) by redesignating sections 9 and 10 as sections 10 and 11, respectively; and

(2) by inserting after section 8 the following:

"PROHIBITION ON THE INTRODUCTION OF UNITED STATES ARMED FORCES INTO EL SALVADOR

"SEC. 9. (a) Notwithstanding any other provision of this joint resolution, United States Armed Forces shall not be introduced into El Salvador for combat unless—

"(1) the Congress has declared war or enacted specific authorization for such use of United States Armed Forces; or

"(2) such introduction of United States Armed Forces is necessary—

"(A) to meet a clear and present danger of hostile attack upon the United States; or

"(B) to meet a clear and present danger to, and to provide essential and immediate evacuation of, citizens of the United States.

"(b) If the United States Armed Forces are introduced into El Salvador pursuant to grounds set forth in clause (A) or (B) of subsection (a)(2), the President shall describe such grounds in the report required by section 4(a).".●

NATIONAL NAVAJO CODE TALKERS DAY

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. RUDD. Mr. Speaker, I wish to submit for the RECORD the resolution I have introduced designating August 14, 1982, as National Navajo Code Talkers Day:

H.J. Res. 444.

Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navajo Code Talkers Day"

Whereas the Navajo Code Talkers, a group of United States Marines, devised a communication code, based on the Navajo language, for combat use during World War II;

Whereas the development and use of this code, which was never deciphered by Japanese cryptologists, played a crucial role in the successful resolution of the war effort in the Pacific; and

Whereas this select group of Navajo Marines has never received national recognition for its unique and invaluable contribution to our military intelligence during that conflict: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating August 14, 1982, as "National Navajo Code Talkers Day", and calling upon all government agencies and people of the United States to observe the day with appropriate programs, ceremonies, and activities.●

ADMINISTRATION BILL TO AMEND THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WAMPLER. Mr. Speaker, today I am introducing, at the request of the administration, a bill to amend the Consolidated Farm and Rural Development Act to authorize use of funds for farm and rural development programs for the 3-year period covering fiscal years 1983, 1984, and 1985. The Department of Agriculture strongly recommends that this legislation be enacted.

The Agricultural Credit Act of 1978 (Public Law 95-334) amended the Consolidated Farm and Rural Development Act to require, effective October 1, 1979, that the aggregate principal amount of loans authorized under each subtitle of the Con Act during each 3-year period thereafter shall not exceed amounts authorized by law after the date of enactment of this provision. Until enactment of the Agricultural Credit Act of 1978, the FmHA farm and rural development programs were operated without specific lending levels in the authorizing legislation. Instead, specific loan levels for the farm and rural development programs were prescribed annually in appropriations legislation.

Legislation requiring these authorization levels resulted from several needs apparent to the Agriculture Committee during its deliberations on the 1978 act. As FmHA programs have grown in size and scope, a closer review of them by the legislative committees on a periodic basis is in order. This enables the committees to exercise effective oversight of the ongoing administration of the Farmers Home Administration and determine whether any changes are needed in its basic mandate.

As I mentioned earlier in my statement, Mr. Chairman, I am introducing this legislation at the request of the administration. No provision has been made in this bill for continued authorization of the FmHA business and industrial loan program, and I and several of my colleagues on the House Agriculture Committee would like to review and discuss the possible merits of the particular program. In addition, I intend to offer two amendments to whatever bill is considered in committee to amend the Consolidation Farm and Rural Development Act that relate to the water and waste disposal loan program. The first of these would authorize the Secretary to make grants, for not less than 2 percent of the amounts made available for grants under the provisions of section 306(a)(2) of the act, for the purpose of providing technical assistance and training to entities eligible to receive financial assistance under such program. The second would provide that from the amounts made available for financial assistance for construction or rehabilitation of water and waste water facilities under section 306(a) of such act, for payments to entities eligible for such assistance, such amounts of not less than 5 percent of the amounts made available for grants under section 306(a)(2) of the act, as are deemed necessary to meet predevelopment costs related to the planning and design of such facilities. In my opinion, this would improve the administration of these programs and I believe that they would have strong support from within the Committee on Agriculture for their adoption.

Nevertheless, it is important that we consider all possible legislative proposals, and I therefore am introducing this bill at the request of the administration.●

INTERNATIONAL AFGHANISTAN DAY

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Ms. FIEDLER. Mr. Speaker, the people of Afghanistan are facing the world's most powerful army. They are facing poison gas, used on a scale not seen since 1918. They are facing mines and boobytraps—some disguised as toys—seeded throughout the country. And they are also facing a series of lies and a trail of dishonor by the Soviet Union that stretches back over 60 years.

In 1920, Afghanistan became the first of the then-young Soviet Union's neighbors to offer it the hand of friendship, concluding a Treaty of Friendship and Non-Aggression. The tready provided that the two Islamic Khanates of Khiva and Bukhara would retain the autonomous status they had under the csarist empire. Yet, before the treaty was 1 year old, the Red army brutally swept through these lands, driving many of their people as refugees into Afghanistan. In letter No. 195, dated February 13, 1921, the Soviet Ambassador gave excuses for these actions that have a disturbingly modern ring to them:

> Presence of a limited number of troops of my country in Bukhara is on the basis of temporary needs, which the government of Bukhara has considered and asked for. It means that at any time the government of Bukhara will demand their withdrawal, no Russian troops will remain there. This friendly assistance should never be considered interference against the sovereignty of Bukhara. If the government of Bukhara should not like this and feel unhappy with this friendly help, my government will withdraw its forces from that country.

This document, kept in the state archives of Afghanistan, is old, but it appears that the Soviets still believe there is no lie like and old lie. Soviet troops have, of course, never left Bukhara. Nor have they ever left Bessarabia, the Baltic Republics, Poland, Sakhalin, East Germany, Czechoslovakia, or Hungary. Now Soviet troops have entered Afghanistan. There is a cynical joke current in Moscow: "Why are our troops still in Afghanistan?" "They haven't found whoever invited them in." It shows an awareness of what Soviet pronouncements about "fraternal assistance" and "respecting the independence of all nations" have meant in the past. It means invasion and incorporation in the Soviet Empire, that great "jailhouse of peoples."

The Soviet war against the people of Afghanistan is a continued atrocity. The Conference of Islamic Nations, of Non-Aligned Nations, and the United Nations—in Resolutions ES/62 of January 14, 1980, 35/37 of November 20, 1980, and 36/34 of November 18, 1981—have all called for their withdrawal. The proclamation of March 21, 1982, as Afghanistan Day by the U.S. Congress, the European Parliament, and nations throughout the world have shown that we are standing with the Afghan people in their struggle to be free. Our commitment to human freedom and dignity requires, from us, no less than this.●

MORE SUPPORT FOR NUCLEAR FREEZE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. BINGHAM. Mr. Speaker, the idea of freezing further testing, production, and deployment of nuclear weapons and launchers is sweeping across the country. Since a group of Senators and Representatives first introduced Senate Joint Resolution 163 and House Joint Resolution 434 on March 10 and 11 respectively, the freeze idea has been getting national attention. I would like to bring to the attention of my colleagues two excellent analyses of the nuclear freeze proposal. The first is a column from the Washington Post of March 18, 1982, by Joseph Kraft, and the other a statement delivered by George Ball to a public forum on the freeze convened yesterday by Senators Kennedy and Hatfield. It is worth noting that Messrs. Kraft and Ball can hardly be characterized as doves.

Brezhnev Offers Us a Rare Opportunity

(By Joseph Kraft)

A sudden turn of events has handed the Reagan administration a golden opportunity to cut a good deal with the Soviet Union on arms control. For Leonid Brezhnev has coupled an offer that can be topped with a threat that has to be challenged.

Washington is thus in a rare position to combine negotiations with a show of strength. The requirement is a specific, early offer for mutual reductions of intercontinental weapons—that is, a follow-up to the SALT II treaty.

Until Brezhnev's latest statement, the Reagan administration was on the defensive in dealing with Russia. It had repeatedly demanded that Moscow show signs of moderation in areas of tension. Moscow did not comply. The Reagan administration began to look to everybody like a paper tiger.

At the same time there was pressure, first from the European allies and increasingly from dovish opinion in the United States, for a more flexible American position on arms control. President Reagan eased the pressure somewhat when he outlined, in a speech on Nov. 18, the American position for negotiations with Russia on intermediate-range nuclear weapons based in Europe. He said the United States would cancel plans to deploy 572 Pershing and cruise missiles on the European Continent if the Russians agreed to scrap the 900 or so SS20s they have targeted on Western Europe.

But the yearnings for arms control were satisfied for only a brief period by that so-called zero-based proposal. Recently there has been more pressure from Europe for an American position that included intercontinental weapons. To that there was added last week a congressional resolution put forward by Sens. Edward Kennedy and Mark Hatfield. The resolution called for negotiation of an immediate halt to the nuclear arms race in all its dimensions—"a freeze on production and further deployment of nuclear warheads, missiles, and other delivery systems . . ."

These demands on the Reagan administration for more concessions provided the backdrop for the Brezhnev statement. The Soviet leader first reiterated, in somewhat more formal fashion, a freeze proposal that dovetailed perfectly with the Kennedy-Hatfield resolution. He said that "the Soviet leadership has taken a decision to introduce unilaterally a moratorium on the deployment of medium-range nuclear armaments in the European part of the U.S.S.R." He called on the United States and its allies to follow suit—but, as President Reagan observed, that would "lock in" Russia's enormous present advantage in nuclear weapons on the Continent.

To that offer, Brezhnev added—for the first time at his level—a distinct threat as to what Russia would do if the United States and its allies went ahead with the deployment of the cruise and Pershing missiles. In that case, Brezhnev said:

"There would arise a real additional threat to our country and its allies from the United States. This would compel us to take retaliatory steps that would put the other side, including the United States itself, it's own territory, in an analogous position."

The general nature of that threat admits no doubt. Brezhnev is saying that if the United States and its allies go ahead with nuclear modernization in Europe, Russia will retaliate by increasing the nuclear weapons it has targeted on the Continent and the United States. The use of the word "analogous," moreover, suggests that the Soviet leader has in mind subjecting this country to the menace of intermediate-range nuclear weapons. Such weapons could reach U.S. territory only if they were based in Cuba.

But three times—under the Kennedy administration during the missile crisis of 1962; and under the Nixon and Carter administrations in lesser episodes—the United States has exacted from Moscow a pledge not to place nuclear weapons in Cuba. The Reagan administration cannot allow even an implicit threat to that understanding to go by. So there will simply have to be a test of Brezhnev's meaning.

The heavy odds are that Moscow will once more climb down on using Cuba for nuclear weapons. But that, of course, is only half the battle. The great opportunity is to use the occasion to advance the arms control negotiations from the domain of intermediate missiles in Europe to the area of intercontinental weapons.

Partially because of campaign rhetoric about the SALT II accord negotiated by the Carter administration, and partially because of internal confusion and bickering, the Reagan administration has so far refrained from stating its position on intercontinental missiles. But the elements of a deal are obvious. The United States can ask the Russians to scrap their massive nuclear blockbusters—the SS18s especially. In return this country would cancel projects to build such new weapons as the B1 bomber or the MX missile.

The riposte to Brezhnev would at that point be complete. The United States would be out front on arms control proposals. Russia would be on the defensive. It is possible—even likely—that there would be achieved true progress in reducing the level of armaments, and making the world a safer place.

STATEMENT OF GEORGE W. BALL

The Kennedy-Hatfield Resolution is an effort to impress on Congress and the American people that unless we change our current nuclear policy we have little hope of avoiding a nuclear catastrophe beyond all human imaginings. Our government's approach to nuclear weapons has, for a long while, been unrealistic—reflecting the speculations of nuclear theoreticians whose logic-chopping has been used to justify an accelerating nuclear arms race. Now we are approaching the point of no return.

In government circles one hears increasing expressions of dangerous nonsense which thoughtful men and women had ruled out years ago—that we should regard nuclear bombs as potental weapons of war and not merely of deterrence and prepare our tactics accordingly; that short- or medium-range missiles could be fired without necessarily triggering a full-scale nuclear exchange; that, if we were all to burrow like moles under the ground, many of us could still survive a nuclear war, (though why anyone would want to is by no means clear); and finally, that, as the Vice President himself has said, nuclear wars may be "winnable."

Meanwhile we pursue the false god of nuclear equality (which for all too many means nuclear superiority) demonstrating by dubious sleight-of-hand with numbers that we are dangerously far behind in nuclear arms. Some even look through a "window of vulnerability" as through a glass darkly. The scholastics have devised a vocabulary of their own which obscures thought more than expresses it and not only does that vocabulary need careful scrutiny but we must challenge the intentions of the speakers. When Administration officials proclaim that arms control negotiations should be postponed until we have achieved "a position of strength", they rule out all hope of controlling the arms race, for the Soviets will certainly keep pace with any nuclear breakthroughs—advancing the art and creating new systems to the point where all control becomes impossible.

Though the Administration's statements and policies may not scare the Soviets they certainly frighten our friends. Our European allies are more and more questioning the leadership of a nation whose government seems addicted to a rhetoric even more bellicose than the Soviets' and which seems hypnotized by an illusive "equality". For better or worse, the sensitivity of Europe to the statements and actions of our government has always been a dominating fact of the Western Alliance—a fact that we dare not ignore. Thus we cannot avoid considerable responsibility for the demonstrations in European streets against the implantation of Pershings and Cruise Missiles on European soil. These demonstrations were temporarily halted when the Administration reluctantly began negotiations on this limited area of nuclear policy—but that is only the beginning of the story. As warm weather returns so will the demonstrators and they will continue to gain in noise and number until we begin prompt and serious negotiations to turn back the nuclear arms race all across the board. Do not expect rational argument from the demonstrators.

Aware that Europe has little role in shaping nuclear policy and that their fate is in the hands of an American government that pursues a persistently confrontational course, many young Europeans are turning from logic to emotion, opting, in frustration, for the suicidal policy of unilateral disarmament.

Though European protests have served as forerunners of organized protests just getting under way in America, American expressions of concern have so far been remarkably responsible. As those proceedings today have vividly shown, Americans are becoming more and more concerned at the insensitivity our government has shown toward the nuclear issue. The people are waking up. Americans are famous for common sense and, though increasing numbers are becoming aware of the slippery slope down which we are sliding, they have avoided the irrational excesses manifested in Europe. I know no American who would save himself or herself at the cost of freedom. Yet let us not be too complacent, if America does not soon embark on a serious and realistic arms reduction negotiation, and if our government officals continue to suggest, by word or action, that nuclear bombs are a potential weapon of war, the national outcry may ultimately take a more strident and less responsible form.

That is the significance of the Kennedy-Hatfield Resolution. It gives responsible expression to our imperative need to clear the air of a deceptive dialectical fog. It rejects the contention that we dare negotiate only from what the nuclear pundits call "strength"—which serves as an excuse for not negotiating at all. It provides a sensible alternative to continuing the arms race to the point where the advent of increasingly complex and elaborate new weapons systems will destroy the possibility of verification and thus close off our last clear chance for effective negotiation. It expresses also our need to break free from the deceptive tyranny of numbers and from the metaphysicians who manipulate those numbers and find a new form of negotiation through which serious progress towards arms reduction can be achieved.

By seeking an agreement with the Soviet Union to "achieve a mutual and verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles, and other delivery systems," the United States would quickly reestablish the confidence of its allies now so tragically waning. Even more important, it would restore the faith of rational men and women that our government is earnestly striving to save mankind from its own self-destruction. But though a freeze is an essential first step, its major value lies in providing a starting point for the more fundamental process of phased nuclear arms reduction.

Our disappointing experience has clearly demonstrated that reduction of any significance or magnitude cannot be achieved under a system such as has been used in the SALT negotiations. Under that system the negotiators seek vainly to establish equivalencies of weapons systems—of their warheads, throw weights and other recondite attributes—that in the nature of things cannot be equated. In such an effort, each side is the victim of its own competing vested interests. Each of the American services—the army, the navy, the air force—fights for a larger part of the turf—a greater share in the design and management of nuclear weapons. Each pushes hard for its own weapons system with the support of its own nuclear metaphysicians and engages in reciprocal back-scratching to achieve that end. If SALT II proved anything, it was that a negotiation seeking to satisfy all competitive interests is totally unsuited to achieving effective reductions. After American negotiators have accommodated all these competing baronies and developed a negotiating position complete with fall-backs, they will have jettisoned all possibility of serious progress towards arms reduction.

But how can we avoid negotiating from a base that reflects the collective demands of all the parties involved? America has already developed and successfully demonstrated the answer in our trade negotiations. We must stop trying to measure system against system, throw weight against throw weight, and embark on a series of phased, across-the-board percentage reductions. Of course, that will upset the theoreticians; such a procedure, they will say, would produce serious distortions and inequalities. One country might end up with more weapons than another in one or more weapons systems. But even in a negotiation based on across-the-board percentage reductions, there could be some room for adjusting the most outrageous disequilibria. In any event, that should not prove crucial. Each side already possesses such a massive amount of overkill that a numerical parity in warheads or throw weight or even qualitative advantage losses most of its relevance. As one wise man recently observed, numbers of nuclear weapons would be important were we dealing in tons but they have little relevance when dealing in thousands.

Today the nuclear arms race is not only speeding out of control but out of all possibility of control. One hears talk in Washington circles of casting overboard the few notable achievements of past negotiations such as not renewing the ABM treaty barring anti-ballistic missiles. Given the momentum of technological development, sooner or later there will be pressure to abolish the agreement barring weapons from outer space.

It is already late in the day but we can still interrupt and reverse the nuclear weapons process. Our generation may be the last one offered the chance to shackle the monster that could destroy us all. It is not a chance responsible men and women can neglect.●

ROD DEDEAUX RECEIVES THE 1982 ASA V. CALL ACHIEVEMENT AWARD

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. ROUSSELOT. Mr. Speaker, I am pleased to take this opportunity to bring to the attention of the House of Representatives the outstanding career and distinguished achievements of my constituent, Mr. Rod Dedeaux, who will soon receive the 1982 Asa V. Call Achievement Award. Mr. Dedeaux will be the second coach to win this coveted honor since the award was first presented.

Mr. Dedeaux, who is starting his 41st year as a University of Southern California baseball coach, is without a doubt the Nation's premier baseball collegiate coach. During his distinguished career Mr. Dedeaux has compiled an outstanding record of 1,188 wins, 1,415 losses, and 10 ties. His teams have won no less than 11 NCAA championships and 28 conference championships.

Perhaps the best testimonial to the brilliance of Mr. Dedeaux's coaching is the outstanding careers of the generation of players who were trained and enriched by his coaching. More than 50 of his players have gone on to major league baseball teams: Tom Seaver, Roy Smalley, Dave Kingman, Fred Lynn, Steve Kemp, Bill Lee, and Rich Dauer are but a few of the many players who because of Coach Dedeaux's training have made valuable contributions to their sport.

In recognition of these and other contributions to the sport of baseball, Mr. Dedeaux has received the Coach of the Year Award by the College Baseball Coaches Association no less than six times. He is the only man to receive this honor 3 years in a row, in 1970, 1971, and 1972. In addition, Mr. Dedeaux is a two-time recipient of the Sporting News Coach of the Year Award, and in 1970 earned the coveted honor of being included in the American Association of College Baseball Coaches Hall of Fame.

Rod Dedeaux has also found time during this distinguished coaching career to become a highly successful businessman. He began with his father and $500. That grew into the multimillion-dollar companies of Dart Services, Dart Equipment Corp., and Dart Private and Public Warehouse, Inc., all of which he heads.

Rod Dedeaux, who lives in Glendale with his wife Helen and his four children Justin, Michele, Dennis, and Terry, takes an active interest in the community, is a University of Southern California associate, and an active member of the Los Angeles Rotary Club No. 5.

Rod Dedeaux's great achievement in his coaching and business careers surely deserve the full recognition of the House. I believe that I can speak for the full House in congratulating Mr. Dedeaux for his well deserved award, and wishing him the best of luck in the future.●

NO WINNERS IN NUCLEAR WAR

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. EDGAR. Mr. Speaker, John Milton, a commissioner of Loudoun County, Va., has joined thousands of people throughout the Nation in speaking out against the buildup of nuclear weapons. His leadership led to the unanimous passage of a local resolution calling for the proposition that the United States and the Soviet Union should immediately begin the process of negotiating a freeze on nuclear weapons production, along with mutually agreed upon procedures for verification. Everyone is getting the message. There are no winners in nuclear war. I congratulate Mr. Milton for taking the lead on this issue and I share his resolution for our careful consideration.

The resolution follows:

RESOLUTION

Whereas the threat of nuclear war is becoming a matter of increasing concern worldwide, and

Whereas there will be no winners, only losers should nuclear war come to pass, and

Whereas the very survival of life as we know it depends on the avoidance of a nuclear war, and

Whereas nearly 60,000 Loudoun Countians live from day to day in the virtual certainty that few if any of them would survive a nuclear attack aimed at Washington, D.C., and

Whereas Loudoun Countians thereby have a vested right, if not a moral obligation, to participate in the national dialogue over this issue which affects them directly: Now, therefore, be it

Resolved, That the Loudoun County, Virginia, Board of Supervisors unanimously supports the proposition that the United States and the Soviet Union should immediately begin the process of negotiating a freeze on nuclear weapons productions, along with mutually agreed upon procedures for verification, and be it further

Resolved, That copies of this Resolution be sent to President Reagan, Congressman Frank Wolf, and Senators Harry F. Byrd, Jr. and John Warner with the urgent request that they give the matter their utmost attention.●

OPPOSING DISABLED VETS CUTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. FRANK. Mr. Speaker, I recently was privileged to receive from Adj. Michael Sicilia and Comdr. James Cooper, the William S. Greene Chapter of the Disabled American Veterans in Fall River, Mass., a very thoughtfully worded resolution opposing the Reagan administration's proposals to make cuts in the program of assistance to service-connected disabled veterans.

There are many places in which we can reduce unnecessary Federal spending and I hope we will proceed to that this year. But it would be a grave error for us to reduce the benefits that go to service-connected disabled veterans. We as a nation, owe these people an enormous debt which we can never fully repay. To cut back on the funds that go to provide needed assistance to them is unworthy of a nation that remembers its debts to those who fought on its behalf, and who incurred injury in the course of that defense.

I hope my colleagues will join me in rejecting the administration's proposal that we make cuts in this important program and I urge them to read the resolution of the Disabled American Veterans making clear how damaging such cuts would be to many deserving people.

OPPOSING THE ELIMINATION OF VA DEPENDENCY ALLOWANCES FOR SERVICE-CONNECTED VETERANS RATED 30 PERCENT AND 40 PERCENT DISABLED AND THE TERMINATION OF THE SUBSISTENCE ALLOWANCE FOR DEPENDENTS OF ALL SERVICE-CONNECTED DISABLED VETERANS UNDER THE VA'S VOCATIONAL REHABILITATION PROGRAM

Whereas, in 1978 the Congress passed and the President approved legislation embodied in Public Law 95-479 authorizing the payment of dependency allowances on a prorated basis to service-connected veterans rated 30 percent and 40 percent disabled; and

Whereas, the payment of increased subsistence allowances for dependents to veterans training under VA Vocational Rehabilitation has been a part of the program since the enactment of Public Law 16 of the 78th Congress; and

Whereas, the current Administration has proposed, as part of its Fiscal Year 1983 budget request, to eliminate these benefits; and

Whereas, the enactment of such legislation could result in the monetary loss in benefits currently provided to some 320,000 veterans under the Compensation Program and a significant number of veterans enrolled in Vocational Rehabilitation, for example:

A service-connected below the knee amputee who has a spouse and two children would lose $732 in annual compensation payments, further,

A service-connected veteran with a spouse and two children who suffers the anatomical loss of one eye and who is training under the Vocational Rehabilitation Program will lose $220 or 30 percent in overall monthly VA benefits; now therefore, be it

Resolved, That the Disabled American Veterans strongly opposes the enactment of legislation which seeks to eliminate the payment of VA dependency allowances or increased subsistence payments based upon dependency to any category of service-connected disabled veteran under any VA program.●

KILL THE CONGRESSIONAL TAX RIPOFF

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WALGREN. Mr. Speaker, tomorrow I shall join many colleagues in the House in signing the discharge petition on H.R. 5321, a bill to repeal the special tax benefits provided to Congressmen in the late hours of the last session of the Congress.

I recognize that a discharge petition is a highly unusual procedure, but the extraordinary manner in which this outrageous tax break was legislated by Congress and implemented by the Internal Revenue Service requires extraordinary measures.

There is every indication that the Ways and Means Committee, already engaged in a lengthy debate on the President's budget proposals, cannot or will not consider the repeal legislation in the near future. The public is entitled to have a full, open debate on such "special interest" legislation and a clear recorded vote on how Members of Congress stand on this issue.

Over 130 Congressmen have joined in cosponsoring legislation to repeal the tax break. But cosponsoring all the bills in the world will not bring this issue to the floor for a vote. The discharge petition will. I want to urge each of my colleagues to sign this petition. Even if a Member supports the tax break, no Member can seriously argue that the last minute effort to add this nongermane Senate language to a House bill on black lung benefits was an open, honest way to legislate such an important issue.

Because of the unfairness of this tax deduction, I have pledged not to use or take advantage of what the Congress did. I will file my tax return just as I did last year—as if this special deduction simply did not exist.

I share the anger expressed by many citizens over this abuse. I believe we must do everything possible to assure the people we represent that we respect their trust and make sure that no one could fairly criticize us for taking advantage of public office. That is why I will refuse the tax break just as I refused the congressional pay raise. Very simply, Congressmen should not cash in on their public office or receive any special treatment.

Twenty-four hours after this session of Congress began, I joined in introducing legislation to repeal the tax break. I also wrote to the Internal Revenue Service urging them to revoke the outrageous regulations implementing the tax break. A quick repeal of the tax break will signal to all Americans that we do not believe in special treatment for Congressmen.

On April 15, millions of overtaxed Americans will file their income tax returns. That will be a day of infamy if certain Members of this House of Representatives claim a duduction not available to all citizens. I urge each of my colleagues to join me in killing the congressional tax ripoff.●

CEA GOLD REPORT A DISAPPOINTMENT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. KEMP. Mr. Speaker, the recent economic report of the President's economic advisers this year included, for the first time, a section on gold.

Roy W. Jastram, professor of business administration at the University of Southern California, is probably the Nation's foremost authority on the history of prices. In an article in the Wall Street Journal of March 16, Professor Jastram observes that—

> A respectable case can be made for or against a return to a gold standard. This is not the point at issue here. What cannot be condoned are faulty statistics and erroneous reasoning therefrom. This becomes especially alarming when it occurs in an official document with the national and international influence of the report of the Council of Economic Advisers to the President.

Professor Jastram analyzes the gold section of the CEA report and concludes that it "is shot full of errors of statistical reference and reasoning. It is shoddy work. * * *"

I agree that it is in the interest of both sides of the debate over whether we should restore the gold convertibility of the dollar, which was suspended in 1971, to argue from the basis of competently gathered facts. Unfortunately, by this measure, the CEA report's section on gold is a grave disappointment.

The article follows:

CEA's SECTION ON GOLD DISPLAYS SHODDY WORK

(By Roy W. Jastram)

The President's Council of Economic Advisers each year issues a report replete with facts and figures for the President's use and that of his other advisers. This year, surprisingly and for the first time, a section on the gold standard has been included, preempting the report of the Gold Commission due March 31.

This section of the CEA report, pages 69-74, is shot full of errors of statistical reference and reasoning. It is shoddy work, and must be examined because it is an influential public document. I will give only a sample of the errors.

To begin, the basic flaw is the use of the outmoded price-index numbers of Jevons-Sauerbeck. Far superior index numbers have become available in the last 50 years and methodology has been vastly improved. The whole section leads one to believe that nothing worthy of notice on the subject of the gold standard and price stability has been published since the 1930s.

Here is an example of the report's use of obsolete information. It states that "Much of the claimed price-level stability achieved under previous gold standards is based on Gustav Cassel's observation that 'The general level of prices in 1910 was practically the same as in 1850.'" Cassel made this observation in 1930. So much research has been done since 1930 that I doubt Cassel's one statement is ever referred to today to support anyone's claims. To cite just one volume, the famous "A Monetary History of the United States," by Milton Friedman and Anna Schwartz, was published in 1963 and has extensive discussion of the subject.

Moreover, public record of the Gold Commission, meeting in open session since September 1981, contains considerable evidence of price stability.

The chief contention of the entire gold standard section in the CEA report is that the gold standard did not achieve greater stability in price levels. To the contrary, Anna Schwartz, director of the current U.S. Gold Commission, said last month in a statement before a conference in Rome organized by Nomisma (the research arm of the Banca Nazionale del Lavaro), "Thus the price level tended to revert toward a long-run stable value under the gold standard, providing a degree of predictability with respect to the value of money."

Next is an example of the CEA report's vague conclusions drawn from imprecise data. Making use of the outmoded Jevons-Sauerbeck wholesale price index, the author breezily states that "the index shows large and extremely long swings in price history lasting up to 30 years. Increases and decreases were on the order of 30 percent to 50 percent." But the years when this occurred are not given.

My own wholesale price index in "The Golden Constant" (1977) shows that under the gold standard, the biggest decline was between 1879 and 1897, to the extent of 24.5 percent. The largest rise was by 46.3 percent between 1897 and 1914. These were far out of line with any other such swings in our gold-standard history. Even so, the extraordinary rise in prices was at an average annual compound rate of 2.6 percent—enviable from the perspective of today. Some part of this rise has to be considered as a return to "normal" after the unprecedented drop into the severe depression of 1897.

Here is an example of the CEA report's comparison of incomparable data. The author compares the period 1879-1913 (gold-standard years) with the period 1945-1980 (perceived by him as non-gold-standard years). He compares fluctuations in real per-capita income, average lengths of recessions and average unemployment rates. All comparisons favor the latter period of 1945-1980.

This is a fallacious comparison, because between the two periods two structural shifts occurred in American society of a magnitude that created a watershed in our economic history. One was unionization and the other the great social-support programs inaugurated by the New Deal. It was a different economic world before 1914 and after 1945. To attribute all the differences to the presence or absence of a gold standard is simplistic indeed.

A final point. On page 71 the author uses a table citing percentage changes in the price level from 1814 to 1849 and from 1849 to 1872 in an attempt to refute price-level stability under the gold standard. The United States was not on the gold standard in 1814 or in 1872 (the latter years is in the "greenback" period). On the same table, the report goes on to compare 1814 with 1913, which further compounds the error, since the gold standard did not begin until 20 years later, in 1834. These are simply outright mistakes and not matters of judgment. The inescapable conclusion is that the author doesn't know when we had a gold standard and when we didn't.

A respectable case can be made for or against a return to a gold standard. This is not the point at issue here. What cannot be condoned are faulty statistics and erroneous reasoning therefrom. This becomes especially alarming when it occurs in an official document with the national and international influence of the Report of the Council of Economic Advisers to the President.●

THE IRS STRIKES

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, I have been outraged by the overzealous and heavy-handed tactics adopted by the Internal Revenue Service in their tax collection practices. For a number of years I have been receiving mail from across the Nation from honest taxpaying citizens complaining of undue harassment by this agency.

This public outcry has prompted the introduction of H.R. 4931, the Taxpayer Protection Act (TPA). Very simply, my legislation requires the IRS to operate within the law and respect the fundamental constitutional rights of the taxpayer.

This long-awaited relief is needed to restore integrity to our tax collection system and to rebuild the public's confidence in its elected officials.

The abuse of citizens has been documented in all walks of life from Congressmen to doctors, farmers, attorneys, accountants, waitresses, industrial workers, and so forth. Today, as an example, I submit a letter from a mayor of a Southern city telling of his story of harassment.

Dear Sir: I read with much interest the attached news article about giving needed relief in cases of proven harassment by the Internal Revenue Service. After viewing the national T.V. program "60 Minutes" on November 16, 1981, I realized Congress certainly needs to check into our I.R.S. System.

Without any previous notice or contact from the I.R.S., I had two special agents from the Criminal Division of this agency come into my office and read me my rights. They proceeded to question me as a criminal because of a previous association in land sales with a partner who did not file a tax return.

I have always filed my tax returns on what I consider to be a fair and legal basis. Never until this day have I been contacted by the Civil Division of the I.R.S. requesting financial information or an audit to see if I have paid the proper amount of tax. Although there is no evidence that I have ever defrauded the government, these so-called special agents from the I.R.S. in [name of city withheld], have all but "drummed me from office" and ruined me and my family. Consequently, I have had little recourse but to sit back and observe this total injustice.

I did immediately contact my local accountant and attorney. They admitted as to never seeing this approach from the I.R.S. and stated that it would be advisable if I sought help from expert tax attorneys in [name of city withheld]. This legal advice has already cost me $5,000 and could run as high as $25,000 before the Criminal Division decides if it has a case or not. My attorney has advised me to have no contact with these special agents, because anything that I might say could be used against me. He explained that there are now 26 special agents operating in [name of State withheld] alone trying to originate criminal cases to justify the existence of their jobs.

After serving my country in combat during World War II and my community as Mayor for 20 years, with a record that speaks for itself, I have to sit back and wait while these special agents use their unethical tactics.

They have been to all local banks and business associates with whom I have had any dealings and dropped libelous hints to the local newspaper. In this small city of 14,000 people, these special agents have insinuated to local citizens that as their Mayor, I have acted as a criminal with no regard for mine or my family's reputation. A man can be ruined by such malicious insinuation regardless of the eventual outcome.

I would have gladly secured any and all records if I had been approached in a regular manner for audit from the Civil Division of the I.R.S. If they had found evidence of fraud it could have then been turned over to the Criminal Division or whatever. This method of investigation is totally Un-American and obviously violates rights guaranteed every citizen under the United States Constitution. Congress needs to research this problem immediately, for this is the only governing body a private citizen can look to for protection.●

TIME TO PIPE COAL

HON. RICHARD SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. SHELBY. Mr. Speaker, all of us here in Congress know there are no instant solutions to the Nation's energy problems. Even under the best of circumstances, it will take many years to overcome the constant threat that is posed to national security and to economic stability by continued reliance on foreign oil.

It is, therefore, imperative that this Nation continue to pursue those courses of action designed to reduce dependence on imported oil. This country, and particularly the State of Alabama has coal in abundance beneath its own soil which can make a significant contribution toward this objective.

We also have the industry in place and the resource of people needed and ready to mine that coal. I believe that we can seriously study this energy alternative while balancing the goals of energy independence and public health standards.

The House will soon be considering legislation which will provide Federal eminent domain for coal slurry pipelines to be constructed. The February 17 edition of the Birmingham Post-Herald contained an editorial entitled "Time to Pipe Coal," which I would like to call to the attention of my colleagues:

Time to Pipe Coal

More than half the electricity used by Americans is generated from coal. The cost of moving coal from mine to powerplant is a major factor in the "light" bills millions receive every month.

That cost is higher than it needs to be. But for 20 years, the railroads—which carry 65 percent of all the coal mined in the country—have been blocking the only feasible alternative to the large-scale transport of coal between inland states.

The alternative is to pulverize coal, mix it with water or some other liquid and send the resulting slurry through pipelines.

The only operating coal slurry pipeline pumps 4.8 million tons of coal a year from Arizona to Nevada at a cost less than half what it would be if shipped by rail.

There could be more such pipelines, but the railroads won't let them cross their tracks.

Bills in both Houses of Congress would grant coal slurry pipelines the right of eminent domain, similar to that granted oil and gas pipelines during World War II (also over rail industry opposition).

Yet for some curious reason, the Reagan administration has taken the position that this would be an unwarranted federal intrusion into a matter better left to the states.

We say it's curious, because coal pipelines clearly involve interstate commerce and it was the federal government which granted railroads their rights-of-way back in the 19th century.

The railroads have tried to justify their opposition by pointing out that many Western states are already short of water.

This is a smokescreen. Not only can slurry be made with oil or methanol, but the latest development is to put powdered coal in capsules and propel them with air pressure.

Coal slurry pipelines could introduce some much-needed competition into the business of transporting coal and lower prices for consumers. Congress should pass the legislation giving them the chance.●

FINANCING A COLLEGE EDUCATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. CLINGER. Mr. Speaker, with the prospect that Federal aid to higher education may be significantly reduced, many Americans fear that they may have difficulty financing their educations. The cost of going to school is shocking—a 4-year degree from a first-rate institution costs well over $30,000, and graduate studies are even more expensive. Clearly, a substantial number of individuals and families will have to turn to alternative methods of financing, or abandon their hopes for a college education.

Fortunately, alternative financing in the form of grants and scholarships is offered by numerous foundations and private organizations. The availability of these funds is limited and competition for them is strong, but a resourceful and persistent individual has an excellent chance of obtaining help from sources besides the Federal Government. The following article, which appeared in the Washington Post recently, contains information that may be valuable to students seeking financial aid. I am pleased to have the opportunity to include it in the Record for my colleagues' consideration:

[From the Washington Post, Mar. 19, 1982]

Money: On the College Loan Track

(By Karen Leggett)

"Most students require financial aid to graduate from college," says Alexandria financial-aid expert Robert Leider. "To understand financial aid, one must be a college graduate."

That paradox, admits Leider, author of the popular college-money guide, "Don't Miss Out," is making financial-aid consultants as common-place as income-tax specialists. But he and others claim that the search for college funds can be manageable—and profitable—in spite of proposed cuts in federal aid.

Here is a summary of reminders and places to start:

GO NOW, PAY LATER

Federally guaranteed loans are still just about the only way to go to school without paying until graduation. For the first time, as is generally known, students in families earning more than $30,000 a year will have to prove they need the loan. Under current regulations, a family with one child and two parents, an annual adjusted gross income of $36,000 and net worth of $40,000, would be expected to contribute $5,000 to the student's education. If the costs of attending a particular college are more, the student could be eligible for a Guaranteed Student Loan.

The adjusted gross income figure on federal tax returns (a $2,000-$4,000 Individual Retirement Account started before April 15, for example) might bring a family's adjusted gross income below the $30,000 limit, making a Guaranteed Student Loan possible.

The Student Loan Marketing Association (Sallie Mae) has a new loan consolidation program which essentially allows students to combine or refinance outstanding college loans to allow longer repayment periods.

For students eligible for Guaranteed Student Loans, but unable to find a local bank willing to make the loan, United Student Aid (USA) Funds may be of help. This private, nonprofit corporation based in Indianapolis (800-428-9250) guaranteed $546 million worth of students loans in 1980. USA Funds also finance Guaranteed Student Loans for the children of member corporations or associations, including General Electric, Air Force Aid, Navy Relief Societies and and Mobil Oil.

PAY AS YOU GO

Starting this year, USA Funds also will finance the PLUS program: Parent Loans for University Students, available locally at Industrial National Bank, the National Bank of Washington and the Navy Federal Credit Union. Banks in both Maryland and Virginia are expected to offer PLUS loans in time for the coming school year. These loans are made to credit worthy parents at 14 percent interest, with 5-10 year repayment periods beginning 60 days after the loan is taken out.

This "pay-as-you-go category" is giving rise to the greatest diversity and innovation, because it's aimed at the mass of middle-income families being squeezed out of federal lending programs. Independent colleges are beginning to develop their own installment or guaranteed cost plans.

Says Ken Kohl, financial aid director at Georgetown University and coauthor of Financing College Education (Harper & Row, $5.95) with his wife Irene: "Until recently, colleges have been unwilling to commit their own funds to finance students' education * * * and have generally relied on outside plans."

Illinois and Massachusetts are issuing tax-exempt revenue bonds to provide lending funds to private colleges. A similar proposal is before the Maryland legislature and loans may be available by fall.

Among private foundations which make educational loans:

Pickett-Hatcher—Lends to students from southeastern states, including Virginia. A 100 percent increase in loan applications has depleted funds for the 1982-83 school year, although those already receiving Pickett-Hatcher loans may reapply. Applications for the following year should be submitted as soon as possible after Oct. 1.

Hattie M. Strong Foundation in D.C.—Makes about 200 no-interest loans every year to American citizens who are within one year of a degree (graduate or undergraduate). Not strictly for low-income students, but very competitive.

Private tuition assistance plans, the experts agree, must be analyzed as carefully as any investment strategy. Some options:

A brand-new Tuition Reserve and Deposit Plan open to anyone in the country requires a regular passbook savings account at Citizens Bank in Georgia, and then makes loans of 2-3½ times the amount of the savings account at 1 percent interest per month.

The Knight Agency's New Insured Tuition Payment Plan out of Boston does not require a savings account, but monthly payments are higher ($475 a month for a four-year, $5,000-year loan).

Riggs National Bank offers college loans at 13 percent interest, although the rate is expected to rise by the end of the month.

Another possibility is establishing a credit line on which checks are written directly to the college, with interest charged if and when the checks are written (a good back-up source for emergencies, says Kohl).

Schoolchex are available nationwide from Irving Trust in New York, Girard Bank in Philadelphia has narrowed its Educhek program to Pennsylvania and Delaware and a few participating colleges (in this area, Marymount College, Washington & Jefferson, Georgetown, George Washington, George Washington Medical Center).

JUST GO

While fewer than a third of the nation's colleges and universities offered academic scholarships four years ago, says consultant Leider, almost half do now.

Some schools are willing to match other private scholarships a student has been awarded. "The idea being," says Leider, "that any student who is enough of a hustler to find a scholarship will not only make a good student, but . . . and this is even more important . . . a good alumnus one day and feed money back."

It may be worth spending an afternoon "hustling" at the Foundation Center at 1001 Connecticut Ave. NW. The 1982 edition of Foundation Grants to Individuals lists 150 foundations which provide scholarships to everyone from fourth-generation Americans of Anglo-Saxon heritage to art students at colleges with Delta Phi Delta chapters to someone with the name "Downer."

Many financial aid counselors throw up their hands at the proliferation of computerized scholarship searches. One of the best known, Scholarship Search in New York, is now being investigated for consumer fraud.

But Washington financial aid consultant Ed Klein says, " I can't prove it, but my personal thought is that the student who is persistent will get a scholarship from 25 sources if the sources are reasonably good."

He recommends finding out if the search service includes need and non-need-based aid loans and scholarships and offers guarantees or refunds. Also, determine the cost per source. "If you pay $25 and get five scholarship possibilities," says Klein, "you're paying $5 per source and that's high." He advises a $2-$3 range.

Montgomery College financial aid director Herm Davis, who provides a computer search and counseling service in Gaithersburg—$40 for a minimum of 25 sources—says that special scholarships may not go to the most qualified students because the progams are not widely advertised. He suggests checking any organization with which students or parents are affiliated. Some examples:

Eagle Scouts may get automatic scholarships at some southern schools seeking "good citizens." The National Guard offers $1,000-a-year scholarships with much less rigorous service requirements than ROTC. The Daughters of the Cincinnati (members are all descendants of revolutionary war officers) provides up to $1,500 a year to high school seniors who are daughters of commissioned officers (current, retired or deceased) in any branch of the service. (Last year, more than 100 students applied for about 10 scholarships; this year's deadline is April 15.)

Another possibility is putting off college temporarily and taking advantage of corporate-paid tuition plans. (Half of the midsize and large corporations pay tuition for employes.)

Another option: a cooperative education program in which a student's time is divided between the classroom and a paying job. (More than 1,000 four-year colleges—about one-third of the country's colleges—offer co-op education programs with businesses in career-related fields.) A clearinghouse is the National Commission for Cooperative Education in Boston.

One final point mentioned repeatedly by financial aid counselors: Fill in every blank on every form and pay attention to deadlines.

"They always have a good excuse," laughs Ken Kohl, "'I was in Europe' . . . 'I broke my leg' . . . 'my parents forgot.' The student is responsible for the student's situation and they have to see the deadlines are met by whomever else is involved."

Getting financial aid is becoming even more competitive than getting into college in the first place. Counselors stress starting early, with both parents and students committed to finding the right college and the best way to pay for it.

"You can't just say 'I can't,' " says Irene Kohl, "because you can."●

IN MEMORY OF WALT YONKER

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, it is my sad duty to report to my colleagues that Walter Yonker of Seattle, a leader in our Nation's fishing industry, passed away suddenly on March 14. His loss will be deeply felt.

Walt was born in 1917 in North Dakota. After receiving his degree at the University of Washington, he began his 35 years of service to the U.S. fishing industry as a seafood inspector for the National Canners Association in 1947. After many good years with the association, he retired in 1981, but continued in his position as executive vice president of the Pacific Seafood Processors Association, a job he had held since 1967. He had planned to retire at the end of this year.

Walt was in the forefront of the many changes that the U.S. fishing industry has undergone in the years since World War II. He had served on the U.S. delegation to the Conference on the Law of the Sea; was an adviser to the Food and Agriculture Organization; and a member of the Ocean Affairs Advisory Committee of the U.S. State Department. He received numerous awards and honors for his dedication to the seafood industry and the oceans community.

During Walt's time, the U.S. fishing industry went through many changes, expanding from a small, localized industry to one that is significant to our national economy. Walt worked hard with his colleagues in the industry and the Congress to obtain passage of the Fishery Conservation and Management Act which has enabled our industry to expand and has introduced sound conservation and management measures to the waters off our shores. He and I worked together to establish a rational scheme to regulate seafood processing waste. At the time of his death, he was once more fighting for survival of the salmon industry in the face of problems that had arisen with canned salmon.

While I am sure that others will step forward to continue Walt's work, none will ever be able to fully replace him. Our Nation has lost a good man.●

BISHOP JAMES ARMSTRONG

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DANIEL B. CRANE. Mr. Speaker, the National Council of Churches is undoubtedly one of the most well-known and effective voices for liberal social programs in the country. Therefore, it is of interest to me, and I am sure to many of my colleagues, to know that the N.C.C. has elected Bishop James Armstrong to their presidency. Bishop Armstrong, a United Methodist, has had a career which has taken him to a wide variety of locations and allowed him to cultivate numerous friendships in the cause of the liberal social gospel.

In recognition of Bishop Armstrong's elevation to the N.C.C. presidency, I call my colleagues' attention to the following article, reprinted from the November 25, 1981, issue of the Review of the News.

PROFILE

Bishop James Armstrong, the newly elected president of the National Council of Churches, is an appropriate choice to head an organization which has lobbied over three decades for a variety of Leftwing causes. Time magazine, reporting on Bishop Armstrong's elevation, correctly observed that "for years the N.C.C. has appeared to be little more than the Americans for Democratic Action at prayer, parroting a liberal political line." That appearance certainly will not be altered by a new president who has been actively involved in the antiwar, racial activism, and pro-abortion movements.

In his maiden speech to N.C.C. officials meeting in Cleveland, Bishop Armstrong said that churches must "unashamedly identify with the poor and hungry" but must avoid a "doctrinaire approach" that might align them too closely with the political Left or Right. He said that "the church does not belong in the pocket of either Adam Smith or Karl Marx. It belongs to Jesus Christ and must be free to bring the judgments of God to bear upon every political and economic system." In the same speech, the 57-year-old United Methodist prelate was also critical of the "resurgence" of racism and "zealous nationalism" in the United States and declared that "the current nuclear arms race is suicidal madness."

James Armstrong was born in Marion, Indiana, on September 17, 1924. After serving with the U.S. Navy during World War II, Armstrong earned degrees from Florida Southern College and the Candler School of Theology, was ordained to the ministry in 1952, and held pastorates in Jacksonville and Vero Beach, Florida. He was pastor of Broadway Church in Indianapolis from 1958 to 1968, Bishop of the Dakotas from 1968 to 1980, and is currently the spiritual leader of 325,000 Methodists in Indiana. Bishop Armstrong is married to the former Phyllis Jeanne Schaeffer and they have five children.

Although he was active in the racial movement in Indianapolis during the Sixties, Bishop Armstrong really jumped on the "Liberal" bandwagon after he arrived in South Dakota. He went to South Vietnam in 1969 and was a contributor the following year to a Vietnik volume entitled "War Crimes And The American Conscience." He became a close friend of radical U.S. Senator George McGovern and headed the National Committee of Religious Leaders for McGovern in 1972.

When the Communist-backed revolutionaries of the American Indian Movement seized hostages at Wounded Knee in 1973 in an attempt to gain control of the Oglala Sioux reservation in South Dakota, Bishop Armstrong, representing the National Council of Churches, sided with the A.I.M. terrorists instead of with the law-abiding Indian leaders.

In 1974, Armstrong traveled to Washington to urge the Senate Judiciary Subcommittee on Constitutional Amendments to block any effort to halt the slaughter of millions of unborn babies in the abortion chambers of America. Speaking on behalf of the Religious Coalition for Abortion Rights, a group for whom the divine admonition "Thou shalt not kill" has no meaning, Armstrong said: "Ours is a pluralistic society. Any attempt to write one particular religious viewpoint into law seems a violation of the liberty guaranteed by the Bill of Rights."

Unfortunately, no Senator asked Bishop Armstrong if he favored wiping off the books laws against murder, rape, and theft since these too represented "one particular religious viewpoint" and might therefore be construed as "a violation of the liberty guaranteed by the Bill of Rights." Never mind that the same Bishop Armstrong who favors the death penalty for an innocent unborn child opposes the death penalty for convicted murderers. Indeed, he stood vigil at the Utah State Prison to protest the execution of Gary Gilmore in 1977.

After returning to Indiana in September of 1980, James Armstrong joined two dozen "Liberal" clergymen in attacking the Moral Majority "for its moral and spiritual arrogance and its distortion of the Gospel." It's all right, you see, for "Liberal" clergymen to crusade for abortion and disarmament and homosexual rights, but when Conservative clergymen take an opposite position it becomes "moral and spiritual arrogance."

The election of 1980 was traumatic for the United Methodist prelate because "three personal friends went down to defeat"—Senator Birch Bayh, Congressman John Brademas of Indiana, and Senator George McGovern. Writing in the Christian Century in December, Armstrong quoted the radical Brademas as having told him: "Politicians can't take on the religious extremists as effectively as the church can. It's up to people like you . . . or the nuts will take over."

In the same article, Bishop Armstrong said that "a resurgence of McCarthyism and an 'America First' mentality is not Christian. Trying to win the arms race (which military experts say is unwinnable) is not Christian. Implying that equal rights for women will destroy the American family is not Christian. Nor is the dehumanization of the expectant mother and the homosexual."

For the next three years, we can expect to hear more of this "Liberal" chat from N.C.C. president James Armstrong. We are confident, however, that the American people will reject it just as convincingly as they rejected three of Bishop Armstrong's friends in November 1980.—J.J.D.●

CHRISTIAN C. HAEBERLE CELEBRATES 50 YEARS OF VOLUNTEER FIREFIGHTING

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HOLLENBECK. Mr. Speaker, on April 2, the Leonia, N.J., Volunteer Fire Department is bestowing well-deserved recognition on one of its members, former Chief Christian C. Haeberle. Mr. Haeberle is in his 50th consecutive year of active service as a volunteer firefighter for his community. He has maintained a 70-percent participation record in this half century of commitment to the public welfare.

Though the longevity of his service is noteworthy in itself, Mr. Haeberle is honored by the citizens of Leonia, as well, for the distinction with which he has performed. The success or failure of volunteerism is determined by the degree of concern that people have for one another. In this community, residents are comfortable in the knowledge that Christian Haeberle and the dedicated volunteer fire department are prepared to respond to emergency situations and to share their skills and special training with others in a town where people do care for other people.

I am proud to offer Mr. Haeberle my congratulations, my commendations for a job well done, and my very best wishes for continued success in his endeavors in the community interest.●

MILWAUKEE PUBLIC MUSEUM CELEBRATES ITS CENTENNIAL

HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. REUSS. Mr. Speaker, on March 31, 1882, the Wisconsin State Legislature enacted legislation that created the Milwaukee Public Museum. Since that time, the Milwaukee Public Museum has become internationally known for its innovative exhibition techniques and scientific studies. I would like to share with my colleagues the story of the museum as it celebrates its centennial.

Unlike many museums which started from private collections, the Milwaukee Public Museum's collections had been assembled for instructional purposes and public display.

Peter Engelmann, a German immigrant and educator, believed strongly in learning from nature. With help from his students, Engelmann gathered natural history specimens for use at the German English Academy he helped to establish in Milwaukee. In 1857, Engelmann as a cofounder of the Milwaukee Natural History Society which assumed the task of augmenting and managing the collections at the German English Academy. By 1882, nearly 20,000 natural objects and artifacts were crowded into 2,000 square feet of space on the third floor of the academy and exceeded the ability of the society to maintain them properly.

This led the society to offer the collection to the city of Milwaukee providing it establish a public museum. The necessary legislation was enacted by the State legislature on March 31, 1882. A board of trustees, appointed under the Wisconsin charter, held its first meeting in February 1883. The board studied thoroughly the latest developments in other museums to provide proper exhibition of the collection. By the end of 1884 the collection was installed in 7,000 square feet of space rented in the Milwaukee Exposition Building. A staff of two was hired, and the museum opened to the public.

In 1887 the Nation's first museum outreach program was established in Milwaukee as the museum began the instruction of school classes. By 1912, a separate department of public instruction was in operation to loan specimens, slides, and to coordinate lectures to school groups. Such service remains an important function today as the museum's education division which annually handles classes comprising more than 17,000 children. In addition, the division is responsible for special tours, lectures, and programs which cater to pre-schoolchildren, the general public, the handicapped, the elderly and other special interest groups. The division oversees a circulating collection of 16,000 films, 3,500 multimedia items and 1,100 small exhibits.

In 1890 the Milwaukee public museum was the first in the country to construct a total habitat group by depicting a muskrat colony in a realistic setting. Habitat groups are now so familiar to the museum visitor that we tend to forget that this first, detailed example set up by Carl Akeley, was a revolutionary departure from museum exhibits not only of its day but for many years to come.

In the 1900's, the museum began to assemble excellent collections of materials from native North American tribes. Its collections today represent cultures around the world.

In the 1960's the construction of the new building allowed the museum to develop other innovative exhibitions. The use of the "diorama" was expanded as a major exhibition method in theme presentations unique anywhere in the museum world. Exhibit areas often include atmospheric simulations through changes in flooring and walls, audio supplements, and participatory opportunities.

Among its most popular exhibits are the Streets of Old Milwaukee, the European Village—which depicts 33 ethnic cultures in the Old World—and the Urban Habitat—which depicts man's relationship to his environment through history from prehistoric rock shelter to modern skyscraper. Presently the museum is constructing a major new exhibit to be called the Third Planet—Earth, to open in the fall of 1983 as part of the centennial observance.

In addition, the museum has conducted foreign fieldwork that has been recognized by the National Geographic Society and the National Science Foundation, published scientific and general interest publications, and provided educational programing and special events to augment its unique exhibits.

Mr. Speaker, excellence and dedication has made the Milwaukee Public Museum a cultural landmark of which all citizens in the United States can be proud. During this month, in which we celebrate the museum's creation 100 years ago, I congratulate the Milwaukee Public Museum and all the people who have contributed to its greatness.●

INTERNATIONAL COMPETITIVENESS

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. EVANS of Delaware. Mr. Speaker, Edward G. Jefferson, chairman of the board of E. I. du Pont de Nemours & Co., recently delivered a speech that touches on some of the more important economic issues facing our Nation. As Mr. Jefferson correctly points out in his remarks, the administration's economic recovery plan is basically sound; however, "some mid-course adjustments are necessary to revive an economy that too long has been running far below capacity." In order to share Mr. Jefferson's speech with my colleagues, I insert it at this point in the RECORD.

INTERNATIONAL COMPETITIVENESS

(By Edward G. Jefferson)

We are at a critical point in our nation's affairs in which we either move forward and build on the economic foundation laid by President Reagan and Congress last year, or continue the years of indulgence—of living beyond our means.

In fixing this course, we must recognize that President Reagan's plan for long-term revitalization of the nation's economy is sound. Reduced growth in federal spending, improved capital formation and recovery, lower taxes and a strong national defense capability are essential pillars on which to build our future. We must also recognize that this basic change in national direction is not made easily. The President did not get all he sought from Congress, and his program has not had time to make a substantial impact.

That said, however, the Administration and Congress are acutely aware that circumstances have changed since the middle of last year and that some mid-course adjustments are necessary to revive an economy that too long has been running far below capacity. High unemployment and lack of business liquidity have become urgent problems. The maintenance of public confidence in President Reagan's program requires early improvement in the economy. If public confidence wanes, we will have lost a prime opportunity to chart a course toward sustained economic growth and international competitive vigor.

At this point in our economic battle, I see greater risk in economic stagnation than in inflation. And so our fiscal and monetary policies must push in concert for the "high ground" of economic recovery.

What adjustments must we make? The same cooperative spirit which led to last year's far-reaching economic changes is again required. We need a bipartisan consensus on ways to moderate the size of future budget deficits.

By way of example, we should give careful consideration to proposals such as those offered by Senator Domenici to limit the indexing of entitlement programs, while seeking more permanent solutions to bring under control the rapid growth in this portion of Federal spending. The rate of increase in defense expenditures can probably be moderated, although this assessment is difficult for the layman. Remember that a strong economy is a vital part of a strong national defense.

On the revenue side, we should reevaluate the safe harbor leasing tax provisions for business. It is doubtful that they contributed as effectively to long-term economic growth as do other capital recovery provisions. In addition, a partial delay in the 1983 phase of the tax reduction plan should be considered.

The Federal Reserve has been successful in combating inflation through its monetary policy and programs. When this policy was adopted in 1979, the greatest threat to the economy was inflation. But today, the risk of economic stagnation, brought on in part by high and sharply fluctuating interest rates, is greater than the risk of renewed inflation.

Action to moderate budget deficits, coupled with today's reduced inflation, would give the Fed leeway to join with the Administration in seeking economic recovery as first priority.

Overall, I would wish that the merchants of gloom would take a vacation or lower their voices. Confidence is an essential ingredient in our programs. Ask yourself why so many in foreign lands want to invest their money right here in our country. That is surely the highest compliment that can be paid to our system and our prospects.

So, let me turn now to the world's competitive marketplace where the U.S. is increasingly challenged. More than one-quarter of the cars sold in this country are foreign-made. Nearly 20 percent of all apparel bought by Americans is imported. Other nations supply as much as half of "nuts and bolts" items like castings, valves and fasteners. Even in sophisticated markets such as machine tools and electronics, the U.S. is beginning to lose its market position to competition.

During the past several decades, the world industrial competitive order has undergone major transformation.

(1) As tariffs were lowered, trade increased. Today, exports of industrial nations account for about 17 percent of their collective GNP, double the percentage of 20 years ago.

(2) Multinational corporations grew in importance, making and marketing goods around the globe, contributing to economic development in their host countries, but sometimes existing uneasily with less-than-hospitable governments.

(3) The European Common Market and Japan became major economic and competitive forces . . . the Soviet Union consolidated its influence in substantial areas of the world . . . newly industrialized and resource-rich nations emerged as competitive "players" of consequence.

(4) The oil crisis of 1973-74 suddenly changed the pricing of energy. The industrial world's economic growth slowed as a substantial portion of global income was abruptly shifted to oil-producing nations and governments adjusted policies to deal with surging inflation.

(5) And in many nations, government-managed social services grew rapidly, often at the expense of the private sector.

These changes have coalesced to create a dynamic global competitive environment of which the United States is, of necessity, much more a part than we were two decades ago. On a constant dollar basis, our exports have more than tripled since 1960 and imports have risen almost as rapidly. Yet, the U.S. competitive margin in some industries has either disappeared or is shrinking. Our share of world exports of manufactured goods has dropped by a third in two decades.

In examining these problems, it is fashionable and often instructive to examine the elements of success in certain Japanese industries. It is, however, often forgotten that there are equally good examples right here at home. And from a practical standpoint, these homegrown examples can be more directly helpful. For it is difficult to transplant from Japan the methods, traditions, and disciplines of their essentially homogeneous society to our own pluralistic one.

Our computer and telecommunications industries remain in the vanguard. We lead in aerospace technology with all that this means in many fields, including national defense.

Progress in these and other industries is buttressed by exceptional science and engineering capabilities in the universities and industry, as well as by high competence in the construction and engineering crafts. The chemical industry, which I know best, is a strong international competitor. This competitive vitality has many sources. For one thing, we've had some natural advantages upon which we've capitalized. A large domestic market has enabled the industry to develop cost-effective economies of scale. Beyond this competitive foundation, however, chemical industry management has paid attention to other elements which have helped to establish its competitive health:

Historically, research and development has been supported by top management. The industry accounts for 10 percent of all research expenditures in the U.S., or close to twice its share relative to GNP.

Although chemical manufacture in classical terms many be defined as maturing, the industry has never viewed its opportunities as limited. It has steadily broadened its base by developing evolutionary, high-value product lines.

Diversifcation into new, yet related, businesses and technologies has been common. This is evident in substantial participation in electronics and businesses based on the biological sciences and other high-technology areas.

Productivity improvement and cost reduction have been pushed vigorously. Conservation programs, for instance, have cut the industry's energy consumption per unit of output by 25 percent since 1972. Physical production per man-hour has tripled over the past two decades and is twice the average level for total U.S. manufacturing.

Chemical industry investment in new plant and equipment, a key to improved productivity, has averaged between 6 and 8 percent of sales since 1970. This is roughly a third higher than the investment rate for the total manufacturing industry.

Finally, the chemical industry has worked hard both to build exports and to establish plants and offices overseas.

What can we learn from the chemical industry's experience? First, to be competitive on a world scale, an industry must fund research and development to update product lines and introduce new businesses as markets and technologies change. Second, any industry—whether it is young or maturing—must constantly work to reduce costs and must earmark a share of profits to modernize plants. And third, to compete internationally, industries must think globally, finding the right mix between exports and overseas investment.

Let me explore some of these points more closely, and I shall begin with research and development—a function which lies at the heart of the Du Pont Company strategy. This nation's scientific competence is as strong as it has ever been. There are indications, however, that U.S. industry is not as effective as in the past at *applying* scientific and engineering advances to generate new products and processes. New venture introductions dropped sharply in the 1970's. The percentage of U.S. patents issued to foreign residents has steadily increased. Aggregate research and development spending in this country declined in the last decade relative to expenditures by other industrial nations.

To support and generate innovation at Du Pont, we firmly believe that senior management must be closely involved with research and development. An awareness of the fundamental role of technology must permeate business decision making. Research must be supported by a consistent level of funding and management attention to achieve both short- and long-term objectives.

Beyond the pursuit of better products and technology, business must work with government and other elements of society to create a cohesive thrust towards strengthening our international competitiveness.

First, the United States must build on its inherent competitive strengths. We have seen in the examples of the petroleum and chemical industries some of the needed approaches. We have in this country industrial facilities of world scale and a generous array of natural resources. We have a matchless base of scientific and engineering talent and of craftsmanship, together with a heritage of individual initiative and entrepreneurial risk taking. One example from Japan should be heeded. It is found in their dedication and commitment to the future. Our task is to better employ our indigenous strengths and to fashion solutions to competitive problems that are firmly in the American mold.

Second, we can also gain from the Japanese concept of government-industry relations. Not that we want to establish an American version of MITI.[1] But government in Japan recognizes that the nation's prosperity is closely allied to the success of its private sector. The Japanese view their successful business institutions as national assets. How many of us think of the Bell Laboratories, or Du Pont's Experimental Station, or California's "Silicon Valley" or Houston's energy companies as national assets?

Corporations, of course, don't need—and are not asking for—sympathy. But a better understanding of their importance to the nation's economic and social fabric is needed. For example, it would help considerably if voters and political leaders understood that world-scale facilities and strong technological and financial resources are crucial to the international competitiveness of many industries. France and Japan are literally encouraging companies to combine so they can compete effectively on a global scale. Much of our thinking on competition, however, remains based on an analysis of domestic business.

Third, this nation must strengthen its competitiveness by adhering to certain fundamentals. Perhaps most important is the difficult road to restoring a better balance between consumption and savings and investment. Savings and investment provide the underpinning upon which productivity and competitiveness are built.

Americans typically save at about one-third the rate of the Japanese, Germans and even the British. As a consequence, the U.S. allocates 90 percent of its productive resources to consumption and only 10 percent to new plants and equipment.

In this decade, Japan and Europe still project investment rates about double those of the U.S. The American choice to invest in "today" rather than in "tomorrow" has limited productivity growth. The rate of growth in output per employee has slowed throughout the industrial world, but most nations still show faster rates of productivity growth than we do.

Fourth, people are a key factor in the competitive equation. In times that require increasing technical skills, our public schools and colleges must have strong scientific and technical curricula and the private sector must provide support and encouragement. Business can do more. We should put added emphasis on employee training and continuing education, so that the skills of our work force match the pace of technological change.

Fifth, the United States must carefully weigh its trade policies during the current rising tide of protectionist sentiment both here and abroad. The growth of trade among industrial nations in recent decades is partly a result of carefully structured multilateral agreements. However, many nations still engage in some forms of protectionism, with many varieties of nontariff barriers. In this period of heightened concern over U.S. competitiveness, we should be careful not construct new, shortsighted, seemingly advantageous trade policies which may place American business interests—and hence the American consumer—at a competitive disadvantage longer range. Neither should we unilaterally lower trade barriers if other nations don't reciprocate. As trade Representative William Brock has said, "Reciprocity will not become a code word for protectionism, but it will be used to state clearly our insistence on equity."

Finally, it is essential for government, business and labor leaders to adopt a "global mentality." For those of us in business and industry, it means that the proper perspective is one in which opportunities in Frankfurt and Tokyo are as important as those in Chicago and Houston. Not so very long ago, many American companies—my own included—concentrated on the U.S. market, exporting when we had excess capacity and cutting back when we didn't. The shortcomings of such a policy in today's world are obvious. Whether with a fiber, an engineering plastic or a crop protection chemical, Du Pont now designs its strategies on a worldwide basis.

In summary, American government, business and labor must face the reality that strong international competition is here to stay. The U.S. no longer has the luxury of what someone recently said was our "effortless superiority" in technology and economic strength for the twenty years following World War II. We have the resources and talents and many, many examples of success. We must put our objectives in clearer focus and muster the will for their achievement.

On the immediate economic front, we cannot afford a continuation of no growth in real economic output such as we have seen over the last three years. The fundamentals of President Reagan's program are right on target, but mid-course fiscal and monetary adjustments are needed. Delay may cost us in unacceptable levels of unemployment and in underutilized capacity.

Longer term, we must take the steps I have described. Encouraging technological innovation, building on our strengths, improving the savings and investment environment, better utilizing people, fostering equitable trade and creating a global outlook. These elements will not slip into place easily or overnight. Time and commitment and changes in attitudes are required.

Such changes are happily in prospect. Top semiconductor and computer companies are discussing the possibility of joint research. Labor leaders are proposing cost-price tradeoffs to help restore an industry's competitiveness. Political leaders are speaking out on how to compete in the international marketplace.

All of this is encouraging. Yet more than pronouncements and proposals are needed. We must be prepared to invent, innovate and experiment. We must be ready to make long-term commitments. I am confident that the United States has the talent and the resources and the toughness of mind to compete in the international marketplace. Today's challenges are testing our mettle. But if we respond with imagination and vigor, our nation and our lives will be better for it.●

PROPOSED SALE OF F-16'S TO JORDAN

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WEISS. Mr. Speaker, as a key juncture in the search for Middle East peace approaches, President Reagan continues on a course to damage our alliance with Israel by arming its enemies. Israel will soon be withdrawing from the Sinai Peninsula in accordance with the Camp David peace accord. At the same time, the President has made clear his willingness to sell F-16 Mobile Hawk fighter planes to Jordan.

Strategically, these actions place Israel in a position of weakened national security at a time when its defense posture is unsettled. Israel's loss of valuable air training space, and buffer zone as a result of the Sinai withdrawal, coupled with Jordan's acquisition of advanced fighter planes from the Soviet Union, already threatens Israeli security. The sale of American planes to Jordan would only worsen Israel's prospects for future safety.

The countries that border Israel's eastern front—Jordan, Iraq, Syria, and Saudi Arabia—possess a massive combined tank force, larger than NATO's. This presents a clear and grave danger to Israel. Yet, even with this threat, Israel's air force provides a powerful shield on which it can depend. In fact, Jordanian leaders expressed publicly after the 1973 Yom Kippur offensive that its inadequate air defense, compared to Israel's, kept them from participating in the war.

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[1] The Japanese ministry responsible for industrial and international trade policy.

Only 6 months after the United States agreed to arm Saudi Arabia with AWAC's, the Reagan administration proposes to further embolden Israel's enemies with another shortsighted arms sale. The result would be to place sophisticated weaponry in the possession of another unstable government that we cannot trust as an ally and to strike at the heart of Israel's defensive strength, its air force.

Politically, as well as strategically, the potential sale of F-16's to Jordan reflects poorly on the United States and hampers efforts to achieve Middle East peace. And, it would devastate our partnership with Israel.

The President has offered an unrealistic picture of strategic military planning to defend the proposed sale to Jordan. It serves as a reminder of last year's debate on the sale of AWAC's to Saudi Arabia, during which the administration veiled its true intentions by offering senseless explanations of how the sale would benefit U.S. interests. In fact, there was no justifiable reason to make the AWAC's sale to Saudi Arabia and there is no justifiable reason to allow this one—F-16's to Jordan—either.

During his campaign for the presidency, candidate Reagan pledged to re-establish the United States image as a reliable ally. Yet, he has failed to carry out his promise to our strongest and most dependable Middle Eastern ally, Israel. By supplying air support to Saudi Arabia and by delaying the shipment of E-15 and E-16 fighter planes to Israel, he has twice broken written agreements with Israel within 6 months.

By working with Israel, past administrations have encouraged constructive interdependence between Middle Eastern nations. In 1978 the basis for lasting peace was established when Israel and Egypt, with American encouragement, signed the Camp David accord. However, because of the AWAC's sale, the death of Egypt's President Sadat and the Reagan administration's current policies, stability in the Middle East is less certain than ever. We in Congress must demand that the administration not abandon our most consistent ally in that troubled area.

The sale of E-16's to Jordan would be a grave mistake for America. It must be stopped. I urge all my colleagues to join in this effort and to voice their strong opposition.●

PERSONAL EXPLANATION

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. FRENZEL. Mr. Speaker, although I was not able to be recorded on S. 2254, the temporary extension of flexitime for Federal employees, I do support the passage of the bill. Had I been present, I would have voted "aye."●

MARIJUANA AND HEALTH

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, March 24, 1982, into the Congressional Record:

Marijuana and Health

It happens at almost every high school convocation at which I speak. During the question-and-answer period, a student asks whether I support the legalization of marijuana. When I respond that I do not, I am greeted by a mixture of applause and good-natured calls of disapproval. These reactions came to mind as I read a recent report.

The report of the National Academy of Sciences, "Marijuana and Health," calls the increased use of marijuana by Americans a "serious national concern" with a "demonstrated high potential risk to human health." At the same time, the report notes that many of the most important questions about marijuana remain unanswered. Prepared by a panel of twenty-two distinguished doctors and scientists over a period of some fifteen months, the report is the most comprehensive of its kind to be published to date.

According to the report, marijuana is the nation's most widely used illicit drug. About one quarter of the population has tried it, and twenty-three million Americans—adolescents and young adults, for the most part—smoke it at least once a week. About seven percent of high school seniors and five percent of members of the armed forces use the drug every day. As the report implies, these figures demand close attention to the effects of marijuana on human health.

The report points to several health problems which appear to be well documented. Marijuana impairs coordination and perception for hours after use, so a person who drives a car or operates a potentially dangerous machine while under the influence of the drug cannot do so safely. The adverse effect of marijuana on memory and speech makes study and learning more difficult for the young person who uses the drug. Because marijuana smoke is similar to tobacco smoke in many ways, there is a strong possibility that prolonged use may lead to lung cancer or other respiratory disease. Marijuana often gives the user a pleasant feeling, but it has been known to bring about brief periods of confusion, anxiety, or psychosis. Pre-existing mental illness may be worsened by the drug. Finally, marijuana raises the blood pressure and makes the heart work harder, so it presents a serious threat to users who have heart disease or other circulatory ailments.

Other health problems thought to be caused by marijuana are discussed in the report, but the evidence for the link is either inconclusive or lacking. For example, there is no evidence that marijuana is addictive and no reason to think that physical dependence may be increased by persistent use. Although marijuana is commonly associated with subsequent use of more dangerous drugs and with apathy or lack of motivation in youth, no one has established that there is a causal connection. Marijuana has not been connected with human infertility and has not been shown to cause birth defects in humans despite findings that one of its ingredients causes birth defects in animals when administered in large doses. There is no evidence that marijuana damages the brain or brings on permanent changes in mood. The evidence that it lessens a person's general resistance to disease is conflicting.

As we consider what is not known about marijuana, however, the report cautions us to keep in mind that, unlike alcohol, the ingredients of marijuana stay in the body for a long time and build up there. They may very well have subtle, cumulative effects of which we are not aware. Also, the report notes that marijuana has been in widespread use for less than twenty years. We may see other significant health problems emerging as that use continues in the years ahead.

The report is not wholly negative in its assessment of the health effects of marijuana. On the positive side, it explains that the drug may be beneficial in the treatment of several illnesses and conditions. Preliminary studies suggest that marijuana may be useful against asthma and the severe vomiting and nausea which accompany cancer chemotherapy. It may help to prevent glaucoma, a disease which often results in blindness. In addition, there is some evidence that one of the ingredients of marijuana may aid in the treatment of epilepsy, spastic disorders, and other diseases of the central nervous system. A survey of medical history shows that such findings are not completely unexpected. The beneficial effects of marijuana are described in the ancient medical texts of China; the drug was widely prescribed by physicians in America and Europe during the late 1800's.

In my view, the report is a timely summary of what we do and do not know about marijuana. Accordingly, the National Academy of Sciences is to be commended for its scholarly contribution to the public debate on a very important issue. To its credit, the report is balanced. It neither encourages the use of marijuana nor condemns it outright. It does not suggest that Congress and the state legislatures take one point of view or another with regard to federal and state laws on marijuana. Rather, the report alerts us to the need for prudent decisions based on careful research—more research of the quality represented by the report.

As I read the report and reflect on its many findings, I am prompted to draw at least two conclusions. First, the doubts raised by the report are more than sufficient to justify continued opposition to the legalization of marijuana. Legal prohibition serves a clear purpose where our medical knowledge is so incomplete.

Second, research into the health effects of marijuana should be pursued vigorously. Funds for research should be increased; regulatory restrictions which make research difficult should be examined closely and eased where necessary. When the necessary scientific study has been done, Congress and the state legislatures will have a much better understanding of their options; the decisions they reach will have a much greater chance of gaining the acceptance of the public at large.●

RENEW THE AVIATION WAR RISK INSURANCE PROGRAM

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. MINETA. Mr. Speaker, today I am introducing, by request, on behalf of myself and Congressmen HOWARD, CLAUSEN, and SNYDER, an administration bill to renew the aviation war risk insurance program. Under this program, which has been in effect since 1951, the Federal Aviation Administration provides insurance to airlines for service to foreign countries when commercial insurance companies are unwilling to provide this insurance at reasonable rates because of an unstable security situation in a foreign country. The FAA provides insurance only after the President has determined that operation of U.S. aircraft is necessary to carry out the foreign policy of the United States. Although there have been only a few occasions in which it has been necessary to provide Government war risk insurance in the past, the program has been a useful adjunct to our foreign policy. The current authorization for the program terminates on September 30, 1982. The administration bill would extend the program to September 30, 1987. We expect to hold hearings on this legislation in the near future.●

THE COAST GUARD: NOW OR NEVER

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. STUDDS. Mr. Speaker, the U.S. Coast Guard is both a military service and a Federal law enforcement agency. For almost 200 years, this service has been one of the most efficient, effective, important, and popular Federal agencies. Unfortunately, rapidly increasing demands on the Coast Guard have not been met during the past decade by comparable increases in personnel or equipment. As a result, the agency is being forced to make dramatic cutbacks in its ability to operate. I do not believe that such cutbacks are in the national interest; I do not believe they are supported by the public.

Mr. John Rau, President of the Navy League of the United States, recently authored an essay in Sea Power magazine which persuasively and eloquently states the case on behalf of the Coast Guard. I commend this article to the attention of my colleagues in the House. I urge them all to consider Mr. Rau's arguments carefully, for it will be this Congress, this year, which will soon be asked to make judgments abolutely critical to the future ability of the Coast Guard to be of service to the United States.

The article follows:

[From the Sea Power, March 1982]

NOBODY SHOULD BE SURPRISED

(By John Rau)

That the nation's "can do" service, the U.S. Coast Guard—the one that prides itself on being "Always Ready"—now simply can't do, and will only be sometimes ready.

That, because there just isn't enough money in the fiscal year 1982 budget to let the Coast Guard do everything it's supposed to do, the Secretary of Transportation announced in late January that a large number of USCG units and facilities would be closed down and 3,400 people laid off.

That Congress, after having failed for years to fund the Coast Guard at a level adequate to permit this multi-mission service to carry out all of its many missions and responsibilities, including defense responsibilities, is now as a result of the closings announcement scrambling desperately to remedy the mistakes of the past in a well-intended rescue mission that is clearly already "too late" and "too little." (See the February issue of Sea Power for full details.)

That, with the situation now in extremes, some of the Coast Guard's best friends—the sea services section of the Reserve Officers Association, for example—have already endorsed proposed legislation to transfer the Coast Guard from the Transportation Department to the Department of Defense. (In our view, a "gambit" or unwillingness to face the real problem.)

What happened is this: Over the past 10 years or so the Coast Guard has had added to its previous long list of missions (boating safety, harbor patrol, Antarctic support, aids to navigation, and the like) a number of additional jobs. Patrol of the greatly expanded U.S. fisheries zone, for example. The other services are forbidden by law to carry out such police-type duties, so that time-consuming task was of course handed over to the Coast Guard.

Interdiction of drugs (mostly marijuana), helping Cuban refugees during last year's massive exodus from Castro's "paradise," interdicting Haitian refugees, checking the safety of offshore oil rigs, and monitoring oil pollution are among the numerous other assignments recently added to or given higher priority on the USCG's burgeoning chore list.

As so often happens, Congress and the White House, and those faceless and nameless "analysts" always involved—there's plenty of blame to go around—were in lockstep on almost everything except money. Yes, all those missions are essential for environmental and humanitarian reasons as well as for the nation's economic well-being. Yes, the Coast Guard is the logical service to get all of those assignments. But no, there isn't enough money to buy the new ships and aircraft, and pay for the additional people, needed to do the job right—or maybe even to do the job at all.

But why worry? The Coast Guard is always ready. It will get the job done anyway. It can do. So let's let it muddle through somehow. Besides, they got it done last year, without cutting out anything.

What was the Coast Guard doing while all this was going on? It was patiently and objectively presenting its well-documented case for more hardware and more people through the proper channels of the executive branch and in testimony before Congress. But when the additional resources were not provided, it simply said, "Aye, aye, sir," saluted smartly, about-faced, and went out to get the job done anyway. And did so not by making cuts, but by working its people, ships, aircraft, and equipment harder.

I have personally seen the dozens of hose clamps keeping the piping from leaking in the engine room of a 27-year-old icebreaker—long overdue for a major overhaul. I have personally been out on the high-endurance cutters and icebreakers, visiting and working with young Coast Guard men and women at sea, for whom a 96-hour week, water hours, and one shower a week are routine. I have personally inspected torn-down diesel engines so old that parts to repair them are no longer production-made—yet the "mechs" somehow get them running. And I was ashamed we—the Navy League—had not spoken out much more forcefully years ago.

What the Coast Guard also should have been doing earlier—and what its friends should have been doing for it—was hollering bloody murder.

That might sound like hyperbole, but it isn't. What we're talking about here is lives! Let there be no mistake: If the Coast Guard doesn't have the ships and aircraft and people it needs to carry out its missions, the "savings" may be calculated in dollars, but the cost may well be paid in lives.

Two years ago the Coast Guard was directly or indirectly involved in 79,283 SAR missions by actual count. In the current fiscal year the USCG's SAR total is expected to reach 81,669, and next year 82,160.

SAR is shorthand for search and rescue. It's a nice comfortable acronym—rolls off the tongue easily. But to actually carry out a SAR mission is not easy. It means in some instances flying helicopters through gale-force winds to pluck people off the decks of ships or from rooftops and out of the branches of trees during hurricane season. It means coaxing an ancient cutter through 30-foot seas to drag downed aviators from the sea. It means coming to the rescue—despite the considerable risk to one's own life and limbs—when an oil rig is burning, or when a supertanker has collided with a barge laden with highly volatile chemicals, or when an unwary fishing boat has gone down in a squall. All in a day's work, one might say. But just recently two young pilots—one male and one female—lost their lives on a "routine" helo SAR mission over the island of Kauai. Ran into a mountain!

The Coast Guard dutifully keeps an accurate count of the "persons saved or otherwise assisted" on SAR missions. Two years ago the total was 180,568; next year it's supposed to go up to almost 183,000. The key words in that last sentence, by the way, are "supposed to." There's no way it's going to happen. Not all of those 183,000 people will die, of course, if the Coast Guard isn't around to help out—some of them will just not be "otherwise assisted."

But some of them will die. There's no getting around that fact. And that's why it's time now to blow a long-overdue whistle. If a large city—Los Angeles, say, or New York City, or even Washington, D.C.—were to close down a few of its fire stations, or lay off some 3,400 policemen, the citizens of that city would be hollering bloody murder. Because they would be paying the true cost, some of them, with their lives. And with loss of property.

Which is ironic. Part of the tragedy of the Coast Guard closings is that, in dollars as well as in lives, those closings will cost more than they'll save. Along with "persons saved," the USCG also keeps close tab of "property loss prevented" through SAR missions. Two years ago the property savings came to $1,617 million; next year that total will reach (or is "supposed to" reach) $1,840 million—or $330 million more than the $1,510 million in budget authority requested for all of the USCG's FY 1983 operating expenses put together. And that does consider property or lives saved through safety inspections, routine checks at sea, or other preventive measures.

There's some very false economizing here. That's obvious. It's also stupid. We've thus far discussed only the balance sheet on the Coast Guard's SAR missions. But that balance sheet does not, and cannot, take into account the net benefit to the country from the USCG's performance of duty in other areas—routine things like inspection of ships and waterfront facilities, monitoring the loading of explosives and other dangerous cargoes, supporting polar ice operations, etc.

Nor does it take into account the fact that the Coast Guard is a military force in being ready, willing, and able to augment significantly, once again, the U.S. Navy and U.S. Naval Reserve in time of war or other national emergency. It seems clear that in time of war U.S. coastal waters—possibly including much of the Caribbean—will be the Coast Guard's responsibility; the Navy itself has a three-ocean, blue-water problem to solve, and not enough ships! The big, gray ones will be over the horizon; those white cutters with the red slash will have to take care of our own shores.

Down the line there are some more jobs coming up for the Coast Guard: jobs involving seabed mining operations, patrol of aquaculture "farms" and OTEC (ocean thermal energy conversion) facilities, and protection of the coast and near-offshore waters against the growing likelihood of terrorist incidents.

Meanwhile, the Coast Guard's normally assigned duties will continue to grow in scope and complexity. Bigger and faster ships, and more of them, will be plying the U.S. coastal waters and putting into the nation's ports: oil tankers of 500,000 deadweight tons; LNG carriers of 175,000 cubic meters loaded with liquefied natural gas supercooled to a temperature of minus 265 degrees Fahrenheit; hydrofoils and surface effect ships roaring over the water at speeds up to 100 knots; nuclear merchant ships, maybe; and a national small boat armada which, according to some estimates, could number 20-30 million pleasure craft of various types by the end of the century.

At the same time, the nation's two-way shipborne trade is expected to increase at an unprecedented rate—FMC Commissioner James Carey says total U.S. trade volume will be 1.1 billion tons by 1990. (We're already behind the power curve on coal exports. Ships have been waiting for weeks, even months, to be loaded because present port facilities weren't ready for the new boom in the coal trade. When the new facilities now planned or under construction are completed, the USCG's workload will jump up another notch.)

And all of that is just the beginning. There's a book published last year by the Sierra Club aptly, and accurately, called "The Oceans: Our Last Resource." It tells it as it is. The world's land resources are being depleted. As a result, mankind is turning increasingly to the oceans to supply the food, energy, chemicals, and minerals which will be needed by future generations.

Guarding and protecting, patrolling, and otherwise helping to preserve and develop that last resource—the share of it entrusted to the United States, anyway—will be the U.S. Coast Guard, provided it has the people and the hardware it needs.

There will be a long and bitter debate in Congress this year over the size and distribution of the fiscal year 1983 budget, with the pro-defense bloc fighting against those who want to cut the budget either to reduce the overall deficit or to provide more money for welfare and other "entitlement" programs.

One military service there should be *no* argument about is the U.S. Coast Guard. It deserves the support of all Americans for the job it's already doing—and for the even more demanding and much longer list of jobs it will have to do in the future.

But there's no time to waste. Today's Coast Guard is seriously undermanned, underfunded, and overworked—and overdue for someone to carry out a national SAR mission to come to the rescue of the USCG itself. Let's face it, what the Coast Guard has been these past years is not a "can do" service; it has been a "can't do—but we will anyway" outfit. But that time is over. The stretch is all gone out of the rope. And the strands are starting to snap.●

SOLIDARITY SUNDAY FOR SOVIET JEWRY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. GILMAN. Mr. Speaker, I rise to notify my colleagues that New York will be holding a Solidarity Day for Soviet Jewry in New York City on May 2, 1982.

Each year on Solidarity Sunday, 150,000 New Yorkers have gathered in support of the many Soviet Jews who have not been able to emigrate or to practice their religion freely. The event, which is sponsored by the Greater New York Conference on Soviet Jewry, is the largest annual rally in the world.

The 11th annual Solidarity Sunday, on May 2, will begin with a noon march down Fifth Avenue, and will culminate in a rally in Dag Hammarskjold Plaza outside the United Nations Building. The march and rally vividly convey a serious concern for human rights that has not weakened with time.

In 1981, the number of Jews permitted to leave the Soviet Union declined to the lowest point in the past 10 years. Only 9,447 Jews were permitted to emigrate in 1981, as compared to 51,320 in 1979. The emigration figures for the beginning of 1982 suggest that this year, the number may be even smaller. Last month, the total emigration of Soviet Jews was less than 300.

The Jews in the Soviet Union are engaged in a daily struggle for survival. The Soviets have begun to blot out all Jewish activities through harassment, arrests, imprisonment, and official anti-Semitism.

Mr. Speaker, we in Congress must continue to lead the fight against the Soviet Union's continuing violation of human rights. Accordingly, I urge my colleagues to give their full support to Solidarity Sunday for Soviet Jewry, and to encourage similar movements in their own districts. The people of the United States must demonstrate our commitment to human rights throughout the world, and we must lead them by demonstrating our own commitment.

I look forward to continuing my work with many of my colleagues here in the House of Representatives, to convince the Soviet Union that it must honor its commitment to human rights, and must allow its citizens the right to emigrate, to be reunited with their families and to practice religion freely.●

GEORGE EDWIN HIGGINS

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. EVANS of Delaware. Mr. Speaker, the people of Delaware mourn the loss of one of their most outstanding citizens, George Edwin Higgins of Seaford, Del. George Higgins was a generous man who touched the lives of all his neighbors. He was also a courageous man who fought to make his community a better place to live. His service will long be remembered.

The Leader, of Seaford, Del., recently paid tribute to this fine Delawarean. I ask that the article be printed at this point in the Record.

George Edwin Higgins

Seaford, Sussex County and Delaware lost one of its outstanding citizens Saturday with the untimely death of George Edwin Higgins of Seaford at the age of 60.

He was a victim of the scourge of mankind—cancer.

Those who knew George Higgins—and they are many through his business, civic activities and as an elected official of the City of Seaford—will long remember the courage he exhibited in the final days of his long fight against the dread disease to which he finally succumed.

It was the same kind of courage which inspired his enlistment in the United States Marine Corps in 1942 soon after America's entry into World War II and motivated him to become a bomber pilot in the South Pacific in the perilous early days of the war when his nation was outmanned and outgunned.

Up until almost his last days, George Higgins carried on his business as usual. He had a cheerful "hello" for everyone as he picked up his company's mail each morning at the Seaford Post Office, never complaining about his obviously deteriorating health.

This raw courage was an inspiration to all who knew him and must have been exceptionally inspiring to his large, closely-knit family.

It was fitting that Monday night, following the memorial service at St. John's Church held for George Higgins, the delayed meeting of the Seaford Board of Education was opened by a moment of silence in his memory as "one who had given much to his community."

During his six years of service on the Seaford City Council, George Higgins was deeply involved with the fire department and city finances, but his principal interest was in the city's parks and recreation facilities.

Today, partly as the result of the work of George Higgins and other local citizens of vision, Seaford has the finest recreation facilities of any community of its size in the state.

George Higgins will not soon be forgotten by his community, county and state, but in order to perpetuate his memory for future generations, we do not think it out of place to erect a memorial in some recreational facility in the community in which he spent his life and devoted so much energy.

Perhaps such a memorial could be located in Seaford's Kiwanis Park, which George Higgins helped to design and create. This park on Stein Highway adds much to the better life of which Seafordians are so proud and epitomizes the contributions of George Higgins to the hometown he loved.●

INTRODUCTION OF THE DEFENSE INDUSTRIAL BASE REVITALIZATION ACT OF 1982

HON. J. WILLIAM STANTON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. STANTON of Ohio. Mr. Speaker, today, I am pleased to announce that I am joining Congressmen BLANCHARD and MCKINNEY, the chairman and the ranking member of our Subcommittee on Economic Stabilization in the cosponsorship of the Defense Industrial Base Revitalization Act. We face today a severe problem. During the next 4 years, defense needs of the country will amount to $1 trillion. And yet, the Congress and the administration have not adequately addressed the problem of restoring vitality to the defense industrial base. This is the intent of H.R. 5540, which I am cosponsoring today.

Mr. Speaker, many American-based companies have the capacity to produce or to increase production of critical materials here in the United States. In many cases, the missing ingredient has been the lack of predictability of demand in the marketplace without which plant expansion is very risky. During the 1950's, the Defense Production Act was used effectively to rebuild American industry at a minimal cost to the taxpayers. What we are asking this Congress to do is to amend the law to help reduce the uncertainty and instability in the marketplace for critical defense materials and to unleash American industry to help rebuild defense capacity.

Mr. Speaker, in my own area of northeastern Ohio, unemployment and unused resources are becoming increasingly serious problems. But, in these unemployed workers and unused resources, we have the raw materials with which to rebuild the critical defense capactiy. The Defense Industrial Base Revitalization Act is the tool to bring this all together.

The bill is premised on achieving a number of important goals.

First, the ability to produce domestically critical materials for both defense and commercial requirements.

Second, rebuilding a structure which allows for orderly and rapid changeover from commercial to defense production in a national emergency.

Third, establishment of predictable markets, both in peacetime and during periods of surging requirements.

Fourth, protecting these vital industries from heavy cyclical pressures.

I must admit, Mr. Speaker, that it is not without some anguish that I come before this House to offer a new spending proposal. If it were not for the fact that this program we propose is of such crucial importance to our defense capability, our economy, and to U.S. labor and industry, I would not be before you today. As our committee works on this legislation, I will do my utmost to reduce the price tag to American taxpayers by seeing if perhaps we cannot divert resources from less worthy expenditures to fund these proposals.

There may well be certain other sections of this bill which will need refashioning during the legislative process. Those sections relating to retraining and vocational education areas, for example, need careful review to insure that they are not needlessly duplicative of existing employment and retraining programs. Our committee and others will give careful consideration to this section.

Mr. Speaker, for years now we have read reports of the vulnerability of our country to foreign sources of supply. It is time that we mobilized the resources of our industry and our workers effectively to rebuild U.S. industrial capability. This act will provide the framework for that revitalization. In the words of one of my constitutents, James L. Daniel, president of RMI Co. of Ohio:

> We believe it is time to go on record with a commitment to action. A modified Defense Production Act is the vehicle with which we can reverse the trends of increasing inefficiency and diminished responsiveness. It can give American industry the foundation of stability and predictability required to meet foreign competition. The time for studying is over. Now is the time for action.

Thank you, Mr. Speaker.●

CALL TO CONSCIENCE—THE IGOR GUBERMAN FAMILY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. GRADISON. Mr. Speaker, I am pleased to join in the congressional "Call to Conscience" vigil on behalf of Soviet Jewish families and individuals who are being detained in the U.S.S.R. as a result of the Soviet Government's repressive emigration policy.

Unfortunately, today as I did 1 year ago, I must bring to my colleagues' attention the plight of the Igor Guberman family. In fact, this statement is timed to the second anniversary of Mr. Guberman's sentence. Mr. Guberman is currently living in internal exile in Borodino, Siberia, having been convicted in March 1980 of dealing in stolen icons. Many who have followed his case believe that his conviction was a pretext by which the Soviet authorities are seeking to halt his previously active efforts on behalf of the rights of the Soviet Jewish community.

Mr. Guberman, his wife Tatyana, and his two small children, Tanya and Emil, have managed to maintain a productive vegetable garden and to receive monthly food packages sent from the United States. Thankfully, they are in good spirits and are awaiting the spring with the hope of freedom. Yet, we must all realize that in Soviet internal exile, the Guberman family has no human rights.

Mr. Guberman's situation, regrettably, is representative of official Soviet retaliation against those who seek to exercise their most elementary rights. The U.S. Government has consistently condemned all such Soviet abuses of the fundamental rights of their people, and has made known to the Soviet Government the strong U.S. interests in such cases. Unfortunately, the Soviets have been unresponsive, contending that such matters are purely domestic in scope.

Mr. Speaker, let us heed this "Call to Conscience." Let us hope that another vigil for freedom will not be necessary before Igor Guberman is released and his family is permitted to emigrate to Israel. Humanity expects it. Justice demands it.●

EXEMPTING MILITARY RETIREE PAY

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HUBBARD. Mr. Speaker, Walter P. Brewer of Route 1, Herndon, Ky., has written to me with his thoughts on exempting military retiree pay from all taxes. I believe Mr. Brewer's letter is one which should be shared with my colleagues and I wish to do so at this time:

DEAR CONGRESSMAN HUBBARD: Reference the nation's unemployment problems and helpful assistance.

Why not help relieve the unemployment compensation rolls of military retirees by exempting retiree pay from all taxes? As you know, some states exempt pay while others prorate the amount with unemployment receipts. The result would help retirees have more, of course, but also relieve states from paying out so heavy compensations. It practically is the same result—the federal government pays the most in the end.

This consideration, I'm sure, would be accepted as gratitude for the many years a retiree had served his country. Maybe also, it might help as an "advertisement for the All Volunteer Force."

Sincerely,

WALTER P. BREWER.●

NICARAGUA

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. WEISS. Mr. Speaker, the Reagan administration's obsession with a Soviet presence in Central America and its failure to recognize the underlying causes of instability have served to increase the turmoil in that troubled region of the world.

U.S. actions have now precipitated the declaration of a nationwide state of emergency in Nicaragua. The reported covert aid to destabilize the Government and the propaganda blitz on Nicaragua's military buildup are only the latest manifestations of the administration's view of world events as a tug of war with the U.S.S.R. and national struggles as opportunities for one or the other power to secure a stronger hold. Present U.S. policy largely ignores the economic progress that fuel the struggles in Central America.

The administration's interpretation of Cental American affairs forces it to imbue the military buildup in Nicaragua with a strong Soviet-Cuban influence. It leads to a continuous search for evidence of outside involvement in the war in El Salvador. Certainly, the administration would not be so distracted by Nicaragua if it engaged in a deeper analysis that acknowledged the country's underlying economic problems.

The administration might then also acknowledge that other approaches would be more appropriate in seeking solutions to the turmoil in Central America. A resumption of U.S. aid to Nicaragua, which was canceled last fall, might allay the need for Soviet-Cuban dependence. It could help exert a moderating influence on the country's political and economic decisions. In addition, the administration could step up efforts to seek negotiations among the major factions within the countries as well as among the various governments, particularly encouraging further involvement by the Mexican Government.

The present policies, however, are only reenforcing the public conviction that the Reagan administration is using Nicaragua, Central America, and the Third World in general, solely as scenes in which to play out the East-West confrontation. The developing countries are increasingly resistent to being used as pawns in a superpower struggle. The public, both here and abroad, is increasingly alarmed about the possibility of U.S. military intervention in Central America.

The administration must immediately terminate its covert plots in Nicaragua and abandon its campaign of propaganda and rhetoric. Fear of an imminent invasion by the United States is already gripping Nicaragua as a result of these activities.

Efforts to rebuild diplomatic relations and resume economic assitance—that is, to build rather than tear down the country—would be far more effective in encouraging a pluralistic society in Nicaragua as well as in demonstrating that the United States seeks a peaceful solution to the conflicts in Central America.●

BUILDING AMERICA TOGETHER

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a Voice of Democracy contest. This year more than 250,000 secondary school students participated in the contest competing for the 5 national scholarships which are awarded as top prizes. First prize is a $14,000 scholarship, second prize is $7,000, third prize is $4,500, fourth prize is $3,500, and the fifth prize is $2,500. The contest theme this year was "Building America Together."

The winning contestant from each State is brought to Washington, D.C., for the final judging as a guest of the Veterans of Foreign Wars.

It is my pleasure, Mr. Speaker, to introduce into the RECORD this year's winning speech for my State as delivered by Michael T. Ruark of Preston, Idaho.

UNITY ACHIEVES TRIUMPH

When you think about building something, putting something together or constructing something is usually on your mind.

When you say the title 'Building America Together', the word together stands out more than the other words. To accomplish anything in this world you have to have togetherness. Sure some people accomplish things, like Benjamin Franklin discovered electricity and like Alexander Graham Bell invented the telephone. But if you really take a good look a lot of good things were invented and accomplished by togetherness, like for instance the Wright Brothers invented the airplane, and it took a group of people to create the Constitution, so it really shows that the word 'together' means unity and unity achieves triumph. Now let's go through the letters of the word 'togetherness'. First of all the letter 'T' stands for triumph, and the way you achieve triumph is through togetherness or unity. The letter 'O' stands for organization. To organize something usually consists of one or more persons on in other words it takes togetherness. Now the letter 'G' stands for a group. A group of people can do so much when they're together. They can accomplish things out of the imagination of a mind. The letter 'E' stands for enthusiasm. For a group of people to accomplish things the group has to have enthusiasm about their work and that in turn will aid them in reaching their goal 'together'. The letter 'T' can also stand for trying. If you really are trying to accomplish something, if trying hard enough you will succeed. Now the letter 'H' stands for honesty. You really can't accomplish anything without honesty, but with it you can accomplish and work hard towards your goal with a feeling that everyone that's working with you is an honest and loyal person. Now the letter 'E' can also stand for endure. Your group can endure if you follow all the other definitions of the word 'together'. Now the final letter of the word together is the 'R'. The letter 'R' stands for results. If you follow all the instructions that have been given you in a proper way you will have the kind of results that you have struggled so hard for.

Now let's talk a little about America. America is a mood, a state of mind, a philosophy. America is laughter. The hearty grin of a man building a bridge, the giggle of a school girl, the happy shouts of boys at play. America is Thomas Edison . . . and Walt Whitman . . . and Charles Lindberg . . . and Babe Ruth . . . and Bing Crosby . . . and Willie Mays . . . and especially me and you. America is the mixture of all the people in the world. America is a red, white, and blue tomorrow for all men who hold the hope of freedom in their hearts.

Now let's all use these examples and work as a group to help improve our country because our country, 'The United States of America' is always proud of what they do. Let's all get together and fight for our country. People like George Washington, Abe Lincoln and even modern day people have been doing this. Wouldn't you say it was our turn to pitch in and help America? If we do we can make America a much better place to live, but always remember it takes togetherness to accomplish anything and like the saying goes: Unity Achieves Triumph!●

C-SPAN INVOLVES PEOPLE IN THEIR GOVERNMENT

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 23, 1982

● Mr. DENARDIS. Mr. Speaker, probably the greatest public service performed by C-SPAN's is that it actively involves people in their Government. I speak from personal experience with the Cable Sattelite Public Affairs Network. I, like many of my colleagues, was a guest on C-SPAN's daily call-in program, for which viewers are invited to phone in questions and comments on any issue of interest to them. My impression at the end of the hour was that C-SPAN has had a major effect on how millions of people think of their government. Thanks to C-SPAN's gavel-to-gavel coverage of the House debate and the committee hearings of both Houses of Congress, viewers tend to have a better idea of what a Congressman does from day to day. They tend to have a more comprehensive view of issues and of the procedures we use here in the Congress to resolve them; but, most important, they tend to act on this new-found information.

They tend to ask more informed and penetrating questions. They are more likely to write or call their elected Representative's office to express a view. The best evidence of C-SPAN's effect on attitudes comes from the viewers themselves. Some viewers called the program to say they had absolutely no knowledge of or interest in Government until they began watching C-SPAN. Others have written to say the same thing, and then add stories of their new interest and involvement in both local and national government matters.

The human behaviorists could probably explain the phenomenon in technical terms; but my feeling is that by demystifying the sometimes convoluted processes of Government, C-SPAN makes big government much more approachable. In a democracy that is, indeed, an important public service. So let's take a moment to congratulate C-SPAN on its third anniversary this Friday and to urge it on to bigger and better things.●

SENATE—*Wednesday, March 24, 1982*

(Legislative day of Monday, February 22, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D, D.D., offered the following prayer:

Our Father in Heaven, we pray for our families. Protect them against the pressures of Washington life. Let them not be casualties of the demands of political service. Our Nation cannot survive the breakdown of the American home. Help us to take seriously the fact that the family is the basic nucleus of the social order, the fundamental unit of education, where values are learned and lives are shaped.

Forgive us for our failure as spouses and parents, for allowing public affairs to take precedence over duty to family. Protect us from the seductive and corruptive influences that cause us to devalue our values and capitulate to conduct unbecoming national leadership. Help husbands to love their wives as Christ loved His Church and laid down His life for her. Help parents to realize that their children learn from their example rather than from their precepts. Strengthen our families, dear God, we pray in Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE FOR TODAY AND TOMORROW

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order, there is a special order for the recognition of the distinguished Senator from Maryland (Mr. TSONGAS), for not to exceed 15 minutes.

At the expiration of that time, there will be a brief period for the transaction of routine morning business, not to extend past 10:30 a.m. Statements are limited to 5 minutes each during that brief period.

S. 1080

At 10:30 a.m., the Senate will resume consideration of S. 1080, the regulatory reform bill, at which time only the following amendments will be in order:

An amendment to be offered by the Senator from Michigan (Mr. LEVIN), on which there is a 2-hour time limitation, to be equally divided.

An amendment to be offered by the Senator from Nevada (Mr. LAXALT), on which there is a 20-minute time limitation, to be equally divided.

An amendment that will be offered either by the Senator from Minnesota (Mr. DURENBERGER) or the Senator from Delaware (Mr. ROTH), on which there will be a time limitation of 40 minutes, to be equally divided.

An amendment to be offered by the Senator from Michigan (Mr. RIEGLE), on which there will be a 1-hour time limitation, to be equally divided.

An amendment to be offered by the Senator from South Dakota (Mr. PRESSLER), on which there will be a time limitation of 40 minutes, to be equally divided.

An amendment to be offered by the Senator from Arkansas (Mr. PRYOR), on which there will be a 20-minute time limitation, to be equally divided.

In addition, there will be a 30-minute time limitation on the bill, to be divided and controlled by the distinguished managers of the bill, on designation by the majority leader and the minority leader.

If there is any motion, appeal, or point of order, if the same is submitted to the Senate, there will be a 5-minute limitation on debate of those measures, to be equally divided, under the control of the majority leader and the minority leader.

Mr. President, although the time I have just described exceeds the time we probably will take on this measure, Senators can be on notice that it will require most of the day to complete action on the regulatory reform bill, in all likelihood.

STANDBY PETROLEUM ALLOCATION ACT—VETO

After we complete the regulatory reform bill, it is the intention of the leadership to lay before the Senate the veto message on the Emergency Petroleum Allocation Act (S. 1503) which is at the desk. I anticipate that that will be today. It is my hope that we can finish that measure today. I am prepared to ask the Senate to remain in session a little beyond 6 o'clock, our normal recess time today, if that will facilitate final passage of this measure.

I understand that tomorrow, a measure dealing with the Eximbank may be eligible. That matter is not yet fully clarified.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR SPECTER TOMORROW

Mr. BAKER. Mr. President, I have been notified that the distinguished Senator from Pennsylvania (Mr. SPECTER) has no need for his special order tomorrow, and I ask unanimous consent that the order be vitiated.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR DANFORTH TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, instead, the distinguished Senator from Missouri (Mr. DANFORTH) be recognized tomorrow on special order for not to exceed 15 minutes, in the sequence heretofore arranged in favor of the Senator from Pennsylvania.

The PRESIDING OFFICER. Did the Senator say the Senator from Missouri?

Mr. BAKER. Yes. Mr. DANFORTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL ENERGY EDUCATION DAY, MARCH 19, 1982

Mr. BAKER. Mr. President, on March 19, 1982, young people in schools and colleges across the Nation celebrated "National Energy Education Day" (NEED), proclaimed as such by the President of the United States, in response to a joint congressional resolution, Senate Joint Resolution 84.

In his proclamation, the President said:

> Today, more than ever, it is important for all Americans to understand that the United States and its allies are participants in a world energy market.

Through "National Energy Education Day," 8,000 to 10,000 elementary intermediate and secondary schools from Maine to Hawaii focused on that need for understanding, the need to bring energy education into the school and into the classroom, the need to offer our young people a better appreciation of the energy issues we face now and in the future.

Armed with greater knowledge and heightened awareness of those problems and opportunities, the younger generation will thus be better prepared to make wise and rational decisions to help secure their energy future.

NEED is a 10-year project to further that knowledge and awareness. Let us give it all our support and wish it every success.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no further need for my time under the standing order.

I ask unanimous consent that the time allocated to the distinguished minority leader under the standing order be reserved to him, for utilization at any other time during the course of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I yield the floor.

RECOGNITION OF SENATOR TSONGAS

Mr. TSONGAS. Mr. President, before the majority leader leaves, I wish to take up with him a very minor point.

He referred to me as the Senator from Maryland. I realize that the first name of the Senator from Maryland and of the Senator from Massachusetts is PAUL.

Mr. BAKER. I am sure the Senator from Massachusetts will understand that inasmuch as I come from one of the States of the old Confederacy, my natural tendency is to save the political souls by moving them as far south as possible.

Mr. TSONGAS. I say to the distinguished majority leader that the policy of the administration to move everybody from the Frost Belt to the Sun Belt is a philosophy I happen not to share. But I appreciate his thought.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts (Mr. TSONGAS) is recognized for not to exceed 15 minutes.

RESOLUTION ON EXPORT CONTROL REGULATIONS FOR THE MIDDLE EAST AND SOUTH AFRICA

Mr. TSONGAS. Mr. President, a little less than 1 month ago, the Senate learned with considerable surprise that the administration had decided to change the export control regulations pertaining to Iraq, Syria, South Yemen, South Africa, and Namibia.

These were not dry, technical changes in obscure regulations. These changes if maintained will have a major impact on foreign policy in the Middle East and in Africa. I am therefore introducing with Senator BOSCHWITZ, Senator PRESSLER, and Senator KENNEDY, as cosponsors, a concurrent resolution calling on the administration to modify these new regulations in several specific ways.

In the case of Iraq, the administration's new regulations remove that nation from the list of countries which repeatedly provide support for acts of international terrorism. I am well aware of the administration's contention that Iraq has modified its terrorist support activities, but I would submit that the case has not been made convincingly.

Clearly there have been some changes, but there is a question as to whether those changes are temporary or whether they indeed reflect a long-term policy, and I think in this particular case one would have to come down on the side that indeed the changes are a function of expediency, not change of overall policy.

In my view, Iraq should remain on the terrorist list and therefore provide both Congress and the executive branch with a flexible lever of influence on the behavior of that country. This does not amount to a prohibition on civil aircraft sales to Iraq. Indeed, a number of significant aircraft sales were made to Iraq while it was on the terrorist list. But I feel we should not signal to Iraq any dimunition in our antiterrorist policy and that by leaving Iraq on the terrorist list, we will retain the most effective lever and assure that the right signal is sent.

Signals and symbols are part and parcel of our own foreign policy export controls. I think everyone recognizes that. In the case of Syria and South Yemen, the administration has canceled the regulations requiring prior notification of Congress if the administration intends to approve the sale of civil aircraft to the regularly scheduled airlines of Syria and South Yemen. This would appear to be a narrow change in policy, but in fact, those two countries will probably interpret the change as a policy tilt in favor of their international activities. Both are on the terrorist list and both are implacable foes of Israel. I appreciate the need to facilitate aviation exports to the Arab world, and I would be pleased indeed if Syria and South Yemen deserved a relaxation of export restrictions. But the facts remain that civil aircraft sales to these two countries would have the potential of enhancing their military capabilities, particularly in logistics. Again, I am not suggesting that a prohibition of civil aircraft sales be applied in these two cases. Clearly, that step is not warranted, but Congress should retain its advisory role in these matters, and prior notification procedures should therefore be reinstated for Syria and South Yemen. The new export regulations for South Africa are still another case in point of poorly designed foreign policy signals. Let me deal with that issue now.

The export regulation changes in this case, that is, South Africa significantly relax U.S. implementation of the U.N. arms embargo against South Africa. Nothing is more crucial to the survival of apartheid than the flow of armaments to the South African military and police. Changes announced by the administration would allow for the first time the export of aircraft, advanced computers, and other national security controlled items to those South African entities. Those exports to South Africa will be more than foreign policy signals; they will indeed become foreign policy itself. They will identify the United States with a system of racial oppression which is universally regarded as anathema to liberty and human dignity. It will be a disastrous step, and the resolution I am introducing today calls upon the President not to take it.

Our relations with South Africa under President Reagan have been governed by the principle of constructive engagement, an approach devised by Assistant Secretary Crocker as an alternative to the policy of pressure and condemnation adopted by the last administration. Secretary Crocker's theory holds that if the United States takes positive steps toward South Africa, then the South Africans will reciprocate with forward steps on the Namibia negotiations and ultimately with the dismantling of apartheid itself.

The policy approach of constructive engagement has unfolded for over a year now, and I have sought as one Senator, to temper my criticism of the approach so as to leave the administration with both time and political space to conduct their experiment. I did not publicly condemn the visit of South African military officials here, nor the visas granted to the South African national rugby team, nor the administration's tacit acceptance of South Africa's military incursions into Angola, not even prior export regulation changes dealing with medical supplies and airport security equipment, and not the apparently growing cooperation with South Africa on nuclear matters. I firmly believed that the President was seeking an internationally acceptable settlement to the war in Namibia.

I have understood how crucial South African cooperation is to the delicate Namibia negotiations. And to a limited extent, Secretary Crocker has achieved results, not breakthroughs, but a modicum of progress on Namibia. For that he is to be congratulated.

The policy of constructive engagement, however, is only as good as the skill of its practitioner. If the administration abandons limited signals in favor of unqualified embrace, then constructive engagement degenerates into what is in essence a pro-South Africa policy. I do not believe that Congress should permit that to happen. Whether caused by blunder, misjudgment or shifting intentions, especially in terms of the intended effect on Namibia, and a pro-South Africa policy cannot be allowed to emerge, that is what this resolution I am introducing today seeks to prevent.

The new export control regulations relax the embargo for different categories of items. The resolution attempts to be targeted. The resolution singles out those changes which we regard as significant: All aircraft, computers, and all other items under national security controls—and urges that the prior regulations govern their export to the South African military and police—that is to say that those items would be denied. The resolution also urges that a significant loophole in the embargo be closed. The South African military relies on a state-owned corporation (ARMSCOR) and its subsidiaries for production of a large number of armaments. The enforcement provisions of the arms embargo have been ambiguous on the status of those entities, and the resolution therefore defines ARMSCOR, its subsidiaries and the government-owned Council on Scientific and Industrial Research as "South African military entities."

I point out that the resolution does not seek to restore prior practice on the export of less significant items, such as food, medicine, small office equipment, nonmilitary clothing, and other items not controlled for national security purposes. I reluctantly can appreciate both the commercial and foreign policy justifications for permitting the export of such items which would not be significant to the South African military or police.

The resolution is selective and discriminating. It draws the line where it must be drawn and closes a loophole which must be closed. It is a nonbinding resolution, but it is my intention to seek cosponsors and demonstrate to the administration how strongly Congress feels about South African apartheid and terrorism in the Middle East.

Mr. President, I ask unanimous consent to have printed in the RECORD an article from the March 16, 1982 Washington Post entitled "Proposed Aircraft Sale to South Africa Tests New U.S. Trade Policy" and an editorial from the Des Moines Register of March 6, 1982, entitled "Anything to Sell Planes?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 16, 1982]

PROPOSED AIRCRAFT SALES TO SOUTH AFRICA TESTS NEW U.S. TRADE POLICY

(By Reed Kramer)

Two American aircraft manufacturers competing for a $12 million sale to the South African Air Force have applied for Commerce Department export licenses, presenting the Reagan administration with an early test of its new trade policy toward that country's white minority government.

Revised export regulations lifting the ban on sales of certain nonmilitary items to various South African government agencies, including the military and police, went into effect March 1.

The new policy began to take shape late last year when the administration approved several high-technology sales that had been stalled because of concern they might violate the arms embargo against South Africa. Another controversial computer sale, delayed for more than a year by national security considerations, is expected to win approval soon.

Since the arms embargo was imposed in 1963, five presidents have used trade restrictions as the primary means of distancing Washington from apartheid, the South African system of racial separation. Then-president Jimmy Carter broadened the ban to exclude sales of all U.S. goods to the military and police in 1978.

The Reagan administration, however, has reversed the 20 year trend toward greater limits on U.S. trade and official cooperation with South Africa, opting instead for what it calls "constructive engagement."

"It does not serve our interests to walk away from South Africa any more than it does to play down the seriousness of the domestic and regional problems it faces," Assistant Secretary of State for African Affairs Chester Crocker has said. The aim is greater progress toward shared goals, he added.

Specific trade decisions are difficult to monitor, since most sales information is protected by trade confidentiality rules. But government and corporate sources list among previously stalled computer exports that got the go-ahead several that skirt the ban on military-related sales:

A Sperry Univac 1182 computer to Atlas Aircraft Corp., a subsidiary of ARMSCOR, the government-controlled South African Armaments Development and Manufacturing Corporation.

An IBM 4341 computer and a Data General MV/8000, both to companies in the Barlow Rand group, a conglomerate whose past purchases have received special scrutiny because of its close ties to ARMSCOR, which is managed by a Barlow Rand senior executive.

Another Data General MV/8000 to the National Institute for Telecommunications Research, a branch of the state-run Council for Scientific and Industrial Research, responsible for developing defense communications and radar.

Still pending is the application filed on the eve of Ronald Reagan's inauguration by Control Data Corp. to sell a powerful Cyber 170/750 computer to the government's scientific council, these sources said. It has been delayed by questions within the Pentagon and other agencies about the effects of selling a system that with proper programming might compromise American cryptographic secrets and nuclear nonproliferation goals.

The newest request for licenses are from Beech Aircraft of Wichita, Kansas, and the Pennsylvania-based Piper Aircraft Corp., both wanting to sell the South African Air Force six twin-engine turboprops for use as air ambulances, company spokesmen said.

The revised U.S. regulations maintain the prohibition on sales of aircraft and helicopters for "military, paramilitary or police use." But State and Commerce officials said they are considering licensing the sale under an exemption allowed for medical equipment.

Rep. Howard Wolpe (D-Mich.), chairman of the House Africa subcommittee, thinks the proposed sale should not be approved.

"The notion that these planes don't have military utility is simply a very deceptive proposition. They are designed to help the military—that's why they're being sent to the military."

The trade regulations and computer licensing decisions provoked lengthy debate within the administration, with the Commerce Department advocating looser controls and the State Department holding out for retention of certain restrictions, officials in both departments said.

For example, State initially opposed Sperry's sale to Atlas Aircraft. Commerce backed it. Advocates were helped by a curious omission in the regulations: Although sales to the government arms manufacturer ARMSCOR are prohibited, exports to its 11 subsidiaries, including Atlas, are not.

Commerce's case was further strengthened, a State Department official said, when "we suddenly found that Sperry Univac already had the computer there and we were faced with a fait accompli."

The compromise agreement required the manufacturer to certify that the Atlas computer would be used only for "inventory maintenance," and not for "the development of any kind of military capability," another State Department official reported. It also called for on-site inspection by both Sperry and the U.S. Embassy, although no schedule for visits has been made.

Government and corporate officials now expect similar compromises to allow agreement on the more controversial Control Data sale.

The Cyber 170/750's formidable scientific capabilities prompted referral of the application to the Sub-Group on Nuclear Export Coordination, representing the Defense and Energy departments as well as Commerce and State. Officials serving on the subgroup said that although they expressed reservations, Defense Department reluctance proved to be the major obstacle to approval.

The classified Defense objection apparently raised concern about the computer's code-breaking capacity. Speaking for Control Data, spokesman William Schaefer said: "In the case of South Africa, we're aware of the embargo, and we have consistently and are going to continue to comply. But we also are seeking ways to export technology that could be used to upgrade the quality of life for blacks."

He said licensing procedures are often lengthy. "We just have to be patient," he explained. However, participants in the Reagan administration review process report that the company's Washington representatives have been pressing for a decision.

South Africa also has tried to speed the licensing process. The president and vice president of the Council for Scientific and Industrial Research personally pleaded their cause to the State and Commerce departments in October. Government representatives approached then-deputy secretary of state William Clark with assurances that the Cyber 170/750 would be used exclusively for purposes approved by the United States.

Sources say that before moving to the White House last month as national security adviser, Clark told aides he supported the sale. Now, after further delays and additional discussions between Crocker and Undersecretary of State Richard Kennedy, the case is being referred to Secretary of State Alexander M. Haig, Jr. for final approval, State Department officials said.

In related actions during the past year, the administration has granted South African requests for Coast Guard training and for more consulates and military attaches. The United States has also eased the ban on visas for high-ranking military and police officers, adopted as a corollary of the arms embargo.

Two generals have been admitted to this country to participate in ongoing talks over independence for South African-controlled Namibia (South-West Africa). Crocker has held four negotiating sessions during the past six months with Pretoria's chief negotiator, Brand Fourie—two in Europe and two in the United States, State Department officials said.

Lt. Gen. Jannie Geldenhuys, chief of staff of the Army, attended the meetings in November in Middleburg, Va. In the most recent talks at the State Department on Feb. 22 and 23, which included deputy secretary Walter Stoessel, the military representative was Lt. Gen. P. W. van der Westhuizen, chief of staff for intelligence in the South African Defense Force.

A year ago, van der Westhuizen and three colleagues became the first officers to visit the United States since 1974, and their trip was engulfed in controversy, especially after news leaked of their talks with U.N. Ambassador Jeane J. Kirkpatrick.

Critics, like Wolpe, see in the administration's attitude an inclination toward accommodation that they believe has contributed to rising tensions in southern Africa.

"I don't think American interests are served thereby," Wolpe said.

Nevertheless, what separates the Reagan administration from its predecessors may be less a change in practice than in tone. Crocker, chief architect of the policy, says its objective is not to present Pretoria with "a series of tangible carrots" but to alter the "intangible atmosphere of relations."

The arms embargo has always continued loopholes, and economic ties have grown steadily in spite of export controls.

And the trade barriers have never been unbreachable. American computers underpin much of South Africa's administrative apparatus. The government research council ordering the advanced Control Data machine already owns several large U.S. computers, including two IBM 370/158s and an earlier generation Cyber.

U.S. officials from the president on down say their approach is producing results. In nationally televised interviews earlier this year with Dan Rather of CBS and Black Journal host Tony Brown, Reagan credited his government's friendly attitude toward South Africa with getting stalled negotiations on Namibia back on track. Both U.S. and South African officials say progress is also being made in bilateral discussions of nuclear issues.

[From the Des Moines Register, Mar. 6, 1982]

ANYTHING TO SELL PLANES?

The Reagan administration's war against international terrorism has taken a shot to the jaw—from the Reagan administration. The blow came in the form of a decision to allow U.S. manufacturers to sell civilian aircraft to Syria and South Yemen, two countries on an official U.S. list of nations that support international terrorism.

According to a letter sent to Congress by the Commerce Department, the sales will be allowed on the basis of Syrian and Yemeni "assurances" that the planes will not be put to military use.

It is amazing that the administration is satisfied by assurances from those it believes to be patrons of international bandits. Secretary of State Alexander Haig has repeatedly called South Yemen a "Soviet surrogate." And Syria's sponsorship of Palestinian guerrillas is well-known to the State Department.

The administration, moreover, seems to have forgotten that U.S.-supplied Boeing 727s were used by Libya to ferry soldiers to Uganda to fight alongside the army of the infamous Idi Amin.

American plane-makers are said to be under increasing competition from the European-made Airbus for sales to Arab nations. That reportedly was the chief factor behind the Commerce Department's decision. Is the quest for profits that sacred? Is it more important than the fight against terrorism? We don't think so, and we hope Congress doesn't, either.

Mr. TSONGAS. Mr. President, I ask unanimous consent to have printed in the RECORD Senate Concurrent Resolution 77.

There being no objection, the text of the resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring),

Whereas Iraq has provided and continues to provide support for acts of international terrorism and until February 26, 1982 was included on the formal State Department list of countries supporting international terrorism,

Whereas Syria and South Yemen remain on the State Department's terrorism list,

Whereas the export of civil aircraft to Syria or South Yemen would have significant foreign policy implications,

Whereas the Congress regards as repugnant the South African system of racial discrimination known as apartheid,

Whereas it is in United States foreign policy interests to abide by the spirit and terms of United Nations Security Council Resolution 418 mandating an arms embargo against South Africa, and

Whereas export controls should be streamlined and simplified wherever possible, keeping in mind national security and foreign policy considerations in the export of sensitive items,

Now, therefore, be it resolved by the Congress

That it is the sense of Congress that the Department of Commerce export control regulations of February 26 pertaining to Iraq, Syria, South Yemen, South Africa, and Namibia were announced without adequate consultation with the Congress, that the previous regulations functions satisfactorily over the past two years, and that the regulations of February 26 should be modified so as to adhere to the following principles:

(1) In accordance with prior policy, Iraq should remain on the formal State Department list of countries which have repeatedly provided support for acts of international terrorism;

(2) In accordance with prior regulations, Congress should continue to be notified in advance of a decision to act favorably on export license applications for civil aircraft for Syria and South Yemen;

(3) In accordance with prior regulations, export license applications for items controlled for national security purposes and destined for South African military and police entities should be denied;

(4) In accordance with prior regulations, export license applications for any helicopters or airplanes for South African military and police entities should be denied;

(5) In accordance with prior regulations, export license applications for any computers for South African military and police entities should be denied and in the case of other South African government entities should be considered favorably on a case by case basis for those computers which would not be used to support the South African policy of *apartheid:*

(6) The term "military and police entities in South Africa" should be defined to include the Armaments Corporation of South African (ARMSCOR), ARMSCOR subsidiaries, and the Council on Scientific and Industrial Research.

Mr. BOSCHWITZ. Mr. President, the resolution we introduced today underscores our conclusion that the Commerce Department should reverse its precipitous and misguided new regulations which seriously undermine our efforts to combat international terrorism.

The regulations which were suddenly announced February 26 without proper consultation with Congress, also relax export control regarding South Africa.

In particular, we believe that the evidence does not warrant the removal of Iraq from the State Department's formal list of countries supporting international terrorism. The Baghdad government is still supporting terrorism and splinter groups of the PLO which use terrorism as a tactic.

The Senate Foreign Relations Subcommittee on the Near East and South Asia, which I chair, held a hearing March 18 on the subject. In addition, we receive classified CIA briefings and studies. The committee also had the benefit of a Library of Congress Congressional Research Service (CRS) study which listed at least a dozen terrorism acts claimed by Iraq-backed terrorism groups in the past 2 years. The CRS study, taken from public material, is only the tip of the iceberg regarding Iraq's support of terrorist actions. Terrorists with links to Iraq have deliberately thrown hand grenades and fired machineguns or tried to plant bombs in attacks against innocent civilians, many of them in Europe, others in the Middle East, including in Arab countries.

Iraq's removal from the terrorism list opens the way to the sale of militarily useful equipment such as transport cargo planes and trucks without notifying Congress in advance. The new regulations also would allow the sale of civilian aircraft—which can be diverted for military purposes—to Syria and South Yemen without informing Congress. Both countries remain on the terrorism list.

The new regulations affect the foreign policy controls provisions of the Export Administration Act. Under a 1979 amendment, the so-called Fenwick amendment, Congress is to be notified 30 days in advance before export licenses can be issued for goods or services valued at more than $7 million which would enhance the military potential or terrorism support capabilities of countries which have repeatedly supported acts of international terrorism.

The Fenwick amendment and its legislative history underscores the view that such major sales to countries supporting terrorism have foreign policy implications and therefore Congress wants to know about them and be consulted.

Therefore, I find it incredible that this decision to change the regulations and remove Iraq from the terrorism list was rushed through without any consultation with the Senate Foreign Relations Committee. The committee's concern and interest in the matter is long and deep and a matter of public record. The 1979 regulations should have been extended for another 30 days to allow for proper consultation as urged by some officials and Members of Congress.

The way the decision was quietly made and then pushed through by Commerce makes it much more difficult for Congress to have confidence in the bureaucrats who are entrusted to implement our legislation. After all, the previous disputes over aircraft and truck sales to Libya, frigate engine sales to Iraq, one would think that officials should have learned Congress should be informed and consulted in advance of these matters. The repeated attempts to present a fait accompli only invite tighter controls and restrictions.

The removal of the civil aircraft controls may well violate the intent of the Fenwick amendment which specifically states Congress wants to be informed about proposed sales which could enhance the military logistics capability of countries on the terrorism list.

Despite the claims that the congressional scrutiny has hurt business, sales to Iraq actually doubled since 1979, from $443 million to $913 million in 1981. The Commerce Department material fails to note that, or the fact that we approved the sale of five large airplanes to Iraq last year.

Mr. President, it is my hope that this controversy over the revised export controls can be worked out. I hope the Commerce Department will take our suggestions and revise the regulations without further ado, or passage of resolutions or even legislation. Until the matter is resolved, the Commerce Department has been asked to abide by the procedures of the old regulations. I sent Commerce Secretary Baldrige a letter to this effect today.

I ask unanimous consent to place into the Record a copy of the CRS study and an earlier letter by six members of the Senate Foreign Relations Committee expressing concern about the manner in which the new regulations were handled.

There being no objection, the material was ordered to be printed in the Record, as follows:

Congressional Research Service,
The Library of Congress,
Washington, D.C., March 16, 1982.

To: Senator Rudy Boschwitz.

From: Ellen Laipson, Foreign Affairs and National Defense Division.

Subject: Iraqi support for terrorism 1980-1982.

This memorandum describes information collected from public sources on terrorist activities directly or indirectly attributable to Iraq in the past two years. The groups named here are committed to armed struggle against Israel; alleged Iraqi support for groups organized to oppose the governments in Oman, Iran, and Syria among others is not cited.

The Arab Liberation Front was founded by Iraq in 1968. Iraq, according to numerous press accounts, remains the sole source of financing for the ALF, which has claimed responsibility for a number of terrorist incidents against Israel:

(1) An attack against kibbutz Misgav 'Am on April 7, 1980,

(2) An explosion in a chemical warehouse in Jerusalem on April 12, 1980,

(3) An attack against an Israeli patrol near a Jewish settlement outside Bethlehem on May 12, 1980,

(4) An attempted assassination of Israeli Defense Minister Sharon on July 15, 1980, and

(5) Two efforts to enter Israel by motor-driven gliders on March 7, 1981. The first four of these incidents were reported by Iraqi radio; the fifth by the Washington Post.

A number of other Palestinian splinter organizations are widely thought to have links with Iraq, but cannot be proven from public sources to be primarily financed or directed by Iraq. The following are the major groups in this category.

The Popular Front for the Liberation of Palestine is headed by Dr. George Habash, and maintains contacts with a number of Arab governments. Official trips to Baghdad occurred in January and February, 1980. On June 27, 1981, the PFLP was reported by the Agence France de Presse in Beirut to be responsible for an attack on an Athens based maritime agency allegedly used by Israeli intelligence agents. The attack left two dead and more than 50 wounded.

The Palestine Liberation Front claimed responsibility for an attack against Israel launched by balloon. The attempted raid against a settlement in northern Israel was reported by the Kuwaiti news service.

The 15 May Organization distributed statements in Beirut in August 1981, claiming responsibility for attacks against the Israeli diplomatic missions in Vienna and Athens. The Iraqi radio report also associated the group with an earlier attack against El Al facilities in Rome. On March 2, 1982, an Israeli intelligence official disclosed that his government believes this organization is connected with the bombing of a Greek ship outside Haifa which took place in December 1981.

There is considerable controversy surrounding a group called El Assifa (Arabic for Storm), also known as the Abu-Nidal group. After breaking away from Yasir Arafat's Fatah group in the early seventies over the issue of negotiations with Israel, Abu Nidal (a code name for Hasan Sabri al-Bana) went to Baghdad and received the protection of the Iraqi government for several years, while he mounted terrorist attacks in Syria and Jordan (See the New York Times, September 13, 1981). The Kuwaiti news agency has referred to the Abu-Nidal group as "a pro-Iraqi Palestinian commando movement" (July 29, 1980), as does the Atlanta Constitution, in an article from Beirut on September 17, 1981. Yet other accounts, including the New York Times and the London-based magazine The Middle East, suggest that Abu-Nidal may be turning increasingly to Syria for support.

In the past two years, this group has been associated with at least three incidents:

(1) The July 1980 assassination of Israel's commercial attache in Belgium,

(2) The May 1981 killing of Viennese city councilman Heinz Nittel, and

(3) The August 1981 attack on a synagogue in Vienna.

Abu-Nidal may also have been involved in a September 1981 bombing incident in southern Cyprus against a company representing the Israeli shipping line Zim.

U.S. Senate,
Committee on Foreign Relations,
Washington, D.C., March 3, 1982.

Hon. Malcolm Baldrige,
Secretary of Commerce,
Washington, D.C.

Dear Mr. Secretary: We have received your communication dated February 26th, and the corrections to it dated March 3rd, concerning substantive changes proposed in U.S. export controls applied for foreign policy purposes. We were surprised to learn that the proposed changes were based on "prior briefings of Members of Congress," because we have no record of being consulted with respect to these proposed changes in United States foreign policy.

In view of this Committee's long-standing interest in, and responsibility for determination of United States policy with respect to countering international terrorism as well as its responsibility for questions of foreign policy in general, we assume the failure to consult this Committee was an oversight. May we have your assurance that this Committee will be consulted prior to any changes in export controls maintained for foreign policy purposes?

We wish to call to your attention, also, that the Committee will examine the substance of the proposed changes. We will be in touch with you shortly in that regard.

Sincerely,

Charles H. Percy,
Chairman,
Claiborne Pell,
Ranking Minority Member,
Rudy Boschwitz,
Chairman, Near Eastern and South Asian Affairs Subcommittee,
Paul S. Sarbanes,
Ranking Minority Member, Near Eastern and South Asian Affairs Subcommittee,
Charles McC. Mathias, Jr.,
Chairman, International Economic Policy Subcommittee,

CHRISTOPHER J. DODD,
Ranking Minority Member, International Economic Policy Subcommittee.

EXPORT CONTROL REGULATIONS FOR THE MIDDLE EAST AND SOUTH AFRICA

Mr. KENNEDY. Mr. President, I am proud to join my colleague Senator PAUL TSONGAS in cosponsoring this concurrent resolution which would reverse the Reagan administration's shocking scheme to lift restrictions on sales of equipment and material to the military and police forces in South Africa, to relax trade restrictions to Iraq, Syria, and South Yemen in the Middle East, and to remove Iraq from the list of countries supporting international terrorism.

The Reagan administration implemented these irresponsible measures unilaterally in flagrant disregard of consultations with Congress required by existing legislation.

In fact, in testimony before the Near East Subcommittee of the Senate Foreign Relations Committee, administration spokesmen refused to state that Iraq no longer supported international terrorist groups. They would only say that Iraqi support was less today than before. That is not the criterion of the law. Either Iraq does or does not support international terrorism and, since administration officials acknowledge that Iraq still supports some terrorist groups, Iraq should remain on the proscribed list of countries supporting terrorism.

In point of fact, Iraq, Syria, and South Yemen are among the most extreme supporters of PLO terrorism and are sworn to do all in their power to destroy the State of Israel. To remove antiterrorism or related trade restrictions from these states involves complete hypocrisy on the part of an administration pledged to combat international terrorism and to support the security of Israel.

The new regulations will permit the sales of equipment and material to the military and police forces in South Africa. These are the very forces used by the Government of South Africa to enforce the abhorent apartheid policy which denies even the most fundamental human rights to the black majority in that country. The new regulations would virtually abrogate the longstanding U.S. policy not to aid or abet the South African Government's enforcement of apartheid.

The concurrent resolution we are introducing today calls for the United States to deny export licenses for items, such as helicopters, airplanes, and computers, destined for South African military and police agencies. This resolution, in fact, will tighten previous controls by specifically including in the list of proscribed agencies of the South African Government the Armaments Corp. of South Africa (ARMSCOR) and its subsidiaries and the Council on Scientific and Industrial Research.

South Africa's racist policies have made it an outcast among all the nations of the Earth. This action by the Reagan administration, which gives aid and comfort to apartheid, is the equivalent in our foreign policy of the administration's blatant recent attempt to give tax exemptions for segregation in the United States. This latest retreat by the administration on civil rights and human rights should be swiftly rejected by Congress.

I hope, therefore, that our colleagues will lend their wholehearted support to this resolution to demonstrate that Congress is ready to take a strong stand against terrorism in the Middle East and apartheid in South Africa.

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10:30 with statements therein limited to 5 minutes each.

ARMS CONTROL AND THE NUCLEAR FREEZE

Mr. TSONGAS. Mr. President, since I have the floor I would like to take advantage of this opportunity and talk about another matter.

Yesterday there was introduced a resolution on the issue of arms control by a number of Senators who politically exist in sort of a centrist or right-of-center space in the ideological spectrum.

I think probably the most dramatic change in politics in the country is not that the business roundtable goes to the White House and asks for a mid-course correction in economic policy, but what, in fact, has happened in this country is that the average person has begun, ironically, to think about and contemplate, to worry about, the realities of nuclear war.

That has not happened in a very long time in this country. What is happening there among our constituencies is the realization that we do indeed live in a nuclear age and that the basic savagery that man is capable of exhibiting and which is contained by civilization and institutions is still there in an age of nuclear weaponry, and that we live in a most dangerous world.

There is a difference, as I see it, between the pro-arms control constituency and the sort of anti-Vietnam, anti-El Salvador constituency. They are remarkably different people and I say that from experience having been involved with both groups.

Let me try to explain the difference. I began my political career, among other things, in demonstrating against the war in Vietnam both as a private citizen, as a student and, subsequently, as a member of the Lowell City Council.

At that time there was a great deal of dispute in the country over the war in Vietnam, and my involvement in those activities was very controversial, although it never affected my political fortunes.

The fuel for that movement basically came from students and young people who, for a whole host of reasons, were involved, but one of them was the fear that they indeed might be involved in Vietnam themselves. That is not very much different from the kind of people whom you see at rallies on our policies in El Salvador.

That pattern, however, is remarkably different from the arms control constituency, including those who support a nuclear weapons freeze, that has emerged in this country, and I would submit a far more powerful constituency that is far more deeply rooted.

I think the motivation of the freeze community and the arms control constituency on a larger scale is the concern of the parents for their children.

Most Members of the Senate are old enough—in fact we all are—so that we have come to consider our own mortality, and that however we may view that serious subject, we know that we have indeed lived and experienced most of life and have seen the world and have been honored to serve in the Senate.

Were we to engage in a nuclear holocaust, at least we would have something to look back on in those minutes that remain to us. That is very different, fundamentally different, from how we view our children who have not decided anything, who have their lives ahead of them, our children and our grandchildren.

The motivation, in my opinion, for the nuclear weapons freeze movement is the love of parent for child and a deep desire not to have that child incinerated because two superpowers engaged in rhetoric, talked about a winnable nuclear war, talked about limited nuclear war and, in essence, precipitated a holocaust by their own myopia.

Any administration or any Member of Congress who, in essence, underestimates how powerful this bond is between parent and child, who underestimates the linkage now made between that and our nuclear policy, I think jeopardizes himself politically. So be it, and so it should be.

Time magazine this week had on its cover a nuclear explosion with the title "Thinking The Unthinkable." I think this country is doing exactly that. When we have someone like T. K. Jones, in the Office of the Secretary of Defense, who talks about civil defense, and says that in 2 to 4 years we could recover totally from an all-out thermonuclear exchange, it becomes apparent to us all that it is time to think the unthinkable.

Mr. President, I think history will show that the nuclear freeze movement, despite the case you can make against the technicalities, is, in fact, a historically significant and, I think, profoundly important development and one that will serve all of us.

We may argue, as some have, over the technical details, but it is, in fact, a pro-arms control movement that is at the grassroots, and I think it would be in the interests of this Nation and the human family as a whole to recognize what it is about and not stand in its way.

YURIY SHUKHEVYCH DEFENSE WEEK

Mr. PROXMIRE. Mr. President, the week of March 22-27 has been declared "Yuriy Shukhevych Defense Week" by the National Executive Board of the Ukranian Student Association of Mykola Michnowsky (TUSM).

In 1948, at the age of 15, Shukhevych was arrested and sentenced to 10 years of hard labor. His crime: He is the son of the former commander in chief of the Ukranian Insurgent Army, a unit which fought to liberate Ukraine from the Soviet Union in the 1940's and 1950's.

While serving his sentence, agents of the KGB demanded that Shukhevych publicly denounce his deceased father as an "enemy of the people." He refused, and was subsequently sentenced to two additional 10-year terms of imprisonment. All told, he has spent 30 of his 48 years in Soviet prison camps.

Mr. President, Shukhevych is only one of thousands of Ukranian dissidents whose basic human rights are abused because of their resistance to the Soviet Union's annexation of Ukraine.

How can we lobby more effectively for Yuriy Shukhevych's release, as well as that of countless other Ukrainians? We can give the Soviet Union one less opportunity to evade our inquiries on human rights abuses. By pointing out that the United States has not ratified the Genocide Treaty, the Soviets effectively change the focus of our discussions from their human rights violations to an international treaty to which the United States is not a party. In fact, the United States is the sole major Nation, other than the People's Republic of China, not to have ratified the Genocide Treaty.

By ratifying this treaty, we would be supplementing our proven human rights record with official support for a treaty which is premised on opposition to the extermination of a racial, religious, ethnical, or national group. How can anyone be opposed to such a treaty? I call on my distinguished colleagues to act now and ratify the Genocide Treaty.

ILLINOIS: A STATE WITH GREAT ASSETS

Mr. PERCY. Mr. President, all 50 States in the Union have their unique qualities that make them special places in which to live and work. In my somewhat biased view, Illinois, in the Nation's "heartland," is just about the best place in this country to live and do business.

Chicago is one of the most important financial centers in the United States, boasting large banking and insurance institutions. The American commodity market is centered in Chicago and our three exchanges—the Board of Trade, the Mercantile Exchange, and the MidAmerica Exchange—conduct the bulk of commodity trading for this country and, in the final analysis, the world. These financial services make Chicago second to none.

Our farms are among the most productive in the country, excelling in corn and soybeans. These two crops also happen to be among the primary agricultural exports of the United States, making Illinois farmers sensitive to international economic trends and appreciative of the needs of our trading partners. For many years our State has held the title of "Number One Agricultural Exporting State" in the United States. We are proud of that record and are redoubling our efforts to retain it.

Illinois is also a transportation hub, with magnificent highways criss-crossing it. Chicago is the rail hub of the country. The Nation's farm produce moves to market on our waterways, from the Mississippi River to the Port of Chicago on the Great Lakes. O'Hare International Airport in Chicago is the busiest in the country. All these transportation resources mean that, when it comes to moving freight, no other State can touch Illinois.

Mr. President, I could list dozens of other characteristics that make our State one of the top industrial centers of the United States. Last November a professor at Northwestern University and the University of Illinois—Andrew Bavas—wrote a column for the Chicago Sun Times about Illinois' assets. I ask unanimous consent that his article appear at the close of my remarks.

A similar article on Chicago appeared in the January/February issue of Showcase U.S.A. magazine, published by the export promotion organization, Sell Overseas America. I ask unanimous consent that this article, by Martin Zimmerman, also be included in the RECORD at the close of my remarks.

Mr. President, these two articles point out so well that our State is an excellent spot for business and trade. Illinois' industries have shown over time that they have the diversification and creativity to compete in the international marketplace. This bodes well for our State in the future, for our eaconomy is becoming increasingly interdependent and the economies of many parts of the world—the Middle East and Southeast Asia, for example—are growing at rapid rates. Illinois fits into that future. It has the services and goods the world wants and it knows how to market them. I commend these articles to my colleagues and to businesspeople everywhere.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Sun Times, Nov. 27, 1981]

ILLINOIS HAS GREAT ASSETS—LET'S UTILIZE THEM

(By Andrew Bavas)

A serious public discussion of Chicago's economic condition apparently has begun in earnest, thanks to the persistent efforts of the Sun-Times, which continues to keep its journalistic spotlight on the issue.

The early stages have been devoted to defining the problem. As this broadens to include an analysis of policies to encourage economic development, some basic facts should be kept in mind. They may well be the foundation for our future prosperity; also, they point up the mutual dependency of the city and state in finding solutions to our problems. The facts are:

1. Chicago and Illinois benefit from their strategic central location. Chicago is a terminus or transfer point for all major freight and transport systems.

2. Illinois is a world leader in agricultural production. We rank first in soybean production (the most versatile protein crop), first in total exports of agricultural products and fourth among all states in agricultural cash receipts. We rank first or second annually in corn production and second in hog production. Eighty percent of our land is devoted to agriculture and fully 90 percent is classified as prime, equal to nearly 10 percent of the nation's total.

3. Illinois' coal reserves are among the world's largest. We rank fourth in national production. Estimates are that we have enough to supply the world for 100 years.

4. The state has the nation's greatest nuclear energy production capacity, concentrated heavily in the Chicago region. Also, the Alaskan gas pipeline may terminate here.

5. We enjoy rich water resources—a resource for which there is no substitute, as the Sun Belt is fast learning.

6. Chicago and Illinois are large consumer markets that attract international attention. Chicago is the hub of a rich multi-state regional market.

7. Chicago and the state rank near the top nationally in industrial capacity and production.

8. Chicago has an enormous pool of skilled labor.

9. The state, but in particular Chicago, enjoys one of the country's most significant concentrations of educational, scientific, medical and technological institutions.

10. Chicago is a national and world leader in banking, finance and agricultural commodity trading and marketing.

Few other states, or for that matter nations, are as robust. This doesn't mean our problems are illusionary. They are real—but not terminal. What the facts do suggest is that we can cope with our problems if we exploit our resources and natural advantages fully and creatively.

There are several ways to do that, including these:

1. Our universities need greater incentives to develop technologies permitting domestic use of our vast coal reserves. It's unconscionable that we all but ignore this resource.

2. Our irreplaceable farmland becomes more valuable as world population grows and worldwide demand for protein expands. Foolishly, we continue to destroy more than 100,000 acres annually by converting it to less productive uses. We need a rational farmland conservation policy to assure that these riches will continue to flow far into the future.

3. A policy that could have a spectacular ripple effect involves upgrading the Illinois waterway system, made up of the Illinois and Des Plaines rivers and the Cal-Sag Canal. A still-growing industrial corridor is situated along it. Enlarging and improving its navigability would help Chicago realize its potential as a great inland seaport. The effort of Sen. Charles H. Percy (R-Ill.) and others to create a national park along the waterway is compatible with this strategy.

This would substantially increase our capacity to handle barge traffic and improve Chicago's link to the Mississippi and the Missouri river systems, which penetrate deep into the industrial and agricultural heartland of America.

Chicago could become a magnet for all products produced along this inland system of waterways. Illinois products, including coal, could be shipped at less cost to our growing list of European customers from the Port of Chicago. further, the enormous quantities of U.S. wheat and corn exported to Europe and the Soviet Union could be shipped more economically from Chicago than from the ports now used.

Industries in cities along an improved Illinois waterway, Peoria for example, would benefit directly. Also, industries with substantial European markets would be encouraged to establish new facilities along the waterway with the prospect of shipping more economically from Chicago. The resulting economies would make their products more competitive.

Finally, a massive influx of agricultural products into Chicago, via an improved waterway, could expand our food processing industry with efficient service to foreign and domestic markets.

These policies are practical and the benefits real. What we need now is creative, aggressive leadership and hard work.

[From Showcase U.S.A., Jan./Feb. 1982]

CHICAGO: "SECOND CITY" IN NAME ONLY

(By Martin Zimmerman)

Long relegated to secondary status in the pantheon of American Cities—behind the "Big Apple," New York City—Chicago is, in fact, the "Second City" in name only. In reality, Chicago is a spirited cultural and financial center that doesn't take a subordinate role in comparison with any city—in America or the rest of the world.

The greatest transportation and distribution point in the United States, Chicago boasts the world's busiest airport, is the hub of the nation's railroad system, and is also a great seaport with vessels from every nation entering Calumet Harbor from the St. Lawrence Seaway. The city is "number one" in numerous industrial categories and has immense agricultural implement as well as electrical machinery factories, printing plants, metal products factories and furniture marketing. Its proximity to the iron ore regions on Lake Superior and the coalfields of Illinois and Indiana has made it a center for the manufacture of iron and steel.

CONVENTION CAPITAL

Most important for the overseas businessman, Chicago is the convention capital of America. More than 1,200 conventions, trade shows and expositions attracting over 2.5 million persons are held each year and ten of those rank among the top twenty largest trade shows in the country (including the top three).

All of these shows are held at McCormick Place, the largest convention hall in the United States with over 68,000 square meters of exposition space on three levels. The largest shows spill over into McCormick Place West, an auxiliary hall located next to the main hall and offering an additional 12,500 square meters of exhibit space. In addition, the entire convention area features 25 large and small meeting rooms and auditoriums as well as several theaters.

The largest trade show in the country is the National Hardware Show held each year in the late summer. Sponsored by the American Hardware Manufacturer's Association, the annual event is one of the most popular American trade shows for the foreign buyer with over 3,000 overseas businessmen making the trip and representing over fifty different countries.

It is no wonder why so many foreign traders attend this particular event: Over 3,000 manufacturers exhibit more than 300,000 different products in the most comprehensive gathering of hardware, housewares, lawn and garden, outdoor living, home improvement and building supplies to be found anywhere. In addition, the National Hardware Show in one of an exclusive group of trade shows under the umbrella of the U.S. Department of Commerce Foreign Buyer Program. It offers an international center to assist with language and commerce difficulties, has a series of seminars focusing on marketing and sales aspects of the hardware business, and is a member of the Union des Foires Internationales (U.F.I.), the prestigious international organization of world-class trade events.

VIDEO, BOATS . . .

Only a shade smaller than the National Hardware Show, and pushing it for the top spot among the nation's trade shows, the International Summer Consumer Electronics Show attracts over 50,000 visitors and is the largest consumer electronics trade show in the world. The ISCE, in an effort to accomodate the specialized needs of those audio and video exhibitors who require a demonstration room environment for more selective traffic, holds many exhibits in the McCormick Inn, a 650-unit hotel located adjacent to McCormick Place convention center with 150 demonstration rooms and hospitality suites.

Sponsored by the Electronic Industries Associate/Consumer Electronics Group, the ISCE is the major event for showcasing new products in audio, video and personal electronics. In addition to being the main venue for introducing new products, the ISCE also features a design and engineering exhibition dedicated to the originality of research, development and design of new products; a retail resource center with exhibitors offering specialty services such as freight auditing, insurance, store fixtures and design, and advertising consultation; a retail cross-merchandising display of innovative methods for the successful simultaneous selling of consumer electronics hardware and software; and an international visitors center providing a multi-lingual staff which can arrange meetings, set up interviews and translate conversations with exhibitor personnel for the 5,000 overseas visitors from 60 countries.

The semi-annual National Housewares Exposition ranks as the third and fourth largest trade show in America, with the winter event barely edging out the summer show for third place. Sponsored by the National Housewares Manufacturer's Association, each sister event has almost 2,000 exhibitors which draws an international audience of houseware buyers, merchandising executives and manufacturer's representatives. Each show features an international businessmen's center staffed by Department of Commerce representatives, foreign language translators and other specialists who can aid overseas buyers and domestic exhibitors in doing business together.

A visit to the International Marine Trades Exhibit and Conference in any September will quickly show why the National Marine Manufacturers Association chose McCormick Place for their annual event: the convention center opens to two small boat harbors on one side making this a perfect location for an exhibitor to show his product in its natural environment.

Nearly 30,000 marine buyers from all over the U.S. and some 60 other nations attend the largest marine trade show in the U.S. to view the products of over 5,000 marine equipment manufacturers representing all facets of pleasure boating. And, for the nearly 2,000 foreign buyers in attendance, there will be an international business center providing an information exchange for buyers and exhibitors, translators, telex machine and business lounge area.

SPORTS CRAZY

As befits a country as sports-crazy as the United States, it is not surprising that the National Sporting Goods Association Annual Convention and Show will draw over 50,000 attendees at its annual winter event. Featuring over 1500 exhibitors of everything from skin-diving apparatus to soccer clothing, the show is a must for retailers, manufacturers and distributors alike.

As we've already shown, the versatility of McCormick Place lends itself well to trade exhibits of television sets to yachts to basketballs. Come the spring of each year, the cavernous halls of McCormick Place are filled with the noise and smells of cooking as the 1200 exhibitors compete for the attention of 80,000 attendees at the National Restaurant Convention and Educational Exposition.

A compendium of exhibits, educational programs and seminars designed for all members of the foodservice and lodging industries, the National Restaurant Association brings a full list of representatives and interpreters to aid the foreign visitor in obtaining full cooperation in connection with any agency, distributorship, franchising, licensing and joint venture arrangements the overseas visitor wishes to explore. And, on a lighter note, it will be a chance to witness the always-enjoyable Culinary Olympic trials.

Plastics have just about invaded every area from industrial to consumer, and the National Plastics Exposition held in the early summer each year reflects that fact. Over 40,000 buyers, distributors and industry professionals come to view the latest plastic products, machinery, instrumentation, tooling, molds and related suppliers. This show is specifically geared toward meeting buyers needs, and it has transactions totaling millions of dollars each day.

Last, but certainly not least, in this roster of Chicago trade shows is the semi-annual Chicago Gift Show, cosponsored by the International Decorative Accessories Center and the Eastern Manufacturers and Importers Exhibit Inc. Featuring over 1,000 exhibitors representing 2,000 different product lines, the show has evolved from just a manufacturer's exhibition to a full-fledged trade event with seminars, a centralized buyer service area, and alignment with the Chicago merchandise Mart's line of permanent full-line exhibits.

Chicago's first recorded foreign visitors were the French explorers Louis Joliet and Father Jacques Marquette, back in 1673. With the impressive line up of some of America's biggest and best trade shows being held there all year long, the misnamed "Second City" hasn't seen the last visitors—and won't for some time.

ARMOR-PIERCING AMMUNITION

Mr. PERCY. Mr. President, I have received letters from distinguished members of the law enforcement community in Illinois, supporting the legislation introduced in the Senate yesterday that would outlaw armor-piercing handgun ammunition. Chicago Police Superintendent Richard Brzeczek, Cook County Sheriff Richard Elrod, the Illinois Association of Chiefs of Police, and the Patrolmen's Benevolent and Protective Association of Illinois have all voiced strong support for such legislation. I ask unanimous consent that these letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE SUPERINTENDENT
OF POLICE,
Chicago, Ill., March 12, 1982.

Hon. CHARLES H. PERCY,
U.S. Senate, Chicago, Ill.

DEAR SENATOR PERCY: Permit me to commend you on taking the initiative in proposing legislation which will ban a certain type of handgun ammunition which is capable of penetrating body armor.

As you know three Chicago police officers were killed in the line of duty in a span of four days in early February, 1982. As a result of those murders there has been tremendous public support for equipping all Chicago police officers with protective body armor. A citizens committee has been formed and a charitable not for profit foundation has been established for the purpose of accepting donations from the public to raise the necessary funds to purchase approximately 12,500 pieces of protective body armor.

The ammunition which your proposed legislation intends to proscribe would not be affected by protective body armor and would provide the same risks and potential for injury or death as if the officers were not equipped with the protective body armor.

Please be assured of my personal support and the support of the Chicago Police Department in seeing that this legislation is enacted into law. Please feel free to call upon me if there is anything else I can do for you in connection with the proposed legislation.

Sincerely,

RICHARD J. BRZECZEK,
Superintendent of Police.

OFFICE OF THE SHERIFF,
COOK COUNTY,
Chicago, Ill., February 2, 1982.

Hon. CHARLES H. PERCY,
Washington, D.C.

DEAR SENATOR PERCY: You can be assured of the whole hearted support of my office with respect to your proposed legislation concerning the possession and sale of Teflon coated ammunition known as KTW.

Since the original concept of this ammunition was to afford the law enforcement officer with a round capable of greater penetration than offered by standard soft-nosed bullets, this type round serves no sporting purpose and the possession and use by the general public cannot be supported by claims of its use in target shooting. The increased use of soft-body armor by law enforcement personnel will be defeated by the increased use of this type ammunition by the criminal element in this country.

In addition, it will be the policy of my office to restrict the use of this ammunition by members of my agency as a standard duty round. Use will be limited to situations of a most grievous nature. You can be assured of any assistance which I or my office may lend to this endeavor.

Sincerely,

RICHARD J. ELROD,
Sheriff of Cook County.

ILLINOIS ASSOCIATION OF
CHIEFS OF POLICE,
Springfield, Ill., March 18, 1982.

Hon. CHARLES H. PERCY,
U.S. Senate, Washington, D.C.

DEAR SENATOR PERCY: The Illinois Association of Chiefs of Police unanimously adopted a resolution at its January 1982 conference to seek and support legislation at the state and federal level outlawing what is commonly called the "teflon bullet."

We believe such legislation should totally prohibit the manufacture, transportation, purchase, sale, and possession of such a bullet or similar projectile. At the federal level it would be additionally necessary, we feel, to prohibit importation of such ammunitions in addition to the other categories listed. We see no need for any group exceptions under the legislation.

Sincerely,

IVAN L. SCHRAEDER,
Executive Director.

POLICEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION OF ILLINOIS,
Springfield, Ill., March 17, 1982.

Hon. CHARLES H. PERCY,
U.S. Senate, Springfield, Ill.

DEAR SENATOR PERCY: I understand that you will soon be sponsoring legislation designed to restrict or eliminate the manufacture, distribution or sale of teflon and armor piercing ammunition. This legislation is welcomed by the Policemen's Benevolent and Protective Association of Illinois and we sincerely support your efforts.

Policemen across the country have found it necessary to acquire and wear body armor for their personal protection. In fact, many police officers have purchased body armor with their own money, the municipalities being unable to afford this type of equipment. With the advent of armor piercing ammunition for hand guns body armor has been rendered obsolete and many inanimate objects behind which a police officer could seek cover if fired upon now offer little or no protection.

Please keep us advised on the progress of the legislation. If the Association and its members can be of any assistance, do not hesitate to call upon me.

Very truly yours,

HOBART ROGERS,
Executive Director.

Mr PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY REFORM

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the pending business, S. 1080, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1080) to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs; to provide for a periodic review of regulations, and for other purposes.

The Senate resumed consideration of the bill.

Mr. LAXALT. Mr. President, I yield the floor to my colleague from Vermont (Mr. LEAHY) for the purpose of calling up an amendment.

UP AMENDMENT NO. 852

(Purpose: To amend the Federal Advisory Committee Act to facilitate communications between officers of the Federal Government and officials of State and local government)

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Nevada. I send an amendment to the desk on behalf of Mr. DURENBERGER and Mr. SASSER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont, on behalf of Senator DURENBERGER and Senator SASSER, proposes an unprinted amendment numbered 852.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, line 5, before the word officials insert the following: "elected".

On page 40, line 6, after the word capacities insert the following: " or their representatives or representatives of their national organizations".

Mr. LEAHY. Mr. President, we know that State and local government officials and their representatives have an important role to play in the workings or our Government. With the advent of block grant programs, it will be particularly important for Federal agencies to get input from, and tap the ideas of, State and local officials. This amendment will promote that exchange of valuable information.

In other areas of the law, public officials and their agents, and organizations representing cities, towns, and counties have been exempt from requirements applicable to lobbyists and special interest groups. This is because their involvement in the day-to-day operations of the Federal Government is important. The Federal agencies need to hear the official concerns of State and local officials in matters of public policy.

This point is well illustrated in Bradley against Saxbe, which appears at 388 F. Supp. 53, a 1974 District of Columbia District Court case. There, Judge Gesell held that the full-time salaried officials and employees of organizations representing member local governments and elected officals were exempt from the Federal Regulation of Lobbying act.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, the Bradley against Saxbe case, as well as a portion of Center for Auto Safety against Tiemann, a 1976 case from the District of Columbia District Court, It appears at 414 F. Supp. 215.

In the latter case, Judge Richey said that, absent a specific statutory provision excluding State or local officials from the Advisory Committee Act, they would be subject to the act's requirements.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, This amendment provides that statutory exemption for the policy reasons stated in the case, that consultations between public servants are part of the Federal process envisioned by the Constitution.

EXHIBIT 1

TOM BRADLEY ET AL., PLAINTIFFS, v. WILLIAM B. SAXBE, DEFENDANT—CIV. A. NO. 74-1327

[U.S. District Court, District of Columbia, Dec. 18, 1974]

Suit was instituted by organizations representing their member cities, counties and mayors, for declaratory judgment that their full-time salaried officers and employees were exempt from registration under Federal Regulation of Lobbying Act. The District Court, Gesell, J., held that declaratory judgment was not barred on ground that issue could also be tested by criminal prosecution; and that full-time officers and employees of organizations, which allegedly were mere extensions or agents of public officials who created them, were exempt from registration under Federal Regulation of Lobbying Act, where the organizations, although corporate in form, were financed with public money and concerned solely with lobbying in public interest for officials and all of lobbying work was for governmental purposes and financed from public funds.

Order accordingly

* * * * *

MEMORANDUM AND ORDER

Gesell, District Judge.

Plaintiff organizations representing their member cities, counties and mayors, respectively, seek a declaratory judgment to the effect that they, their named officers, and their full-time salaried employees are exempt from registration under the Federal Regulation of Lobbying Act, 2 U.S.C. § 261 et seq. They contend that the organizations are, in each case, mere extensions or agents of the public officials who created them, that all their activities are financed entirely from public funds, and that while their officers and employees are admittedly engaged in lobbying activity, they are not required to register under section 308 of the Act because such organizations, officers and employees are exempted from registration as "public official[s] acting in [their] offical capacity," by section 308 of the Act, 2 U.S.C. § 267(a). Asserting that they are threatened with imminent criminal prosecution for failure to register, they filed this complaint to resolve the controversy. The matter comes before the Court on cross-motions for summary judgment and has been fully briefed and argued.[1]

The general rule that equity will not act in anticipation of criminal prosecutions is subject to exceptions. Zemel v. Rusk, 381 U.S. 1, 19, 85 S.Ct. 1271, 14 L.Ed.2d 179 (1965); Evers v. Dwyer, 268 U.S. 202, 79 S.Ct. 178, 3 L.Ed.2d 222 (1958). While there is no precise test in such situations, one important factor is whether the penalties involved are so great that unless declaratory relief is entertained, the plaintiffs will, as a practical matter, be compelled to forego their legal position and be obligated to submit. Terrace v. Thompson, 263 U.S. 197, 212, 44 S.Ct. 15, 68 L.Ed. 253 (1923). *See also* Pierce v. Society of Sisters, 268 U.S. 510, 45 S.Ct. 571, 69 L.Ed. 1070 (1925). This factor is clearly present here since under 2 U.S.C. § 269(b) any person convicted of violating the Lobbying Act is automatically prohibited for three years from "attempting, directly or indirectly, to influence the passage or defeat of any proposed legislation" in Congress. To the employees of plaintiff organizations, the threat that upon conviction they would be barred for three years from continuing their employment is obviously far more imposing than the possibility of being fined in a test case. Rather than run that risk, if declaratory relief is denied, they may well be forced to submit to a statute they sincerely claim cannot legally be applied to them. *See* National Assn. of Manufacturers. v. McGrath, 103 F.Supp. 510, 512 (D.D.C.), vacated as moot, 344 U.S. 808, 73 S.Ct. 31, 97 L.Ed. 627 (1952).

This *in terrorem* effect is made all the more compelling by the disturbing First Amendment overtones, discussed more fully below, of threatened criminal prosecutions in these circumstances. *See* N.A.A.C.P. v. Button, 371 U.S. 415, 433, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963); Dombrowski v. Pfister, 380 U.S. 479, 485-489, 85 S.Ct. 1116, 14 L.Ed.2d 22 (1965); Epperson v. Arkansas, 393 U.S. 97, 89 S.Ct. 266, 21 L.Ed.2d 228 (1968); National Student Assn. v. Hershey, 134 U.S.App.D.C. 56, 412 F.2d 1103 (1969); Tatum v. Laird, 144 U.S.App.D.C. 72, 444 F.2d 947, rev'd, 408 U.S. 1, 92 S.Ct. 231, 33 L.Ed.2d 154 (1972).

[1] It should also be noted that the principles of federalism and comity which have prompted federal courts to abstain from intervening in pending state criminal prosecutions, Younger v. Harris, 401 U.S. 37, 91 S.Ct. 746, 27 L.Ed.2d 669 (1971); Samuels v. Mackell, 401 U.S. 66, 91 S.Ct. 764, 27 L.Ed.2d 688 (1971); Steffel v. Thompson, 415 U.S. 452, 94 S.Ct. 1209, 39 L.Ed.2d 505 (1974), work in quite the opposite direction here where agents of state officials threatened with federal prosecution seek to invoke the aid of a federal court of equity to clarify their obligations under federal law, *cf.* Steffel v. Thompson, *supra*, 415 U.S. at 462, 94 S.Ct. 1209, particularly since the issues presented are purely legal involving statutory interpretation, uncluttered by factual disputes. *Compare* Abbott Laboratories v. Gardner, 387 U.S. 136, 149, 87 S.Ct. 1507, 18 L.Ed.2d 681 (1967), *with* United Public Workers v. Mitchell, 330 U.S. 75, 90, 67 S.Ct. 556, 91 L.Ed. 754 (1947). Thus a declaratory judgment is not barred because the issue may also be tested by criminal prosecution.

[2] It is necessary next to consider whether there is a sufficient real and tangible threat of criminal prosecution to present a "case or controversy." The Court has concluded this case presents "a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." Maryland Casualty Co. v.

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[1] The Court denied plaintiff's application for a three-judge court and neither the plaintiffs or the Government sought appellate review of that ruling. Plaintiff's application for preliminary injunction was abandoned in order to bring the merits forward for prompt resolution.

Pacific Coal & Oil Co., 312 U.S. 270, 273, 61 S.Ct. 510, 85 L.Ed. 826 (1941). The Attorney General has apparently pointedly informed some interested public officials that prosecutions will be brought. *Cf.* Steffel v. Thompson, *supra*, 415 U.S. at 455-456, 459, 94 S.Ct. 1209. Defendant Saxbe's counsel has, moreover, not undertaken to deny this alleged threat, but rather has reiterated as the official position of the Department of Justice in this litigation that plaintiff organizations are in fact required to register.[2] *Cf.* Abbott Laboratories v. Gardner, *supra*, 387 U.S. at 152, 87 S.Ct. 1507 (1967). This is not theoretical. Agents of the FBI, acting under the direction of the Criminal Division of the Department of Justice, have begun active field investigations to gather evidence against certain employees of at least two of the three plaintiff organizations. While it may be true, as the Government maintains, that the Department of Justice has not yet selected particular employees of plaintiff organizations to indict, the fear of prosecution here is "realistic" rather than "chimerical" in light of these undisputed facts. Poe v. Ullman, 367 U.S. 497, 508, 81 S.Ct. 1752, 6 L.Ed.2d 989 (1961).

With these considerations in mind, the equities of the situation call for prompt resolution of the controversy in the public interest. The involvement of cities, counties and municipalities in the day-to-day work of the Congress is of increasing and continuing importance. The Court must recognize that the voice of the cities, counties and municipalities in federal legislation will not adequately be heard unless through cooperative mechanisms such as plaintiff organizations they pool their limited finances for the purpose of bringing to the attention of Congress their proper official concerns on matters of public policy. *Cf.* Gravel v. United States, 408 U.S. 606, 616-617, 92 S.Ct. 2614, 33 L.Ed.2d 583 (1972). Registration involves numerous administrative and practical difficulties in this instance. On the other hand, criminal prosecution would create uncertainties and interfere with the on-going work of the plaintiff organizations by creating doubts as to the propriety of their lobbying efforts.

[3] The issues here are purely federal and of such major national consequence that the Court has concluded a declaratory judgment is appropriate in the public interest. The Court therefore reaches the merits.

The question of statutory interpretation presented is easily delineated but not without its difficulties. On the one hand, a clear exemption exists for public officials acting in their official capacity. On the other hand, those who work for "organizations" must register their individual lobbying employees. Here the plaintiff organizations are, although corporate in form, organizations financed with public money concerned solely with lobbying in the public interest for officials who are themselves exempt and all of the lobbying work is for governmental purposes and is financed from public funds. Virtually nothing in the legislative history casts much light on this latent ambiguity in the statute.

Plaintiffs claim that the statutory exemption runs to full-time agents of public officials paid solely from public funds and lobbying solely on behalf of governmental, *i.e.*, official, interest. There have been very few prosecutions under the statute; none that raise the issue presented in this litigation. Congress appears to have impliedly acquiesced in the interpretation urged by plaintiffs. These organizations and their employees have openly functioned in a lobbying capacity in both houses of Congress for many years, and their useful activities are well known to Congress, but no prosecution has ever been brought. *See* 2A Sands, Sutherland on Statutory Construction (4th ed. 1973) §§ 49.03, 49.07 and 49.10.

[4] Of even greater significance is the narrow ground by which the constitutionality of the Act itself was sustained by a divided Court in United States v. Harriss, 347 U.S. 612, 74 S.Ct. 808, 98 L.Ed. 989 (1954). A close reading of the Supreme Court decision indicates that the Court sustained the Act by finding as a proper purpose underlying the statute the effort of Congress to force disclosure by private "special interest groups seeking favored treatment while masquerading as proponents of the public weal." *Id.* at 625, 74 S.Ct. at 816. This narrow purpose, read into the statute, enabled the Court to overcome the First Amendment challenge. This purpose would not be effectuated by registration in this particular instance. Here there can be no doubt that all officers and employees of the plaintiff organizations are engaged in lobbying solely for what may properly be stated to be the "public weal" as conceived by those in Government they represent who are themselves officials responsible solely to the public and acting in their official capacities. The narrow interpretation of the Act should be maintained to assure its constitutionality. Significantly, the legislative history reveals the definition of "organization" was intended to apply to "business, professional and philanthropic organizations," not to organizations of public officials and their agents. S.Rep. No. 1400, 79th Cong., 2d Sess., 27. United States v. Harriss, *supra*, 347 U.S. at 620-621, n. 10, 74 S.Ct. 808. The activities of the public officals here under review are not such as fall within the realm of prohibition which the the Supreme Court used to justify the constitutionality of the Act.

[5] The Act was not intended to apply to full-time employees of plaintiff organizations engaged exclusively in lobbying for cities, counties and municipalities. A declaratory judgment in favor of plaintiffs in the form attached will be and hereby is granted and defendant's motion to dismiss or for summary judgment is denied. Plaintiffs' prayer for injunctive relief is denied. *See* Washington Research Project, Inc. v. H. E. W. 504 F.2d 238, 252-253 (D.C. Cir. 1974). The foregoing shall constitute the Court's findings of fact and conclusions of law.

So ordered.

DECLARATORY JUDGMENT

On the application for declaratory judgment filed by the National League of Cities, the National Association of Counties, and the United States Conference of Mayors, on behalf of their full-time officers and their full-time employees, it is

Declared that each such officer and employee is exempt from registration under the Federal Regulation of Lobbying Act so long as such person engages in lobbying undertaken solely on the authorization of a public official acting in his official capacity and such person receives his sole compensation and expenses for lobbying activity directly or indirectly from public funds contributed by cities, counties or municipalities, as the case may be.

Enter judgment accordingly, so ordered.

[U.S. District Court, District of Columbia, April 28, 1976]

Center for Auto Safety et al., Plaintiffs v. Norbert T. Tiemann et al., Defendants—Civ. A. No. 74-1662.

Resident of Georgia and nonprofit organization whose activities centered around transportation safety issues brought action challenging Federal Highway Administrator's acceptance of Georgia highway safety standards. The District Court, Charles R. Richey, J., held that plaintiffs had standing; that Administrator's adoption of regulations for certification acceptance of state highway standards under Federal Highway Act was exempt from rule-making requirements of Administrative Procedure Act because it dealt with a grant; that organization consisting of representatives of state highway and transportation departments and officials of the United States Department of Transportation was covered by the Federal Advisory Committee Act, so that Administrator's meetings with the organization should have been open to the public; that failure to comply with the Act did not require that the regulations, which had since been superseded, be invalidated or that the acceptance of the Georgia standards be set aside; and that determination of the Administrator to accept the Georgia standards was subject to judicial review.

Order accordingly.

* * * * *

MEMORANDUM OPINION

Charles R. Richey, District Judge.

In this lawsuit, plaintiffs challenge certain procedural and substantive aspects of the federal government's administration of the federal-aid highway program. Specifically, plaintiffs seek injunctive and declaratory relief to restrain the Secretary of Transportation and the Federal Highway Administrator from implementing § 116 of the Federal-Aid Highway Act of 1973, 23 U.S.C. § 117. Jurisdiction is provided by 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (mandamus); 28 U.S.C. § 1337 (commerce); and 5 U.S.C. § 702 (Administrative Procedure Act). Plaintiff Center for Auto Safety is a nonprofit corporation organized under the laws of the District of Columbia. Its activities center broadly upon transportation safety issues, and its functions include monitoring the activities of the Federal Highway Administration. Plaintiff Clark is a resident of the state of Georgia and a user of that state's highways. Defendant Coleman is the Secretary of Transportation and is charged with the responsibility of administering the Federal-Aid Highway Act. The Secretary has delegated the responsibility for promulgating regulations and otherwise administering 23 U.S.C. § 117 to defendant Tiemann, the Federal Highway Administrator. 49 C.F.R. § 1.48(b)(14)(ii).

The case is currently before the Court on defendants' motion for summary judgment, or in the alternative to dismiss, on all four counts of plaintiffs' complaint. Plaintiffs have opoposed defendants' motion and have filed cross-motions for summary judgment on three of the four counts of their complaint. As to three of the counts, the parties assert, and the Court agrees, that there are no material facts in issue.

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[2] "On the other hand, it . . . remains the view of this Department that salaried employees of associations which represent the federal legislative interests of governmental entities . . . are not exempted from the requirements of 2 U.S.C. 267 simply because the funds with which such activities are funded originate in the first instance, from the treasury of some governmental entity." Defendant's Statement of Material Facts as to Which There is No Genuine Dispute, ¶3.

I. BACKGROUND

The Federal-Aid Highway Act, 23 U.S.C. §§ 101 *et seq.*, establishes a cooperative federal-state program for the development of safe, efficient, and economical roads across the country. Under the Act, states may obtain federal funds to subsidize the planning, design and construction of highways. State highway projects funded under the Act are subject to federal supervision through which the government seeks to insure that the highways built meet acceptable safety standards. In this regard, the Secretary must meet various safety-related responsibilities in supervising state highway programs under the Act.

Section 116 of the Federal-Aid Highway Act of 1973, 23 U.S.C. § 117, altered the federal-aid program by providing an alternative procedure through which the Secretary can discharge his safety-related responsibilities. Rather than perform the detailed review of state highway projects previously required by the Act, the Secretary can, under 23 U.S.C. § 117, accept "certification" from a state if he finds that its projects "will be carried out in accordance with State laws . . . and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this title." 23 U.S.C. § 117(a).[1] This alternative procedure established by 23 U.S.C. § 117 is known as "Certification Acceptance" (CA).

Pursuant to 23 U.S.C. § 117(c), defendant Tiemann promulgated Certification Acceptance regulations on May 8, 1974. The regulations, now published at 23 C.F.R. § 640, were effective upon issuance and were published in the Federal Register on May 15, 1974. 39 Fed. Reg. 17309 (1974). The regulations were promulgated without notice of proposed rulemaking, opportunity for public participation or delay in effective date, as normally required by the rulemaking provision of the Administrative Procedure Act (APA), 5 U.S.C. § 553, because, according to the agency, the regulations related to a federal grant program and were therefore exempt from the APA under 5 U.S.C. § 553(a)(2). The agency did, however, provide an opportunity for post-issuance comments on the regulations, and the plaintiff Center for Auto Safety took advantage of that opportunity by filing comments and engaging in discussions concerning Certification Acceptance procedures in the months following the promulgation of the regulations.

In the process of developing the Certification Acceptance regulations, the federal defendants distributed draft regulations to and sought advice from various state and local officials. Among those with whom the draft regulations were discussed were members of the American Association of State Highway and Transportation Officials (AASHTO), an organization consisting of representatives of state highway and transportation departments and officials of the United States Department of Transportation. Specifically, Federal Highway Administration (FHWA) officials met with officials of AASHTO on several occasions from August 1973 to April 1974 to discuss the proposed regulations. In addition, a Certification Acceptance "review package" was sent to each member of the Directives Review Committee of AASHTO. The agency received comments on the review package from several of the committee members.

On April 15, 1974, a month before official publication of the Certification Acceptance regulations, the state of Georgia submitted a plan for approval under 23 U.S.C. § 117. On September 3, 1974, after review at the agency level, defendant Tiemann accepted Georgia's certification, subject to certain conditions. Georgia thus became the first state to have an approved Certification Acceptance plan.

Plaintiff's challenge to the administrative action described above is four-pronged. First, plaintiffs challenge the Certification Acceptance regulations on the ground that they were not promulgated in compliance with the rulemaking provision of the Administrative Procedure Act (APA), 5 U.S.C. § 553. Second, plaintiffs claim that AASHTO is an advisory committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. App. I, and that the meetings between AASHTO and the agency were therefore held in violation of the procedural requirements of that Act. Third, plaintiffs challenge the agency's approval of Georgia's Certification Acceptance plan on the ground that the approval constituted rulemaking by the agency which was not performed in compliance with the APA, 5 U.S.C. § 553. Finally, plaintiffs claim that

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IV. AASHTO IS AN ADVISORY COMMITTEE WITHIN THE MEANING OF THE FEDERAL ADVISORY COMMITTEE ACT, 5 U.S.C. APP. I

The Federal Advisory Committee Act, 5 U.S.C. App. I, provides, *inter alia*, for broad rights of public access to meetings and records of advisory committees to the federal government. See §§ 9 & 10, 5 U.S.C. App. I. Plaintiffs in the instant suit allege that the American Association of State Highway and Transportation Officials (AASHTO) served as an advisory committee to the defendants in the course of the development of the Certification Acceptance regulations. Specifically, according to plaintiffs, ASSHTO and Highway Administration officials met on several occasions from August 1973 to April 1974 to discuss the proposed regulations. In addition, a Certification Acceptance "review package" was sent to each member of AASHTO's Directives Review Committee for comment. These contacts constituted advisory committee meetings, according to plaintiffs, and they should have been open to the public. Plaintiffs seek a declaration that defendants' past conduct was illegal under the Advisory Committee Act, and injunctive relief requiring that all such future consultations be conducted in accordance with the Act. Plaintiffs also ask the Court to invalidate the CA regulations and the agency's approval of Georgia's CA plan on the ground that, in both cases, the defendants' failure to comply with the Act tainted the subsequent agency action.

Defendants admit in their Answer that "officials of the FHWA met on several occasions and otherwise communicated with State members of the AASHTO in the interest of obtaining advice or recommendations relating to a draft of FHWA's proposed CA regulations prior to formal promulgation of said regulations on May 15, 1974." Answer, ¶ 35. But defendants maintain that AASHTO is not an "advisory committee" within the definition of and exemptions to that term as set forth in the Act.

The Court turns first to the question of whether AASHTO falls within § 3(2) of the Act, in which "advisory committee" is defined as "any committee, board, commission, council, conference, panel, task force, or other similar group . . . established or utilized by one or more agencies" in an advisory capacity. Since there is no contention that AASHTO was established by a federal agency, the question turns on whether AASHTO is "utilized" by an agency, specifically the Department of Transportation. Applying the definition is not as simple as it first seems, for, as Judge Gesell of this court has noted, "the Act contains a very broad, imprecise definition, and in this respect is not a model of draftsmanship." *Nader* v. *Baroody*, 396 F. Supp. 1231, 1232 (D.D.C. 1975). A brief review of the relevant legislative history serves, however, to dispel any confusion as to the meaning of "utilized."

[7] The word "utilized" did not appear in the House version of the bill. However, the House committee report makes it clear that the definition of "advisory committee" was intended to include "those committees which may have been organized before their advice was sought by . . . any agency, but which are used by . . . any agency in the same way as an advisory committee formed by the . . . agency itself." H.R. Rep. No. 92-1017, 92d Cong., 2d Sess., reported in 2 U.S. Code Cong. and Admin. News at p. 3494 (1972).[7] "Thus, the bill that originally passed the House covered committees which were 'used' by an agency as advisory committees . . . ." *Lombardo* v. *Handler*, 397 F. Supp., 792, 798 (D.D.C. 1975). The Senate definition of advisory committee was even more expansive.[8] In conference, the House definition was adopted with modifications, including the insertion of "utilized" into the bill to make explicit the congressional intention discussed above. H.R. Conf. rep. No. 1403, 92d Cong., 2d Sess., 2 U.S. Code Cong. and Admin. News at p. 3509 (1972).[9]

[8] In light of the legislative history, it seems clear that AASHTO has been "utilized" by the defendants within the meaning of that term as employed in § 3(2) of the Act. This is not a case in which the government merely provided a "sounding board" for the generalized views of an "amorphous, ad hoc group." *Nader v. Baroody*, 396 F.Supp. 1231, 1234 & 1233. Instead, as the government readily admits, it went directly to AASHTO, among other groups, for specific advice on pending draft regulations. In doing so, the government employed AASHTO much as advisory committees are frequently and traditionally employed. *See Food Chemical News, Inc., v. Davis*, 378 F.Supp. 1048 (D.D.C.1974); *Consumers Union v. HEW*, 409 F.Supp. 473 (D.D.C.1976).

Thus, AASHTO falls within the definition of "advisory committee" found in the Advisory Committee Act. But several provisions limit the applicability of the Act. In § 3(2)(i), the Advisory Commission on Intergovernmental Relations is specifically excluded from the Act. In addition, § 4(c) provides that the Act shall not "be construed to apply to any . . . State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies." Defendants contend that each of these provisions operates to exclude AASHTO from the Act.

[9, 10] The first contention is quickly dismissed. The Advisory Commission on Intergovernmental Relations (ACIR) was created pursuant to 42 U.S.C. § 4271 et seq., and serves as a vehicle for intergovernmental consultations between federal, state and local governments on programs requiring intergovernmental cooperation. Under the Intergovernmental Cooperation Act of 1968, ACIR is given specific responsibilities with respect to federal grant-in-aid programs. 42

Footnotes are at the end of the article.

U.S.C. § 4243. The Intergovernmental Cooperation Act also provides for comments by state and local agencies on proposed federal regulations and other actions which have a significant effect on state and local governments. E.g., 42 U.S.C. § 4231(d). This purpose of the Act is implemented through OMB Circular No. A-85 (Jan. 20, 1971). Defendants in this case maintain that their consultations with AASHTO are consistent with and merely supplemental to the Intergovernmental Cooperation Act and OMB Circular No. A-85, and plaintiffs do not dispute the point. Defendants also maintain, however, that the "consultations between FHWA and AASHTO share the same unique characteristics of ACIR consultations in that they are consultations between governmental bodies at different levels; thus, these consultations should be exempt from FACA requirements." Defendants' memorandum of August 4, 1975, at 23. In this latter contention, defendants perform a leap of logic unauthorized by the Advisory Committee Act, for the Act merely excludes ACIR from its terms and does not provide a broad exclusion for all "consultations between governmental bodies at different levels." Moreover, the legislative history of the Advisory Committee Act supports the proposition that the ACIR exclusion was meant to be limited to that commission because of its "unique character." H.R. Rep. No. 92-1027, 2 U.S. Code Cong. and Admin. News at p. 3494 (1972). Therefore, the ACIR exclusion is unavailable to defendants to shield AASHTO from the Advisory Committee Act's requirements.[10]

[11] It also seems clear that AASHTO cannot benefit from § 4(c) of the Advisory Committee Act, which warns that the Act was not meant to apply to state or local committees established to advise state or local governments. At the outset, it is questionable as to whether AASHTO is a state or local committee. As noted in part I, *supra*, AASHTO is a nationwide association consisting of representatives of state highway and transportation departments and federal officials from the Department of Transportation. In fact, the Secretary of Transportation is a member *ex officio* of AASHTO's exective committee. See Art. II and III, AASHTO Constitution. But even assuming *arguendo* that AASHTO is a state committee, it did not, at the meetings at issue in this case, advise state or local officials or agencies. Rather, it was called upon by the federal government to advise in the formulation of regulations implementing 23 U.S.C. § 117. Nor can it be maintained that in advising the federal government AASHTO made a sharp departure from its normal activities. The organization's Constitution, the exhibits in this case, and the statements and admissions of the parties all make it clear that a significant part of AASHTO's *raison d'etre* is to offer advice, often solicited, to the federal government. No doubt, AASHTO also serves to advise state governments, and by the terms of the Advisory Committee Act itself such consultations are not affected by the Act. But when AASHTO acts in its capacity as solicited advisor to the federal government, the government must treat AASHTO as an advisory committee and comply with all of the requirements of the Advisory Committee Act.[11]

The defendants argue that to treat AASHTO, an organization of government officials, as an advisory committee does not serve the purpose of the Act; for, defendants contend, the Advisory Committee Act was designed to bring to the light of day consultations between representatives of private interests and the federal government, *not* discussions between fellow public servants. Plaintiff replies that as representatives of the recipients of grants under the federal-aid highway program, AASHTO members speak for "special interests" as much as members of more traditional advisory committees. The truth lies somewhere between the parties' positions. AASHTO *is* made up of public servants. But those state employees also represent the "regulated" in the federal-aid highway program before the "regulators," the federal government. *See Moss v. CAB*, 139 U.S.App.D.C. 150, 430 F.2d 891, 893 (1970). Absent a specific statutory provision excluding committees consisting of state or local officials from the operation of the Advisory Committee Act, this Court must find that, in the present circumstances, AASHTO falls within the Act's ambit.

Plaintiffs are thus entitled to summary judgment on their Advisory Committee Act claim. But the additional question arises as to what relief should be afforded. Of course, the Court should and will issue an order setting forth the government's responsibilities under the Act with respect to AASHTO. But plaintiffs request, additionally, that the CA regulations be overturned because they were promulgated in part on the basis of advice received as a result of unlawful contacts with AASHTO. Plaintiffs ask also that the government's approval of Georgia's CA plan under the tainted regulations be set aside. The Court declines to provide such relief.

[12] As to the regulations, the Court notes that while this case has been pending, revised CA regulations were published in draft form and public comment was invited. 41 Fed. Reg. 6914 (Feb. 13, 1976). The revised regulations were given an effective date of March 15, 1976, on an interim basis (in order to recognize "the temporary status of these provisions in light of ongoing Congressional activity in this area." Id.). In light of the fact that the original regulations are no longer in effect and that the present regulations, while similar in a number of respects to the original version, are also envisioned as temporary, it would make little sense to overturn the original regulations at this point.

[13, 14] As to the acceptance of Georgia's certification pursuant to the original tainted regulations, the Court makes several observations. First, it is not at all clear to the Court that the "taint" stemming from unlawful advisory committee meetings extends through the subsequently-adopted regulations to the approval of a state plan under those regulations. Plaintiff has not addressed this issue, despite the fact that, in claiming that agency action should be set aside for procedural irregularity under 5 U.S.C. § 706(2)(D), it is plaintiffs' burden to show that prejudice has resulted. E.g., *NLRB* v. *Seine and Line Fishermen's Union*, 374, F.2d 974, 981 (9th Cir. 1967). Second, the Court notes that plaintiff CFAS was able, albeit through its own initiative, to comment on the Georgia CA plan while it was pending before the agency. Finally, as discussed in part IV, Infra, plaintiffs are entitled to substantive judicial review in this Court of defendants' acceptance of Georgia's certification. In light of all of these factors, the Court does not deem it appropriate to invalidate Georgia's Certification Acceptance.

FOOTNOTES

[1] In its entirety, § 117(a) reads as follows:

(a) The Secretary may discharge any of his responsibilities under this title relative to projects on Federal-aid systems, except the Interstate System, upon the request of any State, by accepting a certification by the State highway department, or that department, commission, board, or official of any State charged by its laws with the responsibility for highway construction, of its performance of such responsibilities, if he finds such projects will be carried out in accordance with State laws, regulations, directives, and standards establishing requirements at least equivalent to those contained in, or issued pursuant to, this title.

* * * * *

[7] This was consistent with the definition of "advisory committee" contained in an executive order in effect before the passage of the Act: "The term also includes any committee ... not formed by a department or agency ... when it is being utilized by a department or agency in the same manner as a Government-formed advisory committee." Exec. Order No. 11007, as reported in 2 U.S. Code Cong. and Admin. News at p. 3493 (1972). The Act "incorporates elements" of the definitions contained in the executive order, including the element discussed above. H. Rep. No. 92-1017, *id.* at 3483.

[8] In the Senate version of the bill, "advisory committee" included "any committee . . . established or organized . . . for the purpose of furnishing advice, recommendations, or information to any officer or agency . . . " the Senate Committee report explained that the words 'established' and 'organized' could be interpreted "in their most liberal sense, so that when an officer brings together a group by formal or informal means . . . to obtain advice and information, such group is covered by the provisions of this bill." S.Rep. No.92-1098, 92d Cong., 2d Sess., at 6-8 (1972). See *Lombardo v. Handler*, 397 F.Sup. 792, 798 (D.D.C. 1975) for a discussion of the Senate report. In defining the limits of the Act, the conference report also employed the word "established," presumably with the same intention that it be given a broad interpretation: "The Act does not apply to . . . advisory committees not directly established by or for such agencies." H.R. Conf. Rep. No. 92-1043, 92d Cong., 2d Sess., 2 U.S. Code Cong. and Admin. News at p. 3509 (1972).

[9] Defendants maintain that if a committee is not actually created by an agency, it cannot be "established by or for such agencies" within the meaning of that phrase as found in the conference report. See H.R.Conf.Rep.No.92-1403, *supra* note 8. In support of this proposition, defendants rely on explanatory comments made on the floor of the House by the senior House conferee after the bill had returned from conference. 118 Cong.Rec. 31421 (1972) (remarks of Rep. Holifield in response to questions by Rep. Horton). See a discussion of these remarks in *Lombardo v. Handler*, 397 F.Supp. 792, 799 (D.D.C.1975). The overwhelming weight of the legislative history, as discussed above, points to an opposite conclusion, i. e. that the Act was intended to apply to committees created by agencies *and* to those not originally created by agencies but subsequently used by them as advisory committees. See note 7, *supra*, and accompanying material in the text; *Lombardo*, *supra* 397 F.Supp. at 798. Moreover, again as discussed above, the word "established" was intended to have a very broad meaning. See note 8, *supra*. Finally, it is well to remember that the most important source, the statute itself, includes within the definition of "advisory committee" any committee "established or *utilized*" by an agency (emphasis added) and thus does not require that a committee actually be created by an agency in order to be covered by the Act.

[10] In a claim related to their contention that AASHTO is exempt under the ACIR exclusion, defendants suggest that § 3(2)(iii) of the Act, which excludes "any committee which is composed wholly of full time officers or employees of the Federal Government." implicitly exempts AASHTO, a committee of state and federal employees. Defendants suggest that the policy behind § 3(2)(iii)—to prevent the Act from including a committee of government employees serving the public, not special interests—would be served by exempting AASHTO. It is sufficient to note, in response to defendants' argument, that Congress has the means, when it so desires, to exclude state employees from the operation of its acts. *E.g.*, the Federal Regulation of

Lobbying Act, 2 U.S.C. § 267. the exclusion in § 3(2)(iii) of the Advisory Committee Act is specifically limited to committees made up *wholly* of federal officials, and AASHTO clearly does not qualify.

[11] The implication of the above holding is that, depending on their specific activities, advisory groups can have shifting indentities for purposes of the Advisory Committee Act: i.e., they can serve as advisory committees within the meaning of the Act while performing certain functions and, on other occasions, fall outside the ambit of the Act. That such a holding is consistent with Congressional intent can be seen from the legislative history. As noted above, see note 7, *supra*, the drafters of the House bill relied to acertain extent on a prior definition of "advisory committee" contained in an executive order. That definition included committees formed by the agencies which the committees were intended to advise, as well as "any committee . . . not formed by a department or agency, *but only during any period* when it is being utilized by a department or agency in the same manner as a Government formed advisory committee." H.R. Rep. No. 92-1017, 2 U.S. Code Cong. and Admin. News at p. 3493 (1972) (emphasis added).

● **Mr. DURENBERGER.** Mr. President, this amendment restores 10 words to the regulatory reform bill which we are considering today. I say restores because these 10 words were included in the bill as it was reported by the Committee on Governmental Affairs. These 10 words were part of an amendment that passed the committee on a unanimous vote.

The regulatory reform bill reported by the Committee on Governmental Affairs was designed to encourage cooperation between officers of the Federal Government and their counterparts at the State and local level. One way the committee sought to accomplish this purpose was to remove an unintended impediment that now prevents close cooperation and communication. The impediment to which I refer is the Federal Advisory Committee Act, which passed the Congress in 1972.

Congress enacted FACA to limit the use of advisory committees. At the time of enactment advisory committees to Federal agencies were numerous and expensive to operate. FACA is designed to assure that new advisory committees should be established only when they are essential, their number should be kept to a minimum, and existing committees should see the sunset as soon as their work is done.

These are laudable purposes and to accomplish them the Congress gave FACA a very broad reach. But as so often happens in this business that broad intent has been interpreted by the courts and agencies in ways that the Congress did not intend.

Congress did not intend FACA to limit communications between elected officials from various levels of government. That has, however, been its effect. Relying on the decision in the *Center for Auto Safety* v. *Cox* F.2d 689 (D.C. Cir. 1978), and other cases, officers of Federal agencies have and are refusing to consult with State and local officials when developing regulations that State and local officials will be required to enforce. As a result, Federal officials do not have the benefit of advise and assistance for those who will be ultimately responsible for the success of the Federal program.

This is surely not what Congress intended when FACA was enacted. We did not have the National Governors Associations, the League of Cities or the National Association of Counties in mind when we sought to limit the cost and activity of advisory committees. Yet, under the definitions of FACA, these organizations, because they have a formal structure and continuing existence, are considered advisory committees.

Mr. President, at last count, the Federal Government was operating nearly 500 grant programs that accomplish Federal purposes with State and local administration. In this fiscal year, Federal outlays for these 500 programs will exceed $85 billion. In many cases the Federal Government will require State and local governments to match these Federal expenditures with their own dollars. These are programs like medicaid, AFDC, interstate highways, CDBG, UDAG, vocational education, rehabilitation services. Does a law that prevents close cooperation betwen the Federal Government and State and local governments in the administration of these programs serve a public purpose? FACA prevents close cooperation.

In addition to the grant programs, there is another class of Federal statutes where close cooperation is also essential, but where partnership is also made more difficult by FACA. We have some 18 major regulatory programs that authorize Federal agencies to set standards and give, to State and local governments, responsibilities to implement those standards. Laws of this type include the Clean Air Act, the Occupational Safety and Health Act, the Resource Conservation and Recovery Act, and the Surface Mining and Reclamation Act. In the case of the Clean Air Act, State implementation plans actually become part of Federal regulation. We are, in a sense, delegating our regulatory workload to State government. We then frustrate the attempt to establish workable regulation by limiting communication with the States.

The provisions of FACA are burdensome. In a recent letter to me, Governor Rockefeller of West Virginia described those burdens:

> The Act requires that an advisory committee be chartered, that meetings be open to the public and notice given in advance, and that minutes be kept and available to the public along with all reports and papers. The costs, formality and public exposure guaranteed by these requirements thwart the intended purpose which is to have State and Federal officials work as partners in rulemaking.

The consensus amendment contains language that solves some of the problems that burden the intergovernmental partnership as a result of FACA. The consensus amendment exempts meetings between officers of the Federal Government and State and local officials from the provisions of FACA. This is done not to restrict public access to the work of government, but in recognition that the intergovernmental partnership involves unique relationships which were not intended to be burdened by FACA.

In drafting the consensus amendment some provisions from the Governmental Affairs Committee bill were dropped. As I said a few moments ago, 10 words were dropped from the FACA amendment that Senator SASSER and I offered in the committee. We believe this language should be restored. In conducting their relations with the Federal Government, State and local officials rely on organizations which they have established to represent their interests. In fact, one essential purpose of these organizations, like the National Governors' Association, the National Conference of State Legislators, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors, is to facilitate a cooperative Federal partnership.

These organizations are particularly important to the smaller and more rural governments of the Nation. Small communities do not have the resources necessary to follow every step of the Federal bureaucracy. They depend on the expertise and technical assistance of their national organizations to a great extent.

The language that Senator SASSER and I seek to add is necessary, if the officials of small communities are to have adequate access and information on the activities of the Federal Government. Since we expect small communities to be effective instruments of Federal policy through grant and regulatory programs, we should also expect these governments to demand effective access to the Federal rulemaking process.

Mr. President, I hope the Senate will accept the amendment that we offer today. It is a small, but an important step to a more successful Federal partnership. I urge my colleagues to support this amendment.

Mr. President, I ask that two letters—one from Governor Rockefeller to me and one from Governor Alexander to Senator BAKER—be printed in the RECORD with my comments this morning.

The letters follow:

NATIONAL GOVERNORS' ASSOCIATION,
Washington, D.C., August 7, 1981.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURENBERGER: Knowing of your interest in regulatory reform and the need to devolve regulatory authority to the states where possible, I am asking that you introduce legislation to amend the Federal

Advisory Committee Act to enable states to participate actively in the regulatory reform effort.

As you know, many federal regulations form the basis of state programs. As such, we are vitally interested in revisions to existing regulations and development of new ones. A major concern of the National Governors' Association and my committee is how to ensure that new and revised regulations reflect states' experiences and ideas.

Several years ago EPA's Office of Solid Waste invited several state officials to join its working group to write regulations for the Resource Conservation and Recovery Act, but the Office of General Counsel cautioned against inclusion of state officials. The OGC reasoned that such a working group would come under the Federal Advisory Committee Act. According to OGC, if the Solid Waste Office had proceeded without following FACA requirements, industry could have brought court action to nullify the final regulations.

A recent court decision supports OGC's reasoning. In *Center for Auto Safety* vs. *William M. Cox* (580 F. 2d 689), the U.S. Court of Appeals found that the Federal Highway Administrator should have complied with FACA when he used the American Association of State Highway and Transportation Officials to provide advice and recommendations on proposed regulations.

The Act requires that an advisory committee be chartered, that meetings be open to the public and notice given in advance, and that minutes be kept and available to the public along with all reports and papers. The costs, formality and public exposure guaranteed by these requirements would thwart the intended purpose which is to have state and federal officials work as partners in rulemaking. If the agencies used advisory committees in rulemaking as FACA requires, the result would be a series of meetings filled with formal presentations and official responses, not the hands-on, give-and-take work sessions that actual rulewriting demands.

Therefore, we suggest that FACA be amended to allow state officials to work with federal agencies throughout the rulemaking process, where the states are involved in implementation of the law. Specifically, the definitions used in the act should be amended (Section 3, 5 U.S.C., Appendix I) by adding a new clause (2) (iv) which excludes from the definition of "advisory committee"; "any committee which is composed wholly of full-time officers or employees of state governments who are invited by federal agencies to provide advice and make recommendations regarding regulations for programs that are shared by federal and state government or which may be authorized to be administered by state government."

Another possible obstacle to state participation in federal rule development might arise out of the "Government in the Sunshine Act" (P.L. 94-1409). This Act prohibits ex parte communication between a rulemaking agency and an "interested person". Although legal counsel informs me that we need not amend the Sunshine Act, a statement in the legislative history accompanying changes in FACA making clear that the ex parte prohibition does not apply to state-federal rulewriting work groups would be helpful.

Where local governments share responsibility for program implementation, their inclusion in the fuel development process should also be assured.

Your introduction and support of this amendment to FACA will enable the states to help prepare sound and workable federal regulations. We appreciate your interest.

Sincerely,

Governor JOHN D. ROCKEFELLER IV,
Chairman, Committee on Energy and Environment.

NATIONAL GOVERNORS' ASSOCIATION,
Washington, D.C., February 4, 1982.

Hon. HOWARD H. BAKER, Jr.,
The Capitol,
Washington, D.C.

DEAR SENATOR BAKER: It is my understanding that the Regulatory Reform Act, S. 1080, is expected to be scheduled for floor action sometime this month. The purpose of this letter is to inform you about an amendment to S. 1080 being drafted by Senator DURENBERGER and Senator SASSER and to urge your support for it.

In its report accompanying S. 1080, the Governmental Affairs Committee recommended a change in the Federal Advisory Committee Act, which has been interpreted by some executive branch agencies as a barrier to consultation between federal officials drafting regulations for intergovernmental programs and their state and local counterparts. The report states:

The Committee does not believe that the Federal Advisory Committee Act should prohibit the free exchange of ideas and opionions between state and local officials, and federal officials, all of whom are striving to develop regulations to implement national objectives.

The Durenberger/Sasser amendment would exempt state and local officials and their representatives from the provisions of the Federal Advisory Committee Act. If it is adopted, federal agencies could no longer require that ad hoc meetings they have with state and local officials regarding federal regulations be subject to the same formal public notice, agenda-setting, and recordkeeping procedures applied to advisory committees. This would remove impediments to the informal working sessions that are a prerequisite to the development of regulations consistent with the unique partnership between the three levels of government in administering many federal programs.

The costs imposed by unnecessarily complex or poorly designed federal regulations have been well documented. (When the National Governors' Association recently asked states to identify problematic federal requirements, 750 examples were submitted.) Adoption of the Durenberger/Sasser amendment would ensure that regulations promulgated would be more effective and better targeted to achieve the desired result. I urge you to support the Durenberger/Sasser amendment to S. 1080.●

Sincerely,

GOV. LAMAR ALEXANDER,
Chairman, Committee on Executive Management and Fiscal Affairs.

● **Mr. SASSER.** Mr. President, I speak on behalf of the amendment that Senator DURENBERGER and I offer to restore language to the consensus version of S. 1080 which amends the Federal Advisory Committee Act. The provisions of this Durenberger-Sasser amendment have already been unanimously approved by the Governmental Affairs Committee.

On page 40, lines 1 through 6 of amendment 640, there is language exempting officials of State or local governments acting in their official capacities from the provisions of the Federal Advisory Committee Act. This is a good provision as far as it goes.

As the situation now stands, the courts and the Federal agencies restrict the involvement of State and local officials in the rulemaking process. This restriction is based on their interpretation of the Federal Advisory Committee Act.

The Act was intended to limit the number of advisory committees established by the Federal agencies and set forth uniform procedures for these committees to follow. However, because of imprecise drafting of the statutory definition of advisory committees, an unintended interpretation of it by the courts and the agencies has cut off communication on regulations among officials of various levels of Government.

Since so many Federal programs are administered through a partnership arrangement among Federal, State, and local officials, this presents serious difficulties. The Federal agencies develop regulations—without consultation—then rely on the State and local governments to enforce them.

Removing the obstacles to communication between officials of various governmental levels that the agencies perceive to flow from the provisions of the Federal Advisory Committee Act would, I believe, open up the regulatory process. The strict procedures required by the act were intended for formal committees, not for the informal groups of mayors, county officials, State legislators, and Governors. The Durenberger-Sasser amendment simply clarifies that fact.

According to figures released by the Reagan administration, Federal grant-in-aid outlays for 1982 will be $91.2 billion dollars. This is the amount of Federal money that we hold State and local officials accountable for spending. They are, in a sense, officers of the Federal Government for the purpose of administering these programs. Should we then shut them out of the preliminary meetings to discuss the rules governing these expenditures? I think not.

The Durenberger-Sasser amendment also allows State and local officials to designate representatives such as staff from national organizations in Washington which can represent their interests in various meetings concerning Federal regulations.

Such organizations include the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the National Governors Association, and the National Conference of State Legislatures. These Washington-based representatives of the Nation's cities and counties and States provide a valuable service in achieving a consensus among the interests of these varied—and sometimes disparate—jurisdictions.

I urge my colleagues to support this amendment as a way of improving our intergovernmental partnership in the regulatory process.●

Mr. LEAHY. Mr. President, that is all the material I have on this amendment. I yield back to the distinguished Senator from Nevada.

Mr. LAXALT. Mr. President, we have no problems with this amendment. We support it. We are prepared to vote.

Mr. LEAHY. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Have the Senators yielded back their time?

Mr. LEAHY. I yield back my time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 852) was agreed to.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The legislative clerk proceeded to call the roll.

Mr. LAXALT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Schmitt). Without objection, it is so ordered.

Mr. LAXALT. Mr. President, we are in the process of attempting to compromise the Levin amendment. The problem is to whom this time should be charged. Senate Pressler is on the way over. We will process his amendment.

I ask unanimous consent that the time consumed in these deliberations in attempting to achieve a compromise on the Levin amendment not be charged to any party.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAXALT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 853

(Purpose: To exempt Federal buildings containing facilities used by United States courts from the application of Office of Management and Budget Circular Number A-76 establishing policies for acquiring commercial or industrial products and services needed by the Government)

Mr. PRESSLER. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. Pressler) proposes an unprinted amendment numbered 853.

Mr. PRESSLER. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

Sec. . The operation of any building containing facilities used by any court of the United States shall not be subject to Circular Number A-76, entitled "Policies for Acquiring Commercial or Industrial Products and Services Needed by the Government", issued by the Office of Management and Budget.

Mr. PRESSLER. Mr. President, the General Services Administration has begun its efforts to contract out to private businesses many service jobs in Federal buildings which have been performed by Federal employees.

Although I commend these efforts to streamline procedures to reduce Government spending, I am concerned that this may in some cases jeopardize security. I am, therefore, offering an amendment to S. 1080 to exempt Federal buildings containing court facilities from OMB circular A-76 which directs that the contracting out take place.

I have received letters from South Dakota Federal judges stating their concerns regarding security for their courts and, indeed, throughout the Nation many U.S. judges have sent letters to GSA on this matter protesting the move to contract out jobs being done by Federal workers.

GSA personnel have written me that "large sums of money have been expended on alarm systems and other security measures to protect the courts from terrorists, dangerous persons and organizations. GSA employees are carefully screened when employed, are knowledgeable of judicial operations, and are less likely to be a problem or threat to the courts' activities than contract personnel."

Mr. President, my amendment would insure the security of Federal courts. I will be very brief on this amendment. I ask unanimous consent to have printed in the Record several letters that I have received concerning this matter.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. District Court,
District of South Dakota,
Rapid City, S. Dak., December 29, 1981.

Hon. Larry Pressler,
Dirksen Office Building,
Washington, D.C.

Dear Senator Pressler: I am quite concerned about a proposal of the General Services Administration. I do not believe this would result in satisfactory service for many reasons. We already have a custodial service contract in Rapid City, but I object strenuously to contract maintenance service. Our present maintenance men are skilled in all areas of general maintenance—and they are quickly available when there is a problem. I do not believe this would be true with contract maintenance. Additionally, there is the question of security. We have a lot of problems with derelicts wandering into the building, often intoxicated, in order to get out of the cold or heat, and to use our rest rooms. They are often disorderly and disrupt the various offices. With our GSA maintenance men on duty, this flow of derelicts is controlled, which would not be the case with the new proposal. Then too, I do not believe this policy would be fair to the many GSA civil servants who have made maintenance their life's career.

I am enclosing a copy of a letter I have written to George Moore of the Public Buildings Service in Denver.

In summary, I cannot believe that the new proposal would result in either efficient services or in substantial cost savings overall. I would appreciate anything you can do in this matter.

Sincerely yours,
Andrew W. Bogue,
Chief Judge.

U.S. District Court,
District of South Dakota,
Sioux Falls, S. Dak., November 5, 1981.

Hon. Larry Pressler,
Dirksen Senate Office Building,
Washington, D.C.

Hon. James Abdnor,
Dirksen Senate Office Building,
Washington, D.C.

Dear Senators: My attention has been called to a proposal by the Office of Management and Budget to contract out all cleaning, maintenance and security activities which are presently being handled by Public Buildings Service and General Services Administration.

I believe that Federal Courthouses should be exempted from this proposal for reasons of security. Large sums of money have been expended recently on the installation of alarm systems and other safety measures to protect the courts from terrorists and other dangerous persons and organizations. GSA and PBS personnel are subject to careful screening and are performing their cleaning, maintenance and security duties in an extremely commendable manner. It would appear to me that it would be relatively easy for private contracting companies to be infiltrated by persons who could disrupt the court system in a comparatively short time. Courtrooms, judges' chambers, United States Attorneys' offices, FBI offices, etc., would be easy targets for bombings or other illegal activity.

I have found from my more than 16 years on the Federal Bench that the PBS and GSA employees are a trustworthy and efficient group of men and women, and I would urge your support in exempting Federal Courthouses from the contracting out proposal.

Sincerely,

FRED J. NICHOL,
Senior District Judge.

Mr. PRESSLER. Mr. President, maybe a compromise could be reached on this. For some of our U.S. courthouses and Federal buildings in certain cities in my State, at least, it would be very difficult to find the kind of experienced security firm necessary. So when you say we are going to have competitive bidding there may not be any firm presently in existence or any assurances that a bid would be made.

These district judges I have just read from are the most experienced judges in my State of South Dakota, and I must respond to their request. So it is in that spirit that the amendment is offered.

I would yield back the remainder of my time and I would like to ask for the yeas and nays or if there is going to be a motion to table I would like to ask for the yeas and nays on the tabling motion. I want to save as much time as possible here.

Mr. LAXALT. I thank the distinguished Senator.

The PRESIDING OFFICER (Mr. KASTEN). It would take unanimous consent to order the yeas and nays at this time on a tabling motion. Is that the request of the Senator?

Mr. PRESSLER. I so make that unanimous-consent request.

Mr. LAXALT. Mr. President, we would not object to that request.

The PRESIDING OFFICER. Is there objection to obtaining the yeas and nays on the motion to table?

Mr. PRESSLER. I think it will be made; is that right?

Mr. LAXALT. We would not oppose the Senator's request that we have the yeas and nays on a motion to table if that should occur, and I think it will occur.

Mr. PRESSLER. Yes, I so request.

The PRESIDING OFFICER. Without objection, it is in order to order the yeas and nays at this time. Is there a sufficient second?

Mr. LAXALT. I would like to be heard ahead of our proceeding with the vote. I have not yet made a motion to table. I may yet.

The PRESIDING OFFICER. The Senator is entirely correct. However this is just the question of ordering the yeas and nays on the motion to table should such motion occur.

Is there a sufficient second? There is not a sufficient second.

Mr. LAXALT. Mr. President, I rise in opposition to this amendment. I have no way to weigh the merits or demerits of the proposal. I know the distinguished Senator from South Dakota is responding to what he perceives to be a severe constituent need. But the fact of the matter is that to have legislation in connection with an OMB rule at this point would be premature. It certainly would require, as a bare minimum, that we give the administration an opportunity to be heard on it. Most importantly, we should have some hearings on this legislation.

Moreover, Mr. President, as my distinguished colleague from Vermont readily knows, during the course of considering this legislation we have made an effort to attempt to confine amendments to those that we consider to be germane to this bill.

I have reluctantly come to the conclusion that this particular amendment does not meet that standard.

So, in view of the fact that this amendment, first, is premature, for, regardless of its merits, it requires hearings; and, second, in accordance with our agreed practice, this amendment is not germane and would create a Christmas tree of this regulatory reform bill, we must oppose this amendment.

That is about all I have.

Does my distinguished colleague from Vermont have anything to add? If not, we will yield back our time and make a motion to table.

Mr. LEAHY. I would simply join in the comments of my distinguished colleague from Nevada. The proposal may or may not have merit, but it should be on a different bill, and certainly should be considered after hearings.

I would join with my distinguished colleague from Nevada when he makes the motion to table.

Mr. LAXALT. We will yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back.

Mr. LAXALT. We now, Mr. President, move to table the amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada to lay on the table the amendment of the Senator from South Dakota. All those in favor signify by saying "aye."

Mr. LAXALT. We still have a bit of a problem in terms of a rollcall vote. I would like to adhere to the request of the Senator and have a rollcall vote. I believe we have a bit of a problem in terms of that rollcall vote and, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on the motion to table by the Senator from Nevada.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada (Mr. LAXALT) to table the amendment of the Senator from South Dakota (Mr. PRESSLER). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Mississippi (Mr. COCHRAN) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

The result was announced—yeas 85, nays 9, as follows:

[Rollcall Vote No. 60 Leg.]

YEAS—85

Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Lugar
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Percy
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—9

Abdnor
Dodd
Hayakawa
Heflin
Mathias
Matsunaga
Pell
Pressler
Sarbanes

NOT VOTING—5

Cannon
Chafee
Cochran
Inouye
Long

So the motion to lay on the table UP amendment No. 853 was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, the U.S. Senate has been in the vanguard of the effort to reform Federal regulation. The fight has been a long one, and it has not been easy. In 1975, under the authority provided by Senate Resolution 71, the Committee on Governmental Affairs began its comprehensive study of Federal regulation. As ranking minority member of the committee, I was privileged to participate closely in that study and in the preparation of its monumental six volume report to the Senate.

The Senate has also led the way with proposals aimed at reforming fundamental aspects of the Federal regulatory process. During the 95th Congress, the Sunset Act was overwhelmingly approved by the Senate. In the last Congress, both the Judiciary and the Governmental Affairs Committees marked up and reported S. 262, the Reform of Federal Regulation Act. I have supported these measures, I have cosponsored them, and I have been privileged to work closely on them with those of my colleagues who bring S. 1080 before us for consideration and debate.

Mr. President, I again commend the distinguished Senator from Nevada (Mr. Laxalt) for his perseverance and for his able leadership on S. 1080. The bill covers much ground. It deals with the complex substance of administrative law. I know from personal experience that patience, deliberation and sincere effort are required to legislate effectively in this area.

The Reagan administration has taken our regulatory reform efforts seriously. Early in his term, the President made it an important priority. He established a Cabinet-Level Task Force on Regulatory Relief, appointed the Vice President to chair that task force, and promulgated an Executive order under which it has reviewed the costs and benefits of many pending rules. The task force has developed needed programs of regulatory relief for certain distressed areas of the economy, such as the automobile industry. It is now working on a program of relief for small business, a matter which I regard as an urgent priority. Not least, the administration has supported S. 1080, as a necessary element of the overall strategy to get Federal regulation under control.

S. 1080 preserves a number of important concepts developed during the Senate's careful consideration of earlier regulatory reform proposals. For example, S. 262, which I cosponsored in the last Congress, contained a provision calling for a regulatory analysis of each rule having a major effect upon the economy. S. 1080 retains this important requirement. We must insure that the costs and benefits of major rules are fully understood before they are promulgated, and that the least costly and burdensome alternatives are adopted.

Mr. President, as my colleagues are well aware, in the past I have advocated applying a sunset concept to Federal regulations. In volume II of the Governmental Affairs Committee's study, the committee recommended that:

> In order to enhance systematic congressional review of regulatory agencies, Congress should require that all regulatory agencies be made subject to a periodic reauthorization process. In-depth scrutiny of the agencies should be assured by requiring a through review of an agency's activity before it may be reauthorized. Under a "sunset" device, agencies with similar functions should be reviewed in the same years.

Although S. 1090 is not a sunset bill, it does incorporate provision for regular review of existing regulations. Section 631 sets out a procedure for the review of each major rule every 10 years. Thus, the discipline of regulatory analysis will be brought to bear. Periodic review will allow for a careful reevaluation of regulations which have been on the books for years, so that those which are out of date, or no longer useful, may be rescinded or modified.

S. 1080 deserves the support of every Senator. But passing this legislation will not be the end of our fight for meaningful change in this area. Last year, as chairman of a Governmental Affairs Subcommittee, I held hearings in Illinois on the effects of Federal regulation there. In the course of those hearings, I learned that businesses and consumers are irritated, annoyed, inconvenienced, and financially burdened more often by agency enforcement and administrative practices than by the regulations themselves. The subcommittee heard numerous examples of agencies pressuring small businesses for settlements on violations for which the agencies themselves admitted there was no substantial evidence of noncompliance. We were told about incompetent inspectors and constantly changing interpretations of Federal regulations. We received complaint after complaint from businesses, consumers and others who are tired to the point of exhaustion of the antagonistic and overbearing attitude of some Federal officials.

The subcommittee staff has prepared a report based on these hearings and on their subsequent investigations. I commend it to the attention of all Senators who are concerned about these problems. As you will see, much work remains to be done. The enforcement process is frequently the only point of contact between the Federal Government and those it regulates. Ultimately, our constituents will judge the effectiveness of our efforts by whether their relationship with Federal agencies has improved. We must see that this happens, and promptly.

Mr. President, S. 1080 represents a major accomplishment. It is the product of a long and fruitful effort by the Senate to reform the Federal regulatory process. The Senator from Nevada (Mr. Laxalt); the chairman of the Judiciary Committee, Senator Thurmond; the members of that committee; the chairman of the Governmental Affairs Committee, the Senator from Delaware (Mr. Roth), and the members of that committee, who have worked diligently on this bill, deserve our sincere thanks for bringing this measure before the Senate for action.

RECESS UNTIL 1:30 P.M. TODAY

Mr. BAKER. Mr. President, I think it will expedite consideration of the pending question and the pending bill if we take a little time off now for the parties to negotiate.

I ask unanimous consent that the Senate stand in recess until 1:30 p.m. today and that at 1:30 p.m. the Chair lay before the Senate S. 1080, the pending business.

There being no objection, at 12:15 p.m. the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Abdnor).

Mr. LEAHY. Mr. President, my understanding is that we are close to being able to finish up the Laxalt-Leahy regulatory reform legislation. It is my understanding that we will have an amendment by Senator Levin which will be before us and, perhaps, one other and then, I think, final passage.

In the meantime, Senator Laxalt is on his way over and I would suggest the absence of a quorum. I ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 854

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Michigan (Mr. Levin), for himself, Mr. Rudman, Mr. Eagleton, Mr. Pryor, Mr. Mathias, Mr. Glenn, Mr. Kennedy, Mr. Moynihan, Mr. Baucus, and Mr. Cohen, proposes an unprinted amendment numbered 854.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 10, line 16, strike out "(2)" and insert "(3)".
>
> On page 12, line 2, strike out "and".
>
> On page 12, line 7, strike out the period and insert a semicolon.
>
> On page 12, between lines 7 and 8, insert the following:

"(F) copies of all written material pertaining to the rule, including any drafts of the proposed and the final rule, submitted by the agency to the President or his designee directed by the President to review proposed or final rules for their regulatory impact; and

"(G) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed, proposed, draft final, or final rule, made by the President or his designee directed by the President to review proposed or final rules for their regulatory impact.

"(2) The agency shall place the materials described in clauses (A) through (H) of the last sentence of paragraph (1) in the file required by such paragraph as soon as practicable after such materials become available to the agency.

On page 12, line 8, strike out "(2)" and insert "(3)".

On page 12, between lines 19 and 20, insert the following:

"(4) No court shall hold unlawful or set aside an agency rule because of a violation of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole. Judicial review of compliance or noncompliance with paragraph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

Mr. LEVIN. Mr. President, this OMB accountability amendment requires that changes in proposed regulations resulting from OMB intervention in a rulemaking be noted by the affected agency in the already required rulemaking file. The amendment also requires that drafts of proposed and final rules sent to the OMB by the rulemaking agency also be made a part of the file.

Mr. President, the amendment would cure what is essentially a blackout of information as to one very important aspect of the rulemaking and regulatory process under this administration—the blackout concerning the role of OMB in prescreening proposed and final rules. This amendment is an attempt to uncover the "fingerprints" of OMB's involvement.

I am pleased to announce the list of cosponsors who are supporting this amendment. It represents a strong bipartisan interest in this nonpartisan issue. The cosponsors are Senators RUDMAN, EAGLETON, PRYOR, MATHIAS, GLENN, KENNEDY, MOYNIHAN, BAUCUS, and COHEN.

I particularly want to express my thanks to the Senator from New Hampshire, Senator RUDMAN, whose work on this amendment has been invaluable, both before today and in reaching the point this afternoon where we can announce that we believe this amendment will not be objected to by the managers of this bill.

Our amendment would require that two items be added to the rulemaking file. The "rulemaking file" that we refer to is a public file that consists of the materials used by the rulemaking agency in developing a regulation, and is already required under this bill to be maintained by the agency to insure proper judicial review and public comment.

The two additions to this rulemaking file which are required by our amendment would be, first, drafts of proposed and final rules sent by the rulemaking agency to the OMB for review; second, a written explanation by the agency of the reasons for significant changes made by that agency in the draft proposed or final rules made in response to OMB comments.

In order to explain the need for and purpose of this amendment, let me briefly describe for you the current practice for the promulgation of regulations under Executive Order 12291, issued by President Reagan of February 17, 1981.

Under this Executive order, each executive agency must forward to OMB drafts of proposed and final rules before they are made available to the public. This is an unprecedented requirement in the 30-year history of the Administrative Procedures Act. No other administration has assumed for OMB such a central role in the rulemaking process. OMB is charged with the responsibility under the order to review each of these rules and determine whether or not it comports with five criteria established by the order. If the rule does not meet any of these criteria, then OMB under the order, has the authority to send the rule back to the agency for further consideration and revision. The revised rule must then come back to OMB for clearance again. This revision process has occurred repeatedly to individual rules under the order, causing significant and sometimes permanent delay in the issuance of a particular rule.

In a January 16, 1982 article, the National Journal reported that through mid-December, of 1981 OMB had reviewed over 2,715 new rules and "changed or killed nearly 1 in 10." According to the OMB, as of December 28, 1981, 91 rules had been returned to the agency or withdrawn after OMB review.

It is argued that OMB needs to have a role in agency rulemaking in order to get a handle on the Federal regulatory nightmare—so OMB can sort out the reasonable rules from the ridiculous or the overly burdensome or the duplicative ones.

I, personally, am sympathetic to that goal, but the exercise of that power must be accompanied by a process of fairness and by accountability.

Some have argued that this Executive order is unconstitutional. In its sweeping attempt to grab the reins of a rulemaking bureaucracy, some say that the administration's reach may have exceeded its constitutional grasp. In a lengthy and detailed analysis on this subject, the Congressional Research Service has concluded that the order is constitutionally suspect. Part of the rationale for this position is that Congress has designated its rulemaking responsibilities to the specific agency heads and the OMB cannot be substituted legally for that of the agency head. OMB, through the Deputy General Counsel, has stated before the Governmental Affairs Committee that OMB's role under the Executive order was only advisory, and the Department of Justice has cautioned OMB in a memo on the subject that its—OMB's—role can be only advisory. The Office of Legal Counsel stated:

> This power of consultation would not, however, include authority to reject an agency's ultimate judgment, delegated to it by law, that potential benefits outweigh costs, that priorities under the statute compel a particular course of action, or that adequate information is available to justify regulation. As to these matters, the role of the Director (of OMB) . . . is advisory and consultative.

This is also the understanding of the Senate. Senators LAXALT and ROTH stated recently in the Dear Colleague letter circulated to all Members of the Senate:

> Both current law and the provisions of S. 1080 are designed to unequivocally protect the substantive rulemaking authority of all agencies.

That is certainly the understanding I have as to the proper role for OMB under both this bill and the Executive order.

The problem is that in practice, the advisory nature of an OMB comment becomes less clear.

Jim Miller, the present chairman of the Federal Trade Commission, but former OMB administrator for regulatory affairs, had this response in answer to a question as to what would happen if an agency head clearly disagreed with OMB's comments. Mr. Miller said, "He or she still has the legal authority to issue the regulation." But, he added—and this is the big but—"that action would be risky—meaning that the President of the United States might decide to remove such a person from office." And as Mr. Miller so accurately perceived, "You know, if you are the toughest kid on the block, most kids will not pick a fight with you."

With the authority granted to it by Executive order, section 624 of this bill, and the already existing powers of the OMB over agencies' budgets, over agencies' paperwork requests, and over agencies' congressional testimony, there is no doubt that OMB has become the toughest kid on the block. It has become a kind of super agency.

It is not my intent, Mr. President, to take a position one way or the other on the constitutionality of the Executive order. As I have indicated, I am sympathetic to its goal of greater coordination of regulations. The sole purpose of our amendment is to provide for the general public, Congress, and the courts a record of the extent of OMB's influence in a rulemaking to preserve fairness in the rulemaking process. If an interested party does not know whether an agency or OMB is making the rule, then it cannot know to whom to direct its comments. A person can be shuffled from the rulemaking agency to OMB and back again and, in the process, can lose the right to effectively petition the Government and participate in the rulemaking process.

Mr. President, this amendment is necessary because it is clear that although OMB has this vast new power under the Executive order, it has avoided disclosure of its involvement.

OMB delayed for months its answer to a request by the Governmental Affairs Committee that the committee receive a list of the reasons for OMB's rejection of over 55 regulations subject to OMB review. When the materials finally came, after three letters, it was evident that OMB was not about to tell the Congress those reasons. We should stand firm, all of us, against that kind of response. It was also obvious that there is very little written documentation of OMB's involvement. Based on the materials we received, it is apparent that OMB's participation with the rulemaking agency is often carried out orally. This is also confirmed by the statement of Jim Tozzi, the Deputy Administrator for OMB in charge of reviewing these regulations, who said in a June 10, 1981, Washington Post article, "I don't want to leave fingerprints."

Mr. President, it is that simple and that significant. When the public is not made aware of OMB's role, then it is seriously hampered in its ability to participate in the rulemaking. Interested persons have to ask themselves: Is OMB the responsible agency or is it the rulemaking agency? Who is making the decision this time? Am I wasting my time presenting my case to the agency when OMB is going to step in and attempt to change the rule?

This secretive nature of OMB's role turns OMB review into a guessing game. What was intended by the Executive order as an effort to improve coordination turns into a procedure to institutionalize uncertainty. In correcting one problem, the lack of coordination, another has been created, the lack of fairness and accountability.

Let me give a few examples.

Since 1975, there had been extensive public comment, hearings, and a cost-benefit analysis on the proposed regulation requiring labeling of the ingredients for alcohol.

The rule was ready to be issued when the Bureau of Alcohol, Tobacco, and Firearms suddenly issued a notice of intent to rescind the rule. No one knew why this action was taken. One group says it was told by Treasury officials that OMB was making the decision to rescind. The Center for Science in the Public Interest sought, but was denied access to, memos leading up to the rescission decision. No one was able to determine the substantive reason why the rule was being rescinded. The legal affairs director for the Center, stated to the National Journal, "It says to us that this is a purely political move." How can all the parties adequately represent their interests in a situation like this where there is no public reason for the agency's action and no public notice of OMB's role? The public does not know to whom it is supposed to be representing its views.

The Natural Resources Defense Council (NRDC) has recently filed suit on the sewage pretreatment regulations which had been issued by the EPA. They were suspended 3 days after their effective date without any public notice or rationale. This was after 4 public hearings, 16 public meetings, and full public participation on the subject. NRDC has tried to obtain copies of the correspondence between OMB and EPA, but has been denied their request.

One unidentified EPA official told the press, "We were advised to delay the rule and procedural niceties were not involved." Now whom should the NRDC approach on this rule in the future—OMB? And, if it is OMB, should not the NRDC be able to know OMB's reasons so they can have the opportunity to refute them?

Recently, the House Subcommittee on Manpower and Housing of the Government Operations Committee held a hearing on OMB's role in the promulgation of OSHA regulations. There was testimony at that hearing which suggested extensive OMB involvement in setting the standard for hearing conservation programs in the workplace—none of which was on the record, before the public. There are allegations that OMB pushed OSHA to adopt a lesser standard. If this is so, it is in accordance with the most simple and obvious fairness standards that interested parties should be aware of OMB's reasons in order to try their hand at refuting them.

The only way to safeguard the public nature of the rulemaking process is to require that OMB's role be conducted in a more accountable way.

For example, say a rule sent to OMB for review contained a requirement that, for purposes of a particular program, senior citizens are to be defined as anyone over the age of 70. Maybe OMB orally objects to the rulemaking agency and says that that would make that one particular program inconsistent with other Federal programs and that the regulation would be less confusing were the age lowered to 65. The agency agrees and proceeds to change the rule when it is published. The written explanation would show that the change was made from 70 to 65 based on the OMB comment and that the reason OMB gave for the change was to maintain consistency within the Federal Government. That is all this amendment requires. Oral comments need not be placed in the rulemaking file, under this amendment—only an explanation of changes made by the agency in the rule.

I might add at this point that it is expected that the items required by this amendment would be placed in the rulemaking file and made available to the public at the time of publication for notice and comment as to a proposed rule and at the time the final rule is published.

Without this amendment, I see no other way for us, as Members of Congress to achieve two very important goals: First, to be able knowledgeably to assess the appropriateness of OMB's conduct in the rulemaking process and; second, to guarantee the ability of the public realistically to participate in the rulemaking.

First, courts and legal scholars have long been concerned with the proper role of interested parties in informal rulemaking. On the one hand, there is the interest in having some one person or agency able to keep in check the duplication and contradictory policies of the various agencies and to balance the competing interests.

The problem is the extent to which OMB can end up as advocate for purely private/political interests in secret without any accountability. Paul Verkuil, dean and professor of law at Tulane University, wrote the following in an article in the Columbia Law Review:

> Powerful private lobbies, increasingly frustrated in obtaining preferential access to administrators, can be expected to use White House political advisors to achieve equivalent clout.

Verkuil then quotes William T. Coleman, former Secretary of Transportation:

> Such an advisor—immune from public scrutiny and congressional accountability, free from the constraints of agency decisionmaking processes, and removed from the advice of experts in the bureaucracy—is not in a position to make a meaningful balancing choice amoung competing national goals.

While there may be legitimate interest in having OMB exercising judgment on regulations in support of the overall interests of coordination, we should not tolerate the OMB affecting rules changes in secret as the instrument for private interests when the very purpose of the rulemaking process is to develop rules in the public interest. In order to keep this possibility for abuse in check, and for us to be able to assess OMB's role, we need to keep OMB's impact on rules public.

Second, without this amendment the drafts of proposed and final rules as submitted to OMB, and the reasons OMB may use to send a rule back for further analysis are not made part of the record or available to the public, although the rule may be rewritten as a result. This cloak of anonymity simply violates the fundamental purpose of the Administrative Procedures Act as created by Congress.

The literature is bountiful on the subject of the need for public participation in informal rulemaking. Judge Skelly Wright in the Cornell Law Review, 1974 writes:

> The APA contemplates that rules will be made through a genuine dialogue between agency experts and concerned members of the public.

Ernest Gellhorn, professor of law at the University of Virginia, wrote in the Yale Law Journal, 1972, in reference to notice and comment rulemaking:

> The need for, and desirability of, public participation in this procedure is axiomatic; the process is designed for promulgating standards of broad applicability.

Glen Robinson, associate professor of law at the University of Minnesota in the University of Pennsylvania Law Review, 1970 wrote:

> There is little if any dissent from the general proposition that an agency should make every effort when formulating administrative policies to see that the full spectrum of views is represented before it. This is not merely a matter of democratic ideology, although that is certainly a significant part; but is a matter also of ensuring that the agency has the broadest perspective on the issues being probed.

There can be no doubt but that effective participation is thwarted when interested parties are not privy to the real reason for agency action, indeed, are not privy to who is really writing the rule or parts of the rule.

Mr. President, let me emphasize again in closing that the jury is still out as to whether the power given to the OMB by the Executive order is a beneficial procedure or even a constitutional one. This amendment merely says if that process is to continue, its effect on rules should be on the public record so we can avoid an arbitrary and abusive administrative process. Let us be clear that that is the issue. It is a nonpartisan issue; it is an institutional issue; it is an important issue regardless of who is the President.

The regulatory process has fallen away from us. Regulators have been above and beyond accountability. They have become a fourth, unelected branch of government. We must try to make that process rational and accountable. To do so, the public must know who is doing the regulating so as to know where to express its views on a proposed regulation that affects it—the agency or OMB or both. Otherwise, the public is the ping pong ball in an uncertain and arbitrary game.

That is the fundamental issue addressed by this amendment, Mr. President.

Mr. President, let me again thank the Senator from New Hampshire (Mr. Rudman) who has been so active in bringing this amendment to the floor and has been so helpful today, and Senator Pryor and others who have been so active in this effort. Again, it has been a bipartisan effort on a nonpartisan issue.

I also express my deep appreciation for the work of Senators Laxalt and Leahy and their staffs. Together, I think, we have produced an amendment which will accomplish the goal which we set out to achieve without the problems which the committee and others wanted to avoid.

Mr. RUDMAN. Mr. President, at the outset, let me simply say that I commend Senators Laxalt, Leahy, Levin, and Roth for their outstanding work on this legislation. It is a product of extensive hearings before both committees. It will provide needed reform in the way regulations are promulgated.

I have joined Senator Levin in cosponsoring an amendment to section 553 of S. 1080. As presently written, this section would require agencies to include in their rulemaking file all information relied upon by an agency in formulating a rule, except material supplied by the Office of the President. It is obvious that the purpose of this section of the bill is to enable all interested parties access to information used during the rulemaking process. The reason for the exclusion of material offered by the White House escapes me, especially considering the broad oversight authority the bill provides the President. In the interest of public accountability, it is imperative that we adopt this amendment which would require agencies to include material and direction supplied by the White House. I should note that I believe there is a role for the White House in influencing the regulatory product of the cabinet departments and dependent agencies. But, that role should be open and in the public eye.

Senator Levin introduced an amendment to correct this omission when the Committee on Governmental Affairs met during markup of the bill. Although I fully supported the concept of the proffered amendment, it contained a provision requiring that agencies include summaries of significant oral communications received from the Executive Office or other administrative body directed to review proposed final rules. This part of the original amendment was subject to considerable criticism. Critics opposed requiring agencies to include in their files significant oral communications because doing so would be extremely time consuming and burdensome for the agencies. Also, the administration voiced its concern that conversations between members of the executive branch and agencies, and agency determinations of the significance of those conversations could become a central issue in court challenges of the rulemaking procedure. This would result in an onerous burden upon the agencies, and could, because of a technical error, result in a regulation being overturned in court. With these problems, the amendment was defeated in committee on a tie vote, and I should note that I voted against it.

All criticism of the amendment centered upon the significant oral communications requirement. Senator Levin, in an effort to accommodate critics of the amendment, then agreed to delete the requirement and revise the amendment. After considerable discussion, and many drafts, a suitable compromise has been developed, one which eliminates the bothersome provision without destroying the public accountability aspects of the amendment. The amendment now requires that agencies include in their rulemaking file all written comments to and from the executive branch, and a written explanation of changes in the proposed rule resulting from executive branch comments. The amendment would include this material in the rulemaking file and would apply to all rules.

As I mentioned earlier, this amendment is essential to insure full public accountability under the bill. Section 553 of S. 1080 indicates an intent to do so. To insure that it does, the section should require disclosure from all sources, especially one so influential as the White House. I do not anticipate overreaching by the current administration, but I think we would be myopic to ignore the fact that a different situation could arise in the future. Certainly, as Members of Congress, we would be interested in this material ourselves and we should recognize that proper accounting requires that information provided to agencies, from any source, should be included in the rulemaking file.

Let me simply say, Mr. President, that Senator Levin has stated most accurately the central theme that establishes the underlying reason why this amendment is so necessary. Many of us feel that the regulations that are promulgated by the numerous agencies of our Government in many ways have a far greater effect on the daily lives of our citizens, our communities, our businesses than, in fact, the very laws passed by Congress in some instances. We believe that the nature of this act is very important but that it has one significant omission.

I think it should be made clear, Mr. President, that this amendment is not directed at this particular administration or, certainly, this particular Office of Management and Budget. It is institutional in nature. It is here because many of us believe very strongly that these regulatory agencies and all involved with them must be examined in the bright light of day.

I thank Senator LAXALT and his staff for being so helpful, and Senator LEAHY and his staff for helping us work out something that all of us can agree with and something that we believe strengthens this legislation.

I thank the Chair.

Mr. LEAHY. Mr. President, I appreciate very much the work done by Senators LEVIN and RUDMAN. Both have worked extremely hard in this matter. I wish to return the compliment they have paid to Senator LAXALT and myself and our staffs. We went through some strenuous negotiations from yesterday to today to get where we are.

I wonder if we might ask the Senator from Michigan a couple of quick questions about his amendment.

Am I correct that the amendment only requires that the agency explain significant changes in the proposed rule, which the agency made because of comments received from the President or his designee? By the term "significant changes" does the Senator mean the kind of changes between a proposed and final rule which the agency would explain in the statement of basis and purpose when it issues the rule?

Mr. LEVIN. The Senator is correct.

Mr. LEAHY. Am I correct in my understanding that the courts, through case law, have defined what kinds of changes in the proposed rule the agency would be required to discuss in the statement of basis and purpose? Thus we are assuming the case law would provide guidance to agencies and courts in implementing the section. Is that correct?

Mr. LEVIN. That is correct.

Mr. LEAHY. Thank you.

Mr. LEVIN. If the Senator will yield, I should like to make an additional statement as part of the legislative history here.

Mr. President, the amendment that we are submitting today does not require that copies of all written material received on the rule by the agency from OMB be placed in the file, because that is a redundant provision. It would merely repeat the requirement contained in paragraph (b) of the rulemaking file subsection.

The report on the consensus version of S. 1080, upon which we are now deliberating, states clearly that all written comments received by the agency on the rule shall be placed in the rulemaking file. That includes comments from any and everyone, including the White House, OMB, or the Executive Office of the President.

I am wondering if that is also the understanding of the Senator from New Hampshire.

Mr. RUDMAN. The Senator from Michigan is correct, that is my understanding of this amendment.

I should like to add to this legislative history, Mr. President, by pointing out that there has been some misunderstanding regarding the original legislation which would have required the logging of oral comments from OMB to the agencies. We want to make it very clear that that requirement was eliminated, oral comments need not be logged; logs need not be kept. The significance of the removal of that section from the original draft should be clearly noted. The requirement, in fact, does not exist and cannot be implied under any other section of this amendment.

Mr. LEVIN. In that regard, I agree with the Senator from New Hampshire. There are no changes between the amendment which was introduced here this afternoon and the one which previously had been printed. There was no logging requirement in either amendment.

I also want to clarify again for the record, Mr. President, that this amendment does not in any way comment on the authority of the OMB to substantively be involved in rulemaking.

S. 1080 has been very, very careful to take no position on the ultimate validity of such an assertion of executive power. Thus, while providing statutory authority for some executive oversight of the procedures used to develop the regulatory analyses of major rules, S. 1080 neither extends legislative approval for oversight for nonmajor rules, nor purports to enlarge the President's constitutional authority, which is the asserted basis for President Reagan's Executve order.

Our amendment is not intended to change or affect this position.

Mr. RUDMAN. Mr. President, I want to continue this colloquy with Senator LEAHY, Senator LEVIN, and Senator LAXALT to point out that there was some concern regarding when written records must be kept. We want to make it very clear here today that under section 553(f)(1) agencies begin to keep records in their rulemaking file upon issuance of a notice of proposed rulemaking, and this amendment makes no change to that.

Mr. LEVIN. Mr. President, will the Senator from Vermont yield?

Mr. LEAHY. Yes, I yield.

Mr. LEVIN. Our amendment, Mr. President, refers to the review of rules by the President or his designee for the regulatory impact of those rules. The purpose of this language is to clarify that this amendment is not intended to reach comments by OMB which are made to an agency based on OMB's response to an agency's compliance with the Paperwork Reduction Act or pursuant to OMB's budgetary responsibilities.

We have added to our amendment a provision to clarify the extent of judicial review for challenges to a rule based on an agency's failure to comply with the rulemaking filed section of this bill.

That provision requires that judicial review of compliance or noncompliance with the rulemaking file section shall be limited to review of the action or inaction on the part of the agency. The purpose of this amendment is to direct the attention of the court and the complaining parties to the activity of the rulemaking agency and not to the activity of any other party, be it another agency or the Office of the President, when reviewing the composition of the rulemaking file.

It is the rulemaking agency's responsibility to make sure that the rulemaking file is complete and in accordance with the terms of this bill and amendment.

Let me add that by offering this amendment, we are not commenting on the scope of discovery available to complaining parties and nothing in this amendment authorizes discovery of conversations or comments by OMB, the President or his designees referred to in this amendment. We are not attempting to alter the state of the law as to the permissibility of discovery by a party challenging a rule on the basis of an agency's failure to comply with statutorily mandated procedures.

Finally, Mr. President, the requirement under section (g) of our amendment that agencies explain significant changes made in the drafts of proposed rules, made in response to comments by OMB, is meant to apply to the draft of the proposed rule forwarded to the OMB by the agency for review prior to submission to the Federal Register. It is not triggered by preliminary discussions of proposed rules.

I thank the Chair and my friends, Senators LAXALT and LEAHY, and trust that that description of our intent comports with their understanding.

Mr. LEAHY. It does.

Mr. President, I ask unanimous consent that we be able to lay aside temporarily the Levin-Rudman, et al., amendment and it be in order for Senator CHILES to bring up an amendment, which I understand will only take a matter of 2 or 3 minutes, and then that we go immediately back to the pending amendment.

The PRESIDING OFFICER (Mr. DURENBERGER). Is there objection?

UP AMENDMENT NO. 855

(Purpose: To amend section 552b(a)(1) of title 5, United States Code, to require the Chrysler Corp. Loan Guarantee Board to hold open meetings.)

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 855.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, between lines 12 and 13, insert the following:

OPEN MEETINGS

SEC. 10. Section 552b(a)(1) of title 5, United States Code, is amended by inserting before the semicolon a comma and "and also means the Chrysler Corporation Loan Guarantee Board".

On page 44, line 14, strike out "SEC. 10." and insert "SEC. 11.".

On page 45, line 7, strike out "(7) and (8)" and insert "(7), (8), and (10)".

Mr. CHILES. Mr. President, the purpose of this amendment is to restore the applicability of the Sunshine Act to the Chrysler Corp. Loan Guarantee Board.

Last December the U.S. Court of Appeals for the District of Columbia Circuit overturned a ruling by the District Court which had determined the Chrysler Corp. Loan Guarantee Board was an agency subject to the Sunshine Act.

As a result of the Court of Appeals decision, the Loan Guarantee Board which had operated some 19 months within the scope of the Sunshine Act is now free to ignore it.

The issue involved concerns the definition of agency in the Sunshine Act. According to the act, an agency must be:

> Headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate * * *

The Chrysler legislation provides that the Board shall be composed of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Comptroller General of the United States. The Secretaries of Labor and Transportation serve as nonvoting members.

One interpretation is that Board members, the Secretary of Treasury, for example, were not appointed by the President to the Chrysler Board but hold that position by virtue of their appointment to other high Government offices. This was the view of the majority for the Court of Appeals. A different interpretation is that an appointment by the President to be Secretary of Treasury is also an appointment to the Chrysler Board. After all, when Donald Regan was appointed and confirmed as Secretary of the Treasury, he was simultaneously appointed and confirmed as Chairman of the Chrysler Board. Hearings on his appointment naturally included questions about the Chrysler situation. This was the view of Judge Wald's dissent.

Judge Tamm, who filed the majority opinion for the Court of Appeals, noted that exclusion of the Board from Sunshine coverage:

> May run counter to the spirit of the act, but, in the final analysis, the words of the statute must control. Arguments that this result is unfortunate should be addressed to Congress rather than to the courts * * *

Mr. President, the Government in the Sunshine Act was enacted to provide the public with:

> The fullest practicable information regarding the decisionmaking processes of the Federal Government * * * while protecting the rights of individuals and the ability of Government to carryout its responsibilities.

I believe the Chrysler Board is the kind of agency that Congress meant to subject to the Sunshine Act. The public taxpayer, whose money is being used to save the Chrysler Corp. from bankruptcy, is entitled to the "fullest practicable information" regarding its investment.

Certainly, if a future Congress were to consider a smiliar mechanism for another large corporation, we would want the best historical information possible in assessing the Chrysler Board experience.

The amendment I propose makes clear the Chrysler Board is subject to the Sunshine Act. That is its only affect. The exemption provided by section 3(c)(9)(A) of the Sunshine Act, for partial closings when premature disclosure would upset the securities markets, alleviates any fear that Sunshine will fall on areas that require cover to insure the public interests.

Mr. LEAHY. Mr. President, I have seen this amendment. I have no objection to it.

Mr. LAXALT. Nor do I, Mr. President.

The amendment (UP No. 855) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 854

Mr. LEAHY. Mr. President, I understand under the unanimous-consent request that we are now back on the Levin-Rudman amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. LEAHY. Mr. President, I have nothing further on this amendment. I have no objection to it now that it has been worked out in its consensus form.

Mr. LAXALT. Mr. President, I stand basically in the same position.

I commend the Senator from Michigan (Mr. LEVIN) and Senator RUDMAN. There has been a lot of good work done today.

I was troubled, as both Senators know, by the wording of the initial amendment which appeared to me to be unnecessarily intrusive into the operations of the executive branch, particularly its requirement for the logging of oral communications. I think that that would have constituted a very heavy burden on the process.

I think, with what has been agreed upon, that the public record of the regulatory process is going to be materially improved without obstructing in the least the very important work that OMB is going to have to do, due in part to the limitation that we are going to have on judicial review.

So far as this Senator is concerned, I commend both Senators and the respective staffs, who have worked long and hard this morning to effect what I believe is a meaningful compromise.

Mr. LEVIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, in addition to what I said earlier, I wish to add to the list Senators ROTH and EAGLETON. Senators ROTH and EAGLETON and their staffs have also played a very useful role in this history of this amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LEAHY. Mr. President, in all likelihood, we will go to third reading after this vote.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Michigan yield back his time?

Mr. LEVIN. I do.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Mississippi (Mr. COCHRAN), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from Hawaii

(Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—92

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—7

Bumpers
Cannon
Chafee
Cochran
Goldwater
Inouye
Long

So Mr. LEVIN's amendment (UP No. 854) was agreed to.

Mr. LEVIN. Mr. President, once again, twice in 2 days, Linda Gustitus of my staff is due great credit for an important legislative accomplishment in the U.S. Senate. She, along with my inimitable and unflappable administrative assistant, Bob Seltzer, guided a long and fruitful effort to bring more fairness, openness, and accountability to the regulatory process. I am greatly indebted to them both. More important, fair public administration is in their debt.

Mr. LEAHY. Mr. President, the Senate stands at the threshold of achieving the most thorough and thoughtful overhaul of the laws governing our administrative procedures in more than a generation.

Senator LAXALT and I have prepared for this final vote on S. 1080 for over a year.

During the past few days, we have had the opportunity to debate amendments to the bill. I believe the debates, like the bill itself, represent a true bipartisan effort to maximize the benefits of Federal regulation and at the same time to make regulations more cost effective and less burdensome.

S. 1080 does this by using regulatory analysis and increased public participation as value neutral management tools. They are tools to help the agencies thoroughly evaluate the benefits and costs of proposed regulations.

Regulation is the very foundation of some of our most important health, safety, and environmental programs. S. 1080 will help bring about a clean environment, safe and healthy workplaces, and the goals of other Federal regulatory programs, because it will cut the redtape and eliminate unnecessary burdens. At the same time, the regulatory reform bill will add valuable input from the interested public to the decisionmaking process.

Mr. President, as we prepare to vote on this important legislation, I would like to thank my friend Senator LAXALT again for his hard work on this bill.

I would also like to thank Senators EAGLETON and ROTH and their staffs for their work on the consensus amendment. With their help we were able to bring a good clean bill to the floor and we were able to have the debate run smoothly.

Senators THURMOND and BIDEN have given us their help and support throughout the development of the Laxalt-Leahy regulatory reform bill. I thank the Senators and their staffs.

Mr. PRYOR. Mr President, when the Regulatory Reform Act was introduced in April of last year I was proud to be among the 80 cosponsors of this bill. Regulatory relief from burdensome and often unnecessary regulations is essential for our economy to prosper, and this bill made great steps toward this goal.

Of particular concern to me, as many of my colleagues are aware, was what role consultants would be allowed to play in the reformed regulatory decisionmaking process. As originally introduced, the bill specifically addressed this concern by allowing consultants, and other sources outside of the agency to gather data and information for an agency's use in the required preliminary and final regulatory analyses.

As presently constructed in the consensus substitute version being considered today, this role has been modified to also allow consultants to provide the agency with an explanation of the gathered data or information. Analysis of the data so obtained from nonagency sources remains in essence a governmental function in that such activity must be performed by agency personnel, thus insuring agency accountability for the decisions which will affect business, and ultimately, every taxpayer's pocketbook.

ACCOUNTABILITY

I believe that if this Congress does nothing else to improve the regulatory decisionmaking process than insure that the decisions affecting the lives and well-being of our citizens are placed in the hands of officials accountable to the public, then a giant step will have been taken. We must recognize the fact that for the past 35 years, Congress as an institution, has routinely delegated many of its responsibilities and obligations to the executive branch and to the departments and regulatory bodies of the Government. Now we find that the same governmental entities to which we have delegated these responsibilities are in turn delegating these same responsibilities to consultants and contractors in the private arena.

These outside sources for information, study, and analysis are fast becoming an "invisible bureaucracy" parallel to and pervading our governmental system. Hearings, which have explored this growing use of consultants by all parts of our Government, have found that in many cases the consultants have literally taken over the decisionmaking process of various programs and functions. The results of such usurpation: loss of accountability to the public, the exclusion of interested groups from the decisionmaking process, and potential conflicts of interest.

In the regulatory decisionmaking process consultants cannot be considered, or allowed to function, as simply an extension of agency staff. To do so only invites public skepticism. For instance. In November 1978 OSHA issued new rules designed to protect workers from exposure to airborne lead in the workplace. In so doing, the agency relied extensively on consultant assistance. In subsequent litigation brought by the affected industry to review the regulation, one ground of contention was that OSHA's use of and reliance on these outsiders was not proper. The industry brief stated:

> An administrative agency that cannot do its own work cannot allow outsiders to do its work for it. An agency's failure to organize itself to do its job is no excuse for abandoning the job to others.

Consultants are not the equivalent of agency staff. Among the differences between consultants and agency staff are:

Agency personnel are held to standards of conduct by explicit rules governing conflicts of interest including financial disclosure; consultants are not.

Agency personnel are subject to salary ceilings; consultants are not.

Agency personnel may not work for both the Government and private interests. Consultants not only do, but often are rewarded by Government contracts as a result of their working both sides of the fence.

Agency personnel have protections which are designed to eliminate conflicts between serving the public and political pressures. Consultants do not. The result is that agencies often receive exactly what they want rather than straight, objective study or analysis.

Taxpayers quite properly look to Government officials as the parties responsible for Government actions. Government decisions must not be turned over to private firms and individuals.

CONFLICTS OF INTEREST

Because the potential dangers resulting from conflicts of interest are so serious, we must guard against this possibility if we are to insure the integrity of the regulatory decisionmaking process. Unfortunately, however, our agencies and departments are poorly equipped to make a determination as to whether a conflict exists or not. The one department that has statutes governing conflicts of interest—the Department of Energy—has been shown to be lax in enforcing its conflict regulations and more often than not does not even receive full and complete disclosure from its contractors to base a conflict of interest determination upon.

In 1980, the Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce held a series of hearings to examine the potential for conflicts of interest which arises when regulatory agencies contract for economic and technical analyses from consulting firms who perform similar analyses for the regulated industry. Congressman Bob Eckhardt noted the subcommittee's conclusion to an investigation led by the previous chairman, Congressman John Moss, which found that "the most important fact to know about any cost-benefit analysis was who paid for it." On April 17, 1980, GAO testified that they had examined 156 contracts in six agencies and identified over 100 potential conflicts. Almost two out of every three contracts examined demonstrated at least a potential for a conflict of interest.

Former Congressman Eckhardt described two contracts reviewed as follows:

> The first involved a contract between Harbridge House, a Boston, Mass., consulting firm, and the National Highway Traffic Safety Administration. In that case, the subcommittee found that before the work for NHTSA was even complete, and with the full knowledge that the work for NHTSA was to be used in formulating a report to Congress in January of 1979, Harbridge House solicited a contract with the Ford Motor Co. to perform a similar study to be used to influence the congressional deliberations. While Ford did not give Harbridge House such a contract, General Motors did. The GM study was completed in September 1979.
>
> The Harbridge House study for NHTSA contained numerous analytical flaws, biased in favor of the auto industry. But, like all such studies contracted by rulemaking agencies for rulemaking purposes, it was placed in the public docket. Thereafter, NHTSA's policy personnel had to devote a substantial amount of energy to develop a refutation to this study that NHTSA itself had commissioned. The GM study contained a very elemental error which biased the report in such a way that it reached the absurd conclusion that the current fuel economy standards are not cost-effective.
>
> The second case brought to hearing involved a contract between EPA and Arthur D. Little, Inc., to analyze the economic impact of the premanufacturing notification regulations issued pursuant to section 5 of the Toxic Substance Control Act.
>
> As author of that act, I worked long and hard with the chemical industry and environmental groups to devise what was generally agreed to be a practical means of providing the Government and the public with the information necessary to judge the toxicity of chemicals prior to their introduction into the marketplace. It was designed to exclude some chemicals, those whose properties are so potentially toxic as to produce significant threat to human life or health.
>
> Therefore, I was disturbed to discover that Arthur D. Little, a firm which does substantial work for the chemical industry, through a distorted analysis concluded in its study for EPA that these regulations if placed in effect could stop 40 to 90 percent of all new chemicals from being introduced.
>
> Once again, it is also disturbing to learn of the dual interest of this consulting firm. While Arthur D. Little was under contract to EPA to do the TOSCA analysis, it was soliciting business from the Manufacturing Chemists Association. In addition, ADL's conclusions in its report for EPA as to the dire effects of the proposed premanufacturing notification regulations do not appear to be consistent with conclusions it presented to its private chemical industry.

Having stated my concerns let me state that the managers of the bill through their consensus substitute have taken major steps to deal with my concerns.

The consensus substitute amendment appears to provide that material relied upon by rulemakers will be seen by all and commented upon by all, and that all parties can step forward to correct misleading information or suggest the existence of bias. At this point let me direct some questions to the managers of the bill:

As presently worded in the consensus substitute provisions, consultants are allowed to gather data and information for the agency's use in preparing a regulatory analysis, and may also provide the agency with an explanation of the data gathered sufficient to permit the agency to perform its analyses.

Explanation commonly denotes making something comprehensible. Am I correct in interpreting the use of the word "explanation" to refer to summaries and aggregations of data, methodologies used in gathering the information, error variances, techniques utilized, and specific situations encountered, so that—in the words of section 623(f)—the agency will be able to "analyze such data or information"?

Mr. LEAHY. The Senator is correct.

Mr. PRYOR. In other words, the consultants may explain the total picture involved in gathering the data? Am I correct in stating that the agency remains solely responsible for the analysis of the data used in preparing a regulatory analysis?

Mr. LEAHY. That is correct.

Mr. PRYOR. For purposes of the section 553 rulemaking provisions, is everything submitted by a consultant in connection with a rulemaking proceeding considered as having been "prepared for an agency"?

Mr. LEAHY. Yes.

Mr. PRYOR. Is it the intention of the managers that all such consultant-prepared materials be included within the reference to "factual or methodological" materials?

Mr. LEAHY. That is our intention.

Mr. PRYOR. Section 553(f)(1)(D) requires that certain materials be included in the rulemaking file. Among these are factual and methodological materials prepared by or for the agency in connection with the rulemaking. Am I correct in stating that this requirement extends to materials prepared by or for the agency which was prepared in anticipation of a forthcoming rulemaking proceeding?

Mr. LEAHY. The Senator is correct.

Mr. PRYOR. It would be correct to state then that material an agency prepares or has prepared for it which sets an initial framework for the rulemaking proceeding will be included in the rulemaking file?

Mr. LEAHY. Yes.

Mr. PRYOR. To summarize then, any material prepared by a consultant in connection with a rulemaking will be put in the record or else not relied on by the rulemakers, put in the record at the outset or else when the particular material is completed, and available for public comment.

Is that correct?

Mr. LEAHY. Yes.

Mr. LAXALT. I concur in the understandings of the Senators.

Mr. LEAHY. Mr. President, I have always applauded Senator PRYOR's great work in limiting abuses by Federal consultants and contractors. I share his goals of preventing agencies from simply adopting the work of a given consulting firm without doing the policymaking we created them for, and especially, his efforts to weed out gross conflicts of interests in agencies' use of consultants. Indeed, I have cosponsored his Consultant Reform and Disclosure Act.

After hearings and a great deal of study in this Congress and in the 96th Congress, we have decided that regulatory analysis is a good tool to require Federal regulators to evaluate the costs and benefits of major regulations. Having made that decision, we have to recognize that regulatory analysis is a very complex economic tool. Not all the agencies have the resources or the staff to perform these complicated analyses.

Moreover, the agencies are facing budget and staff cuts for regulatory programs.

Increasingly limited agency resources require that they be allowed to rely on material prepared by experts outside the agency.

I think it is important for agencies to receive data collected by outside parties in a form which they readily can use to perform their own regulatory analyses.

Many groups, including the National Federation of Independent Business and the Business Roundtable, support the consensus amendment's provisions for the use of consultants.

If we want to get better regulation through regulatory analysis, we have an obligation to be sure the Federal Government gets the best regulatory analyses possible, and sometimes that will require using consultants.

I believe the consensus amendment adequately addresses Senator PRYOR's concerns, without putting unnecessary constraints on the agencies.

Consultants may collect and explain the data necessary for the agency to do regulatory analysis. But section 622(f) specifies that only officers or employees of an agency may actually prepare the preliminary or final regulatory analysis.

In addition to the requirement that agency employees perform regulatory analysis, the consensus substitute requires that when data is gathered by consultants, the agency must identify the data, who gathered it, and the arrangement by which is was procured, including costs. This disclosure requirement should be sufficient to control potential misuse of consultants in the regulatory analysis process.

● Mr. KASTEN. Mr. President, I rise to add my strong personal endorsement for the truly historic regulatory reform legislation being considered by the Senate today.

Relief from excessive Government regulation is one of the cornerstones of our program for economic recovery. Few principles enjoy such widespread acceptance as this. Recordkeeping and reporting requirements, and the costs of required equipment and procedures, are clearly a direct Government-imposed tax on business owners, adversely affecting investment, marketing, production, and pricing decisions. The distortions introduced into our free-market economy by this Government involvement are felt by every sector of the economy.

In no sector are the burdens of excessive regulation more clearly felt, in my judgment, than in the small business community. Most of the major regulatory schemes added in the last decade have stipulated the same compliance requirements for small business as for large corporations. The relative burden on small business is much greater, however, because compliance costs are spread out over smaller output. Small business is then at a disadvantage in competing with large business in the marketplace, compounding the problem already faced by the small business sector due to high interest rates.

A 1979 Small Business Administration study estimated that paperwork burdens alone cost small business $12.7 billion a year. A research study funded by the SBA and conducted by Battelle Human Affairs Research Center demonstrated that regulatory costs are exponentially higher per unit of sale for firms with fewer than 50 employees than for larger firms. Along with inflation, taxation, and the high costs of borrowing money, this kind of regulatory burden is constantly among the chief concerns of the small business community.

The legislation we are considering today will go far to relieve the burdens of Government regulation. First, preliminary and final regulatory analyses, including a weighing of the costs and benefits of proposed regulation, would be required for all major rules. In this respect, the requirements of S. 1080 are very similar to the requirements for regulatory analysis recently imposed on the Consumer Product Safety Commission as a result of legislation I introduced last spring. The orderly consideration by an agency, with executive oversight, of the costs and benefits of new rules is an essential part of the process of rationalizing Government regulation.

Second, the legislation toughens the standards for judicial review of new agency rules, ending the undue deference courts have traditionally paid to agency decisionmaking, and requiring greater factual support for new rules.

Third, the legislation establishes new procedures for promulgating rules that incorporate a number of important reforms designed to bring agency decisionmaking out into the open and permit more involvement by the regulated sector and the public at large.

Finally, as a result of a very important amendment to the bill yesterday, the legislation will incorporate new authority for congressional review and possible veto of Federal rulemaking activity.

The legislative veto is an essential element in our arsenal of weapons for regulatory reform. Along with congressional and executive branch oversight, and requirements for regulatory impact analysis, legislative veto authority provides Congress an important opportunity, if all else fails, to insure that an agency's exercise of its delegated legislative power is consistent with congressional intent. Establishment of a legislative veto mechanism would be a significant shift in the real power of government away from the bureaucracy and back to the elected Congress.

I am most impressed by the support of the small business community for legislative veto. When the National Federation of Independent Business polled its entire 500,000 membership, it found that 76 percent favored legislative veto. The veto was the No. 5 recommendation of the 1980 White House Conference on Small Business, and legislative veto was recommended by a 30-association task force on small business issues as recently as January 1982.

Oversight and control of the regulatory process is long overdue. It is impossible to estimate how many times a small business was unable to enter an industry, develop a new product, or compete effectively due to extensive regulation. It is essential for small business that the Federal regulatory structure be rationalized and pruned.

Mr. President, I commend the Senate for voting so overwhelmingly to add the legislative veto to the regulatory reform bill, and I urge my colleagues now to approve this legislation.●

● Mr. BENTSEN. Mr. President, I want to congratulate my colleagues, Senators LAXALT, LEAHY, ROTH, and EAGLETON, for crafting the Regulatory Reform Act. They and the entire Judiciary and Governmental Affairs Committees have done a commendable job in bringing into reality the hope for a unified and comprehensive approach by all Federal agencies to regulatory reform. They have done a commendable job, as well, in finding a reasonable path through the many potentially divisive issues related to regulatory reform—a notable achievement for the floor managers.

My colleagues are aware of my keen interest in regulatory issues and my role as an original cosponsor of S. 1080. This bill contains a number of provisions which I introduced or cosponsored in the past designed to reduce the impact of regulations on our private sector and thereby free up capital and managerial expertise for activities to boost productivity. The thrust of the regulatory reductions I have supported are based on improving the efficiency or cost effectiveness of regulations. They are not based on merely eliminating regulatory requirements because this or that interest group dislikes them. The reality is that more than one regulatory approach exists to achieve desirable public goals—be it clean air and water, safe working conditions, or sanitary foods. All too frequently in the past, the approach selected was one designed without consideration to its impact on the private sector—on consumers or producers who bore the cost of complying with that regulation. Government bureaucrats simply selected an approach which met other criteria. And, in many cases, they selected an approach without giving any consideration to alternative approaches able to yield the same regulatory benefits at lower private sector cost.

In short, minimizing regulatory burdens was not a priority. Well, that focus was subject to critical review by me back in 1977 when, as vice chairman of the Joint Economic Committee in the 95th Congress and chairman of that Committee in the 96th Congress, I initiated the first indepth evaluation of the costs of Federal rules and paperwork regulations. One highlight of this evaluation was the revelation by (then Professor) Murray Weidenbaum that such regulations cost our economy as much as $100 billion annually. This revelation resulted in repeated unanimous recommendations by the committee for reform of the Federal system of promulgating rules and regulations. Under pressure from myself and other Members of Congress, those reforms were initiated by the Carter administration and carried on at a faster pace by the Reagan administration, as well.

For example, I introduced S. 3263 in 1978, and S. 52 the following year, to eliminate duplicative, overlapping, and conflicting rules and paperwork regulations. Many of the provisions in these bills became law as components of the Paperwork Reduction Act of 1980, including my provision from S. 3263 calling for a reduction of 25 percent in the paperwork burden imposed on the private sector. In 1978, I added an amendment to S. 2 requiring the sunset review of all Federal regulations—a theme carried out in S. 1080, as well.

In January 1979, I introduced S. 54, the Regulatory Cost Reduction Act, which explicitly required Federal agencies to evaluate the economic impact of proposed regulation alternatives to select that alternative with the smallest impact. This legislation reflected my thinking, shared by the members of the Joint Economic Committee, that:

> There is no limitation on the costs that regulatory agencies can impose on the private sector in their attempts to achieve their regulatory goals. The President cannot set limits, because most of the regulatory agencies are independent commissions or administrations. Congress does not set limits because we have not yet established a systematic way of doing it. The result is entirely predictable. The agencies have no incentive to consider private-sector costs when they develop regulations, and so they have no incentives to minimize those costs. Regulations can turn out to be ineffective, unnecessary, wasteful, in conflict with other regulations, or duplicative or other regulations.

My bill, requiring all regulatory agencies to prepare a complete economic analysis of their proposed regulations, was substantially incorporated in the Regulatory Flexibility Act, designed to reduce the regulatory burden on small business, which became law in September 1980 as Public Law 96-354. This principle of comparing alternative regulatory approaches is the heart of the regulatory reforms proposed in S. 1080, as well.

Congress has made great strides in reorienting Federal agencies toward attaining desirable regulatory objectives in a cost-effective fashion. S. 1080, in fact, will largely complete that task by requiring all Federal agencies—including independent ones—to design cost-effective rules and regulations—a provision which covers all rules and regulations for the first time.

REGULATORY BUDGET

But the task of improving regulatory efficiency is far from complete. Vice President BUSH, chairman of the Presidential Task Force on Regulations, has said, for example, that on a scale of 1 to 100, we are about at "10." A major effort is particularly necessary to involve Congress as well as Federal agencies in the regulatory review process. Federal bureaucrats may write costly, inefficient regulations, but Congress passed the original laws to start with. Until the free-wheeling ways of Congress are subject to review, there is little hope of completely and fully addressing the regulatory problem. To force some discipline on Congress itself, I proposed, back in 1979, that a regulatory budget be established which would permit Congress to set definitive caps on the size of the Federal regulatory burden each year. The bill, which I resubmitted last year, would require Congress to determine the size of that burden for each and every Federal agency, each and every year. No longer could Congress willy-nilly pass legislation with no regard to the resulting impact it would have on the private sector.

I am happy to say that support for the regulatory budget concept has grown sharply. In particular, I was pleased to see that Senator DURENBERGER was successful in adding an amendment during markup of S. 1080 by the Governmental Affairs Committee which requires the President to begin gathering economic sectorial data on regulatory benefits and burdens. These and other steps to increase the national data base on regulatory impact bring the concept of a regulatory budget closer to reality.●

● Mr. BOSCHWITZ. Mr. President, regulatory reform is an issue whose time has come. As an original cosponsor of the Regulatory Reform Act, I am pleased to take this opportunity to reaffirm my support for this effort to bring a greater sense of order and reasoning to our regulatory process.

Regulatory reform has become an exciting issue as a prominent and popular buzzword to generate public attention and congressional action. In fact, the Regulatory Reform Act deals with a dry, complex, and legalistic subject—the process followed by agencies in issuing regulations. Nevertheless, the importance and effect of the regulatory process on our economy cannot be underestimated.

In 1980, it cost the private sector nearly $130 billion to comply with regulatory requirements—now that is real money. This astronomical cost is the result of a dramatic increase in Government regulation. For more than a decade, the Federal Government has tried to provide for or protect against nearly everything. The result has been new programs, new agencies, and mountains of regulations. This excessive regulation, coupled with huge Federal budgets, has come to consume nearly one-half of our Nation's time and money resources.

We can debate the benefits of such prolific regulation; we can even debate the actual cost of it. But, there is no question that Government regulation adds substantial costs, in both time and money, to the day-to-day operations of each business, big and small alike. Big business has the resources—lawyers, lobbyists and consultants—to adapt to, challenge and absorb the costs of regulation; small businesses too often cannot. In either case, businesses must make a profit to survive, so these costs must be passed on in the form of higher prices. In the end, it is not a specific company or industry that pays the cost, it is the taxpaying American public.

At the outset, it should be noted that the Regulatory Reform Act does not remove the authority of agencies to issue regulations. Instead, it requires agencies to follow certain guidelines and procedures before regulations are issued, allowing greater public participation and increased accountability by agencies to the public and Congress.

The heart of the Regulatory Reform Act is the requirement that agencies perform a regulatory analysis of major rules—rules that would cost the economy $100 million or more—before the rule becomes final. The regulatory analysis requires agencies to make a good faith effort to weigh the costs and benefits of the rule, evaluate reasonable alternatives, and explain the steps the agency took to verify the quality, reliability and relevance of information on which the rule was based. In short, agencies must conduct a disciplined evaluation of the objectives, alternatives and cost-effectiveness of a major rule, while maintaining a file to disclose the reasons and reasoning for issuing a final regulation. To complement the regulatory analysis, effective oversight authority is included to insure that agencies comply with the procedures required by the act. Agencies must also publish a semiannual calendar of regulatory actions and review all major rules every 10 years.

For a long time now, I have been deeply concerned about the attitude of many of my colleagues and many career employees of the bureaucracy who think that Government—rather than the public—is best equipped to solve society's problems. I believe, on the other hand, that the marketplace is a far more effective regulator of commercial and private events than our Government. Excessive Government has gotten out of hand—it imposes costs of its own that are greater than the costs of the problem it tries to solve. The Regulatory Reform Act is an important effort to bring excessive Government regulation under control. If it is not, it will eventually strangle freedom and initiative in our free enterprise system.●

Mr. HEFLIN. Mr. President, after a quarter century of rapid increasing growth of Federal regulations, we as legislators have the opportunity to limit the role of unelected officials in dispensing economic and social regulation. I believe we have a mandate to perform this task. Where regulation is unnecessary and stifles competition, we should eliminate it. And even where regulation is necessary, we must make it work more efficiently.

Federal regulations have mushroomed into a massive web only to ensnarl both business and consumers in its mighty grip. It feeds off of taxpayers' moneys while spawning more and more expensive and time-consuming litigation, even amongst its own various agencies.

Federal expenditures for regulatory activities in fiscal year 1982 will be nearly $7½ billion, but the ultimate cost to the American taxpayer is at least ten times this amount. We have allowed free enterprise to become subservient to a complex bureaucratic monolith consisting of 58 regulatory agencies issuing 7,000 new rules every year. Mr. President, we simply must free the American economy and the citizens of this country of this heavy burden.

Of course, Mr. President, we are all grateful for the expert guidance provided by Senator LAXALT, chairman of the Regulatory Reform Subcommittee, Senator LEAHY, ranking minority member of the subcommittee as well as Senators ROTH and EAGLETON. They, along with their capable staffs, have worked diligently to make major contributions to this legislative effort.

Mr. President, today we consider how we may minimize Government regulation which in so many areas has proven ineffective and costly. If we are successful we will enhance the economic health of our country and reduce the inflationary impact caused from non-essential Government intervention. But if we fail, America's chances for economic recovery will be jeopardized. I am hopeful that commonsense will guide us in this arduous task. Therefore, Mr. President, I urge my colleagues to pass Senate bill 1080 with the hope that these new reforms will unshackle business, industry and consumers from the burdens imposed by unnecessary regulations.

Thank you, Mr. President.

Mr. EAGLETON. Mr. President, in my opening statement on the regulatory reform bill, I alluded both to the careful balancing act which generally characterized the development of the consensus amendment and to the possibility that the full Senate could either add to or detract from that search from essential balance. I am pleased to say that, in the main, I believe what we have done on the floor has been in furtherance of a balanced and constructive approach to reforming regulation: One that will improve regulation and make it more cost conscious, informed and reasonable, while still permitting it to go forward in the important areas for which it is—and will always be—needed.

Of course, not every outcome has been to my liking. I was particularly disappointed that the Senate rejected the amendment of five other Senators and myself to eliminate judicial review of the major rule determination. On that score, I am left to hope that this problem can be rectified during House consideration or, failing that, that the assurances of those who opposed my amendment will be borne out and the ensuing judicial review will be truly limited and reasonable.

Moreover, another disappointing development stands out in stark relief: Inclusion of the legislative veto provision proposed by Senators SCHMITT, GRASSLEY, LEVIN, and BOREN. Not a part of the S. 1080 bill which my colleagues and I cosponsored, and not subjected to deliberations by either the Judiciary or Governmental Affairs Committees, the provision significantly unbalances this bill.

Contrasting starkly with the restrictive and measured way we have attempted to structure review at the executive and judicial levels, legislative veto review would be indiscriminate in its application and open-ended in its intrusion into the regulatory process. I will not belabor the substantial policy and legal objections I have with the legislative veto proposals. I have previously discussed them and they are, in any event, moot for this audience. However, my understanding of the significant pitfalls leads me to the conclusion that including a legislative veto in this bill is to opt for the very regulatory paralysis about which I warned in my opening statement.

However, I am not yet willing to give up hope that this bill can be stripped of the offensive veto provision by further action. I know the House will want to give this part of S. 1080 its most careful consideration. Further, it is very possible that a definitive Supreme Court ruling on the constitutionality of schemes, such as the one we have included in S. 1080, will rob the veto of legitimacy and support.

By voting yes on S. 1080 as it stands, I am by no means making a final judgment on the wisdom of an S. 1080 provision with a legislative veto attached to it.

Mr. SASSER. Mr. President, I am pleased to cast my vote in favor of the Regulatory Reform Act of 1982. This legislation provides checks on the overgrown Federal regulatory system that are essential if we are to make the regulatory process more fair to those whose lives—and livelihoods—are affected in some way by the Federal Government.

By encouraging Government regulators to draw upon a wider range of economic perspectives on new rules under consideration, S. 1080's provisions promise more realistic and effective rulemaking.

When rulemaking goes awry, the interests of justice and fairness are served by the broadened scope of authority S. 1080 provides for limited judicial review of regulatory decisions by the Federal agencies.

When Federal regulators churn out restrictions that exceed the laws they are interpreting, then S. 1080 gives the Congress the power to veto those regulations.

As an original cosponsor of this bill, I commend Senators ROTH, EAGLETON, LAXALT, and LEAHY for their leadership in achieving the necessary consensus on the various provisions of S. 1080 so that we could pass this bill today.

In particular, I appreciated their acceptance of language I proposed to insure that Federal regulators give some thought, early in the rulemaking process, to the burdens that regulations often impose on State and local governments. Cost burdens are too often imposed without thought, then the local or State taxpayer is left to foot the bill. I think that my amendment in S. 1080 will alleviate this problem to a great extent.

So, I am pleased that the Regulatory Reform Act, which has been one of my top legislative priorities almost since the day I was sworn in as a U.S. Senator, is being passed by the Senate. I hope that the House will concur with our decision that the time is now for us to pass this important legislation to improve our regulatory system.

● Mr. D'AMATO. Mr. President, I take this opportunity to express my support for the legislation presently under consideration, S. 1080, the Regulatory Reform Act.

S. 1080 represents the first comprehensive revision of administrative law which has governed our regulatory process since the passage of the Administrative Procedure Act in 1946. During the past 36 years, thousands of new rules and regulations have been imposed upon the American people—affecting every aspect of our lives.

This legislation provides a rational procedural framework within which regulations will be developed in the future, requiring an analysis of the economic impact of rules before they are issued. It is estimated that current regulations cost Americans more than $126 billion annually. In other words, a family of four pays $2,290 each year to cover the price tag of current regulations. This situation cannot continue. During this period when the administration and the Congress are working on measures to reduce the burden of inflation, we must take action to reduce the proliferation of costly duplicative regulation.

S. 1080 does not represent a departure from the historic role of government in protecting the health and well-being of all Americans. Rather, regulation will be undertaken where there is a clearly identifiable problem and where the anticipated benefits are significant and not outweighed by projected costs.

I believe that S. 1080 will reduce the burden of Federal regulation by imposing economic discipline on the regulatory process, strengthening the management system, and imposing our rulemaking procedures.

Therefore, I urge my colleagues to adopt S. 1080 as a positive step toward restoring the principles of reason and cooperation to our regulatory process.●

● Mr. DANFORTH. Mr. President, although I am voting in favor of S. 1080, I do so with grave reservations. While I strongly believe that there is a need to rationalize the regulatory process, and while I have long supported the notion that agencies should apply tough cost-benefit analysis to the rules they promulgate, I fear that S. 1080, as amended by the Senate, will serve to burden the Congress, the agencies, and the courts in paperwork, delay, and litigation. I am very much concerned by the Senate's decision to endorse a congressional veto of agency rules, and I am concerned as well by the Senate's decision to subject major rule determinations to judicial review. I think these decisions were a mistake—a serious mistake. Nonetheless, because of my long commitment to regulatory reform, and in the knowledge that the legislative process is not complete—that the House has yet to act—I will vote for the bill.●

Mr. WEICKER. Mr. President, I rise today to express my support for the consensus substitute for S. 1080 and to enumerate the reasons why I opposed the legislative veto amendment to this legislation.

First, let me say that I believe that S. 1080 is one of the most significant measures to be considered by the 97th Congress and I would like to commend the architects of the consensus substitute for their fine efforts to improve Federal rulemaking procedures. Specifically, I would like to compliment Senators LAXALT, ROTH, LEAHY, and EAGLETON for their commitment to making the Federal regulatory process more disciplined, more coordinated, more responsible and ultimately, more effective. I was proud to join these Senators as an original cosponsor of S. 1080 and I believe that their fine work has resulted in a balanced plan for reform of the Federal rulemaking process.

As chairman of the Senate committee on small business, I am fully aware of the small business community's interest in this legislation. I am convinced that the consensus version of S. 1080 will go a long way toward resolving the regulatory and paperwork burdens imposed on the small business community by Federal regulatory agencies. I believe that the bill will do much to bring accountability to the Federal regulatory process. I think that it will do much to discourage meaningless, and ultimately, burdensome Government regulations. It will provide for greater public participation in the Federal rulemaking process and provide for fuller disclosure of agency regulatory actions. Again, I support these provisions because I believe that they are equitable, necessary, and quite simply, good law.

I am also acutely aware of the small business community's interest in the legislative veto provision. I opposed the amendment because I believe it is unwise and raises serious constitutional questions.

In my opinion, the legislative veto amendment will upset the delicate balance of responsibilities now shared between the three branches of our Federal Government. Specifically, I believe that this amendment violates the separation of powers doctrine outlined in article I, section 7 of the U.S. Constitution. I am joined in this opinion by several distinguished legal bodies, including the U.S. Court of Appeals for the District of Columbia and the American Bar Association. In fact, the appeals court recently found the one-House legislative veto concept unconstitutional and expressed the opinion that two-House vetoes, requiring a decision by both Houses to block agency action, also may be unconstitutional. In the opinion of the appeals court:

> The legislative veto allows Congress to expand its role from one of oversight, with an eye to legislative revision, to one of shared administration. This overall increase in congressional power contravenes the fundamental purpose of the separation of powers doctrine.

In addition to my fundamental constitutional questions about the legislative veto amendment, I believe that consideration of the Schmitt amendment was extremely ill-timed. The U.S. Appeals Court for the Ninth Circuit has also declared the legislative veto concept unconstitutional in a case striking down a one-House veto of an order by the U.S. Attorney General suspending deportation. This case is presently pending before the U.S. Supreme Court, and represents the very first time that the controversial legislative veto issue will be reviewed by the highest court in the land. I personally welcome the fact that the Supreme Court finally will rule on the constitutionality of the legislative veto. Accordingly I think it was ill-advised for the Senate to adopt a broad legislative veto amendment while the broad legal and constitutional issues involved are pending resolution by the Supreme Court.

Mr. President, putting these serious constitutional issues aside, I still believe that legislative veto is just bad public policy. It promises the American people more than the Congress can ever hope to undertake. Further, it completely, fails to address the need for providing comprehensive guidance and policy coordination to agencies through legislation. I believe that the legislative veto concept blurs accountability for agency actions; institutionalizes an ad hoc approach to oversight; and will likely cause delays and stalemates between the Houses of Congress.

Rather than this legislative veto approach, I believe that Congress should exercise more effective control and oversight of Federal regulatory agencies and develop a more systematic and comprehensive approach to our oversight functions. Additionally, we should closely watch the administration of the regulatory checks and balances provided for in S. 1080 to further insure fair and responsible rulemaking by the Federal agencies.

The PRESIDING OFFICER. Are there any other amendments to be proposed? If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. LAXALT. Mr. President, have we ordered the yeas and nays?

The PRESIDING OFFICER. They have not yet been ordered.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LAXALT. All time is yielded back.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Rhode Island (Mr. CHAFEE), and the Senator from Mississippi (Mr. COCHRAN) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Louisiana (Mr. LONG) are necessarily absent. I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 62 Leg.]

YEAS—94

Abdnor
Andrews
Armstrong
Baker
Baucus
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Chiles
Cohen
Cranston
D'Amato
Danforth
DeConcini
Denton
Dixon
Dodd
Dole
Domenici
Durenberger
Eagleton
East
Exon
Ford
Garn
Glenn
Goldwater
Gorton
Grassley
Hart
Hatch
Hatfield
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Jackson
Jepsen
Johnston
Kassebaum
Kasten
Kennedy
Laxalt
Leahy
Levin
Lugar
Mathias
Matsunaga
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Quayle
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Schmitt
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Zorinsky

NAYS—0

NOT VOTING—5

Cannon
Chafee
Cochran
Inouye
Long

So the bill (S. 1080), as amended, was passed as follows:

S. 1080

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Regulatory Reform Act".

DEFINITION OF RULE

SEC. 2. Section 551(4) of title 5, United States Code, is amended by inserting before the semicolon at the end thereof a comma and the following: "except that the term 'rule' does not include agency statements involving a matter relating to public property or contracts or general statements of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or the statement to be made on the record after opportunity for an agency hearing".

RULEMAKING

SEC. 3. Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rule making

"(a) This section applies to every rule making, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management and personnel practices of an agency:

"(3) an interpretive rule, general statement of policy, or rule of agency organization, procedure, or practice, unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property or of services that is promulgated in compliance with criteria and procedures established by the Administrator for Federal Procurement Policy or the Administrator of General Services.

"(b)(1) General notice of proposed rule making shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. Each notice of proposed rule making shall include—

"(A) a statement of the time, place, and nature of public rule making proceedings'

"(B) a succinct explanation of the need for and specific objectives of the proposed rule;

"(C) an explanation of the specific statutory authority under which the rule is proposed;

"(D) the proposed provisions of the rule;

"(E) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rule making that are more effective or less burdensome than the approach used in the proposed rule;

"(F) a description of any data, methodologies, reports, studies scientific evaluations, or other similar information on which the agency plans to substantially rely in the rule making, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

"(G) a statement specifying where the file of the rule making proceeding maintained pursuant to subsection (f) of this section may be inspected and how copies of the items in the file may be obtained.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with the provisions of this subsection and subsections (c) and (f) of this section if—

"(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable or contrary to an important public interest;

"(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

"(C) the agency complies with the provisions of this subsection and subsections (c) and (f) of this section to the maximum extent feasible prior to the promulgation of the final rule and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

"(3) Except when notice or hearing is required by statute, this subsection and subsections (c) and (f) of this section do not apply to a rule when the agency for good cause finds that notice and public procedure thereon are unnecessary due to the insignificant impact of the rule and publishes, at the time of publication of the final rule, such finding and a succinct explanation of the reason therefor.

"(4) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rule making did not fairly apprise the public of the issues ultimately to be resolved in the rule making or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule which is required by the applicable provisions of this section and which has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

"(c)(1) After providing the notice required by this section, the agency shall give interested persons at least sixty days to participate in the rule making through the submission of written data, views, and arguments.

"(2) In order to collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rule making, the agency may use such other procedures as the agency determines are appropriate, including—

"(A) the publication of an advance notice of proposed rule making;

"(B) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of the proposed rule making through the Federal Register;

"(C) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

"(D) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rule making; and

"(E) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in a rule making.

The decision of the agency to use or not to use such other procedures in a rule making pursuant to this paragraph shall not be subject to judicial review.

"(3)(A) The opportunity for participation in a rule making for a major rule (as defined in section 621(4) of this title) shall include the opportunity for oral presentation of data, views, and information at informal public hearings. Such public hearings—

"(i) may include an opportunity for oral rebuttal or argument where appropriate; and

"(ii) shall include an opportunity for direct and cross-examination of the principal agency employees or other persons who prepared for the agency data on which the agency substantially relied in formulating the rule, and of any other persons who present testimony, documents, or other information at such hearings, where other procedures, such as the convening of public meetings, conferences or panel discussions, or the presentation of staff arguments for comment and rebuttal, are determined to be inadequate for the resolution of significant issues of fact upon which the rule is based.

"(B) No court shall hold unlawful or set aside an agency rule because of a failure by the agency to use a particular procedure pursuant to subparagraph (A) of this paragraph unless—

"(i) an objection to the failure to use such procedure was presented to the agency in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

"(ii) the court finds that such failure substantially precluded a fair consideration and informed resolution of a central issue of the rule making taken as a whole.

"(4) To ensure an orderly and expeditious proceeding, the agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (2) and (3) of this subsection, including the designation of represenatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rule making. Transcripts shall be made of all such public hearings.

"(5) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(A) an explanation of the need for, objectives of, and statutory authority for the rule;

"(B) a discussion of any significant issues raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected; and

"(C) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rule making file maintained pursuant to subsection (f) of this section.

"(6) When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

"(d)(1) An agency shall publish the final rule adopted in the Federal Register at least thirty days before the effective date of the rule. An agency may make a rule effective in less than thirty days after publishing the final rule in the Federal Register in the case of a rule that grants or recognizes an exemption or relieves a restriction, or in the case of a rule for which the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefore, with the final rule.

"(2) In promulgating a final rule, the agency may not substantially rely on any factual or methodological material that was not placed in the rule making file maintained pursuant to subsection (f) of this section in time to afford an adequate opportunity for public comment thereon during the period for public participation in the rule making. Notwithstanding the preceding sentence, an agency may rely on such material—

"(A) if, in the case of material developed by or for the agency, such material was placed in the rule making file promptly upon its completion and, if such material is of central relevance to the rule making, was made available in time for interested persons to have an adequate opportunity to comment thereon;

"(B) if, in the case of material submitted by a person outside the agency, such material was placed in the rule making file promptly upon its receipt by the agency and, if such material is of central relevance to the rule making, the agency provided not less than fifteen days for interested persons to comment thereon in addition to the period for comment provided under paragraph (1) of subsection (c);

"(C) if such material is material of which the agency properly can take official notice; or

"(D) if such material is material referred to in subsection (f)(3) of this section and the agency has complied with the requirements of that subsection.

"(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule, for an interpretation regarding the meaning of a rule, and for a variance or exemption from the terms of a rule if the agency may grant such variance or exemption. The agency shall act on such petitions with reasonable promptness. The response of the agency to each such petition shall be in writing accompanied by a statement of reasons.

"(f)(1) The agency shall maintian a file for each rule making proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragrph (2) of this subsection shall constitute the rule making record for purposes of judicial review. Except as provided in paragraph (2) of this subsection, the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule. The file shall include—

"(A)(i) the notice of proposed rule making and any supplement to or modification or revision of such notice; and

"(ii) any advance notice of proposed rule making;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript of any public hearing conducted in the rule making;

"(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(F) of this section and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rule making and that the agency considered in connection with the rule making, or that was prepared by or for the agency in connection with the rule making;

"(E) any statement, description, analysis, or any other material that the agency is required to make public in connection with the rule making, including any preliminary or final regulatory analysis issued by the agency pursuant to chapter 6 of this title;

"(F) copies of all written material pertaining to the rule, including any drafts of the proposed and the final rule, submitted by the agency to the President or his designee directed by the President to review proposed or final rules for their regulatory impact; and

"(G) a written explanation of the specific reasons for any significant changes made by the agency in the drafts of the proposed or final rule which respond to any comment received by the agency on the draft proposed, prepared, draft final, or final rule, made by the President or his designee directed by the President to review proposed or final rules for their regulatory impact.

"(2) The agency shall place the materials described in clauses (A) through (H) of the last sentence of paragraph (1) in the file required by such paragraph as soon as practicable after such materials become available to the agency.

"(3) The file required by paragraph (1) of this subsection need not include any material that need not be made available to the public under section 552 of this title if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms so as to protect the confidentiality of such material to the maximum extent possible.

"(4) No court shall hold unlawful or set aside an agency rule because of a violation of paragraph (1) of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rule making taken as a whole. Judicial review of compliance or noncompliance with paragrph (1) of this subsection shall be limited to review of action or inaction on the part of an agency.

"(g) For a period of one year after the effective date of a final rule issued pursuant to this section, such rule shall not substantially change the requirements of any contract, cooperative agreement, or grant existing on such effective date between a Federal agency and a State or local government. The preceding sentence does not apply to any case in which the agency for good cause finds that a delay in the effect of the rule would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.".

REGULATORY ACTIVITIES: ANALYSIS; PRIORITIES AND REVIEW; REPORT

SEC. 4. (a) Chapter 6 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"§ 621. Definitions

"For purposes of this subchapter and subchapters III and IV of this chapter:

"(1) The term 'agency' has the same meaning as in section 551(1) of this title.

"(2) The term 'person' has the same meaning as in section 551(2) of this title.

"(3) The term 'rule' has the same meaning as in section 551(4) of this title, except that such term does not include—

"(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers or acquisitions, or accounting practices or disclosures bearing on any of the foregoing.

"(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System; or

"(C) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 315 and 312 (a)(7) of the Communications Act of 1934.

"(4) The term 'major rule' means—

"(A) a rule or a group of closely related rules that the agency, the President, or the officer selected under section 624 of this title reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; and

"(B) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President, or by the officer selected under section 624 of this title, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets.

For purposes of subparagraph (A) of this paragraph, the term 'rule' does not mean—

"(I) a rule that involves the internal revenue laws of the United States;

"(II) a rule that authorizes the introduction into commerce or recognizes the marketable status of a product, pursuant to sections 408, 409(c), and 706 of the Federal Food, Drug, and Cosmetic Act;

"(III) a rule exempt from notice and public procedure pursuant to section 553(a) of this title; or

"(IV) a rule relating to the viability, stability, asset powers, or categories of accounts of, or permissible interest rate ceilings applicable to, depository institutions the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the Share Insurance Fund of the National Credit Union Administration Board.

"(5) The term 'benefit' means the reasonably identifiable significant benefits and beneficial effects, including social and economic benefits and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"(6) The term 'cost' means the reasonably identifiable significant costs and adverse effects, including social and economic costs and effects, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule.

"§ 622. Regulatory analysis

"(a) Prior to publishing notice of proposed rule making for any rule, each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A) of this title and, if it is not, whether it should be designated a major rule under section 621(4)(B) of this title. For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule. Every notice of proposed rule making shall include a succinct statement and explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4)(A) of this title and, if applicable, of its designation as a major rule under section 621(4)(B) of this title.

"(b) The President or the officer selected by the President under section 624 of this title may determine that a rule is a major rule within the meaning of section 621(4)(A) of this title or may designate a rule as a major rule under section 621(4)(B) of this title not later than thirty days after the publication of the notice of proposed rule making for that rule. Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation. The President or the officer selected by the President under section 624 of this title may designate not more than seventy-five rules as major rules under section 621(4)(B) of this title in any fiscal year.

"(c)(1) When the agency publishes a notice of proposed rule making for a major rule, the agency shall issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis and shall include in such notice of proposed rule making a summary of the analysis. When the President or the officer selected by the President under section 624 of this title has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rule making for that rule, the agency shall promptly issue and place in the rule making file maintained under section 553(f) of this title a preliminary regulatory analysis for the rule and shall publish in the Federal Register a summary of such analysis. Following the issuance of a preliminary regulatory analysis under the preceding sentence, the agency shall give interested persons an opportunity to comment thereon pursuant to section 553 of this title in the same manner as if the preliminary regulatory analysis had been issued with the notice of proposed rule making.

"(2) Each preliminary regulatory analysis shall contain—

"(A) a succinct description of the benefit of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to receive such benefits;

(B) a succinct description of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons, classes of persons, or particular levels of Government likely to incur such costs;

"(C) a succinct description of reasonable alternatives for achieving the identified benefits of the proposed rule, including alternatives that—

"(i) require no Government action;

"(ii) will accommodate differences between geographic regions; and

"(iii) employ performance or other standards which permit the greatest flexibility in achieving the identified benefits of the proposed rule;

"(D) a statement—

"(i) identifying any source of funds available from the Federal Government to pay State and local governments the costs incurred by such governments as a result of the proposed rule; or

"(ii) specifying that the agency does not know of any such source;

"(E) in any case in which the proposed rule is based on scientific evaluations or information, a description of action undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information; and

"(F) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is proposing the rule, an explanation of how the identified benefits of the proposd rule are likely to justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rule making objectives in a more cost-effective manner than the alternatives to the proposed rule.

"(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rule making file maintained under section 553(f) of this title a final regulatory analysis, and shall include a summary of the analysis in the statement of basis and purpose required by section 553 (c)(6) of this title. Notwithstanding the preceding sentence, in any case in which an agency, under section 553(b)(2) of this title, is not required to comply with subsections (b) through (f) of section 553 of this title prior to the adoption of a final rule, an agency is not required to comply with the preceding sentence prior to the adoption of the final rule but shall comply with such sentence when complying with section 553(b)(2)(C) of this title.

"(2) Each final regulatory analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rule making; and

"(B) where it is not expressly or by necessary implication inconsistent with the provisions of the enabling statute pursuant to which the agency is acting, a reasonable determination, based upon the rule making file considered as a whole, that the benefits of the rule justify the costs of the rule, and that the rule will substantially achieve the rule making objectives in a more cost-effective manner than the alternatives described in the rule making.

"(e)(1) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a proposed and a final rule pursuant to this section in as precise and succinct a manner as possible. The description of the benefits and costs of a proposed and a final rule required under this section shall include a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement and shall specify the ranges of predictions and explain the margins of error involved in the quantification methods and in the estimates used.

"(2) In evaluating and comparing costs and benefits, the agency shall not rely on cost or benefit information submitted by any person that is no accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rule making to assess the accuracy and reliability of such information. The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs required by this section shall be clearly articulated in accordance with the provisions of this section. An agency is not required to make such evaluation primarily on a mathematical or numerical basis.

"(f) The preparation of the preliminary or final regulatory analysis required by this section shall only be performed by an officer or employee of the agency. The provisions of the preceding sentence do not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such regulatory analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the preliminary or final regulatory analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

"(g) The requirements of this section do not alter the criteria for rule making otherwise applicable under other statutes.

"§ 623. Judicial review

"(a) Compliance or noncompliance by an agency with the provisions of this subchapter shall not be subject to judicial review except according to the provisions of this section.

"(b) Any determination by the President or by the officer selected under section 624 of this title that a rule is a major rule within the meaning of section 621(4)(A) of this title, and any designation by the President or the officer selected under section 624 of this title that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(c) The determination of an agency of whether a rule is or is not a major rule within the meaning of section 621(4)(A) of this title shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time it made the determination. Any designation by an agency that a rule is a major rule under section 621(4)(B) of this title, or any failure to make such a designation, shall not be subject to judicial review in any manner.

"(d) Any regulatory analysis prepared under section 622 of this title shall not be subject to judicial consideration separate or apart from review of the rule to which it relates. When an action for judicial review of a rule is instituted, any regulatory analysis for such rule shall constitute part of the whole rule making record of agency action for the purpose of judicial review of the rule and shall, to the extent relevant, be considered by a court in determining the legality of the rule.

§ 624. Executive oversight

"(a) The President shall have the authority to establish procedures for agency compliance with this subchapter and subchapter III of this chapter. The President shall have the authority to monitor, review, and ensure agency implementation of such procedures. The President shall report annually to the Congress on agency compliance or noncompliance with the requirements of this chapter.

"(b) Any procedures established pursuant to the authority granted under subsection (a) of this section shall be adopted after the public has been afforded an opportunity to comment thereon, and shall be consistent with the prompt completion of rule making proceedings. If such procedures include review of preliminary or final regulatory analyses to ensure that they comply with the procedures established pursuant to subsection (a), the time for any such review of a preliminary regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or by an officer to whom the authority granted under subsection (a) of this section has been delegated pursuant to subsection (c) of this section, and the time for such review of a final regulatory analysis shall not exceed thirty days following the receipt of that analysis by the President or such officer. The times for each such review may be extended for good cause by the President or such officer for an additional thirty days. Notice of any such extension, together with a succinct statement of the reasons therefore, shall be inserted in the rule making file.

"(c) The President may delegate the authority granted by subsection (a) of this section, in whole or in part, to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate. Any such notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to Congressional inquiries concerning the exercise of the authority delegated under this subsection. Notice of any such delegation, or any revocation or modification thereof, shall be published in the Federal Register.

"(d) The authority granted under subsection (a) of this section shall not apply to rules issued by the Nuclear Regulatory Commission.

"(e) Any exercise of the authority granted under this section, or any failure to exercise such authority, by the President or by an officer to whom such authority has been delegated under subsection (c) of this section, shall not be subject to judicial review in any manner under this Act.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"§ 631. Review of agency rules

"(a)(1)(A) Not later than nine months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency which is in effect on such effective date and which, if adopted on such effective date, would be a major rule under section 621(4)(A) of this title, and

"(ii) each rule of the agency in effect on such effective date (in addition to the rules described in clause (i)) which the agency has selected for review.

"(B) Each proposed scheduled required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be such a major rule under section 621(a)(4)(A) of this title or of the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with the provisions of subsection (b)(1) of this section, for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed schedule.

"(C) The agency shall set a date to initate review of each rule on the schedule in a manner which will ensure the simultaneous review of related items and which will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) At least ninety days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 624(b) of this title. The President or that officer may select for review in accordance with this section any additional rule that the President or such officer determines to be a major rule under section 621(4)(A) of this title.

"(3) Not later than one year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2) of this subsection. Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except where explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e) of this section, review:

"(A) each rule on the schedule promulgated pursuant to subsection (a) of this section;

"(B) each major rule under section 621(4) of this title promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

"(C) each rule promulgated after the date of enactment of this section which the President or the officer designated by the President pursuant to subsection (a)(2) of this section determines to be a major rule under section 621(4)(A) of this title.

Except where an extension has been granted pursuant to subsection (f) of this section, the review of a rule required by this section shall be completed within ten years after the effective date of this section or within ten years after the date on which the rule is promulgated, amended, or renewed, whichever is later.

"(2) A rule required to be reviewed under the preceding subsection on grounds that it is major need not be reviewed if the agency determines that such rule, if adopted at the time of the planned review, would not be major under the definition previously applied to it. When the agency makes such a determination, it shall publish a notice and explanation of the determination in the Federal Register.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an indentification of the specific statutory authority under which the rule was promulgated and a statement specifying the agency's determination of whether the rule continues to fulfill the intent of Congress in enacting that authority;

"(2) an assessment of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c) of this section, comply with the provisions of this chapter and chapter 5 of this title or other applicable law. The requirements of such provisions and related requirements of law shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule which is not taken pursuant to the review required by this section.

"(e) If an agency proposed to renew without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons not less than sixty days after the publication of the notice required by subsection (c) of this section to comment on the proposed renewal; and

"(2) publish in the Federal Register notice of the renewal of such rule and an explanation of the continued need for the rule, and, if the renewed rule is a major rule under section 621(4) of this title, include with such notice an explanation of the reasonable determination of the agency that the rule complies with the provisions of section 622(d)(2)(B) of this title.

"(f)(1) Any agency, which for good cause finds compliance with this section with respect to a particular rule to be impracticable during the period provided in subsection (b) of this section, may request the President, or the officer designated by the President pursuant to subsection (a)(2) of this section, to establish a period longer than ten years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than fifteen years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(2) An agency may, with the concurrence of the President or the officer designated by the President pursuant to subsection (a)(2) of this section, or shall, at the direction of the President or that officer, alter the timing of review of rules under any schedule required by this section for the review of rules if an explanation of such alteration is published in the Federal Register at the time such alteration is made.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to amend, repeal, or renew the rule under subsection (c) of this section, and shall complete proceedings pursuant to subsection (d) or (e) of this section within one hundred and eighty days of the date on which the review was required to be completed under subsection (b) or (f) of this section.

"(h)(1) Agency compliance or noncompliance with the provisions of subsection (a) of this section shall not be subject to judicial review in any manner.

"(2) Agency compliance or noncompliance with the provisions of subsections (b), (c), (e), (f), and (g) of this section shall be subject to judicial review only pursuant to section 706(a)(1) of this title.

"(i) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to section 553(e) of this title.

"§ 632. Regulatory agenda and calendar

"(a) Each agency shall publish in the Federal Register in April and October of each year an agenda of the rules that the agency expects to propose, promulgate, renew, or repeal in the succeeding twelve months. For each such rule, the agenda shall contain, at a minimum, and in addition to any other information required by law—

"(1) a general description of the rule, including a citation to the authority under which the action with respect to the rule is to be taken, or a specific explanation of the congressional intent to which the objectives of the rule respond;

"(2) a statement of whether or not the rule is or is expected to be a major rule;

"(3) an approximate schedule of the significant dates on which the agency will take action relating to the rule, including the dates for any notice of proposed rule making, hearing, and final action on the rule;

"(4) the name, address, and telephone number of an agency official responsible for answering questions from the public concerning the rule;

"(5) a statement specifying whether each rule listed on the previous agenda has been published as a proposed rule, has been published as a final rule, has become effective, has been repealed, or is pending in some other status; and

"(6) a cumulative summary of the status of the rules listed on the previous agenda in accordance with clause (5) of this subsection.

"(b) The President or an officer in the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate shall publish in the Federal Register in May and November of each year a Calendar of Federal Regulations listing each of the major rules identified in the regulatory agendas published by agencies in the preceding month. Each rule listed in the calendar shall be accompanied by a summary of the information relating to the rule that appeared in the most recent regulatory agenda in which the rule was identified.

"(c) An agency may propose or promulgate a major rule that was not listed in the regulatory agenda required by subsection (a) of this section only if the agency publishes with the rule an explanation of the omission of the rule from such agenda and otherwise complies with this section with respect to that rule.

"(d) Any compliance or noncompliance by the agency with the provisions of this section shall not be subject to judicial review.

"§ 633. Establishment of deadlines

"(a)(1) Whenever any agency publishes a notice of proposed rule making pursuant to section 553 of this title, the agency shall include in such notice an announcement of the date by which it intends to complete final agency action on the rule.

"(2) If any agency announcement under this section indicates that the proceeding relating to such rule will require more than one year to complete, the agency shall also indicate in the announcement the date by which the agency intends to complete each major portion of that proceeding. In carrying out the requirements of this subsection, the agency shall select dates for completing agency action which will assure the most expeditious consideration of the rule which is possible, consistent with the interests of fairness and other agency priorities.

"(3) The requirements of this subsection shall not apply to any rule on which the agency intends to complete action within one hundred and twenty days after providing notice of the proposed action.

"(b) If an agency fails to complete action in a proceeding, or a major portion of the proceeding, by the date announced pursuant to subsection (a) of this section, or, in the case of a proceeding described in paragraph (3) of such subsection, if an agency fails to complete action within one hundred and twenty days after providing notice of such proposed action, and the expected delay in completing action will exceed thirty days, the agency shall promptly announce the new date by which the agency intends to complete action in such proceeding and new dates by which the agency intends to complete action on each major portion of the proceeding.

"(c) Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review except in accordance with subsection (d).

"(d) In determining whether to compel agency action unreasonably delayed pursuant to section 706(a)(1) of this title, the reviewing court shall consider, in addition to any other relevant factors, the extent to which the agency has failed to comply with this section.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"§ 641. Annual report

"Not later than January 31 of each year, the President shall report to the Congress on the regulatory activities of the Government. The report shall include—

"(1) a description of the regulatory functions and activities of the Government, and the relationship of such functions and activities to national needs; and

"(2) an estimate, for the national economy and for each of the major sectors of the national economy, of the costs and benefits resulting from—

"(A) all major rules promulgated during the preceding fiscal year;

"(B) all major rules included on the regulatory agenda published under section 632 of this title during April and October of the year preceding the year in which the report is made; and

"(C) all major rules scheduled for review under section 631 of this title to the extent possible.".

(b) Such chapter is further amended—

(1) by inserting after the chapter analysis the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by striking out "this chapter" each place it appears in subchapter I and inserting in lieu thereof in each such place "this subchapter".

(c) The chapter analysis of such chapter is amended—

(1) by inserting after the chapter heading the following new subchapter heading:

"SUBCHAPTER I—REGULATORY FLEXIBILITY";

and

(2) by adding at the end thereof the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY PROPOSALS

"Sec.
"621. Definitions.
"622. Regulatory analysis.
"623. Judicial review.
"624. Executive oversight.

"SUBCHAPTER III—REGULATORY PRIORITIES AND REVIEW

"631. Review of agency rules.
"632. Regulatory agenda and calendar.
"633. Establishment of deadlines.

"SUBCHAPTER IV—REPORT TO THE CONGRESS

"641. Annual report.".

SEC. 5. Section 706 of title 5, United States Code, is amended to read as follows:

"§ 706. Scope of review

"(a) To the extend necessary to decision and when presented, the reviewing court shall independently decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

"(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In making determinations concerning statutory jurisdiction or authority under subsection (a)(2)(C) of this section, the court shall require that action by the agency is within the scope of the agency jurisdiction or authority on the basis of the language of the statute or, in the event of ambiguity, other evidence of ascertainable legislative intent. In making determinations on other questions of law, the court shall not accord any presumption in favor of or against agency action, but in reaching its independent judgment concerning an agency's interpretation of a statutory provision, the court shall give the agency interpretation such weight as it warrants, taking into account the discretionary authority provided to the agency by law.

"(d) In making a finding under subsection (a)(2)(A) of this section, the court shall determine whether the factual basis of a rule adopted in a proceeding subject to section 553 of this title is without substantial support in the rule making file.".

VENUE

SEC. 6. (a) Section 2112 of title 28, United States Code, is amended—

(1) by striking out the last three sentences of subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(3) by inserting the following new subsection:

"(b)(1) If proceedings have been instituted in two or more courts of appeals with respect to the same agency action and the first such proceeding was instituted more than five days before the second, the record shall be filed in that court in which the proceeding was first instituted. If the first such proceeding was not instituted more than five days before the institution of a later proceeding with respect to the same agency action, and the agency, board, commission, or officer concerned has received written notice from the parties instituting each of these proceedings, the agency, board, commission, or officer concerned shall promptly advise in writing the Administrative Office of the United States Courts, with respect to the first proceeding and all proceedings initiated within five days of the first proceeding, that such multiple proceedings have been instituted and shall identify each court for which is has notice that such proceedings are pending. Pursuant to a system of random selection divised for this purpose, the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the agency. Upon notification of such selection, the agency, board, commission, or officer concerned shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the agency, board, commission, or officer concerned, the record shall be filed in the court of appeals which remanded such order.

"(2) Where proceedings have been instituted in two or more court of appeals with repect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), to the other courts in which such proceedings are pending shall promptly transfer such proceedings to the court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a proceeding has been instituted may postpone the effective date of the agency action until fifteen days after the Administrative Office has selected the court in which the record shall be filed. Such postponement by the court may thereafter be modified, revoked, or extended by the court in which the record is to be filed.

"(3) Any court in which a proceeding with respect to any agency action is pending, including any court selected pursuant to paragraph (1), may transfer such proceeding to any other court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (17) and (18) as paragraphs (18) and (19), respectively, and

(2) by inserting after paragraph (16) the following new paragraph:

"(17) Pursuant to section 2112 of this title, where proceedings with respect to action of any agency, board, commission, or officer have been instituted in two or more courts of appeals, administer a system of random selection to determine the appropriate court in which the record is to be filed.".

ADVISORY COMMITTEE

SEC. 7. Clause (iii) of section 3(2)(C) of the Federal Advisory Committee Act is amended to read as follows: "(iii) any committee which is composed wholly of full-time officers or employees of the Federal Government, or elected officials of State or local governments acting in their official capacities or their representatives or representatives of their national organizations.".

RESOLUTION OF AGENCY JURISDICTIONAL CONFLICT

SEC. 8. (a) Section 2201 of title 28, of the United States Code is amended by inserting "(a)" before "In" and by adding at the end thereof the following new subsections:

"(b)(1) Except as provided in paragraph (3), upon the filing of an appropriate pleading by a regulatory agency or a public utility, the district courts shall have original jurisdiction of any civil action or proceeding to resolve a controversy between two or more regulatory agencies, with respect to jurisdiction to regulate any of the rates, services, or records relating thereto, of a public utility unless all of such agencies are agencies of the same State.

"(2) If any party shall apply to the court before whom the pleading is filed for leave to adduce additional evidence relevant to a finding of jurisdiction, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such additional evidence in proceedings before one or more of the regulatory agency parties to the action brought hereunder, the court may order such additional evidence to be taken before any of such regulatory agencies and to be adduced upon the hearing in such manner and upon such terms and conditions as the court deems proper.

"(3) If the courts of appeals have exclusive original jurisdiction to review agency action of a regulatory agency, then an action or proceeding under this subsection with respect to a controversy to which such regulatory agency is a party shall be brought in such court of appeals rather than in the district court.

"(c) The court may declare the rights and other legal relations of the parties to an action or proceeding brought under subsection (b) to the extent necessary to resolve the controversy with respect to jurisdiction and may take any action necessary to maintain the status quo pending such declaration, or pending appeal of such declaration, including staying any civil action or proceeding that might be affected by such declaration. Such action or declaration shall not be withheld—

"(1) on the ground that a controversy with respect to matters other than jurisdiction to regulate may exist between or among the parties.

"(2) due to failure to pursue or exhaust any administrative remedies, or

"(3) due to inconsistent provisions of other statutes providing for judicial review of such agency action, including the regulatory statutes under which the controversy has arisen.

Any such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such.

"(d) For purposes of this subsection—

"(1) the term 'State' includes the District of Columbia and any territory or possession of the United States;

"(2) the term 'public utility' is any entity which offers its services to the public or any segment thereof, and whose rates are subject to regulation on a cost of service or rate of return basis by one or more regulatory agencies;

"(3) the term 'regulatory agency' includes any agency having or exercising any regulatory function with respect to any public utility; and

"(4) the term 'agency' means the United States, a State or political subdivision of a State, or any agency or instrumentality of the United States or any such State subdivision or agency.".

(b)(1) Chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 2203. Process and procedure

"In any civil action or proceeding under section 2201(b) of this title, (1) the United States or any agency of the United States may join or be joined as a party, (2) any State or State subdivision or agency thereof may join or, with its consent where necessary, be joined as a party, and a district court may issue its process for such purposes without regard to territorial limitations.".

(2) The table of sections for chapter 151 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"§ 2203. Process and procedure.".

(c)(1) Chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1409. Public utility jurisdictional controversies

"Any civil action or proceeding for a declaratory judgment under section 2201(b) of this title may be brought in any judicial district in which the public utility resides or has its principal office, or in the United States District Court for the District of Columbia, except that whenever one or more States or subdivisions thereof or the agencies of a State or a subdivision thereof are parties, the civil action or proceeding must be brought in a judicial district within one of such States.".

(2) The table of sections for chapter 87 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1409. Public utility jurisdictional controversies.".

PROHIBITION AGAINST INTERVENOR FUNDING

SEC. 9. (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 560. Prohibition against intervenor funding

"Except as provided in section 504 of this title, section 2412 of title 28, section 319 of the Federal Power Act, section 18(h) of the Federal Trade Commission Act, section 7(c) of the Consumer Product Safety Act, section 22 of the Act entitled 'An Act to provide certain basic authority for the Department of State', approved August 1, 1956, and paragraphs (4) and (5) of section 6(c) of the Toxic Substances Control Act, and except as otherwise expressly authorized by statute, no appropriated funds available to any agency may be used to pay the expenses of persons participating or intervening in agency proceedings.".

(b) The table of sections for such chapter is amended by adding at the end thereof the following:

"560. Prohibition against intervenor funding.".

USE OF STATE AND LOCAL REQUIREMENTS

SEC. 10. (a) Subchapter II of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following new section:

§ 560. Use of duplicative State or local requirements

"(a) Except as otherwise provided by law, the head of each Federal agency is authorized, in the administration of a Federal statute with respect to any State or locality, to adopt as a Federal rule a regulation of that State or local government or use as a Federal recordkeeping or reporting requirement or implementation procedure a recordkeeping or reporting requirement or implementation procedure of that State or locality if the head of the agency determines—

"(1) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement duplicates a Federal regulation, procedure, recordkeeping requirement, or reporting requirement; and

"(2) that such State or local government regulation, implementation procedure, recordkeeping requirement, or reporting requirement is substantively equivalent to or more stringent than the Federal regulation, procedure, recordkeeping requirement, or reporting requirement.

"(b) When the head of an agency determines to use a State or local recordkeeping or reporting requirement, or implementation procedure, as a Federal recordkeeping or reporting requirement or implementation procedure in that State or locality, the head of the agency shall prepare at a minimum, a written statement of the reasons for any determination made under subsection (a), and shall make such statement available to the public.

"(c) This section does not limit the authority or responsibility of the head of any agency to enforce Federal law."

(b) Section 551 of title 5, United States Code, is amended by inserting the following between "rule" and the semicolon: ", or the adoption of a rule pursuant to section 560 of this title".

(c) The table of sections for chapter 5 of such title is amended by inserting after the item relating to section 559 the following new item:

"560. Use of duplicative State or local requirements.".

PRESIDENTIAL AUTHORITY

SEC. 11. Nothing in this Act (1) limits the exercise by the President of the authority and responsibility that he otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices, or (2) alters in any manner rulemaking authority vested by law in an agency to initiate or complete a rulemaking proceeding, or to issue, modify, or rescind a rule.

CONFORMING AMENDMENTS

SEC. 12. (a) Section 33(c) of the Federal Energy Administration Act of 1974 (U.S.C. 789(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(b)(1) Section 3(e)(1) of the Federal Hazardous Substances Labeling Act (15 U.S.C. 1262(e)(1)) is amended by striking out "(other than clause (B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 3(e)(3)(C) of such Act (15 U.S.C. 1262(e)(3)(C)) is amended by inserting "(a)" after "section 706."

(c)(1) Section 5(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1474(a)) is amended by striking out "(other than paragraph (3)(B) of the last sentence of subsection (b) of such section)" and inserting in lieu thereof "(other than paragraphs (2)(A) and (3) of subsection (b) of such section)".

(2) Section 5(b)(3) of such Act (15 U.S.C. 1474(b)(3)) is amended by inserting "(a)" after "section 706".

(d) Section 19(c)(1)(B)(iii)(II)) of the Toxic Substances Control Act (15 U.S.C. 2618(c)(1)(B)(iii)(II) is amended by striking out "section 553(c)" and inserting in lieu thereof "section 553(c)(6)".

(e) Section 4218(b) of title 18, United States Code, is amended—

(1) by striking out "section 553(b)(3)(A)" and inserting in lieu thereof "section 553(a)(3)"; and

(2) by striking out "statements" and inserting in lieu thereof "statement".

(f) Section 409 of the General Education Provisions Act (20 U.S.C. 1221e-4) is amended by striking out "exception provided under section 553(b)" and inserting in lieu thereof "exceptions provided under subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(g)(1) Section 508 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 358) is amended—

(A) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (c) and inserting in lieu thereof "section 553"; and

(B) by striking out "section 4 of the Administrative Procedure Act (5 U.S.C. 1003)" in subsection (e) and inserting in lieu thereof "section 553".

(2) Section 514(e)(4) of such Act (21 U.S.C. 360d(e)(4)) is amended by striking out "subsection (b)(A)" and inserting in lieu thereof "subsection (a)(3)".

(h) Section 426(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 936(a)) is amended by striking out "subsection (a) thereof" and inserting in lieu thereof "subsection (a)(1), (2), and (4) of such section".

(i) Section 5(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(j) Section 10(a) of the Act of June 30, 1936 (49 Stat. 2036, as amended; 41 U.S.C. 43a(a)) is amended by striking out "section 4 of the Administrative Procedure Act, such Act" and inserting in lieu thereof "section 553 of title 5, United States Code, the provisions of chapters 5, 6, and 7 of such title".

(k) Section 2(a)(2) of the Act of June 25, 1936 (52 Stat. 1196; 41 U.S.C. 47(a)(2)) is amended by striking out "subsections (b), (c), (d), and (e) of section 553 of title 5, United States Code," and inserting in lieu thereof "section 553 of title 5, United States Code (without regard to clauses (1), (2), and (4) of subsection (a) of such section)".

(l) Section 170A(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2210a(c)) is amended by striking out "(without regard to subsection (a)(2) thereof)" and inserting in lieu thereof "(without regard to clauses (2) and (4) of subsection (a) of such section)".

(m) Section 6(c)(2) of the Noise Control Act of 1972 (42 U.S.C. 4905(c)(2)) is amended by striking out "the first sentence of".

(n) Section 501(b)(3) of the Department of Energy Organization Act (42 U.S.C. 7191(b)(3)) is amended by striking out "subsection (a)(2) of such section with respect to public property, loans, grants, or contracts" and inserting in lieu thereof "section (a)(4) of such section".

(o) Section 307(d) of the Clean Air Act (42 U.S.C. 7607(d)) is amended by striking out "subparagraphs (A) or (B) of subsection 553(b)" in paragraph (1)(N) and inserting in lieu thereof "subsection (a)(3) and paragraphs (2)(A) and (3) of subsection (b) of section 553".

(p) Section 102(a) of the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9112(a)) is amended by striking out "without regard to subsection (a) thereof" and inserting in lieu thereof "without regard to clauses (1), (2), and (4) of subsection (a) of such section".

(q) Section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1740) is amended by striking out "section 553(a)(2)" and inserting in lieu thereof "clauses (2) and (4) of section 553(a)".

CONGRESSIONAL REVIEW

SEC. 13. (a) Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER B—CONGRESSIONAL REVIEW OF AGENCY RULE MAKING

"Sec.
"801. Definitions.
"802. Congressional review of agency rules.
"803. Procedures for consideration of resolutions of disapproval.

"§ 801. Definitions

"For purposes of this chapter—

"(1) the term 'agency' has the same meaning as in section 551(1) of this title;

"(2) the term 'rule' means any rule which is subject to section 553 of this title;

"(3) the term 'resolution of disapproval' means a concurrent resolution of the Congress, the matter after the resolving clause of which is as follows: 'That the Congress disapproves the recommended final rule issued   by dealing with the matter of   , which rule was transmitted to the Congress on   .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress; and

"(4) the term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"§ 802. Congressional review of agency rules

"(a)(1) The provisions of this section do not apply to—

"(A) any rule for which an agency makes a finding under section 553(b)(3) of this title;

"(B) any rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) any rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(2) of this title; or

"(ii) the head of the agency determines that the rule is being issued in response to an emergency situation or other exceptional circumstances requiring immediate agency action in the public interest; and

"(iii) on the date on which the agency issues the rule, the head of the agency submits to the chairman and ranking minority member of the appropriate committees a written notice specifying the reasons for the determination of the agency under clause (i) or (ii) of this subparagraph.

"(3) Notwithstanding any other provision of law, unless earlier withdrawn by the agency or earlier set aside by judicial action, a rule to which paragraph (1)(C) of this subsection applies shall terminate 120 days after the date on which it is issued.

"(b)(1) Notwithstanding any other provision of law, any final rule subject to this section shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this section.

"(2)(A) Notwithstanding any other provision of law, no recommended final rule of an agency may become effective until the expiration of a period of forty-five days of continuous session of Congress after the date on which the rule is received by the Congress under paragraph (4) of this subsection. If before the expiration of such forty-five-day period, either appropriate committee orders reported or is discharged from consideration of a resolution of disapproval with respect to such rule, such rule may not become effective if within thirty days of continuous session of Congress after the date on which such committee orders reported or is discharged from further consideration of such resolution, one House of Congress agrees to such resolution of disapproval of the rule and within thirty additional days of continuous session of Congress after the date of transmittal of the resolution of disapproval to the other House, such other House agrees to such resolution of disapproval.

"(B) Whenever an appropriate committee reports a resolution of disapproval pursuant to this paragraph, the resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(C) Notwithstanding subparagraph (A) of this paragraph, a recommended final rule may become effective at any time after the day on which either House of Congress defeats a resolution of disapproval, and, in the case of the Senate, a motion to reconsider such resolution is disposed of.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, if Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with paragraph (4) of this subsection, and the periods specified in paragraph (2)(A) of this subsection with respect to any such rule shall begin on the date such rule is transmitted to the Congress.

"(B) If—

"(i) Congress adjourns sine die at the end of a Congress prior to the expiration of the periods specified in paragraph (2)(A) of this subsection with respect to a recommended final rule;

"(ii) an agency transmits such recommended final rule to the Congress at least forty-five days of continuous session of Congress prior to the day on which Congress adjourns sine die at the end of a Congress; and

"(iii) either House of Congress does not adopt a resolution of disapproval with respect to such recommended final rule prior to the day on which Congress adjourns sine die at the end of a Congress such rule may become effective at any time after the day on which Congress adjourns sine die at the end of a Congress.

"(4)(A) On the day on which a recommended final rule is transmitted for publication to the Federal Register, an agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of the complete text of such recommended final rule and a copy of any other materials transmitted to the Federal Register with such rule.

"(E)(i) If either House of Congress is not in session on the day on which a recommended final rule is transmitted for publication to the Federal Register, the periods specified in paragraph (2)(A) of this subsection with respect to such rule shall begin on the first day thereafter when both Houses of Congress are in session.

"(ii) The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive recommended final rules and materials transmitted under this paragraph on days when the Senate or the House of Representatives, as the case may be, is not in session.

"(C) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule and the materials transmitted with such rules, the Secretary and the Clerk shall transmit a copy of such rule and such materials to the appropriate committees.

"(c)(1) If a recommended final rule of an agency is disapproved under this section, the agency may issue a recommended final rule which relates to the same acts or practices as the disapproved rules. Such recommended final rule—

"(A) shall be based upon—

"(i) the rule making record of the recommended final rule disapproved by the Congress; or

"(ii) such rule making record and the record established in supplemental rule making proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rule making record; and

"(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and consideration of the resolution of disapproval with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with subsection (b) of this section, and such rule shall only become effective in accordance with such subsection.

"(d) Congressional inaction on or rejection of a resolution of disapproval with respect to a recommended final rule shall not be deemed an expression of approval of such rule.

"§ 803. Procedures for consideration of resolutions of disapproval

"(a) The provisions of this section, paragraphs (3) and (4) of section 801, and paragraphs (2)(B) and (4)(C) of section 802(b) are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of disapproval; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e) of this section, resolutions of disapproval shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House or Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a resolution of disapproval has been referred does not report such resolution within thirty days of continuous session of Congress after the date of transmittal to the Congress of the recommended final rule to which such resolution relates, it shall be in order to move to discharge the committee from further consideration of such resolution.

"(B) If the committee to which a resolution of disapproval transmitted from the other House has been referred does not report such resolution within twenty days after the date of transmittal of such resolution from the other House, it shall be in order to move to discharge such committee from further consideration of such resolution.

"(2) Any motion to discharge under paragraph (1) of this subsection must be supported in writing by one-fifth of the Members, duly chosen and sworn, of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after a resolution of disapproval has been reported with respect to the same rule); and debate thereon shall be limited to not more than one hour, the time to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a resolution of disapproval, or when the companion resolution from the other House has been placed on the Calendar of the first House, it shall be in order, nothwithstanding the provisions of rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a resolution of disapproval shall be limited to not more than two hours (except that when one House has debated its resolution of disapproval, the companion resolution shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the resolution and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit the resolution is not in order. A motion to reconsider shall be in order only on the day on which occurs the vote on adoption of the resolution of disapproval, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If a resolution of disapproval has been ordered reported or discharged from the committee of the House to which it was referred, and that House receives a resolution of disapproval with respect to the same rule from the other House, the resolution of disapproval of the other House shall be placed on the appropriate calendar of the first House. If prior to the disposition of a resolution of disapproval of one House, that House receives the companion resolution of disapproval from the other House, the vote in the first House shall occur on the resolution of disapproval of the other House.

"(f) The provisions of this chapter supercede any other provision of law requiring action by both Houses of Congress for Congressional review or disapproval of agency rules to the extent such other provisions are inconsistent with this chapter. The provisions of this chapter do not supercede any other provisions of law requiring action by only one House of Congress for Congressional review or disapproval of agency rules.

"(g) For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

(2) the days on which either House is not in session because of an adjournment or recess of more than fifteen days are excluded in the computation of days of continuous session.".

(b) The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rule Making .... 801"

(c) This section and the amendments made by this section shall take effect on the first day of the Ninety-eighth Congress.

SEVERABILITY

Sec. 14. If the provisions of any part of this Act or the amendments make by this Act, or the application thereof, to any person or circumstances is held invalid, the provisions of the other parts of this Act or the amendments made by this Act and their application to other persons or circumstances shall not be affected.

OPEN MEETINGS

Sec. 15. Section 552b(a)(1) of title 5, United States Code, is amended by inserting before the semicolon a comma and "and also means the Chrysler Corporation Loan Guarantee Board".

EFFECTIVE DATE

Sec. 16. (a)(1) Sections 2, 3, 5, and 12 of this Act, and the provision of section 4 of this Act adding a new subchapter II of chapter 6 of title 5, United States Code, shall take effect on January 1, 1983, and shall not apply to any proceeding for which a notice of proposed rulemaking was issued before such effective date or to any other agency action initiated before such effective date.

(2) The provisions of section 621(4)(IV) of title 5, United States Code, shall not be in effect after June 30, 1985, unless the President certifies that the extension or reinstitution of those provisions is necessary to allow the Federal agencies authorized to issue rules identified in that section to take expeditious and appropriate action to preserve the viability, safety, or soundness of federally insured depository institutions. Any certification by the President under this subsection may only be made for a single one-year period beginning after June 30, 1985.

(b) The provisions of section 4 of this Act adding a new subchapter III to chapter 6 of title 5, United States Code, shall take effect six months after the date of enactment of this Act and shall apply according to the provisions thereof.

(c) Section 6 of this Act shall take effect three months after the date of enactment of this Act and shall apply, according to the provisions thereof, to review proceedings instituted after such date.

(d) The provision of section 4 of this Act adding a new subchapter IV of chapter 6, United States Code, and sections 7, 10, 11, and 15 of this Act shall take effect immediately upon enactment.

(e) The amendments made by section 8 shall take effect on the date of enactment of this Act, and shall not apply to any civil action commenced prior to such date.

(f) The amendments made by section 9 of this Act shall take effect on the date of enactment of this Act.

(g) The provisions of section 14 of this Act shall take effect on the date of enactment.

Mr. LAXALT. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAXALT. Mr. President, I commend my colleagues for this overwhelming vote of confidence on this significant and historic piece of legislation. We have been nursing this for many, many years.

Many have referred to Pat Leahy and Paul Laxalt as being the ultimate political odd couple. Perhaps we are. But the fact is that, due to our concerted efforts and following up on efforts of people like John Culver, it has been a good year. I think both of us would like to take full and deserved credit for what has been accomplished, but we really cannot. It has truly been a tremendous demonstration of magnificent staff support.

There has been compromise after compromise effected on a complex piece of legislation ending up in what I consider to be a very worthwhile product.

I want to thank my colleague, Pat Leahy. It is always a pleasure doing business with him and working with him on legislation. I certainly want to compliment the staff that has been involved during all of these extensive early months.

I hope that, as a result of this rather impressive vote, we can have comparable action in timely fashion in the other body. Regulatory reform, in my estimation, has been long overdue. What we have finally crafted here, really, does not present any threat to the organic statutes. We have tried to respond to the concerns of some of our colleagues that this legislation would hurt the Clean Air Act, OSHA, and others. It does not do anything of the kind. What it does is to improve procedures, so regulations will be more effective and less costly. I think we have ended up with legislation through which the regulators will do a better job, the courts will do a better job and, very frankly, we here in Congress will do a better job.

I thank my distinguished colleague from New Hampshire. I yield the floor.

Mr. LEAHY. Mr. President, I wish to return the compliment to my very close personal friend, the distinguished Senator from Nevada (Mr. LAXALT).

He said some of our colleagues referred to us as the odd couple for putting together the Laxalt-Leahy bill. I heard one of our colleagues in the well during the vote. He came back, double-checked, and said to me, "PAT, is it true you and PAUL wrote this bill and you are both supporting it completely?"

I said, "That is right."

He said, "It means one of two things. Either you have a darned good bill or one or the other of you has not read it."

Mr. President, I happen to think we have a darned good bill and I am delighted the Senate passed it overwhelmingly. I agree with the Senator from Nevada and hope that the other body will be able to work on it expeditiously.

Mr. President, I could not let the moment pass without complimenting Senator LAXALT, who has been very straightforward and forthcoming on this bill all the way through, over all the long months—a year, really—that we have worked on it. He has been concerned and given up his time, but I also want to thank John Nash and Bob Cynkar, who are here on the floor with him, who have done so much, especially working with John Podesta and Ann Harkins, of my office, and my own administrative assistant, Sanford Kinzer, who worked on this way back in the last Congress.

I have already thanked the many people who have helped develop this important legislation since the beginning of this Congress. I also want to take this opportunity to thank Jim Davidson, Patti Sarris, and Bob Nichols, who worked on regulatory reform in the 96th Congress. Their help and the solid foundation they gave us for writing this bill has been very important and is very much appreciated.

I yield the floor.

The PRESIDING OFFICER (Mr. NICKLES). The majority leader is recognized.

Mr. BAKER. Mr. President, let me take a moment to commend the distinguished Senator from Nevada and the distinguished Senator from Vermont for their successful efforts in managing this important—indeed, this milestone—legislation. It is truly extraordinary when a matter of this importance is managed as expeditiously and is dealt with on so truly a bipartisan basis as this one was. I congratulate both Senators for their participation and express my admiration for the method by which they worked out the myriad difficulties involved and reduced this otherwise highly controversial measure to manageable form. It is a mark of high legislative skill and craftsmanship that both of them can be justly proud of.

Mr. President, I express my admiration as well for their staff in each case for their wise and able assistance to their principals and, indeed, to the entire Senate.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, I only add my comments to those just expressed by the distinguished majority leader, and most deservedly, to the distinguished Senator from Nevada (Mr. LAXALT) and the equally distinguished Senator from Vermont (Mr. LEAHY). I marvel at their patience, their skill, their understanding of the legislation. I compliment them on the expedition with which they have worked. The Senate is in their debt, the country is in their debt, and I personally feel very grateful to the two Senators who, by working together, have effectively managed a very complex bill.

STANDBY PETROLEUM ALLOCATION ACT OF 1982—VETO

Mr. BAKER. Mr. President, I have consulted with the distinguished minority leader in this respect and with the distinguished Senator from Idaho and others, who have expressed a particular interest in this matter.

Mr. President, according to the provisions of the unanimous-consent order entered on Monday last, I ask that the Chair lay before the Senate a message with respect to S. 1503, which is at the desk.

The PRESIDING OFFICER. The Chair lays before the Senate a message from the President, which the clerk will state.

The legislative clerk read as follows:

Veto message on S. 1503, the Standby Petroleum Allocation Act of 1982.

(The text of the President's veto message is printed on page 4893 of the CONGRESSIONAL RECORD of March 22, 1982.)

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

The majority leader is recognized.

Mr. BAKER. Mr. President, this is, of course, the veto message on the Emergency Petroleum Allocation Act. I hope—indeed, I believe—that it will be possible to work out a time agreement on this measure in a little while. I hope and I expect that, pursuant to that time agreement, if it is completed, we shall be able to dispose of this matter yet today.

Mr. President, I shall not further detain the Senate except to say I shall continue to work on this matter and try to have a further announcement to make in respect to the management of time under a unanimous-consent agreement limiting the time for debate and fixing a time certain for final disposition. I encourage, however, those who are particularly interested in this matter to proceed with their statements and debate while we continue in our effort to arrive at a consent agreement.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, I appreciate the statement of the majority leader. I share the hope that we can arrive at a unanimous-consent agreement dealing with the time to be allocated to the consideration of this bill.

I approach this task today, Mr. President, with a great deal of reluctance and with some mixed emotions, as I am sure the occupant of the chair and others would know.

Today, the Senate will vote on whether to override the President's veto of the conference report on S. 1503, the Standby Petroleum Allocation Act of 1982. I want to say one thing to my friend from Tennessee: One of the hardest things we have had to overcome in the debate was the lapse in language that was used by the Senator from Tennessee, our distinguished majority leader, just a moment ago, in referring to this bill as the Emergency Petroleum Allocation Act. Far too many have equated this bill with an extension of EPAA. We have tried very hard over the last year to distinguish what it is we are trying to do here from EPAA. Those people who had problems with allocations under the EPAA have constantly referred to this legislation as a reenactment of, or an extension of, the allotments, price controls, and regulatory nightmare that we did see under EPAA, which this is not.

This is a very, very strictly limited piece of legislation, much more confined and confining in its terms than was EPAA, which was a permanent control mechanism as distinguished from what we have here, a very limited, very temporary authority, limited wholly to the discretion of the present occupant of the White House. It expires by its terms on December 31, 1984.

This measure would provide the President with standby authority to allocate petroleum supplies in the event of a severe petroleum supply shortage. It also requires the President to devise a standby Federal allocation program to insure that the United States is fully prepared to respond effectively to a serious petroleum supply shortage.

As my colleagues will remember, S. 1503 originally passed the Senate on October 29, 1981 by a vote of 85 to 7. The conference agreement was approved by the Senate on March 2, 1982, by a vote of 86 to 7.

The arguments made by the President in his veto message I do not find persuasive.

I ask my colleagues to consider as they look at their vote what has changed since October 29 when they voted 85 to 7 pass it, or since March 2, when they voted by a vote of 86 to 7. The only thing that has changed is the President's veto message.

That should not come as any surprise to anyone. The President said all along that he did not want the authority, he did not ask for this legislation, and he did not want it to be passed.

So nothing has changed except now we have the question of whether or not somehow we ought to blindly support the President, even though we may think that his judgment in this particular instance is flawed.

As I was saying, Mr. President, I do not find that the arguments made by the President in his veto message are very persuasive.

First, as President Reagan observes:

> We must recognize that an interruption of a significant portion of foreign energy supplies, whether because of armed strife, human choice or natural disaster, will involve real costs to the United States and the world.

Precisely for this reason, a major petroleum supply disruption is a national problem that demands a coordinated national response. Only the Federal Government can organize such a response.

Second, the President contends that the legislation was based on the assumption that giving the Federal Government the power to allocate supplies and set prices will result in an equitable and orderly response to a supply interruption. To the contrary, the legislation was based on the opposite assumption, which is that the free market is the most efficient allocator of supplies during a shortage. Only in the event of a severe and prolonged disruption, after it becomes apparent that free market mechanisms can no longer allocate supplies adequately, would Federal allocation be employed.

Third, the President believes that today he has "ample powers to take the steps necessary to protect national security, meet our treaty obligations and assure essential public health and safety functions."

However, the President also admits in his veto message, that he does not have the "general power to reimpose * * * price controls and mandatory allocations."

I agree. Since the Emergency Petroleum Allocation Act expired on September 30, 1981, the President has been without basic general authority to allocate petroleum supplies in the event of a severe petroleum shortage. The massive bipartisan congressional support that S. 1503 has received to date reflects a general recognition in the Congress that the President should have authority to undertake effective contingency planning for oil emergencies.

While I said earlier that I agree with the President that he does not have the general power to reimpose price controls and mandatory allocations, I do not agree that he has ample powers to take the steps necessary if a shortage should occur, as he stated in his veto message.

The General Accounting Office in its September 29, 1981, report entitled, "The United States Remains Unprepared for Oil Import Disruptions," concluded that:

> With the exception of the recent buildup of the strategic petroleum reserve, the United States is no better prepared to deal with significant disruptions in oil imports than it was during the 1973 oil embargo.
>
> The Nation's almost total lack of emergency preparedness requires immediate attention. The Federal Government bears the primary responsibility and must take concerted action to counter this serious threat to national security.

Last summer, in view of the impending expiration of the EPAA, the Senate Committee on Energy and Natural Resources held hearings on what the role of the Federal Government should be during severe disruptions in petroleum markets. The committee also examined what type, if any, of new legislation would be necessary for the Government to fulfill that role. During 4 days of hearings the committee received testimony on these issues from witnesses representing a broad spectrum of interests.

The unanimous conclusion was that in general, clear authority for the President to impose allocation and price controls would not exist after the EPAA expired. There also was virtually no support for extending the EPAA. Rather, the consensus was that new legislation should be enacted which would avoid the excesses of the EPAA, yet provide the President with sufficiently broad and flexible allocation authority to tailor a Federal response to the scope, impact and duration of a petroleum supply disruption.

The very broad support that S. 1503 has from important sectors of our economy is reflected in the list of supporters that contacted the White House. This list included most of the major oil companies, virtually all the independent refiners, as well as many companies that distribute and market petroleum products. In addition, every sector of the agricultural and food industries feels very strongly that S. 1503 should become law. I ask unanimous consent that the list of supporters be included at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF S. 1503 WHO HAVE CONTACTED THE WHITE HOUSE

STATES (20)

The National Conference of State Legislators and National Governors' Association

In addition, the following Governors have contacted the White House separately:

Arkansas—Frank D. White.
Colorado—Richard D. Lamm.
Connecticut—William A. O'Neill.
Maine—Joseph E. Brennan.
Massachusetts—Edward J. King.
Michigan—William G. Milliken.
New Hampshire—Hugh Gallen.
New Mexico—Bruce King.
New York—Hugh L. Carey.
North Dakota—Allen I. Olsen.
Oklahoma—George Nigh.
Oregon—Victor L. Atiyeh.
Pennsylvania—Richard L. Thornburgh.
Rhode Island—J. Joseph Garrahy.
South Carolina—Richard Riley.
Vermont—Richard A. Snelling.
West Virginia—John D. Rockefeller, IV.
Wisconsin—Lee Sherman Dreyfus.

INDUSTRIAL USERS (5)

Edison Electric Institute (200 investor-owned utilities).

National Rural Electric Cooperative Association (1,100 cooperatives).

Florida Power and Light Company.

American Paper Institute (175 companies).

Eli Lilly and Company.

AGRICULTURE (51)

American Farm Bureau Federation (3.1 million farm families).

National Farmers Union (8,600 companies).

National Council of Farmer Cooperatives (190 cooperative organizations owned by 2 million farm families).

National Grange (500,000 farmers).

National Cattlemens Association (39,000 individual members/69 associations).

American Soybean Institute (20,000 companies).

International Apple Institute (15,000 companies).

National Association of Wheat Growers (40,000 members).

National Corn Growers Association (8,000 companies).

National Restaurant Association (75,000 companies).

National Frozen Food Association (1,350 companies).

American Meat Institute (1,000 companies).

United Fresh Fruit & Vegetable Association (2,800 companies).

American Corn Millers Federation (65 companies).

American Bakers Association (325 companies) and individually from the following members:

ITT Continental Baking Company (30,000 employees).

American Bakeries Company (9,500 employees).

Beatrice Foods Company (8 bakeries).

Campbell Taggart, Inc. (21,000 employees).

Flowers Industries, Inc. (75,000 employees).

The Kroger Company (8 bakeries).

WE Long Company (71 bakeries).

Metz Baking Company (2,200 employees).

Peppridge Farm, Inc. (1,000 employees).

Quality Bakers of America Cooperative (71 baker members).

Interstate Brand Corporation (13,500 employees).

Stroehmann Brothers Company (2,300 employees).

Kitchens of Sara Lee (2,000 employees).

SB Thomas Inc. (1,000 plus employees).

American Feed Manufacturers Association, Inc. (900 companies).

American Frozen Food Institute (450 companies).

Biscuit & Cracker Manuf. Association (200 companies).

CF Industries (20 associations).

Cooperative Food Distributors of America (70 companies).

Cooperative League USA (130 companies).

Corn Refiners Association, Inc. (10 companies).

Evaporated Milk Association (10 companies).

Milk Industry Foundation (900 companies).

National Agricultural Aviation Association (1,300 companies).

National American Wholesale Grocers Association (350 companies).

National Association of State Department of Agriculture (54 companies).

National Cotton Council of America (300 companies).

National Farmers Organization (700 companies).

National Food Processors Association (600 companies).

National Grain & Feed Association (1,200 companies).

National Meat Association (300 companies).

National Milk Producers Association (70 companies).

The Fertilizer Institute (350 companies).

Tuna Research Foundation, Inc. (5 companies).

U.S. Cane Sugar Refiners Association (9 companies).

Western States Meat Packers Association (700 companies).

INDEPENDENT REFINERS AND REFINER ASSOCIATIONS (15)

American Petroleum Refiners Association (31 independent refiners).

Independent Refiners Association of America (21 independent refiners).

Charter Oil Company.

Committee for Equitable Access to Crude Oil and individually from the following members:

Ashland Oil, Inc.

Clark Oil and Refining Corporation.

Pacific Resources, Inc.

Powerine Oil Company.

American Petrofina, Inc.

Commonwealth Oil Refining Company, Inc.

GHR Energy Corporation.

National Cooperative Refinery Association.

Rock Island Refining Corporation.

United Refining Company.

Total Petroleum.

PETROLEUM MARKETERS (10)

National Oil Jobbers Council (22,000 companies).

New England Fuel Institute (1264 companies).

The New England Council (1200 companies).

Empire State Petroleum Association (700 companies).

Pennsylvania Petroleum Association (500 companies).

Fuel Merchants Association of New Jersey (500 companies).

Society of Independent Gasoline Marketers of America (250 companies).

Independent Terminal Operators Association (17 companies).

Independent Fuel Terminal Operators Association (16 companies).

Independent Gasoline Marketers Council (15 companies).

TRANSPORTATION INDUSTRY (5)

Greyhound Armour Corporation.

Private Truck Council of America.

The American Trucking Associations, Inc.

American Bus Association.

United Parcel Service.

CONSUMER INTEREST GROUPS (2)

Consumer Federation of America (220 organizations representing 35 million members).

Consumer Energy Council of America (52 organizations representing 40 million members).

UNIONS (3)

International Brotherhood of Teamsters.

AFL-CIO.

Oil, Chemical and Atomic Workers.

MAJOR OIL COMPANIES (8)

Chevron USA, Inc.

Exxon Corporation.

Gulf Oil Corporation.

Mobil Corporation.

Shell Oil Company.

Sun Company, Inc.

Texaco, Inc.

Union Oil Company of California.

Mr. McCLURE. Mr. President, fourth, the President's veto message recognizes that S. 1503 "responds to an understandable concern that our Nation must prepare against the possible disruption of energy supplies." However, I disagree with his conclusion that—

> This legislation grew from an assumption, which has been demonstrated to be invalid, that giving the Federal Government the power to allocate and set prices will result in an equitable and orderly response to a supply interruption.

Instead, Mr. President, our past experience with petroleum disruptions indicates that the public would not have confidence in the ability of the marketplace to allocate supplies adequately. Should a severe disruption occur, the marketplace may not respond quickly enough to maintain adequate supplies for certain critical needs. In particular circumstances, Federal allocation may be essential as the only means of preventing or limiting widespread economic hardship or damage.

If S. 1503 were enacted, no consumer could prudently rely on a Government guarantee of low-priced energy in the event of a shortage. Government allocation would be used only as a last resort. The very nature of the President's discretionary authority would discourage reliance on a Government bailout.

However, there is the need to assure the public, particularly during the early stages of a supply disruption, that petroleum products would be available in their areas. This is a compelling reason for authorizing a Federal standby allocation program that could be activated if necessary.

This reason is emphasized in a letter to the editor in today's Wall Street Journal, and I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OIL: IN FAT TIMES, PREPARE FOR LEAN

Your March 16 editorial "Return to Rationing?" misrepresents what Congress has accomplished in seeking to provide the President with standby emergency authority to act in case of severe petroleum supply interruptions. The legislation is by no means an attempt to reestablish oil price and allocation controls, nor is it a sinister attempt to reverse decontrol. It is simply designed to give the President adequate legal authority to take appropriate action in the case of a major oil embargo or other supply interruption. No system of permanent or semi-permanent controls could be imposed under the legislation, and the legislation expires with this President's current term.

The editorial ignores the considerations that caused 87 senators to vote in favor of the bill. First, in times of a truly severe emergency, panic-buying and hoarding of petroleum supplies would plunge the domestic market into chaos and send prices through the roof. Second, in such a chaotic environment, there is no assurance that the most needy consumers, farmers and small businessmen would be able to obtain supplies at any price; the oil companies themselves acknowledge that without intervening authority, they could not depart from normal contractual supply commitments to rearrange distribution in response to the emergency. Third, since any emergency is likely to have world-wide impact, we need to extend the legal authority for participating in the International Energy Agency and extend the related antitrust immunity which, in the absence of this bill, expires April 1. Fourth, in the absence of new legislation, a legal cloud surrounds the capacity of the President to take appropriate action in case of a supply disruption.

The Journal notes Rep. Sharp's rationale for passing the bill—legislating now when "passions are low" rather than at the time of the emergency—without adequately responding to its logic. The fact is that in the event of a truly serious supply disruption, neither President Reagan's nor the Journal's incantations about the allocative efficiency of the free market would make farmers, consumers and small businessmen feel any better about not being able to obtain needed supplies. At that time, these groups would apply substantial political pressure to obtain needed petroleum products and, almost certainly, Congress would give them some of what they wanted.

The question for Congress thus has been: legislate now or later? No one seriously contends that a bill stitched together at the time of the emergency would be a triumph of legislative clarity or efficiency. The present bill does no more than require some sort of standby emergency plan to be put on the shelf to avert a reprise of the legislative and regulatory fiasco of the 1970s.

EDWIN JASON DRYER,
Executive Secretary,
Independent Refiners Association.

Mr. McCLURE. Mr. President, fifth, the President suggests that by again proposing Government controls, we have ignored the lessons learned from the supply interruptions of 1973-74 and 1978-79. The opposite is true. Unlike the now expired EPAA, the new legislation does not require a comprehensive and complex pricing and allocation program applied throughout the petroleum marketing system. This is assumed by express language in S. 1503, which states that nothing in this act shall be construed to require that any action taken under this act be taken in a manner which would have been required under the EPAA. As the "Statement of Managers" notes:

> The President's allocation authority under this Act is discretionary, not mandatory as it was under the EPAA. The fundamental concept behind the conference agreement is recognition that the nature and scope of a severe petroleum supply shortage is inherently unpredictable, and therefore, the President needs the capability and flexibility to tailor his response to the particular circumstances facing him. The basic philosophy behind this Act is broad flexibility and minimum government involvement in the marketplace.

Sixth, in the President's judgment:

> The bill could be counterproductive to our preparedness efforts. This bill would discourage self-protective measures, because it tells the public that those measures will be nullified by Government allocations and controls.

To the contrary, the conference agreement creates a statutory right of protection from regulation for certain inventories of petroleum products held by consumers. Inventories owned by a consumer and in the direct possession of the consumer, such as on the consumer's site, are categorically protected by this provision. In addition, the President may in his discretion provide a statutory protection to any other inventory owned by a consumer.

Furthermore, the conference report contains specific incentives for the building of private inventories. If a crude oil sharing program is activated, the President is required to encourage refiners to build and maintain inventories and to acquire secure supplies of crude oil.

Seventh, the President claims that the supplies in the strategic petroleum reserve and significant production in the national petroleum reserve insure that petroleum for truly essential needs will be available. However, there is no distribution plan for supplies from either source. Moreover, the policy negotiated last year between the Congress and the administration, and included in the Omnibus Reconciliation Act, is an average annual fill rate of 300,000 barrels per day. By comparison, the President has proposed a fiscal year 1983 budget based on oil purchases of approximately 200,000 barrels per day. Moreover, two deferrals of moneys for storage facilities have been proposed by the administration.

These disturbing facts were confirmed last week by the Assistant Secretary of Energy for Emergency Preparedness. In testimony before the Energy and Natural Resources Committee, he bluntly stated that there will be no Federal preparedness for a severe oil interruption until the interruption occurs. It became evident from his testimony that there has been a clear reversal of the policy—negotiated within the Secretaries of Energy and Treasury and the Director of OMB and included in the Omnibus Reconciliation Act of 1981—of filling the strategic petroleum reserve at 300,000 barrels per day at a time of a world oil glut and dramatically falling prices. Moreover, separate discussions with the administration suggest, unfortunately, that the alternative to S. 1503 probably would also encompass revenue recycling—taxing the price increases in a crisis and rebating billions of dollars of revenues—as the administration's primary legislative response to a severe oil interruption. However, such a proposal was rejected by the Senate on October 29, 1981, by a vote of 8 ayes to 88 nays.

Mr. President, for the foregoing reasons I find the President's veto message unpersuasive, and I hope my colleagues upon reflection would agree. The Members of this body demonstrated by their earlier votes that the merits of S. 1503 are sound. The compelling reasons that prompted its passage have not changed. This legislation should be enacted into law.

Mr. JOHNSTON. Mr. President, this veto may be sustained today. It may be overridden. If it is sustained, the effect of that sustaining of this veto may never be known because this bill cannot be invoked and used except in the event of a very severe emergency.

But if this veto is sustained, Mr. President, and that emergency comes about, then every Senator who has voted to sustain this veto will have a very big question to answer with the American people. That question is: "Why didn't you put a plan, an emergency plan, on the shelf when you had a right and an opportunity to do so?"

Because, Mr. President, there is not an emergency plan in place today. There is not authority in the law for confecting such a emergency plan.

The authority for my second statement, that there is not authority in the law, comes from the Cabinet itself, from the Department of Justice, who says that very thing—that there is no authority in the law for price controls or allocation, not under the Defense Production Act, not under the Trade Expansion Act, or in any other statute. Indeed, there is no plan confected, even under the Defense Production Act, to provide for defense needs. There is legal authority for that, but there is no plan for that.

So, Mr. President, there is no legal authority for confecting that plan and there is no plan. A recent study by the Comptroller General says precisely that: "The United States Government is almost totally unprepared to deal with disruptions in oil imports." Almost totally unprepared.

Mr. President, I do not understand how people can say that the energy crisis is gone, we have got no more problem. Virtually everybody knows that is not true.

A recent Forbes article, March 15, 1982, says this:

> So the United States—and the world, for that matter—has become more vulnerable rather than less. We are all more dependent on the Middle East than we used to be and can no longer count on the international oil companies to allocate supply as efficiently as they did during the 1973-74 embargo.

Mr. President, I simply do not understand. We are not prepared, there is no legal authority, and all we are doing is giving to the President of the United States discretionary authority: Let him define the crisis, let him define the powers, and do not require him to use them. But at least give him powers limited in time—90 days—limited in scope, and constrained by the very narrow limits of this bill in case there is that deep emergency.

How can anybody object to that? How can this President say, "Oh, no, don't give me those powers. I don't want them; I don't need them." If that is so, then he need not exercise them.

This President has not been President at a time of a shortage, at a time of emergency. Indeed, we have not had a time of shortage and emergency probably deep enough to trigger this bill.

I suppose the greatest shortage we have ever had has been in the neighborhood of perhaps 5 percent. Even then, it was more of a psychological emergency than a real emergency, a real shortage.

What this bill is designed to be triggered by, the kind of emergency this bill is designed to accommodate to, is the kind of emergency we would have if the Strait of Hormuz was blocked by a sunken ship, or if there were another war in the Middle East, when we would have an embargo on Middle

Eastern oil and our dependence on that oil would be many times as great as it was at the time of the Yom Kippur War in 1973.

Mr. President, bad as things have been, as confused as they were in the 1973 crisis and in the 1979 crisis, those were just small blips on the radar screen compared to the kind of emergency that can come about. We all hope that that emergency does not come about. But mark my words: If we sustain this veto, and I suppose the President will be able to lobby up enough votes to get it done—I hope not, but perhaps so on one side of the aisle or the other—if that crisis comes about, there will be a political answer to be given to the American people by all those who vote to sustain that veto.

This bill expires at the expiration of the term of Ronald Reagan as President. If you cannot trust Ronald Reagan not to overuse these powers, whom can you trust?

I hope the Senate will not be so silly as to sustain this veto. I hope it will not be so silly as to be unprepared for the emergency if it comes.

Mr. PERCY. Mr. President, I take a position in this matter opposite to that of my distinguished colleagues, both of whom are no less devoted to finding an emergency allocation program than any of us. We all are aiming at the same objective. The question is, what plan will work?

Though my distinguished colleague from Louisiana has indicated that he assumes that the administration will obtain enough votes to sustain the veto, no such assumption can be made and no Senator should assume that. Each vote is going to count, because it is a very tight situation. For a variety of reasons—and I have talked to many Senators—the President may not be sustained on this.

So everyone really has to think this through carefully, because they are going to live with it; and when the next crisis comes, an emergency and a shortage—and it will—that is when the Members of the Senate will be asked by their constituents: "What is this plan you voted for? Why do we have these shortages? Why do we have supply in one place and shortage in another place? I thought you had told us we had solved this problem."

From that standpoint, I feel very strongly that President Reagan's recent veto of the Standby Petroleum Allocation Act—SPAA—which was only his third veto in over a year in office, was absolutely right. As one of the seven Senators who originally opposed SPAA on the floor of the Senate, I strongly support President Reagan's decision.

I find it ironic that, earlier today, many of us spoke out strongly about the need for regulatory reform. Yet, now we are talking about imposing, over the President's objection, exactly the kind of regulatory morass that prompted this debate about reform in the first place.

With all due respect to Senators McCLURE, JOHNSTON, and JACKSON, who are as committed to the concept of emergency preparedness as I am—and I respect them for everything they have done in this field—I think it is time to face some facts about the SPAA. Notwithstanding all the good things we have heard about it, and all the support it has received from some fine organizations, it was in essence a reenactment of the clumsy, inefficient, and inequitable allocations system that failed miserably in the oil shortages of the past. President Reagan did not want the authority this bill gave him, and the Nation did not need the misguided system of rules and regulations it would impose in an emergency. We are better off without it. In fact, I think we are being misled, by the country being told that we have an allocation plan and the assumption that it will work, while our past experience shows that it will not.

We must, however, get on with the business of preparing for the next oil shortage. We will have one; we all know that. I am sure that we will all be working together. If the veto is sustained, we will begin working tomorrow on a plan that is acceptable to the executive branch and Congress.

I share the desire of those who supported SPAA to spell out our emergency plans before the next oil crisis strikes. The United States and most of its allies remain dangerously dependent on imported oil. Despite the current glut, world oil production remains largely centralized in only a few countries in one unstable region of the world—an area that some of us visited recently. The past two oil shortages have demonstrated the damage this country can suffer from a cutoff of imported oil. Our current economic condition makes us even more vulnerable to a disruption. Nonetheless, the well intentioned allocation scheme contained in SPAA simply would not work.

As ranking minority member of the Permanent Subcommittee on Investigation, I held hearings on the operation of the gasoline allocation program during the oil shortage caused by the Iranian revolution. The findings were clear: any attempt to cope with an energy emergency through a complex allocation scheme that distributes oil around the Nation is destined to fail. Some regions had plenty of oil; others had long gas lines. One study of the Iranian revolution shortage even concluded that the United States' administrative allocation scheme may actually have caused oil prices to rise—and stay—higher in the long run than they would have under free market allocation. I am worried that the allocation system contained in SPAA could have a similar effect on oil prices in a future shortage.

While SPAA was not a wise energy emergency strategy, we cannot abandon our efforts to prepare for an oil shortage. The market is clearly the most efficient allocator of gasoline in an emergency, but it is not necessarily fair. We need an energy emergency strategy that combines the efficiency of the market with the means to address the equity problems that will result from very high oil prices. Last summer, I introduced, along with Senator BRADLEY, a piece of legislation that combined these two objectives—S. 1354, the Energy Emergency Preparedness Act. Following the President's veto, I have asked the administration to take another look at our bill. I urge my colleagues to do the same. I would enjoy working with my distinguished colleagues in analyzing and appraising that bill, which proposes a market-oriented approach to energy emergencies that does away with complex administrative allocation of gasoline, yet addresses the problems of those who would be hardest hit by a shortage: farmers, the poor, and State and local governments. S. 1354 would use the revenues from the windfall profits tax—vastly increased by higher oil prices during a shortage—to help those really in need cope with an oil crisis. After all, it is just commonsense that it is easier to move money to those in need than to allocate oil to everyone—or, I should add, to make everyone wait in line. Our bill also aids those special oil consumers, like agricultural co-ops and small refiners, who may need special access to oil in a shortage by providing for a limited auction of oil from the strategic petroleum reserve. This would assure a source of potentially scarce crude oil for farmers and other important consumers without disrupting the entire domestic oil market through administrative allocation. With this bill, Senator BRADLEY and I propose letting the market do what it should—allocate oil—with the Government addressing the equity problems of high oil prices and solving spot shortages through drawdown of the strategic petroleum reserve.

President Reagan was absolutely right to veto SPAA. That bill would have sent the wrong signals to consumers at the wrong time. SPAA was a maginot line defense—it would not work, the President did not want it, and most distressing, it would have created a dangerous illusion of energy security. SPAA, by promising to guarantee oil supplies in an emergency, could cause consumers to slacken their own preparations for an oil shortage. Stockpiles could fall, and energy saving improvements and fuel-switching capabilities might be deferred, all because of the false expectation that the Government would somehow take care of a shortage by allocating oil. If our so-called emergency plans have these effects, which I expect SPAA would have, then we are actually making our Nation more vulnerable to an energy crisis. I commend President Reagan for his leadership in this area.

I sometimes have disagreements with the administration's energy policies. For example, I think they must turn around in their approach to energy conservation and fossil fuel research and development.

So does every director of the Alliance to Save Energy and the 170 Members of Congress, I believe, who are affiliated with the Alliance. But on the all-important matter of emergency preparedness, I could not be more pleased with the attempt President Reagan and Secretary Edwards are making to take a fresh look at the problem and to take bold actions in support of what they believe is the right thing to do. Look at the tremendous progress they have made in filling the strategic petroleum reserve. The President's veto of this politically popular bill is similarly an act for which the American people should be grateful.

Energy experts and opinion leaders throughout the Nation know the President was right to veto this bill. The New York Times, Wall Street Journal, and Washington Post all supported his views.

Mr. President, I ask unanimous consent to have printed in the RECORD these editorials.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 19, 1982]

WHO'LL GET GAS IN A PINCH?

What would happen if oil imports were cut off by war in the Persian Gulf? An uneasy Congress has passed a bill giving the White House emergency authority to set prices and allocate available fuel. But President Reagan, arguing that free markets can allocate more efficiently than regulators, opposes the legislation and threatens to veto it.

The President has a point. During both the Arab embargo and the Iranian revolution, the allocation controls then in place did more harm than good. But a veto is not enough. What's needed is an alternative, one that allows free markets to work in an emergency, yet prevents anyone from getting rich in the process.

Only people with very short memories believe that Government can allocate oil efficiently in emergencies. In both the 1973-74 and 1979 crises, harried bureaucrats did their best to get fuel to those who needed it most. But their best wasn't nearly good enough.

Total petroleum consumption fell by only a few percent. But motorists spent predawn hours waiting at the pump. Businesses survived hand-to-mouth. Many resorts went under.

Why, then, is Congress so intent on reimposing such a system on a reluctant President? There has been much talk about windfall profits and old folks freezing in their beds. But the bill is in large part the handiwork of special interests. Farmers, small refiners and independent gasoline retailers all lobbied for it in the belief that in an emergency, they would have the clout to obtain all the oil they wanted. That is what happened during previous emergencies and is probably reason enough to kill the legislation.

But the President's preference, simple reliance on the free market, is not a realistic alternative. Congress would easily override a veto. The real alternative is an emergency system that permits oil prices to rise to balance supply and demand while correcting Mr. Reagan's "let them eat cake" economics.

Just such an alternative has been proposed by Senators Bradley and Percy. They would let the market decide who got how much fuel—but most of the resulting price increase would be taxed away. Much of the revenues would then be returned to the public in the form of income tax rebates. The rest would be given to the states to meet the energy needs of the poor.

The Bradley-Percy approach does not address the detailed issues of how to manage the tax or the revenue recycling. But in truth, it is less a finished bill than an invitation to the White House to flesh out a plan, a welcome and sensible invitation. Unless Mr. Reagan soon accepts it, it will have no chance in Congress and we'll all be stuck with an emergency system guaranteed to turn discomfort into chaos.

[From the Washington Post, Mar. 20, 1982]

ONE TO VETO

Congress has been struggling with a bill to take care of everybody in the next oil crisis. But the bill, as it finally passed earlier this month, takes care of hardly anyone except that familiar and well-lubricated special interest, the independent refining industry. President Reagan would be well advised to veto it and tell Congress to try again.

A large and loud element among the independent refiners lives and prospers as a sort of parasite on those large oil companies that have gone to the trouble and expense of developing their own crude oil supplies. In the last two oil shortages, Congress required the big companies to share their oil with those independents that had saved money by refusing to find sources or build reserve stocks of their own. That share-the-wealth requirement expired last fall, along with all the other allocation and price control rules. And that's what Congress now wants to reinstate.

In a truly dire emergency, allocation rules would undoubtedly be necessary. President Reagan has said that he prefers to leave the whole issue to the market, and allow a rising price to balance supply and demand. Up to a point, that's the right policy. Most people, remembering the spring of 1979, would far rather pay more than go through another epidemic of gasoline lines. But there is surely a point somewhere—around $2.50 a gallon, perhaps?—beyond which any president would have to intervene to assure basic supplies for home heating, public services and agriculture. There's a case for reasonable and balanced legislation to anticipate the next oil shortage—but not for the Independent Refiners Welfare Bill that Congress has sent to Mr. Reagan.

[From the Wall Street Journal, Mar. 16, 1982]

RETURN TO RATIONING?

The benefits of oil decontrol should be patently obvious to anyone who has stopped at a gasoline station recently. Supplies are plentiful, prices are on the decline and competition has returned, with some stations even offering again to wash your windshield and check the oil. This free-market bounty, however, seems less obvious to many members of Congress.

Two weeks ago Congress cleared legislation giving President Reagan authority to resume emergency powers over the allocation of petroleum supplies. It's a power Mr. Reagan has said he does not want; he's quite happy to let the market set prices for oil and arrive at its own distribution pattern in case of a shortage. The administration says that it already has sufficient authority to allocate oil from the Strategic Petroleum Reserve in case of a severe national emergency.

In approving the new Standby Petroleum Allocation Act. Congress has lost sight of the lessons most everyone else had learned from a miserable decade of oil controls. While oil price controls tended to discourage indigenous production and to prop up OPEC's supposed pricing power, allocation controls were primarily responsible for the gasoline lines, which occurred so often in the 1970s. Bureaucratic rigidity of the allocation system meant that it could not meet the changing demands of a dynamic market. Federal regulators forced oil companies to send gasoline to parts of the country that already had an over-abundance of supplies while other areas went dry. Thus, motorists in many areas had to wait hours for gasoline, while others faced no inconvenience at all. Much of the public and the news media, of course, blamed OPEC and the oil companies for the gas lines when the real culprits were in Congress.

The impetus for the new standby allocation controls comes in part from a deep-seated distrust in the capability of the free-market. For instance, Sen. J. Bennett Johnston, one of 87 Senate supporters of the bill, said the free market could not handle large-scale disruptions of oil imports. Others simply assume that in case of another emergency, Congress will necessarily have to act to regulate the market. Rep. Philip R. Sharp, who managed the bill in the House as chairman of an energy and commerce subcommittee, said it would be wiser to legislate now when "passions are low" than in a crisis.

In spite of Mr. Sharp's statement, passions are not so low now. The biggest supporters of the legislation outside Congress are precisely those petroleum purchasers who received special privileges under the old, lopsided system—farmers, some refiners, the governors and public service agencies, such as fire and police.

President Reagan's advisers are recommending that he veto the legislation, but there is a chance that Congress could manage to override it, given the Senate vote and the House's vote of 246-144 on March 3. After the energy foolishness of the 1970s, Congress can hardly afford the new folly an override would represent.

Oil controls don't work, "large-scale disruption" or not. No bureaucracy can match the allocative efficiency of the market. The lag between changes in the oil marketplace and bureaucrat decisions only succeeds in creating windfalls for some and shortfalls for others.

Mr. PERCY. Mr. President, I have chaired a number of hearings on emergency preparedness at which I have heard expert after expert warn of the folly of price and allocation controls. And if we were to poll the American people to ask their opinion whether the President should have vetoed a bill which, if fully implemented, would virtually guarantee the recurrence of long gas lines during any future oil shortage—I know what they would say.

I urge my colleagues to vote with me—and with the President—against long gas lines, against allocation programs which benefit the politically powerful at the expense of everyone else, against price controls which historically have made our energy problems get worse instead of better, and against misleading energy producers and consumers alike by giving the President authority he never intends to use.

The American people elected Ronald Reagan President largely because they wanted to stop this sort of Federal regulatory mishmash. It is time we in the Senate stood up and gave him the support he deserves on this issue. I therefore urge my colleagues to join me in sustaining the President's veto of the Standby Petroleum Allocation Act.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. PERCY. I am happy to yield.

Mr. McCLURE. Mr. President, earlier in his remarks the Senator from Illinois indicated that the bill pending before Congress at this time would impose controls.

Could the Senator point to any provision in the bill that would impose controls?

Mr. PERCY. It gives the President authority. It gives the President authority to make allocations. That itself is a control.

Mr. McCLURE. That is quite a different thing than the Senator's statement which indicated that the bill would impose controls. The Senator now does correctly state it. The bill would give the President the authority to enter into such a plan if he wished to do so.

Mr. PERCY. When Congress is adopting a program under a President who as a minimum has virtually 3 years left to go in his first term in office, they are giving him controls that he does not want and does not intend to use.

Mr. McCLURE. They are not giving him controls.

Mr. PERCY. But adopt no other plan.

Mr. McCLURE. They are giving him no controls under this legislation.

Mr. PERCY. The power.

Mr. McCLURE. They are giving him the authority to do so if he wishes.

The Senator seems to have great confidence in the President, as do I. The Senator seems to indicate that the President would not use these powers if given to him. If that is the case, there would be no controls. Is that not correct?

Mr. PERCY. I have the feeling that the President wants to develop a real plan that can be an emergency standby plan that will really work and in his judgment will do exactly for this country what we need to have done. If we adopt this plan the Senator well knows from his long legislative experience we think we will have solved the problem. Where is the urgency then about getting any other plan on the fire?

I have the feeling the President will want to send a plan down that will be hopefully adopted by Congress. But if we have adopted a plan and said this is the law of the land and he has vetoed it and we have overridden him, that is it.

So I simply say that reinforces the reason why the President's veto should be sustained.

Mr. McCLURE. Mr. President, I could not disagree with the Senator more if we stood here all afternoon. As a matter of fact, at a meeting we had in the White House last week, as I was trying to persuade the President not to veto this legislation, I was told by one of his counselors: "If we ever wanted a bill at all this is probably the one we would want." He was not talking about an alternative. He was saying: "I do not want anything. But if I did want anything, it would be this."

So the Senator from Illinois may have some concept in mind that he hopes the President might embrace. I can tell the Senator from Illinois that I have from the very best authority that the President is not about to embrace anything else.

The second comment is with respect to the illusions we may create that if somehow we kill this one, we will come up with a better one. The Senator had his chance on the floor of the Senate with that better one last year, and it was turned down by the Senate. I think I have the date here in my remarks. Yes. On October 29, 1981, the Senate took a look at the Senator's plan and rejected it by a vote 8 yeas and 88 nays.

So much for the alternatives.

Now if the Senator believes that the Government messes up allocating supplies, how is he going to explain the mess up of allocating money? We cannot just allocate money and take care of the fellow who is out there trying to get gasoline, because by the time we have gotten around to getting him some more money, the planting season is past and he cannot plant his crop any more. By the time we get around to the Government bureaucracy deciding who to mail a check to, the independent trucker who is sitting out there at the truckstop trying to get some diesel fuel for his truck is already out of business, and the produce in the backend of his truck has spoiled.

So, the recycling of money, which is the Senator's alternative, has absolutely no chance of passage, and worse, it would be the worst financial fiasco that we ever experienced in this Government.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, on March 20, 1982, President Reagan vetoed S. 1503, the Standby Petroleum Allocation Act. His message to the Senate explaining why he vetoed the bill can be boiled down to two reasons:

First, that we are already adequately prepared for a petroleum supply disruption and therefore do not need new legislation; and, second, that vetoing the bill will keep Government out of an area that should be left to the free market.

Both of these statements are false, in fact so totally incorrect that I wonder if the President's staff has not misled the President in this matter. As I will explain, there is more than a little evidence that this is the case.

There is a real danger in this veto message. The President himself believes, and expects the American people to believe, that we are now prepared for the next petroleum supply disruption. There can be little doubt that another disruption will inevitably occur. If one spends any time at all examining the intelligence reports coming out of the Mideast, you discover that area of the world is a cauldron of instability that is constantly stirred by the Soviet Union and a host of religious fanatics.

I am not surprised that the President believes that adequate emergency plans are in place. His staff told him so. On March 2, 1982, a memorandum to the Secretary of Energy from William Vaughan, Assistant Secretary for Environmental Protection, Safety and Preparedness entitled "Recommendation to the President to Veto the Standby Petroleum Allocation Act of 1982," was inserted in the CONGRESSIONAL RECORD (March 2, 1982, pages 2825-6). The memorandum states:

> In light of the numerous standby energy supply contingency planning measures we have already initiated, this legislation is clearly unnecessary.

Moreover, last Sunday the Secretary of Energy appeared as a guest on the television show, "This Week With David Brinkley." In response to questions about the likelihood of another oil disruption, Secretary Edwards confidently told the viewing audience, "We have contingency plans in place."

So it is understandable why the President believes in the adequacy of our emergency preparedness. His veto message states:

> Today I have ample powers to take the steps necessary to protect national security, meet our treaty obligations and assure essential public health and safety functions.

The truth is that, first, the President does not have adequate emergency powers to address a petroleum supply interruption, and second, detailed emergency contingency plans have not been developed under existing law. I could go through the list of emergency authorities which the President has under existing law and explain their substantial limitations. Instead, I would refer to a memorandum for the President from James G. Watt, Chairman pro tempore, Cabinet Council on Natural Resources and Environment on the issue of:

> Should the administration support enactment of some form of petroleum regulatory authority for essential emergency services, to replace the Emergency Petroleum Allocation Act (EPAA), which expires September 30?

This memorandum was reprinted in our committee hearings on "Government Responses to Oil Supply Disruptions."

The memorandum indicates that within the privacy of the Cabinet Council both the Justice Department and the Energy Department specifically advocated the enactment of new legislation providing the President with limited authority "to direct supplies to meet the direct needs of farmers, police services, et cetera, in the event that such supplies were not available in the marketplace." The memo also said:

> Justice has concluded that there will not be sufficient authorities to duplicate the comprehensive price controls and allocation authority available under EPAA. There is debate as to whether remaining authorities could provide the best response for any future crisis.

However, the memo indicates that the Department of Justice and Department of Energy were outnumbered by the other agencies and so the Cabinet Council recommended against enactment of any new legislation, when it fact the two most knowledgeable agencies on the subject of emergency energy powers believed that the existing authorities were inadequate.

Not only are the President's emergency authorities under existing law inadequate, but detailed emergency contingency plans have not been developed to implement those authorities that do exist. The DOE Assistant Secretary in charge of emergency preparedness, William Vaughan, testified before our committee on March 16. He is the one who authored the memorandum which stated:

> In light of the numerous standby energy supply contingency planning measures we already initiated, this legislation is clearly unnecessary.

I asked Mr. Vaughan about this statement. Let me read from the transcript:

> Senator Jackson. There is no plan then?
>
> Mr. Vaughan. There is not that kind of plan.
>
> Senator Jackson. What kind of a plan in writing? That is what the Committee needs to have, a stand-by plan. You don't wait until the disaster occurs. You have got a series of contingency plans. That is what national security planning is all about.
>
> My little experience, I don't know much about it, but I have heard—a lot of contingency planning. Where is your contingency plan? You have asked that the President veto this bill based on plans that are already in existence that will be adequate.
>
> Now where are the contingency plans?
>
> Mr. Vaughan. We are, sir, developing contingency plans.
>
> Senator Jackson. You are developing them?
>
> Mr. Vaughan. In the process, and we do not apparently put as great store as some people do in a detailed, specific plan drafted in advance. In fact, we think that is counterproductive.
>
> Senator Jackson. So you don't have——
>
> Mr. Vaughan. We do not have a detailed, line-by-line plan.
>
> Senator Jackson. This memorandum is kind of misleading, isn't it, to the President?
>
> Mr. Vaughan. I don't think so, sir.

Mr. President, there is the story. On the one hand, we are told that there are contingency plans and "Don't worry, we don't need this legislation," and then when we ask about the contingency plans they tell us they do not, in effect, exist. I do not know whether they know what is going on, but that is pretty sad in any administration, Republican or Democratic, in dealing with a matter so critical.

Mr. President, not only are there no plans, there is not adequate legal authority to implement any plan which could deal with a severe oil supply interruption.

Apparently my concern about the state of our emergency preparedness is shared by minority members of the House side as well. On March 16, 1982, Representative James Broyhill, ranking minority member of the Committee on Energy and Commerce, wrote Mr. Vaughan a letter requesting that he prepare an analysis of what emergency programs we should pursue and which should we avoid. Mr. Broyhill noted in his letter that he recommended that the President veto, S. 1503, but he then added in his letter:

> But I am concerned that we must be prepared as a Nation should another international incident provoke a disruption in our imported oil supplies.

Yesterday, Mr. Vaughan responded to Representative Broyhill with a letter that concludes:

> Working cooperatively with Members of Congress, other Federal agencies, state and local governments, and the general public, we at the Department of Energy are confident that *we will be able to develop* programs which will keep America prepared. (Emphasis added).

Mr. Vaughan includes a report prepared by the Office of Energy Emergencies and entitled "Preliminary Analysis of Federal Energy Emergency Preparedness Strategies: The EPAA Experience and Current Programs at the Department of Energy." I wish my colleagues had time to read this document before they voted today. It does not inspire confidence in our state of emergency preparedness. Let me give one example.

Among the statutes listed as providing the Federal Government with a wide range of authorities to deal with energy emergencies is the Trade Expansion Act of 1962—Public Law 87-794. That act would permit the President to impose import fees or quotas on imported oil. I am sure the public will be comforted in the knowledge that if a major portion of our foreign oil supplies are cut off or if the price of oil is suddenly raised sky-high, the President can use the authority under this statute to impose import quotas or import fees on the imported oil that is available to us.

This is not the first time that the adequacy of our emergency preparedness has been questioned. On September 29, 1981, the General Accounting Office issued a report entitled "The United States Remains Unprepared for Oil Import Disruptions." The first sentence of that report reads:

> With the exception of the recent buildup of the Strategic Petroleum Reserve, the United States is no better prepared to deal with significant disruptions in oil imports than it was during the 1973 embargo.

But that report was published 6 months ago. It is most disturbing that our lack of preparedness not only continues, but administration officials seem complacent about it.

Let me turn to the SPR program.

At present our only general response to a petroleum disruption is to draw down the strategic petroleum reserve, to play our ace-in-the-hole, a response that should be used only in the direst of emergencies. Even the handling of the SPR program is turning out to be a shortcoming in this administration's preparedness strategy. The President cited the SPR in his veto message, using very precise words:

> The current world oil situation, with declining prices and ample supplies, provides the best opportunity for future preparedness. This is why the administration continues to add to the Strategic Petroleum Reserve as fast as permanent storage becomes available.

The President used the term "permanent storage" as a qualifier because in fact the SPR program isn't seeking to buy oil at all right now, despite the glut of oil on the market at rock-bottom prices. Our permanent storage facilities, the SPR salt caverns, are filled to capacity and the administration refuses to request funds to lease private storage capacity for use while the permanent storage facilities are under construction.

Mr. President, this gives one an idea of how naked we are in the event of a blowup which can come any day, any hour, especially in the Persian Gulf. Furthermore, the OMB is seeking to defer 28 percent of the fiscal year 1982 budget for construction of permanent storage capacity and they are delaying construction of the third phase of permanent storage construction by a full year. The fiscal year 1983 funding request for SPR oil procurement represents a slash of 44 percent from last year's appropriation. This is a sorry state of preparedness.

Mr. President, there is a second major fallacy upon which the President's veto message is based, namely, that vetoing S. 1503 will keep Government from regulating the petroleum industry and will result in a free market for petroleum. There is a great deal of irony in the realization that President Reagan vetoed the bill that offered the only real chance for a free market in petroleum.

There should be no doubt in anyone's mind that if a severe petroleum shortage occurs, if gasoline and heating oil suddenly jump to $5 per gallon, the public will demand that Government address the problem. The pressure on State and local government will be unbearable. A good indication of the many types of States emergency energy regulation statutes already on the books are contained in the Special Reports of the American Petroleum Institute on "State Energy Emergency Statutes," which are reprinted in the committee's hearings.

In the absence of Federal preemption, the marketplace is likely to be fettered with laws and regulations of dozens of States, to say nothing of hundreds of localities. The single aspect of S. 1503 on which there was unanimity of opinion—except for the administration—was the need for a strong Federal preemption provision.

In consistently opposing S. 1503 as it moved through the Congress, the administration was strangely silent on this point. They argued for a free market but never explained what would keep the State and local governments from imposing their own web of regulation on petroleum markets in the absence of S. 1503.

My colleagues should note that the President's veto message does not mention the issue of preemption. Nor does it offer any hint as to why 50 State governments attempting to regulate the petroleum market in the petroleum supply disruption is preferable to centralizing all authority in the President and granting him discretionary powers to address the crisis.

In his memorandum to the Secretary advocating the veto of S. 1503, the Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness even argued that the petroleum distribution system should be left to State and local regulation as a part of the New Federalism. He stated:

> The bill is in direct conflict with the President's Federalism program. S. 1503 requires extensive preemption of State and local energy laws, and also requires Federal approval of any State set-aside program. States currently have any number of different laws, in many different fields, from zoning to alcohol consumption, from interest rates to utility regulation. There is no reason to single out this area for Federal preemption, and many reasons not to; particularly given the results of Federal activity in energy regulation in the recent past.

If this is what the President's aides were whispering in his ear then perhaps he was better off not mentioning the subject of preemption in his veto message.

Mr. President, I think President Reagan has been ill-served by the advice he has received from his staff on the Standby Petroleum Allocation Act. If for no other reason the President should have approved this bill just to establish a strong Federal preemption provision that will bring some order to petroleum markets both before and during petroleum supply disruptions. Whether he would seek to implement the discretionary authorities provided in the act is his decision to make.

I would ask my colleagues to vote to override the veto on S. 1503, not only because the bill deserves enactment. In addition our efforts here today send a signal to the President that we are not satisfied with the complacency his subordinates have shown regarding the adequacy of our Nation's preparedness to address the next severe petroleum supply disruption.

I ask my colleagues to commend the distinguished chairman of our committee, who has done such an outstanding piece of work in trying to get this issue before the Senate and before the country, the distinguished senior Senator from Idaho (Mr. McClure), to pay tribute to what he had done in respect of this legislation. He deserves great credit, and I join with him in asking my colleagues to override the veto on S. 1503 not only because the bill deserves enactment but also to send a signal to the President that we are not satisfied with the complacency his subordinates have shown regarding the adequacy of our Nation's preparedness to address the next severe petroleum shortage.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am speaking today to urge my colleagues in the Senate to override the veto of a Republican President. Speaking to such a purpose is a rare experience for this Senator. Opposing a President of my own party on a veto message is not an experience that I have had before. Nor is it one that I relish to have again.

I say to my colleagues that I come to the floor for this debate respectful of the President and respectful of his views. However, I also come with some knowledge of this legislation and the events which have brought it before us. When the 97th Congress convened in January 1981, it was clear to me that the expiration of the Emergency Petroleum Allocation Act would be one of the most important challenges that this Congress would face. EPAA was for nearly a decade the centerpiece of our Nation's energy policy.

I also want to say that we have met the challenge more forthrightly than I had expected. It seemed to me in January 1981, that replacing EPAA with a policy that corrected past mistakes while anticipating future dangers was an unlikely prospect. There was no energy crisis to compel our action. OPEC held no gun to our heads. And yet we are here with an opportunity to pass a good bill—an excellent bill even by the characterization of the closest advisers to the President—a bill that can provide our Nation with a more secure energy future.

That we have met the challenge succesfully is due primarily to the leadership and effort of the chairman of the Energy and Natural Resources Committee, Senator McClure. In July of last year, I joined with 15 other Senators to introduce a bill in many respects similar to the one we consider today. I testified at the Energy Committee hearings on S. 1503. I came to the floor for the debates last fall. I watched closely as the Senate conferees worked out differences with the House. I know well the efforts that the Senator from Idaho has put into this legislation and express with my colleagues personal appreciation for the legislative skill that he has demonstrated by steering S. 1503 through the process.

The only thing we have not been able to accomplish is to convince the President that this legislation is needed. Although short, the President's veto message is very thorough. It raises all of the arguments against this bill that have been heard many times at hearings and in floor debate. There are four basic arguments against S. 1503 in the veto message. These arguments have been repeated many times. These arguments have been repeated so many times with so little evidence that they have almost become myths. I will call them myths, if you will, as I review each one of the four.

The first myth is that the Department of Energy caused the petroleum disruptions in 1973 and 1979. Somehow we are asked to believe that if the Government had not gotten in the way, Americans would have experienced little inconvenience as a result of the Arab Embargo and the Iranian Revolution.

Let me quote from the President's veto message:

> Those interruptions precipitated much higher oil prices, but they did not cause gas lines and shortages. It took Government to do that.

I would be the first to agree that DOE did not do a good job in 1979. Many mistakes were made. But when we look at the most serious errors, it might be fair to conclude that DOE failed because it was not well enough prepared. I believe the most damaging decision was the emergency regulation to change the base period for allocations. That regulation was published on February 28 and made effective on March 1. As a result, many marketers lost entitlements from suppliers, and therein lies the need for S. 1503. Shall we invite the same damage again by waiting once again until we are in a shortage to let the market know what Government intends?

I remember another aspect of the 1979 crisis that may be of interest ot those who believe that the Federal Government caused the crisis. One of the most serious aspects of that emergency in the Midwest was its impact on the trucking industry. Independent truckers across the country went on strike. In Minnesota they used their trucks to blockade refineries. I was at a refinery visiting with them at the time. The Governor of our State had to call out the National Guard. That was just a couple of years ago.

Truckers could not get enough fuel to carry food to consumers. And what they could get was priced beyond the rates they could charge. So they went on strike. Were they demanding that Government get off their back? Shall we blame the truckers' problem on DOE and the allocation regulations? Well, let us find out the accuracy of the President's premise. Truckers use diesel fuel to power their tractors. DOE did not allocate diesel fuel in 1979. DOE did not have price controls on diesel fuel in 1979. Diesel fuel along with other middle distillates like heating oil was decontrolled in 1976, before there ever was a DOE. Do not try to tell a trucker or a farmer that Government caused the shortage in 1979. The farmers and truckers complaint was that we did nothing until it was too late. And their complaint was impassioned because the market did not bring fuel where it was needed.

The second myth contained in the President's veto message is that we already have sufficient plans and authority for the President to act in a crisis. Let me quote again from the President's message:

> Today I have ample authority to take the steps necessary to protect national security, meet our treaty obligations and assure public health and safety functions.

The President does have emergency authorities under several acts to respond in a crisis. But what this President does not have is a national consensus on what the President should do or a specific plan saying what he will do in the case of an extreme disruption.

Mr. President, I think it is terribly important for us to understand, particularly in light of this earlier colloquy, that authority is more than a delegated right to take action. Authority is based on the understanding and belief of the American public—belief that the plan to deal with the emergency is fair, belief that it will be effective. That, Mr. President, is the kind of authority that we have never, never had in an energy crisis in this country because no President has ever come well prepared to any of these events.

We have made substantial progress in filling the strategic petroleum reserve over the last year. The administration rightfully takes pride in its accomplishment in rapidly filling the reserve of up to 250 million barrels. That is $8 billion worth of crude. We have a goal of 750 million barrels. You just heard from the ranking member of the committee where we are headed on that target.

But the question is: Would we use that oil in such an emergency? Nobody knows. There is no specific plan to distribute oil from SPRO. We spent $3 billion on an insurance policy last year without knowing what kind of events we were insuring against. I happen to be one of those Senators who thinks we ought to use the reserve first before we turn to allocations of private stock. We should not save it to be a weapon only in the event of war. Other Senators take a different view. But no Senator knows for sure when we would use that oil. And my desire to spend for this insurance policy is beginning to wear thin. That is why I think the standby plans mandated by S. 1503 are important.

Those are the kinds of signals that the marketplace needs from S. 1503. The value of private stocks depends critically on what we intend to do with public stocks. And we do not know what this President intends to do with SPR. Ample authority? If there is ample authority in other laws—and the Justice Department found otherwise—that authority is not being translated into the public understanding necessary to get us through the next energy emergency.

The third myth contained in the President's message is that standby regulations discourage private preparedness. Let me read again from the President's message:

> The threat of such controls will discourage the very steps that are needed to provide real protection against such emergencies. This bill would discourage self-protective measures, because it tells the public that those measures will be nullified by government allocations and controls or that such measures are unnecessary because the Government will guarantee them low-priced energy in the event of any disruption.

Well, if that is what this bill did I would oppose it. In fact, it is the failure of the Government to make clear what it intends that will discourage private stockpiling. This bill says that inventories on hand at the time of a disruption shall not be allocated. The President can use the authority granted by this legislation to make it clear to refiners that we will not bail them out if they do nothing now to help us prepare. I should think the President could use this authority to leverage substantial private stocks even in a falling market. Prices are falling. Stocks will disappear. It is the law of the marketplace.

If you let this bill die here—if you let the planning process stop now—the oil companies will retain lobbyists rather than crude oil. Because they know, faced with a shortfall, unarmed with a policy, Congress will rush in to spread the pain without careful concern for equity or existing inventories. We can close that door now with this bill and a plan that sends clear signals to the marketplace. The signal is, be prepared.

Myth No. 4 is that the energy crisis is over. Again, I will quote the President's veto message:

> The current world oil situation, with declining prices and ample supplies, provides the best opportunity for future preparedness.

Mr. President, that just is not true. No one holds inventories, increases stocks, while prices are falling. I refer, Senators, to our experience in 1977 and 1978. The oil companies were expecting a price increase at the OPEC meeting in early 1978. So in late 1977 they increased stocks to very high levels. No price increase came in December, none in March, none in June. So stocks were reduced. Private stocks fell to very low levels and then we had the Iranian Revolution and the petroleum marketplace came unglued. The marketplace was unprepared. We had no reason to expect the marketplace to be prepared. It behaved like a marketplace. You sell when prices are stable or falling.

You hold when prices are increasing. That is how small disruptions become major emergencies. That is what causes gas lines.

The energy crisis is not over. The gas lines of the seventies are not behind us. It is true that we have a glut. It is true that prices are falling. It is true that Americans are using less oil. But it is not true that expiration of EPAA brought on all these blessing.

OPEC is still in charge. We have a glut because Saudi Arabia decided to produce at 10½ million barrels per day for over a year. Saudi Arabia has a lot of oil. They can—they want—to sell oil at present volumes well into the next century. In that respect they are different from other OPEC members whose wells will go dry in a decade or two. Saudi Arabia thought we might have a little too much petroleum conservation at $40 per barrel. So they overproduced and brought prices down to $33. When prices continued to fall they cut production. Markets will be tight again by this time next year. Particularly if we get a Republican recovery. What Senators sometimes forget is that today's conservation is in large part recession induced. Demand does tend to fall when the economy slows down. Speedup the economy and we will be right back in the seventies with gas lines waiting for a political event in a foreign nation. I hope we will not be waiting for the Congress and the President to design a fair and effective energy policy.

Four myths, Mr. President. Four myths that we hear over and over again by those who would leave our energy future to a marketplace controlled by a foreign cartel.

There is one other aspect of the President's veto message that I wanted to mention today. That is the request in the last paragraph that we reauthorize the International Energy Agency program. In light of the President's arguments against S. 1503 that is a surprising request. The IEA program is an allocation program. It allocates crude oil between nations in the event of a shortfall. It authorizes the President to allocate oil here in the United States so that our importers can divert their suppliers to other nations.

In Minnesota we are at the end of the world's oil pipeline. We are an agricultural State. When it is time to plant or harvest our crops, even small shortfalls are a disaster. We cannot afford the tendency of the marketplace to hoard when prices are rising due to a disruption. That is what happened in the spring of 1979.

We rely primarily on two independent refineries in Minnesota. I freely admit the conditions of the petroleum marketplace in Minnesota. Some people will see these conditions as an explanation for my strong interest in this legislation. What I have to explain to my constituents in Minnesota is why the President wants authority to allocate crude oil for disruptions that threaten Italy or Japan or Germany, but vetoes a bill that authorizes allocations when Minnesota's energy supplies are disrupted. Perhaps my colleagues can enlighten me on the reasons for this two-headed energy policy.

Mr. President, the arguments for this legislation have been thoroughly stated by the Senator from Idaho this afternoon.

We are not reauthorizing EPAA.

We do not mandate any policy or intervention by the Government. The authority is discretionary.

The bill contains an effective sunset that assures primary reliance on the marketplace.

The bill preempts allocation programs designed by the States and thus actually reduces the amount of intervention that would accompany a shortfall.

Mr. President, a year ago the Senator from Idaho began a process to determine whether we in this body could make good energy policy by legislating in a period of relative calm. We have before us a good bill—and a Presidential veto.

We have but one more step to take to meet a most difficult legislative challenge. I urge my colleagues to take that step by reaffirming votes cast for this legislation on previous rollcalls. Let us give the Nation a more secure energy future by affirming our efforts of the past year.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. What is the question, Mr. President?

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, I sincerely doubt that debate will change anyone's mind at this late hour. Nevertheless, for the record I want to make the point that whenever the Government intervenes or interferes in the marketplace, that interference invariably sends out false signals which invariably lead to misallocation of valuable resources. That is the signal we should see in the sorry experience this country suffered as a result of price controls on the production and distribution of petroleum products.

These dislocations and misallocations result even in the case of standby measures, such as the one we are debating this afternoon. Even standby controls, even controls which are not in effect, send out false signals, in this case sending out the signal that the Federal Government will step in to allocate resources, should they become scarce because of disruption in the flow of oil from the Mideast, for instance.

Since those in our economy who are concerned about the availability of petroleum will believe that the Government will protect their interests, they will not, in the interim, or perhaps will not in the interim, take those steps which are in their own best interests and in the interests of our country and our economy.

I am opposed to the Petroleum Allocation Act. I say that as a member of the Energy Committee, as one who voted against it in the committee and against it on the floor, and I shall vote to sustain the President's veto this afternoon.

Mr. President, I applaud the President for his decision to veto this legislation. As one of the seven members of this body who have consistently opposed the enactment of S. 1503, I would urge my colleagues to consider the following points before voting on this override motion:

As a member of the Energy and Natural Resources Committee, I was initially supportive of Senator McCLURE's efforts to replace the expiring Emergency Petroleum Allocation Act with a more limited, flexible program for dealing with severe petroleum supply shortages.

I was especially concerned, as a New Englander, that my region of the country be protected from the devastating effects that past crises have had on public services, business, and industry, and the residential home heating oil market.

However, as this bill was increasingly burdened by specific allocation and price control schemes, buy-sell arrangements for refiners, and a long list of end-use priorities, I had to wonder whether we were not simply rewriting the EPAA, a statute which all of us have to agree was a monumental failure.

Regardless of how "limited" or "discretionary" this standby authority in S. 1503 may seem, it is nonetheless a bill which, if enacted, would permit our revisiting of all the past horrors of EPAA.

Let us give the free market a chance:

Nearly everyone who testified before the Energy Committee emphasized their preference for a greater reliance on free market forces in the event of a future oil supply disruption.

Indeed, there was a fundamental agreement among all parties that the free market can invariably allocate resources more efficiently than any Federal bureaucracy.

President Reagan is fully committed to this free market policy, and I would remind my colleagues that it is this policy that has resulted in the present ample supplies and declining prices of petroleum products since the decontrol of oil 1 year ago.

For me, the most important reason to oppose this bill is the simple fact that its enactment will serve as a disincentive for the free market to prepare for future supply disruptions.

No one could expect President Reagan to authorize as byzantine and self-defeating a program as we had under the EPAA, but the simple fact remains that he could.

The mere possibility of massive Government intervention in a future supply disruption will serve as a strong disincentive for oil stockpiling, the securing of long-term contracts between producers and independent suppliers, and conservation measures through which the free market can insulate itself and help mitigate the effects of any future oil supply disruption.

For this reason, and because I believe that the free market can allocate resources more efficiently and equitably than any Federal bureaucracy, I urge my colleagues to join in sustaining the President's veto of S. 1503.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise again today in opposition to Senate bill 1503. I have spoken twice on the Senate floor and I have spoken against it in committee. I will try not to repeat my previous arguments. As a matter of fact, I went through the trouble of reading my previous statements and speeches on the bill so that I would not be redundant.

I think it is important to point out some of the fallacies on this bill. I applaud the President's decision to veto it, I encouraged him to veto it, and I think it is a correct decision. I believe it reaffirms the stance he took as a candidate, as a former Governor, and also as President of the United States in believing in his reliance on the marketplace, not on more Government allocations and Government controls, to be able to solve the problems.

Mr. President, I want to spend just a few minutes to refer to some of the comments made by my colleagues, and my very good friends, Senator McClure, Senator Johnston, and Senator Durenberger.

I think they have pointed out some questions that need to be answered.

Senator Johnston asked, "Why not have a plan?"

I would like to state quite simply because, in my opinion, with this plan, or almost any Government plan, I cannot imagine a Government allocation plan that would do more good than damage. I think that this plan, S. 1503, will do more harm than good as far as solving the problem in the event we should have a petroleum supply problem. This is not just my own intuition but it is based on a review of what has happened in the past through previous shortages.

The shortages we experienced in 1973-74 and in 1979 were directly caused by Government control over the petroleum marketplace. Those controls were not in response to those external problems, rather those controls created and multiplied domestic shortages when external problems developed.

Price controls existed under the Economic Stabilization Act of 1970. Phase I of that program froze prices at all levels of the distribution chain at their August 1971 levels, and cost increases were prohibited from being passed on. This discouraged oil companies from acquiring and maintaining adequate inventories and discouraged the production of home fuel oil.

In phase II of that program, from November 1971 until January of 1973, gasoline prices and No. 2 fuel oil prices remained frozen. Production lagged, stocks were low and shortages began to appear. The Office of Emergency Preparedness began to get involved in allocating supplies.

Let me emphasize that these shortages occurred prior to the oil embargo, and were created by Government interference in the marketplace. Now let us continue this valuable historical lesson.

Phase III under the implementation of the Economics Stabilization Act. In that phase, special rule No. 1 was put in effect in March of 1973, again, before the threat of an oil embargo. This rule instituted mandatory price controls on the sale of crude oil and petroleum products by the 23 largest oil firms and left the remaining companies under self-administered controls. There were forced price rollbacks, no incentives, distortions in the distribution channels, and distortions in the market where smaller firms were free to sell products at the price the market could bear and could outbid larger firms for supplies.

All of this created a demand for some type of allocation system. The demand for an allocation system was generated before an oil embargo and as a result of Government controls. How did the Government respond to this demand of allocation? We started phase IV which prescribed prices on every product in the industry at every level. Before phase IV expired, the oil embargo began in October of 1973 and phase IV became the basis for mandatory petroleum price regulation.

We should have learned from this that Government interference in the marketplace was harmful, not helpful to the consumer. With prices held down due to controls—demand was artificially increased. To illustrate this, statistics show that in 1973, although world crude oil prices rose, the real price of gasoline in the U.S. declined by 0.6 percent the first 9 months of that year while demand was 3.5 percent greater than the summer before—this artificially created rise in demand alongside the market distortions created shortages.

In May of 1973, a full 5 months before the Arab oil embargo, four major groups were petitioning in congressional hearings for a Federal allocation program. Who were these groups? Farmers wanted a propane allocation program; nonbranded independent gasoline marketers wanted allocation of gasoline; independent refiners sought access to domestic crude oil; and New England marketers and consumers asked for a home heating oil allocation program. Why was there a cry for an allocation scheme? Was it due to our Nation's lack of preparedness for foreign disruptions? Was it because we did not have any standby authority? No. No, the cry was because Government interference via attempts to control inflation with the Economic Stabilization Act caused shortages. Had the marketplace—the self-regulating laws of supply and demand—failed the consumer? Again the answer is a firm "No," the marketplace had been hindered and controlled by the Government for 2 straight years.

Before the embargo the administration in 1973 began a voluntary allocation program which failed and thereafter a few months later announced its first mandatory allocation program—that of propane and issued its list of priority customers. I ask my colleagues to note two things—this mandatory allocation of propane was announced before the EPAA was on the books and before the embargo. This proves two things: the President does indeed have authority without the EPAA or its replacement S. 1503, and that the embargo did not cause the shortage.

So, in October of 1973, when the Arab-Israeli war broke out, the Arab oil embargo occurred. It resulted in an overall 7-percent reduction in total world supplies. This reduction could have been handled and adjusted to by an unhampered free market. But as you can see, the market was anything but unhampered or free when the reduction occurred.

So we looked next to the Emergency Petroleum Allocation Act of 1973, the EPAA, to resolve our problems. This is like going back to the woodshop and asking for a second whipping. We turned to the very things which created our shortage problem, incorporated them in stronger form in the EPAA, and looked for that to save us when the problem grew due to the embargo. As a side note I would like to point out that the EPAA had already passed both House of Congress and was headed to conference when the embargo was declared. I think this corrects a misperception some have that the EPAA was enacted in response to the Arab oil embargo, it was not.

I need not retrace now the disasters which occurred under EPAA. They are well documented, I have mentioned them before, and there is widespread agreement that EPAA was a failure. EPAA clearly exacerbated a preexisting situation and hampered our ability to adjust to the embargo.

As we will see in a minute S. 1503 is a close sister to the old EPAA. But even if we accept the premise that S. 1503 has no relation to the old EPAA, and that it will not create any of the problems we experienced under EPAA, we must remember one thing both acts have in common. That link is this—both acts are based on an invalid assumption as President Reagan clearly pointed out in his veto message.

Both acts assume that Government can best allocate petroleum in the face of a supply interruption. Both acts seek to control the marketplace—one with mandatory controls and the other with a threatening cloud in place overhead. Both acts say that in regard to an equitable and orderly allocation of a scarce resource, the Government is superior to the marketplace.

Nothing could be further from the truth. As I have just outlined, the Government's actions, however well-intended, created our shortage and paralysed our ability to respond to the later embargo disruption.

Since S. 1503 will not help the consumer if and when we next face a supply interruption, then let us label the Standby Petroleum Allocation Act for what it is. The act is a special interest bill. It has not one special interest group, but an impressive list of many agriculture and food associations, independent refiner associations, and oil marketers and distributors. Who are these special interest groups? They are the very groups who have their interest protected in the bill. Rather than compete in a free market they want a Government guarantee that their interests will be taken care of. However, we cannot protect one interest without harming another.

Proponents in their arguments on this floor, back in October, ignored the history of Government intervention in the petroleum marketplace prior to EPAA. What I have tried to show is that it is not the form of intervention that needs to be debated and changed, but the fact of whether we need any intervention should be our topic of debate.

Proponents argued that we can trust President Reagan not to abuse the authority we seek to give him under S. 1503, and that the act has an expiration date prior to the close of his first term. I agree we can trust President Reagan. However, I know that once this act is on the books, it will be difficult to remove. EPAA itself was initially scheduled to expire in February of 1975. That date was continually extended and EPAA did not expire until 6½ years later. I am afraid S. 1503 is easy prey to likewise experience repeated extensions.

Proponents argued strongly on this floor 3 weeks ago that the fact that this act is a standby act is its redeeming quality. The market is now free thanks to President Reagan's Executive Order No. 12,287, in which he terminated all remaining price and allocation controls and thanks to the final long overdue death of the EPAA a few months ago. Now the market is able to gear up, use foresight, and prepare for potential disruptions. If S. 1503 becomes law we are back where we started in 1971 and have learned nothing. This is because, even though the act has only standby authority, it continually poses a threat to the market and sends a signal that Government intervention is on the horizon.

Proponents argued 3 weeks ago that they could not imagine that the President himself would oppose this standby bill. Yet even after personally meeting with a proponent of the legislation, the President did indeed veto the bill. His veto should encourage us to take a closer look at what we passed. It raises serious questions when our President refuses additional authority. My conclusion is that not only is such authority not needed, its existence is harmful.

Proponents argued that without this standby authority, the President is hopeless and that he has no tools at his disposal should he be faced with a disruption. The President in his veto message assured us that such is not the case and that he has—

> Ample powers to take the steps necessary to protect national security, meet our treaty obligations and assure essential public health and safety functions.

All of this evidence points up to one thing—the Standby Petroleum Allocation Act is not needed and is harmful. I hope I have calmed the unfounded fears of my colleagues about what would happen in a supply disruption situation without this legislation. As you can see, we would be better off. I further hope I have shown how harmful this bill as law would be. The President summed it up well in his veto message by saying:

> Controlls can only shift losses from one set of Americans to others with vast dislocation and loss of efficiency along the way.

I looked back and found a report by DOE that said that based on their review the Department of Energy does not believe that the authorities provided by the SPAA are necessary to deal effectively with energy emergencies. Indeed, the SPAA would actually impair development of effective energy emergency preparedness programs as well as create other administrative and regulatory problems.

Mr. President, we went back to 1973. We looked back at the old controls that were imposed then. Certainly, I think there was consensus among DOE, and probably among Members of Congress, that those oil controls did more harm than good.

Looking at the 1979 shortage, they said, there seems to be no doubt that the price and allocation regulations mandated by the EPAA were a principal cause for regional gasoline and other fuel shortages experienced during the 1979 Iranian revolution.

I make these comments primarily to respond to Senator DURENBERGER's comments concerning the problems that the truckers and others were having. They say in one DOE report:

> The gasoline lines observed in June and July 1979, are examples of shortages created by a combination of price controls and allocation programs. Shortages occurred in metropolitan areas but not in rural areas since the supply shortfall changed consumption habits and reduced out-of-town travel. Giving farmers and other specified users first priority exacerbated the problem in metropolitan areas.

This was taken from a study entitled, "An Analysis of Federal Government Energy Emergency Programs, Energy Policy Study Volume 5," dated May 1980.

I also referred to the 1979 Iranian problem and the shortages that ensued thereafter.

> During the Iranian revolution in 1979, DOE made no less than 27 changes to its motor gasoline and middle distillate allocation regulations, often on an ad hoc basis without benefit of regulatory analysis and prior public comment. In several cases, such as the crucial regulations concerning the base period for purposes of motor gasoline allocation, the regulatory amendments were made effective on issuance, with no advance notice and without the requirement for prior written comment.

Mr. President, these 27 changes were coming about because, yes, they allocated, they demanded, they set up; they said, yes, we need more gasoline during this particular time. And, yes, there was a shortage of diesel. But it was not caused because the marketplace would not work; it was caused because we had too much government.

History, I grant, under the EPAA, did not work. We have Senator McCLURE and others saying this is not a reenactment of EPAA. This is not the Emergency Petroleum Allocation Act. This is the standby. I would like to go over some things that are quite similar.

I grant that, yes, this is discretionary. It gives the President some discretion as to when it will be used. It is defined or implemented when the President declares that there is a shortfall, a severe shortage, but that is up to his discretion to define when that occurs.

That is primarily where the distinctions end.

Mr. President, I ask unanimous consent to have printed in the RECORD a table comparing EPAS and SPAA.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SUMMARY COMPARISON OF MAJOR LEGISLATIVE PROPOSALS TO EXTEND OIL CONTROL AUTHORITY

Topic	EPAA Emergency Petroleum Allocation Act (expired Sept. 20, 1981)	SPAA S. 1503 as approved by conference committee (Feb. 4, 1982)
1. Allocation authority	Yes: Mandatory. Provided for allocation of crude oil, residual fuel oil and refined petroleum products. President authorized to lift controls on certain products and to suspend all controls pursuant to EPCA.	Yes: Discretionary. President may select any allocation mechanism he sees fit; President must include in plan standby crude oil buy/sell program for domestic refiners (program need not be implemented).
2. Price authority	Yes: Mandatory. Although price controls could be lifted on certain products, and all controls suspended pursuant to EPCA. Not permitted to prescribe minimum prices.	Yes: Discretionary. To be used only to extent necessary to achieve objectives of allocation program; may include limits on discriminatory pricing and other form of price control chosen by President.
3. Priorities	Yes: Mandatory. Allocation pricing regulations must take into account 9 objectives: (a) protection of public health, safety, welfare and defense; (b) maintenance of public services; (c) maintenance of agricultural operations; (d) preservation of sound petroleum industry; (e) allocation of crude oil to refineries to permit their full operation; (f) equitable distribution of oil throughout United States (including to small and independent refiners, etc.); (g) allocation of petroleum products for exploration and production of fuels and minerals; (h) economic efficiency; (i) minimization of economic distortion.	Requires President to adhere to priorities contained in EPAA to maximum extent practicable.
4. Trigger mechanism	None. Program mandatory	Severe petroleum supply shortage as determined by the President.
5. State set-aside	No specific statutory provision. Established by regulation	Must provide for State set-aside in plan; up to 5 percent of residual fuel oil and refined petroleum products; Governor may submit plan at any time; President must approve plan or deemed disapproved.
6. Rulemaking procedures/judicial review	Incorporated various sections of the Economic Stabilization Act	Reimposes informal administrative and judicial review procedures utilized under EPAA; also establishes TECA as principal appellate court of jurisdiction.
7. Implementation and duration	Mandatory, subject to suspension. Controls became discretionary on June 1, 1979, and were lifted by President Reagan on Jan. 28, 1981.	Standby regulations must be submitted to Congress in 180 days; standby regulations are not subject to congressional veto; implementation subject to 1 House veto; controls initially effective for 90 days; may be extended by President for 60 days.
8. Expiration of statutory authority	Sept. 30, 1981	Dec. 31, 1984.
9. Preemption of State laws	Preempts any State or local allocation provisions which are in conflict with the EPAA	Yes: Preempts any State or local price or allocation program unless President exempts program from preemption. Statement of managers specifically lists laws that generally would not be preempted, including State conservation and demand restraint programs.
10. Gasoline rationing/tax, tariffs, user fees	No provision. (Gasoline rationing authorized by EPCA)	Expressly forbids gasoline or diesel fuel rationing program; also expressly forbids imposition of tax, tariff, or user fee on end-users of gasoline or diesel fuel; forbids minimum price.
11. Studies	FTC required to report on program to President and Congress. President required to report to Congress on oil pricing and on reimbursement to States for expenses in carrying out EPAA responsibilities.	President must submit a report on (1) reducing tax liability of persons drawing down oil reserves during a supply emergency; (2) providing incentives for construction of, and increase in, private sector oil reserves; (3) use of free market mechanisms; and (4) revenue recycling to respond to severe supply interruption.
12. International Energy Agreement	No provision. Governed by EPCA	Antitrust exemption extended through July 1, 1983.
13. Strategic petroleum reserves	No provision. Governed by EPCA	No provision. New SPR draw-down plan not required.
14. Private inventories	President had authority to impose inventory controls on the oil industry, and to prohibit private users from "hoarding" crude oil, residual fuel oil, or refined petroleum products during a shortage.	Yes: Protects inventories of petroleum products held by and in custody of end-users for own use but not to exceed lower of amounts in inventory either 1 day or 30 days before President declares oil emergency; President given discretion to extend protections to other inventories (e.g. off-site storage).
15. Information gathering	Limited information-gathering authority. Extensive information-gathering authority provided in other energy laws.	Requires President to collect information on pricing, supply, and disruption of petroleum products at wholesale and retail levels on State-by-State basis.

Mr. NICKLES. This program, just as the EPAA, has a standby crude oil buy-sell program. This really will boil down to subsidizing the inefficient and ineffective refiners who did not go to the trouble or expense to provide and maintain adequate inventory protection for themselves. What we are actually setting up and creating is a system which will tell refiners, "You do not need to work and establish adequate inventory controls because we are going to take care of you anyway. If a company in another part of the country is more successful, had a little more foresight, and was able to establish greater inventories for their needs or for their customers, we are going to go in and take away their inventories." We are going to say, "Well, wait a minute, we protected inventories." We did not. We did not protect inventories that are in pipelines or coming over in a tanker. What we are doing is legalizing confiscation of a company's private inventories.

Somebody said, well, it is quite a bit different than the old EPEAA. Yet it has almost exactly the same allocation schemes, almost verbatim—28, 29, or 30 different groups that have their names on the priority list.

Mr. President, I shall give one big name that is not on the list, that is the consumer's. Some say, if we do not pass this we are going to have lobbyists knocking at our doors. I congratulate the lobbyists. They did real well. Almost every lobbying group I can think of got their name in here, got their group on the priority list. I sat in on the energy hearings. I asked one of them, "Would you support this bill?" I think it was to the bakers or some group. "Would you support this bill if your industry group were not listed in the priority?"

He said no, he would not support it if his name were not on it. But as long as he was given priority ahead of all the other consumers, he was for it.

There is a long list of associations supporting this but I urge the Senate to take a look at that list and also look and see who is on the priority list. I can guarantee they are identical. They are going to go to the gaslines ahead of you. They are going to get 100 percent. You may have to wait in a gasline in the event we do have a shortage, but they will not. They are going to get 100 percent. But you will not. When I talk about "you," I am talking about the steelworker, the machinist, the traveling salesman. They are not on the list.

Maybe your lobbyist group did not do the job, so you are not on the list. So when the gas lines come, and this type of legislation encourages gas lines, you are going to be at the back of the line. You are going to get what is left over.

Let's examine another similarity between this bill and the previous EPAA. This bill provides and actually states that the States have to have a set-aside program, up to 5 percent of residual fuel and refined petroleum products.

We mandate the States must provide State set-asides under certain guidelines. What we are doing by this State set-aside is just turning over 5 percent to the politicians and bureaucrats. I came up here to be a U.S. Senator, not to be an oil jobber. I was in the Oklahoma State Senate when this was passed before and the State had a set-aside program. When I was a State senator, one of the first things I did was start receiving phone calls saying, "Would you please get some gasoline or some fuel oil to my station?"

I did not know if that station needed it or not. Why did he need it? Because, under the old allocation scheme, they based his supply on the previous year's experience and he had had an increase in business. Or maybe he just built up his business and his place is taking off. But maybe Joe Blow's business across the street is not so good. But the Government says, "We are going to tell you what you are going to get based on prior experience."

We had one station that had unlimited quantities of gasoline. They were a new station; they did not have previous figures to base their allocation on so they had unlimited supplies. Maybe we had another part of the country that had a harsh winter, and they had a very low use of petroleum products to base their figures on, and the following year they were having a good year and their demands were much, much higher.

Mr. President, I do not believe it is possible to set up an allocation system where politicians and bureaucrats are going to be better able to allocate resources than the marketplace. By allowing a State set-aside and putting in place a system where all States are going to have to come up with a 5 percent set-aside program, we are going to have a problem.

Look at the effects of those set-asides during supply disruptions. In the 1973 shortage that everybody has referred to, do you know what the shortage was? Seven percent. Add 5 percent to that, and we have almost doubled the problem.

Do you know what the shortage was in 1979? It was 4 percent. But, because of the State set-asides in regulations at the time and because of the priorities that were listed in the bill—the same priorities that are listed in this bill, the same set-asides that are listed in this bill—that 4 percent complicated and aggravated our entire economy. It was a real drain on our economy.

Mr. President, as Senators, as Congressmen, as Governors, as State legislators, surely we have something better to do than to go around making phone calls to the State DOE or to the Federal DOE to make sure that a friend, a constituent, a contributor has adequate fuel resources.

I think that is ridiculous, but that is exactly what happened.

I read where DOE received thousands and thousands of phone calls during this so-called shortage of 1979, a shortage which would not have happened—we would not have had the lines—had we not had the old EPAA with Government price controls and allocation controls.

With this bill, Mr. President, we are giving that same authority—price controls, Government allocations, the set-asides, the priorities, all of which are going to leave the consumers, all of which are going to leave Joe Blow, pipefitter, in the dark because he did not have his lobbyist come in and put him on a priority list, because he does not know his State senator, because he does not know the Governor. So he is not going to be able to make a phone call and receive 100 percent of his fuel request.

Mr. President, we are adding regulations. Probably every Senator has said, "Yes, we have too much regulation. We have too much Government interference in business."

I want to show Senators a little bit of what we have done with this as far as regulation. This bill will greatly increase the regulations on business and industry.

SPAA requires the President to develop standby regulations to be promulgated within 100 days of enactment of the statute.

Section 274 of the bill also permits the President to include any type of price control authority including emergency control authority in the standby regulation, but only if he makes a finding that such pricing authority is necessary to insure effective implementation of the allocation regulation.

The conference report expressly states that, "This phrase should not be read narrowly," and it notes that "the phrase should encompass achieving the intent of the act, the purpose of the regulation itself, or the objectives of any of the provisions of this bill."

Mr. President, regulations require regional hearings. They require a large bureaucracy. They preempt any State price or allocation programs unless the President exempts those from preemption. They give politicians and bureaucrats far too much leeway. The bill requires that the President has to submit reports on reducing the tax liability of persons drawing down oil reserves during supply emergency, providing incentives for reduction in the price of private sector oil reserves, the use of free market mechanisms, revenue recycling to respond to severe supply interruptions. It requires the President to collect information on pricing and supply disruption of petroleum products at the wholesale and retail levels.

Mr. President, it is going to greatly increase the bureaucracy, the regulations, the amount of Government interference in the marketplace. That interference has proven time and time again that it has not worked.

The real question, as Senator JOHNSTON said, is, "What are we going to do if we have a shortage?"

I have thought about that, and I think the people that have been here for the last 10 years, the previous people that had their names on the EPAA and its four extensions—I realize that if I was here then, I certainly would have hoped that my name was not on that allocation scheme because they were greatly responsible for some of the ill effects of the shortage. They greatly contributed to the shortages. I hope that we will be more responsible, and that we will support the President in his veto. I think it would be a vote for commonsense. I think it would be a vote to reaffirm that, "Yes, we believe that the marketplace can better allocate resources than the Federal Government."

So I urge my colleagues to sustain the President's veto.

Mr. BRADLEY. Mr. President, may I inquire of the Chair how much time remains under the control of the Senator from New Jersey?

The PRESIDING OFFICER. Fourteen minutes and thirty-two seconds.

Mr. BRADLEY. Mr. President, because of the President's action to veto S. 1503, we are finally beginning to take the business of emergency preparedness seriously. The possibility of an oil supply disruption is potentially the most immediate threat to our national and economic security. As I said last October during Senate consideration of S. 1503, price controls and allocation proposals are not a serious remedy to this threat. Ironically, S. 1503 reimposes the very authorities that created the problems of the past. The President's veto gives us the opportunity to deal with the threat of oil supply disruptions more seriously.

Mr. President, in my view, the President's veto sets up two alternatives for dealing with supply disruptions. S. 1503 would control oil prices and allocate crude oil and oil products among refiners and end-users. On the other hand, the President's approach is to do nothing now and rely on the Strategic Petroleum Reserve. The Congress apparently will not go along with the President's "do nothing" approach and the President will not go along with the Congress' price control approach. Are we at a deadlock? I argue no, because there is an alternative.

The alternative that I would offer would enable market forces to do what they do best and would enable the Federal Government to take into account special social and national considerations that market forces cannot and should not address. My alternative is, therefore, a compromise between the President's position and S. 1503.

The concept behind my plan is simple: Allow market forces to distribute oil supplies and provide financial resources to those people whom the market leaves behind. These financial resources would be made available to individuals through an emergency tax cut and increases in funding for existing income maintenance programs. In addition, each State Governor would receive an emergency block grant to deal with essential public services such as police, fire, health services, and other exceptional circumstances in each State. For example, the Governor of Massachusetts could provide immediate assistance to low-income residents through home-heating oil assistance; the Governor of Kansas could provide grants or loans to family farmers.

Mr. President, the funds for this financial assistance will be pouring into the Federal treasury. As oil prices rise, the existing tax on domestic oil production will yield large and unanticipated revenues. Rather than retire the Federal debt, these revenues should be immediately recycled back to the economy to help cushion the shock of the disruption.

This compromise approach has been discussed in the Energy Committee and has been the subject of hearings in the Finance Committee. I would be pleased to work to try to fashion some acceptable bill should the President's veto be sustained. For example, I would be happy to adopt the section of S. 1503 dealing with State preemption. This section has been carefully worked out by the conferees and could fit well into a compromise bill.

The main point, Mr. President, is that we must be prepared for supply disruptions. Price controls are not the answer, even if the President would accept them. But a policy of no action is unacceptable. I have suggested a third alternative, a compromise that addresses the needs of low-income people, of essential public services, of farmers, of ranchers. It avoids price controls. It uses an auction of a portion of the SPR to insure that refiners have access to crude oil. It provides the maximum incentives for all to prepare in advance for supply disruptions.

The President was right to veto S. 1503. But, at the same time, Congress is right to demand that a contingency plan be in place at the time of disruption. I will support the President's veto; and if it is sustained, I look forward to working with my colleagues for a real program to counter the economic disaster that will result from an oil supply disruption.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Wall Street Journal of March 16, 1982, pointing to the folly of the course Congress has embarked upon.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 16, 1982]

RETURN TO RATIONING?

The benefits of oil decontrol should be patently obvious to anyone who has stopped at a gasoline station recently. Supplies are plentiful, prices are on the decline and competition has returned, with some stations even offering again to wash your windshield and check the oil. This free-market bounty, however, seems less obvious to many members of Congress.

Two weeks ago Congress cleared legislation giving President Reagan authority to resume emergency powers over the allocation of petroleum supplies. It's a power Mr. Reagan has said he does not want; he's quite happy to let the market set prices for oil and arrive at its own distribution pattern in case of a shortage. The administration says that it already has sufficient authority to allocate oil from the Strategic Petroleum Reserve in case of a severe national emergency.

In approving the new Standby Petroleum Allocation Act, Congress has lost sight of the lessons most everyone else had learned from a miserable decade of oil controls. While oil price controls tended to discourage indigenous production and to prop up OPEC's supposed pricing power, allocation controls were primarily responsible for the gasoline lines, which occurred so often in the 1970s. Bureaucratic rigidity of the allocation system meant that it could not meet the changing demands of a dynamic market. Federal regulators forced oil companies to send gasoline to parts of the country that already had an overabundance of supplies while other areas went dry. Thus, motorists in many areas had to wait hours for gasoline, while others faced no inconvenience at all. Much of the public and the news media, of course, blamed OPEC and the oil companies for the gas lines when the real culprits were in Congress.

The impetus for the new standby allocation controls comes in part from a deep-seated distrust in the capability of the free market: For instance, Sen. J. Bennett Johnston, one of 87 Senate supporters of the bill, said the free market could not handle large-scale disruptions of oil imports. Others simply assume that in case of another emergency, Congress will necessarily have to act to regulate the market. Rep. Philip R. Sharp, who managed the bill in the House as chairman of an energy and commerce subcommittee, said it would be wiser to legislate now when "passions are low" than in a crisis.

In spite of Mr. Sharp's statement, passions are not so low now. The biggest supporters of the legislation outside Congress are precisely those petroleum purchasers who received special privileges under the old, lopsided system—farmers, some refiners, the governors and public service agencies, such as fire and police.

President Reagan's advisers are recommending that he veto the legislation, but there is a chance that Congress could manage to override it, given the Senate vote and the House's vote of 246-144 on March 3. After the energy foolishness of the 1970s, Congress can hardly afford the new folly an override would represent.

Oil controls don't work, "large-scale disruption" or not. No bureaucracy can match the allocative efficiency of the market. The lag between changes in the oil marketplace and bureaucrat decisions only succeeds in creating windfalls for some and shortfalls for others.

Mr. BRADLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Post of March 20, which argues that the President is right to veto this badly conceived piece of legislation.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 20, 1982]

ONE TO VETO

Congress has been struggling with a bill to take care of everybody in the next oil crisis. But the bill, as it finally passed earlier this month, takes care of hardly anyone except that familiar and well-lubricated special interest, the independent refining industry. President Reagan would be well advised to veto it and tell Congress to try again.

A large and loud element among the independent refiners lives and prospers as a sort of parasite on those large oil companies that have gone to the trouble and expense of developing their own crude oil supplies. In the last two oil shortages, Congress required the big companies to share their oil with those independents that had saved money by refusing to find sources or build reserve stocks of their own. That share-the-wealth requirement expired last fall, along with all the other allocation and price control rules. And that's what Congress now wants to reinstate.

In a truly dire emergency, allocation rules would undoubtedly be necessary. President Reagan has said that he prefers to leave the whole issue to the market, and allow a rising price to balance supply and demand. Up to a point, that's the right policy. Most people, remembering the spring of 1979, would far rather pay more than go through another epidemic of gasoline lines. But there is surely a point somewhere—around $2.50 a gallon, perhaps?—beyond which any president would have to intervene to assure basic supplies for home heating, public services and agriculture. There's a case for reasonable and balanced legislation to anticipate the next oil shortage—but not for the Independent Refiners Welfare Bill that Congress has sent to Mr. Reagan.

Mr. BRADLEY. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the New York Times of March 19, 1982.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 19, 1982]

WHO'LL GET GAS IN A PINCH?

What would happen if oil imports were cut off by war in the Persian Gulf? An uneasy Congress has passed a bill giving the White House emergency authority to set prices and allocate available fuel. But President Reagan, arguing that free markets can allocate more efficiently than regulators, opposes the legislation and threatens to veto it.

The President has a point. During both the Arab embargo and the Iranian revolution, the allocation controls then in place did more harm than good. But a veto is not enough. What's needed is an alternative, one that allows free markets to work in an emergency, yet prevents anyone from getting rich in the process.

Only people with very short memories believe that Government can allocate oil efficiently in emergencies. In both the 1973-74 and 1979 crises, harried bureaucrats did their best to get fuel to those who needed it most. But their best wasn't nearly good enough.

Total petroleum consumption fell by only a few percent. But motorists spent predawn hours waiting at the pump. Businesses survived hand-to-mouth. Many resorts went under.

Why, then, is Congress so intent on reimposing such a system on a reluctant President? There has been much talk about windfall profits and old folks freezing in their beds. But the bill is in large part the handiwork of special interests. Farmers, small refiners and independent gasoline retailers all lobbied for it in the belief that in an emergency, they would have the clout to obtain all the oil they wanted. That is what happened during previous emergencies and is probably reason enough to kill the legislation.

But the President's preference, simple reliance on the free market, is not a realistic alternative. Congress would easily override a veto. The real alternative is an emergency system that permits oil prices to rise to balance supply and demand while correcting Mr. Reagan's "let them eat cake" economics.

Just such an alternative has been proposed by Senators Bradley and Percy. They would let the market decide who got how much fuel—but most of the resulting price increase would be taxed away. Much of the revenues would then be returned to the public in the form of income tax rebates. The rest would be given to the states to meet the energy needs of the poor.

The Bradley-Percy approach does not address the detailed issues of how to manage the tax or the revenue recycling. But in truth, it is less a finished bill than an invitation to the White House to flesh out a plan, a welcome and sensible invitation. Unless Mr. Reagan soon accepts it, it will have no chance in Congress and we'll all be stuck with an emergency system guaranteed to turn discomfort into chaos.

Mr. BRADLEY. Mr. President, the last editorial does speak in some detail to the alternative I have outlined in various hearings and on the floor of the Senate last October.

I also ask unanimous consent to have printed in the RECORD a letter from Governor Clements of Texas and Lieutenant Governor Hobby of Texas, which urges the President to veto the Standby Petroleum Allocation Act of 1982.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CO-CHAIRMEN OF THE TEXAS ENERGY AND NATURAL RESOURCES ADVISORY COUNCIL,
March 12, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Texas Energy and Natural Resources Advisory Council, today acted to recommend and support a Presidential veto of the Standby Petroleum Allocation Act of 1982 (S. 1503). It is our consensus that the operation of the free market, unimpeded by federal controls, provides the best response to a potential petroleum shortage.

WILLIAM P. CLEMENTS, Jr.,
Governor of Texas.
WILLIAM P. HOBBY,
Lieutenant Governor of Texas.

Mr. BRADLEY. Mr. President, there can be little doubt that the program of price controls and allocations has not worked in the past. In fact, a recent Department of Energy study dated March 23, 1982, makes this point again and again and again. I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PRELIMINARY ANALYSIS OF FEDERAL ENERGY EMERGENCY PREPAREDNESS STRATEGIES: THE EPAA EXPERIENCE AND CURRENT PROGRAMS AT THE DEPARTMENT OF ENERGY

[NOTE.—While dated March 23, 1982, this paper was substantially prepared just prior to President Reagan's veto of the SPAA.]

I. INTRODUCTION AND EXECUTIVE SUMMARY

With the recent Congressional action on the Standby Petroleum Allocation Act of 1982 (S. 1503) (SPAA), and the resulting debate over whether President Reagan should sign or veto this bill, much interest has been focused on the question of how the United States should prepare itself to respond to any potential energy emergencies, particularly oil supply disruptions. The Department of Energy's Office of the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, which has the responsibility for developing the strategies and programs to address possible energy shortage situations, has carefully reviewed all of the arguments and proposals presented with respect to the SPAA. Based upon this review, the Department of Energy does not believe that the authorities provided by the SPAA are necessary to deal effectively with energy emergencies; indeed, as will be discussed in this memorandum, the SPAA would actually impair development of effective energy emergency preparedness programs, as well as create other administrative and regulatory problems.

Over the past decade, the United States has attempted to respond to energy emergencies with regulations, forms and bureaucracies. This approach, as most commentators now agree, did not work. By contrast, the Department of Energy is now developing a number of contingency planning programs and policies which are designed to facilitate market responses and adjustments to oil supply disruptions. We are seeking to anticipate potential problems long before they occur, and to work cooperatively with all segments of our economy to prepare for and to avoid such difficulties.

In summary, additional legislative authority, such as the SPAA, is not needed for the following reasons:

A. The Nation's past experience with the Emergency Petroleum Allocation Act of 1973 (EPAA) demonstrates that price and allocation controls are the wrong way to deal with energy emergencies.

B. The Federal Government already has adequate authority to deal with energy emergencies, and is developing a number of programs to avoid or respond to such situations should they occur.

C. New legislation, such as the SPAA, would require adoption of new regulatory programs, data collection and increased bureaucracy to satisfy its requirements.

D. New legislation, such as the SPAA, would be a disincentive to the private sector to take those self-help steps which are essential to achieve energy emergency preparedness.

II. PROGRAMS TO AVOID: LESSONS FROM THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

A. Summary of the EPAA and the EPAA regulatory program

Federal authority to set prices for and to allocate petroleum products during the 1970's began as part of the broad, discretionary price authority established by the Economic Stabilization Act of 1970. Starting in the summer of 1971, controls were placed on most wages and prices. This program went through several "phases." Various factors, including the market distortions created by the wage-price control program, led to spot oil product shortages starting in the summer, 1972.

The Emergency Petroleum Allocation Act was enacted in response to the October 1973 Arab oil embargo. Under the EPAA, the President was directed to adopt a "temporary" program of price and allocation controls over crude oil, residual fuel oil and refined petroleum products, in order to "minimize" the adverse effects of shortages of these products. The EPAA also required that price and allocation controls were to accomplish, to the maximum extent possible, nine general objectives (which were, to some extent, mutually exclusive), including: protection of public health, safety and welfare; maintenance of public services and agricultural operations; preservation of the competitive viability of small refiners and independent petroleum marketers, and the minimization of economic distortion and unnecessary interference with market mechanisms.

The President's oil price and allocation authority under the EPAA was originally due to expire on February 28, 1975. However, this authority was extended by Congress on four separate occasions. The EPAA was finally permitted to expire on September 30, 1981. Thus, the EPAA's "temporary" program of oil price and allocation controls to meet a "temporary" oil emergency remained in effect for nearly eight years.

The price and allocation regulations adopted under the EPAA pervasively controlled nearly all aspects of the petroleum industry and markets. The rules dictated the distribution and price of crude oil and petroleum products at each point in the oil distribution system, from producers down to local gasoline retailers, and even down to many individual oil product consumers. Under the EPAA program, the Department of Energy initially "froze" all supplier/purchaser relationships as of 1973. Suppliers generally could not alter their sales and purchase arrangements without DOE approval. At the refinery level, the EPAA inaugurated a "buy/sell" program, which required large refiners to transfer crude oil to small refiners, and an entitlements program, which each month required refiners who purchased lower-cost domestic crude oil to make payments to refiners who purchased higher-priced foreign crude oil. Price controls not only limited the ceiling prices charged at every level of oil distribution, but also dictated which costs could and could not be included in those prices.

The EPAA was a counterproductive means of minimizing the adverse effect of oil shortages which actually increased United States vulnerability to oil shortages. It mandated a cumbersome and unworkable system of price and allocation controls which stimulated domestic oil consumption while discouraging domestic oil production. From 1973 to 1979 (before crude oil controls began to be phased out) oil drilling and production in the United States steadily declined while oil imports increased. Consequently, the United States became increasingly more dependent on insecure supplies of foreign oil, jeopardizing national security, balance of payments and national well being. The EPAA was also a failure during periods of actual oil shortages. There seems to be no doubt that the price and allocation regulations mandated by the EPAA were a principal cause of the regional gasoline and other fuel shortages experienced during the 1979 Iranian revolution. One DOE report noted:

"The gasoline lines observed in June and July, 1979, are examples of shortages created by a combination of price controls and allocation programs. Shortages occurred in metropolitan areas but not in rural areas since the supply shortfall changed consumption habits and reduced out-of-town travel. Giving farmers and other specified users first priority exacerbated the problem in metropolitan areas. 'An Analysis of Federal Government Energy Emergency Programs, Energy Policy Study, Volume 5' (Energy Information Administration, U.S. Department of Energy, January 1980), p. 30, n. 34)."

Other reports coming to similar conclusions include the following:

1. "Report of the Department of Justice to the President Concerning the Gasoline Shortage of 1979," July 1, 1980.

2. "Staff Report of the Bureau of Economics to the FTC, Petroleum Product Price Regulations: Output, Efficiency, and Competitive Effects" (February 1981).

3. "Report to the API, The Mandatory Petroleum Price and Allocation Regulations: A History and Analysis" (May 1981).

4. "Data Resources, Inc., The Economic Effects of Alternative Federal Responses to a Major Oil Shortfall, A Report of the Technical Committee of the Petrochemical Energy Group" (June 1981).

5. "GAO, Gasoline Allocation: A Chaotic Program in Need of Overhaul" (April 23, 1980).

6. "DOE Report to the President on the Activities of Oil Companies Affecting Gasoline Supplies" (July 24, 1979).

7. "Senate Governmental Affairs Committee Report on DOE Gasoline Allocation Program," Senate Report No. 97- (1981).

8. "Cabot Consulting Group, Evaluation of the DOE's Gasoline Allocations Program, Final Report, Contract No. DE-AC01-79-PE-70037" (June 6, 1980).

9. "U.S. Department of Transportation, Federal, State and Local Responses to 1979 Fuel Shortages" (February 1981).

The EPAA regulations required oil jobbers to distribute oil on the basis of historic, frequently outdated base periods. This meant that areas with declining needs continued to receive their historic requirements of oil while long lines formed at gasoline stations in many urban areas.

The full costs of the EPAA, however, cannot be measured merely in reduced production of petroleum and time spent by motorists in gasoline lines. The "human" and financial cost of the EPAA due to requests for relief by small businesses, gasoline stations and others, whose petitions were ultimately denied or merely lost in the bureaucratic maze established pursuant to the EPAA, cannot be precisely fixed, and is one of the largest costs of this ill-fated program. Thousands of written and oral requests for interpretations, adjustments, assignments and other relief were filed with DOE during the period from 1973 to 1981. Despite diligent efforts by many FEO, FEA, ERA and other DOE employees, decisions were frequently delayed for months or years. Market-based efforts to adjust supplies of oil to meet changing market conditions were thwarted by these regulations. And efforts to obtain clarification of the regulations and their impacts were frequently in vain or received a contradictory response. Later, some of DOE's regulations were overturned by courts because they were ambiguous or because DOE personnel gave conflicting interpretations to the public.

B. The EPAA program was massive, complex and burdensome

The enactment of the EPAA in November 1973 was a virtual boon for the publishing industry. Very quickly, hundreds of pages of regulations in many loose-leaf volumes were promulgated to control prices and to allocate crude oil and refined petroleum products. In the eight years until the EPAA expired in September 1981, these regulations were amended through rulemaking literally hundreds of times. Almost 200 changes, or more than two amendments a month, were made to one regulation alone—Section 212.83—which regulated the prices refiners could charge for certain products. Refiners, suppliers and consumers were barraged by these constantly changing requirements, making planning and compliance a virtual impossibility.

During the Iranian revolution in 1979, DOE made no less than 27 changes to its motor gasoline and middle distillate allocation regulations, often on an ad hoc basis without benefit of regulatory analysis and prior public comment. In several cases, such as the crucial regulations concerning the base period for purposes of motor gasoline allocation, the regulatory amendments were made effective on issuance, with no advance notice and without the requirement for prior written comment. "GAO Report EMD-80-34" (April 23, 1980), page 15.

In addition to the rules which were issued, a host of regulatory interpretations of the regulations were generated by the rules' complexity. The Office of Petroleum Operations was responsible for administering the allocation regulations, from the Washington, D.C., headquarters and from the various regional offices. Each of the numerous regulatory changes caused a multitude of telephone inquiries, averaging as many as 1200 per week during May and June of 1979 in one regional office alone. Similar increases occurred in the numbers of petitions received by the Office of Hearings and Appeals under which parties experiencing special inequities or hardships could apply for relief. During the period from March through September 1979, the OHA received over 15,000 such petitions. Despite extraordinary efforts by many officials, this torrent of regulations and requests for relief produced inevitable delays in resolving the petitions. The General Accounting Office determined in a 1980 study that 90 percent of the OHA headquarters backlog, and 21 percent of the regional office backlog, was over 6 months old.

Needless to say, the costs of this bureaucratic maze to the taxpayer and to those who had to comply with the regulations were immense. The frequency of amendments, and the uncertainty of how they would apply during actual emergencies, made it extremely difficult for refiners, dealers and ordinary consumers to make meaningful plans. DOE's regulations actually penalized those who did attempt to engage in prudent planning. DOE's special use limitation on propane, for example, prohibited companies from acquiring or accepting propane from their suppliers if inventories were above certain levels, whether propane was in short supply or not. Companies were also prohibited from consuming more propane for industrial and other uses than was used during the base period, even from their own supplies. This prevented some companies from fully utilizing propane they had stockpiled for a shortage, and almost certainly discouraged others from building inventories for future shortages. Moreover, the regulations provided little incentive for emergency planning. Refiners, dealers and large wholesale consumers were hesitant to build emergency stockpiles which, under the regulations, could be redirected away from them by DOE during a shortage. On the other hand, "priority" users, many of whom consumed large amounts of petroleum products, had little incentive to make emergency plans or to conserve because they were entitled to their full requirements in a shortage.

C. The EPAA program exacerbated shortages, dislocations and dependence on imported oil supplies

The Arab Oil embargo of 1973 reduced available crude oil supplies in the United States by approximately 7 percent, and the 1978-1979 Iranian revolution caused a reduction of crude supplies by about 5 percent or less. Yet the dislocations caused by these disruptions were greatly increased by the workings of the EPAA. The allocation regulations, which distributed products at various levels, favored certain "priority" users by granting them, in many cases, all the petroleum products they requested, while limiting other users to a fraction of the amounts they had used during the prior "base period." The use of such a fixed base period effectively prevented available product from being matched with actual demand at the time of a real shortage. This factor, coupled with the removal from available supplies of volumes for "priority" users and for the state emergency reserves, or "set-asides," led to serious regional shortages. Gasoline was directed to tourist and rural areas, where consumption had declined, and away from urban and other areas of increasing need. The excess supplies in one region could not be shifted to urban areas without a lengthy and costly appeal to DOE for approval. Meanwhile, DOE itself was intervening in the market with numerous orders redirecting oil products throughout the nation.

Thus, the allocation program lead to particularly severe shortages of specific petroleum products. Directions from DOE not to draw down inventories of gasoline during the spring of 1979 (44 Fed. Reg. 11202, 11203, Feb. 28, 1979), and to build up distillate stocks (at the expense of gasoline), ("*U.S. Department of Energy, Response Plan: Reducing U.S. Impact on the World Oil Market*" (April 1979), page 6), virtually guaranteed motor gasoline shortages in the Spring and Summer, 1979. Attempts by DOE to adjust the regulations to alleviate these imbalances by continuously revising the base period further confused the situation, as suppliers constantly tried to adjust their customer entitlements to meet the requirements of new customers assigned to them by DOE.

A major cost of these regulatory programs was the time and energy wasted while motorists waited in long gasoline lines. It has been estimated that as much as 144,000 barrels of gasoline per day may have been wasted by cars waiting in line in 1979.

The EPAA-mandated price controls also exacerbated the impact of shortages by holding the cost of gasoline substantially below free market and world prices even during the actual shortage. Had prices been permitted to respond to demand, appropriate adjustments to consumption would have reduced demand to the level of available supplies. Throughout the period when the EPAA was in effect, artifically low prices for crude oil and refined products reduced the incentive for domestic petroleum production, as well as for conservation by consumers of petroleum products. The regulations discouraged investments in refinery improvements, since any costs saved from such capital expenditures had to be passed through to customers in the form of lower product prices. And the "entitlements" program, which required refiners who used lower-priced domestic crude oil to pay fees to refiners who used higher-priced foreign crude oil, encouraged refiners to buy foreign crude oil by, in effect, subsidizing such purchases. This directly increased the dependence of the United States on imports of foreign crude oil. In addition, the "buy-sell" program, by requiring large refiners to transfer crude oil to small refiners who often had limited gasoline production capability, also reduced available gasoline supplies.

Under the EPAA, the nation's dependence on imported oil increased from over 6.1 million barrels per day in 1974 to over 8.2 million barrels per day in 1978. By contrast, after President Reagan decontrolled petroleum in January, 1981, oil imports and consumption have decreased substantially, while domestic production has risen for the first time in almost a decade, and exploration for new domestic oil has increased to record levels.

As a result, OPEC's grip over the world oil market is steadily weakening, and the price of oil has declined markedly. Oil imports are down to 4.2 million barrels per day, almost 35% below 1981. Oil well completions hit a new record of 37,639 in 1981, a 39.3% increase over the 1980 total. Since the March, 1981 peak, the price of motor gasoline and home heating oil had declined recently, as has the spot market price of crude oil—to well under $30 a barrel.

The effects of President Reagan's decontrol of oil prices and allocation are already clear: a major reduction in the nation's dependence on foreign oil and increased domestic production. The vigorous operation of the free market unshackled from counterproductive government control in only one year has eased the energy situation in the United States to a degree which provides real hope for United States energy security for the first time in over eight years.

D. The EPAA imposed severe costs and hardships

Although one of the objectives which the price and allocation regulations was supposed to achieve, according to the EPAA, was the "minimization of economic distortion," the regulations had precisely the opposite effect. Because they distorted normal market mechanisms and forced individuals to seek DOE approval for virtually every transaction (or to face the scrutiny of a subsequent audit), the regulations imposed inequities, hardships and unnecessary costs on many individuals, businesses, and nonprofit organizations. In a statement before Congress, one economist estimated that the government's cost of administering the petroleum price, allocation and entitlements regulations alone was about $135 million annually over the life of the program. The direct cost of compliance on the private sector was estimated to be even more staggering—with annual estimates ranging from $650 million to $2.7 billion. As aptly noted by this economist, "This is an awfully high price to pay for a system that creates shortages for you."

A few specific examples of the hardships created by the EPAA regulations (some of which were described in testimony before Congress on the SPAA)[1] are listed below:

1. A school district requested DOE approval to be assigned a new supplier, because the supplier had persistently defrauded the school district by billing the school district for more fuel than it delivered. The school district's petition noted that the supplier had been convicted of theft. Under the allocation regulations, the school district, however, needed the DOE's permission to obtain a new supplier. What probably seemed to the school district to be an open and shut case became an intense struggle with DOE. Despite the supplier's fraud, DOE initially refused to permit the school district to end its contract with the supplier. It was not until July 1, 1975, nearly four months after the school district had sought DOE permission to terminate the contract, more than a year after the court had made the determination of fraud, and after the school district had undertaken a costly appeal of the DOE's decision, that the DOE finally granted the school district's request.[2]

2. All motor vehicle manufacturers conduct emissions and fuel economy tests, pursuant to Federal Environmental Protection Agency ("EPA") requirements. In order to standardize conditions under which certain of these tests are conducted, a "certification quality motor gasoline" is used, which is supplied by one oil company to all motor vehicle manufacturers for EPA testing purposes. This special gasoline is not sold at retail.

In 1974 the allocation regulations permitted auto manufacturers to purchase only the amount of certification gasoline which they brought in the 1972 base period, even though their needs had increased because of new EPA testing requirements. Beginning in February 1974, the supplier of the certification fuel and the automakers tried to obtain from the DOE permission to fill the motor vehicle manufacturers' requirements. Unless the automakers had sufficient certification fuel to complete satisfactorily all EPA tests by August 1, 1974, no 1975 model year vehicles could be shipped after August 1, 1974. This would have meant a shutdown of the entire automotive industry. However, on July 9, 1974, the DOE denied the request of the automakers for additional certification gasoline. Finally, on July 26, 1974, only five days away from shutdown, the DOE reversed its prior decision and permitted the automakers to obtain their needs of the certification fuel.

As a result of changes made by DOE to the base period, in 1979, the automakers again were faced with the same problem. And once again, it took a tremendous amount of time, effort and money to obtain permission from DOE for automakers to buy their required amounts of certification gasoline.

3. A North Carolina textile manufacturer received a letter in early 1979 from DOE requesting its cooperation in reducing industrial use of fuel oil. Wanting to do its part to help the national effort while complying fully with Federal price and allocation controls, the Company on March 27, 1979, submitted an application to ERA for permission to use propane, which was at that time in abundant supply, to displace fuel oil. At the time the application was filed, propane was selling at approximately 19 cents per gallon.

Despite repeated efforts to obtain a decision, ERA took no action upon the request. Finally, on October 11, 1979, over six and one-half months later, ERA rejected the application on the grounds that "another energy source, which is in good supply, can be used." That other source was fuel oil, which only seven months earlier DOE had been urging industrial companies to conserve. To add to the irony, one day after ERA's letter was written, on October 12, 1979, DOE issued new regulations removing most restrictions on use of propane, to be effective the following January 1, 1980. By this time the price of propane had increased to over 60 cents per gallon, making use of propane much less attractive than it had been several months earlier.

4. While propane was under allocation in the mid-1970's, an industrial corporation attempted to purchase its needs for the winters of 1976-77 and 1977-78, which consisted of over 3.0 million gallons for each season. At that time, allocations for propane were determined by a firm's purchases during the April 1972-March 1973 base period. During the base period the corporation had purchased less than 1.5 million gallons, since the remainder of its needs were filled by previously stored inventory. Each summer pleas were made to DOE for relief from the 1.5 million gallon base-period restriction. Permission, however, was not granted by DOE until December of each year—too late to be of use for that winter. To meet its needs, the corporation was forced to purchase over 6.0 million gallons of foreign propane, at a much greater cost and with an adverse impact on the U.S. balance of payments during a period when ample supplies of cheaper domestic propane were available.

5. The regulations were so complex and pervasive that they could not be adequately enforced, and abuses were common. For example, DOE issued Special Rule No. 9 in May 1979 which allowed some farmers and other priority users to obtain 100 percent of their current requirements for diesel fuel and heating oil. According to press reports at the time, some of these individuals reportedly sold the excess diesel fuel and heating to oil dealers on the "black market." Moreover, the supplies diverted to these users inevitably increased the severity of the shortage to others, nearly causing the shutdown in the late spring and summer of 1979 of the Great Lakes shipping fleet, which relied on diesel oil. This would have interrupted shipments of critical raw materials for domestic industry. Truckers who were also dependent on these fuel supplies staged demonstrations protesting this shortage. In another case, a construction firm owner was able to obtain, from the state's "emergency" set-aside reserve, gasoline to fuel his construction vehicles and his three luxury cars. (These incidents were reported in the press: New York Times, p. B-2 (March 2, 1979), Washington Post, p. A-1 (July 26, 1979)).

6. A mining complex in a rural area had expanded its operations in 1979 and needed to increase its allocation of gasoline for the additional vehicles which it was operating. The company purchased gasoline at wholesale. Under the regulations, the only way the company could get the extra gasoline it needed was to buy it from retail outlets. Only three small rural retail outlets were located within 5 miles of the complex. Had the company tried to buy gasoline from these outlets, it would have exhausted the stations' supplies (which were tied to base period levels), leaving nothing for local residents. The company finally obtained permission from DOE to buy additional gasoline at wholesale, but only after a costly appeal process which took nearly a year. The order took so long to be issued that less than two months remained before the end of the one-year period for which relief had been requested.

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[1] Testimony of Roy N. Leidner on behalf of the Industrial Oil Consumers Group before the House Energy and Commerce Committee, Subcommittee on Fossil and Synthetic Fuels, July 28, 1981.

[2] *Eagle Point School District No. 9*, 2 FEA Para 83,118 (April 17, 1975). *Appeal granted* 2 FEA Para 80,622 (July 1, 1975).

III. THE SPAA CONTAINS MANY SIMILARITIES TO THE EPAA AND WOULD LIKELY LEAD TO MANY OF THE SAME PROBLEMS

A. The SPAA authority is contrary to the administration's market-based energy policies

President Reagan, on a number of occasions, has taken the opportunity to state his unequivocal opposition to petroleum price and allocation controls (as well as his general opposition to burdensome Federal regulatory programs). For example, President Reagan's January 1980 Energy Policy Campaign Paper stated:

"I favor elimination . . . of Federal energy allocation rules. I favor immediate elimination of all Federal price controls on oil. . . ."

Most recently President Reagan spoke positively of the removal of price and allocation controls on oil in the State of the Union message when he said that:

"By deregulating oil we have come closer to achieving energy independence and helped bring down the cost of gasoline and heating fuel."

And the President's position is perhaps best summarized in the recent report entitled "Promises—A Progress Report on President Reagan's First Year" (January 1982), at page 22:

"Progress.—The Administration is opposed to energy allocation rules and opposed extension of the Emergency Petroleum Allocation Act. Market prices rather than government management will provide proper allocation in time of emergency. In addition, the Administration will continue to support the accelerated filling of a well-managed Strategic Petroleum Reserve and will encourage industry to accumulate petroleum reserves for their use. This known, predictable, constant policy allows energy consumers to make appropriate plans of their own and not be lulled into false security by a big federal program that won't work as well as the market-place when/if a shortage occurs."

Legislation such as the SPAA would send precisely the wrong signal to the private sector about the Federal Government's energy policies and would serve as a powerful disincentive to encouraging free market preparation for and response to energy emergency situations. An independent refiner, faced with the choice of negotiating an expensive long-term contract for crude oil now, or relying on spot market purchases and counting on a Federal Government bailout, would be encouraged by the SPAA to take a chance on government regulation in the future. And an industrial plant engineer, wanting to put in alternate fuel facilities, or energy conservation equipment, or additional storage capacity, will find that his chances for getting scarce investment dollars from his management would be seriously harmed by the enactment of the SPAA. Once a company makes the decision to rely on the Federal Government in an emergency, the company becomes transformed into an advocate for use of such government authorities—another voice opposing the free market.

B. There are many similarities between the SPAA and the old EPAA

There are many problems with the SPAA. Through its requirement for regulations establishing a crude oil sharing program, intricate priorities among users, and Federal approval of State energy programs, this legislation would require the reestablishment of the vast myriad of Federal regulations over oil and an elaborate Federal bureaucracy with significantly larger manpower requirements than currently budgeted and authorized. This flies directly in the face of President Reagan's achievements, announced in the State of the Union Message, regarding the substantial reduction in Federal regulations:

"Together, we have cut the growth of new Federal regulations nearly in half. In 1981 there were 23,000 fewer pages in the Federal Register, which lists new regulations, than there were in 1980."

Some of the SPAA provisions which are particularly similar to those in the old EPAA, are the following:

SPAA Section 271 (Findings).—This section contains the Congressional findings that national security and the economic well-being of the country require the President to have authority to allocate "petroleum products" during a severe petroleum supply shortage. This is very similar to EPAA Section 2(a).

SPAA Section 272 (Purposes).—This section states that its purposes are to give the President "limited" and "temporary" discretionary authority to allocate oil during a petroleum shortage and to minimize the adverse domestic effects of such a shortage. This is very similar to EPAA Section 2(b).

SPAA Section 274 (Promulgation of Standby Regulations.—The SPAA requires the President to develop standby regulations, to be promulgated within 180 days of enactment of the statute. This section permits the President to include any type of price control authority (including "margin" control authority) in the standby regulation; but only if he makes a finding that such pricing authority is "necessary to ensure effective implementation" of the allocation regulation. The Conference Report expressly states that "this phrase should not be read narrowly," and notes that the phrase could encompass "achieving the purposes of the Act, the purposes of the regulation itself, or the objectives of any of the provisions" of this bill. The President clearly has broad discretion to impose price controls. In addition, the Conference Report makes clear that the SPAA is intended to give the President "maximum flexibility" with regard to oil allocation. The Report expressly states that the SPAA confers on the President authority to "choose to limit allocations to a single category of petroleum product, to certain classes of end-users, or to allocation of crude oil among refiners." Section 274 of the SPAA is very similar to Section 4 of the EPAA.

SPAA Section 276 (Priorities).—This section incorporates essentially verbatim the priorities of EPAA Section 4(b)(1). The section requires that the standby regulation provide "to the maximum extent practicable" for nine stated objectives, which are inherently contradictory.

SPAA Section 277.—This section requires the President to include an "optional" crude oil-sharing program in the standby regulation. The purpose of this program—otherwise known as a crude oil "buy/sell" program—is more equitably to distribute crude oil among domestic refiners at equitable prices by enabling refineries whose supplies of crude oil have been disproportionately reduced to purchase oil at an established price from other refineries more favorably situated. A crude oil buy/sell program was implemented while the EPAA was in effect, pursuant to EPAA Section 4.

SPAA Section 281.—This section provides, as a defense to breach of contract actions, that failure to share or exchange oil was caused solely by compliance with the Federal allocation program. This is similar to EPAA Section 6(c).

SPAA Section 284.—This section requires the President to collect information on the wholesale and retail pricing, supply and distribution of oil on a state-by-state basis, and it specifically refers to the fact that this data was collected for purposes of implementing the EPAA.

IV. THERE ARE A NUMBER OF CONTINGENCY PLANNING PROGRAMS AND POLICIES WHICH ARE IN PLACE OR UNDER DEVELOPMENT AT DOE WHICH WILL ADEQUATELY AND APPROPRIATELY RESPOND TO ENERGY EMERGENCY SITUATIONS

Beyond question, there is a role for the Federal Government in the area of energy emergency preparedness. But, it is important to carefully define the proper boundaries of Federal activity so that any actions taken at the Federal level are not intrusive and counter-productive, as past programs under EPAA clearly were.

The goal of the Energy Emergency Preparedness Program at DOE is to reduce the Nation's vulnerability to energy supply disruptions, and to mitigate any impacts on the nation should a shortage situation occur. The strategy to achieve these goals is to rely primarily on the market-place to respond to disruptions in energy supplies. Accordingly DOE is examining ways to reduce barriers to short-term adjustments in the market-place. We have abandoned the policy of extensive Federal intervention which has proven to be ineffective in previous supply disruptions, such as oil allocation, price controls, and mandatory demand restraint measures, because, as noted earlier, they created or exacerbated the adverse economic and social impacts.

True preparedness to respond to energy emergencies does not rest in having written "plans" on the shelf. Such documents are rarely if ever useful in a real emergency, because the situations they are designed to cover cannot anticipate all of the possible eventualities. True energy emergency preparedness lies in developing processes for anticipating and responding to a multitude of potential crisis situations. Preparedness is a constantly evolving, constantly changing set of strategies, which are continually adapted to new foreign and domestic circumstances. In short, preparedness is being able to solve real world problems, not just being able to write about how to solve hypothetical ones. That is the difference between being prepared, and just developing plans. And this explains what DOE is now doing.

The Federal Government has a wide range of authority at present to deal with energy emergencies. Sections 202 and 251 of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) authorize the United States to meet its obligations under the International Energy Program, including to restrict the public and private use of energy. The Emergency Energy Conservation Act of 1979 (P.L. 96-102) authorizes restrictions on the end-use of energy. The Defense Production Act of 1950 (P.L. 81-774, 50 U.S.C. App. 2061, et seq.) provides authority to allocate oil supplies for national defense purposes should it become necessary during a major disruption. Executive Order 11490, as amended, assigns emergency preparedness functions to Federal agencies dealing with petroleum, natural gas, solid fuels, and electric power. Section 404 of the Powerplant and Industrial Fuel Use Act of 1978 (P.L.

95-620) and the waiver authority under section 110(f) of the Clean Air Act Amendments of 1977 (P.L. 95-95, 42 U.S.C. 7410) encourage fuel switching and increased efficiency in fuel use.

Section 202 of the Federal Power Act (16 U.S.C. 792 et seq.), provides an additional legislative mandate to deal with electricity-related emergencies, such as issuing orders for emergency interconnections and reviewing electricity emergency plans. Section 232(b) of the Trade Expansion Act of 1962 (P.L. 87-794) provides authority to impose fees and quotas on oil imports based upon findings that oil imports threaten national security. Sections 301 to 304 of the Natural Gas Policy Act of 1978 (P.L. 95-621) provide emergency authority related to natural gas supplies during a severe shortage. Section 607 of the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617) provides authority to prohibit the burning of natural gas by any electric powerplant or major fuel-burning installation. Authority also exists under the International Emergency Economic Power Act of 1978 (P.L. 95-223) to declare a national emergency to deal with any unusual and extraordinary threat to the national security, foreign policy, or economy of the United States.

Section 161 of the Energy Policy and Conservation Act of 1975 (P.L. 94-163) provides for drawdown and distribution of the SPR oil during a severe supply interruption, and a plan for such distribution was allowed by Congress to become effective in 1979. And, during a severe interruption, if there is a need to have NPR surge production the President can ask the Congress for such authority by amending the NPR Act of 1976 (Public Law 94-258). DOE can also request State increases in production limits for oil and gas fields.

The following are some of the energy emergency preparedness programs now underway at DOE:

Adequate Levels of Oil Stocks.—Since the basic problem of a major energy supply disruption is the economy's difficulty in adjusting rapidly, one useful solution is to develop adequate crude oil stocks that can be drawn down in an emergency. Both private and Government-owned stocks are effective in dealing with oil supply disruptions, associated economic losses and national security threats. The Strategic Petroleum Reserve is an important part of this program. This Reserve is about one-third filled, with over 244 million barrels of crude oil—more than double the amount of the Reserve over a year ago. The SPR, when filled to 750 million barrels by 1990, may help deter politically inspired disruptions of U.S. imports as well as be used during a major oil emergency.

In addition to our commitment to the SPR, we want to encourage the buildup of private stocks by suppliers and large consumers before an emergency, and we are working to remove disincentives for private stockbuilding. For example, we are working with the electric utility industry to see if higher levels of oil supplies should be permitted by state utility commissions. As noted earlier, the very passage of the SPAA would constitute a major disincentive for private stockpiling. In addition, we are studying the relationship of public stocks to private stocks, in order more fully to understand how and when to encourage private sector stock building activity.

Developing Essential Information.—To meet statutory requirements or to fulfill our public responsibilities, in emergencies it is essential for the Department to analyze certain information and disseminate it to the public. For this reason we are developing a public information plan which will lead to greater public understanding of the need for energy emergency preparedness before a crisis occurs, and which will provide effective communications during a crisis. A task force has been set up at DOE to address this issue, and a review is underway to determine what emergency public information needs would be, based upon past experience, and projections for future problems.

We now have, and are improving a daily Energy Situation Report—an "early warning" system to provide accurate and timely assessments of domestic and international energy markets and conditions. In addition, we are developing a rapid information retrieval and analytical capability utilizing EIA data and expertise. We are undertaking such work with the help of the Energy Information Administration and other relevant DOE offices. Armed with such timely intelligence, the Federal Government, for the first time, will be in a position to help avoid potential shortages, rather than just react to them. This a major step forward in our preparedness activities, and allows us to anticipate potential problems rather than just reacting to them.

SPR and NPR Planning.—DOE has in draft form an SPR Distribution Management Plan which identifies logistical, legal, and managerial requirements to distribute and use crude oil from the SPR. This draft is now being revised. We are also evaluating and developing alternate drawdown approaches for SPR use in potential crises. A drawdown plan is in place now, having been submitted to Congress in 1979. (10 C.F.R. Part 220.) This plan permits needed flexibility in distribution of SPR volumes. And we are studying ways the NPR can be used during various possible emergency situations. A procedure for surge NPR production has already been devised.

International Programs.—DOE is developing contingency plans for a National Emergency Sharing Organization and a mechanism to backstop voluntary offers by United States oil companies should the IEA emergency system be triggered. A standby regulatory procedure was issued by DOE in 1979, and we are evaluating whether it still meets today's needs. (10 C.F.R. Parts 209, 218.) We are also developing plans for United States participation in the IEA's Allocation System Test-4 in the spring of 1983. This test and the preparations for it will permit further planning for DOE's international obligations.

Supporting Defense Preparedness.—Several plans to support defense preparedness are under development, including National Oil Board plans to support the U.S. commitment to the NATO Civil Emergency Planning Organization and the NATO Wartime Oil Organization. We are also developing plans to implement the Defense Production Act requirements to ensure energy supplies for national defense needs. We have established interim DPA procedures with the Department of Defense, based upon a draft Memorandum of Understanding, and are now working with DOT, DOC, and Treasury to finalize these procedures. Other programs are reviewing DOE's interagency coordination for various emergency purposes, including responding to requests for Jones Act waivers.

Coordinating With Other Agencies, States and Localities, and the Private Sector.—Government cannot and should not attempt to accomplish the emergency preparedness task alone. To obtain needed industry expertise in planning for and during energy emergencies, we are revitalizing the long dormant Executive Manpower Reserves—the Emergency Electric Power Reserve, the Emergency Petroleum and Gas Reserve and the Emergency Solid Fuels Reserve. The first EEPA meeting in over 2 years was held on February 10, 1982, and we have draft handbooks now prepared. The Reserves will provide a role for both energy producers and consumers as well as for State and local governments, financial institutions, and other businesses, on a volunteer basis, without establishing a permanent government bureaucracy. We are also studying the possibility of establishing one or more energy emergency preparedness advisory committees, to help coordinate voluntary public preparations for and responses to energy emergencies. A draft charter and workplan have been prepared.

In addition to these programs, we have responsibility to coordinate our activities with State and local governments as well as with other Federal agencies. To facilitate communication, we maintain the DIALCOM electronic mail system with most States, the Regional Electric Reliability Councils, energy associations and their regional and state affiliates. DOE is also examining ways to improve communications with State and local governments. We have met with several state and local government associations and are setting up a schedule of regular meetings to coordinate State and Federal emergency energy programs.

Vulnerability Studies.—Because energy is critical to national security and defense needs, our planning also assesses vulnerability to terrorism, sabotage, and accidents of the Strategic Petroleum Reserve, the Naval Petroleum Reserves, the electric utility network, natural gas and petroleum pipelines, and other parts of the energy system. We have a number of specific projects underway in this area, which should be completed in calendar year 1982.

Planning for Responding to Domestic Energy Emergency Situations.—In addition to the measures and authorities discussed above, DOE (along with other agencies) is studying the economic effects of potential energy supply disruptions, and possible mitigation measures.

We are also identifying and developing plans for removing regulatory, environmental, technical and economic barriers to efficient emergency energy use. We are also examining State regulatory restrictions that could be temporarily lifted to increase oil surge production. Draft strategies were completed last summer, and are now being reviewed to determine how they fit into the DOE's current energy emergency preparedness programs.

We have established an Alert Coordination System for electricity and other fuels, which provides a mechanism for a watch officer to be assigned on a 24-hour basis, and rotated weekly. This person is immediately contacted in the event of an energy problem or emergency, and has an established procedure for contracting the appropriate person(s) in DOE, whatever the hour, to help resolve the problem. This system has already been utilized successfully most recently to help obtain supplies of aviation gasoline for an aerial search late one evening. And we were able to obtain this result by working cooperatively with potential suppliers, without the need for mandatory regulatory programs.

How will America be prepared to respond appropriately to a possible energy emergency? The answer is "Very Well." DOE now has in place, and is constantly improving, emergency information systems which will provide advance knowledge of possible energy emergency situations, so potential responses can be prepared in advance to head off the problem before it occurs.

Can solutions to energy emergency problems be accomplished without resort to mandatory regulatory programs? The answer is "Yes." There is little that you can do with a mandatory program that you cannot do with a voluntary, cooperative program. But without voluntary cooperation, all of the mandatory programs in the world will be a failure. When it appears that a possible energy emergency is on the horizon, the Department of Energy fully intends to work with the private sector, serving as a catalyst to bring appropriate parties together, cooperatively to work out the problem and to find real-world, practical solutions. The proper role of the Federal Government will be to provide needed information, and to facilitate the operation of the marketplace, with needed regulatory and other waivers or authorities. The various executive reserve programs which are being revitalized, and the other interactive programs with state and local governments will provide a ready mechanism for achieving these results.

What if the emergency becomes so severe that the national security and welfare is endangered, can the Federal government still respond effectively to deal with such a crisis? Again, the answer is "Yes." As was listed earlier, there are a host of authorities available to the Federal Government to deal with bona fide crises which seriously affect national security or which significantly endangers health or property. But these types of occurrences are, thankfully, the exception. And even in such circumstances, as in most if not all other situations, there may well be no need for Federal government involvement in an interventionist and mandatory manner. Over 220 million Americans know how to make America work—the role of the Federal Government is to help them do it when such help is truly needed, and to get out of the way when it is not.

Mr. BRADLEY. Mr. President, I should like to read one or two paragraphs from this report. The report states:

> During the Iranian revolution in 1979, DOE made no less than 27 changes to its motor gasoline and middle distillate allocation regulations, often on an *ad hoc* basis without benefit of regulatory analysis and prior public comment. In several cases, such as the crucial regulations concerning the base period for purposes of motor gasoline allocation, the regulatory amendments were made effective on issuance, with no advance notice and without the requirement for prior written comment.
>
> In addition to the rules which were issued, a host of regulatory interpretations of the regulations were generated by the rules' complexity. The Office of Petroleum Operations was responsible for administering the allocation regulations, from the Washington, D.C., headquarters and from the various regional offices. Each of the numerous regulatory changes caused a multitude of telephone inquiries, averaging as many as 1200 per week during May and June of 1979 in one regional office alone. Similar increases occurred in the numbers of petitions received by the Office of Hearings and Appeals under which parties experiencing special inequities or hardships could apply for relief. During the period from March through September 1979, the OHA received over 15,000 such petitions. Despite extraordinary efforts by many officials, this torrent of regulations and requests for relief produced inevitable delays in resolving the petitions. The General Accounting Office determined in a 1980 study that 90 percent of the OHA headquarters backlog, and 21 percent of the regional office backlog, was over 6 months old.

Mr. President, these examples simply point anew to the fact that the Federal Government cannot allocate oil effectively in a disruption. It causes disruption of the marketplace. It does not allow supply to move as freely as it would or as efficiently as it would if there were not Government intervention, and it does virtually nothing without protecting the poor, about whom we hear so much when we talk of price controls. A plan to protect the poor would be a plan to get the money for the poor to pay for the higher oil prices, while not impeding the efficiency of the market by forcing Government regulation and allocation.

Mr. President, how much time remains under my control?

The PRESIDING OFFICER. Four minutes and 5 seconds.

Mr. BRADLEY. I reserve the remainder of my time.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, if the Senator will yield, I see the distinguished minority leader is on the floor, as is the Senator from Idaho and others primarily interested in this measure. I believe the request I am about to make has been cleared all around.

I ask unanimous consent that a vote occur on the measure at not later than 5 p.m. today.

Mr. ROBERT C. BYRD. Mr. President, there is no objection. I would like to get one question answered: Would Mr. METZENBAUM be assured of 10 minutes?

Mr. BAKER. Yes. With that assurance?

Mr. ROBERT C. BYRD. Yes, Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has the distinguished majority leader stated that the time would be equally divided?

Mr. BAKER. Yes, Mr. President, I ask unanimous consent that the time between now and 5 p.m. be equally divided between the Senator from Idaho (Mr. McCLURE) and the Senator from New Jersey (Mr. BRADLEY).

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. McCLURE. Reserving the right to object, Mr. President, I shall not object. This will mean there will be a vote up or down occurring at 5 p.m. and there will be no other intervening votes?

Mr. BAKER. That is correct, Mr. President, it will be up or down and at 5 p.m.

Mr. McCLURE. I thank the Senator. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. GARN. I ask unanimous consent that the time be equally divided.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

How much time remains to the Senator from New Jersey?

The PRESIDING OFFICER. Four minutes and 5 seconds.

Mr. McCLURE. I suggest the absence of a quorum, with the time to be charged against my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I yield 10 minutes to the Senator from Ohio (Mr. METZENBAUM).

Mr. METZENBAUM. Mr. President, this administration's energy policy can be summed up in one sentence: "Let us leave it up to the oil companies."

Last year, hundreds of millions of dollars were cut from the budgets of the Solar Energy Research Institute, the solar energy and energy conservation bank and the Department of Energy's research and development programs. The administration said there was no need for the Federal Government to develop solar energy. They told us in effect, that if solar energy is worth doing, the oil companies will do it.

When hundreds of millions of dollars were eliminated from Federal conservation programs, we were told there was no longer a need for the Federal Government to help industries, small businesses, farmers, and residential users to consume less energy and to use our resources more efficiently. High prices, the administration said, would insure that our Nation will use less energy.

The same rationale was given for the coal gasification facilities that were zeroed out, for the Federal loan guarantees for gasohol plants that will not be built, and for the serious cutbacks in fossil fuel research and development. "No need to worry," Secretary Edwards assured us. "The oil companies will provide."

Now, the President has decided to veto the Standby Petroleum Allocation Act, and in so doing, the administration is saying, once again: "Let us leave it up to the oil companies."

If there is another supply cutoff from the Middle East, the oil companies will decide who will get the scarce supplies of crude oil, gasoline, and heating oil. And the oil companies, not the Federal Government, will decide what the price will be for the fuels that make this country run.

The President claims that this bill would place him in a straitjacket. Nothing could be further from the truth.

The bill gives the President broad discretion to decide if and when price and allocation controls should be imposed. It gives to the President the option to go to a crude sharing program for refiners before implementing a full-blown price and allocation plan.

I do not call that a straitjacket. It is a very, very modest proposal that many of us in Congress do not think goes nearly far enough. But it is a fact, Mr. President, that this country is still vulnerable to another supply disruption. We know from past experience that in the event of another oil emergency, we had better have standby authority to deal with the problem.

It is not beyond imagination, Mr. President, that a revolution could occur in Saudi Arabia.

It is not inconceivable that we may in the future see, on a larger scale, a replay of the bombing of oil facilities that took place in the opening phase of the war between Iran and Iraq.

And there is no guarantee that terrorists' action might not at some point cut off the flow of oil from the Persian Gulf.

What would be the impact of our having to face a crisis of this kind without the legal authority to impose price and allocation controls?

For the farmers of this Nation and for the millions of people living in rural areas, it would mean devastating increases in energy prices.

The cost of delivering refined products to sparsely populated areas has always been higher than in urban areas.

Because of the higher costs and lower profits, oil companies have already begun to pull out of several rural markets in the Midwest and Great Plains.

Small refiners that supply farmers with diesel fuel and gasoline to run their farm equipment and irrigation wells are already going bankrupt because they can no longer obtain reliable crude supplies. Just look at Energy Cooperative, Inc., a farmer-owned refinery in Indiana, which went bankrupt after price and allocation controls were removed in January 1981. That was not an inefficient, teakettle refinery. The farmers had spent $140 million upgrading the 150,000 barrel-a-day operation. That refinery could do whatever Exxon's refineries could do. But E.C.I. simply could not get crude oil at the price Exxon could.

In the event of a supply disruption, farmers will now be totally dependent on the major oil companies to serve them. If the majors are already pulling out of rural markets because they can make more money in urban areas, what guarantee is there that farmers will be able to get reasonably priced gasoline and diesel fuel in an emergency? The answer, of course, is none.

I was concerned about the farmers' problems. I wanted to make sure that they would be able to have enough fuel to plant and harvest their crops and get them to market. It was for that reason that Senator Ford and I offered an amendment, which was adopted in committee and included in this bill, to restore the allocation priorities contained in the Emergency Petroleum Allocation Act of 1973. One of those priorities would assure that our Nation's farmers would be able to get reliable fuel supplies in an emergency.

Having no standby price and allocation authority also means that in an emergency, the major oil companies will be able once again to declare open season on the independent gasoline marketers and nonbranded service stations. During the 1973 Arab embargo, thousands of independent marketers went out of business because the majors and the independent refiners refused to sell them gasoline. The major oil companies already have excessive market power in the retail gasoline business. And if the independent marketers are unable during a supply shortfall to obtain gasoline we can be sure that competition at the pump will decline even further.

Mr. President, supply emergencies mean pain and suffering for millions of small businesses. Some of that pain and suffering is unavoidable. But I do not believe that major oil companies and large refiners should be able to use a supply emergency as the excuse for driving thousands of independent marketers and nonbranded dealers out of business and taking over their market share.

When the bill was amended to establish a crude sharing program for independent refiners, I proposed an amendment that required that any refiner that obtained needed crude supplies to stay in business had to sell the refined products from this crude to its existing customers on a nondiscriminatory basis. Independent refiners like Crown, Clark, Ashland, and Hess tend to be the primary suppliers of independent marketers and nonbranded dealers. But these independent refiners also own hundreds of their own retail stations. Without my amendment, which is a part of this bill, the refiners will be able to keep all of their own new supplies for their own outlets. That is wrong, Mr. President. But that is what the President's policy of "let's leave it up to the oil companies" is all about.

Mr. President, the shortsighted and imprudent decision to veto this bill is contrary to this Nation's best interests.

By taking this step, the administration is lulling the American people to sleep.

And by telling us that the energy crisis is over, and that we are no longer vulnerable to a supply disruption from OPEC, the administration is creating a sense of false security.

Mr. President, I think the issue with respect to this bill is a very simple one. The question is whether the American people will put their confidence in the oil companies of this country to be fair to all of the people of this country or will they put their confidence in the President.

Congress has said in loud and clear tones that we are prepared to put our confidence in the President, not in the oil companies of this country, and by our vote today we will be indicating whether or not we support the right of the President to make that decision, not support him with respect to the veto, but support him with respect to putting our confidence in his judgment should there be a shortfall of supply, or whether we are willing to put our confidence in the oil companies of this country.

I do hope that this Senate sees fit to override the President's veto.

I thank you, Mr. President.

The **PRESIDING OFFICER**. Who yields time?

Mr. **BRADLEY**. Mr. President, let me make one final argument.

This Nation should not be without a policy in the event of yet another oil supply disruption. Price controls and Government allocations in the face of a disruption is a failed policy. Time after time after time we have learned this.

Letting the market alone do the job without addressing the questions of equity is not an acceptable policy.

There is a third alternative. That is allowing the market to allocate oil, allowing the market efficiency to assure supply in regions of need, and addressing the equity question directly by allowing for recycling of increased windfall profit tax dollars back to needy consumers in the form of tax cuts or direct income maintenance payments.

Mr. President, we will never get to that third alternative without sustaining the President's veto.

Mr. President, I urge my colleagues to sustain the President's veto and give Congress one more chance to indeed develop a sound emergency preparedness energy policy.

I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLURE. Mr. President, how much time does the Senator from New Jersey have remaining?

The PRESIDING OFFICER. One minute and fifty-four seconds.

Mr. McCLURE. Mr. President, I shall be very brief. I think we are ready to vote. I do not suppose we are going to change anyone's mind at this time.

Mr. President, let me conclude only by saying that the alternative, which the Senator from New Jersey has suggested and the Senator from Illinois earlier held forth as an alternative and urged be adopted was voted on by the Senate on October 29, 1981. The vote was 8 yeas, 88 nays.

It is not an alternative.

Mr. President, it is not a question of whether we are going to vote for a failed plan. The question is whether or not we are going to have 50 separate allocation and price control plans in 50 separate States, or whether we will have some kind of a uniform national policy.

It is not a question of whether or not the marketplace has demonstrated its ability or inability to allocate.

The distinguished Senator from Minnesota earlier today pointed out most people looking back look at 1973 and 1979, but particularly 1979, saying, "Obviously Government controls do not work."

And what was it that was causing the trouble in 1979? We had tractors that would not move in the field, trucks idle at interstate truck stops, fishing boats that could not get out of the harbor. Why? Because of a shortage of diesel fuel and diesel fuel was not under price and allocation controls.

The free market in 1979 failed, and for us to stand and idly say that the free market if given the opportunity will work—it has been tried and it failed, and that is what the issue is.

If we are to have farmers who are able to get what they need at the end of the supply line in the truckstops across the country and other areas at the end of the distribution system, then I hope the Senate will vote to override the President's veto.

Mr. ANDREWS. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield.

Mr. ANDREWS. I appreciate what my colleague and friend from Idaho has just said, Mr. President. I think it is important to point out when you are talking about the food-producing industry of this country you are not talking about enjoying the luxury of having the time that maybe the free market system might work. If you do not have that distillate out on the farm and where those farms are, the areas in this country that are supplied by the independents and the small refineries that are most in jeopardy if you do not have that distillate there during planting season on a 24-hour notice, you lose the whole year's crop.

The same thing is true if you lose the fall harvest season. This is important not just for the people who live on the land, the family farms, and the truckers who move the produce that if it is not moved spoils, but it is important to the consumers of this Nation and to the entire economy of this Nation.

That is why this bill is that important and that is why I join my good friend and colleague from Idaho in what he is attempting to do, and I salute him for it.

Mr. McCLURE. I thank the Senator. I am prepared to yield back the remainder of my time.

Mr. BRADLEY. Mr. President, I am prepared to yield back the remainder of my time. But to respond to my colleague from Idaho that the farmers in the field in the planting season are going to be the recipients of oil, diesel, because the Government is going to see that they get that oil, in my view that is not a certainty. I have placed in the record at least 15 examples of where the Government failed to provide that oil, and I think if you would look carefully at the record you will find example after example of how the market moved it much faster.

The fact that the poor would be hurt, they are not hurt if you address the question of equity, which we do if you recycle tax dollars to the poor. We will never get to that point unless we sustain the President's veto.

Mr. McCLURE. Mr. President, I yield to the Senator from Georgia for a unanimous-consent request.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that a press release from Delta Airlines in support of sustaining the President's veto be printed in the RECORD.

There being no objection, the press release was ordered to be printed in the RECORD, as follows:

PRESS RELEASE—AIRLINE APPLAUDS PRESIDENTIAL VETO OF STANDBY ENERGY CONTROLS

ATLANTA, GA., March 22, 1982.—President Reagan's veto this weekend of legislation granting the President authority to impose a wide range of oil price controls was today hailed as a major victory for the consumer. Applauding Reagan's action was David C. Garrett, Jr., Delta Air Lines' President and Chief Executive Officer. "This vetoed legislation," he said, "was very similar to the controls implemented in the early 1970's, and eliminated in early 1981. We all remember the long lines at the gas pumps during those times of oil price and allocation controls."

"There is no question these oil price controls were miserable failures," Garrett said. "Oil shortages persisted, lines at gas pumps lengthened, prices rose, and the nation rapidly grew dependent on foreign oil. Moreover, in an investigation to determine the cause of these problems, the Department of Justice, the Federal Trade Commission and the Department of Energy all concluded that the energy shortages were being perpetuated by the government's own price and allocation controls."

Garrett, in comments on the administration's elimination of these oil price controls in 1981, said, "This was a significant step in solving what was an artifically prolonged energy crisis lasting almost a decade. By dismantling the burdensome regulatory apparatus and subsidies associated with these controls, the Reagan administration allowed the market to regulate itself naturally. Today petroleum consumption has declined, domestic production and exploration has accelerated, oil imports are at their lowest level since 1975, and prices at the fuel pump have dropped noticeably.

"At long last," he said "we as consumers have good reason to rejoice as petroleum product prices are falling and supplies are plentiful. Shortages will obviously occur in the future and we must learn from our past mistakes. By vetoing the Standby Petroleum Allocation Act which was a carbon copy of the previous controls, the President has prevented us from getting burned by the same match twice. There was nothing new in this latest legislation to give us reason to believe we as consumers would have fared any better under such controls a second time."

Mr. McCLURE. Mr. President, I yield to the Senator from Nebraska.

Mr. EXON. Mr. President, it is imperative that this body vote today to override President Reagan's veto of the Standby Petroleum Allocation Act. Our Nation's energy history demonstrates the need for this legislation, and our Nation's energy future surely demands it.

President Reagan has vetoed this measure on the assumption that the so-called free market can best respond to a severe interruption of our petroleum lifeline.

This Senator would seriously question the President's assumption about the free market. If the Federal Government does not accept some responsibility for managing the consequent crisis during the disruption of our oil supplies, the Nation will be left to the mercy of the major international corporate giants which dominate the oil industry. These companies control the access to nearly all of our domestic crude oil and virtually all of the crude oil imports.

In such a situation, Mr. President, I would suggest that the term "free market" means merely that "Big Oil" is free to do whatever it wants to do.

The President has also vetoed this measure because he believes that no magic Federal plan can simply make our oil disruption vulnerability go away.

I would agree with the President on this one point. Certainly no magic plan is being asserted here by the Congress. This measure was not passed on the assumption that it would be a cure-all for our extreme vulnerability on this matter.

What the Congress has stated, and stated strongly, is that this is a national problem requiring a national response, not 50 separate State plans.

What the Congress has further stated is that the Federal Government has a responsibility to insure that the burden of a severe disruption in our oil supplies is distributed fairly. Fairness is the key, and the Congress hopes to provide a more fair method of dealing with the chaos which would follow a severe oil cutoff.

The legislation which the President has vetoed merely establishes a referee role for the Government, a neutral third party to moderate between the haves and the have-nots.

In fact, Mr. President, President Reagan is mandated only to establish the contingency management plan itself. The actual implementation of that plan, as to how and when, is left entirely to the President's discretion.

The important factor to be considered here is that we would have a plan on the shelf, ready to be used when needed.

Planning for a crisis, in the midst of a crisis, is what we had faced in 1973 and again in 1979. Our Nation's lack of preparedness contributed greatly to our ineffective response to those oil cutoffs.

Mr. President, I would also note that President Reagan's veto message calls upon America's citizens to prepare themselves for such emergencies.

Yet, President Reagan denies the imposition of such a duty upon the Federal Government.

The United States is, today, perhaps even more vulnerable to an oil supply interruption than ever before. We may be less dependent, but we are more vulnerable.

Our Nation still imports nearly 35 percent of our oil supplies. Over 46 percent of those imports come from the Middle East. In 1973, we imported only 10 percent of our oil from the Middle East.

Also, today the major international oil companies handle no more than 50 percent of the world's oil. In 1973, they controlled over 90 percent of that supply. However, the producing nations themselves have taken a stronger role over the control of the oil lifeline. Our source of supply leans heavily upon the unstable Middle East yet today.

The current oil glut has lulled many, including the President, into complacency about the threat which our vulnerability poses to our national security. Although a worldwide recession has helped to dampen demand, should the economy pick up, demand for oil will also pick up. The glut will be gone. We will again be on the oil supply tightrope, walking this high-wire act without a safety net.

Mr. President, the Senate must override the President's veto of this most important crisis management tool.

Without this legislation, we relegate our Nation to a state of survival of the fittest, where giant oil conglomerates devour small, independent companies as they hoard scarce supplies and bid up prices.

Without this legislation, we leave agriculture and rural areas of this Nation scrambling for product in a panic, as the major companies concentrate on the more profitable, high volume urban markets on the east and west coasts.

Without this legislation, Mr. President, we are stepping back into our Nation's energy past.

As Governor of the State of Nebraska during the Arab oil crisis in 1974, it was clear to me that the emergency allocation and State set-aside program worked well in getting gasoline and diesel fuel to areas of Nebraska which simply were not being served by the market. To the farming sector, timing is crucial. Without these crisis management tools, a difficult situation would have been much worse.

What we are voting on here today is insurance.

The public interest, not party loyalty, demands that we support this effort today to prepare for tomorrow's uncertainties.

I urge my colleagues to support this override effort and send a strong message to the House, to encourage that body to enact this legislation into law.

Mr. **DENTON**. Mr. President, although I previously supported S. 1503, today I am voting to sustain President Reagan's veto of S. 1503, the Standby Petroleum Allocation Act. I believe that this administration deserves our support. The administration, in my opinion, is in a better position than the Congress to assess the detrimental effects of implementing a Federal allocation system. We all know the problems that resulted for the Emergency Petroleum Allocation Act that expired in September 1981.

I agree with President Reagan that a free market system can more efficiently allocate oil supplies. The President's Executive order to decontrol the price of oil has proven that. The administration presently has adequate authority to provide fuel for our armed services under the Defense Production Act. A question remains, however, whether, during a severe supply disruption, a mechanism is required to intervene in the marketplace to insure adequate supplies of oil to agriculture, the independent sector of the petroleum industry, the transportation industry, the States, and consumers. I believe the administration will be mindful of the necessity to provide means for adequate supplies to these users.

Mr. President, I urge the administration and the oil industry to be especially aware of the need for adequate supplies of fuel for agriculture in this Nation. This includes not only farmers but the farmer-owned cooperatives, which supply a major percentage of the fuel used by farmers. Without adequate supplies of oil for agriculture, the effect will be felt not only by farmers. This Nation's ability to provide food to our citizens will be seriously degraded. I would support a congressional mandate to establish agriculture as a priority user during an oil supply disruption.

Mr. President, I urge the private sector to prepare now for any possible disruption and further urge the administration to continue filling the strategic petroleum reserve at a level that will provide sufficent supplies of fuel in times of a shortage.

Mr. **THURMOND**. Mr. President, I intend to vote to sustain the President's veto of S. 1503, the Standby Petroleum Allocation Act of 1982.

It would have been my preference that the President not veto this measure, and I so informed him by letter dated March 12 of this year. I favor the priority given agricultural users under this act in the event of a disruption in our petroleum supplies. However, the President never sought the power this bill would confer on him, and he strongly believes that the exercise of this power might exacerbate, rather than reduce, the problems which would accompany any future disruptions in our petroleum supplies. The President also believes that any such disruptions can be mitigated through less draconian measures than those contemplated by this bill, such as drawing upon the strategic petroleum reserves or the production capability of the national petroleum reserve, and I respect his views.

Mr. President, I strongly support the overall approach of this administration and particularly applaud the renewed emphasis on free market solutions to economic problems. Since, as President Reagan pointed out in his veto message, there are alternative methods of coping with future oil shortages, I view it as more important to the Nation in a larger sense to support this President in his efforts to restructure priorities and strengthen our economy than to quarrel about differences in approach on this particular issue. Thus, because of my continued strong support for the leadership of President Reagan, and feeling he is entitled to the benefit of my doubts, I shall vote to sustain his veto of the Standby Petroleum Allocation Act.

Mr. **McCLURE**. Mr. President, I yield back the remainder of my time.

The **PRESIDING OFFICER**. The question is: Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are mandatory. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Mississippi (Mr. COCHRAN), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from New York (Mr. MOYNIHAN) would vote "yea."

The PRESIDING OFFICER (Mr. SPECTER). Is there any other Senator in the Chamber who desires to vote?

The yeas and nays resulted—yeas 58, nays 36, as follows:

[Rollcall Vote No. 63 Leg.]

YEAS—58

Abdnor
Andrews
Baucus
Biden
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Chafee
Chiles
Cohen
Cranston
Danforth
DeConcini
Dixon
Dodd
Domenici
Durenberger
Eagleton
Exon
Ford
Garn
Glenn
Gorton
Grassley
Hart
Hatfield
Hawkins
Hollings
Huddleston
Jackson
Jepsen
Johnston
Kasten
Kennedy
Leahy
Levin
Matsunaga
McClure
Melcher
Metzenbaum
Mitchell
Nunn
Pell
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Rudman
Sarbanes
Sasser
Stennis
Symms
Tsongas
Weicker
Zorinsky

NAYS—36

Armstrong
Baker
Bentsen
Boren
Boschwitz
Bradley
D'Amato
Denton
Dole
East
Goldwater
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Kassebaum
Laxalt
Lugar
Mathias
Mattingly
Murkowski
Nickles
Packwood
Percy
Quayle
Schmitt
Simpson
Specter
Stafford
Stevens
Thurmond
Tower
Wallop
Warner

NOT VOTING—5

Cannon
Cochran
Inouye
Long
Moynihan

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 36. Two-thirds of the Senators present and voting not having voted in the affirmative, the bill, on reconsideration, fails to pass over the President's veto.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the veto was sustained.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I wish to express my thanks to those men and women of the Senate who have stood with me in this battle.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order. Will the Senators please clear the well?

The Senator from Idaho.

Mr. McCLURE. Mr. President, again I wish to express my appreciation to those who have worked so hard on this measure on both sides of the aisle for so many months, and express my regrets at the outcome that has just been expressed here in the Senate today.

The Senator from Washington (Mr. JACKSON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Minnesota (Mr. DURENBERGER), the Senator from New Mexico (Mr. DOMENICI), and many, many others who have stood in week after week trying to find an answer to the question that will wrack this Nation.

We have a remaining problem that I wish to call to the attention of the Senate which is an urgent one. That is the question of the antitrust exemption that allows the oil producers of the United States to sit in the International Energy Agency deliberations to pool the information with respect to world oil supplies.

That authority expires at the end of next week. We are going to have to act in some fashion to extend that antitrust exemption.

There is pending at the desk a bill that has been heretofore reported. It would be my hope that we could get that bill cleared so that we can act on that and at least solve that one problem which was contained in this legislation which is now dead.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Idaho is speaking.

Mr. McCLURE. Mr. President, I also want to express my appreciation to the members of the staff on both sides of the aisle. They have done a yeoman's job in marshaling the information, in getting all of the facts together. I am sure that we did not today vote on the basis of the facts alone. To a large measure it was due simply to the personal admiration, respect, and support of the President of the United States that figured in the outcome of the vote.

I am sure that we got to the point we did over a political confrontation in a bill that should not have provoked that political confrontation. Yet I guess I would have to say congratulations to the President of the United States on having won. But I will say one thing here tonight, that he had better pray, as he has never prayed before, that there be no interruption of petroleum supplies during his term of office.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have seldom been in such a difficult position as I was on this vote. I supported the distinguished Senator from Idaho with the bill and joined him in traveling to the Executive Mansion to urge the President not to veto this measure. there was that meeting and another meeting in private.

Mr. President, I can see that my responsibility under these circumstances to be to attempt to sustain the President's judgment and decision, much as the Senator from Idaho, as chairman of the relevant jurisdictional committee, I believe, felt that it was his obligation to persevere and pursue his course of action. One of the beauties of the Senate is that it frequently resolves even close and emotional personal issues, and having done that moves on to other matters without rancor. I commend the Senator from Idaho for his effective management of this matter for many, many years, and the Senator from Louisiana for his participation and equal contribution.

I commend as well our colleague from Oklahoma, Senator NICKLES, who worked so very hard on this measure and who deserves so much credit for a very excellent effort on behalf of presenting the situation as he saw it.

And, of course, the Senator from New Jersey who joined in producing support that may have been in the balance in the final determination of this issue.

In any event, Mr. President, what has just occurred was in the best tradition of the Senate. All Members who participated should be proud of that participation, and I am prepared now to urge that we proceed to another matter.

Mr. President, I announce that there will be no more record votes tonight.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE EPA REGULATION OF LIQUID TOXIC WASTE

Mr. BRADLEY. Mr. President, there is no question that the unregulated disposal of toxic waste over many years now threatens public safety in New Jersey and numerous other States. Nonetheless, the Environmental Protection Agency recently relaxed Federal standards for disposal of toxic liquid waste and the EPA suspended requirements for annually reporting the disposition of all hazardous waste materials. These EPA actions undermine the sense of security which people and business need if we are to prevent further deterioration of the environment. People must believe that Government is enforcing the law to protect them. Businesses need consistent enforcement so that they can plan their investments, grow and respond to opportunities.

It is imperative for the EPA to reverse these actions and to do so immediately.

The liquid toxic waste disposal standards were developed over a 5-year period to carry out the Resource Conservator and Recovery Act of 1976. That law was passed to stop the dangerous disposal of hazardous chemicals into landfills. Such liquids readily percolate into the ground water supply. This process has created many of the country's most hazardous dump sites, which require expensive and urgent cleanup and the superfund law of 1980.

The Carter administration proposed a total ban on disposal of toxic liquid wastes into landfills. This ban went into effect last November 19, under the pressure of a court order.

Even then, however, some industry groups were told informally that the ban would be lifted temporarily by the Reagan administration and the EPA did precisely that in late February. In 3 weeks, after widespread negative reaction from the general public and business, the EPA reinstituted most of the ban. But during that time, unknown amounts of accumulated hazardous chemicals were spilled in unsecured landfills.

The EPA also indicates that it soon will permit up to 25 percent of landfill waste to be containerized liquids. Such a step would ignore the testimony of landfill operators who have said they cannot inspect closed liquid waste containers because that is too risky. These operators maintain that a regulation allowing a specific degree of liquid waste disposal is, therefore, unenforceable.

And although the EPA acknowledges that liquid containers corrode, the agency has refused, thus far, to adopt chemical industry recommendations that liquid waste landfills have impermeable liners and liquid collection systems be used under landfills to capture leakage. Without secondary containment, contamination of ground water is certain.

Still another proposed EPA rule would eliminate the need for regular quarterly reports on ground water contamination under landfills. Instead, the EPA would require such reports only if the facility operator were to find that the water had become more hazardous than permitted by law.

If we had no technology to destroy toxic liquids, selective relaxation of standards might be understandable. That is not the case.

The technology for disposal of much liquid waste is simple—incineration. Passage of the Resource Conservation and Recovery Act spawned development of new companies to build incinerators and develop better techniques for destruction of liquid wastes that cannot be incinerated safely. Important research and development, as well as investment decisions, now are being undercut by irresponsible EPA actions.

The EPA's plan to suspend annual hazardous waste reporting is disturbing, too. In order to prevent the recurrence of conditions such as those at the Love Canal and the Chemical Control Corp., New Jersey instituted a cradle-to-grave tracking system. Under this manifest system, records are required from the time that toxic materials are manufactured until their final disposal. The key to the success of this system is to have frequent reporting. I am proud that my State of New Jersey led the country in setting up an excellent system.

To stop midnight dumping, however, this tracking program must be used nationwide. Illegal dumpers do not respect State boundaries, and if there is no national system, even businessmen, who are trying to be responsible will be unable to monitor the disposal of their waste materials.

The original EPA regulation—requiring only annual instead of more frequent reporting—was compromise enough. By abandoning this program, the EPA is inviting a resurgence of the practices that resulted in the current dangers to public health and safety.

Because these laws and regulations already were on the books to deter the creation of new toxic time bombs, Congress provided for establishment of the superfund to clean up the worst existing hazards.

Now, through EPA actions, the country is heading back to the dangerous past. New disaster sites can be created even while we are still cataloging old ones.

The EPA must recognize the consequences of its actions. The intemperate suspension of the ban on liquid waste has compromised public confidence and harmed the developing waste treatment industry.

The EPA must develop regulations which have at least the probability of protecting the public, if not the certainty. And the EPA must vigorously enforce a national manifest system. Without that, there is no effective means of stopping illegal toxic waste disposal short of catching violators in the act.

The PRESIDING OFFICER. Who seeks recognition?

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the following Senators as congressional advisers to the U.S. Delegation to the United Nations World Assembly on Aging, to be held in Vienna, Austria, July 26 to August 6, 1982: The Senator from Pennsylvania (Mr. HEINZ) and the Senator from Arkansas (Mr. PRYOR).

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, it is my hope that we can arrange a bill to lay down to make the pending business for the session of the Senate tomorrow. Those arrangements are still in progress and have not yet been completed. There is a brief time now before the Senate is scheduled to recess at 6. Since we had an abbreviated time for the transaction of routine morning business this morning, I believe it would be in order to provide an additional time for that purpose now. Therefore, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to extend beyond the hour of 6 p.m., in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FREEZING MILITARY PAY—A COSTLY PROPOSAL

Mr. COHEN. Mr. President, over the past 2 years, Congress has taken several significant steps to correct inequities in the military compensation system and to bring military pay to levels closer to those in the civilian sector.

We took those steps for good reason. Pay for military personnel had slipped from comparability with civilian pay in 1972 to levels 20 percent below that of their civilian counterparts by the late 1970's.

Repeatedly, we heard reports of military personnel receiving food stamps and other social benefits because of their low pay. We were told that basic pay for enlistees was about 83 percent of the minimum wage. Stories of soldiers forced to work second jobs to meet their families' needs were commonplace.

The most dramatic reflection of the failure to adequately compensate military personnel was in the services' recruiting and retention statistics. Increasingly, our Armed Forces were having difficulty attracting quality individuals into the military. Equally serious, qualified noncommissioned officers (NCO's) were leaving because they could no longer afford the economic sacrifices required of them as they served their country.

This hemorrhage of career enlisted personnel, the heart of our Armed Forces, was having a devastating effect on force readiness. Since NCO's can't be drafted, it was clear that the disincentives to military service had to be dealt with before the careerist shortage became even more severe.

It would be tragic if the grim lesson learned through the neglect of our service personnel in the late 1970's were to be forgotten now that our services are having success in recruiting and retention. If we allow the momentum toward strengthening the force to be halted through a decision to freeze military pay, we must be prepared to accept the consequences of—and responsibility for—our action.

There is unfortunate precedent which we can—and must—look at as a military pay freeze is weighed. Those who cite the current recruiting and retention success must look at the late 1970's experience.

The All-Volunteer Force was so successful in its initial years that Congress said, "You are doing so well that we are going to cut your recruiting budget." In the same time period, the GI bill was ended, training funds were cut, military pay was capped, and other reductions were made which hurt manpower programs. Those actions, coupled with the services' use of a misnormed military qualification test, had painful repercussions for the force.

We have taken corrective actions, both in quality standards and compensation improvements. The result has been a positive one for all the services.

Enlistments and reenlistments are up. Quality is high—according to a recently completed report, higher than for the comparable civilian youth population. And morale is strong.

What, then, would happen if pay is capped. I asked the Defense Department to address this question. The answer is grim.

A military pay freeze for fiscal year 1983 is expected to result in 100,000 fewer careerists by the end of the 5-year defense plan (FYDP). A cap at 5 percent would mean 50,000 fewer careerists.

Since recruiting programs are affected by decreases in careerists, DOD projects an even sadder picture in this area. At current end strengths, over 300,000 additional recruits—over the FYDP—would be required if pay is frozen and 80,000 if pay is capped at 5 percent.

As we consider freezing or capping military pay, it is important to consider the implications of these kinds of steps. For the benefit of my colleagues, I am inserting DOD's response to the question I posed about the potential impact of a pay cap or freeze.

The information follows:

IMPACT OF PAY FREEZE

Question. What would be the effect of a military pay "Freeze or Cap" in FY 1983?

The accession and retention problems we experienced during the mid-to-late 1970s were created in large part by the caps that were placed on military pay raises. This deteriorating situation was turned around with the pay improvements in 1980 and 1981, such that we have regained a competitive position for military manpower. I believe imposing a cap on the October 1982 military pay raise would signal to the troops that we are entering once again a period of severe restraint on military pay and, in doing so, we run the risk of re-creating the accession/retention problems that we and the Congress worked so hard in 1980 and 1981 to correct.

While exact estimates of the impact of a freeze or significant cap on military pay are scenario dependent, it is safe to say that such a pay action would undo most, if not all, of the recruiting and retention achievements of the past two years.

Initial analysis indicates we could expect 100,000 fewer careerists (DOD totals) by the end of the FYDP if the FY 1983 pay raise is frozen at the FY 82 level and the comparability raise would have been 8 percent. A cap at 5 percent would result in 50,000 fewer careerists. This assumes no "catch-up" raises in subsequent years of the FYDP to restore comparability. This assumes a pay freeze or cap in FY 83 alone, with comparability increases in the remaining years of the FYDP.

Additionally, these losses are likely to occur disproportionately in those military occupations in which there is a high degree of transferability to the private sector. In many cases the military is already critically short of careerist personnel in these occupations.

Recruiting programs would be affected by the decrease in careerists. If total strengths remain unchanged, over 300,000 additional recruits (over the FYDP) would be required if pay is frozen; 80,000 if pay is capped at 5 percent. This would compound recruiting problems that already exist. For example, in FY 1983 we will witness more restrictive Congressional restraints on quality, there will be a continued decline in the youth market, and DoD has already programmed significant increases in accession requirements over FY 1982. In addition, caps on military pay will decrease the supply of male high school diploma mental category I-III recruits.

We believe the 8 percent military pay increase we have requested for FY 1983 will provide a clear indication of the commitment of Congress and the Administration to military personnel, reversing the atmosphere engendered in the latter part of the 1970s. We believe that the benefits to the nation, in improved retention, recruiting, morale, motivation and readiness of our military personnel will outweigh the costs, and will be less costly than alternative ways of trying to obtain these benefits.

LAND REFORM IN CENTRAL AMERICA

Mr. LEAHY. Mr. President, in the current discussion on El Salvador, many commentators have mentioned the importance of the land reform effort as the key to stability in that war torn nation. Yet, few of us in the Senate have a sense for what this land reform means, how it has functioned, who has benefited, what the drawbacks have been.

A useful series of articles on land reform in El Salvador has appeared in the excellent journal, Food Monitor, a project of World Hunger Year, and I ask unanimous consent that this series be printed so that my colleagues can have the benefit of this collection of varying evaluations on the land reform program.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From Food Monitor]

THE TRANSFER OF LAND AND OF POWER

Land reform in El Salvador is an explosive issue. In Food Monitor issues 20 and 21, Peter Shiras, who has spent considerable time in El Salvador and is a former consultant to the Inter-American Development Bank, analyzed the program as a disastrous and violent failure.

In this issue of Food Monitor the Shiras analysis is questioned from two very different points of view: Roy Prosterman, a faculty member at the University of Washington, who has been deeply involved in the El Salvador program and was one of the authors and executors of the land-reform effort in South Vietnam, believes the land-reform program is an important political triumph that has wrested large amounts of land from the oligarchs. Leonel Gomez, former deputy director of the Salvadoran land-reform project who fled El Salvador when his superior, Rodolfo Viera, was assassinated by right-wing death squads, believes Shiras underestimates the importance of the role of the military and the death squads in any change in El Salvador.

Food Monitor has devoted considerable space to the issue of land reform in El Salvador because we believe it provides some important policy lessons for the U.S. in its relation with other revolution-torn Third World countries. The articles also reflect our editorial policy of providing space to responsible people who feel their views have been challenged or inaccurately reported in our pages. As our masthead says: the opinions expressed by our writers are their own, and not necessarily those of this magazine.

Food Monitor's analysis of the land-reform program starts from a different premise: it is improbable, it seems to us, that any program for the redistribution of significant amounts of El Salvador's blood-soaked coffee, cotton and cane fields could have been implemented without violence. Since the Spanish conquest in the 16th century, the repression of the poor and landless by military muscle men backed by hereditary elites teaches a bitter lesson: political and economic reforms have always been invoked only as last ditch responses to popular revolt. These have been with few exceptions either brutally repressed, politically contained or subverted from within.

In this context we find Roy Prosterman's preoccupation with statistics and the technical operational details of the current program almost irrelevant. We have seen little evidence that a more prompt distribution of formal land titles to the peasantry would have helped either to smooth the practical effects of the transfers, or end the civil war.

Both Gomez and Shiras appear to offer better answers to the question of how the land reforms might be made to work and the bloodshed abated. Says Gomez: "Agrarian reform must involve more than the transfer of land. It must . . . reflect a clear willingness to give power to the powerless." Shiras elaborates on the point: "The land-reform program cannot be divorced from the political context in which it takes place . . ."

Both of these statements point to the need for a genuine transfer of power. Without that transfer, it is difficult to see how the present program, or any other, can be implemented.

At the same time, there are legitimate operational questions to be dealt with which seem to us much more important than shuffling deeds. Transfers of land ownership may not mean much unless they are supported by provisions for credit, seeds, fertilizer, water, and access to markets. But if these needs are to be met, the first requirement is a supportive and sympathetic government in which the poor and landless participate. This is why former President Carter's non-partisan Commission on World Hunger singled out involvement by the poor in the political process as an essential element for the increase of food production and an end to poverty in the developing countries.

But these necessities are in short supply in El Salvador. This makes it difficult for us to understand why Prosterman (and, according to a New York Times report, the current head of the USAID mission in El Salvador) apparently regards the current effort as a political success even if so far an economic failure. It's hard to talk about political success in a nation where the body count last year was above 10,000. This state of affairs makes it difficult for us to digest Prosterman's pronouncement: "First, the present violence, horrendous though it is, is a long way from the worst that could happen ... El Salvador's people are still very far indeed from experiencing the worst violence they might experience."

On the other hand, we are gratified that all three authors appear to agree with our own position that the current Reagan policy of providing military advisers to the current Salvadoran military-dominated junta is an abomination, although we are sorry that Prosterman does not see his way clear to oppose all aid.

We think Shiras is probably right in saying, "No matter what guise U.S. aid takes, the result will be to prolong in power this brutally repressive Salvadoran government . . ."

Our own pessimism is further nourished by a factor largely beyond the control of either the Salvadoran guerrillas or their right-wing enemies—the nature and extent of U.S. involvement. Since World War II it has become a sorry axiom that "made-in-Washington" efforts to overturn governments disliked by the U.S., or to help defend those it does like, usually lead to more repressive regimes or an increase of civilian bloodshed, or both (viz Guatemala, Brazil, Chile, Nicaragua, Zaire, Cuba, Vietnam, Kampuchea, Iran, Laos and now El Salvador). This does not mean we need to apologize for every guerrilla movement that arises in the Third World.

The American difficulty seems to be that from the days of the often unhelpful green revolution through the Bay of Pigs fiasco, the war in Southeast Asia, the "destabilization" of Allende's Chile, and most recently El Salvador, Washington has ardently pursued the chimera of the politico-economic and/or military quick fix. Although each intervention has been rationalized publicly in exquisitely idealistic terms—and some of them undertaken by avowedly humanist, "liberal" U.S. administrations—most have been basically counter-insurgency operations. Those the public knows about have not worked well, either for the impoverished majorities of Third World countries concerned, or for the United States.

This strategy teaches us important lessons about El Salvador: land reform cannot succeed without basic political and economic change. To encourage these structural changes we should withdraw our military advisers, end all arms aid to the present junta, and give our strongest diplomatic support to encouraging the broadest possible popular participation in the Salvadoran government, including representatives of the revolutionary left. Such a change in stance might further both the land-reform program and the cause of peace in El Salvador. It would also send an important message to those many other impoverished majorities throughout the Third World whose interests we incessently claim are a primary concern, but with whom we seem so often to be in conflict.

THE FALSE PROMISE AND REAL VIOLENCE OF LAND REFORM

(By Peter Shiras)

El Salvador's civil war is front-page news in the United States. During December 1980 and January 1981, six Americans were killed there. For a brief period, U.S. aid was cut off in reaction to four of those murders. Since then, the Reagan Administration has entered office. The U.S. ambassador has been replaced; military aid, which the Carter Administration had already resumed, has been expanded and now includes approximately 30 military "advisors." Mexico, which the U.S. is courting, has been slapped on the wrist editorially by the Washington Post for its support of the Salvadoran guerrillas; Nicaragua, which has no oil, has seen the aid package that was passed last year withdrawn by the Reagan Administration in reaction to its support of El Salvador's rebels.

At the heart of these disputes about El Salvador lies its land reform program. On some points, no dispute exists. Certainly, the land reform has stirred opposition from wealthy Salvadoran landlords and hardline sectors of the military. No one disputes that their opposition has been violent. All six of the Americans killed in El Salvador were murdered by these right wing opponents of the land reform; two of them, Michael P. Hammer and Mark David Pearlman, were advisors to the Salvadoran government on land reform and were killed along with Rudolfo Viera, the Salvadoran official in charge of land reform. Viera's deputy, Lionel Gomez, has gone into exile to save his own life. Hammer blamed the right for 80 percent of the bloodshed in a Washington Post interview one week before his death. At the same time, everyone agrees that the land reform has failed to satisfy the left in El Salvador. The Democratic Revolutionary Front (FDR) makes clear its intention of overthrowing the current junta in San Salvador. Certain other facts cannot be disputed: more than 10,000 Salvadorans were killed in 1980 alone.

After those facts are entered, we have political disputes and interpretations, particularly in the U.S. The Carter State Department and much of the U.S. media contend that the San Salvador junta represents moderation and a courageous attempt to steer a middle course between the revolutionary, totalitarian left and the extreme right. The Reagan transition team announced that it considered Carter's policies in El Salvador excessively reform-minded. Mexico, Canada, Nicaragua and most of the social democratic parties of Western Europe (including the Austrian and West German governing parties) have endorsed the Salvadorean rebels, the Democratic Revolutionary Front (FDR). A very broad coalition of Americans, the U.S. Committee in Solidarity with the People of El Salvador, took a full page ad in the February 3 New York Times, calling for a cut-off of American military assistance and stating support for the Democratic Revolutionary Front (FDR).

What has the land reform in El Salvador accomplished? What were its motives? Why has it failed to achieve even a modicum of peace and social justice?

LAND REFORM IN PRACTICE: PHASE I

The land reform intially decreed on March 6, 1980 was divided into two phases: Phase I affects all properties over 500 hectares (one hectare equals 2.47 acres) which according to the original announcement number 376 and cover approximately 16 percent of the country's agricultural land. Phase II was to affect all properties between 100 or 150 (depending on the quality of the soil) and 500 hectares, covering 1,739 properties, approximately 340,000 hectares or 23 percent of the agricultural land area. The government began to implement Phase I immediately, but Phase II has been indefinitely postponed.

A number of factors seriously compromised the impact of the initial phase of the land reform. According to the 1971 census, 69 percent of the land in farms over 500 hectares is either used for pasture or it is not cultivated at all. Furthermore, only nine percent of the nations's coffee land is affected by Phase I since most of the coffee farms are less than 500 hectares in size. Coffee is El Salvador's major export crop and represents the backbone of the oligarchy's power.

Landlords also found ways of subverting the Phase I reforms, legally and illegally, with and without government help. Some landlords liquidated their assets by driving tractors and machinery to Guatemala, slaughtering their cattle and even removing barbed wire fences from pasture land. The government was slow to react, and did not prohibit removal of assets until two months after Phase I was announced.

Some owners have been content with the generous compensation that the government offers, 25 percent in cash and 75 percent in bonds. Some landlords with farms less than 500 hectares in size are taking advantage of the favorable terms offered by the government and are selling their properties. As many as one-third of the farms which the government claims to have expropriated fall into this category of voluntary sales. Many in this group have large, secure interests in other sectors such as industry and agricultural processing and have left El Salvador for the safer havens of Guatemala City and Miami.

For those owners who remain, however, all hope is not lost. Through a Committee of Devolution, as many as 45 estates have been returned to their former owners by the government. Although some of these properties were returned because they were improperly registered as over 500 hectares, many others are sweetheart deals that have long been commonplace between the military and the wealthy families in El Salvador.

Widespread violence has characterized the reform process, and fear has been perhaps, the most important factor limiting participation in Phase I reforms. This point will be covered in more detail in the discussion of Phase III, but it is also relevant in analyzing the failure of the reform to reach the poorest of the poor, law and the government lack of capaestates have joined the agricultural cooperatives. The large population of temporary workers—estimated to constitute anywhere from one-third to sixty percent of the agricultural labor force—has been intimidated by the very military forces supposedly providing peasants with protection. Members of the local paramilitary organizations and government collaborators count heavily among the beneficiaries of Phase I.

THE ILLUSION OF REFORM

In a press conference in San Salvador on May 14, 1980, Colonel Abdul Gutierrez announced that there would be no more reforms carried out beyond Phase I and Decree 207. This announcement, which received no media coverage in the United States, cut the agrarian reform announced on March 6 in half. Phase II would have affected much larger proportions of El Salvador's three major crops: coffee, cotton and sugar cane. Over four times as much coffee land, for example, would have been expropriated under Phase II.

Phase II would have cut deeply into the power of the oligarchy. Despite all the limitations, large land-holders and hardline military officers had strongly opposed Phase I reforms. The government needs the continued support of the Phase II landlords to hold power, so it is less than surprising that the more radical redistribution has been postponed.

Just how much was accomplished without the Phase II implementation?

The initial report in the *New York Times* (March 7) stated that "El Salvador's military/civilian junta expropriated 60 percent of the country's best farmland . . ." In fact, all the potential land available under Phase I and II amounts to only 39 percent of the nation's total agricultural land, not to speak of its best land. On March 8, Alan Riding reported in the *Times* that 300,000 hectares were to be expropriated under Phase I and then on March 10 reduced his figure to "224,000 hectares, approximately 25 percent of the cultivable land here." In fact, according to the 1971 agricultural census, 224,000 hectares is only 16 percent of El Salvador's agricultural land. To cite one more example, according to Carter Administration spokesman William G. Bowdler, again reported in the *New York Times*, the reforms involve two-thirds of the country's best agricultural land. Actually, over half of the 16 percent eligible for expropriation is pasture, woods or other unutilized land, not prime agricultural land. Less than five percent of total agricultural land under intensive cultivation is subject to expropriation under Phase I and II.

DECREE 207: LAND TO THE TILLER

In the agrarian reform program prepared by the first junta in October, Phase III consisted of a plan to promote collectivization of small farms and the formation of cooperatives in order to increase the efficiency of small, scattered plots of land characteristic of the minifundia system in much of central and South America. Over 70 percent of all farms in El Salvador are under two hectares in size and, according to a U.S. AID study, "The small farmer in El Salvador is essentially without access to agricultural credit." The difficulty in getting credit and other services to some 200,000 small farms is immense. The Ministry of Agriculture planned to introduce some forms of collectivization to overcome these problems.

On April 29, the third junta announced that Phase III of the reform (upgraded to Phase II now since the original Phase II was not to be implemented) would consist not in any effort to collectivize farms, but rather in an institutionalization of the minifundia system by converting all present tenants into the owners of the plots they were farming, no matter how small they might be. The former owner would be compensated, but the junta stressed that the law, Decree 207, would "immediately convert 150,000 families into small owners. "As one AID official put it, "There is no one more conservative than a small farmer. We're going to be breeding capitalists like rabbits."

But even AID realized the problems.

In an August 8 memo, AID said:

"Phase III is closely identified in El Salvador with the U.S. government and the American Institute for Free Labor Development (AIFLD). Phase III presents the most confusing aspect of the reform program, and it could prove especially troublesome for the U.S. because it was decreed without advance discussion except in very limited government circles, and, we are told, it is considered by key Salvadorean officials as a misguided and U.S.-imposed initiative."

Its proponents billed the programs as "self executing," but to quote from the same U.S. AID memo, experts from the Land Tenure Center state:

"The creation of an impossibly complex land registry snarl as perhaps 200,000 or more parcels suddenly need definition, registry, and mortgage management is a real possibility. Similarly, credit, imput delivery, and especially marketing services must be created for the beneficiaries who formerly, in many cases, depended on their patronos for such services."

Actual implementation of Decree 207 has hardly proceeded. Many tenants are reluctant to claim their land under the law and the government lacks the capability or desire to carry out the law. Many tenants rent land from relatives or others who are practically as poor as they are and thus are not included to dispossess their neighbors. On the other hand, owners of larger tracts are generally hostile. The same memo states that landlords have forced tenants their claim to the land or, if they refuse, they are simply evicted from the property, increasing the problem of landlessness. Fear of reprisals by landlords has kept others from participating in the programs. Without access to credit and without any political power in San Salvador, the peasant tenant or owner will remain as indebted and powerless as ever.

Land reform and rural pacification: the Vietnam model

"If the reforms are successfully carried out here, the armed leftist onslaught will be effectively eliminated by the end of 1980."—Roy L. Prosterman—statement from a meeting with Salvadorean businessmen, reported in *El Salvador News-Gazette* May 5, 1980.

"For the reform program to succeed, the government needs to reduce violence by the extremes as well as institutional violence. To accomplish this, it must increase the professionalism of its security forces . . . Our small millitary assistance program is designed to help the government in these efforts . . . $5.7 million of credits is primarily for the acquisition of vehicles and radios, and $300,000 is for training designed to improve the capabilities of the armed forces to respond more quickly and effectively to insurgency and violent efforts to disrupt the reform program."—William G. Bowdler, Assistant Secretary of State for Inter-American Affairs.

"In my judgement, it is important to make clear that this measure (the reform), so important in resolving the basic problems of our society, has been completely useless due to the climate of political violence in which it has been undertaken. I resigned my position on the 26 of March because I consider it useless to continue within a government which is not only incapable of putting an end to the violence, but which is itself also generating the political violence through repression."—Jorje Alberto Villacorta, Subsecretary of the Ministry of Agriculture, statement made in Costa Rica after his resignation.

In El Salvador, as in Vietnam, the U.S. finds itself supporting a regime that lacks popular support and is fighting a largely rural-based guerrilla movement that enjoys the wide support of the peasantry. In El Salvador, as in Vietnam, the U.S. response has been a coordinated program of rural pacification and counter-insurgency, with land reform playing a critical role.

Conceptually, according to Robert Komer, the first head of the pacification optional program in Vietnam, the program has two goals:

(1) Sustained protection of the rural population from the insurgents, which also helps to deprive the insurgency of its rural popular base; and,

(2) Generating rural support for the Saigon regime via programs meeting rural needs and cementing the rural areas politically and administratively to the center.

In the Vietnam case, the "protection of the rural population" was carried out by the so-called Phoenix program under which some 30,000 Vietnamese peasants were killed for being alleged Viet Cong guerrillas or their sympathizers. Land reform constituted the core of the second aspect of the strategy, "generating rural support for the Saigon regime." A key aspect of the whole process of rural pacification is the combination of civil and military operations under one unified management. The military counter-insurgency and the civilian land reform were part and parcel of a united strategy whose sole purpose was to defeat the enemy, both politically and militarily. Land reform was the carrot; counter-insurgency was the stick.

The substance of El Salvador's Land-to-the-Tiller program is practically the same as its Vietnamese forerunner. Not only are the general guidelines of the two programs identical, but even the form of landlord compensation, in both cash and bonds, and the emphasis put on landlord compensation are the same in both instances. Even the claims made for the two reforms sound alike. A 1970 New York Times editorial referred to Vietnam's land reform as "probably the most ambitious and progressive non-Communist land reform of the twentieth century." William Bowdler, Carter's Assistant Secretary of State for Inter-American Affairs, describes El Salvador's land reform as "one of the most significant such efforts in the hemisphere", while the reform's shadow author, Roy Prosterman, describes it as "the most sweeping agrarian reform in the history of Latin America." The transplanting of the Vietnam program to El Salvador is undoubtedly the work of Dr. Prosterman.

Prosterman, a law professor at the University of Washington in Seattle, has long been a proponent of the use of land reform to combat rural insurgency movements, a position he set forth in a 1972 article in *Foreign Policy*. Prosterman's involvement in Vietnam began with an article he published in the *Cornell Law Review* in 1967 entitled, "Land Reform in South Vietnam: A Proposal for Turning the Tables on the Viet Cong." This article outlined his Land-to-the-Tiller program and was eventually presented in draft form to President Thieu. It was not until the political and military shock of the Tet offensive in January 1968 that both Washington and Saigon recognized the need for land reform and the stepped up program of pacification described by Robert Komer. In an unpublished manuscript, Prosterman refers to a House Foreign Operations and Government Information Subcommittee report released in March 1968 that states, "Land reform is an essential element of the pacification program and the resolution of the present conflict may well hinge on the success of pacification."

Prosterman has taken a leave of absence from his teaching duties at the University of Washington and is acting as unpaid advisor to the government of El Salvador. He is also a consultant to the American Institute for Free Labor Development (AIFLD), an AFL–CIO sponsored organization whose ties to the CIA have been extensively detailed in the documentary, "On Company Business," shown on public television. At least one AFL–CIO Central Labor Council has called for the disassociation of the AFL–CIO from AIFLD for its Salvador Connections.

John Bushnell, former Deputy Assistant Secretary of State for Inter-American Affairs, presented an accurate assessment of U.S. intentions in El Salvador in his testimony on March 25 before the House Subcommittee on Foreign Operations: "I would like to stress that contrary to widespread misperception, our security assistance proposals are neither unrelated nor contradictory to our support for reform in El Salvador. Land redistribution would not be possible were it not for the protection and security provided by the Salvadorean military for the new owners and the civilian technicians and managers helping them."

Consider the type of "protection and security" offered to the civilian population: A technician with the government's Institute for Agrarian Reform (ISTA) tells this story: "The troops came and told the workers the land was theirs now. They could elect their own leaders and run the co-ops. The peasants couldn't believe their ears, but they held elections that very night. The next morning the troops came back and I watched as they shot every one of the elected leaders."

Similarly, in June, the following event was reported by the *Washington Post:* A squad of more than 20 men in National Guard uniforms with complete battle dress and an armored car drove to a government agricultural cooperative with a list of cooperative leaders considered to be subversive. Twelve of the leaders—the local directors who are supposed to carry out government-related reforms—were killed and the 160 families living there fled in terror.

In response to this massacre, the Union Comunal Salvadoreno (UCS) a government-recognized peasant union organized by AIFLD in the 1960's issued a communique by eight of its thirteen departments condemning such violence, stating their lack of support for the land reform and concluding, . . . we find ourselves facing a situation in which they are eliminating the very campensino who has finally taken hold of the land.

On May 6,900 employees of the Ministry of Agriculture went on strike for forty-eight hours to protest the violence carried out against peasants and technicians alike and they demanded to know why Decree 207 had been instituted in contradiction to original plans and why Phase I lands were being returned to their prior owners. To counter claims that the violence is being carried out by the left, a group of 174 Christian Democratic mayors issued a statement stating, "we know that the attacks do not come from the extreme left, and we are officials of the present government." Refugees who have fled their homes in the countryside report the use of tactics reminiscent of the Vietnam era. These include the burning of crops and houses, search and destroy missions, and the use of helicopter gunships to "pacify" zones suspected of harboring guerrilla organizations. An October 24 *New York Times* article states, "Guerrilla spokesman said that United States military advisors were taking part in the offensive, which has involved the use of incendiary bombs and napalm against rural hamlets."

In El Salvador today, a reign of terror exists that can only be compared to Vietnam in its brutality and intensity.

REAL FACTS AND TRUE ALTERNATIVES

(By Roy L. Prosterman)

I deplore the violence being committed by the right wing of El Salvador's security forces, and believe it must be ended. I oppose the sending of U.S. military advisers, and believe that clear conditions must be placed on economic aid.

But I believe that nothing is accomplished—for the people of El Salvador, or for the half-billion people on our planet who still struggle to wrest a living from land that is not their own—by denying the reality or the importance of El Salvador's land-reform program, or by denying support to that program.

More than 10,000 peasants gathered in San Salvador on April 9, 1981, in the biggest popular manifestation in fifteen months, to demand that *their* land reform be carried through to its full completion. Those are the voices that must be heard, and those are the demands that must be supported with our aid. Not the voice of the remote, convoluted reasoning which would see the land reform undone—and which would make common ideological cause which the most extreme elements of the U.S. and Salvadoran right to achieve that end.

Since March 6, 1980, Salvador's land reform has expropriated approximately 700,000 acres of that country's 1,600,000 acres of cropland—44 percent of the total—and transferred it to more than 210,000 of the 300,000 non-landowning agricultural families—reducing the number of tenants and landless laborers from 37 percent of the country's total population to 11 percent. As in any massive program of social and economic transformation rapidly carried out, vital steps remain for completion of the process: to forestall any attempts at reversal, formal titles need to be issued to both co-ops and individual ex-tenants memorializing their rights, and the modest compensation to exlandlords needs to be issued. In addition, a remaining phase of the reform, which would add another 110,000 acres of cultivated land (this is net of "reserve area" rights, comprising some 160,000 cultivated acres in this size category) and benefit most of the remaining landless needs to be resuscitated.

The chief contentions that have been offered by some against the land reform have about them an odd air of Alice-in-Wonderland, of reality-denial, so wide of the mark are they:

It is asserted, for example, that the farms given the 150,000 families of former tenants are too small, and that "9 hectares" (22 acres) is a minimum farm for adequate subsistence in El Salvador—but to provide all of Salvador's agricultural families a farm of this size would require twice the land area of the entire country, and about six times the present total of Salvador's cropland (tenants alone would require twice the total cropland).

Some seem to suggest this problem would be solved with collectivization. Even apart from the fact that Salvador's tenants, like tenants everywhere, strongly object to being collectivized, this loses sight of the fact that collectivization doesn't create new land. The only conceivable justification for forced collectivization would be if the same amount of land produced more under that mode of organization—and all available experience is that collectivized land produces less per acre, not more (Cuba imports 75 percent of its food—importing as of the late 1970s 1.8 million metric tons of cereal per year, while producing about 550,000 metric tons, as reflected for example in the 1978 FAO Production and Trade Yearbooks—while its cane productivity is the lowest per acre of any major producer; Russia depends on 3 percent of its land held in "private plots" outside the collectives for 24 percent of the value of its total agricultural production).

Again, it is said that tenants "rotate" extensively, and won't receive the land left fallow. Apart from its dubious reading of the law, this contention is just plain wrong: the 1971 census indicates a maximum of 10 percent of the area of the smallholdings left fallow (that is for owner-operators, and for tenants it is clearly less), and the leading authority on Salvador's agriculture states flatly, "The present pressure of population makes any form of migratory agriculture, with periods to allow the soil to recuperate, impossible" (Browning, El Salvador: Landscape and Society, p. 301).

Itinerant landless laborers, who are neither tenants nor permanent agricultural workers, are alleged to be excluded, and then further alleged, by one critic, to constitute "312,000" families. The contention is preposterous. Articles 21 and 19 of the law very clearly include them as beneficiaries, and their maximum possible number can be calculated as follows: 480,000 (the total number of rural families), minus 270,000 (the number of such families already on holdings previously either owned or tenanted), minus non-agricultural families and permanent-labor families. The number of itinerant laborers is around 100,000 and close to half of them already are beneficiaries settled on the big estates taken in the first step of the reform.

Or, the reform is alleged to be insignificant because the now-delayed second phase would have affected medium-sized plantations with "60 percent" of the coffee. In fact, those plantations have 30 percent of the coffee, according to the census. The big estates already taken are estimated to have 22 percent of the coffee (along with 28 percent of the cotton and 50 percent of the cane). The related contention that "over four times as much" coffee land would be taken under the delayed phase as has already been expropriated under "Phase I" is thus clearly erroneous. Are these same critics willing to denigrate the Nicaraguan land reform because it only took 15 percent of the coffee? And whatever happened to the idea of "food first"? The Salvadoran reform, thus far consisiting of "Phase I" plus land-to-the-tenants ("Phase III"), has transferred most of the corn and bean land.

Finally, reliance is placed on selective quotations from a single Agency for International Development (AID) anthropologist, who spent a brief period in Salvador back in May of 1980, when the reform had barely gotten underway, and whose critcisms have been repudiated by the rest of his agency. Listen to what AID had to say in July, 1980:

"A priori, it was patently clear that ISTA [the Salvadoran agrarian reform agency] did not have the management, human and physical resources to carry out Phase I. Yet, the intervention was executed, campesinos were organized, and a relatively normal level of production maintained. ISTA rose to the task surprisingly well with secunded staff and vehicles which were later released when the crisis passes. Remarkable institutional elasticity was demonstrated, not only by ISTA but by most of the public sector agricultural institutions."

In fact, in late March of 1981, briefings with 35 field supervisors and the leadership of the largest peasant union—the Union Comunal Salvadoreña (UCS), which supports the reform, and turned out 10,000 people on April 9—indicated that the reform process thus far has been "80 percent" successful in the beneficiaries' eyes.[1] This doesn't mean that more isn't needed or that backsliding is not a danger: it does mean, I think, that we should concentrate on the real needs to strengthen and complete the reform, rather than playing into the hands of right-wing critics of the process.

Clearly the reality of El Salvador's land reform is accepted, among people who have excellent reputations for objectivity and for strong criticism of that government's failures to control violence by its security forces. Archbishop James A. Hickey, testifying on March 5, 1981, before the Barnes subcommittee in the U.S. House of Representatives on behalf of the U.S. Catholic Conference (USCC), the agency which represents the U.S. Catholic bishops on public-policy issues, gave as his main reason for opposing military aid that it would increase the danger of a rightist coup, which, "in my judgment, would in turn provoke reversal of the land reforms and an increased repression of the people that could result in a civil war of immense proportions." He added that "the absolutely necessary reforms" require "continuing amounts of United States economic assistance," and that, "in distinction from its position on military aid, the USCC does not oppose economic aid, it encourages it." In a colloquy with members of the subcommittee, Archbishop Hickey affirmed that the characteristics of the land reform were essentially as I have detailed them above. San Salvador's acting Archbishop Rivera y Damas, the close friend and mentor of slain Archbishop Romero, in an interview with the National Catholic Reporter News Service (carried, for example, in the Catholic Standard on March 19, 1981), stated, "Look, the call to revolution by the Frente [the Revolutionary Democratic Front—the umbrella political group which includes the armed revolutionary groups, the small Social Democratic party, and others] did not get the popular support they thought it would. That is evident. It makes one see that the majority of the population does not share the Frente's point of view. What is the reality? I would say that many accept the civilian-military junta as the lesser evil. But one also has to take into account the junta has also achieved substantial reforms, especially in the area of agrarian reform." When the Frente's "final offensive" and call for a "general uprising" failed so badly in January, 1981, Alan Riding wrote in The New York Times (February 8, 1981), "they apparently miscalculated the impact on peasants of land reforms decreed by the junta in March. There was no popular uprising." On March 15 and 16, 1981, The Times did long investigatory pieces on the land-reform program, highly favorable in their conclusions.

Indeed, Archbishop Romero himself gave an interview two days before his assassination, which was published in the Manchester Guardian Weekly of April 6, 1980. At that point, the phase of the reform that takes large estates had been enacted, and the Archbishop said, "The agrarian reform is, by all means, a good thing. It has taken away all the landholdings larger than 1,200 acres, and they are to be given to the people. In itself, this is good." He then spoke of the state of siege, "supposedly to keep the right from interfering with the reform," but under which, "in areas not affected by the reform, the military is quite active, the people are being repressed."

The Archbishop, unlike some of the recent critics of the reform, was completely honest: the reform and the repression were, and remain, independent, coexisting realities, the one very good, the other very bad. It is no more logical to deny the reality of the reform because of the repression than to deny the reality of the repression because there has been reform.

Peter Shiras' article in issue No. 20 of Food Monitor, "The False Promise—and Real Violence—of Land Reform" is one of those which essentially attacks the purpose rather than the reality of the reform. Very little is said by Mr. Shiras to directly negate the facts about the reform. Rather, the heart of his argument appears to be that, in South Vietnam, "The military counter-insurgency and the civilian land reform were part and parcel of a united strategy whose sole purpose was to defeat the enemy, both politically and militarily." Since he finds the Salvadoran land reform similar, at least with respect to the portion giving land to 150,000 tenant families, he seemingly concludes that El Salvador's land reform thereby loses all independent significance, and must be disregarded.

Mr. Shiras' argument is flawed in its history, since so far from being part of our government's "united strategy" in South Vietnam, the United States and the Agency for International Development had to be dragged, kicking and screaming, to a position of support for a major land reform—which did not come until the 1970s, in the twilight of U.S. involvement. I played a role in this process, which was followed closely in the media (see, for example, Elizabeth Pond, "Viet Land Reform Gathers Speed," The Christian Science Monitor, June 18, 1969, and editorial, The New York Times, April 9, 1970). Finally, peasant grievances were dealt with, as 900,000 tenant families became owners (they still are: the new government is unwilling to face the agricultural or political consequences of collectivizing them). Vietcong recruitment skidded from 7,000 a month to 1,000 a month while land reform was being carried out, but there were clearly a wide range of problems—from the whole divisions coming down from the North, to the corruption and military nepotism in the South—that the land reform could not deal with.

In his discussion of land reform in Vietnam, Mr. Shiras further refers to a 1968 House subcommittee report which terms land reform an essential element of "pacification." He does so, however, without noting that in 1968 the term "pacification" had not yet taken on the Orwellian meaning it was to assume in the later stages of the Vietnam conflict, but rather connoted an effort to reduce violence through a process of effectively addressing fundamental social and economic grievances.

My actual views have been expressed with sufficient clarity, I think, in a series of articles and interviews stretching back to 1966, in contrast to what Mr. Shiras' piece contrives to suggest of my views. They are that land reform and repression, in South Vietnam as in El Salvador, so far from being "part and parcel of a united strategy," in fact operate at total cross-purposes. A "reign of terror" or a "Phoenix program," such as Mr. Shiras alludes to, is wholly inconsistent with both the agricultural and political purposes of land reform: the agricultural impact of such violence is strongly adverse, since it interferes with planning and harvesting and marketing, and its political impact is the exact reverse of land reform's—adding to the peasant's grievances, rather than subtracting from them.

I want to be very clear that I do not condone or justify, in any way, the violence by the Salvadoran government's security forces (in Vietnam, far from being for the violence, my position was that of Negotiation Now, calling for an immediate, standstill cease fire in connection with the reform program). The indiscriminate violence being committed by Salvador's security forces must be ended, and I was saying so, in El Salvador and here, months before the death of the nuns and of my friends working with the land-reform program finally galvanized public awareness of the situation.

Ultimately, Mr. Shiras' view is flawed in its logic, since seemingly any reform whose purpose is "political"—that is, to deal with grievances within the system, so that revolution will, to that extent, be unnecessary—is to be considered a non-fact. Does Mr. Shiras propose that El Salvador's land-reform laws be repealed, that the 700,000 cultivated acres (and 300,000 uncultivated acres) thus far expropriated should be returned to the former landlords, and the 210,000 beneficiary families informed that their rights have been summarily terminated?

One reason why attacks on the land reform of this genre are being launched, I think, is that there is a good deal of self-delusion about two other basic facts of the Salvadoran situation. Mr. Shiras' piece is apparently premised on the notion that: (1) violence against the Salvadoran people by government forces is at the highest level it could possibly be (suggested in his comment that "a reign of terror exists that can only be compared to Vietnam in its brutality and intensity"), and (2) the Salvadoran people broadly support, and want to be governed by the Frente (suggested in his comment that the junta "is fighting a largely rural-based guerrilla movement that enjoys the wide support of the peasantry").

However, both of these premises are false.

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[1] It is UCS, not as Mr. Shiras suggests, the government of El Salvador, for which I have been "acting as unpaid adviser," in cooperation with the AFL-CIO sponsored American Institute for Free Labor Development.

First, the present violence, horrendous though it is, is a long way from the worst that could happen. More than 10,000 died in 1980, as Mr. Shiras notes. But in 1932, in a matter of months, Salvador's security forces put down a peasant rebellion with a loss of somewhere between 7,000 and 30,000 lives. This occurred at a time when the population was only 1.5 million. A proportionate death toll, in today's El Salvador of 4.8 million, would be as high as 96,000.[2] A death toll proportionate to what was experienced in the Mexican revolution, or Spanish Civil War, over a period of several years, could be as high as 250,000. Based on both its own experience and the civil war experiences of other countries (all without "benefit" of contemporaneous U.S. military aid to the government), El Salvador's people are still very far indeed from experiencing the worst violence they might experience.

Secondly, the Frente does not, by all present evidence, command anything close to majority support. A coalition of the left that could bring 100,000—mostly peasants demonstrating because of their grievances—into the streets of San Salvador in January, 1980, could bring only 2,000 out on May 1, after the reform was promulgated. (On April 9, 1981, 10,000 peasants were gathered by the Union Comunal Salvadoreña, not by the Frente, to support the land reform rather than oppose it.) The Frente's three calls for "general strikes" in mid-1980 were successively greater fiascos, as was the so-called "final offensive" and call for a "general uprising" in January, 1981. Rivera y Damas' recent comments, and Alan Riding's, are quoted above.

With the two premises, of maximum present violence and Frente popularity rejected as inaccurate, the calculations regarding the minimal risks and potential benefits of a cut-off of all U.S. aid implicit in Mr. Shiras' article—and explicit in the position of the "Committee in Solidarity with the People of El Salvador" (CISPES), which he cites approvingly, and which expressly supports the Frente and makes ending U.S. support for the land reform its first priority—are stood on their head.

In fact, a withdrawal of U.S. economic support from the present government would in all likelihood trigger a coup of the right, not a victory of the left. The unfettered right would launch a 1932-style real "reign of terror," and would simultaneously attempt to reverse and dismantle the reform. The impact of such repression and attempted reversal would be to dramatically increase the numbers of those in armed opposition to the government—and a civil conflict would commence between two well-matched and utterly-polarized extremes, each probably drawing on support from outside (the far-right forces almost certainly from Guatemala and quite likely from Argentina). The ultimate result—after incalculable death, hunger, and suffering—might be a government of the Frente, or of an extreme Pol Pot faction on the left, or of ex-Major D'Aubuisson or the "death squads" on the extreme right. No one can claim the ability to predict the result of such a conflict.

In other words, if this land reform is lightly and cavalierly denied support, and destroyed, it is likely to be a very long road—and an enormous amount of suffering—before any other land reform comes to take its place.

Those who really care about El Salvador's peasants will, I think, join me in urging that economic aid to the land reform be continued, but that it be conditioned on completion during 1981 of the bulk of the titling process, for both ex-tenants and co-ops on large estates, and on the ending of security-force violence directed against the peasants, with clear orders to the field, backed up by whatever disciplinary sanctions are necessary to enforce those orders.

In a situation such as El Salvador, where many lives are at stake, there are particularly important obligations, in any discussion of what U.S. policy should be, to be careful in getting the facts right, to be clear on what actions one wishes the U.S. to take based on these facts, and scrupulously honest about the likely consequences of those actions for the people of El Salvador. If the U.S. had a magic wand that it could wave, ending all the killing and transforming the Salvadoran government instantly into a Swedish-style democracy, the case for waving it would be very strong. Unfortunately, there is no course of action available that can lead to such an unambiguous, rapid, and benevolent outcome. There are some courses of action, however—especially if the land reform is made a whipping-boy for frustrations over entirely different policies—that can create outcomes of an order of magnitude worse than what El Salvador is experiencing now.

A Real Promise, but a Final Failure

(By Leonel Gomez)

I can find much that I agree with in Peter Shiras' article and in the 1981 OXFAM report on land reform in El Salvador, by Laurence R. Simon and James C. Stephens, Jr. that comes to similar conclusions. But I think there are some significant errors in both matters of detail and in the broad view of what is going on in El Salvador.

As bad a picture as both Shiras and the authors of the OXFAM report paint, the real situation in El Salvador is actually much worse. Shiras argues that land reform provides a license for the military in El Salvador to kill peasants. Peasants are indeed being killed, and the blame rests squarely on the military. But the sad truth is that the army has never needed a license to kill campesinos.

Land reform was not developed by the army, it was initiated by legitimate reformers who hoped to change Salvadoran society. These reformers sought to include the campesino—to give him status, dignity and respect. Alas, most of these reformers have been forced out of ISTA, the Salvadoran agrarian reform agency. My own associate and supervisor, Rodolfo Viera, was assassinated by a right-wing death squad because he valiantly exposed corruption in the program. Those who fight for the campesinos do so at risk to their own lives.

Shiras writes that under Phase I of the land reform, "only 9 percent of the coffee land is affected since most of the coffee farms are less than 500 hectares in size." The second point is correct. But in reality, Phase I had a much greater effect on the Salvadoran oligarchy than Shiras indicates. Thirty-seven percent of the cotton lands were redistributed, as were 34 percent of the coffee-growing lands; the balance of redistributed land was in sugar cane, corn, and cattle-grazing acreage. Cotton and coffee are both major export crops, and both form the backbone of the Salvadoran oligarchy. In addition, the original agrarian reform was accompanied by the nationalization of the banks and of the coffee-exporting trade.

Shiras, moreover, is mistaken when he terms the compensation offered for Phase I of the reform generous. The government offered owners 25 percent in cash and 75 percent in bonds, but Shiras fails to point out that the bonds would mature in thirty years! Moreover, the amount of compensation was based on 1976 tax returns filed by the landowners, and their statements underestimated the value of the land in the interest of tax avoidance.

While administering the land-reform program with Viera, I found no evidence to support the allegation that landowners drove tractors and machinery across the border to Guatemala. Shiras is correct to note that owners did slaughter cattle and remove barbed-wire fences. As for the return of confiscated land to former owners, most of that resulted from sheer confusion. Deeds were not always clear, and ISTA was not always certain what land it was entitled to redistribute and what land fell outside Phase I. Some of the 45 returned estates were less than 500 hectares in size, and were not eligible for Phase I redistribution. In only one of those 45 cases was I fairly certain that corruption was involved. The Venicia e Prussia estate outside San Salvador consisted of 1,500 hectares, and its market value was approximately $8 million. Yet this estate was returned to its former owners by the new Sub-Secretary of Agriculture, Lt. Colonel Galileo Torres. That transfer was clearly illegal. Agrarian judges are supposed to be appointed and have the only power to decide on cases of devolution of land to former owners. But in reality Colonel Torres was the only man in El Salvador who held in his hands the power to return land to former owners—a power he quickly put to use. In the case of the Venicia e Prussia estate, I suspect that an exchange of money between Torres and the landowners was his primary motive. We administrators at ISTA sought to have the land returned to the campesinos. President Duarte eventually conceded that we were correct, but the land still has not been returned, and the president of the co-op at this estate was murdered.

That incident clearly reflects the deep problems we have with the current government. There are other examples of which people are not aware. A twelve-day strike took place in May of 1980. What was unique was that the strike was conducted by ISTA production workers, engineers and technicians. Their strike was against the junta, because the government was not providing the Phase I co-ops with necessary fertilizer and seed. A delay of another 15 days would have cost up to 25 percent of the crop yields. The strike was a success, and the government delivered the fertilizer and seeds. Despite the civil war, 1980 produced a fairly successful harvest. Only the ISTA lands that previously were under military administration were incapable of producing a successful yield—a fact which demonstrates the corruption of the military.

The murders of campesinos by the military, the violence and the terror practiced by ORDEN (the police, both uniformed and secret, aided by the civilian vigilante organization), have to be the central issues of any discussion about El Salvador. What role does land reform play in that violence? To argue that land reform serves as a pretext for the murder of peasants by the army is to give the army an excuse it does not need. To argue in that fashion is to misunderstand and underestimate the brutality of the army. Nor does the claim that the reform was intended to flush out the peasant leaders for killing stand up to scrutiny.

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[2] Mr. Shiras collaborated with Philip Wheaton on the EPICA report titled "Agrarian Reform in El Salvador. A Program of Rural Pacification," which uses a figure of 30,000 for the deaths in 1932.

Phase I lands were the lands of the wealthiest of the wealthy. Those who worked there were steadily employed. They were trusted and hence relatively conservative campesinos. Moreover, the violence connected with the land reform began not with the onset of the reform—but four months later. When the army came back to the co-ops seeking money for protection, for gasoline, and for out-and-out bribes—and when campesinos refused to meet their demands—then the army began its reign of terror on the co-ops.

Shiras is correct in noting that the land reform failed to reach the poorest of the poor. And while I think the El Salvador situation is very different from Vietnam, Shiras' criticism of the American Institute for Free Labor Development (AIFLD) and of Roy Prosterman do not disturb me. Our land-reform program gave them an opportunity to build up points for the next U.S. AID grant.

Phase III or Decree 207, and its "Land to the Tiller" section, gets us into a complicated area of discussion. The OXFAM report is in error when it states that the tenant farmers move around a great deal. There is simply no idle land, and extreme competition exists for what land does exist. None of the tenants under Decree 207 were forced to accept land; they were only free to claim it. Some 150,000 families are estimated to have been renters. They were the people to be affected by Decree 207. Yet—after one whole year—only 200 have received any title to the land which is supposedly theirs to till. Not one ISTA leader ever favored placing Decree 207 before Phase II. We simply did not view it as workable.

Near the end of his article, Shiras quotes from Jorge Villacorta's statement of resignation as Sub-Secretary of Agriculture. Jorge attacked the state of violence and the repression. His views are very important. Agrarian reform must involve more than the transfer of land. It must be a process, a relationship between people—not just a statute. It must reflect a spirit of change and a commitment to new priorities—a commitment to dignity and respect for the campesinos and a clear willingness, even eagerness, to give power to the powerless. That spirit existed at one point in El Salvador's land reform, but it exists no longer. It has been replaced by the interest of the military rulers whose sole concern is for increased U.S. military and economic aid, for increased power, and an increased ability to rule, to kill and to corrupt. U.S. aid has helped the military and, as a result, ISTA is quickly falling into the military's control.

Real Violence, Unreal Assumptions

(By Peter Shiras)

Without entering into a point-by-point rebuttal of Mr. Prosterman's objections to my article, let me instead comment briefly on the overall thrust of his remarks. Mr. Prosterman, like the Carter and Reagan administrations and the junta in El Salvador, would have us believe that the land-reform process in El Salvador is essentially good while the military repression is bad. Therefore we should support the reform (and the reformers), while opposing (or at least not actively supporting) the repression and the repressors.

This argument is totally unrealistic for two reasons. First, while I agree with Mr. Gomez, that initially there were genuine reformers participating in the government and there was a genuine commitment by these people to land reform, at the present time all of these reformers are either dead or exiled. Any leadership for reform, both at a national level and at the local level, has been systematically eliminated by the government and its military and paramilitary security apparatus. Thus, there are no reforms to support.

Secondly, there is no question but that the military high command controls the government (including President Duarte) in El Salvador, and any U.S. aid, economic or military, strengthens the hand of that military government. The land-reform program cannot be divorced from the political context in which it takes place, just as U.S. economic aid cannot be neatly separated from military aid—both are tools to prop up a government directly responsible for the deaths of more than 10,000 of its own citizens last year. No matter what guise U.S. aid takes, the result will be to prolong in power this brutally repressive Salvadoran government.

El Salvador desperately needs a comprehensive land-reform program to redress the grievous inequities in the rural agrarian structure, but first it needs a government genuinely committed to reform so that a mockery is not made of the term land reform.

EXTENSION OF VOTING RIGHTS ACT

Mr. LEAHY. Mr. President, the Constitution Subcommittee will soon go to markup on S. 1992, the Voting Rights Act. Recently Linwood Holton, former Governor of Virginia, prepared a very timely and thought-provoking article on the extension of the Voting Rights Act for the Northern Virginia Sun. As a supporter of S. 1992 and a Senator who finds Virginia my temporary residence when the Senate is in session, I ask unanimous consent that Governor Holton's article be printed in the Congressional Record, and I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Northern Virginia Sun, Jan. 9, 1982]

Voting Rights Act Should Be Extended

(By Linwood Holton)

The U.S. Senate will soon decide whether to extend the Voting Rights Act of 1965 another 10 years. I hope the Senators will vote not only to keep the Act, but to keep it strong. The version of the extension bill which the House of Representatives passed last fall, 389 to 24, may need perfecting, but it aptly expresses the need to protect the franchise.

Under the Voting Rights Act, the Justice Department must clear election-law changes for nine states and parts of 13 others with histories of voting discrimination. Jurisdictions can appeal the department's objections in federal court.

Just last year, Justice Department "preclearance" kept the Virginia General Assembly from violating the right of black Virginians when it redrew legislative boundaries following the 1980 census.

In its first redistricting map last April, the House of Delegates broke up a majority-black district and distributed its counties among surrounding—majority-white—districts. Delegates also put the majority-black city of Petersburg in a new, majority-white district, submerging Petersburg's black vote.

At about the same time, the state Senate drew a district line right down the middle of Norfolk's black neighborhood, putting each half of it in a majority-white Senate district. If the Senators had left Norfolk's black neighborhood uncarved, it would have constituted a majority-black Senate district.

President Reagan's Justice Department rejected all three of these changes because they discriminated against black citizens.

The voting rights of blacks have been denied even more blatantly in other areas that have made less progress than Virginia. White city councils annex white neighborhoods, for instance, to maintain a white voting majority in the city. District lines are gerrymandered to dilute black voting strength.

Since 1965, the Voting Rights Act has prevented lawmakers from using these tricks to maintain their power. The South generally—and Virginia, in particular—have made tremendous progress in rooting out the vestiges of discrimination. Gone are poll taxes, literacy tests, inaccessible registrars—all devices used in my generation to minimize voting by black citizens. But if we stop now, we risk falling back.

Letting the Voting Rights Act die would be an easy escape from the challenge to end discrimination. The extension bill that the Senate is considering does contain a provision allowing states to "bail out" of the Voting Rights Act when they can show that they have eliminated discriminatory application of their election laws.

Congress should not rescue us from the Voting Rights Act by allowing it to die. We should be allowed to rescue ourselves by continuing the tremendous progress we have made until the job is done. We're proud of our progress; we'll be even prouder when we finish the job!

MESSAGES FROM THE HOUSE

At 1:34 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 4) to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Boland, Mr. Mazzoli, Mr. Fowler, Mr. Hamilton, Mr. Mineta, Mr. Rodino, Mr. Edwards of California, Mr. Robinson, Mr. Ashbrook, Mr. McClory, and Mr. Hyde as managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 3:45 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 892. An act to amend the Federal Grant and Cooperative Agreement Act; and

S. 2254. An act to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS PRESENTED

The Secretary reported that on today, March 24, 1982, he had presented to the President of the United States the following enrolled bills:

S. 982. An act to amend the Federal Grant and Cooperative Agreement Act;

S. 2166. An act to provide for the distribution within the United States of the International Communication Agency slide show entitled "Montana: The People Speak"; and

S. 2254. An act to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-749. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE JOINT RESOLUTION NO. 17

"Whereas, The California beef cattle industry is a vital part of the economy of the state by generating approximately two billion dollars of income annually; and

"Whereas, California consumers lead the nation in per capita consumption of beef; and

"Whereas, The number of feedlots in this state has declined from 425 to 101 and over 50 slaughter houses have closed in the last decade; and

"Whereas, The labor requirements of the California beef cattle industry have declined from 17,033 to 13,920 workers in the last five years; and

"Whereas, There is increasing concentration in the meat processing industry which could have a long-term adverse impact; and

"Whereas, There is a national trend toward a decline in beef consumption; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to modify the federal beef grading standards contained in the Agricultural Marketing Act of 1946 to reflect the consumers' desire for a leaner product and to reflect the economic realities of the costs associated with feeding to heavy weights and high fat contents; and be it further

"*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-750. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE CONCURRENT MEMORIAL 1002

"Whereas, the State of Arizona has enacted title 45, chapter 10, article 4, Arizona Revised Statutes, "Floodplain Management", for stated purposes that include the protection of the lives and property of citizens who have settled in floodplain areas, to prevent unwise encroachment and building development within floodplain areas and to reduce the financial burden imposed upon a community, its governmental units and its citizens if such land is subject to flooding; and

"Whereas, the enactment of title 45, chapter 10, article 4, Arizona Revised Statutes, was in part due to the requirements of the National Flood Insurance Act of 1968 (P.L. 90-448, Title XIII; 82 Stat. 476; 42 U.S.C. Sec. 4001 et seq.) and the Flood Disaster Protection Act of 1973 (P.L. 93-234; 87 Stat. 975), to enable property owners in a flood plain area to obtain federal flood insurance and federal disaster assistance; and

"Whereas, there is reason to question whether the maps of the 100-year floodplain and floodway produced by federally contracted agencies, rather than by local civil engineers, for portions of the Verde river valley in Yavapai county, Arizona, including the towns of Clarkdale, Cottonwood, and Camp Verde, are accurate; and

"Whereas, these maps and their effect in the floodplain management program have imposed a severe hardship on more than two thousand property owners located in the Verde river valley, totaling an estimated loss of fifty to seventy-five million dollars in value for the land affected, which may total as much as eight thousand acres. "Wherefore your memorialist, the Senate of the State of Arizona, the House of Representatives concurring, prays:

"1. That the federal laws cited in this Memorial be amended to allow discretionary flexibility in the regulations adopted by local communities for local floodplain management, especially with respect to the maps and data used in identifying flood hazards and defining the 100-year floodplain and floodway, allowing the use of verifiable historical data in addition to other analytical techniques, recognizing that different areas of the country have different needs which require local flexibility.

"2. That the amendments provide:

"(a) That alternative measures, such as structures, especially if funded by the affected property owners rather than by the country, state or federal governments, be accepted under the provisions of a revised federal Flood Disaster Protection Act, handled directly by state and county governments without federal intervention.

"(b) That state designed and funded flood insurance programs be an acceptable alternative under the provisions of a revised federal Flood Disaster Protection Act to satisfy the requirements of federally guaranteed financing for property purchase and construction even if the state requirements do not conform to those at the federal level, if the property owner obtains the state flood insurance.

"(c) That property owners may, without penalty or prosecution, determine for themselves to not participate in the floodplain management program by filing with the state department of real estate their decision to forego flood insurance, together with a statement that no federal assistance of any kind will be sought in the event of flooding while continuing to satisfy the requirements of any federally-guaranteed financing for the property with these declarations becoming a part of any title or other instrument for the property, for which notice must be given before the sale of any property so listed.

"3. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation."

POM-751. A resolution adopted by the Board of Kaskaskia Industrial Development Corporation, concerning opposition of the proposed reduction of the present services for the movement of commerce by water transportation in Southern Illinois; to the Committee on Commerce, Science, and Transportation.

POM-752. A resolution adopted by the General Assembly of the State of Georgia; to the Committee on Environment and Public Works.

"H.R. No. 674

"Whereas, the Tri-Rivers waterway system is the result of 35 years' work to develop a navigable river channel from the Gulf of Mexico to Columbus, Georgia; and

"Whereas, the Apalachicola, Chattahoochee, and Flint rivers and the water system they create currently support heavy barge traffic used to carry a variety of goods throughout the Southeast; and

"Whereas, farmers, business, and ultimately all consumers would be adversely affected if this transportation system were closed; and

"Whereas, as part of the federal plan to reduce the budget, the Reagan Administration is considering shutting down this Tri-Rivers waterway system.

"Now, Therefore, Be It Resolved By The General Assembly of Georgia that this body does urge the Congress of the United States to take whatever action is necessary to ensure the continued operation of the Apalachicola-Chattahoochee-Flint Rivers Waterway System.

"Be It Further Resolved that the Clerk of the House of Representatives is authorized and directed to transmit an appropriate copy of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate, and to each and every member of the Georgia Congressional Delegation."

POM-753. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 43

"Whereas, The amount of hazardous waste which must be disposed of in this country each year is increasing dramatically; and

"Whereas, The public has become increasingly concerned with regard to the potentially harmful effect of such waste on the public health and safety and the environment; and

"Whereas, The number of hazardous waste disposal facilities is decreasing in the face of increasing demand, and under present circumstances and law, the imbalance between supply and demand is likely to further increase in the foreseeable future; and

"Whereas, Any decrease in the number of existing hazardous waste facilities increases the distance necessary to transport hazardous waste in order to properly dispose of it; and

"Whereas, There have been an increasing number of spills and accidents on the nations's highways, involving the transportation of hazardous materials, which threaten the health, safety, and welfare of the citizens of this country; and

"Whereas, An increase in the distance which it is necessary to travel in order to properly dispose of hazardous waste encourages illegal disposal; and

"Whereas, While a completely risk-free environment cannot be provided, we as a nation must do all in our power in order to minimize the risk of significant harm to the public from the adverse effects of exposure to such substances; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the Congress of the United States to encourage the development of hazardous waste treatment and disposal facilities in each state in the union by, among other things, developing a system of financial incentives which will encourage the development of hazardous waste treatment and disposal sites within the boundaries of each state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of State and presiding officer of each house of the Legislature of each of the other states in the United States, to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Clerk of the United States House of Representatives, and to the Secretary of the United States Senate.

POM-754. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 43

"Whereas, the amount of hazardous waste which must be disposed of in this country each year is increasing dramatically; and

"Whereas, the public has become increasingly concerned with regard to the potentially harmful effect of such waste on the public health and safety and the environment; and

"Whereas, the number of hazardous waste disposal facilities is decreasing in the face of increasing demand, and under present circumstances and law, the imbalance between supply and demand is likely to further increase in the foreseeable future; and

"Whereas, any decrease in the number of existing hazardous waste facilities increases the distance necessary to transport hazardous waste in order to properly dispose of it; and

"Whereas, there have been an increasing number of spills and accidents on the nation's highways involving the transportation of hazardous materials, which threaten the health, safety, and welfare of the citizens of this country; and

"Whereas, an increase in the distance which it is necessary to travel in order to properly dispose of hazardous waste encourages illegal disposal; and

"Whereas, while a completely risk-free environment cannot be provided, we as a nation must do all in our power in order to minimize the risk of significant harm to the public from the adverse effects of exposure to such substances; now, therefore, be it

Resolved, by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the Congress of the United States to encourage the development of hazardous waste treatment and disposal facilities in each state in the union by, among other things, developing a system of financial incentives which will encourage the development of hazardous waste treatment and disposal sites within the boundaries of each state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of State and presiding officer of each house of the Legislature of each of the other states in the United States, to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Clerk of the United States House of Representatives, and to the Secretary of the United States Senate."

POM-755. A resolution adopted by the House of Representatives of the State of Kansas; to the Committee on Foreign Relations:

"HOUSE RESOLUTION NO. 6130

"Whereas, approximately 2,500 American servicemen and civilians are missing and/or otherwise unaccounted for as a result of the Vietnam conflict; and

"Whereas, the conscience of every American should be troubled on behalf of the families of our prisoners of war and those still missing who are subjected to unrelenting mental anguish and a sense of futility in their quest for information about their loved ones; and

"Whereas, it is the statutorial responsibility of the United States government to ensure the return of all prisoners of war and to account for missing personnel as well as the repatriation of remains of those who perished serving our nation; and

"Whereas, an increasing number of eyewitness reports of Americans in captivity in Southeast Asia continues to fill the hopes of the POW/MIA families that priority effort will be made to exact a precise accounting for these men; and

"Whereas, new initiatives at every level of government should be taken to secure the safe return of these servicemen and civilians; and

"Whereas, it is fitting that the Legislature of the State of Kansas should petition the United States Congress on behalf of our prisoners of war and those servicemen and civilians still missing to ensure that the Congress take whatever steps are necessary to secure the fullest possible accounting: Now, therefore,

"Be it resolved by the House of Representatives of the State of Kansas: That we urge the Congress of the United States to immediately take whatever action is necessary, publicly and forcefully, to obtain the identity and seek the release of our prisoners of war and the fullest possible accounting for those still missing as a result of the Vietnam conflict by the use of both private and public agencies, be it through national or international auspices; and

"Be it further resolved: That the Chief Clerk of the House of Representatives be directed to send enrolled copies of this resolution to the President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; each member of the Kansas Congressional Delegation; the National League of Families of American Prisoners and Missing in Southeast Asia, 1608 K Street N.W., Washington, D.C. 20006; and Mrs. Patti Sheridan, 8612 Tamarac, Wichita, Kansas 67206."

POM-756. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Select Committee on Indian Affairs:

"A CONCURRENT RESOLUTION

"Whereas, the members of the General Assembly have learned that companion bills have been introduced in the Congress which establish the "Ancient Indian Land Claims Settlement Act of 1982"; and

"Whereas, the number of this bill in the Senate is S. 2084 and the number of the bill in the House of Representatives is H.R. 5494; and

"Whereas, these bills set up a fair and consistent policy with respect to a purported lack of congressional approval of ancient Indian land transfers and further mandate procedures which will clear the title to lands subject to Indian claims in the states of New York and South Carolina; and

"Whereas, the effects of this bill will consequently be felt in South Carolina where certain types of Indian land claims are presently pending; and

"Whereas, the members of the South Carolina General Assembly believe that it would be in the best interest of the people of this State, the Indians involved, and the other interested parties to such claims if S. 2084 and H.R. 5494 are enacted into law.

"*Now, therefore, be it resolved* by the House of Representatives, the Senate concurring:

"That the members of the South Carolina General Assembly hereby memorialize Congress to enact United States Senate Bill 2084 and United States House of Representatives Bill 5494 which establish the "Ancient Indian Land Claims Settlement Act of 1982".

"*Be it further resolved* that copies of this resolution be forwarded to the President of the United States, to each member of the Congressional Delegation from South Carolina, and to the presiding officers of both houses of the United States Congress."

POM-757. A resolution adopted by the Legislature of the County of Rensselaer, New York, urging the continuation of present appropriations of the Title V Senior Community Services Employment Program; to the Committee on Labor and Human Resources.

POM-758. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans; Affairs

"ASSEMBLY JOINT RESOLUTION NO. 83

"Whereas, it is of vital interest to the people of California that California veterans receive adequate health care from the Veterans' Administration as provided for under existing law; and

"Whereas, The Veterans' Administration outpatient clinic at Sacramento was established to meet the outpatient medical needs of over 200,000 northern California veterans at a cost which is much lower than that of inpatient treatment; and

"Whereas, the Sacramento clinic consistently has 10,000 requests for medical treatment over and above the authorized 39,000 patient visits; and

"Whereas, Without proper levels of medical support at this facility, there will be increasing hardships experienced by the veterans of northern California; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to require the Administrator of Veterans' Affairs to review the health care needs of the veterans of northern California and to authorize at least one additional physician and at least two additional medical support personnel to adequately service the needs of those veterans who utilize the facilities of the Sacramento Veterans' Administration outpatient clinic at Sacramento; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of Veterans' Affairs."

POM-759. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"Assembly Joint Resolution No. 84

"Whereas, One of the primary obligations of the United States Veterans' Administration (VA) is to provide adequate medical services to honorably discharged sick and disabled veterans of the United States Armed Services; and

"Whereas, Four of the five VA medical centers serving northern California are located in the San Francisco Bay area; and

"Whereas, it is extremely difficult for veterans to obtain proper medical care in areas more than 100 miles from a VA medical facility, even when issued a fee-basis treatment card because of the reluctance of health care providers to accept that form of payment; and

"Whereas, There are in excess of 48,000 veterans residing in Kern County and 13,000 veterans residing in Shasta County; and

"Whereas, Veterans residing in these two counties must travel in excess of 100 miles to receive medical treatment from the VA; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California hereby respectfully memorializes the President and Congress of the United States, and the Administrator of the United States Veterans' Administration, to establish full-time VA outpatient clinics in the Cities of Redding and Bakersfield, California, in order that veterans in those areas may receive the same level of medical treatment as veterans in other areas of the state; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the United States Veterans' Administration."

POM-760. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"Senate Joint Resolution No. 23

"Whereas, Many studies have recently shown that more than one-third of Vietnam veterans who saw heavy combat suffer from what is now recognized as post-traumatic stress disorder, which has been described as a slow-fuse emotional reaction often referred to as the 'Vietnam syndrome;' and

"Whereas, The symptoms of post-traumatic stress disorder may appear 10 or even 15 years after return from combat and include rage, guilt, flashbacks, nightmares, panic, depression, and emotional numbing and can afflict all personality types, including those from stable family backgrounds who were previously thought unlikely to develop chronic stress; and

"Whereas, The reality of a lasting stress reaction is now accepted by leading psychiatrists and recognized as much more prevalent than believed previously, and has been found to be related much more to the veterans exposure to combat than to the emotional stability of his childhood; and

"Whereas, Although related to the World War I condition known as 'shell shock' and to the 'combat fatigue' of World War II, the Vietnam stress reaction has a tendency to come on much later and is much more widespread among the combat veterans and, for those veterans still suffering from the trauma of Vietnam combat, the problems are acute; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to direct the United States Veterans' Administration to investigate and provide counseling and therapy for post-traumatic stress disorders of Vietnam veterans; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the United States Veterans' Administration."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment, and an amendment to the title:

S. 1936. A bill to require members of the National Transportation Safety Board to be chosen from individuals with expertise in the field of accident reconstruction, safety engineering, transportation safety, or transportation regulation (Rept. No. 97-326).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Herman W. Nickel, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of South Africa:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nomineee: Herman Nickel
Post: Ambassador to South Africa.
Contributions, amount, date, and donee.
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none (deceased).
5. Grandparents names, none (deceased).
6. Brothers and spouses names, none (no brothers).
7. Sisters and spouses names, none.

James L. George, of Maryland, to be an Assistant Director of the United States Arms Control and Disarmament Agency;

Norman Terrell, of California, to be an Assistant Director of the United States Arms Control and Disarmament Agency; and

Robert Thaddeus Grey, Jr., of Virginia, to be Deputy Director of the United States Arms Control and Disarmament Agency.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself and Mr. Hatch):

S. 2265. A bill to prevent the retroactive assessment of certain deficiencies in the case of employees of the Panama Canal Zone Government, of the Panama Canal Company, or any U.S. agency involved with security operations in the Canal Zone; to the Committee on Finance.

By Mr. ROBERT C. BYRD (for himself, Mr. Ford, and Mr. Eagleton):

S. 2266. A bill to amend the Clean Air Act and for other purposes; to the Committee on Environment and Public Works.

By Mr. HEINZ (for himself, Mr. Cohen, Mr. Melcher, Mr. Pryor, Mr. Kasten, and Mr. Sarbanes):

S. 2267. A bill to amend the Internal Revenue Code of 1954 to allow the Secretary of the Treasury to waive the interest penalty for failure to pay estimated income tax, for elderly and retired persons, in certain situations; to the Committee on Finance.

By Mr. RANDOLPH (for himself and Mr. Robert C. Byrd):

S. 2268. A bill to amend section 1006 of title 38, United States Code, to provide for the Administrator of Vererans' Affairs to accept certain donations of land for the purposes of expanding national cemeteries; to the Committee on Veterans' Affairs.

By Mr. TSONGAS:

S. 2269. A bill to extend the authorization for the low income housing program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LUGAR (for himself Mr. Zorinsky, Mr. Jepsen, Mr. Garn, Mr. Cochran, Mr. Andrews, Mr. Wallop, Mrs. Hawkins, Mr. Grassley, and Mr. Mattingly):

S. 2270. A bill to amend section II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restriction on the right of any alien in a foreign country to receive such benefits; to the Committee on Finance.

By Mr. PACKWOOD (for himself and Mr. Schmitt):

S. 2271. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 2272. A bill to enhance the transfer of technical information to industry, business and the general public by amending the act of September 9, 1950 (15 U.S.C. 1151 et seq.) to establish a technical information clearinghouse fund, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SCHMITT (for himself and Mr. Packwood):

S. 2273. A bill to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorization for appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH (for himself, Mr. Chiles, Mr. Cohen, Mr. Durenberger, Mr. Mattingly, Mr. Nunn, and Mr. Sasser):

S. 2274. A bill to amend the Inspector General Act of 1978 to establish Offices of Inspector General in the Department of Defense, the Department of Justice, and the Department of the Treasury, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 2275. A bill to extend the life of the Gateway National Recreation Area Advisory Commission, which is presently due to expire October 27, 1982; to the Committee on Energy and Natural Resources.

By Mr. STAFFORD (by request):

S. 2276. A bill to amend the General Bridge Act of 1946, as amended to eliminate the requirements of review and approval of the location and plans for bridges and causeways over certain navigable waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MITCHELL (for himself and Mr. Sasser):

S. 2277. A bill to amend the Internal Revenue Code of 1954 to make certain changes to stimulate the housing industry; to the Committee on Finance.

By Mr. EAST (for himself and Mr. Hayakawa):

S. 2278. A bill to provide a policy of promoting public sector procurement of goods and services from profitmaking business concerns, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FORD:

S. 2279. A bill to designate the Alben Barkley National Historic Site; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI (for himself and Mr. McClure):

S. 2280. A bill to amend the Clean Water Act of 1977; to the Committee on Environment and Public Works.

By Mr. LEAHY (for himself, Mr. Heinz, and Mr. Dole):

S.J. Res. 174. A joint resolution to authorize and request the President to designate October 16, 1982 as "World Food Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAKER (for himself, Mr. Robert C. Byrd, Mr. Stevens, and Mr. Cranston):

S. Res. 350. A resolution establishing a select committee to conduct an investigation of the activities of components of the Department of Justice in connection with their law enforcement undercover operations and to recommend such legislation as the committee deems necessary or desirable; submitted and read.

By Mr. BAKER (for himself and Mr. Robert C. Byrd):

S. Res. 351. A resolution to direct the Senate Legal Counsel to provide representation to Senate deponents in *Rose Hall, Ltd., et al. v. Chase Manhattan Overseas Banking Corp. and Holiday Inns, Inc.*, C. A. No. 79-182; considered and agreed to.

By Mr. TSONGAS (for himself, Mr. Kennedy, Mr. Boschwitz, and Mr. Pressler):

S. Con. Res. 77. A concurrent resolution expressing the sense of Congress that export control regulations of February 26, 1982, pertaining to Iraq, Syria, South Yemen, South Africa, and Nambia should be modified according to certain principles; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself and Mr. Hatch):

S. 2265. A bill to prevent the retroactive assessment of certain deficiencies in the case of employees of the Panama Canal Zone Government, of the Panama Canal Company, or any U.S. agency involved with security operations in the Canal Zone; to the Committee on Finance.

OPERATION OF THE PANAMA CANAL

● Mr. HOLLINGS. Mr. President, the Federal Government employs several hundred people in the maintenance and security of the Panama Canal Zone. It is expected that the vast majority of these employees will be removed from the Canal Zone by the end of March 1982. The employees of the Panama Canal Zone Government, the Panama Canal Company and the various U.S. agencies involved in security operations in the Canal Zone must reside in the zone itself. This condition of employment in the Canal Zone has become known as "Captive Tenancy." Furthermore, any individual must rent from the Government and cannot purchase property in nearby Panama for legal residence or investment.

The Government agencies involved advised their employees that rent and utility costs could be deducted from their respective personal income taxes. This was fully accepted by the Internal Revenue Service office in Caracas, Venezuela for almost 19 years without change, and in fact, survived many personal audits. The IRS, in 1976, reversed its previous decision to allow the deduction and ordered a retroactive assessment of taxes that were previously deducted for rental utilities.

I am now, with my distinguished colleague, Mr. Hatch, introducing legislation to prohibit the Internal Revenue Service from overturning an agreement made in good faith between the Federal Government and its employees in the Canal Zone with the prior consent of the IRS. The Canal Zone employees live and work in a unique environment that creates special problems and demands on the private life of the Federal employees. This legislation exempts the employees of the Canal Zone Government, the Panama Canal Company, and any Federal agency involved in the security operations of the Canal Zone from retroactive assessment of those deductions made for rent and utilities paid to the Federal Government up until October 1, 1979.

This legislation will show that the Congress clearly recognizes the injustice in the ruling for assessment by the Office of International Operations of the IRS; the very office which had, for close to two decades, allowed the deduction. The arbitrary decision by the IRS, if allowed to stand, would undoubtedly cause great hardship to those who have faithfully served in the Canal Zone.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN AMOUNTS PAID FOR LODGING BY EMPLOYEES OF THE CANAL ZONE GOVERNMENT OR OF THE PANAMA CANAL COMPANY

(a) General Rule.—For purposes of the Internal Revenue Code of 1954, any amount paid by an individual to the United States Government for rent of a residence in the Canal Zone (or for utility services provided for such residence) shall be excluded from gross income to the extent that such amount is attributable to a period before October 1, 1979, during which—

(1) such individual was an employee of the Canal Zone Government, of the Panama Canal Company or of any U.S. Agency involved in security operations in the Canal Zone, and

(2) such individual was required to reside in the Canal Zone as a condition to being so employed.

(b) Statute of Limitations.—If refund or credit of any overpayment of tax resulting from the application of this section is prevented at any time on or before the date 1 year after the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), refund or credit of such overpayment (to the extent attributable to the application of this section), may, nevertheless, be allowed or made if claim therefore is filed on or before the date 1 year after such date of enactment.●

● Mr. HATCH. Mr. President, I rise to support the legislation being introduced today. As many of my colleagues will recall, I vehemently opposed the ratification of the Panama Canal treaties in 1977. The Senate, however, voted to give this valuable piece of property to the Government of Panama. During the past few years a large contingent of U.S. employees have remained in the Canal Zone to assist in the complete transfer of the operation of the canal. These men and women have remained with full knowledge that the overwhelmingly majority would be leaving by this month, March 1982. They remained in part because of a sense of responsibility and a sense of pride in helping to continue the smooth operation of this remarkable waterway.

Today these employees are faced with another problem. For many years the employees of the various agencies involved were permitted to deduct the rent and utility costs of their Canal Zone residences from their taxable income. In 1976 the IRS reversed its position on this matter and ordered a retroactive assessment of taxes to those taking these deductions. They take this action when previous history indicates that all employees made these deductions in good faith, as was expressed to them by the various agencies employing them.

The legislation Senator Hollings and I introduce today will right what is unquestionably a wrong. This legislation will exempt the employees of the Canal Zone Government, the Panama Canal Company, and other U.S. agencies involved in the security and maintenance operations in the Canal Zone. The ruling by the IRS appears both arbitrary and capricious. It will, if permitted to stand, cause undue hardship on those employees. I hope that all of my colleagues will review the legislation and see the wisdom of its prompt passage.●

By Mr. ROBERT C. BYRD (for himself, Mr. Ford, and Mr. Eagleton):

S. 2266. A bill to amend the Clean Air Act and for other purposes; to the Committee on Environment and Public Works.

CLEAN AIR REAUTHORIZATION AND ACID PRECIPITATION STUDY ACT OF 1982

Mr. ROBERT C. BYRD. Mr. President, I am introducing a bill today to amend the Clean Air Act. The Clean Air Act is the fundamental environmental statute of the United States. The act affects a large portion of our entire national economy—not simply the quality of the air we breathe—and is a factor in practically all substantial economic, environmental, or energy-related undertakings in our country.

There is broad support for a sound Clean Air Act. The foundation of the act is the primary and secondary ambient air quality standards that protect the health and welfare of the public along with a substantial "cushion" of safety. The legislation that I am introducing today protects and defends that foundation.

I believe there is a consensus in the Congress for many of the improvements to the act that would be made by my bill. I recognize that some portions of this legislation may make greater changes in the operation of the existing act that some Members of this body would wish. I further recognize that there are some provisions in this bill that some Members feel do not make a great enough change in the current law.

On balance, I believe that this bill can add considerably to the ongoing discussions concerning the act which the Senate Committee on Environment and Public Works is conducting.

I believe that this bill presents a coherent approach for the members of the committee, if they so desire, to examine in concert with the material already before them. That, of course, is solely the prerogative of the committee itself to determine.

At this time, I would like to commend the distinguished chairman of the Committee on Environment and Public Works, Senator Robert Stafford, and my distinguished colleague from West Virginia, Senator Jennings Randolph, who serves the committee as the ranking minority member, and formerly as chairman.

They have labored long over various aspects of many proposals for changes in the current Clean Air Act. With a statute of such complexity, and such far-reaching ramifications, the process that they have been participating in on the committee has been an arduous one. It is my earnest hope to work with these outstanding Senators, the members of the committee, and other Members of this body toward a sound and satisfactory resolution of this matter.

It is in that spirit that I offer this legislation today. The bill pursues several goals: To offer the individual States a greater, more meaningful, and more responsible role in the implementation of the Clean Air Act without damaging the responsibilities of the Federal Environmental Protection Agency; to provide, where necessary, a reasonable extension of time for the States to meet the requirements of the Clean Air Act, if certain steps are taken to show further progress toward cleaner air; and recognize certain very difficult economic situations that are affected by the operation of the act, or which have been proposed for inclusion in the act.

My primary focus in seeking to address the economic effects of the Clean Air Act has been, as my colleagues are aware, the acid precipitation issue. The bill that I am introducing today includes provisions similar to S. 2027, a bill that I introduced on January 28, 1982. Those provisions would accelerate the ongoing Federal research effort into the causes and effects of acid precipitation and deposition, and authorize the Administrator of the Environmental Protection Agency to submit recommendations for remedial action, if any, when the study is completed and its results fully evaluated.

This is a matter of very great importance—not only to me but to many other Senators—and especially to the people that we represent. The effects on my State of certain proposals, advanced in good faith by fine Senators, would be an economic tragedy.

This tragedy has been defined in testimony before congressional committees by representatives of the United Mine Workers of America as taking the form of as many as 89,000 lost jobs in Appalachia and the Midwest. The economic effects in terms of higher utility bills and the ripple effect from massive unemployment in the coalfields would punish a region of the country that is already reeling from the highest unemployment in America.

The approach that my bill takes to acid precipitation is fair. It deserves serious consideration.

I urge my colleagues to carefully consider the approach to refining the Clean Air Act set forth in this legislation. I will work to defend a sound, strong, and workable Clean Air Act.

The following is a short factsheet that highlights other portions of the bill.

I ask unanimous consent that the text of the bill be printed at this point in the Record.

There being no objection, the bill and factsheet were ordered to be printed in the Record, as follows:

S. 2266

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act may be cited as the "Clean Air Reauthorization and Acid Precipitation Study Act of 1982".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Amendment of Clean Air Act.

TITLE I—IMPLEMENTATION PLANS AND ENFORCEMENT

Sec. 101. Amendments relating to State plans and State implementation plan revision process.
Sec. 102. Amendments relating to new source performance standards.
Sec. 103. Amendments relating to enforcement.
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Sec. 106. Amendments relating to prevention of significant deterioration.
Sec. 107. Amendments relating to visibility protection.
Sec. 108. Operation and maintenance.
Sec. 109. Emergency variances.
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Sec. 112. Effective dates and transitional rules.

TITLE II—OZONE PROTECTION

Sec. 201. Amendments Relating to Ozone Protection.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

TITLE IV—ACID PRECIPITATION STUDY

Sec. 401. Findings and purpose.
Sec. 402. Accelerated study and report.

AMENDMENT OF CLEAN AIR ACT

SEC. 2. Except as otherwise expressly provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Clean Air Act (42 U.S.C. 7401-7626).

TITLE I—IMPLEMENTATION PLANS AND ENFORCEMENT

AMENDMENTS RELATING TO STATE PLANS AND STATE IMPLEMENTATION PLANS REVISION PROCESS

SEC. 101. (a) Section 110(a)(2)(A) is amended by adding "and section 172(a)" after "subsection (e)."

(b) Section 110(a)(2)(I) is repealed.

(c) Section 110(a)(3)(A) is amended by renumbering it as Section 110(a)(3)(A)(i), and by adding the following at the end thereof:

"(ii) The State shall notify the Administrator of any proposed revision of its implementation plan, and shall provide him with a copy of each proposal. The State shall notify the Administrator of any adoption of an implementation plan revision and shall include for information of the Administrator (I) a brief summary of any written objections or comments filed with the State concerning the revision and (II) a brief summary of actions taken by the State with respect to such objections or comments.

"(iii) The Administrator shall submit to the State such comments as he may have on the technical and legal sufficiency of any proposed revision, including any recommended changes the Administrator considers necessary for the proposed revision to satisfy the requirements of paragraph (2) of this section, as part of the State administrative proceeding on the proposed revision. Within 30 days of receipt of notice from the State that it has adopted an implementation plan revision, the Aministrator shall publish notice of such revision in the Federal Register and provide a period of no less than thirty days and no more than seventy days for public comment.

"(iv) Any revision by a State of an implementation plan shall be deemed approved by the Administrator and become effective ninety (90) days after publication in the Federal Register unless the Administrator, upon considering the record in the State administrative proceeding and any comments submitted in response to the Administrator's notice, has disapproved the revision for failure to satisfy the requirements of paragraph (2) of this section. The Administrator shall publish a notice in the Federal Register of each approval or disapproval of an implementation plan revision.

"(v) The Administrator may extend, for equal periods of time not to exceed sixty days, both the comment period specified in clause (iii) of this subparagraph and the effective date specified in clause (iv) thereof upon a determination that there is reasonable cause to allow further public comment.

"(vi) The Administrator may, insofar as consistent with the deadlines specified in clauses (iii) through (v), hold public hearings on any implementation plan revisions.

"(vii) If any person—

"(I) files a comment with the Administrator during the public comment period under this subsection objecting to the approval of the plan revision based upon any provision of this Act or any regulation under this Act, and

"(II) demonstrates in such comment that an objection was filed on the same grounds with the State during State proceedings respecting such revision,

an approval under clause (iv) shall not be effective unless the Administrator finds, on the basis of this Act and any applicable regulation under this Act, that the State's response to the objection was not arbitrary or capricious and publishes such finding in the notice required by that clause.

"(viii) The State plan revision and supporting materials (including the record of the State proceedings, public comments before the Administrator, other materials considered by the Administrator, and Federal Register notices) shall constitute the record for purposes of judicial review of any approval by the Administrator of a plan revision or of any finding by the Administrator under clause (vii).".

(d) Section 110(a)(2)(G) is repealed.

(f) Section 110(a)(5)(A)(i) is amended to read as follows:

"Any State may include in a State implementation plan, but the Administrator may not require as a condition of approval of such plan under this section, any indirect source review program or, except as specified in section 172 of this Act, any program for periodic inspection and testing of motor vehicles. The Administrator may approve and enforce as part of an applicable implementation plan, an indirect source review program or a program for period inspection and testing of motor vehicles when the State chooses to adopt and submit as part of its plan.".

AMENDMENTS RELATING TO NEW SOURCE PERFORMANCE STANDARDS

SEC. 102. (a)(1) Section 111(a)(1) is amended by inserting before "the percentage reduction achievable" the following: "(except as provided in paragraph (9))".

(2) Section 111(a) is amended by adding the following new paragraph at the end thereof:

"(9) The provisions of subparagraph (A)(ii) of paragraph (1) respecting percentage reduction shall apply only to those categories of stationary sources to which such provisions apply under regulations in effect on December 31, 1981.".

(b) Section 111(a)(2) is amended by striking out "(or, if earlier, proposed regulations)".

AMENDMENTS RELATING TO ENFORCEMENT

SEC. 103. (a) Section 113(a)(4) is amended by inserting after the third sentence thereof: "Such time provided for compliance may not exceed one year from date of issuance of the order. Nothing in the preceding sentence shall affect the time provided for compliance with orders issued under subsection (d).".

(b) Section 113(b)(2) is amended by striking out "(A)", by striking out ", or", and by striking out clause (B).

(c) Section 113(b) is amended by inserting the following immediately after paragraph (5): "The Administrator may commence a civil action against any person for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day of violation, or both, whenever such person violates any requirement of an applicable implementation plan more than thirty days after having been notified by the Administrator under subsection (a)(1) that such person is violating such requirement. The Administrator shall commence such an action against the owner or operator of a major stationary source in any case in which an order is not issued under subsection (a) following the thirty-day notice under subsection (a)(1). It is the intent of Congress that the Administrator shall have a reasonable period consistent with the purposes of this Act to decide whether to issue such order.".

(d) Section 113(c)(1)(A) is amended by striking out "(i)" and by striking out clause (ii), including ", or" where it appears at the end thereof.

(e) Section 113 is amended by adding the following new subsection at the end thereof:

"(f) The Administrator shall carry out the authorities vested in him under this section and under sections 114 (except as provided in section 114(b)) and 120 through the use of full time officers or employees of the United States. In carrying out such authorities, the use of contractors should be limited to those necessary to provide technical support, expertise, and similar activities.

(f) Section 113(b)(3) is amended by inserting "section" after "111(e),".

(g)(1) Section 113(d)(5) is amended by—

(A) inserting after "enactment" in clause (i) of subparagraph (A) the words ", including section 301 of the Powerplant and Industrial Fuel Use Act of 1978"; and

(B) striking out "December 31, 1980" and substituting "6 years after the date of issuance of the order" in subparagraph (A) thereof and by striking out the last sentence of subparagraph (A) and substituting: "The date specified under paragraph (1) of this subsection shall be recommended by the appropriate State and approved by the Administrator.".

(2) Section 111(a)(8) is amended by inserting "(i) or" immediately before "(ii)".

(h)(1) section 111(a)(8) of the Clean Air Act is amended by—

(A) striking out "or" at the end of clause (A); and

(B) inserting after the comma at the end of clause (B) the following: "(C) which qualifies under section 113(d)(5)(A)(iii) of this Act.".

(2) Section 113(d)(5)(A) of such Act is amended by—

(A) striking out "or" at the end of clause (i);

(B) adding "or" after the comma at the end of clause (ii); and

(C) inserting after clause (ii) the following:

"(iii) voluntarily converts to an alternate fuel.".

(3) Section 113(d)(5)(B) of such Act is amended by inserting "or other alternate fuel" after "coal" each place it appears.

(4) Section 120(a)(2)(B)(i) of such Act is amended by inserting "or other alternate fuel" after "coal".

(5) Section 163(c)(1)(A) of such Act is amended by—

(A) inserting ", or by reason of a voluntary conversion," after "provisions)"; and

(B) inserting "or such voluntary conversion" after "such order".

(i) Subsection 113(e) is amended by inserting in subparagraph (1)(E) thereof, prior to the word "compliance," the word "substantial," and by striking the language following "operations" and preceding "; and".

(j) Section 120 is amended by—

(1) in subsection (a)(1)(B), striking out "(i)", changing "may" to "shall" in the second sentence thereof, striking out "action" and substituting "section", and striking out all of clause (ii);

(2) in the first paragraph preceding clause (i) of subsection (a)(2)(A), striking out "shall" and substituting "may";

(3) in subsection (a)(2)(C), striking out "Administrator" and substituting "State or Administrator, as appropriate," and striking out "if he finds" and substituting "if the Administrator or the State finds";

(4)(A) changing paragraph (2) of subsection (b) to read as follows:

"(2) provide for the assessment and collection of such penalty by the Administrator, if the State has not received a delegation pursuant to subsection (a);"; and

(B) striking out "(i)" in paragraph (1) of subsection (b);

(5) in subsection (b)(3), striking out the comma after "States" and all that follows through "Administrator,";

(6) amending subsection (b)(4)(A) to read as follows:

"(A) calculate the amount of the penalty owed and the schedule of payments for each source and, within such reasonable period as the Administrator or the State, as appropriate, shall prescribe after the issuance of such notice or after the denial of a petition under subparagraph (B), to submit that calculation and schedule, together with information necessary for an independent verification thereof, to the State or to the Administrator, as appropriate; or";

(7) in subsection (b)(4)(B), striking out the words "forty-five days" and inserting "such reasonable period as the Administrator or the State, as appropriate, shall prescribe";

(8) amending subsection (b)(5) to read as follows:

"(5) provide for—

"(A) an opportunity, after notice, for a public hearing on the record to be conducted by the Administrator or the State, as appropriate, in accordance with applicable procedural requirements, and

"(B) a decision on such petition (including findings of fact and conclusions of law) within a reasonable time after receipt of any such petition;";

(9) striking out paragraph (6) of subsection (b) and redesignating paragraph (7) as paragraph (6);

(10) inserting "and" after the semicolon in such redesignated paragraph (6) of subsection (b) and amending paragraph (8) of subsection (b) to read as follows:

"(7) authorize the State or the Administrator, as appropriate, to at any time adjust or compromise the amount of any penalty assessment consistent with the purposes of this section, except that such adjustment or compromise authority may not be exercised unless the source is in compliance.";

(11) striking out paragraph (9) of subsection (b) and the second and third sentences following such paragraph (9);

(12) in subsection (d)(2), striking out "equal to" and striking out in subparagraph (A) "is no less than" and substituting "reflects";

(13) changing paragraph (3) of subsection (d) to read as follows:

"(3) The assessed penalty finally required under this section shall be paid in such installments as the State or Administrator, as appropriate, determines appropriate to achieve the purposes of this section.";

(14) in subsection (e) striking out the comma after "section" and all that follows through the comma before "shall"; and

(15) after subsection (g) insert:

"(h) The Administrator may, after notice and public hearing, revoke or suspend any delegation under this section if he determines that the State is not acting in compliance with this section.".

(k) The amendments made by this section shall apply only to orders issued, and actions commenced, under section 113 or section 120 of the Clean Air Act after the date of the enactment of this Act.

ATTAINMENT DATE EXTENSIONS

SEC. 104. (a) Section 172(a) is amended by adding the following new paragraphs at the end thereof:

"(3)(A) In the case of any national primary ambient air quality standard or standards, whenever the State (other than a State granted an extension under paragraph (2) for carbon monoxide or photochemical oxidants or both)—

"(i) certifies to the Administrator that attainment of one or more of such standards would not be (or was not) possible in any nonattainment area within the period prior to December 31, 1982, despite adoption by the State of reasonably available control measures for the air pollutant concerned and requests an extension of that period, and

"(ii) makes a commitment that the State will not modify any State plan provisions in such manner as will adversely affect reasonable further progress towards attainment, and

"(iii) makes a commitment to adopt, within the time allowed in subparagraph (B) of this paragraph, and to implement as expeditiously as practicable, reasonably available control measures for the air pollutant concerned (or alternative measures that achieve equal or greater reductions in emissions of such pollutant) for all major sources in such area,

the Administrator shall promptly publish notice of such certification and afford an opportunity of not more than sixty days for public comment (including a hearing). The certification under subparagraph (A) shall be accompanied by a statement of the reasons why attainment of the standard or standards is not possible as provided in that subparagraph. If the Administrator is satisfied, based on the State certification and after considering any public comments, that such attainment is not possible, he shall extend the date required for attainment of such standard or standards in any nonattainment area, as the case may be, in that State. The period of such extension shall be determined when a plan revision is submitted under subparagraph (B).

"(B) Each State for which an extension is approved by the Administrator under subparagraph (A) for any national primary ambient air quality standard shall, as a condition of such extension, submit (within such reasonable period as the Administrator shall prescribe) a revision of the applicable implementation plan which demonstrates that the plan will—

"(i) assure attainment of the standard concerned in the nonattainment area involved as expeditiously as practicable, but not later than December 31, 1987, and

"(ii) comply with the requirements of this part (including the implementation as expeditiously as practicable, during the period of the extension, of reasonably available control measures, with respect to existing stationary sources of the air pollutant concerned which are major stationary sources by reason of the emission of such air pollutant, or alternative measures that achieve equal or greater reductions in emissions of such pollutant).

Any extension approved under subparagraph (a) of this paragraph shall terminate within such reasonable period of time as determined by the Administrator (but not to exceed two years) if a plan revision under this paragraph is not submitted and approved within such time.

"(4)(A) Upon application of any State, the Administrator may, after notice and a public hearing, provide, in his discretion, an additional extension of the date required for attainment of any national primary ambient air quality standard in any nonattainment area for a period not to exceed six years after the extended date specified pursuant to paragraph (2) or (3).

"(B) An additional extension under this paragraph may be issued only for nonattainment areas where the date required for attainment of any national primary ambient air quality standard has been previously extended (under paragraph (2) or (3)) for a period not later than December 31, 1987. The State must demonstrate to the Administrator, with respect to each such area, that—

"(i) the State has made good faith efforts to make reasonable further progress (as defined in section 171(1)) toward attainment of the standard concerned in the nonattainment area concerned during the period of the previous extension under paragraph (2) or (3) and has achieved annual incremental reductions in emissions of the air pollutant concerned;

"(ii) all applicable implementation plan provisions, including the taking of necessary legislative and funding actions proposed in the applicable implementation plan and including all provisions relating to reasonably available control technology for the air pollutant concerned (or alternative measures that achieve equal or greater reductions in emissions of such pollutant), are being adequately implemented;

"(iii) air quality problems are so severe and persistent (by reason of interstate or international air pollution, geographical or meterological conditions, or for other identified reasons) that the standard cannot be attained, despite good faith efforts, by the date specified in the previous extension under paragraph (2) or (3); and

"(iv) in the case of an area for which an additional extension is requested under this paragraph for the attainment of the national primary ambient air quality standard for carbon monoxide or photochemical oxidants (or both), the State has adopted, on or before the issuance of the extension, and will implement in a cost-effective manner for the period of such additional extension, a program of motor vehicle inspection and maintenance which is not inconsistent with the purposes and requirements of title II.

"(C) Where an extension is issued for any area in a State of the attainment date for any primary national ambient air quality standard for any air pollutant under subparagraph (B), the State shall, as a condition of such extension, submit to the Administrator a revision of the applicable implementation plan—

"(i) which will require additional control technology for existing stationary sources of that air pollutant which were not subject to adequate controls under prior provisions of such plan, and

"(ii) which will require control measures for such sources which effectively demonstrate attainment of such standard no later than the end of the requested extension period.

Such revision shall be submitted, together with an application for an extension under this paragraph, not earlier than the last year of the prior extension of the attainment date for such standard under paragraph (2) or (3).

"(D) Within three years after enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982, the Administrator shall promulgate guidelines for plan revisions under this paragraph, including guidelines respecting the term of the extensions.

"(E) It is the intent of Congress that, before issuance of an additional extension under this paragraph, the Administrator should be satisfied with the demonstration from the State required by this paragraph and that such State has made a good-faith effort to reduce pollution and achieve attainment.

"(5)(A) In the case of a State required to attain the national primary ambient air quality standard for any air pollutant in any nonattainment area by the date referred to in paragraph (1), if the State fails to attain the standard in such area by such date, the Administrator may, in his discretion, prohibit the issuance of any permit for a major stationary source which emits that air pollutant under the program adopted pursuant to this part for the construction or modification of any such source in that area if the emissions from such source or proposed source will cause or contribute to increases of concentrations of such pollutant in such area before the date on which the standard is attained in such area, unless an extension of the attainment date for that standard has been issued under paragraph (2) or (3) of this subsection. In the case of a State required to attain the national primary ambient air quality standard for any air pollutant in any nonattainment area by the extended date established under paragraph (2) or (3), if the State fails to achieve attainment by such date, the Administrator may, in his discretion, prohibit the issuance of any permit for a major stationary source which emits that air pollutant under the program adopted pursuant to this part for the construction or modification of any such source in that area if the emissions from such source or proposed source will cause or contribute to increases of concentrations of such pollutant in such area before the date on which the standard is attained in such area, unless an extension of the attainment date for that standard has been issued under paragraph (4) of this subsection.

"(B) In the case of a State required to attain the national primary ambient air quality standard for any air pollutant in any nonattainment area by the date established under paragraph (4), if the State fails to achieve attainment by such date, the Administrator may, in his discretion, prohibit the issuance of any permit for a major stationary source which emits that air pollutant after that date under the program adopted pursuant to this part for the construction or modification any such source in that area if the emissions from such source or proposed source will cause or contribute to increases of concentrations of such pollutant in such area, until that standard has been attained in that area.

"(C) The permitting agency may, on a case-by-case basis, waive the application of the prohibition on issuance of permits contained in subparagraph (A) or (B) for the construction or modification of any major stationary source in any nonattainment area, to replace an existing stationary source in that area, where the permitting authority determines (i) that the emissions from the new or modified source of each air pollutant by reason of which such area is designated as a nonattainment area will be less than the emissions of those pollutants from the existing source and (ii) that the new source will comply with emission limitations which represent the best available control technology.

"(D) As used in this paragraph, the term "program adopted pursuant to section 173" includes a program referred to in section 173 which is promulgated by the Administrator under section 110(c).

"(6) Each State granted an extension under this subsection shall provide for reasonable further progress (as defined in section 171(1)) toward attainment during each year of such extension.".

(b)(1) Section 113(a)(5) is amended to read as follows:

"(5) The Administrator shall issue an order or bring a civil action under subsection (b)(5) to enforce any prohibition issued under section 172(a)(5).".

(2) Section 113(b)(5) is amended to read as follows:

"(5) violates the prohibition issued under section 172(a)(5).".

(c) Section 110(a)(2)(A) is amended by striking out "except as may be provided in subparagraph (I)(i)" and by inserting after "subject to subsection (e)" the words "and section 172(a)".

OTHER AMENDMENTS RELATING TO NONATTAINMENT

SEC. 105. (a)(1) Section 110(a)(2)(I) is amended to read as follows:

"(I) it meets the requirements of part D with respect to nonattainment areas;".

(2) Section 172(a)(1) is amended by striking out "which are required by section 110(a)(2)(I) as a precondition for the construction or modification of any major stationary source in any such area on or after July 1, 1979,".

(b)(1) Section 173(2) is amended by striking out the words "is required to comply" and inserting a comma after "source" and the following: "complies, in the case of a permit issued before the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982,".

(2) Section 173 is amended by inserting after paragraph (2) a new paragraph as follows and by renumbering paragraphs (3) and (4) as (4) and (5), respectively:

"(3) the proposed source is required to comply with the best available control technology, in the case of a permit issued on or after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982;".

(3) Paragraph (3) of section 171 is amended by adding the following new sentence at the end thereof: "The provisions of this paragraph shall not apply in the case of a permit issued on or after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982.".

(c)(1) Section 172(b) is amended by—

(A) striking out subparagraph (B) in paragraph (11) and inserting "and" at the end of subparagraph (A), and redesignating subparagraph (C) as (B);

(B) striking out the period at the end of paragraph (11) and substituting "; and", and

(C) adding the following at the end thereof:

"(12) in the case of an area—

"(A) which is a nonattainment area for carbon monoxide or photochemical oxidants, or for both,

(B) for which the State has requested or obtained an extension under subsection (a)(2) or (3) for one or more of such pollutants, and

"(C) which the Administrator, in consultation with the State, determines to be an urban area having a population greater than five hundred thousand, in which the administrator determines that the highest levels of photochemical oxidants or carbon monoxide for 1981 exceed the national ambient air quality standard for that pollutant by an amount equal to, or greater than, 50 per centum of the level specified in the primary national ambient air quality standard for that pollutant,

contain a program applicable to inuse motor vehicle emissions which is implemented in a cost-effective manner and which is not inconsistent with the purposes and requirements of title II. The program required under paragraph (12) shall, where appropriate as determined by the State, include a program for vehicle inspection and maintenance which is implemented in a cost-effective manner. Such inspection and maintenance program may, as determined by the State, apply first to motor vehicle fleets and commercial operators and, if the State determines that it is necessary for attainment, to other vehicles. Immediately after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982, any State may review any State implementation plan provisions respecting any nonattainment area within the State under which a motor vehicle inspection and maintenance program was adopted before the date of the enactment of such 1982 amendments. If the State determines that such area is not an urban area to which paragraph (12) applies, the State may, in its discretion, continue such program, or submit a plan revision to modify or eliminate any such program from such plan. If the State determines that such area is such an urban area, the State may apply such program first to fleets and commercial operators and if the State determines that it is necessary for attainment, to other vehicles.".

(2) Section 110(a)(2)(G) is amended to read as follows:

"(G) it provides for a program of automobile inspection and maintenance to the extent required by section 172(b)(12) and section 172(a)(4)(B)(iv);".

(d) Section 173 is amended by inserting "(a)" after "173" and by adding the following at the end thereof:

"(b) Paragraph (1) of subsection (a) shall not apply in the case of any revision approved by the Administrator of an applicable implementation plan under which—

"(1) the construction or modification of stationary sources which are subject to section 172(b)(6) is required to comply with best available control technology;

"(2) an adequate emissions inventory is maintained pursuant to section 172(b)(4);

"(3) all existing major stationary sources which cause or contribute to the area being a nonattainment area for the applicable pollutant shall be subject to emission limitations based upon reasonably available control technology (or alternative measures that achieve equal or greater reductions in emissions of the applicable pollutant) as expeditiously as practicable, but not later than December 31, 1987 (or such earlier date as may be specified in an extension granted under section 172(a) (2) or (3));

"(4) notwithstanding the construction or modification of stationary sources, there is a program for obtaining such annual reductions in emissions as represent reasonable further progress (as defined in section 171(1)); and

"(5) the increased emissions of the applicable pollutant which result from the construction or modification of stationary sources subject to section 172(b)(6), for which permits are issued during any year, shall not exceed 1 percent of the total inventoried emissions of such pollutant in the nonattainment area within which such sources are located based on the average of the inventoried emissions over the preceding three years."

(e) The authority provided by section 176(a) and (b) and section 316 of the Clean Air Act shall be applied by the Administrator on the basis, in his judgment, of the severity of the violations concerned and if appropriate, on a graduated or partial basis.

AMENDMENTS RELATING TO PREVENTION OF SIGNIFICANT DETERIORATION

SEC. 106. (a)(1) The first sentence of section 163(a) is amended to read as follows: "In the case of sulfur oxide and particulate matter, each applicable implementation plan shall contain measures assuring that maximum allowable concentrations of such pollutant shall not be exceeded and that, in addition, for class I areas, maximum allowable increases over baseline concentrations of such pollutant shall not be exceeded.".

(2) Section 163(a) is amended by striking out the second sentence thereof.

(3) Subsection (b) of section 163 is amended by (A) striking out so much of the table in paragraph (1) thereof as relates to maximum values for periods of thre hours or twenty-four hours, (B) striking out paragraphs (2) and (3), and (c) redesignating paragraph (4) as (2).

(4) Section 163(c)(1)(C) is amended by inserting "(i)" after "matter" and by inserting after "activities" the following ", or (ii) attributable to fugitive dust (including dust from farming and other agricultural activities, unpaved roads, construction activities, mining and related activities, and other activities).

(b)(1) Subsection (a) of section 164 is amended by striking out so much of such subsection as follows paragraph (2) thereof and substituting: "No area established as class I under section 162(a) may be redesignated.".

(2) Strike out section 164(b)(1)(C).

(c) Section 165(a) is amended by striking out "more than one time per year" in subparagraph (A) of paragraph (3).

(d) Section 165(a) is amended by (1) striking out "; and" at the end of paragraph (7) and substituting a period, (2) inserting "and" at the end of paragraph (6), and (3) striking out paragraph (8).

(e) Section 165(b) is amended to read as follows:

"(b)(1) The provisions of this section shall apply to any physical change in, or change in the method of operation of, a stationary source only if such change results in a significant net increase in the emissions from that source of any air pollutant which is regulated under section 109.

"(2) The term 'increase' includes the emission of a significant amount of any air pollutant which was not emitted before the physical change referred to in paragraph (1). The terms 'significant net increase' and 'significant amount' shall have such meaning as provided in regulations of the Administrator. Such regulations shall include within the meaning of such terms any increase in emission of an air pollutant (or new emissions of the pollutant) which, when combined with other generally contemporaneous increases and decreases in emissions (or new emissions) of that pollutant, result in an aggregate increase in emissions of that air pollutant in excess of a de minimus amount determined by the Administrator by rule.

"(3) The de minimus amount determined by the Administrator under this subsection shall be one hundred tons per year (one thousand tons per year of carbon monoxide) for any air pollutant for which a national ambient air quality standard is established (other than lead) and eighteen tons per year for fluorides, unless the Administrator determines, by rule, that a lesser amount is necessary to carry out the purposes of this part.

(f) Section 165(e)(2) is amended by—

(1) striking out "gathered" in the first sentence thereof and substituting "to the extent required in the discretion of the permitting authority"; and

(2) striking out the second sentence.

(g) Section 165 is amended by adding the following new subsection at the end thereof:

"(f) Any program for the issuance of permits under this section shall provide that the permitting agency to the greatest extent practicable will—

"(1) notify the applicant for such permit within two months after receipt of the application as to whether or not the application is complete and, if incomplete, in what respects the application should be modified; and

"(2) issue or deny the permit within seven months after a completed application is received by the permitting agency.

For the purposes of clarifying the requirements of any program for the issuance of permits under this section, any officer or employee of a permitting agency may communicate and meet with any applicant for a permit under this section at any time prior to the submission of the application for such permit.".

(h)(1) Section 166(a) is amended by striking out "not later than two years after the date of the enactment of this part" and substituting "and as appropriate for any such pollutant".

(2) Section 166(c) is amended by striking out "numerical".

(i) Section 166(d) is amended by striking out "at least as effective as the increments established in section 163" and by changing the comma after "purposes" to a period and striking out all that follows through the period at the end of the subsection.

(j) Strike out section 169(3) and amend section 302 by adding the following at the end thereof:

"(r)(1) The term 'best available control technology' means an emission limitation—

"(A) which is based on the maximum degree of reduction of each pollutant subject to regulation under this Act emitted from, or which results from, a stationary source; and

(B) which the permitting authority, (taking into account energy, environmental, and economic impacts, and other costs), determines is achievable for the source through application of production processes and available methods, systems, and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for the control of each such pollutant.

The permitting authority shall make the termination under subparagraph (B) as expeditiously as practicable.

"(2) Where a standard of performance has been established under section 111 (or an emission limitation under section 112) for a category of stationary sources with respect to a particular air pollutant, and the source does not emit or have the potential to emit more than 500 tons per year of such air pollutant, the term 'best available control technology' means the applicable standard of performance establishing under section 111 (or the applicable emission limitation under section 112) unless—

(A) the permitting Agency elects to make such determination on a case-by-case basis; or

(B) the applicable standard of performance has not been reviewed and revised (or determined not to require revision) pursuant to section 111(b)(1)(B) within the four-year period prior to the filing of a completed permit application for the construction or modification of the source.

"(3) In all other cases, such emission limitation shall be determined on a case-by-case basis. Where a standard of performance has been established under section 111 for a category of stationary sources with respect to any air pollutant or where an emission limitation has been established under section 112 for the control of such air pollutant, neither the emission limitation referred to in the preceding sentence nor any emission limitation established under subparagraph (A) or (B) of paragraph (2) of this subsection may be less stringent than the applicable standard of performance under section 111 (or the emission limitation under section 112).

"(4) Nothing in this subsection shall be construed to prevent any State or political subdivision thereof from adopting or enforcing pursuant to section 116, with respect to any stationary source or category of stationary sources, any standard or limitation which is more stringent than best available control technology as defined in paragraph (1) or (2) of this subsection.".

AMENDMENTS RELATING TO VISIBILITY PROTECTION

SEC. 107(a). Section 169A(a)(1) is amended by inserting "significant" before "future" and before "impairment" the first time it appears.

(b) Section 169A(b)(2) is amended by inserting "significant" before "impairment" in the first sentence and the first time it appears in paragraph (A).

(c) Section 165(d)(1)(2)(B) is amended by striking out "an adverse" and substituting "a significant adverse";

(d) Section 165(d)(2)(C) is amended by—

(1) inserting "significant" before "change" and before "adverse" in subparagraph (i);

(2) striking out "an adverse" in subparagraph (ii) and substituting "a significant adverse";

(3) inserting "significant" after "no" in subparagraph (iii).

(e) Section 169A is amended by replacing the word "in" with "within" each time it appears immediately before the words "mandatory Class I Federal area(s)," and by substituting the words "within the area" for the words "of the area" in the first sentence of paragraph (a)(2) thereof.

OPERATION AND MAINTENANCE

SEC. 108. (a) Section 110(a)(2) is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and substituting "; and", and by adding the following at the end thereof:

"(L) it contains a program to insure the proper operation and maintenance of pollution control equipment used by major stationary sources subject to emission limitations pursuant to this Act to comply with such emission limitations."

(b) Plan revisions to take account of the amendment made by subsection (a) shall be submitted to the Administrator under section 110(a) of the Clean Air Act not later than six months after the date of the enactment of this Act.

EMERGENCY VARIANCES

SEC. 109. (a) Section 110(f)(1) of the Clean Air Act is amended by inserting ", or by the President," after "Governor of any State covered by the President's determination".

(b) Section 110(f)(2) of such Act is amended—

(1) by inserting "or the President" after "Governor or such State";

(2) by inserting "(1)" after "(A)";

(3) by striking out "(B)" and inserting in lieu thereof "(ii)";

(4) by striking out the period at the end of the first sentence thereof and inserting in lieu thereof "; or"; and

(5) by inserting after clause (ii) (as so redesignated) the following new subparagraph:

(B) foreign imports of fuels used by such source have reached an excessive level and such imports can be reduced by the emergency suspension.".

(c) Section 110(f)(3) of such Act is amended to read as follows:

"(3) A temporary emergency suspension issued by a Governor or the President under this subsection shall remain in effect for a maximum of two years, or, in the case of a suspension issued by a Governor, such lesser period as may be specified in a disapproval order of the Administrator, if any; but no suspension may remain in effect for a period in excess of four months if such suspension results in a violation of any national ambient air quality standard. The Administrator may disapprove a suspension issued by a Governor if he determines that such suspension does not meet the requirements of paragraph (2).".

(d) Section 110(f)(4) of such Act is amended—

(1) by striking out "for a four month period" and inserting in lieu thereof "for a period of up to two years; and

(2) by inserting before the period at the end thereof the following: "; but no suspension may remain in effect for a period in excess of four months if such suspension results in a violation of any national ambient air quality standard".

(e) Section 110(f)(5) of such Act is amended by inserting "or President" after "Governor".

(f) Section 110(f) of such Act is amended by adding at the end thereof the following new paragraph:

"(6) Any suspension issued under this subsection for a period in excess of four months shall be revoked by the person who issued it if he determines that such source did not change to an alternate fuel.".

ADMINISTRATIVE REVIEW

SEC. 110. (a) Section 115(a) is amended by striking out the period at the end thereof and adding the following at the end thereof: ", and the Administrator shall publish notice thereof in the Federal Register. He shall thereafter receive public comments, and conduct an investigation including public hearings respecting the air pollution concerned and, on the basis thereof, make a finding as to whether or not any air pollutant or pollutants emitted in the United States cause or contribute to such air pollution in such foreign country.".

(b) Section 115(b) is amended by striking out "The notice of the Administrator" and substituting "Any finding by the Administrator that any air pollutant or pollutants emitted in the United States cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare in a foreign country".

OTHER AMENDMENTS TO PART A

SEC. 111. Part A of title I is amended by adding the following at the end thereof:

REGULATORY STABILITY

"SEC. 130. (a) In the case of the construction of any new stationary source, or the modification of a stationary source, if—

"(1) where any new source performance standard is applicable under section 111 for the control of any air pollutant, the construction or modification complies with such standard under section 111; or

"(2) where part C or D applies, a permit (or other form of approval) is issued under an applicable implementation plan under this Act on or after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982 for such construction or modification which requires the application of the best available control technology for the control of any pollutant and such construction or modification meets all applicable requirements of such permit or other approval; or

"(3) where both paragraphs (1) and (2) are applicable, then during the ten-year period beginning on the date on which operation of such new or modified commences, such source shall not (without the consent of the owner or operator thereof) be subject to any emission limitation or standard under this Act for the control of such air pollutant which is more stringent than the most stringent of the requirements referred to in paragraph (1) or (2) unless such source is subsequently modified (within the meaning of section 111(a)(4)).

"(b) Subsection (a) shall not apply to any emission limitation or standard imposed on any stationary source with respect to—

"(1) any air pollutant regulated under section 112;

"(2) an air pollutant for which no national ambient air quality standard is in effect at the time of commencement of the construction to which subsection (a) applies but for which a national primary ambient air quality standard is promulgated after such time; or

"(3) any other air pollutant where, in the judgment of the Administrator, the application of subsection (a) to such pollutant may reasonably be anticipated to endanger public health or welfare.

"(c) For purposes of this section, the terms 'commenced' and 'stationary source' have the same meaning as such terms have when used in section 111.".

EFFECTIVE DATE AND TRANSITIONAL RULES

SEC. 112. (a)(1) Not later than one hundred and eighty days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate or amend such regulations under the Clean Air Act as may be necessary to reflect the amendments made by this title. Such regulations shall take effect as provided in this section.

(2) Without regard to whether or not regulations referred to in paragraph (1) have been promulgated, the amendments made by sections 105 and 106 shall take effect on the date of the enactment of this Act and shall apply with respect to implementation plans, or portions or revisions thereof, which either (A) are submitted by a State to the Administrator of the Environmental Protection Agency after the date of the enactment of this Act, or (B) were submitted prior to such date but not approved or disapproved as of that date. The amendments made by section 102 of this Act shall also take effect upon the date of enactment of this Act and apply to implementation plans and portions and revisions thereof as in the preceding sentence, except that the requirement in Section 110(a)(3)(A)(v), as amended, that EPA disapproval be based on information considered by the State, shall not apply to State administrative proceedings commenced prior to the date ninety days after enactment of this Act.

(3) Any applicable implementation plan approved by the Administrator before the date of the enactment of this Act shall remain in force and effect after such date until such time as a revision, or portion of a revision, of the plan submitted by the State is approved (or treated as approved) by the Administrator (or until such time as the Administrator takes action as provided in section 110(a)(2)(H) of the Clean Air Act).

TITLE II—OZONE PROTECTION

SEC. 201(a). Section 152 is amended by adding the following to the end of the section:

"(3) the term 'chlorofluorocarbon' means any of the halocarbon compounds commonly known as CFC-11, CFC-12, CFC-113, CFC-114, CFC-115, and CFC-22, as well as any other simple saturated compounds of carbon, chlorine, fluorine, and optionally hydrogen contained not more than four carbon atoms."

(b) Section 153 is amended to—

(1) insert a new subsection (c) which reads as follows:

"(c) The Administrator shall continue to conduct the studies and research authorized by section 153 (a) and (b) of this subtitle, and shall give priority in such studies and research to increasing actual measurements of stratospheric ozone and to improving methods of identifying potential trends in actual ozone measurements."

(2) redesignating subsection "(c)" as subsection "(d)"

(3) redesignating subsection "(d)" as subsection "(e)"

(4) inserting new subsections (f) and (g) which reads as follows:

"(f) The Administrator shall undertake to contract annually with the National Academy of Sciences to (i) continue the review and research efforts heretofore conducted by the Academy pursuant to section 153(e) of this title; (ii) determine if changes in the concentration of ozone in the stratosphere have occurred or are occurring and, if so, the extent, nature, and causes of any such changes; (iii) investigate whether there are unreasonable effects on health and welfare from any such changes; and (iv) report all findings as well as any uncertainties associated with such findings;

"(g) The National Academy of Sciences, in consultation with the National Aeronautics and Space Administration and the Administrator of the National Oceanic and Atmospheric Administration, shall not later than two years from the effective date of this section, and annually thereafter until such time as the theory of ozone depletion by chlorofluorocarbons has been validated or invalidated, report to the Administrator and the Congress all findings concerning actual or potential alteration of the concentration of ozone in the stratosphere and the causes of any such alteration, and the implications and uncertainties associated with such findings. Copies of such reports shall be made available to the public."

(4) redesignating subsection "(e)" as subsection "(h)"

(5) redesignating subsection "(f)" as subsection "(i)"

(6) redesignating subsection "(g)" as subsection "(j)."

(c) Section 154 is amended by adding the following new subsection at the end thereof:

"(g) The research and monitoring programs provided for in this section shall be continued and expanded, with particular emphasis given to determining whether changes in the concentration of ozone in the stratosphere have occurred or are occurring and, if so, the extent, nature, causes and effects of any such changes and any uncertainties associated therewith."

(d) Section 156 is amended by inserting "(a)" before "The" and by adding the following new subsection at the end thereof:

"(b)" The President shall, no later than two years after the date of the enactment of the Clean Air Reauthorization and Acid Precipitation Study Act of 1982 and annually thereafter, report to the Congress on the status of actions undertaken to reach an international agreement or agreements pursuant to subsection (a). The reports shall include information as to the nature, extent, and implications of any threat to the concentration of ozone in the stratosphere and the appropriate regulatory action to be taken by such countries pursuant to such agreement or agreements to provide protection against the depletion of ozone in the stratosphere. Copies of such reports shall be made available to the public.".

(e) Section 157 is amended by—

(1) striking out subsection (a);

(2) redesignating subsection "(b)" as subsection "(a)"; and

(3) adding a new subsection (b) as follows:

"(b) The Administrator shall not propose further regulations for the control in the United States of any Chlorofluorocarbon under this statute or the Toxic Substance Control Act until such time as either—

(1) the Administrator determines that depletion of the stratospheric ozone by chlorofluorocarbons at a rate determined to be eventually harmful to human health and the environment is actually detected; or

"(2) that the President reports under section 156 (a) international agreement has been reached with respect to chlorofluorocarbons as to the nature, extent, and implications of any threat to the concentration of ozone in the stratosphere and as to the appropriate regulatory action to be taken, if any, to provide protection against the depletion of ozone;

In promulgating such regulations the Administrator shall take into account any unresolved scientific questions and economic and policy implications of chlorofluorocarbon emission reduction, as well as the availability of suitable alternative products."

(f) Section 158 is amended by—

(1) inserting "(a)" before the existing paragraph,

(2) adding the following subsection at the end thereof:

"(b) Nothing contained in this part shall affect (1) the validity of regulations concerning aerosol propellants containing chlorofluorocarbons promulgated by the Administrator prior to the effective date of those sections, or (2) the Administrator's obligation to comply with other applicable requirements in adopting regulations for the control of chlorofluorocarbons consistent with the requirements of Section 157(b)."

(g) Section 159 is amended by—

(1) inserting "or (c)" at the end of the sentence in subsection (a)

(2) adding the following subsection at the end thereof:

"(c) No State or Political subdivision thereof may adopt or attempt to enforce any regulation respecting the control of cholorofluorocarbons for the purpose of protecting the stratosphere or ozone in the stratosphere until such time as the Administrator, pursuant to section 157(b) of this title and other applicable requirements, has promulgated a regulation or regulations respecting the control in the United States of chlorofluorocarbons. Regulation by a State or political subdivision shall be in accordance with subsection (b)."

TITLE III—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. Section 326 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 326. There is authorized to be appropriated to the Administrator for fiscal year 1982 and for each fiscal year thereafter through fiscal year 1987 such sums as may be necessary to ensure that this Act will be carried out effectively by the Administrator and the States, including the provisions of this Act relating to training of state and local personnel, enforcement, abatement, and control, the consideration of State implementation plans and revisions thereof, and audit activities, and will provide sufficient funds for personnel to the Administrator to carry out such provisions without undue reliance on contractors, particularly in regard to the regulatory functions of this Act. Such authorization shall not be less than the sums authorized to be appropriated to carry out the provisions (other than section 323 as previously in effect) of this Act in fiscal year 1981. No funds appropriated pursuant to this Act to the Administrator shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of any such reduction, and other pertinent information. Nothing in this section shall authorize appropriations for any research and development activities under this Act.".

TITLE IV—ACID PRECIPITATION STUDY

FINDINGS AND PURPOSES

SEC. 401. (a) FINDINGS.—The Congress finds and declares that—

(1) the phenomenon known as acid deposition is a problem of both national and international scope and interest;

(2) acid deposition occurs in various parts of the world and has the potential to contribute to higher levels of acidity in aquatic systems, terrestrial systems, and the deterioration of buildings and monuments;

(3) acidity in precipitation occurs through both anthropogenic and natural causes;

(4) sulfur dioxide and nitrogen oxides from industrial and transportation sources have been identified as contributing elements in the creation of acid precipitation;

(5) the atmospheric chemistry relating to the conversion of sulfur dioxide and nitrogen oxides into sulfates and nitrates is enormously complicated since the conversion may be influenced by temperature, humidity, catalytic particles in the air, the presence of certain oxidants, sunlight, or other factors;

(6) there is widespread agreement in the scientific community that the method by which the precursors to acid precipitation are processed in the atmosphere is poorly understood;

(7) various techniques of reducing emissions from stationary sources of precursors of acid deposition, including increased use of precombustion fuel treatment and the development of inherently low-polluting combustion technologies, may prove to be of significant long-range value in reducing the amount of acid deposition;

(8) the national acid precipitation assessment plan established under title VII of the Energy Security Act, and its cooperative links to similar State and international programs concerned with acid deposition, provide an established framework for synthesizing existing scientific data, and developing additional scientific data, relating to acid deposition and for making recommendations for strategies to prevent, limit, and remedy the harmful effects of acid deposition; and

(9) the causes and effects of acid deposition, particularly the atmospheric chemistry and of long-range transport of acid deposition precursors, should be more fully understood before undertaking complex and potentially costly efforts to further control sulfur dioxide and nitrogen oxide emissions.

(b) PURPOSES.—It is the purpose of this Act to provide for—

(1) an accelerated effort to understand the causes and effects of acid precipitation; and

(2) examination of the potential and feasibility of various techniques of controlling sulfur dioxide and nitrogen oxide emission, such as precombustion fuel treatment and inherently low-polluting combustion technologies, which may hold promise of reducing emissions of these pollutants.

ACCELERATED STUDY AND REPORT

SEC. 402. (a)(1) Sections 704(a) and 704(d) of the Energy Security Act (Public Law 96-294) are amended by striking out "ten-year" and substituting "five-year" in each place such term appears.

(2) Section 704(c)(4) of such Act is amended by striking out "nine".

(b) Section 705(a) of such Act is amended by striking out "nine".

(c) Section 706(b) of such Act is amended by striking out "nine" and by striking out "ten-year" and substituting "five-year".

(d) Section 704(e) of such Act is amended by adding the following at the end thereof: "Not later than five years after the date of the enactment of the Energy Security Act, the Task Force shall submit a final report setting forth in detail the recommendations of the Task Force under subsection (b)(14). The Administrator of the Environmental Protection Agency may submit recommendations, to accompany the transmittal of the final report of the Task Force, for specific changes in law, if any, that are supported by the scientific findings of the Task Force. The Administrator of the Environmental Protection Agency shall not propose or promulgate any rule or regulation to control sulphur dioxide of nitrogen oxide emissions, if such rule or regulation would expand the Administrator's existing regulatory authority, before the final report is transmitted.".

(e) Section 704 of such Act is amended by adding the following at the end thereof:

"(g) In carrying out the program objective set forth in subsection (b)(9)(B), the Task Force shall examine the usefulness of precombustion treatment of fuels in reducing sulfur dioxide and nitrogen oxide emissions and shall also investigate the potential for long-term reduction in such emissions which may be achieved through the implementation of inherently low-polluting combustion processes, such as atmospheric fluidized bed combustion and pressured fluidized bed combustion.

"(h) In carrying out the program objective set forth in subsection (b)(11), the Task Force shall actively solicit data, views, and comments from State agencies which are carrying out studies and research relating to acid deposition.".

S. 2266—CLEAN AIR REAUTHORIZATION AND ACID PRECIPITATION STUDY ACT OF 1982

FACTSHEET—HIGHLIGHTS

Section 101: State Implementation Plans

Procedures for revising such plans are streamlined with a more prominent role for states and protection for effective public participation.

The failure of EPA to approve or disapprove an SIP within 120 days, plus an optional 60-day extension, will result in the SIP being automatically approved.

An SIP approved under these procedures will be federally enforceable, and the state rulemaking record will be part of the record subject to judicial review.

The construction ban provision is repealed.

Section 102: New Source Performance Standards

The "percentage reduction" requirement is eliminated for industrial boilers.

New Source Performance Standards are to be effective as of promulgation, not retroactive to the date of proposal.

Section 103: Enforcement

Reserves EPA enforcement action for those cases where a state has not responsibly enforced its SIP.

Confines EPA to assessing discretionary non-compliance penalties where a state has not accepted delegation of the program or is not adequately implementing the program.

Section 104: Deadlines for Attaining National Air Quality Standards

Extensions of the present 1982 and 1987 deadlines are authorized under carefully limited circumstances.

Such extensions are to be granted only where attainment by the present deadlines is not possible even with all reasonably available control measures and only where necessary commitments are made for adequate further cleanup during the extension period.

Section 105: Other Nonattainment Provisions

All new major sources and major modifications must comply with Best Available Control Technology.

A more flexible inspection and maintenance program is provided for nonattainment areas with a population greater than 500,000 and which exceeds the ozone or carbon monoxide national ambient air quality standards by greater than 50 percent.

An "emission inventory management" option to the emission offset policy is provided where annual new source emission increases do not exceed 1 percent of the emission inventory and where all existing major stationary sources are subject to reasonably available control technology.

Sections 106 and 107: Prevention of Significant Deterioration

National Parks and Wilderness Areas continue to be protected by a special air quality "increment" system, without the unnecessarily severe short-term increments.

All the nation's clean air areas are protected by requiring Best Available Control Technology for major new and modified facilities.

The complex requirements in present law are simplified by eliminating the unnecessary Class II and Class III increments.

Significant impairment of visibility within these National Parks and Wilderness Areas continues to be prohibited.

Section 108: Operation and Maintenance

Establishes a program to ensure the proper operation and maintenance of pollution control equipment.

Section 109: Emergency Variances

Provides for a maximum two-year emergency variance program.

Section 110: Administrative Review

Provides for public notice and comment before the Administrator can make a finding that U.S. emissions cause air pollution problems in foreign countries.

Section 130: Regulatory Stability

Provides for a ten-year protection against tighter controls for sources that have installed Best Available Control Technology.

Section 201: Ozone Protection

Requires EPA to make certain scientific findings and determinations before any further regulation of chloroflurocarbons (CFCs) is proposed or prescribed.

Sections 401 and 402: Acid Precipitation Study

The national program under the Energy Security Act to determine the causes of acid precipitation and identify effective remedial measures is accelerated from a 10-year to a 5-year effort and EPA is authorized to submit to Congress a report on any legislative changes necessary for reducing acidity of precipitation.

By Mr. HEINZ (for himself, Mr. COHEN, Mr. MELCHER, Mr. PRYOR, Mr. KASTEN, and Mr. SARBANES):

S. 2267. A bill to amend the Internal Revenue Code of 1954 to allow the Secretary of the Treasury to waive the interest penalty for failure to pay estimated income tax, for elderly and retired persons, in certain situations; to the Committee on Finance.

TAX IMPROVEMENT FOR ELDERLY AND RETIRED AMERICANS

● Mr. HEINZ. Mr. President, today I am introducing legislation that will have a beneficial impact on hundreds of thousands of elderly and retired Americans, through a small improvement of the tax code. Also sponsoring this legislation are Senators COHEN, MELCHER, PRYOR, KASTEN, and SARBANES.

The bill amends the Tax Code's penalties for failure to pay estimated tax by allowing the Internal Revenue Service to waive or reduce the penalties for elderly and retired people where there is "reasonable cause." Without this bill, the elderly will have to bear the burden of $40 million in tax penalties that they can ill-afford and which, in most cases, should not be inflicted upon them because of innocent mistakes.

The problem is this: Many elderly people shift from wage earner to retiree status, and their taxable income from pensions, dividends, and interest is not subject to withholding. These newly retired people are often unaware that the IRS requires them to make a declaration of estimated tax and pay regular, quarterly tax payments. When tax time comes along, these people fill out their returns and pay what taxes they owe. But later, they get a letter from the IRS computers notifying them that they have not complied with the rules on estimated tax, and that they must pay a penalty—which IRS has no discretion to waive. Thus, retired Americans who have paid taxes properly all their lives suddenly end up with the unwelcome surprise that they are being penalized on account of a provision they were unaware of—because it never really applied to them before. In 1979, about 313,000 tax returns incurred estimated tax penalties primarily because of taxable pensions.

The penalty problem is also more urgent now, because the IRS has announced that the interest rate on tax underpayments, which is the basis for the penalty for failure to pay estimated tax, has risen from 12 percent to 20 percent, effective February 1, 1982. Whether or not the higher interest rate may be justified for general tax policy, the 20 percent charge is altogether usurious in the case of elderly people, whose limited income from savings has already been penalized by high rates of inflation. Further, because the code treats this interest charge as a penalty, it is not deductible from the following year's taxes—as all other interest charges are.

The Economic Recovery Tax Act of 1981 (ERTA) contained provisions that raise the tax threshold liability for required payment of estimated tax, from $100 in 1981 to $200 in 1982, $300 in 1983, $400 in 1984, and $500 in 1985 and thereafter.

The ERTA provision originated in the House version of the tax bill, and the legislative history is germane. In its report on H.R. 4242, the House Ways and Means Committee stated its concern that:

> The $100 tax liability threshold for filing estimated taxes is too low.
>
> Often individuals with modest amounts of income that is not subject to withholding discover that they either must declare and pay estimated taxes or subject themselves to penalties for failure to do so. Accordingly, the committee has agreed to raise the tax liability threshold for individual estimated tax payments to $500. However, in order to minimize the immediate potential revenue loss of this change, the committee decided to phase in the increase over a 4-year period.

In short, the legislative history shows that Congress realized that there is a problem now with this estimated tax provision and the required penalties for failure to comply with the current law, but for reasons of cost, Congress decided to phase in the higher tax liability threshold over 4 years. This change will certainly be a substantial help, once it is fully phased in. But in 1982 and 1983, it affords very little help to the elderly. The Federal Government will continue to impose penalties, and the elderly people especially will suffer an undeserved penalty of $40 million, even though these people had no knowledge of the estimated tax requirements.

The bill I am introducing will complement the recent changes in ERTA. It gives the IRS the discretion to waive the penalties or reduce them, for elderly or retired taxpayers, where there is reasonable cause. The bill applies only to the penalty and not to the amount of the tax liability.

The IRS has been doing its best to get the word out to older Americans about the estimated tax penalties. But despite their admirable efforts, many elderly people are still snared by this penalty. The Special Committee on Aging has received hundreds of letters from elderly Americans and from groups who serve them. In response, the Aging Committee has emphasized the need to make estimated tax payments in the tax information it makes available each year.

But the only way to really fix this problem is to fix the law itself. We must program into the computer which now sends out these estimated tax penalties—automatically—a small dose of human understanding for the elderly people who fall victim to the complexities of the tax law.

I urge my colleagues to join us in sponsoring this legislation and ask unanimous concent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6654 of the Internal Revenue Code of 1954 (relating to failure by individuals to pay estimated income tax) is amended by adding at the end thereof the following new subsection:

"(i) Exception for Elderly or Retired Taxpayers.—

"(1) In general.—Under regulations prescribed by the Secretary, the addition to tax with respect to any underpayment of estimated tax (or any portion thereof) shall not be imposed under subsection (a) if the Secretary finds that—

"(A) the taxpayer is retired or at least 65 years of age, and

"(B) such underpayment (or any portion thereof) was due to reasonable cause and not to willful neglect.

"(2) Reasonable cause.—If any portion of an underpayment of estimated tax by the taxpayer is due to mistake or ignorance of the law on the part of such taxpayer, such underpayment shall be treated, for purposes of paragraph (1), as due to reasonable cause and not willful neglect.".

(b) Section 6654(a) of such Code (relating to addition to tax) is amended by inserting ", (f), or (i)" after "subsection (d)".

(c)(1) The amendments made by this Act shall apply to estimated tax for taxable years beginning after December 31, 1981.

(2) The Secretary of the Treasury shall issue the regulations required under section 6654(i) of the Internal Revenue Code of 1954 by no later than December 31, 1982.●

By Mr. RANDOLPH (for himself and Mr. ROBERT C. BYRD):

S. 2268. A bill to amend section 1006 of title 38, United States Code, to provide for the Administrator of Veterans' Affairs to accept certain donations of land for the purposes of expanding national cemeteries; to the Committee on Veterans' Affairs.

EXPANDING NATIONAL CEMETERIES

● Mr. RANDOLPH. Mr. President, today I am introducing for myself and my able colleague, the Democratic leader, ROBERT C. BYRD, legislation which would allow for the expansion of national cemeteries.

The measure would not allow the Administrator of the Veterans' Administration to refuse to accept the donation of a parcel of land for cemetery expansion purposes solely on the grounds that such land is not adjacent to the land on which the existing cemetery is located.

Current Veterans' Administration policy dictates that suitable land for cemetery expansion purposes must be literally adjacent or contiguous to the existing national cemetery that it is expanding.

Mr. President, we are faced with a unique situation in West Virginia. We have one national cemetery at Grafton, which has been closed for all intents and purposes for over 20 years. The Grafton National Cemetery is the burial site for many of our honored Civil War dead.

During the prior administration the VA felt it had an answer for our problem. But because of various reasons the proposal to move the Civil War dead to a common grave with a memorial marker was dropped.

The West Virginia United Veterans National Cemetery Committee has been advised by State officials that sufficient acreage is available at its Prunytown State Industrial School For Boys. Land could be donated by the State approximately 3½ miles from the existing Grafton National Cemetery.

It is our belief that the new facility could be operated and maintained by the existing cemetery personnel at minimal additional cost. This is a fiscally responsible proposal, at a time when we are trying to trim costs of Government.

I am hopeful other States in similar situations will be helped by our proposal if it becomes law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1006 of title 38, United States Code, is amended—

(1) by inserting "(a)" before "As"; and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2) of this subsection, in the case of an offer to donate for the purposes of expansion of an existing national cemetery a parcel of land that is located within five miles of such cemetery, the Administrator may not refuse to accept the donation of such parcel as being not in the best interest of the United states solely on the grounds that such land is not adjacent to the land on which such cemetery is located.

"(2) In the case of an offer to donate for the purposes of expansion of an existing national cemetery a parcel of land that is not adjacent to the land on which such cemetery is located, the Administrator may refuse to accept the donation of such parcel as being not in the best interest of the United States if the Administrator determines that, by virtue of such parcel being not adjacent to the land on which such cemetery is located, the total cost of operating and maintaining such cemetery would be substantially greater than the total cost of operating and maintaining such cemetery if such cemetery were expanded by an addition that is the same size as such parcel but adjacent to the land on which such cemetery is located.".●

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join with my distinguished colleague in introducing this legislation, which would give States more flexibility in expanding veterans cemeteries, without resulting in substantial cost increases to the Veterans' Administration.

Current Veterans' Administration policy prevents the expenditure of funds for the establishment of new national veterans cemeteries, and the VA will approve the enlargement of existing cemeteries only if the proposed tract of land to be annexed is donated to the VA, and only if the land is "adjacent" to an existing cemetery.

"Adjacent" is defined by VA Administrator Robert P. Nimmo as "land directly touching or separated by a roadway on one or more sides of the boundary of a national cemetery . . ." The purpose of the "adjacent" requirement presumably is to avoid possible additional operation and maintenance costs which might be incurred if a cemetery were to be comprised of several different sites, spread hundreds of miles apart.

Our bill would require that the VA accept the annexing of suitable, donable tracts of land to existing cemeteries, when such tracts are within 5 miles of the existing cemetery, and when the total cost of operating and maintaining the new "nonadjacent" addition would not be "substantially greater" than the cost of operating and maintaining a parcel of the same size which is adjacent.

My own State of West Virginia provides an example of how this additional flexibility would work. The National Cemetery for Veterans at Grafton, W. Va., has been closed for years because of lack of space. Many efforts to find additional space to reopen the cemetery have failed—including the implementation of a plan originally suggested and approved by the VA to combine the remains of some 650 Civil War unknowns into a common grave similar to the Tomb of the Unknowns at Arlington Cemetery. Although this plan had the overwhelming support of the West Virginia veterans, the VA rescinded its original approval.

The only available land tract which would meet the VA's "adjacent" requirement would result in acquisition expenditures which neither the VA nor the State of West Virginia could incur.

There is a State-owned tract of land, however, which the State of West Virginia is willing to donate for annexation to the cemetery. It is located at Pruntytown, about 3½ miles away, and could be easily operated by the VA personnel at Grafton.

Passage of the bill which I am joining in introducing today would permit Grafton to reopen, and it would allow other States more flexibility in exploring possible land donations within a 5-mile radius of an existing cemetery, without resulting in substantially greater costs to the Federal Government.

Thank you.

By Mr. TSONGAS:

S. 2269. A bill to extend the authorization for the low-income housing program; to the Committee on Banking, Housing, and Urban Affairs.

PUBLIC HOUSING AMENDMENTS OF 1982

● Mr. TSONGAS. Mr. President, today I am introducing legislation to meet the minimum needs of our Nation's public housing system. It would provide essential funds for operating subsidies, modernization, and development. If we are to meet the basic housing needs of low-income Americans, each of this bill's three components is crucial.

First, it authorizes $1.6 billion in public housing operating subsidies for fiscal year 1983. This provides funds needed to help public housing agencies maintain and operate their projects, establish operating reserves, and offset operating deficits. The administration has requested $1.076 billion for this important program in fiscal year 1983, which is less than two-thirds of the actual need. This comes on top of several years of underestimated costs—particularly for such key factors as energy costs. As a result, we have had severe shortfalls in the program.

The consequences for public housing agencies have been devastating. In Boston, where we are trying to turn a very bad situation around, budgets are so tight that skilled maintenance personnel are already stretched between a number of developments. It is impossible to get above the day-to-day problems and make real progress. Last year's shortfall translated into an estimated 15 percent reduction in maintenance and personnel at a time when adequate operating funds are a key to success.

Second, it provides $100 million in contract authority—$2 billion in budget authority—for public housing modernization in fiscal year 1983. This provides funds to finance capital improvements that upgrade living conditions, correct physical deficiencies and achieve operating efficiency and economy. This $100 million in contract authority would restore the program to the level appropriated in fiscal year 1981. The administration has proposed $1.8 billion in budget authority for this program, but would take the funds from cancellation of public housing developments awarded in past years.

Modernization activities can range from replacement of appliances to repair of roofs and heating systems. This program should continue as a priority because it represents a reinvestment in billions of dollars of housing built at the taxpayers expense. Thousands of developments throughout the Nation have used this program to maintain or restore stability and livability in public housing. The funds requested are a bare minimum of the amount required.

Third, the legislation authorizes $100 million in contract authority to support 20,000 units of low-income public housing, new construction or substantial rehabilitation. The Reagan administration has proposed no funds for public housing development for fiscal year 1983. The level of 20,000 units is consistent with prior years. This represents a minimum commitment to expand the stock of housing for low-income citizens. CBO estimates that the fiscal year 1983 per unit costs for this program will be $5,011, which makes it by far the most cost-effective means of providing housing for those in need.

I must point out that these three components represent just the public housing portion of our overall housing needs. While this is a top priority, which the Congress must address now, I also support a broad range of housing solutions. These include additional subsidy programs, production stimulus programs, and a continued Federal commitment to help produce multifamily housing. This legislation represents one part of the overall task ahead.

Mr. President, I hope that the Senate will not follow the lead of the administration and turn its back on housing needs for the first time since the depression. I urge my colleagues to join in the effort to design a package that meets these basic housing needs.

I ask unanimous consent that the text of the Public Housing Amendments of 1982 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2269

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 5(c) of the United States Housing Act of 1937 is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) by inserting after paragraph (1) thereof the following:

"(2) (A) The Secretary is authorized to enter into contracts other than under section 8 for annual contributions aggregating not more than $200,220,000 on and after October 1, 1982, to the extent approved in appropriation Acts. The aggregate amount which may be obligated over the life of such contracts may not exceed $5,006,600,000.

"(B) Of the additional authority provided by subparagraph (A) which is approved in appropriation Acts and made available on October 1, 1982, the Secretary shall enter into contracts aggregating at least $100,000,000 for assistance to projects under section 14.".

(b) Section 9(c) of such Act is amended—

(1) by striking out "and" after "1980,"; and

(2) by inserting before the period at the end thereof the following: ", and not to exceed $1,600,000,000 on or after October 1, 1982".●

By Mr. Roth (for himself, Mr. Chiles, Mr. Cohen, Mr. Durenberger, Mr. Mattingly, Mr. Nunn, and Mr. Sasser):

S. 2274. A bill to amend the Inspector General Act of 1978 to establish Offices of Inspector General in the Department of Defense, the Department of Justice, and the Department of the Treasury, and for other purposes; to the Committee on Governmental Affairs.

INSPECTOR GENERAL AMENDMENTS OF 1982

● Mr. ROTH. Mr. President, I am today introducing legislation authorizing statutory Inspectors General in the Departments of Defense, Justice and Treasury. I am pleased to have Senators Chiles, Cohen, Durenberger, Mattingly, Nunn, and Sasser as cosponsors.

The Inspector General concept is one that I fully support. I have consistently favored strong, independent Inspectors General for all Federal programs. I voted for a strong, independent Inspector General in DOD when the Inspector General Act of 1978 passed the Senate. I bow to no one in my support for independent Inspectors General.

It has become increasingly clear to me, however, that there is significant opposition to the creation of Inspector General Offices in DOD, Justice, and Treasury. My concern is that this opposition will delay Senate consideration of Inspector General legislation for so long that we will be unable to enact a law before this Congress ends. In my view, that would be the ultimate tragedy and one which I believe we must do all we can to avoid.

Since 1978, several efforts have been made to put Inspectors General in DOD and the Departments of Justice and Treasury. These efforts, at least in the case of DOD, have repeatedly failed. Many members of this committee were here when those efforts were made and remember very well how difficult it has been to enact a statutory Inspector General for DOD, Justice, and Treasury.

My bill does not include provisions which in the past prevented the passage of Inspector General legislation for these agencies. Yet it includes protections to insure the effectiveness of the Inspector General. Whatever is done concerning the duties and responsibilities of the Inspector General's in these three Departments cannot be allowed to seriously undermine the integrity of the concept and I will strongly resist any changes which I believe might have that effect. I have offered this proposal in the spirit of cooperative compromise and I expect that spirit to be reflected by the agencies.

The Inspector General bill I have drafted will provide a sound basis for improving the effort to control fraud and waste in DOD programs. It is not everything I would like to see in an Inspector General for the Department, but it will be a vast improvement over what exists now in DOD. A statutory Inspector General will provide this committee with the basis for more effective oversight of the management of DOD programs and I can assure all committee members that future improvements in the Inspector General's office will be one of my top priorities. I will not hesitate to push for revisions in this proposal, once it is enacted into law, if it proves to be ineffective.

I am particularly concerned about the lack of centralized audit and investigative responsibilities in the Defense Department. Audit resources are so dispersed in DOD that it is almost like straining tea through an ocean fishing net. Too many pieces of tea leaf are getting through. Just to use one example, there are over 18,000 employees in DOD performing audit and investigative functions and some $500 million is spent annually to support their activities. Yet, these personnel are spread over at least 18 different agencies within DOD and until recently there were some 11 coordinating committees to insure cooperation among the various audit organizations in DOD. Clearly, there is no "rapid deployment force" when it comes to controlling waste and fraud in DOD, but rather a mixed jumble of, in many cases, uncoordinated agencies and programs.

Real military spending is expected to grow 9 percent annually under the President's proposals between 1981 and 1987. Over that period, military spending will rise from 5.6 percent to 7.8 percent of GNP and from 25 percent to 37 percent of total Federal spending. Real purchases of defense weaponry and hardware alone will grow at an annual rate of 16 percent between 1981 and 1987 and this exceeds the 14 percent annual rate of increase that occurred during the 3 peak years of the Vietnam buildup. With increases like these projected for DOD. We cannot afford to let the fox anywhere near the chicken coop let alone have any role in guarding it.

We must have a strong, statutory Inspector General in place in DOD as soon as possible. We simply cannot allow cost increases of an average 132 percent for major weapons systems to continue without providing for an effective and coordinated audit and investigative program in DOD. We cannot accept fraud in DOD programs, like that which may have resulted in over 80 percent cost overruns for the overhaul of Navy ships recently, without establishing better mechanisms for controlling fraud. We cannot tolerate bad management practices and ineffective service coordination without creating an Inspector General to systematically review interservice management and push for improvements, common weapons, by some estimates, could save $1 billion or more a year and a permanent Inspector General could identify savings through improved management and work for their implementation.

The bill I have drafted does not authorize an Inspector General in DOD identical to those already existing in other agencies. It does, however, provide authority for a statutory Inspector General in the Department which, if implemented aggressively, should prove to be an effective instrument for minimizing waste and fraud. The DOD Inspector General in my bill could come straight to Congress to advise it of any especially egregious examples of fraud or waste. The Inspector General could initiate any investigation he wished. His investigations could be vetoed by the Secretary of Defense but the Secretary must come straight to Congress, and specifically to this committee, to explain any veto he has issued. In addition, the Inspector General must be nominated by the President and approved by Congress. In short, the basic outlines of an effective Inspector General in DOD are provided for in my bill. It only remains to be seen how sincere the commitment is to eliminating fraud and mismanagement because no matter how you structure the Office, it is the people in it who will make the difference.

Mr. President, I ask unanimous consent the text of the bill and a synopsis of its provisions be included in the Record at this time.

There being no objection, the bill and analysis were ordered to be printed in the Record, as follows:

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Inspector General Amendments of 1982".

DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL

Sec. 2. (a) The Inspector General Act of 1978 is amended—

(1) by inserting "the Department of Defense," after "Commerce," in section 2(1);

(2) by redesignating subparagraphs (C) through (M) of section 9(a)(1) as subparagraphs (D) through (N), respectively;

(3) by inserting after subparagraph (B) of such section the following new subparagraph:

"(C) of the Department of Defense, the office of that department referred to as the 'Defense Audit Service', and that portion of the office of that department referred to as the 'Defense Investigative Service' which has responsibility for the investigation of alleged criminal violations and program aubse;";

(4) by inserting "Defense," after "Commerce," in section 11(1); and

(5) by inserting "Defense," after "Commerce," in section 11(2).

(b) Section 8 of the Inspector General Act of 1978 is amended to read as follows:

"ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

"SEC. 8. (a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

"(b)(1) The last two sentences of section 3(a) do not apply to the Inspector General of the Department of Defense.

"(2) The Inspector General of the Department of Defense shall be under the authority, direction, and control of the Secretary of Defense.

"(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall—

"(A) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

"(B) initiate audits and investigations relating to the programs and operations of the Department;

"(C) develop policy, monitor and evaluate program performance, and provide guidance with respect to all Department activities relating to criminal investigation programs;

"(D) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

"(E) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States; and

"(F) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

"(e) The Inspector General of the Department of Defense is authorized to establish such rules and instructions as may be necessary to carry out the provisions of this Act.

"(f) In carrying out section 6(a)(2), the Inspector General of the Department of Defense is authorized to make such investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General or the Secretary of Defense, necessary or desirable.

"(g)(1) In carrying out section (7)(a), the Inspector General of the Secretary of Defense may receive and investigate complaints or information from an employee of the Department or a member of the Armed Forces.

"(2) The Inspector General of the Secretary of Defense shall not, after receipt of a complaint or information from an employee of the Department or a member of the Armed Forces, disclose the identity of or information that could be attributed to that employee or member without the consent of that employee or member, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

"(3) Section 7(c) shall apply to employees of the Secretary of Defense and members of the Armed Forces who have authority to take, direct others to take, recommend, or approve any personnel action with respect to employees of the Secretary of Defense or members of the Armed Forces.

"(h)(1) Each semiannual report prepared by the Inspector General of the Secretary of Defense under section 5(a) shall include a listing of each contract audit conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(3)(A) Any report prepared by the Inspector General of the Department of Defense under section 5 shall not include information which is—

"(i) specifically prohibited from disclosure by any other provision of law;

"(ii) specifically required by Executive order to be protected from disclosure in the interest of national defense, national security, or in the conduct of foreign affairs; or

"(iii) a part of an ongoing criminal investigation.

"(B) Notwithstanding subparagraph (A)(iii), any report prepared by the Inspector General of the Department of Defense under section 5 may include information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

"(i)(1) If the Secretary of Defense determines that it is appropriate to prohibit the Inspector General of the Department of Defense from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena, after the Inspector General has decided to initiate, carry out, or complete such audit or investigation, or to issue such subpena, the Secretary shall, within 30 days after making such determination, transmit a statement of the reasons therefor to the appropriate committees or subcommittees of the Congress and to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(2) Notwithstanding paragraph (1), if the statement required by such paragraph would necessarily reveal intelligence or counterintelligence activities, sensitive operations plans, ongoing criminal investigations of the Department of Defense, or other information the disclosure of which may constitute a serious threat to the national security, the Secretary is only required to transmit such statement to the Majority and Minority Leaders of the Senate and the House of Representatives.

"(j) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.".

DEPARTMENT OF JUSTICE OFFICE OF INSPECTOR GENERAL

SEC. 3. (a) The Inspector General Act of 1978 (as amended by section 2 of this Act) is further amended—

(1) by inserting "Department of Justice," after "the Interior," in section 2(1);

(2) by redesignating subparagraphs (G) through (N) of section 9(a)(1) (as redesignated by section 2(a)(2) of this Act) as subparagraphs (H) through (O), respectively;

(3) by inserting after subparagraph (F) (as redesignated by section 2(a)(2) of this Act) the following new subparagraph:

"(G) of the Department of Justice, the offices of that department referred to as the 'Audit Staff, Justice Management Division', the 'Evaluation Staff, Justice Management Division', the 'Office of Internal Audit, United States Marshals Service', and the 'Evaluation, Assessment, and Analysis Staff, Immigration and Naturalization Service,' and that portion of the offices of that department referred to as the 'Office of Field Inspections and Audits, Immigration and Naturalization Service,' the 'Program Review and Evaluation Section, Office of Financial Management, Bureau of Prisons', and the 'Office Program Planning and Evaluation, Drug Enforcement Administration', which responsibility for audit activities;";

(4) by inserting a comma and "the Attorney General," after "Transportation," in section 11(1); and

(5) by inserting "Justice," after "the Interior," in section 11(2).

(b) The Inspector General Act of 1978 (as amended by section 2 of this Act) is further amended by inserting after section 8A the following new section:

"ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF JUSTICE

"SEC. 8B. (a)(1) Paragraphs (1) and (2) of section 4(a) do not apply to the Inspector General of the Department of Justice.

"(2) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Justice shall—

"(A) conduct and supervise audits relating to the programs of the Department, upon the request of the Attorney General, an office, agency, division, or unit of the Department, or as the Inspector General considers appropriate;

"(B) supervise and coordinate implementation of audit recommendations designed to promote economy, efficiency, and effectiveness in programs of the Department;

"(C) establish procedures and guidelines for reporting to the Office of Inspector General by the offices, agencies, divisions, and units of the Department; and

"(D) ensure compliance by the offices, agencies, divisions, and units of the Department with auditing standards and procedures issued by the Comptroller General of the United States and the Director of the Office of Management and Budget.

"(b) Notwithstanding any other provision of this Act, the Inspector General of the Department of Justice is not authorized to conduct audits or reviews concerning policy decisions arising from the exercise of the discretionary authority of officials of the Department with respect to law enforcement, litigation, legal advice, and corrections. The policy decisions referred to in the preceding sentence include policy decisions relating to the establishment of law enforcement priorities and resource determinations ancillary thereto, the exercise of prosecutorial discretion, the negotiation and settlement of legal actions, determinations concerning pursuing an appeal, Federal correction institutions, positions taken on legislation, and the rendering of legal opinions.

"(c) The Inspector General shall establish such rules as may be necessary to carry out the provisions of this Act.

"(d) The Inspector General of the Department of Justice shall inform the Attorney General prior to issuing any subpena under section 6(a)(4).

"(e)(1) Any report prepared by the Inspector General of the Department of Justice under section 5 shall not include information which is—

"(A) specifically prohibited from disclosure by any other provision of law;

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense, national security, or in the conduct of foreign affairs; or

"(C) a part of an ongoing criminal investigation.

"(2) Notwithstanding paragraph (1)(C), any report prepared by the Inspector General of the Department of Justice under section 5 may include information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.".

DEPARTMENT OF THE TREASURY, OFFICE OF INSPECTOR GENERAL

SEC. 4. (a) The Inspector General Act of 1978 (as amended by sections 2 and 3 of this Act) is further amended—

(1) in section 2(1) by inserting "the Department of the Treasury," after "Transportation,";

(2) by redesignating subparagraphs (J) through (O) of section 9(a) (as redesignated by sections 2(a)(2) and 3(a)(2) of this Act) as subparagraphs (K) through (P), respectively;

(3) by inserting after subparagraph (I) (as redesignated by sections 2(a)(2) and 3(a)(2) of this Act) the following new subparagraphs:

"(J) of the Department of the Treasury, the offices of that department referred to as the 'Office of the Inspector General, Office of the Secretary,' the 'Office of Audit and Internal Affairs, Bureau of Engraving and Printing,' the 'Division of Inspections and Audits, Office of Comptroller of the Currency,' the 'Office of Assistant Comptroller for Auditing, Bureau of Government Financial Operations,' the 'Internal Audit Staff, Federal Law Enforcement Training Center,' the 'Internal Audit Staff, Bureau of the Mint,' and the 'Division of Internal Audit, Bureau of Public Debt,' that portion of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco and Firearms' and the 'Office of Management Integrity, Customs Service,' engaged in audit, investigation, and program review activities, and that portion of the office of that department referred to as the 'Office of Inspection, Secret Service,' which is engaged in internal audit and internal inspection activities;";

"(4) in section 11(1)—

"(A) by striking out "or" before "Transportation," and

"(B) by inserting "or the Treasury," after "Transportation,"; and

"(5) in section 11(2)—

"(A) by striking out "or" before "Transportation", and

"(3) by inserting after "Transportation" a comma and "or the Treasury,".

"(b) The Inspector General Act of 1978 (as amended by sections 3 and 4 of this Act) is further amended by inserting after section 8B (as added by section 4 of this Act) the following new section:

"ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF THE TREASURY

"SEC. 8C. (a) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall exercise general oversight with respect to the activities of the Assistant Commissioner (Inspections) of the Internal Revenue Service.

"(b)(1) Any report prepared by the Inspector General of the Department of the Treasury under section 5 shall not include information which is—

"(A) specifically prohibited from disclosure by any other provision of law;

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense, national security, or in the conduct of foreign affairs, including international monetary activities; or

"(C) a part of an ongoing criminal investigation.

"(2) Notwithstanding paragraph (1)(C), any report prepared by the Inspector General of the Department of the Treasury under section 5 may include information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

"(c) Notwithstanding any other provision of this act, the Inspector General of the Department of the Treasury shall not, unless requested by the Secretary of the Treasury or the Deputy Secretary of the Treasury, review the policy decisions made by Department officials with respect to the law enforcement, banking regulatory, financial, monetary, tax, or international activities of the Department of the Treasury, or the allocation of funds to carry out such activities. The preceding sentence does not preclude the Inspector General of the Department of the Treasury from conducting any audit or review of the expenditure of funds, or of the administration of programs or operations of the Department, or from reviewing any allegations concerning the integrity of officials carrying out the programs or operations of the Department.".

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 5 (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Defense.

"Inspector General, Department of Justice.

"Inspector General, Department of State.

"Inspector General, Department of the Treasury.

"Inspector General, Agency for International Development.

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Community Services Development.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Small Business Administration.

"Inspector General, Synthetic Fuels Corporation.". (b) Section 5316 of such title is amended—(1) by striking out the following paragraphs:

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Community Services Administration.

"Inspector General, Environmental Protection Agency.

"Inspector General, General Services Administration.

"Inspector General, National Aeronautics and Space Administration.

"Inspector General, Agency for International Development.

"Inspector General, Small Business Administration."; and

(2) by adding at the end thereof the following new paragraph:

"Deputy Inspector General, Synthetic Fuels Corporation.".

(c) Section 122(a)(5) of the Energy Security Act is amended—

(1) by striking out "level III of the Executive Schedule under section 5314" and inserting in lieu thereof "level IV of the Executive Schedule under section 5315"; and

(2) by striking out "level IV of such schedule under section 5315" and inserting in lieu thereof "level V of such schedule under section 5315".

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect on January 1, 1983.

ANALYSIS OF THE ROTH BILL

The bill contains 3 major sections, Defense, Justice and Treasury and one section of conforming and technical amendments. The bill amends the Inspector General Act of 1978, and contains many of the provisions of that Act and additional sections that highlight particular agency concerns.

DEFENSE

Section 2. (a) Amends the Inspector General Act of 1978 and does the following:

2. (a)c—transfers into the Defense Office of Inspector General the Defense Audit Service, that portion of the Office of the Defense Investigative Service with responsibility for the investigation of alleged criminal violations and program abuse.

Explanation

(1) Defense Audit Service was set up in 1976 to do internal audits of Defense-level organizations and audits covering more than one military department. It performs criminal investigations in Defense-level organizations and investigations affecting more than one military department. The work of DAS's 379 civilian auditors and their support staff encompasses the major functions of the Department. At least 125 audits are underway at any given time. For fiscal 1980, DAS issued 143 reports.

(2) Defense Investigative Service—primarily does personnel security investigations. Part of DIS was recently reorganized into DAS.

Section 8. (a)—No member of the Armed Forces, active or reserve shall be appointed IG. This preserves civilian control.

Section 8. (b)—The IG shall be under the "authority, direction and control of the Secretary of Defense."

Explanation

This was included to provide an Inspector General that would be tailored to Defense's needs.

(c) A-F—Duties and responsibility in addition to responsibilities set out in 1978 Act. This section provides additional safeguards and flexibility in the office of IG and ensures an effective office.

(d) The IG will report violations of Federal law to the Attorney General and violations of Military Justice to the Secretary of the military department concerned or the Secretary of Defense.

(f) The IG is authorized to make such investigations and reports relating to the administration of the programs and operations of the Department as are, in the judgment of the Inspector General or the Secretary of Defense, necessary or desirable.

(g) 1-3—IG may receive and investigate complaints and information from an employee or member of the Armed Forces. The IG cannot disclose the identity or information that could be attributed to the individual without the consent of that individual.

(h)(1) Each semi-annual report shall include a listing of each contract audit conducted by the Department during the reporting period. This report will be transmitted to the appropriate committees and subcommittees and the Committee on Governmental Affairs and Committee on Government Operations.

Explanation

Currently there is no requirement for DOD to report to Congress on the contract audit activity within DOD.

(2) Each IG shall report to the head of the establishment whenever he becomes aware of serious or flagrant problems, abuses etc. The Secretary shall transmit within 7 calendar days a report to the appropriate Committees or subcommittees and the Committee on Governmental Affairs and Government Operations.

(i)(1) If the Secretary determines that it is appropriate to prohibit the IG from initiating carrying out, or completing any audit or investigation, or from issuing any subpoena, the Secretary within 30 days must transmit a statement of the reasons to the appropriate committees or subcommittees and the Governmental Affairs and Government Operations Committees.

Explanation

This extraordinary veto measure will provide an effective double-check on the Secretary's use of his special authority. This provision clearly puts the Secretary on notice that this authority is being granted with the express authority of Congress to review it exercise.

(2) This section provided for a situation where the Secretary's reasons for a veto reveal intelligence or counter-intelligence activities, sensitive operation plans or ongoing criminal investigations or other information the disclosure of which may constitute a serious threat to national security. In these cases, the Secretary may limit his report to the Majority and Minority Leaders of the House and Senate.

(j) This bill exempts the IG from restrictions of posse comitatus. This should have no impact upon traditional restrictions on DOD's role in investigating fraud committed by civilians. DOD is still prohibited from utilizing Army and Air Forces personnel to enforce criminal laws as such apply to civilians.

JUSTICE

Section 3. (a) Amends the Inspector General Act of 1978.

(G) The offices that are transferred into the Office of Inspector General are all involved in audit investigation and program evaluation.

Section 8B(2) A-D—In addition to the other duties and responsibilities set out in the 1978 IG Act, this section sets out additional responsibilities to provide flexibility and promote an effective IG Office.

(b) This section limits the ability of the IG to become involved in areas of prosecutorial discretion with respect to law enforcement, litigation, legal advice and corrections policy. The intent is to make it clear that the IG has no authority to review the legal merits of discretionary decisions made by Justice attorneys in the handling of government cases. Any effort by the IG to routinely review the exercise of legal judgments in individual cases would direct resources which should be used to promote effective management. The IG's function is improved management, economy and efficiency.

OTHER ISSUES

Section 6(a)(4) of the 1978 Act provides all IG's with independent subpoena power. This bill incorporates that section into the Act by not providing an exclusion. The section provides that all procedures other than subpoenas be used by the IG to obtain documents and information from Federal agencies. This subpoena power is enforceable by order of any appropriate United States District Court. Section (d) of the bill provides that the IG at Justice notify the Attorney General prior to issuing any subpoena. This was included because no other Justice official, division or department has independent subpoena authority.

TREASURY

Section 4(a) Amends the Inspector General Act of 1978.

(J) transfers into the Office of Inspector General audit, investigation and evaluation divisions of Treasury.

Section 8(c)(a) The Assistant Commissioner (Inspector) of the Internal Revenue Service is responsible for the audit and internal review of IRS. The IG at Treasury is given oversight over this office to provide continuity with regard to the functions of that office.

(c) This section clarifies the responsibilities and duties of the IG regarding specific monetary issues and activities. "The IG shall have no authority, unless specifically requested to do so by the Secretary or Deputy Secretary, to review the policy decisions made by Department officials with respect to Treasury's law enforcement, bank regulatory, financial, monetary, tax or international activities; provided however, that the IG shall not be precluded from conducting any audit or review of the expenditure of funds or the administration of Department programs or operations; or precluded from reviewing any allegations concerning the integrity of officials carrying out these programs or operations." This will permit the IG to review management, efficiency and effectiveness within Treasury while protecting the compromise of crucial policy issues.●

● Mr. SASSER. Mr. President, I am pleased to join with my distinguished colleague from Delaware, Mr. ROTH, and my other colleagues on the Governmental Affairs Committee in cosponsoring S. 2274 which would amend the Inspector General Act of 1978 by establishing Offices of Inspector General in the Department of Defense, the Department of Justice, and the Department of State, and other Federal agencies. Sixteen other Federal agencies now have Inspector Generals. It is time for us to extend this office to these other departments as well.

By establishing these additional Inspectors General, we will have in these departments an official, appointed by the President, whose responsibility is to root out fraud, waste, and abuse on a continuing basis.

Mr. President, I am very encouraged to note that S. 2274 takes into account the unique and complex characteristics of the Department of Defense. S. 2274 provides for a workable arrangement that will allow the Inspector General to fulfill his audit and investigative roles and at the same time preserve the necessary safeguards for our national security.

The Department of Defense is expected to receive a budget of $1.6 trillion over the next 5 years. It is the responsibility of this Congress to insure that these appropriations will be properly spent. For every dollar which is misspent and for every dollar which is mismanaged, we are not achieving the strong defense to which we have committed ourselves. With an Inspector General in the Defense Department, we can have better assurances of a properly managed defense effort.

Daily the news report incidents which show the need for efficient management of the Defense Department. In one case a dairy supplier was recently caught after stealing butter from a commissary, butter which he had sold to the commissary but which he intended to sell again and again. Another contractor was apprehended after bilking the Pentagon out of $105,000 by altering the time cards of his employees. These are but small and telling instances of the types of fiscal mismanagement and corruption which the Inspector General can help combat.

I also think that an Inspector General in the Defense Department can help in our efforts to hold down the overruns that we are experiencing in the development of our major weapons systems.

In our current defense buildup, we are spending over $316 billion for new weapons systems, and according to the General Accounting Office over half that amount represents cost growth in these weapons systems. Indeed, the Congressional Budget Office in their report to the Senate Appropriations Committee notes that it was not uncommon for cost overruns of 40 percent or more to occur on some of our major weapons systems between the 1982 and 1983 budget.

Clearly, we must rein in these cost overruns, and an Inspector General in the Defense Department can help us do just that. If we do not have an Inspector General in the Defense Department we will continue to see the Department plagued by massive cost overruns, unfair or illegal contracting practices, and the day-to-day instances of mismanagement which can cause delays and failures in the development of new weapons systems.

An independent Inspector General in the Defense Department and the other agencies mentioned in S. 2274 will insure the highest attention, will be devoted to combatting fraud and mismanagement. It will provide for a more thorough internal investigative function, and it will aid the Secretaries of these Departments in strengthening the efficient management of their responsibilities.

Now more than ever we need strong internal controls over agency mismanagement, waste, and corruption. S. 2274 will give us the vehicle we need to strengthen internal controls in the affected departments. I urge expeditious action on this much-needed legislation.●

By Mr. D'AMATO:

S. 2275. A bill to extend the life of the Gateway National Recreation Area Advisory Commission, which is presently due to expire October 27, 1982, to the Committee on Energy and Natural Resources.

GATEWAY ADVISORY COMMISSION

● Mr. D'AMATO. Mr. President, today I am introducing legislation which would extend the life of the Gateway National Recreation Area Advisory Commission for an additional 10 years. This Commission was established with the passage of Public Law 92-592, and consists of 15 members appointed by the Secretary of the Interior for 2-year terms. Under the Secretary authorizing law, the Advisory Commission will cease to exist later this year.

However, during its first 10 years of existence the Commission has proven to be a valuable and ongoing source of advice and counsel in the management and development of the Gateway area. The members of the Commission represent the largest cities in New York and New Jersey as well as smaller communites, and their professional business, ethnic, and civic interests and backgrounds provide a divergence of ideas, many of which have been and continue to be invaluable to the management of Gateway.

Commission meetings are held at least six times a year at different locations in the New York area, including Brooklyn, Staten Island, Manhattan, Newark, and New Jersey. The meetings attract public participation from individuals and organized groups and provide a forum for cementing community relations with visitors and area residents.

The Advisory Commission allows area residents to contribute to the management and betterment of Gateway, and therefore, its life should be extended for another 10 years.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 4(a) of the Act of October 27, 1972 (86 Stat. 1308) is amended by changing "ten years" in the second sentence to "twenty years".●

By Mr. STAFFORD (by request):

S. 2276. A bill to amend the General Bridge Act of 1946, as amended to eliminate the requirements of review and approval of the location and plans for bridges and causeways over certain navigable waters of the United States, and for other purposes; to the Committee on Environment and Public Works.

REQUIREMENTS FOR CERTAIN BRIDGES AND CAUSEWAYS

● Mr. STAFFORD. Mr. President, I am pleased to submit, on behalf of the administration, legislation that is intended to define more carefully the Federal permitting authority under the General Bridge Act of 1946. I ask unanimous consent that a copy of the bill, together with a transmittal letter and other material prepared by the administration, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 502 of the General Bridge Act of 1946, 60 Stat. 847, (33 U.S.C. 525) is amended by adding a new subsection (d) as follows:

"(d) The requirements for review and approval of the location and plans for bridges and causeways over the navigable waters of the United States in subsections (a) and (b) of this section, section 9 of the Rivers and Harbors Appropriation Act of 1899, 30 Stat. 1151, (33 U.S.C. 401), and section 1 of the Bridge Act of 1906, 34 Stat. 84, (33 U.S.C. 491) shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce."

SECTIONAL ANALYSIS OF A BILL

To amend the General Bridge Act of 1946, as amended, to eliminate the requirements of review and approval of the location and plans for bridges and causeways over certain navigable waters of the United States, and for other purposes.

The proposed legislation would limit the Department of Transportation's bridge approval function to bridges over waters that are subject to the ebb and flow of the tide or non-tidal waters which are or could be made usable for navigation in interstate or foreign commerce. Minor waterways would be removed from Federal bridge permit jurisdiction by excluding non-tidal bodies of water which are considered navigable solely on the basis of their historic use.

The term "navigable waters of the United States" has a very broad meaning which has been developed by the courts over the years. Generally speaking, non-tidal bodies of waters having that status are not only those which, in their present or reasonably improvable condition, are used, or are susceptible for use as highways for substantial interstate or foreign commerce, but also those water bodies which were so used in the past, regardless of their current condition.

Under sections 401, 491, and 525 of title 33, United States Code, the Department of Transportation, acting through the U.S. Coast Guard, reviews the plans and locations of bridges which cross or are to cross navigable waters of the United States prior to their modification or construction. No statutory distinction is made between those bodies of water which are presently used for the purpose noted above and those which, while having no present use, were so used in the past. Consequently, a number of bridge permit applications must be processed where the crossings involve non-tidal waterways with no current or prospective navigational value in interstate or foreign commerce. Indeed, we have had to deal with the absurdity, where the Coast Guard has had to process a bridge permit application for a bridge where there was no longer a waterway in existence. From the perspective of the underlying purpose for which these statutes were enacted, the protection of the navigable capacity of the water, there is little if any value to be derived from the review of those applications. Due to the diversion of resources to reviews of this sort, significant delays occur in the review of crossings having potentially substantial impact on interstate and foreign commerce. The proper role of the Coast Guard in this area should be merely to issue permits for bridges and causeways over waters where there is such an interest, after giving full consideration to the interest of public navigation. Protection of the environmental interest on waters excluded from the Coast Guard's bridge permitting authority by this bill should be left to other Federal agencies having more appropriate responsibilities on those waters, or to the States.

To a great extent the requirement to review and approve bridge plans for bridges over waters that are navigable waters of the United States solely because of historic use was eliminated by the Surface Transportation Assistance Act of 1978 (STA Act), Public Law 95-599, 92 Stat. 2702 (23 U.S.C. 144(h)). The STA Act eliminated bridge permits for these historically navigable waters for bridges to be constructed or altered using funds appropriated for use under Title 23, United States Code, by the Federal Highway Administration. This created the ambiguous situation in which planned bridges literally side by side require or do not require approval solely on the basis of whether nonfederal of federal funding will be used in their construction. While the STA Act removes most of the present bridge construction projects over historically navigable waters from federal jurisdiction, there remains a small percentalge of nonfederally funded bridge projects over these same waters which require approval. This proposed amendment would accord uniform treatment to all bridge construction projects across these waters and remove the approval requirement burden from nonfederally funded bridge projects.

The number of bridges that would be affected by this proposal is less than 5% of the total Coast Guard workload. For many of these bridges there probably will be no Federal oversight, including no environmental analysis or assessment. However, we consider the issues involved for a bridge over waters that are navigable solely because of historic use to be local in nature and more appropriately addressed by State and local governments.

COMPARATIVE TYPE SHOWING CHANGES IN EXISTING LAW MADE BY THE PROPOSED BILL

(Matter to be added is italicized)

TITLE 33—GENERAL BRIDGE ACT OF 1946

Section 525. Construction and operation of bridges; consent of Congress; approval of plans; private highway toll bridges—

(a) The consent of Congress is granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

(b) The location and plans for such bridges shall be approved by the Chief of Engineers and the Secretary of the Army before construction is commenced, and, in approving the location and plans of any bridge, they may impose any specific conditions relating to the maintenance and operation of the structure which they may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law.

(c) Notwithstanding the provisions of subsections (a) and (b) it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated; and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Bureau of Public Roads and, if approved by the Bureau of Public Roads, approval by the highway departments shall not be required.

(d) The requirements for review and approval of the location and plans for bridges and causeways over the navigable waters of the United States in subsections (a) and (b) of this section, section 9 of the Rivers and Harbors Appropriation Act of 1899, 30 Stat. 1151, (33 U.S.C. 401), and section 1 of the Bridge Act of 1906, 34 Stat. 84, (33 U.S.C. 491) shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used or are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: This letter transmits a proposed bill "To amend the General Bridge Act of 1946, as amended, to eliminate the requirements of review and approval of the location and plans for bridges and causeways over certain navigable waters of the United States, and for other purposes."

The proposed legislation would limit the Department of Transportation's approval function to bridges over tidal waters and other waters that are or could be made navigable for the transport of interstate or foreign commerce. A number of minor waterways would be removed from Federal jurisdiction by excluding non-tidal bodies of water which are considered navigable in law solely on the basis of an obsolete historic use, rather than because of their present use or susceptibility for use in interstate or foreign commerce.

Only bridges not constructed or altered with Federal funds would be affected by this bill. The Surface Transportation Assistance Act of 1978 already eliminates bridges financed under title 23 of the United States Code, which are over waters that are navigable waters of the United States solely because of historic use, from Federal bridge permit jurisdiction. This bill would eliminate the anomaly of having separate bridges over the same waterway treated differently for bridge permit purposes merely because one was Federally funded and the other was not.

For bridges over waterways which are not affected by the bill, all interests of public navigation will continue to be considered. However, the bill will narrow the Department's approval function by eliminating the requirement to process and issue permits for bridges over minor waterways where there is no legitimate interstate or foreign commercial navigation interest to protect. Both the public and GAO Report CED-76-103 of August 25, 1976, have been critical of the meaningless necessity to obtain these bridge approvals and of the attendant delays in commencing bridge construction projects.

It is recommended that the proposed legislation be enacted by the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of the proposed legislation to the Congress.

Sincerely,

DREW LEWIS.●

By Mr. MITCHELL (for himself and Mr. SASSER):

S. 2277. A bill to amend the Internal Revenue Code of 1954 to make certain changes to stimulate the housing industry; to the Committee on Finance.

EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1982

Mr. MITCHELL. Mr. President, the housing industry is in the worst depression since the 1930's. It is seeing its 41st consecutive month of decline, a pattern which shows no signs of stopping. We cannot simply stand by and watch this important industry go under. We must act decisively to help the industry. I am therefore making two proposals aimed at resolving this critical national problem.

Our economy is geared to the provision of single family homes. Fully 23 percent of the Nation's economic activity is tied up with homebuilding, home furnishing, home sales and home financing. The health of this sector affects every other part of the national economy. So the current depression in the housing industry goes beyond the loss to a single industry. It affects the entire economy.

The effects of the housing depression are far reaching. A few facts speak loudly as to the extent of the crisis.

Sales of existing homes fell to an annual rate of 1.8 million in January. For all of 1981, sales were 2.3 million, down from 3.8 million in 1978.

New home sales plunged 35 percent from January 1981, to January 1982.

Unemployment in the housing construction industry is now running over 18 percent, more than double the national unemployment rate.

The lumber industry is experiencing layoffs and shorter hours affecting over 30 percent of its workers.

The number of construction firm bankruptcies in 1981 was up 41 percent from 1980.

Bankruptcies of subcontractors who depend on the housing construction industry were up 127 percent last year.

The average national mortgage interest rate is now 17.5 percent compared with 13.5 percent in 1980.

In my home State of Maine, the statistics are equally grim.

The average mortgage rate in Maine is over 17.5 percent.

Single family housing starts in Maine fell from 6,600 in 1978 to 3,200 last year, a 51-percent drop.

Multifamily housing projects in Maine fell from 1,300 in 1978 to 800 last year, virtually all federally assisted.

Despite the seriousness of the problem, the administration's budget for 1983 makes dramatic cuts in the Federal activities which support the housing and mortgage markets, on top of the cuts made in 1982. In addition, the budget proposes to retroactively eliminate over $9 billion in housing support funds already approved by Congress for the current fiscal year.

Our budgetary problems demand restraint. But achieving this at the expense of the most severely damaged sector of our economy, while profit-heavy energy companies and a massively increased defense budget go untouched, is unfair and unwise. Because housing affects such a huge percentage of our economy, a housing upturn must lead, not follow, if we are to have a sustained and strong economic recovery. These punitive budget cuts further undermine the chance of such a housing rebound.

Today, I am proposing a legislative package which has two principal parts. The first would establish a credit for home buyers, and the second would amend the mortgage revenue bond program. Both are designed to stimulate the housing industry.

The bill would establish a tax credit for first-time home buyers who purchase a home between March 1, 1982, and December 31, 1982. That credit would equal 9 percent of the purchase price of a principal residence, or up to $5,400. The purchaser could claim the credit against taxes due or paid in the preceding 3 years by filing an amended tax return. This mechanism would enable the buyer to use the credit toward part of the downpayment on the home or to lower the interest rate on the mortgage.

The cost of the tax credit could be absorbed by terminating the all-savers certificate program as of March 31, 1982. Based on last year's estimates on all-savers as well as preliminary estimates of the tax credit program, my proposal should not result in revenue losses.

This should enable 250,000 prospective homeowners to buy a home of their own in 1982. They would have their choice of purchasing a new home or an existing home, either of which could be in the form of a condominium, cooperative unit, or mobile home. Thus the proposal would stimulate the resale market, new construction, and the purchase of durable goods. All of that translates into new jobs and a revival of the economy.

An alternative I want to explore is whether we should consider giving a tax credit to mortgage lenders who would make mortgage loans to first-time home buyers between March 1 and December 31, 1982. The credit they would receive, not to exceed $5,400, would reduce the current interest rate by at least 3 percentage points for a minimum of 3 years.

The second part of the bill would make three changes to the mortgage revenue bond program.

Until 1980, State and local government units were using the tool of tax-exempt bonds to raise money for mortgages at more moderate rates than prevailing market rates. Those bond issues were virtually halted when regulatory changes and subsequent legislation imposed stringent limitations on them.

H.R. 4717, the Miscellaneous Revenue Act of 1981, passed both Houses of Congress last December and has just gone to conference. The Senate version contains an amendment I cosponsored that makes changes designed to improve the ability of State and local governments to float these bonds.

Mr. President, this measure suggests three changes which the conferees should adopt during their deliberations on H.R. 4717.

First, the arbitrage limit should be raised from the current 1-percent rate to 1.25 percent. Arbitrage represents the maximum amount by which the interest rate on mortgages can exceed the yield on bonds. Current law also requires that the arbitrage limit absorb all costs and charges. In many cases, the 1-percent arbitrage rate has prevented the issuance of bonds by limiting the amount of money State and local governments have to finance the bond sale and to assure the bondholders of proper program administration and retirement of the debt obligation. Small issuers, such as rural States, cannot realize the economies of scale; that is, they cannot issue bonds in sufficient numbers to realize the revenue necessary at the 1-percent-point limit to make a mortgage program financially viable. Providing for a 1.25-percent rate would make a meaningful difference.

Second, the average area purchase price requirement would be raised from the current 90 percent to 110 percent of the average sales price in nontargeted areas. Under current law, the purchase price of each house cannot exceed 90 percent of the average area purchase price applicable to such residence. This would allow more homes to qualify for financing with revenue bonds and increase the number of modern income families who can get such financing.

And finally, the bill would amend the requirement that eligible mortgagors be limited to persons who did not own a principal residence for 3 years prior to the date on which the mortgage was executed. It would expand the definition of eligible mortgagors such that 80 percent, rather than 100 percent, of the assisted homeowners under a given bond issue must have either first, not owned a home during the 3 previous years, second, have moved from substandard housing to housing that meets State or local minimum property standards, or third have owned a home that could no longer be occupied because of a natural disaster or Government action.

These proposed changes to the mortgage revenue bond program should stimulate from $5 billion to $7 billion in mortgage revenue bonds by the end of this summer in both the single family and multifamily housing fields. That would translate into 250,000 mortgages by the beginning of fall.

Within a year after the changes were made, and assuming that conditions in the bond market improve, a total of 400,000 mortgages should have been made available.

These additional changes in the law governing mortgage revenue bonds will not only stimulate their use during a period of inactivity in the home mortgage industry, but it should not require additional expenditures. When the program was originally authorized, cost estimates were placed at $10 billion to $15 billion. And yet, only $6.5 billion in bond issues has been consumed thus far under the Mortgage Revenue Bond Tax Act of 1980.

We in Congress have a responsibility to act and act promptly to help the housing industry out of its depression. The extent to which the industry forms part of the national economy can only mean that its recovery will presage and lead an overall economic recovery.

I look forward to working with my colleagues in enacting meaningful legislation to help us achieve this vital objective.

● Mr. SASSER. Mr. President, I am pleased to join with my good friend from Maine, Senator MITCHELL, in introducing S. 2277, a housing stimulus package containing needed changes in the mortgage revenue bond program, as well as a tax credit for first-time-homebuyers. I want to commend Senator MITCHELL for his leadership in bringing forth these proposals, and I am confident of a favorable response from his colleagues on the Senate Finance Committee.

There have been significant improvements in the mortgage bond program since the initial statutory limitations were put in place in 1980—limitations which inadvertently ground the program to a halt. After 2 years of negotiations, including the introduction of two major pieces of legislation, I believe we are near the point where the mortgage bond program can work most efficiently. Forty members of the Senate cosponsored my legislation, S. 1348, which offered a series of changes in the program to make it more feasible for State and local bond issuers to participate. In a number of cases over the past year and a half, the Treasury has decided to adopt many of S. 1348's changes unilaterally when possible, in the absence of legislation. These 40 Senators, including Senator MITCHELL I should note, made a commitment to an effective mortgage bond program; and in my estimation S. 2277 is the next required step in bringing that about.

A number of States have entered the market since Treasury began promulgating substantially new regulations; but a number of States still are unable to participate because of the unnecessary stringency of the arbitrage limitation and an assortment of eligibility standards that simply do not respond to reality in many locations.

S. 2277, by establishing an arbitrage limitation of 1.25 percent, an average area purchase price pegged at 110 percent of median, and a more workable definition of first-time home buyer for the tax-exempt mortgage revenue bond program, can encourage the participation of States and localities heretofore left out of this opportunity to provide housing for low- and moderate-income first-time homebuyers.

Additionally, the tax credit for first-time buyers, limited to a maximum credit of $5,400, can stimulate the purchase of up to 500,000 homes. The revenue loss would be offset both by a recapture provision taking effect if the home is resold within 3 years and by curtailment of the all-savers certificate. All-savers provided a much-needed infusion of capital in its earliest days of operation, but investment in the certificates has slowed to a pace that suggests an alternative use of these tax dollars may be more advantageous, a bigger boost to housing production and sales.

The abysmal condition of the housing industry is well known to every Member of this body. Within the last 2 weeks alone, I am pleased to note, a number of very creative approaches have been developed on both sides of the aisle to meet this situation head on. If we are indeed going to have an economic recovery, it is going to be housing that leads us out of it. There are a number of initiatives being brought forth this week, stimulus packages, production and resale incentives and the like, that will give the Senate a broad range of options from which to choose. I trust that this critically needed momentum will result in swift passage of a housing stimulus package. It should include, as Senator MITCHELL, I, and other of his cosponsors recommend, the necessary changes in the mortgage bond program as well as incentives throughout the market to get production and sales moving again. An entire series of housing-related industries depends on it. Families all across the country trying to buy their first home depend on it. Construction workers in unemployment lines depend on it. Let us act in their interest, and in the interest of our overall economic recovery.●

By Mr. EAST (for himself and Mr. HAYAKAWA):

S. 2278. A bill to provide a policy of promoting public sector procurement of goods and services from profitmaking business concerns, and for other purposes; to the Committee on Governmental Affairs.

ECONOMY IN GOVERNMENT ACT OF 1982

● Mr. EAST. Mr. President, we are all aware that we face the prospect of large budget deficits in the years ahead. We are also aware that we cannot significantly reduce these deficits without reducing the cost of government. For this reason, I am today introducing the Economy in Government Act of 1982.

The purpose of this legislation is to improve Federal procurement policies. The Federal Government produces a wide variety of goods and services in-house that it could obtain more easily and cheaply from private firms. In consequence, it not only wastes enormous sums of money every year, it undercuts its own tax base as well.

All this is ridiculously self-defeating. There is no good reason why Government should compete with the private sector of our economy. It can never equal the efficiency, ingenuity, and cost-effectiveness of the market, so why should it even try? In its nondelegable functions it should have a monopoly; in all others it should rely on American free enterprise to give our people the best possible return on our tax dollars.

Let me offer some examples here of what I mean. Travel is one. Federal employees almost invariably fly full fare, instead of taking advantage of group rates, offpeak periods, or other discounts. One reason for this is that Federal bureaucrats do not have the same incentives to shop for bargains that exist in profitmaking concerns. The other reason is that the General Accounting Office has a longstanding policy against the use of travel agents.

This restriction makes no sense at all. Agents's commissions are paid by airlines, not by ticket purchasers, so the use of private agents would cost the Government nothing.

On the contrary, it could save substantial sums of money. Last year, the GAO allowed an office of the Labor Department to experiment with this approach. After 6 months, the results were impressive: Not only were significant time savings reported, but travel costs were pared by a whopping 24 percent. If this pattern were to be repeated in every Federal agency, we could save upward of $100 million annually on this one item.

We could also save on printing. While there are of course good reasons for doing the Federal Register, the CONGRESSIONAL RECORD, and classified publications in-house, the bulk of the Government's printing needs can and should be met by private printshops. The Government Printing Office already contracts out a significant share of its work, but more can be done in this area. It is absolutely unnecessary for Federal agencies to maintain as many as 350 in-house printing facilities. Nevertheless, their existence provides a useful object lesson as to the relative efficiency and cost-effectiveness of public versus private enterprise.

Most Government printshops operate only one shift, while commercial shops operate two or even three. Because federally owned presses stand idle most of the time, the cost of in-house printing is higher on a per-unit basis. Here again, a GAO study indicates that contracting out would yield substantial savings.

Many other examples could be cited here: audiovisual productions, art and graphics services, laundry and drycleaning, security guards, architect and engineering services, custodial and janitorial services, and even pest control could be contracted out to private firms. And most of these firms would be small businesses, since such is the nature of most service industries. A consistent Federal policy of relying on the private sector for goods and services would do our millions of small businesses more good than a host of Government assistance progams.

Federal procurement is already tending in this direction. OMB Circular A-76—issued in 1966 and revised in 1979—does affirm a general policy of relying on the private sector for goods and services.

Yet this policy has not been consistently applied. In fact, it has all too often been overlooked or disregarded. Accordingly, the GAO recommended last June that Congress correct this situation by passing remedial legislation.

As many of you will recall, Senator HAYAKAWA responded by introducing a joint resolution to that effect. He also held extensive hearings that dramatized the extent to which the Government at all levels competes with the private sector, and the considerable advantages that could be gained through contracting out. Later in the year, Senator BENTSEN introduced a measure of his own.

My own bill is in the same spirit as those introduced by my distinguished colleagues. It, too, clearly states that it is the policy of the Federal Government to rely on competitive private enterprise to supply the products and services it needs at fair and reasonable prices. But in its particulars it is more specific and far-reaching than any comparable measure before Congress.

It provides that no Federal agency may start or conduct any commercial or industrial activity to produce needed goods and services in-house, when the same can be obtained from any responsive and responsible profitmaking business concern at fair and reasonable prices. It further authorizes the Director of the Office of Management and Budget to prescribe such rules and regulations and take such other actions as may be appropriate to implement this policy, and to draw up a schedule for the elimination of Federal in-house commercial and industrial activities that are in violation of this policy. It also makes this policy applicable to the States and their localities by providing that no State or political subdivision thereof shall use Federal financial assistance to produce goods or services in-house that can be obtained from the private sector on the same terms specified for Federal procurement under this bill.

I feel that this last provision is necessary because there is a need for greater reliance on the private sector at all levels of our Federal system, and the National Government ought to encourage this development. I could recite many instances here where State and local governments have benefited substantially by contracting out refuse collection, ambulance, and even fire-protection services to the private sector. But I would like to dwell instead on one case in particular.

During the illuminating hearings conducted by my good friend from California, one witness testified concerning the use of Federal funds to build housing projects in New York City. This gentleman, who was in the coin laundry business, stated that the city's housing authority constructed most of its apartments so that each individual unit had its own washer and dryer in preference to a common laundry room facility. The witness further testified that this practice increased the cost of public housing by $1,500 to $2,000 per apartment. It is to prevent this sort of wasteful spending that I have included a contracting-out requirement for Federal grants to the States and localities.

Mr. President, I am convinced that passage of this bill will streamline Government at all levels and save billions of dollars. It will enable us to reduce social spending without depriving the poor of any genuine needs, and it will enable us to reduce defense spending without compromising national security, since there are many support functions that could be contracted out to the private sector. It will also aid small business and increase tax revenues.

This bill has been enthusiastically endorsed by leading business and taxpayer organizations, including the National Federation of Independent Business, the National Taxpayers Union, the Committee on Contracting Out, and the Printing Industries of America, Inc. I am particularly indebted to the National Construction Industry Council for the advice and support I have received from its leadership and its members in preparing this bill.

Mr. President, I am proud to announce that my colleague Senator HAYAKAWA has agreed to join as principal cosponsor of this bill. I ask unanimous consent that the complete text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Economy in Government Act of 1982."

CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that—

(1) it is the function of Government to establish Federal policies and manage Federal programs established by or pursuant to law;

(2) there is no consistent public policy of procuring goods and services used in the public sector from profitmaking commercial and industrial business concerns, particularly small business concerns;

(3) the establishement and execution of a consistent public policy of procurement from profitmaking commercial and industrial business concerns at fair and reasonable prices will encourage competition among such business concerns;

(4) the establishement and execution of a consistent public policy of procurement from profitmaking commercial and industrial business concerns will encourage and assist such business concerns;

(5) increased competition among and development of profitmaking commercial and industrial business concerns will insure that procurement costs of goods and services used in the public sector are fair and reasonable; and

(6) it is in the public interest to encourage the commercial and industrial activities of profitmaking business concerns and to discourage such activities in the public sector.

(7) a significant increase by the Government in procuring its needs from private enterprise sources will enable the Government to reallocate a large number of Federal positions to work which must be performed by Government employees.

DEFINITION

SEC. 3. As used in this Act—

(1) the term "agency" has the meaning provided in section 551(1) of title 5, United States Code;

(2) the term "commercial or industrial activity" includes—

(A) any activity which provides a good or service which can be obtained from a responsive and responsible profitmaking business concern;

(B) such other activity as the Director may prescribe by rule or regulation; and

(3) the term "Director" means the Director of the Office of Management and Budget.

DECLARATION OF POLICY

SEC. 4. (a)(1) The private enterprise system, characterized by individual freedom and initiative, is the primary source of national economic strength; and

(2) In recognition of this principle, it is the general policy of the Federal Government and supported by the Comptroller General of the United States, to rely on competitive private enterprise to supply the products and services it needs at fair and reasonable prices; and

SEC. 4. (a)(3) It is the policy of the Federal Government that, except as provided in paragraph (2), no agency may start or conduct any commercial or industrial activity in the agency to provide goods or services for the use of or on behalf of the agency if such goods or services can be procured from any responsive and responsible profitmaking business concern at fair and reasonable prices.

(4) An agency may start or conduct a commercial or industrial activity in the agency only if the head of the agency, after considering all direct and indirect costs of starting or conducting such activity, determines in accordance with cost accounting principles prescribed by the Director under section 6(a)(1) of this Act that there is a clearly identified and demonstrated economic advantage to the Government to start or conduct such activity.

(b)(1) It is further the policy of the Federal Government that, except as provided in paragraph (2), no State or political subdivision thereof use Federal financial assistance to start or conduct any commercial or industrial activity in the government of the State or political subdivision thereof to provide goods or services for the use of or on behalf of the State or political subdivision if the goods or services can be procured from any responsive and responsible profitmaking business concern at fair and reasonable prices.

(2) Federal financial assistance may be used to start or conduct any such activity only if an appropriate official or governing body of the State or political subdivision concerned, after considering all direct and indirect costs of starting or conducting such activity, determines in accordance with generally accepted cost accounting principles adopted by the government of such State or political subdivision in a statute, rule, or regulation that there is a clearly identified and demonstrated economic advantage to the State or political subdivision thereof to start or conduct such activity.

REPORTS TO CONGRESS

SEC. 5. (a) Section 5(a)(1) of the Inspector General Act of 1978 is amended by inserting a comma and "including the identification of cases of violation of the policy set forth in section 4 of the Economy in Government Act of 1982," after "activities".

(b) Section 5(a)(2) of such Act is amended—

(1) by striking out "or"; and

(2) by inserting a comma and "or cases of violation of the policy set forth in section 4 of the Economy in Government Act of 1982" after "deficiencies".

(c) Section 8(a)(1) of such Act is amended—

(1) by striking out "or abuse" in clause (A) and inserting in lieu thereof "abuse, or violations of the policy set forth in section 4 of the Economy in Government Act of 1982";

(2) by striking out "and" at the end of clause (B);

(3) by striking out the period at the end of clause (C) and inserting in lieu thereof a semicolon and "and"; and

(4) by adding at the end thereof the following new clause:

"(D) an identification of each significant violation of the policy set forth in section 4 of the Economy in Government Act of 1982 described in previous semiannual reports on which corrective action has not been completed.".

(d) Not later than ninety days after the date of enactment of this Act, the Secretary of Defense shall submit to the Congress additional provisions for inclusion in the proposed legislation submitted under section 8(a)(5) of the Inspector General Act of 1978. Such additional provisions shall require semiannual reports by the Department of Defense to Congress which shall include the identification of violations of the policy set forth in section 4 of this Act, recommendations for corrective action with respect to such violations, and the identification of previous recommendations on which corrective action has not been completed.

RESPONSIBILITIES OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

SEC. 6. (a)(1) The director shall—

(A) prescribe such rules and regulations and take such other actions as may be appropriate to implement the policy set forth in section 4;

(B) require by rules and regulations that each head of an agency, in determining under this Act if there is a clearly identified and demonstrated economic advantage to the Government to start or conduct a commercial or industrial activity in the agency, consider all direct and indirect costs of starting or conducting such activity in the agency; and

(C) in consultation with certified public accountants employed in the private sector, prescribe by rules and regulations generally accepted cost accounting principles for each head of an agency to apply in determining under this Act if there is a clearly identified and demonstrated economic advantage to the Government to start or conduct such activity in the agency.

(2) Within one year after the date of enactment of this Act, the Director shall submit to the Congress a plan for the gradual elimination of industrial and commercial

activities of the Government conducted in violation of the policy set forth in section 4. The plan shall identify all commercial and industrial activities conducted by the Government and include a schedule for the termination of all such activities conducted by the Government in violation of the policy set forth in section 4 within five years after submission of the plan to the Congress. The Director shall take such action as may be appropriate to implement the plan.

(b) The Director shall take appropriate action to assure the implementation of the recommendations for corrective action with respect to violations of the policy set forth in section 4 included in reports submitted to Congress under the Inspector General Act of 1978.

STATE AND LOCAL GOVERNMENTS

SEC. 7. (a) Notwithstanding any other provision of law, no agency shall provide financial assistance to any State or political subdivision thereof unless the agency receives a certification required by subsection (b).

(b) An appropriate official or governing body of any State or political subdivision thereof requesting financial assistance from an agency shall certify to the extent reasonable and practicable that—

(1) such State or political subdivision will not use the financial assistance to start or conduct any commercial or industrial activity in the government of such State or political subdivision to provide goods or services for the use of or on behalf of such State or political subdivision if such goods or services can be procured from any responsive and responsible profitmaking business concern, at fair and reasonable prices; or

(2)(A) such official or governing body has determined that there is a clearly identified and demonstrated economic advantage to such State or political subdivision to use the financial assistance to start or conduct a commercial or industrial activity in the government of such State or political subdivision;

(B) such official or governing body, in making such determination, has considered all direct and indirect costs of starting or conducting such activity in such government; and

(C) such determination is in accordance with generally accepted cost accounting principles adopted by such State or political subdivision in a statute, rule, or regulation.●

By Mr. FORD:

S. 2279. A bill to designate the Alben Barkley National Historic Site; to the Committee on Energy and Natural Resources.

ALBEN BARKLEY NATIONAL HISTORIC SITE

Mr. FORD. Mr. President, today I am submitting to the Senate a bill to designate the Alben Barkley Home, known as Angles, as a National Historic Site.

The "Angles" has the distinction of having been built by one of the Midwest's most prominent 19th century citizens Q. Q. Quigley, and was also the residence most commonly associated with one of Kentucky's best known and best loved politicians, Alben Barkley (1877-1956), U.S. Senator, Senate Majority Leader, and Vice President under Harry S. Truman (1949-1952). Its architecture combines early and mid-19th century features harmoniously.

The house was constructed around 1853 by Quigley, and named it the "Angles" because of the manner whereby the three tracts of land on which the house is located came together at sharp angles.

Barkley was born near the small town of Lowes, Ky. in Graves County in his grandfather's log cabin. He came from a family of farmers, people of modest means and during most of Alben's early life his family lived on small farms his father rented.

In 1898, he moved to Paducah where he became a clerk in a law office. After he had saved sufficient funds he enrolled in the University of Virginia's law school. He was admitted to the Kentucky Bar around 1902 and thereupon returned to Paducah where he began the practice of law.

Barkley's political career began in 1905 when he was elected prosecuting attorney for McCracken County, an office he held until 1908 when he was elected McCracken County Judge. Continuing his rise on the political ladder, Barkley was elected Representative to the U.S. Congress in 1913, where he remained until 1927, and was then elected to the U.S. Senate. While in the upper house he served as majority leader from 1936 to 1947 and minority leader from 1947 to 1949. During his congressional career, he became closely identified with the policies of President Franklin D. Roosevelt and as majority leader, was responsible for their successful passage.

In 1949, President Harry S. Truman tapped Barkley as his running mate in Truman's successful bid for the Presidency. Barkley had a long and glorious career as one of the most powerful men in politics and is one of Kentucky's best known national figures.

Barkley and his wife, Dorothy, whom he married in 1903, bought the Angles in 1937. Barkley wrote in his autobiography that as a young man in Paducah, he had often admired the impressive house and had dreamed of some day owning it. Upon his retirement in 1952, he returned to the Angles.

In 1954, he described the place as follows: I like to claim that I live in what I call "the original ranch house" in our section of the country, for Angles is a large structure, originally containing 11 rooms, all built on one floor. Though it has brick walls, some 14 or 15 inches thick, the house was in deplorable condition when we bought it, as it had not been used as a regular residence for at least 25 years. It had no electricity or plumbing and a few closets. The water supply was a large enclosed cistern on the porch. But the old place was built soundly, and gradually we made it into a lovely and immensely livable home. It is furnished almost entirely with antiques, but you do not have to be afraid to sit on any of the chairs or sleep in any of the beds, for, although old, they are solid.

One thing you will not find at Angles is any sign saying "Private Property" or "Keep Off". Nor is there any gate barring my driveway. If my neighbors or visitors from anywhere want to drop in and see my place, they are always welcome. That has always been a rule at Angles.

While living there, the Barkley's went to great lengths to preserve the original flavor of the house while contributing several interesting features of their own. The property remains in the family, although both local and statewide interest has been expressed in preserving and making this landmark open to the public. The house has been placed on the National Register of Historic Places.

In 1954, at the age of 76, Kentucky Democratic leaders persuaded Barkley to seek a fifth term. He won the election beating the incumbent Republican Senator, John Sherman Cooper. Barkley died while giving a speech in Lexington, Va. in 1956.

The "Angles" besides being architecturally beautify contains antiques and momentos which are of great value and interest to every historian.

Included in these items is a hand carved teakwood desk and chair used by Alben Barkley while serving as Vice President.

The furniture is originally from the Philippines. Some of the other items of value include a library which contain many books from Presidents Franklin Roosevelt and Truman, many portraits of Barkley and his wife, his top hat and suit worn during the Truman inauguration and a bust of FDR presented to him by the President. Also a 1930 brass tea set from the U.S.S.R. and a collection of over 150 canes collected by Alben Barkley during his years in public office.

A wealth of knowledge is contained in this house which has not changed since the Vice President died in 1956. I urge that this opportunity to preserve a part of America's history not be wasted and that this landmark be protected for the benefit, education, and inspiration of present and future generations.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2279

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) That in order to preserve for the benefit, education, and inspiration of present and future generations certain historically significant properties associated with the life of Alben Barkley, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, the lands and buildings thereon known as "Angles," comprising approximately 13 acres located near Mayfield, Kentucky.

(b) It is the express intent of the Congress that the Secretary should substantially complete the acquisition program authorized by this Act within one year after the date of enactment of this Act.

By Mr. MURKOWSKI (for himself and Mr. McCLURE):

S.2280. A bill to amend the Clean Water Act of 1977; to the Committee on Environment and Public Works.

REGULATING DAMS UNDER THE CLEAN WATER ACT

● Mr. MURKOWSKI. Mr. President, the legislation which I introduce today concerns certain regulatory procedures employed by the Environmental Protection Agency in accordance with the Clean Water Act. The purpose of these regulations is to control the water quality conditions associated with the operation of dams.

The current policy of the EPA is to deal with these water quality conditions primarily through nonpoint source controls under section 208 of the act and through point and nonpoint source controls on upstream pollutant discharges. This regulatory approach has been followed ever since the Clean Water Act was enacted in 1972. It has come to be relied upon by State governments and dam operators and is generally considered to be a sound and successful program. In fact, no changes were made to this regulatory approach when the Clean Water Act was amended in 1977.

Now, as a result of a recent Federal court decision, the EPA is about to be forced to entirely change its approach to regulating water quality conditions in this area. These changes will be very expensive for both the Federal Government and private industry and, in my opinion, they are absolutely unnecessary in light of our experience with the current regulatory program.

The court did not tell the EPA whether they must regulate the water quality conditions associated with dam operations. The EPA was already doing this. Rather, the court told the EPA how they must regulate these conditions. Specifically, the court ordered the EPA to stop regulating dams through nonpoint source control under section 208 and begin regulating them through point source controls under section 402 of the act.

There are over 2 million dams in the United States. If the EPA is forced to change its regulatory approach and require dams to obtain still another type of operational permit, the cost to Government and industry will run into the billions. There will be a significant impact on the Federal budget because many of the dams in this country are operated by the Government. In addition, this change will be inflationary because it will result in higher costs for consumers of hydroelectric energy. These costs are simply not justified in light of the success of the current program and the problems we already face in holding down Federal expenditures. In short, there is no reason to make an expensive change to an existing regulatory program that has been functioning satisfactorily for almost a decade.

The purpose of this legislation, therefore, is to amend the Clean Water Act to clarify that dam operations are to be regulated, as in the past, under nonpoint source controls.

In conclusion, I want to say that I am aware that the court decision precipitating this problem is going to be appealed. I wish to make it clear that by introducing this legislation I do not mean to infringe upon the judicial process or influence the appeal in any way. As I have already said, I merely want to clarify that it was the original intent of Congress that dams be regulated under nonpoint source controls.●

By Mr. LEAHY (for himself, Mr. HEINZ, and Mr. DOLE):

S.J. Res. 174. Joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day"; to the Committee on the Judiciary.

WORLD FOOD DAY

Mr. LEAHY. Mr. President, I am pleased, once again this year, to introduce a joint resolution to designate October 16, 1982, as World Food Day. As a member of the Presidential Commission on World Hunger, I feel deeply about this issue and the need to increase public awareness of hunger and malnutrition that is the tragic reality of millions of men, women, and children in this world.

I believe that the problem of hunger in the world can and must be solved. Indeed, we have the capability to do just that—the world could feed itself. Hunger persists today, inspite of the promise of plenty, because people are poor. That was the conclusion of the World Hunger Commission, a conclusion which is at once so basic and yet so profound that it touches all aspects of government activity. Unfortunately, the nations of the world, including the United States, have not developed the broad based political will to take action. The solution to the world hunger problem is to enable people who are now poor and hungry to feed themselves with dignity by creating meaningful jobs and providing access to land for cultivation. This can only happen when there is adequate support and the political will to bring about the structural reforms for an equitable distribution of resources and opportunity.

The most important thing that we as Americans can do to meet the world hunger challenge is to first understand the fundamental issues and problems involved and then to work to bring about the needed changes, both here and abroad. This is why I think the observance of World Food Day is so important. It provides the opportunity for schools, churches, civic organizations, and local groups to increase public awareness of our own stake in meeting the needs of the world's hungry.

Last year thousands of activities took place in October, a time of harvest, to mark the anniversary of the U.N. Food and Agriculture Organization (FAO) and to recognize the need for action against hunger. World Food Day was observed by all 152 members of the FAO, and all 50 States in this country.

Last year's observance included local festivals, educational activities, and fundraising efforts. My own State of Vermont had a number of exciting events, including the dedication of a garden in Burlington by Gardens for All, a voluntary organization which helps set up community gardens all over the country.

I know that this year's World Food Day will build upon last year's success and be an even more effective effort at raising public understanding and motivating citizen involvement in the critical world food situation.

I appreciate having the support of Senators HEINZ and DOLE on this joint resolution, and I urge my colleagues to join with us in marking October 16, 1982, as World Food Day.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 174

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas, hunger and chronic malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world are those who are suffering the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment, including blindness, because of vitamin and protein deficiencies;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas there is widespread concern that the use and conservation of land and water resources required for food production throughout the United States ensure care for the national patrimony we bequeath to future generations;

Whereas national policies concerning food, farm land, and nutrition require continuing evaluation and should consider and strive for the well-being and protection of all residents of the United States and particularly those most at health risk;

Whereas a major global food supply crisis appears likely to occur within the next twenty years unless the level of world food production is significantly increased, and the means for the distribution of food and of the resources required for its production are improved;

Whereas the United States, as the world's largest producer and trader of food, has a key role to play in efforts to assist nations and peoples to improve their ability to feed themselves;

Whereas the United States has a long tradition of demonstrating its humanitarian concern for helping the hungry and malnourished;

Whereas efforts to resolve the world hunger problems are critical to the security of the United States and the international community;

Whereas a key recommendation of the Presidential Commission on World Hunger was that efforts be undertaken to increase public awareness of the world hunger problem;

Whereas the first World Food Day on October 6, 1981, was supported by proclamations of the governors of all 50 States, a resolution of Congress, a Presidential proclamation, efforts of the United States Department of Agriculture, and by more than one hundred and seventy-five national private and voluntary organizations; and

Whereas the one hundred and fifty-two nations of the Food and Agriculture Organization of the United Nations designated October 16, 1982, as "World Food Day" because of the need to alert the public to the increasingly dangerous world food situation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 16, 1982, as "World Food Day", and calling upon the people of the United States to observe such day with appropriate activities.

Mr. HEINZ. Mr. President, at this moment millions of people throughout the world are starving. At least 15 million people die of starvation every year. In developing countries 1 out of 4 children under the age of 5 die from hunger. Perhaps another 100,000 children go blind every year due to malnutrition. As many as a billion of the world's people may go hungry every day. Even in our own country, where actual starvation is virtually unknown, malnutrition and vitamin deficiencies continue to be a problem for many of our less fortunate citizens.

There are people who, practicing the art of dark Malthusian prophecy, claim that massive starvation is inevitable as a result of quickly growing populations and slowly growing food supplies. Yet these claims are contradicted by the simple fact that the world now produces enough food to provide every man, woman, and child with a diet of about 3,000 calories per day, well over the average minimum requirements. The problem of hunger is not insoluble. The United States, as the largest food exporter in the world, has a responsibility to take an active part in solving it.

As a cosponsor of the Hunger Elimination and Global Security Act (S. 1675) I recognize that there is a vital connection between the national security of the United States and the problem of world hunger. In that act the Congress made provisions to insure that American food and other assistance would benefit the poorest and most hungry. The Congress also sought to encourage other grain-exporting countries to complement the U.S. food security reserve in the recognition that no country is secure when unstable food prices threaten the very lives of millions. Finally, the Congress sought more U.S. aid for the very poorest nations.

Clearly, more effort is required, by the United States and other nations, before we will finally be able to live in a world without hunger. One part of this effort must be to heighten public awareness of this problem. Last year I cosponsored a joint resolution which detailed the problems of world hunger and world food supply and which designated October 16, 1981, as World Food Day. This designation was supported by declarations from the President and from the Governors of all 50 States, by efforts of the Department of Agriculture, and by participation from more than 175 private and voluntary organizations.

This year I am pleased to join the Senator from Vermont, Mr. LEAHY, in sponsoring a similar joint resolution which requests that the American people once again observe October 16 as World Food Day and that we all use this opportunity to demonstrate our deep concern over this tragic situation. I hope that this joint resolution will increase public awareness not only of the problem of hunger abroad but also of the lingering problems of malnutrition at home.

Needless to say, this joint resolution is but a small step in the attack on hunger. I call on our own Government as well as other governments and the Food and Agriculture Organization of the United Nations to complement World Food Day with concrete measures to alleviate conditions among the hungry and the starving.

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFEE, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1215

At the request of Mr. PROXMIRE, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 1215, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 1838

At the request of Mr. PROXMIRE, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 1838, a bill for the relief of Cesar Noel Orantes.

S. 1929

At the request of Mr. HATCH, the Senator from North Dakota (Mr. BURDICK), the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. GORTON), the Senator from Iowa (Mr. GRASSLEY), the Senator from Florida (Mrs. HAWKINS), the Senator from Vermont (Mr. STAFFORD), the Senator from Alabama (Mr. DENTON), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1929, a bill to amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

S. 1932

At the request of Mr. BENTSEN, the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 1932, a bill to amend the Inspector General Act of 1978 to establish Offices of Inspector General in certain departments and agencies, and for other purposes.

S. 1947

At the request of Mr. WEICKER, the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1947, a bill to improve small business access to Federal procurement information.

S. 2000

At the request of Mr. DOLE, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Idaho (Mr. SYMMS) were added as cosponsors of S. 2000, a bill to amend title 11, United States Code, to establish and improved basis for providing relief under chapter 7, and for other purposes.

S. 2048

At the request of Mr. CRANSTON, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2048, a bill to amend title 38, United States Code, to restore eligibility for burial benefits in the case of certain veterans of war whose bodies are not claimed, and for other purposes.

S. 2107

At the request of Mr. LEVIN, the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 2107, a bill to extend from May 1982 to October 1982 the month before which children not otherwise entitled to child's insurance benefits under title II of the Social Security Act by reason of the amendments made by section 2210 of the Omnibus Budget Reconciliation Act of 1981 must attend postsecondary schools in order to qualify under subsection (c) of such section for entitlement to such benefits, to extend from August 1985 to August 1986 the month before which any such entitlement terminates, and to require the Secretary of Health and Human Services to notify all individuals who are entitled to childs benefits under title II of the Social Security Act for the month in which this act is enacted of the changes made in the eligibility for, and the amount of, such benefits by reason of the provisions of section 2210 of the Omnibus Budget Reconciliation Act of 1981 and the provisions of this act.

S. 2125

At the request of Mr. Cranston, the Senator from California (Mr. Hayakawa) was added as a cosponsor of S. 2125, a bill for the relief of Crescencio Antonio Folgar.

S. 2126

At the request of Mr. Cranston, the Senator from California (Mr. Hayakawa) was added as a cosponsor of S. 2126, a bill for the relief of Oscar Renetiz.

S. 2144

At the request of Mr. Randolph, the Senator from Maryland (Mr. Mathias), the Senator from Kentucky (Mr. Huddleston), the Senator from Kentucky (Mr. Ford), the Senator from West Virginia (Mr. Robert C. Byrd), The Senator from Mississippi (Mr. Stennis), the Senator from Ohio (Mr. Metzenbaum), the Senator from Pennsylvania (Mr. Specter), the Senator from New York (Mr. Moynihan), the Senator from Alabama (Mr. Heflin), the Senator from Virginia (Mr. Warner), the Senator from South Carolina (Mr. Hollings), the Senator from South Carolina (Mr. Thurmond), the Senator from Tennessee (Mr. Sasser), and the Senator from Maryland (Mr. Sarbanes) were added as cosponsors of S. 2144, a bill to extend the Appalachian Regional Development Act to provide transitional assistance to the Appalachian region.

S. 2150

At the request of Mr. Levin, the Senator from Hawaii (Mr. Matsunaga), and the Senator from Florida (Mrs. Hawkins) were added as cosponsors of S. 2150, a bill to amend the Social Security Act to provide that the amount of any unnegotiated social security check shall be returned to the trust fund from which the check was issued.

S. 2167

At the request of Mr. Specter, the Senator from Mississippi (Mr. Cochran) was added as a cosponsor of S. 2167, a bill to amend the Unfair Competition Act of 1979 and Clayton Act to provide for further relief in the event of unfair foreign competition.

SENATE JOINT RESOLUTION 58

At the request of Mr. Hatch, the Senator from Delaware (Mr. Roth) was added as a cosponsor of Senate Joint Resolution 58, a joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

SENATE JOINT RESOLUTION 59

At the request of Mr. Robert C. Byrd, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of Senate Joint Resolution 59, a joint resolution designating the square dance as the national folk dance of the United States.

SENATE JOINT RESOLUTION 131

At the request of Mr. Exon, the Senator from South Carolina (Mr. Hollings), the Senator from Montana (Mr. Baucus), and the Senator from Pennsylvania (Mr. Specter) were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating "National Theater Week."

SENATE JOINT RESOLUTION 133

At the request of Mr. DeConcini, the Senator from Nevada (Mr. Laxalt), the Senator from Massachusetts (Mr. Kennedy), the Senator from Hawaii (Mr. Matsunaga), the Senator from Alaska (Mr. Murkowski), the Senator from Minnesota (Mr. Boschwitz), and the Senator from South Carolina (Mr. Hollings) were added as cosponsors of Senate Joint Resolution 133, a joint resolution to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day."

SENATE JOINT RESOLUTION 166

At the request of Mr. Pryor, the Senator from Mississippi (Mr. Cochran), the Senator from Nebraska (Mr. Exon), the Senator from Hawaii (Mr. Inouye), the Senator from Louisiana (Mr. Long), the Senator from Alabama (Mr. Heflin), and the Senator from Connecticut (Mr. Weicker) were added as cosponsors of Senate Joint Resolution 166, a joint resolution designating April 28, 1982, as "National Nursing Home Residents Day."

SENATE JOINT RESOLUTION 170

At the request of Mr. Randolph, the Senator from Pennsylvania (Mr. Heinz), and the Senator from Kansas (Mr. Dole) were added as cosponsors of Senate Joint Resolution 170, a joint resolution to designate the week of November 7, 1982, through November 14, 1982, as "National Hospice Week."

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. Heinz, the Senator from New York (Mr. Moynihan) was added as a cosponsor of Senate Concurrent Resolution 73, a concurrent resolution to condemn the Iranian persecution of the Bahai community.

SENATE CONCURRENT RESOLUTION 76

At the request of Mr. Levin, the Senator from Missouri (Mr. Danforth), the Senator from Hawaii (Mr. Inouye), the Senator from Florida (Mr. Chiles), the Senator from Alabama (Mr. Heflin), the Senator from Oklahoma (Mr. Nickles), the Senator from Colorado (Mr. Armstrong), the Senator from Wisconsin (Mr. Kasten), the Senator from Utah (Mr. Garn), and the Senator from Indiana (Mr. Lugar) were added as cosponsors of Senate Concurrent Resolution 76, a concurrent resolution expressing the sense of the Congress with respect to the situation of two Russian families who have sought refuge in the U.S. Embassy in Moscow because of the suppression of their Pentecostal faith by the Government of the Soviet Union.

SENATE RESOLUTION 299

At the request of Mr. Weicker, the Senator from Wisconsin (Mr. Proxmire) was added as a cosponsor of Senate Resolution 299, a resolution to designate May 4, 1982, as "International Franchise Day."

SENATE RESOLUTION 323

At the request of Mr. Hart, the Senator from New York (Mr. Moynihan), the Senator from Michigan (Mr. Levin), and the Senator from West Virginia (Mr. Robert C. Byrd) were added as cosponsors of Senate Resolution 323, a resolution concerning S.T.O.P. talks.

SENATE RESOLUTION 325

At the request of Mr. Dixon, the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of Senate Resolution 325, a resolution expressing the sense of the Senate that a supplemental appropriation should be enacted to restore full funding of the WIN program.

SENATE RESOLUTION 331

At the request of Mr. Chafee, the Senator from Colorado (Mr. Hart) was added as a cosponsor of Senate Resolution 331, a resolution expressing the sense of the Senate that the Federal Energy Regulatory Commission should take no action to accelerate the decontrol of wellhead natural gas prices.

SENATE RESOLUTION 340

At the request of Mr. Robert C. Byrd, the Senator from Washington (Mr. Jackson), and the Senator from Vermont (Mr. Leahy) were added as cosponsors of Senate Resolution 340, a resolution to express the sense of the Senate that no action be taken to terminate or otherwise weaken the community service employment program under title V of the Older Americans Act of 1965.

SENATE RESOLUTION 343

At the request of Mr. Mathias, the Senator from New York (Mr. Moynihan) was added as a cosponsor of

Senate Resolution 343, a resolution expressing the sense of the Senate with respect to beginning strategic arms negotiations with the Soviet Union.

SENATE RESOLUTION 346

At the request of Mr. HUDDLESTON, the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of Senate Resolution 346, a resolution expressing the sense of the Senate that emergency action should be taken by the President and the Secretary of Agriculture to stabilize the farm economy.

SENATE CONCURRENT RESOLUTION 77—CONCURRENT RESOLUTION RELATING TO TRADE REGULATIONS WITH CERTAIN COUNTRIES

Mr. TSONGAS (for himself, Mr. BOSCHWITZ, Mr. PRESSLER, and Mr. KENNEDY): submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 77

Whereas Iraq has provided and continues to provide support for acts of international terrorism and until February 26, 1982, was included on the formal State Department list of countries supporting international terrorism,

Whereas Syria and South Yemen remain on the State Department's terrorism list,

Whereas the export of civil aircraft to Syria or South Yemen would have significant foreign policy implications,

Whereas the Congress regards as repugnant the South African system of racial discrimination known as apartheid,

Whereas it is in United States foreign policy interests to abide by the spirit and terms of United Nations Security Council Resolution 418 mandating an arms embargo against South Africa, and

Whereas export controls should be streamlined and simplified wherever possible, keeping in mind national security and foreign policy considerations in the export of sensitive items: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the Department of Commerce export control regulations of February 26 pertaining to Iraq, Syria, South Yemen, South Africa, and Namibia were announced without adequate consultation with the Congress, that the previous regulations functioned satisfactorily over the past two years, and that the regulations of February 26 should be modified so as to adhere to the following principles:

(1) In accordance with prior policy, Iraq should remain on the formal State Department list of countries which have repeatedly provided support for acts of international terrorism;

(2) In accordance with prior regulations, Congress should continue to be notified in advance of a decision to act favorably on export license applications for civil aircraft for Syria and South Yemen;

(3) In accordance with prior regulations, export license applications for items controlled for national security purposes and destined for South African military and police entities should be denied;

(4) In accordance with prior regulations, export license applications for any helicopters or airplanes for South African military and police entities should be denied;

(5) In accordance with prior regulations, export license applications for any computers for South African military and police entities should be denied and in the case of other South African government entities should be considered favorably on a case by case basis for those computers which would not be used to support the South African policy of apartheid;

(6) The term "military and police entities in South Africa" should be defined to include the Armaments Corporation of South African (ARMSCOR), ARMSCOR subsidiaries, and the Council on Scientific and Industrial Research.

SENATE RESOLUTION 350—RESOLUTION RELATING TO DEPARTMENT OF JUSTICE UNDERCOVER INVESTIGATIONS

Mr. BAKER (for himself, Mr. ROBERT C. BYRD, Mr. STEVENS, and Mr. CRANSTON) submitted the following resolution; which was held at the desk:

S. RES. 350

Whereas, law enforcement undercover activities by components of the Department of Justice may fulfill as useful and beneficial purpose in the investigation and prosecution of crimes against the United States;

Whereas, allegations have been raised of improprieties in the formulation and conduct of the so-called Abscam undercover operation by components of the Department of Justice;

Whereas, these allegations specifically include the allegation that in the Abscam operation attempts were made to create improper conduct on the part of certain persons (including Members of Congress) including instances where no adequate basis may have existed for suspecting the person of prior improper activity or a predisposition to commit such activity;

Whereas, these allegations respecting investigative techniques further include questions of possible prosecutorial misconduct in connection with the Abscam operation;

Whereas, these allegations may further indicate a pattern of illegal or improper targeting and investigative techniques utilized by components of the Department of Justice in law enforcement undercover operations; and

Whereas, a thorough and independent investigation by the Senate of the United States is necessary to determine the facts with respect to targeting and investigative techniques utilized in connection with law enforcement undercover operations carried out by components of the Department of Justice generally and in connection with the Abscam operation specifically: Now, therefore, be it

Resolved, That (a)(1) it is the purpose of this resolution to establish a select committee of the Senate to conduct an investigation and study of the activities of components of the Department of Justice in connection with their law enforcement undercover operations or of any persons, acting individually or in combination with others, in connection with such operations, and to recommend such legislation as the committee deems necessary and desirable.

SEC. 2(e). There is hereby established a select committee of the Senate, which may be called for convenience of expression, the Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice (hereinafter referred to as the "select committee"), to conduct an investigation and study of activities of components of the Department of Justice in connection with their law enforcement undercover operations or of any persons, acting individually or in combination with others, in connection with such operations.

(b) The select committee created by this resolution shall consist of eight members of the Senate, four majority members of the Senate to be appointed by the President of the Senate upon the recommendation of the Majority Leader of the Senate, and four minority members of the Senate to be appointed by the President of the Senate upon the recommendation of the Minority Leader of the Senate. For the purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The majority members of the select committee shall select a chairman, and the minority members of the select committee shall select a vice chairman, and the select committee shall adopt rules and procedures, not inconsistent with the rules and procedures of the Senate, to govern its proceedings. The vice chairman shall not assume the functions of Acting Chairman in the absence of the chairman, but shall preside over meetings of the select committee during the absence of the chairman, and shall discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may affix a lesser number as a quorum for the purpose of taking testimony before the select committee.

(e) In the event that a tie vote occurs, the pending matter then being voted upon shall be determined in accordance with the vote of the chairman.

SEC. 3. The select committee is authorized and directed to do everything necessary or appropriate to conduct the investigation and study specified in subsection (a) of section 2. Without restricting in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activites of components of the Department of Justice or of any or all persons who may have information bearing upon the jurisdiction of the select committee, with respect to the following matters or questions:

(1) The alleged targeting by any component of the Department of Justice of particular individuals for law enforcement undercover activities without justification.

(2) The origin and initiation of such law enforcement undercover activities, including the standard applied in determining whether and with respect to whom such activities should be employed.

(3) Continuation or modification of previously initiated law enforcement undercover activities, including the standards applied in determining whether any such ongoing activities should be employed with respect to additional individuals.

(4) The standards for termination of such law enforcement undercover activities.

(5) The techniques employed in the course of such law enforcement undercover activities, including the standards applied in determining which techniques should be employed.

(6) The management, supervision and direction of such law enforcement undercover activities and the decision-making process with respect thereto.

(7) The management, direction, supervision and control of undercover agents employees and informants in such law enforcement undercover activities.

(8) The coordination between or among components of the Department of Justice in connection with such law enforcement undercover activities.

(9) The role and responsibilities of prosecutors in connection with the investigation and prosecution of cases arising out of such law enforcement undercover activities.

(10) The effectiveness and need for further Executive Branch guidelines in connection with such law enforcement undercover activities.

(11) The need for specific legislation to govern such law enforcement undercover activities.

(12) The possible violation of any state or United States statute or constitutional provision, or the possible violation of any rule or regulation by any component of the Department of Justice, in connection with such law enforcement undercover activities, and the extent to which innocent persons may have been harmed by such possible violations.

(13) The need for improved oversight of such law enforcement undercover activities by the Executive Branch and the Congress.

(14) The issue of whether the existing laws of the United States are adequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to accomplish appropriate Executive Branch and Legislative Branch control of such law enforcement undercover activities, and to give appropriate authorization for components of the Department of Justice to engage in law enforcement undercover activities.

(15) The need for and effectiveness of Executive Branch procedures to investigate allegations made concerning illegal, improper or unethical conduct in connection with such law enforcement undercover activities.

(16) Such other related matters as the select committee deems necessary in order to carry out its responsibilities under Section 2.

SEC. 4. (a) To enable the select committee to conduct investigations and studies into any matter within its jurisdiction, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate, but it may not exceed the normal Senate salary schedules; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses before the select committee or at depositions of any persons who may have knowledge or information concerning any of the matters or questions the select committee is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the Executive Branch of the United States Government, or any person, firm, corporation, or authority to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate with respect to the failure or refusal of any person to answer questions or give testimony before the select committee or in a deposition or with respect to the failure or refusal of any officer or employee of the Executive Branch of the United States Government or any person, firm, corporation, or entity, to produce before the select committee any books, checks, canceled checks, correspondence, communications, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony under oaths by a member or a person otherwise authorized by law to administer oaths; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any department or agency of the United States; (10) to use on a reimbursable basis or otherwise, with the prior consent of the chairman of any committee or any subcommittee of the Senate, facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees, whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to conduct the investigation and study authorized and directed by this resolution; (11) to have direct access through the agency of its members or staff, when and as designated by the select committee, to any data, evidence, information, report, analysis, or document or paper, relating to any of the matters or questions which it is authorized and directed to investigate and study which is in the custody or under the control of any department, agency, officer, or employee of the Executive Branch of the United States Government, without regard to the jurisdiction or authority of any other Senate committee, which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution, and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to conduct the investigation and study it is authorized and directed by this resolution to conduct.

(b) Subpoenas may be authorized and issued by the select committee acting through the chairman or any other member designated by him; and may be served by any persons designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18, United States Code, or any other Act of Congress regulating the granting of immunity to witnesses.

(d) To assist the select committee in its investigation and study, the Senate legal counsel and deputy counsel are authorized and directed to work with and under the jurisdiction and authority of the select committee chairman and vice chairman.

(e) To assist the select committee in its investigation and study, the chairman shall appoint a committee counsel and the vice chairman shall appoint a committee deputy counsel. All clerical, investigatory, legal, technical, and other personnel who assist the select committee in its investigation and study shall provide such assistance pursuant to the direction and control of the committee counsel and the committee deputy counsel.

SEC. 5. The select committee shall have authority to recommend the enactment of any new legislation or the amendment of any existing statute which it considers necessary or desirable in accordance with its findings.

SEC. 6. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than December 15, 1982. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have one calendar month to close its affairs and on the expiration of such calendar month shall cease to exist.

SEC. 7. The expenses of the select committee through December 15, 1982, shall not exceed $250,000. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

SENATE RESOLUTION 351—RESOLUTION AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL IN A CERTAIN CASE

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 351

Whereas, in the case of Rose Hall, Ltd., et al. v. Chase Manhattan Oversees Banking Corp. and Holiday Inns, Inc., C.A. No. 79-182, pending in the United States District Court for the District of Delaware, the Defendant Holiday Inns, Inc. has subpoenaed Senators William V. Roth, Jr. and Joseph R. Biden, Jr. to provide testimony and documents at depositions;

Whereas, in that case the defendant Holiday Inns, Inc., has subpoenaed former Senator (now Secretary of Health and Human Services) Richard S. Schweiker to provide testimony and documents at a deposition concerning his activities during his tenure as a Senator:

Whereas, title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees in any proceeding with respect to any subpoena directed to them in their official or representative capacity; Now, therefore, be it

Resolved, That pursuant to section 704(a)(2) of the Act, the Senate Legal Counsel is directed to represent Senators William V. Roth, Jr., and Joseph R. Biden, Jr., former Senator Richard S. Schweiker, and any other Senators or employees of the Senate, in proceedings concerning subpoenas to them in the case of *Rose Hall, Ltd. et al.* v. *Chase Manhattan Overseas Banking Corp. and Holiday Inns, Inc.*, C.A. No. 79-182.

AMENDMENTS SUBMITTED FOR PRINTING

INLAND WATERWAY IMPROVEMENT AND COST RECOVERY ACT OF 1982

AMENDMENT NO. 1342

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. STAFFORD (for himself and Mr. ABDNOR) (by request) submitted an amendment intended to be proposed by them to the bill (S. 810) to provide for the recovery of capital and operation and maintenance costs assignable to commercial waterway transportation for certain U.S. Army Corps of Engineers inland waterway projects.

● Mr. STAFFORD. Mr. President, the administration yesterday submitted to the Congress its third and latest version of inland waterway user charge legislation. Senator ABDNOR, who is chairman of our Subcommittee on Water Resources, joins me in submitting the proposal on behalf of the administration.

The administration's initial bill for inland user charges was submitted last year as S. 810. Later in the year, the administration sent us a revised version, which I was pleased to submit as amendment 637 to S. 810. Now, I am submitting this third version, again as an amendment to S. 810.

While it may be unusual to have several variations on a single administration proposal, I believe this new version will be helpful to the Senate in several ways, as it clarifies points in a way that appears to make the bill more manageable. For example, this version establishes the basic form of recovery as a ton-mile charge, rather than leaving the type of charge to subsequent administrative action. This change should prove of great benefit, since it relieves the fear of a segment-specific charge, which could close some waterways. In its description of the new legislation, the administration made this observation:

> The proposed revised legislation specifies that all operation and maintenance costs will be recovered on a system-wide basis and that future construction costs (money appropriated for fiscal year 1983 and thereafter) will be recovered on a segment-specific basis. System-wide fees to recover operation and maintenance costs will minimize disruption of existing traffic patterns. It avoids imposing the burden of existing improvements constructed with general revenues on any particular group. On the other hand, recovery of future capital improvement costs on a segment-specific basis means that in the future users will pay for improvements on stretches of the river which they actually use and will have to weight their desire for these improvements against the costs for which they ultimately will be responsible. By requiring the direct beneficiaries to pay the costs of future investment expenditures, we believe the Government would receive better advice from users as to the type and timing of capital improvements to the system than is certainly now the case where improvements are made at no cost to the users or would be the case were these costs to be shared with waterway shippers who would not directly benefit from an improvement. The proposed legislation also authorizes imposition of congestion fees on all users of specific facilities to improve efficiency in the operation of the system.

I ask unanimous consent that the amendment and the transmittal letter be printed at this point in the RECORD.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1342

Strike all after the enacting clause and insert in lieu thereof the following:

"That this Act may be cited as: "The Inland Waterway Improvement and Cost Recovery Act of 1982."

SEC. 2. As used in this Act, the term:

"(a) 'Commercial waterway transportation' means any use of a vessel on the inland waterway system of the United States—

"(1) in the business of transporting persons or property for compensation or hire, or

"(2) in transporting property in the business of the owner, lessee, or operator of the vessel (other than fish or other aquatic animal life caught on the voyage);

"(b) 'Corps' means the United States Army Corps of Engineers.

"(c) 'Inland waterway system' means the following inland and intracoastal waterways and associated harbors of the United States:

"(1) the Mississippi River and its natural and man-made tributaries and connecting channels upstream from Baton Rouge, Louisiana;

"(2) all waterways of the United States and their tributaries with an authorized depth of 14 feet or less emptying into the Gulf of Mexico west of the Mississippi River;

"(3) the Gulf Intracoastal Waterway from Saint Marks River, Florida, to Brownsville, Texas;

"(4) the Apalachicola River and its tributaries upstream from its junction with the Gulf Intracoastal Waterway;

"(5) the Columbia River and its tributaries upstream from a point immediately downstream of the Bonneville Lock and Dam project;

"(6) the Pearl River and its tributaries upstream from the junction of the West Pearl River with the Rigolets;

"(7) the Mobile River and its tributaries, including the Tennessee Tombigbee Waterway project, upstream from the Mobile Harbor project;

"(8) the Atlantic Intracoastal Waterway between Norfolk, Virginia, and Miami, Florida, via both the Albemarle and Chesapeake Canal and Great Dismal Swamp Canal routes; and

"(9) the portions of the Willamette River and its tributaries with authorized depth of 14 feet or less.

"(d) "Secretary" means the Secretary of the Army.

"SEC. 3. (a) The Secretary, in consultation with the Secretary of Transportation, shall levy ton-mile fees on commercial waterway transportation on the inland waterway system as follows:

"(1) systemwide fees, at an initial rate of 1.5 mills per ton mile on shipments originating after September 30, 1982, adequate to recover annually 100 per centum of anticipated operation and maintenance expenditures of the Tennessee Valley Authority and of the Corps, irrespective of the source of such funds, assigned to commercial waterway transportation;

"(2) segment-specific fees, starting after September 30, 1983, phased to provide for the full recovery of capital expenditures of the Tennessee Valley Authority and of the Corps, irrespective of the source of such funds, assigned to commercial waterway transportation on the segment. Expenditures to be recovered shall be limited to funds appropriated for fiscal year 1983 and thereafter, with interest, over the economic life of the improved facility, but not to exceed a period of fifty years from the date of:

"(A) through traffic for construction of new waterways; and

"(B) completion of the work for other improvements or modifications including, but not limited to, rehabilitation or replacement of existing structures.

A schedule of such fees shall be published in the Federal Register not later than July 1, 1983.

"(b) The Secretary, in consultation with the Secretary of Transportation, shall adjust fees authorized under this section at least every five years on the basis of (1) anticipated Tennessee Valley Authority and Corps expenditures for the inland waterway system and segments thereof; (2) corrections for actual expenditures and amounts recovered; (3) the expected volume of commercial traffic; and (4) any other factors that the Secretary finds reasonable and equitable.

"(c) The Secretary, in consultation with the Secretaries of Agriculture and Transportation, is authorized to levy congestion fees, on all users of specific facilities, designed to reduce delays in order to improve the efficiency of the inland waterway system.

"(d) Fees collected under this section shall be credited to the Inland Waterways Trust Fund established by Section 203 of the Inland Waterways Revenue Act of 1978 (Public Law 95-502). Amounts in the Trust Fund shall be available as provided by appropriations acts for making capital improvements and operation and maintenance expenditures on the inland waterway system as defined in this Act.

"Sec. 4. (a) For the purposes of developing or assisting in the developing of any schedule of fees and determining whether any person is in violation of any requirement of this Act:

"(1) the Secretary may require any person engaged in commercial waterway transportation who is subject to the requirements of this Act to (A) establish and maintain such records, (B) submit such reports, and (C) provide such other information, as the Secretary may reasonably require;

"(2) the Secretary may also utilize any documentation required to be submitted pursuant to Section 11 of the Act of September 22, 1922 (42 Stat. 1043); and

"(3) the Secretary, or an authorized Federal representative, upon presentation of credentials shall have a right of entry to, upon, or through any premises of such person and may, at reasonable times, have access to and copy of any records.

"(b) Any material obtained under subsection (a) shall be available to the public, except upon a showing satisfactory to the Secretary by any person that such material or particular portion thereof to which the Secretary has access under this section if made public would divulge confidential business information, the Secretary shall consider such material or particular portion thereof confidential in accordance with the purpose of section 1905 of Title 18 of the United States Code, except that such material may be disclosed to other officers, employees, or authorized representatives of the United States concerned with carrying out this Act or when relevant to any proceeding under this Act.

"(c) Section 11 of the Act of September 22, 1922 (42 Stat. 1043), is amended by inserting "no more than $200,000" in lieu of "$100".

"Sec. 5. (a) Whenever, on the basis of any information available and after opportunity for a hearing, the Secretary finds that any person or entity is in violation of any requirement of this Act, the Secretary shall order the person or entity to comply with the Act, including payment of any fees which the Secretary determines to have been wrongfully withheld, with interest at the rate specified under section 6621 of Title 26, United States Code. Thirty days after the date of an order from the Secretary to a person or entity to be in compliance with this Act, it shall be unlawful for that person or entity to engage in commercial waterway transportation during any period when that person or entity is in violation of any requirement of this Act.

"(b) Upon request of the Secretary, the Attorney General may bring a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $200,000, or both, whenever any person or entity violates any requirement of this Act or fails or refuses to comply with any order issued under subsection (a). Such penalty shall be deposited in the general fund of the Treasury.

"(c) Any action under this section may be brought in the district court of the United States for the district in which the defendant resides, does business or is engaged in commercial waterway transportation as defined under this Act and such court shall have jurisdiction to require compliance, to assess any appropriate fee or civil penalties as authorized under this Act and grant injunctive or other equitable relief. Any vessel or watercraft on account of which any user fee shall have accumulated shall be liable for such fees and may itself be arrested and proceeded against upon principles applicable to Admiralty actions in rem.

"Sec. 6. Expenditures for operation and maintenance and for construction and rehabilitation of inland waterway projects subject to recovery under this Act shall be assigned to commercial waterway transportation as follows. Such costs may be adjusted to reflect project modifications or other work for which reimbursement is provided under other provisions of law:

"(1) for projects authorized only for navigation, 90 per centum of costs remaining after subtracting any specific costs for recreation are to be assigned to commercial waterway transportation;

"(2) for projects authorized on or after the date of enactment of this Act only for navigation, 100 per centum of costs remaining after subtracting any specific costs for recreation are to be assigned to commercial waterway transportation;

"(3) for multiple-purpose projects for which costs have been assigned to navigation, costs assigned to commercial waterway transportation will be in accord with that assignment or any subsequent reassignment;

"(4) for other multiple-purpose projects providing navigation benefits but for which there have been no cost assignments, costs assigned to commercial waterway transportation will consist of all specific navigation costs, plus 10 per centum of joint-use costs; and

"(5) for the Mississippi River and Tributaries project, harbor improvement features shall be considered as individual projects pursuant to the above provisions of this section. For other features of the Mississippi River and Tributaries project, costs assigned to commercial waterway transportation will consist of (A) all specific navigation costs of the Channel Improvement feature consisting of: (i) maintenance dredging, and (ii) construction and maintenance of dikes, and (B) one-third of the joint-use costs consisting of: (i) construction dredging and construction, operation and maintenance of revetments of the Channel Improvement feature, and (ii) construction, operation and maintenance of the Old River feature. Expenditures on construction and rehabilitation for the Mississippi River and Tributaries project, except for harbor improvement features, will be considered maintenance.

"Sec. 7. Title II of the Inland Waterways Revenue Act of 1978 (92 Stat. 1696) is amended by deleting Section 204 and renumbering Sections 205 and 206 as Sections 204 and 205, respectively, and by amending the Table of Contents to be consistent with this section.

"Sec. 8. Except as otherwise provided in Section 5(a), the interest rate used pursuant to this Act shall be determined by the Secretary of the Treasury, taking into consideration the average market yields on outstanding marketable obligations of the United States during the period expenditures are made. The interest rate on the unrecovered balance shall be updated at least every five years to reflect the average market yield at that time on outstanding marketable obligations.

"Sec. 9. (a) After coordination with affected Federal agencies and non-Federal public and private interests, the Secretary, acting through the Chief of Engineers, is authorized to study, plan, design, construct, and operate and maintain such new improvements and rehabilitations and modifications of existing improvements on the inland waterway system as the Secretary determines to be reasonable and desirable for commercial waterway transportation.

"(b) Capital and operation and maintenance expenditures of the Corps for work undertaken pursuant to this section, irrespective of the source of such funds, shall be recovered through fees levied on commercial waterway transportation pursuant to section 3 of this Act.

"(c) Prior to initiation of any such construction, the Secretary shall submit to Congress a final environmental impact statement for the plan of improvement when such statement is determined by the Secretary to be required by the National Environmental Policy Act of 1969. The Secretary shall submit to Congress, with the environmental impact statement, a statement of the Secretary's compliance, at that time, with the Clean Water Act, the Fish and Wildlife Coordination Act and other statutory requirements applicable to the improvement. These statements and other necessary actions to comply with the requirements of the National Environmental Policy Act of 1969 and other applicable statutory requirements shall be completed on an expedited basis pursuant to schedules, consistent with existing laws, established by the Secretary. Such schedules shall be established by the Secretary after consultation with other officials of the United States and the affected States, having responsibilities therewith. Such officials shall, thereafter, make their necessary decisions and otherwise provide data and comment as they deem appropriate pursuant to the Secretary's schedules. The plan of improvement addressed by the environmental impact statement shall be eligible for construction appropriations and implementation, pursuant to subsection 9(a), may be undertaken unless the Congress disapproves of the statement by joint resolution within 180 days of its receipt.

"(d) Environmental impact statements for work authorized pursuant to this section shall not be subject to judicial review under any law. Claims may be brought alleging that construction authorized by this section will deny rights under the Constitution of the United States, or that such construction is beyond the scope of authority conferred by this section. Any such complaint shall be filed in a United States District Court, for a district where the work is located or to be located, or where the alleged injury occurs. Such court shall have exclusive, original jurisdiction over the proceedings and shall assign it for hearing at the earliest possible date. Such court shall not have jurisdiction to grant any injunctive relief against any actions pursuant to this section except—

"(1) in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section, or

"(2) where the petitioner presents a clear and convincing showing that the petitioner is likely to prevail on the merits, that without such an injunction the petitioner will suffer irreparable harm, and that issuance of an injunction will not lead to unreasonable harm to other parties and is in the public interest.

"Sec. 10. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act."

DEPARTMENT OF THE ARMY,
Washington, D.C., March 22, 1982.

Hon. GEORGE BUSH,
President of the Senate.

DEAR MR. PRESIDENT: As you know, this Administration is committed to recovery of the bulk of the costs of constructing, operating, and maintaining our inland waterway system from the commercial barge industry.

This commitment is founded not only on budgetary consideration but also on a conviction that charging the actual beneficiary will result in greater efficiency in the operation and future development of the Nation's commercial transportation system. Accordingly, on March 25, 1981, the Department of the Army transmitted proposed legislation for recovery of costs assignable to commercial waterway transportation for certain Army Corps of Engineers inland waterway projects. On July 15, 1981, we transmitted a revision of the legislation which was primarily intended to limit cost recovery to major navigation channels handling the bulk of the Nation's commercial barge traffic. Neither of these proposals specified the actual method of collection which would be imposed; conferring instead general discretionary authority on the Secretary of the Army to establish fee collection from a number of alternative mechanisms.

Since submission of these proposals, the Administration has developed considerable information on the potential impacts of cost recovery as a result of the study undertaken by the Departments of Commerce and Transportation pursuant to Section 205 of the Inland Waterways Revenue Act of 1978. Based on this information, the Administration has revised its inland waterway cost recovery proposal in a number of respects.

This revised proposal is a part of the Department of the Army's Civil Works legislative program for the 97th Congress. The Office of Management and Budget advises that enactment of this proposal would be in accord with the program of the President. The Department of the Army recommends that the revised draft be enacted by the Congress.

PROPOSED LEGISLATION

The purpose of the proposed revised legislation is similar to our earlier proposals; that is, to provide for the recovery of certain capital and operation and maintenance expenditures assignable to commercial waterway transportation for certain Tennessee Valley Authority and Army Corps of Engineers inland waterway projects, and to authorize construction in specified circumstances.

One of the primary modifications which we have made is that we have specified that ton-mile fees should be used to recover costs. This mechanism is both equitable and easy to administer. The information necessary to administer the program is generally available from waybills and data currently collected as a part of the Corps of Engineers Waterborne Commerce Statistics.

The legislation also provides for specific enforcement powers to allow the Secretary of the Army to insure accurate reporting and collection. The primary enforcement mechanism would be authority to prohibit violators from using the inland waterway system until all delinquent fees are paid, including interest charged at the rate specified for delinquent taxes. In addition, the bill provides civil penalties of up to $200,000 for violations of the Act and increases the maximum penalty under the existing reporting requirements to $200,000.

In another major change, the proposed revised legislation specifies that all operation and maintenance costs will be recovered on a system-wide basis and that future construction costs (money appropriated for fiscal year 1983 and thereafter) will be recovered on a segment-specific basis. System-wide fees to recover operation and maintenance costs will minimize disruption of existing traffic patterns. It avoids imposing the burden of existing improvements constructed with general revenues on any particular group. On the other hand, recovery of future capital improvement costs on a segment-specific basis means that in the future users will pay for improvements on stretches of the river which they actually use and will have to weigh their desire for these improvements against the costs for which they ultimately will be responsible. By requiring the direct beneficiaries to pay the costs of future investment expenditures, we believe the Government would receive better advice from users as to the type and timing of capital improvements to the system than is certainly now the case where improvements are made at no cost to the users or would be the case where these costs to be shared with waterway shippers who would not directly benefit from an improvement. The proposed legislation also authorizes imposition of congestion fees on all users of specific facilities to improve efficiency in the operation of the system.

This proposal further clarifies and refines the cost assignment procedures necessary to specify the costs to be recovered from commercial users. A major modification is made in our cost assignment procedures for the Mississippi River and Tributaries project. The new procedure for this project assigns costs to commercial waterway transportation for only those project features which provide commercial navigation benefits.

The bill also includes streamlined authority for the Secretary of the Army to study, construct, and operate and maintain new navigation improvements and to rehabilitate and modify existing navigation improvements that would be desirable on the inland waterway system, as defined in the bill. Such improvements would be premised on the ability and willingness of the commercial users in the marketplace to pay and determine the need for future projects and would be undertaken in compliance with the substantive provisions of all applicable laws.

Prior to the construction of any such improvement, the Secretary would submit to Congress any final environmental impact statement required by the National Environmental Policy Act of 1969 (NEPA) and a statement of the Secretary's compliance, at that time, with other statutory requirements applicable to the improvement. These statements and other necessary actions to comply with NEPA and other applicable statutes would be subject to schedules, consistent with existing laws, established by the Secretary, after consultation with other responsible Federal and State officials, that would govern the time requirements for administrative review and decision making. The plan of improvement would be eligible for construction funding and implementation unless the Congress disapproves of the statement on the improvement by Joint Resolution within 180 days of its receipt.

Environmental impact statements for such improvements would not be subject to judicial review. Specified Federal judicial jurisdiction and review would extend, however, to any claims alleging that construction of the improvement would deny rights under the Constitution of the Untied States or would be beyond the scope of authority conferred by the bill. Injunctive relief to be issued prior to a final order in such a proceeding would require a clear and convincing showing that such relief should be granted.

COST AND BUDGET DATA

Enactment of the enclosed legislation would require reimbursement to the Federal Government for navigation expenditures by the Tennessee Valley Authority and the Army Corps of Engineers for waterway transportation on the inland and intracoastal waterways of the United States. This would result in significant savings to the Federal Government.

ENVIRONMENTAL AND CIVIL RIGHTS IMPACT CONSIDERATIONS

Enactment of the enclosed legislation will have no significant environmental or civil rights impacts. Individual Federal activities that occasion the reimbursements required by this Act will only be undertaken pursuant to existing or proposed Congressional authorizations and after any necessary assessment and review of their impacts, including any expedited review provided for in the enclosed proposal.

Sincerely,

WILLIAM R. GIANELLI,
Assistant Secretary of the Army
(Civil Works).●

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CRIMINAL LAW

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Criminal Law, of the Judiciary Committee, be authorized to meet during the session of the Senate at 2 p.m. on Thursday, March 25, to discuss the exclusionary rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agriculture Research and General Legislation of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, March 24, at 9:30 a.m. to hold a markup of the Commodity Futures Trading Commission reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Agriculture Research and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, March 25, at 9:30 a.m. to hold a markup of the Commodity Futures Trading Commission reauthorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet during the session of the Senate at 2 p.m. on Wednesday, March 24, to hold a full committee hearing to discuss the nomination of Robert Coyle, of California, to be U.S. district judge for the eastern district of California.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, of the Judiciary Committee, be authorized to meet during the session of the Senate at 3:30 p.m. on Wednesday, March 24, to hold a markup on voting rights legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITY AND TERRORISM

Mr. LAXALT. Mr. President, I ask unanimous consent that the Subcommittee on Security and Terrorism of the Committee on the Judiciary be authorized to meet during the session of the Senate today to gather testimony on the role of the Soviet Union, Cuba, and East Germany in fomenting terrorism in South Africa.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

EXPORT TRADING COMPANIES ARE NECESSARY—VII

● Mr. HEINZ. Mr. President, last week General Electric announced the formation of its own trading company, which will concentrate on sales to developing countries.

This is a welcome development because it illustrates the widespread interest in the trading company concept in this country and the diversity of opportunity trading companies can provide.

GE is starting its trading company without the benefit of pending legislation, though its action in doing so should give further impetus to the bill, since it will illustrate the benefits trading companies can provide. While GE may not initially need the advantages conferred on trading companies by the legislation, others will, and the GE example will hopefully stimulate additional interest in both the bill and the concept generally.

Mr. President, I commend General Electric for its forward-looking attitude, and I ask that an article from the Wall Street Journal announcing the new enterprise be printed in the RECORD.

The article follows:

GE SETS UP FIRM TO SPUR EXPORTS OF IT AND OTHERS

NEW YORK.—General Electric Co. said it is starting a trading company that may market $2 billion in exports within about five years. The project will concentrate on sales to developing countries.

GE said its trading company would help small and medium-sized U.S. companies, which often lack the resources or expertise to sell overseas, to boost exports. GE said its trading company also would handle some GE products, but that the majority of sales are expected to involve non-GE goods.

George J. Stathakis, a GE vice president who was named president of the new subsidiary, General Electric Trading Co., said the unit would draw on the resources of the current GE marketing organization overseas. In addition, a GE unit handling about $100 million a year in barter and other trade with foreign countries will be included in the new trading company.

The new unit will provide "a one-stop export service" for small and medium-sized U.S. exporters, Mr. Stathakis said. He added that GE may buy and then resell the goods, making a profit on the difference, or charge a commission.

The GE products that will be marketed through the organization, which initially will include about 100 employes around the world, mainly will include products such as light bulbs, circuit breakers, transformers and small motors, Mr. Stathakis said. Some of GE's huge and complex products, such as jet engines for airliners, will continue to be handled by separate marketing groups.

Mr. Stathakis added that GE hopes to help U.S. companies sell products complementary to GE's own. Such products might include small compressors and pumps, gas and diesel engines and welding apparatus, he said.

GE's trading company will concentrate on exports to areas with high growth potential, including the Mideast, Africa, Latin America and Southeast Asia. "Selected countries in each of these regions are likely to achieve average annual growth rates of more than 15% in the next decade," Mr. Stathakis said. "Many small to medium-sized U.S. exporters and potential exporters face difficulty in tapping these large markets because they haven't a marketing structure capable of reaching these customers. We have a proven structure in place."

GE has sales offices in 55 countries, more than 700 distributors and sales representatives in 140 countries, and service shops in 63 countries.

The Japanese long have had trading companies to facilitate exports, and the idea seems to be catching on in the U.S. Sears, Roebuck & Co. earlier announced plans to form an international trading company.●

DEATH OF WALTER J. MAHONEY

● Mr. MOYNIHAN. Mr. President, I rise today with the sad task of reporting to the Senate the death of Walter J. Mahoney, former New York State senator, and State supreme court justice and—one of the finest public officials ever to serve New York State.

Walter Mahoney's 28 years in the senate were productive for those he represented and marked by unparalleled dedication. He was responsible for bringing to western New York valuable public improvement projects. He chaired the Little Hoover Commission of whose recommendations to streamline State government functions were adopted by the State. He was instrumental in building the Buffalo Skyway and in making improvements at Buffalo State College. His record in the State judicial system was, most characteristically, marked by wisdom and patience. In all, his public career was such that Gov. Hugh L. Carey recently praised Mr. Mahoney for his "major role in shaping the course of government in New York."

Mr. Mahoney's service to New York State spans 40 years. I know that he will be painfully missed not only by his colleagues, friends, and family, but by the countless people whose lives he touched through his ideas, his vision, and his unceasing dedication to the residents of New York State. For this we are all grateful.

Mr. President, I offer my most heartfelt sympathy to Mr. Mahoney's wife, Mrs. Elizabeth Ryan Mahoney, his son and three daughters, and his grandchildren during this most difficult period. I ask that an article from the Buffalo Courier Express of March 23, 1982, be printed in the RECORD.

The article follows:

[From the Buffalo Courier Express, March 2, 1982]

WALTER MAHONEY DIES AT 73; LED THE STATE SENATE

(By John Fleming)

Walter J. Mahoney, a former State Senate majority leader and retired State Supreme Court justice, died yesterday in the Erie County Medical Center of a heart ailment. He was 73.

During most of his many years in the State Legislature, Mahoney, a Republican, wielded immense power, perhaps second in the state only to the governor. A Buffalo resident, Mahoney was responsible for bringing hundreds of millions of dollars in public improvements projects to Western New York.

Just before Mahoney retired as an Appellate Division justice of the State Supreme Court on Feb. 1, 1977, Gov. Hugh L. Carey, a Democrat, lauded him for "a major role . . . in shaping the course of government in New York" during his 40-year state career.

A state senator for 28 years, Mahoney used his power to negotiate with both Republican and Democratic governors for the approval of state grants and building projects in Western New York.

Mahoney played an important role in the passage of many statewide and local laws and in making major public improvements possible. He headed the state's "Little Hoover Commission" whose recommendations to streamline state government functions were put into effect.

He was instrumental in bringing about expansion of the Roswell Park Memorial Institute, building of the Buffalo Skyway, the medical and surgical building at the Buffalo Psychiatric Center, improvements at Buffalo State College, the University of Buffalo merger with the State University of New York, the General Donovan State Office Building, the Nuclear Reactor Center at UB, and a multimillion-dollar grant for developing the Buffalo harbor as well as Thruway spurs and freeways.

Mahoney obtained the commitment and initial funding for UB's new Amherst campus, and was instrumental in building the West Seneca Developmental Center as well as creating the Niagara Frontier Port Authority, forerunner of the present Niagara Frontier Transportation Authority.

In 1964, Mahoney was one of many Republicans who lost office in the Democratic landslide that elected President Lyndon B. Johnson. He was named by the late Gov. Nelson A. Rockefeller to the State Thruway

Authority in 1965 and later became authority treasurer.

Mahoney resigned from the authority after being elected in 1967 to a 14-year term on the State Supreme Court. In 1974, former Gov. Malcolm Wilson, a Republican, appointed him to the Appellate Division, the state's second highest court. He was reappointed by Carey.

Mahoney retired from the State Supreme Court in 1977 to return to private law practice in Buffalo. He practiced law with the Buffalo firm of Mahoney, Berg, Cornell & Cook for the last five years. His career as a lawyer begin in 1934.

His brother, the late William B. Mahoney, was one of the state's best-known criminal lawyers and a former Erie County Democratic chairman. In a 1977 interview, Walter Mahoney said of this brother: "We never talked politics when we were active in our respective parties. Maybe that's why we got along so well."

Walter Mahoney's national stature in the Republican Party was such that he was elected in 1959 as the first president of the National Conference of State Legislative Leaders, an organization he helped found. In 1960, he was selected as a possible candidate for the Republican nomination for vice president.

He was born in Buffalo on March 10, 1908. He graduated from Lafayette High School, Canisius College and, in 1933, the University of Buffalo Law School. He was a reporter for the former Buffalo Times before being elected to the State Legislature in 1936, a post he held until his 1964 defeat. In 1953 he was the first Buffalonian ever elected unanimously as a Senate majority leader.

Once it was suggested that Mahoney, in battling tax increase or pushing one cause or another, "eats governors for breakfast." He denied that claim, saying, "they're indigestable."

Mahoney was Erie County's favorite son for the Republican gubernatorial nomination in 1958. However, a political newcomer, the dynamic and wealthy Nelson Rockefeller entered the race, won the nomination and went on to win election to four terms as governor.

Many honors came Mahoney's way. These include the 1961 Canisius College Medal given yearly to someone whose "life and character . . . reflect dedicated service to God and his fellow man."

He was presented an honorary doctor of laws degree from Siena College, a Merit Award from Buffalo State College, a 1952 UB award for meritorious public service, the 1955 New York State editors John Peter Zenger Award for serving the cause of freedom of the press by making public transcripts of debates in the State Senate.

Other honors included the 1977 Judge John D. Hillery Memorial Scholarship Foundation Award, as honorary membership on the Kenmore Mercy Hospital Advisory Board, the 1969 Buffalo Junior Chamber of Commerce Good Government Award, the 1964 Statesman Award of the Niagara Falls Chapter 12, of the Disabled American Veterans and the Erie County Federation of Women's Republican Clubs Community Service Award presented the same year.

He was an Erie Community College trustee, a Fourth Degree Knight of Columbus and a former president of the Association of State Young Republican Clubs.

Mahoney married Mary Young in 1936. She died in 1977. He married Elizabeth Ryan in 1978.

In addition to his wife, Mahoney is survived by a son, Walter J. Mahoney Jr. of Albany; three daughters, Moira M. Gallivan and Ellen Biondoillio, both of Buffalo, and Eileen C. Mahoney of Albany; seven grandchildren, four stepdaughters, Dottie Irwin, Grace Embildge and Pamela Jacobs, all of Buffalo, and Karen Keane of Fort Lauderdale, Fla., sister, Julia M. Mahoney of Buffalo, and 10 step-grandchildren.

A Mass of Christian Burial will be held at 9:30 a.m. Thursday in St. Michaels Church, 651 Washington St., following prayers at 8:45 a.m. in the Bauer-Lynn Funeral Home, 1933 Kensington Ave., Cheektowaga. Burial will be in Mount Olivet Cemetery, Town of Tonawanda.●

AN ARTICLE ON THE DEMOCRATS BY ELIZABETH DREW

● Mr. BAUCUS. Mr. President, I would like to insert in the RECORD today an article appearing in the March 22, 1982, issue of the New Yorker, written by Elizabeth Drew. Ms. Drew's article, entitled "The Democrats," presents an interesting and complex picture of developments within the Democratic Party in Washington since the election of 1980.

There are a number of elements in Ms. Drew's essay worth noting. It effectively highlights the ambiguities and conflicts facing the Democrats. It avoids the simplistic labeling of Members of Congress as being either "liberal" or "conservative."

However, I think the principal contribution made by Ms. Drew is her depiction of the forces that accelerate, guide, and frequently delay the legislative process on Capitol Hill.

In many ways, I am reminded of the rather notorious article written by William Greider that appeared recently in the Atlantic Monthly. Although the Greider article was ostensibly about OMB Director David Stockman, I believe its central contribution was the comprehensive description of the budget process of 1981.

Similarly, I believe that Ms. Drew's article lays the groundwork nicely for the budget debate that will be ensuing in 1982. At the end of her article, Ms. Drew discusses the possibility of an economic summit between House Democratic leaders and the President. I note in the news today that additional steps have been taken by House Democratic leaders to make such a summit possible.

On a lighter note, I would like to say how pleased I was that Ms. Drew saw fit not to include me in the article, particularly in the section dealing with "neoliberals." It is not that I mind the company I keep—for many of my colleagues who have been described as "neoliberal" share a love for ideas and a thoughtful vision for the future of this Nation—it is just that I do not like being labeled.

In any event, I strongly commend Ms. Drew's article to Democrats and Republicans alike. Indeed, it probably should be required reading for political science professors and students, because I think it provides a far more accurate description of the vagueries of the political process than most political science treatises are prone to present.

The article follows:

[From the New Yorker, Mar. 22, 1982]

THE DEMOCRATS

(By Elizabeth Drew)

The Democrats are being called upon to meet two challenges—to offer "an alternative" to the Reagan program, and to show that they have "new ideas"—neither of which has been presented to an opposition party at such a moment before, and both of which present great hazards, if not traps. To some extent, the Democrats have been set up by the Republicans—and by the press—and to some extent they have set themselves up. Both challenges are based on shaky premises, and both tend to ignore—in some cases purposely—the institutional and other obstacles to what the Democrats are being asked to do. To some extent, the challenges overlook what the Democrats have already been doing. But the Democrats have for the most part accepted them. Once again Ronald Reagan has set the terms of the argument. The result is a mixture of soul-searching, breast-beating, trend-chasing, serious thought, and political maneuvering. The gauntlet Reagan has thrown down before the Democrats will have in fact done them some good. There is a great deal of ferment within the Democratic Party; some Democrats are making an uneasy truce with the past, some are running away from the past as fast as they can, and some are figuring out how to incorporate the past into the future. Many are giving more thought to real questions than busy politicians are usually wont to do. And, with Reagan's unwitting help, the Democrats are now reaching a surprising amount of consensus. There are differences of style and emphasis, some of them consciously created. There are some differences of philosophy that are historical and unbridgeable. The Democrats' legislative problem is still a large one, and their political problem is tricky. But their rhetorical problem is getting easier, and an agenda is in sight.

A fair amount of mythology—and obliviousness of history—surrounds the Democrats' dilemma. One myth is that the congressional opposition party can, or should, coalesce around a single spokesman. I have found it hard to discover anyone who could recall offhand who spoke for the Republicans in 1977 and 1978. Whoever it was, it wasn't Ronald Reagan. When, during the early sixties, Senate Minority Leader Everett McKinley Dirksen and House Minority Leader Charles Halleck gave their weekly "Ev and Charlie" show—a sort of combination press conference and teach-in—it was considered entertaining by the press and embarrassing by a number of Republicans. From time to time, the Republican minority came up with the unfortunately titled "constructive Republican alternative proposals," but no one took them very seriously—or expected the Republicans to offer an alternative program for government. A second bit of confusion involves the idea that Congress can provide an alternative to what a President proposes; it has happened from time to time, but rarely. Congress can chip at and reshape and amend and expand what is put before it, but initiating does not come easily to the institution. By its nature, Congress is not conducive to collective action on its own.

It is an aggregation of egos and ambitions, self-starters, people who are in business for themselves and keeping a nervous eye on the folks back home. And this has been increasingly the case. The pollsters and the packagers and the political-action committees carry more weight than the party leaders. The Sam Rayburn-Lyndon Johnson style of congressional leadership would not be welcome, for it depended on a structure (dominated by the party seniors) and a sense of obedience that no longer exist. And the Democrats are a more diffuse party than the Republicans—are harder to corral on any given issue. The highly publicized defections in the House last year of the Southern Democrats "boll weevils" was nothing new; the difference was that the House leaders had a smaller margin to work with than they had had in recent years. It is a far greater distance from one end of the Democratic Party to the other than it is from one end of the Republican Party to the other. When I asked one House Democratic aide about the Democrats' strategy this year, he said, "To discuss 'Democrats' as if they can be characterized in a cohesive fashion is to ignore the problem."

Another myth is that Reagan's election represented the triumph of "the party of ideas." Aside from the numerous nonideological factors in the Reagan victory, the Republican "ideas" were essentially old complaints—which the Democrats had unwittingly helped to take hold: against big government, against spending, against too much regulation, against high taxes. The one genuine "idea" was the Kemp-Roth tax cut, which congressional Republicans had all but dropped after trying it out in the 1978 congressional elections and deciding that it was a loser. Only Reagan's being sold on it put it back on the agenda. That America seemed "too weak" was not an idea but a reaction to a series of events. The Democrats had helped the Republican Party nurture a reaction to their domestic policies through a failure to be discriminating. In the mid-sixties, a number of Democrats had begun to recognize that the government was taking upon itself the solving of too many problems, with too many programs, too much money, and too much regulating; some recognized then that they were inviting a middle-class rebellion. Programs that might have been begun on an experimental basis were, largely because of pressures from Congress, begun on a national scale, and were not based strictly on need. Democrats, like most parties in power, found that it was easier to give than to take away—to distribute than to manage. Jimmy Carter came to town talking about zero-based budgeting but ended up swallowed by the special-interest state, and unable to explain what it was he was doing. And the reaction to all this had an eloquent spokesman in the Republican Presidential candidate.

After the 1980 elections, the Democrats went into an emotional collapse. They accepted the fashionable interpretation that 1980 had been an ideological election, that their past agenda had been repudiated, and that they had no agenda for the future—that they needed "new ideas." (The fact that a greater number of liberal and moderate Democratic senators had been reelected than had been defeated, and that two were elected for the first time, was largely ignored, as was the fact that there were some nonideological factors in the defeat of some Democratic senators.) Many Democrats simply lost their bearings. Some had already begun sliding away from their party's past. The obvious—that a party should think about what it is doing, and make mid-course corrections—became a novel, and even remarkable, concept. Some people who said as much became celebrities. Democrats engaged in earnest breakfasts, lunches, and dinners with each other and with outside "experts" and advisers to search for a new definition. New think tanks sprouted along the Potomac, to commission studies and propose ideas—and to get in position to populate future Democratic Administrations. It has been a good time for the idea brokers and the salesmen of word processors.

Meanwhile, in both the House and the Senate it took the Democrats some time to adjust to their new situation. In an atmosphere of dominant public sentiment that Reagan must be given his chance, they made their own calculations about how long it should be before they raised their voices against the Reagan program and how strenuously to oppose it—and came to varying conclusions. Some Democrats went along with the Administration (just as some moderate Republicans did) not because they agreed with it but because Reagan was popular in their districts or states. Senate Democrats were, of course, in the minority. In the House, where the Democrats had at least a technical majority, one camp wanted to let the Reagan program go through—that is, to offer an alternative and lose—thus fixing the responsibility, and another wanted to try to work out a compromise with the Administration. In both chambers, those voices that were raised against the Reagan program were lost in the din. The preoccupation was with the high-noon drama of the Reagan victories. Senate Democrats offered amendments to restore funds for education, school lunches, veterans' health care, the Social Security minimum benefit, vocational education, aid for the handicapped, childhood disease immunization, and so on—which won the votes of about eighty-five per cent of their party colleagues. The deliberate strategy was to lay the groundwork for arguing over these cuts a year and a half later, during the 1982 congressional campaigns, when people might be more ready to listen. Some Democrats—such as Edward M. Kennedy, of Massachusetts; Bill Bradley, of New Jersey; Dale Bumpers, of Arkansas; and Thomas Eagleton, of Missouri—fought, along with a few Republican allies, sometimes successfully, to save programs involving health, child care, and nutrition. Senate Democrats offered alternatives to the President's tax program—to hold the tax cut to one year, and to hold it to two years and make the third-year cut contingent upon economic conditions. In the House, the Democrats, with difficulty, came up with an alternative budget to Reagan's, and barely lost—by three votes—on the key roll call. Some House Democrats now say that the difference between their proposal and the Republican one wasn't great enough—that the Party didn't set itself sufficiently apart for the record. The Democrats' tax bill, following a bidding war with the White House, also ended up looking very Republican, and still lost. (Another tax alternative, offered by Representatives Morris Udall, of Arizona, and David Obey and Henry Reuss, both of Wisconsin—a more Democratic set of tax cuts—went down to greater defeat. Now many Democrats wish that more of them had stuck with it, for the record.) Most Democrats are relieved that neither their budget nor their tax alternatives passed. The program that is in place is Reagan's. As one House Democrat has put it, "Reagan's greatest political blunder was to get his program enacted."

In its eagerness to defeat the Democrats on the budget and tax bills, the Reagan Administration humiliated the House Democratic leadership and two important committee chairmen—James Jones, of Oklahoma, the chairman of the Budget Committee, and Dan Rostenkowski, of Illinois, the chairman of the Ways and Means Committee—and left a bitter legacy for this year. These men had hoped to be able to work out compromises with the White House—Rostenkowski had entered into negotiations with it—only to have the White House people decide that they would prefer to whack them over the head. In considering what to do this year, the House Democrats have last year in mind. One House Democrat told me, "As we all know, in politics people are often fighting the last bill and overlearn from their past experience. Last year, the President was very popular—more effective than any other President in many years in appealing to the public. So, even though his program is in a shambles now, some of those Democrats who opposed him last year bear the scars and have overlearned the lesson of last year. They are still intimidated by Ronald Reagan—by his ability to condense his position on complicated matters into effective slogans, to simplify the debate in his favor." Another House Democrat told me, "Our efforts to arrive at a strategy are complicated by a gun-shyness on the part of some Democrats because of last year. Jones got clobbered; Rostenkowski got clobbered. They don't want to stick their necks out again. The Reagan program has collapsed, and therefore Democrats can make points without having to do very much. So there's a sense that we don't have to come up with anything, just stay in the trenches while the Republicans fight, and not get out there with anything Ronald Reagan can shoot at. That it's an election year—let the Republicans flounder." This sentiment is said to be shared by the House leadership. "Tip is scarred," this same man said, referring to House Speaker Thomas P. O'Neill. "And he really resents being ridiculed by the White House and being the target of all the criticism."

A number of House Democrats, however, feel they have no choice but to try to work for a compromise. "I think the Democrats will end up endorsing a compromise position instead of sticking with their ideology," said Richard Gephardt, Democrat of Missouri, who is a young but important House strategist.

I asked him why.

He replied, "Because of a great fear of where we'll end up if we don't—that is, an economic collapse. There's also the politics: no one wants to have been in an adversarial, confrontational position if the collapse comes. You don't want to be there sticking to your bias if it leads to inaction and collapse."

But not everyone agrees. And so the House Democrats have been having all sorts of meetings to figure out their strategy. There are several calculations. Though they don't talk about it publicly, a substantial percentage of the House Democrats—at least half of them by some estimates, and even more by others—don't want to do anything that would blur the picture in November that it is Reagan's program that is in place. They want the November elections to be a clear plebiscite on Reagan's program—a plebiscite that they are confident will work to their advantage. There is also a substantial body of opinion to this effect in the Senate. For other members of both chambers, the problems with this strategy are that, for one thing, the country may get ruined and, for another, it wouldn't look good. Some are truly torn between their desire to let Reaganism run its full course and their fear that in the meantime the economy will go over the cliff. Some, looking ahead, feel that even if their chance to govern again came soon it wouldn't be worth much if the economy was a wreck. (It's not just the size of this year's deficit that worries them—and the Republicans—but also the fact that as things stand the deficit will grow, by substantial amounts, in the following years.) The Democrats, these members reason, must appear responsible. One Senate Democratic strategist has explained, "What the Democrats have to be seen to be doing is playing a constructive role. Lying in the bushes isn't a smart plan—it doesn't cast glory on the Democrats. And it's not a difficult maneuver to figure out—the press would see it. It would not be regarded as good government." So even those Democrats who aren't really inclined to help the Republicans work out an alternative to the Reagan program publicly profess to want to do so. Some Democrats suggest that the idea of letting Reagan have his program—of not helping the congressional Republicans in their efforts to fashion an alternative—is not as unpatriotic as it might appear. They want to get the argument over with. One Senate aide said, "They see it as the way of getting rid of the ideologues once and for all."

Since most Democrats feel they have no choice but to offer alternatives, the next questions for them are when they should do so, and on what terms they should work with the Republicans. If timing isn't everything in politics, it is a great deal. The Democrats have preferred to avoid getting in the way of the spectacle of Senate and House Republicans rejecting the Reagan budget. They are not particularly discomfited by Reagan's difficulties and don't want to do anything to draw public attention from them. And they have been in no hurry to set up targets for Reagan. Several Democrats were annoyed with Senator Ernest Hollings, Democrat of South Carolina, for coming forth with his own budget alternative in early February, because it distracted attention from Reagan and the Republicans, because they do not agree with its substance, and, worse, because it got him so much press attention—even, for heaven's sake, some Presidential mentions. In both chambers, specific members—Bradley in the Senate and Gephardt in the House—were appointed by the leadership to come up with alternative budget proposals, but this hasn't stopped others, and alternatives are being drawn up in several quarters. They have many common elements: on taxes, repeal the third year of the individual tax cut or make it contingent upon certain economic conditions or replace it with indexing, or repeal the indexing that was enacted last year, and cut back on some of the tax credits for business enacted last year; cut defense spending; on domestic spending, ease up on some of Reagan's proposed cuts—particularly in the areas of education, job training, and nutrition—and perhaps cut back on the cost-of-living increases in such entitlement programs as Social Security, civil-service retirement pay, and veterans' pensions. These cost-of-living increases have outrun inflation, and are more generous than those given government—or even many private—employees. In many respects, the Democrats' alternatives to the Reagan budget resemble the Republicans' alternatives. But a number of Democrats do not want to find themselves endorsing a bipartisan compromise without having proposed an alternative that sets them apart as Democrats. They want to be able to say that the compromise they endorsed was not their first choice but the best they could get. Some Democrats question whether they can reach a consensus on any list. Several Democrats, after all, freely and happily participated in giving some of the tax breaks to business last year.

The swirling about in the House of a number of people working on their own or in various groupings—devising their own budget and tax proposals, circulating them among their colleagues, holding meetings—is in part a reflection of the nature of the House, in part a deliberate strategy. Reaching any consensus would of course take time, and many Democrats have been in no rush. Some House Democrats are also waiting for a clear sign that Republicans in the Senate will in fact be able to pass some modification of last year's tax cuts or take the hard steps on entitlements. They are not interested in doing these things themselves if the effort is futile. Most of the activity in the House has been among the younger, brighter members. James Shannon, of Massachusetts, a twenty-nine-year-old liberal member of the Ways and Means Committee, has drawn up a tax proposal and is working on it with young Ways and Means colleagues such as Gephardt, who is forty-one, and Thomas Downey, of New York, who is thirty-three, and with Leon Panetta, of California, who is forty-three and serves on the Budget Committee. Panetta has been a ringleader among those who feel that, come what may, the Democrats have to have offered an alternative that is Democratic, and he has been working on a budget alternative with three other Budget Committee members: Norman Mineta, of California, who is fifty; Timothy Wirth, of Colorado, who is forty-two; and Gephardt. Panetta said to me recently, "If we don't get some alternatives out there soon, all we will do is react to what comes along, and it would probably cut some things some of us would like to protect. I think we'll drop the ball if we don't act soon." Panetta says that he is not concerned about the political risk of offering alternatives. "I think, if you're facing the kind of economic situation we are, that if we deal with raising additional revenues in an honest way and Reagan accuses us of being 'revenue raisers' or 'cutters of defense,' that's a battle we can take on. We can say he didn't have the guts to take these things on and we did have the guts to take them on." Les Aspin, of Wisconsin, who is forty-three and is an expert on defense and a very smart man, and is also a member of the Budget Committee, is working on his own budget alternative. And Wirth and Gephardt are drawing up the long-term economic proposals.

But the big problem the Democrats have is that many members are still afraid of Reagan. They study the polls night and day, and they see that his program is unpopular and that people feel it's inequitable, but they fear his rhetoric if they vote to "cut defense," "raise taxes," or even do something he is privately said to favor—cut the cost-of-living increases. (While there is a lot of brave talk about reducing cost-of-living allowances, if Congress actually did so in an election year it would be something of a miracle.) So even if the Democrats could agree among themselves, many of them are not willing to negotiate simply with the Republican congressional leaders—they want the President "on board" this time. They remember last year, and they fear this fall. They respect Howard Baker, of Tennessee, the Senate Majority Leader, and Pete Domenici, of New Mexico, the chairman of the Senate Budget Committee, and Robert Michel, of Illinois, the House Minority Leader, but feel that these men cannot give them enough political protection. They also recall that last year these men had their own difficulties holding Reagan to what they thought was an agreed-upon course. One House Democrat said to me, "If I go to my district and I'm accused of cutting defense and raising taxes and cutting cost-of-living allowances, it won't do me enough good to say that so did all those Republicans. If you ask someone in my district, 'Who's Pete Domenici?,' they think he plays shortstop for the Yankees. The *President* is the Republican Party in my district. So the President has to agree to some changes." Another House Democrat said, "No one wants to go over the top of the trenches alone." A House Democratic aide said, "Members of Congress spook easily, so they're looking for some shelter. These aren't good campaign issues—to take away some of the individual tax cut, to say to some businesses, 'We're taking away some of your tax credits.' It's not easy to take things back. We have to create the mood that, as bad as some of the affirmative acts are, inaction is worse. We're not there yet."

A number of Democrats (as well as some important Republicans) have feared that Congress will not be able to reach a consensus on an alternative to the President's program and that the whole budget process will collapse—for which, the Democrats figure, they will also be blamed. Any alternative will still contain a substantial deficit—especially if Congress adopts the economic assumptions of the Congressional Budget Office, which adds thirty billion to the President's original projected ninety-billion-dollar deficit. (The Budget Office figure even assumes that all the President's proposals are approved, which everyone knows won't happen.) Many members of Congress would simply prefer not to vote for any budget resolution containing a sizable deficit. One House Democrat told me, "I'm not eager to give Reagan the opportunity to say, 'He took away your tax cut, he voted to cut defense, and managed to *increase* the deficit.' " The Democrats' interest in having the President sign on was what led Jones to say recently that the President had to join in the budget-amending process, and led House Majority Leader Jim Wright, Democrat of Texas, to float the idea of an economic summit conference.

O'Neill said to me recently, "The position I'm in today is that if we come up with a program they'll say we're demagoguing—coming up with a program we know won't pass. Fifty percent of my party says let them stew in their own juice. Another group says come up with alternatives. A third says let's go to the President and say the country's in a mess; never mind who got it there. Let's go to Camp David and see how to get the country working." He continued, "We went over there to the White House last year to talk about the tax bill, and the President waved us away. There's no point in going over there if there's not a real dialogue. Last year, they weren't interested in compromising. They wanted their own victories. Every time I extended a hand to the President, the President was set in cement and wasn't willing to compromise. I'm willing to go the Camp David route, but he really believes in the Kemp-Roth approach. I'm not interested in the kind of dialogue we've had with him. I'm not interested in going over there and hearing the story about the fellow with a job who's getting seven Social Security checks, or the welfare lady in Chicago. I don't want to hear those stories. If we can go over there and negotiate, that would be fine."

Both O'Neill and Robert Byrd, the Senate Minority Leader, sensitive to the charge that the Democrats don't have alternatives, have appointed task forces to deal with various subjects. Senate Democrats have task forces on the economy, on unemployment and job training, on housing, on defense, and on interest rates. House Democrats have task forces on the economy, crime, housing, women's issues, long-term economic policy, the environment, small business, and national security. They serve several purposes: they give the leadership something to point to when the press accuses them of having no alternatives; they may in fact provide some alternatives that can be taken to the floor (after being examined by the Party leaders for dangerous thoughts and approved by the Party caucuses); and they give O'Neill and Byrd a vehicle for letting the younger, restive members have a chance at the spotlight. Both leaders are unhappily aware that they are criticized within the Party as not being the most glamorous possible faces to present to the public. Byrd said to me recently, in talking of his task forces, "The leader doesn't need to be a superstar. There are lots of stars in our party. The leader needs to be someone who can marshal the forces and get the proposals out there." He went on, somewhat agitatedly, "The press is always asking, 'What are the specifics?' The Administration has taken months to put together its specifics. We don't have months, or thousands of people with hundreds of computers." He concluded, "We expect to come in with a package that over all will reduce budget deficits, and proposals that from time to time will deal with specifics." O'Neill said to me, "Everybody's coming in here with ideas. Some of them are good, some are harebrained. We're trying to see if we can find some immediate and long-term themes."

The Senate Democrats have been caught up in an argument among themselves not only over whether they should put forth alternative proposals but also over how specific they should be—which, given reality, is actually an argument over how specific they can be. They are considering a rather general set of proposals (the more specific alternative proposals Bill Bradley drew up were rejected by a screening committee headed by Byrd) that would defer the third-year tax cut and defer indexing, and modify the business tax breaks; insist on a review of the defense budget, and say that any restoration of cuts in domestic programs proposed by the President should be offset by cuts in defense; and say something (they disagree on the terms) that calls on the Federal Reserve Board to reduce interest rates. Democrats whose political interests it suits want the alternatives to be more specific. Those whose interests it does not suit—mainly those who are up for reelection this year—are less interested in specificity. The task forces face the same danger any collective congressional enterprise does: that they will have to have the approval of so many people that they will end up as mush, or indiscriminate laundry lists. But the exercise itself need not be meaningless. It is making people think, and ideas watered down along the way are not irretrievable.

The task forces, the ad-hoc groups, the search for legislative alternatives to deal with the present, the search for "new ideas" to propose for the future, and Presidential politics are inseparable parts of the hyperactivity on the part of the Democrats. Some of them are getting into position to run in 1984, some in 1988, and some for as yet undefined future stardom in the Party. The interesting thing is that as one makes the rounds of the Democrats their agendas sound remarkably alike, though their emphases and styles differ. In part, this is because in their search for "ideas" they went out and talked to the same people. In part, it is because they recognize similar vulnerabilities of the Democratic Party. In part, it is because Reagan has helped the Democrats set their agenda—just as they had helped Reagan set his.

The details differ, and sometimes there isn't very much detail, but the numerous Democrats I have spoken with talk of an agenda that includes economic growth and equity (sometimes called "fairness" or "compassion"). They talk, with various degrees of specificity, of finding some formulation for containing wage-price spirals—tax-incentive plans, informal guidelines, new forms of labor-management relations, or what have you. They talk of the necessity for government investment in what they call "human capital"—through more support for education, training in certain skills. They talk of the need for support of "infrastructure"—rebuilding decayed transportation systems, and the like—and of more scientific research. They talk of revitalizing the industrial base and of ways to stimulate and protect new industries and promote exports. Most of them are interested in Felix Rohatyn's idea for a new Reconstruction Finance Corporation, such as existed in the New Deal, to lend money to revitalize old industries and promote new ones. (The question of which industries should be supported is under debate.) And they are interested in the ideas of Lester Thurow, the M.I.T. economist, about revitalizing the economy by shifting from "sunset" to "sunrise" industries. They talk about the new high-technology industries as the sources of new jobs. They are all, of course, for job creation, but have varying degrees of vagueness about how it is to be accomplished; some see it happening through "macro" improvements in the economy—that is, through the jobs that will result from growth—and some have more specific proposals. All of them talk about creating jobs through private enterprise, not through government. Public-employment programs are out of style. The Democrats recognize that they have to demonstrate that their party can be fiscally responsible—and think that Reagan is being helpful in this regard. They recognize that it must show that it is not for being "weak" in international affairs—and think that Reagan's conduct of foreign policy, and the proportions of his military buildup, are helpful here, too. They talk of being for a strong defense but a "lean" one, and they think they can argue that the conduct of foreign policy need not be so confrontational, and that they have a good argument for arms control. They accept that there must be a weeding out of government programs, a combining of some, and a turning over of some to the states. They acknowledge that regulation got out of hand. They are prepared to talk about the "New Federalism," but not on Reagan's terms, which they see as simply a vehicle ("Trojan horse") for ending important federal responsibilities. Because of what they see as the "radical" nature of Reagan's program, they feel they must stress that there is an important role for the federal government—and must define that role.

To state these propositions, of course, is not to be prepared to implement them. There are many very hard questions involved. How to provide growth, how to administer a wage-price policy, whether there are some tradeoffs between growth and equity, how to deliver government services with less government are among the hardest questions there are. It is a lot easier for these people to define what is wrong with Reagan's economic policy than to set out what theirs would have been—in the main because "stagflation," a relatively new phenomenon, doesn't seem to lend itself to known formulas. There is no reason to expect the Democrats to be agreed on the details of what they would do until they get closer to the Presidential election and their "definers" emerge. That's how it works. In fact, there is a danger that the Democrats will strain too hard for the details now—they could find themselves splitting hairs and making laundry lists, at the expense of developing their themes and figuring out how to get them across. The New Deal was invented after 1932. This country doesn't have party government, after all, and it's hard enough to get a party platform together when the stakes are higher and the key participants are fewer and have more leverage.

The probable Democratic Presidential aspirants are dealing with the Democrats' dilemma in different ways, as befits their instincts, their styles, and their situations. Kennedy is doing what he has done in the Senate over the years—slogging away on legislative issues. Among the other things, he has persuaded Dan Quayle, a conservative Republican senator from Indiana, where unemployment is at devastating levels, to co-sponsor a job-training bill. He is still fighting in the Labor and Human Resources Committee to keep the structures of certain programs in place, awaiting better times. He has kept up fights on human rights, and has argued for arms control and sponsored a resolution urging a joint United States-Soviet freeze on nuclear weapons. "We need new answers for the eighties," he said, "but they have to be rooted in fundamental values—equity, fairness, nondiscrimination." After going through the list of issues he is involved in—and with Kennedy the list is always long—he said that the answers for the eighties are not the answers for the sixties but that the values must remain constant. As he has been doing for years, he has been holding meetings at his home in McLean, Virginia, every week or two with experts in one field or another, and in recent weeks he has held them on industrial policy, on human resources and economics. He declares himself ready to close out some federal programs and put others in block grants, but he has disdain for Democrats he sees running away from their party's roots. Kennedy does not go on the assumption that if the economy comes unglued the country will turn to the Democrats. He says, "They have to be able to persuade the American people that they can govern, and govern effectively."

Walter Mondale, like Kennedy, stresses experience, and, like Kennedy, is more comfortable than some others with talking about old values. He is ready to allow that some things went too far under the Democrats. He has been speaking out against the Reagan economic policy, the budget cuts "that rob us of our future." He has been critical of the Reagan foreign policy, and all the rest. But he has found, he said, that when he is asked about his alternatives and he lists them, "I get a feeling that nobody's listening—that there's something unsatisfying about an eighteen-point program, and that the debate has to be at a different level." And so he has decided to take the attack to Reagan on another question. "I think we should begin by having a debate over what role the federal government ought to play," he said. "I find that the lack of discussion of that leaves people cold, and when you do talk about it, as I have recently, people get stirring. Once you get that going, you can do other things. We've lift the fundamentals undebated." So he goes back to the fundamentals—saying that our Founders created a new nation not just for the common defense but for the general welfare—and attacks Reagan's "social Darwinism." He has his specifics on taxes and productivity and the Pentagon budget, energy, the environment, immigration, federalism, foreign policy, arms control, and he cites them, but he has concluded that, for all the press talk about "alternatives," this isn't what people want to hear about right now—or not before the broader case has been made.

Senator John Glenn, Democrat of Ohio, has his list of things that should be different, and he presents himself as a safe man of the middle. "But," he said, "when you're out speaking right now people are so fearful about the economy that you have to address that." On the Saturday before we talked, Glenn had spoken in Topeka and, he noticed, had got the largest hand when he said that the President could no longer dodge responsibility for what was happening to the economy.

Robert Strauss, who insists he is not interested in the Presidency, and is partly believed, said that the problem is that the Democrats haven't yet figured out how to make a good case. "It's not a question of new ideas," Strauss said. "It's a question of old goals and listing goals and bringing those goals closer to reality. Of course we regulated too much, and promised too much; we have to figure out how to get at it more effectively. The American people like Reagan's goals, but they don't like Reagan's programs. They don't like welfare cheaters and don't want the government on their backs. We have to talk about how we can fix these things without throwing out the whole programs. There were a lot of things wrong with the F.B.I., but we didn't throw out the F.B.I. I don't think that we ought to feed every ——, but we should have a food stamp program, and I'd rather feed too many than too few. That's what I've been telling some business groups. That's the sort of thing we have to say."

Alan Cranston, Democrat of California, and the Senate Minority Whip, is toying with a Presidential campaign. Cranston has long worked hard on Party issues and strategies—and fund-raising—within the Senate, and wants to try out in public. His themes are much the same as the others', and he proposes that the independence of the Federal Reserve Board be removed.

Senator Gary Hart, Democrat of Colorado, being of a newer generation of politicians than most of the other possible candidates, said that the time has come for the newer generation to take power. Hart is willing to talk about what programs should be preserved, but, like others with whom he has joined up in a sort of floating seminar, he would clearly prefer to talk about new subjects. He and Bradley and Gephardt and Wirth are part of a group that meets frequently with outside experts. Hart said he is convinced that the Democrats, in their efforts to address social issues, lost the initiative in the areas of economic growth and national defense. He also believes that the way to the White House is to frame the national agenda. He said, "I think the next election will go to the person who has the best ideas, rooted in the traditions of the Party, and understands the complexities and nuances of the eighties and nineties, and discusses the intellectual strategies in some new ways." The term "neo-liberal" has been applied to Hart's group, but Hart rejects it, and so does Wirth, on the ground that it sounds opportunistic and apologetic. Gephardt is not comfortable with the term, either. Bradley says that he would prefer to be called "a Democratic pluralist." Hart has published "issue papers" on defense and on the economy, and is working on one on energy, and has hit on the strategy of offering "issues support" to congressional candidates. He gives them his papers and sends them weekly mailings on issues, as a way of helping them, building credit, establishing himself as a candidate of ideas, and getting his ideas cited.

Gephardt and Wirth, in their effort to come up with a task-force report on long-term strategy, have focused on high technology, computers, "the information society," and so on. They and their like-minded colleagues are obviously talking about interesting things, and important things, but they run the risk of a seeming disjunction between what they find so interesting and what is troubling the public. They will sit still for questions about how to get from here to there but would much prefer to think and talk about there. This group is referred to by some members as "Atari Democrats." Many other Democrats, including some of the most conventional ones, are also concerned about how to protect the semiconductor industry from losing out to the Japanese, and talk of the need to train people to work in high-technology industries and with high-technology products. They have met with experts on Japanese industry, and several have gone to Japan. They have focused on small business as the major source of innovation and creator of jobs—and they cite figures that are not as new, or undebatable, as they seem to think. Democrats' interest in high technology and small business in part comes from their sense of the need to get on with the new, and in part it is a reaction to pressures from the high-technology industry for tax credits and other incentives for research and development (which were awarded in last year's tax bill), and for protection. And in part it stems from an eagerness to peel away from the Republicans the campaign contributions of some industries and to find new ways to appeal to the middle class. "Issues" and constituencies are closely related subjects. The paper that Wirth and Gephardt are working on has gone through several revisions, having at one point veered toward sounding as if it were suggesting that we could be a nation of Route 128s and Silicon Valleys, with two computers in every garage.

Other Democrats think that it is all right if the search for the new goes on, as long as the Party does not adopt what one terms "the cult of the new." They think that it is fine for the Party to freshen its face, and seem modern, but they are not convinced that some of the more exotic pursuits have much to do with reaching the people or governing the country. One Democratic leader, who declined to be named, said to me, "I think it is relevant that they are doing it; I'm not sure that what they are doing is relevant." The soul of the Democratic Party is not in microchips. The "information society" doesn't say much to an unemployed steelworker in Gary, Indiana. (I talked to one young, new Democrat for an hour and a half about the Democratic program, and he never mentioned the current unemployment or the fact that people are getting hurt.) The danger of Democrats' rushing excitedly from meeting to meeting with experts is that they will come up with their own Arthur Laffer. Some of the popularizers that they read make it all sound pretty easy. Dale Bumpers said, "We've got some good thinkers in the Democratic Party and some good thinkers that talk to the Democratic Party. But those outside people don't have a corner on the problem. One of the things that worry me is that some of these people want to do what the Reagan crowd has done, and that is throw the baby out with the bath. We don't want to walk away from the past, and can't avoid the hard work of sorting out the past."

If the Democrats can get beyond their fixations on old versus new and past versus future, they will be onto something. The instinct that tells Democrats that they must appear new and fresh is not unfounded, but it can lead them into trendlines and unrooted, untested thoughts. Some of the Party's best ideas are old ones, and need renewal. There is also the danger of walking right back into the special-interest state. There is plenty around to refurbish and renew and to offer the country. "I don't want new ideas," a nonpartisan friend of mine said recently. "I want sanity." What the people want, my nonpartisan friend said, is "a lean, humane government." He added, "Fairness is not a new idea. Steadiness in foreign policy is not a new idea. Arms control is not a new idea." The Democrats are going through a healthy process. And for so many politicians to find time to think beyond next week is unusual. There is a great deal of talent within the Party. Lack of ideas is not the problem. As the 1984 election gets nearer, the themes and the rhetoric will be better defined, and some people will be better at getting across than others. And, just as in 1980, how they fare will be determined as much by what the other fellow does and says as by what they do and say—and by things over which neither has any control.●

THE BALANCED BUDGET-TAX LIMITATION CONSTITUTIONAL AMENDMENT

● Mr. ROTH. Mr. President, today I added my name to the list of cosponsors of Senate Joint Resolution 58, the Balanced Budget-Tax Limitation Constitutional Amendment. We need this amendment for two crucial reasons. First, we need to stop those who would allow burdensome taxes to increase in future years as they have in the past.

Second, we need to give Congress the kind of discipline which will be essential in coming years to hold down the growth of Federal spending and to protect the healthy economy which we laid the groundwork for last year.

I have said many times that a balanced Federal budget should not be the goal of our economic policies. Deficits are only the symptoms of an unhealthy economy. Our goal should instead be to create a vigorous, healthy economy. Balanced budgets will result only if we promote economic growth and reduce the growth of Federal spending.

Mr. President, not quite a year ago, we passed an economic plan which puts into place exactly the kind of policies we need to promote this economic growth. Last year, it appeared that the Congress finally agreed that it is both bad policy and unfair to permit the kind of silent tax increases which have occurred in recent years. The policies of past years, of allowing revenues to increase, ostensibly to balance the budget but in reality to encourage more and more spending, have clearly not worked. I will, of course, continue to fight any violation of the fundamental tax policies we passed last year. What concerns me even more than current threats to these policies however, is how we can protect these gains made in the Reagan economic plan so they are not eroded in future years. Section 2 of this amendment would prohibit the increase of revenues without express approval by the Congress. I believe this section is another important safeguard to protect these gains.

Mr. President, some concerns have been raised as to whether it is proper to amend the Constitution with economic policy. I think it is particularly appropriate to include this amendment in our Constitution. After all, unjust taxation, as we have all learned in grade school, is the fundamental reason we are a nation today.

Concern have also been raised as to the role of the courts in enforcement of this type of amendment. Based on the hearing testimony and extended discussions on this point, I believe it would be exceedingly unlikely for the courts to interfere. Clearly, such interference would be inconsistent with constitutional doctrine. However, I do believe this is such a sensitive area that additional clarifying language may be called for. I may propose such language when the bill is considered on the floor.

This amendment will have immediate and long-term effects. The business community, which has experienced such a crisis in confidence in recent months, should view this resolution as embodying the kind of stable, long-term economic policy which is needed for investment. Further, although some level of deficit spending may be necessary in the near term, as pro-spending policies of the past are phased out, the enactment of this amendment will be a tremendous asset toward maintaining balanced budgets in future years.

Mr. President, I know that we owe a great debt of gratitude to the Judiciary Committee and particularly Senator THURMOND and Senator HATCH for their work on this resolution. I urge support for this resolution from my colleagues in the Senate and hope that prompt floor consideration of this resolution is possible.●

JACK WILLIAMS, NEW PRESIDENT OF NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION

● Mr. PRYOR. Mr. President, today I rise to pay tribute to an outstanding Arkansan, Mr. Jack Williams of Texarkana, who has recently been elected to head the 918-member National Rural Utilities Cooperative Finance Corporation.

Founded in 1969, the CFC is a nonprofit cooperative financing institution that provides its member systems with an independent source of loan funds as a supplement to loans made by the Rural Electrification Administration in the U.S. Department of Agriculture.

The CFC is owned entirely by its member rural electric systems that provide electric service to consumers in predominately rural areas of the United States.

Jack Williams comes by his interest in and service to electric cooperatives very naturally. His father, the late W. E. Williams, known as Mr. Emmett to his many friends, was an incorporator of the Southwest Arkansas Electric Cooperative and served as its first and only president until his death in 1973. Jack was named to the board on January 26, 1974, and has served as secretary-treasurer since that time.

They say if you want a job done, then find a busy man to do it. This is certainly the case with Jack Williams. In addition to his involvement with the CFC and REA, he is a director and past president of the Arkansas Cattlemen's Association and has served on the national board of the American National Cattlemen's Association.

He has also served as a director of the Arkansas Soybean Association, the Arkansas Fair Association, the Four-State Fair Association, the Miller County Soil Conservation Service, the Texarkana National Bank, and the Saint James School Board.

He has served as president of the Miller County Levy Board and has been an active member of the Red River Commission Board, the Miller County Farm Bureau, the Arkansas Agricultural Council, the Texarkana Chamber of Commerce, and the Southeastern Pecan Growers Association.

He is in the middle of a 10-year term on the University of Arkansas Board of Trustees.

With all of these activities, Jack would find time to practically move to Little Rock for weeks on end to work as my legislative assistant when I was Governor of Arkansas.

When recognizing Jack Williams, it is also important to recognize those people who are so close to him and who are willing to share him with his community, State, and country—his lovely wife Jean and his children Whitney and Jackson.

As you may be able to tell, Mr. President, my association with Jack Williams goes back a long way—to our days at the SAE fraternity house at the University of Arkansas—and I hold his friendship in very high regard.

In fact, his friendship, support, advice and counsel, over the years, have had a great deal to do with the position I am fortunate enough to hold today.

I hope my colleagues will join me in wishing Jack well as he undertakes this new responsibility with an organization that means so much to the rural citizens of this Nation.●

HELPING THE HANDICAPPED

● Mr. STAFFORD. Mr. President, I would like to bring to the attention of my fellow Senators an editorial by Marvin Stone entitled "Should We Cancel Hope?" from the March 29, 1982, edition of the magazine U.S. News & World Report.

Mr. Stone examines the positive impact of Federal support for handicapped children. Mr. Stone reached conclusions that I have held for a long time: That our investment in vocational rehabilitation programs and the Education for All Handicapped Children Act are investments in our future.

Without these programs, many of our handicapped citizens would be totally reliant on welfare. With the programs, we are able to help many of these special individuals become taxpaying citizens.

I recommend this editorial to my colleagues and request that it be printed in the RECORD.

The editorial follows:

SHOULD WE CANCEL HOPE?

By Marvin Stone

The school sits on a windy hillside 20 miles from town—a row of minimal cottages, a dining hall, a tool shop, a gymnasium, a building for classrooms, and a small, remodeled farmhouse that serves as headquarters.

It looks poor, but, in the things that count, it is rich. There, some 45 of the country's 9 million troubled teenagers are learning hope, where none existed before, and trust for fellow human beings, which they had tragically lost.

Authors of this achievement are a group of totally dedicated specialists, educated precisely for careers in rescuing emotionally handicapped young people. Timber Ridge, operated near Winchester, Va., by the Leary Educational Foundation, stands as an example of what can be done. But Timber Ridge is one of fewer than 100 such schools in the U.S. accredited by the National Association of Private Schools for Exceptional Children.

Timber Ridge and its kind, instead of multiplying to fulfill more of their urgent function, might disappear. Two federal programs from which the states dole out their operational support are marked in the administration's budget plan for a reduction of about 30 percent. The educators who run Timber Ridge say that a cut of such size could destroy their school. It is important to understand what would be lost.

Contributing Editor Turner Rose, who visited Timber Ridge recently, reports that young people are referred there by school or welfare authorities when they can no longer be accommodated in their home communities. Most have blundered into trouble. Many, if not accepted by Timber Ridge, would go to correctional institutions, where the things they might learn would be very different.

Youths accepted there are those who are physically able and possess the minds to make it in the world. They arrive to rugged conditions: "We don't promise them a bed of roses." But they get the guidance and sympathy of the staff, 1 teacher to every 5 students.

These boys and young men now dare to entertain ambitions. Some would like to go to college, as predecessors have done. Others want to go back to public school. One is aiming for the Army, and experience in computers. One would be a mechanic like his brother. One sketches, and is pointing toward commercial art. One hopes to earn money for classes in fashion modeling; if he doesn't realize that goal, he will learn a trade.

They have learned to talk about the troubles that brought them to Timber Ridge: "It's hard to be a kid, especially if you don't have any parents. It's hard finding anybody you can trust, to spill your guts to." This youth and the others say they have found somebody to trust at Timber Ridge. Another confides that, back home, "the others picked on me in school. I fought back and got in trouble." Some have parents in jail, some have been on drugs. But nearly all who have been at Timber Ridge for a while believe they can put those problems behind them now.

Public funds pay only for tuition. For a minimum plant and maintenance and equipment, such schools as Timber Ridge have to rely on gifts of money and goods. But the financial balance sheet on education of the handicapped in general might be better understood in the light of recent testimony before a congressional committee. Concerning a typical recipient of aid:

"His specialness has cost the taxpayers about $44,000 so far. . . . By getting the help he needs now, he will not later need SSI, special housing, food stamps, medicaid. . . . He will pay taxes, probably at least $80,000 worth if he worked for 40 years at a minimum wage. . . . And society will realize an additional saving, 4 million dollars, the current cost of institutionalizing a handicapped person for life."

So, in the national picture and the long view, where does the better choice lie? Well over half the members in both houses of Congress have signed a letter to President Reagan asking restoration of the aid that would save the schools like Timber Ridge.●

THE APPOINTMENT OF A NEW CHIEF FOR THE SOIL CONSERVATION SERVICE

● Mr. HUDDLESTON. Mr. President, it is my understanding that the retirement of Mr. Norman Berg, Chief of the Soil Conservation Service, is to be announced this week.

Mr. Berg started his career with the Soil Conservation Service in 1943. Over the years, he has served in many positions both in the field and in Washington. Mr. Berg's experience, commitment, and record of achievement as a professional conservationist are consistent with the background of his predecessors.

It is my belief that the Nation's farmers have benefited from the Soil Conservation Service's tradition of professionalism.

I have learned with regret that the administration proposes to end this tradition of professionalism by appointing someone as Mr. Berg's successor, who has very little conservation experience. Others share my concern.

Two of our colleagues, Senator Jepsen, chairman of the Subcommittee on Soil and Water Conservation of the Committee on Agriculture, Nutrition, and Forestry, and Senator Melcher have written to Secretary Block asking him to continue the tradition of having someone with extensive conservation experience hold this important position.

I encourage the President and Secretary of Agriculture to seriously consider the advice offered by my colleagues. If that advice is not heeded, I hope this incident does not set a precedent for the politicization of positions that have been held by career professionals in previous administrations.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the Record at this point the notifications which have been received. The classified annexes referred to in several of the covering letters are available to Senators in the office of the Foreign Relations Committee, Room 4229 Dirksen Building.

The notifications follow:

Defense Security Assistance Agency,
Washington, D.C., March 8, 1982.
In reply refer to: I-00417/82ct.

Hon. Charles H. Percy,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-44 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Israel for defense articles and services estimated to cost $47 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

James H. Ahmann,
Lieutenant General, USAF.

Transmittal No. 82-44

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Israel

(ii) Total estimated value:

	Millions
Major defense equipment[1]	$43
Other	4
Total	47

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two hundred Improved-HAWK air defense missiles and support.

(iv) Military department: Army (XQR)

(v) Sales Commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: March 8, 1982.

Policy Justification

ISRAEL—IMPROVED-HAWK MISSILES

The Government of Israel has requested the purchase of 200 Improved-HAWK (I-HAWK) air defense missiles and support at an estimated cost of $47 million.

This proposed sale is consistent with the United States policy of ensuring that Israel has the means to defend itself within secure borders should it become necessary.

The Government of Israel has requested these missiles to supplement its current level of supply, ensuring an adequate war reserve and adequate missiles for annual training requirements.

The acquisition of these missiles by the Israeli military forces would not have an appreciable impact on the balance of forces in the region.

The prime contractor for this missile is the Raytheon Corporation of Andover, Massachusetts.

Implementation of this sale will not require the assignment of any additional U.S.

Government or contractor personnel to Israel.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Defense Security Assistance Agency,
Washington, D.C., March 15, 1982.
In reply refer to: I-00204/82ct.

Hon. Charles H. Percy,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-48 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $426 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

James H. Ahmann,
Lieutenant General, USAF.

Transmittal No. 82-48

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Egypt.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$350
Other	76
Total	426

[1] As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of articles or services offered: Two hundred and twenty M60A3 tanks with tank thermal sights and smoke grenade launchers, 23 M88A1 tank recovery vehicles, communications equipment, basic load and training ammunition, support equipment, spare parts, training, and required services.

(iv) Military department: Army (UDV, UDW, UDX, UDY, and UEA).

(v) Sales Commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Tanks—Included in report for quarter ending 31 December 1981. M88A1—Case not included in Section 28 report.

(viii) Date report delivered to Congress: March 15, 1982.

Policy Justification

EGYPT—M60A3 TANKS AND M88A1 TANK RECOVERY VEHICLES

The Government of Egypt (GOE) has requested the purchase of 220 M60A3 tanks with tank thermal sights and smoke grenade launchers, 23 M88A1 tank recovery vehicles, communications equipment, basic load and training ammunition, support equipment, spare parts, training, and required services art an estimated cost of $426 million.

The proposed sale is consistent with the American foreign policy and national security objectives of assisting the GOE in its program of modernizing its armed forces so that it may provide for its own security and self-defense and contribute to regional security and stability. A strong and independent Egypt will be able to participate in the Middle East peace process and resist incursions of Soviet client states in the region.

The GOE will use these M60A3 tanks and M88A1 tank recovery vehicles to replace a like number of aging Soviet-origin vehicles that are becoming obsolescent and unmaintainable because of the non-availability of spare parts. This is part of a large-scale military modernization program that has included the purchase of 439 M60A3 tanks and 86 M88A1 tank recovery vehicles prior to this request.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Chrysler Corporation of Warren, Michigan, for the tanks and the Bowen-McLaughlin-York Company of York, Pennsylvania, for the tank recovery vehicles.

Implementation of this sale will require the assignment of a small number of U.S. Government or contractor personnel to assist in the delivery of these tanks to Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Defense Security Assistance Agency,
Washington, D.C.,
March 23, 1982.
In reply refer to:
I-00103/82ct.

Hon., Charles H. Percy,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-29, concerning the Department of the Air Force's proposed Letter of Offer to Turkey for defense articles and services estimated to cost $57 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

Walter B. Ligon,
Acting Director,

Transmittal No. 82-29

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Turkey.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$0
Other	57
Total	57

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Modernization of 13 Ground Control Approach (GCA) Radars which will include equipment to modify existing tube-type GCA Radars to provide maximum solid-state circuitry for Precision Approach Radars, Airport Surveillance Radars, and associated subsystems; installation of new BEACON/IFF, air conditioning, and radios; and reconditioning of equipment and antennas.

(iv) Military department: Air Force (DAG).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 31 December 1981.

(viii) Date Report Dlivered to Congress: March 23, 1982.

Policy Justification

TURKEY—GROUND CONTROL APPROACH (GCA) RADAR MODERNIZATION PROGRAM

The Government of Turkey has requested the modernization of 13 GCA Radars which will include equipment to modify existing tube-type GCA Radars to provide maximum solid-state circuitry for Precision Approach Radars, Airport Surveillance Radars, and associated subsystems; installation of new BEACON/IFF, air conditioning, and radios; and reconditioning of equipment and antennas at an estimated cost of $57 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Turkey needs this modernization program to maintain the operation of Turkish Air Force systems of United States origin. The GCA Radar modernization program will be provided in accordance with, and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. The sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

Procurement of these items and services will be from the United States Air Force and the many contractors providing similar items and services to the U.S. forces.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor representatives to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Under Secretary of State For Security Assistance, Science, and Technology,
Washington, March 15, 1982.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of the modernization of 13 Ground Control Approach radars is consistent with the Principles contained in section 620(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

James L. Buckley.

Defense Security Assistance Agency,
Washington, D.C., March 23, 1982.
In reply refer to: I-00200/82ct.

Hon. Charles H. Percy,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to the reporting requirements of Section 36(b) of the

Arms Export Control Act, we are forwarding herewith Transmittal No. 82-49 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Korea for defense articles and services estimated to cost $81 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL NO. 82-49

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Korea.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$62
Other	19
Total	81

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Twenty-six AN/TPQ-36 mortar locating radars with related support equipment and services.

(iv) Military Department: Army (WZB).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending December 31, 1981.

(viii) Date report delivered to congress: March 23, 1982.

POLICY JUSTIFICATION

KOREA—AN/TPQ-36 RADARS

The Government of Korea has requested the purchase of 26 AN/TPQ-36 radars with related support equipment and services at an estimated cost of $81 million.

This sale will contribute to the foreign policy objectives of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for modernization and progress in eastern Asia. The sale of this equipment and support will enhance deterrence and contribute to the preservation of peace and stability on the Korean peninsula.

The purchase of the radars and support will provide the Korean Army an automated capability for locating hostile mortars. As such, it will enhance the effectiveness of Korean counter-mortar fire.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be he Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of two U.S. Government or contractor representatives to Korea for 15 days to provide quality assurance.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., March 23, 1982.
In reply refer to: I-20042/82.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-50 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Egypt for defense articles and services estimated to cost $1.4 billion. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL NO. 82-50

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Egypt.

(ii) Total estimated value:

	Billions
Major defense equipment [1]	$0.8
Other	0.6
Total	1.4

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Forty F-16 tactical fighter aircraft with 40 AN/ALQ-131 Electronic Countermeasure pods, initial spare parts and support equipment, depot repair capability, 15 spare engines, ancillary support, and training.

(iv) Military department: Air Force (SPA and YBR).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending December 31, 1981.

(viii) Date report delivered to Congress: March 23, 1982.

POLICY JUSTIFICATION

EGYPT—F-16 AIRCRAFT

The Government of Egypt (GOE) has requested the purchase of 40 F-16 tactical fighter aircraft with 40 AN/ALQ-131 Electronic Countermeasure pods, initial spare parts and supporting equipment, depot repair capability, 15 spare engines, ancillary support, and training at an estimated cost of $1.4 billion.

The proposed sale supports the American foreign policy and national security objectives of assisting the GOE in its program of modernizing its armed forces so that it may provide for its own security and self-defense and contribute to regional security and stability. A strong and independent Egypt will be able to participate in the Middle East peace process and resist incursions of the Soviet client states in the region.

The GOE will use these F-16 aircraft to replace aging Soviet-origin equipment that is becoming obsolescent and unmaintainable because of the nonavailability of spare parts. This is the second request to acquire F-16 aircraft; 40 were previously purchased.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation of Fort Worth, Texas.

Implementation of this sale will require the assignment of a modest number of U.S. Government or contractor personnel to Egypt to assist the Egyptian Air Force in achieving self-sufficiency in operating and maintaining these aircraft.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

RAMSEY CLARK

● Mr. SYMMS. Mr. President, it is not always easy to be 100 percent sure who America's friend and foes are—at home or abroad. But there are ways to tell the "good guys" from the "bad guys."

For more than a decade, one of the most reliable has been the Ramsey Clark litmus test. When the former Attorney General goes abroad on a "fact-finding" mission and returns to sing the same old tune about discovering another bunch of "reformers" who do not mean us any harm, you can be sure we are dealing with enemies who are hostile to the interests of this Nation—and the welfare of their own people.

Ramsey Clark has developed an almost uncanny ability to defend the indefensible in every corner of the globe. On two of his famous "fact-finding" missions, Clark discovered that North Vietnam's Ho Chi Minh and Iran's Ayatollah Khomeini were "good guys." Now that he has returned from Nicaragua singing the praises of the Sandinistas, can anyone still doubt that they are foes of the United States who are dedicated to the destruction of freedom in Central America?

Mr. President, I call my colleagues' attention to a very perceptive editorial on Ramsey Clark's latest escapades which was recently published in the Idaho Press Tribune. I submit for the RECORD this fine editorial.

The editorial follows:

PUT CLARK TO REST

It's time to relegate Ramsey Clark to the Museum of Natural History, where he can rest comfortably with the rest of the dinosaurs.

Clark, you may remember, first became a national figure as United States attorney general during the Lyndon Johnson administration. It wasn't until he left office in 1969 that Clark really made a name for himself, as a critic of U.S. foreign policy.

Apparently overpowered by the pull of the peace and love movement of the late '60s, Clark followed Jane Fonda and other radicals to Hanoi during the Vietnam conflict. Radio Hanoi later broadcast an interview in which Clark condemned the bombing of North Vietnam by the U.S. while praising the "justice and equality" of the communist North Vietnam government.

Then for a number of years the world got along without Clark. He surfaced again in 1980 when he claimed to be a close friend of the Ayatollah Khomeini and dashed off to Iran to use his influence to free the American hostages. Clark was probably a little embarrassed when Khomeini wouldn't let him in the country. He did, however, hold a press conference to tell the world about the merits about the new Iranian government. He was further embarrassed when the wonderful Iranian government started brutally executing thousands of so-called "traitors" without any attempt to give the victims fair trials.

Now we've heard from Clark again. This time he headed for Nicaragua on a "fact-finding" mission to let Americans know how great the Marxist rulers of that country really are. He came back saying the stories of persecution of natives and government aid to rebels in nearby El Salvador just couldn't be true.

Clark said the North Vietnamese were nice guys. The ink wasn't dry on the treaty ending the Vietnam conflict when troops from the country made their move to take over their southern neighbor. Thousands of South Vietnamese apparently didn't believe Clark because they fled their country. Refugees continue to leave with stories of wholesale oppression and brutality.

Clark said the Ayatollah Khomeini was really a fairly nice fellow. We're sure that there are a great many widows and orphans in Iran who will be happy to hear that.

Now Clark is telling us the Nicaraguan leadership is composed of "nice guys" who really want to be our friends. Given his previous track record in finding "nice guys," we'll leave it to the American public to make a judgment.●

THE EFFECTS OF THE REAGAN ECONOMIC PROGRAM

● Mr. LEVIN. Mr. President, in the midst of discussions of macroeconomic theory and alternative Federal budgets, we run the risk of not recognizing the impact of our decisions on a person-by-person basis. I know that President Reagan has said that the media is already focusing too much on the individual impact of his economic policies. But in Michigan, where unemployment exceeds 16 percent, it is impossible to hide from the effects of his program and the individual hardships which it has caused.

The President is fond of citing letters of support for his economic program as a way to refute critics who say that people are being hurt. That is why I thought that he and the Members of the Congress would be interested in reading a letter I recently received from one of my constituents. It shows a typical good, hardworking American—the type of person who President Reagan likes to say has made this country great—being crushed under the weight of current economic policies. I want the President to know that South Succotash is all over this country, and millions are suffering.

The letter follows:

Dear Senator Levin: What I see happening to our country fills me with a fear I've never before experienced; a dreadful fear and an ever-growing anger for which I have no outlet. I feel trapped and I'm ready to fight back.

I was raised to be a hard-working tax-paying, law-abiding, American citizen. I've raised my three sons by the same principles. Now I'm wondering if I've only been foolish.

I feel we're all been used, lied to, and cheated—duped, if you will, by our own government. Freedom and justice for all? The American dream? Where have they gone?

Your voting record shows your understanding of the real world. You seem to be one of the few politicians in Washington who is actually aware of the true economic situation that exists in our area. You have my vote, now I'm asking for your advice.

As you are a busy man, I have eliminated my questions and comments on the following:

1. Tampering with the Voting Rights Act;
2. Unfair taxation of the Amish for the "common good";
3. Tax exempt status for a bigoted institution like Bob Jones University;
4. Changing the quota system for minorities and women;
5. Sacrificing our social programs in favor of defense;
6. Untaxed unregulated foreign imports, putting Americans out of work;
7. Unfair interest rates, unjust tax breaks;
8. The whole question of U.S. involvement in Central America.

I will instead address myself to one single issue—dairy products.

I don't pretend to be brilliant, but if our government is paying the dairy farmers for "over-production," then spending 10-million dollars per month to store it so that the consumer's price doesn't fall too low—are we not, in fact, paying three separate times for the same product? Now that Washington has decided to distribute cheese to the needy, are we not going to pay once again for the distribution of that same product? That is government-controlled inflation unless I'm terribly misinformed or quite stupid.

I was upset about the Polish government raising food prices for their people. Then it dawned on me that our government is doing essentially the same to us. Washington hasn't declared martial-law and attracted media attention, but I'll be damned if the end result isn't the same. Whether by an armed-gunman, or a pick-pocket—you've still been victimized; robbed.

The gap between Communism and Democracy is closing rapidly, and a lot of us are being squeezed to death in the process.

We are middle-American, white, aged 38 and 47, with three teenaged sons and a dog. Just working class people. We have bought American, dialed down, cut down, tightened our belts, and gone without. We've never even had a vacation.

The result is that both my husband and I are unemployed. We lost our American-made Ford Fairmont which my husband helped build. Our utilities have gone up and we can barely afford to buy groceries, or the gasoline to get to the supermarket. We can't send our boys to college. We are faced with the real possibility of losing our home—everything.

Freedom and Justice for all? The American dream? Send my sons to fight for an oppressed people in El Salvador? Aid to El Salvador? No. We are becoming the oppressed, the needy.

I'm giving you my vote. Now you give me some words of wisdom to comfort the proud man in the next room who's worked for 20 years for nothing; the man who is on the verge of tears because another $30.00 has been deducted from his subcheck to pay back TRA. Money to the government—always—money to the government, and we aren't even eligible for the "free" cheese.

Thank you for your time.●

PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the Record in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications have been received.

Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, room 4229, Dirksen Building.

Defense Security Assistance Agency,
Washington, D.C., March 12, 1982.
In reply refer to I-00441/82ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

James H. Ahmann,
Director.

Defense Security Assistance Agency,
Washington, D.C., March 12, 1982.
In reply refer to I-00505/82ct.

Dr. Hans Binnendijk,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear Dr. Binnendijk: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $50 million.

Sincerely,

JAMES H. AHMANN,
Director.●

SARBANES SUPPORTS VOLUNTEER FIRE DEPARTMENTS AND RESCUE SQUADS

● Mr. SARBANES. Mr. President, I want to express my great admiration for the tremendous service being provided in Maryland and throughout the country by the members of volunteer fire companies and volunteer rescue squads. The men and women who serve in these organizations deserve our utmost respect and gratitude. They volunteer their time and energy under demanding and sometimes dangerous circumstances to provide the vital emergency services on which the rest of us depend, and which we too often take for granted.

These emergency services are a basic necessity in every community, and it is important that Government provide the incentives and technical support necessary to insure that volunteer organizations continue to be able to do their job.

I am concerned that proposals being made by the current administration in a number of areas are undercutting the limited but important role played by the Federal Government in supporting those directly involved in providing firefighting and emergency medical services. These concerns include:

The President's recommended budget for fiscal year 1983 calls for the elimination of the U.S. Fire Administration. I have written a letter opposing this proposal to the chairman of the Senate Appropriations Subcommittee on HUD-Independent Agencies. As I indicated in that letter, the Fire Administration has provided a broad range of useful services to local fire departments and has contributed significantly to the dramatic reduction in loss of life due to fire since 1974. There is no reason to believe that the USFA has outlived its usefulness or is no longer needed. Nationally, some 8,700 people die and 300,000 more are injured in fires each year, together with $21 billion in property damage. The services provided by the USFA include the important function of evaluating and disseminating information about new techniques, trends, and problems of interest to firefighters. Most fire departments are too busy with their primary functions to collect and evaluate such information themselves. I would urge the Senate to provide sufficient funding to allow the USFA to continue its important work.

The administration proposes to transfer the public safety officers benefits (PSOB) program from the Law Enforcement Assistance Administration (LEAA), where it has been well administered for 6 years, to the Office of Justice Assistance and Research Statistics (OJARS). As a strong supporter of the original legislation establishing a PSOB, I have written to the Attorney General to underscore my concern that, in spite of the transfer from LEAA, the PSOB program continue to receive both the staff and funding resources necessary to process claims efficiently and to pay full benefits. I have also cosponsored legislation to broaden the eligibility for the PSOB death benefit to include families of public safety officers who die from conditions or stress related to a single incident. The standard currently includes only those whose death is a "direct and proximate result" of the incident.

Finally, I am concerned about the implementation of a section of last year's Economic Recovery Tax Act which provides that the interest on notes, bonds, or other obligations issued by qualified volunteer fire departments be tax exempt. In my view, the Congress clearly intended that this provision apply to volunteer organizations providing either firefighting or emergency medical services. It is my understanding, however, that the Internal Revenue Service is preparing regulations which interpret the law as applying only to fire departments and not to volunteer rescue squads. I have written to the chairman of the Senate Finance Committee requesting that the committee review this situation with the IRS and, if necessary, incorporate whatever technical changes may be required to make clear Congress' intention that volunteer rescue squads qualify for tax-exempt interest on their obligations. I am also working with the Maryland Volunteer Firemen's Association to insure that individual fire companies understand and take the steps necessary to qualify as nonprofit, tax-exempt organizations under section 501(c) of the Tax Code if they elect to do so.

I would urge my colleagues to resist these efforts to undermine the limited but essential Federal role in supporting this country's highly effective system of volunteer fire departments and rescue squads.●

SECOND ANNIVERSARY OF ARCHBISHOP ROMERO'S DEATH

● Mr. KENNEDY. Mr. President, 2 years ago today a horrified world witnessed the brutal assassination of Salvadoran Archbishop Oscar A. Romero, as he offered Mass in San Salvador. It is with great sadness and with deep concern that we remember this tragic event and ponder the course of events in El Salvador since that time.

Hardly a Salvadoran family has remained untouched by the tragedy of that civil strife, with almost 30,000 dead in 2 years and over one-tenth of the population made homeless.

Archbishop Romero spoke out forcefully against the killing of the Salvadoran people at the hands of the oligarchy and its henchmen seeking to maintain an unjust social order. Several times he urged the United States to discontinue its military support of the ruling junta, because he believed that outside arms supplies would only prolong the violence in that war-torn country.

Archbishop Romero knew that he might be killed for his courageous stand in defense of his people. Before he was murdered the Archbishop said:

> As a Salvadoran, I am obliged by divine law to give my life for those I love, for the entire Salvadoran people, including those Salvadorans who threaten to assassinate me. If they should go so far as to carry out their threats, I want you to know that I now offer my blood to God for justice and the resurrection of El Salvador.

As we commemorate Archbishop Romero's life and witness for his people, all Americans should ponder deeply the present course of the American policy toward El Salvador.

The only viable solution to the conflict must be a complete cease-fire and a comprehensive negotiated settlement between the Salvadoran junta and the opposition. In this context I welcome and support the proposals made by Mexican President Lopez Portillo, who has offered to use his good offices and the resources of his government to bring the parties to the negotiating table and to promote a regional solution to the conflict in El Salvador and throughout Central America. On March 18, I cosponsored a joint resolution in support of these objectives, with my distinguished colleagues Senators HATFIELD, WEICKER, and EAGLETON.

Let us heed the appeal of Archbishop Romero, who called for an end to the killing and suffering caused by civil war in El Salvador. Let us join in working for peace and reconciliation in a country too long torn by violence and destruction.●

A NUCLEAR FREEZE IS IN OUR NATION'S BEST DEFENSE, ARMS CONTROL AND FOREIGN POLICY INTEREST

● Mr. KENNEDY. Mr. President, on March 10, Senator HATFIELD and I introduced Senate Joint Resolution 163 for a nuclear weapons freeze, followed by major and stabilizing nuclear reductions. That same day, Secretary of State Alexander Haig called our resolution "not only bad defense and bad national security policy," but "bad arms control policy as well."

Last Monday, March 21, three distinguished former Government and military officials presented testimony to a public forum in the Senate on the Kennedy-Hatfield resolution. With invaluable experience in defense, intelligence, and diplomacy, they explained why they have endorsed the Kennedy-Hatfield initiative and why it is not only good defense policy, but good national security and good arms control policy as well.

Former Under Secretary of State George Ball, who has been involved in the issues of diplomacy and United States-European relations for the entire postwar era, told us that "a freeze is an essential first step," and "its major value lies in providing a starting point for the more fundamental process of phased reductions."

Rear Adm. Thomas Davies spoke from over three decades of experience as Chief of Naval Development in the Department of Defense, as commander of carrier divisions in the Atlantic and the Mediterranean, and as assistant director of the U.S. Arms Control and Disarmament Agency: "The Kennedy-Hatfield resolution that you have introduced for consideration in both Houses seems to me to call for the only rational approach to nuclear weapons."

Dr. Herbert Scoville—former Deputy Director for Research, Science, and Technology of the Central Intelligence Agency, former Assistant Director of the U.S. Arms Control Disarmament Agency, and one of the most knowledgeable experts in the field of verification in the country—made clear that our proposals are adequately verifiable: "In sum, the key elements of any freeze or reductions agreement that might be negotiated can be adequately verified without a requirement for intrusive and unacceptable procedures."

The statements presented by these distinguished Americans all provide compelling testimony that the United States and the Soviet Union should pursue a mutual freeze and major reductions in their nuclear arsenals.

Mr. President, I ask that the full texts of the statements of Secretary Ball, Admiral Davies, and Dr. Scoville be printed in the Record.

The statements follow:

Statement of George W. Ball

The Kennedy-Hatfield Resolution is an effort to impress on Congress and the American people that unless we change our current nuclear policy we have little hope of avoiding a nuclear catastrophe beyond all human imaginings. Our government's approach to nuclear weapons has, for a long while, been unrealistic—reflecting the speculations of nuclear theoreticians whose logic-chopping has been used to justify an accelerating nuclear arms race. Now we are approaching the point of no return.

In government circles one hears increasing expressions of dangerous nonsense which thoughtful men and women had ruled out years ago—that we should regard nuclear bombs as potential weapons of war and not merely of deterrence and prepare our tactics accordingly; that short- or medium-range missiles could be fired without necessarily triggering a full-scale nuclear exchange; that, if we were all to burrow like moles under the ground, many of us could still survive a nuclear war, (though why anyone would want to is by no means clear); and finally, that, as the Vice President himself has said, nuclear wars may be "winnable."

Meanwhile we pursue the false god of nuclear equality (which for all too many means nuclear superiority) demonstrating by dubious sleight-of-hand with numbers that we are dangerously far behind in nuclear arms. Some even look through a "window of vulnerability" as through a glass darkly. The scholastics have devised a vocabulary of their own which obscures thought more than expresses it and not only does that vocabulary need careful scrutiny but we must challenge the intentions of the speakers. When Administration officials proclaim that arms control negotiations should be postponed until we have achieved "a position of strength", they rule out all hope of controlling the arms race, for the Soviets will certainly keep pace with any nuclear breakthroughs—advancing the art and creating new systems to the point where all control becomes impossible.

Though the Administration's statements and policies may not scare the Soviets they certainly frighten our friends. Our European allies are more and more questioning the leadership of a nation whose government seems addicted to a rhetoric even more bellicose than the Soviets' and which seems hypnotized by an illusive "equality". For better or worse, the sensitivity of Europe to the statements and actions of our government has always been a dominating fact of the Western Alliance—a fact that we dare not ignore. Thus we cannot avoid considerable responsibility for the demonstrations in European streets against the implantation of Pershings and Cruise Missiles on European soil. These demonstrations were temporarily halted when the Administration reluctantly began negotiations on this limited area of nuclear policy—but that is only the beginning of the story. As warm weather returns so will the demonstrators and they will continue to gain in noise and number until we begin prompt and serious negotiations to turn back the nuclear arms race all across the board. Do not expect rational argument from the demonstrators.

Aware that Europe has little role in shaping nuclear policy and that their fate is in the hands of an American government that pursues a persistently confrontational course, many young Europeans are turning from logic to emotion, opting, in frustration, for the suicidal policy of unilateral disarmament.

Though European protests have served as forerunners of organized protests just getting underway in America, American expressions of concern have so far been remarkably responsible. As these proceedings today have vividly shown, Americans are becoming more and more concerned at the insensitivity our government has shown toward the nuclear issue. The people are waking up. Americans are famous for commonsense and, though increasing numbers are becoming aware of the slippery slope down which we are sliding, they have avoided the irrational excesses manifested in Europe. I know no American who would save him or her self at the cost of freedom. Yet let us not be too complacent, if America does not soon embark on a serious and realistic arms reduction negotiation, and if our government officials continue to suggest, by word or action, that nuclear bombs are a potential weapon of war, the national outcry may ultimately take a more strident and less responsible form.

That is the significance of the Kennedy-Hatfield Resolution. It gives responsible expression to our imperative need to clear the air of a deceptive dialectical fog. It rejects the contention that we dare negotiate only from what the nuclear pundits call "strength"—which serves as an excuse for not negotiating at all. It provides a sensible alternative to continuing the arms race to the point where the advent of increasingly complex and elaborate new weapons systems will destroy the possibility of verification and thus close off our last clear chance for effective negotiation. It expresses also our need to break free from the deceptive tyranny of numbers and from the metaphysicians who manipulate those numbers and find a new form of negotiation through which serious progress towards arms reduction can be achieved.

By seeking an agreement with the Soviet Union to "achieve a mutual and verifiable freeze on the testing, production, and further deployment of nuclear warheads, missiles and other delivery systems", the United States would quickly reestablish the confidence of its allies now so tragically waning. Even more important, it would restore the faith of rational men and women that our government is earnestly striving to save mankind from its own self-destruction. But though a freeze is an essential first step, its major value lies in providing a starting point for the more fundamental process of phased nuclear arms reduction.

Our disappointing experience has clearly demonstrated that reductions of any significance or magnitude cannot be achieved under a system such as has been used in the SALT negotiations. Under that system the negotiators seek vainly to establish equivalencies of weapons systems—of their warheads, throw weights and other recondite attributes—that in the nature of things cannot be equated. In such an effort, each side is the victim of its own competing vested interests. Each of the American services—the army, the navy, the air force—fights for a larger part of the turf—a greater share in the design and management of nuclear weapons. Each pushes hard for its own weapons system with the support of its own nuclear metaphysicians and engages in reciprocal back-scratching to achieve that end. If SALT II proved anything, it was that a negotiation seeking to satisfy all competitive interests is totally unsuited to achieving effective reductions. After American negotiators have accommodated all these competing baronies and developed a negotiating position complete with fallbacks, they will have jettisoned all possibility of serious progress towards arms reduction.

But how can we avoid negotiating from a base that reflects the collective demands of all the parties involved? America has already developed and successfully demonstrated the answer in our trade negotiations. We must stop trying to measure system against system, throw weight, and embark on a series of phased, across-the-board percentage reductions. Of course, that will upset the theoreticians; such a procedure, they will say, would produce serious distortions and inequalities. One country might end up with more weapons than another in one or more weapons system. But even in a negotiation based on across-the-board percentage reductions, there could be some room for adjusting the most outrageous disequilibria. In any event, that should not prove crucial. Each side already possesses such a massive amount of overkill that a numerical parity in warheads or throw weight or even qualitative advantage loses most of its relevance. As one wise man recently observed, numbers of nuclear weapons would be important were we dealing in tens but they have little relevance when dealing in thousands.

Today the nuclear arms race is not only speeding out of control but out of all possibility of control. One hears talk in Washington circles of casting overboard the few notable achievements of past negotiations such as not renewing the ABM treaty barring anti-ballistic missiles. Given the momentum of technological development, sooner or later there will be pressure to abolish the agreement barring weapons from outer space.

It is already late in the day but we can still interrupt and reverse the nuclear weapons process. Our generation may be the last one offered the chance to shackle the monster that could destroy us all. It is not a chance responsible men and women can neglect.

Statement by Rear Admiral T. D. Davies, USN (Ret.)

Mr. Chairman and sponsors of the Senate Joint Resolution.

It is a privilege to appear before this distinguished group, particularily in view of the subject of this discussion. I speak of course as a private citizen. I will try to express my views on nuclear weapons as they relate to national defense. These views are based upon almost 30 years of active service in the Navy, at sea and ashore and in both operational and technical fields. My experience also covers 7 years in the arms control area, including chairing two negotiating delegations and several National Security Council committees supporting and coordinating negotiations.

The unfolding events since the advent of the nuclear bomb has made it clear that these devices cannot be dealt with as ordinary weapons. The self-penalties for their use are such as to make clear to everyone that use of these devices can only be contemplated in retaliation for such use against us. In other words their utility is as a deterrent to our adversary using them against us. The circular argument that results from this is that the Soviets are deterring us and we are deterring them—a situation that benefits no one but the people who participate in or write about this stand off.

In spite of the astronomical numbers used to express their energy release—and their cost—it is clear to me that any way to exploit these devices to gain advantage for the United States evaporated long ago—with the advent of the Soviet bomb to be specific. Thus their existence and continued development gains us nothing and the risks of their inadvertent use, and their cost in dollars, manpower and talents are of sizeable proportions.

Under these circumstances it seems clear that the only rational approach is arms control—that is by the negotiation of verifiable agreements for mutual freeze and major reductions, to eliminate the endless increases in the numbers of warheads in both the U.S. and Soviet inventories. Thirty odd years ago inventories were measured in tens, today they are measured in tens of thousands, and our national security and our ability to influence world events in our interest have not been enhanced.

The Kennedy-Hatfield Resolution that you have introduced for consideration in both houses seems to me to call for the only rational approach to nuclear weapons. I believe it to be in the national security interest of the United States. Certainly the objective of the U.S. should be to attempt to stop the open ended increases of these dangerous weapons on a mutual basis with the U.S.S.R. The resolution calls for a decision as to when and how to achieve a mutual and verifiable freeze on testing production and deployment. I would add that this should be done "earliest."

This concludes my prepared remarks and I would be glad to answer any questions that you might have in this regard.

Statement by Dr. Herbert Scoville, Jr., Former Deputy Director of the CIA for Research, Science, and Technology

Mr. Chairman, a freeze on the testing, production and deployment of strategic weapons systems can be verified so that we can be confindent that any violation that would significantly affect our security would have a high probability of being detected. Satisfactory verification does not require that any violation, no matter how insignificant, has to be detected as some who wish to foreclose any arms control agreement would like the public to believe. As the US INF negotiator, Paul Nitze testified, verification capabilities should be tailored to the security significance of any violation.

In the freeze certain elements would have a better probability of detection than others. For example, the production of new missiles is harder to monitor with high confidence than their testing and deployment, which can be verified quite easily by national technical means (intelligence). Thus, some uncertainty in production can be corrected by information on the other two phases of the weapons cycle.

Furthermore, a freeze would mean a stop to all activities in any weapons program to be included so that the detection of even one new missile or aircraft would be evidence of a violation. This simplifies the verification over that required for monitoring a ceiling. Thus, a ceiling on deployed cruise missiles might be very hard to monitor, but a total ban on their production and deployment could be verified with high confidence, because the detection of even one missile would be enough to prove a violation.

For both nuclear warhead testing and fissionable materials productions, procedures for verification have been already worked out. The Comprehensive Test Ban Treaty negotiators have agreed on verification arrangements, which include unmanned seismic stations and invitational on-sight inspections. Since both the U.S. and U.S.S.R. have hundreds of thousands of kilograms of weapons grade fissionable material, it is hard to see how any clandestine production that could significantly add to these stockpiles could escape detection by our intelligence.

Big reductions of strategic arms can also be verified. The Standing Consultative Commission after SALT I agreed on ways to monitor by national technical means the destruction of existing strategic delivery vehicles. Procedures were also worked out and tested in the 1960s for the withdrawing and transferring to peaceful programs fissionable material from existing warheads without compromising weapons design information. Of course, any agreement on deep reductions would, to be meaningful, have to include provisions to prevent replacement by new weapons, so the verification would have to include many of the arrangements for a freeze.

In sum, the key elements of any freeze or reduction agreement that might be negotiated can be adequately verified without a requirement for intrusive and unacceptable procedures. The SALT Treaties have already set precedents for solving many of the detailed problems that might arise.

Verification can no longer be legitimately used as an excuse for not proceeding with a freeze and reductions agreement. I believe that a freeze on the testing, production and deployment of nuclear weapons and delivery systems, leading to deep reductions, as expressed in the Kennedy-Hatfield Resolution, is a sound arms control measure which can lead to greater security for all peoples.●

BOSTON GLOBE AND LOS ANGELES TIMES SUPPORT NUCLEAR WEAPONS FREEZE AND REDUCTIONS

● Mr. KENNEDY. Mr. President, since Senator HATFIELD and I introduced Senate Joint Resolution 163 for a nuclear freeze and reductions, there have been increasing expressions of support for this essential initiative to end and reverse the nuclear arms race. I would like to bring to the attention of my colleagues two such expressions, from the Boston Globe and the Los Angeles Times.

On March 15, the Boston Globe editorialized in favor of the Kennedy-Hatfield resolution as a "fitting response" to the Reagan administration's "rearm America" policies. The Globe stated:

> The collective experience of the freeze proponents is important because if lends weight to their argument that the Administration has gone seriously off-course on its approach to defense spending, arms control and European security.
>
> At the least, the freeze proposal has suddenly crystalized into a vehicle for informed debate on the "rearm America" plan. Seasoned experts now have a forum for examining Administration allegations about American weakness and Soviet superiority. As the freeze becomes a nationwide political issue, public attention will focus on their arguments. The freeze is a fitting response to "rearm America." We look forward to this debate.

On March 24, the Los Angeles Times editorialized that both the bilateral nuclear freeze initiative in California and the Kennedy-Hatfield resolution reflect "a growing concern among Americans about the danger of nuclear war—and a growing determination to force the Reagan administration to take the problem more seriously."

> The Administration is finally trying to get together its strategic arms negotiating package so that talks with the Russians can begin by early summer. If there is a heightened sense of urgency, proponents of the Californial initiative and the Kennedy-Hatfield resolution can take a great deal of the credit.

Mr. President, I request that the editorials of the Boston Globe and the

Los Angeles Times appear at this point in the RECORD.

The material follows:

[From the Boston Globe, Mar. 15, 1982]

A WELCOME FREEZE

Almost suddenly, a new political movement is blowing in the wind from coast to coast. It's called the "freeze" movement. It is aimed at persuading the Administration to press seriously with the Soviet Union to agree to an across-the-board halt in the testing, production and deployment of additional nuclear warheads, as a prelude to negotiating major reductions on both sides.

To the amazement of national security specialists and others who have labored for years with little notice in the dusty vineyards of arms control, the freeze campaign looks as if it's going to be a political heavyweight. A few months ago most observers of the American scene would have said that a responsible, credible, politically effective "peace movement" was years away.

The seriousness of the freeze proposal is indicated by those in favor of it at this early stage in the campaign. That list includes a roster of former senior officials in the foreign policy and defense establishments, as well as 18 senators and over 130 representatives.

Another indication of the seriousness of the proposal was the Administration's response when the bipartisan joint resolution was introduced in Congress on Wednesday. The reply from Secretary of State Haig was rapid and negative. The resolution's sponsors, Sens. Kennedy and Hatfield (R-Ore.), countered with an acid statement, saying that Haig "has chosen to misrepresent our joint resolution and then use misleading figures to attack his caricature of our resolution." They challenged Haig to a debate.

Those backing the freeze proposal include these unlikely peaceniks: Daniel Patrick Moynihan, William Colby, George Ball, Warren Christopher, Harlan Cleveland, Clark Clifford, Townsend Hoopes, George Kennan, Averill Harriman, Thomas Watson and Stanley Hoffman. The backers' combined experience in dealing with defense issues—and specifically with the Soviet Union and European security—totals hundreds of years.

The Reagan Administration contends that it knows best about how to deal with the Kremlin. The collective experience of the freeze proponents is important because it lends weight to their argument that the Administration has gone seriously off-course on its approach to defense spending, arms control and European security.

At the least, the freeze proposal has suddenly crystallized into a vehicle for informed debate on the "rearm America" plan. Seasoned experts now have a forum for examining Administration allegations about American weakness and Soviet superiority. As the freeze becomes a nationwide political issue, public attention will focus on their arguments. The freeze is a fitting rsponse to "rearm America." We look forward to this debate.

[From the Los Angeles Times, Mar. 24, 1982]

LIGHTING A FIRE FOR A FREEZE

The groundswell of public support for various proposals for a U.S.-Soviet nuclear freeze is a phenomenon of major proportions. The movement reflects a growing concern among Americans about the danger of nuclear war—and a growing determination to force the Reagan Administration to take the problem more seriously.

The freeze proposals present certain practical problems. On balance, however, they serve a useful purpose.

There are many reasons for the rapid escalation of public concern, here and in Western Europe, over the danger of nuclear war. Thus, proponents of a nuclear freeze are a diverse group. In California they have coalesced behind the Bilateral Nuclear Freeze Initiative, and in Washington behind a resolution sponsored by Sens. Edward M. Kennedy (D-Mass.) and Mark O. Hatfield (R-Ore.) and backed by more than 160 House and Senate members.

We think the voters should approve the California initiative. It would require the governor to write a letter to the President urging him to propose to the Soviet Union a halt in the testing, production and deployment of all nuclear weapons and delivery systems.

The Kennedy-Hatfield resolution, which would not be binding on the President, has essentially the same purpose.

A nuclear freeze, if achieved, would not produce an instantly safer world, since there are already plenty of nuclear weapons on both sides to produce unimaginable horror and destruction.

Neither would a freeze automatically produce a reduction in defense spending—not as long as the Soviet Union continues to pour enormous resources into conventional arms and pursues an expansionist policy in the world.

The real goal must be a reduction of nuclear arms and, somewhere down the road, a relationship of genuine accommodation between the great powers.

A freeze is worthwhile to the extent that it would be a step toward these goals. But the obstacles should not be underestimated.

Both the California initiative and the Kennedy-Hatfield resolution stress that the nuclear freeze must be mutual, applying to both sides, and must be "verifiable." That is, each side must be able to make sure that the other is not cheating.

It is also important to understand that, for good reason, both the California and congressional proposals really call not for an instant freeze but for negotiations toward a freeze.

This reflects the practical fact that the two sides must agree on what is to be frozen and on verification, which is particularly difficult in the case of a freeze on missile production because this cannot be policed by spy satellite.

To take but one example, should the freeze include the missiles scheduled for deployment in Western Europe under a 1979 NATO decision?

If the answer is no, it is hard to imagine Moscow accepting a freeze. If it is yes, such a fundamental switch in NATO planning would clearly have to be arranged first with the European allies threatened by the Soviet SS-20s that are already in place.

Although realities such as these cannot prudently be overlooked, neither should they be used as excuses for putting arms-control efforts on hold, as the Administration has been inclined to do.

President Reagan insists that he is not interested in a mere freeze, that he wants a genuine reduction in strategic nuclear arms. He and top aides argue, further, that a freeze would actually make mutual reductions harder to achieve by taking the negotiating pressure off the Russians.

Reagan's case would be better, however, if he had not undermined his own credibility through his reluctance to move beyond rhetoric to acutal negotiations. He has been in office for more than a year, and his Administration has still not produced a set of strategic arms control proposals.

More than anything else, the movements for a nuclear freeze are attempts by frustrated citizens to light a fire under their President.

Including the word "bilateral" in the title of an initiative does not make it bilateral, of course. The big unknown is whether the Russians are in a mood to cooperate. There is little basis for optimism on this score, but you never know.

The Soviet Union faces enormous economic problems that have been made worse by the situation in Poland. It is just possible that it would welcome a period of more quietude in relations with Washington while it attempts to deal with these problems.

The Administration is finally trying to get together its strategic arms negotiating package so that talks with the Russians can begin by early summer. If there is a heightened sense of urgency, proponents of the California initiative and the Kennedy-Hatfield resolution can take a great deal of the credit.●

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE ORDER FOR RECOGNITION OF MR. LUGAR TOMORROW

Mr. BAKER. Mr. President, tomorrow there is a special order in favor of the distinguished Senator from Indiana (Mr. LUGAR). I am advised that he has no need for that time, and I ask unanimous consent that the order in his favor be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STENNIS AND SENATOR EAGLETON TOMORROW

Mr. BAKER. My. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, and after the execution of any previous special orders, the distinguished Senator from Missouri (Mr. EAGLETON) and then the distinguished Senator from Mississippi (Mr. STENNIS) be recognized on special orders for not to exceed 15 minutes each.

The PRESIDING OFFICER. The Chair inquires, is there also a special order for the junior Senator from Missouri?

Mr. BAKER. Mr. President, I believe that has already been entered. The two that were just put, that is, for Senators EAGLETON and STENNIS, will follow the special orders previously entered, which includes the distinguished occupant of the chair, the Senator from Missouri (Mr. DANFORTH).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW AND FOLLOWING DAYS

Mr. BAKER. Mr. President, tomorrow, after the expiration of time for the two leaders and the execution of the special orders, it is anticipated that a time will be provided for the transaction of routine morning business.

Following the end of the time for the transaction of routine morning business, it is the intention of the leadership to ask the Senate to proceed to the consideration of Calendar No. 262, S. 868, the Export-Import Bank bill.

I will not now ask for an order to that effect, Mr. President, but Senators should be on notice that I will ask the Senate to make that the pending business tomorrow.

Mr. President, it is not anticipated that there will be a session of the Senate on Friday, absent most extraordinary circumstances. The Senate, however, will be in on Monday next, and I point out that the House of Representatives today completed action on the continuing resolution, House Joint Resolution 409. I believe that message will be here to be received by the Senate after we convene tomorrow.

Mr. President, I remind Senators that the continuing resolution presently in effect, which deals with three departments, expires at the end of this month. It is necessary, then, for the Senate to act on this continuing resolution as adopted by the House today, or some variation or substitute therefor.

Consequently, Members should be on notice that on Monday, Tuesday, and Wednesday of next week, if it is necessary to transact our business in respect to the extension of the continuing resolution, the Senate will be asked to remain in late.

This is the first time, I believe, that I have announced that the Senate would possibly be in late for such a number of days other than our regularly scheduled Thursdays, but these are extraordinary circumstances.

So, once again, Mr. President, when we can reach the continuing resolution, it is anticipated that we will work on that until we finish it and that we will be in late, if necessary, on Monday, Tuesday, and Wednesday in order to do that before the deadline expiration at the end of the month.

ORDER FOR SENATE TO CONVENE AT 10 A.M. ON MONDAY, MARCH 29, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that on Monday, the Senate convene at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, at that time, the Senate will resume consideration of the NRC bill, S. 1207, which has been previously ordered and on which there is a time agreement in respect to three amendments remaining, a Simpson amendment, a Domenici amendment, and a Heinz amendment.

I anticipate that the debate on those measures and final disposition of that bill will occur well in advance of the time for closing of the Senate on Monday. It will be the intention of the leadership not to proceed then to consideration of the unfinished business which would be TV in the Senate but to try to clear at that time consideration of the continuing resolution instead. I announce now for Senators that once we start on the continuing resolution I expect to stay on that measure until we complete it.

SELECT COMMITTEE TO CONDUCT AN INVESTIGATION OF ACTIVITIES OF COMPONENTS OF DEPARTMENT OF JUSTICE

Mr. BAKER. Mr. President, there is another matter that I wish to address at this time. During and after the consideration of the Williams matter by the Senate there was much discussion of the desirability of conducting an inquiry into the means and methods of law enforcement operations in connection with that and other matters. A resolution was introduced and referred in respect to that matter.

In a moment I shall send to the desk a resolution for myself and for the distinguished minority leader and on behalf of the distinguished Republican whip and the Democratic whip dealing with the same subject matter.

It had been my hope that we could proceed to the immediate consideration of this matter at this time. However, because the clock has overtaken us and it is not possible to finish the clearance process, I intend after the resolution is reported to ask that it be held at the desk pending the further orders of the Senate and with the authority on the part of the majority leader to call it up at any time after consulting with the minority leader.

Mr. President, I send a resolution to the desk and ask the clerk to state it.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 350) establishing a select committee to conduct an investigation of the activities of components of the Department of Justice in connection with their law enforcement undercover operations and to recommend such legislation as the committee deems necessary or desirable.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the resolution itself be printed in its entirety at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 350

Whereas, law enforcement undercover activities by components of the Department of Justice may fulfill a useful and beneficial purpose in the investigation and prosecution of crimes against the United States;

Whereas, allegations have been raised of improprieties in the formulation and conduct of the so-called Abscam undercover operation by components of the Department of Justice;

Whereas, these allegations specifically include the allegation that in the Abscam operation attempts were made to create improper conduct on the part of certain persons (including Members of the Congress), including instances where no adequate basis may have existed for suspecting the person of prior improper activity or a predisposition to commit such activity;

Whereas, these allegations respecting investigative techniques further include questions of possible prosecutorial misconduct in connection with the Abscam operation;

Whereas, these allegations may further indicate a pattern of illegal or improper targeting and investigative techniques utilized by components of the Department of Justice in law enforcement undercover operations; and

Whereas, a thorough and independent investigation by the Senate of the United States is necessary to determine the facts with respect to targeting and investigative techniques utilized in connection with law enforcement undercover operations carried out by components of the Department of Justice generally and in connection with the Abscam operation specifically: Now, therefore, be it

Resolved, That (a)(1) it is the purpose of this resolution to establish a select committee of the Senate to conduct an investigation and study of the activities of components of the Department of Justice in connection with their law enforcement undercover operations or of any persons, acting individually or in combination with others, in connection with such operations, and to recommend such legislation as the committee deems necessary and desirable.

SEC. 2. (a) There is hereby established a select committee of the Senate, which may be called for convenience of expression, the Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice (hereinafter referred to as the "select committee"), to conduct an investigation and study of activities of components of the Department of Justice in connection with their law enforcement undercover operations or of any persons, acting individually or in combination with others, in connection with such operations.

(b) The select committee created by this resolution shall consist of eight members of the Senate, four majority members of the Senate to be appointed by the President of the Senate upon the recommendation of the Majority Leader of the Senate, and four minority members of the Senate to be appointed by the President of the Senate upon the recommendation of the Minority Leader of the Senate. For the purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member, chairman, or vice chairman of the select committee shall not be taken into account.

(c) The majority members of the select committee shall select a chairman, and the minority members of the select committee shall select a vice chairman, and the select committee shall adopt rules and procedures, not inconsistent with the rules and procedures of the Senate, to govern its proceedings. The vice chairman shall not assume the functions of acting chairman in the absence of the chairman, but shall preside over meetings of the select committee during the absence of the chairman, and shall discharge such other responsibilities as may be assigned to him by the select committee or the chairman. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee and shall be filled in the same manner as original appointments to it are made.

(d) A majority of the members of the select committee shall constitute a quorum for the transaction of business, but the select committee may affix a lesser number as a quorum for the purpose of taking testimony before the select committee.

(e) In the event that a tie vote occurs, the pending matter then being voted upon shall be determined in accordance with the vote of the chairman.

SEC. 3. The select committee is authorized and directed to do everything necessary or appropriate to conduct the investigation and study specified in subsection (a) of section 2. Without restricting in any way the authority conferred upon the select committee by the preceding sentence, the Senate further expressly authorizes and directs the select committee to make a complete investigation and study of the activities of components of the Department of Justice or of any or all persons who may have information bearing upon the jurisdiction of the select committee, with respect to the following matters or questions:

(1) The alleged targeting by any component of the Department of Justice of particular individuals for law enforcement undercover activities without justification.

(2) The origin and initiation of such law enforcement undercover activities, including the standard applied in determining whether and with respect to whom such activities should be employed.

(3) Continuation or modification of previously initiated law enforcement undercover activities, including the standards applied in determining whether any such ongoing activities should be employed with respect to additional individuals.

(4) The standards for termination of such law enforcement undercover activities.

(5) The techniques employed in the course of such law enforcement undercover activities, including the standards applied in determing which techniques should be employed.

(6) The management, supervision and direction of such law enforcement undercover activities and the decision-making process with respect thereto.

(7) The management, direction, supervision and control of undercover agents, employees and informants in such law enforcement undercover activities.

(8) The coordination between or among components of the Department of Justice in connection with such law enforcement undercover activities.

(9) The role and responsibilities of prosecutors in connection with the investigation and prosecution of cases arising out of such law enforcement undercover activities.

(10) The effectiveness and need for further Executive Branch guidelines in connection with such law enforcement undercover activities.

(11) The need for specific legislation to govern such law enforcement undercover activities.

(12) The possible violation of any state or United States statute or constitutional provision, or the possible violation of any rule or regulation by any component of the Department of Justice, in connection with such law enforcement undercover activities, and the extent to which innocent persons may have been harmed by such possible violations.

(13) The need for improved oversight of such law enforcement undercover activities by the Executive Branch and the Congress.

(14) The issue of whether the existing laws of the United States are adequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to accomplish appropriate Executive Branch and Legislative Branch control of such law enforcement undercover activities, and to give appropriate authorization for components of the Department of Justice to engage in law enforcement undercover activities.

(15) The need for and effectiveness of Executive Branch procedures to investigate allegations made concerning illegal, improper or unethical conduct in connection with such law enforcement undercover activities.

(16) Such other related matters as the select committee deems necessary in order to carry out its responsibilities under Section 2.

SEC. 4. (a) To enable the select committee to conduct investigations and studies into any matter within its jurisdiction, the Senate hereby empowers the select committee as an agency of the Senate (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate, but it may not exceed the normal Senate salary schedules; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpoena or otherwise the attendance as witnesses before the select committee or at depositions of any persons who may have knowledge or information concerning any of the matters or questions the select committee is authorized to investigate and study; (5) to require by subpoena or order any department, agency, officer, or employee of the Executive Branch of the United States Government, or any person, firm, corporation, or authority to produce for its consideration or for use as evidence in its investigation and study any books, checks, canceled checks, correspondence, communications, documents, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to investigate and study which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate with respect to the failure or refusal of any person to answer questions or give testimony before the select committee or in a deposition or with respect to the failure or refusal of any officer or employee of the Executive Branch of the United States Government or any person, firm, corporation, or entity, to produce before the select committee any books, checks, canceled checks, correspondence, communications, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience to any subpoena or order; (7) to take depositions and other testimony under oaths by a member or a person otherwise authorized by law to administer oaths; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any department or agency of the United States; (10) to use on a reimbursable basis or otherwise, with the prior consent of the chairman of any committee or any subcommittee of the Senate, facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees, whenever the select committee or its chairman deems that such action is necessary or appropriate to enable the select committee to conduct the investigation and study authorized and directed by this resolution; (11) to have direct access through the agency of its members or staff, when and as designated by the select committee, to any data, evidence, information, report, analysis, or document or paper, relating to any of the matters or questions which it is authorized and directed to investigate and study which is in the custody or under the control of any department, agency, officer, or employee of the Executive Branch of the United States Government, without regard to the jurisdiction or authority of any other Senate committee, which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution, and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to conduct the investigation and study it is authorized and directed by this resolution to conduct.

(b) Subpoenas may be authorized and issued by the select committee acting through the chairman or any other member designated by him; and may be served by any persons designated by such chairman or other member anywhere within the borders of the United States. The chairman of the select committee, or any other member thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18, United States Code, or any other Act of Congress regulating the granting of immunity to witnesses.

(d) To assist the select committee in its investigation and study, the Senate legal counsel and deputy counsel are authorized and directed to work with and under the jurisdiction and authority of the select committee chairman and vice chairman.

(e) To assist the select committee in its investigation and study, the chairman shall appoint a committee counsel and the vice chairman shall appoint a committee deputy counsel. All clerical, investigatory, legal, technical, and other personnel who assist the select committee in its investigation and study shall provide such assistance pursuant to the direction and control of the committee counsel and the committee deputy counsel.

SEC. 5. The select committee shall have authority to recommend the enactment of any new legislation or the amendment of any existing statute which it considers necessary or desirable in accordance with its findings.

SEC. 6. The select committee shall make a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations as to new congressional legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than December 15, 1982. The select committee may also submit to the Senate such interim reports as it considers appropriate. After submission of its final report, the select committee shall have one calendar month to close its affairs and on the expiration of such calendar month shall cease to exist.

SEC. 7. The expenses of the select committee through December 15, 1982, shall not exceed $250,000. Such expenses shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the select committee.

Mr. BAKER. Mr. President, I ask unanimous consent that the resolution be held at the desk pending the further orders of the Senate and further that the majority leader may ask the Chair to lay that measure before the Senate at any time after consulting with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, today, I join with the distinguished minority leader in submitting a resolution with the expressed intent of establishing a select committee to investigate law enforcement activities of components of the Department of Justice.

During the course of deliberations on Senate Resolution 204, allegations were made concerning certain improprieties in connection with the Abscam operation. At that time, many Senators expressed the sentiment, with which I concurred, that the conduct of the Department of Justice and the conduct of Senator Williams were two separate considerations.

Action on Senate Resolution 204 has been completed, and it is now appropriate for the Senate to move forward and begin its investigation to determine the facts with respect to the targeting and investigative techniques utilized in the Abscam operation and in undercover law enforcement operations by the Department of Justice, generally.

The resolution establishes a select committee, composed of four Republican and four Democratic members, with a mandate to report its findings and recommendations to the Senate. I am confident that their inquiry will be responsible and just. This is a matter of extreme importance to not only Senators and Members of the House of Representatives, but to all citizens throughout the country.

Mr. ROBERT C. BYRD. Mr. President, I am pleased to join with the distinguished majority leader in offering the resolution. And I am pleased that the distinguished majority whip and the distinguished minority whip are cosponsors.

This resolution reflects the consensus and unanimous agreement of the Senate that this select committee must be established to conduct the investigation described. I would anticipate a thorough and probing examination of the issues which are involved, and I look forward to receiving the select committee's report at the end of the year.

I thank the distinguished majority leader, and the majority and minority whips for their assistance and hard work in joining together to produce a resolution which we can all endorse and support.

Mr. BAKER. Now, Mr. President, I yield to the distinguished minority whip.

Mr. CRANSTON. I thank the majority leader.

Mr. President, I am delighted to join in the submission of this resolution by the bipartisan leadership of the Senate.

I am deeply grateful to the majority and minority leaders for their very prompt action on the subject of the resolutions, Senate Resolutions 337 and 338, that I introduced on March 11 with the distinguished majority whip (Mr. STEVENS).

This is a very pressing matter that fully justifies the urgent and high-priority attention that the joint leadership is providing to it.

I feel that the resulting investigation will truly be of enormous significance to every citizen of our land both in terms of preserving and protecting their freedom from unfair and improper law enforcement activities by the Federal executive branch and in terms of preserving and protecting each citizen's liberties that are guaranteed by the system of separation of powers and checks and balances under our U.S. Constitution.

I spoke at great length on March 4, 9, and 11 about the need for the investigation that this resolution would direct be conducted. I call the attention of my colleagues to these remarks as part of the Senate's consideration of the pending resolution.

I have one point of clarification which I wish to raise with the distinguished majority leader.

The mandate of the committee in the resolve clause does not specifically delineate what I consider to be or have been one of the most fundamental problems in the Abscam operation; that is, the fact that the Justice Department may have been targeting without justification Members of Congress and the powerful impact which that kind of activity can have upon the independence of the legislative branch of Government.

Is it the majority leader's understanding of the resolution that that issue will be investigated and questions of the separation of the powers under the Constitution appropriately explored by the select committee?

Mr. BAKER. Mr. President, in response to the distinguished Senator from California, the minority whip, I am pleased that he has raised that question, and let me assure him that it is certainly my intention that that issue be addressed by the select committee. But I also wish to make clear the fact that the select committee is being charged with investigating these undercover activities no matter whom the target may have been, whether a Member of this body, or John Q. Citizen, who does not happen to be a Member of the U.S. Senate.

Mr. CRANSTON. I thank the majority leader very much and that is, of course, my understanding, and we must be as concerned not only about what happens to Members of Congress but to all members of the public. What happens to Members of Congress can affect what happens to the public in terms of their liberty.

Mr. BAKER. I thank the Senator from California.

Mr. President, may I say for the benefit of our colleagues that the distinguished minority leader and I have entered into joint letters advising agencies and departments of Government to preserve their records intact, as they may be useful in the course of this inquiry.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of those letters.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., March 24, 1982.

Hon. WILLIAM FRENCH SMITH,
The Attorney General,
Washington, D.C.

DEAR MR. ATTORNEY GENERAL: As you may be aware, the Senate is to conduct an investigation and study with respect to law enforcement undercover activities of components of the Department of Justice. The scope of the investigation is set out in S. Res. 350 a copy of which has been enclosed for your information.

We are writing to request that you not destroy, remove from your possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in S. Res. 350.

Sincerely,
HOWARD H. BAKER, Jr.,
Majority Leader,
ROBERT C. BYRD,
Minority Leader.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., March 24, 1982.

Hon. WILLIAM H. WEBSTER,
Director, Federal Bureau of Investigation, Washington, D.C.

DEAR JUDGE WEBSTER: As you may be aware, the Senate is to conduct an investigation and study with respect to law enforcement undercover activities of components of the Department of Justice. The scope of the investigation is set out in S. Res. 350 a copy of which has been enclosed for your information.

We are writing to request that you not destroy, remove from your possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in S. Res. 350.

Sincerely,
HOWARD H. BAKER, Jr.,
Majority Leader,
ROBERT C. BYRD,
Minority Leader.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, D.C., March 24, 1982.

Hon. FRED F. FIELDING,
Counsel to the President, The White House, Washington, D.C.

DEAR MR. FIELDING: As you may be aware, the Senate is to conduct an investigation and study with respect to law enforcement undercover activities of components of the Department of Justice. The scope of the investigation is set out in S. Res. 350 a copy of which has been enclosed for your information.

We are writing to request that you not destroy, remove from your possession or control, or otherwise dispose or permit the disposal of any records or documents which might have a bearing on the subjects under investigation, including but not limited to all records or documents pertaining in any way to the matters set out in S. Res. 350.

Sincerely,
HOWARD H. BAKER, JR.,
Majority Leader,
ROBERT C. BYRD,
Minority Leader.

Mr. BAKER. Mr. President, on tomorrow, assuming that clearance process can be successfully completed, it will be my intention at the appropriate time to ask the Senate to resume consideration of this matter and to dispose of it. I will not pursue that this evening for the reasons just stated.

Mr. ROBERT C. BYRD. Mr. President, is it the likelihood the distinguished majority leader may do this on tomorrow?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. In that event, Mr. President, I ask unanimous consent under the rules that I be excused from attendance in the Senate tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I leave with the majority leader my recommendations as to the appointment of the following four Senators to be minority members of the select committee: Messrs. INOUYE, HUDDLESTON, DECONCINI, and LEAHY, so that if action is taken on this tomorrow the majority leader may make that announcement.

Mr. BAKER. I thank the minority leader. If action is taken on tomorrow I will submit the name of an equal number of Republican Senators.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I ask unanimous consent that for the period of 1 day there be authorization to make technical corrections in the text of Senate Resolution 350.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION OF SENATE LEGAL COUNSEL

Mr. BAKER. Mr. President, there is one other matter I shall ask the Senate to proceed to consider at this time and I believe this has been cleared on both sides as well.

Mr. President, I send to the desk a resolution in respect to authorization of the Senate legal counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 351) to direct the Senate Legal Counsel to provide representation to Senate deponents in Rose Hall, Ltd., et al. v. Chase Manhattan Overseas Banking Corp. and Holiday Inns, Inc., C.A. No. 79-182.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, this resolution would direct the Senate Legal Counsel to represent Senators ROTH and BIDEN, and former Senator Richard A. Schweiker, in proceedings concerning subpenas issued to them in the case of Rose Hall, Ltd., et al against Chase Manhattan Overseas Banking Corp. and Holiday Inns, Inc., C.A. No. 79-182, pending in the U.S. District Court for the district of Delaware. The subpena to former Senator Schweiker, who is now Secretary of Health and Human Services, concerns his activities in his official capacity while a Member of the Senate. It also provides that the Senate Legal Counsel is authorized to represent any other Senator or Senate employee who is subpenaed to testify in this case. This resolution is not authority for testimony or production of documents.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 351) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 351

Whereas, in the case of Rose Hall, Ltd., et al. v. Chase Manhattan Overseas Banking Corp. and Holiday Inns, Inc., C.A. No. 79-182, pending in the United States District Court for the District of Delaware, the defendant Holiday Inns, Inc. has subpoenaed Senators William V. Roth, Jr. and Joseph R. Biden, Jr. to provide testimony and documents at depositions;

Whereas, in that case the defendant Holiday Inns, Inc., has subpoenaed former Senator (now Secretary of Health and Human Services) Richard S. Schweiker to provide testimony and documents at a deposition concerning his activities during his tenure as a Senator;

Whereas, title VII of the Ethics in Government Act of 1978, Public Law 95-521 ("the Act"), establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees in any proceeding with respect to any subpoena directed to them in their official or representative capacity; Now, therefore, be it

Resolved, That pursuant to section 704(a)(2) of the Act, the Senate Legal Counsel is directed to represent Senators William V. Roth, Jr., and Joseph R. Biden, Jr., former Senator Richard S. Schweiker, and any other Senators or employees of the Senate, in proceedings concerning subpoenas to them in the case of Rose Hall, Ltd. et al. v. Chase Manhattan Overseas Banking Corp. and Holiday Inns, Inc., C.A. No. 79-182.

Mr. BAKER. I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECESS UNTIL TOMORROW

Mr. BAKER. Mr. President, I have no further business to transact. I move now, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 noon on tomorrow.

The motion was agreed to; and at 6:58 p.m. the Senate recessed until Thursday, March 25, 1982, at 12 noon.

HOUSE OF REPRESENTATIVES—*Wednesday, March 24, 1982*

The House met at 3 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, giver of wisdom and knowledge, bless us and all Your people this day. May Your deeds of righteousness and justice be upon our hearts that we will gain for ourselves compassion for those who are in need. We pray for healing in our world—the healing of mind, body, and spirit. Give us clarity of mind to perceive Your truth, give us strength of body to labor in service to others, and give us generosity of spirit to reach out to people about us. In Your holy name, we pray. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved

Mr. **WALKER**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **WALKER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 25, answered "present" 1, not voting 40, as follows:

[Roll No. 40]

YEAS—367

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Ashbrook
Aspin
Atkinson
Bailey (MO)
Bailey (PA)
Barnard
Beard
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Broomfield
Brown (CA)
Broyhill
Burgener
Burton, Phillip
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Frenzel
Frost
Fuqua
Garcia
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (UT)
Hartnett
Hatcher
Heckler
Hefner
Heftel
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jeffries
Jenkins
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDonald
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nowak
Oakar
Oberstar
Oxley
Panetta
Parris
Patman
Patterson
Paul
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Roth
Roukema
Roybal
Rudd
Santini
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Washington
Watkins
Waxman
Weaver
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—25

Barnes
Brown (CO)
Butler
Clay
Dickinson
Dreier
Emerson
Evans (IA)
Forsythe
Gejdenson
Goodling
Harkin
Hawkins
Holt
Jacobs
Johnston
Miller (OH)
Mitchell (MD)
Roemer
Rousselot
Sabo
Schroeder
Walker
Weber (MN)
Young (AK)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—40

Applegate
AuCoin
Badham
Bafalis
Bedell
Boggs
Boland
Bolling
Breaux
Brooks
Brown (OH)
Burton, John
Chisholm
Crockett
Foglietta
Fowler
Gaydos
Ginn
Goldwater
Hansen (ID)
Hendon
LeBoutillier
Leland
McDade
McKinney
Neal
Nichols
O'Brien
Obey
Pashayan
Pease
Rhodes
Richmond
Rostenkowski
Russo
Savage
Schulze
Stanton
Stark
Wampler

☐ 1515

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 290. Concurrent resolution reaffirming that deposits, up to the statutorily prescribed amount, in federally insured depository institutions are backed by the full faith and credit of the United States.

REPORT ON RESOLUTION PROVIDING FOR EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES OF THE HOUSE

Mr. **ANNUNZIO**, from the Committee on House Administration, submitted a privileged report (Rept. No. 97-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

470) on the resolution (H. Res. 378) providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the 2d session of the 97th Congress, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT AS MEMBERS OF DELEGATION TO ATTEND CONFERENCE OF INTERPARLIAMENTARY UNION AT LAGOS, NIGERIA

The SPEAKER. Pursuant to the provisions of title 22, United States Code, section 276a-1, as amended by Public Law 95-45, the Chair appoints as members of the delegation to attend the Conference of the Interparliamentary Union to be held in Lagos, Nigeria, April 12 to 17, 1982, the following Members on the part of the House:

Mr. PEPPER of Florida, chairman;

Mr. DERWINSKI of Illinois, vice chairman;

Mr. FOUNTAIN of North Carolina;

Mr. CONYERS of Michigan;

Mr. BOWEN of Mississippi;

Mr. LEVITAS of Georgia;

Mr. FAUNTROY of the District of Columbia;

Mr. WON PAT of Guam;

Mr. BROOMFIELD of Michigan;

Mr. MCCLORY of Illinois;

Mr. COUGHLIN of Pennsylvania; and

Mr. BUTLER of Virginia.

KEEP CONTROLS ON NATURAL GAS PRICES

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, we, in the Congress, have to help the natural gas consumer in America, otherwise the majority of our citizens will be forced to choose between eating or freezing. Such a possibility cannot and will not be tolerated.

Today, I am introducing a bill that would control the price of natural gas after 1985 and stop the Federal Energy Regulatory Commission's backdoor move to raise gas prices administratively.

Increases in the price on natural gas have placed great hardships on senior citizens and average income families. Only a small group of people—those who own gas industry stock—will benefit from deregulation.

Under the Natural Gas Policy Act of 1978, controls are scheduled to come off in 1985, resulting in the doubling or even tripling of the cost of natural gas. We cannot let this happen. I urge my colleagues to join with me and cosponsor this bill to keep controls on natural gas and prevent FERC from increasing prices via the back door.

STUDENT LOANS FOR GRADUATE STUDENTS

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, thousands of graduate students across the country should thank the members of the Appropriations Committee who voted yesterday to fund their guaranteed student loans. It is encouraging that the committee has seen fit to reject the administration's plan to disqualify these men and women from this vital loan program, and I hope the rest of this body will support the committee's action.

At my own alma mater, the University of Connecticut, more than 2,100 graduate and professional students borrowed under the GSL program for the current year. Eighty percent of these students are either independent, and earning less than $10,000 a year, or come from families earning less than that amount.

Instead of denying these hard-working men and women the opportunity to pursue an education and a career, Mr. Speaker, let us look at a portion of the defense budget for savings, and let us repeal the special-interest tax breaks for big oil and other big business. Guaranteed student loan money for graduate students is one of the best economic and security investments I know.

MR. PRESIDENT, GIVE US A BREAK

(Ms. FERRARO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FERRARO. Mr. Speaker, I am truly astounded and disappointed that Ronald Reagan last night was given an award for "courageous leadership * * * in humanitarian affairs."

Humanitarian? This is the man whose programs take food out of the mouths of poor children, deny energy assistance to low-income families, take jobs from elderly Americans, and block middle class students from realizing a college education. He has singlehandedly set out to eliminate opportunity to anybody not born with a silver spoon in his or her mouth.

And what did this humanitarian say in accepting his award? Why, he said poor Americans will be better off because of his actions.

Now, perhaps I am a little slow, but I do not understand that. Are they better off because they are learning patience as they stand in unemployment lines? Are they building character because now they must sacrifice a bit more?

As my kids would say, "Come on, Mr. President, give me a break."

□ 1530

STOP-AND-START GOVERNMENT UNDER CONTINUING RESOLUTION IS COSTLY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today, as we take up the continuing resolution, I think there is one very important thing that I should call to the attention of the Members of the House.

In the Washington Post this morning there is a study that came out of the Subcommittee on Civil Service of the Committee on Post Office and Civil Service, and it shows that it cost us $85 million to shut the Government down the last time when we went through the continuing resolution debacle.

I think it is absolutely criminal that the other body has not acted in due course. I think it is ridiculous that we are having to continue under these continuing resolutions. I hope the other body can find some time in its schedule to squeeze in these issues, and I only remind the Members that if we keep going through this, it is costing us a phenomenal amount of money to carry on under this stop-and-start program, plus the fact that it really injures Federal employees in their morale and in their programs and everything else.

Mr. Speaker, I think the people lose confidence in their Government when they see those kinds of actions.

PANIC AND TERROR IN EUROPE

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, one of the most charming and colorful gentlemen in Washington is Eugene Rostow. Professor Rostow is director of what has now become the "Arms Decontrol and Overarmament Agency."

During his confirmation hearings, he enlivened the otherwise dreary Washington intellectual landscape with a number of novel and stimulating concepts. One of these was that rebuilding the United States after total nuclear war would be not more difficult than rebuilding the city of Hiroshima after a single 13-kiloton bomb. Another was that the only good arms control agreement is one between the United States and Canada.

Recently, he has turned his attention to intermediate range nuclear weapons.

As all competent military analysts understand, these devices are a molehill on the mountain of nuclear destructiveness. Their total power is less than that of 250 strategic weapons the Soviets would already have retired if Salt II had been ratified. If all intermediate weapons were to disappear overnight, the ability of the two superpowers to incinerate themselves, Eastern Europe, and Western Europe would not be reduced enough for anyone to tell the difference.

Nevertheless, Mr. Rostow recently gave a speech claiming that Soviet intermediate weapons are causing "panic and terror" in Europe. Now, I visited Europe recently, and I guess I must have missed all those people running around in panic and terror. So today I am writing him a letter, asking for the names and addresses of three Europeans who are, right at this moment, in a state of panic and terror over these meaningless weapons.

I will keep you posted on his response, which I await with bated breath.

REAGAN TRIES TO SCARE RUSSIANS, ENDS UP SCARING THE AMERICAN PEOPLE

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute, and to revise and extend his remarks, and include extraneous matter.)

Mr. SEIBERLING. Mr. Speaker, the newspapers recently have carried poll results which show that the overwhelming majority of the American people support the concept of a freeze on nuclear weapons buildups, and yet the President himself had the incredible lack of understanding to say that—"Well, they are all inspired by Brezhnev and the Russians."

There was an excellent column in the Washington Post on Monday by Richard Cohen in which he concludes that something is terribly wrong in America: Ronald Reagan started out to scare the Russians and he ended up scaring the American people. Mr. Speaker, the people have cause to be scared. Hopefully, we will be scared enough to insist that our government get on with nuclear weapons negotiations.

The text of Richard Cohen's article follows these remarks:

THE BOMB

(By Richard Cohen)

In the car the other day, my son started to talk about nuclear war. He thinks it's a possibility, and since he is young and does not want to die young he considers nuclear war "unfair." It is his favorite word, but there is, for the moment, none better.

He is not the only one talking about nuclear warfare these days. The subject is suddenly in the air. The New Yorker, which can guarantee an article obscurity simply by publishing it, ran a three-part series on nuclear war last month by Jonathan Schell and people are still talking about it. Esquire did one on civil defense and now Time has the bomb on its cover.

In New England, town meetings dealt with the issue of nuclear disarmament, and at dinner the other night an economist I know kept punctuating his explanation of which way the economy was going by saying, "But that's if there's no war." And that same week, my wife had lunch with a well-known political consultant and reported that he, too, was talking about war.

Suddenly, war seems a lot closer. It seems that the whole country has turned 40 and death that was only theoretical at 39 seems now to be imminent. Those of us with a memory have been through this before. The late 1940s were rough and the '50s were no fun, either. We learned how to take cover under schoolroom desks and we were marched into the hallway and told which way to face. We were told never to look into the blast and to cover the backs of our necks and to listen to our teachers. It was silly but after a while it all went away.

Now it is back and the reason is that the Cold War is back, too. Ronald Reagan and Alexander Haig and Caspar Weinberger, with their talk of limited nuclear war and firing nuclear warning shots, their tough rhetoric and their incessant military posturing, have given the whole country the willies. They seem to have doused hope, made you wonder why you thought in the first place that things were getting better—that nuclear war could not happen.

They are the hard guys, the realists. They talk blithely of bombs and war because bombs and war are always a possibility. They want us to face facts, but the facts they want us to face are truly horrible. There are now about 50,000 nuclear warheads in the world—Hiroshima and Hiroshima and Hiroshima over and over again until you get to 50,000. Only the Hiroshima bomb, 12.5 kilotons, was a puny affair. Still, it leveled the city, killing half the people in it. Nowadays, Jonathan Schell writes, "it would be classed among the merely tactical weapons."

For most of us, nuclear war, like one's own death, is unthinkable, and so we have left the thinking of it to others. But what is refreshing about what is happening now is the apparent refusal of lots of people to accept nuclear war as one accepts the inevitability of death itself. These are people who now are saying that something can be done, that the fate of the world is in the hands of the people of the world. This was the message of the antinuclear rallies in Western Europe. They were't so much anti-American as prohope—a statement by the people of Europe that they were no longer going to leave nuclear policy to the professionals. It was their lives, therefore their business.

Now the same thing is happening here. Only instead of the administration seeing that we are all on the same side—that when it comes to the nuclear issue, *there is no other side*—it senses a fifth column, a softness, a break in our resolve on which the Russians will capitalize. They fear the Russians will sense that we are afraid of nuclear war. The trouble is, this cannot be news to them.

So the drumbeat of belligerence continues. As a nation, we have our dukes up. Our missiles are on the move. Our defense budget will grow. We are no longer the 90-pound weakling of the Jimmy Carter era, but a broad-shouldered country, seeking to show that no nation can kick sand in our face.

All this has revived and exacerbated fears about Ronald Reagan that came out during the presidential compaign. Now, suddenly, little kids talk of nuclear war in their own way and lawyers in theirs. Mothers organize and the New England towns meet and the reason is that something has gone dreadfully wrong. Ronald Reagan set out to scare the Russians, but he's scared us instead.

JIMMY THE GREEK GIVES ODDS ON FEDERAL DEFICIT

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, the President has recently revised his estimate of his deficit resulting from the fiscal year 1983 budget to be as high as $96 billion. And, last week the Congressional Budget Office submitted its findings that the President's deficit may be as high as $180 billion.

Mr. Speaker, numerous economists around the country have submitted their own separate estimates as follows:

[In billions of dollars]

	Fiscal year—		
	1982	1983	1984
Reagan budget	98.6	91.5	82.9
Lawrence Chimerine, Chase Econometrics	108	110–130	80–100
Kathleen Cooper, Security Pacific	95–100	100–100	([1])
James Fralick, Morgan Guaranty	105–115	120–140	140–160
Alan Greenspan, Townsend-Greenspan	98	120	118–135
David Jones, Aubrey G. Lanston	95–100	120	130
Irwin Deilner, Manufacturers Hanover	105	95	90
Alan Lerner, Bankers Trust	95	110–120	130–150
Don Maude, Merrill Lynch	95–100	130–140	140–150
Allen Sinai, Data Resources	107.2	108.7	103.6
Gary Shilling, Shilling & Co	95–105	100–120	90–110
Robert Sinche, Bear Stearns	100–105	145–150	150
John Wilson, Bank of America	100–120	90–100	([1])

[1] No estimate

Thus, the big debate this spring is not over the President's budget proposal but, rather, over the size of the President's deficit.

To help me in determining an accurate answer, I called for Jimmy the Greek, and he no doubt is confused, too. But, the odds are 100 to 1 that the President's deficit will exceed $100 billion for fiscal year 1983.

OPPOSITION TO PLAN TO REPLACE CURRENT U.S. AMBASSADOR TO PANAMA

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I would like to comment on the Reagan administration's current consideration of a replacement for our U.S. Ambassador to Panama, the Honorable Ambler H. Moss, Jr., who was sworn in as Ambassador on September 29, 1978. I have had the good fortune of working with Ambler Moss in my capacity as chairman of the Subcommittee on Panama Canal and Outer Continental Shelf. I must express my deep concern about such action and my vigorous opposition to his replacement.

My visits to Panama, the latest being this month, March 7 to 14, have strengthened my convictions that the United States has a very excellent Ambassador to Panama in the person of Ambler Moss. He and his wife Serena are highly regarded throughout Panama. I received that report from many Americans and Panamanians with whom I spoke. Ambassador Moss is held in high esteem by the thousands of Americans working in Panama, including our Armed Forces and other units of the U.S. Government. The Panamanians are pleased with the good ties between the United States and Panama, particularly in light of the current turbulence and violence in Central America. They are very glad that the United States continues to maintain a strong interest in a free and independent Panama and a successful operation of the canal.

As many of you know, I was originally very much opposed to the Panama Canal treaties. However, my visits to Panama have convinced me there are many advantages to the treaties, especially now as the countries north of Panama are in turmoil. Through his skillful leadership, Ambassador Ambler Moss has been a key figure in insuring the amicable implementation of the Panama Canal treaties. Now is not the time to replace our Ambassador in Panama.

POSTPONING CONSIDERATION OF POSSIBLE FORTHCOMING VETO MESSAGE ON S. 1503, STANDBY PETROLEUM ALLOCATION ACT OF 1981, UNTIL WEDNESDAY, MARCH 31, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that if a message is received from the Senate informing the House that the Senate has passed the bill, S. 1503, authorizing the President to allocate supplies of crude oil and petroleum products during a severe petroleum supply shortage, the objections of the President to the contrary notwithstanding, further consideration of the veto message be postponed until Wednesday, March 31, 1982.

The SPEAKER pro tempore. (Mr. FARY). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday next, it adjourn to meet at 12 noon on Wednesday next, March 31, 1982, rather than at 3 o'clock.

The SPEAKER pro tempore. Is their objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so just to ask the majority leader, is this request in order to accommodate that one particular piece of legislation, or is it because there are a lot of other pieces of legislation that will probably be scheduled for that day?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, there are other pieces of legislation that would be scheduled on Wednesday. It is our present plan and intention that next week we shall follow this general procedure: First, that on Tuesday we shall take up and consider the supplemental appropriation bill, that on Wednesday we shall take up, the veto message, assuming the Senate has voted to override the President's veto—an assumption which we cannot make with any certainty at all—and then following that, that we would take up the committee funding resolutions on Wednesday and such additional business as may by that time be ready for consideration. There are several bills that might conceivably qualify in that regard.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Texas (Mr. WRIGHT), and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADJOURNMENT TO MONDAY, MARCH 29, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns tomorrow, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A GOLD MEDAL FOR "SCROOGE"?

(Mr. MARKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKS. Mr. Speaker, for this President to say as he did yesterday, that the "facts prove" that he cares about the needy sounds like "Scrooge" saying he is really "Santa Claus."

For this President to have the gall to liken himself to Franklin Delano Roosevelt is—sacrilegious. As I stated on March 9, this President lacks the compassion necessary to be President.

I have tried over and over again, in my own mind, to justify the National Conference of Christians and Jews, an extraordinary and outstanding organization which has done much in the past, awarding him a gold medal. This is perhaps the height of hypocrisy. I wrote a letter today, as I am sure many Americans have, to this outstanding organization, and indicated that in the future I would hope that if it is publicity they need they do something other than to belittle that for which they have stood for so many years.

The facts are that this President and those closest to him, by their actions have conveyed to millions and millions of Americans the fact that they do not care about the needy. In addition, he has conveyed to those millions and millions of Americans who are not needy that he cares even less for them. This President and that all-American infield of Meese to Deaver to BAKER, or whatever order, have attempted, and in fact have almost been successful in wiping away a Federal Government brought into existence by Washington, preserved by Lincoln and strengthened by Franklin Delano Roosevelt—with a philosophy, when understood, which suggests that Government should harm, not help, those who need it most.

Mr. Speaker, enough is enough.

BUDGET PROPOSAL STILL NOT FORTHCOMING FROM DEMOCRATIC LEADERSHIP

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, for the past 3 months, this body has been besieged by speaker after speaker, from the other side of the aisle assaulting the proposed 1983 budget.

They have been shedding copious crocodile tears over the size of the prospective deficit and the rate of unemployment. And yet, the Democratic leadership has not brought forth a budget proposal for this House to debate.

The President has a budget proposal, as does the Senate, but the only thing this House has to offer the American people is a gold coin for a dutch queen.

Your party is playing a political waiting game at the expense of all Americans. We are not fooled by your chameleon like change in color, nor will we be deceived by your possum like deception.

Mr. Speaker, you are quoted in today's Washington Post as saying:

> They (the Republicans) are in control of this Government . . . let them bring forth a bill and let us have an opportunity to look at it.

We know who controls this House. So I direct your very appropriate words back to you. Bring forth a bill and let us have an opportunity to look at it.

□ 1545

GOOD NEWS FOR CONSUMERS ON INFLATION

(Mr. MORRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON. Mr. Speaker, good news. Remember a year ago or maybe 2 years ago public enemy No. 1 was inflation. In recent months we have all been talking about the symptoms of inflation; namely, unemployment, high interest rates, growing deficits.

But let us get back to the disease, inflation, which has ravaged our economy for years—spiraling inflation. The disease is being cured. The treatment is working.

Today's good news says that last month's rise in the Consumer Price Index, that measurement of America's marketplace, was two-tenths of 1 percent. One could analyze that to approximately 2.5 percent, down 10 full percentage points from January 1981.

Mr. Speaker, that is progress, and it will gradually show on Main Street and Wall Street. The symptoms will disappear as inflation is cured.

Treating only the symptoms perpetuates the disease and that is what was tried around here for years. Inflation at 3 percent or less—good news for a change.

ANNIVERSARY OF DEATH OF ARCHBISHOP ROMERO

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, today marks the second anniversary of the assassination of the archbishop of San Salvador, Oscar Romero. To commemorate his life and death, nothing could be more appropriate than for our Government to reassess American policy in El Salvador and to seek new initiatives for peace.

In an effort to achieve a just political solution in the region, I would urge the President to appoint a special envoy to Central America with the stature and mandate that Phil Habib carries in the Lebanon talks. I can think of no more suitable individual to undertake this effort than Theodore Hesburgh, president of Notre Dame University.

Mr. Speaker, in closing I would note that Senator HATFIELD, Congressman DENARDIS, and I introduced legislation last week which would condition future U.S. military support for the Government of El Salvador on the willingness of that Government to negotiate without preconditions with the opposition. A negotiated approach holds greater promise for justice than that which all of the helicopter gunships in our arsenal can ever supply.

ANOTHER CONTINUING RESOLUTION REFLECTS CONTINUED INACTION BY CONGRESS

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, the continuing resolution we are today considering is yet another example of congressional inactivity.

It may be easier for some to simply pass a measure of this sort every few months rather than deal with the individual appropriations bills, but it certainly casts a bad reflection on the Congress when it refuses to deal with the individual appropriations bills.

But this is hardly atypical for this session of Congress. The leadership constantly criticizes the administration's budget, but none of my colleagues on the other side of the aisle have had the courage to propose a constructive alternative—or even the beginning of one.

How long can the Congress continue to sit on their hands while the economy goes down the drain? I have stressed before and will continue to stress that the economic problems of our country will not solve themselves. We in the Congress must address the budget head on. We must address the individual appropriations now. We simply cannot afford to avoid the major economic issues any longer.

KEEP THE "FOOD" IN THE FOOD STAMP PROGRAM

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I rise today to alert the Members to a situation that may create a problem in the Commonwealth of Puerto Rico. As you may remember, last year during the Omnibus Reconciliation Act, Congress provided a block grant for food assistance for Puerto Rico. This block grant was established because of congressional concern about the size and the expense of the food stamp program in Puerto Rico. Over one-half of the population of Puerto Rico receives food stamps and almost 10 percent of the annual food stamp budget for the entire country goes to Puerto Rico.

In lieu of food stamps, the Reconciliation Act established a food assistance block grant for Puerto Rico, effective July 1, 1982. Their plan for food assistance is to be submitted by the Government of Puerto Rico by April 1, 1982. A total of $825 million for a fiscal year is provided to Puerto Rico to cover 100 percent of the cost of food assistance and 50 percent of the administrative costs.

I am informed that the Governor of Puerto Rico has announced that when their plan for food assistance is submitted, Puerto Rico will no longer issue food stamps—instead they will issue checks to the people they determine to be eligible for benefits.

These checks—once converted into cash—can be spent for any item, not only for food. I am concerned that funds authorized and appropriated for food assistance will be used for any purpose, including liquor, gambling, or other such measures having nothing to do with food.

I have been concerned for quite some time about the use of food stamps to purchase guns, illegal drugs, and not too long ago a child was sold and $6,000 worth of food stamps was used in that transaction.

I do not know if these abuses will occur in Puerto Rico with the money that is intended for food assistance. however, it will be much easier to accomplish if food assistance is given in the form of money and not food stamps or some similar type of transaction to insure that food is obtained in return.

Once the Government of Puerto Rico submits their plan for food assistance I intend to review that plan very carefully to determine if there are assurances that the food assistance block grant is indeed used to improve the nutritional level of the people of Puerto Rico. I hope that the plan submitted by Puerto Rico will describe a food assistance program that assists their needy population and has sufficient protections to insure that the $825 million authorized will be spent in an efficient and effective manner. Let us keep the "food" in food stamps.

INTRODUCTION OF LEGISLATION ON USE OF UNEMPLOYMENT COMPENSATION FUNDS

(Mr. DENARDIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. DENARDIS. Mr. Speaker, today I am introducing a bill, H.R. 5942, to permit the States to use their unemployment compensation funds to pay people to work instead of not to work. Present Federal law, under title IX of the Social Security Act and subtitle C, chapter 23, of the Internal Revenue Code, requires States to deposit their unemployment tax revenue immediately upon receipt into the Federal unemployment trust fund. The Federal law further provides that "all money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, * * * except for certain refunds, disability payments, and strictly limited administrative uses. My bill would give States the option, not a mandate, of using their funds to subsidize the hiring of unemployment compensation claimants who would otherwise receive benefits while remaining idle.

My legislation establishes a program by which each Government unemployment insurance office would be required to provide the industrial employers in its area with lists of unemployed workers whose skills could be utilized by the employers. The office would then offer to subsidize the immediate employment of any of these workers by paying the employer, for example, 75 percent of the unemployment allowance that would otherwise be paid to each jobless worker. In return, the employer would agree to put some of the unemployed persons to work and to pay them at least 50 percent more than the unemployment allowance. In this way, everybody—employers, employees, Government, and the Nation—would benefit.

What is needed is to get Americans back to productive work, which will be anti-inflationary by increasing the supply of goods as well as improving the cost effectiveness of our production. This program which replaces employment insurance with employment is an attempt to offer a timely solution to a problem that must be solved if we are to assure the survival of a viable American economy.

ANOTHER CONTINUING RESOLUTION SHOWS LACK OF LEADERSHIP

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, I grew up thinking what most Americans think, that we in the Congress act with reason, composure, and reflection. But what the American people do not know is today we are considering the fifth continuing resolution which the House has considered in less than 6 months, that the leadership of the House of Representatives has repeatedly disregarded the traditional authorization and appropriations processes, that this backdoor process does not allow the Members of the House to scrutinize programs for reform.

In addition, in the 30 days which Congress has been in session this year we have confronted such important issues as striking a gold medal for Queen Beatrice, authorizing the International Communications Agency to distribute the film "Montana," and authorizing a national fraternity to hold a party in the Capitol Building.

Passing of this continuing resolution in lieu of legislation perhaps will mean that the programs contained therein will be exempt from reduction in entitlements for the duration of fiscal year 1982.

The American people are screaming for relief and yet the leadership of the House will not allow us to fulfill our responsibilities to the American public.

Mr. Speaker, we should act with reason, composure, and reflection. We in the freshman Republican class believe we should not recess at Easter but should address the fundamental problems of our economy to demonstrate statesmanship and leadership to a doubting American public.

LOWER INFLATION MEANS AMERICA'S POOR ARE BETTER OFF THIS YEAR THAN LAST

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, earlier today the gentlewoman from New York raised a very provocative and I think valuable question. She asked how are the poor better off this year than they were last.

I would submit that for one thing we have 3 percent inflation right now compared to 13 percent inflation under the Carter Presidency and Democratic Congresses. That is a 10-point cut in inflation. That puts more than $500 in the pockets of every poor family at the $5,000 level. It puts $1,000 in the pockets of every family making $10,000.

That is more money than most Federal programs deliver per family. That is far more than any cuts in growth that have taken place in social welfare programs.

This administration has the suspicion that Government does not do a very job of helping the poor, that the best policy is to give the poor a chance to help themselves, and that is exactly what the Reagan program is beginning to do.

It is putting the money which the poor need back into their own pockets.

CONGRESS GETS SORRY REPORT CARD

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, we are nearing the end of March and the most conspicuous event on the Calendar is the scheduled spring recess. Many Members of this body apparently look forward to that occasion for the opportunity to travel home and denounce the Reagan administration for failing to sufficiently revive an economy crippled by decades of reckless spending, high taxes, and suffocating regulation. What I do not understand is how they will be able to look their constituents in the eye when they are asked, "What did you do since Congress convened to help the country?"

I recognize that the legislative process is a careful one and that legislation enacted in haste is often shortsighted, but 3 months have gone by and we have a sorry report card. We have a responsibiity to dispose of the issues of the day. As an example, recent history and today's high interest and related unemployment rates make clear that a balanced Federal budget is imperative to the future well-being of our country. It is obvious that this Congress does not possess the willpower to deliver a budget balanced of its own accord so I suggest to you that this is an example of legislation that should be expedited.

We serve here at the pleasure of the American people. The American people have made it clear that they demand action. It is our responsibiity to provide it.

RESOLUTION TO OFFICIALLY DESIGNATE 1982 AS YEAR OF THE UNBORN CHILD

(Mr. SILJANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SILJANDER. Mr. Speaker, We are introducing this resolution to authorize and request that President Reagan officially designate 1982 as "Year of the Unborn Child." We agree with the President's recent remarks that—

> We must, with calmness and resolve, help the vast majority of our fellow Americans understand that the more than 1½ million abortions performed in America in 1980 amount to a great moral evil and assault upon the sacredness of human life.

We find it unfortunate that only a handful of individuals in the mass media, education, medicine, and the social sciences have called our attention to the awesome beauty and preciousness of developing human life.

We are convinced that abortion-on-demand might never have been legalized, nor would have reached the manic proportions it has now assumed if those responsible would have objectively educated and informed the public about human development before birth.

Our national rate of abortion now stands at one developing child killed every 20 to 30 seconds, around the clock. One out of every three U.S. pregnancies is ended by abortion. Our collective national genius is being raped and depleted in an irreversable way.

While we sympathize with women who find themselves pregnant with an unwanted or unplanned child—it is time to soberly face the fact that abortion is not only an issue of women's rights for there is always a dead human victim left in the abortionists chamber.

It is our hope that by calling the Nation into a year of reflection, study, and appreciation of developing human life, we will return to a better understanding and respect for all members of our human family—including those most helpless and defenseless—our unborn brothers and sisters.

It is in commemoration of the some 12 million victims of America's silent holocaust, out of grave concern for our depleted national genius, and in the hope that America will be restored to nobility, compassion, and grace that we enter this resolution. Thank you.

MEMBERS SHOULD BE GIVEN TOP SECRET BRIEFING ON SOVIET MILITARY STRENGTH PRIOR TO MAKING DECISIONS ON DEFENSE BUDGET

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, this morning I had the second opportunity this year to receive a closed, Member only, top secret briefing on the growth of Soviet military power. I had attended a similiar 3-hour briefing in January as an invited guest from the Foreign Affairs Committee to sit in with 14 members from our largest committee, Armed Services.

At the end of the DIA presentation by Mr. John Hughes last January I asked him if the briefing could not be fairly described as "awesome," in spite of the overuse of that word in American sportscasting. He said, "Yes, Congressman, the growth of Soviet power over just the last year is awesome."

Just in the last 3 months since that January top secret briefing the situation has grown worse. The briefing this morning, which fortunately had 40 Members in attendance (39 Republicans and 1 Democrat) adds some startling new developments to an already insane growth of raw military might on the part of the Kremlin.

I think before any of us considers debating any aspect of the President's defense package he or she must receive this Hughes briefing. It would be the height of irresponsibility for any Member of this House to participate in that debate without benefiting from that stunning, awesome top secret briefing.

THE CONTINUING RESOLUTION IS A SYMBOL OF CONGRESSIONAL INCOMPETENCE

(Mr. WEBER of Minnesota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEBER of Minnesota. Mr. Speaker, the vote we are going to be asked to take up today is really another example of the utter hypocrisy of the congressional criticism that has been leveled at the President's budget over these last few months.

Mr. Speaker, the farmers in my congressional district are now in the credit markets borrowing money for their spring planting and paying record high interest rates to do so, real interest rates held high not by that Presidential proposal but by the lack of any confidence whatsoever that this Congress will act in any way to responsibly control that budget deficit.

What else should the people in those financial markets reasonably expect? Here we are, 3 months of the year almost gone, and virtually no substantive business has been completed by this House of Representatives.

Once again we are here preparing to vote on that ongoing symbol of congressional incompetence, the continuing resolution.

Mr. Speaker, to compound the felony, in a couple of weeks this House will engage in another affront to the hard-working American people, the annual congressional Easter recess. Mr. Speaker, a few months ago I saw a study that was again asking the question posed by sociologists, "What are Americans going to do in future years with the increase in leisure time that they have available to them?" Apparently some individuals have found an easy answer to that question—they ran for Congress.

A VOICE IS RAISED ON BEHALF OF THE NATIONAL CONFERENCE OF CHRISTIANS AND JEWS

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I am very sorry to have heard in the House today criticism of an organization, the National Conference of Christians and Jews, which I joined in the 1930's—an organization with which I worked during all of the racial conflicts during the 1950's in my own State. They were always ready when we called them in to mediate police and race relations, public relations between different racial groups. I was very sorry indeed to hear the characterizations that have been poured on the head of this very fine organization, and I want to raise a voice in their behalf.

WORK OF THE HOUSE OF REPRESENTATIVES IS NOT BEING DONE

(Mr. GREGG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREGG. Mr. Speaker, as the House charges forward toward its ultimate goal of this first 6 months of its session, that being the spring recess, the American people simply have to be asking, what are we doing? And the response becomes "Nothing," although we have heard some people trying to defend the nothingness of this Congress by saying it is all being done in committees, that is the reason why we have not had any votes here on the floor.

Well, let us look at what the committees are doing. In proposing their budgets to the Budget Committee, the Agriculture Committee met twice, the Banking Committee did not meet at all, the District of Columbia Committee did not meet at all, the Foreign Affairs Committee met once, the Judiciary Committee met once, the Public Works Committee met once, the Veterans' Affairs Committee met twice. So the work is not being done in the committees; the work is not being done in the House. The simple fact is that because the liberal leadership of this House wants to see the economy drift and does not want to see a budget to respond to that economy, nothing is being done in this country today.

THE NEEDS OF OUR PEOPLE

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I just heard proposed on the floor that there is a resolution calling for the "Year of the Unborn Child." With the budget proposals of this administration, I would suggest that we ought to have a resolution saying that this is the year of the unfed child, because the programs that are being advanced by this administration to cut back on the programs that mothers and young infants have in the milk program, to cut back on the school lunch programs, those are very meaningful cutbacks.

I wonder how anyone justifies, when they speak of the year of the unborn child, an administration that says: "We are now going to notify parents if a teenager goes to seek contraceptive help," which is the one way of not making teenagers go to get this help, which in turn, of course, produces pregnancies that are unwanted.

I think we are getting a little mixed up on what we are asking for. Let us try to ask for the year of humanity, where we understand the needs of our own people.

FURTHER CONTINUING APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, pursuant to the order of the House of yesterday, I call up the joint resolution (House Joint Resolution 409) making further continuing appropriations for the fiscal year 1982, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The Clerk read the joint resolution, as follows:

H.J. Res. 409

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(c) of the joint resolution of December 15, 1981 (Public Law 97-92), is hereby amended by striking out "March 31, 1982" and inserting in lieu thereof "September 30, 1982".

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. Whitten) is recognized for 1 hour.

Mr. WHITTEN. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Massachusetts (Mr. Conte), for debate only, pending which I yield myself such time as I may require.

Mr. Speaker, the resolution we have before the House, contrary to some of the speeches that were made, is a simple continuing resolution. The funds for the seven departments will expire March 31. This involves three major appropriation bills passed by the House last year but not yet passed by the other body.

Your committee brings to you by unanimous vote a continuation of appropriations for those departments until September 30.

The only change is in the date from March 31 to September 30.

That being true, and the resolution not being subject to amendment under the rules of the House, I see no reason to debate it at length. It is a continuation of what we have had for all of this fiscal year.

I would like to say that nobody on this side of the aisle or the other side, so far as I know, has any desire to have to deal with a continuing resolution. We have had to do so because our friends in the other body simply have not been able to pass appropriation bills in time.

I would like to repeat that when you have a continuing resolution, all you have to do to come out from under it is to pass the regular bills. The provisions of the regular appropriation bill would obtain and that is what your Committee on Appropriations has been trying to achieve.

Everyone being familiar with the operations in existence now, the fact that this changing only the date, and it being necessary—otherwise these departments under the present procedures would close—I respectfully submit, Mr. Speaker, that we should pass this without great discussion except such comment, of course, as my colleague on the Republican side, the gentleman from Massachusetts (Mr. Conte) might wish to make.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, first of all I want to congratulate the gentleman for one thing. We are going to spend several tens of billions of dollars here, and we are going to do it in about five lines in a joint resolution, and so on. We are certainly saving paper for the Government under this manner of procedure.

Mr. WHITTEN. I thank the gentleman. That is a small compliment, but I appreciate it. We do the best we can. If they would follow my suggestion, we would save a lot more than that.

Mr. WALKER. I thank the gentleman.

I just want to clarify a couple of things. Can we be assured that all of the past language with regard to abortion is contained in the continuing resolution?

Mr. WHITTEN. I tried to explain this to my friend, the gentleman from California (Mr. Rousselot), yesterday.

All we do in this resolution is change the date. So everything that is in the existing resolution is carried forward, except we change the date so that they can continue to operate, under the current restrictions, with the current provisions, in the same way as they do now.

Mr. WALKER. So that would include abortion and school prayer.

Mr. WHITTEN. My words were all-inclusive. It is exactly what we have now.

Mr. WALKER. But it does not include, if the gentleman will yield further, any language with regard to busing. Is that correct?

Mr. WHITTEN. That is right, no new language.

Mr. WALKER. So the fact that both Houses have approved antibusing language would mean that we would continue to fund busing under the Justice Department, even though we do have both Houses that have acted on that language.

Mr. WHITTEN. Well, that matter is not before us at this time. That is a different piece of legislation. That is not before us now.

Mr. WALKER. Well, if the gentleman will yield further, my problem is that in the authorization process we have banned busing in both Houses. Now, the busing language is being held at the desk by the Speaker at the present time, which would put the ban on it. But by approving the continuing resolution, with no antibusing language in it, we would continue to allow the funding under the Justice Department appropriation for busing. Is that correct?

Mr. WHITTEN. The gentleman is talking to himself on this. I repeat again: It is a continuation of what exists now. So I think we should pass this resolution now. There is widespread agreement.

Now, what happens with other legislation will have to happen. And may I say that anytime a bill is agreed to it would replace this resolution. But this resolution cannot be changed under House rules. So I would hope that we would go ahead with it.

Mr. WALKER. If the gentleman will yield further, I do want to point out that it is not the gentleman's fault or the fault of the gentleman from Massachusetts that we are in this bind. It rests in the other body, because it is they who have not cleared the Justice Department appropriation and it is they who have not cleared the Labor-HHS appropriation. So the gentleman has a very difficult task here.

I do want to point out for the record that it is not the gentleman's fault that we find ourselves in this impasse, but in fact it is a legislative impasse with regard to some of these very important issues.

Let me ask further of the gentlemen, if he would yield further, how long has it been since we have passed a Labor-HHS-Education appropriation?

Mr. WHITTEN. July 1979.

Mr. WALKER. So we have gone now a full 3-year cycle without ever passing a regular appropriation?

Mr. WHITTEN. When you say "we" I am sure you have reference to our friends on the other side of the Capitol.

Mr. WALKER. Well, I am referring to the Congress as a whole, and our friends on the other side are certainly a part of that.

But that is the case right now, that we are just continuing, we will proceed for 3 more years.

Mr. WHITTEN. You are using the word "we." We have done a better job than that. We have done a good job.

They had their reasons in the other body and I do not make any criticism, but the gentleman is right when he says our friends on the other side have not passed all the bills. We have passed them and sent them to them.

May I return to this and say that the reason we have had continuing resolutions is because we have sent bills to the other body, could not get them acted upon, and all we could do to keep the Government running was to put them in a package, so to speak, send them over there in one continuing resolution, which we have done. It looks like we may have to do it again. But it is not something we like to do. It is the best you can do under the circumstances.

Mr. WALKER. If the gentleman will yield further, does this particular continuing resolution meet all of the reconciliation targets that were set by this House last year?

Mr. WHITTEN. I do not know. I understand that is so, generally speaking. That legislation, in my judgment, was not in accordance with the Congressional Budget Act. This resolution is simply what was agreed to before and signed by the President.

Mr. WALKER. Would the budget figures in this be higher or lower than the fiscal 1982 budget that we adopted?

Mr. WHITTEN. It is my understanding that it would be within.

Mr. WALKER. It would be lower.

I thank the gentleman very much, and I thank him for yielding.

Mr. WHITTEN. Mr. Speaker, I would like to include in the Record at this point a brief description of the major features of this continuing resolution that we have before us today as follows:

PHILOSOPHY

Simple data extension of the current law through September 30, 1982.

Provides for the orderly continuation of government.

Keeps existing funding levels in place (the Conte substitute).

EXPIRATION DATE

Extends the existing continuing resolution (PL 97-92) which is scheduled to expire midnight, March 31, 1982 through September 30, 1982.

COVERAGE

Since 10 of the 13 regular appropriations bills have been signed into law, this Resolution provides continued funding for 3 bills: Labor-HHS-Education; Commerce-Justice-State-Judiciary; Treasury, Postal Service.

PROVISIONS AND LIMITATIONS

Carries existing provisions and limitations by reference on: Abortion; school prayer, and tax exempt status of private schools.

Thank you Mr. Speaker, I urge adoption of the resolution.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support House Joint Resolution 409, which extends the date of the current resolution from March 31 through the end of the fiscal year.

Three bills have been enacted by the House, but have not passed the Senate. There is no assurance, no assurance at all, that the remaining three bills—Commerce, Justice, Labor-Health and Human Services, Education, Treasury, and the executive branch—will be acted upon by the other body.

Mr. Speaker and Members of the House, this is the third year in a row that we have not passed a Health and Human Services bill, a bill that contains all of the programs for the National Institutes of Health, for cancer, heart, lung, diabetes, eye—you name it—digestive diseases, all of the education programs, higher education, elementary and secondary education, all of the Labor appropriation bills, OSHA, and setting standards by the Department of Labor, all of those. One of the most important pieces of legislation, in fact, the largest appropriation of all of the appropriation bills of the 13, has not been enacted for 3 years. This House has done its work, and has sent these bills over to the Senate.

So, the continuing resolution must be extended to provide continuing appropriations for these three bills.

This is a very clean resolution, and I hope that the Members of the House and the Senate will keep it clean. The urgent supplemental and the later general supplemental are the appropriate vehicles for additional, individual appropriations, and I support the resolution.

Swift passage of this resolution is critical to the elementary and secondary education communities across this country. School boards and school districts right now are in the midst of planning their budgets for the coming school year. They have to make decisions now about programs that they will offer in the area of handicapped education, education for the disadvantaged, bilingual education, vocational training programs. At the same time, the higher education community is in the midst of determining its academic year budget for higher and continuing education programs, for all of the student financial aid programs that they support. Colleges and universities need to know now that the Federal resources will be available to them through the remainder of the fiscal year. I have met with educators throughout my State, and they would be very, very happy and very pleased if we could pass this continuing resolution through September 30 so that they could plan their budgets.

Mr. HOPKINS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

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Mr. HOPKINS. I appreciate the distinguished ranking member of the Appropriations Committee yielding and commend him for the outstanding work that he does on this committee.

I would agree with him and his discontent over appropriating funds that should have been really handled sometime during the last 3 years.

My question to the ranking member is, Why was September 30 picked? For those of us who are somewhat discontent with continuing resolutions, why was not June or July or August given consideration?

Mr. CONTE. That is a good question. It is a fair question. I wanted September 30 in the other continuing resolution because I knew there was no way, no way, that we could pass these bills over in the Senate.

The State/Justice bill, and the Treasury bill, are hung up over there.

The unfortunate part is that the appropriations machine and the process has been abused down through the years. And it all started with the Vietnam war. I remember going on this committee 24 years ago, and nobody would ever think of taking the appropriations bill here as it came to the floor of the House and tack on their favorite amendment, an amendment that they could not get through the Judiciary Committee or the Education and Labor Committee, or some other committee in the Congress.

So we became the vehicle to carry all these amendments.

Unfortunately, they are easy to adopt, they are politically sensitive amendments. I remember one year when the gentleman from Illinois (Mr. Hyde) first put on the abortion amendment. For 14 weeks we were trying to iron out that impasse that we had over the abortion amendment. And I finally came up with the key and said the life of the mother would be included in that amendment and that broke down that impasse. That is what has happened.

The Appropriations Committee has become like an old mule, everybody tacks something on. It reminds me of the old story of the old fellow who never had much money and he had an old mule, that was all he had was a donkey, he and his wife. He said, "I have got my life's earnings here, let's go to Rome and let's see the papal city before we die."

So the three of them started out, the husband, the wife, and the jackass, and they started out from Sicily up to Rome and every town they went through somebody would see them and say, "Look, where are you going?"

"I am going to Rome."

"Will you take this little package and give it to my relative in Rome when you get there?"

Every town he went to all the way from Sicily up to Rome. And by the time they got to the outskirts of Rome the poor jackass collapsed and died because he could not carry the load.

That is what is happening to the Appropriations Committee. We just cannot carry the load of all the authorizing committees who just do not face up to the issues and bring them out to the floor and let us debate them.

Mr. HOPKINS. I agree with the analogy of the gentleman by simply saying I think there are a lot of taxpayers in the country quite frankly who agree with us that there are more people riding in the wagon than there are pulling this wagon.

What my question is, Why are we waiting until September 30 to address this again? Are we carrying the luggage of the Senate? Is that what this House is doing? Why can we not address this the first of June or July, rather than going to the end of this year?

Mr. CONTE. Making it June 1, will not mean that they are going to move over there. We are just going to have to go through this process once again.

So let us do it now and let us get it over with. Let us let those school boards go ahead and plan their budgets and know where they are going. Now they know they are going to have a continuing resolution; September 30, they know what is in there for education, and they can go ahead and in orderly procedure.

If we cannot continue here in the Congress in an orderly procedure, at least let us let the rest of the country go on in an orderly procedure.

Mr. HOPKINS. That is why September 30?

Mr. CONTE. That is why September 30.

Mr. HOPKINS. I thank the gentleman.

Mr. CONTE. Let us talk. Why vote? Everybody is complaining that we have nothing to do. Let us talk.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas.

Mr. COLLINS of Texas. I appreciate the gentleman from Massachusetts yielding, and it is good that we have an opportunity to review some of these matters on the floor of Congress. The gentleman did mention one of the major problems that we have in the House, and that is when a key issue comes up, where the will of the people, where the will of the Congress is expressed, it will go to a committee that will simply bury it and not let the matter be considered.

Now in the appropriations, which is the money of the country, we do have a chance to come out and bring to a head some key issues. One of those key issues which we had on this appropriations bill which is up before us right now, and which the Senate acted on and then when it came back—let me be specific. It had to do with the education of the children of America, which the gentleman from Massachusetts is very much concerned about, quality education. By a vote in this House of 265 to 122—that is pretty well speaking the views, when we have 265 to 122—it said that in the Justice Department that no salaries were going to be paid involving litigation where we were transporting students beyond the school nearest to their home. In other words, we were going to let students in America go to their neighborhood school.

It took them 9 months to get the matter settled over in the Senate. They settled it in the Senate and brought it over and it is still sitting up there at the Speaker's desk because it has not been moved to a committee.

When it gets to the Judiciary Committee, as we all know, that is a wonderful committee of deep-thinking people, but they take a long time to think and they take even longer to deliberate. If we ever send anything to the Judiciary Committee, it does nothing but sit and sit and sit.

Now, under the rules of the House, we have an opportunity under these Appropriations Committees. Usually we have an opportunity to submit amendments. What the committee has done to us today is to bring out a closed rule. They are just bringing out a fixed committed continuing appropriations that does not let us settle once and for all this matter of school busing, and I would like to say in my hometown we saw integration killed; in other words, what they are trying to do down there is to segregate the schools of America.

I come from the city of Dallas. When they started this school busing we had 38-percent minority, which pretty well represented the city. Today in our public schools we have 80 percent—80-percent minority. If they keep on turning it into a minority school system the public schools will lose the thrust of what we really want and what we desire.

Now, my colleagues know how this Congress feels and what we resent is the fact that that amendment, which is on authorization, which was passed by the Senate, that we are overlooking it through this continuing appropriations.

Mr. CONTE. In answer to the gentleman from Texas and he is a gentleman, I nicknamed him "GENTLEMAN JIM," he is one of my dear friends, the Collins antibusing language is not continued by this continuing resolution because there was no language, no busing language in the December 15 continuing resolution. The Collins language was not included in the House-passed fiscal year 1982 Neal Smith Commerce, Justice, State, and judiciary bill, nor was the Collins language included in the Senate bill at that time.

Therefore, we had nothing. We agreed way back, even without looking at the gentleman's amendment, so that we would not prejudice the gentleman in any way, to take exactly what was in that December 15 resolution and carry it over.

Mr. COLLINS of Texas. If the gentleman will yield further, the funds for this particular amendment go through an authorization process. It was in the authorization.

Mr. CONTE. It was?

Mr. COLLINS of Texas. It was included. Normally we go to the authorization bill, but for some unusual reason, even after it had passed 265 to 122, the gentleman's committee, through its own wisdom, threaded it through the authorization, and we had an expeditious meeting of the Appropriations Committee. I remember the day it happened. We had two or three amendments that we thought were coming to the floor and they were not there and we ran into some confusion. Fortunately Senator HELMS, Senator JOHNSTON, Senator THURMOND, some of the great statesmen took this matter and rectified it and got it into the Senate bill.

That is why we have it sitting up at the desk right now.

Mr. CONTE. The gentleman is right.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HILER).

Mr. HILER. One of the things I think as we are debating this continuing resolution that should be brought up in the report for the further continuing appropriations for 1982, on page 2 it says "because of this situation" and we are referring to what has been going on in the other body—

> Because of this situation, the mounting budget measures regarding the fiscal year 1982 budget, and the press of current business, the Committee on Appropriations recommends in the accompanying joint resolution an extension of the current resolution until September 30, 1982, thus providing funding authority for the entire balance of this fiscal year.

I can understand the difficulty over in the Senate, but I am not sure about the mounting budget pressures regarding the 1983 budget and the work we have done on it.

As was brought out earlier today, in meetings of full committees, the Agriculture Committee has met twice on the 1983 budget, the Banking, Finance Urban Affairs Committee did not meet at all, the District of Columbia Committee has not met at all on the 1983 budget, Foreign Affairs met once, Judiciary met once, Public Works did not meet at all, and Veterans' Affairs met twice. And these are figures that were put together by the nonpartisan Congressional Research Service.

So one of the difficulties I think we have, as the gentleman from Massachusetts said, is that we should debate these authorizations on the floor, we should debate the 1983 budget on the floor, and then we should do this so that we do not get into a situation of having continuing resolutions.

But unfortunately that has not been the case yet this year.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. HILER. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

I want to make sure I understand those statistics that the gentleman read out, which I happen to know, at least in one particular, are incorrect. But leaving that aside, is the gentleman saying that the full committees have only considered authorization bills on one occasion, like the Agriculture Committee, any authorization bills——

Mr. HILER. Yes.

The SPEAKER pro tempore. The time of the gentleman from Indiana (Mr. HILER) has expired.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. HILER).

Mr. HILER. What I was saying was that in the further continuing appropriations report to take up this bill, that one of the conditions for taking up the continuing resolution, rather than going forward with the appropriations or doing it in this fashion, was the mounting pressures on the 1983 budget and the work we have been doing.

The gentleman mentioned specifically Agriculture. Yes, there have been two meetings in the full Committee of Agriculture regarding the 1983 budget, one on February 22 and one on March 2. These figures were put together by the Congressional Research Service. There may have been an error.

Mr. LEVITAS. If the gentleman will yield further so I might have an opportunity of supplying to the gentleman that the Budget Committee is the committee that considers the budget and they have had numerous meetings. Each of the authorizing committees is required to meet for purposes of approving a budget submission to the Budget Committee. That is the way the process works.

The authorizing committees then will consider, and many of them have considered, a whole series of authorizing bills.

Mr. HILER. One of the problems is that there have not been these meetings.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

May I point out to the gentleman, he is referring to the Legislative Committee. Our Committee on Appropriations, the 13 subcommittees, are meeting 8 hours a day, our committee has been busy during this session. From February 8, the day the budget was received, through last week, over 132 days of hearings have been held.

The gentleman would be interested in knowing that in the 96th Congress we had 720 days of hearings, took testimony from 10,215 witnesses, published 225 volumes of hearings constituting 202,767 pages of printed material.

We had a question earlier addressed to my colleague from Massachusetts (Mr CONTE). He was asked why is this resolution not going for just 30 days. The last two times we went in conference with our colleagues on the other side, we were up 2 straight nights. The last one we were up through Sunday morning, until 2 or 3 o'clock in the morning. So each time we have a deadline for various reasons we have had trouble, and because of the situation we have not gotten through yet. I urge my colleagues to remember that we have to go to the other body, and still get this resolution through by midnight, the 31st of March.

The gentleman's question on our working schedule may have been referrring to other committees and they in turn probably are caught by other problems. Your Appropriations Committee is working day and night and sometimes we are rather lonesome around here in that my colleagues and others have gone home and we are still here trying to tend to the business.

Mr. HILER. Mr Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Indiana.

Mr. HILER. I very specifically did not mention the Committee on Appropriations.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the chairman of our fine committee. I have information concerning meetings on the subcommittees on appropriations, and I think it will serve a useful purpose to restate them here.

The Agriculture Subcommittee has met 15 days. The Justice, Commerce Subcommittee, 15 days. Defense has met 10 days; Energy has met 17 days; Foreign Operations, 6 days; HUD/Independent Agencies, 9; Labor-HHS, 16 days; Legislative, 9 days; Military Construction, 7 days; Transportation, 10 days; and Treasury, 10 days.

The subcommittees of appropriations have met for a total of 132 days between February 8 and March 17.

□ 1630

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 409.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. HILER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman.

Mr. HILER. Once again, I think it is important to recognize that I was in no way implying that the Committee on Appropriations has not been working on budgetary matters. What I was saying, because it was brought up by the gentleman from Massachusetts, is that it is in the authorization areas that we have been having some difficulty. In fact, if you look in regard to the 1983 budget, one of the reasons we cannot take up the specific bills in the continuing resolution, rather than just going with a continuing resolution is that it is the pressing business of the 1983 budget.

In fact, the Committee on Agriculture has only met twice on the 1983 budget.

The Banking, Finance and Urban Affairs Committee has not met at all on the 1983 budget.

The District of Columbia Committee has not met at all on the 1983 budget.

The Foreign Affairs Committee has only met once on the 1983 budget, and that is the only point that I was trying to make to the distinguished chairman.

Mr. WHITTEN. I can understand the gentleman's feeling but let me point out that the Committee on Appropriations has been holding detailed budget hearings for the past 2 months.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, I just wanted to make the point, I would hope that when we get to the motion to recommit here in a minute, since the gentleman is about to move the previous question, that I would be permitted to have that motion to recommit. We have prepared a motion which would put antibusing language into this particular resolution. I think it is very important for the House to know that if we can get a motion to recommit and if I can be allowed to submit a motion to recommit at the appropriate time, that we can, in fact, speak to the busing issue right here today.

I would hope that the committee is going to permit us to do that.

I would hope that it would be understood that if another kind of motion to recommit comes, it will be in lieu of an attempt to try to get specific antibusing language into this particular bill; so hopefully, we will have a chance on the motion to recommit to speak out once again in this Congress against the practice of busing and do so in a very meaningful way in this resolution.

I thank the gentleman for yielding to me.

Mr. COLLINS of Texas. Mr. Speaker, will the gentleman yield to me for 1 minute?

Mr. CONTE. I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. I thank the gentleman.

On this recommittal, as I understand it, it is the custom and tradition of the House that our side is entitled to submit a recommittal motion. When this comes up, the recommittal must be made by someone who is opposed to the bill in its present form.

Now, this brings up the question of busing, which is very pertinent and very important.

Is the gentleman from Massachusetts (Mr. CONTE) going to have the gentleman from Pennsylvania (Mr. WALKER) make the motion to recommit?

Mr. CONTE. I hope not.

Mr. COLLINS of Texas. In the event that we do not have a motion to recommit that brings out busing, it would be incumbent upon anybody and everybody who is opposed to school busing, forced school busing in America, to vote against this continuing resolution in every form.

In other words, the way it now stands if you vote for the continuing resolution the way it is, you are voting in favor of busing.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, on February 8 I filed a current level report with the Speaker and the Parliamentarian as required under section 311(b) of the Congressional Budget Act. This current level had been approved by the Budget Committee in a full committee meeting on that same day.

This current level is the official scorekeeping measure which is used to indicate to the House the level of spending compared to the second budget resolution and is the basis for rulings by the Chair on whether a bill fits within the budget resolution ceilings.

This current level incorporated congressional action on spending measures as of February 5 and reestimates of spending based on more recent economic assumptions. It indicated that the outlay level is $42.813 billion over the second budget resolution put in place by Congress last November. Thus, any additional spending for fiscal year 1982 would be subject to a point of order.

Although the continuing resolution to be considered by the House today does have an outlay impact, it is not additional spending because the current level filed with the House assumed an extension of the continuing resolution at a full year level, as is traditional in the scorekeeping calculation under this kind of circumstance.

Since this continuing resolution is a simple extension and does not increase spending above the continuing resolution in existence, it does not exceed the budget totals.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I thank the chairman for yielding.

I want to compliment the committee, both the chairman and the ranking member, for bringing this continuing resolution out, and bringing it out in the form that it is brought out.

I think that it is interesting to note that with the problems facing this country today, the economic hardships, the near desperation of some of our people and the absolute need to move this continuing resolution, I am very glad that we are not in a position, at least I hope we are not, because I heard the gentleman from Pennsylvania say that the real issues that we are dealing with are abortion, prayer in schools, and busing.

I would like to say that this country and the majority of the people in this country, while these may be important issues, are not the issues that are making this country move ahead and get it out of the economic problems that it is in.

I would hope that we would judge this and pass this continuing resolution for the purpose of helping the country, helping the people.

I would like to say what the gentleman from Massachusetts said. He said the schools of this country are waiting on this resolution, and it is absolutely correct. If we do not move ahead on this resolution, across the country we are going to be fouling up school boards and universities across this country who right now should be working out what they are going to be doing this fall.

So I urge Members to put aside anything but this continuing resolution. Let us vote for it, pass it, and not let it get snarled into something the way the other body has managed to do so well.

I thank the chairman for yielding.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding. I asked for time specifically to have a colloquy with the gentleman from Massachusetts (Mr. CONTE).

This morning in testimony before the House Education and Labor Committee Under Secretary of Labor Malcolm R. Lovell indicated that the Department of Labor will begin spending the fiscal year 1982 appropriation for title V of the Older Americans Act—set at $66.5 million on July 1 with "a decrease to 52,000 job opportunities."

This is the first time that this reduction in job slots has been revealed and I would like to ask my colleague Mr. CONTE—whose amendment to the December 1981 continuing appropriations prevailed—the following questions.

Did the estimated 4-percent cut applied in the December resolution apply specifically to title V?

Mr. CONTE. The 4-percent reduction applied to each discretionary program.

Mr. BIAGGI. Was it the intention of the gentleman that the reduction apply exclusively to job slots and not administrative expenses incurred either by the Labor Department, the national contractors, or the States?

Mr. CONTE. Well, it was not our intention that the cut apply to job slots exclusively. It could be taken from program administrative expenses, and that is where we hope it would come from.

Mr. BIAGGI. Would it be my colleague's intent if we extend the terms of the December 1981 resolution for the balance of the fiscal year to work to insure that the existing level of 54,200 job slots be maintained, or if cuts are necessary that job slots would go after reductions in administrative expenses?

Mr. CONTE. In answer to the gentleman, my good friend, the gentleman from New York, yes, we would like to insure a job slot level of 54,200 slots.

Mr. BIAGGI. In the event that that is impossible and cuts are necessary, can we expect that the cuts would come first from administrative expenses?

Mr. CONTE. Exactly right.

Mr. BIAGGI. I thank the gentleman.

Mr. CONTE. That has been the target of the gentleman from New York. The gentleman and I have worked on this program for a long time.

Incidentally, when the supplemental comes up, we have put in $2 million more for the Older Americans Act and ACTION. That was about to go down the drain, unless we got that $2 million, and I know the gentleman from New York would be interested in that.

Mr. Speaker, I think we are ready to go.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. TRAXLER), a member of the committee.

Mr. TRAXLER. Mr. Speaker, I rise in support of the resolution and to commend the chairman and the distinguished minority members, the members of the Appropriations Committee and the Members of the House for the timely fashion in which they passed in the House and enacted in the House the 1982 appropriation bills.

During the 1st session of the 97th Congress the House Appropriations Committee reported all of its 13 appropriations bills promptly: 2 in June; 7 in July; 3 in September: District of Columbia, Foreign Operations, Labor-HHS-Education; 1 in November: Defense.

The House passed all of its 13 appropriation bills under a tight and unusual schedule: 5 in July; 5 in September; 1 in October; 1 in November; 1 in December.

Remember:

First, the administration did not submit their fiscal year 1982 budget to the Congress until March 10, 1981, approximately 2 months later than normal, due to the change in administration.

Second, the Omnibus Reconciliation Act was signed into law on August 13, 1981, which changed many of the domestic authorization levels. House rules require that we appropriate under existing authorization levels.

Third, the President submitted further discretionary reductions totaling $25.7 billion on September 30 and October 15.

Of the five bills passed by the House last July, only one bill was handled promptly by the Senate; three bills were held in the Senate for 95, 97, and 104 days each and one bill—the Treasury-Postal Service bill still has not been passed.

Of the 13 bills, the Senate has yet to pass 3 major appropriations bills that fund the majority of domestic programs:

Labor, HHS and Education—October 6, 1981 (passed House).

Commerce, Justice, State, and Judiciary—September 9, 1981 (passed House).

Treasury-Postal Service—July 30, 1981 (passed House).

The last time the Senate passed a regular appropriation bill for the Department of Labor-HHS was July 20, 1979.

The last time the Senate passed a regular appropriation bill for Treasury-Postal Service was September 6, 1979.

The House Appropriations Committee continues to be opposed to the use of continuing resolutions as a substitute for the regular appropriations process.

In my judgment the chairman and ranking member and members of the full Appropriations Committee and the entire House have met their budget responsibility for the 1982 and previous budget.

Mr. SIMON. Mr. Speaker, will the gentleman from Mississippi yield for an inquiry and clarification of the intent of the legislation? I would like to engage in a colloquy with the gentleman from Kentucky and the gentleman from Mississippi.

Mr. WHITTEN. I yield to the gentlemen from Kentucky and Illinois for that purpose.

Mr. SIMON. Mr. Speaker, last December, when the continuing resolution now in force was agreed to by the Congress, the explanation of its provisions delivered on the floor of both Houses included the flat statement that the Secretary was expected to use for 1982-83 the criteria for determining the cost of attendance under the Pell grant program that he had used in 1981-82. I notice that this very clear and precise instruction is repeated again in the committee report accompanying the urgent supplemental.

Mr. NATCHER. The gentleman is correct.

Mr. SIMON. I understand that during the committee's deliberations yesterday, our colleague Mr. ADDABBO expressed a concern regarding the issuance of regulations by the Department of Education which would affect the cost of attendance and commuter allowances for Pell grant recipients. As I understand it, the issuance of these regulations would ignore the language in the committee report, and apply new, and more restrictive cost of attendance criteria for 1982-83 than are currently in force?

Mr. NATCHER. A number of colleges and universities, and university associations, have pointed out that those regulations, now being contemplated by the Department, would apply far more restrictive criteria for cost of attendance with regard to allowances for room and board, and book and supplies than those now in effect. That would also reduce the allowance below that currently in effect for commuter students. Last December the Congress explicitly told the Department not to change those criteria for the 1982-83 school year.

Mr. SIMON. I thank the gentleman from Kentucky. Even on the merits of the issue, the Department would seem to this Member to be clearly in the wrong should it choose to propose the regulation we understand to be under consideration. That regulation, treating the commuter student as some sort of statistical anomaly flies in the face of all the evidence we now have about the changing nature of the college-going public. The committee on which I serve noted these changes as long ago as 1976, and we were neither the first nor last to observe that the commuter student, like the student outside of the traditional college-age group, is becoming more and more the norm. The Department, in order to save a few more dollars, would propose to substantially reduce the Pell grant awards of commuting students.

Furthermore, a reduction in the allowable expenses for room and board, and books and supplies is a severe penalty to make low- and middle-income students pay. These students are exactly the ones for whom any reduction in their award will create a significant hardship and possibly result in forcing them out of school.

I thank the gentleman from Kentucky for making, once again, the intention of the law clear—even to those at the Department and OMB who may not like what the law clearly says—and I thank the gentleman from Mississippi for allowing us to engage in this clarifying colloquy.

Let me just add my commendations to the Members of both political parties of the Appropriations Committee for protecting higher education in this country. I think they have rendered a real service to the country.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes, and I yield to the gentleman from Texas (Mr. PICKLE) for debate only.

Mr. PICKLE. Mr. Speaker, this is but one more indictmen to the people and reflects the diversity of their views, that gives rise to its special competence, a unique legitimacy to commit the resources and will of the Nation.

I submit that the amendment establishes a balance between the governmental needs ities of the problems. But it is time to put a stop to government by continuing resolution, and we will never do that unless we force ourselves.

So maybe now is a good time to ask for new cosponsors for a bill I introduced last fall to reform the process. At stake is the historic role of the committee system and the authority and reputation of Congress.

My bill, H.R. 5102, would simply require a two-thirds vote in both bodies of Congress before the continuing appropriations process could be used to fund the everyday operations of government—with exceptions for a national emergency, of course. In essence, H.R. 5102 would force both Houses to pass appropriations bills before deadline, and—I hope—it would provide the incentive for Congress to make the tough spending decisions through the regular appropriations process a more deliberate and responsible way to determine fiscal policy than the "revolving door resolution" we consider today.

The alternative is to continue "continuings," and that means to abdicate congressional responsibility to often unverifiable figures and last-minute pressures.

I hope you will pause to consider H.R. 5102.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. EMERSON).

Mr. EMERSON. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Texas. This continuing resolution process that we periodically experience is no way to run the country or get our budget under control. I have said many times that the continuing resolutions lend themselves to great mischief. The restrictive language against forced busing, for example, has not been included in this resolution. Therefore, the restrictions which we applied earlier are not in effect from the effective date of this resolution. This is a tragedy. The people of this country want forced busing dealt with once and for all, and our failure to include restrictions on it is akin to the backdoor tax break Congress gave itself several months ago when we considered "innocent" black lung legislation. I object to this process, and the people object to this process.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 additional minutes.

I do this to point out to my colleagues that our problem is on the other side of the aisle because the Senate has not passed the three remaining appropriation bills. Let me point out that any restrictions you put on the resolution on this side would make it that much more difficult to clear the resolution for final action.

The gentleman from Massachusetts and I recommended to our committee that we simply change the date of the continuing resolution, because if we do not reach agreement with our colleagues on the Senate side by midnight 1 week from now, seven departments will close their doors and we will not have funds for activities that are absolutely necessary.

I repeat again that this is not of our choosing. We are doing the best we can. I would hope that nobody will hamper our efforts to keep the Government in operation for seven departments. We did not ask for this task. We did not want it. We are merely trying to react in a responsible manner and we are doing our best.

I am sure you do not want to be responsible for bringing these seven departments of Government to an absolute halt and this will happen unless you let us proceed and resist any restrictive additions.

Mr. Speaker, I move the previous question on the joint resolution to final passage.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. GREEN

Mr. **GREEN**. Mr. Speaker, I offer a motion to recommit.

The **SPEAKER** pro tempore. Is the gentleman opposed to the joint resolution?

Mr. **GREEN**. Yes, I am, Mr. Speaker.

The **SPEAKER** pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. GREEN moves to recommit the joint resolution (H.J. Res. 409) to the Committee on Appropriations.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The **SPEAKER** pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. **WALKER**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 299, nays 103, not voting 31, as follows:

[Roll No. 41]

YEAS—299

Addabbo
Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkinson
Bailey (MO)
Bailey (PA)
Barnard
Beard
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Bliley
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brinkley
Brodhead
Brown (CA)
Broyhill
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Daschle
Daub
de la Garza
Deckard
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Downey
Duncan
Dunn
Dwyer
Dymally
Early
Edwards (AL)
Emery
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Flippo
Florio
Foley
Ford (MI)
Ford (TN)
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gore
Gradison
Gray
Guarini
Gunderson
Hagedorn
Hall (OH)
Hammerschmidt
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hightower
Hillis
Holland
Holt
Hopkins
Howard
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kindness
Kogovsek
LaFalce
Leach
Leath
Lee
Lent
Levitas
Lewis
Livingston
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Madigan
Markey
Marriott
Martin (IL)
Martin (NY)
Matsui
Mattox
Mavroules
Mazzoli
McCloskey
McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Moore
Morrison
Murphy
Murtha
Napier
Natcher
Nelligan
Nichols
Nowak
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Patterson
Pease
Pepper
Perkins
Peyser
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rosenthal
Roth
Roukema
Roybal
Rudd
Sabo
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shaw
Simon
Skeen
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Spence
St Germain
Stangeland
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Walgren
Watkins
Waxman
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—103

Applegate
Archer
Ashbrook
AuCoin
Badham
Barnes
Broomfield
Brown (CO)
Burton, Phillip
Chappie
Coats
Collins (IL)
Collins (TX)
Conyers
Craig
Crane, Daniel
Dannemeyer
Davis
Dellums
Derwinski
Dreier
Dyson
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Evans (GA)
Fiedler
Fields
Fithian
Forsythe
Frank
Gingrich
Gramm
Green
Gregg
Grisham
Hall, Ralph
Hall, Sam
Hamilton
Hance
Hansen (ID)
Hansen (UT)
Heftel
Hertel
Hiler
Hollenbeck
Horton
Hoyer
Hughes
Jeffries
Jenkins
Johnston
Kildee
Kramer
Lagomarsino
Latta
Leland
Loeffler
Lungren
Marlenee
Martin (NC)
McClory
McCollum
McCurdy
McDonald
Montgomery
Moorhead
Mottl
Nelson
Patman
Paul
Petri
Pickle
Pursell
Roberts (KS)
Roberts (SD)
Roemer
Rousselot
Santini
Savage
Schroeder
Sensenbrenner
Shelby
Shumway
Shuster
Siljander
Skelton
Smith (AL)
Smith (OR)
Snyder
Solomon
Stenholm
Stump
Volkmer
Walker
Washington
Weaver
Weber (MN)
Weiss
Wyden
Wylie

NOT VOTING—31

Bafalis
Bedell
Boggs
Boland
Breaux
Brooks
Brown (OH)
Burton, John
Carman
Crane, Philip
Edgar
Foglietta
Ginn
Goldwater
Hendon
Lantos
LeBoutillier
Lehman
Marks
McDade
McKinney
Myers
Neal
O'Brien
Pashayan
Rhodes
Rostenkowski
Russo
Schulze
Stanton
Wampler

□ 1700

The Clerk announced the following pairs:

On this vote:

Mr. Neal for, with Mr. Russo against.

Mr. Schulze for, with Mr. Philip M. Crane against.

Messrs. **BARNES**, **SAVAGE**, **MONTGOMERY**, **EDWARDS** of California, **LOEFFLER**, **McCURDY**, **HOYER**, **EDWARDS** of Oklahoma, **DYSON**, and **VOLKMER** changed their votes from "yea" to "nay."

Mr. **YOUNG** of Missouri and Mr. **BEREUTER** changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EMERGENCY HOMEOWNERSHIP ASSISTANCE PLAN INTRODUCED

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, as a member of the congressional delegation from Washington State, I have seen firsthand the devastating effect of this administration's economic policies on the housing and forest products industries. I come before my colleagues today to introduce a bill which I feel will get those industries moving again, and, through their revitalization, will stimulate a national economic recovery. I have the pleasure of introducing my bill with another member of Washington's delegation, my colleague, Mr. SWIFT.

Homeownership has been called the "American Dream"—but high interest rates and declining production are putting that dream out of the reach of more Americans every year. In 1963, more than half of the Nation's families could afford to buy a median priced home. Today, less than 15 percent can afford that home.

More than 41 million Americans will turn 30 during the current decade, and will want their own homes. Yet, production is falling rapidly, in direct relation to rising interest rates.

According to the National Association of Home Builders, housing production is at its lowest ebb since the post-World War II depression. In 1981, less than 1.1 million units were started—down 45 percent from the 2 million units started in 1977 and 1978. NAHB estimates an annual need of at least 2 million units. The housing shortfall, exceeds 1.8 million units, and can be expected to worsen unless a stimulus program is enacted.

High interest rates depressed construction during 1981. The sharp cutback in construction work increased the number of construction business failures—685 construction companies failed in the first quarter of 1981. The previous cyclical peak was in the second quarter of 1975, according to the Commerce Department, when about 660 companies failed. During the peak construction season last year, 8 percent fewer construction workers were on private company payrolls than in the summer of 1979. And the average workweek for those employees declined from 38 hours in the summer of 1979 to about 36 hours in the summer of 1981.

Rising unemployment adds directly to our growing Federal deficit. The Commerce Department estimates that a percentage point increase in unemployment costs the Treasury $27 billion in lost revenues and support payments. Job creation is the key to our economic recovery, and it has been the housing industry which has led us out of every major recession. In fact, according to the administration's own economists, without a recovery in the housing sector, there can be no sustained economic stability.

The legislation I am introducing today will give the housing industry the push it needs to help the Nation out of the current recession. My program will buy down the interest rate on 200,000 FHA/VA-insured homes by 4 percentage points for 5 years. The assistance will be available to families with incomes no greater than 130 percent of area median, for use in purchasing a home with a sales price no higher than the FHA limit for the area. Seventy percent of the homes assisted will be newly constructed. Thirty percent of the assistance will be available for existing housing. Funds under the program would be targeted to the States based on unemployment, population, and decline in housing starts. The bill would generate 352,000 man-years of employment, wages of $6.5 billion, Federal tax revenues of $2.5 billion, and $412 million in State and local revenue in the construction industry alone.

I ask my colleagues on the Banking Committee to give this proposal their careful attention. Its most significant difference from legislation now under consideration is the inclusion of existing housing as a category eligible for assistance. But it is significant also in its limited buydown, its relatively low unit cost, and its targeted assistance. I would welcome the cosponsorship of any of my colleagues, and am hopeful that this body will act quickly to adopt this or a similar plan. A recovery in the housing industry is essential to the economic health of the Nation.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 5555

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 5555, the Clean Air Act Amendments of 1982.

The SPEAKER pro tempore. Is there objection of the request of the gentleman from Connecticut?

There was no objection.

COMMUNICATION FROM THE HONORABLE ROBIN BEARD, A MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. ROBIN BEARD of Tennessee, a Member of Congress:

WASHINGTON, D.C., *March 12, 1982.*

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives, H-205, The Capitol, Washington, D.C.

DEAR MR. SPEAKER: One of my employees, William J. Rogers, 83 Huntingdon Street, Lexington, Tennessee 38351, has been subpoenaed to appear in State of Tennessee Chancery Court concerning certain information he has obtained while in my employment and while acting in an official capacity as an employee of the U.S. Congress.

As provided by ethics legislation, I request information as to whether complying with this subpoena would be consistent with the immunity and other privileges of the U.S. House of Representatives.

Sincerely,

ROBIN BEARD,
Member of Congress.

COMMUNICATION FROM RABINE, RABINE, & NICKELSBERG, ATTORNEYS AT LAW

The SPEAKER pro tempore laid before the House the following communication from Rabine, Rabine & Nickelsberg, P.C., attorneys at law:

RABINE, RABINE & NICKELSBERG, P.C.,
Bronx, N.Y., March 17, 1982.

Re Barry Nickelsberg, Special Assistant to Frederick Richmond, Member of Congress.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Please be advised that this office represents Mr. Barry Nickelsberg, who was a Special Assistant to Congressman Richmond from January 12, 1977 to October 1, 1981.

In compliance with Rule L of the Rules of the House of Representatives, we are informing you that Mr. Nickelsberg has been served with a Subpoena from the United States District Court for the Eastern District of New York. A copy of the Subpoena is enclosed for your records. This Subpoena concerns Mr. Nickelsberg's activities for the period he was employed in Congressman Richmond's office.

If you have any questions, do not hesitate to contact me.

Thank you for your time and consideration to this matter.

Very truly yours,

JOHN L. NICKELSBERG.

COMMUNICATION FROM HON. GUY VANDER JAGT, A MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Hon. GUY VANDER JAGT of Michigan, a Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 22, 1982.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I wanted to inform you that I have been served a subpoena and notice of deposition in a civil action re Rose Hall, Ltd., et al. v. Chase Manhattan Overseas Banking Corporation and Holiday Inns, Inc., CA No. 79-182, United States District Court for Delaware. This subpoena calls for me to appear at the offices of Alston, Miller & Gaines, a legal firm here in the District of Columbia, which is serving as counsel for Holiday Inns, Inc.

Since my office accepted the subpoena on thursday of last week, I have called on Stanley Brand, General Counsel of the U.S. House of Representatives, to serve in my behalf.

I am not certain as to future action in this matter, but please be advised that I will certainly be in touch with you on any major developments.

Sincerely,

GUY VANDER JAGT,
Member of Congress.

□ 1710

LEGISLATIVE PROGRAM

Mr. LOTT. Mr. Speaker, I take this time for the purpose of finding the schedule for the rest of today and tomorrow and, hopefully, next week. I would be happy to yield to the distinguished majority whip to see what he anticipates the schedule being, first of all, for the rest of this day and for tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the majority whip.

Mr. FOLEY. Mr. Speaker, I regret that we are not at this time able to give the schedule for this forthcoming week. That will be announced tomorrow. However, we have no further business scheduled for today, and the session tomorrow will be a pro forma session. We will have to wait until tomorrow for further announcements on next week's schedule.

Mr. LOTT. Mr. Speaker, let me confirm this, then. There will be no session on Friday, but what about on Monday? What does the gentleman anticipate on Monday? Does the gentleman have that information yet?

Mr. FOLEY. Mr. Speaker, I doubt that there will be legislative votes on Monday, but I hope the gentleman will allow me to say that the schedule for next week will have to be announced tomorrow. The best that I can do this evening is to assure the gentleman that the House will not be in session except pro forma tomorrow, and there will be no session on Friday.

Mr. LOTT. There will be no session on Friday. Now, there is already agreement by previous discussion here that we will have the veto question before the House, depending on what the Senate does, on Wednesday, and that we will go into session on Wednesday at 12 o'clock; is that correct?

Mr. FOLEY. Mr. Speaker, I think that is the general trend of thinking at this point, but I would prefer that the majority leader make the specific announcements tomorrow. The gentleman is correct; that is the present direction.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

When I first came to Washington as an aide, we had something around here called the "Tuesday-to-Thursday" club; that was the schedule that allowed the Members to come down to Washington on Tuesday and leave on Thursday.

It seems to me that now we are having something very close to what could be called the "Wednesday Club" around here, where Members can come to town on Wednesday and do all the legislative business and leave town on Wednesday. I think we are doing something that is very dangerous, and I am just afraid that the American people are going to perceive us as being 1-day-a-week workers.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

A SOCIAL ACTIVIST CHANGES HIS VIEWPOINT

Mr. JOHNSTON. Mr. Speaker, many Americans who closely observed, and some who were reluctant to support, the actions of this Congress and the administration last session, have begun to realize the necessity behind them.

On February 23, 1982, the Greensboro Record printed an article written by Dr. Mark R. Sills, executive director of the Greensboro Urban Ministry, entitled "A Social Activist Changes His Viewpoint." Dr. Sills' excellent interpretation of the changes made in the welfare system deserves the attention of this body.

I cannot emphasize enough the importance of the message this article conveys and commend it to my colleagues. As we begin to debate the second Federal budget of the 97th Congress, I hope each of you will take note of Dr. Sills' comments. It is obvious to me we are accomplishing the goal of portraying the will of the American people—and we must continue to do so.

A SOCIAL ACTIVIST CHANGES HIS VIEWPOINT

As a long time social activist and urban minister, I have watched the growing impact of Reagan administration economic policy with many mixed emotions. At first, I was outraged by the seeming desire to balance the federal budget upon the backs of the poor. I was alarmed by the massive cutbacks in federal spending on social welfare programs. I was shocked by the seemingly callous attitude of David Stockman, Ed Meese and others who advised and guided the President.

Even while experiencing these negative emotions, however, I was experiencing some other rather different feelings as well. For many years, I have been a critic of welfare policy in America. My theology often warred with my sociology.

My deep belief in the dignity of the person, the sanctity of the family, the value of productive work, and the importance of contributory citizenship caused me to resent and reject contemporary social welfare programs as being destructive to these essential values. Welfare reform, often talked about, never seemed to materialize.

Now, perhaps, the wholesale destruction of federally funded social welfare in this country will be followed by the creation of a new kind of social welfare. Maybe we can now create locally relevant programs that accomplish the rehabilitation of families and persons in distress rather than the maintenance of such families and persons in a state of economic bondage.

I have thus come to view cutbacks in the social service realm as potentially and ultimately positive. There will be much short-term pain and suffering to be sure. Sudden withdrawal from any addictive substance is always painful, however beneficial it may be. And you may be sure that welfare systems in this country are not unlike addictive substances.

Families and persons who need help during crisis situations get hooked all too easily on a form of assistance that results in lifetime dependency. Their children, like the children of heroin addicts, are born hooked. Breaking the cycle of addiction and dependency will not be easy, nor will it be pleasant. Yet, it is essential for the health of the nation as well as for the economic, psychological and perhaps even moral salvation of the recipients of such aid.

It is true that the economic health of the nation is of critical importance to the poor. While "trickle-down" economics do not actually work, at least they have never worked before, nonetheless the poor suffer most in time of economic distress. It is to the benefit of the poor to restore a sound, growing economic environment in America along with a low rate of inflation.

If this can be accomplished and if the local religious, civic and corporate communities will fill the gap in social services with well designed programs that encourage self-help, crisis intervention, and long-term efforts toward the creation of entry level jobs, job training, and work incentives . . . and *if* we as a nation do not first destroy ourselves through our growing obsession with military and nuclear power . . . *then* we will be able to look back upon the Reagan administration with a positive regard.

No longer will we refer to the Reagan hatchet, rather we will view the cutbacks as a form of skillful surgery leading to the improved health of the patient.

I continue to have serious reservations about many Reagan administration policies, especially in regard to military spending and environmental issues. Also, I have serious doubts about its commitment to racial, sexual and economic justice. These issues are important ones and they must be addressed.

In terms of the impact of federal cuts in social services, however, I must admit to a growing if somewhat begrudging support for administration policy. It just might be the kind of policy we've needed in this country for a long time.

A TRIBUTE TO JUDGE CLEMENT F. HAYNSWORTH, JR.

Mr. CAMPBELL. Mr. Speaker, today I am introducing a bill that honors a great American, Judge Clement F. Haynsworth, Jr. This bill designates the Federal building in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building." Judge Haynsworth stepped down last year as chief judge of the Fourth Circuit Court of Appeals, a position he has held with great distinction for 17 years.

Service to one's fellow man is part of the Haynsworth heritage. As one of Greenville's most distinguished citizens, Judge Haynsworth is the recipient of numerous awards in recognition of his lifelong community service. As a jurist, he is recognized for his work as a lifetime member on the American Law Institute Council. Last summer, the Judiciary Conference of the Fourth Circuit was dedicated to the judge.

Clement Haynsworth has guided his court through many controversial civil rights and labor law cases, and a landmark decision on behalf of prisoner rights. In the years since his Supreme Court nomination, both conservative and liberal law professors have praised his judicial abilities and precise, hard work.

Presently, Judge Haynsworth, who is 69 years old, holds senior judge status on the Fourth Circuit Court. Naming the Federal building for Judge Haynsworth is appropriate due to his outstanding public service, and particularly since his office has been located in the building from its opening day.

Mr. Speaker, I would like to offer the following article from the Greenville magazine for the RECORD, which reflects the esteem that Judge Haynsworth has held in the Greenville community:

JUDGE CLEMENT FURMAN HAYNSWORTH, JR.

(By Choice McCoin)

So friends and acquaintances aptly describe Judge Clement Furman Haynsworth, Jr., senior judge of the United States Court of Appeals, Fourth Circuit.

Born in Greenville on October 30, 1912, the son of Clement Furman and Elsie Hall Haynsworth, the graduated *summa cum laude* from Furman University with a double major in history and English. The late Dr. D. H. Gilpatrick, Furman history professor, described Haynsworth as "an excellent student, alive and always willing to go deep into things." However, Clement had time for much more than the books; he was president of Kappa Alpha social fraternity, the Panhellenic Council, and the International Relations Club. He was also a member of the Quarternion, English, history, and economics clubs. His literary ability was recognized with the faculty award for the best contribution to the literary magazine in his junior year.

Ever since he can remember, except for one brief period when he considered pursuing a doctor of philosophy degree in history, Judge Haynsworth planned to enter law, just as the immediately preceding four generations of Haynsworths had. After graduating from Harvard Law School, he was admitted to the South Carolina Bar in 1936 and became an associate of Haynsworth and Haynsworth law firm in Greenville. Typical of the characteristics, Clement Haynsworth made his father and grandfather agree never to recommend a promotion or raise for him. When he was made a junior partner in 1941, it was at the insistence of the junior partners who accused the senior Haynsworth of unfairness to his son.

After his World War II service as a Naval officer, Haynsworth returned to the family law firm, a varied general practice, and his deep involvement in transforming Greenville into a New South city. His directorships of seven major South Carolina corporations included those of the South Carolina National Bank and the Liberty Corporation. When his law firm became Haynsworth, Perry, Bryant, Marion and Johnstone, he was the executive partner. At the time of his judiciary appointment, Haynsworth resigned all positions with publicly held corporations.

In 1957 when President Eisenhower appointed him to the bench of the Fourth Circuit of the United States Court of Appeals, Haynsworth was the youngest judge in that Circuit as well as the second South Carolinian to serve in that capacity in this century. In 1964 he became the chief judge of the Circuit, a position he held until he assumed senior status last spring.

President Nixon nominated Judge Haynsworth an associate justice of the Supreme Court in 1969, but the appointment failed to attain Senate approval. Political observers and long-time students of judiciary decisions and of Constitutional law, blame this failure of ratification on a liberal backlash following the embarrassment and resignation of Associate Justice Abe Fortas and on fear that the Haynsworth nomination was part of the Southern Campaign. Yet, his record of decisions speaks for itself, and many experts agree that his decisions indicate a remarkable absence of prejudice and his actions an extreme sensitivity to ethics.

With characteristic grace and style, Judge and Mrs. Haynsworth accepted their disappointment with quiet dignity as they went about their life "as usual." In his response to Senate rejection, Haynsworth urged his friends and supporters to "recognize that the greatness of the Senate as an institution is not diminished by individual disagreement with it."

That the Justices of the Supreme Court themselves have great respect for Judge Haynsworth is demonstrated by his having placed a law clerk with a justice every year since 1977. Recently, his 1969 law clerk, William Wilkins, was appointed a federal district judge, after notable service as a solicitor. One former law clerk says that Judge Haynsworth is good at training his clerks in law, in judiciary procedures and in just being good people. One Supreme Court Justice recently wrote Haynsworth, "You have the admiration of every justice here—both of you personally and as an outstanding federal judge."

When Haynsworth assumed senior status, Charles Alan Wright, a University of Texas law professor and one of the country's top Constitutional lawyers, commented that "he has written more opinions that are important for law students to read than any other judge."

As a member of the American Law Institute Council, Haynsworth participates in writing restatements of law. First asked to be a member of the American Law Institute when he was practicing, he has been made a life member of the group.

A member of the Furman University Advisory Council since its formation, he was recently named a member emeritus of Council. He is a member of the American Bar Association and an alumni director of Lincoln Inn at Harvard University. He is a former vestryman at Christ Church Episcopal.

Service to one's fellow man is part of the Haynsworth heritage. Extending back to colonial times, the line includes Richard Furman, pastor of the First Baptist Church of Charleston, S.C., and a Revolutionary patriot for whose head British General Cornwallis offered a reward. Furman later founded Furman University of which has son, James Clement Furman, a great grandfather of Judge Haynsworth, served as president. John Haynsworth, another great grandfather of the Judge, was killed in the Civil War. In Greenville ancestors of Clement Haynsworth have been leaders in civic and church activities.

The distinguished way in which Clement F. Haynsworth, Jr., has carried on the family tradition of service has been recognized in so many ways that one is fearful of being able to report all of them—especially since the Judge is reluctant to talk about honors. Last summer the Judiciary Conference of the Fourth Circuit was dedicated to Haynsworth with Chief Judge Harrison Winter and Professor Bernard F. Ward of the University of Texas at Austin delivering tribute addresses.

Furman University has awarded him the honorary doctor of laws degree, named him to its Hall of Fame as a charter member, and presented him with a Distinguished Alumni Award. An honorary member of Phi Alpha Delta legal fraternity and of Phi Beta Kappa, Haynsworth has been designated "Man of the Year" by the Greenville Chapter of the Society for the Advancement of Management, "South Carolinian of the Year" by WIS Radio and Television, and has been presented the "Outstanding Citizenship Award" by the Civitan Club.

Plaques in the Judge's Chambers express affection and appreciation from the District and Bankrupt Judges of the Fourth Circuit, Bar Association of the City of Richmond, the Lawyers of Maryland, and the City of Greenville. Another names Haynsworth a member of the New York Southern Society.

Haynsworth is a man of wide interests and knowledge. One example is his vast knowledge of American railroads, including detailed information of the great trains of yesteryear. So intense is his enthusiasm for trains that the Judge has been known to start out to lunch, hear a train and return to his window to watch it pass.

Dedication to work has always limited Haynsworth's pursuit of hobbies. When he was a young lawyer, he rode horseback because he could do that at night. Piloting a plane gave way to raising camellias and birdwatching. He and Mrs. Haynsworth share an interest in traveling and take several trips each year, and when the Judge is in Greenville it is a rare Furman home football or basketball game when he is not in attendance.

In 1946 Haynsworth married the former Dorothy Merry of Augusta, Ga. He has two stepsons, Rufus C. Barkley, Jr. and Joseph G. Barkley, both of Charleston, S.C., businessmen, and three stepgrandchildren. It is a well-known fact that the busy judge takes time for his large family and host of friends. That a half cousin named his son for Clement Haynsworth demonstrates the mutual love that the Judge and his family share.

A typical Clement Haynsworth action is that of his arriving at the home of neighbors with a bottle of Fresca with which he christened their new lawn mower, dedicating it "to the pursuit of better homes and gardens."

Although senior status grants him the privilege of deciding when to sit and when not to sit on Fourth Circuit panels, Judge Haynsworth says that unless he is sitting by invitation in another Circuit or maybe occasionally on a trip with his beloved "Miss Dorothy," he will be hearing cases with his fellow Fourth Circuit judges.

HAZARDOUS WASTE LANDFILLS: A METHOD WHOSE TIME HAS PASSED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

● Mr. LAFALCE. Mr. Speaker, I am introducing today legislation to ban the landfill disposal of hazardous waste.

This is not a step that I take lightly. I well recognize that this bill will be extremely controversial, as it takes us on the path of greatest resistance by disrupting business as usual in the hazardous waste marketplace. But I believe that the recent actions of the Environmental Protection Agency make passage of my bill necessary if we are to make progress in bringing the alternative methods of hazardous waste treatment, recovery, and disposal to the forefront of the hazardous waste marketplace.

In 1976, Congress passed the Resource Conservation and Recovery Act. We hailed passage of the act as signaling a major departure from the careless disregard and outright contempt for human health and the environment that characterized too much of this Nation's hazardous waste disposal industry. And, Mr. Speaker, I use the phrase industry with the gravest of reservations. Tank trucks that opened their spigots to spill their toxic cargoes on backroads, the haphazard dumping of drums filled with everlasting poisons, and the careless storing and stacking of containers of waste with little or no regard for their life-threatening contents hardly deserves to be called industry. Such incidents are evidence of the severest of crimes against humanity.

Yet today, almost 6 years after it was passed, RCRA has yet to be fully implemented. EPA has stopped processing permits for incinerators and surface impoundments; the financial responsibility requirements for owners and operators of hazardous waste facilities have been suspended; and regulations for the operation of hazardous waste landfills will not be proposed until 1983.

As if to add insult to injury, Mr. Speaker, EPA has taken two recent actions which further undermine congressional intent: Despite their own good judgment, EPA bowed to the pressure of outside interest groups and suspended regulations applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities which prohibited the landfill disposal of most containerized liquid waste.

The decision to suspend the prohibition and initiate a new rule which could allow for as much as 25 percent of the waste on any given landfill to be free liquid is clearly a step in the wrong direction. Apparently, EPA agrees, which only leaves me all the more puzzled as to why the decision was issued in the first place.

In proposing its new rule, EPA states:

> EPA strongly believes that introduction of containerized free liquids in landfills should be minimized to the extent possible, if not prohibited . . .

It is not surprising when the Agency concludes that:

> (We) are concerned that today's amendment may not achieve the degree of minimization of containerized liquids in landfills that could be reasonably achievable.

Mr. Speaker, no one denies that the drums disposed of in a landfill eventually allowing their contents to escape and contribute to the leachate that collects at the bottom of a landfill. Nor is there disagreement that leachate generation and subsidence of the final landfill cover, which may increase the infiltration of rainwater thereby exacerbating the leachate problem may seriously threaten the long-term stability of a landfill. But EPA's decision to allow this to happen was greeted with a chorus of skepticism and outrage. Federal officials, State and local officials, environmental conservation organizations, representatives and members of the hazardous waste disposal industry, newspaper editorials, and the people of this Nation responded to the EPA decision with cries of "foul."

As if taunting an angry lion, the Agency also intends to suspend the requirement that manufacturers of hazardous wastes report the quantity of wastes and disposal practices annually. Suspension of the annual reporting requirement will mean the end of any hope for effective oversight of as much as 80 percent of their 60 million metric tons of hazardous waste generated each year in the United States. Taken in the name of "efficiency," the proposed end to the mandatory system of reporting is tantamount to conceding defeat in the Government's effort to protect the public and the environment from the historic abuses in this field.

Mr. Speaker, any one of these actions might conceivably, and I take a generous view here, be understood as an attempt to streamline implementation of RCRA. Each alone could be the subject of debate, negotiation, and compromise. But taken together in the shadow of an act now 6 years old and still years from complete implementation, these actions take us on a course that will end in the crippling of RCRA.

All these actions have raised anew a broader question: How safe are hazardous waste landfills?

This question is being asked over and over again on the heels of EPA's recent decisions. It is a question that my constituents in western New York can never afford to stop asking, for Love Canal clearly demonstrates the potential for severe health and environmental damage from the landfilling of hazardous waste, and the two major hazardous waste disposal facilities in the State are located in our backyard.

But if this is the only question we ask, if we fail to raise anew the larger question, "How should we dispose of hazardous wastes?" we will have missed the opportunity to move this Nation away from the landfill disposal option and toward the application of alternative technologies for the treatment, recovery, and disposal of hazardous waste.

On Thursday, March 11, the EPA held a public hearing after complaints about its decision to suspend the liquid waste regulations became too loud to ignore. Armed with the EPA's own mea culpa, critics blasted the Agency's decision. And representatives of the "regulated community"—a phrase EPA uses to affected parties—asked the Agency to immediately implement its proposed rule rather than allowing millions of gallons of liquid hazardous waste to be dumped indiscriminately in the interim.

At the hearing, representatives of the Hazardous Waste Treatment Council, companies that dispose of liquid wastes by means other than landfills, told the EPA that as many as 315,000 drums containing 20 million gallons of hazardous liquids could be buried in landfills before the Agency gets around to deciding what restrictions, if any, it wants to place on this disposal option. These numbers are sure to increase if EPA does anything less than reimpose the prohibition that was first proposed in May of 1980, and which has been in effect since November of 1981.

These figures, as great as they are, pale in comparison with the total volume of all hazardous waste that is produced annually in this country. Over 60 million metric tons of acids, corrosive materials, toxic chemicals, and other hazardous wastes are generated each year. In New York State alone, our industry generates almost 2 million metric tons of hazardous waste. The volume of waste that we are placing in the ground is simply staggering.

Mr. Speaker, apparently the evidence was too overwhelming for even EPA to ignore. For on Wednesday, March 17, the Agency issued an interim rule to prohibit the placement in a landfill of containers holding free-standing liquids pending final action on the new 25-percent rule. But in my view, this is not enough.

It is incumbent upon us to aggressively explore other means of hazardous waste treatment, recovery, and disposal. Our objective must be to prohibit the landfill disposal of all hazardous waste for which there is a feasible alternative, and these alternatives do exist.

Liquid wastes can be solidified through a variety of chemical and physical processes. Waste oils laden with toxic substances can be recovered and reused as fuel. And, liquid organic wastes can be incinerated, producing energy in the form of steam that can be recovered from exhaust gases. These alternatives are available not only for liquid waste but for all forms of hazardous wastes. Technologies—including incineration, neutralization, fixation, chemical destruction and other means of thermal, chemical, physical, or biological treatment—to treat and recover hazardous waste are not the stuff of science fiction, they are the accomplishments of today's science and engineering communities.

How should we, then, dispose of hazardous wastes?

We can continue to rely on landfills, or we can move ahead aggressively to insure that the state of the art of hazardous waste management matches the state of the science of hazardous waste management. We can continue to build hazardous waste landfills, or we can channel our efforts toward making sure that waste streams are treated and recovered to the maximum extent feasible before a disposal option is chosen.

I do not believe that we have any real choice. The time has come for the Congress to prohibit the landfill disposal of all hazardous waste except in those cases where there is no technologically feasible alternative means of treatment, recovery, or disposal available which will protect human health and the environment. We must recognize that landfills are not an appropriate technology for many hazardous wastes, and they are not the best way to dispose of others.

Landfill disposal, now the method of convenience, should be the method of last resort.

Mr. Speaker, the bill that I am introducing today will:

Place an immediate permanent ban on the landfill disposal of all liquid hazardous waste;

Prohibit the landfill disposal of "acute hazardous waste" and hazardous wastes that are known to possess the chemical or physical-chemical ability to penetrate the clay and synthetic membrane liners used at a landfill facility where there is a technologically feasible alternative means of treatment or disposal; and

Prohibit the landfill disposal of any hazardous waste where there is a technologically feasible and reasonably available alternative means of treatment or disposal.

I urge all of our colleagues to study my proposal carefully. I welcome an open dialog on this issue, as I anticipate a tough fight ahead in our effort to forcefully address the lingering hazardous disposal problem in this country.

A copy of the bill follows:

H.R. 5950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hazardous Waste Management Act of 1982".

SEC. 2. (a) Section 1003(4) of the Solid Waste Disposal Act is amended by adding the following at the end thereof: "(including the prohibition of landfill disposal of certain hazardous wastes, including those in liquid form, where other means of treatment or disposal are feasible)".

(b) Section 3004 of such Act is amended by inserting "(a) IN GENERAL.—" after "3004." and by adding the following new subsection at the end thereof:

"(b) PROHIBITION OF LANDFILL DISPOSAL OF CERTAIN HAZARDOUS WASTES.—The standards under this section shall—

"(1) prohibit the disposal in a landfill of any hazardous waste in liquid form or having any liquid content, whether or not such waste is mixed with solid, or partially solid hazardous waste and whether or not such waste is placed in containers before disposal in the landfill;

"(2) prohibit the disposal of the following types of hazardous wastes in a landfill, except where there is no technologically feasible alternative means of treatment, recovery, or disposal (including incineration, neutralization, fixation, chemical destruction, or any other means of thermal, chemical, physical, or biological treatment) which will protect human health and the environment:

"(A) hazardous wastes that are known to possess the chemical or physical-chemical ability to penetrate the clay and synthetic membrane liners used at the landfill facility involved and those wastes which, when combined with other wastes are known to produce a mixture with this property;

"(B) acute hazardous wastes, other than highly dilute spill clean up debris, which contain any of the organic substances listed in 40 CFR 261.33(e); and

"(3) prohibit the landfill disposal of all other types of hazardous wastes where there is a technologically feasible and reasonably available alternative to landfill disposal.

The Administrator shall promulgate regulations under paragraphs (2) and (3) of this subsection not less than 60 days after the enactment of this subsection.".

(c) Section 3005(e) of such Act is amended by adding the following at the end thereof: "The prohibition contained in subsection (b)(1) of section 3004 (relating to the prohibition on landfill disposal) shall take effect with respect to facilities operating pursuant to this subsection on the date of the date of the enactment of such subsection (b). The prohibitions contained in paragraphs (2) and (3) of such subsection shall take effect with respect to such facilities on the date 90 days after such date of enactment.".●

AMERICANS CRITICIZE "OLYMPIC COIN FIASCO"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, there continues to be much debate concerning the issue of striking commemorative coins for the 1984 summer Olympics to be held in Los Angeles. At the present time, there are two very different proposals before the Congress designed to raise money to help finance the 1984 Olympics, and to help train American athletes for those games. My proposal, H.R. 3879, calls for a single silver dollar to be sold directly to the public by the mint. The other proposal, embodied in H.R. 3958 and S. 1230 calls for numerous coins to be sold through private marketers.

In deliberating over these proposals, we must be sure to consider the views of the American public since no program can succeed without its support. For this reason, I would like to share with you some of the many letters I have received from all over America.

Mr. Anthony Cholewinski of Pittsburgh, Pa., calls S. 1230 an "Olympic coin fiasco." He also makes these comments concerning its scope:

> There is no way that I can or will support the money grab of a series of 25 coins as has been described in the numismatic press. I think that two simple commemorative coins manufactured by the Mint with all profits going to the Olympics will in the end pick up the same or more money than this elaborate unnecessary plan.
>
> I am sure that you understand the state of the economy and I think with the size of the proposed Lazard-Freres issue, it will not sell. Rest assured, I will not purchase these.

The following statement from Mr. Warren Mendez of Holly, Mich., points out a number of the problems associated with the plan set forth in H.R. 3958 and S. 1230.

> I am writing concerning the reports out of Washington that the Lazard Freres International Banking House, and Occidental Petroleum are strongly lobbying for a minimum of twenty five (25) Olympic Coins.
>
> Twenty five coins in ridiculous!! Who could afford that many coins—certainly not the average person?!! There is a big resistance to buying an individual coin. Most collectors want complete sets. I could not afford, and would not participate in purchasing more than about five coins. Five is more than enough.
>
> I also object to any private group skimming the cream from the profits of coin sales. Why can't the Treasury Department produce the coins? In these times of economic stress it appears that Congress is still steeped in waste and mismanagement. I recently read reports of imminent layoffs of Mint personnel. Why couldn't these people be put to work on an Olympic coin program?
>
> You are about the only friend we collectors have in Washington. Please indicate to your colleagues in Congress that as Americans first, and collectors secondly, we'd like to see a little responsibility taken by them, and discard this stupidly conceived plan of Olympic coinage. I can't believe what is going down in the "snake pit" of Washington!!!!

These views are echoed by Mr. Ross Blakely of Phoenix, Ariz., who also emphasizes the prohibitive cost of owning a complete set of the coins proposed in H.R. 3958 and S. 1230.

> As a serious collector of United States coinage, I agree wholeheartedly with the position of the American Numismatic Association and, alternatively, with your position relative to the proposed commemorative coinage for the 1984 Summer Olympic Games in Los Angeles, California. The number of coins authorized should be four or less, and marketing should be by a governmental agency.
>
> The Senate Bill (S. 1230) calling for twenty-five designs to be marketed by outside interests is, in my opinion, absolutely unthinkable. As nearly as I can determine, a forty-nine coin set with the twenty-five different designs, as contemplated in the Senate Bill would cost the public about $5,000 to purchase a complete set.
>
> Your thinking in this matter makes a lot more sense to me, and appears it would make much more money for the United States government than the program outlined by S. 1230. Therefore, when the bill gets to your committee, I respectfully urge your strong opposition to it.

Mr. J. P. Burkaske from River Ridge, La. also worries about the cost of owning a complete set of Olympic commemorative coins.

> I am a collector of 20 odd years. I do not like the 25 coin bill for the 1984 Olympics. It is too much for the average collector.
>
> I think 2 to 5 coins would go much better with collectors. That way they could afford to collect the full set. Please vote no on the 25 coin bill.

Perhaps none will suffer more from the enactment of S. 1230 than those individuals who live on a fixed budget. Mr. Robert Powers, of Coral Gables, Fla., writes:

> I thoroughly oppose S. 1230, and am in favor of a more realistic approach to Olympic coinage.
>
> I believe us retired folks and especially young people, will have a much better chance to make additions to our collections, both groups being of limited income.

Mr. William Devinney, of Litchfield, Ill., expresses doubts about the propriety of allowing private marketing of the coins.

> Keep up your battles to bring the "25 Olympic Coin Issue" back to the Treasury Department and the people.
>
> Who needs 25 coins? It is a rip-off sure and simple between some members of your group and Lazard-Freres Corporation to fill their pockets with ill-gotten gains at our expense.

Finally, Mr. John Gurksnis, of Greensburg, Pa., discusses the past abuses associated with the private marketing of commemorative coinage:

> I favor a more realistic approach to Olympic Coinage. I support your position of fewer coins and government handling of the program.
>
> I believe that hobbyists today stand solidly behind the concept of an Olympic coinage program. They are fearful that 25 different coins distributed by private interests over a 2½ year period would result in the same type of abuses and concerns that arose 45 years ago. History, after all, does often repeat itself.

Many of the issues discussed in these letters are very similar to those I have raised about S. 1230 and H.R. 3958. These people object to both the excessive number of coins proposed and the private marketing of them. They have repeatedly stated that they would prefer that the U.S. Government handle the entire program. Their faith in the ability and integrity of the Government is certainly encouraging.

I note that some Americans are suspicious of the motive of the supporters of S. 1230 and H.R. 3958. While I do not share their suspicions, the secrecy surrounding the marketing arrangements feed those views. As the General Accounting Office has pointed out, secrecy impairs Congress' ability to make informed legislative decisions. To many people the secrecy surrounding a program that could run into hundreds of millions of dollars implies, wrongly or not, that there is something improper to hide.

Many citizens have expressed their concern over the Olympic coin program proposed in H.R. 3958 and S. 1230. All they would like is a realistic program that every American could afford. Perhaps we could all learn from the good commonsense and restraint they have shown through these letters. Frequently, the simplest most straight forward plans yield the best results. Let us keep this in mind when we consider the proposals to commemorate the Olympics and raise money for our athletes.●

WHAT IS REALLY HAPPENING IN EL SALVADOR?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, we are told that our troops in El Salvador are only serving as advisers, as training specialists. Yet, I have not one time seen any news report that quotes an American soldier talking about his job. The one and only picture we have seen of American soldiers at work in El Salvador was provocative enough to cause the American Ambassador to send the commanding officer of Army personnel packing. With that one brief moment of light, the curtain descended. What are our troops really doing in El Salvador, and why are not they allowed to talk to the press—or if they are allowed to talk, why are not their words reported? Salvadoran troops are interviewed; they are photographed; their stories are reported. Peasants are interviewed, their desperation reported, their misery portrayed—but you never hear a word reported from our own Embassy personnel. Why not?

This past weekend, two graduate students in San Antonio approached me with startling words about what our troops may really be doing in El Salvador. These students were earnest, their convictions sincere, and their concern obvious. What they told me suggests that our troops in El Salvador are more than advisers, and they are engaged in more than the role of instructors.

These students told me that they had run into a soldier who was in transit. This soldier stated that he was in the Special Forces, and that the 10th Special Forces Group is assigned to El Salvador. According to him, this unit consists of 220 men. He said that members of the unit had participated in military missions and had been engaged in combat.

This is in complete contrast to the officially stated U.S. policy. That policy supposedly prohibits American soldiers even to carry rifles, let alone be engaged in any kind of combat operation—even as advisers.

Those who recall the incident of the unit that was photographed carrying rifles will also remember that the Ambassador made a great show out of throwing the unit commander out of El Salvador. A few days later, there were newspaper stories that said the administration was reconsidering its order against permitting soldiers to carry anything other than sidearms. Then there was nothing. No word about revised orders, no word about the ejected colonel, nothing. I said at the time that the order against carrying arms was unreasonable, and that it was also rediculous that our troops in El Salvador are not getting hazardous duty pay—although our diplomats are.

The question then and now is, what are our soldiers doing?

If we do have soldiers engaged in combat patrols, or in any form of combat—even as advisers—then our role in El Salvador is very different from what the official line says it is. There is a world of difference between a Green Beret who is training soldiers in the Salvadoran equivalent of Fort Benning, and one who is out on a combat mission. There is a world of difference between the level of commitment that is implied. There is a world of difference between a soldier committed to train others, and one who is in any kind of combat situation. Among other things, there is the fact that the War Powers Act is involved in any such difference.

At the time of the famous picture incident, we were told that our soldiers should not have been armed. If they should not have been armed, one wonders, where did the arms come from? The answer to that is probably that these were, in fact, the weapons of the soldiers in question, and they were being carried pursuant to an order of some kind. Now it happens that those troops were not in combat, or anything approaching combat—but clearly they felt that they might become engaged, that they might at the very least have to defend themselves.

The incident raised many questions, none of them ever answered.

With reporters swarming all over El Salvador, it is remarkable—astonishing, in fact, that the one brief glimpse is all the film that we have seen of American personnel. We never see them interviewed, never see stories that explain what their jobs are, how many there are, or where they work. We never see interviews with civilian personnel, either, or stories about their work or what they do. Could all this silence be telling us something? Could it be telling us that there is no information from the field, because that information would contradict what our public policy is? I have to wonder, especially in light of what I was told by those two students this past weekend.

The one fact that I can confirm is that there are, indeed, Green Berets in El Salvador. The Pentagon admits that there are, but denies that any particular unit is assigned there.

The silence is so overwhelming that I cannot help but feel the administration may, in fact, be violating the War Powers Act. It is a question that no individual Member of this House could ever answer. Therefore, I have asked the distinguished chairman of the Armed Services Committee to look into this matter. I have also asked the distinguished chairman of the Foreign Operations Appropriations Subcommittee to consider this matter. These are colleagues who can obtain information more readily and with a greater degree of confidence that will be accurate than I could.

I offer for the Record a copy of my letter to Chairman Price:

House of Representatives,
Washington, D.C., March 22, 1982.

Hon. Melvin Price,
Chairman, Committee on Armed Services, Rayburn House Office Building, Washington, D.C.

Dear Mel: I have received uncorroborated information of an intensely disturbing nature, and am writing to ask that you provide whatever verification you can. I am making this request because I do not believe the Administration would be likely to provide a complete and informative response to an individual Member, but would do so on the basis of an inquiry from your Committee.

My understanding has been that the U.S. military personnel in El Salvador and other Central American countries are simply training specialists serving on a temporary duty (TDY) basis. However, information I received last weekend suggests that this is not the case; that U.S. Special Forces units are in El Salvador and perhaps elsewhere as well. According to my informant, the 10th Special Forces Group is in El Salvador; that this organization consists of 220 soldiers; and that members of the organization have been engaged in combat missions in one degree or another.

I know, of course, that Special Forces personnel are especially trained in counterinsurgency operations, and as such are not only highly qualified combat soldiers, but experts in training techniques as well. However, there is a vast difference betwen the mission of soldiers who simply provide training, and soldiers who participate—even in an advisory capacity—in combat missions.

I would be greatly indebted to you if you could inquire whether there are, in fact, Special Forces personnel in El Salvador, or for that matter Honduras or Costa Rica. If there are such personnel, are they there as individuals, or as Special Forces units? Have any U.S. personnel been involved in anything other than training?

I am enormously concerned that the role of the United States forces in Central America may be different in nature and scope than what has been reported. I know that your Committee woud have great reason to be concerned if the nature of our role is more than simply one of providing necessary military training. Since such questions are of concern to your Committee, and since long experience has taught me that Administrations are not entirely forthcoming about inquiring on such sensitive issues as this, I would be more grateful for your inquiries on this, and for any information you can provide to me.

With best wishes.

Sincerely,

Henry B. Gonzalez,
Member of Congress.

Mr. Speaker, I would not raise these questions but for the fact that this House has before been told that American policy is one thing, only to learn later that it was another. We have been led down the path before—beyond the point of return. I would not want that to happen again. Every poll I have seen suggests clearly that the vast majority of Americans do not support even our present involvement in El Salvador, let alone the kind of involvement I was told about. If the War Powers Act is indeed being violated, that would be a grave matter—grave on its face, graver still because the sin would be compounded by deception.

We need some answers. We ought to be asking questions. We ought to look at the answers with skeptical eyes—for we must learn from the mistakes of the past, if we want to avoid repeating them. What are our soldiers doing in El Salvador?●

WILLIAM STANTON PICHER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Phillip Burton) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, San Franciscans will sorely miss the late William Stanton Picher. When he died recently of a brain tumor at age 67, the bay area lost a special friend of conservation and the arts. But we can be comforted by the knowledge that he left a special legacy, a legacy of community service with particular relevance today. He did more than achieve notable progress through a number of individual projects. At a time when some would relegate environmental protection and artistic endeavors to the status of dispensable luxuries, we should appreciate the work of someone who demonstrated that they are instead integral parts of a democracy. William Stanton Picher has permanently enhanced the natural and cultural environment of countless people in our area.

Mr. Speaker, I would like to insert into the Record the following tribute to Mr. Picher, beautifully composed by his close friend, Clifford Conly:

A Missouri native, William Stanton Picher was a descendant of President Lincoln's great Secretary of War; a student of poetry, he received his master of art's degree from Harvard University. He served his country in World War II in the U.S. Army Intelligence Corps. After the war, his life revolved around his bookstore and art gallery, until he closed it in the early 1950s.

At that time, he moved to the San Francisco Bay Area and dedicated his life to public service. His interests were far ranging. An early study and unique collection of ancient Chinese porcelain led him to take an active interest in the establishment of the Avery Brundage Oriental Art Collection at the DeYoung Museum. He extended his interest to the entire Fine Arts Museums of San Francisco, where he served with distinction on the board. He was also a member of the Museum Society, and became its president from 1975-1977. He was an early member of the Board of Directors of the Oakland Museum, and a trustee of the American Federation of Arts. He also was an ardent supporter of musical activities in the Bay Area, and recently was appointed to the Board of Governors of the San Francisco Symphony.

William Picher was actively involved in choosing and contributing fine art objects to grace the Symphony's new home, the Loise M. Davies Symphony Hall. His taste and collections in contemporary art were well known and he was a firm believer in furnishing support to local artists.

But his greatest contribution lay in his awareness of the environment and the field of natural conservation. He understood the threat of uncontrolled development long before conservation became a household word. He was interested in birds from an early age, and became president of a local Bay Area Audubon chapter when it comprised a very small group of persons. From this position, he was able to found and raise support for the West Marin sanctuary known as Audubon Canyon Ranch.

For the following twenty years, and until the day of his death, his untiring work on behalf of fund raising, land acquisition and management, and organizational activities never ceased. In fact, his work almost singlehandedly started the conservation movement in West Marin that has resulted in the establishment of two great parks. His steadfast efforts led to the preservation of much land along Tomales Bay and Muir Beach, and, more recently, in Sonoma County. Audubon Canyon Ranch, which features natural preservation and educational programs at its three preserves, will remain his greatest monument.

Many people of the Bay Area, dedicated to the preservation of the quality of life on our planet, will miss him.●

UDAG: URBAN ENTERPRISE WITH A TRACK RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE) is recognized for 5 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, this week the administration announced its legislative plans for the much discussed but little tested urban enterprise zones.

In its eagerness to create still more tax breaks, in this instance for firms which locate in distressed areas, I would hope the administration does not compound the damage it has caused HUD's urban development action grants (UDAG), a job creating program with a proven track record.

Funds for UDAG, a program established by the Carter administration in 1977, have been reduced by a third in the administration's most recent budget request. The Carter fiscal 1981 budget provided $675 million; the Reagan fiscal 1983 budget asks $440 million. It is no secret that some at the Office of Management and Budget, including Director David Stockman, would like to see the program eliminated altogether. The enterprise zone proposal is apparently designed to take up the slack that results from UDAG fund reductions or elimination.

I do not believe that reducing the Federal urban presence will necessarily mean more private investment and jobs, a philosophical tenet of the enterprise zone concept. Herbert Liebenson, president of the National Small Business Association, has described the situation in many urban areas. "Most small firms are hanging on by their fingernails just trying to survive," he says. He notes that "Money's what's needed, not tax deductions."

UDAG provides that money, and the private investment that results provides the jobs. At my request, the Congressional Research Service (CRS) has projected what we might expect if the UDAG program is funded at $500 million per year—the amount authorized by Congress in fiscal 1982—through fiscal years 1982-84. CRS projects that we could expect to create or retain more than 200,000 private sector jobs, $11 billion in new private investment, and $98 million in new local property tax revenues. This extrapolation is based on data compiled in a recent HUD evaluation of the UDAG program.

While the administration's lack of enthusiasm for the UDAG program is clear, I would hope that the decisionmakers consider exactly how much 200,000 jobs, $11 billion in private investment, and $98 million in new local taxes can mean in a depressed economy.

We should preserve and improve Federal programs such as UDAG, programs which do the job they were designed to do. An experiment with enterprise zones, if it is accompanied by further reductions in the UDAG program, would be a mistake. The UDAG program is a winner. We should keep it.

I would be happy to share with my colleagues the complete text of the CRS report on the projected performance of the UDAG program over the next 3 years. Please contact my office if you desire a copy of the report.●

AMERICA RESPONDS TO THE "DO-IT-YOURSELF" BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

● Mr. REUSS. Mr. Speaker, the word we hear, on both sides of the aisle, is that President Reagan's budget proposal is "dead in the water."

The President has told Congress to "put up or shut up."

We shall "put up."

Last week, as chairman of the Joint Economic Committee, I testified before the House and Senate Budget Committees and presented an alternative "Do-It-Yourself" congressional budget. It is designed to reduce the massive budget deficits which the administration's plans embrace, to get the unemployed back to work, and to get interest rates down as fast as possible. Our proposal, drawn from the JEC's annual report, has four elements, which I briefly summarize:

First, we should hold the line on domestic spending—no large increases, but also no more harsh cuts in badly needed "people programs."

Second, we should restrict the President's proposed increases in military spending to 5 percent in real dollars over last year.

Third, we should repeal the Kemp-Roth income tax cut which is scheduled for July 1983. It's largely a boon to the rich, and repealing it would save $40 billion a year. By attaching the repealer to the debt ceiling legislation, we help assure a Presidential signature.

Fourth, Congress should formally direct the Federal Reserve to ease up on its supertight money policy.

In the week since my testimony, I have received hundreds of spontaneous letters, from all over the country, commenting on it. The letters cover a variety of viewpoints and topics, but the great majority of them clearly favor our proposal. This represents a unique opportunity to hear, directly, what America thinks about our budget choices. I want to share with my colleagues excerpts from a wide sampling of these letters.

Leonard Weksler of Encino, Calif. sent a brief cable:

> In behalf of all bewitched, bothered, and bewildered builders in the country, thank you for your sensible approach in regard to immediately lowering the interest rates in the country. God bless, and give them hell.

C. D. Spencer of Albany, Oreg., wrote:

> I wish to add my support, as (your position) reflects my sentiments better than I have heard expressed so far by anyone in Congress. I am a Republican and voted for Reagan, but he must be made to realize the plight of the country by both parties or we all go down in flames. What earthly good is a tax cut if we have no income or jobs??? Please be assured you have gigantic support for your position.

Another brief cable, from Carroll Clampitt—a wise and objective correspondent—of North Bonsall, Calif.: "Your take-charge attitude toward the ailing economy makes sense. You should be President." Similarly, from John Hamacher of Terra Bella, Calif.: "Your suggestion that Congress move toward getting the Federal Reserve to reduce interest rates is sound and warrants action."

From Greenville, S.C., Mrs. R. C. Griffith wrote:

> Thank you for your stand against the tax cut and for a reduction in defense spending. . . . The "trickle-down" theory just doesn't work. It seems to me that this Administration could see that by now. Military superiority isn't what we need; a strong economy, with everyone having a job, is! And everything being done now is taking us further down the road to depressions. Please continue to do what you can.

From Ingleside, Illinois, a card from Mrs. L. Johnson: "I believe you are on the right track, getting the Federal Reserve to cut interest rates * * *. I hope you get support for your proposal." And a card from C. Joseph Tillman of Minneapolis: "Good for you!! These silly and damaging interest rates are causing a depression. We're with you!!"

Allen Nelan of Mount Dora, Fla., wrote that—

> My proposal "is a move which has been long overdue and it certainly would be unwise to wait until everything goes to pot before we take necessary steps. I applaud your efforts and wish you well."

From Wayne Huddleston of Burkeville, Ky.:

> I see you are a Democrat and I am, I guess, a die-hard Republican. I'll have to agree with you that someone will have to take the courage and put the Fed in its place. . . . If they don't bring interest rates down to a sensible level, Congress should force it on them. High interest is killing all of us. We can't build a house. We can't buy a car. So no wonder people are out of work. Are you the only sane leader in Washington?

Now, to be fair, the same day as I heard from Mr. Huddleston, I got a one-line note from Chuck Litzen of Anaheim Hills, Calif., who asked: "Are you the village idiot in Washington?" But more from the dissenters in a moment.

Mr. and Mrs. Youngwirth of Wheat Ridge, Colo., wrote:

> God bless you for urging a take-charge to force the Federal Reserve to lower interest rates. We urge our Congressman to do the same.

From Billings, Mont., Houston Bill Todd wrote:

> We are so pleased to hear that someone in Congress had finally been bold enough to try to do something about the cause of our problems and not just complain about the effects.

From Chagrin Falls, Ohio, Margaret Thoren wrote: "Bravo for your courageous stand." Leon Hayes of La Jolla, Calif., wrote: "Yes, Congress must rescue the country and lead it out of the mess it and the President worsened last year. He appears intent on ruination." From Maurice Watts of Grants Pass, Oreg.: "I want to applaud your position in regard to the Federal Reserve. The Reserve System was set up by law, and it should be responsible to the will of Congress." From David Schwarzman of Atlanta: "It was interesting to read that you want to order the Federal Reserve to lower its interest rates, for which I want to compliment you * * * ."

From Waukesha, Wis., a small businessman wrote:

> I agree with you that the Congress should order the Federal Reserve Board to ease its monetary policy. You are right in your decison to resist any further personal income tax cuts. . . . Our company's work force has been cut in half during the past year. Incoming work presently is one-fourth normal. You seem to be on the right track.

From Jacob Gross, a retired postal worker in Nalcrest, Fla.: "Your stand on the Fed is very timely. How can any young couple think of marriage and home buying at 18 percent interest?"

Steve Koontz of Elk Grove, Ill., wrote:

> I wish to commend your attempt to remove the Federal Reserve's onerous high interest policies from the necks of small businessmen and entrepreneurs, of which I still count myself as one. . . . From now on I am voting straight democratic like an Uncle who I used to think of as dogmatic. But he suffered through Herbert Hoover. We have Volcker and Reagan.

I got a very touching letter from a retired railroad worker in Trenton, N.J., who asked that his name not be used. As a Republican, he was dismayed by the tax cuts for the rich and administration's cuts in programs for the elderly. He wrote:

> Although I did vote for President Reagan at the last national election, I frankly am beginning to have a few misgivings, not in the direction of our honored President, but at his Administration as a whole. . . . I can now perceive that the continued support for senior citizens and their welfare lies primarily in the Democratic Party. This, frankly, caused to me to change my loyalty, abruptly, as of last fall, experiencing the first social security deduction in pension. I am now a proud "registered Democrat."

Similarly, Mr. and Mrs. Don Estep of South Laguna, Calif., wrote:

> Congratulations to you for standing up and defying Reagan. So far Congress has just gone belly-up. Nobody seems to have the guts to insist his tax cuts for the rich have to go at a time like this.

Other messages keep arriving from around the country. John Klas of Salt Lake City wrote: "I applaud your recently announced position on our Nation's monetary policy" because high interest rates are "savaging small- and medium-sized businesses." Bill Toddy of Dubuque, Iowa: "You are correct, the Federal Reserve must be ordered to loosen its tight grip on money, or we are going to plunge into a terrible depression." Morris Shapiro of Los Angeles: "Bravo and an accolade to you, Mr. Reuss. It seems you are the only one in Washington that seems to make sense today." Mildred Loomis of York, Pa.: "This is to support your effort to * * * initiate a more sensible control and direction of the money system." And Clinton Best of Eau Claire, Wis., wrote to his own Congressman, saying "I urge you to go along with Representative Reuss."

Now, to be candid, I did hear from some folks on the other side of the fence. Several wrote to say that what Congress really needed to do is abolish the Federal Reserve System entirely. One suggested that the President issue a new "Emancipation Proclamation," lowering all interest rates to 10 percent. Another suggested that each individual State should control interest rates. Some said the gold standard would solve all our problems. Many of these messages were in multicolored ink. I will quote a few dissenters.

Palmer York of San Francisco wrote:

> As a former resident of Milwaukee, I am ashamed of your efforts to cancel my tax cut. People like yourself make no real effort to cut government spending, just go on and on. The upcoming election will show again what we want.

A quaint but anonymous note from Florida:

> A spoiled rich kid supported by Milwaukee money never changes his big inflation pitch. You never worked in you life and you are a disgrace to Milwaukee. You and Tip O'Neill and Jim Wright all are outmoded dodos whose minds are devious and divisive. May you some day leave the national scene where you have done so much damage to the U.S. You make me ill!

Leo Reed of Bradenton, Fla., wrote:

> You, my fine feathered friend, got your name and picture in the paper, but demonstrated beyon [sic] a reasonable doubt that you have never studied economics or the act creating the Federal Reserve Banking System as amended [sic]. . . .

An angry note from Eddie Chiles of Ft. Worth, Tex.:

> You People in Congress are the ones who are responsible for the sick mess we Americans are now in!! How in the hell you Clowns have the Gall to come on TV and Blame the President is something else! The Insane welfare spending, Give away Programs of Congress Has taken all working people and Tax Payers for a Boogie Ride!

David Manning of Gypsum, Colo., wrote:

> I oppose your plans with all the strength of my command. As painful as it must be to accept, President Reagan is correct in both his analysis and in his recommended treatment for our economic distress. . . . Support the President!

A telegram from Harriet Newberg of Spokane, Wash., reads: "You are way off base. How dare you suggest such a step backward. Help Reagan pass his budget as is, and let's get on with the recovery."

And, finally, a card from George Shustek of Boone, Iowa:

> Please keep your cotton-picking' hands off the Federal Reserve any one of whom knows more about monetary [sic] than apparently all 535 members of congress put together; at least the FRB does not sit there with their hands in the till, uncontrollably scooping our tax money into their private pockets, as the congress does. . . . To renege on 1982 tax cut is the most obscene idea since Hitler. . . . Please clean up you thoughts! Pfui!●

MR. WATT'S "WILDERNESS PRESERVATION ACT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. Weaver) is recognized for 5 minutes.

● Mr. WEAVER. Mr. Speaker, Secretary Watt has once again with impunity deceived the American people. Though he says wilderness is "special" and "should be preserved in a natural state," his actions say wilderness is an economic resource to be exploited. Mr. Watt is telling industry to wait until the end of the century at which time the wilderness will be theirs for the taking. Mr. Watt has no regard for the letter and spirit of the Wilderness Act. His so-called Wilderness Preservation Act will not provide an "enduring resource of wilderness," but rather one limited to a mere 18 years.

Mr. Watt's acts are openly contemptuous of the intelligence of the American people and of Congress. Does Mr. Watt sincerely believe he can perpetrate such a hoax? Does he believe he can fool the American people by proclaiming his belief in the importance of wilderness while introducing legislation to dismantle the protections required to preserve the resource?

Two excellent editorials recently appeared in the Oregon papers—one in the Bend, Oreg., Bulletin on February 24, and one in the Eugene Register-Guard on Febuary 26. They accurately present the extent of Mr. Watt's deception and I submit them for reprinting in the Record so that all may recognize it.

[From the Bend, Oreg., Bulletin]

Watt's Spots Don't Change

On Monday, environmentalists were dancing in the streets because James Watt seemingly had changed his spots. By Tuesday, they were soaking their feet, because it turned out he really hadn't.

Surely no one was very surprised.

Watt, the oft-lambasted secretary of the interior, proposed legislation on Sunday to ban mining and drilling in wilderness areas until the year 2000. The announcement thrilled opponents of wilderness development, and Watt made progress toward redeeming himself in their eyes. But when environmental groups read the full text of his proposal, their excitement dimmed. While the legislation would secure the immediate future of established wilderness land, it reportedly strips them of protection after the year 2000. And it frees much potential wilderness area for development.

As of this writing, the full implications of Watt's proposal are still filtering down. But the nature of Watt's supposed "about face" has become clear. The 18-year ban on development reflects not a change in attitude but merely a concession to powerful opposition. Meanwhile, Watt is pursuing his pro-development theme—to an excessive degree, if indeed wilderness areas are to be unprotected 18 years hence.

Naturally, Watt's wilderness proposal will be the subject of intense scrutiny and long debate. If wilderness legislation passes through Congress this year, the final product probably will bear little likeness to the secretary's proposal. In that regard the proposal—though important—isn't as significant as it is being made out to be.

But the excitement and ensuring disappointment over Watt's nonreversal illustrate the truth of the old adage:

"The lion and the lamb will lie down together, but the lamb won't get much sleep."

[From the Eugene Register Guard, Feb. 26, 1982]

WATT PLAYS ULYSSES

James Watt took a Trojan horse from the administration herd and ran it into the wilderness—where the environmentalists almost took it in.

The Interior secretary said Sunday on TV's "Meet the Press" that the administration wants a moratorium on wilderness mining or well drilling until the year 2000. That caught wilderness-protection groups off-guard, and some of them greeted the announcement with cheers.

They should have known that the wily Watt isn't really interested in preserving wilderness.

Congress started doing preservation back in 1964, when it passed a law creating wilderness areas in federally owned lands. In such areas, most signs of human intrusion were removed and the lands and their flora and fauna left to nature.

Unfortunately, Congress left a big hole in the wilderness.

Under the '64 law, anyone could still file claims on mineral, oil, natural gas and geothermal deposits within wilderness areas for the next 20 years. That meant that outfits like U.S. Pumice Co. could lay claim to minerals such as the pumice in Rock Mesa in Oregon's Three Sisters Wilderness—and rip up the wilderness to get it out.

Fortunately, most Interior secretaries have resisted such wilderness ripping and not much has occurred so far. Environmentalists are still fighting a legal battle to save Rock Mesa, for example, and the deadline for filing claims is less than two years away—Dec. 31, 1983. But claims filed and approved before that deadline can still be worked later.

When Watt became Interior secretary, one of his announced goals was to "open wilderness areas" to more development. But when he tried to do that angry members of Congress threatened to withdraw the entire wilderness system from oil and gas leasing. So an informal moratorium was imposed on leasing until this June, to give Congress time to decide if additional wilderness protections are needed.

Then came Watt's Sunday surprise proposal to amend the '64 wilderness act to protect the 80 million acres of wilderness from any development until the year 2000.

During that time, wilderness areas would be inventoried to find what strategic minerals or fuels they hold. Only if the President certified a "national need" for such minerals or fuels in wilderness areas, and only if both houses of Congress agreed, would any be opened for mining or drilling, he said.

Wilderness Society President Bill Turnage at first proclaimed the plan "a real victory for wilderness preservation." It isn't.

Under the present law, wilderness areas have at least some protection against development in perpetuity. Under Watt's proposal, the wilderness system would be automatically abolished in the year 2000 and the whole 80 million acres would be up for grabs.

When the fading light of that sunset provision finally dawned on the wilderness folk, they realized Watt's proposal was a horse of a different color—or the nose of the miners' camel under the backpackers' tent. (This issue is a metaphorical gold mine.)

Besides eliminating the wilderness in 18 years, Watt's plan to inventory it would disturb it in the meantime. It's not really possible to find out what's beneath a wilderness area without drilling or digging.

Watt is right on some points.

The time might come—in case of war or a lengthy foreign oil embargo, for example—when the vital national need for the minerals or fuel in some wilderness areas might outweigh the national interest in preserving them. But if that happens, the administration need merely submit the necessary legislation to Congress, dealing only with those areas where vital deposits are likely to be found.

Congress should also get on with deciding whether another 20 million acres of potential wilderness lands now on "hold" should be added to the wilderness inventory or released. There have been enough studies to produce ample evidence for a decision—which would also affect possible logging in some areas.

Finally, the accelerated exploration and development that Watt wants on the other 530 million acres of non-wilderness federal lands makes sense, if done with proper environmental protections. Among other things, that would help take pressure off the wilderness.

But Watt's moratorium proposal is a pure phony, pretending to be protection when it would really be delayed exploitation. This Trojan horse ought to be wheeled back into the Interior stable, with Watt ordered to clean up after it.●

INTRODUCTION OF THE EMERGENCY HOME PURCHASE ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. EVANS) is recognized for 5 minutes.

● Mr. EVANS of Indiana. Mr. Speaker, over the past year we in this country have seen the American dream of owning one's home shattered. Our housing industry has gone from a year-long recession into a deep depression. The current slump in home sales is five times worse than at any time in recent history. Economic activity associated with housing construction and sales which has been lost in the last 3 years amounts to almost $200 billion. Over 2 million housing and related jobs have been lost since 1980. In Indiana, both homebuilders and realtors and those in housing related industries are closing their business doors and laying off employees because almost all nonhomeowners and few homeowners have the financial ability to purchase a median priced home.

Our housing situation needs to be addressed by Congress through innovative and aggressive legislative alternatives that do not burden the American taxpayer with additional subsidy-type programs.

The bill I am introducing today would provide three avenues of relief for the distressed housing industry. First it would provide legislative changes to the mortgage revenue bond program to increase the number of bonds that can be issued and make mortgages provided by the bonds more widely available. These legislative changes would increase through 1982 the price of homes that can be financed under this program; it increases the total amount of mortgage bonds that can be issued, and it increases the arbitrage limitation to 1.25 percent. It is calculated that 300,000 to 350,000 families could achieve homeownership under the adoption of such a program. I would also like to point out that no additional funds would be required for full implementation of this program as the Department of Treasury has sufficient funds authorized under this program.

Second, this legislation would allow first-time home buyers a credit against Federal income taxes of up to $5,400 for those filing a joint return on the purchase of a home between March 1 and December 31, 1982. It is estimated that more than 250,000 first-time home buyers, who would not otherwise afford a home, could purchase a home in 1982, and thus allow the tax credit to be used toward downpayment on the home, or to "buy down" the interest rate on the mortgage.

The third legislative avenue would allow mortgage lenders a credit against Federal income taxes of up to $5,400 if they make home mortgage loans during the March 1 to December 31, 1982, period. Lenders, to qualify, would be required to use the amount of credit to decrease the effective rate of interest on the mortgage by 3 percentage points for a 3-year period. Potential home buyers could more easily qualify for the loan at the reduced rate and, more importantly, could afford monthly principal and interest payments on such a mortgage.

It would be the projection of my legislation that the financing of such tax credits could be brought about by deauthorizing the all-savers program, which has far from met expectations, as of March 31, and transfer the unused revenues to meet the tax credit demands of this new program.

The bill I offer today obviously is not a panacea for our housing ills, but it does offer a plausible and attractive foundation to rebuild our housing industry. I urge my colleagues to sponsor and support it.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Boland (at the request of Mr. Wright), for today, on account of a necessary absence.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Shaw) to revise and extend their remarks and include extraneous material:)

Mr. Marks, for 15 minutes, today.

Mr. Hollenbeck, for 60 minutes, March 30, 1982.

(The following Members (at the request of Mr. McCurdy) to revise and extend their remarks and include extraneous material:)

Mr. LaFalce, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Coelho, for 5 minutes, today.

Mr. Phillip Burton, for 5 minutes, today.

Mr. William J. Coyne, for 5 minutes, today.

Mr. Reuss, for 30 minutes, today.

Mr. Weaver, for 5 minutes, today.

Mr. Evans of Indiana, for 5 minutes, today.

Mr. Conyers, for 60 minutes, March 25, 1982.

Mr. Edwards of California, for 60 minutes, March 30, 1982.

Mr. Seiberling, for 60 minutes, March 30, 1982.

Mr. Aspin, for 60 minutes, March 30, 1982.

Mr. Markey, for 60 minutes, March 30, 1982.

Mr. Downey, for 60 minutes, March 30, 1982.

Mr. Beilenson, for 60 minutes, March 30, 1982.

Mrs. Schroeder, for 60 minutes, March 30, 1982.

Mr. Bedell, for 60 minutes, March 30, 1982.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Shaw) and to include extraneous matter:)

Mr. Dannemeyer.

Ms. Fiedler.

Mr. Lowery of California.

Mr. Johnston.

Mr. Vander Jagt.

Mrs. Roukema.

Mr. Carman.

Mr. Dornan of California in two instances.

Mr. Gunderson.

Mr. Broomfield in two instances.

Mr. McGrath in two instances.

Mr. Bailey of Missouri.

Mr. Loeffler.

Mr. Findley.

Mr. Fields.

Mrs. Smith of Nebraska.

Mr. Roth.

Mr. Courter.

Mr. Hiler.

Mr. Taylor.

Mr. Evans of Delaware.

Mrs. Holt.

Mr. Coughlin.

Mr. Lee.

Mr. McCloskey.

Mr. Duncan.

Mr. Ritter.

Mr. Snyder.

Mr. Lagomarsino in two instances.

Mr. Wolf.

Mr. Parris.

Mr. Hansen of Idaho in three instances.

(The following Members (at the request of Mr. McCurdy) and to include extraneous matter:)

Mr. Howard.

Mr. Gaydos.

Mr. LaFalce.

Mr. Fithian.

Mr. Nowak.

Mr. Santini.

Mrs. Bouquard.

Mr. Whitten.

Mr. Hawkins.

Mr. Hubbard.

Mr. Lehman.

Mr. Applegate.

Mr. Bingham.

Mr. Edwards of California.

Mr. Rodino in two instances.

Mr. Bennett.

Mr. Wirth.

Mr. Ottinger in three instances.

Mr. Garcia.

Mrs. Collins of Illinois.

Mr. Weiss.

Mr. Evans of Indiana.

Mr. Swift.

Mr. Ertel.

Mr. Oberstar.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 892. An act to amend the Federal Grant and Cooperative Agreement Act; and

S. 2254. An act to temporarily extend the authority to conduct experiments in flexible schedules and compressed schedules under the Federal Employees Flexible and Compressed Work Schedules Act of 1978.

ADJOURNMENT

Mr. McCURDY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 17 minutes p.m.), the House adjourned until tomorrow, Thursday, March 25, 1982, at 11 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3493. A letter from the Assistant Secretary of Defense, transmitting selected acquisition reports for major defense systems for the quarter ending December 31, 1981, pursuant to section 811(a) of Public Law 94-106; to the Committee on Armed Services.

3494. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the food services activity at Fort Indiantown Gap, Pa., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

3495. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the seventh annual report of the Corporation's Office of Consumer and Compliance programs, pursuant to section 18(f)(6) of the Federal Trade Commission Act, as amended; to the Committee on Banking, Finance and Urban Affairs.

3496. A letter from the Assistant Secretary of State (Congressional Relations), transmitting notice of countries which have recently agreed to provide military personnel for the Multinational Force and Observers (MFO), pursuant to section 3(a)(2)(A), Public Law 97-132; to the Committee on Foreign Affairs.

3497. A letter from the Administrator, General Services Administration, transmitting a prospectus proposing the construction of a new Federal office building in Youngstown, Ohio and an extension to the U.N. Mission in New York City, pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

3498. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Ocean Pollution Planning Act to Carry out the provisions of the act for fiscal years 1983, 1984, and 1985; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

3499. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to provide for the recovery of certain capital and operation and maintenance expenditures assignable to commercial waterway transportation for certain Tennessee Valley Authority and Army Corps of Engineers inland waterway projects, and to authorize construction in specified circumstances; jointly, to the Committees on Public Works and Transportation and Ways and Means.

3500. A letter from the Comptroller General of the United States, transmitting a report on the United States Synthetic Fuels Corporation's financial statements for the fiscal year ended September 30, 1981 (AFMD-82-49, March 22, 1982); jointly, to the Committees on Government Operations, Banking, Finance and Urban Affairs, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ANNUNZIO: Committee on House Administration. House Resolution 378. Resolution providing amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the second session of the Ninety-seventh Congress; with an amendment (Rept. No. 97-470). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McCOLLUM: Committee on the Judiciary. H.R. 1826. A bill for the relief of Shinji Oniki (Rept. No. 97-471). Referred to the Committee of the Whole House.

Mr. LUNGREN: Committee on the Judiciary. H.R. 1830. A bill for the relief of Jennifer Ferrer (Rept. No. 97-472). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN:

H.R. 5940. A bill to amend the Military Selective Service Act to reduce to $200 the maximum penalty applicable to persons who fail to register under that act during any period when there is no authority to induct persons into the Armed Forces and provide that such penalty shall be imposed through an administrative proceeding; to the Committee on Armed Services.

By Mr. CAMPBELL:

H.R. 5941. A bill to designate the building known as the Federal Building and United States Courthouse in Greenville, S.C., as the "Clement F. Haynsworth, Jr., Federal Building"; to the Committee on Public Works and Transportation.

By Mr. DeNARDIS:

H.R. 5942. A bill to permit amounts in State unemployment compensation trust funds to be used for purposes of encouraging employment through payments to employers; to the Committee on Ways and Means.

By Mr. DICKS (for himself and Mr. Swift):

H.R. 5943. A bill to stimulate the production and sale of housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DOWNEY (for himself, Mr. Duncan, Mr. AuCoin, Mr. Daschle, Mr. Boner of Tennessee, Mr. Kogovsek, Mr. Gephardt, and Mr. Evans of Delaware):

H.R. 5944. A bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds; to the Committee on Ways and Means.

By Mr. ERTEL:

H.R. 5945. A bill to rescind the tax benefits enacted for Members of Congress during 1981, to amend the Rules of the House of Representatives to restore the former limitations on outside earned income, and to establish a commission to review and make recommendations regarding the pay and benefits of Members of Congress; jointly, to the Committees on Ways and Means, Rules, and Post Office and Civil Service.

By Mr. EVANS of Indiana:

H.R. 5946. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income certain interest received or accrued on a mortgage loan made after February 28, 1982, and before January 1, 1984, to a first-time home buyer and to provide a credit against income tax for first-time home buyers for the purchase of a home during such period; to the Committee on Ways and Means.

By Ms. FERRARO

H.R. 5947. A bill to provide for the duty-free entry of perfumes, colognes, and toilet waters imported for use as samples; to the Committee on Ways and Means.

By Mr. JENKINS (for himself and Mr. Martin of North Carolina):

H.R. 5948. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for first-time home buyers; to the Committee on Ways and Means.

By Mr. KASTENMEIER (for himself and Mr. Railsback):

H.R. 5949. A bill to amend the copyright law respecting the limitations on exclusive rights to secondary transmissions, and other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. LaFALCE:

H.R. 5950. A bill to amend the Solid Waste Disposal Act to prohibit the landfill disposal of certain hazardous wastes, including hazardous wastes in liquid form, where other means of treatment or disposal are feasible; to the Committee on Energy and Commerce.

By Mr. LOWRY of Washington:

H.R. 5951. A bill to amend the Internal Revenue Code of 1954 to repeal the provision which allows Members of Congress to deduct living expenses without substantiating those expenses; to the Committee on Ways and Means.

By Mr. MITCHELL of Maryland:

H.R. 5952. A bill to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to increase the maximum amount of rent that a member of the Armed Forces may pay for housing occupied by such member's dependents for the member to be eligible for certain benefits under that act; to the Committee on Veterans' Affairs.

By Mr. MITCHELL of Maryland (by request):

H.R. 5953. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. MOTTL:

H.R. 5954. A bill to amend the Natural Gas Policy Act of 1978 to eliminate certain provisions for the decontrol of natural gas prices; to the Committee on Energy and Commerce.

By Mr. MOTTL (by request):

H.R. 5955. A bill to amend title 38, United States Code, to extend the authority for the program of grants to States for State home facilities, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SMITH of Iowa:

H.R. 5956. A bill to amend the Commodity Exchange Act to require public disclosure of certain information relating to sales of commodities for export, and for other purposes; to the Committee on Agriculture.

By Mr. WILLIAMS of Montana (for himself, Mr. Pepper, Mr. Ford of Michigan, Mr. Rosenthal, Mr. de la Garza, Mr. Corrada, Mr. Kildee, Mr. Smith of Pennsylvania, Mr. Neal, Mr. Dwyer, Mr. Crockett, and Mr. Kogovsek):

H.R. 5957. A bill to amend title II of the Social Security Act to restore child's insurance benefits under such title to certain postsecondary school students otherwise denied them under provisions recently enacted in the Omnibus Budget Reconciliation Act of 1981; to the Committee on Ways and Means.

By Mr. SILJANDER (for himself, Mr. Hyde, Mr. Smith of Alabama, and Mr. McDonald):

H.J. Res. 446. Joint resolution to authorize and request the President to issue a proclamation designating the year of 1982 as "Year of the Unborn Child"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself and Mr. Lagomarsino):

H. Con. Res. 295. Concurrent resolution expressing the sense of the Congress that the United States and the Soviet Union should engage in substantial, equitable, and verifiable reductions of their nuclear weapons in a manner which would contribute to peace and stability; to the Committee on Foreign Affairs.

By Mr. GUARINI:

H. Con. Res. 296. Concurrent resolution expressing the sense of the Congress that the U.S. Postal Service and the Postal Rate Commission should take such action as may be necessary to establish a special citizen's rate of not greater than 15 cents per ounce for domestic, nonbusiness first-class mail; to the Committee on Post Office and Civil Service.

By Mr. LOWRY of Washington:

H. Res. 408. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation that adjusts the pay of Members, and for other purposes; to the Committee on Rules.

By Mr. OTTINGER (for himself, Mr. Addabbo, Mr. Akaka, Mr. Annunzio, Mr. Aspin, Mr. AuCoin, Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Biaggi, Mr. Bingham, Mrs. Boggs, Mr. Bonior of Michigan, Mr. Bonker, Mr. Brodhead, Mr. Brown of California, Mr. Phillip Burton, Mr. Chappell, Mrs. Chisholm, Mr. Clausen, Mr. Clay, Mrs. Collins of Illinois, Mr. Conyers, Mr. Corrada, Mr. Crockett, Mr. D'Amours, Mr. Daschle, Mr. DeNardis, Mr. Dicks, Mr. Dingell, Mr. Dixon, Mr. Dorgan of North Dakota, Mr. Downey, Mr. Dunn, Mr. Dymally, Mr. Eckart, Mr. Edgar, Mr. Edwards of California, Mr. Emery, Mr. Erdahl, Mr. Fary, Mr. Fascell, Mr.

Fazio, Mrs. Fenwick, Ms. Ferraro, Mr. Fish, Mr. Florio, Mr. Foglietta, Mr. Ford of Tennessee, Mr. Ford of Michigan, Mr. Fowler, Mr. Frank, Mr. Frost, Mr. Fuqua, Mr. Garcia, Mr. Gejdenson, Mr. Gibbons, Mr. Gilman, Mr. Gingrich, Mr. Glickman, Mr. Gonzalez, Mr. Gore, Mr. Gray, Mr. Green, Mr. Guarini, Mr. Ralph M. Hall, Mr. Hall of Ohio, Mr. Hamilton, Mr. Harkin, Mr. Hatcher, Mr. Hawkins, Mrs. Heckler, Mr. Holland, Mr. Hollenbeck, Mr. Horton, Mr. Howard, Mr. Hoyer, Mr. Hubbard, Mr. Hughes, Mr. Jacobs, Mr. Jeffords, Mr. Jenkins, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kildee, Mr. LaFalce, Mr. Lehman, Mr. Leland, Mr. Levitas, Mr. Long of Maryland, Mr. Lowry of Washington, Mr. Lundine, Mr. Markey, Mr. Matsui, Mr. Mattox, Mr. Mavroules, Mr. Mazzoli, Mr. McCloskey, Mr. McCurdy, Mr. McHugh, Mr. McKinney, Ms. Mikulski, Mr. Miller of California, Mr. Mineta, Mr. Minish, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moffett, Mr. Mottl, Mr. Natcher, Mr. Neal, Mr. Nelson, Mr. Nowak, Ms. Oakar, Mr. Oberstar, Mr. Panetta, Mr. Patterson, Mr. Perkins, Mr. Pease, Mr. Pepper, Mr. Peyser, Mr. Price, Mr. Pritchard, Mr. Railsback, Mr. Rangel, Mr. Ratchford, Mr. Richmond, Mr. Rinaldo, Mr. Roe, Mr. Rosenthal, Mr. Roybal, Mr. Sabo, Mr. Santini, Mr. Scheuer, Mrs. Schneider, Mrs. Schroeder, Mr. Schumer, Mr. Seiberling, Mr. Shamansky, Mr. Shannon, Mr. Sharp, Mr. Simon, Mr. Smith of Pennsylvania, Mr. Smith of Iowa, Mrs. Snowe, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Sunia, Mr. Swift, Mr. Synar, Mr. Tauke, Mr. Tauzin, Mr. Traxler, Mr. Udall, Mr. Vento, Mr. Volkmer, Mr. Walgren, Mr. Washington, Mr. Waxman, Mr. Weaver, Mr. Weber of Ohio, Mr. Weiss, Mr. Williams of Montana, Mr. Wilson, Mr. Wirth, Mr. Wolpe, Mr. Wyden, and Mr. Yates):

H. Res. 409. Resolution to restore balance in the Federal energy budget; to the Committee on Energy and Commerce.

By Mr. STANGELAND:

H. Res. 410. Resolution expressing the sense of the House of Representatives with respect to changes in the Railroad Retirement Act of 1974 proposed in the President's budget for fiscal year 1983; to the Committee on Energy and Commerce.

By Mr. YATES:

H. Res. 411. Resolution to disapprove the deferral; to the Committee on Appropriations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

308. By the SPEAKER: Memorial of the Legislature of the State of California, relative to the Polish people and Solidarity; to the Committee on Foreign Affairs.

309. Also, memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to the issuance of a postal commemorative stamp to honor the former Governor of Puerto Rico, Don Luis Munoz Marin; to the Committee on Post Office and Civil Service.

310. Also, memorial of the Legislature of the State of California, relative to the Veterans' Administration outpatient clinic at Sacramento; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1648: Mr. DeNardis and Mr. Jones of Oklahoma.

H.R. 1919: Mr. Chappie.

H.R. 2505: Mr. Courter.

H.R. 3526: Mr. Guarini, Mr. Howard, and Mr. Minish.

H.R. 3607: Mr. Roybal and Mr. Sabo.

H.R. 4066: Mr. Leach of Iowa and Mr. Bailey of Pennsylvania.

H.R. 4230: Mr. Alexander.

H.R. 4399: Mr. Volkmer.

H.R. 4480: Mr. Duncan.

H.R. 4488: Mr. McCurdy.

H.R. 4773: Mr. Synar, Mr. Pepper, Mr. McGrath, Mr. Stanton of Ohio, Mr. Lee, Mr. Hatcher, Mr. Wortley, Mr. Butler, Mr. Foglietta, Mr. Young of Alaska, Mr. Mavroules, Mr. Oxley, Mr. Sawyer, Mr. Young of Missouri, Mr. Bevill, Mrs. Holt, Mr. Whitehurst, Mr. Hughes, Mr. Kindness, Mr. Davis, Mr. Horton, Mr. Frost, Mr. Smith of Iowa, Mr. Leach of Iowa, Mr. Fish, Mr. Murphy, Mr. Hillis, Mr. Bafalis, Mr. Hertel, Mr. McKinney, Mr. Madigan, Mr. Vento, Ms. Oakar, Mr. Wolf, Mr. Stenholm, Mr. Petri, Mr. Staton of West Virginia, Mr. Kemp, Mr. Moore, Mr. Martin of North Carolina, Mr. Lungren, Mr. Carney, Mr. Traxler, Mr. Solomon, Mr. Pashayan, Mr. Gray, Mr. Hagedorn, Mr. Campbell, and Mr. Miller of Ohio.

H.R. 4786: Mr. Shuster, Mr. Hammerschmidt, Mr. LeBoutillier, Mr. Dannemeyer, Mr. Stangeland, Mr. McDade, and Mr. Heftel.

H.R. 5043: Mr. Edgar and Mr. Markey.

H.R. 5200: Mr. Skelton and Mr. Robert W. Daniel, Jr.

H.R. 5371: Mr. Peyser.

H.R. 5388: Mr. Bailey of Missouri, Mr. Fithian, Mr. Emerson, Mr. Coleman, Mr. Roberts of Kansas, Mr. Volkmer, Mr. Anthony, Mr. Marlenee, Mr. Leach of Iowa, Mr. Jeffries, and Mr. Roberts of South Dakota.

H.R. 5400: Mr. Daniel B. Crane.

H.R. 5471: Mr. Dannemeyer and Mr. Emery.

H.R. 5480: Mr. James K. Coyne, Mr. Tauke, Mr. McDade, and Mr. Heftel.

H.R. 5481: Mr. Mineta, Mr. O'Brien, and Mr. Simon.

H.R. 5502: Mr. Fields.

H.R. 5510: Mr. de Lugo.

H.R. 5554: Mr. Bafalis.

H.R. 5573: Mr. Hughes, Mr. Wilson, Mr. Frank, Mr. Vento, Mr. Gore, Mr. Gingrich, Mr. Gephardt, Mr. Brown of California, Ms. Mikulski, Mr. Oberstar, Mr. Pritchard, Mr. Dwyer, Mr. Rodino, Mr. Markey, Mr. Hatcher, Mr. Frost, Mr. Bevill, Mr. Minish, Mr. Dymally, Mr. Coats, Mr. Edgar, and Mr. Holland.

H.R. 5583: Mr. Mollohan.

H.R. 5800: Mr. Jones of North Carolina, Mr. Stokes, Mr. Patman, Mr. Sensenbrenner, Mr. Forsythe, Mr. McEwen, Mr. Roe, Mr. Rahall, Mr. Annunzio, and Mr. Daniel B. Crane.

H.J. Res. 316: Mr. Lantos, Mr. Price, and Mr. Molinari.

H.J. Res. 405: Mr. Rangel, Mr. Hall of Ohio, Mr. Dicks, Mr. Frost, Mr. Mollohan, Mr. Frank, Mr. Neal, Mr. Eckart, Ms. Mikulski, Mr. Seiberling, Mr. Gejdenson, Ms. Oakar, Mr. Kildee, Mr. Patterson, Mr. Murphy, Mr. Sharp, Mr. Vento, Mr. Conyers, Mr. Wolpe, Mr. Leland, Mr. Udall, Mr. LaFalce, Mr. Gray, Mr. Mottl, Mr. Ford of Michigan, Mr. Crockett, Mr. Jacobs, Mr. Waxman, Mr. Anderson, Mr. Dwyer, Mr. Weaver, Mr. Kogovsek, Mr. John L. Burton, and Mr. Leach of Iowa.

H.J. Res. 412: Mr. Lewis, Mr. Horton, Mr. Burgener, Mr. Molinari, Mr. Solomon, Ms. Mikulski, Mrs. Kennelly, Mr. Fauntroy, Mr. Dwyer, Mr. Scheuer, Mr. Frost, Ms. Oakar, Mr. Addabbo, Mr. Brown of California, Mr. Crockett, Mr. Downey, Mr. Matsui, Mr. Oberstar, Mr. Pepper, Mr. Roberts of Kansas, Mr. Winn, Mr. Won Pat, Mr. Corrada, and Mr. Wirth.

H.J. Res. 434: Mr. Dwyer, Mr. Andrews, Mr. LeBoutillier, Mr. Hoyer, Mr. Roe, Mr. Jones of North Carolina, Mr. Patterson, Mr. Oxley, Mr. Nowak, Mr. Akaka, and Mr. Hall of Ohio.

H.J. Res. 435: Mr. Daub, Mr. Mollohan, Mr. Wolf, Mr. Whitehurst, Mr. Clausen, Mr. Lee, Mr. Sabo, Mr. Erdahl, Mr. Emery, Mrs. Kennelly, Mr. Rahall, Mr. Nelligan, Mr. Hatcher, Mr. Lowery of California, Mr. Brown of Ohio, Mr. Bereuter, Mr. LeBoutillier, Mr. Moakley, Mr. Richmond, Mr. Mattox, Mr. Leland, Mr. Morrison, Mr. Myers, Mr. Ashbrook, Mr. Gore, Mr. Wilson, Mr. Railsback, and Mr. Gejdenson.

H. Con. Res. 53: Mrs. Roukema.

H. Con. Res. 218: Mr. Barnes, Ms. Ferraro, Mr. Fithian, Mr. Florio, Mr. Frank, Mr. Gibbons, Mr. Hertel, Mr. Smith of New Jersey, Mr. Vento, Ms. Fiedler, and Mr. Ritter.

H. Con. Res. 262: Mr. Emery, Mr. Dannemeyer, Mr. Roe, Mr. Walker, Mr. Porter, Mr. Forsythe, Mr. Marriott, Mr. Gingrich, Mr. Hammerschmidt, Mr. Hartnett, Mr. Bailey of Pennsylvania, Mr. Lungren, Mr. McDonald, Mr. Badham, Mr. Paul, and Mr. Lewis.

H. Con. Res. 289: Mr. Benedict, Ms. Mikulski, Mr. Hiler, Mr. Siljander, Mr. Green, Mr. Fields, Mr. Mavroules, Mr. Waxman, Mr. LeBoutillier, Mr. Roberts of South Dakota, Mr. Hollenbeck, Mr. Solomon, Mr. Early, Mr. Paul, Mr. Emery, and Mrs. Fenwick.

H. Res. 381: Mr. Lagomarsino, Mr. Hunter, Mr. Daub, Mr. Markey, Mr. Duncan, Mr. Rahall, Mr. Winn, Mr. Derwinski, Mr. Chappell, Mr. Whitehurst, Mr. Roberts of Kansas, Mr. Gingrich, Mr. Forsythe, and Mr. Ratchford.

H. Res. 385: Mr. Gephardt.

H. Res. 403: Mr. Fauntroy, Mr. Rosenthal, Mr. Emery, Mr. Downey, Mr. Markey, Mr. Dymally, Mr. Solarz, Mr. Stokes, Mr. Foglietta, Mr. Mitchell of Maryland, Mr. Smith of Pennsylvania, Mr. Bingham, Mr. Rangel, Mr. Ford of Michigan, Mr. Wortley, and Mr. Sunia.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 5555: Mr. Moffett.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

378. By the SPEAKER: Petition of the Board of Supervisors, Butte County, Oroville, Calif., relative to the economic plight of the former spouses of retired members of the Armed Forces of the United States; to the Committee on Armed Services.

379. Also, petition of the City Council, Philadelphia, Pa., relative to the support and adequate funding of the senior community services employment program through title V of the Older Americans Act; to the Committee on Education and Labor.

380. Also, petition of City Council, Euclid, Ohio, relative to court-ordered busing of schoolchildren; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

PORT USER-FEE PLANS REQUIRE MORE STUDY

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. NOWAK. Mr. Speaker, among the administration's proposals for reducing Federal expenditures is a plan to establish a system of user fees that would shift the financial responsibility for harbor maintenance and improvements from the Federal Government to the deepwater ports.

This would cover both ongoing annual maintenance dredging and construction dredging for the deepening or widening, for example, of existing navigation channels. The U.S. Army Corps of Engineers has had this responsibility since 1824.

The House Public Works Subcommittee on Water Resources, on which I have the privilege of serving, has had several days of hearings in recent weeks on the deepwater port user-fee concept. I have become convinced that this is an idea whose time has not yet come.

From the strictly bookkeeping point of view of the Office of Management and Budget, the user-fee concept may be a quick, simplistic way to reduce the Federal deficit. Yet, the testimony on this issue I have heard thus far indicates this is a very complex matter, whose full economic implications and regional impacts have yet to be fully studied and fully understood.

The administration's proposal calls for 100 percent cost recovery of all harbor maintenance and improvement costs. The Senate Environment and Public Works Committee has approved a bill that would require local authorities to pay the full cost of new port improvements and up to 25 percent or the equivalent of 6.9 cents per ton of commercial cargo shipped through the port. Under either of these proposals, there would be no national, uniform port fee charge. The charges would vary from port to port, varying on the cost of annual dredging and the volume of commercial traffic.

Thus, even with the scenario of the Senate committee bill it is apparent that small- and medium-sized ports with a need for regular, extensive dredging would be at a disadvantage compared to larger ports which could charge smaller user fees. According to the Senate report on S. 1692, for example, using 1978 tonnage figures, Buffalo's non-Federal cost per ton would be 5.8 cents, while Baltimore's harbor would be 1.7 cents, Duluth-Superior's 1.4 cents, Toledo's 3.2 cents, and New York-New Jersey 2.7 cents.

That type of disparity raises serious questions about the potential impact on traffic diversion from port to port or to other modes of transport. Even more basic is the question of the potential adverse impact any port user fee would have on ports like Buffalo's, which deal heavily in bulk cargo for the hard-pressed auto, steel, and grain milling industries.

The seriousness of those questions are compounded when one considers that the administation is also proposing a separate user-fee plan to recoup the cost of services the Coast Guard provides commericial—as well as recreational—vessels.

A large question is what impact will this have on the Great Lakes area, which is served by the St. Lawrence Seaway which already charges user fees? What impact would double charges have on our interlake shipping, where a vessel would be charged to leave one port and charged to enter another on the Great Lakes?

These are the kinds of questions we must explore and get hard answers to before we precipitately enter into any user-fee arrangements.

Another serious concern is the requirement in either the Senate bill or the administration's proposal leaving future financing of new port developments or improvements entirely to local authorities. The Corps of Engineers currently is in the third year of a $2 million study of potential Buffalo Harbor navigational improvements, reviewing the feasibility of deepening the Buffalo River and Ship Canal from 22 to 27 feet and making outer harbor improvements for 1,000-foot vessel operation.

I believe we need additional study of whether or not port authorities would be able to finance such development projects. The Senate report lists general obligation bonds, revenue bonds, and industrial development bonds as the type of financing options port authorities might consider using.

I think we ought to know more about how viable those options are before we cut off port development from direct Federal asistance.

In summary, we need to look more exhaustively at the ramifications of the proposed switch to user fees on our port system.

We need to answer a variety of questions, many of them raised in testimony by the Great Lakes Commission last week before the House Water Resources Subcommittee. As Frank Kudrna, chairman of the commission, testified:

> We do not believe that the impacts of the proposed deepdraft fees have been studied in sufficient detail. Without better impact information it seems to the GLC that we are sailing into a storm without a navigation system.

Following are 13 areas the GLC suggested for detailed analysis:

THE 13 AREAS SUGGESTED BY GLC

1. DOUBLE CHARGES FOR DOMESTIC FREIGHT

Application of charges directly by each port may cause domestic freight to incur a double charge—one at the origin and one at the destination ports. This would be particularly true when connecting channel expenditures are allocated to ports for collection. This double charge may cause a price shift sufficient to make it more economical to import certain commodities than to use or own domestic sources. The example I have given earlier was for taconite pellets or iron ore.

2. PORT LEGISLATION CHANGES

Port authorities are generally established under State and municipal law, and they operate with limited authority. The collection of fees for the federal government in a cost recovery/user charge system could require amending legislation to permit ports to perform this function. Prior to any implementation, whether staged or total, the current enabling statutes for the various port commissions and port operating agencies should be reviewed to determine the overall impact on governmental structure. It would also be helpful if this Committee was able to ascertain the probability of the ports' enabling legislation being changed in sufficient time to permit uniform implementation of a new federal policy.

3. PRIVATE PORTS

Some ports have been constructed solely or essentially with permits under the Corps of Engineers' authorities. The construction, dredging, maintenance, operations of these port facilities is undertaken by private industry. There would appear to be no vehicle through which users of these ports could be charged a fee for use of the connecting channels.

4. EXISTING LEGISLATION

The locks at Sault Ste. Marie, Michigan, were originally constructed under a grant from the State of Michigan. The State operated these facilities for a number of years until, under the authority of the Rivers and Harbors Act of 1880, the Secretary of War was authorized to accept on behalf of the United States from the State of Michigan, "the St. Mary's Canal and the public works thereon, provided that the transfer should be made leaving the U.S. free from any and all debts, claims and liability, and that the Canal after the transfer should remain free for public use." While laws are made to be changed, this type of legislation and other similar legislation must be fully reviewed prior to implementation of a new user charge.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

5. NORTHWEST ORDINANCE OF 1787

The Northwest Ordinance which established the territories northwest of the Ohio River included Article 4 relating to navigable waters: "The navigable water's leading into the Mississippi and the St. Lawrence, and the carrying places between the same shall be common highways, and forever free, as well as to the inhabitants of said territory, as to the citizens of the U.S., and those of any other states that may be admitted to the Confederacy." Clearly, the drafters of the Northwest Ordinance expected that these waterways and any developments in the "carrying places" between the waters would be open to free passage. I am not sure what the process of amending the Northwest Ordinance is, or whether it governs our activities, but a review should take place prior to the enactment of a potentially conflicting law.

6. CANADA TO CANADA MOVEMENTS

If the user fee collection for the Great Lakes connecting channels were to be allocated and assigned to the respective ports there would be difficulty in collecting for vessels/cargo which moves from ports in Canada to ports in Canada through U.S. operated and maintained waterways. A vessel moving from Thunder Bay, Ontario, to a transhipment point in Quebec would pass through the Soo Locks at Sault Ste. Marie, Michigan, the channels of the St. Mary's River, Lake St. Clair channels, and the Detroit River, all of which are operated and maintained by the United States. Some consideration would need to be given to affecting fee collection for these vessels, otherwise U.S. vessels/cargo traveling from Duluth/Superior to the same Quebec transshipment point will be less able to compete.

7. POTENTIAL IMPACT ON DOMESTIC TRADES OF OTHER NATIONS

Corollary to the impact on the U.S. trade competitive position problem is the potential impact on the domestic trade of Canada. Although the St. Lawrence Seaway Development Corporation operated facilities are apparently excluded from pending legislation, the Great Lakes connecting channels and locks will not be. Therefore, any changes applied will affect the domestic trade of Canada. To avoid a North American international incident we suggest the following language be adopted: "That no tax, toll, fee or other user charge which is now or which may in the future be imposed upon the use of the navigable waters of the United States shall apply to any use of such navigable waters which regularly serve the domestic waterborne commerce of another country until such other country has agreed to the application of such tax, toll, fee or other user charge to its domestic commerce."

8. JUDICIAL REVIEW

Some of the "fast track" proposals appear to remove all judicial review to the federal courts, even though one of the participants in any cost sharing/user fee/cost recovery agreement is a nonfederal entity. While we realize this is an effort to reduce delay, serious question regarding this procedure must be raised. State courts must retain primary jurisdiction in areas of State authority, including State authorized port authorities.

9. IMPACT ON VESSELS/CARGOS NOT DIRECTLY BENEFITING FROM IMPROVEMENTS

Should vessels and/or cargos not profiting directly from or not requiring the port improvement be required to participate in the cost recovery? If new charges apply to vessels not effectively served by the improvement they would likely be driven out of the port or possibly out of the trade.

10. MAINTENANCE OF EXISTING PROJECTS

Both the "Committee bill" and H.R. 3977 call for the Corps of Engineers to establish a five year program for maintenance of ports and related facilities. The Congressional review process appears to provide a veto over the Administration in terms of maintaining or not maintaining an existing project, but it does not set priorities for maintenance. Priorities are currently established (finally) through the appropriations process. Some mechanism for establishing priorities should be created so that communities may be assured maintenance to be accomplished in order of national need.

11. ST. LAWRENCE SEAWAY DEBT

Some proposed legislation includes the Great Lakes but excludes facilities administered by the St. Lawrence Seaway Development Corporation. Currently users of the St. Lawrence Seaway are paying 100% of the operation and maintenance costs, including extraordinary maintenance due to construction error (projected at $14 million). Users of the Seaway are also returning capital to the U.S. Treasury. Over $62 million has been returned to the Treasury by the St. Lawrence Seaway Development Corporation. If there is a new national system of user fees or tolls, especially one that grandfathers investment in existing facilities, will the $62 million be returned to the St. Lawrence Seaway Development Corporation, or to the users, or will the St. Lawrence Seaway Development Corporation and the Seaway remain a freestanding debt? It would seem fair that at least the past capital payments be returned to the SLSDC and the Congress appropriate funds to meet the extraordinary maintenance cost (required due to no fault of the SLSDC).

12. STRATEGIC PREPAREDNESS

The legislation, as introduced on behalf of the Administration appears to give no consideration to the national defense capabilities which ports contribute to the U.S. In the Great Lakes, this is of particular importance. During World War II, incredible volumes of cargos moved through the Lakes to support the national defense objectives. In addition to the cargos moved, I am informed that over 50 percent of WWII U.S. military and commercial ship production was accomplished in the Great Lakes. Prior to implementation of any user fee or cost recovery system, the full impacts on strategic military preparedness should be analyzed.

13. TRANSPORTATION MODE SHIFTS

Implementation of user charge legislation whether on a national or port by port basis may change competition between the various modes of transportation, thereby dislocating regional economies. In the Great Lakes, we note that freight rates by other modes and from other seacoasts vary with the seasons. When the Great Lakes are open and the St. Lawrence Seaway is competing, rates on the Gulf coast are lower than they are during the 3½ months that the St. Lawrence Seaway is closed. Should user charges induce significant rate changes, changes in the transportation patterns would also be included.●

ONE-MINUTE SERIES: THE LAW OF THE SEA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. FIELDS. Mr. Speaker, the banner under which the Law of the Sea Treaty supporters march is the so-called new international economic order. The NIEO is neither new nor economic—it is old and political.

It is an ideology that holds out the false promise of equality and plenty for all, but it delivers a world cast in the ancient feudal state—that is, a small and special class maintained by unrelenting force in the possession of exclusive economic and political privileges. Look at any socialist state, ancient or modern, and deny it. Look at the outrages of human suffering from the U.S.S.R. to Mozambique to Poland.

The feudalistic mentality of the NIEO pervades the text of the seabed mining provisions of the LOS Treaty. The American citizen would be exposed to confiscatory fees, taxes, and royalties fit for a serf; and would suffer near extortion in the form of mandatory technology transfers.

Mr. Speaker, I request all my colleagues to join me in supporting Ambassador Malone in carrying the concerns of our people and our President to the other delegates at the LOS Conference now underway in New York.

The new international economic order is not for Americans, or freedom-seeking peoples anywhere.●

KARL KUKUROWSKI: A MAN OF COMPASSION

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HERTEL. Mr. Speaker, each and every generation has faced a time of uncertainty, a time when complex issues make solutions difficult to grasp. This generation is no different. The problems confronting them are no less serious and the solutions all the more intricate. It is easy to become disillusioned in a world where change is the order of the day. It is easy to be cynical with the idealism of our youth as they naively attack the problems of the day. Yet, if there is one wish that unites both young and old, it is perhaps a desire to live in a world where simple acts of compassion and love touch a part of our lives.

There is one man who has helped that wish become a reality. The concern shown by Karl Kukurowski is a rich legacy spanning 95 years of loving devotion to his family, friends, and community. Born in Poland in 1887, he, like most Americans came to this country as an immigrant and worked to make this new land his home.

It was not an easy task; challenges seldom are. His determination, compassion, and understanding have made his adventure a success story. As the oldest living founder of Queen of Apostles Parish and president of the Polish National Alliance—2384—Karl Kukurowski has served his community and in turn his country very well.

His roots are deeply embedded in his native Polish heritage, but they readily mix with his love for his proud American tradition. For Karl Kukurowski the American dream was more than a dream of economic success; it was rather a chance to live a life that was rich with the joy of giving to others.

His compassion, coupled with his strong sense of responsibility have enriched the lives of all who have come to know this man. He has been a living legacy of a man willing to sacrifice for others. He is an inspiration to all. It is in this sense that Karl Kukurowski is a man for all generations and a source of strength to all.●

CYPRUS DAY, APRIL 22

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. BROOMFIELD. Mr. Speaker, I wish to briefly mention to my colleagues that on April 22 Congressman YATRON and I will be sponsoring a special order calling for a peaceful resolution of the conflict in Cyprus. Since 1974, Turkish troops have been illegally occupying 40 percent of Cyprus. Efforts by the United Nations to resolve the dispute, and obtain the withdrawal of Turkish forces, have been unsuccessful. As long as this problem continues, NATO's southern flank will be seriously weakened, the Cypriot people will be denied self-determination, and the status of over 200,000 refugees will remain uncertain.

I urge my colleagues to participate in the special order on April 22, and I encourage them to include remarks for the RECORD in advance of this date to demonstrate their clear support for a resolution of this important issue.●

HOLLYWOOD WALK OF FAME

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Ms. FIEDLER. Mr. Speaker, it is with great pride that I take this opportunity to inform the Members of the House that, as we meet today, an historic event is taking place in Los Angeles. Many of the Members are aware that in Los Angeles, the Hollywood Walk of Fame is a perpetual testament to those who have made the movie, radio, television, and recording industries a vital part of southern California's economy.

Today, a company that has been the backbone of the movie industry is being so honored. That company, I am proud to say, is in my congressional district. The company is the Magnasync/Moviola Corp.—the company that makes the machines upon which the vast majority of all movie editing is done.

The star on the Walk of Fame will also go jointly to Mr. Mark Serrurier, the son of the machine's inventor, Iwan Serrurier.

The first Moviola Midget, Mr. Speaker, was delivered by Iwan Serrurier to the Douglas Fairbanks Studios on September 16, 1924, and overnight transformed the process of film editing from a razor blade and lampwell ordeal to a mechanically performed precision technique. Thanks to this precision of control, the process of sound-synchronization was improved tremendously and provided the basis for making the talkies feasible.

Twenty-five years later, Mark updated his father's invention and the new Moviola became the state-of-the-art technology for film editing once again. This very same model is used today in such studios as MGM, Disney, Universal, Paramount, and scores of others worldwide.

In addition, and without exception, every television series shot in Hollywood today is edited on a Moviola.

Surely, Mr. Speaker, there would have been a Hollywood, producing celluloid dreams for the world to share without the Moviola, but the contribution the Serruriers have made to the industry can be likened to the advent of the railway to the West—making those dreams come true before anyone would have thought them possible.

I am happy today to add my voice to those praising Magnasync/Moviola and Mark Serrurier for their contribution to the economy of southern California and the enjoyment of the world.●

PERSONAL EXPLANATION

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mrs. ROUKEMA. Mr. Speaker, on March 23, 1982, I was unavoidably absent from the floor of the House of Representatives for nine recorded votes. Had I been present, I would have voted in the following fashion:

Rollcall No. 32: H.R. 5014, Gateway National Recreation Area Commission, "no";

Rollcall No. 33: H.R. 4750, Roosevelt Memorial, "no";

Rollcall No. 36: H.R. 4709, Prompt Payment Act, "yes";

Rollcall No. 31: House Concurrent Resolution 100, expressing the sense of Congress regarding religious freedom in the Soviet Union, "yes";

Rollcall No. 35: S. 2166, to permit the ICA to provide distribution of the slide show, Montana, "yes";

Rollcall No. 37: H.R. 2528, Economy Amendments Act, "yes";

Rollcall No. 38: H.R. 5708, National Housing Act extensions, "yes";

Rollcall No. 39: S. 2254, Flexible and Compressed Work Schedule Act extension, "yes";

Rollcall No. 34: S. 146, historic preservation for Camden, S.C., "no."

As a cosponsor of H.R. 2036, the predecessor of H.R. 4709, the Prompt Payment Act, I am particularly pleased that the House has passed the latter. This will place the Federal Government on the same footing as everyone else by allowing interest to accrue on a bill on which the Federal Government has not made timely payment. In addition, the denial of the ability of the Government to take early payment discounts where unwarranted and the establishment of intragovernmental controls will add to the fiscal credibility of the Federal Government. This, in turn, should promote healthier competition for Government contracts and cause a reduction in the number of inflated bids received. I commend the Government Operations Committee for its fine work on this bill and the diligent efforts in this area by my distinguished colleague from California, Mr. LAGOMARSINO.●

A TRIBUTE TO JOHN T. DALLY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. RITTER. Mr. Speaker, I would like to take this opportunity to pay tribute to one of the Lehigh Valley and Slate Belt's most distinguished citizens, Mr. John T. Dally, the former mayor of Pen Argyl, Pa.

Jack Dally recently retired as mayor of Pen Argyl after 16 years of serving the borough in that position. It is no small measure of the value of his service—and his popularity in the borough—that he had originally planned to step down in 1978, but his constituents would not hear of it. Even though he was not on the ballot, and even though he did not campaign, Pen Argyl's voters wrote him in anyway. He consented to serve one last term, which ended last January.

The former mayor's record of community service in those 16 years—as well as before and after—is matched by few. In addition to serving in his official capacity as mayor, he has been active in literally dozens of other community organizations and activities.

Jack has been active with the Boy Scouts and the Salvation Army. He is a member of the Allentown-Bethlehem-Easton Airport Authority. He is active in St. Elizabeth's Catholic Church in Pen Argyl, and he is trustee emeritus of the Northampton County Area Community College. He is also active in the Maroon Club and Alumni Association of Lafayette College. He is on the executive committee of the Pen Argyl Centennial.

As mayor he chaired the Slate Belt Municipalities Association and the Northampton County Municipal Conference Committee, and was a member of the Northampton County Overall Economic Development Committee.

Jack also served his country during World War II as an Army Air Corps lieutenant. He flew 17 missions out of Italy as a bombardier-navigator.

In appreciation of his service, the community recently held a roast in his honor, which I was privileged to attend. After those of us speaking had had our fun, I remember something Jack said, and it sums up his approach to service. He said, "get involved in your community, do a job that has no pay to it. Good humanitarian acts are the best thing in life."

Indeed they are. And Jack Dally has set an example for all of us to follow. And thanks to Jack Dally, Pen Argyl and the Lehigh Valley of Pennsylvania are better places to live.●

NIXA SUCKER DAY

HON. GENE TAYLOR

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. TAYLOR. Mr. Speaker, I am pleased and honored to inform my colleagues that the 25th anniversary of Sucker Day will be held in Nixa, Mo., on May 6 and 7, 1982.

When I speak of suckers in Nixa I am not talking about the kind referred to by P. T. Barnum, when he said: "There is one born every minute."

Nor do I speak of a piece of sugar candy on a stick. While Barnum has been proved right and candy suckers are a nice treat, neither can compare to the sucker, a fish of doubtful parentage, which, on its special day is pulled from the James River, scored with a sharp knife, then immediately placed into huge black kettles set up on Main Street, where it is cooked crisp and golden by some of the finest cooks in the Ozarks.

The sucker, when consumed with a generous pile of fried potatoes and a mound of cole slaw, is one of the most delicious meals a gourmet would ever throw his lip around.

There will be a parade on the 6th, bingo will be played on the city parking lot both days, there will be many arts and crafts displayed, and dignitaries from all over the State will be present. The suckers will be fried on the 7th.

It will be a great event. Two days that will be enjoyed by thousands of people and it will be made possible by the hard work of some 250 citizens of the Nixa community who volunteer their support every year.

I plan to be there for the fun and festivities and I would like to extend an invitation to all to join me.●

AN OUTSTANDING EDUCATOR

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. McGRATH. Mr. Speaker, I would like to draw the attention of my colleagues to the accomplishments of an outstanding educator in the town of Lynbrook, which lies within New York's Fifth Congressional District.

After serving for 22 years as an educator in Lynbrook, Assistant Superintendent of Schools Betty Levinson has announced that she will retire at the end of the term. Mrs. Levinson, a former teacher and principal of Atlantic School, has held her present position since 1976.

She is regarded by her peers as a "dynamic influence in the growth of Lynbrook education," who has always remained idealistic about academic learning. She describes teachers as "the instruments of change and the continuing culture of civilization."

Originally trained in the business field, Mrs. Levinson was once the only woman in the accounting division of Western Electric. She joined with her children in Brownie and Scout activities, and was an officer in the parent-teachers' association. Her involvement with youngsters motivated her to embark on a second career in education.

Mrs. Levinson was inducted into two education honor societies, Phi Delta Kappa and Kappa Delta Phi. She is also a member of the Association for Supervisors and Curriculum Development, the Long Island Association of Personnel Administration, Nassau Reading Council, New York State Reading Association, and the Soroptimist International of Central Nassau—the oldest women's organization for professional and business administrators.

Betty Levinson is an outstanding example of one who has given untiringly of her talents for the benefit of her community. As an educator, a businesswoman, a civic leader, and a mother, Mrs. Levinson has displayed excellence and perspicacity. She will be missed by the students, parents, and educators in Lynbrook who have benefited from her influence.

I wish Betty a happy and fruitful retirement.●

THE TRUTH ABOUT PROP 13

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. DANNEMEYER. Mr. Speaker, I submit the following Wall Street Journal editorial, "California's Fiscal Crisis," for inclusion in the RECORD as essential truthtelling in the debate over tax cuts, spending cuts, and the Federal budget.

California's fiscal crisis illustrates our national economic crisis: The need to maintain tax reform and adopt overdue spending reforms. California is facing a $1.5 billion deficit not because of Prop 13 and insufficient revenues, but because of insufficient spending reforms since Prop 13 was enacted by the people of California. This Nation is confronting a $100 billion deficit in fiscal year 1983, not because we were undertaxed but because we have overspent for the past 25 years.

California's post-Prop 13 fiscal history illustrates the need for spending reform:

Since 1978, the State budget has exploded from $11.7 billion to $23.2 billion;

Since 1978, overall government spending in the State has stayed ahead of inflation; and

Since Prop 13's enactment, 10,125 employees have been added to the State's rolls.

We should heed the experience of California. We have had the tax revolt. We now confront the spending revolt. Let us abandon neither.

[From the Wall Street Journal, Mar. 23, 1982]

California's Fiscal Crisis

The Golden State has just finished scrambling to close a $350 million gap in its current budget. But the package of revenue accelerations, special fund borrowings and the like signed March 15 by Governor Brown solves its current problem at the expense of the coming fiscal 1982-83 budget. The state is now looking at a shortfall in next year's revenue that may reach $1.5 billion.

Is this the bitter fruit of the Tax Revolt? Is the bloom off Proposition 13? The tax-and-spend set would have us believe so; one can already hear their chortling. Before we buy their version, however, we had better take a closer look at the numbers.

Next year's problem budget features general fund spending of $23.2 billion. In the fiscal 1977-78 budget, the year of Proposition 13, this figure was $11.7 billion. In other words, in the five budgets since the beginning of the Tax Revolt, California's spending has just about doubled. That's quite a spending spree for any "era of limits."

State officials will say that we're counting in the "bailout" money, the state surplus that was turned back to local governments to make up for Messrs. Jarvis and Gann's butchery of the property tax. In the aftermath of Prop 13, this kitty reached $6.3 billion, so it's only natural that the budget that year should have grown by 40%.

But California was paying substantial local propery tax relief before Prop 13, and the governor folds this sizable sum into the bailout figure as well. (The pre-Jarvis tax relief amounts to $1.4 billion of fiscal 1983's $6.3 billion in local bailout.) So any way you cut it, state spending has been booming.

Nor have local governments been as devastated as you might think from their Prop 13 loss of $6.1 billion in property taxes. Assessments have run well ahead of the nominal Jarvis-Gann limits. The city property tax take this coming year is already expected to match the pre-Prop 13 receipts. With a shift to fees and other taxes and a dip in the large but uncounted local budget surpluses, overall government spending in the state not only hasn't declined, it has managed to stay ahead of the rate of inflation.

But what about the shortfalls in state revenues Californians have heard so much about this year? For the first time in a decade, the department of finance has been overestimating state tax collections (although its margin of error is the lowest in years). Doesn't this mean that the Laffer Curve is kaput, that the lowered tax rates aren't generating a surge of growth? Well, even with the state's post-Prop 13 income tax cuts, this revenue source has grown by 75% since fiscal 1977-78. This personal income tax, with indexing, is expected to produce $8.2 billion in the coming budget, up from $4.7 billion in the year of Jarvis-Gann. And almost no one, in or out of the state, understands what a huge difference indexing has made.

Legislative Analysts, a research arm of the legislature, estimates that indexing has reduced the cumulative income tax take since Jarvis-Gann by $5.4 billion and will lop off a further $3.6 billion this year. In other words, the income tax take in the coming budget would have soared two and a half times since Prop 13 had it not been indexed. Without pausing to ask if the take would have grown as fast as the analysts think—since such a rise would have had large disincentive effects—it remains that such an increase was not acceptable to the voters.

But California's economy lost some of its post-Prop 13 robustness last year, tax reform critics like to point out. Civilian employment had only one fourth the growth of the department of finance originally projected; the unemployment rate was higher; residential building permits fell through the floor. So where was the economic benefit from all those tax cuts?

Well, it's still there if you remember that California is part of the national economy.

Even with a bad year, personal income growth was higher in the state than the nation and the gap is projected to widen in 1982. The state unemployment rate nudged over the nation's in January for the first time since 1979, but the forecasting consensus is that it will fall more quickly and stay below the U.S. average for the rest of the year. Until Prop 13, the state's unemployment had consistently run from one and a half to two percentage points above the nation's.

In short, California is going through the interest rate wringer like the rest of the country, with an extra squeeze on residential construction and agricultural profits. But its base for recovery remains much stronger than average. Revenues are falling off in part because the voters wanted them to, through indexing. Yet Sacramento has only recently awakened to the notion that it might have to cut back its own rate of spending. The current and proposed budgets are the only ones that have grown at less than a double-digit rate in much more than a decade. The public support for the Tax Revolt remains steady. The latest poll on Prop 13, in November, showed more people in favor of it now than on the day it passed by a landslide.

A while ago, some Californian politicians smuggly contrasted their Prop 13 experience with other states with tax initiatives. They could make it work unlike the folks in Massachusetts, they bragged, because California had such a large surplus to cushion the blow. It now looks like the surplus was a curse and not a blessing. It allowed the politicians to defer serious cuts for years, during which their locked-in spending base grew by billions. The current crisis in Sacramento isn't the price of the Tax Revolt; it is the price of the government's reluctance to face the new reality.●

NUCLEAR WEAPONS REDUCTIONS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. BROOMFIELD. Mr. Speaker, Congressman LAGOMARSINO and I are cosponsoring a resolution today expressing the sense of Congress that the United States and the Soviet Union should engage in substantial, equitable, and verifiable reductions of their nuclear weapons in a manner which would contribute to peace and stability. At a time when the nuclear arms race is being driven by new technology and distrust is manifest on both sides, I believe it is essential for the superpowers to negotiate an end to nuclear weapons escalations, and to actively seek a reduction in the number of existing weapons, consistent with U.S. national security interests.

I commend President Reagan for initiating the intermediate nuclear range missile talks in Geneva. His proposal of a zero option is a reaffirmation of our willingness to seek peaceful agreements with the Soviet Union. It is a first step toward reducing the nuclear arsenals aimed at one part of the nuclear arena.

Strategic nuclear weapons talks, held in abeyance since the Carter administration negotiated the seriously flawed SALT II treaty, must once again become a matter of top priority. Again, I commend President Reagan for not rushing off unprepared to Moscow to plead for Soviet agreement on a marginal scenario. To quote the President from his November 18, 1981, address to the National Press Club:

> We can make proposals for genuinely serious reductions but only if we take the time to prepare carefully. The United States has been preparing carefully for resumption of strategic arms negotiations because we do not want a repetition of past disappointments. We do not want an arms control process that sends hopes soaring only to end in dashed expectations.

This resolution supports the President in his efforts to seek strategic nuclear weapons reductions and encourages him to continue the process already begun on intermediate range nuclear missiles. It calls for the President to begin strategic talks at the earliest practicable date. I strongly believe that this is the only correct approach to this delicate issue. To call for a freeze now on all nuclear weapons is to play into Soviet hands. To reduce the existing Soviet advantage, and to provide the incentive to achieve future reductions, the administration must have a card to play against the Soviets. A freeze would preserve the Soviet advantage. The message would be clear to the Soviets. All they would have to do in any defense field would be to deploy a new weapons system and then call for a freeze in that particular area.

Others would prefer a resolution calling for the immediate beginning of strategic talks. I understand that this has an appeal to some. It is, for example, better than calling for a freeze. But it still does not give the President the flexibility that is needed to negotiate with a tough adversary such as the Soviet Union. Nuclear weapons talks are extremely complex. Not only are highly sophisticated weapons involved, but advanced surveillance and verification systems are also an integral part of the negotiations. I believe it would be contrary to the best interests of our country to push the administration into strategic talks before they believe it appropriate to do so. Let us face facts. We are not talking about negotiating some relatively insignificant international agreement. We are talking about our most serious, vital area of national security. We are talking about the survival of our country, of our allies, and probably of the human race if we fail to achieve a stable nuclear world. Let us act, but let us act prudently.

The Congress should support this resolution. It puts us squarely on record as demanding an equal, verifiable, and stabilizing nuclear reduction. It also lets the Soviets know that we are unified behind the President in seeking a peaceful, yet balanced, solution to the nuclear dilemma. It further sends a signal that we will accept only a well-reasoned nuclear treaty, one that safeguards America's overall interests. A treaty that recognizes that nuclear weapons are one part of our comprehensive defense strategy, developed in large part because of the overwhelming numerical superiority of Soviet conventional weaponry and troops.

I urge my colleagues to support this specific resolution. It addresses all of our concerns in both the security and weapons reduction areas. It is imperative that Congress express itself on so vital an issue as arms control.

Mr. Speaker, at this time, I wish to insert the text of our resolution.

Expressing the sense of the Congress that the United States and the Soviet Union should engage in substantial, equitable, and verifiable reductions of their nuclear weapons in a manner which would contribute to peace and stability.

Whereas President Reagan, on November 18, 1981, stated that the United States "will seek to negotiate substantial reductions in nuclear arms which would result in levels that are equal and verifiable";

Whereas the Congress also urged the President to seek at the earliest practicable moment reductions in strategic arms;

Whereas the U.S. has already proposed to the Soviet Union in Geneva a Treaty embodying dramatic reductions in nuclear forces: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) it is the sense of the Congress that the United States should seek substantial reductions in strategic nuclear arms that will result in lower levels of forces that are equal, verifiable, and stabilizing. To achieve this goal the United States should begin the Strategic Arms Reduction Talks with the Soviet Union at the earliest practicable date.

(b) It is further the sense of the Congress that the United States should continue its efforts in the ongoing negotiations in Geneva to seek Soviet agreement to the mutual elimination of longer-range land-based intermediate range nuclear missiles.●

FEDERAL DEPOSIT INSURANCE

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 16, 1982

● Mrs. BOUQUARD. Mr. Speaker, I would like to thank my colleagues on the Banking Committee for the work they have done to bring House Concurrent Resolution 290 to us. What we have done by passing this resolution is reaffirm a pledge the Congress made to the people of this country in 1933. That pledge simply promised American depositors that their funds would be safe. Since enactment of that Banking Act not one insured depositor has ever lost any money in these insured institutions. And while the security of our financial system is being called into doubt by problems within the thrift industry, we are saying once again that deposits of up to $100,000, the statutory limit, are backed by the financial resources of the U.S. Government. No depositor will lose money in an insured account in a federally insured depository institution.

I would like to associate myself with the remarks made on Tuesday by my colleague from Pennsylvania. We did not consider this resolution out of panic; there is no emergency requiring congressional action. But the reports of troubled institutions have the potential of creating a quiet run and it is important that the Congress take this step to restore public confidence in federally insured depository institutions. We are saying to the American people that their deposits are as safe today, and will continue to be so, as they have been in the past.●

SENATOR THOMAS HART BENTON

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, I would like to make mention in the RECORD of one of Missouri's greatest statesmen, Senator Thomas Hart Benton, this being the bicentennial year of his birth, March 14, 1782-April 10, 1858. Benton was born at Hillsboro, N.C., and the son of Jesse Benton and Ann Gooch Benton. On the death of his father, Thomas Benton was 8 years old and became the head of the household. After some preliminary study with a friend of his father, a short term in grammar school, and a partial course at the University of North Carolina, he undertook the supervision of the family farm of 3,000 acres with a claim to some 40,000 acres near Nashville, Tenn. He was in 1809 a State Senator in Tennessee and admitted to the bar in 1811. Benton moved in 1815 to St. Louis where, as editor of the Missouri Enquirer and in the enjoyment of a lucrative law practice, he speedily identified himself with his adopted State. Benton was first elected to the U.S. Senate in 1820 and took his seat in 1821. In 1821, Senator Benton married Elizabeth McDowell. In the Senate he became involved in his lifelong legislative interest, the defense of sound money. He favored settlers and discouraged land speculators. He deplored the sacrifice of Texas in 1819, and lauded, to an uncomprehending public, the significance of Oregon. He brought salt within the reach of Western farmers, and in the interest of Missourians, defended a tariff upon lead. He promoted the navigation of the Mississippi, and advocated a national highway to New Mexico. After losing his bid for reelection to the Senate in 1850, Benton secured election to the House of Representatives where he vainly fought the Missouri Compromise repeal. In his retirement from the political arena while composing his memoirs, his house and papers were burned. However, he composed at top speed, made possible by his remarkable memory, the elaborate "Thirty Years' View," 1854-56, in which he surveyed the whole course of politics as he had seen it intimately from 1820 to 1850—one of the outstanding autobiographies of politics. Side by side with this book, he completed another monumental work, "Abridgement of the Debates of Congress from 1789 to 1856," 1857-61. Senator Benton is one of two honorees chosen by Missourians to be included in Statuary Hall here in the U.S. Capitol.

One of my constituents, Fredrick D. Redeker of Jefferson City, Mo., remembers the competition to select the five greatest U.S. Senators of all time to be honored with portraits in the U.S. Senate reception room. And he said if his memory served him correctly, Benton was a close runner-up, if not sixth, in that selection. As Mr. Redeker so aptly points out, though Benton narrowly missed selection, it gives you an idea of the rank accorded him.●

RON BOOK

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. LEHMAN. Mr. Speaker, our congressional office has enjoyed a very good relationship with the office of Governor Graham in Tallahassee. One of the reasons for the excellent cooperation between our two offices was the presence of Ron Book, one of my constitutents who until recently worked for the Governor. Ron is now looking forward to a political career of his own, and I would like to pay tribute to his dedication to public service.

Following is part of an article that was published recently in the Miami Herald.

The article follows:

BOOK'S COVER IS SAME, BUT NEW CHAPTER BEGINS

(By Ellen Hampton)

Ron Book started getting his name in lights at age 13. He wanted to be a politician. And he thought North Miami parks should be lit at night.

"We picketed the mayor's house," Book recalled.

The mayor was Elton Gissendanner, now executive director of the state Department of Natural Resources.

"He was a great picketer," Gissendanner recalled. "He'd picket at the drop of a hat."

Eight years after the mayoral picket—which helped win city approval for park lighting—Book followed Gissendanner to Tallahassee.

Book worked as a legislative aide and then left to study law. He returned in 1978 as the governor's liaison officer for legislative and Cabinet affairs, moved to executive director of a statewide campaign for constitutional revisions and then worked as the governor's special counsel on legislative affairs.

"Hardest working li'l guy I ever met," says Gissendanner, who was Book's Cabinet affairs boss. "He never stops."

He hasn't yet. But he has shifted gears.

Book, 29, moved back to Northeast Dade in December to join the law firm of Sparber, Shevin, Rosen, Shapo and Heilbronner. Last week he bought a condominium at the California Club. He says he's here to stay.

"The next chapter in my book—if you'll pardon the pun—is going to be to practice law," Book says. "There are lots of things to do in this world; it would be terribly boring if you were limited to one thing. In this chapter, I'm going to try to be the best damn lawyer I can be."

Book has not, however, removed his fingers from the political pie.

"All my life, all I ever wanted to do was hold public office," he said. "At one time I wanted to be president."

Book has been threatening to run for an office for years. Though he won't now rule out a candidacy, he says his approach to politics has changed.

"I think the biggest lesson I've learned from being in Tallahassee is you don't have to hold office to make a contribution. You can do as much behind the scenes."

Behind the scenes, Book advises the Support Our Stadium Committee on raising money for a high-school sports stadium in Northeast Dade. It is a project close to his heart: Book was a track runner at the University of Florida and started the North Miami Track Club after he graduated from Tulane Law School.

"It should really shock the community that we have become as populous an area as we are and not have athletic facilities for our schools," he said.●

ST. PATRICK'S DAY—1982

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. COURTER. Mr. Speaker, last week many of our colleagues in the Congress participated in ceremonies and festivities honoring all Americans of Irish extraction and the people of both the Republic of Ireland and Northern Ireland, on the occasion of St. Patrick's Day. I was proud to associate myself with this important tradition and holiday that has become a true part of American life with the arrival of the first Irish immigrants to America.

The history of the Irish people is a mixture of wonderful folklore, music, and dance, which has been tempered by political, social, and economic upheavals. Ireland's sons and daughters have made enormous contributions to our Nation, including many prominent Members of Congress and several Presidents of the United States. Today, Irish Americans continue their long and proud tradition of making vital contributions in all fields to our Nation. Additionally, the Republic of Ireland has come of age as an important European nation, as it prominently serves in the European Common Market, and has made its mark in international affairs, as in the case of its peacekeeping forces serving in Lebanon under the auspices of the United Nations.

Tragically, the Irish people have not found peace in their own backyard. The people of Northern Ireland remain split along political and religious lines, and this schism has led to terrible violence. It is my fondest hope that the sectarian violence end in Northern Ireland. Terrorism and other forms of paramilitary action by all sides must, as a precondition for peace, cease. The Catholic minority must be treated as full citizens, with equal opportunities to fully participate in the political and economic life of the area. However, any possible unification of the Republic of Ireland with the North must be through peaceful means, so, my first wish to all concerned with the Irish question is a settlement based on peace with dignity for all. Thank you, Mr. Speaker.●

OUTSTANDING SAN DIEGANS

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. LOWERY of California. Mr. Speaker, I would like draw the attention of the House to a group of outstanding young San Diegans who have been honored by the San Diego Chapter of the National Football Foundation and Hall of Fame.

Each of these young men have displayed excellence in academics, athletics, and extracurricular activities and as they are deserving of their honors, they are also deserving of our praise and recognition.

I present to the House, San Diego's scholar-leader-athletes of the year, and list with pride the accomplishments of those I have the honor of representing.

Named as outstanding scholar-leader-athletes are Peter Haven, offensive tackle, Fallbrook High School, and Sanford "Sandy" Roberts II of Point Loma High School.

Sandy earned all-Breitbard Foundation honors in 1981 and received Point Loma's Golden Helmet Award as his team's best player, and is also the recipient of the San Diego Clippers, U.S. Marine Corps Outstanding Achievement Award.

The remaining scholar-leader-athletes who I have the honor of representing:

Jim King and Michael Rinehart, Patrick Henry High School.

Jim was the Eastern League's defensive player of the year and Mike its offensive player of the year. Both have been named all-league.

Keith Hewel and Alan Summers, Torrey Pines High School.

Keith was his team's cocaptain and most valuable player, and has twice been named to the All-Palomer League.

Alan was named to the All-Palomer League first team after an outstanding season, and is also president of his senior class and commissioner of athletics.

Roy Carls, Point Loma High School.

Named to the Breitbard Foundation's All-Western League's first team and the all-C.I.F. second, Roy won his high school's scholar-athlete football award and, as a junior, was named his track team's most valuable player.

Pat Millay, University High School.

Named to the All-Western League's second team, Pat was his team's most valuable player on offense and in addition to his two letters in football, has received a letter in both baseball and basketball.

Chris Brickman, Francis Parker High School. Although only in his first year of football, Chris was an outstanding linebacker on the eight-man team that won the Southern Coast League division title in 1981, and has received three letters in baseball and one in soccer.

Karl Dorrell, Helix High School.

Named offensive player of the year by a local newspaper, and high school All-American by Blue Chip magazine, Karl was also named first team offense in the All-Grossmont League, All-C.I.F., and was chosen all-county second team offense by the news media.

The three San Diego area college students named scholar-leader-athletes this year are:

Paul Berner, Mesa College.

Named junior college All-American quarterback, State junior college player of the year and South Coast Conference offensive player of the year, Paul is also the recipient of two football letters and was named his team's most valuable player.

Dan Herbert, University of San Diego.

Dan, a free safety, was named to the Kodak All-American College Division first team and was one of only two division III players to compete in a major college all-star game—San Diego's Gold Bowl. Dan has earned four consecutive football letters and has been named his team's most valuable player.

John Jessup, San Diego State University.

As tight end, John was selected Western Athletic Conference scholar-athlete and was named as honorable mention for the all-WAC team.

Other scholar-leader-athlete recipients are:

Phil Coles, Mike Moser, Brian Laliberte, Blake Armbrust, Jody Doty, Frank Bons, Bob Bullock, Brian Murray, Todd Smith, and Scott Crowley.●

REAGANOMICS THREATENS THE HOPES OF YOUNG AMERICANS

HON. FLOYD J. FITHIAN

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. FITHIAN. Mr. Speaker, Reaganomics represents the greatest single threat to the hopes and aspirations of young Americans today: those just entering and those soon to enter the work force. I want us to think of what that means for Americans tomorrow. For millions of college students, Reaganomics means the loss of loans to assist in paying for the high costs of education, or the loss of student social security benefits that are an essential source of support. For millions of students who are able to continue college in spite of the economic burdens, graduation holds few promises. The deepening recession, brought on by an unsound and unfair economic program, has virtually dried up the hopes of finding a challenging, well-paying job that is the best ticket to economic security.

For those young working men and women who have found a job but must struggle with the traditionally low starting income, Reaganomics means their children may not be eligible for the school lunch program, and it means their dream of owning a job has been crushed. For millions of young working men and women who have finally achieved economic security for their own families, Reaganomics means watching in horror as their aged or disabled parents lose their social services support; their homemaker and Meals-on-Wheels services; their subsidized housing income; their energy assistance income.

Most importantly, Reaganomics has cast a shadow of despair over the country that has dampened the enthusiasm of our normally ebullient youth. How are they to respond to the prospect of double-digit unemployment at the same time job training and support services have been eliminated? How are they to respond to this administration's supposedly "pro business" policies when these policies leave the highly trained new graduate with little chance to contribute his or her skills? How are they to respond to this administration's supposedly "pro family" policies when in fact these policies have so little hope to offer new families?

They are responding with frustration, fear and alienation, this generation of young Americans that must direct our country through the challenges that lie ahead. As this Congress considers the latest round of Reaganomics, let us remember these young working men and women and their families, and let us consider how our decisions will be interpreted by those who look to us for a new glimmer of hope.●

REAGANOMICS MEANS HIGH INTEREST RATES

HON. JIM MATTOX

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. MATTOX. Mr. Speaker, the administration's economic policy is nearing collapse. The business community has no confidence in it; organized labor rejects the policy; farmers are on the verge of open rebellion because of the administration's economic policy; and the overwhelming majority of Americans think "Reaganomics" is not working.

Interest rates are the key to change. Let us examine what has happened to "real" interest rates since President Reagan took office.

REAL INTEREST RATES UNDER REAGAN

[Nominal and real interest rates since January 1981]

	January 1981	Current
Inflation, GNP deflator yr/yr	9.7	7.5
Corporate lending rate	12.8	14.5
Real	3.1	7.0
Mortgage rate	15.4	17.5
Real	5.7	10.0
State and local lending rate	7.8	10.5
Real	[1] −1.9	3.0
Prime rate	20.2	16.5
Real	10.5	9.0

[1] Minus because of tax exemption.

The time has come for a change in the administration's economic policy.●

DESTROYING THE EPA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. BROWN of California. Mr. Speaker, the actions of the Reagan administration toward the protection of the environment have been regularly commented on. The pattern is clear; this administration is using all the tools at its disposal to undermine the environmental protections which were gradually developed over decades.

It is now evident that the destruction of the Environmental Protection Agency is underway. As a recent essay by the managing editor of Technology Review recently noted:

> The best way to neutralize an operation with high visibility and public appeal, such as EPA, is not to kill it outright—that is politically unwise—but to appoint hostile, uninspired, or incompetent managers and then let nature take its course.

Mr. Speaker, it is the duty of this Congress to use all the tools at its disposal to prevent the destruction of the Environmental Protection Agency. I commend the following essay to my colleagues:

[From the Technology Review, April 1982]

REAGAN'S EPA: THE NEW FUDDYDUDDYISM

(By Steven J. Marcus)

It is fair to say that the Environmental Protection Agency (EPA) and other regulatory agencies may have occasionally been a little overzealous during the past decade. Their requlations sometimes appeared excessive, capricious, expensive, and counterproductive. So with the coming of President Reagan, "regulatory overkill" begat "regulatory relief."

Let us trim the fat, said the new administration, and simplify, decentralize, economize, and optimize. Let us be efficient. Let us unbind the business community from Washington's oppressive authority and liberate free enterprise—the spirit that made this country great. We will work with industry, not against it. If the question was "How do we spell relief?" the answer was "nonregulatory."

It did not seem like such a bad idea, providing it didn't go too far. Things might be fine, in fact, as long as the federal agencies didn't cede their responsibilities altogether and the new thrust was the product of people who were sensitive, knowledgeable, competent, and committed to protecting those areas Congress mandated them to protect.

Although many an environmentalist expressed horror at the prospect—ten years' work would be undone by Reagan's "wrecking crew," they predicted—some of us were more hopeful, even while watching one unlikely appointee after another march into power. Maybe, we thought (wishfully), these people with business connections might succeed where others had failed. "Market solutions" might indeed be more efficient, fair, and effective than "command and control," and the no-nonsense attitudes of these nonenvironmentalists might, ironically, benefit the environment as never before.

NOT WITH A BANG

But my moment of truth has come. It was at the 1982 meeting of the American Association for the Advancement of Science, while watching John Hernandez (EPA's deputy administrator) deliver an unfocused and uninformative hodge-podge of a speech more suited to a Monty Python satire than to a serious discussion of federal policy. And it was confirmed later that day by Kathleen Bennett, an EPA assistant administrator, who matter-of-factly described the federal noise-pollution-abatement program as "ready to be packaged" for use by the states—even while David Hawkins, its developer and her predecessor, was acknowledging there and then that the abatement program was still immature. After a year of unprosecuted cases, delayed deadlines, uninitiated programs, and large voluntary reductions in budget, personnel, and authority, these performances symptomized for me the demise of EPA: not with a bang but a whimper, not by formal execution but through death by a thousand cuts. I recalled what a distinguished Washington consultant once told me: that the best way to neutralize an operation with high visibility and public appeal, such as EPA, is not to kill it outright—that is politically unwise—but to appoint hostile, uninspired, or incompetent managers and then let nature take its course.

A dearth of federal authority wouldn't be so terrible if the bureaucrats abdicating their responsibilities recycled their data to state agencies. That, in fact, is supposed to be the goal. But the past year's track record indicates the opposite: state environmental officials have been continually frustrated by EPA's foot-dragging, noncooperation, and penchant for secrecy. Limits on travel, publication, and dissemination of data have been imposed with a vengeance.

"There is a distinct change from the previous administation," notes one state water-pollution control official. "I simply don't have the feeling that they're trying to help us solve our problems. For example, I used to have no trouble getting data; they'd give us their numbers freely, if with qualification. But starting last May [coincident with the appointment of Anne Gorsuch as EPA administrator], agency staffers have not been allowed to talk. I've had to spend a great deal of time duplicating information that EPA already had. Is this what they mean by 'power to the states?' "

The old (pre-Reagan) EPA may well have bitten off more than it could chew—"our eyes were bigger than our tummies," says John Quarles, former deputy administrator under President Ford—but at least its heart was in the right place. That was necessary, although clearly not sufficient. "We need to learn from the experience of the last ten years," says Quarles, now chairman of the Clean Air Act Project of the industry-sponsored National Environmental Association. "We must reduce complexity, uncertainty, and the general stress injected into the economy by intrusive federal regulations."

This streamlining is also necessary, but not sufficient either. As Victor Weisskopf, professor of physics emeritus at M.I.T., is fond of saying, "Human existence is based on two pillars: compassion and knowledge. Compassion without knowledge is ineffective; knowledge without compassion is inhuman."

A degraded and demoralized EPA is no better for business than an overzealous one. An agency in disarray cannot deliver certainty. A leadership vacuum produces confusion and complexity—it takes time, energy, money, and devotion to achieve streamlining and simplicity.

Moreover, despite all the bad-mouthing, regulation does have a purpose: to correct the inherent shortcomings of the marketplace. According to economist Lester Lave (of the Brookings Institution): "Regulation strives for equity, not efficiency. It is expensive, and agencies can address only a few problems a year. Thus, other forces must always pick up where the agencies leave off. But cutting an agency's budget means that its capability is vastly decreased." To many of us, it seems that the capabilities of EPA and several other agencies are decreasing past an acceptable point, and that the administration is making it very difficult for "other forces" to step in.

On the other hand, there may be a silver lining—if unintended—to the cloud. According to one career bureaucrat in EPA (high enough to know the agency well, but not so high as to have been removed by the incoming administration): "The changes are not part of some well-orchestrated conspiracy among EPA's leaders. In fact, there seems to be little structure. The top people clearly want to roll back regulations and avoid new programs, but they are too much separated from the rest of us to do much direct damage. There is a vacuum. And although they do have a good point about inefficiency in government, they don't seem to have a plan." As Hawkins observed at AAAS, "What will probably protect clean air most is the unavoidable requirement that the administration write a specific bill to change the Clean Air Act."●

CALIFORNIA RABBIS ENDORSE NUCLEAR FREEZE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. BINGHAM. Mr. Speaker, the movement for a nuclear freeze continues to garner popular support. I am pleased to note that two of the Nation's largest rabbinical organizations, the Pacific Association of Reform Rabbis and the Board of Rabbis of Southern California have endorsed the bilateral nuclear freeze. The current issue of Menorah, published by the Center for Jewish Renewal in Washington, D.C., includes a statement by Rabbi Marvin Gross of Temple Sinai in Glendale, Calif., endorsing the freeze. I recommend Rabbi Gross' statement to my colleagues.

The material mentioned above follows:

CALIFORNIA RABBIS CALL FOR A HALT TO THE NUCLEAR ARMS RACE

(By Marvin Gross)

"As religious leaders concerned with both the spiritual life and physical survival of the Jewish community and human-kind as a whole in this and future generations. . . we endorse the Bilateral Nuclear Weapons Freeze Initiative." (Pacific Association of Reform Rabbis)

In early January, two of the nation's largest rabbinical organizations declared their public support of a statewide California ballot measure which seeks an immediate halt to the nuclear arms race. With their actions, the Pacific Association of Reform Rabbis and the Board of Rabbis of Southern California joined a growing number of groups within the religious community of California who are promoting the Bilateral Nuclear Weapons Freeze Initiative.

The Pacific Association of Reform Rabbis is the western regional organization of the Reform rabbinate, with 140 of its 200 members from California. PARR endorsed the Freeze Initiative at its annual convention in Palm Springs on January 6.

The Board of Rabbis of Southern California, whose 200 members represent all branches of Judaism, voted to endorse the Freeze Initiative on January 12.

The object of the Freeze Initiative is to generate a massive popular outcry for the implementation of a nuclear "freeze." As defined in the initiative, a nuclear freeze would be realized when the U.S. and the U.S.S.R. agree to the bilateral cessation of testing, production, and deployment of all nuclear weapons in a manner which could be checked and verified by both sides. If the Freeze Initiative is placed on the November 1982 California state ballot and passed by the voters on Election Day, governor Brown would be required to urge President Reagan to enter into negotiations with the Soviet leadership toward effecting such a bilateral freeze on nuclear weapons.

In order to insure the inclusion of the Freeze Initiative on the November ballot, 500,000 signatures must be gathered by April 22nd. To date, a largely volunteer corps of signature-gatherers has collected a total of 280,000 signatures across the state. Intensive effort is now underway within the religious and general communities to garner the additional 220,000 signatures. Spearheading the drive is the Interfaith Center to Reverse the Arms Race located in Pasadena. The Interfaith Center was established as a joint project to Leo Baeck Temple, Los Angeles and All Saints Church, Pasadena.

Following the endorsement of the Freeze Initiative by the two rabbinic groups, mobilization of Jewish community support for the nuclear freeze has been undertaken by area rabbis and congregational social action committees. In addition, endorsement of the Freeze Initiative is now under consideration by the Community Relations Commission of the Los Angeles Federation-Council. Numerous synagogues and churches throughout California are planning to focus on the Freeze Initiative during a "Freeze Sabbath" scheduled for March 12-24.

The California nuclear freeze campaign is the latest and most ambitious in a series of similar grassroots efforts that have been mounted by religious, labor, and citizens groups across the country. The state legislatures of Massachusetts, New York, and Oregon have already endorsed the nuclear freeze proposal. In November 1980, 60% of the voters in three Western Massachusetts State Senatorial districts voted in favor of a nuclear freeze. Of the 33 towns in those three districts in which Ronald Reagan received a majority of votes cast in the Presidential race, the voters in 30 out of the 33 also backed the nuclear freeze. On March 3, 1981, a majority of Vermont voters supported the freeze concept in each of the 14 cities and towns in which the proposal appeared on the ballot.

While each of these statements by legislative bodies and voting citizens demonstrates both profound concern about the arms race and the appeal of the nuclear freeze option, the California initiative campaign has special significance. If the Freeze Initiative is adopted by a majority of California voters in November, the message to the Administration and Congress delivered by the most populous of the states, as well as the president's home state, will be both dramatic and impossible to ignore.

A refusal to ignore or acquiesce to the catastrophic and unprecedented threat inherent in the nuclear arms race is what lies at the core of the "halt the arms race" movement. It is clear that the nuclear weapons gamesmanship in which this country and the Soviet Union are now engaged defies all logic and all morality. Consider some of the facts of what we and the Soviets have created:

(1) The combined nuclear arsenals of the U.S. and the U.S.S.R. contain approximately 50,000 strategic and tactical nuclear weapons. In the next decade, the two countries plan to manufacture an additional 20,000 such devices. Source: Center for Defense Information, Washington, D.C.

(2) The combined U.S. and Soviet nuclear arsenals have a destructive power equal to 3 tons of TNT for every person on earth. *Source: The Bulletin of Atomic Scientists* No. 43 (September 1979).

(3) At the current rate of production, the U.S. defense industry manufactures 3 nuclear weapons every day. It is projected that the rate of production will double over the next five years. *Source:* Center for Defense for Defense Information.

(4) A single U.S. Navy Poseidon submarine is equipped with enough destructive power to wipe out all 250 cities in the U.S.S.R. with a population over 100,000. Twenty such vessels are on undersea patrol at all times. *Source:* Center for Defense Information.

(5) The Soviet Union has the capacity to destroy all 5,000 U.S. cities and towns with a population over 5,000 and still have 2,000 nuclear weapons left over. *Source:* Dr. Marvin Goldberger, President California Institute of Technology (Speech, 2/2/82).

(6) A single 20-megaton nuclear weapon detonated over downtown Los Angeles would result in 1.8 million deaths within a few minutes following the explosion. Twenty one-megaton weapons detonated simultaneously over the entire Los Angeles Basin would result in 5.5 million deaths. One megaton equals the explosive force of one million tons of TNT. The atomic bomb dropped on Hiroshima in 1945 was 1/50 of a megaton. *Source: Nuclear War in Los Angeles,* Los Angeles Federation of Scientists (1980).

In the face of such data, it is incumbent upon us to pose fundamental questions grounded in religious and ethical values. Is such an excessive defense posture truly defensible? Can the magnitude of destruction which we are capable of inflicting upon other peoples ever be justified? Is nuclear war ever really "winnable?"

The only humane answer to these questions is: no. A defense strategy based on the capacity for nuclear warfare is no defense. The prospect of mutual nuclear destruction breeds insecurity, not security. Nor can anyone who holds a religious faith and the belief in human dignity tolerate the loss of millions upon millions of lives. In fact, nuclear war will have no victors, only masses of victims.

Yet, while the superpowers continue an arms race that is simply a race to the abyss, a majority of the American people want to see a change. Last June, the Gallup Poll discovered the 72% of the U.S. population favors "an agreement between the U.S. and the U.S.S.R. not to build any more nuclear weapons in the future."

Achieving such an agreement is the goal of the Bilateral Nuclear Weapons Freeze Initiative. That is why many members of the California Jewish community are vigorously working toward its passage. If Jews and others across the country became actively involved in similar efforts, the arms race could be reversed. For a people covenanted to Adonai toward the passionate pursuit of *tikun olam,* there is no greater challenge today.

PEOPLE TO PEOPLE: THE AMERICAN-EUROPEAN COMMUNITY ASSOCIATION

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. VANDER JAGT. Mr. Speaker, I want to take this opportunity to bring to the attention of my colleagues the work and purpose of the American-European Community Association, as well as extend my congratulations to Sir David Nicolson, Member of the European Parliament and the founder-chairman of the Association, for his outstanding efforts in the past year to promote a greater understanding and closer ties between the great nations of the European Community and of the United States.

The American-European Community Association was founded by Sir David, who recognized the need to form a bridge of people across the Atlantic. It is a new venture but one which will build on the experiences of such distinguished internationalists as former Ambassadors Robert Strauss and George Ball and Dr. Henry Kissinger in the United States, and Edward Heath, Roy Jenkins, Philipp von Bismarck, and Sergio Pininfarina in Europe. In a recent address before industry and labor leaders, Sir David spoke about the principal objectives of the Association:

> It is vital that the United States and the European Community grow closer and that knowledge of and understanding between our peoples should increase. By focusing on matters of common interest, and by encouraging constructive dialogue, it is our hope that the American-European Community Association will find common sense solutions to differences which might otherwise splinter solidarity and threaten survival of the North American Alliance.

This is both a statement of the objective and a challenge which has faced our nations and has eluded us for years—for too long we have paid only lip service to the historical imperatives for peace: understanding and cooperation. These are also the two axioms of the association and the indispensable ingredients for maintaining peace and security on both sides of the Atlantic.

The American-European Community Association has called together men and women from the United States and the European Community—from every sector of the society. These people represent corporations, unions, consumers, the universities, and the arts, collaborating on a variety of projects and issues.

As an example, the AECA recently concluded a conference on the subject of a proposed European Community directive requiring information and management consultation with employee representatives. The conference was the combined effort of government, labor, and corporate leaders to discuss the points of contention and to offer constructive alternatives to resolve the impasse. This conference demonstrated a commitment to act as a nonpartisan forum in which major issues of foreign policy, trade and investment can be debated and discussed.

In the future, the American-European Community Association plans an ambitious program of seminars and discussions on such subjects as the NATO Alliance, barriers of trade, and European trends in employment, to name a few. In addition, the Association will be launching a university lecture series on American and European issues; and a tour of art and musical presentations.

Sir David has characterized the United States and the European Community as "the twin pillars of the Western World"—it is through such organizations as the AECA that these pillars will continue to support our democracies against those who would encroach upon our freedom. It is true that our governments are charged with the responsibility of preserving world peace, but in the final analysis it will be our nations' peoples who will play a major role in preserving peace. In this connection, the American-European Community Association has added a new dimension to foreign relations between Europe and the United

States; with the support of our respective governments the AECA can be a valuable private adjunct to our official efforts.

The American-European Community Association is true people-to-people diplomacy, and I am certain that my colleagues will join me in extending commendations to Sir David Nicolson personally for his vision, and in commending the AECA for its accomplishments and encouraging their continued success.●

THE SELLING OF AMERICA

HON. JOHN CONYERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. CONYERS. Mr. Speaker, a few years ago I became aware of the very serious issue of foreign ownership of U.S. banks, businesses, and real estate. The Subcommittee on Commerce, Consumer, and Monetary Affairs, chaired by my distinguished colleague, Mr. ROSENTHAL, on which I serve, was conducting a series of hearings on the issue. The hearings made clear the absence of any Federal policy in monitoring, let alone evaluating and controlling, foreign ownership in the United States.

The April, 1982 issue of Penthouse Magazine contains a very thorough article on the subject. Written by Ernest Volkman, "The Selling of America" defines the seriousness of the foreign ownership question. I commend it to my colleagues.

THE SELLING OF AMERICA

For the sophisticated Frenchmen who run the gambling casino at the Hotel Majestic in Cannes, there had been no occurrence in that legendary playground of the jet set to shake their equally legendary blasé attitude toward the excesses of the idle rich. Not, that is, until a warm summer night in 1974, when an event transpired at the casino that stunned even the worldly Frenchmen.

Into the casino swept Prince Fahd bin Abdul Aziz, member of the Saudi Arabian royal family, complete with entourage and several young women. The prince, clearly, was ready for a night of heavy gambling. From what appeared to be an inexhaustible bankroll, he proceeded to buy chips as though they were mere pennies; hundred-dollar chips were either thrown with abandon at waitresses and croupiers or recklessly bet. The Hotel Majestic is accustomed to high rollers, but even their wildest dreams had never prepared them for Fahd. In about six hours Fahd lost about $2,500,000, a disaster that did not seem to bother him unduly: at the end of the night, he simply shrugged his shoulders and left the casino, entourage in tow, accompanied by the devout wishes of the management for his imminent return.

This event attracted a good deal of attention in the world press and set off much bemused clucking about the profligacy of newly enriched oil barons spending their new millions in the world's fleshpots and gambling casinos, like small children suddenly let loose in a toy store with thousands of dollars to spend as they wished. There have been many such incidents in the past eight years plus other excesses—such as the Saudi sheikh who sought to buy the Alamo as a birthday present for his son or another Arab oil millionaire who contracted with the University of Houston to send two professors to teach his daughters in Saudi Arabia at a cost of $3 million, undoubtedly the most expensive college education in history.

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However, we know for a certainty that in 1974 the Arab oil producers had about $50 billion in surplus money and by last year that total had grown to over $300 billion. The bulk of this surplus money has been invested, mostly in the United States. The reasons for the attraction of America are both opportunity (this country is still the world's greatest opportunity to make money) and fear, centering on political uncertainty; as events in France have proven, foreign business is always subject to political vagaries. And nationalization isn't the only threat; to the European business community, particularly, there is the ever-present threat of unrest and war that would smash business empires only recently built since the Second World War.

So last year, according to official American government statistics, over $15 billion flowed into the United States from foreign investors, a 500-percent increase over the amount invested in 1977. Most of the non-Arab money is from large European, Canadian, and Japanese multinational companies that now own either all or large parts of American business enterprises. Some of the more visible examples of such foreign ownership include the Marine Midland Bank, Howard Johnson, Saks Fifth Avenue, Alka-Seltzer, Bantam Books, the Pierre Hotel in New York, and Baskin-Robbin Ice Cream. Moreover, foreign investors own about 6 million acres of American land, mostly prime farmland. All told, the book value of all direct foreign investment in this country now totals about $62 billion, and it is growing fast. (Foreign companies with investments in America currently employ about 2 percent of the entire American work force.)

Before 1971 foreign direct investment in the United States was difficult, mostly because the American dollar was linked to the price of gold. That made American assets very expensive for foreign buyers, but in that year President Nixon severed the link between gold and the dollar, allowing exchange rates to "float." Which meant that almost overnight the American dollar became cheaper when measured in terms of non-American currencies. Combined with the increasing nervousness foreign companies felt about their own assets, the investment opportunity offered by the floating American dollar set off something of a boom in foreign investment in this country. Today foreign companies have stakes in just about everything made in this country, from soy sauce to computers, and nearly 70 percent of all the major companies outside America now have subsidiaries in this country.

British and Canadian investors were the first non-Arab investors to take advantage of the new opportunity in this country, joined later by much more aggressive West German and Japanese outfits. More recently, large chunks of French capital, the French being upset about France's nationalization policies, are beginning to move into this country (Renault, the giant French carmaker, now owns 46 percent of American Motors).

The growing foreign investment in this country has been the source of some controversy for some years now, and although some state governments have tightened up regulations over foreign investments, the federal government still covertly supports such investment, partially on the grounds that the American economy at the moment can use all the investment help it can get. Still, several congressional committees continue to warn that foreign investment may be getting out of control: one committee noted that twelve American companies that make semiconductors—the leading edge of the American technological superiority—have been bought up by foreign companies. And continuing unease over the growing foreign control of American banks has spurred the General Accounting Office to consider recommending an indefinite moratorium in foreign purchases of U.S. bank stocks. Another sign of the American nervousness is a new policy by the State Department, making it harder for Japanese businessmen to get American visas.

But the main source of foreign investment in this country continues to be the Arab oil producers, and this investment is by far the most dangerous. Despite numerous warnings the American government has done everything possible to ensure greater Arab investments in the American economy, investments that the government has protected by allowing a veil of officially protected secrecy to conceal their extent. And well they might, for there are indications that Arab investments are playing a growing role not only in the American economy but in other world economies as well. By May of 1976, the Arabs owned about 20 percent of the world's entire monetary reserves, and two years later, when the Arabs decided that the English pound was no longer worth keeping, their dumping of billions of dollars' worth of pounds on the monetary market nearly caused the pound to collapse, and it was rescued only after an elaborate propping-up operation conducted by other nations, especially the United States.

There is much to be uneasy about with all this petrodollar money flowing into the American economy. For example, some American companies are voluntarily participating in the Arab boycott against Israel, refusing to hire Jews so as not to antagonize Arab business interests and adopting a more pro-Arab (and often anti-Israel) policy to attract Arab business.

The prospect of petrodollars, furthermore, has lured a wide range of business interests and former government officials to set up operations to snag these dollars. The former officials who have significant Arab investment operations in this country include former Texas Gov. John Connally; former presidential adviser Clark M. Clifford, former Senate Foreign Relations Committee chairman William Fulbright, and the most execrable of the lot, former Vice-President Spiro Agnew, who has adopted anti-Semitism as his chief selling tool with the Arab oil products.

It is no accident that a growing anti-Zionism and anti-Semitism have been emanating from much of this steadily enlarging community of American business interests that concentrate on Arab investments. Fulbright, whose Senate career was marked by many effusions of support for assorted downtrodden peoples, now no longer sees much merit in the grievances of the Israelis, a Middle

East minority, and others in that community have spoken much and often about the necessity of a more "realistic" Middle East policy by this country that takes into account desires of the Arab oil producers. Often it takes the form of anxiety about American foreign-policy support of Israel threatening to anger the Arabs, which in turn would compel them to withdraw their billions of investment dollars from the United States. It is an anxiety that has found some haven even in Congress; witness this statement by Sen. Charles Percy during hearings in 1975 on Arab petrodollars in American banks: "If Saudi Arabia and Kuwait withdrew their bank deposits, the biggest single loser would be the city of New York, and I would say the American Jewish community, centered in New York, would be the largest loser. . . ."

This amounted to a warning to the American Jews, and others, to forget about trying to raise too many questions about the power of Arab money in this country. It is only one of the reasons why many people have become progressively nervous about the petrodollar problem. They are concerned, for instance, about the fact that twenty-one of the largest American banks now have over $19 billion of OPEC money, about $15 billion of it from Arab oil-producing states. Money buys influence is an old principle of American economics; so it is perfectly logical to wonder about the role of such major American banks as Citibank of New York, which in 1976 was revealed to be holding $1.7 billion in deposits from Kuwait alone.

Such concern has been pooh-poohed by the American business community most directly involved with the Arab investments; their argument is that the Arab investment strategy is very conservative, that the sole aim of the investments is to receive good return, and that the Arabs, whatever their rhetoric, are in fact pragmatic economically, having no desire to influence American Middle East policy with the power of those billions of petrodollars.

The problem with this assertion is twofold. In the first place, the Arab regimes that now direct the investment strategies and decide how the petrodollars are to be spent are for the most part in the hands of highly conservative sheikdoms; what happens when another generation, not nearly so pragmatic, comes to power—or seizes it forcefully? What happens if more doctrinaire Arab politicians take power—or Moslem fanatics, as in the 1969 revolution in Libya, which brought the fanatic Qaddafi to power? Secondly, how does the United States government propose to ensure that the Arab billions are not used to force changes in American foreign policy, in a blackmail operation similar to the one that caused such drastic increases in oil prices? Mere reassurances are not enough, for, as we shall see subsequently, the American government does not even know at this point how much Arab money is in the American economy, which makes any assurance that it can control or monitor all that money a mockery.

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Taken at face value, this does not appear to be much cause for alarm; even $62 billion, after all, in the vast American economy, while not a drop in the bucket, nevertheless doesn't represent anything like imminent control. But the problem is that the Commerce Department figures in fact represent only the visible tip of an iceberg. For one thing, American regulations require public recording of investors only after their stock exceeds 5 percent of any given corporation. Moreover, the Commerce Department figures measure only what they can find; as we shall see, there is a great deal they are not finding.

One of the things they are not seeing is the true extent of Arab investments in this country. Under the agreement worked out by former Treasury Secretary William Simon in 1974, the United States agreed that it would never list publicly a detailed breakdown of Arab holdings in the United States. Thus, the most recent Treasury Department figures list only the combined totals for all thirteen OPEC members (about $70 billion, including government securities, corporate bonds, stocks, and bank accounts). Without a breakdown, it is difficult to say, how much money Saudi Arabia, Kuwait, the United Arab Emitrates, and other Arab nations have in the U.S.

According to one study by the Mideast Report, an economic and political magazine, the Arab investments in fact total over $200 billion in this country, with less than a third detected by American government agencies because of highly sophisticated third-party and foreign syndicate operations designed to conceal just how much Arab money is pouring in. Concerned over these reports, the House Committee on Banking's Subcommittee on Commerce, Consumer, and Monetary Affairs last year held hearings in an attempt to get the real figures from government officials—and met a stone wall. Treasury Department officials flatly refused to give a country-by-country breakdown of foreign investments by Arabs—citing the 1974 agreement—insisting that revelations of Arab investments would cause the Arabs to withdraw all that money. The same argument was made by various business interests, which claimed disclosure would balk what they considered "indispensable" recycling of petro-dollars (although they left unmentioned the motive of very fancy fees banks and investment houses in this country collect for husbanding Arab investments).

What that amounts to is a $60-billion discrepancy between what the United States government says is the total Arab investment in this country and the actual figures, as partially reflected in the American balance-of-payments accounts—the figures simply do not gibe, and what's worse, it is obvious that the government's policy of allowing the Arabs secrecy in their American investments has led to a pronounced dearth of knowledge on exactly how much Arab money is now in the American economy. One interesting indication of how far this lack of knowledge extends occurred during the hostage crisis, when Treasury Department officials, under orders to freeze Iranian assets in this country, tried to find out how many assets there were. It took several months to find that the Iranians had about $11 billion in assets, and most experts agree that the real total was closer to $16 billion.

At the moment there are only indications—clues, really—of the extent of Arab investment in America. One indication is the statistics on the total foreign assets in this country: in 1974 they were reported at $196 billion; by 1980 they were $481 billion. Actually, the figures in truth may be higher, but there are inadequate reporting and accounting controls, not to mention the many indirect channels through which Arab money can be invested here. In fact, according to one estimate prepared by Paul A. Volcker, chairman of the Federal Reserve System, about $75 billion in OPEC foreign holdings had not been detected by the government's detection process, and the Treasury Department found about $40 billion unaccounted for in its estimates on OPEC surplus funds.

Nongovernmental sources deduce that there is at least $100-billion worth of Arab holdings in the United States, a deduction they arrive at by taking the Treasury Department's official figure of $51.3 billion of total Arab investments by the end of 1980, adding the $6.2 billion known to have arrived here in the first four months of last year, then adding the $20 billion of Arab money deposited thus far in foreign branches of American banks, and finally adding the approximately $20 billion of Arab money flowing into this country from offshore banks and other sources. That brings the total to well over $100 billion, which is probably approximately correct (certainly, a lot more accurate than the American government's official figures). Where does all the money go? How much influence does it buy?

Let's begin with the Saudis. Saudi Arabia funnels its money through an organization known as the Saudi Arabian Monetary Agency (SAMA), which receives $320 million each day in oil revenues and is then supposed to figure out ways to invest it. This is no simple task, for the Saudis now receive about $120 billion a year in oil revenues, creating a surplus of more than $100 billion. SAMA generally follows a conservative investment policy, buying safe U.S. Treasury bills and notes (it now has about $30 billion of those) plus another $15 billion in loans to major American corporations, including $650 million to American Telephone and Telegraph, $200 million to U.S. Steel, and $300 million to IBM. (The interest on such loans is called a "service fee" by the Saudi Arabians, since the Koran forbids the charging of interest).

Up to this point, the Saudis generally have refrained from using any of the muscle all that money represents, but that may be changing: last year SAMA agreed to lend to the International Monetary Fund, for which it demanded (and got) a permanent seat on the fund's executive board. That board, which decides which nations will get monetary help from the international-aid agency, may now not only acquire a new anti-Israel trend but also get a new member—the Palestine Liberation Organization. The Saudis for some time have demanded that the IMF give observer status to the PLO, and it is a virtual certainty that they will now use their new clout in the international organization to bring in the PLO. When that happens, the potential for mischief is nearly incalculable.

There has also been some unwelcome publicity (at least from the Saudi standpoint) attendant on the activities of a number of interesting Saudi businessmen with strong American connections. Chief among them has been Adnan Mohamed Khashoggi, who first came to notice in 1973, when, thanks to his business partnership with Prince Talal bin Abdul Aziz (one of the king of Saudi Arabia's sons), he earned about $50 million in commissions from the Chrysler Corporation alone for helping to sell Chrysler products in Saudi Arabia. Khashoggi has become more notorious for his appetite for luxury, including a private Boeing 727 with five television sets and bedroom suites, plus luxurious homes and apartments around the world.

Despite frowns from the Saudi royal family, which dislikes such publicity, Khashoggi has gone his flamboyant way. He struck up a friendship with Richard Nixon in 1967, a relationship the Saudis sought to exploit in 1973, when Khashoggi, acting on behalf of the Saudi royal family, tried to convince Nixon to halt the airlift of arms to Israel during the Yom Kippur War. (There are recurring reports, never proven, that Khashoggi gave a secret $1-million campaign contribution to Nixon in 1972.) Over and above that, Khashoggi has been very busy in American economics. By 1976 he had fifty-three subsidiaries operating under the umbrella of his Triad Holding Corporation, based in Luxembourg for tax reasons. Armed with all that oil money, he bought the controlling interest in the National Bank of Walnut Creek, Calif. (an acquisition eagerly abetted by the Bank of America, which was eager for Middle East business); a Japanese steak house in San Francisco; a Colorado manufacturer of truck trailers; a $250-million business complex in Salt Lake City; and the largest stockholding in an Arizona cattle operation. Khashoggi had one brush of trouble with the U.S. Justice Department, which wanted to know about his dealings with various American arms manufacturers, including a $45-million "fee" for helping to arrange the sale by Lockheed to Saudi Arabia of an $850-million arms contract. (Khashoggi said this sort of business was "forced" on him by American companies avid to tap into the vast Saudi Arabian market.)

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What controls was the American government instituting to make sure that more banks would not be taken over by Arabs? None; as a matter of fact, the government behind the scenes has encouraged even greater Arab investment, which is in turn aided by help from the American business establishment—in the Detroit bank deal, the John Connally law firm handled the legal end, which in turn brought forth into play a wide range of establishment-connected contacts who also helped. For much the same reason, there was not a flicker of interest from the government when the Saudis bought a 37.6-percent share of a Houston industrial contractor, nor was there any interest when the Kuwaitis bought 16 percent of Reynolds Securities, Inc. (the Arabs' first big move into Wall Street), or when the Kuwaitis also bought the 3,500-acre Kiawah Island resort off the coast of South Carolina. Indeed, in that case, the authorities fell all over themselves trying to convince the Kuwaitis to buy in; overriding the protests of Jewish groups that the Arabs were "trying to buy America," the state of South Carolina tried to convince Kuwait to build a refinery in the state and attempted to create a whole series of joint Kuwait-South Carolina industrial projects. (It should be noted here that the then-governor of South Carolina, John West, was later appointed ambassador to Saudi Arabia.)

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There is another even more ominous development: the Palestine Liberation Organization has begun to invest in American corporations. The investments, carried out in the greatest secrecy and currently on a low scale, are part of a $100-million PLO investment venture that seeks to raise funds for the organization and sever the lifeline now extended primarily by Saudi Arabia (the Saudis contribute the bulk of the $70 million given each year by the Arab nations to the PLO). The PLO portfolio includes investment property in the Middle East—including hotels, shipyards, and oil tankers—and is now being diversified into blue-chip corporations, especially American ones that have extensive Middle East dealings. The investments are made through intricate arrangements to conceal their origin, much of them through the Arab Bank Limited. Based in Jordan, the bank has assets of $4 billion and ties with the banking community in nineteen countries, including the United States.

There is no pending government investigation of what obviously are the serious implications of PLO investments in American corporations. For that matter, with the exception of a few congressional subcommittees, there are no investigations at all into the overall question of how much of America is being bought. Indeed, there is not even a good monitoring system to determine just how much foreign money is coming into this country—recently, the Commerce Department admitted that its compilation of total foreign investments in this country was collected from newspaper clippings, meaning that the government really hasn't the foggiest notion.

Not that the Commerce Department—and the rest of the federal government—is losing much sleep over the problem. Plainly, there continues to be a policy of covert encouragement for the foreign investments, on the dubious grounds that the American economy needs the stimulus of outside investment. Besides, as the Commerce Department never tires of arguing, foreign investors are prohibited from investing in certain "sensitive" American businesses, including the aerospace and defense industries. But that assumes the American government has a good idea of just where the foreign money is going; the evidence is persuasive that it does not.●

HIGH INTEREST RATES

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HILER. Mr. Speaker, 53 of my colleagues and I who comprise the freshman GOP class of this Congress signed and sent you a letter urging more prompt consideration of the budget.

There is general consensus that uncertainty about the fiscal year 1983 budget is a primary force behind today's high interest rates. There also is general consensus that interest rates are still too high to spur business activity and thus high employment.

If any of my colleagues feel that concern for our lack of action on the fiscal year 1983 budget cannot be found beyond these Chambers, they are badly mistaken. The millions of Americans now suffering from high interest rates and the unemployment it helps cause want action by this Congress now. Not make-work, dead-end Government jobs, but real jobs that come only from economic recovery.

Mr. Speaker, I want to share with my colleagues editorials from two of northern Indiana's leading daily newspapers. The communities in which these newspapers are located are among the most economically hard hit in the Nation, sporting unemployment rates around 14 percent. They not only represent the concerns of Hoosiers from my congressional district, but I feel the views of millions of other Americans also badly affected by the twin maladies of high interest rates and double-digit unemployment.

[From the Goshen News, Mar. 20, 1982]

GET TO WORK

Congressman John Hiler is giving himself and other members of Congress a spanking in this week's report from Washington. He criticizes Congress for not getting to work on the budget! We think Hiler is right. Apparently Federal Reserve Board Chairman Paul Volcker thinks so too, and right now Volcker is one of the most important men in Washington.

Volcker told some congressmen this week that "nothing is more urgent in these coming weeks than for Congress and the administration to reach a consensus of how to deal with that budget problem.

"Nothing would be more effective for insuring an early recovery." And Volcker went on to express concern about the very large budget deficits the government projects for the foreseeable future. He said the resulting high interest rates will not come down for the short term unless lenders see credible progress on narrowing the red-ink gap.

Hiler isn't too happy about the slow pace of government. Most newly elected government officials have problems coping with the slow and usually ineffective way our government deals with problems. On Friday Hiler announced that he and 38 other freshman Republican congressmen introduced legislation to cancel the House of Representatives' Easter recess in April, spending the time instead on the budget. That sounds like a fine idea but veteran members of Congress aren't likely to go along with this proposal.

Hiler says, "As of March 17, 75 days have already passed in 1982. Yet Congress has met in session less than 25 times and considered but a handful of issues, none of which deal with the budget, interest rates or curbing federal spending. Some of the issues we have voted on this year include the Potato Crop Research and Production Act, 'Afghanistan Day' and providing a special gold medal to Queen Beatrix of The Netherlands."

It might be fair to say that President Reagan threw Congress a curve with such a big budget deficit and then a warning that he wouldn't compromise. But there has been many hints of compromise by Reagan and his aides. Reagan even suggested that his foes come up with their own proposal if they had a better budget idea.

At last count, there were some five or six "plans" for the 1983 fiscal year budget, including the White House budget submitted Feb. 8. Economists are concerned that a budget impasse might cause more problems for the economy.

We have had enough political oratory on the budget, taxes, federal spending, etc. It's time for action. The Republican leadership has duly informed the president that he won't have everything his own way on this issue, and we trust the president will indeed compromise. Some reduction in defense spending is essential if we are to make much headway in cutting the budget deficit, and the president isn't keen on cutting military spending.

The problem, of course, that causes most of the delays Hiler talks about is that our members of Congress put politics ahead of statemanship. A good example that should be deplored is a recent statement by House Speaker Tip O'Neill that there was no chance in the world for Social Security revisions unless the president first proposed them. "The onus," said O'Neill, "is not going to be on the Democrats."

O'Neill also has been making all sorts of statements about the Reagan budget deficits. But O'Neill has been the man in power in the House that has approved big budget deficits for years, long before Reagan arrived on the scene.

Everyone knows that there must be some reduction in entitlement increases in this nation. And four House Democrats recently had the courage to propose such changes that would give recipients 75 percent of their cost-of-living increases savings billions of dollars. Good for them. "Wonder what O'Neill thinks of those Democrats? President Reagan has been reluctant to make concrete proposals because he draws so much flak from the Democrats each time he brings up the subject. But he better endorse entitlement changes too. Both parties should share the blast that will come from senior citizens.

The time has come for some soul searching by the president and the members of Congress. The American people elected them to serve and to operate our government to the best of their ability, not play politics and try to save their own jobs. Americans deserve some action in the halls of Washington, D.C. All our political leaders must be willing to compromise if a reasonable budget is adopted, Americans are ready and waiting.

[From the Elkhart Truth, Mar. 22, 1982]

HIDING IN THE DAISIES

We try, each week Congress is in session, to tell readers how their senators and representatives vote on important bills, under the heading "Congress on Record." Last week we skipped it, because we couldn't find anything significant that Congress had done.

The Senate spent its time debating the fate of Sen. Harrison Williams but never got on record, as Williams resigned. Highlights in the House were a unanimous vote in favor of Afghanistan Day and a change in the rules for the National Potato Promotion Board.

Meanwhile the financial markets hang in suspense over what Congress will do about the 1983 budget. Interest rates are staying higher than they should, considering the drop in inflation, because investors don't know what may happen next. Will taxes be raised? Will spending go up? What about the deficit?

Congressional leaders spend their time blowing hot air into trial balloons, and watching them deflate. As time passes, the stronger the chances that the 1983 budget will sink into stalemate. With uncertainty holding back the economy, House and Senate leaders refuse to set a direction.

What are the other congressmen doing meanwhile? Well, we've received a letter from Rep. Don Clausen. Rep. Clausen is a conservative Republican from California with long tenure in the House—someone who might be expected to have given some thought to how the country is doing in the second year of the administration of a fellow California conservative, and where it should be heading from here.

But Rep. Clausen has daisies on his mind. He writes seeking support for a bill he has introduced to establish the Luther Burbank Shasta Daisy as the national flower. Though his passion for daisies can't compare with the eloquence Sen. Everett Dirksen used to expend on marigolds, that is not the reason we won't support his bill.

What's worrying us is, if he and his fellow congressmen don't get on with matters of more consequence than daisies and potatoes, the feeling of uncertainty in the country will be prolonged, and so will high interest and high unemployment.

Rep. John Hiler's reaction to this procrastinating is to call for keeping Congress in session over Easter. That's a good idea, if there's some prospect of getting action on the budget.

Maybe Hiler and the other Republican freshmen can shame the leadership to get moving. On the other hand, Washington is pleasanter than many parts of the country at Eastertime. If the lawmakers stay for the golf and flowers, that's no help to the rest of us. Better than that would be for them to come home to the districts and hear what people have on their minds. It isn't daisies.●

CASSIE L. JACOB, VOICE OF AMERICA CONTEST WINNER

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. WHITTEN. Mr. Speaker, each year the Veterans of Foreign Wars and its Ladies Auxiliary conduct a Voice of America contest. This year more than 250,000 secondary school students participated in this exemplary contest under the theme, "Building America Together." The statements of the students in this contest serve as testimony to the value the youth of our Nation place in our democracy and in our country's ideals.

I am extremely proud, Mr. Speaker, that the winning speech from the State of Mississippi was delivered by Miss Cassie Lynn Jacob, a constituent from Clarksdale, Miss. Cassie is a 15-year-old sophmore at Clarksdale High School where she has exhibited an outstanding record and been the recipient of many awards of excellence.

It is my great pleasure, Mr. Speaker, to submit Cassie's inspirational speech to the RECORD.

VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM WINNER, CASSIE L. JACOB

The rising sun sparkles on the golden wheat in the field as a farmer in faded overalls surveys his crop. In the brisk morning air a fisherman drags his nets aboard his little boat while the fog rolls around him. In the hill country of West Virginia a coal miner walks uphill to begin his day's labor with his lunch pail clanking against his leg.

This is America—the pride of the common man as he performs his tasks, the laugh of a child as he plays in the autumn leaves, and the faith of the soldier in the goodness of that cause for which he fights and for which his forefathers fought. What is that cause? It is the basis upon which our nation was founded, it is the force which holds it together through all its trials, it is freedom.

For more than two hundred years, men great and small have contributed to the building of our America. George Washington, Thomas Jefferson, Abraham Lincoln—all of our great leaders have strived to unite us, to free us, to teach us, and to defend us.

We are the body of America—those who follow faithfully rather than lead, those who "do the dirty work" rather than wear the white gloves. Without the common man there would be no leaders and no America. It is the common man with his diverse background, his unshakeable faith in his God, and his willingness to risk even what he holds most dear who has built America. He is, in fact, the stuff of which America is built—the two-by-fours, the bricks, the mortar.

America's 205 years have been filled with growth and change. Her floors have rocked with the blasts of war; her timbers have creaked with the pains of growing up. Still she survives, because her builders have patiently laid the foundation of joy and sorrow, blood, sweat and tears. They have learned to stand up for what is right; they have come to rely on themselves for strength. Most of all, they have learned to come together and face challenges as one. They know the value of education, and they appreciate the value of the gifts their nation has given them.

Many Americans today are frightened; they fear that the roof over their heads is about to fall in. Russia threatens our security with nuclear weapons; the Middle East threatens our lifestyles with ever-rising oil prices; we threaten ourselves with our prejudices, our selfishness, and our indifference. Some of the builders are lying down on the job. Others are concerned only with personal gain. America's foundations are set deep in the rich soil of her ideals, though; as long as she believes in herself and her abilities, the job will go on.

We truly are building America together. Each day brings us closer to the attainment of our goals, and each question answered presents new challenges to explore. America is a nation of thinkers, workers, dreamers, and teachers—and together we can create a better life for all.●

SPACE WAR—THERE IS STILL TIME TO PREVENT IT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. BROWN of California. Mr. Speaker, in recent weeks there has been a deluge of articles about space weapons and the threat of U.S.S.R. military superiority in space. Most Members know that these articles are highly speculative, and that there is at least as much concern in the Soviet Union about U.S. intentions in outer space as there is in the United States concerning Soviet intentions.

As with most new weapons systems or forms of warfare, one cannot be sure of how it would develop. We can be sure that the concept of superiority is transient, and almost certain to become outdated. We can also be sure that attempts to develop military superiority in space will be extremely costly, and may be the ultimate arms race.

All is not hopeless, however. Space is already well developed for peaceful uses. Even the military and intelligence uses of space are generally peaceful and benign. But we are on the threshold of a major weaponization of space—and an unnecessary and avoidable arms race in space.

Mr. Speaker, we have opportunities to prevent this development. This June, there will be the Second Special Session on Disarmament at the United Nations. On the agenda will be the concept of an international peacekeeping satellite, and other related proposals for verifying arms control. The United States should embrace this opportunity and support initiatives to limit and reverse the arms race, both on the Earth and in the space around it.

Another opportunity will arise at the Second United Nations Conference on the Peaceful Uses and Exploration of Outer Space (Unispace 1982) to be held this August. We should use this opportunity as well to reaffirm our support for the outer space treaty and the ABM treaty provisions which restrict the military uses of outer space. And we should go further in pressing for an effective antisatellite warfare treaty.

Mr. Speaker, I will have more to say about this in the weeks to come. At this time, I wish to place in the RECORD an article by Trudy Bell from Space World, the publication of the National Space Institute. I commend this article on the need for policies to avoid space war to my colleagues.

[From the Space World, March 1982]

THE NEW GENERATION OF SPACE WEAPONS: HIGH TIME FOR POLICY

(By Trudy E. Bell)

In the past two years, the possibility of war in space and accounts of space weapons have received wide public attention. Calling space "the new high ground" of modern warfare, numerous articles in publications ranging from Aviation Week & Space Technology to general interest magazines have depicted guided warheads homing in on unfriendly satellites while laser battle stations in orbit wield laser or particle-beam "death rays" at the speed of light to destroy ballistic missiles rising off the earth—all of it often likened to Buck Rogers or Star Wars coming true.

A somewhat smaller number of articles of more sober tone, such as those by Kosta Tsipis in Scientific American, have argued to the contrary: that directed energy weapons such as lasers and particle beams have inherent technical limitations that would prevent them from being built on the scale required, or even if technically feasible they would be prohibitively expensive, and that in any case they would be vulnerable to certain relatively straightforward countermeasures.

The confusion over the actual state of affairs is not limited to the press: not even any two government studies can agree on the level of technology or the requirement for national strategy and policy. Quoting White House officials, Clarence A. Robinson, Jr., recently wrote in Aviation Week: "Basing defense weapons in space, especially beam weapons, is a continuing topic of controversy polarizing Pentagon and service officials, physicists and engineers as perhaps no subject since the emergence of the U.S. and USSR as nuclear superpowers."

The controversy is fuelled by apprehension over the intelligence that the U.S.S.R. already has tested killer satellites in orbit 18 times with 11 successes, and has an operational antisatellite capability, making U.S. spacecraft in low earh orbit vulnerable to attack. According to Robert Fossum, former director of the Defense Advanced Research Projects Agency (DARPA), whoever controls space will be able to direct the shape of events on earth—even who has access to space.

The arguments in Washington, D.C. are no longer centering on whether or not space weapons are feasible, but whether or not compared to other weapons they are economical. Remarked one observer: "is it cost-effective to put up a one-billion-dollar 'zapsat' when an enemy can knock it down with a hundred-million-dollar homing missile?"

But even the cost-effectiveness arguments miss (indeed, often obscure) the central question now facing the U.S.—a question of policy: what will the U.S. do in space over the next 10 years? Will the U.S. commit itself to an all out "technological end run"? or will it limit its use of space to an off-world watching and listening post?

The U.S. currently has no articulated space policy—according to Dave Dooling writing in Astronautics and Aeronautics, not even one so rudimentary as to legally define where space begins and territorial airspace ends. Ironically, even though questions on space policy obviously touch on the National Aeronautics and Space Administration's civilian applications, it seems now that their answers will rest almost entirely on the Department of Defense.

The two test launches of the Space Shuttle this year have demonstrated that it is indeed possible to build a reusable space vehicle. Two more test launches are scheduled for 1982 before the Space Shuttle becomes commercially operational—and therein lies the rub. NASA does not have the mandate (or, indeed, the airline mentality) to run an operational shuttle system. The question lying ahead is: now that we have Space Shuttle technology, will the U.S. commit to building a larger fleet than the nominal four already planned? Will the DoD continue to "charter" needed flights from NASA or will it build up its own dedicated fleet of Shuttles . . . or take over the entire operation of the Shuttle?

The principal policy question is a question of scale. If the DoD wants to maintain its current relatively modest commitment to space—with communications, weather and reconnaissance satellites simply supplementing the main military activities on land, sea and air—then expendable boosters are cheaper than the Shuttle. But if the DoD intends to commit to active control of the space "high ground," such as building laser battle stations in orbit, it will need the capacious cargo bay and lifting power of the shuttle to boost the materials into orbit, and the remote manipulator arm to assemble them there.

Large-scale commitment would require a second policy decision: whether or not to create a new operation branch of the armed services for space warfare. Why? Currently the DoD is no better equipped than NASA to run an operational space system. DoD's space operations are currently run out of the Space Division of the Air Force Systems Command—a research and development wing. All other operational military systems have their specific command: Strategic Air Command, Tactical Air Command, and the like. If the DoD makes a policy decision to commit to a larger role in space, it would probably create a Space Command.

Such an operation space command would need its own basic policy defining its purpose and roles: would it be strategic, tactical, or both? So far most of the uses for space-based weapons discussed in the popular press have centered on their strategic (i.e., most dramatic) uses, such as ballistic missile defense. But laser weapons (for example) would also be potent tactical defenses—indeed, their tactical uses are probably simpler and could be operational within the 1980's.

As tactical weapons lasers could stand as space "sentries," guarding our assets already in space. The survivability of our satellites is of grave concern, and measures are already being taken to harden their surfaces to make them more resistant to lasers, or making their sensors less susceptible to being blinded; other suggestions include installing special radiators to reduce their infrared signature to infrared-homing A-sat missiles, and perhaps even using Stealth technology to hide them from radar-seeking missiles.

Another tactical use would be anti-aircraft defense. Lasers could effectively shoot down targets flying above 20,000 feet—such as high-altitude bombers and fighters. But such a tactical use would also deny the high-altitude cruise regime to our own bombers and fighters—threatening such programs as the B-1 bomber. Bombers would be forced to fly in the thicker air at lower altitude, costing more in fuel, limiting their range, and reducing their payload capacity. In short, if one of the purposes of deploying tactical space weaponry were to render aircraft more vulnerable, the DoD's decisions about space could transform the face of air warfare, tipping the balance in favor of space and upsetting some 35 years of custom and vested interest in the Air Force, Navy and defense contractors.

The whole history of past conflicts—particularly bitter lessons such as Vietnam—has shown that the course of an international engagement is determined not by weapons alone, but by an interaction of technology, tactics and policy. Technological capability and economics obviously influence policy—but the reverse is equally true. Danger lies in obscuring policy questions by technical and economic arguments. One must even question whether some negative technical arguments, such as those advanced by Kosta Tsipis, are selectively invoked to try to prevent "thinking the unthinkable"—a laudable aim, but one that works only when all parties concerned feel the same end is unthinkable. Something, such as space warfare, that is truly unthinkable but technically possible should be prevented by hardnosed negotiation and verification of treaties—not cloaked in silence in the hope that by refusing to acknowledge its existence it will go away.

We can no longer afford to commit the sin of omission of assuming that an absence of policy is de facto a policy of absence.

PROMISCUOUS TRADE BINGE: CAN BALDRIGE END IT?

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. GAYDOS. Mr. Speaker, the result of free trade as it has been practiced by the United States is not unlike the result of free group love—when the transactions are over, we know we have been had, but we are not sure by whom, or how badly.

Furthermore, the benefit is only transitory, our partners are not always considerate and the consequences can be far-reaching.

And they do not respect us in the next quarter, either.

Only in matters of trade do I speak from experience, Mr. Speaker, but in trade I speak from the experience of a political lifetime.

In trade, we have given promiscuous and careless access to the biggest, richest market in the world; and we have asked little and received virtually nothing in return.

My remarks are couched in the past tense, Mr. Speaker, because I hope we are beginning to think about forging a new attitude for ourselves and for our trading partners.

In his recent public remarks, Secretary of Commerce Malcolm Baldrige has been outspoken in proposing new bylaws for our no-longer-happy menage-a-trade.

Mr. Baldrige is very close to explaining trade to the Europeans and the Japanese in the terms used almost two decades ago by a clear-thinking British official, R. A. Butler, when he said:

> It takes two to make love and two partners to make trade agreements work. Unrequited trade . . . pays no better than unrequited love.

And this is an attitude I endorse.

While I do not agree with all that Secretary Baldridge does—I think he is too hesitant to discuss the proven character modifiers like quotas—he is nevertheless the highest U.S. official in a long time to persistently point to the harm that careless trade is doing to workers and to the Nation; and to suggest that our partners' use of subsidies and sales below cost and market protection are not to be tolerated.

He also recognizes that the difficulty with Japan is far deeper than the failure of Americans to learn to speak Japanese, which the habitual practitioners of careless trade say is a big reason we cannot sell there.

While I may not agree with all Mr. Baldridge says, he is putting the emphasis on the right syllables in trying to teach our partners to pronounce rec-i-proc-i-ty in English, and to understand it.

The mind's eye can almost see him standing at a lecturn at the front of a class in the Ministry of International Trade and Industry in Tokyo saying, "All together now: R-e-c-i-p-r-o-c-i-t-y; rec-i-proc-i-ty, a mutual exchange of privileges."

In addition, the Secretary said in Pittsburgh last week that he does not want a negotiated settlement that would stop the current steel dumping and subsidy cases, and that existing trade laws will be enforced to the fullest extent.

Compared to U.S. trade policy of the past, this is bold, and as a 16th century Italian writer advised:

> Boldness is good in all things, and nothing which is done well is done doubtfully and fearfully.

Doubt and fear and meekness have been problems in regard to trade.

Therefore, I worry that the emerging attitude may not be bold enough. Perhaps there should be more official discussion of the proven character modifiers: quotas and import surcharges to offset subsidies. The former have given pressed industries time to recover from subsidized and targeted attacks in the past, and the latter can balance unfairly gained advantage that has become institutionalized.

Nevertheless, Mr. Baldridge and those in the Government who are concerned with the trade war being waged on the United States are showing the right instincts.

And Congress should do all it can, including passage of a reciprocity law, to encourage and help them in this effort to raise up and restore to virtue a pathetic example of the excesses of careless trade.●

THE 100TH ANNIVERSARY OF THE KNIGHTS OF COLUMBUS

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. CARMAN. Mr. Speaker, on March 29, 1982 the Knights of Columbus will be celebrating their 100th anniversary. The members of this excellent organization should be very proud of their exceptional heritage and outstanding record of service to the church and the community.

Over the years I have had frequent contact with the Knights of Columbus and their very worthwhile projects. I consider myself privileged to live in a community served by such a dedicated and committed organization. Their leadership and devotion to their fellow man have been an inspiration and encouragement to us all.

The Knights of Columbus is an international organization of Roman Catholic men founded by Father Michael McGivney in 1882 to supply insurance benefits to Catholic families. Today, it is one of the largest fraternal organizations helping the handicapped and needy and sponsoring religious, welfare, and educational programs.

Mr. Speaker, it gives me great personal pleasure to salute the Knights of Columbus on this anniversary of their 100th year. I am grateful to Mr. Edward A. Ronaghan, Grand Knight of the Farmingdale Council No. 2204, for informing me of this special occasion. I am confident that he and the other members of the Farmingdale Council will continue to maintain this very fine tradition of community service and humanitarian activity.●

FORMER REPUBLICAN VICE-PRESIDENTIAL CANDIDATE WILLIAM E. MILLER LOOKS AT THE DEFENSE BUDGET

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. LAFALCE. Mr. Speaker, I would like to bring to the attention of our colleagues remarks made recently by William E. Miller, the 1964 Republican Vice-Presidential candidate, in an interview reported in the Lockport Union Sun and Journal. Mr. Miller echoes the words of President Eisenhower, who warned this Nation of the rise of a military-industrial complex which could dominate defense policy despite the constitutional doctrine of civilian rule of our Nation's Armed Forces.

In the interview, Mr. Miller voices his concern that "* * * there is too much fraud, cronyism, and waste in the military-industrial complex * * *" Mr. Miller offers the B-1 bomber, a weapons system that I have consistently opposed, as an example of how weapons systems often acquire a raison d'etre which bear no relationship to our Nation's legitimate defense needs. Improvements in Soviet air defenses, and the anticipated deployment of the Stealth bomber make development of the B-1 a highly suspect undertaking at best. Yet the administration has asked the Congress to authorize the expenditure of over $4 billion for the B-1 in its fiscal year 1983 budget request.

Mr. Speaker, as we continue to debate the budget in the hope that the President will cease his stand-firm rhetoric and enter into a constructive dialog with us to reduce the projected deficit and restore balance to our Nation's spending priorities, I believe that all of our colleagues will benefit from Mr. Miller's counsel. I am including at this point in the RECORD the article reporting Mr. Miller's remarks, and an accompanying editorial in which the Lockport Union Sun and Journal endorses Mr. Miller's conclusion that the proposed $240 billion defense budget can be trimmed without weakening our Nation's defense capability.

[From the Lockport Union Sun and Journal, Mar. 4, 1982]

MILLER BLASTS HUGE DEFENSE BUDGET; SAYS IT CAN BE CUT

(By Kinsey Berlin)

Many areas in President Reagan's proposed defense budget could be cut without endangering our country, says former Republican vice presidential candidate William E. Miller, a Lockportian, who, though retired from the political arena, doesn't miss a stitch when it comes to following national politics.

Miller, a longtime congressman from this district, who ran on the ticket with Barry Goldwater in the 1964 presidential and vice presidential race, said in a recent interview, "There must be many areas in that defense budget that could be cut without seriously damaging our military program."

Miller, trim and fit at 67, offered strong approval of most of President Reagan's efforts to get the faltering United States economy back on its feet. "I think he's done extremely well," Miller said of Reagan, when asked to evaluate his overall performance.

But the veteran politician and staunch Republican does not feel the same way about Reagan's proposed defense budget. He said that is the one thing that worries him about the president's policies. Although Miller feels a strong national defense is imperative, he is afraid the military, industrial complex is not being monitored carefully enough.

He acknowledged that this has been an ongoing concern, and was brought to the country's attention by former President Eisenhower, himself a general, when he was leaving office.

"I fear there is too much fraud, cronyism and waste in the military-industrial complex," Miller said. "Eisenhower warned us against it a long time ago."

Military contractors, Miller explained, can become "entrenched," once hired by the Defense Department. Fraud, waste and duplication in other federally-run programs, are "nothing compared to what there is in the military," Miller commented.

He explained the problem. Generals who retire, he said, are often in demand for positions with defense contractors. Since they've worked for the Defense Department, they have what Miller termed "entrees" into the inner circles, and are helpful in securing lucrative contracts for the defense contractors, as you might expect.

Miller pointed to cost overruns on many contracts the defense department enters into and said they are not justified.

Miller zeroed in on the B-1 bomber as a project that it may not be sensible to begin developing, because another type of bomber, the Stealth Bomber, which is reputed to be able to "penetrate Soviet radar" may "make the B-1 obsolete." If the B-1 is going to be obsolete, he said, there's no real sense in spending money to develop it.

He also used the now familiar word, "overkill" or, in other words, the potentiality is there right now for countries which have nuclear weapons to destroy world civilization. The problem, he said, has to do with the high technology, known only to a few, which surrounds defense, often shrouding the military-industrial complex in mystery.

"Can anyone really give us an answer to how much defense we need?" Miller asked rhetorically.

With the weapons now available to Russia and the U.S., he wonders "if there would be enough people in the world left to rebuild it," if a war ever started.

Miller, who once served as national Republican chairman and also chairman of the GOP Congressional Campaign Committee, and who in 1945 was assistant prosecutor of Nazi war criminals during the famous trials at Nuremberg, Germany, emphasized the importance of a strong economy above all.

"You cannot wage successful war unless you have a strong and secure economy," he said.

Miller, also a veteran attorney and a former chairman of the Niagara Frontier Transporation Authority, said he does not in the least miss politics, and prefers to spend time with his family, living in a healthful way and keeping fit.

[From the Lockport Union Sun and Journal, Mar. 6, 1982]

MILLER'S DEFENSE REMARKS WELL TAKEN

When William E. Miller of Lockport was in Washington, he was very much "a guy in the know." And it was not too many years ago that he was not only a part of the Capitol Hill scene, but an integral part of it.

Consequently, his well-reasoned remarks of the other day, that the proposed $240 billion defense budget, submitted to the Congress by President Reagan, can be trimmed without seriously affecting America's ability to defend itself, should be taken seriously.

When you come down to the nitty-gritty, if Washington means business about making major revisions in the budget to substantially curb the anticipated $90-billion-plus deficit in 1982-83, defense is basically where the money is going to have to come from.

Responsible people should take Miller seriously when he speaks of the "fraud, cronyism and waste in the military-industrial complex" because he knew the score when he was in Washington and, in those days, it was just beginning. Today it has reached proportions probably beyond the comprehension of those leaders of the late 1950s and early 1960s.

But Miller's point about scrapping plans for the B-1 bomber, because it may become obsolete before it is airborne, is well taken. And this is only one area where major budget reductions could be made. There are others of course.

We were especially interested in Defense Secretary Caspar W. Weinberger's remark to the Armed Services Committee that a $10 billion cut from defense spending will mean 350,000 people could be deprived of jobs. This is faulty reasoning. And, if it is on this basis that our defense planners have operated over the years, it stands as one of the reasons the nation's fiscal condition is in the perilous state it is today.

Defense necessities should not be tied to jobs. Defense spending should be geared only to the areas required to maintain America's superiority in technological weaponry and an adequate force for conventional contingencies. Multi-billion dollar aircraft carriers which could be blown out of the water by one N-blast do not measure up to this criteria.

Therefore, Congress should scrutinize the Pentagon budget on a line-by-line basis to cut the fat to the bone. It can be done.●

RECOGNITION OF MRS. CAMPBELL AND MRS. HILL

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to recognize two constituents of mine, Mrs. Robert R. Campbell, Jr., and Mrs. Ann Hill, both of East Liverpool, Ohio. Due to their willingness to get involved, a young man's life was saved.

On January 25, 1982, Mrs. Campbell and Mrs. Hill were driving through the East Liverpool Cemetery when they spotted a young man lying on the ground. At first they thought he was dead, but found he was nearly frozen. Mrs. Campbell went to the cemetery caretaker's house and told him to call the police. Shortly thereafter the police and ambulance arrived and took the boy to the hospital. Medical authorities reported that if Mrs. Campbell and Mrs. Hill had not insisted for help for the boy, he would have frozen to death. But through their efforts and because they cared, this young man is alive today.

Mrs. Campbell's and Mrs. Hill's actions as concerned citizens and caring people are an inspiration for us all.●

JOB SERVICE PROGRAM CUTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HUBBARD. Mr. Speaker, Brenda Stone of Henderson, Ky., in a recent letter to me, details how Federal budget cuts have affected the ability of her office to deliver service to those in need of a job. I believe that my constituent's letter is one which should be shared with my colleagues and I wish to do so at this time:

DEAR REPRESENTATIVE HUBBARD: As a Kentucky Department for Human Resources employee, I am concerned about the impact that budget cuts are having on the state Job Service programs.

I have been a state employee for the past 11 years and until this past fiscal year, I have never experienced the turmoil that we as state employees have had to go through. The tension, morale and lay offs that we have faced have undoubtedly affected our work performance and now we are facing another obstacle in reducing our budget.

I have always been a dedicated employee, working above and beyond my responsibilities that were required within my job and now I ask why? The public is in more need now than ever before for our services that are available, e.g., Work Incentive Program (WIN), CETA classroom training programs, employer relations representatives, job search and job development, etc.

At present, our office staff has been reduced drastically and we only have one full time employment interviewer to serve our local office area and with the employment rate so drastically high, the people are coming into this office in such great numbers, those of us who are working special programs, such as myself, are having to neglect our programs to help on intake. Is this fair?

I feel my job, working for the WIN program, plays a very important part in the state Job Service. If I have to neglect my job, then I'm neglecting not just a programs but people's needs.

No one seems to really understand our situation unless you experience the operation of a local Job Service office.

Please understand our needs.

Respectfully,

BRENDA STONE.●

ASSOCIATION OF BLACK WOMEN LAWYERS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HOWARD. Mr. Speaker, while State bar associations frequently sponsor swearing-in ceremonies before the U.S. Supreme Court, March 8 marked the first time the Association of Black Women Lawyers of New Jersey sponsored such an event.

Association president, Dolores Pegram Wilson, Esq., of Freehold, N.J., and Ceremony Chairperson Patricia E. Fleming, Esq., coordinated plans for the ceremony and the Honorable James H. Coleman, Jr., who sits in the appellate division of the Superior Court of New Jersey, moved the admissions before the Court.

Participating in the ceremony were the following individuals: Betty J. Lester, presiding judge, municipal court, Newark; Robert B. Brennan, judge, municipal court, Newark; Severiano Lisboa III, judge, municipal court, Jersey City; Marva A. Allen, Esq.; Robert D. Herpst, Esq.; Moonyene S. Jackson, Esq.; Andrea P. M. Johnson, Esq.; Althear A. Lester, Esq.; Constance S. McAllister, Esq.; Stanley J. Rand, Esq.; and Gloria E. Soto, Esq.

In addition to members of the New Jersey Bar, participants included attorneys from Airco, Inc., of New Jersey, the New York Bar, the Pennsylvania Bar and the Hispanic Bar Association of New Jersey.●

THE SOVIET GRAIN EMBARGO—VI

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. FINDLEY. Mr. Speaker, in recent days, I have shared with my colleagues the summary and first four chapters of a National Corn Growers Association report entitled "Effects of the 1980 and 1981 Limitations on Grain Exports to the U.S.S.R. on Business Activity, Jobs, Government Costs, and Farmers."

That report has clearly shown the devastating effect that the last grain embargo had on our Nation's economy. Considering the minimal damage done to the Soviet Union, I think it is now clear that this approach to foreign policy is ill advised under all but the most hostile conditions.

Even President Reagan, in a speech to agricultural editors earlier this week, acknowledged the futility of this effort, saying:

> The bottom line is that the Soviet embargo was bad for our farmers: Bad for our economy, but not that bad for the aggressors we were supposedly going to punish

Further, the President stated that future actions of this sort will be undertaken only as a part of a complete embargo and only if we have the cooperation of other nations so that we do not end up hurting ourselves while doing little harm to those we are trying to influence.

For those who would counsel the use of limitations on farm product trade in the future to influence Soviet behavior, let me share the final chapter of the NCGA report. This chapter deals with the probable costs of future embargoes. It will, I hope, prompt anyone to think twice before calling for actions that so cripple our own economy.

5. PROBABLE COSTS OF MAINTAINING THE PRESENT DE FACTO EMBARGO OR OF AN OFFICIAL EMBARGO ON U.S. EXPORTS TO THE USSR, 1982-85.

Since early January, 1982, the Reagan Administration has been considering a general embargo against exportation of any U.S. products to the USSR and possibly to Poland and other countries of E. Europe, to be applied under unspecified political conditions. These are generally thought to be: (a) more serious repressions in Poland than took place in late 1981 and January 1982; or (b) failure to lift martial law and to begin to restore certain rights to the Polish people at an early date.

The President and others in the government have repeatedly stated: (a) that such an action would be taken only if it could not be avoided; and (b) that agriculture will not be singled out in any trade sanctions against the Soviet Union. Both these conditions are ambiguous, since the President can avoid such an action if he chooses, and because agriculture eventually will bear most of the costs of such an action.

It is inherent in the composition of U.S. exports to the USSR that agriculture and especially grain is singled out by such an action. In recent years, our agricultural exports, mostly grains, have been about 80 percent of our total exports to the USSR in value terms.

As a result, a general trade embargo is essentially a grain embargo. A few large U.S. companies, but no major industries apart from agriculture, transport and farm suppliers would be seriously endangered by a general economic embargo. The ultimate effects, of course, would spread throughout the economy as shown in Section 3.

Indirect, intangible, and future effects of both the 1980 action and its unofficial resumption in 1982 have far reaching implications for the U.S.

The U.S. has become the residual instead of the principal supplier of agricultural products to the Soviet Union.

The U.S. may export only very small tonnages or perhaps no grain at all to the USSR in some future years under certain economic and political conditions.

It will be very difficult to negotiate a favorable U.S.-USSR grain agreement in view of export availabilities from other countries.

Encouraged both by an expanding world grain market in the 1970's and by U.S. "stop and go" export policies, other exporting countries have increased both their transport and loading capabilities and their grain production.

A general trade embargo banning the export of U.S. goods to the Soviet Union in 1982 would almost inevitably cut off or seriously reduce this trade for many years. Such an action would be inherently an action whose direct impacts would fall principally on the farm sector and allied industries, since most of our exports to the USSR are of farm origin.

If such an action prevented the shipment of 24 mmt or 945 mil. bu. of corn over three years, plus 12 mmt or 441 mil. bu. of wheat and 3 mmt or 110 mil. bu. of soybeans before it could be ended in (say) 1985, the overall economic costs would be as shown in the table below.

IMPACT OF LOST EXPORTS TO U.S.S.R. IN 1982–85 ON THE U.S. ECONOMY

	Output (millions)	Nationwide losses in—	
		Employment (Man-years)	Personal income (millions)
Corn	$16,588	458,346	$4,365
Wheat	11,474	302,731	3,260
Soybeans	4,814	124,740	1,368
Total	32,876	885,817	8,993

●

FREEDOM FLOWERS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. SANTINI. Mr. Speaker, the martial law crisis in Poland has stirred many hearts in the United States. Our own heritage, based on the struggle for human rights and freedom, closely parallels that of the Polish people as they try to wrest themselves from the grasp of Russian dominance.

American camaraderie with the Polish people has taken many forms in these past weeks. Though the martial law crackdown is only a few months old, many persons of Polish American descent have empathized in the Polish struggle for much longer. In Nevada, a Las Vegas resident who is proud to be of Polish American background was inspired to write a song embodying the strength and determination of the Polish people in this time of concern. The song is written by Mrs. Joan Baldwin Zalewski (Copyright, 1980) and is entitled "Kwiaty Wolnosci" ("Freedom Flowers").

I would like to record here, the words to that song. But before doing so, I am sure my own Italian ancestors will allow me this once to say: Jeszcze Polska Nie Zgniela. (Poland has not perished.)

KWIATY WOLNOSCI

(By Joan Baldwin Zalewski)

VERSE

Years ago in Poland, red flags consumed the land.
Papa spoke of a garden, with flowers rare and grand.
He said: "Grow up, my brave one. Grow quickly as you can.
Then find my special garden, when you become a man."

CHORUS I

Go and find the freedom flowers,
Plant them deep so they will grow.
Shade them from the summer sun,
Shelter them from winter snow.
Harvest time will come, my son,
In our land, 'twas ever so.
Ah, how fair the freedom flowers!
How I pray one day you'll know.
Kwiaty Wolnośći, Dla Polski, Dla Polski.
Kwiaty Wolnośći, Dla Polaków, Dla Mnie.

CHORUS II

I have found the freedom flowers
Blooming in the eyes of men.
They remember years gone by,
Polish hearts were happy then!
Harvest time will come, my friends,
One day soon, I know not when.
Guard them well, the freedom flowers,
'Til my land is free again!

Kwiaty Wolnośći, Dla Polski, Dla Polski.
Flowers of freedom, for Poland, for Poland.
Kwiaty Wolnośći, for my people, for me!●

IMPACT ON HUMAN SERVICES

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. McGRATH. Mr. Speaker, one of the most effective ways to help solve our country's economic problems is through private sector initiative. In this area, two extremely important factors emerge: The free enterprise system of private capitalism and private good works.

President Reagan is calling upon corporations to take on greater responsibility than ever before by establishing social service programs and making charitable contributions. Avon Products, Inc., one of the leading corporations in the State of New York and our country, has set a fine example for other corporations to follow.

Avon's vice president of public affairs, Mr. Robert R. McMillan, a constituent of mine, recently addressed the Children's Aid Society's 128th annual meeting and symposium, where he outlined the many ways corporations can help. His address, entitled "Federal Budget Constraints and the Impact on Human Services", was printed in the March 1982 edition of Cosmetic Technology Magazine as a guest editorial. The text is inserted here for your consideration.

The article follows:

FEDERAL BUDGET CONSTRAINTS AND THE IMPACT ON HUMAN SERVICES

When President Reagan's new economic program opened on October 1, 1981, reviews were mixed. As we began to see paychecks grow a few dollars fatter, social programs took it on the chin. Consumers rushed to buy new tax-exempt savings certificates while many local governments struggled to cope with reduced federal funding—from aid to families with dependent children and school lunches to medical aid for the poor.

Thus, Reagan is now looking to and invoking a "spirit of volunteerism" to help bridge the gap created by the massive withdrawal of funds from health and social programs. He has asked the private sector to take on more responsibility for providing social services.

However, despite efforts in Congress and elsewhere to encourage private giving, corporate officers and other experts on charity say that businesses, foundations, and individual givers combined will be unable to completely offset the federal cuts.

Funding for nonprofit organizations in the areas of social welfare, health, environment, the arts, and government-financed housing and food programs will be cut back by $135 billion over current spending growth patterns during the next four years.

In 1980, contributions to nonprofit groups by companies and some 600 major company-operated foundations totaled only $3.5 billion. The difference between the amount of funds lost and the total corporate contribution is of such dimensions that companies cannot possibly pick up the whole tab.

My purpose is not to debate the reasoning or whether the curtailment of programs is correct, but to deal with what is and to focus on ways that corporations can help.

To begin, the situation is not hopeless. Last year, for the first time, corporate philanthropy edged ahead of nonprofit foundation giving.

A recent Conference Board survey of the more than two million corporations in the United States estimates that fewer than 30 percent reported making any charitable contributions. However, we can look at this in another way. There is a challenge and opportunity for thousands of other companies to begin making philanthropic donations. Some door-to-door asking by charitable organizations is in order to get more companies to give.

For example, at Avon, we are keenly aware that by offering quality merchandise and using ethical marketing methods, our company has been able to earn a profit and provide a fair return to thousands of shareholders. Meanwhile, we have provided growth opportunities for our employees and independent sales representatives.

Yet, we recognize that the success of a company should be measured not only by its profits, but also by the degree of its concern for the societies and environments in which it functions. In this context, it is our firm belief that the pursuit of profit and the pursuit of social objectives are compatible goals. In fact, they make good business sense.

Therefore, while financial contributions to not-for-profit organizations are an essential element in business philanthropy, participation also encompasses a broader range of activities. Among those are:

In-kind services: Corporations lend executives to provide technical expertise and offer management personnel to serve on boards and advisory groups, working with organizations to assist them in achieving their stated goals. This can include assistance in management, fund-raising, and proposal writing. Business can lend or donate office space, typewriters, desks, telephones, and printing services. They can offer the use of a corporate facility to host a reception so that corporate contributors can learn about the programs of nonprofit organizations.

Matching gifts programs: Hundreds of companies have brought employees into the process of grant-making. A matching gifts program doubles the amount of money nonprofit organizations can receive by having corporations match donations made by their employees. The donations, in many cases, extend beyond education to include health areas such as United Way and cultural programs such as performing arts.

Scholarship programs: Many companies offer scholarship programs for children of employees and others. We fund institutions of higher education and organizations that provide scholarship programs for minorities, women over the age 25 who are returning to school, and fellowships to women conducting cancer research.

Student internships: Such programs allow students to receive an educational work experience and an understanding of the corporate perspective. Nonprofit agencies as well as corporations can take on summer interns.

Joint ventures: One corporation serves as a catalyst in linking other corporations and foundations to support a common interest. For example: The New York Regional Association of Grantmakers has asked Avon to be a part of a group of corporations and foundations funding summer youth work programs.

Employee volunteerism: Most companies begin with the premise that people are their most important resource. Often what is needed most to fill community requirements are people with skills, compassion, and time.

Donatable merchandise: Where appropriate, companies can donate merchandise to needy organizations. Each year Avon donates its "daily needs" products to homes for the aged, children's homes, and hospitals.

While the above activities represent the many ways corporations can lend assistance in the "spirit of volunteerism," we must also be aware of the economic reality of our world. We are in a recession. U.S. families will be affected by federal budget cuts in the areas of food stamps, school lunch programs, aid for families with dependent children, public housing, and many other social service benefits.

Corporations today need to monitor continuously the shifting trends and be adaptable to the needs of the current workforce. Business wants to be socially responsible. There is no doubt that business will do more and can do more.

However, corporations must take a closer look at the dollars they donate and the results of their donations. Contributions must provide direct help for the needy and not be tied up in the transmission channel. In other words, corporations must look to foster progress and results, not the process.

The value of volunteerism cannot be measured in billions of dollars. It is not billions of dollars that makes for social change, but the concern of individuals that will effect change.●

POSITIVE ALTERNATIVE TO FESTERING UNEMPLOYMENT

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HAWKINS. Mr. Speaker, it is clear that the No. 1 economic problem facing America is unemployment. The administration's solution is to slash job training funds further. This is unacceptable to the American people and I hope to the Congress as well. I have introduced and held hearings on H.R. 5320, the Community Partnership for Employment and Training Act. I include the text of my weekly column which discusses this bill. I urge my colleagues to consider the importance of quickly and effectively attacking this economic scourge. If the unemployment time bomb explodes, we will have no one to blame but ourselves.

With the release of the February 1982 unemployment statistics it is clear that the January dip in unemployment was but a passing fancy in the eyes of the beleaguered Administration.

At the present time, almost half of all states are paying extended unemployment benefits. Simultaneously, many states find their unemployment benefits exhausted and are borrowing from the Federal government in order to continue paying benefits.

In the wake of this great human tragedy, President Reagan has branded as "sob sisters," those would speak out against this injustice. Unfortunately for Mr. Reagan, though, the "sob sisters," number in the millions—and their ranks are growing.

With no alternative or even any plans to alleviate the current unemployment crisis, in an empty gesture, the Reagan Administration has called for its critics to "put up or shut up."

In light of this total disregard for a problem which many Americans rate as the most urgent issue facing the country, and in response to the President's call to put up or shut up, I have recently introduced and held hearings on legislation entitled the "Community Partnership for Employment and Training Act."

The Community Partnership for Employment and Training Act is a $6 billion job training bill aimed at teaching the hard core unemployed marketable work skills. In addition, attention will be given to retraining laid off workers for jobs in other industries.

The CPETA will retain the current emphasis of Federal programs on youth training with special attention to minority youth who are experiencing a combined unemployment rate of 39.9 percent. The staggering number of displaced workers necessitates the implementation of training programs to equip these workers with the skills they need to assume other jobs.

Major provisions of the bill include: the requirement that the CPETA program will be based on Federal Performance Standards including placement in unsubsidized jobs. This requirement is expected to assure that high quality training will be provided and thereby lead to permanent jobs for participants. Three of the five billion dollars of program funds will be earmarked for the economically disadvantaged. At least half of this three billion dollars must be used for serving youth 16-21 years of age. Federal funding will have to be matched with other public and private resources. The prime goal of the bill will be to promote those activities which lead to permanent job creation in the community.

This Administration has done nothing to provide positive alternatives to the festering unemployment crisis. This bill is a positive step to deal with the problem of unemployment.

However, we must act now, without delay to initiate a comprehensive manpower program to deal with the economic problems confronting this nation in terms of wasted human resources resulting from misguided fiscal and monetary policy.

In the absence of any program designed to deal with the unemployment problem being proposed by the Administration, we have "put up" a workable program to address this economic and human disaster. Now the ball is in the hands of the Administration. I hope for the good of our nation that they do not fumble.●

JOBS FOR DELAWARE GRADUATES

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. EVANS of Delaware. Mr. Speaker, my home State of Delaware is not called the "First State" simply because it was the first to approve the Constitution. We are equally proud of some other firsts, such as the jobs for Delaware graduates program.

The program was created back in 1978 by Gov. Pierre S. du Pont IV to combat the pressing problem of youth unemployment. This innovative plan has enlisted the resources of local Delaware businesses with an aggressive State effort to identify Delaware high school seniors who are most likely to face employment problems when they graduate. Jobs for Delaware graduates has turned out to be a proven success in placing these graduates in their first real jobs. It has also been hailed as a model program for the rest of the Nation to deal with the serious issue of unemployment among our country's youth.

Recently, William Raspberry wrote a column in the Washington Post which highlights this outstanding program. In order to share it with my colleagues, I ask that the article be included at this point in the RECORD.

The article follows:

NO MIRACLES—JUST JOBS

(By William Raspberry)

WILMINGTON.—The 1978 unemployment rate for Delaware youths aged 16 to 24 was 45 percent. It's still higher than Gov. Pierre S. du Pont IV would like, but those aren't the numbers he wants to talk about.

He wants to talk about a special group of youngsters with a job placement rate approaching 86 percent, who earn an average of 38 cents more per hour and who work more hours per week.

The special youngsters are alumni of an innovative program called Jobs for Delaware Graduates (JDG), and the numbers take on added significance when you learn who they are. In order to get into the three-year-old program, you have to be a high school senior in the general education curriculum—neither college-bound nor in vocational training.

"We deliberately screen out those youngsters who know where they are going," du Pont says. "We concentrate on those who, statistically, are the most likely candidates for unemployment, and we find them jobs."

The jobs aren't necessarily that impressive, says Bebe Coker, JDG's director of administration. "We place kids in everything from fast foods and hotel work to factories and insurance offices, although very, very few in public service jobs. The important thing is that we are dealing with kids who would very likely be unemployed. Sure, there are a few superstars, like the young lady who's earning $16,500 a year as a lab technician, after making a string of D's in general education. But there aren't many of these. In fact, we don't even include them in our statistical reports because it would be misleading. Still, our graduates earn an average $4.12 an hour."

Results aside, there is nothing particularly magical about the JDG program. Youngsters who volunteer for the program spend two or three sessions a week—either in lieu of regular course work or, if their schools won't excuse them, in their free time during or after school—learning such things as how to write resumés, how to handle job interviews, how to look for work, how to make a good impression and what to do if you have trouble on the job.

But mostly they learn salable work attitudes. "We help them understand that all productive work is dignified," says Coker. "We help them understand the importance of that first job—not because they will be there the rest of their lives, but because that is where they develop their basic attitudes. We find that people who can keep a job for as long as nine months tend to stay employed."

JDG was born in 1978 during a brainstorming session in du Pont's office. "It was one of those feet-on-the-desk sessions where we try to look several years down the road instead of focusing on tomorrow's crisis," he said.

"We started talking about our tremendous problem with youth unemployment. It was obvious that we could not hope to have a prosperous state if nearly half of our young people were out of work."

The decision was made to enlist local businesses in a program to train high school students who would be going directly from school to the job market. The idea didn't catch on immediately. Business was reluctant. The state legislature refused to appropriate money for the first year's operation. Even high school counselors resisted the idea, because JDG uses its own counselors.

But nearly all of those early antagonisms have evaporated, and now the JDG program is in 24 of the state's 25 high schools. Indeed, under the name Jobs for America's Graduates, the idea has spread to several other states, including Arizona, Massachusetts, Michigan, Missouri and Tennessee. Each state tailors the program to its own pattern. In Delaware, for instance, half of the funding is from the federal government, with the rest split between the state and private foundations. Arizona's program gets virtually all of its money from the state legislature, while Michigan's will be funded privately.

But the basic idea is the same: that the best way to treat youthful joblessness is prevention. One of the key attractions is its relatively low cost: an average of $1,500 per placement in Delaware, for instance—a quarter of the cost of the CETA program—principally because JDG does not pay its enrollees.

It is clear the lame-duck governor of Delaware thinks he is on to something very special.

The numbers suggest he's right.●

STURGEON BAY, WIS., HIGH SCHOOL STUDENTS SPEAK OUT

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. ROTH. Mr. Speaker, I would like to share with my colleagues the results of a survey recently taken of Sturgeon Bay, Wis., high school students on a number of current issues. I believe my colleagues will find the results interesting and indicative of what young people really think about issues before the U.S. House of Representatives.

More than 400 students responded to the questionnaire. They favored tougher mandatory minimum sentencing for those who use a dangerous weapon in the commission of a crime by a 3-to-1 margin. Sixty-three percent of those polled also favored the death penalty for certain crimes.

The questionnaire posed nine opportunities for the students to air their views. By a 2-to-1 margin students supported tougher foreign policy for the United States, but opposed by 55 percent, a 2-year military draft.

Employment generated a great deal of interest among these students, many of whom will be entering the job market soon after graduation. When asked if the minimum wage for workers under age 18 should be lowered to help provide more jobs in the summertime, 70 percent said no, while 20 percent said that a youth wage would open the summer job market. Ten percent were not sure. When asked if they felt there would be jobs available when they were ready to start their careers, there was a good deal of uncertainty. About 38 percent said yes, and 22 percent said no. A full 40 percent of the respondents were not sure.

On the proposed reduction of guaranteed student loan and grant moneys, almost half of those responding, or 49.4 percent, said this would strongly affect their decision to go to college. Forty percent said it would not, and 10 percent did not know.

On the New Federalism, where major responsibility for funding and administering Federal programs would be returned to the States in return for full Federal operation of the medicare program, about one-third of the students said this was a good idea. Roughly half of the respondents said it should not be put into practice.

I submit tabulation of the responses as a percentage of those polled for the review of my colleagues:

	Percentages		
	Yes	No	Not sure
1. The President's new budget package will result in a "swap" of some programs between the Federal and State governments. Should this new federalism approach be put into practice?	36.7	16.5	46.8
2. Should welfare eligibility requirements be tightened to improve the system?	76.0	15.1	8.9
3. Will the tougher stand on guaranteed student loans strongly affect your decision about going to college?	49.4	40.1	10.5
4. Do you feel there will be a job for you when you are ready to start your career?	37.8	22.4	39.8
5. Should the minimum wage for workers under age 18 be lowered to help provide more jobs in the summertime?	20.0	69.9	10.1
6 Should the United States be tougher in its foreign policy toward aggressors?	62.7	17.4	19.9
7. Do you favor a 2-year military draft?	22.8	55.0	22.2
8. Should there be mandatory minimum sentencing for those who commit felonies using a dangerous weapon?	73.7	12.7	13.6
9. Do you favor the death penalty for certain crimes?	62.9	21.8	15.3●

1981–82 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. MICA. Mr. Speaker, today I am submitting for the record a copy of the winning speech for the State of Florida VFW voice of democracy scholarship program. This year's winner, I am proud to say, is one of my constituents, Mr. Colin K. Jones of Riviera Beach, Fla.

I am sure that all who read this speech will feel moved by the honesty of the words, and the sense of hope felt by the author. It is my pleasure to have the opportunity to share this with you.

COLIN JONES, FLORIDA VOICE OF DEMOCRACY WINNER

My school day had ended on a sour note. I was running late, trying to catch a city bus to my part-time job, and as I ran I could only think of my own problems. Then, as the bus rolled along I heard the driver talking to a man in one of the front seats. "Yeh, I know it's election night," said the driver, "but why should I vote? They'd only do what they want in the end anyway."

This struck me hard and I sat sorting the implications of what the driver had said. Just who are "they" I wondered. Then it came to me that in a democratic society such as I enjoy where the people are the government, I am one of the proverbial "they." So are all of us.

Suddenly, I felt a part of something vast. I was a part of a great experiment. A country that provided its citizens with the opportunity to be what they wanted.

But at the heart of every great endeavor there lies hard work and our Country is no different. America was built from a solid foundation of truth and justice. Its walls were woven from the cloth of freedom. Its roof constructed from the mortar of the Constitution.

But for all the merits of hard work it can only be utilized on a large scale if a goal is instilled in the hearts of a group. Great things are built by people working together.

Our Country was carved out of a wilderness by a group of people with a vision. Some of them helped push it to the summit of technology through industry. Some had helped to feed it through agriculture, while others had orchestrated the whole affair through government.

But building a country is not a one shot deal, so to speak. Maintenance is the younger brother of establishment. It is for us to realize that we are a part of that great "they." By actively participating in the affairs of our Country we can change the course of history.

I feel in my heart a responsibility to a nation where I was allowed to grow up unhindered and get a free education. The new frontier is, in a sense, the same as the old. Where would we have been if our founding fathers had shrunk from the cause when confronted with history. There will always be self appointed critics and prophets of doom. It is my task however, to see the future as it can be if we support our Country and work together.

As I got off that bus I was awakened spiritually to a fundamental of truth that had arisen out of the cynicism of the bus driver. That great "they" were we, and we are the keepers of our own fate. We are building more than a country. We are building an idea based upon work and mutual respect. You and I are together building America.●

GRIT CELEBRATES 100 YEARS

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. ERTEL. Mr. Speaker, Williamsport, Pa., is the home of Grit, the well-known weekly newspaper that has served several generations of rural and small town residents throughout our country. This year, Grit has reached an impressive milestone as it celebrates its 100th year of publication.

Grit has been a leader over the years in helping inform millions of Americans about the good in the heartland of our Nation. Today, with many people moving to less populated areas, Grit continues to bring its practical and down-to-earth perspective to this growing number of Americans.

Edwin W. Goodpaster, president and publisher of Grit and a respected journalist, is working hard to see that Grit keeps up its impressive tradition. With Grit's dedicated staff, I am sure he will succeed.

In order for all Americans to know more about Grit—where it is going and where it has been—I would like to include the following article in the RECORD from the January 3 issue of Grit.

GRIT NOW IN SECOND CENTURY OF PUBLICATION

(By Lana Muthler)

Grit, an institution in the households of small-town and rural America for nearly a century, begins its 100th year of publication with this issue.

A year-long series of anniversary events is planned during 1982 culminating with a celebration on Dec. 16—the date on which the publication's 100th birthday actually occurs.

"The values that were the basis for the founding of Grit are just as relevant today as they were 100 years ago," said Edwin W. Goodpaster, president and publisher. "We just don't hear as much about them. We are going to work very hard to see that people get a chance to hear more about them.

"The newspaper will continue to serve the audience it has served for almost a century. But it also will reach out to that new population that is making small-town and rural America the fastest-growing part of the nation."

Established in Williamsport, Pa., by Dietrick Lamade, a German immigrant, and now called "America's Family Newspaper," Grit began with a circulation of 1,500, mostly in the Williamsport area. Today it is distributed each week to homes across the nation.

Dietrick Lamade was 23 and an advertising compositor on a Williamsport evening newspaper when Grit was launched as a Saturday edition on Dec. 16, 1882. He hand-set the first nameplate and made up the forms in which the type was placed throughout the first year.

During the first two years, the newspaper made little progress. Then a small weekly newspaper plant was put up for sale and Lamade persuaded two men to go into partnership with him. The three bought the "good will" of Grit and the equipment of the small weekly. Thus their publication was started as an independent Sunday newspaper with a capital investment of $1,000 and a circulation of 1,500.

The going was rough from the start, but in 1885 Lamade got an idea on how to increase circulation. He deciced to hold "drawnings." He traveled throughout Pennsylvania, promoting Grit and announced a big "drawing" with five prizes to be awarded.

The grand drawing was on Thanksgiving Day, 1885. After it was over, Grit had a weekly circulation of 14,000, all bills were paid and there was a cash balance of $400. The three partners shook hands and gave themselves a raise—from $12 a week to $15 a week.

As the years went by, Lamade developed a direct mail method of reaching customers and appointed young salesmen—the system still used today to maintain much of Grit's local, state and national circulation.

Hundreds of thousands of boys have received valuable business and character training selling Grit, and many—such as a Gen. Alfred Gruenther, Sen. Karl E. Mundt, former Baseball Commissioner Ford Frick, poet Carl Sandberg and cowboy star Gene Autry—became leaders in business, industry, the professions and government.

From the time it was first published, Grit has changed in many ways, but the basic appeals to small-town families has remained a definite goal of the newspaper.

Improvement and modernization of the newspaper have been steady—a tabloid format was adopted in 1944; a copy processing system and modern high-speed press were put into operation; the price has increased from its initial 5 cents per issue to the present 50 cents on newsstands and 45 cents delivered; circulation has gone up and down—but the style and tone of Grits contents have been altered only slightly.

Grit's home has grown from a small one-story wood frame structure to the present three-unit four-story brick building.

Although Grit sometimes reflects the characteristics of many different kinds of magazines—articles on communities, recreation, living hints, women, sports and family entertainment—it remains geared to the needs and interests of small-town residents.

Lamade, who died in 1938, steered his paper through many a business vicissitude, through panic, depression and flood. But he never took his eye from an editorial standard he adhered to all his life—"Always keep Grit from being pessimistic." Lamade believed in emphasizing the good and staying away from anything that might cause fear, discomfort or temptation.

After his death, Lamade's two sons, George R. and Howard J., succeeded him in operation of the newspaper and continued in his beliefs.

Ownership of the Grit stayed in the Lamade family until March, 1981, when the company was purchased by Advo-System, Inc., of Hartford, Conn.

Bright as the past has been, Goodpaster said, Grit looks forward to even greater accomplishments during its second century—not only in circulation and advertising growth, but also in increased service and influence in small town America.

"For the first time since 1820, the census showed in 1980 that small towns and rural areas in America are growing faster than cities," Goodpaster said. "That means that people are moving from urban areas to the less populated areas. They are doing it to improve their quality of life.

"Grit has always been the link that tied these people together, and it will continue to be. They want to read about similar people and similar situations, and they do not get that information in other mass media.

"Grit will continue to be the voice of the people of small towns and rural areas, and the people whose hearts are there."

Details on the events of the anniversary year will be released later.●

OPERATION BOOTSTRAP

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. GARCIA. Mr. Speaker, there has recently been a great deal of discussion of Operation Bootstrap, its impact on the Federal budget and its effectiveness in encouraging development on the island of Puerto Rico. The Reagan administration, having already substantially hurt the Puerto Rican people with over $400 million in Federal cutbacks has now indicated an interest in removing a series of tax incentives to stimulate development on the island. The irony of the situation is that this administration, through the Caribbean Basin Initiative, also plans to increase aid to many Latin American countries and offer special export incentives to them in an effort designed to spur their development. Now, I certainly do not oppose economic aid to Latin American nations, but I ask my colleagues, how can we take away programs of financial and fiscal assistance from U.S. citizens on the island of Puerto Rico while offering it to foreign nations within the same region?

In 1921, the U.S. Congress enacted legislation to exempt earned income of American affiliates in Puerto Rico from U.S. tax. This program was designed to stimulate investment and job creation by U.S. firms in U.S. possessions. These exemptions were later embodied in section 936 of the IRS code and served to attract labor intensive firms and their employment opportunities for a large unskilled labor force which existed outside the agricultural sector. In recent years, the incentives have attracted more sophisticated industries which has worked well within the changing structure of the Puerto Rican economy. With subsequent changes in the U.S. Tax Code, the island began to lose some of its comparative advantage to the mainland and the potential for economic growth began to lag. This has caused many to say that Operation Bootstrap has not been a success. However, a quick look at the legislative record will reveal that Congress, as recently as 1976, endorsed the effectiveness of the program by reauthorizing it in the Tax Reform Act of that year.

Today however, the administration and members of the Senate Finance Committee are undermining the effectiveness of Operation Bootstrap in two ways. First, the administration has indicated that it is interested in changing the IRS rules which govern the tax incentives. The uncertainty as to what the administration will do is causing many firms to withhold new investment or to defer existing commitments to build or expand.

Second, and potentially even more devastating to the development of the Puerto Rican economy, is the recent suggestion from the Senate Finance Committee to lower the Federal deficit by eliminating the special tax credits for corporations doing business in U.S. possessions.

I would like to emphasize that this should not be a Democratic or Republican issue or for that matter, a liberal or conservative issue. Consider the remarks of such diverse newspapers as the Wall Street Journal and the New York Times. The Journal writes that the past successes of Operation Bootstrap have been "nothing short of spectacular" and that the uncertainty over the future of the section 936 program and by cutbacks in Federal programs has sparked an investment slump on the "troubled island".

The New York Times has also indicated its support for the program by urging the President to "lean on the IRS to see that the stricken island gets a better tax break."

Undersecretary of the Treasury Norman Ture made another important point according to the Wall Street Journal: "Puerto Rico is our mainstay in the Caribbean; we certainly don't want to injure them."

Eliminating Operation Bootstrap while also eliminating many important social programs, will undermine the stability of the Puerto Rican economy.

I urge my colleagues to join me in opposing any change to Operation Bootstrap. The few dollars we may save by closing down the program will be far outweighed by the dollars the Government will need to support the mass unemployment that will occur as a result of repealing Operation Bootstrap.●

VOTING RIGHTS ARE NOT QUOTAS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. EDWARDS of California. Mr. Speaker, an editorial in the March 19, New York Times, points out that the White House and Justice Department are stepping up their opposition to the House passed extension of the Voting Rights Act by "playing on fears of racial quotas". This is a nonsense argument, and the editorial urges the Senate Judiciary Subcommittee in charge of the bill to "resist such ill-founded pleas for weakening amendments".

The editorial is printed in full below:

N.Y. TIMES, MARCH 19, 1982

VOTING RIGHTS ARE NOT QUOTAS

The Reagan Administration is stepping up its opposition to a strengthened Voting Rights Act by playing on fears of racial quotas. Attorney General Smith told the United Jewish Appeal recently that if civil rights forces have their way, local governments will be forced to "mirror the racial or language makeup" of their constituencies.

This unworthy argument does not impress the Senate, where the voting bill continues to attract new sponsors. It is nonetheless discouraging because it portrays the Administration as needlessly hostile to valuable legislation.

No oppressive regime of judicially imposed quotas will spring forth if the Senate passes the voting rights extension that the House approved last fall, 389 to 24. Indeed, the bill specifically prohibits the use of only racial proportions to find a voting rights violation.

In amending Section 2 of the 1965 act, the House sought to put the law back where it was before 1980, when a deeply divided Supreme Court made discrimination harder to prove. The Court indicated that challengers to election statutes and practices in place before 1965 must prove an intent to discriminate. That is extremely difficult; the House said the legal burden was heavier than necessary.

Take Mobile, Ala., where the Court said proof of discriminatory effect was not enough. That city's black population is more than one-third of the total. But to the extent that blacks vote a group interest, they find it extremely difficult to gain influence—partly because the city's three commissioners are all chosen at large. Under the House bill such facts, though not alone decisive, could at least be part of a discrimination case.

As Senate hearings have made clear, the law could be invoked only with additional proof that the system operated to deny minorities political power. And the proper remedy would be an order requiring elections from properly apportioned districts—not districts that would be sure to elect blacks in proportion to population but only districts that do not strangle a cohesive minority's bid for influence.

From 1965 to 1980, when the law favored civil rights lawyers, no judgment of discrimination was entered without substantial evidence that minorities were systematically excluded from politics. In no case was a quota imposed.

By talking so anxiously about quotas at this point, the Administration unnecessarily inflames the debate over voting rights renewal. Given all the dismal signals to minorities from the White House and Justice Department, that is discouraging indeed. The Senate Judiciary subcommittee, which takes up the bill soon, should resist such ill-founded pleas for weakening amendments.

THE 1981-82 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, NEBRASKA WINNER

HON. VIRGINIA SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mrs. SMITH of Nebraska. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct a Voice of Democracy contest. This year more than 250,000 secondary school students participated in the contest competing for the five national scholarships which are awarded as top prizes. This year's winner, Mr. Jeffery K. Talbott, of Kimball, Nebr., wrote the following exceptional speech.

The speech follows:

THE 1981-82 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, NEBRASKA WINNER

Miraculous is the only word I can associate with the essence upon which America was built. For indeed it was miraculous that our founding fathers chose to sail to America in search of religious freedom not knowing what pitfalls they would encounter, only knowing that they loved life too much to want to succumb to the dictates of others. And so our first builders arrived in a new land, and they began plans for what was to become, several centuries later, one of the greatest of all nations in the world.

That first century was a real struggle for existence, and when life began to become unbearable, a Revolutionary War was fought and love for freedom once again won out over aggression. The states became united through a mutual bond of love of country. Statesmen and farmers alike gathered in Philadelphia to pen a Constitution which is still today being proven the fairest type of government of any nation existing.

America had become more than just a framework of existence. It now had a foundation—a Constitution whose Preamble emphasized liberty and justice for all.

The challenge of expansion, building a bigger America was at hand. And so the Westward Movement, the interruptions of fighting wars to uphold freedom, the excitement of a continuous array of new and better ways to progress all became realities because of the type of love that somehow seemed to survive all fates—

LOVE OF COUNTRY

Truly miraculous, I keep thinking, and here I am today, a citizen of perhaps the most progressive country in the world, but I am only an apprentice to today's builders. But I am going to be a part of the continuation of building America together. I am almost ready for college, this experience will prepare me to move from apprenticeship to builder—hopefully a master builder—for I want to prepare myself to be a truly great American. I am excited about the future years of America, and I am determined to be a part of that continuous plan which began so many years ago.

Each person works for his own personal goal, and, for the most part, each goal is a brick in the wall called United States of America. For what is America, but a web of intertwined hopes and dreams, foresights and hindsights, failures and successes? In falling, the child wishes to walk all the more—and in each little failure, the foundation is formed on which a new hope, a new dream for tomorrow can be built.

People, each aiming for their own stars, are working together to bring about the success that is America. Each drop of sweat is an ounce of love, each dose of courage is a strand of hope—hope for tomorrow, and for all the tomorrows yet to come.

Yes, the future is exciting planning and always working for peace, exploring in the areas of science, electronics, space, experimenting in science and medicine and involving myself in the affairs of my country. Is it any wonder that excitement builds as my generation becomes challenged to prepare to become master builders of our time?

There is a star shining on the horizon—that star is the personification of our one dream. What is that dream? That dream is that which is borne in the heart of every American—it is the dream of peace, and a dream of happiness, and a dream of freedom. What are we all? We are nothing without our dreams, and we are all a conglomeration of dreams, with the fortitude to work for those dreams. Working for those dreams is a goal we must all pursue. We must join our hearts together in a cause of love—we must bring about enthusiastically the optimistic spirit of America. We must tear down the barrier of pessimism that has been growing. Together, we become one voice—one candle that shines light into the darkness, and that light, is the light of America! That light is in each one of us—that light is the glowing spirit of America that we each hold.

When Oliver Wendell Holmes wrote the Chambered Nautilus, he was comparing man's growth to that of the shell-fish. I visualize my generation comparing its part in the building of America together by the closing stanza of his poem and I quote—

Build thee more stately mansion, O my soul,
As the swift season roll!
Leave the low-vaulted past!
Let each new temple, nobler than the last,
Shut thee from heaven with a dome more vast,
Till thou at length art free,
Leaving thine outgrown shell by life's unresting sea!

Truly, now is the time for this generation to begin working with each other for this ever-existing America. Step by step, we are all Building America Together.●

AN ERROR ON SALVADOR

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. OTTINGER. Mr. Speaker, I am including in today's RECORD an excellent article by Mr. Robert A. Manning and Mr. William M. LeoGrande, which recently appeared in the New York Times, detailing the administration's shortsighted policies toward El Salvador.

As this article points out, the administration's policy of increasing U.S. military involvement in El Salvador is thwarting President Reagan's stated goal of halting Soviet expansionism and bringing stability to Central America. Our military commitment in El Salvador has deepened the war there, and has created opportunities for the Soviet Union to become involved in the region.

A sensible policy aimed at restoring strength and stability to Central America would stress a negotiated settlement to the conflict, as recently enunciated by Mexico's President Lopez Portillo. As Mr. Manning and Mr. LeoGrande point out in their article:

Successful negotiations would not only end the war in El Salvador, but would reduce tensions throughout the region, remove the main obstacle to better relations between the United States and Nicaragua, allow Honduras to continue its transition to democracy, and increase Guatemala's chances of avoiding a full scale war.

I commend this important article to the attention of my colleagues:

[From the New York Times, Mar. 7, 1982]

AN ERROR ON SALVADOR

(By Robert A. Manning and William M. LeoGrande)

WASHINGTON.—The Administration's policy increasing the United States' military involvement in El Salvador is producing an outcome that is exactly the opposite of the one intended.

Washington's efforts to shore up the junta with increasing amounts of military aid has only deepened the war, and the Salvadoran military's brutality has become the guerrillas' best recruiter. According to United States intelligence estimates, for every civilian that the Salvadoran Army kills, at least 25 guerrilla sympathizers spring up.

As the military situation deteriorates, the Reagan Administration's options narrow. The guerrillas have refused to participate in the March 28 election, designed and administered by their opponents, for a constituent assembly to write a constitution and select an interim president. This election, which United States officials concede will not stop the war, might not produce a center-right Christian Democratic government, but rather one of right-wing extremists.

If current efforts fail to break the existing stalemate, Washington will be faced with only two options: allowing a victory for the leftist guerrillas or sending in ground combat troops on a large scale. Either outcome would profoundly destabilize Central America.

A guerrilla victory, which might radicalize El Salvador, would further polarize Guatemala, strengthen the band of antidemocratic factions in the Honduran armed forces, and probably demolish relations between the United States and Nicaragua. United States intervention, on the other hand, could spread the war throughout the region with no guarantee of victory. Landing 50,000 Marines in Central America would be far easier than getting them home and would have cataclysmic domestic political consequences. Moreover, a wider war would only serve to create opportunities for greater involvement by the Soviet Union and Cuba—the very thing the Administration is determined to prevent.

By portraying the Salvadoran conflict as a superpower confrontation, President Reagan is painting himself into an ideological corner where nothing short of victory will vindicate Washington's investment of power and prestige. But the investment is still relatively small. Before raising the stakes any further, the Administration ought to reconsider a third option backed by a growing chorus in Congress and by key allies such as President José Lopez Portillo of Mexico: negotiations.

The essential conditions for beginning negotiations already exist: a bloody stalemate, a broad international consensus in favor of talks, and the dependency of both the Salvadoran Government and the opposition on external powers that can use their leverage to bring both sides to the bargaining table. Prompted by Mexico and Europe's Social Democratic parties, the opposition already has agreed to begin negotiations without conditions. Christian Democrats in the Government are also prepared to negotiate but have been blocked from doing so by the armed forces. Only Washington can force the military to the table.

For negotiations to succeed, both sides must be certain that they will not suffer militarily. Thus, the first step must be an in-place ceasefire and an end to all foreign military aid. The next step is to draw up a constitution and procedures for conducting free and fair elections. The constitution could guarantee a democratic outcome by committing all sides to a set of constitutional principles. To guarantee its honesty, the electoral process would have to be supervised by a nonpartisan international body such as the Organization of American States or a combination of countries acceptable to both sides. An international peacekeeping force would be necessary to monitor the ceasefire and oversee the transition process.

The most difficult task would be integrating the opposing armies. But reformist army officers, who, led by the now-exiled Col. Adolfo Majano, ousted the dictator Gen. Carlos Humberto Romero in 1979, and pragmatic guerrilla leaders could form the core of a unified force, perhaps under Colonel Majano's leadership.

Under very similar conditions, a comparable formula—including the merger of opposing armies—succeeded in ending the war in Zimbabwe. And the process was overseen by a British Government no less conservative than Mr. Reagan's and equally opposed to nationalist guerrillas similarly dubbed "Marxist terrorists."

Successful negotiations would not only end the war in El Salvador but would reduce tensions throughout the region, remove the main obstacle to better relations between the United States and Nicaragua, allow Honduras to continue its transition to democracy, and increase Guatemala's chances of avoiding a full-scale civil war. If the guerrillas are as unpopular as the Reagan Administration claims, Washington has nothing to fear from such a negotiated settlement. Without negotiations, the war will go on, and a stable, democratic El Salvador will be the least likely outcome.●

A SELDOM HEARD ENCOURAGING WORD

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. JEFFRIES. Mr. Speaker, I want to share with you and my other colleagues here in the House an editorial which was aired recently by Jerry Holley, vice president of broadcasting at WIBW-TV and radio, a respected Midwest broadcaster located in Topeka.

The message conveyed is one not often heard here in the Halls of Congress. It conveys the novel thought that perhaps the economy is not in as bad a shape as many leaders, and those who report their actions, would have us believe. In fact, the economic news might even be good.

Too often in Washington we develop a tunnel vision of what is happening in America. We talk to ourselves too much. Perhaps we should more often be listening to the folks out in the rest of the country—folks in Topeka and other communities, who, from afar, have a little more balanced view of the state of the Nation.

Mr. Speaker, in order to dispel some of the needless gloom to which we are subjected, I would like to share this WIBW editorial with my colleagues here in the Nation's Capital, where, to paraphrase our Kansas State song, "there seldom is heard an encouraging word, and the airwaves are clouded all day."

The editorial follows:

WIBW EDITORIAL

To hear some people talk, the nation today is in dire straits economically, and true, things are not what they should be. But perhaps they are not as bad as some people would have us believe.

We are a little bit upset with the major network news departments and the major metropolitan newspapers. All they seem to be able to report are negative stories. All we see is the guy who has lived off government welfare for 30 years and has had his check cut back and is complaining. Or the student who gets a government loan to go to college and uses the money to buy a new car and is screaming that the administration is taking a long look at student loans and cutting some of them back. We would just like to see one interview with a student who is washing dishes or cleaning out barns to work his way through college. Or a worker who gets up every morning, works hard all day and even though times are tough, doesn't complain.

Today some 99 million Americans are working. Practically the most in our history. Unemployment is still below the post war peak set in 1975. We have a single digit inflation rate for the first time in years which went as low as 4.4 percent last October. The growth in federal spending has been trimmed from the over 14 percent average of the past three years to 7.5 percent now. The stock market, although shaky, is holding its own and some say a surge is near. The prime interest rate which was 21.5 percent in January of last year is down to 16.5 percent and was down a full point to 15.5 percent at the end of last year. Some experts say it will drop more this spring. Personal savings of Americans rose to 5.9 percent last October and people are whittling down their installment debt. We think the prevailing negative mood appears to be one that is politically inspired and maybe there is a psychological element. Grumbling just seems to bring people closer together.

The Christian Science Monitor in a March 8th editorial said, "While the U.S. Economy is in a bad way at the moment, the nation needs least of all a feeling of panic which could sway the government from holding to steady, measured actions aimed at putting the economy on a sure footing. What the nation does need is patience and a cool head."●

PHILIP AND MURIEL BERMAN: DISTINGUISHED CITIZENS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. RITTER. Mr. Speaker, for several decades, Philip and Muriel Berman of Allentown, Pa., have given unselfishly of themselves to improve the quality of life in the Lehigh Valley, the State and the Nation.

These two dynamic individuals seek no reward. They want only to help their fellow man. They do so quietly. They let their deeds speak for themselves as they leave their indelible imprints in the fields of business, the arts, finance, education, community revitalization. The list could go on and on.

Phil and Muriel will be honored next Wednesday when more than 700 people associated with the Lehigh "Friends of Scouting" of the Minsi Trails Council, Boy Scouts, will present them with the organization's Distinguished Citizens Award.

I consider Phil and Muriel more than just friends. I think we could all learn from their shining examples of service. People all across this Nation could look to them in helping to make this Nation and the world a better place in which to live.

Let me share with you some of the highlights of their careers.

Phil, a flower ever present in his lapel, served with the Marine Corps in World War II. He is the chairman of the board of Hess' Department Stores, Inc., of Allentown, a 25-store chain which today ranks among the Nation's fastest growing retail companies.

His service to the community knows no bounds. As chairman of the Allentown Redevelopment Authority and the Citizens for Lehigh County Progress, he has been a strong voice for growth and vitality in his community. He was the prime force in bringing a Hilton hotel and conference center to downtown Allentown.

He is the first American underwriting member of Lloyd's of London, president of Fleetways, Inc., and a director of Crown American Corp.

Phil, an intense proponent of education television, was a founding member and chairman of the Pennsylvania Public Television and Network Commission and had served for several years as president of the Lehigh Valley's Educational TV channel 39. That broad concern for education also led him to serve as deputy chairman on the board of Hebrew University.

He has long held a keen interest in Scouting, having been a recipient of the Silver Beaver Award and serving on the executive board of the Minsi Trails Boy Scout Council and establishing a campership fund. He has been a key ingredient for Scouting's success in the council.

Phil's international contributions and influences are equally impressive. An international traveler, he is a member of the Explorer Club in New York and has participated in good will missions for the United States, the United Nations, and numerous organizations. He is a board member and member of the foreign affairs committee of the American Jewish Committee.

Muriel, like her husband, also wears many hats. A doctor of optometry, she is vice president of Hess' Department Stores, Inc., a director of Hess' Fine Art Gallery, and underwriting member of Lloyd's of London and president of the Jewish Publication Society.

The mother of three grown children, all successful in their own fields, she continues a keen interest in education, having served as board chairman and a trustee of Lehigh County Community College, a trustee of Kutztown State College and a member of the advisory board of Cedar Crest College.

On a broader scale, she has been an active supporter of the United Nations. She has served as a Nongovernmental Organizations representative to the U.S. Mission of United Nations for Hadassah and has attended UNICEF executive board meetings around the world.

Muriel stands as a giant in helping to enrich cultural and artistic growth in the Lehigh Valley. She has taken a prominent leading role in such events as the Hadassah-Israel Art Show; the Episcopal Diocese Bicentennial Art Committee; served on the Art Selection Committee at Muhlenberg College; and actively supports the Allentown Symphony Orchestra.

Phil and Muriel are internationally known art collectors. More than 10 art exhibitions from their personal collection are in circulation among Eastern colleges and universities. Other works have been donated or are on loan to many local public buildings and parks. They have actively participated in the art in U.S. embassies program which places art in 100 embassies around the world.

Last year, they contributed $500,000 to the Allentown Hospital for establishment of sophisticated cancer treatment facilities and equipment. The radiation therapy center was named in their honor.

Many other deeds and contributions are performed behind the scenes. Phil and Muriel want only to offer their friendship and their generosity to help their fellow man. They have succeeded. They deserve our deepest gratitude. We can all look on their accomplishments as an inspiration on how we can contribute to making this world of ours a better world in which to live and grow.●

VOTING RECORD

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. COUGHLIN. Mr. Speaker, on March 18, 1982, I was in Pennsylvania and missed several rollcall votes that day. Had I not been in Pennsylvania, I would have voted as follows:

Rollcall vote No. 23: Approval of Journal, "no."

Rollcall vote No. 24: H.R. 3620, Hoboken Pier properties, "yes."

Rollcall vote No. 25: H.R. 4468, Secret Service zones of protection, "yes."

Rollcall vote No. 26: H.R. 4688, Military Personnel and Civilian Employment Claims Act amendments, "yes."

Rollcall vote No. 27: H.R. 3345, patent and trademark laws and civil rights of institutionalized persons, "yes."

Rollcall vote No. 28: H.R. 2329, Cherokee Nation of Oklahoma, "no."

Rollcall vote No. 29: House Concurrent Resolution 290, federally insured deposits, "yes."●

THE AMERICAN SPIRIT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. DORNAN of California. Mr. Speaker, I would like to bring to my colleagues' attention that beginning Tuesday, March 23, 1982, the American Spirit, a 200-pound eagle hand carved by Sculptor Robert Yoakum, will be on display in the Russell rotunda. The eagle is part of the Red Ribbon-Red Badge of Courage Campaign, a public awareness program to draw attention to the fact that American servicemen are still missing in Vietnam, Laos, Cambodia, and Korea.

The 200-pound eagle is covered with 23-carat gold and has an 11-foot wingspan. It is an accurate representation of the American bald eagle in an airborne attack position and was created by Yoakum as "a tribute to our country's resurgent patriotism."

It is important to note that George Washington originated the bald eagle as the Great Seal of America 200 years ago. He first used the seal in a letter to the British requesting the successful return of the American men held captive from the Revolutionary War. March 23-30, the week that has been selected for the dedication of the eagle to the POW/MIA's is significant in that it was this week 9 years ago that the first POW's were returned in Operation Homecoming.

This morning, March 24, 1982, the American Spirit was dedicated to the prisoners and those who are still missing in Southeast Asia in a brief ceremony in the Russell Building rotunda.

My distinguished colleagues in this Nation's upper Chamber, Senator THURMOND and Senator HAYAKAWA both impressed upon those present that our Nation must undertake greater initiatives to seek an accounting for our brave men in Indochina. My distinguished colleague on the house Task Force on American Prisoners and Missing in Southeast Asia, Congressman BEN GILMAN, has devoted countless hours of his own time in an effort to bring our men home.

BEN, who has been active on this issue for over 10 years also stresses our obligation to the families of our courageous heroes, and to the men themselves who have sacrificed their lives for the freedom to be Americans.

I was exceedingly heartened that Lt. Col. John Fer, former POW and now adviser on POW/MIA affairs at the Department of Defense was present, as well as Mr. Morton Blackwell, Special Assistant to the President for Public Liaison representing the White House, and Col. Earl P. Hopper, Director of the National League of Families. These individuals and many others are responsible for their undying devotion to increasing public awareness on the POW/MIA issue.

I am encouraged by this administration's involvement in this area. I know that not a week goes by without the President asking his top aides what new developments have occurred regarding our men. I have met with Deputy Assistant Secretary of Defense for Asian and Pacific Affairs, Richard L. Armitage, regarding his trip to Hanoi in February, and I am pleased that his delegation was successful in impressing upon the Vietnamese that this humanitarian issue is indeed of concern to the American people and that we will continue to press for an honorable resolution to this tragic page in the darkest chapter of American history.

I would also like to alert all of you to two resolutions I have introduced on behalf of our American prisoners and those who are still missing as a result of our conflict in Southeast Asia. House Joint Resolution 385, which designates July 9, 1982, as National POW/MIA Recognition Day, has over 240 cosponsors and is before the House Post Office and Civil Service Committee pending approval to be brought before the House for a vote. My other measure, House Concurrent Resolution 275, calls on the executive branch of the U.S. Government to place the highest priority on achieving an honorable resolution by immediately taking all necessary action to obtain the release of any Americans who may be held captive in Indochina, and to obtain the fullest possible accounting for those whose fate remains unknown, including the repatriation of the remains of those who have died.

It is my hope that 1982 will mark a year of more success in obtaining an accurate accounting of any American POW/MIA's from the Vietnam war. The display of the American spirit will greatly enhance public awareness of this humanitarian tragedy. Please encourage your staff and your constituents to view the eagle which will be on display through March 30, 1982.●

REGARDING OUR FIRST LADY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an article from the March 8, 1982, issue of Time magazine, regarding our First Lady, Nancy Reagan. It is refreshingly positive.

The text is as follows:

FROM BRICKBATS TO BOUQUETS

They are like butterflies, iron or lace, caught in the political turbulence created by their husbands. They can be flashes of beauty and grace in the dark crevices of society or symbols of comfort and quiet hope in times of national despair. First Ladies have an impossible job, and each has a different challenge.

Nancy Reagan was as much of a shock as her husband. Her principal duty as she saw it was to be wife and home manager for the President, something she described as "nesting," which meant "trying to make the White House as attractive and inviting as I can." It was, to her mind, a worthy and rewarding goal.

She collided with a city that for 50 years had based its culture on spending more and more of the taxpayers' money. Her husband came to slow the trend. Nancy Reagan was judged harshly by some lingering partisans of the counterculture: the devoted wife was somehow suspect, the pursuit of everyday excellence often judged a waste of energy, and mediocrity celebrated in dress, manners and mind. Lace butterflies can get crushed. She almost did.

"I'm starting to enjoy it more now," she said the other day in her sitting room, lustrous from the deft touch of her decorator and the afternoon sun. That very act—White House redecoration—was one of controversy. The Franklin Roosevelts continued their aristocratic life of yachts and grand homes. The John Kennedys poured huge sums into clothes and antiques. Neither suffered because Government was expanding to help the underprivileged. Now each dollar the Reagans spend is publicly juxtaposed against a budget cut. Butterflies can get bent out of shape in that house of mirrors.

Nancy Reagan admits now that the attempt on her husband's life hit her harder and the shock stayed longer than she realized. "You are never the same," she says. Then there were four specific controversies that further clouded her dreams: the millionaire friends, the White House refurbishing, the new china, the loaned designer dresses.

Given the normal dynamics of public opinion, Mrs. Reagan by this time should be locked in her closet. Instead, she is headed out into the world on her Foster Grandparent program and her promotion of drug rehabilitation. Further, something has happened in the press. The stories have softened. There has been a backlash in favor of the resolute First Lady with the Adolfo pattern. After writing a particularly harsh piece, a Washington Post columnist was deluged with mail expressing outrage—at the columnist, not Mrs. Reagan. George Gallup polled Americans and found her the woman they most admired.

Digging in White House mail suggests that the Nancy problems may always have been more media figment than real. Of the 60,000 letters addressed to Mrs. Reagan in the year, 90 percent are supportive or inquisitive, not negative. The great dress loan episode, believed by writers to be the most scandalous, drew 50 letters, barely a public nod. Decorating the White House with money donated by millionaires was supported 10 to 1. The new dishes were approved 3 to 1. With those results in, it is not much fun for the press to be against nesting.

"I haven't changed," says Mrs. Reagan. "I'm doing what I did in California, I'll continue. I want the White House to be warm and elegant. I want it to be right. I want to show what is best in America."

Among her reasons is the feeling left by a lady from Bangladesh, a desperate corner of world poverty. The guest stood near tears in the glow of a White House dinner, a magic moment in which warmth and beauty bound her to this land. She was inspired.

That, in the end, may be the importance of being Nancy.●

IDAHO'S BUSINESS GETS AMERICA IN SHAPE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, an amazing personal success story, with its roots in Idaho and over 1,000 branches throughout the Nation, is getting an overstuffed America into shape inch by inch and pound by pound. Following is a most interesting account found in the November 23, 1981, Wall Street Journal describing a business that gains by the loss of its customers—the loss of weight, that is.

[From the Wall Street Journal]

COUPLE'S VENTURE IN DIET FIELD TURNS INTO A BIG SUCCESS STORY

(By Erik Larson)

It's the sort of story that would be business owners dream about. For nearly the first 20 years of her marriage, Sybil Ferguson was 50 pounds or more overweight. In the late 1960s, desperation drove her to devise her own diet based on vitamins, basic foods and exercise. It worked for her and her friends and became a tiny business.

From that grew Diet Center Inc., a national network of 1,322 centers that sold about $140 million in weight-reducing services and products in the fiscal year ended Sept. 30. Diet Center itself earned $3.4 million on about $19 million in revenue. Now Mrs. Ferguson's Cadillac and her husband's sit in reserved spaces at the company's headquarters in Rexburg, Idaho; a nearby hangar houses a company airplane and a small helicopter Mr. Ferguson is learning to fly.

Diet Center's success is largely the result of good timing and its owner's good business sense. Mrs. Ferguson's diet program came along when fitness was becoming as American fetish and any new way to lose weight was almost sure to attract interest. And Mrs. Ferguson's husband, Roger, president of the company, was an experienced franchise manager with financial acumen. "I come up with the ideas, and he tells me whether we can afford them," says Mrs. Ferguson, who shares control of the company with her husband but holds the titles of secretary and treasurer.

The diet idea caught on quickly. Mrs. Ferguson's doctor, Lester P. Petersen, soon began referring overweight patients to her. "Nothing medical could give the results," he says. Moreover, Mrs. Ferguson provided daily diet counseling, a major feature of her current program.

Customers became enthusiastic disciples; one wanted to set up a branch of the business in nearby Idaho Falls. To Mr. Ferguson, these were favorable signs: "We just sat down and said there has to be a business in this."

The Fergusons decided on a franchise system after ruling out direct management of diet centers as being to costly and complicated for them to handle at first. As a regional manager for a company which sold an agricultural soil conditioner, and a former owner of one of the company's franchises, Mr. Ferguson had learned how it made money from continuing license fees based on the amount of product sold.

Soon after incorporating in January 1972, the Fergusons sold their first franchise for $2,500. Half the sum provided "go money" for their company, says Mr. Ferguson. The following June he quit his $30,000-a-year job. The Fergusons planned to devote a year to Diet Center, calculating that they and their five children (who now range in age from 17 to 28) could live off savings and income from the college students they boarded in their spacious basement. "We've always been willing to gamble on things, but with each other's permission," Mr. Ferguson says. By 1974, they were earning $800 a month from 25 centers.

The Fergusons decided to let the business simmer for most of 1974 to determine how stable the diet field was. They discovered, for example, that it has seasonal cycles, Christmas lulls and spring surges. Still, it looked worthwhile, and late that year, Mr. Ferguson made $400,000 from a series of fortuitous land transactions. That gave them "in-case money"—a backup should the family fall on hard times.

The next step was to sell franchises. A salesman agreed to peddle them for $6,500 each, including his commission of $2,500. He sold one in a year. Potential buyers, he told the Fergusons, saw the deal as too good to be true.

In early 1976, Diet Center began offering a $900 bonus to existing franchise holders for any additional buyers they found. A flood that wiped out the company's headquarters the same year may also have helped further Diet Center's growth. The Fergusons chose to rebuild in Rexburg, where many townspeople had cash to invest from federal reimbursement for flood damages. Prompted by stories about successful Diet Center franchises, many put their money into the company.

"The fever started," says James Meyers, a Rexburg tax accountant who figures he and his wife will earn more than $100,000 this year from their one-third interest in a company holding 30 franchises in New York State—and that is only a portion of his total interest in Diet Center. Merrill W. Rudd, a Rexburg accountant who audited Diet Center's books until last year, warns, however, that not all franchise buyers have been so fortunate. "There's a lot of people who have worked at it and failed," he says.

There are two routes the buyer of a franchise can take. He can manage the diet center in his territory by himself, paying the 95-cents-per-client-per-day license fee to Diet Center and charging the going rate for the diet program—about $200 per dieter. Before opening up shop and offering diet counseling, however, the franchise holder, if he is to counsel clients himself, must have lost weight on the program.

A francise buyer also can sell his operating rights to a subfranchisee. He retains ownership of the territory and continues paying the 95-cent fee per client to Diet Center. But he now acts as a supplier, selling diet supplement and other products to his subfranchisee. He makes less money than he would by operating the center himself, but he also has far fewer responsibilities.

Most franchise buyers have chosen the second approach, but now Diet Center is following the lead of some big companies that have found it is often more profitable to own a successful franchise directly. Last Monday, Diet Center opened five corporate-owned centers in Indianapolis and expects to have a total of 100 such centers operating by the end of 1982.●

YOU'VE GOT TO BE THERE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. DUNCAN. Mr. Speaker, I know there is interest here in the 1982 World's Fair which will be held in Knoxville, Tenn. I know because I have been asked many questions about the fair by my colleagues, members of their staffs, policemen, doorkeepers, and pages. I am happy to report that the finishing touches are being put on the fair site and all of east Tennessee is waiting to welcome you.

Because of the interest in the World's Fair, I wanted to draw the attention of my colleagues to the two articles which appeared in the March 21, Washington Post. These articles contain information about the entertainment and lodging which will be available to visitors during the fair. After reading these stories, I think you will agree with the advertisements for the

1982 World's Fair and realize, "You've got to be there."

IT'S FAIR TO SAY . . .

(By Jimmy Dumbell)

KNOXVILLE, TENN.—You stand toenail deep in the mud with the rain pelting down and the acrid aroma of diesel exhaust stinging the nostrils, you scan the building skeletons hereabouts and think, who are they kidding, saying the 1982 World's Fair will open here in two months?

Then you shut out all of the above and consider the hard facts that fair officials have laid out and you figure, yep, it probably will open May 1.

It does take imagination, though.

The 1982 fair, a $100 million extravaganza, won't be on a scale with, say, the World's Fair held in New York. But it is a genuine World's Fair, sanctioned by the Bureau of International Exposition in Paris, the organization that says you may or may not call your fair a World's.

Already, fair officials say, they've sold 104,739 season tickets and 993,948 regular tickets. They expect 11 million to attend. The fair is to open May 1 and run through Oct. 31.

Now, the site is a 72-acre muddy gully running alongside the Tennessee River in downtown Knoxville. Adjacent is the University of Tennessee with its 91,249-seat stadium that will be used for ancillary entertainment events. Many downtown hotels, restaurants and shops are within easy walking distance.

The scope of the fair is enormous.

"There's no way you could see it all in two days," said Bob Shelley, the fair's director of communications. "To see everything just once you'd have to be here from 10 a.m. to 10 p.m. for a week and a half. Plus eating time. Some of the pavilion presentations alone take 45 minutes. And then some things will change through the summer, so you'd have to come back for them."

The list of 21 nations and 45 companies exhibiting is impressive, and growing every week, Shelley said.

So far, the nations are Australia, Canada, West Germany, France, Italy, Japan, South Korea, Mexico, Saudi Arabia, Great Britain, Hungary, the People's Republic of China and the 10-nation European Community. Some will bring some pretty nifty stuff, not at all what you'd find at the average county or state fair.

China, for instance, will tear down a few feet of its Great Wall, transport and reassemble it right here. China will also bring a 20-foot-long, solar-powered dragon boat.

Australia is sending windmills (because the fair's theme is "Energy Turns the World") and some eucalyptus and fern trees.

From Saudi Arabia will come not oil, as you would expect, but a solar model of some sort, plus an animated diorama of the Grand Mosque.

Hungary will feature its Rubik's Cube; Panama, its canal.

Visitors to the Japanese pavilion will be escorted by Japanese robots. They will explain things as they go, and even be programmed to answer questions.

The U.S. pavilion, a unique structure resembling a gigantic drive-in screen, is six stories tall and the largest of all the international edifices. It will be solar powered and feature video terminals with talk-back computers, among other things.

Among the 45 corporate exhibitors will be Sun Oil, which, like the Saudi Arabians, will explain the sun's role in energy development. Another, Anheuser-Busch, will bring its famous team of Clydesdale horses and operate a beer garden, serving you know what brand of beer.

It's hard to make the connection between some of the exhibitors and their exhibits.

Federal Express, for instance, is putting $2 million into a laser sky show, among other things. And Stokely-Van Camp, a canning company, will sponsor two exhibits, a folk life festival and a sports hall of fame.

Judging from the advance billing, scientific exhibits alone should be enough to entertain and instruct the interested layman for the good part of the summer. Electronics of all sorts, the latest computers and the hotest things in solar energy will be all over the 72-acre site.

And there will be entertainment.

Shelley said the entertainment list is incomplete because new acts and performers are being booked every week. It's so long now it's overwhelming. Among many others:

Chet Atkins, the Ink Spots, Peter Nero, Rudolf Nureyev with the Boston Ballet, Roberta Peters, Maxene Andrews, the Warsaw Philharmonic, the Kingston Trio, the Four Freshmen, Victor Borge, the Lipizzan Stallions the Grand Kubuki Theatre of Japan, the London Symphony, Carlos Montoya, the Royal Tahitian Dance Company and the Dance Theatre of Harlem.

And Les Ballet Jazz De Montreal, PGA Cup Matches, the Houston Ballet, Johnny Cash and the Scottish National Orchestra.

It wouldn't be a fair without amusements and rides. Among them will be a 17-story ferris wheel billed as the largest in the country. And a pirate ship, a log flume, roller coaster, video games—enough to thrill even the most jaded fun-seekers. Not to mention wheelchair and baby stroller rental, strolling musicians, mimes, acrobats and assorted other entertainers and an observation platform in the 266-foot-high Sunsphere, a big, elevated gold ball that will be the fair's landmark, hallmark, trademark or whatever.

Walking through all that may make you hungry, which obviously occurred to planners, for there will be 52 restaurants. Fair fare will include fast-food outlets, places specializing in foreign cuisine and fancy, expensive restaurants serving repasts of several courses.

Not only Knoxville business people anticipate profiting from the fair. Operators of hotels, motels and tourist attractions as far away as Myrtle Beach, S.C., are counting on spillover fair traffic.

One thing, unfortunately, must concern most fairgoers—cost, which, depending on how you do it can be expensive or relatively cheap.

"There's no reason why anybody can't come," said publicist Shelley. "If you had to, you could hitchhike here, eat hamburgers and stay in a nearby college dorm for $10 a night. Anybody can afford it."

Maybe, but not everybody would be happy doing it that way.

One cost is fixed—admission to the fairgounds. It's $9.95 a day for adults, $9.25 for those over 55, and $8.25 for kids 4 to 11. Under 4, it's free, the best deal the fair offers. A two-day ticket is $15.95 for everyone. A season pass is $85 until May 1, when it climbs to $100.

Admission entitles you to everything except rides, meals, drinks, souvenirs, a ride up the Sunsphere and the superstar entertainent in the U-T stadium. That extra-charge entertainment is being offered by a separate company, not the fair. The variable, or controllable, costs—transportation, souvernirs, housing and meals—will largely determine the overall price of going to the fair.

You can figure that meals (and a lot of other things) will cost somewhat more in Knoxville this summer than they would if there were no World's Fair.

Whatever you do, Shelley urged, make your plans and reservations now.

"I'd say May and September are the best months to come, if you can come then. The weather would be cooler, the crowds not as big and the traffic not as bad. The flowers bloom in May and the leaves are ready to turn in the fall. October would be good, too."

Some visitors may want to see the fair when specific entertainers play the off-site stadium. Dates of their appearances can be obtained by writing to Neil Miller, World's Fair, Box 1982, Knoxville, Tenn. 37982.

There's one celebrity who won't be on the list because his trips are no longer announced in advance—President Reagan. He's due in May.

THE LOGIC OF FAIR LODGING

(By Jimmy Dumbell)

KNOXVILLE, TENN.—The single most expensive cost of a trip to the fair is apt to be lodging.

The fast-buck boys are in full bloom. Numerous apartment dwellers in Knoxville who rent by the month have recently received eviction notices. Others have been forced out by sudden and greatly escalated rental prices. It's likely their apartments will be rented to fairgoers on a daily basis at comparatively exorbitant prices.

Even the downtown YMCA is hiking rates. On April 11, its single-night room rates will jump from $10.50 to $19, an increase of more than 80 percent.

Several motels are already sold out for the run of the fair. The fair and various exhibitors booked hundreds of nearby accommodations for their own people and visiting firemen.

Fair spokesman Bob Shelley said fair and city officials asked motels and local merchants not to gouge. Some agreed.

"Hotel and motel rates in Knoxville during the fair will run from $54 to $126 a night," Shelley said. "In general, the farther out from town you go, the cheaper it will be." Those who stay in Knoxville motels can take a shuttle bus to and from the fair.

The range of accommodations is limited only by one's imagination and pocketbook. One off-beat solution would be to rent a Winnebago 10 miles away at $79 for two people per night. The recreational vehicles, parked several miles from the fair, will sleep four more at $6 apiece. The price includes shuttle bus service to the fair.

Even more imaginative, and probably more romantic, would be a houseboat. A craft that sleeps four costs $175 a night; one to sleep eight is $225.

The best way not to be gouged, said Dick Rogers, the fair's director of housing, is to book housing through the fair. "We've inspected all these rooms," Rogers said, "and approved the rates. Of course we can't guarantee them, but the great majority of operators here are on the up and up.

"By calling 615-971-1000," Rogers said, "we can tell you what's available where and at what price, and make your reservation." (The number is answered 8:30 a.m. to 9 p.m.

weekdays, 10 a.m. to 6 p.m. Saturday and Sunday.)

"We've got lots of rooms, lots," said Linda Wells, a reservationist at that number. "We have one- to four-bedroom apartments and condos from zero to 40 miles away. All are air conditioned, have bath, living room and kitchen. They start at $68 a night."

Hotel and motel rooms are offered by the service on a package basis of two nights, including fair tickets. They range from four blocks to 100 miles away and cost $56 per person up, double occupancy.

Callers can reserve a room by telephone and pay for it in advance with a credit card number. Refunds vary according to each facility's policy.●

SERIOUS DIPLOMACY ON NICARAGUA NEEDED

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. OTTINGER. Mr. Speaker, I am including in today's RECORD an important article by Mr. Kenneth E. Sharp, which recently appeared in the New York Times, urging the Reagan administration to stop its dangerous saber rattling and to pursue serious negotiations with Nicaragua. Mr. Sharpe is a professor of political science at Swathmore College.

The Reagan administration is clearly engaging in short-sighted policies toward Nicaragua which promote instability and thwart the President's stated goal of halting Communist expansion. The administration issues bellicose statements against Nicaragua, condones the military training of Nicaraguan exiles allied with former dictator Samoza on U.S. soil, a clear violation of the Neutrality Act, and loudly proclaims that it will sponsor clandestine operations by the CIA against the Sandanists. These incredibly illogical policies are forcing the Sandanists to side with Moscow.

Mr. Sharpe argues that it is not too late for some logical diplomacy. He noted:

> The Nicaraguans are eager to talk. Washington could open channels it has closed, assure the Nicaraguans of good will, and create conditions that would make their continued military spending irrational.

I commend this important article to the attention of my colleagues:

[From the New York Times, Mar. 17, 1982]

SERIOUS DIPLOMACY ON NICARAGUA NEEDED

(By Kenneth E. Sharpe)

SWARTHMORE, PA.—The Administration's public briefing provided little new data on Nicaragua's arms buildup and role in El Salvador. But the dramatic presentation of evidence did obscure possibilities for creative diplomacy with Managua. Secretary of State Alexander M. Haig Jr.'s reiteration Monday of proposals made last August cannot be taken seriously by Nicaragua because of Washington's reported plans for covert action.

Mr. Haig, in enumerating proposals aimed at settling United States differences with Nicaragua, virtually foreclosed the possibility that Managua would take our policy seriously because he insisted, as a main point, that the Nicaraguans "get out of El Salvador." They maintain that they are not in El Salvador.

Important questions remain to be asked. Should we be concerned about the military buildup in Nicaragua? Yes. Is the buildup a cause of concern to Nicaragua's neighbors? Yes. Should the Sandinists be concerned about their level of military spending? Yes. And, most importantly, can the United States, Nicaragua's neighbors, and the Sandinists moderate the buildup and also protect the national interest of each country? Yes. But our policy is the major obstacle to creating such an alternative.

Washington should be concerned for two reasons. First, our interest in promoting social justice and economic development in Nicaragua is not served by its use of already scarce resources for arms. Second, a military buildup might draw Managua closer to Moscow. Soviet equipment in the Nicaraguan Army's hands—as against Soviet military bases—is not a national-security threat for us. Indeed, countries we regularly woo in the Middle East get Soviet military aid. Still, it would be better if Nicaragua bought fewer arms and bought them elsewhere in the West.

Nicaragua's neighbors are legitimately concerned about the buildup. While defensively motivated, such military force in a historically volatile area could easily be interpreted as a threat to other Central American countries. Their reaction could spur an arms race that would harm economic development and risk spreading conflict throughout the region.

Nicaragua is also concerned about the buildup. It needs every penny to rebuild from the civil war and develop a strategy for growth and equitable distribution of wealth. Its austerity program keeps down wages not only to make capital accumulation by the state possible but to encourage the private sector, the principal force in the mixed economy, to invest. As in the United States, vast sums spent on arms drain resources from civilian investment and hurt crucial sectors of the population, often the poorest. A major obstacle to a successful, nonviolent, pluralistic social revolution is economically destructive military spending.

Are the Nicaraguans, then, acting irrationally by strengthening their military? No. The irony is that Washington has created conditions that make it rational for the Sandinists to engage in such spending—and to turn to Havana and Moscow for help.

Guided by an East-West preoccupation, the Administration views the Nicaraguans as Cuban and Soviet proxies and blames them for the conflict in El Salvador. While some arms may flow into El Salvador, there is no evidence that they are significant in sustaining the fundamentally internal struggle, and there is no public evidence that Managua is actively supporting or even condoning arms shipments. Yet the Administration has justified sanctions and threats on these shaky grounds. It has cut off economic aid. It permits the training of the late President Anastasio Somoza Debayle's National Guardsmen in Florida and California. President Reagan is reported to have approved clandestine operations by the Central Intelligence Agency against what the Administration says are Cuban arms supplies in Nicaragua, and has approved a plan to provide millions of dollars in covert financial aid to moderate political and economical forces in Nicaragua. In light of recent history—C.I.A.-backed invasions of Guatemala and Cuba by exiles—the Nicaraguans are rational in strengthening their military.

It is not too late for serious diplomacy. The Sandinists have offered joint border patrols with the Hondurans to ensure that no arms cross the border. President José López Portillo of Mexico offers to mediate negotiations between Managua and Washington aimed at disarming Nicaraguan exile bands in Honduras, closing training camps in the United States, limiting Nicaraguan purchases of weapons, and signing a nonaggression pact between Nicaragua, its neighbors, and the United States. The Nicaraguans are eager to talk. Washington could open channels it has closed, assure the Nicaraguans of good will, and create conditions that would make their continued military spending irrational.

The Administration could turn the "threat" into a self-fulfilling prophecy. Or Nicaragua could become, as Senator Claiborne Pell has argued, a mini-Yugoslavia: a friendly but nonaligned country, the perfect buffer to Soviet influence in Central America. This would serve the national interests of the United States, Nicaragua, and its neighbors. How Washington uses its power will be decisive.●

AN EMERGENCY HOMEOWNERSHIP ASSISTANCE PLAN (EHAP)

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. SWIFT. Mr. Speaker, I am pleased today to be able to introduce with Congressman DICKS a bill to stimulate the production and sale of family housing. This 1-year emergency homeownership assistance plan will provide immediate relief to the homebuilding industry and will make family housing accessible to prospective homebuyers.

As we know, the time for supporting the homebuilding industry is now; the time for providing families with affordable housing is now. With housing starts running at over a million units a year short of potential demand, many homebuilders are going to the wall, and their employees are going to other jobs or on unemployment. The breakup of these efficient, effective homebuilding teams means that the skills will not be available, the tools will not be in place to meet our Nation's housing requirements when the housing market finally rebounds. If we cannot keep our housing teams together now, the time will inevitably come when housing demands will exceed supply, and we will have another—unnecessary—round of housing inflation.

The $3 billion emergency homeownership assistance plan is for a single year; supplying homebuyers with a recapturable 4 percent interest buydown for the first 5 years of homeownership. Because it is a 1-year emergency program, all funds authorized would be put immediately to work—now—while the need is greatest. We need to target housing support to the trough of the homebuilding depression; to authorize funding for longer spans of time will dilute the money that can immediately be put to work, and will create unnecessary competition with unassisted mortgages when the current pentup demand for housing is finally released on the marketplace.

I think most of us agree that there is a compelling need for some sort of immediate assistance to homebuilders and homebuyers. I believe that this bill, the emergency homeowners assistance plan, will be the most cost-effective method of meeting that need. I urge my colleagues to support this measure.●

ECONOMIC POLICIES MUST PAY MORE ATTENTION TO SERVICES AND INFORMATION

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. WIRTH. Mr. Speaker, an economic transformation as profound as the industrial revolution is taking place in the United States, and yet few of our economic policies acknowledge the scope of the changes which are sweeping our economy.

We have moved in the past generation from an economy centered around manufacturing to one in which most employment is now in services. Most Americans today work in jobs based on the development, storage, transfer, and use of information, and not in jobs in which they make something tangible. And services contribute a surplus to our international balance of payments.

This new economic age holds great potential for sustained economic growth, but only if our national policies recognize the importance of this shift. We must encourage investments in human capital—in areas like education, research, and training, which will allow an information-based economy to flourish.

Certainly it is important to attend to the needs of our Nation's basic industries, and to those whose jobs depend upon them. But it is equally important for us to provide the proper incentives for the information-intensive service industries to continue to create new jobs and economic growth.

I am pleased that some private decisionmakers are also beginning to realize the importance of policies which take into account this transformation. Below are excerpts of remarks made by James Robinson, chairman of the board and chief executive officer of the American Express Co. to the National Press Club and printed in the Christian Science Monitor of February 22, 1982, and an excellent editorial from the Monitor. I commend these articles to my colleagues.

ECONOMY: DO NOT PREPARE FOR YESTERDAY'S WAR

(By James D. Robinson III)

(From remarks to the National Press Club in Washington by the chairman of the board and chief executive officer of American Express Company.)

If we fail to take account of today's realities, we may find ourselves behaving like generals preparing for yesterday's war. We are in danger of addressing—inadequately—economic problems of the 1980s with assumptions and perceptions of decades past.

Let me be more specific.

In the last few years, we have seen a new slogan rise to importance: Reindustrializing America. Two presidents as different as Jimmy Carter and Ronald Reagan have embraced the idea—as a way to provide more jobs, to cure productivity problems, and to make America more competitive in world markets.

Of course they are right. We do need more modern plants, better technology, more productive factories. Reindustralization is necessary—urgently necessary. But it will not be sufficient alone.

Why? Because in recent years our American economy, for the second time in two centuries, has been transformed.

The 19th century, as you know, brought our first great transformation: from an economy dominated by agriculture to one dominated by industry—by manufacturing and mining.

Now the mid-20th century has brought another transformation—from an economy driven by manufacturing, mining, and farming to one in which services are centrally important.

What's included in that catch-all term, "services"? A great deal:

Your local bank or thrift institution, your insurance agent, stockbroker, lawyer, and doctor, for example.

Hotels, restaurants, airlines, and railroads are services.

The exploding information industry—data processing, software development, news gathering, publishing, and broadcasting are services.

Advertising, real estate, engineering, retailing, education—all these belong to the service sector. So does government.

In 1979—the lastest year for which we have full information—manufacturing represented 23 percent of our GNP. The farming slice was 3.2 percent; mining, 2.9 percent.

Services, however, constituted 66 percent—two thirds—of our economic pie. More than seven out of every 10 American workers are employed in services.

And services are not just important in our domestic economy. Over the past 10 years, our balance of payments in services has been growing steadily—while the balance for goods has been declining. And our trade in services was responsible for the first overall surplus since 1976.

So services are a growing force in world trade. In fact, they now account for 20 percent of all world trade. And the United States is the world's largest exporter of services; last year, for example, from advertising to insurance to health care, our exports amounted to at least $60 billion.

Are service workers productive? Yes. Between 1967 and 1979, for example, productivity in goods increased by 10 percent. Productivity in services, however, increased by 20 percent. This was especially true in information-related businesses because of the revolution in computers and telecommunications.

In spite of this increase in worker productivity, the service industry has been a strong source of new jobs. Job growth in the service sector, in fact, is growing twice as fast as employment in manufacturing.

When it comes to job creation, by the way, it's interesting to consider facts like these: restaurants and hotels are especially important sources of jobs for minorities and women. For both, employment in tourism is high compared to other industries, particularly in our large cities.

But we are not acting at present as if we fully understand what services can mean to our domestic economy and our international trade.

When you think of unemployment, do you think—first—of factory unemployment?

When you think of tax depreciation and other incentives for investment in plant and equipment, do you think—first—of industrial plant and equipment?

When job training and vocational education are mentioned, do you think—first—of training for assembly-line jobs?

If so, you're not alone. Many of our lawmakers and policymakers have been thinking the same way. And so our tax laws, our employment and training programs, our economic policies, our plans to improve productivity simply don't take adequate account of the service industries, of their importance—and their rich potential—and of their unique characteristics, especially as they relate to job creation.

If we persist in viewing our economy through that single industrial eye, we will find ourselves misperceiving economic reality. In many respects, it appears that assumptions about the economy and monetary policy are based on an industrial economy rather than a service-dominated economy.

I advocate a total review not only of money supply measures but of all our economic indicators to reflect the economy as it is, not as it was.

ECONOMY: AS IT IS—NOT WAS

It is no news that most of America's economy has long shifted from producing goods to providing services—banking, insurance, transportation, fast food, retailing, health care, communication, education, data processing, the whole realm of information handling.

The news is a growing recognition of the need to take more account of this great sea change when shaping American policy.

A prime example on the international scene is the Reagan administration's initiative for new trade talks focused on freeing up the commerce in financial and other services. This round, sought for November in Geneva, would contrast with the previous ones concentrating almost totally on the export and import of goods. It is high time, what with America's balance of payments in services steadily increasing over the past decade while the balance for goods has been going down. Last year US exports of services, the world's highest, added up to $60 billion.

Washington's push for such talks signals an awareness of the importance of services to the American economy. After all, the number of American workers in services has risen to more than seven out of ten. Services account for two-thirds of the gross national product, trailed by manufacturing's less than a quarter and farming's less than 4 percent.

The question is whether this awareness has sufficiently affected the administration's domestic economic policy. Like the previous administration, it has made much of spurring "reindustrialization." It has provided tax and other support for capital formation and investment in plant and equipment. But it is far from providing similar support for the investment in training and education necessary to enhance the nation's human capital.

There is no question that America's basic manufacturing industries, such as cars and steel, need to become more productive and competitve. But the efforts in their behalf have to be accompanied with regard for that larger part of the economy represented by services. For example, as robots replace workers in manufacturing, it will become increasingly important to have Americans ready for the jobs opening up in the expanding field of high-technology services.

Obviously the necessary training is not just a favor to the person receiving it; it is a contribution to the good of the country. Part of the benefit lies in the morale of a nation where people are prepared for satisfying jobs. Part of it lies in dollars and cents. Consider what Theodore Schultz, a Nobel prize-winning economist, has said: "The rate of return on education has tended over time to exceed the rate of return on physical capital."

It should be a word to the wise that the Soviet Union and Japan are investing in youthful human resources by sharply raising both educational spending and educational standards. The United States already has a serious shortage of the highly skilled people required for the swing to service professions and high technology—prime fields for the US to maintain a competitive edge in as traditional industries take a lesser position in the structure of the economy.

Boost industry, yes, but not like generals preparing for yesterday's war. This warning came from the heights of the services sector recently when James D. Robinson III, American Express's chairman of the board, spoke to the National Press Club in Washington. As he says in excerpts in today's Opinion and Commentary pages, the nation's economic assumptions, policies, and plans remain based on an industrial economy. They do not take adequate account of the dominance of the service sector and its rich potential for such goals as job creation.

Mr. Robinson advocates a complete review of all economic indicators "to reflect the economy as it is, not as it was." To this basic step might be added the kind of long-range thinking being given to the very positive aspects of a service economy. These include:

Preserving the honorable essence of service as something done for others, not subserviently but helpfully—"service above self," as Rotarians say. One economic consultant has proposed government support for a US private sector program toward solving world problems while, for example, increasing US exports and jobs.

Seeing the switch from trade in "things" to information, which is a principal service-industry "product," though time also is a large part of service transactions. Selling a thing means the seller no longer has it. Selling information means both the buyer and seller have it. It is more like sharing than exchanging. Unlike physical resources, information is not scarce, is not depleted when used. The whole outlook can be to spread shared benefits rather than hang onto selfish ones. This would be profitable for any nation in a sense beyond its shifting economic structures.●

NICARAGUA MAKES IT OFFICIAL AND RADIO CATOLICA CLOSED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. LAGOMARSINO. Mr. Speaker, recent reports from Nicaragua only serve to confirm what many of us have been saying since 1979: The Sandinistas are establishing a Marxist-Leninist state in Central America. I urge my colleagues to give thoughtful consideration to the two following articles:

NICARAGUA MAKES IT OFFICIAL

Nicaragua, like Poland, has finally made it official: It has declared itself a police state. The Sandinist junta has suspended all individual rights and guarantees, including what little press freedom remained, the right to carry out political and union activities and the right of habeas corpus. Previously the junta had "deferred" elections for five years, saying that the necessity for reconstruction made it impossible to carry out the elections that the Sandinists had promised for last year.

There is, of course, no surprise in any of this. It follows the classic pattern of Marxist revolutionaries everywhere. First destabilize the society, then masquerade as social democrats while seizing power with armed force, then declare that emergency conditions make it necessary to "mobilize" society, i.e. impose totalitarian conditions. The script was written in 1917, it worked well in Eastern Europe and Cuba, and now we are seeing it in Central America.

Already we are hearing how the rebels in El Salvador, headed by hardened Marxists, are becoming more "flexible." Reputable newspapers in this country print such nonsense next to pictures of the same rebel leaders pow-wowing with the PLO.

All of this is accompanied by claims that if the U.S. just wouldn't appear so threatening, the Nicaraguans wouldn't find it so regrettably necessary to take such harsh measures. This, too, is a familiar claim, especially from the early days of the Castro regime. But it is just as phony. In retrospect it is clear that Castro was a Communist from the start; the amazing thing is how friendly the U.S. was toward him in the early days, not how threatening.

Likewise, it is clear that the Reagan administration has made good faith efforts, both publicly and privately, to reach at least a modus vivendi with the Sandinists over the last year or so. Yet Nicaragua and Cuba continue their aid to subversives throughout Central America, then complain that U.S. and Central American reaction unfairly threatens them. There is little they seem unable to justify in the name of the supposed external threat, including the strange disappearance of Miskito Indians from their tribal homeland. Similarly, one of the first things Indochina's Communists tried to do in Laos was exterminate those Hmong who did not agree to be "resettled." Totalitarians cannot tolerate heterogeneity, tribal or otherwise.

The Sandinist and Cuban lines have played with some success in this country, partly because there's a tendency to romanticize revolutionaries and the supposed underdog. But there is also a double standard. Those who would like to forgive what's happening in Nicaragua are usually the first to withhold forgiveness from other countries, usually friends of the U.S., that may be less than pure but at least are working in the direction of expanded political rights.

There was, after all, an election in Guatemala a week ago Sunday, and an election is scheduled in El Salvador in another week or so. Doubtless both will be found to be less than perfect expressions of democracy, and neither will induce the insurgents to lay down their arms and prove their social democratic credentials. As in Guatemala, the election in El Salvador will probably result in a badly split vote, leading to charges of fraud. But if elections are ever held under the present Sandinist regime, you can rest assured there will be no split decision.

RADIO CATOLICA CLOSED

[Text] The General Directorate of Communications Media today ordered the indefinite closure of Radio Catolica for having, according to the charges, repeatedly violated regulations on the broadcast of news items detrimental to state security. We shall now bring you, from the General Directorate of Communications Media, the reading of the notification of the indefinite closure of Radio Catolica, the voice of the church. [Begin recording] Issued at 1400 on 15 March 1982.

Considering: 1. On 15 March, the newscast "Now" broadcast by Radio Catolica, revealed information dealing with events which occurred in Ocotal on 14 March.

2. Paragraph 3 of our General Communications Media Provisional Law stipulates that the broadcast of new items that involve the station in matters contrary to the country's internal security or national defense, and the communication or publication of information on matters such as armed clashes between government forces and other sectors to which paragraph K refers, should be previously confirmed and verified with the Junta of the Government of National Reconstruction or in the Defense or Interior Ministries.

3. Therefore, Radio Catolica has expressly violated the three annexes considered in our General Communications Media Provisional Law.

4. An information medium is responsible for everything broadcast or published through it.

5. In the past months this directorate has on several occasions sanctioned the newscasts broadcast on Radio Catolica and these new violations of the General Communications Media Provisional Law are merely provocative actions which tend to intensify the critical situation existing in the country.

We therefore resolve: 1. To order the indefinite closure of Radio Catolica starting from the present notification. This radio station will not be allowed to broadcast until a new order has been issued by this directorate. Issued in Managua on 15 March 1982. [end recording]

NICARAGUA IN PERSPECTIVE

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, the plight of Central America, and Nicaragua in particular, concerns us all. However, I was directly involved more than perhaps any other Member of this body in the effort to preserve stability in the Caribbean by rejecting the proposed transfer of the Panama Canal and the acquiescence of our foreign policy toward allowing the Sandinista to overthrow an essentially friendly government in Nicaragua which would have been dealt with more readily in terms of reform and human rights. Certainly the hostile revolutionary regime has gone the opposite direction in refusal to hold elections, suppression of the free press, repressive political measures, ethnic purges, and other police state tactics.

In response to concern for Reagan administration Caribbean policy registered by one of my constituents recently, I have drafted the following letter which I would like to share with my colleagues since I believe it puts the situation into proper perspective.

DEAR SIR: I deeply appreciate your concern over the plight of Nicaragua and doing the right things for Central America. I have also been there, including being in Managua during the week Somoza left.

I must remind you, though, that Cubans are there and we are not there, among the doctors and teachers of Nicaragua, because the Marxist dominated Sandinista wanted Cuba in and rejected the U.S. Speaking of interfering in Nicaraguan affairs, I am sure you remember that it was President Carter, more than the Sandinista, who forced Somoza out of power opening the way for the new unfriendly Junta to rule.

Under such circumstances you would think the Sandinista would have asked President Carter for teachers and medical personnel. They could have easily done so, because the President immediately sent requests to Capitol Hill for nearly $200 million in aid to Nicaragua, most of which was approved.

At the time, I feared President Carter was being betrayed by the Sandinista, and events since have proven that his effort, to upset the existing government and impose the foreign-dominated Sandinista, was a colossal error which has sewn a disease now plaguing the whole area with terrorism and killings.

I agree with you that the U.S. should not interfere in the government of other nations and attempt to impose our will. We did it in Cuba to help bring Castro to power. We did it in Viet Nam by overthrowing and killing President Diem which dragged us in there up to our ears. And we helped overthrow the government of Nicaragua and now have government by Moscow and Havana instead of government by Nicaraguans—a government which has not been elected, as you suggested.

I certainly agree with you on the need for economic aid, which has been proposed by President Reagan. But, as long as terrorism destroys road and communication facilities, social assistance programs, and food delivery systems, it forces us to provide some military aid to get the economic aid to the people. America is being more honorable and practical in dealing with the Central American problem than many are led to believe by news-reporting that is too often grossly distorted.

Thank you for expressing your concern.

Sincerely,

GEORGE HANSEN,
Member of Congress.●

THE METRIC SYSTEM

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. SNYDER. Mr. Speaker, every year, during the appropriations season, this body debates the question of whether or not the U.S. Government has any business spending money to encourage the voluntary conversion to the metric system.

The young people in the technical math class at Oldham County High School in Buckner, Ky., recently looked at both sides of this perennial issue and came to the conclusion that metric conversion doesn't make much sense.

Since the President has proposed the termination of the U.S. Metric Board this year in order to save several million dollars, I thought the conclusions of my young constituents from Oldham County High might be of interest to my colleagues here in the House. And I would like to share their letter with you.

The letter follows:

Due to the controversy of conversion from the English System of measurement to the Metric System, we, the Technical Math Class at Oldham County High School in Buckner, Kentucky, having thoroughly studied and compared the two, have concluded that although the Metric System is by far the simpler of the two, it would be advisible not to change.

Our reasoning for this conclusion is the extreme expense that would be involved. The replacement of equipment and products which are currently in existance, constructed for the English System would be useless under the Metric System. Teacher training programs as well as teaching the public are further expenses to be considered.

At this time of recession in our economy, there is no need to enlarge the national debt by disrupting an efficient system unnecessarily.

Our nation supposedly stands for individuality. We should not conform to the Metric System simply to follow the lead of other nations. We should, instead, allow ourselves the "free" nation, to have our own unique system of measurement.

Using the older method does not make us any less modern, simply more American.

Scientists and doctors all over the world have learned Latin. That does not necessitate the rest of the population learning it. The same should be true for the measurement system.

Trying to change gradually is not a worthwhile effort. Few people notice the changes or pay attention to them.

If the Metric System is forced upon us, we will have to know and relate both systems. This would be confusing and could cause major problems, even chaos.

The Metric System causes the use of extremely large numbers. Most people cannot completely comprehend the actual size of such great numbers.

Finally, we would like to state, as previously mentioned, that it would be tremendously advisable not to convert.●

SUPPORT FOR A FREEZE ON NUCLEAR WEAPONS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. WEISS. Mr. Speaker, I strongly support legislation calling for a freeze on the nuclear arms race, House Joint Resolution 434. This proposal is a long-overdue first step toward halting the arms race.

Never has the specter of nuclear war hung so ominously over the human race as it does today. We have entered an era of renewed nuclear escalation that poses graver threats to human existence than we have ever faced.

House Joint Resolution 434 offers a workable framework for beginning to dismantle the seemingly self-perpetuating arms buildup by urging an immediate, bilateral freeze on nuclear weapons leading to a reversal of the arms race. The importance of taking these steps can not be overemphasized.

The United States, which produced the first nuclear weapons and maintains a nuclear stockpile capable of destroying the world several times over, holds a special responsibility to help reverse reckless nuclear escalation. But the Reagan administration is locking our Nation into a nuclear arms buildup that not only will make nuclear war more likely, but will sap our Nation's economic vitality as well.

Nuclear weapons present the potential to commit genocide by killing millions of people with a single device. This alone should make nuclear weapons anathema to us.

The technological advances that have been made in nuclear weapons—missile delivery systems, multiple-integrated, reentry vehicles (MIRV's) and mobile launchers—have surprisingly weakened our security, not strengthened it. We have reached a point where such advancements have outstripped the ability of even our experts to project how nuclear weapons would function if they were to be used. One so-called advancement, neutron weapons, poses a particularly dangerous threat to global security because they are designed in a way that they blur the distinction between conventional and nuclear weapons, and make escalation into a nuclear exchange even more likely.

Nuclear weapons development also furthered the polarization of East and West as nations have been forced to take sides in the superpower tug of war. In addition, we now see widespread proliferation of nuclear weapons capability outside of the superpower blocs and into the Third World. Nuclear weapons have become less controllable and, thus, international affairs have risen significantly in risk.

The Reagan administration has sought to use this global uncertainly to its advantage by suggesting repeatedly that the United States might use nuclear weapons first in an international confrontation. The possibility that our Nation might start a nuclear war is contrary to our historical commitment to a policy of nuclear weapons for deterrence purposes only. Yet, sadly, the Reagan administration's nuclear weapons policies could lead us to beginning a nuclear war.

I have introduced legislation, House Joint Resolution 93, which calls for the United States to adopt a policy of "no first use" of nuclear weapons and to sign treaties with all nations with similar policies. This legislation would commit the United States to a policy of using nuclear weapons only if under nuclear attack. Although this step would be only a temporary measure in our effort to halt the nuclear weapons race, I believe it is a key step in deterring the increasing possibility of nuclear war.

Another resolution I have introduced in the House of Representatives, House Resolution 153, calls for a moratorium on the production of Pershing II and cruise missiles intended for placement in Europe. These missiles, authorized by NATO in 1979, have been the subject of the current Geneva arms negotiations and a primary cause of the strong European disarmament movement. This resolution offers an opportunity for real arms control simply by restraint. The Soviet Union has indicated its willingness to freeze nuclear missile deployment if these missiles are not put in place.

Since entering Congress I have led the fight to stop neutron weapons. Most recently I offered an amendment to the Department of Defense authorization legislation that would have stopped all funding for research and production of neutron weapons. This amendment would have precluded President Reagan's senseless decision to produce this type of weapon. Neutron weapons seem certain to spur further escalation of the arms race and damage global security.

Our options for preventing nuclear war are decreasing. Each nuclear weapon we plan, produce, and deploy moves us closer to nuclear war. This insanity must be ended.●

PARRIS LAUDS COACH HARDAGE'S FINE CAREER

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. PARRIS. Mr. Speaker, in recent months the debates carried on in this House have centered on the economy and what we are doing or not doing to insure its continued vitality. Interest rates, inflation, and unemployment have dominated our agenda and rightly so as the proper functioning of the economy is one of our most important responsibilities.

I would like to digress from that subject for a moment to reflect upon the achievements and career of one man whose contributions to the youth of Northern Virginia continues regardless of the consumer price index or the prime interest rate.

Coach Bob Hardage has devoted the last 22 years of his life to the members of the Annandale High School football team. For the past 16 years he has served as the head football coach. As head coach he has led his team to an incredible 120-22-2 record.

Coach Hardage has been a most effective role model for countless young people, instilling the values of honesty, integrity, and good character, a sense of personal worth, and a desire to achieve individual potential. He has inspired students, faculty, and parents throughout the Annandale community and all of Fairfax County.

I join with Coach Hardage's friends in paying tribute to this great man.●

SALUTE TO RHODE ISLAND'S FIREFIGHTERS

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. ST GERMAIN. Mr. Speaker, I rise to salute three dedicated firefighters from Cumberland, R.I.: Michael Pratt, age 21, Steve Garon, and Robert Coleman, who on March 8, 1982, saved 10-year-old James Perry of North Attleboro from drowning in freezing waters. Mr. Pratt was off duty but responding to his scanner he ran to the pond where he saw young James struggling in the water, and immediately plunged into the pond to rescue him. Ordered to return to the rescue boat nearby by his superior Coleman who feared for Pratt's life, Pratt, Coleman, and Garon then rowed to the boy. Private Pratt then jumped in the frigid waters once again, broke the ice, and saved the boy. Both firefighter Pratt and the young boy required treatment at a local hospital.

Michael Pratt is a fine example of the selflessness and dedication of our firefighters, deserving of our utmost respect and trust. The three firefighters were steadfast in a time of crisis, and I commend them for their courage and competence in performing a speedy and successful rescue.

It is through their efforts, working long hours and long days, that our firefighters are able to protect us, and save our families from tragedy and pain. I take this opportunity to remind my colleagues of their hard work and unceasing dedication, and to salute them, once again.●

THE IRS STRIKES AGAIN

HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, another example of the heavy-handed and abusive tactics of the Internal Revenue Service in their tax collection practices, which would be stopped by passage of H.R. 4931, the Taxpayer Protection Act (TPA), is the following letter from a doctor in the Midwest.

> On November 15, I had an opportunity to watch a presentation by 60 Minutes in regard to the unfair tactics used by the IRS against the citizens of the USA. The reason I am writing this letter is because during this show, it was pointed out that several legislators in the past had tried to investigate them, and they, themselves were ruined politically because of it.
>
> I have been audited every year since 1966, and I would have to say that for the most part, I was always treated very fairly and gentlemanly. My last auditor however, made statements like "I am the judge, the jury and the prosecutor". I can prove this, as my accountant and my wife were present at the time. He also stated it would do me no good to take my case to court, as the IRS could overrule the court, regardless of what the court's findings were. Last of all, he stated that if I were to hire an attorney, it would be a total waste of time because he, as the IRS agent, would have the final say so about everything.
>
> Needless to say, when you have gone through this experience and you hear about other people having the same kind of experience, I feel it is time that we as free citizens, do something about it. I think it is time the legislators stand up and be counted. If we are going to be prosecuted one at a time, then I suppose there will be no end until the IRS becomes the final autonomy in this country. Then we will have, as it was stated on the 60 Minute program, a "Gesta-

po" with the only difference being that we have not put our people in the black uniform.

I think it would behoove all of you to see that particular segment of the program to know that this is not something to be handled lightly. I would appreciate very much, your comments on this matter and what you intend to do about a branch of government that there is no question, has not only "gotten too big for its britches", but is becoming a destructive force within our society.●

VOLUNTARISM—A BEAUTIFUL WAY TO SPEND TIME

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. GUNDERSON. Mr. Speaker,

> Neighborliness is not a quality in other people; it is simply their claim on ourselves. Every moment and every situation challenges us to action. . . .We have literally no time to sit and ask ourselves whether so-and-so is our neighbor or not. We must get into action—we must behave like a neighbor.

The urgency of these words, written by theologian Dietrich Bonhoeffer nearly 50 years ago, is only intensified today as we begin revitalizing the volunteer spirit in America. Two of my constituents, residents of Eau Claire, Wis., have risen to this challenge.

Allard Rowe, 70, and his wife Elizabeth, 65, have participated in "Triniteam" for the past 5 years. The program, operated through the local prison, helps ex-offenders, those on probation, and even current prisoners cope with daily life. From the small fund, supported through various local projects, the organization helps ex-offenders reestablish themselves—providing friendly support, clothing, rent or fuel assistance. Each week, the Rowes help host meetings where current prisoners can visit with family and friends. The program includes refreshments, dancing, card games, and bingo. Prizes are awarded from donations received or inexpensive items found at local church sales by the Rowes.

This couple also helps run social programs for many mentally retarded and disabled individuals in the community. In fact, Mrs. Rowe is treasurer and Mr. Rowe acts as vice president of the organization which receives no Federal funds. They host a weekly gathering for this group as well. The organization, called Par-Te-Rec, serves about 125 people in the small community. Since a handicapped workshop operates in the community, many, many handicapped persons have relocated there. Sometimes the Rowes receive more than five phone calls per day from handicapped people needing assistance at home or just someone to talk to.

In addition to this work, Mr. Rowe has participated for 14 years in a program serving local teenagers. A past vice president, he has received the club's perfect attendance award each year. The international organization, called the Optimist Club, receives no Federal funds and keeps itself operating through regular fundraisers. Each year they send handicapped children to summer camp. The rest of the year they help teens learn about physical fitness, good citizenship, and leadership.

In her remaining spare time, Mrs. Rowe helps tape books for use by blind students at the University of Wisconsin at Eau Claire. The job is tedious and requires at least 4 hours per week. But time does not seem to matter to the Rowes.

They do not ask who their neighbors are. They help as many people as they can with whatever time they have. And based on their extraordinary involvement I have nominated them for one of the President's Volunteer Action Awards to be presented during National Volunteer Action Week in April.

As Mrs. Rowe has explained:

> This is a beautiful way to spend our time since we have it to give. We would probably do more if we could fit it in.●

AMVETS ARE GOOD CITIZENS

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mrs. HOLT. Mr. Speaker, The AMVETS, American Veterans of World War II, Korea-Vietnam, Department of Maryland will be holding their 16th annual "Operation Driver Excellence" program, on Sunday, April 18, 1982. This contest is open to all high school students in the State who have completed an approved drivers training course within the past year. This contest promotes an alert, able, and responsible driver through driver education programs. Because of this and similar efforts, we are developing the best educated and most competent young drivers in our history. The winner of the Maryland finals will compete for scholarships totaling $25,000 at the national finals in Rosemont, Ill., on May 15 and 16. I commend the AMVETS for their sense of community service and awareness, and I encourage all eligible teens to participate.●

TRIBUTE TO THE RED AND GREY

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. RODINO. Mr. Speaker, history was made last Sunday, March 21, at Clifford J. Scott High School, in East Orange, N.J. Sunday afternoon, the boys' and girls' basketball teams became the first public school teams in New Jersey to win State championships in the same year.

The boys' team defeated a tough Salem team by the score of 76 to 74, to win their second straight group 2 title. Scott was trailing by 11 points at half time, but fought back to win on a last-second shot by Eric Bowman. Troy Webster, a 1981 all-stater, scored a game high of 33 points, in leading Clifford Scott to the title. He was also voted most valuable player.

The girls scored 31 points in the fourth quarter to defeat St. Rose, of Belmar. Countess Irvin, a junior, scored 24 points and was most valuable player for the girls.

Mr. Speaker, it is truly an honor to pay tribute to the fine students at Clifford J. Scott High School, who have worked so hard and diligently to bring the two titles to East Orange. The Clifford Scott fans and the marching band are also to be commended for their support and loyalty.

I would like to include in the CONGRESSIONAL RECORD, an article that appeared in the Newark Star-Ledger, describing the team's accomplishments:

[From The Star-Ledger, Mar. 23, 1982]

GREAT SCOTT! EAST ORANGE HONORS ITS TWO CHAMPIONS

(By Ed Barmakian)

There was reason to smile yesterday in East Orange.

Make that two reasons.

Sunday afternoon at the Meadowlands Arena, Clifford J. Scott High of East Orange became the first public school to win two state basketball championships, boys' and girls', in the same season.

The girls' team made way for the sweep when it ran past St. Rose, 75-54, in the Group 2 state title game with a 31-point fourth quarter. The boys did the same, a little more dramatically, when Eric Bowman scored in the final second for a 76-74 triumph over Salem and their second Straight Group 2 crown.

St. Rose turned in double state championship teams in 1977 when the girls won in Group 2 and the boys took the Parochial B title.

"I thought they both had a chance from Day 1," said a pleased mayor Thomas H. Cooke. "I went to the Meadowlands to see two victories. I thought both teams were exemplary in their good sportsmanship and play on the court. I'm so exhilarated I can't explain it."

The mayor, acting superintendent of schools Greta Shepherd, principal Dr.

Robert Max and Mary Lett, board of education president were present at the high school yesterday when the entire school gathered in the auditorium to honor the two victorious teams.

"We thought it appropriate to let them know how proud we were of them and their conduct," said Cooke. "Everyone was in the spirit of things and it was a real family affair. All over East Orange, everyone is full of smiles."

Following the ceremonies at the school in the early afternoon, the student body was given the rest of the day off from school.

"I'll be working with the board of education and the students on organizing an athletic banquet for these athletes," continued Cooke. "The coaching staff and those that volunteer their services have done an excellent job. I expect the banquet to take place in the next month or so."

Countess Irvin, a junior guard, scored 24 points to earn MVP honors for the Scottie girls.

Troy Webster, a 1981 Star-Ledger All-Stater, tossed in 19 of his 33 points in the second half, including 13 in the fourth quarter, to lead Scott's return from an 11-point halftime deficit and earn MVP recognition for the boys. It was the third Group 2 championship for the boys, fourth state championship overall.

Enjoying the success of the East Orange school among the crowd of 4,742, which included the entire Scott band, was Carol Clark. Clark, now the womens' basketball coach at Essex County College, started the girls program at Scott in 1973.

"I was elated," said Clark, a graduate of East Orange High. "I thought Malissa Stephenson was spectacular down the stretch. Regina Love kept them going with her outside shooting and Countess Irvin and Pia Frazier were just great in the backcourt.

"I was just tickled to see them win it. The boys' game was dramatic. The boys' game turned around when Seth Jones came into the game.

Jones, a senior guard and Frazier's cousin, scored all 11 of his points in the second half.

Jones is the son of Joe Frazier, a guard on Scott's first state championship team in 1958.

"It was unbelievable, super and magnificent," said the elder Frazier. "It hasn't sunk in yet."

Girls who played for Scott in the past, Dee Dee Deans, a Group 2 All-Stater, Casandra Campbell and Felicia Pollock, rooted the new generation to that first title.

"Carol Clark started the program from scratch when I was the boys' coach," said Tom King, now the girls' coach. "When she left to coach Upsala, she talked me into taking over the girls' team."

Tommy Bonard, a 1973 graduate now an assistant baseball coach at Upsala, follows the Scotties closely.

"I think it's one of the best things that ever happened to the school," said Bonard, the MVP and shortstop of Scott's only state baseball champion in 1973. "I was surprised that they won both titles because they were just starting the girls program when I was in high school. I always look for the Scotties in the paper."

King and Greg Tynes, the boys' coach, had visions of a double championship at the end of last season.

"It seemed like we were destined when we both got to the final," said Tynes. "Coach King called me the morning of the finals and said that the girls team was going to build bridge for us to walk across and they did."

The Clifford Scott fans and the school's marching band added to the festive mood of the state championship games.

"All you could see was red and gray (school colors) after the boys won," said Cooke. "This afternoon, it was like the old days when everyone was strung out on sports, like an old-fashioned bonfire before an East Orange-Barringer football game."

Ed Lyons, who did the color commentary for Suburban television was the 1958 boys' coach when the Scotties won their first state title and was associated with the school for 17 years.

"I'll always be a Scottie," said Lyons, who won close to 300 games at Scott—including the only Essex County Tournament championship in 1962. "It's almost unheard of to win both championships. I think it's great."

Former athletic director Barry Cohen, in for a visit from Long Island, agreed.

Many feel that the best part of the whole championship situation is how the two teams encouraged each other through the season.

"All through the state tournament we would play before them or they would play before us," said Webster. "We'd cheer for them if their game was first and it felt good when we would hear them rooting for us during our games.

"I thought both teams would do well this season but I never thought we could both win state championships. It's the best thing that ever happened to Scott.●

H.R. 4326

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. McCLOSKEY. Mr. Speaker, the Small Business Innovation Act (H.R. 4326) has now been reported out of the six House committees to which it was referred, and all but one have opposed the mandatory set-aside requirements which the bill enforces on Federal funding of research and development. The Armed Services Committee, backed by a 11-to-3 subcommittee vote, has exempted the Pentagon and its programs at DOE outright.

The New Your Times, Los Angeles Times, Sacramento Bee, and Minneapolis Tribune have also joined the opposition to H.R. 4326.

Their editorials follow:

[From the New York Times, Mar. 23, 1982]

THE RAID ON BASIC RESEARCH

The measure seemed harmless enough—so harmless that it passed the Senate last December without dissent. In fact, however, the Small Business Innovation Development Act is a special interest grab that threatens to siphon off hundreds of millions of Federal dollars for basic research.

Hardly anyone is more cherished by Congress than the owners of small businesses. So when New Hampshire's Senator Rudman proposed that 1 percent more of the $40 billion that goes for research and development on Government projects be set aside for companies with fewer than 500 employees, nobody blinked. And when Representative John LaFalce of New York raised the ante to 3 percent, he had no difficulty finding 180 House sponsors.

Supporters note that everything from streptomycin to the zipper was invented by small entrepreneurs. If Washington were willing to look beyond the Fortune 500 when it doles out research funds, they insist, more of the same would emerge. Besides, a 1 (or 3) percent cut in R & D funding would only force the big researchers to look a little harder at their paperclip bills.

There's no question that in some industries, smaller companies are strikingly innovative. But they already get a fair shake from Washington. Small companies employ 5.5 percent of the scientists and engineers in the private sector, but get 6.8 percent of Government funds for private research.

What difference would an extra few percent make? The fear, expressed by Stanford University's President, Donald Kennedy, is that most of it will come out of the small proportion of Government R & D devoted to basic research. Few agencies would willingly redirect funds tied to specific development projects like new weapons systems. And small businesses simply aren't prepared to do the basic research now mostly performed at the big Government-owned labs.

Actually, the potential loss is still greater. At the Stanford Linear Accelerator much of the budget must be spent on equipment maintenance, whether the machinery is used or not. So a 1 percent cut in funding forces a much larger cut in research operations. The same is true for capital-intensive basic research in fields like biogenetics.

These arguments have made headway in the House, where one committee after another has expressed reservations about the bill. California's Pete McCloskey will lead a floor fight against it, but few other Congressmen seem willing to stick their necks out. The Federal budget office wants no part of the set-aside. But President Reagan is said to have promised neutrality in return for Senator Rudman's support for the Awacs deal last year.

Some believe that the Rudman set-aside is unstoppable, that Congress could not bring itself to vote against a program labeled "small business," no matter how wasteful. This may yet prove to be true. But only by resisting such outrages can Government ever hope to control waste—or manage the economy rationally.

[From the Los Angeles Times, Mar. 22, 1982]

RESEARCH: BLURRED VISION

Congress is blurring the distinction between basic and applied research in some pending legislation, and American universities may suffer as a result.

At issue is the Small Business Innovation Research Act, sponsored by Sen. Warren B. Rudman (R-N.H.) and Rep. John J. LaFalce (D-N.Y.). Their idea, which appears laudable enough at first glance, is to set aside research funds for small businesses on the theory that they have produced many of the nation's innovative ideas. But if you set aside money for something in these days of tight budgets, you are probably setting it aside from something else—in this case, universities.

The Senate's version of the legislation, which swept through 90 to 0 in December, provides that 1% of the research money going through five agencies—or $400 million—would be earmarked for small businesses; those agencies are the National Science Foundation, the Defense Department, the Health and Human Services Department, the National Aeronautics and Space

Administration and the Energy Department. The House bill, which sailed through the House Small Business Committee on a 40-0 vote in October, would give small businesses 3% taken from 13 agencies' research-and-development budgets within four years after passage—that is, $1.5 billion a year. The size of the votes that the bills received makes us suspect that they have not been examined closely.

Rudman thinks the legislation is necessary because big business has frequently "turned its back on uncertain technology or unproven new products" in favor of short-term profits, while small business lacks the capital to develop its ideas and has been frozen out of federal research contracts. He argues that small business is responsible for creating 55% of the new jobs in this country, and so deserves this support.

It seems to us, and to the universities that are opposing the legislation, that Rudman is, first of all, confusing basic and applied research. Donald Kennedy, president of Stanford University, is a good source on this topic; Stanford knows well the value of the small, highly innovative electronics and biotechnology companies that are its neighbors in the so-called Silicon Valley of California.

Kennedy points out that fundamental discoveries of devices or processes such as the laser or recombinant DNA "most usually arise as a consequence of fundamental research activities, (and) 70% of that kind of activity takes place in our nation's universities."

The intermediate process—known as the transfer of technology, in which the discovery is refined and applied to commercially significant needs—sometimes occurs in universities, sometimes in research institutes, sometimes in corporate settings, Kennedy adds. A third process—the development and application of specific innovative products—takes place mostly in small firms, he says.

"That is our central argument with the present legislation," Kennedy says. "For the best of motivations, it actually reallocates federal dollars between totally different sets of purposes. That, we submit, is not good policy."

On a second point—whether small companies have been frozen out of federal contracts—the American Electronics Assn. says that small businesses employ about 5.5% of the nation's scientists and engineers, and receive about 6.8% of the federal government's prime research contracts. It would seem, then, that their resources are used in proportion to their ability to handle the work.

The association represents 1,800 high-technology concerns, 80% of which would qualify for help under these bills. Yet the association opposes the idea. Historically, it says, such set-aside programs have led to waste and abuse. "Please don't do it" for us, one spokesman says. This attitude toward government involvement in business would seem consistent with the Reagan Administration's viewpoint—but the Administration has endorsed the Rudman bill.

The House should finally look beyond the motherhood-and-apple-pie title of this legislation and defeat it.

[From the Sacramento Bee, Mar. 23, 1982]

A NEEDLESS SUBSIDY

Proposed federal legislation that would set aside hundreds of millions of dollars to finance research and development by small business firms, a proposal seemingly as unassailable as motherhood, is meeting fierce resistance, ironically from among some of its intended beneficiaries. And with good reason.

HR 4326 (and an almost identical Senate bill, S 881) would require the 18 federal agencies with R&D budgets over $100 million to set aside 1 per cent of those funds to finance projects by firms with fewer than 500 employees. The basic idea, laudable in itself, is to give such firms access to government money that now goes mainly to larger corporations. After initial federal support, those projects with the greatest merit would be expected to obtain private financing.

The bill had already moved unopposed through the Senate and one House committee before opposition developed. Leading the counterattack are a number of major universities already subject to federal cutbacks in research funds; the American Electronics Association, 80 per cent of whose members would qualify for grants, and a number of federal agencies. Even the National Science Foundation, whose $5 million Small Business Innovation Research Program serves as the bill's model, is cool. Why?

Objections stem from the fact that small high-technology firms already get a large share of R&D money, especially when subcontracts are factored in; that capital gains tax reductions and new tax credits enacted in the late 1970s have brought forth larger amounts of cash from venture capital firms, that set-aside programs with their bureaucratic controls violate basic free-market principles, and that the mandatory governmentwide nature of the proposed law would lead to an even more bloated bureaucracy, higher costs and the inevitable temptation to pad the program to meet spending quotas. And since the entire cost of the program would come out of existing R&D budgets—no new funds would be appropriated—university research programs, which have lost 16 percent in real dollars of their funds for basic research just since 1980, would be further pinched.

Opposition in the House has been led by Rep. Paul McCloskey, R-Calif., who has succeeded in reducing the set-aside total from 3 percent to 1 percent, subjecting the program to annual congressional review and exempting several agencies, among them the Pentagon with well over half the federal R&D total. But the measure still has extensive backing in Congress, and at least nominally from the administration. It may yet become law.

That would be regrettable. Small high-technology firms are perhaps the most dynamic segment of the U.S. economy at present, and to the extent that their progress is hampered solely by a lack of capital they need support. This bill, however, is not the way to provide it. In the present economic environment, government can play a more creative role through monetary and fiscal policies and in promoting freer trade than in tying budding entrepreneurs to a rigid program laden with arbitrary mandates and artificial formulas.

[From the Minneapolis Tribune, Feb. 12, 1982]

HURTING RESEARCH WITHOUT HELPING INNOVATION

It is generally a bad idea to use public money for private development of basic-research discoveries. It is particularly a bad idea when the money is taken away from basic research itself. Yet just such a diversion of public funds would be required by a bill making its way through Congress this winter.

Under an innocuous name—"Small Business Innovation Development"—the bill promotes a damaging purpose. It directs large federal agencies to use a portion of their research money for grants to businesses that are trying to commercialize new products or new concepts. The intent is to support technological advance. One effect, however, would be to substitute an agency staff's judgment about what is commercially feasible for the judgment of investors and financial markets. Given the source of the money, and congressmen's interest in how it might be distributed, some grants would doubtless be influenced by political considerations. The political factor would heighten financial risks in a high-risk field. And those risks of commercial development would be shifted to the public purse, instead of being left with private parties using their own money.

Using government money as risk capital in private projects—whether undertaken by small businesses, auto manufacturers or synthetic-fuel conglomerates—is poor policy. Occasional exceptions are appropriate, no doubt. But in this case poor policy is made worse by explicitly taking the funds from pre-commercial basic research. Sponsoring such research, largely in universities and largely selected by panels of independent scientists, is a proper government function. Applying such research for marketable products should remain the responsibility of industry and investors. Slighting the government function in order to intrude on the private-sector function is both practically and theoretically a large mistake.

The bill embodying this mistake has passed the Senate and is pending in the House. The House should defeat it.●

FOCUS ON THE FAMILY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. WOLF. Mr. Speaker, I would like to share with my colleagues an excellent article in the April 1982 issue of The Saturday Evening Post about Dr. James Dobson, a dedicated author and educator whose values and principles of living focus on the importance of the family and set an example for all to follow.

FOCUS ON THE FAMILY

(By Charles W. Phillips)

Credit a man with eight best-selling books, give him a radio show on 197 stations, put him in a film series to be viewed by 10 million people and book him on shows with Donahue and Tom Snyder and that same man is an instant celebrity . . . a full-fledged personality. Unless his name is Dr. James Dobson.

A tall, handsome man who is both dignified and downhome, tough but sympathetic, Dobson only recently is achieving notoriety beyond Christian circles. Thanks to a swing back to conservatism, his family-first philosophy is suddenly in vogue, his traditional values are suddenly acceptable, his ideas are suddenly in season.

Depending on who's counting, Dobson wears at least seven—no, make that eight—hats. Sometimes, in the course of a day he switches from one to another so smoothly, so adroitly, so often, that he might add quick-change artist to the list of vacations separated by commas after the Ph.D. in his name. Answering to the labels of father, husband, associate clinical professor of pediatrics at the University of Southern California School of Medicine, psychologist, author, radio and TV personality and speaker, Dobson manages a balancing act in the Flying Wallenda tradition. The trick, he has learned, is to maintain priorities and never let one role dominate at the expense of the others. At this, too, he succeeds.

The enormity of his influence in the areas of child and family psychology has been likened to that of Dr. Benjamin Spock of 20 years ago, although the similarity ends there. Dobson is a politically conservative, back-to-basics disciplinarian who believes in spoiling the rod to spare the child and who practices at home what he preaches on film, in books and around the lecture circuit.

"First and foremost, I'm a committed Christian," he explains. "I was raised in a Christian home, and those values are ingrained deeply within me. Most of what I teach is a outgrowth of traditional Christian concepts with regard to the family and home. I get a great deal of satisfaction in feeling used by God in the lives of people. I don't find my work stressful at all; in fact, I'm having the time of my life. The most difficult aspect is trying to keep it all under control and not let my professional identity interfere with my roles as father and husband."

It was this inevitable tug between his private and professional lives that helped convince him in 1979 to put his Focus on the Family seminar on tape. The seminar, usually offered in person by Dobson over a one-day or two-day period, centers on such topics as Christian fathering, preparing for adolescence, building self-esteem and the conflict of wills between parent and child. When the film idea was first presented by Word Publishers of Waco, Texas, he argued that surely no one would sit through seven one-hour films and watch a man stand in front of an audience and talk about traditional values and discipline. Reluctantly, he agreed to the project and admits today that his worst fears have been proven "dead wrong."

"The film series was actually a method of coping with so many demands on my time," he recalls. "I was getting anywhere from 500 to 1,000, speaking requests a year and was accepting about six per month. That might not sound like much until you realize most talks and seminars take place on weekends. Put that way, I wasn't with my own children enough. I began to feel I was losing out on something. The films allowed me to stay home and yet get the message out."

The tapes, usually shown over a seven-week period or in succession over seven days, not only had immediate impact but have shown staying power. Marketing executives at Word say some 10 million people have already viewed the films at a clip of 100,000 persons per week. Most of the screenings are at local churches—more than 20,000 at latest count—but a variety of other organizations, including members of NFL teams, PTAs and military installation personnel, also have viewed them.

The format of the films is simple. In the fall of 1978, Dobson was scheduled to deliver his much-in-demand Focus on the Family seminar to 3,000 persons jammed into Laurie Auditorium in San Antonio. Special guest included wife Shirley, mother Myrtle and a film crew assigned to videotape the entire Friday night and all-day Saturday sessions. Except for the opening sequences and a few closeups of the audience, the films' visual content is limited to Dobson at the podium or occasionally at the large on-stage chalkboard. Surprisingly, each of the one-hour segments passes quickly, thanks to Dobson's well-documented research, relaxed delivery and frequent anecdotes. He draws on his experience as the father of a 16-year-old daughter and 11-year-old son and his years as associate clinical professor of pediatrics at the University of Southern California School of Medicine. He recalls his daughter's first slumber party, when he, as an observer, quickly recognized the popularity pecking order of the girls in attendance. Using such memories as a base, he spins off into discussions of peer pressure and the importance of having a positive self-image. Recollections of his son's "terrible twos" serve as a springboard for talks about headstrong toddlers and strong-willed adolescents.

"If I have a motive in what I'm doing, it's nothing more ambitious than to connect the family in the '80s with the wisdom of the Judeo-Christian ethic—the traditional wisdom that's been with us for thousands of years," he explains. "The principles haven't changed, and they still work. I'm referring to discipline, love, self-esteem, loyalty and fidelity between husband and wife and commitment within the family. These aren't new ideas; I've never said I created anything new. That's why I have confidence in what I'm saying, because I didn't originate it—it existed long before I was born. All I've attempted to do is to take the wisdom that's been with us for thousands of years and put it in a package that people find interesting and entertaining. Hopefully, it captures their imagination and provides the motivation to do what they probably already knew was right."

Part of the interesting, entertaining package is the Dobson family itself. Although Dobson stoutly occupies the role of lone breadwinner and protective head of the household, he's hardly a throwback to the Neanderthal man who demanded submission and dragged the little woman around by her topknot. Dobson's done his share of diapering and dishes and marvels at wife Shirley, a former teacher, for her easy superiority at the art of homemaking. Their relationship is a solid, warn partnership based on respect.

"We've been married 20 years, and she is literally my best friend. If I had one evening to spend with any personality on earth, I'd spend it with Shirley. We have a great deal in common, and it's a testimonial to the power of love that I could be with anybody for 20 years and still find that person interesting, but she affects me that way."

Although his lectures are amply sprinkled with descriptive tales from the Dobson family archives, he's careful to stop short of relocating Shirley, Danae and Ryan from their comfortably private California home to life in a fishbowl. He discovered the danger of overexposure one weekend when Ryan accompanied him to a speaking engagement and was pressed for an autograph. The bewildered five-year-old responded, "But I can't even write." From that point onward, the subject of Dad's work has been low-keyed at home. The children seldom listen to his daily radio broadcasts (now aired on 197 stations), rarely watch him on television and are not preoccupied with the flourishing ministry that attracts some 4,500 letters to his office each day.

In spite of his image as Superdad, he feels no undue pressure to rear two perfect, "textbook" children. Observers might look to the Dobsons as model parents with model offspring, but Dobson draws a more realistic picture.

"My kids are healthy, seemingly happy and get along well in school. But these principles I teach don't need Danae and Ryan to prove them valid. They'll be valid even if I fail as a father. They existed before I came along, and they'll be here after I leave. God doesn't need me to prove what he said about the family is right. Even if everything goes to pieces at my house—and I pray it doesn't—the principles will still be true."

And they'll be true 50 years from now, long after the era of permissiveness, the "me" generation and the do-your-own thing life style have gone the route of other fads, believes Dodson. The pendulum has swung back to traditional values, he says, and although the family unit is in real trouble, luckily, people recognize the threat, are looking for answers and are hungry for the kind of self-help information he provides.

"The most dangerous threat to family life is one seldom mentioned," says Dobson. "We can talk about alcoholism, drug abuse or infidelity, but a more common threat is the simple matter of overcommitment. I'm talking about the husband and wife who are too exhausted to take walks together, understand one another, meet each other's needs, have time for play, have time for children, have time for devotions. The husband often moonlights to maintain some standard of living; the wife works and tries to oversee the home; everyone is on the brink of exhaustion. I see that as the quickest route to the destruction of the family, and it can happen so easily.

"Sure, we have to make a living, but there's more to overcommitment than that. Why do we have to have a standard of living today that we didn't have 30 years ago? I think we're sacrificing things that are absolutely irreplaceable. Things like relationship with the family, the loving interaction between husband and wife, parent and child. When you lie on your deathbed and look back over your life, you won't remember the new automobile, the new couch or the neighborhood you lived in. You'll remember who loved you, who cared for you and where you fit into somebody's life. If those things matter then, they should matter now, and we ought to live like they do."

Some people might find dealing with other families' problems discouraging, but Dobson sees it as fulfilling. He's a man of principle and those principles are the heart of his message.

"They work when people live by them rather than allowing their own needs to dominate everyone else in the family. At one point, people were taught to scream for their rights. This is disastrous when it's applied to the national level. What works best is when I say to you, 'I care about you as much as I care about myself. Your needs are my needs.' That's what makes life worth living. It's not when I clench my fists and grit my teeth and set out to get my own way."

Dobson's way is quieter, and it's winning converts every time he presents his case on a talk show, at a seminar, through a film or another book.

"I find it tremendously exciting to have an opportunity to express creativity in figuring out where people's needs are and where the hurts are and how to help them. I don't see myself as a crusader trying to change the world by myself, but I can do what I can. I can do my part."

THE DOBSON BOOKSHELF

In a variety of books, Dr. James Dobson addresses a wide assortment of problems too long swept under the family-room shag. From adolescence ("It comes in with a pimple and goes out with a beard") to the current epidemic of homemakers' Ds (despair, discouragement, disinterest, distress, despondency, disenchantment), he addresses each complaint with a folksy, I-understand attitude undergirded by research and his firsthand experience as a counselor.

In "Dare to Discipline," Dobson dares to describe permissiveness not as a failure but a disaster. He counters that approach with one of rules and limits, tempered by mutual respect and love. The total package, first presented in 1970, has sold about 1.5 million copies and was selected in 1972 as one of 50 books to be specially bound and placed in the White House Library. Other parental challenges are discussed in "Hide or Seek" and "The Strong-Willed Child," the latter chalking up sales in excess of 340,000 copies. Dobson has also written "Preparing for Adolescence." Published by Vision House, the book deals with the difficult teen years.

However, Dobson's advice to the family isn't limited to toddler-through-teen topics. He's also concerned with reviving the till-death-do-us-part variety of marriage. His contribution to the cause is commendable. More than a clever title, "What Wives Wish Their Husbands Knew about Women" (900,000 copies in print) could be subtitled "Try a little Tenderness." Domestic doldrums are probed as Dobson delves into the breakdown of understanding between mates. Depression is dissected and the doctor's diagnosis is presented: "What do women most want from their husbands? It is not a bigger home or a better dishwasher or a newer automobile. Rather, it is the assurance that 'hand in hand, we'll face the best and worst that life has to offer—together.'"

While he candidly acknowledges that women, not men, usually attend family-life seminars, read books on marriage and buy tapes on parenting, he makes an all-out attempt to coax men into the fold with "Straight Talk to Men and Their Wives" (200,000 books sold to date). His message is macho and is certain to raise a few hackles in the feminists' camp. He urges men and women to refute the current unisex trend and assume the clothes, customs and functions traditionally assigned to their sex. He champions the beleaguered homemaker who is so often abused in the media today, and he claims men are the key to bringing order and calm back into society by assuming their protective, dominant role. If the message is strong, the delivery is warm, thanks to Dobson's recollections of his favorite role model, his father.

Rounding out the ever-expanding line of self-help books by the California doctor is his latest provocative title,"Emotions: Can You Trust Them?" If that question doesn't pique readers' interest, he poses others: Is Love at first sight really love? Will genuine love last a lifetime? Is anger wrong? How can I learn to bring my temper under control? Full of checklists for parents, self tests, quizzes and blueprints for better living, the book attempts to provide answers and prompt discussions within church groups and among seminar participants who might use it as a resource.

At a time when the tired phrase "What's your problem?" has been elevated to cliche status by overuse, Dobson is taking the words seriously. Better than providing the solution himself, he's helping readers sort through their feelings, recognize their foibles and arrive at their own cures.●

UNPRECEDENTED ASSAULT ON THE NATIONAL SPIRIT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. WEISS. Mr. Speaker, today, we are facing an unprecedented assault on the national spirit. While genuflecting in the direction of fiscal austerity, this administration is attempting to transfer billions of dollars from social and cultural programs to the Department of Defense. If, indeed, the President desires national security, he had best take cognizance of the depression and desperation that are spreading across the land.

Just the other day, I was told by a representative of Ballet Hispanico, of New York City, that the loss of their expansion arts grant will result in their having to double the fees charged low-income ballet students. Many of these young people come from families that are already reeling from the effects of reductions in welfare grants, food stamps, and housing allowances. For them, ballet lessons for the children have become a focal point, the highlight of their week. Now, this too, will be denied them.

I propose that our Nation's security is as much dependent on the spirit of its citizenry as on its outlays for military defense.

The establishment of the National Endowment for the Arts (NEA) ushered in an era of unprecedented public support of, and participation in, cultural events. The NEA's "Guide to Programs" eloquently sets forth the basic convictions on which the NEA was founded, the—

> * * * distinctive perception of the aesthetic dimension of our physical and social environment, * * * is unique to humankind. * * * It is through the various arts that this perception of the world is sharpened, enlivened, expressed, and developed as a celebration of life in all its forms. Cultivation of this awareness is a societal good as it quickens the experience of life and enhances its quality. Thus, the condition of the arts is an appropriate concern of the people, and hence a proper concern of the Government.

Today, however, the Endowment's demonstrated successes are being threatened as the administration once again proposes drastic cuts in Federal funding for the arts.

It would do well to reiterate the objectives of the NEA as stated in the NEA Guide, which are to foster excellence in American arts, to help create a climate in which the arts can flourish, to preserve our cultural heritage in all its diversity, and to make the arts available to the widest possible public.

Present administration policies threaten to undermine these worthy goals. For example, last year the President attempted to whittle the NEA's budget down to $77.4 million. The Congress, however, preserved its funding at $143.04 million. Yet, once again, the administration is prepared to slash funds from the NEA. They have proposed funding of $100.9 million for fiscal year 1983, a 30-percent reduction from fiscal year 1982, and a 40-percent reduction from fiscal year 1981 levels—not including the effects of inflation.

Budget reductions of the magnitude proposed by the President do not allow minor across-the-board reductions, but destroy the core of the Endowment's programs and erode its objectives.

The administration contends that the Federal Government has a minor role, if any, in financial support for the arts and assures us that private funding sources will fill the void left by the withdrawal of Federal funds. The facts, however, tell a different story. Miriam Colon, director of the Puerto Rican Traveling Theatre, put it graphically when she claimed that she could virtually wallpaper the Empire State Building with the multitude of private sector refusals for support she has received.

A historical perspective may help to clarify the relationship between private and Federal support for the arts. In 1966, just after the establishment of the Endowment, American business was contributing only $22 million to the arts. By 1979, that figure had reached $436 million, a 2,000-percent increase.

It would behoove a budget-conscious administration to keep in mind the grave economic consequences of undermining the arts industry in this country. Since 1965, the number of symphony orchestras has grown from 25 to 150. The number of professional opera companies has increased by 82, professional dance troupes by 370, and serious theater groups by 132. Three studies of the economic impact of the arts on the economy of New England, conducted by the New England Foundation for the Arts, report that the arts industry in New England alone affects $1.5 billion in business and approximately 40,000 jobs.

The record is clear. Federal support for the arts has been not only instrumental, but critical, in generating private support for the arts.

One cannot emphasize too strongly the importance and effectiveness of the NEA's panel review system for determining who shall receive NEA grants. The Presidential Task Force on the Arts and Humanities emphatically endorsed the panel review process, stating that it "* * * has proved to be a fair and effective system for grantmaking at both Endowments." The report also recognized the important catalytic functions served by the panels in encouraging private support and in providing a stamp of approval by which potential private supporters can recognize merit.

By its very nature, art is experimental—a risky business, some would say. It is the rare corporation that has an understanding of the arts that reaches beyond its public relations value. Yet, traditional private contributors to the arts will support experimental, innovative, or emerging arts ventures if they have received approval from the respected professionals serving on NEA panels. The continued support of these experimental undertakings is essential to the continued health of American art. If funding for the arts diminishes further, arts groups may be forced to undertake only tried and true projects and productions, in an effort to increase attendance and revenues. Such an eventuality would literally doom the American arts as our myriad sources of creativity withered on the proverbial vine.

One of the NEA's missions is to make the arts available to the widest possible public. In these days of combined inflation and recession, the price of admission to cultural events is soaring beyond the reach of most Americans. An outing to a concert for a family of four can cost upward of $75. If the arts are not to become the province of the wealthy alone, the Federal Government must continue to play a prominent role in its support.

Programs that bring cultural events to those who otherwise would be unable to see or afford them find themselves in mortal danger. The elimination of touring programs is being seriously contemplated in an effort to trim budgets. Orchestras that used to visit rural areas and perform for schoolchildren may no longer be able to provide these services.

The demise of the expansion arts program would not only result in violations of the Endowment's stated goals, but it would also consign American arts to a living death.

We are living in stressful times—times that call for tender ministrations to our country's battered spirit. That spirit is deftly expressed through the arts. Military strength alone cannot sustain us or substitute for spiritual well-being. Federal support for the arts represents only 0.02 percent of the national budget. The National Endowment for the Arts must not be asked to endure further cuts in its budget and programs.●

HOUSE DISCHARGE PETITIONS NOS. 10 AND 11

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. LEE. Mr. Speaker, colleagues, I am today presenting to the Clerk of the House discharge petitions Nos. 10 and 11. They ask that this House be given the opportunity to see, and consider, bills which I introduced back in October which I believe can provide a significant new emphasis on restoring the integrity of the House itself.

The first deals with House Joint Resolution 344, an amendment to the Constitution. The second with H.R. 4807, a bill to accomplish the same purpose.

Their purpose, colleagues, is simple. They seek to defer—until the start of the Congress following—any increase in compensation for Members of Congress. They would not make judgments about questions which should remain the exclusive venue of Members, the how much or why of specific amounts which a Member of Congress is to be paid.

They would, however, prevent anyone from receiving an increase before the voters have had the opportunity to decide whether he or she deserves that increase. No longer may the personalities in each office be considered to have created compensation changes. For once, the office can be considered paramount instead of the officeholder.

This is not a new idea. As a matter of fact, it is older than the Congress itself. In 1789, our original Bill of Rights carried these same 24 words. It was not ratified, however, because back then the States would not believe that Members could so flagrantly defy reason by approving raises that the voters could not tolerate.

These measures have been available, and in committee, since introduction. There is no better time than now to begin stating our demands, that these be brought to us for action before the integrity of this body is eroded any more.

Thank you for your help.●

A TRIBUTE TO HUBERT WILLIAMS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. RODINO. Mr. Speaker, a cover story in last Sunday's Parade magazine described the future of law enforcement in America. The article featured Police Director Hubert Williams, of Newark, N.J., in my congressional district, as one of a new class of well educated law enforcement personnel serving our cities. I was interested to read Director Williams' insightful comments and I commend the article to my colleagues.

Mr. Speaker, I ask that it be included in the RECORD as follows:

THE FUTURE OF LAW ENFORCEMENT

(By Julie Lewin)

It is 15 years since the President's Commission on Law Enforcement and Administration of Justice reported that law enforcement agencies in the U.S. needed reform. We asked Julie Lewin, former executive assistant to the Connecticut commissioner of correction, to examine what progress, if any, has been made across the land.

In San Jose, the guy with the badge has a Ph. D. from Harvard, won with his dissertation on "Organizational Decision-Making and Public Policy: An Analysis of Police Drug Enforcement."

In Minneapolis, an erst-while dishwasher who has lectured at Harvard and Princeton employs Socratic questioning in discussing minority police recruitment.

In Newark, a ghetto youth turned lawyer argues passionately against capital punishment.

In Madison, Wis., an ex-marine with degrees in Russian studies and sociology speaks on the relevance of Gandhi to modern policing.

In Atlanta, a former field hand touts police-community relations, which he wrote about for his Ph. D. from the University of California.

They are the new police chiefs, tough street-corner cops who say they "just needed a steady job." Most are Ivy League educated, and all are intellectual. They are part of a growing group that wants to revolutionize policing.

"Years ago, a young man could be made a cop by barely being literate," says Patrick Murphy, who heads the Police Foundation in Washington, D.C. The foundation, created in 1970, has undermined some of law enforcement's most cherished beliefs.

To the old guard, research is a curse and its supporters heretical "eggheads." But to the new chiefs and their rank-and-file followers, it carries a wide range of blessings that are helping them bring about spectacular reforms.

The top cops emerged from a push toward police professionalism that began in the late 1960s, when a national crime commission convened by President Lyndon B. Johnson revealed that the nation's 17,000 police departments were "essentially unsophisticated, lethargic, erratic and inefficient," says Gerald M. Caplan, former director of the National Institute of Justice, a federal research agency.

Many millions of federal dollars were subsequently pumped into police training, education and research. After 15 years of federal loans for tuition assistance and incentives, perhaps 250,000 cops (half of all the sworn officers in the country) had received some college credits, and many had earned graduate degrees.

At the same time, there has been "an outpouring of research," according to the criminologist James Q. Wilson, that points to the primary role of the community in crime control and the resulting cue to upgrade the foot patrol as a vital link to the community; to restricting the use of force; to recruiting minorities; and to modern management, such as deploying detectives and plainsclothesmen sparingly, consolidating departments and precincts within departments to allow specialization, and eliminating unnecessary supervisory personnel to get more staff on the street. ("In some PDs, there's enough dead wood upstairs to fill a petrified forest," says one former chief.)

Here are some of those treasured beliefs about policing that modern researchers have disproved:

The size of the police force directly affects the crime rate.

The first research study to rock policing was the Kansas City experiment in 1973. Sponsored by the Police Foundation, it found that not only did increasing or decreasing routine preventive patrol have no measurable impact on the crime rate, but "it also had no impact on the public's perception of safety," says Joseph McNamara, then Kansas City chief and now chief in San Jose.

McNamara, who at 47 may be the most formally educated chief in American history, believes in educating cops, especially since, he says, poor training could have cost his life his first day on the job. He now requires regular refresher courses for officers.

Police need complete freedom to use force in order to protect themselves.

In Kansas City in 1973, McNamara was ridiculed for attending the funeral of a 14-year-old black who had been shot to death by a policeman. The chief banned shooting at fleeing felons, unless a life was endangered. "I was called a cop-murderer at first," he says, "but I told businessmen that the killing of black teenagers by the police was the most common cause of riots. Did they want Kansas City on national television with its cops in riot helmets, swinging clubs?" A year later, shootings by police were down 50 percent and no cops had been shot. The policy became a national model.

Detectives solve the most crimes.

In 1976 the Rand Corporation found that most serious crimes were solved through information obtained from victims and witnesses, and when detectives were credited for solving a crime, their work was nearly irrelevant.

Like the other new chiefs, Anthony Bouza of Minneapolis uses detectives, "not to please the customers with the ritual, but only on crimes they have a chance of solving," he says. Adds Bouza: "Today's crisis in law enforcement is not one of dollars but of management."

Foot patrol is less effective than car patrol.

The Newark Experiment, conducted from 1977 to 1979, revealed "that the number of cops on foot patrol did not affect the crime rate," says Hubert Williams (shown on cover), Newark's director of police, who cooperated with the Police Foundation and Harvard in the study. "But we also found that the presence of foot patrol significantly increases citizens' feelings of safety and mobility."

Williams, who grew up in a slum, eventually landed in the Newark Police Department. He later became a law school fellow at Harvard. He has a degree from Rutgers Law School.

Williams is vice president of Law Enforcement Against Death, an association against capital punishment. "Historically, the death penalty did not deter even Colonial pickpockets," he says, "and recent studies confirm its impotence as a crime deterrent. I think representatives of the law have a special obligation to fight it."

The Newark Experiment will help the move toward community policing, among whose proponents is Lee Brown, 44, a field hand in his youth and now the Atlanta Commissioner of Public Safety. Brown credits community-police relations for the mobilization that led to an arrest in the Atlanta child murders. "Fifty organizations worked with us, asking, 'What can we do?' and never losing trust," he says.

Another strong advocate of community policing is 43-year-old David Couper of Madison Wis. "The first essential is to reflect your constituency," says Couper, "because you need this show of trust."

Says Couper: "Police are our managers of social conflict and, as such, are the front line of protection for the Bill of Rights. If the citizens in most villages and towns were aware that often men and women are put out on the street with a badge and a gun, with little or no training in the use of deadly force, and with little or no appreciation or knowlege of the law or the constitutional precepts which guide this country, they would realize the danger."●

TO RESTORE BALANCE IN THE FEDERAL ENERGY BUDGET

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 24, 1982

● Mr. OTTINGER. Mr. Speaker, today I am introducing a resolution that reaffirms strong bipartisan support for energy conservation and renewable energy programs in this Nation's energy policy. This resolution decries the unbalanced, shortsighted, and ill-conceived energy budget proposed by the administration. One hundred and sixty-nine of my colleagues have joined in cosponsoring this resolution.

Last December I obtained draft budget documents prepared by the Office of Management and Budget which indicated the administration intended to cut energy conservation programs by 94 percent, renewable energy programs by 78 percent, and fossil energy programs by 80 percent from the fiscal year 1982 levels. Nuclear programs were left virtually unscathed. My distinguished colleague, HAMILTON FISH and I circulated a letter to the President which stated that there would be significant bipartisan opposition to a budget that was skewed in this fashion. The letter stated that the OMB budget proposal "underscores once again that while your administration is more than willing to let marketplace principles apply to conservation and renewable energy, these same principles are waived for nuclear power. This lack of consistency, apart from being unsound national energy policy, will impede your effort to bring the budget under control." We urged the President to intervene and redirect the priorities of the draft budget document before submitting the formal request to Congress. Within 1 week 145 Members of Congress had signed the letter.

The President ignored our recommendation. The energy budget sent to Congress totally adopts the OMB figures. The proposal allots an incredible 87 percent of the energy technologies budget to nuclear programs, leaving energy conservation with less than 1 percent, and renewables with 4 percent. Worse still, the administration intends to use the budget process to ignore a vast body of statutory responsibilities by requesting no funds or staff to carry out these laws.

It would be one thing if these dramatic budget cuts in conservation and renewable energy programs would help reduce the projected $120 billion deficit. But these cuts will not have this effect because the DOE budget proposal for fiscal year 1983 is just a shade lower than that of fiscal year 1981. The difference is that cuts absorbed by conservation and renewable energy programs are being reprocessed to fuel the Department's nuclear weapons program. If the administration truly wanted to balance the budget, it would have proposed terminating the billions of dollars of oil and gas industry tax subsidies.

What the administration constantly ignores is that these programs make economic and strategic sense and Congress has had the courage to fund them. In sending up this budget the administration seems to ignore repeated congressional action last year that restores diversity and balance to the energy budget.

Over the past year, many of us have tried to explain to the administration that the most cost-effective energy programs are in conservation. Recently, even the Department's own Energy Research Advisory Board confirmed this advice. The Board chastized the Department for ignoring high payoff conservation research programs stating, "there is an imbalance in the allocation of R&D funds between the conservation programs and those directed at supply. The budget needs a reordering of priorities to reflect better the opportunities that exist for efficiency improvements and the unique Federal role in conservation R&D." As for the administration's claim that the marketplace will provide incentives for conservation research, the Board rejects the premise.

The administration is also ignoring the advice of the Georgetown University Center for Strategic and International Studies, a group composed of many of the advisers on Reagan's energy transition team. They concluded in a recent report that "the President's failure to take the energy crisis seriously is a prescription for disaster later this decade."

Mr. Speaker, this Nation cannot afford to abandon the balanced energy policy crafted over the past decade with the hard work of both political parties. We cannot afford to be lulled into complacency by the current oil glut. I think this resolution and its broad list of cosponsors demonstrates that once again Congress will reject the administration's budget proposals and will maintain its commitment to vital energy conservation and renewable energy programs.

The text of the resolution and the list of original cosponsors follow:

H. RES. 409

Resolution to restore balance in the Federal energy budget

LIST OF COSPONSORS

Joseph P. Addabbo, Daniel K. Akaka, Frank Annunzio, Les Aspin, Les AuCoin, Michael D. Barnes, Berkley Bedell, Anthony C. Beilenson, Mario Biaggi, Jonathan B. Bingham, Lindy Boggs, David Bonior, Don Bonker, William M. Brodhead, George E. Brown, Phillip Burton, Bill Chappell, Shirley Chisholm, Don H. Clausen, William Clay, Cardiss Collins, John Conyers, Jr., Baltasar Corrada, George W. Crockett, Jr., Norman E. d'Amours, Thomas A. Daschle, Larry DeNardis, Norman Dicks, John D. Dingell, Julian C. Dixon.

Byron L. Dorgan, Thomas J. Downey, Jim Dunn, Mervyn M. Dymally, Dennis Eckart, Bob Edgar, Don Edwards, David Emery, Arlen Erdahl, John G. Fary, Dante B. Fascell, Vic Fazio, Millicent Fenwick, Geraldine A. Ferraro, Hamilton Fish, Jr., James J. Florio, Thomas M. Foglietta, Harold E. Ford, William D. Ford, Wyche Fowler, Jr., Barney Frank, Martin Frost, Don Fuqua, Robert Garcia, Samuel Gejdenson, Sam Gibbons, Benjamin A. Gilman, Newt Gingrich, Dan Glickman, Henry B. Gonzalez.

Al Gore, William H. Gray, Bill Green, Frank J. Guarini, Ralph M. Hall, Tony P. Hall, Lee H. Hamilton, Tom Harkin, Charles Hatcher, Augustus F. Hawkins, Margaret M. Heckler, Ken Holland, Harold C. Hollenbeck, Frank Horton, James Howard, Steny H. Hoyer, Carroll Hubbard, William J. Hughes, Andrew Jacobs, James M. Jeffords, Ed Jenkins, Robert W. Kastenmeier, Barbara Kennelly, Dale E. Kildee, John J. LaFalce, William Lehman, Mickey Leland, Elliott Levitas, Clarence D. Long, Mike Lowry.

Stanley N. Lundine, Edward J. Markey, Robert T. Matsui, Jim Mattox, Nicholas Mavroules, Romano Mazzoli, Paul N. McCloskey, Dave McCurdy, Matthew McHugh, Stewart B. McKinney, Barbara A. Mikulski, George Miller, Norman Mineta, Joseph G. Minish, Parren J. Mitchell, Joe Moakley, Anthony Toby Moffett, Ronald M. Mottl, William Natcher, Stephen L. Neal, Bill Nelson, Henry Nowak, Mary Rose Oakar, James L. Oberstar, Leon E. Panetta, Jerry Patterson, Carl Perkins, Donald J. Pease, Claude Pepper, Peter A. Peyser, Melvin Price, Joel Pritchard.

Tom Railsback, Charles B. Rangel, William R. Ratchford, Frederick W. Richmond, Matthew J. Rinaldo, Robert A. Roe, Benjamin S. Rosenthal, Edward R. Roybal, Martin Olav Sabo, Jim Santini, James H. Scheuer, Claudine Schneider, Patricia Schroeder, Charles E. Schumer, John F. Seiberling, Bob Shamansky, James M. Shannon, Philip R. Sharp, Paul Simon, Joseph F. Smith, Neal Smith, Olympia Snowe, Stephen Solarz, Fortney H. Stark, Louis Stokes, Gerry E. Studds, Fofo Sunia, Al Swift, Mike Synar, Thomas J. Tauke.

Billy Tauzin, Bob Traxler, Morris K. Udall, Bruce F. Vento, Harold L. Volkmer, Doug Walgren, Harold Washington, Henry A. Waxman, Jim Weaver, Ed Weber, Ted Weiss, Pat Williams, Charles Wilson, Timothy E. Wirth, Howard Wolpe, Ron Wyden, Sydney R. Yates.●

Whereas the Congress over the past decade has sought to establish a national energy policy that pursues a balanced and broad-based range of programs for new and alternative energy technologies;

Whereas relieving our dependence on foreign oil is vital to our national security and international stability;

Whereas the conservation of energy has substantially improved our energy security, and is the cheapest, quickest, cleanest and safest means of relieving our dependence on imported oil;

Whereas renewable energy resources afford the potential to significantly improve our energy security;

Whereas conservation and renewable resources are potential energy resources which market forces will not fully or quickly utilize without adequate information and federal support;

Whereas in 1981 the cost of energy to the economy of the United States was approximately $400 billion and the direct cost of imported oil was approximately $77 billion;

Whereas the Congress has mandated in the Department of Energy Organization Act, the Federal Nonnuclear Energy Research and Development Act, the Solar Energy Research, Development and Demonstration Act, the Energy Policy and Conservation Act, the Energy Conservation and Production Act, the National Energy Conservation Policy Act, the Energy Security Act, and authorizations of the Department of Energy that strong, effective energy conservation and renewable energy programs be carried out by the Department of Energy;

Whereas, in the Omnibus Budget Reconciliation Act of 1981, the Congress provided for an energy conservation program of over $500 million, and a renewable energy program of over $300 million for fiscal year 1982;

Whereas 1982 appropriation Acts provided funding of over $385 million for energy conservation activities, and over $375 million for renewable energy activities; and

Whereas the Department of Energy has requested less than $22 million for its entire energy conservation program and less than $83 million for renewable energy efforts in fiscal year 1983, representing 1 percent and 4 percent respectively of the request for energy technologies: Now, therefore, be it

Resolved, That the House of Representatives strongly reaffirms that the Federal Government should demonstrate its commitment to energy conservation and renewable energy by restoring balance to the Department of Energy's fiscal year 1983 budget by—

(1) maintaining a strong funding base for energy conservation and renewable energy;

(2) continuing funding for the weatherization of low-income residences, schools, and hospitals; and

(3) promoting conservation and renewable energy by providing for the distribution of essential information to citizens and businesses which enables them to increase efficiency of energy use and utilize renewable energy.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, March 25, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 26

9:00 a.m.

Commerce, Science, and Transportation

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the U.S. Coast Guard, Department of Transportation.

235 Russell Building

Judiciary

To hold oversight hearings to review the effects of merger policy on the national railroad system, focusing on the Burlington Northern Railroad.

2228 Dirksen Building

9:30 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Food and Nutrition Service, Department of Agriculture.

1318 Dirksen Building

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

10:00 a.m.

Environment and Public Works

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the public buildings program of the General Services Administration.

4200 Dirksen Building

Foreign Relations

Closed briefing to discuss United States-China-Taiwan relations.

S-116, Capitol

11:00 a.m.

Armed Services

To hold open and closed hearings on allied contributions to Western defense and the implications of U.S.

force withdrawals from Western Europe.
1114 Dirksen Building

MARCH 29

9:00 a.m.
Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
235 Russell Building

9:30 a.m.
Finance
Savings, Pensions and Investment Policy Subcommittee
To hold hearings on S. 2105 and S. 2106, bills providing for pension reform for State and local public employee retirement systems.
2221 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the food stamp program.
324 Russell Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Civil Aeronautics Board.
1318 Dirksen Building

Armed Services
Closed business meeting, to mark up S. 2248, authorizing funds for fiscal year 1983 for military procurement programs of the Department of Defense.
212 Russell Building

Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold hearings to review proposed authorizations for the safe drinking water program.
4200 Dirksen Building

10:15 a.m.
Judiciary
Security and Terrorism Subcommittee
To resume hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.
2228 Dirksen Building

1:00 p.m.
Environment and Public Works
Regional and Community Development Subcommittee
To hold hearings on S. 2144, authorizing funds through fiscal year 1990 for the Appalachian highway development program, and authorizing funds through fiscal year 1987 for other area development activities and operating expenses of the Appalachian Regional Commission, and other related matters.
4200 Dirksen Building

1:30 p.m.
Judiciary
Immigration and Refugee Policy Subcommittee
To hold hearings on proposed authorizations for the Immigration and Naturalization Service, Department of Justice.
5110 Dirksen Building

2:00 p.m.
Agriculture, Nutrition, and Forestry
To continue hearings on proposed legislation authorizing funds for fiscal year 1983 for the food stamp program.
324 Russell Building

Appropriations
Energy and Water Development Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Judiciary
To resume oversight hearings on certain activities of the Public Integrity Section of the Department of Justice, focusing on the investigation of alleged bribery attempts by Robert Vesco.
2228 Dirksen Building

MARCH 30

9:00 a.m.
Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold oversight hearings to review budget proposals for fiscal year 1983 for energy conservation programs of the Department of Energy, focusing on state grant, research and development, and solar energy programs.
3110 Dirksen Building

Foreign Relations
Closed briefing on the administration's plans for beginning the START talks and possible negotiating strategies.
S-116, Capitol

9:30 a.m.
Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Foreign Agricultural Service, Food for Peace program (Public Law 480), Office of International Cooperation and Development, Agricultural Marketing Service, and the Federal Grain Inspection Service, Department of Agriculture.
1318 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
235 Russell Building

*Finance
Energy and Agricultural Taxation Subcommittee
To hold hearings on S. 1819, granting tax-exempt status to certain crude oil purchasing cooperatives on the same basis as such status is applied to farm cooperatives, and S. 2151, including chlor-alkali electrolytic cell modifications under the energy investment tax credit provisions of the Internal Revenue Code.
2221 Dirksen Building

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the U.S. Coast Guard of the Department of Transportation.
1224 Dirksen Building

Environment and Public Works
Business meeting, to resume markup of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

10:30 a.m.
Agriculture, Nutrition, and Forestry
Soil and Water Conservation Subcommittee
To hold oversight hearings on the implementation of the Resource Conservation Act (Public Law 95-192).
324 Russell Building

11:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
S-116, Capitol

11:30 a.m.
*Veterans' Affairs
To hold hearings to receive Veterans of Foreign Wars legislative recommendations for fiscal year 1983.
318 Russell Building

2:00 p.m.
Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Judiciary
To continue oversight hearings on certain activities of the Public Integrity Section of the Department of Justice, focusing on the investigation of alleged bribery attempts by Robert Vesco.
2228 Dirksen Building

11:00 p.m.
*Budget
Business meeting, to begin markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

MARCH 31

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for strategic petroleum reserve and naval petroleum reserves of the Department of Energy.
1114 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 2114 and H.R. 5118, bills providing for the settlement of Papago Indian water rights claims in portions of the Papago Indian Reservation of Arizona; to be followed by a business meeting, to consider pending calendar business.
S-205, Capitol

9:30 a.m.
Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on S. 2260, clarifying the jurisdictional boundaries between the Securities and Exchange Commission and the Commodity Futures Trading Commission.
5302 Dirksen Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold oversight hearings on activities of the National Highway Traffic Safety Administration, Department of Transportation.
235 Russell Building

Judiciary
Agency Administration Subcommittee
To resume hearings on S. 1775, making the Federal Government liable for constitutional torts and generally the exclusive defendant in all tort suits involving Government employees acting within the scope of their employment.
5110 Dirksen Building

Judiciary
Security and Terrorism Subcommittee
To resume hearings on the alleged role of the Soviet Union, East Germany, and Cuba in fomenting terrorism in South Africa.
2228 Dirksen Building

Labor and Human Resources
To hold hearings on proposed authorizations for certain health programs of the Department of Health and Human Services.
4232 Dirksen Building

10:00 a.m.

Budget
Business meeting, to continue markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To continue hearings to review proposed authorizations for the safe drinking water program.
4200 Dirksen Building

Governmental Affairs
To hold hearings on the substance of S. 1724, proposed Federal Employees' Compensation Act Antifraud Amendments of 1981.
3302 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To resume oversight hearings on the administration of the Federal Employees' Compensation Act.
3302 Dirksen Building

Small Business
To hold hearings to review the President's report on the state of small business.
424 Russell Building

1:00 p.m.

Judiciary
Immigration and Refugee Policy Subcommittee
To hold joint hearings with the House Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary on the proposed Immigration Reform and Control Act.
1202 Dirksen Building

2:00 p.m.

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1318 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

APRIL 1

9:00 a.m.

Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 1138 and S. 1633, bills prohibiting the issuance of phosphate mining leases on the Osceola National Forest in Florida, and H.R. 9 and S. 1873, bills prohibiting the issuance of phosphate mining leases on the Osceola National Forest in Florida, and designating certain wilderness and national forest lands in Florida.
3110 Dirksen Building

Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on expanding employment opportunities for older workers in the private sector.
4232 Dirksen Building

9:30 a.m.

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Commodity Futures Trading Commission, to review budget proposals for the Department of Agriculture's Inspector General, and agricultural aspects of the General Accounting Office.
1318 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on proposed legislation authorizing funds for the National Aeronautics and Space Administration.
235 Russell Building

Finance
Health Subcommittee
To hold hearings on S. 1250, proposed Professional Standards Review Amendments of 1981, and S. 2142, proposed Peer Review Improvement Act.
2221 Dirksen Building

*Select on Indian Affairs
To hold oversight hearings on the statute of limitations relating to Indian claims.
6226 Dirksen Building

10:00 a.m.

*Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Federal Emergency Management Agency and the Selective Service System.
1223 Dirksen Building

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the United States Railway Association, and Conrail.
S-128, Capitol

Budget
Business meeting, to continue markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

2:00 p.m.

Appropriations
Energy and Water Development Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for energy and water development programs.
1114 Dirksen Building

Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To hold oversight hearings on the implementation of the Paperwork Reduction Act.
3302 Dirksen Building

APRIL 2

9:30 a.m.

Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on productivity in the American economy.
4232 Dirksen Building

10:00 a.m.

Budget
Business meeting, to continue markup of the first concurrent resolution on the budget for fiscal year 1983, setting forth recommended levels of total budget outlays, Federal revenues, and new budget authority.
6202 Dirksen Building

Foreign Relations
To resume hearings on the Caribbean Basin initiative.
4221 Dirksen Building

APRIL 13

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on proposed legislation authorizing funds for the railroad safety program, Department of Transportation.
235 Russell Building

10:00 a.m.

Environment and Public Works
Water Resources Subcommittee
To resume hearings on S. 810, prescribing a system of user fees to be levied on commercial transportation on inland waterway projects, amendment No. 32 thereto, expediting the construction of inland waterway projects, and assuring that the users of such projects repay a fair percentage of the cost of such works, amendment No. 637, clarifying the intent of the bill, and related measures.
4200 Dirksen Building

APRIL 14

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 1777, establishing the permanent boundary of Acadia National Park on Isle au Haut off the coast of Maine; S. 1872, extending the period for grazing privileges afforded to privately owned lands within the Capitol Reef National Park in Utah; and S. 2218, providing for the development and improvement of the recreation facilities of Gateway National Recreation Area, New York City, and for utilization of its energy resources.

3110 Dirksen Building

9:30 a.m.

Labor and Human Resources

To hold oversight hearings on the Office of Federal Contract Compliance Programs, Department of Labor.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.

1114 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on proposed legislation authorizing funds for the endangered species program.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Health and Human Services.

1114 Dirksen Building

APRIL 15

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the land and water conservation fund, and to receive testimony from congressional witnesses.

1318 Dirksen Building

9:30 a.m.

Finance

Savings, Pensions and Investment Policy Subcommittee

To hold hearings on proposed legislation establishing an enterprise zone program for dealing with the problems of economically depressed areas in the United States.

2221 Dirksen Building

Labor and Human Resources

To hold hearings on proposed authorizations for the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of Science and Technology Policy and the Council on Environmental Quality.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 1999, providing for the establishment of the Wolf Trap Farm Park in Virginia; and S. 1540, revising the boundaries of the Saratoga National Historical Park in New York.

3110 Dirksen Building

Select on Indian Affairs

To hold oversight hearings on the tribally controlled community college program.

6226 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Education.

1114 Dirksen Building

APRIL 16

9:30 a.m.

Finance

Savings, Pensions and Investment Policy Subcommittee

To continue hearings on proposed legislation establishing an enterprise zone program for dealing with the problems of economically depressed areas in the United States.

2221 Dirksen Building

Labor and Human Resources

Employment and Productivity Subcommittee

To resume hearings on productivity in the American economy.

4232 Dirksen Building

APRIL 19

9:30 a.m.

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold oversight hearings on title X of the Public Health Service Act relating to health aspects of teenage sexual activity.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Energy Regulation Subcommittee

To hold hearings on S. 1885, to place electric utilities, including members of registered holding company systems, on the same basis as nonutilities to encourage their investment in cogeneration and small power production facilities.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To resume hearings on proposed legislation authorizing funds for the endangered species program.

4200 Dirksen Building

APRIL 20

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Indian Health Service, Department of Health and Human Services, and the Geological Survey, Department of the Interior.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of State, focusing on the Office of the Secretary and administration of foreign affairs.

S-146, Capitol

Labor and Human Resources

Business meeting, to consider proposed legislation authorizing funds for health programs and the National Science Foundation.

4232 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Environmental Protection Agency.

1224 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to consider pending calendar business.

4200 Dirksen Building

2:00 p.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for foreign assistance activities of the Department of the Treasury.

1318 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for activities of the Secretary of Labor.

1114 Dirksen Building

APRIL 21

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Small Business Administration, Federal Communications Commission, Equal Employment Opportunity Commission, and the Maritime Administration.

S-146, Capitol

Environment and Public Works

Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for the Federal aid highway program.

4200 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Employment and Training Administration, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Railroad Administration of the Department of Transportation, and Amtrak.

1318 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 1889, authorizing funds for fiscal years 1983 and 1984 for the establishment of a national institution to promote international peace and resolution of international conflict.

4232 Dirksen Building

2:00 p.m.

Environment and Public Works

Transportation Subcommittee

To continue hearings on proposed legislation authorizing funds for the Federal aid highway program.

4200 Dirksen Building

APRIL 22

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain functions of the Forest Service, Department of Agriculture.

1318 Dirksen Building

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain programs which fall within the jurisdiction of the subcommittee, receiving testimony from public witnesses.

S-146, Capitol

Labor and Human Resources

Aging, Family and Human Services Subcommittee

To hold hearings on promoting voluntarism in America.

4232 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommitte

To hold hearings on proposed budget estimates for fiscal year 1983 for the Labor-Management Services Administration, Pension Benefit Guaranty Corporation, and the Employment Standards Administration, Department of Labor.

1114 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.

4200 Dirksen Building

2:00 p.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Occupational Safety and Health Administration (OSHA), and the Mine Safety and Health Administration, Department of Labor.

1114 Dirksen Building

APRIL 23

9:30 a.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on the role of the Federal Reserve Board in the operation of automated clearinghouse services.

5302 Dirksen Building

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for Bureau of Labor Statistics, departmental management services, and the President's Committee on Employment of the Handicapped, Department of Labor.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Urban Mass Transportation Administration, Department of Transportation.

1318 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.

4232 Dirksen Building

APRIL 26

10:00 a.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for the Federal Aviation Administration of the Department of Transportation.

1318 Dirksen Building

Energy and Natural Resources

Energy Regulation Subcommittee

To hold oversight hearings to review programs administered by the Office of Federal Inspector, Alaska Natural Gas Transportation System, and the Economic Regulatory Administration and Federal Energy Regulatory Commission, Department of Energy.

3110 Dirksen Building

Environment and Public Works

Environmental Pollution Subcommittee

To hold hearings on proposed authorizations for programs of the Resource Conservation and Recovery Act.

4200 Dirksen Building

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To resume hearings on S. 2002, proposed Bilingual Education Amendments of 1981, and other related proposals.

4232 Dirksen Building

APRIL 27

9:00 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the Office of the Federal Inspector, Alaska Natural Gas Transportation System, Bureau of Mines of the Department of the Interior, and the National Endowment for the Arts.

1318 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold hearings on S. 1869, S. 1870, S. 1871, and S. 1977, bills revising or repealing certain provisions of the Public Utility Holding Company Act of 1935.

5302 Dirksen Building

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for the National Science Foundation.

1224 Dirksen Building

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To hold oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to consider proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.

4200 Dirksen Building

2:00 p.m

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

APRIL 28

9:30 a.m.

Appropriations

State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1983 for certain programs which fall within the jurisdiction of the subcommittee, receiving testimony from public witnesses.

S-146, Capitol

10:00 a.m.

Appropriations

Labor, HHS, Education, and Related Agencies Subcommittee

To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

1114 Dirksen Building

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings to receive testimony from Congressional and public wit-

nesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982 for certain transportation programs.
1318 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the implementation of guidance and counseling programs of the Department of Education.
4232 Dirksen Building

1:30 p.m.
Conferees
On S. 1193, authorizing funds for fiscal years 1982 and 1983 for the Department of State, authorizing funds for fiscal year 1982 for the Arms Control and Disarmament Agency, authorizing funds for fiscal years 1982 and 1983 for the International Communications Agency, and authorizing funds for fiscal years 1982 and 1983 for the Board for International Broadcasting.
S-116, Capitol

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

APRIL 29

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for fossil research and development and fossil construction programs of the Department of Energy.
1318 Dirksen Building

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for international organizations, Securities and Exchange Commission, and the Federal Trade Commission.
S-146, Capitol

Judiciary
Criminal Law Subcommittee
To resume hearings on proposals providing for a ban on the manufacture or sale of nonsporting handguns, mandatory sentences for the use of a firearm in committing a felony, and a preclearance procedure for the sale or transfer of any handgun.
Room to be announced

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from Congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, on certain transportation programs.
1224 Dirksen Building

Environment and Public Works
Business meeting, to mark up S. 1018, prohibiting the Federal Government from funding commercial and residential growth on undeveloped barrier beaches and islands.
4200 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive AMVETS legislative recommendations for fiscal year 1983.
Room to be announced

1:30 p.m.
Conferees
On S. 1193, authorizing funds for fiscal years 1982 and 1983 for the Department of State, authorizing funds for fiscal year 1982 for the Arms Control and Disarmament Agency, authorizing funds for fiscal years 1982 and 1983 for the International Communications Agency, and authorizing funds for fiscal years 1982 and 1983 for the Board for International Broadcasting.
S-116, Capitol

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To continue oversight hearings on programs of the Departments of Labor, Health and Human Services, Education, and related agencies.
1114 Dirksen Building

APRIL 30

10:00 a.m.
Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings to receive testimony from Congressional and public witnesses on proposed budget estimates for fiscal year 1983 and proposed supplemental appropriations for fiscal year ending September 30, 1982, for certain transportation programs.
1318 Dirksen Building

MAY 3

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 4

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Smithsonian Institution, Woodrow Wilson International Center for Scholars, and the Advisory Council on Historic Preservation.
1318 Dirksen Building

9:30 a.m.
Labor and Human Resources
To hold oversight hearings on activities of the Equal Employment Opportunity Commission.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 5

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Vice Admiral James S. Gracey, U.S. Coast Guard, to be Commandant, and Rear Admiral Benedict L. Stabile, U.S. Coast Guard, to Vice Commandant, each for the U.S. Coast Guard.
235 Russell Building

Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Aeronautics and Space Administration.
1224 Dirksen Building

Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983

for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 6

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the U.S. Fish and Wildlife Service, Department of the Interior, and the National Capital Planning Commission.
1318 Dirksen Building

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 604, requiring all new telephone receivers to be equipped with hearing aids for the handicapped.
235 Russell Building

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the care of the U.S. Supreme Court Building by the Architect of the Capitol, U.S. International Trade Commission, Federal Maritime Commission, and the Marine Mammal Commission.
S-146, Capitol

Labor and Human Resources
Business meeting, to consider pending calendar business.
4232 Dirksen Building

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

2:00 p.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 7

10:00 a.m.
Appropriations
Labor, HHS, Education, and Related Agencies Subcommittee
To hold hearings to receive testimony from congressional witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1114 Dirksen Building

MAY 11

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Endowment for the Humanities, Institute of Museum Services, and the Office of Surface Mining, Department of the Interior.
1114 Dirksen Building

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Judiciary.
S-146, Capitol

Labor and Human Resources
Aging, Family and Human Services Subcommittee
To hold hearings on the extended family.
4232 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the National Institute of Building Sciences, Federal Home Loan Bank Board, and National Credit Union Administration.
1224 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

MAY 12

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

MAY 13

9:00 a.m.
Appropriations
Interior and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.
1114 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of proposed legislation authorizing funds for programs which fall under its legislative jurisdiction.
4200 Dirksen Building

1:30 p.m.
Appropriations
Interior and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for territorial affairs of the Department of the Interior.
1114 Dirksen Building

MAY 18

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development.
1224 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Select on Indian Affairs
To hold oversight hearings on the implementation of Indian education programs.
6226 Dirksen Building

MAY 19

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1983 for the Department of Housing and Urban Development, and the Neighborhood Reinvestment Corporation.
1224 Dirksen Building

Select on Indian Affairs
To continue oversight hearings on the implementation of Indian education programs.
6226 Dirksen Building

MAY 24

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

MAY 25

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To receive testimony from public witnesses on proposed budget estimates for fiscal year 1983 for certain programs under the subcommittee's jurisdiction.
1224 Dirksen Building

Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

JUNE 9

9:30 a.m.
Select on Indian Affairs
To hold hearings on law enforcement problems on Indian reservations including the authority and effectiveness of the Bureau of Indian Affairs police, tribal police, and the Federal Bureau of Investigation, and the quality of U.S. prosecution of criminal offenses.
6226 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATION

MARCH 25

2:00 p.m.

Labor and Human Resources

To hold hearings on the nominations of Tony E. Gallegos, of California, to be a member of the Equal Employment Opportunity Commission, and William L. Earl, of Florida, Harold R. DeMoss, Jr., of Texas, Clarence V. McKee, of the District of Columbia, Marc Sandstrom, of California, Howard H. Dana, Jr., of Maine, William F. Harvey, of Indiana, William J. Olson, of Virginia, George E. Paras, of California, and Robert S. Stubbs II, of Georgia, each to be a member of the Board of Directors of the Legal Services Corporation.

4232 Dirksen Building